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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 213a

[INS No. 1913–98]

Additional Information on the Affidavit of Support Under Section 213a of the Act, Form I–864

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Clarification of policy.

SUMMARY: On October 20, 1997, the Immigration and Naturalization Service (Service) published an interim rule in **Federal Register** establishing the provisions for sponsorship of family and certain employment-based immigrants under the new legally enforceable affidavit of support. The Form I–864, Affidavit of Support Under Section 213A of the Act, was released on that same date. This document provides information on four issues: reduction of required supporting documentation; preferred order of documentation; form revision dates; and 1998 poverty guidelines.

First, the document clarifies the Service policy concerning whether the sponsor must submit a separate copy of all supporting documentation for each dependent. This clarification is necessary to reduce the amount of paperwork being submitted by the sponsor. Second, this document provides information on the order in which the Service would like to have affidavits of support and accompanying documentation submitted. Third, this document explains that the Service has corrected minor errors in the first edition of Forms I–864, I–864A, and I–865. Finally, the document lists the new 1998 poverty guidelines.

DATES: This document is effective May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Miriam Hetfield, Immigration and Naturalization Service, Benefits Division, 425 I Street, NW., Room 3214, Washington, DC 20536, Telephone 202–514–5014 or Lisa Roney, Immigration and Naturalization Service, Office of Policy and Planning, Room 6052, Washington, DC 20536, Telephone 202–353–0249.

SUPPLEMENTARY INFORMATION:

Reduction in Required Supporting Documentation

This document clarifies Service policy concerning the documentary evidence that must be provided with an affidavit of support (Form I–864) that is filed by an applicant for an immigrant visa or for adjustment of status. According to 8 CFR 213a.2(c)(2), the sponsor is required to provide considerable documentation, including copies of his or her Federal individual income tax returns for the most recent 3 tax years, evidence of current employment, and other documentation as evidence that the sponsor's income is sufficient to meet the income requirement that applies in the case. The sponsor must file a separate Form I–864 and I–864A, if used, for each dependent family member who accompanies the principal beneficiary of the visa petition, although these forms may be photocopies so long as the signature and notary information is original. 8 CFR 213.2(a)(1).

The question has arisen whether the sponsor must also submit a separate copy of all the supporting documentation with each separate Form I–864 and any Forms I–864A for each dependent. To avoid unnecessarily increasing the amount of paperwork for the sponsor, the sponsored immigrant, and the Government, the Service has determined the following. A sponsor must submit a separate Form I–864 and, if used, any separate Forms I–864A, for the principal sponsored immigrant and for each accompanying family member. However, the sponsor needs to submit only one copy of his or her Federal income tax returns for the 3 most recent tax years and one copy of any other supporting documentation even if there are accompanying family members. The sponsor **does not** need to submit duplicate copies of tax returns or other supporting documents for accompanying family members. In those cases where there are accompanying family members, the consular officer or immigration officer will write the A-number of the principal beneficiary in the "agency use" box of the Form I–864 for each family member accompanying the principal beneficiary. This annotation will make it possible to retrieve the documentary evidence from the principal beneficiary's A-file, should it become necessary to do so.

The Service has also determined that it should clarify what the Service will consider to be sufficient compliance with the requirement in 8 CFR 213a.2(a)(1) that the Forms I–864 and I–864A submitted on behalf of accompanying family members must bear original signatures and notarizations. Under rule 1003 of the Federal Rules of Evidence, a photocopy has the same evidentiary value as an original document, unless the authenticity of the photocopy is disputed. While the Federal Rules of Evidence do not govern sponsorship determinations, the Service believes that following the principle set forth in rule 1003 in this context will serve to benefit potential sponsors by reducing burdensome replication of paperwork. Accordingly, the Service will consider a sponsor to have complied with 8 CFR 213.2(a)(1) if the sponsored immigrant(s) submit(s) to the consular officer, immigration officer, or immigration judge, (a) on behalf of the principal beneficiary, the original Forms I–864 and I–864A, bearing the sponsor's original signature and an original notarization, and (b) on behalf of each of the accompanying family members included in the original Forms I–864 and I–864A, clear and true photocopies of the signed and notarized Forms I–864 and I–864A filed on behalf of the principal beneficiary. The Service will make the necessary change to 8 CFR 213a.2(a)(1) in the final rule, but considers strict enforcement of the requirement in the meantime to be unduly burdensome. Since the requirement that the Forms I–864 and I–864A for the accompanying family members must bear original signatures and notarizations is a rule of agency practice, and this new approach to enforcement of the requirement is a general statement of policy, 5 U.S.C. 553 permits the Service to modify its enforcement of the requirement without prior notice and comment.

This policy on reduction in required supporting documentation applies for derivative beneficiaries applying for immigrant visas or adjustment of status with the principal beneficiary. If two related aliens are the beneficiaries of separate visa petitions, so that neither is a derivative beneficiary, separate documentary evidence in support of each Form I–864 and any Forms I–864A must be provided, and the Forms I–864 and I–864A for each principal beneficiary must bear the sponsor's original notarized signature. For family members who are following to join rather than accompanying a principal beneficiary, a separate Form I–864 and any Forms I–864A, with the sponsor's original notarized signature and supporting documentation, must be provided when the alien applies for an immigrant visa or for adjustment of status, in order to follow to join the principal beneficiary. 8 CFR 213a.2(d). This policy on reduction in required supporting documentation also applies when there is more than one alien following to join the principal beneficiary; only one set of supporting documents is required in support of all derivative beneficiaries following to join at that time. If more than one family member follows to join at the same time, moreover, only one family member needs to submit Forms I–864 and I–864A with original signatures and notarizations; the other family members may submit true and clear photocopies of that signed and notarized original. The immigration of consular officer will note in the "agency use" box the visa number or A-number of the file where the supporting documentation will be located.

Preferred Order of Documentation

The Service is providing notice on the order in which it would like to have aliens seeking adjustment of status to package affidavits of support and supporting documentation for submission to the Service. Documents for the principal intending immigrant should be placed on top and in the following order: first, the petitioner's I–864 with the signature notarized; second, copies of the petitioner's Federal tax returns for the 3 most recent tax years; third, evidence of the petitioner's employment; fourth, evidence of the petitioner's assets (if used to qualify); fifth, any Forms I–864A submitted by the petitioner's household members with all original signatures notarized, copies of the household members' Federal tax returns for the 3 most recent tax years, household members' evidence of employment, and evidence of assets (if used to qualify). Next should be documentation for dependents. This will include, for each dependent, a photocopy of the signed and notarized Forms I–864 and I–864A filed on behalf of the principal immigrant. Documentation for any joint sponsor(s) should follow subsequently in the same order as provided above for the petitioner.

Form Revision Dates

The first edition of Forms I–864, I–864A, and I–865 were dated October 6, 1997. The Service subsequently corrected two minor errors and released an updated version of each form with a revision date of January 21, 1998. The minor errors and released an updated version of each form with a revision date of January 21, 1998. The minor errors were a technical correction made in Part 1 of Form I–864A, and the new address of the Texas Service Center on Form I–865. Both the October 6, 1997 and the January 21, 1998, versions of these forms may be used.

New 1998 Poverty Guidelines

The October 20, 1997, interim rule establishing the provisions for sponsorship under the new affidavit of support, provided that immigration and consular officers will begin using the new poverty guidelines on the first day of the second month after the Department of Health and Human Services (HHS) published them in the **Federal Register.** This year HHS published the new guidelines on February 24. Thus, officers will use the new poverty guidelines to evaluate cases adjudicated as of April 1, 1998, regardless of when the application for an immigrant visa or adjustment of status was submitted to the Government. Applicants are not required to submit new Forms I–864 to reflect the new poverty guidelines. The following are the poverty guidelines for 1998.

Sponsor's household size	100% of poverty line	125% of poverty line
For the 48 Contiguous States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam		
2	$10,850	$13,562
3	13,650	17,062
4	16,450	20,562
5	19,250	24,062
6	22,050	27,562
7	24,850	31,062
8	27,650	34,562
	Add $2,800 for each additional person.	Add $3,500 for each additional person.
For Alaska		
2	13,570	16,962
3	17,070	21,337
4	20,570	25,712
5	24,070	30,087
6	27,570	34,462
7	31,070	38,837
8	34,570	43,212
	Add $3,500 for each additional person.	Add $4,375 for each additional person.
For Hawaii		
2	12,480	15,600
3	15,700	19,625

Sponsor's household size	100% of poverty line	125% of poverty line
4	18,920	23,650
5	22,140	27,675
6	25,360	31,700
7	28,580	35,725
8	31,800	39,750
	Add $3,220 for each additional person.	Add $4,025 for each additional person.

Dated: April 30, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 98–12952 Filed 5–15–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–21–AD; Amendment 39–10425; AD 97–25–11R1]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B16 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule published on March 27, 1998 which revised an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B16 series airplanes, that currently requires disabling the remote fuel/defuel panel in the cockpit; and provides for an optional modification of the remote fuel/defuel panel, which would terminate the requirement to disable the panel. The direct final rule amendment reduces the applicability of the existing AD. The direct final rule amendment was prompted by reports of in-flight failure of the panel that resulted when a circuit breaker on a battery bus opened due to insufficient current flow capacity. The actions specified in this AD are intended to prevent the circuit breakers from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit.

DATES: The direct final rule published at 63 FR 14804 is effective on June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA published the direct final rule with request for comments in the **Federal Register** on March 27, 1998 (63 FR 14804). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. The direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on June 25, 1998. No adverse comments were received, and thus this document confirms that this final rule will become effective on that date, with the airworthiness directive (AD) number shown at the beginning of this document.

Issued in Renton, Washington, on May 5, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–12513 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–40–AD; Amendment 39–10528; AD 98–11–01]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 97–23–04, which currently requires replacing the fuel tank vent valves with modified fuel tank vent valves on certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD retains the fuel tank vent valves replacement required by AD 97–23–04, and requires drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap. This AD also requires inserting a temporary revision in the Pilot's Operating Handbook (POH) that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects. This AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

DATES: Effective June 7, 1998.

The incorporation by reference of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997, as listed in the regulations, was previously approved by the Director of the Federal Register as of December 1, 1997 (62 FR 59993, November 6, 1997).

The incorporation by reference of Pilatus Service Bulletin No. 28–004, dated March 27, 1998, is approved by the Director of the Federal Register as of June 7, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–40–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–40–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the

Office of the **Federal Register**, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile:
(816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

AD 97–23–04, Amendment 39–10192 (62 FR 5993, ovember 6, 1997), currently requires replacing the fuel tank vent valves with modified fuel tank vent valves on certain Pilatus Models PC–12 and PC–12/45 airplanes. AD 97–23–04 was the result of a report from the Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, of an instance of abnormal automatic engagement of the fuel booster pumps during normal operation of a Pilatus Model PC–12 airplane. The FOCA's investigation revealed that the fuel tank inward vent valves may fail in the closed position under certain conditions. Moisture ingestion, followed by cold soak, can lead to the fuel tank inward vent valve freezing.

This condition, if not corrected, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

Actions Since Issuance of Previous Rule

The FOCA recently notified the FAA that an unsafe condition may still exist on certain Pilatus Models PC–12 and PC–12/45 airplanes, even after compliance with AD 97–23–04. The FOCA reports that the inward vent valve of the fuel tank froze closed on one of the affected airplanes that was in compliance with the fuel tank vent valves replacement requirement of AD 97–23–04. This resulted in permanent structural damage to the wing skins and ribs.

Relevant Service Information

Pilatus has issued Service Bulletin No. 28–004, dated March 27, 1998, which specifies procedures for drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap. This service bulletin also references a temporary revision to the POH that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects. This document is entitled "PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision, Fuel Filler Cap, dated March 27, 1998."

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–086, dated March 31, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service bulletin referenced in this document; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design registered for operation in the United States, the FAA is issuing an AD to supersede AD 97–23–04. This AD retains the fuel tank vent valves replacement required by AD 97–23–04, and requires drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap. This AD also requires inserting the following temporary revision to the POH that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects:

PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision, Fuel Filler Cap, dated March 27, 1998.

Accomplishment of the actions specified in this AD is required in accordance with the instructions in Pilatus Service Bulletin No. 28–004, dated March 27, 1998.

Determination of the Effective Date of the AD

Since a situation exists (possible wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–40–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures

(44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 97–23–04, Amendment No. 39–10192 (62 FR 59993, November 6, 1997), and by adding a new AD to read as follows:

98–11–01 Pilatus Aircraft, Ltd.: Amendment 39–10528; Docket No. 98–CE–40–AD; Supersedes AD 97–23–04, Amendment No. 39–10192.

Applicability: Models PC–12 and PC–12/45 airplanes; serial numbers 101 through 230, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities, accomplish the following:

(a) Within the next 10 hours time-in-service (TIS) after December 1, 1997 (the effective date of AD 97–23–04), replace the fuel tank vent valves with modified fuel tank vent valves in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997.

(b) Within the next 10 hours TIS after the effective date of this AD, accomplish the following:

(1) Drill a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–004, dated March 27, 1998.

(2) Insert a temporary revision (as referenced in Pilatus Service Bulletin 28–004, dated March 27, 1998) into the Pilot's Operating Handbook (POH) that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects. This document is entitled "PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision, Fuel Filler Cap, dated March 27, 1998."

(c) Inserting the POH revision, as required by paragraph (b)(2) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance approved in accordance with AD 97–23–04 (superseded by this action) are considered approved as alternative methods of compliance for this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Questions or technical information related to Pilatus Service Bulletin No. 28–004, dated March 27, 1998, should be directed to Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) The replacement required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997. The drilling required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–004, dated March 27, 1998.

(1) The incorporation by reference of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997, was previously approved by the Director of the Federal Register as of December 1, 1997 (62 FR 59993, November 6, 1997).

(2) The incorporation by reference of Pilatus Service Bulletin No. 28–004, dated March 27, 1998, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Copies of these service bulletins may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swiss AD HB 97–432A, dated October 3, 1997, and Swiss AD HB 98–086, dated March 31, 1998.

(h) This amendment supersedes AD 97–23–04, Amendment No. 39–10192.

(i) This amendment becomes effective on June 7, 1998.

Issued in Kansas City, Missouri, on May 8, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13060 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–153–AD; Amendment 39–10529; AD 98–11–02]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 0070 and Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Fokker Model F28 Mark 0070 and Mark 0100 series airplanes. This action requires revising the Airplane Flight Manual (AFM) to provide the flightcrew with instructions not to arm the liftdumper system prior to commanding the landing gear to extend. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent inadvertent deployment of the liftdumpers during approach for landing, and consequent

reduced controllability and performance of the airplane.

DATES: Effective June 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–153–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on all Fokker Model F28 Mark 0070 and Mark 0100 series airplanes. The RLD advises that an inadvertent in-flight liftdumper (spoiler) deployment occurred on an airplane that was on approach for landing. The flightcrew had no indication of a malfunction in the liftdumper system; however, the liftdumper system was armed and the engine throttle levers were set at or close to IDLE. When the flightcrew selected the DOWN position for landing gear, the liftdumpers deployed. Within approximately eleven seconds the liftdumpers retracted, as a result of automatic forward throttle movement and/or flightcrew action to switch off the liftdumper system.

A preliminary investigation of the incident has indicated the cause to be a combination of the following:

—Electro-magnetic interference (EMI) in the outboard wheel speed channels caused by a faulty Flight Control Computer (FCC);
—Voltage spikes in the inboard wheelspeed channels during skid control box power-up on landing gear DOWN selection; and
—Liftdumper arming prior to landing gear DOWN selection.

Fokker and the RLD are continuing to investigate the cause of the incident.

Such inadvertent deployment of the liftdumpers during approach for landing, if not corrected, could result in reduced controllability and performance of the airplane.

Explanation of Relevant Service Information

Fokker has issued All Operator Message (AOM) AOF100.044, dated April 8, 1998, which provides procedures to revise the Airplane Flight Manual (AFM) to provide the flightcrew with instructions not to arm the liftdumper system before commanding the landing gear to extend. The RLD issued Dutch airworthiness directive 1998–042 (A), dated April 10, 1998, mandating these instructions into the AFM, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

These airplane models are manufactured in the Netherlands and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent inadvertent deployment of the liftdumpers during approach for landing, and consequent reduced controllability and performance of the airplane. This AD requires revising the Limitations and Normal Procedures sections of the FAA-approved AFM to provide the flightcrew with instructions not to arm the liftdumper system prior to commanding the landing gear to extend.

Differences Between This AD and the Dutch Airworthiness Directive

This AD differs from the parallel Dutch airworthiness directive in that the AFM revision is reworded to include a more specific statement of the consequence of arming the liftdumper before commanding the landing gear to extend. The FAA has determined that the Limitations and Normal Procedures sections of the AFM must be revised to inform the flightcrew that arming the liftdumper before commanding the landing gear to extend may result in inadvertent deployment of the liftdumper.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–153–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–02 Fokker: Amendment 39–10529. Docket 98–NM–153–AD.

Applicability: All Model F28 Mark 0070 and Mark 0100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent deployment of the liftdumpers during approach for landing, and consequent reduced controllability and performance of the airplane, accomplish the following:

(a) Within 5 days after the effective date of this AD, revise the Limitations and Normal Procedures sections of the FAA-approved Airplane Flight Manual (AFM) in accordance with paragraphs (a)(1) and (a)(2) of this AD. This may be accomplished by inserting a copy of this AD in the AFM.

(1) Add the following information to section 5—NORMAL PROCEDURES, sub-Section APPROACH AND LANDING, after the subject APPROACH:

"BEFORE LANDING

WARNING: DO NOT ARM THE LIFTDUMPER SYSTEM BEFORE LANDING GEAR DOWN SELECTION.

Selecting Landing Gear DOWN after arming the liftdumper system may result in inadvertent deployment of the liftdumpers, because the liftdumper arming test may be partially ineffective."

(2) Add the following information to the LIMITATIONS section:

"LIFTDUMPER SYSTEM

DO NOT ARM THE LIFTDUMPER SYSTEM BEFORE LANDING GEAR DOWN SELECTION."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1998–042 (A), dated April 10, 1998.

(d) This amendment becomes effective on June 2, 1998.

Issued in Renton, Washington, on May 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13062 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–13–V

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–10]

RIN 2120–AA66

Establishment of Class C Airspace and Revocation of Class D Airspace, Springfield-Branson Regional Airport; MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class C airspace area and revokes the existing Class D airspace area at the Springfield-Branson Regional Airport, Springfield, MO. The Springfield-Branson Regional Airport is a public-use facility with an operating control tower served by a Level III Terminal Radar Approach Control Facility (TRACON). The establishment of this Class C airspace area will require pilots to maintain two-way radio communications with air traffic control (ATC) while in Class C airspace. The FAA is taking this action to promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area. Additionally, this action corrects several inadvertent editorial errors.

EFFECTIVE DATE: 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that Terminal Radar Service Areas (TRSA's) should be replaced. Four types of airspace configurations were considered as replacement candidates, and Model B, the Airport Radar Service Area (ARSA) configuration, was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1–2.2.1, "Replace

Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by Special Federal Aviation Regulation No. 45 (48 FR 50038; October 28, 1983) to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining ARSA airspace and establishing air traffic rules for operation within such an area.

Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA stated that it would propose ARSA's for other airports at which TRSA procedures were in effect in future notices.

The NAR Task Group also recommended that the FAA develop quantitative criteria for establishing ARSA's at locations other than those which were included in the TRSA replacement program. The task group recommended that these criteria include, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are published via the FAA directives system (Order 7400.2, Procedures for Handling Airspace Matters).

The FAA adopted the NAR Task Group recommendation that each Class C airspace area be of the same airspace configuration insofar as is practicable. The standard Class C airspace area consists of that airspace within 5 nautical miles (NM) of the primary airport, extending from the surface to an altitude of 4,000 feet above airport elevation (AAE), and that airspace between 5 and 10 NM from the primary airport from 1,200 feet above ground level to an altitude of 4,000 feet AAE. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Related Rulemaking Actions

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule, in part, discontinued the use of the term "airport radar service area" and replaced it with the designation "Class C airspace area." This change in terminology is reflected in the remainder of this final rule.

Public Input

As announced in the **Federal Register** on July 21, 1994 (59 FR 37282), a pre-NPRM airspace meeting was held on September 7, 1994, in Springfield, MO. This meeting provided local airspace users an opportunity to present input on the design of the planned establishment of the Springfield, MO, Class C airspace area.

On December 9, 1996, the FAA published an NPRM (61 FR 237, Notice 95–AWA–10) that proposed to establish a Class C airspace area at the Springfield-Branson Regional Airport, MO. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In response to this NPRM, the FAA received twelve written comments. All comments were considered before making any final determination on this final rule. The comments received are analyzed below.

Analysis of Comments

The FAA received several comments from the Air Line Pilots Association and local business operators, which were in support of establishing Class C airspace at Springfield-Branson Regional Airport.

The FAA also received several comments from local businesses recommending the installation of an instrument landing system (ILS) precision approach to runway 20, and lengthening the primary runway at Springfield-Branson Regional Airport. While the FAA appreciates these comments, they are outside of the scope of the Notice, and should be directed to the operator of the Springfield-Branson Regional Airport.

The FAA received several comments stating that the FAA has not used alternate nonrulemaking solutions to address safety issues concerning Springfield-Branson Regional Airport, and disagreed with the use of enplanement numbers as the only criteria to determine the need for Class C airspace.

The FAA does not agree with these commenters. The FAA has exhausted all nonrulemaking alternatives to provide for an acceptable level of safety at Springfield-Branson Regional Airport. For example, over the past several years, the FAA has updated its equipment and improved its radar services. In addition, the FAA has routinely conducted user meetings and safety seminars to address local issues and safety concerns. The FAA held meetings in the Springfield area concerning: (1) potential conflicts between en route visual flight rules (VFR) aircraft using the Springfield Very High Frequency Omnidirectional Range (VOR) navigational aid and arriving traffic; (2) conflicts between aircraft on instrument approach to Runway 20 and the VFR flyway [area] to the southeast; (3) conflicts between aircraft using the localizer procedure and transiting aircraft operating to and from the Springfield Downtown Airport; and, (4) congestion caused by military aircraft operating to and from the Springfield-Branson Regional Airport for practice approaches and training. In addition, Springfield-Branson Regional Airport is the only airport in southwest Missouri that has a radar facility. This capability attracts several aviation flight training schools, thus adding to a mixed traffic environment.

Regarding the criteria used to determine candidacy for Class C airspace areas, an airport must have an operational airport traffic control tower (ATCT) that is serviced by a radar approach control and meet one of the following: (1) 75,000 annual instrument operations count at the primary airport; (2) 100,000 annual instrument operations count at the primary and secondary airport in the terminal area hub; or (3) 250,000 annual enplaned passengers at the primary airport. The Springfield-Branson Regional Airport meets two of the FAA criteria and qualifies as a candidate for a Class C airspace area based on passenger enplanements (326,038 for calendar year 1996), and instrument operations (149,356 for calendar year 1997).

The Aircraft Owners and Pilots Association commented that the FAA should delay establishing a Class C airspace at Springfield-Branson Regional Airport based on: (1) a proposal to establish commercial air service at M. Graham Clark Airport, located approximately 2 miles from Springfield-Branson Regional Airport; and, (2) the potential establishment of a new airport in close proximity to Springfield-Branson Regional Airport.

The FAA does not agree with this commenter, or that the establishment of the Class C airspace area should be delayed. Currently, there are no new airport proposals, private or public, for the Springfield-Branson area.

The FAA is aware that commercial air service at M. Graham Clark is proposed to begin during the summer of 1998. If this operation commences, the FAA will monitor the situation to assess any impact on operations at Springfield-

Branson Regional Airport. Further, the FAA believes that timely establishment of a Class C airspace area will promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

The Manager of Mountain Grove Memorial Airport commented that only one public meeting had taken place, and another individual said they had not been informed of any public meetings.

The FAA does not agree with these commenters. Prior to issuing the NPRM the FAA held seven public meetings (meeting dates: January 30, February 27, March 17, April 24, June 23, August 25 and September 22, 1997) in the Springfield area to inform the public of its growing safety concerns and the need to change the designation of the airspace area. Further, a Notice of Informal Airspace Meeting was published in the **Federal Register** on July 21, 1994. Also, notices of meetings were sent to pilots with Class 2 medical certificates within a 70-mile radius of Springfield-Branson Regional Airport. The FAA believes that every effort was made to inform and involve the public of this rulemaking effort.

The Manager of Mountain Grove Airport also objected to the establishment of Class C airspace, because it would require pilots to maintain two-way radio communications with ATC.

The FAA does not agree with this objection. The requirement to maintain two-way radio communications with ATC exists in the current Class D airspace, and the establishment of Class C airspace will continue this requirement.

One commenter stated that safety concerns would be mitigated by extending the Class D airspace area to the VOR where it is currently Class E airspace.

The FAA does not agree. In Class D airspace areas there are no separation services provided to VFR aircraft. In contrast, a Class C airspace area will provide a controlled environment where separation services are provided to both VFR and IFR aircraft.

Several commenters expressed a belief that the economic impact of establishing Class C airspace will be greater than the FAA's estimate of $575.00 as stated in the NPRM, and will warrant the establishment of a clearance delivery position.

The FAA does not agree with these commenters. The FAA is confident that it can accommodate any additional increase in air operations caused by the establishment of this Class C airspace area at current authorized staffing levels. There are two positions already in place at the Springfield ATCT that could deliver clearances without an increase of personnel or equipment.

Several individuals suggested that the establishment of Class C airspace would result in a pay raise for the controllers at Springfield ATCT.

The FAA does not agree with these commenters. The purpose of establishing a Class C airspace area at this airport is to promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

One commenter believes that many of the aircraft based at airports within 20 miles of Springfield-Branson Regional Airport have no electrical systems, and it would be financially difficult to equip them with radios and transponders required to enter Class C airspace.

Another commenter believes that the cost of circumnavigating the Class C airspace will not be negligible.

The FAA does not agree with this comment. Currently, Title 14 CFR section 91.215 sets out requirements for ATC transponder and altitude reporting equipment and use. This regulation includes procedures whereby aircraft not equipped with the required transponder equipment may get relief from the stipulated requirements. Additionally, those aircraft transiting the area that do not want to establish radio communication with ATC may also choose to circumnavigate the Class C airspace area. As set out in the associated Regulatory Evaluation Summary for this regulatory effort, the FAA believes that any costs associated with circumnavigation will be negligible.

The Rule

This amendment to part 71 of 14 CFR part 71 establishes a Class C airspace area and revokes the Class D airspace area at Springfield-Branson Regional Airport located in Springfield, MO. Springfield-Branson Regional Airport is a public-use facility with an operating control tower served by a Level III TRACON. The establishment of this Class C airspace area will require pilots to establish two-way radio communications with the ATC facility providing air traffic services prior to entering the airspace and thereafter maintain those communications while within the Class C airspace area. Implementation of the Class C airspace area will promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

Additionally, this action correctly identifies this Class C airport as the Springfield-Branson Regional Airport. The notice inadvertently listed the airport name incorrectly. This rule also corrects the coordinates for the Springfield-Branson Regional Airport, the Bird Field Airport, and also deletes the reference to the Springfield VORTAC coordinates. Further, this final rule correctly identifies the Class C airspace area as a continuous operation.

Definitions and operating requirements applicable to Class C airspace can be found in section 71.51 of part 71 and sections 91.1 and 91.130 of part 91 of the FAR. The coordinates for this airspace docket are based on North American Datum 83. Class C and Class D airspace designations are published, respectively, in paragraphs 4000 and 5000 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class C airspace area listed in this document will be published subsequently in the Order and the Class D airspace area listed in this document will be removed subsequently from the Order.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this final rule is not "a significant regulatory action" as defined in the Executive Order and by the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities; will not constitute a barrier to international trade and does not contain any Federal intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

The FAA has determined that the establishment of the Springfield, MO, Class C airspace area at the Springfield-Branson Regional Airport will impose a one-time FAA administrative cost of $600 (1997 dollars). The FAA has also determined that this rule will impose a negligible cost on the aviation community (aircraft operators and fixed based operators).

The FAA will distribute a "Letter To Airmen" to all pilots residing within 50 miles of the Class C airspace site that

will explain the operation and airspace configuration of the Class C airspace area. The "Letter to Airmen" costs will be about $600 (1997 dollars). This one-time negligible cost will be incurred upon the establishment of the Class C airspace area.

To establish a Class C airspace area at Springfield-Branson Regional Airport, MO, the FAA does not expect to incur any additional costs for ATC staffing, training, or facility equipment. The FAA can accommodate participating traffic with current staffing levels. The FAA will train its controller force in Class C airspace procedures during regularly scheduled briefing sessions routinely held at the airport. Thus, no additional training costs or equipment requirements are anticipated.

The establishment of Class C airspace throughout the country has required sectional charts to be revised by removing existing airspace configurations and incorporating the new Class C airspace boundaries. The FAA currently revises sectional charts every 6 months to reflect changes to the airspace environment. Those changes required to depict Class C airspace are made routinely during these charting cycles. The periodic changes to these charts are considered routine operating expenses of the FAA. Thus, the FAA does not expect to incur any additional charting costs as the result of the Springfield-Branson Regional Airport Class C airspace area.

Most aircraft operating in the vicinity of the Springfield-Branson Regional Airport Class C airspace area already have an altitude encoding transponder and two-way radio communications capability. Therefore, there will be no equipment costs to aircraft operators as a result of this rule.

The FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications may choose to circumnavigate the Springfield-Branson Regional Airport Class C airspace area. However, the FAA contends that these operators could circumnavigate the Class C airspace area without significantly deviating from their regular flight paths. The operators who choose to fly beyond the lateral boundaries will be required to navigate an additional 1 to 6 nautical miles, adding an additional 2 to 12 minutes of flight time per trip. For aircraft costing approximately $75 per hour to operate, the circumnavigation cost amounts to an additional $2.50 to $15.00 per flight. Operators could remain clear of the Class C airspace area by flying above the ceiling of 5,300 feet mean sea level (MSL), beneath the outer floor of 2,500 feet MSL, or beyond the lateral boundaries. Thus, the FAA believes that any circumnavigation costs due to this rulemaking will be negligible.

The establishment of the Springfield-Branson Regional Airport Class C airspace area is not expected to have any adverse impacts on the operations at Bird Field. Bird Field is a satellite airport, approximately 5 nautical miles north of Springfield-Branson Regional Airport. The Class C airspace area will exclude the airspace encompassing a 1-mile radius around Bird Field. Most pilots using this airport will probably circumnavigate the Class C airspace area.

The benefits of the Springfield-Branson Regional Airport, MO, lass C airspace area are enhanced aviation safety and improved operational efficiency. The Springfield-Branson Regional Airport Class C airspace area will lower the risk of midair collisions as a result of increased positive control of airspace around the Springfield-Branson Regional Airport.

The establishment of the Springfield-Branson Regional Airport Class C airspace area will impose a negligible, if any, cost on the aviation community and a cost of about $600 on the FAA. The FAA has determined that in view of the negligible cost of compliance, enhanced aviation safety and operational efficiency, establishment of the Springfield-Branson Regional Airport Class C airspace area will be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small businesses and other small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility analysis if a rule will have a significant economic impact on a substantial number of small entities.

The FAA certifies that this final rule will impose negligible additional costs upon some operators in the Springfield-Branson Regional Airport Class C airspace area, therefore, the rule will not have a significant economic impact on a substantial number of small entities.

Initial Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

Unfunded Mandate Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million adjusted annually for inflation in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations

and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 4000 Subpart C—Class C Airspace.

* * * * *

ACE MO C Springfield-Branson Regional Airport, MO [New]

Springfield-Branson Regional Airport, MO
(Lat. 37°14'40" N., long. 93°23'13" W.)
Bird Field Airport
(Lat. 37°19'12" N., long. 93°25'12" W.)

That airspace extending upward from the surface to, and including, 5,300 feet MSL within a 5-mile radius of Springfield-Branson Regional Airport, excluding that airspace within a 1-mile radius of the Bird Field Airport and that airspace extending upward from 2,500 feet MSL to, and including, 5,300 feet MSL within a 10-mile radius of Springfield-Branson Regional Airport.

* * * * *

Paragraph 5000 Subpart D-Class D Airspace.

* * * * *

ACE MO D Springfield, MO [Removed]

* * * * *

Issued in Washington, DC, on May 13, 1998.

John S. Walker,

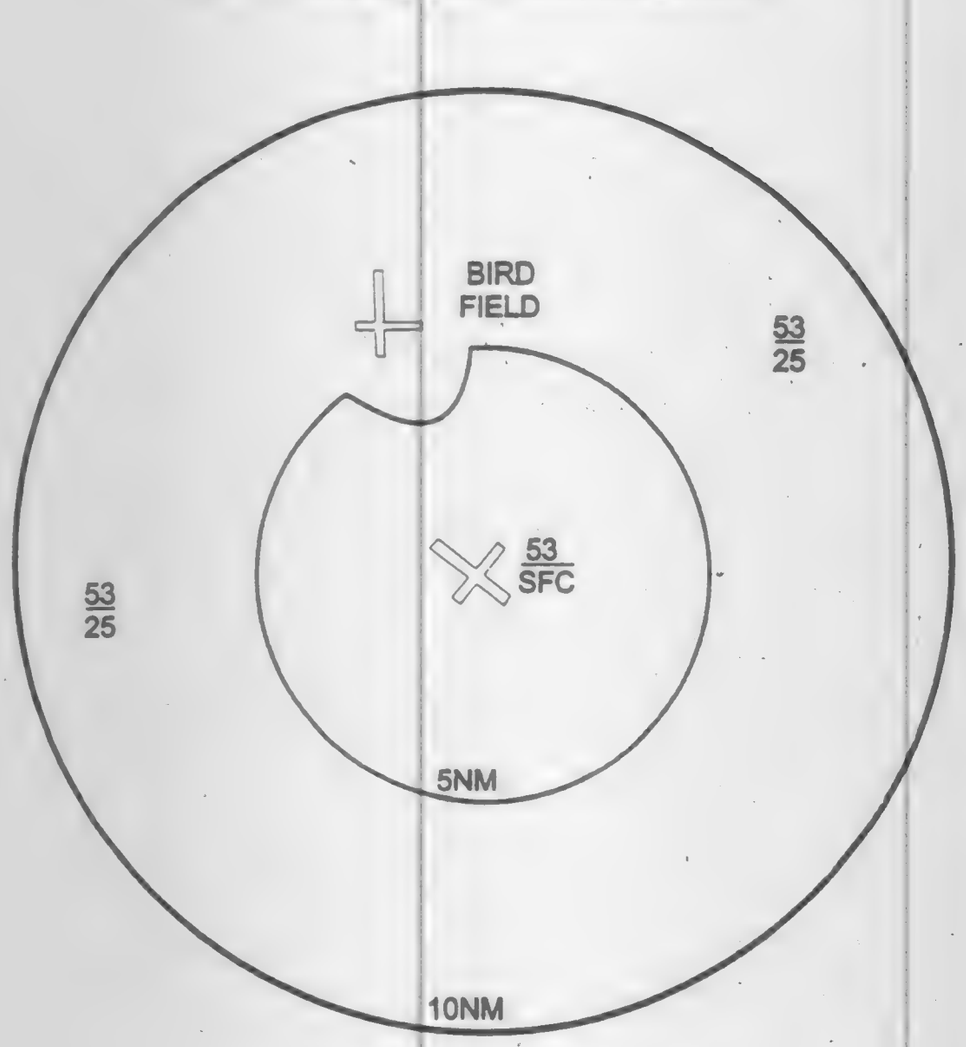
Program Director for Air Traffic Airspace Management.

BILLING CODE 4910–13–P

SPRINGFIELD-BRANSON REGIONAL

CLASS C AIRSPACE AREA

(NOT TO BE USED FOR NAVIGATION)



Prepared by the

FEDERAL AVIATION ADMINISTRATION

Air Traffic Publications

ATA-10

[FR Doc. 98–13139 Filed 5–15–98; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29221; Amdt. No. 409]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting its amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on May 8, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, June 18, 1998.

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 409 effective date, June 18, 1998]

From	To	MEA
§ 95.1001 Direct Routes, U.S. 95.101 Amber Federal Airway 1 is Amended to Read in Part		
Campbell Lake, AK NDB	Takotna River, AK NDB	*10000
*9500–MOCA		
Takotna River, AK NDB	North River, AK NDB	6000

From To	Total distance	Changeover point		Track angle	MEA	MAA
		Distance	From			
§ 95.5000 High Altitude RNAV Routes J888R is Amended to Read in Part						
Mousy, AK W/P	196				28000	45000
Ozzie, AK W/P				230/045 to Ozzie		

From	To	MEA
§ 95.6002 VOR Federal Airway 2 is Amended to Read in Part		
Bismarck, ND VOR/DME	Jamestown, ND VOR/DME	4000

From	To	MEA
§ 95.6004 VOR Federal Airway 4 is Amended to Read in Part		
Lexington, KY Vortac	Cicke, KY FIX	3000
§ 95.6009 VOR Federal Airway 9 is Amended to Read in Part		
Janesville, WI VORTAC	Madison, WI VORTAC	3000
§ 95.6012 VOR Federal Airway 12 is Amended to Read in Part		
Wichita, KS VORTAC *4500–MRA	*Indic, KS FIX	3600
§ 95.6013 VOR Federal Airway 13 is Amended to Read in Part		
Fort Smith, AR VORTAC *5000–MRA	*Cheso, AR FIX	3400
§ 95.6054 VOR Federal Airway 54 is Amended to Read in Part		
Texarkana, AR VORTAC *4000–MRA	*Washo, AR FIX	2200
Washo, AR FIX *1800–MOCA	Caney, AR FIX	*3500
Caney, AR FIX *1900–MOCA	Malve, AR FIX	*3000
Malva, AR FIX	Little Rock, AR VORTAC	2000
§ 95.6055 VOR Federal Airway 55 is Amended to Read in Part		
Siren, WI VOR/DME	Brainerd, MN VORTAC	6000
Grand Forks, ND VOR/DME *12000–MRA **3600–MOCA	*Lakes, ND FIX	**8000
§ 95.6097 VOR Federal Airway 97 is Amended to Read in Part		
Lexington, KY VORTAC	Darks, KY FIX	3000
Janesville, WI VORTAC	Thebo, WI FIX	3000
§ 95.6139 VOR Federal Airway 139 is Amended to Read in Part		
Wilmington, NC VORTAC *4000–MRA	*Kobby, NC FIX	2000
§ 95.6171 VOR Federal Airway 171 is Amended to Read in Part		
Lexington, KY, VORTAC	McFee, KY FIX	3000
§ 95.6177 VOR Federal Airway 177 is Amended to Read in Part		
Janesville, WI VORTAC	Madison, WI VORTAC	3000
§ 95.6178 VOR Federal Airway 178 is Amended to Read in Part		
McFee, KY FIX	Lexington, KY VORTAC	3000
Lexington, KY VORTAC	Trent, KY FIX	3000
§ 95.6310 VOR Federal Airway 310 is Amended to Read in Part		
Burch, NC FIX *2400–MOCA	Greensboro, NC VORTAC	*3500
§ 95.6339 VOR Federal Airway 339 is Amended to Read in Part		
Hazard, KY VOR/DME	Trent, KY FIX	4000
Trent, KY FIX	Masse, KY FIX	3000
Masse, KY FIX	Sprow, KY FIX	3000
§ 95.6493 VOR Federal Airway 493 is Amended to Read in Part		
Lexington, KY VORTAC	York, KY VORTAC	3000
§ 95.6510 VOR Federal Airway 510 is Amended to Read in Part		
Bismarck, ND VOR/DME	*Lakes, ND FIX	3900

From	To	MEA
*1200–MRA Lakes, ND FIX	Jamestown, ND VOR/DME	3900
§ 95.6517 VOR Federal Airway 517 is Amended to Read in Part		
London, KY VORTAC Logic, KY FIX	Logic, KY FIX Falmouth, KY VOR/DME	3300 2800
§ 95.6607 VOR Federal Airway 607 is Added to Read		
Mendocino, CA VORTAC Yager, CA FIX	Yager, CA FIX Arcata, CA VOR/DME	9000 8000

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airways Changeover Points V–4 is Amended to Delete			
Lexington, KY VORTAC	Newcombe, KY VORTAC	37	Lexington.
V–124 is Amended by Adding			
Hot Springs, AR VOR/DME	Little Rock, AR VORTAC	14	Hot Springs.
V–430 is Amended by Adding			
Devils Lake, ND VOR/DME	Minot, ND VORTAC	40	Devils Lake.
V–493 is Amended to Delete			
Lexington, Ky VORTAC	York, KY VORTAC	41	Lexington.

[FR Doc. 98–12997 Filed 5–15–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to reflect a new delegation that authorizes the Division Directors, Office of Device Evaluation (ODE), Center for Devices and Radiological Health (CDRH) to approve, disapprove, or withdraw approval of product development protocols and applications for premarket approval for medical devices.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT:
Debra A. Baclawski, Center for Devices and Radiological Health (HFZ–026), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–1060, or
Donna G. Page, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority regulation in subpart B of part 5 (21 CFR part 5) by adding authorities to additional officials within CDRH under § 5.53 *Approval, disapproval, or withdrawal of approval of product development protocols and applications for premarket approval for medical devices.* As a result of reengineering initiatives within CDRH, for the Premarket Approval and Product Development Protocol Programs, this delegation will improve the efficiency of operations for these programs.

These authorities will not be further redelegated at this time.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1, 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR, 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223.

2. Section 5.53 is amended by revising paragraphs (a)(1) and (b)(1)(i) to read as follows:

§ 5.53 Approval, disapproval, or withdrawal of approval of product development protocols and applications for premarket approval for medical devices.

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), the Director and Deputy Directors, Office of Device Evaluation (ODE), CDRH, and the Division Directors, ODE, CDRH.

* * * * *

(b)(1) * * *

(i) The Director and Deputy Directors, CDRH, the Director and Deputy Directors, ODE, CDRH, and the Division Directors, ODE, CDRH.

* * * * *

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13046 Filed 5–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 507

Manufacture, Sale, Wear, Commercial Use and Quality Control of Heraldic Items

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This revision authorizes the manufacture and sale of full size military medals and decorations. In the past the manufacture and sale of these items was prohibited except under Government contract through the Defense Personnel Support Center. In coordination with all the Services, the Office of the Secretary of Defense approved the manufacture and sale of full size military medals and decorations with the provision that no version of the Medal of Honor can be manufactured except under Government contract with the Defense Personnel Support Center. This rule also revises the Department of the Army policy (Army Regulation 672–8) governing the manufacture, sale, reproduction, possession, and wearing of military decorations, medals, badges, and insignia. This revision establishes responsibility for authorizing the incorporation of insignia designs in commercial articles; adds procedures for processing a request to use Army insignia and the Army emblem design in advertisement or promotional materials; clarifies insignia items that are controlled heraldic items; and defines the certification process for heraldic items. This revision has a direct affect on Departments of the Army and Air Force personnel who design, procure from private industry and who wear military insignia.

EFFECTIVE DATE: May 18, 1998.

ADDRESSES: Director, The Institute of Heraldry, 9325 Gunston Road, Room S–112, Fort Belvoir, Virginia 22060–5579.

FOR FURTHER INFORMATION CONTACT: Stanley W. Haas, Chief, Technical and Production Division, telephone (703) 806–4984.

SUPPLEMENTARY INFORMATION:

a. Background

The wear, manufacture, and sale of decorations, medals, badges, and insignia is restricted by 18 U.S.C. 701 and 704. The Institute of Heraldry, U.S. Army has been designated to act in behalf of the Department of Defense, Department of the Army and Department of the Air Force in establishing regulations governing control in manufacturing and quality. The revision was previously announced in the proposed rule section of the **Federal Register**, Vol. 63, No. 47, Pages 11858–11862, Wednesday, March 11, 1998 for public comment.

b. Comments and Responses

No comments were received on the proposed rule.

Executive Order 12866

This rule is not a major rule as defined by Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act has no bearing on this rule.

Paperwork Reduction Act

This rule does not contain reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 507

Decorations, Medals, Awards.

Accordingly, 32 CFR Part 507 is revised to read as follows:

PART 507—MANUFACTURE AND SALE OF DECORATIONS, MEDALS, BADGES, INSIGNIA, COMMERCIAL USE OF HERALDIC DESIGNS AND HERALDIC QUALITY CONTROL PROGRAM

Subpart A—Introduction

Sec.

507.1 Purpose.
507.2 References.
507.3 Explanation of abbreviations and terms.
507.4 Responsibilities.
507.5 Statutory authority.

Subpart B—Manufacture and sale of Decorations, Medals, Badges, and Insignia

507.6 Authority to manufacture.
507.7 Authority to sell.
507.8 Articles authorized for manufacture and sale.
507.9 Articles not authorized for manufacture or sale.

Subpart C—Commercial Use of Heraldic Designs

507.10 Incorporation of designs or likenesses of approved designs in commercial articles.
507.11 Reproduction of designs.
507.12 Possession and wearing.

Subpart D—Heraldic Quality Control Program

507.13 General.
507.14 Controlled heraldic items.
507.15 Certification of heraldic items.
507.16 Violations and penalties.
507.17 Procurement and wear of heraldic items.
507.18 Processing complaints of alleged breach of policies.

Authority: 10 U.S.C. 3012, 18 U.S.C. 701, 18 U.S.C. 702

Subpart A—Introduction

§ 507.1 Purpose.

This part prescribes the Department of the Army and the Air Force policy governing the manufacture, sale, reproduction, possession, and wearing of military decorations, medals, badges, and insignia. It also establishes the Heraldic Item Quality Control Program to improve the appearance of the Army and Air Force by controlling the quality of heraldic items purchased from commercial sources.

§ 507.2 References.

Related publications are listed in paragraphs (a) through (f) of this section. (A related publication is merely a source of additional information. The user does not have to read it to understand this part). Copies of referenced publications may be reviewed at Army and Air Force Libraries or may be purchased from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(a) AFI 36–2903, Dress and Personal Appearance of Air Force Personnel.

(b) AR 360–5, Public Information.

(c) AR 670–1, Wear and Appearance of Army Uniforms and Insignia.

(d) AR 840–1, Department of the Army Seal, and Department of the Army Emblem and Branch of Service Plaques.

(e) AR 840–10, Heraldic Activities, Flags, Guidons, Streamers, Tabards and Automobile Plates.

(f) AFR 900–3, Department of the Air Force Seal, Organizational Emblems, Use and Display of Flags, Guidons, Streamers, and Automobile and Aircraft Plates.

§ 507.3 Explanation of abbreviations and terms.

(a) *Abbreviations.*

(1) AFB—Air Force Base.

(2) DA—Department of the Army.

(3) DCSPER—Deputy Chief of Staff for Personnel.
(4) DSCP—Defense Supply Center Philadelphia.
(5) DUI—distinctive unit insignia.
(6) ROTC—Reserve Officers' Training Corps.
(7) SSI—shoulder sleeve insignia.
(8) TIOH—The Institute of Heraldry.
(9) USAF—United States Air Force.

(b) *Terms.*—(1) *Cartoon.* A drawing six times actual size, showing placement of stitches, color and size of yarn and number of stitches.

(2) *Certificate of authority to manufacture.* A certificate assigning manufacturers a hallmark and authorizing manufacture of heraldic items.

(3) *Hallmark.* A distinguishing mark consisting of a letter and numbers assigned to certified manufacturers for use in identifying manufacturers of insignia.

(4) *Heraldic items.* All items worn on the uniform to indicate unit, skill, branch, award or identification and a design has been established by TIOH on an official drawing.

(5) *Letter of agreement.* A form signed by manufacturers before certification, stating that the manufacturer agrees to produce heraldic items in accordance with specific requirements

(6) *Letter of authorization.* A letter issued by TIOH that authorizes the manufacture of a specific heraldic item after quality assurance inspection of a preproduction sample.

(7) *Tools.* Hubs, dies, cartoons, and drawings used in the manufacture of heraldic items.

§ 507.4 Responsibilities.

(a) *Deputy Chief of Staff for Personnel (DCSPER), Army.* The DCSPER has staff responsibility for heraldic activities in the Army.

(b) *The Director, The Institute of Heraldry (TIOH).* The Director, TIOH, will—

(1) Monitor the overall operation of the Heraldic Quality Control Program.
(2) Authorize the use of insignia designs in commercial items.
(3) Certify insignia manufacturers.
(4) Inspect the quality of heraldic items.

(c) *The Commander, Air Force Personnel Center, Randolph AFB, TX 78150–4739.* The Commander has staff responsibility for heraldic activities in the Air Force.

(d) *The Chief, Air Force Personnel Center Commander's Programs Branch (HQ AFPC/DPSFC), 550 C Street West, Suite 37, Randolph AFB, TX 78150–4739.* The Chief, Commander's Programs Branch is responsible for granting permission for the incorporation of certain Air Force badges and rank insignia designs in commercial items.

(e) *Commander, Air Force Historical Research Agency (AFHRA/RSO), Maxwell AFB, AL 36112–6424.* The Commander, AFHRA/RSO, is responsible for granting permission for use of the Air Force seal, coat of arms, and crest.

(f) *Commanders.* Commanders are responsible for purchasing heraldic items that have been produced by manufacturers certified by TIOH. Commanders will ensure that only those heraldic items that are of quality and design covered in the specification and that have been produced by certified manufacturers are worn by personnel under their command.

§ 507.5 Statutory authority.

(a) The wear, manufacture, and sale of military decorations, medals, badges, their components and appurtenances, or colorable imitations of them, are governed by section 704, title 18, United States Code (18 U.S.C. 704).

(b) The manufacture, sale, possession, and reproduction of badges, identification cards, insignia, or other designs, prescribed by the head of a U.S. department or agency, or colorable imitations of them, are governed by Title 18, United States Code, Section 701 (18 U.S.C. 701).

(c) This part incorporates the statutory provisions.

Subpart B—Manufacture and Sale of Decorations, Medals, Badges, and Insignia.

§ 507.6 Authority to manufacture.

(a) A certificate of authority to manufacture heraldic articles may be granted by the Institute of Heraldry.

(1) Certificates of authority will be issued only to companies who have manufacturing capability and agree to manufacture heraldic items according to applicable specifications or purchase descriptions.

(2) The certificate of authority is valid only for the individual or corporation indicated.

(3) A hallmark will be assigned to each certified manufacturer. All insignia manufactured will bear the manufacturer's hallmark.

(b) A certificate of authority may be revoked or suspended under the procedures prescribed in subpart D of this part.

(c) Manufacturers will submit a preproduction sample to TIOH of each item they manufacture for certification under the Heraldic Quality Control Program. A letter of certification authorizing manufacture of each specific item will be issued provided the sample meets quality assurance standards.

(d) A copy of the certified manufactures list will be furnished to the Army and Air Force Exchange Service and, upon request, to Army and Air Force commanders.

§ 507.7 Authority to sell.

No certificate of authority to manufacture is required to sell articles listed in § 507.8 of this part; however, sellers are responsible for insuring that any article they sell is manufactured in accordance with Government specifications using government furnished tools, bears a hallmark assigned by TIOH, and that the manufacturer has received a certification to manufacture that specific item prior to sale.

§ 507.8 Articles authorized for manufacture and sale.

(a) The articles listed in paragraphs (a)(1) through (10) of this section are authorized for manufacture and sale when made in accordance with approved specifications, purchase descriptions or drawings.

(1) All authorized insignia (AR 670–1 and AFI 36–2903).

(2) Appurtenances and devices for decorations, medals, and ribbons such as oak leaf clusters, service stars, arrowheads, V-devices, and clasps.

(3) Combat, special skill, occupational and qualification badges and bars.

(4) Identification badges.

(5) Fourrageres and lanyards.

(6) Lapel buttons.

(7) Decorations, service medals, and ribbons, except for the Medal of Honor.

(8) Replicas of decorations and service medals for grave markers. Replicas are to be at least twice the size prescribed for decorations and service medals.

(9) Service ribbons for decorations, service medals, and unit awards.

(10) Rosettes.

(11) Army emblem and branch of service plaques.

(b) Variations from the prescribed specifications for the items listed in paragraph (a) of this section are not permitted without prior approval, in writing, by TIOH.

§ 507.9 Articles not authorized for manufacture or sale.

The following articles are not authorized for manufacture and sale, except under contract with DSCP:

(a) The Medal of Honor.

(b) Service ribbon for the Medal of Honor.

(c) Rosette for the Medal of Honor.
(d) Service flags (prescribed in AR 840–10 or AFR 900–3).
(e) Army seal.
(f) Commercial articles for public sale that incorporate designs or likenesses of decorations, service medals, and service ribbons.
(g) Commercial articles for public sale that incorporate designs or likenesses of designs of insignia listed in § 507.8 of this part, except when authorized by the Service concerned.

Subpart C—Commercial Use of Heraldic Designs

§ 507.10 Incorporation of designs or likenesses of approved designs in commercial articles.

The policy of the Department of the Army and the Department of the Air Force is to restrict the use of military designs for the needs or the benefit of personnel of their Services.

(a) Except as authorized in writing by the Department of the Army or the Department of the Air Force, as applicable, the manufacture of commercial articles incorporating designs or likenesses of official Army/Air Force heraldic items is prohibited. However, certain designs or likenesses of insignia such as badges or organizational insignia may be incorporated in articles manufactured for sale provided that permission has been granted as specified in paragraphs (a) (1) and (2) of this section.

(1) *Designs approved for use of the Army.* The Director, The Institute of Heraldry, 9325 Gunston Road, Room S–112, Fort Belvoir, VA 22060–5579, is responsible for granting permission for the incorporation of certain Army insignia designs and the Army emblem in commercial articles manufactured for sale. Permission for such use will be in writing. Commanders of units authorized a SSI or DUI may authorize the reproduction of their SSI or DUI on commercial articles such as shirts, tie tacks, cups, or plaques. Permission for use of a SSI or DUI will be submitted in writing to the commander concerned. Authorization for incorporation of designs or likenesses of designs in commercial items will be granted only to those manufacturers who agree to offer these items for sale only to Army and Air Force Exchange Service and outlets that sell primarily to military personnel and their dependents.

(2) *Designs approved for use of the Air Force.* Headquarters, Air Force Personnel Center, Chief, Commander's Programs Branch (HQ AFPC/DPSFC), 550 C Street West, Suite 37, Randolph AFB, TX 78150–4739, is responsible for granting permission for the incorporation of certain Air Force designs for commercial articles manufactured for sale. The Commander, Air Force Historical Research Agency, AFHRA/RSO, Maxwell AFB, AL 36112–6678, is responsible for granting permission for the incorporation of the coat of arms, crest, seal and organizational emblems. Such permission will be in writing. Authorization for incorporation of designs or likenesses of designs in commercial items will be granted only to those manufacturers who agree to offer these items for sale only to the Army and Air Force Exchange Service, or to those outlets that sell primarily to military personnel and their dependents.

(b) In the case of the Honorable Service lapel button, a general exception is made to permit the incorporation of that design in articles manufactured for public sale provided that such articles are not suitable for wear as lapel buttons or pins.

§ 507.11 Reproduction of designs.

(a) The photographing, printing, or, in any manner making or executing any engraving, photograph, print, or impression in the likeness of any decoration, service medal, service ribbon, badge, lapel button, insignia, or other device, or the colorable imitation thereof, of a design prescribed by the Secretary of the Army or the Secretary of the Air Force for use by members of the Army or the Air Force is authorized provided that such reproduction does not bring discredit upon the military service and is not used to defraud or to misrepresent the identification or status of an individual, organization, society, or other group of persons.

(b) The use for advertising purposes of any engraving, photograph, print, or impression of the likeness of any Department of the Army or Department of the Air Force decoration, service medal, service ribbon, badge, lapel button, insignia, or other device (except the Honorable Service lapel button) is prohibited without prior approval, in writing, by the Secretary of the Army or the Secretary of the Air Force except when used to illustrate a particular article that is offered for sale. Request for use of Army insignia in advertisements or promotional materials will be processed through public affairs channels in accordance with AR 360–5, paragraph 3–37.

(c) The reproduction in any manner of the likeness of any identification card prescribed by Department of the Army or Department of the Air Force is prohibited without prior approval in writing by the Secretary of the Army or Secretary of the Air Force.

§ 507.12 Possession and wearing.

(a) The wearing of any decoration, service medal, badge, service ribbon, lapel button, or insignia prescribed or authorized by the Department of the Army and the Department of the Air Force by any person not properly authorized to wear such device, or the use of any decoration, service medal, badge, service ribbon, lapel button, or insignia to misrepresent the identification or status of the person by whom such is worn is prohibited. Any person who violates the provision of this section is subject to punishment as prescribed in the statutes referred to in § 507.5 of this part.

(b) Mere possession by a person of any of the articles prescribed in § 507.8 of this part is authorized provided that such possession is not used to defraud or misrepresent the identification or status of the individual concerned.

(c) Articles specified in § 507.8 of this part, or any distinctive parts including suspension ribbons and service ribbons) or colorable imitations thereof, will not be used by any organization, society, or other group of persons without prior approval in writing by the Secretary of the Army or the Secretary of the Air Force.

Subpart D—Heraldic Quality Control Program

§ 507.13 General.

The heraldic quality control program provides a method of ensuring that insignia items are manufactured with tools and specifications provided by TIOH.

§ 507.14 Controlled heraldic items.

The articles listed in § 507.8 of this part are controlled heraldic items and will be manufactured in accordance with Government specifications using Government furnished tools or cartoons. Tools and cartoons are not provided to manufacturers for the items in paragraphs (a) through (e) of this section. However, manufacture will be in accordance with the Government furnished drawings.

(a) Shoulder loop insignia, ROTC, U.S. Army.
(b) Institutional SSI, ROTC, U.S. Army.
(c) Background trimming/flashes, U.S. Army.
(d) U.S. Air Force organizational emblems for other than major commands.
(e) Hand embroidered bullion insignia.

§ 507.15 Certification of heraldic items.

A letter of certification to manufacture each heraldic item, except those listed in § 507.14 (a) through (e) of this part, will be provided to the manufacturer upon submission of a preproduction sample. Manufacture and sale of these items is not authorized until the manufacturer receives a certification letter from TIOH.

§ 507.16 Violations and penalties.

A certificate of authority to manufacture will be revoked by TIOH upon intentional violation by the holder thereof of any of the provisions of this part, or as a result of not complying with the agreement signed by the manufacturer in order to receive a certificate. Such violations are also subject to penalties prescribed in the Acts of Congress (§ 507.5 of this part). A repetition or continuation of violations after official notice thereof will be deemed prima facie evidence of intentional violation.

§ 507.17 Procurement and wear of heraldic items.

(a) The provisions of this part do not apply to contracts awarded by the Defense Personnel Support Center for manufacture and sale to the U.S. Government.

(b) All Army and Air Force service personnel who wear quality controlled heraldic items that were purchased from commercial sources will be responsible for ensuring that the items were produced by a certified manufacturer. Items manufactured by certified manufacturers will be identified by a hallmark and/or a certificate label certifying the item was produced in accordance with specifications.

(c) Commanders will ensure that only those heraldic items that are of the quality and design covered in the specifications and that have been produced by certified manufacturers are worn by personnel under their command. Controlled heraldic items will be procured only from manufacturers certified by TIOH. Commanders procuring controlled heraldic items, when authorized by local procurement procedures, may forward a sample insignia to TIOH for quality assurance inspection if the commander feels the quality does not meet standards.

§ 507.18 Processing complaints of alleged breach of policies.

The Institute of Heraldry may revoke or suspend the certificate of authority to manufacture if there are breaches of quality control policies by the manufacturer. As used in this paragraph, the term quality control policies include the obligation of a manufacturer under his or her "Agreement to Manufacture," the quality control provisions of this part, and other applicable instructions provided by TIOH.

(a) *Initial processing.* (1) Complaints and reports of an alleged breach of quality control policies will be forwarded to the Director, The Institute of Heraldry, 9325 Gunston Road, Room S–112, Fort Belvoir, VA 22060–5579 (hereinafter referred to as Director).

(2) The Director may direct that an informal investigation of the complaint or report be conducted.

(3) If such investigation is initiated, it will be the duty of the investigator to ascertain the facts in an impartial manner. Upon conclusion of the investigation, the investigator will submit a report to the appointing authority containing a summarized record of the investigation together with such findings and recommendations as may be appropriate and warranted by the facts.

(4) The report of investigation will be forwarded to the Director for review. If it is determined that a possible breach of quality control policies has occurred, the Director will follow the procedures outlined in paragraphs (b) through (g) of this section.

(b) *Voluntary performance.* The Director will transmit a registered letter to the manufacturer advising of the detailed allegations of breach and requesting assurances of voluntary compliance with quality control policies. No further action is taken if the manufacturer voluntarily complies with the quality control policies; however, any further reoccurrence of the same breach will be considered refusal to perform.

(c) *Refusal to perform.* (1) If the manufacturer fails to reply within a reasonable time to the letter authorized by paragraph (b) of this section, or refuses to give adequate assurances that future performance will conform to quality control policies, or indicates by subsequent conduct that the breach is continuous or repetitive, or disputes the allegations of breach, the Director will direct that a public hearing be conducted on the allegations.

(2) A hearing examiner will be appointed by appropriate orders. The examiner may be either a commissioned officer or a civilian employee above the grade of GS–7.

(3) The specific written allegations, together with other pertinent material, will be transmitted to the hearing examiner for introduction as evidence at the hearing.

(4) Manufacturers may be suspended for failure to return a loaned tool without referral to a hearing specified in paragraph (c)(1) of this section; however, the manufacturer will be advised, in writing, that tools are overdue and suspension will take effect if not returned within the specified time.

(d) *Notification to the manufacturer by examiner.* Within a 7 day period following receipt by the examiner of the allegations and other pertinent material, the examiner will transmit a registered letter of notification to the manufacturer informing him or her of the following:

(1) Specific allegations.

(2) Directive of the Director requiring the holding of a public hearing on the allegations.

(3) Examiner's decision to hold the public hearing at a specific time, date, and place that will be not earlier than 30 days from the date of the letter of notification.

(4) Ultimate authority of the Director to suspend or revoke the certificate of authority should the record developed at the hearing so warrant.

(5) Right to—

(i) A full and fair public hearing.

(ii) Be represented by counsel at the hearing.

(iii) Request a change in the date, time, or place of the hearing for purposes of having reasonable time in which to prepare the case.

(iv) Submit evidence and present witnesses in his or her own behalf.

(v) Obtain, upon written request filed before the commencement of the hearing, at no cost, a verbatim transcript of the proceedings.

(e) *Public hearing by examiner.* (1) At the time, date, and place designated in accordance with paragraph (d) (3) of this section, the examiner will conduct the public hearing.

(i) A verbatim record of the proceeding will be maintained.

(ii) All previous material received by the examiner will be introduced into evidence and made part of the record.

(iii) The Government may be represented by counsel at the hearing.

(2) Subsequent to the conclusion of the hearing, the examiner will make specific findings on the record before him or her concerning each allegation.

(3) The complete record of the case will be forwarded to the Director.

(f) *Action by the Director.* (1) The Director will review the record of the hearing and either approve or disapprove the findings.

(2) Upon arrival of a finding of breach of quality control policies, the manufacturer will be so advised.

(3) After review of the findings, the certificate of authority may be revoked

or suspended. If the certificate of authority is revoked or suspended, the Director will—

(i) Notify the manufacturer of the revocation or suspension.

(ii) Remove the manufacturer from the list of certified manufacturers.

(iii) Inform the Army and Air Force Exchange Service of the action.

(g) *Reinstatement of certificate of authority.* The Director may, upon receipt of adequate assurance that the manufacturer will comply with quality control policies, reinstate a certificate of authority that has been suspended or revoked.

Thomas B. Proffitt,

Director.

[FR Doc. 98–13115 Filed 5–15–98; 8:45 am]

BILLING CODE 3710–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6015–1]

RIN 2060–A100

Withdrawal of Direct Final Rule for Monitoring, Recordkeeping and Reporting Requirement Revisions to the Petroleum Refineries NESHAP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule for monitoring, recordkeeping and reporting requirement revisions to the Petroleum Refineries NESHAP. The EPA published the direct final rule on March 20, 1998 at 63 FR 13533–13541. As stated in that **Federal Register** document, if significant adverse comments were received by April 20, 1998, the rule would not become effective and notice would be published in the **Federal Register**. The EPA subsequently received adverse comments on that final rule. The EPA will address the comments received in a subsequent final action based on a companion proposed rule (63 FR 13587–13589). The EPA will not institute a second comment period on this document.

DATES: The direct final rule published at 63 FR 13533–13541 is withdrawn as of May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–5672.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the March 20, 1998 **Federal Register** and in the informational document located in the proposed rule section of the March 20, 1998 **Federal Register**.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Petroleum refineries, Reporting and recordkeeping requirements, Storage vessels.

Dated: May 12, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–13123 Filed 5–15–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–204; RM–9143; RM–9158]

Radio Broadcasting Services; McFarland and Coalinga, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 247A to McFarland, California, as that community's second local FM transmission service in response to a petition filed on behalf of Kerner Broadcasting Company (RM–9143). Additionally, FM Channel 247A is allotted to Coalinga, California, as that community's second local commercial FM transmission service in response to a petition filed on behalf of James K. Zahn (RM–9158). Although the proposals were mutually-exclusive initially, the placement of a site restriction on the Coalinga request enables Channel 247A to be allotted to each community consistent with the technical requirements of the Commission's Rules. Coordinates used for Channel 247A at McFarland, California, are 35–40–16 and 119–20–30. Coordinates used for Channel 247A at Coalinga, California, are 36–12–37 and 120–25–35. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 15, 1998. A filing window for Channel 247A at McFarland, Califorina, and for Channel 247A at Coalinga, California, will not be opened at this time. Instead, the issue of opening a filing window for that channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–204, adopted April 22, 1998, and released May 1, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 247A at Coalinga.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 247A at McFarland.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–12906 Filed 5–15–98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB–9, Notice No. 12]

RIN 2130–AB22

Two-Way End-of-Train Telemetry Devices and Certain Passenger Train Operations; Correction

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Correction to final rule preamble.

SUMMARY: This document contains a correction to the preamble of the final rule on two-way end-of-train telemetry devices (two-way EOTs) and certain passenger train operations, which was published on Friday, May 1, 1998 (63 FR 24130). The final rule specifically addressed and clarified the applicability of the existing two-way EOT requirements to certain passenger train operations where multiple units of freight-type equipment, material handling cars, or express cars are part of a passenger train's consist.

FOR FURTHER INFORMATION CONTACT: James Wilson, Motive Power and Equipment Division, Office of Safety, RRS–14, FRA, 400 Seventh Street, SW, Stop 25, Washington, DC 20590 (telephone 202–632–3367); or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–12, FRA, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590 (telephone 202–632–3178).

SUPPLEMENTARY INFORMATION:

Background

The "Regulatory Impact" portion of the preamble to the final rule addressing Executive Order 12866 and DOT regulatory policies and procedures stated that because the requirements contained in the final rule clarify the applicability of the two-way EOT regulations to a specific segment of the industry and generally reduce the regulatory burden on these operators, FRA concluded that the final rule did not constitute a significant rule under either Executive Order 12866 or DOT's policies and procedures. However, FRA inadvertently omitted a statement that the impact of the rule would be so minimal that any further analysis was not warranted.

Need for Correction

As published, the "Regulatory Impact" portion of the preamble failed to inform the public of FRA's determination that the impact of the rule would be so minimal that any further analysis was not warranted. Thus, that portion of the preamble is in need of clarification.

Correction

Accordingly, the publication on May 1, 1998 of the final rule on two-way EOTs and certain passenger train operations, which was contained in FR Doc. 98–11408, is corrected as follows:

On page 24134 in the first column, at the end of the paragraph headed "Executive Order 12866 and DOT Regulatory Policies and Procedures," the following sentence is added:

Furthermore, as the final rule is intended to clarify the applicability of the two-way EOT regulations and affects a very limited number of passenger train operations, FRA has determined that the impact of the rule would be so minimal that any further analysis was not warranted.

Issued in Washington, D.C., on May 12, 1998.

S. Mark Lindsey,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 98–13127 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970829214–8090–02; I.D. 082097B]

RIN 0648–AJ76

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Observer Health and Safety

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS amends the regulations that pertain to fishery observers and the vessels that carry them. This regulatory amendment implements measures to ensure the adequacy and safety of fishing vessels that carry observers. Owners and operators of fishing vessels that carry observers are required to comply with guidelines, regulations, and conditions in order to ensure that their vessels are adequate and safe for the purposes of carrying an observer and allowing normal observer functions.

DATES: Effective June 17, 1998.

ADDRESSES: Copies of the Regulatory Impact Review prepared for this action may be obtained from NMFS, SF3, 1315 East-West Highway, Silver Spring, MD 20910, Attn: William J. Bellows.

FOR FURTHER INFORMATION CONTACT: William J. Bellows, 301–713–2341.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended (16 U.S.C. 1801 *et seq.*), the Marine Mammal Protection Act, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Atlantic Tunas Convention Act, as amended (ATCA; 16 U.S.C. 971 *et seq.*) authorize the Secretary of Commerce (Secretary) to station observers aboard commercial fishing vessels to collect scientific data required for fishery and protected species conservation and management, to monitor incidental mortality and serious injury to marine mammals and to other species listed under the Endangered Species Act (ESA), and to monitor compliance with existing Federal regulations. In addition, pursuant to the South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*) observers may be required in the South Pacific Tuna Fishery.

The Magnuson-Stevens Act directs that—

> ...the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—
>
> (1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and
>
> (2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

A proposed rule to implement the required measures was published in the **Federal Register** on September 22, 1997 (62 FR 49463), and invited public comment through October 22, 1997. Several comments were received late in the comment period requesting that the comment period be extended. NMFS extended the comment period 30 days (62 FR 55774, October 28, 1997).

Eleven letters of comment were received concerning the proposed rule. Of these 11, eight expressed opposition to the rule or to specific provisions in the rule, and one letter was signed by eight individuals who represented different industry organizations. Two letters expressed strong support for the rule, one of which was from an observer organization with approximately 200 members. One letter expressed neither opposition nor support but listed many problems that observers face on the job.

Comment 1: The publication of the rule was inadequately advertised/announced. It was not on any of the following notice mediums: NMFS bulletin boards, NMFS press release, NMFS homepage, or Alaska Region homepage. The commenter requested an extension of the 30-day comment period.

Response: The proposed rule was published in the **Federal Register** on September 22, 1997 (62 FR 49463). The comment period was extended for 30 days and was announced by publication in the **Federal Register** on October 28, 1997 (62 FR 55774). In addition to the October 28 publication of the extension of the comment period, both the proposed rule and the extension of the comment period were posted on the NMFS homepage and on the Alaska Region homepage during the extended comment period.

Comment 2: The 30-day extension of the comment period is grossly inadequate.

Response: NMFS disagrees. By extending the public comment period by an additional 30 days, NMFS doubled the length of the original comment period. NMFS believes that a 60-day public comment period is adequate.

Comment 3: Observers are not qualified to make a judgement regarding vessel safety.

Response: It is true that observers do not receive the same vessel safety examination training that U.S. Coast Guard (USCG) personnel do. However, NMFS observers are provided training that addresses vessel safety. For example, in the North Pacific observer training, observers are taught to look for obvious areas of non-compliance that may jeopardize their safety. In addition to viewing several safety videos, the observers are shown a set of "safety tour" slides in which they are asked to look for items on a safety check list. Section 600.746(c)(3) has been added to the rule; this section encourages the observer to check major safety items (as identified by the USCG) and to briefly check the vessel's major spaces for especially hazardous conditions. The intent of this rule is not to empower an observer as a USCG enforcement official. Its purpose is to encourage an observer to check the major safety items identified in § 600.746(c)(3); if these items are absent or unserviceable, the rule empowers the observer not to sail with the vessel until those deficiencies are corrected. The observer's pre-trip safety check will be made in accordance with published USCG guidance on some of the most important items that would be required in the event of an at-sea emergency.

Comment 4: The rule's evaluation that there will be no significant impact on a substantial number of small entities is wrong. If an observer refuses to board a vessel that is safe in accordance with USCG standards, the vessel could be delayed in departing long enough to miss an important part of a short season, resulting in significant lost opportunity to fish. The observer's refusal could be the result of poor judgement, lack of expertise or training, or vindictiveness.

Response: NMFS has added language to the rule in § 600.746(c)(3) that is intended to minimize, if not eliminate, the possibility of an observer making a decision, for whatever reason, regarding a safe vessel that would delay its beginning legal fishing at the optimum time. The above-mentioned section was added to the regulations in order to give the observer detailed guidance regarding the pre-trip safety check. In addition, this document makes it clear that the observer's safety check is to confirm that the USCG safety decal is current and to spot-check other safety items by conducting a brief walk through the vessel's major spaces to check for obviously hazardous conditions. NMFS believes that the training observers now receive is adequate to enable an observer to conduct the pre-trip safety check as discussed in the response to comment 3.

Comment 5: There are no provisions for redress and appeal in the event that a vessel is unnecessarily detained or impacted.

Response: There are no specific procedures for redress or appeal in these regulations. It would be redundant to include those legal procedures here because they are available to anyone who considers that he or she has experienced wrongful negative impact of any regulations. As is suggested in the response to comment 17, when a vessel operator disputes the observer's decision and is unable to reach a resolution, the vessel operator should call the USCG and request reexamination of the issue in dispute.

Comment 6: If the regulations were approved in the absence of USCG regulations, they would be inadequate.

Response: They are not being approved in the absence of USCG regulations. The intent of this rule is to build upon the USCG and other safety regulations. The regulations intend to insure the safety of observers at sea without duplicating USCG regulations, which are designed to insure the safety of all persons on board fishing vessels.

Comment 7: All vessels carrying observers are required to have a current safety decal; consequently, there is no basis for an observer refusing to board a vessel.

Response: If the decal is valid (current) and if no safety equipment has been lost, damaged, or is otherwise unserviceable, there should be no safety-related reasons for an observer to refuse boarding. If, on the other hand, the decal is current, but safety equipment is missing or unserviceable, the observer is authorized not to board the vessel.

Comment 8: The style of referring to other sections of the CFR is difficult to read and understand. Furthermore, some of the sections cited have not been written.

Response: This rule cites other sections of the CFR rather than duplicating those sections in order to make the regulations published in the **Federal Register** as concise as possible. NMFS wants the regulations to refer to the most recent versions of the regulations cited. If other agencies' regulations were repeated in NMFS' regulations, it would be nearly impossible for NMFS to keep the regulations current. By citing the other agencies' regulations, the reference is always to the most recently amended regulation. All cited sections have been written and published before they are incorporated into the CFR except for citations to the rule being enacted through this action. The regulatory text for this rule follows after this preamble. Some changes may have been too recent to appear in the CFR dated October 1996, which was the last-published CFR at the time that the proposed rule was published.

Comment 9: USCG no longer performs no-cost inspections of processor vessels.

Response: The commenter is correct. Processing vessels examined by private organizations comprise the only category of fishing vessels that pays to have inspections done. These for-fee inspections are in lieu of USCG dock-side examinations but do not preclude at-sea examinations by USCG. The inspections of processing vessels are required whether observer safety rules are in effect or not.

Comment 10: This rulemaking is premature; "neither the industry nor NMFS is ready at this time to begin discussions on such rules. Before that discussion can begin, NMFS first needs to develop appropriate rules regarding onboard observers in all the other fisheries in which they have been deemed necessary."

Response: This rule is required by the Magnuson-Stevens Act.

Comment 11: It is unrealistically generous to require that accommodations be equivalent to those of the vessel's officers. Observers do not warrant treatment as officers.

Response: This rule requires nothing specific regarding accommodations for observers. It merely refers to regulations already in place.

Comment 12: Under the regulations that would be put in place by this rule, if all vessels were required to carry

observers, all vessels would have to undergo safety inspections. This would mean the end of uninspected fishing vessels.

Response: Under the assumptions made by the commenter, it is true that if all vessels were required to carry observers, all of them would have to be examined. At the present time, however, not all vessels are required to carry observers. NMFS wants fishing vessels carrying observers to fish safely, and undergoing USCG safety examinations promotes safety.

Comment 13: What is the authority under which regional requirements governing observer accommodations might be developed? It is possible that these regional requirements could have unintended effects. For example, if the regional requirement deals with an issue that is judged subjectively, such as the adequacy of accommodations or food, the observer in applying that subjective judgement could keep a safe vessel from fishing.

Response: The authorities under which regional requirements are developed are the Magnuson-Stevens Act, the Marine Mammal Protection Act, and the ESA. The addition of § 600.746(c)(3) to the rule should eliminate the problem of subjective judgement in conducting the vessel's pre-trip safety check. It is not the intent of this rule to develop regional requirements.

Comment 14: If a vessel has a valid USCG safety decal, there should be no question concerning the vessel's safety. To then have an observer, who has the authority to refuse to board the vessel because of a safety deficiency, is double jeopardy.

Response: If a vessel has passed a USCG dock-side safety examination, the regulations indicate that such vessel would be considered safe with respect to the USCG regulations. However, it is possible that some requirements with which the vessel was in compliance at the time of the USCG safety examination may not be met at the time of boarding by an observer for a specific trip. NMFS has added language at § 600.746(c)(3) that encourages the observer to examine some of the most important items that would be required in the case of an emergency at sea. This approach is consistent with that applied by USCG in recognizing that changes in vessel safety may occur between the time when a USCG safety decal is issued and the beginning of subsequent fishing. NMFS notes that this rule gives an observer authority not to board an unsafe or inadequate vessel. If such a vessel is operating in a fishery with mandatory observer coverage, the result of the observer's refusing to board might be that the vessel would not be authorized to conduct fishing.

Comment 15: This rule cites other regulations already in place, which suggests that regulations to effect safety are already in place. That being the case, this rule will not change anything.

Response: This rule applies safety standards to all fisheries, including those for which no other observer regulations are in place. In fisheries with mandatory observer programs in place now, and for those in which mandatory programs may be established, this rule makes it a violation to fish without an observer aboard. This rule also requires vessels to submit to an otherwise voluntary inspection program to provide evidence of compliance with safety standards.

Comment 16: This rule is an attempt to exceed the authority conveyed by the Magnuson-Stevens Act in that it goes beyond USCG regulations by authorizing an observer to refuse to board an unsafe vessel, thereby keeping the vessel from fishing legally. It goes beyond what is necessary to provide a safe environment for an observer, and it gives an observer authority that Congress gave to USCG.

Response: NMFS believes that the rule does not go beyond what is required to provide a safe environment for observers and for other persons aboard fishing vessels. The intent of the rule is not to empower an observer with USCG enforcement official status; its intent is to provide a safe vessel for an assigned observer. The NMFS rule does not encroach on USCG authority to terminate a voyage. Rather, it conditions a vessel's ability to fish safely by requiring compliance with existing regulations enforced by the USCG. The authority to regulate fishing activities properly rests with NMFS.

Comment 17: If NMFS wants to require more than vessel-provided personal flotation devices (PFDs) and safety briefings, it should specifically identify the requirements that relate to observer safety rather than to such other safety concerns as the environment. NMFS should also consider which safety requirements warrant giving observers "the extraordinary authority to prevent a vessel from undertaking a fishing trip."

Response: NMFS is not giving greater significance to some USCG regulations than to others. NMFS is encouraging observers to check for compliance with existing regulations. A safety decal is considered to be evidence of compliance, but if there is other obvious non-compliance, the observer has the option of not boarding the vessel. If the vessel operator disputes the observer's decision, which should be based upon published USCG guidance on some of the most important items that would be required in the event of an at-sea emergency, and no resolution is reached, the vessel operator should call the USCG to request reexamination of the issue in dispute. The addition of § 600.746(c)(3) clarifies which items the observer should check at the time of boarding. The observer's pre-trip safety check will be made in accordance with published Coast Guard Guidance on some of the most important items that would be required in the event of an at-sea emergency. NMFS recognizes that, in some circumstances, an observer may raise a safety question that requires a vessel to wait for a USCG boarding before fishing. It is true that this could result in a loss of fishing days. In structuring the rule this way, NMFS had to weigh the impacts of this approach versus the impacts of alternative approaches. Just as there is a potential for a vindictive observer declining to board and thereby delaying a vessel's departure, other approaches would have raised the possibility of an observer being coerced into boarding a vessel that he or she believes is unsafe. Given the safety risks at issue and the probability that most safety violations will be easily remedied, e.g., replacing PFDs, NMFS determined that placing the presumptions in the selected manner was preferable.

Whenever possible, vessel owners/operators are encouraged to arrange for the observer to make the pre-trip safety check in advance of the beginning of the planned fishing trip. In that way, there would be time to correct problems without delaying the trip's departure time.

Comment 18: There are alternatives that would accomplish NMFS' objectives that were not considered by NMFS. One alternative is to provide an automatic waiver for those situations in which an observer refused to board a vessel for safety reasons. The waiver would be valid until the vessel had undergone a USCG inspection either at sea or in port. Alternative two would be to require that the safety determination be made by a NMFS enforcement agent who had completed the USCG training program for vessel safety inspections. Alternative three would be to determine which classes of vessels have consistently failed to provide safe working conditions for observers. Only those classes of vessels would be required to comply with the rule. Vessels with proven safety records would be exempt from the provisions of this rule.

Response: Alternative one would void the intent of the rule. It would not make the vessel safe for the observer on the fishing trip that the observer was assigned to observe. Furthermore, it could provide an opportunity for vessel operators to avoid taking observers by incurring safety violations, such as no PFD for the observer. By authorizing an observer to refuse to board an unsafe vessel and by making it illegal to fish without an observer in a mandatory observer fishery, there is a strong incentive for the vessel to meet all USCG safety regulations. Alternative two was considered and rejected. It is equally possible that a NMFS enforcement agent, like an observer, would discover a safety violation that would delay a vessel's fishing trip. This option would also create the risk of an observer having to board a vessel that he or she believes is unsafe. In addition, from a practical standpoint, the current work load for NMFS enforcement agents makes it impossible for them to undertake this responsibility and continue to perform other enforcement functions/duties. Alternative three is not feasible because vessel safety is an individual vessel issue not one that can be addressed by classes of vessels.

Comment 19: The rule does not analyze measures taken by regions.

Response: It is not the intent of this rule to analyze measures taken by regions. That analysis is done at the time those measures are developed and proposed in the rulemaking process.

Comment 20: One commenter believes that, should an observer refuse to board a vessel because of safety deficiencies, there could be legal implications beyond the simple issue of the USCG safety requirement and the vessel's fishing. "After an observer has determined a vessel to be unsafe, a crew member injures themself [sic] in the factory. Considering the Jones Act, the lawyers would have a field day."

Response: NMFS believes this comment refers to the possible use of an observer's safety determinations as evidence in a law suit. As stated in the responses to comments 3 and 16, this rule is not intended to give observers the authority to make actual determinations as to a vessel's compliance with USCG regulations. Rather, it simply requires that a vessel, if its safety has been called into question, rectify the shortcoming or submit to a new USCG safety examination or inspection. If anything, this rule is likely to reduce the number of negligence claims because vessels with questionable safety issues will correct them or be reexamined by USCG before fishing.

Comment 21: The USCG should be consulted.

Response: The USCG was involved at every stage of development of this rule.

Comment 22: One commenter raised specific issues about an observer who was terminated and who subsequently filed suit.

Response: Because the case is before the court, it would be inappropriate for NMFS to respond at this time.

Changes From the Proposed Rule

Four changes were made from the proposed rule. One was made in response to comments: A provision was added at § 600.746(c)(3) to provide guidance on the scope of the observer's pre-trip safety check.

Another change was made to clarify that USCG performs either an inspection or an examination: The words "examination or inspection" replaced "inspection" in §§ 600.725(p), 600.746(c)(1), and 600.746(d)(1) so that it is clear that either an examination or an inspection can be performed.

The word "Examination" was inserted in § 600.746(c)(1) in order to more clearly identify the Commercial Fishing Vessel Safety Examination decal.

The word "examine" replaced "inspect" in § 600.746(c)(2) in order to avoid confusion with USCG inspection.

The observer's pre-trip safety check of a vessel that displays a current Commercial Fishing Vessel Safety Examination decal will normally consist of no more than a spot check of the equipment identified in § 600.746(c)(3), i.e., PFDs/immersion suits; ring buoys; distress signals; fire extinguishing equipment; emergency position indicating radio beacon, when required; survival craft, when required; and a walk through major spaces. This walk-through is not intended to broaden the scope of the safety check. The safety check should be done expeditiously because the decal indicates that the vessel has already undergone an extensive dockside inspection.

Classification

At the proposed rule stage, NMFS certified to the Assistant General Counsel for Legislation and Regulation, Department of Commerce and to the Chief Counsel for Advocacy, Small Business Administration that this action would not result in a significant economic impact on a substantial number of small entities. Comments received on the proposed rule suggested that small entities might experience a significant economic impact as a result of the rule. Based on this new information, NMFS decided to prepare a Final Regulatory Flexibility Analysis (FRFA). The FRFA concludes that the rule's authorization for an observer to refuse to board a vessel that the observer believes to be unsafe and the rule's requirement that a vessel required to carry an observer cannot legally fish without the observer make it possible that implementation of this rule could delay a vessel's departure for a fishing trip. Because of variations in the structures of different fisheries' mandatory observer programs and in the structures of the different fishery management regimes, the fact that an observer refused to board would not necessarily mean that the vessel would lose fishing time as might be the case in those fisheries where vessels are allowed a limited number of days fishing per year. It is not possible to estimate accurately how many, if any, vessels would lose days at sea as a result of this rule. Therefore, there is at least a theoretical possibility that 20 percent of the affected small entities could experience a significant economic impact.

In addition to the preferred alternative, which is the alternative that is implemented by this rule, NMFS considered several other alternatives. One of them would have been to take no action. Under this approach, vessels that carry observers would be required to comply with the same safety standards that would be applicable under the preferred alternative, but there would be no guidance to interested parties as to how to conduct a pre-trip safety check nor would there be any means by which an observer could quickly ascertain whether the vessel was in compliance with applicable USCG regulations. If the agency were to adopt the no-action alternative, the Congressional mandate in the Magnuson-Stevens Act would not be effected. In addition, there would be continued risk of unsafe conditions on board vessels to which observers were assigned.

Another alternative would have prescribed new national standards for a wide range of safety and accommodations issues. Basic standards for determining a vessel's safety and adequacy would be based on USCG safety requirements and NMFS regional observer requirements as is the case in the first alternative. In addition to those basic USCG standards, this alternative would result in new regulations addressing a wide range of accommodation issues, such as quality of food, which, if not met, would authorize an observer not to board a fishing vessel. The observer would be authorized to make the pre-trip safety check to determine whether or not he/

she would board the vessel. In mandatory observer programs, a fishing vessel would not be permitted to fish legally without an observer. This alternative is not the preferred alternative because of the degree to which an observer would be authorized to make subjective, qualitative determinations. Furthermore, because of the variability of working conditions on fishing vessels, some vessels could not reasonably or economically meet the expectations of all observers. Therefore, the risk of this alternative resulting in delays of fishing trips is greater than that of the preferred alternative.

The last alternative that NMFS considered would have prescribed basic standards for determining safety and adequacy as described in the preferred alternative, but either the National Marine Fisheries Service or an authorized observer contractor would have been authorized to make the pre-trip safety check to determine whether or not the observer would board the vessel. In mandatory observer programs, a fishing vessel would not be permitted to fish legally without an observer. This alternative would have used the same evaluation criteria (USCG dockside safety examination, pre-trip safety check, presence of a current Commercial Fishing Vessel Safety Decal, etc.) as the preferred alternative but would give NMFS and/or an authorized observer contractor the authority to decide whether a vessel is safe and adequate. The rationale for this approach is that it would avoid putting the observer into a situation where vessel owner, operator, and crew might exert pressure to coerce the observer to declare the vessel safe despite conditions that the observer believed to be unsafe. It would also avoid the potential for a "vindictive" observer to abuse discretion in making safety checks. The benefit of having NMFS or an authorized observer contractor make the safety and adequacy decision is that it would avoid putting the additional pressure on an observer of potentially having to tell a captain and crew with whom he/she would be spending time at sea that a fishing trip would be delayed. However, this alternative would also have the potential to delay a fishing voyage pending safety resolution. It is just as possible that a NMFS employee or observer contractor would discover safety issues in need of attention as an observer would. In addition, under this alternative, an observer who believes a vessel to be unsafe may be instructed to board because NMFS or the observer contractor believes the vessel to be safe. There would also be costs to NMFS and/or the observer contractor in the form of having a representative on site each time an observer boarded a vessel. NMFS and/or the observer contractor would also experience the cost of training employees to make the pre-trip safety check. This alternative is not preferred because it would put a third party in a position of judging a vessel's safety and perhaps of forcing an observer aboard an unsafe vessel.

In addition to these alternatives, one commenter suggested two additional alternatives: The first would have provided an automatic waiver for those situations in which an observer refused to board a vessel for safety reasons. The waiver would be valid until the vessel had undergone a USCG inspection either at sea or in port. This alternative would have voided the intent of the rule. It would not make the vessel safe for the observer on the fishing trip that the observer was assigned to observe. Furthermore, it could provide an opportunity for vessel operators to avoid taking observers by incurring safety violations, such as no PFD for the observer. The other suggested alternative would be to determine which classes of vessels have consistently failed to provide safe working conditions for observers. Only those classes of vessels would be required to comply with the rule. Vessels with proven safety records would be exempt from the provisions of this rule. This approach is not feasible because vessel safety is an individual vessel issue not one that can be addressed by classes of vessels.

NMFS tried to mitigate the potential impact of the rule by using objective standards for the observer's pre-trip safety check in the form of the published USCG guidance about the most important items that would be required in the event of an at-sea emergency. This particular alternative was chosen because it seemed to be an appropriate balance between the objectives of increasing observer safety and minimizing the risk of negative economic impact on vessels.

This action has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: May 12, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 600 is amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for 50 CFR part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. Section 600.725 is amended by redesignating paragraph (p) as paragraph (t), adding paragraphs (p), (q), (r), (s), and (u), and revising newly redesignated paragraph (t) to read as follows:

§ 600.725 General prohibitions.

* * * * *

(p) Fail to submit to a USCG safety examination when required by NMFS pursuant to § 600.746.

(q) Fail to display a Commercial Fishing Vessel Safety Examination decal or a valid certificate of compliance or inspection pursuant to § 600.746.

(r) Fail to provide to an observer, a NMFS employee, or a designated observer provider information that has been requested pursuant to § 600.746, or fail to allow an observer, a NMFS employee, or a designated observer provider to inspect any item described at § 600.746.

(s) Fish without an observer when the vessel is required to carry an observer.

(t) Assault, oppose, impede, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(u) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

3. In subpart H, § 600.746 is added to read as follows:

§ 600.746 Observers.

(a) *Applicability.* This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 *et seq.*), the ATCA (16 U.S.C. 971 *et seq.*), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), or any other U.S. law.

(b) *Observer requirement.* An observer is not required to board, or stay aboard, a vessel that is unsafe or inadequate as described in paragraph (c) of this section.

(c) *Inadequate or unsafe vessels.* (1) A vessel is inadequate or unsafe for

purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 285, 300, 600, 622, 648, 660, 678, and 679) or if it has not passed a USCG safety examination or inspection. A vessel that has passed a USCG safety examination or inspection must display one of the following:

(i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I and 46 CFR, chapter I;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(2) Upon request by an observer, a NMFS employee, or a designated observer provider, a vessel owner/operator must provide correct information concerning any item relating to any safety or accommodation requirement prescribed by law or regulation. A vessel owner or operator must also allow an observer, a NMFS employee, or a designated observer provider to visually examine any such item.

(3) *Pre-trip safety check.* Prior to each observed trip, the observer is encouraged to briefly walk through the vessel's major spaces to ensure that no obviously hazardous conditions exist. In addition, the observer is encouraged to spot check the following major items for compliance with applicable USCG regulations:

(i) Personal flotation devices/immersion suits;

(ii) Ring buoys;

(iii) Distress signals;

(iv) Fire extinguishing equipment;

(v) Emergency position indicating radio beacon (EPIRB), when required; and

(vi) Survival craft, when required.

(d) *Corrective measures.* If a vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions, NMFS may require the vessel owner or operator either to:

(1) Submit to and pass a USCG safety examination or inspection; or

(2) Correct the deficiency that is rendering the vessel inadequate or unsafe (e.g., if the vessel is missing one personal flotation device, the owner or operator could be required to obtain an additional one), before the vessel is boarded by the observer.

(e) *Timing.* The requirements of this section apply both at the time of the observer's boarding, at all times the observer is aboard, and at the time the observer is disembarking from the vessel.

(f) *Effect of inadequate or unsafe status.* A vessel that would otherwise be required to carry an observer, but is inadequate or unsafe for purposes of carrying an observer and for allowing operation of normal observer functions, is prohibited from fishing without observer coverage.

[FR Doc. 98–13131 Filed 5–15–98; 8:45 am]
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Proposed Rules

Federal Register
Vol. 63, No. 95
Monday, May 18, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Programs

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The U.S. Small Business Administration (SBA) proposes a rule to allow all participating Lenders to sell, securitize, sell a participating interest in, or pledge the unguaranteed portion of 7(a) loans. The proposal has two components: securitizations; and pledges, sales of participations, and sales other than for the purpose of securitizing. In the first component, SBA establishes a three level unified approach to regulating securitization.. This approach would apply to all securitizers and is designed to help ensure the safety and soundness of the 7(a) program. The approach focuses on the quality of the securitizer's underwriting and servicing and the performance of the securitizer's loans. In the second component, SBA sets forth the requirements that Lenders must meet to pledge, sell a participating interest in, or sell (other than for the purpose of securitizing) 7(a) loans. If this proposal becomes final, it would replace the present Interim Final Rule published on April 2, 1997, at 62 FR 15601 (the "Interim Final Rule"). The proposed rule would amend 13 CFR § 120.420, add §§ 110.421–120.429, renumber §§ 120.430 and 120.431 as §§ 120.414 and 120.415, and add §§ 120.430–120.435. In addition, SBA is providing notice of a public hearing set for 2:00 p.m. on June 4, 1998. The hearing will provide the public an opportunity to comment orally on the proposed rule.

DATES: Submit comments July 17, 1998. SBA will hold a public hearing to receive oral comments on June 16, 1998, at 2:00 p.m. at the U.S. Small Business Administration, 409 Third Street, S.W., Washington, D.C., 8th Floor Eisenhower Conference Room.

ADDRESSES: Mail comments to Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, U.S. Small Business Administration, 409 Third Street, S.W., Suite 8200, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Director, Secondary Market Sales, 202–205–6490.

SUPPLEMENTARY INFORMATION: SBA is proposing a new regulation governing the securitization of the unguaranteed portion, sale, sale of a participating interest in, or pledge of SBA 7(a) loans. The rule has two components. The first component governs securitizations. For purposes of this regulation, a securitization is the pooling and sale of the unguaranteed portion of SBA loans, usually to a trust or special purpose vehicle, and the issuance of securities backed by those loans to investors in either a private placement or a public offering ("securitization"). In the securitizations of SBA loans to date, each investor has received an undivided ownership interest in the right to receive the principal of the unguaranteed portion of the pooled SBA loans, together with interest. As a credit enhancement, the securitizer usually transfers to the trust or special purpose vehicle, for the benefit of investors, a portion of the interest on each pooled loan representing the difference between the interest paid by the SBA loan borrower and the interest paid to the holder of the guaranteed interest, the holder of the securitized interest and various administrative fees (the "Excess Spread").

The second component of this proposed rule deals with pledges of, sales of participating interests in, and sales other than for the purpose of securitizing SBA loans.

I. Securitization Component

Regulatory History

Congress and SBA have examined whether and under what conditions SBA should permit Lenders to securitize the unguaranteed portion of 7(a) loans. Recognizing that Small Business Lending Companies and Business and Industrial Development Companies and other nondepository institutions ("nondepository institutions") do not have customer deposits to fund 7(a) lending, SBA in 1992 began permitting nondepository Lenders to securitize. In 1996, Congress and SBA considered extending the authority to securitize to depository Lenders. On September 29, 1996, Congress enacted legislation requiring SBA, by March 31, 1997, either to promulgate a final rule allowing both nondepository and depository Lenders to securitize or cease approving securitizations.

In response to the legislative mandate, on November 29, 1996, SBA published an Advance Notice of Proposed Rulemaking (61 FR 60649) seeking public comments on securitizations in advance of its publication of proposed regulations. On February 26, 1997, SBA published a Proposed Rule (62 FR 8640) requiring a 5 percent retainage for all securitizations. SBA received approximately 25 comments; the commenters were divided almost equally in their response to SBA's proposal.

On April 2, 1997, SBA promulgated the Interim Final Rule (62 FR 15601). This regulation allowed all SBA Lenders to securitize while SBA continued its thorough review of securitization issues. Recognizing the complexity of the subject, SBA decided to hold a public hearing and consult bank regulators and other experts. While doing so, it has reviewed each proposed transaction on a case-by-case basis under the Interim Final Rule to protect the safety and soundness of the 7(a) program.

During its review process, SBA convened a public hearing at which interested parties publicly stated their views on securitization and related safety and soundness issues. SBA engaged securitization and accounting experts, and consulted representatives from bank and other financial regulatory agencies, including the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Department of the Treasury, the Federal Reserve Board, Office of Federal Housing Enterprise Oversight and Office of Thrift Supervision (OTS).

SBA has carefully considered all views and comments expressed by these experts, bank regulators, and the industry, and has incorporated many of the comments and recommendations into a unified regulatory approach consisting of three levels. In January of 1998, SBA discussed its three level approach with representatives of the bank regulatory agencies.

SBA believes this proposal is an improvement over the Interim Final

Rule. The levels would apply uniformly, providing equal treatment to depository and nondepository institutions and addressing the possibility of increased risk to the SBA portfolio from securitization. The rule provides incentives for Lenders to maintain high underwriting and servicing standards to minimize delinquencies and defaults. Appropriately, the financial impact of the proposal on a particular securitizer would depend on the performance of the securitizer's loans. If the securitizer's loan performance has been good historically and remains consistent or improves during the period that a securitization is outstanding, the financial impact on the securitizer would be minimal. However, if a securitizer's loan performance has been below average historically or declines during the period that the securitization is outstanding, consequences to the securitizer would be greater. The new approach ties securitizer risk retention to securitizer long-term credit performance and considers the long-term credit cycle of SBA loans.

This proposed rule considers historic SBA loan data and is consistent with bank regulatory policy and marketplace risk management. The rule would facilitate the use of securitizations by setting forth clear and consistent standards. Compared to the Interim Final Rule, SBA believes the proposed rule would be better for taxpayers, better for Lenders, and better for small businesses.

Securitization Risks

SBA supports securitization because it encourages Lenders to make more SBA-guaranteed loans to America's small businesses. While securitization can provide enormous benefits, SBA has concerns that under certain circumstances or economic conditions the securitization process might encourage poor credit quality and increase SBA's losses on the guaranteed portion of its loans.

Securitization provides a market for large volume sales of SBA loans. Therefore, securitizers have an incentive to make loans quickly and record the profits from the securitization. Furthermore, if Excess Spread Income from previous securitizations declines, a securitizer might use the profits from new issues to offset the decline. These circumstances create a risk that securitizers might compromise credit quality in order to make more loans more quickly to increase profits.

Also, the securitization of the unguaranteed portions of small business loans is relatively new and has developed during the strong part of a business cycle. It is not clear what effect a downturn in the economy will have on the credit quality of individual securitizers and on the performance of securitized loans.

Under Financial Accounting Standards Board Statement Number 125 ("FASB 125"), a securitizer's earnings and capital grow faster than the earnings and capital of a non-securitizer making the same loans. FASB 125 requires Lenders that securitize loans and retain the servicing to recognize immediately the full amount of future income attributable to the securitized loans. This "gain-on-sale" income is calculated by discounting a stream of future income. The approach assumes an average life of the underlying loans, future servicing expenses, and loan losses. Securitization and FASB 125 have a direct effect on a securitizer's bottom line. The more loans a securitizer makes and the faster it makes them, the greater the securitizer's profits. Some experts have expressed concerns that this can lead to pressure for a securitizer to increase volume by potentially relaxing underwriting standards or reducing resources devoted to servicing. SBA's response to these concerns is to focus, through this proposed rule, on credit quality.

To control risk, SBA historically has relied on a Lender's retention of a significant economic interest in the unguaranteed portion of 7(a) loans. Lender risk retention has been the cornerstone of SBA's guarantee program. A Lender that sells the entire unguaranteed interest in a loan might be less accountable for losses because the unguaranteed portion is no longer available as a risk sharing mechanism.

Therefore, in its review, SBA has sought meaningful risk retention mechanisms that encourage securitizers to originate loans of appropriate credit quality while not discouraging securitization. SBA has analyzed a number of questions relating to such risk retention including: How should SBA structure risk retention to ensure that each Lender retains sufficient economic exposure to maintain high underwriting and servicing standards? Should SBA require securitizers to hold back a portion of their loans from securitization, retain subordinated securities issued in the securitization (a "subordinated tranche"), or reserve cash? How much should the securitizer retain, purchase, or reserve? Who should determine the retainage amount, SBA or the rating agencies? What additional components should SBA require as a complement to a retention? Are there credit quality or loan performance standards which should trigger additional consequences? Supported by expert advice, SBA has now developed the following unified approach to regulating securitizations.

The Unified Regulatory Approach

This proposed rule does not rely solely on retention to encourage Lenders to maintain high credit quality and underwriting and servicing standards. Instead, it contains several progressive levels. The levels are:

(1) A consistent and enforceable capital requirement;

(2) A retention requirement (subordinated tranche); and

(3) Suspension of a securitizing PLP Lender's unilateral loan approval privileges ("PLP approval privileges") if the currency rate (the percentage of loans that are less than 30 days past due) of the loans in the securitizer's portfolio deteriorates over time.

SBA believes this approach is superior to SBA's February 1997 securitization proposal that suggested a 5% retention requirement on all securitizers at the beginning of the securitization without regard to the securitizer's credit quality history or the subsequent performance of the securitized loans. The unified approach imposes a smaller economic impact on the securitizer initially, but establishes credit quality standards which, if not met during the life of a securitization, trigger increased scrutiny of the securitizer's underwriting. It provides securitizers with appropriate incentives tied to actual credit performance, affords SBA the protection it seeks for itself and taxpayers, and still facilitates securitization for all originators. A more detailed discussion of each level follows.

The Capital Requirement

A capital requirement is a basic component of the regulation of any financial institution. It is a common method for measuring a Lender's financial strength.

SBA is in the process of considering capital requirements for all its participating Lenders. Although maintenance of minimum capital is important for all SBA participating Lenders at all times, SBA believes the maintenance of minimum capital is especially important with respect to securitizers. Requiring the securitizer to maintain a minimum level of capital encourages prudent underwriting and servicing practices. Credit quality is fundamental to the maintenance of capital. Loan losses erode capital. As well as being a measure of reduced

financial strength, eroding capital may signal weakening credit quality.

To emphasize the significance SBA attaches to a securitizer's compliance with capital requirements, SBA has designated the maintenance of minimum capital as the first level of its unified approach for regulating securitization. The proposed rule would require all depository and nondepository securitizers to maintain minimum capital consistent with the requirements imposed on depository institutions by the Federal Reserve Board, the FDIC, the OCC, and the OTS (the "bank regulatory agencies").

For depository Lenders, SBA's capital requirement would not add to that which is already required by the bank regulatory agencies. Thus, this proposed rule should have no independent effect on depository institutions that already comply with capital requirements imposed by the bank regulatory agencies.

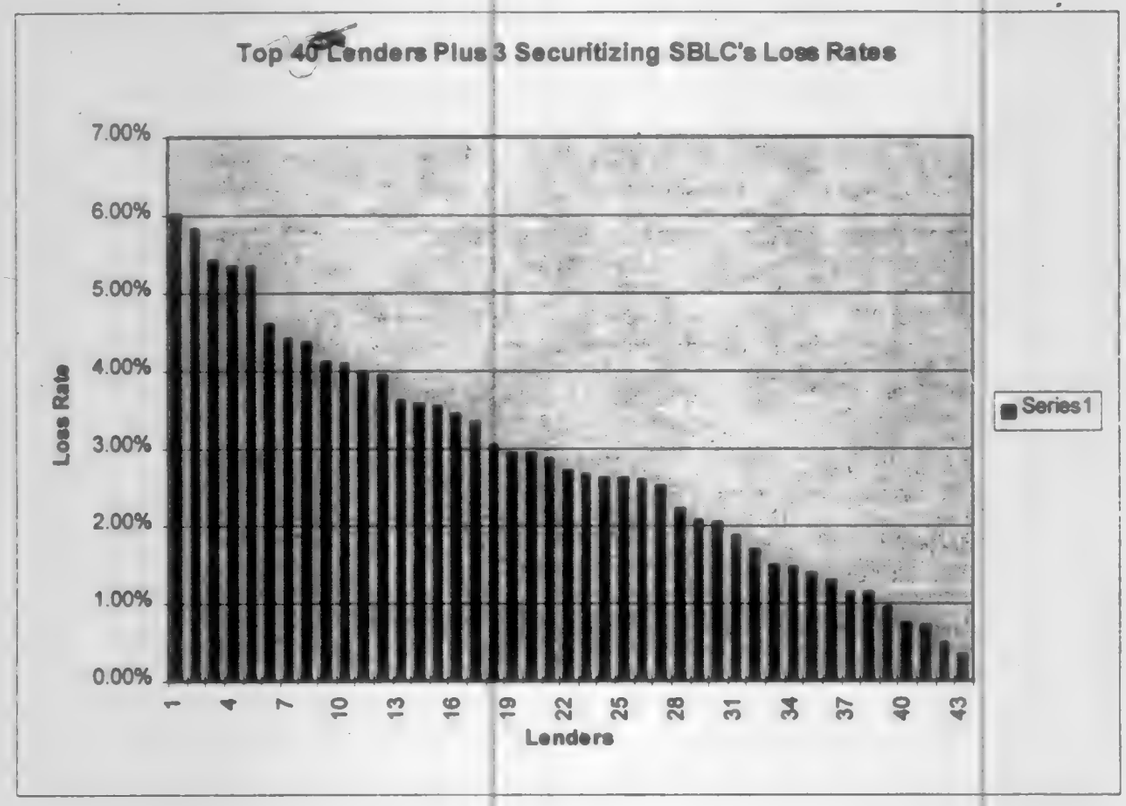
This proposed rule would apply to all securitizing nondepository institutions, including SBLCs, Business and Industrial Development Companies ("BIDCOs"), and other institutions approved for participation in SBA's loan programs. As the Federal agency with primary responsibility for regulating SBLCs, SBA has had a capital requirement for SBLCs in its regulations since 1975. SBA's capital requirements for SBLCs have not always been consistent with the capital requirements imposed by the bank regulatory agencies on depository institutions. For example, SBA's current SBLC regulations include a 10% capital requirement on the SBLC's share of all outstanding loans. At present, the capital requirement for depository institutions imposed by bank regulatory agencies applicable to comparable assets is 8%. Further, SBA's present capital requirement regulation does not consider the recourse issues associated with securitization already addressed by the bank regulatory agencies. SBA believes that conforming its capital requirements for securitizing SBLCs to general bank regulatory policy known and understood by the lending community would eliminate confusion and create a consistent and level playing field.

SBA currently requires SBLCs to maintain a minimum unencumbered paid in capital and paid in surplus equal to at least $1 million. SBA believes that a securitizing nondepository institution should have such minimum capital. Therefore, in addition to the requirements of bank regulatory agencies, SBA will require securitizing nondepository institutions to maintain such minimal capital. SBA also currently requires SBLCs to provide to SBA annual audited financial statements demonstrating that SBA's present capital requirement is met. The proposed rule would require all securitizing nondepository Lenders to submit such audited financial statements.

The Retention of a Subordinated Tranche

As proposed, SBA would require securitizers to retain a subordinated tranche equal to the greater of (a) twice the loss rate (the SBA charge off rate) experienced on a securitizer's SBA loans, originated or purchased, for a 10-year period or (b) 2% of the unguaranteed portion of the securitized loans. These securities would be subordinate to all other tranches issued. Based on historical data, SBA expects that most securitizers' retention levels would be between 12 and 2%. The current average would be 5.4% for SBA's high volume Lenders. (See the loss rates in Chart 1 below). It is a common practice for retention percentages to be based on multiples of expected losses. For example, rating agencies use a multiple of expected losses as part of the formula to determine the minimum amount a securitizer must deposit in the spread account. The 2% minimum approximates twice the cumulative loss rate of the best performing SBA loan originators. Currently, only four of the high volume Lenders referred to in Chart 1 would be below the 2% minimum threshold. Even for the best securitizers, SBA believes the minimum subordinated tranche is necessary to counter the potential risks of securitizing.

CHART 1



SBA is aware that a downturn in regional economic conditions may affect securitizers' loss rates adversely even though the securitizers' underwriting and servicing standards remain high. Under those circumstances, the rule would permit SBA to modify the formula for the retention size, if its enforcement might exacerbate the adverse economic conditions in the region.

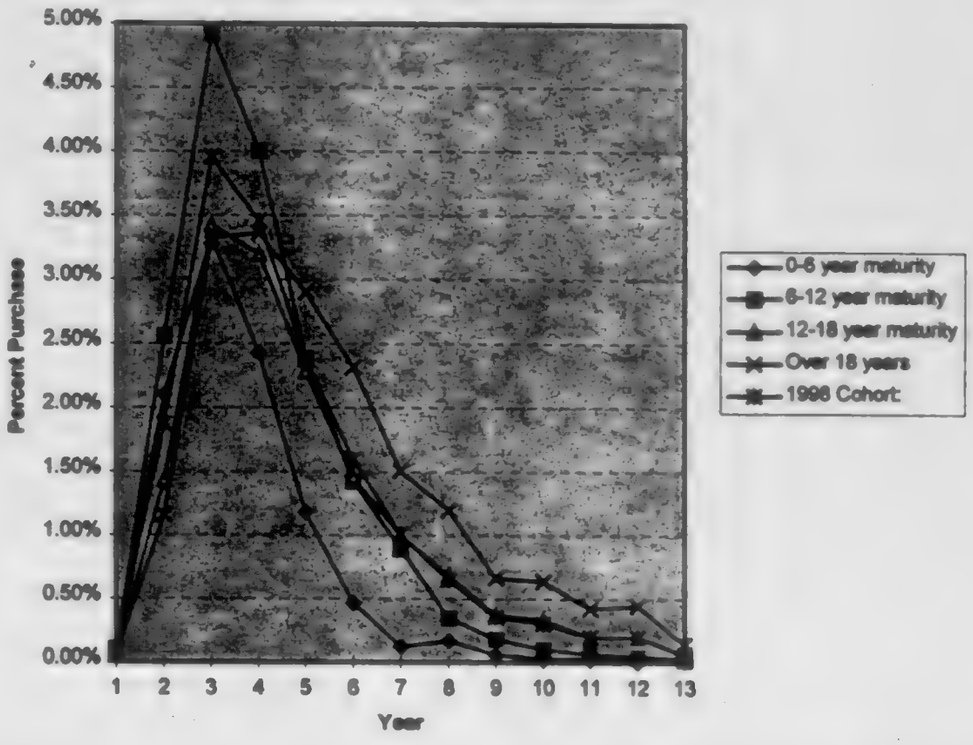
The retention requirement addresses SBA's concern that unusually large losses may occur early in the life of loans originated by a rapidly growing securitizer which may not be covered by Excess Spread or reflected in a securitizer's historical performance. SBA believes the proposed retention requirement is fair because there is a direct relationship between the size of the subordinated interest that a securitizer must retain and the securitizer's own historical performance. The proposed approach should give securitizers an added incentive to originate, purchase, and service high quality loans.

Under the proposed rule, securitizers would be able to sell the subordinated tranche at market value after retaining the tranche for six years. SBA's historical loss data indicates that its Lenders incur most losses between years three and five of a twenty-five year loan (see Charts 2 and 3). If the loans do not perform as expected, not only may the securitizer suffer losses, but the tranche will have significantly less value if the securitizer tries to sell it after the holding period ends. For this reason, requiring securitizers to hold the tranche for the six year period reinforces the incentive to originate and service high quality loans.

CHART 2
[In percent]

Defaults	Total	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
0–6 year maturity	10.02	0.12	2.10	3.33	2.42	1.18	0.46	0.12	0.16	0.06	0.03	0.02	0.01	0.01
6–12 year maturity	17.02	0.09	2.56	4.92	4.00	2.38	1.42	0.89	0.35	0.18	0.10	0.06	0.04	0.03
12–18 year maturity	14.67	0.05	1.43	3.42	3.20	2.28	1.45	1.00	0.68	0.37	0.34	0.19	0.20	0.05
Over 18 years	18.11	0.05	1.16	3.32	3.36	2.89	2.32	1.50	1.19	0.66	0.64	0.42	0.45	0.14
1998 Cohort	16.11	0.08	1.87	3.96	3.46	2.37	1.60	1.01	0.65	0.35	0.30	0.20	0.20	0.07

Chart 3--Purchases of Defaulted Loans by Year



SBA selected a subordinated tranche as the retention level in its unified approach to regulating securitizations for several reasons. Unlike a retained pro-rata interest in the entire loan, or a cash reserve dedicated to SBA, a retained subordinated interest is a retained economic interest that benefits both SBA and investors. Several commenters and experts have suggested to SBA that such an interest is more sensitive to losses than other available options. The use of a subordinated tranche also is widely accepted by rating agencies and investors.

Unlike a menu of possible retainage options and combinations, retention of a subordinated tranche is a single, simple and uniform requirement. It introduces greater certainty to a developing market and makes it easier to compare one issue of securities with another. A cash reserve in SBA's control also would be less desirable to securitizers because such a reserve would earn less due to required conservative investing.

The size of the subordinated tranche is directly related to loan experience. The three options in SBA's proposed rule (62 FR 8640) of February 26, 1997 established a set retention level equal to 5% of the entire loan, which is equal to 20% of the unguaranteed portion of a typical loan, without regard to credit quality or any measurable economic impact. SBA believes an empirically-based retention percentage is superior to a set 5% retention level because it reflects the credit quality and historical loan performance of the securitizer.

SBA has always required Lenders to maintain a meaningful economic interest in SBA guaranteed loans in order to protect the taxpayer. A number of past comments have suggested that SBA need not impose any retainage requirement because securitizers retained a sufficient continuing economic interest in the Excess Spread. These commenters argued that credit losses taken against the Excess Spread result in meaningful economic consequences to a securitizer that has recognized the present value of the future excess cash flow as income. SBA agrees with much of this argument. It acknowledges that the discipline and methodology imposed by, and the information generated by, the rating agencies provide valuable protection to SBA. Nevertheless, SBA has decided not to rely solely on rating agencies to set retention levels.

SBA believes that sole reliance on Excess Spread is not enough to protect taxpayers in the event of deteriorating loan performance. The market uses the Excess Spread to protect the investor, not the taxpayer. Some commenters and experts have asserted that reliance on securitization may change a securitizer's behavior and increase risk to the taxpayer. Since taxpayers have a greater dollar exposure on each loan than any investor, SBA believes it needs economic incentives in addition to those the market provides to ensure the safety and soundness of the 7(a) program.

Suspension of PLP Approval Privileges

For purposes of this proposed rule, if the currency rate of a PLP securitizer declines, SBA would suspend that securitizer's PLP approval privileges under two circumstances: (a) if the rate of decline is more than 110% of the rate of decline of the currency rate of all loans approved under the PLP program (PLP Program Loans) as calculated from quarter to quarter or (b) if the decline is more than five percentage points when the currency rate of the PLP Program Loans remains stable or increases. If the securitizer's currency rate remains stable or improves, the securitizer may continue to use PLP procedures for loan approval. SBA plans to calculate and compare the currency rate for PLP Program Loans and the currency rate for each securitizer's portfolio each quarter.

By suspending PLP approval privileges and requiring a Lender to submit all of its loans through SBA's field offices for approval, SBA can monitor a securitizer's credit practices more closely. Ideally, SBA will be able to identify declining loan performance before it can threaten a securitizer's entire portfolio and financial condition. SBA monitoring may assist the securitizer to improve credit practices while protecting the safety and soundness of the program. SBA may reactivate the securitizer's PLP approval privileges at any time.

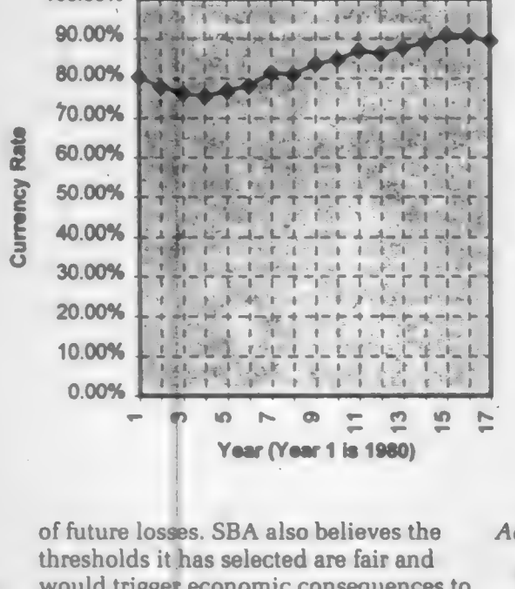
Based on an analysis of changes in the currency rate of the SBA portfolio over the past 16 years, SBA estimates that few securitizing PLP Lenders will be subject to the privilege suspension (see Charts 4 and 5). However, SBA recognizes that a downturn in the economy might trigger suspension for a greater number of PLP Lenders. Consequently, SBA has included in this rule a provision allowing SBA to waive suspension of PLP approval privileges for securitizers in an area where currency rates have been adversely affected by a downturn in regional economic conditions, if enforcing this element might exacerbate the adverse economic conditions in the area.

CHART 4

Year ending	Currency rate (percent)	Absolute value of change	Percentage change	110% of percent change
1980	80.20	.....	.....	.....
1981	77.70	0.0250	3.12	3.43
1982	76.20	0.0150	1.93	2.12
1983	75.50	0.0070	0.92	1.01
1984	76.80	0.0130	1.72	1.89
1985	78.00	0.0120	1.56	1.72
1986	81.30	0.0330	4.23	4.65
1987	80.90	0.0040	0.49	0.54
1988	83.50	0.0260	3.21	3.54
1989	84.70	0.0120	1.44	1.58
1990	86.90	0.0220	2.60	2.86
1991	86.20	0.0070	0.81	0.89
1992	87.60	0.0140	1.62	1.79
1993	88.80	0.0120	1.37	1.51
1994	90.90	0.0210	2.36	2.60
1995	90.60	0.0030	0.33	0.36
1996	89.40	0.0120	1.32	1.46
Average Change	.....	0.0149	.....	.....
Standard Dev	.....	0.0084	.....	.....

Cells in bold represent years when the currency rate increased, therefore the 5 percentage point test would apply.

Chart 5--Currency rate by year



SBA reviewed numerous methodologies to determine an equitable and effective way to measure a securitizer's credit quality and to establish a basis for comparison to overall portfolio behavior. SBA believes that currency rate is a reliable predictor of future losses. SBA also believes the thresholds it has selected are fair and would trigger economic consequences to the securitizer only if loan performance seriously declines.

Additional Levels

One of SBA's consultants proposed a fourth level to SBA's approach to regulating securitization which level would be based on a securitizer's loss rates and, therefore, be tied to long-term

performance. The consultant recommended that the fourth level be a supplemental payment. SBA would impose a supplemental payment equal to 1 percent of the outstanding balance of the securitization based on the performance of the loans in the securitization. If the securitization loss rate (1) remained the same, (2) declined, (3) increased by no more than 5 percent from year to year, or (4) was no more than 2 percent, than a supplemental payment would not be due. If, however, a securitization loss rate was over 2 percent and increased by more than 5 percent, the securitizer would be required to make a supplemental payment with respect to that securitization, if (a) the percentage change in the securitization loss rate was at least two times any percentage increase in SBA's loan portfolio loss rate or (b) the securitization loss rate is twice the loss rate of SBA's loan portfolio, and the loss rate for the SBA loan portfolio remained stable or declined. The provisions of this additional level would apply to a securitization only during the period the subordinated tranche would be required to be held. SBA would limit the supplemental payment to the holding period because it is during this crucial period that Lenders historically have experienced the highest loan losses.

Imposing an economic consequence if a securitizer's loan portfolio begins to show significant increases in losses would give a securitizer an additional direct financial incentive to maintain credit quality. Others with whom SBA has consulted agree that this would be an appropriate progression within SBA's regulatory approach. SBA is predisposed to add a fourth level featuring a direct financial incentive to its unified approach to securitization, but recognizes that it lacks legislative authority to impose new direct fees on its Lenders. SBA will be considering this matter further and welcomes comment on the subject.

In addition to the levels proposed, the rule would: a) require that SBA's Fiscal and Transfer Agent ("FTA") hold all original promissory notes; (b) prohibit Lenders from securitizing loans not yet closed and fully disbursed; and (c) allow SBA to require all securitizers to use SBA's model multi-party agreement and model pooling and servicing agreement once developed. The use of the model agreements would expedite processing.

Multi-Lender Securitizations

Although SBA has not yet approved a multi-Lender securitization, it believes that low volume Lenders should have the same access to securitization as high volume Lenders. SBA expects that the market will develop the structures necessary to permit low volume Lenders to securitize. Several ideas are in the early stages of development. As part of this proposal, SBA is soliciting comments to assist it in formulating multi-Lender securitization requirements. What criteria should SBA use to review multi-Lender securitizations? Are there unique risks inherent in a multi-Lender transaction? Should all Lenders be eligible to participate in a multi-Lender transaction or should only Preferred Lender Program ("PLP") Lenders be able to participate? Should each participant in the multi-Lender securitization be required to comply with the levels contained in this proposed rule? Does SBA need safeguards for multi-Lender securitizations in addition to those in this proposed role to ensure credit quality and loan performance and protect the safety and soundness of the 7(a) program?

II. Other Conveyances Component

The Other Conveyances component governs pledges and sales other than sales for the purpose of securitizing. This proposed rule would require SBA's prior written consent for the sale of a Lender's entire interest in a loan to another participating Lender. It would permit, with prior written notice to SBA, a sale after which the SBA Lender would continue to own a portion of the unguaranteed interest equal to at least 10% of the outstanding principal amount of the loan. This proposed rule would permit a Lender to sell an even greater portion of the loan as long as the sale received SBA's prior written consent, which consent could be withheld in SBA's sole discretion. The rules for sales of participating interests mirror those for sales. By allowing Lenders to sell the unguaranteed portion of their SBA loans in this manner, SBA encourages Lenders to make small business loans while protecting the safety and soundness of the 7(a) program.

Like the Interim Final Rule (62 FR 15601), this proposal also would require that a Lender obtain SBA's written consent prior to all pledges of SBA loans except for certain types of pledges enumerated in 13 CFR § 120.435. Except for such enumerated pledges, the SBA Lender must use proceeds of the loan secured by the SBA loans solely for the purpose of financing additional SBA loans. The provisions for pledging are almost unchanged from the Interim Final Rule.

Finally, this proposal incorporates several elements set forth in the Interim Final Rule and requires that a Lender be in good standing as determined by SBA. All documentation, including the multi-party agreement, must be satisfactory to SBA. The proposed rule also would require that a Lender or a third party acceptable to SBA hold the original promissory notes.

SBA seeks comments on all aspects of the proposal. In particular, SBA seeks comments suggesting any other level which it might incorporate in its unified regulatory approach as an additional incentive to securitizers to maintain high underwriting and servicing standards. For example, should additional action (beyond suspension of PLP approval privileges) be taken if a securitizer's loss rate declines significantly?

While this proposed rule is pending, SBA will continue to review proposed securitizations on a case by case basis under the Interim Final Rule.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule would not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

SBA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This proposed rule is intended to replace SBA's Interim Final Rule published on April 2, 1997. Like the Interim Final Rule, it would allow depository Lenders to securitize loans (as nondepository Lenders have done for the last six years). Since the publication of SBA's Interim Final Rule almost one year ago, only one depository Lender has securitized. Moreover, that Lender would not qualify as small under SBA's size standards. 13 CFR § 121.201. SBA will consider any additional information from the public on its assessment of the impact of this proposed rule on small banks, nondepository institutions or other small businesses.

SBA certifies that this proposed rule would not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 12612, SBA certifies that this proposed

rule would have no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this proposed rule has been drafted, to the extent practicable, to accord with the standards set forth in section 2 of that Order.

List of Subjects 13 CFR Part 120

Loan programs—business, Reporting and recordkeeping requirement, Small businesses.

For the reasons set forth above, SBA proposes to amend 13 CFR part 120 as follows:

PART 120—[AMENDED]

1. The authority citation for 13 CFR Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. Revise § 120.420 to read as follows:

Financings By Participating Lenders

§ 120.420 Definitions:

Bank regulatory agencies—The bank regulatory agencies are the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

Currency rate—A securitizer's "currency rate" is the dollar balance of its SBA guaranteed loans that are less than 30 days past due divided by the dollar balance of its outstanding portfolio of SBA guaranteed loans, as calculated by SBA.

Good standing—A securitizer is in "good standing" with SBA if it is in compliance with all applicable laws and regulations, policies and procedures, is in good financial condition as determined by SBA, and is not under investigation, indictment for, has not been convicted for or had a judgment entered against it or have any officers or employees who have been convicted, indicted, under investigation or the subject of a civil judgment for a felony or charges relating to a breach of trust or violation of a law or regulations protecting the integrity of business transactions or relationships.

Loss rate—A securitizer's "loss rate", as calculated by SBA, is the aggregate principal amount of the securitizer's SBA guaranteed loans determined uncollectable by SBA for the most recent ten year period, excluding current fiscal year activity, divided by the aggregate original principal amount of SBA guaranteed loans disbursed by the securitizer during that period.

Nondepository institution—A "nondepository institution" is a Small Business Lending Company regulated by SBA ("SBLC") or a Business and Industrial Development Company ("BIDCO") or other nondepository institution participating in SBA's 7(a) program.

Securitization—A "securitization" is the pooling and sale of the unguaranteed portion of SBA guaranteed loans to a trust, special purpose vehicle, or other mechanism, and the issuance of securities backed by those loans to investors in either a private placement or public offering.

3. Add § 120.421 through 120.428 to read as follows:

§ 120.421 Which Lenders may securitize?

All SBA participating Lenders may securitize.

§ 120.422 Are all securitizations subject to these regulations?

All securitizations are subject to the regulations in this part. SBA will consider securitizations involving multiple Lenders on a case by case basis. SBA will use the conditions in § 120.425 as a starting point for reviewing multiple Lender securitizations. Securitizations by affiliates are considered single Lender securitizations for purposes of the regulations in this part.

§ 120.423 Which SBA loans may a Lender securitize?

Notwithstanding the provisions of § 120.453(c), a Lender may only securitize guaranteed loans that are fully disbursed by the closing date of the securitization. If the amount of a fully disbursed loan increases after a securitization settles, the Lender must retain the increased amount.

§ 120.424 What are the basic conditions a Lender must meet to securitize?

To securitize, a Lender must:

(a) Be in good standing as determined by the Associate Administrator for Financial Assistance (AA/FA);

(b) Use a securitization structure which is satisfactory to SBA;

(c) Use documents acceptable to SBA, including SBA's model multi-party agreement;

(d) Obtain SBA's written consent, which it may withhold in its sole discretion, prior to executing a commitment to securitize; and

(e) Cause the original notes to be stored at the FTA, as defined in § 120.600, and other loan documents to be stored with a third party approved by SBA.

§ 120.425 What are the minimum elements that SBA will require before consenting to a securitization?

A securitizer must comply with the following three conditions:

(a) Capital requirement.—All securitizers must maintain minimum capital consistent with the requirements imposed on depository Lenders by the bank regulatory agencies. For depository institutions, SBA will consider compliance with the capital requirements of the bank regulatory agencies as compliance with this section. SBA's capital requirement does not change that which these banking agencies already require. In addition to meeting the capital requirements of the bank regulatory agencies, securitizing nondepository institutions also must maintain a minimum unencumbered paid in capital and paid in surplus equal to at least $1 million. Each nondepository institution must submit annually audited financial statements demonstrating that it has met SBA's capital requirement.

(b) Subordinated tranche.—A securitizer must retain a tranche of the securities issued in the securitization (subordinated tranche) equal to the greater of two times the securitizer's loss rate on the securitizer's SBA loans, original and purchased, for a 10 year period or 2 percent of the outstanding principal balance at the time of securitization of the unguaranteed portions of the loans in the securitization. This tranche must be subordinate to all other securities issued in the securitization including other subordinated tranches. The securitizer may not sell, pledge, transfer, assign, sell participations in, or otherwise convey the subordinated tranche during the first 6 years after the date of closing of the securitization. The securities evidencing the subordinated tranche must bear a legend stating that the securities may not be sold until 6 years after the issue date. SBA may modify the formula for determining the tranche size for a securitizer in a region affected by a severe economic downturn if it concludes that enforcing this section might exacerbate the adverse economic conditions in the region.

(c) PLP privilege suspension.—(1) If a PLP securitizer's currency rate declines, SBA may suspend the securitizer's PLP unilateral loan approval privileges (PLP approval privileges) under either of the following circumstances:

(i) If the decline is more than 110% of the rate of the decline of the currency rate of all loans approved under the PLP program (PLP Program Loans) as calculated from quarter to quarter or

(ii) If the decline is more than five percentage points and the currency rate of the PLP Program Loans remains stable or increases.

(2) SBA will calculate and compare the currency rate for PLP Program Loans and the currency rate for each securitizer's portfolio each quarter. Loans approved in the current fiscal year will not be included in the calculation of the currency rate. In the event of a severe downturn in a regional economy, a securitizer's currency rate is adversely affected, SBA may waive privilege suspension for all securitizers in the region, if it concludes that enforcing this section might exacerbate the adverse economic conditions in the region.

§ 120.426 What action will SBA take if a securitizer transfers the subordinated tranche prior to the termination of the holding period?

If a securitizer transfers the subordinated tranche prior to the termination of the holding period, SBA immediately will suspend the securitizer's ability to make new SBA loans. The securitizer will have 30 calendar days to submit an explanation to SBA. SBA will have 30 calendar days to review the explanation and determine whether or not to lift the suspension. If an explanation is not received within 30 calendar days or the explanation is not satisfactory to SBA, SBA may transfer the servicing of the applicable securitized loans, including the securitizers' servicing fee on the guaranteed and unguaranteed portions and the premium protection fee on the guaranteed portion, to another SBA participating Lender.

§ 120.427 Will SBA approve a securitization application from a capital impaired Lender?

If a Lender does not maintain the level of capital required by § 120.425(a), SBA will not approve a securitization application from that Lender.

§ 120.428 What happens if SBA suspends a securitizer's PLP approval privileges?

If SBA suspends a securitizer's PLP approval privileges:

(a) the securitizer must continue to service and liquidate loans according to its PLP Supplemental Agreement.

(b) SBA may reinstate the securitizer's PLP approval privileges if the securitizer demonstrates to SBA's satisfaction that the change in currency rate was caused by factors beyond the securitizer's control.

4. Redesignate current § 120.430 as § 120.414.

5. Redesignate current § 120.431 as § 120.415.

6. Add §§ 120.430 through 120.435 to read as follows:

Other Conveyances

§ 120.430 What conveyances are covered by §§ 120–430 through 120.435?

Sections 120.430 through 120.435 cover all other transactions in which a Lender sells, sells a participating interests in, or pledges an SBA guaranteed loan other than for the purpose of securitizing and other than conveyances covered under subpart F of this part.

§ 120.431 Which Lenders may sell, sell participations in, or pledge SBA loans?

Notwithstanding the provisions of Section 120.453(c), all Lenders may sell, sell participations in, or pledge SBA loans in accordance with this subpart.

§ 120.432 Under what circumstances does this rule permit sales of, or sales of participating interests in, SBA loans?

(a) A Lender may sell all of its interest in an SBA loan to another Lender operating under a current Loan Guarantee Agreement (SBA Form 750) with SBA's prior written consent, which SBA may withhold in its sole discretion. The purchasing Lender must take possession of the promissory note and other loan documents and service the sold SBA loan. The purchasing Lender must sign an agreement satisfactory to SBA acknowledging that it is purchasing the loan subject to SBA's right to deny liability on its guarantee.

(b) A Lender may sell, or sell a participating interest in, a part of an SBA loan. If the Lender retains ownership of a part of the unguaranteed portion of the loan equal to at least 10% of the outstanding principal balance of the loan, the Lender must give SBA prior written notice of the transaction, and the Lender must continue to hold the note and service the loan. If a Lender retains ownership of a portion of the unguaranteed interest of the loan equal to less than 10% of the outstanding principal balance of the loan, the Lender must obtain SBA's prior written consent to the transaction, which consent SBA may withhold in its sole discretion. The Lender must continue to hold the note and service the loan unless otherwise agreed by SBA.

(c) For purposes of this section SBA will not consider a Lender to be the owner of any portion of a loan in which it has sold a participating interest.

§ 120.433 What are SBA's other requirements for sales and sales of participating interests?

SBA requires the following:

(a) The Lender must be in good standing as determined by the AA/FA;

(b) In transactions requiring SBA's consent, all documentation must be satisfactory to SBA, including, if SBA determines it to be necessary, a multi-party agreement or other agreements satisfactory to SBA; and

(c) The servicer of the loan or FTA must retain possession of the original promissory notes. The servicer must retain possession of all other original loan documents for all loans.

§ 120.434 What are SBA's requirements for loan pledges?

(a) Except as set forth in Section 120.435, SBA must give its prior written consent to all pledges of any portion of an SBA loan, which consent SBA may withhold in its sole discretion;

(b) The Lender must be in good standing as determined by the AA/FA;

(c) All loan documents must be satisfactory to SBA and must include a multi-party agreement among SBA, Lender, the pledgee, FTA and such other parties as SBA determines are necessary;

(d) The Lender must use the proceeds of the loan secured by the SBA loans only for financing SBA loans;

(e) The Lender must remain the servicer of the loans and retain possession of all loan documents other than the original promissory notes; and

(f) The Lender must transfer the original promissory notes to FTA.

§ 120.435 Which loan pledges do not require notice to or consent by SBA?

The following pledges of SBA loans do not require notice to or consent by SBA:

(a) Treasury tax and loan accounts;

(b) The deposit of public funds;

(c) Uninvested trust funds;

(d) Discount borrowings at a Federal Reserve Bank; or

(e) Pledges to the Federal Home Loan Bank Board.

Dated: May 5, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–12535 Filed 5–15–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 98–3467]

RIN 2125–AE36

Truck Size and Weight; National Network; North Dakota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA proposes to modify the National Network for commercial motor vehicles by adding a route in North Dakota. The National Network was established by a final rule on truck size and weight published on June 5, 1984, as since modified. This rulemaking proposes to add one segment to the National Network as requested by the State of North Dakota.

DATES: Comments on this docket must be received on or before July 17, 1998.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management and Analysis (202–366–2212), or Mr. Charles Medalen, Office of the Chief Counsel (202–366–1354), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202)512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

Background

The National Network of Interstate highways and Federally-designated routes, on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C. 31111, 31113–31114, may operate, was established by a final rule published in the **Federal Register** on June 5, 1984 (49 FR 23302), as subsequently modified. These highways are located in each State, the District of Columbia, and Puerto Rico. Routes on the National Network are listed in appendix A of 23 CFR Part 658.

Procedures for the addition and deletion of routes are outlined in 23 CFR 658.11 and include the issuance of a notice of proposed rulemaking (NPRM) before final rulemaking.

The State of North Dakota, under authority of the Governor, requests the addition of one segment to the National Network. The segment has been reviewed by State and FHWA offices for general adherence to the criteria of 23 CFR 658.9 and found to provide for the safe operation of larger commercial vehicles and for the needs of interstate commerce.

The segment requested is generally described as ND Highway 32 from the west junction of ND Highway 13 north to Interstate 94, a distance of approximately 56 miles.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT

Regulatory Policies and Procedures

The FHWA has determined that this action does not constitute a significant regulatory action within the meaning of E.O. 12866, nor is it considered significant under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. This rulemaking proposes technical amendments to 23 CFR 658, adding a certain highway segment in accordance with statutory provisions. This segment represents a very small portion of the National Network and has a negligible impact on the prior system. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposal on small entities. This rulemaking proposes a technical amendment to 23 CFR 658, adding a certain highway segment in accordance with statutory provisions. This segment represents a very small portion of the National Network and has a negligible impact on the prior system. This rulemaking would, however, allow motor carriers, including small carriers, access to a highway segment not available to them at the present time.

Based on its evaluation of this proposal, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rulemaking relates to the Federal-aid Highway Program which is a financial assistance program in which State, local, or tribal governments have authority to adjust their program in accordance with changes made in the program by the Federal government, and thus is excluded from the definition of Federal mandate under the Unfunded Mandates Reform Act of 1995.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities do not apply to this program.

Paperwork Reduction Act

The proposal in this document does not contain information collection requirements for the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42

U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants programs—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: May 8, 1998

Gloria J. Jeff,

Deputy Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, Chapter 1, appendix A to Part 658 for the State of North Dakota as set forth below:

PART 658—TRUCK SIZE AND WEIGHT, ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. The authority citation for 23 CFR part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111–31115; 49 CFR 1.48(b)(19) and (c)(19).

2. Appendix A to Part 658 is amended for the State of North Dakota by adding a new route listing entry after the listing for ND 13, ND 1 S. Jct., MN State Line , to read as follows:

Appendix A to Part 658—National Network—Federally-Designated Routes

* * * * *

NORTH DAKOTA

Route	From	To
*	*	*
ND32	West Junction of ND Highway 13 North	I–94
*	*	*

* * * * *

[FR Doc. 98–13154 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–217–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Kentucky regulatory program (hereinafter the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky submitted a letter requesting the removal of an amendment at 30 CFR 917.17(a) which required that it maintain a staffing level of 156 field inspectors and, in the same letter, provided justification for its request. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.], June 2, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Director, at the address listed below.

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2494.

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT:

William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2494.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated November 3, 1997 (Administrative Record No. KY–1418), Kentucky submitted a proposed amendment to its program requesting the removal of an amendment at 30 CFR 917.17(a) requiring that Kentucky maintain a staffing level of 156 field inspectors. The proposed amendment was announced in the December 10, 1997, **Federal Register** (62 FR 65044).

The notice did not clarify that Kentucky submitted documents that provide evidence that it has sufficient inspection and enforcement staffing levels to regulate mining in accordance with SMCRA. OSM, therefore, reopened the comment period to describe the documents submitted. The submission of the additional information was

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announced in the April 27, 1998, **Federal Register** (63 FR 20561).

During the course of its review, OSM determined that the required amendments at 30 CFR 917.16(b)(1) and in the first sentence of (b)(2), which mandate a staffing level of 408 for Kentucky, and (b)(3), which requires that Kentucky provide a report to OSM describing the actions taken to achieve the staffing level, could possibly be removed based on the additional documentation Kentucky provided. Specifically, the Director proposes to remove the entire required amendment at 917.16(b) because Kentucky appears to have met all the requirements in 30 CFR 917.16(b) (1), (2), and (3). The comment period is being reopened because this proposed action was not specified in the two earlier announcements.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 8, 1998.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–13079 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA22

Proposed Amendment to the Bank Secrecy Act Regulations; Requirement That Casinos and Card Clubs Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") is proposing to amend the Bank Secrecy Act regulations to require casinos and card clubs to report suspicious transactions involving at least $3,000 in funds or other assets, relevant to a possible violation of law or regulation; reports would be made on a reporting form specifically designed for use in the gaming industry. The proposed amendments to the Bank Secrecy Act regulations would also require casinos and card clubs to establish procedures designed to detect occurrences or patterns of suspicious transactions and would make certain other changes to the requirements that casinos maintain Bank Secrecy Act compliance programs. The proposal is a further step in the creation of a comprehensive system (to which banks are already subject) for the reporting of suspicious transactions by financial institutions. Such a system is a core component of the counter-money laundering programs of the Department of the Treasury.

DATES: Written comments on all aspects of the proposal are welcome and must be received on or before September 15, 1998.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, Suite 200, 2070 Chain Bridge Road, Vienna, Virginia 22182–2536, *Attention:* NPRM—Suspicious Transaction Reporting—Casinos. Comments also may be submitted by electronic mail to the following Internet address: "regcomments@fincen.treas.gov," with the following caption in the body of the text: "*Attention:* NPRM—Suspicious Transaction Reporting—Casinos". For additional instructions on the submission of comments, see **SUPPLEMENTARY INFORMATION** under the heading "Submission of Comments."

Inspection of Comments: Comments may be inspected, between 10:00 a.m. and 4:00 p.m., at FinCEN's Washington office, in the Franklin Court Building, 1099 14th Street, N.W., Fourth Floor,

Washington, D.C. 20005. Persons wishing to inspect the comments submitted should request an appointment by telephoning (202) 216–2870.

FOR FURTHER INFORMATION CONTACT: Leonard C. Senia, Senior Financial Enforcement Officer, Office of Program Development, FinCEN, (703) 905–3931 or Cynthia L. Clark, Deputy Chief Counsel, Office of Chief Counsel, FinCEN, (703) 905–3758.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document proposes to add a new § 103.21 to 31 CFR part 103, to require casinos and card clubs to report to the Department of the Treasury suspicious transactions to the extent provided in such section relevant to a possible violation of law or regulation.[1] The proposal would extend to casinos and card clubs the suspicious transaction reporting regime to which the nation's banks, thrift institutions, and credit unions have been subject since April 1, 1996.[2] Related changes are made to the provisions of 31 CFR 103.54 relating to casino compliance programs. FinCEN has previously proposed a rule that would require suspicious transaction reporting by (i) money transmitters, (ii) issuers, sellers, and redeemers of money orders, and (iii) issuers, sellers, and redeemers of traveler's checks, see 62 FR 27900, which is a part of the set of rules proposed at 62 FR Part V (May 21, 1997). It intends in the near future to propose a rule extending the suspicious transaction reporting requirement to brokers or dealers in securities.

II. Background

A. Statutory Provisions

The Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330), appear at 31 CFR part 103.[3] The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The provisions of the Bank Secrecy Act relating to the reporting of suspicious transactions are contained in 31 U.S.C. 5318(g).[4] That subsection grants the Secretary of the Treasury the authority to require the reporting of such transactions by financial institutions subject to the Bank Secrecy Act, and contains provisions protecting reporting institutions from liability to customers on account of the making of such reports. Subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2) provides further:

> A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

Subsection (g)(3) provides that neither a financial institution, nor any director, officer, employee, or agent,

> That makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, "to the extent practicable and appropriate," to designate "a single officer or agency of the United States to whom such reports shall be made."[5] The designated agency is in turn responsible for referring any report of a suspicious transaction to "any appropriate law enforcement or supervisory agency." *Id.*, at subsection (g)(4)(B).

The provisions of 31 U.S.C. 5318(h) grant the Secretary authority to

> Require financial institutions to carry out anti-money laundering programs, including at a minimum,
> (A) the development of internal policies, procedures, and controls,
> (B) the designation of a compliance officer,
> (C) an ongoing employee training program, and
> (D) an independent audit function to test programs.

These provisions, enacted at the same time as the explicit provisions relating to reporting of suspicious transactions, complement the latter provisions.

B. Application of the Bank Secrecy Act to Gaming Businesses

State licensed gambling casinos were generally made subject to the Bank Secrecy Act as of May 7, 1985, by regulation issued early that year. *See* 50 FR 5065 (February 6, 1985).[6] The 1985 action was based on Treasury's statutory authority to designate as financial institutions for Bank Secrecy Act purposes (i) businesses that engage in activities "similar to" the activities of the businesses listed in the Bank Secrecy Act, as well as (ii) other businesses "whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters." *See* 31 U.S.C. 5312(a)(2)(Y) and (Z)[7]. Special Bank Secrecy Act regulations relating to casinos were issued in 1987, and amended in 1989 and (more significantly) in 1994. *See* 52 FR 11443 (April 8, 1987), 54 FR 1165 (January 12, 1989), and 59 FR 61660 (December 1, 1994) (modifying and putting into final effect the rule originally published at 58 FR 13538 (March 12, 1993)). These actions reflect the continuing determination not only that casinos are vulnerable to manipulation by money launderers and tax evaders but, more generally, that gaming establishments provide their customers with a financial product—gaming—and as a corollary offer a broad array of financial services,

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[1] As used hereafter in this document, the phrase "casino" when used singly includes a reference both to casinos and to card clubs, as the latter term is defined in 31 CFR 103.11(n)(8), unless the context clearly indicates otherwise. See 31 CFR 103.11(n)(7)(iii). 31 CFR 103.11(n)(7)(iii) and (n)(8) were added to the Bank Secrecy Act Regulations by the final rule published at 63 FR 1919 (January 13, 1998).

[2] The suspicious transaction reporting rules for banks are at present found at 31 CFR 103.21, which is proposed to be renumbered as 301 CFR 103.18 as part of the pending rulemaking relating to the reporting of suspicious transactions by money transmitters and other money services businesses (discussed immediately below in the text).

[3] Bank Secrecy Act provisions relating specifically to gaming establishments are discussed at paragraph B, below.

[4] Subsection (g) of section 5318(g) was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act ("Annunzio-Wylie Act"), Title XV of the Housing and Community Development Act of 1992, Pub. L. 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994, to require designation of a single government recipient for reports of suspicious transactions.

[5] This designation is not to preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency or another agency "pursuant to any other applicable provision of law." 31 U.S.C. 5318(g)(4)(C).

[6] Casinos whose gross annual gaming revenue did not exceed $1 million were, and continue to be, excluded from Bank Secrecy Act coverage.

[7] In 1985, these provisions were numbered 31 U.S.C. 5312(a)(2)(X) and (Y). The numbering changed with the addition to section 5312(a)(2) of a new subparagraph (X), described in the text, dealing with gaming establishments, by the Money Laundering Suppression Act of 1994.

such as customer deposit or credit accounts, facilities for transmitting and receiving funds transfers directly from other institutions, and check cashing and currency exchange services, that are similar to those offered by depository institutions and other financial firms.

In recognition of the importance of the application of the Bank Secrecy Act to the gaming industry, section 409 of the Money Laundering Suppression Act of 1994 (the "Money Laundering Suppression Act"), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, codified the application of the Bank Secrecy Act to gaming activities by adding casinos and other gaming establishments to the list of financial institutions specified in the Bank Secrecy Act itself. The statutory specification reads:

> (2) financial institution means—
> * * * * *
> (X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—
> (i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any. State; or
> (ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act)
> * * *.

31 U.S.C. 5312(a)(2)(X). Gambling casinos authorized to do business under the Indian Gaming Regulatory Act became subject to the Bank Secrecy Act on August 1, 1996. *See* 61 FR 7054 (February 23, 1996), and the class of gaming establishments known as "card clubs" will become subject to the Bank Secrecy Act on August 1, 1998.[8] *See* 63 FR 1919 (January 13, 1998).

Casinos in Nevada were exempted from direct coverage under the Bank Secrecy Act as a result of Treasury action taken in 1985 at the request of state authorities. *See* 50 FR 5064 (February 6, 1985). The exemption carries with it a continuing requirement that Nevada casinos must be subject to a state "regulatory system [that] substantially meets the reporting and recordkeeping requirements" of 31 CFR part 103, in the judgment of the Department of the Treasury, *see* 31 CFR 103.45(c)(1), and that meets certain additional conditions specified in 31 CFR 103.45(c)(2).

Nevada Gaming Commission Regulation 6A, Cash Transactions Prohibitions, Reporting, and Recordkeeping, has required Nevada casinos to report currency transactions in excess of $10,000 as part of its continuing responsibilities pursuant to a May 1985 cooperative agreement between the State of Nevada and the U.S. Department of the Treasury that implements the exemption. As a result of a recent Treasury review of Nevada's regulatory system, Regulation 6A was amended, *inter alia*, to enhance the counter-money laundering rules to which casinos are subject. The enhanced state rules require casinos to report directly to the Department of the Treasury both: (i) Large currency transactions (on Internal Revenue Service Form 8852, Currency Transaction Report by Casinos—Nevada), and (ii) potentially suspicious transactions and activities (under rules reflecting the same concerns, in the context of Nevada's state regulatory system, as the rules contained in 31 CFR 103.21 as proposed in this document, and as reflected in Treasury Form TD F 90–22.49 (Suspicious Activity Report by Casinos)).[9]

C. Importance of Suspicious Transaction Reporting in Treasury's Counter-Money Laundering Programs

The Congressional mandate to require reporting of suspicious transactions recognizes two basic points that are central to Treasury's counter-money laundering and counter-financial crime programs. First, it is to financial institutions that money launderers must go, either initially, to conceal their illegal funds, or eventually, to recycle those funds back into the economy. Second, the employees and officers of those institutions are often more likely than government officials to have a sense as to which transactions appear to lack commercial justification (or in the case of gaming establishments, transactions that appear to lack a reasonable relationship to legitimate wagering activities) or that otherwise cannot be explained as constituting a legitimate use of the casino's financial services. Moreover, because money laundering transactions are designed to appear legitimate in order to avoid detection, the creation of an effective system for detection and prevention of money laundering is impossible without the cooperation of financial institutions, including, in this case, gaming establishments. Indeed, many non-banks have come increasingly to recognize the increased pressure that money launderers have come to place upon their operations and the need for innovative programs of training and monitoring necessary to counter that pressure.

The provisions of the Annunzio-Wylie and Money Laundering Suppression Acts recognize that the traditional reliance of Treasury counter-money laundering programs on the reporting of currency transactions between financial institutions and their customers and the reporting of the transportation of currency and certain monetary instruments into or out of the United States, is not adequate to prevent or detect money laundering activities. This document is thus one of a group of proposed rule changes that signals a move from reliance solely on currency transaction reporting to reliance as well upon the timely reporting of information equally, if not more, likely to be of use to law enforcement officials and financial regulators, namely, information about suspicious transactions and activities. Suspicious transaction reporting is a key component of a flexible and effective compliance system required to prevent the use of the nation's financial system for illegal purposes.

The reporting of suspicious transactions is also a key to the emerging international consensus on the prevention and detection of money laundering. One of the central recommendations of the Financial Action Task Force—recently updated and reissued—is that:

> If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.

Financial Action Task Force Annual Report (June 28, 1996),[10] Annex 1 (Recommendation 15). The recommendation, which applies equally to banks and non-banks, revises the original recommendation, issued in 1990, that required institutions to be

[8] Generally card clubs would be subject to the same rules as casinos, unless a specific provision of the rules in 31 CFR part 103 applicable to casinos explicitly requires a different treatment for card clubs. As in the case of casinos, card clubs whose gross annual gaming revenue is $1 million or less are excluded from Bank Secrecy Act coverage. *See* 31 CFR 103.11(n)(8).

[9] At present, the use of the form is required only for casinos that file reports subject to Nevada Gaming Commission Regulation 6A. A more thorough discussion of the current status of Form TD F 90–22.49 appears below, under the heading "Paperwork Reduction Act Notices."

[10] The Financial Action Task Force, commonly referred to as the "FATF," is an inter-governmental body whose purpose is development and promotion of policies to combat money laundering. Originally created by the G–7 nations, its membership now includes Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States, as well as the European Commission and the Gulf Cooperation Council.

either "*permitted or* required." (Emphasis supplied.) The revised recommendation reflects the international consensus that a mandatory suspicious transaction reporting system is essential to an effective national counter-money laundering program and to the success of efforts of financial institutions themselves to prevent and detect the use of their services or facilities by money launderers and others engaged in financial crime.

Similarly, the European Community's *Directive on prevention of the use of the financial system for the purpose of money laundering* calls for member states to—

> Ensure that credit and financial institutions and their directors and employees cooperate fully with the authorities responsible for combating money laundering * * * by [in part] informing those authorities, on their own initiative, of any fact which might be an indication of money laundering.

EC Directive, O.J. Eur. Comm. (No. L 166) 77 (1991), Article 6. *Accord, the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses of the Organization of American States*, OEA/Ser. P. AG/Doc. 2916/92 rev. 1 (May 23, 1992), Article 13, section 2.[11] All of these documents recognize the importance of extending the counter-money laundering controls to "non-traditional" financial institutions, not simply to banks, both to ensure fair competition in the marketplace and to recognize that non-banks as well as depository institutions are an attractive mechanism for, and are threatened by, money launderers. *See, e.g., Financial Action Task Force Annual Report, supra*, Annex 1 (Recommendation 8).

The FATF's research and national mutual evaluation projects have expanded in recent years the degree of attention paid to non-banks, including gaming establishments. The Caribbean Financial Action Task Force (or "CFATF"), a 24 nation regional counterpart of the FATF, has also paid special attention to the vulnerability of the gaming industry in the Caribbean to penetration by money launderers.

[11] The Organization of American States (OAS) reporting requirement is linked to the provision of the Model Regulations that institutions "shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose." OAS Model Regulation, Article 13, section 1.

D. Importance of Suspicious Transaction Reporting by Casinos and Card Clubs

Billions of dollars of U.S. currency are laundered each year, through many different types of financial institutions and businesses. The corrosive effects of money laundering are well understood. Growing government knowledge about the way illegally-obtained proceeds are laundered has led to a more sophisticated understanding of the steps that can and should be taken to counter this crime.

The placement of illegally-derived currency into the financial system and the smuggling of such currency out of the country remain two of the most serious issues facing financial law enforcement efforts in the United States and around the world. But as financial institutions have responded to the challenges posed by money laundering, it has become far more difficult than in the past to pass large amounts of currency unnoticed directly into the nation's financial system and far easier to identify and isolate those institutions and officials that remain willing to assist or turn a blind eye to money launderers.

Moreover, the placement of currency into the financial system is at most only the first stage in the money laundering process. The money launderer's objective is to integrate the funds into the financial system, passing the funds through multiple transactions, financial instruments, or layers of formal ownership, so that they can be used for consumption or reinvestment in either legitimate or criminal activity without calling attention to their origin. While many currency transactions are *not* indicative of money laundering or other violations of law, many non-currency transactions *can* indicate illicit activity, especially in light of the breadth of the statutes that make money laundering itself a crime. *See* 18 U.S.C. 1956 and 1957.

Owing in part to different business and transactional patterns, non-banks have historically not been subject to the same counter-money laundering controls as depository institutions. As government and industry programs have made it more difficult for customers to launder money at banks and other depository institutions, the interest of money launderers in moving funds into the financial system through non-bank financial services providers has increased.

Gaming establishments have not been spared from this trend.[12] The experience of law enforcement and regulatory officials suggests that the gambling environment can attract criminal elements involved in a variety of illicit activities, including fraud, narcotics trafficking, and money laundering. With large volumes of currency being wagered by legitimate gaming customers from throughout the United States (and, indeed, from around the world), the fast-paced environment of casino gaming can create an especially valuable "cover" for money launderers. The explosive growth of casino gaming in the United States in the last decade vastly increases the "targets of opportunity" for such criminals, as casino sites, amounts wagered, and casino attendance have multiplied.[13]

[12] *U.S.* v. *Marks*, 97 CR 20069 (District Court Western District of Louisiana), June 1997 (defendants indicted for laundering drug proceeds by buying and cashing casino tokens); *U.S.* v. *Zottola* (District Court Western District of Pennsylvania) and *U.S.* v. *Zottola*, 97 CR 0953T (District Court Southern District of California), April 1997 (defendants indicted for laundering $2.1 million in organized crime proceeds to open a casino on tribal lands); *New Jersey Division of Gaming Enforcement* v. *Freedman*, October 1996, 96–0609–RC NJ–DGE (defendants charged with structuring transactions to avoid reporting by cashing $20,000, in increments of $1,000, in casino chips); *U.S.* v. *Vocanti*, 96 CR 593(SMO) (District Court New Jersey), September 1996 (structuring token purchases to avoid transaction reporting requirements); *U.S.* v. *McClintock*, 96 CR 91(JEI) (District Court New Jersey), February 1996 (structuring transactions totalling $124,000); *U.S.* v. *Baxter*, 95 CR 116 (District Court Eastern District of Louisiana), August 1995 (president of a casino laundered $200,000 by manipulating the books of the casino to show the funds were from legitimate gambling); *U.S.* v. *Grittini*, 1:95 CR 17GR (District Court Southern District of Mississippi), May 1995 (rigged blackjack games used to launder $520,000 for organized crime); *New Jersey Division of Gaming Enforcement* v. *Meyerson*, 96–0393–RC (casino employee advised gamblers to structure $360,000 and assisted in structuring $30,000 to avoid transaction reporting requirements); *U.S.* v. *Freapane*, 94 CR 287 (District Court Eastern District of Louisiana), November 1994, (owner of illegal video slot machine business indicted for laundering profits from the business through casino slot machines in another state).

[13] The General Accounting Office cites in its January 1996 report on money laundering that "the proliferation of casinos, together with the rapid growth of the amounts wagered, may make these operations highly vulnerable to money laundering." General Accounting Office, *Report to the Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, Money Laundering: Rapid Growth of Casinos Makes Them Vulnerable* GAO/GGD–96–28. According to *International Gaming and Wagering Business* (August 1997), the amount of money legally wagered in casinos exceeded $480 billion in 1996. This is a substantial increase from the $101 billion wagered in casinos in 1982. Casino gaming accounts for 82 percent of the total amount of money wagered for all gaming activities throughout the United States. Similarly, according to *International Gaming and Wagering Business* (August 1997), the amount of money legally wagered in card rooms constituted an additional $9.8 billion in 1996 (i.e., 1.7 percent of the total amount of money wagered). It is estimated that 125 million people visit government licensed casinos each year.

E. Coordinated System for Reporting Suspicious Transactions

The proposed rule is one of a series of rulemakings designed to extend suspicious activity reporting to institutions subject to the Bank Secrecy Act.[14] As in the case of the other rules, this proposed rule is designed to permit creation of a unified system for all reports of suspicious casino and card club transactions and activities. Under that system, all such reports will be filed with FinCEN and made available, in a single data base, to federal and state law enforcement authorities and gaming regulators nationwide. The single data base will not only permit rapid dissemination of reports to appropriate law enforcement agencies, but will facilitate more thorough analysis and tracking of those reports, and, in time, the provision to the financial community of information about trends and patterns gleaned from the information reported. The single filing location will also facilitate development of procedures for magnetic and ultimately electronic filing of such reports.

FinCEN is developing a form, the Suspicious Activity Report by Casinos ("SARC"), that will be used by casinos and card clubs around the nation to report a suspicious transaction or activity under the proposed rule. A variant of that form is already in use by casinos in Nevada that (as described above) became subject to a state requirement to report suspicious transactions to FinCEN on October 1, 1997. *See* 62 FR 44032 (August 18, 1997) (Paperwork Reduction Act Notice for Form TD F 90–22.49 to be used initially by casinos in Nevada).

No system for the reporting of suspicious transactions can be effective unless information flows from as well as to the government. FinCEN anticipates working on an ongoing basis with gaming establishments and state regulatory officials in their efforts to detect suspicious activities.

Treasury ultimately must rely on the creation of a working partnership with the gaming industry that will assist gaming establishments to apply their knowledge of both their customers and business patterns to identify and report suspicious activity and permit the implementation of suspicious activity reporting by gaming establishments in an efficient and cost-effective manner. Joint efforts will include exchanges of information, training, and advisory guidance as to examples and patterns of potentially suspicious casino transactions and activities. (Of course no list of potentially suspicious activities will apply with equal force to all gaming establishments or all jurisdictions in which gaming is permitted, due in part to differences in the range of gaming activities permitted in various areas.)

In addition, FinCEN intends to hold several public meetings, which will be announced by notice published in the **Federal Register**, to provide additional opportunities for the industry and other interested parties to discuss the various provisions of this proposed rule. During such meetings, FinCEN will also welcome discussion of a new advisory entitled "Guidance for Detecting and Reporting Suspicious Casino Transactions and Activities," which is in preparation.

III. Specific Provisions[15]

A. 103.11(ii)—Transaction

The definition of "transaction" in the Bank Secrecy Act regulations for purposes of suspicious transaction reporting conforms generally to the definition Congress added to 18 U.S.C. 1956 when it criminalized money laundering in 1986. See Pub. L. 99–570, Title XIII, 1352(a), 100 Stat. 3207–18 (Oct. 27, 1986). This notice proposes to amend that definition to include explicit references to "the purchase or redemption of casino chips or tokens, or other gaming instruments," to eliminate any question of the application of the definition to transactions of a sort common to gaming establishments. These changes are necessary so that the reporting rules will cover all activity that should be reported under the proposed rule.

B. 103.21—Reports of Suspicious Transactions

General

Proposed § 103.21 contains the rules setting forth the obligation of casinos and card clubs to report suspicious transactions. The rule itself does not contain a separate reference to card clubs, since 31 CFR 103.11(n)(7)(iii) generally provides that "[a]ny reference in [31 CFR part 103] . . . to a casino shall also include a reference to a card club, unless the provision in question contains specific language varying its application to card clubs or excluding card clubs from its application." *See* 63 FR 1919, 1923 (January 13, 1998). No such varying provision is contained in the proposed rule.

Proposed paragraph (a)(1) contains a general statement of the obligation to file a suspicious activity report, as well as language designed to encourage the reporting of transactions that appear relevant to violations of law or regulation, even in cases in which the rule does not explicitly so require, for example in the case of a transaction falling below the $3,000 threshold in the rule. The Department of the Treasury continues to believe that such a voluntary report (that is, the report of a suspicious transaction relevant to a possible violation of law or regulation, in circumstances not required by the rule proposed in 31 CFR 103.21(a)(1)) is fully covered by the rules against disclosure and protections against liability specified in 31 U.S.C. 5318(g)(2) and (g)(3) and in proposed 31 CFR 103.21(d).

Proposed paragraph (a)(2) provides that with respect to casinos, a transaction requires reporting under 31 CFR 103.21 if it is conducted or attempted by, at, or through the casino, involves or aggregates at least $3,000 in funds or assets, and the casino knows, suspects, or has reason to suspect that the transaction is one that must be reported.

Proposed paragraph (a)(2) embodies two important points. First, FinCEN is proposing a $3,000 threshold to the reporting of suspicious casino and card club transactions and activities, so that reports will be required for a transaction (or a pattern of transactions of which the transaction is a part) that involves at least that amount in funds or assets and that otherwise satisfies the terms of the proposed rule. The proposed language makes it clear that related suspicious transactions "aggregating" $3,000 or more in funds or assets are also reportable under the Bank Secrecy Act. Transactions are reportable under proposed paragraph (a) whether or not they involve currency.

The proposed $3,000 threshold is intended to focus attention on customers who are conducting suspicious transactions at a level that warrants attention and, at the same time, to limit the application of the reporting requirement to a small, but important percentage of total customer transactions that occur at a casino each day. Casino regulations in several

[14] Several casinos have already voluntarily reported suspicious transactions and activities by filing on Form TD F 90–22.47, Suspicious Activity Report (SAR), which is the form required for banks and other depository institutions. Other casinos have reported such transactions by telephone to local offices of federal law enforcement or gaming regulatory agencies.

[15] Because proposed § 103.21 reflects the terms of the reporting rule for banks, readers of this document may wish to consult the notice of proposed rulemaking and the document containing the final reporting rule for banks, at 60 FR 46556 (September 7, 1995) (proposed rule) and 61 FR 4326 (February 5, 1996) (final rule). The bank rule is found at § 103.21, but is proposed by this notice to be renumbered as § 103.18.

States, namely, Colorado, Illinois, Indiana, Missouri and Nevada, already require the recording and scrutiny of currency transactions occurring at this threshold on the gaming floor or at the cage. Moreover, in other States, such as Louisiana and Mississippi, and at some tribal casinos, customer activity is typically recorded at or slightly below this threshold on cage action control logs and gaming floor multiple currency transaction logs. And, as noted above, Nevada casinos have been subject to a $3,000 threshold for the filing of suspicious activity reports since October 1997.

Second, the use of the term "knows, suspects, or has reason to suspect" is intended to introduce a concept of due diligence into the reporting procedures. Casino officials who monitor a customer's gaming activity or conduct transactions with a customer are in a unique position to recognize transactions and activities which appear to have no legitimate purpose, are not usual for a specific player or type of players, or have no apparent business explanation. The suspicious nature of the transaction may first be detected by an employee conducting the transaction, a supervisor observing the transaction, or a surveillance department employee monitoring the transaction. The scrutiny needed to identify suspicious transactions highlights the importance of casinos knowing their customers.

The proposed rule designates three classes of transactions as requiring reporting by casinos. The first class, described in proposed paragraph (a)(2)(i), includes transactions involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second class, described in proposed paragraph (a)(2)(ii), involves transactions designed to evade the requirements of the Bank Secrecy Act. The third class, described in proposed paragraph (a)(2)(iii), involves transactions that appear to have no business purpose or that vary so substantially from normal commercial activities or activities appropriate for the particular customer or type of customer as to have no reasonable explanation.

The determination as to whether a suspicious report is required must be based on all the facts and circumstances relating to the transaction and the customer in question. Suspicious transactions and activities will often take place at a casino cage, gaming table or slot machine, but they can occur anywhere in the casino. *Suspicious transaction reporting is not limited to transactions in currency* such transactions may also involve monetary instruments or credit cards, or may involve funds transfers into, out of, or through casinos. In some situations casinos may be used in an attempt initially to place illegally-obtained funds into the financial system; in other situations, passage of funds through a casino may follow the initial placement of illegal proceeds at another financial institution, as part of the "placement" or "integration" stages of the money laundering cycle.

Paragraph (a)(2)(iii) includes in the rule a requirement for the reporting of transactions that vary so substantially from normal practice that they legitimately can and should raise suspicions of possible illegality. Unlike many criminal acts, money laundering involves the taking of apparently lawful steps—opening deposit and credit accounts, wiring funds, or cashing checks—for an unlawful purpose. Thus, in attempting to *appear to be* wagering customers, persons may be willing to lose a nominal amount of chips by making small bets or offsetting larger bets and then exchanging their remaining chips for currency, a check or a wire transfer. They may attempt to structure deposits or withdrawals of funds from a casino account to avoid recordkeeping or reporting thresholds or to move substantial funds through a casino's facilities with little or no related gaming activity, or to provide false documents or identifying information to casino officials. A skillful money launderer will often split the movement of funds among different parts of a casino so that no one single person has a complete picture of the transactions or movement of funds involved, and may use agents to conduct multiple transactions for an anonymous individual, layering the transactions to disguise their source.

A casino may also detect suspicious or suspected illegal activity pertaining to transactions involving a check cashing operator, junket operator, gambling tour company, supplier, vendor, etc. with which it has a contractual relationship. For example, a casino may observe a customer (other than an established junket operator) directly supplying large amounts of currency to individuals who then use the currency to make a deposit, purchase of chips, exchange of currency, etc.

Finally, a determination whether a suspicious activity report is required to be filed may not result from face-to-face transactions between customers and casino personnel or from a review of the account of a customer, but instead may be discovered by information contained in the casino's own internal accounts and financial or other records. For instance, patterns of funds transfers by seemingly unrelated customers to a third party account, followed by little or no gaming activity and withdrawal of the consolidated funds, may raise questions that examination of no one transaction would reveal. Such patterns of suspicious activity may be detected during an unrelated review of a casino's internal records, as part of an independent audit of a casino's compliance systems, or as a result of a suspicious activity monitoring program designed to detect the occurrence of potentially suspicious transactions generally.

Proposed paragraph (a)(2)(iii) recognizes the emerging international consensus that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of unusual financial transactions for which no lawful purpose can be determined. The requirements of this section comply with the recommendations adopted by the FATF and the OAS, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Given the breadth of the reporting requirement, and the variety of transactions conducted in or through gaming establishments, it is impossible to avoid the need for judgment in administering or applying the reporting standards to particular situations. Different fact patterns will require different types of judgments. In some cases, the facts of the transaction may clearly indicate the need to report. For example, the fact that a customer: (i) Furnishes an identification document which the casino believes is false or altered in connection with the completion of a Currency Transaction Report by Casinos (CTRC), or the opening of a deposit, credit account, or check cashing account; (ii) tries to influence, bribe, corrupt, or conspire with an employee not to file CTRCs; or (iii) converts large amounts of currency from small to large denomination bills; would all clearly indicate that a SARC should be filed.

In other situations a more involved judgment may be needed to determine whether a transaction is suspicious within the meaning of the rule. The need for such judgments may arise, for example, in the case of transactions in which a customer (i) wires out of a casino funds not derived from gaming proceeds, or wires funds to financial institutions located in a country which is not his or her residence or place of

business; (ii) transmits or receives funds transfers without normal identifying information or in a manner that may indicate an attempt to disguise or hide the country of origin or destination or the identity of the customer sending the funds or the beneficiary to whom the funds are sent; (iii) repeatedly uses an account as a temporary resting place for funds from multiple sources; (iv) makes continuous payments or withdrawals of currency in amounts each below the currency transaction reporting threshold applicable under 31 CFR 103.22; or (v) inserts currency into a slot machine validator, accumulates credits with minimal or no gaming activity, and then cashes out the tokens or credits at the cage (or slot booth) for large denomination bills or a casino check. The judgments involved will also extend to whether the facts and circumstances and the institution's knowledge of its customer provide a reasonable explanation for the transaction that would remove it from the suspicious category. Again, it is crucial to recognize that suspicious transactions and activities are reportable under this rule and 31 U.S.C. 5318(g) whether or not they involve currency.

For all of these reasons, casinos must know their customers to make an informed decision as to whether certain customer transactions are suspicious. Many casinos already maintain and rely for business purposes on a great deal of information about their customers from data routinely obtained through deposit, credit, check cashing, and player rating accounts. These accounts generally require casinos to obtain basic identification information about the accountholders, at the time the accounts are opened, and to inquire into the kinds of wagering activities the customer is likely to conduct.[16] Also, in certain instances, casinos use credit bureaus to verify information obtained from their customers. All of these sources of information can help a casino to better understand its customer base and to evaluate specific customer transactions that appear to lack justification or otherwise cannot be explained as falling within the usual methods of legitimate business.

[16] The deposit and credit accounts track customer deposits and casino extensions of credit. Casino customers can draw down on either account to fund their gaming, purchase chips and conduct other activities on casino properties. The player rating account tracks gaming activity and is designed primarily to award complimentary perquisites to volume players, and to serve as a marketing tool to identify customers and to encourage continued patronage.

Filing Procedures

Paragraph (b) sets forth the filing procedures to be followed by casinos making reports of suspicious transactions. Within 30 days after a casino becomes aware of a suspicious transaction, the casino must report the transaction by completing a SARC and filing it in a central location, to be determined by FinCEN.

Supporting documentation relating to each SARC is to be collected and maintained separately by the casino and made available to FinCEN and any appropriate law enforcement or gaming regulatory agency upon request. Special provision is made for situations requiring immediate attention, in which case casinos are to immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a SARC.

Reports filed under the terms of the proposed rule will be lodged in a central data base (on the model of the data base used to process, analyze, and retrieve bank suspicious activity reports). Information will be made automatically available to federal and state law enforcement and gaming regulatory agencies, to enhance the ability of those agencies to carry out their mandates to fight financial crime.

Maintenance of Records

Paragraph (c) provides that filing casinos must maintain copies of SARCs and the original related documentation for a period of five years from the date of filing; the relevant records may include not only paper or electronic accounting or other entries but also (without limitation) appropriate segments of video or audio tapes recorded by the casino as part of its operations. Even though not required to be filed with the SARC, the supporting documentation is deemed to be a part of the SARC and is required to be held by the casino (in effect as agent for FinCEN). This provision is intended to relieve casinos of the need to transmit supporting documentation immediately to FinCEN without lessening the utility or availability of the supporting documentation. Thus, identification of supporting documentation must be made at the time the SARC is filed, and such supporting documentation is deemed filed with a SARC in accordance with paragraph (c); as such, FinCEN, law enforcement authorities and appropriate gaming regulatory agencies need not make their access requests through subpoena or other legal processes.[17]

[17] References to "appropriate law enforcement and regulatory agencies" naturally include the Examination Division of the Internal Revenue Service, to which authority to examine, *inter alia*, gaming establishments for compliance with the Bank Secrecy Act has been delegated. *See* 31 CFR 103.46(b)(8).

Prohibition From Disclosing SARCs; Safe Harbor From Civil Liability

Paragraph (d) incorporates the terms of 31 U.S.C. 5318(g)(2) and (g)(3). This paragraph thus specifically prohibits persons filing SARCs from making any disclosure, except to law enforcement and regulatory agencies, about either the fact of the filing of the reports or the reports themselves, the information contained therein, or the supporting documentation. The non-disclosure provisions of section 5318(g)(2) are intended to ensure that suspicious activity report information is restricted to appropriate law enforcement and regulatory personnel and are not otherwise made public. It is also designed to prevent the subject of a report from learning that his suspicious conduct has been reported to the government. SARC information, like other reports required to be filed under the Bank Secrecy Act, are not subject to disclosure to the public without the express authorization of FinCEN.

Auditing and Enforcement

Finally, paragraph (e) notes that compliance with the obligation to report suspicious transactions will be audited, and provides that failure to comply with the rule may constitute a violation of the Bank Secrecy Act and the Bank Secrecy Act regulations, which may subject non-complying casinos to an enforcement action.

C. 103.54—Related Changes to Casino Compliance Program Requirements

General

31 CFR 103.54 contains special compliance program rules for casinos, adopted by Treasury in 1994. See 59 FR 61660 (December 1, 1994). The compliance program requirement contained in the 1994 final rule was revised to include procedures to determine the occurrence of unusual or suspicious transactions.

As noted above, the compliance program and suspicious transaction reporting rules are complementary, and FinCEN believes that it is appropriate to propose modification of those rules in light of the projected commencement of suspicious transaction reporting for casinos. Two specific modifications are proposed.

a. *Testing for compliance.* 31 CFR 103.54(a)(2)(ii) requires that casino compliance programs include "[i]nternal and/or external independent

testing for compliance." FinCEN proposes to modify the requirement so that (i) the necessary testing must occur at least annually, and (ii) must include a specific determination whether programs at the casino are working effectively to: (i) detect and report suspicious transactions of $3,000 or more, and currency transactions of more than $10,000, to proper authorities, and (ii) comply with recordkeeping and compliance program standards. The change would emphasize a casino's responsibility to comply with all Bank Secrecy Act requirements and assure ongoing evaluation of the adequacy of casino compliance programs.

b. *Occurrence or patterns of suspicious transactions.* 31 CFR 103.54(a)(2)(v)(B) requires casinos to maintain procedures to determine "[w]hen required by [31 CFR part 103] the occurrence of unusual or suspicious transactions." FinCEN proposes to modify the requirement to make clear that the necessary procedures extend to analysis not only of customer accounts but also of the casino's own records derived from or used to record, track, or monitor casino activity. FinCEN believes that casinos should utilize available information, including information in existing computerized systems that monitor a customer's account activity to assist in identifying transactions, activities and patterns which appear to have no legitimate purpose, are not usual for a specific player or type of players, or have no apparent business explanation. This will encompass activity occurring through deposit and credit accounts, player rating accounts, as well as any other account that may be feasible.

The proposal does not specify the method that must be used by a casino to determine the occurrence of or patterns of suspicious transactions that may be occurring nor does it require that all such activity be monitored at such establishments. Rather, it permits flexibility by allowing each casino to rely on its existing information systems and operational characteristics to determine how to identify such transactions and activities. The procedures developed by a casino should be designed to identify not only flagrant attempts to defeat the casino's counter-money laundering controls, but also to determine if customers are using more sophisticated schemes and techniques to the same end.

IV. Submission of Comments

An original and four copies of any written hard copy comment (but not of comments sent via E-Mail), must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

V. Regulatory Flexibility Act

FinCEN certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The Bank Secrecy Act authorizes Treasury to require financial institutions to report suspicious activities. 31 U.S.C. 5313(g). However, the Bank Secrecy Act excludes casinos or gaming establishments with annual gaming revenue not exceeding $1 million from the definition of "financial institution." 31 U.S.C. 5312(a)(2)(X). Thus, certain small casinos and card clubs are excluded by statute from the operation of the proposed regulation. Other casinos, namely those in Colorado and South Dakota, are subject to state law limitations on the size of wagers that may be made at those casinos. In casinos such as these, the burden to establish procedures to detect suspicious activity should be substantially reduced since the low dollar amount of the limits makes it unlikely that customers would engage in transactions at these casinos large enough to trigger a reporting requirement under the proposed regulation.

As to the remaining casinos and card clubs, many of the requirements of the proposed regulation may be satisfied, in large part, using existing business practices and records. For example, many casinos already obtain a great deal of data about their customers from information routinely collected from casino established deposit, credit, check cashing and player rating accounts. This existing data can assist casinos in making decisions about whether a transaction is suspicious. Many casinos also already have policies and procedures in place and have trained personnel to detect unusual or suspicious transactions, as part of their own risk prevention programs. In addition, it is common in the casino industry to perform annual, and in some cases quarterly, testing of their compliance programs. Further, a number of casinos have already begun voluntarily reporting suspicious transactions to Treasury.

In drafting the proposed regulation, FinCEN carefully considered the importance of suspicious activity reporting to the administration of the Bank Secrecy Act. In light of the fact that Congress considers suspicious activity reporting a "key ingredient in the anti-money laundering effort," [18] there is no alternative mechanism for the government to obtain this key information other than by requiring casinos and card clubs to set up procedures to detect and report suspicious activity. The legislative history of the Bank Secrecy Act demonstrates that money launderers will shift their activities away from more regulated to less regulated financial institutions. [19]

FinCEN has met with the casino industry to discuss issues relevant to suspicious transaction reporting and, as indicated in the preamble, plans to conduct a series of public meetings across the country to provide the members of the industry the opportunity to discuss the proposed regulation. In addition, FinCEN is preparing an industry guide to explain suspicious activity reporting.

VI. Paperwork Reduction Act Notices

A. Suspicious Activity Report by Casinos

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information on the *Suspicious Activity Report by Casinos* is presented to assist those persons wishing to comment on the information collection.

FinCEN anticipates that this proposed rule, if adopted as proposed, would result in the annual filing of a total of 3,000 *Suspicious Activity Report by Casinos* forms. This result is an estimate, based on a projection of the size and volume of the industry.

Title: Suspicious Activity Report by Casinos.

OMB Number: 1506–0006.

Description of Respondents: All casinos and card clubs subject to this rule.

Estimated Number of Respondents: 550.

Frequency: As required.

Estimate of Burden: Reporting average of 36 minutes per response; recordkeeping average of three hours per response, which includes internal review of records and other information to determine whether the activity warrants reporting under the rule.

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[18] H.R. Rep. No. 438, 103d Cong., 2d Sess. 15 (1994).

[19] "It is indisputable that as banks have been more active in prevention and detection on money laundering, money launderers have turned in droves to the financial services offered by a variety of (non-bank financial institutions)." *Id.*, at 19.

Estimate of Total Annual Burden on Respondents: 3,000 responses. Reporting burden estimate = 1,800 hours; recordkeeping-burden estimate = 9,000 hours. Estimated combined total of 10,800 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $216,000.

Estimate of Total Other Annual Costs to Respondents: None.

B. Notification to Law Enforcement in Cases Requiring Immediate Attention

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and its implementing regulations, 5 CFR part 1320, the following information concerning proposed § 103.21(b)(3) is presented to assist those persons wishing to comment on the information collection. Section 103.21(b)(3) would require respondents, in cases requiring immediate attention, to notify a law enforcement agency by telephone of suspicious activity required to be reported under section 103.21.

FinCEN estimates that this provision, if adopted as proposed, would result in casinos and card clubs making 100 telephone notifications of suspicious activity to law enforcement per year. This estimate is based on FinCEN's experience with financial institutions (other than casinos) which have provided similar telephone notice of suspicious activity to law enforcement.

Title: Notification to Law Enforcement in Cases Requiring Immediate Attention.

OMB Number: To be determined.

Description of Respondents: All casinos and card clubs subject to this rule.

Estimated Number of Respondents: 550.

Frequency: As required.

Estimate of Burden: Average of 15 minutes per telephone call to law enforcement.

Estimate of Total Annual Burden on Respondents: 100 responses per year. Reporting burden estimate = 25 hours annually.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $500 annually.

Estimate of Total Other Annual Costs to Respondents: None.

C. Notification to FinCEN of a Request To Disclose SARC Information

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and its implementing regulations, 5 CFR part 1320, the following information concerning proposed 103.21(d) is presented to assist those persons wishing to comment on the information collection. Proposed 103.21(d) would require notice to FinCEN when a casino or card club has been requested to disclose a SARC form or the information contained in the form to anyone other than FinCEN or a law enforcement or regulatory agency authorized under the proposed rule.

FinCEN estimates that this provision, if adopted as proposed, would result in less than 10 such reports annually. This estimate is based on FinCEN's experience with financial institutions (other than casinos) which have provided similar notice of requests for suspicious activity report information filed with FinCEN.

Title: Notice to FinCEN of Request for Suspicious Activity Report Information.

OMB Number: To be determined.

Description of Respondents: All casinos and card clubs subject to this rule.

Estimated Number of Respondents: 550.

Frequency: As required.

Estimate of Burden: 30 minutes per notice to FinCEN.

Estimate of Total Annual Burden on Respondents: 10 responses per year. Reporting burden estimate = 5 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $100.

Estimate of Total Other Annual Costs to Respondents: None.

D. Suspicious Transaction Compliance Testing and Monitoring

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq., and its implementing regulations, 5 CFR part 1320, the following information concerning Suspicious Transaction Recordkeeping and Reporting is presented to assist those persons wishing to comment on the information collection. The proposed rule would amend: (i) § 103.54(a)(2)(ii) to specify, among other things, that required casino internal, and/or external compliance testing be done, at a minimum, annually and result in an annual statement whether internal control standards and procedures are working effectively to detect and report suspicious transactions, as required by this part; and (ii) § 103.54(a)(2)(v)(B) to require casinos to establish procedures designed to detect the occurrence of any transaction or patterns of transactions required to be reported by this part, including any transactions or patterns of transactions indicated by accounts or records maintained by a casino to record or monitor customer activity.

FinCEN estimates that these provisions, if adopted as proposed, would result in a total of 500 hours per respondent annually. Given the fact that the gross annual gaming revenue of casinos and card clubs covered by this part can vary between $1 million and several hundred million dollars, FinCEN's estimate is based on an average casino or card club expending about 500 hours annually complying with the proposed testing and monitoring requirements. (This number is an average; FinCEN recognizes that because there is a wide disparity between the size of casinos in the United States, the number could well be higher or lower than 500 for a particular casino.) This estimate is based on estimates developed for the banking industry for its suspicious transaction program, and takes into account the fact that the banking industry was subject to a criminal referral system prior to the suspicious transaction program. This 500 hour estimate does not include existing casino internal, and/or external Bank Secrecy Act compliance testing already required by § 103.54(a)(2)(ii).

Title: Suspicious Transaction Compliance Testing and Monitoring.

OMB Number: 1506–0009 (formerly control number 1505–0063).

Description of Respondents: All casinos and card clubs subject to this rule.

Estimated Number of Respondents: 550.

Frequency: As required.

Estimate of Burden: Annual testing and monitoring of 500 hours per respondent.

Estimate of Total Annual Burden on Respondents: Testing and monitoring program burden estimate = 275,000 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $5,500,000.

Estimate of Total Other Annual Costs to Respondents: None.

FinCEN specifically invites comments on the following subjects: (a) whether the proposed collection of information is necessary to further the purposes of the Bank Secrecy Act, including whether the information retained shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be retained; and (d) ways to minimize the burden of the collection of information on the affected industry, including through the use of automated storage and retrieval

techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995, *supra*, requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the information collection. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the information collection covered by the requirement. These comments on costs should be divided into two parts: (i) any additional costs associated with recordkeeping and reporting; and (ii) any additional costs associated with testing and monitoring.

VII. Executive Order 12866

The Department of the Treasury has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this proposal provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.11(ii)(1) is revised to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, purchase or redemption of any money order, payment or order for any money remittance or transfer, purchase or redemption of casino chips or tokens, or other gaming instruments, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

* * * * *

§§ 103.20 and 103.2 [Redesignated as §§ 103.15 and 103.18]

3. Sections 103.20 and 103.21 are redesignated as §§ 103.15 and 103.18, respectively, and a new § 103.21 is added to read as follows:

§ 103.21 Reports by casinos of suspicious transactions.

(a) *General.* (1) Every casino (for purposes of this section, a "reporting casino"), shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A casino may also file with the Treasury Department, by using the Suspicious Activity Report by Casinos specified in paragraph (b)(1) of this section, or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required (whether because of its dollar amount, or otherwise) by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a casino, and involves or aggregates at least $3,000 in funds or other assets, and the casino knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or any other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report by Casinos ("SARC"), and collecting and maintaining supporting documentation as required by paragraph (c) of this section.

(2) *Where to file.* The SARC shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SARC.

(3) *When to file.* A reporting casino is required to file each SARC no later than 30 calendar days after the date of the initial detection by the reporting casino of facts that may constitute a basis for filing a SARC under this section. If no suspect is identified on the date of such initial detection, a casino may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the reporting casino shall immediately notify by telephone an appropriate law enforcement authority in addition to filing a SARC.

(c) *Retention of records.* A reporting casino shall maintain a copy of any SARC filed and the original or business record equivalent of any supporting documentation for a period of five years

from the date of filing the SARC. Supporting documentation shall be identified as such and maintained by the reporting casino, and shall be deemed to have been filed with the SARC. A reporting casino shall make all supporting documentation available to FinCEN and any other appropriate law enforcement agencies or federal, state, local, or tribal gaming regulators upon request.

(d) *Confidentiality of reports; limitation of liability.* No casino, and no director, officer, employee, or agent of any casino, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SARC or the information contained in a SARC, except where such disclosure is requested by FinCEN or another appropriate law enforcement or regulatory agency, shall decline to produce the SARC or to provide any information that would disclose that a SARC has been prepared or filed, citing this paragraph and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. A reporting casino, and any director, officer, employee, or agent of such reporting casino, that makes a report pursuant to this section (whether such report is required by this section or made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclose the fact of, such report, or both, to the extent provided by 31 U.S.C. 5318(g)(3).

(e) *Compliance.* Compliance with this section shall be audited by the Department of the Treasury, through FinCEN, or by delegees of the Department of the Treasury under the terms of the Bank Secrecy Act. Failure to satisfy the requirements of this section may constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

4. Section 103.54 is amended by:

a. Revising paragraph (a)(2)(ii),

b. Removing the word "hereafter" in paragraph (a)(2)(iii); and

c. Revising paragraph (a)(2)(v)(B).

The revised paragraphs read as follows:

§ 103.54 Special rules for casinos.

(a) *Compliance programs.* * * *

(2) * * *

(ii) Annual internal and/or external independent testing of compliance, including, without limitation, an annual statement whether internal controls and procedures are working effectively to detect and report suspicious transactions of $3,000 or more, and currency transactions of more than $10,000, to the proper authorities, as required by this part, and to comply with the recordkeeping and compliance program standards of this part;

* * * * *

(v) * * *

(B) The occurrence of any transactions or patterns of transactions required to be reported pursuant to § 103.21, including, without limitation, any transactions or patterns of transactions indicated by accounts or records maintained by a casino to record or monitor customer activity.

* * * * *

Dated: May 12, 1998.

William F. Baity,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. 98–13053 Filed 5–15–98; 8:45 am]

BILLING CODE 4820–03–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–97–134]

RIN 2115–AE47

Drawbridge Operation Regulations; Passaic River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating rules for the I–280 Bridge (Stickel Memorial), mile 5.8, over the Passaic River at Harrison, New Jersey, to allow the bridge to remain closed to navigation. The District Commander, upon six months notice, may require that the bridge be restored to full operational status.

The bridge owner, the New Jersey Department of Transportation (NJDOT), has requested that the Coast Guard consider a change to the operating regulations for the Route 280 Bridge. There have been only 8 requests to open the Route 280 Bridge since 1987; therefore, the Coast Guard proposed to change the operating regulations for this bridge under § 117.39, which allows closure of a drawbridge due to infrequent use.

Additionally, as part of this proposal, the Coast Guard is correcting an error in this regulation regarding the mile point of the Route 7 (Rutgers Street) Bridge. The Route 7 Bridge Listed at mile 6.9 in the existing regulation should be listed at mile 8.9.

This proposed rule, if adopted, is expected to relieve NJDOT of the requirement to crew the Route 280 Bridge and correct an error in this regulation.

DATES: Comments must be received by the Coast Guard on or before July 17, 1998.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 233–8364. The First Coast Guard District Bridge Branch maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at the above address 7 a.m. to 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

Request for Comments

The Coast Guard encourages interested persons to participate in this matter by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–97–134) and specific section of this proposal to which their comments apply, and give reasons for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in response to comments received. The Cost Guard does not plan to hold a public hearing; however, persons may request a public hearing by writing to the Coast Guard at the address listed under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a subsequent notice published in the **Federal Register.**

Background

The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, has a vertical clearance of 35 feet at mean high water and 40 feet at mean low water.

The Route 280 Bridge is presently required under § 117.739(h) to open on signal if at least eight (8) hours advance notice is given. There have been only 8 requests to open this bridge since 1987. The bridge owner has requested relief from being required to crew the bridge since there have been so few requests to open the bridge.

Discussion of Proposal

The Coast Guard is considering amending the regulations to require that the bridge need not open for navigation, relieving the bridge owner of the requirement and expense to crew the bridge. Section 117.39 contains the authority for the Coast Guard to issue such regulations and authorizes the Coast Guard to place certain restrictions on the bridge closure. The fact that there have been only 8 requests to open the bridge since 1987 indicates that there is good cause to no longer require the bridge owner to crew the bridge on a regular basis. The Coast Guard, as a part of this proposal, would require that the bridge be maintained in good operable condition in the event there is a need to open the bridge, since the bridge is still a moveable bridge.

The Coast Guard is also correcting an error in this regulation by changing the mile point of the Route 7 Bridge which is listed at 6.9 and correctly should be 8.9. This correction will require that two paragraphs be changed in the order they appear in this regulation as a result of the corrected ascending order of mile points in the regulation text. The Route 7 Bridge will be changed from paragraph (j) to paragraph (k) and the NJTRO Bridge will be changed from (k) to (j).

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; Feb. 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that there have been only 8 requests to open this bridge in the last ten years. The Coast Guard believes this proposed rule achieves the requirement of balancing both the needs of navigation and vehicular traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 32(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A "Categorical Exclusion Determination" is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.739 redesignate paragraphs (j) and (k) as paragraphs (k) and (j) and revise paragraph (h) and newly redesignated (k) to read as follows:

§ 117.739 Passaic River.

* * * * *

(h) The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, need not open for the passage of vessels. The operating machinery of the draw shall be maintained in serviceable condition and the draw operated at sufficient intervals to assure satisfactory operation. The bridge shall be restored to full operational status upon six months notice from the District Commander should the needs of navigation change to require the bridge to open for the passage of vessels.

* * * * *

(k) The draw of the Route 7 (Rutgers Street) Bridge, mile 8.9, at Belleville, shall open on signal if at least four hours notice is given.

* * * * *

Dated: April 18, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 98–13088 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–97–098]

RIN 2115–AE47

Drawbridge Operation Regulations: Taunton River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating rules for the Brightman Street Bridge, mile 1.8, over the Taunton River between Somerset and Fall River, Massachusetts.

The bridge owner, Massachusetts Highway Department (MHD), has requested that the Coast Guard consider a change to the operating regulations for the Brightman Street Bridge to require the bridge to open on signal; except,

from November 1 through March 31, between 6 p.m. and 6 a.m. daily, the draw shall open if at least one hour advance notice is given. From 6 p.m. to midnight on December 24th and all day on December 25th and January 1st, the draw shall open if at least two hours advance notice is given by calling the number posted at the bridge.

Additionally, the provision in the existing regulations to open as soon as possible for state and local vessels used for public safety is being removed since it is now listed under the general requirements for bridges.

This proposal will relieve the bridge owner of the requirement to crew the bridge during time periods when there have been few requests to open the bridge and is expected to still provide for the needs of navigation.

DATES: Comments must reach the Coast Guard on or before July 17, 1998.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110–3350, or deliver them to the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The District Commander maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at the above address 7 a.m. to 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–97–098) and specific section of this proposal to which their comments apply, and give reasons for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in response to comments received. The Coast Guard does not plan to hold a public hearing; however, persons may request a public hearing by writing to the Coast Guard at the address listed under **ADDRESSES** in this document. The request should include the reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this matter, the Coast Guard will hold a public hearing at a time and place announced by a subsequent notice published in the **Federal Register**.

Background

The Brightman Street Bridge has a vertical clearance at mean high water (MHW) of 27 feet and at mean low water (MLW) of 31 feet.

The Brightman Street Bridge is presently required to open on signal at all times. This proposed change to the operating regulations will require the bridge to open on signal; except that, from November 1 through March 31, between 6 p.m. and 6 a.m. daily, the draw shall open if at least one hour advance notice is given by calling the number posted at the bridge. From 6 p.m. to midnight on December 24th and all day on December 25th and January 1st, the draw shall open if at least two hours advance notice is given by calling the number posted at the bridge.

The Shell Oil facility upstream of the bridge has closed and the Montaup Electric Company has reduced its delivery schedule which together have reduced the total opening requests during the winter time period affected by this proposal.

Additionally, as part of this rule change the Coast Guard is removing from the existing regulations the provisions for opening the bridge as soon as possible for the passage of state and local vessels used for public safety because this is now included under the general operating regulations for bridges at § 117.31.

It is expected that this change to the operating rules will relieve the bridge owner of the requirement to crew the Brightman Street Bridge during time periods when there have been few requests to open and still provide for the needs of navigation.

Discussion of Proposal

The Coast Guard is proposing to revise section 117.619 of the regulations to remove the unnecessary language regarding the state and local vessels and to add the requirement that a one hour notice be provided for bridge openings November 1 to March 31, 6 p.m. to 6 a.m. and a two hour advance notice is required for openings from 6 p.m. to midnight on December 24th and all day on December 25th and January 1st at the Brightman Street Bridge.

The Brightman Street Bridge is presently required to open on signal which requires the bridge owner to crew the bridge at all times. The closure of the Shell Oil facility and the decrease in deliveries to Montaup Electric have changed the demand for openings. Going to an on call basis during the evenings in the winter months should allow the bridge owner to lower their operating expenses but still meet the level of demand for openings. The bridge will still be required to open at all times but from 6 p.m. to midnight on December 24th and all day on December 25th and January 1st, a two hour notice will be required by calling the number posted at the bridge.

The requirement under the existing rules to open as soon as possible for state and local vessels used for public safety will be removed from this regulation because it is now listed under the general bridge requirements at § 117.31.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require as assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that bridges must operate in accordance with the needs of navigation while providing for the reasonable needs of land transportation. This NPRM proposes to adopt the operating hours which the Coast Guard believes to be appropriate because there have been so few requests to open the bridge during the time period the bridge will be on an advance notice status. The proposed advance notice requirements should still provide for the needs of navigation and allow the bridge owner to not crew the bridge during periods when there are few requests to open the bridge. The Coast Guard believes this proposal achieves the requirements of balancing the needs of navigation and the needs of vehicular transportation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this proposed rule will have a significant economic impact

on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule would economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criterion contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 32(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.619 is revised to read as follows:

§ 117.619 Taunton River.

(a) The owners of the Brightman Street and Bristol County bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than twelve inches high, designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(b) The draw of the Brightman Street Bridge, mile 1.8, between Somerset and Fall River shall open on signal; except that from November 1 through March 31, between 6 p.m. and 6 a.m. daily, the draw shall open if at least one hour advance notice is give. From 6 p.m. to midnight on December 24th and all day on December 25th and January 1st, the draw shall open on signal if at least two hours, notice is given by calling the number posted at the bridge.

(c) The Bristol County Bridge, mile 10.3, shall open on signal if at least twenty-four hours' notice is given by calling the number posted at the bridge.

Dated: April 18, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 98–13087 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–042]

RIN 2121–AA97

Safety Zone; Tri-State Inboard Powerboat Championships, Hackensack River, Secaucus, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the Hackensack River for the Tri-State Inboard Powerboat Championships. The temporary safety zone will be in effect on Saturday, August 29, and Sunday, August 30, 1998, from 11:30 a.m. until 6 p.m., unless extended or terminated sooner by the Captain of the Port, New York. The temporary safety zone will restrict vessel traffic in the Hackensack River in the vicinity of Laurel Hill Park, Secaucus, New Jersey. The temporary safety zone is needed to protect racing participants and spectator craft from the hazards associated with high-speed powerboat racing.

DATES: Comments must reach the Coast Guard on or before July 17, 1998.

ADDRESSES: You may mail comments to the Waterways Oversight Branch (CGD01–98–042), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Alma Kenneally, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4195.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–98–042) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Meadowlands Inboard Racing Association has submitted an Application for Approval of Marine Event for an inboard powerboat race in the waters of the Hackensack River. This regulation establishes a temporary safety zone in the waters of the Hackensack River south of red buoy #16 and north of the Snake Hill, NJ swing bridge at river mile 5.4.

The safety zone will be effective on Saturday, August 29, and Sunday, August 30, 1998, from 11:30 a.m. until 6:00 p.m., unless unless extended or terminated sooner by the Captain of the Port, New York. This safety zone restricts vessel traffic in the Hackensack River south of red buoy #16 and north of the Snake Hill, New Jersey swing bridge at river mile 5.4. This safety zone is needed to protect mariners from the hazards associated with a boat race in which the participants transit at excessive speeds.

This event will include up to 75 powerboats, 13 to 24 feet in length, racing on a 1.5 mile oval course at speeds in excess of 130 mph. The sponsor expects less than 100 spectator craft during the event.

Discussion of Proposed Rule

The proposed safety zone is as follows: all waters of the Hackensack River, south of red buoy #16 and north of the Snake Hill New Jersey swing bridge at river mile 5.4.

The safety zone is proposed to provide for the safety of life on navigable waters during the event.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone restricts vessel traffic in the Hackensack River south of red buoy #16 and north of the Snake Hill New Jersey swing bridge at river mile 5.4 on Saturday, August 29, and Sunday, August 30, 1998, from 11:30 a.m. until 6 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation would not be significant for the following reasons: the limited amount of commercial traffic in this area of the river, and the extensive notifications that will be made to the affected maritime community by Local Notice to Mariners and Safety-Voice Broadcasts. This safety zone has been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 500,000.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1c, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–042 to read as follows:

§ 165.T01–042 Safety Zone; Tri-State Inboard Powerboat Championships, Hackensack River, Secaucus, New Jersey

(a) *Location.* The following area is a safety zone: all waters of the Hackensack River south of red buoy #16 and north of the Snake Hill New Jersey swing bridge at river mile 5.4.

(b) *Effective period.* This safety zone is in effect on Saturday, August 29, and Sunday, August 30, 1988, from 11:30 a.m. until 6 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 5, 1998.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 98–13089 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

RIN 0596–AB63

Administration; Cooperative Funding

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; request for comments.

SUMMARY: The Forest Service proposes to amend current regulations to establish minimum requirements applicable to written agreements between cooperators, such as individuals, States and local governments, and other non-Federal entities, and the Forest Service. This rulemaking implements amendments to the Act of June 30, 1914, which expand the basis for accepting contributions for cooperative work, allow reimbursable payments by cooperators, and adequately protect the Government's interest. The intended effect is to fully implement the new statutory provisions.

DATES: Comments must be received in writing by July 17, 1998.

ADDRESSES: Send written comments to Director, Wildlife, Fish and Rare Plants (MAIL STOP 1121), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this proposed rule in the office of the Director, Wildlife, Fish, and Rare Plants Staff, Forest Service, USDA, Cellar Central, Auditor's Building, 201 14th St., SW., Washington, DC 20250 between the hours of 8:30 a.m. and 4:30 p.m. All comments, including name and address when provided, will become a matter of public record and are available for inspection. Those wishing to inspect comments are encouraged to call ahead at (202) 205–1205 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Debbie Pressman, Wildlife, Fish and Rare Plants Staff, at (202) 205–1205.

SUPPLEMENTARY INFORMATION:

Background

Eighty-four years ago, Congress passed the Act of June 30, 1914. This legislation authorized the Forest Service to receive money as contributions toward cooperative work in forest investigations or for the protection and improvement of the national forests.

Since passage of the Act of June 30, 1914, the public has become increasingly interested in the management of National Forest System lands. These lands offer unparalleled recreational opportunities, contain a spectacular array of wild animals and plants, possess magnificent scenery, and provide social, ecological, and economic benefits to the Nation. In addition to increased interest in the management of these national resources, the public also is demanding more services and benefits from National Forest System lands. While the Forest Service mission includes providing services and benefits to the public in addition to managing National Forest System lands, the agency recognizes it cannot meet the public's increased demands for services and benefits without seeking innovative ways of accomplishing its mission. To that end, the Forest Service is building important cooperative relationships with numerous groups, individuals, and private and public agencies to help accomplish projects within the National Forest System.

There have been impediments, however, to cooperative opportunities. The Act of June 30, 1914, as amended, has been interpreted to restrict the use of contributions for cooperative work to only projects on national forest lands. Such an interpretation prevented the completion of cooperative projects on other portions of the National Forest System, including national grasslands, land utilization projects, administrative sites and other lands. Additionally, if the Forest Service were to pay the entire cost of cooperative work from appropriated funds, under law, there was no lawful means to reimburse the Forest Service appropriation from cooperator funds. Therefore, the Forest Service required cooperators to contribute funds in advance of any work to be accomplished. However, projects for which cooperators have already contributed funds, such as habitat enhancement, may be subject to delay and uncertainty for a variety of reasons, including the development of new information or controversy. Requiring contributions prior to the start of work often creates difficulties for cooperators by tying up their funds, sometimes for lengthy periods, with a corresponding loss of interest income. Additionally, some cooperators have policies requiring work to be completed before their shares are paid, which directly conflict with the Government requirement to receive a cooperator's money in advance of the start of work.

Delays in project completion are also costly to the Forest Service in that records of funds contributed prior to the start of work must be maintained from receipt through expenditure, as well as subsequent refund of any unspent funds.

Summary of Proposed Rule

On April 4, 1996, Congress enacted amendments to the Act of June 30, 1914, which eliminate these impediments. The amendments provide authority to use contributions for cooperative work on the entire National Forest System. Clarifying language adds "management" to the list of activities for which contributions for cooperative work may be accepted, and specific authority is provided to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement.

This proposed rule is intended to implement these recent amendments to the Act of June 30, 1914. The provisions would be set out at a new § 211.6 of Title 36 of the Code of Federal Regulations.

Proposed paragraph (a), Purpose and scope, restates the statutory authority for Forest Officers to enter into written agreements with cooperators to receive monies as contributions toward cooperative work in forest investigations or the protection, management and improvement of the National Forest System, which now includes such work as planning, analysis, and related studies, as well as resource activities.

Proposed paragraph (b), Reimbursements and bonding, states that, when a written agreement so provides, projects may be planned and completed using Forest Service funds available for similar type work with subsequent reimbursement from a cooperator to be completed in the same fiscal year as Forest Service expenditures. This proposed rule restates the statute, which permits the Forest Service to bill cooperators after work is completed. This proposed provision will allow cooperators to have access to their funds or to keep their funds in interest-bearing accounts until after the work is completed. Also, as previously noted, this provision is consistent with the policy requirements of some cooperators that work be completed before their funds are contributed to the Forest Service.

Proposed paragraph (b) also protects the interests of the Government by requiring, as part of the written agreement with the cooperator, a payment bond when a non-Government cooperator agrees to contribute $25,000 or more on a reimbursable basis. Historically, the Federal Government has required payment bonds for certain projects with values exceeding $25,000. Acceptable security for payment bonds includes Department of the Treasury approved corporate sureties, Federal Government obligations, and irrevocable

letters of credit. Government cooperators are not required to execute a payment bond.

Proposed paragraph (c), Avoiding conflict of interest, of the proposed rule fulfills the statutory direction to protect the agency from conflict of interest in these cooperative funding situations. The proposed rule does not attempt to promulgate new conflict of interest regulations, because conflict of interest statutes and regulations at 18 U.S.C. 201–209 and 5 CFR Part 2635 are sufficient. Accordingly, proposed paragraph (c) provides that the Forest Service shall be guided by provisions of 18 U.S.C. 201–209, 5 CFR Part 2635, and applicable Department of Agriculture regulations, in determining if a conflict of interest or an appearance of a conflict of interest, exists in a proposed cooperative effort. Forest Service ethics officials or the designated Department of Agriculture ethics official should be consulted on conflict of interest issues.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to OMB review under Executive Order 12866.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule does not compel any expenditure of funds by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

This proposed rule affects the administrative requirements for reimbursement payments to the agency by cooperators. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed rule does not pose the risk of a taking of constitutionally-protected private property since it sets forth administrative requirements regarding the deposit of cooperator funds for forest investigations or the protection, management, and improvement of the National Forest System.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR 1320 do not apply.

Conclusion

The proposed rule implements the statutory amendments to the Act of June 30, 1914, and expands the basis for accepting contributions for cooperative work between the Forest Service and cooperators. The proposed rule also provides for the planning and completion of projects using Forest Service funds with subsequent reimbursement from cooperators. The Government's interests are protected in the proposed rule by securing reimbursement payments from cooperators with payment bonds when such payments are $25,000 or more. Government cooperators are not required to execute payment bonds. The proposed rule also addresses concerns about conflicts of interest by referring Forest Service officials and employees to existing statutes and regulations, as well as Forest Service and Department of Agriculture ethics officials, concerning a conflict of interest or the appearance of a conflict of interest.

The Forest Service invites comments on this proposal, which would permit the agency to bill cooperators upon completion of a project and to require non-Government cooperators to execute a payment bond as part of the written agreement between the Cooperator and the Forest Service, when cooperators have entered into an agreement to provide $25,000 or more for a project on a reimbursable basis.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, Intergovernmental relations and national forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend Part 211 of Title 36 of the Code of Federal Regulations as follows:

PART 211—ADMINISTRATION

1. The authority citation for Part 211 is revised to read as follows:

Authority: 16 U.S.C. 472, 498, 551.

Subpart A—Cooperation

2. Revise the heading for subpart A to read as set out above.

3. Add a new section 211.6 to Subpart A to read as follows:

§ 211.6 Cooperation in forest investigations or the protection, management, and improvement of the National Forest System.

(a) *Purpose and scope.* In accordance with the Act of June 30, 1914, as amended (16 U.S.C. 498), forest officers may enter into written agreements with cooperators to receive monies as contributions toward cooperative work in forest investigations or for the protection, management, and improvement of the National Forest System. Management may include such

work as planning, analysis, and related studies, as well as resource activities.

(b) *Reimbursements and Bonding.* Agency expenditures for work in accordance with this section may be made from Forest Service appropriations available for similar type work, with subsequent reimbursement from the cooperator, when a written agreement so provides. Reimbursement from the cooperator must occur in the same fiscal year as Forest Service expenditures. When a non-Government cooperator agrees to contribute $25,000 or more to the Forest Service on a reimbursable basis, the authorized officer must require, as part of the written agreement with the cooperator, a payment bond to guarantee the reimbursement payment, thereby ensuring the public interests are protected. Acceptable security for the payment bond includes Department of the Treasury approved corporate sureties, Federal Government obligations, and irrevocable letters of credit.

(c) *Avoiding conflict of interest.* Forest officers shall avoid acceptance of contributions from cooperators, when such contributions would reflect unfavorably upon the ability of the Forest Service to carry out its responsibilities and duties. Forest officers shall be guided by the provisions of 18 U.S.C. 201–209, 5 CFR 2635, and applicable Department of Agriculture regulations, in determining if a conflict of interest or potential conflict of interest exists in a proposed cooperative effort. Forest Service ethics officials or the designated Department of Agriculture ethics official should be consulted on conflict of interest issues.

Dated: April 15, 1998.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 98–13037 Filed 5–15–98; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6015–2]

National Emission Standards for Hazardous Air Pollutants; Proposed Standards for Hazardous Air Pollutants Emissions for the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is extending the public comment period on the Notice of Proposed Rulemaking (NPRM) for hazardous air pollutants emissions for the portland cement manufacturing industry, which was published in the **Federal Register** on March 24, 1998 (63 FR 14182). The purpose of this notice is to extend the comment period from May 26, 1998 to June 26, 1998, in order to provide commenters adequate time to review the NPRM and extensive supporting materials.

DATES: The EPA will accept comments on the NPRM until June 26, 1998.

ADDRESSES: Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–92–53, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (Mr. Joseph Wood). The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the NPRM, contact Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5446; electronic mail address wood.joe@epamail.epa.gov.

Dated: May 12, 1998.

Richard D. Wilson,

Acting Assistant Administrator.

[FR Doc. 98–13124 Filed 5–15–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6014–3]

Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the identification of additional ozone areas attaining the 1-hour standard and to which the 1-hour standard is no longer applicable. Thus, upon finalization of this proposed action, the Code of Federal Regulations for ozone will be amended to reflect such changes. Today's action is being proposed in direct response to the President's memorandum of July 16, 1997. The President's memorandum directed EPA to publish an action identifying ozone areas to which the 1-hour standard will cease to apply because they have not measured a current violation of the 1-hour standard. For all other areas, the 1-hour standard will continue to apply. Furthermore, this action is being taken as indicated in the direct final rule published on January 16, 1998, which due to the receipt of adverse comments, was subsequently converted to a proposal and was withdrawn on March 16, 1998. According to the direct final rule, the Agency intended to publish, in early 1998, a subsequent document which takes similar action to revoke the 1-hour standard in additional areas that have air quality that does not violate the 1-hour standard. Today's proposed action identifies six additional areas where the 1-hour standard will no longer apply. The additional proposed areas are: Dayton-Springfield, Ohio; Detroit-Ann Arbor, Michigan; Warrick County, Indiana; Grand Rapids, Michigan; Poughkeepsie, New York, and Morgan County, Kentucky.

DATES: To be considered, comments must be received on or before June 17, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–98–19, U.S. Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under

SUPPLEMENTARY INFORMATION OF THIS DOCUMENT. NO CONFIDENTIAL BUSINESS INFORMATION (CBI) SHOULD BE SUBMITTED THROUGH E-MAIL.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5246/5238. In addition, the following Regional contacts may be called for individual information regarding monitoring data and policy matters specific for each Regional Office's geographic area:

Region I—Richard P. Burkhart, (617) 565–3578
Region II—Ray Werner, (212) 637–3706
Region III—Marcia Spink, (215) 566–2104
Region IV—Kay Prince, (404) 562–9026
Region V—Todd Nettesheim, (312) 353–9153
Region VI—Lt. Mick Cote, (214) 665–7219
Region VII—Royan Teter, (913) 551–7609
Region VIII—Tim Russ, (303) 312–6479
Region IX—Morris Goldberg, (415) 744–1296
Region X—William Puckett, (206) 553–1702.

SUPPLEMENTARY INFORMATION: Electronic Availability—The official record for this proposed rule, as well as the public version, has been established under docket number A–98–19 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The official proposed rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–98–19. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

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I. Background

On July 16, 1997, the President issued a memorandum (62 FR 38421, July 18, 1997) to the Administrator of the EPA which indicates that within 90 days of promulgation of the new 8-hour standard, the EPA will publish an action identifying ozone areas to which the 1-hour standard will cease to apply. The memorandum states that for areas where the air quality does not currently attain the 1-hour standard, the 1-hour standard will continue in effect. The provisions of subpart 2 of title I of the Clean Air Act (CAA) would also apply to currently designated nonattainment areas until such time as each area has air quality meeting the 1-hour standard.

On July 18, 1997 (62 FR 38856), EPA promulgated a regulation replacing the 1-hour ozone standard with an 8-hour standard at a level of 0.08 parts per million (ppm). The form of the 8-hour standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new primary standard, which became effective on September 16, 1997, will provide increased protection to the public, especially children and other at-risk populations. On July 18, 1997, EPA also announced that revocation of the 1-hour ozone national ambient air quality standard (NAAQS) would be delayed until areas achieved attainment of the 1-hour NAAQS. This was done in order to facilitate continuity in public health protection during the transition to the new NAAQS.

Therefore, on January 16, 1998, according to the President's memorandum, the Agency issued a direct final rule (63 FR 2726) which identified ozone areas to which the 1-hour standard will cease to apply because they have not measured a current violation of the 1-hour standard. For all other areas, the 1-hour standard will continue to apply. However, due to the receipt of adverse comments, the direct final action was withdrawn on March 16, 1998 (63 FR 12652) and converted to a proposed rule that had previously been published on January 16, 1998 (63 FR 2804). The Agency will summarize and address all relevant public comments received in a subsequent final rule. According to the initial direct final rule, the Agency intended to publish, in early 1998, a subsequent document which takes similar action to revoke the 1-hour standard in additional areas that have air quality that does not violate the 1-hour standard and to take similar action each year thereafter.

II. Summary of Today's Action

The purpose of this document is to propose the revocation of the 1-hour standard in six additional areas that EPA has determined are not violating the 1-hour standard. The newly identified areas are: Dayton-Springfield, Ohio; Detroit-Ann Arbor, Michigan; Warrick County, Indiana; Grand Rapids, Michigan; Poughkeepsie, New York, and Morgan County, Kentucky.

III. Analysis of Air Quality Data

This action, proposing to revoke the 1-hour standard in additional selected areas, is based upon analysis of quality-assured, ambient air quality monitoring data showing no violations of the 1-hour ozone standard. The method for determining attainment of the ozone NAAQS is contained in 40 CFR part 50.9 and Appendix H to that section. The level of the 1-hour primary and secondary NAAQS for ozone is 0.12 ppm.

The 1-hour standard no longer applies to an area once EPA determines that the area has air quality not violating the 1-hour standard. Determinations for this notice were based upon the most recent data available, i.e., 1995–1997 data. Detailed air quality data information used for today's determinations is contained in the Technical Support Document (TSD) to Docket No. A–98–19.

IV. Tables

The ozone tables proposed in today's action are significantly different from the tables now included in 40 CFR part 81. The current 40 CFR part 81 designation listings (revised as of November 6, 1991) include, by State and NAAQS pollutant, a brief description of areas within the State and their respective designation. Today's proposed action includes completely new entries for certain ozone areas indicating where the 1-hour standard no longer applies.

V. Other Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. I hereby certify that

this rule will not have a significant impact on a substantial number of small entities.

C. E.O. 12875 and Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that today's action, if finalized, would not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Children's Health Protection

This proposed rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 12, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter 1, part 81, of the Code of Federal Regulations is proposed to be amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.315, the table entitled "Indiana—Ozone" is amended by revising the entry for "Warrick County" and adding footnote 2 to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Warrick County Area:				
Warrick County		1 hr. std. N.A.[2]		
* * * * * * *				

[1] This date is the effective date of the final.
[2] 1 hour standard Not Applicable.

* * * * *

3. In § 81.318, the table entitled "Kentucky—Ozone" is amended by revising the entry for "Morgan County" and adding footnote 3 to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Morgan County Area:				
Morgan County		1 hr. std. N.A.[3]		
* * * * * * *				

[1] This date is the effective date of the final.
[3] 1 hour standard Not Applicable.

* * * * *

4. In § 81.323, the table entitled "Michigan-Ozone" is amended by revising the entries for "Detroit-Ann Arbor Area" and "Grand Rapids Area" and adding footnote 2 to read as follows:

§ 81.323 Michigan.

* * * * *

MICHIGAN—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Detroit-Ann Arbor Area:				
Livingston County		1 hr. std. N.A.[2]		
Macomb County		1 hr. std. N.A.[2]		
Monroe County		1 hr. std. N.A.[2]		
Oakland County		1 hr. std. N.A.[2]		
St. Clair County		1 hr. std. N.A.[2]		
Washtenaw County		1 hr. std. N.A.[2]		
Wayne County		1 hr. std. N.A.[2]		
Grand Rapids Area:				
Kent County		1 hr. std. N.A.[2]		
Ottawa County		1 hr. std. N.A.[2]		

[1] This date is the effective date of the final.
[2] 1 hour standard Not Applicable.

5. In § 81.333, the table entitled "New York—Ozone" is amended by revising the entry for "Poughkeepsie Area" and revising footnote 2 to read as follows:

§ 81.333 New York.

NEW YORK—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Poughkeepsie Area:				
Dutchess County		1 hr.std.N.A.[2]		
Orange County (remainder)		1 hr.std.N.A.[2]		
Putnam County		1 hr.std.N.A.[2]		

[1] This date is the effective date of the final.
[2] 1 hour standard Not Applicable.

6. In § 81.336, the table entitled "Ohio—Ozone" is amended by revising the entry for "Dayton-Springfield Area" and adding footnote 3 to read as follows:

§ 81.336 Ohio.

Ohio-Ozone

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Dayton-Springfield Area:				
Clark County		1 hr.std.N.A.[3]		
Greene County		1 hr.std.N.A.[3]		
Miami County		1 hr.std.N.A.[3]		
Montgomery County		1 hr.std.N.A.[3]		

[1] This date is the effective date of the final.
[3] 1 hour standard Not Applicable.

* * * * * * *

[FR Doc. 98–13119 Filed 5–15–98; 8:45 am]
BILLING CODE 6560–60–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA–1876–P]

RIN 0938–AH61

Medicare Program; Revision to Accrual Basis of Accounting Policy

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: Current policy provides that payroll taxes a provider becomes obligated to remit to governmental agencies are included in allowable costs under Medicare only in the cost reporting period in which payment (upon which the payroll taxes are based) is actually made to an employee. Therefore, for payroll accrued in one year but not paid until the next year, the associated payroll taxes on the payroll are not an allowable cost until the next year. This proposed rule would make one exception, in the situation where payment would be made to the employee in the current year but for the fact the regularly scheduled payment date is after the end of the year. In that case, the rule would require allowance in the current year of accrued taxes on payroll that is accrued through the end of the year but not paid until the beginning of the next year, thus allowing accrued taxes on end-of-the year payroll in the same year that the accrual of the payroll itself is allowed. The effect of this proposal is not on the allowability of cost but rather only on the timing of payment; that is, the cost of payroll taxes on end-of-the-year payroll would be allowable in the current period rather than in the following period.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m on July 17, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1876–P, P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–11–17 Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1876–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, PO Box 37194, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or MasterCard number and expiration date. Credit card numbers can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Deposit Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

FOR FURTHER INFORMATION CONTACT: John Eppinger, (410) 786–4518.

SUPPLEMENTARY INFORMATION:

I. Background

Generally, under the Medicare program, health care providers not subject to prospective payment are paid for the reasonable costs of covered services furnished to Medicare beneficiaries. This policy pertains to all services furnished by providers other than inpatient hospital services furnished in acute care hospitals (section 1886(d) of the Social Security Act (the Act)) and certain inpatient routine services furnished by skilled nursing facilities choosing to be paid on a prospective payment basis (section 1888(d) of the Act). Additionally, there are other limited services not paid on a reasonable cost basis, to which this policy will not apply.

Section 1861(v)(1)(A) of the Act defines reasonable cost and provides that reasonable cost shall be determined in accordance with implementing regulations. Section 413.24 establishes the methods to be used and the adequacy of data needed to determine reasonable costs for various types or classes of institutions, agencies, and services. Section 413.24(a) requires providers receiving payment on the basis of reasonable cost to maintain financial records and statistical data sufficient for the proper determination of costs payable under the program and for verification of costs by qualified auditors. The cost data are required to be based on an approved method of cost finding and on the accrual basis of accounting. Section 413.24(b)(2) provides that under the accrual basis of accounting, revenue is reported in the period in which it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid. Further, § 413.100 (see 60 FR 33126, June 27, 1995) provides for special treatment of certain accrued costs, including Federal Insurance Contribution Act (FICA) and other payroll taxes claimed by providers on their cost reports. Specifically, § 413.100(c)(2)(vi) provides that a provider's share of FICA and other payroll taxes that the provider becomes obligated to remit to governmental agencies is included in allowable costs only during the cost reporting period in which payment (upon which the payroll taxes are based) is actually made to the employee.

Prior to publication of § 413.100 on June 27, 1995, we published a proposed rule on October 9, 1991 (56 FR 50834). Following publication of that proposal, we received several comments that we should recognize accrued payroll taxes during the same period that the employee benefits are earned and accrued. One commenter asserted that costs related to the accrual of payroll taxes should be allowed especially as they relate to the accrual of year-end

wages. Based on our belief that payroll taxes should not be accrued and claimed for Medicare payment until the period in which actual payment is made to the employees, we published § 413.100(c)(2)(vi) in its present form. The policy in § 413.100(c)(2)(vi) continues to be Medicare's policy, subject to the exception proposed in section II below. When an employee is paid by a provider as part of a provider payroll, whether the payment is for time worked during the payroll period or for benefits (for example, vacation benefits) earned in an earlier period, the provider's share of FICA and other payroll taxes is an allowable cost during the cost reporting period in which payment is made to the employee. Our policy is based on the fact that a provider becomes obligated to governmental agencies for payroll taxes only at the time that the salary or benefits, upon which the payroll taxes are based, are actually paid to the provider's employee. Further, until the salary or benefits are actually paid, it cannot be known for certain whether there will be a payroll tax or taxes, what the amount of the tax(es) will be, or whether a particular employee will be liable for the tax(es).

II. Provisions of Proposed Rule

Upon reconsideration, we agree with the comment to the October 9, 1991 proposed rule that Medicare should recognize, as allowable, the costs related to the accrual of provider payroll taxes specifically as they relate to the accrual of year-end payroll. Therefore, we propose to revise § 413.100(c)(2)(vi) to make one exception to the above-stated policy. We propose to provide that if payment would be made to an employee during a cost reporting period but for the fact that the regularly scheduled payment date is after the end of the period, costs of accrued payroll taxes related to the portion of payroll accrued through the end of the period, but paid to the employee after the beginning of the new period, are allowable costs in the year of accrual, subject to the liquidation requirements specified in the regulations (§ 413.100(c)(2)(i)). The revision made in this proposed rule thus is intended to allow accrued taxes on end-of-the-year payroll in the same year that the accrual of the payroll itself is allowed, just as Medicare, in other than end-of-the-year payroll situations, allows accrued taxes on payroll in the same year that the accrual of the payroll is allowed. Our proposal is based on the notion that the insignificant amount of time passing between the accrual of the end-of-the-year payroll and the payment of the payroll in the following year does not give rise to the same concerns described in section I. above.

We also propose to change the example in § 413.100(c)(2)(vi) to emphasize, as discussed above, that payroll taxes applicable to benefits accrued, such as vacation benefits, are not allowable until the period in which the employee uses the benefits, that is, takes the vacation. Finally, we propose to change payroll tax from singular to plural throughout the section to clarify that there can be more than one payroll tax.

III. Impact Statement

We have examined the impact of this proposed rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). This proposed rule, which would permit allowance of accrued taxes on end-of-the-year payroll in the same year that the accrual of the payroll itself is allowed, does not make any significant changes in program payments. The proposal is limited in nature, as it affects only accrued payroll taxes for payroll accrued at the end of one cost reporting period which is not actually paid to employees until the beginning of the next period. Furthermore, in this situation, the effect of the proposal is only on the timing of payment; that is, it does not allow an additional cost of payroll taxes but rather allows the cost in the current period instead of in the following period. The proposal should not involve changes in provider accounting systems and, in fact, will free providers or intermediaries from making cost report adjustments, under the current policy, to postpone reimbursement of the cost on the current cost report to the subsequent cost report. We do not expect any significant costs or savings due to this change.

We have also examined the impact of the proposed rule as required by the Regulatory Flexibility Act (RFA) (Pub. L. 96–354), and by section 1102(b) of the Act. The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, most hospitals, and most other providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act since we have determined, and we certify, that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

IV. Paperwork Reduction Act

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

V. Response to Public Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney disease, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 would be amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

A. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

Subpart F—Specific Categories of Costs

B. In § 413.100, paragraph (c)(2)(vi) is revised to read as follows:

§ 413.100 Special treatment of certain accrued costs.

(c) *Recognition of accrued costs.*

* * * * *

(2) *Requirements for liquidation of liabilities.*

* * * * *

(vi) *FICA and other payroll taxes.*—(A) *General rule.* The provider's share of FICA and other payroll taxes that the provider becomes obligated to remit to governmental agencies is included in allowable costs only during the cost reporting period in which payment (upon which the payroll taxes are based) is actually made to the employee. For example, payroll taxes applicable to vacation benefits are not to be accrued in the period in which the vacation benefits themselves are accrued but rather are allowable only in the period in which the employee takes the vacation.

(B) *Exception.* If payment would be made to an employee during a cost reporting period but for the fact the regularly scheduled payment date is after the end of the period, costs of accrued payroll taxes related to the portion of payroll accrued through the end of the period, but paid to the employee after the beginning of the new period, are allowable costs in the year of accrual, subject to the liquidation requirements specified in paragraph (c)(2)(i) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: January 26, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: April 8, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–13110 Filed 5–15–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1146

[STB Ex Parte No. 628]

Expedited Relief for Service Inadequacies

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Pursuant to its decision in *Review of Rail Access and Competition Issues*, STB Ex Parte No. 575 (STB served Apr. 17, 1998) ("*Review*"), the Board is instituting a proceeding to solicit comments on proposed rules that would establish expedited procedures for shippers to obtain alternative service from another rail carrier when the incumbent carrier cannot properly serve shippers. The Board requests that persons intending to participate in this proceeding notify the agency of that intent. A separate service list will be issued based on the notices of intent to participate that the Board receives.

DATES: Notices of intent to participate in this proceeding are due May 28, 1998. Comments on this proposal are due June 15, 1998. Replies are due July 15, 1998.

ADDRESSES: An original plus 12 copies of all comments and replies, referring to STB Ex Parte No. 628, must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Ex Parte No. 628, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

Copies of the written comments will be available from the Board's contractor, D.C. News and Data, Inc., located in Room 210 in the Board's building. D.C. News can be reached at (202) 289–4357. The comments will also be available for viewing and self copying in the Board's Microfilm Unit, Room 755.

In addition to an original and 12 copies of all paper documents filed with the Board, the parties shall submit their pleadings, including any graphics, on a 3.5-inch diskette formatted for WordPerfect 7.0 (or in a format readily convertible into WordPerfect 7.0). All textual material, including cover letters, certificates of service, appendices and exhibits, shall be included in a single file on the diskette. The diskettes shall be clearly labeled with the filer's name, the docket number of this proceeding, STB Ex Parte No. 628, and the name of the electronic format used on the diskette for files other than those formatted in WordPerfect 7.0. All pleadings submitted on diskettes will be posted on the Board's website (www.stb.dot.gov). The electronic submission requirements set forth in this notice supersede, for the purposes of this proceeding, the otherwise applicable electronic submission requirements set forth in the Board's regulations. *See* 49 CFR 1104.3(a), as amended in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, STB Ex Parte No. 527, 61 FR 52710, 711 (Oct. 8, 1996), 61 FR 58490, 58491 (Nov. 15, 1996).[1]

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In STB Ex Parte No. 575, the Board conducted two days of informational hearings, on April 2 and 3, 1998, to examine issues of rail access and competition in today's railroad industry, and the statutory remedies and agency regulations and procedures that relate to those matters. As a result of those hearings, we announced, *inter alia*, that we would begin a rulemaking proceeding to consider revisions to our rules to provide shippers receiving poor service greater opportunity to obtain service from an additional carrier.

Overview

While the Board lacks general authority to require an unwilling railroad to permit physical access over its lines to the trains and crews of another railroad, it may direct that result in certain situations: under 49 U.S.C. 11324(c), as a condition to the incumbent's merger with another railroad; under 49 U.S.C. 11102(a), to serve terminal facilities when it would be in the public interest; or, under 49 U.S.C. 11123(a), to serve any facilities for a limited period of time (not more than 270 days) because of the carrier's inability or failure to provide its shippers with adequate service.[2] The Board may also direct an incumbent railroad to afford access indirectly, either by prescribing alternative through routes under 49 U.S.C. 10705(a) (requiring the incumbent to interline traffic with another railroad over a designated interchange and thereby create an alternative route and rates for a shipper's traffic) or by requiring reciprocal switching under 49 U.S.C. 11102(c) (where, for a fee, the incumbent must switch cars to and from another railroad so that the latter, even though it cannot physically reach a shipper, can constructively offer alternative single-line service).

The access remedies under sections 11102 and 10705—terminal trackage rights, reciprocal switching, and alternative through routes—are now invoked through the "competitive access" regulations, 49 CFR part 1144, and, to obtain relief, parties must show

[1] A copy of each diskette submitted to the Board should be provided to any other party upon request.

[2] The using railroad must compensate the incumbent railroad for the use of its tracks, at a level to be determined by the carriers or fixed by the Board. 49 U.S.C. 11324(c), 11102(a), and 11123(b)(2).

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that the incumbent rail carrier has acted in a way "that is contrary to the competition policies of 49 U.S.C. 10101[] or is otherwise anticompetitive." [3] At the Ex Parte 575 hearings, shippers complained that the "anticompetitive conduct" standard of the regulations is too restrictive and effectively precludes alternative service in those situations where it is most urgently needed—where shippers (such as those poorly served during the recent service emergency in the West) are not receiving the level of service needed from their incumbent carrier. At the hearings, the rail industry concurred that the Board should be able to remedy such service failures more quickly and effectively.

Accordingly, we seek comment on the proposed rules set forth below to provide expedited relief for demonstrated poor service.[4]

Choice of Remedies

To address these service issues more effectively, we propose rules under which parties may seek alternative rail service under either the access provisions of sections 11102 and 10705, or the emergency service provisions of section 11123. While section 11123 has typically been used to address regional service emergencies, such as the one recently experienced in the West,[5] we believe it can also be used to afford more localized relief to shippers; that section broadly permits Board intervention to remedy service deficiencies having "substantial adverse effects" on shippers, or where a rail carrier "cannot transport the traffic offered to it in a manner that properly serves the public." 49 U.S.C. 11123(a).

Moreover, permitting shippers to proceed either under sections 11102 or 10705, on the one hand, or section 11123, on the other, affords greater flexibility and broadens the potential for regulatory relief. For example, trackage rights access under section 11102(a), while not statutorily limited in duration, is limited to an incumbent railroad's terminal facilities, and therefore is not available for shippers that are not located at or near terminal areas. In contrast, remedies under section 11123(a), although limited to 270 days, are potentially available for shippers located on any part of the incumbent carrier's network; this section also affords the Board more latitude to craft a variety of measures to remedy any particular service situation.[6]

Standard for Relief

Whichever remedies are sought, however, the predicate for relief would be the same: that, over an identified period of time, there has been a substantial, measurable deterioration in the rail service provided by the incumbent carrier.[7] We do not think it necessary or appropriate to propose a list of particular factors—or a formulaic weighing of such factors—that shippers must use to make that assessment, or to propose a specific test period. Each shipper has its own particular service needs and experiences, and carrier difficulties may vary. Our standard of relief must be flexible enough to permit us to address varying circumstances. Commenters may wish to address this issue.

We caution that the proposed rules are not meant to redress minor service disruptions. Access—particularly that which would compel physical access by another railroad over an incumbent's lines—is a serious remedy with potentially significant operational, safety, and financial consequences for the involved carriers, and we intend that the rules be used to remedy only substantial service problems that cannot readily be resolved by the incumbent railroad. Accordingly, we propose to require shippers to: (1) First discuss and assess with their incumbent carrier whether adequate service can be restored within a reasonable period of time that is consistent with the shipper's needs and, if not, outline in its request for relief why that is the case; and (2) obtain from another railroad the necessary commitment—should it be afforded access—to meet the shipper's service needs, and describe the carrier's plan to do so safely and without degrading service to its existing customers or unreasonably interfering with the incumbent's overall ability to provide service.

Expedited Procedures

The proposed rules include expedited procedures because of the usually urgent nature of serious service problems. Instead of the more time-consuming complaint process, parties may seek relief by petition.[8] We propose that the incumbent carrier be required to reply to such a petition within five business days, and that the shipper, if it wishes to file a rebuttal, be required to do so no more than three business days later.

If relief is granted under these rules, once the incumbent carrier can demonstrate that it has restored, or is prepared to restore, adequate service, it may file a petition to terminate that relief. We would discourage an incumbent carrier from filing such a petition too hastily after the Board's order, however, as the objective in a proceeding of this nature is to provide shippers with a needed degree of certainty of adequate rail service.

For the same reason, we propose that satisfying the standard for relief under section 11123 ordinarily would establish a presumption that the incumbent's inability to provide adequate service will last beyond the initial 30-day period, and thus will provide the basis for a subsequent order extending relief beyond the initial 30-day period. However, if the incumbent carrier can show that it is prepared to provide adequate service, it may seek to have the relief terminated within the first 30 days.

Should the incumbent carrier file a petition to terminate relief, replies are to be filed in five business days, and the carrier may file any rebuttal three business days afterward. The Board will then assess all relevant factors in determining what action would be appropriate.

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[3] 49 CFR 1144.5(a); *Intramodal Rail Competition*, 1 I.C.C.2d 822 (1985), *aff'd sub nom. Baltimore Gas & Elec. Co.* v. *United States*, 817 F.2d 108 (D.C. Cir. 1987). Under existing case law, parties must show that the incumbent carrier has either: (1) Used its market power to extract unreasonable terms, or (2) because of its monopoly position, shown a disregard for the shipper's needs by rendering inadequate service. *Midtec Paper Corp.* v. *Chicago & N.W. Transp. Co.*, 3 I.C.C. 2d 171 (1986), *aff'd sub nom. Midtec Paper Corp.* v. *United States*, 857 F.2d 1487 (D.C. Cir. 1988).

[4] As we explained in *Review*, slip op. at 6–7, this decision does not address whether to revise the competitive access regulations with respect to competitive issues not related to quality of service. We have directed the railroads and shippers to meet, under the supervision of an Administrative Law Judge, to identify mutually acceptable modifications to facilitate greater access in appropriate circumstances, and to report back to us by August 3, 1998. We are confident that shippers and railroads can find common ground on this issue. *See Review of Rail Access and Competition Issues*, STB Ex Parte No. 575 (STB served May 4, 1998).

[5] STB Service Order No. 1518, *Joint Petition for Service Order* (STB served Oct. 31 and Dec. 4, 1997, and Feb. 17 and 25, 1998).

[6] Although the remedies under sections 11102 and 10705 are not statutorily limited in duration, we remind commenters that the relief contemplated by this proposal is intended to respond to service problems, and not to provide permanent responses to perceived competitive issues.

[7] Because the proposed predicate for relief is different than that for "competitive" access under 49 CFR 1144.5(a), and to avoid confusion, we do not propose to amend the competitive access regulations, as we had suggested in *Review*, but rather to adopt a new, discrete set of regulations to address relief for service inadequacies, 49 CFR part 1146.

[8] We note that section 11123(b)(1) gives us broad authority to afford relief without regard to the administrative adjudication procedures in 5 U.S.C. 551 et seq.

We invite comment on all aspects of this proposal. Any person that wishes to participate as a party of record in this matter must notify us of this intent by May 28, 1998. In order to be designated a party of record, a person must satisfy the filing requirements outlined in the ADDRESSES section. We will then compile and issue a service list. Copies of comments and replies must be served on all persons designated on the list as a party of record. Comments on the proposal are due June 15, 1998; replies are due July 15, 1998.

A copy of this decision is being served on all parties on the service list in Ex Parte No. 575. This decision will serve as notice that persons who were parties of record in the Ex Parte 575 proceeding will not be placed on the service list in the Ex Parte 628 proceeding unless they notify us of their intent to participate therein.

The Board preliminarily certifies that the proposed rules, if adopted, would not have a significant effect on a substantial number of small entities. While the proposed rules, if adopted, may ease the burdens on obtaining alternative rail service in the limited situations described, we do not expect them to affect a substantial number of small entities. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1146

Administrative practice and procedures, Railroads.

Decided: May 12, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, Part 1146, consisting of § 1146.1, is proposed to be added to read as follows:

PART 1146—EXPEDITED RELIEF FOR SERVICE INADEQUACIES

1. The authority for part 1146 will read as follows:

Authority: 49 U.S.C. 721, 11102, 11123, and 10705.

§ 1146.1 Prescription of Alternative Rail Service

(a) *General.* Alternative rail service will be prescribed under 49 U.S.C. 11102(a), 11102(c), 10705(a), or 11123(a), if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration in rail service provided by the incumbent carrier.

(b)(1) *Petition for Relief.* Parties may seek relief described in paragraph (a) of this section by filing an appropriate petition containing:

(i) A full explanation, together with all supporting evidence, to demonstrate that the standard for relief contained in paragraph (a) of this section is met;

(ii) A summary of the petitioner's discussions with the incumbent carrier of the service problems and the reasons why the incumbent carrier is unlikely to restore adequate rail service consistent with the shipper's needs within a reasonable period of time;

(iii) A commitment from another available railroad to provide alternative service that would meet the shipper's service needs, and how that carrier would provide the service safely without degrading service to its existing customers or unreasonably interfering with the incumbent's overall ability to provide service; and

(iv) A certification of service of the petition, by overnight delivery, on the incumbent carrier.

(2) *Reply.* The incumbent carrier must file a reply to a petition under this subsection within five (5) business days.

(3) *Rebuttal.* The party requesting relief may file rebuttal no more than three (3) business days later.

(c) *Presumption of Continuing Need.* Unless otherwise indicated in the Board's order, a Board order issued under paragraph (a) of this section that prescribes relief under 49 U.S.C. 11123(a) shall establish a rebuttable presumption that the transportation emergency will continue for more than 30 days from the date of that order.

(d)(1) *Petition to Terminate Relief.* Should the Board prescribe alternative rail service under paragraph (a) of this section, the incumbent carrier may subsequently file a petition to terminate that relief. Such a petition shall contain a full explanation, together with all supporting evidence, to demonstrate that the carrier is providing, or is prepared to provide, adequate service to affected shippers. Absent special circumstances, carriers are discouraged from filing such a petition less than 90 days after relief is granted under paragraph (a) of this section.

(2) *Reply.* Parties must file replies to petitions to terminate filed under this subsection within five (5) business days.

(3) *Rebuttal.* The incumbent carrier may file any rebuttal no more than three (3) business days later.

* * * * *

[FR Doc. 98–13095 Filed 5–15–98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants, Notice of Reopening of Comment Period on the Proposed Threatened Status of the Sacramento Splittail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period for the proposed threatened status for the Sacramento splittail (*Pogonichthys macrolepidotus*). The comment period has been reopened to acquire additional information on the status, abundance and distribution of the Sacramento splittail in the Central Valley of California.

DATES: Comments received by July 17, 1998 will be considered by the Service.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Thabault, at the address listed above (telephone 916/979–2725, facsimile 916/979–2723).

SUPPLEMENTARY INFORMATION:

Background

The Sacramento splittail (*Pogonichthys macrolepidotus*), is the only large cyprinid that is endemic to California's Central Valley, where they were once widely distributed (Moyle 1976). Historically, splittail were found as far north as Redding on the Sacramento River, as far south as the present-day site of Friant Dam on the San Joaquin River, and as far upstream as the current Oroville Dam site on the Feather River and Folsom Dam site on the American River (Rutter 1908).

In recent times, dams and diversions have increasingly prevented upstream access to large rivers, and the species is now apparently restricted to a small portion of its former range (Moyle and Yoshiyama 1992). Splittail enter the

lower reaches of the Feather (Jones and Stokes 1993) and American rivers (Charles Hanson, State Water Contractors, *in litt.*, 1993) on occasion; however, the species now is largely confined to the delta, Suisun Bay, Suisun Marsh, and Napa Marsh. The "Delta" refers to all tidal waters contained within the legal definition of the San Francisco Bay-Sacramento-San Joaquin River Delta, as delineated by section 12220 of the State of California's Water Code of 1969. Generally, the Delta is contained within a triangular area that extends south from the City of Sacramento to the confluence of the Stanilaus and San Joaquin Rivers at the southeast corner and Chipps Island in Suisun Bay.

In recent years, splittail have been found most often in slow moving sections of rivers and sloughs and dead-end sloughs (Moyle et al. 1982, Daniels and Moyle 1983). Reports from the 1950's, however, mention Sacramento River spawning migrations and catches of splittail during fast tides in Suisun Bay (Caywood 1974). California Department of Fish and Game survey data from the last 15 years indicate that the highest catches occurred in shallow areas subject to flooding. Historically, major flood basins, distributed throughout the Sacramento and San Joaquin Valleys, provided spawning and rearing habitat. These flood basins have all been reclaimed or modified into flood control structures (bypasses). Although primarily a freshwater species, splittail can tolerate salinities as high as 10 to 18 parts per thousand (Moyle and Yoshiyama 1992).

On January 10, 1995, a second comment period was opened for 45 days, and a 6-month extension added to the final rulemaking time frame, in accordance with section 4(b)(6)(B)(i) of the Act. A moratorium on listing actions, imposed on April 10, 1995 (Pub. L. 104–6), was lifted on April 26, 1996. Severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996 were followed by passage of the Omnibus Budget Reconciliation Act on April 26, 1996, allowing work to continue on various listing actions in accordance with fiscal year guidance that assigned priorities in a multi-tiered approach in accordance with section 4 of the Act (61 FR 64479). The guidance stated that handling emergency situations was highest priority (Tier 1), and resolving the listing status of outstanding proposed rules was second highest priority (Tier 2). Processing of this proposed rule fell under Tier 2.

On March 19 and March 20, 1998, the California Department of Water Resources and the State Water Contractors, respectively, requested a reopening of the comment period. The basis of this request is that substantial data have been collected since 1995 regarding the abundance and distribution of the splittail. The Service believes that consideration of this and any new information is significant to make the final determination for the Sacramento splittail. For this reason, the Service particularly seeks information concerning abundance and distribution data for this species from 1995–1997. Specifically, the Service seeks comments regarding the paper "Resilience of Splittail in the Sacramento-San Joaquin Estuary" (Sommer *et al.* 1997), and how the information contained in this paper effects the Service's recommendation for listing the Sacramento splittail as a threatened species.

Written comments may be submitted until July 17, 1998 to the Service office in the **ADDRESSES** section.

Author.

The primary author of this notice is Diane Windham, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

References

Caywood, M.L. 1974. Contributions to the life history of the splittail *Pogonichthys macrolepidotus* (Ayres). M.S. Thesis, California State University, Sacramento.

Daniels, R.A., and P.B. Moyle. 1983. Life history of the splittail (Cyprinidae: *Pogonichthys macrolepidotus*) in the Sacramento-San Joaquin estuary. Fish. Bull. 84:105–117.

Jones and Stokes Assoc., Inc. 1993. Sutter Bypass fisheries technical memorandum II: Potential entrapment of juvenile chinook salmon in the proposed gravel mining pond. May 27, 1993. (JSA 91–272). Sacramento, California. Prepared for Teichert Aggregates, Sacramento, California. 31 pp. + Appendix.

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Rutter, C. 1908. The fishes of the Sacramento-San Joaquin basin, with a study of their distribution and variation. U.S. Bull. 27:103–152.

Sommer, T., R. Baxter, and B. Herbold. 1997. Resilience of the Splittail in the Sacramento-San Joaquin Estuary. Transactions of the American Fisheries Society 126:961–976.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 12, 1998.

Thomas Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 98–13083 Filed 5–15–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980508122–8122–01; I.D. 042498A]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Control Date for Spiny Dogfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of control date for spiny dogfish fishery.

SUMMARY: NMFS announces that anyone entering the spiny dogfish (*Squalus acanthias*) (dogfish) fishery after May 18, 1998 (control date) will not be assured of future access to the dogfish resource in Federal waters if a management regime is developed and implemented under the Magnuson-Stevens Act that limits the number of participants in the fishery. This announcement is intended to promote awareness of potential eligibility criteria for future access to that portion of the dogfish fishery and to discourage new entries into this fishery based on economic speculation while the Mid-Atlantic and New England Fishery Management Councils (Councils) contemplate whether and how access to that portion of the dogfish fishery in Federal waters should be controlled. The potential eligibility criteria may be based on historical participation. This announcement, therefore, gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the dogfish fishery in Federal waters.

DATES: Comments must be received by June 17, 1998.

ADDRESSES: Comments should be addressed to Dr. Christopher M. Moore, Acting Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover DE 19904.

FOR FURTHER INFORMATION CONTACT: Rick Pearson, Fishery Policy Analyst, 978-281-9324.

SUPPLEMENTARY INFORMATION:

Background

For most of the first two decades of extended jurisdiction under the Magnuson-Stevens Act, dogfish was considered to be underutilized and of minor economic importance. With the decline of more traditional groundfish resources in recent years, an increase in directed fishing for dogfish has resulted in a nearly sixfold increase in landings in the last 7 years. The lack of any regulations pertaining to the harvest of dogfish in the exclusive economic zone, combined with the recent expansion of the fishery led the Councils to initiate development of a management plan for the species.

The most recent stock assessment conducted by NMFS for dogfish (SAW–26, 1998) indicates that the stock in the Northwest Atlantic has begun to decline and the spawning stock has declined significantly since 1989 as a result of an increase in exploitation. Expansion of the fishery has resulted in a dramatic increase in fishing mortality (F). This increased F has been focused primarily on mature females due to their larger size. The increased F, in combination with the removal of a large portion of the adult female stock, has resulted in the species' being designated overfished. The Assistant Administrator for Fisheries, NMFS, on April 3, 1998, notified the Councils of this designation, thus initiating the 1-year time frame for development of a fishery management plan as required by the Magnuson-Stevens Act.

SAW–26 recommended that a management program be developed promptly for this species and that targets for stock biomass and F be established. In addition, the recent prominence of this species in the Northwest Atlantic ecosystem and evidence of the effects of F on stock abundance, including decreased indices of large fish, resulted in the Councils' decision to implement a fishery management plan for dogfish.

The Councils held scoping hearings in the New England and Mid-Atlantic regions during the fall of 1997 to begin the process of developing a fishery management plan for the dogfish fishery (FMP). The purpose of the scoping hearings was to determine the scope of issues to be addressed and to identify the significant issues and problems relating to the management of dogfish.

Foremost among the problems and issues that were identified during the dogfish scoping hearings was the status of the resource. The assessment conducted in 1994 indicated that the stock was stable, but possibly beginning to decline. Landings have increased since that assessment, prompting concerns that the stock may be overfished. Since current levels of fishing effort may exceed the level required to achieve optimum yield for dogfish, the Councils will be considering limiting access to the dogfish fishery during FMP development.

The Councils intend to address whether and how to limit entry of commercial vessels into this fishery in the dogfish FMP. The Councils' publication of this control date is to discourage speculative entry into the dogfish fishery while potential management regimes to control access into the fishery are discussed and possibly developed by the Councils. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not assure them of future access to the dogfish resource on the grounds of previous participation, additional and/or other qualifying criteria may be applied. The Councils may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery or on the quantity of landings.

This notification hereby establishes May 18, 1998 for potential use in determining historical or traditional participation in the Federal waters dogfish fishery. This action does not commit the Councils to develop any particular management regime or to use any specific criteria for determining entry to the fishery. The Councils may choose a different control date or a management program that does not make use of such a date. The Councils may also choose to take no further action to control entry or access to the fishery. Any action by the Councils will be taken pursuant to the requirement for FMP development established under the Magnuson-Stevens Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13051 Filed 5–15–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 95
Monday, May 18, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822, A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone: (202) 482–3818.

Scope of This Review

The products covered by these administrative reviews constitute two separate "classes or kinds" of merchandise: (1) Certain corrosion-resistant steel and (2) certain cut-to-length plate.

The first class or kind, certain corrosion-resistant steel, includes flat-rolled carbon steel products of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The second class or kind, certain cut-to-length plate, includes hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been worked after rolling) —for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The period of review (POR) is August 1, 1995, through July 31, 1996.

Amendment of Final Results

On March 16, 1998, the Department of Commerce ("the Department") published the final results of administrative reviews of the antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada (63 FR 12725) ("Final Results"). These reviews cover five manufacturers/exporters of the subject merchandise to the United States during the period August 1, 1995, through July 31, 1996. We received comments on the final results from Algoma, Inc. ("Algoma"), Stelco Inc. ("Stelco"), and from the petitioners.

Interested Party Comments

Algoma

Comment 1: Algoma alleges that the Department made a ministerial error in its adjustment of certain U.S. commission amounts. Specifically, Algoma contends that the Department should not have applied a "facts available" methodology for certain U.S. commissions calculated on a semi-annual basis for several reasons. First, Algoma argues that this methodology was accepted in prior segments of this proceeding. Second, Algoma argues that it received no opportunity from the Department to clarify the record or change its existing reporting methodology.

Petitioners did not comment on this issue.

Department's Position: We disagree with Algoma that the Department made a ministerial error in its calculation of certain U.S. commission amounts. The purpose of this amended final is solely to correct ministerial errors, and not to re-consider other decisions. A ministerial error is defined in 19 C.F.R. section 353.28(d) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial." (Designated in the Department's new regulations as 19 C.F.R. 351.224(f).) As the Department noted in Comment 4 of the *Final Results* notice, while "it was appropriate for Algoma to report commissions on a customer-specific basis over a period of time....(however), it is also clear that commissions were paid by Algoma based on monthly shipments, and not semi-annually. Therefore, Algoma should have reported its U.S. commissions on a monthly basis instead of a semi-annual basis." *See Final Results* at 12728. Algoma does not dispute the mathematical application of the Department's decision but instead has expressed its disagreement with the Department's decision in this instance. Therefore, we reject Algoma's allegation because it does not address an alleged error which is ministerial in nature.

Stelco

Comment 2: In a letter to the Department dated March 27, 1998, Stelco alleges that the Department failed to apply the Baycoat, Z-Line, and iron ore supplier adjustment to home market VCOMs (variable cost of manufacture) in its model-match computer program for corrosion-resistant steel. Stelco argues that based on the Department's statement in the footnote of the final analysis memorandum (*See Stelco Final Results Analysis Memorandum for Corrosion-Resistant Steel Products* at page 3), the Department clearly intended to apply these supplier adjustments to TCOM and VCOM.

Petitioners did not comment on this issue.

Department's Position: We agree with Stelco. The Department erroneously compared adjusted U.S. VCOMS to unadjusted home market VCOMS. To ensure accurate product comparisons, we have recalculated VCOMH in the model match program for corrosion-resistant steel so that adjusted figures are used on both sides of the comparison. *See Analysis of Alleged Ministerial Errors for Corrosion-Resistant Products* at page 1.

Comment 3: Stelco argues that in its final margin calculation program for corrosion-resistant products, the Department incorrectly calculated GNACV and INTEXCV using the variable TOTCOM rather than the revised variable TCOM in its computer programs for corrosion-resistant steel.

Petitioners allege that the Department inadvertently used the variable TOTCOM in its model match program for plate rather than the correct term TCOM.

Department's Position: We agree with Stelco and petitioners. We have corrected the final margin program for corrosion-resistant steel to calculate GNACV and INTEXCV using the revised variable TCOM. *See Id.* at page 2. Additionally, we have corrected the model match program for plate to use the variable TCOM. *See Analysis of Alleged Ministerial Errors for Plate* at page 2.

Comment 4: Stelco alleges that, for corrosion-resistant steel, the Department applied cost adjustments intended for only those orders processed by Baycoat to orders which had not been serviced by Baycoat. Stelco argues that the computer programming language used by the Department to apply these Baycoat adjustments to unpainted, code 4 control numbers resulted in non-Baycoat serviced merchandise being incorrectly adjusted for Baycoat services.

Petitioners did not comment on this issue.

Department's Position: We agree with Stelco. The Department erroneously applied the Baycoat adjustment to sales of class 4 merchandise that were not serviced by Baycoat. The Department has amended the programming language in its model match and margin calculation programs for corrosion-resistant steel to remedy this error. *See Analysis of Alleged Ministerial Errors for Corrosion-Resistant Steel Products* at page 2.

Comment 5: Stelco alleges that for corrosion-resistant steel the Department inappropriately recalculated the credit expense for all U.S. sales using a U.S. short-term borrowing rate though the Canadian dollar was the currency of certain U.S. sales. Similarly, Stelco alleges that the Department overlooked the fact that certain home market sales were incurred in U.S. dollars. Stelco argues that the Department should recalculate the credit expense for those home market sales for which the currency of the transaction was U.S. dollars using the U.S. short-term borrowing rate.

Petitioners did not comment on this issue.

Department's Position: We agree with Stelco. The Department's policy bulletin 98.2 states that the short term interest rate should be tied to the currency in which the sales are denominated. We have inserted language into the final programs for corrosion-resistant steel which ties the short-term interest rate to the currency in which the sale is denominated. *See Analysis of Alleged Ministerial Errors for Corrosion-Resistant Steel Products* at pages 3 and 4.

Comment 6: Stelco argues that the Department's use of the date of the final results as the pay date for those U.S. sales that had not yet been paid by the time of Stelco's submission was a ministerial error. Stelco maintains that it is generally the Department's policy to substitute the date of the last submission or the date on which the respondent had an opportunity to provide updated information as the pay date.

Petitioners argue that the Department's use of the date of the final results as the surrogate pay date does not constitute a ministerial error. Citing to the Department's final analysis memorandum, petitioners note that the Department stated that it "used the date of the final determination of March 9, 1998 as the pay date" for those sales for which Stelco had not yet been paid. *See Stelco Final Results Analysis Memorandum for Corrosion-Resistant Steel Products* at page 16. Petitioners argue that the Department must reject Stelco's allegation of ministerial error as the Department clearly intended to use the date of the final results in its credit calculation.

Department's Position: We agree with petitioners. The error Stelco alleges does not meet the Department's criteria of a ministerial error within the meaning of 19 C.F.R. section 353.28(d) as cited in the recommendation to Comment 1

above. Stelco does not dispute the mathematical application of the Department's decision but instead has expressed its disagreement with the Department's decision in this instance. The Department explicitly intended to use the date of the final results in its credit calculation. Therefore, we reject Stelco's allegation of ministerial error.

Comment 7: Petitioners allege that the Department inadvertently used an incorrect dataset for the concordance data in the margin calculation program for plate. The model match program creates a concordance dataset named CONCORD; however, the margin calculation program uses the term CONCORDP. Petitioners argue that the Department should use the dataset name CONCORD in its margin calculation program.

Stelco did not comment on this issue.

Department's Position: We agree with petitioners. Because this error is typographical in nature, it falls within the Department's definition of ministerial error. We have corrected the margin calculation program for plate to use the proper concordance dataset. *See Analysis of Alleged Ministerial Errors for Plate* at page 2.

Comment 8: Petitioners allege that the Department failed to exclude general sales tax ("GST") and provincial sales tax ("PST") from home market credit expenses in its final programs for both corrosion-resistant steel and plate. They note that the Department stated in its *Final Results* notice that it "corrected Stelco's home market credit expenses to exclude both GST and PST" (*see Final Results* at 12742).

Stelco did not comment on this issue.

Department's Position: We agree with petitioners. We have amended the final programs for both corrosion-resistant steel and plate to exclude GST and PST from the calculation of home market credit expenses. *See Analysis of Alleged Ministerial Errors for Corrosion-Resistant Steel Products* at pages 3 and 4. *See* also *Analysis of Alleged Ministerial Errors for Plate* at page 3.

Amended Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Margin (percent)
Corrosion—Resistant Steel:	
Dofasco	0.72.
CCC	0.54.
Stelco	1.55.
Cut-to-Length Plate:	
Algoma	0.44 (*de minimis*).
MRM	0.00.
Stelco	0.35 (*de minimis*).

Pursuant to section 353.28 of the Department's regulations, parties to the proceeding will have five days after the date of publication of this notice to notify the Department of any new ministerial or clerical errors, as well as five days thereafter to rebut any comments by parties.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between sales to the United States and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of amended final results of review, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates for those firms as stated above, except if the rate is less than .5 percent and therefore *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be the "all others" rate made effective by the final results of the 1993–1994 administrative review of these orders (*see Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Steel Plate from Canada; Final Results of Antidumping Administrative Reviews*, 61 FR 13815 (March 28, 1996)). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This amendment of final results of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 11, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13138 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–805]

Amended Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate From Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended final results of administrative review.

SUMMARY: On January 13, 1998, the United States Court of International Trade affirmed the Department of Commerce's final remand results affecting the final assessment rate for the 1993/94 administrative review in the case of certain cut-to-length carbon steel plate from Sweden. *SSAB Svenkst Stal AB* v. *United States*, Slip Op. 98–3 (CIT January 13, 1998). As there is now a final and conclusive court decision in this action, we are amending our final results of review, and we will instruct the U.S. Customs Service to liquidate entries subject to this review.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Stephen Jacques, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–0374 or 482–1391, respectively.

Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Tariff Act"), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations

to the Department of Commerce's ("the Department's") regulations are to the regulations as codified at 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1996, the Department published its final results of administrative review in the case of *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review*, 61 FR 15772 ("*Final Results*"). The review covered one manufacturer/exporter, SSAB Svenskt Stal AB ("SSAB"), of the subject merchandise for the period February 4, 1993, through July 31, 1994. Subsequently, SSAB filed a lawsuit with the U.S. Court of International Trade ("CIT") challenging the results.

In the context of this litigation, the Department requested a remand to reconsider the propriety of making an adjustment for post-sale price adjustments ("PSPAs"). The CIT granted this remand on August 29, 1997. On remand, through an examination of the record, the Department found that all rebates were made on either a fixed or constant percentage-of-sales value or on a fixed and constant Swedish Kroner-per-ton of total tonnage sold. Therefore, the Department determined that these PSPAs qualified as adjustments to foreign market value.

The Department filed its redetermination with the Court of International Trade ("CIT") on October 29, 1997. *See Final Results of Redetermination on Remand, SSAB Svenskt Stal AB* v. *United States, Court No. 96–05–01372, Slip Op. 97–123 (August 29, 1997)* ("*Remand Results*"). In its *Remand Results*, the Department stated that it would "instruct the Customs Service to collect cash deposits at the above rate [of 7.25%] for entries from SSAB of cut-to-length carbon steel plate from Sweden" (*Remand Results* at 4). Since then, parties and the CIT have agreed that such instructions would be incorrect because the Department has published subsequent administrative reviews that govern future cash deposits. Therefore, cash deposit rates will be governed not by the rate published in the *Remand Results*, but by the most recently completed administrative review, according to the Department's normal procedures. *See Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review*, 62 FR 46947 (September 5, 1997).

On January 13, 1998, the CIT affirmed the Department's final remand results (with the exception noted above), Slip Op. 98–3. As there is now a final and conclusive court decision in this action, we are amending our final results of review in this matter and we will instruct the U.S. Customs Service to liquidate entries subject to this review in accordance with the remand results.

Amendment to Final Results

Pursuant to 516A(e) of the Tariff Act, we are now amending the final results of administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Sweden for the period February 4, 1993, through July 31, 1994. As a result of the remand determination, the final weighted-average margin for SSAB is as follows:

Manufacturer/exporter	Margin (percent)
SSAB	7.25

Accordingly, the Department shall determine, and the U.S. Customs Service shall assess appropriate antidumping duties on entries of the subject merchandise manufactured by SSAB. We calculated an importer-specific ad valorem duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. To determine the amount of antidumping duties on those U.S. sales for which the Department assigned a margin based on the best information available ("BIA"), we calculated a unit duty rate (based on the BIA rate of 24.23%) for all BIA sales. Consequently, the assessment rate for SSAB represents a weighted-average of the total amount of antidumping duties for non-BIA sales and the total amount of antidumping duties for BIA sales. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions to the U.S. Customs Service after publication of this amended final results of review.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: May 7, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13047 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review and Intent Not To Revoke Antidumping Duty Order, In Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty administrative review and intent not to revoke antidumping duty order, in part.

SUMMARY: On August 27, 1997, the Department of Commerce initiated a changed circumstances antidumping duty administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China, and subsequently published the preliminary results of this review and an intent not to revoke the order, in part, in the **Federal Register** on January 29, 1998 (63 FR 4430). We received no comments regarding the preliminary results. Thus, these final results are unchanged from the preliminary results, and we are not revoking the order, in part, with regard to porcelain-on-steel tea kettles from the People's Republic of China.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Lorenza Olivas, Office of CVD/AD Enforcement 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as set forth at 19 CFR § 353.1, *et seq.*, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On May 30, 1997, respondent, Clover Enamelware Enterprises Ltd. and Lucky

Enamelware Factory Ltd. (Clover/Lucky) requested that the Department of Commerce (the Department) conduct a changed circumstances administrative review to determine, pursuant to 19 CFR § 353.25(d), whether to revoke partially the antidumping duty order on porcelain-on-steel (POS) cooking ware from the People's Republic of China (PRC) with regard to POS tea kettles.

The basis for Clover/Lucky's request was that the sole U.S. producer of POS cooking ware, General Housewares Corp. (GHC), affirmatively stated in its request for a changed circumstances review of the antidumping duty order on POS cooking ware from Taiwan, that it no longer manufactured POS tea kettles and thus had no interest in the importation or sale of POS tea kettles. Based on GHC's affirmative statement of no interest, with respect to tea kettles, submitted in the antidumping proceeding on POS cooking ware from Taiwan, the Department revoked the antidumping order on POS cooking ware from Taiwan, with respect to tea kettles. *See Porcelain on Steel Cooking Ware from Taiwan: Final Results of Changed Circumstances Antidumping Administrative Review, and Revocation in Part of Antidumping Duty Order*, 62 FR 10024 (March 5, 1997). Clover/Lucky asserted that GHC's statements in the Taiwan case should also be the basis for revoking, in part, the antidumping duty order on POS cooking ware from the PRC with respect to tea kettles.

On September 25, 1997, GHC, the petitioner and sole U.S. producer of POS cooking ware, submitted a letter expressing an interest in maintaining the order with respect to POS tea kettles from the PRC, and objected to the partial revocation of this order with respect to POS tea kettles.

On January 29, 1998, we published the preliminary results of changed circumstances antidumping duty administrative review (63 FR 4430), in which we preliminarily determined not to revoke this order, in part. We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

Scope of Review

The products covered by this antidumping duty order are POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. Kitchenware is not subject to this order. *See Antidumping Duty Order: Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 51 FR 43414 (December 2, 1986).

The products covered by this changed circumstances review are POS tea kettles from the PRC. Imports of POS tea kettles are currently classifiable under the harmonized tariff schedule (HTS) subheading 7323.94.00.10. The HTS subheading is provided for convenience and Customs purposes. Our written description of the scope of this proceeding is dispositive. The order with regard to imports of other POS cooking ware is not affected by this changed circumstances review.

Final Results of Changed Circumstances Antidumping Duty Administrative Review

Pursuant to § 751(d) of the Act, the Department may partially revoke an antidumping duty order based on a review under § 751(b) of the Act. Section 782(h) of the Act and § 353.25(d)(1) of the Department's regulations provide that the Department may revoke an order, or revoke an order in part, if it determines that changed circumstances sufficient to warrant revocation of the order, or part of the order, exist.

The petitioner and sole U.S. producer of POS cooking ware submitted an affirmative statement of interest in this order with respect to POS tea kettles from the PRC. As we stated in out notice of initiation, the orders on POS cooking ware from Taiwan and the PRC are separate and distinct. As such, a decision on one order cannot automatically be assumed to be applicable to another order involving a different country. On the basis of the record developed in this proceeding, we determine in these final results that changed circumstances sufficient to warrant partial revocation of the antidumping duty order on POS cooking ware from the PRC with respect to POS tea kettles do not exist.

The current requirements for the cash deposit of estimated antidumping duties on all subject merchandise will remain in effect until the publication of the final results of the next administrative review.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is in accordance with §§ 751(b)(1) and (d) and § 777(i) of the Act and 19 CFR § 353.22(f)(1) of the Department's regulations.

Dated: May 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13135 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final results of antidumping duty administrative review

SUMMARY: On January 9, 1998, the Department of Commerce published its preliminary results of administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China for the period December 1, 1995, through November 30, 1996 (63 FR 1434). The Department of Commerce has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930. For information on the assessment of antidumping duties for each reviewed company, and for all non-reviewed companies, see the *Final Results of Review* section of this notice.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Russell Morris, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1998, the Department of Commerce published in the **Federal Register** its preliminary results of administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China for the period December 1, 1995, through November 30, 1996 (63 FR 1434). Pursuant to 19 CFR § 353.22(a), this review covers only producers or exporters of the subject merchandise for which a review was

specifically requested. Accordingly, this review covers Clover Enamelware Enterprise, Ltd. of China (Clover), a manufacturer/exporter, and its third-country reseller, Lucky Enamelware Factory Ltd., in Hong Kong (Lucky).

We invited interested parties to comment on the preliminary results. Our review of the record has not led us to change our findings from the preliminary results.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to 19 CFR Part 353.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel (POS) cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item 7323.94.00. HTS items numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

Verification

We verified the questionnaire responses submitted by Clover and Lucky, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information, as provided in section 782(i) of the Act. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Affiliated Parties

Clover is two-thirds owned by Lucky and, therefore, Lucky holds controlling interest in Clover. Due to Lucky's ownership interest in Clover, and the fact that the same individual is the general manager at both companies, we consider Clover and Lucky to be affiliated parties pursuant to section 771(33) of the Act. As such, and consistent with prior reviews of this order, we are assigning Clover and Lucky a single dumping margin. *See Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 32758 (June 17, 1997). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

Separate Rates Analysis

Lucky is located outside the People's Republic of China (PRC) and there is no PRC ownership of the company. Therefore, we determine that no separate rates analysis is required for this third-country reseller because it is beyond the jurisdiction of the PRC government. *See Final Determination of Sales at Less Than Fair Value; Disposable Pocket Lighters from the People's Republic of China* (60 FR 22359, 22361; May 5, 1995). Clover is partially owned by a PRC government company and, therefore, a separate rates analysis is necessary to determine whether this manufacturer/exporter is independent from government control.

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.

1. Absence of De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Clover's submissions pertaining to legislative enactments and the terms of its Enterprise Legal Person Operation License demonstrate the absence of *de jure* control. (*See* Memorandum from Kelly Parkhill to Barbara E. Tillman, dated December 9, 1997, "Separate Rate Analysis for Assignment of Separate Rate for Clover/Lucky in the 1995–1996 Administrative Review of POS Cooking Ware from the People's Republic of China" (*Separate Rate Memorandum*), which is a public document on file in the Central Records Unit. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

2. Absence of De Facto Control

De facto absence of government control with respect to exports is based on four criteria: (1) whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. *See Silicon Carbide* at 22587.

With respect to *de facto* absence of government control, the information submitted by Clover in the questionnaire response indicates the following: (1) no government entity exercises control over its export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, utilizing profits to provide dividends to shareholders. In addition, it has the authority to seek out loans at market interest rates. This information supports the finding that there is *de facto* absence of governmental control of export functions. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

Final Results of the Review

We invited interested parties to comment on our preliminary results. We received no comments, and the final results do not differ from the preliminary results. As a result of our review, we determine the dumping margin for Clover Enamelware Enterprise/Lucky Enamelware Factory to be 0.81 percent for the period December 1, 1995 through November 30, 1996.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we intend to calculate importer-specific assessment rates. The Department will issue appraisement instructions on each exporter directly to the U.S. Customs Service. Furthermore, the following

deposit rates will be effective upon publication of this notice of final results of review for all shipments of POS cooking ware from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) for Clover/Lucky, which has a separate rate, the cash deposit rate will be the company-specific rate, which is 0.81 percent, established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, which is 66.65 percent (the margin of 66.65 percent continues to be the PRC-wide rate because no companies representing the PRC entity were reviewed); (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These rates shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act (19 U.S.C. 1675(a)(1); 19 U.S.C. 1677f (i)) and 19 CFR 353.22.

Dated: May 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13136 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico; Notice of Extension of Time Limit for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kate Johnson at (202) 482–4929, or Mary Jenkins at (202) 482–1756, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the tenth administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico. The period of review is December 1, 1995, through November 30, 1996. The extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

Postponement

Under the Tariff Act of 1930 (the Act), the Department of Commerce (the Department) may extend the deadline for completion of an administrative review if it determines it is not practicable to complete the review within the statutory time limit. The Department finds that it is not practicable to complete the tenth administrative review of porcelain-on-steel cookware from Mexico within this time limit due to the complex nature of certain issues, including duty reimbursement, in this review which require further investigation.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion for the final results of this review to 180 days after the date on which notice of the preliminary results was published in the **Federal Register**.

Maria Harris Tildon,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 98–13137 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–377–804, A–533–813, A–560–802, and A–570–851]

Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile, India, Indonesia and the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Katherine Johnson, Office 5, AD/CVD Enforcement Group II, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230, telephone: (202) 482–4136, or (202) 482–4929, respectively.

Postponement of Preliminary Determinations

On January 26, 1998, 63 FR 5306 (February 2, 1998), the Department initiated antidumping duty investigations on imports of Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China. The notice of initiation stated that we would issue our preliminary determinations on or before June 15, 1998.

On May 1, 1998, petitioners made a timely request pursuant to 19 CFR 351.205(e) of the Department's regulations for a 40 day postponement of the preliminary determinations, until July 27, 1998, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Petitioners requested postponements in order to provide the Department with additional time to respond to alleged deficiencies in the questionnaire responses, and to ensure that the preliminary determinations for Chile and India include below cost analyses.

Accordingly, we are postponing the preliminary determinations under section 733(c)(1)(A) of the Act for an additional 40 days. We will make our preliminary determinations no later than July 27, 1998.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: May 8, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 98–13043 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.] 050898A

Highly Migratory Species and Billfish Advisory Panels; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Atlantic Highly Migratory Species (HMS) and Billfish Advisory Panels (AP) will hold consecutive meetings, with a half- day joint meeting, to discuss issues in, and future management options for the fisheries for, Atlantic HMS.

DATES: The Billfish AP meeting will be held from 3:00 p.m. to 7:00 p.m. on May 26, and from 8:00 a.m. to 12:00 p.m. on May 27. The HMS AP meeting will be held from 8:00 a.m. to 4:00 p.m. on May 28, 1998. A joint session of the Billfish and HMS APs is scheduled for May 27 from 1:00 p.m. to 4:30 p.m. A public comment period will be held Wednesday, May 27, 1998, from 6:00 to 8:00 p.m. at the meeting location.

ADDRESSES: The APs will meet at the Islandia Marriott Long Island Hotel, 3635 Express Drive North, Happauge, NY 11788. Written comments should be submitted to, and informational materials related to the AP meeting are available from, Jill Stevenson or Liz Lauck, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Liz Lauck, telephone: (301) 713-2347, fax: (301) 713-1917.

SUPPLEMENTARY INFORMATION: The HMS and Billfish APs have been established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* The APs will assist the Secretary of Commerce in collecting and evaluating information relevant to the development of a fishery management plan (FMP) for Atlantic tunas, swordfish, and sharks and to an amendment to the Billfish FMP. All AP meetings are open to the public and will be attended by members of the AP, including appointed members, representatives of the five Fishery Management Councils that work with HMS, and the Chair, or his representative, of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas. A public comment period is scheduled for Wednesday, May 27, 1998, from 6:00 to 8:00 p.m. at the meeting location. Comments are solicited on draft overfishing definition criteria and on rebuilding plans that will be discussed at the AP meetings. To request informational materials related to the AP discussion or to submit public comments, please see **ADDRESSES**.

Agenda items for the AP meetings include discussion of:

1. Objectives for the draft HMS FMP and draft Billfish FMP amendment;
2. Development of overfishing criteria and definitions for Atlantic HMS;
3. Rebuilding scenarios for overfished stocks of Atlantic HMS;
4. Description of the fisheries and fishing activities; and
5. Essential fish habitat requirements as they relate to HMS fisheries.
6. Safety of human life at sea.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Liz Lauck, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713-2347, at least 7 days prior to the meeting date.

Dated: May 12, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13130 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050898B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Building 1, Seattle, WA 98115–0070, has been issued a permit to take large and small cetaceans and incidentally harass some pinniped species during aerial surveys for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Building 1, Seattle, WA 98115–0070; and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro, 301/713–2289.

SUPPLEMENTARY INFORMATION: On January 15, 1998, notice was published in the **Federal Register** (63 FR 2366) that a request for a scientific research permit to take multiple cetacean and pinniped species had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 8, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13048 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050198B]

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permits (774–1437, 782–1446, and 559–1442); and issuance of permit amendments (887, 839, 1000).

SUMMARY: Notice is given that NMFS has issued permits that authorize takes of marine mammals for the purpose of scientific research, subject to certain conditions set forth therein, to: NMFS, Southwest Fisheries Science Center (SWFSC), P.O. Box 271, La Jolla, CA 92038; NMFS, National Marine Mammal Laboratory (NMML), 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115–0070; and Salvatore Cerchio.

Notice is also given that NMFS amended permit nos.: 887, Institute of Marine Sciences , LML, University of California, Santa Cruz, CA 95060; 839, Dr. Paul Becker, NIST, Charleston Laboratory, 219 Fort Johnson Road, Charleston, SC 29412; 977, NMFS, National Marine Mammal Laboratory (NMML) (address above) and 1000, Alaska Department of Fish and Game (ADF&G), P.O. Box 3–2000, Juneau, AK 99802.

DATES: Written or telefaxed comments must be received on or before June 17, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro 301/713–2289.

SUPPLEMENTARY INFORMATION:

Authority

Permits are issued under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 222–227), and the Fur Seal Act of 1966 (16 U.S.C. 1151 *et seq.*).

Issuance of permits, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Permits Issued

On January 12, 1998, notice was published in the **Federal Register** (63 FR 1830) that an application had been filed by NMFS, SWFSC for a scientific research permit. Permit No. 774–1437 was issued on April 16, 1998, to take by harassment multiple cetacean species, and to import and export parts taken from these same species. On January 15, 1998, notice was published in the **Federal Register** (63 FR 2366) that the same above-named applicant had submitted a request for a scientific research permit to take by harassment multiple pinniped species. These two requests were combined under one permit. The purpose of the research is to estimate abundance and determine population structure of cetaceans in U.S. territorial and international waters, and to conduct population assessments for pinnipeds via ground/vessel surveys and photogrammetry.

On February 13, 1998, notice was published in the **Federal Register** (63 FR 7403–7404) that an application had been filed by NMFS, National Marine Mammal Laboratory, for a scientific research permit. The Permit was issued March 26, 1998 to: conduct aerial, ground, and vessel surveys annually for stock assessment of harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus*), and northern elephant seals (*Mirounga angustirostris*); capture, tag, and brand harbor seals for long term identification of individuals and information on reproductive success, survival and longevity, blood and biopsy sample them for contaminant analysis, tissue sample them for genetic analysis, and instrument them with VHF radio transmitters and/or time-depth recorders or satellite tags to document movements activity and foraging patterns; conduct the same activities on California sea lions, except they will not be tissue sampled; exported/imported to/from Canada harbor seal tissue samples; capture, tag, mark and release elephant seals; and incidentally harass animals during these activities and scat collections. Accidental mortalities are also authorized for each species to be captured. Activities will occur in Washington, Oregon.

On January 27, 1998, notice was published in the **Federal Register** (63 FR 3881–3882) that an application had been filed by Mr. Salvatore Cerchio for a scientific research permit. The Permit was issued April 30, 1998. The Permit authorizes import of humpback whale samples from Mexico.

Permit Amendments Issued

On February 18, 1998, notice was published in the **Federal Register** (63 FR 8165) that an application had been filed by NMFS, NMML, to amendment permit no. 977. The amendment was issued March 26, 1998. The amendment extends the duration to December 31, 2000, and allows an additional 500 California sea lions to be taken for research purposes.

A minor amendment was issued on March 30, 1998, for permit no. 836 issued to Institute of Marine Science, UCSC. The amendment authorizes the Holder to alter the buoyancy of 10 elephant seals by adding weights or syntactic foam, and administering tritiated or deuterated water to 10 adult males to measure water flux and energy expenditure. All animals were already authorized under permit and amendment did not require additional takes.

A minor amendment was issued on April 27, 1998, to Dr. Paul Becker, NIST to extend the expiration date to December 31, 1998. The permit authorizes collection of samples from Alaska native subsistence harvests.

On February 13, 1998, notice was published in the **Federal Register** (63 FR 7403) that an application had been filed by ADF&G, to amendment permit No. 1000. The amendment was issued March 31, 1998. The amendment authorizes the Holder to: administer oral deuterium oxide to 100 additional harbor seals being captured for other purposes; and incidentally harass annually 12,000 harbor seals.

Documents may be reviewed in the following locations:

All documents: Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

For permits 774–1437, 977, and 887: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001);

For permit 782–1446: Regional Administrator, Northwest Region, and Director, National Marine Mammal Laboratory (NMML), NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150) and NMML (206/526–4045);

For permits 774–1437, 839 and 1000: Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7721);

For permit 774–1437: Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432, (813/570–5301); and

For permit 559–1442: Regional Administrator, Northeast Region, NMFS, One Blackburn Dr., Gloucester, MA 01930–2298 (508/ 281–9250).

Dated: May 8, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13050 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure

AGENCY: Technology Administration, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure will hold a meeting on June 11–19, 1998. The Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure was established by the Secretary of Commerce to provide industry advice to the Department on encryption key recovery for use by federal government agencies. All sessions will be open to the public.

DATES: The meeting will be held on June 17–19, 1998 from 9:00 a.m. to 6:00 p.m.

ADDRESSES: The meeting will take place at the Radison Plaza Hotel, Minneapolis, MN.

FOR FURTHER INFORMATION CONTACT: Edward Roback, Committee Secretary and Designated Federal Official, Computer Security Division, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, Maryland, 20899; telephone 301–975–3696. Please do not call the conference facility regarding details of this meeting.

SUPPLEMENTARY INFORMATION:

1. Agenda

Opening Remarks
Chairperson's Remarks
News Updates (Members, Federal Liaisons, Secretariat)
Working Group (WG) Reports
Intellectual Property Issues (as necessary)
Public Participation
Plans for Next Meeting
Closing Remarks

Note: That the items in this agenda are tentative and subject to change due to logistics and speaker availability.

2. Public Participation

The Committee meeting will include a period of time, not to exceed thirty minutes, for oral comments from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the individual identified in the "for further information" section. In addition, written statements are invited and may be submitted to the Committee at any time. Written comments should be directed to the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if sixty copies could be submitted for distribution to the Committee and other meeting attendees.

3. Additional information regarding the Committee is available at its world wide web homepage at: http://csrc.nist.gov/tacfipsfkmi/

4. Should this meeting be canceled, a notice to that effect will be published in the **Federal Register** and a similar notice placed on the Committee's electronic homepage.

Dated: May 11, 1998.

Mark Bohannon,

Chief Counsel for Technology Administration.

[FR Doc. 98–13081 Filed 5–15–98; 8:45 am]

BILLING CODE 3510–CN–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), has submitted two public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paper Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, National Service Trust, Attn: Levon Buller, (202) 606–5000, Extension 383. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (800) 833–3722 between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC, 20503, (202) 395–7316, by June 17, 1998.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Two ICR documents have been submitted to OMB for consideration: the Corporation for National Service Enrollment Form, and the Corporation for National Service End of Term/Exit Form. Both forms are integral to AmeriCorps members earning education awards for their involvement in national service.

Enrollment Form

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: Corporation for National Service—Enrollment Form.

OMB Number: 3045–0006.

Frequency: Annually.

Affected Public: Individuals and not-for-profit institutions.

Number of Respondents: 62,000 (the form requires 2 respondents—the AmeriCorps member and a representative of the member's project).

Estimated Time Per Respondent: 7½ minutes (total time for both respondents).

Total Burden Hours: 3,875 hours.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services: 0.

Description: The purpose of the Enrollment Form is to (1) certify that an AmeriCorps member is eligible to earn an education award, (2) "reserve" an educational award in the National Service Trust (necessary to project

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financial obligations), and (3) gather basic demographic information on members. The Corporation proposes minor revisions to the Enrollment Form (OMB 3045–0006) in an effort to clarify instructions found on the current version of the form and to enable the Corporation to track AmeriCorps members enrolled in a new program, the Challenge Scholarship Program, started since the form was last revised in June 1997.

End of Term/Exit Form

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: Corporation for National Service End of Term/Exit Form.

OMB Number: 3045–0015.

Frequency: Annually.

Affected Public: Individuals and not-for-profit institutions.

Number of Respondents: 62,000 (the form requires 2 respondents—the AmeriCorps member and a representative of the member's project).

Estimated Time Per Respondent: 11 minutes (total time for both respondents).

Total Burden Hours: 5,683 hours.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services: 0.

Description: The purpose of the End of Term/Exit Form is to (1) provide official certification that a Member has satisfied the requirements to receive an educational award, (2) obtain evaluative information on the member's service experience, and (3) provide the Corporation with the current address for mailing the award to the member. Upon receipt of an End of Term/Exit Form indicating that a member has successfully completed a term of national service, the education award package is sent to the member. The Corporation proposes minor revisions to the End of Term/Exit Form (OMB 3045–0015), approved in June 1997. The revisions will eliminate four open-ended questions that were of questionable value, clarify instructions for completing the form, change the name of the form, and give AmeriCorps members an opportunity to receive mailings from AmeriCorps alumni associations.

Dated: May 12, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–13085 Filed 5–15–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Cancellation of meeting.

SUMMARY: The Department of Defense (DoD) announced a meeting of the Defense Partnership Council on May 4, 1998 (63 FR 24533). This notice is to announce the cancellation of the meeting.

Dated: May 12, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13105 Filed 5–15–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense, Department of Defense Dependents Schools (DoDDS).

ACTION: Notice of meeting.

SUMMARY: On April 28, 1998 (63 FR 23277), the Department of Defense published a notice of a meeting of the Advisory Council on Dependent's Education (ACDE) scheduled on May 28–29. This notice is to inform interested parties that the location has been changed to the Department of Defense Education Activity Conference Room (Room 902), 4040 North Fairfax Drive, Arlington, VA. All other information remains unchanged.

Dated: May 12, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13106 Filed 5–15–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Education Benefits Board of Actuaries; Notice of Meeting

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of Chapter 101, Title 10, United States Code (10 U.S.C. 2006 et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the G.I. Bill. Persons desiring to: (1) Attend the DoD Education Benefits Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Wendie Powell at (703) 696–7400 by July 23, 1998. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 14, 1998, 10:00 a.m. to 1:00 p.m.

ADDRESSES: The Pentagon, Room 1E801—Room 4.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Deputy Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7407.

Dated: May 12, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13108 Filed 5–15–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Retirement Board of Actuaries; Notice of Meeting

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 74, Title 10, United States Code (10 U.S.C. 1464 et seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the Military Retirement System. Persons desiring to: (1) attend the DoD Retirement Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting, must notify Wendie Powell at (703) 696–7400 by July 24, 1998.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 13, 1998, 1:00 p.m. to 5:00 p.m.

ADDRESSES: The Pentagon, Room 1E801—Room 7.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Deputy Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7407.

Dated: May 12, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13107 Filed 5–15–98; 8:45 am]

BILLING CODE 5000–04–M

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DEPARTMENT OF DEFENSE

Department of the Army

Reserve Officers' Training Corps (ROTC) Program Subcommittee

AGENCY: U.S. Army Cadet Command.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting.

Name of Committee: Reserve Officers' Training Corps (ROTC) Program Subcommittee.

Dates of Meeting: 30 Jun 98 thru 1 Jul 98.

Place of Meeting: Sheraton Hotel, Tacoma, Washington.

Time of Meeting: 0830–1700 on 30 Jun 98 and 0830–1130 on 1 Jul 98.

Proposed Agenda: Review and discussion of the status of Army ROTC since the February 1998 meeting at the Pentagon.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Spadafora, U.S. Army Cadet Command, ATCC–TE, Fort Monroe, Virginia 23651–5000; phone (757) 727–4595.

SUPPLEMENTARY INFORMATION:

1. The Subcommittee will review the significant changes in ROTC scholarships, missioning, advertising strategy, marketing, camps and on-campus training, the Junior High School Program and ROTC Nursing.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intent to attend the 30 June 1998 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits, the Committee chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory committee should be addressed to Mr. Roger Spadafora, U.S. Army Cadet Command, ATCC–TE, Fort Monroe, Virginia 23651–5000, telephone number (757) 727–4595.

Gregory D. Showalter,

Army Federal Register, Liaison Officer.

[FR Doc. 98–13114 Filed 5–15–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration adds a routine use and a category of individuals to the system of records notice.

DATES: This proposed action will be effective without further notice on June 10, 1998, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 1, 1998, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 12, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0215 CFSC

SYSTEM NAME:

General Morale, Welfare, Recreation and Entertainment Records *(February 22, 1993, 58 FR 10094).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

After 'MWR-type activities' add ', to include bingo games;'.

CATEGORIES OF RECORDS IN THE SYSTEM:

Add a second paragraph 'Bingo pay-out control sheet indicating individual name, grade, Social Security Number, duty station, dates and amount of bingo monies paid, and DOT/IRS Forms W2-G (Gambling Winnings) and 5754 (Statement by Person(s) Receiving Gambling Winnings).'

* * * * *

PURPOSE(S):

Add a new paragraph 'To provide a means of paying, recording, accounting, reporting, and controlling expenditures and merchandise inventories associated with bingo games.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph 'To the Internal Revenue Service (IRS) for the purpose of notifying the IRS of all monies and items of merchandise paid to individual winners of bingo games whose one-time winnings are $1,200 or more.'

* * * * *

RECORD SOURCE CATEGORIES:

Add 'and bingo pay-out control sheets' to entry.

* * * * *

A0215 CFSC

SYSTEM NAME:

General Morale, Welfare, Recreation and Entertainment Records.

SYSTEM LOCATION:

Major Army commands, field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, their families, other members of the military community, certain DoD civilian employees and their families overseas, certain military personnel of foreign nations and their families, personnel authorized to use Army-sponsored Morale, Welfare, Recreation (MWR) services, youth services, athletic and recreational services, Armed Forces Recreation Centers, Army recreation machines, and/or to participate in MWR-type activities, to include bingo games; professional entertainment groups recognized by the Armed Forces

Professional Entertainment Office; Army athletic team members; ticket holders of athletic events; units of national youth groups such as Boy Scouts, Girl Scouts, and 4–H Clubs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, and other pertinent information of members, participants, patrons, and other authorized users. Other ancillary information such a travel vouchers, security check results and orders will be kept in the system.

Bingo pay-out control sheet indicating individual name, grade, Social Security Number, duty station, dates and amount of bingo monies paid, and DOT/IRS Forms W2-G (Gambling Winnings) and 5754 (Statement by Person(s) Receiving Gambling Winnings).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; 26 U.S.C 6041; DOD Instruction 1015.10; and E.O. 9397 (SSN).

PURPOSE(S):

To administer programs devoted to the mental and physical well-being of Army personnel and other authorized users; to document the approval and conduct of specific contests, shows, entertainment programs, sports activities/competitions, and other MWR-type activities and events sponsored or sanctioned by the Army. Relevant information on an individual may be disclosed for bona fide purposes such as marketing and promoting MWR, entertainment programs, and to sports, educational, athletic, and similar-related organizations conducting equivalent MWR-type activities.

To provide a means of paying, recording, accounting, reporting, and controlling expenditures and merchandise inventories associated with bingo games.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Internal Revenue Service (IRS) for the purpose of notifying the IRS of all monies and items of merchandise paid to individual winners of bingo games whose one-time winnings are $1,200 or more.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, cards, magnetic tapes, discs, computer printouts, and similar media.

RETRIEVABILITY:

By name, Social Security Number, or other individual identifying characteristics.

SAFEGUARDS:

Records are kept in buildings secured during non-duty hours and accessed by only designated persons having official need therefor.

RETENTION AND DISPOSAL:

Bingo records are maintained on-site for four years and then shipped to a Federal Records Center for storage for an additional three years. After seven years, records are destroyed.

All other documents are destroyed after 2 years, unless required for current operation.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Community and Family Support Center, 2461 Eisenhower Avenue, Alexandria, VA 22331–0503.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Morale and Welfare office at the installation or activity where assigned.

Individuals must provide name, rank, Social Security Number, proof of identification, and any other pertinent information necessary.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Morale and Welfare office at the installation or activity where assigned.

Individuals must provide name, rank, Social Security Number, proof of identification, and any other pertinent information necessary.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual or group receiving the service and bingo pay-out control sheets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–13092 Filed 5–15–98; 8:45 am]

BILLING CODE 5000–04–F

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 9:00 a.m., June 2, 1998.

PLACE: The Defense Nuclear Facilities Safety Board, Public Hearing Room, 625 Indiana Avenue, NW, Suite 300, Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED: Status of the Department of Energy's Implementation of Board Recommendation 94–1 Improved Schedule for Remediation in the Defense Nuclear Facility Complex.

CONTACT PERSON FOR MORE INFORMATION: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Facilities Safety Board will reconvene and continue the open meeting conducted on May 7, 1998, regarding Department of Energy's (DOE) rate of progress on actions responding to Recommendation 94–1, Improved Schedule for Remediation in the Defense Nuclear Facility Complex.

This public meeting is for the purpose of examining progress on DOE Headquarters activities to meet the objectives of Recommendation 94–1 and related integration of activities among DOE sites.

The Defense Nuclear Facilities Safety Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: May 14, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–13342 Filed 5–14–98; 3:55 pm]

BILLING CODE 3670–01–M

DEPARTMENT OF ENERGY

Availability of the Draft Site-wide Environmental Impact Statement for Continued Operation of the Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Site-wide Environmental Impact Statement (SWEIS) for Continued Operation of the Los Alamos National Laboratory (LANL), DOE/EIS–0238, for public review and comment. The SWEIS provides DOE and its stakeholders an analysis of the environmental impacts resulting from ongoing and reasonably foreseeable new operations and facilities, as well as reasonable alternatives at LANL, located in north-central New Mexico.

DATES: Written comments on the Draft SWEIS are invited from the public and may be submitted through the end of the comment period which ends Wednesday, July 15, 1998 (see **ADDRESS** section for more details). Comments must be postmarked by July 15, 1998, to ensure consideration; late comments will be considered to the extent practicable. The DOE will use the comments received to help prepare the final version of the LANL SWEIS. Public hearings on the Draft SWEIS will be held as follows:

June 9, 1998 (Tuesday), Department of Energy, Los Alamos Area Office Conference Room, Los Alamos, New Mexico;

June 10, 1998 (Wednesday), Sweeney Center, Santa Fe, New Mexico;

June 24, 1998 (Wednesday), New Mexico Community College, Española, New Mexico.

The hearings will provide opportunities for information exchange and discussion among DOE, LANL, and the public, as well as submitting prepared statements. Public hearing times will be announced in local media closer to the meeting dates. For more information call (800) 898–6623.

ADDRESSES: Comments may be submitted in writing or orally to DOE by contacting: Corey Cruz, LANL SWEIS Project Manager, U.S. DOE, Albuquerque Operations Office, PO Box 5400, Albuquerque, NM 87185, telephone (800)898–6623 and fax (505)845–6392. Oral and written comments may also be submitted at the public meetings described in the **DATES** section. Requests for copies of the Draft LANL SWEIS or other matters regarding this environmental review should be addressed to Mr. Cruz at the address above. The Draft EIS will be available under the NEPA Analyses Module of the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. Ms. Borgstrom may be contacted by calling (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Draft SWEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 *et seq.*], the Council on Environmental Quality NEPA regulations [40 CFR part 1500] and the DOE NEPA regulations [10 CFR part 1021].

The Department proposes to continue operating the Los Alamos National Laboratory, located in north-central New Mexico. DOE has identified and assessed four alternatives for the operation of LANL: (1) No Action, (2) Expanded Operations (DOE's preferred alternative), (3) Reduced Operations, and (4) Greener. In the No Action Alternative, DOE would continue the historical mission support activities LANL has conducted at planned operational levels. In the Expanded Operations Alternative, DOE would increase, as needed, the level of existing operations to the highest foreseeable levels, including full implementation of the mission assignments from recent programmatic documents. Under the Reduced Operations Alternative, DOE would operate LANL at the minimum levels of activity necessary to maintain the capabilities to support its assigned DOE mission in the near term. Under the Greener Alternative, DOE would operate LANL to maximize operations in support of nonproliferation, basic science, materials science, and other nonweapons areas, while minimizing weapons activities.

The DOE's preferred alternative is Expanded Operations. The Draft LANL SWEIS compares the environmental impacts that would be expected to occur from continuing to operate existing facilities at current activity levels at LANL (the No Action Alternative) with the consequences that would be expected to occur if DOE implemented the Preferred Alternative (Expanded Operations) or one of two other operational alternatives. DOE has distributed copies of the Draft LANL SWEIS to appropriate Congressional members and committees, the State of New Mexico, American Indian tribal governments, local county governments, other federal agencies, and other interested parties. After the public comment period, which ends July 15, 1998, the Department will consider the comments received, revise the Draft SWEIS, and issue a Final SWEIS. The Department will consider the Final SWEIS, along with other considerations such as economic and technical, to make a decision on the appropriate level of operations for LANL.

Signed in Washington, DC, this 12th day of May, 1998, for the United States Department of Energy.

Gary T. Palmer,

NEPA Compliance Officer, Defense Programs.

[FR Doc. 98–13143 Filed 5–15–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE DOCKET NO. 98–17–NG]

Office of Fossil Energy, Enron Capital & Trade Resources Corp.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Enron Capital & Trade Resources Corp. (ETC) long-term authorization to import up to 42,000 Mcf per day of natural gas from Canada. The authorization is for a 10-year term commencing November 1, 1998, through October 31, 2008, or for 10 years after the commencement of deliveries if deliveries begin after November 1, 1998. This gas may be imported from Canada at the international border point near the Port of Morgan, Montana, (Monchy, Saskatchewan), or at alternative border points with transportation facilities accessible by ETC.

This Order may be found on the FE web site at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 12, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 98–13102 Filed 5–15–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Cancellation of Proposed Collection; Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Cancellation of agency information collection activities: Proposed collection; comment request.

SUMMARY: This notice rescinds the notice published in the **Federal Register** of April 24, 1998, FR Doc. 98–10938, on page 20388, soliciting comments concerning the proposed revision, and extension to the form RW–859, "Nuclear Fuel Data Survey", and the termination of RW–859S "Nuclear Fuel Data Supplement". A revised **Federal Register** notice soliciting comments will be published later.

Dated: May 11, 1998.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 98–13101 Filed 5–15–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–37–001]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 12, 1998.

Take notice that on May 7, 1998, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective May 30, 1998:

Substitute Second Revised Sheet No. 15

Algonquin states that the purpose of the filing is to correctly update the system map to reflect its current principal pipeline facilities and the points at which service is rendered, as required by Section 154.106 of the Commission's Regulations. Algonquin filed on April 29, 1998, Second Revised Sheet No. 15 to update the system map. It was subsequently discovered that the new lateral serving Canal Electric Company was inadvertently omitted from the revised map. The substitute tariff sheet includes the Canal lateral and delivery point, as well as the other additions reflected on Second Revised Sheet No. 15.

Algonquin states that copies of the filing were mailed to affected customers on Algonquin and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13069 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–513–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

May 12, 1998.

Take notice that on May 4, 1998 Columbia Gas Transmission Corporation (Columbia Gas), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030, filed in Docket No. CP98–513–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to operate in interstate commerce an existing point of delivery previously constructed and operated to effectuate transportation service pursuant to Section 311 of the Natural Gas Policy Act (NGPA). Columbia Gas makes such request, under its blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Columbia Gas states that it constructed a new point ofdelivery to Columbia Gas of Pennsylvania, Inc. (Columbia Gas of PA) in Somerset County, Pennsylvania, which was placed in service on March 11, 1998. Columbia Gas avers that the cost of constructing the point of delivery was approximately $14,400. Columbia Gas further states that it installed a 3-inch tap to interconnect the facilities.

Columbia Gas states that it seeks Natural Gas Act certification for the NGPA Section 311 point of delivery, in order that it may use the delivery point to provide both part 284, Subpart B and Subpart G transportation service.

It is estimated that up to 520 dekatherms of natural gas will be delivered to the existing point of delivery daily, and up to 189,800 dekatherms annually. It is indicated that the gas volumes will be transported pursuant to Columbia Gas' Storage Service Transportation (SST) Rate Schedule. Columbia Gas avers that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13063 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–523–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

May 12, 1998.

Take notice that on May 6, 1998, Florida Gas Transmission Company

(FGT) 1400 Smith Street, Houston, Texas 77002, filed under Sections 157.205 and 157.216 of the Commission's Regulations to abandon and remove a meter station located in Dade County, Florida, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to abandon and remove the PGS Miami Beach Meter Station which serves as a delivery point to TECO Peoples Gas (TECO). Minor re-piping will also be made through the existing PGS Miami Meter Station. FGT states that the proposed abandonment will not result in any disruption of service to TECO, nor disadvantage any of FGT's existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a request. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13065 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–520–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

May 12, 1998.

Take notice that on May 5, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–520–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate as a jurisdictional facility, a two-inch tap and a two-inch meter station, located in Harrison County, Mississippi, under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to operate as a jurisdictional facility in interstate commerce, a two-inch tap and a two-inch meter station previously installed and placed in service under Section 311(a) of the Natural Gas Policy Act of 1978 and Section 284.3(c) of the Commission's regulations. Koch Gateway states that the proposed certification of facilities will enable Koch Gateway to provide transportation services under its blanket transportation certificate through a tap serving Entex, Inc. (Entex), a local distribution company in Harrison County, Mississippi, for Warren Paving, Inc., an end user.

Once this delivery point is certificated as a jurisdictional facility, Koch Gateway asserts Entex will be able to receive gas shipped to this point pursuant to jurisdictional open-access transportation agreements as well as Section 311 agreements. Koch Gateway declares Entex estimates its peak day and average day requirements for the delivery point to be 1,630 MMBtu and 104 MMBtu, respectively. Koch Gateway states they were reimbursed by Entex approximately $102,000 for the construction costs.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13064 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–528–000]

Koch Gateway Pipeline Company; Notice of Application

May 12, 1998.

Take notice that on May 7, 1998, Koch Gateway Pipeline Company (Applicant), 600 Travis Street, P.O. Box 1478, Houston, Texas, 77251–1478, filed in Docket No. CP98–528–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to abandon an obsolete transportation service for Midcoast Marketing, Inc. (Midcoast), successor by merger to Mid Louisiana Gas Company (Mid La), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon a firm transportation service formally provided to Midcoast pursuant to Applicant's Rate Schedule X–90. Applicant asserts that Midcoast concurs to the proposed abandonment and that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 of 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the

matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13067 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–527–000; CP96–385–000; CP96–386–000, et al. and CP97–127–000]

Mountaineer Gas Company, Complainant, v. Columbia Natural Resources, Inc., Respondent, Columbia Natural Resources, Inc., Columbia Gas Transmission Corporation, Columbia Gas Transmission Corporation; Notice of Complaint

May 12, 1998.

Take notice that on May 4, 1998, Mountaineer Gas Company (Mountaineer), 414 Summer Street, Charleston, West Virginia 25332, filed a complaint in Docket No. CP98–527–000 pursuant to Section 5 of the Natural Gas Act (NGA) and Rule 206 of the Commission's Rules of Practice and Procedure. Mountaineer requests that the Commission institute an investigation into certain representations made by Columbia Natural Resources, Inc. (CNR) (or on its behalf), in Docket No. CP96–385–000 and in Docket No. CP96–386–000, *et al.*, which led to Commission approval of the abandonment of certain Columbia Gas Transmission Corporation (Columbia) gathering facilities by sale to CNR; and to re-open those aspects of Docket No. CP97–127–000 involving Groups 16, 17 and 18 in order to prevent further transfers of gathering facilities to CNR.

Mountaineer explains that in Docket No. CP96–386–000, *et al.*, Columbia filed for permission and approval to abandon, by sale to CNR, certain certificated facilities as a necessary component of the transfer to CNR of a larger, 18 system, group of gathering facilities. Mountaineer states that the application indicated that two distinct types of services were being provided by Columbia through such facilities; the first service consisting of a conventional gathering function and the second service consisting of the transportation, by displacement, of gas received on Columbia's transmission system under firm transportation rates schedules to certificated points of delivery on the gathering system. Mountaineer further states that the services then rendered by Columbia through the gathering facilities, whether conventional service or the displacement delivery service for Mountaineer and other local distribution companies, were subject to the Commission's open access transportation regulations. Mountaineer states that it withdrew its protest of Columbia's proposed abandonment after reaching an agreement in principle with CNR on the continuation of the displacement delivery service to Mountaineer previously rendered by Columbia, as part of an overall November 22, 1996 settlement of various Columbia rate and service issues.

Mountaineer states that concurrently with Columbia's abandonment application, CNR filed in Docket No. CP96–385–000, a petition requesting the Commission to disclaim jurisdiction over the gathering facilities to be transferred from Columbia. Mountaineer states that in said petition, CNR stated that it intended to provide substitute nonjurisdictional alternatives to the service provided by Columbia.

Mountaineer states that in early 1998, a dispute arose between Mountaineer and CNR concerning Mountaineer's request for a new point of delivery on the gathering facilities transferred to CNR. Mountaineer states that the purpose of the new delivery point was to permit Mountaineer to compete for a service to a new, large-volume consumer. Mountaineer states that CNR subsequently denied Mountaineer's request, leaving Mountaineer to believe that the primary, if not exclusive, basis for CNR's denial of transportation access was to eliminate Mountaineer as a competitor for this new market, so that CNR's sales function could render the service instead. Mountaineer states that CNR now maintains that the commitment it made during the abandonment proceedings in Docket No. CP96–386–000, *et al.*, such as, to continue open access transportation principles, applies solely to the gathering service it renders, and not to the displacement delivery service rendered for Mountaineer.

Mountaineer maintains that denial of open access transportation service will have serious implications for Mountaineer and its consumers. Mountaineer states that CNR's position, if unchecked, will lead to a result where the only access CNR will provide Mountaineer for new requirements is for small-volume accounts that CNR's sales function finds economically unattractive.

Mountaineer states that recent correspondence with CNR reveals that, from the inception of the abandonment process, CNR never intended to extend open access transportation principles to the displacement delivery service provided to Mountaineer. Mountaineer alleges that through its affiliate, however, CNR caused an abandonment application to be submitted that represented the contrary. Mountaineer maintains that CNR's petition did not disclose its intention to limit open access principles to gathering services only. Mountaineer alleges that CNR's misrepresentation of, or failure to disclose, its intent not to apply open access principles to Mountaineer's transportation service represents a clear violation of Section 157.5 of the regulations and that the facts and circumstances of this violation warrant an investigation.

Mountaineer further requests that the Commission reopen certain aspects of the abandonment application filed in Docket No. CP97–127–000. Mountaineer states that as a result of the auction conducted by Columbia concerning the facilities abandoned in Docket No. CP97–127–000, CNR is the prospective purchaser of the facilities in Groups 16, 17 and 18, all of which serve Mountaineer. Mountaineer states that the purchase and sale transaction for these groups has not yet reached closing and accordingly, the facilities have not yet been transferred from Columbia to CNR. Mountaineer states that these three facility groups provide Mountaineer with displacement delivery service to 26 town border stations, 18 unmeasured points of delivery for over 160 consumers and over 1700 mainline tap consumers. Mountaineer maintains that given CNR's disclosure that it will not abide by open access principles for transportation service to Mountaineer, reopening is require by the public interest.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before June 11, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13066 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–215–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

May 12, 1998.

Take notice that on May 7, 1998, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective July 1, 1998.

Natural states that the purpose of this filing is to modify Rate Schedule NSS to provide customers more flexibility in contracting for service by pipeline leg.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective on July 1, 1998.

Naturla states that copies of the filing have been mailed to its customers and interested state regulatory agencies.

Any persons desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13072 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–161–003]

Puget Sound Energy, Inc.; Notice of Filing

May 12, 1998.

Take notice that on August 14, 1997, Puget Sound Energy, Inc. tendered for filing Revision Sheets to its Open Access Transmission Tariff, FERC Electric Tariff, Original Vol. 7 pursuant to the Commission's Order on Compliance Tariff Rates and Generic Clarification of Implementation Procedures, issued July 31, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, inaccordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 19, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13070 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–441–000 and ER98–1019–000; ER98–495–000, ER98–1614–000, and ER98–2145–000; ER98–496–000 and ER98–2160–000; ER98–441–001, ER98–495–001, and ER98–496–001 (consolidated)]

Southern California Edison Company California Independent System Corp., Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Pacific Gas & Electric Company, San Diego Gas & Electric Company; Notice of Informal Settlement Conference

May 12, 1998.

Take notice that an informal settlement conference will be convened in the subject proceedings on Monday, May 18, 1998, at 10:00 AM, through Wednesday, May 20, 1998. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to section 385.214 of the Commission's regulations.

For additional information, please contact Paul B. Mohler at (202) 208–1240, or by e-mail at paul.mohler@ferc.fed.us.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13068 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–99–001]

Tennessee Gas Pipeline Company; Notice of Pro Forma Compliance Filing

May 12, 1998.

Take notice that on May 7, 1998, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following pro forma tariff sheets:

Pro Forma Sheet No. 231
Pro Forma Sheet No. 232
Pro Forma Sheet No. 232A
Pro Forma Sheet No. 234
Pro Forma Sheet No. 235

Tennessee states that the proposed pro forma tariff sheets are filed in compliance with the Commission's

April 30, 1998 Notice in the above-referenced docket. Tennessee states that the pro forma tariff sheets incorporate several changes being proposed by Tennessee to address the parties' concerns raised in this docket and addressed at a technical conference on April 8, 1998. In accordance with the April 30, 1998 Notice, Tennessee requests that the Commission accept the tendered pro forma tariff sheets for filing.

Pursuant to the notice issues April 30, 1998, initial comments are due May 13, 1998, and reply comments are due May 20, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13071 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1438–000, et al.]

Midwest Independent Transmission System Operator, Inc., et al. Electric Rate and Corporate Regulation Filings

May 12, 1998.

Take notice that the following filings have been made with the Commission:

1. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER98–1438–000]

Take notice that on May 7, 1998, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing certain additional executed signature pages in order to supplement its January 15, 1998 filing in Docket No. ER98–1438–000.

Specifically, the Midwest ISO tendered signature pages to the "Agreement of the Transmission Facilities Owners to organize the Midwest Independent Transmission System Operator, Inc., A Delaware Non-Stock Corporation," and the "Agency Agreement for Open Access Transmission Service offered by the Midwest ISO for Nontransferred Transmission Facilities" executed by Central Illinois Light Company.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Tampa Electric Company

[Docket No. ER98–2763–000]

Take notice that on April 30, 1998, Tampa Electric Company (Tampa Electric), tendered for filing updated transmission service rates under its agreements to provide qualifying facility transmission service for Mulberry Phosphates, Inc. (Mulberry), Cargill Fertilizer, Inc. (Cargill), and Auburndale Power Partners, Limited Partnership (Auburndale).

Tampa Electric proposes that the updated transmission service rates be made effective as of May 1, 1998, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Mulberry, Cargill, Auburndale, and the Florida Public Service Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. AG-Energy, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P., Power City Partners, L.P.

[Docket No. ER98–2782–000]

Take notice that on May 7, 1998, AG-Energy, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P. and Power City Partners, L.P. (Applicants) tendered for filing with the Federal Energy Regulatory Commission a supplement to the Applicants' filing on April 30, 1998, requesting authority to make wholesale power sales, including sales of energy and capacity, at market-based rates. The supplemental filing contains forms of service agreements for service under the proposed rate schedules. The Applicants request an effective date of June 30, 1998.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. The Cincinnati Gas & Electric Company and PSI Energy, Inc.

[Docket No. ER98–2879–000]

Take notice that on April 30, 1998, The Cincinnati Gas & Electric Company, in compliance with the Commission's Orders dated August 16, 1993 and October 3, 1994 in Docket Nos. EC93–6–000, EC93–6–001 and ER94–1015–000 tendered for filing its fourth Annual Informational Filing.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. The Cincinnati Gas & Electric Company and PSI Energy, Inc.

[Docket No. ER98–2880–000]

Take notice that on April 30, 1998, PSI Energy, Inc., in compliance with the Commission's Orders dated August 16, 1993 and October 3, 1994 in Docket Nos. EC93–6–000, EC93–6–001 and ER94–1015–000 tendered for filing its fourth Annual Informational Filing.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service

[Docket No. ER98–2919–000]

Take notice that on May 7, 1998, Northern Indiana Public Service Company (Northern Indiana) filed a Service Agreement pursuant to its Power Sales Tariff with Amoco Energy Trading Corporation (AETC). Northern Indiana has requested an effective date of May 8, 1998.

Copies of this filing have been sent to AETC, to the Indiana Utility Regulatory Commission, and to the Indiana office of Utility Consumer Counselor.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Rochester Gas and Electric Corporation

[Docket No. ER98–2922–000]

Take notice that on May 7, 1998, Rochester Gas and Electric Corporation filed an Application for acceptance and approval of a form transmission service agreement and form power sales agreement and request for waivers in conjunction with its retail access program.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER98–2923–000]

Take notice that on May 7, 1998 Commonwealth Edison Company (ComEd) submitted for filing one Service Agreement establishing Northern States Power Company (NSP), as non-firm transmission customer under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of April 27, 1998 for the service agreements, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served on (NSP), and the Illinois Commerce Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER98–2925–000]

Take notice that on May 7, 1998, Southern California Edison Company (SCE) tendered for filing a revised Radial Lines Agreement (Revised Agreement) for Huntington Generating Station to be executed by SCE and AES Huntington Beach, L.L.C.

SCE requests waiver of the Commission's 60-day notice requirements and that the Commission accept the Revised Agreement for filing, unexecuted.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. MidAmerican Energy Company

[Docket No. ER98–2926–000]

Take notice that on May 7, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with Merchant Energy Group of the Americas, Inc. (Merchant) dated April 14, 1998, and Non-Firm Transmission Service Agreements with Merchant dated April 14, 1998, and Dayton Power & Light Company dated April 22, 1998, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of April 14, 1998, for the Agreements with Merchant, and April 22, 1998, for the Agreement with Dayton, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Merchant and Dayton, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. NGE Generation, Inc.

[Docket No. ER98–2929–000]

Take notice that NGE Generation, Inc. (NGE Gen) on May 7, 1998 tendered for filing pursuant to Section 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, service agreements (collectively, the "Service Agreements") under which NGE Gen may provide capacity and/or energy to Merchant Energy Group of America (Merchant Energy), Northeast Energy Services, Inc. (Northeast Energy), and e prime, Inc. (e prime)(collectively, the Purchasers) in accordance with NGE Gen's FERC Electric Tariff, Original Volume No. 1.

NGE Gen has requested waiver of the notice requirements so that the service agreements with Merchant Energy, Northeast Energy, and e prime become effective as of May 8, 1998.

NGE Gen has served copies of the filing upon the New York State Public Service Commission, Merchant Energy, Northeast Energy, and e prime.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Corporation

[Docket No. ER98–2930–000]

Take notice that on May 7, 1998, Duke Energy Corporation (Duke) tendered for filing with the Commission Supplement No. 12 to Supplement No. 24 to the Interchange Agreement between Duke and Carolina Power & Light Company (CP&L) dated June 1, 1961, as amended (Interchange Agreement). Supplement No. 12 continues Duke's monthly transmission capacity rate under the interchange Agreement at $1.0758 per KW per month. Duke has proposed an effective date of July 1, 1998.

Copies of this filing were mailed to Carolina Power & Light Company, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Consumers Energy Company

[Docket No. ES98–30–000]

Take notice that on April 30, 1998, Consumers Energy Company (Consumers) filed an application under Section 204 of the Federal Power Act, requesting an order for authority to issue up to $900 million of short term debt securities.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13147 Filed 5–15–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Replacement Resources Methods Report, Grand Canyon Protection Act of 1992

AGENCY: Western Area Power Administration (Western), DOE.

ACTION: Notice of availability of replacement resources methods report and executive summary.

SUMMARY: The Secretary of Energy, acting through Western, has the responsibility of marketing hydroelectric power generated at Glen Canyon Dam Powerplant. Western has been engaged in the Replacement Resources Process to identify economically and technically feasible methods for replacing power resources that are lost due to long-term operational constraints at Glen Canyon Dam Powerplant. Western announces the availability of the Replacement Resources Methods Report (Report) and the Executive Summary, which satisfies the requirement in section 1809 of the Grand Canyon Protection Act (GCP Act) of 1992, Title XVIII of Pub. L. 102–575.

ADDRESSES: To request a copy of the Report and/or Executive Summary or to provide written comments on the Report, contact: Mr. S. Clayton Palmer, Resource and Environmental Analysis Team, CRSP Customer Service Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606.

FOR FURTHER INFORMATION CONTACT: Samuel D. Loftin, (801) 524–6381.

SUPPLEMENTARY INFORMATION: The Report outlines the economically and technically feasible methods that Western will use to evaluate and select resources to replace capacity made unavailable ("or lost") due to the adoption of long-term operational criteria for Glen Canyon Dam as required by the GCP Act. The Report includes a "proof-of-concept" analysis of five hypothetical resource options with varying degrees of complexity. The methods are consistent with other Western resource acquisition policies, such as Western's Principles of Integrated Resource Planning (IRP). The methods are also consistent with the Salt Lake City Area/Integrated Projects Contract Amendment, the Records of Decision in the Salt Lake City Area/ Integrated Projects Power Marketing Environmental Impact Statement (EIS) and Energy Planning and Management Program EIS, Reclamation's Glen Canyon Dam EIS, pertinent Federal Energy Regulatory Commission orders,

and laws affecting DOE, Western, and the Colorado River Storage Project (CRSP).

In the Report, Western provides methods to replace lost capacity using spot market, seasonal (6 months), and mid- to long-term (1 year or more) resource acquisitions. Western will consult with firm power customers periodically about the amount and term of resource acquisitions to be made on their behalf, which Western would then acquire and deliver to them. Western will evaluate and select resources based on criteria broadly defined in the Report and follow a least-cost strategy. Greater public involvement and more complex evaluation procedures and acquisition methods will be used for long-term acquisitions rather than for seasonal acquisitions.

Western will use a screening tool and a production cost computer model to evaluate future resource offers from potential suppliers. The Report details how these evaluation tools are applied to evaluate five hypothetical resource purchases. These resource alternatives were designed to illustrate the screening and evaluation tools' abilities to survey and select from among many diverse replacement resource options and to consider transmission system constraints and possible solutions. The Report concludes that the screening criteria and evaluation tools developed will enable Western to select economically and technically feasible replacement power resources.

Public Involvement

Section 1809 of the GCP Act requires the Secretary of Energy to consult with representatives of the CRSP power customers, environmental organizations, the Colorado River Basin States, and with the Department of the Interior in this process. Western published a notice initiating the formal, public consultation process on August 8, 1994, at 59 FR 40357. On October 7, 1994, at 59 FR 51191, Western announced four regional public consultation meetings.

A 20-page, Replacement Resources Information Packet was prepared that included Western's process to complete the method identification requirement of the GCP Act. On October 20, 1994, Western mailed this information packet, along with the text of the October **Federal Register** notice, to 900-plus organizations and individuals on Western's Replacement Resources Methods mailing list, including representatives of organizations with which Western was required to consult. In November 1994, Western held four regional public involvement meetings in Salt Lake City, Utah; Denver, Colorado; Phoenix, Arizona; and Albuquerque, New Mexico. Comments from organizations and the public were accepted through December 19, 1994, the comment deadline.

Western prepared newsletters in February and October 1995 that provided updates on the status of replacement resources activities. These newsletters were distributed to Western's mailing list. On April 30, 1996, at Western's CRSP Customer Service Center's Annual Customer Meeting in Salt Lake City, Western provided an update on replacement resources activities to CRSP power customers and to representatives of the Department of the Interior, Bureau of Reclamation. This update included a discussion of public comment received by Western.

On July 2, 1996, Western published a notice of availability of a Draft Methods Report at 61 FR 34433. Notice was made to those entities who responded to Western's mailer and wanted information or copies of the Draft Report. Western held public consultation meetings at Albuquerque, Phoenix, Denver, and Salt Lake City between July 23 and July 29, 1996. At these meetings, Western presented the proposed replacement resource methods, which will be implemented with the Report. A 60-day public comment period closed on September 3, 1996. Western mailed a subsequent newsletter in December 1996, updating changes implemented by Western from the comments received during the public comment period.

Environmental Compliance

Western will comply with the National Environmental Policy Act of 1969 through an appropriate level of environmental analysis of the impacts of specific replacement resources when such specific resources are identified.

Regulatory Requirements

DOE has determined this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: May 4, 1998.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 98–13103 Filed 5–15–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Amistad and Falcon Projects—Notice of Order Confirming and Approving an Extension of the Power Rate Formula—WAPA–81

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: This action is to extend the existing Amistad and Falcon Projects' power rate formula until June 7, 1999. Without this action, the existing power rate formula will expire June 7, 1998; and no rate formula will be in effect for this service.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Sabo, CRSP Manager, CRSP Customer Service Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, telephone (801) 524–5493.

SUPPLEMENTARY INFORMATION: By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

Pursuant to Delegation Order No. 0204–108 and existing Department of Energy (DOE) procedures for public participation in power rate adjustments at 10 CFR Part 903, the power rate formula for Western's Amistad and Falcon Projects was submitted to FERC for confirmation and approval on June 10, 1993. On September 29, 1993, in Docket No. EF93–5101–000 at 64 FERC ¶ 62,225, FERC issued an order confirming, approving, and placing into effect on a final basis the power rate formula for the Amistad and Falcon Projects. The rate was approved for the 5-year period beginning June 8, 1993, and ending June 7, 1998.

All of the generation from these projects is marketed by Western under the terms of Contract No. 7–07–50–P0890 dated August 9, 1977, and amended on April 10, 1986. According to the terms of the Contract, the customers, Medina Electric Cooperative, Inc. and South Texas Electric Cooperative, Inc., agreed to purchase the

output of the Amistad and Falcon Powerplants for a 50-year period, beginning when electrical service initially became available. The Cooperatives agreed to take all Amistad and Falcon Projects' power and to pay the United States annual installments that are calculated to repay the power investment costs with interest, within 50 years, and annual operation, maintenance, replacement, and administration costs of the projects.

Following review of Western's proposal within DOE, I have approved Rate Order No. WAPA–81, which extends the existing power rate formula for Amistad and Falcon Projects until June 7, 1999.

Dated: May 6, 1998.

Elizabeth A. Moler,

Deputy Secretary.

[Rate Order No. WAPA–81]

In the Matter of: Western Area Power Administration, Extension for Amistad and, Falcon Projects Power Rate Formula

Order Confirming and Approving an Extension of the Amistad and Falcon Projects' Power Rate Formula

June 7, 1998

This rate formula was established pursuant to Section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and other acts specifically applicable to the Amistad Project and the Falcon Projects were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This disapprove such rates to the Federal Energy Regulatory Commission (FERC). This rate extension is issued pursuant to the Delegation Order and the DOE rate extension procedures at 10 CFR Part 903.

Background

In the order issued September 29, 1993, at 64 FERC ¶ 62,225, in Docket No. EF93–5101–000, FERC confirmed, approved, and placed into effect on a final basis the power rate formula for the Amistad and Falcon Projects. The rate formula was approved for the period from June 8, 1993, through June 7, 1998.

Discussion

All of the generation from these projects is marketed by Western under the terms of Contract No. 7–07–50–P0890 dated August 9, 1977, and amended on April 10, 1986. According to the terms of the Contract, the customers, Medina Electric Cooperative, Inc. and South Texas Electric Cooperative, Inc., agreed to purchase the output of the Amistad and Falcon Powerplants for a 50-year period, beginning when electrical service initially became available. The Cooperatives agreed to take all Amistad and Falcon Projects' power and to pay the United States annual installments that are calculated to repay the power investment costs with interest, within 50 years, and annual operation, maintenance, replacement, and administration costs of the projects.

On June 7, 1998, Western's Amistad and Falcon power rate formula will expire. Pursuant to 10 CFR 903.23, Western proposes to extend the existing rate formula until June 7, 1999, to determine whether it should make any changes in the present rate formula and Power Repayment Study presentation. During the early part of FY 1999, Western will begin a public rate adjustment process to this effect with the publication of a notice in the **Federal Register**.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary, I hereby extend for a period, effective June 8, 1998, through June 7, 1999, the existing rate formula for the Amistad and Falcon Powerplants.

Dated: May 6, 1998.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 98–13104 Filed 5–15–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00537; FRL–5792–4]

EPA–USDA Tolerance Reassessment Advisory Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA-USDA Tolerance Reassessment Advisory Committee (TRAC) is being established as a subcommittee under the auspices of the EPA National Advisory Council for Environmental Policy and Technology (NACEPT). The TRAC is in response to Vice President Gore's request for EPA and the U.S. Department of Agriculture (USDA) to work together to ensure the smooth implementation of the Food Quality Protection Act (FQPA).

DATES: The first set of meetings will be held on Thursday, May 28, 1998, from 9 a.m. to 5 p.m. and Friday, May 29, 1998, from 9 a.m. to 1 p.m. A background FQPA information session is being offered to the TRAC on Wednesday, May 27, 1998, from 1 p.m. to 5 p.m. The dates of the three remaining meetings are: June 22 and 23, July 13 and 14, and July 27 and 28, 1998.

ADDRESSES: The first set of meetings will be held at the Washington National Airport Hilton Hotel (Crystal City), 2399 Jefferson Davis Hwy., Arlington, VA; telephone: (703) 418–6800; and fax: (703) 418–3763. Specific locations and times of the three remaining meetings will be announced in the **Federal Register** prior to those meetings. The FQPA information session, with limited public seating, will be held in room 1126 (the "Fishbowl"), Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA (Crystal City). The permanent record is available for inspection during normal business hours, Monday through Friday, excluding legal holidays at the U.S. Environmental Protection Agency, Crystal Mall #2, Rm. 101, 1921 Jefferson Davis Hwy., Arlington, VA, telephone: (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach or Linda Murray, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, Rm. 1119, 1921 Jefferson Davis Hwy., Arlington, VA; telephone: (703) 305–7090; e-mail: fehrenbach.margie@epa.gov or murray.linda@epa.gov.

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SUPPLEMENTARY INFORMATION: FQPA, Pub. L.104–170, was passed in 1996, this new law strengthens the nation's system for regulating pesticides on food. The TRAC will be asked to provide policy guidance on sound science, ways to increase transparency in decisionmaking, strategies for a reasonable transition for agriculture, and ways to enhance consultations with stakeholders, as pesticide tolerances are reassessed, including those for organophosphates.

The TRAC is co-chaired by EPA Deputy Administrator Fred Hansen and USDA Deputy Secretary Richard Rominger. The TRAC is composed of experts that include farmers, environmentalists, public health officials, pediatric experts, pesticide companies, food processors and distributors, public interest groups, academicians, and tribal, State, and local governments.

The TRAC meetings are open to the public under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463. Outside statements by observers are welcome. Oral statements will be limited to 2–3 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so before or after a TRAC meeting. These statements will become part of the permanent record and will be provided to the TRAC members. The permanent record will be available for public inspection at the address in "Addresses" at the beginning of this document.

List of Subjects

Environmental protection, Agriculture, Chemicals, Foods, Pesticides and pests.

Dated: May 13, 1998.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

[FR Doc. 98–13210 Filed 5–14–98; 9:43 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6014–8]

National Drinking Water Advisory Council, Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) invites all interested persons to suggest individuals to serve as members of the working groups that will be formed under the National Drinking Water Advisory Council on specific matters relating to implementation of the Safe Drinking Water Act. The Advisory Council was established to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions and policies related to the Act as amended. At the April 29 and 30, 1998, meeting of the Council, it was decided that working groups should be formed on the following subjects: Small Systems; Shallow Injection Wells/ Drinking Water Source Protection Program Integration; Public Right-to-Know; and Waterborne Disease Education. These working groups will join two established groups, Benefits and Operator Certification.

Because membership on these groups will be limited and must be representative of balanced views, selections will be made by the Director, Office of Ground Water and Drinking Water, based on drinking water expertise and demonstrated interest in drinking water policy. Any interested person or organization may suggest an individual for a position on the working groups. Candidates should be identified by name, occupation, position, address and telephone number and the working group for which they wish to be considered for membership.

Persons selected for membership are responsible for any expenses that would be incurred while attending meetings. Suggestions should be submitted to Charlene E. Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, D.C. 20460, no later than May 28, 1998. The Agency will not formally acknowledge or respond to nominations. E-Mail your questions to *shaw.charlene@epamail.epa.gov* or call 202/260–2285.

Dated: May 12, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–13122 Filed 5–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00530A; FRL–5791–8]

Clarification of Treated Articles Exemption; Availability of Draft PR Notice; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; Extension of comment period.

SUMMARY: On April 17, 1998, EPA published in the **Federal Register** a notice of availability of proposed guidance clarifying the criteria that pesticide products must meet to be eligible for the "treated articles exemption." This guidance was identified as draft Pesticide Registration (PR-X) notice entitled "Eligibility of Pesticide Products For Exemption From Registration as Treated Articles Pursuant to 40 CFR 152.25(a)" and is available upon request as indicated below. This notice extends to June 30, 1998 the time period in which interested parties may submit comments on the proposed guidance. This extension is being granted to give all parties an opportunity to respond more fully to the proposed clarification of the criteria for exemption.

DATES: Written comments on the proposed PR notice, identified by the docket number [OPP-00530], must be received on or before June 30, 1998.

ADDRESSES: Submit written comments identified by the docket control number OPP-00530 by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments directly to the OPP Docket Office, which is located in Room 119 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Comments may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions as noted below in this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice.

FOR FURTHER INFORMATION CONTACT: By mail: Walter Francis, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail adress: 6E, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703) 308-6419, fax: 703-308-4687, e-mail: francis.walter@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the draft PR Notice also are available from the EPA Home page at the Federal Register - Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

For Fax on Demand, use a faxphone to call 202-401-0527 and select item (6110) for a copy of this document and the PR Notice.

I. Background

In the **Federal Register** of April 17, 1998 (63 FR 19256) (FRL–5780–7), EPA published a notice of availability of the draft PR Notice identified above. The Agency solicited comments on proposed guidance clarifying the criteria that pesticide products must meet to be eligible for the "treated articles exemption" pursuant to 40 CFR 152.25(a). If, after reviewing any comments, EPA determines that changes to the Notice are warranted, the Agency will revise the draft PR Notice prior to release.

Following publication of the April 17, 1998 notice, the National Paint and Coatings Association and the Treated Articles Coalition requested that EPA extend the comment period on the proposed PR Notice to enable these and other groups to more fully discuss these provisions and to coordinate data and information solicited from their member constituencies. In this fashion, a more comprehensive assessment of the potential impacts of this proposal could be determined.

In order to give all parties an opportunity to respond more fully to the proposed PR notice, this notice announces that EPA is extending the comment period. The new deadline for receipt of comments is June 30, 1998. Submit written comments to the address given earlier in this document. Submit electronic comments as noted in Unit II. of this document.

II. Public Record and Electronic Submissions

A record has been established for this action under docket number "OPP–00530" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form or encryption. Comments will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00530." Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Antimicrobial pesticides, Treated articles exemption.

Dated: May 13, 1998.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

[FR Doc. 98–13211 Filed 5–15–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6014–1]

Internet Availability of Data in the Sector Facility Indexing Project

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the Internet release of data in the Sector Facility Indexing Project (SFIP). The SFIP is a community-right-to-know and data integration pilot project that provides environmental performance data for facilities within five industrial sectors. The industrial sectors profiled within the SFIP are automobile assembly; petroleum refining; pulp manufacturing; iron and steel; and primary smelting and refining of aluminum, copper, lead, and zinc (nonferrous metals).

DATES: An Internet website containing the data in the SFIP was released on May 1, 1998 and is currently available to the public.

ADDRESSES: Data may be accessed electronically via the Internet at the following address: http://www.epa.gov/oeca/sfi

FOR FURTHER INFORMATION CONTACT: Robert Lischinsky, U.S. Environmental Protection Agency, Office of Compliance (2223–A), 401 M Street, SW, Washington, DC 20460; telephone: (202) 564–2628, fax: (202) 564–0050; e-mail: lischinsky.robert@epa.gov

SUPPLEMENTARY INFORMATION: The SFIP, a pilot program developed by EPA, integrates and provides public access to more environmental information than has ever before been available to the public in one location. The SFIP profiles approximately 650 facilities in five industrial sectors. The goals of the SFIP include the following: (1) Make environmental information about industrial facilities and regulatory compliance more accessible to the public; (2) expand the comprehensiveness and improve the accuracy of data for analyzing the environmental track record of an industrial sector; (3) provide industrial and government stakeholders with better analytical tools for permitting, reporting, compliance, bench marking, self-policing, and pollution prevention purposes; and (4) help all stakeholders take a more holistic, multi-media approach to environmentally sound performance. The five industrial sectors chosen for the pilot stage of the SFIP are automobile assembly; pulp manufacturing; petroleum refining; iron and steel production; and primary smelting and refining of aluminum, copper, lead, and zinc (nonferrous metals). For each facility, the SFIP provides information on its location, production or production capacity, surrounding population, permits held under major environmental programs, the number of inspections received, record of compliance with federal

regulations, and any chemical releases, transfers, and spills. Facility-specific reports are available in the SFIP for viewing and downloading. In addition to gathering all this information into one location for the first time, the SFIP is unique in that it structures and aggregates the data so a user can easily view, compare, and analyze information from different facilities. The SFIP includes compliance and enforcement information submitted to state and federal regulators, as well as chemical release information submitted under the federal Toxics Release Inventory (TRI). The SFIP also links data submitted to state and federal agencies by facilities regulated under the Clean Air Act, the Clean Water Act, the Resource Recovery and Conservation Act, and the Emergency Planning and Community Right-to-Know Act. Finally, statistics about the population around facilities were taken from census reports, and information about production was gathered from sources outside EPA.

To link all these data, the SFIP uses an interactive, high-speed data retrieval and integration system developed by EPA, the Integrated Data for Enforcement Analysis (IDEA) system.

EPA has been committed to providing all stakeholders an opportunity to comment formally on the SFIP in its entirety, as well as to review the project's underlying data. Therefore, from the onset of this project, the Agency embarked upon an extensive review and outreach process. Stakeholders, including environmental and community organizations, have commented on the project. Each facility included in the pilot project received a copy of its records and was given an opportunity to submit corrections. State agencies also received the information for review, since a large portion of the data is provided to EPA by state governments. EPA modified the data as appropriate, based on these comments. EPA will continue taking comments as this pilot project evolves. The Agency has set up an SFIP Hotline (617–520–3015) and has also established a "comment page" on the SFIP website for users to submit their comments instantly.

In addition to releasing the data electronically, EPA also will be providing a hard copy summary report of SFIP. The SFIP Progress Report is a publication that provides aggregated, pre-formatted information. A Notice of Availability will be placed in the **Federal Register** when it is ready for distribution.

Dated: May 11, 1998.

Mamie Miller,

Branch Chief, Manufacturing Branch, Manufacturing Energy & Transportation Division, Office of Compliance.

[FR Doc. 98–13116 Filed 5–15–98; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL DEPOSIT INSURANCE CORPORATION

General Counsel's Opinion No. 11, Interest Charges by Interstate State Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of General Counsel's Opinion No. 11.

SUMMARY: The FDIC has received inquiries regarding the application of section 27 of the Federal Deposit Insurance Act to State banks operating interstate branches. This General Counsel's Opinion sets forth the Legal Division's conclusions regarding where such banks are "located" for purposes of section 27; when host state, as opposed to home state, laws will provide the appropriate interest rates for loans to customers; how various functions related to making loans to customers should be defined and the impact that they will have on the application of a particular state's interest rates to those loans; and the need for appropriate disclosure of the laws governing the loan to bank customers.

FOR FURTHER INFORMATION CONTACT: Barbara I. Taft, Assistant General Counsel, (202) 898–6830, Rodney D. Ray, Counsel, (202) 898–3556 or Robert C. Fick, Counsel, (202) 898–8962, Federal Deposit Insurance Corporation, Legal Division, 550 17th Street, NW, Washington, DC 20429.

Text of General Counsel's Opinion

General Counsel's Opinion No. 11; Interest Charges by Interstate Banks

By William F. Kroener, III, General Counsel

Background

Section 27 of the Federal Deposit Insurance Act ("FDI Act") (12 U.S.C. 1831d)[1] ("section 1831d") establishes the maximum rates that insured state-chartered depository institutions and state-licensed insured branches of foreign banks (collectively, "State banks") may charge their customers for most types of loans. Section 1831d is patterned after and has been construed *in pari materia* with section 5197 of the Revised Statutes (12 U.S.C. 85) ("section 85" of the National Bank Act ("NBA")). Like section 85, section 1831d has been construed to provide State banks with "most favored lender" status and to permit State banks to "export" interest charges allowed by the state where the lender is located to out-of-state borrowers.

Since the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. 103–328, 108 Stat. 2338 (1994)("Riegle-Neal Act") and the Riegle-Neal Amendments Act of 1997, Pub. L. 105–24, 111 Stat. 238 (1997) ("Riegle-Neal Amendments Act")(collectively, "Interstate Banking Statutes") questions have arisen regarding the appropriate state law for purposes of section 1831d that should govern the interest charges on loans made to customers of a State bank that is chartered in one state (the bank's home state) but has a branch or branches in another state (the host state) (an "Interstate State Bank"). These questions have not previously been addressed by the Legal Division. Therefore, this General Counsel's Opinion sets forth the Legal Division's interpretation of section 1831d as it relates to the Interstate Banking Statutes to provide guidance in this area to State banks and the public.[2]

The Riegle-Neal Act established, for the first time, a comprehensive federal statutory scheme for interstate branching by state and national banks. In doing so, Congress recognized the potential efficiencies to be gained by an interstate branch banking structure as well as the complications that could arise in determining when an interstate bank should look to the laws of its home

[1] For the convenience of the reader, the initial reference to a provision of the FDI Act or interstate branching legislation will be made to the citation, as enacted, followed by the United States Code citation. Thereafter, the provision will be referred to by the section number contained in the United States Code. For example, the initial citation of section 27 of the FDI Act will be followed by the United States Code citation (12 U.S.C. 1831d) and the section will subsequently be referred to as "section 1831d".

[2] This opinion is not intended to address these issues with regard to national banks. The Office of the Comptroller of the Currency ("OCC"), which has regulatory jurisdiction over national banks, has issued several Interpretive Letters addressing these issues, in the context of national banks and section 85. *See*, OCC Interpretive Letter No. 686, September 11, 1995, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–001 ("Interpretive Letter No. 686"); OCC Interpretive Letter No. 707, January 31, 1996, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–022 ("Interpretive Letter No. 707"); OCC Interpretive Letter No. 782, May 21, 1997, *reprinted in* [Current Binder] Fed. Banking L. Rep. (CCH) P 81–209 ("Interpretive Letter No. 782"); OCC Interpretive Letter No. 822, February 17, 1998, *reprinted in* [Current Binder] Fed. Banking L. Rep. (CCH) P 81–265 ("Interpretive Letter No. 822").

state or a host state to determine the interest rates that the bank may permissibly charge its customers.

1. Where May an Interstate State Bank Be Located for Purposes of Section 1831d?

Section 1831d(a) establishes the maximum interest charges that State banks may charge their customers for most types of loans. The interest charges are established by reference to the location of the lender. The statute provides:

> In order to prevent discrimination against State-chartered insured depository institutions, including insured savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is hereby preempted for purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank *is located* or at the rate allowed by the laws of the State, territory, or district where the bank *is located*, whichever may be greater. (Emphasis added.) [3]

While the FDI Act does not specifically address where a lender is located for purposes of section 1831d, the same reference to interest rates where the bank is located is contained in section 85 of the NBA, upon which section 1831d is based.[4]

Prior to the enactment of section 1831d, the United States Supreme Court recognized that a national bank, pursuant to section 85, could "export" interest charges allowable in the state where the bank was located to debtors domiciled outside the bank's home state.[5] In *Marquette* the Court determined that the national bank was "located" for purposes of section 85 in the state designated in its organization certificate and could charge interest to residents of other states at rates permitted under the laws of the state so designated.[6] Section 85 has been recognized to be the "direct lineal ancestor" of section 1831d, which was enacted as part of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, 94 Stat. 132 (1980). Congress made a conscious choice to pattern section 1831d after section 85 to achieve competitive equality in the area of interest charges between state and national banks.[7]

Reading the two provisions *in pari materia* because of their historical background, the court in *Greenwood* determined that section 1831d provided a state bank with the ability to export interest charges to out-of-state borrowers from the state in which it was chartered (recognizing the state where the bank was chartered, Delaware, as the place where the bank was "located" for purposes of section 1831d).[8] Therefore, prior to the enactment of the Interstate Banking Statutes, the state where a State bank was chartered had been established as the state in which a bank was "located" for purposes of exporting interest rates under section 1831d(a).

Following enactment of the Interstate Banking Statutes it is possible for an Interstate State Bank to make loans to customers either from the state in which it is chartered or from an out-of-state branch. Although the courts do not appear to have addressed the issue of whether an Interstate State Bank may be located for purposes of section 1831d in the state where it is chartered and in each state where it maintains one or more branches the OCC has recently issued several Interpretive Letters indicating that an interstate national bank may be "located" for purposes of section 85 in the state where its main office is located, as well as in the state or states where it maintains branches. *See* Interpretive Letter Nos. 686, 707, 782 and 822.

Similarly, in my view an Interstate State Bank also may be "located" for purposes of section 1831d in its home state and in each state where it maintains out-of-state branches. There are at least three reasons for this view. First, the Riegle-Neal Amendment Act's applicable law clause for State banks [9], discussed in greater detail below, is an indication of Congress' recognition that maintaining a branch within a state, except as otherwise provided in section 1831a(j), constitutes a sufficient presence (i.e., location) in the state to subject the branch to host state laws, including the host state's consumer protection laws (which include applicable usury ceilings). Second, the OCC also has observed, most recently in Interpretive Letter No. 822, that there is a clear and direct relationship between section 94 of the NBA, addressing the "location" of a national bank for venue purposes, and section 85, addressing the "location" of a bank for usury purposes, based upon court decisions construing the two provisions. The language of section 1831d, which is based largely upon sections 85 and 86 [10] of the NBA, has been recognized to include judicial interpretations of those provisions.[11] Finally, there is an evident congressional intent to provide State banks with competitive equality with national banks in enacting section 1831d [12] and to provide parity between State banks and national banks in enacting the Riegle-Neal Amendments Act.[13]

2. If a State Bank is Located in More Than One State, Which State's Usury Provisions Govern the Loans From the Bank?

Given that a State bank can be located in more than one state, the next question is what state's usury provisions should govern loans made by an Interstate State Bank.

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[3] The alternative interest rate that is tied to the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank is not tied to state law but it, like the rate allowed by state law, also requires a determination of where the lender is "located".

[4] Section 85 states, in relevant part: "Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidence of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank *is located*, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank *is located*, ..." (Emphasis added.)

[5] *Marquette Nat'l Bank v. First Omaha Serv. Corp.*, 439 U.S. 299 (1978) ("*Marquette*").

[6] *See also Cades v. H & R Block*, 43 F.3d 869 (4th Cir.), *cert. denied*, 515 U.S. 1103 (1995); *Christiansen v. Beneficial Nat'l Bank*, 972 F. Supp. 681 (S.D. Ga. 1997); *Basile v. H & R Block*, 897 F. Supp. 194 (E.D. Penn. 1995).

[7] *See Greenwood Trust Co. v. Commonwealth of Massachusetts*, 971 F.2d 818, 826–827 (1st Cir.), cert. denied, 506 U.S. 1052 (1993) ("*Greenwood*").

[8] *Greenwood*, at 829; *see also Venture Properties, Inc. v. First Southern Bank*, 79 F.3d 90 (8th Cir. 1996) (Arkansas bank located in Arkansas for purposes of section 1831d).

[9] 12 U.S.C. 1831a(j)(1).

[10] Section 86 of the NBA provides the remedy for violations of section 85. Section 1831d(b) is the statutory counter-part contained in the FDI Act.

[11] *See Greenwood*, at 827; *Hill v. Chemical Bank* 799 F. Supp. 948, 952 (D. Minn. 1992) ("*Hill*") ("The key language of (section 1831d) is substantially identical to language in sections 85 and 86 of the National Bank Act, the federal usury provisions governing national banks. Generally, similar language should be interpreted the same way, unless context requires a different interpretation. Further, Congress is presumed to be aware of judicial interpretations of statutory language when it intentionally incorporates the language of one statute into another statute.")

[12] *See* 126 Cong. Rec. 6900 (1980) (statement of Senator Proxmire); 126 Cong. Rec. 6907 (1980) (statement of Senator Bumpers); *see also Hill*, at 952 ("Given the similarity in language and clearly expressed intent of Congress to create parity between state and national banks, (section 1831d) should be interpreted consistently with sections 85 and 86.")

[13] *See* 143 Cong. Rec. H3089 (daily ed. May 21, 1997) (statement of Representative Roukema).

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The answer to this question requires reference to the applicable law and usury savings clauses contained in the Riegle-Neal Act, the Riegle-Neal Amendments Act, which subsequently amended the applicable law clause for State banks, and to the legislative history underlying these provisions.

The Applicable Law Clause for State Banks

With the introduction of nationwide interstate branching, questions arose as to the appropriate law to be applied to out-of-state branches of interstate banks. Congress addressed this matter for national banks in section 102(b)(1) of the Riegle-Neal Act, which amended section 36 of the NBA to add a new subsection (f), which included 12 U.S.C. 36(f)(1)(A)("the applicable law clause for national banks"), and addressed this matter for State banks in section 102(b)(3)(B) of the Riegle-Neal Act, which amended section 1831a of the FDI Act to add a new subsection (j), which included 12 U.S.C. 1831a(j)(1)("the applicable law clause for State banks").

As originally enacted by the Riegle-Neal Act, the applicable law clause for national banks provided for the inapplicability of specific host state laws to a branch of an out-of-state national bank under specified circumstances, including where Federal law preempted such state laws for a national bank.[14] No similar provision, however, was contained in the applicable law clause for State banks.[15] This made branches of out-of-state State banks subject to all of the laws of the respective host state. In contrast, a national bank operating with branches in various states benefitted from preemption, and hence greater uniformity than a State bank, with regard to those host state laws specified in section 36(f)(1)(A)[16] that affected their operations. This led to concerns that the nation's dual banking system might be jeopardized because State banks might opt to convert from state to national bank charters to avoid compliance with a multitude of different state laws in each state in which State banks wished to operate through interstate branches.

On June 1, 1997, the interstate branching provisions of the Riegle-Neal Act became fully effective. Shortly thereafter, on July 3, 1997, section 1831a(j) was amended by the Riegle-Neal Amendments Act to revise the applicable law clause for State banks. As amended by the Riegle-Neal Amendments Act, section 1831a(j)(1) provides:

> The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank **to the same extent as such State laws apply to a branch in the host State of an out-of-State national bank.** To the extent host State law is inapplicable to a branch of an out-of-State State bank in such host State pursuant to the preceding sentence, home State law shall apply to such branch. (Emphasis added.)[17]

As explained by the legislation's sponsor, Representative Roukema, the purpose of the legislation was to provide parity between State banks and national banks. In describing the amendment's effect on host state consumer protection laws, she indicated:

> * * * Moreover, it recognizes the importance of host State laws by requiring all out-of-State banks to comply with host State laws in four key areas, community reinvestment, consumer protection, fair lending, and intrastate branching, unless the State law has been preempted (with respect to) national banks. In that instance the law of the State which issued the charter will prevail.[18]

Therefore, under section 1831a(j)(1), the laws of a host state apply to branches of out-of-state State banks to the same extent such state laws would apply to a branch of an out-of-state national bank. If the laws of the host state would be inapplicable to a branch of an out-of-state national bank they are equally inapplicable to a branch of an out-of-state State bank and the home state law will generally apply to the branch of an out-of-state State bank.[19]

The Usury Savings Clause

The next question is when the host state interest provisions will apply to a branch of an out-of-state State bank. For that issue, it is necessary to consider the Riegle-Neal Act's usury savings clause and the pertinent portions of the statute's legislative history.

Section 111 of the Riegle-Neal Act (the usury savings clause), was added to the legislation prior to its enactment by an amendment sponsored by Senator Roth to address the effect of the Riegle-Neal Act on sections 85 and 1831d. The amendment was introduced by Senator Roth in response to uncertainty expressed by the Acting Chairman of the FDIC and one of the Governors of the Federal Reserve Board regarding the effect that pending drafts of the interstate banking legislation might have on the exportation of interest rates by a bank to borrowers residing in states where the bank also operated an out-of-state branch.[20] *See* 140 Cong. Rec. S12789 (daily ed. Sept. 13, 1994) (remarks of Senator Roth).

The usury savings clause provides, in pertinent part:

> No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way—
>
> * * * * *
>
> (3) The applicability of (section 85) or (section 1831d) of the Federal Deposit Insurance Act.[21]

Therefore, Congress did not intend for the Riegle-Neal Act to affect the applicability of section 1831d to State banks.

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[14] Section 36(f)(1)(A)(ii) also provided for preemption of host state law where the Comptroller determines that state law discriminates between an interstate national bank and an interstate state bank.

[15] Section 36(f)(1)(A)reads in relevant part as follows:

> The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—
>
> (i) when Federal law preempts the application of such State laws to a national bank * * *

In the context of the law applicable to branches of out-of-state State banks, however, section 1831a(j)(1) read in relevant part as follows:

> **The laws of a host State,** including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, **shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.** (Emphasis added.)

[16] The reference to "applicable usury ceilings" in the Riegle-Neal Act Conference Report's ("Conference Report") discussion of host state consumer protection laws clearly indicates that the statute's reference to consumer protection laws of host states included any applicable host state usury ceilings. *See* H.R. Rep. No. 651, 103d Cong., 2d Sess., 51 (1994).

[17] Pub. L. 105–24, 111 Stat. 238 (1997).

[18] 143 Cong. Rec. H3089 (daily ed. May 21, 1997).

[19] Section 1831a(j)(3)(B), however, requires that the applicable law clause for State banks not be construed to affect the applicability of Federal law to State banks and State bank branches in a home or host state. Therefore, the reference to home state law in the applicable law clause for State banks may not dictate the result in all circumstances regarding interest charges on loans to bank customers if reference to other federal law, such as section 1831d, the usury savings clause, or the rules regarding exportation of interest charges, would lead to a different result.

[20] *See Nationwide Banking and Branching and the Insurance Activities of National Banks: Hearings Before the Senate Committee on Banking, Housing, and Urban Affairs,* 103d Cong., 1st Sess. 272 (1993) (Response to Written Questions of Senator Roth from Andrew C. Hove, Jr.); (Response to Written Questions of Senator Roth from John P. LaWare), *id.* at pp. 280–81.

[21] 12 U.S.C. 1811 (note).

Harmonization of the Applicable Law Clause for State Banks with the Usury Savings Clause

While the usury savings clause could conceivably be read to conflict with the language of the applicable law clause,[22] reference to the Riegle-Neal Act's legislative history allows the provisions to be harmonized and placed in proper context.[23]

In discussing the usury savings clause, the Conference Report states:

> Section 111(3) specifically states that nothing in Title I affects sections (85) or (1831d). Accordingly, the amendments made by the (Riegle-Neal Act) that authorize insured depository institutions to branch interstate do not affect existing authorities with respect to any charges under section (85) or (1831d) imposed by national or state banks for loans or other extensions of credit made to borrowers outside the state where the bank or **branch making the loan or other extension of credit is located.**[24] (Emphasis added.)

Senator Roth explained this section of the Conference Report as follows:

> The statement of the managers expressly refers to the potential of a "branch making the loan or other extension of credit * * *" This language underscores the widespread congressional understanding that, in the context of nationwide interstate branching, it is the office of the bank or branch making the loan that determines which state law applies. The savings clause has been agreed to for the very purpose of addressing the FDIC's original concerns and making clear that after interstate branching, section (85) and section (1831d) are applied on the basis of the branch making the loan.[25]

According to Senator Roth, for purposes of determining where a loan is "made" the managers of the Conference Committee recognized that in the new interstate banking environment banks with a branch or branches in other states could involve those branches in some but not all aspects of a loan transaction without the state law where the branch was located becoming applicable to the loan. In explaining the provisions Senator Roth distinguished "ministerial functions" [26] from other functions (subsequently referred to as "non-ministerial functions" [27]) related to the loan. To further explain the importance of these distinctions, in the context of the appropriate state law to apply to an interstate bank loan, Senator Roth indicated:

> (It) is clear that the conferees intend that a bank in State A that approves a loan, extends the credit, and disburses the proceeds to a customer in State B, may apply the law of State A even if the bank has a branch or agent in State B and even if that branch or agent performed some ministerial functions such as providing credit card or loan applications or receiving payments.[28]

Senator Roth's comments, considered in the context of the applicable law clause for State banks, are indicative of congressional intent to recognize a parallel between existing law and the law that should be applied if a loan was made in a branch or branches of a single host state. Existing law already recognized the effect of home state law on the state laws of a borrower's residence when loans were made by national banks and State banks, respectively, to out-of-state borrowers. In the context of interstate branching, however, Congress intended to strike a balance between the application of host state and home state interest provisions by applying the same exportation principle previously recognized by the courts to loans made in a host state because the three non-ministerial functions occurred in a branch or branches of the host state.

Therefore, under the Riegle-Neal Act's usury savings clause the ability of an out-of-state State bank to export the interest charges that are permissible in the home state are preserved, even if a branch or branches of the same bank is located in the same state as the borrower. If all of the non-ministerial functions involved in making the loan are performed by a branch or branches located in a host state, however, the host state's interest provisions should be applied to the loan.

Non-Ministerial Functions Occur in Multiple States or Outside of Banking Offices

There are some situations that are not addressed by the Interstate Banking Statutes. These include loans where the three non-ministerial functions occur in different states or where some of the three non-ministerial functions occur in an office that is not considered to be the home office or branch of the bank (collectively, "banking offices"). The OCC recently addressed these issues in Interpretive Letter 822. With regard to loans where the three non-ministerial functions occur in banking offices located in different states and the loans cannot be said to have been "made" in a host state under the criteria discussed in the legislative history of the Riegle-Neal Act, the OCC concluded that the law of the home state could always be chosen to apply to the loans because such a result will avoid throwing "confusion" into the complex system of modern interstate banking by having no rate to apply and because the bank is always the lender, regardless of where certain functions occur.

The other situation addressed in Interpretive Letter 822 is where any of the non-ministerial functions occur in a host state but not in a branch. This could occur, for example, where a loan is approved in a back office but the proceeds of the loan are disbursed in a branch in a host state.

In these and similar situations, the OCC concluded that home state rates may be used. Alternatively, in those situations the interest rates permitted by the host state where a non-ministerial function occurs may be applied, if based on an assessment of all of the facts and circumstances, the loan has a clear nexus to the host state.[29]

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[22] As enacted by the Riegle-Neal Act, as indicated earlier, the applicable law clause for State banks made branches of out-of-state State banks subject to the laws of the host state. Also, as indicated earlier, concerns had been expressed over the impact that the application of host state laws regarding consumer protection might have on the ability of an out-of-state bank to export interest charges authorized by its home state to a state where the bank maintained a branch.

[23] In this respect, the analysis tracks that employed by the courts. *See Weinberger* v. *Hynson*, 412 U.S. 609, 631–32 (1973) ("It is well established that our task in interpreting separate provisions of a single Act is to give the Act 'the most harmonious, comprehensive meaning possible' in light of the legislative policy and purpose. (Citations omitted)."); *Dierksen* v. Navistar Internat'l Transportation Corp., 912 F. Supp. 480, 486 (D. Kansas 1996) ("A primary rule of construction of a statute is to find the legislative intent from its language, and where the language used is plain and unambiguous and also appropriate to an obvious purpose the court should follow the intent as expressed by the words used. (citation omitted). It is the duty of the court, insofar as practical, to reconcile different statutory provisions so as to make them consistent, harmonious and sensible. (Citation omitted). Allegedly repugnant statutes are to be read together and harmonized, if at all possible, to the end that both may be given force and effect. (Citation omitted).")

[24] H.R. Rep. No. 651, 103d Cong., 2d Sess., 63 (1994).

[25] 140 Cong. Rec. S12789 (daily ed. Sept. 13, 1994).

[26] These include providing loan applications, assembling documents, providing a location for returning documents necessary for making a loan, providing loan account information, and receiving payments.

[27] The non-ministerial functions are the decision to extend credit, the extension of credit itself, and the disbursal of the proceeds of the loan.

[28] 140 Cong. Rec. S12789–12790 (daily ed. Sept. 13, 1994).

[29] The non-ministerial functions, according to Senator Roth's discussion of the Conference Report, are factors to be considered in determining which state's law should be applied to a loan. *See* Roth statement, at S12789:

> The rationale for this conference amendment (substituting loan servicing for disbursal of loan proceeds in the agency authority contained in section 101) is that the actual disbursal of proceeds—as distinguished from delivering previously disbursed funds to a customer—is so closely tied to the extension of credit that **it is a factor in determining, in an interstate context, what State's law to apply.** (Emphasis added.)

I agree with the OCC Chief Counsel's analysis on these issues and her observations in Interpretive Letter 822 regarding the significance of an appropriate disclosure to customers that the interest to be charged on the loan is governed by applicable federal law and the law of the relevant state which will govern the transaction.

The Non-Ministerial Functions

The OCC identified three non-ministerial functions for national banks in Interpretive Letter No. 822 based upon the Riegle-Neal Act's legislative history. An inquiry is required to determine the location where each of the non-ministerial functions occur. Briefly stated, the OCC determined that "approval" (i.e., the decision to extend credit) occurs where the person is located who is charged with making the final judgment of approval or denial of credit, and the site of the final approval is the location where it is granted. "Disbursal" means actual physical disbursal of the proceeds of a loan, as opposed to the delivery of previously disbursed funds to the customer. Disbursal can occur in various ways, including delivery to the customer in person or crediting proceeds to the customer's account at a branch, but does not include delivering the funds to an escrow or title agent who, in turn, disburses them to the customer or for the customer's benefit. "Extension of credit" means the site from which the first communication of final approval of the loan occurs.

While the need for such inquiries as to non-ministerial functions may not be initially apparent, I believe that Senator Roth's distinction for purposes of the "disbursal" function between "the actual disbursal of proceeds" and "delivering previously disbursed funds to a customer" is indicative of the type of inquiry Congress intended in order to identify non-ministerial functions which effect where a loan is made for purposes of determining the state law to be applied to a loan. The same definitions should be equally applicable to State banks under section 1831d.

Conclusion

An Interstate State Bank can be "located" for purposes of section 1831d in the state in which it is chartered, as well as the states where the bank's out-of-state branch or branches are located. The Interstate Banking Statutes do not affect the ability of an Interstate State Bank to export interest rates on loans made to out-of-state borrowers from that bank's home state, even if the bank maintains a branch in the state where the borrower resides. If an out-of-state branch or branches of an Interstate State Bank in a single host state performs all the non-ministerial functions (approval of an extension of credit, extension of the credit, and disbursal of loan proceeds to a customer) related to a loan, it "makes" the loan to the customer for purposes of the Interstate Banking Statutes and the loan should be governed by the usury provisions of the host state. If the three non-ministerial functions occur in different states or if some of the non-ministerial functions occur in an office that is not considered to be the home office or branch of the bank, then home state rates may be used. Alternatively, in those situations the interest rates permitted by the host state where a non-ministerial function occurs may be applied, if based on an assessment of all of the facts and circumstances, the loan has a clear nexus to the host state. To avoid uncertainty regarding which state's interest rates apply to a loan Interstate State Banks should make an appropriate disclosure to the customer that the interest to be charged on the loan is governed by applicable federal law and the law of the relevant state which will govern the transaction.

Authorized to be published in the **Federal Register** by Order of the Board of Directors dated at Washington, DC, this 9th day of May, 1998.

Federal Deposit Insurance Corporation,
Robert E. Feldman,
Executive Secretary.
[FR Doc. 98–13084 Filed 5–15–98; 8:45 am]
BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217–011317–003.

Title: PONL/BHP–IMTL Space Charter Agreement.

Parties: P&O Nedlloyd Limited ("PONL") BHP–IMTL.

Synopsis: The proposed Agreement modification (1) substitutes P&O Nedlloyd Limited for its commonly-owned affiliate, P&O Nedlloyd B.V. (formerly named Nedlloyd Lijnen BV) as party to the Agreement; (2) changes the name of the Agreement to reflect the foregoing substitution; (3) deletes U.S. Atlantic and Gulf ports, as well as the ports in New Zealand, Chile, Peru, and Panama from the scope of the Agreement; and (4) makes other non-substantial changes to the Agreement.

Dated: May 12, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.
[FR Doc. 98–13057 Filed 5–15–98; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 12, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Summit Bancorp, Inc., Medway, Massachusetts; to become a bank holding company by acquiring 100

percent of the voting shares of Summit Bank, Medway, Massachusetts.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Florida Banks, Inc., Jacksonville, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Tampa, Tampa, Florida.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Town Bankshares, Ltd., Delafield, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Delafield State Bank, Delafield, Wisconsin (in organization).

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. U.S. Bancorp, Minneapolis, Minnesota; to acquire at least 86.83 percent of the voting shares of Northwest Bancshares, Inc., Vancouver, Washington, and thereby indirectly acquire Northwest National Bank, Vancouver, Washington.

Board of Governors of the Federal Reserve System, May 13, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13129 Filed 5–15–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 2, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Orchard Valley Financial Corporation, Englewood, Colorado; to acquire MegaBank Financial Corporation, Englewood, Colorado; and thereby indirectly acquire MegaBank of Englewood, Colorado, Englewood, Colorado, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 13, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13128 Filed 5–15–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Thursday, May 21, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13236 Filed 5–14–98; 11:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Transaction No.	ET requisition status	Party name
13–APR–98	19981597	G	Premark International, Inc.
		G	Ms. Ilse G. Traulsen.
		G	Traulsen & Co., Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
	19982311	G	Gryphon Holdings Inc.
		G	Castle Harlan Partners II, L.P.
		G	The Reinsurance Company of Hartford.
		G	F/I Insurance Agency, Inc.
		G	First Reinsurance Co. of Hartford.
		G	Oakley Underwriting Agency, Inc.
	19982329	G	BTR Plc (a U.K. company).
		G	Chicago Metallic Corporation.
		G	California Finished Metals, Inc.
	19982347	G	Churchill Downs Incorporated.
		G	Tinkham Veale II.
		G	Racing Corp. of America.
	19982354	G	Aurora Equity Partners, L.P.
		G	3–D Investments, Incorporated.
		G	Label Express, L.L.C.
	19982356	G	Robert F.X. Sillerman.
		G	TBA Entertainment Corporation.
		G	New Avalon, Inc.
		G	TBA Media, Inc.
		G	New Avalon, Irvine Meadows, L.P.
	19982365	G	Health Management Associates, Inc.
		G	Regional Healthcare, Inc.
		G	Regional Healthcare, Inc.
	19982366	G	Sony Corporation.
		G	Thomas L. Griffin.
		G	Sunbow Entertainment, LLC.
	19982381	G	Vacation Properties International.
		G	Andre S. Tatibouet.
		G	Hotel Corporation of the Pacific.
	19982382	G	Andre S. Tatibouet.
		G	Vacation Properties International, Inc.
		G	Vacation Properties International, Inc.
	19982386	G	TEPPCO Partners, L.P.
		G	Duke Energy Corporation.
		G	Duke Energy Field Services, Inc.
	19982387	G	Consolidated Graphics, Inc.
		G	Mark Woodman.
		G	Web Graphics, Inc.
		G	Serco Forms, LLC.
		G	Mercury Web Printing, Inc.
		G	Gilprin, LLC.
		G	Printing, Inc.
	19982388	G	Ivex Packaging Corporation.
		G	Ultra Pac, Inc.
		G	Ultra Pac, Inc.
	19982390	G	Harvest States Cooperatives.
		G	CENEX, Inc.
		G	CENEX, Inc.
	19982392	G	American Lawyer Media Holdings, Inc.
		G	Meridien Venture Partners.
		G	Legal Communications, Inc.
	19982396	G	Budget Group, Inc.
		G	Frederick G. Hilbish.
		G	Paul West Ford, Inc.
	19982399	G	OmniOffices, Inc.
		G	Ron Whitehouse.
		G	HQ Entities.
	19982402	G	The Interpublic Group of Companies, Inc.
		G	The Jack Morton Company.
		G	The Jack Morton Company.
	19982404	G	Ripplewood Partners, L.P.
		G	FS Equity Partners IV, L.P.
		G	Advance Holding Corporation.
	19982406	G	Saputo Group Inc.
		G	Avonmore Waterford Co-operative Society Limited.
		G	Waterford Food Products, Inc. & Avonmore Cheese, Inc.
	19982407	G	The Chase Manhattan Corporation.
		G	Vestar/LPT Limited Partnership.
		G	Vestar/APT Investment Corp.
	19982410	G	New England Electric System.
		G	PAL Energy Corporation.

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TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
		G	PAL Energy Corporation.
	19982420	G	Bruckmann, Rosser, Sherill & Co., L.P.
		G	Charles E. Hasty.
		G	CH Industries, Inc.
	19982424	G	OCM Principal Opportunities Fund, L.P.
		G	Berwind Group Partners.
		G	Berwind Railway Service Company, L.P.
	19982425	G	Metals USA, Inc.
		G	Kenneth J. Riskind.
		G	Fullerton Metals Company.
	19982430	G	Packaged Ice, Inc.
		G	Suiza Foods Corporation.
		G	Reddy Ice Corporation.
	19982431	G	Community Newspaper Holdings, Inc.
		G	Media General, Inc.
		G	Medica General Newspapers, Inc.
	19982434	G	Schuff Steel Company.
		G	E. Chris Addison.
		G	Addison Structural Services, Inc.
	19982435	Y	CVC European Equity Partners, L.P.
		Y	BTR plc.
		Y	BTR plc.
	19982440	G	Phycor, Inc.
		G	Dr. Prem Reddy.
		G	PrimeCare International, Inc.
	19982442	G	TI Group plc.
		G	James L. Hutchings.
		G	Hutchings International Enterprises, Inc.
		G	S & H Fabricating and Engineering, Inc.
	19982445	G	PRIMEDIA, Inc.
		G	Hollinger, Inc.
		G	Southam Business Communications U.S.A. Inc.
	19982447	G	Pursell Industries, Inc.
		G	IMC Golbal, Inc.
		G	IMC Vigoro.
	19982454	G	Michael C. Slade.
		G	NBTY, Inc.
		G	NBTY, Inc.
	19982455	G	NBTY, Inc.
		G	Michael C. Slade.
		G	Nutrition Headquarters, Inc., Lee Nutrition, Inc., Nutro Labor.
14–APR–98	19982183	G	Buford Group, Inc.
		G	Tele-Communications, Inc.
		G	TCI Cablevision of Texas.
	19982339	G	Aetna Inc.
		G	New York Life Insurance Company.
		G	NYLCare Health Plans, Inc.
	19982343	G	GAP Coinvestment Partners, L.P.
		G	Baan Company N.V.
		G	Baan Company N.V.
	19982351	G	Conseco, Inc.
		G	General Acceptance Corporation.
		G	General Acceptance Corporation.
	19982362	G	The First American Financial Corporation.
		G	Data Tree Corporation.
		G	Data Tree Corporation.
	19982368	G	Duke Energy Corporation.
		G	Wing Corporation.
		G	Sola Corporation.
		G	Mesa Pipe Line Company.
	19982385	G	AMADEUS Global Travel Distribution S.A.
		G	AMADEUS Global Travel Distribution, S.A.
		G	AMADEUS System One, L.L.C.
	19982389	G	Thomas H. Stoner.
		G	American Radio Systems Corporation.
		G	American Tower Systems Corporation.
	19982412	G	CIBER, Inc.
		G	The Summit Group, Inc., shareholders.
		G	The Summit Group, Inc., shareholders.
	19982432	G	Lernout & Hauspie Speech Products N.V. Inso Corporation.
		G	Inso Florida Corporation.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
		G	Inso Dallas Corporation.
	19982437	G	First Data Corporation.
		G	First Data Corporation.
		G	First Data Merchant Services Corporation.
	19982449	G	The Prudential Insurance Company of America.
		G	William B. Synder.
		G	Merastar Corporation.
	19982458	G	Level 3 Communications, Inc.
		G	XCOM Technologies, Inc.
		G	XCOM Technologies, Inc.
15–APR–98	19982077	G	Siebel Systems, Inc.
		G	Scopus Technology, Inc.
		G	Scopus Technology, Inc.
	19982393	G	BASF Aktiengesellschaft.
		G	Micro Flo Co.
		G	Micro Flo Co.
	19982398	G	Hicks, Muse, Tate & Furst Equity Fund, III, L.P.
		G	AT&T Corp.
		G	LIN Broadcasting Corporation.
		G	LCH Communications, Inc.
		G	LIN Michigan Broadcasting Corporation.
	19982441	G	Aurora Equity Partners L.P.
		G	G&K Services, Inc.
		G	G&K Services Linen Co.
		G	G&K Services Co.
	19982470	G	Metals USA, Inc.
		G	146670 Canada, Inc.
		G	Ideal Metal Inc.
	19982473	G	Dorel Industries, Inc. (a Canadian Company).
		G	Ameriwood Industries International Corporation.
		G	Ameriwood Industries International Corporation.
16–APR–98	19982224	G	Republic Industries, Inc.
		G	Lewis and Margaret Webb.
		G	Webb Automotive Group, Inc.
	19982225	G	Lewis and Margaret Webb.
		G	Republic Industries, Inc.
		G	Republic Industries, Inc.
	19982247	G	Lyondell Petrochemical Company.
		G	Occidental Petroleum Corporation.
		G	Oxy Petrochemicals Inc., PDG Chemical Inc.
	19982285	G	OM Group, Inc.
		G	Dow Chemical Company (The).
		G	Dow Chemical Company (The).
	19982314	Y	Southdown, Inc.
		Y	Medusa Corporation.
		Y	Medusa Corporation.
	19982395	G	Budget Group, Inc.
		G	J. Paul West.
		G	Paul West Ford, Inc.
	19982400	G	Sea Containers Ltd.
		G	GE SeaCo SRL.
		G	GE SeaCo SRL.
17–APR–98	19982397	G	Premiere Technologies, Inc.
		G	American Teleconferencing Services, Ltd.
		G	American Teleconferencing Services, Ltd.
20–APR–98	19982178	G	Mitsui & Co., Ltd. (a Japanese corporation).
		G	Brightpoint, Inc.
		G	Brightpoint, Inc.
	19982305	G	United Rentals, Inc.
		G	Robert W. Jones and LaVina R. Jones.
		G	Valley Rentals, Inc.
	19982384	G	Mac-Gray Corporation.
		G	Gerald E. Pulver.
		G	Amerivend Corporation.
		G	Amerivend Southeast Corporation.
	19982391	G	Arrow Electronics, Inc.
		G	SBM Holdings, Inc.
		G	SBM Holdings.
	19982403	G	Dover Downs Entertainment, Inc.
		G	Grand Prix Association of Long Beach, Inc.
		G	Grand Prix Association of Long Beach, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
	19982418	G	Platinum Technology, Inc.
		G	Logic Works, Inc.
		G	Logic Works, Inc.
	19982457	G	Coopers & Lybrand, L.L.P.
		G	Shattuck Hammond Partners Inc.
		G	Shattuck Hammond Partners Inc.
	19982459	G	DENTSPLY International, Inc.
		G	Leo A. and Gerlinde R. Dohn.
		G	GAC International, Inc.
	19982462	G	The Chase Manhattan Corporation.
		G	Rhone-Poulenc S.A.
		G	Rhodia Inc.
		G	Rhodia Canada Inc.
	19982471	G	Nippon Telegraph and Telephone Corporation.
		G	Verio Inc.
		G	Verio Inc.
	19982519	Y	Robert I. Goldman.
		Y	CoreStates Financial Corp.
		Y	CoreStates Financial Corp.
21-APR-98	19982466	G	Lowell W. Paxson.
		G	Christian Communications of Chicagoland, Inc.
		G	Christian Communications of Chicagoland, Inc.
	19982469	G	The Walt Disney Company.
		G	William D. Cayton.
		G	The Big Fights, Inc.
	19982475	G	Christian Communications of Chicagoland, Inc.
		G	Lowell W. Paxson.
		G	Cocola Media Corporation of San Francisco.
	19982476	G	Apollo Investment Fund III, L.P.
		G	MTL Inc.
		G	MTL Inc.
	19982477	G	Time Warner Inc.
		G	Glen King Parker.
		G	The Institute for Econometric Research, Inc.
		G	Mutual Funds Magazine Advertising Sales, Inc.
	19982479	G	Cash America International, Inc.
		G	Doc Holliday's Pawnbrokers & Jewellers, Inc.
		G	Doc Holliday's Pawnbrokers & Jewellers, Inc.
	19982483	G	AMVESCAP PLC.
		G	Liechenstein Global Trust, AG.
		G	LGT Holding Luxembourg.
		G	LGT PLC, LGT Bank of Liechenstein.
		G	LGT Verwaltungs Gmbh.
		G	Liechenstein Global Trust, AG.
	19982484	G	Pottatch Corporation.
		G	Anderson-Tully Veneers, L.P.
		G	Biomass Partners, L.P. ("BP").
		G	Anderson-Tully Management Services LLC ("AT LLC").
		G	Anderson-Tully Lumber Company ("AT Lumber").
		G	Anderson-Tully Lumber Company ("AT Lumber").
		G	Biomass Management Corporation ("BMC").
	19982485	G	NCO Group, Inc.
		G	FCA International Ltd.
		G	FCA International Ltd.
	19982486	G	Fortis AG S.A.
		G	John Alden Financial Corporation.
		G	John Alden Financial Corporation.
	19982487	G	Fortis AMEV N.V.
		G	John Alden Financial Corporation.
		G	John Alden Financial Corporation.
	19982489	G	Consolidated Capital Corporation.
		G	BCP Partners, LLC.
		G	United Service Solutions, Inc.
	19982490	G	Honeywell Inc.
		G	CBS Corporation.
		G	Westinghouse Security Electronics, Inc.
	19982491	G	Cumulus Media LLC.
		G	John M. Borders.
		G	Louisiana Media Interest, Inc.
	19982493	G	Steven J. Lund.
		G	Nu Skin Asia Pacific, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
		G	Nu Skin Asia Pacific, Inc.
	19982494	G	Brooke B. Roney
		G	Nu Skin Asia Pacific, Inc.
		G	Nu Skin Asia Pacific, Inc.
	19982495	G	Blake M. Roney
		G	Nu Skin Asia Pacific, Inc.
		G	Nu Skin Asia Pacific, Inc.
	19982496	G	Sandie N. Tillotson.
		G	Nu Skin Asia Pacific, Inc.
		G	Nu Skin Asia Pacific, Inc.
	19982497	G	The Atlantic Foundation.
		G	Baan Company N.V.
		G	Baan Company N.V.
	19982498	G	The Faith Family B Partnership. Ltd.
		G	International Proteins Holding Corp.
		G	International Proteins Holding Corp.
	19982501	G	Bureau Veritas S.A.
		G	Angelo M. Fatta.
		G	ACTS Testing Labs, Inc.
	19982502	G	Metal Management, Inc.
		G	Paul I. and Rena Haveson, (husband and wife).
		G	R&P Holdings, Inc.
	19982503	G	Warburg Pincus Ventures LP.
	19982503	G	Suzanne Sheuerman.
		G	ExTerra Credit Recovery, Inc.
	19982505	G	FS Equity Partners III, L.P.
		G	Davis M Rembert, Jr.
		G	United Fuels Corporation.
	19982509	G	BCE Inc.
		G	interWave Communications International Ltd.
		G	interWave Communications International Ltd.
	19982511	G	Masco Corporation.
		G	General Accessory Manufacturing Company.
		G	General Accessory Manufacturing Company.
	19982516	G	Big Flower Holdings, Inc.
		G	John J. Reilly.
		G	Enteron Group, Inc., an Illinois corporation.
	19982520	G	BSI Holdings, Inc.
		G	David N. Hill.
		G	Ameralum, Inc.
	19982522	G	David L. Turock.
		G	Howard Jonas.
		G	IDT Corporation.
	19982523	G	Howard S. Jonas.
		G	David Turock.
		G	InterExchange, Inc.
	19982525	G	DLJ Merchant Banking Partners II, L.P.
		G	Ronald Hughes.
		G	H&S Graphics, Inc. and Preface, Inc.
	19982528	G	Aurora Equity Partners L.P.
		G	Richard Luneburg.
		G	FDR Services Corp.
	19982529	G	Aurora Equity Partners L.P.
		G	Donald Luneburg.
		G	FDR Services Corp.
	19982530	G	Triax Midwest Associates, L.P.
		G	Jonas Spacelink Income/Growth Fund 1–A, Ltd.
		G	Jonas Spacelink Income/Growth Fund 1–A, Ltd.
	19982532	G	Media/Communications Partners III Limited Partners.
		G	Bloomington Broadcasting Corporation.
	19982532	G	Bloomington Broadcasting Acquisition Corporation.
	19982537	G	Viad Corp.
		G	MoneyGram Payment Systems, Inc.
		G	MoneyGram Payment Systems, Inc.
	19982540	G	Applied Power Inc.
		G	Ridgway and Cynthia Leedom.
		G	Product Technology, Inc.
	19982543	G	Ralcorp Holdings, Inc.
		G	Capital Partners (A Limited Partnership).
		G	Flavor Holdings, Inc.
	19982547	G	Sylvan Learning Systems, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
		G	Aspect International Language Schools, B.V.
		G	Aspect International Language Schools, B.V.
22-APR-98	19982264	G	Budget Group, Inc.
		G	Questor Partners Funds, LP.
		G	Ryder TRS, Inc.
	19982265	G	Questor Partners Fund, L.P.
		G	Budget Group, Inc.
		G	Budget Group, Inc.
	19982413	G	Hollywood Park, Inc.
		G	Casino Magic Corp.
		G	Casino Magic Corp.
	19982419	G	Newell Company.
		G	Sara Jane Kasperzak.
		G	Calphalon Corporation.
	19982467	G	Gerald W. Schwartz.
		G	Trident Automotive plc.
		G	Trident Automotive plc.
	19982492	G	Keith R. Halls.
		G	Nu Skin Asia Pacific, Inc.
		G	Nu Skin Asia Pacific, Inc.
	19982512	G	FirtEnergy Corp.
		G	William C. McAllister.
		G	Colonial Mechanical Corporation.
	19982517	G	United HealthCare Corporation.
		G	Healtheon Corporation.
		G	Healtheon Corporation.
	19982518	G	SmithKline Beecham plc.
		G	Healtheon Corporation.
		G	Healtheon Corporation.
	19982527	G	Continuum Health Partners, Inc.
		G	The LICH Corporation.
		G	The Long Island College Hospital.
	19982539	G	The General Electric Company, p.l.c.
		G	Alcatel Alsthom.
		G	Cegelec ESCA Corporation.
		G	Cegelec Automation, Inc.
		G	Cegelec AEG Automation Systems Corporation.
	19982541	G	AirNet Systems, Inc.
		G	Robert Mitzman.
		G	Q International Courier, Inc.
	19982542	G	Robert Mitzman.
		G	AirNet Systems, Inc.
		G	AirNet Systems, Inc.
24-APR-98	19973608	G	Hicks, Muse, Tate & Furst Equity Fund III, L.P.
		G	Robert F.X. Sillerman.
		G	SFX Broadcasting, Inc.
	19980158	G	Sony Corporation.
		G	Cineplex Odeon Corporation (a Canadian corporation).
		G	Cineplex Odeon Corporation; Plitt Theaters, Inc.
	19980165	Y	The Seagram Company Ltd.
		Y	Sony Corporation (a Japanese corporation).
		Y	LTM Holdings, Inc.
	19982324	G	Synetic, Inc.
		G	Point Plastics, Inc.
		G	Point Plastics, Inc.
	19982325	Y	Mr. Philip Stolp.
		Y	Synetic, Inc.
		Y	Synetic, Inc.
	19982394	G	Mr. Joaquin Viso and Mrs. Olga Lizardi.
		G	Eli Lilly & Company.
		G	Eli Lilly Exports S.A.
	19982401	G	The Chase Manhattan Corporation.
		G	Praecis Pharmaceuticals Incorporated.
		G	Praecis Pharmaceuticals Incorporated.
	19982411	G	General Electric Company.
		G	GE SeaCo SRL.
		G	GE SeaCo SRL.
	19982414	G	ADE Corporation.
		G	Dr. Christopher Koliopoulos.
		G	Phase Shift Technology, Inc.
	19982415	G	Dr. Christopher Koliopoulos.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET requisition status	Party name
		G	ADE Corporation.
		G	ADE Corporation.
	19982416	G	Grupo Industrial Bimbo, S.A., de C.V.
		G	Mrs. Baird's Bakeries, Inc.
		G	Mrs. Baird's Bakeries, Inc.
	19982422	G	Veeco Instruments Inc.
		G	Virgil Elings.
		G	Digital Instruments, Inc.
	19982423	G	Virgil Elings.
	19982423	G	Veeco Instruments Inc.
		G	Veeco Instruments Inc.
	19982439	G	Tyssen-Bornemisza Continuity Trust.
		G	COMSAT Corporation.
		G	COMSAT RSI, Inc.
	19982446	G	AirTouch Communications, Inc.
		G	Mario J. Gabelli.
		G	Rivgam Communications, L.L.C.
	19982448	G	Glen Raven Mills, Inc.
		G	A. Dewarvin Fils & Cie S.A.
		G	Dickson S.A.
	19982513	G	France Telecom.
		G	Robert Behar.
		G	Hero Productions, Inc., Hero Satellite Services, Inc.
	19982514	G	France Telecom.
		G	Alejandro Sawicki.
		G	Hero Productions, Inc., Hero Satellite Services, Inc.
	19982515	G	Canadian Fracmaster Ltd.
		G	John R. Stanley.
		G	TransTexas Gas Corporation.
	19982533	G	Aspect Telecommunications Corporation.
		G	EG&G Venture Partners.
		G	Voicetek Corporation.
	19982534	G	Illinova Generating Company.
		G	Northeast Utilities.
		G	COE Tejona Corporation.
	19982544	G	Leandro P. Rizzuto.
		G	CTS Corporation.
		G	Dynamics Corporation of America.
		G	Waring Products Division.
	19982548	G	Code Hennessy & Simmons III L.P.
		G	AmeriTruck Distribution Corp.
		G	Thompson Bros., Inc.
	19982549	G	Stratos Global Corporation.
		G	ICG Communications, Inc.
		G	Maritime Telecommunications Network, Inc./Maritime Cellular.
	19982552	G	Vestar Capital Partners III. L.P.
		G	Maurice Bidermann.
		G	Bidermann Industries, U.S.A., Inc.
	19982554	G	MidAmerican Energy Holdings Company.
		G	American Mutual Holding Company.
		G	AmerUS Home Services, Inc.
	19982556	G	U.S. Liquids Inc.
		G	USA Waste Services, Inc.
		G	City Environmental, Inc.
		G	Northern A–1 Environmental.
		G	City Environmental Services of Florida, Inc.
	19982603	G	Helix Technology Corporation.
		G	Granville-Phillips Company.
		G	Granville-Phillips Company.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or
Parcellena P. Fielding, Contact Representatives
Federal Trade Commission, Premerger Notification Office, Bureau of Competition Room 303 Washington, D.C. 20580 (202) 326–3100.

By Direction of the Commission.
Donald S. Clark,
Secretary.
[FR Doc. 98–13086 Filed 5–15–98; 8:45 am]
BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 952–3235]

Bogdana Corporation, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 17, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S–4002, Washington, D.C. 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 12, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bogdana Corporation; and Joseph L. Gruber and Bogda Gruber, Individually and as officers of Bogdana Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for two dietary supplements: Cholestaway, capsules or wafers purported to lower serum cholesterol; and Flora Source, a powdered supplement purported to replace natural intestinal flora, thereby boosting the immune system and providing other health benefits. Advertisements for the products included 30-minute television infomercials, 30-minute radio infomercials, 60-second television commercials, and catalogs.

According to the FTC complaint, by using the trade name "Cholestaway," and through the advertisements, the respondents made claims that Cholestaway: significantly lowers serum cholesterol levels; significantly lowers serum cholesterol levels without changes in diet; significantly lowers serum cholesterol levels and causes significant weight loss even if users eat foods high in fat, including fried chicken and pizza; substantially reduces or eliminates the body's absorption of dietary fat; lowers low density lipoprotein cholesterol and improves the high density lipoprotein cholesterol to low density lipoprotein cholesterol ratio; is effective in the treatment of hardening of the arteries and heart disease; causes significant weight loss; causes significant weight loss without changes in diet; significantly reduces blood triglyceride levels; significantly reduces elevated blood pressure; and is scientifically proven to lower serum cholesterol levels and reduce elevated blood pressure significantly; and that testimonials from consumers appearing in the advertisements for cholestaway reflect the typical or ordinary experience of members of the public who use the product. The complaint alleges that the respondents did not have a reasonable basis for any of these representations at the time they were made.

The complaint also alleges that the respondents misrepresented radio infomercials for Cholestaway to be independent radio programs rather than commercial messages.

The complaint further alleges that the respondents made claims, without a reasonable basis, that Flora Source: replaces the natural intestinal flora that are lost due to illness, prescription drugs or antibiotics, thereby reducing the risk of developing illnesses such as chronic fatigue syndrome (Epstein-Barr syndrome) and other immunosuppression diseases, including AIDS: improves the body's absorption of nutrients, including B vitamins; enhances the body's immune response and is effective in the treatment of immunosuppression diseases, including AIDS; prevents weight gain; and is effective in the prevention or treatment of anorexia and gastrointestinal disorders and symptoms, including food sensitivities, constipation, diarrhea, dyspepsia, abdominal pain, bloating and gas.

The consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the order prohibits the respondents from making the representations about Cholestaway challenged in the complaint, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation. Part II of the order contains similar provisions with regard to the challenged representations about Flora Source.

Part III prohibits respondents from making any representation about the efficacy, performance, safety or benefits of any food, dietary supplement or drug unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part IV prohibits the respondents from using the name "Cholestaway" or any other name that represents that the product will lower serum cholesterol levels unless they have substantiation.

Part V prohibits the respondents from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

Part VI prohibits the respondents from representing that the experience represented by a user testimonial or endorsement of the product is the typical or ordinary experience of users of the product unless the representation is substantiated or they disclose what the generally expected results would be or that consumers should not expect the same results.

Part VII prohibits the respondents from disseminating any advertisement that misrepresents that it is not a paid advertisement, and requires disclosures, during television ads fifteen minutes in length or longer and radio ads five minutes or longer, that the program is a paid advertisement.

Part VIII allows the respondents to make representations for any drug that are permitted in labeling for that drug

under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part IX allows the respondents to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts X through XII and XIV require the respondents to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including materials that they relied upon when making the representations; to provide copies of the order to certain of the corporate respondents' personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission. Part XV provides that the order will terminate after twenty (20) years under certain circumstances.

Part XIII requires that the Grubers notify the Commission of any change in their business or employment.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–13140 Filed 5–15–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 971–0039]

Fastline Publication, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 17, 1998.

ADDRESSES: Comments should be directed to: FTC/Office or the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington DC 20580.

FOR FURTHER INFORMATION CONTACT: Willian Baer or Willard Tom, FTC/H–375, Washington, D.C. 20580. (202) 326–2932 or 326–2786.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 11, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Fastline Publications, Inc. ("Fastline") and Mid-America Equipment Retailers Association ("Mid-America"). The agreement would settle allegations that Fastline and Mid-America violated Section 5 of the Federal Trade Commission Act by agreeing not to advertise or publish prices for new farm equipment in the *Fastline Kentucky Farm Edition.*

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The purpose of this analysis is to facilitate public comment on the proposed consent order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms. Further, the proposed consent order has been entered into for settlement purposes only, and does not constitute an admission by Fastline or Mid-America that the law has been violated as alleged in the complaint.

The Complaint

Fastline publishes, among other things, picture buying guides for new and used farm equipment, which are mailed free to farmers and ranchers in over 40 states. Farm equipment advertised in Fastline's buying guides ranges from relatively inexpensive lawn mowers to heavy duty farm equipment such as tractors, plows, planters, cotton pickers, and combines costing tens of thousands of dollars. Fastline's principal source of revenue is the farm equipment dealers who advertise in its buying guides. Fastline currently publishes 20 monthly editions of its farm equipment buying guides, serving 41 states. Farm equipment dealers view the *Fastline Kentucky Farm Edition* as a key vehicle for advertising to farmers located in Kentucky.

Mid-America is a trade association for farm equipment dealers. It was formed in 1992 through the merger of the Indiana Implement Dealers Association, Inc., and the Kentucky Farm and Power Equipment Retailers Association (the "Kentucky Retailers Association"). About 90 percent of the farm equipment dealers in Kentucky and Indiana are members of Mid-America.

In early 1991, several Kentucky farm equipment dealers complained to Fastline about dealers advertising prices, including discount prices, for new farm equipment in the *Fastline Kentucky Farm Edition.* The price advertisements were, among other things, facilitating downward pressure on prices for new farm equipment. In protest, several dealers withheld their advertising from the *Fastline Kentucky Farm Edition* until Fastline agreed not to publish advertisements that included prices for new farm equipment.

Price advertisements for new farm equipment began to reappear in the *Fastline Kentucky Farm Edition* by the end of 1991. In early 1992, Fastline was invited to the annual meeting of the Kentucky Retailers Association, during which several of its members expressed their dislike for price advertising and threatened to withdraw or otherwise cancel their advertisements in the *Fastline Kentucky Farm Edition* if Fastline continued to publish advertisements that included prices for new equipment. Fastline, threatened with the loss of substantial advertising

revenue, acquiesced and stopped accepting advertisements that included prices for new equipment. Following the merger of the Kentucky and Indiana trade associations, Mid-America sought and obtained Fastline's reaffirmation of the agreement not to publish prices for new equipment in the *Fastline Kentucky Farm Edition*.

These agreements have injured consumers by: (1) reducing price competition among farm equipment dealers for new farm equipment; (2) depriving consumers of truthful and nondeceptive price information; and (3) depriving consumers of the benefits of competition.

The Proposed Consent Order

Fastline and Mid-America have signed a consent agreement containing a proposed order. Part II of the proposed order would enjoin Mid-America from impeding the advertising of prices or other terms of sale for farm equipment or parts. Additionally, Mid-America would be enjoined from participating in or assisting in any boycott regarding the advertising or prices or other terms of sale for farm equipment or parts.

Part III of the proposed order would enjoin Fastline from agreeing to prohibit or restrict the advertising or prices or other terms of sale for farm equipment or parts. Notwithstanding this provision, however, the proposed order would not prevent Fastline from adopting and enforcing reasonable guidelines with respect to advertisements that Fastline reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

Part IV of the proposed order would require Mid-America to amend its by-laws to incorporate by reference Paragraph II of the order, and distribute a copy of the amended by-laws to each of its members. In addition, the proposed order would require Mid-America to distribute copies of the proposed order and accompanying complaint to: (a) Persons whose activities are affected by the order; or who have responsibilities with respect to the subject matter of the order, and (b) each of its members.

Part V of the proposed order would require Fastline to distribute copies of the order and accompanying complaint to persons whose activities are affected by the order, or who have responsibilities with respect to the subject matter of the order. In addition, the proposed order would require Fastline to publish annually for each of the next five years in each edition of its farm equipment buying guides a copy of the NOTICE attached to the order.

Parts VI, VII, and VIII of the proposed order impose certain reporting requirements in order to assist the Commission in monitoring compliance with the order.

The proposed consent order would terminate twenty (20) years after the date it is issued.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–13141 Filed 5–15–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 952–3235]

Western Direct Marketing Group, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violation of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 17, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW. Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S–4002, Washington, DC 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 12, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Western Direct Marketing Group ("WDMG") and Western Intentional Media Corporation ("WIMC").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdrawn from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for Cholestaway, a dietary supplement marketed by Bodgana Corporation, purported to lower serum cholesterol. Advertisements for the product included 30-minute television infomercials.

WDMG is the successor corporation to Television Marketing Group, the advertising agency for the Cholestaway television infomercials. MIMC is WDMG's corporate parent.

According to the FTC complaint, through the infomercials, the respondent made claims that Cholestaway: significantly lowers serum cholesterol levels; significantly lowers serum cholesterol levels without changes in diet; significantly lowers serum cholesterol levels and causes significantly weight loss even if users eat foods high in fat, including fried chicken and pizza; substantially reduces or eliminates the body's absorption of dietary fat; lowers low density lipoprotein cholesterol and improves the high density lipoprotein cholesterol to low density lipoprotein cholesterol ratio; is effective in the treatment of hardening of the arteries and heart diseases; causes significant weight loss; causes significant weight loss without changes in diet; significantly reduces blood triglyceride levels; significantly reduces elevated blood pressure; and is scientifically proven to lower serum cholesterol levels and reduce elevated blood pressure significantly; and that

testimonials from consumers appearing in the advertisements for Cholestaway reflect the typical or ordinary experience of members of the public who use the product. The complaint alleges that the respondents did not have a reasonable basis for any of these representations at the time they were made.

The consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the order prohibits the respondents from making the representations challenged in the complaint, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part II prohibits respondents from making any representations about the efficacy, performance, safety or benefits of any food, dietary supplement of drug unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Part III prohibits the respondents from mispresenting the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

Part IV prohibits the respondents from representing that the experience represented by a user testimonial or endorsement of the product is the typical or ordinary experience of users of the product unless the representation is substantiated or they disclose what the generally expected results would be or that consumers should not be expect the same results.

Part V allows the respondents to make respondentations for any drug that are permitted in labeling for that drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part VI allows the respondents to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts VII through X require the respondents to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including materials that they relied upon making the representations; to provide copies of the order to certain of the respondents' personnel; to notify the Commission of changes in corporate structure; and to file complaint reports with the Commission. Part XI provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and its is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–13142 Filed 5–15–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Financial Status Reporting Form (SF–269) with Supplemental Form (ADD–02) for Developmental Disabilities Council Program.

OMB No.: 0980–0212.

Description: Developmental Disabilities Council Program funds are awarded contingent on fiscal requirements in Part B of the Developmental Disabilities Assistance and Bill of Rights Act. The SF–269, mandated in the revised OMB Circular A–102, provides no breakouts necessary for proper stewardship. The proposed alternative would breakout the necessary information, but would do so in a consolidated manner that makes reporting easier. It will allow proactive compliance monitoring by the Government to catch problems early.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of respondents per respondent	Average burden hours per response	Total burden hours
ADD–02	55	2	90	990

Estimated Total Annual Burden Hours: 990

In Compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 13, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–13111 Filed 5–15–98; 8:45 am]

BILLING CODE 4104–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Voluntary Surveys of Program Partners to Implement Executive Order

12862 in the Administration for Children and Families.

OMB No. 0980–0266.

Description: Under the provisions of the Federal Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Administration for Children and Families (ACF) is requesting clearance for instruments to implement Executive Order 12862 within the ACF. The purpose of the data collection is to obtain customer satisfaction information from those entities who are funded to be our partners in the delivery of services to the American public. ACF partners are those entities that receive funding to deliver services or assistance from ACF programs. Examples of partners are States and local governments, territories, service providers, Indian Tribes and Tribal organizations, grantees, researchers, or other intermediaries serving target populations identified by and funded directly or indirectly by ACF. The surveys will obtain information about how well ACF is meeting the needs or our partners in operating the ACF programs.

Respondents: State, Local, Tribal Govt. or Not-for-Profit Institutions

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Governments	51	10	1	510
Head Start grantees & Delegates	200	1	.5	100
Other Discretionary Grant Programs	200	10	.5	1,000
Indian Tribes & tribal Organizations	25	10	.5	50
Estimated Total Annual Burden Hours: 1,660				

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment in the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the qualify, utility, and clarify of the information to be collected; and (d) ways to minimize the burden of the collection on information on respondents, including through the use of automated collection techniques or other forms on information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 13, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–13112 Filed 5–15–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0513]

Agency Information Collection Activities; Orphan Drugs: Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by June 17, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Orphan Drugs—21 CFR Part 316—(OMB No. 0910–0167—Reinstatement)

Sections 525 through 528 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360aa through 360dd), give FDA statutory authority to: (1) Provide recommendations on investigations required for approval of marketing applications for orphan drugs; (2) designate eligible drugs as orphan drugs; (3) set forth conditions under which a sponsor of an approved orphan drug obtains exclusive approval; and (4) encourage sponsors to make orphan drugs available for treatment on an "open protocol" basis before the drug has been approved for general marketing. The implementing regulations for these statutory requirements have been codified under part 316 (21 CFR part 316) and specify procedures that sponsors of orphan drugs use in availing themselves of the incentives provided for orphan drugs in the act and set forth procedures FDA will use in administering the act with regard to orphan drugs. Section 316.10 specifies the content and format of a request for written recommendations concerning the nonclinical laboratory studies and clinical investigations necessary for approval of marketing applications. Section 316.12 provides that, before providing such recommendations, FDA may require results of studies to be submitted for review. Section 316.14 contains provisions permitting FDA to refuse to provide written recommendations under certain circumstances. Within 90 days of any refusal, a sponsor may submit additional information specified by FDA. Section 316.20 specifies the content and format of an orphan drug

application which includes requirements that an applicant document that the disease is rare (affects fewer than 200,000 persons in the United States annually) or that the sponsor of the drug has no reasonable expectation of recovering costs of research and development of the drug. Section 316.26 allows an applicant to amend the application under certain circumstances. Section 316.30 requires submission of annual reports, including progress reports on studies, a description of the investigational plan, and a discussion of changes that may affect orphan status. The information requested will provide the basis for an FDA determination that the drug is for a rare disease or condition and satisfies the requirements for obtaining ophan drug status. Secondly, the information will describe the medical and regulatory history of the drug. The respondents to this collection of information are biotechnology firms, drug companies, and academic clinical researchers. FDA estimates the burden of this collection of information as follows:

TABLE 1.—Estimated Annual Reporting Burden[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
316.10, 316.12, and 316.14	0	0	0	0	0
316.20, 316.21, and 316.26	90	1.78	160.20	125	20,025
316.22	5	1	5	2	10
316.27	5	1	5	4	20
316.30	450	1	450	2	900
316.36	.2	3	.6	15	9
Total Burden Hours	.....	.....	.....	.....	20,964

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The information requested from respondents represents, for the most part, an accounting of information already in possession of the applicant. It is estimated, based on the frequency of requests over the past 5 years, that 90 persons or organizations per year will request orphan drug designation and that no requests for recommendations on design of preclinical or clinical studies will be received. Based upon FDA experience over the last decade, FDA estimates that the effort required to prepare applications to receive consideration for sections 525 and 526 of the act (§§ 316.10, 316.12, 316.20, and 316.21) is generally similar and is estimated to require an average of 95 hours of professional staff time and 30 hours of support staff time per application. Estimates of annual activity and burden for foreign sponsor nomination of a resident, agent, change in ownership or designation, and inadequate supplies of drug in exclusivity, are based on total experience by FDA with such requests since 1983.

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13042 Filed 5–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0286]

Environmental Assessments and Findings of No Significant Impact

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has reviewed environmental assessments (EA's) and issued findings of no significant impact (FONSI's) relating to the 167 new drug applications (NDA's) and supplemental applications listed in this document. FDA is publishing this notice because Federal regulations require public notice of the availability of environmental documents.

ADDRESSES: The EA's and FONSI's may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, or a copy may be requested by writing the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy B. Sager, Center for Drug Evaluation and Research (HFD–357), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5629.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act of 1969 (NEPA), Congress declared that it will be the continuing policy of the Federal Government to "use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans." (See 42 U.S.C. 4331(a).) NEPA requires all Federal agencies to include in every proposal for major Federal actions significantly affecting the quality of the human environment, a detailed statement assessing the environmental impact of, and alternatives to, the proposed action and to make available to the public such statements. (See 42 U.S.C. 4332, 40 CFR 1506.6, and 21 CFR 25.51(b).)

FDA implements NEPA through its regulations in part 25 (21 CFR part 25). Under those regulations, actions to approve NDA's, abbreviated new drug applications (ANDA's), and supplements to existing approvals ordinarily require the preparation of an EA. (See § 25.20(l).)

FDA approved 167 NDA's and supplemental NDA's and ANDA's for the products listed in the following table:

Drug	Application Number
Klonopin (clonazepam) Tablets	17–533/S–023
Ativan (lorazepam) Injection	18–140/S–003
Rythmol (propafenone hydrochloride) Tablets	19–151/S–002
Novantrone (mitoxantrone hydrochloride) for Injection	19–297/S–014
Actigall (ursodiol) Capsules	19–594/S–016
Humatrope (somatropin) for Injection	19–640/S–013 and S–018
Asacol (mesalamine) Tablets	19–651/S–005
Tilade (nedocromil sodium) Inhalation Aerosol	19–660/S–015
Zoladex (goserelin acetate) Implant	19–726/S–018
Prilosec (omeprazole) Capsules	19–810/S–036
Soriatane (acitretin) Capsules	19–821
Zoloft (sertraline hydrochloride) Tablets	19–839/S–002 and S–011
Corlopam (fenoldopam mesylate) for Injection	19–922
Zofran (ondansetron hydrochloride) Tablets	20–103/S–005
Astelin (azelastine hydrochloride) Nasal Spray	20–114
Migranal (dihydroergotamine mesylate) Nasal Spray	20–148
Lovenox (enoxaparin sodium) Injection	20–164/S–008
Nicoderm (nicotine) Transdermal	20–165/S–011
Imdur (isosorbide mononitrate) Tablets	20–225
Normiflo (ardeparin sodium) Injection	20–227
Tegretol-XR (carbamazepine) Tablets	20–234
Lescol (fluvastatin sodium) Capsules	20–261/S–012
Junior Strength Advil (ibuprofen) Tablets	20–267
Genotropin (somatropin) for Injection	20–280/S–008
Coreg (carvedilol) Tablets	20–297/S–001
Kytril (granisetron hydrochloride) Tablets	20–305
Nizoral A–D (ketoconazole) Shampoo	20–310
Agrelin (anagrelide hydrochloride) Capsules	20–333
Famvir (famciclovir) Tablets	20–363/S–012
Niaspan (niacin) Tablets	20–381
Zanaflex (tizanidine hydrochloride) Tablets	20–397
Zofran (ondansetron hydrochloride) Injection	20–403
Avita (tretinoin) Cream	20–404
Lanoxin (digoxin) Tablets	20–405
Prevacid (lansoprazole) Capsules	20–406/S–010 and S–011
Gastromark (ferumoxsil) Suspension	20–410
Genesa (arbutamine hydrochloride) Injection	20–420
Orgaran (danaparoid sodium) Injection	20–430
Pulmicort (budenoside) for Inhalation	20–441
Imodium A–D (loperamide hydrochloride) Tablets	20–448
Pandel (hydrocortisone buteprate) Cream	20–453
Galzin (zinc acetate) Capsules	20–458
Nasalcrom (cromolyn sodium) Nasal Spray	20–463
Nasacort AQ (triamcinolone acetonide) Nasal Spray	20–468/S–002
Zyflo (zileuton) Tablets	20–471
Retin–A Micro (tretinoin) Gel	20–475
Vanceril (beclomethasone dipropionate) Inhalation Aerosol	20–486
Alphagen (brimonidine tartrate) Solution	20–490
Fareston (toremifene citrate) Tablets	20–497
Transderm Scop (scopolamine) Transdermal	20–501
Hydrochlorothiazide Capsules	20–504
Topamax (topiramate) Tablets	20–505
Aphthasol (amlexanox) Paste	20–511
Lupron Depot (leuprolide acetate) for Injection	20–517/S–002
Retrovir (zidovudine) Tablets	20–518
Loprox (ciclopirox) Gel	20–519
Condylox (podofilox) Gel	20–529
Duract (bromfenac sodium) Capsules	20–535
Norplant II (levonorgestrel) Implant	20–544
Flovent (fluticasone propionate) for Inhalation	20–549
Valtrex (valacyclovir hydrochloride) Caplets	20–550/S–003
Fosamax (alendronate sodium) Tablets	20–560/S–003
Quadramet (samarium sm–153 lexidronam pentasodium) for Injection	20–570
Flomax (tamsulosin hydrochloride) Capsules	20–579
Cotazym (pancrelipase) Capsules	20–580
Follistim (follitropin) for Injection	20–582
Depacon (valproate sodium) Injection	20–593
Tazorac (tazarotene) Gel	20–600
Junior Strength Motrin (ibuprofen) Tablets	20–601
Zofran (ondansetron hydrochloride) Solution	20–605
Imodium (loperamide hydrochloride/simethicone) Tablets	20–606
Arthrotec (diclofenac sodium/misoprostol) Tablets	20–607

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Drug	Application Number
Dovonex (calcipotriene) Solution	20–611
Pytest (C–14 urea) Capsules	20–617
Betoptic Pilo (betaxolol hydrochloride/pilocarpine hydrochloride) Suspension	20–619
Copaxone (copolymer–1) for Injection	20–622
Anzemet (dolasetron mesylate) Tablets	20–623
Anzemet (dolasetron mesylate) Injection	20–624
Imitrex (sumatriptan) Nasal Spray	20–626
Meridia (sibutramine hydrochloride monohydrate) Capsules	20–632
Levaquin (levofloxacin) Tablets	20–634
Levaquin (levofloxacin) Injection	20–635
Seroquel (quetiapine fumarate) Tablets	20–639
Gabitril (tiagabine hydrochloride) Tablets	20–646
Diastat (diazepam) Gel	20–648
Edex (alprostadil) for Injection	20–649
Teslascan (mangafodipir trisoodium) Injection	20–652
Alora (estradiol) Transdermal	20–655
Sporanox (itraconazole) Solution	20–657
Requip (ropinirole hydrochloride) Tablets	20–658
Butenafine Hydrochloride Cream	20–663
Dostinex (cabergoline) Tablets	20–664
Diovan (valsartan) Capsules	20–665
Mirapex (pramipexole) Tablets	20–667
Lexxel (enalapril maleate/felodipine) Tablets	20–668
Zagam (sparfloxacin) Tablets	20–677
Clinimix E Sulfite-free (amino acid with electrolytes in dextrose with calcium) Injection	20–678
Ortho Tri-Cyclen (norgestimate/ethinyl estradiol) Tablets	20–681
Glyset (miglitol) Tablets	20–682
Alesse (ethinyl estradiol/levonorgestrel) Tablets	20–683
Lumenhance (manganese chloride tetrahydrate) Solution	20–686
Patanol (olopatadine hydrochloride) Solution	20–688
Posicor (mibefradil dihydrochloride) Tablets	20–689
Aricept (donepezil hydrochloride) Tablets	20–690
Serevent (salmeterol xinafoate) for Inhalation	20–692
Sporanox (itraconazole) Capsules	20–694
Raxar (grepafloxacin hydrochloride) Tablets	20–695
Effexor XR (venlafaxine hydrochloride) Capsules	20–699
Muse (alprostadil) Suppository	20–700
Crinone (progesterone) Gel	20–701
Lipitor (atorvastatin calcium) Tablets	20–702
Claritin EZ (loratadine) Tablets	20–704
Rescriptor (delavirdine mesylate) Tablets	20–705
Emadine (emedastine difumarate) Solution	20–706
Skelid (tiludronate disodium) Tablets	20–707
Lupron Depot (leuprolide acetate) for Injection	20–708
Paxil (paroxetine hydrochloride) Suspension	20–710
Zyban (bupropion hydrochloride) Tablets	20–711
Carbatrol (carbamazepine) Capsules	20–712
Nicotrol (nicotine) for Inhalation	20–714
Vicoprofen (hydrocodone bitartrate/ibuprofen) Tablets	20–716
Prelay (troglitazone) Tablets	20–719
Rezulin (troglitazone) Tablets	20–720
Aldara (imiquimod) Cream	20–723
Femara (letrozole) Tablets	20–726
Uniretic (moexipril hydrochloride/hydrochlorothiazide) Tablets	20–729
Clinimix Sulfite-free (amino acid in dextrose) Injection	20–734
Teveten (eprosartan mesylate) Tablets	20–738
Baycol (cerivastatin) Tablets	20–740
BSS (balanced salt) Solution	20–742
Noritate (metronidazole) Cream	20–743
Tilade (nedocromil sodium) Inhalation Solution	20–750
Crinone (progesterone) Gel	20–756
Avapro (irbesartan) Tablets	20–757
Irbesartan/hydrochlorthiazide Tablets	20–758
Trovan (trovafloxacin mesylate) Tablets	20–759
Trovan (alatrovafloxacin mesylate) Injection	20–760
Nasonex (mometasone furoate) Nasal Spray	20–762
Propulsid Quicksolv (cisapride) Tablets	20–767
Zomig (zolmitriptan) Tablets	20–768
Viracept (nelfinavir mesylate) for Solution	20–778
Viracept (nelfinavir mesylate) Tablets	20–779

Drug	Application Number
Cipro (ciprofloxacin) for Suspension	20–780
Allegra-D (fexofenadine hydrochloride/pseudoephedrine hydrochloride) Tablets	20–786
Cardizem (diltiazem hydrochloride) for Injection	20–792
Floxin (ofloxacin) Solution	20–799
Fortovase (saquinavir) Capsules	20–828
Prograf (tacrolimus) Capsules	50–708
Prograf (tacrolimus) Capsules	50–708/S–008
Helidac (bismuth subsalicylate tablets, metronidazole tablets, and tetracycline hydrochloride capsules)	50–719
Cellcept (mycophenolate mofetil) Tablets	50–723
Amphotec (amphotericin B) Cholesteryl Sulfate for Injection	50–729
Zithromax (azithromycin) for Injection	50–733
Idamycin-PFS (idarubicin hydrochloride) Injection	50–734
Neoral (cyclosporine) Capsules	50–735
Neoral (cyclosporine) Solution	50–736
Neoral (cyclosporine) Capsules	50–737
Neoral (cyclosporine) Solution	50–738
Omnicef (cefdinar) Capsules	50–739
Ambisome (amphotericin B) Liposome for Injection	50–740
Stromectol (ivermectin) Tablets	50–742
Bactroban (mupirocin calcium) Cream	50–746
Omnicef (cefdinir) Suspension	50–749
Primsol (trimethoprim hydrochloride) Solution	74–374/S–002

As part of its review of each of the NDA's and supplements listed in this table, FDA reviewed an EA. In each instance, FDA found that the approval of the NDA or supplement will not significantly affect the human environment. In accordance with the Council on Environmental Quality regulations in 40 CFR 1501.4(e) and FDA regulations in § 25.41, FDA prepared a FONSI for each NDA and supplement. This notice announces that the EA's and FONSI's for these human drug products may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. For a fee, copies of these EA's and FONSI's may be obtained by writing the Freedom of Information Staff (address above). The request should identify by the application number the EA's and FONSI's requested. Separate requests should be submitted for each application number. Additional information regarding the submission of freedom of information requests is available on the Internet at http://www.fda.gov/opacom/backgrounders/foiahand.html.

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13045 Filed 5–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0486]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 11, 1997 (62 FR 65274), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0045. The approval expires on April 30, 2001.

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13044 Filed 5–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–339]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions;

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(2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Provider Cost Report Reimbursement Questionnaire and Supporting Regulations in 42 CFR 405.465, 405.481, 413.20, and 413.24; *Form No.:* HCFA–339 (OMB# 0938–0301); *Use:* The Medicare Provider Cost Report Reimbursement Questionnaire must be completed by all providers to assist in preparing an acceptable cost report, to ensure proper Medicare reimbursement, and to minimize subsequent contact between the provider and its fiscal intermediary. It is designed to answer pertinent questions about key reimbursement concepts found in the cost report and to gather information necessary to support certain financial and statistical entries on the cost report. In addition, it provides an audit trail for the fiscal intermediary. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local and tribal government; *Number of Respondents:* 30,607; *Total Annual Responses:* 30,607; *Total Annual Hours:* 1,239,584.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 11, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–13158 Filed 5–15–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the Merit Review Ad Hoc Subcommittee of the National Advisory Council on Alcohol Abuse and Alcoholism.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Merit Review Ad Hoc Subcommittee of the National Advisory Council on Alcohol Abuse and Alcoholism.

Date of Meeting: June 3, 1998.

Time: 8:00 p.m. to adjournment.

Place of Meeting: Pooks Hill Marriott Hotel, Bethesda, MD 20814.

Contact Person: Mark Green, Ph.D., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–2860.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: May 12, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13148 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute on Alcohol Abuse and Alcoholism Initial Review Group:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Clinical and Treatment Subcommittee.

Dates of Meeting: June 18–19, 1998.

Time: June 18, 8:30 a.m. to recess. June 19 8:30 a.m. to adjournment.

Place of Meeting: Holiday Inn Oceanfront, Palm Meeting Room, Hilton Head Island, South Carolina, 29938.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Biochemistry, Physiology and Medicine Subcommittee.

Dates of Meeting: June 18–19, 1998.

Time: June 18, 3:30 p.m. to recess. June 19, 8:30 a.m. to adjournment.

Place of Meeting: Radisson Suite Resort, Hilton Head Island, 12 Park Lane, Hilton Head, South Carolina, 29928.

Contact Person: Ron Suddendorf, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–2926.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: May 12, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13149 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meetings:

Name of SEP: NIAID Malaria Research and Reference Reagent Repository.

Date: May 27, 1998.

Time: 8:00 a.m. to Adjournment.

Place: Holiday Inn, Georgetown, Mirage I Meeting Room, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20037, (202) 338–4600.

Contact Person: Dr. Anna Ramsey-Ewing, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C37, Bethesda, MD 20892, (301) 435–8536.

Purpose/Agenda: To evaluate contract proposals.

Name of SEP: Malaria: Clinical Research and Trial Preparation Sites in Endemic Areas.

Date: May 28–29, 1998.

Time: 8:00 a.m. to Adjournment.

Place: Holiday Inn, Georgetown, Mirage I Meeting Room, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20037, (202) 338–4600.

Contact Person: Dr. Anna Ramsey-Ewing, Scientific Review Adm., 6003 Executive Boulevard Solar Bldg., Room 4C37, Bethesda, MD 20892, (301) 435–8536.

Purpose/Agenda: To evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 11, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13150 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the Diabetes and Digestive and Kidney Diseases Special Grant Review Committees, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) for June 1998.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, Subcommittee B.

Date: June 9, 1998.

Time: 8:00 a.m.—Adjournment.

Place: HOLIDAY INN BETHESDA, 8120 Wisconsin Avenue, Bethesda, Maryland 20814, Telephone: (301) 652–2000.

Contact Person: Ned Feder, M.D., Scientific Review Administrator, Natcher Building, Room 6AS–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8890.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, Subcommittee C.

Date: June 18, 1998.

Time: 8:30 a.m.—Adjournment.

Place: EMBASSY SUITES HOTEL, 1300 Jefferson Davis Highway, Crystal City, Virginia 22202, Telephone: (703) 979–9799.

Contact Person: Daniel Matsumoto, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8894.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, Subcommittee D.

Date: June 12, 1998.

Time: 8:00 a.m.—Adjournment.

Place: DOUBLETREE HOTEL, 1750 Rockville Pike, Rockville, Maryland 20852, Telephone: (301) 230–6783.

Contact Person: Ann A. Hagan, PH.D., Scientific Review Administrator, Natcher Building, Room 6AS–37F, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8886.

Purpose/Agenda: To review and evaluate research grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 11, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13151 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: ZDK1 GRB–5–01 P.

Date: June 22–24, 1998.

Time: 7:30 PM.

Place: Radisson Hotel Dallas, 1893 West Mockingbird Lane, Dallas, Texas 75235, Telephone: (214) 634–8850.

Contact: Francisco O. Calvo, Ph.D., Chief, Special Emphasis Panel, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8897.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: May 11, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer, NIH.

[FR Doc. 98–13152 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Drug Abuse (NIDA) Special Emphasis Panel meeting.

Purpose/Agenda: To review and evaluate contract proposals.

Name of Committee: NIDA Special Emphasis Panel (contract Review—"NIDA Notes").

Date: May 14, 1998.

Time: 9:30 a.m.

Place: Parklawn Building, Conference A, 3rd Floor, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Mr. Lyle Furr, Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–1644.

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This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Program)

Dated: May 12, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13153 Filed 5–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program: Availability of FY 1998 Targeted Assistance and Social Services Discretionary Funding

AGENCY: Office of Refugee Resettlement, ACF, DHHS.

ACTION: Notice of availability of FY 1998 Targeted Assistance discretionary funds to States and of the availability of FY 1998 Social Services discretionary funds for services to refugees.

SUMMARY: This program announcement governs the availability of and award procedures for $9,900,000 in FY 1998 Targeted Assistance discretionary grants (TAG) for services to refugees.[1] Further, this announcement governs the availability of, and award procedures for approximately $1,300,000 in FY 1998 Social Services discretionary funds for the Community and Family Strengthening (CFS) Program.

Applicants may request a project period of up to two years, with an initial budget period of one year. Where awards are for multiple-year project periods, applications for continuation grants will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, successful progress of the project, and ACF's determination that this would be in the best interest of the government.

The Office of Refugee Resettlement (ORR) will accept competing applications for grants pursuant to the Director's discretionary authority under section 412(c)(1) of the Immigration and Nationality Act (INA), as amended by section 311 of the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above; and the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605).

This Program Announcement consists of three parts:

Part I covers supplemental information on available funds, legislative authorities, eligible applicants, and the priority areas to be considered.

Part II, Priority Areas Under Which Grants and Cooperative Agreements Will Be Awarded, describes the four priority areas under which ORR is requesting applications. Grants and cooperative agreements will be awarded for the purposes described below under TAG and under the Social Services CFS program. ORR will make awards in the following priority areas:

(1) Targeted assistance
(2) Microenterprise development
(3) Self-sufficiency services to offset the impact of large refugee families on local communities
(4) Refugee community and family strengthening social services.

Each Priority Area below includes the following sections which provide area-specific information to be used to develop an application for ORR funds: A. Purpose, B. Allowable Activities, and C. Review Criteria.

Part III, General Application Information and Guidance, describes application procedures for Priority Areas 1 through 4 and should be consulted in developing an application for *any* of the priority areas. It also contains information on the availability of forms, where and how to submit an application, instructions for completing the SF–424, the Intergovernmental review, and reporting requirements.

CLOSING DATE: The closing date for submission of applications is July 10, 1998. Applications postmarked after the closing date will be classified as late and will not be considered in the current competition.

FOR FURTHER INFORMATION REGARDING THIS ANNOUNCEMENT, CONTACT: Kathy Do, TAG Program Manager, at (202) 401–4579 for information regarding Priority Areas 1, and 3; for Priority Area 2, please contact Marta Brenden, Refugee Microenterprise Program Manager, at (202–205–3589) or e-mail: mbrenden@acf.dhhs.gov; and for Priority Area 4, contact Anna Mary Portz, CFS Program Manager, telephone (202) 401–1196, or e-mail: aportz@acf.dhhs.gov. You may address correspondence to the contact person as follows: Administration for Children and Families, ORR/Division of Community Resettlement, 370 L'Enfant Promenade, SW, 6th Floor, Washington, DC 20447.

Part I

SUPPLEMENTARY INFORMATION:

Legislative Authority

Targeted assistance discretionary grants are awarded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs

[1] In addition to persons who meet all requirements of 45 CFR 400.43, "Requirements for documentation of refugee status," eligibility for targeted assistance includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the targeted assistance program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

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Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), 1991 (Pub. L. 101–513), and 1998 (Pub. L. 105–118).

Background

Section 412(c)(1)(A) of the INA authorizes the Director of ORR "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director * * * health, social adjustment services, social services, educational and other services."

The targeted assistance discretionary program reflects the requirements of section 412(c)(2)(A) of the INA, which provides authority for the Director of ORR "to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees." Paragraph (2)(B) states, "Grants shall be made available * * * (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity."

The Department's FY 1998 Appropriation (Pub. L. 104–134) provides $415,000,000 for refugee and entrant assistance activities to be distributed by formula and through discretionary grants for special projects.

The Office of Refugee Resettlement has available an additional $5,000,000 in FY 1998 funds for the targeted assistance discretionary program through the Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. 104–107). These funds are to augment the discretionary program for localities most impacted by the influx of refugees such as Laotian Hmong, Cambodians and Soviet Pentecostals, and are included in this announcement.

Services Provided Through ORR Discretionary Programs Are Not Restricted to Refugees Arriving Within the Last Five Years

Availability of Funds

Approximately $11.2 million will be awarded in FY 1998 through this Announcement. ORR expects to award approximately $4,300,000 in FY 1998 TAG discretionary funds in Priority Area 1: Targeted Assistance Grants (TAG), through 15–20 grants and cooperative agreements ranging from $150,000 to $300,000 per budget period. In Priority Area 2: Microenterprise, ORR anticipates making three individual new awards ranging from $150,000 to $250,000 and totaling approximately $600,000 from TAG funds. In Priority Area 3: Self-Sufficiency Services for Impacted Communities, ORR expects to make approximately 5 awards totaling $5 million, with no single grant or cooperative agreement exceeding $3,500,000. ORR expects to award a total of $1,300,000 in FY 1998 Social Services discretionary funds in Priority Area 4: Community Family Strengthening (CFS), to approximately 10 projects ranging from $80,000 to $250,000.

The Catalog of Federal Domestic Assistance (CFDA) Number Assigned to This Announcement is 93.576

The Director reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government. Applicants may be required to reduce the scope of selected projects to accommodate the amount of the approved grant award. Where ORR anticipates substantial involvement with the grantee during the performance of the project, the award action will include a cooperative agreement.

A State may not budget or retain for State administration more than 5% of a TAG discretionary grant award. Where the State chooses to implement the projects by awarding funds through county governments, States and counties may each retain a maximum of 5% of the funds awarded for administration.

Eligible State applicants may apply for more than one of Priority Areas 1–4 as described above; however each State should submit one application (e.g. a single SF 424A) with a full component description labeled by Priority Area including a budget justification and narrative for each distinct project. In addition, component budgets should be individually detailed on the SF 424B and the aggregate Total should correlate to the Estimated Funding on the SF 424A. Applicants applying for microenterprise development activities under Priority Areas 1 or 3 are referred to Priority 2 of this announcement for guidance in the preparation of the relevant section of their application.

Eligible Applicants and Grantees

States are the eligible recipients of TAG funds. Therefore, applications in Priority Areas 1–3 described below are restricted to States or their representatives. Applications will be considered from all States, regardless of whether any communities in the State qualify for funding under the formula TAP grant program.

Eligible TAG applicants are (a) those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5, and (b) an agency which has State-wide responsibility for an alternative to the State-administered program in lieu of the State under a Wilson/Fish grant.

Eligible Applicants for Priority Area 4 Are any Public or Private, Nonprofit Organization

Current CFS grantees whose projects end by September 30, 1998 are encouraged to participate under Priority Areas 1, 2, 3 or 4, as appropriate.

Coalitions—Refugee programs and local organizations, which have not already done so, are encouraged to build coalitions for the purpose of providing services funded under this announcement. The activities funded by these grants are intended to serve as a catalyst to bring the community together to address the economic and social problems of refugee families and the refugee community. The goal in all cases should be to build and strengthen the community's capacity to serve its members in improving the quality of life and standard of living for refugee families.

ORR strongly encourages single applications from partnerships or consortia of three or more eligible organizations. Applicants must demonstrate that wherever potential

partners for collaboration exist, the applicant, at a minimum, has planned the proposed activities in collaboration with these potential partners. Partners may be in the refugee services provider community of organizations and institutions or in mainstream services organizations, e.g., adult basic education providers, child care coalitions, women's shelters. Collaboration might also include the Mayor's office, school parent-teacher groups, local police departments, and other mainstream community service organizations.

The process of coalition-building is key to strengthening cooperation and coordination among the local service providers, community leaders, Mutual Assistance Associations, voluntary agencies, churches, and other public and private organizations involved in refugee resettlement or community service. ORR intends that this process will be part of local efforts to build strategic partnerships among these groups to expand their capacity to serve the social and economic needs of refugees and to give support and direction to ethnic communities facing problems in economic independence and social adjustment.

In this context, ORR is defining partnership as a formal negotiated arrangement among organizations that provides for a substantive collaborative role for each of the partners in the planning and conduct of the project. Applications which represent a coalition of providers should include a signed partnership agreement stating a commitment or an intent to commit or receive resources from the prospective partner(s) contingent upon receipt of ORR funds. The agreement should state how the partnership arrangement relates to the objectives of the project. The applicant should also include: Supporting documentation identifying the resources, experience, and expertise of the partner(s); evidence that the partner(s) has been involved in the planning of the project; and a discussion of the role of the partner(s) in the implementation and conduct of the project.

Part I Priority Areas Under Which Grants and Cooperative Agreements Will Be Awarded

PRIORITY AREA 1: Targeted Assistance Grants (TAG)

A. Purpose

The purpose of funding for TAG grants is to encourage States to address special services needs which cannot be met with the formula social services or targeted assistance grants.

The objective of the activities proposed should be self-sufficiency for refugees and refugee families. A project may include a combination of outcomes designed to assist families to increase income and/or to avoid or end reliance on public assistance. Services should be linguistically and culturally appropriate and service providers should demonstrate staff capacity in this regard.

ORR is particularly interested in projects which propose to serve special refugee populations including youth, women, and Former Political Prisoners.

B. Allowable Activities

Listed below are examples of services. They are not intended to limit potential applicants in their consultation with the refugee communities to plan and design projects. Where projects include ELT technical assistance services, for example, ORR would anticipate substantial Federal involvement in the selection of service-recipient agencies and programs and in the selection of materials and subjects for the Internet web-site.

Applicants may propose all or some combination of the following or may propose other strategies to address refugee self-sufficiency:

Specialized English Language Training (ELT)

—Specialized classes for specific industries in conjunction with employers.

—Specialized instruction in pre-employment competency-based ELT for targeted groups, e.g., limited English speaking individuals with non-transferrable job skills, homebound women, pre-literate refugees, and the elderly.

—Occupational and vocational English language training, particularly in collaboration with specific employers and with their active participation; ELT at sites of employment; ELT as part of an integrated employment program (e.g., one stop services).

Specialized Training and Employment-Related Activities

—Training specific to the employment job opportunities through an employer or industry in the community. These activities should be jointly designed with the employer and show employer contribution and commitment to employing the trainees, e.g., training of bilingual education aides for the school system, training of health aides for placement in the health care system.

—On-the-job training and short-term skills training targeted to the local job market;

—Incentives for refugees to seek and maintain employment and to avoid welfare;

—Job placement and post-placement services to help refugees retain employment or sustain self-sufficiency. Examples include supportive services, such as transportation, interpreter assistance, access to childcare resources (e.g. kinship day care or care of dependents in the household), and job upgrades.

—Income generation through self-employment projects including assistance in small business creation or expansion, business training and technical assistance, credit in the form of microloans, and the administrative costs of managing a microloan fund.

Community Education

—Classes in parenting skills, including information about U.S. cultural and legal issues, e.g., corporal punishment, generational conflict, and child abuse.

—Assistance to parents in connecting with the school system and other local community organizations.

—Orientation to health care and assistance for accessing low-cost health service, including orientation on health insurance, health maintenance organizations, preventive health measures, and the availability of health services for low income families.

Community Centers and Organizing

—Assistance to refugee communities to enhance their ability to assimilate and acculturate to their new life in the U.S.

—Mentoring and Peer Support Programs, such as, pairing participant individuals or families with community volunteers. Programs should target refugees who are not otherwise receiving core services, and mentoring should target identified needs and provide peer support for resolution of problems. The purposes are to solve individual, family, and community problems with the support of peers and to solve common problems through group action.

—Operating community centers for the delivery of services to refugee individuals and families. Centers may also be used for recreation, child care, information and referral services, and community gatherings. (Costs related to construction or renovation will not be considered, and costs for food or beverages are not allowable).

Combating Violence in Families

—Information and training in preventing domestic violence, child abuse, sexual harassment and coercion,

roles of men and women in U.S. culture, and techniques for protection.

—Linkages to mainstream service-providers to ensure access to culturally appropriate services

—Training and providing bi-lingual staff for women's shelters.

Crime Prevention/Victimization

—Activities designed to improve relations between refugees and the law enforcement communities: (a) Public service officers or community liaisons; (b) neighborhood storefronts and/or watch programs; (c) refugee business watch program; (d) cross cultural training for the law enforcement community (police departments, court system, mediation/dispute resolution centers).

Note: Law enforcement activities, such as hiring sworn police officers (except those who are public service officers or community liaison officers), fingerprinting, incarceration, etc., are outside the scope of allowable services under the Refugee Act and will not be considered for funding. Other unallowable activities are those limited to, or principally focused on, parole counseling, court advocacy, and child protection services.

English Language Training (ELT) Technical Assistance

—For programs and teachers to assess and improve employment-related ELT and curriculum, or to develop programs (e.g., work-site ELT, performance-based ELT, family literacy).

—Training for ELT teachers in identifying issues of cultural and social adjustment, learning disabilities, and mental health, and in developing appropriate curricula to accommodate learning needs of the students.

—Multi-site consultation and information sharing training sessions where similar agencies and/or agencies serving similar groups of refugees can share experiences. This might include a component designed to bring together ELT providers and employment specialists, case managers, voluntary agency staff, and public health professionals, for the purpose of developing strategies for effective working relationships.

—Management of an ELT resource center including an Internet web-site.

All services should be planned around the refugees' availability (i.e., evening hours or other times not in conflict with work hours).

C. Priority 1—Applications Review Criteria

Each application in Priority 1, regardless of the number of projects therein, will be rated and scored by an independent review panel using the following criteria.

1. Target Population and Strategies (10 points)

Description of the targeted refugee population and its impact on the overall community.

The description of the target refugee population(s) includes their number, national origin, year of arrival, and other pertinent information. A comparison of the size of the target refugee population in relation to the size of the general population in the community is included.

2. Project Design and Approach (25 points)

Quality, appropriateness, and anticipated impact of proposed services. Rationale for the proposed activities as an effective approach in addressing the problem described.

The applicant clearly describes the services that will be provided and documents the extent to which other sources of funding, including TAP formula funds and other Federal, State, or local funding, are not sufficient or available to address the impact. The proposal adequately discusses how requested funds and proposed activities will relate to other funded services.

3. Timeline and Expected Outcomes (25 points)

Extent to which the timeline and expected outcomes of the project are appropriate and reasonable in relation to the funding cycle and the proposed activities.

The applicant has clear projected outcomes, e.g., if employment services are proposed, the number of refugee active participants, number expected to enter employment, the expected average hourly wage at employment entry, the number of jobs with health benefits, and the number who are employed 90 days following employment entry.

4. Organizational's Capability (25 points)

Demonstrated organizational experience, track record, and project management capability. Staff resumes or job descriptions are included. Organizational charts depict agency and staff roles and responsibilities.

5. Cost Effectiveness (15 points)

Reasonableness of budget proposed. Detailed budget and narrative justification, including State and/or local government administration. Unit costs for project services and expected outcomes are justified and reasonable.

Priority Area 2: Microenterprise Development

A. Purpose

The purpose of this program is to use microenterprise development to assist refugees in becoming economically independent and to help refugee communities in developing employment and capital resources.

State applicants will be expected to have identified local agencies interested in providing services under this Priority Area, prior to submitting requests for microenterprise development funds.

Successful grantees and subgrantees will be expected to coordinate their policies and procedures for developing and administering refugee microenterprise projects with the existing refugee microenterprise services network.

B. Allowable Activities

Microenterprise applicants may request funds to provide business technical assistance, business training, credit in the form of microloans, and administrative costs for managing a microloan fund to assist refugees to start or expand microbusinesses. Business targets may be start-ups, expansions, or both.

Microloans consist of small amounts of credit, generally in sums less than $10,000, extended to low-income entrepreneurs for start-up or very small microentreprises. Typically, refugee borrowers should have few personal assets or savings and should not qualify for commercial loans.

Applicants should be familiar with and describe a profile of the refugee participants including employment and welfare status, length of time in the United States, interest in microbusinesses and English language proficiency. Applicants should be familiar with the capital needs and capital market gaps for refugee entrepreneurs and demonstrate how they will gain access to credit through this project.

States intending to subgrant activities under this category must require the submission of the following documents for each subgrantee prior to the award of a subgrant:

a. A copy of the IRS Tax Exemption Certificate and identification of IRS code citation of tax exempt status (nonprofit agencies only).

b. Copies of the last two fiscal year financial statements, including balance sheets and income statements.

c. A monthly cash flow chart for the loan fund for the three year period beginning October 1, 1998.

In addition to the above, States intending to continue microenterprise development in agencies which previously were funded for this purpose by ORR should include past microenterprise outcomes, such as business starts, business survivability, loan default rates, reductions in clients' welfare utilization, job creation, reported business income, and business expertise acquired through the project's intervention.

C. Priority 2—Application Review Criteria

Each project component in Priority 2 will be rated and scored by an independent review panel using the following criteria.

1. Quality of the description of the prospective refugee participants' profile with respect to welfare utilization, English language proficiency, length of time in the U.S., interest in microbusinesses, and the description of local capital needs and capital market gaps for refugee microentrepreneurs. (20 points)

2. Adequacy and appropriateness of the planning process and resulting program approach or design: project goals and structure (policies, procedures, activities); training and technical assistance; loan fund and lending criteria and fees, if included in the design; whether the business targets are start-ups, expansions, or both; affiliate agencies; and credit enhancements, such as loan loss reserves. (30 points)

3. Demonstrated organizational and management capacity, and experience serving refugees and other economically disadvantaged populations; description of experience in management of loan funds, collaboration with the specific refugee community(ies) and coalition building among refugee and non-refugee service providers. (20 points)

4. Extent to which the expected outcomes and unit costs of the project are appropriate, consistent with reported nationwide performance in microenterprise projects, and reasonable in relation to the proposed activities; the impact of loan funds, business income, and business assets on clients' welfare status, if applicable. Projected outcomes for business income, business survivability and reductions in welfare utilization. (20 points)

5. Appropriateness and reasonableness of the proposed budget, including the relative distribution of funds for administrative costs, training or technical assistance, and loan capital. Application should include project timelines and a narrative justification supporting each budget line item. (20 points)

Priority Area 3: Self-Sufficiency Services to Offset the Impact of Large Refugee Families on Local Communities

A. Purpose

The purpose of this priority area is to promote services which enhance the ability of large refugee families to gain increases in household incomes significantly above the poverty level, and to reduce or offset the impact of refugee populations on local communities in States most heavily impacted by the influx of Laotian Hmong, Cambodian or Soviet Pentecostal refugees. To be competitive under this section, States must demonstrate and document a significant impact on local communities by the presence of a very large number of refugees in one of these three populations. That number is expected to exceed 15,000 refugees for a State to be able to substantiate its evidence of local impact. States may also document a significantly high proportion of refugees in one of these three groups relative to the area's non-refugee population.

A State that intends to apply for funds must also present evidence in its application of the severity of the impact by this population on a local community, (e.g., on local school districts, child care facilities, or family counseling services).

No State will be awarded more than $3.5 million for these projects. The application should present a plan for the provision of services designed to assist refugee households in generating income and alleviating poverty. Funding decisions will be based on the quality of the plan and the evidence presented for likely success in achieving measurable goals, as well as on the determination of need in such areas as refugee impact on community services and documentation of refugee welfare dependency.

B. Allowable Activities

The types of projects which ORR may fund under this competitive area include, but are not limited to, the following:

- Employment services, such as job development, placement, and post-placement services. Projects may target the non-primary wage earner of families in a coordinated strategy to achieve a combined family income in excess of the poverty level.
- Vocational English Language Training, on-the-job-training, and skills training. Services may target assisting hard-to-place refugees, such as those over the age of 50, or non-primary wage earners to gain skills as child care providers, recreational aides, health care aides, etc.
- Services to assist refugees in the generation of income apart from employment, such as self-employment. Projects may include assistance in small business creation and expansion, business training and technical assistance, credit in the form of microloans, and the administrative costs of managing a microloan fund.
- Projects which enhance the relationships between refugee households and services such as school-to-work programs, teen pregnancy prevention, domestic violence intervention, day care development, parenting, and youth-at-risk programs.

All services must be culturally and linguistically compatible and be planned around refugees' ability to attend activities (e.g. evening hours or other times not in conflict with work hours).

C. Priority 3—Application Review Criteria

Applications for this priority area will be reviewed and ranked against the following criteria:

1. Purpose and Extent of Impact on Local Community (40 points)

The description of the purposes for which funding is needed is sufficiently detailed and appropriate to this priority area.

Level, extent, and nature of the impact of Laotian Hmong, Cambodians and Soviet Pentecostal refugees on the State or local community targeted and description of the targeted population.

A description of the extent of the impact in the State and/or community for which the project is targeted. For purposes of this Priority Area only, and consistent with the purpose described above, discussions of impact must be limited to the impact of large populations of Laotian Hmong, Cambodians and Soviet Pentecostals. This impact statement must include a description of the target refugee population, including the numbers, national origins, and other pertinent information, and geographic location(s) for which funding is requested. It should also describe the extent to which refugees have significantly changed aspects of community life, with implications for long-term adjustment.

2. Project Design, Methodology, Timeline (20 points)

Appropriateness of the project design, methods of service delivery, and projected timelines to the needs of the targeted community(ies). Clear

description of the activities proposed to address the impact on local communities.

Projects which are expected to build new, or make use of existing, partnerships with other government or nonprofit agencies should describe the partnerships, as well as the partner agencies and their qualifications for participation in this program (e.g., history of outcomes in similar programs).

3. Project Outcomes (20 points)

The extent to which the expected outcomes and unit costs of the project are appropriate and reasonable in relation to the proposed activities and budget. A description of expected project outcomes and the estimated unit costs of the services are provided. This should focus on measurable outcomes, such as increases in household income, welfare grant terminations, etc., rather than on process outcomes, e.g., numbers of people to be served, number of sessions to be conducted.

If funding is to be used to expand or continue an existing project, discuss the outcomes to date of that project.

14. Budget (20 points)

Reasonableness of budget proposed. An estimated line-item budget and narrative justification, including State and/or local government administration.

Priority Area 4) Community and Family Strengthening (CFS)

A. Purpose

While employment and economic independence continue to be ORR's primary concern and the focus of the formula social services and targeted assistance funding, this Priority Area provides an opportunity for States and nonprofit organizations to request funding for activities which supplement and complement employment-related services by strengthening refugee families and communities.

ORR views the participation of the target population as particularly important. Project designing must include representatives of the target population. For example, a project designed to assist single mothers needs to be designed in consultation with single mothers.

Cultural and Linguistic Compatibility. All applicants should demonstrate existing refugee community support for their agency and their proposed project. If the applicant works in an area where no other organizations work with refugees, and a coalition with other organizations is not possible, this should be explained and documented. Applicants and all private partners should provide evidence that their governing bodies, boards of directors, or advisory bodies are representative of the refugee communities being served, and have both male and female representation.

In all cases, regardless of the nature of the organization proposed to provide services or conduct activities funded under this announcement, the services/activities must be conducted by staff linguistically and culturally compatible with the refugee families or communities to be served. In addition, the applicant must describe how proposed providers will have access to the families and to the community to be served. If interpreters are proposed in the first budget period, applicant must demonstrate how these staff will be used and whether they will be trained to become bi-lingual service providers during the project period.

Cost-sharing. This announcement is intended to encourage service planners and providers to consider the various unmet needs of refugee families and communities relative to existing services, the capacity of the service-providing network, and ultimately the community's capacity to continue the activity without additional ORR resources beyond the three-year project period of this announcement. Long-range viability may depend on: Linkages to activities funded by other sources, the availability of expertise in the community, the relatedness of proposed activities to existing activities, the willingness of the community to participate actively in assuring the success of the activity—including volunteer commitment, and the likelihood of tangible results.

Because funding under this program announcement is limited, applicants are urged to plan for the use of these funds in conjunction with other Federal, State, and private funds available to assist the target populations and to carry out similar programs and activities (cost-sharing). To this end, successful applicants will propose and commit to a minimum cost-sharing of 10% of the original budget period (first year) costs. In subsequent year continuation applications, the grantee will be asked to document receipt of non-Federal funds from other sources. The requirement will be not less than 25% of the full budget for the second year award. For example, if the original budget is $150,000, the federal share for that year may be $135,000 (90%). The second year the federal award might be $112,500 and the grantee would be required to provide at a minimum cost-sharing of $37,500, 25% of the full budget, in cash or in-kind support. Only in unusual circumstances will the Director of ORR entertain a request from the grantee to reduce or waive the cost-sharing requirement.

B. Allowable Activities

ORR will consider applications for services which an applicant justifies, based on an analysis of service needs and available resources, as necessary to address the social and economic problems of refugee families and of the refugee community. It should be clear how the proposed activity fits into the existing network of services; how it responds to the particular needs of families in that community or to a broader need of the community of families; who is committed to do what in order to accomplish this goal; and what is the goal or expected outcome of the activity.

The specific services proposed may be as diverse as the refugee populations and the resettlement communities themselves. Some examples follow which are not intended to be a comprehensive list but are intended to stimulate planning and community discussion. It will be the task of the local planning processes to determine what is needed to address the economic and social adjustment needs of families and the community. Activities and services proposed should be planned in conjunction with existing services and should supplement and complement these services. Special attention should be given in the planning process to the services available to all citizens, including community institutions which serve the elderly, youth and special needs populations.

Non-Allowable Activities: Funds will not be awarded to applicants who propose to engage in activities of a distinctly political nature or which are designed primarily to promote the preservation of cultural heritage, or which have an international objective. ORR supports refugee community efforts to preserve cultural heritage, but believes these are activities which communities should conduct without recourse to ORR resources.

SOME EXAMPLES OF ALLOWABLE ACTIVITIES:

Community Education

—Activities designed to inform the refugee community about issues essential to effective participation in the new society.

—Classes in parenting skills, including information about U.S. cultural and legal issues, e.g., corporal punishment, generational conflict, and child abuse.

—Assistance to parents in connecting with the school system and other local community organizations.

—Orientation to health care and assistance for accessing low-cost health service, including orientation on health insurance, health maintenance organizations, preventive health measures, and the availability of health services for low income families.

Specialized English Language Training

—Specialized classes for specific industries in conjunction with employers.

—Specialized classes for groups outside the regular classes, e.g., homebound women, elderly. Use of volunteers is encouraged. Accessibility of site and time is important.

Mentoring Programs and Peer Support

—Pairing participant individuals or families with community volunteers. Programs should target refugees who are not otherwise receiving core services, and mentoring should target needs they identify.

—Assisting subgroups to form a common bond for resolution of peer-specific problems. The purposes are to solve individual, family, and community problems with the support of peers and to solve common problems through group action.

Combating Violence in Families

—Information and training against domestic violence, child abuse, sexual harassment and coercion, roles of men and women in U.S. culture, and techniques for protection.

—Linkages to mainstream service-providers to ensure access to culturally appropriate services.

—Training and/or bi-lingual staff for women's shelters.

Crime Prevention/Victimization

—Activities designed to improve relations between refugees and the law enforcement communities: (a) Public service officers or community liaisons; (b) neighborhood storefronts and/or watch programs; (c) refugee business watch programs; (d) cross cultural training for the law enforcement community (police departments, court system, mediation or dispute management centers).

Note: Law enforcement activities, such as hiring sworn police officers (except those who are public service officers or community liaison officers), fingerprinting, incarceration, etc., are outside the scope of allowable services under the Refugee Act and will not be considered for funding. Other unallowable activities are those limited to, or principally focused on, parole counseling, court advocacy, and child protection services.

Refugee Community Centers and Organizing

—Operating community centers for the delivery of services to refugee individuals and families. Centers may also be used for recreation, information and referral services, childcare, and community gatherings. (Costs related to construction or renovation will not be considered, and costs for food or beverages are not allowable).

—Communities might be organized for housing cooperatives, for youth activities, for services to elderly, for volunteer mentoring services, for crime prevention.

The above are only examples of services. They are not intended to limit potential applicants in community planning.

These examples are listed and generically described without regard to the population to be served. It will be necessary in the application to describe more specifically the target population. For example, one activity might be appropriately designed to serve only homebound women. Another might be designed for teenagers and their parents. Another might be for elderly. Some might be targeted for all members of the family. Applications should correlate a planned activity with specific target audiences and discuss the relationship between the proposed activities and the target population.

C. Application Review Criteria

1. Need and Scope (25 points)

Profile of refugee community and target population by geographic area or ethnic group of the refugee community to be served, including numbers, ethnicity, welfare utilization pattern, number of refugee families in the community, family characteristics, and an assessment of attitudes of the refugees and the general community toward each other. Clarity of description and soundness of rationale for selection of targeted community or population.

Adequacy and quality of data provided and quality of the analysis of data provided in the application with special regard to ethnic group, refugee families, women, youth, or the aged.

Clarity and comprehensiveness of needs identification and problem statement and of the description of the local context in which grant activities are proposed.

Comprehensiveness of description of existing services and community network and explanation of how the proposed services complement what is already in place.

Evidence of consultation with target population.

2. Proposed Strategy and Program Design (30 points)

Soundness of strategy and program design for meeting identified needs.

Identification of projected performance outcomes and proposed milestones measuring progress, as appropriate to the services proposed by the end of the first budget period and over the entire requested project period. (ORR encourages applicants, to the extent possible, to develop innovative quantifiable measures related to the desired service impact for purposes of monitoring and project assessment.)

The quality of the outcomes proposed and the potential for achieving the outcomes within the grant's project period. The potential of the project to have a positive impact on the quality of the lives of refugee families and communities.

Adequate detail in the description of linkages with other providers and roles of collaborating agencies in project implementation.

Extent to which the need described is expected to be met and/or to which the services will be augmented, supplemented, or integrated with existing services.

The extent to which the award is projected to be augmented or supplemented by other funding during and beyond (i.e., in the second and any subsequent year of) the grant period, or can be integrated into other existing service systems.

3. Applicant/Coalition Capability (25 points)

Validity and reasonableness of the proposed coalition arrangement to perform the proposed activities. Commitment of coalition partners in implementing the activities as demonstrated by letters or the terms of the signed agreement among participants. (Where potential coalition partners are documented to be unavailable, the applicant will not be penalized under this criteria. However, the applicant should describe any consultation efforts undertaken and consultation with the refugee community.)

Experience of the applicant coalition in performing the proposed services.

Adequacy of gender balance and constituent representatives of board members of participant organizations or of the proposed project's advisory board.

Adequacy of assurance that proposed services will be delivered by staff linguistically and culturally appropriate to the target population.

Qualifications of the individual organization staff and any volunteers.

Detailed description of the administrative and management features of the project including a plan for fiscal and programmatic management of each activity, proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart.

A description of information collection (participant and outcome data) and monitoring proposed.

4. Budget and Financial Management (20 points)

Reasonableness of budget and narrative justification in relation to the proposed activities and anticipated results.

Adequacy of proposed monitoring and information collection.

Realistic plan for the continuation of services with a phase-out of ORR grant funding over the multi-year project period. Extent to which the application makes provision for cost-sharing (e.g. leveraging ORR funds with non-Federal funds or in-kind support) to maintain the full budget during the overall project. If available, the value of such leveraged funds or in-kind support and any preliminary commitments.

Part III. General Application Information and Guidance Forms and Certifications

Applicants for financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. An application with an original signature and two copies is required.

If an application represents a consortium (that is, the applicant includes other types of agencies among its membership), the single organization identified as applicant by the Authorized Representative's signature on the SF–424, Box 18.d, will be the grant recipient and will have primary administrative and fiscal responsibilities. An applicant entity must be a public or private nonprofit organization.

All applications which meet the stipulated deadline and other requirements will be reviewed competitively and scored by an independent review panel of experts in accordance with ACF grants policy and the criteria stated above. The results of the independent review panel scores and explanatory comments will assist the Director of ORR in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by the reviewers. Highly ranked applications are not guaranteed funding since other factors are taken into consideration, including: Comments of reviewers and of ACF/ORR officials; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; and investigative reports. Final funding decisions will be made by the Director of ORR.

Availability of Forms and Certifications

ORR published a copy of the Standard Form 424 with instructions for submitting an Application for Federal Assistance in the **Federal Register**, December 9, 1997 (FR Vol. 62, No. 236, pgs. 64870–64883). Copies of the **Federal Register** are available on the Internet and at most local libraries and Congressional District Offices for reproduction. The SF424 is also available through the ACF Internet at http://www.acf.dhhs.gov/ (at "Select a Topic," choose "Grant Related Forms and Documents," then click on "Go").

If copies are not available at these sources, they may be obtained by sending a written or faxed request to the following: Office of Refugee Resettlement, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone: (202) 401–9251, Fax: (202) 401–5487.

Budget and Budget Justification

Provide line item detail and detailed calculations for each project budget by object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification with each project that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. According to the instructions for completing the SF–424A and the preparation of the budget and budget justification, "Federal resources" refers only to the ACF/ORR grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel: Costs of employee salaries and wages. Justification—Identify the project director and for each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies.

Fringe Benefits: Costs of employee fringe benefits unless treated as part of approved indirect cost rate. Justification—Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification—For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF/ORR-sponsored meetings should be detailed in the budget.

Equipment: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. Justification—For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends.

Supplies: Costs of all tangible personal property other than that included under the Equipment category. Justification—Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, etc. Contracts with secondary recipient organizations, including delegate

agencies (if applicable), should be included under this category.

Justification—All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if procurement without competition is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Justify any anticipated procurement action that is expected to be awarded without competition and to exceed the simplified acquisition threshold fixed at 41 USC 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as requests for proposal or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development, and administrative costs.

Justification—Provide computations, a narrative description and a justification for each cost under this category.

Indirect Costs: This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency.

Justification—An applicant proposing to charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the agreement, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income: The estimated amount of income, if any, expected to be generated from this project.

Justification—Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification—The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Certifications

Applicants must provide the following certifications.

a. Certification regarding lobbying if anticipated award exceeds $100,000.

b. Certification regarding environmental tobacco smoke. By signing and submitting the applications, applicant provides certification that they will comply with the requirements of the Pro-Children Act of 1994 (Pub. L. 103–227, Part C-Environmental Tobacco Smoke) and need not mail back the certification with the application.

c. Certification regarding debarment, suspension, and other Ineligibility. By signing and submitting the applications, applicant provides certification that they are not presently debarred, suspended or otherwise ineligible for this award and therefore need not mail back the certification with the application.

d. Drug-Free Workplace Act of 1988.

Deadline

1. Mailed applications shall be considered as meeting this announced deadline if they are sent on or before the deadline date and received by ORR in time for the independent review. Applications should be mailed to: Office of Refugee Resettlement, Administration for Children and Families, Division of Community Resettlement, 370 L'Enfant Promenade, SW., Sixth Floor, Washington, DC. 20447, *Attention: TAG/CFS.*

Applicants must ensure that a legibly dated U.S. Postal Service postmark, or a legibly dated, machine produced postmark of a commercial mail service appears on the envelope/package containing the application(s). An acceptable postmark from a commercial carrier is one which includes the carrier's logo/emblem and shows the date the package was received by the commercial mail service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications hand-carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the Administration for Children and Families, Office of Refugee Resettlement, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

2. *Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of deadlines:* ACF may extend the deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

4. Once an application has been submitted, it is considered as final and no additional materials will be accepted by ACF.

Nonprofit Status

Applicants other than public agencies must provide evidence of their nonprofit status with their applications. Either of the following is acceptable evidence: (1) A copy of the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code; or (2) a copy of the currently valid IRS tax exemption certificate.

Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100,

"Intergovernmental Review of Department of Health and Human Services Programs and Activities."

As of June 15, 1997, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need take no action in regard to E.O. 12372: Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau.

All remaining jurisdictions participate in the E.O. process and have established Single Points of Contact (SPOCs).

Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them to the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that ORR can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Division of Community Resettlement, 6th Floor, 370 L'Enfant Promenade, SW., Washington, DC. 20447.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this Program Announcement are approved under the following currently valid OMB control numbers: 424 (0348–0043); 424A (0348–0044); 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Uniform Project Description (0970–0139) Expires 10/31/00.

Public reporting burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Applicable Regulations

Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

Reporting Requirements

Grantees are required to file the Financial Status Report (SF–269) semi-annually and Quarterly Program Performance Reports (OMB Approval No. 0970–0036). Funds issued under these awards must be accounted for and reported upon separately from all other grant activities.

Although ORR does not expect the proposed components/projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes and expenditures by budget line item.

The official receipt point for all reports and correspondence is the ORR Division of Community Resettlement. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Project Officer named in the award letter. The mailing address is: ORR, 370 L'Enfant Promenade SW, Sixth Floor, Washington, DC 20447.

A final Financial and Program Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: May 6, 1998.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 98–13099 Filed 5–15–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces the Spring 1998 meeting of the Great Lakes Panel on Aquatic Nuisance Species of the Aquatic Nuisance Species Task Force. Topics to be addressed during the meeting are identified.

DATES: The Great Lakes Panel on Aquatic Nuisance Species will meet from 1:00 p.m., Tuesday, June 9, 1998, to 2:30 p.m. on Wednesday, June 10, 1998.

ADDRESSES: The meeting will be held at the Holiday Inn—North Campus, 3600 Plymouth Road, Ann Arbor, Michigan.

FOR FURTHER INFORMATION CONTACT: Matt Doss, Great Lakes Commission at 734–665–9135, or Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–2025.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Great Lakes Panel on Aquatic Nuisance Species of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the meeting include: reports of ANS Task Force activities nationally and Federal legislation; reports on several ANS issues and initiatives such as the Great Lakes Ballast demonstration project, model guidelines for ANS prevention and control, proposed national voluntary ballast water guidelines, and the Chicago Waterways, Dispersal Barrier Project; a review of panel funding for fiscal year 1999; breakout sessions of the Panel's Information/Education, Research Coordination, and Policy and Legislation Committees to develop 1999 work plans; model State ANS legislation; and reports from Panel members.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 840, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and the Great Lakes Commission, 400 Fourth Street, Ann Arbor, Michigan, 48103–4816, and will be available for public inspection during regular hours, Monday through Friday, within 30 days following the meeting.

Dated: May 12, 1998.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force Assistant Director-Fisheries.

[FR Doc. 98–13076 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to 25 CFR 83.9(a) notice is hereby given that the: Chi-cau-gon Band of Lake Superior Chippewa of Iron County, 32 West Minkler, Iron River, Michigan 49935, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on February 12, 1998, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, third parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, NW., MS 4603–MIB, Washington, DC 20240, (202) 208–3592.

Dated: May 11, 1998.

Nancy Jemison,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 98–13080 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–010589, COC–020027, COC–021250]

Public Land Order No. 7329; Partial Revocation of Public Land Order Nos. 1189, 1637, and 1800; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three public land orders insofar as they affect 279.21 acres of National Forest System lands withdrawn to protect Forest Service campgrounds and recreation sites. These sites were never developed. The revocation is needed to permit disposal of the lands under the General Exchange Act of 1922. The lands continue to be closed to mining by a Forest Service exchange proposal. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order Nos. 1189, 1637, and 1800, which withdrew National Forest System lands to protect campgrounds and recreation sites, are hereby revoked insofar as they affect the following described lands:

White River National Forest

Sixth Principal Meridian

T. 4 S., R. 78 W.,
  sec. 4, lots 3 to 6, inclusive, lots 11 and 12.
  sec. 9, lots 4, 23, and lots 25 to 29, inclusive.
T. 5 S., R. 78 W.,
  sec. 34, lot 9;
  sec. 35, lots 21 and 26.

The areas described aggregate 279.21 acres in Summit County.

2. At 9 a.m. on June 2, 1998, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: May 11, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–13193 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–08–1230–00; 8300]

Arizona: The Crossroads and Empire Landing Campgrounds Located on the Parker Strip (California); Establishment of Fees and Supplementary Rules, During FY 1998 and Subsequent Years

AGENCY: Lake Havasu Field Office, Arizona; Bureau of Land Management, Interior.

ACTION: Implementation and increase of fees and supplementary rules of overnight camping and day use at the Crossroads & Empire Landing Campgrounds on the California side of the Colorado River, between Parker, AZ, and Parker Dam, CA.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office announces the implementation and increase of fees at the Crossroads & Empire Landing Campgrounds. To be instituted during FY 1998, as a federal fee campground under the authorities described in 36 CFR part 71. The purpose of the fee implementation and increase to the offset management and maintenance costs of facility and equipment repair, volunteer expenses, and sewage disposal. The fee is being established to safely and properly accommodate the increasing costs of operating and maintaining a public campground while helping provide natural resource protection through improved management of this use. The fee implementation assures that the campground will be available for public use year after year.

EFFECTIVE DATE: May 20, 1998.

FOR FURTHER INFORMATION CONTACT: Myron McCoy Outdoor Recreation Planner, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona, 86406, telephone (520) 505–1200; e-mail memccoy@az.blm.gov.

SUPPLEMENTARY INFORMATION: Authority for the campground fee implementation is contained in Title 43, Code of Federal Regulations, Part 8360, Subpart 8365, Sections 2 and 2–3. Authority for the payment of fees is in Title 36, Code of Federal Regulations, Subpart 71. Authority for including this project in the Fee Demonstration Pilot Program is contained in the Omnibus Budget Reconciliations Act of 1993 (Public Law 103–66) and the FY 1996 Appropriations Act (Public Law 104–134). The authority for establishing supplementary rules is contained in Title 43, Subpart 8365, Section 1–6. The campground fee implementation supplementary rules have been developed to manage continued use of the site until a management plan can be completed. These rules will be available in the local office having jurisdiction over the site affected, and will be posted at the site. Violations of supplementary rules are punishable as class A misdemeanors.

The following is the legal descriptions for the Campgrounds:

Crossroads: San Bernardino Meridian

T. 2 N., R. 26 E.,
  Sec. 35, SW¼SW¼.

Empire Landing: San Bernardino Meridian

T. 2 N., R. 26E.,
Sec 36, NE¼NW¼.

Supplemental Rules

Recreation Use Permit

—Camping and day use permits are required for any use of the designated site for each vehicle used as a primary means of transportation. The fee for camping and day use permits will be as posted. Golden Age/Access cardholders qualify for half price discounts. The fee for a use permit will be in accordance with the fee schedule, requirements, and procedures established under the Recreation Fee Demonstration Pilot Program and are payable in U.S. funds only.
—Permit envelope receipts must be displayed (on the vehicle dashboard) and presented upon demand to an authorized BLM officer. Should the occupants be away from the campsite, the receipt must be visibly displayed in a conspicuous place.
—Permits may not be reassigned or transferred.
—An authorized BLM officer may revoke, without reimbursement, any permit when the permittee violates any BLM rule or regulation. Any permittee whose permit is revoked must remove all property and leave the campsite within 1 hour of notice.
—Camping checkout time is 2 pm of the following day.
—All pets must be on a leash and attended at all times. Leashes can not be longer than 8 feet.
—Motorized vehicles not registered for street use are not allowed to be driven in the campground.
—Fireworks are not allowed.

Site Occupation

—The maximum stay limit is 14 consecutive days, and 28 days in a calendar year.
—Eight persons are the maximum capacity allowed per site, per night.
—A camp site is considered occupied after the appropriate permit fee has been paid and the permittee has taken possession of the site by leaving personal property at the site.
—No person shall occupy a camp site in violation of instructions from a BLM official or when there is reason to believe that the unit is occupied by another camper.

Quiet Hours

—Quiet hours are from 9 p.m. to 7 a.m. in accordance with applicable state time zone standards.

Campfires

—Fires must be confined to barbecue, stove, grill, fireplace or other facility provided for such purpose.

Wood Collection

—Cutting or collecting any firewood is prohibited, including dead and down wood and all other vegetative material.

Firearms

—All firearms must remain unloaded and locked in vehicles at all times while occupying the campsite.

Sanitation

—Holding and sewage tank disposal is allowed at the dump station provided at Empire Landing Campground. Dumping waste water or emptying portable toilets in vault toilets is prohibited.
—Anyone using a campsite must keep their site free or litter and trash during the period of occupancy and remove all personal equipment and clean their sites upon departure.
—Persons bringing or allowing pets in camp areas shall be responsible for proper removal and disposal, in sanitary facilities, or any waste produced by these animals.

Alcoholic Beverages

The following are prohibited:
—The sale or gift of alcoholic beverage to a person under 21 years of age.
—The possession of an alcoholic beverage by a person under 21 years of age.
—The consumption of an alcoholic beverage by a person under 21 years of age.

Authority and Penalties

This notice is published under the authority of Title 43, Code of Federal Regulations, Subpart 8365, Section 1–6.

Dated: May 8, 1998.

Robert M. Henderson,

Acting Field Manager.

[FR Doc. 98–12934 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 9, 1998. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by June 2, 1998.

Carol D. Shull,

Keeper of the National Register.

ALABAMA

Montgomery County

United States Post Office and Courthouse—Montgomery, Church St. between Moulton and Lee Sts., Montgomery, 98000611

ARKANSAS

Chicot County

First Baptist Church (Ethnic and Minority Settlement of the Arkansas Delta MPS, AR 159 S, 1 mi. S of Eudora, Eudora, 98000645

Clark County

Rose Hill Cemetery, 1200 Block of Main St., Arkadelphia, 98000613

Crittenden County

Hamilton Apartments, 113 W. Danner St., West Memphis, 98000618

Jefferson County

O'Bryant, W.E., Bell Tower, 1200 N. University Dr., campus of the University of Pine Bluff, Pine Bluff, 98000622
St. Peter's Cemetery, Morgan Rd., S of New Gascony, Pine Bluff vicinity, 98000617

Lafayette County

Burton, P.D., House, 305 Chestnut, Lewisville, 98000612

Lee County

Plummer, John A., House, 269 Pearl St., Marianna, 98000646

Lonoke County

Utley, Dr. E.F., House, 401 W. Pine St., Cabot, 98000623

Ouachita County

Burkett, Capt. John T., House, 607 Ouachita Cty. Rd. 65, Frenchport vicinity, 98000620

Polk County

Elks Lodge, 500 Mena St., Mena, 98000616

Pulaski County

Harris House, 6507 Fourche Dam Pike, Little Rock, 98000644
Lamb—McSwain House, 2124 Rice St., Little Rock, 98000621

Scott County

Forrester, C.E., House, 102 Danville Rd., Waldron, 98000614

Stone County

Noricks Chapel School (Stone County MPS), Misenheimer Rd., 10 mi. SE of Mountain View, Mountain View vicinity, 98000615

Washington County

Black Oak Cemetery, Cty. Rd. 243, 4 mi. SW of Greenland, Greenland vicinity, 98000619

COLORADO

Denver County

Denver Medical Depot, 3800 York St., Denver, 98000650

FLORIDA

Monroe County

Lignumvitae Key Archeological and Historical District, Address Restricted, Islamorada vicinity, 98000652

Sarasota County

Worth's Block, 1490 Main St., Sarasota, 98000651

ILLINOIS

La Salle County

Corbin Farm Site (Archeological Sites of Starved Rock State Park MPS), Address Restricted, Utica vicinity, 98000654
Hotel Plaza Site (Archeological Sites of Starved Rock State Park MPS), Address Restricted, Utica vicinity, 98000656
Little Beaver Site (Archeological Sites of Starved Rock State Park MPS), Address Restricted, Utica vicinity, 98000655
Shaky Shelter Site (Archeological Sites of Starved Rock State Park MPS), Address Restricted, Utica vicinity, 98000657

KANSAS

Osage County

Banner Hereford Farm, 19355 S. Berryton Rd., Scranton vicinity, 98000659

LOUISIANA

Evangeline Parish

Tate House (Louisiana's French Creole Architecture MPS), 1425 LA 29, Ville Platte vicinity, 98000661

St. Martin Parish

Reymond House, 7250 Goodwood Blvd., Baton Rouge, 98000663

NEW YORK

Delaware County

Walton Grange #1454—Former Armory, 57 Stockton Ave., Walton, 98000666

Wayne County

First Presbyterian Church of Ontario Center, 1638 Ridge Rd., Ontario Center, 98000665

OHIO

Franklin County

Grant, A. G., Homestead, 4124 Haughn Rd., Grove City, 98000667

OKLAHOMA

Oklahoma County

Norton—Johnson Buick Company, 117–125 NW 13th St., Oklahoma City, 98000668

OREGON

Clatsop County

Astoria Downtown Historic District, Boundary roughly from the Columbia R. to Exchange St and from Seventh St. to Seventeenth St., Astoria, 98000631

Jackson County

Hargadine Cemetery (Historic Cemeteries of Ashland MPS) Sheridan and Walnut Sts., Ashland, 98000627
Welch, Mathias, House, 162 N. Second St., Central Point, 98000625
Whited, Harry L., House, 321 N. Main St., Ashland, 98000626

Josephine County

Clark—McConnell House, 961 SE 8th St., Grants Pass, 98000628
Dimmick—Judson House, 906 NE Eighth St., Grants Pass, 98000629
Klamath County Goeller, Fred, House, 234 Riverside Dr., Klamath Falls, 98000624

Linn County

Albany Municipal Airport, 3510 Knox Butte Rd., Albany, 98000630

RHODE ISLAND

Bristol County

Juniper Hill Cemetery, 24 Sherry Ave., Bristol, 98000632

TEXAS

Anderson County

Gatewood—Shelton Gin (Palestine, Texas MPS) 304 E. Crawford, Palestine, 98000637
Lincoln High School (Palestine, Texas MPS) 920 W. Swantz St., Palestine, 98000636
Mount Vernon African Methodist Episcopal Church (Palestine, Texas MPS) 913 E. Calhoun St., Palestine, 98000635
Reagan, John H., Monument (Palestine, Texas MPS) Reagan Park; vicinity of Park and Crockett Sts., Palestine, 98000633

Redlands Hotel

(Palestine, Texas MPS) 400 N. Queen St, Palestine, 98000634

UTAH

Box Elder County

Washakie LDS Ward Chapel, Along Samarie Lake Canal, Washakie, 98000641

Davis County

Harris, Thomas and Caroline, House (Centerville MPS) 275 South 200 East, Centerville, 98000639

Salt Lake County

Jensen, Joseph F. and Isabelle, House (Sandy City MPS) 428 East 8800 South, Sandy, 98000640

Utah County

Baxter, David and Drusilla, House (Orem, Utah MPS) 206 W. 1600 N., Orem, 98000653
Carter—Terry—Call House (Orem, Utah MPS) 815 E. 800 S., Orem, 98000658
Clinger—Booth House (Orem, Utah MPS) 468 S. Main St., Orem, 98000660
Cordner, Alexander and Nellie P., House (Orem, Utah MPS) 415 S. 400 E., Orem, 98000649
Cordner, William James and Edna, House (Orem Utah MPS) 440 S. State St., Orem, 98000647
Cordner—Calder House (Orem, Utah) 305 S. 900 E., Orem, 98000648
Cullimore, William J. and Lizzie, House (Orem, Utah MPS) 396 W. 1600 N., Orem, 98000643
Davis, Joshua House (Orem, Utah MPS) 1888 S. Main St., Orem, 98000642
Dimick, Cecil I. and Mildred H., House, (Orem, Utah MPS) 575.West 800 North, Orem, 98000638
Gappmayer, Roy H. and Florence B., House (Orem, Utah MPS) 95 E. 1200 S., Orem, 98000672
Knight—Finch House (Orem, Utah MPS) 212 S. State St., Orem, 98000673
Lewis, John S. and Izola, House (Orem, Utah MPS) 343 E. 720 S., Orem, 98000671
McBride, Sims, Garage (Orem, Utah MPS) 600 N. State St., Orem, 98000664
Olsen, Lars and Christina, House (Orem, Utah MPS) 417 S. 800 E., Orem, 98000669
Skinner, Alfred and Rosy, House (Orem, Utah MPS) 232 W. 800 S., Orem, 98000662
Stratton House—Orem City Hall (Orem, Utah MPS) 870 W. Center St., Orem, 98000674

WISCONSIN

Waukesha County

Freewill Baptist Church, 19750 W. National Ave., New Berlin, 98000670

[FR Doc. 98–13133 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Concessions Management Policy and Concessions Management Directives and Standards

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the Reclamation Act of 1902, as amended and supplemented; the Federal Water Projects Recreation Act of 1965, as amended; and the Reclamation Project Act of 1939, the Bureau of Reclamation (Reclamation) has implemented internal Concessions Management Policy. In addition, Reclamation has implemented two sets of internal Concessions Management Directives and Standards which covers concessions managed by Reclamation and those managed by non-Federal partners. Copies of the policy and the directives and standards are available to the public upon request.

ADDRESSES: See Supplementary Information for addresses where copies of the Concessions Management Policy and Concessions Management Directives and Standards are available.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Lovejoy at (303) 445–2913.

SUPPLEMENTARY INFORMATION: Concessions are commercial services that support public recreational uses of

Reclamation lands and waters by providing facilities, goods, and services.

The basic purpose of the concessions policy is to provide principles, objectives, and direction for the development and management of concessions on Reclamation lands. The policy is concerned with good business practices, protecting resources, providing an equitable return to the Government, and protecting the interest of the public while ensuring facilities are safe, sanitary, accessible, and the services are reasonably priced. The policy affects all new concessions contracts, renewals, and the sale or transfer of existing contracts.

Since 1993, the policy has been developed with input from Department of the Interior offices, other Federal agencies, congressional representatives, State and local governments, the public concessionaires, and groups and organizations who expressed interest in proposed drafts of the concession management policy and directives and standards.

Availability of Policy and Directives and Standards

Copies are available through any Reclamation office; listed below are the addresses of major offices:

1. Bureau of Reclamation, Commissioner's Office, W–5000, 1849 C Street NW, Washington, DC 20240.

2. Bureau of Reclamation, Commissioner's Office, D–5300, Denver Federal Center, PO Box 25007, Lakewood, CO 80225.

3. Bureau of Reclamation, Pacific Northwest Region, 1150 N. Curtis Road, Suite 100, Boise, ID 83706.

4. Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, CA 95825.

5. Bureau of Reclamation, Lower Colorado Region, PO Box 61470, Nevada

Highway and Park Street, Boulder City, NV 89005.

6. Bureau of Reclamation, Upper Colorado Region, 125 S. State Street, Room 6107, Salt Lake City, UT 84138.

7. Bureau of Reclamation, Great Plains Region, Federal Office Building, 316 N. 26th Street, Billings, MT 59101.

Copies are also available from Reclamation web pages at http://www.usbr.gov/recman.

Dated: April 28, 1998.

Henry Sandhaus,

Acting Director, Program Analysis.

[FR Doc. 98–13159 Filed 5–15–98; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice Inviting Proposals for Promoting Employer Participation in School-to-Work (STW) Systems

SUMMARY: This notice contains all of the necessary information and forms to apply for grant funding. The Departments of Labor and Education jointly are accepting proposals for a new award in FY 97, as authorized under section 403 of the School-to-Work Opportunities Act of 1994 (the Act). This award will provide for coordination of the overall effort to engage employers in STW activities, the identification and collaboration with national business leaders to advocate for and promote the visibility of business participating in STW, the provision of technical assistance to business leaders, the dissemination of products and information related to employer participation in STW, and the marketing and dissemination of research findings related to employer participation in STW. The Departments believe that a targeted approach to employer involvement through a unified, singular and strategically managed award, has the potential to increase the number of employers participating in STW systems, build their capacity to influence and benefit from STW partnerships, and increase the ability of other STW stakeholders to develop effective, sustainable partnerships with employers.

DATES: Applications will be accepted commencing May 18, 1998. The closing date for receipt of applications is July 2, 1998, at 4 P.M., (Eastern Time) at the address below.

ADDRESSES: Applicants shall be mailed to U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, Attention: Patricia Glover, Reference: SGA/DAA 98–005, 200 Constitution Avenue, N.W., Room S–4203, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Questions should be faxed to Ms. Patricia A. Glover, Grants Management Specialist, Division of Acquisition and Assistance, Fax (202)219–8739. This is not a toll-free number. All inquiries should include the SGA number (DAA 98–005) and a contact name and phone number. This solicitation will also be published on the Internet, and the Employment Administration's Home Page at http://www.doleta.gov. Award notifications will also be published on this Home Page.

Employer Technical Support Coordination Solicitation

I. Purpose

To invite proposals to coordinate an array of national efforts to engage employers in STW and to provide technical support to STW partners that will increase and maximize employer participation in these partnerships.

II. Background

The School-to-Work Opportunities Act was signed into law by the President on May 4, 1994. Jointly administered by the Departments of Labor and Education, this Act is a new approach to education that seeks to better prepare all American Youth for careers in high skill, high wage jobs and to strengthen the linkages between what is learned in school with work. Under the Act, venture capital grants are provided to States and local communities to undertake systemic reform. Grants are for a limited duration with the Federal investment declining over time. These investments are intended to support the one-time costs of States and local communities to restructure learning experiences for all students. The Act also provides a set-aside of funds for national activities to support School-to-Work system building nationwide. These funds are used for technical assistance and capacity building, for outreach, and for research and evaluation. Section 403 of the Act, relating to training and technical assistance, specifically directs the Secretaries to "work in cooperation with * * * employers and their associations * * * to increase their capacity to develop and implement effective School-to-Work programs."

III. Statement of Work

Employer Participation in STW

Changes in the economy, technology and global competition are driving forces behind efforts to improve the academic performance and career preparedness of today's youth. Among its purposes, the National School-to-Work Act was enacted to: "utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high quality, work-based learning experiences." Work based learning is one of the three key components within a STW system (school-based learning and connecting activities are the other two). At the early stages of STW implementation, one of the key considerations was to build employer

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participation in STW at such a scale and depth as to provide the vast number of work-based learning opportunities necessary for all of the nation's students to experience meaningful connections between the classroom and the workplace. Thus, an unprecedented scale of employer commitment and involvement in education is critical for the implementation and sustainability of STW systems. Employers participate in STW systems through a number of different activities involving students, teachers and with State and local governing bodies. *The Employer Participation Model,* published by the National Employer Leadership Council (NELC), outlines more than 50 different opportunities for employer involvement in STW. State and local communities are actively working to engage employers in becoming partners and active participants within their STW systems.

Status of Employer Investments

To date, the two Departments through the National School-to-Work Office have made a number of investments to support employer knowledge and participation in aspects of emerging STW systems. A major investment included support for the establishment and development of the National Employer Leadership Council (NELC), the purpose of which has been to enlist the leadership of highly visible CEOs of major companies in order to promote STW at the highest levels of corporate business. Another significant investment included one through an existing ETA grant to the National Alliance of Business (NAB). The purpose of this project was to promote participation in STW through ETA's workforce development infrastructure featuring a partnership comprised of NAB, NELC, the Association of Private Industry Councils, and the National Employer Council. The National STW Office also invested in specific outreach activities and publications targeted to business entities and employers. Recently, the National STW Office released a solicitation in which up to 5 awards will be made to national industry and trade associations. The successful applicants will be expected, through their membership infrastructures, to capture for STW participation a critical mass of employers in growth industries and/or those with high potential for providing jobs with career pathways for new job entrants.

Additional investments have been made in research and evaluation to collect data on employer participation. These studies support the notion that the investments made to date are having a modest impact, but there is still a long way to go before employer participation can be considered at a scale sufficient to sustain STW systems. One recent study conducted by Mathematica Policy Research revealed that employers are playing an active role in local partnerships, participating widely in governing in and more than a quarter of the cases are actually chairing these bodies. They are offering varied forms of work-base learning opportunities, hosting teacher internships and contributing to curriculum development. However, according to the Mathematica report, partnerships still face significant challenges as they try to recruit the numbers of employers needed. The report concludes that "Employer recruiting will have to expand participation manyfold beyond the 1996 levels if the goals states are setting for workplace activity are to be realized." Other research shows, however, that employers are ready and eager to participate in STW and that their numbers are expanding. The National Employer Leadership Survey conducted by the Center on Educational Quality of the Workforce illustrated a clear desire by employers to participate in and provide appropriate leadership to STW. Significantly, another study conducted through the NELC shows that there is economic incentive to do so. Preliminary data from its Return on Investment Study shows a quantitative value of STW participation ranging from $.44 to over $5 for every dollar invested. In addition, companies are likely to experience non-monetary returns on investment such as increased employee morale when they participate in STW.

There are other encouraging indications that employer participation is beginning to accelerate. Part II of the National Employer Survey released in November 1997 revealed that over one in four employers with 20 or more employees are involved in STW. However, the survey also shows that mentoring and job shadowing are the predominant modes of participation and that larger companies participate in greater numbers than small companies. Thus, to further take STW to scale and build employer capacity there need to be efforts to (1.) continue to broaden the number of employers; (2.) expand the nature of employer participation to include more in-depth participation through such activities as internships; and (3.) increase the number of small and medium sized businesses participating in STW. Although investments to date have built awareness of STW in the business community and an encouraging level of employer involvement, we now need to build greater depth and capacity in employer participation. STW initiatives need to engage companies of all sizes and all industries in order to build capacity beyond basic awareness and peripheral participation.

Government Performance and Results Act (GPRA)

GPRA requires that each government entity develop goals and objectives against which performance can be measured. Building strong employer participation in STW is chief among the objectives the Departments have established for the National School-to-Work Office. The Departments have identified two indicators of achievement for this objective: 1. by fall 2000, 600,000 employers will engage in at least one recognized STW activity; and 2. by fall 2000, 40% of all employers participating in STW systems will offer work-based learning opportunities. As of December 1995, the most recent data available, 150,000 employers nationally were engaged in at least one STW activity. When the next Progress Measures report is issued this number is likely to be significantly higher. However, it is apparent that strategic approaches for recruitment of employers remains an urgent necessity. There is a need to develop prototype products and to work with key organizations to raise critical awareness of STW among employers. In addition, the Departments recognize the importance of supporting the development, testing, dissemination and implementation of various approaches to employer participation in order to meet the GPRA objectives. This solicitation represents a major component of the Departments' strategy to achieve its objective of building employer participation in STW.

Required Areas of Effort

Reaching a critical mass of employers participating in STW will require concentrated and strategic effort. This effort will require: that both private and public sector employers increase their knowledge of the breadth of STW participation options; that employer participation is easily facilitated; that other stakeholders are ready and knowledgeable enough to partner with employers; that employers are able to influence other institutions for their own benefit; that employers help infuse STW into other workforce development and community systems; that there is research—both hard evidence and anecdotal examples—to demonstrate the conditions under which there is a return on investment when they participate;

and that investments in employer participation grow and leverage other resources. Based on lessons learned from previous investments in awareness building and research, the Departments believe it necessary to approach building the levels of employer participation by requiring the successful applicant for this solicitation to demonstrate concerted effort in the following four areas of concentrated activity.

1. *Building employer knowledge base about STW and cultivating corporate leadership.* This area required effort includes but is not limited to those activities that (1) address perceived barriers to employer participation in STW; (2) provide more information to employers; (3) organize employer events (such as employer conferences) regarding STW; (4) highlight effective and best practices; (5) publicly recognize commendable examples of employer participation in STW; (6) disseminate research findings pertinent to employer participation in STW; and (7) generally provide outreach to the employer community and promote participation in STW. The Departments are particularly interested in activities that instruct and sustain employers in leading efforts to promote and implement STW systems' leadership at the national, state, and local levels.

The Departments have determined that these activities proceed most effectively when they are guided by business leaders who have demonstrated their commitment to STW and their willingness to promote the program within the larger business community. As discussed above, several employer groups, such as the NELC, NAB, NAPIC, and NEC, have substantially increased the visibility of STW in the business community. Accordingly, the Departments expect the successful applicant to: (1) operate an active national advisory council of business leaders, including representatives from employer groups such as those listed above; (2) describe, with specificity, the roles and activities of the advisory council; and (3) identify the business leaders who have committed themselves to serve on the council.

2. *Organizing and participating in strategic alliances with national business groups and organizations.* This area of required effort involves activities designed to maximize the coordination of STW-related initiatives. The Departments recognize that national organizations which represent and serve a wide variety of businesses and business interests have been demonstrating increasing interest in STW. Some of these groups have established STW initiatives of varying scope and intensity. As a result, there are several simultaneous national efforts to inform about STW and to engage them in STW initiatives. The Departments believe that where possible, coordinated alliances between these groups would strengthen the overall impact of these efforts. Accordingly, the Departments are interested in activities that would strategically convene divergent business efforts to increase knowledge of, and participation in STW, that includes serving when necessary as the collective voice of business in the ongoing dialogue around STW issues.

3. *Providing technical assistance to State STW systems in cultivating employer participation.* States need various degrees of assistance in recruiting employers to actively participate in STW. Also, previous experience indicates that employer involvement becomes tenuous when employers are in a ready posture to participate, but STW systems are not fully ready to engage employers. The Departments are therefore interested in direct technical assistance to selected State STW systems that will help these systems expand and intensify employer participation. Examples of such technical assistance include helping states develop strategic plans for developing employer leadership, assisting states develop products and tools for working with employers as well as for organizations working with employers, and dissemination of products and materials for engaging employer leadership in State systems.

4. *Providing support and coordination to national industry specific STW initiatives.* The Departments are in the process of awarding up to 5 new awards (Reference # : SGA/DAA 98–003) to provide support to industry groups and trade associations to undertake outreach, technical assistance, and other activities to engage and build capacity of employers in their industry to participate in STW systems. The Departments believe that, through industry-specific initiatives, industry groups representing high growth industries and/or those that have a high potential for providing jobs with career pathways for new job entrants can build a strong base of employer participation in STW. Accordingly, it is expected that the successful applicant for this solicitation will convene the successful offerors from SGA/DAA 98–003 on a quarterly basis and coordinate their efforts to share activities and results across industries. This requirement is to insure that the National STW Office's investments in employer engagement are closely allied and are strategically consistent.

IV. Eligible Applicants

National business organizations or associations, or a national consortium of business organizations experienced in business partnership management and School-to-Work. Potential applicants, however, should note the Departments' priority in seeking an organization with a thorough knowledge of School-to-Work, familiarity with *The Employer Participation Model*, demonstrated competence in promoting and supporting education/business partnerships, and a strong knowledge base concerning the needs, circumstances and conditions of businesses that participate in School-to-Work. In preparing the proposal, please use the following headings and respond to the information in each of the following categories.

1. Project Description. Summarize the scope of the project, outline how its activities will relate to the four broad areas of activity described in the previous section, provide succinct and measurable project objectives, and show how the objectives will help the Departments meet the STW goals and objectives established pursuant to GPRA.

2. Operational Plan. Provide a detailed work plan that includes a description of the proposed activities matched to the objectives presented in the Project Description, with accompanying time lines, and the targeted audiences for each of these activities. Provide an organizational structure and clear management plan detailing the staff and organizational resources to be devoted to the project. The offeror should demonstrate how the proposed work will contribute to bringing STW to scale and how it will lead to sustainability. Indicators demonstrating whether the work plan is likely to help bring STW to scale include:

- Showing the impact usefulness at the national, state, and local levels and demonstrating a strong "outreach" effort to enhance this impact;
- Articulating how the planned activities will build linkages between business and other STW stakeholders;
- Connecting to, and collaborating with, other organizations and initiatives designed to promote employer participation in STW;
- Identifying, developing, and disseminating materials for professional development in the area of effective employer engagement in STW; and
- Building linkages with industry groups and organizations which, through their membership, are in a position to promote broader employer participation in STW, in particular, those industry/trade consortiums funded by the National School-to-Work Office. Indicators demonstrating whether the plan demonstrates sustainability after the federal investment has ended include:
- Identifying both federal and non-federal funding sources a that amplify the federal investment and outlast it;

• Describing in business terms how the plan addresses business problems or needs;
• Inviting other entities with similar experiences and interests to identify related products, resources, findings and interests in order to take advantage of activities in the larger arena of STW implementation; and
• Building upon existing, or creating new *coalitions* that maximize business involvement and participation in STW.

3. Connecting to related initiatives and entities. The offeror should demonstrate how its proposed plan of activities will build upon existing or create new coalitions that maximize business involvement and participation in STW; and/or connect with other entities with similar experiences and interests to identify related products, resources, funding and interests in order to take advantage of activities in the larger arena of STW implementation, and/or involve the public and private sectors in ways that capitalize on, and connect to, existing infrastructures and overall workforce development systems.

4. Results. The offeror should provide specific and quantifiable outcomes that are anticipated from the proposed plan of activities and that are measured with STW GPRA performance indicators. The proposed outcomes should be sufficiently rigorous to allow the Departments to meet its performance objectives and indicators established pursuant to GPRA. In identifying outcomes, the offeror should also explain how it will collect data, document results and use these results to inform its ongoing workplan.

5. Capability. The offeror should demonstrate the capability of the organization and the key staff assigned to undertake the work plan, including examples of prior related efforts that demonstrate success in providing outreach and capacity building efforts to employers and employer organizations.

V. Funding Availability and Period of Performance

The Departments expect to make one award under this competition. The award will be for $750,000. The period of performance will be for 12 months from the date the grant is awarded. The Departments may, at their option, provide additional funds for another 24 months, depending on fund availability and performance of the awardee.

VI. Application Submittal

Applicants must submit four (4) copies of their proposal, with original signatures. The applications shall be divided into two distinct parts: Part I—which contains Standard Form (SF) 424, "Application for Federal Assistance," (Appendix A) and "Budget Information Sheet," (Appendix B) . All copies of the SF 424 MUST have original signatures of the designated fiscal agent. Applicants shall indicate on the SF–424 the organization's IRS status, if applicable. According to the Lobbying Disclosure Act of 1995, Section 18, an organization described in Section 501(C) 4 of the Interal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan. The Catalog of Federal Domestic Assistance number is 17.249. In addition, the budget shall include—on a separate page(s)—a detailed cost break-out of each line item on the Budget Information Sheet. Part II shall contain the program narrative that demonstrates the applicant's plan and capabilities in accordance with the evaluation criteria contained in this notice. Applicants must describe their plan in light of each of the Evaluation Criteria. No cost data or reference to price shall be included in this part of the application. Applicants MUST limit the program narative section to no more than 30 double-spaced pages, on one side only. This includes any attachments. Applications that fail to meet the page limitation requirement will not be considered.

VII. Late Applications

Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it—(a) Was sent by registed or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., and application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been mailed/post marked by the 15th of that month); or (b) Was sent by the U.S. Postal Service Express Mail Next Day Service to addresses not later than 5:00 P.M. at the place of mailing two working days prior to the date specified for receipt of applications. The term "working days" excludes weekends and federal holidays. The term "post marked" means a printed, stamped or otherwised placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

VIII. Hand Delivered Proposals

It is preferred that applications be mailed at least five days prior to the closing date. To be considered for funding, Hand-delivered applications must be received by 4:00 p.m., (Eastern Time), on the closing date.

Telegraphed and/Faxed Applications Will Not Be Honored

Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness. Overnight express mail from carriers other than the U.S. Postal Service will be considered hand-delivered applications and *Must Be Received* by the above specified date and time.

IX. Review Process

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria listed below. The panel results are advisory in nature and not binding on the Grant Officer. The government may elect to award the grants with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the SF–424, which constitutes a binding offer. Awards will be those in the best interest of the Government.

X. Evaluation Criteria

1. The extent to which the offeror outlines a clear and detailed plan of operation. (40 points)
• Is the plan specific as to the activities proposed and how these activities will result in broad employer participation?
• Are the outcomes proposed specific and realistic?
• Is the plan specific as to staff assignments and level of effort?
• Do the activities directly relate to the four areas of required effort?
• Does the application demonstrate how the proposed work will contribute to expanding the scope and breadth of employer participation in STW?
• How will the proposed activities lead to sustainability of the federal investment to engage employers in STW systems?
• How will the proposed outcomes help the Departments to meet its performance objectives and indicators established pursuant to the GPRA?

2. The extent to which the applicant demonstrates the capability and capacity to meet the requirements of this solicitation. (30 points)
• Does the organization have clear links to the employer and business communities?
• Does the applicant identify specific corporate entities and leaders (e.g., individuals associated with particular business groups) who have committed to actively participate on a national advisory council; and does the organization clearly delineate the roles and activities of this advisory body?

- Has the applicant demonstrated the ability to recruit business leaders, who represent a mix of industry types, sizes and geographic locations, for its proposed STW activities?
- Are the personnel assigned to the effort well qualified to carry out the activities represented in the operational plan?
- Are the organization and assigned staff well positioned to provide the range of technical assistance to employers, employer partners and STW systems as required?
- Does the organization demonstrate the capacity to perform the range of required activities on a national scale?

3. The extent to which applicant demonstrates the willingness and ability to engage and convene other related national initiatives that seek to inform and develop employer participation in STW. (20 points)

- Does the applicant propose specific activities that are likely to result in strategic alliances with other business groups?
- Does that applicant show relevant past experience in collaborating with national business groups?
- Does this experience span a range of industry sizes and types?

4. The overall utility of the applicant's plan to evaluate its activities and use its results to inform its ongoing plan. (10 points)

- Is the plan for evaluation clearly tied to clear objectives and specific outcomes?
- Is there a clear mechanism for adjusting the workplan based on results?
- Are there clear descriptions of the type of data to be collected and a clear data collection plan?

The grants will be awarded based on applicant response to the above mentioned criteria and that which is otherwise most advantageous to the Departments.

XI. Reporting Requirements

The Departments are interested in insuring that the grantee work closely with the industry and trade associations that are successful applicants for the previously referenced competition (Reference # DGA/DDA 98–003). The Departments expect the successful offeror will convene these associations' STW project staff on a quarterly basis. The grantee will also be asked to submit periodic reports in a format to be determined and on a semi-annual basis.

Signed at Washington, D.C., this 11th day of May 1998.

Janice E. Perry,

Grant Officer.

BILLING CODE 4510–30–P

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VOL 63 ISS 95 MY 18 1998
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APPLICATION FOR FEDERAL ASSISTANCE

APPENDIX A

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

1 7 - 2 4 9

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

APPENDIX B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel	$	$	$
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate%)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)	$	$	$

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid for project personnel which you are required to provide with W2 forms.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.

4. Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.

5. Supplies: Include the cost of consumable supplies and materials to be used during the project period.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Costs: Add lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.

10. Training /Stipend Cost: (If allowable)

11. Total Federal funds Requested: Show total of lines 8 through 10.

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

[FR Doc. 98–13156 Filed 5–15–98; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–20; Exemption Application No. D–10355, et al.]

Grant of Individual Exemptions; Equitable Life Assurance Society

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Equitable Life Assurance Society of the United States (Equitable) Located in New York, New York; Exemption

[Prohibited Transaction Exemption 98–20; Exemption Application No. D–10355]

The restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the past and continuing lease (the Lease) of commercial space in One Boston Place by Equitable Separate Account No. 8, also known as the Prime Property Fund (PPF), to an Equitable affiliate, Equitable Real Estate Investment Management, Inc. (ERE), provided the following conditions are satisfied:

(1) All terms and conditions of the Lease are at least as favorable to PPF as could be obtained in an arm's length transaction with an unrelated party;

(2) The interests of PPF for all purposes under the Lease is represented by an independent fiduciary, Lawrence A. Bianchi, a principal of the Codman Company in Boston, Massachusetts;

(3) The rent paid by ERE at all times under the Lease is no less than the fair market rental value of the property; and

(4) The independent fiduciary will continue to monitor the Lease on behalf of PPF.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on February 6, 1998 at 63 FR 6214.

EFFECTIVE DATE: This exemption has an effective date of July 24, 1996.

FOR FURTHER INFORMATION CONTACT: Janet L. Schmidt of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Tyson Foods, Incorporated Employee Profit Sharing Plan and Trust (the Plan) Located in Springdale, Arkansas Exemption

[Prohibited Transaction Exemption 98–21; Exemption Application No. D–10421]

The restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the past sale by the Plan of certain hatcheries, a freezer facility and an office complex (collectively, the Properties), all located in Arkansas, to Tyson Foods, Incorporated (the Company), a party in interest with respect to the Plan, provided that the following conditions were satisfied:

(A) All terms of the transactions were at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The sale was a one-time transaction for cash;

(C) The Plan paid no commissions nor other expenses relating to the sale;

(D) The purchase price was the greater of: (1) the fair market value of each of the Properties as determined by a qualified, independent appraiser; or (2) the Plan's original acquisition cost; and

(E) Prior to the sale, an independent fiduciary reviewed the transactions and determined that the transactions described herein, were appropriate and in the best interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on March 20, 1998 at 63 FR 13693.

EFFECTIVE DATE: This Exemption has an effective date of May 23, 1997.

FOR FURTHER INFORMATION CONTACT: Janet L. Schmidt of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or

administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 13th day of May 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–13146 Filed 5–15–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–22; Exemption Application Nos. D–10461, D–10462 and D–10463]

Grant of Amendment to Prohibited Transaction Exemption (PTE) 93–8 Involving the Fortunoff Pension Plans (the Plans) Located in Westbury, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of Amendment to PTE 93–8.

SUMMARY: This document contains a final exemption which amends PTE 93–8 (58 FR 7258, February 5, 1993), a purchase, leaseback and license exemption involving Plans sponsored by Fortunoff Fine Jewelry and Silverware, Inc. (FFJ) and M. Fortunoff of Westbury Corporation (M. Fortunoff) and parties in interest. These transactions are described in a notice of pendency that was published in the **Federal Register** on May 8, 1992 at 57 FR 19951.

EFFECTIVE DATE: This exemption is effective as of May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 19, 1997, the Department of Labor (the Department) published a notice of proposed exemption (the Notice) in the **Federal Register** (62 FR 66685) that would amend PTE 93–8. PTE 93–8 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The Notice was requested in an application filed on behalf of M. Fortunoff and FFJ (collectively, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990) (the Procedures). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

The Notice gave interested persons the opportunity to comment and to request a public hearing on the matters described therein. Although the Notice and supplemental statement were to be posted and distributed to interested persons during the month of December 1997, the Applicants stated that this action was not taken but inadvertently overlooked. Therefore, the Applicants represented that they posted copies of the Notice and supplemental statement on employee bulletin boards in company stores and executive offices and also mailed this documentation to all other participants in the Plans who were not current employees, on or about March 9, 1998. The Department received no comments or hearing requests from interested persons following the dissemination of the Notice and supplemental statement and, therefore, has determined to grant the amendment to PTE 93–8.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This exemption will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the Summary of Facts and Representations set forth in the proposed exemption relating to PTE 93–8, as amended by this grant notice, accurately describe, where relevant, the material terms of the transactions consummated pursuant to that exemption.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the Procedures cited above, the Department hereby amends PTE 93–8. Accordingly, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the leasing by the Fortunoff Pension Plan—Employer Group A Plan, the Fortunoff Pension Plan—Employer Group B Plan and the Fortunoff Fine Jewelry and Silverware, Inc. Profit Sharing Plan (collectively, the Plans) to Fortunoff Fine Jewelry and Silverware, Inc. (FFJ), under the provisions of an amended lease (the Amended Lease) described in Prohibited Transaction Exemption (PTE) 93–8 (58 FR 7258, February 5, 1993), of certain real property (the Substitute Property), acquired by the Plans through

a third party exchange (the Exchange Property), as well as all remaining real estate which constitutes the leased premises (the Property), provided the following conditions are met:

(a) The terms of the Amended Lease remain at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

(b) The independent fiduciary—

(i) Determines that the acquisition and subsequent leasing of the Substitute Property by the Plans under the Amended Lease are in the best interest of the Plans and their participants and beneficiaries;

(ii) Monitors and enforces compliance with the terms and conditions of the Amended Lease, the Escrow Agreement and the new exemption, at all times; and

(iii) Appoints one or more independent fiduciaries to resolve any conflicts of interest which may develop among the Plans with respect to the Amended Lease, the Escrow Agreement, the Property, or the Plans' respective interests therein.

(c) The fair market value of the proportionate interests held by each Plan in the Property as a whole following the exchange transaction does not exceed 25 percent of each Plan's assets.

(d) The Property, the Exchange Property and the Substitute Property are all appraised by qualified, independent appraisers prior to the consummation of the exchange transaction.

(e) The base rent for the Property is adjusted annually by the independent fiduciary based upon an independent appraisal of such Property.

(f) FFJ incurs all real estate taxes and other costs which are incident to the Amended Lease.

(g) The Escrow Agreement is maintained by M. Fortunoff of Westbury Corporation (M. Fortunoff), in favor of the Plans, as security for FFJ's rental obligations under the Amended Lease.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 93–8, refer to the proposed exemption, grant notice and technical correction notice which are cited above.

Signed at Washington, D.C., this 13th day of May, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–13144 Filed 5–15–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10583, et al.]

Proposed Exemptions; McClain's R.V., Inc. 401(k)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

McClain's R.V., Inc. 401(k) Profit Sharing Plan (the Plan) Located in Lake Dallas, Texas

[Application No. D–10583]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved real property (the Land) by the Plan to Larry McClain (Mr. McClain), the sole shareholder of McClain's R.V. Inc., the sponsor of the Plan, and a party in interest with respect

to the Plan, provided that the following conditions are satisfied:

(a) the proposed sale will be a one-time cash transaction;

(b) the Plan will receive the greater of: (1) the original acquisition cost of the Land plus the aggregate holding costs incurred by the Plan; or (2) the current fair market value of the Land (plus an appropriate premium related to the adjacency of the Land to other real property owned by McClain's R.V. Inc.), as established by an independent qualified appraiser at the time of the sale; and

(c) the Plan will pay no commissions or other expenses associated with the proposed sale.

Summary of Facts and Representations

1. The Plan is a 401(k) profit sharing plan that was established effective January 1, 1981. As of December 31, 1996, the Plan had 73 participants and beneficiaries. As of December 31, 1997, the Plan had total assets of $3,419,103. Chase Texas, N.A. (formerly known as Texas Commerce Bank) is a directed trustee of the Plan.

The sponsor of the Plan is McClain's R.V. Inc. (the Employer), which is a subchapter "C" corporation, incorporated in the State of Oklahoma. The Employer sells and services recreational vehicles and travel trailers. Mr. McClain is the sole shareholder of the Employer and a Plan participant.

2. On or about November 7, 1985, the Plan purchased the Land from Mr. Pertells, an independent third party, for approximately $57,000. This original purchase transaction was made in cash with no extension of credit involved.

The Land is located at S.W. 2nd Street and Rockwell Avenue in Oklahoma City, Oklahoma. The Land consists of two tracts which comprise approximately 21,855 square feet, and is adjacent to certain real property that is owned by the Employer. The Land has been used sporadically by the Employer for overflow or customer parking. The applicant represents that the Employer's customers would occasionally park on the Land rather than in the Employer's main parking lot. In the interest of maintaining good customer relations, the Employer did not require the customers to move their vehicles to the regular parking area. Additionally, when the Employer's main parking lot was full, the employees of the Employer would temporarily park their vehicles on the Land, and would move their vehicles to the Employer's parking lot later in the day. The applicant represents that the Employer does not require its employees or customers to pay for parking on the Land or in the Employer's parking lot.[1] As such, there have been no formal leases or arrangements made between the Plan and the Employer to compensate the Plan for parking on the Land. Furthermore, the Land has yielded no other revenue for the Plan from the date of its original acquisition to the present.[2]

3. The original decision to purchase the Land as a long term investment was made by the trustees of the Plan in 1985. The applicant maintains that at the time the Land was originally purchased, land values were stable and there was no indication that property values would plummet shortly thereafter. The trustees also intended to lease the Land to the Employer for use as necessary, thus providing some income to the Plan. However, the intended leasing of the Land did not occur because the trustees were informed that such a lease would violate the prohibited transaction rules of the Act.

The Plan's estimated aggregate holding costs relating to the Land for the period 1985–1997 were $3,473.23. This amount includes the property taxes that were due on the Land for that period, and certain periodic appraisals of the Land that were paid for by the Plan.[3] Therefore, the Plan's total cost for the acquisition and holding of the Land was $60,473.23 as of April, 1998.[4]

4. The Land was appraised on January 15, 1998, (the Appraisal) by Bennie W. Vowell (Mr. Vowell), an independent qualified appraiser certified in the State of Oklahoma. The Appraisal is an update of an earlier appraisal of the Land, which was also conducted by Mr. Vowell. The Appraisal was prepared in accordance with the Uniform Standards of Professional Appraisal Practice and analyzed appropriate market data for determining the fair market of the Land, including recent sales of similar properties as well as the "highest and best use" value of the Land. The Appraisal also considered the adjacency of the Land to real property owned by the Employer and, accordingly, added a premium to the value of the Land in any sale to the Employer. The Appraisal concluded that the fair market value of the Land was $49,000, as of January 15, 1998.

5. Mr. McClain proposes to purchase the Land from the Plan in a one-time cash transaction. As of December 31, 1997, the Land represented approximately 1.4 percent of the Plan's total assets. The applicant represents that the Land has been declining in value since the original acquisition. This decline in value has been adversely affecting the value of the participants' accounts in the Plan.[5]

The applicant represents that the amount Mr. McClain would pay for the Land in this proposed transaction is in excess of the Land's current fair market value. If the Land was sold on the open market, it would not sell for as much as Mr. McClain is willing to pay. In addition, the Plan's price in a sale of the Land to an independent third party would not include the adjacency premium, which the Appraisal indicates is appropriate in a sale to Mr. McClain as a result of the Employer's ownership of adjacent property. The sale of the Land to an independent third party at a lower price would cause the Plan and its participants to suffer a financial loss. Alternatively, if the Land remains in the Plan, the participants will not be able to invest the portions of their accounts which are currently attributable to the Land in other investment vehicles with a higher yield. The applicant thus maintains that the terms and conditions of the proposed sale are superior alternatives to selling the Land to a third party or retaining the Land as a Plan asset.

6. Therefore, the applicant represents that the proposed transaction is in the best interest and protective of the Plan because the transaction will enable the Plan to divest of an asset that has depreciated in value and generated no income to the Plan. The Plan will be able to reinvest the proceeds in other investments with higher rates of return. The transaction is protective of the Plan,

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[1] In this regard, the Department notes that section 406(a)(1)(D) of the Act prohibits, in relevant part, a plan fiduciary from causing a plan to engage in a transaction which constitutes a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of any assets of the plan. However, the Department is not providing any relief herein for any violations of part 4 of Title I of the Act which may have occurred during the Plan's ownership of the Land.

[2] The Department expresses no opinion in this proposed exemption as to whether the acquisition and the subsequent holding of the Land by the Plan violated section 404(a) of the Act. Section 404(a) of the Act requires, among other things, that a fiduciary of a plan must act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of a plan.

The Department notes further that the decision to propose this exemption is based on the applicant's representations, as discussed herein, that any attempts to sell the Land to a third party would result in further losses to the Plan.

[3] The applicant represents that the appraisals for the years 1996, 1997 and 1998 have been paid by the Employer.

[4] This amount represents the sum of the Plan's original acquisition cost of $57,000 plus the aggregate holding costs of $3,473.23.

[5] The applicant represents that a portion of the Land's value is allocated to each participant's account.

because the Plan will receive the greater of: (a) the total cost of the Land; or (b) the current fair market value of the Land (plus an appropriate premium related to the Land's adjacency to the Employer's property) as established by an independent qualified appraiser at the time of the sale. The Plan will not pay any commissions or other expenses associated with the sale. Furthermore, the applicant represents that any amounts received by the Plan as a result of the proposed transaction, which are in excess of the fair market value of the Land will be treated as a contribution to the Plan, but that this contribution will not exceed limitations of section 415 of the Internal Revenue Code.

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) the proposed sale will be a one-time cash transaction;

(b) the Plan will receive the greater of: (i) the total cost of the Land; or (ii) the current fair market value of the Land (plus an appropriate premium related to the Land's adjacency to the Employer's property) as established by an independent qualified appraiser at the time of the sale;

(c) the Plan will not pay any commissions or other expenses associated with the proposed sale; and

(d) the sale of the Land to the Employer will enable the Plan to divest of an illiquid asset which has depreciated in value and yielded no income. Also, the sale will enable the Plan to reinvest the sale proceeds in investments with higher rates of return.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or an affiliate thereof) results in the plan either paying less or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

Karen J. Hartley Profit Sharing Plan (P/S Plan) and Karen J. Hartley Money Purchase Pension Plan and Trust Agreement (M/P Plan, Collectively; the Plans) Located in Eugene, Oregon

[Application Nos. D–10588 and D–10589]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan (the Loan) by the Plans to Karen J. Hartley (Ms. Hartley), the trustee and sole participant of the Plans and, a disqualified person with respect to the Plans;[6] provided that the following conditions will be met:

1. The Loan will be structured such that each Plan will lend up to 25% of its assets. However, the aggregate amount of the Loan will not exceed $40,000 at any time;

2. The outstanding balance of the Loan will at no time exceed 25% of the Plans' aggregate assets;

3. The Plans will bear no expenses with respect to the proposed transaction;

4. The terms and conditions of the Loan will be at least as favorable to the Plans as those obtainable in arm's-length transaction with an unrelated party; and

5. The Loan will be adequately secured by collateral, which at all times will be equal to 100% of the outstanding principal amount of the Loan plus 6 months interest at the Loan's interest rate of 8.2%. In the event the collateral amount falls below this required amount, this proposed exemption, if granted, will no longer be available.

Summary of Facts and Representations

1. The P/S Plan was established on January 1, 1989, and the M/P Plan was adopted on January 1, 1993. Ms. Hartley is the sole participant[7] and trustee of both Plans. Ms. Hartley has investment discretion over the Plans' assets. Charles Schwab and Company (Schwab) is the current custodian of the Plans. As of January 31, 1998, the P/S Plan had total assets of $142,171.59, and the M/P Plan had total assets of $35,031.71. Thus, as of January 31, 1998, the aggregate balance of the Plans' assets was $177,203.30. Ms. Hartley is a sole proprietor engaged in the practice of law in Eugene, Oregon.

2. The Loan will have a ten year duration and a fixed interest rate of 8.2% per annum. The Loan will be payable in equal monthly installments of principal and interest. The promissory note (the Note) which will evidence the Loan provides for no penalty, premium or prepayment charge in the event of a full or partial prepayment. The Loan will be structured such that each Plan will lend up to 25% of its assets. However, the aggregate amount of the Loan will at no time exceed $40,000. Furthermore, the outstanding principal balance of the Loan will at no time exceed 25% of the Plans' aggregate assets.

Ms. Hartley represents that the terms of the Loan will comply with section 72(p) of the Code.[8] The Loan proceeds will be used by Ms. Hartley to acquire a dwelling unit, which shall be her principal residence.

3. The Loan will be secured by cash or cash equivalents, such as money market funds and/or certificates of deposit (the Collateral). The Collateral amount will at all times equal 100% of the outstanding principal amount of the Loan, plus 6 months of interest on such principal at the rate of 8.2% per annum. The Collateral will be maintained in a separate account with Schwab (the Collateral Account). The applicant represents that at no time will the Collateral Account contain less than the amount of assets required to fully secure the Loan, in accordance with this proposed exemption. In the event that the amount in the Collateral Account falls below the required amount, as specified herein, the proposed exemption, if granted, will no longer be available.

A security agreement (Security Agreement) will be signed by the parties to create a perfected security interest for the Plans in the Collateral. Ms. Hartley will perfect the Plans' security interest by a proper filing of a state financing statement with the Corporation Division

[6] Pursuant to CFR 2510.3–3(b) and (c), the Department has no jurisdiction with respect to the Plans under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[7] The applicant represents that each of the Plans will have no other participants during the Loan's existence, from its initial making until the outstanding principal balance has been paid in full, and the Loan is terminated.

[8] In this regard, section 72(p)(1) of the Code treats a loan from a qualified plan to a participant as a "premature distribution" unless the loan meets certain conditions to qualify for "exception for certain loans" contained in section 72(p)(2) of the Code. However, with respect to the Loan, the Department has no jurisdiction to determine whether the requirements of section 72(p) of the Code are met.

of the State of Oregon. Ms. Hartley will retain rights to and possession of the Collateral, subject to the terms of the Security Agreement and the rights and obligations of Schwab, through its maintenance of the Collateral Account.

4. Ms. Hartley will monitor the Collateral. On a monthly basis, Ms. Hartley will receive from Schwab a statement for the Collateral Account (Schwab Statement). Ms. Hartley will determine if the amount in the Collateral Account contains at least the required Collateral amount.

On an annual basis, Ms. Hartley will examine the Schwab Statements for the Collateral Account, and will determine whether the amount in the Collateral Account exceeds the required amount of the Collateral. This determination may be made using monthly interest amortization tables, or a computer program. If the Collateral Account exceeds the required Collateral amount (an Excess Amount), Ms. Hartley may transfer the Excess Amount to her personal account, as long as the required Collateral amount remains in the Collateral Account. Alternatively, Ms. Hartley may leave any portion of the Excess Amount in the Collateral Account. However, any Excess Amount in the Collateral Account shall not modify the required Collateral amount.

If the Loan is ever in default, Ms. Hartley as trustee for the Plans will seek to remedy the default and use all legal means available in the State of Oregon.

5. With respect to the rights of the Plans as a secured creditor, the Security Agreement contains the following provisions. Section 4.2 of the Security Agreement states that the Debtor (i.e., Ms. Hartley) shall not remove the Collateral from the Collateral Account without the written consent of the Secured Party (i.e., the Plans). Section 4.3 of the Security Agreement also states that the Debtor agrees to execute and file a financing statement and do whatever may be necessary under the applicable provisions contained in the Uniform Commercial Code for the State of Oregon to perfect and continue the Secured Party's interest in the Collateral. Section 4.4 of the Security Agreement provides that the Debtor will not sell or otherwise transfer or dispose of any interest in the Collateral without the prior written consent of the Secured Party. Furthermore, Section 4.5 of the Security Agreement provides that, among other things, except where it has received the prior written consent of the Secured Party, the Debtor shall keep the Collateral free from any adverse liens or other security interests. The Debtor will not use or permit anyone to use the Collateral in violation of any statute, ordinance, or state or federal regulation, and the Secured Party may examine and inspect the Collateral at any time.

6. Ms. Hartley desires to enter into the loan transaction because the transaction is administratively feasible, protective and in the best interest of the Plans. The Plans will bear no expenses with respect to the proposed transaction. The Loan will not exceed 25% of each of the Plan's total net assets, and the aggregate amount of the Loan will not exceed $40,000. In addition, the outstanding balance of the Loan will at no time exceed 25% of the Plans' aggregate assets. The Loan will be adequately secured by the Collateral, which at all times will be equal to 100% of the outstanding principal amount of the Loan plus 6 months interest. Also, Ms. Hartley represents that the Loan is consistent with the Plans' liquidity needs and investment objectives, including the Plans' overall investment strategy to invest only in so-called "socially responsible investments".[9]

With respect to the terms and conditions of the Loan, Washington Mutual Bank in Eugene, Oregon (the Bank), in a letter dated April 2, 1998, has certified that it would enter into a similar loan with Ms. Hartley (the Bank Loan). Specifically, the original amount of the Bank loan would be $40,000. The Bank Loan would be payable in equal monthly payments of principal and interest, in the same amount as the Loan, over a 10 year period at an interest rate of 8.2%. Therefore, Ms. Hartley represents that the terms of the Loan will be at least as favorable to the Plans as those obtainable in arm's-length transaction with an unrelated party, as indicated by the letter from the Bank.

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because:

A. The Plans will bear no expenses with respect to the proposed transaction;

B. The Loan will not exceed 25% of each of the Plan's total net assets. In addition, the aggregate amount of the Loan will not exceed $40,000;

C. The outstanding principal balance of the Loan will at no time exceed 25% of the Plans' aggregate assets;

D. The terms and conditions of the Loan will be at least as favorable to the Plans as those obtainable in arm's-length transaction with an unrelated party;

E. The Loan will be adequately secured by the Collateral, which at all times will be equal to 100% of the principal amount of the Loan plus 6 months interest at the Loan's interest rate of 8.2%. In the event the Collateral Amount falls below this required amount, the proposed exemption, if granted, will no longer be available; and

F. Ms. Hartley is the sole participant of the Plans and she desires that this transaction be consummated.

Notice to Interested Persons

Because Ms. Hartley is the sole participant of the Plans, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due thirty (30) days from the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and

[9] The Department is providing no opinion in this proposed exemption as to whether particular investments or investment strategies would be considered "socially responsible" in nature. In this regard, the Department notes that the Internal Revenue Service (IRS) has taken the view that investment strategies for qualified retirement plans may raise questions with regard to the exclusive benefit rule under section 401(a) of the Code if, among other things, the safeguards and diversity that a prudent investor would adhere to are not present. [See, for example, IRS Rev. Rul. 73–532, 1973–2 C.B. 128]

protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 13th day of May, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–13145 Filed 5–15–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA has submitted the following revised information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. It was originally published on January 15, 1998. No comments relating to the information collection were received.

DATES: Comments will be accepted until June 17, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–6433. E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300.

Type of Review: Revision of a currently approved collection.

Title: Semiannual and Quarterly Financial and Statistical Report.

Description: The financial and statistical information collected is essential to NCUA in carrying out its responsibility for supervising federal credit unions. The information also enables NCUA to monitor all federally insured credit unions whose accounts are insured by the National Credit Union Share Insurance Fund.

Respondents: All credit unions.

Estimated Number of Respondents/Recordkeepers: 11,500.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Quarterly and semiannually.

Estimated Total Annual Burden Hours: 204,800.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on March 19, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–13132 Filed 5–15–98; 8:45 am]

BILLING CODE 7535–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of A New Generic Clearance Plan

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a new Generic Clearance Plan to measure customer satisfaction with the Retirement and Insurance Services' (RIS) programs and services. This Plan satisfies the requirements of Executive Order 12862 and the guidelines set forth in OMB's "Resource Manual for Customer Surveys." RIS is requesting approval for conducting these voluntary customer satisfaction surveys in fiscal years 1998, 1999, and 2000.

Comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For RIS survey questionnaires, we estimate surveying approximately 464,975 customers per year for an annual burden of 109,101 hours for FY 1998 and 94,517 hours each for fiscal years 1999 and 2000; for our telephone surveys, including Interactive Voice Response (IVR) technology, we estimate surveying 264,080 customers per year for an annual burden of 22,072 hours; for Internet surveys, we estimate surveying 1,000 Internet readers for an annual burden of 167 hours; for Focus Groups, we estimate that we may have 10–20 focus groups consisting of 10–15 participants (300 total per year), lasting up to about two hours each for an annual burden of 600 hours; and for Comment Card/Postcard surveys that the RIS Washington, DC, Retirement Information Office may use, we estimate that it would take about 7 minutes to complete and 3,000 customers may respond for an annual burden of 350 hours. The total annual estimated burden is 132,498 hours in FY 1998 and 117,914 hours each for fiscal years 1999 and 2000.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before July 17, 1998.

ADDRESSES: Send or deliver comments to Christopher G. Brown, Acting Chief, Quality Assurance Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 4316, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.
Janice R. Lachance,
Director.
[FR Doc. 98–13055 Filed 5–15–98; 8:45 am]
BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of an Information Collection: SF 3104 and SF 3104B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for reclearance of an information collection. SF 3104, Application for Death Benefits/Federal Employees Retirement System, is used to apply for benefits under the Federal Employees Retirement System based on the death of an employee, former employee, or retiree who was covered by FERS at the time of his/her death or separation from Federal Service. SF 3104B, Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death, is used by applicants for death benefits under FERS if the deceased was a Federal Employee at the time of death.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 4,054 SF 3104s are completed annually. We estimate that it takes approximately 60 minutes to complete the form. The annual burden is 4,054 hours. Approximately 2,920 SF 3104Bs are completed annually. We estimate that it takes 60 minutes to fill out the form. The annual burden is 2,920 hours. The combined total annual burden is 6,974 hours. For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received by July 17, 1998.

ADDRESSES: Send or deliver comments to: John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.
Janice R. Lachance,
Director.
[FR Doc. 98–13059 Filed 5–15–98; 8:45 am]
BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 19d–1, SEC File No. 270–242, OMB Control No. 3235–0206
Rule 19d–3, SEC File No. 270–245, OMB Control No. 3235–0204
Rule 19h–1, SEC File No. 270–247, OMB Control No. 3235–0259

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collections of information discussed below.

Rule 19d–1 Notices by Self-Regulatory Organizations Of Final Disciplinary Actions, Denials, Bars, Or Limitations Respecting Membership, Association, Participation, Or Access To Services, And Summary Suspensions.

Rule 19d–1 under the Securities Exchange Act of 1934 (the "Act") prescribes the form and content of notices to be filed with the Commission by self-regulatory organizations ("SROs") for which the Commission is the appropriate regulatory agency concerning the following final SRO actions: (1) disciplinary sanctions (including summary suspensions); (2) denials of membership, participation or association with a member; and (3) prohibitions or limitations on access to SRO services. The rule enables the Commission to obtain reports from the SROs containing information regarding SRO determinations to discipline members or associated persons of members, deny membership or participation or association with a member, and similar adjudicated findings. The rule requires that such actions be promptly reported to the Commission. The rule also requires that the reports and notices supply sufficient information regarding the background, factual basis and issues involved in the proceeding to enable the Commission (1) to determine whether the matter should be called up for review on the Commission's own motion and (2) to ascertain generally whether the SRO has adequately carried out its responsibilities under the Act.

It is estimated that 10 respondents will utilize this application procedure annually, with a total burden of 2,750 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 19d–1 is 2.5 hours. The average cost per hour is approximately $60. Therefore, the total cost of compliance for the respondents is $165,000.

A respondent is required to keep the information not less than five years. The filing of notices pursuant to the rule is mandatory for SROs but does not involve the collection of confidential information.

Rule 19d–3 Applications For Review Of Final Disciplinary Sanction, Denials Of Membership, Participation, Or Limitations Of Access To Service Imposed By Self-Regulatory Organizations.

Rule 19d–3 under the Act prescribes the form and content of applications to the Commission for review of final disciplinary sanctions, denials of membership, participation or association with a member or prohibitions or limitations of access to services that are imposed by SROs. The Commission uses the information provided in the application filed pursuant to Rule 19d–3 to review final actions taken by SROs including: (1) disciplinary sanctions; (2) denials of membership, participation or association with a member; and (3) prohibitions on or limitations of access to SRO services.

It is estimated that approximately 50 respondents will utilize this application procedure annually, with a total burden of 2,750 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule

19d–1 is 2.5 hours. The average cost per hour is approximately $60. Therefore, the total cost of compliance for the respondents is $165,000.

A respondent is not required to retain the Rule 19d–3 submission for any specified period of time. The filing of a motion seeking review of a final action is mandatory only if the respondent wants Commission review. The submission does not involve the collection of confidential information.

Rule 19h–1/Notice by a Self-Regulatory Organization of a Proposed Admission to or Continuance In Membership or Participation or Association With a Member of Any Person Subject to a Statutory Disqualification, and Applications to the Commission for Relief Therefrom.

Rule 19h–1 under the Act prescribes the form and content of notices and applications by SROs regarding proposed admissions to, or continuances in, membership, participation or association with a member of any person subject to a statutory disqualification.

The Commission uses the information provided in the submissions filed pursuant to Rule 19h–1 to review decisions of SROs to permit the entry into or continuance in the securities business of persons who have committee serious misconduct. The filings submitted pursuant to the rule also permit inclusion of an application to the Commission for consent to associate with a member of an SRO notwithstanding a Commission order barring such association.

The Commission reviews filings made pursuant to the rule to ascertain whether it is in the public interest to permit the employment in the securities business of persons subject to statutory disqualification. The filings contain information that is essential to the staff's review and ultimate determination on whether an association or employment is in the public interest and consistent with investor protection.

It is estimated that approximately 5 respondents will make submissions pursuant to this rule annually, with a total burden of 225 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 19h–1 is 4.5 hours. The average cost per hour is approximately $60. Therefore, the total cost of compliance for the respondents is $13,500.

A respondent is required to keep the information not less than five years. The filing of notices is mandatory but does not involve the collection of confidential information.

Please note that an agency may not conduct or sponsor, and a person not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503, and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB on or before June 17, 1998.

Dated: May 11, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13097 Filed 5–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Agency Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 18, 1998.

An open meeting will be held on Wednesday, May 20, 1998, at 10:00 a.m. A closed meeting will be held on Thursday, May 21, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commsissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, May 20, 1998, at 10:00 a.m., will be:

(1) The Commission, will consider whether to adopt amendments to rules 14a–8, 14a–4, and 14a–5 under the Securities Exchange Act of 1934. For further information, please contact Frank G. Zarb, Jr. or Sanjay M. Shirodkar, Division of Corporation Finance at (202) 942–2900 or Doretha M. VanSlyke, Division of Investment Management at (202) 942–0721.

(2) The Commission will consider a proposal to amend Rule 504 of Regulation D to address trading abuses involving securities issued under that rule. These proposals are part of the Commission's agenda to deter microcap fraud. For further information, please contact Richard K. Wulff or Barbara C. Jacobs of the Division of Corporation Finance at (202) 942–2950.

The subject matter of the closed meeting scheduled for Thursday, May 21, 1998, at 10:00 a.m., will be

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: May 13, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–13192 Filed 5–13–98; 4:07 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 26231, May 12, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: May 12, 1998.

CHANGE IN THE MEETING: Additional Item.

The following item was added to the closed meeting held on Thursday, May 14, 1998, at 10:00 a.m.:

Settlement of injunctive action.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: May 14, 1998.
Jonathan G. Katz,
Secretary.
[FR Doc. 98–13343 Filed 5–14–98; 3:54 pm]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39983; File No. SR–MSRB–97–9]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Municipal Securities Rulemaking Board Relating to Rule G–38 on Consultants

May 12, 1998.

On March 18, 1998,[1] the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–97–9), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder.[3] The proposed rule change and Amendment No. 1 are hereafter referred to collectively as the "proposed rule change." The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a proposed rule change consisting of an amendment to Rule G–38 on consultants. The proposed rule change would give brokers, dealers and municipal securities dealers (collectively referred to as "dealers") the option of disclosing their consulting arrangements to issuers, pursuant to section (c) of the rule, on either an issue-specific or issuer-specific basis. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule G–38. Consultants

(a)–(b) No change.

(c) Disclosure to Issuers. Each broker, dealer or municipal securities dealer shall submit in writing to each issuer with which the broker, dealer or municipal securities dealer is engaging or seeking to engage in municipal securities business, information on consulting arrangements relating to such issuer, which information shall include the name, company, role and compensation arrangement of any consultant used, directly or indirectly, by the broker, dealer or municipal securities dealer to attempt to obtain or retain municipal securities business with each such issuer. Such information shall be submitted to the issuer *either:*

(*i*) prior to the selection of any broker, dealer or municipal securities dealer in connection with [such] *the particular* municipal securities business *being sought*[.]; *or*

(ii) at or prior to the consultant's first direct or indirect communication with the issuer for any municipal securities business being sought. Each broker, dealer or municipal securities dealer shall promptly advise the issuer, in writing, of any change in the information disclosed, pursuant to this subsection (ii), on each consulting arrangement relating to such issuer. In addition, each broker, dealer or municipal securities dealer disclosing information pursuant to this subsection (ii) shall update such information by notifying each issuer in writing within one year of the previous disclosure made to such issuer concerning each consultant's name, company, role and compensation arrangement, even where the information has not changed; provided, however, that this annual update requirement shall not apply where the broker, dealer or municipal securities dealer has ceased to use the consultant, directly or indirectly, to attempt to obtain or retain municipal securities business with the particular issuer.

(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of And Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Rule G–38, on consultants, requires dealers: (1) To have written agreements with certain individuals who are used by a dealer, directly or indirectly, to obtain or retain municipal securities business ("consultants"), and (2) to disclose such consulting arrangements directly to issuers and to the public through disclosure to the Board. Section (c) of the rule currently requires that each dealer disclose, in writing, to each issuer with which the dealer is engaging or is seeking to engage in municipal securities business, information on consulting arrangements relating to such issuer. The information to be disclosed includes the name, company, role and compensation arrangement of any consultant used, directly or indirectly, to obtain or retain municipal securities business with each such issuer. Dealers are required to make such disclosures prior to the issuer's selection of any dealer in connection with the particular municipal securities business sought.

It has come to the Board's attention that this issue-specific nature of the disclosure requirement can create compliance problems for dealers in the case of frequent issuers of municipal securities as well as in the co-manager selection process. For example, an issuer may bring new issues to market several times a month, and if a dealer is using a consultant to obtain a syndicate slot in each such issue, the dealer is required to disclose the same information to the same issuer month after month and possibly week after week. In addition, the Board has learned that dealers who use a consultant to help obtain co-manager business sometimes have difficulty complying with Rule G–38(c) because, unlike the lead manager, a co-manager may learn of its selection for that business after the selection of the lead manager, thereby making it impossible for the dealer to disclose its consulting arrangements prior to the issuer's selection of any dealer, as required by the rule.

While the Board believes that the timing of the issue-specific disclosure requirement in Rule G–38(c) is appropriate in the vast majority of cases, the Board recognizes that it can be a problem in the context of frequent issuers of municipal securities and in the co-manager selection process. Thus, the Board has determined to amend Rule G–38(c) to give dealers the option of disclosing their consulting arrangements to issuers on either an issue-specific or issuer-specific basis.

[1] The Board initially submitted this proposal on November 24, 1997. However, a substantive amendment was requested to modify and clarify ambiguous timing issues in the proposed rule language. The Board filed Amendment No. 1 on March 16, 1998.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

Pursuant to the amendment, if a dealer chooses to disclose information regarding a consulting arrangement on an issuer-specific basis, the dealer must submit the information, in writing, to the issuer at or prior to the consultant's first direct or indirect communication with that issuer for any municipal securities business.[4] To ensure that such information, once disclosed, remains current, the amendment also requires dealers to (1) promptly notify the issuer, in writing, of any change in the information disclosed; and (2) update issuers, in writing, within one year of the previous disclosure of each consultant's name, company, role and compensation arrangement, even where such information has not changed.[5] Of course, this annual updating requirement would cease to apply if the dealer is no longer using the consultant, directly or indirectly, to attempt to obtain or retain municipal securities business with a particular issuer(s).

The Board submitted Amendment No. 1 in response to concerns expressed by Commission staff to provide that dealers disclosing information on an issuer-specific basis shall do so "at or prior to the consultant's first direct or indirect communication with the issuer for any municipal securities business being sought."[6] Amendment No. 1 also clarifies that the annual updating requirement for dealers disclosing information on an issuer-specific basis is keyed off the previous full disclosure of the consultant's name, company, role and compensation arrangement (and not any interim disclosure of changes to such information).

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[7] The Board believes that the proposed rule change will facilitate compliance with Rule G–38, thereby protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In June 1997, the Board published a draft amendment to Rule G–38(c) for industry comment.[8] In response, the Board received comment letters from three dealers.[9] One of these commenters expressed its belief that the amendment "is helpful and may simplify the reporting process."[10] The other two commenters also supported the draft amendment.[11] One commenter stated that "the proposed changes will greatly simplify the disclosure process when multiple transactions develop as the result of a consultant's activities with an issuer."[12] However, this commenter recommended that the draft amendment require dealers to advise the issuer of any material change in the information disclosed; the commenter believes that this will obviate the need for dealers to file amended disclosure reports relating to, for example, an insignificant change to a consultant's role or to a minor change in the name of the consultant's organization. The Board believes that adopting the commenter's recommendation would introduce a subjective element to the disclosure requirement and would result in differing interpretations as to what is "material." For example, by incorporating this subjective standard, the Board could not ensure that issuers would be advised of changes in the consultant's name, company, role and compensation arrangement—information which is required to be disclosed to issuers pursuant to Rule G–38(c). Thus, the Board has declined to adopt the commenter's recommendation.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–97–9 and should be submitted by June 8, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

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[4] In contrast, the Board believes that disclosures made by a dealer on an issue-specific basis should continue to be required prior to the issuer's selection of any dealer for the particular municipal securities business being sought.

[5] Pursuant to Rule G–8(a)(xviii) on recordkeeping, dealers are required to maintain records of all disclosures made pursuant to Rule G–38(c). This would apply to disclosures made pursuant to the amendment.

[6] The amendment originally would have required that such disclosures be made "within three business days of the consultant's first direct or indirect communication with the issuer, but in any event prior to the issuer's selection of such broker, dealer or municipal securities dealer for any municipal securities business being sought." *See supra* note 1.

[7] Section 15B(b)(2)(C) states that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[8] MSRB Reports, Vol. 17, No. 2 (June 1997) at 17–18. The draft amendment would have required dealers that disclose information on their consulting arrangements on an issuer-specific bases to make such disclosures "within three business days of the consultant's first direct or indirect communication with the issuer, but in any event prior to the issuer's selection of such broker, dealer or municipal securities dealer for any municipal securities business being sought." As discussed above, the Board submitted Amendment No. 1 in response to concerns expressed by Commission staff regarding the timing of this provision. Thus, the proposed rule change provides that dealers disclosing information on issuer-specific basis shall do so "at or prior to the consultant's first direct or indirect communication with the issuer for any municipal securities business being sought."

[9] A.G. Edwards, Rauscher Pierce Refsnes, Inc., and Smith Barney.

[10] Rauscher Pierce Refsnes, Inc.

[11] A.G. Edwards and Smith Barney.

[12] A.G. Edwards.

[13] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 98–13096 Filed 5–15–98; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34 39980; File No. SR–NYSE–98–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Include Rules 392, 460.30, 80A(b), 79A.15 and 105 in its Minor Disciplinary Fine System under Exchange Rule 476A

May 8, 1998.

Pursuaant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 20, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On March 11, 1998, the Exchange filed Amendment No. 1,[2] and on April 16, 1998, the Exchange filed Amendment No. 2.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would revise the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" by adding the failure to comply with the provisions of Rules 392,460.30, 80A(b), 79A.15 and 105. The Exchange believes it is appropriate to make the failure to comply with the provisions of the above-named rules subject to the possible imposition of a fine under Rule 476A procedures.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 476A provides that the Exchange may impose a fine, not to exceed $5,000, or any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.

The purpose of the Rule 476A procedure is to provide for a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than a cautionary letter would convey. Rule 476A preserves due process rights; identifies those rule violations which may be the subject of summary fines; and includes a schedule of fines.

In SR–NYSE–84–27, which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated in would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of Rule 476A as experience with it was gained.

The Exchange is presently seeking approval to add to the List of Rules subject to possible imposition of fines under Rules 476A procedures, failure by members or member organizations to comply with the provisions of: (1) Rule 392 and Rule 460.30 which require notification to the Exchange by member organizations when they are participating in or engaging in certain activities related to an offering of securities listed on the Exchange; (2) Rule 80-A(b) which prohibits entry of stop orders for the remainder of any trading day on which "sidecar" procedures have been invoked; (3) Rule 79A.15 on specialists' publishing bids or offers upon receipt of limit orders; and (4) Rule 105 and its Guidelines with respect to specialists' specialty stock options transactions and the reporting of such transactions.

The purpose of the proposed change to Rule 476A is to facilitate the Exchange's ability to induce compliance with all aspects of the above-cited rules. The Exchange believes failure to comply with the requirments of these rules should be addressed with an appropriate sanction and seeks Commission approval to add violations of these requirements to the Rule 476A List so as to have a board range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (*e.g.*, the issuance of a fine rather than a cautionary letter) to a minor violation of a rule.

The Exchange wishes to emphasize the importance it places upon compliance with the above-named rules and, in particular, Rule 79A.15, which it adopted to reflect the provisions and certain interpretations of SEC Rule 11Ac1–4 under the Act. The Exchange recognizes that violations of Rule 79A.15 would likely result in violations of a Commission rule and, therefore, proposes, when a full disciplinary action is not warranted, to issue a summary fine instead of a cautionary letter as its first regulatory action against a specialist organization. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under Rule 476A, in those instances where investigation reveals a more serious violation of the above-described rules, the Exchange will provide an appropriate regulatory response. This includes the full disciplinary procedures available under Rule 476.

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[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 corrects errors in exhibits to the Exchange's filing. See Letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, Commission, dated March 10, 1998.

[3] Amendment No. 2 clarifies that the Exchange, in those instances in which an Exchange disciplinary action is not warranted, will issue a summary fine instead of a cautionary letter as its first regulatory action against a specialist organization. Such fine will be issued against the specialist member organization, which, according to the schedule of fines contained in Rule 476A, would be result in a fine of $1,000; the second and third regulatory actions within a rolling 12-month period would result in fines of $2,500 and $5,000 respectively. If a specialist member organization is issued a fine relating to Rule 79A.15 twice within a rolling 12-month period, the Exchange will pursue formal disciplinary proceedings under Rule 476 when continued poor performance during that rolling 12-month period warrants such action. See letter from Robert J. McSweeny, Senior Vice President, Market Surveillance, NYSE, to Katherine A. England, Division of Market Regulation, SEC, dated April 16, 1998.

[4] Concurrently with the proposed rule change, the Exchange is seeking to amend its Rule 19d–1 reporting plan for Rule 476A violations to include the items proposed for addition to the list of rules subject to Rule 467A. See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated January 16, 1998.

2. Statutory Basis

The proposed rule change will advance the objectives of Section 6(b)(6) of the Act in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure of imposing such sanctions, in accordance with the requirements of Sections 6(b)(7) and 6(d)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rules change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–98–02 and should be submitted by June 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13098 Filed 5–15–98; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as amended by Public Law 104–13; Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to the Agency Clearance Officer no later than July 17, 1998.

Type of Request: Regular submission.

Title of Information Collection: TVA Aquatic Plant Management.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 2,000.

Estimated Total Annual Burden Hours: 400.

Estimated Average Burden Hours Per Response: .2.

Need For and Use of Information: TVA committed to involving the public in developing plans for managing aquatic plants in individual TVA lakes under a Supplemental Environmental Impact Statement completed in August 1993. This proposed survey will provide a mechanism for obtaining input into this planning process from a representative sample of people living near each lake. The information obtained from the survey will be factored into the development of aquatic plant management plans for mainstream Tennessee River lakes.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 98–13058 Filed 5–15–98; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 30, 1997, [62 FR 51176]:

DATES: Comments must be submitted on or before June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification: Mechanics. Repairmen, Parachute Riggers—14 CFR part 65.

OMB Control Number: 2120–0022.

Type of Request: Extension of a currently approved collection.

Forms: FAA Form 8610–1 and FAA Form 8610–2.

[5] 17 CFR 200.30–3(a)(12).

Affected Public: Mechanics, repairmen, parachute riggers, and inspection authorizations.

Abstract: The regulation prescribes requirements for mechanics, repairmen, parachute riggers, and inspection authorizations. Information collected shows applicant eligibility. Certification is required to perform these job functions.

Annual Burden Hour Estimate: 28,943.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, D.C. on May 11, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–13126 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During Week Ending May 8, 1998

The following Applications for Certificates of Public Cnvenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3814.

Date Filed: May 5, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: June 2, 1998.

Description: Application of Continental Airlines, Inc. pursuant to 49 U.S.C. Sections 41102 and 41108 and Subpart Q of the Department's Rules of Practice, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between Houston and Newark, on the one hand, and Buenos Aires, Argentina, on the other hand.

Docket Number: OST–98–3818.

Date Filed: May 6, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: June 3, 1998.

Description: Application of Executive Airlines, Inc. d/b/a American Eagle pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Department's Rules of Practice, applies for amendment of the Dallas Love Field condition in its certificate of public convenience and necessity issued by Order 90–2–54, February 28, 1990. That certificate authorizes air transportation of persons, property, and mail between points in the United States, its territories, and possessions.

Docket Number: OST–98–3820.

Date Filed: May 6, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: June 3, 1998.

Description: Application of American Airlines, Inc. pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Department's Rules of Practice, applies for amendment of the Dallas Love Field condition in its certificate of public convenience and necessity for Route 4 (Order 91–12–131, December 22, 1981). That certificate authorizes American to engage in air transportation of persons, property, and mail between points in the United States, its territories, and possessions.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–13113 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at San Angelo Municipal Airport (Mathis Field), San Angelo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Angelo Municipal Airport under the provision of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 17, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Arboth Rylant, Manager of San Angelo Municipal Airport, at the following address: Arboth A. Rylant, Airport Manager, San Angelo Municipal Airport, 8618 Terminal Circle, San Angelo, Texas 76904.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Angelo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 6, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 1, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1998.

Proposed charge expiration date: July 1, 2006.

Total estimated PFC revenue: $958,587.

PFC application number: 98–03–C–00–SJT.

Brief description of proposed projects:

Projects To Impose and Use PFC's

Reconstruct Portion of Taxiway A, PFC Application, Airport Lighting Upgrades, Ramp/Runway Sweeper, Install REIL on Runway 18 and PAPI on Runway 3, Renovate/Expand Terminal Building, and Relocate ARFF Facility

Proposed class or classes of air carriers to be exempted from collecting PFC's: FAR Part 135 charter operators who operate aircraft with a seating capacity of less than 10 passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at San Angelo Municipal Airport.

Issued in Fort Worth, Texas on May 6, 1998.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 98–13090 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Notice of Strategic Plan Public Meeting Agenda

SUMMARY: This notice provides the agenda for a public meeting being held by the National Highway Traffic Safety Administration (NHTSA) for a discussion of safety issues and proposed strategies to comprise an updated agency strategic plan. The objective of the meeting is to receive comments and information from interested organizations and the general public.

DATES AND TIMES: As previously announced by NHTSA in the **Federal Register** on April 2, 1998, concerning availability of the NHTSA Draft Strategic Plan for public comment [Reference Docket No. 98–NHTSA–98–3651; Notice 1], NHTSA will hold a one-day public meeting devoted primarily to obtaining comments and information related to traffic safety issues and proposed program strategies from interested organizations and individuals as well as the general public on June 9, 1998, beginning at 8:30 a.m. and ending at approximately 5:00 p.m.

ADDRESSES: The public meeting will be held at the U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW., Room 2230, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This notice provides a summary of the agenda for the public meeting to be held on June 9, 1998. The purpose of this meeting is to enable NHTSA to obtain views on safety problems and policies that will influence strategic planning being conducted by the agency, and information on potential program strategies that NHTSA should consider in designing and adopting a strategic plan to guide traffic safety initiatives as the agency enters the new millennium. The agency's intention to hold this public meeting was first announced on April 2, 1998 (63 FR 16291). For additional information about the draft plan and the reasons for the meeting, please consult that announcement.

Starting at 8:30 a.m. and concluding by 5:00 p.m., NHTSA's Administrator and Associate Administrators will provide a brief overview of key components of the Draft Strategic Plan as an introduction to the morning and afternoon sessions of the meeting, followed by roundtable discussions moderated by agency program managers for the purpose of examining major safety areas and obtaining views on effective strategies, as depicted in the following meeting agenda:

Opening Remarks by Administrator
Overview of Strategic Plan
Vehicle Safety—Issues and Strategies:
  Introduction to vehicle safety, consumer information, enforcement, research initiatives and crash/injury information
Discussions:
  —Vehicle crashworthiness
  —Biomechanics research
  —Innovative data (CIREN, CODES)
  —Vehicle crash avoidance (including heavy truck program)
  —Intelligent Transportation Systems (ITS)
  —National data systems (FARS, NASS, GES)
  —Consumer information on vehicle safety
  —Enforcement program activities.
Break for Lunch
Agency Customer Service—Issues and Strategies:
  —Outreach, program training, products for customers, safety data quality, customer diversity, continuous improvement
Behavioral Safety—Issues and Strategies:
  —Introduction to highway safety issues, technical assistance, research, product/services delivery, partnerships and information needs
Discussions:
  —Safety belts, child safety, outreach/education
  —Pedestrian, bicycles, motorcycle, school bus safety
  —Injury & health, EMS/trauma, health data
  —Safe Communities, grant programs, state/local delivery
  —Alcohol, other drugs, teenager drinking, repeat offenders
  —Police enforcement, speeding, aggressive driving
  —Older/younger drivers, driver education, licensing, NDR
  —ONEDOT: Overall intermodal safety, roadway safety (FHWA), driver fatigue, commercial carriers, rail-highway safety (FRA).

Conclusion

NHTSA has based its decisions about the agenda on the goal of affording an opportunity for safety community and public comment on the most important elements of the agency's proposed strategic approach to improving traffic safety. Familiarity with the Draft Strategic Plan will facilitate participation. As NHTSA announced in the **Federal Register** notice of April 2, 1998, copies of the Draft Strategic Plan may be obtained by writing to: NHTSA Office of Plans and Policy, Strategic Planning Division, 400 Seventh Street, S.W., Room 5208, Washington, D.C. 20590. Copies of the plan are also available on the NHTSA Home Page [http://www.nhtsa.dot.gov]. Public comments on the draft plan are available for review (please refer to the April 2, 1998, notice for details on how to access the official docket via the Internet).

FOR FURTHER INFORMATION CONTACT: For details on the Draft Strategic Plan or the public meeting, please contact Joseph Cameron (202–366–2579), Elza Chapa (202–366–0014) or Louise Davis (202–366–1574), NHTSA Office of Plans and Policy. FAX number: 202–366–2559.

Issued: May 12, 1998.

William H. Walsh,

Associate Administrator for Plans and Policy, National Highway Traffic Safety Administration.

[FR Doc. 98–13155 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3822]

Notice of Receipt of Petition for Decision That Nonconforming 1996–1998 BMW Z3 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1996–1998 BMW Z3 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1996–1998 BMW Z3 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 17, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1996–1998 BMW Z3 passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1996–1998 BMW Z3 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1996–1998 BMW Z3 passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1996–1998 BMW Z3 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1996–1998 BMW Z3 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1996–1998 BMW Z3 passenger cars comply with the Bumper Standard found in 49 CFR Part 581 and with the Theft Prevention Standard found in 49 CFR Part 541.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b)

installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components if the vehicle is not so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single pushbutton at both front designated seating positions.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 12, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13073 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3823]

Notice of Receipt of Petition for Decision That Nonconforming 1995 Ferrari F355 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Ferrari F355 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Ferrari F355 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 17, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1995 Ferrari F355 passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1995 Ferrari F355 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995 Ferrari F355 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1995 Ferrari F355, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995 Ferrari F355 is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily

altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) inscription of the word "Brake" on the dash, in place of the international ECE warning symbol; (b) replacement of the speedometer/odometer with one calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies and rear sidemarker lights; (c) installation of a U.S.-model high-mounted stop light assembly.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a key microswitch and a warning buzzer.

Standard No. 118 *Power Window Systems*: installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: (a) installation of a seat belt warning buzzer wired to the seat belt latch; (b) replacement of the seat belts and the driver's and passenger's side air bags, knee bolsters, control unit and sensors with U.S.-model components on vehicles that are not so equipped. The petitioner states that the vehicle is equipped with combination lap and shoulder restraints that are automatic, self-tensioning, and that release by means of a single red push button at both front designated seating positions.

Standard No. 214 *Side Impact Protection*: installation of door bars on vehicles that are not so equipped.

With regard to compliance with the Bumper Standard found in 49 CFR Part 581, the petitioner states that the bumpers and the support structure for the bumpers on the non-U.S. certified 1995 Ferrari F355 are identical to those found on the vehicle's U.S. certified counterpart. The petitioner notes, however, that some of these bumpers may have to be replaced if they do not have holes cut into the side to accommodate side marker lights.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 12, 1998.

Marilynne Jacobs,

Director Office of Vehicle Safety Compliance.

[FR Doc. 98–13074 Filed 5–15–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice of Public Information Collection Submitted to the Office of the Management and Budget for Review

AGENCY: Surface Transportation Board, DOT.

ACTION: Requesting approval of an existing collection in use without an OMB control number.

SUMMARY: The Surface Transportation Board has submitted to the Office of Management and Budget for review and approval the following proposal for collection of information as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

Title: Annual Waybill Compliance Survey.

Office: Office of Economics, Environmental Analysis, and Administration.

OMB Form No.: Pending.

Frequency: Annually.

No. of Respondents: 350.

Total Burden Hours: 175.

DATES: Persons wishing to comment on this information collection should submit comments by June 18, 1998.

ADDRESSES: Direct all comments to Case Control, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423. When submitting comments refer to the title of the information collection.

FOR FURTHER INFORMATION CONTACT: Harold J. Warren, 202 565–1549. Requests for copies of the information collection may be obtained by contacting Ellen R. Keys (202) 565–1654.

SUPPLEMENTARY INFORMATION: The Surface Transportation Board is, by statute, responsible for the economic regulation of railroads operating in the United States. The Carload Waybill Sample is collected to support the Board's regulatory activities. The Annual Waybill Compliance Survey is required to be filed by all non-waybill sample railroads terminating traffic in the United States pursuant to authority in Title 49 U.S.C. 1145, 11144, and 11901 of the ICC Termination Act of 1995, Public Law No. 104–88, 109 Stat. 803 (1995). Our regulations at 49 CFR 1244.2(f) specifically require the survey to be filed annually.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13054 Filed 5–15–98; 8:45 am]

BILLING CODE 4915–00–P

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Corrections

Federal Register
Vol. 63, No. 95
Monday, May 18, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-194-000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 98–11818 appearing on page 24778, in the issue of Tuesday, May 5, 1998, make the following corrections:

a. On page 24778, in the third column, the document heading should read as set forth above.

b. On the same page, in the same column, above the first paragraph, "April 20, 1998." should read "April 29, 1998."

BILLING CODE 1505-01-D

DEPARTMENMT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–403–000]

NorAm Gas Transmission Company; Notice of Application for Abandonment

Correction

In notice document 98–12635, beginning on page 26589, in the issue of Wednesday, May 13, 1998, the docket number should appear as set forth above.

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98-062]

National Environmental Policy Act; Stardust Mission

Correction

In notice document 98–12155 beginning on page 25236 in the issue of Thursday, May 7, 1998, make the following corrections:

1. On page 25236, in the third column:

a. In the fourth and eighth lines from the bottom "participle" should read "particle".

b. In the sixth line from the bottom "participles" should read "particles".

2. On page 25237, in the first column:

a. In the first and fourth lines "participles" should read "particles".

b. In first full paragraph, in the ninth line "participles" should read "particles".

c. In the last paragraph, in the third line "entirety" should read "entirely".

BILLING CODE 1505-01-D

federal register

Monday
May 18, 1998

Part II

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Family Remittances; Travel Remittances; Carrier Service Providers; Currency Carried by Travelers; Cuban Assets Control Regulations: Fully-Hosted or Fully-Sponsored Travel and Restrictions on Travel Transactions; Final Rules

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Family Remittances; Travel Remittances; Carrier Service Providers; Currency Carried by Travelers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: Pursuant to the President's announcement of March 20, 1998, the Treasury Department is amending the Cuban Assets Control Regulations to authorize a person subject to U.S. jurisdiction to make remittances to a close relative in Cuba of up to $300 in any consecutive 3–month period. The remitter must be aged 18 years or older and the remittances must be for the support of the close relative or members of his or her household. In situations in which more than one close relative of the remitter resides in the same household in Cuba, no more than $300 in any consecutive 3–month period may be sent by the remitter to that household. Rules relating to non–Cuban currency carried by Cubans returning from the United States to Cuba are amended to reflect this authorization. In addition, technical changes are made to rules relating to provision of emigration–related remittances and the licensing of cargo transported to Cuba by carrier service providers.

EFFECTIVE DATE: May 13, 1998.

FOR FURTHER INFORMATION: Dennis P. Wood, Chief, Compliance Programs Division (tel.: 202/622–2490); Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480); Charles L. Bishop, OFAC–Miami Sanctions Coordinator (tel.: 305/530–7177); or William B. Hoffman, Chief Counsel (tel.: 202/622–2410); Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat® readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self–expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On March 20, 1998, President Clinton announced that the United States is taking a number of steps to expand the flow of humanitarian assistance to Cuba and to help strengthen independent civil society and religious freedom in that country. These include allowing a person subject to U.S. jurisdiction to make remittances of specified amounts to close relatives in Cuba. Accordingly, the Office of Foreign Assets Control of the Department of the Treasury ("OFAC") is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), pursuant to authority delegated to the Secretary of the Treasury by the President, in order to implement this measure and to make certain technical changes to the Regulations.

Section 515.563(a) of the Regulations is amended to authorize a person subject to U.S. jurisdiction to make family remittances to a national of Cuba resident in Cuba who is a close relative of the remitter or the remitter's spouse. The same remittances are authorized with respect to Cuban nationals resident in the authorized trade territory who are not unblocked nationals pursuant to § 515.505(b) of the Regulations. (As defined in § 515.322, the term "authorized trade territory" means all countries other than the United States and countries subject to sanctions pursuant to 31 CFR chapter V.) The remitter must be aged 18 years or older, and the remittances must be for the support of the close relative (including any member of his or her household). A U.S. remitter may make payments of up to $300 in any consecutive 3–month period to any one close relative, and, in situations in which more than one close relative of the remitter resides in the same household, no more than $300 in any consecutive 3–month period may be sent by the remitter to that household. Section 515.563(d) of the Regulations defines a "close relative" as a person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother–in–law, father–in–law, son–in–law, daughter–in–law, sister–in–law, brother–in–law, or spouse, widow or widower of any of the above.

Remittances may be transferred through remittance forwarders specifically licensed by OFAC or by U.S. depository institutions generally licensed by OFAC pursuant to § 515.566(a)(3). In addition, the family remittance may be carried directly on the person of the U.S. remitter or remitter's spouse who is engaging in authorized travel to Cuba, provided the traveler is aged 18 years or older, carries no more than $300 per trip for this purpose irrespective of the number of payees, and makes total remittances of no more than $300 per close relative (including all members of that close relative's household) in any consecutive 3–month period.

The text of former § 515.563(b), now § 515.563(c), is revised to make clear that the emigration–related remittance authorized by that paragraph is separate from and in addition to the travel–related remittance authorized by § 515.564(c). A similar revision is made to § 515.564(c). In addition, § 515.566(a)(2) is amended to indicate that certain baggage carried by carrier service providers requires licensing by the U.S. Department of Commerce. Finally, § 515.569(d) is modified to provide that Cuban nationals returning to Cuba may carry with them currency they have received as family remittances pursuant to § 515.563.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553)(the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public comment procedure pursuant to the APA. The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and

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Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Blocking of assets, Cuba, Currency, Estates, Exports, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Penalties, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Specially designated nationals, Terrorism, Travel restrictions, Trusts and trustees, Vessels.

For the reasons set forth in the preamble, 31 CFR part 515 is amended as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 is revised to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App. 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–48 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 515.563 is revised to read as follows:

§ 515.563 Family remittances to nationals of Cuba.

(a) A person subject to the jurisdiction of the United States may make remittances to a national of Cuba resident in Cuba or in the authorized trade territory who is a close relative of the remitter or of the remitter's spouse, provided the U.S. remitter is 18 years of age or older and payments are made from unblocked sources for the support of the close relative (including any member of his or her household). In any consecutive 3–month period, the maximum amount a remitter may send to a close relative of the remitter or the remitter's spouse pursuant to this section is the lesser of:

(1) $300 to the close relative in Cuba or the authorized trade territory; or

(2) $300 to the household of the close relative in Cuba or the authorized trade territory, regardless of the number of close relatives comprising the household.

Note to paragraph (a). The maximum amounts set forth in paragraph (a) of this section do not apply to family remittances to a Cuban national who has been specifically licensed as an unblocked national pursuant to § 515.505(b), as family remittances to unblocked persons do not require separate authorization.

(b) A remitter or remitter's spouse who is 18 years of age or older and who is engaged in authorized travel to Cuba may carry on his or her person no more than $300 in total family remittances, regardless of the number of eligible payees in Cuba, provided the remitter's family remittances will not exceed the maximum amount set forth in paragraph (a) of this section for any payee within the past 3 months.

(c) In addition to travel–related remittances authorized pursuant to § 515.564(c), remittances to any close relative of the remitter or of the remitter's spouse who is a national of Cuba or who is resident in Cuba are authorized for the purpose of enabling the payee to emigrate from Cuba to the United States, in an amount not exceeding $500, to be made only once to any payee, provided that the payee is a resident of and within Cuba at the time the payment is made.

(d) The term *close relative* used with respect to any person means such person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother–in–law, father–in–law, son–in–law, daughter–in–law, sister–in–law, brother–in–law, or spouse, widow or widower of any of the foregoing.

3. Section 515.564 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 515.564 Certain transactions incident to travel to, from and within the United States by certain Cuban nationals.

* * * * *

(c) Travel–related remittances by persons subject to U.S. jurisdiction to Cuba or a Cuban national, directly or indirectly, for transactions on behalf of a Cuban national, are authorized pursuant to paragraph (a) of this section only when made for the purpose of enabling the payee to emigrate from Cuba to the United States, including for the purchase of airline tickets and payment of visa fees or other travel–related fees. * * *

* * * * *

4. Section 515.566 is amended by revising the last sentence of paragraph (a)(2) to read as follows:

§ 515.566 Authorization for transactions incident to the provision of travel service, carrier service, and family remittance forwarding service.

(a)(1) * * *

(2) * * * Carriage to or from Cuba of any merchandise, cargo or gifts, other than those permitted to individual travelers as accompanied baggage, must also be authorized by licenses issued by the U.S. Department of Commerce.

* * * * *

5. Section 515.569 is amended by revising paragraph (d) to read as follows:

§ 515.569 Currency carried by travelers to Cuba.

* * * * *

(d) A Cuban national returning directly from the United States to Cuba may carry non–Cuban currency only in the amount of U.S. currency or third–country currency brought into the United States by the traveler and registered with the U.S. Customs Service upon entry, plus up to $300 in funds received as family remittances by the Cuban national during his or her stay in the United States.

* * * * *

Dated: May 4, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 11, 1998.

James E. Johnson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–13120 Filed 5–13–98; 2:31 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Fully–Hosted or Fully–Sponsored Travel and Restrictions on Travel Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: In order to ensure effective enforcement of the prohibitions on travel–related transactions in Cuba, any person subject to U.S. jurisdiction determined to have traveled to Cuba without the authority of a general or specific license is subject to a rebuttable presumption that the traveler has

engaged in prohibited travel–related transactions. In order to overcome this presumption, any traveler to Cuba who claims to have been fully hosted or fully sponsored, or not to have engaged in any travel–related transactions, may be asked by Federal enforcement agencies to provide a signed explanatory statement, accompanied by any relevant supporting documentation.

EFFECTIVE DATE: May 13, 1998.

FOR FURTHER INFORMATION: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480); David H. Harmon, Chief of Enforcement (tel.: 202/622–2430); or William B. Hoffman, Chief Counsel (tel.: 202/622–2410); Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat® readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self–expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

The Office of Foreign Assets Control ("OFAC") is amending § 515.560 of the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), to establish a presumption that persons subject to U.S. jurisdiction who have traveled to Cuba without the authority of a general or specific license have engaged in prohibited travel–related transactions. This presumption is subject to rebuttal upon presentation of a statement, signed by the traveler and accompanied by appropriate supporting documentation, that (1) no transactions were entered into, or (2) the travel was fully hosted or fully sponsored by a person or persons not subject to the jurisdiction of the United States and was not in exchange for services provided in Cuba or elsewhere. The statement shall give a full accounting of either (1) how it was possible to engage in travel without engaging in travel–related transactions, or (2) who hosted or sponsored the visit, why it was hosted or sponsored, and what travel–related transactions were paid for by a third party. In the case of fully hosted or fully sponsored travel, appropriate supporting documentation includes, but is not limited to, an original letter of invitation signed by the person or persons hosting or sponsoring the travel, specific to that traveler, and an explanation of the purpose of the travel, or other appropriate evidence documenting that the travel was not in exchange for services provided in Cuba or elsewhere.

Persons planning to travel to Cuba under this provision are encouraged to obtain two brochures from OFAC prior to their departure to ensure that their travel plans conform with the requirements for fully hosted or fully sponsored travel: *Cuba: Travel Restrictions* (available in Spanish as *Cuba: Restricciones de Viajes a Cuba*), and *Cuba: What You Need to Know About the U.S. Embargo*. Travel to Cuba is not fully hosted or fully sponsored if a person subject to U.S. jurisdiction, as defined in § 515.329 of the Regulations prepays or reimburses expenses for travel in Cuba or on a Cuban carrier through a foreign travel service provider not subject to the jurisdiction of the United States. Nor is travel to Cuba fully hosted or fully sponsored if a person subject to U.S. jurisdiction pays — before, during, or after the travel — any expenses for travel in Cuba, or on a Cuban carrier, even if the payment is made to a third–country person or entity.

OFAC has determined that persons traveling to and within Cuba normally incur expenses that are routinely and customarily associated with travel to and within any country. Therefore, absent evidence to the contrary, it will be presumed that a person who traveled to Cuba did engage in transactions related to his or her travel.

OFAC bases its presumption that travelers to and within Cuba engage in travel–related transactions on information developed during the course of OFAC investigations demonstrating that it is normally necessary for such travelers to incur expenditures. Information on travel fees and costs has also been documented in publications concerning travel to Cuba. Following are descriptions of some of the costs commonly incurred by travelers to and in Cuba.

The Cuban Government routinely charges a fee for a tourist visa or tourist card. This fee may be paid directly by the traveler or it may be included in the amount paid by the traveler to a third country travel agent who arranges travel to Cuba. A departure tax is required of air travelers departing Cuba. This fee may be paid directly by the traveler or indirectly through a third–country travel agent.

Travelers in Cuba often encounter significant room and board charges at major hotels and restaurants frequented by foreign tourists. Accommodations and meals may also be found in private Cuban residences for a fee.

Pleasure boaters encounter several fees that are required by Cuban authorities for sailing in Cuban waters and visiting Cuban ports. These include separate fees for a tourist visa, inward clearance, cruising permits, and exit fees. The Marina Hemingway and other marinas in Cuba charge docking fees that vary according to vessel length and duration of stay. Since Marina Hemingway is not within walking distance of the center of Havana, paid ground transportation by taxi or private vehicle is essential for boaters wishing to explore the city. The International Yacht Club (Club Nautico) charges fees for permanent and temporary membership. Members receive discounts on mooring fees and at bars and restaurants within the Marina Hemingway complex. Persons flying aircraft to Cuba are normally required to pay charges for landing, refueling, storage, and maintenance.

In general, Cuba actively promotes foreign tourism as a means of acquiring foreign currency to stimulate its economy. Foreign tourism has become a major industry within Cuba, and is identified in press reports as the country's leading source of hard currency. While OFAC recognizes that unique situations may arise wherein the Cuban Government or a third party not subject to U.S. jurisdiction may find it in its interest to pay or waive all travel fees and costs required of a traveler who is subject to the jurisdiction of the United States, it is highly unlikely that such is the case with most travelers to Cuba.

In the absence of the presumption established by this regulation, it is often a practical impossibility for OFAC to prove that persons traveling to Cuba without a general or specific license have engaged in travel–related transactions in Cuba. Unlicensed travelers do not routinely return to the United States with receipts documenting their expenditures in Cuba. Moreover, OFAC often cannot compel documentary evidence of expenditures from the recipients of payments for travel in Cuba, because many of those recipients are nationals of Cuba or third countries who are not subject to U.S. jurisdiction. Because the Cuban government is generally unwilling to permit travel to Cuba by federal enforcement personnel, they cannot travel to Cuba in order to investigate traveler's claims that they had no expenses.

The presumption established by this regulation only shifts the burden of producing evidence. It does not shift the ultimate burden of proof from OFAC to the traveler.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601–612, does not apply.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Blocking of assets, Cuba, Currency, Estates, Exports, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Penalties, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Specially designated nationals, Terrorism, Travel restrictions, Trusts and trustees, Vessels.

For the reasons set forth in the preamble, 31 CFR part 515 is amended as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App. 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–48 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 515.560 is revised to read as follows:

§ 515.560 Certain transactions incident to travel to and within Cuba.

* * * * *

(g)(1) Unless otherwise authorized to engage in travel–related transactions pursuant to this part, any person subject to the jurisdiction of the United States, as defined in § 515.329, who has traveled to Cuba shall be presumed to have engaged in travel–related transactions prohibited by this part. This presumption may be rebutted by a statement signed by the traveler providing specific supporting documentation that no transactions were engaged in by the traveler or on the traveler's behalf by any other person subject to U.S. jurisdiction, or that the traveler was fully sponsored or fully hosted by a third party not subject to the jurisdiction of the United States and that any sponsorship or waiver of fees was not in exchange for services provided to Cuba or a Cuban national. The statement may be requested by any Federal law enforcement agency authorized to enforce the prohibitions of this Part, including the Office of Foreign Assets Control. The statement shall describe the circumstances of the travel and explain how it was possible to avoid entering into travel–related transactions such as payments for meals, lodging, transportation, bunkering of vessels or aircraft, visas, entry or exit fees, and gratuities. If the travel was fully sponsored or fully hosted, the statement shall state what party hosted or sponsored the travel and why. The statement shall also provide a day–to–day account of financial transactions entered into on behalf of the traveler by the host or sponsor, including but not limited to visa fees, room and board, local or international transportation costs and Cuban airport departure taxes. In the case of pleasure craft calling at Cuban marinas, the statement shall also address related refueling costs, mooring fees, club membership fees, provisions, cruising permits, local land transportation, and departure fees. In preparing the statement, travelers should be aware that the authorization contained in paragraph (c)(3) of this section concerning the purchase and importation of up to $100 of Cuban merchandise for personal use does not apply to fully sponsored or fully hosted travelers. Travelers fully hosted or fully sponsored by a person or persons not subject to the jurisdiction of the United States shall also provide appropriate supporting documentation demonstrating that they were fully hosted or fully sponsored, such as an original signed statement from their sponsor or host, specific to that traveler, confirming that the travel was fully hosted or fully sponsored and the reasons for the travel. All documentation described in this section is subject to the recordkeeping requirements, including the period during which records shall be available for examination, in § 501.601 of this chapter.

(2) If the traveler can establish that all necessary transactions involved fully sponsored or fully hosted travel within Cuba, such transactions do not violate the prohibitions of this part, provided that, except as provided in paragraph (g)(3) of this section:

(i) No person subject to the jurisdiction of the United States has made any payments or transferred any property or provided any service in connection with such travel, including prepayment of or reimbursement for travel expenses, to any person or entity not subject to U.S. jurisdiction; and

(ii) The travel is not aboard a direct flight between the United States and Cuba authorized pursuant to § 515.566.

(3) Travel shall be considered fully sponsored or fully hosted for purposes of this section notwithstanding a payment by a person subject to the jurisdiction of the United States for transportation to and from Cuba, provided that the carrier furnishing the transportation is not a Cuban national.

(4) Persons planning to travel to Cuba consistent with this paragraph (g) may contact the Compliance Programs Division, Office of Foreign Assets Control, prior to their departure to ensure that their travel plans conform with the requirements for fully hosted or sponsored travel. Other inquiries concerning travel–related transactions should be addressed to the Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220.

Dated: May 4, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 11, 1998.

James E. Johnson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–13120 Filed 5–13–98; 2:31 pm]

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Part III

Environmental Protection Agency

40 CFR Part 194
Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Certification Decision; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL—6014–9]

RIN 2060–AG85

Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Certification Decision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is certifying that the Department of Energy's ("DOE") Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations set forth at Subparts B and C of 40 CFR Part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Waste). The EPA is required to evaluate whether the WIPP will comply with EPA's standards for the disposal of radioactive waste by the WIPP Land Withdrawal Act ("LWA") of 1992, as amended. EPA's certification of compliance allows the emplacement of radioactive waste in the WIPP to begin, provided that all other applicable health and safety standards, and other legal requirements, have been met. The certification constitutes final approval under the WIPP LWA for shipment of transuranic waste from specific waste streams from Los Alamos National Laboratory for disposal at the WIPP. However, the certification is subject to four specific conditions, most notably that EPA must approve site-specific waste characterization measures and quality assurance programs before other waste generator sites may ship waste for disposal at the WIPP. The Agency is amending the WIPP compliance criteria (40 CFR Part 194) by adding Appendix A that describes EPA's certification, incorporating the approval processes for waste generator sites to ship waste for disposal at the WIPP, and adding a definition for "Administrator's authorized representative." Finally, EPA is finalizing its decision, also pursuant to the WIPP LWA, that DOE does not need to acquire existing oil and gas leases near the WIPP to comply with the disposal regulations.

EFFECTIVE DATE: This decision is effective June 17, 1998. A petition for review of this final action must be filed no later than July 17, 1998, pursuant to section 18 of the WIPP Land Withdrawal Act of 1992 (Pub. L. 102–579), as amended by the WIPP LWA Amendments (Pub. L. 104–201).

FOR FURTHER INFORMATION CONTACT: Betsy Forinash, Scott Monroe, or Sharon White; telephone number (202) 564–9310; address: Radiation Protection Division, Center for the Waste Isolation Pilot Plant, Mail Code 6602–J, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. For copies of the Compliance Application Review Documents supporting today's action, contact Scott Monroe. The Agency is also publishing a document, accompanying today's action, which responds in detail to significant public comments that were received on the proposed certification decision. This document, entitled "Response to Comments," may be obtained by contacting Sharon White at the above phone number and address. Copies of these documents are also available for review in the Agency's Air Docket A–93–02.

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I. What is the WIPP?

The Waste Isolation Pilot Plant ("WIPP") is a potential disposal system for radioactive waste. Developed by the Department of Energy ("DOE" or "the Department"), the WIPP is located near Carlsbad in southeastern New Mexico. The DOE intends to bury radioactive waste 2150 feet underground in an ancient layer of salt which will eventually "creep" and encapsulate waste containers. The WIPP has a total capacity of 6.2 million cubic feet of waste.

Congress authorized the development and construction of the WIPP in 1980 "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States." [1] The waste which may be emplaced in the WIPP is limited to transuranic ("TRU") radioactive waste generated by defense activities associated with nuclear weapons; no high-level waste or spent nuclear fuel from commercial power plants may be disposed of at the WIPP. TRU waste is defined as materials containing alpha-emitting radio-isotopes, with half lives greater than twenty years and atomic numbers above 92, in concentrations greater than 100 nano-curies per gram of waste.[2]

Most TRU waste proposed for disposal at the WIPP consists of items that have become contaminated as a result of activities associated with the production of nuclear weapons (or with the clean-up of weapons production facilities), e.g., rags, equipment, tools, protective gear, and organic or inorganic sludges. Some TRU waste is mixed with hazardous chemicals. Some of the waste proposed for disposal at the WIPP is currently stored at Federal facilities across the United States, including locations in Colorado, Idaho, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington. Much of the waste proposed for disposal at the WIPP will be generated in the future.

[1] Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980, Pub. L. 96–164, section 213.

[2] WIPP Land Withdrawal Act, Pub. L. 102–579, section 2(18), as amended by the 1996 WIPP LWA Amendments, Pub. L. 104–201.

II. What Is the Purpose of Today's Action?

Before disposal of radioactive waste can begin at the WIPP, the U.S. Environmental Protection Agency ("EPA," or "the Agency") must certify that the WIPP facility will comply with EPA's radioactive waste disposal regulations (Subparts B and C of 40 CFR Part 191).[3] The purpose of today's action is to issue EPA's certification decision.

With today's action, EPA will add to the Code of Federal Regulations a new Appendix A to 40 CFR Part 194 describing EPA's certification decision and the conditions that apply to the certification. The Agency is adding a new section, § 194.8, to the WIPP compliance criteria (40 CFR Part 194) that describes the processes EPA will use to approve quality assurance and waste characterization programs at waste generator sites. The EPA is also adding a definition of the term "Administrator's authorized representative" to the WIPP compliance criteria. Except for these actions, the certification decision does not otherwise amend or affect EPA's radioactive waste disposal regulations or the WIPP compliance criteria.

Today's action also addresses the provision of section 7(b)(2) of the WIPP Land Withdrawal Act which prohibits DOE from emplacing transuranic waste underground for disposal at the WIPP until, inter alia, it acquires specified oil and gas leases, unless EPA determines that such acquisition is not necessary.

III. With Which Regulations Must the WIPP Comply?

The WIPP must comply with EPA's radioactive waste disposal regulations, located at Subparts B and C of 40 CFR Part 191. These regulations limit the amount of radioactive material which may escape from a disposal facility, and protect individuals and ground water resources from dangerous levels of radioactive contamination. In addition, the compliance certification application ("CCA") and other information submitted by DOE must meet the requirements of the WIPP compliance criteria at 40 CFR Part 194. The compliance criteria implement and interpret the general disposal regulations specifically for the WIPP, and clarify the basis on which EPA's certification decision is made.

[3] WIPP LWA, section 8(d).

IV. What Is the Decision on Whether the WIPP Complies With EPA's Regulations?

A. Certification Decision

The EPA finds that DOE has demonstrated that the WIPP will comply with EPA's radioactive waste disposal regulations at Subparts B and C of 40 CFR Part 191. This decision allows the WIPP to begin accepting transuranic waste for disposal, provided that other applicable environmental regulations have been met and once a 30-day Congressionally-required waiting period has elapsed.[4] EPA's decision is based on a thorough review of information submitted by DOE, independent technical analyses, and public comments. The EPA determined that DOE met all of the applicable requirements of the WIPP compliance criteria at 40 CFR Part 194. However, as discussed below, DOE must meet certain conditions in order to maintain a certification for the WIPP and before shipping waste for disposal at the WIPP.

B. Conditions

As noted above, EPA determined that DOE met all of the applicable requirements of the WIPP compliance criteria. In several instances, however, EPA found that it is necessary for DOE to take additional steps to ensure that the measures actually implemented at the WIPP (and thus the circumstances expected to exist there) are consistent with DOE's compliance certification application ("CCA") and with the basis for EPA's compliance certification. Regarding several requirements, DOE demonstrated compliance with the applicable compliance criteria for only one category of waste at a single waste generator site. To address these situations, EPA is amending the WIPP compliance criteria, 40 CFR Part 194, and appending four explicit conditions to its certification of compliance for the WIPP.

Condition 1 of the certification relates to the panel closure system, which is intended over the long term to block brine flow between waste panels in the WIPP. In its CCA, DOE presented four options for the design of the panel closure system, but did not specify which one would be constructed at the WIPP. The EPA based its certification decision on DOE's use of the most robust design (referred to in the CCA as "Option D"). The Agency found the Option D design to be adequate, but also

[4] WIPP LWA, § 7(b).

determined that the use of a Salado mass concrete—using brine rather than fresh water—would produce concrete seal permeabilities in the repository more consistent with the values used in DOE's performance assessment. Therefore, Condition 1 of EPA's certification requires DOE to implement the Option D panel closure system at the WIPP, with Salado mass concrete replacing fresh water concrete. (For more detail on the panel closure system, refer to the preamble discussion of § 194.14.)

Conditions 2 and 3 of the final rule relate to activities conducted at waste generator sites that produce the transuranic waste proposed for disposal in the WIPP. The WIPP compliance criteria (§§ 194.22 and 194.24) require DOE to have in place a system of controls to measure and track important waste components, and to apply quality assurance ("QA") programs to waste characterization activities. At the time of EPA's proposed certification decision, the Los Alamos National Laboratory ("LANL") was the only site to demonstrate the execution of the required QA programs and the implementation of the required system of controls. Therefore, EPA's certification constitutes final approval under the WIPP LWA for DOE to ship waste for disposal at the WIPP only from the LANL, and only for the retrievably stored (legacy) debris at LANL for which EPA has inspected and approved the applicable system of controls. Before DOE may ship any mixed (hazardous and radioactive) waste from the LANL—even if it is encompassed by the waste streams approved by EPA in this action—DOE must obtain any other regulatory approvals that may be needed, including approval from the State of New Mexico under the Resource Conservation and Recovery Act to dispose of such waste at the WIPP.

As described in the final WIPP certification, before other waste may be shipped for disposal at the WIPP, EPA must separately approve the QA programs for other generator sites (Condition 2) and the waste characterization system of controls for other waste streams (Condition 3). The approval process includes an opportunity for public comment, and an inspection (of a DOE audit) or audit of the waste generator site by EPA. The Agency's approval of waste characterization systems of controls and QA programs will be conveyed in a letter from EPA to DOE. In response to public comments on these conditions, EPA's approval processes for waste generator site programs have been incorporated into the body of the WIPP compliance criteria, in a new section at § 194.8. (For more information on this change, see the preamble section entitled, "Significant Changes to the Final Rule Made in Response to Public Comments." For further discussion of Conditions 2 and 3, refer to the preamble discussions of § 194.22 and § 194.24, respectively.)

Condition 4 of the certification relates to passive institutional controls ("PICs"). The WIPP compliance criteria require DOE to use both records and physical markers to warn future societies about the location and contents of the disposal system, and thus to deter inadvertent intrusion into the WIPP. (§ 194.43) In its application, DOE provided a design for a system of PICs, but stated that many aspects of the design would not be finalized for many years (even up to 100) after closure. The PICs actually constructed and placed in the future must be consistent with the basis for EPA's certification decision. Therefore, Condition 4 of the certification requires DOE to submit a revised schedule showing that markers and other measures will be implemented as soon as possible after closure of the WIPP. The DOE also must provide additional documentation showing that it is feasible to construct markers and place records in archives as described in DOE's certification application. After closure of the WIPP, DOE will not be precluded from implementing additional PICs beyond those described in the application. (See the preamble discussion of § 194.43 for more information on PICs.)

Although not specified in the certification, it is a condition of any certification that DOE must submit periodic reports of any planned or unplanned changes in activities pertaining to the disposal system that differ significantly from the most recent compliance application. (§ 194.4(b)(3)) The DOE must also report any releases of radioactive material from the disposal system. (§ 194.4(b)(3)(iii), (v)) Finally, EPA may request additional information from DOE at any time. (§ 194.4(b)(2)) These reports and information will allow EPA to monitor the performance of the disposal system and evaluate whether the certification must be modified, suspended, or revoked for any reason. (Modifications, suspensions, recertification, and other activities are also addressed in the preamble section entitled, "EPA's Future Role at the WIPP.")

C. Land Withdrawal Act Section 4(b)(5)(B) Leases

The EPA finds that DOE does not need to acquire existing oil and gas leases (Numbers NMNM 02953 and 02953C) (referred to as the "section 4(b)(5)(B) leases") in the vicinity of the WIPP in order to comply with EPA's final disposal regulations at 40 CFR Part 191, Subparts B and C. The EPA concludes that potential activities at these existing leases would have an insignificant effect on releases of radioactive material from the WIPP disposal system and, thus, that they do not cause the WIPP to violate the disposal regulations.

D. EPA's Future Role at the WIPP (recertification, enforcement of conditions)

The EPA will continue to have a role at the WIPP after this certification becomes effective. As discussed above, DOE must submit periodic reports on any activities or conditions at the WIPP that differ significantly from the information contained in the most recent compliance application. The EPA may also, at any time, request additional information from DOE regarding the WIPP. (§ 194.4) The Agency will review such information as it is received to determine whether the certification must be modified, suspended, or revoked. Such action might be warranted if, for example, significant information contained in the most recent compliance application were no longer to remain true. The certification could be modified to alter the terms or conditions of certification—for example, to add a new condition, if necessary to address new or changed activities at the WIPP. (§ 194.2) The certification could be revoked if it becomes evident in the future that the WIPP cannot or will not comply with the disposal regulations. Either modification or revocation must be conducted by rulemaking, in accordance with the WIPP compliance criteria. (§§ 194.65–66) Suspension may be initiated at the Administrator's discretion, in order to promptly reverse or mitigate a potential threat to public health. For instance, a suspension would take effect if, during emplacement of waste, a release from the WIPP occurred in excess of EPA's containment limits. (See § 194.4(b)(3).)

In addition to reviewing annual reports from DOE regarding activities at the WIPP, EPA periodically will evaluate the WIPP's continued compliance with the WIPP compliance criteria and disposal regulations. As directed by Congress, this "recertification" will occur every five

years.[5] For recertification, DOE must submit to EPA for review the information described in the WIPP compliance criteria (although, to the extent that information submitted in previous certification applications remains valid, it can be summarized and referenced rather than resubmitted). (§ 194.14) In accordance with the WIPP compliance criteria, documentation of continued compliance will be made available in EPA's dockets, and the public will be provided at least a 30-day period in which to submit comments. The EPA's decision on recertification will be announced in the **Federal Register**. (§ 194.64)

In the immediate future, the Agency expects to conduct numerous inspections at waste generator sites in order to implement Conditions 2 and 3 of the compliance certification. Notices announcing EPA inspections or audits to evaluate implementation of quality assurance ("QA") and waste characterization requirements at generator facilities will be published in the **Federal Register**. The public will have the opportunity to submit written comments on the waste characterization and QA program plans submitted by DOE. As noted above, EPA's decisions on whether to approve waste generator QA program plans and waste characterization systems of controls—and thus, to allow shipment of specific waste streams for disposal at the WIPP—will be conveyed by a letter from EPA to DOE. A copy of the letter, as well as any EPA inspection or audit reports, will be placed in EPA's docket. (See the preamble sections entitled "Dockets" and "Where can I get more information about EPA's WIPP activities?" for more information regarding EPA's rulemaking docket.) The procedures for EPA's approval have been incorporated in the compliance criteria at a new section, § 194.8.

As discussed previously, Condition 1 of the WIPP certification requires DOE to implement the Option D panel closure system at the WIPP, with Salado mass concrete being used in place of fresh water concrete. It will be possible to evaluate the closure system only when waste panels have been filled and are being sealed. At that time, EPA intends to confirm compliance with this condition through inspections under its authority at § 194.21 of the WIPP compliance criteria.

Similarly, EPA will be able to evaluate DOE's compliance with Condition 4 of the certification only when DOE submits a revised schedule and additional documentation regarding the feasibility of implementing passive institutional controls. This documentation must be provided to EPA no later than the final recertification application. Once received, the information will be placed in EPA's docket, and the Agency will evaluate the adequacy of the documentation. If necessary, EPA may initiate a modification to the certification to address DOE's revised schedule; any such modification would be undertaken in accordance with the public participation requirements described in the WIPP compliance criteria, §§ 194.65–66. During the operational period when waste is being emplaced in the WIPP (and before the site has been sealed and decommissioned), EPA will verify that specific actions identified by DOE in the CCA and supplementary information (and in any additional documentation submitted in accordance with Condition 4) are being taken to test and implement passive institutional controls. For example, DOE stated that it will submit a plan for soliciting archives and record centers to accept WIPP information in the fifth recertification application. The Agency can confirm implementation of such measures by examining documentation and by conducting inspections under its authority at § 194.21.

Finally, the WIPP compliance criteria provide EPA the authority to conduct inspections of activities at the WIPP and at all off-site facilities which provide information included in certification applications. (§ 194.21) The Agency expects to conduct periodic inspections, both announced and unannounced, to verify the adequacy of information relevant to certification applications. The Agency may conduct its own laboratory tests, in parallel with those conducted by DOE. The Agency also may inspect any relevant records kept by DOE, including those records required to be generated in accordance with the compliance criteria. For example, EPA intends to conduct ongoing inspections or audits at the WIPP and at waste generator sites to ensure that approved quality assurance programs are being adequately maintained and documented. The EPA plans to place inspection reports in its docket for public examination.

V. What Information Did EPA Examine to Make its Decision?

The EPA made its certification decision by comparing relevant information to the WIPP compliance criteria (40 CFR Part 194) and ensuring that DOE satisfied the specific requirements of the criteria in demonstrating compliance with the disposal regulations. The primary source of information examined by EPA was a compliance certification application ("CCA") submitted by DOE on October 29, 1996. (Copies of the CCA were placed in EPA's Air Docket A–93–02, Category II–G.) The DOE submitted additional information after that time. On May 22, 1997, EPA announced that DOE's application was deemed to be complete. (62 FR 27996–27998)

However, as contemplated by Congress, EPA's compliance certification decision is based on more than the complete application. The EPA also relied on materials prepared by the Agency or submitted by DOE in response to EPA requests for specific additional information necessary to address technical sufficiency concerns. The Agency also considered public comments on the proposed rule which supported or refuted technical positions. Thus, EPA's certification decision is based on the entire record available to the Agency, which is contained in EPA's Air Docket A–93–02. The record consists of the complete CCA, supplementary information submitted by DOE in response to EPA requests for additional information, technical reports generated by EPA and EPA contractors, EPA audit and inspection reports, and public comments submitted on EPA's proposed certification decision during the public comment period.

In response to public comments regarding the precise materials EPA considered in reaching its certification decision, the Compliance Application Review Documents ("CARDs") supporting today's decision reference the relevant portion(s) of the October 29, 1996, CCA and any supplementary information that the Agency relied on in reaching a particular compliance decision. (Docket A–93–02, Item V–B–2) All materials which informed EPA's proposed and final decisions have been placed in the WIPP dockets or are otherwise publicly available. A full list of the supporting documentation for EPA's certification decision and the DOE compliance documentation considered by the Agency is located at Docket A–93–02, Item V–B–1. For further information regarding the availability of information EPA examined, see the section entitled "Dockets" in this preamble.

[5] WIPP LWA, § 8(f). Congress also directed that this periodic recertification "shall not be subject to rulemaking or judicial review."

VI. In Making its Final Decision, how did EPA Incorporate Public Comments on the Proposed Rule?

A. Introduction and the Role of Comments in the Rulemaking Process

Congress directed that EPA's certification decision for the WIPP be conducted by informal (or "notice-and-comment") rulemaking pursuant to Section 4 of the Administrative Procedure Act ("APA").[6] Notice-and-comment rulemaking under the APA requires that regulatory agencies provide notice of a proposed rulemaking, an opportunity for the public to comment on the proposed rule, and a general statement of the basis and purpose of the final rule.[7] The notice of proposed rulemaking required by the APA must "disclose in detail the thinking that has animated the form of the proposed rule and the data upon which the rule is based." (*Portland Cement Ass'n* v. *Ruckelshaus*, 486 F.2d 375, 392–94 (D.C. Cir. 1973)) The public is thus enabled to participate in the process by making informed comments on the Agency's proposal. This provides the Agency the benefit of "an exchange of views, information, and criticism between interested persons and the agency." (Id.)

For the WIPP certification decision, there are two primary mechanisms by which EPA explains the issues that were raised in public comments and the Agency's reactions to them. First, broad or major comments are discussed in the succeeding sections of this preamble. Second, EPA is publishing a document, accompanying today's action and entitled "Response to Comments," which contains the Agency's response to all significant comments received during the comment period on the proposed certification decision. (The EPA also responded to comments received on its advance notice of proposed rulemaking ("ANPR"); for further information on the ANPR, see the preamble section "Public Involvement Prior to the Proposed Rule.") The Response to Comments document provides more detailed responses to issues which are addressed in the preamble, and addresses all other significant comments on the proposal. All comments received by EPA, whether written or oral, were given equal consideration in developing the final rule.

[6] WIPP LWA, § 8(d)(2).

[7] 5 U.S.C. 553

B. Significant Changes to the Final Rule Made in Response to Public Comments

Today's action finalizes EPA's proposed decision that the WIPP facility will comply with the disposal regulations and that DOE does not need to acquire existing oil and gas leases in the WIPP Land Withdrawal Area. (For further information, refer to the preamble section entitled, "What is the decision on whether the WIPP complies with EPA's regulations?") Beyond these broad determinations, EPA's proposed certification decision also included four conditions related to the panel closure system, quality assurance at waste generator sites, waste characterization measures at waste generator sites, and passive institutional controls. The final rule retains all of these conditions. However, in response to comments submitted on the proposal, the Agency has made clarifying changes to Subpart A of 40 CFR Part 194 to provide a clearer explanation of the process for determining compliance with the conditions related to waste generator sites.

Proposed Conditions 2 and 3 relate to quality assurance ("QA") programs and waste characterization programs, respectively, at waste generator sites intending to ship waste for disposal at the WIPP. Except for removal of the procedural sections of the proposed conditions from the appendix (as proposed) to Subpart A of 40 CFR Part 194, to provide for a clearer enunciation of the process for determining compliance with the conditions, these conditions are retained with minor clarifications in the final rule. The conditions restrict DOE from shipping waste to the WIPP from any sites other than the Los Alamos National Laboratory until EPA separately approves the QA and waste characterization plans at other waste generator sites. For both QA and waste characterization programs, the proposed approval process included: placement in the docket of site-specific documentation submitted by DOE, publication of a **Federal Register** notice by EPA announcing a scheduled inspection or audit, a period of at least 30 days for the public to comment on information placed in the docket, and the Agency's written decision regarding the approval of these programs in the form of a letter from EPA to DOE. The EPA proposed to approve QA programs on a site-wide basis. However, because the features of waste streams can vary widely and thus can require significantly different characterization techniques, EPA proposed to approve waste characterization measures and controls on the basis of waste streams or, where multiple waste streams may be characterized by the same waste characterization processes and techniques, groups of waste streams.

A number of commenters suggested that in the waste generator site approval process, EPA should delay the public comment period until after completion of an inspection or audit, and should make the Agency's approval decision explicitly subject to judicial review. Other comments questioned the authority for, and the value of, a separate site approval process by EPA.

The EPA finds that it is both necessary and within the Agency's authority to evaluate and approve site-specific QA and waste characterization programs. The compliance criteria expressly provide that any certification of compliance "may include such conditions as [EPA] finds necessary to support such certification." (§ 194.4(a)) Before waste is shipped for disposal at the WIPP, EPA must be confident that the waste will conform to the waste limits and other waste-related assumptions incorporated in DOE's performance assessment—that is, that DOE adheres to the fundamental information and assumptions on the waste on which the certification of compliance is based. Such confidence can be assured only by confirmation that the required QA and waste characterization programs are in place (i.e., established, implemented or executed) at waste generator sites. The EPA believes that an approval process separate from DOE's internal procedures is beneficial because DOE's process is not geared solely to confirming that programs adhere to EPA's compliance criteria, and because DOE's process does not provide for public participation.

Given the great public interest regarding the WIPP, and waste characterization in particular, EPA believes it is important that the public be informed of and have the opportunity to be involved in the site approval process. To that end, EPA's approval process includes docketing information relevant to site-specific approvals, and allowing the public to comment on such information.

The EPA's certification that the WIPP will comply with the 40 CFR Part 191 radioactive waste disposal regulations is based on the Agency's determination that the WIPP will comply with the containment requirements and other requirements of 40 CFR Parts 191 and 194 for the waste inventory described for purposes of the performance assessment. In the CCA, DOE purported to demonstrate that the WIPP would meet the 40 CFR Part 191 release limits

by modeling the WIPP's behavior in its performance assessment. The performance assessment incorporated certain upper and lower limiting values of specified waste components, as required by 40 CFR 194.24(c). The EPA confirmed the results of the performance assessment using the same upper and lower limiting values in the performance assessment verification test ("PAVT"). Those upper and lower limiting values apply to contact-handled, remote-handled, and to-be-generated waste from numerous generator sites. Thus, in today's action, EPA certifies that the WIPP will comply with the 40 CFR Part 191 containment requirements to the extent that emplaced waste falls within the waste envelope limits that were shown by the performance assessment, and confirmed by the PAVT, to be compliant with the 40 CFR Part 191 standards. Proposed Conditions 2 and 3 change neither the performance assessment assumptions nor the terms on which the WIPP is authorized for disposal, but rather ensure that the assumptions on which the compliance certification is based are adhered to in practice.

Based on public comments, EPA also finds it necessary to clarify that the compliance criteria at § 194.22 and § 194.24 were not intended to require that DOE address their requirements—including QA measures, and the use of process knowledge—for all waste streams in the certification application for the initial certification. Clearly, it would be impossible to do so for the to-be-generated waste. It is similarly impossible for DOE to demonstrate fully, in the initial certification application, that the waste emplaced in the disposal system actually conforms to the waste envelope (i.e., upper and lower waste limits) upon which the certification is based, since waste cannot be disposed of at the WIPP before EPA grants an initial certification. Confusion on these issues arose because the compliance criteria at 40 CFR Part 194 apply to information in compliance recertification applications as well as the initial certification application.

The fact that it was not EPA's intent to require DOE to have implemented QA or measurement programs for all waste at every site prior to initial certification is supported by numerous statements made by the Agency at the time the compliance criteria were issued. The EPA had great discretion in setting the waste characterization requirements, since they were part of the general requirements of the WIPP compliance criteria and not derived directly from the disposal regulations. In the Response to Comments for 40 CFR Part 194, EPA emphasized that compliance with the requirements would be confirmed through inspections or audits and would not serve to re-open the certification rulemaking. (Docket A–92–56, Item V–C–1, pp. 6–5, 6–8, and 6–20) The Agency stated that the certification rulemaking would address DOE's analysis of waste characteristics and components and documentation that a system of controls had been established at the WIPP to track the amount of important waste components emplaced in the disposal system. (Docket A–92–56, Item V–C–1, p. 6–9) The certification rulemaking has addressed these issues and found DOE in compliance with the requisite criteria. The EPA believes that the comprehensive waste characterization approach described by DOE in the CCA—including the approach to identification, limitation, and confirmation of waste components important to containment of waste in the disposal system—is an appropriate basis for granting an initial certification. The EPA further believes that confirmation of the QA and system of controls at waste generator sites (i.e., measuring and tracking important waste components) can be reasonably obtained by a process of inspections and audits in accordance with 40 CFR 194.21, 194.22(e), and 194.24(h).

The EPA declines to modify the proposed approval process by delaying the comment period until after the issuance of EPA's inspection or audit report. The EPA does not believe it is prudent to commit to a strict sequence of events that will be adhered to for every approval. In some cases, the Agency may place records of a completed inspection or audit in the docket prior to or during the public comment period. However, in other cases, the Agency believes that the public comment period may better serve members of the public if it allows them to provide comments on DOE's documentation prior to EPA's inspection or audit. In this way, public comments could inform EPA's inspection criteria and process, or provide information on which EPA may take action to follow up in the inspection or audit. Therefore, the Agency does not believe that it is prudent to specify when the comment period may occur in relation to an inspection or audit. Furthermore, EPA declines to make any statement regarding whether the approval decisions are subject to judicial review. Jurisdiction of U.S. Federal Courts is governed by the enactments of the U.S. Congress.

Nevertheless, in response to comments requesting changes or clarifications to EPA's waste generator site and waste stream approval processes, EPA made certain changes to the proposed conditions. In order to clarify EPA's original intent in the compliance criteria regarding approval of site-specific activities, EPA is amending the compliance criteria at 40 CFR Part 194 to include the site-specific approval process. (See 62 FR 58804, 58815) Thus, the procedures for demonstrating compliance with the proposed Conditions 2 and 3 are incorporated in the final rule as a new section at 40 CFR Part 194: § 194.8, "Approval Process for Waste Shipment from Waste Generator Sites for Disposal at the WIPP." Also, in response to comments advocating greater transparency in the approval process, EPA has clarified that scheduled inspections or audits by EPA for the purpose of approving quality assurance programs at waste generator sites will be announced by notice in the **Federal Register** (§ 194.8(a)); this is consistent with EPA's commitment to do so for inspections and audits of waste characterization programs at generator sites (§ 194.8(b)). Providing notice of such inspections will alert the public to upcoming EPA approval activities and allow for more informed public participation. While public notice will be provided for the scheduled initial phase of an inspection or audit, should it prove necessary for EPA to conduct follow-up activities or continuations of inspections and audits, EPA reserves the right to do so without providing additional public notice. Such follow-up activities or continuations of audits or inspections might be necessary to obtain additional information or ensure that corrective actions are being taken to resolve initial findings. In no case will EPA decide whether to approve site-specific quality assurance or waste characterization programs before providing a minimum 30-day public comment period on documentation of the program plans, or before conducting an inspection or audit at the relevant site.

The Agency received some comments related to Conditions 1 and 4 in the proposed rule. EPA's responses to these comments are discussed in the preamble sections related to § 194.14 and § 194.43, respectively. Conditions 1 and 4 were retained without change in the final rule. The response to comments document accompanying today's action provides more detailed responses regarding the certification conditions and all aspects of the final rule.

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The EPA received no significant comments on its proposed actions to slightly modify the criteria by revising the authority citation and adding a new definition for Administrator's authorized representative. Therefore, these actions take effect without change from the proposed rule.

VII. How Did EPA Respond to General Comments on Its Proposed Certification Decision?

The EPA received many comments which addressed broad issues related to the proposed certification decision. Many citizens simply expressed their strong support for, or opposition to, opening the WIPP. Some commenters requested that EPA consider certain factors in making its certification decision. These factors include reviews by organizations other than EPA, and the political or economic motivations of interested parties. The EPA's certification decision must be made by comparing the scope and quality of relevant information to the objective criteria of 40 CFR Part 194. Where relevant, the Agency has considered public comments which support or refute technical positions taken by DOE. Emotional pleas and comments on the motives of interested parties are factors that are not relevant to a determination of whether DOE has demonstrated compliance with the disposal regulations and the WIPP compliance criteria, and are therefore outside the scope of this rulemaking.

A number of commenters suggested that EPA should explore alternative methods of waste disposal, such as neutralizing radioactive elements, before proceeding with a certification decision. Others stated that the WIPP should be opened immediately because underground burial of radioactive waste is less hazardous than the current strategy of above-ground storage. Such considerations are all outside the scope of this rulemaking. Congress did not delegate to EPA the authority to abandon or delay the WIPP in favor of other disposal methods. Congress mandated that EPA certify, pursuant to Section 4 of the APA, whether the WIPP will comply with the radioactive waste disposal regulations.[8] Thus, EPA is obligated to determine whether the WIPP complies with the disposal regulations, regardless of the relative risks of underground disposal compared to above-ground storage.

Many members of the public expressed a desire for EPA to oversee other aspects of the WIPP's operation. In particular, the public was concerned with the risks of transporting radioactive materials from waste generator sites to the WIPP. All transportation requirements for the WIPP are established and enforced by regulators other than EPA. (For further discussion on the source and limitations of EPA's authority to regulate the WIPP, see preamble Section X, "Why and how does EPA regulate the WIPP?") One commenter stated that EPA should survey electric and magnetic fields at the WIPP. The EPA's disposal regulations apply only to ionizing radiation. They do not apply to non-ionizing radiations such as electric and magnetic fields. These issues are beyond the scope of EPA's authority to regulate waste disposal at the WIPP and are not addressed in the certification rulemaking.

The EPA received a number of comments suggesting that the Agency should have provided more or better opportunities for public participation in its decision making process. Comments suggested, for example, that EPA should have rescheduled public hearings, responded more fully to comments submitted prior to the proposed rule, extended the public comment period, and included the public in all meetings between EPA and DOE. The EPA provided numerous opportunities for public participation in the WIPP certification decision, including two comment periods—one before and one after the proposed decision—of at least 120 days (In fact, EPA accepted comments on its advance notice of proposed rulemaking announcing receipt of DOE's CCA for over 250 days.), two sets of public hearings in New Mexico, **Federal Register** notices, and a number of meetings with various stakeholders. These measures exceed the basic requirements for notice-and-comment rulemaking and are in full compliance with the public participation requirements of both the WIPP compliance criteria and the Administrative Procedure Act. Further discussion on the measures taken by EPA to involve the public can be found in the preamble section entitled, "How has the public been involved in EPA's WIPP activities?"

Some members of the public expressed doubt that EPA and its contractors possessed the necessary technical skills to evaluate DOE's application or were free from conflicts of interest. Many comments requested that EPA release the names and qualifications of individual contractor employees who provided technical support for EPA's certification rulemaking. The EPA initially denied this request because such information is typically claimed as confidential business information by federal government contractors. (The Trade Secrets Act prohibits EPA from releasing confidential business information, and imposes criminal liability on federal employees for the unauthorized disclosure of such confidential information.[9]) However, in response to the public interest regarding this issue, EPA sought and obtained from its contractors a limited waiver of confidentiality to release the names and qualifications of individual employees who provided technical support related to EPA's certification decision. In January 1998, EPA provided this contractor information to several stakeholders and also placed it in the rulemaking docket. (Docket A–93–02, Items IV–C–13 and IV–C–14) The Agency also sent to stakeholders (and docketed) a description of the measures EPA has taken to ensure that contractors do not have any conflict of interest in providing technical support on the certification rulemaking. While EPA agreed to release the above information to allay public concerns, such information is not relevant to EPA's certification decision. Under notice-and-comment rulemaking, it is the substance and basis for EPA's decision that are at issue.

Finally, several commenters stated that EPA—by initially certifying the WIPP to receive only certain waste from the Los Alamos National Laboratory—is granting a piecemeal certification, and that such an action is illegal under EPA's regulatory authority. The EPA disagrees with the assertion that its actions constitute a phased certification. The EPA's certification is based on the Agency's determination that the WIPP will comply with the disposal regulations for the inventory described in the performance assessment. Conditions 2 and 3 of the certification (related to waste generator sites) change neither the performance assessment assumptions nor the terms on which the WIPP is authorized for disposal, but ensure that DOE adheres to the assumptions on which compliance is based. The EPA believes this approach is consistent with Congressional intent (as reflected in the WIPP LWA) and with the disposal regulations and compliance criteria. For further discussion of comments related to the proposed conditions of certification, refer to the preceding preamble section entitled, "Significant Changes Made to

[8] WIPP Land Withdrawal Act ("WIPP LWA"), Pub. L. 102–579, as amended by the 1996 WIPP LWA Amendments, Pub. L. 104–201, Section 8(d).

[9] 18 U.S.C. 1905

the Final Rule in Response to Comments."

VIII. How Did EPA Respond to Major Technical Issues Raised in Comments?

A. Content of Compliance Certification Applications (§ 194.14)

40 CFR Part 194 sets out those elements which the Agency requires to be in a complete compliance application. In general, compliance applications must include information relevant to demonstrating compliance with each of the individual sections of 40 CFR Part 194 to determine if the WIPP will comply with the Agency's radioactive waste disposal regulations at 40 CFR Part 191, Subparts B and C. The Agency published the "Compliance Application Guidance for the Waste Isolation Pilot Plant: A Companion Guide to 40 CFR Part 194" ("CAG") which provided detailed guidance on the submission of a complete compliance application.[10]

Any compliance application must include, at a minimum, basic information about the WIPP site and disposal system design, and must also address all the provisions of the compliance criteria; these requirements are embodied in § 194.14. The documentation required in the compliance criteria is important to enable a rigorous, thorough assessment of whether the WIPP facility will comply with the disposal regulations.

The EPA thoroughly reviewed DOE's compliance certification application ("CCA") and additional information submitted by DOE, and proposed that DOE complies with each of the requirements of § 194.14, conditioned upon DOE's implementation of the most robust panel closure system design (designated as Option D) with slight modification. The succeeding sections address public comments related to § 194.14. (For more detailed discussions, see Docket A–93–02, Item V–B–2, CARD 14; and Item V–B–3.)

1. Site Characterization and Disposal System Design

The EPA received numerous public comments on issues related to the requirements of §§ 194.14(a) and 194.14.(b), primarily related to the geological features, disposal system design and characteristics of the WIPP. Since the geology and disposal system characteristics are directly related to performance assessment modeling and the containment requirements of 40 CFR Part 191, a discussion of EPA's review of the substantive comments (except for those relating to shaft seals and panel closures) can be found in the Performance Assessment section of this preamble. A discussion of the comments on the engineered features related to long term performance, specifically on the shaft seal design and panel closure system, are discussed below.

a. Shaft Seals. In the CCA, DOE described the seals to be used in each of the four shafts and included the design plans and the material and construction specifications for the seals. (Docket A–93–02, Item II–G–1, CCA Chapter 3.3.1, Chapter 8.1.1, and Appendix SEAL) The purpose of the shaft seal system is to limit fluid flow within the shafts after the WIPP is decommissioned and to ensure that the shafts will not become pathways for radionuclide release. The shaft seal system has 13 elements that fill the shaft with engineered materials possessing high density and low permeability, including concrete, asphalt, clay, compacted salt, cementitious grout, and earthen fill. The compacted salt column component of the system within the Salado is intended to serve as the primary longterm barrier by limiting fluid transport along the shaft during the 10,000 year regulatory period. The EPA proposed that DOE's shaft seal design is adequate because the system can be built and is expected to function as intended. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.E; and Item V–B–3)

Commenters expressed concern that dissolution of the salt column could occur because the overlying Rustler aquifer has karst features and cannot be relied upon to retard the migration of radionuclides. (For more information on karst, refer to the preamble sections on Performance Assessment, Geological Scenarios.) Dissolution of salt (halite) in the WIPP shafts would require a source of water that is not saturated with salt, and a sink, i.e., some location for the water to flow to after it has dissolved the salt in the shafts. Since all of the ground water from the top of the Salado downward is saturated with salt (i.e., it is "brine"), the unsaturated but highly saline water would probably come down the shaft from the Rustler Formation. In order to reach the salt component of the shaft seal, that water would have to pass through or around 490 feet of concrete, asphalt, and bentonite layers. Then, after flowing through 550 feet of compacted salt column, the saturated water would have to flow through or around another concreteasphalt water stop, another 100 feet of bentonite clay, and the shaft station concrete plug. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.A)

Even if water were to pass through the salt column, only a small fraction of the salt column would be removed. Due to the ongoing inward creep of the Salado Formation, the salt column would still be consolidated after such a dissolution episode. Finally, DOE's PA calculations do not include "credit" for bentonite swelling, capture of water by clay, or the adsorption of water into dry halite'all processes that would tend to reduce water predicted to reach the salt column'and the PA results are therefore conservative. Therefore, EPA concludes that dissolution of the salt column is not a concern. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.E; Item V–B–3, Section F.2)

Commenters questioned the ability of the shaft seals to perform as expected because the material and construction of the seals have not been tested. However, EPA found that DOE performed and referenced numerous tests and experiments to establish the material characteristics of importance to containment of waste at the WIPP. The characteristic of primary importance is the material's permeability, the degree to which fluids can travel through the material. The permeability of concrete, asphalt, and bentonite clay are well documented, and DOE performed numerous experiments to demonstrate the applicability of these characteristics to the WIPP's site specific conditions (e.g., high brine concentration). The DOE documented many laboratory and insitu tests of the permeability of compacted crushed salt including a largescale field test to demonstrate the feasibility of implementing such a seal measure. (Docket A–93–02, Item II–G–2, Appendices SEAL, PCS, DEL, and MASS)

The technology planned for constructing the shaft seals has been tested in the real world. The construction equipment and procedures necessary to emplace the seal materials are in large part the same as those used to excavate the WIPP, but used in reverse. Except for salt, the shaft seal component materials are commonly used in construction. Salt has been extensively tested to determine its properties and behavior in the conditions which will exist in the shafts after the WIPP is closed. The EPA finds that the shaft seal design has undergone extensive technical review and testing by DOE that shows it is feasible to construct and is expected to perform as intended. (Docket A–93–02, Item V–B–

[10] Section 194.11 provides that EPA's certification evaluation would not begin until EPA notified DOE of its receipt of a "complete" compliance application. This ensures that the full one-year period for EPA's review, as provided by the WIPP LWA, shall be devoted to substantive, meaningful review of the application. (61 FR 5226)

2, CARD 14, Section 14.E; Item V–B–3, Section F.2)

As commenters pointed out, and EPA agrees, many changes may occur in knowledge of construction materials and in construction methods and equipment during the 35 years before the WIPP is expected to be closed. The DOE provided a final design for the shaft seals which could be constructed. However, EPA recognizes the fact that technology may change and expects the shaft seal plans to be periodically reviewed and revised to take full advantage of new knowledge or construction equipment in the future. Acknowledgment of this circumstance does not mean that the existing plans are inadequate, or that major changes in the design are anticipated. Periodic review of the WIPP authorization(s) to operate is required by the various statutes and regulations applicable to the WIPP, including EPA's review of recertification applications every five years, and the State of New Mexico's review of the hazardous waste permit at least every ten years. Shaft seal design changes may be proposed by DOE and perhaps approved by EPA several times before the end of the WIPP disposal operations phase. Significant changes in the designs will be required to go through public noticeandcomment procedures before approval by EPA. (§ 194.65–66)

b. Panel Closure System. Panel closures are needed primarily during active disposal operations at the WIPP and during preparations for final closure of the entire facility. Relative to long-term performance, they can serve to block the flow of brine between panels.

The DOE provided four options for a panel closure system in the CCA, but did not specify which panel closure option would be used at WIPP. The EPA reviewed the four panel closure system options proposed by DOE and considered that the intended purpose of the panel closure system is to prevent the existing disturbed rock zone ("DRZ") in the panel access drifts (tunnels) from increasing in permeability after panel closure (which could allow greater brine flow). The EPA considers the panel closure system design identified as "Option D" to be the most robust panel closure design. (Docket A–93–02, Item II–G–1, CCA Chapter 3 and Appendix PCS; Item V–B–2, CARD 14, Section 14.E; Item V–B–3, Section F.2) The EPA based its evaluation of compliance for the proposed rule on the Option D panel seal design and proposed to establish a certification condition requiring DOE to implement the Option D design. The EPA believes that the proposed design on which compliance was based should be actually implemented at the site. The EPA also proposed to require DOE to use Salado mass concrete (concrete made with Salado salt) for construction of the concrete barrier component of the panel closure. This substitution eliminates the potential for degradation and decomposition of fresh water concrete by infiltration of brine. The EPA determined that implementation of Option D is adequate to achieve the long-term performance modeled in the PA, since DOE shows that the use of a concrete barrier component is capable of providing resistance to inward deformation of the surrounding salt and prohibiting growth of the DRZ from its initial state. (Docket A–93–02, Item V–B–13)

Contrary to public comments, EPA found that the panel closures can be constructed using currently available and widely used technology. Mixing and transportation of concrete, using special measures to prevent segregation of fine and coarse particles (as required in the Panel Closure System construction specifications), and placement in confined spaces by pumping, is used routinely in bridge and building foundations, dams, and in water supply, subway and highway tunnels. The steel forms in which the concrete will be confined are somewhat unusual in shape, but the methods of construction are fairly simple and standardized. The Salado mass concrete mix is specially formulated for use in the WIPP, but it has been extensively tested to determine its properties (e.g., strength and resistance to chloride degradation) as explained in "Variability in Properties of Salado Mass Concrete." (Docket A–93–02, Item II–G–1, Ref. No. 662)

One commenter asked that EPA revise its panel seal design condition so that DOE may reassess the engineering of panel closures when panels are to be closed in the future. The EPA proposed a certification condition (Condition 1) requiring DOE to implement the panel seal design that it designated as Option D in the CCA. The Option D design shall be implemented as described in the CCA, except that DOE is required to use Salado mass concrete rather than fresh water concrete. Nothing in this condition precludes DOE from reassessing the engineering of the panel seals at any time. Should DOE determine at any time that improvements in materials or construction techniques warrant changes to the panel seal design, DOE must inform EPA. If EPA concurs, and determines that such changes constitute a significant departure from the design on which certification is based, the Agency is authorized under § 194.65 to initiate a rulemaking to appropriately modify the certification. The EPA has retained the proposed Condition 1, related to the panel closure system, without change in the final rule. (See also "Conditions" and "Significant Changes to the Final Rule" sections of this preamble.)

2. Results of Assessments, Input Parameters to Performance Assessments, Assurance Requirements, and Waste Acceptance Criteria

Sections 194.14(c) through (f) require DOE to submit the results of assessments conducted in accordance with 40 CFR Part 194; a description of the input parameters associated with such assessments and the basis for selecting such parameters; documentation of measures taken to meet the assurance requirements of 40 CFR Part 194; and a description of the waste acceptance criteria and actions taken to assure adherence to such criteria. The EPA proposed that DOE complied with §§ 194.14(c) through (f) based on EPA's finding that DOE submitted the information required. The EPA received numerous public comments on the results of assessments, input parameters to the PA, assurance requirements, and the waste acceptance criteria. A discussion of EPA's responses to substantive comments can be found in the corresponding sections of the preamble. Based on these responses, EPA finds that DOE complies with §§ 194.14(c) through (f). For further discussion, refer to CARD 14, Sections 14.C, 14.D, 14.E, 14.F (Docket A–93–02, Item V–B–2) and Sections H.2, I.2, J.2, and K.2 of the technical support document for § 194.14 (Docket A–93–02, Item V–B–3).

3. Background Radiation, Topographic Maps, Past and Current Meteorological Conditions

For the CCA, DOE was required to describe the background radiation in air, soil and water in the vicinity of the disposal system and the procedures employed to determine such radiation (§ 194.14(g)), provide topographic maps of the vicinity of the disposal system (§ 194.14(h)), and describe past and current climatic and meteorological conditions in the vicinity of the disposal system and how these conditions are expected to change over the regulatory time frame (§ 194.14(i)). The EPA proposed that DOE complied with the requirements of §§ 194.14 (g), (h), and (i). The EPA did not receive substantive comments on these issues, except for dissolution related to climate change. A

discussion of EPA's response to the substantive comments on dissolution can be found in the Performance Assessment, Geological Scenarios and Disposal System Characteristics section of this preamble. The EPA finds that DOE complies with §§ 194.14 (g) through (i). For further discussion, refer to Sections 14.K, 14.L, and 14.M of CARD 14 (Docket A–93–02, Item V–B–2) and Sections H.2, L.2, N.2 and N.4 of the technical support document for § 194.14 (Docket A–93–02, Item V–B–3).

4. Other Information Needed for Demonstration of Compliance

The DOE was also required, under § 194.14(j), to provide additional information, analyses, tests, or records determined by the Administrator or the Administrator's authorized representative to be necessary for determining compliance with 40 CFR Part 194. After receipt of the CCA dated October 29, 1996, EPA formally requested additional information from DOE in seven letters dated December 19, 1996, and February 18, March 19, April 17, April 25, June 6, and July 2, 1997. (Docket A–93–02, Items II–I–1, II–I–9, II–I–17, II–I–25, II–I–27, II–I–33, and II–I–37, respectively) The information requested in these letters was necessary for EPA's completeness determination and technical review. EPA staff and contractors also reviewed records maintained by DOE or DOE's contractors (e.g., records kept at the Sandia National Laboratories Records Center in Albuquerque, New Mexico). No additional laboratory or field tests were conducted by DOE at EPA's specific direction; however, DOE did conduct and document laboratory tests after October 29, 1996, in order to present additional data to the Conceptual Model Peer Review Panel. (Docket A–93–02, Item II–A–39)

The EPA proposed that DOE complied with § 194.14(j) because it responded adequately to EPA's formal requests for additional information, analyses, and records. The EPA did not formally request additional information from DOE after publication of the proposed rule. However, in response to comments, EPA did verbally ask DOE and Sandia National Laboratory for information and other assistance in calculations related to the Hartman scenario, drilling into fractured anhydrite, and the CCDFGF code and quasi-static spreadsheet with regard to air drilling. (Docket A–93–02, Items IV–E–24, IV–E–25, IV–E–26, and IV–E–27) In addition, DOE voluntarily submitted information on the proposed rule that was considered as comments.

All documents sent to EPA regarding certification of the WIPP are available in EPA Air Docket A–93–02. Additional information relevant to EPA's certification evaluation that was reviewed by the Agency (e.g., DOE data records packages, quality assurance records, and calculations of actinide solubility for americium, plutonium, thorium and uranium) is also publicly available. Documentation of peer review panel meetings conducted after receipt of the CCA has been placed in the EPA docket. See Docket A–93–02, Item V–B–1 for further information on the location of all documentation reviewed by EPA.

5. Conclusion

The EPA received numerous public comments on the proposed rule regarding § 194.14. EPA has thoroughly reviewed the public comments and addressed all issues raised therein. On the basis of its evaluation of the CCA and supplementary information, and the issues raised in public comments, EPA finds that DOE complies with all subsections of 40 CFR 194.14, with the condition that DOE must fulfill the requirements set forth in Condition 1 of the final rule. For additional information on EPA's evaluation of compliance for § 194.14, see CARD 14. (Docket A–93–02, Item V–B–2)

B. Performance Assessment: Modeling and Containment Requirements (§§ 194.14, 194.23, 194.31 through 194.34)

1. Introduction

The disposal regulations at 40 CFR Part 191 include requirements for containment of radionuclides. The containment requirements at 40 CFR 191.13 specify that releases of radionuclides to the accessible environment must be unlikely to exceed specific limits for 10,000 years after disposal. At the WIPP, the specific release limits are based on the amount of waste in the repository at the time of disposal. (§ 194.31) Assessment of the likelihood that the WIPP will meet these release limits is conducted through the use of a process known as performance assessment ("PA").

The WIPP PA process culminates in a series of computer simulations that attempts to describe the physical attributes of the disposal system (site characteristics, waste forms and quantities, engineered features) in a manner that captures the behaviors and interactions among its various components. The computer simulations require the use of conceptual models that represent physical attributes of the repository. The conceptual models are then expressed as mathematical relationships, which are solved with iterative numerical models, which are then translated into computer code. (§ 194.23) The results of the simulations are intended to show the potential releases of radioactive materials from the disposal system to the accessible environment over the 10,000-year regulatory time frame.

The PA process must consider both natural and man-made processes and events which have an effect on the disposal system. (§§ 194.32 and 194.33) It must consider all reasonably probable release mechanisms from the disposal system and must be structured and conducted in a way that demonstrates an adequate understanding of the physical conditions in the disposal system. The PA must evaluate potential releases from both human-initiated activities (e.g., via drilling intrusions) and natural processes (e.g., dissolution) that would occur independently of human activities. The DOE must justify the omissions of events and processes that could occur but are not included in the final PA calculations.

The results of the PA are used to demonstrate compliance with the containment requirements in 40 CFR 191.13. The containment requirements are expressed in terms of "normalized releases." The results of the PA are assembled into complementary cumulative distribution functions ("CCDFs") which indicate the probability of exceeding various levels of normalized releases. (§ 194.34)

As described above, 40 CFR Part 194 contains several specific requirements for the performance assessment of WIPP. It is often difficult to discuss one of the requirements in isolation from the others. For example, several public comments raised concern about the CCA's screening of the fluid injection scenario from the PA and EPA's subsequent analysis. In order for EPA to adequately address the fluid injection issue, the Agency must discuss multiple requirements related to geology and other characteristics specific to the WIPP site (§ 194.14), models and computer codes (§ 194.23), and the screening process for both human-initiated releases and releases by natural processes (§§ 194.32 and 194.33). Because so many of the PA issues have similarly overlapping requirements and are often complex, EPA has chosen to combine the discussions. Therefore, the following discussions are framed in terms of the PA issues raised in comments, rather than according to specific PA requirements of the compliance criteria. The following sections discuss the major PA issues

that were raised during public hearings and the public comment period. For more information on performance assessment and related issues, refer to CARDs 14, 23, 32, and 33. (Docket A–93–02, Item V–B–2)

2. Human Intrusion Scenarios

a. Introduction. Section 194.32 requires DOE to consider, in the PA, both natural and man-made processes and events which can have an effect on the disposal system. Of all the features, events, and processes ("FEPs") that are considered for the PA calculations, the human-intrusion scenarios related to drilling have been shown to have the most significant impact on the disposal system and its ability to contain waste. (§ 194.33)

In preparing the CCA, DOE initially identified 1,200 potential FEPs, both natural and human-initiated, for the WIPP PA. These FEPs were reduced in number in the final PA calculations. The DOE may eliminate FEPs from consideration in the PA for three reasons:

- Regulatory—FEPs can be omitted based on regulatory requirements. For example, drilling activities that occur outside the Delaware Basin do not have to be considered in the PA, according to §§ 194.33(b)(3)(i) and 194.33(b)(4)(i).
- Probability—FEPs can be omitted because of the low probability that the FEP will occur. For example, DOE determined that the probability of a meteorite landing in the vicinity of the WIPP is so low that it does not need to be considered in the PA. (§ 194.32(d))
- Consequences—FEPS can be omitted because the consequences resulting from the FEP, even if it does occur, are so small. For example, there would be no consequences on the repository or the containment of waste if an archeological excavation took place on the surface in the vicinity of the WIPP. (§ 194.32(a))

The following sections discuss the major public comments on human intrusion scenarios. Generally, public comments related to whether or not the scenario was appropriately screened by DOE and to EPA's subsequent evaluation of this screening. Some comments addressed whether DOE's modeling of events was appropriate. The human intrusion scenarios discussed below are: spallings releases, air drilling, fluid injection, potash mining, and carbon dioxide injection. For more information on human intrusion scenarios, refer to CARDs 32 and 33. (Docket A–93–02, Item V–B–2)

b. Spallings. The DOE's models for the PA included five ways in which radioactive waste could leave the repository and escape to the accessible environment: cuttings,[11] cavings,[12] spallings,[13] direct brine release, and transport of dissolved radionuclides through the anhydrite interbeds (i.e., layers of rock immediately above the repository). The first four of these potential release pathways involve direct releases of radiation to the earth's surface in cases where people drill a borehole while searching for resources.

The DOE's model for computing releases of radiation due to spallings was of particular concern to the Conceptual Models Peer Review Panel which reviewed each of the conceptual models developed for the purposes of the PA. (See Docket A–93–02, Item V–B–2, CARD 23, Section 7.) The peer review panel found the spallings conceptual model inadequate because it did not fully model all potential mechanisms that may cause pressure-driven solid releases to the accessible environment. (Docket A–93–02, Item II–G–12, p. 74) The DOE presented additional experimental evidence and the results of other modeling to the peer review panel and requested that it consider whether the spallings volumes predicted by the original inadequate spallings model were reasonable for use in the PA. (Docket A–93–02, Items II–G–22 and II–G–23) After considering this additional information, the peer review panel concluded that the spallings values in the CCA are reasonable for use in the PA. The panel concluded that, while the spallings model does not accurately represent the future state of the repository, its inaccuracies are conservative and, in fact, may overestimate the actual waste volumes that would be expected to be released by a spallings event. (Docket A–93–02, Item II–G–22, Section 4, p. 18)

The spallings conceptual model relates to the following requirements of § 194.23: documentation of conceptual models used in the PA (§ 194.23(a)(1)); consideration and documentation of alternative conceptual models (§ 194.23(a)(2)); and reasonable representation of future states of the repository in conceptual models (§ 194.23(a)(3)(i)). The EPA proposed that DOE met the requirements of § 194.24(a)(1) and (a)(2), and, for all conceptual models except the spallings conceptual model, § 194.24(a)(3)(i). The EPA did not propose, however, to determine that the spallings model incorporated in the CCA PA "reasonably represents possible future states of the repository," as stated in § 194.24(a)(3)(i). The EPA proposed to accept the spallings model for the purposes of demonstrating compliance with § 194.23(a)(3)(i) on the basis that it has been determined to produce conservative overestimates of potential spallings releases. (62 FR 58807) The Agency now concludes that DOE has met the requirements of § 194.23 in its final rule. (See Docket A–93–02, Item V–B–2, CARD 23, Section 7.4.)

The public commented on four aspects of DOE's spallings modeling and EPA's evaluation of that modeling: adequacy of DOE's spallings modeling, purpose and approach of EPA's spallings modeling, use of DOE's GASOUT code for modeling spallings, and the need to include additional spallings mechanisms.

Some commenters expressed concern that DOE's conceptual model for spallings used in the PA did not adequately represent spallings releases, as stated initially by the Conceptual Model Peer Review Panel. However, others indicated that DOE had worked on the spallings model extensively since the peer review panel's review, and that the spallings model demonstrated that the volume of releases due to spalling would be small.

The EPA agrees that the spallings conceptual model was inadequate to represent possible future states of the repository. In response to the Conceptual Models Peer Review Panel, DOE did substantial additional work, developed a separate mechanistically-based model and provided supporting experimental data. The peer review panel concluded that the spallings model used in the CCA PA calculated release volumes that were reasonable and probably conservative. (Docket A–93–02, Item II–G–22) On the basis of this additional work, EPA concludes that the spallings release volumes calculated by the CCA spallings model are acceptable. Based upon this work, the Agency also agrees with those commenters who stated that spallings would result in only a small volume of waste being released to the accessible environment through spallings.

Commenters asked for clarification of EPA's purpose in producing its spallings evaluation reports for the proposed rule. (Docket A–93–02, Items III–B–10 and III–B–11) They also questioned EPA's technical approach in these reports, particularly the discretization (time and space intervals).

[11] "Cuttings" refers to material, including waste, that is cut by a drill bit during drilling and is carried to the surface by the drilling fluid as it is pumped out of the borehole.

[12] "Cavings" refers to material that falls from the walls of a borehole as a drill bit drills through. Cavings are carried to the surface by the drilling fluid as it is pumped out of the borehole.

[13] "Spallings" refers to releases of solids pushed up and out by gas pressure in the repository during a drilling event.

Discretization is important because if intervals are too large, modeling may not calculate or may incorrectly calculate some important events, and if intervals are too small, modeling will be time-consuming and inefficient.

The EPA prepared its Spallings Evaluation and Supplemental Spallings Evaluation for the proposed rule in order to model simplistically the transport of spallings releases up a borehole during blowout. The spallings model used in the CCA PA did not examine transport; rather, DOE's spallings model took the approach that all waste broken loose and able to move would actually reach the earth's surface. The Agency used an independent model to investigate if DOE's spallings conceptual model would give conservative estimates of spallings releases. The EPA believed this would determine if the calculated spallings releases were potentially acceptable for use in PA, despite the flaws in DOE's model. The EPA undertook these studies early in its own review, and in the Conceptual Models Peer Review Panel's review of the spallings conceptual model, when both the Panel and the Agency were concerned about the results of the model.

After EPA completed its own modeling, DOE performed additional studies using an alternative, mechanistic conceptual model for spallings. (Hansen et al., Spallings Release Position Paper, Docket A–93–02, Item II–G–23) DOE's additional studies showed that its original spallings conceptual model always predicted a greater volume of releases than the mechanistic spallings conceptual model that used a more realistic approach to calculate spallings releases. As a result, both the Conceptual Models Peer Review Panel and EPA concluded that released volumes estimated using the original CCA spallings conceptual model were reasonable and conservative. The EPA found DOE's analysis in the Spallings Release Position Paper to be more conclusive than the Agency's studies in its Spallings Evaluation and Supplemental Spallings Evaluation. DOE's analysis was an improvement over EPA's analysis because it was more thorough, it used much finer discretization (smaller time and space intervals) which allowed more specific predictions, and it predicted both volumes and activity of spallings releases. As described in the proposed rule, EPA examined the Spallings Release Position Paper and concluded that the spallings release volumes calculated by the spallings model used in the PA are conservative and, therefore, acceptable to demonstrate compliance with the waste containment requirements of 40 CFR 191.13. (62 FR 58807) This conclusion is based not on the EPA's spallings reports prepared for the proposed rule, which have been questioned by commenters, but on the additional spallings analysis performed by DOE, presented to the Conceptual Models Peer Review Panel, and found by EPA to demonstrate that the spallings release volumes used in the CCA PA are conservative. (Docket A–93–02, Item III–B–2; Item V–B–2, CARD 23; and Item V–C–1)

Some commenters expressed concern about the stability of Sandia National Laboratory's GASOUT computer code that calculates spallings releases. One individual had used this code to calculate spallings releases due to air drilling, but other commenters stated that it was not appropriate to apply the GASOUT code to the air drilling scenario. (Air drilling refers to the practice of using air or other substances lighter than mud as a drilling fluid.)

The EPA agrees that the GASOUT code may not be stable under some conditions. GASOUT was designed to model blowout of waste during the first few seconds after borehole penetration, where the driller uses mud in the borehole to reduce friction during drilling. The GASOUT code was only intended to be used under specific conditions of waste tensile strength [14] and permeability. (Docket A–93–02, Item II–E–9) Within its range of applicability, GASOUT produces results that are consistent with results obtained by other modeling approaches, such as the quasi-static model and the coupled numerical model. (Docket A–93–02, Item II–G–23) However, if GASOUT is not used as designed, it may well be unstable or may calculate invalid results. In particular, EPA agrees with those commenters stating that it is inappropriate to use GASOUT to analyze the releases of spallings due to air drilling. The programmer of the GASOUT code himself has said that this code was not designed to model drilling using compressible fluids such as air. (Docket A–93–02, Item II–E–9) For further discussion of the GASOUT code, see the discussion of air drilling below in this preamble.

Some commenters stated that DOE had erroneously excluded from the PA the stuck pipe [15] and gas erosion [16] spallings mechanisms, two additional ways by which high gas pressure conditions in the repository could result in releases of solid radioactive waste to the accessible environment. In particular, commenters asserted that DOE had selected an incorrect value for the threshold waste permeability, [17] above which the gas erosion and stuck pipe mechanisms would not occur. They also stated that DOE's assumptions did not take into consideration the presence of magnesium oxide (MgO) backfill, which would affect both waste permeability and tensile strength. These commenters suggested that EPA should do further analysis, should require DOE to do more analysis, or should reject DOE's spallings models and mandate new models. Other commenters countered that stuck pipe and gas erosion would not occur because of the physical and mechanical properties of the waste.

The EPA has analyzed the validity of DOE's decision to exclude stuck pipe and gas erosion mechanisms from the PA. In order for these mechanisms to occur, there must be a combination of high gas pressure, low waste permeability, and low waste strength. First, the gas pressure in the repository must be sufficiently high to move waste to and up the borehole. Low waste permeability is necessary to maintain the high pressure during the drilling event. Finally, low waste tensile strength is necessary to allow the waste to break off and move toward the borehole. The DOE has fabricated simulated samples of waste that have corroded or degraded and have generated gas, as is expected to occur in the WIPP once waste is emplaced, and has measured the porosity [18] of these samples. Waste porosity and gas pressure are related. This is because a greater porosity means a greater volume of spaces that gas can fill. By the ideal gas law, when the same number of gas molecules fill a larger volume, they will have a lower gas pressure. The waste porosity also affects waste permeability,

[14] Tensile strength is resistance to being pulled apart.

[15] "Stuck pipe" means a situation where high gas pressures in the repository would break off radioactive waste and press it against a drill string hard enough to stop or greatly reduce drilling. In order to continue drilling, a drill operator would raise and lower the drill string and, in the process, could transport waste to the surface.

[16] "Gas erosion" means a situation where radioactive waste breaks off slowly due to high gas pressures in the repository, enters drilling mud surrounding the drill, and is transported to the earth's surface in the mud.

[17] "Waste permeability" is the degree to which fluid can move through the waste.

[18] "Porosity" is the fraction of space present that is open and can store gases or liquids, as opposed to space filled by solid matter.

since more open space in waste means more space where a liquid or gas can penetrate. Based upon DOE's measurements of the porosity of surrogate waste samples, EPA found that it is extremely unlikely that the required conditions of high gas pressure and low waste permeability will exist in the WIPP. The high pressure necessary to support gas erosion or stuck pipe mechanisms would expand the WIPP waste, creating a higher porosity (and higher permeability). Thus, for the characteristics of the WIPP waste, the permeability would not become low enough (less than 10^{-16} square meters) to create a gas erosion or stuck pipe event. (Docket A–93–02, Item V–B–2, CARD 23, Section 7.4) If the permeability is not low enough for gas erosion or stuck pipe, releases may still occur, but the release mechanism will be a short-lived blowout (spallings) rather than gas erosion or stuck pipe. Therefore, EPA concludes that DOE correctly modeled only the "blowout" process in its spallings model and appropriately excluded stuck pipe and gas erosion.

c. Air Drilling. Shortly before publication of the proposed certification decision, and after EPA's cutoff date for addressing ANPR comments, EPA received a comment containing a technical report stating that DOE should have included the human intrusion scenario of air drilling in the PA, rather than screening it out. (Docket A–93–02, Item IV–D–01) Normally, oil drillers will use mud in the borehole to reduce friction and to carry away solids that break free as the drill bit bores into the ground. However, in some cases, drillers might instead use air, mist, foam, dust, aerated mud or light weight solid additives as the fluid in the borehole. Public comments noted that the air drilling [19] scenario was not included by DOE in the CCA, and raised the following issues:

- Air drilling technology is currently successfully used in the Delaware Basin.
- Air drilling is thought to be a viable drilling technology under the hydrological and geological conditions at the WIPP site.
- Air drilling could result in releases of radionuclides that are substantially greater than those considered by DOE in the CCA.

In response to these concerns, EPA prepared a study on air drilling and its likely impact on the WIPP (Docket A–93–02, Item IV–A–1), placed it in the docket, and allowed for a public comment period of 30 days. (63 FR 3863; January 27, 1998) The EPA's study examined the frequency of air drilling near the WIPP, the likelihood that drillers would use air drilling under the conditions at the WIPP, and the potential volume of radioactive waste that could be released using air drilling. In the report, the Agency concluded that air drilling is not a common practice in the Delaware Basin, and that air drilling through the Salado, the geologic salt stratum where the WIPP is located, is not presently used in the Delaware Basin near the WIPP. Because the use of air as a drilling fluid is not current practice in the Delaware Basin, EPA found that DOE is not required to include air drilling in the PA. (§ 194.33(c)(1)) Nevertheless, the Agency also modeled potential releases of radioactive waste during air drilling, and found that any releases would be within the range calculated in the CCA PA for mud-based drilling.

The EPA received a number of comments on its air drilling report. Some members of the public stated that air drilling is a proven technology and the frequency of its use by the oil and gas industry is increasing. They suggested that air drilling techniques are not currently being used more widely because of the limited knowledge of new developments and the industry's resistance to changing methods. The commenters implied that if these obstacles are overcome, air drilling will occur widely in the future. One commenter recommended that the Agency require DOE to consider air drilling using a frequency of 30% of all wells, based upon a projected estimate from DOE of the use of air drilling in the entire U.S. in the year 2005. In contrast, other commenters stated that air drilling would be less economic than mud drilling if the driller encountered any interruption in the air drilling process.

The Agency recognizes that air drilling is a proven technology for extraction of oil and gas under appropriate conditions. However, EPA believes that it is inappropriate to use speculative projections of future practices in the oil and gas industry across the U.S. in the PA or to guess that a practice will be used more in the future because some drillers may currently misunderstand the technology. The EPA's compliance criteria require DOE to assume that future drilling practices and technology will remain consistent with practices in the Delaware Basin at the time a compliance application is prepared. (§ 194.33(c)(1)) The EPA included this requirement in the compliance criteria to prevent endless speculation about future practices, and to model situations that are representative of the Delaware Basin, rather than a wider area that is not representative of conditions at the WIPP site. (61 FR 5234; Docket A–92–56, V–C–1, p. 12–12) The Agency chose to use current drilling practices for resources exploited in the present and past as a stand-in for potential future resource drilling practices. (61 FR 5233) The specific frequency suggested by the commenter is arbitrary because it applies to the entire U.S. rather than the Delaware Basin and because the commenter provides no reason for selecting an estimated frequency of air drilling in 2005 rather than in some other year. The DOE must abide by the requirement of § 194.33(c)(1) to assume that future drilling practices remain consistent with practices in the Delaware Basin at the time the CCA was prepared (1996). Thus, the pertinent issues are whether air drilling constitutes current practice in the Delaware Basin and, if so, how it could affect potential releases from the WIPP.

Some commenters said that air drilling is already occurring in the Delaware Basin, and thus, should be considered in the PA. One commenter noted that EPA should look at the frequency of air drilling in the Texas portion of the Delaware Basin, as well as in the New Mexico portion of the Delaware Basin, consistent with § 194.33(c)(1). Commenters also raised a concern that EPA's examination of well files might underestimate the occurrence of air drilling because information on the drilling fluid used is not always clear in the records. Another commenter suggested that air drilling could be left out of the PA only if it has a probability of less than one chance in ten thousand, under § 194.32(d).

The EPA agrees that the frequency of air drilling needs to be examined in the entire Delaware Basin. In response to these public comments, EPA supplemented the analysis in its initial air drilling report by conducting a random sample of wells drilled in the New Mexico and Texas portions of the Delaware Basin and has determined the frequency of air drilling in the entire Delaware Basin. (The initial report is located at Docket A–93–02, Item IV–A–1; the supplemented report is located at Docket A–93–02, Item V–B–29.) The Agency found that air drilling is not used more frequently in the Delaware Basin as a whole than in the New Mexico portion of the Basin. At the 95% statistical confidence level, EPA found that, at most, only 1.65% of all wells in the Delaware Basin may have been drilled with air. In those records examined, none of the wells were

[19] In this discussion, the term "air drilling" refers to all forms of drilling using drilling substances lighter than mud.

drilled through the salt-bearing geologic formation, as would be required to penetrate the WIPP. This additional information confirms the Agency's conclusion (as stated initially in Docket A–93–02, Item IV–A–1) that air drilling is not a current practice in the Delaware Basin.

The EPA agrees that the well drilling records examined in its random sample may not by themselves be conclusive about whether air drilling was used at specific wells. As an independent confirmation of the extent of air drilling in the Delaware Basin (and near the WIPP specifically), EPA also interviewed knowledgeable industry contacts, many of whom were experienced in air drilling. These individuals independently confirmed that air drilling is rarely practiced in the Delaware Basin and that it is virtually nonexistent in the vicinity of WIPP. (Docket A–93–02, Item V–B–29) The DOE also found similar results in an exhaustive analysis of 3,349 wells in the Delaware Basin. (Docket A–93–02, IV–G–7) These independent sources of information further verify EPA's conclusion that air drilling is not a current practice in the Delaware Basin. In particular, air drilling through the salt section (where the waste is present) is not consistent with current drilling practices in the Delaware Basin.

The EPA disagrees that the frequency of air drilling must be less than one in ten thousand wells in order for DOE to leave it out of the PA. Section 194.33(c)(1) requires DOE to look at "drilling practices at the time a compliance application is prepared." This requirement refers to typical industry practices in the Delaware Basin at the time a compliance application is prepared. (See 61 FR 5230; Docket A–92–56, Item V–C–1, p. 12–18; Docket A–93–02, Item II–B–29, p. 50.) It was not intended to apply to experimental procedures, emergency procedures, or conjectured future practices. The Agency finds it unrealistic to consider a specific deep drilling method to be current practice or typical of drilling in the Delaware Basin when it is used for only a small percentage of all wells in the Basin. As indicated in § 194.32, deep drilling and shallow drilling are events to be considered in the PA. The Agency believes that DOE has correctly implemented the requirements of § 194.32(d) by including the general technique of deep drilling as a scenario in the PA, rather than separately analyzing the probability of each potential kind of deep drilling.

One commenter stated that air drilling is a viable technique under the conditions in the vicinity of the WIPP site. This commenter said that drilling with air may even become the method of choice in the WIPP area, since a driller will prefer to use a technology such as air drilling, which avoids loss of circulation. Another commenter expressed concern about the conclusions of EPA's Analysis of Air Drilling at WIPP (Docket A–93–02, Item IV–A–1) that water inflow upon drilling would prevent air drilling near the WIPP and that air drilling is not an economically feasible drilling method near the WIPP. This commenter also stated that EPA's estimates of the water flow rate that can be tolerated during air drilling were too low.

The EPA examined a report from a commenter that found that water inflows from the Culebra would not prevent air drilling at the WIPP site. The report based this premise on the transmissivity in some parts of the WIPP site. However, EPA disagrees that the transmissivity threshold mentioned in the report would provide sufficient reason to conclude that air drilling was currently practical in that area. The range of transmissivities at the WIPP site shows that air drilling is definitely not feasible in some parts of the site, and is unsuitable in other portions of the site. The EPA also found that the possibility of excessive water inflow was only one of the reasons mentioned by industry contacts as to why air drilling was not used in the vicinity of WIPP. Other reasons, cited in EPA's Air Drilling Report, include sections of unconsolidated rock above the salt section and the potential for hitting brine pockets in the Castile Formation. (Docket A–93–02, Item V–B–29) Because of the reasons industry contacts gave for not conducting air drilling near the WIPP, the Agency disagrees that air drilling would ever become a preferred method of drilling at the WIPP site.

Commenters were concerned that there might be greater releases of waste with air drilling than with mud drilling. This is because air and foam are less dense than mud, so it would take less pressure inside the repository to push waste toward the surface as solid waste (spallings) or as waste dissolved in brine (direct brine release). One individual calculated spallings releases due to air drilling using DOE's GASOUT computer code, and found that releases due to air drilling were several orders of magnitude higher than the releases computed in the CCA PA. (Docket A–93–02, Item II–D–120) Other commenters countered that the GASOUT code was not designed to model spallings using air drilling, and therefore, that the GASOUT code could not be applied in this situation.

Although EPA concluded that there was no need to include air drilling in the PA, the Agency conducted its own modeling of spallings due to air drilling to respond to public concerns. (Docket A–93–02, Item V–B–29, Section 6 and Appendix A) The EPA used the quasi-static model developed by DOE as a mechanistic model of spallings, an approach that provides greater modeling flexibility than with the GASOUT code. The quasi-static model tends to overestimate releases of radioactive waste because it predicts the total volume of waste that is available for transport. The total volume available for transport would not all be released in actuality because pressurized gas would not be able to lift large, heavy particles up to the earth's surface. Studies have shown that the quasi-static model generally predicts larger spalled volumes than the model incorporated in the GASOUT code. (Docket A–93–02, Item II–G–23, Table 3–3) For air drilling conditions, EPA estimated volumes of releases to be within the range of spallings values predicted by the CCA and used in the PAVT evaluation.

The EPA also examined the effects of air drilling on the combined, complementary cumulative distribution functions ("CCDFs") used to show graphically whether the WIPP meets EPA's containment requirements for radioactive waste. (Docket A–93–02, Item V–B–29, Section 6) The EPA found that the CCDFs produced by DOE were not significantly different from those produced in the PAVT. In fact, releases from the WIPP were still below the containment requirements of § 191.13 by more than an order of magnitude when air drilling is included as a scenario.

The EPA determines that DOE does not need to include air drilling in the PA because it is not current practice in the Delaware Basin. Further analyses, conducted by EPA solely to allay the public's concerns on this issue, showed that spallings releases calculated in the CCA and the PAVT encompass the potential impacts of air drilling (were it to occur) on compliance with the containment requirements.

See CARD 32 for further discussion of the screening of features, events, and processes. (Docket A–93–02, Item V–B–2)

d. Fluid Injection Commenters stated that DOE should not have screened out the human intrusion scenario of fluid injection [20] from the final PA

[20] The fluid injection discussed here refers to either (1) brine disposal from oil activities, (2) maintenance of pressure in existing oil production,

Continued

calculations. Brine could be injected into existing boreholes, enter the repository, become contaminated and flow to various release points. In § 194.32(c), EPA's compliance criteria specifically require DOE to analyze the effects of boreholes or leases that may be used for fluid injection activities near the disposal system soon after disposal.

The fluid injection scenario has been of particular concern to the public because of events that occurred in the Rhodes-Yates oil field, about 40 miles east of WIPP but outside the Delaware Basin in a different geologic setting. An oil well operator, Mr. Hartman encountered a brine blowout in an oil development well while drilling in the Salado Formation in the Rhodes-Yates Field. In subsequent litigation, the court found that the source of the brine flow was injection water from a long-term waterflood borehole located more than a mile away. A fluid injection scenario causing the movement of fluid under high pressure is referred to as "the Hartman Scenario" after this case.

The DOE initially screened out this activity from the PA because the Department's modeling of fluid injection indicated that it would result in brine inflow values within the range calculated in the CCA PA where there is no human intrusion. (Docket A–93–02, Item II–A–32) Both EPA and public commenters on the Advance Notice of Proposed Rulemaking did not believe that DOE had performed sufficient analyses to rule out the potential effects of fluid injection related to oil production on the disposal system. Therefore, the Agency required DOE to model fluid injection using more conservative geologic assumptions about the ability of Salado anhydrite to transmit fluid. (Docket A–93–02, Item II–I–17) This more conservative modeling showed that fluid injection would have little impact on the results of the PA. (Docket A–93–02, Item II–I–36) Based on this modeling and other information submitted by DOE on the frequency of fluid injection well failures, EPA proposed that DOE's screening was sufficient and realistic. (62 FR 58806, 58822) Thus, EPA concluded that fluid injection could be screened out of the final PA calculations based on low consequences to the disposal system.

The EPA performed its own independent review of fluid injection, which showed that the injection analysis must include the nature of anhydrites, duration of injection activities, and presence of leaking boreholes. (Docket A–93–02, Item V–B–22) As part of its analysis, the Agency performed additional modeling of the injection well scenario. The EPA concluded that, although scenarios can be constructed that move fluid to the repository via injection, the probability of such an occurrence, given the necessary combination of natural and human-induced events, is very low.

Several commenters stated that either EPA or DOE needed to model the Hartman Scenario. One commenter stated that it should be proven that DOE's BRAGFLO[21] code can reproduce what is believed to have happened in the Hartman case. Some members of the public also referred to modeling performed by Bredehoeft and by Bredehoeft and Gerstle which found that the Hartman scenario could cause releases in excess of the disposal regulations (Docket A–93–02, Item II–D–116 Attachment (b)); these commenters stated that neither EPA nor DOE had satisfactorily modeled the Hartman Scenario.

The EPA examined Bredehoeft and Gerstle's modeling of fluid injection at the WIPP and finds their assumptions highly unrealistic. In particular, the report assumes that all brine is directly injected into one anhydrite interbed in the Salado Formation. The anhydrite interbeds in the Salado are only a few feet thick. Therefore, a driller would need to plan specifically to deliberately inject brine into the anhydrite interbeds to have such a situation occur at the WIPP. Also, well operators using fluid injection for oil or gas recovery would be attempting to inject brine into formations where petroleum and gas reserves are found, which are thousands of feet below the Salado. If flooding due to fluid injection occurred accidentally in the vicinity of the WIPP, the flow of fluid would not be limited to the narrow band of one anhydrite interbed in the Salado. Also, Bredehoeft and Gerstle's report assumes that fractures in the anhydrite will extend for three or more kilometers and will remain open. This would require extremely high pressures to be generated by the brine injection process. The EPA agrees that under very unrealistic conditions, modeling can show fluid movement toward the WIPP under an injection scenario. However, when using more realistic but still conservative assumptions in the modeling, fluid movement sufficient to mobilize radioactive waste in the disposal system does not occur.

In response to public comments, the Agency tried to reproduce several of the results obtained with Bredehoeft's model using DOE's BRAGFLO model. In two cases, EPA's modeling produced flows similar to those in the March 1997 Bredehoeft report. (Docket A–93–02, Item II–D–116) However, because the Agency's study looked at flows in multiple locations and Bredehoeft's study does not specify the location of its predicted flows, the results are not directly comparable. The EPA also attempted to replicate Bredehoeft's modeling of high pressure conditions that would be mostly likely to cause a catastrophic event. However, the Agency found that critical aspects of Bredehoeft's work are not documented sufficiently to make meaningful comparisons using the BRAGFLO computer code. In particular, the grid spacing used in the model predictions were unclear. This information is necessary in order to recreate Bredehoeft's simulation. Also, EPA was unable to determine whether the length to which fractures grow are based on completely opened or partially opened fractures. The Agency contacted the primary author of the paper in order to obtain additional critical information. However, the author was not certain how they had treated these aspects of modeling and had no further documentation. (Docket A–93–02, Item IV–E–23) Because of insufficient documentation of vital aspects of modeling, the Agency could not replicate Bredehoeft's results. In addition, due to lack of proper documentation it was not clear to EPA that Bredehoeft's modeling represented the Hartman Scenario. Therefore, EPA finds that lack of agreement between the Bredehoeft model and BRAGFLO does not indicate that DOE's modeling is inadequate. (Docket A–93–02, Item V–B–22)

Several commenters had concerns about EPA's Fluid Injection Analysis, including its conclusions that the geology and the current well construction practices near the WIPP are extremely different from the geology and well construction practices that occurred in the Hartman case. In contrast, other commenters stated that fluid injection is unlikely to occur near WIPP and current well construction practices in the area will prevent injection well leakage. Some commented that EPA's probability estimates for the chain of events that could lead to a blowout caused by fluid injection were overly optimistic and that the probability estimate ignores

or (3) water flooding to increase oil recovery. In the Delaware Basin, the fluid would most likely be brine.

[21] BRAGFLO predicts gas generation rates, brine and gas flow, and fracturing within the anhydrite marker beds in order to calculate the future of the repository.

experience with severe water flows in New Mexico.

The EPA concluded that current well construction practice makes it unlikely that there could be a well failure of the nature of the "Hartman scenario" that occurred in the Rhodes-Yates field outside the Delaware Basin. This is because regulatory requirements for drilling are much more rigorous near the WIPP than was the case at the Rhodes-Yates field at the time of the Hartman case. Also, the Agency reiterates that there are significant differences in the geology near the WIPP and in the Rhodes-Yates field where the Hartman case occurred, that should not be ignored. The vertical distance between the formation where brine would be injected for disposal and the formation where the repository is located is greater than the vertical distance that fluid is believed to have traveled in the Hartman case. This distance, and effects of friction, would make it more difficult for fluids to travel vertically upward at the WIPP than in the Hartman case. Interbeds near the WIPP site are more numerous and are likely to be thinner than in the Hartman case, thereby reducing the likelihood of flow between the repository and the WIPP boundary. The Agency concludes that the geology in the WIPP area will play an active role in reducing fluid movement, or in an extreme case, preventing a massive well blowout. (Docket A–93–02, Item V–B–22)

While EPA accepted DOE's argument that the fluid injection scenario can be screened out of the PA on the basis of low consequence, DOE presented supplemental information that also indicated that the probability of a catastrophic well failure would be low. The EPA's Fluid Injection Analysis for the proposed rule also examined the chain of events necessary to cause catastrophic failure for a well. The EPA estimated that the probability of this chain of events occurring for a given well in the vicinity of the WIPP was low'within the range of one in 56,889 to one in 667 million. (Docket A–93–02, Item III–B–22) These estimates of probability were intended to illustrate in this hypothetical failure scenario the chain of events that must all occur for an injection well to impact the WIPP. The commenters objected to the lowest probability estimate, but did not state which probabilities or assumptions in the chain of events that they believed EPA had incorrectly selected. The EPA notes that this estimate of low probability was only one of many reasons cited in the technical support document for EPA's proposed determination that fluid injection could be screened from the PA. (Docket A–93–02, Item III–B–22) After considering geologic information, well history and age, construction standards, and operating practices, the Agency concludes that reported water flows in the Salado Formation in other areas of New Mexico are not representative of conditions in the vicinity of the WIPP. (Docket A–93–02, Item V–B–22) Even if an injection event takes place, the predicted low consequence is sufficient reason to remove it from consideration in the PA.

One commenter stated that EPA should require DOE to revise its PA model to include the Hartman Scenario and perform another PA. In contrast, another commenter stated that fluid injection events will not impact repository performance, even with conservative assumptions, so fluid injection can be excluded from the PA. The Agency finds that:

- Commenters' modeling of fluid injection that predicted potential releases exceeding EPA standards was based upon unrealistic assumptions that would maximize releases.
- The EPA tried to replicate scenarios similar to the Hartman case using DOE's BRAGFLO model. Some results were similar in magnitude to modeling results presented by commenters, but not directly comparable.
- Modeling by DOE predicts that fluid injection will cause low flows that will not significantly impact the results of PA.
- Well construction procedures near the WIPP have changed due to regulatory requirements; therefore, it is unreasonable to assume that the same well procedures from the Hartman case will occur near the WIPP.
- There are significant geological differences between the WIPP site and the Rhodes-Yates field in the Hartman case.

For all of these reasons, EPA concludes that it is not necessary to repeat the PA using the scenario of fluid injection. (Docket A–93–02, Item V–B–22; Also, see Docket A–93–02, Item V–B–2, CARDs 23 and 32 for further discussion of fluid injection.)

A related issue raised by commenters was DOE's modeling of fractures in the anhydrite interbeds directly above the WIPP. Such fractures could allow injected brine to enter the repository, to dissolve waste, and to release radioactivity outside the WIPP. Commenters stated that DOE's model for anhydrite fracturing was inadequate to describe observed changes at the WIPP and was not based on sufficient experimental data. Some commenters stated that DOE's model significantly understates the length of fractures compared to another modeling technique, Linear Elastic Fracture Mechanics ("LEFM"). Shorter fractures would mean that contaminated brine does not travel as easily, which lessens releases.

The Agency disagrees that DOE's modeling of anhydrite fracturing is inadequate. The independent Conceptual Models Peer Review Panel found that the "type of fracture propagation and dilation used in the conceptual model has been substantiated by in situ tests." The Panel also found that the conceptual model was adequate. (Docket A–93–02, Item II–G–1, Appendix PEER.1) The EPA finds that the mathematical "porosity model" used in the CCA PA adequately implements the conceptual model for anhydrite fracturing. This mathematical model used a combination of field test data at lower pressures and the theory of continuum mechanics at higher pressures.

Some features of LEFM are not appropriate for representing the anhydrite interbeds. LEFM predicts that a single, long fracture hundreds of feet long will be created in a homogeneous medium. The Agency finds that this approach is inappropriate for the anhydrite interbeds in the Salado at the WIPP, which already contain numerous small fractures. (Docket A–93–02, Item IV–G–34, Attachment 5; Item V–C–1, Section 194.23) Field tests found that fractures branched into a series of fractures following preexisting fractures or weaknesses near the injection hole, rather than producing a single, long-distance fracture. In the case of fluid injection, these fractures would store fluid, which would slow down and shorten further fractures. The pre-existing fractures will produce a fracture front, such as that modeled by BRAGFLO, rather than a single fracture radius, as modeled by an LEFM. Two studies cited by commenters as support for use of LEFM in fact question the applicability of LEFM to WIPP anhydrites and recommend that DOE consider alternative conceptual models. (e.g., Docket A–93–02, Item IV–G–38) The EPA concludes that BRAGFLO is more appropriate to use for WIPP than a pure linear elastic fracture mechanics model because there are pre-existing fractures in the anhydrite layers that must be accounted for in the conceptual model. The EPA finds that the conceptual model based on a single fracture is fundamentally flawed for application in WIPP anhydrites. The Agency also finds that the model incorporated in the PA is appropriate,

and that further modeling with revised computer codes is not necessary.

e. Potash Mining. Public comments raised concerns about DOE's estimates of the potash reserves in the vicinity of the WIPP and DOE's evaluation of the solution mining scenario. The primary effects that mining could have on the repository are opening existing fractures in the geologic formations above the WIPP and increasing hydraulic conductivity as a result of subsidence. These effects could change the flow and path of ground water through the Culebra dolomite.

Several commenters stated that DOE underestimated the amount of potash in the vicinity of the WIPP and therefore underestimated the impact that extracting the additional potash would have on the performance of the repository. In the CCA, DOE provided estimates of the mineable potash reserves both outside and within the WIPP Land Withdrawal Area. The compliance criteria require DOE to consider excavation mining of only those mineral resources which are extracted in the Delaware Basin. (§ 194.32(b)) Therefore, potash resources of a type or quality that are currently not mineable for either technological or economic reasons need not be addressed in DOE's analysis. The EPA determined, through an independent analysis, that the CCA appropriately represents the extent of currently mined resources, in accordance with the criteria. The EPA also determined that DOE appropriately considered the impact that such resources and excavation mining could have on the performance of the repository. (Docket A–93–02, Item V–B–2, CARD 32)

Additional comments were received on DOE's screening of solution mining from the PA. The DOE determined that solution mining of potash is not occurring in the vicinity of the WIPP and can be omitted from the PA based on the regulatory requirement that only currently occurring (or near-future) practices be considered in the PA. (§ 194.32(c)) The EPA agrees with DOE that solution mining is not a current practice and can be omitted from the PA on regulatory grounds.

The DOE submitted supplemental information which related to the potential effects of solution mining for potash. (Docket A–93–02, Item II–I–31) The DOE concluded that the impacts of solution mining for potash would be the same as those for room and pillar mining, and that the potential subsidence-induced hydraulic effects in the Culebra would be similar to those for typical mining practices. Some comments disputed this conclusion, stating that the effects of solution mining on the repository would be substantially different than those from conventional mining and could cause the WIPP to exceed the containment requirements. After examining these comments, EPA concluded that the scenarios set forth in the comments were not realistic and that the commenter's conclusion was based on an extreme example of subsidence from solution mining. The EPA disagrees with the comments and concludes that subsidence in the vicinity of the WIPP would not vary significantly with solution mining compared to conventional mining.

The EPA concludes that solution mining for potash is appropriately omitted from the PA because it is not a current practice, and therefore, is not an activity expected to occur prior to or soon after disposal. As added assurance, the Agency also finds that even if solution mining of potash were to occur in the vicinity of the WIPP, the potential effects of such mining are consistent with those from conventional techniques and are therefore already accounted for in the PA. (Docket A–93–02, Item V–C–1, Section 8)

f. Carbon Dioxide Injection. Public comments raised concerns that carbon dioxide (CO_2) injection is a current drilling practice in the Delaware Basin that DOE inappropriately omitted from the PA calculations. Carbon dioxide flooding is the injection of CO_2 into an oil reservoir to improve recovery. CO_2 injection is typically used in tertiary recovery processes after the economic limits for waterflooding have been reached. When CO_2 is injected and mixing occurs, the viscosity of the crude oil in the reservoir is reduced. The CO_2 increases the bulk and relative permeability of the oil, and increases reservoir pressure so that the resulting mixture flows more readily toward the production wells. When CO_2 begins to appear at the producing well, it is typically recovered, cleaned of impurities, pressurized and re-injected.

The use of CO_2 flooding for enhanced oil recovery in west Texas and southern New Mexico began in 1972. In this area, most CO_2 injection activity is located on the Central Basin Platform and on the Northwest Shelf. A limited number of CO_2 flooding projects have occurred in the Texas portion of the Delaware Basin. Economy of scale, oil prices, proximity to CO_2 supply and reservoir heterogeneity are several of the controlling factors that strongly influence whether this technique is applied at a given well. (Docket A–93–02, Item V–C–1, Section 8)

In the CCA (Appendix SCR), DOE determined that CO_2 injection is not a current drilling practice in the Delaware Basin and therefore omitted it from consideration in the PA. For the proposed rule, EPA concurred with DOE that CO_2 injection was not a current practice. However, as a result of the public comments, EPA reviewed the issue and determined that CO_2 injection does occur in the Texas portion of the Delaware Basin. In responding to comments, EPA found no evidence of CO_2 injection practices in the New Mexico portion of the Delaware Basin. (Docket A–93–02, Item V–C–1, Section 8) All CO_2 injection projects found in New Mexico occurred outside the Delaware Basin. The EPA found that CO_2 injection has only limited potential for use around WIPP because of site-specific concerns related to reservoir size, proximity to existing pipelines and reservoir heterogeneity. However, because EPA confirmed that CO_2 injection is practiced in the Delaware Basin, EPA conducted an analysis of the consequences that CO_2 injection could have on the PA calculations.

In order to investigate the potential effect of CO_2 injection should it occur in the future, EPA conducted some bounding calculations. (Docket A–93–02, Item V–C–1, Section 8) Using numerous conservative assumptions, EPA estimated the rate of CO_2 flow through a hypothetical wellbore annulus into an anhydrite interbed at the depth of the WIPP repository. For example, grout in the wellbore annulus is expected to degrade only along portions of the wellbore; however, EPA assumed that such degradation would occur along the entire wellbore, thus providing a continuous pathway for CO_2 migration. Other conservative assumptions included a long time frame for injection, constant CO_2 pressures at the point of injection and at the intersection of the interbed with the borehole, and a high permeability in the interbed. The EPA's calculations also assumed that CO_2 would be injected into the Delaware Mountain Group below WIPP and readily migrate to Marker Bed 139, through which CO_2 is assumed to flow toward the repository. These assumptions increase the potential effect of the gas injection and therefore increase the predicted radionuclide releases that are calculated for the performance of the WIPP repository.

These simple but conservative calculations for a hypothetical CO_2 flood indicate that, even if it were to occur, CO_2 injection does not pose a threat to WIPP. For the very conservative assumptions specified in

this study, even for long periods of time, there is little potential for injected CO_2 to ever reach the repository. In summary, DOE determined that CO_2 injection was not a current drilling practice in the Delaware Basin and therefore screened it from the PA based on regulatory requirements. Based on public comments, EPA identified limited CO_2 injection activities in the Delaware Basin. The EPA conducted an analysis of the effects of CO_2 injection on the repository and found that CO_2 injection can be omitted from the PA because of the minimal consequences that would occur as a result of CO_2 injection.

g. Other Drilling Issues. A few public comments raised concerns about other human intrusion related scenarios. For example, some comments disagreed with the drilling rates that were set forth in the CCA. Other comments contended that natural gas storage exists in the Delaware Basin and should be considered in the PA.

Several public comments stated that the CCA did not provide drilling rates that are consistent with the extensive drilling throughout the area. The EPA required DOE to include the effects of drilling into a WIPP waste panel in the PA. The DOE was required to separately examine the rate of shallow and deep drilling. Shallow drilling is defined in § 194.2 as drilling events that do not reach a depth of 2,150 feet below the surface and therefore do not reach the depth of the WIPP repository. Deep drilling is defined in § 194.2 as drilling events that reach or exceed the depth of 2,150 feet and therefore reach or exceed the depth of the repository. Both types of drilling events include exploratory and developmental wells. (See Docket A–93–02, Item V–B–2, CARD 33 for further discussion of drilling rates.)

The EPA accepted DOE's finding that shallow drilling would not be of consequence to repository performance and was therefore not included in the PA. (Docket A–93–02, Item V–B–2, CARD 32, Section 32.G) The future rate of deep drilling was considered in DOE's PA. The deep drilling rate set forth in the CCA for the Delaware Basin is 46.775 boreholes per square kilometer per 10,000 years.

Several commenters suggested that DOE should use other, higher deep drilling rates in the PA. Comments stated that these higher rates, based on drilling over limited areas near the WIPP or on time periods shorter than 100 years (such as the last year or the last 50 years), would be more consistent with current drilling rates. The EPA's criteria require that the deep drilling rate be based on drilling in the Delaware Basin over the 100-year period immediately prior to the time that the compliance application is prepared. (§ 194.33(b)(3)) Although the drilling rate dictated by EPA's requirements may be lower than the current drilling rate, the use of a 100-year drilling rate more adequately reflects the actual drilling that may be expected to take place over the long term. (See Response to Comments for 40 CFR Part 194, Docket A–92–56, Item V–C–1, p. 12–11.) The future rate of deep drilling in the PA was set equal to the average rate at which that type of drilling has occurred in the Delaware Basin during the 100-year period immediately prior to the time that the compliance application was prepared. Commenters did not suggest that DOE had failed to include known drilling events or had calculated the rate inconsistently with EPA's requirements. Therefore, EPA finds that the approach taken by DOE meets the regulatory requirements set forth in § 194.33(b). (Docket A–93–02, Item V–B–2, CARD 33)

Natural gas storage facilities, in underground cavities, are known to exist in the Salado Formation outside the Delaware Basin. However, neither EPA nor DOE is aware of any natural gas storage in the Salado Formation of the Delaware Basin. Because there is no known gas storage in the Delaware Basin, DOE is permitted to omit it from the PA according to the requirements of § 194.32(c).

In addition to determining that there is no known gas storage in the Delaware Basin, EPA conducted an analysis of the effects that this activity would have on the repository. The EPA's analysis, presented in the response to comments, shows that natural gas storage would not affect the ability of the WIPP repository to successfully isolate waste because the migration potential of the gas would be minimal.

3. Geological Scenarios and Disposal System Characteristics

a. Introduction. 40 CFR 194.14(a) requires DOE to describe the natural and engineered features that may affect the performance of the disposal system. Among the features specifically required to be described are potential pathways for transport of waste to the accessible environment. This information is crucial to the conceptual models and computer modeling that is done to determine compliance with the containment requirements and the individual and ground-water protection requirements. In addition to a general understanding of the site, EPA required specific information on hydrologic characteristics with emphasis on brine pockets, anhydrite interbeds, and potential pathways for transport of waste. The EPA also required DOE to project how geophysical, hydrogeologic and geochemical conditions of the disposal system would change due to the presence of waste. Geology also relates to criteria at §§ 194.32 and 194.23, which require DOE to model processes which may affect the disposal system, and to use models that reasonably represent possible future states of the disposal system.

The EPA examined the CCA and the supplemental information provided by DOE and proposed to find that it contained an adequate description of the WIPP geology, geophysics, hydrogeology, hydrology and geochemistry of the WIPP disposal system and its vicinity, and how these conditions change over time. (62 FR 58798–58800) Several commenters suggested that the WIPP site geology and disposal system characteristics have been incorrectly assessed or inaccurately modeled. Commenters expressed concern with the WIPP site regarding Rustler recharge; dissolution, including karst; presence of brine in the Salado; use of two dimensional modeling with the BRAGFLO computer code instead of modeling the disposal system using a three-dimensional representation (2D/3D BRAGFLO), earthquakes, and the gas generation conceptual model. The EPA's response to these comments is discussed below.

b. WIPP Geology Overview. The WIPP is located in the Delaware Basin of New Mexico and Texas and is approximately 26 miles southeast of Carlsbad, New Mexico. This area of New Mexico is currently arid, but potential future precipitation increases were accounted for in the PA. The Delaware Basin contains thick sedimentary deposits (over 15,000 feet, or 4572 meters, thick) that overlay metamorphic and igneous rock (1.1 to 1.5 billion years old). The WIPP repository is a mine constructed approximately 2,150 feet (655 meters) below ground surface in the Permian age (6200–250 million years old) Salado Formation, which is composed primarily of salt (halite).

The DOE considered the primary geologic units of concern to be (from below the repository to the surface): (1) the Castile Formation ("Castile"), consisting of anhydrite and halite with pressurized brine pockets found locally throughout the vicinity of the WIPP site; (2) the Salado Formation ("Salado"), consisting primarily of halite with some anhydrite interbeds and accessory minerals and approximately 2,000 feet (600 meters) thick; (3) the Rustler Formation ("Rustler"), containing salt,

anhydrite, clastics, and carbonates (primarily dolomite), with the Culebra dolomite member of the Rustler as the unit of most interest; and (4) the Dewey Lake Red Beds Formation ("Dewey Lake"), consisting of sandstone, siltstone and silty claystone. The geologic formations below these were included in the screening of features, events, and processes, but were not included in the PA calculations because they did not affect the performance of the disposal system. See CARD 32, Sections 32.A and 32.F, for a detailed discussion of screening of features, events, and processes. (Docket A–93–02, Item V–B–2)

c. Rustler Recharge. Numerous comments on the proposed rule were related to whether the Rustler Formation, primarily the Culebra dolomite member, would be recharged; that is, whether water will infiltrate through the soil and underlying rock and into the Culebra. Commenters linked high infiltration to the potential dissolution of the Culebra and other members of the Rustler, concluding that karst has been formed and contributes to ground water flow. Commenters claimed that the presence of karst features would render DOE's ground water flow models invalid. Site characterization data and DOE's ground water modeling indicate that infiltration is very low and limited, if any, dissolution is ongoing, contrary to commenters statements.

The DOE indicated that the units above the Salado (i.e., the Rustler, the Dewey Lake and the Santa Rosa) are classified as a single hydrostratigraphic unit (i.e., equivalent to a geologic unit but for ground water flow) for conceptual and computer modeling. The Rustler is of particular importance for WIPP because it contains the most transmissive units above the repository (i.e., has the highest potential rate of ground water flow). In particular, the Culebra dolomite member of the Rustler Formation is considered to be the primary ground water pathway for radionuclides because it has the fastest ground water flow in the Rustler Formation. The Culebra dolomite is conceptualized as a confined aquifer in which the water flowing in the Culebra is distinct from rock units above or below it and interacts very slowly with other rock units. In general, fluid flow in the Rustler is characterized by DOE as exhibiting very slow vertical leakage through confining layers and faster lateral flow in conductive units. (Docket A–93–02, Item V–B–2, CARD 14, Sections 14.B.4 and 14.B.5) The DOE stated that the Culebra member conceptually acts as a "drain" for the units around it, but that it takes up to thousands of years for the Culebra to respond to changes in the environment. DOE's modeling indicates that the Culebra ground water is still responding to changes in precipitation from the latest ice age. DOE's explanation for the ground water flow in the units above the Salado is embodied in the ground water basin model which was introduced in Chapter 2 of the CCA. The EPA did not consider treatment of this issue in the CCA to be adequate and requested additional information. (Docket A–93–02, Item II–I–17) The DOE provided additional information in response to this request. (Docket A–93–02, Item II–I–31)

The ground water basin model, which simulates recharge passing slowly through the overlying strata before reaching the portion of the Culebra within the boundaries of the WIPP site recognizes the possibility of localized infiltration. (Docket A–93–02, Item V–B–2, CARD 23) The DOE included ground water recharge in its ground water basin modeling for the Culebra Member of the Rustler formation. The DOE also acknowledged the water-bearing capabilities of the Dewey Lake and considered this possibility in the PA evaluations. The DOE assumed that the water table would rise in response to increased recharge caused by up to twice the current site precipitation.

Essentially, DOE's conceptual model of flow in the Culebra assumes that the Culebra is a confined aquifer in which the flow slowly changes directions over time, depending on climatic conditions. The ground water basin model also accounts for the current ground water chemistry. Current geochemical conditions are the result of past climatic regimes and ground water responses to those changes; because the ground water chemistry is still adjusting to the current conditions, it does not reflect the current ground water flow direction in the Culebra. This new interpretation allows for limited but very slow vertical infiltration to the Culebra through overlying beds, although the primary source of ground water will be lateral flow from the north of the site. The EPA reviewed DOE's conceptualization of ground water flow and recharge, and believes that it provides a realistic representation of site conditions because it plausibly accounts for the inconsistencies in the current ground water flow directions and the geochemistry. The EPA examined this treatment of recharge in the PA modeling and determined it to be an appropriate approach that reasonably bounds and accounts for the impact of potential future recharge. (See Docket A–93–02, Item V–B–2, CARD 14, Sections 14.B.4 and 14.B.5; CARD 23, Section 2.4; and CARD 32, Section 32.F.4 for detailed discussions of hydrogeology.)

Commenters also stated that DOE's estimate of the age of ground water is based on an unreliable methodology and that the stable isotopic compositions of most samples of ground water from the Rustler Formation were found to be similar to the composition of other, verifiably young, ground water in the area. The age of the ground water is important because the ground water basin model is based on the assumption that the Rustler water is "fossil" water, having been recharged under climatic conditions significantly different from the present. Because the isotopic data can be interpreted differently, EPA examined the entire spectrum of data that could be used to assess infiltration rates, including DOE's ground water basin model, Carbon-14 data, and tritium data. Based on these data, EPA concluded that the ground water basin model provides a plausible description of ground water conditions in the Culebra. The EPA also points out that recent Carbon-14 data indicate that a minimum age of 13,000 years is appropriate for Culebra waters. Further, different geochemical zones in the WIPP are explained by differences in regional recharge and long residence time. (Docket A–93–02, Item II–I–31) The EPA examined all data pertaining to ground water flow in the Rustler, and believes the DOE's total conceptualization adequately described system behavior for the purposes of the PA.

d. Dissolution. In the CCA, DOE indicated that the major geologic process in the vicinity of the WIPP is dissolution. The DOE proposed that three principal dissolution mechanisms may occur in the Delaware Basin: lateral, deep and shallow. (Docket A–93–02, Item V–B–2, CARD 14, section 14.B.4) Deep dissolution refers to that at the base of or within the salt section along the Bell Canyon Castile Formation; lateral dissolution occurs within the geological units above the Salado (progressing eastward from Nash Draw); and shallow dissolution, including the development of karst and dissolution of fracture fill in Salado marker beds and the Rustler, would occur from surface-down infiltration of undersaturated water. Lateral, strata-bound dissolution can occur without shallow dissolution from above.

To the west, the slight dip in the beds has exposed the Salado to near-surface dissolution processes; however, DOE estimated that the dissolution front will not reach the WIPP site for hundreds of

thousands of years. Near-surface dissolution of evaporitic rocks (e.g., gypsum) has created karst topography west of the WIPP site, but DOE contended that karst processes do not appear to have affected the rocks within the WIPP site itself. The DOE indicated that while deep dissolution has occurred in the Delaware Basin, the process of deep dissolution would not occur at such a rate near the WIPP that it would impact the waste containment capabilities of the WIPP during the regulatory time period. The DOE concluded that the potential for significant fluid migration to occur through most of these pathways is low. However, DOE also concluded that fluid migration could occur within the Rustler and Salado anhydrite marker beds and included this possibility in PA calculations. In the proposed rule, EPA concluded that deep, lateral, and shallow dissolution (including karst features and breccia pipes) will not serve as significant potential radionuclide pathways and that the potential for significant fracture-fill dissolution during the regulatory time period is low. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.B.5; Item V–B–3, Section B.3.t)

Comments on the proposed rule stated that shallow dissolution and karst features occur at WIPP and will affect its containment capabilities. The EPA does not agree with DOE's assertion that the distribution of salt in the Rustler is solely a depositional feature because Rustler transmissivity (which is related to fracture occurrence in the Rustler) corresponds somewhat to the occurrence of salt in the Rustler. This implies that some post-Rustler dissolution has occurred which impacts the fracturing in Rustler rocks. However, the evidence observed by EPA indicate many Rustler features were formed millions of years ago (e.g., the breccia zone in the exhaust shaft, or at WIPP–18, where anhydrite/clay-rich strata may be halite dissolution residues). Other Rustler features (e.g., salt distribution in the Rustler) could have occurred sometime after the Rustler was deposited, but there is no evidence to indicate that ongoing dissolution of soluble material in the Rustler or at the Rustler-Salado contact will modify the existing transmissivity to the extent that the results of PA will be affected. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.B.5)

The EPA concurs that the presence of fractures and related fracture fill that could be attributed to dissolution or precipitation could significantly impact ground water transport in the Rustler. The DOE modeled the presence of fractures using a dual porosity model, and has accounted for permeability variability by developing transmissivity fields based upon measured field data which reflect the varying transmissivity values. This dual porosity conceptual model recognizes that fluid may flow through both the rock matrix and fractures at the site. The use of dual porosity assumes ground water flows through fractures, but allows solutes to diffuse into the matrix. The EPA concludes that while fractures are present in Rustler Formation units and slow vertical infiltration does occur, there is no evidence that indicates fractures are conduits for immediate dissolution of Rustler or Salado salts, or that pervasive infiltration and subsequent dissolution of the Salado Formation or Rustler is a rapid, ongoing occurrence at the WIPP site. Further, ground water quality differences between the more permeable units of the Rustler Formation support relative hydrologic isolation (i.e., the water in the Magenta member interacts very little with the water in the Culebra member), or at least they support very slow vertical infiltration that has not allowed for extensive geochemical mixing of ground waters in these units.

Many commenters suggested that WIPP cannot contain radionuclides because WIPP is in a region of karst (topography created by the dissolution of rock). Karst terrain typically exhibits cavernous flow, blind streams, and potential for channel development that would enhance fluid and contaminant migration. Numerous geologic investigations have been conducted in the vicinity and across the WIPP site to assess the occurrence of dissolution (karst) and the presence of dissolution-related features. The EPA reviewed information and comments submitted by DOE, stakeholders, and other members of the public regarding the occurrence and development of karst at the WIPP. (Docket A–93–02, Item V–B–2, CARD 14, section 14.B.5) The EPA acknowledges that karst terrain is present in the vicinity of the WIPP site boundary near the surface. Near-surface dissolution of evaporitic rocks (e.g., gypsum) have created karst topography west of the WIPP site. Nash Draw, which (at its closest to WIPP) is approximately one mile west of the WIPP site, is attributed to shallow dissolution and contains karst features. (Docket A–93–02, Item V–B–3, Section B.3.t) The EPA also recognizes the potential importance of karst development on fluid migration.

The EPA agrees that karst features occur in the WIPP area but concluded that karst features are not pervasive over the disposal system itself. The EPA examined hydrogeologic data (e.g., transmissivity and tracer tests) from DOE's wells at and near the WIPP site and found no evidence of cavernous ground water flow typical of karst terrain at the WIPP site. Similarly, a field investigation conducted by EPA during the summer of 1990 to assess the occurrence of karst features showed no evidence of significant karst features, such as large channels, dolines, sinkholes, or collapsed breccias (other than those at, for example, at WIPP–33 and Nash Draw) in the immediate WIPP vicinity. (55 FR 47714) Available data suggest that dissolution-related features occur in the immediate WIPP area (e.g., WIPP–33 west of the WIPP site), but these features are not pervasive and are not associated with any identified preferential ground water flow paths or anomalies at the WIPP site. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.B.5) Therefore, the groundwater modeling in the PA is adequate.

Several commenters stated that poor Rustler Formation core recovery at WIPP indicates the presence of karst. The commenters state that fragmented core samples containing dissolution residues are a clear indication of unconsolidated or cavernous zones capable of transmitting water with little resistance. However, core recovery is related to rock strength, and does not necessarily have an association with local hydrologic conditions. In the case of WIPP, cores that were attempted through fractured material, including the Culebra, exhibited poor recoveries. The EPA agrees that fractured Rustler is present at test well H–3. However, EPA does not believe that the presence of fractured material in the Rustler indicates that karst processes are active. In fact, the development of fractures can occur for various reasons unrelated to dissolution (e.g., removal of overlying rock due to erosion). The DOE recognized the presence of fractures within the Culebra, and included this dual porosity system in the PA modeling. In addition, core loss is a common occurrence in the drilling of all kinds of rocks, sometimes associated with fracture and other causes related to drilling technology, as well as the occurrence of soft or incompetent rock. The EPA concludes that to interpret all zones of lost core as zones of karst is inappropriate, as other rock features contribute to core loss which have nothing to do with cavernous porosity.

The EPA reviewed information pertinent to the potential development of karst in the WIPP area and believes that the near continuous presence of the more than half-million year old

Mescalero Caliche over the WIPP site is a critical indicator that recharge from the ground surface to the bedrock hydrologic regime has not been sufficient to dissolve the caliche at the site. If active dissolution of the evaporites in the subsurface were occurring in the WIPP area, it would be expected that collapse features would be evident in the Mescalero above the area where the dissolution is, or has occurred. As noted above, EPA has found no evidence of direct precipitation-related flow increases typical of karst terrain, and no field evidence of large channels or other karst features. The relative pervasiveness of the Mescalero Caliche over a long period of time is also an indication that there has been an arid climate and very low recharge conditions over a long period of time at the WIPP site. This, combined with DOE's near-future precipitation assumptions, led EPA to conclude that karst feature development will neither be pervasive nor impact the containment capabilities of the WIPP during the 10,000 year regulatory period. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.B.5; Item V–B–3, Section 3.B.t)

The EPA concludes that dissolution has occurred in the WIPP area outside of the WIPP site, as evidenced by karst features like Nash Draw. It is possible that dissolution has occurred at the WIPP site sometime in the distant past (i.e., millions of years ago for strata-bound features) associated with a geologic setting other than that currently present at WIPP; however dissolution in the Culebra is not an ongoing process at the WIPP site. Thus EPA finds that DOE's modeling (which assumes no karst within the WIPP site boundary) is consistent with existing borehole data and other geologic information.

e. Presence of Brine in the Salado. Numerous commenters stated the Salado Formation will be wet and that brine is weeping into the repository at a slow but significant rate, leading to a wet repository which will corrode the waste containers. This, the commenters stated, would invalidate the basic premises of the WIPP that dry salt beds would creep and encapsulate the waste canisters.

The EPA agrees that brine will enter the repository from the Salado Formation via anhydrite marker beds. The EPA also notes that the presence of brine within the Salado is a key element of the PA modeling; brine inflow is assumed to occur and the impact of brine inflow on gas generation is assessed. Brine is necessary for both of the processes that may cause gas generation: either drum corrosion or microbial respiration. If there is no inflow of brine into the repository, neither corrosion of iron drums nor survival of microbes would occur, so gas generation would not occur. Therefore, although the commenters correctly noted that initial WIPP studies did assume the salt to be "dry," the presence of interstitial brine has long been recognized and is accounted for in the PA. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.E.5; Item V–B–3, Section F.2)

In the CCA discussion of the gas generation conceptual model, DOE indicates that brine is expected to be present in the repository due to a natural inflow of brine. Corrosion of the waste containers, generation of gases resulting from waste corrosion and microbial degradation, and the effects of these processes on the disposal system components have been addressed in the DOE PA and the EPA-mandated PAVT. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.D; Item V–B–2, CARD 23, Section 2.4; Item V–B–3, Section E.2) The DOE also considered that additional brine could be introduced to the waste area if a drilling event passed through the waste and subsequently hit a brine pocket. The presence of a pressurized brine pocket beneath WIPP was addressed in the PA under the Human Intrusion Scenarios whereby the reservoir is penetrated by a borehole and brine is subsequently released into and mixed with the waste and eventually discharged either into the Culebra or at the ground surface. The EPA concludes that DOE adequately considered the presence of brine in PA modeling because it included the possibility of encountering a brine pocket in its intrusion scenarios, and because the potential effects of brine on corrosion rates and gas generation were incorporated in PA models. For more information on brine pocket parameter values, see the subsequent discussion of Parameter Values in the Performance Assessment sections of this preamble.

f. Gas Generation Model. Some chemical reactions could occur in the WIPP because metal containers holding waste may corrode and waste made from organic materials such as rubber may decompose if water is available and if other conditions are conducive to such decomposition. The corrosion reaction would create hydrogen gas (H_2). The decomposition of organic waste would create carbon dioxide ($_2$) and methane (CH_4). These gases would build up in the repository after it is sealed, increasing pressure inside the waste rooms.

The DOE developed a gas generation conceptual model to describe this situation. The Department's gas generation conceptual model incorporates the following basic premises:

- Gas is generated primarily by metal corrosion and microbial processes;
- Gas generation is closely linked to other processes;
- Gas generation from microbial processes will not always occur;
- High gas pressures in the repository can cause the Salado anhydrite interbeds to fracture; and
- High gas pressure is necessary before spalling and direct brine releases can begin.

The DOE performed experiments on gas generation rates for the 1992 PA and updated these experiments more recently. (Telander, M.R. and R.E. Westerman, 1997. "Hydrogen Generation by Metal Corrosion in Simulated Waste Isolation Pilot Plant Environments," SAND96–2538; see Docket A–93–02, Item V–B–1.) The gas generation rates are important in The PA because build-up of high gas pressures increases the chance for releases if a drill bores into the repository.

During the public comment period, commenters questioned the gas generation rates used in the gas generation conceptual model. One commenter stated that calculated corrosion rates were too low because they are based upon long-term tests that show lower rates than short-term tests, they assume a high pH, and they include a minimum rate of zero, perhaps by assuming that salt crystallization will prevent corrosion. The commenter also stated that corrosion rates used in the model should account for the fact that direct contact with salt and backfill increases the rate. The commenter further stated that DOE seemed to use the observed data to set the upper limit of a distribution of corrosion rates, rather than the midpoint of such a distribution, which would systematically understate the corrosion rate because most values would be less than the values taken from DOE's observed data. Finally, the commenter stated that aluminum corrosion is as significant as corrosion of steel, and that it is likely to take place in the repository because CO_2 and iron will be present and will enhance aluminum corrosion.

The EPA examined DOE's studies on gas generation rates. The EPA disagrees that the assumptions of long-term rates, pH, and minimum corrosion rate are not well-founded. Since the results of the corrosion testing are used to develop a long-term hydrogen gas generation rate for the repository that applies over

hundreds of years, it is appropriate that DOE developed the rate based on hydrogen generation over a longer time (12 to 24 months) rather than for a shorter time. Data indicate that during the first few months of the test, the corrosion reaction had not yet stabilized at equilibrium, producing more hydrogen gas than would have been expected at equilibrium for the amount of iron present. (Docket A–93–02, Item II–G–1, CCA Reference #622) Therefore, the higher rate of gas generation observed in the short-term is unlikely to represent what happens in the repository over hundreds of years.

The DOE's assumption of high pH (about 10) is consistent with data on the use of magnesium oxide (MgO) backfill. Because DOE has committed to using MgO backfill in the repository in the CCA, EPA finds it reasonable to assume this pH in the repository. (See the preamble section "Engineered Barriers" for further discussion of MgO backfill.) Furthermore, even if the MgO were not fully effective and the pH were to drop from near 10 to between 7 and 8, the enhanced corrosion rate expected at that lower pH is already reflected in the probability distribution for the corrosion rate parameter. DOE's experimental data show that MgO backfill will function as assumed in the CCA. Therefore, EPA concludes that DOE considered the issue of pH and realistically incorporated it into the model.

The DOE took its minimum corrosion rate of zero from studies on steel corrosion rates when the steel is in a humid environment and also when steel is submerged in brine. The DOE found that virtually no corrosion occurred and no hydrogen gas was generated under humid conditions. Also, the studies show that the steel has an extremely low corrosion rate when it is submerged in brine at the higher pH expected in the WIPP. Some DOE studies also found that salt films may prevent corrosion, as the commenter mentioned. (Docket A–93–02, Item II–G–1, CCA Appendix MASS, Attachment MASS 8–2) Based on all these studies, EPA concludes that DOE's minimum corrosion rate is supported and appropriate.

The DOE assumed that the corrosion rates of steel submerged in brine were uniformly distributed from zero to 0.5 micrometers per year. The EPA believes that the bases for the parameter assumptions are adequately documented and the use of the particular parameter distribution is consistent with demonstrating the concept of reasonable expectation for the H_2 gas generation rates used in the CCA. However, EPA was concerned that the maximum corrosion rate value selected by DOE did not fully reflect other uncertainties. These uncertainties included the accelerated corrosion of steel in reactions with other materials such as backfill and aluminum. Data from DOE tests indicated that corrosion rates might be twice as high as those used in the PA. (Docket A–93–02, Item V–B–14) Thus, in the PAVT, EPA required DOE to double the maximum corrosion rate to assure that these other uncertainties were more fully reflected. (Docket A–93–02, Item II–G–28) (Doubling the corrosion rate would be expected to cause the gas generation rate to rise but not necessarily double, since other factors such as microbial degradation also influence gas generation.) This and other changes made in the PAVT showed that the repository remained in compliance with the standards.

The commenter correctly notes that the corrosion data from DOE's studies were used to set the upper limit of a uniform distribution of corrosion, rather than a mid-point. (Telander, M.R. and R.E. Westerman, 1997. See Docket A–93–02, Item V–B–1.) However, EPA does not agree that this practice would systematically understate the corrosion rate under the conditions expected to occur in the repository. The experimental rate was obtained under pH conditions substantially lower than those expected in the repository (i.e., 7.4 to 8.4 versus 9.2 to 9.9). The corrosion rate is expected to be at least an order of magnitude lower at the higher pH than at the pH expected in the repository in the presence of MgO. (Docket A–93–02, Item V–B–14) Therefore, the higher corrosion values (i.e., those based on the study) represent extreme conditions, rather than those expected in the repository, and the parameter range would account for all values that are likely to occur. In addition, as noted above, EPA required that the maximum corrosion rate be doubled in the PAVT to account for uncertainties in this parameter. The Agency believes that this addresses the concerns raised by the commenter.

The commenter notes that CO_2 and iron will enhance the corrosion of aluminum. Although EPA agrees this is true, the Agency believes it does not affect the results of the PA. Carbon dioxide reacts with MgO, so CO_2 will not be available to reduce the brine pH and to enhance corrosion. Second, accelerated corrosion of aluminum is not a significant factor in the WIPP's performance, since brine will be consumed in corrosion reactions and will lead to smaller direct brine releases. (This is also discussed in the following preamble section concerning two dimensional modeling of brine and gas flow.) The results of DOE's modeling show that iron is consistently left over after reacting with all available brine. (Docket A–93–02, Item II–G–7, Fig. 2.2.9) Based upon data on these reactions, the Agency concludes that enhanced corrosion of aluminum due to CO_2 and iron will not increase releases of radioactivity because brine will not be left over to go to the surface as direct brine releases. (Docket A–93–02, Item V–C–1)

g. Two-Dimensional Modeling of Brine and Gas Flow. The DOE modeled the flow of brine and gases within the repository in the BRAGFLO computer code. The DOE simplified this model by representing the repository as a space in two dimensions rather than in three dimensions, as it is in reality. The Department made this simplification in order to speed up computer calculations significantly. The DOE performed a screening analysis titled S1: Verification of 2D-Radial Flaring Using 3D Geometry to see if the two-dimensional BRAGFLO model would predict similar results to a three-dimensional model. (WPO #30840) In Appendix MASS, Attachment 4–1 of the CCA, DOE explained that the results of the screening analysis showed that a three-dimensional model would not give significantly different results from the two-dimensional model used in the PA. The EPA examined DOE's documentation to determine if the CCA complied with EPA's requirements for documentation of conceptual models and consideration of alternative conceptual models under §§ 194.23(a)(1) and (a)(2). The EPA reviewed the screening analysis and concluded in the proposal that DOE sufficiently documented its rationale and approach behind using a two-dimensional model for brine and gas flow in the repository. (62 FR 58808)

One commenter stated that DOE's screening analysis suggested that the two-dimensional ("2D") BRAGFLO model might underestimate releases of radionuclides to the surface under higher gas pressures. The commenter stated that several three-dimensional ("3D") BRAGFLO simulations of the repository should be performed using parameter values from the CCA PA. The recommended analysis would include calculations of direct brine releases (releases of brine contaminated with radioactive waste) and spallings (releases of solid waste pushed out of the repository under high pressure), and an assessment of how much brine would be consumed by chemical reactions. Another commenter stated that the screening analysis had been

misinterpreted because details of the assumptions used in the original screening analysis had not been considered. This commenter also stated that results of additional analysis submitted by DOE as comments showed that the two-dimensional BRAGFLO code used in the CCA PA results in a conservative estimate of the releases when compared to results from a three-dimensional code.

The EPA examined the screening analysis mentioned by the commenters. The Agency found that the divergence between the results of the two-dimensional and three-dimensional versions of BRAGFLO occurred only at very high (lithostatic [22]) pressures that would occur seldom if ever in the repository. (Docket A–93–02, Item V–C–1, Section 5) For simulations at the gas generation rates used in the CCA PA, the two-dimensional BRAGFLO code predicted greater brine inflows than the three-dimensional code. (Greater brine inflows could potentially lead to greater direct brine releases.)

The EPA also considered how much brine would be consumed in chemical reactions. One of DOE's studies showed that brine is consumed by corroding steel barrels and leaves behind at least 20 percent of the original steel at the end of 10,000 years for 99 percent of the sets of simulated conditions tested in the CCA PA. (Docket A–93–02, Item II–G–7, p. 2–12) Based on this study, EPA concluded that even if the 3D model predicted additional brine inflow (beyond that predicted in the current 2D model), this brine will simply be consumed in chemical reactions (i.e., corrosion of metal drums), and will not go to the surface as direct brine releases. In addition, the Agency looked at results of additional simulations that DOE conducted to compare BRAGFLO 2D and 3D results. (Docket A–93–02, Item IV–G–34, Attachment 1 and February 25, 1998, memorandum) DOE's results show that the use of a two dimensional representation does not result in an underestimate of direct brine release during human intrusion. In all cases investigated, the two dimensional simulations consistently predict either the same or higher repository pressures and brine saturations than their corresponding three-dimensional simulations, leading to larger releases. The Agency, therefore, concludes that the two-dimensional BRAGFLO code results in conservative estimates of releases from the repository compared to results from a three-dimensional model.

[22] Lithostatic pressure is the pressure exerted by overlying rock layers.

In addition, EPA found that DOE sufficiently documented its development of conceptual models and scenarios, including alternative conceptual models considered, in the CCA and additional documentation submitted to the Agency. Therefore, EPA finds DOE in compliance with the requirements of §§ 194.23(a)(1) and (a)(2) with respect to modeling of brine and gas flow.

h. Earthquakes. Several public comments raised concerns about the effect that earthquakes could have on the repository and the containment of waste. Several commenters refer to a recent (January 4, 1998) earthquake in New Mexico, over 100 miles from the WIPP site, as an indication of the weakness of the WIPP site for disposal purposes.

In the CCA, DOE examined seismicity as part of its features, events, and processes, analyses, and concluded earthquakes could be excluded from the PA calculations based on low consequences. This conclusion is drawn from a wealth of knowledge about the seismic activity and processes in the region, but is based primarily on the fact that the intensity of ground shaking (the primary cause of destruction from an earthquake) is significantly less underground than at the surface. In addition, the ductile nature of a salt deposit makes it deform differently than typical hard rocks, so the displacement due to rupture (if any) will be less. The EPA reviewed DOE's earthquake (seismic) scenario in the Technical Support Document for 194.14: Content of Compliance Application, Section IV.B.4.f. (Docket A–93–02, Item V–B–3) The EPA concurs with DOE's analysis, that the probability of a release of radionuclides from the repository due to the opening of fracture pathways caused by an earthquake is very small.

Many years of seismological monitoring, microseismal studies and geologic study demonstrate that there are no probable sources of large earthquakes at or near the WIPP site. (Docket A–93–02, Item II–G–1, Chapter 2.6) The only sources of significant earthquakes in the region lie far to the west of the site along the Rio Grande rift or to the south along major plate tectonic features in Mexico, although measurable earthquakes have occurred closer to the WIPP. (Docket A–93–02, Item II–G–1, Chapter 2 and Appendix SCR) Micro-earthquakes (magnitude 3.0 or smaller on the Richter scale), most of which are too small to be felt, or small, shallow teleseismal ground motion related to distant earthquakes are the only seismicity expected at the WIPP site during the very short period that the repository will persist as an underground opening. The EPA notes that the site of the January 4, 1998, earthquake is located in the Rio Grande Rift—over 100 miles east of WIPP—and seismic activity in that area, including the January 4, 1998 earthquake, was too small to have an impact at WIPP. Therefore, EPA finds that the effects of earthquakes need not be considered in performance assessments. (See Docket A–93–02, Item V–B–2, CARD 32, Section G)

i. Conclusion. The EPA finds that DOE adequately assessed the site characteristics for the purposes of the PA and use in comparison with EPA's radioactive waste disposal standards and WIPP compliance criteria. The results of EPA's review of the CCA and additional information provided by DOE is provided in CARDs 14, 23, 32 and 33. (Docket A–93–02, Item V–B–2)

4. Parameter Values

a. Introduction. Parameters are numerical values or ranges of numerical values used in the PA to describe different physical and chemical aspects of the repository, the geology and geometry of the area surrounding the WIPP, and possible scenarios for human intrusion. Some parameter values are well-established physical constants, such as the Universal Gas Constant or atomic masses of radionuclides. Parameters also can be physical, chemical or geologic characteristics that DOE established by experimentation. The DOE has also assigned parameters to aspects of human intrusion scenarios, such as the diameter of a drill bit used to drill a borehole that might penetrate the repository.

Section 194.23(c)(4) requires detailed descriptions of data collection procedures, data reduction and analysis, and code input parameter development. Section 194.14(d) requires DOE to describe the input parameters to the PA and to discuss the basis for their selection. Section 194.14(a) requires DOE to describe the characteristics of the WIPP site, including the natural and engineered features that may affect the performance of the disposal system, which is part of the process of parameter development.

The Agency reviewed the CCA, parameter documentation, and record packages for approximately 1,600 parameters used as input values to the CCA PA calculations. The EPA further reviewed parameters record packages and documentation in detail for 465 parameters important to performance of the disposal system. The Agency selected parameters to review in depth based on the following criteria:

• Parameters that were likely to contribute significantly to releases or seemed to be poorly justified;

• Parameters that control various functions of the CCA PA computer codes that were likely to be important to calculations of releases and important to compliance with the containment requirements of § 191.13; and

• Other parameters EPA used to evaluate the overall quality of Sandia National Laboratory's ("SNL") documentation traceability.

After its initial review, EPA found that DOE had a great deal of documentation available in the SNL Records Center supporting most of the parameters used in the CCA PA. However, EPA had some concerns about the completeness of the list of CCA PA parameters in the CCA and the SNL Records Center, the description and justification to support the development of some code input parameters, and the traceability of data reduction and analysis of parameter-related records. The Agency did not agree with the technical justification of some parameter values and probability distributions.

The Agency later required DOE to perform additional calculations in a Performance Assessment Verification Test ("PAVT") in order to verify that the cumulative impact of all required and other corrections to input parameters, conceptual models, and computer codes used in the PA was not significant enough to necessitate a new PA. The EPA directed DOE to incorporate modified values or distributions for twenty-four parameters in the PAVT. (Docket A–93–02, Item II–I–27) The PAVT showed that the calculated releases may increase by up to three times from those in the original CCA PA, but that the WIPP is still an order of magnitude below the containment requirements in § 191.13. The DOE satisfied EPA's concerns about the parameters by incorporating EPA's changes to the parameter values and parameter distributions in the PAVT.

During the public comment period on the proposed rule, members of the public expressed concern about a few specific parameters used in the PAVT: distribution coefficients (K_d), the permeability of borehole plugs, the characteristics of a potential brine pocket, and the solubility of different actinide ions in brine. Commenters stated these particular parameters could have an especially great impact on releases, and therefore, on the results of the PA.

b. Distribution Coefficient (K_d). As the primary radionuclide pathway during an intrusion, the Culebra was the subject of many public comments, especially related to distribution coefficients [23] (K_d values). In DOE's conceptual model the Culebra is characterized as a fractured dolomite that has dual-porosity and acts to physically retard movement of contaminants. In a dual-porosity rock unit, ground water is believed to flow through the fractures, but water and contaminants can access the pore space within the rock matrix away from the fractures. Movement of water and contaminants into the pore space slows (retards) their respective forward movement. This physical retardation is necessary in order to have chemical retardation. In the process of chemical retardation, contaminants diffuse from the fractures into the pore space where they can adsorb onto the rock mass. This adsorption is described by distribution coefficients, or K_d values.

The CCA indicated that there were no contributions to total releases from the ground water pathway. (Docket A–93–02, Item II–G–1, Chapter 2) This was due to the limited amount of contaminated brine predicted to reach the Culebra and the fact that radionuclides adsorbed into the Culebra dolomite did not move with the ground water flow. That is, the movement of the radionuclides were retarded with respect to the ground water flow. The estimate of the extent of the retardation (i.e., the K_d value) was based on laboratory tests using crushed rocks and small columns of rock. (CCA, Docket A–93–02, Item II–G–1, Chapter 6)

The EPA reviewed DOE's K_d values in detail. (Docket A–93–02, Item V–B–4) Based upon the review of DOE's data, methodologies, and conclusions, EPA proposed that the K_d ranges suggested by DOE were sufficient for the PA. (62 FR 58799) The EPA also concluded that the laboratory tests were conducted appropriately and that the K_d values DOE derived from this testing are reasonable, given the experimental evidence, and sufficient for PA purposes. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.B.5)

Commenters stated that DOE's experiments did not produce K_d values that are representative of conditions in the Culebra. The DOE data on actinide K_d values are derived directly from the results of a number of experiments (e.g., crushed rock, column tests) conducted with brine solutions that are representative of brines in the disposal system. The DOE used samples of the Culebra Dolomite and brine solutions that are considered to be representative of the field situation. These data were supplemented by experiments with other natural dolomites and column experiments, in which the effects of a field-realistic solid to solution ratio could be investigated. The laboratory-derived K_d values are expected to overestimate the mobilities of the actinides, making them reflective of upper bounds for predicting the maximum possible rates of actinide migration in the PA calculations. Therefore, it is reasonable to expect that the range of actinide K_d values obtained from the DOE experiments are inclusive of any scale-effects that might produce a different average K_d value than the experimental average in either the greater or lesser directions. Docket A–93–02, Item V–B–4, Section 4.4 presents EPA's analysis of field K_d testing.

The DOE's experimental results show that each of the actinides tested is adsorbed to the rock matrix to varying extents; hence, they will not migrate as fast as the overall rate of horizontal water flow (i.e., the actinides will be attenuated). These results are consistent with general theories of the adsorptive behavior of cationic solutes under alkaline pH conditions.

The EPA reviewed DOE's actinide K_d values and concluded that the population of K_d values determined in DOE experiments was not well-represented by a uniform distribution. The Agency recommended that a loguniform distribution be used in the PA calculations. In the PAVT, loguniform distributions for the actinide K_d values were used. (WPO# 47258; Docket No A–93–02, Item II–G–39) The results of PAVT still resulted in compliance with regulatory release limits. Therefore, EPA determined that the CCA PA was adequate for the purpose of determining compliance. (Docket A–93–02, Item V–B–4)

The DOE also performed bounding calculations using the minimum K_d values necessary to achieve compliance with EPA limits. The bounding estimates were obtained for plutonium (^{239}Pu) and americium (^{241}Am), which are critical actinides with respect to releases to the accessible environment. Results of DOE's bounding assumptions (whereby all other factors are set to the least favorable value) indicate that a K_d of 3 milliliter per gram (ml/g) is sufficient for compliance for ^{239}Pu and

[23] Dissolved waste migrating out of the disposal site would migrate as atoms with a positive electrical charge, or cations; these could be cation species such as Pu^{+4} or U^{+6}. When liquid such as brine carries the cations through sediment or rock, some of the cations become attached to the surface of these solids. Therefore, the cations travel more slowly than the liquid as a whole. The rate of advance of the cation as the liquid migrates can be described with a number called a retardation factor. Distribution coefficients, or K_d's, are used in calculating the retardation factor.

^{241}Am. Estimates based on typical CCA sample sets indicate that K_d values greater than 1 ml/g are sufficient for compliance. (A higher K_d value indicates greater retardation—or less movement—of radionuclides.) The K_d ranges determined from DOE column experiments, conducted since submission of the CCA, for ^{239}Pu and ^{241}Am are typically greater than 100 ml/g, thus inferring that K_d values used in the PA are more than sufficient to ensure compliance with EPA limits with respect to accessible environment release through the Culebra. For these reasons, the actinide K_d values developed by DOE are considered to be adequate for representing actinide mobilities in the PA calculations. (Docket A–93–02, Item V–B–2, CARD 14, Section 14.G.5)

The EPA reviewed and responded to the public comments on K_d values and finds the K_d values used in the PA are sufficient. Refer to EPA Technical Support Document for Section 194.14: Assessment of K_d Values Used in the CCA for EPA's detailed review. (Docket A–93–02, Item V–B–4)

c. Actinide Solubility. Actinide solubilities are used in the computer codes to calculate the actinide concentrations released from the repository. They are important because as radionuclides dissolve in brine, they are more easily released from the disposal system through direct brine release mechanisms. Commenters questioned the analysis of certain chemical conditions in the disposal system relating to backfill, ligands, uncertainty, and oxidation state analogy.

An important factor influencing actinide solubility is the magnesium oxide (MgO) backfill DOE proposed to emplace in the WIPP. The DOE indicated that MgO backfill emplaced with transuranic waste would mitigate the solubility-enhancing effects of carbon dioxide from waste degradation. The DOE proposed to emplace a large amount of MgO in and around waste drums in order to provide an additional factor of safety and thus account for uncertainties in the geochemical conditions that would affect CO_2 generation and MgO reactions.

Commenters stated that DOE has not shown the predicted MgO chemical processes will take place. The DOE provided documentation in the CCA and supplementary information that MgO can effectively reduce actinide solubility in the disposal system. While the conceptual model peer review panel initially rejected DOE's conceptualization of the Chemical Conditions Model, DOE provided additional information on MgO processes and the peer review panel later concluded that MgO processes will indeed take place as initially postulated by DOE. The EPA concluded that DOE's qualitative justification was sufficient to show that the emplacement of MgO backfill in the repository will help prevent or substantially delay the movement of radionuclides toward the accessible environment by helping to maintain alkaline conditions in the repository, which in turn favors lower actinide solubilities. Furthermore, DOE's bounding of pH levels to a narrow range greatly reduces the uncertainty associated with pH and actinide solubility in the PA. Refer to CARD 24, Section 24.B.6, and CARD 44 for further discussion of the effects of MgO. (Docket A–93–02, Item V–B–2)

The EPA received numerous comments regarding DOE's lack of a sensitivity analysis on the effects of organic ligands and that organic ligands other than ethylene diaminetetraacetic acid ("EDTA") should have been considered. Organic ligands are important since they can increase more mobile fractions, i.e., can make more radionuclides available for transport. Organic chemicals are expected to be part of the waste, especially because many were used in the separation of actinides during chemical processing of nuclear materials. DOE's bounding calculations and incorporation of uncertainty ranges to represent actinide concentrations in the PA calculations indicate that organic ligands will have only a minor effect on the solubilities of actinide solids under the expected repository conditions. The EPA found, through independent calculations, that there is no substantive information that could be gained by conducting a sensitivity analysis on the effects of organic ligands or conducting the calculations with citrate rather than EDTA, since EDTA provides a conservative assessment of the effects of ligands on solubility of actinide solids. (Docket A–93–02, Item V–B–2, CARD 24, Section 24.E.5) The EPA agrees with the conclusions of the Waste Characterization Independent Review Panel "that under the conditions of MgO backfill, chelating agents (e.g., organic ligands) will have a negligible effect on repository performance. The Panel notes that, even at the basic pH in the repository, the availability of transition metals may be enhanced due to the formation of soluble halo complexes, making an even stronger case that base metals control ligand chemistry."

Commenters also expressed concern about the solubility uncertainty range used in the PA computer codes. The DOE determined that the available experimental data for the oxidation state +IV actinides (i.e., plutonium, uranium, and neptunium) were insufficient for making such comparisons. However, the experimental procedures for determining the solubilities of +IV actinide solids are not substantially different from those used to determine the solubilities of +III and +V actinide solids. Therefore, EPA concluded that the uncertainties determined for the +III and +V actinide solids would be inclusive of those that would be obtained for +IV actinide solids, which are based on experimental measurements of thorium oxide. This expectation is based on the fact that DOE used the outermost limits of the differences between model results and experimental results for all data examined to define the breadth of the uncertainty limits. This procedure greatly expands the size of the uncertainty bounds beyond what might be calculated from statistical treatment of the distribution of the differences. (Docket A–93–02, Item V–B–2, CARD 24, Section 24.B.6; and Item V–B–17) The EPA therefore finds that the uncertainty bounds on actinide solubility are adequate for use in the PA.

Finally, commenters raised issues regarding the limitations of the oxidation state analogy in the Actinide Source Term Dissolved Species Model. In short, the actinide oxidation analogy means that actinides of the same oxidation state tend to have similar chemical properties under similar conditions. The oxidation state analogy is based on standard inorganic chemistry principles. This generalization can be made because chemical reactions involving ionic species are related primarily to the charge densities of the reacting species. Actinides with the same oxidation state have the same core electronic structure; hence they have similar ionic radii and charge densities, which in turn leads to analogous chemical behavior in solubility and aqueous speciation reactions. In addition to the theoretical basis, DOE conducted experimental studies that confirmed the validity of the oxidation state analogy, and subsequently employed it in its representation of the solubilities of actinides. The EPA finds that the actinide oxidation state is adequate for use in the PA. (Docket A–93–02, Item V–B–2, CARD 24, Section 2.B.6)

For details regarding chemical reactions of MgO, see CARD 24 (Waste Characterization) and CARD 44 (Engineered Barriers). For further

information regarding the PA modeling of solubility and chemical conditions in the repository, see CARD 23 (Models and Computer Codes). CARDs can be found in Docket A–93–02, Item V–B–2.

d. Brine Pockets. The Castile Formation lies underneath the Salado Formation, where the WIPP is located. This stratum contains pockets of brine under pressure. One of the parameters in the PA that commenters believed to be important is the probability that a driller will hit a brine pocket in the Castile. The CCA PA models the possibility that a drill bit could penetrate a brine pocket in the Castile Formation, allowing brine to rise up the borehole and into the repository. The brine could then dissolve radioactive waste and could carry it to the earth's surface if another driller bored a hole into the repository. This could increase the amount of radioactive waste reaching the accessible environment.

Some commenters expressed concern that brine from brine pockets in the Castile Formation could travel up to the level of the repository, or even to the earth's surface. The EPA believes that this is not a problem unless the repository is disturbed by human intrusion. Because it is difficult for water to travel in the Salado and Castile formations (i.e., they have low permeability), there is no natural connection between a Castile brine pocket and the waste panel area under undisturbed conditions. These brines are also either saturated or nearly saturated with soluble minerals such as salt (halite), and thus, the brine in pockets will not dissolve the surrounding material. (Docket A–93–02, Item II–G–1, CCA Chapter 2, Table 2–5) However, in the case of a deep drilling intrusion that goes through a waste panel and into the Castile, it is possible that the driller will intercept brine in the Castile and create a pathway for Castile brine to flow into the repository and interact with the waste. The probability of human intrusion through the WIPP repository to an underlying Castile brine pocket is a key component of the PA.

The 1992 draft PA considered the probability of a driller hitting a brine pocket under the waste area with a range of 25 percent to 62 percent, based on geophysical work that suggested brine may be present. (Docket A–93–02, Item II–G–1, Reference #563) In the CCA PA, DOE assigned a probability of hitting a brine pocket of 8 percent, based upon a geostatistical analysis of oil and gas wells in the vicinity of WIPP. The Agency believed that the assigned probability was low, based upon data from one particular DOE study using the Time Domain Electromagnetic ("TDEM") method. In addition, EPA found there was considerable uncertainty in this parameter. Therefore, in the PAVT the Agency required DOE to change the constant value of this parameter to a uniform probability distribution from 1 percent to 60 percent, based upon data in the TDEM study. (Docket A–93–02, Item II–I–27)

Many commenters questioned the use of a uniform distribution from 1 percent to 60 percent as the range for the probability of hitting a brine pocket that EPA specified be used in the PAVT. Some believed that EPA should require DOE to examine a probability of 100 percent for hitting a brine pocket, based upon data from DOE's WIPP–12 borehole, which suggested that a large reservoir of brine might lie in the Castile Formation under the WIPP Land Withdrawal Area. Others recommended that EPA require DOE to repeat the PA assuming a constant probability of 60 percent.

The EPA carefully evaluated the potential occurrence of brine pockets below the WIPP. The EPA agrees that there is significant uncertainty concerning the existence of a brine pocket beneath the repository. For this reason, EPA required DOE to reevaluate the probability of hitting a brine pocket in the PAVT using a probability distribution rather than a constant value.

The EPA also considered the possibility that the brine pocket indicated by WIPP–12 data may underlie 100 percent of the repository. Based on reservoir volume and thickness data from WIPP–12, commenters found that a cylindrically-shaped reservoir could underlie the entire repository. However, EPA considers this unlikely because brine in the Castile does not reside in homogeneous and well-defined reservoirs. Instead, it is believed to reside in vertical or subvertical fracture systems, which may be extensive and contain significant volumes of brine. (Docket A–93–02, Item II–G–1, Appendix MASS, Attachment 18–6) Although EPA agrees that part of the WIPP–12 reservoir may underlie part of the repository, the time-domain electromagnetic ("TDEM") survey data do not support speculation of a 100% probability of an encounter. (Docket A–93–02, Item II–G–1, Chapter 2.2.1.2.2, Item V–B–3, section IV; Item V–B–14, Sections 4.1, 4.4, and 4.5) In addition, as pointed out by one of the commenters recommending a probability of 60 percent, some boreholes adjacent to brine-producing boreholes near the WIPP site are known to be dry. In view of the lack of support from the TDEM data and the other concerns expressed above, EPA concludes that available data do not support a 100 percent probability of hitting a brine pocket.

The EPA established its 1 percent to 60 percent range of probability for hitting a brine pocket based upon data from the TDEM survey. The Agency examined the data and found that the probability distributions for encountering brine under the WIPP varied widely, depending on whether or not one assumed that brine pockets exist below the bottom of the Anhydrite III layer near the top of the Castile Formation. Using the base of the anhydrite layer as the cutoff, EPA's simulations showed that the fraction of the excavated area of the repository underlain by brine varies from 1 to 6 percent of the excavated area. Using the base of the Castile as the cutoff, the fraction of the excavated area of the repository underlain by brine would range from about 35 to 58 percent. According to the 1992 WIPP PA, Castile Formation brines are generally found in the uppermost anhydrite layer (usually Anhydrite III), rather than all the way through the Castile. (Docket A–92–03, Item II–G–1, CCA Reference #563, Vol. 3, p. 5–4) If brine is confined to the upper (Anhydrite III) layer, which is the more probable case based on geologic information, the maximum fraction of the repository area underlain by brine is 6 percent. However, in order to examine the possible effects of the more conservative case, EPA chose to assume an equal probability that a driller would hit a brine pocket in either the upper Anhydrite III layer or the base of the Castile. Therefore, EPA used a probability range in the PAVT with a low value of 1 percent based on the upper anhydrite layer and the high value of 60 percent derived by rounding up the highest value from the TDEM survey. The EPA believes that existing information supports the range used in the PAVT as valid, and probably conservative, values for the probability of hitting a brine pocket.

The Agency also notes that a sensitivity analysis of the PA parameters submitted in comments showed that the final results of the PA were not significantly affected by increasing the probability of hitting a brine pocket. Even when the Castile brine encounter probability was increased to 100 percent'the highest possible probability'there was no significant difference between the resulting mean CCDF and the mean CCDF in the CCA, which was based upon a brine encounter probability of 8 percent.

(Docket A–93–02, Item IV–G–43) The EPA believes that 100 percent is an unrealistically high probability. The results of this study confirm that examining such a probability in more detail would provide little added information about the performance of the WIPP.

Commenters stated that the range of the compressibility of rock surrounding a Castile brine pocket used in the CCA PA was too wide. They also believed that the brine pocket volume values used in the PA were too small. Castile rock compressibility is one of several parameters that affects the volume of brine pockets in the Castile. This is important because a drill bit would be more likely to hit a large brine pocket than a small one.

The EPA agrees with commenters that DOE's parameters for rock compressibility in the Castile and representation of brine pocket size/volume in the CCA PA were not consistent with available information. The EPA also believes that the parameters of the Castile brine pockets are highly uncertain. In order to capture this uncertainty, the Agency believed it would be appropriate to sample from a range of parameter values, rather than to use a single estimate, as DOE did in the CCA PA. In the PAVT, EPA required DOE to use a range of possible brine pocket volumes. (WPO#41887. See Docket A–93–02, Item V–B–1. See also Docket A–93–02, Item V–B–14.) Changing the rock compressibility of the Castile and the Castile porosity effectively modified the sampled brine pocket volume to include, more representatively, the possibility of larger brine pocket volumes like those expected based on data from the WIPP–12 borehole. The EPA found that modification of these parameters in the PAVT did not result in releases that exceed EPA's containment standards. Based on these results, EPA has concluded that the CCA PA was adequate for the purpose of demonstrating compliance.

e. Permeability of Borehole Plugs. In the PA modeling, DOE assumed that people drilling for resources would follow standard practice and plug the boreholes left behind. As long as these borehole plugs remain intact, the pressure of gases generated from the waste will build up inside the repository. The more permeable the borehole plugs are, the more gas will be capable of escaping from the repository. This would reduce pressure in the repository and therefore would reduce the potential for releases of radioactivity through spallings or direct brine release from a future drilling event. In the CCA PA, DOE modeled a situation in which borehole plugs between the Castile and Bell Canyon Formations would remain impermeable, and most borehole plugs closer to the earth's surface would disintegrate after two hundred years and would become more permeable.

One commenter stated that the CCA does not model the gas buildup which would result from impermeable plugs. The EPA does not agree that the CCA does not model gas buildup. In the CCA PA and PAVT, gas pressure is allowed to build up in the undisturbed repository. Pressure would be released if a borehole is drilled into the repository. In some of the PA simulations, pressure builds up again, although not to undisturbed levels, after it is released during a borehole intrusion. (Docket A–93–02, Item II–G–7, Figure 3.3.1) However, EPA was concerned about DOE's assumption that a relatively small number of borehole plugs would have low permeability. In the CCA PA, DOE assumed that 98 percent of the boreholes would be plugged with either two or three plugs, where the top plug would degrade and become more permeable, and 2 percent of the boreholes were plugged with a single low permeability plug. The EPA was concerned that an assumption that only 2 percent of the boreholes had low permeability might not be conservative. Therefore, EPA required that the permeability range for borehole plugs in the PAVT be broadened to include lower values (at which gas will not escape at a significant rate). This parameter change ensured that the PAVT would more frequently incorporate low borehole permeability and gas pressure buildup for more simulations than in the CCA PA, providing a more conservative result.

Other commenters expressed concern that the borehole plug permeabilities used in the CCA PA and the PAVT were too high, and might underestimate releases of radioactive material from the WIPP. One commenter pointed out that EPA retained the permeability used by DOE as a high value and then added a range of permeabilities extending to lower values after the Agency rejected DOE's initial value as too high.

In the PAVT, EPA required that two changes be made regarding the permeability of the borehole plugs. First, the Agency required that the permeability of the intact plugs during the first two hundred years of the plug lifetime be treated as a variable or probability distribution rather than as a fixed parameter, with a range bounded by values found in the literature. The range of values included borehole plug permeabilities both higher and lower than the constant permeability used in the CCA. In addition, EPA required DOE to use a range of permeability values to represent the permeability of borehole plugs that have started to degrade. The upper end of the new range was the same permeability as that used in the CCA, but the lower end of the range was reduced by three orders of magnitude and the median was reduced by an order of magnitude. The Agency believed that the upper end of the range chosen by DOE, based upon the permeability of silty sand, was reasonable because an abandoned borehole plug could degrade to this type of debris over long periods of time. Since the permeability of the actual borehole fill material at some time well into the future is unknowable, the Agency believes that the use of data based on natural materials is a reasonable approach. However, the Agency was not satisfied with the rationale for the lower end of the range originally chosen by DOE. The EPA believes that there is some probability that the concrete borehole plugs will not degrade as assumed in the CCA PA. Consequently, in the PAVT, EPA set the lower end of the range at a permeability value consistent with intact concrete.

One commenter stated that DOE had not sufficiently accounted for uncertainty in the lifetime of a borehole plug before it degrades. (A borehole plug with a longer lifetime would take longer to become more permeable and would allow more gas to build up in the repository.) This commenter stated that DOE should perform additional calculations to investigate how borehole plug lifetimes could influence repository conditions and compliance with the containment requirements.

The EPA also initially had concerns that uncertainty about the lifetime of borehole plugs had not been sufficiently represented in the CCA PA. In order to reflect this uncertainty, the Agency required DOE to use a probability distribution of borehole plug permeabilities for intact plugs during the first two hundred years of their lifetime in the PAVT, rather than a constant value. The sampled range of permeabilities includes values representing the permeability of both intact (newer) plugs and disintegrating (older) plugs. Therefore, EPA believes that this change made in the PAVT adequately addresses the effects of uncertainty in borehole plug life.

5. Other Performance Assessment Issues

The EPA used many methods to analyze specific scenarios or characteristics that DOE included in the PA. Commenters had concerns about

these methods, since the soundness of EPA's conclusions would depend upon the soundness of the methods used to reach those conclusions. Commenters disagreed with aspects of a few types of analyses in particular: sensitivity analysis, and the PA verification test ("PAVT"). Sensitivity analysis is a computer modeling technique that examines whether results of computer modeling will change significantly if a particular parameter value is changed. The EPA's approach to sensitivity analysis is documented in EPA's Technical Support Document for Section 194.23: Sensitivity Analysis. (Docket A–93–02, V–B–13) The PAVT was a set of 300 simulations of additional performance assessment calculations required by EPA. The PAVT implemented DOE's PA modeling using the same sampling methods as the CCA PA, but incorporating parameter values that were selected by EPA. Because some commenters disagreed with DOE's approach to the PA and EPA's approach to its analysis, they recommended that the Agency require DOE to repeat the PA using different scenarios or characteristics of the WIPP and its surroundings; these issues are discussed in preceding sections of this preamble related to the PA.

a. Sensitivity Analysis. Computer modelers perform a sensitivity analysis for a parameter in a model to find out if results of modeling are sensitive to (significantly affected by) that parameter. If the results of modeling are not sensitive to the parameter, then the exact value of the parameter is not important to the results of modeling.

The compliance criteria require DOE to document the development of input parameters for the PA under §§ 194.14(d), 194.23(c)(4), and 194.34(b). As part of its parameter development, DOE conducted a sensitivity analysis of parameters used in the CCA PA. (Docket A–93–02, Item II–G–1, Appendix SA, Volume XVI) The EPA reviewed this and supplementary information that documents DOE sensitivity analysis of the parameters sampled in the PA. (Docket A–93–02, Item II–G–7) As the Agency continued in its review of the CCA and supporting documentation, EPA found that there were three categories of parameters not fully documented in the CCA documents or in the Sandia National Laboratory WIPP Records Center. These categories were: (1) parameters lacking supporting evidence; (2) parameters having data records that support values other than those selected by DOE; and (3) parameters that are not explicitly supported by the relevant data or information. The EPA expressed concern about 58 parameters of the 465 parameters that EPA reviewed in detail. (Docket A–93–02, Item II–I–17) For these 58 parameters, EPA evaluated whether changing the parameter values would have a significant impact on the results of computer modeling, primarily through the use of a sensitivity analysis. (Docket A–93–02, Item V–B–13) (Distribution coefficients, or Kd values, were examined in separate calculations and analyses conducted by EPA. (Docket A–93–02, Items V–B–4, V–B–7, and V–B–8)) In its sensitivity analysis, the Agency examined changes in output from the PA models' major submodels that calculate releases and solubility of actinides: BRAGFLO [24], BRAGFLO—DBR [25], CUTTINGS—S [26], SOURCE TERM [27], and CCDFGF [28]. The EPA found that 27 of the 58 parameters have a significant impact on the results of modeling and that 31 of the 58 parameters did not have a significant impact. Some of these parameters (both significant and insignificant to results) were subsequently determined to be adequately supported based on additional documentation provided by DOE or Sandia National Laboratory. (Docket A–93–02, Items II–I–25 and II–I–27) For parameters that might have an impact on the results of the PA and were found not to be adequately supported, EPA required DOE to perform a Performance Assessment Verification Test with revisions to the significant parameters.

Commenters stated that they had concerns about the submodel approach used in EPA's sensitivity analysis. One commenter stated that EPA had not justified this approach, beyond stating that it was "a more sensitive method" than examining the final results of the complete PA model. Another commenter stated that EPA had not shown that the submodel approach for testing sensitivity related in any particular way to the compliance demonstration with the containment requirements. This commenter also stated that EPA had not explained or justified why the analysis used the average of changes in the outputs of the submodels, and that averaging output changes might disguise the significance of a parameter value change if some outputs change in direct response and others change inversely.

The DOE's PA model uses almost 1600 parameters. Even an important parameter may change the final results of the PA by a relatively small percentage because so many parameters contribute to the final results. The different submodels contain far fewer parameters than the complete PA. Therefore, a change in any one parameter will cause a greater percentage change in the output from a submodel than in the final result of the entire PA modeling. It is for this reason that EPA chose to use submodels. This approach provided intermediate results that would be a more sensitive measure of reactions of a model to changes in input parameters than the resultant complementary cumulative distribution functions ("CCDFs") used to determine compliance.

The submodel outputs that EPA analyzed for sensitivity included the outputs most closely linked with radionuclide release and the ability of the WIPP to meet EPA's containment requirements. Examples of submodel outputs are gas pressure in the repository; cumulative brine release into the Culebra dolomite; cumulative cavings release and cumulative spallings release to the earth's surface; and brine flow into the anhydrite interbeds away from the repository. If a parameter changes the submodel outputs significantly, it may have a significant impact on the final results of the PA; however, if a parameter does not change the submodel output significantly, then it cannot change the final results of the PA significantly. In addition, EPA notes that the nature of the testing—which included three model runs at low, average, and high parameter values—means that it is not practical to develop mean CCDFs. It would be necessary to run all of the PA codes for each parameter change a hundred times to create a single CCDF. Therefore, except for those parameters included in the CCDFGF code, it would have been extremely cumbersome and time-consuming to perform a sensitivity analysis on the final results of the PA.

The Agency disagrees that averaging the submodel outputs disguises the significance of a parameter value change

[24] BRAGFLO predicts gas generation rates, brine and gas flow, and fracturing within the anhydrite marker beds in order to predict the future state of the repository.

[25] BRAGFLO—DBR calculates the amount of waste that dissolves in brine and travels in the contaminated brine as a direct brine release.

[26] CUTTINGS—S predicts the volume of solid waste released from the repository because of human intrusion drilling. This includes releases from cavings (material that falls from the walls as a drill bit drills through), cuttings (material that is actually cut by a drill bit during drilling, including any waste), and spallings (releases of solids pushed up and out by gas pressure in the repository).

[27] SOURCE TERM calculates actinide solubilities within the repository. The solubility values are then used in the NUTS and PANEL codes to calculate the actinide concentrations in brine released from the repository.

[28] CCDFGF calculates the complementary, cumulative distribution functions ("CCDFs") used to show compliance with EPA's containment requirements.

if some outputs change in direct response and others change inversely. The EPA used absolute values [29] of the percent changes in computing the average percent changes. If two parameters had inverse relationships, those relationships would not cancel each other out because the final results would be an average of the absolute values. Averaging of the percent changes in the key submodel outputs was a significant step only for the parameters in the BRAGFLO code, where average changes to output were developed based on 11 model outputs. The EPA averaged the results of these eleven outputs in order to give equal weight to each in determining the sensitivity of BRAGFLO parameters.

Several members of the public commented that most of the sensitivity analyses varied only one parameter, rather than varying several parameters at a time, which potentially could show a significant combined result. The EPA varied single parameters in most of the analyses to identify those parameters that were most important to the PA results. One of the problems with varying multiple parameters simultaneously is that it is difficult to determine which parameter (or parameters) led to the observed result. Analysis of groups of parameters requires the Agency to find that the entire group of parameters is sensitive or not sensitive. In addition, if some parameters in a group increase releases while others reduce releases, a group analysis may not detect actual sensitivity for individual parameters. This is because the sensitivity analysis typically looks at low, high, and average values for all parameters in the group simultaneously. Without examining the sensitivity of individual parameters, the analyst would not always know enough about the parameters to be able to predict the most extreme situation with the greatest consequences of releases. The ability to determine the significance of individual parameters is important because this allows one to improve the model's predictive capability by focusing resources on those parameters that are most sensitive and have the greatest impact on results. It is true that EPA did not perform a separate sensitivity analysis run on groups of parameters that it determined were insensitive through individual parameter tests. The Agency believes that this is not necessary because the cumulative calculated sensitivity of these insensitive parameters is so small compared to the sensitive parameters. For example, the sum of the percent changes for all 33 insensitive parameters in BRAGFLO together was 47 percent (ranging from 0 percent to 10 percent each), while the percent change for the individual sensitive parameters ranged from 101 percent to 103,611 percent each. (Docket A–93–02, Item V–B–13, Table 3.1–1) Therefore, EPA concluded that those parameters it found insensitive through analysis of individual parameters will not have a significant effect on results of the PA and do not need to be re-analyzed in groups.

In addition to performing its own sensitivity analysis on parameters, the Agency required DOE to complete a comprehensive recalculation of the entire PA in the Performance Assessment Verification Test ("PAVT"). The purpose of the PAVT was to perform a complete evaluation of the synergistic effects of changing important and questionable parameters on the outcome of the PA calculations. The results of the PAVT indicate that the calculated releases would increase when changes are made to the sensitive parameters identified by the Agency, but the revised results of the PA with these more conservative parameter values would still be an order of magnitude less than the containment requirements of 40 CFR 191.13.

A commenter stated that EPA's sensitivity analysis did not vary conceptual models. The Agency agrees that this is true. The objective of EPA's sensitivity analysis was to determine the importance of selected individual parameters and groups of parameters to the PA results. The purpose of a sensitivity analysis on conceptual models would be to determine if model results would change significantly using different assumptions or using alternative conceptual models. The EPA examined the conceptual models and alternatives, under §§ 194.23(a)(1) and (a)(2). As a result of this review, EPA required DOE to conduct a sensitivity analysis on Culebra transmissivity and to examine the assumption that the Culebra acts as a fully confined system as it pertains to hydrogeochemistry of the Culebra. (Docket A–93–02, Item II–I–17) The EPA found that the sensitivity analysis results supported DOE's treatment of Culebra transmissivity and treatment of the Culebra as a confined system because of the minimal impact on results when changing assumptions. (Docket A–93–02, Item II–I–31) In addition, the Conceptual Models Peer Review Panel reviewed the conceptual models, as required by §§ 194.27 and 194.23(a)(3)(v). The Agency finds that it is not necessary to perform further sensitivity analysis on conceptual models because both the Agency's and the Panel's reviews accomplished the purpose of evaluating the impact of using different assumptions or using alternative conceptual models. These reviews found all the conceptual models except the spallings model to be adequate for use in the PA, and concluded that the spallings values used in the CCA PA are reasonable for use in the PA. (Docket A–93–02, Item V–B–2, CARD 23, Section 7)

The EPA determined that DOE adequately provided a detailed listing of the code input parameters; listed sampled input parameters; provided a description of parameters and the codes in which they are used; discussed parameters important to releases; described data collection procedures, sources of data, data reduction and analysis; and described code input parameter development, including an explanation of quality assurance activities. The DOE also documented the probability distribution of these parameters, as required by § 194.34(b). The Agency analyzed parameter values used in the CCA, including DOE's documentation of the values and EPA's sensitivity analysis. The EPA also required DOE to change these parameter values in the PAVT and found that the WIPP is still an order of magnitude below the containment requirements in § 191.13. (For further discussion of values for several specific parameters, refer to the preceding preamble discussion, "Parameter values." See also Docket A–93–02, Item V–B–2, CARD 23, Sections 8 and 9.) Therefore, the Agency determines that the CCA complies with §§ 194.14(d), 194.23(c)(4) and 194.34(b).

b. Performance Assessment Verification Test. The containment requirements at § 191.13 indicate that a disposal system is to be tested through a PA that predicts the likelihood of occurrence of all significant processes and events that may disturb the disposal system and affect its performance, and that predicts the ability of the disposal system to contain radionuclides. Section 191.13 requires that a disposal system be designed so that there is reasonable expectation that cumulative releases (1) have a probability of less than one in ten (0.1) of exceeding the calculated release limits, and (2) have no more than a one in one thousand (0.001) chance of exceeding ten times the calculated release limits.

In the process of reviewing the CCA, the Agency found problems with some computer codes and with documentation of parameter

[29] Absolute value is the magnitude of a number, without a positive or negative sign. For example, positive three and negative three both have an absolute value of three.

development. Commenters also voiced concerns about some parameters used in the CCA PA during the public comment period for the Advanced Notice of Proposed Rulemaking. The Conceptual Models Peer Review Panel initially found that one of the conceptual models used for the PA, the spallings conceptual model, was not adequate. The DOE itself found some problems with some of its codes, particularly concerning code stability. Because of these many concerns, the Agency required DOE to perform additional calculations in a Performance Assessment Verification Test ("PAVT") in order to verify that the cumulative impact of all changes to input parameters, conceptual models, and computer codes used in the PA was not significant enough to necessitate a new PA. (PAVT, Docket A–93–02, Items II–G–26 and II–G–28) The PAVT used modified parameter values and ranges, selected by EPA, in DOE's PA model. Many of these parameter values were suggested by public comments. The PAVT results showed releases that were higher, on average, than DOE's original calculations in the CCA. However, the PAVT results were still well within the EPA release limits stated in 40 CFR 191.13.

During the public comment period on EPA's proposed certification decision for the WIPP, commenters raised several issues about the PAVT and about the PA in general. Some commenters stated that the PAVT incorporated extremely conservative ranges for 24 critical parameters, and that the PA in general was done in a conservative fashion. Other commenters stated that specific parameter values needed to be changed in order to make more conservative assumptions. In particular, the public mentioned parameters for actinide solubility, distribution coefficients (K_d), the probability of hitting a brine pocket, and the permeability of borehole plugs. (These parameters are discussed above.) Commenters also said that DOE needed to investigate possible human intrusion scenarios more thoroughly. Among the human intrusion scenarios commenters identified for further study were air drilling, fluid injection, CO_2 injection, and potash mining. Members of the public commented that DOE had incorrectly assessed geology of the WIPP site and the future state of the waste to go into the WIPP. They stated concerns about the potential for dissolution, for the recharge of ground water in the Rustler Formation with contaminated brine, for earthquakes, and for water entering the Salado layer and the modeling of gas generation and flow of brine and gas in the repository. Many commenters stated that the Agency should require DOE to run another PA using different assumptions about these topics.

The EPA initially had many of the same concerns as those mentioned by the public, particularly concerning parameters and human intrusion scenarios. As discussed in the above preamble sections on the PA, EPA questioned the values and distributions of many values of the parameters. The Agency even required DOE to revise some parameter values for the PAVT. The EPA also asked DOE to investigate fluid injection further. After receiving public comments, the Agency did independent work on the possible impacts of fluid injection and air drilling, as well as analysis of the likelihood of air drilling and CO_2 injection in the Delaware Basin. (Docket A–93–02, Item V–C–1, Sections 5 and 8) After reviewing the information available, the Agency concludes that DOE's PA incorporates the appropriate human intrusion scenarios and geologic and disposal system characteristics. The PAVT and additional analyses of intrusion scenarios by both DOE and EPA have adequately addressed concerns raised by commenters.

Based upon results of the CCA PA (as confirmed by the PAVT), EPA finds that the WIPP complies with the containment requirements by a comfortable margin, even when using more conservative parameter values that were changed significantly from those in the CCA PA. This modeling shows that the WIPP will contain waste safely under realistic scenarios, and even in many extreme cases. The EPA found that the scenarios and parameter changes suggested by commenters either had already been adequately addressed by DOE, were inappropriate for the Delaware Basin, would impact neither releases nor the results of the PA sufficiently to justify further analysis, or were not realistic. Therefore, the Agency concludes that no further PA is required to determine if the WIPP is safe or to make its certification decision.

Many comments were based on a philosophy that DOE should use an unrealistically conservative approach to the PA. For example, a commenter stated that air drilling should be incorporated in the PA at the most conservative rate predicted by DOE in the near future for the entire U.S., even if air drilling is not currently a standard practice in the Delaware Basin. Another commenter suggested using the most conservative value from the PAVT for the probability of hitting a brine pocket, even after the commenter's own sensitivity analysis showed that this parameter did not have a significant impact on WIPP compliance at still higher values. A different commenter stated that DOE and EPA should analyze actinide solubilities as if DOE were not adding MgO to reduce those solubilities, even though the Department has committed to adding MgO. The Agency found all of these suggestions to be inappropriate, either because they were unrealistic or because they required additional analysis when the change had already been demonstrated to have little or no impact on the PA results. The Agency believes that the PA should be a reasonable assessment with some conservative assumptions built in, rather than an assessment comprised entirely of unrealistic assumptions and worst-case scenarios. The disposal regulations at 40 CFR Part 191 require the PA to show there is a reasonable expectation that cumulative releases will meet the containment requirements. This philosophy is reflected elsewhere in EPA's requirements, such as in the requirement for the mean CCDF to comply with the containment requirement, rather than for every CCDF to comply. If unrealistically conservative assumptions were used in the PA, then results of the PA would not reflect reality and would not be a reasonable measure of the WIPP's capability to contain waste.

6. Conclusions

Section 194.23 sets forth specific requirements for the models and computer codes used to calculate the results of performance assessments ("PA") and compliance assessments. In order for these calculations to be reliable, DOE must properly design and implement the computer codes used in the PA. To that end, § 194.23 requires DOE to provide documentation and descriptions of the PA models, progressing from conceptual models through development to mathematical and numerical models, and finally to their implementation in computer codes.

The CCA and supporting documents contain a complete and accurate description of each of the conceptual models used and the scenario construction methods used. The scenario construction descriptions include sufficient detail to understand the basis for selecting some scenarios and rejecting others and are adequate for use in the CCA PA calculations. Based on information provided in the CCA, together with supplementary information provided by DOE in response to specific EPA requests, EPA

concluded that DOE provided an adequate and complete description of alternative conceptual models seriously considered but not used in the CCA. The information on peer review in the CCA and in supplementary information demonstrates that all conceptual models have undergone peer review consistent with the requirements of § 194.27. Related issues discussed above in today's preamble include spallings, fluid injection, air drilling, CO_2 injection, and the gas generation conceptual model. The Agency determines that the DOE has demonstrated compliance with the requirements of §§ 194.23 (a)(1), (a)(2) and (a)(3)(v).

The Conceptual Models Peer Review Panel found all the conceptual models to reasonably represent possible future states of the repository and to be adequate for use in the PA except the spallings conceptual model. However, as discussed above in this preamble, additional modeling conducted by DOE, and additional data presented by DOE, provide a substantial basis for EPA to conclude that the results of the spallings model are adequate and useful for the purpose for which conceptual models are intended, i.e.; to aid in the determination of whether the WIPP will comply with the disposal regulations during the regulatory time period. Public comments received on this issue are discussed above in the preamble section on spallings. Because the spallings model produces reasonable and conservative results, and because the Peer Review Panel found that all other conceptual models reasonably represent possible future states of the repository, EPA finds DOE in compliance with § 194.23(a)(3)(i).

Based on information contained in the CCA and supporting documentation for each code, EPA concludes that the mathematical models used to describe the conceptual models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models. Some of the specific issues related to this criterion are in the section of the preamble entitled, "Two-dimensional modeling of brine and gas flow." Based on the CCA and supplementary information provided by DOE, the Agency determines that DOE provided sufficient technical information to document the numerical models used in the CCA. Based on verification testing, EPA also determined that the computer codes accurately implement the numerical models and that the computer codes are free of coding errors and produce stable solutions. The DOE resolved coding error problems and stability problems identified in numerical models by completing code revisions and supplementary testing requested by the Agency. Therefore, the Agency concludes that DOE has demonstrated compliance with §§ 194.23(a)(3) (ii), (iii) and (iv).

Based on EPA audits and CCA review, EPA found that code documentation meets the quality assurance requirements of ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition. Thus, the Agency finds that DOE complies with § 194.23(b).

Based on DOE's documentation for each code and supplementary information requested by EPA, the Agency found that DOE provided adequate documentation so that individuals knowledgeable in the subject matter have sufficient information to judge whether the codes are formulated on a sound theoretical foundation, and whether the code has been used properly in the PA. The EPA found that the CCA and supplementary information included an adequate description of each model used in the calculations; a description of limits of applicability of each model; detailed instructions for executing the computer codes; hardware and software requirements to run these codes; input and output formats with explanations of each input and output variable and parameter; listings of input and output files from sample computer runs; and reports of code verification, bench marking, validation, and QA procedures. The EPA also found that DOE adequately provided a detailed description of the structure of the computer codes and supplied a complete listing of the computer source code in supplementary documentation to the CCA. The documentation of computer codes describes the structure of computer codes with sufficient detail to allow EPA to understand how software subroutines are linked. The code structure documentation shows how the codes operate to provide accurate solutions of the conceptual models. The EPA finds that DOE did not use any software requiring licenses. Therefore, EPA determines that DOE has complied with the requirements of §§ 194.23(c) (1),(2),(3) and (5).

The EPA determined that DOE, after additional work and improvement of records in the SNL Record Center, adequately provided a detailed listing of the code input parameters; listed sampled input parameters; provided a description of parameters and the codes in which they are used; discussed parameters important to releases; described data collection procedures, sources of data, data reduction and analysis; and described code input parameter development, including an explanation of QA activities. The EPA determined that the CCA and supplementary information adequately discussed how the effects of parameter correlation are incorporated, explained the mathematical functions that describe these relationships, and described the potential impacts on the sampling of uncertain parameters. The CCA also adequately documented the effects of parameter correlation for both conceptual models and the formulation of computer codes, and appropriately incorporated these correlations in the PA. Public comments regarding parameters are discussed above in the preamble in the section titled "Parameter Values." The Agency finds that DOE has demonstrated compliance with the requirements of § 194.23(c) (4) and (6).

Because DOE provided EPA with ready access to the necessary tools to permit EPA to perform independent simulations using computer software and hardware employed in the CCA, EPA finds DOE in compliance with § 194.23(d).

Section 194.31 of the compliance criteria requires DOE to calculate release limits for radionuclides in the WIPP in accordance with 40 CFR Part 191, Appendix A. Release limits are to be calculated using the activity, in curies, from radioactive waste that will exist in the WIPP at the time of disposal. The CCA PA and the PAVT were calculated using release limits calculated according to Appendix A of 40 CFR Part 191 using DOE's projected inventory of waste radioactivity at the time of disposal. Therefore, EPA concludes that DOE has met the requirements of § 194.31.

Section 194.32 requires DOE to consider, in the PA, both natural and man-made processes and events which can have an effect on the disposal system. The EPA expected DOE to consider all features, events and processes ("FEPs") that may have an effect on the disposal system, including both natural and human-initiated processes. The Department is not required to consider FEPs that have less than one change in 10,000 of occurring over 10,000 years.

The EPA concluded that the initial FEP list assembled by DOE was sufficiently comprehensive, in accordance with §§ 194.32(a) and (e)(1). Based on quantitative and qualitative assessments provided in the CCA and supporting documents, EPA concluded that DOE appropriately rejected those FEPs that exhibit low probability of occurrence during the regulatory period,

in accordance with § 194.32(d). In addition, EPA found DOE's inclusion of various scenarios in the PA to be reasonable and justified, and meets the requirement of § 194.32(e)(2). The DOE provided documentation and justification for eliminating those FEPs that were not included in the PA. In some cases (e.g., fluid injection, CO_2 injection, potash mining and dissolution), the CCA did not initially provide adequate justification or convincing arguments to eliminate FEPs from consideration in the PA. However, DOE provided supplemental information and analyses, which EPA determined was sufficient to demonstrate compliance with § 194.32(e)(3).

The EPA verified, through review of the CCA and supporting documents, that DOE included, in the PA, appropriate changes in the hydraulic conductivity values for the areas affected by mining. The area considered to be mined for potash in the controlled area is consistent with the requirement of § 194.32(b), that the mined area be based on mineral deposits of those resources currently extracted from the Delaware Basin. Thus, EPA finds that DOE complies with § 194.32(b).

In accordance with § 194.32(c), DOE considered the possibility of fluid injection, identified oil and gas exploration and exploitation, and water and potash exploration as the only near future human-initiated activities that need to be considered in the PA. The EPA's review of the CCA and supporting documents referenced in the CCA with respect to § 194.32(c), indicated that DOE adequately analyzed the possible effects of current and future potential activities on the disposal system. In response to concerns expressed by EPA and stakeholders, DOE conducted additional analyses and submitted follow-up information. In addition, EPA has performed its own analysis of fluid injection. Public comments concerning human intrusion FEPs are discussed in the preamble sections above titled, "Fluid injection," "Potash mining," and "CO_2 injection." The collected information provided by DOE was adequate. Therefore, EPA concludes that DOE's analysis meets the requirements of § 194.32(c).

Section 194.33 requires DOE to make specific assumptions about future deep and shallow drilling in the Delaware Basin. The EPA found that the documentation in the CCA demonstrated that DOE thoroughly considered deep and shallow drilling activities and rates within the Delaware Basin in accordance with § 194.33 (a) and (b). The EPA found that DOE appropriately screened out shallow drilling from consideration in the PA. The EPA also found that DOE appropriately incorporated the assumptions and calculations for drilling into the PA as stipulated in §§ 194.33 (b) and (c). In accordance with § 194.33(c), DOE evaluated the consequences of drilling events assuming that drilling practices and technology remain consistent with practices in the Delaware Basin at the time the certification application was prepared. Public comments concerning this issue are discussed in the preamble section above titled, "Air drilling." The EPA determined that the PA models did not incorporate the effects of techniques used for resource recovery, as allowed by § 194.33(d). The EPA further concludes that the drilling information in the CCA is consistent with available data. Therefore, the Agency finds DOE in compliance with the requirements of § 194.33.

Section 194.34 of the compliance criteria provides specific requirements for presenting the results of the PA for the WIPP. Section 194.34 requires DOE to use complementary cumulative distribution functions ("CCDFs") to express the results of the PA. The Department also must document the development of probability distributions, and the computational techniques used for drawing random samples from these probability distributions, for any uncertain parameters used in the PA. The PA must include a statistically sufficient number of CCDFs. The CCA must display the full range of CCDFs generated. Finally, the CCA must demonstrate that the mean of the population of CCDFs meets the containment requirements of § 191.13 with at least a 95 percent level of statistical confidence.

The CCA presented the results of the PA in the form of CCDFs. The PA used Latin Hypercube Sampling to sample values randomly from probability distributions of uncertain parameters. Parameter values and their distributions were documented in the CCA and in Sandia National Laboratory's Records Center. The CCA presented the full range of the 300 CCDFs generated in the PA, as well as mean CCDF curves. The CCDFs showed that the mean CCDF curve met the containment requirements of § 191.13. Less than one percent of CCDF curves in the CCA PA exceeded one times the release limit, and no CCDF curves exceeded ten times the release limit. Based on these results, DOE concluded that the WIPP met EPA's requirements.

The EPA also examined the results of the PAVT in light of the requirements of § 194.34. The PAVT presented the results of the PA in CCDFs, and presented the complement of 300 CCDFs. DOE's documentation and EPA's separate analysis demonstrated that 300 CCDFs are sufficient, statistically speaking. The PAVT used the same random sampling technique of Latin Hypercube Sampling that the PA model used for the CCA PA. The DOE used parameter values assigned by EPA, as well as other parameter values and their distributions documented earlier for the CCA PA. The mean CCDF curve for the PAVT showed that releases were roughly three times those calculated in the CCA PA, but releases still met the containment requirements of § 191.13 by more than an order of magnitude at the required statistical confidence level. Less than ten percent of CCDF curves in the PAVT exceeded one times the release limit, and no CCDF curves exceeded ten times the release limit. The PAVT confirmed that the CCA PA was adequate for determining compliance. Therefore, EPA concludes that the CCA PA meets EPA's containment requirements and that DOE complies with the requirements of § 194.34.

C. General Requirements

1. Quality Assurance (§ 194.22)

Section 194.22 establishes quality assurance ("QA") requirements for the WIPP. QA is a process for enhancing the reliability of technical data and analyses underlying DOE's CCA. Section 194.22 requires DOE to (a) establish and execute a QA program for all items and activities important to the containment of waste in the disposal system, (b) qualify data that were collected prior to implementation of the required QA program, (c) assess data for their quality characteristics, to the extent practicable, (d) demonstrate how data are qualified for their use, and (e) allow verification of the above measures through EPA inspections/audits. The DOE's QA program must adhere to specific Nuclear Quality Assurance ("NQA") standards issued by the American Society of Mechanical Engineers ("ASME").

The EPA assessed compliance with the QA requirements in two ways. First, EPA reviewed general QA information submitted by DOE in the CCA and reference documents. The EPA's second level of review consisted of visits to the WIPP site, as well as WIPP-related facilities, to perform independent audits and inspections to verify DOE's compliance with the QA requirements. The proper establishment and execution of a QA program is verified strictly by way of inspections and audits.

Therefore, EPA conducted audits to verify the proper execution of the QA program at DOE's Carlsbad Area Office ("CAO"), Sandia National Laboratories ("SNL"), and Westinghouse's Waste Isolation Division ("WID") at the WIPP facility. The EPA auditors observed WIPP QA activities, interviewed WIPP personnel, and reviewed voluminous records required by the NQA standards, but not required to be submitted as part of the CCA.

Section 194.22(a)(1) requires DOE to adhere to a QA program that implements the requirements of the following: (1) ASME NQA–1–1989 edition; (2) ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition; and (3) ASME NQA–3–1989 edition (excluding Section 2.1 (b) and (c), and Section 17.1). The EPA verified that DOE established these requirements in the Quality Assurance Program Document ("QAPD") contained in the CCA. The QAPD is the documented QA program plan for the WIPP project, as a whole, to comply with the NQA requirements. The QAPD is implemented by DOE's CAO, which has the authority to audit all other organizations associated with waste disposal at the WIPP (such as WID, SNL and waste generator sites) to ensure that their lower-tier QA programs establish and implement the applicable requirements of the QAPD. The EPA audited DOE's QA program at CAO and determined that DOE properly adhered to a QA program that implements the NQA standards. Therefore, EPA finds DOE in compliance with § 194.22(a)(1).

Section 194.22(a)(2) requires DOE to include information in the CCA that demonstrates that the requisite QA program has been "established and executed" for a number of specific activities. Section 194.22(a)(2)(i) requires DOE to include information which demonstrates that the QA program has been established and executed for waste characterization activities and assumptions. In the CCA, DOE provided the QAPD, which is DOE's central QA document program plan that then must be incorporated into site-specific QA program plans. The DOE generator sites will prepare site certification Quality Assurance Plans ("QAPs") that, together with Quality Assurance Project Plans ("QAPjPs"), will constitute site-specific QA program plans.[30] The EPA finds that the QAPD, as it applies to waste characterization, is in conformance with the NQA requirements and that DOE's QA organization can properly perform audits to internally check the QA programs of the waste generator sites. However, as discussed below, the Agency will verify the establishment and execution of site-specific QA programs.

The compliance criteria require that QA programs be established and executed specifically with respect to the use of process knowledge and a system of controls for waste characterization. (§§ 194.22(a)(2)(i) and 194.24(c)(3) through (5)) To accomplish this, waste generator site-specific QA programs and plans must be individually examined and approved by EPA to ensure adequate QA programs are in place before EPA allows individual waste generator sites to transport waste for disposal at the WIPP. Since waste characterization activities have not begun for most TRU waste generator sites and storage facilities, EPA has not yet evaluated the compliance of many site-specific QA plans and programs.

To date, one WIPP waste generator site, Los Alamos National Laboratory ("LANL"), has been approved by EPA to have established an adequate QA program plan and to have properly executed its QA program in accordance with the plan. Prior to approval of LANL's site-specific QA program, EPA conducted an audit of DOE's overall WIPP QA program and approved its capability to perform audits in accordance with the requirements of NQA–1. The EPA then inspected three DOE audits of LANL's QA program. Based on the results of the inspections, the EPA inspectors determined that the QA program had been properly executed at LANL.[31] Therefore, EPA finds that the requirements of § 194.22(a)(2)(i) have been met for waste characterization activities at LANL.

With respect to other waste generator sites, EPA will verify compliance with § 194.22(a)(2)(i) conditioned on separate, subsequent approvals from EPA that site-specific QA programs for waste characterization activities and assumptions have been established and executed in accordance with applicable NQA requirements at each waste generator site.

As waste generator facilities establish QA programs after LANL, EPA will assess their compliance with NQA requirements. The approval process for site-specific QA programs includes a **Federal Register** notice, public comment period, and on-site EPA audits or inspections to evaluate implementation. For further information on EPA's approval process, see Condition 2 and § 194.8. For further discussion of waste characterization programs and approval of the processes used to characterize waste streams from generator sites, see the discussion of § 194.24 below in this preamble.

Section 194.22(a)(2)(ii) requires DOE to include information which demonstrates that the QA program has been established and executed for environmental monitoring, monitoring of performance of the disposal system and sampling and analysis activities. Westinghouse's WID was responsible for establishing this requirement under the WID QAPD described in the CCA. The EPA conducted an audit of the WID and found that the requisite QA program had been established and executed for environmental monitoring, sampling and analysis activities. The EPA also finds that Chapter 5 of the CCA and referenced documents contain a satisfactory description of compliance with this section. Therefore, EPA finds the WIPP in compliance with § 194.22(a)(2)(ii).

Section 194.22(a)(2)(iii) requires DOE to include information which demonstrates that the QA program has been established and executed for field measurements of geologic factors, ground water, meteorologic, and topographic characteristics. WID is responsible for conducting field measurements of geologic factors, ground water, meteorologic and topographic characteristics. The EPA conducted an audit of the WID QA program and found it to be properly established and executed in accordance with the applicable NQA requirements. The EPA also finds that Chapter 5 of the CCA and referenced documents contain a satisfactory description of compliance with this section. Therefore, EPA finds DOE in compliance with § 194.22(a)(2)(iii).

[30] NQA–1 (Element II–2) requires that organizations responsible for activities affecting quality (in the case of the WIPP, affecting the containment of waste in the disposal system) must have documented QA programs in accordance with the applicable NQA requirements. The documentation for such programs is commonly referred to as a "quality assurance program plan," or "QAPP." For WIPP waste generator sites, the role of the QAPP is fulfilled by documents with other titles, such as the QAP and the QAPjP. The "TRU QAPP" referenced by DOE in the CCA is not a QAPP as described by the NQA standards; rather, it is a technical document that describes the quality control requirements and performance standards for characterization of TRU waste coming to the WIPP facility. The TRU QAPP is addressed more specifically in the preamble discussion of § 194.24, Waste Characterization.

[31] The terms "audits" and "inspections" are not synonymous. At waste generator sites, EPA may either conduct its own audits or inspect audits conducted by DOE. (The DOE–CAO conducts audits to evaluate waste characterization programs at waste generator sites.) The difference is that for an inspection, EPA's role is to review DOE's QA checks, and not actually conduct all of the checks itself.

Section 194.22(a)(2)(iv) requires DOE to include information to demonstrate that the QA program has been established and executed for computations, computer codes, models and methods used to demonstrate compliance with the disposal regulations. SNL and WID are responsible for computations and software items. The EPA reviewed information in the CCA and conducted audits of both SNL and WID QA programs. The Agency found that computer codes were documented in a manner that complies with the applicable NQA requirements, and that software QA procedures were implemented in accordance with ASME NQA–2a, part 2.7. The EPA also finds that Chapter 5 of the CCA and referenced documents contain a satisfactory description of compliance with this section. The EPA therefore finds that DOE complies with § 194.22(a)(2)(iv).

Section 194.22(a)(2)(v) requires DOE to include information which demonstrates that the QA program has been established and executed for procedures for implementation of expert judgment elicitation. CAO and CAO's Technical Assistance Contractor were responsible for developing the procedures for the expert elicitation that was conducted (after the publication of the CCA). The EPA found that the requirements of this regulation were met by the development and implementation of CAO Team Procedure 10.6 (Revision 0), CAO Team Plan for Expert Panel Elicitation (Revision 2), and CAO Technical Assistance Contractor Experimental Programs Desktop Instruction No.1 (Revision 1). The EPA finds DOE in compliance with § 194.22(a)(2)(v). The process of expert judgment elicitation is discussed in further detail in the section of this preamble related to § 194.26 of the compliance criteria.

Section 194.22(a)(2)(vi) requires DOE to include information which demonstrates that the QA program has been established and executed for design of the disposal system and actions taken to ensure compliance with the design specifications. Most of the WIPP's design was conducted before the EPA required a QA program. Design work for the repository sealing system was conducted under the SNL QA program. The QA procedures established and implemented by SNL and WID address the requirements of the NQA standards; design verification was accomplished by a combination of NQA–1 Supplement 3S–1 methods. The EPA audits of SNL and WID showed that the QA programs are properly established and executed. The EPA also finds that Chapter 5 of the CCA and referenced documents contain an adequate description of compliance with this section. Therefore, EPA finds DOE in compliance with § 194.22(a)(2)(vi).

Section 194.22(a)(2)(vii) requires DOE to include information which demonstrates that the QA program has been established and executed for the collection of data and information used to support compliance applications. SNL was responsible for this activity. SNL adequately addressed these requirements by implementing numerous QA procedures to ensure the quality of data and information collected in support of the WIPP. The EPA's audit of SNL concluded that the QA program is properly established and executed. Therefore, EPA finds DOE in compliance with § 194.22(a)(2)(vii).

Section 194.22(a)(2)(viii) requires DOE to include information which demonstrates that the QA program has been established for any other item or activity not listed above that is important to the containment of waste in the disposal system. The DOE has not identified any other item or activity important to waste isolation in the disposal system that require QA controls to be applied as described in the CAO QAPD. To date, the EPA has also not identified any other items or activities which require controls. The EPA audits determined that the QA organizations of CAO, WID, and SNL have sufficient authority, access to work areas, and organizational freedom to identify other items and activities affecting the quality of waste isolation. Therefore, EPA finds DOE in compliance with § 194.22(a)(2)(viii).

Section 194.22(b) requires DOE to include information which demonstrates that data and information collected prior to the implementation of the QA program required by § 194.22(a)(1) have been qualified in accordance with an alternate methodology, approved by the Administrator or the Administrator's authorized representative, that employs one or more of the following methods: peer review; corroborating data; confirmatory testing; or a QA program that is equivalent in effect to § 194.22(a)(1) ASME documents.

The EPA conducted two audits that traced new and existing data to their qualifying sources. The two audits found that equivalent QA programs and peer review had been properly applied to qualify existing data used in the PA. The EPA also concluded that the use of existing data from peer-reviewed technical journals was appropriate, since the level of such reviews was equivalent to NUREG–1297 peer reviews conducted by DOE. Therefore, EPA finds DOE in compliance with § 194.22(b). Furthermore, the Agency is approving the use of any one of the following three methods for qualification of existing data: (1) peer review, conducted in a manner that is compatible with NUREG–1297; (2) a QA program that is equivalent in effect to ASME NQA–1–1989 edition, ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition, and ASME NQA–3–1989 edition (excluding Section 2.1(b) and (c) and Section 17.1); or (3) use of data from a peer-reviewed technical journal.

Sections 194.22(c)(1) through (5) require DOE to provide information which describes how all data used to support the compliance application have been assessed, to the extent practicable, for specific data quality characteristics ("DQCs"). In the CCA, DOE stated that in most cases it was not practicable to document DQCs for performance assessments, but asserted that the intent of DQCs was fulfilled by other QA programs and quality control measures.

The Agency agrees with DOE that it is not appropriate to apply DQCs retroactively to all of the parameters and existing data used in the PA, but believes that they can and should be applied to measured data (i.e., field monitoring and laboratory experiments) as they are developed and used. The EPA found that, because DOE deemed it impractical to apply DQCs in some instances, the CCA and supplementary information did not systematically or adequately address DOE's consideration of DQCs for measured data related to the PA. Therefore, EPA reviewed parameter records to determine whether DOE could in fact show that various data quality characteristics had been considered for measured data. The Agency reviewed additional materials, primarily data record packages at the SNL records center, to independently determine whether DQCs had been assessed for data used in the PA. The EPA found that for recent data (five to ten years old), DOE's experimental program plans in the data record packages generally addressed data quality in measured data, including accuracy, precision, representativeness, completeness, and comparability during measurement and collection.

For older existing data, EPA found less documentation of assessment of DQCs. However, laboratory notebooks which provide first-hand documentation of measurement procedures and results supporting data

record packages provided some information related to the quality of measurements (e.g., how well DOE's measured values compared with values found in peer-reviewed publications). Many existing data were also subject to peer review in order to qualify them for use in the CCA; EPA concluded that the peer review panels considered the use of DQCs in determining that such data were adequate. The EPA also agreed with DOE's argument in supplementary information that for most of the existing data, collection under a program equivalent to the NQA standards in § 194.22(a)(1) provided adequate evidence that the quality of data had been evaluated and controlled. Finally, EPA concurred with DOE's conclusion that the uncertainties in measured data reflected in DQCs have a small effect on compliance certainty, compared to other uncertainties in the PA (such as extrapolation of processes over 10,000 years).

The EPA found that data quality received considerable attention from peer reviewers and Independent Review Teams assembled by DOE, and was subject to NQA requirements as specified in the Quality Assurance Program Document ("QAPD"). Section § 194.22(a) requires DOE to implement NQA–3–1989 in its quality assurance program. NQA–3–1989 states, "Planning shall establish provisions for data quality evaluation to assure data generated are valid, comparable, complete, representative, and of known precision and accuracy." This requirement was satisfactorily incorporated in the QAPD, which is the quality assurance "master" document that establishes QA requirements for all activities overseen by the DOE Carlsbad Area Office. The EPA determined by means of audits that DOE adequately implemented the requirements of the QAPD, and also determined that DOE adequately qualified existing data in accordance with Section § 194.22(b). (See Docket A–93–02, Item V–B–2, CARD 22, Sections 22.A.6 and 22.J.5.) Therefore, EPA finds that DOE's data qualification was sufficiently rigorous to account for the DQCs identified in the WIPP compliance criteria.

Based on its review of data record packages and the QAPD, the Agency finds that DOE has assessed DQCs, to the extent practicable, for data used in the CCA. The EPA thus finds that DOE complies with § 194.22(c). The Agency expects that DOE will assess DQCs for future waste characterization and monitoring activities.

Section 194.22(d) requires DOE to provide information which describes how all data are qualified for use. SNL generated a table providing information of how all data in the PA were qualified. The EPA audited the existing QA programs and determined that the data were qualified for use by independent and qualified personnel in accordance with NQA requirements. On this basis, EPA finds DOE in compliance with § 194.22(d).

Section 194.22(e) allows EPA to verify execution of QA programs through inspections, record reviews, and other measures. As discussed above, EPA has conducted numerous audits of DOE facilities, and intends to conduct future inspections of waste generator site-specific QA plans under its authority. The Agency also intends to conduct inspections or audits to confirmed DOE's continued adherence to QA requirements for which EPA is certifying compliance.

In summary, EPA finds DOE in compliance with the requirements of § 194.22 subject to the condition that EPA separately approve the establishment and execution of site-specific QA programs for waste characterization activities at waste generator sites. (See Condition 2 of the proposed Appendix A to 40 CFR Part 194.)

The EPA received many public comments on § 194.22, but the most significant issue identified by commenters was the lack of objective evidence in the CCA to justify meeting the requirements at § 194.22(a)(2). The comments posed the fundamental question of whether or not EPA could certify, based solely on information provided by DOE in the CCA, that DOE established and executed a QA program for the eight areas considered important to the containment of waste in the disposal system. In response to such concerns, EPA believes it is necessary to explain and clarify the verification of these QA requirements.

The CCA does not alone provide all the documentation to verify compliance with the requirement of § 194.22(a)(2). Section § 194.22(e) requires EPA to verify that DOE has established and executed a QA program for the areas indicated in § 194.22(a)(2). The "objective evidence" for determining whether or not a QA program has been established and executed exists at the WIPP-related facilities and generator sites, and is gathered in the field audits and inspections. The function of the audits and inspections is to gather objective evidence to determine compliance of the QA programs with the applicable NQA standards.

Several WIPP organizations are responsible for establishing and executing the activities and items listed in the eight areas of § 194.22(a)(2). The CCA states that DOE provides the overall QA program requirements for WIPP via the CAO QAPD. The CAO QAPD requirements are further supported and amplified by the next tier of QA program documents, which includes the SNL quality assurance procedures (SNL QAPs), the WID Quality Assurance Program Description, and the individual site quality assurance program plans (e.g., QAPjPs). More documentation is found in DOE, WID and SNL implementing procedures and QA records. For example, "Corrective Action Reports" and "Audit Reports" provide objective evidence of implementation of certain NQA elements. Therefore, EPA finds that sufficient information for compliance with § 194.22(a)(2)(ii)–(viii), and for QA program implementation for waste characterization activities at LANL (§ 194.22(a)(2)(i)) was provided in the CCA and supporting documents to the extent practical.

The EPA verified that QA programs were established in accordance with § 194.22 through the CAO QAPD and supporting documents. The EPA expected to find objective evidence of compliance or noncompliance with the QA requirements within the QA records and activities of the WIPP organizations, including CAO, SNL, and WID. In accordance with § 194.22(e), the Agency conducted audits of these WIPP organizations to verify the appropriate execution of QA programs. (Docket A–93–02; Items II–A–43, II–A–44, II–A–45, II–A–46, II–A–47, II–A–48, and II–A–49) Documentation of evidence of audits that verified the execution of the QA programs is found in EPA's audit reports. The EPA's audits of CAO, SNL, and WID covered all aspects of the programs including, but not limited to: the adoption of the requirements of § 194.22 through the CAO QAPD, quality assurance procedures ("QAPs"), reports from previous audits, surveillance reports, and corrective action reports ("CARs"). The audits assessed the adequacy and implementation of the SNL and WID quality assurance programs in accordance with the requirements of § 194.22(a)(1). For example, for § 194.22(a)(2)(iv), the "computations, computer codes, models and methods used to demonstrate compliance with the disposal regulations," EPA conducted audits of the SNL and WID quality assurance programs for computations, computer codes, methods and models. For all of the other areas in § 194.22(a)(2), CARD 22 (Section 22.B) should be consulted for information and

citations to audit reports. (Docket A–93–02, Item V–B–2)

In summary, EPA certifies compliance with the eight areas in § 194.22(a)(2) through inspections and audits. Most of the evidence demonstrating compliance is found at the WIPP-related facilities and generator sites. Such evidence was unreasonable to include in the CCA due to the voluminous nature of the information.

2. Waste Characterization (§ 194.24)

Section 194.24, waste characterization, generally requires DOE to identify, quantify, and track the chemical, radiological and physical components of the waste destined for disposal at the WIPP that can influence disposal system performance.

Section 194.24(a) requires DOE to describe the chemical, radiological and physical composition of all existing and to-be-generated waste, including a list of waste components and their approximate quantities in the waste. The DOE provided the required information on existing waste (35% of the total WIPP inventory) by combining similar waste streams into waste stream profiles. The waste stream profiles contain information on the waste material parameters, or components, that could affect repository performance. For to-be-generated waste (65% of the total WIPP inventory), DOE extrapolated information from the existing waste streams to determine the future amount of waste. The EPA reviewed this information and determined that DOE's waste stream profiles contained the appropriate specific information on the components and their approximate quantities in the waste. Therefore, EPA finds DOE in compliance with § 194.24(a).

Section 194.24(b) requires DOE to analyze waste characteristics and waste components for their impact on disposal system performance. Waste components affect waste characteristics and are integral to disposal system performance. The DOE identified waste-related elements pertinent to the WIPP as part of its screening for features, events, and processes. The features, events, and processes used in the performance assessment ("PA") served as the basis from which characteristics and associated components were identified and further analyzed. (For further information on features, events, and processes, see Docket A–93–02, Item V–B–2, CARD 32; and the above preamble sections related to the PA.)

The DOE concluded that six characteristics were expected to have a significant effect on disposal system performance and were used in the PA as parameters or in conceptual models: solubility, formation of colloidal suspensions containing radionuclides, gas generation, shear strength of waste, radioactivity of specific isotopes, and transuranic ("TRU") activity at disposal. The DOE identified eight waste components influencing the six significant waste characteristics: ferrous metals, cellulose, radionuclide identification, radioactivity of isotopes, TRU activity of waste, solid waste components, sulfates, and nitrates. Finally, DOE provided a list of waste characteristics and components assessed, but determined not to be significant for various reasons such as negligible impact on the PA. The EPA found that DOE used a reasonable methodology to identify and assess waste characteristics and components. The analysis appropriately accounted for uncertainty and the quality of available information. Therefore, EPA finds DOE in compliance with requirements in § 194.24(b).

Section 194.24(c)(1) requires DOE to specify numeric limits on significant waste components and demonstrate that, for those component limits, the WIPP complies with the numeric requirements of §§ 194.34 and 194.55. Either upper or lower limits were established for components that must be controlled to ensure that the PA results comply with the containment requirements. The DOE explicitly included numeric limits, identified as fixed values with no associated uncertainty, for four waste components. Lower limits were established for (1) ferrous and (2) non-ferrous metals (not included in DOE's original list of components, but added later due to its binding effect on organic ligands); upper limits were established for (3) cellulosics and (4) free water (not included in DOE's original list of components, but added later due to its inclusion in the Waste Acceptance Criteria).

The three components related to radioactivity (radionuclide identification, radioactivity of isotopes, TRU activity of waste) were effectively limited by the inventory estimates used in the PA and the WIPP LWA fixed-value limits. Both the PA inventory estimates and the WIPP LWA fixed-value limits were included in the PA calculations through parameters closely related to these components, and the results demonstrated compliance with EPA's standards.

Explicit limits were not identified for solid waste, sulfates, and nitrates, even though DOE identified these as components significant to performance. For solid waste, EPA determined that in the PA, DOE took no credit for the potential gas-reducing effects of solid waste (i.e., assumed a lower limit of zero) and demonstrated that the WIPP would still comply. For nitrates and sulfates, EPA determined that these components would not significantly affect the behavior of the disposal system as long as cellulosics were limited. Thus, EPA concurred that it is unnecessary to specify limits for nitrates, sulfates, and solid waste.

The EPA finds DOE in compliance with § 194.24(c)(1). The EPA concurred with DOE that it was not necessary to provide estimates of uncertainty for waste limits, so long as the PA demonstrated compliance at the fixed limits. However, since DOE's waste limits do not address uncertainty, the Department must account for uncertainty in the quantification of waste components when tracking compliance with the waste limits. That is, the fixed waste limits essentially constitute an upper confidence level (in the case of limits on the maximum amount of a waste component) or a lower confidence level (in the case of limits on the minimum amount of a component) for measurements or estimates of waste components that must be tracked. The DOE must demonstrate that the characterized waste components, including associated uncertainty (i.e., margin of error), meet the fixed waste component limits.

Section 194.24(c)(2) requires DOE to identify and describe the methods used to quantify the limits of important waste components identified in § 194.24(b)(2). The DOE proposed to use non-destructive assay ("NDA"), non-destructive examination ("NDE"), and visual examination ("VE") as the methods used to quantify various waste components. (See Docket A–93–02, Item V–B–2, CARD 24, Section 24.F.1 for further information about the methods.) The DOE described numerous NDA instrument systems and described the equipment and instrumentation found in NDE and VE facilities. The DOE also provided information about performance demonstration programs intended to show that data obtained by each method could meet data quality objectives established by DOE. The EPA found that these methods, when implemented appropriately, would be adequate to characterize the important waste components. Therefore, EPA finds DOE in compliance with § 194.24(c)(2).

Section 194.24(c)(3) requires DOE to demonstrate that the use of process

knowledge[32] to quantify components in waste for disposal conforms with the quality assurance ("QA") requirements found in § 194.22. The DOE did not submit site-specific information on the process knowledge to be used at waste generator sites as part of the CCA. The EPA requires such information to conduct proper review of whether use of the process knowledge is appropriate and reliable. The DOE provided some information on its overall plans for using process knowledge in the CCA. The DOE did not, however, provide specific information on the use of process knowledge or Acceptable Knowledge ("AK"—hereafter only "AK" is used; process knowledge is a subset of acceptable knowledge) at any waste generator site in the CCA, nor did it provide information demonstrating establishment of the required QA programs.

After submission of the CCA, EPA subsequently received information regarding AK to be used at the Los Alamos National Laboratory ("LANL"). The EPA determined that DOE adequately described the use of AK for legacy debris waste at LANL. The EPA has confirmed establishment and execution of the required QA programs at that waste generator site through inspections. Therefore, EPA finds that DOE has demonstrated compliance with the § 194.24(c)(3) QA requirement for LANL. The EPA does not find, however, that DOE has adequately described the use of AK for any waste at LANL other than the legacy debris waste which can be characterized using the processes examined in EPA's inspection. (See Docket A–93–02, Item V–B–15 for further information on the conclusions of EPA's inspection. See Docket A–93–02, Item II–I–70 for a list of the items and processes inspected by EPA.) Furthermore, DOE has not demonstrated compliance with § 194.24(c)(3) for any other waste generator site. For any LANL waste streams using other characterization processes or any other waste generator site, before waste can be shipped to the WIPP, EPA must determine that the site has provided information on how AK will be used for waste characterization of the waste stream(s) proposed for disposal at the WIPP. Condition 3 of the final rule embodies this limitation. The site-specific use of process knowledge must conform with QA requirements, as addressed by Condition 2. (For further information on EPA's approval process, see § 194.8, "Approval Process for Waste Shipment from Waste Generator Sites for Disposal at the WIPP.")

Sections 194.24(c) (4) and (5) require DOE to demonstrate that a system of controls has been and will continue to be implemented to confirm that the waste components emplaced in the WIPP will not exceed the upper limit or fall below the lower limit calculated in accordance with § 194.24(c)(1) and that the system of controls conforms to the QA requirements specified in § 194.22. The DOE described a system of controls over waste characterization activities, such as the requirements of the TRU QA Program Plan ("TRU QAPP") and the Waste Acceptance Criteria ("WAC"). The EPA found that the TRU QAPP established appropriate technical quality control and performance standards for sites to use in developing site-specific sampling plans. Further, DOE outlined two phases in waste characterization controls: (1) waste stream screening/verification (pre-shipment from waste generator site); and (2) waste shipment screening/verification (pre-receipt of waste at the WIPP). The tracking system for waste components against their upper and/or lower limits is found in the WIPP Waste Information System ("WWIS"). The EPA finds that the TRU QAPP, WAC, and WWIS are adequate to control important components of waste emplaced in the WIPP. The EPA audited DOE's QA programs at Carlsbad Area Office, Sandia National Laboratory and Westinghouse Waste Isolation Division and determined that DOE properly adhered to QA programs that implement the applicable Nuclear Quality Assurance standards and requirements. (See the preamble discussion of § 194.22, Quality Assurance, for further information.) However, in the CCA, DOE did not demonstrate that the WWIS is fully functional and did not provide information regarding the specific system of controls to be used at individual waste generator sites.

After submission of the CCA, EPA subsequently received information regarding the system of controls (including measurement techniques) to be used at LANL. The Agency confirmed through inspections that the system of controls—and in particular, the measurement techniques—is adequate to characterize waste and ensure compliance with the limits on waste components for some waste streams, and also confirmed that a QA program had been established and executed at LANL in conformance with Nuclear Quality Assurance requirements. Moreover, DOE demonstrated that the WWIS is functional with respect to LANL—i.e., that procedures are in place at LANL for adding information to the WWIS system, that information can be transmitted from LANL and incorporated into the central database, and that data in the WWIS database can be compiled to produce the types of reports described in the CCA for tracking compliance with the waste limits. At the same time, DOE demonstrated that the WWIS is functional with respect to the WIPP facility—i.e., that information incorporated into the central database can be retrieved at the WIPP and compiled to produce reports for tracking compliance with the waste limits. Therefore, EPA finds DOE in compliance with §§ 194.24(c)(4) and (5) for legacy debris waste at LANL. (Docket A–93–02, Items V–B–15 and V–B–2, CARD 24) The EPA's decision is limited to the waste that can be characterized using the systems and processes audited by DOE, inspected by EPA, and found to be adequately implemented at LANL.[33] The EPA does not find, however, that DOE has demonstrated compliance with § 194.24(c)(4) for any other waste stream at LANL, or with §§ 194.24(c)(4) and (5) at any other waste generator site.

For any LANL waste streams using other characterization processes or any other waste generator site, before waste can be shipped to the WIPP, EPA must determine that the site has implemented a system of controls at the site, in accordance with § 194.24(c)(4), to confirm that the total amount of each waste component that will be emplaced in the disposal system will not exceed the upper limiting value or fall below the lower limiting value described in the introductory text of paragraph (c) of § 194.24. The implementation of such a system of controls shall include a demonstration that the site has procedures in place for adding data to the WWIS, and that such information can be transmitted from that site to the WWIS database; and a demonstration that measurement techniques and control methods can be implemented in accordance with § 194.24(c)(4) for the

[32] Process knowledge refers to knowledge of waste characteristics derived from information on the materials or processes used to generate the waste. This information may include administrative, procurement, and quality control documentation associated with the generating process, or past sampling and analytic data. Usually, the major elements of process knowledge include information about the process used to generate the waste, material inputs to the process, and the time period during which the waste was generated.

[33] See Docket A–93–02, Item II–I–70 for a list of the systems and processes audited by DOE. See Docket A–93–02, Item II–I–51 for a description of the waste identifier and a discussion of the items and activities inspected by EPA. They include characterization methodologies and relevant procedures, such as that used for entering data into the WWIS database.

waste stream(s) proposed for disposal at the WIPP. Condition 3 prohibits DOE from shipping waste for disposal at WIPP until EPA has approved site-specific waste characterization programs and controls. The system of controls must also be implemented in accordance with the QA requirements of 40 CFR 194; see Condition 2. (For further information on EPA's approval process, see § 194.8, "Approval Process for Waste Shipment from Waste Generator Sites for Disposal at the WIPP.")

Section 194.24(d) requires DOE either to include a waste loading scheme which conforms to the waste loading conditions used in the PA and in compliance assessments, or to assume random placement of waste in the disposal system. The DOE elected to assume that radioactive waste would be emplaced in the WIPP in a random fashion. The DOE examined the possible effects of waste loading configurations on repository performance (specifically, releases from human intrusion scenarios) and concluded that the waste loading scheme would not affect releases. The DOE incorporated the assumption of random waste loading in its performance and compliance assessments (pursuant to §§ 194.32 and 194.54, respectively).

The EPA determined that, because the DOE had assumed random waste loading, a final waste loading plan was unnecessary. The EPA determined that, in the PA, DOE accurately modeled random placement of waste in the disposal system. Since EPA concurred with DOE that a final waste loading plan was unnecessary, DOE does not have to further comply with § 194.24(f), requiring DOE to conform with the waste loading conditions, if any, used in the PA and compliance assessment. Therefore, EPA finds that DOE complies with §§ 194.24(d) and (f).

Section 194.24(e) prohibits DOE from emplacing waste in the WIPP if its disposal would cause the waste component limits to be exceeded. Section 194.24(g) requires DOE to demonstrate that the total inventory emplaced in the WIPP will not exceed limitations on TRU waste described in the WIPP LWA. Specifically, the WIPP LWA defines limits for: surface dose rate for remote-handled ("RH") TRU waste, total amount (in curies) of RH–TRU waste, and total capacity (by volume) of TRU waste to be disposed. (WIPP LWA, Section (7)(a)) In order to meet the §§ 194.24(e) and (g) limits, DOE intends to rely on the TRU QAPP, WAC, and a two-phase system of controls for waste characterization—pre-shipment (at waste generator sites) and pre-receipt (at the WIPP). The DOE stated that the WWIS will be used to track specific data related to each of the WIPP LWA limits; by generating routine WWIS reports, DOE will be able to determine compliance with the imposed limits. The WWIS will also be used to track information on each of the important waste components for which limits were established. The EPA finds that the WWIS is adequate to track adherence to the limits, and that the WWIS has been demonstrated to be fully functional at the WIPP facility; as discussed above, waste generator sites will demonstrate WWIS procedures before they can ship waste for disposal at the WIPP. Therefore, EPA finds DOE in compliance with §§ 194.24(e) and (g).

Section 194.24(h) allows EPA to conduct inspections and record reviews to verify compliance with the waste characterization requirements. As discussed above, EPA intends to monitor execution of waste characterization and QA programs at waste generator sites through inspections and record reviews.

In summary, EPA finds that DOE is in compliance with § 194.24, and that LANL has demonstrated compliance with §§ 194.24(c)(3) through (5) for legacy debris waste and may therefore ship TRU waste for disposal at the WIPP (as such shipments relate solely to compliance with EPA's disposal regulations; other applicable requirements or regulations still may need to be fulfilled before disposal may commence). The EPA's final determination of compliance is limited to the EPA's decision is limited to the legacy debris waste that can be characterized using the systems and processes audited by DOE, inspected by EPA, and found to be adequately implemented at LANL. It is important to note that EPA's LANL approval does not imply that DOE's internal certification processes can substitute for EPA's approval of waste generator sites or processes used to characterize waste stream(s)—including QA measures, use of process knowledge, and the system of controls (other than LANL's legacy debris waste approved in today's action). The EPA will inspect the individual certification process for each waste generator site and for one or more waste stream(s). (For further information on EPA's approval process, see § 194.8, "Approval Process for Waste Shipment from Waste Generator Sites for Disposal at the WIPP.")

The DOE may not ship other waste streams for emplacement at the WIPP until EPA determines that (1) DOE has provided adequate information on how process knowledge will be incorporated into waste characterization activities for a particular waste stream (or group of waste streams) at a generator site, and (2) DOE has demonstrated that the system of controls described in § 194.24(c)(4) and (5) has been established for the site. In particular, DOE must demonstrate that the WWIS system is functional for any waste generator site before waste may be shipped, and that the system of controls (including measurement techniques) can be implemented for each waste stream which DOE plans to dispose in the WIPP. As discussed in the preamble for § 194.22, DOE must also demonstrate that sites have established and executed the requisite QA programs described in §§ 194.22(a)(2)(i) and 194.24(c)(3) and (5).

The EPA received many public comments on § 194.24. The majority of the comments focused primarily on whether or not DOE could adequately characterize waste to be sent to the WIPP. In response to such concerns, EPA believes it is useful to explain and clarify the general process of waste characterization as required by § 194.24, and to describe the activities EPA expects to monitor for future waste characterization. First, § 194.24(a) requires DOE to describe the chemical, radiological, and physical composition of the wastes to be emplaced in the WIPP. Second, DOE must conduct an analysis that substantiates that: (1) all characteristics of the wastes which may influence containment in the repository have been identified and assessed (§ 194.24(b)(1)); (2) all components of the wastes which influence such waste characteristics have been identified and assessed (§ 194.24(b)(2)); and (3) any decision not to consider a waste characteristic or component on the basis that it will not significantly influence containment of the waste. (§ 194.24(b)(3)) Third, for each waste component identified as being significant, DOE is to specify a "limiting value" of the total inventory of such waste components to be emplaced in the repository. (§ 194.24(c)) Fourth, DOE must demonstrate that, for the total inventory of waste proposed to be emplaced in the disposal system, the WIPP will comply with the numeric requirements of §§ 194.34 and 194.55 for the upper and lower limiting values of the identified waste components. (§ 194.24(c)(1)) Fifth, DOE must identify and describe the methods used to quantify the limits of waste components. (§ 194.24(c)(2))

At this point, § 194.24 imposes requirements that shift the focus from information on, and assessment of, the total waste inventory to procedures for

characterization of the waste at individual waste generator sites and accurate assessment of the waste inventory. First, DOE must show that the AK used to quantify the waste components at the waste generator sites will conform with QA requirements of § 194.22. Then, to ensure that the generator sites ship only waste that conforms with the waste component limits, a system of controls must be implemented that tracks and measures the waste components destined for the WIPP. This system of controls must also comply with the QA requirements of § 194.22.

The approval process for site-specific waste characterization controls and QA programs includes a **Federal Register** notice, public comment period, and on-site EPA audits or inspections to evaluate implementation. (See Condition 2, Condition 3, and § 194.8.) Prior to an EPA audit or inspection, EPA expects to receive certain documents from DOE. To determine that the procedures used to characterize waste (e.g., measuring and testing, sample control, equipment assessments) are based on good technical practices, and the personnel are qualified to perform the task, EPA expects to receive the following general documents which conform with the requirements of § 194.22: Site-Specific Quality Assurance Program Plan ("QAPP") and a report or reports from CAO's QA organization that verifies the establishment and implementation of the Nuclear Quality Assurance requirements identified in § 194.22.

Likewise, DOE will provide technical documents prior to an audit or inspection to verify the methods for characterizing, quantifying, and tracking waste. Such technical documents will include information on the use of both process knowledge and measurement methods for waste characterization. First, for measurement equipment such as NDA, NDE, and VE, DOE may provide information on measuring and testing, equipment assessments, sample control, data documentation, and software control. For AK, DOE may provide the AK package which provides information on the areas and buildings from which the waste stream was generated, the waste stream volume and time period of generation, the waste generating process described for each building, the process flow diagrams, and the material inputs or other information that identifies the chemical and radionuclide content of the waste stream and the physical waste form. In addition, the following supplemental information may be provided for AK records: process design documents, standard operating procedures, preliminary and final safety analysis reports and technical safety requirements, waste packaging logs, site databases, information from site personnel, standard industry information, previous analytical data relevant to the waste stream, material safety data sheets or other packaging information, sampling and analysis data from comparable or surrogate waste streams, and laboratory notebooks that detail the research processes and raw materials used in experiments.

The fundamental objective of EPA's review of DOE's waste characterization at waste generator sites is to ensure that the proposed system of controls can quantify and track both the radionuclides and the four waste component limits identified as important for the repository performance. Because DOE's defense missions varied at the sites, the waste generated and the methods to characterize waste vary accordingly. These variations in practices and methods result in the need to review two general areas: (1) AK packages and (2) the system of controls, including measurement methods and tracking procedures. Therefore, EPA finds that it is important to clarify what is entailed by both general areas.

Thirty-five percent of WIPP waste is currently classified as "retrievably stored waste," which is TRU waste generated after the 1970's but before the implementation of the TRU Waste Characterization Quality Assurance Program Plan ("QAPP"). Retrievably stored waste containers will be classified into waste streams using acceptable knowledge.[34] All retrievably stored waste containers will be examined using radiography or visual examination to confirm the physical waste form (or "Summary Category Group"), to verify the absence of prohibited items, and to determine the waste characterization techniques to be used. To confirm the results of radiography, a statistically selected number of the Contact-Handled Transuranic waste container population will be visually examined by opening the containers to inspect waste contents to verify the radiography results. If visual examination results for a drum conflict with the results of radiography, the drum and possibly the entire waste stream is reclassified, and a higher percentage of future drums will be required to undergo visual examination. Representativeness of containers selected for visual examination will be validated by reviewing documents that show that true random samples were collected. Repackaged retrievably stored waste may be handled as newly generated waste, with the Summary Category Group confirmed by using visual examination instead of radiography. Retrievably stored waste will be assayed using Non Destructive Assay ("NDA")[35], and will undergo headspace-gas sampling and analysis for volatile organic compound concentrations.[36]

Sixty-five percent of all WIPP waste is to-be-generated TRU waste. To-be-generated waste characterization will begin with verification that processes generating the waste have operated within established written procedures. Waste containers will be classified into waste streams using acceptable knowledge. Hazardous and radioactive constituents in to-be-generated wastes will be documented and verified at the time of generation to provide acceptable knowledge for the waste stream.

Verifying that the physical form of the waste (Summary Category Group) corresponds to the physical form of the assigned waste stream is accomplished by visual examination during packaging of the waste into the drums. This process consists of operator confirmation that the waste is assigned to a waste stream that has the correct Summary Category Group for the waste being packaged into the drums. If confirmation cannot be made, corrective actions will be taken. A second operator, who is equally trained to the requirements of the WAC and TRU Waste Characterization QAPP, will provide additional verification by reviewing the contents of the waste

[34] AK is used by DOE to (1) delineate waste streams to facilitate further characterization; (2) identify radionuclide content as a basis for further radioassay ("NDA") determinations, and identify the combustible and metal content to determine the radionuclide content as a basis for radiography and/or visual examination ("NDE/VE"); and (3) make hazardous waste determinations for wastes regulated under the Resource Conservation and Recovery Act.

[35] All waste containers will undergo NDA techniques to allow an item to be tested without altering its physical or chemical form. NDA techniques approved for use on WIPP containers can be classified as active or passive. Passive NDA methods measure spontaneously emitted radiations produced through radioactive decay of isotopes inside the waste containers. Active NDA methods measure radiations produced by artificially generated reactions in waste material.

[36] Results of head-space gas sampling and chemical analyses are compared with acceptable knowledge determinations to assess the accuracy of acceptable knowledge. Additional analysis of head-space gas for volatile organic compounds, and additional use of NDA, radiography, and other characterization methods may be employed to further characterize waste to meet regulations that apply to the hazardous (but not necessarily radioactive) portions of the WIPP waste. The requirements for hazardous waste are enforced by the State of New Mexico.

container to ensure correct reporting. If the second operator cannot provide concurrence, corrective actions will be taken. To-be-generated waste will not undergo radiography, as the waste will be identified by visual examination during packaging. All to-be-generated waste containers will undergo headspace-gas analysis for volatile organic compound and their concentrations, and NDA for radioisotopes and their activities.

Acceptable knowledge, visual examination during packing, NDA and headspace-gas sampling and analysis are used to further characterize homogeneous solids, soils/gravel, and debris waste. In addition, newly generated streams of such wastes will be randomly sampled a minimum of once per year and analyzed for total volatile and semi-volatile organic compounds and metals.

A system of controls is used to confirm that the total amount of each waste component that will be emplaced in the disposal system does not exceed the upper limiting value or fall below the lower limiting value for the component. The system of controls for WIPP waste has two phases for DOE's internal process. Phase I entails Waste Stream Screening and Verification, which will occur before waste is shipped to the WIPP, and is a three-step process. First, an initial audit of the site will be conducted by DOE's Carlsbad Area Office as part its audit program before the WIPP could begin the process of accepting waste from a site. The audit provides on-site verification of characterization procedures, data package preparation and recordkeeping. Second, the generator site personnel perform the waste characterization data package completeness/accuracy review and either accept or reject the data. Third, if the data are accepted, the site waste characterization data are transferred manually or electronically via the WWIS to the WIPP. At the WIPP, screening includes verification that all of the required elements of a waste characterization data package are present and that the data meet acceptance criteria required for compliance. Waste stream approval or rejection to ship to the WIPP is the outcome of Phase I.

Phase II includes examination of a waste shipment after it has arrived at the WIPP, and is a three-step process. First, upon receipt of a waste shipment, the WIPP personnel determine manifest completeness and sign the manifest before the driver may depart. Second, WIPP personnel determine waste shipment completeness by checking the bar-coded identification number found on each TRU waste container. The bar-coded identification number is noted and checked against the WWIS. The WWIS maintains waste container receipt and emplacement information. Third, waste shipment irregularities or discrepancies are identified and resolved. If there are discrepancies, the generator site is contacted for resolution. Finally, WIPP personnel compare the container identification number with a list of those approved for disposal at the WIPP. Waste shipment approval or rejection for disposal at the WIPP is the outcome of Phase II. (For further information on the system of controls, see Docket A–93–02, Item V–B–2, CARD 24, Section 24.H.2.)

In summary, all waste sent to WIPP will be appropriately and thoroughly characterized. First, the acceptable knowledge provides essential waste content information that later determines the waste categories. The AK process undergoes quality assurance checks to confirm good technical practices and qualified personnel. Then, the measurement techniques (NDA, NDE, VE) confirm the AK data, and further define the content and limits of the waste. Further confirmation of the accuracy of the waste characterization is provided by the extensive tracking system. Again, quality assurance checks are applied to the tracking and measurement controls. The waste characterization process, if implemented accordingly, provides complete and thorough characterization of the waste. The DOE has committed to implement this process. No waste generator site will be allowed to ship proposed waste streams to the WIPP until the waste characterization process detailed above is met at that generator site for the given waste stream(s).

3. Future State Assumptions (§ 194.25)

Section 194.25 stipulates that performance assessments ("PA") and compliance assessments "shall assume that characteristics of the future remain what they are at the time the compliance application is prepared, provided that such characteristics are not related to hydrogeologic, geologic or climatic conditions." Section 194.25 also requires DOE to provide documentation of the effects of potential changes of hydrogeologic, geological, and climatic conditions on the disposal system over the regulatory time frame. The purpose of the future state assumptions is to avoid unverifiable and unbounded speculation about possible future states of society, science, languages, or other characteristics of mankind. The Agency has found no acceptable methodology that could make predictions of the future state of society, science, languages, or other characteristics of mankind. However, the Agency does believe that established scientific methods can make plausible predictions regarding the future state of geologic, hydrogeologic, and climatic conditions. Therefore, § 194.25 focuses the PA and compliance assessments on the more predictable significant features of disposal system performance, instead of allowing unbounded speculation on all developments over the 10,000-year regulatory time frame.

The EPA proposed to find DOE in compliance with the requirements of § 194.25 because the future state assumptions that DOE made and documented in the CCA were inclusive of all relevant elements of the PA and compliance assessments and were consistent with the requirements of § 194.25. (62 FR 58816–7) The Agency reviewed the future state assumptions DOE made about hydrogeologic and geologic characteristics and found that DOE accurately characterized, screened, and modeled the potential changes from current conditions. For climatic changes, EPA found DOE's approach to be conservative and consistent with the compliance criteria, since DOE examined the worst-case scenario of increased precipitation at the WIPP rather than the potential effects of global warming, which could be beneficial to the WIPP. (§ 194.25(b)(3)) The EPA found that DOE's incorporation of these changes into the PA was adequate. Finally, EPA found that the CCA's approach to dealing with uncertainty, including use of conservative assumptions to compensate for uncertainty, are consistent with the features, events, and processes list, screening arguments, and model descriptions.

The EPA received no public comments on this topic beyond those addressed in the proposal, and so finds DOE in compliance with the requirements of § 194.25. For further information concerning EPA's evaluation of compliance with § 194.25, see CARD 25. (Docket A–93–02, Item V–B–2) For additional information on the features, events, and processes included in the PA and compliance assessments, see CARD 32 (Docket A–93–02, Item V–B–2) and the preamble discussion of performance assessment issues (Section VIII.B). For additional information on both geologic and hydrogeologic conditions of the WIPP, see the preamble discussion of § 194.14.

4. Expert Judgment (§ 194.26)

The requirements of 40 CFR 194.26 apply to expert judgment elicitation.

Expert judgment is typically used to elicit two types of information: numerical values for parameters (variables) that are measurable only by experiments that cannot be conducted due to limitations of time, money, and physical situation; and essentially unknowable information, such as which features should be incorporated into passive institutional controls to deter human intrusion into the repository. (61 FR 5228) Quality assurance requirements (specifically § 194.22(a)(2)(v)) must be applied to any expert judgment to verify that the procedures for conducting and documenting the expert elicitation have been followed.

The requirements of 40 CFR Part 194 prohibit expert judgment from being used in place of experimental data, unless DOE can justify that the necessary experiments cannot be conducted. Expert judgment may substitute for experimental data only in those instances in which limitations of time, resources, or physical setting preclude the successful or timely collection of data.

The CCA did not identify any formal expert elicitation activities. During the Agency's review of performance assessment ("PA") parameters, EPA found inadequate explanation and information for 149 parameters that DOE claimed had been derived using professional judgment. The compliance criteria do not provide for utilization of "professional judgement." Input parameters are to be derived from data collection, experimentation, or expert elicitation. The EPA requested that DOE provide additional information on the derivation of the 149 parameters. (Docket A–93–02, Items II–I–17, II–I–25, and II–I–27)

The DOE responded to EPA's requests by adding information to and improving the quality of the records stored in the Sandia National Laboratory ("SNL") Records Center in order to enhance the traceability of parameter values. The EPA deemed the documentation provided by DOE adequate to demonstrate proper derivation of all but one of the "professional judgment" parameters—the waste particle size distribution parameter. For a comprehensive discussion of the technical review of PA parameters, see the preamble discussion of performance assessment, CARD 23 (Section 12.0), and EPA's "Parameter Report" and "Parameter Justification Report." (Docket A–93–02, Items V–B–2, V–B–12, V–B–14) The EPA required DOE to use the process of expert elicitation to develop the value for the waste particle size distribution parameter. (Docket A–93–02, Item II–I–27)

The waste particle size parameter is important in performance assessments because the distribution of waste particle diameters affects the quantity of radioactive materials released in spallings from inadvertent human intrusion. Because particle diameters are uncertain and cannot be estimated either directly from available data or from data collection or experimentation, the waste particle size parameter had to be based on an elicitation of expert judgment.

The DOE conducted the expert judgment elicitation on May 5–9, 1997. The results of the expert elicitation consisted of a model for predicting waste particle size distribution as a function of the processes occurring within the repository, as predicted by the PA. The DOE completed a final report entitled, "Expert Elicitation on WIPP Waste Particle Size Distributions(s) During the 10,000-Year Regulatory Post-closure Period." (Docket A–93–02, Item II–I–34) The particle size distribution derived from the expert elicitation was incorporated in the PA verification test ("PAVT") calculations.

The EPA's review of DOE's compliance with the requirements of § 194.26 principally focused on the conduct of the elicitation process, since § 194.26 sets specific criteria for the performance of an expert judgement elicitation. The EPA observed DOE's elicitation process and conducted an audit of the documentation prepared in support of DOE's compliance with § 194.26. The scope of the audit covered all aspects of the expert judgment elicitation process, including: panel meetings, management and team procedures, curricula vitae of panel members, background documents, and presentation materials. The EPA also assessed compliance with the quality assurance requirements of § 194.22(a)(2)(v). The EPA found that the documentation was appropriate, that the panel members were appropriately qualified, and that the results of the elicitation were used consistent with the stated purpose; EPA, therefore, proposed to find DOE in compliance with § 194.26. (62 FR 58817–18)

Comments on EPA's proposed decision for § 194.26 related to two main issues: (1) Commenters questioned DOE's statement that it did not conduct any expert judgement activities in developing the CCA; and (2) commenters questioned the use or role of "professional judgement" in the development of input parameters used in the CCA. The DOE's understanding of expert judgment was consistent with EPA's use of the term "expert judgment" in the compliance criteria, namely a formal, highly structured elicitation of expert opinion. (Response to Comments for 40 CFR Part 194, Docket A–92–56, Item V–C–1, p. 8–4) However, EPA agrees that the CCA initially did not contain adequate information to ascertain whether a large number of the input parameters had been properly derived. The DOE subsequently provided additional information, and substantially improved the quality of the records at the SNL Records Center, which enabled EPA to confirm that all but one of the parameters were adequately supported.

In regard to the use of professional judgement in the development of input parameters, the compliance criteria in § 194.26 do not provide for derivation of input parameters through "professional judgement." Input parameters used in the PA are to be derived from data collection, experimentation, or expert elicitation. The Agency, however, recognizes that raw data resulting from data collection or experimentation may require "professional judgment" in the development of input parameters. Professional scientific judgment may be used to interpolate, extrapolate, interpret, and apply data to develop parameter values but cannot substitute for data. (Expert judgment may substitute for data, but only when information cannot reasonably be obtained through data collection or experimentation.) The applicability of § 194.26 does not extend to professional scientific judgment used in such circumstances. (Docket A–92–56, Item V–C–1, p. 8–5)

Based on its review of documentation developed by DOE and its contractors, the results of EPA's audit, and consideration of public comments, EPA concludes that DOE complied with the requirements of § 194.26 in conducting the required expert elicitation. For further information on EPA's evaluation of compliance with § 194.26, see CARD 26. (Docket A–93–02, Item V–B–2)

5. Peer Review (§ 194.27)

Section 194.27 requires DOE to conduct peer review evaluations related to conceptual models, waste characterization analyses, and a comparative study of engineered barriers. A peer review involves an independent group of experts who are convened to determine whether technical work was performed appropriately and in keeping with the intended purpose. The required peer reviews must be performed in accordance with the Nuclear Regulatory

Commission's NUREG–1297, "Peer Review for High-Level Nuclear Waste Repositories," which establishes guidelines for the conduct of a peer review exercise. Section 194.27 also requires DOE to document in the compliance application any additional peer reviews beyond those explicitly required.

The EPA proposed to find DOE in compliance with the requirements of § 194.27 because EPA's independent audit established that DOE had conducted and documented the required peer reviews in a manner compatible with NUREG–1297. The Agency also proposed that DOE adequately documented additional peer reviews in the CCA. The EPA received no public comments on this topic beyond those addressed in the proposal (62 FR 58818), and so finds DOE in compliance with the requirements of § 194.27. For further information concerning EPA's evaluation of compliance with § 194.27, see CARD 27. (Docket A–93–02, Item V–B–2)

D. Assurance Requirements

1. Active Institutional Controls (§ 194.41)

Section 194.41 implements the active institutional controls ("AICs") assurance requirement. The disposal regulations define AICs as "controlling access to a disposal site by any means other than passive institutional controls, performing maintenance operations or remedial actions at a site, controlling or cleaning up releases from a site, or monitoring parameters related to disposal system performance." (40 CFR 191.12) Section 194.41 requires AICs to be maintained for as long a period of time as is practicable after disposal; however, contributions from AICs for reducing the rate of human intrusion in the PA may not be considered for more than 100 years after disposal.

The DOE proposed to: construct a fence and roadway around the surface footprint of the repository; post warning signs; conduct routine patrols and surveillance; and repair and/or replace physical barriers as needed. The DOE also identified other measures that function as AICs, such as DOE's prevention of resource exploration at the WIPP and DOE's construction of long-term site markers. The DOE will maintain the proposed AICs for at least 100 years after closure of the WIPP, and the WIPP PA assumed that AICs would prevent human intrusion for that period.

The EPA reviewed the proposed AICs in connection with the types of activities that may be expected to occur in the vicinity of the WIPP site during the first 100 years after disposal (i.e., ranching, farming, hunting, scientific activities, utilities and transportation, ground water pumping, surface excavation, potash exploration, hydrocarbon exploration, construction, and hostile or illegal activities) and examined the assumptions made by DOE to justify the assertion that AICs will be completely effective for 100 years. The DOE stated in the CCA that the proposed AICs will be maintained for 100 years, and that regular surveillance could be expected to detect a drilling operation in a prohibited area that is set up in defiance or ignorance of posted warnings.

The EPA received public comments on its proposed certification decision stating that it was unreasonable to assume that AICs could be completely effective for 100 years. While EPA recognizes that 100 percent effectiveness of AICs over 100 years cannot be established with certainty, the proposed AICs are fully within DOE's present capability to implement and may be expected to be enforceable for a period of 100 years. Therefore, EPA found it reasonable for DOE to assume credit in the PA for 100 years. The EPA found the assumptions regarding longevity and efficacy of the proposed AICs to be acceptable based on the fact that the types of inadvertent intrusion which AICs are designed to obviate are not casual activities, but require extensive resources, lengthy procedures for obtaining legal permission, and substantial time to set up at the site before beginning.

Contributions from AICs in the PA are considered as a reduction in the rate of human intrusion. The EPA reviewed the CCA and the parameter inputs to the PA and determined that DOE did not assume credit for the effectiveness of active institutional controls for more than 100 years after disposal. The EPA found DOE's assumptions to be sufficient to justify DOE's assertion that AICs will completely prevent human intrusion for 100 years after closure. Because DOE adequately described the proposed AICs and the basis for their assumed effectiveness and did not assume in the PA that AICs would be effective for more than 100 years, EPA finds DOE in compliance with § 194.41. For further information on EPA's evaluation of compliance for § 194.41, refer to CARD 41. (Docket A–93–02, Item V–B–2)

2. Monitoring (§ 194.42)

Section 194.42 requires DOE to monitor the disposal system to detect deviations from expected performance. The monitoring requirement distinguishes between pre-and post-closure monitoring because the monitoring techniques that may be used to access the repository during operations (pre-closure) and after the repository has been backfilled and sealed (post-closure) are different. Monitoring is intended to provide information about the repository that may affect the predictions made about the PA or containment of waste. The EPA proposed that DOE was in compliance with this requirement. (62 FR 58827)

Public comments on EPA's proposed decision stated that the monitoring plan presented by DOE does not comply with certain hazardous waste (Resource Conservation and Recovery Act) and Nuclear Regulatory Commission ("NRC") requirements. However, the monitoring techniques and parameters suggested by commenters are not required by § 194.42, which requires only that the post-closure monitoring plan be complementary to certain applicable hazardous waste monitoring requirements. The purpose of this language is to eliminate potential overlap with hazardous waste monitoring requirements while ensuring that monitoring will be conducted even if not required by the applicable hazardous waste regulations. (Response to Comments for 40 CFR Part 194, Docket A–92–56, Item V–C–1, p. 14–7)

One commenter stated that DOE should monitor additional parameters and perform remote monitoring to prolong the length of time that data is gathered. The EPA determined that monitoring the additional parameters would provide no significant benefit because these parameters were not identified as significant to the containment of waste or to verifying predictions made about the repository. The EPA also determined that additional remote monitoring of the panel rooms would neither provide significant information on the performance of the repository nor verify predictions about its performance.

The plans in the CCA addressed both pre-closure and post-closure monitoring and included the information required by the compliance criteria. Therefore, EPA finds that DOE is in compliance with the requirements of § 194.42. Under its authority at § 194.21, EPA intends to conduct inspections of DOE's implementation of the monitoring plans that DOE has set forth. For further information on EPA's evaluation of compliance for § 194.42, see CARD 42. (Docket A–93–02, Item V–B–2)

3. Passive Institutional Controls (§ 194.43)

The compliance criteria at § 194.43 require a description of passive institutional controls ("PICs") that will be implemented at the WIPP. The EPA defined PICs in the disposal regulations as markers, public records and archives, government ownership of and restrictions on land use at a site, and any other means of preserving knowledge of a site. (40 CFR 191.12) PICs are intended to deter unintentional intrusions into a disposal system by people who otherwise might not be aware of the presence of radioactive waste at the site.

Section 194.43 requires DOE to: (1) identify the controlled area with markers designed, fabricated, and emplaced to be as permanent as practicable; (2) place records in local State, Federal, and international archives and land record systems likely to be consulted by individuals in search of resources; and (3) employ other PICs intended to indicate the location and dangers of the waste. In accordance with § 194.43(b), DOE also must indicate the period of time that PICs are expected to endure and be understood by potential intruders. Finally, DOE is permitted to propose a credit for PICs in the PA, as explained in § 194.43(c). This credit must be based on the proposed effectiveness of PICs over time, and would take the form of reduced likelihood in the PA of human intrusion over several hundred years. The compliance criteria prohibit DOE from assuming that PICs could entirely eliminate the likelihood of future human intrusion into the WIPP.

The EPA proposed that DOE complied with § 194.43(a) and (b) because the measures proposed in the CCA are comprehensive, practicable, and likely to endure and be understood for long periods of time. The EPA also proposed a condition that DOE submit additional information concerning the schedule for completing PICs, the fabrication of granite markers, and commitments by various recipients to accept WIPP records. (62 FR 58827–29) The EPA did not receive any comments disputing this decision, and so finds DOE in compliance with § 194.43(a) and (b). However, DOE must fulfill Condition 4 of Appendix A to 40 CFR Part 194 no later than the final recertification application. For further information on EPA's evaluation of compliance with § 194.43, see CARD 43. (Docket A–93–02, Item V–B–2)

Some commenters expressed the concern that PICs in general, and DOE's plan in particular, would not be sufficient to prevent drilling or other intrusions into the WIPP over 10,000 years. The EPA has never asserted that PICs, as an assurance measure, could or must be sufficient to prevent human intrusion into a site entirely or for a specified period (such as 10,000 years). In fact, the WIPP compliance criteria prohibit DOE from assuming that PICs can completely eliminate the likelihood of human intrusion. (§ 194.43(c)) DOE's design incorporates features that will serve to promote the endurance and comprehensibility of PICs over time, such as: redundant markers, highly durable materials with low intrinsic value, messages in multiple languages, and record storage in multiple locations. Also, the CCA clearly discusses the manner in which DOE accounted in the design for possible, realistic failures. The Agency believes that the existence of site-specific markers and records, designed to be durable over long periods of time, will greatly improve the chances that future generations will retain knowledge of the hazard posed by waste stored at the WIPP.

The EPA proposed to deny DOE's request under § 194.43(c) that the likelihood of human intrusion into the WIPP during the first 700 years after closure be reduced by 99 percent based on the anticipated effectiveness of PICs. The EPA denied the credit because DOE did not use an expert judgment elicitation to derive the credit, as explicitly envisioned by the Agency. The EPA expected that an expert judgment elicitation that makes use of the best available information and expertise would be used to account for the considerable uncertainties associated with a prediction of the ability of PICs to prevent human intrusion hundreds of years into the future. Since the WIPP is located in an area of resource exploitation, the uncertainty was not sufficiently reflected in the near 100 percent credit proposed in the CCA.

The Agency received comments both supporting and refuting this decision. Comments supporting EPA's proposed decision tended to reflect the position that any PICs credit would be too uncertain for use in the PA. In opposition to EPA's decision, comments stated that EPA drew improper conclusions about DOE's use of expert judgment and treatment of uncertainty. These comments requested that EPA reverse its denial of PICs credit, or at least consider future credit proposals, but did not identify why EPA's conclusions were incorrect other than to reiterate positions taken in the CCA that were explicitly assessed by EPA in the proposal. (62 FR 58828) Therefore, EPA sees no cause to reverse its decision to deny DOE's request for PICs credit under § 194.43(c). However, EPA's final decision today applies only to the credit proposal in the CCA and should not be interpreted as a judgment on the use of PICs credit in performance assessments generally. In the future, DOE may present to EPA additional information derived from an expert elicitation of PICs credit. Any future PICs credit proposals will be considered in the context of a modification rulemaking, and will be subject to public examination and comment.

4. Engineered Barriers (§ 194.44)

Section 194.44 requires DOE to conduct a study of available options for engineered barriers at the WIPP and submit this study and evidence of its use with the compliance application. Consistent with the assurance requirement found at 40 CFR 191.14, DOE must analyze the performance of the complete disposal system, and any engineered barrier(s) that DOE ultimately implements at the WIPP must be considered in the PA and EPA's subsequent evaluation. Based on the comparative study that constitutes Appendix EBS of the CCA, DOE proposed magnesium oxide (MgO) backfill as an engineered barrier and proposed to emplace bags of MgO between and around waste containers in the repository. The EPA proposed to find DOE in compliance with § 194.44 because DOE conducted and documented the required study in a manner consistent with the WIPP compliance criteria and proposed to implement an engineered barrier to delay the movement of water or radionuclides. (62 FR 58829)

Public comments on the proposal stated that the waste should be treated before being placed in the repository. Commenters stated that treatment of waste could serve to provide additional confidence in the safety of the disposal system beyond that demonstrated by the performance assessment, based on the assumption that waste treatment would reduce the potential effects of a repository breach. Commenters therefore urged EPA to encourage DOE to treat the waste in order to add additional assurance in the predicted performance of the WIPP.

Section 194.44 of the compliance criteria requires DOE to perform a comparison of the benefits and detriments of waste treatment options (referred to as "engineered barriers" by EPA and as "engineered alternatives" by DOE). DOE's evaluation incorporated such treatment methods as vitrification and shredding. Based on this

evaluation, DOE selected the use of MgO as an engineered barrier. The EPA determined that MgO will be an effective barrier, based on DOE's scientific evaluation of the proposed barrier's ability to prevent or substantially delay the movement of radionuclides toward the accessible environment.

Section 194.44 does not require specific engineered barriers or the implementation of more than one engineered barrier. Since DOE will employ the use of a barrier as required by this section, and since the performance assessment results showed compliance with the containment requirements with the use of this barrier, EPA does not consider it necessary to require DOE to treat waste prior to emplacement. However, EPA agrees that waste treatment or additional barriers may further enhance the containment ability of the WIPP. In the future, if DOE were to select a new treatment option (such as vitrification) that differs significantly from the option in the most recent compliance application, DOE must inform EPA prior to making such a change. (§ 194.4(b)(3)(i) and (vi)) The EPA will evaluate the information provided by DOE and determine if the certification warrants modification.

Other commenters expressed concern that DOE failed to consider alternatives to the proposed 55-gallon steel waste drums that could reduce releases or the formation of gas in the repository due to the degradation of carbon. Commenters further stated that DOE failed to consider adequately how engineered barriers could reduce releases from four human intrusion scenarios: fluid injection, air drilling, stuck pipe, and direct brine release.

The EPA recognized that gas production from waste drum degradation was a relevant issue and so included consideration of "improved waste containers" in the list of factors for DOE to consider when evaluating engineered barriers. (40 CFR 194.44(b)) The DOE did, in fact, consider various aspects of waste packages in the engineered barrier study. Appendix A of Appendix EBS (p. A–10) states that the "improved waste container" options scored low in a qualitative assessment because of their minimal ability to improve conditions with respect to waste solubility and shear strength. As explained in CARD 44 (Docket A–93–02, Item V–B–2), DOE also examined the effects of engineered barriers on the long-term performance of the WIPP using the Design Analysis Model ("DAM"), which provided a relative comparison of the potential benefits of the different barriers on the performance of the repository. There was no attempt to determine the absolute effect of the barriers on the performance of the repository since the objective of the study (in accordance with the WIPP compliance criteria) was only to provide DOE with information for use in the selection or rejection of additional engineered barriers. (Docket A–93–02, Item V–B–2, CARD 44, Section 44.C.4) It was not necessary for DOE to show the absolute effect of each barrier on the WIPP's performance in the face of a specific human intrusion scenario such as air drilling. Rather, it was sufficient for DOE to consider the relative ability of barriers to prevent or delay radionuclide migration in the event of human intrusion.

Other comments expressed concern that the "containment" and "assurance" requirements were not kept separate, as was intended by EPA's disposal standards. The separation of the requirements is valid only to the extent that engineered barriers may be used to meet the containment requirements, but must be used to meet the assurance requirements. The effects of all engineered barriers employed at the WIPP must be considered in performance assessments. Excluding such barriers from consideration would result in inaccurate modeling of the disposal system, which is defined in § 191.12(a) to include engineered barriers. (Response to Comments for 40 CFR Part 194, Docket A–92–56, Item V–C–1, pp. 16–10, 16–13) Although not required to comply with § 194.44, DOE and others performed calculations showing that the WIPP can comply with the containment requirements with or without the use of MgO as an engineered barrier. (Docket A–93–02, Items IV–D–12 and IV–G–7)

The EPA finds that DOE complies with § 194.44. The EPA found that DOE conducted the requisite analysis of engineered barriers and selected an engineered barrier designed to prevent or substantially delay the movement of water or radionuclides toward the accessible environment. The DOE provided sufficient documentation to show that MgO can effectively reduce actinide solubility in the disposal system. The DOE proposed to emplace a large amount of MgO around waste drums in order to provide an additional factor of safety and thus account for uncertainties in the geochemical conditions that would affect CO_2 generation and MgO reactions. For further information on EPA's evaluation of compliance for § 194.44, see CARD 44. (Docket A–93–02, Item V–B–2) For further information regarding the PA modeling of solubility and chemical conditions in the repository, see CARD 23—Models and Computer Codes. (Docket A–93–02, Item V–B–2)

5. Consideration of the Presence of Resources (§ 194.45)

Section 194.45 implements the assurance requirement that the disposal system be sited so that the benefits of the natural barriers of the disposal system will compensate for any increased probability of disruptions to the disposal system resulting from exploration and development of existing resources. (61 FR 5232) In issuing the WIPP compliance criteria, EPA determined that the performance assessment ("PA") is the appropriate tool to weigh the advantages and disadvantages of the WIPP site because the PA demonstrates whether potential human intrusion will cause unacceptably high releases of radioactive material from the disposal system. Comments on § 194.45 for the proposed certification decision did not address the question of compliance with this requirement but instead focused on the criterion itself, stating that it was inconsistent with the original basis for the assurance requirements to be qualitative in nature. The EPA believes that the presence of resources requirement is reasonable because the performance assessment must account for the increased potential for human intrusion into the disposal system due to the presence of known resources, based on historical rates of drilling and mining in the vicinity of the WIPP. (Docket A–92–56, Item V–C–1, p. 17–1) In any case, it is beyond the scope of the certification rulemaking to fundamentally re-examine or change the disposal regulations or compliance criteria as they relate to the presence of resources.

Because the PA incorporated human intrusion scenarios and met EPA's release limits in accordance with the WIPP compliance criteria, EPA determines that DOE has demonstrated compliance with § 194.45. For discussion of comments on human intrusion scenarios, results, and other aspects of the PA, refer to Section B ("Performance Assessment: Modeling and Containment Requirements") of this preamble. For further information on EPA's evaluation of compliance for § 194.45, refer to CARD 45. (Docket A–93–02, Item V–B–2)

6. Removal of Waste (§ 194.46)

Section 194.46 requires DOE to provide documentation that the removal of waste from the disposal system is feasible for a reasonable period of time

after disposal. In the proposed certification decision on WIPP, EPA proposed that DOE was in compliance with this requirement.

Public comments on EPA's proposed decision expressed concern that there would be no way to remove the waste once the WIPP repository is sealed. The technology used to dispose of the waste is substantially the same as the technology that would be used to remove it. This technology may reasonably be expected to remain available for at least 100 years after the repository is sealed. Public comments also stated that EPA and DOE should identify the limitations of DOE's removal of waste plan. In Appendix WRAC of the CCA, DOE acknowledges the expense and hazard of removing the waste from the repository. The purpose of the requirement at § 194.46 is to demonstrate that the removal of waste remains possible, not necessarily simply or inexpensive, for a reasonable period of time after disposal. (50 FR 38082)

The DOE demonstrated that it is possible to remove waste from the repository for a reasonable period of time after disposal. Therefore, EPA determines that DOE is in compliance with § 194.46. For further information on EPA's evaluation of compliance with § 194.46, see CARD 46. (Docket A–93–02, Item V–B–2)

E. Individual and Ground-water Protection Requirements (§§ 194.51–55)

Sections 194.51 through 194.55 of the compliance criteria implement the individual protection requirements of 40 CFR 191.15 and the ground-water protection requirements of Subpart C of 40 CFR Part 191. Assessment of the likelihood that the WIPP will meet the individual dose limits and radionuclide concentration limits for ground water is conducted through a process known as compliance assessment. Compliance assessment uses methods similar to those of the PA (for the containment requirements) but is required to address only undisturbed performance of the disposal system. That is, compliance assessment does not include human intrusion scenarios (i.e., drilling or mining for resources). Compliance assessment can be considered a "subset" of performance assessment, since it considers only natural (undisturbed) conditions and past or near-future human activities (such as existing boreholes), but does not include the long-term future human activities that are addressed in the PA.

Section 194.51 requires DOE to assume in compliance assessments that an individual resides at the point on the surface where the dose from radionuclide releases from the WIPP would be greatest. The EPA required that the CCA identify the maximum annual committed effective dose and the location where it occurs, and explain how DOE arrived at those results.

In DOE's analysis, an individual receives the highest dose if one assumes that the individual takes drinking water directly from the Salado Formation at the subsurface boundary of the WIPP area. The DOE assumed that an individual would receive the maximum estimated dose regardless of location on the surface and calculated the resultant doses accordingly. EPA found this approach to be conservative and proposed that DOE complied with § 194.51. The Agency received no public comments on this topic beyond those addressed in the proposal (62 FR 58831), and so finds DOE in compliance with the requirements of § 194.51.

Section 194.52 requires DOE to consider in compliance assessments all potential exposure pathways for radioactive contaminants from the WIPP. The DOE must assume that an individual consumes two liters per day of drinking water from any underground source of drinking water outside the WIPP area.

The DOE considered the following pathways: an individual draws drinking water directly from the Salado Formation; an individual ingests plants irrigated with contaminated water or milk and beef from cattle whose stock pond contained contaminated water from the Salado; and an individual inhales dust from soil irrigated with contaminated water from the Salado. Intended to result in the maximum dose, DOE's assumption that water is ingested directly from the Salado actually is so conservative as to be unrealistic, since Salado water is highly saline and would have to be greatly diluted in order to function as drinking or irrigation water.

The EPA proposed that DOE complied with § 194.52 because DOE considered all potential exposure pathways and assumed that an individual consumes two liters of Salado water a day, following dilution. The Agency received no public comments on this topic beyond those addressed in the proposal (62 FR 58831), and so finds DOE in compliance with the requirements of § 194.52. For further information concerning EPA's evaluation of compliance for §§ 194.51 and 194.52, see CARD 51/52. (Docket A–93–02, Item V–B–2)

Section 194.53 requires DOE to consider in compliance assessments underground sources of drinking water ("USDWs") near the WIPP and their interconnections. A USDW is defined at 40 CFR 191.22 as "an aquifer or its portion that supplies a public water system, or contains a sufficient quantity of ground water to do so and (i) currently supplies drinking water for human consumption or (ii) contains fewer than 10,000 mg per liter of total dissolved solids."

The DOE identified three potential USDWs near the WIPP—the Culebra Member of the Rustler Formation, the Dewey Lake Red Beds, and the Santa Rosa Sandstone of the Dockum Group—despite incomplete data showing that they meet the regulatory definition of a USDW. The DOE did not analyze underground interconnections among these water bodies, instead assuming conservatively that people would draw water directly from the Salado Formation, bypassing other USDWs closer to the surface and thus resulting in greater exposure.

The EPA proposed that DOE complied with § 194.53 because DOE adequately considered potential USDWs near the WIPP. The Agency received a few public comments that raised questions about DOE's approach to evaluating USDWs. For example, some commenters questioned DOE's assertion that USDWs such as Laguna Grande de la Sal would not be contaminated if the WIPP is left undisturbed. In fact, the compliance assessments assumed that water in the Salado Formation constituted a hypothetical USDW that would provide drinking water after being diluted. Radionuclide concentrations would be expected to be greatest in the Salado at the subsurface boundary of the WIPP, since the disposal system is located in that geologic formation. Thus, by demonstrating that EPA's drinking water standards would be met where radioactive contamination would be greatest, DOE also showed that other, more distant potential aquifers also would comply. This conservative approach compensates for substantial uncertainties that would otherwise be involved in the calculation of radionuclide transport to potential USDWs.

Even using an analysis that was designed to maximize radionuclide releases, DOE showed that the WIPP will comply with EPA's limits for radionuclides in ground water by a wide margin. The EPA therefore finds DOE in compliance with § 194.53. For further information concerning EPA's evaluation of compliance with § 194.53, see CARD 53. (Docket A–93–02, Item V–B–2)

Sections 194.54 and 194.55 relate to the scope and results of compliance assessments conducted to determine

compliance with the individual dose and ground-water protection requirements. The EPA found that DOE appropriately evaluated and screened out natural features, processes, and events related to undisturbed performance, and proposed to find DOE in compliance with § 194.54. (62 FR 58832) The Agency received no specific comments on this decision. Comments on issues that could affect predictions of undisturbed performance, such as site characterization or ground-water modeling, are discussed separately in this preamble and did not necessitate changes to compliance assessments. (See "Geologic Scenarios and Disposal System Characteristics" under the Performance Assessment sections of this preamble.) The EPA therefore finds that DOE complies with § 194.54. For further information on EPA's evaluation of compliance with § 194.54, see CARD 54. (Docket A–93–02, Item V–B–2)

The EPA found that compliance assessments conducted by DOE appropriately documented uncertainty, documented probability distributions for uncertain parameters, randomly sampled across the distributions, and generated and displayed a sufficient number of estimates of radiation doses and ground-water concentrations. Further, the resulting estimates of radiation doses and radionuclide concentrations in ground water (and independent calculations by EPA) were well below the limits in § 191.15 and Subpart C of 40 CFR Part 191. In its proposal, the Agency found that DOE is in compliance with the requirements of § 194.55, and received no comments disputing this decision, which is therefore finalized. For further information on EPA's evaluation of compliance for § 194.55, see CARD 55. (Docket A–93–02, Item V–B–2)

IX. Does DOE Need to Buy Existing Oil and Gas Leases Near the WIPP?

The EPA finds that DOE does not need to acquire existing oil and gas leases in the vicinity of the WIPP in order to comply with EPA's disposal regulations. These existing leases, and EPA's need to evaluate their effects on the WIPP, are addressed by the 1992 WIPP Land Withdrawal Act ("LWA") which provides for EPA's regulatory authority at the WIPP.[37] (See Section X of this preamble, entitled "Why and How Does EPA Regulate the WIPP," for more information on the WIPP LWA.) The 1992 WIPP LWA withdrew the geographic area containing the WIPP facility from all forms of entry, appropriation, and disposal under public land laws. The WIPP LWA transferred jurisdiction of the land to the Secretary of Energy explicitly for the use of constructing, operating, and conducting other authorized activities related to the WIPP. The WIPP LWA prohibits all surface or subsurface mining or oil or gas production is prohibited at all times on or under the land withdrawal area. (WIPP LWA, section 4(b)(5)(A)) However, section 4(b)(5)(B) states that existing rights under two oil and gas leases (Numbers NMNM 02953 and 02953C) (referred to as "the section 4(b)(5)(B) leases") shall not be affected unless the Administrator determines, after consultation with DOE and the Department of the Interior, that the acquisition of such leases by DOE is required to comply with EPA's final disposal regulations.

Before DOE can emplace waste in the WIPP, DOE must acquire the leases, unless EPA determines that such acquisition is not required. (WIPP LWA, section 7(b)(2)) This determination is separate and apart from the WIPP LWA requirement for EPA to conduct the certification decision by notice-and-comment rulemaking. (WIPP LWA, section 8(d)). Nonetheless, the Agency chose to address this matter as part of the certification process because the determination of whether potential drilling on the leases could possibly affect the integrity of the WIPP is closely related to similar determinations that must be made to determine compliance with the disposal regulations and WIPP compliance criteria. (See §§ 194.32(c), 194.54(b))

As discussed in the proposed certification decision, EPA examined DOE's analysis of a number of potential activities in the life cycle of a well-drilling, fluid injection (for both waterflooding and brine disposal), and abandonment—that could affect the WIPP disposal system. The Agency agreed with DOE that the effects of drilling a borehole would be highly localized, due to well casing procedures and borehole plugging practices. The EPA found that the effects of fluid injection can also be expected to be localized, due to underground injection control requirements. Finally, even abandoned boreholes would have little consequence on waste panels more than a meter away. Because the closest possible approach of a borehole drilled from the section 4(b)(5)(B) leases is over 2400 meters (8000 feet) from the WIPP waste disposal rooms, EPA determined that such a borehole would have an insignificant effect on releases from the disposal system (and in turn, on compliance with the disposal regulations). (62 FR 58835–58836)

For the reasons discussed above, EPA concluded in its proposed rule that the Secretary of Energy does not need to acquire Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C. (62 FR 58836) A number of comments on the proposed rule suggested that DOE conducted inadequate performance assessment analyses on drilling activities occurring prior to or soon after disposal in the vicinity of the WIPP, but only one commenter took issue directly with EPA's decision to not require the Secretary of Energy to acquire the Section 4(b)(5)(B) leases. This commenter questioned the impact of drilling activities by lease holders.

The DOE's analysis of drilling for the performance assessment indicated that wells drilled into the controlled area, but away from the waste disposal room and panels, will not adversely affect the disposal system's capability to contain radionuclides. A slant-drilled borehole from outside the Land Withdrawal Area, into the section 4(b)(5)(B) lease area at least 6000 feet below the surface, would be at least 2400 meters (8000) feet away from the WIPP disposal rooms and would thus have an insignificant effect on releases from the disposal system or compliance with the disposal regulations. The EPA finds that potential activities at the section 4(b)(5)(B) leases will not cause the WIPP to violate the disposal regulations. (For more information on drilling scenarios, see the preamble discussions related to performance assessment.) Therefore, EPA determines that it is not necessary for the Secretary of Energy to acquire the Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C.

X. Why and How Does EPA Regulate the WIPP?

The WIPP Land Withdrawal Act is the statute that provides EPA the authority to regulate the WIPP. The EPA's obligations and the limitations on EPA's regulatory authority under that law are discussed below.

A. The WIPP Land Withdrawal Act

The EPA's oversight of the WIPP facility is governed by the WIPP Land Withdrawal Act ("LWA"), passed initially by Congress in 1992 and amended in 1996. (Prior to the passage of the WIPP LWA in 1992, DOE was self-regulating with respect to the WIPP; that is, DOE was responsible for determining whether its own facility complies with applicable regulations for radioactive waste disposal.) The WIPP LWA delegates to EPA three main tasks, to be completed sequentially, for reaching a compliance certification decision. First, EPA must finalize

[37] Pub. L. 102–579, sections 4(b)(5) and 7(b)(2).

general regulations which apply to all sites—except Yucca Mountain—for the disposal of highly radioactive waste.[38] These regulations, located at Subparts B and C of 40 CFR Part 191 ("disposal regulations"), were published in the **Federal Register** in 1985 and 1993.[39]

Second, EPA must develop, by rulemaking, criteria to implement and interpret the general radioactive waste disposal regulations specifically for the WIPP. The EPA issued the WIPP compliance criteria, which are found at 40 CFR Part 194, in 1996.[40]

Third, EPA must review the information submitted by DOE and publish a certification decision.[41] Today's action constitutes EPA's certification decision as required by section 8 of the WIPP LWA.

Today's action also addresses the requirement at section 7(b)(2) that, before DOE can emplace waste in the WIPP, DOE must acquire existing oil and gas leases near the WIPP unless EPA determines that such acquisition is not required in order for DOE to comply with the disposal regulations. The EPA determines that acquisition of the leases is not necessary. For further discussion of this requirement, refer to the preamble section entitled, "Does DOE need to buy existing oil and gas leases near the WIPP?"

Besides requiring EPA to issue a certification decision, the WIPP LWA also requires the Agency to conduct periodic recertifications, if the facility is initially certified. Every five years, EPA must determine whether documentation submitted by DOE demonstrates that the WIPP continues to be in compliance with the disposal regulations.[42] Recertifications are not conducted through rulemaking, and are not addressed by today's action. However, the WIPP compliance criteria address the process by which EPA intends to conduct recertifications, including publishing public notices in the **Federal Register** and providing a public comment period. (§ 194.64) For further information on recertification, refer to the preamble sections entitled, "EPA's Future Role at the WIPP" and "How will the public be involved in EPA's future WIPP activities?"

B. Limits of EPA's Regulatory Authority at the WIPP

As discussed above, the WIPP LWA conveys specific responsibilities on EPA to ensure the safety of the WIPP as a permanent disposal facility. The Agency's primary responsibility, described in section 8 of the WIPP LWA, is to determine whether the WIPP facility will comply with EPA's disposal regulations. Members of the public have expressed, in written comments and in oral testimony on the proposed rule, a desire for the Agency to oversee other aspects of the WIPP's operation. In response to such concerns, EPA must clarify that its authority to regulate DOE and the WIPP is limited by the WIPP LWA and other statutes which delineate EPA's authority to regulate radioactive materials in general. The limitations on EPA's authority necessarily limit the scope of the present rulemaking.

A number of commenters suggested that EPA should explore alternative methods of waste disposal, such as neutralizing radioactive elements, before proceeding with a certification decision. Others stated that the WIPP should be opened immediately because underground burial of radioactive waste is less hazardous than the current strategy of above-ground storage. In the WIPP LWA, Congress did not delegate to EPA the authority to abandon or delay the WIPP because future technologies might evolve and eliminate the need for the WIPP. Also, Congress did not delegate to EPA the authority to weigh the competing risks of leaving radioactive waste stored above ground compared to disposal of waste in an underground repository. These considerations are outside the authority of EPA as established in the WIPP LWA, and thus outside the scope of this rulemaking. However, as technologies evolve over the operating period of the WIPP, DOE may incorporate them into the facility design through a modification or during the required recertification process. The EPA will evaluate how any such changes in design or activities at the WIPP may affect compliance with the radioactive waste disposal regulations.

Some commenters requested that EPA consider certain factors in making its certification decision. These factors include reviews by organizations other than EPA, and the political or economic motivations of interested parties. The EPA's certification decision must be made by comparing the scope and quality of relevant information to the objective criteria of 40 CFR Part 194. Where relevant, the Agency has considered public comments which support or refute technical positions taken by DOE. Emotional pleas and comments on the motives of interested parties are factors that are not relevant to a determination of whether DOE has demonstrated compliance with the disposal regulations and WIPP compliance criteria, and are therefore outside the scope of this rulemaking.

Finally, the hazards of transporting radioactive waste from storage sites to the WIPP is of great concern to the public. Transportation is entirely outside EPA's general authority for regulating radioactive waste. Moreover, in the WIPP LWA, Congress did not authorize any role for EPA to regulate transportation. Instead, the WIPP LWA reiterated that DOE must adhere to transportation requirements enforced by the U.S. Nuclear Regulatory Commission and the U.S. Department of Transportation. (WIPP LWA, section 16) Because all transportation requirements for the WIPP are established and enforced by other regulators, EPA does not address the issue further in today's action.

The preamble section entitled, "What is EPA's response to general comments received on the certification decision?" provides further discussion of general issues, including several related to the scope of EPA's certification rulemaking.

C. Compliance With Other Environmental Laws and Regulations

The WIPP must comply with a number of other environmental and safety regulations in addition to EPA's disposal regulations—including, for example, the Solid Waste Disposal Act and EPA's environmental standards for the management and storage of radioactive waste. Various regulatory agencies are responsible for overseeing the enforcement of these Federal laws. For example, the WIPP's compliance with EPA's radioactive waste management regulations, found at Subpart A of 40 CFR Part 191, is addressed by an EPA guidance document which describes how EPA intends to implement Subpart A at the WIPP. (Copies of the WIPP Subpart A Guidance are available by calling the WIPP Information Line at 1–800–331–WIPP or from EPA's WIPP home page at www.epa/gov/radiation/wipp.) Enforcement of some parts of the hazardous waste management regulations has been delegated to the State of New Mexico. The State's authority for such actions as issuing a hazardous waste operating permit for the WIPP is in no way affected by EPA's certification decision. It is the responsibility of the Secretary of Energy to report the WIPP's compliance with all applicable Federal laws pertaining to public health and the environment.[43] Compliance with environmental or

[38] WIPP LWA, section 8(b).

[39] 50 FR 38066–38089 (September 19, 1985) and 58 FR 66398–66416 (December 20, 1993).

[40] 61 FR 5224–5245 (February 9, 1996).

[41] WIPP LWA, section 8(d).

[42] WIPP LWA, section 8(f).

[43] WIPP LWA, sections 7(b)(3) and 9.

public health regulations other than EPA's disposal regulations and WIPP compliance criteria is not addressed by today's action.

XI. How Has the Public Been Involved in EPA's WIPP Activities?

Section 8(d)(2) of the WIPP LWA requires that the Administrator's certification decision be conducted by informal (or "notice-and-comment") rulemaking pursuant to Section 4 of the Administrative Procedure Act ("APA"). Notice-and-comment rulemaking under the APA requires that an agency provide notice of a proposed rulemaking, an opportunity for the public to comment on the proposed rule, and a general statement of the basis and purpose of the final rule.[44]

The WIPP compliance criteria, at Subpart D of 40 CFR Part 194, established a process of public participation that exceeds the APA's basic requirements, and provides the public with the opportunity to participate in the regulatory process at the earliest opportunity. The WIPP compliance criteria contain provisions that require EPA to: publish an advance notice of proposed rulemaking ("ANPR") in the **Federal Register**; allow public comment on DOE's compliance certification application ("CCA") for at least 120 days, prior to proposing a certification decision; hold public hearings in New Mexico, if requested, on the CCA; provide a minimum of 120 days for public comment on EPA's proposed certification decision; hold public hearings in New Mexico on EPA's proposal; produce a document summarizing the Agency's consideration of public comments on the proposal, and maintain informational dockets in the State of New Mexico to facilitate public access to the voluminous technical record, including the CCA. The EPA has complied with each of these requirements.

A. Public Involvement Prior to Proposed Rule

The EPA received DOE's CCA on October 29, 1996. Copies of the CCA and all the accompanying references submitted to EPA were placed in EPA's dockets in New Mexico and Washington, DC. On November 15, 1996, the Agency published in the **Federal Register** (61 FR 58499) an ANPR announcing that the CCA had been received, and announcing the Agency's intent to conduct a rulemaking to certify whether the WIPP facility will comply with the disposal regulations. The notice also announced a 120-day public comment period, requested public comment "on all aspects of the CCA," and stated EPA's intent to hold public hearings in New Mexico.

The EPA published a separate notice in the **Federal Register** announcing hearings to allow the public to address all aspects of DOE's certification application. (62 FR 2988) Public hearings were held on February 19, 20 and 21, 1997, in Carlsbad, Albuquerque and Santa Fe, New Mexico, respectively. In addition to the public hearings, EPA held three days of meetings in New Mexico, on January 21, 22 and 23, 1997, with the principal New Mexico Stakeholders. Detailed summaries of these meeting were placed in Docket A–93–02, Category II–E.

The Agency received over 220 sets of written and oral public comments in response to the ANPR. The Agency reviewed all public comments submitted during the ANPR 120-day comment period or presented at the preliminary meetings with stakeholders. The EPA provided responses to these comments in the preamble to the proposed certification as well as in the compliance application review documents ("CARDs") for the proposed certification decision. The CARDs also addressed late comments—and comments on the completeness of DOE's CCA—received after the close of the public comment period (on March 17, 1997) but before August 8, 1997. (62 FR 27996–27998) All relevant public comments, whether received in writing, or orally during the public hearings, were considered by the Agency as the proposed certification decision was developed. For further discussion of EPA's completeness determination and other pre-proposal activities, see the preamble to the proposed certification decision, 62 FR 58794–58796.

B. Proposed Certification Decision

On October 30, 1997, EPA published a Notice of Proposed Rulemaking in the **Federal Register**, fulfilling the requirements of the WIPP compliance criteria at § 194.62. (62 FR 58792–58838) The notice announced the Administrator's proposed decision, pursuant to section 8(d)(1) of the WIPP LWA, as amended, to issue a certification that the WIPP facility will comply with the disposal regulations, and solicited comment on the proposal. The notice also marked the beginning of a 120-day public comment period on EPA's proposed certification decision. Finally, the notice announced that public hearings would be held in New Mexico during the public comment period.

C. Public Hearings on Proposed Rule

Further information on the hearings was provided in a **Federal Register** notice published on December 5, 1997. (62 FR 64334–64335) The Agency conducted hearings in three cities in New Mexico—Carlsbad, Albuquerque, and Santa Fe—on January 5 through 9, 1998. The EPA took a number of steps to ensure that citizens were aware of the hearings and to accommodate requests to testify before the EPA panel. For example, EPA placed forty-six notices in newspapers across the State to advertise the hearings and provided a manned, toll-free telephone line for pre-registration. The Agency also allowed on-site registration, and extended the hours of the hearings in both Albuquerque and Santa Fe in order to allow everyone present who wished to testify the opportunity to do so.

D. Additional Public Input on the Proposed Rule

In addition to the public hearings, EPA held two days of meetings in New Mexico, on December 10–11, 1997, with the principal New Mexico stakeholders, including the New Mexico Attorney General's Office, the New Mexico Environmental Evaluation Group ("EEG"), Concerned Citizens for Nuclear Safety, Citizens for Alternatives to Radioactive Dumping, and Southwest Research and Information Center. Detailed summaries of these meetings were placed in Docket A–93–02, Item IV–E–8. Additional meetings were also held in January 1998 in New Mexico and Washington, DC with the New Mexico EEG (IV–E–10 and IV–E–11) and other stakeholders (IV–E–11).

In response to concerns expressed in meetings with stakeholders and in public hearings, EPA performed additional analyses of air drilling (a specialized drilling method which stakeholders raised as an issue which could potentially affect the WIPP if it occurred near the site). In light of the significant public interest in this issue, EPA conducted its analysis and released its report during the comment period on the proposed rule, in order to allow an opportunity for the public to comment on EPA's technical analysis. The Agency published a **Federal Register** notice of availability for the report and provided a 30-day public comment period. (63 FR 3863; January 27, 1998) The report was placed in the public docket and also sent electronically to a number of interested stakeholders, including the New Mexico Attorney General, the New Mexico Environmental Evaluation Group, Citizens for Alternatives to Radioactive

[44] 5 U.S.C. 553.

Dumping, Concerned Citizens for Nuclear Safety, and Southwest Research and Information Center.

E. Final Certification Decision, Response to Comments Document

Today's notice of EPA's final certification decision pursuant to section 8(d)(1) of the WIPP LWA fulfills the requirement of the WIPP compliance criteria at § 194.63(a). Also in accordance with § 194.63(b), EPA is publishing a document, accompanying today's action and entitled "Response to Comments," which contains the Agency's response to all significant comments received during the comment period on the proposed certification decision. (Docket A–93–02, Item V–C–1) (For further discussion of EPA's treatment of ANPR and other pre-proposal comments, refer to the preamble to the proposed rule, 62 FR 58794–58796.) All comments received by EPA, whether written or oral, were given equal consideration in developing the final rule. All comments received by the Agency were made available for public inspection through the public docket. (Docket A–93–02, Categories IV–D, IV–F, and IV–G)

F. Dockets

In accordance with 40 CFR 194.67, EPA maintains a public docket (Docket A–93–02) that contains all information used to support the Administrator's proposed and final decisions on certification. The Agency established and maintains the formal rulemaking docket in Washington, D.C., as well as informational dockets in three locations in the State of New Mexico (Carlsbad, Albuquerque, and Santa Fe). The docket consists of all relevant, significant information received to date from outside parties and all significant information considered by the Administrator in reaching a certification decision regarding whether the WIPP facility will comply with the disposal regulations. The EPA placed copies of the CCA in Category II–G of the docket. The Agency placed supplementary information received from DOE in response to EPA requests in Categories II–G and II–I.

The final certification decision and supporting documentation can be found primarily in the following categories of Docket A–93–02: Category V–A (final rule and preamble), Category V–B (Compliance Application Review Documents and Technical Support Documents), and Category V–C (Response to Comments document).

The hours and locations of EPA's public information dockets are as follows: Docket No. A–93–02, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460 (open from 8:00 a.m. to 4:00 p.m. on weekdays); 2) EPA's docket in the Government Publications Department of the Zimmerman Library of the University of New Mexico located in Albuquerque, New Mexico, (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); 3) EPA's docket in the Fogelson Library of the College of Santa Fe in Santa Fe, New Mexico, located at 1600 St. Michaels Drive (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, 1:00 p.m. to 9:00 p.m. on Sunday); and 4) EPA's docket in the Municipal Library of Carlsbad, New Mexico, located at 101 S. Halegueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying docket materials.

XII. How Will the Public be Involved in EPA's Future WIPP Activities?

The EPA's regulatory role at the WIPP does not end with its initial certification decision. The Agency's future WIPP activities will include periodic recertifications, review of DOE reports on activities at the WIPP, assessment of waste characterization and QA programs at waste generator sites, announced and unannounced inspections of the WIPP and other facilities, and possibly modification, revocation, or suspension of the certification for cause. These activities are described above in the preamble section entitled "EPA's Future Role at the WIPP." The EPA has provided for public involvement in these activities through rulemaking procedures, **Federal Register** notices and public comment periods, and by making information available in its public dockets. (See the preamble sections entitled "Dockets" and "Where can I get more information about EPA's WIPP activities?" for more information regarding EPA's rulemaking docket.)

While a suspension may be initiated at the discretion of the Administrator in order to promptly reverse or mitigate a potential threat to public health, any modification or revocation of the certification will be conducted through rulemaking. (§§ 194.65–66) To modify or revoke the certification, EPA will first publish a Notice of Proposed Rulemaking in the **Federal Register**. This notice will announce EPA's proposed action, describe the basis for the decision, and provide the opportunity for public comment on the proposal. Documentation related to the decision will be made available to the public through EPA's docket. Any final rule on modification or revocation will also be published in the **Federal Register**. In addition, EPA will release a document which summarizes and responds to significant public comments received on its proposal.

The recertification process—EPA's periodic review of the WIPP's continued compliance with the disposal regulations and WIPP compliance criteria—will include many of the same elements as notice-and-comment rulemaking. For example, EPA will publish a **Federal Register** notice announcing its intent to conduct such an evaluation. The certification application for recertification will be placed in the docket, and at least a 30-day period will be provided for submission of public comments. The Agency's decision on whether to recertify the WIPP facility will again be announced in a **Federal Register** notice. (§ 194.64)

Although not required by the APA, the WIPP LWA, or the WIPP compliance criteria, EPA intends to place in the docket all inspection or audit reports and annual reports by DOE on conditions and activities at the WIPP. The Agency also plans to docket information pertaining to the enforcement of certification conditions. For the enforcement of Conditions 2 and 3 (regarding quality assurance ("QA") and waste characterization programs at waste generator sites), a number of additional steps will be taken. As described in § 194.8 of the WIPP compliance criteria, before approving QA and waste characterization controls at generator sites, EPA will publish a **Federal Register** notice announcing EPA inspections or audits. The requisite plans and other appropriate inspection or audit documentation will be placed in the docket, and the public will be allowed the opportunity to submit written comments. A comment period of at least 30 days will be provided. Thus, EPA's decisions on whether to approve waste generator QA program plans and waste characterization controls'—and thus, to allow shipment of specific waste streams for disposal at the WIPP'—will be made only after EPA has conducted an inspection or audit of the waste generator site and after public comment has been solicited on the matter. The Agency's decisions will be conveyed by a letter from EPA to DOE.

A copy of the letter, as well as the results of any inspections or audits, will be placed in EPA's docket.

XIII. Where Can I Get More Information About EPA's WIPP Activities?

The EPA's docket functions as the official file for Agency rulemakings. The EPA places all information used to support its proposed and final decisions in the docket, which is available for review by the public. For the WIPP certification rulemaking, information is placed in Air Docket Number A–93–02. The official docket is located in Washington, DC, and informational dockets are provided in three cities in New Mexico. (See the "Dockets" section of this preamble for more information on the location and hours of EPA's WIPP dockets.) The contents of the docket include technical information received from outside parties and other information considered by EPA in reaching a certification decision, as well as the Agency's rationale for its decision. The technical support documents which describe the basis for EPA's certification decision are discussed below; sources of more general information on EPA's WIPP activities are also addressed.

A. Technical Support Documents

For more specific information about the basis for EPA's certification decision, there are a number of technical support documents available. The Compliance Application Review Documents, or CARDs, contain the detailed technical rationale for EPA's certification decision. This document is found at Docket A–93–02, Item V–B–2.

The CARDs discuss DOE's compliance with the individual requirements of the WIPP compliance criteria. Each CARD is a section in the document which is numbered according to the section of 40 CFR Part 194 to which it pertains. For example, CARD 23 addresses § 194.23, "Models and Computer Codes." Each CARD: restates the specific requirement, identifies relevant information expected in the CCA, explains EPA's compliance review criteria, summarizes DOE's approach to compliance, and describes EPA's compliance review and decision. The CARDs also list additional EPA technical support documents and any other references used by EPA in rendering its decision on compliance. All technical support documents and references are available in Docket A–93–02 with the exception of generally available references and those documents already maintained by DOE or its contractors in locations accessible to the public. (Instructions for obtaining access to DOE documents can be found at Docket A–93–02, Item V–B–1.)

B. WIPP Information Line, Mailing List, and Internet Homepage

For more general information and updates on EPA's WIPP activities, interested citizens may contact EPA's toll-free WIPP Information Line at 1–800–331–WIPP. The hotline offers a recorded message, in both English and Spanish, about current EPA WIPP activities, upcoming meetings, and publications. Callers are also offered the option of joining EPA's WIPP mailing list. Periodic mailings, including a WIPP Bulletin and fact sheets related to specific EPA activities, are sent to members of the mailing list (currently numbering over 800). The WIPP internet homepage, at www.epa.gov/radiation/wipp, provides general information on EPA's regulatory oversight of the WIPP. **Federal Register** notices are also announced on the homepage, and a number of documents (ranging from outreach materials and hearings transcripts to technical support documents) are available to review or download.

XIV. With What Regulatory and Administrative Requirements Must This Rulemaking Comply?

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this final rule is a "significant regulatory action" because it raises novel policy issues which arise from legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Regulatory Flexibility

The Regulatory Flexibility Act ("RFA") generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because it sets forth requirements which apply only to Federal agencies. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The EPA has determined that this proposed rule contains no information collection requirements as defined by the Paperwork Reduction Act (44 U.S.C. 3501 et seq).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Pursuant to Title II of the UMRA, EPA has determined that this regulatory action is not subject to the requirements of sections 202 and 205, because this action does not contain any "federal mandates" for State, local, or tribal governments or for the private sector. The rule implements requirements that are specifically set forth by the Congress in the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579) and that apply only to Federal agencies.

E. Executive Order 12898

Pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income, minority, and native American communities. The EPA has complied with this mandate. The requirements specifically set forth by

the Congress in the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579), which prescribes EPA's role at the WIPP, did not provide authority for EPA to examine impacts in the communities in which wastes are produced, stored, and transported, and Congress did not delegate to EPA the authority to consider alternative locations for the WIPP.

The EPA involved minority and low-income populations early in the rulemaking process. In 1993 EPA representatives met with New Mexico residents and government officials to identify the key issues that concern them, the types of information they wanted from EPA, and the best ways to communicate with different sectors of the New Mexico public. The feedback provided by this group of citizens formed the basis for EPA's WIPP communications and consultation plan. To help citizens, including a significant Hispanic population in Carlsbad and the nearby Mescalero Indian Reservation, stay abreast of EPA's WIPP-related activities, the Agency developed many informational products and services. The EPA translated into Spanish many documents regarding WIPP, including educational materials and fact sheets describing EPA's WIPP oversight role and the radioactive waste disposal standards. The EPA also established a toll-free WIPP Information Line, recorded in both English and Spanish, providing the latest information on upcoming public meetings, publications, and other WIPP-related activities. The EPA also developed a vast mailing list, which includes many low-income, minority, and native American groups, to systematically provide interested parties with copies of EPA's public information documents and other materials. Even after the final rule, EPA will continue its efforts toward open communication and outreach.

F. Small Business Regulatory Enforcement Fairness Act of 1996

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the right or obligations of non-agency parties. (5 U.S.C. 804(3)) The EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

G. National Technology Transfer & Advancement Act of 1995

Section 12 of the National Technology Transfer & Advancement Act of 1995 is intended to avoid "re-inventing the wheel." It aims to reduce the costs to the private and public sectors by requiring federal agencies to draw upon any existing, suitable technical standards used in commerce or industry. To comply with the Act, EPA must consider and use "voluntary consensus standards," if available and applicable, when implementing policies and programs, unless doing so would be "inconsistent with applicable law or otherwise impractical." The EPA has determined that this regulatory action is not subject to the requirements of National Technology Transfer & Advancement Act of 1995 as this rulemaking is not setting any technical standards.

H. Executive Order 13045—Children's Health Protection

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 194

Environmental protection, Administrative practice and procedure, Nuclear materials, Radionuclides, Plutonium, Radiation protection, Uranium, Transuranics, Waste treatment and disposal.

Dated: May 13, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 194 is amended as follows.

PART 194—CRITERIA FOR THE CERTIFICATION AND RE-CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS

1. The authority citation for part 194 is revised to read as follows:

Authority: Pub. L. 102–579, 106 Stat. 4777, as amended by Pub. L. 104–201,110 Stat. 2422; Reorganization Plan No. 3 of 1970, 35 FR 15623, Oct. 6, 1970, 5 U.S.C. app. 1; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011–2296 and 10101–10270.

2. In § 194.2, a definition is added in alphabetical order to read as follows:

§ 194.2 Definitions.

* * * * *

Administrator's authorized representative means the director in charge of radiation programs at the Agency.

3. Section 194.8 is added to subpart A to read as follows:

§ 194.8 Approval Process for Waste Shipment from Waste Generator Sites for Disposal at the WIPP

(a) *Quality Assurance Programs at Waste Generator Sites.* The Agency will determine compliance with requirements for site-specific quality assurance programs as set forth below:

(1) Upon submission by the Department of a site-specific quality assurance program plan the Agency will evaluate the plan to determine whether it establishes the applicable Nuclear Quality Assurance (NQA) requirements of § 194.22(a)(1) for the items and activities of §§ 194.22(a)(2)(i), 194.24(c)(3) and 194.24(c)(5). The program plan and other documentation submitted by the Department will be placed in the dockets described in § 194.67.

(2) The Agency will conduct a quality assurance audit or an inspection of a Department quality assurance audit at the relevant site for the purpose of verifying proper execution of the site-specific quality assurance program plan. The Agency will publish a notice in the **Federal Register** announcing a scheduled inspection or audit. In that or another notice, the Agency will also solicit public comment on the quality assurance program plan and appropriate Department documentation described in paragraph (a)(1) of this section. A public comment period of at least 30 days will be allowed.

(3) The Agency's written decision regarding compliance with the requisite quality assurance requirements at a waste generator site will be conveyed in a letter from the Administrator's authorized representative to the Department. No such compliance determination shall be granted until after the end of the public comment period described in paragraph (a)(2) of this section. A copy of the Agency's compliance determination letter will be placed in the public dockets in accordance with § 194.67. The results of any inspections or audits conducted by the Agency to evaluate the quality assurance programs described in paragraph (a)(1) of this section will also

be placed in the dockets described in § 194.67.

(4) Subsequent to any positive determination of compliance as described in paragraph (a)(3) of this section, the Agency intends to conduct inspections, in accordance with §§ 194.21 and 194.22(e), to confirm the continued compliance of the programs approved under paragraphs (a)(2) and (a)(3) of this section. The results of such inspections will be made available to the public through the Agency's public dockets, as described in § 194.67.

(b) *Waste Characterization Programs at Waste Generator Sites.* The Agency will determine compliance with the requirements for use of process knowledge and a system of controls at waste generator sites as set forth below:

(1) For each waste stream or group of waste streams at a site, the Department must:

(i) Provide information on how process knowledge will be used for waste characterization of the waste stream(s) proposed for disposal at the WIPP; and

(ii) Implement a system of controls at the site, in accordance with § 194.24(c)(4), to confirm that the total amount of each waste component that will be emplaced in the disposal system will not exceed the upper limiting value or fall below the lower limiting value described in the introductory text of paragraph (c) of § 194.24. The implementation of such a system of controls shall include a demonstration that the site has procedures in place for adding data to the WIPP Waste Information System ("WWIS"), and that such information can be transmitted from that site to the WWIS database; and a demonstration that measurement techniques and control methods can be implemented in accordance with § 194.24(c)(4) for the waste stream(s) proposed for disposal at the WIPP.

(2) The Agency will conduct an audit or an inspection of a Department audit for the purpose of evaluating the use of process knowledge and the implementation of a system of controls for each waste stream or group of waste streams at a waste generator site. The Agency will announce a scheduled inspection or audit by the Agency with a notice in the **Federal Register**. In that or another notice, the Agency will also solicit public comment on the relevant waste characterization program plans and Department documentation, which will be placed in the dockets described in § 194.67. A public comment period of at least 30 days will be allowed.

(3) The Agency's written decision regarding compliance with the requirements for waste characterization programs described in paragraph (b)(1) of this section for one or more waste streams from a waste generator site will be conveyed in a letter from the Administrator's authorized representative to the Department. No such compliance determination shall be granted until after the end of the public comment period described in paragraph (b)(2) of this section. A copy of the Agency's compliance determination letter will be placed in the public dockets in accordance with § 194.67. The results of any inspections or audits conducted by the Agency to evaluate the plans described in paragraph (b)(1) of this section will also be placed in the dockets described in § 194.67.

(4) Subsequent to any positive determination of compliance as described in paragraph (b)(3) of this section, the Agency intends to conduct inspections, in accordance with §§ 194.21 and 194.24(h), to confirm the continued compliance of the programs approved under paragraphs (b)(2) and (b)(3) of this section. The results of such inspections will be made available to the public through the Agency's public dockets, as described in § 194.67.

4. Appendix A to Part 194 is added to read as follows:

Appendix A to Part 194—Certification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria

In accordance with the provisions of the WIPP Compliance Criteria of this part, the Agency finds that the Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations at part 191, subparts B and C, of this chapter. Therefore, pursuant to Section 8(d)(2) of the WIPP Land Withdrawal Act ("WIPP LWA"), as amended, the Administrator certifies that the WIPP facility will comply with the disposal regulations. In accordance with the Agency's authority under § 194.4(a), the certification of compliance is subject to the following conditions:

Condition 1: § 194.14(b), Disposal system design, panel closure system. The Department shall implement the panel seal design designated as Option D in Docket A–93–02, Item II–G–1 (October 29, 1996, Compliance Certification Application submitted to the Agency). The Option D design shall be implemented as described in Appendix PCS of Docket A–93–02, Item II–G–1, with the exception that the Department shall use Salado mass concrete (consistent with that proposed for the shaft seal system, and as described in Appendix SEAL of Docket A–93–02, Item II–G–1) instead of fresh water concrete.

Condition 2: § 194.22: Quality Assurance. The Secretary shall not allow any waste generator site other than the Los Alamos National Laboratory to ship waste for disposal at the WIPP until the Agency determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3) and 194.24(c)(5) for waste characterization activities and assumptions. The Agency will determine compliance of site-specific quality assurance programs at waste generator sites using the process set forth in § 194.8.

Condition 3: § 194.24: Waste Characterization. The Secretary may allow shipment for disposal at the WIPP of legacy debris waste at the Los Alamos National Laboratory ("LANL") that can be characterized using the systems and processes inspected by the Agency and documented in Docket A–93–02, Item II–I–70. The Secretary shall not allow shipment of any waste from any additional LANL waste stream(s) or from any waste generator site other than LANL for disposal at the WIPP until the Agency has approved the processes for characterizing those waste streams for shipment using the process set forth in § 194.8.

Condition 4: § 194.43, Passive institutional controls.

(a) Not later than the final recertification application submitted prior to closure of the disposal system, the Department shall provide, to the Administrator or the Administrator's authorized representative:

(1) a schedule for implementing passive institutional controls that has been revised to show that markers will be fabricated and emplaced, and other measures will be implemented, as soon as possible following closure of the WIPP. Such schedule should describe how testing of any aspect of the conceptual design will be completed prior to or soon after closure, and what changes to the design of passive institutional controls may be expected to result from such testing.

(2) documentation showing that the granite pieces for the proposed monuments and information rooms described in Docket A–93–02, Item II–G–1, and supplementary information may be: quarried (cut and removed from the ground) without cracking due to tensile stresses from handling or isostatic rebound; engraved on the scale required by the design; transported to the site, given the weight and dimensions of the granite pieces and the capacity of existing rail cars and rail lines; loaded, unloaded, and erected without cracking based on the capacity of available equipment; and successfully joined.

(3) documentation showing that archives and record centers will accept the documents identified and will maintain them in the manner identified in Docket A–93–02, Item II–G–1.

(4) documentation showing that proposed recipients of WIPP information other than archives and record centers will accept the information and make use of it in the manner indicated by the Department in Docket A–93–02, Item II–G–1 and supplementary information.

(b) Upon receipt of the information required under paragraph (a) of this condition, the Agency will place such documentation in the public dockets identified in § 194.67. The Agency will determine if a modification to the

compliance certification in effect is necessary. Any such modification will be conducted in accordance with the requirements at §§ 194.65 and 194.66.

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Part IV

Department of Education

Special Education: State Program Improvement Grants Program; Inviting Applications for New Awards for Fiscal Year 1998; Notice

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.323A]

Special Education: State Program Improvement Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program: The purpose of this program, newly authorized under the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, is to assist State educational agencies to establish a partnership with local educational agencies and other State agencies involved in, or concerned with, reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

Eligible Applicants: A State educational agency of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

General Requirements: (a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA);

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA); and

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

Deadline for Transmittal of Applications: October 1, 1998.

Deadline for Intergovernmental Review: November 30, 1998.

Available Funds: $21 million.

Estimated Range of Awards: Awards will be not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and not less than $80,000, in the case of an outlying area. The Secretary sets the amount of each grant after considering: (1) the amount of funds available for making the grants; (2) the relative population of the State or outlying area; and (3) the types of activities proposed by the State or outlying area.

Estimated Average Size of Awards: $1,000,000.

Estimated Number of Awards: 21.

Note: The Department of Education is not bound by the estimated size and number of awards in this notice.

Project Period: Not less than one year and not more than five years.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria for this program are drawn from EDGAR in 34 CFR 75.210.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Description of Program

The statutory authorization for this program and the application requirements that apply to this competition are set out in section 651–655 of the IDEA.

Findings and Purposes

(a) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

(b) In order for States to address those demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities.

(c) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century.

(d) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

(e) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic-change activities can now be based.

(f) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

(1) Maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve those standards and goals;

(2) Create a system that fully addresses the needs of all students, including children with disabilities, by addressing the needs of children with disabilities in carrying out educational reform activities;

(3) Clearly define, in measurable terms, the school and post-school results that children with disabilities are expected to achieve;

(4) Promote service integration, and the coordination of State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who require significant levels of support to maximize their participation and learning in school and the community;

(5) Ensure that children with disabilities are provided assistance and support in making transitions as described in section 674(b)(3)(C) of the Act;

(6) Promote comprehensive programs of professional development to ensure that the persons responsible for the education or a transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children;

(7) Disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities;

(8) Create school-based disciplinary strategies that will be used to reduce or

eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

(9) Establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and

(10) Involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

Absolute Priority

Under Section 653 of the Act and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority.

This priority supports projects that assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

State Improvement Plan

Applicants must submit a State improvement plan that—

(a) Is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, if appropriate;

(b) Identifies those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(16) of the Act. Specifically, applicants must include:

(1) An analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including—

(i) Their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

(ii) Their participation in postsecondary education and employment; and

(iii) How their performance on the assessments and indicators compares to that of non-disabled children;

(2) An analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum:

(i) The number of personnel providing special education and related services; and

(ii) Relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals described in paragraph (b)(2)(i) with temporary certification), and on the extent of certification or retraining necessary to eliminate those shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs;

(3) An analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and

(4) An analysis of other information, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities;

(c) Describes a partnership agreement that —

(1) Specifies —

(i) The nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

(ii) How those agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

(2) Is in effect for the period of the grant;

(d) Describes how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including funds under part B of the Act retained for use at the State level under sections 611(f) and 619(d) of the Act, that will be committed to the systemic-change activities;

(e) Describes the strategies the State will use to address the needs identified under paragraph (b), including how it will—

(1) Change State policies and procedures to address systemic barriers to improving results for children with disabilities;

(2) Hold local educational agencies and schools accountable for educational progress of children with disabilities;

(3) Provide technical assistance to local educational agencies and schools to improve results for children with disabilities;

(4) Address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how it will—

(i) Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

(ii) Prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

(iii) Work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

(iv) Work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

(v) Work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

(vi) Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;

(vii) Acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State, if appropriate, will adopt promising practices, materials, and technology;

(viii) Recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are

underrepresented in the fields of regular education, special education, and related services;

(ix) Integrate its plan, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and

(x) Provide for the joint training of parents and special education, related services, and general education personnel;

(5) Address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel;

(6) Disseminate results of the local capacity-building and improvement projects funded under section 611(f)(4) of the Act;

(7) Address improving results for children with disabilities in the geographic areas of greatest need; and

(8) Assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and

(9) Coordinate its improvement strategies with public and private sector resources.

Required Partners

Applicants must:

(a) Establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities; and

(b) Work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—

(1) The Governor;

(2) Parents of children with disabilities;

(3) Parents of nondisabled children;

(4) Individuals with disabilities;

(5) Organizations representing individuals with disabilities and their parents, such as parent training and information centers;

(6) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(7) The lead State agency for part C of the Act;

(8) General and special education teachers, and early intervention personnel;

(9) The State advisory panel established under part B of the Act;

(10) The State interagency coordinating council established under part C of the Act; and

(11) Institutions of higher education within the State.

Optional Partners

A partnership established by applicants may include agencies such as—

(a) Individuals knowledgeable about vocational education; (b) The State agency for higher education;

(c) The State vocational rehabilitation agency;

(d) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and

(e) Other individuals.

Reporting Procedures

Each State educational agency that receives a grant shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports must describe the progress of the State in meeting the performance goals established under Section 612(a)(16) of the Act, analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance. Grantees must also provide information required under EDGAR at 34 CFR 80.40.

Use of Funds

Each State educational agency that receives a State Improvement Grant under this program—

(a) May use grant funds to carry out any activities that are described in the State's application and that are consistent with the purpose of this program;

(b) Shall, consistent with its partnership agreement established under the grant, award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan;

(c) May award contracts and subgrants to other public and private entities, including the lead agency under part C of the Act, to carry out that plan;

(d)(1) Shall use not less than 75 percent of the funds it receives under the grant for any fiscal year—

(i) To ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or

(ii) To work with other States on common certification criteria; or

(2) Shall use not less than 50 percent of those funds for these purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (d)(1).

Selection Criteria

(a)(1) The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (15 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers one or more of the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(iii) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated.

(b) *Significance.* (15 points) (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The likelihood that the proposed project will result in system change or improvement.

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve or expand services that address the needs of the target population.

(c) *Quality of the project design.* (15 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(iv) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(v) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(vi) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements.

(vii) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(viii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(ix) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(d) *Quality of project services.* (15 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the training or professional development services to be provided by the proposed project are likely to alleviate the personnel shortages that have been identified or are the focus of the proposed project.

(vi) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

(vii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(viii) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(ix) The extent to which the services to be provided by the proposed project are focused on those with greatest needs.

(e) *Quality of project personnel.* (10 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (10 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(iii) The extent to which the budget is adequate to support the proposed project.

(iv) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(v) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(vi) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(vii) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(g) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(h) *Quality of the project evaluation.* (10 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation are appropriate to the context within which the project operates.

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce

quantitative and qualitative data to the extent possible.

(v) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an inter-governmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. The addresses of individual State Single Point of Contact are in the Appendix to this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.323A, U.S. Department of Education, Room 6213, 600 Independence Avenue, SW., Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above Address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and three copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.323A), Washington, D.C. 20202–4725; or

(2) Hand-deliver the original and three copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.323A), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice is divided into three parts, plus a statement regarding estimated public reporting burden, additional non-regulatory guidance, and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

The following forms and other items must be included in the application:

a. Estimated Public Reporting Burden.

b. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

c. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

d. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: This form is intended for the use of grantees and should not be transmitted to the Department.)

e. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget in the **Federal Register** (61 FR 1413) on (January 19, 1996).

f. Addresses of the individual State Single Point of Contact.

g. Table of Contents.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit *one* original signed application, including ink signatures on all forms and assurances, and three copies of the application. Please mark each application as "original" or "copy". No grant may be awarded unless a completed application has been received.

For Applications and General Information Contact

Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, SW, room 3317, Switzer Building, Washington, DC 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the

Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html-

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: May 13, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1820-0620. The time required to complete this information collection is estimated to average between 50–130 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to*: U.S. Department of Education, Washington, D.C. 20202–4651. *If you have any comments or concerns regarding the status of your individual submission of this form, write directly to*: Office of Special Education Programs, U.S. Department of Education, 600 Independence Avenue, SW., Washington, D.C. 20202–2641.

Application Narrative

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Provide position descriptions, not resumes.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components.

Final Application Preparation

Use the above checklist to verify that all items are addressed. Prepare one original with an original signature, and include six additional copies. Do not use elaborate bindings or covers. The application must be mailed to the Application Control Center (ACC) and postmarked by the deadline date of *October 1, 1998.*

Notice to All Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs.

This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program.

All applicants for new awards must include information in their applications to address this new provision in order to receive funding under this program.

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What Are Examples of How an Applicant Might Satisfy the Requirements of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how its intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1820–0620 (Exp. 10/31/98).

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

Questions and Answers

Following is a series of questions and answers that will serve as guidance for State Educational Agency in completing the grant application for a State Improvement Grant (SIG) as authorized by the Individuals with Disabilities Education Act (IDEA). The questions were chosen to provide additional insight into the statutory requirements contained in the grant application. The questions were generated from a number of sources including parents of students with disabilities, Regional Resource Centers, the Federal Resource Center, State Directors of Special Education, State Educational Agency staff and staff from the Office of Special Education Programs.

Eligible Applicants

1. Who May Apply for a State Improvement Grant?

A State Educational Agency of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).[1] (Sections 602(18), 602(27), 652(a), and 655(a)(1)(2)).

2. Can Two or More SEAs Apply Jointly for a SIG?

No. A State applying for a State Improvement Grant shall submit an individual application. However, included in the application will be a description of how: (1) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; and (2) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel (Section 653(c)(3)(D)(iv) and (v)).

Partners

3. With Whom Is the State Supposed To Form Partnerships and How Are Such Partnerships Structured?

Part D Subpart 1—State Program Improvement Grants for Children with Disabilities, Section 652 (b) describes three types of State partners. In order to be considered for a State Improvement Grant, a State educational agency must establish a partnership with individuals and organizations considered "Required Partners." Required partners are made up of two subsets of partners—those called "Contractual partners" and those called "Other partners." The SEA's contractual partners are local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities. These partners are called contractual because they must be parties to a formal "partnership agreement" that is explained further below in question four. The "other partners" are individuals and organizations involved in, and concerned with, the education of children with disabilities, with whom the SEA must work in partnership to implement the State improvement grant. Other partners may be, but the SEA is not required to make them, parties to the formal partnership agreement. Those "other partners" must include the Governor; parents of children with disabilities; parents of nondisabled children; individuals with disabilities; organizations representing individuals with disabilities and their parents, such as parent training and information centers; community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities; the lead State agency for Part C; general and special education teachers, and early intervention personnel; the State advisory panel established under Part B; the State interagency coordinating council established under Part C; and institutions of higher education within the State.

In addition to required partners, the SEA, at its option, may include as partners individuals and organizations called "Optional Partners." The SEA may include "optional partners" as parties to the formal partnership agreement or work in partnership with them, without them being parties to the partnership agreement. Those optional partners may include individuals knowledgeable about vocational education, the State agency for higher education, the State vocational rehabilitation agency, public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice and other individuals.

4. What is the Partnership Agreement and What Must It Include?

Each State Improvement Plan submitted with the State's application shall include a description of the partnership agreement entered into by the SEA with its contractual partners and with any "other" and "optional" partners who will be parties to the partnership agreement. As specified in the grant application package, the partnership agreement must specify the nature and extent of the partnership among the SEA, the LEAs, and other State agencies involved in, or concerned with, the education of children with disabilities. It must specify the respective roles of each member of the partnership in the implementation of the State improvement plan. The partnership agreement must also specify how the SEA, LEAs, and other State agencies identified above, will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities (these would be the "other partners" and any "optional partners"), and must specify the respective roles of each of these persons and organizations (Section 653(c)(1)(B)).

The partnership agreement must indicate that it is in effect for the period of the grant. The terms of the partnership agreement will determine whether the SEA will award subgrants or contracts to any of the partners listed in Section 654(a)(2)(A).

5. What Is the Connection Between the Partnership Agreement and the SEA's Use of Funds?

The SEA shall, as appropriate, award contracts or subgrants to LEAs, IHEs, and parent training and information centers identified in the partnership agreement to carry out the State improvement plan. To carry out the State improvement plan, the SEA may also award contracts and subgrants to other public and private entities, including the lead agency under Part C and other agencies that are partners, as well as public and private entities that are not partners. It is anticipated that an SEA will need and desire the resources of other individuals and organizations to develop and implement all of the systemic change, technical assistance, in-service and pre-service training,

[1] Unless otherwise noted, the term "state" refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the outlying areas (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands).

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dissemination and assessment activities designated in the State improvement plan. There is, however, no required amount of funds that must be used for contracts or subgrants (Section 654(a)(2)).

Funding availability and levels

6. What Are the Grant Amounts to States?

The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is: (1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) not less than $80,000, in the case of an outlying area (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (Section 655(a)).

Beginning with fiscal year 1999, the Secretary may increase the maximum amount under (1) to account for inflation.

7. How Will Decisions Be Made Regarding the Amount of Funds That States Will Receive if Approved for a State Improvement Grant?

The Secretary will set the amount of each grant, within the limits outlined in the response to question 6, after considering: (1) the relative population of the State; (2) the types of activities proposed by the State; and (3) the amount of funds available for making the grants (Section 655(c)).

8. How Will the Connection Between Grant Amounts and "Need" Be Determined?

As previously stated in the response to question 7, the Secretary shall set the amount of each grant after considering: (1) the relative population of the State; (2) the types of activities proposed by the State or outlying area; and (3) the amount of funds available for making the grants. "Need" will be determined through the quality of the needs assessment performed under Section 653(b) including: (i) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State; (ii) an analysis of State and local needs for professional development for personnel to serve children with disabilities; (iii) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and (iv) an analysis of other information, for example, findings made by the Secretary's Office for Civil Rights, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

9. What Will the Secretary Consider in Making an Award on a Competitive Basis?

Using the selection criteria identified elsewhere in this application package, the Secretary expects to select for funding applications from States that demonstrate a need for improvement and effective strategies to meet those State needs. The application should show how the State plans to fulfill the purpose of the State Improvement Grant, which is to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)).

10. When Will Funds Be Available?

First year funds to support the State Improvement Grant will become available for obligation by the Federal Government on July 1, 1998 and must be obligated by the Federal Government by September 30, 1999.

Improvement Strategies and Use of Funds

11. Can Funds From the State Improvement Grants be Distributed to LEAs on a Competitive Basis?

Yes. The statute does not provide a particular method for States to use when distributing State Improvement Grant funds to LEAs or other entities. When awarding and administering subgrants, under 34 CFR § 80.37(a), the State must follow state law and procedures. As long as the SEA's plan to contract or subgrant SIG funds is consistent with the partnership agreement and the funds are used to support the activities specified in the approved grant application, there is no statutory prohibition against the funds being distributed to LEAs on a competitive basis.

12. Can Charter Schools Be Involved as Partners in the State Improvement Grant?

Yes. Charter schools are schools under contract—or charter—between a public agency and groups of parents, teachers, community leaders or others who want to create alternatives and choice within the public school system. Charter schools can be involved as partners in the State Improvement Grant, either as an LEA or as part of an existing LEA, consistent with the State charter schools law.

13. Does the "Service Obligation" Apply to the Use of State Improvement Grant Funds if They Are Being Used for Scholarships?

No. The "service obligation" contained under the Personnel Preparation discretionary grant program provides that a recipient of a scholarship funded by the Personnel Preparation program under Section 673(b), (c), (e), and to the extent appropriate (d), shall subsequently perform work in the field in which they were trained or repay the cost of the financial assistance. The service obligation only applies to scholarships awarded under the Personnel Preparation program.

14. Can Funds Be Used To Prepare Early Intervention Personnel?

Yes, but only in limited circumstances. Under Section 654(b)(1) a State educational agency that receives a grant shall use not less than 75 percent of the funds it receives under the grant for any fiscal year to work with other States on common certification criteria or to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children. This Section ensures that based on the needs assessment, the State focuses at least 75% of the funds received under the State Improvement Grant on the professional development and training of regular education, special education, or related services personnel. Only 50% of the funds must be used on professional development if the State can demonstrate to the Secretary that it has sufficient personnel. Training that prepares personnel to deliver early intervention services that could not also be considered regular education, special education, or related services would not be a permissible use of the 75%, or 50% as the case may be, of the funds. However, it would be permissible for early intervention personnel to participate in training in those areas of

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special education and related services that would be useful to them, even if the training is funded using the 75% of the funds. There is no limitation on the use of the remaining 25% of the funds received under the SIG; it can be used to train personnel to provide early intervention services or for any other activity in an approved SIG plan.

15. What Is the Relationship of the SIG to the State Set Aside Under Part B?

In order to carry out the activities proposed in the State's SIG application, a State may choose to supplement the State Improvement Grant award with funds from the IDEA Part B State set aside (i.e., the portion of the IDEA, Part B grant awards retained for use by the SEA under Sections 611(f) and 619(d) of the Act for discretionary purposes).

16. Can Funds From Sources Other Than the SIG Be Used to Support the Required Activities for Awards Under This Program?

Yes. In addition to the SIG award, funds from other sources (e.g., other IDEA discretionary grants, Part B State set aside funds, preschool grants) may be used, so long as those activities are permissible under the funding statute and regulations to carry out any activities described in the State's SIG application. States may also use funds from private sources (e.g., foundations) to carry out activities described in the State's application. In its State Improvement Plan, the State must describe the amount and nature of funds from any other sources, including the Part B funds retained for use under Sections 611(f) and 619(d) of the Act and Part D discretionary funds that will be committed to the SIG program.

17. Can SIG Funds Be Used for Direct Services to Children With Disabilities?

Yes. The statute does not forbid the use of SIG funds for direct services to children with disabilities; however, funding for these services must come from the 25% or 50% of the grant award, as the case may be, not obligated by statute to fund professional development activities or to work with other States on common certification criteria. In addition, the need for direct services must be one of the critical aspects of early intervention, general education and special education identified in the State's needs assessment. The direct services improvement strategy must be described in the State's application and be consistent with the purpose of the grant, which is to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

Strategies Used To Address Identified Needs

18. Is interstate Personnel Preparation Mandatory?

No. The State is required to describe how it will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within the State to justify support or development of such a program of preparation (Section 653(c)(3)(D)(iv)). If the State demonstrates, through its needs assessment, that there is sufficient demand within the State to support its own personnel preparation programs, then interstate collaborative agreements are not required.

19. Is Training of General Education Personnel Required?

Yes. In its application, the State is required to include a description of how the State will prepare general as well as special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities (Section 653(c)(3)(D)(i)).

20. Is Training of Parents Required?

Yes. In its application, the State is required to include a description of how the State will provide for the joint training of parents and special education, related services, and general education personnel (Section 653(c)(3)(D)(x)).

Role of Regional Resource Center/ Technical Assistance and Dissemination Projects

21. What Role Can the Regional Resource Center (RRC) Play in the Development of the State Improvement Plan and Grant Application?

The RRC is encouraged to provide general technical assistance to States in the development of their State Improvement Plans. An RRC is funded to provide technical assistance and resources to all states within its region and must do so on an equitable basis across those States. Helping States improve their special education programs is the central mission of the RRCs and many State activities related to the State Improvement Grant program will be crucial in these improvement efforts. It would be inappropriate, however, for an RRC to help a State in drafting its grant application or even to provide technical assistance on strategies to improve the competitiveness of a State's application because it could be viewed as providing a competitive advantage to one potential applicant over another. On the other hand, helping States, for example, with data analyses, needs assessments, and facilitating meetings concerning planning the States' improvement activities could be, except as noted above, a part of the RRC's technical assistance activities to the States in their region. RRCs can also assist States in their implementation of a State Improvement Grant once those grants are awarded.

22. Can the State Use SIG Funds to Subcontract or Contract With the University or Entity in Which the RRC is Located To Carry Out SIG Activities?

Yes. The State can use SIG funds to subgrant or contract with the University or entity in which the RRC is located to carry out SIG activities. However, the University or other entity would need to ensure that personnel time and other resources covered by the RRC's cooperative agreement with the Department are not used to work on SIG activities performed under such a subgrant or contract and that work done under such other subcontract or contract is not represented as being performed as part of the cooperative agreement with the Department of Education.

23. Can Technical Assistance and Dissemination (TA&D) Projects Funded by OSEP Play a Role in SIG Activities?

Similar to RRCs, TA&D projects funded by OSEP must ensure that the services they provide are fairly and evenhandedly available to their respective audience (under the terms of their OSEP funding agreement/grant/ contract) in all States, that the proposed SIG activity is permissible under the terms of the particular Project's funding agreement/grant/contract/with OSEP and that Projects do not accept SIG funds under contract or grant with an SEA for activities they are currently receiving Federal funds to provide. In addition, TA&D projects, like the RRCs, should not engage in activities that could be seen as providing a competitive advantage to any one State over others in the SIG competition.

Relationship Between State Improvement Plan and other Federal statutes and requirements

24. What is the Link Between the Comprehensive System of Personnel Development (CSPD) and the SIG? What Are the Similarities and Differences?

The requirements for a CSPD as amended by IDEA 97 must be implemented by July 1, 1998 regardless of whether or not a State receives a SIG. Under Section 612(a)(14) of IDEA, in order to be eligible for funding under Part B, a State must have in effect a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, related services, and early intervention personnel and that meets the requirements contained in the personnel development sections of the State Improvement Plan addressing needs assessment and improvement strategies. It is intended that the CSPD meet the SIG personnel development requirements so that it may serve as the framework for the State's personnel development part of a SIG grant application.

25. To What Extent Does This Plan Have To Be Linked to the Elementary and Secondary Education Act of 1965 (ESEA) and the Rehabilitation Act of 1973?

To the "maximum extent possible" State Improvement Plans must be linked to State plans under ESEA and the Rehabilitation Act of 1973. The IDEA Amendments of 1997 emphasize that children with disabilities have access to the general curriculum and general educational reforms. Although the legislation does not mention integration with any other state plans under any other Federal statute, because the State Improvement Plan is focused on systems change for students with disabilities, integration with relevant state plans or projects would be beneficial (Section 653(a)(2)(A)).

26. What Is the Relationship Between the Performance Goals and Indicators a State Must Have to be Eligible for Part B and the State Improvement Plan?

Under Part B (612(a)(16)), in order to be eligible to receive financial assistance under Part B, the State must have in place by July 1, 1998 performance goals for children with disabilities that must promote the purposes of the IDEA and be consistent, to the maximum extent appropriate, with other goals and standards developed for children established by the State and performance indicators to assess progress toward achieving those goals. A State must have developed those performance goals and indicators in order to apply for a State Improvement Grant because in conducting the needs assessment required as part of its application, the State shall identify those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the performance goals and indicators established by the State for the performance of children with disabilities under Section 612(a)(16). In submitting the required SIG performance reports to the Secretary under Section 653(f), the State shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

Monitoring and Corrective Action Plans

27. How Is the State Improvement Grant Aligned With Federal Compliance Reviews?

There are three areas in which the State Improvement Grant aligns with Federal compliance reviews. First, the State improvement plan must include an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities (Section 653(b)(2)(C). The second is that the State improvement plan must include a description of strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel (Section 653(c)(3)(E). The third area of alignment with monitoring is that in determining competitive awards the Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)(2)).

28. Can the State Improvement Grant Funds be Used To Address Deficiencies Identified in Federal Compliance Reviews?

Yes, if the activities to address the deficiencies are consistent with the purposes of the grant and described in the State's application. If, for example, a Federal compliance review identified that a personnel shortage impacted on the provision of a free appropriate public education to students with disabilities, then it would be consistent with the purposes of the grant to use grant funds to address the personnel shortage.

Applications, Length of Awards, and Reapplication

29. Can the First Grant be Written as a Planning Grant?

No. The purpose of the SIG program is to assist State educational agencies, and their partners referred to in Section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. In order to be funded a State must include in its application improvement strategies that were developed to address State and local needs identified in the State needs assessment. The purpose of the needs assessment is to provide the necessary information to facilitate the development of a State improvement plan that identifies those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the goals established by the State under Section 612(a)(16). In conjunction with the needs assessment, the improvement strategies (Section 653(c)) subsumed in the State Improvement Plan constitute the State's plan for the use of SIG funds.

30. Is There a Page Limitation for the Application?

No. There is no page limitation for first year applications. However, in order to facilitate the peer review process, applicants are advised to submit applications that address all of the requirements of the application and are well written, organized, succinct, and address each of the selection criteria. It is also suggested that the requirements be addressed in the order in which they appear in the application package.

31. What Grant Period Can a State Request in its Initial Application?

A state may request a grant of from one to five years. However, the Secretary may award a grant that is shorter than the state requests, but not less than one year, if the state's application does not sufficiently justify the full requested duration.

32. If a Project is Funded for Less Than Five Years, can it Be Extended Later?

No, with the exception of relatively short "no-cost" extensions that are sometimes given to allow the completion of project activities. These

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extensions do not award new funds or approve new activities.

33. After a State Completes One State Program Improvement Grant, Can it Apply for Another? If so, Will it Compete Against all Applicants or Only Against Other States That Have Received Previous Grants?

Yes, a state can apply for another SIG after it completes one. It will be in competition with all applicants, not just those with previous grants. The Secretary may give priority to applications on the basis of need (Section 653(d)(2)).

34. If a State Applies Unsuccessfully in One Year, Will It Be Able To Apply Again?

Yes.

35. Will a Project Be Approved and Funded All at Once or a Year at a Time?

At the time of the initial grant award, the project duration of one to five years will be determined and budgets for all years of the grant will be established. However, funds can only be awarded one year at a time. States receiving multi-year grants will submit annual performance reports to demonstrate that their grants are making "substantial progress." Funding for project years after the first will be based, in part, on these reports. This is not part of the competitive process of awarding funds, and it is expected that funding will be continued each year for the duration of the project, provided that substantial progress is demonstrated and that Congress continues to fund the program.

36. Does Funding Have To Be the Same for All Years of the Project?

No.

BILLING CODE 4000-01-P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (*specify*): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ - ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*Cities, Counties, States, etc.*):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calender days after such conviction;

(e) Notifying the agency, in writing, within 10 calender days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3600, GSA Regional Office Building No. 3), Washington, DC 20202-4130. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, Department of Education, 600 Independence Avenue, S.W. (Room 3600, GSA Regional Office Building No. 3), Washington, DC 20202-4130. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APP LICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set outsin the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*:
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*
11. Amount of Payment *(check all that apply):* $ _____ ☐ actual ☐ planned	13. Type of Payment *(Check all that apply):* ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

_____
(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date:
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions

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State Single Points of Contact (as of December 2, 1997)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SPOCs). Because participation is voluntary, some States and territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SPOC.

Arizona

Joni, Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th Street, room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1600 Ninth Street, room 250, Sacramento, California 95814, Telephone: (916) 323–7480, FAX: (916) 323–3018

Block Grants only that pertain to Mental Health Substance Abuse

PATH

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management & Development, 717 14th Street, NW., suite 400, Washington D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904–487–2899

Georgia

Tom L. Reid, III, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W.—8th Floor, Atlanta, GA 30334, Telephone: (404) 656–3855, FAX: (404) 656–3828

Illinois

Ms. Virginia Bova, Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, IL 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 239–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Monies, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director, John-Mark Hack, Deputy Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, FAX: (502) 564–2849

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, Plan & Project Review, Maryland Office of Planning, 301 W. Preston Street, room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, FAX: (410) 767–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive, suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39302–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Mike Blake, Intergovernmental Review Process, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Robert Peters, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

South Carolina

Rodney Grizzle, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, room 331, Columbia, South Carolina

29201, Telephone: (803) 734–0494, FAX: (803) 734–0356

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street, 6th floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Matthew Jones, State Single Point of Contact, Office of the Governor, 200 West 24th Street, State Capitol, room 124, Cheyenne, Wyoming 82002, Telephone: (307) 777–7446, FAX: (307) 632–3909.

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825.

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444; (809) 723–6190, FAX: (809) 724–3270; (809) 724–3103.

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272, Contact person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, FAX: (670) 664–2272.

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802. Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Donna Rivelli (Telephone: (202) 395–5858) at the Office of Management and Budget and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalogue of Federal Domestic Assistance. The last changes made were Kentucky (12–2–97) and California telephone and FAX numbers (1–29–98).

[FR Doc. 98–13160 Filed 5–15–98; 8:45 am]
BILLING CODE 4000–01–P

federal register

Monday
May 18, 1998

Part V

Department of Housing and Urban Development

24 CFR Part 982

Section 8 Rental Voucher and Certificate Programs; Restrictions on Leasing to Relatives; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4149–F–02]

RIN 2577–AB73

Section 8 Rental Voucher and Certificate Programs; Restrictions on Leasing to Relatives

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule would limit the circumstances under which a landlord could lease a unit with Section 8 voucher or certificate assistance to a relative of the landlord. It would permit such leasing only if an HA determines that the leasing would accommodate a person with disabilities. The rule is intended to reduce the potential for misuse of Section 8 assistance.

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Operations Division, Office of Rental Assistance, Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0477. Hearing or speech impaired individuals may call HUD's TTY number (202) 708–4594 or 1–800–877–8399 (Federal Information Relay Service TTY). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Discussion

Proposed Rule

On March 10, 1997, the Department published a proposed rule at 62 FR 10786. Under that proposed rule, a housing agency (HA) may not approve a unit for lease if the owner is the parent, child, grandparent, grandchild, sister, or brother of the Section 8 voucher or certificate holder that is seeking to rent the unit. (Under § 982.306(e), "owner" includes a principal or other interested party.) The HA, however, could still approve the unit for lease, if the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

When implemented, the policy would apply to new admissions and to moves with continued assistance. HUD would add to HAP contract forms a simple certification by the owner that the owner is not a parent, child, grandparent, grandchild, sister, or brother of any member of the family. HUD would also add a comparable certification to the rental voucher and the rental certificate.

After considering the comments discussed below, the Department has decided to publish this final rule as it was proposed.

Summary of Public Comments and Responses

The Department received 154 public comments. Sixty comments came from individuals that either were Section 8 tenants leasing from relatives or were landlords leasing to relatives with Section 8 assistance. Sixty-six comments were from housing agencies (HAs). One HA included 119 letters addressed to the HA from Section 8 tenants and landlords. The Department also received comments from two Congressmen, several cities, trade associations, and entities involved in managing housing. The following summarizes the major comments and gives the Department's response.

A. Comments on the Merits of the Policy

The following public comments, both pro and con, concern the overall merits of the policy of prohibiting leasing to close relatives with voucher or certificate assistance.

1. *The Presence or Absence of Program Abuse.* Several commenters urged HUD to adopt the rule because it would curtail program abuse. Some of them noted instances where property was quitclaimed and reconveyed to relatives and then leased to the former owner and other instances where the tenant was listed as a co-owner of the property. Some commenters noted instances where families were paying for their homes with Section 8 assistance by leasing to their relatives. Others indicated that there are times when landlords do not collect the full amount of tenants' share of the rent when they lease to relatives.

Other commenters said they did not see fraud where a landlord is renting to a relative. They argued that tenants have to follow the same policies whether they rent from relatives or nonrelatives and that HUD audits and reviews could see if the HA is being consistent when leasing with relative and nonrelative landlords. They claimed that the preamble to the proposed rule indicated that HUD's reviews did not disclose program violations. Some contended that there is no need for the rule if the HA is doing its job. If there is a problem in detecting fraud or abuse, it should be addressed by additional documentation, not by the proposed rule.

Some commenters viewed the rule as a reaction by HUD to bad press. They asserted that the reason HUD is proposing the rule is appearances. They thought the rule corrects a public perception more than program misuse. They believed HUD's arguments for the rule to be speculative with no documentation for the assertion that current policy encourages families that can house family members to obtain Federal assistance that would otherwise be available to more needy families. To assume that there is something improper in renting to relatives is a faulty assumption. HUD should not focus on an area that has yet to be proven misused but should focus on actual fraud cases. HUD should gather data showing abuse before it issues restrictions on housing choice.

Other commenters, however, pointed out that halting a practice that may appear to be improper is an important step in maintaining the integrity of the programs and the HAs operating them.

Some commenters saw the rule, if adopted, as increasing the possibility of abuse. They noted that the family relationship may be difficult to verify. An "other interested party" might not be on the deed. Some believe that the prohibition could be avoided by landlords "trading" relatives. HAs do not have the staff to verify property ownership.

2. *Extent of Practice of Renting to Relatives.* There was disagreement among commenters (mostly HAs) on the perceived extent of the practice of renting to relatives. A few commenters argued that there was little need for the rule because in their experience there were few instances of renting to relatives.

Other commenters, however, favored the rule because in their experience the practice is not rare. One HA indicated that about 12 percent of the units under lease were in units owned by immediate family. This commenter claimed that, from conversations with other HAs, this number may be representative of HAs in general. The commenter gave specific examples of landlords with a number of rental properties renting under Section 8 to a parent or child.

3. *Effect on Supply of Affordable Housing.* Another group of commenters acknowledged that the practice of leasing to relatives may be extensive, but favored the practice because they believed that it increased the supply of affordable housing. One commenter noted that 20% of its certificate holders rent from relatives and that its locality had a vacancy rate of 2 percent.

Some commenters asserted that the prohibition on leasing to relatives

would severely decrease the supply of affordable rental housing in small communities and rural areas which have few rental properties. Because of tight housing markets, family members purchase mobile homes and lease to relatives participating in the Section 8 program. The commenters stressed that their relatives are as needy as other Section 8 participants. They believed that the rule will reduce the base of participating owners. A relative is more likely to rent to a family member with a history of problems or a disability.

A few commenters thought that HUD was sending a mixed message because under HUD Notice PIH 97–13, "Lease-Purchase Agreements in the Section 8 Tenant-Based Rental Voucher and Certificate Programs," HUD clarified that Section 8 regulations do not prohibit lease purchase arrangements.

For these reasons some commenters recommended one or more of the following exceptions: for tight rental markets and for families working toward self-sufficiency; for HAs with fewer than 500 certificates and vouchers; and for rural areas.

4. *Landlords are not generally affluent.* Many of the commenters that were opposed to the rule believed that landlords who rented to relatives, in general, were not affluent and were not in a position to provide low rents without the Section 8 assistance. They argued that the owner/relatives are continuing to take responsibility for their family members even though some cost is borne by the Federal Government and that the rule would make it more difficult for relatives to assume some responsibility for a needy relative. Many of the comments from individuals explained how they either were aided by renting from relatives or were aiding relatives by renting to them. The most frequently described situation was of an owner renting to a low-income adult child, single-parent family. Some commenters believed that the current policy encourages family unity or promotes self-sufficiency.

While most of these commenters wanted HUD to drop the rule, some commenters recommended exceptions for certain owners. These recommendations included exceptions for owners: with fewer than 100 units; with fewer than 5 units; that own only one property; that cannot allow the unit to go unrented. One commenter asked for an exception for an owner-occupied duplex where one unit is occupied by an elderly relative or a relative with child care needs.

Another approach that was recommended was to permit leasing to relatives but require business financial statements from a landlord that is a relative. This commenter recommended that an HA's determination of an owner's ability to forgo rent should include considering family size. One commenter, a landlord, expressed a willingness to provide financial information to show inability to support the relative.

5. *Costs.* The commenters disagreed on whether the rule would increase or decrease program costs. Some commenters indicated that their experience was that many voucher holders would probably give up assistance if they could not rent from a relative, indicating that assistance would become available for more needy families. Other commenters argued that contract rents generally are lower than average when a landlord leases to a relative. They believed that, if families do not rent from relatives, they will rent elsewhere; therefore, the rule could result in paying out higher assistance payments. One commenter's experience is that young families who rent from relatives do not stay on rental assistance long.

Some commenters noted that rental units owned by relatives are usually in good condition. Repairs generally are made quickly. They believed that there are fewer landlord-tenant problems and the tenant is more likely to help maintain the unit. Related owners are likely to provide transportation and child care which addresses obstacles to employment.

6. *Only Concerns Should Be Eligibility of Applicant and Condition of Property.* Some commenters objected to the proposed rule as seriously negating the goal of "maximum housing choice for assisted families." They believed that there should be no exception to current general policies on participation. That is, participants should choose where to reside and landlords should be able to lease to anyone as long as the tenant is income eligible and unit is in good condition. Income and assets of other relatives, they asserted, have never been a consideration in determining eligibility. They saw the rule as creating a back-door method of means testing of relatives without Congressional intent to do this. This is not an owner-income tested program, but rather a tenant-income tested program. Some commenters noted that food stamps and energy assistance can be used to buy food or fuel from a relative.

Some commenters saw the rule as injecting a morality that they did not believe belongs in regulations. They argued that there is no legal obligation for closely related individuals to provide for each other financially. Unless there is a means to hold families accountable for housing all of their members, this rule will accomplish little. The Federal government and the HA are not in a position to determine if an owner can or should be responsible for housing a low income relative.

HUD Response. The Department acknowledges that information on the practice of owners leasing to relatives is anecdotal. Nonetheless, the Department continues to believe that both the actual instances of program abuse and allowing leasing among closely related persons create a systemic incentive to misuse the program. In addition, public perception that the program can be used in such a manner is itself detrimental to the program.

The restriction on leasing to a relative does not change the general eligibility requirements of these programs. The rule does not in any way impose a means test on owners. It should not substantially restrict housing choice to the certificate or voucher holder. The vast majority of affordable housing within the market remains available to voucher and certificate holders. It is only housing that is owned by a close relative which cannot be leased. Indeed, the argument that prohibiting leasing to relatives will decrease the supply of affordable housing underscores the doubt that such housing is truly available under the voucher and certificate programs. Rather, its availability appears to be dependent upon the family relationship between the landlord and tenant.

Adopting this rule should not increase the risk of fraud under the program. The practice of leasing to relatives exists in large part because it is permitted under current policies. Certification by the owner and the certificate or voucher holders is a minimally burdensome way of implementing this requirement.

B. Comments on Specific Elements of the Policy

1. *Comments Concerning Scope of Restriction and Exceptions.*

Comment. Some commenters recommended that the rule also exclude leasing to other relatives, such as, aunts, uncles and cousins. Other commenters believed that the restriction should apply to in-laws and step parents. They thought it might be easy to get around the proposed restriction if the restriction were not expanded.

HUD Response. The Department is not inclined, at this time, to expand the scope of relatives to which the restriction applies. This is both to keep the restriction easier to apply and because the Department believes that

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the class of relatives covered is sufficient to cover the circumstances in which the program is most likely to be abused.

Comment. Most comments on the exception for persons with disabilities were favorable. They indicated that the exception should be kept because rentals for persons with disabilities are not readily available and relatives are better able to assist a family member who is a person with disabilities. Some commenters asked for a complete description of "person with disabilities." Others requested that persons with mental disabilities be included. One commenter recommended that the exception should also apply when the owner is the person with disabilities.

A few commenters were opposed to an exception for the persons with disabilities because they believed that many times such persons have other resources to rely on. One commenter was not opposed to the exception, but noted an inconsistency between restricting leasing to relatives (a resource issue) and allowing leasing to persons with disabilities regardless of the wealth of the owner.

HUD Response. The Department has retained the exception permitting leasing to a relative when the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. In the rental voucher and rental certificate programs, the term "person with disabilities," for purposes of reasonable accommodation and program accessibility for persons with disabilities, means "individual with handicaps" as defined in 24 CFR 8.3. For purposes of determining eligibility based upon disability status, "Person with disabilities" is defined for these programs in section 3(b)(3)(E) of the United States Housing Act of 1937.

Comment. A number of commenters argued that the exception should apply to the elderly. They believed that it was less costly to enable the elderly to live independently with assistance than to be placed in a nursing home. A commenter argued that it would create a hardship if he could not rent the adjacent duplex to his mother. Some commenters recommended that the exception should include: elderly, persons with disabilities (any form of disability not just physical), HIV positive, and AIDS tenants. Some commenters asked how the rule is fair to the elderly when they are allowed to transfer assets to become eligible for Medicaid.

HUD Response. This rule does not prevent the elderly person who is qualified for Section 8 assistance from living independently. If the elderly person is also a person with disabilities then he or she would qualify for that exception.

Comment. Some commenters recommended an exception for a tenant that is losing project-based assistance, such as under moderate rehabilitation.

HUD Response. Subject to the availability of funds, these tenants would receive a voucher or certificate. The Department does not see a reason for treating such a tenant differently than other certificate or voucher holders.

2. *HA Discretion.* A number of commenters argued that the rule should be discretionary for HAs. They characterized the rule as "overkill." They recommended that HAs should be able to address how to deal with leasing to relatives in their Administrative Plans if they perceived a problem. The Department has not adopted this recommendation because it believes that a uniform policy will better ensure the integrity of the Section 8 program.

3. *Alternatives to Prohibiting Leasing to Relatives.* There were a number of comments recommending restrictions that fell short of a general prohibition on leasing to relatives altogether.

One recommendation was that the contract rent for a relative should be set at 90 percent of the lower of the FMR for authorized or actual bedroom size when the landlord rents to a relative; others recommended that the rent be set at some percentage below FMR. Some of these commenters would prohibit such leases if the relative resides in the same building and would otherwise set the initial contract rent at no more than rent previously charged for the unit.

One commenter recommended that HUD require every such tenant to pay one quarter of the total rent.

HUD Response. The Department does not believe that any of the restrictions on rent deal directly with the problem which is avoiding having relatives structure arrangements where a family member receives assistance for housing that would be provided anyway.

4. *Affect on In-Place Tenants.* A number of commenters agreed with applying the new policy only to new admissions and moves. To do otherwise, they noted, would require HAs to apply the restriction to existing rental agreements which would create unnecessary confusion and hardship. One commenter contended that forcing someone who is eligible for assistance to relocate would not serve the overall goals of the program.

Other commenters believed that current participants leasing from relatives should not have the lease renewed in place. They recommended that current participants be given 6 months (some suggested 5 years) to locate another unit. Others thought that current tenants should have their assistance terminated at the next annual review if they did not move. Another recommendation was that, if a relative is allowed to remain in the unit, the owner should not be allowed a rent increase.

HUD Response. The Department recognizes that the rule does not address the concern about families that are currently benefiting from Section 8 by taking advantage of the fact that there was no prohibition on renting to relatives. These participants, however, have existing living arrangements that presumably were entered into in conformity with then applicable regulations. The Department is reluctant to alter these arrangements through this rulemaking.

5. *Issue of Discriminatory Practice.* Some commenters questioned whether the proposed restriction was a fair housing violation. Many commenters characterized the policy of refusing to allow landlords to rent to relatives as discriminatory.

HUD Response. The policy is not discriminatory. It does not distinguish between people based on a prohibited status. Rather it imposes a restriction based on a legal relationship that exists between individuals.

II. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*, issued by the President on September 30, 1993 (58 FR 51735, October 4, 1993). Any changes to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Department of Housing

and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C.

Regulatory Flexibility Act

The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), that this final rule does not have a significant economic impact on a substantial number of small entities because it simply restricts leasing with assistance between certain related individuals and does not otherwise restrict or impose burdens on the use or availability of Section 8 rental certificate or rental voucher assistance.

Unfunded Mandates Reform Act

The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), that this final rule does not impose a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The final rule does not alter the relationship between HUD and the HAs. Rather, it simply amends one of the conditions for receipt of Federal assistance.

Catalog

The Catalog of Federal Domestic Assistance numbers are 14.855 and 14.857.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 982 is amended as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

1. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d).

2. In § 982.306, paragraphs (d) and (e) are redesignated as paragraphs (e) and (f) and a new paragraph (d) is added to read as follows:

§ 982.306 HA disapproval of owner.

* * * * *

(d) The HA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

* * * * *

Dated: May 8, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 98–13157 Filed 5–15–98; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.J. Res. 102/P.L. 105–175
Expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel. (May 11, 1998; 112 Stat. 102)

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–056–12]

Mediterranean Fruit Fly; Addition to Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Lake and Marion Counties, FL, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the continental United States.

DATES: Interim rule effective May 13, 1998. Consideration will be given only to comments received on or before July 20, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–056–12, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–056–12. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The regulations in 7 CFR 301.78 through 301.78–10 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States.

Recent trapping surveys by inspectors of Florida State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of Medfly has occurred in a portion of Lake and Marion Counties, FL.

The regulations in 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

Less than an entire State will be designated as a quarantined area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Medfly. The boundary lines for a portion of a State being designated as quarantined are set up approximately four-and-one-half miles from the detection sites. The boundary lines may vary due to factors such as the location of Medfly host material, the location of transportation centers such as bus stations and airports, the patterns of persons moving in that State, the number and patterns of distribution of the Medfly, and the use of clearly identifiable lines for the boundaries.

In accordance with these criteria and the recent Medfly findings described above, we are amending 301.78–3 by adding a portion of Lake and Marion Counties, FL, to the list of quarantined areas. The new quarantined area is described in the rule portion of this document.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Medfly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Medfly regulations by adding a portion of Lake and Marion Counties, FL, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Medfly into noninfested areas of the United States.

This interim rule affects the interstate movement of regulated articles from the quarantined area of Lake and Marion Counties, FL. We estimate that there are 85 entities in the quarantined area of Lake and Marion Counties, FL, that sell, process, handle, or move regulated articles; this estimate includes 15

commercial growers, 1 transportation terminal, 8 fruit stands, 5 flea markets, 5 processing plants, 1 farmer's market, 25 nurseries, 10 apiaries, 12 mobile vendors, and 3 food stores. The number of these entities that meet the U.S. Small Business Administration's (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's gross receipts or number of employees) is not currently available. However, it is reasonable to assume that most of the 85 entities are small in size, since the overwhelming majority of businesses in Florida, as well as the rest of the United States, are small entities by SBA standards.

We believe that few, if any, of the 85 entities will be significantly affected by the quarantine action taken in this interim rule because few of these types of entities move regulated articles outside the State of Florida during the normal course of their business. Nor do consumers of products purchased from these types of entities generally move those products interstate. The effect on the small entities that do move regulated articles interstate from the quarantined area will be minimized by the availability of various treatments that, in most cases, will allow those small entities to move regulated articles interstate with very little additional costs. Also, many of these types of small entities sell other items in addition to regulated articles, so the effect, if any, of the interim rule should be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The site specific environmental assessment and programmatic Medfly environmental impact statement provide a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–3, paragraph (c), the entry for Florida is amended by adding an entry for Lake and Marion Counties, FL, to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

Florida

* * * * *

Lake and Marion Counties. That portion of Lake and Marion Counties beginning at the intersection of County Road 44A and County Road 439; then west along County Road 44A to Estes Road; then south along Estes Road to Bates Avenue; then west along Bates Avenue to the extension of Bates Avenue; then west along the extension of Bates Avenue to the shoreline of Lake Eustis; then northwest along the northern shoreline of Lake Eustis to Indian Trail; then north along Indian Trail to Grand Island Shores Road; then west along Grand Island Shores Road to Apiary Road; then north along Apiary Road to the extension of Apiary Road; then north along the extension of Apiary Road to Lake Yale; then northwest and north along the shoreline of Lake Yale to the section line dividing sections 7 and 8, T. 18 S., R. 26 E.; then north along the section line dividing sections 7 and 8, and 5 and 6, T. 18 S., R. 26 E., to the Lake/Marion County line; then north along the section line dividing sections 31 and 32, and 29 and 30 to the southern section line of section 20, T. 17 S., R. 26 E.; then east along the section line dividing sections 20 and 29, and 21 and 28, T. 17 S., R. 26 E., to the section line dividing sections 21 and 22, T. 17 S., R. 26 E.; then north along the section line dividing sections 21 and 22, T. 17 S., R. 26 E., to the southern section line of section 15, T. 17 S., R. 26 E.; then east along the section line dividing sections 15 and 22, 14 and 23, and 13 and 24, T. 17 S., R. 26 E., to the Lake/Marion County line; then north along the Lake/Marion County line to the southern section line of section 7, T. 17 S., R. 27 E.; then east along the section line dividing sections 7 and 18, 8 and 17, 9 and 16, 10 and 15, and 11 and 14, T. 17 S., R. 27 E. to the western section line of section 13, T. 17 S., R. 27 E.; then south along the section line dividing sections 13 and 14, 23 and 24, 25 and 26, 35 and 36, T. 17 S., R. 26 E., and sections 1 and 2, 11 and 12, 13 and 14, and 23 and 24, T. 16 S., R. 27 E., to the southern section line of section 23, T. 16 S., R. 27 E.; then west along the section line dividing sections 23 and 26, T. 16 S., R. 27 E., to County Road 439; then south along County Road 439 the point of beginning.

Done in Washington, DC, this 13th day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–13289 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service and Executive Office for Immigration Review

8 CFR Parts 3 and 236

[INS No. 1855–97; AG Order No. 2152–98]

RIN 1115–AE88

Procedures for the Detention and Release of Criminal Aliens by the Immigration and Naturalization Service and for Custody Redeterminations by the Executive Office for Immigration Review

AGENCY: Immigration and Naturalization Service, and Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the regulations of the Immigration and Naturalization Service (Service) and the Executive Office for Immigration Review (EOIR), establishing a regulatory framework for the detention of criminal aliens pursuant to the Transition Period Custody Rules (TPCR) set forth in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule is necessary to provide uniform guidance to Service officers and immigration judges (IJs) regarding application of the TPCR.

DATES: This rule is effective June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Brad Glassman, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536, telephone (202) 305–0846.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1996, the Commissioner of the Immigration and Naturalization Service (Service) notified Congress that the Service lacks the detention space and personnel necessary to comply with the mandatory detention provisions of section 440(c) of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104–132, 110 Stat. 1214, and section 236(c) of the Immigration and Nationality Act (INA or Act), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104–208, Div. C, section 303(a), 110 Stat. 3009. By operation of law, *see* IIRIRA section 303(b)(2), the notification resulted in the temporary replacement of these mandatory detention provisions with the Transition Period Custody Rules (TPCR) set forth in IIRIRA section 303(b)(3). A second notification on September 29, 1997, continued the TPCR in effect for an additional year. The TPCR provide for the detention, *inter alia*, of specified classes of criminal aliens, and allow some of these aliens to be considered for release in the exercise of the Attorney General's discretion.

The Department of Justice (Department) published a proposed rule to implement the TPCR on September 15, 1997, at 62 FR 48183, with written comments due by October 15, 1997. The proposed rule established three categories of criminal aliens for purposes of detention and release under the TPCR. Aliens in the first category were subject to mandatory detention. Aliens in the second category were subject to mandatory detention except in the case of lawful permanent resident aliens and certain other lawfully admitted aliens who had remained free of crimes, immigration violations, and the like for a 10-year period. Aliens excepted from the second category and aliens in the third category could be considered for release on a case-by-case basis, in the exercise of discretion.

The proposed rule also established procedures for the Service to obtain a stay of an immigration judge's custody decision in conjunction with an appeal of the custody decision to the Board of Immigration Appeals (Board). In providing explicit authority for the Service to seek an emergency stay, the rule codified a long-standing administrative practice. The rule departed from present practice, however, in providing for an automatic stay in certain criminal cases where the Service appeals the redetermination of a bond set at $10,000 or more (including an outright denial of bond).

The Department has received a number of public comments recommending modifications of the proposed rule. Because several of the comments overlap or endorse the submissions of other commenters, the following discussion will address the comments by topic rather than by response to each comment individually.

General Rules Versus Ad Hoc Adjudication

Several commenters objected to the establishment of categories of non-releasable deportable and inadmissible criminal aliens based on factors strongly indicating a poor bail risk. The commenters expressed a preference for case-by-case custody determinations in all situations, criticizing categorical rules as burdensome with respect to the Service's detention resources, less flexible and nuanced than case-by-case consideration, invasive of immigration judges' bond redetermination authority, contrary to the TPCR, and, in the case of permanent resident aliens, unconstitutional.

The Department has carefully considered the views of the commenters, and will retain the basic structure of the proposed rule, with certain modifications. This rule implements an important component of a congressional and executive policy to ensure the swift and certain removal of aliens who commit serious crimes in this country. The success of this policy, in the estimation of both Congress and the Department, significantly affects the well being of the United States and its law-abiding citizen, residents, and visitors.

Congress' near-complete power over immigration transcends the specific grant of authority in Article 1, Section 8 of the Constitution, and derives from the "inherent and inalienable right of every sovereign and independent nation" to determine which aliens it will admit or expel. *Fong Yue Ting* v. *United States*, 149 U.S. 698, 711 (1893); *see also, e.g., Landon* v. *Plasencia*, 459 U.S. 21, 32 (1982) ("'[T]he power to admit or exclude aliens is a sovereign prerogative,'"); *Kleindienst* v. *Mandel*, 408 U.S. 753, 766–67 (1972) (" 'Policies pertaining to the entry of aliens and their right to remain here are peculiarly concerned with the political conduct of government.' " (quoting *Galvan* v. *Press*, 347 U.S. 522, 531 (1954)); *Flemming* v. *Nestor*, 363 U.S. 603, 616 (1960) (describing "power of Congress to fix the conditions under which aliens are to be permitted to enter and remain in this country" as "plenary"); *Harisiades* v. *Shaughnessy*, 342 U.S. 580, 587–88 (1952) (Power to remove even permanent resident aliens is "confirmed by international law as a power inherent in every sovereign state."); *Mahler* v. *Eby*, 264 U.S. 32, 39 (1924) (describing as "unquestioned" the power of Congress "to rid the country of persons who have shown by their career that their continued presence here would not make for the safety or welfare of society"). More than a century ago, the Supreme Court upheld detention

> as part of the means necessary to give effect to the provisions for the exclusion of expulsion of aliens * * *. Proceedings to exclude or expel would be in vain if those accused could not be held in custody pending the inquiry into their true character and while arrangements were being made for their deportation.

Wong Wing v. *United States*, 163 U.S. 228, 235 (1896); *see also Carlson* v. *Landon*, 342 U.S. 524, 538 (1952) ("Detention is

necessarily a part of this deportation procedure. Otherwise aliens arrested for deportation would have opportunities to hurt the United States during the pendency of deportation proceedings."). It is therefore "axiomatic" that an alien's interest in being at liberty during the course of immigration proceedings is "narrow" and "circumscribed by considerations of the national interest." *Doherty* v. *Thornburgh*, 943 F.2d 204, 208, 208, 209 (2d Cir. 1991), *cert. dismissed* 503 U.S. 901 (1992).

The detention of removable criminal aliens during proceedings serves two essential purposes: Ensuring removal by preventing the alien from fleeing, and protecting the community from further criminal acts or other dangers. The stakes for the Government are considerable in this context. The apprehension of a criminal alien who absconds during the removal process is expensive, time-consuming, and, in many cases, dangerous both to Government personnel and to civilians. Failure to recover such an alien for removal means not only scores of hours wasted by immigration judges, Service attorneys, interpreters, immigration officers, and clerical and support staff, but also a fugitive alien criminal beyond the control of lawful process and at large in the community. Released aliens who abscond calculate—correctly—"that the INS lacks the resources to conduct a dragnet." *Ofosu* v. *McElroy*, 98 F.3d 694, 702 (2d Cir. 1996). As further discussed below, abscondment by criminal aliens subject to removal has become disturbingly frequent.

Beginning with the Anti-Drug Abuse Act of 1988 (ADAA), Pub. L. 100–690, 102 Stat. 4181, continuing with the Immigration Act of 1990 (Immact), Pub. L. 101–649, 104 Stat. 4978, and culminating with the recent enactment of AEDPA and IIRIRA, successive legislation over the past decade has mandated increasingly severe immigration consequences for aliens convicted of serious crimes, and has imposed restrictive detention conditions on such aliens during removal proceedings. Congress' concern with criminal aliens who flee or commit additional crimes is plainly evident in the detention provisions of the ADAA and Immact, as amended by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102–232, 105 Stat. 1733 *See* 8 U.S.C. section 1252 (a)(2) (1995) (mandating detention of aliens convicted of an aggravated felony except upon demonstration of lawful entry and lack of threat to community and flight risk); 8 U.S.C. section 1226(e) (1995) (mandating detention of aliens convicted of an aggravated felony who seek admission to the United States except when home country refuses to repatriate and alien demonstrates lack of threat to community). The legislative history of former section 242(a)(2) and IIRIRA section 303 also reflects these concerns. *See* S. Rep. No. 48, 104th Cong., 1st Sess., 1995 WL 170285 (Apr. 7, 1995); 141 Cong. Rec. S7803, 7823 (daily ed. June 7, 1995) (statement of Senator Abraham); *see also Davis* v. *Weiss*, 749 F. Supp. 47, 50 (D. Conn. 1990); *Morrobel* v. *Thornburgh*, 744 F. Supp. 725, 728 (E.D. Va. 1990) (Legislators reasonably deemed mandatory detention necessary because aggravated felons "are likely to abscond before the completion of the deportation proceedings.").

These concerns motivated some of the basic procedural reforms embodied in IIRIRA. *See, e.g.*, INA section 236(a)(2) (raising minimum bond during proceedings from $500 to $1,500); 236(c) (mandating detention of criminals during proceedings); section 236(e) (barring judicial review of discretionary custody determinations); 241(a) (requiring detention of aliens during 90-day "removal period" after final order). Congress has specifically addressed the detention of removable criminal aliens by greatly increasing Service detention resources over several years, and by expressing in IIRIRA a clear intention that aliens removable from the United States on the basis of a crime be detained, except in very limited circumstances, *see* INA section 236(c)(1), (2) (permanent provisions mandating detention during proceedings of most aliens removable on criminal grounds); section 241(a)(2) ("Under no circumstances during the removal period shall the Attorney General release an alien who has been found" removable on criminal or terrorist grounds.). Discretion remains under the statute only by virtue of transitional rules enacted to ease the burden of mandatory detention on the Service's detention resources.

Indeed, section 236(c) of IIRIRA would now bar the release during proceedings of most aliens removable on criminal grounds, were it not for the Service's notification to Congress invoking the TPCR. Having invoked the TPCR on the basis of insufficient detention resources, the Department remains responsible for exercising its temporary discretion in conformity with congressional intent. In the Department's judgment, a carefully crafted regime incorporating both case-by-case discretion and, where appropriate, clear, uniform rules for detention by category, best achieves that goal.

The Department has retained the structure of the proposed rule, including its mandatory detention categories, despite the commenters' concern that the rule encroaches on the authority of immigration judges and lacks the flexibility of a universal case-by-case approach. The final rule preserves a wide area of discretion for Service and EOIR decision makers, but defines limited situations in which a criminal alien's conduct warrants a *per se* rule of detention. Case-by-case discretion remains overwhelmingly the general rule. Per se rules are drawn narrowly, and only where, in the carefully considered judgment of the Attorney General, the danger of an erroneous release is sufficiently grave, and the danger of unwarranted detention during proceedings sufficiently minimal, as to tip the balance in favor of such a rule. *See Fook Hong Mak* v. *INS*, 435 F.2d 728, 730 (2d Cir. 1970) (Agency appropriately exercises discretion where it "determines certain conduct to be so inimical to the statutory scheme that all persons who have engaged in it shall be ineligible for favorable consideration, regardless of other factors that otherwise might tend in their favor.").

The Department disagrees with comments suggesting that the TPCR require case-by-case adjudication for all "lawfully admitted" criminal aliens. The TPCR, by their terms, grant discretion to the Attorney General to consider certain categories of criminal aliens for release. It does not specify that that discretion be exercised by adjudication rather than by rulemaking. "It is a well-established principle of administrative law that an agency to whom Congress grants discretion may elect between rulemaking and ad hoc adjudication to carry out its mandate." *Yang* v. *INS*, 70 F.3d 932, 936 (9th Cir. 1996) (citing *American Hosp. Assoc.* v. *NLRB*, 499 U.S. 606, 611–13 (1991); *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 294 (1974)). Agencies may resolve matters of general applicability through the promulgation of rules "even if a statutory scheme requires individualized determination * * * unless Congress has expressed an intent to withhold that authority." *American Hosp.*, 499 U.S. at 613; *see also Fook Hong Mak*, 435 F.2d at 731 ("(I)t is fallacious to reason that because Congress *prevented* the Attorney General from exercising any discretion in favor of those groups[] which Congress had found to have abused the privileges accorded them, it meant to *require* him to exercise it in favor of everyone else on a case-by-case basis even if experience should convince him

of the existence of another group with similar potentialities or actualities of abuse." (emphasis in original)).

Reviewing courts have upheld the Department's rulemaking in this area in light of these principles of administrative law. For example, in *Reno* v. *Flores*, 507 U.S. 292 (1993), the Supreme Court upheld a rule categorically precluding the release of detained juveniles not able to have either a legal guardian or one of several listed relatives assume custody. The Court held the rule to be a permissible exercise of the Attorney General's discretion, because it rationally advanced a legitimate governmental objective. *Id.* at 306. Similarly, in *Yang*, the Ninth Circuit upheld a rule categorically denying asylum, as a matter of discretion, to aliens "firmly resettled" prior to arrival in the United States. In *Fook Hong Mak*, the Second Circuit upheld a regulation barring, again in the exercise of the Attorney General's discretion, any alien transiting the United States without a visa from adjusting status under section 245 of the Act. *Cf. Anetekhai* v. *INS*, 876 F.2d 1218, 1223 (5th Cir. 1989) (Congress may require all aliens who marry citizens after the institution of deportation proceedings to reside outside United States for 2 years without opportunity to demonstrate bona fides of marriage.)

"There is not doubt that preventing danger to the community is a legitimate regulatory goal." *United States* v. *Salerno*, 481 U.S. 739, 747 (1987). Preventing abscondment by removable criminal aliens, and doing so in a way that minimizes waste of the Service's scarce enforcement resources and promotes consistent application of the law, are also legitimate goals. This rule exercises a well-established rulemaking authority of the Attorney General, in an area of "sovereign prerogative, largely within the control of the executive and the legislative, " *Landon* v. *Plasencia*, 459 U.S. 21, 34 (1982).

General Rules Versus Ad Hoc Adjudication for Permanent Resident Aliens

Several commenters emphasized the special status of permanent resident aliens. That status entails certain rights with regard to removal proceedings, *see Landon* v. *Plasencia, supra*, but does not prohibit Congress or the Attorney General from establishing categories of criminal or terrorist permanent resident aliens whose crimes or conduct evidence a danger to the community or a flight risk sufficiently serious to require detention.

Nevertheless, the Department has long maintained, and continues to maintain, a policy of special care with regard to procedural protections for permanent resident aliens. This rulemaking does not depart from that tradition. Permanent resident aliens retain the full panoply of rights and privileges in removal proceedings. The final rule affords a full discretionary custody determination to nearly all permanent resident aliens during such proceedings, and makes exceptions only in the extreme circumstances specified in § 236.1(c)(5).

The circumstances covered by § 236.1(c)(5) of the proposed rule uniformly present compelling indicia of flight risk and danger to the community. First, to be subject to the TPCR, an alien must have a serious criminal conviction constituting a basis for removal from the United States. (Indeed, not all crimes constituting grounds for removal trigger the TPCR.) Second, in order to be subject to mandatory detention, a permanent resident alien must either (1) have escaped or attempted to escape from a prison or other lawful government custody; (2) have fled at high speed from an immigration checkpoint; or (3) have been convicted of one of the crimes specified in § 236.1(c)(5)(i)(A). The specified crimes include murder, rape, sexual abuse of a minor, trafficking in firearms, explosives, or destructive devices, certain other explosive materials offenses, kidnaping, extortion, child pornography, selling or buying of children, slavery, treason, sabotage, disclosing classified information, and revealing the identity of undercover agents.

Further, to address the concerns raised by commenters concerning procedural protections for permanent residents, the Department has also modified the final rule in three ways as it applies to permanent residents. First, the final rule requires that an alien, including one admitted as a nonimmigrant, receive a sentence (or sentences in the aggregate) of at least 2 years, not including portions suspended, in order to trigger the requirements of § 236.1(c)(5). Permanent residents with less than the required sentence of 2 years will be eligible for an individualized custody determination; other lawfully admitted aliens with less than the required sentence will be considered under § 236.1(c)(4). Second, the final rule will exempt from § 236.1(c)(5) permanent residents who have remained free of convictions, immigration violations, and the like for an uninterrupted period of 15 years prior to the institution of proceedings (not including any periods of incarceration or detention).

Finally, the final rule has been revised to provide an individualized custody determination to former permanent residents subject to the TPCR who have lost that status through a final order of deportation under former section 242 of the Act, and have been in Service custody pursuant to the final order for six months. The district director's decision may be appealed to the Board of Immigration Appeals under existing procedures. It is expected that releases in this category of final-order criminal cases will be rare, but the authority has been incorporated for use in compelling circumstances. Similar authority exists under section 241 of the Act for removal cases commenced on or after April 1, 1997. These three modifications will further ensure adequate procedural safeguards for the custody of permanent resident aliens (and aliens challenging the loss of such status through the prescribed jurisdictional channels).

It is only within the extremely narrow range of offenses specified in the proposed rule, further narrowed by the aforementioned modifications, that the final rule requires detention of permanent resident aliens without discretionary release consideration. The constitutional concerns expressed by the commenters focus, therefore, on this very limited class of cases, and generally rest on the claim that due process prohibits Congress and the Attorney General from mandating the detention of *any* class of permanent resident aliens, regardless of the character of their criminal or terrorist offenses. The Department disagrees with this position.

The Supreme Court has affirmed much broader administrative authority over detention of convicted criminals even in areas of law not informed by the "plenary power" doctrine. Individuals convicted of a crime have necessarily received all the process required by the criminal justice system; they have been convicted on the basis of either a voluntary guilty plea or a finding of guilt beyond a reasonable doubt, with opportunity for appeal and collateral habeas corpus challenge. In this context, the Supreme Court has upheld a general congressional delegation of sentencing authority to an independent agency within the Judicial Branch. *Mistretta* v. *United States*, 488 U.S. 361 (1989). If it is permissible for an agency to subject a U.S. citizen, upon conviction, to a mandatory sentence without individualized discretionary consideration, it would seem even more clearly permissible for the Attorney General to require custody of a narrow

class of convicted criminal aliens without individualized discretionary consideration during the ensuing proceedings to effect their removal. *Cf. Jone* v. *United States*, 463 U.S. 354, 364–65 (1983) ("The fact that a person has been found, beyond a reasonable doubt, to have committed a criminal act certainly indicates dangerousness.") (Approving civil commitment, based on insanity plea in criminal proceeding, for 50 days without individualized hearing). Indeed, the power upheld in *Mistretta* is far broader than that asserted here, applying to U.S. citizens and criminal defendants, both of whom enjoy extensive constitutional rights and procedural protections beyond those afforded to criminal aliens in civil removal proceedings. *See Mathews* v. *Diaz*, 426 U.S. 67, 79–80 (1976) ("In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens."); *INS* v. *Lopez-Mendoza*, 468 U.S. 1032, 1039–40 (1984) (cataloguing constitutional procedural protections guaranteed to criminal defendants but not to aliens in deportation proceedings).

The doctrine of plenary power bolsters this conclusion. " 'For reasons long recognized as valid, the responsibility for regulating the relationship between the United States and our alien visitors has been committed to the political branches of the Federal Government.' " *Flores*, 507 U.S. at 305 (quoting *Mathews* v. *Diaz*, *supra*, at 81); *accord United States* v. *Valenzuela-Bernal*, 458 U.S. 858, 864 (1982) ("The power to regulate immigration—an attribute of sovereignty essential to the preservation of any nation—has been entrusted by the Constitution to the political branches of the Federal Government."). " '(O)ver no conceivable subject is the legislative power of Congress more complete.' " *Flores*, 426 U.S. at 305 (*quoting Fiallo* v. *Bell*, 430 U.S. 787, 792, (1977); *Oceanic Steam Navig. Co.* v. *Stranahan*, 214 U.S. 320, 339 (1909)).

Accordingly, an immigration law is constitutional if it is based upon a "facially legitimate and bona fide reason." *Fiallo*, 430 U.S. at 794–95; *Kleindienst* v. *Mandel*, 408 U.S. 753, 770 (1972); *Garcia* v. *INS*, 7 F.3d 1320, 1327 (7th Cir. 1993). "Once a facially legitimate and *bona fide* reason is found, courts will neither look behind the exercise of discretion, nor test it by balancing its justification against the constitutional interest asserted by those challenging the statute." *Campos* v. *INS*, 961 F.2d 309, 316 (1st Cir. 1992) (citing *Fiallo*, 430 U.S. at 794–95). Courts have applied this deferential test to sustain the constitutionality of one of the TPCR's predecessor mandatory detention statutes as applied to permanent residents, *Davis*, 749 F. Supp. at 50; *Morrobel*, 744 F. Supp. at 728, and the Supreme Court has applied a similar test in its most recent case addressing mandatory detention, *Flores*, 507 U.S. at 306 (upholding juvenile alien detention regulation as "rationally advancing some legitimate governmental purpose").

Congress' plenary power over immigration extends to all non-citizens, including permanent resident aliens. Aliens

> [w]hen legally admitted * * * have come at the Nation's invitation, as visitors or permanent residents, to share with us the opportunities and satisfactions of our land * * *. So long, however, as aliens fail to obtain and maintain citizenship by naturalization, they remain subject to the plenary power of Congress to expel them under the sovereign right to determine what noncitizens shall be permitted to remain within our borders.

Carlson, 392 U.S. at 534 (upholding immigration detention of permanent resident alien); *accord Shaughnessy* v. *United States ex rel. Mezei*, 345 U.S. 206 (1953) (affirming detention of returning permanent resident alien); *Harisiades* v. *Shaughnessy*, 342 U.S. 580, 587–88 (1952) ("That aliens remain vulnerable to expulsion after long residence is a practice that bristles with severities. But it is a weapon of defense and reprisal confirmed by international law as a power inherent in every sovereign state. Such is the traditional power of the Nation over the alien [,] and we leave the law on the subject as we find it.").

Carlson v. *Landon*, 342 U.S. 524 (1952)—"the leading case involving a test of the legality of detention under immigration laws, "*Duldulao* v. *INS*, 90 F.3d 396, 400 (9th Cir. 1996)—squarely addresses the detention of permanent resident aliens. The Supreme Court in *Carlson* upheld the Attorney General's detention of permanent residents under the Internal Security Act based solely on evidence of their Communist Party membership and support, without requiring any individualized inquiry into whether such aliens had ever engaged in specific acts of sabotage or subversion. 342 U.S. at 541. In essence, the Court allowed active membership in the Communist Party and espousal of its ideology to be used as proxies for an alien's dangerousness. The present rule, by contrast, relies on actual egregious crimes or conduct of convicted criminals as proxies for danger to the community and flight risk. *Cf. Morrobel*, 744 F. Supp. at 728 ("If there was no abuse of discretion in detaining alien communist in *Carlson*, it can hardly be improper for Congress, having determined that aliens convicted of aggravated felonies * * * are a danger to society, to direct the Attorney General to detain them pending deportation proceedings."); *Davis*, 749 F. Supp. at 51 (analogizing mandatory detention of aggravated felons to detention upheld in *Carlson*).

The Supreme Court has recently applied the principles of *Carlson* to a regulations mandating immigration detention of certain juveniles by category. *Flores* v. *Reno*, 507 U.S. 292 (1993). *Flores* recognizes the power of Congress and the Attorney General to establish detention rules that single out classes of aliens for differing treatment, without providing for an individualized determination as to whether each member of the class warrants such treatment. When Congress or the Attorney General does so, the only process due is a determination of whether the alien in fact belongs to the class at issue.

Hence, the Court in *Flores* held that the Service could, without violating procedural or substantive due process, enforce a regulation generally barring the release of juvenile alien detainees, other than those able to have a legal guardian or certain specified close relatives take custody. The Court rejected arguments that the Service had impressibly employed a "blanket presumption" that other custodians were unsuitable, and that the Service must conduct "fully individualized" hearings on their suitability in each case. *Id.* at 308, 313–14 & n.9. The Service was not required, the Supreme Court stated, to "forswear use of reasonable presumptions and generic rules." *Id.* at 313. The Service needed only make such individual determinations as were necessary for accurate application of the regulation, such as "is there reason to believe the alien deportable?", "is the alien under 18 years of age?", and does the alien have an available adult relative or legal guardian?" *Id.* at 313–14.

Like the regulation upheld in *Flores*, the final rule provides for an individualized hearing on whether an alien in custody actually falls within a category of aliens subject to mandatory detention. In determining or redetermining custody conditions, the district director or IJ necessarily asks such individualized questions as "is this person an alien?", "is there reason to believe that this person was convicted of a crime covered by the TPCR?", and "is there reason to believe that this person falls within a category

barred from release under applicable law?" If the district director or IJ resolves these individualized questions affirmatively, and thus ascertains that the alien belongs to a class of convicted criminals barred from release, "(t)he particularization and individuation need go no further than this," *id.* at 314. Under *Flores*, the IJ or district director may validly enforce the regulatory policy of detaining those classes of aliens whose release has been determined by Congress or the Attorney General to present unacceptable risks. *Cf. Davis*, 749 F.Supp. at 52 ("The most effective procedures are those already built into (one of the TPCR's predecessors), namely those procedures which ensure that the alien is rightfully an 'aggravated felon' under the (INA) and is properly subject to mandatory detention.").

Plenary power confers upon Congress the undisputed authority to curtail a criminal permanent resident alien's right to remain in the United States. *See, e.g., Carlson* v. *Landon*, 342 U.S. at 534 ("The basis for the deportation of presently undesirable aliens resident in the United States is not questioned and requires no reexamination."). Congress has exercised this power in AEDPA and IIRIRA by barring permanent residents convicted of an aggravated felony from seeking discretionary relief from removal. The elimination of relief considerably increases flight risk, *see, e.g., Bertrand* v. *Sava*, 684 F.2d 204, 217 n.16 (2d Cir. 1982) ("The fact that the petitioners are unlikely to succeed on their immigration applications * * * suggests that they pose * * * a risk (to abscond) if (released)."), and thus increases the need for detention of aliens barred in this manner from remaining in the United States.

The congressional power to compel removal includes the power to effect removal by the necessary use of detention. "An alien's freedom from detention is only a variation on the alien's claim of an interest in entering the country." *Clark* v. *Smith*, 967 F.2d 1329, 1332 (9th Cir. 1992); *see also Carlson* v. *Landon*, 342 U.S. at 538; *Wong Wing*, 163 U.S. at 235; *Doherty*, 943 F.2d at 212 ("(F)rom the outset of his detention, Doherty has possessed, in effect, the key that unlocks his prison cell * * *. Because deportation was less attractive to him than his present course and because he had availed himself of the statutory mechanisms provided for aliens facing deportation, Doherty is subject to the countervailing measures Congress has enacted to ensure the protection of national interests."). If Congress may bar specified criminal aliens from making discretionary applications to remain in the United States, it may also bar such criminals from making discretionary applications for release during removal proceedings, especially when detention is a necessary adjunct of the removal process, *Carlson* v. *Landon, supra*, and the elimination of relief itself creates overwhelming incentives to abscond, *Bertrand* v. *Sava, supra*.

Despite the broad congressional and executive authority recognized and consistently reaffirmed over the past century by the Supreme Court, several district courts have held mandatory detention statutes unconstitutional under the Due Process Clause of the Fifth Amendment. *See, e.g., St. John* v. *McElroy*, 917 F. Supp. 243, 247 (S.D.N.Y. 1996). In the Department's view, these district courts have misapprehended the law of immigration detention, and have failed to defer to Congress and the Executive in matters of immigration as required by the Supreme Court's teachings.

Some of the district court cases err in applying to immigration detention the standard for pre-trial criminal bail determinations articulated in *United States* v. *Salerno*, 481 U.S. 739, 747–51 (1987). *See Kellman* v. *District Director*, 750 F. Supp. 625, 627 (S.D.N.Y. 1990); *Leader* v. *Blackman*, 744 F. Supp. 500, 507 (S.D.N.Y. 1990). The Supreme Court, however, has rejected the extension of *Salerno* in a post-conviction context. *Hilton* v. *Braunskill*, 481 U.S. 770, 779 (1987) ("[A] successful (state) habeas petitioner is in a considerably less favorable position than a pretrial arrestee, such as the respondent in *Salerno*, to challenge his continued detention pending appeal. Unlike a pretrial arrestee, a state habeas petitioner has been adjudged guilty beyond a reasonable doubt * * *."). Similarly, in *Doherty*, the Second Circuit determined that "a different focus (from criminal bail standards) must govern the determination of constitutionality of pre-deportation detention." *Doherty*, 943 F.2d at 210 (citing *Dor.* v. District Director, INS, 891 F.2d 997, 1003 (2d Cir. 1989)). In reviewing the constitutionality of an 8-year detention, *Doherty* inquired only into the presence of any bad faith or invidious purpose in the Service's decision-making process. 943 F.2d at 210–11.

St. John and the other district court cases invalidating mandatory detention rules as applied to permanent residents generally decline to apply the "facially legitimate, *bona fied* reason" standard, and instead engage in a balancing of individual and governmental interests. The balancing test set forth in *Mathews* v. Eldridge, 424 U.S. 319 (1976), does not, however, apply in the context of immigration detention. The Ninth Circuit had applied the *Mathews* test in this manner in *Flores* v. Meese, 942 F.2d 1352, 1364 (9th Cir. 1991). The Supreme Court reversed, and applied a different test, requiring only that the challenged regulation "meet the (unexacting) standard of rationally advancing some legitimate governmental purpose." *Flores*, 507 U.S. at 306.

Even if a balancing of interests were permitted—under governing case law, it is not—the paramount interest of the United States in removing criminal aliens and protecting its citizens form crime would outweigh any liberty interest that an alien removable from the United States on criminal grounds could claim. "[A]n alien's right to be at liberty during the course of deportation proceedings is circumscribed by considerations of the national interest," and is consequently "narrow." *Doherty*, 943 F.2d at 208, 209; *see also Flores* 507 U.S. at 305 ("If we harbored any doubts as to the constitutionality of institutional custody over unaccompanied juveniles, they would surely be eliminated as to those juveniles * * * who are aliens.").

Moreover, because the TPCR apply in removal cases only during proceedings, and because the Board of Immigration Appeals expedites detained cases on its docket, the length of an alien's detention under this rule is necessarily finite. Criminal aliens with an enforceable final order of removal must be detained and removed within 90 days; if not removed within that period, such aliens become eligible for discretionary release consideration. See INA section 241(a). Criminal aliens ordered deported or removed whose home countries will not accept repatriation may be considered for release at any time in the discretion of the Service, and permanent residents who lose that status through a final order of deportation may generally be considered for release after six months. These provisions eliminate the possibility of indefinite detention without discretionary review, and thus avoid violation of any protected liberty interest.

In contrast to the "narrow" liberty interest of aliens removable on criminal grounds, "[t]he government's interest in efficient administration of the immigration laws at the border * * * is weighty. Further, it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon* v. *Plasencia*, 459 U.S. 21, 34

(1982). The Government's interest in maintaining the procedures embodied in the final rule is also "weighty." The detention requirements for permanent residents single out aliens with egregious indicia of flight risk and danger to the community. The risk of recidivism and flight upon release is unquestionably great for these aliens; the risk of erroneous detention is correspondingly low. The provisions of the final rule reflect a legislative and executive judgment that, for the limited classes of criminal permanent resident aliens specified in the rule, discretionary release poses unacceptable risks.

Individualized consideration of discretionary release for these groups would also impose considerable administrative burdens on the Government. In many instances, bond hearings become an arena of protracted and costly collateral litigation in their own right, beyond and apart from the extensive administrative processes for determining removability, and the criminal justice process. Although the primary purposes of the final rule are to protect the public and to ensure the departure of aliens removable on criminal grounds, administrative costs are a legitimate consideration in determining the best means to achieve these objectives. Even under the balancing analysis prohibited by *Flores*, therefore, these governmental interests would easily outweigh the "narrow" interest of an alien removable on criminal grounds in making applications to remain at large during proceedings to effect removal.

The elemental error of *Kellman, St. John*, and the cases that follow them lies in their rejection of the Supreme Court's constitutional deference to Congress and the Executive in matters of immigration. The *Kellman* court acknowledges a "significant degree" of deference owed to Congress' substantive decisions regarding deportability, but asserts that "the same deference is not mandated when examining the way in which that deportation is accomplished." *Kellman*, 750 F. Supp. at 627. That assertion finds neither support nor solicitude in the jurisprudence of the Supreme Court. *See, e.g., Flores, supra; Carlson* v. *Landon, supra*. The respondents in *Flores* attempted this sort of distinction, urging the Supreme Court to require individualized discretionary custody determinations, despite the plenary power doctrine, as a matter of "procedural due process." 507 U.S. at 308. The Court's response was unequivocal: "This is just the 'substantive due process' argument recast in 'procedural due process' terms, and we reject it for the same reasons." *Id.*

In the Department's view, the final rule takes the least restrictive approach to the detention of permanent residents consistent with the dictates of public safety and the important public policy of removing aliens who have committed serious crimes in this country. The Department is confident that the final rule provides adequate procedural protections for the custody of permanent resident aliens, and is aware of no other means of ensuring the requisite level of protection for the public. This rule draws upon the Department's experience over time in administering the immigration laws, incorporates its careful consideration of the individual and public interests at stake, and reflects its understanding of the will of Congress. In addressing these concerns, the rule provides needed reform of current procedures for the detention of aliens, including permanent resident aliens, who have become subject to removal as a result of crimes committed in this country.

The Meaning of "Lawfully Admitted"

For aliens in removal proceedings, the proposed rule construed the TPCR's term "lawfully admitted" by reference to the definition of "admitted" in section 101(a)(13) of the Act. Accordingly, the proposed rule treated returning permanent resident "applicants for admission" as not "lawfully admitted" under the TPCR, and hence not eligible to be considered for release. Several commenters urged that the Department reconsider this interpretation to recognize an exception for permanent residents. Permanent residents, even those returning from abroad, remain "lawfully admitted for permanent residence" until termination of that status by a final administrative order. 8 CFR 1.1(p). One commenter argued, therefore, as follows:

> New INA § 101(a)(13) provides that under certain limited circumstances a lawful permanent resident can be deemed to be "seeking admission into the United States." But this individual nevertheless remains a lawful permanent resident who is "lawfully admitted" for purposes of discretionary release from detention under the TPCR. In short, the phrase "lawfully admitted" does not necessarily mean "is not presently seeking admission." Indeed, the language of § 101(a)(13)—the very provision the INS relies on to justify its new interpretation (in the proposed rule)—keeps these concepts distinct.

The Department has carefully considered this and other similar comments, and will revise its interpretation in the final rule much along the lines recommended by the commenters.

The final rule will consider an "arriving alien" in removal proceedings to be "lawfully admitted" for purposes of the TPCR if (and only if) the alien remains in status as a permanent resident, conditional permanent resident, or temporary resident. Accordingly, such aliens may be considered for parole in the discretion of the Service.

The TPCR's term "lawfully admitted" will apply consistently in deportation and removal proceedings. In general, an alien who remains in status as a permanent resident, conditional permanent resident, or temporary resident will be considered "lawfully admitted" for purposes of the TPCR. Other aliens will be considered "lawfully admitted" only if they last entered lawfully (and are not currently applicants for admission).

This interpretation of the term "lawfully admitted" is not intended to extend beyond the limited context of the TPCR. Moreover, under this final rule, a "lawfully admitted" alien will in many cases remain an "applicant for admission." For example, as the Board recently held in *Matter of Collado*, Int. Dec. 3333 (BIA 1997), an arriving permanent resident alien who has committed an offense described in section 212(a)(2) of the Act remains an "applicant for admission" unless previously granted relief under sections 212(h) or 240A(a) of the Act. The same will be true of an arriving permanent resident alien who falls within the other exceptions specified in section 101(a)(13)(C) (i)–(vi) of the Act. Although "lawfully admitted" for purposes of the TPCR during proceedings, such an alien remains an "applicant for admission" and an "arriving alien," charged under section 212 of the Act, and subject solely to the parole authority of the Service.

Bond Jurisdiction of Immigration Judges

One commenter asserted that the TPCR require the Attorney General to grant immigration judges bond authority over arriving aliens in removal proceedings and over aliens in exclusion proceedings. As explained in the notice of proposed rulemaking, the TPCR do not, in the Department's view, apply in exclusion proceedings, because they replace detention provisions applicable in removal and deportation proceedings, but do not replace the analogous provision applicable in exclusion proceedings. As regards arriving aliens in removal proceedings, the TPCR simply confer discretion upon

the Attorney General, leaving it to the Department to determine which subordinate officials will exercise custody authority. The Department has determined that parole authority will remain exclusively with the Service, as in the past. *See generally Shaughnessy* v. *United States ex rel. Mezei*, 345 U.S. 206 (1953) (affirming Service's decision to detain returning permanent resident alien); *Marcello* v. *Bonds*, 349 U.S. 302 (1955) (rejecting claim that custody decision by Service officer violates Due Process where Service initiates and prosecutes proceeding).

Automatic Stay of Certain Criminal Custody Redeterminations To Preserve Status Quo for Appeal

The proposed rule included a provision allowing the Service to request an emergency stay of an immigration judge's order redetermining custody conditions when the Service appeals the custody decision to the Board of Immigration Appeals. The rule also provided for an automatic stay of the immigration judge's custody redetermination where the alien is subject to the TPCR, section 440(c) of AEDPA, or section 236(c) of the Act, and the district director has set a bond of $10,000 or more (including outright denial of bond). Both of these provisions were included as permanent revisions, without regard to the expiration of the TPCR.

Several commenters objected to the automatic stay provision, arguing that it encroaches on the authority of immigration judges, incorporates a criterion (initial bond amount) not adequately indicative of bail risk, and encourages district directors to set high bonds to fortify their custody decisions against reversal. The Department has carefully considered these comments, and will retain the automatic stay provision in the final rule without modification.

Even accepting that initial bond amounts are an imperfect measure of bail risk, the automatic stay does not trigger in all cases meeting the $10,000 threshold. Rather, the $10,000 threshold and the requirement of a serious criminal offense provide the basis for a considered determination by the Service to seek an automatic stay in aid of a custody appeal. Custody appeals are themselves unusual, undertaken only in compelling cases, and subject to review by responsible senior officials within the Service. It is expected that such appeals will remain exceptional, and that Service district directors will continue to set custody conditions according to their best assessment of the bail risk presented in each case.

The interests served by the automatic stay are considerable, even if the provision only occasionally comes into play. A custody decision that allows for immediate release is effectively final if, as the Service appeal would necessarily assert, the alien turns out to be a serious flight risk or a danger to the community. In such a case, the appeal provides little benefit to the agencies exerting efforts to effect removal, and less still to the community receiving the dangerous or absconding alien criminal back into its midst. The automatic stay provides a safeguard to the public, preserving the status quo briefly while the Service seeks expedited appellate review of the immigration judge's custody decision. The Board of Immigration Appeals retains full authority to accept or reject the Service's contentions on appeal.

Treatment of Criminal Aliens Not Eligible for Relief from Removal

Several commenters objected to the provision in § 236.1(c)(5)(iv) of the proposed rule requiring detention of criminal aliens under the TPCR who do not wish to pursue relief from removal, or who lack eligibility for such relief. The provision reflects the consideration that such an alien has little incentive to appear for proceedings, and hence almost always poses a serious bail risk. Nevertheless, the Department has reconsidered the inclusion of this provision in § 236.1(c)(5), and will include it instead in § 236.1(c)(4) of the final rule. Hence, permanent residents and aliens with old convictions and no subsequent indicia of bail risk will be eligible to be considered for release even where they lack or decline to pursue options for relief from removal. The Department would expect, however, only the most sparing use of this discretionary authority.

Two commenters objected that bond proceedings during the early stages of the removal process provide a poor forum to assess eligibility for relief. The Department understands this concern, and does not anticipate a conclusive showing of eligibility by the alien at this stage of proceedings. Rather, the rule reflects the practical reality that occasions do arise when plainly no relief exists or the alien does not wish to pursue relief. In those situations, discretionary release of a criminal alien is generally inappropriate.

Meaning of "when the alien is released"

One commenter asserted that the TPCR apply only to criminal aliens released directly from incarceration into Service custody. The Department has considered this comment, and rejects it for the reasons stated by the Board of Immigration Appeals in *Matter of Noble*, Int. Dec. 3301 (BIA 1997).

Limited Appearances in Bond Proceedings

One commenter requested that the final rule incorporate new provisions authorizing limited attorney appearances in bond proceedings, i.e., without obligation to represent the alien in removal proceedings. The subject matter of this comment concerns the terms of attorney representation and exceeds the substantive scope of this rulemaking. The Department remains open, however, to working with interested individuals and organizations to refine and improve its regulations in this and other areas within its authority.

Technical and Conforming Amendments

The final rule corrects 8 CFR 3.6(a) to eliminate an outdated internal cross-reference, and corrects § 3.6(a) and § 236.1(d)(4) to conform with the final rule's provisions for stays of custody redeterminations by immigration judges. The final rule also clarifies the proposed § 236.1(c)(4) by changing the placement of language excepting permanent resident aliens from the detention requirements of that paragraph.

Effect on Detention Resources

The Department has taken into consideration the effect of the final rule on Service detention resources, and expects a management impact.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individual aliens, not small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small

Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 is revised to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1226, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002; sec. 303(b)(3) of Pub. L. 104–208, Div. C.

§ 3.6 [Amended]

2. In § 3.6, paragraph (a) is amended by revising the reference to "242.2(d) of this chapter" to read "236.1 of this chapter, § 3.19(i),".

3. In § 3.19, paragraph (h) and (i) are added to read as follows:

§ 3.19 Custody/bond.

* * * * *

(h)(1)(i) While the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub. L. 104–208 remain in effect, an immigration judge may not redetermine conditions of custody imposed by the Service with respect to the following classes of aliens:

(A) Aliens in exclusion proceedings;

(B) Arriving aliens in removal proceedings, including persons paroled after arrival pursuant to section 212(d)(5) of the Act;

(C) Aliens described in section 237(a)(4) of the Act;

(D) Aliens subject to section 303(b)(3)(A) of Pub. L. 104–208 who are not "lawfully admitted" (as defined in § 236.1(c)(2) of this chapter); or

(E) Aliens designated in § 236.1(c) of this chapter as ineligible to be considered for release.

(ii) Nothing in this paragraph shall be construed as prohibiting an alien from seeking a redetermination of custody conditions by the Service in accordance with part 235 or 236 of this chapter. In addition, with respect to paragraphs (h)(1)(i)(C), (D), and (E) of this section, nothing in this paragraph shall be construed as prohibiting an alien from seeking a determination by an immigration judge that the alien is not properly included within any of those paragraphs.

(2)(i) Upon expiration of the Transition Period Custody Rules set forth in section 303(b)(3) of Div. C. of Pub. L. 104–208, an immigration judge may not redetermine conditions of custody imposed by the Service with respect to the following classes of aliens:

(A) Aliens in exclusion proceedings;

(B) Arriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act;

(C) Aliens described in section 237(a)(4) of the Act;

(D) Aliens in removal proceedings subject to section 236(c)(1) of the Act (as in effect after expiration of the Transition Period Custody Rules); and

(E) Aliens in deportation proceedings subject to section 242(a)(2) of the Act (as in effect prior to April 1, 1997, and as amended by section 440(c) of Pub. L. 104–132).

(ii) Nothing in this paragraph shall be construed as prohibiting an alien from seeking a redetermination of custody conditions by the Service in accordance with part 235 or 236 of this chapter. In addition, with respect to paragraphs (h)(2)(i)(C), (D), and (E) of this section, nothing in this paragraph shall be construed as prohibiting an alien from seeking a determination by an immigration judge that the alien is not properly included within any of those paragraphs.

(3) Except as otherwise provided in paragraph (h)(1) of this section, an alien subject to section 303(b)(3)(A) of Div. C of Pub. L. 104–208 may apply to the Immigration Court, in a manner consistent with paragraphs (c)(1) through (c)(3) of this section, for a redetermination of custody conditions set by the Service. Such an alien must first demonstrate, by clear and convincing evidence, that release would not pose a danger to other persons or to property. If an alien meets this burden, the alien must further demonstrate, by clear and convincing evidence, that the alien is likely to appear for any scheduled proceeding or interview.

(4) Unremovable aliens. A determination of a district director (or other official designated by the Commissioner) regarding the exercise of authority under section 303(b)(3)(B)(ii) of Div. C. of Pub. L. 104–208 (concerning release of aliens who cannot be removed because the designated country of removal will not accept their return) is final, and shall not be subject to redetermination by an immigration judge.

(i) Stay of custody order pending Service appeal: *(1) General emergency stay authority.* The Board of Immigration Appeals (Board) has the authority to stay the order of an immigration judge redetermining the conditions of custody of an alien when the Service appeals the custody decision. The Service is entitled to seek an emergency stay for the Board in connection with such an appeal at any time.

(2) *Automatic stay in certain cases.* If an alien is subject to section 242(a)(2) of the Act (as in effect prior to April 1, 1997, and as amended by section 440(c) of Pub. L. 104–132), section 303(b)(3)(A) of Div. C of Pub. L. 104–208, or section 236(c)(1) of the Act (as designated on April 1, 1997), and the district director has denied the alien's request for release or has set a bond of $10,000 or more, any order of the immigration judge authorizing release (on bond or otherwise) shall be stayed upon the Service's filing of a Notice of Service Intent to Appeal Custody Redetermination (Form EOIR–43) with the Immigration Court on the day the order is issued, and shall remain in

abeyance pending decision of the appeal by the Board of Immigration Appeals. The stay shall lapse upon failure of the Service to file a timely notice of appeal in accordance with § 3.38.

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

3. The authority citation for part 236 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1362; sec. 303(b) of Div. C of Pub. L. No. 104–208; 8 CFR part 2.

4. Section 236.1 is amended by:

a. Revising paragraphs (c)(1) and (d)(4);

b. Redesignating paragraphs (c)(2) through (c)(5), as paragraphs (c)(8) through (c)(11) respectively and by revising newly redesignated paragraph (c)(11); and by

(c) Adding new paragraphs (c)(2) through (c)(7), to read as follows:

§ 236.1 Apprehension, custody, and detention.

* * * * *

(c) * * *

(1) *In general.* (i) After the expiration of the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub. L. 104–208, no alien described in section 236(c)(1) of the Act may be released from custody during removal proceedings except pursuant to section 236(c)(2) of the Act.

(ii) Paragraph (c)(2) through (c)(8) of this section shall govern custody determinations for aliens subject to the TPCR while they remain in effect. For purposes of this section, an alien "subject to the TPCR" is an alien described in section 303(b)(3)(A) of Div. C of Pub. L. 104–208 who is in deportation proceedings, subject to a final order of deportation, or in removal proceedings. The TPCR do not apply to aliens in exclusion proceedings under former section 236 of the Act, aliens in expedited removal proceedings under section 235(b)(1) of the Act, or aliens subject to a final order of removal.

(2) *Aliens not lawfully admitted.* Subject to paragraph (c)(6)(i) of this section, but notwithstanding any other provision within this section, an alien subject to the TPCR who is not lawfully admitted is not eligible to be considered for release from custody.

(i) An alien who remains in status as an alien lawfully admitted for permanent residence, conditionally admitted for permanent residence, or lawfully admitted for temporary residence is "lawfully admitted" for purposes of this section.

(ii) An alien in removal proceedings, in deportation proceedings, or subject to a final order of deportation, and not described in paragraph (c)(2)(i) of this section, is not "lawfully admitted" for purposes of this section unless the alien last entered the United States lawfully and is not presently an applicant for admission to the United States.

(3) *Criminal aliens eligible to be considered for release.* Except as provided in this section, or otherwise provided by law, an alien subject to the TPCR may be considered for release from custody if lawfully admitted. Such an alien must first demonstrate, by clear and convincing evidence, that release would not pose a danger to the safety of other persons or of property. If an alien meets this burden, the alien must further demonstrate, by clear and convincing evidence, that the alien is likely to appear for any scheduled proceeding (including any appearance required by the Service or EOIR) in order to be considered for release in the exercise of discretion.

(4) *Criminal aliens ineligible to be considered for release except in certain special circumstances.* An alien, other than an alien lawfully admitted for permanent residence, subject to section 303(b)(3)(A) (ii) or (iii) of Div. C. of Pub. L. 104–208 is ineligible to be considered for release if the alien:

(i) Is described in section 241(a)(2)(C) of the Act (as in effect prior to April 1, 1997), or has been convicted of a crime described in section 101(a)(43)(B), (E)(ii) or (F) of the Act (as in effect on April 1, 1997);

(ii) Has been convicted of a crime described in section 101(a)(43)(G) of the Act (as in effect on April 1, 1997) or a crime or crimes involving moral turpitude related to property, and sentenced therefor (including in the aggregate) to at least 3 years' imprisonment;

(iii) Has failed to appear for an immigration proceeding without reasonable cause or has been subject to a bench warrant or similar legal process (unless quashed, withdrawn, or cancelled as improvidently issued);

(iv) Has been convicted of a crime described in section 101(a)(43)(Q) or (T) of the Act (as in effect on April 1, 1997);

(v) Has been convicted in a criminal proceeding of a violation of section 273, 274, 274C, 276, or 277 of the Act, or has admitted the factual elements of such a violation;

(vi) Has overstayed a period granted for voluntary departure;

(vii) Has failed to surrender or report for removal pursuant to an order of exclusion, deportation, or removal;

(viii) Does not wish to pursue, or is statutorily ineligible for, any form of relief from exclusion, deportation, or removal under this chapter or the Act; or

(ix) Is described in paragraphs (c)(5)(i)(A), (B), or (C) of this section but has not been sentenced, including in the aggregate but not including any portions suspended, to at least 2 years' imprisonment, unless the alien was lawfully admitted and has not, since the commencement of proceedings and within the 10 years prior thereto, been convicted of a crime, failed to comply with an order to surrender or a period of voluntary departure, or been subject to a bench warrant or similar legal process (unless quashed, withdrawn, cancelled as improvidently issued), alien eligible to be considered for release under this paragraph must meet the burdens described in paragraph (c)(3) of this section in order to be released from custody in the exercise of discretion.

(5) *Criminal aliens ineligible to be considered for release.* (i) A criminal alien subject to section 303(b)(3)(A)(ii) or (iii) of Div. C of Pub. L. 104–208 is ineligible to be considered for release if the alien has been sentenced, including in the aggregate but not including any portions suspended, to at least 2 years' imprisonment, and the alien

(A) Is described in section 237(a)(2)(D)(i) or (ii) of the Act (as in effect on April 1, 1997), or has been convicted of a crime described in section 101(a)(43)(A), (C), (E)(i), (H), (I), (K)(iii), or (L) of the Act (as in effect on April 1, 1997);

(B) Is described in section 237(a)(2)(A)(iv) of the Act; or

(C) Has escaped or attempted to escape from the lawful custody of a local, State, or Federal prison, agency, or officer within the United States.

(ii) Notwithstanding paragraph (c)(5)(i) of this section, a permanent resident alien who has not, since the commencement of proceedings and within the 15 years prior thereto, been convicted of a crime, failed to comply with an order to surrender or a period of voluntary departure, or been subject to a bench warrant or similar legal process (unless quashed, withdrawn, or cancelled as improvidently issued), may be considered for release under paragraph (c)(3) of this section.

(6) *Unremovable aliens and certain long-term detainees.* (i) If the district director determines that an alien subject to section 303(b)(3)(A)(ii) or (iii) of Div. C of Pub. L. 104–208 cannot be removed from the United States because the designated country of removal or deportation will not accept the alien's

return, the district director may, in the exercise of discretion, consider release of the alien from custody upon such terms and conditions as the district director may prescribe, without regard to paragraphs (c)(2), (c)(4), and (c)(5) of this section.

(ii) The district director may also, notwithstanding paragraph (c)(5) of this section, consider release from custody, upon such terms and conditions as the district director may prescribe, of any alien described in paragraph (c)(2)(ii) of this section who has been in the Service's custody for six months pursuant to a final order of deportation terminating the alien's status as a lawful permanent resident.

(iii) The district director may release an alien from custody under this paragraph only in accordance with the standards set forth in paragraph (c)(3) of this section and any other applicable provisions of law.

(iv) The district director's custody decision under this paragraph shall not be subject to redetermination by an immigration judge, but, in the case of a custody decision under paragraph (c)(6)(ii) of this section, may be appealed to the Board of Immigration Appeals pursuant to paragraph (d)(3)(iii) of this section.

(7) *Construction.* A reference in this section to a provision in section 241 of the Act as in effect prior to April 1, 1997, shall be deemed to include a reference to the corresponding provision in section 237 of the Act as in effect on April 1, 1997. A reference in this section to a "crime" shall be considered to include a reference to a conspiracy or attempt to commit such a crime. In calculating the 10-year period specified in paragraph (c)(4) of this section and the 15-year period specified in paragraph (c)(5) of this section, no period during which the alien was detained or incarcerated shall count toward the total. References in paragraph (c)(6)(i) of this section to the "district director" shall be deemed to include a reference to any official designated by the Commissioner to exercise custody authority over aliens covered by that paragraph. Nothing in this part shall be construed as prohibiting an alien from seeking reconsideration of the Service's determination that the alien is within a category barred from release under this part.

* * * * *

(11) An immigration judge may not exercise the authority provided in this section, and the review process described in paragraph (d) of this section shall not apply, with respect to any alien beyond the custody jurisdiction of the immigration judge as provided in § 3.19(h) of this chapter.

(d) * * *

(4) *Effect of filing an appeal.* The filing of an appeal from a determination of an immigration judge or district director under this paragraph shall not operate to delay compliance with the order (except as provided in § 3.19(i)), nor stay the administrative proceedings or removal.

* * * * *

Dated: May 12, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–13178 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–30–AD; Amendment 39–10527; AD 98–10–15]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. Model TFE731–40R-200G Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to AlliedSignal Inc. Model TFE731–40R–200G turbofan engines. This action requires replacing the fuel line between the main fuel pump and the motive flow pump with a serviceable assembly and adding a supporting bracket and clamp. This amendment is prompted by a report of a cracked fuel line between the main fuel pump and the motive flow pump causing the spraying of fuel on and around electrical components. The actions specified in this AD are intended to prevent fuel spraying on and around electrical components due to a cracked fuel line, which could result in an engine fire.

DATES: Effective May 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 19, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–30–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from AlliedSignal Aerospace Services Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5246, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received a report of a cracked fuel line between the main fuel pump and the motive flow pump causing the spraying of fuel on and around electrical components on an AlliedSignal Inc. Model TFE731–40R–200G turbofan engine. While taxiing after flight, the ground crew noted a fuel leak from the right hand engine of an Israel Aircraft Industries, LTD. (IAI) Astra SPX aircraft. The fuel line, part number (P/N) 3061191–1, between the main fuel pump and the motive flow pump, was found cracked at the weld of the elbow fitting. The right-hand engine had accumulated 8 operating hours. The investigation revealed that during manufacturing of the fuel line between the main fuel pump and the motive flow pump, inadequate weld penetration was created by an orbital weld operation. The lack of penetration was not identified by the post-weld X-ray inspection. The fracture of the fuel line was due to high cycle fatigue which initiated at the localized area of incomplete weld penetration. This condition, if not corrected, could result in fuel spraying on and around electrical components due to a cracked fuel line, which could result in an engine fire.

The FAA has reviewed and approved the technical contents of AlliedSignal Inc. Alert Service Bulletin (ASB) No. TFE731–A73–5111, dated April 16,

1998, that describes procedures for replacing the fuel line between the main fuel pump and the motive flow pump with a serviceable assembly and adding a supporting bracket and clamp.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent fuel line cracking. This AD requires, within 10 hours time in service (TIS) after the effective date of this AD, replacing the fuel line between the main fuel pump and the motive flow pump with a serviceable assembly and adding a supporting bracket and clamp. The actions are required to be accomplished in accordance with the ASB described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–30–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–10–15 ALLIED SIGNAL INC.: Amendment 39–10527. Docket 98–ANE–30–AD.

Applicability: AlliedSignal Inc. Model TFE731–40R–200G turbofan engines, equipped with a fuel line, part number (P/N) 3061191–1, between the main fuel pump and the motive flow pump. These engines are installed on but not limited to Israel Aircraft Industries LTD. (IAI) Model Astra SPX aircraft.

Note 1: This airworthiness-directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel spraying on and around electrical components due to a cracked fuel line, which could result in an engine fire, accomplish the following:

(a) Within 10 hours time in service (TIS) after the effective date of this AD, replace the fuel line, P/N 3061191–1, between the main fuel pump and the motive flow pump, with a serviceable assembly, and add a supporting bracket and clamp, in accordance with the Accomplishment Instructions of AlliedSignal Inc. Alert Service Bulletin (ASB) No. TFE731–A73–5111, dated April 16, 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be done in accordance with the following AlliedSignal Inc. ASB:

Document No.	Pages	Date
TFE731–A73–5111	1–8	April 16, 1998.

Total pages: 8.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Aerospace Services Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 19, 1998.

Issued in Burlington, Massachusetts, on May 7, 1998.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–12917 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–54–AD; Amendment 39–10523, AD 98–10–11]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–3, –3B, –3C, –5, –5B, and –5C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFM International CFM56–3, –3B, –3C, –5, –5B, and –5C series turbofan engines. This action supersedes telegraphic AD T97–25–51 that currently requires removal of one engine from an aircraft, and replacement with a serviceable engine or replacement of parts, if both engines are equipped with a specific accessory gearbox (AGB) starter gearshaft or transfer gearbox (TGB) input bevel gear, and daily checks of the AGB/TGB magnetic chip detector. This amendment is prompted by further investigation that has revealed that certain TGB output bevel gears and AGB intermediate gear assemblies on CFM56–3, –3B, and –3C series engines, and AGB gearshaft cluster spur assemblies on CFM56–5, –5B, and –5C series engines could also be affected. The actions specified by this AD are intended to prevent inflight engine shutdowns due to an AGB starter gearshaft, TGB input bevel gear, TGB output bevel gear, AGB gearshaft cluster spur assembly or AGB intermediate gear assembly failure.

DATES: Effective June 3, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 3, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–ANE–54–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; Telephone (781) 238–7132, Fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On December 4, 1997, the Federal Aviation Administration (FAA) issued telegraphic airworthiness directive (AD) T97–25–51, applicable to CFM International (CFMI) CFM56–3, –3B, and –3C series turbofan series engines, which requires removal of one engine from an aircraft, and replacement with a serviceable engine or replacement of parts, if both engines are equipped with a specific accessory gearbox (AGB) starter gearshaft or transfer gearbox (TGB) input bevel gear. In addition, that telegraphic AD requires daily checks of the AGB/TGB magnetic chip detector on engines identified by engine serial number (ESN) in the applicability section of that telegraphic AD until installation of a serviceable starter gearshaft or input bevel gear. That action was prompted by reports of three inflight engine shutdowns due to AGB starter gearshaft failures, and reports of four findings of TGB input bevel gear cracks that were detected during inspections. All seven reports occurred on low time newly delivered CFM56–3 series turbofan engines. The engines involved in these reports had time in service since new ranging from 213 to 500 hours, and cycles in service since new ranging from 153 to 229.

Preliminary investigation results indicate that the root cause of the AGB starter gearshaft failure and TGB input bevel gear cracks may stem from the improper cleaning procedure prior to the black oxide process during manufacture that causes residual stresses around the welding areas that could lead to a crack. That condition, if not corrected, could result in inflight engine shutdowns due to an AGB starter gearshaft or TGB input bevel gear failure.

Since the issuance of that telegraphic AD, the FAA has determined that certain TGB output bevel gears and AGB intermediate gear assemblies on CFM56–3, –3B, and –3C series engines, and AGB gearshaft cluster spur assemblies on CFM56–5, –5B, and –5C series engines could also be affected. There are 44 total AGB starter gearshafts, 41 total TGB input bevel gears, 33 total TGB output bevel gears, 60 total AGB gearshaft cluster spur assemblies, and 37 AGB intermediate gear assemblies that may be affected. Therefore, this expands the applicability of the AD to include those engines with these parts installed.

The FAA has reviewed and approved the technical contents of CFMI CFM56–3/–3B/–3C Alert Service Bulletin (ASB) No. 72–A861, Revision 3, dated December 3, 1997, that describes procedures for AGB/TGB magnetic chip detector inspections. In addition, the FAA has reviewed and approved the technical contents of CFMI CFM56–3/–3B/–3C Service Bulletin (SB) No. 72–863, Revision 1, dated November 18, 1997; CFMI CFM56–3/–3B/–3C SB No. 72–865, dated November 18, 1997;

CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997; CFMI CFM56–3/–3B/–3C SB No. 72–873 Revision 1, dated February 5, 1998; CFMI CFM56–5 SB No. 72–523, Revision 1, dated January 30, 1998; CFMI CFM56–5B SB No. 72–211, Revision 1, dated January 29, 1998; and CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998. These SBs describe procedures for removal and replacement of the AGB starter gearshaft, TGB assembly, TGB input bevel gear, TGB output bevel gear, AGB gearshaft cluster spur assembly or AGB intermediate gear assembly.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes telegraphic AD T97–25–51 to require the removal of one engine on twin engine aircraft, and replacement with a serviceable engine or replacement of parts, if both engines are equipped with a specific AGB starter gearshaft, TGB input bevel gear, TGB output bevel gear, or AGB intermediate gear assembly. This AD also requires the removal of all necessary engines on four engine aircraft, and replacement with a serviceable engine or replacement of the AGB gearshaft cluster spur assembly, if more than one affected engine is installed on the aircraft. In addition, this AD requires daily checks of the AGB/TGB magnetic chip detector on CFM56–3, –3B, and –3C series engines identified in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997, or CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997. If abnormal magnetic particles are found, this AD requires, prior to further flight, installation of a serviceable AGB starter gearshaft, TGB assembly, TGB input bevel gear, or TGB output bevel gear. This AD also requires, within 30 days after the effective date of this AD, installation of a serviceable AGB starter gearshaft, serviceable TGB assembly, serviceable TGB input bevel gear, serviceable TGB output bevel gear, serviceable AGB gearshaft cluster spur assembly or an AGB intermediate gear assembly, as applicable. Installation of a serviceable AGB starter gearshaft, TGB assembly, TGB input bevel gear or output bevel gear, as applicable, constitutes terminating action to the daily AGB/TGB magnetic chip detector inspections. The calendar end-date was based upon FAA risk assessment and parts availability. The actions are required to be accomplished in accordance with the service documents described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–ANE–54–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

- Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–10–11 CFM International: Amendment 39–10523. Docket No. 97–ANE–54–AD. Supersedes telegraphic AD T97–25–51.

Applicability: CFM International (CFMI) CFM56–3, –3B, and –3C series turbofan engines, having any of the engine serial numbers (ESNs) identified in Table 1 of CFMI CFM56–3/–3B/–3C Service Bulletin (SB) No. 72–863, Revision 1, dated November 18, 1997, Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997, or Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–873, Revision 1, dated February 5, 1998; CFM56–5 series turbofan engines, having any of the ESNs identified in Table 1 of CFMI CFM56–5 SB No. 72–523, Revision 1, dated January 30, 1998; CFM56–5B series turbofan engines, having any of the ESNs identified in Table 1 of CFMI CFM56–5B SB No. 72–211, Revision 1, dated January 29, 1998; and CFM56–5C series turbofan engines, having any of the ESNs identified in Table 1 of CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998. These engines are installed on but not limited to Boeing 737 series, and Airbus Industrie A319, A320, A321, and A340 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the

preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent inflight engine shutdowns due to an accessory gearbox (AGB) starter gearshaft, transfer gearbox (TGB) input bevel gear, TGB output bevel gear, AGB gearshaft cluster spur assembly or AGB intermediate gear assembly failure, accomplish the following:

(a) For twin engine aircraft that are equipped with both engines identified by ESN in Table 1 of the applicable SB noted in the Applicability paragraph of this AD, prior to further flight, accomplish the following:

(1) Remove one of the engines, and replace with an engine not identified by ESN in Table 1 of the applicable SB noted in the Applicability paragraph of this AD; or

(2) On one of the engines, accomplish the following as applicable:

(i) For CFM56–3, –3B, and –3C series engines:

(A) Replace the AGB starter gearshaft with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997,

(B) Replace the TGB assembly with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–865, dated November 18, 1997; or, replace the TGB input bevel gear and/or output bevel gear, as applicable, with a serviceable part in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997,

(C) Replace the AGB intermediate gear assembly with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–873, Revision 1, dated February 5, 1998.

(ii) For CFM56–5 series engines, replace the gearshaft cluster spur assembly with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–5 SB No. 72–523, Revision 1, dated January 30, 1998.

(iii) For CFM56–5B series engines, replace the gearshaft cluster spur assembly with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–5B SB No. 72–211, Revision 1, dated January 29, 1998.

(b) For four engine aircraft that are equipped with more than one engine identified by ESN in Table 1 of CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998, prior to further flight, accomplish the following:

(1) Remove at least all but one affected engine from the aircraft, and replace with serviceable engines not identified by ESN in Table 1 of CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998; or

(2) Replace the gearshaft cluster spur assembly with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998, on at least all but one affected engine.

(c) For CFM56–3, –3B, and –3C series engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997, or CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997, prior to further flight, and thereafter once per calendar day, perform checks of the AGB/TGB magnetic chip detector in accordance with CFMI CFM56–3/–3B/–3C Alert Service Bulletin (ASB) No. 72–A861, Revision 3, dated December 3, 1997. If magnetic particles are found to be abnormal in accordance with CFMI CFM56–3/–3B/–3C ASB No. 72–A861, Revision 3, dated December 3, 1997, prior to further flight, accomplish the following as applicable:

(1) For engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997, remove the AGB starter gearshaft, and replace with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997.

(2) For engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997, remove the TGB assembly and replace with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–865, dated November 18, 1997; or, remove the TGB input bevel gear and/or TGB output bevel gear, as applicable, and replace with serviceable parts, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997.

(d) For CFM56–3, –3B, and –3C series engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997, remove the AGB starter gearshaft within 30 days after the effective date of this AD, and replace with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–863, Revision 1, dated November 18, 1997. Installation of a serviceable AGB starter gearshaft, as defined in paragraph (h) of this AD, and compliance with paragraph (e) of this AD, if applicable, constitutes terminating action to the daily AGB/TGB magnetic chip detector checks required by paragraph (c) of this AD.

(e) For CFM56–3, –3B, and –3C series engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997, remove the TGB assembly in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–865, dated November 18, 1997; or, remove the TGB input bevel gear and/or output bevel gear, as applicable, within 30 days after the effective date of this AD, and replace with serviceable parts, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–867, dated November 28, 1997. Installation of a serviceable TGB assembly, or TGB input bevel gear and/or TGB output bevel gear, as defined in paragraph (h) of this AD, and compliance with paragraph (d) of this AD if applicable, constitutes terminating action to the daily AGB/TGB magnetic chip detector checks required by paragraph (c) of this AD.

(f) For CFM56–3, –3B, and –3C series engines identified by ESN in Table 1 of CFMI CFM56–3/–3B/–3C SB No. 72–873, Revision 1, dated February 5, 1998, remove the AGB intermediate gear assembly within 30 days after the effective date of this AD, and replace with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–873, Revision 1, dated February 5, 1998.

(g) For CFM56–5, –5B, and –5C series engines identified by ESN in Table 1 of CFMI CFM56–5 SB No. 72–523, Revision 1, dated January 30, 1998, CFMI CFM56–5B SB No. 72–211, Revision 1, dated January 29, 1998, or CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998, remove the gearshaft cluster spur assembly within 30 days after the effective date of this AD, and replace with a serviceable part, as defined in paragraph (h) of this AD, in accordance with CFMI CFM56–5 SB No. 72–523, Revision 1, dated January 30, 1998, CFMI CFM56–5B SB No. 72–211, Revision 1, dated January 29, 1998, or CFMI CFM56–5C SB No. 72–350, Revision 1, dated January 30, 1998, as applicable.

(h) For the purposes of this AD, a serviceable part is defined as an AGB starter gearshaft, Part Number (P/N) 335–302–503–0, a TGB assembly, P/N 335–300–012–0, a TGB input bevel gear, P/N 335–321–008–0, a TGB output bevel gear, P/N 335–322–405–0, AGB gearshaft cluster spur assembly, P/N 335–302–503–0, or an AGB intermediate gear assembly, P/N 335–303–202–0, not

identified by part serial number in Table 1 of the applicable SB noted in the Applicability Section of this AD.

(i) An alternative method of compliance or adjustment of the initial compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(j) The actions required by this AD shall be accomplished in accordance with the following CFMI service documents:

Document No.	Page	Revision	Date
CFM56–3/–3B/–3C ASB No. 72–A861 Total Pages: 10	1–10	3	Dec. 3, 1997.
CFM56–3/–3B/–3C SB No. 72–863 Total Pages: 39	1–39	1	Nov. 18, 1997.
CFM56–3/–3B/–3C SB No. 72–865 Total Pages: 8	1–8	Original	Nov. 18, 1997.
CFM56–3/–3B/–3C SB No. 72–867 Total Pages: 11	1–11	Original	Nov. 28, 1997.
CFM56–3/–3B/–3C SB No. 72–873 Total Pages: 21	1–21	1	Feb. 5, 1998.
CFM56–5 SB No. 72–523 Total Pages: 33	1–33	1	Jan. 30, 1998.
CFM56–5B SB No. 72–211 Total Pages: 28	1–28	1	Jan. 29, 1998.
CFM56–5C SB No. 72–350 Total Pages: 28	1–28	1	Jan. 30, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment supersedes telegraphic AD T97–25–51, issued December 4, 1997.

(l) This amendment becomes effective on June 3, 1998.

Issued in Burlington, Massachusetts, on May 7, 1998.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–12916 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–263–AD; Amendment 39–10530; AD 98–11–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, that currently requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating for each Structural Significant Item, and repair of cracked structure. That AD was prompted by a structural re-evaluation by the manufacturer that identified additional structural elements where, if damage were to occur, supplemental inspections may be required for timely detection. This amendment requires additional and expanded inspections, and repair of cracked structure. This amendment also expands the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to ensure the continued structural integrity of the entire Boeing Model 727 fleet.

DATES: Effective June 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of June 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Washington; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding airworthiness directive (AD) 84–21–05, amendment 39–4920 (49 FR 38931, October 2, 1984), which is applicable to all Boeing Model 727 series airplanes, was published in the **Federal Register** on May 29, 1997 (62 FR 29081). That action proposed to supersede AD 84–21–05 to continue to require that the FAA-approved maintenance program be revised to include inspections that will give no less than the required damage tolerance

rating for each Structural Significant Item (SSI). That action also proposed to require additional and expanded inspections, and repair of cracked structure. In addition, that action proposed to expand the applicability of the existing AD to include additional airplanes. [A similar proposal applicable to all Boeing Model 737 series airplanes also was published in the **Federal Register** on August 7, 1997 (62 FR 42433).]

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The FAA has received comments in response to the two NPRM's discussed previously (i.e., Docket No.'s 96–NM–263–AD and 96–NM–264–AD). Because in most cases the issues raised by the commenters are generally relevant to both NPRM's, each final rule includes a discussion of all comments received.

Two commenters support the proposed rule.

Delete Repairs and Type Certificate Holder Modifications

Several commenters request that, for the reasons stated below, the FAA delete the requirements that address repairs and Boeing modifications (i.e., modifications specified in service bulletins or other technical data issued by Boeing), as specified in paragraphs (d) and (f) of the proposed AD.

Several commenters contend that the intent of the Boeing Supplemental Structural Inspection Program (SSIP) was to evaluate the original structure of candidate fleet airplanes using the latest damage tolerance methods, not to bring all airplanes up to damage tolerance design. They note that the Boeing Supplemental Structural Inspection Document (SSID) explicitly excluded SSI's that had been modified or repaired, because they were no longer considered to be representative of the configuration of the fleet. One of these commenters also states that Boeing should retain the authority to determine whether repaired SSI's are representative.

The FAA infers that the commenters believe that the purpose of the SSIP for Boeing airplanes is limited to protecting the original airplane structure. As discussed in the notice of proposed rulemaking (NPRM), FAA Advisory Circular (AC) No. 91–56, Change 2, dated April 15, 1983, states that assessments should be accomplished on modified or repaired structure to determine whether special inspections are needed to ensure continued airworthiness, regardless of whether the structure continues to be "representative" of the original structure. Consistent with this policy, the FAA has previously issued other SSIP AD's that effectively require assessment of repairs and modifications:

- For McDonnell Douglas Model DC–8 series airplanes: AD 93–01–15, amendment 39–8464 (58 FR 5576, January 22, 1993);
- For McDonnell Douglas Model DC–9 series airplanes: AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996); and
- For McDonnell Douglas Model DC–10 series airplanes: AD 95–23–09, amendment 39–9429 (60 FR 61649, December 1, 1995). One of the purposes of this AD is to correct this deficiency in the Boeing SSIP. The commenters have not provided any information to call this basic policy into question. The FAA finds that repaired or modified SSI's should be included in the Boeing SSIP to ensure timely detection of cracking in those areas. Boeing does retain the authority to determine whether repaired or modified SSI's are "representative," but that determination will no longer have the effect of deleting repaired or modified SSI's from the Boeing SSIP.

Several commenters also state that, in consideration of their request to delete repaired SSI's or Boeing modifications from the SSIP, reducing the inspection thresholds specified in the proposed AD would offset the FAA's concern regarding the reduction in the number of inspected SSI's. One of these commenters suggests that the FAA reduce the inspection thresholds specified in the proposed AD by an incremental amount to increase the inspected fleet by 10 percent. Such a reduction would compensate for the subject deletions. Another commenter states that lowering the threshold would require less time and lower labor costs than that required to develop special inspections for repairs and modifications. The FAA does not concur. As discussed previously, the purpose of the SSIP is to ensure the continued airworthiness of all airplanes, including those that have been repaired or modified. The commenters' proposal would not achieve this objective.

In contrast to the previous comments, several commenters state that SSI's affected by standard repairs or Boeing modifications do not need to be included in the Boeing SSIP, because the original structure is "representative" of the durability of repaired or modified structure. The FAA does not concur. Although repaired or modified structure may be similar to original structure, operators must accomplish an assessment to determine if the inspection program specified in the SSID is effective. It should be noted that, if the assessment indicates that the applicable inspection specified in the SSID is effective, no change to the Boeing SSIP is required.

Several commenters state that paragraphs (d) and (f) of the proposed AD are unnecessary because other airworthiness programs and documents, such as the proposed repair assessment program (RAP) for pressurized fuselages, will require operators to assess repairs and modifications. [The FAA has issued Notice No. 97–16, Docket No. 29104 (63 FR 126, January 2, 1998) that would require operators of certain transport category airplanes, including the Model 727, to adopt RAP's into their maintenance or inspection programs.] Two of these commenters state that the 727 Structures Task Group (STG) (a group consisting of 727 operators and Boeing) has taken the position that only repairs to the fuselage skins and pressure webs need to be assessed for damage tolerance, not repairs to other areas of the airplane structure (e.g., wing and empennage SSI's).

For two reasons, the FAA does not concur that the proposed RAP is adequate to address potential fatigue cracking of modified or repaired SSI's. First, the proposed RAP does not address either the damage tolerance characteristics of SSI's in supplemental type certificate (STC) modified structure that has not been repaired, or the effects of such modifications on original SSI's.

Second, the FAA does not concur with the commenters that only the pressure boundary should be subject to a damage tolerance assessment. The STG's conclusion that only repairs to the pressure boundary need to be assessed is based on a small sampling of existing repairs and on an assumption that those repairs are representative of all repairs. This approach would not give any consideration to repairs that are internal to the fuselage skin, or repairs to the wings or empennage. The FAA is aware that a significant number of these types of repairs have been installed on Model 727 airplanes, and that these repairs have not been assessed, to the extent practicable, in accordance with the principles of the current damage tolerance standards (14 CFR 25.571, Amdt. 25–45). For those repairs that affect SSI's, the failure of which could be catastrophic, reliance on an assumption that these repairs are free of fatigue cracking is inappropriate.

Therefore, reliance on the proposed RAP is inconsistent with the policy of AC No. 91–56, which does not draw a distinction between original structure and modified or repaired structure in describing the need for damage tolerance assessments of SSI's to ensure the structural integrity of the airplane. As discussed in the NPRM, the FAA continues to consider that appropriate damage tolerance based inspections are a necessary means to ensure long-term structural integrity of all SSI's, including those that have been modified or repaired. It should be noted that this AD and the proposed RAP are complementary for the structure associated with fuselage skins and pressure webs. Compliance with the SSID may be facilitated by use of the repair assessment guidelines developed in conjunction with the proposed RAP; and, assuming that the FAA adopts the proposed RAP, compliance with this AD will facilitate compliance with the requirements of the proposed RAP.

One commenter states that the existing Corrosion Prevention and Control Program (CPCP), in concert with the proposed RAP, makes the inspections specified in the proposed AD unnecessary and redundant. In addition, this commenter states that the CPCP requires 100 percent (visual) inspections of all SSI's, including repaired or modified SSI's.

The FAA does not concur. The relationship of this AD to the proposed RAP is discussed previously. The CPCP AD's require visual inspections to detect corrosion of SSI's. In contrast, the SSIP AD's require various inspection methods (e.g., visual, eddy current, ultrasonic) to detect fatigue cracks in SSI's. Because the purposes of the two programs are different, in many cases, the corrosion inspections would not be adequate to detect fatigue cracking. In conclusion, the FAA has determined that the Boeing SSIP is necessary to maintain the airworthiness of the Boeing Model 727 fleet, and that it is not redundant with the proposed RAP and CPCP.

Extend Compliance Time for Assessing Existing Repairs and Boeing Modifications

Several commenters request that the FAA revise paragraph (d) of the proposed AD to extend the compliance time of 18 months for existing repairs and Boeing modifications. The commenters state that repairs and Boeing modifications are likely to have fatigue characteristics that are similar to the original structure and, therefore, are not of immediate concern. These commenters also state that compliance within 18 months would cause an undue burden on operators because of the size of the fleet, the number of repairs and modifications on each airplane that would need to be identified and evaluated, the difficulty of accessing the affected structure, and the total number of work hours necessary to comply with the requirement. The commenters state that, because the purpose of the inspections is to identify potential unsafe conditions, rather than address known unsafe conditions, the level of effort necessary to comply within 18 months is unjustified. One commenter states that there is a shortage of sufficiently trained personnel to develop necessary non-destructive test (NDT) procedures to conduct the required inspections within the proposed compliance time. Another commenter proposes that operators be able to address repairs during the required SSID inspections.

The FAA concurs that an extension of the compliance time is appropriate. The FAA agrees that Boeing repairs and modifications are likely to have fatigue characteristics that are similar to the original structure and, therefore, are not of immediate concern. For other repairs, although their fatigue characteristics may be different, the FAA recognizes that the records and data necessary to identify and evaluate these repairs may not be readily available.

Therefore, the FAA has revised the final rule to include a new paragraph (e) to specifically address repairs and design changes other than STC's. Operators are required to identify each repair or design change to an SSI at the time of the first inspection of each SSI after the effective date of the AD in accordance with Revision H of the SSID. Within 12 months after such identification, operators are required to assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. This change will enable operators to identify these repairs and modifications at the time of the required SSID inspection, so that no additional inspections will be necessary. This change also will allow for the timely development of NDT procedures. The requirement to revise the maintenance or inspection program within 12 months after identification of each repair or design change is consistent with both the guidance of AC No. 25–1529–1, dated August 1, 1991, and the long-standing practice under the McDonnell Douglas SSIP's.

Evaluation of Existing STC Design Changes

Several commenters state that paragraph (d) of the proposed AD should retain the requirement to revise the maintenance or inspection program to address STC design changes within 18 months after the effective date of this AD. The commenters state that the durability of individual airplanes is affected by STC design changes, which affect existing SSI's and create new SSI's. Thus, the inspection times for these SSI's might need to be revised to account for changes in durability. The commenters also state that the STC documentation should be readily available. This would permit a timely paperwork evaluation of the effect on the Boeing SSIP without an extensive airplane inspection. In contrast, another commenter requests an extension of the 18-month compliance time to 5 years for implementing program revisions for addressing STC's. This commenter notes that STC holders are not equipped to perform the assessments of affected SSI's.

The FAA concurs partially. Although most of these commenters support the proposed requirements of paragraph (d) for STC design changes, the FAA has revised paragraph (d) of the final rule to limit its applicability to airplanes on which STC's have been incorporated, and to provide an option that would extend the compliance time for identifying and evaluating SSI's created or affected by STC's and revising the maintenance or inspection programs to reflect those evaluations. The FAA has recently reviewed several STC's regarding the installation of cargo doors on 727 airplanes and determined that the substantiating data for many of these STC's do not include internal loads data. Without the internal loads data for the modified structure, it would be difficult to perform an adequate damage tolerance assessment.

In accordance with the guidance provided in AC No. 91–56, external (flight, pressure, and ground) loads are necessary to complete a structural damage tolerance assessment and must be obtained from the type certificate (TC) holder or be developed by another source. Those external loads must then be applied to the structure and resolved into an internal distribution within the STC structural components (this includes original structure that is not modified but could be affected by the STC design change). All STC structural parts, whose failure could reduce the structural integrity of the airplane, then

must be identified (as SSI's), and a damage tolerance assessment must be performed. Subsequently, the inspection methods compliance times (i.e., thresholds and repetitive intervals) must be developed for these SSI's and added to the operator's maintenance or inspection program. Therefore, the FAA has determined that operators may need more time to assess STC design changes on their airplanes.

To avail themselves of the option of extending the 18-month compliance time, operators are required to accomplish the following three actions:

1. Within 18 months after the effective date of this AD, submit a plan to ensure that they are developing data, as described above, that supports their revision to the FAA-approved maintenance or inspection program (i.e., compliance times and inspection methods for new or affected SSI's), and to demonstrate that they are able to complete the required tasks within 48 months after the effective date of this AD.

2. Within 18 months after the effective date of this AD, and thereafter at intervals not to exceed 18 months, accomplish a detailed visual inspection of all structure identified in Revision H of the SSID that has been modified in accordance with an STC (this repetitive inspection will be terminated by accomplishment of the third action). The detailed visual inspection and the repair of any crack shall be accomplished in accordance with a method approved by the Manager of the Seattle Aircraft Certification Office (ACO).

3. Within 48 months after the effective date of this AD, revise the maintenance or inspection program to include an inspection method for each new or affected SSI and to include the compliance times for initial and repetitive accomplishment of these inspections.

The plan that an operator submits to the FAA for approval should include a detailed description of the: (1) STC; (2) methodology for identifying new or affected SSI's; (3) method for developing loads and validating the analysis; (4) methodology for evaluating and analyzing the damage tolerance characteristics of each new or affected SSI (see discussion below); and (5) proposed inspection methods. The plan would not need to include all of these elements if the operator can otherwise demonstrate that its plan will result in implementation of an acceptable program within 48 months after the effective date of this AD. For this option, the final rule requires that the plan be submitted to the Manager of the Seattle ACO within 18 months after the effective date of the AD.

As indicated by the commenters, STC modifications may pose a greater risk of fatigue cracking than standard repairs or Boeing modifications. However, STC holders normally do not have access to Boeing type certification data. Therefore, STC modified structure may not have the same durability as the original structure or structure that has been subject to standard repairs or Boeing modifications. In order to ensure the structural integrity of STC modified structure during the 48-month compliance time provided for the development of a revision of the maintenance or inspection program to address STC's, the FAA considers it necessary to require repetitive detailed visual inspections of that structure.

These visual inspection methods are required to be approved by the Manager of the Seattle ACO to ensure that adequate access is provided and that the inspection area is adequately defined. In addition, the repair of any crack must be approved by the Manager of the Seattle ACO. This contrasts with the repair provision of paragraph (f) of the final rule, which requires that cracks be repaired in accordance with any FAA-approved method. Seattle ACO approval for these repairs is necessary because, as discussed previously, the durability of these STC's is unknown, and findings of cracks may indicate the need for additional corrective action. The FAA has revised paragraph (f) of the final rule to reference the ACO approval as an exception to the general provisions allowing repairs in accordance with an FAA-approved method. The FAA selected an 18-month inspection interval to coincide with most operators' normal maintenance schedules. It should be noted that these visual inspections would not be required for operators who adopt a damage tolerance based revision to the maintenance or inspection program to address STC modifications within 18 months after the effective date of this AD, as proposed in the NPRM.

One commenter also requests that the FAA develop guidelines to assist operators in assessing STC's. The FAA does not consider that there is a need for further guidance at this time. As discussed previously, AC No. 91–56 provides extensive guidance on methods for assessing the airplane structure using damage tolerance principles to the extent practicable. This guidance is also applicable to STC's.

Revise Compliance Time To Assess Future Repairs and Modifications

Several commenters concur with the requirements of paragraph (f) of the proposed AD.

Several other commenters request that paragraph (f) be revised to extend the compliance time for assessment of repairs and modifications installed after the effective date of this AD. Rather than completing a damage tolerance assessment within 12 months after installation of the repair or modification, as proposed in the NPRM, these commenters suggest that operators should be required to complete an assessment within 12 months after accomplishment of the next SSID inspection of the SSI following such an installation.

The FAA does not concur. The FAA has determined that delaying the assessment until after the next SSID inspection is not appropriate. At the time of the installation, operators have all the data necessary to define the repair or modification that would be used in an assessment. Delaying the assessment until after the subsequent SSID inspection may result in loss of these data. Requiring an assessment within 12 months after installation of the repair or modification provides sufficient time and ensures that the inspection program accurately reflects the actual airplane structure. As stated previously, the requirement to revise the maintenance or inspection program within 12 months after installation is consistent with both the guidance of AC No. 25–1529 and the long-standing practice under the McDonnell Douglas SSIP's.

Clarify What "Affected" Means

One commenter requests clarification of the meaning of the word "affected" in paragraphs (d) and (f) of the proposed AD. The commenter states that the definition provided in the proposed AD is vague. As an example, the commenter states that it was not clear whether an operator needs to obtain a new inspection method and threshold or interval for a corrosion blend-out repair that does not include a doubler to reinforce the structure.

The FAA concurs that clarification is necessary. As defined in paragraphs (d) and (f) of the proposed AD, the term "affected" means that an SSI has been changed such that the original structure has been physically modified or that the loads acting on the SSI have been increased or redistributed.

For existing altered or repaired SSI's, the FAA has determined that it is evident when an SSI is "affected"

because of a physical change to the structure. For existing changes where the loads acting on the SSI have been increased or redistributed, the FAA has determined that it may not be readily evident that an SSI is "affected" because there has not been a physical change to the structure. Because of this, it may not be possible for operators to identify all "affected" SSI's without performing a damage tolerance assessment. For these reasons, the FAA has changed paragraph (d) to require identification of structure that has been "physically altered," rather than "affected," in accordance with an STC; and has added a new paragraph (e) to require identification of other structure that has been "physically altered or repaired."

In the cited example of a corrosion blend-out to an SSI not requiring reinforcement, the operator would be required to assess whether the repair reduced the effectiveness of the original SSID inspection method and repetitive interval. However, a blend-out would not normally reduce the effectiveness of the original inspection method, because the structure is essentially unchanged. The repetitive interval would continue to be appropriate because the blend-out would not appreciably affect the durability of the structure.

After the effective date of this AD, when SSI's are altered or repaired or when the loads acting on an SSI are increased or redistributed, it should be evident to the operator that SSI's are "affected." The FAA has determined that, at the time of the installation, operators should have all the data necessary to define the repair or modification that would be used in an assessment. For this reason, the FAA has determined that the word "affected" in paragraph (g) [proposed paragraph (f)] is appropriate.

If an SSI is determined to be "affected," an operator must perform an assessment of the damage tolerance characteristics of the SSI to determine the effectiveness of the applicable SSID inspection for that SSI. It is only if that inspection is determined not to be effective that the operator must revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for that SSI. Accordingly, the FAA has revised paragraph (d)(1) of the final rule [which corresponds to paragraph (d) of the proposed AD as it applied to STC modified structure] to require the operator to assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI. If it is not effective, the operator is required to revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. The FAA will monitor operators' compliance with these provisions to determine whether future revisions to this AD are necessary to fulfill the intent of AC No. 91–56.

Threshold for STC Modified Airplanes

One commenter questions whether airplanes that have been converted from a passenger configuration to an all-cargo configuration by the STC process are subject to the requirements of paragraph (c)(1) or (c)(2) of the proposed AD. The commenter's concern appears to result from the fact that, when some passenger airplanes were converted to cargo airplanes, the modifier revised the airplane records to reflect a different model number (e.g., a –200 may be reidentified as –200C). The FAA's intent is that the references to model numbers in the AD correspond to the model numbers specified on the type certificate data sheet (TCDS). Because these converted airplanes are neither identified as Model 727–100C nor Model 727–200F series airplanes on the TCDS, paragraph (c)(1) does not apply, and (c)(2) does. As discussed previously, for SSI's altered by the conversion, operators also must consider the provisions of paragraph (d) of this AD, which require a damage tolerance evaluation to determine what structure needs to be inspected, what inspection methods are needed, and when the inspections are to occur. The FAA has revised the final rule to include a new NOTE following paragraph (c)(1) that clarifies this point.

Candidate Fleet Approach

One commenter suggests that the FAA delete the threshold approach defined in paragraph (c) of the proposed AD and retain the candidate fleet approach defined in AD 84–21–05 and the SSID. The commenter proposes that the candidate fleet be updated annually to reflect changes in the fleet (e.g., when an airplane is modified from a passenger configuration to a cargo configuration).

The FAA does not concur. As stated in the NPRM, the policy established in AC No. 91–56 anticipated that all SSIP's would establish thresholds. The candidate fleet approach was originally based on an understanding that the airplanes in the candidate fleet would continue to represent the entire fleet and would have the highest number of flight cycles in the fleet. This would be achieved by periodic updates to the candidate fleet. In practice, this approach has not fulfilled the intent of AC No. 91–56. Because of the extensive modifications and repairs of both candidate fleet airplanes and non-candidate fleet airplanes, the candidate fleet is no longer representative.

In addition, the FAA finds that the candidate fleet no longer includes all of the highest time airplanes in the fleet. Even if the SSID were updated annually to reflect changes to the fleet, this approach would be impractical for both operators and the FAA. Because of the frequency of modifications and changes in utilization of the affected airplanes, even annual updates would quickly be rendered obsolete. Annual changes in the composition of the candidate fleet would deprive operators of the predictability needed for long-term maintenance planning provided by the approach of defining the thresholds as adopted in this AD. For these reasons, the FAA has determined that the 727 SSIP must contain inspection thresholds for all Model 727 series airplanes to ensure the timely detection of fatigue cracks in the SSI's.

Extend Compliance Time for Revising the Maintenance or Inspection Program

Several commenters request that the compliance time of 12 months in paragraph (b) of the proposed AD be extended to provide operators more time to incorporate Revision H of the SSID into their FAA-approved maintenance or inspection program. These commenters state that an operator should not be required to revise its FAA-approved maintenance or inspection program to incorporate Revision H of the SSID until its airplanes are at or near the threshold specified in paragraph (c) of the proposed AD. The commenters state that, as paragraph (b) of the proposed AD is currently worded, all operators are required to incorporate the change regardless of the cycle age of an airplane. This requirement poses an undue burden (cost and time) to those operators that are not required to inspect until much later. Several other commenters also state that the safety of the fleet is not increased by requiring incorporation of Revision H of the SSID into an inspection program on low-cycle airplanes.

The FAA concurs with the commenters' requests to extend the compliance time of paragraph (b) to prior to reaching the threshold specified in paragraph (c) of the AD, or within 12 months after the effective date of this AD, whichever occurs later. The FAA has revised the final rule accordingly. However, as discussed previously in this AD, operators are required to comply with the requirements of

paragraphs (d) and (g) of this AD, which may necessitate action before reaching the threshold.

Extend Grace Period for Initial Inspections

Several commenters request that the 18-month grace period specified in paragraph (c) of the proposed AD be extended to provide operators that are near or over the threshold more time to accomplish the initial inspection. Many inspections included in the SSID require several work hours to accomplish. These commenters point out that the proposed AD allows 12 months to implement Revision H of the SSID, but allows only 6 months thereafter to accomplish inspections (18 months total from the effective date). The commenters contend that accomplishment of all the inspections within the 18-month grace period will significantly affect an operator's planned maintenance schedule and program, especially operators of large fleets.

Several of these same commenters state that the original SSID AD 84–21–05 permitted the initial compliance time to be the repeat interval (after incorporation of the revision into a maintenance or inspection program). Several commenters also state that other AD's that mandate maintenance type programs, such as the CPCP for aging airplanes, give operators one repeat interval to come into compliance; therefore, the initial inspection should be similar in concept to such maintenance type programs (i.e., the grace period should be 18, 36, 48, 60, and 72-month intervals depending on the inspection).

One commenter states that no service, test, or engineering analysis could justify the inspection of new SSI's within 18 months. Another commenter states that the approach used in the proposed AD appeared to be the same as for a service bulletin with a known fatigue problem. This commenter also states that this approach was not appropriate for damage tolerance based inspections contained in the Boeing SSID, which are exploratory inspections and are not intended to address identified problems. Another commenter states that the SSID threshold is somewhat arbitrary, because it is based on a reliability analysis rather than a true fatigue analysis. The threshold is derived from calculations that ensure that a statistically accurate representation of the fleet is being inspected, rather than a true crack growth analysis. One of these commenters suggests that the grace period be based on flight cycles instead of calendar time because the SSID addresses structural fatigue. Several commenters state that a major maintenance check would be a more appropriate grace period for accomplishing the inspections specified in the SSID.

The FAA concurs that more time should be provided to accomplish the initial inspections specified in paragraph (c) of the proposed AD. However, the FAA does not concur that the grace period should be tied to the repeat interval established in the Boeing SSID because some of the repeat inspections have extremely long compliance times. The existing Boeing SSID is not like the CPCP document which establishes an initial compliance time (threshold) within the document. As discussed in Item 3. of the "Action Since Issuance of Previous AD" Section of the NPRM, the FAA has determined that a grace period based on a repeat interval does not ensure that the SSI inspections are accomplished, and that fatigue cracks in SSI's are detected, in a timely manner.

The FAA finds that it would be appropriate to base the grace period on the number of accumulated flight cycles rather than calendar time, because the Boeing SSIP is based on fatigue and crack-growth analyses. In addition, the FAA concurs that the grace period should begin at the time when operators are required to have revised their maintenance or inspection programs to incorporate Revision H of the SSID. The FAA has determined that such a grace period would provide operators with more time to accomplish the inspection; yet it also would ensure that the SSI inspections are accomplished, and that fatigue cracks in SSI's are detected, in a timely manner. As a result, the FAA has revised the final rule to specify a grace period of 3,000 flight cycles measured from the date 12 months after the effective date of the AD. The 3,000-flight cycle grace period corresponds to a typical maintenance interval for most operators and, therefore, minimizes the need for special maintenance scheduling.

Modify Criteria for Adjusting the Threshold

Several commenters request that the criteria for adjusting the thresholds specified in paragraph (c) of the proposed AD (discussed in Item 3. of the "Actions Since Issuance of Previous AD" Section of the NPRM) should allow for the threshold to be reasonably adjusted. These commenters suggest that the FAA allow operators to use the rate of risk methodology to extend the threshold in the future.

The FAA concurs. The rate of risk methodology is a means of determining the probability that cracks will be detected in the inspected fleet before they initiate on other airplanes that have not been inspected. As discussed in the NPRM, in accordance with paragraph (i)(1) of the final rule, the FAA would approve threshold increases if it can be shown by sufficient data that the increase in the threshold does not result in an increased risk that damage will occur in the uninspected fleet before it is detected in the inspected fleet.

Some of these commenters state that the following statement in the NPRM is unreasonable: "* * * the FAA may approve requests for adjustments to the compliance time * * * provided that no cracking is detected in the airplane structure." Confirmed fatigue cracks should not restrict the ability to adjust the SSIP threshold. The commenters state that the present philosophy for addressing an SSI with a confirmed fatigue crack is to remove that SSI from the SSID and to issue a service bulletin to correct the problem. The FAA then issues an AD to mandate the action, if the FAA deems it necessary. Once this SSI has been removed from the SSID, it should not affect the ability to adjust the SSIP threshold. The FAA concurs. In evaluating requests for extension of thresholds, the FAA would consider whether identified cracking has been addressed in accordance with the philosophy described by the commenters.

One commenter expresses concern that eventually all Model 727 airplanes would be subject to the Boeing SSIP. This commenter suggests that the threshold be defined in the SSID and managed by the STG. The FAA does not concur. As discussed previously, if data are submitted substantiating extension of the threshold, the FAA will approve such extensions, which may have the effect of excepting relatively low-time airplanes. The FAA would be receptive to proposals of threshold extensions from any source that submits sufficient data, including the STG. Because the thresholds are specified in the AD itself, there is no need for the SSID to be revised to incorporate the threshold.

Compliance Time for Initial Inspection

One commenter requests that the compliance time for the initial inspection requirements of paragraphs (c), (d), and (f) of the proposed AD be clarified. The commenter asks if there is anything in the proposed AD that would establish a threshold for inspections other than the 46,000-flight cycle compliance time specified in paragraph (c)(1) of the proposed AD. The

commenter states that it has Model 727–100C series airplanes that have accumulated less than 27,000 total flight cycles, but are more than 30 years old.

The FAA finds that no change to the final rule is necessary. The age of an airplane is irrelevant to the inspection threshold. Because the inspections are related to fatigue, only the number of flight cycles that have accumulated on an airplane are relevant to the inspection threshold. If an airplane has been modified, altered, or repaired, such as an STC cargo conversion, the results of an assessment in accordance with either paragraph (d) or (g) of the AD could indicate that the initial inspections are required prior to the thresholds specified in paragraph (c) of the AD.

Limit Applicability of the Transferability Requirement

One commenter concurs with paragraph (g) of the proposed AD, which addresses the inspection schedule for transferred airplanes, provided that it is limited to airplanes that have exceeded the threshold established by paragraph (c)(1) or (c)(2). Paragraph (h) of the final rule [proposed paragraph (g)] is limited as stated by the commenter, and paragraph (h) is adopted as proposed.

Clarification of FAA-Approved Method

One commenter requests that paragraph (e) of the proposed AD be clarified so that there is no confusion regarding the level of FAA approval required for repairs to SSI's. The commenter states that it interprets paragraph (e) to mean that any Designated Engineering Representative (DER) with delegated authority would still have the authority to approve repairs to SSI's based on a static strength analysis. The commenter also interprets that an operator would have 12 months after the repair to develop an alternative inspection plan, or to demonstrate that the existing inspection program provides an acceptable level of safety.

The commenter is correct that DER's still have the authority to approve repairs to SSI's based on a static strength analysis. Except as discussed under the heading "Evaluation of Existing STC Design Changes," paragraph (f) of the final rule [proposed paragraph (e)] is unchanged from the corresponding paragraph of AD 84–21–05. The commenter also is correct that operators are allowed 12 months after installation of the repair to revise their FAA-approved maintenance or inspection program to include new inspections for the affected SSI's. The new inspection method and compliance times must be approved by the Manager of the Seattle ACO.

Delegate Approval Authority to DER's

Several commenters request that the FAA delegate approval authority to the DER's to approve new inspections and compliance times specified in paragraphs (d) and (f) of the proposed AD. These commenters state that this delegation would decrease the time required to obtain such approvals. These commenters question whether the FAA will be able to process a substantial number of requests that will be generated because of the proposed AD. This question arises from one commenter's past experience with the CPCP in which the approval process took a long period of time.

In the broader context of delegation of AD required approvals, the FAA has recently issued guidance on this subject and will be implementing this guidance in the near future. Because this request may be accommodated through FAA management of designees, no revision to the final rule is needed.

Credit for Previous Inspections

Several commenters request that paragraph (c) of the proposed AD positively reflect that an operator is in compliance if inspections have been accomplished in accordance with Revision H of Boeing Document No. D6–48040–1 prior to the effective date of the AD. These commenters state that paragraph (c) of the proposed AD is not clear with regard to whether or not credit is to be given and when the next inspection would be required. These commenters point out that the phrase "Compliance: Required as indicated, unless accomplished previously," as stated in the proposed AD, allows the necessary credit for previously accomplished inspections.

The FAA does not consider that a change to the final rule is necessary. Operators are given credit for work previously performed by means of the phrase in the AD that was referenced by the commenters. In the case of this AD, if the initial inspection has been accomplished prior to the effective date of this AD, this AD does not require that it be repeated. However, the AD does require that repetitive inspections be conducted thereafter at the intervals specified in the Boeing SSID, and that other follow-on actions be accomplished when indicated.

Further FAA/Industry Discussions

Several commenters request that the FAA have further discussions with Boeing, operators, and other regulatory agencies prior to issuing the final rule because the proposed AD reflects a major change in FAA policy and extends well beyond the original concept of the Boeing SSIP. The FAA does not concur. As discussed in the NPRM and the preceding discussion of comments, this AD is consistent with the FAA's long-standing policy, as expressed in AC No. 91–56. As demonstrated by the breadth and depth of comments received, the public has had an ample opportunity to comment on the merits of the proposal.

Cost Estimate

Several commenters request that the FAA revise the Cost Impact information of NPRM Docket No. 96–NM–263–AD (for Model 727 airplanes) and NPRM Docket No. 96–NM–264–AD (for Model 737 airplanes) to accurately reflect the costs associated with accomplishing the requirements of both proposed AD's.

One commenter states that all affected 737 airplanes worldwide should be included in the cost estimate in NPRM Docket No. 96–NM–264–AD. The FAA does not concur. Airworthiness directives that are issued by the FAA directly affect only U.S.-registered airplanes; therefore, the cost estimate in an AD is limited only to U.S.-registered airplanes.

Several commenters to NPRM Docket No. 96–NM–263–AD (applicable to Model 727 airplanes) state that 1,030 Model 727 airplanes (U.S.-registered) are affected by the proposed AD, not just 74 airplanes, as specified in the NPRM. One of these commenters states that the cost estimate in the NPRM does not reflect the cost for all 727 operators to incorporate Revision H of the SSID into an FAA-approved maintenance or inspection program. Similarly, several commenters also state that the cost estimate in NPRM Docket No. 96–NM–264–AD does not reflect comparable costs for all 737–100 and –200 airplanes.

The FAA concurs with the commenters in that the NPRM proposed that every affected U.S. operator must revise their maintenance or inspection programs to incorporate Revision H (for Model 727 airplanes) or Revision D (for Model 737 airplanes) of the SSID within 12 months after the effective date of the applicable AD. As discussed previously under the heading "Extend Compliance Time for Revising the Maintenance or Inspection Program," the FAA has revised both final rules so that the maintenance or inspection program revision is only required for any airplane prior to its reaching the applicable threshold.

In addition, the FAA has revised the Cost Impact information of this final rule to address a total of 1,001 airplanes, which includes 223 airplanes (35 operators) that are estimated to exceed the thresholds specified in the AD within the next 10 years. For Final Rule Docket No. 96–NM–264–AD, the FAA also has revised the Cost Impact information to address a total of 404 airplanes, which includes 158 airplanes (39 operators) that are estimated to exceed the thresholds specified in the AD within the next 10 years. As discussed previously under the heading "Modify Criteria for Adjusting the Threshold," if sufficient substantiating data are submitted to justify extending the threshold, the FAA will grant such extensions so that the operators of some relatively low utilization airplanes may never be required to revise their maintenance or inspection program to incorporate the SSIP.

One commenter estimates that it will take 1,700 work hours per airplane (for Model 727 airplanes) to identify previously installed repairs, which will require at least 10 days of downtime to survey each airplane at a total cost to the commenter of $8.9 million. This commenter also estimates that its cost due to lost revenue would be $10.2 million, for a total cost of $19.1 million over 6 months (identification and lost revenue). This commenter further estimates that it will cost $110.5 million to survey existing repairs on all 727 airplanes.

Another commenter estimates that it will cost $240 million to accomplish the initial inspection to determine if there are existing repairs on the 727 airplanes. This task will take over 4,000 work hours per airplane to accomplish (2,000 work hours to open and close; 500 work hours to inspect, map, assess, etc.; and 1,500 work hours to complete non-routines generated by this special inspection).

Similar comments were submitted to NPRM Docket No. 96–NM–264–AD; however, the commenters did not provide specific cost figures for performing assessments on existing repairs.

As discussed under the heading "Extend Compliance Time for Assessing Existing Repairs and Boeing Modifications," the FAA has revised both final rules to postpone the requirement to assess existing repairs of SSI's until after the applicable SSID inspection. This revision eliminates the need for any special inspection in order to comply with the requirement to assess repairs.

Several commenters also state that the cost estimate in the NPRM's did not reflect the costs of developing inspection programs for repairs and Boeing modifications that are installed prior to the effective date of the AD. The FAA concurs and has revised the Cost Impact information of both final rules to include (within the total costs) $258,000 per airplane over the next 10 years to account for these costs.

Several commenters assert that the cost of the proposed AD is over $100 million, which is more than 20 times the FAA's estimate in NPRM Docket No. 96–NM–263–AD (for Model 727 airplanes). As discussed below in the Cost Impact Information, the FAA estimates that the total cost over the next 10 years associated with this final rule is $137,734,800, or an average of $13,773,480 per year. The FAA also estimates that the highest total cost during any one of the next 10 years associated with this final rule is $24,938,400. The difference between these estimates is at least in part attributable to the changes in the final rule discussed previously, which provide significant relief to operators. (Similar comments were submitted to NPRM Docket No. 96–NM–264–AD; however, the commenters did not provide a total cost estimate for these actions.)

Additional Clarifications

In reviewing the comments submitted to the NPRM, questions arose regarding the relationship of the inspection threshold requirements of paragraph (c) of the proposed AD and the provisions of the Boeing SSID that allow for sampling of specified percentages of the affected fleet. As explained in the NPRM, the FAA's intent in paragraph (c) is to require that all airplanes that exceed the threshold be inspected in accordance with the Boeing SSID. To the extent that there is any potential for conflict between paragraph (c) and the Boeing SSID, the provisions specified in this AD would prevail. Therefore, even if Revision H would permit operators to omit inspections of SSI's based on a sampling approach, this AD requires that those inspections be performed on all airplanes exceeding the specified thresholds. The FAA has revised the final rule to include a new NOTE following paragraph (c) to clarify this point.

Similarly, the FAA notes that paragraph (b) of the proposed AD would have required that the revision to the maintenance or inspection program include certain SSID provisions that were proposed to be overridden by other paragraphs of the proposed AD. The FAA has revised the requirements of paragraph (b) to clarify that the AD overrides these SSID provisions.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,516 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,001 airplanes of U.S. registry and 113 U.S. operators (over 10 years) will be affected by this AD.

Incorporation of the SSID program into an operator's maintenance or inspection program, as required by AD 84–21–05, takes approximately 1,000 work hours (per operator) to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost to the 37 U.S. affected operators of incorporating the revised procedures (specified in Revision E of the SSID) into the maintenance or inspection program is estimateto be $2,220,000, or $60,000 per operator.

The recurring inspections, as required by AD 84–21–05, take approximately 500 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the recurring inspection cost to the 281 U.S.-registered candidate fleet airplanes is estimated to be $8,430,000, or $30,000 per airplane, per inspection cycle.

The incorporation of Revision H of the SSID into an operator's maintenance or inspection program, as required by this new AD, takes approximately 1,200 work hours (per operator) to accomplish, at an average labor rate of $60 per work hour. The FAA estimates that within 10 years, 35 operators will be required to incorporate Revision H of the SSID. Based on these figures, the cost to the 35 U.S. affected operators of incorporating the revised procedures (specified in Revision H of the SSID) into the maintenance or inspection program is estimated to be $2,520,000, or $72,000 per operator.

The recurring inspections, as required by this new AD, take approximately 600 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The FAA estimates that after 10 years, 35 operators will be required to inspect

201 airplanes and assess the damage tolerance characteristics of each repaired SSI or each SSI that is physically altered by an existing design change other than an STC. The cost impact of this inspection and assessment required by this AD on U.S. operators is estimated to be $86,742,000 over 10 years, or an average of $43,155 per airplane, per year. During the 10 years, the FAA also conservatively estimates that 113 operators of 899 airplanes will be required to assess the damage tolerance characteristics of each SSI on which the structure identified in Revision H of the SSID has been physically altered in accordance with an STC prior to the effective date of this AD. The cost impact of this assessment required by this AD on U.S. operators is estimated to be $42,000,000 over 10 years, or an average of $4,672 per airplane, per year.

In summary, the FAA estimates that the actions, as required by this new AD, will cost $137,734,800 over 10 years, or an average of $13,773,480 per year. The FAA also estimates that the average cost per airplane over 10 years is $153,209, or an average of $15,321 per year. The highest total cost during any one of the 10 years is $24,938,400. (The FAA has included in the Rules Docket a detailed description of cost estimates related to the actions required by this AD.)

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, it can reasonably be assumed that the majority of the affected operators have already initiated the original SSID program (as required by AD 84–21–05), and many may have already initiated the additional inspections required by this new AD action.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–4920 (49 FR 38931, October 2, 1984), and by adding a new airworthiness directive (AD), amendment 39–10530, to read as follows:

98–11–03 Boeing: Amendment 39–10530. Docket 96–NM–263–AD. Supersedes AD 84–21–05, Amendment 39–4920.

Applicability: All Model 727 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continued structural integrity of the total Boeing Model 727 fleet, accomplish the following:

Note 1: Where there are differences between the AD and the Supplemental Structural Inspection Document, the AD prevails.

(a) For airplanes listed in Section 3.0 of Boeing Document No. D6–48040–1, "Supplemental Structural Inspection Document" (SSID), Revision E, dated June 21, 1983: Within 12 months after November 1, 1984 (the effective date of AD 84–21–05, amendment 39–4920), incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in that document. (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include and shall be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID. This revision shall be deleted following accomplishment of the requirements of paragraph (b) of this AD.

Note 2: For the purposes of this AD, an SSI is defined as a principal structural element that could fail and consequently reduce the structural integrity of the airplane.

(b) Prior to reaching the threshold specified in paragraph (c) of this AD, or within 12 months after the effective date of this AD, whichever occurs later, incorporate a revision into the FAA-approved maintenance or inspection program that provides no less than the required DTR for each SSI listed in Boeing Document No. D6–48040–1, Volumes 1 and 2, "Supplemental Structural Inspection Document" (SSID), Revision H, dated June 1994 (hereinafter referred to as "Revision H"). (The required DTR value for each SSI is listed in the document.) Except as provided to the contrary in paragraphs (c), (d), and (g) of this AD, the revision to the maintenance or inspection program shall include and shall be implemented in accordance with the procedures in Section 5.0, "Damage Tolerance Rating (DTR) System Application" and Section 6.0, "SSI Discrepancy Reporting" of Revision H. Upon incorporation of the revision required by this paragraph, the revision required by paragraph (a) of this AD may be deleted.

(c) Except as provided in paragraph (d), (e), or (g) of this AD, perform an inspection to detect cracks in all structure identified in Revision H at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For Model 727–100C and 727–200F series airplanes: Inspect prior to the accumulation of 46,000 total flight cycles, or within 3,000 flight cycles measured from the date 12 months after the effective date of this AD, whichever occurs later.

Note 3: The requirements specified by paragraph (c)(1) of this AD only apply to airplanes listed as 727–100C and 727–200F on the type certificate data sheet. Paragraph (c)(1) does not apply to airplanes that have been modified from a passenger configuration to an all-cargo configuration by supplemental type certificate (STC). Paragraphs (c)(2) and (d) apply to those airplanes.

(2) For all airplanes, except for those airplanes identified in paragraph (c)(1) of this AD: Inspect prior to the accumulation of 55,000 total flight cycles, or within 3,000 flight cycles measured from the date 12 months after the effective date of this AD, whichever occurs later.

Note 4: Notwithstanding the provisions of paragraphs 5.1.1, 5.1.2, 5.1.6(e), 5.1.11, 5.1.12, 5.1.13, 5.2, 5.2.1, 5.2.2, 5.2.3, and 5.2.4 of the General Instructions of Revision H, which would permit operators to perform fleet and rotational sampling inspections, to perform inspections on less than whole airplane fleet sizes and to perform inspections on substitute airplanes, this AD requires that all airplanes that exceed the threshold be inspected in accordance with Revision H.

Note 5: Once the initial inspection has been performed, operators are required to perform repetitive inspections at the intervals specified in Revision H in order to remain in compliance with their maintenance or

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inspection programs, as revised in accordance with paragraph (b) of this AD.

(d) For airplanes on which the structure identified in Revision H has been physically altered in accordance with an STC prior to the effective date of this AD: Accomplish the requirements specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Within 18 months after the effective date of this AD, assess the damage tolerance characteristics of each SSI created or affected by each STC to determine the effectiveness of the applicable Revision H inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. Following accomplishment of the revision and within the compliance times established, perform an inspection to detect cracks in the structure affected by any design change or repair, in accordance with the new inspection method. The new inspection method and the compliance times shall be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 6: For purposes of this AD, an SSI is "affected" if it has been physically altered or repaired, or if the loads acting on the SSI have been increased or redistributed. The effectiveness of the applicable inspection method and compliance time should be determined based on a damage tolerance assessment methodology, such as that described in FAA Advisory Circular AC No. 91–56, Change 2, dated April 15, 1983.

(2) Accomplish paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD.

(i) Within 18 months after the effective date of this AD, submit a plan that describes a methodology for accomplishing the requirements of paragraph (d)(1) of this AD to the Manager, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181.

Note 7: The plan should include a detailed description of the STC; methodology for identifying new or affected SSI's; method for developing loads and validating the analysis; methodology for evaluating and analyzing the damage tolerance characteristics of each new or affected SSI; and proposed inspection method. The plan would not need to include all of these elements if the operator can otherwise demonstrate that its plan will enable the operator to comply with paragraph (d)(2)(iii) of this AD.

(ii) Within 18 months after the effective date of this AD, perform a detailed visual inspection in accordance with a method approved by the Manager, Seattle ACO to detect cracks in all structure identified in Revision H that has been altered by an STC.

(A) If no crack is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 18 months.

(B) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle ACO.

(iii) Within 48 months after the effective date of this AD, revise the FAA-approved maintenance or inspection program to include an inspection method for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. The inspection methods and the compliance times shall be approved by the Manager, Seattle ACO. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive inspection requirements of paragraph (d)(2)(ii)(A) of this AD.

Note 8: Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision H, which would permit deletions of modified, altered, or repaired structure from the SSIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

(e) For airplanes on which the structure identified in Revision H has been repaired or physically altered by any design change other than an STC identified in paragraph (d), prior to the effective date of this AD: At the time of the first inspection of each SSI after the effective date of this AD in accordance with Revision H, identify each repair or design change to that SSI. Within 12 months after such identification, assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. The new inspection method and the compliance times shall be approved by the Manager, Seattle ACO.

Note 9: For the purposes of this AD, a design change is defined as any modification, alteration, or change to operating limitations.

(f) Except as provided in paragraph (d)(2)(ii)(B) of this AD, cracked structure found during any inspection required by this AD shall be repaired, prior to further flight, in accordance with an FAA-approved method.

(g) For airplanes on which the structure identified in Revision H is affected by any design change (including STC's) or repair that is accomplished after the effective date of this AD: Within 12 months after that modification, alteration, or repair, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. The new inspection method and the compliance times shall be approved by the Manager, Seattle ACO.

Note 10: Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision H, which would permit deletions of modified, altered, or repaired structure from the SIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

(h) Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (c) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD, the inspection of each SSI must be accomplished by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, whichever would result in the earlier accomplishment date for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD, the inspection of each SSI required by this AD must be accomplished either prior to adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Seattle ACO. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule.

(i)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 11: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(i)(2) Alternative methods of compliance, approved previously in accordance with AD 84–21–05, amendment 39–4920, are not considered to be approved as alternative methods of compliance with this AD.

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(k) The actions specified in paragraphs (b) and (c) shall be done in accordance with Boeing Document No. D6–48040–1, Volumes 1 and 2, "Supplemental Structural Inspection Document" (SSID), Revision H, dated June 1994, which contains the following list of effective pages:

Page No. shown on page	Revision level shown on page
List of Active Pages—Pages 1 thru 17.2	H

(Note: The issue date of Revision H is indicated only on the title page; no other page of the document is dated.) This incorporation by reference was approved by the Director of the FEDERAL REGISTER in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the FEDERAL REGISTER, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on June 23, 1998.

Issued in Renton, Washington, on May 12, 1998.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13077 Filed 5–18–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–264–AD; Amendment 39–10531; AD 98–11–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737–100 and –200 series airplanes, that currently requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating for each Structural Significant Item, and repair of cracked structure. That AD was prompted by a structural re-evaluation by the manufacturer which identified additional structural elements where, if damage were to occur, supplemental inspections may be required for timely detection. This amendment requires additional and expanded inspections, and repair of cracked structure. This amendment also expands the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to ensure the continued structural integrity of the entire Boeing Model 737–100 and –200 fleet.

DATES: Effective June 23, 1998.

The incorporation by reference of certain publications is approved by the Director of the Federal Register as June 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Schneider, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Washington; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding airworthiness directive (AD) 91–14–20, amendment 39–7061 (56 FR 30680, July 5, 1991), which is applicable to all Boeing Model 737–100 and –200 series airplanes, was published in the **Federal Register** on August 7, 1997 (62 FR 42433). That action proposed to supersede AD 91–14–20 to continue to require that the FAA-approved maintenance program be revised to include inspections that will give no less than the required damage tolerance rating for each Structural Significant Item (SSI). That action also proposed to require additional and expanded inspections, and repair of cracked structure. In addition, that action proposed to expand the applicability of the existing AD to include additional airplanes. [A similar proposal applicable to all Boeing Model 727 series airplanes also was published in the **Federal Register** on May 29, 1997 (62 FR 29081).]

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The FAA has received comments in response to the two NPRM's discussed previously (i.e., Docket Nos. 96–NM–263–AD and 96–NM–264–AD). Because in most cases the issues raised by the commenters are generally relevant to both NPRM's, each final rule includes a discussion of all comments received.

Two commenters support the proposed rule.

Delete Repairs and Type Certificate Holder Modifications

Several commenters request that, for the reasons stated below, the FAA delete the requirements that address repairs and Boeing modifications (i.e., modifications specified in service bulletins or other technical data issued by Boeing), as specified in paragraphs (d) and (f) of the proposed AD.

Several commenters contend that the intent of the Boeing Supplemental Structural Inspection Program (SSIP) was to evaluate the original structure of candidate fleet airplanes using the latest damage tolerance methods, not to bring all airplanes up to damage tolerance design. They note that the Boeing Supplemental Structural Inspection Document (SSID) explicitly excluded SSI's that had been modified or repaired, because they were no longer considered to be representative of the configuration of the fleet. One of these commenters also states that Boeing should retain the authority to determine whether repaired SSI's are representative.

The FAA infers that the commenters believe that the purpose of the SSIP for Boeing airplanes is limited to protecting the original airplane structure. As discussed in the notice of proposed rulemaking (NPRM), FAA Advisory Circular (AC) No. 91–56, Change 2, dated April 15, 1983, states that assessments should be accomplished on modified or repaired structure to determine whether special inspections are needed to ensure continued airworthiness, regardless of whether the structure continues to be "representative" of the original structure. Consistent with this policy, the FAA has previously issued other SSIP AD's that effectively require assessment of repairs and modifications:

- For McDonnell Douglas Model DC–8 series airplanes: AD 93–01–15, amendment 39–8464 (58 FR 5576, January 22, 1993);
- For McDonnell Douglas Model DC–9 series airplanes: AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996); and
- For McDonnell Douglas Model DC–10 series airplanes: AD 95–23–09, amendment 39–9429 (60 FR 61649, December 1, 1995).

One of the purposes of this AD is to correct this deficiency in the Boeing SSIP. The commenters have not provided any information to call this basic policy into question. The FAA finds that repaired or modified SSI's should be included in the Boeing SSIP

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to ensure timely detection of cracking in those areas. Boeing does retain the authority to determine whether repaired or modified SSI's are "representative," but that determination will no longer have the effect of deleting repaired or modified SSI's from the Boeing SSIP.

Several commenters also state that, in consideration of their request to delete repaired SSI's or Boeing modifications from the SSIP, reducing the inspection thresholds specified in the proposed AD would offset the FAA's concern regarding the reduction in the number of inspected SSI's. One of these commenters suggests that the FAA reduce the inspection thresholds specified in the proposed AD by an incremental amount to increase the inspected fleet by 10 percent. Such a reduction would compensate for the subject deletions. Another commenter states that lowering the threshold would require less time and lower labor costs than that required to develop special inspections for repairs and modifications. The FAA does not concur. As discussed previously, the purpose of the SSIP is to ensure the continued airworthiness of all airplanes, including those that have been repaired or modified. The commenters' proposal would not achieve this objective.

In contrast to the previous comments, several commenters state that SSI's affected by standard repairs or Boeing modifications do not need to be included in the Boeing SSIP, because the original structure is "representative" of the durability of repaired or modified structure. The FAA does not concur. Although repaired or modified structure may be similar to original structure, operators must accomplish an assessment to determine if the inspection program specified in the SSID is effective. It should be noted that, if the assessment indicates that the applicable inspection specified in the SSID is effective, no change to the Boeing SSIP is required.

Several commenters state that paragraphs (d) and (f) of the proposed AD are unnecessary because other airworthiness programs and documents, such as the proposed repair assessment program (RAP) for pressurized fuselages, will require operators to assess repairs and modifications. [The FAA has issued Notice No. 97–16, Docket No. 29104 (63 FR 126, January 2, 1998) that would require operators of certain transport category airplanes, including the Model 737, to adopt RAP's into their maintenance or inspection programs.] Two of these commenters state that the 737 Structures Task Group (STG) (a group consisting of 737 operators and Boeing) has taken the position that only repairs to the fuselage skins and pressure webs need to be assessed for damage tolerance, not repairs to other areas of the airplane structure (e.g., wing and empennage SSI's).

For two reasons, the FAA does not concur that the proposed RAP is adequate to address potential fatigue cracking of modified or repaired SSI's. First, the proposed RAP does not address either the damage tolerance characteristics of SSI's in supplemental type certificate (STC) modified structure that has not been repaired, or the effects of such modifications on original SSI's.

Second, the FAA does not concur with the commenters that only the pressure boundary should be subject to a damage tolerance assessment. The STG's conclusion that only repairs to the pressure boundary need to be assessed is based on a small sampling of existing repairs and on an assumption that those repairs are representative of all repairs. This approach would not give any consideration to repairs that are internal to the fuselage skin, or repairs to the wings or empennage. The FAA is aware that a significant number of these types of repairs have been installed on Model 737 airplanes, and that these repairs have not been assessed, to the extent practicable, in accordance with the principles of the current damage tolerance standards (14 CFR 25.571, Amdt. 25–45). For those repairs that affect SSI's, the failure of which could be catastrophic, reliance on an assumption that these repairs are free of fatigue cracking is inappropriate.

Therefore, reliance on the proposed RAP is inconsistent with the policy of AC No. 91–56, which does not draw a distinction between original structure and modified or repaired structure in describing the need for damage tolerance assessments of SSI's to ensure the structural integrity of the airplane. As discussed in the NPRM, the FAA continues to consider that appropriate damage tolerance based inspections are a necessary means to ensure long-term structural integrity of all SSI's, including those that have been modified or repaired. It should be noted that this AD and the proposed RAP are complementary for the structure associated with fuselage skins and pressure webs. Compliance with the SSID may be facilitated by use of the repair assessment guidelines developed in conjunction with the proposed RAP; and, assuming that the FAA adopts the proposed RAP, compliance with this AD will facilitate compliance with the requirements of the proposed RAP.

One commenter states that the existing Corrosion Prevention and Control Program (CPCP), in concert with the proposed RAP, makes the inspections specified in the proposed AD unnecessary and redundant. In addition, this commenter states that the CPCP requires 100 percent (visual) inspections of all SSI's, including repaired or modified SSI's.

The FAA does not concur. The relationship of this AD to the proposed RAP is discussed previously. The CPCP AD's require visual inspections to detect corrosion of SSI's. In contrast, the SSIP AD's require various inspection methods (e.g., visual, eddy current, ultrasonic) to detect fatigue cracks in SSI's. Because the purposes of the two programs are different, in many cases, the corrosion inspections would not be adequate to detect fatigue cracking. In conclusion, the FAA has determined that the Boeing SSIP is necessary to maintain the airworthiness of the Boeing Model 737 fleet, and that it is not redundant with the proposed RAP and CPCP.

Extend Compliance Time for Assessing Existing Repairs and Boeing Modifications

Several commenters request that the FAA revise paragraph (d) of the proposed AD to extend the compliance time of 18 months for existing repairs and Boeing modifications. The commenters state that repairs and Boeing modifications are likely to have fatigue characteristics that are similar to the original structure and, therefore, are not of immediate concern. These commenters also state that compliance within 18 months would cause an undue burden on operators because of the size of the fleet, the number of repairs and modifications on each airplane that would need to be identified and evaluated, the difficulty of accessing the affected structure, and the total number of work hours necessary to comply with the requirement. The commenters state that, because the purpose of the inspections is to identify potential unsafe conditions, rather than address known unsafe conditions, the level of effort necessary to comply within 18 months is unjustified. One commenter states that there is a shortage of sufficiently trained personnel to develop necessary non-destructive test (NDT) procedures to conduct the required inspections within the proposed compliance time. Another commenter proposes that operators be able to address repairs during the required SSID inspections.

The FAA concurs that an extension of the compliance time is appropriate. The FAA agrees that Boeing repairs and modifications are likely to have fatigue

characteristics that are similar to the original structure and, therefore, are not of immediate concern. For other repairs, although their fatigue characteristics may be different, the FAA recognizes that the records and data necessary to identify and evaluate these repairs may not be readily available.

Therefore, the FAA has revised the final rule to include a new paragraph (e) to specifically address repairs and design changes other than STC's. Operators are required to identify each repair or design change to an SSI at the time of the first inspection of each SSI after the effective date of the AD in accordance with Revision D of the SSID. Within 12 months after such identification, operators are required to assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. This change will enable operators to identify these repairs and modifications at the time of the required SSID inspection, so that no additional inspections will be necessary. This change also will allow for the timely development of NDT procedures. The requirement to revise the maintenance or inspection program within 12 months after identification of each repair or design change is consistent with both the guidance of AC No. 25–1529–1, dated August 1, 1991, and the long-standing practice under the McDonnell Douglas SSIP's.

Evaluation of Existing STC Design Changes

Several commenters state that paragraph (d) of the proposed AD should retain the requirement to revise the maintenance or inspection program to address STC design changes within 18 months after the effective date of this AD. The commenters state that the durability of individual airplanes is affected by STC design changes, which affect existing SSI's and create new SSI's. Thus, the inspection times for these SSI's might need to be revised to account for changes in durability. The commenters also state that the STC documentation should be readily available. This would permit a timely paperwork evaluation of the effect on the Boeing SSIP without an extensive airplane inspection. In contrast, another commenter requests an extension of the 18-month compliance time to 5 years for implementing program revisions for addressing STC's. This commenter notes that STC holders are not equipped to perform the assessments of affected SSI's.

The FAA concurs partially. Although most of these commenters support the proposed requirements of paragraph (d) for STC design changes, the FAA has revised paragraph (d) of the final rule to limit its applicability to airplanes on which STC's have been incorporated, and to provide an option that would extend the compliance time for identifying and evaluating SSI's created or affected by STC's and revising the maintenance or inspection programs to reflect those evaluations. The FAA has recently reviewed several STC's regarding the installation of cargo doors on 727 airplanes and determined that the substantiating data for many of these STC's do not include internal loads data. Without the internal loads data for the modified structure, it would be difficult to perform an adequate damage tolerance assessment.

In accordance with the guidance provided in AC No. 91–56, external (flight, pressure, and ground) loads are necessary to complete a structural damage tolerance assessment and must be obtained from the type certificate (TC) holder or be developed by another source. Those external loads must then be applied to the structure and resolved into an internal distribution within the STC structural components (this includes original structure that is not modified but could be affected by the STC design change). All STC structural parts, whose failure could reduce the structural integrity of the airplane, then must be identified (as SSI's), and a damage tolerance assessment must be performed. Subsequently, the inspection methods compliance times (i.e., thresholds and repetitive intervals) must be developed for these SSI's and added to the operator's maintenance or inspection program. Therefore, the FAA has determined that operators may need more time to assess STC design changes on their airplanes.

To avail themselves of the option of extending the 18-month compliance time, operators are required to accomplish the following three actions:

1. Within 18 months after the effective date of this AD, submit a plan to ensure that they are developing data, as described above, that supports their revision to the FAA-approved maintenance or inspection program (i.e., compliance times and inspection methods for new or affected SSI's), and to demonstrate that they are able to complete the required tasks within 48 months after the effective date of this AD.

2. Within 18 months after the effective date of this AD, and thereafter at intervals not to exceed 18 months, accomplish a detailed visual inspection of all structure identified in Revision D of the SSID that has been modified in accordance with an STC (this repetitive inspection will be terminated by accomplishment of the third action). The detailed visual inspection and the repair of any crack shall be accomplished in accordance with a method approved by the Manager of the Seattle Aircraft Certification Office (ACO).

3. Within 48 months after the effective date of this AD, revise the maintenance or inspection program to include an inspection method for each new or affected SSI and to include the compliance times for initial and repetitive accomplishment of these inspections.

The plan that an operator submits to the FAA for approval should include a detailed description of the: (1) STC; (2) methodology for identifying new or affected SSI's; (3) method for developing loads and validating the analysis; (4) methodology for evaluating and analyzing the damage tolerance characteristics of each new or affected SSI (see discussion below); and (5) proposed inspection methods. The plan would not need to include all of these elements if the operator can otherwise demonstrate that its plan will result in implementation of an acceptable program within 48 months after the effective date of this AD. For this option, the final rule requires that the plan be submitted to the Manager of the Seattle ACO within 18 months after the effective date of the AD.

As indicated by the commenters, STC modifications may pose a greater risk of fatigue cracking than standard repairs or Boeing modifications. However, STC holders normally do not have access to Boeing type certification data. Therefore, STC modified structure may not have the same durability as the original structure or structure that has been subject to standard repairs or Boeing modifications. In order to ensure the structural integrity of STC modified structure during the 48-month compliance time provided for the development of a revision of the maintenance or inspection program to address STC's, the FAA considers it necessary to require repetitive detailed visual inspections of that structure.

These visual inspection methods are required to be approved by the Manager of the Seattle ACO to ensure that adequate access is provided and that the inspection area is adequately defined. In addition, the repair of any crack must be

approved by the Manager of the Seattle ACO. This contrasts with the repair provision of paragraph (f) of the final rule, which requires that cracks be repaired in accordance with any FAA-approved method. Seattle ACO approval for these repairs is necessary because, as discussed previously, the durability of these STC's is unknown, and findings of cracks may indicate the need for additional corrective action. The FAA has revised paragraph (f) of the final rule to reference the ACO approval as an exception to the general provisions allowing repairs in accordance with an FAA-approved method. The FAA selected an 18-month inspection interval to coincide with most operators' normal maintenance schedules. It should be noted that these visual inspections would not be required for operators who adopt a damage tolerance based revision to the maintenance or inspection program to address STC modifications within 18 months after the effective date of this AD, as proposed in the NPRM.

One commenter also requests that the FAA develop guidelines to assist operators in assessing STC's. The FAA does not consider that there is a need for further guidance at this time. As discussed previously, AC No. 91–56 provides extensive guidance on methods for assessing the airplane structure using damage tolerance principles to the extent practicable. This guidance is also applicable to STC's.

Revise Compliance Time to Assess Future Repairs and Modifications

Several commenters concur with the requirements of paragraph (f) of the proposed AD.

Several other commenters request that paragraph (f) be revised to extend the compliance time for assessment of repairs and modifications installed after the effective date of this AD. Rather than completing a damage tolerance assessment within 12 months after installation of the repair or modification, as proposed in the NPRM, these commenters suggest that operators should be required to complete an assessment within 12 months after accomplishment of the next SSID inspection of the SSI following such an installation.

The FAA does not concur. The FAA has determined that delaying the assessment until after the next SSID inspection is not appropriate. At the time of the installation, operators have all the data necessary to define the repair or modification that would be used in an assessment. Delaying the assessment until after the subsequent SSID inspection may result in loss of these data. Requiring an assessment within 12 months after installation of the repair or modification provides sufficient time and ensures that the inspection program accurately reflects the actual airplane structure. As stated previously, the requirement to revise the maintenance or inspection program within 12 months after installation is consistent with both the guidance of AC No. 25–1529 and the long-standing practice under the McDonnell Douglas SSIP's.

Clarify What "Affected" Means

One commenter requests clarification of the meaning of the word "affected" in paragraphs (d) and (f) of the proposed AD. The commenter states that the definition provided in the proposed AD is vague. As an example, the commenter states that it was not clear whether an operator needs to obtain a new inspection method and threshold or interval for a corrosion blend-out repair that does not include a doubler to reinforce the structure.

The FAA concurs that clarification is necessary. As defined in paragraphs (d) and (f) of the proposed AD, the term "affected" means that an SSI has been changed such that the original structure has been physically modified or that the loads acting on the SSI have been increased or redistributed.

For existing altered or repaired SSI's, the FAA has determined that it is evident when an SSI is "affected" because of a physical change to the structure. For existing changes where the loads acting on the SSI have been increased or redistributed, the FAA has determined that it may not be readily evident that an SSI is "affected" because there has not been a physical change to the structure. Because of this, it may not be possible for operators to identify all "affected" SSI's without performing a damage tolerance assessment. For these reasons, the FAA has changed paragraph (d) to require identification of structure that has been "physically altered," rather than "affected," in accordance with an STC; and has added a new paragraph (e) to require identification of other structure that has been "physically altered or repaired."

In the cited example of a corrosion blend-out to an SSI not requiring reinforcement, the operator would be required to assess whether the repair reduced the effectiveness of the original SSID inspection method and repetitive interval. However, a blend-out would not normally reduce the effectiveness of the original inspection method, because the structure is essentially unchanged. The repetitive interval would continue to be appropriate because the blend-out would not appreciably affect the durability of the structure.

After the effective date of this AD, when SSI's are altered or repaired or when the loads acting on an SSI are increased or redistributed, it should be evident to the operator that SSI's are "affected." The FAA has determined that, at the time of the installation, operators should have all the data necessary to define the repair or modification that would be used in an assessment. For this reason, the FAA has determined that the word "affected" in paragraph (g) [proposed paragraph (f)] is appropriate.

If an SSI is determined to be "affected," an operator must perform an assessment of the damage tolerance characteristics of the SSI to determine the effectiveness of the applicable SSID inspection for that SSI. It is only if that inspection is determined not to be effective that the operator must revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for that SSI. Accordingly, the FAA has revised paragraph (d)(1) of the final rule [which corresponds to paragraph (d) of the proposed AD as it applied to STC modified structure] to require the operator to assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI. If it is not effective, the operator is required to revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. The FAA will monitor operators' compliance with these provisions to determine whether future revisions to this AD are necessary to fulfill the intent of AC No. 91–56.

Threshold for STC Modified Airplanes

One commenter questions whether airplanes that have been converted from a passenger configuration to an all-cargo configuration by the STC process are subject to the requirements of paragraph (c)(1) or (c)(2) of the proposed AD. (This comment specifically addresses Model 727 airplanes identified in NPRM Docket No. 96–NM–263–AD; however, the comment also applies to this AD.) The commenter's concern appears to result from the fact that, when some passenger airplanes were converted to cargo airplanes, the modifier revised the airplane records to reflect a different model number (e.g., a –200 may be reidentified as –200C). The FAA's intent is that the references to model numbers in the AD correspond to the model numbers specified on the type

certificate data sheet (TCDS). Because these converted airplanes are not identified as Model 737–200C series airplanes on the TCDS, paragraph (c)(1) does not apply, and paragraph (c)(2) does. As discussed previously, for SSI's altered by the conversion, operators also must consider the provisions of paragraph (d) of this AD, which require a damage tolerance evaluation to determine what structure needs to be inspected, what inspection methods are needed, and when the inspections are to occur. The FAA has revised the final rule to include a new NOTE following paragraph (c)(1) that clarifies this point.

Candidate Fleet Approach

One commenter suggests that the FAA delete the threshold approach defined in paragraph (c) of the proposed AD and retain the candidate fleet approach defined in AD 84–24–05 and the SSID. The commenter proposes that the candidate fleet be updated annually to reflect changes in the fleet (e.g., when an airplane is modified from a passenger configuration to a cargo configuration). (This comment specifically addresses Model 727 airplanes identified in NPRM Docket No. 96–NM–263–AD; however, the comment also applies to this AD.)

The FAA does not concur. As stated in the NPRM, the policy established in AC No. 91–56 anticipated that all SSIP's would establish thresholds. The candidate fleet approach was originally based on an understanding that the airplanes in the candidate fleet would continue to represent the entire fleet and would have the highest number of flight cycles in the fleet. This would be achieved by periodic updates to the candidate fleet. In practice, this approach has not fulfilled the intent of AC No. 91–56. Because of the extensive modifications and repairs of both candidate fleet airplanes and non-candidate fleet airplanes, the candidate fleet is no longer representative.

In addition, the FAA finds that the candidate fleet no longer includes all of the highest time airplanes in the fleet. Even if the SSID were updated annually to reflect changes to the fleet, this approach would be impractical for both operators and the FAA. Because of the frequency of modifications and changes in utilization of the affected airplanes, even annual updates would quickly be rendered obsolete. Annual changes in the composition of the candidate fleet would deprive operators of the predictability needed for long-term maintenance planning provided by the approach of defining the thresholds as adopted in this AD. For these reasons, the FAA has determined that the 737 SSIP must contain inspection thresholds for all Model 737 series airplanes to ensure the timely detection of fatigue cracks in the SSI's.

Extend Compliance Time for Revising the Maintenance or Inspection Program

Several commenters request that the compliance time of 12 months in paragraph (b) of the proposed AD be extended to provide operators more time to incorporate Revision D of the SSID into their FAA-approved maintenance or inspection program. These commenters state that an operator should not be required to revise its FAA-approved maintenance or inspection program to incorporate Revision D of the SSID until its airplanes are at or near the threshold specified in paragraph (c) of the proposed AD. The commenters state that, as paragraph (b) of the proposed AD is currently worded, all operators are required to incorporate the change regardless of the cycle age of an airplane. This requirement poses an undue burden (cost and time) to those operators that are not required to inspect until much later. Several other commenters also state that the safety of the fleet is not increased by requiring incorporation of Revision D of the SSID into an inspection program on low-cycle airplanes.

The FAA concurs with the commenters' requests to extend the compliance time of paragraph (b) to prior to reaching the threshold specified in paragraph (c) of the AD, or within 12 months after the effective date of this AD, whichever occurs later. The FAA has revised the final rule accordingly. However, as discussed previously in this AD, operators are required to comply with the requirements of paragraphs (d) and (g) of this AD, which may necessitate action before reaching the threshold.

Extend Grace Period for Initial Inspections

Several commenters request that the 18-month grace period specified in paragraph (c) of the proposed AD be extended to provide operators that are near or over the threshold more time to accomplish the initial inspection. Many inspections included in the SSID require several work hours to accomplish. These commenters point out that the proposed AD allows 12 months to implement Revision D of the SSID, but allows only 6 months thereafter to accomplish inspections (18 months total from the effective date). The commenters contend that accomplishment of all the inspections within the 18-month grace period will significantly affect an operator's planned maintenance schedule and program, especially operators of large fleets.

Several of these same commenters state that the original SSID AD 91–14–20 permitted the initial compliance time to be the repeat interval (after incorporation of the revision into a maintenance or inspection program). Several commenters also state that other AD's that mandate maintenance type programs, such as the CPCP for aging airplanes, give operators one repeat interval to come into compliance; therefore, the initial inspection should be similar in concept to such maintenance type programs (i.e., the grace period should be 18, 36, 48, 60, and 72-month intervals depending on the inspection).

One commenter states that no service, test, or engineering analysis could justify the inspection of new SSI's within 18 months. Another commenter states that the approach used in the proposed AD appeared to be the same as for a service bulletin with a known fatigue problem. This commenter also states that this approach was not appropriate for damage tolerance based inspections contained in the Boeing SSID, which are exploratory inspections and are not intended to address identified problems. Another commenter states that the SSID threshold is somewhat arbitrary, because it is based on a reliability analysis rather than a true fatigue analysis. The threshold is derived from calculations that ensure that a statistically accurate representation of the fleet is being inspected, rather than a true crack growth analysis. One of these commenters suggests that the grace period be based on flight cycles instead of calendar time because the SSID addresses structural fatigue. Several commenters state that a major maintenance check would be a more appropriate grace period for accomplishing the inspections specified in the SSID.

The FAA concurs that more time should be provided to accomplish the initial inspections specified in paragraph (c) of the proposed AD. However, the FAA does not concur that the grace period should be tied to the repeat interval established in the Boeing SSID because some of the repeat inspections have extremely long compliance times. The existing Boeing SSID is not like the CPCP document which establishes an initial compliance time (threshold) within the document. As discussed in Item 3. of the "Action Since Issuance of Previous AD" Section of the NPRM, the FAA has determined that a grace period based on a repeat

interval does not ensure that the SSI inspections are accomplished, and that fatigue cracks in SSI's are detected, in a timely manner.

The FAA finds that it would be appropriate to base the grace period on the number of accumulated flight cycles rather than calendar time, because the Boeing SSIP is based on fatigue and crack-growth analyses. In addition, the FAA concurs that the grace period should begin at the time when operators are required to have revised their maintenance or inspection programs to incorporate Revision D of the SSID. The FAA has determined that such a grace period would provide operators with more time to accomplish the inspection; yet it also would ensure that the SSI inspections are accomplished, and that fatigue cracks in SSI's are detected, in a timely manner. As a result, the FAA has revised the final rule to specify a grace period of 4,000 flight cycles measured from the date 12 months after the effective date of the AD. The 4,000-flight cycle grace period corresponds to a typical maintenance interval for most operators and, therefore, minimizes the need for special maintenance scheduling.

Modify Criteria for Adjusting the Threshold

Several commenters request that the criteria for adjusting the thresholds specified in paragraph (c) of the proposed AD (discussed in Item 3 of the "Actions Since Issuance of Previous AD" Section of the NPRM) should allow for the threshold to be reasonably adjusted. These commenters suggest that the FAA allow operators to use the rate of risk methodology to extend the threshold in the future.

The FAA concurs. The rate of risk methodology is a means of determining the probability that cracks will be detected in the inspected fleet before they initiate on other airplanes that have not been inspected. As discussed in the NPRM, in accordance with paragraph (i)(1) of the final rule, the FAA would approve threshold increases if it can be shown by sufficient data that the increase in the threshold does not result in an increased risk that damage will occur in the uninspected fleet before it is detected in the inspected fleet.

Some of these commenters state that the following statement in the NPRM is unreasonable: "* * * the FAA may approve requests for adjustments to the compliance time * * * provided that no cracking is detected in the airplane structure." Confirmed fatigue cracks should not restrict the ability to adjust the SSIP threshold. The commenters state that the present philosophy for addressing an SSI with a confirmed fatigue crack is to remove that SSI from the SSID and to issue a service bulletin to correct the problem. The FAA then issues an AD to mandate the action, if the FAA deems it necessary. Once this SSI has been removed from the SSID, it should not affect the ability to adjust the SSIP threshold. The FAA concurs. In evaluating requests for extension of thresholds, the FAA would consider whether identified cracking has been addressed in accordance with the philosophy described by the commenters.

One commenter expresses concern that eventually all Model 737 airplanes would be subject to the Boeing SSIP. This commenter suggests that the threshold be defined in the SSID and managed by the STG. The FAA does not concur. As discussed previously, if data are submitted substantiating extension of the threshold, the FAA will approve such extensions, which may have the effect of excepting relatively low-time airplanes. The FAA would be receptive to proposals of threshold extensions from any source that submits sufficient data, including the STG. Because the thresholds are specified in the AD itself, there is no need for the SSID to be revised to incorporate the threshold.

Compliance Time for Initial Inspection

One commenter requests that the compliance time for the initial inspection requirements of paragraphs (c), (d), and (f) of the proposed AD be clarified. The commenter asks if there is anything in the proposed AD that would establish a threshold for inspections other than the 46,000-flight cycle compliance time specified in paragraph (c)(1) of the proposed AD. The commenter states that it has Model 727–100C series airplanes that have accumulated less than 27,000 total flight cycles, but are more than 30 years old. (This comment specifically addresses Model 727 airplanes identified in NPRM Docket No. 96–NM–263–AD; however, the comment also applies to this AD.)

The FAA finds that no change to the final rule is necessary. The age of an airplane is irrelevant to the inspection threshold. Because the inspections are related to fatigue, only the number of flight cycles that have accumulated on an airplane are relevant to the inspection threshold. If an airplane has been modified, altered, or repaired, such as an STC cargo conversion, the results of an assessment in accordance with either paragraph (d) or (g) of the AD could indicate that the initial inspections are required prior to the thresholds specified in paragraph (c) of the AD.

Limit Applicability of the Transferability Requirement

One commenter concurs with paragraph (g) of the proposed AD, which addresses the inspection schedule for transferred airplanes, provided that it is limited to airplanes that have exceeded the threshold established by paragraph (c)(1) or (c)(2). Paragraph (h) of the final rule [proposed paragraph (g)] is limited as stated by the commenter, and paragraph (h) is adopted as proposed.

Clarification of FAA-Approved Method

One commenter requests that paragraph (e) of the proposed AD be clarified so that there is no confusion regarding the level of FAA approval required for repairs to SSI's. The commenter states that it interprets paragraph (e) to mean that any Designated Engineering Representative (DER) with delegated authority would still have the authority to approve repairs to SSI's based on a static strength analysis. The commenter also interprets that an operator would have 12 months after the repair to develop an alternative inspection plan, or to demonstrate that the existing inspection program provides an acceptable level of safety.

The commenter is correct that DER's still have the authority to approve repairs to SSI's based on a static strength analysis. Except as discussed under the heading "Evaluation of Existing STC Design Changes," paragraph (f) of the final rule [proposed paragraph (e)] is unchanged from the corresponding paragraph of AD 91–14–20. The commenter also is correct that operators are allowed 12 months after installation of the repair to revise their FAA-approved maintenance or inspection program to include new inspections for the affected SSI's. The new inspection method and compliance times must be approved by the Manager of the Seattle ACO.

Delegate Approval Authority to DER's

Several commenters request that the FAA delegate approval authority to the DER's to approve new inspections and compliance times specified in paragraphs (d) and (f) of the proposed AD. These commenters state that this delegation would decrease the time required to obtain such approvals. These commenters question whether the FAA will be able to process a substantial number of requests that will be generated because of the proposed AD. This question arises from one commenter's past experience with the

CPCP in which the approval process took a long period of time.

In the broader context of delegation of AD required approvals, the FAA has recently issued guidance on this subject and will be implementing this guidance in the near future. Because this request may be accommodated through FAA management of designees, no revision to the final rule is needed.

Credit for Previous Inspections

Several commenters request that paragraph (c) of the proposed AD positively reflect that an operator is in compliance if inspections have been accomplished in accordance with Revision D of Boeing Document No. D6–37089 prior to the effective date of the AD. These commenters state that paragraph (c) of the proposed AD is not clear with regard to whether or not credit is to be given and when the next inspection would be required. These commenters point out that the phrase "Compliance: Required as indicated, unless accomplished previously," as stated in the proposed AD, allows the necessary credit for previously accomplished inspections.

The FAA does not consider that a change to the final rule is necessary. Operators are given credit for work previously performed by means of the phrase in the AD that was referenced by the commenters. In the case of this AD, if the initial inspection has been accomplished prior to the effective date of this AD, this AD does not require that it be repeated. However, the AD does require that repetitive inspections be conducted thereafter at the intervals specified in the Boeing SSID, and that other follow-on actions be accomplished when indicated.

Further FAA/Industry Discussions

Several commenters request that the FAA have further discussions with Boeing, operators, and other regulatory agencies prior to issuing the final rule because the proposed AD reflects a major change in FAA policy and extends well beyond the original concept of the Boeing SSIP. The FAA does not concur. As discussed in the NPRM and the preceding discussion of comments, this AD is consistent with the FAA's long-standing policy, as expressed in AC No. 91–56. As demonstrated by the breadth and depth of comments received, the public has had an ample opportunity to comment on the merits of the proposal.

Cost Estimate

Several commenters request that the FAA revise the Cost Impact information of NPRM Docket No. 96–NM–263–AD (for Model 727 airplanes) and NPRM Docket No. 96–NM–264–AD (for Model 737 airplanes) to accurately reflect the costs associated with accomplishing the requirements of both proposed AD's.

One commenter states that all affected 737 airplanes worldwide should be included in the cost estimate in NPRM Docket No. 96–NM–264–AD. The FAA does not concur. Airworthiness directives that are issued by the FAA directly affect only U.S.-registered airplanes; therefore, the cost estimate in an AD is limited only to U.S.-registered airplanes.

Several commenters to NPRM Docket No. 96–NM–263–AD (applicable to Model 727 series airplanes) state that 1,030 Model 727 airplanes (U.S.-registered) are affected by the proposed AD, not just 74 airplanes, as specified in NPRM. One of these commenters states that the cost estimate in the NPRM does not reflect the cost for all 727 operators to incorporate Revision H of the SSID into an FAA-approved maintenance or inspection program. Similarly, several commenters also state that the cost estimate in NPRM Docket No. 96–NM–264–AD does not reflect comparable costs for all 737–100 and –200 airplanes.

The FAA concurs with the commenters in that the NPRM proposed that every affected U.S. operator must revise their maintenance or inspection programs to incorporate Revision H (for Model 727 airplanes) or Revision D (for Model 737 airplanes) of the SSID within 12 months after the effective date of the applicable AD. As discussed previously under the heading "Extend Compliance Time for Revising the Maintenance or Inspection Program," the FAA has revised both final rules so that the maintenance or inspection program revision is only required for any airplane prior to its reaching the applicable threshold.

In addition, the FAA has revised the Cost Impact information of Final Rule Docket No. 96–NM–263–AD to address a total of 1,001 airplanes, which includes 223 airplanes (35 operators) that are estimated to exceed the thresholds specified in the AD within the next 10 years. For this final rule, the FAA also has revised the Cost Impact information to address a total of 404 airplanes, which includes 158 airplanes (39 operators) that are estimated to exceed the thresholds specified in the AD within the next 10 years. As discussed previously under the heading "Modify Criteria for Adjusting the Threshold," if sufficient substantiating data are submitted to justify extending the threshold, the FAA will grant such extensions so that the operators of some relatively low utilization airplanes may never be required to revise their maintenance or inspection program to incorporate the SSIP.

One commenter estimates that it will take 1,700 work hours per airplane (for Model 727 airplanes) to identify previously installed repairs, which will require at least 10 days of downtime to survey each airplane at a total cost to the commenter of $8.9 million. This commenter also estimates that its cost due to lost revenue would be $10.2 million, for a total cost of $19.1 million over 6 months (identification and lost revenue). This commenter further estimates that it will cost $110.5 million to survey existing repairs on all 727 airplanes.

Another commenter estimates that it will cost $240 million to accomplish the initial inspection to determine if there are existing repairs on the 727 airplanes. This task will take over 4,000 work hours per airplane to accomplish (2,000 work hours to open and close; 500 work hours to inspect, map, assess, etc.; and 1,500 work hours to complete non-routines generated by this special inspection).

Similar comments were submitted to NPRM Docket No. 96–NM–264–AD; however, the commenters did not provide specific cost figures for performing assessments on existing repairs.

As discussed under the heading "Extend Compliance Time for Assessing Existing Repairs and Boeing Modifications," the FAA has revised both final rules to postpone the requirement to assess existing repairs of SSI's until after the applicable SSID inspection. This revision eliminates the need for any special inspection in order to comply with the requirement to assess repairs.

Several commenters also state that the cost estimate in the NPRM's did not reflect the costs of developing inspection programs for repairs and Boeing modifications that are installed prior to the effective date of the AD. The FAA concurs and has revised the Cost Impact information of both final rules to include (within the total costs) $258,000 per airplane over the next 10 years to account for these costs.

Several commenters assert that the cost of the proposed AD is over $100 million, which is more than 20 times the FAA's estimate in the NPRM Docket No. 96–NM–263–AD (for Model 727 airplanes). As discussed below in the Cost Impact information, the FAA estimates that the total cost over the next 10 years associated with this final rule is $98,044,800, or an average of $9,804,480 per year. The FAA also

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estimates that the highest total cost during any one of the next 10 years associated with this final rule is $23,916,000. The difference between these estimates is at least in part attributable to the changes in the final rule discussed previously, which provide significant relief to operators. (Similar comments were submitted to NPRM Docket No. 96–NM–264–AD; however, the commenters did not provide a total cost estimate for these actions.)

Additional Clarifications

In reviewing the comments submitted to the NPRM, questions arose regarding the relationship of the inspection threshold requirements of paragraph (c) of the proposed AD and the provisions of the Boeing SSID that allow for sampling of specified percentages of the affected fleet. As explained in the NPRM, the FAA's intent in paragraph (c) is to require that all airplanes that exceed the threshold be inspected in accordance with the Boeing SSID. To the extent that there is any potential for conflict between paragraph (c) and the Boeing SSID, the provisions specified in this AD would prevail. Therefore, even if Revision D would permit operators to omit inspections of SSI's based on a sampling approach, this AD requires that those inspections be performed on all airplanes exceeding the specified thresholds. The FAA has revised the final rule to include a new NOTE following paragraph (c) to clarify this point.

Similarly, the FAA notes that paragraph (b) of the proposed AD would have required that the revision to the maintenance or inspection program include certain SSID provisions that were proposed to be overridden by other paragraphs of the proposed AD. The FAA has revised the requirements of paragraph (b) to clarify that the AD overrides these SSID provisions.

The FAA has added a parenthetical clarification in the applicability of the final rule to point out that Model 737–200C series airplanes also are subject to the requirements of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,007 Boeing Model 737–100 and –200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 404 airplanes of U.S. registry and 43 U.S. operators (over 10 years) will be affected by this AD.

Incorporation of the SSID program into an operator's maintenance or inspection program, as required by AD 91–14–20, takes approximately 1,000 work hours per airplane (6 affected airplanes) to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost of incorporating the revised procedures (specified in Revisions B and C of the SSID) into the maintenance or inspection program is estimated to be $360,000, or $60,000 per airplane.

The recurring inspections, as required by AD 91–14–20, take approximately 500 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the recurring inspection cost to the 6 U.S.-registered candidate fleet airplanes is estimated to be $180,000, or $30,000 per airplane, per inspection cycle.

The incorporation of Revision D of the SSID into an operator's maintenance or inspection program, as required by this new AD, takes approximately 1,200 work hours (per operator) to accomplish, at an average labor rate of $60 per work hour. The FAA estimates that within 10 years, 39 operators will be required to incorporate Revision D of the SSID. Based on these figures, the cost of incorporating the revised procedures (specified in Revision D of the SSID) into the maintenance or inspection program is estimated to be $2,808,000, or $72,000 per operator.

The recurring inspections, as required by this new AD, take approximately 600 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The FAA estimates that after 10 years, 39 operators will be required to inspect 146 airplanes and assess the damage tolerance characteristics of each repaired SSI or each SSI that is physically altered by an existing design change other than an STC. The cost impact of this inspection and assessment required by this AD on U.S. operators is estimated to be $71,328,000 over 10 years, or an average of $48,855 per airplane, per year. During the 10 years, the FAA also conservatively estimates that 43 operators of 404 airplanes will be required to assess the damage tolerance characteristics of each SSI on which the structure identified in Revision D of the SSID has been physically altered in accordance with an STC prior to the effective date of this AD. The cost impact of this assessment required by this AD on U.S. operators is estimated to be $21,000,000 over 10 years, or an average of $5,198 per airplane, per year.

In summary, the FAA estimates that the actions, as required by this new AD, will cost $98,044,800 over 10 years, or an average of $9,804,480 per year. The FAA also estimates that the average cost per airplane over 10 years is $242,685, or an average of $24,269 per year. The highest total cost during any one of the 10 years is $23,916,000. (The FAA has included in the Rules Docket a detailed description of cost estimates related to the actions required by this AD.)

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, it can reasonably be assumed that the majority of the affected operators have already initiated the original SSID program (as required by AD 91–14–20), and many may have already initiated the additional inspections required by this new AD action.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–7061 (56 FR 30680, July 5, 1991), and by adding a new airworthiness directive (AD), amendment 39–10531, to read as follows:

98–11–04 Boeing: Amendment 39–10531. Docket 96–NM–264–AD. Supersedes AD 91–14–20, Amendment 39–7061.

Applicability: All Model 737–100 and –200 series airplanes (including Model 737–200C series airplanes), certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continued structural integrity of the total Boeing Model 727 fleet, accomplish the following:

Note 1: Where there are differences between the AD and the Supplemental Structural Inspection Document, the AD prevails.

(a) For airplanes listed in Section 3.0 of Boeing Document No. D6–37089, "Supplemental Structural Inspection Document" (SSID), Revision B, dated February 18, 1987, and Revision C, dated January 1990: Within 12 months after August 9, 1991 (the effective date of AD 91–14–20, amendment 39–7061), incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in that document. (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include and shall be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID. This revision shall be deleted following accomplishment of the requirements of paragraph (b) of this AD.

Note 2: For the purposes of this AD, an SSI is defined as a principal structural element that could fail and consequently reduce the structural integrity of the airplane.

(b) Prior to reaching the threshold specified in paragraph (c) of this AD, or within 12 months after the effective date of this AD, whichever occurs later, incorporate a revision into the FAA-approved maintenance or inspection program that provides no less than the required DTR for each SSI listed in Boeing Document No. D6–37089, "Supplemental Structural Inspection Document" (SSID), Revision D, dated June 1995 (hereinafter referred to as "Revision D"). (The required DTR value for each SSI is listed in the document.) Except as provided to the contrary in paragraphs (c), (d), and (g) of this AD, the revision to the maintenance or inspection program shall include and shall be implemented in accordance with the procedures in Section 5.0, "Damage Tolerance Rating (DTR) System Application" and Section 6.0, "SSI Discrepancy Reporting" of Revision D. Upon incorporation of the revision required by this paragraph, the revision required by paragraph (a) of this AD may be deleted.

(c) Except as provided in paragraph (d), (e), or (g) of this AD, perform an inspection to detect cracks in all structure identified in Revision D at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For Model 737–200C series airplanes: Inspect prior to the accumulation of 46,000 total flight cycles, or within 4,000 flight cycles measured from the date 12 months after the effective date of this AD, whichever occurs later.

Note 3: The requirements specified in paragraph (c)(1) of this AD only apply to airplanes listed as 737–200C on the type certificate data sheet. Paragraph (c)(1) does not apply to airplanes that have been modified from a passenger configuration to an all-cargo configuration by supplemental type certificate (STC). Paragraphs (e)(2) and (d) apply to those airplanes.

(2) For all airplanes, except for those airplanes identified in paragraph (c)(1) of this AD: Inspect prior to the accumulation of 66,000 total flight cycles, or within 4,000 flight cycles measured from the date 12 months after the effective date of this AD, whichever occurs later.

Note 4: Notwithstanding the provisions of paragraphs 5.1.1, 5.1.2, 5.1.6(e), .1.11, 5.1.12, 5.1.13, 5.2, 5.2.1, 5.2.2, 5.2.3, and 5.2.4 of the General Instructions of Revision D, which would permit operators to perform fleet and rotational sampling inspections, to perform inspections on less than whole airplane fleet sizes and to perform inspections on substitute airplanes, this AD requires that all airplanes that exceed the threshold be inspected in accordance with Revision D.

Note 5: Once the initial inspection has been performed, operators are required to perform repetitive inspections at the intervals specified in Revision D in order to remain in compliance with their maintenance or inspection programs, as revised in accordance with paragraph (b) of this AD.

(d) For airplanes on which the structure identified in Revision D has been physically altered in accordance with an STC prior to the effective date of this AD: Accomplish the requirements specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Within 18 months after the effective date of this AD, assess the damage tolerance characteristics of each SSI created or affected by each STC to determine the effectiveness of the applicable Revision D inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. Following accomplishment of the revision and within the compliance times established, perform an inspection to detect cracks in the structure affected by any design change or repair, in accordance with the new inspection method. The new inspection method and the compliance times shall be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 6: For purposes of this AD, an SSI is "affected" if it has been physically altered or repaired, or if the loads acting on the SSI have been increased or redistributed. The effectiveness of the applicable inspection method and compliance time should be determined based on a damage tolerance assessment methodology, such as that described in FAA Advisory Circular AC No. 91–56, Change 2, dated April 15, 1983.

(2) Accomplish paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD.

(i) Within 18 months after the effective date of this AD, submit a plan that describes a methodology for accomplishing the requirements of paragraph (d)(1) of this AD to the Manager, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181.

Note 7: The plan should include a detailed description of the: STC; methodology for identifying new or affected SSI's; method for developing loads and validating the analysis; methodology for evaluating and analyzing the damage tolerance characteristics of each new or affected SSI; and proposed inspection method. The plan would not need to include all of these elements if the operator can otherwise demonstrate that its plan will enable the operator to comply with paragraph (d)(2)(iii) of this AD.

(ii) Within 18 months after the effective date of this AD, perform a detailed visual inspection in accordance with a method approved by the Manager, Seattle ACO to detect cracks in all structure identified in Revision D that has been altered by an STC.

(A) If no crack is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 18 months.

(B) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle ACO.

(iii) Within 48 months after the effective date of this AD, revise the FAA-approved maintenance or inspection program to include an inspection method for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. The inspection methods and the compliance times shall be approved by the Manager, Seattle ACO. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive

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inspection requirements of paragraph (d)(2)(ii)(A) of this AD.

Note 8: Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision D, which would permit deletions of modified, altered, or repaired structure from the SSIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

(e) For airplanes on which the structure identified in Revision D has been repaired or physically altered by any design change other than an STC identified in paragraph (d), prior to the effective date of this AD: At the time of the first inspection of each SSI after the effective date of this AD in accordance with Revision D, identify each repair or design change to that SSI. Within 12 months after such identification, assess the damage tolerance characteristics of each SSI created or affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for each SSI and, if not effective, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI. The new inspection method and the compliance times shall be approved by the Manager, Seattle ACO.

Note 9: For the purposes of this AD, a design change is defined as any modification, alteration, or change to operating limitations.

(f) Except as provided in paragraph (d)(2)(ii)(B) of this AD, cracked structure found during any inspection required by this AD shall be repaired, prior to further flight, in accordance with an FAA-approved method.

(g) For airplanes on which the structure identified in Revision D is affected by any design change (including STC's) or repair that is accomplished after the effective date of this AD: Within 12 months after that modification, alteration, or repair, revise the FAA-approved maintenance or inspection program to include an inspection method and compliance times for each new or affected SSI, and to include the compliance times for initial and repetitive accomplishment of each inspection. The new inspection method and the compliance times shall be approved by the Manager, Seattle ACO.

Note 10: Notwithstanding the provisions of paragraphs 5.1.17 and 5.1.18 of the General Instructions of Revision D, which would permit deletions of modified, altered, or repaired structure from the SIP, the inspection of SSI's that are modified, altered, or repaired shall be done in accordance with a method approved by the Manager, Seattle ACO.

(h) Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (c) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD, the inspection of each SSI must be accomplished by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, whichever would result in the earlier accomplishment date for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD, the inspection of each SSI required by this AD must be accomplished either prior to adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Seattle ACO. After each inspection has been performed once, each subsequent inspection must be performed in accordance with the new operator's schedule.

(i)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 11: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(i)(2) Alternative methods of compliance, approved previously in accordance with AD 91–14–20, amendment 39–7061, are not considered to be approved as alternative methods of compliance with this AD.

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(k) The actions specified in paragraphs (b) and (c) shall be done in accordance with Boeing Document No. D6–37089, "Supplemental Structural Inspection Document" (SSID), Revision D, dated June 1995, which contains the following list of effective pages:

Page number shown on page	Revision level shown on page
List of Effective Pages Pages 1 thru 10.	D.

Note: The issue date of Revision D is indicated only on the title page; no other page of the document is dated.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on June 23, 1998.

Issued in Renton, Washington, on May 12, 1998.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13078 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–17]

Amendment to Class D and Class E Airspace; Fort Leonard Wood, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class D and Class E airspace areas at Fort Leonard Wood, Forney Army Airfield, MO. The FAA has developed Global Positioning System (GPS) Runway (RWY) 14; GPS RWY 32; Localizer (LOC) RWY 14; Nondirectional Radio Beacon (NDB) RWY 14; NDB RWY 32; VHF Omnidirectional Range (VOR) RWY 14; and VOR RWY 32 Standard Instrument Approach Procedures (SIAPs) to serve Fort Leonard Wood, Forney Army Airfield, MO. The enlarged Class E surface area and Class E airspace area 700 feet Above Ground Level (AGL) will contain the new SIAPs within controlled airspace. A minor revision to the Airport Reference Point (ARP) coordinates is included in this document. The intended effect of this rule is to revise the ARP coordinates and to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

DATES: Effective date: 0901 UTC, October 8, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 1, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation

Administration, Docket Number 98–ACE–17, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class D and Class E airspace at Fort Leonard Wood, Forney Army Airfield, MO. The amendment to Class E surface area and Class E 700 feet AGL airspace area at Forney Army Airfield will provide additional controlled airspace in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under IFR from aircraft operation under VFR. The Class D area is amended to indicate the new ARP coordinates. The amendment at Forney Army Airfield will revise the ARP coordinates, provide additional controlled surface area, provide controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The areas will be depicted on appropriate aeronautical charts. Class D airspace areas designated for an airport containing at least one primary airport around which the airspace is designated are published in paragraph 5000; Class E airspace areas extending upward from the surface and designated as an extension to Class D or Class E surface area are published in paragraph 6004; and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objection. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–17". The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D airspace

* * * * *

ACE MO D Fort Leonard Wood, MO [Revised]

Fort Leonard Wood, Forney Army Airfield, MO
(Lat. 37°44'30"N., long. 92°08'27"W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4-mile radius of the Forney Army Airfield. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas extending upward from the surface and designated as an extension to Class D or Class E surface area

* * * * *

ACE MO E4 Fort Leonard Wood, MO [Revised]

Fort Leonard Wood, Forney Army Airfield, MO
(Lat. 37°44'30"N., long. 92°08'27"W.)
Forney VOR
(Lat. 37°44'33"N., long. 92°08'20"W.)
Buckhorn NDB
(Lat. 37°41'51"N., long. 92°06'14"W.)

That airspace extending upward from the surface within 2.4 miles each side of the Forney VOR 318° radial extending from the 4-mile radius of Forney Army Airfield to 7 miles northwest of the VOR and within 4 miles southwest and 8 miles northeast of the 147° bearing from the Buckhorn NDB extending from the 4-mile radius of the airport to 16 miles southeast of the Buckhorn NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Fort Leonard Wood, MO [Revised]

Fort Leonard Wood, Forney Army Airfield, MO
(Lat. 37°44'30"N., long. 92°08'27"W.)
Forney VOR
(Lat. 37°44'33"N., long. 92°08'20"W.)
Buckhorn NDB
(Lat. 37°41'51"N., long. 92°06'14"W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Forney Army Airfield; excluding that airspace within the R–4501 Fort Leonard Wood, MO, Restricted Areas during the specific times they are effective.

* * * * *

Issued in Kansas City, MO, on May 1, 1998.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13272 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–9]

Amendment to Class E Airspace; Gordon, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment modifies the Class E airspace area at Gordon Municipal Airport, Gordon, NE. The FAA has developed a Global Positioning System (GSP) Runway (RWY) 22 Standard Instrument Approach Procedure (SIAP) and a Nondirectional Radio Beacon (NDB) RWY 22 SIAP to serve Gordon Municipal Airport, Gordon, NE. In addition, a review of the Class E airspace for Gordon Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The area has been enlarged to conform to the criteria of FAA Order 7400.2D and amended to include the changes required for the GPS RWY 22 and NDB RWY 22 SIAPs. The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 22 and NDB RWY 22 SIAPs and comply with the criteria of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, August 13, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Federal Aviation Administration (FAA), Manager, Airspace Branch, Air Traffic Division, (ACE–520), Attention: Rules Docket Number 98–ACE–9, 601 East 12th Street., Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 22 and NDB RWY 22 SIAPs to serve the Gordon Municipal Airport, Gordon, NE. A review of the Class E airspace for Gordon Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment to Class E airspace at Gordon, NE, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document

withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–9." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as folllows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Gordon, NE. [Revised]

Gordon Municipal Airport, NE
(Lat. 42° 82′ 21″ N., long. 102° 10′ 31″ W.)
Gordon NDB
(Lat. 42° 48′ 04″ N., long. 102° 10′ 46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Gordon Municipal Airport and within 2.6 miles each side of the 045° bearing from the Gordon NDB extending from the 6.6-mile radius to 7.4 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on April 23, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 98–13270 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–10]

Amendment to Class E Airspace; Kimball, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Kimball Municipal Airport, Kimball, NE. A review of the Class E airspace for Kimball Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The area has been enlarged to conform to the criteria of FAA Order 7400.2D. The intended effect of this rule is to comply with the criteria of FAA Order 7400.2D, and to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

DATES: 0901 UTC, August 13, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–10, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Kimball, NE. A review of the Class E airspace for Kimball Municipal Airport, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet

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AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Kimball Municipal Airport will meet the criteria of FAA Order 7400.2D, provide additional controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this section and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–10". The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 10034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air),

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1063 Comp., p. 389

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ACE NE E5 Kimball, NE [Revised]

Kimball Municipal Airport, NE
(Lat. 41°11′17″N., long. 103°40′11″W.)
Kimball NDB
(Lat. 41°11′29″N., long. 103°40′11″W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Kimbal Municipal Airport and within 2.6 miles each side of the 120° bearing from the Kimball NDB extending from the 6.6-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on April 23, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13269 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–31]

Amendment to Class E Airspace; Mason City, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Mason City, IA.

DATE: The direct final rule published at 63 FR 7060 is effective on 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The FAA published this direct final rule with a request for comments in the **Federal Register** on February 12, 1998 (63 FR 7060). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 18, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 29, 1998.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13268 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–20]

Remove Class E Airspace and Establish Class E Airspace; Springfield, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action removes Class E surface area and establishes a new Class E surface area at Springfield, MO. Class C airspace has been established and the Class D airspace has been removed at Springfield Municipal Airport, Springfield, MO. The name of the Springfield Municipal Airport has been changed to Springfield-Branson Regional Airport. The intended effect of this rule is to remove the Class E surface areas, establish a new Class E surface area, and change the name of Springfield Municipal Airport.

DATES: This direct final rule is effective on 0901 UTC, August 13, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 17, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–20, 601 East 12th Street, Kansas city, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m.; Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA Has established Class C airspace and removed Class D airspace at Springfield Municipal Airport, Springfield, MO. The action to establish Class C and remove Class D requires amending the Class E surface areas. The Class E surface areas are removed and a new Class E surface area as an extension to Class C is established. The name of Springfield Municipal Airport has been changed to Springfield-Branson Regional Airport. The area will be depicted on appropriate aeronautical charts. Class E airspace designated as a surface area for an airport is published in paragraph 6002; Class E airspace areas extending upward from the surface designated as an extension to a Class C surface area are published in paragraph 6003; and Class E airspace areas extending upward from the surface designated as an extension to a Class D or Class E are published in paragraph 6004 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–20." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport

* * * * *

ACE MO E2 Springfield, MO [Removed]

* * * * *

Paragraph 6003 Class E airspace areas extending upward from the surface designated as an extension to a Class C surface area

* * * * *

ACE MO E3 Springfield, MO [Removed]

Springfield-Branson Regional Airport, MO
(Lat. 37°14'39"N., long. 93°23'13"W.)
Springfield VORTAC
(Lat. 37°21'21"N., long. 93°20'03"W.)

That airspace extending upward from the surface within 1.8 miles west and 2.2 miles east of the Spingfield VORTAC 200° radial extending from the 5-mile radius of the Springfield-Branson Regional Airport to the VORTAC.

* * * * *

Paragraph 6004 Class E airspace areas extending upward from the surface designated as an extension to a Class D or Class E surface area

* * * * *

ACE MO E4 Springfield, MO [Removed]

* * * * *

Issued in Kansas City, MO, on May 4, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13273 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–16]

Amendment to Class E Airspace; Ainsworth, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Ainsworth Municipal Airport, Ainsworth, NE. A review of the Class E airspace for Ainsworth Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The area has been enlarged to conform to the criteria of FAA Order 7400.2D. A minor revision to the Airport Reference Point (ARP) coordinates is included in this document. The intended effect of this rule is to revise the ARP coordinates, comply with the criteria of FAA Order 7400.2D, and to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

DATES: Effective date: 0901 UTC, August 13, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–16, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Ainsworth, NE. A review of the Class E airspace for Ainsworth Municipal Airport, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The Class E airspace is amended to indicate the revised ARP coordinates. The amendment at Kimball Municipal Airport will meet the criteria of FAA Order 7400.2D, revise the ARP coordinates, provide additional controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation

listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–16". The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Ainsworth, NE [Revised]

Ainsworth Municipal Airport, NE
(Lat. 42°34'45"N., long. 99°59'35"W.)
Ainsworth VOR/DME
(Lat. 42°34'09"N., long. 99°59'23"W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Ainsworth Municipal Airport and within 2.6 miles each side of the 198° radial of the Ainsworth VOR/DME extending from the 6.8-mile radius to 7 miles south of the airport and within 2.6 miles each side of the 348° radial of the Ainsworth VOR/DME extending from the 6.8-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on April 23, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13271 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 980212038–8117–02; I.D. 020298A]

RIN 0648–AF41

Fisheries of the Northeastern United States; Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; notice of suspension of notification requirements for Maine mahogany quahog vessels.

SUMMARY: NMFS issues this final rule implementing Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). Amendment 10 establishes management measures for

the fishery for small ocean quahogs (mahogany quahogs), which occurs off the coast of Maine, north of 43°50′ N. lat.

NMFS announces that, as authorized in Amendment 10, the notification (call-in) requirements for vessels fishing under a Maine mahogany quahog permit are suspended.

DATES: Effective on May 21, 1998.

ADDRESSES: Copies of Amendment 10 and its supporting documents, including the environmental assessment and the regulatory impact review, are available from Dr. Chris Moore, Acting Executive Director, Mid-Atlantic Fishery Management Council (Council), Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904–6790.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20502 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104.

SUPPLEMENTARY INFORMATION:

Background

A notice of availability of Amendment 10 was published in the **Federal Register** on February 9, 1998 (63 FR 6510), with the comment period ending April 10, 1998. A proposed rule to implement Amendment 10 was published in the **Federal Register** on February 26, 1998 (63 FR 9771), with the comment period ending April 13, 1998. All comments received by the end of the comment period on the proposed amendment, whether specifically directed to Amendment 10 or to the proposed rule, were considered in making the decision to approve the amendment. Details concerning the justification and development of Amendment 10 were provided in the preamble to the proposed rule and are not repeated here.

Amendment 10: (1) Establishes a Maine mahogany quahog management zone north of 43°50′ N. lat. (zone); (2) establishes a Maine mahogany quahog permit; (3) establishes an initial annual quota of 100,000 Maine bushels (35,150 hectoliters (hL)); (4) requires the Council to establish a Maine Mahogany Quahog Advisory Panel to make management recommendations; (5) allows for the revision of the annual quota within a range of 17,000 to 100,000 Maine bushels (5,975 to 35,150 hL); (6) requires vessels harvesting ocean quahogs from the zone to fish only in areas that have been certified by the State of Maine to be within the requirements of the National Shellfish Sanitation Program and adopted by the Interstate Shellfish Sanitation Conference (ISSC) as acceptable limits for the toxin responsible for paralytic shellfish poisoning (PSP); (7) requires vessels fishing under a Maine mahogany quahog permit to land ocean quahogs in Maine; (8) requires vessels fishing in the zone under an individual transferable quota (ITQ) and landing their catch outside Maine to land at a facility participating in an overall food safety program operated by the official state agency having jurisdiction that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with those food safety-based procedures used by the State of Maine for such purpose; and (9) gives the Administrator, Northeast Region, NMFS (Regional Administrator) the authority to suspend the existing vessel notification requirements for vessels possessing a Maine mahogany quahog permit and fishing in the zone, if he determines it is not necessary for enforcement.

In addition to these management measures, all vessel owners prosecuting the Maine mahogany quahog fishery must continue to abide by the vessel owner and dealer reporting and recordkeeping requirements set forth in 50 CFR part 648.

Comments and Responses

Twenty-six comments were received during the comment periods on Amendment 10 and the proposed rule. This includes 21 commenters who submitted identical letters. Twenty-five commenters supported the amendment and one was opposed, though several requested modification of specific measures. Twenty-five commenters raised concerns regarding the replacement provisions.

Comment 1: The Commissioner of the Maine Department of Marine Resources (Commissioner) commented that the initial quota of 100,000 Maine bushels (35,150 hL) and its potential subsequent adjustment of between 17,000 and 100,000 Maine bushels (5,975 and 35,150 hL) is somewhat arbitrary because it is based solely upon historical landings. Quota calculations based upon sustainable yields, independent from the initial quota, are encouraged by the amendment but may be in excess of 100,000 or less than 17,000 Maine bushels. The Commissioner asks that the regulations be modified so that the quota can be adjusted beyond the amounts specified.

Response: As explained in Amendment 10, a reliable survey of abundance has not been conducted for the Maine stock of mahogany quahogs. Historical landings information based on NMFS and State of Maine records comprise the best scientific information available to set quotas, consistent with national standard 2 of the Magnuson-Stevens Act Fishery Conservation and Management Act (Magnuson-Stevens Act). Such historical data are not arbitrary. Amendment 10 notes that a stock assessment could result in the modification of the quota range and that such a modification would have to be made by a subsequent amendment to Amendment 10. NMFS has no authority to make such a change prior to that amendment process.

Comment 2: Industry participants and the Commissioner commented that the vessel replacement provisions in the proposed rule are in violation of national standards 5, 6, and 10 of the Magnuson-Stevens Act. The industry participants noted that they should have the right to upgrade their vessels to meet changing needs.

Response: NMFS notes that various restrictions on vessel replacement are in effect for nearly all the limited entry fisheries managed under authority of the Magnuson-Stevens Act. In regard to national standard 5, which requires that management measures consider economic efficiency where practicable, the commenters may be correct in assuming that certain vessel owners would increase the economic efficiency of their vessels by replacing them with larger ones, though in a small-scale fishery such as this there may be limits to the improvements. However, limits on increases in vessel length, tonnage, and horsepower are implemented to protect fish stocks by indirectly controlling fishing capacity.

National standard 6 requires that management measures take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. Amendment 10 achieves this through establishing an annual quota-setting mechanism. The amendment sets a maximum initial quota consistent with historical landings. Quota increases can occur once accurate biomass estimates are produced. Quota decreases from the maximum 100,000 bushel initial quota can occur annually based on the advice of the Maine Ocean Quahog Advisory Panel through the Surf Clam and Ocean Quahog Committee. Variations among, and contingencies in, both the resource and catches could result in annual

changes to the frameworked maximum annual quota, or result in initiation of the amendment process.

National standard 10 requires that management measures promote the safety of human life at sea. The commenter's assertion that larger vessels are safer is not necessarily true. Safety is more of the seaworthiness function of a vessel than its size.

While the measure has been approved, NMFS remains concerned about the provision concerning future replacement of a vessel issued a Maine mahogany quahog permit. NMFS noted that the measure is inconsistent with similar measures in other fishery management plans in the region, including recent plans enacted by the Council for the black sea bass and summer flounder fisheries. NMFS believes this issue will be resolved by the amendment the Mid-Atlantic and New England Fishery Management Councils have begun to develop to standardize these requirements.

Comment 3: One industry participant suggested that the size of the Maine bushel should be equal to that of the standard clam bushel used in the Mid-Atlantic region.

Response: The Maine mahogany fishery has historically utilized a bushel measuring 1.2445 cubic feet in volume, smaller than the standard clam bushel, which measure 1.8800 cubic feet in volume. NMFS sees no need to make this change and believes it could create confusion in the industry and undermine the accuracy of monitoring and reporting efforts.

Comment 4: One commenter believes that harvest by State of Maine licensed vessels in State waters should not count against the 100,000 Maine bushel initial quota.

Response: NMFS notes that the initial quota of 100,000 Maine bushels is based upon historical landings from both State of Maine and Federal waters. Therefore, landings from both State and Federal waters must be counted against the quota. Several fishery management plans, such as those for Summer Flounder and Scup use an aggregate of state and Federal landings in establishing and monitoring annual quotas.

Comment 5: Twenty-three commenters, including the Commissioner, requested the suspension of the trip notification requirements in the final rule.

Response: As authorized by Amendment 10, the Regional Administrator has suspended the notification requirement for the Maine mahogany quahog fishery.

Suspension of Notification Requirements

The Regional Administrator, pursuant to 50 CFR 648.15(b)(4), may suspend the trip notification requirements found at 50 CFR 648.15 (b)(1) and (2) for vessels issued a Maine mahogany quahog permit fishing within the zone if it is not deemed necessary for enforcement. Based on advice from NMFS Law Enforcement, the Regional Administrator has suspended these notification requirements. If NMFS Law Enforcement advises in the future that such notification is necessary to enforce effectively the management measures in the Maine mahogany quahog zone, the Regional Administrator advises that the notification requirements will be re-established for the fishery as specified in the final rule. The vessel notification requirements remain in effect for vessels fishing under an ITQ allocation permit irrespective of area fished.

Classification

The Regional Administrator determined that Amendment 10 is necessary for the conservation and management of the Maine mahogany quahog fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of E.O. 12866.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648–0202. Public reporting burden for these collections-of-information is estimated to average 30 minutes for a new vessel permit, 30 minutes for an appeal, and 15 minutes for a renewal application for a permit. The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Amendment 10 relieves several restrictions for participants in the Maine mahogany quahog fishery. These include the use of 32-bushel cages to offload quahogs and the placement of tags on cages to indicate that the harvest is counted toward the appropriate individual allocation. In particular, the requirement to use 32-bushel cages is infeasible for the smaller Maine mahogany quahog vessel and docks due to the cage size. In addition, mahogany quahog vessels harvest on a small scale, and it is inappropriately restrictive to use a 32-bushel container to measure landings.

The implementation of Amendment 10 regulations will relieve an economic restriction for approximately 68 vessels, which will no longer be subject to requirements under the FMP. Accordingly, under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date. However, since many vessel owners that comprise the fishery will require additional time to obtain the moratorium permit, NMFS makes this rule effective May 21, 1998.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 13, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:

15 CFR CHAPTER IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENT UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, in paragraph (b), the table is amended by adding, in

numerical order, the following entry to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part section where the information collection requirement is located	Current OMB control number (all numbers Begin with 0648–).
50 CFR	
648.76	–0202

50 CFR CHAPTER VI

PART 648—FISHERIES OF NORTHEASTERN UNITED STATES

3. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 648.2, definitions for "Maine bushel" and "Maine mahogany quahog zone" are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Maine bushel means a standard unit of volumetric measurement equal to 1.2445 cubic feet (35.24 L) of ocean quahogs in the shell.

Maine mahogany quahog zone means the area bounded on the east by the U.S.-Canada maritime boundary, on the south by a straight line at 43°50′ N. latitude, and on the north and west by the shoreline of Maine.

* * * * *

5. In § 648.4, paragraph (a)(4)(i) is added and (a)(4)(ii) is reserved to read as follows:

§ 648.4 Vessel and individual commercial permits.

(a) * * *

(4) * * *

(i) *Maine mahogany quahog permit.* (A) A vessel is eligible for a Maine mahogany quahog permit to fish for ocean quahogs in the Maine mahogany quahog zone if it meets the following eligibility criteria:

(*1*) The vessel was issued a Federal Maine Mahogany Quahog Experimental Permit during one of the experimental fisheries authorized by the Regional Administrator between September 30, 1990, and September 30, 1997; and,

(*2*) The vessel landed at least one Maine bushel of ocean quahogs from the Maine mahogany quahog zone as documented by fishing or shellfish logs submitted to the Regional Administrator prior to January 1, 1998.

(B) *Application/renewal restriction.* No one may apply for a Maine mahogany quahog permit for a vessel after May 19, 1999.

(C) *Replacement vessels.* To be eligible for a Maine mahogany quahog permit, a replacement vessel must be replacing a vessel of substantially similar harvesting capacity that is judged unseaworthy by the USCG, for reasons other than lack of maintenance, or that involuntarily left the fishery. Both the entering and replaced vessels must be owned by the same person. Vessel permits issued to vessels that involuntarily leave the fishery may not be combined to create larger replacement vessels.

(D) *Appeal of denial of a permit.* (*1*) Any applicant denied a Maine mahogany quahog permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator's designee erred in concluding that the vessel did not meet the criteria in paragraph (a)(4)(i)(A) of this section. The appeal must set forth the basis for the applicant's belief that the decision of the Regional Administrator's designee was made in error.

(*2*) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Administrator.

(*3*) The hearing officer shall make a recommendation to the Regional Administrator.

(*4*) The Regional Administrator will make a final decision based on the criteria in paragraph (a)(4)(i)(A) of this section and on the available record, including any relevant documentation submitted by the applicant and, if a hearing is held, the recommendation of the hearing officer. The decision on the appeal by the Regional Administrator is the final decision of the Department of Commerce.

(ii) [Reserved]

* * * * *

6. In § 648.14, paragraphs (a)(23), (24), and (25) are revised, paragraphs (a)(105) through (109) and paragraph (a)(113) are added, and paragraph (x)(1)(ii) and the first sentence of paragraph (x)(1)(iii) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(23) Land unshucked surf clams or ocean quahogs harvested in or from the EEZ outside the Maine mahogany quahog zone in containers other than cages from vessels capable of carrying cages.

(24) Land unshucked surf clams and ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone in containers other than cages from vessels capable of carrying cages unless, with respect to ocean quahogs, the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an individual allocation of quahogs under § 648.70.

(25) Fail to comply with any of the notification requirements specified in § 648.15(b).

* * * * *

(105) Offload unshucked surf clams or ocean quahogs harvested in or from the EEZ outside the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages.

(106) Offload unshucked surf clams harvested in or from the EEZ within the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages.

(107) Offload unshucked ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages, unless the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an individual allocation of quahogs under § 648.70.

(108) Purchase, receive for a commercial purpose other than transport to a testing facility, or process, or attempt to purchase, receive for commercial purpose other than transport to a testing facility, or process, outside Maine, ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

(109) Land or possess ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone after the effective date published in the **Federal Register** notifying participants that Maine mahogany quahog quota is no longer available, unless the vessel is fishing for an individual allocation of ocean quahogs under § 648.70.

* * * * *

(113) Land ocean quahogs outside Maine that are harvested in or from the

EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

* * * * *

(x) * * *

(1) * * *

(ii) Surf clams or ocean quahogs landed from a trip for which notification was provided under § 648.15(b) or § 648.70(b) are deemed to have been harvested in the EEZ and count against the individual's annual allocation unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.70.

(iii) Surf clams or ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and are deemed to be part of an individual's allocation, unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.70; or, unless the preponderance of available evidence demonstrates that he/she has surrendered his/her surf clam and ocean quahog permit issued under § 648.4 and he/she conducted fishing operations exclusively within waters under the jurisdiction of any state. * * *

* * * * *

7. In § 648.15, paragraph (b)(4) is added to read as follows.

§ 648.15 Facilitation of enforcement.

* * * * *

(b) * * *

(4) *Suspension of notification requirements.* The Regional Administrator may suspend notification requirements for vessels fishing under a Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) if he determines that such notification is not necessary to enforce effectively the management measures in the Maine mahogany quahog zone. The Regional Administrator may rescind such suspension if he concludes that the original determination is no longer valid. A suspension or recision of suspension of the notification requirements by the Regional Administrator shall be published in the **Federal Register**.

* * * * *

8. In § 648.73, paragraph (d) is added to read as follows.

§ 648.73 Closed areas.

* * * * *

(d) *Areas closed due to the presence of paralytic shellfish poisoning toxin*— (1) *Maine mahogany quahog zone.* The Maine mahogany quahog zone is closed to fishing for ocean quahogs except in those areas of the zone that are tested by the State of Maine and deemed to be within the requirements of the National Shellfish Sanitation Program and adopted by the Interstate Shellfish Sanitation Conference as acceptable limits for the toxin responsible for paralytic shellfish poisoning. Harvesting is allowed in such areas during the periods specified by the Maine Department of Marine Resources during which quahogs are safe for human consumption. For information regarding these areas contact the State of Maine Division of Marine Resources at (207–624–6550).

(2) [Reserved]

9. In § 648.75, introductory text is added to read as follows:

§ 648.75 Cage identification.

Except as provided in § 648.76, the following cage identification requirements apply to all vessels issued a Federal fishing permit for surf clams and ocean quahogs:

* * * * *

10. Section 648.76 is added to subpart E to read as follows.

§ 648.76 Maine mahogany quahog zone.

(a) *Landing requirements.* (1) A vessel issued a valid Maine mahogany quahog permit pursuant to § 648.4(a)(4)(i), and fishing for or possessing ocean quahogs within the Maine mahogany quahog zone, must land its catch in the State of Maine.

(2) A vessel fishing under an individual allocation permit, regardless of whether it has a Maine mahogany quahog permit, fishing for or possessing ocean quahogs within the zone, may land its catch in the State of Maine, or, consistent with applicable state law in any other state that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with those food safety-based procedures used by the State of Maine for such purpose, and must comply with all requirements in §§ 648.70 and 648.75. Documentation required by the state and other laws and regulations applicable to food safety-based procedures must be made available by federally-permitted dealers for inspection by NMFS .

(b) *Quota monitoring and closures*— (1) *Catch quota.* (i) The annual quota for harvest of mahogany quahogs from within the Maine mahogany quahog zone is 100,000 Maine bushels (35,150 hL). The quota may be revised annually within the range of 17,000 and 100,000 Maine bushels (5,975 and 35,150 hL) following the procedures set forth in § 648.71.

(ii) All mahogany quahogs landed for sale in Maine by vessels issued a Maine mahogany quahog permit and not fishing for an individual allocation of ocean quahogs under § 648.70 shall be applied against the Maine mahogany quahog quota, regardless of where the mahogany quahogs are harvested.

(iii) All mahogany quahogs landed by vessels fishing in the Maine mahogany quahog zone for an individual allocation of quahogs under § 648.70 will be counted against the ocean quahog allocation for which the vessel is fishing.

(iv) The Regional Administrator will monitor the quota based on dealer reports and other available information and shall determine the date when the quota will be harvested. NMFS shall publish notification in the **Federal Register** advising the public that, effective upon a specific date, the Maine mahogany quahog quota has been harvested and notifying vessel and dealer permit holders that no Maine mahogany quahog quota is available for the remainder of the year.

(2) *Maine Mahogany Quahog Advisory Panel.* The Council shall establish a Maine Mahogany Quahog Advisory Panel consisting of representatives of harvesters, dealers, and the Maine Department of Marine Resources. The Advisory Panel shall make recommendations, through the Surf Clam and Ocean Quahog Committee of the Council, regarding revisions to the annual quota and other management measures.

[FR Doc. 98–13284 Filed 5–14–98; 4:41 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 980513127-8127-01; I.D.050598A]

RIN 0648–AL15

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Data Collection

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule requires vessels in the shrimp fishery of the Gulf of Mexico to maintain and submit fishing records, to carry a NMFS-approved observer, and/or to carry a vessel monitoring system unit (VMS unit), if selected by NMFS to do so. This rule also informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for these collections. The intended effect of this rule is to collect information on the operational effectiveness of bycatch reduction devices (BRDs) in shrimp trawls in reducing the mortality of juvenile red snapper, and, thereby, to determine management measures necessary to reduce overfishing of red snapper.

DATES: This rule is effective on May 14, 1998, through November 16, 1998. Comments must be received no later than June 18, 1998.

ADDRESSES: Comments on this interim rule must be sent to, and copies of documents supporting this rule may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, phone: 813–570–5305 or fax: 813–570–5583.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Shrimp trawls have a significant bycatch of non-target finfish and invertebrates, most of which are discarded dead. In particular, the shrimp fishery bycatch in the Gulf of Mexico includes a high mortality of juvenile (ages 0 and 1) red snapper, a valuable reef fish species for commercial and recreational fisheries. The red snapper stock of the Gulf of Mexico is overfished. Red snapper stock assessments prepared in 1995 and 1997 indicated that shrimp trawl bycatch of red snapper must be reduced to rebuild the red snapper resource to a spawning potential ratio (SPR) of 20 percent by the year 2019. The Council's Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico establishes the 20 percent SPR level as its goal for rebuilding the red snapper stock.

The Council developed FMP Amendment 9 to require the use of NMFS-certified BRDs in shrimp trawls towed in the Gulf of Mexico exclusive economic zone (EEZ), shoreward of the 100–fm (183–m) depth contour west of 85°30' W. long., the approximate longitude of Cape San Blas, Florida. To be certified, these BRDs must meet the FMP's bycatch reduction criterion requiring the reduction of shrimp trawl bycatch mortality of juvenile red snapper by a minimum of 44 percent from the average level of mortality of these age groups during 1984–89. Additional background on BRDs and the Council's rationale for requiring their use are contained in the preamble for the proposed and final rules implementing Amendment 9 (62 FR 35774, July 2, 1997; 63 FR 18139, April 14, 1998), and are not repeated here.

NMFS published an interim rule (63 FR 18144, April 14, 1998) to reserve part of the 1998 Gulf of Mexico red snapper total allowable catch (TAC) and to establish a procedure for releasing all or part of the reserved part of the TAC to commercial and recreational red snapper fisheries on September 1, 1998, based on the results of an immediate and major research effort to evaluate the effectiveness of BRDs in reducing juvenile red snapper bycatch mortality. This rule establishes regulations to govern this research program; the research effort will begin with the issuance of this rule.

Description of Research Program

The focus of the research program is to determine the operational effectiveness of NMFS-certified BRDs in the shrimp trawl fishery and to improve the data used for assessing the status of the red snapper stock. This information will be obtained by evaluating BRD performance, BRD exclusion mortality (mortality of juvenile red snapper excluded by the BRD), and industry compliance with the BRD requirements. The information will be used by NMFS to determine what portion of the reserved red snapper TAC may be released for harvest on September 1, 1998.

BRD performance will be measured by observers placed on as many as 100 shrimp vessels during the period May 14, 1998, through August 15, 1998. The observers will collect red snapper bycatch data (i.e., number of red snapper in the BRD-equipped net compared to the number in a control net) to determine the reduction in bycatch mortality on a tow-by-tow basis. Survival of red snapper after they leave the BRDs will also be examined. NMFS enforcement personnel will document the level of industry compliance with the BRD regulations during at-sea boardings and dock-side inspections.

The research program will also focus on improving estimates of shrimp fishing effort to be used in calculations of the shrimp fishery's total red snapper bycatch (i.e., improving scientific estimates of the total bycatch mortality of red snapper in the shrimp fishery). This will involve the use of interviews, logbooks, and VMS unit surveillance in the shrimp fleet. A vessel logbook will be used to collect data on shrimp fishing effort and location. Selected vessels will be required to report data on the number and average duration of tows, the number of nets used, the size of the trawl opening, the length of the head rope, the total pounds of shrimp caught, and the type of BRD used. VMS units aboard vessels will be used to transmit vessel position, course, and speed in encrypted form via satellite or cellular phone to a land-based data acquisition system. This information will be used to evaluate the accuracy of logbook reports.

The observer study will involve NMFS' random selection of approximately 100 offshore shrimp trawlers. Owners of vessels selected for observer coverage will be required to notify NMFS prior to their vessel's departure on a fishing trip. Required notification procedures will be specified in the notice of selection sent to the vessel owner. Costs associated with carrying the observers will be borne by NMFS, except for certain costs associated with a selected vessel's compliance with regulations at 50 CFR part 600 regarding observer health and safety. NMFS intends to issue a rule shortly amending regulations at 50 CFR 600.725 and 600.746 that require owners and operators of fishing vessels that carry observers to comply with guidelines, regulations, and conditions in order to ensure that the vessels are adequate and safe for the purposes of carrying an observer and allowing normal observer functions. These compliance costs are estimated at

$6,960 in aggregate for approximately 83 vessels selected to carry observers that may not already be in compliance with U.S. Coast Guard (USCG) regulations regarding vessel safety and sanitation.

Approximately 310 shrimp vessels will be required to maintain and submit to NMFS logbooks, and approximately 50 will be required to have a VMS unit (transponder) installed by NMFS at a cost borne by NMFS. Up to 460 shrimp vessels will be selected to participate in the combined observer, logbook, and VMS unit programs. Participating vessel owners are expected to incur costs of $14,080 in aggregate, or about $30.61 each. These costs will be the value of the owners' time required to participate in the data gathering programs.

Other

The NMFS Southeast Fisheries Science Center has determined that this interim rule is based on the best available scientific information. NMFS has determined that this interim rule is consistent with the requirements of section 305(c) of the Magnuson-Stevens Act regarding the promulgation of interim measures necessary to reduce overfishing for a fishery; this rule addressed the overfishing of red snapper. Specifically, this rule is necessary to provide improved scientific information regarding the effectiveness of BRDs in reducing red snapper bycatch mortality in the Gulf shrimp fishery and regarding the total shrimp fishing effort. This information is required to calculate a more reliable estimate of the total bycatch mortality of red snapper in the shrimp fishery for 1998. Based on this estimate, an appropriate portion of the red snapper TAC will be released to the commercial and recreational fisheries on September 1. Any released portion of the TAC, based on the new scientific information and calculations resulting from this rule, should maintain the current red snapper stock rebuilding program and prevent overfishing of this resource.

NMFS finds that this regulatory action is needed to reduce overfishing of red snapper in the Gulf of Mexico. NMFS issues this interim rule, effective for no more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This interim rule may be extended for an additional 180 days provided that the public has had an opportunity to comment on it. Public comments on this interim rule will be considered in determining whether to extend it.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, Department of Commerce, has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to obtain estimates of the operational efficiencies of BRDs in reducing red snapper bycatch mortality, to improve estimates of red snapper bycatch mortality, and, thereby, to contribute to reducing overfishing of red snapper in the Gulf of Mexico. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

NMFS prepared a Regulatory Impact Review (RIR) that describes the expected economic costs and benefits of this rule (see **ADDRESSES**). The RIR notes that most of the costs associated with this rule accrue to NMFS in terms of costs of conducting the observer program, the logbook program, the VMS unit program, and the allied research that will be used in combination with the information derived from observers, logbooks, and VMS unit programs. In addition, NMFS is expected to incur costs related to enforcing the rule and administrative costs of preparing and monitoring the rule. The total NMFS costs for the research program are estimated to be $3,110,000. Up to 460 shrimpers will be selected for participation in the observer, logbook, and VMS programs together. In aggregate, these shrimpers will incur a cost of $23,770. This cost includes an estimated $6,960 in aggregate for compliance by vessels selected for observers with USCG regulations for vessel safety and sanitation required by 50 CFR 600.725 and 600.746, as amended by a separate rule NMFS intends to issue shortly. This estimate is based on the assumption that a maximum of 83 vessels would have to make special efforts to comply with USCG dockside safety inspection requirements as a prerequisite for carrying observers. The costs related to vessel safety and sanitation are not attributed to this interim rule, but rather to USCG regulations. The remainder of the total estimated cost is the value of the shrimpers' time required to participate in these programs. Since the rule is not expected to have any effect on the status quo level of shrimp harvests or shrimp fishing effort patterns, no short-term changes in industry costs or benefits relative to status quo are expected. The benefits from this rule are those associated with providing better information for future management decisions regarding the Gulf shrimp and red snapper fisheries. These decisions are likely to affect net benefits related to the harvest of shrimp and red snapper in future years. However, there is no way to quantify these benefits at this time. Copies of the RIR are available (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains two new collection-of-information requirements subject to the PRA—namely, the requirement that, if selected, the owner or operator of a vessel in the Gulf of Mexico shrimp fishery must (1) notify NMFS in advance of each trip so that a NMFS-approved observer may be embarked and (2) have a VMS unit installed and in use when at sea. The installation and use of a VMS unit includes five elements: Notification to the Special Agent-in-Charge, NMFS, Office of Enforcement, Southeast Region (SAC), or his designee as to when the vessel will next be in port so that NMFS may install the VMS unit; the installation of the unit; the automatic sending of position information by the unit; maintenance of the unit by NMFS; and its removal by NMFS. These two new requirements have been approved by OMB under OMB control number 0648-0343. The public reporting burdens for these collections of information are estimated at 5 minutes per response for the observer notification requirement and 6 hours per response for installation and use of a VMS unit. This rule also contains the collection-of-information requirement that, if selected, a vessel owner or operator must maintain and submit fishing records. Specifically, this rule extends to vessels in the shrimp fishery of the Gulf of Mexico the requirement approved by OMB under OMB control number 0648-0016. The reporting burden is estimated at 10 minutes per response. The estimates of public reporting burdens for these collections of information include the time for reviewing instructions, searching

existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

The provisions of this interim rule provide the means for further scientific evaluation of the operational effectiveness of BRDs for reducing the bycatch mortality of juvenile red snapper in the shrimp trawl fishery. Absent scientific evidence that BRDs, under operational conditions, are more effective in reducing bycatch mortality than was previously estimated, the reserved portion of the 1998 red snapper TAC will not be released prior to the end of the year. Any delay in implementing the provisions contained in this rule would delay any potential for releasing the reserved portion of the red snapper TAC (i.e., the results of the data collection and research provisions have the potential to relieve a restriction in the near future). The potential release of reserved red snapper TAC is contingent upon positive findings from the outlined data collection and research program. Therefore, it is critical to commence this research as soon as possible. Accordingly, pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner, for the reasons expressed above, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date. Accordingly, this rule is effective on May 14, 1998.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 13, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 622 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

§ 902.1 [Amended]

2. In § 902.1(b), in the table, under 50 CFR, the entry "622.9" is added in numerical order in the left column, and the corresponding entry "–0016 and –0205" is added in the right column.

50 CFR Chapter VI

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

3. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 622.7, paragraph (aa) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Fail to comply with the Gulf shrimp interim measures specified in § 622.9.

(bb) [Reserved]

5. In subpart A, § 622.9 is added to read as follows:

§ 622.9 Gulf shrimp interim measures.

(a) *Vessel logbooks.* In addition to the requirements of § 622.5(a)(1)(iii), the owner or operator of a vessel that fishes for shrimp in the Gulf EEZ who is selected to report by the SRD must maintain fishing records on forms available from the SRD. The owner or operator must submit completed fishing records to the SRD postmarked not later than 7 days after the end of each fishing trip. If no fishing occurred during a calendar month, the owner or operator must submit a report so stating on one of the forms postmarked not later than 7 days after the end of that month. Information to be reported is indicated on the form and its accompanying instructions.

(b) *Observer coverage.* (1) If a vessel is selected by the SRD for observer coverage, the owner or operator of the vessel that fishes for shrimp in the Gulf EEZ must carry a NMFS-approved observer aboard the vessel.

(2) When notified in writing by the SRD that his or her vessel has been selected to carry a NMFS-approved observer, the owner or operator must advise the SRD in writing not less than 5 days in advance of each trip of the port, dock, date, and time of departure and the port, dock, date, and time of landing.

(3) An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(i) Provide accommodations and food that are equivalent to those provided to the crew.

(ii) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(iii) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(iv) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(v) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

(vi) On or after May 14, 1998, comply with the observer's instructions to make an installed bycatch reduction device (BRD) inoperative; use of a trawl net with an inoperative BRD in accordance with the observer's instructions while the observer is aboard is not a violation of § 622.41(h)(1).

(c) *Vessel monitoring.* (1) If a vessel is selected by the SRD for monitoring, the owner or operator of the vessel that fishes for shrimp in the Gulf EEZ must carry a NMFS-supplied vessel monitoring system (VMS) unit on board the vessel.

(2) Upon selection by the SRD for monitoring, the vessel owner or operator must advise the Special Agent-in-Charge, NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL (SAC) or his designee by telephone (813–570–5344) as to when the vessel will next be in port so that NMFS may arrange for installation of the VMS unit. During installation of the VMS unit, the owner or operator must provide NMFS access to the vessel's on-board power supply.

(3) After the VMS unit is installed, the vessel owner or operator must maintain power to the VMS unit when the vessel is at sea. When the vessel is in port, the owner or operator must provide access to the VMS unit for maintenance, repair, inspection, or removal.

(4) No person may interfere with, impede, delay, or prevent the installation, maintenance, repair,

inspection, or removal of a VMS unit or interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit, or attempt any of the same.

[FR Doc. 98–13290 Filed 5–14–98; 3:51pm am]

BILLING CODE 3610–22–F

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 191

[T.D. 98–16]

RIN 1515–AB95

Drawback; Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Correcting amendments.

SUMMARY: Customs published in the **Federal Register** of March 5, 1998, a document issuing final regulations regarding drawback (T.D. 98–16). This document contains corrections to those final regulations.

EFFECTIVE DATE: April 6, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Berger, Regulations Branch, Office of Regulations and Rulings, (202–927–1605).

SUPPLEMENTARY INFORMATION:

Background

The final regulations relating to drawback that are the subject of these corrections were published as T.D. 98–16 in the **Federal Register** (63 FR 10970), on March 5, 1998. Corrections to these regulations were published in the **Federal Register** on March 17, 1998 (63 FR 13105) and on March 31, 1998 (63 FR 15287).

Need For Corrections

As published, it has come to Customs attention that the final regulations still contain errors which may prove to be misleading. This document corrects those errors.

List of Subjects in 19 CFR Part 191

Canada, Commerce, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements (North American Free Trade Agreement).

PART 191—DRAWBACK

Accordingly, part 191, Customs Regulations (19 CFR part 191) is corrected by making the correcting amendments set forth below.

1. The general authority citation for part 191 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1313, 1624.

§ 191.3 [Amended]

2. In § 191.3(a)(3), the parenthetical, "(see § 101.1(i) of this chapter)", is revised to read, "(see § 101.1 of this chapter)".

§ 191.6 [Amended]

3. In § 191.6(c)(3), the reference to "§ 191.32(c)(2)" is revised to read, "§ 191.32(c)".

§ 191.14 [Amended]

4. In § 191.14(c)(3)(iii)(D), at the end of the penultimate sentence, immediately before the period, the following language is added: "; the March 20 receipt (50 units at $1.08) is not yet attributed to withdrawals for export".

5. In § 191.14(c)(3)(iv)(C), in the penultimate sentence, after the phrase, "February 25 (50 units at $1.05),", the following language is added: "March 5 (50 units at $1.06),".

§ 191.92 [Amended]

6. In § 191.92(g), in the first sentence, the term "stay," is removed.

Dated: May 13, 1998.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 98–13237 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL169–1a; FRL–6012–7]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 6, 1998, the State of Illinois submitted to EPA amended rules for controlling Volatile Organic Material (VOM) emissions from wood furniture coating operations in the Chicago and Metro-East (East St. Louis) ozone nonattainment areas, as a requested revision to the ozone State Implementation Plan (SIP). VOM, as defined by the State of Illinois, is identical to "Volatile Organic Compounds" (VOC), as defined by EPA. VOC is an air pollutant which combines with nitrogen oxides in the atmosphere to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This plan was submitted to meet the Clean Air Act (Act) requirement for States to adopt Reasonably Available Control Technology (RACT) rules for sources that are covered by Control Techniques Guideline (CTG) documents. This rulemaking action approves, through direct final, the Illinois SIP revision request.

DATES: The "direct final" rule is effective on July 20, 1998, unless EPA receives adverse or critical written comments by June 18, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Copies of the revision request and EPA's Technical Support Document (TSD) for this rulemaking action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(2) of the Act requires all moderate and above ozone nonattainment areas to adopt RACT rules for sources covered by CTG documents.[1] In Illinois, the Chicago area (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County) is classified as "severe" nonattainment for ozone, and the Metro-East area (Madison, Monroe, and St. Clair Counties) is classified as "moderate" nonattainment. See 40 CFR 81.314.

On September 9, 1994, EPA approved and incorporated into the SIP a 1993

[1] A definition of RACT is cited in a General Preamble-Supplement published at 44 FR 53761 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. CTGs are documents published by EPA which contain information on available air pollution control techniques and provide recommendations on what the EPA considers the "presumptive norm" for RACT.

version of VOM control rules for wood furniture coating operations in the Chicago and Metro-East ozone nonattainment areas (59 FR 46562). On October 26, 1995, EPA approved a revision to these rules' source size applicability threshold from 100 tons or more of VOM per year Maximum Theoretical Emissions (MTE) to 25 tons of VOM or more per year Potential To Emit (PTE) (60 FR 54810). On May 20, 1996, EPA issued a CTG document providing the recommended presumptive norm for RACT for wood furniture coating operations. The CTG was produced as the result of a regulatory negotiation between representatives from industry, environmental groups, and State and local agencies. On May 27, 1997, the Illinois Environmental Protection Agency (IEPA) filed a proposal with the Illinois Pollution Control Board (Board) to revise its existing wood furniture coating rules to become consistent with the CTG requirements.

IEPA held public hearings on the wood furniture coating rule amendments on August 5, 1997, in Edwardsville, Illinois, and August 13, 1997, in Chicago, Illinois. On January 22, 1998, the Board adopted the proposed amendments in a Final Opinion and Order. On February 13, 1998, the amended rules were published in the *Illinois Register*. The effective date of the rules is February 2, 1998. On March 5, 1998, the rules were submitted as a requested revision to the SIP for ozone. On March 25, 1998, EPA sent a finding of completeness of the submittal.

The submittal includes the following new or revised rules.

Part 211: Definitions and General Provisions

Subpart B: Definitions

211.1467 Continuous Coater
211.1520 Conventional Air Spray
211.6420 Strippable Spray Booth Coating
211.7200 Washoff Operations

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

Subpart F: Coating Operations

218.204 Emission Limitations
218.205 Daily-weighted Average Limitations
218.210 Compliance Schedule
218.211 Recordkeeping and Reporting
218.215 Wood Furniture Coating Averaging Approach
218.216 Wood Furniture Coating Add-On Control Use
218.217 Wood Furniture Coating Work Practice Standards

Part 219: Organic Material Emission Standards and Limitations for the Metro East Area

Subpart F: Coating Operations

219.204 Emission Limitations
219.205 Daily-weighted Average Limitations
219.210 Compliance Schedule
219.211 Recordkeeping and Reporting
219.215 Wood Furniture Coating Averaging Approach
219.216 Wood Furniture Coating Add-On Control Use
219.217 Wood Furniture Coating Work Practice Standards

The rules contained in Part 218 are identical to those in part 219 except for the areas of applicability. Part 218 applies to the Chicago area, while Part 219 applies to the Metro-East area.

II. Analysis of State Submittal

EPA has reviewed the March 6, 1998, submittal for consistency with the wood furniture CTG's model rule to determine whether the rules meet RACT and are enforceable. The following is a summary of the SIP revision and EPA's analysis of the rules. For the complete requirements of this SIP revision, interested parties should refer to the State regulations. For more details on EPA's analysis, EPA's TSD for this rulemaking can be obtained from the Region 5 office listed above.

Applicability and Compliance Date

Illinois wood furniture coating rules apply to sources (1) with wood furniture coating operations and (2) that have a potential to emit 25 tons of VOM or more per year, which is consistent with the CTG's model rule. The compliance date to meet the new requirements in the State's wood furniture coating rules is March 15, 1998.

Emission Limitations

The rules have been amended to modify the value and the units of measure of the VOM content limitations for wood furniture coating topcoats and sealers. These new emission limitations, added at section 218/219.204(l)(2), are as follows:

Coating	Kilograms (kg) VOM/kg solids	Pounds (lb) VOM/lb solids
Topcoat	0.8	0.8
Non-acid-cured alkyd amino vinyl sealer	1.9	1.9
Non-acid-cured alkyd amino conversion varnish	1.8	1.8
Acid-cured alkyd amino vinyl sealer	2.3	2.3
Acid-cured alkyd amino conversion varnish	2.0	2.0

Alternatively, sources can comply with the topcoat and sealer requirements through an averaging program or through an add-on control device. Sources using an averaging approach must demonstrate that emissions from participating coating lines, on a daily basis, are no greater than 90 percent of what they would be if compliant coatings were being used. For sources opting to use an add-on control device, sources must demonstrate that the overall capture and control efficiency of the control devices secures emission reductions equivalent to compliance with the coating VOM content limits. Sections 218/219.215 and 218/219.216 provide the necessary equations to determine compliance with the averaging or add-on control approach. These equations are based upon similar provisions found under the CTG's model rule.

The rules as amended retain emission limitations for other categories of wood furniture coatings that were incorporated into the SIP on September 9, 1994, including opaque stain, non-topcoat pigmented coating, repair coating, semi-transparent stain, and wash coat (59 FR 46562). These limitations remain in place under sections 218/219.204(l)(3) so as to avoid emissions backsliding.

Besides the revised topcoat and sealer emission limitations, the Illinois rules have been amended to add VOM control requirements for sources using either wood furniture coating spray booths or continuous coaters. Affected sources using spray booths shall not use strippable spray coating containing more than 0.8 kg VOM/kg solids (0.8 lb VOM/lb solids), as applied. For affected sources using continuous coaters to apply topcoats and sealers, the reservoir used for the continuous coaters shall use an initial coating which complies with the VOM content limits listed in the table above, and the viscosity of the coating in each reservoir shall always be greater than or equal to the viscosity of the initial coating in the reservoir. The viscosity of the reservoir shall be monitored in accordance with requirements provided in the rules. These control requirements are consistent with the CTG model rule.

Work Practices

Illinois' amended rules also include new or revised work practice standards dealing with coating application and cleaning methods. Under the previous rule requirements, affected sources could only use the following methods to apply coatings: airless spray application system, electrostatic bell or disc application system, heated airless spray application system, roller coating, brush or wipe coating application system, dip coating application system, or high volume low pressure application system. To become consistent with the CTG, the rules are now modified to generally prohibit the use of conventional air spray application, defined as a method in which coating is atomized by mixing it with compressed air at an air pressure greater than 10 lb per square inch (gauge) at the point of atomization.

Certain exemptions are allowed, however, when applying repair coats in certain circumstances, when applying coatings with a VOM content no greater than 1 kg VOM/kg solids (1 lb VOM/lb solids) as applied, when guns are aimed and triggered automatically, or when an add-on control device is used. These exemptions are also consistent with the CTG.

As for cleaning requirements, affected sources shall not clean spray booth components compounds containing more than 8.0 percent, by weight, of VOM. The cleaning of conveyors, continuous coaters and their enclosures, and metal filters are exempt from this requirement. If a spray booth is being refurbished, then the affected source is allowed to use no more than 1.0 gallon of noncompliant organic solvent to prepare the spray booth prior to applying the spray booth coating. These requirements are consistent with the CTG.

Other cleaning requirements added to the rules include the following: sources must use closed containers when storing or disposing coating, cleaning, and washoff materials; sources must also pump or drain all organic solvent used for line cleaning into closed containers; sources must collect all organic solvent used to clean spray guns in closed containers; and sources must control emissions from washoff operations by using closed tanks. These cleaning requirements are all consistent with the CTG.

Testing

The Illinois wood furniture coating rules as amended retain the coating testing and add-on control device installation, operation, and monitoring requirements under sections 218/219.105. These sections were approved by EPA on September 9, 1994 (59 FR 46562), and are consistent with the CTG.

Certification, Recordkeeping, and Reporting

To ensure compliance, certification, recordkeeping, and reporting requirements have been added to the rules. Wood furniture coating operations in the Chicago and Metro-East ozone nonattainment areas which are otherwise exempt because their PTE is less than 25 tons of VOM per year must certify their exemption with IEPA in accordance with section 218/219.211. Those sources covered under the wood furniture coating rules must certify compliance by March 15, 1998, upon initial start-up of a new coating line, or upon changing the method of compliance.

Daily records must be kept for a period of three years to show compliance with the emission limitations, the averaging approach, or the add-on control requirements. Sources which must comply with the new topcoat and sealer requirements (either the individual limits, the averaging approach, or the add-on control requirements) must keep daily records of the weight of VOM per weight of solids in each coating as applied each day on each coating line, and keep the certified product data sheets for each coating used. To comply with the averaging approach under 218/219.215, an affected source must operate pursuant to federally enforceable state operating permit conditions containing a detailed description of the source's averaging program. What this description must include is specified under 218/219.215. In addition to daily coating records, sources using averaging must also keep daily records of the calculations showing compliance with either of the averaging equations provided under 218/219.215. For sources complying with add-on control requirements under 218/219.216, these sources must additionally keep control device monitoring data as well as operating and maintenance logs on a daily basis. Sources which need to comply with the spray booth or continuous coater requirements must also keep daily records as specified in the rules. Exceedances of the control requirements, or change of compliance method, must be reported to IEPA within 30 days. These requirements are generally consistent with the CTG and with EPA's VOC RACT policy.

Conclusion

Based on review of the March 6, 1998, SIP submittal's comparison to the CTG model rule, the EPA finds the State's wood furniture coating rules constitute RACT and are enforceable. Therefore, the March 6, 1998 submittal satisfies the requirement under section 182(b)(2) of the Act to adopt RACT level rules for wood furniture coating operations.

III. Final Rulemaking Action

In this rulemaking action, EPA approves the March 6, 1998, Illinois SIP revision submittal, which will make the amended Illinois wood furniture coating rules federally enforceable. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified adverse or critical written comments be filed. This action will become effective without further notice unless the Agency receives relevant adverse written comment on the parallel proposed rule (published in the proposed rules section of this **Federal Register**) by June 18, 1998. Should the Agency receive such comments, it will publish a final rule informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 20, 1998.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping.

Dated: April 29, 1998.

Barry C. DeGraff,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(140) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(140) On March 5, 1998, the State of Illinois submitted amended rules for the control of volatile organic material emissions from wood furniture coating operations in the Chicago and Metro-East (East St. Louis) ozone nonattainment areas, as a requested revision to the ozone State Implementation Plan. This plan was submitted to meet the Clean Air Act requirement for States to adopt Reasonably Available Control Technology rules for sources that are covered by Control Techniques Guideline documents.

(i) Incorporation by reference

Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 211: Definitions and General Provisions, Subpart B; Definitions, 211.1467 Continuous Coater, 211.1520 Conventional Air Spray, 211.6420 Strippable Spray Booth Coating, 211.7200 Washoff Operations, amended at 22 Ill. Reg. 3497, effective February 2, 1998.

(B) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations 218.204 Emission Limitations, 218.205 Daily-weighted Average Limitations, 218.210 Compliance Schedule, 218.211 Recordkeeping and Reporting, 218.215 Wood Furniture Coating Averaging Approach, 218.216 Wood Furniture Coating Add-On Control Use, 218.217 Wood Furniture Coating Work Practice Standards, amended at 22 Ill. Reg. 3556, effective February 2, 1998.

(C) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart F: Coating Operations 219.204 Emission Limitations, 219.205 Daily-weighted Average Limitations, 219.210 Compliance Schedule, 219.211 Recordkeeping and Reporting, 219.215 Wood Furniture Coating Averaging Approach, 219.216 Wood Furniture Coating Add-On Control Use, 219.217 Wood Furniture Coating Work Practice Standards, amended at 22 Ill. Reg. 3517, effective February 2, 1998.

[FR Doc. 98–13299 Filed 5–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI67–01–7275; FRL–6003–6]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) is promulgating a correction to the State Implementation Plan (SIP) for the State of Michigan regarding the State's emission limitations and prohibitions for air contaminant or water vapor. EPA has determined that this rule was erroneously incorporated into the SIP. EPA is removing this rule from the approved Michigan SIP because the rule does not have a reasonable connection to the national ambient air quality standards (NAAQS) and related air quality goals of the Clean Air Act. The intended effect of this correction to the SIP is to make the SIP consistent with the requirements of the Clean Air Act, as amended in 1990 ("the Act"), regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

DATES: This rule is effective on July 20, 1998 unless the Agency receives

relevant adverse comments by June 18, 1998. Should the Agency receive such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Victoria Hayden at (312) 886–4023 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Victoria Hayden, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–4023.

SUPPLEMENTARY INFORMATION:

I. Correction to SIP

In a letter dated January 29, 1998, the Michigan Department of Environmental Quality raised the issue of whether Michigan's air quality Administrative Rule, R336.1901 (Rule 901) had a reasonable connection to the NAAQS-related air quality goals of the Act, and whether it properly was approved into the Michigan SIP. Rule 901 is a general rule that prohibits the emission of an air contaminant which is injurious to human health or safety, animal life, plant life of significant economic value, property, or which causes unreasonable interference with the comfortable enjoyment of life and property. In the January 29, 1998 letter, Michigan states that Rule 901 is a State rule that has been primarily used to address odors and other local nuisances. According to the State, Rule 901 historically has not been used to attain nor maintain any NAAQS nor to satisfy any other provision of the Act and, therefore, does not belong in the SIP. EPA, pursuant to section 110(k)(6), is agreeing to correct the SIP since Rule 901 is not reasonably connected to the NAAQS-related air quality goals of the Act.

Section 110(k)(6) of the amended Act provides: Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

Since the State of Michigan's Rule 901 has no reasonable connection to the NAAQS-related air quality goals of the Act, and since the State has requested that EPA remove this rule from the approved SIP, EPA has found the approval of this State rule was in error. Consequently, EPA is removing Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6).

II. EPA Final Rulemaking Action

The EPA is removing Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6) of the Act.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 20, 1998, without further notice unless the Agency receives relevant adverse comments by June 18, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 20, 1998 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

In this action, EPA is removing certain prohibitions from the federally enforceable SIP. Therefore, because EPA is not imposing any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. Union Electric Co. v. EPA, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action removes from the federally enforceable SIP certain prohibitions on the emission of air contaminants, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in

today's **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping.

Dated: April 8, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region 5.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C 7401 et seq.

Subpart X-Michigan

2. Section 52.1174 is amended by adding paragraph (q) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(q) Correction of approved plan—Michigan air quality Administrative Rule, R336.1901 (Rule 901)—Air Contaminant or Water Vapor, has been removed from the approved plan pursuant to section 110(k)(6) of the Clean Air Act (as amended in 1990).

[FR Doc. 98–13295 Filed 5–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[GA–37–9811a; FRL–6003–8]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the Sections 111(d) and 129 State Plan submitted by the Georgia Department of Natural Resources (DNR) for the State of Georgia on November 13, 1997, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) with capacity to combust more than 250 tons per day of municipal solid waste (MSW).

DATES: This direct final rule is effective July 20, 1998 unless adverse or critical comments are received by June 18, 1998. If the direct final rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Scott M. Martin at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file GA 37–9811a. The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott Davis at (404) 562–9127 or Scott Martin at (404) 562–9036.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new MWCs and EG applicable to existing MWCs. The NSPS and EG are codified at 40 CFR Part 60, Subparts Eb and Cb, respectively. *See* 60 FR 65387. Subparts Cb and Eb regulate the following: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated Subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day of MSW (small MWCs), consistent with their opinion in *Davis County Solid Waste Management and Recovery District* v. *EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Cb and Eb apply only to MWC units with individual capacity to combust more than 250 tons per day of MSW (large MWC units).

Under section 129 of the Act, EG are not Federally enforceable. Section 129(b)(2) of the Act requires states to submit to EPA for approval State Plans that implement and enforce the EG. State Plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR Part 60, Subpart B. EPA originally promulgated the Subpart B provisions on November 17, 1975. EPA amended Subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in Subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. *See* 60 FR 65414.

This action approves the State Plan submitted by the Georgia DNR for the State of Georgia to implement and enforce Subpart Cb, as it applies to large MWC units only.

II. Discussion

The Georgia DNR submitted to EPA on November 13, 1997, the following in their 111(d) and 129 State Plan for implementing and enforcing the EG for existing MWCs under its direct jurisdiction in the State of Georgia: Legal Authority; Inventory of MWC Plants/Units; MWC Emissions Inventory; Emission Limits and Standards; Compliance Schedule; Procedures for Testing and Monitoring Sources of Air Pollutants, Demonstration That the Public Had Adequate Notice and Opportunity to Submit Written Comments and Public Hearing Summary; Submittal of Progress Reports to EPA; Federally Enforceable State Operating Permit (FESOP) for the Savannah Energy Systems Company MWC facility; Pollution Control Project review for the Savannah Energy Systems Company MWC facility; and applicable State of Georgia statutes and rules of the Georgia DNR. The Georgia DNR submitted its Plan after the Court of Appeals vacated Subpart Cb as it applies to small MWC units. Thus, the Georgia State Plan covers only large MWC units. As a result of the *Davis* decision and subsequent vacatur order,

there are no EG promulgated under sections 111 and 129 that apply to small MWC units. Accordingly, EPA's review and approval of the Georgia State Plan for MWCs addresses only those parts of the Georgia State Plan which affect large MWC units. Small units are not subject to the requirements of the Federal Rule and not part of this approval. Until EPA again promulgates EG for small MWC units, EPA has no authority under section 129(b)(2) of the Act to review and approve State Plans applying state rules to small MWC units.

The approval of the Georgia State Plan is based on finding that: (1) the Georgia DNR provided adequate public notice of public hearings for the proposed plan and the FESOP which allow the Georgia DNR to implement and enforce the EG for large MWCs, and (2) the Georgia DNR also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facility; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In Attachment A of the Plan, the Georgia DNR cites the following references for the legal authority: State of Georgia Attorney General's Opinion Regarding State Authority to Operate the Title V Operating Permit Program; The Georgia Air Quality Act, Sections 12–9–1 through 12–9–25; The Rules of the Georgia Department of Natural Resources for Air Quality Control, Chapter 391–3–1; the Georgia Natural Resources Act; the Georgia Administrative Procedures Act; and the Official Code of Georgia Annotated. These statutes and regulations are contained in Attachments H, I, J, and K. On the basis of the Attorney General's Opinion, the statutes, and rules of the State of Georgia, the State Plan and FESOP are approved as being at least as protective as the Federal requirements for existing large MWC units.

The Georgia DNR cites all emission standards and limitations for the major pollutant categories as conditions in the FESOP for Savannah Energy Systems, the only designated facility in the State of Georgia subject to these standards and limitations. These standards and limitations in the FESOP have been approved as being at least as protective as the Federal requirements contained in Subpart Cb for existing large MWC units.

The Georgia DNR submitted the compliance schedule for Savannah Energy Systems, the only large MWC under its direct jurisdiction in the State of Georgia. The FESOP contains conditions consistent with 40 CFR Part 60, subparts B and Cb, specifications for compliance schedules. This portion of the Plan and FESOP has been reviewed and approved as being at least as protective as Federal requirements for existing large MWC units.

In Attachment B, the Georgia DNR submitted an emissions inventory of all designated pollutants for Savannah Energy Systems, the only large MWC under their direct jurisdiction in the State of Georgia. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing large MWC units.

The Georgia DNR includes its legal authority to require owners and operators of designated facilities to maintain records and report to its agency the nature and amount of emissions and any other information that may be necessary to enable its agency to judge the compliance status of the facilities in Attachment C of the State Plan and as conditions in the FESOP for Savannah Energy Systems. The Georgia DNR also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MWC emissions data, correlated with emission standards that apply, available to the general public. In Attachment D of the State Plan, the Georgia DNR submitted its Procedures for Testing and Monitoring Sources of Air Pollutants, Section 2.2b for Municipal Waste Combustors, to support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These State of Georgia rules are contained in Attachments D, H, I, J, and K of the Plan. This portion of the Plan and FESOP have been reviewed and approved as being at least as protective as the Federal requirements for existing large MWC units.

As stated on page A–3 of the Plan, the Georgia DNR will provide progress reports of Plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for State Plan reporting.

Final Action

EPA is approving the above referenced State Plan. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 20, 1998 without further notice unless the Agency receives relevant adverse comments by June 18, 1998.

If the EPA receives such comments, then EPA will publish a timely document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 20, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111(d) and section 129(b)(2) of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose

any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: March 16, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

Subpart L—Georgia

2. Part 62.2600 is amended by adding paragraphs (b)(4) and (c)(3) to read as follows:

§ 62.2600 Identification of plan.

* * * * *

(b) * * *

(4) State of Georgia Plan for Implementation of 40 CFR Part 60, Subpart Cb, For Existing Municipal Waste Combustors, submitted on November 13, 1997, by the Georgia Department of Natural Resources.

(c) * * *

(3) Existing municipal waste combustors.

3. Subpart L is amended by adding a new § 62.2606 and a new undesignated center heading to read as follows:

METALS, ACID GASES, ORGANIC COMPOUNDS AND NITROGEN OXIDE EMISSIONS FROM EXISTING MUNICIPAL WASTE COMBUSTORS WITH THE CAPACITY TO COMBUST GREATER THAN 250 TONS PER DAY OF MUNICIPAL SOLID WASTE

§ 62.2606 Identification of sources.

The plan applies to existing facilities with a municipal waste combustor (MWC) unit capacity greater than 250 tons per day of municipal solid waste (MSW) at the following MWC sites:

(1) Savannah Energy Systems Company, Savannah, Georgia.

(2) [Reserved].

[FR Doc. 98–13117 Filed 5–18–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7688]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be

available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/Location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region I				
Connecticut: New Britain, city of, Hartford County.	090032	August 22, 1973, Emerg.; July 16, 1981 Reg.; May 18, 1998 Susp.	May 18, 1998 ...	May 18, 1998.
Maine: Alfred, town of, York County	230191	July 23, 1975, Emerg.; July 16, 1990, Reg.; May 18, 1998, Susp.	.....do	Do.
New Hampshire:				
Bristol, town of, Grafton County	330047	May 5, 1976, Emerg.; April 15, 1980, Reg.; May 18, 1998, Susp.	.....do	Do.
Rindge, town of, Cheshire County	330189	October 11, 1977, Emerg.; July 21, 1978, Reg.; May 18, 1998, Susp.	.....do	Do.
Region II				
New York: South Bristol, town of, Ontario County.	360606	July 17, 1974, Emerg.; July 3, 1985, Reg.; May 18, 1998, Susp.	.....do	Do.
Region IV				
Mississippi: Laurel, city of, Jones County	280092	December 30, 1971, Emerg.; September 15, 1977, Reg.; May 18, 1998, Susp.	.....do	Do.
North Carolina: High Point, city of, Davidson, Guilford, Randolph Counties.	370113	August 5, 1974, Emerg.; November 1, 1979, Reg.; May 18, 1998, Susp.	.....do	Do.
Tennessee:				
Eagleville, city of, Rutherford County	470166	August 8, 1979, Emerg.; June 17, 1986, Reg.; May 18, 1998, Susp.	.....do	Do.

State/Location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
La Vergne, city of, Rutherford County ...	470167	September 8, 1975, Emerg.; June 15, 1984, Reg.; May 18, 1998, Susp.	.....do	Do.
Rutherford County, unincorporated areas.	470165	January 30, 1975, Emerg.; June 15, 1984, Reg.; May 18, 1998, Susp.	.....do	Do.
Region V				
Michigan: Grosse Point, city of, Wayne County.	260230	December 8, 1972, Emerg.; January 3, 1979, Reg.; May 18, 1998, Susp.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: May 12, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13278 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted April 29, 1998, and released May 8, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 252A and adding Channel 255C at Oraibi, and by removing Channel 269A and adding Channel 269C2 at Springerville.

3. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 252A and adding Channel 253A at Peru.

4. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 292A and adding Channel 292C3 at Ankeny.

5. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by removing Channel 263A and adding Channel 265A at Hurlock.

6. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 281C3 and adding Channel 281C1 at East Helena.

7. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 253A and adding Channel 256A at Lake George.

8. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 246C2 and adding Channel 246C1 at Hatteras.

9. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 257A and adding Channel 257C3 at Cordell.

10. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 290A and adding Channel 290C3 at Centerville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13167 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–194; RM–9128]

Radio Broadcasting Services; Shelley and Island Park, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making filed on behalf of Woodcom, Inc., permittee of a new FM station to operate on Channel 300C at Shelley, Idaho, this document substitutes Channel 292C1 for Channel 300C at Shelley, Idaho, and modifies the authorization issued to Woodcom, Inc. (File No. BPH–950123MH) to specify operation on the lower class channel. Additionally, to accommodate the modification at Shelley, this document substitutes Channel 275C for Channel 293C at Island Park, Idaho, for which an application is pending, instead of previously proposed Channel 300C. Coordinates used for Channel 292C1 at Shelley are 43–06–45 and 112–29–34. Reference coordinates used for Channel 275C at Island Park are 44–23–30 and 111–18–42. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–194, adopted April 29, 1998, and released May 8, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 293C and adding Channel 275C at Island Park.

3. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 300C and adding Channel 292C1 at Shelley.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13170 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 980505118–8118–01; I.D.042798C]

RIN 0648–AL14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Bycatch Reduction Device Certification

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule certifies the Jones-Davis and Gulf fisheye bycatch reduction devices (BRDs) for use in the Gulf of Mexico shrimp fishery. The intended effects of this rule are to provide flexibility to Gulf shrimp trawlers for complying with the requirement to use a BRD. This will allow shirmpers to select a BRD based on how it matches the operating conditions their vessel encounters. This should enhance compliance, help minimize shrimp loss, and further increase bycatch reduction and, thus, further reduce overfishing of red snapper.

DATES: This rule is effective May 14, 1998, through November 16, 1998. Comments must be received no later than June 18, 1998.

ADDRESSES: Comments on this interim rule must be mailed to, and copies of documents supporting this rule may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St Petersburg, FL 33702. Requests for copies of construction and installation instructions for the Jones-Davis and Gulf fisheye BRDs should be addressed to the Chief, Harvesting Systems Division, Mississippi Laboratories, Southeast Fisheries Science Center, NMFS, P.O. Drawer 1207, Pascagoula, MS 39568–1207.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, phone: 813–570–5305 or fax: 813–570–5583.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Shrimp trawling results in a significant, inadvertent bycatch of non-target finfish and invertebrates, most of which are discarded dead. Recent concerns about bycatch in the Gulf of Mexico have focused on the high mortality of juvenile (ages 0 and 1) red snapper, a valuable reef fish species for commercial and recreational fisheries.

The Council developed Amendment 9 to the FMP to reduce shrimp trawler bycatch of juvenile red snapper while, to the extent practicable, minimizing adverse effects on the shrimp fishery. The red snapper stock of the Gulf of Mexico is overfished. Even if the directed fisheries for adult red snapper were eliminated, the bycatch of juvenile red snapper in shrimp trawls would still need to be reduced for the adult spawning stock to recover under the Council's rebuilding schedule.

The critical management measure in Amendment 9 is the required use of NMFS-certified BRDs in shrimp trawls towed in the Gulf of Mexico exclusive economic zone (EEZ), shoreward of the 100–fm (183–m) depth contour west of 85°30' W. long., the approximate longitude of Cape San Blas, Florida. To be certified, a BRD must meet the FMP's bycatch reduction criterion for red snapper (i.e., it must reduce the shrimp trawl bycatch mortality of age 0 and 1 red snapper by a minimum of 44 percent from the average level of fishing mortality on these age groups during the period 1984–89).

The final rule implementing Amendment 9 (63 FR 1813, April 14, 1998) certified the fisheye BRD for use in the Gulf shrimp fishery effective May 14, 1998, the effective date of the requirement to use BRDs in the Gulf EEZ. The fisheye BRD is a cone-shaped rigid frame constructed from aluminum or steel rods of at least 1/4 inch (6.35 mm) diameter, which is inserted into the codend of the trawl to form an escape opening. The fisheye BRD must have an opening dimension of at least 5 inches (12.7 cm) and a total opening area of at least 36 in^2 (232.3 cm^2). The fisheye BRD must be installed at the top center of the codend of the trawl to create an opening in the trawl, facing in the direction of the mouth of the trawl, no further forward than 11 ft (3.4 m) from the codend drawstring (tie-off rings) or 70 percent of the distance between the codend drawstring and the forward edge of the codend, excluding any extension, whichever is the shorter distance. The fisheye, located within this position of the codend, also has been certified for use by penaeid shrimp trawlers in the South Atlantic EEZ.

Recent research indicates that the Jones-Davis BRD and the Gulf fisheye BRD also meet the Gulf red snapper bycatch reduction criterion. This rule certifies these two BRDs for use in the Gulf of Mexico shrimp fishery on an interim basis. NMFS expects to certify these two BRDs permanently after implementation of a BRD testing protocol later this year.

The Gulf fisheye BRD is constructed the same as the fisheye BRD but has different installation requirements. The Gulf fisheye must be installed in the codend of the trawl to create an escape opening in the trawl, facing in the direction of the mouth of the trawl, no further forward than 12.5 ft (3.81 m) and

no less than 8.5 ft (2.59 m) from the codend tie-off rings. The Gulf fisheye may not be offset by more than 15 meshes perpendicular to the top center of the codend. This provides a broader range of allowable installation locations within the codend compared with the originally certified fisheye. Specifically, it allows for an offset of no more than 15 meshes perpendicular to top center (left or right) and allows for more forward placement in the codend—an alternative that appears to minimize shrimp loss while meeting the red snapper bycatch reduction criterion.

The Jones-Davis BRD is a funnel type BRD. It incorporates the same basic design principle as the expanded mesh and the extended funnel BRDs that were certified for use in the South Atlantic EEZ only, except that the fish escape openings are created by cutting windows around the funnel rather than using large-mesh sections. The Jones-Davis BRD design also incorporates a webbing, cone fish deflector behind the funnel which acts as a fish stimulator, discouraging fish from passing into the aft portion of the codend and, thus, increasing fish bycatch reduction.

Specifications for these BRDs are set forth in Appendix D to 50 CFR part 622. Information, including diagrams of the Gulf fisheye and Jones-Davis BRDs and construction and installation instructions, is also available to aid fishermen and gear manufacturers (see **ADDRESSES**).

Certification of the Jones-Davis and Gulf fisheye BRDs provides Gulf shrimp trawlers three BRD options from which to choose. These options will allow shrimpers to select a BRD based on how it matches the operational conditions that their trawler encounters. This should enhance compliance, help minimize shrimp loss, and further increase bycatch reduction, thus contributing to further reduction in the overfishing of Gulf red snapper.

NMFS finds that the timely regulatory action provided by this interim rule is necessary to reduce overfishing of red snapper in the Gulf of Mexico. NMFS issues this interim rule, effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This interim rule may be extended for an additional 180 days, provided that the public has had an opportunity to comment on the interim rule. Public comments on this interim rule will be considered in determining whether to maintain or extend this rule to address overfishing of red snapper.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to enhance compliance with the BRD requirement for the Gulf shrimp fishery, improve effectiveness of bycatch reduction, and, thereby, reduce overfishing of red snapper in the Gulf of Mexico. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

NMFS prepared a regulatory impact review (RIR) that provides an estimate of the costs and benefits of this rule. The RIR notes that the only identifiable costs associated with this rule are administrative costs of rule preparation; this cost has been estimated at $5,000. This rule is expected to have positive effects on shrimp harvests and effort patterns because shrimpers will have the ability to choose among three BRD options instead of having to use the one BRD that was certified in Amendment 9. The positive effects will accrue because different shrimpers employ different harvesting tactics, pursue different shrimp species, operate in different geographical areas, and operate at varying times during the year. These differences in shrimp harvesting operations and conditions make it more efficient overall if a variety of BRDs are available. Over time, it is fully expected that a mix of available BRDs will be used to meet the BRD requirement. While the resulting benefits cannot be quantified, they may be fairly large. It is also expected that given the expanded choice of BRDs, compliance will be enhanced and the reduction in bycatch mortality will be increased relative to the status quo of a single BRD choice; therefore, there should be increased benefits to the red snapper fishery. Copies of the RIR are available (see **ADDRESSES**).

This rule certifies the Jones-Davis and Gulf fisheye BRDs for use in the Gulf shrimp fishery, thereby providing shrimp trawlers flexibility in complying with the BRD requirement. This should enhance the compliance rate and reduce the bycatch mortality rate, and, thus, reduce the overfishing of Gulf red snapper. Accordingly, pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as the delay associated with such procedures would be contrary to the public interest.

Similarly, under 5 U.S.C. 553(d)(3), the Assistant Administrator finds for good cause that a 30-day delay in the effective date of this rule would be contrary to the public interest. This rule imposes no additional regulatory burden but does relieve a restriction by providing Gulf shrimp trawlers a choice of certified BRDs that may be used to comply with the BRD requirement that becomes effective on May 14, 1998. To the extent that this rule relieves restrictions by providing a choice, it is not subject to a delay in effective date under 5 U.S.C. 553(d). This rule will be effective May 14, 1998, the implementation date of the BRD requirement.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 13, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Effective May 14, 1998, through November 16, 1998, in § 622.41, paragraph (h)(2) is suspended and paragraph (h)(3) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) * * *

(3) *Certified BRDs.* The following BRDs are certified for use by shrimp trawlers in the Gulf EEZ. Specifications of these certified BRDs are contained in Appendix D to this part.

(i) Fisheye

(ii) Gulf fisheye.

(iii) Jones-Davis.

3. Effective May 14, 1998, through November 16, 1998, in Appendix D to part 622, paragraphs D and E are added to read as follows:

Appendix D to Part 622—Specifications for Certified BRDs

* * * * *

D. *Gulf fisheye.*

1. *Description.* The Gulf fisheye BRD is a cone-shaped rigid frame constructed from

aluminum or steel that is inserted into the top center of the codend, or is offset not more than 15 meshes perpendicular to the top center of the codend, to form an escape opening.

2. *Minimum Construction and Installation Requirements.* The Gulf fisheye is a cone-shaped rigid frame constructed of aluminum or steel rods. The rods must be at least 1/4–inch (6.35–mm) diameter. Any dimension of the escape opening must be at least 5.0 inches (12.7 cm), and the total escape opening area must be at least 36.0 in^2 (232.3 cm^2). The Gulf fisheye must be installed in the codend of the trawl to create an escape opening in the trawl, facing in the direction of the mouth of the trawl, no further forward than 12.5 ft (3.81 m) and no less than 8.5 ft (2.59 m) from the codend tie-off rings. The Gulf fisheye may not be offset more than 15 meshes perpendicular to the top center of the codend.

E. *Jones-Davis.*

1. *Description.* The Jones-Davis BRD is similar to the expanded mesh and the extended funnel BRDs except that the fish escape openings are windows cut around the funnel rather than large-mesh sections. In addition, a webbing cone fish deflector is installed behind the funnel.

2. *Minimum Construction and Installation Requirements.* The Jones-Davis BRD must contain all of the following.

(a) *Webbing extension.* The webbing extension must be constructed from a single piece of 1 5/8–inch (3.5–cm) stretch mesh number 30 nylon 42 meshes by 120 meshes. A tube is formed from the extension webbing by sewing the 42–mesh side together.

(b) *28–inch (71.1–cm) cable hoop.* A single hoop must be constructed of ½-inch (1.3–cm) steel cable 88 inches (223.5 cm) in length. The cable must be joined at its ends by a 3–inch (7.6–cm) piece of ½-inch (1.3–cm) aluminum pipe and pressed with a 3/8–inch (0.95–cm) die to form a hoop. The inside diameter of this hoop must be between 27 and 29 inches (68.6 and 73.7 cm). The hoop must be attached to the extension webbing 17 ½ meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with 3/8–inch (0.95–cm) polypropylene or polyethylene rope for chaffing.

(c) *24–inch (61.0–cm) cable hoop.* A single hoop must be constructed of 3/8–inch (0.95–cm) steel cable 75 ½ inches (191.8 cm) in length. The cable must be joined at its ends by a 3–inch (7.6–cm) piece of 3/8–inch (0.95–cm) aluminum pipe and pressed together with a 1/4–inch (0.64–cm) die to form a hoop. The inside diameter of this hoop must be between 23 and 25 inches (58.4 and 63.4 cm). The hoop must be attached to the extension webbing 39 meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with 3/8–inch (0.95–cm) polypropylene or polyethylene rope for chaffing.

(d) *Funnel.* The funnel must be constructed from four sections of 1 ½-inch (3.8–cm) heat-set and depth-stretched polypropylene or polyethylene webbing. The two side sections must be rectangular in shape, 29 ½ meshes on the leading edge by 23 meshes deep. The top and bottom sections are 29 ½ meshes on the leading edge by 23 meshes deep and tapered 1 point 2 bars on both sides down to 8 meshes across the back. The four sections must be sewn together down the 23–mesh edge to form the funnel.

(e) *Attachment of the funnel in the webbing extension.* The funnel must be installed two meshes behind the leading edge of the extension starting at the center seam of the extension and the center mesh of the funnel's top section leading edge. On the same row of meshes, the funnel must be sewn evenly all the way around the inside of the extension. The funnel's top and bottom back edges must be attached one mesh behind the 28–inch (71.1–cm) cable hoop (front hoop). Starting at the top center seam, the back edge of the top funnel section must be attached four meshes each side of the center. Counting around 60 meshes from the top center, the back edge of the bottom section must be attached 4 meshes on each side of the bottom center. Clearance between the side of the funnel and the 28–inch (71.1–cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position.

(f) *Cutting the escape openings.* The leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid. The area of the escape opening must total at least 864 in^2 (5,574.2 cm^2). Two escape openings 10 meshes wide by 13 meshes deep must be cut 6 meshes apart in the extension webbing, starting at the top center extension seam, 3 meshes back from the leading edge and 16 meshes to the left and to the right (total of four openings). The four escape openings must be double selvaged for strength.

(g) *Cone fish deflector.* The cone fish deflector is constructed of 2 pieces of 1 5/8–inch (4.13–cm) polypropylene or polyethylene webbing, 40 meshes wide by 20 meshes in length and cut on the bar on each side forming a triangle. Starting at the apex of the two triangles, the two pieces must be sewn together to form a cone of webbing. The apex of the cone fish deflector must be positioned within 10–14 inches (25.4–35.6 cm) of the posterior edge of the funnel.

(h) *11–inch (27.9–cm) cable hoop for cone deflector.* A single hoop must be constructed of 5/16–inch (0.79–cm)or 3/8–inch (0.95–cm) cable 34 ½ inches (87.6 cm) in length. The ends must be joined by a 3–inch (7.6–cm) piece of 3/8–inch (0.95–cm) aluminum pipe pressed together with a 1/4–inch (0.64–cm) die. The hoop must be inserted in the webbing cone, attached 10 meshes from the apex and laced all the way around with heavy twine.

(i) *Installation of the cone in the extension.* The cone must be installed in the extension 12 inches (30.5 cm) behind the back edge of the funnel and attached in four places. The midpoint of a piece of number 60 twine 4 ft (1.22 m) in length must be attached to the apex of the cone. This piece of twine must be attached to the 28–inch (71.1–cm) cable hoop at the center of each of its sides; the points of attachment for the two pieces of twine must be measured 20 inches (50.8 cm) from the midpoint attachment. Two 8–inch (20.3–cm) pieces of number 60 twine must be attached to the top and bottom of the 11–inch (27.9–cm) cone hoop. The opposite ends of these two pieces of twine must be attached to the top and bottom center of the 24–inch (61–cm) cable hoop; the points of attachment for the two pieces of twine must be measured 4 inches (10.2 cm) from the points where they are tied to the 11–inch (27.9–cm) cone hoop.

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Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

7 CFR Part 59

[Docket No. 96–035A]

RIN 0583–AB

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 100

[Docket No. 97N–0322]

RIN 0583–AC52

Salmonella Enteritidis in Eggs

AGENCIES: Food Safety and Inspection Service, USDA; Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: Eggs contaminated with *Salmonella* Enteritidis (SE) are associated with significant numbers of human illnesses and continue to be a public health concern. SE infected flocks have become prevalent throughout the country, and large numbers of illnesses have been attributed to consumption of mishandled SE-contaminated eggs. As a result, there have been requests for Federal action to improve egg safety. The Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) share Federal regulatory responsibility for egg safety. However, regulation of shell eggs is primarily the responsibility of FDA. Through joint issuance of this notice, FSIS and FDA are seeking to identify farm-to-table actions that will decrease the food safety risks associated with shell eggs. The agencies want to explore all reasonable alternatives and gather data on the public benefits and the public costs of various regulatory approaches before proposing a farm-to-table food safety system for shell eggs. Interested persons are requested to comment on the alternatives discussed in this advance notice of proposed rulemaking (ANPR), suggest other possible approaches, and provide information that will help the agencies weigh the merits of all alternatives. In addition to the actions contemplated in this ANPR, both agencies are planning to take actions that address adoption of refrigeration and labeling requirements that are designed to reduce the risk of foodborne illness.

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Send an original and two copies of comments to: FSIS Docket Clerk, Docket No. 96–035A, Room 102 Cotton Annex Building, 300 12th St, SW., Washington, DC 20250–3700. Reference material cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Stafko, Food Safety and Inspection Service, USDA, Washington, DC, 20250, (202) 720–7774, or Dr. Marilyn Balmer, Center for Food Safety and Applied Nutrition, Food and Drug Administration, HHS, Washington, DC 20204, (202) 205–4400.

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Background

This section provides information on the egg industry, data that associate eggs with an epidemic of cases of human salmonellosis caused by *Salmonella* Enteritidis, and past efforts and current plans to alleviate this public health problem.

1. Egg Production and Marketing

Eggs are a nutrient-dense food that play an important part in most Americans' diets, either alone or as a constituent of another food. On a per capita basis, Americans consume about 234 eggs a year. The National Agriculture Statistics Service (NASS) of the Department of Agriculture (USDA) estimates the total value of the table eggs (eggs produced for human consumption, not hatching) produced in the U.S. in 1995 at $3.96 billion.

The egg industry is fairly stable in terms of overall production. U.S. production has increased only slightly in absolute terms in recent years, from about 60 billion eggs in 1984 to about 63 billion in 1995. About 70 percent are sold as whole "shell" eggs. The remaining 30 percent are processed into liquid, frozen or dried pasteurized egg products, the majority of which are destined for institutional use or further processing into other foods such as cake mixes, pasta, ice cream, mayonnaise, and bakery goods.

International trade is a small but growing part of the U.S. egg market. The U.S. does not import a significant quantity of shell eggs and imports only 0.2 percent of processed egg products. Exports now amount to more than 2 percent of the total U.S. production. In 1996, exports of eggs and egg products reached a market value of nearly $20 million.

There are essentially three kinds of flocks associated with egg production: breeder flocks, multiplier flocks, and laying flocks (including both immature pullets and mature laying hens). There are roughly 300,000 breeding hens (grandparents), 3 million multipliers (parents), and 300 million laying hens. NASS estimates the value of the laying flocks alone to be close to $1 billion.

Geographically, commercial egg production in the western United States is concentrated in California, and in the east it is centered in Ohio, Indiana, and Pennsylvania. According to NASS, which surveys the number of egg laying flocks of 30,000 or more hens, California and Ohio each have about 25 million layers, and Indiana and Pennsylvania each have about 20 million. Other states in which major producers are located

include Iowa, Texas, Minnesota, and Georgia. Twenty-one other states are reported as having fewer than 10 million, but more than 2 million, layers in production.

Egg production is being concentrated in fewer, larger firms. Federal Regulations require commercial flocks of more than 3,000 hens to be registered with USDA. USDA's Agricultural Marketing Service (AMS) currently has 757 such egg producers registered. The United Egg Producers (UEP), a cooperative that provides a variety of services to member egg producers, reports that the number of major producers (those with flocks of 75,000 or more, which produce about 94 percent of America's table eggs) declined in just 3 years from 380 producers in 1994 to 329 producers in 1996.

Modern egg production facilities are increasingly large, "in-line" facilities. They integrate laying, packing, and even processing of egg products at one location. Freshly laid eggs go directly into a processing system where they are cleaned, sorted, and packed for distribution.

A significant portion of production, however, is still "off-line." Off-line operations are those that are not integrated with laying facilities, but rather have eggs shipped from laying facilities at other locations. The fresh eggs are collected and shipped from the laying facilities periodically, usually once a day but sometimes less often. These eggs are frequently placed in coolers at the laying facility before shipment to a facility where they are processed and packed.

Most packers either own or have contractual relationships with their suppliers. Their laying hens are bred and cared for to ensure the largest possible numbers of consistent quality eggs, and are housed together in large hen houses.

Although shell egg cleaning and packing is configured differently in different plants, after collection the eggs generally are (1) washed, (2) rinsed and sanitized, (3) dried, (4) candled, sorted, and graded, (5) packed in cartons and crates onto shipping pallets, and (6) placed in a cooler pending shipment. Eggs that are found to be cracked or otherwise unsuitable for sale as whole shell eggs are by law "restricted." USDA allows a certain percentage of some classes of restricted eggs to be moved in commerce. If restricted eggs sent to a federally inspected facility (often referred to as a "breaker plant") are determined acceptable, they are broken, inspected for wholesomeness, pooled, and then processed into a pasteurized liquid, frozen, or dried egg product.

After packing, shell eggs usually are loaded into refrigerated transports for shipment to market. Some producers use their own trucks, while others contract with trucking firms to deliver eggs to their customers. Some are delivered directly to retail outlets, and others are delivered to warehouses and other intermediate distribution points before going to the retail store or food service facility where they reach the consumer.

2. Salmonella and the Salmonellosis Epidemic

Salmonella is a gram-negative, motile, rod-shaped bacteria that can grow under both aerobic and anaerobic conditions. *Salmonella* has evolved into a successful human pathogen because of its survival characteristics and virulence. The organisms are ubiquitous, and are commonly found in the digestive tracts of animals, especially birds and reptiles. Human illnesses are usually associated with ingestion of food or drink contaminated with *Salmonella*, but infection may also be acquired from an infected person by the fecal-oral route through poor personal hygiene, or from pets.

More than 2,300 different serotypes have been identified and are associated with a variety of animal reservoirs, geographic locations, and frequencies. However, microbiologists are finding that atypical biotypes have emerged that are difficult to identify and detect by conventional means, placing more value on new molecular methods and other technologies for identifying them.[1]

Epidemiologically, salmonellae can be grouped as follows:

1. *Those that infect mainly humans.* These include human pathogens such as *S.* Typhi and *S.* Paratyphi (A and C) which cause typhoid (enteric) and paratyphoid fevers, respectively, the most severe of the *Salmonella* disease*S. S.* Typhi may be found in blood, as well as in stool and urine before enteric fever develops. Typhoid fever has a high mortality rate; the paratyphoid syndrome is generally milder. These diseases are spread through food and water contaminated by feces and urine of patients and carriers.[2]

2. *Those that infect mainly animals.* These include animal pathogens such as *S.* Gallinarum (poultry), *S.* Dublin (cattle), *S.* Abortus-ovis (sheep), and *S.* Choleraesuis (swine). Some of the organisms in this group are also human pathogens and can be contracted through foods.

In general, salmonellae are quite resilient and able to adapt to extremes in environmental conditions. They are resistant to freezing and drying. They are able to grow within a wide temperature range; from extremes as low as 2–4°C (36–39°F), and as high as 54°C (129°F). They have been reported to grow within a pH range of 4.5 to 9.5. Salmonellae do not grow in foods with a water activity of 0.93 or less, and are inhibited by the presence of salt at levels between 3 and 4 percent. Preconditioning to thermal and acid stress has been shown to allow strains to adapt to greater extremes.[3] These properties make many food products more likely to support the growth of these organisms, such as many refrigerated products, fermented foods, and cheeses.

The human infectious dose is highly variable, depending largely on the strain, the food, and the susceptibility of the human host. Recent evidence suggests that as few as one to ten *Salmonella* cells can cause infection in humans. Human diarrheagenic response and enterocolitis result from the migration of the pathogen from the mouth at ingestion to the intestinal tract and mesenteric lymph nodes, and the coinciding production of bacterial enterotoxin. *Salmonella* also produce a cytotoxin that inhibits protein synthesis and causes lysis of host cells, helping the organisms to spread to other tissues.[4]

The Centers for Disease Control and Prevention (CDC), which has classified salmonellosis as a reportable disease since 1943, has found it to be one of the most commonly reported bacterial infections of any kind in the United States. Human salmonellosis is the second most prevalent foodborne disease in the U.S. after illnesses from *Campylobacter* (a generally milder illness associated with raw and undercooked poultry, raw milk, and untreated water as well as improper handling and preparation of food). In 1996, 39,027 confirmed cases of human salmonellosis were reported to CDC by State and local departments of health. Although this number of cases is below the peak year of 1985, when 57,896 cases were reported, the number of cases is significant. From 1985 through 1996, there have been 508,673 reported cases of salmonellosis.[5]

Salmonella usually cause an intestinal infection accompanied by diarrhea, fever, and abdominal cramps starting 6 to 72 hours after consuming a contaminated food or drink. The illness is usually 4 to 7 days in duration, and most people recover without antibiotic treatment. About 2 percent of affected persons may later develop recurring joint pains and arthritis.[6] In

the very young, the elderly, and persons with compromised immune systems, the infection can spread to the bloodstream, and then to other areas of the body such as the bone marrow or the meningeal linings of the brain, leading to a severe and occasionally fatal illness unless treated promptly with antibiotics.[7]

Because many cases are not reported, these cases may represent only a small fraction of the actual number of illnesses that occur. Not all infected persons develop symptoms severe enough that they seek medical attention, and physicians may not have patients' stool analyzed. It is estimated that there are an additional 20 to 100 cases of salmonellosis for every reported case, or some 800,000 to 4 million actual cases each year in the U.S.[8]

The cost to Americans is considerable. The patient-related costs of salmonellosis from medical expenses and loss of income were estimated in 1988 to be about $1,560 per reported case and about $250 for each unreported case.[9] By applying the cost per reported case to the 41,222 cases and probable illnesses reported in 1995, the cost of salmonellosis in 1995 can be estimated to be between $350 million and $1.5 billion.

CDC's surveillance data on isolates reported by State and territorial epidemiologists list close to 600 different serotypes that have caused human illness in the U.S. Based primarily on outbreak data, where Federal, State, and local epidemiologists have sought to identify the source of infection, some serotypes are linked to particular food vehicles. The three illness-causing serotypes most frequently reported—*S.*Typhimurium, *S.* Heidelberg, and *S.* Enteritidis—are most often traced to poultry or eggs when a food vehicle is found.

Salmonella Enteritidis emerged in epidemic proportions in the United States about a decade ago in the northeast. Over the last 20 years, SE-associated illnesses have increased greatly in number. The proportion of reported *Salmonella* isolates that were SE increased from 5 percent in 1976 to 26 percent in 1994.[10] SE was the most frequently reported *Salmonella* serotype in 1994, 1995, and 1996.

CDC surveillance data show that the rates of isolation of SE increased in the U.S. during 1976–1994 from 0.5 to 3.9 per 100,000 population, and that illnesses are occurring throughout the U.S. While the trends for the years 1990–1994 show a decrease in the SE isolation rate in the northeast from 8.9 to 7.0 per 100,000 population, the rate increased approximately threefold for the Pacific region, particularly for southern California, which had rates as high as 14 per 100,000.[11]

From 1985 through 1996, there have been 660 SE outbreaks reported to CDC. Associated with these outbreaks, there have been 77 reported deaths, 2,508 reported hospitalizations, and 25,935 reported cases of illness. The peak year for outbreaks was 1989 with 77 reported. Deaths have occurred in all years. In 1995 and 1996, there were 57 and 51 reported outbreaks respectively with 8 deaths in 1995 and 2 deaths in 1996. The majority of the outbreaks occur in the commercial venue with the implicated food containing undercooked eggs.

There is evidence that this increase in SE infections is global. World Health Organization data show increases in SE on several continents, including North America, South America, Europe, and perhaps Africa.[12] The trend towards centralized large-scale food processing with wide distribution means that when contamination occurs, it can affect large numbers of people over a large area. Although most eggs are consumed individually, large numbers are sometimes pooled during the production or preparation of some foods. This increases the likelihood of SE being in the raw product. This potential was illustrated by a major 1994 SE outbreak attributed to ice cream. FDA reported the most likely cause was contamination of the pasteurized ice cream mix by hauling it in a tanker improperly cleaned after carrying a load of unpasteurized liquid eggs. The ice cream mix was not heat treated after receipt from the contaminated tanker, and the ice cream was distributed widely.[13]

In 1995 surveys, SE phage-type 13A was found to be the predominant phage-type in egg laying flocks in the United States, followed by phage-type 8 and, increasingly, phage-type 4. This represents a significant change since 1991, when phage-type 8 was predominant and phage-type 4 was undetected in laying flocks.[14]

3. Salmonella in Eggs; the Risk

a. Contamination Through the Shell; Current Egg Cleaning Practices

Eggs have long been valued for their natural protective packaging. Having evolved to protect the developing embryonic bird inside, the egg provides an inhospitable environment for *Salmonella* as well as other bacterial contaminants. A fresh egg is fairly resistant to invasive bacteria, a fact relied upon in many countries where shell eggs are not refrigerated. The egg's defenses are both mechanical and chemical.

Mechanically, there are essentially four layers of protection preventing bacteria from reaching the nutrient rich yolk: (1) the shell, (2) the two membranes (inner and outer) between the shell and the albumen, (3) the albumen (eggwhite), and (4) the vitelline (yolk) membrane which holds the yolk.

When laid, the egg shell is covered on the outside by the cuticle, a substance similar in composition to the shell membranes. When the cuticle dries, it seals the pores and hinders initial bacterial penetration. However, the cuticle usually is removed along with debris on the surface of the shell during the cleaning process. Some processors add a thin coating of edible oil or wax to eggs after they are washed and dried to close the shell pores in a manner similar to the cuticle.

The shell, although porous and easily penetrated by bacteria, protects the outer membrane from physical abuse. The dry and much less porous outer shell membrane is much more difficult for bacteria to penetrate. The inner shell membrane and the yolk membrane also present barriers. Perhaps the most substantial line of defense against bacteria is provided by the egg albumen.

In fresh eggs, the albumen has a high viscosity, which both anchors the yolk protectively in the center of the shell and prevents movement of bacteria toward the yolk. (Eggs are stored with the blunt end up to help keep the yolk, which has a lower specific gravity, from drifting toward the inner membrane.) In addition, the albumen has chemical properties that inhibit bacterial growth.

Originally, the potential for *Salmonella* to contaminate shell eggs was primarily a matter of the organisms passing through the shell into the egg's contents because of, mostly, environmental conditions. With salmonellae other than SE, this still is the most likely means of potential contamination of intact shell eggs.[15]

It has long been known that the laying environment can contribute to egg shell contamination. The surface of the egg can become contaminated with virtually any microorganism that is excreted by the birds. Many serotypes of *Salmonella* as well as other bacteria have been isolated from laying flocks. Contact with feces, nesting material, dust, feedstuffs, shipping and storage containers, human beings, and other creatures all contribute to the likelihood of shell contamination. Penetration into the egg contents by both salmonella and spoilage bacteria increases with duration of contact with contaminated material, especially during storage at

high temperatures and high relative humidities. Therefore, eggs should be collected as frequently as possible, and kept as clean and cool as possible (short of freezing, which can damage the shell).

Other sources of shell contamination are always present in the production environment. Producers should clean and sanitize equipment and facilities as necessary to prevent egg contamination, and not rely simply on egg washing to remove contaminants after the fact. One recent study found high levels of *Salmonella* isolates from egg belts, egg collectors, and ventilation fans (64–100 percent of samples on different farms) as compared to isolates from egg shells before collection (8 percent overall).

Cleaning the exteriors of shell eggs to remove fecal material and other debris reduces the risk that pathogenic bacteria will have an opportunity to penetrate the egg shell. The cleaning process provides consumers with clean egg surfaces not likely to promote contamination of the egg by penetration of bacteria through the intact shell or by cross contamination upon cracking open the egg for use.

Most modern egg washing machines are spray-washers. The typical continuous egg washer consists of three stages: a wash chamber where the eggs are washed with warm water and detergent using moving brushes or high pressure jets, a rinse chamber which usually includes a sanitizing agent, and a drying chamber.

If not done properly, washing can contribute to microbial contamination of the egg's contents and may contribute to increased spoilage rates. Organisms have the potential to concentrate in the recirculating wash water, and the liquid can be aspirated into the egg through the shell under certain conditions. In particular, when wash water outside the egg shell is colder than the eggs' contents, as the eggs' contents cool it creates low pressure on the inside of the egg shell that draws liquid outside the shell into the egg through the shell's pores. This observation led to the USDA egg grading requirement that wash water be at least 20° F warmer than the eggs being washed. Typically, U.S. processors use a hot wash water (110–120° F) to ensure temperatures hostile to most organisms that may collect in the wash water as well as to ensure that the 20° F egg-wash water temperature difference is maintained even when cleaning quite warm eggs, which are common in in-line facilities. However, the use of hot water damages or removes the cuticle, which if left intact, helps prevent bacterial contamination.

After washing, the eggs should be quickly and completely dried to reduce the risk that any bacteria remaining on the surface of the eggs are aspirated into the eggs as they cool to ambient temperature. They must be handled carefully thereafter to avoid recontamination.

b. Transovarian Contamination of Egg Contents With SE

The increase in SE outbreaks associated with shell eggs in the 1970's and 1980's raised suspicions of transovarian contamination.[16] This mode of contamination was confirmed by an experiment in which laying hens were infected with SE and found to produce eggs contaminated with the same strain of SE.[17] The site of infection is usually the albumen near the yolk membrane.

Based on USDA data, it can be estimated that such transovarian SE contamination occurs in about 1 out of every 10,000 eggs produced in the U.S. This prevalence is based on a model applying data on the frequency of SE positive eggs from infected flocks to an estimation of the number of infected flocks in the U.S. The frequency of infected eggs in an infected flock can be determined from USDA tests of eggs produced by SE-positive flocks. The number of positive flocks is based on USDA's nationwide survey in 1995 of SE in spent hens at slaughter and unpasteurized liquid eggs at breaker plants. Application of the model resulted in a distribution of prevalences ranging from 0.2 to 2.1 positive eggs per 10,000 with a mean of 0.9 positive eggs per 10,000.[18] The problem is nationwide, although there are some regional differences.[19]

Although a prevalence of 1 in 10,000 seems low, it is significant in terms of exposure. That frequency amounts to about 4.5 million SE-contaminated eggs annually in the U.S., exposing a large number of people to SE.

Salmonellosis outbreaks commonly occur when mishandling permits the SE organisms to multiply and inadequate cooking or mishandling during preparation or service results in live pathogens being ingested with the food. However, the dose required to make a person ill may vary with the individual. The biggest factor in determining whether illness occurs, and how severe it may be, appears to be the age and health of the person ingesting the organisms.

4. Mitigating the Risk; Current Efforts

Mitigation of risks associated with SE in eggs requires analysis of everything in the food production-distribution-consumption continuum from the farm to table that might affect the likelihood that consumers will become ill from SE in eggs.

a. Production: Preventing Introduction of SE Into Laying Flocks and From Hens to Eggs

The Federal government has devoted significant efforts to investigating and controlling SE in laying hens. Between 1990 and 1995, USDA's Animal Plant Health Inspection Service (APHIS) conducted an SE control program (9 CFR Parts 71 and 82; 56 FR 3730; January 30, 1991). Under that program, APHIS restricted the movement of eggs from flocks that tested positive for SE. In cooperation with FDA, CDC, and State authorities, eggs implicated in SE outbreaks were traced back to their farms of origin. If initial tests of manure and egg transport machinery indicated the presence of SE, the flock became a "test flock." Blood and internal organ testing was done on the test flocks, and if any were found positive, the flock was designated "infected." The eggs from test and infected flocks could not be sold as table eggs but could be sent to processors for pasteurization, hard boiling, or export. A flock's status as a "test" or "infected" flock was not lifted until extensive testing, including additional tests of internal organs of birds, detected no SE. Establishments had to clean and disinfect the hen houses before installing replacement flocks.

In 1995, shortly after transfer of the program from APHIS to FSIS, funding for the entire program was removed from the USDA's 1996 appropriations. FDA, which had worked closely with APHIS on its tracebacks, assumed responsibility for all aspects of investigating outbreaks, tracing back egg-associated SE illnesses to particular producers/flocks, diverting eggs, collecting flock data to help track the spread of SE, encouraging better quality control measures by producers, and adoption by States of egg quality assurance programs. State and county health departments usually perform the epidemiological investigations of outbreaks.

The APHIS-sponsored National Poultry Improvement Plan (NPIP), a cooperative Federal-State program, provides assistance to breeders and hatchers on keeping birds free of egg-transmitted diseases. In 1989, an SE control program was developed to reduce the prevalence of SE organisms in hatching eggs and chicks. Participants in the program follow sanitation and other control procedures at breeder farms and hatcheries. Forty-

six SE-positive isolates have been found since its inception, with a decline evident in recent years. Only two were found in 1995, and one in 1996.[20]

A third APHIS program resulted in a variety of voluntary flock control programs that appear to have had some effect in reducing the numbers of infected flocks. In 1992, in the wake of APHIS tracebacks implicating flocks in Pennsylvania, APHIS cooperated with industry representatives, State government officials, and academic experts to develop a program to reduce the prevalence of SE in laying hens. In the *Salmonella* Enteritidis Pilot Program (SEPP), flock owners purchased chicks from hatcheries participating in the NPIP program, imposed strict rodent control measures, cleaned and disinfected hen houses between flocks, controlled feed, and implemented other biosecurity measures. The program relied on APHIS testing of environmental samples to determine positive flocks, and egg testing by commercial laboratories when environmental samples were positive.

In recent years, several other voluntary programs for controlling SE in shell eggs have been developed. California's Egg Quality Assurance Plan calls for producers and processors to apply current good manufacturing practices and to implement risk reduction measures for all hazards throughout the production and processing environments. The New England Risk Reduction Program for SE in eggs is being adopted by producers in Maine and other northeast States. United Egg Producers has developed a "Five Star" program for its members, which requires participants to ensure (1) poultry house cleaning and disinfecting, (2) rodent and pest elimination, (3) proper egg washing, (4) biosecurity measures, and (5) egg refrigeration during transport and storage. UEP has recently added testing provisions for verification. The U. S. Animal Health Association, a professional association of veterinarians, developed "Recommended Best Management Practices for a SE Reduction Program for Egg Producers," guidelines intended for use by producers without a State or industry program. Other States are working on egg quality programs, and an increasing proportion of producers seem to be adopting SE-control programs.

Much remains unknown about how SE infects flocks, and how the organism contaminates eggs. USDA scientists believe that among birds in an SE-infected flock, only a small number are shedding SE organisms at any given time, and that an infected bird might easily lay many normal, uncontaminated eggs, only occasionally laying an egg contaminated with SE. There is speculation that the likelihood of infection or the laying of contaminated eggs also may be related to factors other than environmental conditions, such as the genetics of the birds, the age of the birds, the site of infection in the hen, and whether the birds have been stressed (e.g., because of molting).[21] At this time, it may not be possible to design an SE control program that will remove all possibility of egg-laying chickens producing SE contaminated eggs. The agencies seek comments on this issue.

b. Processing and Distribution: Preventing Growth of SE in Eggs

In addition to the presence of SE in shell eggs, many other factors may influence the number and severity of salmonellosis cases. Key factors are pathogenicity and virulence of the organism, the dose level, and the numbers and susceptibility of the people exposed. In general, the greater the dose, the greater the chance that the person ingesting it will become ill.

The likelihood of SE multiplying depends primarily on the variables of time and temperature, although other factors such as the site of the egg contamination and the presence in the albumen of free iron also appear to play a role.[22] The site of contamination normally is the albumen. Over time, beginning after the egg is laid, the albumen proteins break down, ultimately rendering the albumen watery and less viscous and reducing the mechanical as well as the chemical defenses against bacterial motility and growth. At the same time, the yolk membrane degrades and becomes more porous. This degradation of the albumen and yolk membrane permits bacteria to reach the nutrient-rich yolk and multiply. The rate at which this degradation takes place relates to the temperature of the egg, with degradation delayed at cold temperatures and occurring more rapidly at warm temperatures.[23]

Studies of the growth of SE adjacent to the yolk indicate that there are three distinct phases in the growth curve of SE in eggs. The first phase takes place in the first 24 hours after lay, when the pH of the albumen rises from about 7 to about 9 and, it is suggested, the bacterium have enough iron reserves of their own to support about four generations. Studies suggest the numbers of salmonellae can increase about 10-fold during that initial phase, before entering a lag phase during which numbers remain fairly constant. The length of that lag phase is largely temperature-dependent, and its end, the beginning of the third phase, is signaled by penetration of the yolk membrane by the bacteria and resumption of rapid growth.[24]

Failure to cool eggs clearly contributes to SE multiplication. One study found that SE in eggs artificially inoculated in the albumen and stored at 20 °C (68 °F) grew rapidly after they had been stored for approximately 3 weeks, but that rapid growth occurred within 7 to 10 days when storage temperatures fluctuated between 18 °C (64 °F) and 30 °C(86 °F).[25] A different study of eggs with SE inoculated under the shell membrane found that after only 48 hours at 26 °C (78.8 °F) yolks contained high levels of SE.[26] Although there is consensus on the advisability of keeping eggs cool to prevent SE growth, there is debate on precisely what temperature is required. Because the studies referenced above rely on inoculated eggs, they may not accurately represent naturally occurring strains or the numbers of organisms that occur and grow in eggs under similar conditions. The conclusions suggest that internal egg temperatures of 7 °C (approx. 45 °F) or lower are unlikely to promote SE growth should SE be present in the egg.

Although the studies suggest that there is a delay of at least several days before the egg's natural defenses start breaking down, they also suggest that the rate at which degradation occurs is temperature related, and that eggs should be chilled as soon as possible.[27] The sooner an egg is chilled, the longer its defenses will be retained and the less likely that any SE present will have an opportunity to replicate.

The time it takes for an egg's contents to reach a temperature of 45 °F is affected by many things, including the temperature of the egg when received at the packing plant, heat added during processing, temperature when packed, insulation effect of the packaging, how packed eggs are stacked in coolers during storage and transportation, and the ambient air temperature and air circulation provided at all points after packing.

Egg processing procedures in the U.S. typically result in eggs being warmed. Warming begins as the eggs are loaded onto the conveyance system, and increases as they are washed; surface temperatures of eggs immediately after washing will approach that of the wash water, which is normally about 43–40 °C or 110–120 °F.[28] As noted, hot wash water temperatures are intended to provide adequate cleaning of the shell surface and an adequate temperature differential between the wash water and

the egg. USDA studies have shown that water temperatures colder than the internal egg temperatures cause the eggs' contents to cool leading to a pressure gradient that pulls in water and any bacteria in the water through the shell.[29]

After the eggs emerge from the wash and are dried with forced ambient air, internal temperature at the time they are packed is often in the 70–80 °F range. After packing, most processors hold eggs in coolers at an ambient air temperature of 45–55 °F, and transport eggs at an ambient air temperature of 60 °F or less. However, the ambient air temperature does not correlate to egg temperature. The temperature of the eggs' contents at the time they are transported from the packer will range between 50 °F and 80 °F, depending on the starting temperature, the packaging, how the crates are packed and stacked, and the length of time they are in the cooler before shipping.

The rate at which eggs chill after leaving the processor is similarly dependent on the initial temperature, packaging, loading configurations, and the capability of the refrigeration equipment. Transporters contend that their refrigeration units are designed to maintain—not reduce—temperatures, and that they cannot be relied upon to reduce the temperatures of products being transported. Further, the driver of a truck making multiple deliveries must open the truck door frequently, and if the outside temperature is warm, it would be virtually impossible to maintain the ambient air temperature uniformly throughout the load. Similarly, most retail stores' display cases have been designed to keep products cool, not to cool down products. Eggs received by retail stores are frequently at temperatures well above 45 °F.

Ideally, reliance on the use of ambient air temperature of 45 °F during distribution and retail as a reasonable measure of whether the eggs are being maintained under appropriate conditions would necessitate the eggs being chilled to an internal temperature of 45 °F before they are shipped. Significantly, there are a number of actions processors may take to reduce the temperature at which eggs are packed, and to cool them before shipment, including lowering the wash temperatures and pre-pack chilling of eggs. Recent research has shown that new technologies are available to processors to rapidly cool shell eggs. One study found that carbon dioxide, as a cryogenic gas, can be used instead of air chilling to rapidly chill eggs and results in no increase in cracked sheils.

c. Rewashing/Repackaging: Preventing Growth of SE in Eggs

It appears that eggs are occasionally removed from retail establishments when they are within a few days of the expiration or sell-by date stamped on the carton and returned to the processing plant. These eggs are co-mingled with eggs that are being cleaned for the first time, go through the hot water/sanitizing process again, and are graded. The rewashed eggs are then packed into cartons and are redistributed for sale. These eggs receive a new expiration or sell-by date.

On April 17, 1998, USDA announced that as of April 27, 1998, repackaging of eggs packed under its voluntary grading program will be prohibited while the Department reviews its policies on egg repackaging and engages in any necessary rulemaking. The prohibition on repackaging affects eggs packed in cartons that bear the USDA grade shield. About one-third of all shell eggs sold to consumers are graded by USDA.

In the wake of the USDA action, FDA is considering appropriate measures to take to address this issue. FDA requests comments on how widespread this practice is and on whether any aspect of rewashing/repackaging of eggs significantly increases the risk that consumers will contract SE-related illness from these eggs. FDA notes, for example, that repackaged eggs are subjected to warming during rewashing. Inasmuch as an egg's natural barriers to the multiplication of SE may be compromised at temperatures above 45 °F (see discussion in section 4b), does the warming of shell eggs during rewash significantly increase the risk that SE (if present) will multiply in rewashed/repackaged eggs during distribution or while held for sale, service, or preparation? Does it significantly increase the risk of illness for the consumer if the egg is not thoroughly cooked before consumption?

Are there important aspects, for example, safety risks or otherwise, of rewashed/repackaged eggs that would raise the question whether rewashed/repackaged eggs should be labeled in the same manner as other shell eggs? Are rewashed/repackaged eggs different enough from other shell eggs such that label statements in addition to "expiration" or "sell-by" dates would be necessary to adequately describe the product? If, for some segments of the U.S. population, the standard egg labeling practices are not appropriate for rewashed/repackaged eggs, how should these eggs be labeled to enable consumers to understand the nature of this product and to communicate other important information to the purchaser?

The issue of rewashing and repackaging of eggs also calls attention to current practices regarding the expiration dating of eggs in establishments that function primarily under State regulatory oversight. While a few States have regulations governing expiration dating of eggs, most do not and egg packers determine what expiration dating practices they will employ. Processors that do not use USDA's grading service, and that are not covered by State requirements, typically choose to place a 30- or 45-day expiration date on egg cartons. Some processors do not provide any expiration date. Section 403(a) of the Federal Food, Drug, and Cosmetic Act (FFDCA) states that a food is misbranded if its labeling is false or misleading in any particular. FDA requests comments on the latter two practices described above could violate 403(a) or other provisions of the Act. It also seeks comments on whether the variety of expiration dating practices for eggs could be misleading to consumers given their expectations when they purchase eggs. FDA will evaluate comments received regarding expiration dating and will consider providing guidance to the States on appropriate controls. FDA also requests comments on whether any such guidance should address appropriate practices for use of eggs that are not sold by the expiration date.

d. Preparation and Consumption: Preventing Ingestion of SE from Eggs

Another risk factor is exposure—the number of people who ingest SE organisms from SE-contaminated eggs. Pathogens like SE usually become a public health problem as a consequence of changes in the agent itself, the host, or the environment. Examples of such changes include the types of food people eat, the sources of those foods, and the possible decline in public awareness of safe food preparation. Antibiotic-resistant strains of pathogens are emerging, and people are exposed to new pathogens originating in other regions and other parts of the world. People today have increased life expectancies, and there are increasing numbers of immuno-compromised persons, increasing the population susceptible to severe illness after infection with foodborne pathogens.[30]

Finally, preparation and consumption patterns can greatly influence the likelihood of foodborne illness from eggs. However, SE outbreaks of foodborne illness from eggs continue to be associated with the use of recipes

calling for uncooked eggs or with undercooking of eggs. Low numbers of SE organisms in prepared foods can increase if the foods are held at room temperature or are cross contaminated with other foods. The risk is further amplified in commercial or institutional food service settings where larger quantities of food are served to larger groups of persons over extended periods of time.

As the proportion of food that is eaten outside homes in the U.S. increases, outbreaks associated with these foods increase in importance. They accounted for more than 90 percent of reported foodborne disease outbreaks in the 1990s.

5. Current Regulation of Shell Eggs

Federal authority to regulate eggs for safety is shared by FDA and USDA. FDA has jurisdiction over the safety of foods generally, including shell eggs, under the FFDCA (21 U.S.C. 301, *et seq.*). FDA also has authority to prevent the spread of communicable diseases under the Public Health Service Act (PHSA)(42 U.S.C. 201, *et seq.*). This authority would include the authority to regulate foods when the foods may act as a vector of disease, as is the case with eggs and SE. USDA has primary responsibility for implementing the Egg Products Inspection Act (EPIA)(21 U.S.C. 1031, *et seq.*), although FDA shares authority under the statute (see, for example, 21 U.S.C. 1034). USDA's Food Safety and Inspection Service and Agricultural Marketing Service share responsibilities under the EPIA. FSIS has primary responsibility for the inspection of processed egg products to prevent the distribution into commerce of adulterated or misbranded egg products (7 CFR 2.53), while AMS conducts a surveillance program to ensure proper disposition of restricted shell eggs.

Under Federal regulations, all major commercial egg producers—the 757 producers who have more than 3,000 laying hens and collectively are responsible for close to 94 percent of the nation's eggs—are required to register with AMS. They are subject to periodic on-site visits by AMS to ensure that eggs packed for commercial sale have no more than the percentage of restricted eggs allowed for the grade of eggs being packed, that they are properly labeled, and that proper disposition is made of inedible and restricted eggs. Exempted from this oversight are approximately 80,000 small egg producers.

States may have their own laws governing eggs, as long as they are consistent with Federal laws (e.g., 21 U.S.C. 1052(b)(2)). Generally, State laws and regulations specifically govern egg grading and labeling in each of the States. These laws influence how eggs are packed and shipped for sale and then handled by retail stores, restaurants, and other food service establishments in those jurisdictions.

FDA and FSIS work with the States to encourage uniformity among the State laws affecting food safety in retail and food service establishments. The principal mechanism for this is the *Food Code*, a model code published by FDA intended for adoption by State and local authorities for governing retail food and food service establishments. The provisions of the *Food Code* are modified periodically with input from a broad spectrum of organizations—industry, academia, consumers and government agencies at the Federal, State, and local levels. In addition, training programs on the *Food Code* recommendations have been conducted yearly with State agencies.

The *Food Code* states that "potentially hazardous foods," including shell eggs, should be received and maintained at a temperature of 41 °F or less, or, if permitted by other law to be received at more than 41 °F, be reduced to that temperature within 4 hours. Because eggs are often received at temperatures well above 41 °F, the 1997 edition of the *Food Code* contains an exception for shell eggs, requiring only that they be placed upon receipt in refrigerated equipment that is capable of maintaining food at 41 °F.

The *Food Code* specifies that shell eggs, when prepared for service, are to be cooked to specified temperatures for a specified time. If the egg is not served immediately, hot and cold hold temperatures are specified. The *Food Code* further specifies that pasteurized eggs be substituted in delicatessen and menu items that typically contain raw eggs unless the consumer is informed of the increased risk. Pasteurized egg substitution is specified for eggs that are held before service of vulnerable individuals.

In recent years, many States have enacted laws requiring specified ambient air temperatures for shell egg storage and handling. While many States specify 45 °F or less for that purpose, others retain the 60 °F temperature requirement traditionally required under the USDA grading standards, and some have no requirement. A number of States have stated that they are waiting for USDA implementation of the EPIA shell egg refrigeration requirements before instituting any State law governing shell egg refrigeration.

The egg industry clearly has an interest in finding a way to constructively address the public concern about SE in eggs, and many in the industry have communicated their desire to work with the government toward an effective regulatory solution.

In November 1996, Rose Acre Farms, Inc., submitted a detailed petition (Docket No. 96P–0418) to the Federal agencies that have played a role in the regulation of shell eggs—FDA, FSIS, APHIS, and AMS—requesting that in regulating the presence of pathogens in shell eggs, the agencies "adopt a comprehensive, coordinated regulatory program to replace the patchwork of approaches they currently take." The petitioner acknowledged the need to reduce the prevalence of SE in shell eggs, but advocated a broad-based regulatory program that goes beyond the traceback-and-sanction approach that, the petitioner contended, is both inadequate to protect consumers and unfairly burdens producers. The petitioner called for a collaborative process in developing incentives to encourage improved handling of eggs throughout the farm-to-table cycle and other modifications to promote greater levels of food safety.

In May of 1997, the Center for Science in the Public Interest submitted a petition (Docket No. 97P–0197) requesting that FDA issue regulations requiring that shell egg cartons bear a label cautioning consumers that eggs may contain harmful bacteria and that they should not eat raw or undercooked eggs. The petitioner further requested that all egg producers be required to implement on-farm HACCP programs to minimize the risk that their eggs will be contaminated with SE.

FDA and FSIS are responding to these petitions by initiating such a comprehensive, coordinated process with this ANPR.

Finally, USDA and FDA intend to encourage and assist in additional research on how hens become infected with SE, the factors that relate to infected hens' production of SE-contaminated eggs, better ways to identify specific strains of SE, the virulence and other characteristics of emerging SE strains, the extent of the potential public health risk from SE, and identification of effective controls and intervention strategies.

Because of the number of outbreaks of foodborne illness caused by *Salmonella* Enteritidis that are associated with the consumption of shell eggs, FDA and FSIS have tentatively determined that there are actions that can be taken even at this time to reduce the risk of foodborne illness from shell eggs while

additional measures are being considered pursuant to this ANPR. FSIS intends to act to amend its regulations to require that shell eggs packed for consumer use be stored and transported under refrigeration at an ambient temperature not to exceed 45 °F, and that these packed shell eggs be labeled to indicate that refrigeration is required. FDA intends to act to publish shortly a proposal to (1) require that retail food stores and food service establishments hold shell eggs under refrigeration and (2) require safe handling statements on the labeling of shell eggs that have not been treated to destroy *Salmonella* microorganisms that may be present.

6. Need for Additional Information and Analysis.

In 1991, the EPIA was amended in the wake of publicity about foodborne disease outbreaks attributed to *Salmonella* in shell eggs. The amendment requires, essentially, that shell eggs packed for consumers be stored and transported under refrigeration at an ambient air temperature not to exceed 45 °F. (21 U.S.C. §§ 1034, 1037). Congress also provided that these provisions would be effective only after promulgation of implementing regulations by USDA.

After reviewing the issue in 1996, FSIS concluded and informed Congress that a regulation establishing an ambient air temperature at which eggs must be held and transported would not address the underlying food safety problems, and that the problem could be dealt with effectively only in the context of a broader process examining a variety of issues in addition to ambient air temperatures. As part of the 1998 Appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies (P.L. 105–86), however, Congress provided that $5 million of FSIS' annual appropriation will be available for obligation only after the Agency promulgates a final rule to implement the refrigeration and labeling requirements included in the 1991 EPIA amendments.

FSIS and FDA are now looking at how best to address the food safety concerns associated with shell eggs in the context of their mutual, HACCP-based, farm-to-table food safety strategy. FSIS and FDA believe that comprehensive shell egg regulations must address the public health risks identified; that such regulations must be fully considered in an open, public process; and that each regulation adopted must have been considered in light of available alternatives and be consistent with other laws and regulations.

FSIS and FDA, in furtherance of their commitment to develop a comprehensive strategy for shell eggs, have undertaken the following actions:

(1) *Time-temperature Conference.* A 3-day technical conference on November 18–20, 1996, provided a forum for information on temperature control interventions and verification techniques in the transportation and storage of meat, poultry, seafood, and eggs and egg products. The egg session included many informative technical presentations and policy discussions on the issue of implementing the EPIA's 45 °F ambient temperature requirement. The opportunity to submit written comments to supplement the record was provided.

(2) *Transportation ANPR.* In a related activity, FSIS and FDA published a joint ANPR (61 FR 58786) soliciting information on issues related to ensuring the safety of potentially hazardous foods during transportation. The agencies posed a range of regulatory and non-regulatory options, and solicited information to help them assess the risks and decide what approaches are best suited to addressing those risks. The comment period on this ANPR closed on February 20, 1997. Fifty-two comments have been received.

(3) *Risk Assessment.* The agencies are conducting a quantitative risk assessment for shell eggs. The project is being conducted by a multidisciplinary team of scientists from USDA, FDA, and academia. Begun in December, 1996, it is intended to (a) provide a more definitive understanding of the risks of egg-associated foodborne disease; (b) assist in evaluating risks and ways in which the risks might be reduced; and (c) verify data needs and prioritize data collection efforts. A draft report on risks of SE in eggs and egg products is on the FSIS Homepage and was presented at a technical meeting in September 1997. The draft report of the risk assessment team will be available for public comment and subject to modification based on that input before being made final. Interested persons are encouraged to provide any data or information relevant to the risk assessment for use in the analysis.

(4) *Research.* The Agencies are undertaking efforts to initiate:

—a nationwide surveillance program for SE and SE phage-type 4 to track the spread among layer flocks.

—research (in conjunction with USDA's Agricultural Research Service) on the molecular and virulence comparison of U.S. SE phage-type 4 with isolates from other parts of the world (human and poultry).

(5) *Dialogue.* FDA and FSIS intend to engage affected industry, Federal and State regulatory agencies, and business organizations in an open, on-going dialogue regarding steps they might take voluntarily to address the SE problem and ways in which the Federal agencies might help such efforts.

(6) *Forthcoming FDA/FSIS Actions.* As stated above, because there are actions that can be taken at this time to reduce the risk of foodborne illness from shell eggs, FDA intends to publish shortly a proposal to (1) require that retail food stores and food service establishments hold shell eggs under refrigeration and (2) require safe handling statements on the labeling of shell eggs that have not been treated to destroy *Salmonella* microorganisms that might be present. In that proposal, FDA will solicit comments and information concerning these two matters. FDA requests that comments or information submitted in response to this ANPR also be submitted in response to FDA's proposed rule if such comments or information are relevant to the issues raised therein. In addition, as stated above, FSIS intends to act to amend its regulations to require that shell eggs packed for consumer use be stored and transported at an ambient temperature that does not exceed 45 °F.

Information Requested

FDA and FSIS have available a wide range of mechanisms for administering the laws for which they are responsible. The agencies are interested in the public's views on what regulations may be required to reduce the public health risk of SE in shell eggs, including any performance standards that might be developed.

One approach might be a process-oriented rule similar to the agencies' HACCP regulations for meat, poultry, and seafood. Regulations may be proposed to mandate HACCP-like process controls to reduce the microbiological and other food safety hazards in shell egg production, processing and handling. Such an approach requires each business to develop controls that are best suited to its particular processes and products. The agencies are interested in comments on whether HACCP-like controls could be effective against SE in eggs, in how many producers are presently using HACCP-like controls, and in the overall costs of these controls. The agencies are interested in how such a program would affect small entities.

The agencies may achieve public health objectives by providing guidance to interested parties as a companion to or in lieu of regulations. The agencies

provide a variety of technical information and guidance materials to industries that must comply with Federal laws, to State and local officials, and to consumers. These materials range from general advice to fairly detailed examples or "models" of ways in which a plant may ensure compliance with a particular statutory or regulatory provision. Such guidance may be particularly useful for smaller plants with limited resources.

A third general approach would be a Federal-State cooperative program under which overall regulatory oversight is left primarily to State agencies using mutually agreed-upon standards and procedures and Federal assistance. The agencies frequently work cooperatively with State and local government authorities. FDA currently participates in a formal Federal-State cooperative program for the interstate shipment of two commodities, Grade A milk and shellfish.

The agencies believe that a comprehensive, effective program for the control of SE in shell eggs is likely to require some combination of these three general approaches. The following sets out questions the answers to which, the agencies believe, will help them to shape a program that will be useful in reducing risk at each stage in the shell egg farm-to-table continuum.

Production

Should the patchwork of voluntary quality assurance (QA) programs be made consistent with a single, national standard for flock-based quality assurance programs, and be applicable to all producers? Does there need to be more uniformity among the QA programs to assure consumers that producers in all States are uniformly doing all they can to reduce the frequency of SE-contaminated eggs, and to provide "a level playing field" among competing producers in the various States?

Should the agencies establish minimum QA requirements for all commercial shell egg producers? This might be accomplished through rulemaking or some form of cooperative program with the States. Should the microbiological testing under such a program be done by a third party (someone other than the producer) to ensure test uniformity and the integrity of the program? Should the agencies require the submission of testing data so that they can identify ways to improve the program, including possible justification for regional variations, verify the overall effectiveness of the program, track the prevalence of emerging strains of SE and, as necessary, identify the need for additional testing programs or other interventions required to protect human or animal health? Should a QA program be voluntary?

Processing

In-shell pasteurization of shell eggs is a relatively new technological development by which harmful bacteria are destroyed without significantly altering the nature of the egg. Were this technology viable for broad scale adoption by producers, it could conceivably significantly reduce the risk of foodborne illness through the destruction of any SE in the egg at the time of processing. The agencies seek comments and information that would address the current viability of in-shell pasteurization for eggs. What factors will determine whether and when in-shell pasteurization of eggs could be applied to the whole industry? Comments should address technological and cost factors.

FSIS and FDA believe that there are many interventions that might be applied during processing that would reduce the risk to consumers from SE in shell eggs. The agencies could continue to defer to States, or processors could be required to use only shell eggs from production facilities adhering to a QA program meeting national standards. This would enable each processor to identify and control all hazards, including SE, that might be introduced into the product during processing. The systems would address those factors known to influence SE growth in shell eggs during processing (principally the age and temperature of the eggs), precluding the necessity of developing detailed prescriptive regulations attempting to specify how such control should be achieved. The agencies would like comments on how such processing requirements might best be structured.

Another alternative might be a sliding scale approach similar to that under consideration by the European Union. Under this approach, a specific egg temperature is not required, but a "sell by" date is mandatory, which would vary depending on the temperatures at which eggs are maintained. Assuming packed eggs are transported and stored at an ambient air temperature of 45 °F, the primary determinant of the temperature of eggs in commercial channels will be the temperature of the eggs when they are shipped from the packer. To provide an incentive for processors to chill eggs before shipping, yet retain flexibility to accommodate reasonable alternatives to an absolute temperature requirement, a regulation might prescribe a range of "sell-by" dates based on the egg temperature achieved by the packer. However, such an approach might be difficult to verify and enforce. The agencies would like comments on the feasibility and advisability of this kind of approach.

Retail

FDA intends shortly to propose regulations to require that food retail and food service establishment hold eggs under refrigeration. As explained elsewhere in this document, FDA believes that these actions are measures that can be taken at this time to reduce the risk of foodborne illness from shell eggs. Pursuant to this ANPR, both agencies will consider other matters that affect eggs at retail as part of the comprehensive farm-to-table solution that the agencies ultimately put in place.

The agencies are interested in whether retail stores should require their suppliers to use temperature recording devices, or affix temperature indicating devices on the egg cases or cartons, to help ensure that the eggs have not been subject to temperature abuse during transportation. Could any requirement for delivery at 45 °F be enforced effectively as a matter of contract between the processors (vendors) and the retail stores (purchasers)? Should the agencies consider regulations to effect these changes?

Restaurants and Food Service Operations

Restaurants, food service operators, and many retail stores that prepare food for immediate consumption are regulated primarily by State and local governments. Should the agencies take a more direct role, or should they continue to rely on the *Food Code* to provide guidance on the maintenance and preparation of eggs and encourage State and local authorities to adopt and enforce those standards?

The agencies believe that much of what must be done to reduce the risk of foodborne disease transmission in restaurants and other food service facilities involves education and training. Food service managers play an increasingly important role in food safety, and they must place a high priority on employee hygiene and proper food handling techniques. Thus, the Federal agencies are currently exploring with industry representatives (the major associations representing retail stores and restaurants as well as major food producer groups), representatives of State and local regulatory agencies, and consumer groups the possibility of a partnership

that would build on current programs to develop a comprehensive, national food safety education and training campaign directed at people who work in restaurants and other food service facilities, people who work in retail stores, and at consumers. This campaign would include lesson plans and materials for classroom training that could be used in public school curricula as well as in food service settings.

Household Consumers

A primary tool for reducing the risk of foodborne disease among consumers is education. To ensure that consumers are fully and adequately informed of the significant risks associated with SE in eggs and how to best avoid these risks, FDA shortly will be proposing certain labeling requirements for eggs. The agencies also plan to intensify their consumer education efforts in the coming months and to institute permanent food safety education programs that will help consumers protect themselves from all food safety hazards.

Thus, by this notice, FDA and FSIS are requesting comments and information on a variety of issues concerning ways to reduce the risk to the public health from SE in shell eggs. These issues need to be addressed comprehensively by the agencies. FSIS and FDA welcome discussion and comments on the issues in this notice and other issues related to the subject. The agencies are particularly interested in comments about alternatives that would minimize the impact on small entities.

Done in Washington, DC, on May 11, 1998.

Thomas J. Billy,

Administrator, FSIS.

William B. Schultz,

Deputy Commissioner for Policy, FDA.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 273 and 274

RIN: 0584–AC61

Food Stamp Program: Electronic Benefits Transfer Benefit Adjustments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This rule proposes to revise Food Stamp Program regulations pertaining to State agencies' ability to make adjustments to a recipient account in an Electronic Benefits Transfer (EBT) system, in order to correct a system error or an out-of-balance condition. EBT stakeholders have proposed the changes so that States and their processors can correct errors when they are identified, rather than 10 days after the advance notice has been sent to the household. The changes would enable State agencies to correct errors in a more timely manner, and bring EBT closer in line with current commercial Electronic Funds Transfer (EFT) practices. This rule also proposes to revise the formula

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for recovering funds under the re-presentation rule.

DATES: Comments must be received on or before July 20, 1998, to be assured of consideration.

ADDRESSES: Comments should be submitted to Jeffrey N. Cohen, Chief, Electronic Benefit Transfer Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Comments may also be datafaxed to the attention of Mr. Cohen at (703) 605–0232, or by e-mail to jeff__cohen@fcs.usda.gov. Written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 718.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Mr. Cohen at the above address or by telephone at (703) 305–2517.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be non-significant for purposes of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local or tribal governments, in the aggregrate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley Watkins, the Under Secretary for Food, Nutrition and Consumer Service, has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program.

Paperwork Reduction Act

This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(1) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 for rules related to non-quality control (QC) liabilities or Part 283 for rules related to QC liabilities; (3) for Program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Background

Adjustments

The Food and Nutrition Service (FNS) has been contacted by a number of State agencies and other interested stakeholders regarding its policy on making adjustments to EBT-issued benefits when a system error has resulted in an out-of-balance condition. During normal EBT processing for an authorized transaction, settlement is completed when the transaction acquirer has been properly credited for an amount equal to the amount debited from the household's benefit allotment. System malfunctions, however, can cause an interruption to this process. For purposes of this proposed regulation, an out-of-balance settlement condition exists when system errors or other technical malfunctions cause an interruption to the end-to-end settlement process from acquirer back to issuer, resulting in a settlement condition that does not reflect the authorized transaction. In the commercial EFT environment, such conditions are routinely corrected via a manual adjustment to the customer's account without notification to the account holder. In this proposed rule, an adjustment is defined as a debit or credit transaction initiated to correct a system error or to correct an out-of-balance condition identified in the settlement process. Current food stamp regulations, however, do not allow such adjustments without prior notification to the food stamp household.

Regulations found at 7 CFR 274.12(f)(4) require that State agencies establish a date when the household's benefits become available to them each month. By regulation, State agencies are not allowed to make adjustments to the food stamp allotment after the availability date. This is in keeping with the coupon system which has no mechanism to retrieve benefits after they have been issued to the household. However, FNS recognizes that EBT provides additional tools that were not available in the coupon system. Corrections to technical errors can be made quickly and accurately, where previously, in the paper system, they could not be made. Commercial operating rules for EFT systems and the QUEST EBT operating rules have provisions which require adjustments for system errors. (The QUEST operating rules set forth EBT requirements for those state agencies that choose to issue benefits under the QUEST service mark.) This proposed rule would allow adjustments, after the availability date, to correct a system error.

Proposing this change leads to the need to propose a second change. Section 11(e)(10) of the Food Stamp Act of 1977, as amended, gives households the right to a fair hearing over any action that affects their participation in the program. This section stipulates that to exercise this right households must request a fair hearing in a timely manner following receipt of an individual notice of the agency's action. Further, households have the right to delay the State agency's action and receive benefits at the previous level, pending a decision by the hearing official. Regulations implementing these provisions of the Act and signifying when a notice of action is necessary are found in § 273.15.

With some exceptions, which are specified in the regulation; households must be given an advance notice of 10 days before reduction in benefits can be put in place. The excepted situations in the regulation allow for concurrent benefit adjustment and notice—referred to as adequate notice. That is, State agencies are allowed to notify households at the same time as an action is taken.

The nature of EBT settlement adjustments makes timeliness critical. A 10-day advanced notice, as required by current regulation, could have a negative impact on the State agency's ability to correct the out-of-balance condition. For example, to provide notice 10 days prior to the adjustment action could risk benefits no longer being available since, unlike certification actions, the household has immediate access to the benefits in question. For this reason, in § 273.13(a)(3)(vii), we propose that State agencies be allowed to send an adequate notice when the action is taken. This would allow the error condition to be corrected expeditiously, while preserving the household's right to adequate notice and a fair hearing.

In order to ensure that the rights of the household are protected, this rule proposes to only allow adjustments under the following conditions:

(1) Adjustments would not be allowed against future month benefits, i.e, against those benefits that were not in the account at the time of the original transaction.

(2) In those cases in which a household no longer has benefits available from the issuance month, this rule proposes that the funds may be recovered using the re-presentation procedures set forth in 7 CFR 274.12(l). If, however, there are sufficient benefits remaining to cover only part of the adjustment, the adjustment may be made using the remaining balance, with the difference being subject to the re-presentation procedures.

(3) If the household is no longer receiving benefits, the State agency is under no further obligation to recover the funds.

(4) The household shall be given adequate notice at the time of the adjustment in accordance with procedures set forth in 7 CFR 273.13(a)(3). An adequate notice includes an explanation of the action being taken, the reason for the action, the household's right to a fair hearing, and the household's right to continued benefits.

(5) If the household chooses to have a fair hearing and elects to have benefits continued pending the fair hearing decision, the State agency would be required to re-credit the adjusted amount until the dispute is adjudicated. If the hearing finds in favor of the State agency, the State agency would re-process the adjustment (debit) for the full amount credited at the time of the fair hearing request. If there are no benefits remaining in the household's account at the time the State agency action is upheld, the State agency shall make the adjustment from the next month's benefit. If the household is no longer receiving benefits when the fair hearing decision is rendered, the State agency would be under no further obligation to recover the funds. An adjustment would not be made if the affected retailer is no longer on the EBT system.

(6) Adjustments would only be allowed when auditable documentation is available to substantiate the out-of-balance condition.

Finally, it has come to the Department's attention that EBT regulations do not provide time frames by which system errors must be resolved. The Department, therefore, proposes that all system errors be corrected within 5 business days. After 5 business days, any recovery of funds from a recipient's account must be handled through the re-presentation process. The Department believes that unless the adjustment is made within a reasonable time, recipients will be unable to understand the connection between the original transaction and the adjustment action. The 5-day time frame also ensures that households negatively impacted by a system error will not have to wait unreasonably long periods of time for resolution.

Re-presentations

Current regulations give State agencies the option to implement a re-presentation system to recoup certain losses in instances specified in 7 CFR 274.12(l). Regulations at 7 CFR 274.12(l)(1)(iii) stipulate that the rate of re-presentation be $50 for the first month and $10 or 10 percent—whichever is greater—in subsequent months, until the re-presentation is completely repaid. These amounts were originally selected so that the electronic system would be consistent with the claims process in place in the coupon system. Some State agencies have argued that the variation in the rate of re-presentation for the first month and subsequent months makes it particularly difficult to implement an automated re-presentation system. Currently, only one State agency has implemented re-presentation because of the burden of programming a system which would meet these requirements. Therefore, the Department proposes that the required rate differentiation between the first month and subsequent months be eliminated; the State agency would have the option to debit the benefit allotment of a household following the insufficient funds transaction in an amount equal to at least $10, but no higher than 10 percent of the allotment. This deduction would be repeated on a monthly basis until the re-presentation is completely repaid. State agencies may choose to recover funds at an amount less than 10% of the allotment, but shall apply the lesser repayment amount to all households.

Implementation

The Department is proposing that the provisions of this rulemaking be implemented 30 days after publication of the final rule. The Department also proposes to allow variances resulting from implementation of the provisions of the final rule to be excluded from error analysis for 120 days from the required implementation date, in accordance with 7 CFR 275.12(d)(2)(vii).

List of Subjects

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 274

Administrative procedures and practices, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 7 CFR parts 273 and 274 are proposed to be amended as follows:

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1. The authority citation for 7 CFR parts 273 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.13, a new paragraph (a)(3)(vii) is added to read as follows:

§ 273.13 Notice of adverse action.

(a) * * *

(3) * * *

(vii) An EBT system-error has occurred during the redemption process, resulting in an out-of-balance settlement condition. The State agency shall adjust the benefit in accordance with § 274.12 of this chapter.

* * * * *

3. In § 273.15, the fourth sentence of paragraph (k)(1) is revised and three new sentences are added after the fourth sentence to read as follows:

§ 273.15 Fair hearings.

* * * * *

(k) *Continuation of benefits.*

(1) * * * If the State agency action is upheld by the hearing decision, a claim against the household shall be established for all overissuances except in the case of an EBT adjustment, in which case another adjustment (debit) shall be made immediately to the household's account for the total amount erroneously credited when the fair hearing was requested. If there are no benefits remaining in the household's account at the time the State agency action is upheld, the State agency shall make the adjustment from the next month's benefits. If the household is no longer receiving benefits at the time of the fair hearing decision, the State agency is under no further obligation to recover the debt. An adjustment shall not be done if the affected retailer is no longer on the EBT system. * * *

* * * * *

PART 274—ISSUANCE AND USE OF COUPONS

4. In § 274.12:

a. Paragraph (f)(4) is revised;

b. Paragraph (f)(7)(iii) is amended by removing the second sentence;

c. Paragraph (l) introductory text is redesignated as the first sentence of paragraph (l)(1) introductory text;

d. Paragraph (l)(1) introductory text is amended by redesignating the last sentence as the introductory text of paragraph (l);

e. Paragraph (l)(1)(iii) is revised;

f. Paragraphs (l)(2), (l)(3), (l)(4), and (l)(5) are redesignated as (l)(3), (l)(4), (l)(5), and (l)(6); and

g. A new paragraph (l)(2) is added.

The revisions and additions read as follows:

§ 274.12 Electronic Benefit Transfer system issuance approval standards.

* * * * *

(f) *Household participation* * * *

(4) *Issuance of benefits.* State agencies shall establish an availability date for household access to their benefits and inform households of this date.

(i) The State agency may make adjustments to benefits posted to household accounts after the posting process is complete but prior to the availability date for household access in the event benefits are erroneously posted.

(ii) A State may make adjustments to an account after the availability date only to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error.

(A) Adjustments shall be made no later than 5 business days after the out-of-balance condition occurred.

(B) Adjustments shall not be made against a future month's benefit. If there are sufficient benefits remaining to cover only part of the adjustment, the adjustment may be made with the remaining balance.

(C) The household must be given, at a minimum, adequate notice in accordance with § 273.13 of this chapter.

(D) Should the household dispute the adjustment, the benefits must be re-credited to the household's account pending resolution.

(E) Should a State agency wish to process an adjustment against future month benefits, such an action shall be in accordance with re-presentation procedures found in paragraph (l) of this section.

(iii) The appropriate management controls and procedures for accessing benefit accounts after the posting shall be instituted to ensure that no unauthorized adjustments are made in accordance with paragraph (f)(7)(iii) of this section.

* * * * *

(l) *Re-presentation.* * * *

(1) * * *

(iii) The State agency may debit the benefit allotment of a household following the insufficient funds transaction in any amount which equals at least $10 or up to 10% of the transaction. This amount will be deducted monthly until the total owed is paid. State agencies may opt to re-present at a level that is less than the 10% maximum, however, this lesser amount must be applied to all households.

(2) When a system-error has resulted in an out-of-balance condition at settlement, and the State agency is unable to recover an erroneous credit as an adjustment, a re-presentation may be made as follows:

(i) the state agency shall debit the benefit allotment of a household monthly in an amount equal to at least $10 or up to 10% of the allotment until the re-presentation is completely paid.

(ii) notice shall be provided prior to the month re-presentation occurs and shall state the amount of the reduction in the benefit allotment.

* * * * *

Dated: May 12, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–13227 Filed 5–18–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–05–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASW–19 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASW–19 sailplanes. The proposed action would require inspecting the tow release cable guide fittings for the correct mounting, and, if the fittings are mounted in the front of the bulkhead, moving the fitting to the rear of the bulkhead. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent premature release of the tow cable during take-off, which could result in loss of the sailplane.

DATES: Comments must be received on or before June 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Alexander Schleicher Model ASW–19 sailplanes. The LBA reports that some of the older Model ASW–19 sailplanes were designed with the tow release cable mounted on the front side of the bulkhead per the type design. The LBA has received reports of premature release during towing operations on these Model ASW–19 sailplanes. This inadvertent release is occurring when the tow release cable guide is properly adjusted in the rear position, but is secured to the front of the bulkhead.

This condition, if not corrected, could result in premature release of the sailplane's tow cable during take-off operations with a possible loss of sailplane controllability.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 18, dated July 3, 1984, which specifies procedures for inspecting the cable guide release fitting for the correct bulkhead mounting. If the cable guide release fitting is mounted on the front of the bulkhead, the service information specifies procedures for moving the cable guide release fitting to the rear of the bulkhead and then adjusting the cable's neutral travel.

The LBA classified this service bulletin as mandatory and issued German AD 84–115, dated July 16, 1984, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Alexander Schleicher Model ASW–19 sailplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the tow release cable guide fitting for the proper location on the bulkhead. If the cable guide release fitting is mounted on the front of the bulkhead, the proposed AD would require removing the cable guide release fitting, remounting it on the rear of the bulkhead, and adjusting the cable's neutral travel. Accomplishment of the proposed actions would be in accordance with Alexander Schleicher Technical Note No. 18, dated July 3, 1984.

Cost Impact

The FAA estimates that 100 sailplanes in the U.S. registry would be affected by the proposed AD.

Accomplishing the proposed inspection would take approximately 1 workhour per sailplane, at an average labor rate of approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $6,000, or $60 per sailplane.

The proposed modification would take approximately 2 workhours, at an average labor rate of $60 per hour. Parts cost approximately $20 per sailplane. Based on these figures, the total cost impact of the proposed modification on U.S. operators is estimated to be $14,000, or $140 per sailplane.

Compliance Time

The compliance time of the proposed AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected sailplane ranges throughout the fleet. For example, one owner may operate the sailplane 25 hours TIS in one week, while another operator may operate the sailplane 25 hours TIS in one year. In order to ensure that all of the owners/operators of the affected sailplane have inspected the mount location of the tow release cable guide fitting within a reasonable amount of time, the FAA is proposing a compliance time of 90 days.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore,

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in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Alexander Schleicher Segelflugzeugbau: Docket No. 98–CE–05–AD.

Applicability: Model ASW–19 sailplanes, serial numbers 19001 through 19405, certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 90 days after the effective date of this AD, unless already accomplished.

To prevent premature release of the tow cable during take-off, which could result in loss of the sailplane, accomplish the following:

(a) Inspect the tow release cable guide fittings for front or rear mount on the bulkhead of the sailplane in accordance with the Actions section in Alexander Schleicher Technical Note (TN) No. 18, dated July 3, 1984.

Note 2: It is recommended that the maintenance manual pages called out in the INSTRUCTIONS section of Alexander Schleicher TN No. 18 be exchanged with the current pages in the maintenance manual.

(b) If the cable guide fitting is mounted on the front of the bulkhead, prior to further flight, remove the fitting and remount the cable guide fitting on the rear of the bulkhead in accordance with the Actions section in Alexander Schleicher TN No. 18, dated July 3, 1984.

(c) After remounting the cable fitting, prior to further flight, check the neutral travel of the cable and adjust if necessary, in accordance with the Actions section in Alexander Schleicher TN No. 18, dated July 3, 1984.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Questions or technical information related to Alexander Schleicher Technical Note No. 18, dated July 3, 1984, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in German AD No. 84–115, dated July 16, 1984.

Issued in Kansas City, Missouri, on May 11, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13198 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–78–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300–600 series airplanes. This proposal would require repetitive inspections to detect cracking of the doubler angle and discrepancies of the fasteners that connect the doubler angle and the bottom panel of the center wing box, and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracking in the doubler angle and discrepancies of the fasteners that connect the doubler angle and the bottom panel of the center wing box. Such cracking and discrepancies could result in reduced structural integrity of the airplane.

DATES: Comments must be received by June 18, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–78–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–78–AD." The postcard will be dated stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–78–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300–600 series airplanes. The DGAC advises that, during full-scale fatigue testing of the Airbus Model A300 series airplane, cracking was found on the forward doubler angle at the junction with the lower surface of the wing. This cracking originated in the seventh fastener hole, starting from the front, on the face of the doubler angle that is attached to the lower surface of the wing. The DGAC has received reports of cracking in the same location on in-service airplanes, which has been attributed to fatigue caused by the relative movement between the fuselage skin panel and the lower wing skin. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–53–6110, dated April 8, 1997, which describes procedures for performing repetitive detailed visual inspections to detect cracking of the doubler angle, and repetitive detailed external visual inspections to detect discrepancies (i.e., damage, stretching, cracking, or distortion) of the fasteners that connect the doubler angle and the bottom panel of the center wing box. This service bulletin also describes procedures for replacing discrepant fasteners with new fasteners, and performing follow-on corrective actions. (These follow-on actions include performing a rotating probe inspection of the fastener hole to detect cracking or distortion and repairing the fastener hole, if cracking is detected.)

The DGAC classified Airbus Service Bulletin A300–53–6110 as mandatory and issued French airworthiness directive 97–383–240(B), dated December 17, 1997, in order to assure the continued airworthiness of these airplanes in France.

Airbus also has issued Service Bulletin A300–53–6063, dated December 12, 1996, which describes procedures for replacing the existing doubler angle with a longer splice plate and an improved doubler angle. Accomplishment of this replacement would eliminate the need for the repetitive inspections described previously.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below. This proposed AD also would provide for an optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to correct cracking before it represents a hazard to the airplane.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Airbus Service Bulletin A300–53–6110, this proposed AD would not permit further flight if any crack is found in the doubler angle, or if any discrepancy is found in the fastener holes or the fasteners that connect the doubler angle and the bottom panel of the center wing box. The FAA has determined that, because of the safety implications and consequences associated with such cracking or discrepancies, any subject doubler angle that is found to be cracked or any fastener that is found to be discrepant must be replaced prior to further flight.

Operators also should note that, although Airbus Service Bulletin A300–53–6110 specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 54 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $6,480, or $120 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating

action specified in Airbus Service Bulletin A300–53–6063 that would be provided by this AD action, it would take approximately 109 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $4,028 per airplane. Based on these figures, the cost impact of that optional terminating action would be $10,568 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 98–NM–78–AD.

Applicability: Model A300–600 series airplanes, on which Airbus Modification 11044 or Airbus Modification 11045 (reference Airbus Service Bulletin A300–53–6063, dated December 12, 1996) has not been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the doubler angle and discrepancies of the fasteners that connect the doubler angle and the bottom panel of the center wing box, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Perform a detailed visual inspection to detect cracking of the doubler angle, and a detailed external visual inspection to detect discrepancies of the fasteners that connect the doubler angle and the bottom panel of the center wing box, on the left and right sides of the airplane, in accordance with Airbus Service Bulletin A300–53–6110, dated April 8, 1997, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. Thereafter, repeat the inspections of the doubler angle and fasteners at intervals not to exceed 2,400 flight cycles.

(1) For airplanes on which a detailed visual inspection has been performed within the last 2,400 flight cycles prior to the effective date of this AD, in accordance with Structural Significant Item (SSI) 57–10–19 of the Airbus A300–600 Maintenance Review Board (MRB) Document: Inspect within 2,400 flight cycles after the most recent SSI inspection.

(2) For airplanes on which a detailed visual inspection has not been performed within the last 2,400 flight cycles prior to the effective date of this AD, in accordance with Structural Significant Item (SSI) 57–10–19 of the Airbus A300–600 Maintenance Review Board (MRB) Document: Inspect at the time specified in paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii), as applicable.

(i) For airplanes that have accumulated 6,600 or more total flight cycles as of the effective date of this AD: Inspect within 750 flight cycles after the effective date of this AD.

(ii) For airplanes that have accumulated more than 3,100 total flight cycles, but less than 6,600 total flight cycles as of the effective date of this AD: Inspect within 1,500 flight cycles after the effective date of this AD.

(iii) For airplanes that have accumulated 3,100 total flight cycles or less as of the effective date of this AD: Inspect prior to the accumulation of 4,600 total flight cycles.

(b) If any discrepancy is found in a fastener that connects the doubler angle and the bottom panel of the center wing box during any detailed external visual inspection performed in accordance with paragraph (a) of this AD: Prior to further flight, remove the discrepant fastener, and perform a rotating probe inspection to detect discrepancies of the fastener holes, in accordance with Airbus Service Bulletin A300–53–6110, dated April 8, 1997.

(1) If no discrepancy is found in any fastener hole, prior to further flight, install a new fastener, in accordance with the service bulletin. Thereafter, repeat the inspections required by paragraph (a) of this AD at intervals not to exceed 2,400 flight cycles.

(2) If any discrepancy is found in any fastener hole, prior to further flight, except as provided by paragraph (e) of this AD, repair in accordance with the service bulletin, and accomplish the actions required by paragraph (c) of this AD.

(c) If any crack is found in the doubler angle during any detailed visual inspection performed in accordance with paragraph (a) of this AD, prior to further flight, modify the doubler angle in accordance with Airbus Service Bulletin A300–53–6063, dated December 12, 1996. Accomplishment of the modification constitutes terminating action for both repetitive inspection requirements of this AD.

(d) Accomplishment of the modification in accordance with Airbus Service Bulletin A300–53–6063, dated December 12, 1996, constitutes terminating action for the repetitive inspection requirements of this AD.

(e) If any discrepancy of a fastener hole is found during any inspection of a discrepant fastener as required by paragraph (b) of this AD, and the service bulletin specifies to contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–383–240(B), dated December 17, 1997.

Issued in Renton, Washington, on May 13, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13311 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Airspace Docket No. 97–AWA–6

RIN 2120 AA66

Proposed Modification of the San Diego Class B Airspace Area; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the San Diego, CA, Class B airspace area. Specifically, this action proposes to lower the upper limit of the San Diego Class B airspace area from 12,500 feet mean sea level (MSL) to 10,000 feet MSL; expand the western and eastern boundaries of the airspace area; and move the southern boundary north to align with the POGGI Very High Frequency Omnidirectional Range Tactical Air Navigation (VORTAC). The FAA is proposing this action to improve the flow of air traffic, enhance safety, and reduce the potential for midair collision in the San Diego Class B airspace area while accommodating the concerns of airspace users.

DATES: Comments must be received on or before July 20, 1998.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 97–AWA–6, 800 Independence Avenue, SW., Washington DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@mail.hq.faa.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and should be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AWA–6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Federal Register's electronic bulletin board service (telephone: 202–512–1661), using a modem and suitable communications software.

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's web page at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677 for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65655). This rule discontinued the use of the term "Terminal Control Area" and replaced it with the designation "Class B airspace area." This change in terminology is reflected in this NPRM.

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increases the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Class B airspace areas. To date, the FAA has established a total of 29 Class B airspace areas. The FAA is proposing to take action to modify or implement the application of these proven control areas to provide greater protection for air traffic in the airspace areas most commonly used by passenger-carrying aircraft.

The standard configuration of a Class B airspace area contains three

concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limit of a Class B airspace area normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Related Rulemaking Actions

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated Class B airspace area primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

Pre-NPRM Public Input

In early 1996 the San Diego Airspace Users Group (SDAUG), an ad hoc committee which represents all major users and the United States Marine Corps (USMC), proposed a review of the current San Diego Class B airspace area. The review was prompted as a result of the addition of diversified Marine helicopter and fixed-wing assets at Naval Air Station Miramar, CA, which was renamed Marine Corps Air Station (MCAS) Miramar on October 1, 1997. The committee recognized a need to provide greater protection for arriving and departing turbojet aircraft at MCAS Miramar, and facilitate a method for easier circumnavigation of the Class B airspace area by nonparticipating aircraft.

The SDAUG analyzed the San Diego Class B airspace area and developed recommendations for modifying the existing airspace design. The group met regularly at various locations throughout the San Diego area for approximately one year, and submitted written comments concerning a modification of the San Diego Class B airspace area.

As announced in the **Federal Register** on August 12, 1996, (61 FR 41818), two pre-NPRM airspace meetings were held on October 2, 1996, in San Diego, CA, and October 16, 1996, in San Marcos, CA. The purpose of these meetings was to provide local airspace users an opportunity to present input on the design of the planned modifications of the San Diego Class B airspace area. All comments received in response to the informal airspace meetings and the subsequent comment periods were considered and/or incorporated into this notice of proposed modification. Verbal and written comments received by the FAA and the Agency's responses are summarized below.

Analysis of Comments

Some commenters expressed concern that lower performance aircraft departing Montgomery Field could not remain clear of the ceiling of the proposed San Diego Class B airspace area without circling over a congested area.

The FAA agreed with this concern and, as a result, removed a portion of airspace from the proposed design southwest of MCAS Miramar. The design as proposed would shift the boundary slightly north in this area and would allow those aircraft operating VFR and departing Runway 28R at Montgomery Field the opportunity to climb straight ahead until past the shoreline, thus providing additional climb mileage.

A comment was received regarding the addition to Area I northeast of MCAS Miramar. The concern was that by adding to Area I as described in the planned modification, aircraft departing Gillespie Field could experience problems remaining clear of the Class B airspace area.

The FAA agrees in part with this comment. The addition of this area to Area I was necessary to contain high performance aircraft within Class B airspace while executing the Tactical Air Navigation System (TACAN) Runway 24R approach at Miramar. However, to mitigate this concern, a portion of the depiction of the VFR flyway in this area was moved one mile, placing it east of a prominent geographical landmark (the island in the middle of the San Vincente Reservoir), which would establish an easily recognizable visual boundary and allow for VFR navigation clear of terrain. The proposed VFR flyway depiction has been modified to pass east of the island in San Vincente Reservoir, providing a clearer visual depiction of the Class B airspace area.

The Proposed Amendment

The FAA proposes to amend 14 CFR part 71 by modifying the San Diego Class B airspace area. Specifically, this proposal (depicted in the attached chart) would lower the upper limit of the San Diego Class B airspace area from 12,500 feet MSL to 10,000 feet MSL, expand the western and eastern boundaries, and move the southern boundary northward to align with the POGGI VORTAC. This change would improve the boundary definition and decrease the overall size of the Class B airspace. The amended design includes a redundant system of boundary depiction to the maximum extent. The primary boundary definition uses latitude and longitude points (Global Positioning System [GPS] waypoints) and, wherever feasible, the boundaries are also aligned with reference to existing ground-based navigational aids and prominent geographical landmarks. The proposed modification of the San Diego Class B airspace area results in net reduction in the size of Class B airspace, while improving the containment of turbo-jet aircraft within the Class B airspace area. This would constitute improved efficiency of the airspace and a clearer definition of Class B airspace area boundaries to aid VFR GA aircraft.

Regulatory Evaluation Summary

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) would generate benefits that justify its minimal costs and is not a "significant regulatory action" as defined in the Executive Order; (2) is

not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble and the full Regulatory Evaluation is in the docket.

The Federal Aviation Administration (FAA) proposes to modify the San Diego International Lindbergh Airport Class B airspace area by lowering the ceiling from 12,500 feet MSL to 10,000 feet MSL, expanding and moving lateral boundaries, and modifying base altitudes. As a result of relocation of turbojet aircraft and helicopters to Marine Corps Air Station (MCAS) Miramar, the FAA has determined that modification of the San Diego Class B airspace area would improve the efficiency of aircraft movement in the airspace and enhance safety for VFR and IFR airspace users.

The proposed modifications would generate several benefits for system users. These benefits include clearer boundaries defining the Class B airspace sub-areas, greater flexibility in navigating the airspace for VFR operators, increased airspace for aircraft transitioning to and from satellite airports, improved containment for turbojet aircraft arriving and departing MCAS Miramar (containment refers to aircraft operating in controlled airspace and receiving ATC separation from other aircraft), and reduced potential for midair collisions in the San Diego terminal area.

The proposed rule would impose minimal costs on FAA or airspace users. Printing of aeronautical charts which reflect the changes to the Class B airspace would be accomplished during a scheduled chart printing, and would result in no additional costs for plate modification and updating of charts. Notices would be sent to all pilots within a 100-mile radius of the San Diego airport at a total cost of $100.00 for postage. No staffing changes would be required to maintain the modified Class B airspace.

The San Diego Class B airspace would be designated by a triple redundant boundary depiction system which uses longitude and latitude (GPS waypoints), existing navaids, and visual references to identify the airspace boundaries. These three options, two of which are available currently, will not cause airspace users to incur any additional equipment costs. In view of the minimal cost of compliance, enhanced safety, and operational efficiency, the FAA has determined that the proposed rule would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small businesses and other small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility analysis if a rule will have a significant economic impact on a substantial number of small entities.

The FAA certifies that this proposed rule would impose only minimal additional costs (for notices sent to pilots informing them of the proposed airspace modification) upon potential operators in the San Diego Class B airspace. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed rule would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million adjusted annually for inflation in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan. That plan, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace

* * * * *

AWP CA B San Diego, CA [Revised]

San Diego, (Lindbergh Field), CA (Primary Airport)
(lat. 32°44′01″N., long. 117°11′23″W.)
MCAS Miramar, Miramar, CA (Primary Airport)
(lat. 32°52′06″N., long. 117°08′33″W.)
POGGI VORTAC (PGY)
(lat. 32°36′37″N., long. 116°58′45″W.)
Oceanside VORTAC (OCN)
(lat. 33°14′26″N., long. 117°25′04″W.)
Julian VORTAC (JLI)
(lat. 33°08′26″N., long. 116°35′09″W.)
Mission Bay VORTAC (MZB)
(lat. 32°46′56″N., long. 117°13′32″W.)

Boundaries

Area A. That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the JLI 262° radial and the eastern edge of Warning Area 291 (W–291) (lat. 32°59′31″N., long. 117°47′25″W.); thence east via the JLI 262° radial to intercept the MZB 325° radial

(lat. 33°02'13"N., long. 117°26'14"W.); thence southeast via the MZB 325° radial to intercept the JLI 257° radial (lat. 32°58'53"N., long. 117°23'27"W.); thence west via the JLI 257° radial to intercept the OCN 200° radial (lat. 32°57'02"N., long. 117°32'35"W.); thence south via the OCN 200° radial to the intersection of the OCN 200° radial and the eastern edge of W–291 (lat. 32°45'23"N., long. 117°37'35"W.); thence northwest via the eastern edge of W–291 to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the eastern edge of W–291 and the OCN 200° radial (lat. 32°45'23"N., long. 117°37'35"W.); thence north via the OCN 200° radial to intercept the JLI 257° radial (lat. 32°57'02"N., long. 117°32'35"W.); thence east via the JLI 257° radial to intercept the OCN 182° radial (lat. 32°58'25"N., long. 117°25'44"W.); thence south via the OCN 182° radial to intercept the PGY 290° radial (lat. 32°45'02"N., long. 117°26'17"W.); thence east via the PGY 290° radial to the intersection of the PGY 290° radial and the 32°43'22" latitude line (lat. 32°43'22"N., long. 117°20'47"W.); thence east via the 32°43'22" latitude line to intercept the OCN 171° radial (lat. 32°43'22"N., long. 117°19'15"W.); thence south via the OCN 171° radial to intercept the PGY 279° radial (lat. 32°39'14"N., long. 117°18'28"W.); thence west via the PGY 279° to intercept the eastern edge of W–291 (lat. 32°41'27"N., long. 117°35'27"W.); thence northwest along the eastern edge of W–291 to the point of beginning.

Area C. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 182° and the JLI 257° radials (lat. 32°58'25"N., long. 117°25'44"W.); thence east via the JLI 257° radial to intercept the MZB 325° radial (lat. 32°58'53"N., long. 117°23'27"W.); thence southeast via the MZB 325° radial to intercept the OCN 167° radial (lat. 32°54'08"N., long. 117°19'31"W.); thence south via the OCN 167° radial to intercept the MZB 310° radial (lat. 32°50'28"N., long. 117°18'30"W.); thence southeast via the MZB 310° radial to the Mission Bay VORTAC; thence west via the MZB 279° radial to intercept the OCN 171° radial (lat. 32°47'48"N., long. 117°20'04"W.); thence south via the OCN 171° radial to the intersection of the OCN 171° radial and the 32°43'22" latitude line (lat. 32°43'22"N., long. 117°19'15"W.); thence west via the 32°43'22" latitude line to intercept the PGY 290° radial (lat. 32°43'22"N., long. 117°20'47"W.); thence west via the PGY 290° radial to intercept the OCN 182° radial (lat. 32°45'02"N., long. 117°26'17"W.); thence north via the OCN 182° radial to the point of beginning.

Area D. That airspace extending upward from 1,800 feet MSL to and including 3,200 feet MSL and that airspace extending upward from 6,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of MZB 325° and the JLI 257° radials (lat. 32°58'53" N., long. 117°23'27" W.); thence southeast direct to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54'31" N., long. 117°13'39" W.); thence south direct to the intersection of I–5 and Genessee Avenue (lat. 32°53'13" N., long. 117°13'40" W.); thence south direct to the intersection of Genessee Avenue and Route 52 (lat. 32°50'49" N., long. 117°12'08" W.); thence northwest direct to the intersection of the westerly extension of the Montgomery Field Runway 10L/28R centerline and the OCN 167° radial (lat. 32°53'11" N., long. 117°19'15" W.); thence north via the OCN 167 radial to intercept the MZB 325° radial (lat. 32°54'08" N., long. 117°19'31" W.); thence northwest via the MZB 325° radial to the point of beginning.

Area E. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the MZB 008° and the JLI 252° radials (lat. 32°58'21" N., long. 117°11'37" W.); thence east via the JLI 252° radial to intercept the OCN 135° radial (lat. 32°59'32" N., long. 117°07'24" W.); thence southeast via the OCN 135° radial to intercept the MZB 027° radial (lat. 32°58'45" N., long. 117°06'29" W.); thence southwest via the MZB 027° radial to intercept the JLI 247° radial (lat. 32°56'45" N., long. 117°07'35" W.); thence southwest via the JLI 247° radial to intercept the MZB 008° radial (lat. 32°55'05" N., long. 117°12'10" W.); thence north via the MZB 008° radial to the point of beginning.

Area F. That airspace extending upward from the surface to and including 3,200 feet MSL and that airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54'31" N., long. 117°13'39" W.); thence southeast direct to the departure end of MCAS Miramar Runway 24R (lat. 32°51'49" N., long. 117°09'55" W.); thence east direct to the approach end of MCAS Miramar Runway 28 centerline (lat. 32°51'57" N., long. 117°07'37" W.); thence east direct to the intersection of the Gillespie Field Class D airspace area and a line extending west from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°51'14" N., long. 117°03'03" W.); thence southwest direct to the intersection of the Gillespie Field Class D airspace area and the MZB 065° radial (lat. 32°51'00" N., long. 117°03'10" W.); thence west direct to the intersection of Santo Road, Route 52, and the 32°50'25" N. latitude line (lat. 32°50'25" N., long. 117°05'48" W.); thence west via the 32°50'25" N. latitude line to the intersection of 32°50'25" N. latitude line and Route 52 (lat. 32°50'25" N., long. 117°09'50" W.); thence northwest direct to the intersection of Route 52 and I–805 (lat. 32°50'50" N., long. 117°10'40" W.); thence west direct to the intersection of Route 52 and Genessee Avenue (lat. 32°50'49" N., long. 117°12'08" W.); thence northwest direct to the intersection of I–5 and Genessee Avenue (lat. 32°53'13" N., long. 117°13'40" W.); thence north via I–5 to the point of beginning.

Area G. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 247° radials (lat. 32°57'38" N., long. 117°05'10" W.); thence southeast via the OCN 135° radial to intercept the south boundary line of the MCAS Miramar Class E airspace area (lat. 32°52'03" N., long. 116°58'35" W.); thence west along the southern boundary line to the intersection of the southern boundary line and the Gillespie Field Class D airspace area 4.3-mile arc (lat. 32°51'14" N., long. 117°03'03" W.); thence west direct to the approach end of MCAS Miramar Runway 28 (lat. 32°51'57" N., long. 117°07'37" W.); thence west direct to the departure end of MCAS Miramar Runway 24R (lat. 32°51'49" N., long. 117°09'55" W.); thence northwest direct to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54'31" N., long. 117°13'39" W.); thence northeast via the JLI 247° radial to the point of beginning.

Area H. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 247° radial (lat. 32°57'38" N., long. 117°05'10" W.); thence northeast via the JLI 247° radial to intercept the OCN 130° radial (lat. 32°58'33" N., long. 117°02'38" W.); thence southeast via the OCN 130° radial to the PGY 006° radial (lat. 32°54'12" N., long. 116°56'33" W.); thence south via the PGY 006° radial to the southern boundary line of the MCAS Miramar Class E airspace area (lat. 32°52'22" N., long. 116°56'47" W.); thence west along the southern boundary line to intercept the OCN 135° radial (lat. 32°52'03" N., long. 116°58'35" W.); thence northwest via the OCN 135° radial to the point of beginning.

Area I. That airspace extending upward from 3,200 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 130° and the JLI 247° radials (lat. 32°58'33" N., long. 117°02'38" W.); thence northeast via the JLI 247° radial to intercept the OCN 127° radial (lat. 32°59'08" N., long. 117°01'01" W.); thence southeast via the OCN 127° radial to intercept the PGY 010° radial (lat. 32°55'11" N., long. 116°54'52" W.); thence south via the PGY 010° radial to the southern boundary line of the MCAS Miramar Class E airspace area (lat. 32°52'37" N., long. 116°55'24" W.); thence west along the southern boundary line to intercept the PGY 006° radial (lat. 32°52'22" N., long. 116° 56'47" W.); thence north via the PGY 006° radial to intercept the OCN 130° radial (lat. 32°54'12" N., long. 116°56'33" W.); thence northwest via the OCN 130° radial to the point of beginning.

Area J. That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the southern boundary line of the MCAS Miramar Class E airspace area and the OCN 132° radial (lat. 32°52'28" N., long. 116°56'13" W.); thence southeast via the OCN 132° radial to intercept the JLI 201° radial (lat. 32°44'36" N., long. 116°45'59" W.); thence south via the JLI 201° radial to intercept the PGY 083° radial (lat. 32°37'37" N., long. 116°49'08" W.); thence west via the PGY 083° radial to the POGGI VORTAC; thence northeast via the PGY 069 radial to intercept the JLI 207° radial (lat. 32°38'25" N., long. 116°53'13" W.); thence northeast via the JLI 207° radial to intercept the MZB 099° radial (lat. 32°43'45" N., long. 116°50'02" W.); thence west via the MZB 099° radial to the Mission Bay VORTAC; thence via the MZB 310° radial to intercept the OCN 167° radial (lat. 32°50'28" N., long. 117°18'30"

W.); thence north via the OCN 167° radial to intercept the westerly extension of the Montgomery Field Runway 10L/28R centerline (lat. 32°53′11″ N., long. 117°19′15″ W.); thence southeast direct to the intersection of Route 52 and Genessee Avenue (lat. 32°50′49″ N., long. 117°12′08″ W.); thence east direct to the intersection of Route 52 and I–805 (lat. 32°50′50″ N., long. 117°10′40″ W.); thence southeast direct to the intersection of Route 52 and the 32°50′25″ N. latitude line (lat. 32°50′25″ N., long. 117°09′50″ W.); thence east along the 32°50′25″ N. latitude line to the intersection of the 32°50′25″ N. latitude line, Route 52, and Santo Road (lat. 32°50′25″ N., long. 117°05′48″ W.); thence east direct to the intersection of the MZB 065° radial and the Gillespie Field Class D airspace area (lat. 32°51′00″ N., long. 117°03′10″ W.); thence northeast direct to the intersection of the Gillespie Field Class D airspace area and a line extending west from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°51′14″ N., long. 117°03′03″ W.); thence east via the southern boundary line to the point of beginning.

Area K. That airspace extending upward from 5,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 132° and the MZB 091° radials (lat. 32°46′31″ N., long. 116°48′29″ W.); thence east via the MZB 091° radial to intercept the JLI 191° radial (lat. 32°46′22″ N., long. 116°40′14″ W.); thence south via the JLI 191° radial to intercept the PGY 083° radial (lat. 32°38′20″ N., long. 116°42′04″ W.); thence west via the PGY 083° radial to intercept the JLI 201° radial (lat. 32°37′37″ N., long. 116°49′08″ W.); thence north via the JLI 201° radial to intercept the OCN 132° radial (lat. 32°44′36″ N., long. 116°45′59″ W.); thence northwest via the OCN 132° radial to the point of beginning.

Area L. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at the intersection of the OCN 171° and the MZB 279° radials (lat. 32°47′48″N., long. 117°20′04″W.); thence east via the MZB 279° radial to the Mission Bay VORTAC; thence east via the MZB 099° radial to the MZB 099° radial 10 DME fix (lat. 32°45′21″N., long. 117°01′49″W.); thence south direct to the intersection of the MZB 10-mile arc and the easterly extension of the Lindbergh Field Runway 09/27 centerline (lat. 32°42′02″N., long. 117°03′11″W.); thence southwest direct to the intersection of the PGY 300° radial and the MZB 10-mile arc (lat. 32°39′47″N., long. 117°05′13″W.); thence northwest via the PGY 300° radial to the PGY 300° radial 13.5 DME fix (lat. 32°43′22″N., long. 117°12′36″W.); thence west direct to the OCN 171° radial 31.4 DME fix (lat. 32°43′22″N., long. 117°19′15″W.); thence north via the OCN 171° radial to the point of beginning; excluding the VFR corridor described as that airspace extending upward from 3,301 feet MSL to, but not including, 4,700 feet MSL in an area beginning at the Mission Bay VORTAC; thence east direct to the intersection of I–8, I–805, and the MZB 099° radial (lat. 32°46′11″N., long. 117°07′55″W.); thence south direct to intersection of I–5 and Highway 94 (lat. 32°42′49″N., long. 117°08′51″W.); thence southerly via I–5 to the intersection of I–5 and the MZB 10-mile arc (lat. 32°39′00″N., long. 117°06′17″W.); thence clockwise via the MZB 10-mile arc to intersect the Silver Strand Boulevard (lat. 32°37′54″N., long. 117°08′23″W.); thence northwesterly via the Silver Strand Boulevard to the Hotel del Coronado (south end of Coronado Island) (lat. 32°40′51″N., long. 117°10′41″W.); thence north direct to the point of beginning.

Area M. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 10 DME fix (lat. 32°45′21″N., long. 117°01′49″W.); thence east via the MZB 099° radial to the MZB 099° radial 13 DME fix (lat. 32°44′53″N., long. 116°58′18″W.); thence south direct to the intersection of the easterly extension of the Lindbergh Field Runway 09/27 centerline and the MZB 13-mile arc (lat. 32°41′11″N., long. 116°59′42″W.); thence southwest direct to the intersection of the MZB 13-mile arc and the PGY 300° radial (lat. 32°38′14″N., long. 117°02′03″W.); thence northwest via the PGY 300° radial to the intersection the PGY 300° radial and the MZB 10-mile arc (lat. 32°39′47″N., long. 117°05′13″W.); thence northeast direct to the intersection of the Lindbergh Field Runway 09/27 centerline and the MZB 10-mile arc (lat. 32 42′02″N., long. 117°03′11″W.); thence north direct to the point of beginning.

Area N. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 13 DME fix (lat. 32°44′53″N., long. 116°58′18″W.); thence east via the MZB 099° radial to the MZB 099° radial 15 DME fix (lat. 32°44′34″N., long. 116°55′58″W.); thence south direct to the intersection of the easterly extension of the Lindbergh Field Runway 09/27 centerline and the MZB 15-mile arc (lat. 32°40′37″N., long. 116°57′24″W.); thence southwest direct to the intersection of the MZB 15-mile arc and the PGY 300° radial (lat. 32°37′13″N., long. 116°59′58″W.); thence northwest via the PGY 300° radial to the PGY 300° radial 13 DME fix (lat. 32°38′14″N., long. 117°02′03″W.); thence northeast direct to the intersection of the Lindbergh Field Runway 09/27 centerline and the MZB 13-mile arc (lat. 32°41′11″N., long. 116°59′42″W.); thence north direct to the point of beginning.

Area O. That airspace extending upward from 3,500 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 15 DME fix (lat. 32°44′34″N., long. 116°55′58″W.); thence east via the MZB 099° radial to intercept the JLI 207° radial (lat. 32°43′45″N., long. 116°50′02″W.); thence southwest along the JLI 207° radial to intercept the PGY 069° radial (lat. 32°38′25″N., long. 116°53′13″W.); thence southwest via the PGY 069° radial to the POGGI VORTAC; thence northwest via the PGY 300° radial to intercept the MZB 15-mile arc (lat. 32°37′13″N., long. 116°59′58″W.); thence northeast direct to the intersection of the MZB 15-mile arc and the easterly extension of the Lindbergh Field Runway 09/27 centerline (lat. 32°40′37″N., long. 116°57′24″W.); thence north direct to the point of beginning.

Area P. That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the PGY 279° radial and the eastern edge of W–291 (lat. 32°41′27″N., long. 117°35′27″W.); thence east via the PGY 279° radial to the intersection of the PGY 279° radial, the MZB 10-mile arc, and Silver Strand Boulevard (lat. 32°37′54″N., long. 117°08′23″W.); thence northeast direct to the intersection of the MZB 10-mile arc and I–5 (lat. 32°39′00″N., long. 117°06′17″W.); thence northeast direct to the intersection of MZB 10-mile arc and the PGY 300° radial (lat. 32°39′47″N., long. 117°05′13″W.); thence southeast via the PGY 300° radial to the POGGI VORTAC; thence west via the PGY 264° radial to the eastern edge of W–291 (lat. 32°33′40″N., long. 117°31′13″W.); thence north via the eastern edge of W–291 to the point of beginning.

Area Q. That airspace extending upward from 2,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 171° radial 31.4 DME fix (lat. 32°43′22″N., long. 117°19′15″W.); thence east direct to the intersection of the PGY 300° radial 13.5 DME fix (lat. 32°43′22″N., long. 117°12′36″W.); thence southeast via the PGY 300° radial to the intersection of the PGY 300° radial and the MZB 10-mile arc (lat. 32°39′47″N., long. 117°05′13″W.); thence southwest direct to the intersection of the MZB 10-mile arc and I–5 (lat. 32°39′00″N., long. 117°06′17″W.); thence southwest direct to the intersection of the PGY 279° radial, the MZB 10-mile arc, and Silver Strand Boulevard (lat. 32°37′54″N., long. 117°08′23″W.); thence west via the PGY 279° radial to intercept the OCN 171° radial (lat. 32°39′14″N., long. 117°18′28″W.); thence north via the OCN 171° radial to the point of beginning; excluding that airspace contained in the VFR corridor as described in Area L.

Area R. That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 257° radials (lat. 33°01′36″N., long. 117°09′51″W.); thence east via the JLI 257° radial to intercept the OCN 115° radial (lat. 33°03′53″N., long. 116°58′19″W.); thence via the OCN 115° radial to intercept the PGY 019° radial (lat. 33°00′13″N., long. 116°49′06″W.); thence south via the PGY 019° radial to intercept the OCN 121° radial (lat. 32°56′51″N., long. 116°50′29″W.); thence northwest via the OCN 121° radial to intercept the JLI 247° radial (lat. 33°00′25″N., long. 116°57′28″W.); thence southwest via the JLI 247° radial to intercept the MZB 027° radial (lat. 32°56′45″N., long. 117°07′35″W.); thence northeast via the MZB 027° radial to intercept the OCN 135° radial (lat. 32°58′45″N., long. 117°06′29″W.); thence northwest via the OCN 135° radial to the point of beginning.

Area S. That airspace extending upward from 6,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the JLI 262° and the MZB 325° radials (lat. 33°02′13″N., long. 117°26′14″W.); thence east via the JLI 262° radial to intercept the OCN 115° radial (lat. 33°05′14″N., long. 117°01′43″W.); thence southeast via the OCN 115° radial to intercept the JLI 257° radial (lat. 33°03′53″N., long. 116°58′19″W.); thence west via the JLI 257° radial to intercept the

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MZB 008° radial (lat. 33°01'21"N., long. 117°11'07"W.); thence south via the MZB 008° radial to intercept the JLI 247° radial (lat. 32°55'05"N., long. 117°12'10"W.); thence southwest via the JLI 247° radial to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54'31"N., long. 117°13'39"W.); thence northwest direct to the intersection of the JLI 257° and the MZB 325° radials (lat. 32°58'53"N., long. 117°23'27"W.); thence northwest via the MZB 325° radial to the point of beginning.

Area T. That airspace extending upward from 3,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 127° and the JLI 247° radials (lat. 32°59'08"N., long. 117°01'01"W.); thence northeast via the JLI 247° radial to intercept the OCN 121° radial (lat. 33°00'25"N., long. 116°57'28"W.); thence southeast via the OCN 121° radial to intercept the PGY 019° radial (lat. 32°56'51"N., long. 116°50'29"W.); thence south via the PGY 019° radial to intercept a line extending east from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°53'14"N., long. 116°51'58"W.); thence west along the southern boundary line to intercept the PGY 010° radial (lat. 32°52'37"N., long. 116°55'24"W.); thence north via the PGY 010° radial to intercept the OCN 127° radial (lat. 32°55'11"N., long. 116°54'52"W.); thence northwest via the OCN 127° radial to the point of beginning.

Area U. That airspace extending upward from 3,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the MZB 008° and the JLI 257° radials (lat. 33°01'21"N., long. 117°11'07"W.); thence east via the JLI 257° radial to intercept the OCN 135° radial (lat. 33°01'36"N., long. 117°09'51"W.); thence southeast via the OCN 135° radial to intercept the JLI 252° radial (lat. 32°59'32"N., long. 117°07'24"W.); thence southwest via the JLI 252° radial to intercept the MZB 008° radial (lat. 32°58'21"N., long. 117°11'37"W); thence north via the MZB 008° radial to the point of beginning.

Issued in Washington, DC, on May 12, 1998.

John S. Walker,

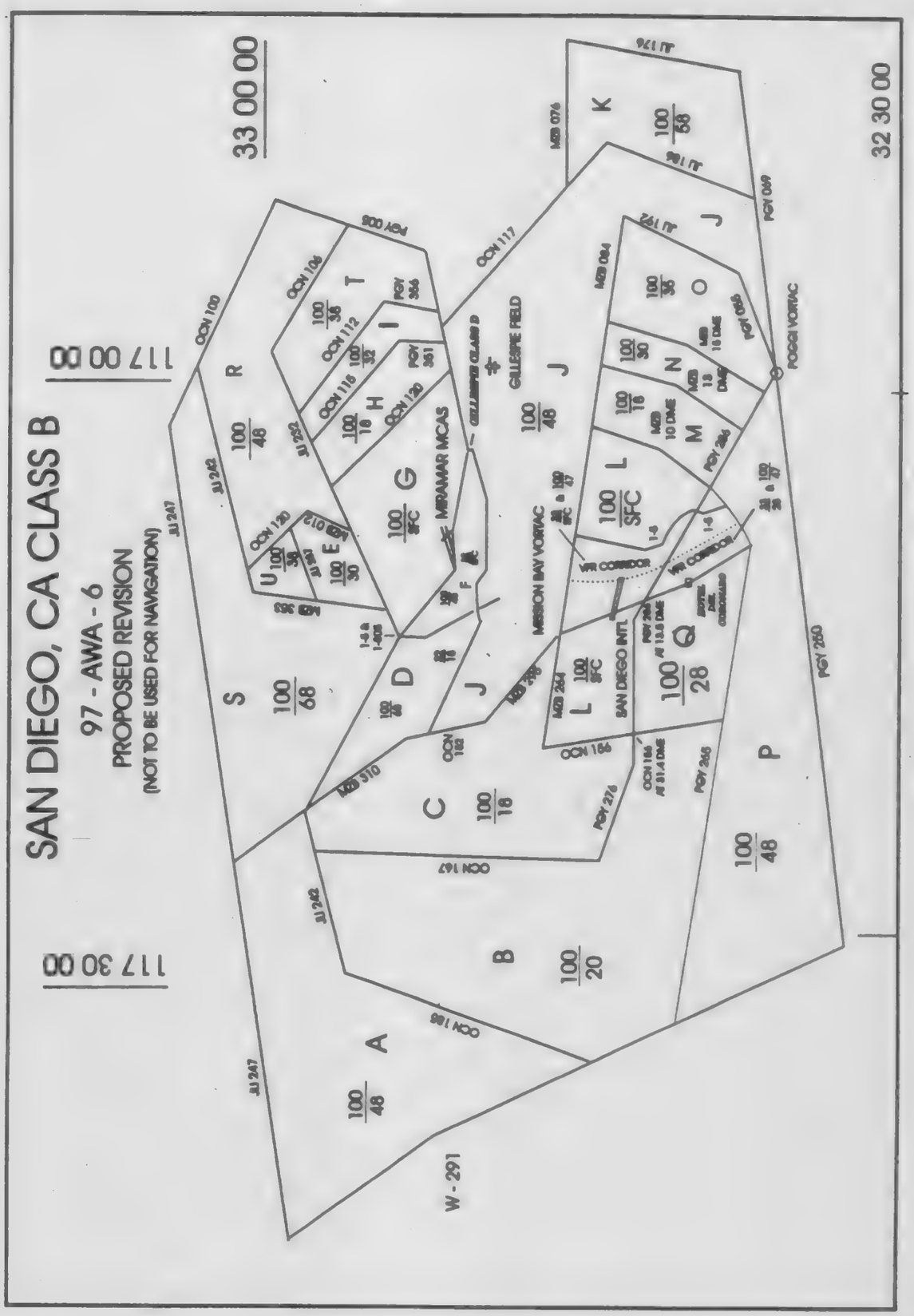
Program Director for Air Traffic Airspace Management.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix—San Diego, CA, Class B Airspace Area.

BILLING CODE 4910–13–P

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[FR Doc. 98–13263 Filed 5–18–98; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 161

[Docket No. RM98–7–000]

Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet

May 13, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Standards of Conduct regulations to require that interstate natural gas pipelines identify the names and addresses of their marketing affiliates on their web sites on the Internet and update the information within three business days of any change. Pipelines would also be required to state the dates the information was last updated.

DATES: Written comments must be received by the Commission by June 19, 1998.

ADDRESSES: File comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Stuart Fischer, Office of General Counsel, Federal Energy Regulatory Commission 888 First Street, NE., Washington, DC 20426. Telephone: (202) 208–1033.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn System Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Notice of Proposed Rulemaking

May 13, 1998.

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations in Part 161.3 to require that interstate natural gas pipelines identify the names and addresses of their marketing affiliates on their web sites on the Internet. By doing so, the Commission will make it easier for the public to identify each interstate gas pipeline's current marketing affiliates. The Commission believes that the new regulation is necessary to further assist its oversight efforts as well as to permit shippers to effectively monitor transportation transactions between pipelines and their affiliated marketers.

I. Background

The Commission, in Order Nos. 497 *et seq.*[1] and Order Nos. 566 *et seq.*[2] established rules intended to prevent interstate natural gas pipelines from providing preferential treatment to their marketing or brokering affiliates. Specifically, the Commission adopted Standards of Conduct (codified at Part 161 of the Commission's regulations)[3] and reporting requirements (codified in sections 161.3(h)(2) and 250.16).[4]

The Standards of Conduct govern the relationships between pipelines and their marketing affiliates. In general, they provide that pipelines and their marketing affiliates must function independently of each other. Pipelines cannot favor their marketing affiliates in providing transportation services or in providing transportation information or transportation discounts not available to non-affiliates.

Currently, there is no requirement in the Commission's regulations for pipelines to report the names of their marketing affiliates or changes in the status of marketing affiliates through, for example, acquisitions of new affiliates, or divestitures, consolidations, or name changes of prior affiliates. While pipelines are required to list all of their affiliated entities, including marketing entities, in their annual Form No. 2 filings, annual data cannot keep abreast of changes, and the Form No. 2 does not require pipelines to identify which entities are "marketing" or "brokering"

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] 18 CFR 161.3 (1997).

[4] 18 CFR 161.3(h)(2) and 250.16 (1997).

affiliates as defined under section 161.2(c) of the Commission's regulations.[5]

Despite the absence of a specific regulatory requirement to identify marketing affiliates, several pipelines have identified the names of their marketing affiliates in their tariffs and/or standards of conduct and filed updates whenever there were changes in identity. However, two pipelines recently decided to stop listing the names of their marketing affiliates in their standards of conduct because of the administrative burden of filing the information.[6] As discussed below, by requiring the affiliate information to be posted on the Internet, pipelines will be able to provide up-to-date information with minimal administrative burden.

II. Proposed Changes to Regulations

The Commission proposes to add section 161.3(l), which would require pipelines to post on their web sites on the Internet, the names and addresses of their marketing affiliates and to update this information within three business days of any change. A pipeline would also be required to state the date the information was last updated. In Order No. 587 *et seq.*, the Commission began phasing out the use of electronic bulletin boards in favor of posting information on pipeline web sites on the Internet.[7] The standards for Internet posting are set out in section 284.10 of the Commission's regulations, as amended in Order No. 587–G.[8]

III. Discussion

The Commission believes that the new regulation is necessary to further assist its oversight efforts as well as to enable the public to monitor pipeline-affiliate transactions. It is important for the public and the Commission to have an updated picture of the pipelines' marketing affiliates to determine if pipelines are complying with the regulatory requirements. Marketing affiliations change rapidly in today's business climate. In *El Paso* and *Texas Gas*, the pipelines stated that they had made three changes to the lists of their marketing affiliates in the previous year. Moreover, the recent trend of mergers of large pipelines makes it imperative to determine which marketing entities are affiliated with which pipelines.[9] The proposed requirements would ensure that the Commission and the public can identify pipelines' marketing affiliates.

To minimize the burden on pipelines and the Commission's administrative resources, we propose that each pipeline post the names and addresses of its marketing affiliates on the pipeline's web site on the Internet. In this way, the burden on pipelines would be slight, as pipelines already are required to have web sites under Order No. 587–C and would only have to add the affiliate information.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[10] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities. The proposed rules will benefit small entities by making it easier for small customers to monitor pipelines' transactions with their marketing affiliates.

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[11] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[12] This proposed rule falls within the categorical exclusion which specifies that information gathering, analysis, and dissemination are not major federal actions that have a significant effect on the human environment.[13] The proposed rule also falls under the categorical exclusion for rules concerning the sale, exchange, and transportation of natural gas that requires no construction of facilities.[14] Thus, neither an environmental impact statement nor an environmental assessment is required.

VI. Information Collection Statement

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Estimated Annual Burden:

Data collection	No. of respondents	No. of responses	Hours per response	Total annual hours
FERC–592	74	1	5	370

[5] 18 CFR 161.2(c) (1997).

[6] In *El Paso Natural Gas Pipeline Company*, 79 FERC ¶ 61,086 (1997) (*El Paso*), the pipeline stated that it had revised its standards of conduct three times in the previous year to reflect changes to corporate structure or names of marketing affiliates and believed that such filings were unnecessary. The Commission ruled that El Paso did not have to revise its standards of conduct each time the identity of a marketing affiliate changed. More recently, in *Texas Gas Transmission Corp.*, 83 FERC ¶ 61,048 (1998) (*Texas Gas*), the Commission accepted a pipeline's request to delete the names of its marketing affiliates from its standards of conduct. In *El Paso*, the pipeline stated that the names of its marketing affiliates were publicly available through the capacity allocation log on its electronic bulletin board. In *Texas Gas*, the pipeline stated that it would post on its electronic bulletin board a list of its marketing affiliates.

[7] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996); Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997); Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997). In Order No. 587–G, the Commission issued regulations requiring that pipelines conduct all transportation transactions over the Internet, rather than over electronic bulletin boards, by June 1, 1999. 63 FR 20072 (April 23, 1998).

[8] *Id.* (to be codified at 18 CFR 284.10).

[9] Recent examples include Natural Gas Pipeline Company of America's merger with KN Energy, and El Paso Natural Gas Company's merger with Tennessee Gas Pipeline Company and its affiliated pipelines.

[10] 5 U.S.C. 601–612 (1996).

[11] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[12] 18 CFR 380.4 (1997).

[13] 18 CFR 380.4(a)(5) (1997).

[14] 18 CFR 380.4(a)(27) (1997).

Total Annual Hours for Collection (Reporting + Recordkeeping, (if appropriate))=370.

Information Collection costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost per respondent to be the following:

Annualized Capital/Startup Costs	
Annualized Costs (Operations & Maintenance)	$19,492
Total Annualized Costs	$19,492

All pipelines are currently required to maintain web sites and so the Commission estimates that the burden to post the information will be minimal once it has been assembled.

The Office of Management and Budget's (OMB's) regulations require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–592, Marketing Affiliates of Interstate Pipelines.

Action: Proposed collections.

OMB Control No: 1902–0157.

Respondents: Business or other for profit, including small business.

Frequency of Responses: On occasion.

Necessity of the information: The proposed rule revises the requirements contained in 18 CFR 161.3. Pipelines will be required to post their affiliates' names and addresses on the Internet, update this information within three business days of whenever a change takes place, and state the date the information was last updated. These proposed revisions will not change the format of what is currently reported to the Commission. However, the revisions of § 161.3 will require additional information that must be posted on the Internet.

The posting of affiliate information on the Internet meets the Commission's need for access to up-to-date information to monitor self-implementing activities of the pipelines to ensure that transportation services are being carried out in non-discriminatory manner and can also respond to the increased pace of changes in the energy marketplace without unduly burdening market participants. The information is maintained by natural gas pipeline companies involved in transactions with marketing affiliates and their functional equivalents. The Commission through its monitoring activities, collects and analyzes data for use in making decisions. The monitoring activities focus on areas affecting competition such as: preferential treatment to affiliates; cross-subsidization and cost shifting between customers and affiliates; fair access to information; unfair activities and noncompliance with the Commission's regulations.

Additionally, the information is also used by nonaffiliated shippers or others (such as state commissions) to determine whether they have been harmed by affiliate preference and, in some cases, to prepare evidence for formal proceedings following the filing of a complaint.

These data are required to carry out the Commission's policies in accordance with the general authority in Sections 311, 501, and 504 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432) and Sections 4, 5, 7, 8, 10, 14, 16 and 20 of the Natural Gas Act (NGA) (15 U.S.C. 717–717w). The information required is mandatory.

Internal Review: The Commission has reviewed the requirements pertaining to the standards of conduct for interstate natural gas pipeline companies and their marketing affiliates or brokering companies and determined that the proposed revisions are necessary to ensure nondiscriminatory access to the national pipeline grid through the investigation of complaints and allegations of abuses. Requiring such information assists the Commission to protect customers from excessive transportation rates and service discrimination. As pipelines are permitted to implement more nontraditional forms of pricing and service, the Commission will monitor the industry to ensure the pipelines are not being preferential or unduly discriminatory, charging unjust and unreasonable rates, or providing services that are inadequate or undesirable.

These requirements conform to the Commission's plan for efficient information collection, communication, and management through the advancement of information technology within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirement.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 88 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Division of Information Services, Phone: (202) 208–1415, fax: (202) 273–0873, email:michael.miller@ferc.fed.us]

For submitting comments concerning the collection of information(s) and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285]

VII. Comment Procedures

The Commission invites interested persons to submit written comments or other information concerning this proposed rulemaking. All comments in response to this notice must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. RM98–7–000. An original and fourteen (14) copies of such comments should be filed with the Commission on or before June 18, 1998. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's public reference room at 888 First Street, NE, Washington, DC, 20426, during business hours. Additionally, comments can be viewed and printed remotely via the Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

List of Subjects in 18 CFR Part 161

Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission. Commissioner Massey concurred with a separate statement attached.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 161, Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below.

PART 161—STANDARDS OF CONDUCT FOR INTERSTATE PIPELINES WITH MARKETING AFFILIATES

1. The authority citation for Part 161 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

2. In Section 161.3, paragraph (l) is added to read as follows:

§ 161.3 Standards of conduct.

* * * * *

(1) A pipeline must post the names and addresses of its marketing affiliates on its web site on the public Internet and update the information within three business days of any change. A pipeline must also state the date the information was last updated. Postings must conform with the requirements of § 284.10 of this chapter.
(Issued May 13, 1998)

MASSEY, Commissioner, *concurring*:

The general proposal in today's Notice of Proposed Rulemaking has my full support. A requirement that pipelines report on their Internet websites the names of their marketing affiliates or changes in the status of their marketing affiliates is necessary to provide the Commission and the industry with information that may otherwise be unavailable in today's rapidly changing market environment.

The proposal raises one question, however, which I believe should be pursued further. Is the proposed requirement that pipelines update information about their affiliates within three business days of a change in status sufficient to meet the needs of the Commission and the industry at large?

I would prefer a requirement for reporting within 24 hours, and want to make three points related to this issue. First, the NOPR offers no justification for the three day time period. Second, it is widely known that with today's technology, updating information of this nature on a pipeline website is not burdensome. Therefore, the ability to add vital information in a shorter time frame would not be problematic. Finally, the Commission has required companies in the other industries we regulate to make similar updates in a 24-hour time period. For example, the Commission's regulations require electric transmission providers to report to the Commission and on the OASIS each emergency that results in any deviation from the Commission's standards of conduct within 24 hours of the deviation.[1] Pipelines are required to post discounts given to their affiliates within 24 hours of the time at which gas first flows.[2] Hydroelectric power licensees have agreed to reporting deviations from state water quality standards within 24 hours.[3] As the industry contemplates the Commission's proposal, I would welcome comment on this issue.

[1] 18 CFR 37.4(a)(2) (1997).
[2] 18 CFR 161.3(h)(2) (1997).
[3] Wisconsin Electric Power Company, 80 FERC ¶ 62,215 (1997).

William L. Massey,
Commissioner.
[FR Doc. 98–13293 Filed 5–18–98; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

18 CFR Part 385

Federal Energy Regulatory Commission.

[Docket No. PL98–1–000]

Public Access to Information and Electronic Filing; Request For Comments and Notice of Intent to Hold technical Conference

May 13, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Request for Comments for Notice of Intent to Hold Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) intends to develop a comprehensive information management system that accepts filings and disseminates information electronically. The Commission seeks public comment to determine the best way to implement its electronic filing initiative. After reviewing the comments, the Commission intends to hold a technical conference to discuss its implementation process.

DATES: Comments are due June 30, 1998.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Brooks Carter, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 501–8145.
Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, (202) 208–2246.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE, Room 2A, Washington, DC 20426.

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Finally, the complete text on diskette in WorkPerfect format may be purchased from the Commission's copy contractor, La Dorn System Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

I. Introduction

The growing availability and use of electronic media and the increasing competitiveness of the natural gas, oil, and electric industries are compelling the Federal Energy Regulatory Commission (Commission) to manage its information resources more strategically. Advances in information technology (IT) permit the filing and dissemination of information at a faster rate and more cost-effectively than the traditional paper distribution methods.

The Commission's ultimate goal is to improve its use of IT to reduce regulatory burdens, cut processing times, simplify filing processes, and generate better information for use by its staff, regulated industries, and the public. The Commission views its efforts to implement a system for electronic filing and dissemination of information as a large and complex undertaking. It believes that certain

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aspects of electronic filings could be implemented relatively easily in the near future, whereas, other aspects may take more time to develop.

The Commission requests comments to determine the best way to proceed with developing a faster, more cost-efficient electronic system for accepting, processing, and distributing the myriad of filings that it currently receives on paper. The Commission requests input from the industries it regulates and other interested parties, including software developers and standards setting organizations. After reviewing the comments, the Commission intends to hold a technical conference to discuss its implementation process and to establish various working groups to investigate the requirements necessary for the Commission to achieve its goal of moving towards a more efficient, cost-effective, paperless environment and the options available to meet that goal. The Commission will issue a separate, later notice announcing the date, time, and location for the technical conference.

II. Background

On November 7, 1997, the Chairman of the Commission hosted a round table forum to discuss reform of the Commission's regulatory processes. The November 7 symposium focused on public access to information and standards for electronic filing. The round-table forum included Commission staff and representatives of oil and natural gas pipelines, electric utilities, hydropower interests, customer groups, and other agencies with experience in electronic filing. The symposium featured a presentation by officials of the National Energy Board of Canada, who described their electronic filing program, and an on-line demonstration of the Federal Communication Commission's (FCC) Internet World Wide Web Site.[1] Generally, the symposium participants enthusiastically supported the Commission's endeavors to further proceed with electronic filing.

The Commission previously has developed regulations for electronic filing of certain information as part of its ongoing effort to improve its ability to process information and provide information to the public. Gas pipelines file tariffs electronically and file various portions of their rate cases in specified electronic format.[2] Electric utilities proposing to merge file certain competitive analyses data electronically.[3] Electric utilities and licensees who file FERC Form No. 1 file that form electronically.[4] Other reports and forms also are filed electronically.[5] The Commission further has encouraged those who comment on proposed rules to file copies of their comments in electronic format on diskette and by Internet E-Mail.[6]

The Commission believes that electronic filing should be more efficient and cost-effective for both the Commission and those filing with the Commission. For the filer, electronic filing is faster than paper filing and eliminates the need to arrange for messenger or other services to hand deliver paper copies of the Commission. For the Commission, electronic filing eliminates the need to process paper filings, and electronic files are easier, and take less space to store than paper files.

Perhaps even more important, electronic files provide enhanced retrieval and document processing capability. Electronic files can be posted on the Internet or other electronic mediums for viewing and downloading. Search and other electronic cataloguing programs can be used to find specific information. Finally, portions of electronic files can be copied and pasted into other documents.

III. Request for Comments

The Commission requests comments that address the issues and questions raised below.

A. Filing Format

Establishing the format(s) for electronically filed documents creates numerous complex requirements, including finding a format(s) that: (1) is easy for the filing party to create; (2) is easy for the Commission to process electronically with minimal human interaction; (3) can be quickly and accurately published on the Commission's home page for viewing and downloading using most common browsers; (4) complies with the record retention requirements of the National Archives and Records Administration (NARA); and (5) is searchable and from which text or other information can be exported into other documents or applications. Commenters should consider these issues in their comments.

The filings the Commission presently accepts, processes, and distributes vary from routine text-only filings to complex environmental and engineering data in natural gas certificate and hydroelectronic filings that include tables, graphs, charts, maps, blueprints, and photographs. Some of these documents are small and could be filed electronically relatively easily. However, some filings are quite large and may require different consideration. The Commission believes that certain types of documents common to all industries, such as tariff filings, could be filed in the same format. However, the Commission does not believe that one particular format would be suitable for all times of filings.

Possible electronic filing formats include, but are not limited to: native proprietary and non-proprietary word processing spreadsheet, or text formats; Standard Generalized Markup Language (SGML); Hypertext Markup Language (HTML); Extensible Markup Language (XML); Portable Document Format (PDF); and Rich Text Format (RTF).

Each format option has its own particular advantages and limitations. For example, using numerous native proprietary and non-proprietary formats is the least expensive option for filers. However, the Commission would have to support all the different software products and versions. Further, anyone downloading the filed documents would also need the same capabilities unless the Commission converts the documents into one usable format.[7] Converting files raises several additional concerns. Different formats do not always accurately convert into the new format. Some conversions do not preserve the original fonts; certain text enhancements such as bolding and underlining may be eliminated; or the conversion drops footnote numbers or converts them to text. This also creates the problem of verifying the accuracy of the converted document.

HTML works well for major natural gas certificate filings because it is relatively easy to incorporate graphs, charts, and other types of information into HTML documents. However, each word processing or spreadsheet application converts to HTML according

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[1] Commission staff also demonstrated the Commission's Internet site, which came on-line on November 10, 1997.

[2] 18 CFR 154.4; 18 CFR 385.2011(b); Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, 60 FR 53019 (Oct. 11, 1995), FERC Stats. and Regs. Regulation Preambles Jan. 1991 to June 1996 ¶31,026 at 31,517 (Sep. 28, 1995).

[3] Inquiry Concerning the Commission's Merger Policy under the Federal Power Act: Policy Statement, 61 FR 68,595 (Dec. 30, 1996), FERC Stats. & Regs. ¶31,044 at 30,135, 30,138 (1996), *order on reconsideration*, 79 FERC ¶61,321 (1997).

[4] 18 CFR 141.1(b)(2); 18 CFR 385.2011(a)(6).

[5] 18 CFR 385.2011(a).

[6] *See* Standards For Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 58790 (Nov. 19, 1996), FERC Stats. & Regs. Proposed Regulations ¶32,521 (Nov. 13, 1996).

[7] For example, the FCC accepts tariff documents in 44 different formats and converts the documents to PDF files.

to its own specifications and will not always handle sophisticated formatting options. Additionally, hand coding of HTML may be required to improve the presentation of the document.

SGML and XML may be difficult to use and would require users to purchase additional software. Further, the Commission would have to develop the Document Type Definitions for any filings based on those standards. PDF preserves the integrity of the original document, so that the PDF document looks like the document as if it were printed by the original word processing format. It also converts tables and other graphics. However, it has limited search capabilities and filers would have to purchase Adobe Systems Incorporated's software in order to create documents in PDF format.

This is just a partial list of some of the problems and limitations that the Commission perceives as issues in determining the appropriate format(s) for its electronic filing initiative. Below is a list of questions on which the Commission would like comments to assist it in evaluating different formats it could use for electronic filings. This list is not meant to be all inclusive. Commenters are invited to present any additional information that may be relevant to the Commission's investigation. When responding to the questions, the commenter should note if its response is affected by the type of filing it makes and/or by certain industry-specific requirements.[8]

Specifically, the Commission seeks comments on the following: (1) What format(s) should the Commission consider for its different types of filings (please specify)? (2) What are the pros and cons of each format and what should the Commission and/or filer do to remedy the cons? (3) Are there certain filings for which the Commission can implement electronic filing relatively easily in the near future (please specify)? (4) What types of filings will require more time and effort to implement electronic filing (please specify): (5) How do you think the Commission should proceed in selecting which format(s) to use for which filings?

B. Citations

Another problem with electronic filing is maintaining comparability in citation format between electronic and printed versions of a document. The user of an electronic document must be able to locate the appropriate portion of the document cited by someone who used the paper copy.

As discussed above, PDF format is designed to maintain the structure and page formatting of the original document. Another alternative that eliminates the problems of matching page numbers band improves citation accuracy is for the filer to number the paragraphs in the filing. Numbering paragraphs will permit accurate citation because the numbering is not susceptible to changes resulting from margin or printer settings. (6) What citation format should the Commission establish for electronic filings and issued documents?

C. Signatures

The Commission's regulations require that all filings with the Commission must be signed.[9] The existence of such a requirement, created when documents were filed on paper, raises a number of questions when documents are filed electronically. (7) Is the signature requirement important enough to be retained? (8) If the Commission does not require signatures, how would the filing party verify that the contents of the filing are true? (9) If only certain filings need to be signed, should the Commission establish electronic signature requirements for those specific filings (please specify)?

D. Privileged Material

While much of the information filed with the Commission is subject to public disclosure, the Commission's regulations exempt certain information. For example, site-specific historic preservation information in archaeological survey reports is considered non-public information. (10) How should privilege documents be handled? (11) How should documents be filed that are only partially privileged?

E. Methods of Electronic Filing

The Commission currently receives its filings on 3½-inch diskettes formatted for MS–DOS based computers. However, the Commission has found that diskette-type filings: (1) require time-consuming processing; (2) are cumbersome to store; and (3) are susceptible to viruses. In one instance, in Docket No. CP98–97–000 the Commission received, as a demonstration project, a certificate application from Great Lakes Gas Transmission Limited Partnership which was formatted in HTML on a CD–ROM. With some modifications, the Commission posted the application on its Internet site.

There are several methods the Commission can use to accommodate electronic filings. For very simple filings, such as motions to intervene, the Commission can use an HTML form that intervenors can complete interactively. Information from the intervention could be loaded into a service list database, which in turn could be updated on the Commission's web site. In other cases, the Commission could use an HTML form for basic filer information to which the filer would have the ability to attach files and upload them to the Commission via the Internet. (12) which method(s) should the Commission use for electronic filing: (i) the HTML forms approaches discussed below; (ii) computer-to-computer using a leased line/private network; (iii) uploading to the Commission's electronic bulletin board; or (iv) some other method (please specify)? (13) Should the Commission consider different methods for different types of filings (please specify)? (14) How should the Commission handle large filings?

F. The Hearing Process

Electronic filing of documents will affect the Commission's hearing process in a number of ways. Although motions, pleadings, and testimony are filed with the Commission in the same manner as other filings, discovery requests and responses between and among participants generally are not required to be filed. Discovery often involves unique accommodations. For instance, a participant may be invited to review voluminous files of documents related to a particular matter. It may be that only a tiny subset of those documents is eventually introduced at hearing or relied on by witnesses in the proceeding. Exhibits introduced at hearings are also not filed by the participants, but are instead submitted to the court reporter for introduction into the record. Participants at Commission hearings currently rely on paper copies of filed documents, and on paper copies of discovery request, discovery responses, and trial exhibits. (15) How should the discovery process be modified, if at all, to accommodate electronic filing? (16) How should trial exhibits be introduced into the record to accommodate electronic filing? (17) How should trials be conducted if pleadings, testimony, and exhibits have been filed and served electronically?

G. Oaths, Attestations, and Notarization

Certain filings require verification under oath, attestations, or notarization. For example, under Parts 34 of the

[8] The Appendix to this order contains a compendium of the questions contained in the body of the order.

[9] 18 CFR 385.2005 (1997).

Commission's regulations and the Federal Power Act, an application for authority to issue securities requires that the application be signed by an authorized representative and be verified under oath. (18) To the extent such verification is only required by the Commission's regulations and not be statute, are these requirement important enough to be retained? (19) How should the Commission accommodate filings which require verification under oath, attestations, and notarization?

H. Security, Integrity, and Authentication

The security, integrity, and authentication of electronic filings is a significant concern. (20) Should the Commission consider any special authentication or security measures, such as encryption, digital signatures, logon ID's, and passwords? (21) Are special measures only needed for certain documents (please specify)? (22) What steps should the Commission take to detect security breaches in filings? (23) How should the security breaches be handled?

I. Automatic Acknowledgment

The Commission intends to implement an automatic acknowledgment mechanism. (24) How should the Commission provide automatic acknowledgment? (25) Should the receipt be sent to the web browser or by E-Mail? (26) How should the Commission notify the filer of the docket number of an electronic filing in a new proceeding? (27) Would posting the docket number on the Commission's Internet site be sufficient?

J. Service

The Commission's regulations currently do not prevent parties from agreeing to electronic service.[10] The Commission intends to clarify its rules to better facilitate electronic service. Additionally, the Commission presently provides paper copies of its issuances to all parties in a proceeding. It intends to provide electronic service for its issuances in the future. (28) Should the Commission encourage electronic service between parties over the Internet? (29) Should the Commission facilitate electronic service by posting documents on its Internet site or should the party making the filing make it available on its own Internet site? (30) Is it adequate for the Commission to serve notice to the parties in a proceeding that it has issued an order or should it disseminate the order directly to the parties electronically?

[10] *See* 18 CFR 385.2010(f)(2).

IV. Public Comment Procedures

The Commission invites interested persons to submit comments, data views, and other information concerning the matters set out above.

To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their position on the issues raised. Commenters are requested to identify the specific question posed that their discussion addresses and to use appropriate headings. Additionally, commenters should double space their comments.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m., June 30, 1998. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426 and should refer to Docket No. PL98–1–000.

Additionally, comments should be submitted electronically. Commenters are encouraged to file comments using Internet E-Mail.

Comments should be submitted through the Internet by E-Mail to comment.rm@ferc.fed.us in the following format: on the subject line, specify Docket No. PL98–1–000; in the body of the E-Mail message, specify the name of the filing entity and the name, telephone number, and E-Mail address of a contact person; and attach the comment in WordPerfect 6.1 or lower format or in ASCII format as an attachment to the E-Mail message. The Commission will send a reply to the E-Mail to acknowledge receipt. Questions or comments on electronic filing using Internet E-Mail should be directed to Brooks Carter at 202 501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters also can submit comments on computer diskette in WordPerfect 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. PL98–1–000 on the outside of the diskette.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, comments can be viewed and printed remotely via the Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

By direction of the Commission.

Linwood A Watson, Jr.,

Acting Secretary.

Appendix—Index of Questions

For the ease of those submitting comments, the following is a compendium of the questions contained in body of this order:

Filing formats

(1) What format(s) should the Commission consider for its different types of filings (please specify)?

(2) What are the pros and cons of each format and what should the Commission and/or filer do to remedy the cons?

(3) Are there certain filings for which the Commission can implement electronic filing relatively easily in the near future (please specify)?

(4) What types of filings will require more time and effort to implement electronic filing (please specify)?

(5) How do you think the Commission should proceed in selecting which format(s) to use for which filings?

Citations

(6) What citation format should the Commission establish for electronic filings and issued documents?

Signatures

(7) Is the signature requirement important enough to be retained?

(8) If the Commission does not require signatures, how would the filing party verify that the contents of the filing are true?

(9) If only certain filings need to be signed, should the Commission establish electronic signature requirements for those specific filings (please specify)?

Privileged Material

(10) How should privileged documents be handled?

(11 How should documents be filed that are only partially privileged?

Methods of Electronic Filing

(12) Which method(s) should the Commission use for electronic filing: (i) the approaches discussed above; (ii) computer-to-computer using a leased line/private network; (iii) uploading to the Commission's electronic bulletin board; or (iv) some other method (please specify)?

(13) Should the Commission consider different methods for different types of filings (please specify)?

(14) How should the Commission handle large filings?

The Hearing Process

(15) How should the discovery process be modified, if at all, to accommodate electronic filing?

(16) How should trial exhibits be introduced into the record to accommodate electronic filing?

(17) How should trials be conducted if pleadings, testimony, and exhibits have been filed and served electronically?

Oaths, Attestations, and Notarization

(18) To the extent such verification is only required by the Commission's regulations

and not be statute, are these requirements important enough to be retained?

(19) How should the Commission accommodate filings which require verification under oath, attestations, and notarization?

Security, Integrity, and Authentication

(20) Should the Commission consider any special authentication or security measures, such as encryption, digital signatures, logon ID's and passwords?

(21) Are special measures only needed for certain documents (please specify)?

(22) What steps should the Commission take to detect security breaches in filings?

(23) How should the security breaches be handled?

Automatic Acknowledgment

(24) How should the Commission provide automatic acknowledgment?

(25) Should the receipt be sent to the web browser or by E-Mail?

(26) How should the Commission notify the filer of the docket number of an electronic filing in a new proceeding?

(27) Would posting the docket number on the Commission's Internet site be sufficient?

Service

(28) Should the Commission encourage electronic service between parties over the Internet?

(29) Should the Commission facilitate electronic service by posting documents on its Internet site or should the party making the filing make it available on its own Internet site?

(3) Is it adequate for the Commission to serve notice to the parties in a proceeding that it has issued an order, or should it disseminate the order directly to the parties electronically?

[FR Doc. 98–13294 Filed 5–18–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 123

[RIN 1515–AB88]

Foreign-Based Commercial Motor Vehicles in International Traffic

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the Customs Regulations to allow certain foreign-based commercial motor vehicles, which are admitted as instruments of international traffic, to engage in the transportation of merchandise between points in the United States where such transportation is incidental to the immediately prior or subsequent engagement of such vehicles in international traffic. Any movement of these vehicles in the general direction of an export move or as part of the return movement of the vehicles to their base country shall be considered incidental to the international movement. The benefit of this liberalization of current cabotage restrictions inures in particular to both the United States and foreign trucking industries inasmuch as it allows more efficient and economical utilization of their respective vehicles both internationally and domestically.

DATE: Comments must be received on or before July 20, 1998.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Glen E. Vereb, Office of Regulations and Rulings, 202–927–2320.

Operational aspects: Eileen A. Kastava, Office of Field Operations, 202–927–0983.

SUPPLEMENTARY INFORMATION:

Background

Section 141.4(a), Customs Regulations (19 CFR 141.4(a)), provides that entry as required by 19 U.S.C. 1484(a) shall be made of all merchandise imported into the United States unless specifically excepted. Foreign-based commercial motor vehicles are not among those excepted items listed in § 141.4(b) and would therefore be subject to entry and payment of any applicable duty unless otherwise exempted by law or regulations.

Pursuant to 19 U.S.C. 1322, vehicles and other instruments of international traffic shall be excepted from the application of the Customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury.

This statutory mandate pertaining to foreign-based commercial motor vehicles is implemented under § 123.14 of the Customs Regulations (19 CFR 123.14). Section 123.14(a) states that to qualify as instruments of international traffic, such vehicles having their principal base of operations in a foreign country must be arriving in the United States with merchandise destined for points in the United States, or arriving empty or loaded for the purpose of taking merchandise out of the United States.

Section 123.14(c), Customs Regulations, states that with one exception, a foreign-based commercial motor vehicle, admitted as an instrument of international traffic under § 123.14(a), shall not engage in local traffic in the United States. The exception, set out in § 123.14(c)(1), states that such a vehicle, while in use on a regularly scheduled trip, may be used in local traffic that is directly incidental to the international schedule.

Section 123.14(c)(2), Customs Regulations, provides that a foreign-based truck trailer admitted as an instrument of international traffic may carry merchandise between points in the United States on the return trip as provided in § 123.12(a)(2) which allows use for such transportation as is reasonably incidental to its economical and prompt departure for a foreign country.

In regard to these cabotage restrictions, Customs has received a petition from the American Trucking Association (ATA) requesting a change in Customs interpretation of its regulations governing the use of foreign-based trucks in local traffic in the United States. This petition is the culmination of joint discussions beginning in July of 1994 between the ATA and the Canadian Trucking Association (CTA) to obtain mutually agreed upon parameters with respect to the liberalization of current truck cabotage restrictions in their respective countries. The proposed amendments would, however, be universally applicable.

By way of additional background, reference is hereby made to a notice published in the Customs Bulletin pursuant to 19 U.S.C. 1625(c)(1) (see 31 Cust. Bull. and Dec. No. 40, 7 (October 1, 1997)), which revised the interpretation of when a foreign-based truck would be considered as used in international traffic under existing § 123.14. However, the proposal provided for herein regarding the use of a foreign-based commercial motor vehicle, including a truck, in permissible local traffic under § 123.14(c) was, of course, not addressed in the Customs Bulletin notice. To effect this change requires an amendment under the Administrative Procedure Act, 5 U.S.C. 553.

Accordingly, Customs has determined to propose such an amendment of § 123.14(c), which would allow certain foreign-based commercial motor vehicles, admitted as instruments of international traffic, to engage in the transportation of merchandise between points in the United States where such local traffic is incidental to the immediately prior or subsequent engagement of such vehicles in international traffic. In addition, this

revision would eliminate the current requirement that such international traffic be regularly scheduled. Furthermore, any movement of these vehicles in the general direction of an export move or as part of the return movement of the vehicles to their base country shall be considered incidental to the international movement.

In conjunction with the proposed amendments to § 123.14, this document also includes proposed conforming amendments to § 123.16 regarding the return of the qualifying vehicles to the United States.

Comments

Before adopting the proposed amendments, consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Regulatory Flexibility Act and Executive Order 12866

The proposed rule would greatly relax current cabotage restrictions for both the U.S. and foreign trucking industries, enabling more efficient and economical use of their respective vehicles both internationally and domestically. As such, under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Nor would the proposed rule result in a "significant regulatory action" under E.O. 12866.

List of Subjects in 19 CFR Part 123

Administrative practice and procedure, Canada, Common carriers, Customs duties and inspection, Imports, International traffic, Motor carriers, Railroads, Trade agreements, Vehicles.

Proposed Amendments to the Regulations

It is proposed to amend part 123, Customs Regulations (19 CFR part 123), as set forth below.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123, and the relevant sectional authority citation, would continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS), 1431, 1433, 1436, 1448, 1624.

* * * * *

Sections 123 13—123.18 also issued under 19 U.S.C. 1322;

* * * * *

2. It is proposed to amend § 123.14 by revising paragraph (c)(1) to read as follows:

§ 123.14 Entry of foreign-based trucks, busses and taxicabs in international traffic.

* * * * *

(c) * * *

(1) The vehicle may carry merchandise or passengers between points in the United States if such carriage is incidental to the immediately prior or subsequent engagement of that vehicle in international traffic. Any such carriage by the vehicle in the general direction of an export move or as part of the return of the vehicle to its base country shall be considered incidental to its engagement in international traffic.

* * * * *

3. It is proposed to amend § 123.16 by revising paragraph (b) to read as follows:

§ 123.16 Entry of returning trucks, busses, or taxicabs in international traffic.

* * * * *

(b) *Use in local traffic.* Trucks, busses, and taxicabs in use in international traffic, which may include the incidental carrying of merchandise or passengers for hire between points in a foreign country, or between points in this country, shall be admitted under this section. However, such vehicles taken abroad for commercial use between points in a foreign country, otherwise than in the course of their use in international traffic, shall be considered to have been exported and must be regularly entered on return.

Approved: March 31, 1998.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–13217 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209322–82]

RIN 1545–AU99

Return of Partnership Income; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to partnership returns.

DATES: The public hearing originally scheduled for Tuesday, May 19, 1998, beginning at 10:00 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6031 and 6063 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Monday, January 26, 1998 (63 FR 3677), announced that the public hearing would be held on Tuesday, May 19, 1998, beginning at 10:00 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Tuesday, May 19, 1998, is cancelled.

Michael L. Slaughter,

Acting Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–13221 Filed 5–18–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AJ15

Board of Veterans' Appeals: Rules of Practice—Revision of Decisions on Grounds of Clear and Unmistakable Error

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend the Rules of Practice of the Board of Veterans' Appeals (Board) to implement the provisions of section 1(b) of Pub. L.

105–111 (Nov. 21, 1997), which permits challenges to Board decisions on the grounds of "clear and unmistakable error" (CUE). The amendments would provide specific application procedures; establish decision standards based on case law; and eliminate as duplicative the Board Chairman's discretionary review under "reconsideration" on the basis of obvious error. These changes are necessary to implement the new statutory provisions, which permit a claimant to demand review by the Board to determine whether CUE exists in an appellate decision previously issued by the Board, with a right of review of such determinations by the U.S. Court of Veterans Appeals.

DATES: Comments must be received on or before July 20, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AJ15." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits. There are currently 60 Board members, who decide 35,000 to 40,000 such appeals per year.

This document proposes to amend the Board's Rules of Practice to implement the provisions of section 1(b) of Pub. L. 105–111 (Nov. 21, 1997), which permits a claimant to demand review by the Board to determine whether "clear and unmistakable error" (CUE) exists in an appellate decision previously issued by the Board, with a right of review of such determinations by the U.S. Court of Veterans Appeals.

The VA Appeals Process in General

The Secretary of Veterans Affairs decides all questions of law and fact necessary to a decision under a law that affects the provision of benefits by the Secretary to veterans, or the dependents or survivors of veterans. 38 U.S.C. 511(a). The Secretary has delegated most of these decisions to "agencies of original jurisdiction" (AOJs), typically the 58 regional offices (ROs) maintained by the Department of Veterans Affairs (VA). See 38 CFR 2.6(b) (delegation to Under Secretary for Benefits).

Decisions under 38 U.S.C. 511(a) are subject to one review on appeal to the Secretary. 38 U.S.C. 7104(a). Final decisions on those appeals are made by the Board. *Id.* A decision by an AOJ that is not appealed within one year becomes final, and can be reopened only with "new and material evidence." 38 U.S.C. 5108, 7105(c).

The appeals process begins when a claimant files a "notice of disagreement," which must be filed within one year of the decision. 38 U.S.C. 7105 (a) and (b). The VA office that made the decision reviews the claim and, if benefits are not granted, provides the claimant with a "statement of the case." *Id.* 7105(d)(1). The claimant then must file a formal appeal with the Board. *Id.* 7105(d)(3). The Board decides appeals on the entire record in the case. *Id.* 7104(a). The Board may make a final decision—allowing or denying the appeal—or may remand the matter to the AOJ for development of additional factual material. 38 CFR 19.9.

If an appellant does not agree with the Board's final decision, and the notice of disagreement in the case was filed on or after November 18, 1988, the appellant has 120 days to appeal the Board's decision to the U.S. Court of Veterans Appeals. 38 U.S.C. 7266(a); Pub. L. 100–687, Div. A, § 402, reprinted at 38 U.S.C. 7251 note. (As enacted, the Veterans' Judicial Review Act, which established the Court of Veterans Appeals, permitted judicial review of Board decisions only in cases in which a notice of disagreement was filed on or after the effective date of the Act, i.e., November 18, 1988.)

Other Remedies

Once a VA decision has become final—whether by completion or abandonment of the appeals process described above—there are, generally, three ways to revive the claim.

First, if a claimant submits new and material evidence, VA will reopen and reconsider the claim. 38 U.S.C. 5108. Such claims are subject to the full range of appellate procedures described above.

Second, if a claim decision is final because there was never a formal appeal filed with the Board, and the determination was made by an RO, a claimant may allege that the decision was the result of CUE. 38 CFR 3.105(a). Such claims are subject to the full range of appellate procedures described above. *Russell* v. *Principi*, 3 Vet. App. 310 (1992). However, prior to enactment of Pub. L. 105–111, a final unappealed RO decision that is subsequently reopened with new and material evidence and adjudicated on the merits by the Board could not later be the subject of a claim of CUE. *Donovan* v. *Gober*, 10 Vet. App. 404 (1997).

Finally, if there has been a final Board decision on a claim, an appellant may request that the Chairman of the Board order "reconsideration" under 38 U.S.C. 7103. If the Chairman orders reconsideration, the prior decision is vacated, and a panel of Board members makes a new decision based on the entire record. The panel decision is subject to appeal to the Court of Veterans Appeals only if the notice of disagreement filed in connection with the original matter was filed on or after November 18, 1988. The Chairman's decision not to grant reconsideration is not subject to appeal independently of the underlying Board decision. *Mayer* v. *Brown*, 37 F.3d 618, 620 & n.3 (Fed. Cir. 1994) (holding that there was no jurisdiction to review the Chairman's denial of a motion for reconsideration absent jurisdiction over the underlying Board decision, but reserving judgment on the issue of whether the Chairman's decision can ever be subject to judicial review).

Board decisions are not subject to a CUE challenge under 38 CFR 3.105(a). *Smith (William)* v. *Brown*, 35 F.3d 1516, 1521 (Fed. Cir. 1994). Further, unappealed RO decisions can be "subsumed" in subsequent Board decisions, so that the RO decisions are no longer subject to the review otherwise available under 38 CFR 3.105(a). *Donovan* v. *Gober*, 10 Vet. App. 404 (1997).

"Clear and Unmistakable Error"

The term "clear and unmistakable error" originated in veterans regulations some 70 years ago, *see generally Smith (William)* v. *Brown, 35 F.3d 1516, 1524–25 (Fed. Cir. 1994), and is now incorporated in VA regulations governing VA RO determinations. 38 CFR 3.105(a). The term has been interpreted by the Court of Veterans Appeals over the past several years.*

CUE is a very specific and rare kind of error. *Fugo* v. *Brown*, 6 Vet. App. 40, 43 (1993). It is the kind of error, of fact or of law, that when called to the attention of later reviewers compels the conclusion, to which reasonable minds could not differ, that the result would have been manifestly different but for the error. *Fugo*, 6 Vet. App. at 43.

A determination that there was CUE must be based on the record and the law

that existed at the time of the prior decision. *Russell* v. *Principi*, 3 Vet. App. 310, 314 (1992). Either the correct facts, as they were known at the time, were not before the adjudicator or the statutory or regulatory provisions extant at the time were incorrectly applied. *Russell*, 3 Vet. App at 313. With respect to Board decisions issued on or after July 21, 1992, the Court of Veterans Appeals has held that documents which were actually in VA's possession—even though not physically before the adjudicator—are constructively a part of the record. *Bell* v. *Derwinski*, 2 Vet. App. 611 (1992); *Damrel* v. *Brown*, 6 Vet. App. 242, 245–46 (1994).

In order for there to be a valid claim of CUE, there must have been an error in the prior adjudication of the appeal which, had it not been made, would have manifestly changed the outcome at the time it was made. *Russell*, 3 Vet. App. at 313. Thus, even where the premise of error is accepted, if it is not absolutely clear that a different result would have ensued, the error complained of cannot be clear and unmistakable. *Fugo*, 6 Vet. App. at 43–44.

A new medical diagnosis that "corrects" an earlier diagnosis ruled on by previous adjudicators is the kind of "error" that could not be considered an error in the original adjudication. *Russell*, 3 Vet. App. at 314. A claim of CUE that asserts no more than a disagreement as to how the facts were weighed or evaluated is insufficient. *Russell*, 3 Vet. App. at 313. Mere allegations of failure to follow regulations or failure to give due process, or any other general, non-specific claims of error, are insufficient to raise a claim of CUE. *Fugo*, 6 Vet. App. at 44. An allegation that the Secretary did not fulfill the duty to assist is insufficient to raise the issue of CUE. *E.g.*, *Crippen* v. *Brown*, 9 Vet. App. 412, 418 (1996).

Once there is a final decision on the issue of CUE because the RO decision was not timely appealed, or because a Board decision not to revise or amend the original RO decision was not appealed, or because the Court of Veterans Appeals has rendered a decision on the issue in that particular case, that particular claim of CUE may not be raised again. *Russell*, 3 Vet. App. at 315.

The "benefit of the doubt" rule of 38 U.S.C. 5107(b) does not apply to determinations as to whether there was CUE. *Russell*, 3 Vet. App. at 314.

"Two Tracks" for CUE Claims

The Court of Veterans Appeals has held that it has jurisdiction to review claims of CUE with respect to RO determinations based on the regulatory right assigned in 38 CFR 3.105(a). *Russell* v. *Principi*, 3 Vet. App. 310 (1992).

However, the CUE challenge available under 38 CFR 3.105(a) does not apply to Board decisions. *Smith (William)* v. *Brown*, 35 F.3d 1516, 1521 (Fed. Cir. 1994); *Wright* v. *Brown*, 9 Vet. App. 300, 303–04 (1996). Because an RO decision appealed to the Board is "subsumed" in a Board decision on the merits, such an RO decision would no longer be subject to a CUE challenge. *Donovan* v. *Gober*, 10 Vet. App. 404 (1997). The Court has held that even unappealed RO decisions are "subsumed"—and thus not subject to CUE challenges—if such claims are later reopened and decided on the merits by the Board. *Chisem* v. *Gober*, 10 Vet. App. 526 (1997).

The Effect of the Legislation

Section 1(b) of Pub. L. 105–111 changed existing law by providing that a decision by the Board is subject to revision on the grounds of CUE. The statute provides that such review may be instituted by the Board on the Board's own motion or upon request of the claimant, and that such a request may be made at any time after the Board decision is made. The Board is to decide all such requests on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

The statute also provides that, notwithstanding the notice of disagreement requirements for judicial review (described earlier in this document), judicial review is available with respect to any Board decision on a claim alleging that a previous determination of the Board was the product of CUE if that claim is filed after, or was pending before VA, the Court of Veterans Appeals, the Court of Appeals for the Federal Circuit, or the Supreme Court on the date of the enactment of the Act (November 21, 1997).

The legislative history of H.R. 1090, 105th Congress, which became Pub. L. 105–111, indicates that the Congress expected the Department would implement section 1(b) of the bill in accordance with current definitions of CUE. H.R. Rep. No. 52, 105th Cong., 1st Sess. 3 (1997) (report of House Committee on Veterans' Affairs on H.R. 1090) ("Given the Court's clear guidance on this issue [of CUE], it would seem that the Board could adopt procedural rules consistent with this guidance to make consideration of appeals raising clear and unmistakable error less burdensome"); 143 Cong. Rec. 1567, 1568 (daily ed. Apr. 16, 1997) (remarks of Rep. Evans, sponsor of H.R. 1090, in connection with House passage) ("The bill does not alter the standard for evaluation of claims of clear and unmistakable error").

Implementing Regulations

The proposed regulations restate statutory provisions, restate legal standards reflecting court decisions, and establish procedures for requesting revision of a Board decision.

The proposed regulations would also eliminate the use of the Board's reconsideration process for challenges based on "obvious error," 38 CFR 20.1000(a), while continuing that process based on (1) the discovery of new and material evidence in the form of relevant records or reports of the service department concerned, or (2) an allegation that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant. Since the "obvious error of fact or law" standard of current 38 CFR 20.1000(a) is the same standard as that of CUE, *Smith (William)* v. *Brown*, 35 F.3d 1516, 1526 (Fed. Cir. 1994), and since the new remedy under Pub. L. 105–111 provides for a Board decision and judicial review, there is no longer any need—particularly in light of the Board's limited resources—for what is a duplicative remedy.

Accordingly, the proposed regulations would amend 38 CFR 20.1000, relating to motions for reconsideration, by deleting paragraph (a), which provides that obvious error of fact or law is a basis for reconsideration. The proposed regulations would also amend 38 CFR 20.1001(a), relating to filing motions for reconsideration, to eliminate a reference to allegations of obvious errors of fact or law.

The proposed regulations would create a new subpart O in part 20 of title 38, Code of Federal Regulations, devoted specifically to revision of Board decisions on grounds of CUE.

Proposed Rule 1400 (38 CFR 20.1400) would begin the review process with a motion, either by a party to the decision being challenged or by the Board. In addition, because it would be inappropriate for an inferior tribunal to review the actions of a superior, *Smith (William)* v. *Brown*, 35 F.3d 1516, 1526 (Fed. Cir. 1994); *Duran* v. *Brown*, 7 Vet. App. 216, 224 (1994), the rule would provide that a Board decision on an issue decided by a court of competent jurisdiction on appeal is not subject to revision on the grounds of clear and unmistakable error.

Proposed Rule 1401 (38 CFR 20.1401) would define the terms "issue" and

"party" for purposes of the proposed subpart. Generally, the term "issue" would be defined as a matter upon which the Board made a final decision (other than a decision under the proposed subpart) which was appealable under Chapter 72 of title 38, United States Code, or which would have been appealable if the Notice of Disagreement with respect to such matter had been received by the agency of original jurisdiction on or after November 18, 1988. The purposes of this definition are to clarify (1) that only final, outcome-determinative decisions of the Board are subject to revision on the grounds of CUE, so as to avoid, in the interests of judicial economy, atomization of Board decisions into myriad component parts; and (2) the scope of the finality referred to in proposed Rule 1409(c) (38 CFR 20.1409(c)), discussed later in this document. For example, since a Board remand is in the nature of a preliminary order and does not constitute a final Board decision, *Zevalkink* v. *Brown*, 6 Vet. App. 483, 488 (1994), *aff'd*, 102 F.3d 1236 (Fed. Cir. 1996), cert. denied, 117 S. Ct. 2478 (1997); 38 CFR 20.1100(b), it is not appealable under Chapter 72 of title 38, United States Code, and would not be subject to revision on the grounds of CUE. Similarly, since the jurisdiction of the Court of Veterans Appeals is limited to "decisions" of the Board, 38 U.S.C. 7252(a), individual findings of fact or conclusions of law, 38 U.S.C. 7104(d)(1), would not be subject to revision on the grounds of CUE except as part of such revision of the decision they support. At the same time, as discussed in connection with proposed Rule 1409 later in this document, once there is a final decision on a motion under this proposed subpart, the prior Board decision on the underlying "issue" would no longer be subject to revision on grounds of CUE.

Proposed Rule 1401 would also define "party" as any party to the Board proceeding that resulted in the final Board decision which is the subject of a motion under the proposed subpart. Because 38 U.S.C. 7111(c), as added by Pub. L. 105–111, limits the right to initiate CUE review to the Board and to claimants, the term would not include officials authorized to file administrative appeals pursuant to § 19.51 of this title.

Proposed Rule 1402 (38 CFR 20.1402) would clarify that motions under proposed subpart O are not appeals and, accordingly, not subject to the provisions of parts 19 and 20 of Chapter I, Title 38, Code of Federal Regulations, to the extent those provisions relate to the processing and disposition of appeals.

Proposed Rule 1403 (38 CFR 20.1403) would set forth the standards for what constitutes CUE, as well as the record to be reviewed. The various standards and the specific examples of situations that are not CUE are drawn directly from court opinions cited earlier in this document under the heading "Clear and Unmistakable Error." In addition, the rule would provide that CUE does not include the otherwise correct application of a statute or regulation where, subsequent to the Board decision challenged, there has been a change in the interpretation of the statute or regulation. This latter provision is borrowed in part from 38 CFR 3.105, discussed earlier in this document, relating to CUE in RO decisions. An interpretation of a statute or regulation could, in light of future interpretations—whether by the General Counsel or a court—be viewed as erroneous. That would not, however, be the kind of error required for CUE, i.e., an error about which reasonable persons could not differ. See VAOPGCPREC 25–95, 61 FR 10,063, 10,065 (1996) (holding that the Board's application of a subsequently invalidated regulation in a decision does not constitute obvious error or provide a basis for reconsideration of the decision).

Proposed Rule 1404 (38 CFR 20.1404) would establish filing and pleading requirements for motions for revision of a Board decision based on CUE. The rule would require specific pleading of the error, and provide that motions which fail to do so would be denied, although motions that merely fail to identify the claimant, the Board decision challenged, or the issue(s) being challenged, or which are unsigned, would be dismissed without prejudice to a proper filing. The proposed rule would also provide that a request transmitted to the Board by the Secretary pursuant to 38 U.S.C. 7111(f) (generally relating to claims for CUE filed with the Secretary) would be treated as a motion filed under this rule.

Proposed Rule 1405 (38 CFR 20.1405) would provide that motions to revise Board decisions on the grounds of CUE would be docketed in the order received and be assigned in accordance with the appellate assignment procedures in 38 CFR 19.3. The proposed rule, following the current standards applicable to reconsideration decisions, would prohibit assignment of the motion to any Board member who participated in the decision which is the subject of the motion. 38 U.S.C. 7103(b)(2); 38 CFR 19.11(c). Since a CUE determination must be made on the facts before the Board at the time the original decision was made, the rule would also provide that no new evidence would be considered in connection with the motion (although material included on the basis of proposed Rule 1403(b)(2), discussed above, would not be considered new evidence) and that the Board may, for good cause shown, grant a request for a hearing for the purpose of argument only. Nevertheless, the proposed rule would permit the Board, subject to the limitation on new evidence, to use the various AOJs to ensure completeness of the record. The Board would also be permitted to seek the opinion of the General Counsel, with notice to the party to the decision and an opportunity to respond. In accordance with the specific requirements of the new statute, the rule would prohibit referral of the motion to the AOJ or any hearing officer acting on behalf of the Secretary for the purpose of making a decision. Finally, in order to facilitate judicial review, the rule would require decisions on these motions to include separately stated findings of fact and conclusions of law, and the reasons and bases for those findings and conclusions. Cf. 38 U.S.C. 7104(d); 38 CFR 19.7(b) ("reasons and bases" requirement for appellate decisions).

Proposed Rule 1406 (38 CFR 20.1406), following the new statute, would provide that a decision of the Board that revises a prior Board decision on the grounds of CUE has the same effect as if the decision had been made on the date of the prior decision. The proposed rule would also provide that decisions that discontinue or reduce benefits would be subject to the laws and regulations governing such discontinuances or reductions based solely on administrative error or errors in judgment. See generally 38 U.S.C. 5112(b)(10) (reduction or discontinuance on such bases effective on the date of last payment).

Proposed Rule 1407 (38 CFR 20.1407) would provide special procedural rules in those cases where the Board, on its own motion, reviews a prior decision on the grounds of CUE. The rule would provide for notification to the party to the prior Board decision and that party's representative, with a period of 60 days to file a brief or argument. Nevertheless, failure of a party to so respond would not affect the finality of the Board's decision on the motion.

Proposed Rule 1408 (38 CFR 20.1408) would provide special rules in the case of challenges to Board decisions in simultaneously contested claims. See 38 U.S.C. 7105A. Generally, the rule would require notice to all parties to such

Board decisions, with limited time for non-moving parties to respond.

Proposed Rule 1409 (38 CFR 20.1409), in accordance with the discussion under "Clear and Unmistakable Error" earlier in this document, would provide that, once there is a final decision on a motion under the proposed subpart—whether initiated by a party or by the Board—with respect to a particular issue, the prior Board decision on that issue would no longer be subject to revision on the grounds of CUE and that subsequent motions on such decisions would be dismissed with prejudice. For example, if a party challenged a decision on service connection for failing to apply the proper diagnostic code in the Schedule for Rating Disabilities, 38 CFR part 4, and the Board denied the motion, a subsequent motion which alleged that the Board failed to apply the presumption of sound condition at the time of entry into service, 38 U.S.C. 1111, would be dismissed with prejudice. It would be clearly important that a moving party carefully determine all possible bases for CUE before he or she files a motion under the proposed subpart. Since the effect of a successful challenge is the same no matter when the motion is filed, i.e., the revision has the same effect as if the decision had been made on the date of the earlier decision, there is no particular filing date that must be observed in order to maximize potential benefits. At the same time, because, as the court has observed, CUE is a "very specific and rare kind of error," *Fugo* v. *Brown*, 6 Vet. App. 40, 43 (1993), and because the availability of a CUE challenge does not mean that the issue may be "endlessly reviewed," *Russell* v. *Principi*, 3 Vet. App. 310, 315 (1992) (en banc), we believe that one challenge per decision on an issue is justified not only as a proper statement of the law, but also as a rule serving the interests of judicial economy. The rule would also clarify that a dismissal without prejudice under proposed Rule 1404(a) or a referral to ensure completeness of the record under proposed Rule 1405(e) would not be a final decision of the Board.

Proposed Rule 1410 (38 CFR 20.1410) would provide that, if a Board decision is appealed to a court of competent jurisdiction, the Board will stay any consideration of a motion under this subpart with respect to that Board decision. Generally, once a case has been certified for appeal to the court on a particular issue, the Board no longer has jurisdiction. *Cerullo* v. *Derwinski*, 1 Vet. App. 195 (1991). Processing of the motion under proposed subpart O would continue upon conclusion of the court appeal or an appropriate order from the court.

Proposed Rule 1411 (38 CFR 20.1411) would set forth the relationship between motions under proposed subpart O and certain other statutes. First, in accordance with the discussion under "Clear and Unmistakable Error" earlier in this document, the rule would provide that the "benefit of the doubt" rule of 38 U.S.C. 5107(b) would not apply to determinations as to whether there was CUE. Second, because review under this proposed subpart is limited to the evidence of record at the time of the Board decision challenge, and because a motion under this subpart would be a collateral challenge to a Board decision rather than a "claim" for benefits, *cf. Duran* v. *Brown*, 7 Vet. App. 216, 223–24 (1994) (claim of CUE is a collateral attack on a prior final VA decision), the rule would also provide that a motion under this subpart is not a claim subject to reopening under 38 U.S.C. 5108 (relating to reopening claims on the grounds of new and material evidence). Third, because a motion under proposed subpart O is a statutory challenge to an otherwise final Board decision rather than an "application for benefits," the rule would provide that the notification requirements in 38 U.S.C. 5103(a) (relating to applications for benefits) would not apply to such motions. Finally, because a motion would not be a claim for benefits, and because the notion of a "well-grounded claim" would be irrelevant to a motion under proposed subpart O, the rule would provide that the "duty to assist" requirements in 38 U.S.C. 5107(a) (relating to VA's duty following the filing of a well-grounded claim) would not apply to such motions.

Attorney Fees

The proposed regulations would also add a new paragraph (4) to Rule 609(c) (38 CFR 20.609(c), relating to payment of a representative's fees in connection with VA proceedings), which would provide that the term "issue" referred to in Rule 609(c) would have the same meaning as that term in proposed Rule 1401(a), discussed earlier in this document.

Generally, attorneys may charge a fee in connection with VA proceedings only if (1) there has been a final Board decision on the issue (or issues) involved; (2) the Notice of Disagreement (discussed earlier in this document) which preceded the Board decision with respect to the issue, or issues, involved was received on or after November 18, 1988; and (3) the attorney was retained within one year of the relevant Board decision. 38 U.S.C. 5904(c)(1); 38 CFR 20.609(c).

In the case of a motion under proposed subpart O, it is our view that the issue for purposes of Rule 609 is the issue associated with the Board decision which is being challenged in the motion under proposed subpart O. Accordingly, an attorney could charge a fee in connection with a motion under proposed subpart O if (1) the challenged Board decision was preceded by a notice of disagreement received by the AOJ on or after November 18, 1988, and (2) the attorney was retained not later than one year following the date of the challenged Board decision.

We note that proposed Rule 609(c)(4) would not affect the ability of an attorney to charge a fee in connection with proceedings before a court, because such charges are not subject to VA's jurisdiction.

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would affect only the processing of claims by VA and would not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: May 11, 1998.

Togo D. West, Jr.,

Secretary.

For the reasons set out in the preamble, 38 CFR part 20 is proposed to be amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In subpart G, § 20.609, paragraph (c)(4) is added to read as follows:

§ 20.609. Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

* * * * *

(c) * * *

(4) For the purposes of this section, in the case of a motion under Subpart O of this part (relating to requests for revision of prior Board decisions on the grounds of clear and unmistakable

error), the "issue" referred to in this paragraph (c) shall have the same meaning as "issue" in Rule 1401(a) (§ 20.1401(a) of this part).

* * * * *

§ 20.1000 [Amended]

3. In subpart K, § 20.1000 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as (a) and (b), respectively.

§ 20.1001 [Amended]

4. In subpart K, § 20.1001(a), the second sentence is amended by removing "alleged obvious error, or errors, of fact or law in the applicable decision, or decisions, of the Board or other appropriate".

5. A new subpart O is added to read as follows:

Subpart O—Revision of Decisions on Grounds of Clear and Unmistakable Error

Sec.

20.1400 Rule 1400. Motions to revise Board decisions.
20.1401 Rule 1401. Definitions.
20.1402 Rule 1402. Inapplicability of other rules.
20.1403 Rule 1403. What constitutes clear and unmistakable error; what does not.
20.1404 Rule 1404. Filing and pleading requirements.
20.1405 Rule 1405. Disposition.
20.1406 Rule 1406. Effect of revision.
20.1407 Rule 1407. Motions by the Board.
20.1408 Rule 1408. Special rules for simultaneously contested claims.
20.1409 Rule 1409. Finality and appeal.
20.1410 Rule 1410. Stays pending court action.
20.1411 Rule 1411. Relationship to other statutes.

Subpart O—Revision of Decisions on Grounds of Clear and Unmistakable Error

§ 20.1400 Rule 1400. Motions to revise Board decisions.

(a) Review to determine whether clear and unmistakable error exists in a final Board decision may be initiated by the Board, on its own motion, or by a party to that decision (as the term "party" is defined in Rule 1401(b) (§ 20.1401(b) of this part) in accordance with Rule 1404 (§ 20.1404 of this part).

(b) A Board decision on an issue decided by a court of competent jurisdiction on appeal is not subject to revision on the grounds of clear and unmistakable error.

(Authority: 38 U.S.C. 501(a), 7111)

§ 20.1401 Rule 1401. Definitions.

(a) *Issue.* Unless otherwise specified, the term "issue" in this subpart means a matter upon which the Board made a final decision (other than a decision under this subpart) which was appealable under Chapter 72 of title 38, United States Code, or which would have been so appealable if the Notice of Disagreement with respect to such matter had been received by the agency of original jurisdiction on or after November 18, 1988.

(b) *Party.* As used in this subpart, the term "party" means any party to the proceeding before the Board that resulted in the final Board decision which is the subject of a motion under this subpart, but does not include officials authorized to file administrative appeals pursuant to § 19.51 of this title.

(Authority: 38 U.S.C. 501(a), 7104(a))

§ 20.1402 Rule 1402. Inapplicability of other rules.

Motions filed under this subpart are not appeals and, except as otherwise provided, are not subject to the provisions of parts 19 or 20 of this chapter which relate to the processing and disposition of appeals.

§ 20.1403 Rule 1403. What constitutes clear and unmistakable error; what does not.

(a) *General.* Clear and unmistakable error is a very specific and rare kind of error. It is the kind of error, of fact or of law, that when called to the attention of later reviewers compels the conclusion, to which reasonable minds could not differ, that the result would have been manifestly different but for the error. Generally, either the correct facts, as they were known at the time, were not before the Board, or the statutory and regulatory provisions extant at the time were incorrectly applied.

(b) *Record to be reviewed.*—(1) *General.* Review for clear and unmistakable error in a prior Board decision must be based on the record and the law that existed when that decision was made.

(2) *Special rule for Board decisions issued on or after July 21, 1992.* For a Board decision issued on or after July 21, 1992, the record that existed when that decision was made includes relevant documents possessed by the Department of Veterans Affairs not later than 90 days before such record was transferred to the Board for review in reaching that decision, provided that the documents could reasonably be expected to be part of the record.

(c) *Errors that constitute clear and unmistakable error.* To warrant revision of a Board decision on the grounds of clear and unmistakable error, there must have been an error in the Board's adjudication of the appeal which, had it not been made, would have manifestly changed the outcome when it was made. If it is not absolutely clear that a different result would have ensued, the error complained of cannot be clear and unmistakable.

(d) *Examples of situations that are not clear and unmistakable error.*—(1) *Changed diagnosis.* A new medical diagnosis that "corrects" an earlier diagnosis considered in a Board decision.

(2) *Duty to assist.* The Secretary's failure to fulfill the duty to assist.

(3) *Evaluation of evidence.* A disagreement as to how the facts were weighed or evaluated.

(e) *Change in interpretation.* Clear and unmistakable error does not include the otherwise correct application of a statute or regulation where, subsequent to the Board decision challenged, there has been a change in the interpretation of the statute or regulation.

(Authority: 38 U.S.C. 501(a), 7111)

§ 20.1404 Rule 1404. Filing and pleading requirements.

(a) *General.* A motion for revision of a decision based on clear and unmistakable error must be in writing, and must be signed by the moving party or that party's representative. The motion must include the name of the veteran; the name of the moving party if other than the veteran; the applicable Department of Veterans Affairs file number; and the date of the Board of Veterans' Appeals decision to which the motion relates. If the applicable decision involved more than one issue on appeal, the motion must identify the specific issue, or issues, to which the motion pertains. Motions which fail to comply with the requirements set forth in this paragraph shall be dismissed without prejudice to refiling under this subpart.

(b) *Specific allegations required.* The motion must set forth clearly and specifically the alleged clear and unmistakable error, or errors, of fact or law in the Board decision, the legal or factual basis for such allegations, and why the result would have been manifestly different but for the alleged error. Non-specific allegations of failure to follow regulations or failure to give due process, or any other general, non-specific allegations of error, are insufficient to satisfy the requirement of the previous sentence. Motions which fail to comply with the requirements set forth in this paragraph shall be denied.

(c) *Filing.* A motion for revision of a decision based on clear and unmistakable error may be filed at any time. Such motions should be filed at the following address: Director, Administrative Service (014), Board of

Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.

(d) *Requests not filed at the Board.* A request for revision transmitted to the Board by the Secretary pursuant to 38 U.S.C. 7111(f) (relating to requests for revision filed with the Secretary other than at the Board) shall be treated as if a motion had been filed pursuant to paragraph (d) of this section.

(Authority: 38 U.S.C. 501(a), 7111)

§ 20.1405 Rule 1405. Disposition.

(a) *Docketing and assignment.* Motions under this subpart will be docketed in the order received and will be assigned in accordance with § 19.3 of this part (relating to assignment of proceedings). Where an appeal is pending on the same underlying issue at the time the motion is received, the motion and the appeal may be consolidated under the same docket number and disposed of as part of the same proceeding. A motion may not be assigned to any Member who participated in the decision that is the subject of the motion. If a motion is assigned to a panel, the decision will be by a majority vote of the panel Members.

(b) *Evidence.* No new evidence will be considered in connection with the disposition of the motion. Material included in the record on the basis of Rule 1403(b)(2) (§ 20.1403(b)(2) of this part) is not considered new evidence.

(c) *Hearing.*—(1) *Availability.* The Board may, for good cause shown, grant a request for a hearing for the purpose of argument. No testimony or other evidence will be admitted in connection with such a hearing. The determination as to whether good cause has been shown shall be made by the member or panel to whom the motion is assigned.

(2) *Submission of requests.* Requests for such a hearing shall be submitted to the following address: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.

(d) *Decision to be by the Board.* The decision on a motion under this subpart shall be made by the Board. There shall be no referral of the matter to any adjudicative or hearing official acting on behalf of the Secretary for the purpose of deciding the motion.

(e) *Referral to ensure completeness of the record.* Subject to the provisions of paragraph (b) of this section, the Board may use the various agencies of original jurisdiction to ensure completeness of the record in connection with a motion under this subpart.

(f) *General Counsel opinions.* The Board may secure opinions of the General Counsel in connection with a motion under this subpart. In such cases, the Board will notify the party and his or her representative, if any. When the opinion is received by the Board, a copy of the opinion will be furnished to the party's representative or, subject to the limitations provided in 38 U.S.C. 5701(b)(1), to the party if there is no representative. A period of 60 days from the date of mailing of a copy of the opinion will be allowed for response. The date of mailing will be presumed to be the same as the date of the letter or memorandum which accompanies the copy of the opinion for purposes of determining whether a response was timely filed.

(g) *Decision.* The decision of the Board on a motion will be in writing. The decision will include separately stated findings of fact and conclusions of law on all material questions of fact and law presented on the record, the reasons or bases for those findings and conclusions, and an order granting or denying the motion.

(Authority: 38 U.S.C. 501(a), 7104(d), 7111)

§ 20.1406 Rule 1406. Effect of revision

A decision of the Board that revises a prior Board decision on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision. Revision of a prior Board decision under this subpart that results in the discontinuance or reduction of benefits is subject to laws and regulations governing the reduction or discontinuance of benefits by reason of erroneous award based solely on administrative error or errors in judgment.

(Authority: 38 U.S.C. 7111(b)

§ 20.1407 Rule 1407. Motions by the Board

If the Board undertakes, on its own motion, a review pursuant to this subpart, the party to that decision and that party's representative (if any) will be notified of such motion and provided an adequate summary thereof and, if applicable, outlining any proposed discontinuance or reduction in benefits that would result from revision of the Board's prior decision. They will be allowed a period of 60 days to file a brief or argument in answer. The failure of a party to so respond does not affect the finality of the Board's decision on the motion.

(Authority: 38 U.S.C. 501(a), 7111)

§ 20.1408 Rule 1408. Special rules for simultaneously contested claims.

In the case of a motion under this subpart to revise a final Board decision in a simultaneously contested claim, as that term is used in Rule 3(o) (§ 20.3(o) of this part), a copy of such motion shall, to the extent practicable, be sent to all other contesting parties. Other parties have a period of 30 days from the date of mailing of the copy of the motion to file a brief or argument in answer. The date of mailing of the copy will be presumed to be the same as the date of the letter which accompanies the copy. Notices in simultaneously contested claims will be forwarded to the last address of record of the parties concerned and such action will constitute sufficient evidence of notice.

(Authority: 38 U.S.C. 501(a))

§ 20.1409 Rule 1409. Finality and appeal.

(a) A decision on a motion filed by a party or initiated by the Board pursuant to this subpart will be stamped with the date of mailing on the face of the decision, and is final on such date. The party and his or her representative, if any, will be provided with copies of the decision.

(b) For purposes of this section, a dismissal without prejudice under Rule 1404(a) (§ 20.1404(a) of this part) or a referral under Rule 1405(e) is not a final decision of the Board.

(c) Once there is a final decision on a motion under this subpart relating to a prior Board decision on an issue, that prior Board decision on that issue is no longer subject to revision on the grounds of clear and unmistakable error. Subsequent motions relating to that prior Board decision on that issue shall be dismissed with prejudice.

(d) Chapter 72 of title 38, United States Code (relating to judicial review), applies with respect to final decisions on motions filed by a party or initiated by the Board pursuant to this subpart.

(Authority: 38 U.S.C. 501(a); Pub. L. 105–111)

§ 20.1410 Rule 1410. Stays pending court action.

The Board will stay its consideration of a motion under this subpart upon receiving notice that the Board decision that is the subject of the motion has been appealed to a court of competent jurisdiction until the appeal has been concluded or the court has issued an order permitting, or directing, the Board to proceed with the motion.

(Authority: 38 U.S.C. 501(a))

§ 20.1411 Rule 1411. Relationship to other statutes.

(a) The "benefit of the doubt" rule of 38 U.S.C. 5107(b) does not apply to the Board's decision, on a motion under this subpart, as to whether there was clear and unmistakable error in a prior Board decision.

(b) A motion under this subpart is not a claim subject to reopening under 38 U.S.C. 5108 (relating to reopening claims on the grounds of new and material evidence).

(c) A motion under this subpart is not an application for benefits subject to any duty associated with 38 U.S.C. 5103(a) (relating to applications for benefits).

(d) A motion under this subpart is not a claim for benefits subject to the requirements and duties associated with 38 U.S.C. 5107(a) (requiring "well-grounded" claims and imposing a duty to assist).

(Authority: 38 U.S.C. 501(a))

[FR Doc. 98–13197 Filed 5–18–98; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL169–1b; FRL–6012–8]

Approval and Promulgation of State Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the March 5, 1998, Illinois State Implementation Plan (SIP) revision request containing amendments to volatile organic material emission control rules for wood furniture coating operations in the Chicago and Metro-East ozone nonattainment areas. In the final rules section of this **Federal Register**, the EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this proposed rule. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time..

DATES: Written comments on this proposed rule must be received on or before June 18, 1998.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: April 29, 1998.

Barry C. DeGraff,

Acting Regional Administrator.

[FR Doc. 98–13298 Filed 5–18–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI67–01–7275; FRL–6014–7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is proposing to correct the State Implementation Plan (SIP) for the State of Michigan regarding the State's emission limitations and prohibitions for air contaminant or water vapor, pursuant to section 110(k)(6) of the Clean Air Act, as amended in 1990.

In the final rules section of this **Federal Register**, the EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this proposed rule within 30 days of this publication. Should the Agency receive such comment, it will publish a document informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. USEPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received on or before June 18, 1998.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Victoria Hayden at (312) 886–4023 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Victoria Hayden, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886-4023.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule of the same title which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 7, 1998.

Robert Springer,

Acting Regional Administrator, Region 5.

[FR Doc. 98–13296 Filed 5–18–98; 8:45 am]
BILLING CODE 6560–50–P

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[GA–37–9811b; FRL–6003–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Section 111(d) and 129 State Plan submitted by the Georgia Department of Natural Resources (DNR) for the State of Georgia on November 13, 1997, for implementing and enforcing the Emissions Guidelines applicable to existing Municipal Waste Combustors with capacity to combust more than 250 tons per day of municipal solid waste. The Plan was submitted by the Georgia DNR to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, EPA is approving the Georgia State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule and incorporated by reference herein. If no significant, material, and adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by June 18, 1998.

ADDRESSES: Written comments should be addressed to Scott Martin at the EPA Region Office listed. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Georgia Department of Natural Resources, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott Davis at (404) 562–9127 or Scott Martin at (404) 562–9036.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: March 16, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–13118 Filed 5–18–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; DA 98–872]

Proposed Revision of 1998 Collection Amounts for Schools and Libraries and Rural Health Care Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Common Carrier Bureau seeks comment on the proposed revision of 1998 collection amounts for the schools and libraries and rural health care universal service support mechanisms.

DATES: Comments in response to this proposed rule are due May 22, 1998.

ADDRESSES: One original and five copies of all comments responsive to this Public Notice must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Three copies also should be sent to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., 8th Floor, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Irene Flannery, Accounting Policy Division, Common Carrier Bureau, (202) 418–7383.

SUPPLEMENTARY INFORMATION: The final rules providing for universal service support for schools, libraries, and health care providers appear in 47 CFR part 54, subparts F and G, which were originally published on June 17, 1997 (62 FR 32862) and amended in rules published on January 3, 1998 (63 FR 2094) and January 27, 1998 (63 FR 3830).

By the Common Carrier Bureau:

Consistent with section 254 of the Communications Act, as amended, and the recommendations of the Federal-State Joint Board on Universal Service, we remain committed to providing support to eligible schools and libraries for telecommunications services, Internet access, and internal connections. We also remain committed to providing the greatest level of support to the most economically disadvantaged schools and libraries. At the same time, however, we strive to ensure a smooth transition to the new universal service support mechanisms and to minimize disruption to consumers. We seek to provide support to schools, libraries, and rural health care providers in a manner that does not require consumers' rates to rise, and without causing rate churn. We thus seek comment on a proposal to implement a gradual phase-in of the schools, libraries, and rural health care universal service support mechanisms that takes advantage, and reflects the timing, of access charge reductions, will provide substantial support and at the same time will minimize disruption to consumers.

As of May 1, 1998, SLC projected that $2.02 billion in discounts have been requested by applicants who have filed through April 28, 1998. RHCC projected that the rural health care support mechanism will require $25 million for the third quarter. Although the local exchange carriers will not file their access tariffs until June 16, 1998, based on preliminary information provided by the local exchange carriers, we estimate that the July 1, 1998 access charge reductions will be approximately $700 million below current levels. Given projected access charge reductions, we estimate that the quarterly collection rate for schools and libraries could rise from $325 million (the second quarter collection rate) to approximately $524 million (We reach this result in the following manner: Long distance carriers pay direct contributions to universal service and, through interstate access charges, indirectly pay for most of the local exchange carrier contributions. Directly and indirectly, long distance carriers are responsible for approximately 82.5 percent of schools and libraries and rural health care contributions. Multiplying $700 million by 1/.825 yields $848 million. We divide $848 million by 4 to find the incremental amount available for each quarter, which is $212 million. We then add $212 million to the average quarterly collection rate for the first half of 1998, $312 million (the average of $300 and 325 million). Accordingly, access charge reductions of $700 million yield $524 million as a quarterly collection rate for the third and fourth

quarters of 1998 without increasing total access and universal service payments by long distance carriers. Accordingly, schools and libraries could be funded at approximately $1.67 billion for the 1998 calendar year. Because the 75-day initial filing window period for the rural health care support mechanism just opened on May 1, 1998, we propose that the quarterly collection rate for the rural health care support mechanism remain at $25 million for the third and fourth quarters of 1998. Accordingly, rural health care providers would be funded at $100 million for the 1998 calendar year.)

We do not seek comment on revising the annual caps adopted in the Universal Service Order. Rather, we seek comment on adjusting the maximum amounts that may be collected and spent during the initial year of implementation in order to ensure that collection rates do not exceed access charge reductions and to prevent rate churn for subscribers. We emphasize that any adjustments should not impact the level of support available to the most economically disadvantaged schools and libraries, and seek comment on ways to ensure that those entities receive adequate support.

We seek comment on directing the Universal Service Administrative Company ("USAC") to collect only as much money as is required by demand, but in no event more than $25 million per quarter for the third and fourth quarters of 1998 to support the rural health care universal service support mechanism, and no more than $524 million per quarter for the third and fourth quarters of 1998 to support the schools and libraries universal service support mechanism. We also seek comment on directing the administrative corporations to neither commit nor disburse more than $100 million for the health care support mechanism or more than $1.67 billion for the schools and libraries support mechanism during the 1998 funding year.

While we have not had an opportunity to review fully the statement of Commissioner Furchtgott-Roth, we do take this opportunity to note that the 60-day congressional review period referenced in that statement does not apply to "any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act."

Parties wishing to comment on these issues and the Initial Regulatory Flexibility Analysis below are directed to file comments on or before May 22, 1998, and to follow the following procedures. All filings should reference: Proposed Revision of Maximum Collection Amounts for Schools and Libraries and Rural Health Care Providers, Public Notice, CC Docket No. 96–45, DA 98–872. All interested parties should include the name of the filing party and the date of the filing on each page of their comments. Parties should include a table of contents in all documents regardless of length and should indicate whether they are filing an electronic copy of a submission via the Internet or via diskette. Pleadings must comply with Commission rules. One original and five copies of all comments must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Three copies also should be sent to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., 8th Floor, Washington, D.C. 20554. Copies of documents filed with the Commission may be obtained from the International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20037, (202) 857–3800. Such documents are also available for review and copying at the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., from 9:00 a.m. to 4:30 p.m.

Parties may also file informal comments or an exact copy of formal comments electronically via the Internet at: <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be submitted. A party must note whether an electronic submission is an exact copy of formal comments on the subject line and should note in its paper submission that an electronic copy of its comments is being submitted via the Internet. A commenter also must include its full name and Postal Service mailing address in its submission. Parties not submitting an exact copy of their formal comments via the Internet are also asked to submit their comments on diskette. Parties submitting diskettes should submit them to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., Room 8606, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment), date of submission, and the name of the electronic file on the diskette. Each diskette should contain only one party's pleadings, preferably in a single electronic file. Electronic submissions are in addition to and not a substitute for the formal filing requirements addressed above.

Ex parte contact. Filing of this petition initiates a permit-but-disclose proceeding under the Commission's rules.

Initial Regulatory Flexibility Analysis

1. The Regulatory Flexibility Act (RFA) [1] requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." [2]

2. *Description of the Reasons Why Agency Action Is Being Considered.* This Notice requests comment on adjusting the maximum amounts that may be collected and spent during the initial year of implementation of the universal service support mechanisms for schools, libraries, and rural health care providers in order to ensure that collection rates do not exceed access charge reductions and to prevent rate churn for subscribers. The notice emphasizes that any adjustments should not impact the level of support available to the most economically disadvantaged schools and libraries, and seeks comment on ways to ensure that those entities receive adequate support. As the notice indicates, some parties have already suggested ways to prioritize the distribution of funds if necessary in response to a prior public notice.

3. *Objectives and Legal Basis for the Proposed Action.* The proposed action is supported by sections 1, 4(i) and (j), and 254, of the Communications Act, as amended, 47 U.S.C. §§ 151, 154(i) and (j), and 254. The objective is to provide support to schools, libraries and rural health care providers in a manner that does not require consumers' rates to rise, and without causing rate churn.

4. *Description and Estimate of the Number of Small Entities That May Be Affected by this Notice.* The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" and the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632,

[1] The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. § 605(b).

unless the Commission has developed one or more definitions that are appropriate to its activities.[3] Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; ar.d (3) meets any additional criteria established by the Small Business Administration (SBA).[4]

5. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities having fewer than 1,500 employees.[5] Small incumbent LECs subject to the universal service rules are either dominant in their field of operation or are not independently owned and operated, and consistent with our prior practice they are excluded from the definition of "small entity" and small business concerns. Accordingly, our use of the terms "small entities" and "small business" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small incumbent LECs within this analysis and use the term "small incumbent LECS" to refer to any incumbent LECs that arguably might be defined by the SBA as "small business concerns."

6. In the final regulatory flexibility analysis (FRFA) in the Universal Service Order, the Commission described and estimated in detail the number of small entities that would be affected by the new universal service rules.[6] These entities included various types of telecommunications carriers and service providers, as well as schools, libraries, rural health care providers and other beneficiaries of the universal service mechanisms. The proposal in this notice would apply to the same entities described in the FRFA. Therefore we incorporate by reference the description and estimate of the number of small entities affected included in the FRFA to the Order.[7]

7. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The notice does not propose any new reporting or recordkeeping requirements. It proposes to change the existing compliance requirements for universal service by adjusting the amount of support available to schools, libraries, and rural health care providers in the first year of the new universal service support mechanisms and to ensure that the most economically disadvantaged schools and libraries receive adequate support.

8. *Description of Significant Alternatives which could Minimize Any Significant Economic Impact on Small Entities.* The requirements proposed could have a significant economic impact on small telecommunications carriers and providers, including small LECs by reducing the amount of their universal service contributions in the first year of the support mechanisms for schools and libraries, and rural health care providers. In addition the proposed requirements could have a significant economic impact on small schools, libraries, rural health care providers, and small government jurisdictions by reducing the amount of support available during that year. The notice seeks comments on alternative ways of ensuring adequate support for the most economically disadvantaged schools and libraries. We invite specific comment on the impact of the proposed requirements on small entities.

9. *Federal Rules that May Duplicate, Overlap, or Conflict With the Notice.* None.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13336 Filed 5–15–98; 11:24 am]

BILLING CODE 6712–01–P

[3] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632).

[4] Small Business Act, 15 U.S.C. § 632 (1996).

[5] 13 C.F.R. § 121.201.

[6] Order, 12 FCC Rcd at 9227–9243.

[7] 12 FCC Rcd at 9227–9243.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–63, RM–9209]

Radio Broadcasting Services; Pottsboro, TX; Durant and Madill, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Grayson Broadcasting Company requesting the allotment of Channel 273C3 to Pottsboro, Texas; the substitution of Channel 292A for Channel 296A at Durant, Oklahoma, and the modification of Station KLBC's license; the substitution of Channel 296A for Channel 273A at Madill, Oklahoma, and the modification of Station KMAD–FM's license. Channel 273C3, Channel 292A, Channel 296A can be allotted to Pottsboro, Texas, Durant and Madill, Oklahoma, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 273C3 can be allotted to Pottsboro, Texas, without the imposition of a site restriction at coordinates 33–46–20 and 96–40–18. Channel 292A can be allotted to Durant and Channel 296A can be allotted to Madill at the existing transmitter sites of Station KLBC and Station KMAD–FM. The coordinates for Channel 292A at Durant are 34–00–07 and 96–25–19. The coordinates for Channel 296A at Madill are 34–06–24 and 96–46–30.

DATES: Comments must be filed on or before June 29, 1998, and reply comments on or before July 14, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Andrew S. Kersting, Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Rosslyn, Virginia 22209–3801 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–63, adopted April 29, 1998, and released May 8, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13166 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–61; FCC 98–79]

1998 Biennial Regulatory Review; Form 325–Annual Report of Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rulemaking (*"NPRM"*), the Commission seeks comment on a proposal to eliminate or modify the process of collecting Form 325, "Annual Report of Cable Television Systems." This proceeding is initiated in conjunction with the Commission's 1998 biennial regulatory review. The intended effect of this proceeding is to reduce the regulatory burden on the Commission, as well as cable operators.

DATES: Comments are due on or before June 30, 1998. Reply comments are due on or before July 15, 1998. Written comments by the public on the proposed information collections are due June 9, 1998.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sunil Daluvoy, Consumer Protection and Competition Division, Cable Services Bureau, at (202) 418–1032. For additional information concerning the information collection contained in this *NPRM*, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *NPRM* in CS Docket No. 98–61, FCC 98–79 which was adopted on April 27, 1998 and released on April 30, 1998. A copy of the complete item is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. The complete Notice of Proposed Rulemaking also is available on the Commission's Internet home page (http://www.fcc.gov). The requirements proposed in this Notice have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and could potentially impose modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the proposed modifications to the information collection requirements contained in this *NPRM*, as required by the Paperwork Reduction Act of 1995. Public comments are due June 9, 1998. Written comments must be submitted by OMB on or before July 20, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0061.

Title: Annual Report of Cable Television Systems—Form 325.

Total Estimated Annual Burden to Respondents: 28,000 hours. The average burden to respondents is estimated to be 2 hours per Form 325 filing. 14,000 filings × 2 hours = 28,000 hours.

Total Estimated Annual Cost of Respondents: $14,000. Postage, stationery and photocopying costs pertaining to this filing requirement are estimated to be $1 per form. 14,000 × $1 = $14,000.

Needs and Uses: The Form 325 is a preprinted form that has been used by the Commission to annually collect ownership, community unit, statistical, technical and services information from cable television systems on a physical system basis. Operators of every operational cable television system complete the form to verify, correct and/or furnish the Commission with the most current information on their respective cable systems. Here, we have reported burden estimates to respondents as they are currently accounted for in the Commission's Information Collection Budget for Collection Number OMB 3060–0061. Depending on public comment generated in this proceeding, the Commission will either amend the content of Form 325, eliminate the Form 325 filing requirement or will reduce the scope or frequency of the filing requirement.

SUMMARY OF ACTION:

I. Background

1. On April 27, 1998, the Federal Communications Commission ("Commission") adopted a Notice of Proposed Rulemaking which sought comment on our proposal to eliminate or modify Form 325, "Annual Report of Cable Television Systems", which is provided for in 47 CFR § 76.403. The Notice of Proposed Rulemaking is summarized below.

A. Introduction

2. Section 11 of the 1996 Telecommunications Act, instructs the Commission "to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest." Although Section 11 does not refer to the cable television rules generally, the Commission has determined that the first biennial review presents an opportunity for a thorough examination of all of the Commission's regulations. We believe that consideration of the continuing need for the Form 325 information collection process is consistent with the Section 11 mandate.

B. Discussion

3. Form 325 constitutes the Commission's basic annual reporting requirement for the cable television industry. The form was developed for use on a one time basis in 1966 and was subsequently adopted as an annual filing requirement in 1971. The form was intended to provide the Commission with information that would be of value in the development of rules and policies applicable to the cable television industry. In addition, information as to both individual franchise areas and physical system operations was to be collected for use in connection with individual waiver or enforcement proceedings. The current Form 325 has also been used for two additional purposes: (1) to obtain subscribership data from which to calculate or review cable operator's

annual federal regulatory fee payments; and (2) to assist, through the acquisition of data as to the frequencies used within systems, in the Commission's signal leakage and interference elimination program.

4. The current version of Form 325 is divided into four substantive parts. Part 1 collects the operator's name, address, and tax identification number of each franchised community served by the cable system. Part 2 requests specific information related to each franchised community, including the type of area served, population, subscribers, potential subscribers, cable plant length, and initial date of service. Part 3 outlines frequency and signal distribution information, such as the type and source of programming, and general channel information. Part 4 summarizes the cable system's ancillary services and users.

5. The Commission's rules anticipate that a Form 325 will be mailed annually to each cable system in the country—at present, over 11,000 cable systems. In order to reduce the filing burden and increase the accuracy of the computer database to be assembled from the completed forms, a process was developed whereby each year preprinted and completed forms were to be sent to each operator reflecting the information in the Commission's database. The system operator would then only be required to correct information that had changed since the last filing. Although this process was intended to ease the burden on system operators and to be administratively efficient, it proved to be resource intensive on the part of the Commission, because the returned forms, many of which were deficient in some manner, had to be manually reviewed for technical and administrative accuracy before being entered into the computer system. As available Commission staff resources were reduced and priorities shifted, it became increasingly difficult to complete the data input process. Thus, the form has not been mailed out or data collected since 1994.

6. As a consequence of the above developments we now prepare to either: (1) Abolish this data collection process entirely, or (2) reform the process so that the data that is deemed important may be collected in a more efficient, less resource intensive, manner. In general, it is vital that the Commission have accurate and timely information regarding the cable television industry, both to assist in the enforcement of existing requirements and for broader rulemaking and policy purposes. We seek comment, however, on whether it continues to be important for the Commission to have access to the type of data reported on the current Form 325 and the extent to which this information is available from other sources. For instance, while not subject to accuracy and specificity requirements applicable to a governmental reporting system, information on the basic facts of cable television system operation is available from commercial sources such as S.C. Nielson and Warren Publishing. We seek comment on whether these commercial sources may rely for their information on the availability of the Commission's data base. Similarly, with regard to the signal interference program, the Commission already uses Form 320 (Basic Signal Leakage Performance Report) to gather a cable system's operational parameters in the event interference occurs to over-the-air services. On the other hand, we noted in our leased access proceeding, that the only official source of leased access information was in the Form 325. Given the possible availability of alternative sources of data, we seek comment on whether we should eliminate the current Form 325 entirely or revise it to obtain more focused information.

7. If Form 325 is retained, we seek comment on any changes that should be made to clarify and improve the usefulness of the data collected. For example, the questions and instructions with respect to channel capacity and use data, which is pertinent to a number of Commission's rules, including must-carry, leased access, and channel occupancy, have not always resulted in consistent responses. In addition, Form 325 does not require the operator to submit specific ownership information, which could be relevant to the Commission's horizontal ownership rules, among others. We seek comment on how to obtain more useful consistent or reliable data if the form is retained.

8. In addition, if the Form 325 is retained, we seek comment on ways to make the collection process less burdensome. For example, the data could be collected at less frequent intervals, a sampling process could be developed or an electronic filing system could be developed to reduce the resources devoted to the data collection process. Should, for example, we adopt a data collection process that applies only to cable systems that meet certain geographic, subscriber, channel capacity, or revenue criteria, or should such forms apply to a random subset of cable operators? We note that if data were collected only from systems with over 10,000 subscribers, approximately 80 percent of all subscribers would be covered yet only approximately one-tenth of the present filings would be required.

II. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis For the Notice of Proposed Rulemaking

9. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission is incorporating an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and proposals in this *NPRM*. Written public comments concerning the effect of the proposals in the *NPRM*, including the IRFA, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Secretary shall send a copy of this *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

10. *Reasons Why Agency Action is Being Considered.* Section 11 of the 1996 Telecommunications Act requires the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest. Although Section 11 does not specifically refer to cable operators, the Commission has determined that the first biennial review presents an excellent opportunity for a thorough examination of all of the Commission's regulations.

11. *Need for Action and Objectives of the Proposed Rule Change.* The Commission invites comment on whether to eliminate or modify the requirement for cable systems operators to file the current "Annual Report of Cable Television," Form 325, pursuant to Section 76.403 of the Commission's rules ("Section 76.403"), because the Commission believes the current Form 325 provides limited value, imposes unnecessary burdens on the Commission and cable operators, and duplicates existing practices.

12. *Legal Basis.* The authority for the action proposed for this rulemaking is contained in Section 4(i)–(j) of the Communications Act of 1934, as amended.

13. *Description and Estimate of the Number of Small Entities Impacted.* The IRFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The IRFA defines the term "small

entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under Section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

14. The proposal to either eliminate or modify the requirement to file Form 325 applies to all cable system operators. The Commission has developed, with SBA's approval, its own definition of a small cable system operator for rate regulation purposes. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1439 small entity cable system operators that may be affected by the changes we are considering.

15. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

16. *Reporting, Recordkeeping, and other Compliance Requirements:* The Commission is proposing to eliminate certain recordkeeping or information collection requirements, and in the alternative, we are proposing to substantially reduce such burdens.

17. *Significant Alternatives Which Minimize the Impact on Small Entities and which are Consistent with Stated Objectives*: The *NPRM* solicits comments on alternatives to elimination of the FCC Form 325. Any significant alternatives presented in the comments will be considered.

18. *Federal Rules which Overlap, Duplicate, or Conflict with the Commission's Proposal:* None.

19. *Report to Congress.* The Commission shall send a copy of this IRFA along with this Notice in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, codified at 5 U.S.C. § 801(a)(1)(A). A copy of this IRFA will also be published in the **Federal Register**.

B. Paperwork Reduction Act of 1995 Analysis

20. The requirements proposed in this Notice have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and could potentially impose modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the proposed modifications to the information collection requirements contained in this Notice, as required by the 1995 Act. Public comments are due 21 days from date of publication of this Notice in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

21. Written comments by the public on the proposed and/or modified information collections are due June 9, 1998. Written comments must be submitted by the Office of Management and Budget ("OMB") on the proposed and/or modified information collections on or before [insert date 60 days after date of publication in the Federal Register.] In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

C. Ex Parte Rules

22. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules. 47 CFR § 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR § 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

D. Filing of Comments and Reply Comments

23. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before June 30, 1998 and reply comments on or before July 15, 1998. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554. The Cable Services Bureau contact for this proceeding is Sunil Daluvoy at (202) 418–1032 or sdaluvoy@fcc.gov.

24. Parties are also asked to submit comments and reply comments on diskette, where possible. Such diskette

submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Sunil Daluvoy of the Cable Services Bureau, 2033 M Street N.W., Room 700I, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comments or reply comments), and date of submission. The diskette should be accompanied by a cover letter.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13168 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE96

Migratory Bird Harvest Information Program; Participating States for the 1998–99 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) herein proposes to amend the Migratory Bird Harvest Information Program (Program) regulations. The Service plans to require all States except Hawaii to participate in the Program annually, beginning with the 1998–99 hunting season. This regulatory action will continue to require all licensed hunters who hunt migratory game birds in participating States to register as migratory game bird hunters and provide their name, address, and date of birth to the State licensing authority. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds in participating States. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses are necessary to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

DATES: The comment period for the proposed rule will end on July 20, 1998.

ADDRESSES: Written comments should be sent to the Chief, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, 10815 Loblolly Pine Drive, Laurel, MD 20708–4028. The public may inspect comments during normal business hours in Building 158, 10815 Loblolly Pine Drive (Gate 4, Patuxent Wildlife Research Center), Laurel, MD 20708.

FOR FURTHER INFORMATION CONTACT: Paul I. Padding, MBMO, (301)497–5980.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to expand the Program to include all States except Hawaii, beginning in the 1998–99 hunting season.

Background

The purpose of this cooperative Program is to annually obtain a nationwide sample frame of migratory bird hunters, from which representative samples of hunters will be selected and asked to participate in voluntary harvest surveys. State wildlife agencies will provide the sample frame by annually collecting the name, address, and date of birth of each licensed migratory bird hunter in the State. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter answer a series of questions to provide a brief summary of his or her migratory bird hunting activity for the previous year. States are required to ask each licensed migratory bird hunter approximately how many ducks (0, 1–10, or more than 10), geese (0, 1–10, or more than 10), doves (0, 1–30, or more than 30), and woodcock (0, 1–30, or more than 30) he or she bagged the previous year, and whether he or she hunted coots, snipe, rails, and/or gallinules the previous year. States that have band-tailed pigeon hunting seasons are also required to ask migratory bird hunters whether they intend to hunt band-tailed pigeons during the current year. States are not required to ask questions about species that are not hunted in the State (for example, Maine does not allow dove hunting, therefore, the State of Maine is not required to ask migratory bird hunters how many doves they bagged the previous year). States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published on June 24, 1991 (56 FR 28812). A final rule establishing the Program and initiating a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published on March 19, 1993 (58 FR 15093). The pilot phase was completed following the 1993–94 migratory bird hunting seasons in California, Missouri, and South Dakota. A State/Federal technical group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Changes incorporated into the Program as a result of the technical group's evaluation were specified in an October 21, 1994 final rule (59 FR 53334), that initiated the implementation phase of the Program. Implementation of the Program began with the addition of one State in 1994, three States in 1995 (60 FR 43318), seven States in 1996 (61 FR 46350), and five States in 1997 (62 FR 45706). Final implementation of the Program will be accomplished with the addition of 27 States (all except Hawaii) in this proposed rule.

Currently, all licensed hunters who hunt migratory game birds in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on, written on, or attached to the annual State hunting license or on a State-specific supplementary permit. The State may charge hunters a handling fee to compensate hunting-license agents and to cover the State's administrative costs. The Service's survey design calls for hunting-record forms to be distributed to hunters selected for the survey before they forget the details of their hunts. Because of this design requirement, States have only a short time to obtain hunter names and addresses from license vendors and to provide those names and addresses to the Service. Currently, participating States must send the required information to the Service within 30 calendar days of issuance of the migratory bird hunting authorization.

The Service has requested the cooperation of participating States to facilitate obtaining harvest estimates for hunters who are exempted from a permit requirement and those that are also exempted from State licensing requirements. This includes several categories of hunters such as junior hunters, senior hunters, landowners,

and other special categories. Because exemptions and the methods for obtaining harvest estimates for exempt groups vary from State to State, the Service will incorporate these methods into individual memoranda of understanding with participating States. Excluding from the Program those hunters who are not required to obtain an annual State hunting license also excludes their harvest from the estimates. The level of importance of the excluded harvest on the resulting estimates depends on how many hunters are excluded and on the number of birds they bag. If the level of importance is significant, excluding these hunters will result in serious bias. Minimum survey standards are being developed for exempted categories. States may require exempted hunters to obtain permits (e.g., Maryland required exempted hunters to obtain permits upon entry to the Program in 1994).

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), the Service prepared an Environmental Assessment (EA) on the establishment of the Program and options considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." This EA is available to the public at the location indicated under the **ADDRESSES** caption. Based on review and evaluation of the information in the EA, the Service has determined that amending 50 CFR 20.20 to require all States except Hawaii to participate in the Program annually, beginning with the 1998–99 migratory bird hunting season would not be a major Federal action that would significantly affect the quality of the human environment.

Regulatory Flexibility Act

On June 14, 1991, the Assistant Secretary for Fish and Wildlife and Parks concluded that the rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will affect about 3,300,000 migratory game bird hunters when it is fully implemented. It will require licensed migratory game bird hunters to identify themselves and to supply their names, addresses, and birth dates to the State licensing authority. Additional information will be requested in order that they can be efficiently sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

In total, the Service estimates that the Program information collection will impose costs on society on the order of $4.1 million per year. The Service estimates that hunters will require about 112,000 hours to complete Program forms. At the wage rate, this time is estimated to be valued at $1.5 million (the average estimated cost of time to an individual is less than $0.50). The cost to the States to process and forward the Program information is estimated to be $2.6 million. Service payments of $0.10 per hunter name will mitigate the impact of this requirement on State wildlife budgets to some extent. Several States are imposing additional fees on migratory bird hunter registrations to cover their additional costs. However, the Service notes that the Program costs less than two tenths of one percent of the $3.1 billion migratory bird hunters spent in 1996 for travel, equipment, and hunting rights.

Collection of Information: Migratory Bird Harvest Information Program

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the Service has received approval for this collection of information, with approval number 1018–0015, with the expiration date of August 31, 1998. The information to be collected includes: the name, address, and date of birth of each licensed migratory bird hunter in each participating State. Each licensed migratory bird hunter will also be asked to provide a brief summary of his or her migratory bird hunting activity for the previous year. Hunters' names, addresses, and other information will be used to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. The Service needs and uses the information to improve the quality and extent of information about harvests of migratory game birds in order to better manage these populations.

All information is to be collected once annually from licensed migratory bird hunters in participating States by the State license authority. Participating States are required to forward the hunter information to the Service within 30 calendar days of issuance of the migratory bird hunting authorization. Recent information from participating States indicates that the annual reporting and record-keeping burden for this collection of information averages 2 minutes per response for 3,300,000 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and record-keeping burden for this collection is estimated to be 112,000 hours.

Comments are invited from the public on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) the quality, usefulness, and clarity of the information to be collected; and (4) ways to minimize the burden or the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Comments and suggestions on the information collection requirements should be sent to the Office of Information and Regulatory Affairs; OMB, Attention: Interior Desk Officer, Washington, DC 20503; and a courtesy copy to the Service Information Collection Clearance Officer, ms-224 ARLSQ, Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public comment on the proposed regulations.

Executive Order 12866

This proposed rule was not subject to OMB review under Executive Order 12866.

Unfunded Mandates

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or state governments or private entities.

Civil Justice Reform

The Department has determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and Recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, the Service proposes to amend 50 CFR part 20 as set forth below.

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a–j.

2. Amend § 20.20 by revising paragraphs (a), (b), and (e) to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) Information collection requirements. The collections of information contained in § 20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from licensed hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 2 minutes per response for 3,300,000 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total annual reporting and record-keeping burden for this collection is estimated to be 112,000 hours. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, ms-224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503. (b) General provisions. Each person hunting migratory game birds in any State except Hawaii must have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and must have on his or her person evidence, provided by that State, of compliance with this requirement.

* * * * *

(e) State responsibilities. The State hunting licensing authority will ask each licensed migratory bird hunter in the respective State to report approximately how many ducks, geese, doves, and woodcock he or she bagged the previous year, whether he or she hunted coots, snipe, rails, and/or gallinules the previous year, and, in States that have band-tailed pigeon hunting seasons, whether he or she intends to hunt band-tailed pigeons during the current year.

Dated: April 7, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–13209 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980414095–8095–01; I.D. 040798C]

RIN 0648–AJ37

Fisheries of the Northeastern United States; Dealer Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the regulations which require dealers of summer flounder, scup, black sea bass, Atlantic sea scallops, Northeast (NE) multispecies, Atlantic mackerel, squid, and butterfish to report their fish purchases to NMFS. This action would improve weekly monitoring of landings, by species, by requiring dealers to use a call-in Interactive Voice Response (IVR) system to report their purchases to NMFS. The rule would also modify the schedule for the submission by federally permitted dealers of comprehensive written reports. Reporting requirements for party and charter vessels holding a federal summer flounder or scup permit, other than a moratorium permit, would be modified to make them consistent with reporting requirements in other fisheries.

DATES: Comments must be received on or before June 18, 1998.

ADDRESSES: Comments on the proposed rule or proposed IVR system should be sent to Andrew A. Rosenberg, Ph.D., Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Proposed Rule for Dealer Reporting."

Comments on the burden hour estimates for collection-of- information requirements contained in this proposed rule should be sent to Andrew A. Rosenberg, Ph.D., and to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kelley McGrath, (978) 281-9307 or Gregory Power, (978) 281-9304.

SUPPLEMENTARY INFORMATION: Regulations implementing the fishery management plans for the summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, and Atlantic mackerel, squid, and butterfish fisheries are found at 50 CFR part 648. These fishery management plans were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. All dealers of summer founder, scup, black sea bass, Atlantic sea scallops, NE multispecies, Atlantic mackerel, *Illex* or *Loligo* squid or butterfish must have been issued and have in their possession a Federal dealer permit in order to purchase such species from fishing vessels. All dealers issued a Federal dealer permit are required to submit weekly reports of all fish purchases to the Administrator, Northeast Region, NMFS (Regional Administrator). To make it easier for federally permitted dealers to comply with weekly reporting requirements and to improve the monitoring of commercial landings, NMFS proposes to modify the dealer reporting requirements.

Several species are now being managed using domestic annual harvest limits, such as annual or seasonal quotas and target or actual total allowable catch (TAC) limits. For example, summer flounder and scup are managed through annual commercial quotas, while the regulated NE multispecies are managed through annual target TACs. Regulated multispecies are defined as a subset of the NE multispecies that includes cod, haddock, pollock, redfish, white hake, yellowtail flounder, witch flounder, windowpane flounder, winter flounder, and American plaice. In order to manage these fisheries effectively, accurate and timely monitoring of landings is required. For the purposes of this proposed rule, species managed by quotas or TACs are referred to as "quota-managed species."

Interactive Voice Response System

This proposed rule would require federally permitted fish dealers to use a NMFS-established IVR system to report weekly purchases of all quota-managed species, except those species deferred from IVR system coverage by the Regional Administrator. This would enable NMFS to determine more quickly when domestic harvest limits have been reached. Species whose purchases would have to be reported weekly through the IVR system include summer flounder, scup, black sea bass, regulated NE multispecies, Atlantic mackerel, *Illex* and *Loligo* squid, and butterfish.

The Regional Administrator would have the authority to defer species from coverage by the IVR system weekly reporting requirements if landings are not expected to reach levels that would cause the applicable target exploitation rate corresponding to a given domestic annual harvest limit, target or actual TAC or annual or seasonal quota specified in the fishery management plan for that species to be achieved. This deferral determination would be based on the purchases reported, by species, in the comprehensive written reports submitted by dealers and other available information. If the Regional Administrator determines that a species should be deferred from the IVR system weekly reporting requirement, he/she would publish notification so stating in the **Federal Register**. If data indicate that landing levels subsequently increase to an extent that this determination ceases to be valid, the Regional Administrator would terminate the deferral by publishing notification in the **Federal Register**. Therefore, it is conceivable that a deferral from the IVR system weekly reporting requirement and a withdrawal of a given deferral could occur in any given fishing year for a given quota-managed species. NMFS anticipates that following a review of landing levels and other applicable information several of the quota-managed species will be deferred from the IVR system weekly reporting requirement at the time of implementation of any final rule.

Dealers would be required to report through the IVR system, on a weekly basis, purchases of those quota-managed species not deferred from coverage. The IVR system would use a toll-free number that federally permitted dealers would call to report weekly purchases of IVR monitored species. For each species requiring IVR monitoring, NMFS proposes to require federally permitted dealers to report the following information weekly through the IVR system: Dealer permit number; dealer code; pounds purchased by species; week in which purchases were made; and state of landing for each species purchased. If no purchases of the IVR monitored species were made during the week, the dealer would be required to submit a report so stating through the IVR system.

Trip-by-Trip Dealer Reports

Currently, federally permitted dealers are required to submit comprehensive trip-by-trip written reports listing all species purchased within 3 days after the end of the reporting week. Because the IVR system would provide timely monitoring of dealer purchases by species, NMFS proposes to amend this requirement to allow dealers 16 days following the end of the reporting week in which to complete and submit the trip-by-trip written reports for all species. In addition to providing dealers with more time to complete these reports, this proposed change would also result in more accurate price information being collected on the written reports. Such pricing information is often unavailable to dealers within 3 days following the end of the reporting week, but is available within 16 days following the end of the reporting week.

Dealers would continue to report the following information, within 16 days following the end of the reporting week, on forms supplied by or approved by the Regional Administrator: Dealer name and mailing address; dealer number; name and permit number or hull number (United States Coast Guard (USCG) documentation number or state registration number, whichever is applicable) of vessels from which fish are landed or received; dates of purchases; trip identifier for fishing trip from which fish are purchased; pounds by species (by market category, if applicable); price per pound, by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; signature of dealer or other authorized individual; and any other information deemed necessary by the Regional Administrator. If no fish were purchased during the reporting month, the dealer would be required to report that on the required form, which would be submitted within 16 days following the end of the reporting month. Dealers would retain the option of submitting the required information electronically if authorized in writing to do so by the Regional Administrator.

Additional Dealer and Processor Reporting Changes

NMFS proposes to modify five requirements pertaining to dealer reporting. Dealers are currently required to report the Federal permit number of the vessel from which fish are purchased or landed. However, many of the species landed by dealers are not subject to Federal management and are caught by vessels that hold no Federal permits. This requirement would be modified to require dealers to report either the Federal permit number or the hull number (USCG documentation number or state registration number, as appropriate) of the vessels from which fish are purchased or landed.

The existing reporting form, NOAA Form 88-30, specifies market categories for several species. The regulations would be revised to make it clear to dealers that species must be reported by market category, when applicable.

The reporting period for negative written reports (reports stating that no fish were purchased) would be changed from weekly to monthly. Currently, federally permitted dealers are required to submit a weekly written negative report if no purchases of any fish were made during the reporting week. This proposed rule would instead require dealers to submit monthly a written negative report only if no purchases of any fish were made during a reporting month (defined as a calendar month).

NMFS also proposes adding language to amplify an existing prohibition to allow for the collection of biological data (fish lengths) and samples (scales and otoliths for aging) which are necessary to characterize the composition of the landed catch. While most dealers have historically and voluntarily allowed access to their premises for the collection of these vital data, NMFS proposes to revise the regulations so that it is explicit that federally permitted dealers are required to grant such access.

Under current regulations at § 648.7(a)(2)(ii), processors are required to notify the Regional Administrator if the plant processing capacities change by more than 10 percent during any year. NMFS proposes to require that the processor notify the Regional Administrator in writing within 10 days after this change.

Vessel Reporting Change

NMFS further proposes to revise the reporting requirements for any owner of a party or charter vessel issued a federal summer flounder or scup permit, other than a moratorium permit. Currently, owners of party or charter vessels issued

a summer flounder or scup permit, other than a moratorium permit, and carrying passengers for hire are required to submit an accurate daily fishing log report for each trip that lands summer flounder or scup, respectively. This proposed rule would amend the vessel reporting requirements to require these vessels to submit reports for each trip, regardless of the species fished for or retained. This change would make the requirements for party/charter vessels in the summer flounder and scup fisheries consistent with those in the black sea bass, NE multispecies, and Atlantic mackerel, squid, and butterfish fisheries.

Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA, and clarifies or makes minor modifications to requirements previously approved under OMB control number 0648-0229 (2 minutes per response), OMB control number 0648-0212 (5 minutes per response), OMB Control No. 0648- 0018 (6 minutes per response), and OMB Control No. 0648-0235 (5 minutes per response). The requirement to use an IVR system for weekly dealer reporting has been submitted to OMB for approval under OMB control number 0648-0229 and is estimated to take 4 minutes per response. The response estimates shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing and submitting the collection of information. Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (see ADDRESSES).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have significant impact on a substantial number of small entities as follows:

The proposed rule would require dealers of summer flounder, scup, black sea bass, Atlantic mackerel, squid, butterfish, and NE multispecies to report their purchases to the National Marine Fisheries Service (NMFS) on a weekly basis through a NMFS-established Interactive Voice Response (IVR) system. The reporting schedule for federally permitted dealers would be modified to extend the submission deadline for comprehensive written reports. These proposed changes would enable NMFS to track landings of quota-managed species on a real time basis through the IVR system, while providing dealers with the convenience of additional time to submit the comprehensive written reports.

Reporting requirements for any owner of a party or charter vessel issued a summer flounder or scup permit, other than a moratorium permit, would be modified making the requirements consistent with those in other fisheries. Currently, owners of a party or charter vessel issued a summer flounder or scup permit, other than a moratorium permit, and carrying passengers for hire are required to submit a report for each trip that lands summer flounder or scup, respectively. This rule would require these vessels to submit reports for each trip, regardless of the species fished for or retained.

Because the information being collected from dealers and vessel owners is regularly compiled for their own business records, providing NMFS with the information is a minimal burden and will not result in a significant economic impact on the dealers or vessel owners.

This rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Serivce.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.2 is amended by adding, in alphabetical order, definitions for "Dealer code", "IVR system", and "Quota- managed species" to read as follows:

§ 648.2 Definitions.

* * * * *

Dealer code means a confidential five-digit number assigned to each dealer required to submit purchases using the IVR system for the purpose of maintaining the integrity of the data reported through the IVR system.

* * * * *

IVR system means the Interactive Voice Response dealer reporting system established by the Regional Administrator for the purpose of monitoring dealer purchases.

* * * * *

Quota-managed species means any species of finfish managed under this part by an annual or seasonal quota or by annual target or actual TAC.

* * * * *

3. In § 648.7 paragraph (a)(2) is redesignated as paragraph (a)(3), new paragraphs (a)(2) and (g) are added, paragraph (b)(1)(iii) is removed, the first sentence of paragraph (a)(1) introductory text, and paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (b)(1)(i) and (f)(1) are revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) *Dealers*—(1) *Detailed weekly report.* Federally permitted dealers must submit to the Regional Administrator, or official designee, a detailed weekly report, within the time periods specified in paragraph (f) of this section, on forms supplied by or approved by the Regional Administrator, a report of all fish purchases, except surf clam and ocean quahog dealers or processors who are required to report only surf clam and ocean quahog purchases. * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, Atlantic mackerel, squid and butterfish dealers must provide: Dealer name and mailing address; dealer number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessels from which fish are landed or received; trip identifier for trip from which fish are landed or received; dates of purchases; pounds by species (by market category, if applicable); price per pound by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; and any other information deemed necessary by the Regional Administrator. All report forms must be signed by the dealer or other authorized individual. If no fish are purchased during a reporting week, no written report is required to be submitted. If no fish are purchased

during an entire reporting month, a report so stating on the required form must be submitted.

* * * * *

(2) *Weekly IVR system reports.* (i) Federally permitted dealers purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species; week in which species were purchased; and state of landing for each species purchased. If no purchases of quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section were made during the week, a report so stating must be submitted through the IVR system in accordance with paragraph (f) of this section.

(ii) The Regional Administrator may defer any quota-managed species from the IVR system reporting requirements if landings are not expected to reach levels that would cause the applicable target exploitation rate corresponding to a given domestic annual harvest limit, target or actual TAC or annual or seasonal quota specified for that species to be achieved. The Regional Administrator shall base any such determination on the purchases reported, by species, in the comprehensive written reports submitted by dealers and other available information. If the Regional Administrator determines that any quota-managed species should be deferred from the weekly IVR system reporting requirements, the Regional Administrator shall publish notification so stating in the **Federal Register**. If data indicate that landing levels have increased to an extent that this determination ceases to be valid, the Regional Administrator shall terminate the deferral by publishing notification in the **Federal Register**.

(3) * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, Atlantic mackerel, squid, and butterfish dealers must complete the "Employment Data" section of the Annual Processed Products Report; completion of the other sections of that form is voluntary. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surf clam and ocean quahog processors and dealers must provide the average number of processing plant employees during each month of the year just ended; average number of employees engaged in production of processed surf clam and ocean quahog products, by species, during each month of the year just ended; plant capacity to process surf clam and ocean quahog shellstock, or to process surf clam and ocean quahog meats into finished products, by species; an estimate, for the next year, of such processing capacities; and total payroll for surf clam and ocean quahog processing, by month. If the plant processing capacities required to be reported in this paragraph (a)(3)(ii) change more than 10 percent during any year, the processor shall notify the Regional Administrator in writing within 10 days after the change.

(b) *Vessel owners*—(1) *Fishing Vessel Trip Reports*—(i) *Owners of vessels issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, or Atlantic mackerel, squid, and butterfish permits.* The owner or operator of any vessel issued a permit for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, Atlantic mackerel, squid or butterfish must maintain on board the vessel, and submit, an accurate daily fishing log report for all fishing trips, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, vessel owners or operators may submit reports electronically, for example by using a VTS or other system. At least the following information, and any other information required by the Regional Administrator, must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a party or charter boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; pounds (or count, if a party or charter vessel), by species, of all species landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator permit number (if applicable).

* * * * *

(f) *Submitting reports*—(1) *Dealer or processor reports.* (i) Detailed weekly trip reports, required by paragraph (a)(1) of this section, must be postmarked or received within 16 days after the end of each reporting week. If no fish are purchased during a reporting month, the report so stating required under paragraph (a)(1)(i) of this section must be postmarked or received within 16 days after the end of the reporting month.

(ii) Weekly IVR system reports required in paragraph (a)(2) of this section must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous reporting week.

(iii) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to § 600.502 of this chapter) for the address of NMFS Statistics.

* * * * *

(g) *Additional data and sampling.* Federally permitted dealers must allow access to their premises and to make available to an official designee of the Regional Administrator any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measurements of fish and the collection of age structures such as otoliths or scales.

4. In § 648.14 paragraph (a)(8) is revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(8) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved observer or sea sampler aboard a vessel conducting his or her duties aboard a vessel, or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part, or any official designee of the Regional Administrator conducting his or her duties, including those duties authorized in § 648.7(g).

* * * * *

[FR Doc. 98–13300 Filed 5–18–98; 8:45 am]
BILLING CODE 3510–22–F

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Notices

Federal Register
Vol. 63, No. 96
Tuesday, May 19, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of Small and Disadvantaged Business Utilization; Federal Subcontracting Forum, Workshop and Opportunities Fair

AGENCY: U.S. Department of Agriculture (USDA), Office of Small and Disadvantaged Business Utilization.

ACTION: Notice of meeting.

SUMMARY: The Office of Small and Disadvantaged Business Utilization (OSDBU) at the U.S. Department of Agriculture (USDA) will hold a Federal Subcontracting Forum, Workshop and Opportunities Fair on June 24, 1998, from 9:00 AM to 4 PM, in the Jamie L. Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250. The morning session (9 AM–12 Noon), which will be held in Room 107–A, will consist of presentations from featured guest speakers and the workshop. The subcontracting opportunities fair will take place in the afternoon from 1 PM to 4 PM in the Patio of the building. Participation at the morning session is open to large business concerns and non-profit organizations. Small business concerns are invited to participate in the afternoon session.

Presentation topics will include Best Practices in Subcontracting; the New OFPP Policy Letter on Subcontracting; the Impact of the Adarand Decision on the Federal Subcontracting Program (a surprising new development); An Update on the USDA Subcontracting Program; and the Future of Subcontracting. Among the guest speakers will be Stephen Schooner, Associate Administrator for Procurement Policy at the Office of Federal Procurement Policy (OFPP), and Robert C. Taylor, Manager of the Federal Subcontracting Program at the Small Business Administration (SBA). The workshop will cover the required elements of a subcontracting plan, the reporting of subcontract award data, and other pertinent information pertaining to the Subcontracting Program. Confidential and proprietary information will not be discussed. Participants will have the opportunity to discuss subcontracting issues/concerns during the morning session. Representatives from large business concerns and non-profit organizations will be available at the opportunities fair to discuss subcontracting opportunities. Seating is limited, and reservations are required. Reservations will be taken on a first-come, first-served basis.

DATE: Reservations must be made by June 15, 1998 (fax or e-mail only).

ADDRESS: Confirm by facsimile at (202) 720–3001. Confirm by e-mail at janet.baylor@usda.gov.

FOR FURTHER INFORMATION: Contact Loretta D'Amico, USDA/OSDBU, 1400 Independence Avenue, SW, AG STOP 9501, Washington, DC 20250–9501, telephone: (202) 720–7117, or visit the OSDBU's "What's New" Section on the Internet at www.usda.gov/da/smallbus.html. If you need accommodations to participate in the event, please notify Ms. D'Amico by June 15, 1998 at (202) 720–7117 (v) or through the Federal Information Relay Service at 1–800–877–8339 (voice/tdd).

Sharron L. Harris,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 98–13191 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for Licensing in accordance with 35 U.S.C. 207 and 37 CFR 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to June Blalock, Technology Licensing Coordinator, USDA, ARS, Office of Technology Transfer, Room 415, Bldg. 005, BARC–W, Beltsville, Maryland 20705–2350; telephone: 301–504–5989 or fax: 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

S.N. 08/580,664, "The Use of Enterobacter Cloacae as an Endophyte for the Control of Diseases Caused by Fungi"

S.N. 08/785,716, "Glutenin Genes and Their Uses"

S.N. 08/890,719, "Production of Antisera Specific to Major Histocompatibility Complex Molecules in Chicken"

S.N. 08/898,999, "Flow Cytometry Nozzle for High Efficiency Cell Sorting"

S.N. 08/906,333, "Method of Using Bile Salts to Inhibit Red Heat in Stored Brine-Cured Hides and Skins"

S.N. 08/908,215, "A Strain of Gypsy Moth Virus with Enhanced Polyhedra and Budded Virus Production"

S.N. 08/918,832, "Restructured Fruit and Vegetable Products and Processing Methods"

S.N. 08/946,888, "Non-Thermal Energy Treatment for the Reduction of Microbial Population in Liquid Food Products"

S.N. 08/974,938, "Biocontrol Agents for Take-All"

S.N. 08/978,761, "The Prediction of Total Dietary Fiber in Cereal Products Using Near-Infrared Reflectance Spectroscopy"

S.N. 08/989,887, "Method and Pressure Gauge Mechanism for Determining and Controlling Moisture Content in Bales of Material Such as Cotton"

S.N. 08/996,136, "Whey Protein Fractionation Using High Pressure or Supercritical Carbon Dioxide"

S.N. 60/061,378, "Unique Whitefly Ketose Reductase/Sorbitol Dehydrogenase Enzyme"

June Blalock,

Technology Licensing Coordinator.

[FR Doc. 98–13303 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Southern States Cooperative, Inc., of Richmond, Virginia, an exclusive license to Plant Variety Protection Certificate Application No. 9800029, Soybean, "Tyrone" filed November 19, 1997. "Tyrone" is a forage soybean cultivar recommended for forage production in the southern states and is not intended for grain production. "Tyrone's" Notice of Availability was published in the **Federal Register** on January 8, 1998.

DATES: **Federal Register** comments must be received on or before July 20, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Southern States Cooperative submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–13302 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–026N]

Meeting on the Browning of Ground Beef Patties

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is holding a public meeting to discuss safe handling measures consumers should take in cooking hamburgers. The results of a study on the browning of ground beef patties before they reach an internal temperature of 160 °F will be presented. The purpose of the meeting is to discuss the food safety issues presented by premature browning, including the question whether color is an appropriate indicator that ground beef is cooked to a safe internal temperature.

DATES: The meeting will be held on May 27, 1998, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Arlington Hilton & Towers, 950 North Stafford Street, Arlington, VA, 22203. The hotel is immediately adjacent to the Ballston Metro Station.

FOR FURTHER INFORMATION CONTACT: To register for the meeting and to obtain a copy of the study results on premature browning of ground beef patties, contact Ms. Jennifer Callahan of the FSIS Planning Office at (202) 501–7136 or FAX (202) 501–7642. Participants who require a sign language interpreter or other special accommodation should contact Ms. Callahan at the above numbers by May 22, 1998.

SUPPLEMENTARY INFORMATION: A study was commissioned by FSIS in 1997 to examine laboratory techniques for cooking and color evaluation and to test logistics for ground beef patties. A previous meeting was held to seek public comment on the study design from consumers, public health officials, and other interested persons. The May 27 meeting announced in this notice will focus on the results of the study and other public and private research efforts on premature browning. FSIS is particularly interested in discussing options for educating consumers about the safe cooking of these products.

The meeting is open to the public on a space-available basis. Transcripts of this meeting will be available in the FSIS Docket Office, Room 102, 300 12th Street, SW, Washington, D.C. 20250–3700.

Done in Washington, DC, on May 11, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–13165 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Grazing Permit Reissuance, Sheep Grazing on the Ash Mountain and Iron Mountain Allotments, Absaroka-Beartooth Wilderness, Gallatin National Forest, Park County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of reissuing a 10-year term grazing permit to continue authorizing sheep grazing in the Ash Mountain and Iron Mountain Allotments, located in the Hellroaring Creek and Buffalo Creek drainages in the southwest corner of the Absaroka-Beartooth Wilderness, Gallatin National Forest, Gardiner Ranger District, Park County, Montana. The permit reissuance would authorize the continued use of a three-unit rest-rotation grazing system for grazing 1200 ewe/lamb pairs for a 60-day grazing season. Also, the proposed action includes incorporation grizzly bear and riparian habitat protection standards into the new grazing permit, where they had only been implemented via the Annual Operating Plan in the past. The purpose of the proposed action is (1) to continue achieving Gallatin National Forest Land and Resource Management Plan (Forest Plan) objectives for domestic livestock production on the Ash Mountain and Iron Mountain Allotments, and in a manner that protects other resources including vegetation, wildlife, and riparian habitat.

The Forest Plan provides overall guidance for land management activities, including livestock grazing, within the area. This EIS will tier to the Gallatin Forest Plan Final EIS (September, 1987).

DATES: Written comments and suggestions should be received on or before July 6, 1998.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to John R. Logan, District Ranger, Gardiner Ranger District, Gallatin National Forest, P.O. Box 5, Gardiner, Montana, 59030.

FOR FURTHER INFORMATION CONTACT: Pat Hoppe, EIS Team Leader, Gardiner Ranger District, Gallatin National Forest, Phone (406) 848–7375.

SUPPLEMENTARY INFORMATION:

Reissuance of a 10-year term grazing permit is proposed on the Ash Mountain and Iron Mountain Allotments. These allotments would be combined and managed as one allotment called the Ash/Iron Mountain Allotment. It would consist of approximately 74,000 acres, of which about 14,000 acres are classified as suitable for livestock grazing. The proposed action includes continuing the use of a three-unit rest-rotation grazing system for 2400 sheep months (1200 ewe/lamb pairs would be grazed July 15 through September 15 each year). This system allows the sheep to graze one unit (pasture) one summer every three years. The other two units would not be grazed two out of the three years. Also, the proposed action includes incorporating grizzly bear and riparian habitat protection standards into the new grazing permit, where they had only been implemented via the Annual Operating Plan in the past.

The Gallatin National Forest Land and Resource Management Plan (Forest Plan) provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The purposes of the proposed action are to: (1) continue achieving Gallatin Forest Plan objectives for domestic livestock production on the Ash Mountain and Iron Mountain Allotments, (2) continue providing flexibility in the grazing schedule and better protect vegetation and wildlife habitat by continuing the three-unit rest-rotation system for 2400 sheep months of grazing, and (3) provide stronger administrative control over permitted grazing activities to better assure protection of riparian areas and grizzly bears and to bring the permit into compliance with the Forest Plan. The decision to be made is "should sheep grazing be allowed to continue in the Ash Mountain and Iron Mountain Allotments, and under what conditions."

The project area consists of approximately 74,000 acres of National Forest land located in T7S, R10–12E; T8S, R10–12E; and T9S, R10–11E, P.M. MT. This area is located entirely within the Absaroka-Beartooth Wilderness.

The area of the proposed continuation of grazing would occur within Management Areas 4 and 7. Grazing would occur only on suitable grazing land. Below is a brief description of the applicable management area direction.

Management Area 4—This area includes the Gallatin National Forest portions of the Absaroka-Beartooth Wilderness and Lee Metcalf Wilderness. Occupied grizzly bear habitat is present in much of the area. Livestock grazing is allowed within this management area so long as it is conducted in accordance with wilderness values and grizzly bear standards and guidelines.

Management Area 7—These are riparian zones or areas where vegetation is present that requires either free or unbounded water or soil moistures in excess of what is normally found in the area. Lands within this management area are suitable for livestock grazing as long as soil, water, vegetation, fish, and dependent wildlife species are protected.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed activities would be implemented. Additional grazing alternatives will be considered in response to issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7), which began in October, 1997. In addition to this scoping, the public may visit Forest Service officials at any time during the analysis and prior to the decision. The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. No public meeting are scheduled at this time.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to:

1. Identify potential issues.
2. Identify issues to be analyzed in depth.
3. Eliminate insignificant issues or those which have been covered by a relevant previous environmental analysis, such as the Gallatin Forest Plan EIS.
4. Identify alternatives to the proposed action.
5. Identify potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).
6. Determine potential cooperating agencies and task assignments.

Some public comments have already been received in conjunction with earlier scoping efforts on this project. The following principle issues have been identified so far:

1. Livestock grazing may affect sensitive plants.
2. Livestock grazing may adversely increase competition for forage between big game and domestic livestock.
3. Domestic sheep may affect the population of bighorn sheep by transmitting diseases.
4. Livestock grazing may cause conflicts with grizzly bears and indirectly increase bear mortalities.

Other issues commonly associated with livestock grazing include: effects on water quality, riparian habitat, and soils. This list will be verified, expanded, or modified based on public scoping for this proposal.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in July of 1998. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in management of the Ash Mountain and Iron Mountain Allotments participate at that time. To be most helpful, comments on the Draft EIS should be as site-specific as possible. The Final EIS is scheduled to be completed by October, 1998.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be

waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives. To assist the Forest Service in identifying and considering issues on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

John R. Logan, District Ranger, is the responsible official for this environmental impact statement. His address is U.S. Forest Service, Gardiner Ranger District, P.O. Box 5, Gardiner, MT 59030.

Dated: May 4, 1998.

David P. Garber,

Forest Supervisor, Gallatin National Forest.

[FR Doc. 98–13285 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Timber Harvest, Reforestation, Road Construction and Road Closure Near Buck Creek, Taylor Creek and Eldridge Creek Drainages; Gallatin National Forest, Gallatin County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of timber harvest, reforestation, and road construction and closure in the vicinity of Buck Creek, Taylor Creek and Eldridge Creek drainages (herein referred to as the Taylor Fork Project), located in the Madison Mountain range, Gallatin National Forest, Hebgen Lake Ranger District, Gallatin County, Montana. The Taylor Fork project is one of several projects being proposed on the Gallatin National Forest to contribute timber volume to facilitate acquisition of approximately 54,000 acres of lands currently owned by Big Sky Lumber Company (BSL) located within the proclamation boundary of the Gallatin National Forest. These lands are checkerboard inholdings that originate as part of the construction grants given to the Northern Pacific Railway Company by the Federal Government in the late 1800's and early 1900's. In addition, this project will contribute toward providing a flow of wood products from National Forest lands.

The Gallatin National Forest Land and Resource Management Plan (Forest Plan) provides overall guidance for land management activities, including timber and road management, within the area. The proposed actions of timber harvest, reforestation, road reconstruction, road construction, and road closures are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). This EIS will tier to the Gallatin Forest Plan Final EIS (September, 1987).

DATES: Written comments and suggestions should be on or before June 18, 1998.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to Stan Benes, District Ranger, Hebgen Lake Ranger District, Gallatin National Forest, P.O. Box 520, West Yellowstone, Montana 59758.

FOR FURTHER INFORMATION CONTACT: Julie Shea, EIS Team Leader, Forest Ecology Group, Gallatin National Forest, Phone (406) 585–1655.

SUPPLEMENTARY INFORMATION: Timber harvest and reforestation is proposed on approximately 560 acres of forested land in the Taylor Fork project area, which has been designated as suitable for timber management by the Gallatin Forest Plan. The timber harvest operations and general administration of National Forest lands will require construction up to 3.0 miles of new roads and reconditioning up to 12.0 miles of existing road. The EIS will also analyze a proposal of restoring up to 50 miles of existing road that currently are not open to public use.

The Gallatin Forest Plan provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The primary purpose of this project is to utilize available timber volume within the Taylor Fork area as one of several federal exchange assets to be used to facilitate acquisition of approximately 54,000 acres of lands currently owned by BSL located within the proclamation boundary of the Gallatin National Forest. These lands are checkerboard inholdings that originate as part of the construction grants given to the Northern Pacific Railway Company by the Federal Government in the late 1800's and early 1900's.

Another purpose for the BSL/Taylor Fork Timber Sale proposal is to contribute toward providing a flow of wood products from National Forest lands identified as "suitable" for timber production, as directed in the Gallatin Forest Plan (Forest Plan, pg. II–1). The forested areas being considered for harvest are identified as productive Forest lands available for timber harvest provided grizzly bear habitat objectives are met. The purpose of road construction and reconstruction is to access stands of timber to be harvested. All new roads will be effectively closed to vehicle travel after completion of post-sale activities.

The purpose of closing roads is to minimize future road maintenance costs, reduce sedimentation, and to regulate overall open road density to maintain or improve big game habitat security.

The project area consists of approximately 560 acres of National Forest land located in T8S, R3E, Sec 22 and 26; and T9S, R3E, Sec 10, 11, 15 and 16, P.M. MT. Road work is proposed across private land in T8S, R3E, Sec 27 and 35. The majority of the harvesting would occur within the Taylor Creek and Eldridge Creek area, and south of Buck Creek located in the Madison Mountain range.

The areas of proposed timber harvest and reforestation would occur within Management Area 13. Timber harvest would occur only on suitable timber land. Road construction and reconstruction would occur in this management area plus Management Area 7 when crossing streams. Below is a brief description of the applicable management direction.

Management Area 13—This management area consists of forested, occupied grizzly bear habitat. The productive Forest lands area available for timber harvest provided grizzly bear habitat objectives are met. Management goals for MA 13 include: (1) managing vegetation to provide habitat necessary to recover the grizzly bear; (2) meet grizzly bear mortality reduction goals as established by the Interagency Grizzly Bear Committee; (3) allow a level of timber harvest compatible with Goal 1; and (4) meet State water quality standards and maintain stream channel stability.

Management Area 7—These are riparian zones or areas where vegetation

is present that requires either free or unbounded water or soil moistures in excess of what is normally found in the area. Lands within this management area are suitable for timber harvest as long as soil, water, vegetation, fish, and dependent wildlife species are protected. These suitable lands must also be adjacent to other management areas suitable for timber management.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities in response to issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered, including the effects caused by recent and past harvesting and road construction on private lands. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7), which will occur during May 1998. In addition to this initial scoping, the public may visit Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. No public meetings are scheduled at this time.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to:

1. Identify potential issues.
2. Identify issues to be analyzed in depth.
3. Eliminate insignificant issues or those which have been covered by a relevant previous environmental analysis, such as the Gallatin Forest Plan EIS.
4. Identify alternatives to the proposed action.
5. Identify potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).
6. Determine potential cooperating agencies and task assignments.

The following principle issues have been identified so far:

1. The potential effect of proposed timber harvest and associated road development on grizzly bear habitat (primarily security and cover).
2. The potential of proposed timber harvest and associated road development activities to displace grizzly bears use within the sale area.
3. The potential for proposed harvest and associated road development to affect water quality and stream conditions.

Other issues commonly associated with timber harvesting and road construction include: effects on native fisheries, old growth habitat, big game species, sensitive wildlife and plant species, cultural resources, soils, and scenery in the area. This list will be verified, expanded, or modified based on public scoping for this proposal.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in August of 1998. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is every important that those interested in management of the Taylor Fork project area participate at that time. The Final EIS is scheduled to be completed by mid-November, 1998.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 30-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives. To assist the Forest Service in identifying and considering issues, comments should be as specific to this proposal as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Gallatin National Forest, P.O. Box 130, Federal Building, Bozeman, MT 59771.

Dated: May 6, 1998.

David P. Garber,

Forest Supervisor.

[FR Doc. 98–13287 Filed 5–18–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Retail Trade Report.

Form Number(s): B–151, B–151–A, B–151D, B–153, B–153D.

Agency Approval Number: 0607–0013.

Type of Request: Revision of a currently approved collection.

Burden: 9,817 hours.

Number of Respondents: 23,700.

Avg Hours Per Response: 25 minutes.

Needs and Uses: The Bureau of the Census conducts the Annual Retail Trade Survey to collect annual totals of sales, inventories, inventory valuation methods, purchases, and accounts receivable balances from a sample of retail establishments in the United States. The estimates compiled from this survey are critical to the accurate measurement of total economic activity and are used in computing such indicators of economic well-being as the Gross Domestic Product and the National Income and Product Accounts. Survey results also provide valuable information for economic policy decisions and actions by the government and are widely used by private businesses, trade organizations, professional associations, and others for market research and analysis.

This request for revision informs OMB of a recent change in sample design. This redesign has increased the number of respondents by about 3,000, while decreasing, on average, the number of data requests to each respondent.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, Sections 182, 224, and 225.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent on or before June 18, 1998 to Nancy Kirkendall,-OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13172 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Field Representative Exit Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Geraldine Burt, Census/Field Division, Room 1684/FOB 3, Washington, DC 20233–4400, and 301–457–1935.

SUPPLEMENTARY INFORMATION:

I. Abstract

Retention of trained field interviewing staff is a major concern for the Census Bureau because of both the monetary costs associated with employee turnover, as well as the potential impact on data quality. The Field Representative Exit Survey is used to collect data from a sample of our former current survey interviewers (field representatives) and Nonresponse Follow-up (NRFU) and Quality Check (QC) interviewers (enumerators) employed during census operations. The purpose of the survey is to determine the reasons for interviewer turnover and what the Bureau might have done or do to influence interviewing staff not to leave.

In addition to using form BC–1294 to collect data from field representatives who have left the Bureau, we will use Form BC–1294(D) to collect data from dress rehearsal and census enumerators on the factors that affected their decision as to whether to stay with an operation until it was completed. Since the nature of census enumerator work differs from current surveys interviewing (short term, intensive and concentrated work rather than continuing and diverse) we could not use the existing questionnaire, "as-is." The questions and response choices on the BC–1294(D) have been tailored to census operations and are more in-depth, although they cover largely the same topics as the BC–1294. Additionally, questions about a supplemental pay plan are included on the BC–1294(D). The 1998 Dress Rehearsal is the Bureau's final opportunity to test its planned operations and procedures in a simulated census environment in preparation for the 2000 Census. Interviewer turnover is of heightened concern during a decennial census because of the short time periods for data collection operations. Because of this heightened concern, Form BC–1294(D) was recently added to this clearance.

The information collected via the survey will help the Census Bureau develop plans to reduce turnover in its current survey and decennial interviewing staff. This in turn should allow for better informed management decisions regarding the field work force and the implementation of more effective pay plans and interviewer training for both current and decennial interviewers. Prior research has suggested a need for a more flexible pay plan for the decennial interviewing staff in order to recruit sufficient number of interviewers and reduce turnover. As part of the 1998 Dress Rehearsal, the Census Bureau will be testing a supplemental pay plan in which pay rates are tied to the local labor market and based partially on interviewer performance and whether interviewers stay to complete their assignments. Questions on the experimental decennial pay plans asked of dress rehearsal enumerators will be used to determine the impact of the variable and supplemental pay rates on enumerator turnover as well as the impact and effectiveness of decennial enumerator training.

II. Method of Collection

The data will be collected by telephone. Interviews with former field representatives should take no more than five (5) minutes. Because of the in-depth nature of some of the questions on the BC–1294(D) and the additional questions on the experimental decennial pay plans, interviews with former NRFU and QC enumerators should take no more than fifteen (15) minutes. We estimate that interviews will be conducted with a total of 160 field representatives and about 2,500 enumerators on a yearly basis.

For former field representatives: Approximately every month, a sample of one-half of all interviewers who voluntarily resigned within the period will be contacted by telephone to complete a questionnaire.

For 1998 Dress Rehearsal enumerators: Beginning approximately two weeks after the start of NRFU and QC operations, all enumerators who have continuously been in a non-pay status for a period of two weeks will be contacted by telephone to complete a questionnaire.

III. Data

OMB Number: 0607–0404.

Form Number: BC–1294, BC–1294(D).

Type of Review: Regular Submission.

Affected Public: Former Bureau Interviewers (Field Representatives and Enumerators).

Estimated Number of Respondents: 160 Former Current Survey Interviewers; 2,500 Former Dress Rehearsal Enumerators.

Estimated Time Per Response: 5 minutes for former current survey interviewers; 15 minutes for dress rehearsal enumerators.

Estimated Total Annual Burden Hours: 13 hours for former current survey interviewers; 625 hours for dress rehearsal enumerators; Total is 638 hours.

Estimated Total Annual Cost: The only cost to respondents is that of their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 5 USC, Section 3101 and Title 13 USC Section 23.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13171 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Procedure to Initiate an Investigation Under the Trade Expansion Act of 1962

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Margaret Cahill, Trade and Industry Analyst, Bureau of Export Administration (BXA), Department of Commerce, Room 3876, 14th and Constitution Avenue, NW, Washington, DC 20230 (telephone no. (202) 482–3795).

SUPPLEMENTARY INFORMATION:

I. Abstract

Upon request, the Department of Commerce shall initiate an investigation to determine the effects of imports of certain commodities on the national security, and will make the findings known to the President for possible adjustments to imports through tariffs. The findings are made publicly available and are reported to Congress. The purpose of this collection of information is to account for the public burden associated with submitting such a request from any interested party, including other government departments or by the Secretary of Commerce.

II. Method of Collection

In written form. A request or application shall describe how the quantity, availability, character and uses of a particular imported article, or other circumstances related to its import affect the national security.

III. Data

OMB Number: N/A.

Form Number: N/A.

Type of Review: Regular submission of a collection in use without OMB approval.

Affected Public: Businesses, other for-profit institutions, Federal Government.

Estimated Number of Respondents: 2.

Estimated Time Per Response: 4.0 hours.

Estimated Total Annual Burden Hours: 8 hours.

Estimated Total Annual Cost: $480 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13173 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Summit Marketing, Inc., Order Denying Permission To Apply for or Use Export Licenses

In the Matter of: Summit Marketing, Inc., 52 Blackburn Center, Gloucester, Massachusetts 01930.

On September 26, 1997, Summit Marketing, Inc. was convicted in the United States District Court for the District of Massachusetts on four counts of violating Section 38 of the Arms Export Control Act (currently codified at 22 U.S.C.A. § 2778 (1990 & Supp. 1998)) (the AECA). Specifically, Summit Marketing, Inc. was convicted of knowingly and willfully exporting and attempting to export defense articles to France, for transshipment to Iran, without obtaining the required export licenses from the Department of State.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any

[1] the Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 *Fed. Reg.* 43629, August 15, 1997), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730–774 (1997)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Summit Marketing, Inc.'s conviction for violating the AECA, and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny Summit Marketing, Inc. permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of eight years from the date of its conviction. The eight-year period ends on September 26, 2005. I have also decided to revoke all licenses issued pursuant to the Act in which Summit Marketing, Inc. had an interest at the time of its conviction.

Accordingly, it is hereby

Ordered

I. Until September 26, 2005, Summit Marketing, Inc., 52 Blackburn Center, Gloucester, Massachusetts 01930, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may do, directly or indirectly, any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Summit Marketing, Inc. by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until September 26, 2005.

VI. A copy of this Order shall be delivered to Summit Marketing, Inc. This Order shall be published in the **Federal Register**.

Dated: May 11, 1998.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 98–13288 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Sanford B. Groetzinger; Order Denying Permission to Apply for or Use Export Licenses

In the Matter of: Sanford B. Groetzinger currently incarcerated at: Federal Correction Institute, Number 21423038, P.O. Box 7000, Fort Dix, New Jersey 08640, and with an address at: 82 Dennison Street, Gloucester, Massachusetts 01930.

On September 26, 1997, Sanford B. Groetzinger (Groetzinger) was convicted in the United States District Court for the District of Massachusetts on four courts of violating Section 38 of the Arms Export Control Act (currently codified at 22 U.S.C.A. 2778 (1990 & Supp. 1998)) (the AECA). Specifically, Groetzinger was convicted of knowingly and willfully exporting and attempting to export defense articles to France, for transshipment to Iran, without obtaining the required export licenses from the Department of State.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1997)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 comp. 501 (1996)), August 14, 1996 (3 CFR, 1196 Comp. 298 (1997)), and August 13, 1997 (62 FR 43629, August 15, 1997), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Groetzinger's conviction for violating the AECA, and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny Groetzinger permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of eight years from the date of his conviction. The eight-year period ends on September 26, 2005. I have also decided to revoke all licenses issued pursuant to the Act in which Groetzinger had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until September 26, 2005, Sanford B. Groetzinger, currently incarcerated at Federal Correction Institute, Number 21423038, P.O. Box 7000, Fort Dix, New Jersey 08640 and with an address at 82 Dennison Street, Gloucester, Massachusetts 01930, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may do, directly or indirectly, any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Groetzinger by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-producted direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until September 26, 2005.

VI. A copy of this Order shall be delivered to Groetziner. This Order shall be published in the **Federal Register**.

Dated: May 11, 1998.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 98–13286 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 97–095R. *Applicant:* Stanford University, Stanford Medical Center, 300 Pasteur Drive, Room 5302, Palo Alto, CA 94304. *Instrument:* Ultrasound Bone Densitometer. *Manufacturer:* McCue Plc, United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the **Federal Register** of December 15, 1997.

Docket Number: 98–024. *Applicant:* University of Michigan, Transportation Research Institute, 2910 Baxter Road, Ann Arbor, MI 48109–2150. *Instrument:* (3) Sensor Sets, Model ODIN 4. *Manufacturer:* A.D.C. GmbH, Germany. *Intended Use:* The instrument is intended to be used in a scientific study in which vehicles equipped with these sensors will be driven by human subjects to evaluate the performance of headway control systems. *Application accepted by Commissioner of Customs:* April 21, 1998.

Docket Number: 98–025. *Applicant:* University of California, Berkeley, Berkeley CA 94720. *Instrument:* Electron Detector. *Manufacturer:* Gammadata/Scienta AB, Sweden. *Intended Use:* The instrument will be used in angle-resolved photoemission experiments with the objective of studying the electronic structure and physical properties of superconducting

materials. In addition, the instrument will be used to train graduate students in their thesis research. All results will be made public and published in scientific journals. *Application accepted by Commissioner of Customs:* April 30, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–13308 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wisconsin-Madison, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 98–011. *Applicant:* University of Wisconsin-Madison, Stoughton, WI 53589. *Instrument:* Hydrostatic Leveling System. *Manufacturer:* Fogale-Nanotech, France. *Intended Use:* See notice at 63 FR 12451, March 13, 1998. *Reasons:* The foreign instrument provides measurements of vertical position from a group of remote sensors (using a water-level reference) with a range of measurement from 6.0 to 8.5 mm and a precision of 1 µm. *Advice received from:* Argonne National Laboratory, April 29, 1998.

Docket Number: 98–015. *Applicant:* Brown University, Providence, RI 02912. *Instrument:* Material Preparation and Crystal Growth System, Model MCGS5. *Manufacturer:* Crystallox, Ltd., United Kingdom. *Intended Use:* See notice at 63 FR 15831, April 1, 1998. *Reasons:* The foreign instrument provides crystal growth using cold crucible or Bridgman technique for materials with very high melting point using 50kW induction heating. *Advice received from:* National Aeronautics and Space Administration, May 5, 1998.

The Argonne National Laboratory and the National Aeronautics and Space Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–13310 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Texas at Austin; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–001. *Applicant:* University of Texas at Austin, Austin, TX 78712. *Instrument:* IR Image Furnace, Model SC–M35HD. *Manufacturer:* NEC Nichiden Machinery Ltd., Japan. *Intended Use:* See notice at 63 FR 8164, February 18, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides growth of oxide monocrystals using the traveling floating melt zone method. The National Aeronautics and Space Administration advised February 2, 1998 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–13309 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 98040112–8112–01]

American Lumber Standard Committee; Additional Memberships Approved

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology announces that the Secretary of Commerce approved the request of the American Lumber Standard Commtitee ("the Committee") to allow membership for the National Lumber Grades Authority (NLGA) of Canada under Section 9.3.1 (rules-writing agencies) and for wood treaters under Section 9.3.3 (other interested and affected groups) of DOC Voluntary Product Standard PS 20–94 "American Softwood Lumber Standard."

ADDRESSES: Barbara M. Meigs, Office of Standards Services, National Institute of Standards and Technology, Room 164, Building 820, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Barbara M. Meigs, telephone: 301–975–4025, fax: 301–926–1559, e-mail: barbara.meigs@nist.gov.

SUPPLEMENTARY INFORMATION: Section 9.3.7 of DOC Voluntary Product Standard PS 20–94 "American Softwood Lumber Standard," developed under procedures published by the Department of Commerce (15 CFR Part 10), provides that the Secretary of Commerce, upon request, may consider making additional appointments to the Committee to ensure that it has a comprehensive balance of interests.

On February 13, 1997, NIST published a notice in the Federal Register (62 FR 6761) announcing that it was considering a request received from the Committee. The Committee, after its annual meeting in December 1996, had sent a letter to NIST requesting that one voting membership for the NLGA of Canada and one for wood treaters be approved. NIST announced a 90-day comment period to allow for public comment on the recommendation.

During the comment period, which ended on May 14, 1997, one current and

one former member of the Committee submitted objections to the NLGA and wood-treaters memberships. On October 29, 1997, after considering the Committee's recommendation and the comments of those who responded to the Federal Register notice, the Secretary of Commerce approved the recommendation of the Committee to allow one principal member and one alternate to represent the NLGA under Section 9.3.1 of PS 20–94 and one principal member and one alternate to represent wood treaters under Section 9.3.3.

Authority: 15 U.S.C. 272.

Dated: May 8, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13196 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 97–026.

Title: Method and Apparatus for Diffraction Measurement Using A Scanning X-Ray Source.

Abstract: This invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and Digiray Corporation. The present invention relates to x-ray diffraction measurement by using moving x-ray source x-ray diffraction. The invention comprises a raster-scanned x-ray source, a specimen, a collimator, and a detector. The x-ray source is electronically scanned which allows a complete image of the x-ray diffraction characteristics of the specimen to be produced. The specimen is placed remote from the x-ray source and the detector. The collimator is located directly in front of the detector. The x-rays are diffracted by the specimen at certain angles, which cause them to travel through the collimator and to the detector. The detector may be placed in any radial location relative to the specimen in order to take the necessary measurements. The detector can detect the intensity and/or the wavelength of the diffracted x-ray. All information needed to solve the Bragg equation as well as the Laue equations is available. The x-ray source may be scanned electronically or mechanically. The present invention is used to perform texture analysis and phase identification.

NIST Docket Number: 96–042.

Title: High Strength Polymeric Networks Derived (Meth) Acrylate Resins With Organoflourine Content and Process For Preparing Same.

Abstract: Disclosed are fluorinated materials for use in dental uses and non-dental uses, e.g., adhesives or coatings. Multifunctional monomers and prepolymers with pendant (meth) acrylate groups were prepared from epoxide-ring-opening reactions. Resins based on the fluorinated monomers and prepolymers with diluent comonomers, were photocured as composites with particulate fillers. Fluorine contents of the prepolymers ranged from 15 to 65%. Composites with high transverse strength (up to 120 MPa), low water sorption (as low as 0.11 mass %) and extremely low polymerization shrinkage (as low as 3.4% by volume) were obtained. The fluorinated resins may be employed to produce hydrophobic dental composite materials with high strength and low polymerization shrinkage.

NIST Docket Number: 96–038US.

Title: Fractional Phase Measurement By Polarization-Dependent Spectroscopy.

Abstract: The invention provides an inexpensive, noninvasive optical method of quantitatively determining the volume fraction of anisotroic material in a mixture of anisotropic and isotropic material, and more particularly for determining the volume fraction of noncubic crystalline material in a mixed-phase specimen having noncubic crystalline material intermixed with cubic crystalline material. Polarized light is impinged on the specimen and the reflectance or transmission difference between two orthogonal polarizations directions is measured. In cubic regions the reflectance or transmission is the same along both polarization directions so the contributions to the difference cancel, leaving a signal only from the noncubic regions. The optical difference can be measured as a function of wavelength and critical points in the band structure, including the band gap, can be profiled. From the band structure the film composition can be determined. This measurement is particularly suited to measuring III–V nitride semiconductor specimens having regions with zincblende symmetry mixed with regions of wurtzite symmetry.

NIST Docket Number: 96–025

Title: Broadband, Ultrahigh-Sensitivity Chemical Sensor Based on Intra-Cavity Total Reflection.

Abstract: This NIST invention permits broadband, ultra-sensitive measurement of optical absorption for any state of matter by the cavity ring-down technique using a small, monolithic, total internal reflection ring cavity. It significantly advances the sensitivity, accuracy, and adaptability of optical absorption spectroscopy for decisive qualitative and quantitative chemical analysis, with greatly increased trace analysis capability.

NIST Docket Number: 95–022.

Title: A Time Stamp Service for the National Information Network.

Abstract: This NIST invention consists of a method for applying a signed time-stamp to a document in digital format for the purpose of proving that the document existed on the date it was signed. Any digital-format document can be signed including simple text files, binary files, scanned images, etc. The document can be encrypted or encoded. The time-stamp is accurate to a few milliseconds, and the accuracy is directly traceable to UTC(NIST) in real-time. The signed document can be returned to the sender electronically and the document can also be forwarded automatically to any number of third parties provided only that the third parties are capable of receiving electronic mail.

Dated: May 12, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13194 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board (CSSPAB) will meet Tuesday, June 2, 1998, Wednesday, June 3, 1998, and Thursday, June 4, 1998, from 9 a.m. to 5 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on June 2–4, 1998, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, Maryland in the Administration Building in Lecture Room A.

Agenda

- Welcome and Overview.
- Issues Update and Briefings.
- Computer Security Legislation Updates.
- Information Security Briefing.
- Privacy Issues Briefings.
- Crytography Policy Updates.
- Discussion.
- Pending Business.
- Public Participation.
- Agenda Development for September Meeting.
- Wrap-Up.

Public Participation

The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the CSSPAB Secretariat, Information Technology Laboratory, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than May 29, 1998. Approximately 20 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Roback, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, MD 20899–0001, telephone: (301) 975–3696.

Dated: May 8, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13195 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Northeast Region Survey of Intent and Capacity To Process Fish and Shellfish

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 17, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Clay Heaton, Mid-Atlantic Fishery Management Council (MAFMC), 300 South New Street, Dover, Delaware 19901–6790, (302) 674–2331.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Fishery Management Plans for Atlantic Surf Clams and Ocean Quahogs, and Atlantic Mackerel, Squid, and Butterfish include requirements that the National Marine Fisheries Service and/or the MAFMC survey domestic processors and joint venture operators annually to establish industry capacity to utilize the managed species.

A survey, required under the squid, mackerel and butterfish regulations at 50 CFR 648.21(b), is used to establish the intent and capacity of the US industry to utilize allowable harvest in a given year. If the US industry is unable to fully utilize the allowed harvest of Atlantic mackerel, the excess may be used in establishing levels of catch for joint ventures and/or direct foreign harvest .

A survey, required under the surf clam and ocean quahog regulations at 50 CFR 648.7(a)(2)(ii), is used to obtain data for use in monitoring present processing activities and estimating future production at the processing plant level. As in previous years, this information is obtained annually through a telephone survey.

Both surveys seek information concerning annual capacity to process theses species; historical amount of product processed; and quantity of product to be processed in the future.

II. Method of Collection

Written and telephone surveys.

III. Data

OMB Number: 0648–0235.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 54.

Estimated Time Per Response: 15 minutes for the Atlantic mackerel, squid, and butterfish survey; 5 minutes for the Atlantic Surf Clam and ocean quahog survey.

Estimated Total Annual Burden Hours: 10 hours.

Estimated Total Annual Cost to Public: $0 (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of this information collection; they also will become a matter of public record.

Dated: May 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13174 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Surf Clam/Ocean Quahog ITQ Transfer Form; Proposed Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Myles Raizin, NMFS, 1 Blackburn Drive, Gloucester, MA, 01930, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

I. Abstract

Amendment 8 to the Fishery Management Plan for Surf Clams and Ocean Quahogs (FMP) implemented an individual transferable quota (ITQ) system for both fisheries. The FMP, under 50 CFR § 648.70 (b), requires the Regional Administrator, NMFS, Northeast Region, to approve both permanent and temporary transfers of allocations. The Surf Clam/Ocean Quahog ITQ Transfer Form (Form) serves as the official application to the Regional Administrator to effect these transfers. The Form requires names of the transferor and transferee and their respective allocation numbers, and number of 32-bushel cages transferred and corresponding cage tag numbers. New applicants must furnish vessel name, owner name, address, and telephone number, and NMFS will assign them an allocation number. Both the transferor and transferee must sign the form.

II. Method of Collection

Written application.

III. Data

OMB Number: 0648–0238.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business and other for-profit organizations.
Estimated Number of Respondents: 206.
Estimated Time Per Response: 5 minutes.
Estimated Total Annual Burden Hours: 52 hours.
Estimated Total Annual Cost to Public: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13175 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Application to Shuck Surf Clams/Ocean Quahogs at Sea; Proposed Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Myles Raizin, NMFS, 1 Blackburn Drive, Gloucester, MA, 01930, (978)281–9104.

SUPPLEMENTARY INFORMATION:

I. Abstract

Amendment 8 to the Fishery Management Plan for Surf Clams and Ocean Quahogs (FMP) implemented a requirement for vessel owners that desire to use their vessels for shucking either surf clams or ocean quahogs at sea to submit an Application to Process Surf Clams/Ocean Quahogs at Sea (Application) to the Regional Administrator, NMFS, Northeast Region (Regional Administrator). The contents of the application are specified at 50 CFR 648.74(a)(2) and include: Name and address of the applicant, permit number of the vessel, method of calculating the amount of surf clams or ocean quahogs harvested in the shell, vessel dimensions and accommodations, and length of fishing trip. Upon receipt of the application, the Regional Administrator may allow the shucking of surf clams or ocean quahogs at sea if he/she determines that an observer carried aboard the vessel can measure accurately, in bushels, the total amount of surf clams and ocean quahogs harvested in the shell prior to shucking. The calculation of bushels is extremely important since the fisheries operate under a system of individual transferable quotas which are defined in 32-bushel units.

II. Method of Collection

Written application.

III. Data

OMB Number: 0648–0240.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business and other for-profit organizations.
Estimated Number of Respondents: 2.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 2 hours.

Estimated Total Annual Cost to Public: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13176 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

May 12, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 19, 1998

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased by recrediting unused carryforward applied to the 1997 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 66054, published on December 17, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 12, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the period January 1, 1998 through December 31, 1998.

Effective on May 19, 1998, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing (ATC):

Category	Adjusted limit [1]
Levels in Group I	
336/836	68,874 dozen.
339	1,559,066 dozen.
340	354,068 dozen.
341	228,367 dozen.
342	103,312 dozen.
345	61,107 dozen.
347/348/847	839,444 dozen.
351/851	78,849 dozen.
359–V [2]	137,751 kilograms.
638/639/838	1,916,176 dozen.
659–S [3]	137,751 kilograms.
Group II	
400–431, 433–438, 440–448, 459pt. [4], 464, and 469pt. [5], as a group.	1,526,865 square meters equivalent.
Sublevel in Group II	
445/446	82,315 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[3] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–13179 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

May 12, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryforward and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 64361, published on December 5, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 12, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on May 19, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
237	1,621,830 dozen.
338/339	2,587,680 dozen.
347/348	2,349,631 dozen.
638/639	1,916,606 dozen.
847	740,049 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–13180 Filed 5–18–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Application of the Chicago Mercantile Exchange for Designation as a Contract Market in Pork Composite Futures and Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and options contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in pork composite futures and options. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before June 18, 1998.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CME pork composite futures and options contract.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird@cftc.gov.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on May 12, 1998.

Steven Manaster,

Director.

[FR Doc. 98–13242 Filed 5–18–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 20, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early

opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 13, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.
Title: An Evaluation of the Comprehensive Regional Assistance Centers.
Frequency: One time.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 2,620.
Burden Hours: 1,140.
Abstract: This evaluation will describe the work of the Comprehensive Centers, identify particularly promising strategies and assess the availability, quality, and effectiveness of the Centers' services. Recipients and non-recipients of Center services will be surveyed, and Center staff, staff of partner organizations, and ED staff will be interviewed.

[FR Doc. 98–13206 Filed 5–18–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.
ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 18, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 13, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Common Core of Data Surveys.
Frequency: Annually.
Affected Public: Federal Government; State, local or Tribal Gov't, SEAs or LEAs.
Reporting Burden and Recordkeeping:
Responses: 57.
Burden Hours: 10,901.
Abstract: The Common Core of Data Surveys collect data annually from state education agencies about students and staff involved in the public elementary and secondary education system: membership, number of graduates and dropouts, and staff employed in instruction, administration, and support. The surveys also collect information about school and agency characteristics, and revenues and expeditures for public elementary and secondary education.

[FR Doc. 98–13207 Filed 5–18–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Objective Merit Review of Discretionary Financial Assistance Applications

AGENCY: Department of Energy.
ACTION: Notice of Objective Merit Review Procedure.

SUMMARY: This Notice establishes the procedure followed by program and regional support offices under the purview of the Assistant Secretary for Energy Efficiency and Renewable Energy (ASEE) in conducting the objective merit review of discretionary financial assistance applications.

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EFFECTIVE DATE: May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy A. Martin, Office of Energy Efficiency and Renewable Energy, EE–60, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9108.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Applicability of Notice
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I. Introduction

The Department of Energy (DOE) today gives notice of the procedure for the objective merit review of discretionary financial assistance in the Offices of the Assistant Secretary for Energy Efficiency and Renewable Energy. Financial assistance is provided, in the form of a grant or cooperative agreement, when the principal purpose of the transaction is the transfer of money or property to accomplish a public purpose of support or stimulation as authorized by Federal statute. Discretionary financial assistance is financial assistance provided under a federal statute which authorizes DOE to select the recipient and the project to be supported and to determine the amount to be awarded. This differs from a procurement, which refers to instruments used when the principal purpose of the transaction is the acquisition of supplies or services for the direct benefit of the Government. The procedure implements the objective merit review provisions of the DOE Financial Assistance Rules in (10 Code of Federal Regulations (CFR), § 600.13).

II. Applicability of Notice

The procedure covers the evaluation of all discretionary financial assistance applications within the programs of the DOE Office of Energy Efficiency and Renewable Energy and apply to both solicited and unsolicited applications.

III. Distinction Between Solicited and Unsolicited Proposals

Solicited proposals are direct responses by interested organizations or individuals to published requests issued by DOE for the submission of applications for discretionary financial assistance awards. Solicited proposals are awarded on a competitive basis using the criteria set forth in 10 CFR 600.8. When a proposal is submitted solely on the proposer's initiative and the idea, method or approach which would not be eligible for assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate, the proposal is considered an unsolicited proposal. Unsolicited proposals are awarded on a noncompetitive basis using the criteria set forth in 10 CFR 600.6 (c). The two types of proposals are treated differently, as described in paragraph IV. (c), below.

IV. Objective Merit Review Procedure

(a) *Definition and Purpose.* Merit review is the process of evaluating applications for discretionary financial assistance using established criteria. The review is thorough, consistent and independent and is completed by individuals knowledgeable in the field of endeavor for which support is requested. The purpose of the review is to provide advice on the technical and cost-related merits of applications to the Selection Official with decision-making authority over the award of discretionary financial assistance.

(b) *Basic Review Standards.* (1) Initial Review. All financial assistance applications received by EE will be assigned to the respective EE program official who will initially review the document(s) for conformance with the technical and administrative requirements stated in the program rule, notice or solicitation and funding availability. (2) Evaluation. Applications which pass the initial review will be evaluated in accordance with stated evaluation criteria set forth in the program rule, notice, solicitation, or, where appropriate, the unsolicited proposal criteria. Those applications not meeting the evaluation criteria of the program rule, notice, solicitation, or the unsolicited proposal may be returned to the sender to be corrected or modified/supplemented by the sender. Those applications judged to be so inadequate that an evaluation is not warranted will be returned to the sender.

(c) *Criteria for Merit Review.* Applications which pass the initial review and meet the evaluation criteria set forth in the program rule, notice or solicitation are subjected to an objective merit review for discretionary financial assistance. The criteria used for the evaluation of solicited applications must be clearly stated in the solicitation along with the relative importance given to each criterion. The criteria, and other mandatory information specified in 10 CFR 600.8, must be in the solicitation. If an unsolicited proposal is initially favorably evaluated against program/policy factors, it should be considered for an objective merit review for discretionary financial assistance. The criteria used for the evaluation of unsolicited proposals is set forth in 10 CFR 600.6 (c).

(d) *The Merit Review Committee.* (1) The ASEE has the ultimate responsibility for appointments to a merit review committee (the Committee). The ASEE may delegate the appointment authority and decision-making authority (Selection Official function) to Deputy Assistant Secretaries (DAS), Office Directors and Regional Support Office Directors.

(2) The Committee, whether a standing committee or other review committee, shall be comprised of three or more professionally and technically qualified persons. The committee members may be a mixture of federal and non-federal experts. Non-Federal members shall be selected on the basis of their professional qualifications and expertise.

(3) Members of the merit review committee should exclude anyone who, on behalf of the Federal Government, performs any of the following functions:

(i) Providing substantial technical assistance to the applicant;

(ii) Approving/disapproving or having any decision-making role regarding the application;

(iii) Serving as the Contracting Officer (CO) or performing business management functions for the project;

(iv) Auditing the recipient for the project; or

(v) Exercising line authority over anyone ineligible to serve as a reviewer because of the above limitations.

(4) The Selection Official must appoint one member of the merit review committee to serve as chairperson. The chairperson is responsible for:

(i) Obtaining signed certificates of confidentiality from all committee members;

(ii) Preparing the written summary of the evaluation and recommendations for the Selection Official for the applicant's file; and

(iii) Performing the merit review duties of a regular committee member.

(5) The nature of EE's program solicitations will dictate the feasibility of using standing or ad hoc committees. When solicitations are generally being issued to meet specific program objectives with time or subject limitations, EE program offices will use ad hoc committees. Ad hoc committees are also appropriate under the following circumstances:

(i) For small numbers of applications received intermittently;

(ii) For programs of short duration, usually under one year;

(iii) To supplement review by standing committees when the volume of applications is usually large, and for applications with special review requirements.

(6) The regular use of ad hoc committees does not preclude the use of standing committees under the following circumstances:

(i) When required by legislation,

(ii) When a sufficient number of applications on a specific topic are received regularly and there is a sufficient number of qualified experts willing to serve on the committee for a prolonged tenure; and

(iii) When the legislative authority for the particular program involved extends for more than one year.

(7) Field readers may be used as an adjunct to a review committee. Field readers must be fully briefed by the designated Contract Officer's Representative so as to understand the process, including the review criteria, the weight given each criterion, and the fact that any criteria not specified in the solicitation are not to be used to evaluate the applications. The field readers must sign a certificate of confidentiality, as provided in 10 CFR 600.13(d). Field readers should follow, as closely as possible, the procedures that would have been used by a standing committee.

(e) Conflict of Interest. Members of the review committee must act in a manner consistent with 10 CFR 1010.101. Reviewers who do not meet these requirements shall not review, discuss, or make recommendations concerning the application. Review committee members with a conflict of interest shall also absent themselves from all meetings in which the application in question is discussed.

(f) Authorized Uses of Information. The review committee must act in a manner consistent with 10 CFR 600.15 when dealing with applications containing trade secrets, privileged, confidential commercial, and/or financial information, unless the information is unrestricted information available from other sources.

(g) Authority Beyond Evaluation. The Selection Official may decide not to accept a proposal that receives a favorable recommendation from the merit review committee due to policy or program factors. The explanation for the decision not to accept a recommendation from the merit review committee must be documented in writing for the applicant's file and must be prepared and signed by the ASEE or his/her designee.

(h) Written Evaluation Summary. Upon request, applicants are to be furnished a written summary of the evaluation of their application.

V. Deviations

If an EE program office wants to deviate from these procedures for merit review of an application or a class of applications, but will still follow the rules of 10 CFR 600.13, that office must obtain written permission from the ASEE. Permission to use procedures which deviate from 10 CFR 600 must be requested in writing to the responsible DOE Contracting Officer in accordance with 10 CFR 600.4. The Head of Contracting Activity has the authority to approve such procedures for a single case deviation, while the DAS for Procurement and Assistance Management has the authority to approve a class deviation. A deviation may be authorized only upon written determination that the deviation is necessary for any of the reasons set forth in 10 CFR 600.4 (b).

VI. EE Selection Process

Selection of applications for discretionary financial assistance will be based on the Selection Officials' acceptance of the merit review committees' recommendations and the findings of a separate programmatic review of program/policy factors relevant to EE's mission.

Issued in Washington, D.C., on May 13, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–13244 Filed 5–18–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 98–17; Innovations in Magnetic Fusion Energy Diagnostic Systems

AGENCY: Office of Energy Research, U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Energy Research, U.S. Department of Energy (DOE) announces its interest in receiving grant applications for innovative research in magnetic fusion energy diagnostic systems. Research projects are sought that are unique, first of a kind, and provide new scientific insights. Applications for implementation of an *established* diagnostic technique on existing or planned facilities should *not* be submitted in response to this Notice. Successful applications will be funded in FY 1999.

DATES: To permit timely consideration for awards in Fiscal Year 1999, applications submitted in response to this notice must be received no later than 4:30 p.m., August 4, 1998. No electronic submissions of formal applications will be accepted.

ADDRESSES: Completed formal applications referencing Program Notice 98–17 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 98–17. The above address must also be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Darlene Markevich, ER–55 GTN, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, Telephone: (301) 903–4920 or 3287, or by Internet address, darlene.markevich@mailgw.er.doe.gov.

SUPPLEMENTARY INFORMATION: The Office of Fusion Energy Sciences is interested in receiving applications for innovative diagnostic systems that have the possibility of leading to improved understanding of plasma behavior in tokamaks, innovative confinement concepts, and burning plasma experiments. Research projects are sought that are unique, first of a kind, and provide new scientific insights. Although the main thrust of this initiative is for experimental work, consideration will be given to applications that are directed at a short-term scientific assessment of new diagnostic concepts that are not ready for extensive experimental investigation. Applications for the implementation of an established diagnostic technique on existing or planned facilities should not be submitted in response to this Notice. Also, applications for theory/modeling investigations or initiatives in Inertial Fusion Energy should not be submitted in response to this Notice.

In selecting applications for funding, the DOE Office of Fusion Energy Sciences will give priority to applications that can produce experimental results within three to five years after grant initiation. Except for assessment applications, the detailed description of the proposed project should contain the following items: (1)

A detailed experimental research plan; (2) The specific results or deliverable expected at the end of the grant period; (3) The goal of the experiment; (4) A synopsis of the experimental program plan; (5) Adequacy of the facilities and budget; and (6) A proposed outline on how the diagnostic will be carried to a proof-of-principle (POP) demonstration. An estimated budget for POP demonstration must be included if the POP would be carried out after the end of the normal 3-year project period for a grant.

Applications concerned with scientific assessment of new diagnostic techniques that are not ready for experimental investigation should have a well-defined scope and a duration of no more than six months. These applications will be considered non-renewable. The product of such an assessment would be a clear scientific description of the diagnostic concept, the knowledge of fusion plasma behavior that would be gained from the diagnostic, and a critical analysis of major difficulties to be overcome in developing the concept.

Program Funding

It is anticipated that up to a total of $600,000 of Fiscal Year 1999 Federal funds will be available for new awards resulting from this Notice. Multiple-year funding of grant awards is anticipated, contingent upon the availability of funds. It is intended to support the research through proof-of-principle implementation on an existing fusion facility, consistent with availability of funds. However, future-year funding will depend on suitable experimental progress and the availability of funds. Because of the total amount of anticipated available funding and because of the intent to have a broadly based program, experimental applications with an annual requirement in any year in excess of $300,000 are unlikely to be funded. The cost-effectiveness of the application will be considered when comparing applications with different funding requirements. Applications for scientific assessment of new concepts will be limited to a maximum of $50,000. DOE reserves the right to fund in whole or part any or none of the applications received in response to this Notice.

A parallel request for Field Work Proposals will be issued to DOE Federally Funded Research and Development Centers (FFRDCs). All projects will be evaluated using the same criteria, regardless of the submitting institution.

Collaboration

Applicants to this Notice are encouraged to collaborate with researchers in other institutions, such as universities, industry, non-profit organizations, federal laboratories, and FFRDCs, including the DOE National Laboratories, where appropriate, and to incorporate cost sharing and/or consortia wherever feasible.

An individual may be named as primary principal investigator on only one application submitted in response to this Notice. It is permissible, however, for the same principal investigator to be named as a co-principal investigator on one other application submitted in response to either this Notice, or the corresponding request for Field Work Proposals for this initiative. Collaborative projects involving several research groups at more than one institution may receive larger awards if merited. The program will be competitive and offered to investigators in universities or other institutions of higher education, other non-profit or for-profit organizations, non-Federal agencies or entities, or unaffiliated individuals.

Collaborative research applications may be submitted in several ways:

(1) When multiple private sector or academic organizations intend to propose collaborative or joint research projects, the lead organization may submit a single application which includes another organization as a lower-tier participant (subcontract) who will be responsible for a smaller portion of the overall project. If approved for funding, DOE may provide the total project funds to the lead organization who will provide funding to the other participant via a subcontract arrangement. The application should clearly describe the role to be played by each organization, specify the managerial arrangements and explain the advantages of the multi-organizational effort.

(2) Alternatively, multiple private sector or academic organizations who intend to propose collaborative or joint research projects may each prepare a portion of the application, then combine each portion into a single, integrated scientific application. A separate Face Page and Budget Pages must be included for each organization participating in the collaborative project. The joint application must be submitted to DOE as one package. If approved for funding, DOE will award a separate grant to each collaborating organization.

(3) Private sector or academic applicants who wish to form a collaborative project with a DOE FFRDC may not include the DOE FFRDC in their application as a lower-tier participant (subcontract). Rather, each collaborator may prepare a portion of the proposal, then combine each portion into a single, integrated scientific proposal. The private sector or academic organization must include a Face Page and Budget Pages for their portion of the project. The FFRDC must include separate Budget Pages for their portion of the project. The joint proposal must be submitted to DOE as one package. If approved for funding, DOE will award a grant to the private sector or academic organization. The FFRDC will be funded, through existing DOE contracts, from funds specifically designated for new FFRDC projects. DOE FFRDCs will not compete for funding already designated for private sector or academic organizations. Other Federal laboratories who wish to form collaborative projects may also follow guidelines outlined in this section.

Application Format

To enable all reviewers to read all applications, the application must be limited to a maximum of twenty (20) pages (including text and figures), plus not more than one page each of biographical information and publications of the principal investigator, plus any additional forms required as a part of the standard grant application.

An original and seven copies of each application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional five copies of each application.

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of the applicant's personnel and adequacy of the proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

In addition to peer review, funding decisions will be based on program policy factors, such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and

procedures may be found in the Application Guide for the Office of Energy Research Financial Assistance Program and 10 CFR Part 605. Electronic access to the Application Guide is possible via the Internet using the following Web site address: http://www.er.doe.gov/production/grants/grants.html

References for Background Information

In order to assist the potential applicant under this Notice, the summary of a recent workshop that addressed measurement needs in fusion devices is provided on the World Wide Web at: http://wwwofe.er.doe.gov/more—html/pdffiles/diag.pdf The summary is intended as background information on measurement needs. New diagnostic techniques that address these measurements are the ones most likely to be considered for funding under this Notice. However, new diagnostic techniques that address other measurements in fusion plasmas will also be considered for funding under this Notice.

For those without access to the World Wide Web, hard copies of the workshop summary may be obtained by contacting Mr. John Sauter at (phone) 301–903–3287, (fax) 301–903–4716, or in writing at U.S. Department of Energy, Office of Energy Research, ER–55, 19901 Germantown Road, Germantown, MD 20874–1290.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC, on May 8, 1998.

Ralph H. DeLorenzo,

Acting Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 98–13243 Filed 5–18–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2645–000]

Alliant Services, Inc., IES Utilities Inc., et al.; Notice of Filing

May 13, 1998.

Take notice that on April 20, 1998, Alliant Services, Inc. (Alliant), on its own behalf and on behalf of IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company, South Beloit Water, Gas & Electric Company, Heartland Energy Services and Industrial Energy Applications, Inc. (the IEC Operating Companies), submitted as a compliance filing the System Coordination and Operating Agreement Among IES, IPC, WPL and Alliant and Alliant's Order No. 888–A open access transmission tariff. The filings were made in response to the Commission's Opinion No. 419 approving the merger of the companies. The filings are proposed to take effect on April 21, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protests with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 22, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13199 Filed 5–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–512–000]

Destin Pipeline Company, L.L.C.; Notice of Application

May 13, 1998.

Take notice that on May 4, 1998, Destin Pipeline Company, L.L.C. (Destin), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP98–512–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate a pipeline extension and appurtenant facilities in the Mississippi Canyon area of the Gulf of Mexico, to serve as gas supply facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Destin proposes to install and operate approximately 31 miles of 24-inch lateral pipeline from Chevron USA Inc.'s (Chevron) Viosca Knoll Block 900 Platform to a sub-sea tie-in to be located near the Main Pass Block 279 Platform, all in Federal Waters, Gulf of Mexico, and appurtenant facilities including a pig launcher and measurement facilities. It is stated that the facilities are designated the Gemini Expansion Facilities and are being installed to gain access to a supply of natural gas from a new deep water prospect named Gemini in Mississippi Canyon Area Blocks 247, 291, and 292. It is asserted that Texaco Exploration and Production Inc. and Chevron have signed agreements with Destin for the transportation of up to 180 Mmcf of gas per day from the Gemini gas supply under Destin's Rate Schedule F–2.

Destin proposes to own, operate and maintain the facilities as part of its pipeline system and to finance the cost of $37.2 million. Destin requests rolled-in rate treatment for the cost of the facilities, asserting that they will be an integral part of its system. Destin requests Commission authorization by July 31, 1998, in order to have the proposed facilities placed in service by March, 1999.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Destin to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13202 Filed 5–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4715–012]

Felts Mills Energy Partners, L.P.; Notice Dismissing Request for Rehearing

May 13, 1998.

On March 17, 1998, the Director, Office of Hydropower Licensing, issued an order granting to the licensee for the Felts Mills Project No. 4715 an extension of time to comply with the requirements of Articles 205 and 405 of its license. On April 17, 1998, New York Rivers United filed a request for rehearing of the Director's order.

Rule 713 of the Commission's Rules of Practice and Procedure provides that rehearing may be sought only with respect to a "final Commission decision or other final order." [1] The Director's order in this case, allowing the licensee additional time to submit its plan and aperture cards, is interlocutory, and is not therefore subject to rehearing.[2] Accordingly, New York Rivers United's request for rehearing is dismissed.[3]

This notice constitutes final agency action. Requests for rehearing by the Commission of this dismissal notice may be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13201 Filed 5–18–98; 8:45 am]

BILLING CODE 6717–01–M

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[1] 18 CFR 385.713(b).

[2] *See e.g.*, Wisconsin Valley Improvement Company, 80 FERC ¶ 61,319 (1997).

[3] Even if the rehearing request had not been interlocutory, it would have to be dismissed since a request for rehearing may be filed only by a party to the proceeding. With regard to post-licensing proceedings, the Commission only entertains motions to intervene where the filings at issue entail material changes in the plan of project development or in the terms and conditions of the license, or could adversely affect the rights of property-holders in a manner not contemplated by the license. *See* Kings River Conservation District, 36 FERC ¶ 61,365 (1986). Such was not the case here. Thus, notice of this proceeding was not issued, and motions to intervene were not entertained.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2498–000]

Public Service Company of New Mexico; Notice rescinding prior notice

May 11, 1998.

Take notice that on May 12, 1998, The **Federal Register** published a notice in the above-captioned docket (63 FR 26181). By this notice, the prior notice is hereby rescinded.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13200 Filed 5–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–515–000]

Transcontinental Gas Pipe Line Corporation; Notice of Request Under Blanket Authorization

May 13, 1998.

Take notice that on May 4, 1998, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP98–515–000, a request pursuant to Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a sales tap for Frontier Energy (Frontier), a North Carolina natural gas local distribution and transmission pipeline company, under Trancso's blanket certificate issued in Docket No. CP82–426–000, pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that the sales tap would consist of two six-inch valve tap assemblies, a meter station with two six-inch meter runs and other appurtenant facilities near milepost 1308.45 on Transco's mainline in Rowan County, North Carolina. Transco further states that Frontier would construct, or cause to be constructed, appurtenent facilities as part of a new "greenfield" natural gas distribution project to enable it to receive gas from Transco at the sales tap and redeliver the gas to serve several counties in northwestern North Carolina which do not have current access to natural gas.

Transco also states that the new sales tap would be used by Frontier to receive up to 45,000 dekatherms of gas per day from Transco. It is stated that the gas delivered through the new sales tap would be received by Frontier for redeliveries in its capacity as a new local distribution company. Transco states that Frontier is not currently a transportation customer of Transco. It is further stated that upon completion of the sales tap, Transco would commence transportation service to Frontier pursuant to Transco's Rate Schedules FT–R or IT and Part 284(G) of the Commission's regulations. Moreover, Transco states that Frontier may have access in the future to Rate Schedule FT service in the event Frontier becomes a replacement shipper for a permanent release of firm capacity or if new firm capacity becomes available through an expansion of Transco's system. Transco states that the addition of the sales tap would have no significant impact on Transco's peak day or annual deliveries, and is not prohibited by Transco's FERC Gas Tariff.

Transco further states that the estimated total costs of Transco's proposed facilities would be approximately $474,000. It is also stated that Frontier would reimburse Transco for all costs associated with such facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13203 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11480–001–Alaska]

Haida Corporation; Notice of Teleconference

May 13, 1998.

A telephone conference will be convened by staff of the Office of Hydropower Licensing on June 2, 1998, at 1 p.m. eastern time (10 a.m. Pacific time and 9 a.m. Alaska time). The purpose of this meeting is to discuss the status of the Commission's March 5, 1998, information requests, and any other outstanding topics on the Reynolds Creek Hydroelectric Project. The project is proposed to be constructed and operated on Prince of Wales Island, near the community of Hollis, Alaska.

Any person wishing to participate in this teleconference should contact Carl Keller at (202) 219–2831 or e-mail at carl.keller@ferc.fed.us no later than May 28, 1998, so that appropriate arrangements can be made.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13204 Filed 5–18–98; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2277]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

May 13, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed by June 3, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Toll Free Service Access Codes (CC Docket No. 95–155).

Number of Petitions Filed: 4.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13169 Filed 5–18–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending); (2) Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing); (3) Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfers); and (4) Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

DATES: Comments must be submitted on or before July 20, 1998.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located of F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, as the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending).

OMB Number: 3064–0082.

Frequency of Response: On occasion.

Affected Public: Any businesses or individuals that regularly offer or extend consumer credit.

Estimated Number of Respondents: 6,100.

Estimated Time per Response: 787.

Estimated Total Annual Burden: 4,800,700 hours.

General Description of Collection: Regulation Z (12 CFR 226) prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts. Regulation Z is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of Title I of the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*). Section 105 of the Act (15 U.S.C. 1604) designates the FRB as the issuer of the implementing regulations and section 108(a) of the Act (15 U.S.C. 1607) designates the FDIC as having the enforcement responsibilities in the case of insured nonmember banks.

2. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).

OMB Number: 3064–0083.

Frequency of Response: On occasion.

Affected Pubic: Any businesses engaging in consumer leasing.

Estimated Number of Respondents: 6,100.

Estimated Time per Response: 4.

Estimated Total Annual Burden: 24,400 hours.

General Description of Collection: Regulation M (12 CFR 2123) implements the consumer leasing provisions of the Truth in Lending Act. Regulation M is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of Title I of the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*). Section 105 of the Act (15 U.S.C. 1604) designates the FRB as the issuer of the implementing regulations, and section 108(a) of the Act (15 U.S.C. 1607) designates the FDIC as having the enforcement responsibilities in the case of insured nonmember banks.

3. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfers).

OMB Number 3064–0084.
Frequency of Response: On occasion.
Affected Public: Any users of the electronic fund transfer system.
Estimated Number of Respondents: 6,100.
Estimated Time per Response: 120.4.
Estimated Total Annual Burden: 734,440 hours.
General Description of Collection: Regulation E (12 CFR 205) establishes the rights liabilities, and responsibilities of parties in electronic funds transfers ("EFT") and protects consumers using EFT systems. Regulation E is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of Title IX of the Consumer Credit Protection Act (15 U.S.C. 1693.) Section 904 of the Act (15 U.S.C. 1693b) designates the FRB as the issuer of the implementing regulations, and section 917(a) of the Act (15 U.S.C. 1693o) designates the FDIC as having the enforcement responsibilities in the case of insured nonmember banks.

4. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).
OMB Number: 3064–0085.
Frequency of Response: On occasion.
Affected Public: Any financial institution engaging in credit transactions.
Estimated Number of Respondents: 6,100.
Estimated Time per Response: 43.
Estimated Total Annual Burden: 262,300 hours.
General Description of Collection: Regulation B (12 CFR 202) prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires creditors to give applicants a written notification of rejection of an application. Regulation B is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of Title VII of the Consumer Credit Protection Act (15 U.S.C. 1691). Section 703 of the Act (15 U.S.C. 1691b) designates the FRB as the issuer of the implementing regulations, and section 704(a) of the Act (15 U.S.C. 1691c) designates the FDIC as having the enforcement responsibilities in the case of insured nonmember banks.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 13th day of May, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–13164 Filed 5–18–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1998:

Lincoln and Union Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13279 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: May 11, 1998

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1998:

Lincoln and Union Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13280 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1217–DR]

Indiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1217–DR), dated May 8, 1998, and related determinations.

EFFECTIVE DATE: May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 8, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Indiana, resulting from a severe winter storm on March 9–12, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Indiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gary Pierson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Indiana to have been affected adversely by this declared major disaster:

Jasper, Lake, LaPorte and Porter Counties for Public Assistance.

All counties within the State of Indiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–13305 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1216–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA–1216–DR), dated April 29, 1998, and related determinations.

EFFECTIVE DATE: May 10, 1998

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 10, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13282 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1216–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1216–DR), dated April 29, 1998, and related determinations.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 29, 1998:

Leslie County for Individual Assistance (already designated for Public Assistance)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13306 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1215–DR]

Tennessee; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1215–DR), dated April 20, 1998, and related determinations.

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EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 20, 1998:

Polk and Shelby Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13281 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting; Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Technical Mapping Advisory Council.

Date of Meeting: May 31 and June 1, 1998.

Place: Renaissance Waverly Hotel, 2450 Galleria Parkway, Atlanta, GA 30339.

Times: 9 am–6 pm on Sunday and 1 pm–5 pm on Monday.

Proposed Agenda

1. Call to order.
2. Announcements.
3. Action on minutes of previous teleconference.
4. Discuss priorities for FEMA's Map Modernization plan.
5. Develop format for the Council's 1998 annual report.
6. Report on elevation certificate.
7. Discuss Letter of Map Amendment recommendations.
8. Discuss hydraulics and its relationship to hydrology.
9. Adjournment.

FOR FURTHER INFORMATION CONTACT: Michael Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Sally Magee, Federal Emergency Management Agency, 500 C Street SW., room 444, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596 on or before May 27, 1998.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting on September 10 and 11, 1998.

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13304 Filed 5–18–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 3, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Rex K. Alexander, Tulsa, Oklahoma, and Ronald F. Tanner, Cornville, Arizona; to acquire voting shares of BOC Bancshares, Inc., Chouteau, Oklahoma, and thereby indirectly acquire voting shares of Bank of Commerce, Chouteau, Oklahoma.

Board of Governors of the Federal Reserve System, May 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13317 Filed 5–18–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 12, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Central Bancompany, Inc., Jefferson City, Missouri; to acquire 100 percent of the voting shares of Higginsville Bancshares, Inc., Higginsville, Missouri, and thereby indirectly acquire First State Bank of Higginsville/Odessa, Higginsville, Missouri.

2. Diamond Bancorp, Inc., Washington, Missouri; to acquire an additional 1.47 percent, for a total of

5.87 percent, of the voting shares of Cardinal Bancorp II, Inc., St. Louis, Missouri, and thereby indirectly acquire United Bank of Union, Union, Missouri.

Board of Governors of the Federal Reserve System, May 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13316 Filed 5–18–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 3, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. FirstMerit Corporation, Akron, Ohio; to acquire Security First Corp., Mayfield Heights, Ohio, and thereby indirectly acquire Security Federal Savings & Loan Association of Cleveland, Cleveland, Ohio, and First Federal Security Bank of Kent, Kent, Ohio, and thereby engage in permissible savings and loan activities, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13318 Filed 5–18–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Consultation Services for Ship Construction and Renovation

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces fees for conducting voluntary inspections of newly constructed or renovated cruise ships. This notice also announces a change in the proposal to charge a fee for consultation on construction and renovation, and to add a new "mega" size category to the sanitation inspection fee schedule.

DATES: Fees for construction and renovation inspections are effective June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Daniel M. Harper, Program Manager, Vessel Sanitation Program, National Center for Environmental Health, telephone (770) 488–3524 or e-mail DMH2@CDC.GOV, or Dave Forney, Public Health Advisor, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, telephone (770) 488–7333 or e-mail DLF1@CDC.GOV.

SUPPLEMENTARY INFORMATION:

Purpose and Background

A notice of request for public comment on a proposal to charge fees for consultation services for ship construction and renovation, and to create a new "Mega" category for the routine sanitary inspection of ships was published in the **Federal Register** on November 17, 1997, [Volume 62, Pages 61336–61338]. A subsequent amendment to extend the comment period an additional 30 days was published in the **Federal Register** on January 13, 1998, [Volume 63, Number 8, Page 1973].

Discussion of Comments

The public notice of the intent to collect fees for consultation services for ship construction and renovation and to create a new "Mega" category for routine inspections provided a 45 day comment period which was extended an additional 28 days at the request of the members of the cruise ship industry. During the comment period, comments were received from two sources, one of which was the International Council of Cruise Lines (ICCL) representing the 17 largest passenger cruise lines that call on major ports in the U.S. and abroad. Discussion of the comments received and CDC's responses follows:

Comment: One commentor stated that the use of Gross Register Tons alone does not correctly indicate a ship's capacity to carry passengers and crew, while the Total Safe Number does, and better reflects the type of ship that is being inspected.

Response: The fees set forth in the public notice were based on Gross Register Tonnage (GRT) of the passenger vessels as reported by Lloyds of London. CDC believes that the use of GRT is a reasonable and equitable method for determining fees since the number and size of the food service areas and the size of the onboard water systems are generally functions of the vessel's GRT. CDC, after considering the commentor's alternative proposal, sees no advantage in the commentor's proposal over CDC's. CDC will continue to periodically review the fee schedule. If actual experience in fee collection indicates that CDC's proposed system does result in substantial inequity, CDC will act promptly to correct the situation.

Comment: One commentor stated that the proposed "Mega" category placed an increased financial burden on these large craft by increasing the basic inspection fee by approximately 31% over what these ships were charged in 1997. In addition, the galley size and complexity on these ships is not significantly different than that found on ships in the Extra Large category.

Response: It has been CDC's experience that the size and complexity of the galleys and water systems aboard ships >90,000 GRT are often greater than those found on smaller ships. It is also our belief that performing sanitation inspections of these ships requires additional staff time and resources. However, we have not quantified the increase in resources. Therefore, CDC agrees to postpone any modifications to the existing category structure until there can be a more thorough evaluation of the time, effort and other factors involved with the inspection of these ships.

Comment: One commentor stated that the fee increase in the FY 98 budget should adequately cover the costs of providing construction consultation services without the creation of a new

fee category and that this is supported by the vessel fee calculation utilized in the CDC's **Federal Register** notice which stipulates that current inspection fees fully fund the VSP Program. The commentor states that the proposed consultation fees are duplicative of the fees already being paid by vessel operators to CDC through the sanitation inspection fees.

Response: Generally, the CDC recoups the costs of the VSP through the collection of fees. The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the VSP was first published in the **Federal Register** on November 24, 1987 (52 FR 45019), and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). Since then, CDC has published the fee schedule annually. The formula historically used to determine the fees has been calculated by dividing the cost of the VSP by the weighted number of annual inspections. With the tremendous expansion of the cruise line industry, and concurrent expansion in the number of ships being constructed and renovated, an increasing percentage of VSP staff time and expense is being spent on providing consultation directly to the individual cruise lines building and renovating ships. In the past, consultations for new construction and renovation have included an extensive review of the ships' blueprints, an on-site shipyard inspection as the ship neared completion, and a final construction inspection. This has contributed to an overall increase in the VSP budget and reduces the inspector time available to conduct routine sanitation inspections. Because these construction consultations and inspections are voluntary and are directed to individual ship owners, builders and operators, CDC feels that the cost of these services should be borne by the individual recipients, and not by the collective cruise lines participating in the vessel sanitation program. CDC did not include the cost of construction consultations or inspections in calculating the average cost per inspection for FY 1998. If CDC added the cost of these voluntary services into the existing formula, the sanitation inspection for ALL vessels would have been substantially higher even though none of the existing ships in the program would have received direct benefit from the consultation.

In order to more equitably distribute the cost of the program among the participants, CDC will charge for all inspections conducted by VSP staff. CDC agrees to postpone charging a fee for plan reviews and consultation during construction and renovation until there can be a more thorough evaluation of the time, effort and other factors involved with this activity. Future program budgets will be determined by dividing the cost of the VSP by the weighted number of all inspections.

Comment: One commentor stated that the proposed fee for consultation is all inclusive of plan review, shipyard inspection and final construction inspection and does not allow an interested cruise line to request a consultation or inspection during a specific individual phase of construction or renovation.

Response: CDC agrees that a consultation or inspection should be available for any or all phases of construction and renovation. Therefore, consultation or inspection services for new construction or renovation will be provided in three phases:

In Phase 1, CDC will:

- Conduct a Plan Review with ship officials in either the Miami or Atlanta VSP offices and provide a written report, with recommendations, to the ship officials following the review.
- Provide written consultations to the appropriate ship officials (owners, builders, sub-contractors, etc.) during the construction phase of the ship.
- Provide these plan reviews and consultations at no cost.

In Phase 2, CDC will:

- Require that requests for shipyard inspections be submitted to VSP Atlanta 45 days prior to travel dates (see Appendix A).
- Require that the shipyard pay CDC for all expenses in connection with the shipyard inspection and make all necessary arrangements for lodging and transportation, which includes airfare and ground transportation.
- Charge a standard inspection fee for the shipyard inspection based on the published fee announced annually in the **Federal Register**. Provide the shipyard with an invoice at the completion of the inspection.
- Provide a written report of the shipyard inspection.

In Phase 3, CDC will:

- Conduct the final construction inspection at a U.S. port prior to the ship entering operational service. The time and place of this inspection will be mutually agreed upon by the builder, owner and VSP staff. This inspection will NOT be scored.
- Provide a written report of the final construction inspection.
- Charge a standard inspection fee for the inspection based on the published fee announced annually in the **Federal Register**. Provide the shipyard with an invoice at the completion of the inspection.

This is a voluntary program for the cruise ship builders/owners and a formal written request must be made for a consultation and/or construction inspection. CDC's ability to honor these requests will be based on the availability of VSP staff. A builder/owner may request any one, two, or all of the consultation and inspection phases.

CDC will assign one inspector as the "project manager" for each request for consultation or renovation of a ship. The project manager will be the single point of contact at VSP for any discussion regarding the ship from the initial plan review through the final construction inspection. CDC will also provide a second inspector to participate in all plan reviews, consultations, and inspections.

Fees

CDC will not charge a fee for plan reviews and consultation but will charge the published standard fee for all inspections conducted by the program (e.g., shipyard, final construction, sanitation, etc.). The inspection fee is based on the existing fee schedule for sanitation inspections of passenger cruise ships, published annually in the **Federal Register**.

FEE SCHEDULE JANUARY 1, 1998–SEPTEMBER 30, 1998

Vessel size and GRT [1]	Inspection fee
Extra Small (<3,001)	$1,075
Small (3,001–15,000)	2,150
Medium (15,001–30,000)	4,300
Large (30,001–60,000)	6,450
Extra Large (>60,000)	8,600

[1] GRT—Gross Register Tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Applicability

The inspection fees will be applicable to all passenger cruise vessels requesting and receiving services as described in this notice.

Dated: May 13, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Appendix A

Sample

Fax to: Henry Falk, M.D., Director, Division of Environmental Hazards and Health Effects, National Center for Environmental Health Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F–28, Atlanta, GA 30341–3724, Facsimile (770) 488–4127

Fax copy to: Chief, Vessel Sanitation Program, National Center for Environmental Health Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F–16, Atlanta, GA 30341–3724, Facsimile (770) 488–4127

We request the presence of a PHS representative for shipyard consultation on cruise liner (NAME). We tentatively expect to take delivery of the cruise liner on (DATE). We would like to schedule the shipyard consultation for (DATE). We expect the consultation to take approximately (NUMBER OF DAYS).

We will pay CDC in accordance with the inspection fee published in the **Federal Register**, and for all expenses in connection with the shipyard inspection. We will make all necessary arrangements for lodging and transportation, which includes airfare and ground transportation in (CITY, STATE, COUNTRY). We will provide in-kind for lodging and transportation expenses. All remaining expenses, such as en route per diem and meals and miscellaneous expenses, including ground transportation to and from the airport nearest the representatives work site or residence, should be sent to the following address:

Company
Attention:
Street Address
City, State, Country
Zip Code
Office Telephone Number
Facsimile Number

If you have questions regarding this confirmation, please contact:

Signed:

[FR Doc. 98–13212 Filed 5–18–98; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0194]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's regulations governing batch certification of color additives manufactured for use in foods, drugs, cosmetics or medical devices in the United States.

DATES: Submit written comments on the collection of information by July 20, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Color Additive Certification Requests and Recordkeeping—21 CFR Part 80 (OMB Control Number 0910–0216—Extension)

Section 721(a) of the Federal Food, and Drug and Cosmetic Act (the act) (21 U.S.C. 379e(a)) provides that a color additive shall be deemed unsafe unless the additive and its use are in conformity with a regulation that describes the conditions under which the additive may be safely used, or unless the additive and its use conform to the terms of an exemption for investigational use. If a regulation prescribing safe conditions of use has been issued, the additive must be from a batch certified by FDA to conform to the requirements of that regulation and other applicable regulations, unless the additive has been exempted from the certification requirement. Section 721 of the act instructs the Secretary of Health and Human Services (through FDA) to issue regulations providing for batch certification of color additives for which she finds such requirement to be necessary in the interest of protecting the public health. FDA's implementing regulations in part 80 (21 CFR part 80) specify the information that must accompany a request for certification of a batch of color additive and require certain records to be kept pending and after certification. FDA requires batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempt from certification.

Under § 80.21, a request for certification must include: Name of color additive, batch number and weight in pounds, name/address of manufacturer, storage conditions, statement of use(s), fee, and signature of requester. The request for certification must also include a sample of the batch of color additive that is the subject of the request. Under § 80.22, the sample must be labeled to show: Name of color additive, batch number and quantity, and name and address of person

requesting certification. A copy of the label or labeling to be used for the batch must accompany the sample. Under § 80.39, the person to whom a certificate is issued must keep complete records showing the disposal of all the color additive covered by the certificate. Such records are to be made available upon request to any accredited representative of FDA until at least 2 years after disposal of all of the color additive.

The request for certification of a batch of color additive is reviewed by FDA's Office of Cosmetics and Colors to verify that all of the required information has been included. Since the information required in the request for certification is unique to the specific batch of color additive involved, it must be generated for each batch. The information submitted with the request helps FDA to ensure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States. The batch number assigned by the manufacturer is a means of temporary identification until a certification lot number has been issued by FDA. After certification, the manufacturer's batch number helps assure that the proper batch of color is indeed being used under the certification lot number issued by FDA. In the case of a batch that has been refused certification for noncompliance with the regulations, the manufacturer's batch number aids in tracing the ultimate disposition of that batch of color additive. The batch weight serves to account for the disposition of the entire batch; for example, it might be used in determining whether uncertified color has been sold under the lot number assigned to the batch by FDA or, in the event of a recall after certification, to determine whether all unused color has been recalled. In addition, the batch weight is the basis for assessing the certification fee. The name and address of the manufacturer of the color additive being submitted for certification allows FDA to contact the person responsible for its manufacture should a question arise concerning compliance with the regulations. Information on storage conditions pending certification is used to evaluate the possibility that the batch could have been inadvertently or intentionally altered in a manner that would make the sample submitted for certification analysis no longer representative of the batch. It is also used when an FDA investigator is sent to the site; the veracity of the storage statements is checked during normal plant inspections. Information on the uses which the person seeking certification proposes that the color be certified for it is to assure that all of the proposed uses are within the limits of the listing regulation. The statement of the fee on the certification request is for accounting purposes so that the person seeking certification can be promptly notified if any discrepancies appear. The information requested on the label of the sample submitted with the certification request is to identify the sample. The regulations require an accompanying copy of the label or labeling to be used for the batch so that FDA can verify that the batch will be labeled appropriately when it enters commerce.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
80.21	20	152	4,091	0.2	818
80.22	20	152	4,091	0.05	205
Total					1,023

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
80.39	27	152	4,091	.25	1,023
Total					1,023

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated total annual burden for this information collection is 2,046 hours. Over the period fiscal year (FY) 1995 to FY 1997, FDA processed an average of 4,091 requests for certification of batches of color additive. Approximately 20 different respondents submitted requests for certification each year over the period FY 1995 to FY 1997. The estimates for the length of time necessary to prepare certification requests and accompanying samples, and to comply with recordkeeping requirements, were obtained from industry program area personnel.

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13228 Filed 5–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Open Meeting for Representatives of Health Professional Organizations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting with representatives of health professional organizations. The meeting will be chaired by Sharon Smith Holston, Deputy Commissioner for External Affairs. The agenda will include presentations and discussions on the main topic of emerging infectious diseases. FDA staff will make presentations on FDA's involvement in the President's Food Safety Initiative, antimicrobial resistance, and issues in vaccine development and diagnostics. There will also be brief updates on

tobacco and the FDA Modernization Act.

DATES: The meeting will be held on Thursday, May 28, 1998, from 2 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Bethesda Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Peter H. Rheinstein, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6630.

Registration: There is no registration fee, however, space is limited. Persons will be registered in the order in which calls are received. Please call Betty Palsgrove at 301–827–6618 to register.

Registrations also may be transmitted by FAX to 1–800–344–3332 or 301–443–2446. Please include the name and title of the person attending and the name of the organization.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide an opportunity for representatives of health professional organizations and other interested persons to be briefed by senior FDA staff. It will also provide an opportunity for informal discussion on these topics of particular interest to health professional organizations.

This public meeting is free of charge; however, space is limited. Registration for the meeting will be accepted in the order received and should be sent to the contact person. Registration should include the name and title of the person attending and the name of the organization being represented, if any.

Dated: May 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13410 Filed 5–15–98; 2:58 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

First Party Audit Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of industry exchange meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing an industry exchange meeting to discuss with the regulated industry a new initiative being considered by the agency. The First Party Audit Program (FPAP) is intended to gather information from selected human use pharmaceutical manufacturers regarding their quality assurance measures. This information would be submitted to FDA by those firms and would substitute, in some measure, for information the agency would otherwise obtain from its direct inspectional activities. The industry exchange meeting is intended to present the broad concepts of this initiative, discuss attendant issues, and obtain feedback from all interested parties as to the merits of proceeding with the project. This meeting is cosponsored by the Center for Drug Evaluation and Research's (CDER's) Office of Compliance and the Office of the Commissioner's Industry Small Business and Community Affairs Staff.

DATES: The industry exchange meeting will be held on June 23, 1998, from 9 a.m. to 4 p.m. Registration is required by June 12, 1998.

ADDRESSES: The industry exchange meeting will be held at the Hyatt Regency Bethesda Hotel, One Bethesda Metro Center, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: C. Russ Rutledge, Center for Drug Evaluation and Research (HFD–325), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2455.

Those persons interested in attending this meeting should FAX or e-mail their registration to C. Russ Rutledge (FAX 301–594–2202 or e-mail via the Internet at "rutledgec@cder.fda.gov"), including name of attendee(s), title, affiliation, mailing address, phone number, fax number, and e-mail address. There is no registration fee for this meeting, but advance registration is required. Interested parties are encouraged to register early because space is limited.

SUPPLEMENTARY INFORMATION: FDA relies in large part on information acquired during inspections of manufacturing facilities, conducted by the agency's investigators, to ensure that firms are meeting the minimum levels of product quality assurance for human drug products. Although the agency believes that full inspection by its investigators is the ideal situation, FDA is evaluating alternative methods of acquiring information it would otherwise directly obtain from traditional onsite inspections. One approach the agency is considering is the FPAP. The first party is the manufacturing firm itself. The concept is to limit program participation to those manufacturers FDA recognizes as having both a quality assurance program that is effective and a record of substantial compliance with FDA requirements. Program participation would be strictly voluntary. Firms the agency selects for the program would supply FDA with information from its self-audits apart from FDA onsite inspections. The agency would use this information along with modified inspections to document minimum levels of assurance of manufacturing quality of the pharmaceuticals produced in that site.

FDA is holding this industry exchange meeting to present the core concepts of FPAP, discuss the relevant issues, and afford interested parties the opportunity to pose questions and provide comments. The agency will consider this public input in deciding on whether and how to proceed with the program, initially on a pilot basis.

The agenda and any other relevant information will be available electronically via the Internet at "http://www.fda.gov/cder/dmpq/fpap.htm" beginning Monday, May 18, 1998.

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13163 Filed 5–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee for Pharmaceutical Science; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Pharmaceutical Science.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on June 23, 1998, 8 a.m. to 5 p.m., and on June 24, 1998, 8:30 a.m. to 5:30 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, (For Federal Express Deliveries—Chapman Bldg., 801 Thompson Ave., rm. 200, Rockville, MD 20857) or FDA Advisory Committee Information Line,

1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12539. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 23 and 24, 1998, the committee will focus on both safety/efficacy and quality topics with a bridging topic (exposure). Specific topics to be discussed include: (1) Nonclinical/nonhuman pharmacology/toxicology research programs to support the drug development and registration process, (2) in vitro drug metabolism to support guidance updating, (3) the revision of the guidance for scale-up and post-approval changes for immediate release drug products, and (4) complex drug substances.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 16, 1998. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m. on June 23, 1998, and between approximately 10:15 a.m. and 10:45 a.m. on June 24, 1998. Time allotted for each presentation may be limited. Those desiring to make formal presentations should notify the contact person before June 16, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 11, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–13314 Filed 5–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0451]

Draft Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of April 13, 1998 (63 FR 18029). The document announced the availability of a proposed guide entitled "Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables." The document was published with some errors. This document corrects those errors.

DATES: Written comments on the proposed guide by June 29, 1998.

FOR FURTHER INFORMATION CONTACT:

Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5916, FAX 202–260–9653, e-mail: jsaltsma@bangate.fda.gov, or

Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–2975, FAX 202–205–4422, e-mail: msmith1@bangate.fda.gov.

In FR Doc. 98–9636, appearing on page 18029 in the **Federal Register** of Monday, April 13, 1998, the following corrections are made:

1. On page 18029, in the third column, in the first complete paragraph, beginning in the second line from the bottom "WWW (http://www.fda.gov/dockets/dockets.htm)" is corrected to read "WWW (http://www.fda.gov/ohrms/dockets/default.htm)".

2. On page 18030, in the first column, in the last paragraph, beginning in the third line from the bottom "WWW (http://www.fda.gov/dockets/dockets.htm)" is corrected to read "WWW (http://www.fda.gov/ohrms/dockets/default.htm)".

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13315 Filed 5–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1998.

Name: Advisory Committee on Infant Mortality.

Date and Time: June 29, 1998; 9:00 a.m.—5:00 p.m.; June 30, 1998; 8:30 a.m.—4:00 p.m.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, (301) 897–9400

The meeting is open to the public.

Agenda: Topics that will be discussed include: Low-Birth Weight; Discrepancies in Infant Mortality; the Healthy Start Program and Evaluation; and Early Postpartum Discharge.

Anyone requiring information regarding the Committee should contact Dr. Peter C. van Dyck, Executive Secretary, Advisory Committee on Infant Mortality, Health Resources and Services Administration, Room 18–31, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2204.

Persons interested in attending any portion of the meeting or having questions regarding the meeting should contact Ms. Kerry P. Nesseler, Health Resources and Services Administration, Maternal and Child Health Bureau, Telephone (301) 443–2204.

Agenda items are subject to change as priorities dictate.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 98–13301 Filed 5–18–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Meeting

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: June 1–2, 1998, at 10:30 a.m.

ADDRESSES: Fourth floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 "C" Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action

No. A91–081 CV. The agenda will include a review of project proposals submitted for the fiscal year 1999 Work Plan and a discussion of the restoration reserve fund.

Dated: May 13, 1998.

Terence Martin,

Acting Director, Office of Environmental Policy and Compliance.

[FR Doc. 98–13274 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sport Fishing and Boating Partnership Council; Notice of Meeting

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Service announces a meeting designed to foster partnerships to enhance recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: June 1, 1998, from 1:30 p.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the Old Town Holiday Inn Select, 480 King Street, Alexandria, VA 22314, Telephone (703) 549–6080, FAX (703) 684–6508.

Summary minutes of the conference will be maintained by the Coordinator for the Council at 1033 North Fairfax Street, Suite 200, Arlington, VA 22314, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, at 703/836–1392.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council (Council) will convene to discuss: (1) The ongoing effort to monitor and evaluate Federal agency activities pursuant to Executive Order 12962 for Recreational Fisheries; (2) the status of the National Outreach Strategic Plan; and (3) the status of Governors' Coalition for Recreational Fisheries, sponsored by Arkansas Governor Mike Huckabee. Under Executive Order 12962, the Council is required to monitor and annually report its findings on 15 Federal agencies' actions and policies for protecting, restoring, and enhancing recreational fishery resources. The Council expects to hear a report from the National Recreational Fisheries Coordination Council on the Federal accomplishments for Fiscal Year 1997. The Council will determine the best approach for fulfilling its role under Executive Order 12962. The Council is also charged by the U.S. Fish and Wildlife Service to develop a National Outreach Strategic Plan by August 1, 1998. This meeting will be to discuss the status of that assignment and instruct the Council's Outreach Committee to proceed accordingly. Arkansas Governor Mike Huckabee is implementing an element of the Council's Recreational Fisheries Initiative, produced last year in concert with more than 100 recreational fisheries stakeholders. The Governor has agreed to convene Governors annually to develop strategies for promoting recreational fishing and boating in their respective states. The discussion of this initiative will conclude by identifying actions needed to support this initiative. Public comment will be sought at the conclusion of discussion of the third agendum.

Dated: April 29, 1998.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 98–13184 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment IV to the Tribal-State Compact for Regulation of Class III Gaming Between the Coquille Indian Tribe and the State of Oregon, which was executed on March 23, 1998.

DATES: This action is effective May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy J. Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: May 8, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–13219 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment IV to the Tribal-State Compact for Regulation of Class III Gaming Between the Confederated Tribes of Siletz Indians of Oregon and the State of Oregon, which was executed on March 22, 1998.

DATES: This action is effective May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy J. Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: May 9, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–13218 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling

on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment IV to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on March 23, 1998.

DATES: This action is effective May 19, 1998.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: May 12, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–13220 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–067–08–1990–00) (0003)]

Noncompetitive Sale of Public Lands in Eddy County, New Mexico 100623

SUMMARY: The following land has been found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat 2750, 43 USC 1713), at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

T. 24 S., R. 27 E., NMPM,
Sec. 08: S½SW¼SE¼NE¼SW¼.
Containing approximately 1.25 acres.

The land is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from date of this notice, whichever occurs first.

The land is being offered by direct sale to the Harley Davis Irrevocable Trust, to correct an encroachment of a house located on the public lands and to resolve a historic unauthorized use.

The patent, when issued, will contain certain reservations to the United States and will be subject to existing rights-of-way. Detailed information concerning these reservations, as well as specific conditions of the sale, are available for review at the Carlsbad Field Office, Bureau of Land Management, 620 East Greene, Carlsbad, New Mexico 88220.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager at 2909 West Second Street, Roswell, New Mexico 88201. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In absence of objections, this realty action will become the final determination of the Department of the Interior.

Dated: May 5, 1998.

Edwin L. Roberson,

Acting District Manager.

[FR Doc. 98–13185 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–VA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(NM–067–08–1990–00) (0002)]

Noncompetitive Sale of Public Lands in Eddy County, New Mexico 100616

SUMMARY: The following land has been found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat 2750, 43 USC 1713), at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

T. 22 S., R. 27 E., NMPM
Sec. 10: NE¼.
Containing approximately 160 acres.

The land is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from date of this notice, whichever occurs first.

The land is being offered by direct sale to the City of Carlsbad to develop a sod farm and tree nursery.

The patent, when issued, will contain certain reservations to the United States and will be subject to existing rights-of-way. Detailed information concerning these reservations, as well as specific conditions of the sale, are available for review at the Carlsbad Field Office, Bureau of Land Management, 620 East Greene, Carlsbad, New Mexico 88220.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager at 2909 West Second Street, Roswell, New Mexico 88201. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In absence of objections, this realty action will become the final determination of the Department of the Interior.

Dated: May 5, 1998.

Edwin L. Roberson,

Acting District Manager.

[FR Doc. 98–13186 Filed 5–18–98; 8:45 am]

BILLING CODE 4310–VA–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Notice is hereby given that a proposed consent decree in *United States* v. *W.R. Grace & Co.-Conn.*, Civil Action No. 98–2045 (AMW) was lodged on April 30, 1998, in the United States District Court for the District of New Jersey. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, on behalf of the U.S. Army Corps of Engineers ("ACOE"), U.S. Department of Energy ("DOE"), U.S. Environmental Protection Agency ("EPA") and U.S. Department of the Interior against W.R. Grace & Co.-Conn. ("W.R. Grace"). The Complaint alleges that W.R. Grace is liable under Section 107(a) of CERCLA, 42 U.S.C. 9607.

Pursuant to the Consent Decree, W.R. Grace will pay to the United States $30 million in settlement of both DOE's and ACOE's cleanup costs, $1.5 million in settlement of EPA's costs, and $270,000 to DOE to settle natural resource damage claims. In addition, if the Consent Decree is entered, the United States will also be paid interest that has been accruing on monies that W.R. Grace has maintained in an escrow account since August 1997. That interest is currently approximately $400,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *W.R. Grace & Co.-Conn.*, DOJ Ref. #90–11–2–1200.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of New Jersey, Federal Building, 7th Floor, 970 Broad Street, Newark, New Jersey 07102; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check made payable to the Consent Decree Library in the amount of

$33.75 (25 cents per page reproduction costs). If a copy of the Consent Decree without the attachments is sufficient, please specify that fact and enclose a check in the amount of $8.50.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–13177 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 25, 1998, Arenol Corporation, 189 Meister Avenue, Somerville, New Jersey 0887, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
Difenoxin (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II

The firm plans to manufacture the listed controlled substances to produce pharmaceutical products for its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13324 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 25, 1998, Arenol Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylacetone (8501)	II

The firm plans to import the listed controlled substances to manufacture pharmaceutical products.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 18, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 7, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13326 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that in a letter dated February 5, 1998, High Standard Products, 1100 W. Florence Avenue, #B, Inglewood, California 90301, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of normorphine (9313), a basic class of controlled substance in Schedule I.

The firm plans to manufacture an analytical reference standard.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13323 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Registration

By Notice dated January 8, 1998, and published in the Federal Register on February 4, 1998, (62 FR 5818), Isotec,

Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methacathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480).	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2, 5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymeth- amphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (110e)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbo-nitrile (8603).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk non-dosage forms) (9273).	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to use small quantities of the listed controlled substances to produce standards for analytical laboratories.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Isotec, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13322 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 4, 1998, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Phenylacetone (8501)	II

The firm plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 7, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13328 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 4, 1998, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm is importing the phenylacetone to manufacture dextroamphetamine sulfate.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 18, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46

(September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 5, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13331 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Registration

By Notice dated February 13, 1998, and published in the **Federal Register** on March 5, 1998 (62 FR 10944), Mallinckrodt Chemical Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances to manufacture bulk finished products.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Mallinckrodt Chemical Inc. to import listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13319 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 15, 1998, Novartis Pharmaceuticals Corp., 59 Route 10, East Hanover, New Jersey 07936, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance methylphenidate (1724).

The firm plans to manufacture the finished product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 5, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13330 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated January 8, 1998, and published in the Federal Register on February 4, 1998, (63 FR 5818), Pharmacia & Upjohn Company, 7000 Portage Road, 2000–41–109, Kalamazoo, Michigan 49001, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2,5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture the listed controlled substance for distribution as bulk product to a customer.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Pharmacia & Upjohn Company to manufacture 2,5-dimethoxyamphetamine is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13321 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 31, 1998, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Marijuana (7360)	I
Cocaine (9041)	II

The institute will manufacture marijuana cigarettes for the National Institute on Drug Abuse (NIDA) and the cocaine will be used for reference standards, human and animal research, as dictated by NIDA.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to

the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13325 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances, Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 27, 1998, Roberts Laboratories, Inc., 4 Industrial Way West, Eatontown, New Jersey 07724–2274, made application by renewal to the Drug Enforcement Administration to be registered as an importer of propiram (9649), a basic class of controlled substance listed in Schedule I.

The firm plans to import the propiram to manufacture in bulk for product development.

Any manufacturer holding, or applying for, registration as a bulk manufactuter of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 6, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13320 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 23, 1998, Roche Diagnostic Systems, Inc., 1080 U.S. Highway 202, Somerville, New Jersey 08876–3771, made application by renewal to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The tetrahydrocannabinols will be utilized exclusively for non-human consumption in drug of abuse detection kits.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 18, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 7, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13333 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 17, 1998, Roche Diagnostic Systems Inc., 1080 U.S. Highway 202, Somerville, New Jersey 08876–3771, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to manufacture small quantities of the listed controlled substances for incorporation in drug of abuse detection kits.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 7, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13334 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 17, 1998, Sigma Chemical Company, Subsidiary of Sigma-Aldrich Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocyn (7438)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to repackage and offer as pure standards controlled substances in small milligram quantities for drug testing and analysis.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47. Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (June 18, 1998).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 4, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 98–13332 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 20, 1998, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040) a basic class of controlled substance in Schedule II.

The firm plans to import coca leaves to manufacture bulk controlled substances.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register

Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: May 5, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13327 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 20, 1998, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 20, 1998.

Dated: May 5, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–13329 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; (reinstatement, without change, of a previously approved collection for which approval has expired).

Nomination for Young American Medal for Bravery

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 20, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information.

(1) *Type of information:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Nomination for Young American Medal for Bravery.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1673/1, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government, State, Local or Tribal. Other: Individuals or households; Not-for-profit institutions. 42 U.S.C. 1921 et seq. authorizes the Department of Justice to collect information from state governors, chief executives of the U.S. territories, and the mayor of the District of Columbia to implement the Young American Medals Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 20 respondents will complete a 3-hour nomination form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the nominations is 60 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ellen Wesley, 202–616–3558, Office of Budget and Management Services, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, DC 20531.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: May 12, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–13231 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; (reinstatement, without change, of a previously approved collection for which approval has expired).

Nomination for Young American Medal for Service

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 20, 1998.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ellen Wesley, 202–616–3558, Office of Budget and Management Services, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, DC 20531. Additionally, comments may be submitted via facsimile to 202–616–3472.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Nomination for Young American Medal for Service.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1673/2, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government State, Local or Tribal.

Other: Individuals or households; Not-for-profit institutions.

42 U.S.C. 1921 et seq. authorizes the Department of Justice to collect information from state governors, chief executives of the U.S. territories, and the mayor of the District of Columbia to implement the Young American Medals Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 20 respondents will complete a 3-hour nomination form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the nominations is 60 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, DC 20530.

Dated: May 13, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–13232 Filed 5–18–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 15, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Government Performance Results Act (GPRA)—compliant program performance and participant outcomes data system.

OMB Number: 1205–ONEW (New).

Frequency: Quarterly.

Form No.	Affected public	Respondents	Average time per response (in hours)
Data Gathering	State, Local or Tribal Govt. or Federal Government ..	7,500	.5
Report Generation	States	50	5

Total Burden Hours: 16,000.
Total annualized capital/startup costs: 500,000.
Total annual costs (operating/maintaining systems or purchasing services): 225,000.
Description: A GPRA-compliant data collection and reporting system that supplies critical information on the operation of the Trade Adjustment Assistance program and the outcomes for its participants.
Agency: Mine Safety and Health Administration.
Title: Program to Prevent Smoking in Hazardous Areas.
OMB Number: 1219–0041 (Extension).
Frequency: Annually.
Affected Public: Business or other for-profit institutions.
Number of Respondents: 328.
Total Responses: 328.
Estimated Time per Respondent: .5 hour.
Total Burden Hours: 164.
Total annualized capital/startup costs: 0.
Total annual costs: 0.
Description: Coal mine operators are required to develop programs to ensure that any person entering the mine does not carry smoking materials, matches or lighters. The programs are necessary to ensure that a fire or explosion does not occur.

Todd R. Owen,
Departmental Clearance Officer.

[FR Doc. 98–13259 Filed 5–18–98; 8:45 am]
BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Office of Policy and Research; Proposed Information Collection Request Submitted for Public Comment

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Policy and Research is soliciting comments concerning the proposed extension of the collection of the Occupational Code Request (OCR) information.

A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 20, 1998. The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility, and clarity of the information to be collected; and
* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Donna Dye, Office of Policy and Research, Employment and Training Administration, Room N–5636, 200 Constitution Avenue, N.W., Washington, D.C., 20210, (202) 219–7161 (this is not a toll free number), FAX (202) 219–9186.

SUPPLEMENTARY INFORMATION:

I. Background

The *Dictionary of Occupational Titles* (DOT) classifies nearly all jobs in the United States economy. However, new jobs are constantly evolving, and old ones are eliminated as technology and other factors change. As the O*NET (Occupational Information Network) system, the automated replacement of the DOT, is in a developmental/transitional phase, the need for Occupational Code Requests (OCRs) remains.

The ETA 741 Form, the Occupational Code Request (OCR), was developed by the Occupational Analysis (OA) program, as a public service to the users of the revised DOT in an effort to help them in obtaining occupational codes, titles and definitions for jobs that they were unable to locate in the DOT. In addition, data provided on the OCR may also be useful indicators of potential occupations that should be studied as part of the new O*NET system.

Use of the OCR is voluntary and is provided only (1) as a uniform guideline to the public and private sectors to submit information, (2) and to assist O*NET in identifying potential changes in occupations or emerging occupations.

II. Current Actions

The Office of Policy and Research, during the development/transitional phase of O*NET (the Occupational Information Network) seeks to provide the both the public and private sectors with needed occupational codes that cannot be located in the DOT. Therefore, the need for continuing an existing collection of this information is requested.

Type of Review: Extension (without change).
Agency: Employment and Training Administration.
Title: Occupational Code Request.
OMB Number: 1205–0137.
Affected Public: Federal Government, State or Local Government; Individuals; and Business or other for-profit/Not-for-profit institutions.
Total Respondents: 57.
Frequency: On occasion.
Average Time per Response: 30 minutes.
Estimated Total Burden Hours: 29 hours.
Total Burden Cost (capital/startup): None.
Total Burden Cost (operating/maintaining): $710.10.

Comments submitted in response to this comment request will be

summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 13, 1998.

Gerri Fiala,

Administrator, Office of Policy and Research.

[FR Doc. 98–13258 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Representative of Miners

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) in minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Representative of Miners. MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Submit comments on or before July 20, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801, *et seq.*, (Mine Act) requires the Secretary of Labor to exercise many of his duties under the Act in cooperation with miners' representatives. The Act also establishes miners' rights which may be exercised through a representative. Title 30, CFR Part 40 contains procedures which a person or organization must follow in order to be designed as a representative of miners.

II. Current Actions

The information is used to identify the designated representative of miners of a specific mine. The Mine Act gives the miner or the representative of miners the right to accompany an MSHA inspector without any loss of pay.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: 30 CFR 40.3, 40.4, and 40.5, Representative of Miners.

OMB Number: 1219–0042.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc.: 30 CFR 40.3, 40.4, 40.5.

Total Respondents: 350.

Frequency: On occasion.

Total Responses: 350.

Average Time Per Response: 1 hour.

Estimated Total Burden Hours: 175 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 12, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–13261 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–24]

Agency Information Collection Activities; Proposed Collection; Comment Request; Fire Brigades (Organizational Statement) (29 CFR 1910.156)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of the information collection requirements contained in the standard on Fire Brigades (29 CFR 1910.156). The Agency is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSEE: Comments are to be submitted to the Docket Office, Docket No. ICR–98–24, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 219–8061. A copy of the referenced information collection request is available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Theda Kenney at (202) 219–8061, extension 100, or Barbara Bielaski at (202) 219–8076, extension 142. For electronic copies of the Information Collection Request on Fire Brigades (29 CFR 1910.156), contact OSHA's WebPage on the Internet at http://www.osha.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as are necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collection by employers as necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents.

Fighting fires as a member of a fire brigade presents a significant risk of harm to an employee. In fact, fire fighting continues to be one of the Nation's most hazardous occupations. To mitigate the risks of employees fighting fires, OSHA developed a standard for fire brigades in 1980. The Fire Brigade standard does not require the employer to organize a fire brigade. However, if the employer does decide to organize a fire brigade, the provisions of the standard must be met.

There are various types of fire brigades. Some fire brigades merely monitor and assist in evacuation, others perform incipient fire fighting, while others perform Interior structural fire fighting. The tasks, responsibility, training, and personal protective equipment needs differ according to the type of fire brigade organized at the workplace. Therefore, 29 CFR 1910.156, requires employers who have fire brigades to develop and maintain an organizational statement which defines the type of fire brigade being organized and describes the functions that the employer expects the fire brigade to perform.

II. Current Actions

This notice requests Office of Management and Budget (OMB) approval of the information collection requirements contained in the Fire Brigade standard.

Type of Review: Extension of a Currently Approved Collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Fire Brigades (Organizational Statement) (29 CFR 1910.156).

OMB Number: 1218–0075.

Agency Number: Docket Number ICR–98–24.

Affected Public: State or local governments; Business or other for-profit.

Number of Respondents: 1,670.

Frequency: Initially, On Occasion.

Average Time per Response: 5 minutes (0.8 hr.).

Estimated Total Burden Hours: 172.

Total Annualized Capital/Startup Costs: $0.

Signed at Washington, DC, this 12th day of May 1998.

Charles N. Jeffress,

Assistant Secretary, Occupational Safety and Health Administration.

[FR Doc. 98–13255 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–22]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; OSHA Data Collection System (1218–0209)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the OSHA Data Collection System. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 20, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–22, U.S. Department of Labor, Room N–2625, 200 Constitution Ave. NW, Washington, DC 20210, telephone (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Dave Schmidt, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 219–6463. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Dave Schmidt at (202) 219–6463 or Barbara Bielaski at (202) 219–8076. For electronic copies of the OSHA Data Collection Initiative Request, contact OSHA's WebPage on the Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

To meet many of OSHA's program needs, OSHA is proposing to continue its data initiative to collect occupational injury and illness data and information on number of workers employed and number of hours worked from establishments in portions of the private sector. OSHA will collect 1998 data from 80,000 employers required to create and maintain records pursuant to CFR part 1904. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing serious safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's reinvention efforts and the data requirements tied to the Government Performance and Results Act (GPRA).

II. Current Actions

This notice requests OMB approval of the paperwork requirements for the OSHA Data Collection System. Approval is necessary to ensure that the Agency continues to obtain establishment data necessary to carry on with the development and expansion of the new OSHA. This will allow the Agency to deal with a larger number of employers without massive increases in resources, will reduce intrusive interventions in workplaces that are relatively safe, and will lead to improved workplace safety and health for America's workers. In addition, OSHA will to be able to proceed with its GPRA requirements to monitor the results of Agency activities, quantify and evaluate the successes and failure of its various programs based on program results, identify the most efficient and effective program mix, and promote the development of programs and policies based on outcome data.

Type of Review: Extension of currently approved collection.

Agency: Occupational Safety and Health Administration.

Title: OSHA Data Collection System.

OMB Number: 1218–0209.

Agency Number: ICR–98–22.

Affected Public: Business or other for-profit and State, Local or Tribal Government.

Cite/Reference/Form/etc.: OSHA Form 196A and OSHA Form 196B.

Total Respondents: 80,000.

Frequency: Annually.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 35,000 hours.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 12, 1998.

Charles N. Jeffress,

Assistant Secretary for Occupational Safety and Health.

[FR Doc. 98–13256 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–23]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; 29 CFR Part 1904 Recording and Reporting Occupational Injuries and Illnesses (1218–0176)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR part 1904. Recording and Reporting Occupational Injuries and Illnesses (less 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents and 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers).

DATES: Written comments must be submitted on or before July 20, 1998. Written comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No., ICR–98–23 U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Dave Schmidt, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3507, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 219–6463. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Dave Schmidt at (202) 219–6463 or Barbara Bielaski at (202) 219-8076. For electronic copies, contact

OSHA's WebPage on the Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

The OSHA Act and 29 CFR Part 1904 prescribe that certain employers maintain records of job related injuries and illnesses. The injury and illness records are intended to have multiple purposes. One purpose is to provide data needed by OSHA to carry out enforcement and intervention activities to provide workers a safe and healthy work environment. The data are also needed by the Bureau of Labor Statistics to report on the number and rate of occupational injuries and illnesses in the country.

The data also provide information for employers and employees of the kinds of injuries and illnesses occurring in the workplace and their related hazards. Increased employer awareness should result in the identification and voluntary correction of hazardous workplace conditions. Likewise, employees who are provided information on injuries and illnesses will be more likely to follow safe work practices and report workplace hazards. This would generally raise the overall level of safety and health in the workplace.

OSHA currently has approval from the Office of Management and Budget (OMB) for information collection requirements contained in 29 CFR part 1904. That approval will expire on December 31, 1998, unless OSHA applies for an extension of the OMB approval. This notice initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's existing paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's estimates, which are based upon the most current data available, and to comment on their accuracy or appropriateness in today's workplace situation.

29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents (OMB control number 1218–0007) and 29 CFR 1904.17, Annual OSHA Injury and Illness Survey of Ten or More employers (OMB control number yet to be assigned) are each under separate Information Collection Request (ICR) packages.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR part 1904, Recording and Reporting Occupational Injuries and Illnesses.

Type of Review: Extension of currently approved collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Recording and Reporting Occupational Injuries and Illnesses.

OMB Number: 1218–0176

Agency Number: ICR–98–23

Frequency: Recordkeeping.

Affected Public: Business or other for-profit; Farms; Not-for-profit institutions; State and Local Government.

Cite/Reference/Form/etc: 29 CFR Part 1904; OSHA No. 200; OSHA No. 101

Number of Respondents: 1,110,398

Estimated Time Per Respondent: 1.56 hours

Total Burden Hours: 1,741,959 hours

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: May 12, 1998.

Charles N. Jeffress,

Assistant Secretary for Occupational Safety and Health.

[FR Doc. 98–13257 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–90]

SGS U.S. Testing Company Inc., Applications for Renewal and Expansion of Recognition

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of request for renewal and expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL), and preliminary finding.

SUMMARY: This notice announces: (1) the application of SGS U.S. Testing Company Inc. (formerly U.S. Testing Company, Inc., California Division) for renewal of its recognition as an NRTL under 29 CFR 1910.7, and (2) the applications of SGS U.S. Testing Company Inc. for expansion of its recognition as an NRTL under 29 CFR 1910.7, for a new site and to use additional programs and procedures, and presents the Agency's preliminary finding. In addition, this notice formally reflects the name change to SGS U.S. Testing Company Inc.

DATES: The last date for interested parties to submit comments is July 20, 1998.

ADDRESS: Send comments concerning this notice to: NRTL Program, Office of Technical Programs and Coordination Activities, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, NRTL Recognition Program at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that SGS U.S. Testing Company Inc. (SGS) has applied to the Occupational Safety and Health Administration (OSHA), pursuant to 29 CFR 1910.7, for renewal and for an expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). When first recognized as an NRTL, the organization's name was U.S. Testing Company, Inc., California Division. SGS informed OSHA of the change in name (see Exhibit 7B), and this notice reflects that change. In regards to the renewal, SGS received its recognition as an NRTL on March 23, 1993 (see 58 FR 15509), for a period of five years ending March 23, 1998. Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. SGS applied for a renewal of its recognition on March 23, 1997 (see Exhibit 7C), within the time allotted, and retains its recognition pending OSHA's final decision in this renewal process. In regards to the expansions, SGS requests recognition to use additional programs and procedures. However, that use will be subject to certain conditions. SGS also requests recognition for another testing facility (site) in Fairfield, New Jersey, which will become the headquarters of its NRTL operations. The application for this facility is for recognition for testing and certification to the test standards listed below in the section titled "Expansion of Recognition—Additional Facility." The application incorporates the use of the additional programs and procedures, also listed below. The previous application of SGS, pursuant to 29 CFR 1910.7, covered its recognition as an NRTL (56 FR 10045, 3/23/92), which OSHA granted on the date noted above.

The address of the SGS testing facilities covered by this application are:
SGS U.S. Testing Company Inc., 291 Fairfield Avenue, Fairfield, New Jersey 07004.
SGS U.S. Testing Company Inc., 555 Telegraph Road, Los Angeles, California 90040.

Background

This **Federal Register** notice announces the application of SGS U.S. Testing Company Inc. (formerly U.S. Testing Company, Inc., California Division), dated March 23, 1997 (See Exhibit 7C), for renewal of its recognition as an NRTL. This notice also covers the application of SGS, dated April 21, 1997 (see Exhibit 7D), for recognition of its Fairfield, New Jersey testing facility as an NRTL. In letters dated July 27, 1997 and February 4, 1998 (see Exhibits 7E and 7F), SGS also requested recognition to use the additional programs and procedures listed below.

SGS according to the applicant is incorporated in the State of New York, and is 100% owned by SGS North America Inc., which in turn is owned by SGS Societe General de Surveillance S.A., based in Geneva, Switzerland. This same ownership relationship existed at the time SGS was first recognized as an NRTL in March 1993.

Renewal of NRTL Recognition

SGS requests renewal of the recognition of its Los Angeles testing facility for the following standards for which it was previously recognized:

ANSI/UL 1 Flexible Metal Conduit
ANSI/UL 3 Flexible Nonmetallic Tubing for Electric Wiring
ANSI/UL 250 Household Refrigerators and Freezers
ANSI/UL 514A Metallic Outlet Boxes, Electrical
UL 544 Electric Medical and Dental Equipment
ANSI/UL 632 Electrically Actuated Transmitters
ANSI/UL 751 Vending Machines
ANSI/UL 913 Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division I, Hazardous (Classified) Locations
ANSI/UL 1012 Power Supplies
UL 1236 Electric Battery Chargers
UL 1270 Radio Receivers, Audio Systems, and Accessories
ANSI/UL 1418 Implosion-Protected Cathode-Ray Tubes for Television-Type Appliances
UL 1459 Telephone Equipment
ANSI/UL 1484 Residential Gas Detectors
ANSI/UL 1571 Incandescent Lighting Fixtures
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations

Expansion of Recognition—Additional Facility

SGS requests recognition of its Fairfield, New Jersey testing facility for the following standards when applicable to equipment or materials that will be used in environments under OSHA's jurisdiction. SGS desires recognition for testing and certification of products tested for compliance with these test standards, and OSHA has determined they are appropriate within the meaning of 29 CFR 1910.7(c):

ANSI/UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances
ANSI/UL 1950 Information Technology Equipment Including Electrical Business Equipment
UL 2601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety
UL 3101–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements
UL 3111–1 Electrical Measuring and Test Equipment, Part 1: General

The recognition of this additional testing facility also incorporates the use of the additional programs and procedures listed below.

Expansion of Recognition—Programs and Procedures

SGS requests expansion of its recognition to use the following additional programs and procedures, based upon the requirements as detailed in the **Federal Register** document titled "Nationally Recognized Testing Laboratories; Clarification of the Types of Programs and Procedures," (60 FR 12980, 3/9/95). This notice describes nine programs or procedures which an NRTL may use in certifying a product, all of which require that the NRTL retain primary control of or responsibility for all aspects of product certification. Each NRTL is automatically approved to use the program called the "Basic Procedure," when it is first recognized.

1. Acceptance of testing data from independent organizations, other than NRTLs.
2. Acceptance of witnessed testing data.

Conditions—Use of Programs and Procedures

The following conditions apply to the recognition to use the additional programs and procedures, and are in addition to the requirements detailed in the previously cited March 9, 1995 **Federal Register** (60 FR 12980):

a. SGS U.S. Testing Company Inc., Fairfield, New Jersey, will review and approve the qualifications of all external organizations prior to SGS U.S. Testing Company Inc. accepting test data from these organizations.

b. SGS U.S. Testing Company Inc., Fairfield, New Jersey, will review and approve the qualifications of all external organizations prior to SGS U.S. Testing Company Inc. using a site of any of these organizations for witnessed test data.

Preliminary Finding

SGS addressed the criteria that have to be met for renewal and for expansion of its recognition as an NRTL. In connection with the renewal and the use of the programs, OSHA carried out an on-site review (evaluation) of the Los Angeles, California, on August 4–5, 1997. OSHA also carried out an on-site review (evaluation) of the Fairfield, New Jersey facility, on June 2–3, 1997. Discrepancies noted by the review team during the on-site review were responded to following its completion and are included as an integral part of the on-site review report (see Exhibits 8). With the preparation of the final review report, the NRTL Program staff was satisfied that SGS had addressed concerns arising from the review. In the cover memo for the report, the staff recommended that the recognition of SGS be renewed, and be expanded to allow the use of the additional programs and procedures, subject to the above conditions. The staff also recommended the recognition of the SGS Fairfield, New Jersey testing facility, which will become the headquarters of its NRTL operations.

Following a review of the application file and the on-site review report, the NRTL Program staff concluded that the applicant appeared to have met the requirements for renewal of its recognition as a Nationally Recognized Testing Laboratory for the Los Angeles, California facility, and for the expansion of recognition to include the Fairfield, New Jersey facility, and for use of the additional programs and procedures, subject to the above conditions. The staff therefore recommended to the Assistant Secretary that the applications be preliminarily approved.

Based upon a review of the complete application, and the recommendations of the staff, including the recommendation in the on-site review report, dated February 27, 1998, the Assistant Secretary has made a preliminary finding that SGS U.S. Testing Company Inc. can meet the requirements as prescribed by 29 CFR 1910.7 for renewal of its recognition, and for the expansion of its recognition to include the additional facility, and to use the additional programs and

procedures, subject to the above conditions.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for expansion of its recognition as a Nationally Recognized Testing Laboratory, as required by 29 CFR 1910.7 and Appendix A to 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than the last date for comments (see **DATES** above), and submitted to the address provided above (see **ADDRESS**). Copies of the SGS application, letters and supporting documentation, the on-site review report, and all submitted comments, as received, are available for inspection and duplication (under Docket No. NRTL–2–90) at the Docket Office, Room N2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (SGS U.S. Testing Company Inc.) satisfies the requirements for renewal and for expansion of its recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider to be appropriate in accordance with appendix A to § 1910.7.

Signed at Washington, DC., this 12th day of May, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–13260 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

National Summit on Retirement Savings; Notice of Meeting

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of meeting agenda.

SUMMARY: This document provides notice of the agenda for the National Summit on Retirement Savings, as called for by the Savings Are Vital To Everyone's Retirement (SAVER) Act, which amends Title I of the Employee Retirement Income Security Act of 1974.

DATES: The National Summit on Retirement Savings will be held on Thursday, June 4, 1998, and Friday, June 5, 1998, beginning at 8:45 am E.S.T. on June 4, and ending at 1 pm E.S.T. on June 5.

ADDRESS: The Summit will be held at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Jay Rosenblum, Office of the Assistant Secretary, Pension and Welfare Benefits Administration, US Department of Labor, Room S–2524, 200 Constitution Ave., NW, Washington, DC 20210, (202) 219–8233, or Don Blandin, President, American Savings Education Council, Suite 600, 2121 K Street, NW, Washington, DC 20037–1896, (202) 659–0670. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On November 20, 1997, the President signed Public Law 105–92 (1997), the "Savings Are Vital to Everyone's Retirement Act of 1997" (SAVER). The SAVER legislation is aimed at advancing the public's knowledge and understanding of the importance of retirement savings by: (1) Providing a bipartisan National Summit on Retirement Savings co-hosted by the President and the Congressional Leadership in the House and Senate; and (2) establishing an ongoing educational program coordinated by the Department of Labor. The Summit will be held June 4 and 5, 1998 in Washington.

The purpose of the Summit is to: (1) Increase public awareness of the value of personal savings for retirement, (2) advance the public's knowledge and understanding of retirement savings and its importance to the well being of all Americans, (3) facilitate the development of a broad-based, public retirement savings education program, (4) identify the barriers faced by workers who want to save for retirement, (5) identify the barriers which employers, especially small employers, face in assisting their workers in accumulating retirement savings, (6) examine the impact and effectiveness of individual employers who promote personal savings and retirement savings plan participation among their workers, (7) examine the impact and effectiveness of government programs at the Federal, State, and local levels to educate the public about retirement savings principles, (8) develop recommendations for governmental and private sector action to promote pensions and individual retirement savings, and (9) develop recommendations for the coordination of Federal, State, and local retirement savings education initiative.

The Agenda for the National Summit on Retirement Savings follows. This agenda is subject to change.

Thurs, June 4, 1998

7:00am–8:00am Registration at Hotel
8:00am–9:00am Breakfast
9:00am–9:30am Opening Session: Welcome and Remarks By Presiding Officers
9:30am–10:45am Session One: Panel Discussion on Current State—Savings & Education Today

Panelists:

1. Dallas Salisbury, Employee Benefit Research Institute (moderator)
2. Mathew Greenwald, Mathew Greenwald and Associates
3. Josephine Tsao, IBM
4. James Ray, Connerton Ray
5. Craig Hoffman, Corbel & Company
6. Ann Combs, William M. Mercer Companies Inc.

10:45am–11:00am Break
11:00am–12:00pm Keynote Session: Remarks by the President, the Speaker of the House, and other Congressional Leadership
12:00pm–1:00pm Concurrent Breakout Session: Employee and Employer Barriers
1:00pm–2:30pm Lunch with Speakers
2:30pm–3:45pm Concurrent Breakout Session: Employee and Employer Opportunities
3:45pm–4:30pm Free Time
4:30pm–7:15pm White House Reception
7:30pm–9:30pm Dinner and Speeches by Congressional Leadership

Day Two, Fri. 6/5

8:00am–9:00am Working Breakfast with Breakout Groups
9:15am–10:45am Session Two: Panel Discussion on Public and Private-Sector Outreach Activities/Best Practices

Panelists:

1. David Walker, Arthur Andersen LLP (Moderator)
2. Olena Berg, United States Department of Labor
3. Jim Hill, National Association of State Treasurers
4. Horace Holmes, WJLA-TV, Albritton Communications Company
5. Robert L. Reynolds, Fidelity Investments
6. Anthony R. Amato, Hard Rock Cafe International

10:45am–11:00am Break
11:00am–12:15pm Final Session: Summary of Breakout Group Discussions
12:15pm–1:00pm Closing Session: Thank You and Challenge

Public Participation: Participation is limited to invited delegates.

Notice of Meeting

Notice is hereby given that a National Summit on Retirement Savings will be held on Thursday, June 4, 1998, and Friday, June 5, 1998, at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW, Washington, DC 20001.

Signed at Washington, DC, this 13th day of May, 1998

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–13262 Filed 5–18–98; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 AND 50–318]

Baltimore Gas & Electric Company; Calvert Cliffs Nuclear Power Plant Units 1 and 2; Notice of Acceptance for Docketing of the Application for Renewal of Facility Operating Licenses Nos. DPR–53 and DPR–69 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of operating license Nos. DPR–53 and DPR–69, which authorize Baltimore Gas & Electric Company (BG&E), the applicant, to operate its Calvert Cliffs Nuclear Power Plant (CCNPP), Units 1 and 2 at 2700 megawatts thermal. The renewed licenses would authorize the applicant to operate CCNPP Units 1 and 2 for an additional 20 years beyond the current 40-year period. The current license for Unit 1 expires on July 31, 2014, and the current license for Unit 2 expires on August 13, 2016.

On April 10, 1998, BG&E submitted an application to renew the operating licenses for its CCNPP units. A Notice of Receipt of Application, "Baltimore Gas & Electric Company; Calvert Cliffs Nuclear Power Plant Units 1 & 2; Notice of Receipt of Application for Renewal of Facility Operating Licenses Nos. DPR–53 and DPR–69 for an Additional 20-Year Period," was published in the **Federal Register** on April 27, 1998, (63 FR 20663). The Commission's staff has determined that BG&E has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket Nos. 50–317 and 50–318 for License Nos. DPR–53 and DPR–69 will be retained. If the Commission determines that new license or docket numbers are necessary, any such changes will be published in a subsequent **Federal Register** notice.

The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. The license will not be renewed unless the Commission makes the findings required by 10 CFR 54.29. Pursuant to 10 CFR 51.26, as part of the environmental scoping process, the staff intends to hold a public scoping meeting. The details of the public scoping meeting will be included in a future **Federal Register** notice. In addition, the Commission also intends to hold public meetings to discuss the license renewal process and schedule for conducting the review. The Commission will provide prior notice for these meetings.

An opportunity to request a hearing on the application for a renewed license will be the subject of a subsequent **Federal Register** notice.

Detailed information about the license renewal process can be found under the nuclear reactors icon of the NRC's web page, http://www.nrc.gov.

A copy of the application to renew the CCNPP Units 1 and 2 licenses is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20037, and the Local Public Document Room for the CCNPP Units 1 and 2 located in the Calvert County Public Library, 30 Duke Street, Prince Frederick, MD 20678.

Dated at Rockville Maryland, this 8th day of May 1998.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, License Renewal Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13229 Filed 5–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company; Zion Nuclear Power Station, Units 1 and 2; Notice of Public Meeting

The NRC will conduct a public meeting at the Zion-Benton High School, 3901 21st Street, Zion, Illinois, on June 1, 1998, to discuss the NRC regulatory process for decommissioning and plans developed by Commonwealth Edison Company (CECo, the licensee) to decommission the Zion Nuclear Power Plant located near Zion, Illinois. Zion-Benton High School is located on the southeast corner of Kenosha Road and 21st Street, Zion, Illinois. Parking is provided in the South Parking Lot at the school. The meeting is scheduled for 7–9:00 p.m. and will be chaired by Dr. Donald Moon, Co-Chairman, Community Advisory Panel and President, Shimer College. The meeting will include a presentation by CECo on their planned decommissioning activities. The NRC staff will make a short presentation on the decommissioning process and NRC programs for monitoring decommissioning activities. There will be an opportunity for members of the public to make comments and ask questions of the NRC staff and CECo representatives after the presentations. The meeting will be transcribed.

Regulatory submittals and responses are available for public inspection at the local public document room, located at the Waukegan Public Library, 128 North County Street, Waukegan, IL 60085 and the Commission Public Document Room, 2120 L Street, NW., Washington, D.C. 20037.

For more information, contact Mr. Anthony W. Markley, Project Manager, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC, 20555–0001, telephone number (301) 415–3165.

Dated at Rockville, Maryland, this 12th day of May 1998.

For The Nuclear Regulatory Commission.

Ramin R. Assa,

Project Manager, Project Directorate III–2, Division of Reactor Program Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13224 Filed 5–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–220]

Niagara Mohawk Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–63, issued to Niagara Mohawk Power Corporation (the licensee), for operation of the Nine Mile Point Nuclear Station, Unit 1 (NMP1) located in the town of Scriba, Oswego County, New York.

The proposed amendment would change Technical Specifications (TSs) 3/4.6.2, "Protective Instrumentation," to reflect modifications to the initiation instrumentation for the Control Room Air Treatment System. Specifically, TS

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Tables 3.6.2l and 4.6.2l, "Control Room Air Treatment System Initiation," would be changed to delete the high radiation signal and substitute the following initiating signals from the Reactor Protection System: (1) low-low reactor water level in the reactor vessel, (2) high steam flow in the main steam line, (3) high temperature in the main steam line tunnel, and (4) high pressure in the reactor drywell. TS Table 3.6.2l would specify setpoints for each of these four initiating parameters ([greater than or equal to] 5 inches-indicator scale, [less than or equal to] 105 psid, [less than or equal to] 200 degrees F, and [less than or equal to] 3.5 psig, respectively). TS Table 3.6.2l would indicate for each of the four parameters that the minimum number of tripped or operable trip systems and the minimum number of operable instrument channels per operable trip system are two, and that the four parameters are required to be operable when the reactor mode switch is in the "startup" or "run" positions (but not if in the "shutdown" or "refuel" positions), except that the high drywell pressure signal may be bypassed when necessary for containment inerting. For three of the parameters (low-low reactor water level, high steam flow in the main steam line, and high drywell pressure), TS Table 4.6.2l would require daily sensor checks, quarterly instrument channel tests, and quarterly instrument channel calibrations (except that only the trip circuit need be calibrated and tested at these quarterly frequencies; the primary sensor would be calibrated and tested each operating cycle). For the parameter high temperature in the main steam line tunnel, TS Table 4.6.2l would require an instrument channel test and an instrument channel calibration each operating cycle, not to exceed 24 months. Associated TS "Bases for 3.4.5 and 4.4.5 Control Room Air Treatment System" would also be changed to update the system descriptions consistent with these proposed changes to the automatic initiation circuitry, and to reflect the system's manual start capability. These changes to the TS Bases would include deletion of the statements that (1) the Control Room Air Treatment System is designed "to automatically start upon a receipt of a high radiation signal from one of the two radiation monitors located on the ventilation intake" and that (2) "* * * air intake radiation monitors will be calibrated and functionally tested each operating cycle, not to exceed 24 months, to verify system performance."

During a system design review, the licensee determined that (1) contrary to a commitment in letters to the NRC dated January 31 and March 19, 1984, the NMP1 Control Room Air Treatment System would not automatically initiate during an MSLB [main steam line break] or an LOCA [loss-of-coolant accident], and (2) initiation of the NMP1 Control Room Air Treatment System at the current radiation monitor setpoint of [less than or equal to] 1000 CPM, as required by TS Table 3.6.2l, is not sufficient for compliance with GDC 19 limits for radiological protection of the control room operators. Consequently, on April 21, 1998, the licensee declared the Control Room Air Treatment System inoperable and notified the NRC that a 7 day limiting condition for operation had been entered as specified by TS 3.4.5. On April 27, 1998, the licensee informed the NRC Project Manager that resolution of the inoperability condition would involve modifications more extensive than mere setpoint adjustments, that these modifications should not be implemented while NMP1 is operating, and that the licensee was considering filing an application for an emergency license amendment to allow the modifications to be implemented and the plant restarted after a 7-day outage. NMP1 was shut down on April 28, 1998, in accordance with TS 3.4.5. On May 2, 1998, the licensee filed an application requesting that the NRC amend the NMP1 license by May 8, 1998, on an Emergency basis because "resumption of operation cannot occur until NRC approval of the proposed change." However, on May 11, 1998, the licensee informed the NRC that as a result of the finding by a team of licensee engineers who reviewed the control room ventilation systems, modifications to the NMP1 Control Room Air Treatment System would not be completed and NMP1 determined ready for restart for 2 weeks. Accordingly, the NRC finds that exigent circumstances exist in that the full 30 days normally provided for public comment with respect to the proposed action is not available before NMP1 will be ready to resume power operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

* * * The proposed modification and associated TS changes involve a system that is intended to detect the symptoms of certain events or accidents and initiate mitigative actions (i.e., the Control Room Air Treatment System). Accordingly, the proposed changes do not affect the probability of any accident initiators previously evaluated. Therefore, the proposed changes will not result in a significant increase in the probability of any accidents previously evaluated.

Currently, TS Table 3.6.2l, "Control Room Air Treatment System Initiation," specifies a setpoint of "≤1000 CPM" for Parameter (1), "High Radiation Ventilation Intake." This requires the continuous radiation monitors located in the outside air intake duct of the Control Room Ventilation System to initiate the Control Room Air Treatment System at a detector count rate of "[less than or equal to] 1000 CPM." The setpoint was established to comply with the radiation dose limits specified in 10 CFR 50, Appendix A, General Design Criterion (GDC) 19 and NUREG–0800, "Standard Review Plan [SRP]," Section 6.4 for control room habitability during an accident, including a Loss of Coolant Accident (LOCA). In the event of an accident, timely initiation and proper operation of the Control Room Air Treatment System minimizes the amount of airborne radioactivity entering the control room. However, based on the results of a current study, initiation of the Control Room Air Treatment System at this setpoint does not provide assurance that personnel occupying the control room under the most limiting Main Steam Line Break (MSLB) accident assumptions would not receive radiation exposures in excess of the GDC 19 and SRP 6.4 limits. It was further determined that, contrary to a 1984 commitment, the Control Room Air Treatment System would not automatically initiate during a LOCA.

To correct this condition, a modification is proposed that will automatically initiate the Control Room Air Treatment System on either a MSLB or LOCA signal. Spare contacts from the RPS logic circuits will be used to provide the initiation signals. Specifically, MSLB automatic initiation of the system will be on main steam line high flow or main steam line tunnel high temperature, and LOCA automatic initiation of the system will be on high drywell pressure or low-low reactor vessel water level. Implementation of this modification will provide automatic initiation of the Control Room Air Treatment System at the onset of both a MSLB and a LOCA, as previously committed.

The MSLB accident has been evaluated for full power operating conditions where radioactive gases released from the turbine building could be drawn into the Control Room Ventilation System and accumulate in the control room. Engineering calculations show that the Control Room Air Treatment System would maintain the dose to the control room operators below the GDC 19 and SRP 6.4 limits during these releases, and the addition of an anticipatory automatic initiation on a MSLB signal (main steam line high flow or main steam line tunnel high temperature) provides assurance that the consequences of the MSLB accident are bounded by the analysis.

The LOCA analysis assumes that radioactive gases are released from the elevated stack and are then drawn back down into the Control Room Ventilation System intake duct. Analysis shows that for the bounding condition, the accumulated dose in the control room for a minimum of 30 days would not be detected by the Control Room Air Treatment System radiation monitors, even at a significantly reduced setpoint. Consequently, the radiation monitors cannot be relied upon to initiate the Control Room Air Treatment System in the event of a LOCA. As a result, an anticipatory automatic initiation of the Control Room Air Treatment System on a LOCA signal (high drywell pressure or low-low reactor vessel water level) is proposed to be added to provide assurance that personnel occupying the control room under the most limiting LOCA assumptions will not receive radiation exposures in excess of the GDC 19 and SRP 6.4 limits.

NMPC has also proposed to delete the requirement to have the Control Room Air Treatment System automatically initiate on a high radiation signal when the reactor mode switch is in the "Refuel" position. This change is acceptable based on 1) neither a LOCA or MSLB is assumed to occur in refuel; 2) for accidents assumed to occur during refueling (fuel handling accident), GDC 19 and SRP 6.4 limits are met without the Control Room Air Treatment System; and 3) the Control Room Air Treatment System can be manually initiated.

In summary, the proposed changes for the Control Room Air Treatment System initiation channels will assure that the NMP1 control room operators will not receive radiation exposures in excess of the limits delineated in GDC 19 and SRP 6.4. Accordingly, the operators will be able to respond to and mitigate the consequences of anticipated accident scenarios. Therefore, the proposed changes will not involve a significant increase in the consequences of an accident previously evaluated.

2. *The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

* * * The proposed changes do not introduce any new accident initiators and do not involve any alterations to plant configurations which could initiate a new or different kind of accident. The actuation circuit of the Control Room Air Treatment System actuation logic does not control or interface with any primary reactor processes. Addition of the MSLB logic and the LOCA logic will ensure that the Control Room Air Treatment System initiates such that habitability of the control room is not compromised. No new failure modes to existing systems or equipment important to safety are created by this change. Post-installation testing will confirm that the new logic will have no effect on other safety-related circuits and TS required surveillance testing will routinely confirm operability of the Control Room Air Treatment System. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.*

The proposed changes to Sections 3.6.2 and 4.6.2 incorporate modifications to the initiation instrumentation for the Control Room Air Treatment System. * * * As a result of these changes, the requirement to have the Control Room Air Treatment System automatically initiate on a high radiation signal when the reactor mode switch is in the "Refuel" position has been deleted. * * *

The addition of the trip circuit logic from the MSLB accident as well as from the LOCA circuits assures that the control room operator will not be exposed to radiation limits in excess of GDC 19 or SRP 6.4 limits. Additionally, the initiation signal will be automatic at the onset of both accidents, which improves the response time of the Control Room Air Treatment System to the MSLB accident and the LOCA. NMPC has proposed to delete the requirement to have the Control Room Air Treatment System automatically initiate on a high radiation signal when the reactor mode switch is in the "Refuel" position. This change is acceptable based on (1) neither a LOCA nor MSLB is assumed to occur in refuel; (2) for accidents assumed to occur during refueling (fuel handling accident) GDC 19 and SRP 6.4 limits are met without the Control Room Air Treatment System; and (3) the Control Room Air Treatment System can be manually initiated.

In summary, the proposed changes will assure that the Control Room dose established in GDC 19 and SRP 6.4 will not be exceeded. Therefore, the proposed activity does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

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Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 1, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 2, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 12th day of May, 1998.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13187 Filed 5–18–98; 8:45 am]

BILLING CODE 7590–01–P

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

In the Matter of Wisconsin Electric Power Company (Point Beach Nuclear Plant, Unit Nos. 1 and 2); Exemption

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License Nos. DPR–24 and DPR–27, which authorize operation of the Point Beach Nuclear Plant, Units 1 and 2, respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized-water reactors located at the licensee's site in Manitowoc County, Wisconsin.

II

The Code of Federal Regulations at 10 CFR 50.48, "Fire Protection," requires that nuclear power plants licensed to operate prior to January 1, 1979, meet Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Sections III.G, III.J, and III.O. Appendix R, Section III.J, "Emergency Lighting," requires that "Emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto." Equipment needed for safe shutdown after a fire at Point Beach Nuclear Plant is maintained inside the main power block and several buildings onsite. Emergency lighting is provided inside these buildings for areas needed for operation of safe shutdown equipment and for access and egress routes in accordance with 10 CFR part 50, Appendix R, Section III.J. However, no emergency lighting meeting Section III.J requirements has been installed for outdoor routes between these buildings. Because of cost and maintenance considerations, and after determining that application of Section III.J was not necessary to achieve the underlying purpose of the rule, the licensee submitted an exemption request with respect to these outdoor routes.

The requested exemption from the requirements of Appendix R, Section III.J, would allow the use of hand-held portable lights, in the event that sufficient daylight, normal lighting, or security lighting is not available, when transiting (access and egress routes) between the main power block and buildings separated from the main power block, namely, the diesel generator building (G–03 and G–04), 13.8 kV switchgear building, service water and fire pump house, fuel oil pump house, gas turbine building, and warehouse 3. These buildings contain equipment relied upon in the detailed fire plans to mitigate the consequences of a fire that could affect the capability to place the reactor in cold shutdown. As stated above, emergency lighting is maintained within these structures as required by Appendix R, Section III.J. However, access and egress between these buildings and the main power block require walking outdoors. The areas outside of and between these buildings are paved, commonly used for vehicular traffic, and are maintained clear of snow and other obstructions.

In the worst-case scenarios that postulate a fire concurrent with a loss of offsite power, the hand-held, battery-powered, portable lighting units currently maintained on site in four "abnormal operating procedure" (AOP) packs located in the control room and additional hand-held, battery-powered, portable lighting units maintained by operations personnel would be used, under the proposed exemption, by the operations staff to allow transit between buildings to safely perform the functions required by the fire plans and operations procedures. Each of the four AOP packs contain a hand-held, battery-powered, portable lighting unit in addition to tools. Each hand-held, battery-powered, portable lighting unit is verified to be operable in a monthly surveillance and the batteries are replaced every 6 months.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to the public health or safety, and are consistent with the common defense and security, and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule."

The underlying purpose of 10 CFR part 50, Appendix R, Section III.J, is to provide adequate illumination to assure the capability of performing all necessary safe shutdown functions, as well as to assure personnel movement to and from the equipment and components that must be manually operated by plant personnel to effect safe shutdown during emergencies. In addition, the illumination must have a capability to allow sufficient time for normal lighting to be restored.

To achieve safe shutdown during a plant emergency, personnel may be required to go to and from buildings outside the main power block to control equipment locally, monitor equipment status, or obtain equipment, such as fans or repair materials. Any equipment that would need to be obtained could be carried with one hand or, if necessary, transported on wheeled carts. In the latter case, a minimum of two individuals would be available, one of whom could provide the necessary lighting if needed.

The availability of hand-held, battery-powered portable lights would serve the underlying purpose of the rule with respect to transit between the main power block and the separate buildings identified above, in that the use of such hand-held lights would provide adequate illumination to permit access to and egress from buildings containing safe shutdown equipment and components, yet would not significantly hinder the transportation of equipment if such is necessary during a plant emergency. In addition, such hand-held lights would be available for use during an 8-hour period contemplated by the regulation.

On the basis of its evaluation, the staff concludes that with the availability of hand-held battery-powered portable lights for use during transit between site structures described above, the installation of emergency lighting units with at least an 8-hour battery power supply for these transit routes is not necessary to achieve the underlying purpose of Section III.J of Appendix R to 10 CFR part 50. The licensee's request for an exemption from the requirements of Section III.J to 10 CFR part 50 to allow the use of alternative means of lighting for access and egress routes between the main power block and the diesel generator building, 13.8 kV switchgear building, service water and fire pump house, fuel oil pump house, gas turbine building, and warehouse 3 is acceptable to the staff.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) are

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present in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the Commission hereby grants the Wisconsin Electric Power Company an exemption from the requirements of 10 CFR part 50, Appendix R, Section III.J, with respect to access and egress routes between the main power block and the diesel generator building, 13.8 kV switchgear building, service water and fire pump house, fuel oil pump house, gas turbine building, and warehouse 3 at Point Beach Nuclear Plant, Units 1 and 2, to the extent alternative means of lighting as described herein are available.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (62 FR 46381).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of April 1998.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13189 Filed 5–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Company; Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the Technical Specifications (TSs) to reduce the minimum Reactor Coolant System (RCS) total flow rate from 370,000 gpm to 340,000 gpm; reduce the Reactor Protective Instrumentation trip setpoint for Reactor Coolant Flow—Low from greater than or equal to 95% to greater than or equal to 92% of design reactor coolant flow; adjust the reactor core thermal margin safety limit lines to reflect the reduced RCS flow rate; and reduce the lift setting range for the eight Main Steam Safety Valves (MSSVs) with the highest allowable lift setting from the current range of 935 to 1065 psig to a more restrictive range of 935 to 1050 psig. In addition to the changes to the TSs necessary to support an increased number of plugged steam generator tubes, reanalysis of the accident analyses affected by this change identified an Unreviewed Safety Question (USQ) associated with these changes. The USQ results from the determination that the Seized Rotor Event analysis involves an increased percentage of failed fuel cladding. Finally, four reanalyzed events Main Steamline Break (MSLB), Steam Generator Tube Rupture (SGTR) Loss of Coolant Flow, and Boron Dilution) require Nuclear Regulatory Commission approval due to changes to the methodology or assumptions used to analyze these events.

The proposed action is in accordance with the licensee's application for amendment dated January 31, 1997, as supplemented by letters dated February 13, February 28, March 25, April 16, August 16, and September 29, 1997, and January 22, March 17, April 8, and April 21, 1998.

The Need for the Proposed Action

During the 1998 Unit 1 refueling outage, Baltimore Gas and Electric Company (BGE) will perform extensive steam generator tube inspections. Tubes that experience excessive degradation reduce the integrity of the primary-to-secondary pressure boundary. Eddy current examination is used to measure the extent of tube degradation. When the reduction in the tube wall thickness reaches the plugging or repair limit, as specified in the Technical Specifications, the tube is considered defective and a corrective action is taken.

Currently, the Calvert Cliffs TSs allow defective tubes to be plugged and removed from service, or to be repaired using welded sleeving techniques developed by Westinghouse Electric Corporation or Combustion Engineering, Inc. The most widely used tube maintenance technique at many pressurized water reactors, including Calvert Cliffs, is removal of the degraded tube from service by installing plugs at both ends of the tube. The installation of steam generator tube plugs removes the heat transfer surface of the plugged tube from service, and the increased flow resistance leads to a reduction in the primary coolant flow available for core cooling. The minimum primary coolant flow requirements in the TSs are based upon operation with no more than 800 plugged tubes in each steam generator. There is a possibility that the results of steam generator tube inspections in the upcoming refueling outage will necessitate exceeding the 800 plugged tube criteria in at least one of the Unit 1 steam generators. If this is the case, BGE will require implementation of the proposed TSs changes and approval of the USQ prior to Mode 2 entry following the 1998 Unit 1 refueling outage.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action will not have a significant effect on the quality of the human environment. To the extent there is any environmental impact from increasing the number of plugged steam generator tubes, such impact results from the increased RCS temperature and the reduced RCS flow rate expected to result from this activity. Reanalysis of the Seized Rotor Event analyses has indicated a greater percentage of fuel pin failures would be expected during these postulated accidents due to the revised coolant temperature and flow rates; the increased number of plugged tubes results in an increase in offsite releases, relative to past analyses.

The licensee's results of the MSLB event reanalysis with reduced RCS flow indicate a reduction in the 0–2 hour thyroid dose at the Exclusion Area Boundary (EAB) from 81 rem to 5 rem, and a decrease in the 0–2 hour whole body dose at the EAB from 0.3 rem to 0.2 rem. The licensee's results of the Seized Rotor Event reanalysis indicate the resultant 0–2 hour EAB thyroid dose increases from 3.6 rem to 12 rem, whereas the whole body dose at the EAB is reduced from 0.4 rem to 0.2 rem. The licensee presented, for the first time, doses at the low population zone (LPZ) for the MSLB and the Seized Rotor Events. These doses were 1.2 rem thyroid and 0.04 rem whole body for the MSLB and 1.0 rem thyroid and 0.04 rem whole body for the Seized Rotor Event. The guideline dose limits for accidents involving fuel failure are the 10 CFR Part 100 limits of 300 rem to the thyroid and 25 rem to the whole body.

The licensee presented the results of an SGTR analysis. Two cases were presented. The first case was based upon primary coolant being at the 100 hour technical specification value for dose equivalent ^{131}I of 1 μCI/g and iodine spiking factor of 500. The

licensee calculated the thyroid and whole body doses at the EAB as 13 rem and 0.55 rem, respectively.

The LPZ doses, which were reported for the first time by the licensee, were calculated as 5 rem thyroid and 0.15 whole body. The second case, which was evaluated, assumed primary coolant was at the maximum instantaneous technical specification value of dose equivalent ^{131} I of 60μCi/g. The results of this case were presented for the first time. The licensee calculated the doses at the EAB as 22 rem thyroid and 0.66 rem whole body. The LPZ doses were calculated as 6 rem thyroid and 0.18 rem whole body.

Even though there is some increase in dose for the Seized Rotor Event, the actual total dose is a fraction of the limits of 10 CFR part 100, as noted above, and there is a low probability of these accidents. This change does not significantly affect the risk of any dominant accident scenario, and the effect on overall risk of an accident at Calvert Cliffs Nuclear Power Plant is insignificant. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

The staff has performed confirmatory calculations of the consequences of an MSLB, SGTR and Seized Rotor Events. The staff has confirmed that the consequences of these accidents will result in offsite doses which are a small fraction of the 10 CFR part 100 dose guidelines. In addition, the staff has determined that the proposed action will not result in an increase in normal radiological effluents from the Calvert Cliffs Nuclear Power Plant such that 10 CFR part 20 and Appendix I to 10 CFR part 50 will continue to be met.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

The principal alternative to approving the license amendment request needed to allow plugging up to 2500 tubes per steam generator would be to deny the request and retain the current coolant flow limitations. However, this alternative could reduce operational flexibility as it may prevent a Unit 1 start-up following the upcoming refueling outage, if the steam generator tube inspections necessitate plugging greater than 800 tubes in either of the unit's two steam generators. Furthermore, denial of the amendment would not significantly enhance the protection of the environment as the impacts of this alternative and the proposed action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 dated April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on May 5, 1998, the staff consulted with the Maryland State official, Richard I. McLean of the Maryland Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 31, 1997, as supplemented by letters dated February 13, February 28, March 25, April 16, August 16, and September 29, 1997, and January 22, March 17, April 8, and April 21, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland, this 12th day of May 1998.

For The Nuclear Regulatory Commission.

S. Singh Bajwa,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13188 Filed 5–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Year 2000 Readiness of Computer Systems at Nuclear Power Plants; Issue

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter (GL) 98–01 to all holders of operating licenses for nuclear power plants, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, to require the submittal of written responses that will give the NRC the necessary assurance that addressees are effectively addressing the year 2000 (Y2K) problem in computer systems at their respective facilities. Simply stated, the Y2K problem pertains to the potential for a system or an application to experience date-related problems, such as misreading "00" as the year 1900 rather than 2000. This generic letter requires the following information from addressees, under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f): (1) Written confirmation that each addressee is implementing an effective plan to address the Y2K problem and provide for safe operation of their respective facilities prior to January 1, 2000, and (2) written certification that the facilities are Y2K ready with regard to compliance with the terms and conditions of the facility licenses and NRC regulations.

The generic letter is a "rule" for purposes of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C., Chapter 8). The staff has received confirmation from the Office of Management and Budget that the generic letter is a non-major rule.

The generic letter is available in the NRC Public Document Room under accession number 9805050192.

DATES: The generic letter was issued on May 11, 1998.

ADDRESSEES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Matthew Chiramal, at (301) 415–2845.

SUPPLEMENTARY INFORMATION: This generic letter only requires information from addressees under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). The generic letter does not constitute a backfit as defined in 10 CFR 50.109(a)(1) since it does not impose modifications of or additions to

structures, systems or components or to design or operation of an addressee's facility. It also does not impose an interpretation of the Commission's rules that is either new or different from a previous staff position. The staff, therefore, has not performed a backfit analysis.

Dated at Rockville, Maryland, this 11th day of May 1998.

For The Nuclear Regulatory Commission.

David B. Matthews,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13190 Filed 5–18–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39985; File No. SR–NASD–98–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Approval of Research Reports

May 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 27, 1998, the NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 2210, "Communications with the Public," of the Conduct Rules of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to permit the approval of research reports by a supervisory analyst acceptable to the New York Stock Exchange ("NYSE;") under NYSE Rule 344, "Supervisory Analysts,"[2] to satisfy NASD requirements that research reports be approved by a registered principal. Below is the text of the proposed rule change. Proposed new language is in italics.

2200. Communications with Customers and the Public

2210. Communications with the Public

* * * * *

(b) Approval and Recordkeeping.

(1) Each item of advertising and sales literature shall be approved by signature or initial, prior to use or filing with the Association, by a registered principal of the member. *This requirement may be met, only with respect to corporate debt and equity securities that are the subject of research reports as that term is defined in Rule 472 of the New York Stock Exchange, by the signature or initial of a supervisory analyst approved pursuant to Rule 344 of the New York Stock Exchange.*

* * * * *

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *Background.* Subparagraph (b)(1) to NASD Rule 2210 regarding Communications with the Public requires each item of advertising and sales literature to be approved by signature or initial of a registered principal of an NASD member prior to use or filing with NASD Regulation. The definition of "sales literature" in subparagraph (a)(2) to NASD Rule 2210 includes research reports.

Paragraph (b) to NYSE Rule 472, "Communications with the Public," requires that research reports be prepared or approved by a supervisory analyst acceptable to the NYSE under NYSE Rule 334. NYSE Rule 472, Supplementary Material .10 defines "research reports" as "* * * an analysis of individual companies, industries, market conditions, securities or other investment vehicles which provide information reasonably sufficient upon which to base an investment decision." In order to become a supervisory analyst under NYSE Rule 344, an applicant may present evidence of appropriate experience and either (i) pass an NYSE Supervisory Analysts Examination, or (ii) successfully complete a specified level of the Chartered Financial Analysts Examination prescribed by the NYSE and pass only that portion of the NYSE Supervisory Analysts Examination dealing with Exchange rules on research standards and related matters.[3]

A joint NASD/NYSE member raised the issue of whether the approval of research reports by a supervisory analyst approved by the NYSE under NYSE Rule 344 could satisfy the NASD requirement that each item of advertising and sales literature be approved by signature or initial of a registered principal prior to use or filing with NASD Regulation.

b. *Discussion.* The NYSE designation of "supervisory analyst" does not constitute a registration category for NASD principals. The NASD Regulation staff reviewed the content outline for the supervisory analyst examination. The particular categories of securities addressed in the "securities analysis" section of the outline are fixed income securities and equity securities. The NASD Regulation staff concluded that the coverage in the supervisory analysts examination of the NYSE communication rules is comparable to the communication materials covered in the NASD principal examination. Thus, NASD Regulation believes that with respect to the level of training and experience necessary for the review of research reports on debt and equity, the level of supervisory analyst registration is comparable to the level of NASD principal registration.

Given that the scope of approval authority is limited to research reports and that the material in the NYSE supervisory analyst examination and the NASD principal examination is comparable in this area, the NASD Regulation staff concluded that the investor protection goals intended by the NASD's current principal review requirement rule could be satisfied by NYSE requirements in this area.

The proposed rule change amends subparagraph (b)(1) to NASD Rule 2210 to state that the requirement that advertising and sales literature be approved by a registered principal of an NASD member firm may be met, with respect to corporate debt and equity securities that are the subject of research

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[1] 15 U.S.C. 78s(b)(1).

[2] NYSE Rule 344 states that "Supervisory Analysts * * * shall be acceptable to, and approved by, the Exchange." NYSE Rule 344, Supplementary Material .10 sets forth qualifications to be considered by the Exchange.

[3] *See* NYSE Rule 344, Supplementary Material .10.

reports as that term is defined in NYSE Rule 472, by the signature or initial of a supervisory analyst approved pursuant to NYSE Rule 344. Any other material requiring supervisory approval would continue to require approval by an NASD registered principal.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[4] of the Act, which require that the rules of the Association be designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, in that the proposed rule change, by permitting approval of research reports by a supervisory analyst to satisfy NASD principal approval requirements of such reports according to standards comparable to the NASD requirements, preserves the investor protection goals of the NASD rules and eliminates duplicative regulatory requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate, up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file a copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–28 and should be submitted by June 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13183 Filed 5–18–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78*o*–3.

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39981; File No. SR–NYSE–98–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Rule 97, "Limitation on Members' Trading Because of Block Positioning," To Except Transactions That Facilitate Certain Customer Stock Transactions, and To Except Certain Transactions Made To Rebalance an Index Portfolio

May 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 30, 1998, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Item I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Exchange Rule 97, "Limitation on Members' Trading Because of Block Positioning," to except transactions that facilitate certain customer transactions in: (i) basket of stock; (ii) blocks of stock; (iii) specific stocks within a basket of stocks; and (iv) index component stocks. The proposal would also would except certain transactions made to rebalance an index portfolio.

The following is the text of Exchange Rule 97 marked to reflect the proposed rule change. Additions to the current text appear in italics while deletions appear in brackets.

Limitation on Members' Trading Because of Block Positioning

Rule 97 (a) When a member organization holds any part of a long position in a stock in its trading account resulting from a block transaction it effected with a customer, such member organization may not effect the following transactions for any account in which it has a direct or indirect interest for the remainder of the trading day on which it acquired such position:

(i) a purchase on a "plus" tick if such purchase would result in a new daily high;

(ii) a purchase on a "plus" tick within one-half hour of the close;

(iii) a purchase on a "plus" tick at a price higher than the lowest price at which any block was acquired in a previous transaction on that day; or

(iv) a purchase on a "zero plus" tick of more than 50% of the stock offered at a price higher than the lowest price at which any block was acquired in a previous transaction on that day.

For purposes of the restrictions in subparagraph (iii) and (iv) above, in the case where more than one block was acquired during the day, the lowest price of any such block will be the governing price.

(b) The provisions of paragraph (a) shall not apply to transactions made:

(1) For bona fide arbitrage or to engage in the purchase and sale, or sale and purchase of securities of companies involved in publicly announced merger, acquisition, consolidation, tender, etc.;

(2) To offset a transaction made in error;

(3) To facilitate the conversion of options;

(4) By specialists in the stocks in which they are registered; [or]

(5) To facilitate the sale of a block of stock *or a basket of stocks* by a customer[.];

(6) To facilitate an existing customer's order for the purchase of a block of stock, or a specific stock within a basket of stocks, or a stock which is being added to or reweighed in an index, at or after the close of trading on the Exchange, provided that the facilitating transactions are recorded as such and the transactions in the aggregate do not exceed the number of shares required to facilitate the customer's order for such stock; or

(7) Due to a stock's addition to an index or an increase in a stock's weight in an index, provided that the transactions in the aggregate do not exceed the number of shares required to rebalance the index portfolio.

Supplementary Material

.10 Definitions. A block positioner is a member organization which engages, either regularly or on an intermittent basis, in a course of business of acquiring positions to facilitate the handling of customers; order's on the Floor of the Exchange. For the purposes of this Rule, a block shall mean a quantity of stock having a market value of $500,000 or more which is acquired by a number organization on its own behalf and/or others from one or more buyers or sellers in a single transaction.

For purposes of this Rule, a "basket of stocks" shall mean a group of 15 or more stocks having a total market value of $1 million or more.

For purposes of this Rule, an "index" shall mean a publicly disseminated statistical composite measure based on the price of market value of the component stocks in a group of stocks.

.20–.50 No change.

II. Self-Regulatory Organizations'; Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, the Exchange included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 97 currently prohibits a member organization that holds any part of a long stock position in its trading account, which position resulted from a block transaction it effected with a customer, from purchasing for an account in which it (*i.e.*, the block positioning member organization) has a direct or indirect interest, additional shares of each stock on a "plus" or "zero plus" tick under certain conditions for the remainder of the trading day on which the member organization acquired the long position. Under Exchange Rule 97, the term "block" is defined as a quantity of stock having a market value of $500,000 or more that was acquired in a single transaction.

The restrictions in Exchange Rule 97 presently do not apply to transactions that: (i) involve bona fide arbitrage or the purchase and sale (or sale and purchase) of securities of companies involved in a publicly announced merger, acquisition, consolidation or tender offer; (ii) offset transaction made in error; (iii) facilitate the conversion of options; (iv) are engaged in by specialists in their specialty stocks; or (v) facilitate the sale of a block of stock by a customer.

Exchange Rule 97 was adopted to address concerns that a member organization might engage in manipulative practices by attempting to "mark-up" the price of a stock to enable the position acquired in the course of block positioning to be liquidated at a profit, or to maintain the market at the price at which the position was acquired. The "tick" restrictions of Exchange Rule 97 are designed to address these specific concerns. The current exceptions under Exchange Rule 97 permit certain types of purchases that are effected for a permitted purpose, but do not include transactions solely effected to increase the block positioner's position.

The Exchange seeks to amend Exchange Rule 97 to provide certain additional exceptions. The proposed additional exceptions would apply to purchases by the block positioning member organization that increase a position in order to: (i) facilitate the sale of a basket of stocks by a customer; and (ii) facilitate an existing customer's order for the purchase of a block of stock, a specific stock within a basket of stocks, or a stock being added to or reweighted in an index, at or after the close of trading on the Exchange. The proposal requires that these facilitating transactions be recorded as such and the transactions in the aggregate may not exceed the number of shares required to facilitate the customer's order for such stock. Finally, the proposal would add an exception for transactions made due to a stock's addition to an index or an increase in a stock's weight in an index provided that the transactions in the aggregate do not exceed the number of shares required to rebalance the index portfolio.

With respect to revised paragraph (b)(5), the proposal would extend the exception, which currently applies to a subsequent facilitation trade of block size ,to a facilitation trade of less than block size provided that the stock was part of a "basket" of stocks being sold by a customer. Proposed Supplementary Material .10, "Definitions," defines the term "basket" as a group of 15 or more stocks having a market value of one million dollars or more.

As to proposed paragraph (b)(6), the proposal would permit a block positioner to purchase stock to increase its position up to the amount required to facilitate a customer's purchase at the close or after-hours of a block of stock, a specific stock within a basket of stocks, or a stock being added to or reweighted in an index, provided the firm has an existing customer's order for the at-the-close or after-hours purchase. This provision will permit a member organization to position stock to effect a cross with a customer at or after the close. The proprietary purchase would be required to be recorded in a manner which identifies them as transactions entered into for the purpose of facilitating the customer buy transaction. Also, the transactions in the aggregate could not exceed the number of shares required to facilitate the customer's order.

The block positioner's purchases exempted under proposed paragraph (b)(6) would, however, remain subject to the limitations on positioning to facilitate customer orders as discussed in Exchange Information Memorandum No. 95–28, "Positioning to Facilitate Customer Orders."[2] These limitations generally preclude a block positioner, that has committed to sell securities after the close to a customer at the closing price, from being in the market on a proprietary basis after 3:40 p.m. when it has left a portion of its positioning to be executed at the close, and such at-the-close proprietary order can be reasonably expected to impact the closing price.

Finally, with regard to proposed paragraph (b)(7), the proposal would allow a block positioner to increase its proprietary portion in a stock where such stock is being added to an index or its weight in an index is being increased. However, purchases in the

[2] *See* Securities Exchange Act Release No. 35837 (June 12, 1995), 60 FR 31749 (June 16, 1995).

aggregate may not exceed the number of shares required to rebalance an index portfolio.

The Exchange believes the proposed exceptions in paragraphs (b)(5) and (b)(6) to facilitate certain customer transactions are appropriate because these types of transactions are effected to accommodate a customer. The Exchange further believes the proposed exception in paragraph (b)(7) for additions to, or increased weigh in, an index is appropriate because such purchases are usually made at the close of trading to obtain the closing price of the index and therefore are indifferent to the price level so long as it represents the closing valuation.

The proposal also would expand the Rule's Supplementary Material, Section .10, "Definitions," to provide definitions for the terms "basket" and "index," which terms are used in proposed paragraphs (b)(5), (b)(6), and (b)(7). The term "basket" would be defined as a group of 15 or more stocks having a total market value of $1 million or more. The Exchange has represented that this definition is consistent with the use of "basket" in the definition of program trading that appears in Exchange Rule 80A. The proposal would define "index" as a publicly disseminated statistical composite measure based on the price or market value of the component stocks in a group of stocks. The Exchange believes this definition would preclude the possibility of a firm creating an "index" for the purpose of circumventing the restrictions of the Rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act [3] in that it is designed to facilitate transactions in securities, and remove impediment to and perfect the mechanism of a free and open market. The Exchange believes the proposed rule change would permit trading by member organizations, when appropriate, to facilitate customer trading, and would thereby add depth, liquidity, and quality to the market for Exchange-traded securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington D.C. 20549. Copies of the submissions, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–98–11 and should be submitted by June 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13182 Filed 5–18–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Servant Air, Inc. for New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 98–5–21) Docket OST–97–3022.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Servant Air, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail, using aircraft with no more than nine passenger seats.

DATES: Persons wishing to file objections should do so no later than June 2, 1998.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–97–3022 and addressed to the Department of Transportation Dockets SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: May 13, 1998.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–13181 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program and Determination on Revised Noise Exposure Maps

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on a new noise compatibility program for Charlotte/Douglas International Airport submitted by the City of Charlotte, North Carolina, under the provisions of Title I of the Aviation Safety and Noise Abatement act of 1979

(Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 30, 1997, the FAA determined that the noise exposure maps, submitted by the City of Charlotte under 14 CFR Part 150 were in compliance with applicable requirements. On March 30, 1998, the Administrator approved the new noise compatibility program for Charlotte/Douglas International Airport. This new study revised and updated the existing noise compatibility program that was approved by the FAA on May 18, 1990. The City of Charlotte has also requested under Part 150, Section 150.35(f), that FAA determine that revised noise exposure maps submitted with the noise compatibility program and showing noise contours as a result of the implementation of the noise compatibility program are in compliance with applicable requirements of FAR Part 150. The FAA announces its determination that the revised noise exposure maps for Charlotte/Douglas International Airport for the years submitted with the noise compatibility program are in compliance with applicable requirements of FAR Part 150 effective April 28, 1998.

EFFECTIVE DATE: The effective date of the FAA's approval of the new noise compatibility program for Charlotte/Douglas International Airport is March 30, 1998. The effective date of the FAA's determination on the revised noise exposure maps is April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts; Atlanta Airports District Office; Federal Aviation Administration; Campus Building; 1701 Columbia Avenue, Suite 2–260; College Park, Georgia 30337–2747, Telephone 404/305–7153. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to a new noise compatibility program for Charlotte/Douglas International Airport, effective March 30, 1998. This new study revises and updates an existing noise compatibility program approved by the FAA on May 18, 1990. Under Section 104(a) of the Act an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local, not a federal, program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of the Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

1. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150.

2. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

4. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of the airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environment assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Atlanta Airports District Office in Atlanta, Georgia.

The City of Charlotte, North Carolina, submitted to the FAA on August 26, 1997, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility study. The Charlotte/Douglas International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 30, 1997. Notice of this determination was published in the **Federal Register** on October 17, 1997.

The Charlotte/Douglas International Airport study contains a proposed noise compatibility program consisting in part of measures that were implemented under the approved 1990 noise compatibility program, as amended. These measures are recommended for continuation. New measures are recommended which may be initiated before or immediately upon approval of the program by the FAA. Additional measures are recommended to further abate noise or mitigate its effect on persons and noise-sensitive land uses. These measures are divided into Phase I and Phase II implementation programs. Phase I assumes no further runway development. Phase II assumes the construction of the proposed third parallel runway and the extension of runway 18R/36L. The proposed third parallel runway and the extension to runway 18R/36L are included in the Part 150 analysis because FAA guidelines require the inclusion of all development projects anticipated to occur within the next 5 years. The noise compatibility program measures are divided into noise abatement (air traffic), land use (preventive) and noise mitigation (corrective) actions. It was requested that the FAA evaluate and approve this material as a noise computability program as described in Section 104(b) of the Act. The FAA begin its review of the program on September 30, 1997, and was required by a provision of the Act to approve or disapprove such program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180 days shall be deemed to be an approval of such program.

Phase I of the submitted program contained seven noise abatement measures, which consist of two continuations, two deletions, and three additions to the approved 1990 noise compatibility program; nine land use measures, which consist of three

continuations, three deletions, and three additions to the approved 1990 noise compatibility program; and seven noise mitigation measures, which consist of four continuations, one completion, and two additions to the 1990 noise compatibility program. Phase II of the submitted program contained two new noise abatement measures and two new noise mitigation measures. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator, effective March 30, 1998.

Of the overall 21 specific measures requiring federal action, 19 were approved without exception. Two land use measures were partially approved subject to the recommendation related to the introduction of noncompatible residential development is not meeting Part 150 criteria. The approved measures included such items as: the continuation of periodic noise monitoring, provision for monthly reports on late night (11 p.m. to 7 a.m.) runway utilization, variance from noise compatibility program assumptions to the Tower and frequent nighttime users; designation of runways 18R and 18L as the preferred for takeoffs by turbojet and large four-engine prop aircraft between 11 p.m. and 7 a.m. when runway 23 or runway 5 cannot be used for reasons of wind, weather, operational necessity, or required runway length; designation of locations and procedures for engine runups; modification to current operating procedures for turbojet and large four-engine prop aircraft departing runways 36R and 36L to initiate turns at 2.5 and 2.6 DME north of the CLT VOR/DME respectively; continuation of the 1990 noise compatibility program land use planning which recommends amending local land use planning policies to reduce the development of noncompatible land uses within the airport environs; continuation of the 1990 noise compatibility program land use measure to rezone undeveloped property to airport compatible land use and limit the density of residential development permitted within noise contours; dedication of avigation easement as a condition of approval for the development of property located in the airport environs; pursuit of the establishment of an airport overlay district that corresponds to the airport environs; pursuit of an amendment of the state building code to authorize the City of Charlotte and Mecklenburg County to raise the minimum building standards (noise level reduction) for new residential construction in the airport overlay district; development of the full disclosure of property location within the airport environs for potential buyers; continuation of the public information program that is a part of the approval 1990 noise compatibility program; continuation of the sound insulation program for sensitive public buildings used for instruction (schools) and assembly (churches) within the 65 DNL contour; continuation of the sound insulation program of residential property within the 65 DNL contour; within the 70–75 DNL noise contour, offers of purchase assurance, sound insulation of residences, purchase of aviation easements or acquisition of noncompatibility property; acquisition of mobile homes located within the 70 DNL noise contour; exercise of the option to purchase avigation easement, sound insulate or acquire homes within the 65 DNL noise contours where sound insulation is infeasible or not cost effective; establishment of departure turn for third parallel runway 17; establishment of departure turn for the third parallel runway 35; insulation of eligible dwellings within the 2001 noise compatibility program/noise exposure map 65 DNL noise contour, and acquisition of mobile homes within the 65 DNL noise contour of the 2001 noise compatibility program/noise exposure map. These determinations are set forth in detail in the Record of Approval endorsed by the Administrator on March 30, 1998.00000

The FAA also has completed its review of the revised noise exposure maps and related descriptions submitted by the City of Charlotte. The specific maps under consideration are dated February 27, 1998, in the submission. The FAA has determined that these maps for the Charlotte/Douglas International Airport are in compliance with applicable requirements. This determination is effective April 28, 1998. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the data, information or plans.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps, and copies of the record of approval and other evaluation materials and documents which comprised the submittal to the FAA are available for examination at the following locations:

Federal Aviation Administration, Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

Mr. T.J. Orr, Aviation Director, Charlotte/Douglas International Airport, Charlotte, North Carolina.

Questions on either of these FAA determinations may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Atlanta, Georgia on April 28, 1998.

Dell T. Jernigan,

Manager, Atlanta Airports District Office, ATL–ADO.

[FR Doc. 98–13264 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–9]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application,

processing, and disposition of petitions for exemptions (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 8, 1998.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Tawana Matthews (202) 267–9783 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 13, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29168.
Petitioner: Continental Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.417(c)(2)(i)(A).
Description of Relief Sought: To permit Continental and Continental Micronesia to use video-based differences training in lieu of physical hands-on training to accomplish the training and qualification of crewmembers on the automatic Type III emergency overwing exits installed on Boeing 737–600, –700, and –800 airplanes, when the crewmembers previously have been trained and qualified on Type III emergency overwing exits installed on other versions of Boeing 737 aircraft.

Docket No.: 29166.
Petitioner: Roger Aviation Company.
Sections of the FAR Affected: 14 CFR 142.15(d).
Description of Relief Sought: To permit Roger Aviation Company to conduct simulator training under part 142 with a Frasca 242 flight training device (FTD) without that FTD meeting the requirements of an advanced FTD as defined in § 142.3.

Dispositions of Petitions

Docket No.: 27307.
Petitioner: Comair Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.441(a)(1) and (b)(1) and appendix F to part 121.
Description of Relief Sought/ Disposition: To permit Comair to combine recurrent flight and ground training and proficiency checks for its pilots in a single annual training and proficiency evaluation program.
Grant, April 30, 1998, Exemption No. 5734C.

Docket No.: 29173.
Petitioner: Captain Joe R. McCabe.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit the petitioner to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.
Denial, April 20, 1998, Exemption No. 6757.

Docket No.: 28174.
Petitioner: Air Carriage.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit the petitioner to operate certain aircraft under the provisions of part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, April 20, 1998, Exemption No. 6108A.

Docket No.: 28597.
Petitioner: U.S. Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit U.S. Helicopters to operate certain aircraft under the provisions of part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. In addition, in your letter, you include a revised list of aircraft to be covered by the extension.
Grant, April 20, 1998, Exemption No. 6452A.

Docket No.: 29167.
Petitioner: Captain David F. Specht.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit the petitioner to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.
Denial, April 20, 1998, Exemption No. 6755.

Docket No.: 29171.
Petitioner: Mr. Thomas Bentley.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit the petitioner to act as a pilot in operations conducted under part 121 after reaching your 60th birthday.
Denial, April 20, 1998, Exemption No. 6756.

Docket No.: 25550.
Petitioner: Department of the Army.
Sections of the FAR Affected: 14 CFR 91.169(a)(2) and (c).
Description of Relief Sought/ Disposition: To permit the U.S. Army to file instrument flight rules flight plans in accordance with the regulations prescribed by the U.S. Army.
Grant, April 30, 1998, Exemption No. 6528A.

Docket No.: 27785.
Petitioner: Chevron U.S.A., Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Chevron to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provisions of part 135.
Grant, April 30, 1998, Exemption No. 5948B.

Docket No.: 28206.
Petitioner: Silver Moon Aviation.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit the petitioner to operate certain aircraft without a TSO–C112 (Mode S) transponder installed.
Grant, April 30, 1998, Exemption No. 6122A.

Docket No.: 28307.
Petitioner: Bombardier Business Aircraft.
Sections of the FAR Affected: 14 CFR 135.337(a)(2), and (3), and (b)(2); and 135.339(b) and (c) and appendix H to part 121.
Description of Relief Sought/ Disposition: To permit certain instructors employed by Bombardier and listed in a part 135 certificate holder's approved training program to act as simulator instructors for that

certificate holder under part 135 without having received ground and flight training in accordance with that certificate holder's training program approved under subpart H of part 135. That exemption also permits simulator instructors employed by Bombardier and listed in a certificate holder's approved training program to serve in advanced simulators without being employed by the certificate holder for 1 year, provided the instructors receive applicable training in accordance with the provisions of this exemption.

Grant, April 30, 1998, Exemption No. 6446A.

Docket No.: 29176.

Petitioner: Col. Marcus F. Cooper, Jr.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit the petitioner to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Denial, April 30, 1998, Exemption No. 6759.

Docket No.: 28499.

Petitioner: Sky Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Sky Helicopters to operate certain aircraft under the provisions of part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft

Grant, April 30, 1998, Exemption No. 6430A.

Docket No.: 26017.

Petitioner: ERA Aviation, Inc.

Sections of the FAR Affected: 14 CFR 43.3(a) and 135.443(b)(3).

Description of Relief Sought/ Disposition: To permit ERA to allow appropriately trained and certificated pilots employer by ERA to install and remove an approved emergency rescue hoist on its Aerospatiale AS332 Super Puma helicopters.

Disposition, Date, Exemption No. 6760.

Docket No.:

Petitioner:

Sections of the FAR Affected: 14 CFR.

Description of Relief Sought/ Disposition: To permit.

Disposition, Date, Exemption No.

[FR Doc. 98–13267 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 98–01–C–00–MHK To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Manhattan Regional Airport, Manhattan, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Manhattan Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 18, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ken Black, Airport Manager, Manhattan Regional Airport, at the following address: City of Manhattan, Kansas, Manhattan Regional Airport, 5500 Fort Riley Blvd., Suite 120, Manhattan Kansas 66502–9721.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Manhattan, Manhattan Regional Airport. under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invite public comment on the application to impose and use the revenue from a PFC at the Manhattan Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 1, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Manhattan, Kansas, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 31, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June, 1998.

Proposed charge expiration date: January, 2004.

Total estimated PFC revenue: $401,978.

Brief description of proposed project(s): Construction of Access Road (Phase 1); Installation of Part 139 Signage; Construct Terminal Building; Terminal Building Site Development; Construct Service Road; Update the Airport Master Plan; Rehabilitate Apron.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Manhattan Regional Airport. Issued in Kansas City, Missouri on May 1, 1998.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 98–13266 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Outagamie County Airport, Appleton, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Outagamie County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 18, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District

Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Debra Giuffre, Airport Manager of the Outagamie County Airport at the following address: W6390 Challenger Drive, Suite 201, Appleton, WI 54915.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Outagamie under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450, 612 713–4363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Outagamie County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 16, 1998 the FAA determined that the application to impose and use the revenue from a PFC submitted by County of Outagamie was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 18, 1998.

The following is a brief overview of the application.

PFC application number: 98–03–C–00–ATW.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 1999.

Proposed charge expiration date: April 1, 2004.

Total estimated PFC revenue: $3,909,000,00.

Brief description of proposed projects: Electrical vault expansion, Emergency generator, Airport rescue and firefighting vehicle (ARFF), Access road construction, Runway end blast pads, Taxiway A reconstruction, Acquire snow removal equipment: rotary blower, front end loader with plow, truck with plow, truck with plow dump box and spreader, Construct taxiway J connector.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Outagamie County Airport, W6390 Challenger Drive, Suite 201, Appleton, WI 54915.

Issued in Des Plaines, Illinois on May 12, 1998.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–13265 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3851]

Notice of Receipt of Petition for Decision that Nonconforming 1995 Mercedes-Benz C280 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Mercedes-Benz C280 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Mercedes-Benz C280 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 18, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1995 Mercedes-Benz C280 passenger cars are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1995 Mercedes-Benz C280 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Daimler Benz, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995 Mercedes-Benz C280 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1995 Mercedes-Benz C280, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995 Mercedes-Benz C280 is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109

New Pneumatic Tires, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1995 Mercedes-Benz C280 complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour or its replacement with one already so calibrated.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlights and turn signal lenses; (b) installation of U.S.-model taillight lenses and side markers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the steering lock assembly. The petitioner states that the vehicle is already equipped with a warning buzzer microswitch.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 206 *Door Locks and Door Retention Components:* (a) replacement of the rear door lock buttons; (b) modification of the door lock assemblies so that the doors do not open when the locking mechanism is engaged and the door release handle is pulled.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a safety belt warning system through replacement of the driver's seat belt latch and the addition of a seat belt warning buzzer; (b) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicle is equipped with Type II at both front and rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard found in 49 CFR Part 541.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: May 14, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13250 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3852]

Notice of Receipt of Petition for Decision That Nonconforming 1997 Porsche Boxster Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1997 Porsche Boxster passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1997 Porsche Boxster that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 18, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then

publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1997 Porsche Boxster passenger cars are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1997 Porsche Boxster that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1997 Porsche Boxster to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1997 Porsche Boxster, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1997 Porsche Boxster is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) replacement of the speedometer/odometer with one calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of U.S.-model taillamp assemblies and front sidemarkers. The petitioner states that the vehicle is equipped with conforming headlights, turn signal lenses, and a high mounted stoplamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock assembly. The petitioner states that the vehicle is already equipped with a warning buzzer microswitch.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a safety belt warning system through replacement of the driver's seat belt latch and the addition of a seat belt warning buzzer; (b) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicle is equipped with Type II seat belts at both front designated seating positions. The petitioner notes that the vehicle is a 2-seater.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that bumper shocks and bumper pads must be added to the rear bumper of the non-U.S. certified 1997 Porsche Boxster for it to comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR part 565.

The petitioner finally states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard found in 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 14, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13251 Filed 5–18–98; 8:45 am]

BILLING CODE: 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3848; Notice 1]

Beall Trailers of Washington, Inc.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

Beall Trailers of Washington, Inc., of Kent, Washington, ("Beall"), a wholly-owned subsidiary of Beall Corporation, has petitioned for a one-year temporary exemption from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*. The basis of the petition is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

This notice of receipt of the petition is published in accordance with agency regulations on the subject and does not represent any judgment by the agency about the merits of the petition.

Beall manufacturers and sells dump body trailers. It produced a total of 311 trailers in 1997, of which 124 were dump body types. Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more, including dump body types, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. Beall states that "alterations may have to be made to the trailer chassis or even raising the dump box to provide space for the retractable guard," indicating that a guard that retracts when the dump body is in operation is the solution it is seeking in order to comply. According to Beall's application, the company has "placed significant resources (time and money)

towards the design of an acceptable guard. We have involved Montana State University professors from their Mechanical Engineering department. We have conducted Finite Element Analysis and traditional methods of design arriving at a plastically deforming guard that meets the standard, for nonasphalt carrying applications." The deforming guard does not retract, thus cannot be used on dump body trailers. It believes that its problem is similar to that experienced by other manufacturers manufacturing dump trailers. The company states that "devices used in other countries do not meet FMVSS 224." It continues to study "hinged/retractable devices" but must overcome lack of space for a retracted device. It will strive to develop a device that would comply with Federal requirements while an exemption is in effect.

If an exemption is not granted, substantial economic hardship will result. First, it would lose a trailer that accounts for 40 percent of its overall production. In addition, "some percentage of the remaining 60% would be lost since our customers typically purchase matching truck mounted dump bodies which may also be lost." It also believes that 31 of its 63 employees would have to be laid off if its application is denied. Maintenance of full employment would be in the public interest it argues. Beall's net income was $39,317 in 1996 and $72,213 in 1996. In the first 10 months of 1997, its net income before income taxes was $697,040. If the application is denied, it foresees a net loss of $71,445 for 1998.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket and notice number, and be submitted to: Docket Management, National Highway Traffic Safety Administration, room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date below will be considered, and will be available for examination in the docket at the above address both before and after that date, between the hours of 10 a.m. and 5 p.m. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 8, 1998.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4

Issued on: May 13, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–13276 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–69–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Nissan North America, Inc., (Nissan) for an exemption of a high-theft line (whose nameplate is confidential) from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with the (confidential) model year.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In a letter dated November 26, 1997, Nissan North America, Inc., (Nissan) requested exemption from the parts-marking requirements of the theft prevention standard for a motor vehicle line. The nameplate of the line and the model year of introduction are confidential. The letter requested an exemption from parts-marking pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

Nissan's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Nissan requested confidential treatment for the information submitted in support of its petition. In a letter to Nissan dated January 13, 1998, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an engine-immoblizer system. The antitheft device is activated by turning the ignition switch to the "OFF" position using the proper ignition key.

In order to ensure the reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan provided a detailed list of the tests conducted. Nissan stated its belief that the device is reliable and durable since the device complied with Nissan's specified requirements for each test.

Nissan compared the device proposed for its vehicle line with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Nissan has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemptions from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Nissan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

The agency believes that the device will provide four of the five types of performance listed in 49 CFR 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by

unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its antitheft device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, appendix A–I identifies those lines that are exempted from the theft prevention standard for a given model year. Advance listing, including the release of future product nameplates, is necessary in order to notify law enforcement agencies of new models exempted from the parts-marking requirements of the Theft Prevention Standard. Therefore, since Nissan has been granted confidential treatment for the nameplate of its vehicle, the confidential status of the nameplate will be protected until, but no later than, June 1, prior to the model year of its introduction into the marketplace. At that time, Appendix A–I will be revised to reflect the nameplate of Nissan's exempted vehicle line.

If Nissan decides not to use the exemption or this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an anthitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 12, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–13252 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Office of Hazardous Materials Safety

Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, Office of Hazardous Materials Safety, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before June 18, 1998.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, Room 8421, DHM–30, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 14, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12063–N	RPSA–1998–3827	The Hydrocarbon Flow Specialist, Inc., Morgan City, LA.	49 CFR 172.102, SP T–18.	To authorize the transportation in commerce of Hydrofluoric Acid solutions, Class 8, in IM 101 tanks equipped with valve to allow for bottom discharge. (Modes 1, 3.)
12064–N	RPSA–1998–3830	Occident Chemical Corp., Webster, TX.	49 CFR 180.509(e)	To authorize the requalification of tank cars using acoustic emission testing. (Mode 2.)
12065–N	RPSA–1998–3831	International Flavors & Fragrances Inc., Hazlet, NJ.	49 CFR 173.120(c)(ii) ...	To authorize the the use of a specially designed device to obtain flashpoint data for fragrance formulas. (Modes 1, 2, 3, 4, 5.)
12066–N	RPSA–1998–3834	KMG Bernuth Inc., Houston, TX.	49 CFR 173.35(b)	To authorize the reuse of flexible IBCs for use in transporting pentachlororphenol, Division 6.1. (Mode 1.0

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12067–N	RPSA–1998–3833	United Parcel Service Co., Louisville, KY.	49 CFR 171.2(a), 173.3(a), 173.301(e), 173.302(a), 173.34(a)(1)&(e).	To authorize the transportation in commerce of compressed gases, n.o.s, Division 2.2 in non-DOT specification cylinders used as part of an aircraft components. (Mode 1.)
12068–N	RPSA–1998–3850	United States Sea Launch GP, L.L.C., Long Beach, CA.	49 CFR 173.56, 173.60	To authorize the shipment of a rocket motor and components which have not been examined and approved as required in specially designed packagings and shipping configurations. (Modes 1, 3, 4.)
12069–N	RPSA–1998–3829	Compagnie Des Containers Reservoirs, Paris, FR.	49 CFR 173.32b(b)	To authorize an alternative visual inspection schedule for certain DOT Specification IM 101 portable tanks used in dedicated service for the transportation in commerce of methlthiopropionic aldehyde (4-thiopentanal), Division 6.1. (Modes 1, 2, 3.)
12072–N	RPSA–1998–3838	Consani Engineering (Pty) Ltd., South Africa.	49 CFR 178.245–1(a)	To manufacture, mark and sale DOT Specification 51 ISO tank containers designed in accordance with Section VIII Division 2 of the ASME code for use in transporting Division 2.1, 2.2 and 2.3 material. (Modes 1, 2, 3.)
12073–N	RPSA–1998–3840	Patriotic Fireworks, North East, MD.	49 CFR 173.56(j)	To authorize the transportation in commerce of certain approved Division 1.3G fireworks devices in specially designed packagings to be offered for transportation as Division 1.4G fireworks. (Modes 1, 2.)
12074–N	RPSA–1998–3841	Van Hool NV B–2500 Lier, Koningshooikt, BE.	49 CFR 178–245–1(a)	To manufacture, mark and sale DOT Specification steel portable tanks designed, constructed and stamped in accordance with Division 2 of Section VIII of the ASME B&PV Code for use in transporting Division 2.1 and 2.2 material. (Modes 1, 2, 3.)
12076–N	RPSA–1998–3839	The Valvoline Co., Lexington, KY.	49 CFR 172.101	To authorize the transportation in commerce of automotive starting fluids products with alternative shipping name in order to use existing stock. (Mode 1.)

[FR Doc. 98–13253 Filed 5–18–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration, Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, Office of Hazardous Materials Safety, DOT.

ACTION: List of Applications for Modification of Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 3, 1998.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Docket No.	Applicant	Modification of exemption
10672–M		Burlington Packaging, Inc., Brooklyn, NY (See Footnote 1)	10672
11352–M		PepsiCo, Inc., Arlington, TX (See Footnote 2)	11352
11396–M		Laidlaw Environmental Services Inc., Columbia, SC (See Footnote 3)	11396
11624–M		Laidlaw Environmental Services Inc., Columbia, SC (See Footnote 4)	11624
11686–M		Bridgeview, Inc., Morgantown, PA (See Footnote 5)	11686

Application No.	Docket No.	Applicant	Modification of exemption
12055–M	RPSA–1998–3731	M.D. Cryogenics, Inc., Pearland, TX (See Footnote 6)	12055

[1] To modify the exemption to provide for alternative absorbent material and plastic ringlock on specially-designed composite type packaging.
[2] To authorize party-status and additional classes of hazardous materials.
[3] To modify the exemption to provide for cargo vessel as an additional mode of transportation for use in transporting various Class 3 material.
[4] To modify the exemption to provide for cargo vessel as an additional mode of transportation for use in transporting various Class 3 material.
[5] To modify the exemption to provide for several modifications to existing plastic bags.
[6] To reissue the exemption originally issued on an emergency basis to authorize the transportation of portable tanks that are incorrectly marked and are involved in off-shore operations.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53 (e)).

Issued in Washington, DC, on May 13, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 98–13254 Filed 5–18–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–43]

Revocation of Marine Control Surveyors, Inc. Customs Gauger Approval

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Customs Gauger Approval.

SUMMARY: Marine Control Surveyors, Inc., of Groves, Texas, a Customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Marine Control Surveyors, Inc. does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of Marine Control Surveyors, Inc. has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW., Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 98–13213 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–45]

Revocation of Inert Gas Services, Inc.; Customs Gauger Approval

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Customs Gauger Approval.

SUMMARY: Inert Gas Services, Inc., of Pasadena, Texas, a Customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), has requested that the U.S. Customs Service revoke its gauger approval. Accordingly, pursuant to 151.13(f) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of Inert Gas Services, Inc. has been revoked without prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 6, 1998.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 98–13215 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–39]

Revocation of Curtis & Thompkins LTD. Customs Gauger Approval and Laboratory Accreditation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of customs gauger approval and laboratory accreditation.

SUMMARY: Curtis & Thompkins LTD, of Berkeley, California, a Customs approved gauger and accredited laboratory, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Curtis & Thompkins LTD does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval and laboratory accreditation of Curtis & Thompkins LTD has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 98–13234 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–45]

Revocation of 3D Marine, USA Customs Gauger Approval

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of customs gauger approval.

SUMMARY: 3D Marine, USA, of Houston, Texas, a Customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), has requested that the U.S. Customs Service revoke its gauger approval. Accordingly, pursuant to 151.13(f) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of 3D Marine, USA, has been revoked without prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 6, 1998.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 98–13216 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–42]

Revocation of Saybolt-Heinrici, Inc. Customs Gauger Approval and Laboratory Accreditation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of Customs gauger approval and laboratory accreditation.

SUMMARY: Saybolt-Heinrici, Inc. of Pasadena, Texas, a Customs approved gauger and accredited laboratory, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Saybolt-Heinrici, Inc. does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs Commercial gauger approval and laboratory accreditation of Saybolt-Heinrici, Inc. has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave. NW., Suite 5.5B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 98–13222 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–41]

Revocation of Testing Labs, Consultants & Marine Customs Gauger Approval

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Customs Gauger Approval.

SUMMARY: Testing Labs, Consultants & Marine, of Covington, Louisiana, a Customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Testing Labs, Consultants & Marine does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of Testing Labs, Consultants & Marine has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 98–13230 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–40]

Revocation of Chamberlain & Associates Customs Gauger Approval

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of Customs gauger approval.

SUMMARY: Chamberlain & Associates, of Deer Park, Texas, a customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Chamberlain & Associates does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of Chamberlain & Associates has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 98–13233 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–44]

Revocation of Technical & Environmental Services Customs Gauger Approval and Laboratory Accreditation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Customs Gauger Approval and Laboratory Accreditation.

SUMMARY: Technical & Environmental Services, of Houston, Texas, a Customs approved gauger and accredited laboratory, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found not operating in compliance with Customs laws and regulations. Specifically, Technical & Environmental

Services does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval and laboratory accreditation of Technical & Environmental Services has been revoked with prejudice.

EFFECTIVE DATE: April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: May 5, 1998.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 98–13214 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

TREASURY DEPARTMENT

Customs Service

[T.D. 98–47]

Bonds; Approval To Use Authorized Facsimile Signatures and Seals

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date: Chatham Reinsurance Corporation; Authorized facsimile signature on file for: Christine L. Wolfe, Attorney-in-Fact.

The corporate surety has provided the Customs Service with a copy of the signature to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: May 13, 1998.

Jerry Laderberg,

Chief, Entry Procedures and Carriers Branch.

[FR Doc. 98–13235 Filed 5–18–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–18: OTS Nos. H–2041 and 01402]

FJF Financial, M.H.C., Philadelphia, Pennsylvania; Approval of Conversion Application

Notice is hereby given that on May 12, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of FJF Financial, M.H.C., Philadelphia, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 13, 1998.

By the Office Thrift Supervision,

Nadine Y. Washington,

Corproate Secretary.

[FR Doc. 98–13208 Filed 5–18–98; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Advisory Commission on Public Diplomacy will meet on May 20 in Room 600, 301 4th Street, SW., Washington, DC, from 9:30 a.m. to 10:30 a.m.

At 9:30 a.m. the Commission will meet with Colonel Paul Kappelman, OASD/SO/LIC, Pentagon, and Ms. Carol Doerflein, Director, Office of Strategic Communication, USIA, to discuss crisis management and how planning, liaison, and coordinated efforts can improve the public diplomacy aspects of complex contingencies.

FOR FURTHER INFORMATION CONTACT: Please call Betty Hayes, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: May 13, 1998.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 98–13241 Filed 5–18–98; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 63, No. 96

Tuesday, May 19, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92-297; FCC 98-77]

Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services

Correction

In rule document 98–12667 beginning on page 26502, in the issue of Wednesday, May 13, 1998, make the following correction:

Appearing on page 26502, in the second column, the **EFFECTIVE DATE:** should be corrected to read "July 13, 1998."

BILLING CODE 1505-01-D

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federal register

Tuesday
May 19, 1998

Part II

Department of Health and Human Services

Centers for Disease Control and Prevention

Human Immunodeficiency Virus (HIV) Prevention Projects and HIV Prevention Community Planning Guidance; Notice

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 99004]

Human Immunodeficiency Virus (HIV) Prevention Projects and HIV Prevention Community Planning Guidance

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Request for comments.

SUMMARY: CDC is preparing to announce the availability of fiscal year 1999 funds to provide support for HIV prevention projects through State and local health departments. This program announcement will assist the Nation's disease prevention efforts by supporting HIV prevention activities and the community planning process to best target resources and activities. CDC invites comments from organizations and individuals on the draft of this announcement which is included. Based on comments received, the final announcement will be published later this year. Also included for comment is the HIV prevention community planning guidance document. This document will be included in the application kit for applicants for HIV prevention funding.

DATES: Submit written comments in response to this notice to: Jessica Gardom, Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC), Mailstop E–58, 1600 Clifton Road, NE., Atlanta, GA 30333.

Comments must be received on or before June 18, 1998.

SUPPLEMENTARY INFORMATION: The following is a complete text of the draft program announcement for HIV Prevention and HIV Prevention Community Planning Guidance.

Human Immunodeficiency Virus (HIV) Prevention Projects

Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for cooperative agreement programs for Human Immunodeficiency Virus (HIV) Prevention. This program addresses the Healthy People 2000 priority area of HIV Infection. The purpose of this program is to assist public health departments (1) to reduce or prevent the transmission of HIV by reducing or preventing behaviors or practices that place persons at risk for HIV infection; and (2) to reduce associated morbidity and mortality of HIV-infected persons by increasing access to early medical intervention.

Eligible Applicants

Eligible applicants are health departments of States and their bona fide agents that currently receive CDC HIV prevention funds under Program Announcement 804. This includes the 50 States, six cities (Chicago, Houston, Los Angeles, New York, Philadelphia, and San Francisco), the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau.

Availability of Funds

Approximately $250 million is expected to be available in FY 1999 to fund 65 awards. It is expected that the awards will range from approximately $60,000 to approximately $24,000,000. It is expected that the awards will begin on or about January 1, 1999. Awards will be funded for a 12-month budget period within a project period of 5 years.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. Funding estimates may change. Should funds available for this program either increase or decrease significantly during the project period, funding may be awarded competitively.

A. Direct Assistance

You may request Federal personnel, equipment, or supplies as direct assistance, in lieu of a portion of financial assistance.

B. Use of Funds

Funds may not be used to supplant State or local health department funds available for HIV Prevention. Funds may not be used to provide direct medical care (e.g., ongoing medical management, medications, etc.). With documented opportunity for comment by the HIV Community Planning Groups (CPGs), funds awarded for HIV Prevention activities may be used to support HIV/AIDS Surveillance and HIV Sero epidemiology projects. CDC must approve the use of prevention funds for surveillance and the activities supported must directly improve and support HIV prevention activities or the community planning process. The CPG comments on the use of prevention funds may be addressed in the overall letter of concurrence submitted with the application. A separate letter(s) of concurrence must be submitted if the request to use prevention funds for these activities occurs at a later time.

C. Funding Preferences

In 1999, current levels of funding will be maintained for all project areas. Priority will be given to funding activities and interventions identified through the HIV Prevention Community Planning process.

Program Requirements

A comprehensive HIV prevention program includes the following components:

A. A participatory HIV prevention community planning process, in accordance with the guidelines and requirements in the HIV Prevention Community Planning Guidance;

B. Epidemiologic and behavioral HIV/AIDS surveillance, as well as collection of other health and demographic data relevant to HIV risks, incidence, or prevalence;

C. HIV prevention counseling, testing, referral, and partner notification (CTRPN), with strong linkages to medical care, treatment, and other needed services;

D. Health education and risk reduction (HE/RR) activities, including individual-, group-, and community-level interventions;

E. Increasing access to diagnosis and treatment of other STDs;

F. School-based efforts for youth;

G. Public information programs;

H. Quality assurance and training;

I. Laboratory support for HIV prevention;

J. HIV prevention capacity-building activities, including expansion of the public health infrastructure by contracting with non-governmental organizations, especially community-based organizations;

K. An HIV prevention technical assistance assessment and plan;

L. Evaluation of major program activities, interventions, and services.

All of these components except B, E, and F are funded under this announcement. In conducting activities to achieve the purpose of this program announcement, the recipient will be responsible for the activities under A and CDC will be responsible for conducting the activities under B.

A. Required Recipient Activities

1. HIV Prevention Community Planning

All recipients must:

• Develop a comprehensive HIV Prevention Plan for their jurisdictions

through a participatory process as described in the Guidance on HIV Prevention Community Planning (included in application kit).

• Justify discrepancies between the plan and the proposed program activities.

HIV prevention community planning is an ongoing, iterative planning process that is (1) evidence-based (i.e., based on HIV/AIDS and other epidemiologic data, including STD and behavioral surveillance data; qualitative data; ongoing program experience; program evaluation; and a comprehensive needs assessment process) and (2) incorporates the views and perspectives of the groups at risk for HIV infection, as well as providers of HIV prevention services. In HIV prevention community planning, recipients share responsibilities for developing a comprehensive prioritized HIV prevention plan with other State and local agencies, non-governmental organizations, and representatives of communities and groups at risk for HIV infection.

Persons at risk for HIV infection and persons with HIV infection should play a key role in identifying prevention needs not adequately met by existing programs and in planning culturally competent services. Priority setting accomplished through a participatory process will result in programs that are responsive to high priority, community-validated needs within defined populations. Refer to the Guidance on HIV Prevention Community Planning in the application kit.

2. Counseling, Testing, Referral, and Partner Notification (CTRPN)

a. General

All recipients must:

• Provide CTRPN services consistent with the current CDC HIV Counseling, Testing, and Referral Standards and Guidelines.

The major functions of CTRPN programs are to provide individuals a convenient opportunity to: (1) Learn their current HIV sero status; (2) participate in counseling to help initiate and maintain behavior change to avoid infection or, if already infected, to prevent transmission to others; (3) obtain referral to additional prevention, medical care, and other needed services; and (4) provide prevention services and referral for sex and needle-sharing partners of infected persons.

b. Counseling and Testing

All recipients must:

• Routinely offer, on a voluntary basis with informed consent, confidential client-centered HIV prevention counseling and HIV laboratory testing services.

• Provide, unless prohibited by law or regulation, anonymous opportunities for persons to receive client-centered HIV prevention counseling and HIV laboratory testing.

• Implement and maintain a written policy for contacting clients, especially those who are infected with HIV or at high risk of becoming infected, but have not returned to receive their HIV test results and post-test counseling.

• Develop, implement, and maintain a mechanism for assessing the proportion of tested clients who return to receive HIV test results and post-test counseling in both confidential and anonymous testing programs.

• When low return rates (e.g., less than 90% return for sero positives or less than 75% return for sero negatives) are identified, reasons for the low rate must be documented and steps must be taken to correct factors that are contributing to the low rates.

HIV prevention counseling must be client-centered; i.e., tailored to the behaviors, circumstances, and special needs of the person being served. Client-centered counseling is conducted in an interactive manner, responsive to individual client needs. The focus is on developing realistic prevention goals and strategies rather than simply providing information. HIV prevention counseling should be:

• Culturally competent;

• Sensitive to issues of sexual identity;

• Developmentally appropriate; and

• Linguistically specific.

Recipients are encouraged to give priority to providing services in areas with high rates of HIV sero prevalence or AIDS incidence and sites serving clientele known to have high rates of HIV infection or risk behavior.

The availability of anonymous services may encourage some persons at risk for HIV infection to seek services that they would otherwise be reluctant to access. Counseling for clients who test positive in anonymous testing sites should include information about the benefits of receiving follow-up services under a confidential system, information about how to enter such a system, and strong encouragement to access such services.

Some clients who are HIV infected or at high risk of infection may require prevention case management, which includes multiple counseling sessions. Recipients should provide additional prevention counseling to meet the needs of these clients. Funds awarded through the cooperative agreement can be used to support such ongoing counseling and prevention case management in coordination with patient care systems such as the Ryan White funded early intervention services.

If recipients opt to charge for services, they should do so on a sliding scale. No one should be denied services because of an inability to pay. Funds generated from charging clients should be used to support HIV prevention program activities and services.

For additional guidance on the implementation of these services, refer to the attachments.

c. Referral and Linkages With Other Service Providers

All recipients must:

• Develop, implement, and maintain a system to ensure clients who are HIV positive receive appropriate counseling, and are entered and maintained in an appropriate system of care, which includes prevention services.

• Develop, implement, and maintain a mechanism for assessing the proportion of HIV-seropositive persons referred for specific additional services who complete their referrals (i.e., are seen by and receive services from the persons or organizations to which they are referred).

Clients who are at increased risk for HIV infection and clients who are infected with HIV often need many services such as further HIV prevention counseling, evaluation of immune system function, early medical intervention for HIV infection, STD screening and treatment, substance abuse counseling and treatment, tuberculosis testing and treatment, and family planning. These services should be provided at the testing site, if possible.

All clients who are found to be HIV-infected at any CTRPN service site should receive:

• A CD4+ cell test, an initial viral load staging, or the current recommended test to determine stage of illness; and appropriate medical management;

• An assessment of medical eligibility, for treatment;

• Counseling about the benefits of early medical treatment opportunities, either on-site or through referral, to receive appropriate medical therapies including STD diagnosis and treatment and TB skin testing;

• Prevention case management;

• Referral for substance abuse treatment, if indicated;

• Referrals for all indicated services;

• Follow-up to ensure that referrals have been successfully accomplished.

If these services are not available at the HIV testing site, individuals must be referred to another service provider.

Information about services available through referral should be regularly updated so that counselors can refer clients for services currently available in the local area. A system that (1) links counseling and testing sites with other health, medical, and psychosocial service providers and (2) provides feedback to the health department on completion of referrals is an essential component of current HIV prevention program standards of care.

Funds provided through this cooperative agreement cannot be used to provide ongoing clinical and therapeutic care of HIV-infected persons. Support for such services should be obtained from other sources of funding, or the services should be obtained through referral to local providers.

d. Partner Notification

All recipients must:

• Establish standards, implement, and maintain procedures for confidential voluntary notification of sex and needle-sharing partners of HIV-infected persons, consistent with the CDC Partner Notification Guidance, to be published.

• Maintain their good faith effort to notify spouses of infected persons as required by law and as certified to CDC.

• Develop, implement, and maintain a mechanism to determine that notification and appropriate follow up of partners has been completed.

• Develop, implement, and maintain a system to assess the partner notification program and improve its function.

In a comprehensive HIV prevention program, partner notification is essential for ensuring that sex and needle-sharing partners of HIV-infected persons are notified about their risk and offered HIV prevention counseling, testing, and referrals. Partner notification is a primary prevention service with the following objectives:

(1) To confidentially inform partners of their possible exposure to HIV;

(2) To provide partners with client-centered prevention counseling that assists and supports them in their efforts to reduce their risks of acquiring HIV or, if infected, of transmitting HIV infection; and

(3) To minimize or delay disease progression by identifying HIV infected partners as early as possible in the course of their HIV infection and assisting them in obtaining appropriate preventive, medical, and other support services.

Partner notification programs should include the following components, ensuring that they are consistent with State and Federal laws:

(1) Client Referral: In client-referral, the HIV-infected person notifies his or her sex or needle-sharing partners of their exposure to HIV. Program staff will provide the client with counseling and support on techniques to confidentially notify and refer their sex or needle-sharing partners to client-centered HIV prevention counseling.

(2) Provider Referral: In provider referral, a health professional who has been specially trained to provide the service notifies the HIV-infected individual's sex or needle-sharing partners of their exposure to HIV. In situations where the HIV-infected person chooses provider referral, program staff will offer assistance in confidentially notifying those partners and offering them counseling, testing, and referral services.

(3) Spousal Notification: The Ryan White CARE Re-authorization Act of 1996, Pub. L. 104–146, Section 8(a), requires that States take administrative or legislative action to require a good faith effort be made to notify a spouse of a known HIV-infected patient that such a spouse may have been exposed to the human immunodeficiency virus and should seek testing. The statute defines a spouse as any individual who is the marriage partner, as defined by State law, of an HIV-infected person, or who has been the marriage partner of that person at any time within the 10-year period prior to the diagnosis of HIV infection. All HIV Prevention Cooperative Agreement recipients must comply with these requirements. Currently, all States and territories have certified to CDC that they will require a good faith effort as required by law.

The partner notification program should be evaluated periodically to do the following:

• Help identify barriers and gaps in service delivery, as well as define the HIV-infected population, so that services can be better directed towards target populations;

• Plan, refine, and target program intervention strategies;

• Analyze and refine resource allocation;

• Provide population-specific feedback to health departments, community-based organization staff, community planning groups, and other community prevention partners; and

• Identify technical assistance needs including training.

All individual data will be maintained at the State and local jurisdiction to assist in developing and monitoring local services. The jurisdiction must adhere to strict protection and confidentiality of client and partner records.

3. Health Education/Risk Reduction (HE/RR)

All recipients must:

• Implement an array of HE/RR activities, and provide resources to minority and other community-based organizations (CBOs) to implement HE/RR activities, in accordance with the priority target populations and interventions identified in their Comprehensive HIV Prevention Plan.

• Ensure interventions are culturally competent, developmentally appropriate, linguistically specific, and sensitive to sexual identity.

• Briefly report to CDC the rationale (e.g., scientific or programmatic basis) for each of the HE/RR interventions implemented.

HE/RR programs and services are efforts to reach persons at increased risk of becoming HIV-infected or, if already infected, of transmitting the virus to others, with the goal of reducing the risk of these events occurring. These programs should be directed to persons whose behaviors or personal circumstances place them at high risk. Examples of high risk groups include men who have or have had sex with men; persons who exchange sex for drugs, money, housing, or food; persons with a newly diagnosed STD; youth who are engaging or are likely to engage in high-risk behavior; women who are sex partners of persons who engage in high-risk behavior; persons in the correctional and criminal justice systems; or homeless persons in high-risk situations.

High priority interventions (as identified by the community planning group) at the individual, group, and community levels should have priority for support with funds awarded through this cooperative agreement. The following are brief descriptions of these programs:

a. Individual Level Interventions include a range of one-on-one client services. Individual prevention counseling assists clients in assessing their own behavior and planning individual behavior change, supports and sustains behavior change, and facilitates linkages to services that support behaviors and practices that prevent the transmission of HIV. Project areas are encouraged to provide, either onsite or through referral, additional prevention counseling, as appropriate to the needs of these clients.

Prevention case management is an individual level intervention directed at persons who need highly individualized support, including substantial

psychosocial, interpersonal skills training, and other support, to remain sero negative or to reduce the risk of HIV transmission to others. HIV prevention case management services are not intended to be substitutes for medical case management or extended social services.

Prevention case management services should complement ongoing HIV prevention services such as HIV antibody counseling, testing, referral, and partner notification and early medical intervention programs. Coordination with HIV counseling and testing clinics, STD clinics, TB testing sites, substance abuse treatment programs, and other health service agencies is essential to successfully recruiting or referring persons at high risk who are appropriate for this type of intervention. See the HIV Prevention Case Management Guidance, September 1997.

b. Group Level Interventions shift the delivery of service from the individual to groups of varying sizes. Group level interventions are intended for persons at increased risk of becoming infected or, if already infected, of transmitting the virus to others. They provide education and support in group settings to promote and reinforce safer behaviors and to provide interpersonal skills training in negotiating and sustaining appropriate behavior change. The content of the group session should be consistent with the format, i.e., groups can meet one time or on an on-going basis. One-time sessions can provide participants an opportunity to hear and learn from one another's experiences, role play with peers, and offer and receive support. Ongoing sessions may offer stronger social influence with potential for developing emergent norms that can support risk reduction. Multiple sessions may be needed for persons at high risk of HIV infection. A group level intervention can include more tailored individual level interventions with some of the group members.

c. Community Level Interventions are directed at changing community norms to increase community support of behaviors known to reduce the risk for HIV infection and transmission. While individual and group level interventions also may be taking place within the community, interventions that target the community are unique in their purpose and are likely to lead to different strategies than other types of interventions. Community level interventions aim to reduce risky behaviors by changing attitudes, norms, and practices through health communications, social (prevention) marketing, community mobilization and organization, and community-wide events.

The primary goals of these programs are to promote healthy behaviors, to change factors that affect the health of community residents, and ultimately, to improve health status. The community may be defined in terms of a neighborhood, region, or some other geographic area, but only as a mechanism to access the social networks that may be located within those boundaries. These networks may be changing and overlapping, but should represent some degree of shared communications, activities, and interests.

Community level interventions are designed to affect social norms or shared beliefs held by members of the community. Specific activities include, for example:

- Identifying and describing (through needs assessments and ongoing feedback from the community) structural, environmental, behavioral, and psycho social facilitators and barriers to risk reduction in order to develop plans to enhance facilitators and minimize or eliminate barriers;
- Persuading community members who are at risk of acquiring or transmitting HIV infection to accept and use HIV prevention measures; and
- Informing community members—regardless of their personal risk level—of their important role in HIV prevention in their communities.

d. Street and community outreach programs are one type delivery method for the interventions described above. They are defined by their locus of activity and by the content of their offerings. These programs reach persons at high risk, individually or in small groups, on the street or in community settings. The programs provide them with prevention messages, information materials, and other services, and assist them in obtaining other HIV prevention services such as HIV-antibody counseling and testing, HIV risk-reduction counseling, STD and TB treatment, substance abuse prevention and treatment, family planning services, tuberculin testing, and HIV medical intervention. Refer to Guidelines for Health Education and Risk Reduction Activities, U.S. Department of Health and Human Services, Public Health Service, April 1995.

4. Public Information (PI) Programs

The purposes of public information programs and activities funded through this cooperative agreement are to build general support for safe behavior, to dispel myths about HIV/AIDS, to address barriers to effective risk reduction programs, and to support efforts for personal risk reduction. In addition to informing general audiences, public information programs should assist in informing persons at risk of infection of how to obtain specific prevention and treatment services, such as CTRPN and STD screening and treatment. Public information programs and messages should be based on an assessment of needs in each State and local area. Messages to communicate through public information programs may include how HIV is and is not transmitted; how to avoid becoming infected; what the impact of other STDs is on the risk of HIV transmission; what to do if you think you might be infected; the benefits of knowing your sero status, including early diagnosis and treatment for HIV disease; and how to talk to your children, friends, and neighbors about HIV prevention.

Give priority to materials directed to hard-to-reach audiences and populations heavily affected by the HIV epidemic. Submit any newly developed public information resources and materials to the National AIDS Information Clearinghouse so that they can be incorporated into the current database for access by other organizations and agencies.

5. Quality Assurance and Staff Training

All recipients must:

- Develop and implement a mechanism for assessing the performance and training needs of staff providing HIV prevention services, especially those staff providing HIV prevention counseling and partner notification. Staff training should be guided by the assessment.
- Develop comprehensive written quality assurance procedures and staff performance standards and make them available to all program staff. Management should ensure these policies and procedures are followed.
- Develop and implement a quality assurance system for all counseling and testing providers, with special attention to assuring that seropositive clients learn their test results.
- Develop and implement a mechanism for assessing the proportion of HIV-seropositive persons referred for additional services who complete their referrals. Review data and improve process as necessary.
- Develop and implement a mechanism to determine that notification and follow up of partners has been completed. Review data and improve process as necessary.
- Develop and implement a mechanism to assure HE/RR activities

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are culturally competent, developmentally appropriate, linguistically specific, and sensitive to sexual identity.

• Develop and maintain a mechanism to ensure the consistency, accuracy, and relevance of information provided to the public through local hotlines including information about referral services.

Quality assurance is essential to make certain that delivery of quality HIV prevention services is consistent and to ensure interventions are delivered in accordance with established standards. Quality assurance programs include measures to maintain high performance expectations of staff and that appropriate, competent, and sensitive methods are used for counseling, referral of clients, and providing other risk reduction messages. These quality assurance procedures and staff training should extend to the organizations providing HIV prevention activities through contracts.

Quality assurance and staff training is an ongoing process. An important component of this process is routine, periodic observation during counseling sessions and subsequent feedback to reinforce specific strengths noted and address any deficiencies detected. Performance standards that define expectations for the context and delivery of the counseling massages should be developed.

Feedback from client satisfaction surveys should be used routinely as a factor in assessing the services provided.

6. HIV Prevention Capacity-Building Activities

Recipients must:

• Develop, implement, and maintain a plan to provide financial assistance to CBOs and other HIV prevention providers that includes provisions for ensuring that funds are awarded on a timely basis.

• Issue Requests for Proposals (RFPs) within 90 days of the receipt of the notice of grant award. Multi-year assistance is allowable, provided the initial award was made competitively.

In order to build capacity, health departments should provide financial and technical assistance to strengthen their own infrastructure and that of non-governmental organizations to deliver effective HIV prevention interventions. Some examples of capacity building activities are implementing systems to ensure quality and integration of services (particularly HIV, STD, TB, and drug treatment), strengthening laboratory capacity, improving community needs assessments, funding community-based organizations to provide services, and providing technical assistance in all aspects of program planning and operations.

7. HIV Prevention Technical Assistance Assessment and Plan

Recipients must:

• Assess their own needs, as well as the needs of community-based organizations in their jurisdiction, for technical assistance in the areas of HIV prevention program planning, implementation, and evaluation.

• Develop, implement, and maintain a plan to provide the technical assistance indicated by the assessment.

Recipients should identify their own current and projected technical assistance needs and the needs of the jurisdiction's community-based providers, for program planning, implementation, and evaluation. Recipients should develop and implement a plan to provide ongoing technical assistance for HIV prevention and early medical intervention services in their communities, as indicated by the assessment. These should include planning, implementing, and evaluating prevention programs, activities, and services. Technical assistance should include the active monitoring of services and programs provided by CBOs.

Program management, strategies for meeting the HIV prevention needs of populations at high risk, and strategies for overcoming barriers to prevention should be priority areas for technical assistance programs.

8. Evaluation of Major Program Activities, Interventions, and Services

Evaluation is essential to monitor progress, measure program success, and strengthen programs and program activities. To this end, recipients need to conduct evaluation activities that will assess their progress in HIV prevention efforts and will contribute to the planning, implementation, and evaluation of effective HIV prevention programs.

The evaluation activities described here are listed as six phases. It is expected that there will be a range in recipient capacity and resources to conduct evaluations and that some recipients will have already conducted some of the phases. Therefore, although the phases are listed in an idealized sequence, recipients should implement the phases in a manner that reflects their current evaluation achievements, capacity, activities, resources, and needs. Each year, in their annual CDC funding applications, recipients should submit progress reports and data pertaining to the phases they implemented during the previous year and establish objectives for the upcoming year. As grantees implement new phases of evaluation, those phases that were previously initiated should be continued.

CDC is creating a *CDC Evaluation Guidance* that will be disseminated to recipients. The guidance is designed to assist recipients in preparing their application and implementing evaluation activities described in this announcement. To this end, the guidance provides an overview of CDC's evaluation model, upon which this announcement is based; describes recipient evaluation activities and data collection for each phase; lists references for technical assistance and training to build recipient capacity to implement these activities; and contains definitions of key terms.

All recipients should include the following evaluation activities in their programs:

a. Phase I: Development of a Comprehensive Evaluation Plan

Recipients should develop a comprehensive plan for evaluation of health department and health department-funded HIV program services and interventions. The plan should describe what will be done each year over the next five years. Phases II through IV describe the five types of evaluation in which grantees should engage. The plan should be clear, specific, and realistic.

b. Phase II: Evaluation of HIV Prevention Community Planning

Recipients should track and keep records on an ongoing basis in the following areas pertaining to the community planning process and development and implementation of the Comprehensive HIV Prevention Plan, using the Evaluation Guidance tools.

(1) Recruitment of community planning group members and representation of affected communities and areas of expertise on the community planning group (Community Planning Core Objectives 1 and 2).

(2) Application of a needs assessment and an epidemiologic profile to determine target groups and HIV prevention strategies (Community Planning Core Objective 3).

(3) Application of scientific knowledge in the selection and formulation of intervention strategies (Community Planning Core Objective 4).

(4) Developing goals and measurable objectives for the planning process and monitoring progress on the objectives.

(5) Assessing the cost of the process.

(6) Assessing the extent to which resources allocated by the health department match the epidemiologic profile.

(7) Assessment of the extent to which the final version of the Comprehensive HIV Prevention Plan is used in the recipient health department's budget decisions and in the health department's planning and development of HIV prevention program activities (Community Planning Core Objective 5).

c. Phase III: Program Design Evaluation

Prior to launching new program activities, recipients should assess the quality of program activity designs to ensure that the proposed interventions are scientifically sound, the implementation system is well organized, and stated goals are clear and feasible. (Factors to be evaluated are discussed in the section on Evaluation Reporting Format.)

d. Phase IV: Process Evaluation of HIV Prevention Programs

Conduct process evaluation through:

- Ongoing data collection and monitoring regarding the implementation of health department and health department-funded program activities.
- Assessment of the congruency between the intended and actual implementation of health department and health department-funded program activities.
- Use evaluation findings in order to improve program activities as indicated by the data.

e. Phase V: Outcome Evaluation

Outcome evaluation for this announcement is defined as the assessment of the effects of an intervention on the individuals who were targeted in the intervention. For example, changes in knowledge, attitudes, or behavior are usually outcome variables.

Recipients whose award is more than $1 million are expected to carry out at least one outcome evaluation during the five-year period. Outcome evaluation may be most easily achieved for the following types of interventions: HIV counseling and testing, referral, individual-level counseling, group-level counseling, and institution-based programs. *CDC Evaluation Guidance* (to be published) will describe recommended outcome evaluation designs and emphasize those designs that are cost-efficient and practically feasible to implement.

f. Phase VI: Impact Evaluation

Impact evaluation is the assessment of the effects beyond the outcome. For example, assessment of the cumulative effect of all HIV prevention activities in the jurisdiction is an impact evaluation.

CDC plans to conduct national impact evaluation studies using HIV/AIDS surveillance and other public health data sets. Recipients are not required to perform their own impact evaluation (but may do so if they wish and resources permit); however, recipients must participate in CDC's HIV prevention effectiveness indicators project.

9. Other Activities

Recipients must:

a. Have the capability to access the Internet and to download documents about HIV from CDC and other sites.

b. Ensure participation of appropriate representatives (governmental and non-governmental) in national or regional planning and implementation meetings.

Recipients should budget funds provided through this cooperative for these efforts. For example, travel funds should be available for community planning co-chairs to travel to the HIV Co-chairs meeting.

B. CDC Activities

1. Provide consultation and technical assistance in all aspects of the comprehensive HIV prevention program, including the community planning process, and planning, conducting, and evaluating HIV prevention and intervention activities.

2. Provide up-to-date information including diffusion of best-practices in all areas of the diagnosis, treatment, surveillance, and prevention of HIV.

3. Provide assistance to improve systems that monitor disease and reporting trends.

4. In consultation with recipients, assess training needs and determine how best to meet those needs. For HIV Prevention, CDC, in concert with State and local health departments, will provide training, either directly or through its network of STD/HIV prevention training centers, for persons who supervise, manage, and perform partner notification and other outreach activities and for staff who provide direct patient care.

5. Facilitate the adoption and adaptation of effective prevention intervention models among project areas through workshops, conferences, written communications.

6. Assist recipients in evaluating their program performance, in meeting their objectives, and in complying with cooperative agreement requirements.

7. Coordinate multi State approaches to HIV prevention and intervention.

8. Support individual project areas by providing technical assistance in the development of new or innovative models for behavioral and clinical interventions and the evaluation of them.

Application Content

A. General

Develop applications in accordance with CDC 0.1246E, information contained in the program announcement, and the instructions and format provided below.

Sequentially number all pages in the application and attachments, include a table of contents reflecting major categories and corresponding page numbers. Submit the original and each copy of the application unstapled and unbound. Provide only those attachments directly relevant to this application. All materials must be single spaced, printed in 12 CPI font, unreduced, on 8½" by 11" paper, with at least 1" margins, and printed on one side only.

B. Cross-Program Activities

Submit a brief statement addressing major HIV, STD, and TB cross-program issues. In this statement summarize progress made in the last 12 months and the current level of shared activities across HIV, STD, and TB programs. Discuss plans to improve coordination across HIV, STD, and TB programs over the next 12 months, including plans to increase collaboration in surveillance and any other efforts to improve program coordination.

C. HIV Prevention Community Planning (Not To Exceed 20 Pages)

1. National Community Planning: Progress Report and 1999 Objectives

Provide a brief summary of progress in accomplishing the following national community planning core objectives. Also, please summarize steps that will be taken over the next 12 months to accomplish the national core objectives.

a. Fostering the openness and participatory nature of the community planning process.

(1) Describe any efforts in the past 12 months in recruiting, training, and supporting community planning group members, and methods used to obtain input from outside group membership. Briefly profile the number of HIV prevention community planning groups convened in the jurisdiction. If the jurisdiction convenes other county or regional groups that provide input to a community planning group, please

describe this structure. Briefly describe any changes in the planning structure of your jurisdiction. Also briefly describe any mechanisms used during the past 12 months for coordination with other planning activities, e.g., Ryan White Title I and II, STD, TB.

(2) Describe any new or additional steps to be taken in each of these areas in the next 12 months to foster the openness and participatory nature of the community planning process.

b. Ensuring that the community planning groups reflect the diversity of the epidemic in your jurisdiction, and that expertise in epidemiology, behavioral science, health planning and evaluation are included in the process.

(1) Summarize the characteristics and expertise represented by members of the community planning groups over the past 12 months. Discuss any gaps in representation and approaches that have been used during the past 12 months to address the gaps. Briefly describe any methods used to obtain input from outside group membership. Do not include any information that might link HIV status to any individual.

(2) Please describe planned activities for the next 12 months including plans for addressing any gaps in representation.

c. Ensuring that priority HIV prevention needs are determined based on an epidemiologic profile and a needs assessment.

(1) Briefly describe the process that was used or steps that were taken over the past 12 months to develop or modify the epidemiologic profile and the needs assessment. Briefly describe how priority populations were identified from the epidemiologic profile and needs assessment.

(2) Describe plans for updating or modifying the Epi profile and needs assessment over the next 12 months.

d. Ensuring that interventions are prioritized based on explicit consideration of priority needs, outcome effectiveness, cost effectiveness, social and behavioral science theory, and community norms and values.

(1) Briefly describe the process that was used to prioritize interventions over the past 12 months.

(2) Describe any changes planned in the prioritization process in the next 12 months.

e. Fostering strong, logical linkages between the community planning process, plans, application for funding and HIV prevention resources.

(1) Briefly describe the linkage between this application for funding and allocation of CDC HIV prevention resources and the HIV Prevention Plan.

(2) Describe any changes planned in the next 12 months.

(3) Describe linkages between planned expenditures (as reported in the budget tables), epidemiological statistics, and plans for addressing any gaps between budget levels and epidemiologic statistics.

2. Community Planning Technical Assistance and Evaluation

a. Technical Assistance

(1) Briefly describe any technical assistance provided to the community planning group in the past 12 months.

(2) Describe areas of needed technical assistance and planned methods for obtaining this assistance in the next 12 months.

b. Evaluation

(1) Briefly describe how the community planning process was evaluated over the past 12 months and the major conclusions of the evaluation.

(2) Describe plans to evaluate the community planning process over the next 12 months.

3. Comprehensive HIV Prevention Community Plan

Please provide as an attachment, the current version of your Comprehensive HIV Prevention Plan. For areas without a jurisdiction-wide planning group, include regional plans and a jurisdiction-wide summary of recommendations and conclusions. If the jurisdiction has developed a separate document that updates and describes refinements or changes to the original Comprehensive HIV Prevention Plan, please attach both the original Plan and the supplementary document that updates the Plan. Include the proposed activities for 1999, letters of concurrence/non-concurrence from each community planning group in the jurisdiction, a line item budget and narrative justification, and relevant attachments. (The Comprehensive Plan or the jurisdiction-wide summary are attachments to the application and are not included in the page limit for this section.)

a. Priority populations and interventions. List the populations identified in the HIV Prevention Community Plan in rank order. For each of these populations list the recommended interventions (e.g., CTRPN, HE/RR) in rank order. For each intervention, list goals recommended in the plan. Please use the following format:

Population #1
Intervention #1
Goals
Intervention #2
Goals
Population #2

D. HIV Prevention Program (Not to Exceed 30 Pages)

1. Progress Report for 1998

Summarize progress during the past year in achieving objectives related to each of the programmatic activities listed below. For each activity, describe progress toward achieving program objectives, related training and quality assurance activities, program evaluation findings, changes or adjustments resulting from evaluation findings, and reasons for not attaining an objective.

a. HIV CTRPN;
b. HE/RR (including individual level interventions, group level interventions, community level interventions, and street and community outreach);
c. Public Information Programs;
d. Evaluation Activities;
e. HIV prevention capacity building activities;
f. Quality assurance and training;
g. Other activities.

2. Budget Tables

Complete the Table of Estimated Expenditures for 1998 HIV Prevention funding, indicating 1998 HIV prevention allocations by intervention, population, and race/ethnicity. This is used to report to Congress and Office of Management and Budget on use of tax dollars, targeted programs, and to justify need for additional support.

3. Program Goals, Objectives, and Activities

a. 5-Year Programmatic Goals

Based on the past 5 years' activities, provide overall programmatic goals for the next five-year period. These are intended to provide a general framework-objectives and activities will be developed annually, when each of the next budget period program applications are written.

b. 1999 Priority Populations and Interventions

List the priority populations identified by the recipient in rank order. For each of these populations, list the interventions the grantee plans to fund in rank order. For each intervention list the goals. For each goal, state realistic, specific, time-phased, and measurable objectives to be achieved during the next 12 months. Outline strategies and activities to be undertaken and services to be provided to achieve objectives. Include, as needed, training, quality assurance, and capacity-building objectives related to each intervention. Please use the following format:

Population #1
Intervention #1
Goals
Objectives
Activities
Intervention #2
Goals
Objectives
Activities
Population #2
Intervention #1

c. Linkages Between Primary and Secondary HIV Prevention Activities

Briefly describe the linkages that will be developed and maintained between primary and secondary prevention services in the jurisdiction. Provide goals and realistic, specific, time phased, and measurable objectives for the next 12 months. Outline strategies and activities to be undertaken to achieve these objectives.

d. Linkages With Other HIV Prevention Related Activities

Briefly describe the program's proposed linkages with other HIV prevention-related activities (e.g., epidemiologic and behavioral surveillance; research; substance abuse, STD, and family planning programs; and program evaluation activities) and the prevention program strategies proposed in this application. Provide goals and realistic, specific, time phased, and measurable objectives for the next 12 months. Outline strategies and activities to be undertaken to achieve these objectives.

e. Coordination of HIV Prevention Services and Programs

Briefly describe the program's plans for coordination among public and non-governmental agencies to provide HIV prevention services and programs. Provide goals and realistic, specific, time phased, and measurable objectives for the next 12 months. Outline strategies and activities to be undertaken to achieve these objectives.

f. Technical Assistance

Briefly describe your need, as well as the needs of the community-based organizations in your jurisdiction, for technical assistance in the areas of HIV prevention program design, implementation, and evaluation. Describe plans for addressing these technical assistance needs. Provide goals and realistic, specific, time phased, and measurable objectives for the next 12 months. Outline strategies and activities to be undertaken to achieve these objectives.

g. Program Evaluation

Each year, in their annual CDC funding applications, recipients should submit progress reports and data pertaining to the phases they implemented during the previous year and establish objectives for the upcoming year. As grantees implement new phases of evaluation, those phases that were previously initiated should be continued.

4. Explain Any Differences Between the Priority Populations, Interventions, and the Proposed Program Activities and Those Recommended in the Comprehensive HIV Prevention Plan (e.g., other funding sources are supporting an activity, other providers are meeting a need, public health interest, legal constraints)

E. Concurrence of HIV Prevention Community Planning Groups

Recipients must submit letters of concurrence or non-concurrence from each HIV prevention community planning group convened within the jurisdiction. The letters should indicate the extent to which the recipient and the HIV prevention community planning groups have successfully collaborated in developing the comprehensive HIV prevention plan and have reviewed and agree upon the program priorities contained in this application. The letter should describe the process used to obtain concurrence, including a description of the process used for review of the application by the community planning group, the time frame allotted for the review, who from the community planning group reviewed it (co-chairs, members, subcommittee chairs), and the quality of the concurrence (e.g., without reservation, with minor concerns, with important concerns). At a minimum, the letters should be signed by the co-chairs on behalf of the groups. There should be letters from each of the community planning groups described above. If a letter of concurrence includes reservations or a statement of concern/issues, address those concerns in the application. Letters of non-concurrence must cite specific reasons for the non-concurrence. In situations where the community planning group does not concur with the program priorities identified in the funding application and the recipient is proposing to implement activities or allocate Federal resources based on other priorities, a justification must be provided by the recipient as to why the priorities identified through the community planning process are not being implemented.

Instances of planning group concerns or non-concurrence will be evaluated on a case-by-case basis. After consultation, CDC will determine what action, if any, may be appropriate.

F. Budget Information

In accordance with Form CDC 0.1246E, provide a line item budget and narrative justification for all requested costs that are consistent with the purpose, objectives, and proposed program activities. Within this budget, please provide the documentation requested for each cost category:

1. Line item breakdown and justification for all personnel, i.e., name, position title, annual salary, percentage of time and effort, and amount requested.

2. Line item breakdown and justification for all contracts, including: (1) Name of contractor, (2) period of performance, (3) method of selection (e.g., competitive or sole source), (4) description of activities, (5) target population and (6) itemized budget.

3. Requests for any new Direct Assistance Federal assignees, include:

a. The number of assignees requested;

b. A description of the position and proposed duties;

c. The ability or inability to hire locally with financial assistance;

d. Justification for request;

e. An organizational chart and the name of the intended supervisor;

f. The availability of career-enhancing training, education, and work experience opportunities for the assignee(s) and;

g. Assignee access to computer equipment for electronic communication with CDC.

4. Complete CDC budget tables. Note: Following receipt of your 1999 award, additional budgetary information may be requested.

Submission and Deadline

(To be provided with final version)

Evaluation Criteria

A. All applications will be reviewed by CDC program consultants for determination of progress toward stated objectives and for compliance with program guidance. In addition, each application will also receive an external review by an independent team of governmental and non-governmental representatives to determine technical acceptability. The purposes of this external review will be to evaluate each application individually against to the following criteria:

1. The need for support as documented in the Epidemiologic Profile and Needs Assessment including

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(1) the degree to which trends in reported AIDS cases and HIV sero prevalence show the need for increased HIV prevention activities and services, and (2) the extent of unmet prevention needs as identified through the needs assessment in the Comprehensive HIV Prevention Plan.

2. Determine progress and continued compliance with the Community Planning Guidance and this document.

3. The extent to which the short-term and long-term objectives are realistic, measurable, time-phased, and related to the project's Comprehensive HIV Prevention Plan.

4. The quality of the recipient's plan for conducting program activities, the potential effectiveness of the proposed methods in meeting the stated objectives, and previous success in implementing activities and services. This includes the degree to which the proposed program activities and methods are science-based (i.e., theory-predicted or based on findings of scientific research) and the likelihood that the recipient can effectively implement the proposed activities and services.

5. The quality of the proposed evaluation plan.

6. The extent to which the budget request is clearly explained, is adequately justified, and is consistent with the intended use of Federal funds.

7. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities) and recognition of mutual benefits.

B. In addition, the external review will:

1. Recommend specific actions for CDC to ensure that project areas are developing, implementing, and refining technically acceptable prevention plans.

2. Recommend technical assistance or other support to further a project area's progress in implementing community planning.

3. Identify innovative or promising practices in HIV prevention and community planning and recognize successes.

4. Determine national progress in implementing HIV prevention community planning and potential technical assistance needs in 1999.

Other Requirements

A. Technical Reporting Requirements

A report describing progress in HIV prevention community planning and HIV prevention program activities is required annually with the application for funding.

An original and two copies of a financial status report (FSR) are required no later than 90 days after the end of each budget period and a final report after the project period. Submit the all reports to the Grants Management Branch, CDC.

Statistical reports of HIV-antibody counseling and testing activities (OMB [Office of Management and Budget] Approval No. 0920–0280) are required 45 days after the end of each quarter. Project areas are required to collect and report data for each episode of counseling or testing funded by CDC on all of the following variables: Project area, site type, site number, date of visit, sex, race/ethnicity, age, reason for visit, risk for HIV infection, whether test is anonymous or confidential, whether client accepted testing, results of test, whether post-test counseling occurred, date of post-test counseling and state, county, and zip code of client residence. Data should be collected in a manner consistent with and not in place of client-centered counseling. Project areas may collect other information to meet local data and evaluation needs. Project areas may use CDC scan form for reporting or a local form with data reported electronically. Project areas are encouraged to report data at client record level. Project areas may request technical assistance to achieve this.

For other requirements, see the following attachments.

B. AR98–1 Human Subjects Requirements

C. AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

D. AR98–4 HIV/AIDS Confidentiality Provisions

E. AR98–5 HIV Program Review Panel Requirements

F. AR98–6 Patient Care

G. AR98–7 Executive Order 12372 Review

H. AR98–8 Public Health System Reporting Requirements

I. AR98–9 Paperwork Reduction Act Requirements

J. AR98–10 Smoke-Free Workplace Requirements

K. AR98–11 Healthy People 2000

L. AR98–12 Lobbying Restrictions

Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 317, 301, and 311 of the Public Health Service Act (42 U.S.C. 241(a) and 247(b)), (42 U.S.C. 241) and (42 U.S.C. 243), as amended. The Catalog of Federal Domestic Assistance (CFDA) number for this project is 93.940.

Where To Obtain Additional Information

Please refer to Program Announcement 99004 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Kevin Moore, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 99004, Centers for Disease Control and Prevention (CDC), Room 300, Mailstop E–15, 255 East Paces Ferry Road, NE., Atlanta, GA 30305–2209; Telephone (404) 842–6550; Email address KGM1@CDC.GOV; See also the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance, contact your project officer or Jessica Gardom, Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC), Mailstop E–58, 1600 Clifton Road, NE., Atlanta, GA 30333; Telephone (404) 639–5248; Email address JCG3@CDC.GOV.

Dated: May 13, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Guidance: HIV Prevention Community Planning for HIV Prevention Cooperative Agreement Recipients

Essential Components of a Comprehensive HIV Prevention Program

To implement a comprehensive HIV prevention program, State, local, and territorial health departments that receive HIV Prevention Cooperative Agreement funds should assure that efforts in their jurisdictions include all of the following essential components:

1. A community planning process, known as HIV prevention community planning, in accordance with this guidance;
2. Epidemiologic and behavioral surveillance, as well as compilation of other health and demographic data relevant to HIV risks, incidence, or prevalence;
3. HIV counseling, testing, referral, and partner notification (CTRPN) with strong linkages to medical care, treatment, and other needed services;
4. Health education and risk reduction (HE/RR) activities, including individual-, group-, and community-level interventions;
5. Accessible diagnosis and treatment of other sexually transmitted diseases;
6. Accessible diagnosis and treatment of tuberculosis and other opportunistic infections;
7. School-based efforts for youth;
8. Public information programs;
9. Training and quality assurance;
10. Laboratory support;
11. HIV prevention capacity-building activities, including expansion of the public health infrastructure by contracting with non-governmental organizations, especially community-based organizations;
12. An HIV prevention technical assistance assessment and plan; and
13. Evaluation of major program activities, interventions, and services.

This guidance addresses the first of these components, HIV prevention community planning, and outlines the minimum standards that CDC requires of its health departments in the implementation of the community planning process. Definitions and programmatic standards and guidelines referenced in this guidance are further described in the materials included with the 1999 HIV prevention cooperative agreement program announcement number 99004.

Financial Support of HIV Prevention Community Planning

HIV prevention cooperative agreement funds should be used to support all aspects of the community planning process, including:

1. Supporting planning group meetings, public meetings, and other means for obtaining community input;
2. Facilitating involvement of all community planning group members in the planning process, particularly those persons with and at risk for HIV infection;
3. Supporting capacity development for inclusion,* representation** and parity*** of community representatives and other planning groups members to participate effectively in the process;
4. Providing technical assistance to health departments and community planning groups;
5. Supporting infrastructure for the HIV prevention community planning process;
6. Collecting, analyzing, and disseminating relevant data; and
7. Evaluating the community planning process.

Goal of HIV Prevention Community Planning

The goal of HIV prevention community planning is to improve the effectiveness of State, local, and Territorial health departments' HIV prevention programs by strengthening the scientific basis, relevance, and focus of prevention interventions. CDC monitors progress in meeting this goal through the following five core objectives:

Core Objectives:

1. Fostering the openness and participatory nature of the community planning process.
2. Ensuring that the community planning group(s) reflects the diversity of the epidemic in the jurisdiction, and that expertise in epidemiology, behavioral science, health planning, and evaluation are included in the process.
3. Ensuring that priority HIV prevention needs are determined based on an epidemiologic profile and a needs assessment.
4. Ensuring that interventions are prioritized based on explicit consideration of priority needs, outcome effectiveness, cost and cost effectiveness, theory, and community norms and values.
5. Fostering strong, logical linkages between the community planning process, application for funding, and allocation of CDC HIV prevention resources.

Definition of HIV Prevention Community Planning

HIV prevention community planning is an ongoing, iterative planning process that is (1) evidence-based (i.e., based on HIV/AIDS and other epidemiologic data, including STD and behavioral surveillance data; qualitative data; ongoing program experience; program evaluation; and a comprehensive needs assessment process) and (2) incorporates the views and perspectives of groups at risk for HIV infection for whom the programs are intended, as well as providers of HIV prevention and STD treatment services. Together, representatives of affected populations, epidemiologists, behavioral scientists, HIV/AIDS prevention service providers, STD treatment providers, health department staff, and others analyze the course of the epidemic in their jurisdiction, assess HIV prevention needs, determine their priority prevention needs, identify HIV prevention interventions to meet those needs, and develop comprehensive HIV prevention plans that are directly responsive to the epidemics in their jurisdictions. These comprehensive HIV prevention plans address all the essential components of a comprehensive HIV prevention program described in the section Essential Components of a Comprehensive HIV Prevention Program, or explain why a particular component is missing.

Prioritizing HIV prevention needs is a critical part of program planning. Community planning group members are expected to follow a logical, evidence-based process in order to determine the highest priority prevention needs in their jurisdiction. These prioritized prevention needs are particularly important to the health department in allocating prevention

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* Inclusion, representation, and parity are fundamental tenets of HIV prevention community planning. Inclusion is defined as the assurance that the views, perspectives, and needs of all affected communities are included and involved in a meaningful manner in the community planning process. This is the assurance that the community planning process is inclusive of all the needed perspectives.

** Representation, is the assurance that those who are representing a specific community truly reflect that community's values, norms, and behaviors. This is the assurance that those representatives who are included in the process are truly able to represent their community. At the same time, these representatives should be able to participate as group members in objectively weighing the priority prevention needs of the jurisdiction.

*** Parity, is the condition whereby all members of the HIV prevention community planning group have the skills and knowledge for input and participation, as well as equal voice in voting and other decision-making activities. This is ensuring that those representatives who are included in the process can participate equally in the decision-making process.

dollars. Specific high priority HIV prevention needs (both populations and interventions) identified in the comprehensive HIV prevention plan are then operationalized in the health department's application to CDC for Federal HIV prevention funds. There should be strong, logical linkages between the community planning process, the comprehensive HIV prevention plans, the health department's application for Federal funds, and the allocation of Federal HIV prevention resources by the health department.

To meet this definition, community planning groups must focus primarily on the tasks of planning. Once a comprehensive plan has been developed, the community planning group should periodically review it to determine whether or not it is necessary to:

1. Seek additional information to clarify and focus prevention priorities;
2. Define potential methods for obtaining needed additional information;
3. Give additional attention to strengthening specific recommendations in the plan, such as
   a. The linkages between primary prevention activities and secondary prevention, STD treatment, drug treatment, and medical services;
   b. Development of an in-depth plan for coordination of health department HIV prevention activities with the prevention activities of other governmental and non-governmental agencies in the jurisdiction;
   c. Conducting an assessment of technical assistance needs in the jurisdiction and developing a plan for meeting the needs;
4. Review program implementation information that would inform the planning process and potentially affect the priorities in the plan, e.g., progress reports from contractors, process evaluation data from other program activities;
5. Monitor any shifts in incidence;
6. Conduct new or additional needs assessment, resource inventories, focus groups, etc.;
7. Review new research findings on intervention effectiveness and determine the impact, if any, on the plan; and
8. Consider how new biomedical or prevention technologies might best be utilized.

These reviews may result in additional objectives for the community planning group in the upcoming year and an updated or revised comprehensive plan. Community planning groups may choose to take a long-term approach to their planning process, in one year reviewing the plan and developing action steps to strengthen it; in the next, focusing on implementing the steps and revising the plan; in the next, focusing on a particular population for which more information is needed; in the third, returning to the basic community planning steps. The planning process should be flexible, taking a long-term approach and negotiating meaningful tasks for the planning group that contribute and enhance the comprehensive plan. The important, overall goal of HIV prevention community planning is to have in place a comprehensive HIV prevention plan that is current, evidence based, adaptable as new information becomes available, tailored to the specific needs of each jurisdiction, and widely distributed in an effort to provide a road map for prevention that can be used by all prevention providers in the jurisdiction.

Principles of HIV Prevention Community Planning

The following principles trace their origins to several sources: HIV prevention program assessments conducted by CDC staff; CDC's Planned Approach to Community Health (PATCH) program; CDC's Assessment Protocol for Excellence in Public Health (APEX/PH) project; the ASTHO/NASTAD/CSTE State Health Agency Vision for HIV Prevention; the June 1994 External Review of CDC's HIV Prevention Strategies by the CDC Advisory Committee on the Prevention of HIV Infection; experience and recommendations of health departments and non-governmental organizations; the health promotion, community development, behavioral and social sciences literature; and CDC and its partners' experience in implementing community planning since 1994.

All Grantees Are Required To Adhere to the Following Principles

1. HIV prevention community planning reflects an open, candid, and participatory process, in which differences in cultural and ethnic background, perspective, and experience are essential and valued.
2. HIV prevention community planning is characterized by shared priority setting between health departments administering and awarding HIV prevention funds and the communities for whom the prevention services are intended.
3. Priority setting accomplished through a community planning process produces programs that are responsive to high priority, community-validated needs within defined populations. Persons at risk for HIV infection and persons with HIV infection play a key role in identifying prevention needs not adequately met by existing programs and in planning for needed services that are culturally appropriate. HIV prevention programs developed with input from affected communities are likely to be successful in garnering the necessary public support for effective implementation and in preventing the transmission of HIV infection.
4. Representation on a community planning group includes:
   a. Persons who reflect the characteristics of the current and projected epidemic in that jurisdiction (as documented by the epidemiologic profile) in terms of age, gender, race/ethnicity, socioeconomic status, geographic and metropolitan statistical area (MSA)-size distribution (urban and rural residence), and risk for HIV infection. In addition to reflecting the characteristics outlined above, these representatives should articulate for, and have expertise in understanding and addressing, the specific HIV prevention needs of the populations they represent. At the same time, these representatives should be able to participate as group members in objectively weighing the priority prevention needs of the jurisdiction.
   b. State and local health departments, including the HIV prevention and STD treatment programs.
   c. State and local education agencies.
   d. Other relevant governmental agencies (e.g., substance abuse, mental health, corrections).
   e. Experts in epidemiology, behavioral and social sciences, program evaluation, and health planning.
   f. Representatives of key non-governmental and governmental organizations providing HIV prevention and related services (e.g., STD, TB, substance abuse prevention and treatment, mental health services, HIV care and social services) to persons with or at risk for HIV infection.
   g. Representatives of key non-governmental organizations relevant to, but who may not necessarily provide, HIV prevention services (e.g., representatives of business, labor, and faith communities).
5. The HIV prevention community planning process attempts to accommodate a reasonable number of representatives without becoming so large that it cannot effectively function. To assure needed input without becoming too large to function, HIV prevention community planning group(s) seek additional avenues for

obtaining input on community HIV prevention needs and priorities, such as holding well-publicized public meetings, conducting focus groups, and convening ad hoc panels. This is especially important for obtaining input relevant to marginalized populations that may be difficult to recruit and retain as members of the planning group (e.g., injecting drug users).

6. Nominations for membership are solicited through an open process and candidates are selected, based on criteria that has been established by the health department and the community planning group. The nomination and selection of new community planning group members occurs in a timely manner to avoid vacant slots or disruptions in planning. In addition, the recruitment process for membership in the HIV prevention community planning process is proactive to ensure that socioeconomically marginalized groups, and groups that are under served by existing HIV prevention programs, are represented.

7. All members of the HIV prevention community planning group(s) are offered a thorough orientation, as soon as possible after appointment. The orientation includes:

a. Understanding the roles and responsibilities outlined in this document,

b. Understanding the procedures and ground rules used in all deliberations and decision making,

c. Understanding the specific policies and procedures for decision-making, resolving disputes, and avoiding conflict of interests that are consistent with the principles of this guidance and are developed with input from all parties. These policies and procedures address:

1. Process for making decisions within the planning group (vote, consensus, etc.),

2. Conflict(s) of interest for members of the planning group(s),

3. Disputes within and among planning group(s),

4. Differences between the planning group(s) and the health department in the prioritization and implementation of programs/services, and

5. A process for resolving these disputes in a timely manner when they occur.

d. Understanding HIV prevention interventions and comprehensive prevention programs.

Orienting new members is an ongoing process that may include mentoring new members throughout the year.

8. Health departments assure that HIV prevention community planning group(s) have access to current information related to HIV prevention and analyses of the information, including potential implications for HIV prevention in the jurisdiction. Sources of information include evaluations of program activities, programmatic research, social and behavioral sciences, and other sources, especially as it relates to the at-risk population groups within a given community and the priority needs identified in the comprehensive plan.

9. Identification, interpretation, and prioritization of HIV prevention needs reflect the epidemiologic profile, needs assessment, and culturally relevant and linguistically appropriate information obtained from the communities to be served, particularly persons with or at risk for HIV infection.

10. Priority setting for specific HIV prevention strategies and interventions is based on specific criteria outlined in this document and each criterion should be formally considered by the HIV prevention community planning group(s) during priority-setting deliberations.

11. The HIV prevention community planning process produces a comprehensive HIV prevention plan, jointly developed by the health department and the HIV prevention community planning group(s), which includes specific, high priority HIV prevention strategies and interventions targeted to defined populations. Each health department's application for CDC funds addresses the plan's high priority elements that are most appropriately met by HIV prevention cooperative agreement funds. The comprehensive plan includes the essential elements listed in the section Essential Elements of a Comprehensive HIV Prevention Plan.

12. Because the plan is comprehensive, it should be distributed widely as a resource to guide programmatic activities and resources outside of those supported with CDC Federal HIV prevention funds.

13. The HIV prevention community planning process is evaluated to ensure that it is meeting the core objectives of community planning.

Steps in the HIV Prevention Community Planning Process

The steps of the HIV prevention community planning process follow:

1. Epidemiologic Profile: Assess the extent, distribution, and impact of HIV/AIDS and other STDs in defined populations in the community, as well as relevant risk behaviors. In defining at-risk populations, special attention should be paid to distinguishing behavioral, demographic, and racial/ethnic characteristics. This is the starting point for defining future HIV prevention needs in defined, targeted populations within the health department's jurisdiction. Other methods for segmenting audiences for prevention messages may also be used.

2. Needs Assessment/Resource Inventory: Assess existing community resources for HIV prevention and STD treatment to determine the community's capability to respond to the epidemic. These resources should include fiscal, personnel, and program resources, as well as support from public (Federal, State, county, municipal), private, and volunteer sources. This inventory should attempt to identify HIV prevention and STD treatment programs and activities according to the high-risk populations defined in the epidemiologic profile. The needs assessment/resource inventory should be based on a variety of sources (both qualitative and quantitative), should be collected using different assessment strategies (e.g., surveillance; survey; formative, process, and outcome evaluation of programs and services; outreach and focus group(s); public meetings), and should incorporate information from both providers and consumers of services. Techniques such as over sampling may be needed to collect valid information from certain at-risk populations.

3. Gap Analysis: Identify met and unmet HIV prevention and STD treatment needs within the high-risk populations defined in the epidemiologic profile and needs assessment/resource inventory. Findings from the needs assessment about high-risk populations (e.g., size of population, impact of HIV/AIDS, risk behaviors) and from the resource inventory about existing services should assist in identifying priority prevention needs. For example, if a large number of clients are turned away each day from an STD clinic that has a high HIV sero positivity rate, then there is clearly a gap in HIV prevention services.

4. Intervention Inventory: Identify potential strategies and interventions that can be used to prevent new HIV infections within the high-risk populations defined in the needs assessment;

5. Prioritization: Prioritize (rank order) HIV prevention needs in terms of: (1) High-risk populations; and (2) interventions and strategies for each high-risk population based on the following criteria:

a. Documented HIV prevention needs based on the current and projected impact of HIV/AIDS and other STDs in

defined populations in the health department's jurisdiction;

b. Outcome effectiveness of proposed strategies and interventions (either demonstrated or probable);

c. Available information on the relative costs and effectiveness of proposed strategies and interventions (either demonstrated or probable);

d. Sound scientific theory (e.g., behavior change, social change, and social marketing theories) when outcome effectiveness information is lacking;

e. Values, norms, and consumer preferences of the communities for whom the services are intended;

f. Availability of other governmental and non-governmental resources (including the private sector for HIV prevention); and

g. Other State and local determining factors.

Each criterion should be considered by the HIV prevention community planning group(s) during priority-setting deliberations. At a minimum, the community planning groups must provide a clear, concise, logical statement as to why each population and intervention given high priority was chosen.

6. Plan Development: Develop a comprehensive HIV prevention plan consistent with the high priority needs identified through the community planning process. The plan must contain all of the elements described in the following section, Essential Elements of a Comprehensive HIV Prevention Plan. CDC does not require a new plan each year. Plans may cover more than one year. However, project areas are expected periodically to review, revise, and refine the plans, as indicated by any new or enhanced surveillance data, intervention research, needs assessment, program policy, or technology. (See Definition of HIV Prevention Community Planning)

7. Evaluation: Evaluate the effectiveness of the planning process. Health departments should track and keep records on an ongoing basis in the following areas pertaining to the community planning process and development and implementation of the comprehensive HIV prevention plan:

a. Recruitment of community planning group members and representation of affected communities and areas of expertise on the community planning group (Community Planning Core Objectives 1 and 2).

b. Application of a needs assessment and an epidemiologic profile to determine target groups and HIV prevention strategies (Community Planning Core Objective 3).

c. Application of scientific knowledge in the selection and formulation of intervention strategies (Community Planning Core Objective 4).

d. Developing goals and measurable objectives for the planning process and monitoring progress on the objectives.

e. Assessing the cost of the process.

f. Assessing the extent to which resources allocated by the health department match the epidemiologic profile.

g. Assessment of the extent to which the final version of the Comprehensive HIV prevention plan is used in the health department's budget decisions and in the planning and development of HIV prevention program activities (Community Planning Core Objective 5).

8. Update: Use program evaluation data and updated or revised epidemiologic, needs assessment, intervention research, program policy, and technologic data to improve the next year's planning process and to update, as appropriate, the comprehensive plan. (See Definition of HIV Prevention Community Planning)

Essential Elements of a Comprehensive HIV Prevention Plan

The HIV prevention community planning process should produce a comprehensive HIV prevention plan, jointly developed by the health department and the HIV prevention community planning group(s), which includes specific, high priority HIV prevention strategies and interventions targeted to defined populations.

The necessary elements of a comprehensive HIV prevention plan include the following:

1. Epidemiologic Profile: An HIV/AIDS epidemiologic profile that outlines the epidemic in that jurisdiction. The profile includes data from a variety of sources (demographic and socioeconomic data, reported AIDS cases, reported HIV infections from areas with confidential reporting, HIV sero prevalence and sero incidence surveys/studies (where available), HIV risk behaviors, and surrogate markers for HIV risk behaviors, e.g., sexually transmitted disease (STD) and teen pregnancy rates and information on drug use.) Furthermore, the profile includes a narrative explanation of all data provided.

2. Needs Assessment/Resource Inventory/Gap Analysis: A description of met and unmet HIV prevention needs in target populations to be reached by primary HIV prevention interventions, and barriers in reaching populations. The description of target populations may include age group, gender, race/ethnicity, socioeconomic status, geographic area, sexual orientation, risk for HIV infection, primary language, and significant cultural factors.

3. Prioritization: The populations at high risk for HIV in rank order (i.e., prioritization), and the culturally and linguistically appropriate individual-, group-, and community-level strategies and interventions to reach each. These high-risk populations should include defined target populations whose sero status is unknown, negative, or positive. The strategies and interventions should include the interventions described in the section Essential Components of a Comprehensive HIV Prevention Program, as well as school-based programs, and other HIV prevention activities. Both existing and proposed interventions should be described. A clear, concise, logical statement of the reason each prioritized intervention was selected should be included.

4. Linkages: A description of how activities proposed in the comprehensive plan to prevent transmission or acquisition of HIV (primary prevention activities) are linked to activities to prevent or delay the onset of illness in persons with HIV infection (secondary prevention activities), to STD treatment, drug treatment, and Ryan White Comprehensive AIDS Resources Emergency (CARE) Act planning.

5. Goals: Short and long term goals for HIV prevention in defined populations being reached with defined interventions.

6. Surveillance and Research: A description of ongoing HIV prevention surveillance and research activities (e.g., epidemiologic and behavioral surveillance, research, and program evaluation activities), how these are linked to prevention program strategies in the plan, and any additional surveillance and research that is needed.

7. Coordination: A description of how governmental and non-governmental agencies will coordinate to provide comprehensive HIV prevention services and programs within the area for which the plan is developed.

8. Technical Assistance Needs Assessment and Plan: An HIV prevention technical assistance needs assessment identifying needs of the health department, community planning group(s), and community-based providers in the areas of program planning, implementation, and evaluation, and a plan of activities that addresses the technical assistance needs.

9. Community Planning Evaluation Plan: An evaluation plan for the HIV prevention planning process.

Letters of Concurrence/Nonconcurrence

Each health department, in its application, must include a letter of concurrence or nonconcurrence from every HIV prevention community planning group convened within the health department's jurisdiction. At a minimum, the letter(s) should be signed by the co-chairs on behalf of the group(s).

HIV prevention community planning group members should carefully review the comprehensive HIV prevention plan and the health department's entire application to CDC for Federal funds (including the proposed budget). Because the community planning process requires prioritization of HIV prevention needs and because prioritization directly corresponds to resource allocation, it is critical that the community planning group review the proposed allocation of resources in the health department's application (and, especially, to review expenditure levels in light of the epidemiologic profile). Community planning groups are not asked to review and comment on internal health department issues, such as salaries of individual health department staff, but instead to indicate:

1. The extent to which the health department and the HIV prevention community planning group(s) have successfully collaborated in developing, reviewing, or revising the comprehensive HIV prevention plan;

2. The extent to which the activities, programs, and services, for which the health department is requesting CDC funds, are responsive to the priorities in the comprehensive plan;

3. The process used for obtaining concurrence, including

a. A description of the process used for review of the application by the community planning group,

b. The time frame allotted for the review,

c. Who from the community planning group reviewed it (co-chairs, members, subcommittee chairs), and

d. The quality of the concurrence (e.g., without reservation, with minor concerns, with important concerns).

Letter(s) of concurrence may include reservations or a statement of concern/issues. The health department should address these reservations or concerns in an addendum to the HIV prevention application.

Letter(s) of nonconcurrence indicate that an HIV prevention community planning group disagrees with the program priorities identified in the health department's application. The letter should cite specific reasons for nonconcurrence. In instances of nonconcurrence and when a health department does not concur with the recommendations of the HIV prevention community planning group(s) and believes that public health would be better served by funding HIV prevention activities/services that are substantially different, the health department must submit a letter of justification in its application. CDC will assess and evaluate these justifications on a case-by-case basis and determine what action may be appropriate. A letter of nonconcurrence does not necessarily mean that the jurisdiction will lose any portion of its CDC funding. These actions can range from:

1. Obtaining more input/information regarding the situation;

2. Meeting with the health department and co-chairs;

3. Negotiating with the health department regarding the issues raised;

4. Recommending local mediation;

5. Approving the health department's application as is;

6. Requesting that a detailed plan of corrective action be developed to address the areas of concern and to be executed within a specified time frame;

7. Conducting an on-site comprehensive program assessment to identify and propose action steps to resolve areas of concern;

8. Conducting an on site program assessment focused on a specific area(s);

9. Developing a detailed technical assistance plan for the project area to help systematically address the situation; and

10. Placing conditions or restrictions on the award of funds pending a future submission by the applicant.

Roles and Responsibilities—Health Departments

State, local, and territorial health departments are responsible for the health of the populations in their jurisdictions. States have a broad responsibility in surveillance, prevention, overall planning, coordination, administration, fiscal management, and provision of essential public health services. The role of the health department in the community planning process is to:

1. Establish and maintain at least one HIV prevention community planning group that meets the principles described in the section Principles of HIV Prevention Community Planning. Health departments are required to determine how best to achieve and integrate statewide, regional, and local community planning within their jurisdictions. In those jurisdictions where CDC has direct cooperative agreements with both State and local health departments, health departments are expected to have systems and procedures in place to facilitate coordination and communication between the State and local health departments and their community planning groups.

2. Identify a health department employee, or a designated representative, to serve as co-chair of each HIV prevention community planning group in the project area; if State health departments implement more than one planning group within their jurisdiction, they may wish to designate local health department representatives as co-chairs of these planning groups.

3. Assure collaboration between HIV prevention community planning group(s) and other relevant planning efforts, particularly the process for allocating Titles I, II, and IIIb of the Ryan White Comprehensive AIDS Resources Emergency Act and the STD prevention program. Health departments may consider merging the HIV prevention community planning process with other planning bodies/processes already in place. If such mergers are undertaken, health departments must adhere to the principles of HIV prevention community planning, as contained in this document.

4. Provide an epidemiologic profile of the HIV prevention community planning group's jurisdiction to assist the group in establishing program priorities based on the extent, distribution, and impact of the HIV/AIDS epidemic. The profile should compile, analyze, and synthesize data from a variety of sources (demographic and socioeconomic data, reported AIDS cases, reported HIV infections from areas with confidential reporting, HIV sero prevalence and sero incidence surveys/studies [where available], HIV risk behaviors and surrogate markers for HIV risk behaviors, e.g., sexually transmitted disease (STD) and teen pregnancy rates and information on drug use.) Further, the profile should include a narrative explanation of all data provided and a summary of key findings.

5. Provide expertise and technical assistance, including ongoing training on HIV prevention planning, STD treatment and the interpretation of epidemiologic, behavioral, and evaluation data, to ensure that the planning process is comprehensive and evidence based.

6. Distribute widely the comprehensive HIV prevention plan and utilize existing networks to promote linkages and coordination among local

HIV prevention service providers, public health agencies, STD treatment clinics, community planning groups, and behavioral and social scientists who are either in the local area or who are familiar with local prevention needs, issues, and at-risk populations.

7. Develop an application for HIV prevention cooperative agreement funds, based on the comprehensive HIV prevention plan(s) developed through the HIV prevention community planning process, seek review of the application and letter(s) of concurrence/nonconcurrence from the community planning group(s), and allocate resources based on the plan's priorities.

8. Operationalize and implement HIV prevention services/activities outlined in the comprehensive plan including awarding and administering HIV prevention funds.

9. Administer HIV prevention funds awarded under the cooperative agreement, ensuring that funds are awarded to contractors within 90 days of the time that the health department receives notice of grant award from CDC. Monitor contractor activities and document contractor compliance.

10. Ensure that technical assistance is provided to assist health departments and community-based providers in the areas of program planning, implementation, and evaluation as identified in the comprehensive HIV prevention plan. Health departments should meet these needs by drawing on expertise from a variety of sources (e.g., the CDC-supported TA network, health departments, academia, professional and other national organizations, and non-governmental organizations).

11. Administer and coordinate public funds from a variety of sources, including Federal, State, and local agencies, to prevent HIV transmission and reduce associated morbidity and mortality.

12. Ensure program effectiveness through specific program monitoring and evaluation activities. This may include conducting or contracting for process and outcome evaluation studies, providing technical assistance in evaluation, or ensuring the provision of evaluation technical assistance to funding recipients.

13. Provide periodic feedback to the community planning group on the successes and barriers encountered in implementing HIV prevention interventions.

HIV Prevention Community Planning Groups

The role of the planning group(s) in the HIV prevention community planning process is to:

1. Elect a community co-chair to work with the co-chair designated by the health department.

2. Determine the technical assistance needs of the community planning group to enable them to execute an effective community planning process.

3. Carefully review available epidemiologic, evaluation, behavioral and social science, cost and cost-effectiveness, and needs assessment data and other information required to prioritize HIV prevention needs.

4. Identify unmet HIV prevention needs within defined populations.

5. Prioritize HIV prevention needs by target populations and propose high priority strategies and interventions.

6. Identify the technical assistance needs of community-based providers in the areas of planning, implementing, and evaluating prevention interventions.

7. Assess how well the priorities outlined in the plan are represented in the health department's application to CDC for Federal HIV prevention funds.

8. Community planning groups must focus primarily on the tasks of planning, as described above. Whether or not community planning groups take on additional tasks beyond those described in this document is determined locally by the health department and the community planning group (see Definition of HIV Prevention Community Planning). The planning process should be flexible, taking a long-term approach and negotiating meaningful tasks for the planning group that contribute and enhance the comprehensive plan. The important, overall goal of HIV prevention community planning is to have in place a comprehensive HIV prevention plan that is current, evidence based, adaptable as new information becomes available, tailored to the specific needs of each jurisdiction, and widely distributed in an effort to provide a road map for prevention that can be used by all prevention providers in the jurisdiction.

Shared Responsibilities Between Health Departments and HIV Prevention Community Planning Groups

Together, the health department and the community planning group should:

1. Develop and implement policies and procedures that clearly address and outline systems for regularly re-examining:

a. Planning group composition, selection, appointment, and terms of office to ensure that all planning group(s) reflect, as much as possible, the population characteristics of the epidemic in State and local jurisdictions in terms of age, race/ethnicity, gender, sexual orientation, geographic distribution, and risk for HIV infection;

b. Roles and responsibilities of the community planning group, its members, and its various components (e.g., subcommittees, workgroups, regional groups, etc.);

c. Methods for reaching decisions; attendance at meetings; resolution of disputes identified in planning deliberations; and resolution of conflict(s) of interest for members of the planning group(s).

2. Develop and apply criteria for selecting the individual members of the HIV prevention community planning group(s) within the jurisdiction. Special emphasis should be placed on procedures for identifying representatives of socioeconomically marginalized groups and groups that are under served by existing HIV prevention programs.

3. Determine the most effective mechanisms for input into the HIV prevention community planning process. The process must be structured in such a way that it incorporates and addresses needs and priorities identified at the community level (i.e., the level closest to the problem or need to be addressed).

4. Provide a thorough orientation for all new members, as soon as possible after appointment. New members should understand:

a. The roles, responsibilities, and principles outlined in this document;

b. The procedures and ground rules used in all deliberations and decision making; and

c. The specific policies and procedures for resolving disputes and avoiding conflict of interests that are consistent with the principles of this guidance and are developed with input from all parties.

5. Determine the distribution of planning funds to (a) support planning group meetings, public meetings, and other means for obtaining community input; (b) facilitate involvement of all participants in the planning process, particularly those persons with and at risk for HIV infection; (c) support capacity development for inclusion, representation, and parity of community representatives and for other planning group members to participate effectively in the process; (d) provide technical assistance to health departments and community planning groups by outside experts; (e) support planning infrastructure for the HIV prevention community planning process; (f) collect, analyze, and disseminate relevant data; and (g) evaluate the community planning process.

6. Consider what additional data are needed for decision-making about priority needs, and propose methods for obtaining the data.

7. Develop goals for HIV prevention strategies and interventions in defined target populations.

8. Develop, update annually, and disseminate the comprehensive HIV prevention plan.

9. If there are multiple community planning groups in the jurisdiction, integrate multiple HIV community prevention plans into a project-wide comprehensive HIV prevention plan.

10. Foster integration of the HIV prevention community planning process with other relevant planning efforts. Consider how the following are addressed within the Comprehensive HIV prevention plan:

a. HIV prevention interventions;

b. Early intervention, primary care, and other HIV-related services;

c. STD, TB, and substance abuse prevention and treatment;

d. Women's health services;

e. Mental health services; and

f. Other public health needs.

Centers for Disease Control and Prevention

The role of CDC in the HIV prevention community planning process is to:

1. Provide leadership in the national design, implementation, and evaluation of HIV prevention community planning.

2. Collaborate with health departments, community planning groups, national organizations, Federal agencies, and academic institutions to ensure the provision of technical/program assistance and training for the HIV prevention community planning process. The CDC project officer is key to this collaboration. He/she works with the health department and the community co-chairs to provide technical/program assistance for the community planning process, including discussing roles and responsibilities of community planning participants, disseminating CDC documents, and responding to direct inquiries to ensure consistent interpretation of the guidance.

3. Provide technical/program assistance through a variety of mechanisms to help recipients understand how to (a) ensure parity, inclusion, and representation of all members throughout the community planning process; (b) analyze epidemiologic, behavioral and other relevant data to assess the impact and extent of the HIV/AIDS epidemic in defined populations; (c) conduct needs assessments and prioritize unmet HIV prevention needs; (d) identify and evaluate effective and cost-effective HIV prevention activities for these priority populations; (e) provide access to needed behavioral and social science expertise; (f) identify and manage dispute and conflict of interest issues; and (g) evaluate the community planning process.

4. Require that application content submitted by HIV prevention cooperative agreement recipients for HIV prevention community planning funds is in accordance with the principles and the roles and responsibilities outlined in this guidance.

5. Monitor the HIV prevention community planning process, especially around the five core objectives.

6. Require as a condition for award of cooperative agreement funds that recipients' applications are in accordance with the comprehensive plan developed through the HIV prevention community planning process or include an acceptable letter of justification.

7. Identify the essential components of a comprehensive HIV prevention program.

8. Collaborate with health departments in evaluating HIV prevention programs.

9. Collaborate with other Federal agencies (particularly the National Institutes of Health, the Substance Abuse and Mental Health Services Administration, and the Health Resources and Services Administration) in promoting the transfer of new information and emerging prevention technologies or approaches (i.e., epidemiologic, biomedical, operational, behavioral, or evaluative) to health departments and other prevention partners, including non-governmental organizations.

10. Compile annually a report on the projected expenditures of HIV prevention cooperative agreement funds by specific strategies and interventions. Collaborate with other prevention partners in improving and integrating fiscal tracking systems.

Accountability

CDC is committed to the concept of HIV prevention community planning as outlined in this guidance. In summary, CDC expects that:

1. Health departments will support and facilitate the community planning process;

2. Community planning groups will develop plans in which they have prioritized (rank ordered) HIV prevention needs, including populations and interventions;

3. Health departments will reflect these priorities in their applications to CDC and implement effective HIV prevention programs based on the comprehensive HIV prevention plan; and

4. Community planning groups will review the entire application for their jurisdiction, including the budget, prior to writing letters of concurrence and nonconcurrence.

CDC will continue to conduct external reviews of health department HIV prevention cooperative agreement applications and comprehensive HIV prevention plans to monitor the progress health departments and community planning groups are making in meeting these expectations. These reviews will focus on whether or not:

1. A jurisdiction's planning process is in compliance with this guidance and the five core objectives;

2. Priority populations and recommended interventions identified in the comprehensive HIV prevention plan are consistent with the epidemiologic profile, needs assessment, and behavioral/social science data presented in the plan;

3. Proposed prevention program objectives, activities, and budget in the application are consistent with the comprehensive HIV prevention plan; and

4. Any discrepancies noted are adequately justified.

CDC will review the recommendations provided by the External Reviewers and consider them when making decisions concerning issues such as funding restrictions and conditions, as well as detailed plans of technical assistance.

[FR Doc. 98–13307 Filed 5–18–98; 8:45 am]
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Tuesday
May 19, 1998

Part III

Department of Education

Safe and Drug-Free Schools and Communities National Program—Federal Activities Grants Program; Notice

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DEPARTMENT OF EDUCATION

[CFDA NO.: 84.184G & J]

Safe and Drug-Free Schools and Communities National Programs—Federal Activities Grants Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Priorities and Selection Criteria for Fiscal Year 1998.

SUMMARY: The Secretary announces proposed priorities and selection criteria for fiscal year (FY) 1998 under the Safe and Drug-Free Schools and Communities (SDFSC) National Programs Federal Activities Grants Program. The Secretary takes this action to focus Federal financial assistance on identified national needs to promote the creation of safe and orderly learning environments for all students and to encourage the development of systems to collect data related to youth drug use and violent behavior.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 603, Portals Building, 1250 Maryland Avenue, SW, Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

DATES: Comments must be received by the Department on or before June 18, 1998.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Ethel Jackson, U.S. Department of Education, 600 Maryland Avenue, SW., Suite 603, Portals Building, Washington, DC 20202–6123. Comments may also be sent through the Internet to: comments@ed.gov. You must include the term "Federal Activities Grant Program" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Ethel Jackson, Safe and Drug-Free Schools Programs, U.S. Department of Education, 600 Independence Avenue, SW., Room 603, Portals, Washington, DC 20202–6123. Telephone: (202) 260–3954. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

Note: This notice of proposed priorities and selection criteria does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

SUPPLEMENTARY INFORMATION:

This notice contains two proposed priorities and selection criteria for fiscal year 1998. Under absolute priority one (CFDA 84.184G, State and Local Educational Agency Drug and Violence Prevention Data Collection), the Secretary may make grant awards for up to 24 months. Under absolute priority number two (CFDA 84.184J, Model Demonstration Program), the Secretary may award cooperative agreements for up to 60 months. Cooperative agreements funded through this priority will serve as national demonstration sites to test strategies, assess effectiveness, and make a major contribution to the development and dissemination of models and components of models which can be used by school districts and other youth-serving agencies nationwide.

Priorities

Under 34 CFR 75.105(c)(3) and the Safe and Drug-Free Schools and Communities Act of 1994, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that meet one of these absolute priorities.

Absolute Priority 1 and Selection Criteria—State and Local Educational Agency Drug and Violence Prevention Data Collection (CFDA 84.184G)

Under this priority, applicants must propose projects that—

(1) Develop, improve, expand, or enhance the collection of data related to youth drug use and violence; and

(2) Develop and implement processes to ensure that high-quality data are used to form policy, assess needs, select interventions, and assess the success of drug and violence prevention activities funded under the SDFSC State Grants Program. Projects may be State-wide in scope or limited to an individual local educational agency, or a consortium of local educational agencies, with a student enrollment that exceeds 30,000.

Projects must address drug and violence prevention data for students in general, not just for a sub-set of the population (e.g., non-English speaking students or hearing-impaired students). To be considered for funding under this competition, a project must include—

(1) Concrete plans, with timelines, that detail how the results of new or improved data collection efforts will be incorporated into State and local educational agency efforts to assess needs, select interventions, and assess success of drug and violence prevention efforts;

(2) Outcome-based performance indicators that will be used to judge the success of the project;

(3) A description of how efforts proposed as part of the project have been coordinated with and will not duplicate data collection efforts being implemented by other State or local agencies; and

(4) If the applicant is other than a State or local educational agency, evidence of commitment from the State educational agency (for State-wide projects) or from the superintendent of schools (for local projects).

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate proposals submitted under this priority.

The maximum score for all of the criteria in this section is 100 points.

The maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—

1. *Need for project.* (15 points)

In determining the need for the proposed project, the following factors are considered:

(a) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(b) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

2. *Significance.* (25 points)

In determining the significance of the proposed project, the following factors are considered:

(a) The significance of the problem or issues to be addressed by the proposed project.

(b) The likelihood that the proposed project will result in system change or improvement.

(c) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

3. *Quality of the project design.* (25 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State and Federal resources.

4. *Adequacy of resources.* (15 points)

In determining the adequacy of resources for the proposed projects, the following factors are considered:

(a) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(b) The potential for the incorporation of project purposes, activities or benefits into the ongoing program of the agency or organization at the end of Federal funding.

5. *Quality of the management plan* (10 points)

In determining the quality of the management plan for the proposed project, the following factor is considered:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestone for accomplishing project tasks.

6. *Quality of the project evaluation.* (10 points)

In determining the quality of the evaluation to be conducted for the proposed project, the following factor is considered:

(a) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Absolute Priority #2 and Selection Criteria—Model Demonstration Programs to Create Safe and Orderly Learning Environments in Schools (CFDA 84.184J)

Projects proposed under this priority are expected to comprehensively address multiple factors that predispose youth to drug use and violent behavior. Therefore, projects will not be funded for: (a) basic support of existing programs; (b) replication of a single program of demonstrated effectiveness, or (c) less than $500,000 or more than $1 million.

Projects supported under this priority will be funded for implementation in one site for three years and for replication in additional sites for two years. Projects will be reviewed during the third year to examine, among other factors, the degree to which the evaluation findings at the original site are promising, and the quality of the evaluation design proposed to test the model at other sites during years four and five. Projects which fail to demonstrate effectiveness at the original site will not be funded to test the model's replication in other sites.

Under this priority, applicants must propose projects that:

(A) Develop and implement a model with specific components or strategies that are based on theory, research, or evaluation data;

(B) Identify outcomes intended to result in behavioral change in youth served and other indicators of the effectiveness of the model (e.g. improved bonding to school and to the community, reductions in disciplinary referrals, absence of firearms and other weapons in schools, acquisition of pro-social skills, and reductions in alcohol, tobacco, and other drug use by the target population);

(C) Evaluate the model by using multiple measures to determine the effectiveness of the model and its components or strategies; and

(D) Produce detailed documentation of procedures and materials that would enable others to replicate the model as implemented at the original site.

Applicants must provide the following : (1) recent and historical data on drug use by youth; (2) data that describes patterns of violence and disruptive acts in schools; (3) rates of referral to juvenile justice authorities for bringing weapons to school, drug use or possession and violent criminal acts; (4) evidence of gang and violence problems in the target community, and (5) demographic information for the geographic area in which the school is located.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate proposals submitted under this priority.

The maximum score for all of the criteria in this section is 100 points.

(2) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—

1. *Significance* (30 points)

In determining the significance of the proposed project, the following factors are considered:

(a) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

(b) The extent to which the proposed project is likely to yield findings that may be utilized by other appropriate agencies and organizations.

(c) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(2) *Quality of the project design* (25 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(c) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(d) The quality of the proposed demonstration design and procedures for documenting project activities and results;

(e) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

3. *Adequacy of resources* (10 points)

In determining the adequacy of resources for the proposed project, the following factors are considered:

(a) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(b) The extent to which the costs are reasonable in relation to the objectives, design and potential significance of the proposed project.

4. *Quality of the management plan* (10 points)

In determining the quality of the management plan, the following factors are considered:

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(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(b) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

5. *Quality of the project evaluation* (25 points)

In determining the quality of the evaluation, the following factors are considered:

(a) The extent to which the methods of the evaluation are thorough, feasible, and appropriate to the goals, objectives and outcomes of the proposed project.

(b) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

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Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7131.

Dated: May 14, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–13247 Filed 5–18–98; 8:45 am]

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Federal Register

Tuesday
May 19, 1998

Part IV

The President

Executive Order 13083—Federalism

Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

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Presidential Documents

Title 3—

The President

Executive Order 13083 of May 14, 1998

Federalism

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to guarantee the division of governmental responsibilities, embodied in the Constitution, between the Federal Government and the States that was intended by the Framers and application of those principles by the Executive departments and agencies in the formulation and implementation of policies, it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.

(b) "Policies that have federalism implications" refers to Federal regulations, proposed legislation, and other policy statements or actions that have substantial direct effects on the States or on the relationship, or the distribution of power and responsibilities, between the Federal Government and the States.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 2. *Fundamental Federalism Principles.* In formulating and implementing policies that have federalism implications, agencies shall be guided by the following fundamental federalism principles:

(a) The structure of government established by the Constitution is premised upon a system of checks and balances.

(b) The Constitution created a Federal Government of supreme, but limited, powers. The sovereign powers not granted to the Federal Government are reserved to the people or to the States, unless prohibited to the States by the Constitution.

(c) Federalism reflects the principle that dividing power between the Federal Government and the States serves to protect individual liberty. Preserving State authority provides an essential balance to the power of the Federal Government, while preserving the supremacy of Federal law provides an essential balance to the power of the States.

(d) The people of the States are at liberty, subject only to the limitations in the Constitution itself or in Federal law, to define the moral, political, and legal character of their lives.

(e) Our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires. States and local governments are often uniquely situated to discern the sentiments of the people and to govern accordingly.

(f) Effective public policy is often achieved when there is competition among the several States in the fashioning of different approaches to public policy issues. The search for enlightened public policy is often furthered when individual States and local governments are free to experiment with a variety of approaches to public issues. Uniform, national approaches to

public policy problems can inhibit the creation of effective solutions to those problems.

(g) Policies of the Federal Government should recognize the responsibility of—and should encourage opportunities for—States, local governments, private associations, neighborhoods, families, and individuals to achieve personal, social, environmental, and economic objectives through cooperative effort.

Sec. 3. *Federalism Policymaking Criteria.* In addition to adhering to the fundamental federalism principles set forth in section 2 of this order, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(a) There should be strict adherence to constitutional principles. Agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of States and local governments, and should carefully assess the necessity for such action.

(b) Agencies may limit the policymaking discretion of States and local governments only after determining that there is constitutional and legal authority for the action.

(c) With respect to Federal statutes and regulations administered by States and local governments, the Federal Government should grant States and local governments the maximum administrative discretion possible. Any Federal oversight of such State and local administration should not unnecessarily intrude on State and local discretion.

(d) It is important to recognize the distinction between matters of national or multi-state scope (which may justify Federal action) and matters that are merely common to the States (which may not justify Federal action because individual States, acting individually or together, may effectively deal with them). Matters of national or multi-state scope that justify Federal action may arise in a variety of circumstances, including:

(1) When the matter to be addressed by Federal action occurs interstate as opposed to being contained within one State's boundaries.

(2) When the source of the matter to be addressed occurs in a State different from the State (or States) where a significant amount of the harm occurs.

(3) When there is a need for uniform national standards.

(4) When decentralization increases the costs of government thus imposing additional burdens on the taxpayer.

(5) When States have not adequately protected individual rights and liberties.

(6) When States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other States.

(7) When placing regulatory authority at the State or local level would undermine regulatory goals because high costs or demands for specialized expertise will effectively place the regulatory matter beyond the resources of State authorities.

(8) When the matter relates to Federally owned or managed property or natural resources, trust obligations, or international obligations.

(9) When the matter to be regulated significantly or uniquely affects Indian tribal governments.

Sec. 4. *Consultation.* (a) Each agency shall have an effective process to permit elected officials and other representatives of State and local governments to provide meaningful and timely input in the development of regulatory policies that have federalism implications.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that is not required by statute, that has federalism implica-

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tions, and that imposes substantial direct compliance costs on States and local governments, unless:

(1) funds necessary to pay the direct costs incurred by the State or local government in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected States and local governments, a summary of the nature of their concerns, and the agency's position supporting the need to issue the regulation; and

(B) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by States or local governments.

Sec. 5. *Increasing Flexibility for State and Local Waivers.* (a) Agencies shall review the processes under which States and local governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State or local government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State or local level in cases in which the proposed waiver is consistent with applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 6. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 7. *General Provisions.* (a) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order shall supplement but not supersede the requirements contained in Executive Order 12866 ("Regulatory Planning and Review"), Executive Order 12988 ("Civil Justice Reform"), and OMB Circular A–19.

(c) Executive Order 12612 of October 26, 1987, and Executive Order 12875 of October 26, 1993, are revoked.

(d) The consultation and waiver provisions in sections 4 and 5 of this order shall complement the Executive order entitled, "Consultation and Coordination with Indian Tribal Governments," being issued on this day.

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(e) This order shall be effective 90 days after the date of this order.

William J. Clinton

THE WHITE HOUSE,
May 14, 1998.

[FR Doc. 98–13552
Filed 5–19–98; 11:24 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13084 of May 14, 1998

Consultation and Coordination With Indian Tribal Governments

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, trust resources, and Indian tribal treaty and other rights.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with Indian tribal governments in the development of regulatory practices on Federal matters that significantly or uniquely affect their communities; to reduce the imposition of unfunded mandates upon Indian tribal governments; and to streamline the application process for and increase the availability of waivers to Indian tribal governments; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 2. *Policymaking Criteria.* In formulating policies significantly or uniquely affecting Indian tribal governments, agencies shall be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

Sec. 3. *Consultation.* (a) Each agency shall have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that is not required by statute, that significantly or uniquely affects the communities of the Indian tribal governments, and that imposes substantial direct compliance costs on such communities, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected Indian tribal governments, a summary of the nature of their concerns, and the agency's position supporting the need to issue the regulation; and

(B) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by such Indian tribal governments.

Sec. 4. *Increasing Flexibility for Indian Tribal Waivers.* (a) Agencies shall review the processes under which Indian tribal governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. The agency shall provide the applicant with timely written notice of the decision and, if the application for a waiver is not granted, the reasons for such denial.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 5. *Cooperation in developing regulations.* On issues relating to tribal self-government, trust resources, or treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Independent agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 7. *General provisions.* (a) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order shall supplement but not supersede the requirements contained in Executive Order 12866 ("Regulatory Planning and Review"), Executive Order 12988 ("Civil Justice Reform"), OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(c) This order shall complement the consultation and waiver provisions in sections 4 and 5 of the Executive order, entitled "Federalism," being issued on this day.

(d) This order shall be effective 90 days after the date of this order.

William J. Clinton

THE WHITE HOUSE,
May 14, 1998.

[FR Doc. 98–13553
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Part V

The President

Notice of May 18, 1998—Continuation of Emergency With Respect to Burma

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Title 3—

The President

Notice of May 18, 1998

Continuation of Emergency With Respect to Burma

On May 20, 1997, I issued Executive Order 13047, effective at 12:01 a.m. eastern daylight time on May 21, 1997, certifying to the Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), that the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by United States persons, contained in that section. I also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International emergency Economic Powers Act (50 U.S.C. 1701-1706).

The national emergency declared on May 20, 1997, must continue beyond May 20, 1998, as long as the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Burma. This notice shall be published in the **Federal Register** and transmitted to the Congress.

William J. Clinton

THE WHITE HOUSE,
May 18, 1998.

[FR Doc. 98–13590
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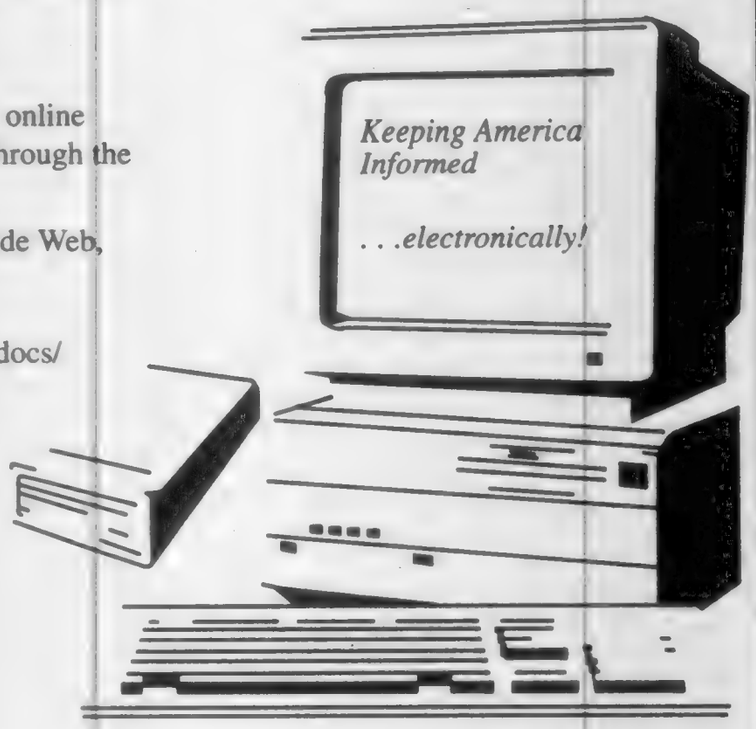
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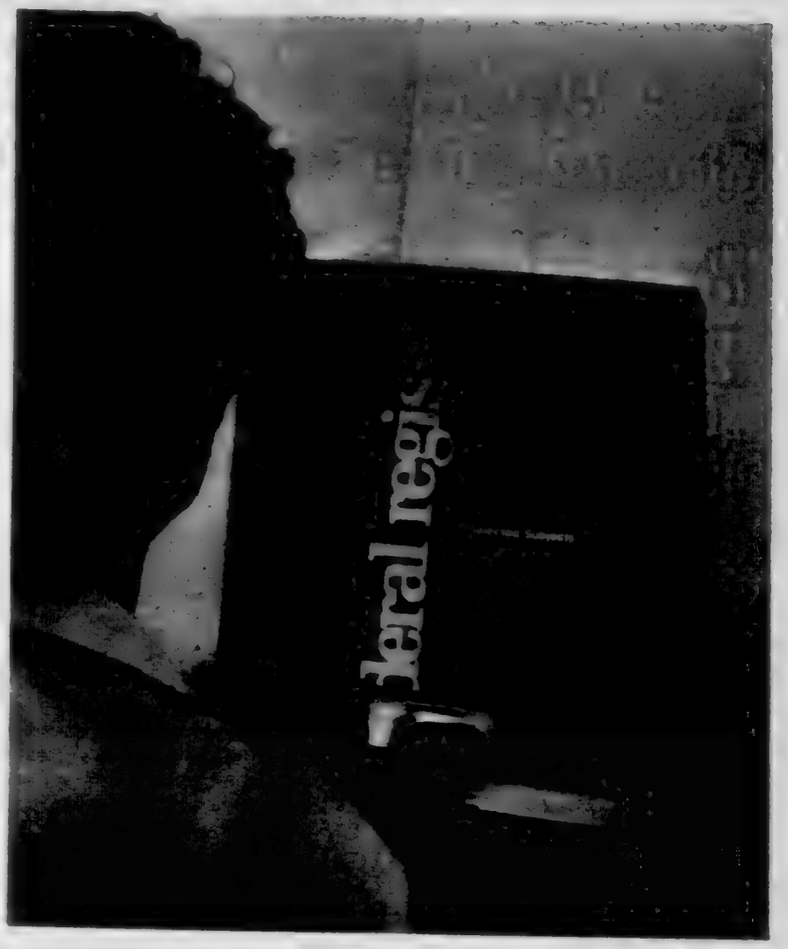
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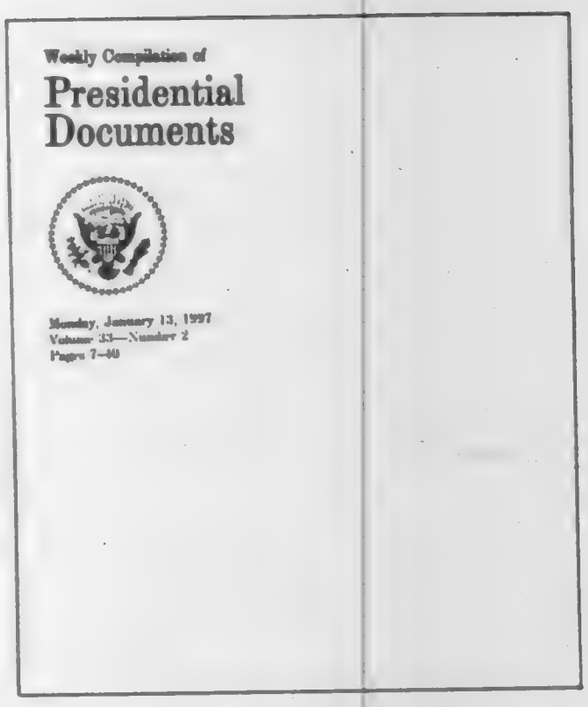
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Vol. 63, No. 97
Wednesday, May 20, 1998

Presidential Documents

Title 3—

The President

Proclamation 7096 of May 14, 1998

National Safe Boating Week, 1998

By the President of the United States of America

A Proclamation

Recreational boating is one of our Nation's most popular and most rewarding pastimes. Blessed with an abundance of scenic rivers, lakes, streams, and coastal waters, our country is a haven for people who love the water. More than 78 million Americans take to the water each year with family and friends to appreciate nature, relax, and simply escape from the cares of the day. However, while boating can be a wonderful recreational activity, it can also be dangerous for the unprepared.

Tragically, more than 700 Americans die each year in boating-related accidents. In most cases, human error and poor judgment are to blame. Drinking or taking drugs while operating a boat, ignoring safe navigation rules, and failing to wear a life preserver are all examples of poor judgment that can lead to loss of life. The U.S. Coast Guard estimates that last year alone, 80 percent of boating-related fatalities could have been prevented had life jackets been worn. So, the theme of this year's Safe Boating Week, "Boat Smart from the Start! Wear Your Life Jacket," is truly a matter of life and death. I encourage all Americans to wear life preservers every time they are on the water—this simple precaution can save hundreds of lives each year.

The National Safe Boating Council, the U.S. Coast Guard, other Federal agencies, State and local governments, and many recreational boating organizations actively promote boating safety and work to save lives on the water. However, it is ultimately up to each individual to take responsibility for his or her own safety and for the safety of friends and family. This year, during National Safe Boating Week, I urge all Americans who use our Nation's waterways to practice safe boating and to educate others about the importance of wearing life jackets, abstaining from drugs and alcohol, and following safe navigation rules. Together we can save lives and ensure that boating remains an enjoyable activity—for ourselves and for our loved ones.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 161), as amended, has authorized and requested the President to proclaim annually the seven-day period prior to Memorial Day as "National Safe Boating Week."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 16 through May 22, 1998, as National Safe Boating Week. I encourage the Governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion and to urge all Americans to practice safe boating not only during this week, but also throughout the year.

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IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J Clinton

[FR Doc. 98–13543
Filed 5–19–98; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 98–22 of May 13, 1998

Sanctions Against India for Detonation of a Nuclear Explosive Device

Memorandum for the Secretary of State

In accordance with section 102(b)(1) of the Arms Export Control Act, I hereby determine that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. The relevant agencies and instrumentalities of the United States Government are hereby directed to take the necessary actions to impose the sanctions described in section 102(b)(2) of that Act.

You are hereby authorized and directed to transmit this determination to the appropriate committees of the Congress and to arrange for its publication in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, May 13, 1998.

[FR Doc. 98–13601
Filed 5–19–98; 8:45 am]
Billing code 4710–10–M

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Rules and Regulations

Federal Register
Vol. 63, No. 97
Wednesday, May 20, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3017

Governmentwide Debarment and Suspension (Nonprocurement); Delegation of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule amends 7 CFR part 3017 to permit the Chief of the Forest Service to redelegate the authority to serve as Forest Service nonprocurement debarring or suspending official to the Deputy Chief or an Associate Deputy Chief for the National Forest System.

EFFECTIVE DATE: May 20, 1998.

FOR FURTHER INFORMATION CONTACT: Jim Naylor, Forest Management Staff, Forest Service, USDA, STOP 1105, P.O. Box 96090, Washington, D.C. 20090–6090 (202) 205–0858.

SUPPLEMENTARY INFORMATION: Under the Governmentwide nonprocurement debarment and suspension rules, the authority to act as the Debarring and Suspending Official is vested in the agency head or an official designated by the agency head (53 FR 19161, 19205; May 26, 1988). However, the U.S. Department of Agriculture regulations implementing the Governmentwide nonprocurement debarment and suspension rules (54 FR 4721, 4731; Jan. 30, 1989) provide that the authority to act as a Debarring and Suspending Official may not be delegated below the head of any organizational unit of the U.S. Department of Agriculture.

The time-consuming nature of the Debarring and Suspending Official's duties is inconsistent with the other duties of and demands on the Chief of the Forest Service in overseeing the Forest Service's programs. The Debarring and Suspending Official must personally review the record, conduct informal hearings, and make the decision to suspend, propose debarment, or debar. If there is subsequent litigation, the official may be required to answer depositions or to testify. Moreover, Forest Service debarment and suspension cases are complicated because many deal with indictments for timber theft, collusive bidding, and other serious violations concerning contracts and permits for the use of natural resources.

Therefore, in recognition of the number and complexity of Forest Service nonprocurement debarment and suspension actions, the Secretary is revising the USDA rule to permit the Chief to redelegate the authority to act as the Forest Service nonprocurement Debarring and Suspending Official to a subordinate Forest Service official, namely the Deputy Chief and the Associate Deputy Chiefs for the National Forest System.

Regulatory Impact

This rule relates to internal Department management. As such, this rule has no substantive effect, nor is it subject to prior review by the Office of Management and Budget under Executive Order 12866. Because of its internal nature, this rule also is exempt from further analysis under the Civil Justice Reform Act, the Unfunded Mandates Reform Act of 1995, the Paperwork Reduction Act, and Executive Order 12630.

List of Subjects in 7 CFR Part 3017

Administrative practice and procedure, Grant administration, Grant programs (Agriculture).

Therefore, for the reasons set forth in the preamble, Part 3017 of Title 7 of the Code of Federal Regulations is amended as follows:

PART 3017—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR A DRUG-FREE WORKPLACE (GRANTS)

1. The authority citation for part 3017 continues to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701 et seq.; E.O. 12549; 51 FR 6370, 3 CFR, 1986 Comp., p. 189.

2. Section 3017.105 is amended by revising the definitions of *Debarring official* paragraph (2)(i) and *Suspending official* paragraph (2)(i) to read as follows:

§ 3017.15 Definitions.

* * * * *

Debarring official. * * *

(2) * * *

(i) In USDA, the authority to act as a debarring official is not delegated below the agency head, except that in the case of the Forest Service, the Chief may redelegate the authority to act as a debarring official to the Deputy Chief or an Associate Deputy Chief for the National Forest System.

* * * * *

Suspending official. * * *

(2) * * *

(i) In USDA, the authority to act as a suspending official is not delegated below the agency head, except that in the case of the Forest Service, the Chief may redelegate the authority to act as a suspending official to the Deputy Chief or an Associate Deputy Chief for the National Forest System.

* * * * *

Dated: May 12, 1998.

Reba Pittman Evans,

Acting Assistant Secretary, Administration.

[FR Doc. 98–13442 Filed 5–19–98; 8:45 am]

BILLING CODE 3410–11–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

FOIA Fee Schedule

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Update of FOIA fee schedule.

SUMMARY: The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

EFFECTIVE DATE: June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901, (202) 208–6447.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for

agency records. 5 U.S.C. 552(a)(4)(i). On March 15, 1991 the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the Fee Schedule once ever 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on June 1, 1997. 62 FR 30432, June 4, 1997.

Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

Defense Nuclear Facilities Safety Board Schedule of Fees for FOIA Services (Implementing 10 CFR § 1703.107(b)(6))

Search or Review Charge: $52 per hour
Copy Charge (paper): $.05 per page, if done in-house, or generally available commercial rate (approximately $.10 per page)
Copy Charge (3.5" diskette): $5.00 per diskette
Copy Charge (audio cassette): $3.00 per cassette
Duplication of Video: $25.00 for each individual videotape; $16.50 for each additional individual videotape
Copy Charge for large documents (e.g., maps, diagrams): Actual commercial rates

Dated: May 31, 1998.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 98–13345 Filed 5–19–98; 8:45 am]

BILLING CODE 3670–01–M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 98–18]

RIN 3069–AA73

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation governing the operation of the Affordable Housing Program (AHP or Program) to make certain technical revisions to the regulation that would clarify Program requirements and improve the operation of the AHP.

EFFECTIVE DATE: The interim final rule shall be effective on June 19, 1998. The Finance Board will accept written comments on this interim final rule on or before July 20, 1998.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Deputy Director, Compliance Assistance Division, Office of Policy, (202) 408–2848, or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, or Roy S. Turner, Attorney-Advisor, (202) 408–2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Act) requires each Federal Home Loan Bank (Bank) to establish a Program to subsidize the interest rate on advances to members of the Federal Home Loan Bank System (Bank System) engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. *See* 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the Program. *See id.* The Finance Board's existing regulation governing the operation of the Program is set forth in part 960 of the Finance Board's regulations (AHP regulation). *See* 12 CFR part 960.

On August 4, 1997, the Finance Board published a final rule adopting comprehensive revisions to the AHP regulation, which, among other changes, authorized the 12 Banks, rather than the Finance Board, to approve applications for AHP subsidies beginning January 1, 1998. *See* 62 FR 41812 (Aug. 4, 1997).

In the course of implementing the changes to the Program under the recent revisions to the AHP regulation, the Banks and Finance Board staff have identified a number of technical issues whose resolution would clarify Program requirements and improve the effectiveness of the Program. The Finance Board previously published a list of Questions and Answers prepared by Finance Board staff in order to provide guidance on some of these issues. *See* 62 FR 66977 (Dec. 23, 1997). This interim final rule codifies portions of the Finance Board staff guidance contained in the Questions and Answers and addresses additional technical issues that have arisen in the course of implementing the 1997 revisions to the AHP regulation. Although the interim final rule will become effective 30 days after publication in the **Federal Register**, the Finance Board requests comment on all aspects of the rule during a 60-day comment period.

II. Analysis of Interim Final Rule

A. Definitions—Section 960.1

1. Definition of "Affordable"

Under § 960.5(b)(1) of the current AHP regulation, in order for rental housing to be eligible to be financed by an AHP subsidy, at least 20 percent of the units must be occupied by and affordable for very low-income households. *See* 12 CFR 960.1, 960.5(b)(1). Section 960.1 of the current AHP regulation provides that "affordable" means that "the rent charged to a household for a unit that is committed to be affordable in an AHP application does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 person per unit without a separate bedroom)." *See id.* § 960.1 This definition is intended to make clear that the 30 percent-of-income limitation on rent applies to all units in a project which, according to the commitments made in the AHP application, are to be reserved for occupancy by households with incomes at or below 80 percent of the median income for the area. However, subsequent to the adoption of the definition, questions have arisen as to which units in a rental project are subject to the 30 percent-of-income limitation. The revised definition of "affordable" is intended to clarify this issue. The interim final rule defines "affordable" to mean that "the rent charged for a unit which is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 person per unit without a separate bedroom)."

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2. Definitions of "Low- or Moderate-Income Household" and "Very Low-Income Household" for Housing With Current Occupants

Under § 960.1 of the current AHP regulation, in the case of projects involving the purchase or rehabilitation of occupied rental housing, a household occupying such housing is deemed to be a "very low-income household" if, at the time the purchase or rehabilitation of the housing is completed, the household has an income at or below 50 percent of the median income for the area. *See id.* This provision may make it difficult for the sponsor of such a project to commit to reserve a specific proportion of units for very low-income households because of the uncertainty as to how many of the current occupants will qualify as very low-income households at some future date when the project purchase or rehabilitation is completed. Consequently, the interim final rule provides that current occupants will be deemed to by very low-income households if they have incomes at or below 50 percent of the median income for the area at the time the application for AHP subsidy is submitted to the Bank. The interim final rule makes a parallel change to the definition of "low- or moderate-income household" in § 960.1 of the current AHP regulation.

3. Definition of "Owner-Occupied Unit" as Including Two-to-Four Family Housing

Section 960.1 of the current AHP regulation defines "owner-occupied unit" as a unit in an "owner-occupied project," which is defined as a project involving the purchase, construction, or rehabilitation of owner-occupied housing, including condominiums and cooperative housing, by or for very low- or low- or moderate-income households. *See id.* § 960.1. The interim final clarifies that two-to-four family owner-occupied housing consisting of one owner-occupied unit and one or more rental units constitutes a single owner-occupied unit for purposes of the AHP. The income eligibility and affordability requirements of the AHP regulation do not apply to the rental units in two-to-four family housing.

4. Definition of "Rental Project" as Including Overnight Shelters for Homeless Households

Under § 960.1 of the current AHP regulation, a "rental project" is defined to include "transitional housing for homeless households." *See id.* The interim final rule clarifies that overnight shelters for homeless households also are considered rental housing under the AHP.

B. Terms of Advisory Council Members—Section 960.4(d)

Section 960.4(d) of the current AHP regulation provides that a Bank's board of directors shall appoint Advisory Council members to serve for no more than three consecutive terms of three years each, and such terms shall be staggered to provide continuity in experience and service to the Advisory Council. *See id.* § 960.4(d). The interim final rule restates this requirement to make clear that, as intended by the current AHP regulation, an Advisory Council member's individual term must be three years. The interim final rule also adds language to clarify that an Advisory Council member appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor in office and that appointments for the unexpired term of a predecessor shall not count toward the three-term limit.

C. Minimum Eligibility Standards For AHP Projects—Section 960.5

1. Fair Housing Compliance—§ 960.5(b)(9)

Section 960.5(b)(9) of the interim final rule clarifies the requirement in the current AHP regulation that projects, as proposed, must comply with applicable fair housing law requirements and demonstrate how the project will be affirmatively marketed in order to be eligible to receive AHP funds. *See id.* § 960.5(b)(9). The interim final rule is intended to clarify that compliance with any applicable fair housing laws includes compliance with applicable federal and state laws on housing accessibility for the disabled, as well as affirmative marketing requirements under the Fair Housing Act, as they relate to disabled persons.

There are a number of federal and state fair housing laws relating to persons with disabilities that may apply to AHP projects, depending upon: the type of housing or housing design (single-family, multifamily, homeless shelters, buildings with or without elevators, or mixed use buildings); whether the project involves acquisition, rehabilitation or new construction; and whether the project involves federal or state funds. Given the number of different laws governing fair housing and accessibility requirements for the disabled, it is recommended that the appropriate enforcing agencies be consulted for clarification on any specific issue relating to compliance.

2. District Eligibility Requirements—Section 960.5(b)(10)

Section 960.5(b)(10)(i) of the current AHP regulation authorizes a Bank, after consultation with its Advisory Council, to establish one or more of the following additional eligibility requirements for AHP applications: (1) A requirement that the amount of subsidy requested for the project does not exceed limits established by the Bank as to the maximum amount of AHP subsidy available per member each year; or per member, per project, or per project unit in a single funding period; (2) a requirement that the project is located in the Bank's District; or (3) a requirement that the member submitting the application has made use of a credit product offered by the Bank, other than AHP or Community Investment Program (CIP) credit products, within the previous 12 months. *See id.* § 960.5(b)(10)(i). Section 960.5(b)(10)(ii) further provides that District eligibility requirements must apply equally to all members. *See id.* § 960.5(b)(10)(ii).

Several of the Banks would like to have the option to make the use of a minimum amount of Bank credit products a prerequisite for applying for large amounts of AHP subsidy. Under § 960.5(b)(10)(i)(C) of the current AHP regulation, which authorizes the Banks to condition the availability of AHP subsidy upon a member's use of "a" credit product, this option is not now available. *See id.* § 960.5(b)(10)(i)(C). Further, these Banks have proposed that the required level of credit product usage be linked to a member's asset size. For example, a Bank proposes to allow all members to have access to up to $50,000 of AHP subsidy per year, but require members wishing to apply for more than $50,000 to have outstanding average daily balances of Bank credit products in an amount equal to at least 1.5 percent of the member's total assets. In support of this kind of requirement, the Banks have argued that because AHP subsidies are derived from a Bank's earnings, fairness requires that availability of subsidies be linked to the extent to which a member contributes to the Bank's earnings through the purchase of other Bank credit products. These Banks argue that a member's use of a single Bank credit product does not make a meaningful contribution to Bank earnings.

Accordingly, the interim final rule revises the language of § 960.5(b)(10)(i)(C) of the current AHP regulation to permit a Bank to establish a requirement that a member submitting an AHP application has made use of a minimum amount of a credit product

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offered by the Bank, other than AHP or CIP credit products, within the previous 12 months, provided that such a minimum threshold for credit product usage established by a Bank shall not exceed 1.5 percent of a member's total assets, and all members shall have access to some amount of AHP subsidy, as determined by the Bank, regardless of whether they meet the Bank's minimum threshold for credit product usage.

Section 960.5(b)(10)(ii) of the current AHP regulation provides that "District eligibility requirements must apply equally to all members." *See id.* § 960.5(b)(10)(ii). The interim final rule revises this language to clarify that "[a]ny limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members." This requirement is intended to ensure that such limits are not structured or applied in a discriminatory manner.

D. Procedure for Approval of Applications for Funding—Section 960.6

1. Instructions for the Competitive Scoring Process—Section 960.6(b)(4)(ii) and (iii)

The interim final rule adds specific references to the targeting and subsidy-per-unit scoring criteria to clarify the cross references in §§ 960.6(b)(4)(ii) and (iii) of the current AHP regulation. *See id.* §§ 960.6(b)(4)(ii), (iii).

2. Scoring Criterion on Use of Donated Government-Owned or Other Properties—Section 960.6(b)(4)(iv)(A)

Under § 960.6(b)(4)(iv)(A) of the current AHP regulation, an application may receive points if it involves the creation of housing using a significant proportion of units or land donated or conveyed for a nominal price by the federal government or any agency or instrumentality thereof, or by any other party. *See id.* § 960.6(b)(4)(iv)(A). Questions have arisen as to what should be considered a "nominal price." The interim final rule adds language to § 960.6(b)(4)(iv)(A) clarifying that a nominal price is a small, negligible amount, most often one dollar, and may be accompanied by modest expenses related to the conveyance of the property.

3. Targeting Score for Owner-Occupied Projects—Section 960.6(b)(4)(iv)(C)(*2*)

The first sentence of § 960.6(b)(4)(iv)(C)(*2*) of the current AHP regulation provides that applications for owner-occupied projects shall be awarded points based on the percentage of units in the project to be provided to households with incomes at or below 80 percent of the median income for the area. *See id.* § 960.6(b)(4)(iv)(C)(*2*). The wording of this sentence creates the erroneous implication that an AHP owner-occupied project may contain one or more units for households with incomes above 80 percent of the median income for the area. Under the Act, AHP subsidies may be used only to finance owner-occupied housing for households with incomes at or below 80 percent of the median income for the area. *See* 12 U.S.C. 1430(j)(2)(A). Consequently, the interim final rule deletes the first sentence of § 960.6(b)(4)(iv)(C)(*2*) of the current AHP regulation. Applications for owner-occupied projects shall be awarded points based on a declining scale, with projects having the highest percentage of units targeted to households with the lowest percentage of median income for the area awarded the highest number of points.

4. Scoring Criterion for Housing for Homeless Households—Section 960.6 (b)(4)(iv)(D)

Under § 960.6(b)(4)(iv)(D) of the current AHP regulation, an application may receive points if it involves "[t]he creation of transitional housing, excluding overnight shelters, for homeless households permitting a minimum of six months occupancy, or the creation of rental housing reserving at least 20 percent of the units for homeless households." *Id.* § 960.6(b)(4)(iv)(D). The interim final rule restates this provision in order to clarify the language. No substantive change is intended. The revised language omits the express exclusion of overnight shelters contained in the current language, because it is clear that overnight shelters do not come within the category of housing permitting a minimum of six months occupancy.

5. Scoring Criterion for Economic Diversity—Section 960.6(b)(4)(iv)(F)(*8*)

Under § 960.6(b)(4)(iv)(F)(*8*) of the current AHP regulation, applications for AHP subsidy may receive points for meeting the "Economic Diversity" scoring criterion if they involve the creation of housing that either: (1) is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income neighborhoods, or (2) provides very low- or low- or moderate-income households with housing opportunities in areas where the median household income exceeds 80 percent of the median income for the area. *Id.* § 960.6(b)(4)(iv)(F)(*8*).

One of the Banks has pointed out an ambiguity in the second alternative described above, which makes that alternative unworkable. Specifically, assuming the word "area" refers to the same area each time it appears in the following phrase, it will always be the case that a project provides "housing opportunities in areas where the median household income exceeds 80 percent of the median income for the area," because the median income for an area, by definition, always exceeds 80 percent of the median income for that area.

The general intent of the second alternative requirement in the "Economic Diversity" criterion is to promote housing opportunities for very low- and low- or moderate-income households in areas that are wealthier relative to the surrounding areas. Therefore, the interim final rule revises the second alternative to provide that applications may receive points for "Economic Diversity" if they involve the creation of housing that provides very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income exceeds the median income for the larger area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located.

6. Scoring Criterion for Community Involvement—Section 960.6(b)(4)(iv)(F)(*10*)

Under § 960.6(b)(4)(iv)(F)(*10*) of the current AHP regulation, an application for AHP subsidy may receive points for meeting the "Community Involvement" scoring criterion if it shows demonstrated support for the AHP project by local government, community organizations, or individuals, other than as project sponsors, through the commitment by such entities or individuals of donated goods and services, or volunteer labor. *Id.* § 960.6 (b)(4)(iv)(F)(*10*). Several of the Banks have requested clarification of what constitutes a donated good or service from a local government. For example, local governments may provide support to housing projects in the form of property tax deferment or abatement, zoning changes or variances, infrastructure improvements, or fee waivers. Each of these forms of local government initiatives constitutes the kind of non-cash support for the project that merits scoring credit under the "Community Involvement" criterion. Therefore, the interim final rule specifies that these items and any similar types of non-cash support for a project by local government are to be

considered under the "Community Involvement" criterion.

E. Modifications of Applications—Sections 960.7 and 960.9

Sections 960.7 and 960.9 of the current AHP regulation govern modifications to approved AHP applications prior to and subsequent to project completion, respectively. *See id.* § § 960.7, 960.9. Each of these sections provides that as a threshold requirement for the approval of a modification, it must be shown that "there is or will be a change in the project that materially affects the facts under which the application was originally scored and approved under the Bank's competitive application program * * * ." *See id.* § § 960.7(a), 960.9. A number of the Banks have requested clarification of what constitutes a "material change" affecting the facts under which the application was originally scored and approved. Accordingly, the interim final rule revises § § 960.7 and 960.9 of the current AHP regulation by replacing the "material change" requirement with language clarifying that a modification is triggered where there is or will be a change to a project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time.

F. Use of Repaid Subsidies—Section 960.12(e)

Under §§ 960.12(a) and (b) of the current AHP regulation, which set forth the requirements for the recovery of AHP subsidy in cases of noncompliance with AHP requirements, interest on AHP subsidies must be recovered, where appropriate. *See id.* § 960.12(a), (b). Section 960.12(e) of the current AHP regulation provides that amounts repaid to a Bank as a result of noncompliance with AHP requirements shall be made available for other AHP-eligible projects. *See id.* § 960.12(e). The interim final rule clarifies that any recovered interest on such amounts also must be made available for other AHP-eligible projects.

G. Agreements—Section 960.13

1. Retention Agreements for Owner-Occupied Units Constructed or Rehabilitated With AHP-Assisted Financing—Sections 960.13(c)(4) and (d)(1)

Section 960.13(c)(4) of the current AHP regulation sets forth the required elements for retention agreements for AHP-assisted owner-occupied units financed by a loan from the proceeds of a subsidized advance. *See id.* § 960.13(c)(4). Specifically, it requires such units to be subject to a deed restriction or other legally enforceable retention agreement or mechanism requiring that: (1) the Bank or its designee is to be given notice of any sale or refinancing of the unit occurring prior to the end of the retention period; and (2) in the case of a refinancing prior to the end of the retention period, the full amount of the interest rate subsidy received by the owner, based on the pro rata portion of the interest rate subsidy imputed to the subsidized advance during the period the owner occupied the unit prior to refinancing, shall be repaid to the Bank from any net gain realized upon the refinancing, unless the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism for the remainder of the 5-year retention period. *See id.*

The retention agreement described in § 960.13(c)(4) is intended to be used in situations where a member uses the proceeds of a subsidized advance to provide permanent financing for the purchase of individual units. Because each permanent loan is funded by a subsidized advance, the permanent loan incorporates some level of interest rate subsidy that the household purchasing a unit benefits from during the term of the loan. Thus, there is a direct link between the subsidized advance and the permanent financing for the unit.

Section 960.13(c)(4) does not address the situation where a member uses a subsidized advance to finance a loan to a housing developer to build or rehabilitate owner-occupied units, which then are purchased by households with permanent financing from another source. In this situation, the purchaser essentially receives a pro rata portion of the interest rate subsidy in the construction or rehabilitation loan in the form of a lump-sum reduction in the purchase price resulting from the subsidized financing. The amount of the reduction in the purchase price can be determined by spreading the total value of the AHP subsidy across all the units financed by the construction or rehabilitation loan, and apportioning the subsidy on a pro rata basis based upon the relative prices of the units. In effect, the units are financed with AHP subsidy in a similar manner to units purchased by homebuyers who receive a direct subsidy in the form of downpayment assistance.

Under § 960.13(d)(1) of the current AHP regulation, where a purchaser uses a direct subsidy in the form of downpayment assistance to purchase a unit, the unit must be subject to a deed restriction or other legally enforceable retention agreement or mechanism requiring that: (1) The Bank or its designee is to be given notice of any sale or refinancing of the unit occurring prior to the end of the retention period; (2) in the case of a sale prior to the end of the retention period, an amount equal to a pro rata share of the direct subsidy, reduced for every year the seller owned the unit, shall be repaid to the Bank from any net gain realized upon the sale of the unit after deduction for sales expenses, unless the purchaser is a low- or moderate-income household; and (3) in the case of a refinancing prior to the end of the retention period, an amount equal to a pro rata share of the direct subsidy, reduced for every year the occupying household has owned the unit, shall be repaid to the Bank from any net gain realized upon the refinancing, unless the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism for the remainder of the retention period. *See id.* § 960.13(d)(1).

In sum, the AHP interest rate subsidy in a construction or rehabilitation loan can be viewed as the functional equivalent of a lump-sum reduction in the ultimate purchase prices of all the units financed by such loan. This is similar to the situation where units are purchased by homebuyers who receive a direct subsidy in the form of downpayment assistance. Therefore, the Finance Board proposes to add a new paragraph (c)(4)(ii) to § 960.13(c)(4) of the current AHP regulation requiring owner-occupied units financed by AHP-subsidized construction or rehabilitation loans to be subject to retention agreements similar to those required by § 960.13(d)(1) for owner-occupied units financed by a direct subsidy.

The interim final rule also revises the language of § 960.13(d)(1) to address situations parallel to those discussed above, but which involve an AHP direct subsidy. For example, in some situations, a housing developer may receive the proceeds of a direct subsidy to finance the construction or rehabilitation of owner-occupied units, which then are purchased by households with permanent financing from another source. As in the case where such units are constructed or rehabilitated with an AHP-subsidized loan, the purchasers of the units essentially receive a pro rata portion of the direct subsidy used to finance the construction or rehabilitation of the units, in the form of a lump-sum reduction in the units' purchase price. The interim final rule is intended to make clear that, although the purchasers

of the units do not directly receive the proceeds of the direct subsidy, the units must be subject to AHP retention/recapture mechanisms.

2. Termination of AHP Income-Eligibility and Affordability Restrictions After Foreclosure—Sections 960.13(c)(5)(iv) and (d)(2)(iv)

Under §§ 960.13(c)(5)(iv) and (d)(2)(iv) of the current AHP regulation, a retention agreement for an AHP rental project must incorporate a provision providing that the income-eligibility and affordability restrictions applicable to the project may terminate upon foreclosure or transfer in lieu of foreclosure. *See id.* §§ 960.13(c)(5)(iv), (d)(2)(iv). The purpose of this provision is to ensure that in cases where an AHP project goes into foreclosure, the AHP income-eligibility and affordability restrictions do not impede transfer of the project after foreclosure. As currently worded, §§ 960.13(c)(5)(iv) and (d)(2)(iv) could be read mistakenly to mean that upon the initiation of foreclosure, AHP income-eligibility and affordability restrictions automatically terminate. This is not the intended meaning of these provisions. Rather, the Finance Board intends that AHP income-eligibility and affordability restrictions incorporated in any lien on a project will be extinguished in the foreclosure process in connection with the repayment, if any, of AHP subsidy. Similarly, the Finance Board intends that any deed restriction on the project incorporating AHP income-eligibility and affordability requirements will be extinguished after foreclosure. Consequently, the interim final rule replaces the word "upon" in §§ 960.13(c)(5)(iv) and (d)(2)(iv) of the current AHP regulation with "after," so that the regulation provides for the termination of AHP income-eligibility and affordability restrictions after foreclosure.

In addition, the interim final rule deletes the reference to transfers in lieu of foreclosure, because transfers in lieu of foreclosure do not extinguish liens on the property transferred other than the lien of the transferee. Consequently, when an AHP project is transferred in lieu of foreclosure, the transferee must foreclose on the project to remove any remaining AHP lien and the income-eligibility and affordability restrictions incorporated in the lien. After such foreclosure, §§ 960.13(c)(5)(iv) and (d)(2)(iv) provide for the termination of the AHP income-eligibility and affordability restrictions. The interim final rule adds similar language to the provisions of the AHP regulation governing retention agreements for AHP-assisted owner-occupied projects. *See id.* §§ 960.13(c)(4), (d)(1).

III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 12 CFR Part 960

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements. Accordingly, the Finance Board hereby amends title 12, chapter IX, part 960, *Code of Federal Regulations*, as follows.

PART 960—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 960 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Amend § 960.1, by revising the definitions of "Affordable", "Low-or moderate-income household" paragraph (2)(ii), "Owner-occupied unit", "Rental project", and "Very low-income household" paragraph (2)(ii) to read as follows:

§ 960.1 Definitions.

* * * * *

Affordable means that the rent charged for a unit which is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 person per unit without a separate bedroom).

* * * * *

Low- or moderate-income household.

* * * * *

(2) * * *

(ii) *Housing with current occupants.* In the case of projects involving the purchase or rehabilitation of rental housing with current occupants, *low- or moderate-income household* means an occupying household with an income at or below 80 percent of the median income for the area at the time an application for AHP subsidy is submitted to the Bank.

* * * * *

Owner-occupied unit means a unit in an owner-occupied project. Housing with two to four dwelling units consisting of one owner-occupied unit and one or more rental units shall be considered a single owner-occupied unit.

Rental project means a project involving the purchase, construction, or rehabilitation of rental housing, including overnight shelters and transitional housing for homeless households and mutual housing, where at least 20 percent of the units in the project are occupied by and affordable for very low-income households.

* * * * *

Very low-income household.

* * * * *

(2) * * *

(ii) *Housing with current occupants.* In the case of projects involving the purchase or rehabilitation of rental housing with current occupants, *very low-income household* means an occupying household with an income at or below 50 percent of the median income for the area at the time an application for AHP subsidy is submitted to the Bank.

* * * * *

3. Section 960.4 is amended by revising paragraph (d) to read as follows:

§ 960.4 Advisory Councils.

* * * * *

(d) *Terms of Advisory Council members.* Advisory Council members shall be appointed by the Bank's board of directors to serve for terms of three years, and such terms shall be staggered to provide continuity in experience and service to the Advisory Council. An Advisory Council member appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor in office. No Advisory Council member may be appointed to serve for more than three consecutive terms. Appointments for the unexpired term of a predecessor shall not count toward the three-term limit.

* * * * *

4. Section 960.5 is amended by revising paragraphs (b)(9), (b)(10)(i)(C), and (b)(10)(ii) to read as follows:

§ 960.5 Minimum eligibility standards for AHP projects.

* * * * *

(b) * * *

(9) *Fair housing.* The project, as proposed, must comply with applicable federal and state laws on fair housing and housing accessibility, including, but not limited to, the Fair Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Architectural Barriers Act of 1969, and must demonstrate how the project will be affirmatively marketed.

(10) *District eligibility requirements.*

(i) * * *

(C) A requirement that the member submitting the application has made use of a minimum amount of a credit

product offered by the Bank, other than AHP or CIP credit products, within the previous 12 months, provided that such a minimum threshold for credit product usage established by a Bank shall not exceed 1.5 percent of a member's total assets, and all members shall have access to some amount of AHP subsidy, as determined by the Bank, regardless of whether they meet the Bank's minimum threshold for credit product usage.

(ii) Any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members.

5. Section 960.6 is amended by revising the second sentence of paragraph (b)(4)(ii), the fourth sentence of paragraph (b)(4)(iii), and paragraphs (b)(4)(iv)(A), (b)(4)(iv)(C)(*2*), (b)(4)(iv)(D), (b)(4)(iv)(F)(*8*), and (b)(4)(iv)(F)(*10*) to read as follows:

§ 960.6 Procedure for approval of applications for funding.

* * * * *

(b) * * *

(4) * * *

(ii) *Point allocations.* * * * The scoring criterion for targeting identified in paragraph (b)(4)(iv)(C) of this section shall be allocated at least 20 points.

* * *

(iii) *Satisfaction of scoring criteria.* * * * A Bank shall designate the targeting and subsidy-per-unit scoring criteria identified in paragraphs (b)(4)(iv)(C) and (H), respectively, of this section as variable-point criteria. * * *

(iv) * * *

(A) *Use of donated government-owned or other properties.* The creation of housing using a significant proportion of units or land donated or conveyed for a nominal price by the federal government or any agency or instrumentality thereof, or by any other party. For purposes of this paragraph, a nominal price is a small, negligible amount, most often one dollar, and may be accompanied by modest expenses related to the conveyance of the property for use by the project.

* * * * *

(C) * * *

(*2*) *Owner-occupied projects.* Applications for owner-occupied projects shall be awarded points based on a declining scale, with projects having the highest percentage of units targeted to households with the lowest percentage of median income for the area awarded the highest number of points.

* * * * *

(D) *Housing for homeless households.* The creation of rental housing reserving at least 20 percent of the units for homeless households, or the creation of transitional housing for homeless households permitting a minimum of six months occupancy.

* * * * *

(F) * * *

(*8*) *Economic diversity.* The creation of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income neighborhoods, or providing very low-or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income exceeds the median income for the larger surrounding area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located;

* * * * *

(*10*) *Community involvement.* Demonstrated support for the project by local government, other than as a project sponsor, in the form of property tax deferment or abatement, zoning changes or variances, infrastructure improvements, fee waivers, or other similar forms of non-cash assistance, or demonstrated support for the project by community organizations or individuals, other than as project sponsors, through the commitment by such entities or individuals of donated goods and services, or volunteer labor;

* * * * *

6. Section 960.7 is amended by revising paragraph (a) to read as follows:

§ 960.7 Modifications of applications prior to project completion.

(a) *Modification procedure.* If, prior to final disbursement of funds to a project from all funding sources, there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, a Bank, in its discretion, may approve in writing a modification to the terms of the approved application, provided that:

* * * * *

7. Section 960.9 is amended by revising the introductory text to read as follows:

§ 960.9 Modifications of applications after project completion.

Modification procedure. If, after final disbursement of funds to a project from all funding sources, there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, a Bank, in its discretion, may approve in writing a modification to the terms of the approved application, provided that:

* * * * *

8. Section 960.12 is amended by revising paragraph (e) to read as follows:

§ 960.12 Remedial actions for noncompliance.

* * * * *

(e) *Use of repaid subsidies.* Amounts repaid to a Bank pursuant to this section, including any interest, shall be made available for other AHP-eligible projects.

* * * * *

9. Section 960.13 is amended by revising paragraphs (c)(4), (c)(5)(iv), (d)(1), and (d)(2)(iv) to read as follows:

§ 960.13 Agreements.

* * * * *

(c) * * *

(4) *Retention agreements for owner-occupied units.* (i) *Units with AHP-assisted permanent financing.* The member shall ensure that an owner-occupied unit with permanent financing obtained from the proceeds of a subsidized advance is subject to a deed restriction or other legally enforceable retention agreement or mechanism requiring that:

(A) The Bank or its designee is to be given notice of any sale or refinancing of the unit occurring prior to the end of the retention period;

(B) In the case of a refinancing prior to the end of the retention period, the full amount of the interest rate subsidy received by the owner, based on the pro rata portion of the interest rate subsidy imputed to the subsidized advance during the period the owner occupied the unit prior to refinancing, shall be repaid to the Bank from any net gain realized upon the refinancing, unless the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism described in this paragraph (c)(4)(i); and

(C) The obligation to repay AHP subsidy to the Bank shall terminate after any foreclosure.

(ii) *Units constructed or rehabilitated with AHP-assisted financing.* The member shall ensure that an owner-occupied unit constructed or rehabilitated with a loan from the proceeds of a subsidized advance but which does not have permanent financing from the proceeds of a subsidized advance, is subject to a deed restriction or other legally enforceable retention agreement or mechanism requiring that:

(A) The Bank or its designee is to be given notice of any sale or refinancing of the unit occurring prior to the end of the retention period;

(B) In the case of a sale prior to the end of the retention period, an amount equal to the pro rata portion of the interest rate subsidy imputed to the subsidized advance that financed the construction or rehabilitation loan for the unit, reduced for every year the seller owned the unit, shall be repaid to the Bank from any net gain realized upon the sale of the unit after deduction for sales expenses, unless the purchaser is a low- or moderate-income household;

(C) In the case of a refinancing prior to the end of the retention period, an amount equal to the pro rata portion of the interest rate subsidy imputed to the subsidized advance that financed the construction or rehabilitation loan for the unit, reduced for every year the owner occupied the unit, shall be repaid to the Bank from any net gain realized upon the refinancing, unless the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism described in this paragraph (c)(4)(ii); and

(D) The obligation to repay AHP subsidy to the Bank shall terminate after any foreclosure.

(5) * * *

(iv) The income-eligibility and affordability restrictions applicable to the project terminate after any foreclosure.

* * * * *

(d) *Special provisions where members obtain direct subsidies.* (1) *Retention agreements for owner-occupied units.* The member shall ensure that an owner-occupied unit that is purchased, constructed, or rehabilitated with the proceeds of a direct subsidy is subject to a deed restriction or other legally enforceable retention agreement or mechanism requiring that:

(i) The Bank or its designee is to be given notice of any sale or refinancing of the unit occurring prior to the end of the retention period;

(ii) In the case of a sale prior to the end of the retention period, an amount equal to a pro rata share of the direct subsidy that financed the purchase, construction, or rehabilitation of the unit, reduced for every year the seller owned the unit, shall be repaid to the Bank from any net gain realized upon the sale of the unit after deduction for sales expenses, unless the purchaser is a low- or moderate-income household;

(iii) In the case of a refinancing prior to the end of the retention period, an amount equal to a pro rata share of the direct subsidy that financed the purchase, construction, or rehabilitation of the unit, reduced for every year the occupying household has owned the unit, shall be repaid to the Bank from any net gain realized upon the refinancing, unless the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism described in this paragraph (d)(1); and

(iv) The obligation to repay AHP subsidy to the Bank shall terminate after any foreclosure.

(2) * * *

(iv) The income-eligibility and affordability restrictions applicable to the project terminate after any foreclosure.

* * * * *

Dated: April 22, 1998.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 98–13428 Filed 5–19–98; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–13–AD; Amendment 39–10535; AD 98–11–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300, A310, and A300–600 series airplanes, that requires replacement of the non-return valves located in the engine fuel feed lines on the outer fuel tank with new return valves; and, for certain airplanes, replacement of the inner tank booster pump canisters with modified canisters. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent sticking of non-return valves located in the fuel system, which could result in an internal fuel transfer from the center tank to the inner or outer tank. Such a transfer of fuel could lead to fuel spillage overboard through the vent system, and consequent insufficient fuel for the airplane to reach its flight destination.

DATES: Effective June 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 24, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes was published in the **Federal Register** on March 27, 1998 (63 FR 14849). That action proposed to require replacement of the non-return valves located in the engine fuel feed lines on the outer fuel tank with new return valves; and, for certain airplanes, replacement of the inner tank booster pump canisters with modified canisters.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 103 Model A300, A310, and A300–600 series airplanes of U.S. registry will be affected by this AD.

The FAA estimates that the required replacement of the non-return valves will take approximately 66 work hours

per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this action required by this AD on U.S. operators is estimated to be $407,880, or $3,960 per airplane.

The FAA estimates that the required replacement of the inner fuel tank booster pump canisters will take approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this action required by this AD on U.S. operators is estimated to be $74,160, or $720 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–08 Airbus Industrie: Amendment 39–10535. Docket 98–NM–13–AD.

Applicability: Model A300, A310, and A300–600 series airplanes; on which Airbus Modification 8928 or 6094 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent sticking of non-return valves located in the fuel system, which could result in fuel spillage overboard and consequent insufficient fuel for the airplane to reach its flight destination, accomplish the following:

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Modification 8928 has not been installed: Replace the non-return valves located in the engine fuel feed lines on the outer fuel tank with new non-return valves, in accordance with Airbus Service Bulletin A300–28–0063, Revision 01 (for Model A300 series airplanes); Airbus Service Bulletin A310–28–2053, Revision 01 (for Model A310 series airplanes); or Airbus Service Bulletin A300–28–6031, Revision 01 (for Model A300–600 series airplanes); all dated January 15, 1997; as applicable.

(2) For extended range twin-engine operations (ETOPS) airplanes, or airplanes equipped with auxiliary tanks; on which Airbus Modification 6094 has not been installed: Replace the inner tank booster pump canisters with modified canisters, in accordance with Airbus Service Bulletin A300–28–0071 (for Model A300 series airplanes); A310–28–2124 (for Model A310 series airplanes); or A300–28–6054 (for Model A300–600 series airplanes); all dated January 15, 1997; as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with the following Airbus Service Bulletins, as applicable:

- A300–28–0063, Revision 01, dated January 15, 1997;
- A310–28–2053, Revision 01, dated January 15, 1997;
- A300–28–6031, Revision 01, dated January 15, 1997;
- A300–28–0071, dated January 15, 1997;
- A310–28–2124, dated January 15, 1997; and
- A300–28–6054, dated January 15, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–082–215(B), dated March 12, 1997.

(e) This amendment becomes effective on June 24, 1998.

Issued in Renton, Washington, on May 13, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13292 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–34–AD; Amendment 39–10536; AD 98–11–09]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes, that requires a one-time visual inspection of the pilot valve harness tubes for bulges and cracks, cleaning the tubes, applying sealant at the tube end opening, and replacing any discrepant tubes with serviceable tubes. This amendment also requires replacement of the pilot valve harness tubes and vent valve tubes with new tubes having improved anti-corrosion protection. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent cracking of the pilot valve harness tubes, which could allow fuel to enter the conduit and leak overboard; this condition could result in increased risk of a fuel tank explosion and fire.

DATES: Effective June 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 24, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Capezzuto, Aerospace Engineer, ACE–115A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes was published in the Federal Register on March 27, 1998 (63 FR 14853). That action proposed to require a one-time visual inspection of the pilot valve harness tubes for bulges and cracks, cleaning the tubes, applying sealant at the tube end opening, and replacing any discrepant tubes with serviceable tubes. That action also proposed to require replacement of the pilot valve harness tubes and vent valve tubes with new tubes having improved anti-corrosion protection.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

It will take approximately 8 work hours per airplane to accomplish the required replacement, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $7,200, or $480 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–09 Empresa Brasileira De Aeronautica S.A. (Embraer): Amendment 39–10536. Docket 98–NM–34–AD.

Applicability: Model EMB–145 series airplanes; as listed in EMBRAER Service Bulletin 145–28–0005, dated May 23, 1997, and EMBRAER Service Bulletin 145–28–0006, dated October 22, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the pilot valve harness tubes, which could allow fuel to enter the conduit and leak overboard, and result in increased risk of a fuel tank explosion and fire, accomplish the following:

(a) Within 30 calendar days or 200 hours time-in-service after the effective date of this AD, whichever occurs later, perform a one-time visual inspection of the pilot valve harness tubes (conduit) for bulges and cracks, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0005, dated May 23, 1997.

(1) If no discrepancy is found in the harness tube, prior to further flight, clean the tube and apply sealant at the tube end opening in accordance with the service bulletin.

(2) If any crack or bulge is found in the harness tube, prior to further flight, replace the tube with a new or serviceable tube, clean the tube, and apply sealant at the tube end opening in accordance with the service bulletin.

(b) Within 4,000 hours time-in-service after the effective date of this AD, replace the existing pilot valve harness tubes and vent valve tubes with new tubes, in accordance with EMBRAER Service Bulletin 145–28–0006, dated October 22, 1997.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with EMBRAER Service Bulletin 145–28–0005, dated May 23, 1997, and EMBRAER Service Bulletin 145–28–0006, dated October 22, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 97–07–02R1, dated January 15, 1998.

(f) This amendment becomes effective on June 24, 1998.

Issued in Renton, Washington, on May 13, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13313 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 216, and 250

RIN 1010–AC23

Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rulemaking; corrections.

SUMMARY: MMS published in the **Federal Register** of May 12, 1998, a final rule commonly known as the "GVS rule" that updated production measurement, surface commingling, and security requirements and made other amendments. The final rule was to become effective on July 13, 1998. This document corrects the effective date and makes two other technical corrections to the final rule. The rule will become effective on June 29, 1998.

EFFECTIVE DATES: The rule published on May 12, 1998 (63 FR 26362) is effective May 12, 1998.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, Engineering and Operations Division at (703) 787–1600.

SUPPLEMENTARY INFORMATION: MMS needs the correction to the effective date of the GVS rule to ensure that the revised title 30 of the Code of Federal Regulations slated for publication on July 1, 1998 (i.e., the bound volume) includes the new numbering system in the final rule entitled, "Redesignation of 30 CFR Part 250" which follows the GVS final rule. We are also making two corrections: (1) A paragraph numbering correction and (2) a correction to specify a regulatory citation. In the final rule FR Doc. 98–3533, published in the issue of Tuesday, May 12, 1998, make the following corrections.

Corrections

1. On page 26362 in the preamble the effective date is corrected to read as follows:

[**EFFECTIVE DATES:** June 29, 1998]. The Director of the Federal Register has approved the incorporation by reference of certain publications listed in the regulations as of June 29, 1998.

2. On page 26367 in the third column in § 250.1(a) on the third line "paragraph (d)" is corrected to read "paragraph (e)."

3. On page 26372 in the third column in § 250.182(g) at the end of the introductory text, "30 CFR 250, Subpart A:" is corrected to read "30 CFR 250.1:"

Dated: May 13, 1998.

E.P. Danenberger,

Chief, Engineering and Operations Divisions.

[FR Doc. 98–13275 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 Part 199

RIN 0720–AA43

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Waiver of Collection of Payments Due From Certain Persons Unaware of Loss of CHAMPUS Eligibility

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule authorizes the waiver of collection of payments due from individuals who lost their CHAMPUS eligibility when they became eligible for Medicare Part A, due to disability or end stage renal disease.

EFFECTIVE DATE: This final rule is effective June 19, 1998.

ADDRESSES: TRICARE Management Activity, 1B657 Pentagon, Washington, DC 20301–1200.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Speight, TRICARE Management Activity, (703) 697–8975.

SUPPLEMENTARY INFORMATION:

I. Overview of the Final Rule

Formerly, under Title 10 United States Code, Section 1086(d), a beneficiary lost eligibility for CHAMPUS when he or she became eligible for Medicare Part A, including when eligibility was due to disability or

end stage renal disease. Payments made after the beneficiary attained eligibility for Medicare Part A were erroneous payments and subject to collection under the Federal Claims Collection Act. In 1991, Congress amended 10 U.S.C. 1086(d) to provide that those persons eligible for Medicare by reason of disability or end stage renal disease who are enrolled in the supplementary medical insurance program under Medicare Part B retain eligibility for CHAMPUS, secondary to Medicare coverage. Section 743 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, provides authority, effective February 10, 1996, to waive the collection of erroneous civilian health care benefits from a person under age 65 who lost eligibility for civilian care due to eligibility for Medicare as a result of disability or end stage renal disease. The period of this waiver authority begins January 1, 1967, and ends on the later of July 1, 1996, or the termination date of any special enrollment Medicare period established by law for such person.

Since most payments made under CHAMPUS are paid directly to participating providers of care, and not to the beneficiary, the rule also provides for the waiver of collection of such payments made to participating providers. These providers are paid based on a contractual agreement of benefits by the beneficiaries. If the claim for these benefits cannot be paid due to ineligibility of the beneficiary, the beneficiary indebtedness to the provider would remain. Thus, the authority to relieve disabled CHAMPUS beneficiaries from the indebtedness arising from these erroneous payments does not depend upon who actually received the payments.

II. Public Comments

The proposed rule was published on December 4, 1997 (62 FR 64191). We did not receive any public comments.

III. Rulemaking Procedures

Executive Order 12866 requires that a regulatory impact analysis be performed on any significant regulatory action, defined as one which would have an annual effect on the economy of $100 million, or have other significant effects.

The Regulatory Flexibility Act requires that each federal agency prepare a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. This rule is not significant regulatory action under E.O. 12886, nor would it have a significant impact on small entities. The changes set forth in the final rule are minor revisions to the existing regulation. In addition, this final rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR Part 199 is amended a follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. Chapter 55.

2. Section 199.11 is amended as follows:

a. By revising paragraphs (b)(1) and (g) introductory heading.

b. By redesignating paragraphs (g)(3), (g)(4), (g)(5), (g)(6), (g)(7), (g)(8) and (g)(9) as (g)(4), (g)(5), (g)(6), (g)(7), (g)(8), (g)(9) and (g)(10).

c. By adding paragraph (g)(3) and revising newly redesignated paragraph (g)(10).

§ 199.11 Overpayments recovery.

* * * * *

(b) * * *

(1) *Federal statutory authority.* The Federal Claims Collection Act provides the basic authority under which claims may be asserted pursuant to this section. It is implemented by joint regulations issued by the Department of Justice and the General Accounting Office, 4 CFR parts 101–105. Thereunder, the heads of federal agencies or their designees are required to attempt collection of all claims of the United States for money or property arising out of the activities of their respective agencies. These officials may, with respect to claims that do not exceed $20,000, exclusive of interest, and in conformity with the standards promulgated in the joint regulations, compromise, suspend, or terminate collection action on such claims. Section 743 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) authorizes the waiver (see paragraph (g)(3) of this section) of collection of overpayments otherwise due from a person after the termination of the person's CHAMPUS eligibility, because the person became eligible for Medicare Part A by reason of disability or end-stage renal disease.

* * * * *

(g) *Compromise, waiver, suspension or termination of collection actions arising under the Federal Claims Collection Act.* * * *

* * * * *

(3) *Waiver of collection of erroneous payments due from certain persons unaware of loss of CHAMPUS eligibility.*

(i) The Director, OCHAMPUS may waive collection of payments otherwise due from certain persons as a result of health benefits received under this part after the termination of the person's eligibility for such benefits. Waiver may be granted if collection of such payments would be against equity and good conscience and not in the best interest of the United States. These criteria are met by a finding that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the person who received the erroneous payment or any other person having an interest in obtaining such waiver.

(ii) *Persons eligible for waiver.* The following persons are eligible for waiver:

(A) A person who:

(1) Is entitled to Medicare Part A by reason of disability or end stage renal disease;

(2) In the absence of such entitlement, would have been eligible for CHAMPUS under 10 U.S.C. 1086; and

(3) At the time of the receipt of such benefits, was under age 65.

(B) Any participating provider of care who received direct payment for care provided to a person described in paragraph (g)(ii)(A) of this section pursuant to an assignment of benefits from such person.

(iii) The authority to waive collection of payments under this section shall apply with regard to health benefits provided during the period beginning January 1, 1967, and ending on the later of: the termination date of any special enrollment period for Medicare Part B provided specifically for such persons; or July 1, 1996.

* * * * *

(10) *Effect of compromise, waiver, suspension or termination of collection action.* Pursuant to the Internal Revenue Code, 26 U.S.C. 6041, compromises and terminations of undisputed debts not discharged in a Title 11 bankruptcy case and totaling $600 or more for the year will be reported to the Internal Revenue Service in the manner prescribed for inclusion in the debtor's gross income for that year. Any action taken under paragraph (g) of this section regarding the compromise of a federal claim, or waiver or suspension or termination of collection action on a federal claim is not an initial determination for purposes of the appeal procedures § 199.10.

* * * * *

Dated: May 14, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13377 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1–95–002]

RIN 2115–AE47

Drawbridge Operation Regulations; New Rochelle Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the Glen Island Bridge, mile 0.8, across New Rochelle Harbor in New Rochelle. The change requires two hours advance notice for openings between the hours of 12 midnight and 6 a.m. from May 1 through October 31, and twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November 1 through April 30. This change was requested by the Westchester County Department of Parks because of the few requests for bridge openings during these time periods. This action relieves the bridge owner of the burden of having personnel constantly available to open the bridge and should provide for the reasonable needs of navigation. This change to the regulations will also require the bridge owner to install and maintain clearance gauges.

DATES: This final rule is effective June 19, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, Battery Park Bldg., New York, New York 10004–5073, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7069.

FOR FURTHER INFORMATION CONTACT: Mr. J. Arca, project officer, First Coast Guard District, Bridge Branch. The telephone number is (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 27, 1995, the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; New Rochelle Harbor, NY" in the **Federal Register** (60 FR 5343). Ninety-eight comments expressing opposition to the proposal were received. No public hearing was requested and none was held. Following revision of the regulation request by Westchester County, the Coast Guard, on May 13, 1996, published a supplemental notice of proposed rulemaking entitled "Drawbridge Operation Regulations; New Rochelle Harbor, New York" in the **Federal Register** (61 FR 22002). The Coast Guard received sixteen letters commenting on this supplemental notice of proposed rulemaking. No public hearing was requested, and none was held.

Background

The Glen Island Bridge has a vertical clearance of 13 feet above Mean High Water (MHW) and 20 feet above Mean Law Water (MLW) in the closed position. The bridge is presently required to open on signal. The new regulations will provide openings on signal with two hours advance notice between the hours of 12 midnight and 6 a.m. from May 1 through October 31, and twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November 1 through April 30.

From May 1994, through October 1994, there were thirty two bridge openings between midnight and 6 a.m. From November 1994, through April 1995, there ware twenty openings between 8 p.m. and 8 a.m. The existing regulations are being changed to provide Westchester County relief from having an operator in constant attendance at the bridge since there is limited demand for bridge openings during the regulated periods.

Discussion of Comments and Changes

Sixteen comments were received in response to the supplemental notice of proposed rulemaking. One expressed no objection; one comment from Westchester County Department of Parks endorsed the proposal; fourteen comments objected to the proposal. Of those fourteen, eight objected because of the misconception that the bridge will not open for marine traffic and they will be forced to use the back for channel. The back channel is considered dangerous for nighttime passage due to the shallowness and narrowness of the channel and the lack of lighted aids to navigation. This concern is dispelled since the bridge will open when needed except an advance notice for openings will be required. Additionally, the waterway provides sufficient area for mariners to anchor nearby while waiting for an opening. Three objections expressed concern that approval of the request would lead to further encroachment on the full time operating hours of the bridge. An approved request for change to operating regulations is not a valid basis for subsequent approval of additional changes. In the event that further changes are sought, if warranted the Coast Guard will reinitiate notice and comment rulemaking. All requests to change regulations are examined in light of the reasonable needs of navigation. One objection expressed concern that vessel appurtenances would have to be lowered. 33 CFR 117.11(a) requires that, "No vessel owner or operator shall (a) Signal a drawbridge to open if the vertical clearance is sufficient to allow the vessel, after all lowerable non-structural vessel appurtenances that are not essential to navigation have been lowered, to safely pass under the drawbridge in the closed position." Only those vessel appurtenances that are non-structural and non-essential to navigation have to be lowered in accordance with the law. One commentor requested installation of a marine radio at the bridge. Installation of marine radio is unnecessary since the waterway is strictly recreational and the majority of bridge openings are for sailboats most of which are not equipped with marine radio. Installation of a marine radio will not enhance marine safety and would be an unnecessary economic burden on the bridge owner. The final objection, from the Westchester County Board of Legislators, included a legislative resolution urging denial of the requested change by the Coast Guard based on the deterrent to criminal activity in the adjacent park offered by constant attendance on the bridge. Marine safety concerns were cited as well. Because of opposing views on the regulation change by two elements of Westchester County government, the Coast Guard requested, by letter dated February 26, 1997, that the County Executive reiterate the County's position. By letter March 20, 1997, the Commissioner of the Westchester County Department of Parks, on behalf of the County Executive indicated the County's continued desire to seek the proposed regulation change. A telephone conversation with Parks Commissioner DeSantis on 31 March 1997 provided further confirmation.

The infrequent requests for bridge openings during the regulated period and the ability to obtain bridge openings by providing advance notice makes the requested regulation change reasonable.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs

and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This final rule adopts the operating hours which the Coast Guard believes to be appropriate since the recreational boaters that use this waterway seldom transit during night time and thus, a requirement for the bridge operator to be present during all time periods, is unwarranted. The Coast Guard believes this final rule achieves the requirement of balancing the navigational rights of recreational boaters and the needs of land based transportation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdiction with populations of less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under Figure 2–1, paragraph 32(e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Add § 117.082 to read as follows:

§ 117.802 New Rochelle Harbor.

(a) The draw of the Glen Island Bridge, mile 0.8, at New Rochelle, New York, shall open on signal, except as follows:

(1) two hours advance notice shall be given for openings from 12 midnight to 6 a.m. from May 1st through October 31st by calling the number posted at the bridge.

(2) twenty-four hours advance notice shall be given for openings from 8 p.m. to 8 a.m. from November 1st through April 30th by calling the number posted at the bridge.

(b) The owner of the bridge shall provide, and keep in good legible condition, clearance gauges with figures not less than twelve (12) inches high designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

Dated: May 6, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 98–13401 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP SAN JUAN 97–045]

RIN 2115–AA97

SZ; San Juan Harbor, San Juan, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent moving safety zone around Liquefied Petroleum Gas (LPG) ships transiting the waters of San Juan Harbor, San Juan, Puerto Rico. Due to their highly volatile cargoes, size, draft, and the local channel restrictions, LPG ships require use of the center of these channels for safe navigation These regulations are necessary for the protection of life and property on the navigable waters of the Untied States.

DATES: This rule becomes effective June 19, 1998.

FOR FURTHER INFORMATION CONTACT: LT Christopher K. Palmer, project officer, USCG Marine Safety Office San Juan, (787) 729–6800 x320.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 6, 1998, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (63 FR 6142). One comment was received during the comment period.

Background and Purpose

LPG vessels make the three-hour transit through the waters of San Juan Harbor on the average of once a week. Historically, the Coast Guard has established a temporary moving safety zone each time an LPG ship transits the waters of San Juan Harbor. These vessels use the Bar, Anegado, and Army Terminal Channels enroute to either the Gulf Refinery Oil dock or the Catano Oil dock. Temporary moving safety zones are established for each transit because of the significant risks LPG ships present with their highly volatile cargoes, their size, draft, and the local channel restrictions which require that LPGs use the center of the channel for safe navigation. Given the recurring nature of these port calls, the dangers associated with LPG ships, and the need to provide for the safety of live on navigable waters during the arrival and departure of LPG ships, the Coast Guard is establishing a permanent moving safety zone around these vessels during their arrival and departure from San Juan Harbor, San Juan, Puerto Rico.

The safety zone will be established in an area one half mile around LPG ships entering or departing San Juan Harbor. Vessels will be prohibited from entering the safety zone while the vessel is transiting. The safety zone will be activated when the vessel is one mile north of San Juan Harbor #1 Sea Buoy, and will cease once the vessel is moored at either the Gulf Refinery Oil dock or the Catano Oil dock. The Coast Guard will assign a patrol, issue a Broadcast

and Local Notice to Mariners, and advise the San Juan Port Control of the established safety zone in advance of the LPG ships' arrival and departure.

Discussions of Comments

The Coast Guard received one comment suggesting that the regulations should require a tug escort for all LPG vessels entering and exiting San Juan Harbor. The Coast Guard considered this comment and determined that it is not always necessary to assign an escort tug. Therefore, the final rule does not contain this requirement. The Coast Guard will continue to evaluate each LPG vessel arrival and departure on a case by case basis for the necessity of requiring a tug escort.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) 44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the limited duration of the moving safety zone, the extensive advisories that will be made to the affected maritime community and the minimal restrictions the regulations will place on vessel traffic. These regulations will be in effect for a total of approximately three hours per port call for these vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities, as the regulations would only be in effect approximately three hours one day each week in a limited area of San Juan Harbor.

Collection of Information.

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment.

The Coast Guard has considered the environmental impact of this rule and has concluded under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security Measures, Waterways.

Final Regulations:

In consideration of the foregoing, the Coast Guard amends subpart C of part 165 of Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.046 and 160.5.

2. A new § 165.754 is added to read as follows:

§ 165.754 Safety Zone: San Juan Harbor, San Juan, PR

(a) *Regulated Area.* A moving safety zone is established in the following area:

(1) The waters around Liquefied Petroleum Gas ships entering San Juan Harbor in an area one half mile around each vessel, beginning one mile north of the San Juan Harbor #1 Sea Buoy, in approximate position 18–29.3N, 66–07.6W and continuing until the vessel is safely moored at either the Gulf Refinery Oil dock or the Catano Oil dock in approximate position 18–25.8N, 66–06.5W. All coordinates referenced use datum: NAD 83.

(2) The waters around Liquefied Petroleum Gas ships departing San Juan Harbor in an area one half mile around each vessel beginning at either the Gulf Refinery Oil dock or Catano Oil dock in approximate position 18–25.8N, 66–06.5W when the vessel gets underway, and continuing until the stern passes the San Juan Harbor #1 Sea Buoy, in approximate position 18–28.3N, 66–07.6W. All coordinates referenced use datum: NAD 83.

(b) *Regulations.* (1) No person or vessel may enter, transit or remain in the safety zone unless authorized by the Captain of the Port, San Juan, Puerto Rico, or a designated Coast Guard commissioned, warrant, or petty officer.

(2) Vessels encountering emergencies which require transit through the moving safety zone should contact the Coast Guard patrol craft on VHF Channel 16. In the event of an emergency, the Coast Guard patrol craft may authorize a vessel to transit through the safety zone with a Coast Guard designated escort.

(3) The Captain of the Port and the Duty Officer at Marine Safety Office, San Juan, Puerto Rico, can be contacted at telephone number (787) 729–6800 ext. 140. The Coast Guard Patrol Commander enforcing the safety zone can be contacted on VHF–FM channels 16 and 22A.

(4) The Marine Safety Office San Juan will notify the marine community of periods during which these safety zones will be in effect by providing advance notice of scheduled arrivals and departures of Liquefied Petroleum Gas vessels via a marine broadcast Notice to Mariners.

(5) Should the actual time of entry of the Liquefied Petroleum Gas vessel vary more than one half hour from the scheduled time stated in the broadcast Notice to Mariners, the person directing the movement of the Liquefied Petroleum Gas vessel shall obtain permission from Captain of the Port San Juan before commencing the transit.

(6) All persons and vessels shall comply with the instructions of on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, or petty officers of the U.S. Coast Guard. Coast Guard Auxiliary and local or state officials may be present to inform vessel operators of the requirements of this section, and other applicable laws.

Dated: May 11, 1998.

B.M. Salerno,

Commander, U.S. Coast Guard, Captain of the Port, San Juan, PR.

[FR Doc. 98–13399 Filed 5–19–98; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–35

RIN 3090–AG03

Relocation of FIRMR Provisions Relating to the Use of Government Telephone Systems and GSA Services and Assistance

AGENCY: Office of Governmentwide Policy; GSA.

ACTION: Interim rule.

SUMMARY: The General Services Administration (GSA) is extending Federal Property Management Regulations provisions regarding Management and Use of Telecommunications Resources.

DATES: Effective date: This rule was effective August 8, 1996. Expiration date: August 8, 1999.

FOR FURTHER INFORMATION CONTACT: David R. Middledorf, Office of Governmentwide Policy, telephone 202–501–1551.

SUPPLEMENTARY INFORMATION: FPMR interim F1 was published in the **Federal Register** on August 7, 1996, 61 FR 41003. The expiration date of the interim rule is August 8, 1998. This supplement extends the expiration date until August 8, 1999.

List of Subjects in 41 CFR Part 101–35

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management, Information technology. Therefore, the expiration date for interim rule F–1 published at 61 FR 41003, August 7, 1996, is extended until August 8, 1999.

Dated: May 12, 1998.

David Barram,

Administrator of General Services.

[FR Doc. 98–13388 Filed 5–19–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

[DFARS Case 98–D012]

Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide policy and procedures for the use of the electronic funds transfer (EFT) method of contract payment when the payment office uses the central contractor registration (CCR) database as its source of EFT information. This rule eliminates requirements for duplicate submissions of EFT information by DoD contractors.

DATES: Effective date: June 1, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before July 20, 1998, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra G. Haberlin, PDUSD(A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 98–D012 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98–D012 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberline, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule amending the Federal Acquisition Regulation (FAR) was published in the **Federal Register** on August 29, 1996 (61 FR 45770). The rule added a new FAR Subpart 32.11, Electronic Funds Transfer, which provides policy and procedures for Government payment by EFT. The rule also added two contract clauses: FAR 52.232–33, Mandatory Information for Electronic Funds Transfer Payment, and FAR 52.232–34, Optional Information for Electronic Funds Transfer Payment. FAR 52.232–33 requires the contractor to provide EFT information as a condition of payment under the contract. When FAR 52.232–33 will not be included in a contract, FAR 52.232–34 is used if EFT may become a viable method of payment during the period of contract performance, and the clause becomes effective if the Government and the contractor agree to commence EFT. Both clauses require the contractor to provide EFT information to the cognizant payment office for each contract awarded to the contractor.

A final DFARS rule was published in the **Federal Register** on March 31, 1998 (63 FR 15316). The rule added DFARS Subpart 204.73 and a contract clause at DFARS 252.204–7004, Required Central Contractor Registration, and requires contractor registration in a DoD CCR database prior to award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement, unless the award results from a solicitation issued on or before May 31, 1998. The rule requires that contractors register on a one-time basis, and confirm on an annual basis that their CCR registration is accurate and complete. As part of the registration process, contractors are required to furnish their EFT payment information into the CCR database.

This interim DFARs rule eliminates conflicting and administratively burdensome requirements for contractors to provide EFT information to the payment office for each contract awarded (in accordance with FAR 52.232–33 or FAR 52.232–34), and into the CCR database (in accordance with DFARS 252.204–7004). This rule prescribes the use of a new clause at DFARS 252.232–7009, Payment by Electronic Funds Transfer (CCR), instead of either EFT FAR clause, for contracts that include the clause at 252.204–7004 and that will be paid by EFT. DFARS 252.232–7009 is especially tailored for those DoD contractors that are required to register in the CCR database.

B. Regulatory Flexibility Act

The interim rule may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An Initial Regulatory Flexibility Analysis has been performed and is summarized as follows:

The objective of the rule is to revise current procedures for the use of electronic funds transfer in order to accommodate the DoD requirement for contractors to register into a CCR database; thus, eliminating conflicting and administratively burdensome requirements for both large and small contractors.

FAR 52.232–33 and FAR 52.232–34 require, for each contract awarded, the contractor to provide EFT information to the cognizant payment office. In addition, DFARS 204.7302 requires contractor registration in a DoD CCR database prior to award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement, unless the award results from a solicitation issued on or before May 31, 1998. As part of the registration process, contractors are required to furnish their EFT information. Therefore, Contractors are required to

furnish EFT information into the CCR database, and to the cognizant payment office for each contract awarded to them.

This interim DFARS rule applies to small entities that are required to register in the DoD CCR database in accordance with DFARS 252.204–7004, and that are required to be paid by EFT in accordance with FAR 52.232–33 or FAR 52.232–34. The rule does not apply to small entities that are exempted from CCR or exempted from the EFT method of payment. This rule reduces the burden on small entities by eliminating the requirement for DoD contractors to furnish EFT information to the payment office for each contract. To date, no supporting data has been collected; therefore, there is no available estimate of the number of small entities that will be subject to the rule.

The interim rule decreases information collection requirements by requiring the use of DFARS 252.232–7009 instead of the FAR clauses and their associated reporting requirements. The new DFARS clause only applies to contractors that are required to register in the CCR database. The requirement to register in the database already is prescribed at DFARS 204.7302.

This rule has a beneficial economic impact on small entities by eliminating conflicting and administratively burdensome requirements for submission of EFT information. There are no significant alternatives that would have a more beneficial economic impact on small entities and at the same time comply with 31 U.S.C. 3332, as amended by Subsection 31001(x) of Public Law 104–134, that "* * * all Federal payments to a recipient who becomes eligible for that type of payment * * * shall be made by electronic funds transfer."

A copy of the Initial Regulatory Flexibility Analysis may be obtained from the address specified herein. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite DFARS Case 98–D012.

C. Paperwork Reduction Act

The interim rule decreases the information collection requirement currently approved under Office of Management and Budget (OMB) Control Number 9000–0144. The decrease results from the rule removing the requirement to use the clause at FAR 52.232–33 or FAR 52.232–34, when a contract includes the clause at DFARS 252.204–7004, Required Central Contractor Registration, and will be paid by EFT. OMB approved the information collection requirement to submit EFT information in the CCR database on November 20, 1997, under OMB Control Number 0704–0400, which expires on November 30, 2000.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This action is necessary to expeditiously eliminate conflicting and administratively burdensome requirements for DoD contractors. Effective June 1, 1998, DoD contractors are required to register in a CCR database. The contractor payment information required by the clauses at FAR 52.232–33 and 52.232–34 duplicates information required for registration in the CCR database. This interim rule prescribes a DFARS clause for use in place of the FAR clauses, to eliminate requirements for duplicate submissions of information by DoD contractors. However, comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 232—CONTRACT FINANCING

2. Subpart 232.11 is added to read as follows:

Subpart 232.11—Electronic Funds Transfer

Sec.
232.1101 Policy.
232.1103 Contract clause.

232.1101 Policy.

(a) If the payment office is not capable of making payment by electronic funds transfer (EFT), the payment office is relieved of the requirement to pay by EFT is DoD complies with 31 CFR 208.3, which requires written notice and submittal of an implication plan to the Department of the Treasury, Financial Management Service.

232.1103 Contract clause.

If the solicitation or contract includes the clause at 252.204–7004, Required Central Contractor Registration, and payment under the contract will be made by electronic funds transfer, use the clause at 252.232–7009, Payment by Electronic Funds Transfer (CCR), instead of the clause at FAR 52.232–33, Mandatory Information for Electronic Funds Transfer Payment, or the clause at FAR 52.232–34, Optional Information for Electronic Funds Transfer Payment.

PART 252—SOLICITAITON PROVISIONS AND CONTRACT CLAUSES

3. Section 252.232–7009 is added to read as follows:

252.232–7009 Payment by Electronic Funds Transfer (CCR).

As prescribed in 232.1103, use the following clause:

Payment by Electronic Funds Transfer (CCR) (JUN 1998)

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of (b) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either (i) accept payment by check or some other mutually agreeable method of payment, or (ii) request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (e) of this clause).

(b) *Alternative contractor certification.* If the Contractor certifies in writing, as part of its registration with the Central Contractor Registration (CCR) database that it does not have an account with a financial institution and does not have an authorized payment agent, payment shall be made by check to the remittance address contained in the CCR database. All contractor certifications will expire on January 1, 1999.

(c) *Contractor's EFT information.* Except as provided in paragraph (b) of this clause, the Government shall make payment to the Contractor using the EFT information contained in the CCR database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(d) *Mechanisms for EFT payment.* The Government may make payment by EFT through either an Automated Clearing House subject to the banking laws of the United States or the Federal Reserve Wire Transfer System.

(e) *Suspension of payment.* If the Contractor's EFT information in the CCR

database is incorrect and the Contractor has not certified under paragraph (b) of this clause, the Government need not make payment to the Contractor under this contract until correct EFT information or certification is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(f) *Contractor EFT arrangements.* If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(g) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government failed to use the Contractor's EFT information in the correct manner, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (e) of this clause shall apply.

(h) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(i) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee register in the CCR database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (e) of this clause.

(j) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(k) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Contractor has certified in accordance with paragraph (b) of this clause or if the Government otherwise makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of clause)

[FR Doc. 98–13387 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 63, No. 97
Wednesday, May 20, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–89–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes Powered by Pratt and Whitney PW4000 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes. This proposal would require repetitive inspections to detect improper installation and fatigue damage of the end cap of the forward engine mount, and replacement of the forward engine mount end cap assembly with an improved end cap assembly. Such replacement, when accomplished, would terminate the repetitive inspections. This proposal is prompted by a report of fatigue cracking of end cap bolts, caused by improper installation. Subsequent investigation revealed that properly installed end caps also are subject to early fatigue cracking. The actions specified by the proposed AD are intended to prevent failure of the end cap assembly, which could lead to separation of the engine from the airplane in the event of a primary thrust linkage failure.

DATES: Comments must be received by July 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–89–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of broken end cap bolts of the forward engine mount, which were found during overhaul of a Pratt & Whitney PW4000 engine that had been installed on a Boeing Model 747–400 series airplane. Investigation revealed that the end cap had been installed backwards. A properly installed end cap does not normally react any significant engine thrust loads; it is intended to provide a secondary load path if the primary thrust linkage fails. An end cap installed backwards will react the engine thrust loads along with the primary thrust linkage, which will result in premature fatigue failure of the end cap or end cap bolts. In addition, fatigue analysis and testing have confirmed that a properly installed end cap assembly would fail in a low number of flight cycles after a primary thrust linkage failure. Failure of the end cap assembly, if not corrected, could lead to separation of the engine from the airplane in the event of primary thrust linkage failure.

Other Relevant Rulemaking

There is a high degree of similarity between the configurations of the engine installations on the incident airplane (Model 747–400) and certain Model 767 series airplanes. The FAA may consider rulemaking to address this condition on Model 767 series airplanes; therefore, this proposed rule is applicable only to Model 747–400 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–71A2283, dated October 10, 1996, which describes procedures for repetitive detailed visual inspections to detect improper installation and fatigue damage of the end cap of the forward engine mount, and replacement of the end cap assembly of the forward engine mount with an improved assembly. Such replacement would eliminate the need for the repetitive inspections. Accomplishment of this replacement, as described in the alert service bulletin, is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Boeing Alert Service Bulletin 747–71A2283 divides the affected airplanes into two groups depending upon the particular engine configuration of the affected airplane, and provides different procedures depending upon group classification and engine on-wing flight cycles. Operators should note that, whereas the alert service bulletin specifies that operators of Group 1 airplanes should contact the manufacturer for disposition of the terminating action, this proposed AD would require that the end cap and bolts be replaced in accordance with the procedures specified in Chapter 71–00–00 of the Boeing 747 Airplane Maintenance Manual (AMM).

Additionally, the alert service bulletin specifies that certain actions required by this proposed AD may be accomplished in accordance with "an operator's equivalent procedure." However, this proposed AD requires that those actions be accomplished in accordance with the procedures specified in Chapter 71–00–00 of the AMM. An "operator's equivalent procedure" may be used only if approved as an alternative method of compliance in accordance with paragraph (e) of this proposed AD.

Cost Impact

There are approximately 133 airplanes of the affected design in the worldwide fleet. The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD: 35 Group 1 airplanes, and 1 Group 2 airplane.

It would take approximately 36 work hours per Group 1 airplane (9 work hours per engine) to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $75,600, or $2,160 per airplane, per inspection cycle.

It would take approximately 272 work hours per airplane (68 work hours per engine) for both Group 1 and Group 2 airplanes to accomplish the proposed replacement of the forward engine mount end cap and/or end cap bolts, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,000 per airplane. Based on these figures, the cost impact of this proposed replacement on U.S. operators is estimated to be $623,520, or $17,320 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–89–AD.

Applicability: Model 747–400 series airplanes powered by Pratt & Whitney PW4000 engines, as listed in Boeing Alert Service Bulletin 747–71A2283, dated October 10, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible separation of the engine from the airplane in the event of a primary thrust linkage failure, accomplish the following:

(a) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 747–71A2283, dated October 10, 1996: Except as provided by paragraph (c) of this AD, accomplish paragraphs (a)(1) and (a)(2), of this AD, as applicable, in accordance with the alert service bulletin.

(1) Within 500 hours time-in-service after the effective date of this AD, perform a detailed visual inspection (Work Package 1) to detect improper installation of the end cap of the forward engine mount, in accordance with the alert service bulletin.

(i) If no attachment hardware is found loose or missing, and if no part shows signs of damage, repeat the inspection thereafter at intervals not to exceed 5,000 hours time-in-service or 15 months, whichever occurs first, until the requirements of paragraph (a)(2) of this AD have been accomplished.

(ii) If any attachment hardware is found loose or missing, or if any part shows signs of damage, prior to further flight, replace the end cap and bolts with an improved end cap and bolts (Work Package 2), in accordance with the alert service bulletin. Accomplishment of the replacement constitutes terminating action for the requirements of this AD for Group 1 airplanes.

(2) Replace the existing end cap and end cap bolts of the forward engine mount with an improved end cap and end cap bolts (Work Package 2), at the earlier of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Accomplishment of the replacement constitutes terminating action for the requirements of this AD for Group 1 airplanes.

(i) Prior to the accumulation of 16,000 total flight cycles on any engine, or within 500

hours time-in-service after the effective date of this AD, whichever occurs later; or

(ii) Within 3 years after the effective date of this AD.

(b) For Group 2 airplanes, as identified in Boeing Alert Service Bulletin 747–71A2283, dated October 10, 1996: Except as provided by paragraph (c) of this AD, within 3 years after the effective date of this AD, replace the existing end cap bolts of the forward engine mount with improved end cap bolts (Work Package 3), in accordance with the alert service bulletin.

(c) Where Boeing Alert Service Bulletin 747–71A2283, dated October 10, 1996, specifies that the actions required by this AD may be accomplished in accordance with an "operator's equivalent procedure," the actions must be accomplished in accordance with Chapter 71–00–00 of the Boeing 747 Airplane Maintenance Manual (AMM), as specified in the alert service bulletin.

(d) As of the effective date of this AD, no person shall install on any airplane a forward engine mount end cap having part number 310T3026–1.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13405 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–105–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require an electrical continuity test of the discharge circuit for the cargo compartment fire extinguisher bottle to detect any cross-connection of the electrical wires in the cargo compartment discharge circuit, and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent incorrect distribution of fire extinguishing chemicals in the event of an unconfined fire in the cargo compartment.

DATES: Comments must be received by June 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–105–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that an operator found, on two airplanes, cross-connections in the cargo compartment discharge circuit for the fire extinguisher bottle. The aft cargo compartment electrical connector had been fitted on the bottle discharge circuit dedicated to the forward cargo compartment fire extinguisher. The forward cargo compartment electrical connector was fitted on the aft compartment electrical connector. These cross-connections were attributed to the wire loom (bundle) being incorrectly identified, which the manufacturer has since corrected. This condition, if not corrected, could result in the incorrect distribution of fire extinguishing chemicals in the event of an unconfined fire in the cargo compartment.

Explanation of Relevant Service Information

Airbus has issued All Operator Telex (AOT) 26–10, dated April 5, 1993, which describes procedures for an electrical continuity test of the discharge circuit for the cargo compartment fire extinguisher bottle to detect any cross-connection of the electrical wires in the cargo compartment discharge circuit, and corrective actions, if necessary. The corrective actions include re-identification of the wiring loom and connection of electrical connectors to

the appropriate cargo compartment fire extinguisher. Accomplishment of the actions specified in the AOT is intended to adequately address the identified unsafe condition. The DGAC classified this AOT as mandatory and issued French airworthiness directive 94–056–051(B), dated March 16, 1994, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the AOT described previously.

Cost Impact

The FAA estimates that 118 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed action, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $7,080, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 98–NM–105–AD.

Applicability: Model A320 series airplanes, manufacturer serial numbers 002 through 402 inclusive, on which Airbus Modification 20071 (reference Airbus Service Bulletin A320–26–1020, dated January 4, 1993) has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent incorrect distribution of fire extinguishing chemicals in the event of a fire in the cargo compartment, which if unconfined could spread beyond the cargo compartment, accomplish the following:

(a) Within 450 flight hours after the effective date of this AD, perform a one-time electrical continuity test of the discharge circuit for the cargo compartment fire extinguisher bottle to detect any cross-connection of the electrical wires in the cargo compartment discharge circuit, in accordance with Airbus All Operator Telex (AOT) 26–10, dated April 5, 1993. If any anomaly is detected, prior to further flight, accomplish corrective actions, in accordance with the AOT.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 94–056–051(B), dated March 16, 1994.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13394 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–149–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42 and

ATR72 series airplanes. This proposal would require a one-time inspection of the electromagnetic interference (EMI) filter capacitors and electronic cards of the cabin air recirculation fans to detect damage. This proposal also would require replacement of damaged components with new or serviceable parts, and modification of the cabin air assembly fans. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent overheating and consequent failure of the EMI filter capacitors, which could result in emission of toxic smoke and fumes throughout the airplane, and consequent adverse effects on flight crew and passengers.

DATES: Comments must be received by June 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–149–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42 and ATR72 series airplanes. The DGAC advises that it has received several reports of toxic smoke and fumes emitting into the passenger compartments. Investigation revealed that the toxic smoke and fumes resulted from excess thermal stress (overheating) of the electromagnetic interference (EMI) filter capacitors on the electronic cards of the cabin air recirculation fans, which are associated with the right and left air-conditioning packs. The overheated EMI filter capacitors leaked electrolyte onto the electronic cards of the air recirculation fans. The electrolyte leakage caused short-circuiting, charring, and corrosion of the electronic cards, emitting toxic smoke into the passenger compartments. Such overheating and consequent failure of the EMI filter capacitors, if not corrected, could result in emission of toxic smoke and fumes throughout the airplane, and consequent adverse effects on flight crew and passengers.

Explanation of Relevant Service Information

The manufacturer has issued Avions de Transport Regional Service Bulletins ATR42–21–0069, dated February 5, 1998 (for Model ATR42 series airplanes), and ATR72–21–1048, dated February 5, 1998 (for Model ATR72 series airplanes), which describe procedures for performing a one-time visual inspection to detect damage of the EMI filter capacitors and electronic cards of the cabin air recirculation fans of the left and right air-conditioning packs. The service bulletins also describe procedures for replacement of damaged components with new or serviceable parts, and modification of the cabin air assembly fans. Accomplishment of the actions specified in the service bulletins are intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 98–070–074(B) (for Model ATR42 series airplanes) and 98–073–037(B) (for Model ATR72 series airplanes), both dated February 11, 1998, in order to assure the continued airworthiness of these airplanes in France.

Avions de Transport Regional Service Bulletins reference EG&G Rotron Service Bulletin 011232500–21–1, dated December 12, 1997, as an additional source of service information for accomplishment of the modification.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider additional rulemaking.

Cost Impact

The FAA estimates that 81 airplanes of U.S. registry would be affected by this

proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $14,580, or $180 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed modification at an average labor rate of $60 per work hour. The cost of the required parts would be minimal. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $9,720, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket 98–NM–149–AD.

Applicability: Model ATR42–300, –320, and –500 series airplanes, as listed in Aerospatiale Service Bulletin ATR42–21–0069, dated February 5, 1998; and Model ATR72–101, –102, –201, –202, –211, –212, and –212A series airplanes, as listed in Aerospatiale Service Bulletin ATR72–21–1048, dated February 5, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating and consequent failure of the electromagnetic interference (EMI) filter capacitors, which could result in emission of toxic smoke and fumes throughout the airplane, and consequent adverse effects on flight crew and passengers, accomplish the following:

(a) Within 11 months after the effective date of this AD, perform a one-time visual inspection to detect damage of the EMI filter capacitors and electronic cards of the cabin air recirculation fan of the right and left air-conditioning packs, in accordance with Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998 (for Model ATR42 series airplanes), or ATR72–21–1048, dated February 5, 1998 (for Model ATR72 series airplanes), as applicable.

(1) If no discrepancy is detected, prior to further flight, modify and re-identify each fan assembly, in accordance with the applicable service bulletin.

(2) If any discrepancy is detected, prior to further flight, replace the damaged components with new or serviceable components, and modify and re-identify the fan assembly, in accordance with the applicable service bulletin.

Note 2: Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998 (for Model ATR42 series airplanes), and ATR72–21–1048, dated February 5, 1998 (for Model ATR72 series airplanes), reference EG&G Rotron Service Bulletin 011232500–21–1, dated December 12, 1997, as an additional source of service information for accomplishment of the modification.

(b) As of the effective date of this AD, no person shall install on any airplane a cabin air-conditioning recirculation Rotron fan having part number (P/N) 011232500 Amend. A, or P/N 011494500 Amend. A, on the left or right air-conditioning pack.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directives 98–070–074(B) and 98–073–037(B), both dated February 11, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13391 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–133–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacing the existing roll spoiler control rods with improved parts. This proposal is prompted by issuance of

mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane.

DATES: Comments must be received by June 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–133–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that the manufacturer reported that insufficient clearance may exist between the fork end of the roll spoiler control rod and the bell crank of the roll spoiler. Such insufficient clearance could cause bending stress to the fork end of the roll spoiler, which, if not corrected, could result in failure of the roll spoiler and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998, which describes procedures for replacing the existing roll spoiler control rods with improved roll spoiler control rods on the right and left sides of the airplane. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 1998–042, dated January 29, 1998, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, and that it would take approximately 3 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $9,000, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 98–NM–133–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3047 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 4 months after the effective date of this AD, replace the existing roll spoiler control rods on the right and left sides of the airplane with improved parts, in accordance with Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 1998–042, dated January 29, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13392 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–258–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require repetitive inspections to detect debris in the areas behind the aft lavatory toilet shroud, behind the aft lavatory modules, and below the cabin floor aft of the aft cargo compartment bulkhead; and removal of debris. This proposal also would require modification of the lavatory toilet shroud assemblies and modification of the lavatory entry door louvers, which would terminate the repetitive inspections. This proposal is prompted by reports of paper debris collecting on the hot pneumatic ducts below the cabin floor. The actions specified by the proposed AD are intended to prevent paper debris from collecting on the ducts, which could result in a potential fire hazard or possible loss of elevator control system redundancy.

DATES: Comments must be received by July 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–258–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Albert H. Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–258–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–258–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that lavatory paper debris was found behind the toilet seat shroud in the aft lavatory, behind the aft lavatory modules, and below the cabin floor aft of the aft cargo compartment bulkhead of McDonnell Douglas Model MD–90–30 series airplanes. This condition has been attributed to a gap between the lavatory floor pan perimeter and the toilet shroud. Airflow through the lavatory module can force paper and lint from the floor through the gap in the toilet shroud and the floor; this debris can collect on the hot pneumatic ducts below the cabin floor aft of the aft cargo compartment bulkhead. This condition, if not corrected, could result in a potential fire hazard or possible loss of elevator control system redundancy.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–25A017, Revision R01, dated October 16, 1997, which describes procedures for repetitive inspections to detect paper and lint debris in the areas behind the aft lavatory toilet shroud, behind the aft lavatory modules, and below the cabin floor aft of the aft cargo compartment bulkhead, and removal of debris.

The FAA also has reviewed and approved McDonnell Douglas Service Bulletin MD90–25–022, Revision R01, dated October 15, 1997, which describes procedures for modification of the lavatory toilet shroud assemblies. The modification involves adding a rubber seal to the shroud assemblies to close the gap between the shroud assemblies and the lavatory floor pans. This service bulletin references Jamco Service Bulletin MD090–25–1140, Revision 3, dated May 30, 1997, as an additional source of service information for accomplishment of the modification.

In addition, the FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–25–023, Revision R01, dated October 15, 1997, which describes procedures for modification of the lavatory entry door louvers. The modification entails installing a new frame panel and new louvers on the entry door assembly. This service bulletin references Jamco Service Bulletin MD090–25–1155, Revision 2, dated June 11, 1997, as an additional source of service information for accomplishment of this modification.

Accomplishment of the modifications specified in McDonnell Douglas Service Bulletins MD90–25–022 and MD90–25–023 is intended to adequately address the identified unsafe condition. These modifications, when accomplished, would eliminate the need for the repetitive inspections described in the alert service bulletin described previously.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin and service bulletins described previously.

Cost Impact

There are approximately 55 airplanes of the affected design in the worldwide fleet. The FAA estimates that 19 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $5,700, or $300 per airplane, per inspection cycle.

It would take approximately 1 work hour per airplane to accomplish the proposed modification of the toilet shroud assemblies, at an average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $1,140, or $60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed modification of the lavatory entry door louvers, at an average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $1,140, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 97–NM–258–AD.

Applicability: Model MD–90–30 series airplanes; as listed in paragraph 1.A.1. of McDonnell Douglas Alert Service Bulletin MD90–25A017, Revision R01, dated October 16, 1997, McDonnell Douglas Service Bulletin MD90–25–022, Revision R01, dated October 15, 1997 , and McDonnell Douglas Service Bulletin MD90–25A023, Revision R01, dated October 15, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a potential fire hazard or the possible loss of elevator control system redundancy due to paper debris collecting on the hot pneumatic ducts below the cabin floor, accomplish the following:

(a) Within 450 flight hours or 3 months after the effective date of this AD, whichever occurs later, perform an inspection to detect paper and lint debris in the areas behind the aft lavatory toilet shroud, behind the aft lavatory modules, and below the cabin floor aft of the aft cargo compartment bulkhead, in accordance with paragraph 3. ("Accomplishment Instructions") of McDonnell Douglas Alert Service Bulletin MD90–25A017, Revision R01, dated October 15, 1997. If any debris is found, prior to further flight, remove it in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 450 flight hours.

(b) Within 12 months after the effective date of this AD, modify the lavatory toilet shroud assemblies in accordance with paragraph 3. ("Accomplishment Instructions") of McDonnell Douglas Service Bulletin MD90–25–022, Revision R01, dated October 15, 1997.

(c) Within 12 months after the effective date of this AD, modify the lavatory entry door louvers in accordance with paragraph 3. ("Accomplishment Instructions") of McDonnell Douglas Service Bulletin MD90–25–023, Revision R01, dated October 15, 1997.

(d) Modification of the toilet shroud assemblies and the lavatory entry door louvers in accordance with paragraphs (b) and (c) of this AD constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13402 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require modification of the detachable center inlet component of the air intake system of the engine. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fuel and/or oil that may be present in the nacelle from entering the air intake system of the engine, which could result in a possible engine fire.

DATES: Comments must be received by June 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–117–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB Model 340B series airplanes. The LFV advises that two holes were introduced in the rear portion of the detachable center inlet of the air intake system of the engine during the design and manufacturing of a certain number of these inlets. The LFV further advises that, under certain conditions, a pressure difference between the nacelle and the detachable center inlet component of the air intake system

could force residual fuel and/or oil, located in the nacelle, through these two holes and into the air intake system of the engine. Such condition, if not corrected, could result in a possible engine fire.

Explanation of Relevant Service Information

The manufacturer has issued SAAB Service Bulletin 340–30–073, dated August 18, 1997, including Attachment 1, dated March 6, 1997, which describes procedures for installation of a filler plate onto the detachable center inlet component of the engine air intake system. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive 1–119, dated August 21, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 135 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $16,200, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab Aircraft AB (Formerly SAAB Fairchild): Docket 98–NM–117–AD.

Applicability: Model SAAB SF340A and Model SAAB 340B series airplanes, as listed in SAAB Service Bulletin 340–30–073, dated August 18, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel and/or oil that may be present in the nacelle from entering the air intake system of the engine, which could result in a possible engine fire, accomplish the following:

(a) Within 2 years after the effective date of this AD, modify the detachable center inlet component of the air intake system of the engine, in accordance with Saab Service Bulletin 340–30–073, dated August 18, 1997, including Attachment 1, dated March 6, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive 1–119, dated August 21, 1997.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13393 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–186–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require repetitive inspections to detect improper installation or fatigue damage of the end cap of the forward engine mount, and replacement of the end cap assembly with an improved assembly. Such replacement, when accomplished, would terminate the repetitive inspections. This proposal is prompted by a report of fatigue cracking of end cap bolts caused by improper installation. Subsequent investigation revealed that properly installed caps also are subject to early fatigue cracking. The actions specified by the proposed AD are intended to prevent failure of the end cap assembly, which could lead to separation of the engine from the airplane in the event of a primary thrust linkage failure.

DATES: Comments must be received by July 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97-NM–186-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd T. Martin, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2770; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–186–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–186–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of broken end cap bolts of the forward engine mount, which were found during overhaul of a Pratt & Whitney PW4000 engine that had been installed on a Boeing Model 747–400 series airplane. Investigation revealed that the end cap had been installed backwards. A properly installed end cap assembly does not normally react any significant engine thrust loads; it is intended to provide a secondary load path if the primary thrust linkage fails. An end cap installed backwards will react the engine thrust loads along with the primary thrust linkage, a condition which will result in premature fatigue failure of the end cap or bolts. In addition, fatigue analysis and testing have confirmed that a properly installed end cap would fail within a low number of flight cycles after a primary thrust linkage failure. Failure of the end cap assembly, if not corrected, could lead to separation of the engine from the airplane in the event of a primary thrust linkage failure.

There is a high degree of similarity between the configurations of the engine installations on the Model 747–400 and certain Model 767 series airplanes. The FAA may consider rulemaking to address this condition on Model 747–400 series airplanes; therefore, this proposed rule is applicable only to Model 767 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996, which describes procedures for repetitive visual inspections to detect improper installation or fatigue damage of the end cap of the forward engine mount, and replacement of the end cap assembly with an improved assembly. Such replacement would eliminate the need for the repetitive inspections. Accomplishment of this replacement, as described in the alert service bulletin, is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Boeing Alert Service Bulletin 767–71A0087 divides the affected airplanes into three groups depending upon the particular engine configuration of the affected airplane, and provides different procedures depending upon group classification and engine on-wing flight cycles. Operators should note that the alert service bulletin specifies that operators of certain Group 2 airplanes should contact the manufacturer for instructions. However, this proposed AD would not require that the manufacturer be contacted, but rather that Group 2 airplanes (regardless of accumulated on-wing flight cycles) be treated the same as Group 1 airplanes. That is, this proposed AD would not distinguish between the two airplane groups; therefore, the proposed

inspections, terminating actions, and compliance times would be identical for both Group 1 and Group 2 airplanes.

In addition, some of the compliance times specified in this proposed rule are different from those stated in the alert service bulletin. Specifically, this proposed AD expresses certain compliance times in terms of both flight cycles and flight hours, whereas the alert service bulletin expresses certain compliance times in terms of flight hours only. The reason for this difference is to account for those airplanes on which average mission lengths vary significantly from the fleet norm.

Additionally, the alert service bulletin specifies that the visual inspections required by this proposed AD may be accomplished in accordance with either the Boeing 767 Airplane Maintenance Manual or "an operator's equivalent procedure." However, this proposed AD requires that the actions be accomplished in accordance with the procedures specified in the Chapter 71–00–00 of the 767 Airplane Maintenance Manual. An "operator's equivalent procedure" may be used only if approved as an alternative method of compliance in accordance with the provisions specified in paragraph (e) of this proposed AD.

Cost Impact

There are approximately 239 airplanes of the affected design in the worldwide fleet. The FAA estimates that 96 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 37 work hours per airplane (18.5 work hours per engine) to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $213,120, or $2,220 per airplane, per inspection cycle.

It would take approximately 135 work hours per airplane (67.5 work hours per engine) to accomplish the proposed replacement of the forward engine mount end cap and bolts, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,000 per airplane. Based on these figures, the cost impact of this proposed replacement on U.S. operators is estimated to be $873,600, or $9,100 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–186–AD.

Applicability: Model 767 series airplanes; as listed in Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible separation of the engine from the airplane in the event of a primary thrust linkage failure, accomplish the following:

(a) For Groups 1 and 2 airplanes: Except as provided by paragraph (c) of this AD, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996.

(1) Within 500 flight hours or 300 flight cycles after the effective date of this AD, whichever occurs later: Accomplish Work Package 1 (visual inspection of the forward engine mount). Thereafter, repeat Work Package 1 at the intervals specified in the alert service bulletin until the requirements of either paragraph (a)(2) or (a)(3) of this AD are accomplished.

(2) Prior to the accumulation of 16,000 total flight cycles on any engine or within 500 flight hours or 300 flight cycles after the effective date of this AD, whichever occurs latest: Accomplish Work Package 2 (non-destructive test inspection of the forward engine mount). Thereafter, repeat Work Package 2 on that engine at the intervals specified in the alert service bulletin until the requirements of paragraph (a)(3) of this AD are accomplished. Accomplishment of Work Package 2 constitutes terminating action for the repetitive inspections required by paragraph (a)(1) of this AD for that engine.

(3) Within 3 years after the effective date of this AD: Accomplish Work Package 3 (end cap and bolt replacement of the forward engine mount). Accomplishment of Work Package 3 constitutes terminating action for the requirements of this AD.

(b) For Group 3 airplanes: Within 3 years after the effective date of this AD, accomplish Work Package 4 (Bolt Replacement) in accordance with Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996.

(c) Where Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996, specifies that the actions required by this AD may be accomplished in accordance with an "operator's equivalent procedure," the actions must be accomplished in accordance with Chapter 71–00–00 of the Boeing 767 Airplane Maintenance Manual (AMM), as specified in the alert service bulletin.

(d) If any discrepancy (including an improperly installed end cap or fatigue damage to the end cap assembly or thrust linkage) is found during any inspection required by this AD, prior to further flight, accomplish Work Package 3 in accordance with Boeing Alert Service Bulletin 767–71A0087, dated October 10, 1996.

(e) As of the effective date of this AD, no person shall install a forward engine mount end cap having part number 310T3026–1 on any airplane.

(f) An alternative method of compliance or adjustment of the compliance time that

provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13406 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Ch. XVII

Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; notice of open meeting.

SUMMARY: The Occupational Safety and Health Administration announces a meeting of the Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee. OSHA invites all interested persons to attend. The members represent groups interested in, or significantly affected by, the outcome of the rulemaking. They include representatives of shipyards, labor unions, professional associations, and government agencies. The committee will continue its discussions on a proposed standard to protect workers from fire hazards in shipyard employment, including the following areas: scope and application; administrative, engineering, and work practice controls; fire brigades; written fire plans; technological advances; cost of fire protection; and the content of appendices. The committee's goal is reach consensus on a proposed standard and explanatory preamble.

DATES: The meeting dates are Monday, June 15, 1998 through Wednesday, June 17, 1998 from 8:00 a.m. to about 4:00 p.m. daily. Submit comments, requests for oral presentations, and requests for disability accommodations by June 1, 1998.

ADDRESSES: The meeting will be held at the Maritime Institute of Technology and Graduate Studies (MITAGS), 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090, telephone (410) 859–5700. Mail comments and requests for oral presentations to Mr. Joseph V. Daddura, U.S. Department of Labor, OSHA, Office of Maritime Standards, 200 Constitution Avenue, NW, Room N–3621, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph V. Daddura, Project Officer, Office of Maritime Standards, OSHA (202–219–7234, ext. 123). For disability accommodations, contact Ms. Theda Kenney (202–219–8061, ext. 100).

SUPPLEMENTARY INFORMATION:

Meeting Agenda

The committee will focus its discussions on definitions and on provisions that address ships fixed fire protection systems. Potential impacts of a proposed rule on small employers will also be addressed.

Public Participation

Interested persons may send written comments, data, views, or statements for consideration by the Committee to Mr. Joseph V. Daddura. Interested persons may also request the opportunity to make an oral presentation to the committee by providing Mr. Daddura with a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest that the person represents. The facilitator may allow such presentations if there is adequate time in the meeting schedule.

Authority: This document is issued pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Signed at Washington, D.C., this 13th day of May 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–13413 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–218–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (hereinafter the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky statutes pertaining to bonding and permit renewal. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.], June 19, 1998. If requested, a public hearing on the proposed amendment will be held on June 15, 1998. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on June 4, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Director, at the address listed below.

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2494.

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2494.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated April 23, 1998 (Administrative Record No. KY–1425), Kentucky submitted a proposed amendment to its program. House Bills (HB) 354, 498, and 593 (effective July 15, 1998) revise section 350 of the Kentucky Revised Statues (KRS) at 350.990(11), 350.131(2), 350.139(1), 350.990(1), and 350.060(16).

Specifically, Kentucky proposes to make the following changes. HB 354 confirms Executive Order 97–714, June 11, 1997, which changed the name of the Division of Abandoned Lands to the Division of Abandoned Mine Lands and corrects the name in KRS 350.990(11). HB 498 completes the package of bonding reforms jointly recommended by the State, OSM, and others. It requires that when a bond is forfeited, and the entire forfeited amount is more than necessary to complete reclamation, the unused funds less any accrued interest shall be returned to the party from whom they were collected at KRS 350.131(2). It establishes the bond forfeiture supplemental fund at KRS 350.139(1) and requires that funds from forfeited reclamation bonds be placed in an interest-bearing account. The interest becomes a supplemental fund that can be used to reclaim any lands where a forfeited bond is insufficient to complete the necessary reclamation. No more that 25% of the supplemental fund can be expended on a single site, unless a larger expenditure is necessary to abate an imminent danger to public health or safety. At KRS 350.990(1), HB 498 provides for a potential second source of money for the supplemental fund. The first $800,000 of collected civil penalties for coal mining violations will be deposited into the General Fund. One-half of the excess will go to the new bond forfeiture supplemental fund, but only when the balance in the Bond Pool Fund (Fund) is above the maximum of the operating range necessary to ensure its solvency. No diversion of excess penalty income from the Fund to the supplemental fund will occur until the Fund balance reaches $16 million, or a larger amount established by the most recent actuarial study of the Fund. If the Fund falls below $16 million (or higher amount established by the study), all excess moneys shall be deposited into the Fund until it reaches $16 million. HB 593 revises KRS 350.060(16) to require that a notice of noncompliance be issued if a permit has expired or if a permit renewal application has not been timely filed and the operator or permittee wants to continue the mining operation. The notice of noncompliance shall be deemed to have been complied with, and the permit may be renewed, if a permit renewal application is received within 30 days of the receipt of the notice of noncompliance. Upon submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be permitted to continue, under the terms of the expired permit, the mining operation, pending issuance of the permit renewal. Failure to comply with the remedial measures of the notice of noncompliance shall result in the cessation of the mining operation.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on June 4, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions or proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and

its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 13, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–13340 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 20

46 CFR Part 5

[USCG–1998–3472]

RIN 2115–AF59

Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard

AGENCY: Coast Guard, DOT.

ACTION: Reopening of comment period on notice of proposed rulemaking.

SUMMARY: The Coast Guard is reopening the period for public comment on its Notice of Proposed Rulemaking (NPRM), Rules of Practice, Procedures, and Evidence for Administrative Proceedings of the Coast Guard. Because of several requests for extension, the Coast Guard is reopening the period for 30 days.

DATES: Comments must reach the Coast Guard on or before June 19, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility [USCG–1998–3472], U.S. Department of Transportation (DOT), Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also electronically access the public docket for this rulemaking on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Carol Kelley, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329; for information concerning the notice of proposed rulemaking (NPRM) provisions, contact George J. Jordan, Attorney-Advisor, Office of the Chief Administrative Law Judge, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. His telephone number is 202–267–0006.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Notice of Proposed Rulemaking (NPRM), published on April 6, 1998 (63 FR 16731), encouraged interested persons to participate in this rulemaking by submitting written data, views, or arguments by May 6, 1998. This request does the same, except that it asks them by June 19, 1998.

Persons submitting comments should include their names and addresses, identifying this rulemaking (USCG–1998–3472) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 1 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public meeting. Persons may request a public meeting by writing to the Docket Management Facility at the address under **ADDRESSES.** The request must identify this docket (USCG–1998–3472) and should include the reasons why a public meeting would be helpful to this rulemaking. If an opportunity for oral presentations will help the rulemaking procedures, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The Coast Guard seeks to improve its adjudication process. This improvement would also affect certain actions involving merchant mariners. First, the proposed rule would consolidate all Coast Guard adjudicative procedures to include the following: the suspension and revocation (S&R) of merchant mariners' licenses, certificates of registry, and documents and the procedures involving class II civil penalties. Second, the proposed rule would eliminate unnecessary procedures from S&R proceedings. The Coast Guard expects the proposed rule to facilitate the efficient use of administrative resources relating to Coast Guard adjudication. It would save time, effort, and money for all parties

who are or may become involved in Coast Guard actions.

Signed: 14 May 1998.

Robert S. Horowitz,

Chief Counsel (Acting).

[FR Doc. 98–13400 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–15–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI31

Advance Payments and Lump-Sum Payments of Educational Assistance

AGENCIES: Defense; Coast Guard, Transportation; and Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the educational assistance regulations of the Department of Veterans Affairs (VA) dealing with the advance payment and lump-sum payment of educational assistance. VA is proposing to amend these regulations by removing provisions that no longer apply and by making other changes for the purpose of clarification. This will make these regulations easier to use.

DATES: Comments must be received on or before July 20, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI31". All written comments received will be available for public inspection at the above address in the Office of Regulations Management between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: For many decades VA by statute has permitted veterans, servicemembers, eligible persons, and reservists to receive an advance payment of educational assistance provided that they request such a payment and certain other requirements are met. These payments have covered educational assistance scheduled to be paid to the individual during the first month or fraction of a month and the following month in a term or school year. Similarly, some individuals in some of the educational programs VA administers are able in certain circumstances to receive a lump-sum payment covering the educational assistance due for an entire term.

The regulations governing these payments have accumulated obsolete provisions over the years, and have been written in a way that is not always easy to understand. This proposed rule removes these obsolete provisions and makes other clarifying changes. Moreover, VA may make advance payments under many of the educational programs the department administers. The rules governing advance payments are the same for all of those educational programs. There appears to be no need to repeat those rules in each subpart of part 21, 38 CFR. Consequently, VA is proposing to replace the repetition of those rules with references to the complete statement of the advance payment rules that are proposed in subpart D.

Current regulations allow VA to make lump-sum payments to trainees in both the Survivors' and Dependents' Educational Assistance program (DEA) and in the Montgomery GI Bill—Active Duty (MGIB). The rules for making these payments are the same for both programs. There appears to be no need to repeat these rules in both of the affected subparts of Part 21, 38 CFR. Consequently, VA is proposing to replace the repetition of those rules with references to the complete statement of the lump-sum payment rules that are proposed in subpart D. There are no substantive changes in this proposed rule.

Paperwork Reduction Act

The Office of Management and Budget (OMB) has determined that the proposed 38 CFR 21.4138(a) would constitute a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under § 3507(d) of the Act VA has submitted a copy of this rulemaking action to OMB for its review.

Title: Request for an Advance Payment of Educational Assistance.

Summary of collection of information: The collection of information in the proposed revisions to § 21.4138(a) in this rulemaking proceeding implements a statutory provision that mandates that an individual who wishes to receive an advance payment of educational assistance must ask for it.

Description of need for information and proposed use of information: The information required in § 21.4138(a) is needed so that VA may make advance payments of educational assistance to those who want such payments.

Description of likely respondents. Veterans, reservists, and eligible persons receiving educational assistance under the programs VA administers.

Estimated number of respondents: 75,000 each year.

Estimated frequency of responses: Occasionally, when a veteran, reservist, or eligible person wants an advance payment of educational assistance at the start of an enrollment period.

Estimated total annual reporting and recordkeeping burden: 6,250 hours of reporting burden. VA does not believe that there will be additional recordkeeping burden.

Estimated average burden per respondent: 5 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collection(s) of information are necessary for the proposed performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

The Department of Defense (DOD) and VA are jointly issuing this proposed rule insofar as it relates to the Post-Vietnam Era Veterans' Educational Assistance program. This program is funded by DOD and administered by VA. DOD, the Department of Transportation (Coast Guard), and VA are jointly issuing this proposed rule insofar as it relates to the Montgomery GI Bill—Selected Reserve. This program is funded by DOD and the Coast Guard, and is administered by

VA. The remainder of this proposed rule is issued solely by VA.

The signers of this document hereby certify that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The adoption of this proposed rule would not make substantive changes. It would remove provisions that no longer apply and make other changes for purposes of clarification.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed rule are 64.117, 64.120, and 64.124. The proposed rule will also affect the Montgomery GI Bill—Selected Reserve for which there is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs-education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 12, 1998.

Togo D. West, Jr.,

Secretary.

Approved: March 16, 1998.

Norman G. Lezy,

Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.

Approved: February 26, 1998.

G.F. Woolever,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out in the preamble, 38 CFR part 21 is proposed to be amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for subpart D continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 38 U.S.C. chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4138, the introductory text is removed; paragraphs (c) and (d) are removed and reserved; and paragraphs (a) and (b) are revised to read as follows:

§ 21.4138 Certifications and release of payments.

(a) *Advance payments.* (1) VA will make payments of educational assistance in advance when:

(i) The veteran, servicemember, reservist, or eligible person has specifically requested such a payment;

(ii) The student is enrolled for half time or more;

(iii) The educational institution at which the veteran, servicemember, reservist, or eligible person is accepted or enrolled has agreed to and can satisfactorily carry out the provisions of 38 U.S.C. 3680(d)(4)(B) and (C) and (5) pertaining to receipt, delivery, or return of checks and certifications of delivery and enrollment;

(iv) The Director of the VA field facility of jurisdiction has not acted under paragraph (a)(4) of this section to prevent advance payments being made to the veteran's, servicemember's, reservist's, or eligible person's educational institution;

(v) There is no evidence in the veteran's, servicemember's, reservist's, or eligible person's claim file showing that he or she is not eligible for an advance payment;

(vi) The period for which the veteran, servicemember, reservist, or eligible person has requested a payment either—

(A) Is preceded by an interval of nonpayment for 30 days or more; or

(B) Is the beginning of a school year that is preceded by a period of nonpayment of 30 days or more; and

(vii) The educational institution or the veteran, servicemember, reservist, or eligible person has submitted the certification required by § 21.7151.

(2) The amount of the advance payment to a veteran, reservist, or eligible person is the educational assistance for the month or fraction thereof in which the term or course will begin plus the educational assistance for the following month. The amount of the advance payment to a servicemember is the amount payable for the entire term, quarter, or semester, as applicable.

(3) VA will mail advance payments to the educational institution for delivery to the veteran, servicemember, reservist, or eligible person. The educational institution will not deliver the advance payment check more than 30 days in advance of the first date of the period for which VA makes the advance payment.

(4) The Director of the VA field station of jurisdiction may direct that advance payments not be made to individuals attending an educational institution if:

(i) The educational institution demonstrates an inability to comply with the requirements of paragraph (a)(3) of this section;

(ii) The educational institution fails to provide adequately for the safekeeping of the advance payment checks before delivery to the veteran, servicemember, reservist, or eligible person or return to VA; or

(iii) The Director determines, based on compelling evidence, that the educational institution has demonstrated its inability to discharge its responsibilities under the advance payment program.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3034, 3680(d))

(b) *Lump-sum payments.* A lump-sum payment is a payment of all educational assistance due for an entire quarter, semester, or term. VA will make a lump-sum payment to:

(1) A veteran or servicemember pursuing a program of education at less than the half-time rate under 38 U.S.C. chapter 30;

(2) A servicemember pursuing a program of education at the half-time rate or greater under 38 U.S.C. chapter 30, provided that VA did not make an advance payment to the servicemember for the term for which a lump-sum payment would otherwise be due; and

(3) An eligible person pursuing a program of education at less than the half-time rate under 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3034(c), 3680(f))

* * * * *

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

3. The authority citation for part 21, subpart G continues to read as follows:

Authority: 38 U.S.C. 501(a), ch. 32, unless otherwise noted.

4. Section 21.5135 is revised to read as follows.

§ 21.5135 Advance payments.

VA will apply the provisions of § 21.4138(a) in making advance payments to veterans and servicemembers.

(Authority: 38 U.S.C. 3241, 3680)

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

5. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), ch. 30, 36, unless otherwise noted.

6. In § 21.7140, paragraph (b) is removed; paragraphs (c), (d), (e), (f), and

(g) are redesignated as paragraphs (b), (c), (d), (e), and (f), respectively; and paragraph (a) is revised, to read as follows:

§ 21.7140 Certifications and release of payments.

(a) *Advance payments and lump-sum payments.* VA will apply the provisions of § 21.4138 (a) and (b) in making advance payments and lump-sum payments to veterans and servicemembers.

(Authority: 38 U.S.C. 3034 and 3680)

* * * * *

Subpart L Educational Assistance for Members of the Selected Reserve

7. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501, unless otherwise noted.

8. In § 21.7640, the authority citations for paragraphs (b), (c), (e), and (f) are amended by removing "; Pub. L. 98–525"; and paragraph (e) is amended by removing "paragraph (d) of this section" and adding, in its place, "§ 21.4138(a)"; and paragraph (d) is revised to read as follows:

§ 21.7640 Release of payments.

* * * * *

(d) *Advance payments.* VA will apply the provisions of § 21.4138(a) in making advance payments to reservists.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

* * * * *

[FR Doc. 98–13366 Filed 5–19–98; 8:45 am]
BILLING CODE 8320–01–P

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Notices

Federal Register
Vol. 63, No. 97
Wednesday, May 20, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 4:00 p.m. and adjourn at 8:00 p.m. on June 11, 1998, at the North Little Rock Hilton, Two Riverfront Place, North Little Rock, Arkansas 72114. The purpose of the meeting is project planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 11, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13364 Filed 5–19–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:30 p.m. on June 5, 1998, at the Rhode Island State House, Room 102, Providence, Rhode Island 02903. The purpose of the meeting is for the Committee to discuss the status of their project, "An Examination of the Impact of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on Legal Immigrants in Rhode Island," and plan future events.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert Lee, 401–351–2712, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 11, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13363 Filed 5–19–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fish Tagging Report

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dave Rosenthal, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149 (305) 361–4253.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Cooperative Gamefish Tagging Program (CGFTP) was initiated in 1971 as part of a comprehensive research program resulting from passage of Public Law 86–395 and other legislative acts under which the National Marine Fisheries Service operates. The program attempts to determine the migratory patterns and other biological information of billfish, tunas, and other highly migratory species. The Fish Tagging Report card and the Fish Tag Issue Report card are necessary when a tag is used. They are provided to the angler with the tags. When an angler receives the tags, he/she returns the Tag Issue Report card to NMFS to register the series of tags that were issued. When the angler releases a fish, he/she takes the Fish Tagging Report Card with a tag attached, removes the numbered tag, applies the tag to the fish, and then mails the completed card (which has a number matching the tag number) to NMFS, where the data is stored.

II. Method of Collection

Fishermen volunteer to tag and release their catch. When requested, NMFS provides the volunteers with fish tags for their use when they release their fish. Usually a group of five tags are sent at one time. When the angler receives their tags, they respond by completing the Tag Issue Report card and submits this to NMFS. When a tag is applied to a fish, the corresponding data is reported on the Fish Tagging Report card and submitted to NMFS. When a tagged fish is recaptured, the tag has the address of NMFS and a tag number. The person with the tagged fish can mail it back to NMFS where information on the fish is recorded and matched with the release data. The Tag Recapture Card is cleared under OMB Approval Number 0648–0259.

III. Data

OMB Number: 0648–0247.
Type of Review: Regular Submission.
Affected Public: Individuals.
Estimated Number of Respondents: 10,000.

Estimated Time per Response: 2 minutes.

Estimated Annual Burden Hours: 300.

Estimated Total Annual Cost to Public: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13381 Filed 5–19–98; 8:45 a.m.]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Southeast Region Gear Identification Requirements

ACTION: Proposed collection; comment request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Edward E. Burgess, 9721 Executive Center Drive North, St. Petersburg, FL, 33702, 813–570–5326.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) NOAA is responsible for management of the Nation's marine fisheries. As part of its efforts to enforce fishery regulations, NOAA has included in some of those regulations requirements that fishing gear be marked. The ability to link gear to its owner or operator is essential for enforcement in these fisheries, and the identification of gear is also useful in actions concerning the damage or loss of gear. NOAA has previously received Paperwork Reduction Act clearance for all of its gear-marking requirements under one Office of Management and Budget (OMB) control number, 0648–0305, but for internal management reasons NOAA intends that future clearances will be obtained on a regional or fishery basis. This notice is for the requirements imposed in the Southeast Region for the following: coral aquacultured live rock; golden crab traps; reef fish traps and floats; Spanish mackerel gillnet floats; spiny lobster traps; snapper-grouper traps (pots); stone crab traps.

II. Method of Collection

Fishermen in selected fisheries must mark their fishing gear. Aquacultured live rock which is not geologically distinguishable from naturally occurring substrate must be marked or tagged. Each fish or spiny lobster trap or pot must be marked with a tag and a buoy must be used to mark the traps. Gillnets for Spanish mackerel on the east coast of Florida must be marked with floats.

III. Data

OMB Number: New Number to be Assigned.

Form Number: N/A.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Response: Each trap will require 7 minutes to mark. It will take 10 seconds to mark each coral rock and it will take 20 minutes to mark a Spanish mackerel gillnet float.

Estimated Total Annual Burden Hours: 2,187.

Estimated Total Annual Cost to Public: $15,275.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13384 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Recreational Fishery Statistics Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Meyers, Fisheries

Statistics and Economics Division (F/ST1), Office of Science and Technology, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910. (301) 713–2328.

SUPPLEMENTARY INFORMATION:

I. Abstract

These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801 *et seq.*), as amended. Marine recreational anglers are surveyed for catch and effort data, fish biology data, and angler socioeconomic characteristics.

II. Method of Collection

A random-digit-dialing telephone household survey collects data on the number of fishing trips and on the proportion of marine fishing households by county of the survey area. On-site intercept interviews of marine recreational anglers collects data on the catch per trip by species.

III. Data

OMB Number: 0648–0052.
Form Numbers: None.
Type of Review: Regular submission.
Affected Public: Individuals (U.S. marine recreational anglers).
Estimated Number of Respondents: 428,000.
Estimated Time Per Response: Approximately 7–8 minutes per survey of fishermen or fishing households and 1 minute for contacts of non-fishing households.
Estimated Total Annual Burden Hours: 16,459.
Estimated Total Annual Cost to Public: $0 (no capital expenditures required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13385 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

High Seas Fishing Application Information

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, Office of Sustainable Fisheries, International Fisheries Division, 1315 East West Highway, Silver Spring, Maryland 20910, (301) 713–2337.

SUPPLEMENTARY INFORMATION:

I. Abstract

United States vessels that fish on the high seas are required to possess a permit issued under the High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.* and 50 CFR 300.13). Applicants must submit application information to identify their vessels and intended fishing areas. The application information is used to process applications and maintain a register of U.S. vessels authorized to fish on the high seas.

II. Method of Collection

The submission of a form is required.

III. Data

OMB Number: 0648–0304.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business and other for-profit (owners/operators of vessels fishing on the high seas).
Estimated Number of Respondents: 200.
Estimated Time Per Response: .5 hour each.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost to Public: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13386 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 980512125–8125–01]

Decennial Population and Housing Count Determination for Places Incorporating or Annexing Between the National Censuses

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of temporary termination of program.

SUMMARY: This document serves notice to state and local governments and to other Federal agencies that for the next three years, beginning on June 1, 1998, the Bureau of the Census will not provide the operations necessary to determine the April 1, 1990 census population and housing unit counts for entities that annex territory, or that

incorporate or organize as counties, boroughs, cities, towns, villages, townships, or other general purpose governments, between the 1990 and 2000 decennial censuses.

EFFECTIVE DATE: June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Joel L. Morrison, Chief, Geography Division, Bureau of the Census, Washington, D.C. 20233–7400, telephone (301) 457–1132, e-mail at jmorrison@geo.census.gov.

SUPPLEMENTARY INFORMATION: The Bureau of the Census first began to make these count determinations in 1972 in response to the requests of local governments to establish eligibility for participation in the General Revenue Sharing Program, authorized under Pub. L. 92–512. At that time, the Bureau of the Census established a fee-paid program enabling entities with annexations to obtain updated decennial census population counts that reflected the population living in the boundary change areas. The Bureau of the Census received funding from the U.S. Department of the Treasury to make those determinations for larger annexations that met prescribed criteria and for the new incorporations. The General Revenue Sharing Program ended on September 30, 1986. The Bureau of the Census continued to fund the count update operation through fiscal year 1995 for the large annexations and through fiscal year 1996 for newly incorporated areas. There is no funded Federal legislative requirement that this work continue.

The Bureau of the Census will renew the program in the year 2001, after the availability of Census 2000 data, for those entities that desire the service, provided that any and all costs associated with this work are borne by the local governmental entity.

Authority to continue this program on a fee-for-service basis is contained in Title 13, United States Code, Section 8.

Dated: May 13, 1998.

James F. Holmes,

Acting Director, Bureau of the Census.

[FR Doc. 98–13389 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 980]

Grant of Authority for Subzone Status CITGO Petroleum Co. (Petroleum Product Storage Facility), Broward County, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from Broward County, Florida, grantee of FTZ 25, for authority to establish special-purpose subzone status at the petroleum product storage facility of CITGO Petroleum Company, in Broward County, Florida, was filed by the Board on July 11, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 58–97, 62 FR 38972, 7/21/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the petroleum product storage facility of CITGO Petroleum Company, located in Broward County, Florida (Subzone 25B), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 11th day of May 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–13430 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–810]

Chrome-Plated Lug Nuts From Taiwan; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for preliminary results of antidumping duty administrative review of chrome-plated lug nuts from Taiwan.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the sixth antidumping duty administrative review of the antidumping order on chrome-plated lug nuts from Taiwan. This review covers 18 producers and exporters of chrome-plated lung nuts. The period of review is September 1, 1996 through August 31, 1997.

EFFECTIVE DATE: May 20, 1998.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, AD/CVD Enforcement Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230, telephone (202) 482–4195 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR 351.101, et seq. (62 FR 27296—May 19, 1997).

Extension of Preliminary Results

The Department initiated this administrative review on October 30, 1997 (62 FR 58705). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. Because of the complexity and novelty of certain issues in this case, it is not practicable to complete this review within the statutory time limit of 365 days. The Department, therefore, is extending the time limit for the preliminary results of the aforementioned review to August 3, 1998. See memorandum from Maria Harris Tildon to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension of time limit is in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Dated: May 14, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group II.

[FR Doc. 98–13429 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology; Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet Tuesday, June 9, 1998 from 8:30 a.m. to 5:00 p.m. The Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of NIST who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and International relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on NIST programs, NIST Planning for International Standards and Recent Developments in international Standards, the Manufacturing Extension Partnership, and a laboratory tour. Discussions scheduled to begin at 8:30 a.m. and to end at 9:10 a.m. on June 9, 1998, on staffing of management positions at NIST and the NIST budget, including funding levels of the Advanced Technology Program and the Manufacturing Extension Partnership scheduled to begin at 4:30 p.m. and to end at 5 p.m. on June 9, 1998, will be closed.

DATES: The meeting will convene June 9, 1998, at 8:30 a.m. and will adjourn at 5 p.m. on June 9, 1998.

ADDRESSES: The meeting will be held in the Employees Lounge (seating capacity 80, includes 38 participants), Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Chris E. Kuyatt, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975–6090.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 13, 1998, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Manufacturing Extension Partnership and the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: May 14, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13427 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051398A]

RIN 0648–AH77

Atlantic Shark Fisheries; Notice of Availability

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS announces that the Highly Migratory Species Management Division has prepared a final document considering the economic effects and potential alternatives to the 1997 quotas on the Atlantic large coastal shark fishery, as ordered by the Middle District Court of Florida, Tampa Division, on February 26, 1998.

ADDRESSES: Requests for copies of the final document should be sent to Margo Schulze, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: The fishery for Atlantic sharks is managed under the Fishery Management Plan for Sharks of the Atlantic Ocean prepared by NMFS under authority of section 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended, and was implemented on April 26, 1993, through regulations found at 50 CFR part 678.

On April 2, 1997 (62 FR 16648), NMFS reduced the large coastal shark commercial quota and recreational bag limit by 50 percent as proposed, with an exception for an additional recreational allowance of two Atlantic sharpnose sharks per person per trip. The prohibition on possession of white sharks was modified to allow for a catch-and-release-only recreational fishery. Otherwise, all measures were implemented as proposed. Partly because NMFS received comments that indicated the proposed measures may have a significant economic impact on a substantial number of small entities and because it wanted to ensure that the impacts were thoroughly analyzed, NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) that assessed the economic impacts of the regulation on small entities engaged in the Atlantic shark fishery in the final rule. In that FRFA, NMFS reaffirmed its

conclusion from the proposed rule stage that the 1997 quotas would not have a significant economic impact on a substantial number of small entities engaged in the large coastal shark fishery.

On May 2, 1997, a coalition of commercial shark fishermen, dealers, and organizations sued the Secretary of Commerce (Secretary) to set aside the 1997 commercial shark quotas based on allegations of uncertainty in the data used in stock assessments, on lack of international management, and on NMFS' determination that there would be no significant economic impact on a substantial number of small entities engaged in the Atlantic shark fishery. On February 27, 1998, Judge Steven D. Merryday, U.S. District Court, Middle District of Florida, Tampa Division, issued an amended order that found "that the Secretary acted within his regulatory discretion in setting the quotas but failed to conduct a proper analysis to determine the quota's economic effect on small businesses" (p. 1). Judge Merryday ordered that the agency submit further analyses on or before May 15, 1998, and retained jurisdiction over the case pending review of the analyses. The quotas are maintained until further order of the Court. On April 14, 1998, NMFS announced the availability of the draft consideration of the economic effects and potential alternatives to the 1997 quotas on the Atlantic large coastal shark fishery in response to the judicial order. Public comment was requested on the assumptions, analysis, and conclusions in the draft document. The comments received were considered and used to improve the document. A summary of the comments and NMFS response to each are contained within the document. This final document was submitted to the United States District Court for the Middle District of Florida, Tampa Division, on May 15, 1998.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 14, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries National Marine Fisheries Service.

[FR Doc. 98–13352 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051498A]

Small Takes of Marine Mammals Incidental to Specified Activities; Offshore Seismic Activities in the Beaufort Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from Western Geophysical/Western Atlas International of Houston, Texas (Western Geophysical) for an authorization to take small numbers of marine mammals by harassment incidental to conducting seismic surveys in the Beaufort Sea in state and Federal waters. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize Western Geophysical to incidentally take, by harassment, small numbers of bowhead whales and other marine mammals in the above mentioned areas during the open water period of 1998.

DATES: Comments and information must be received no later than June 19, 1998.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, a 1996 environmental assessment (EA), and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, (301) 713–2055, Brad Smith, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing incidental harassment authorizations under section 101(a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer to that document.

Summary of Request

On April 15, 1998, NMFS received an application from Western Geophysical requesting an authorization for the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season in the Beaufort Sea between Harrison Bay and Flaxman Island, AK. Weather permitting, the survey is expected to take place between approximately July 1 and October 20, 1998. A detailed description of the work proposed for 1998 is contained in the application (Western Geophysical, 1998) and is available upon request (see **ADDRESSES**).

Description of Habitat and Marine Mammal Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in the EA prepared for this authorization or in other documents (Minerals Management Service (MMS), 1992, 1996). This information is incorporated by reference and need not be repeated here. A copy of the EA is available upon request (see **ADDRESSES**).

Marine Mammals

The Beaufort/Chukchi Seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), belukha (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species and of others can be found in several other documents (Western Geophysical, 1998; BPXA, 1996b, 1998; Lentfer, 1988;

MMS, 1992, 1996; Small and DeMaster, 1995; Hill *et al.*, 1997). Please refer to those documents for information on these species.

Potential Effects of Seismic Surveys on Marine Mammals

Disturbance by seismic noise is the principal means of taking by this activity. Support vessels and aircraft will provide a secondary source of noise. The physical presence of vessels and aircraft could also lead to non-acoustic effects involving visual or other cues.

Seismic surveys are used to obtain data about formations several thousands of feet deep. The proposed seismic operation is an ocean bottom cable (OBC) survey. OBC surveys involve dropping cables from a ship to the ocean bottom, forming a patch consisting of 4 parallel cables 10 kilometers (km) (6.2 mi) long, separated 750 m (2,500 ft) from each other. Sensors (hydrophones) are attached to the cables. These hydrophones are used to detect seismic energy reflected back from underground rock strata. The original source of this energy is a submerged acoustic source, called a seismic airgun array, that releases compressed air into the water, creating an acoustical energy pulse that is directed downward toward the seabed. The source level planned for this project—a maximum of 249 dB re 1 μPa-m (zero to peak) or 53 bar-meters peak-to-peak from a 1,500 in^3 array of airguns—is in the lower to middle portion of the range of source levels commonly used for seismic operations with airgun arrays (Richardson *et al.*, 1995). Normally, 36 seismic lines are run for each patch, covering an area 6.0 km by 17.5 km (3.7 mi by 10.87 mi), centered over the patch.

After sufficient data have been recorded to allow accurate mapping of the rock strata, the cable is lifted onto the deck of a cable-retrieval vessel, moved to a new location (ranging from several hundred to a few thousand feet away), and placed onto the seabed again. For a more detailed description of the seismic operation, please refer to the application (Western Geophysical, 1998).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by open water seismic operations may be detectable a substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or of masking a signal of comparable frequency (Western Geophysical, 1998). An incidental harassment take is presumed to occur when marine mammals in the vicinity of the seismic source, the seismic vessel, other vessels, or aircraft react to the generated sounds or to visual cues.

Seismic pulses are known to cause bowhead whales to behaviorally respond within a distance of several kilometers (Richardson *et al.*, 1995). Although some limited masking of low-frequency sounds (e.g., whale calls) is a possibility, the intermittent nature of seismic source pulses (1 second in duration every 6 to 12 seconds) will limit the extent of masking. Bowhead whales are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.*, 1986). Masking effects are expected to be absent in the case of belukhas, given that sounds important to them are predominantly at much higher frequencies than are airgun sounds (Western Geophysical, 1998).

Hearing damage is not expected to occur during the project. It is not known whether a marine mammal very close to an airgun array would be at risk of temporary or permanent hearing impairment, but temporary threshold shift is a theoretical possibility for animals within a few hundred meters (Richardson *et al.*, 1995) of the source. However, planned monitoring and mitigation measures (described later in this document) are designed to detect marine mammals occurring near the array and to avoid exposing them to sound pulses that have any possibility of causing hearing damage.

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations, and seasons. Behavioral changes may be subtle alterations in surface, respiration, and dive cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors, such as feeding, socializing, or mating, are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening (Western Geophysical, 1998).

Bowhead Whales

Various studies (Reeves *et al.*, 1984, Fraker *et al.*, 1985, Richardson *et al.*, 1986, Ljungblad *et al.*, 1988) have reported that, when an operating seismic vessel approaches within a few kilometers, most bowhead whales exhibit strong avoidance behavior and changes in surfacing, respiration, and dive cycles. Bowheads exposed to seismic pulses from vessels more than 7.5 km (4.5 mi) away rarely showed observable avoidance of the vessel, but their surface, respiration, and dive cycles appeared altered in a manner similar to that observed in whales exposed at a closer distance (BPXA, 1996a, 1996b, Western Geophysical, 1998).

Within a 6–99 km (3.7–60 mi) range, it has not been possible to determine a specific distance at which subtle behavioral changes no longer occur (Richardson and Malme, 1993), given the high variability observed in bowhead whale behavior (BPXA, 1996a, 1996b). Analysis of the results from BPXA's 1996 seismic monitoring program does not provide conclusive evidence about the radius of avoidance of bowheads to the seismic program. The peak number of bowhead sightings was 10–20 km (6.2–12.3 mi) from shore during no-seismic periods and 20–30 km (12.3–18.6 mi) from shore during periods that may have been influenced by seismic noise. This difference was not statistically significant, but the low numbers of sightings preclude meaningful interpretation (Western Geophysical, 1998).

Inupiat whalers believe that migrating bowheads are sometimes displaced at distances considerably greater than 6 to 8 km (3.7 to 5.0 mi)(Rexford, 1996). Scientific studies done to date have limitations as discussed in part by Moore and Clark (1992) and MMS (1996). It is possible that, when additional data are available, it will be demonstrated that bowheads sometimes do avoid seismic vessels at distances beyond 6 to 8 km (3.7 to 5.0 mi). Also, whalers have mentioned that bowheads sometimes seem more "skittish" and more difficult to approach when seismic exploration is underway in the area. This "skittish" behavior may be related to the observed subtle changes in the behavior of bowheads exposed to seismic pulses from distant seismic vessels (Richardson *et al.*, 1986).

Gray Whales

The reactions of gray whales to seismic pulses are similar to those of bowheads. Migrating gray whales along the California coast were noted to slow their speed of swimming, turn away from seismic noise sources, and increase their respiration rates. Malme *et al.* (1983, 1984, 1988) concluded that approximately 50 percent showed avoidance when the average received

pulse level was 170 dB (re 1 μPa @ 1 m). By some behavioral measures, clear effects were evident at average pulse levels of 160+dB; less consistent results were suspected at levels of 140–160 dB.

Belukha

The belukha is the only species of toothed whale (*Odontoceti*) expected to be encountered in the Beaufort Sea. Because their hearing threshold at frequencies below 100 Hz (where most of the energy from airgun arrays is concentrated) is poor (125 dB re 1 μPa @ 1 m) or more depending upon frequency (Johnson *et al.*, 1989; Richardson *et al.*, 1991, 1995), belukha are not predicted to be strongly influenced by seismic noise. However, because of the high source levels of seismic pulses, airgun sounds may be audible to belukha at distances of 100 km (Richardson and Wursig, 1997). The reaction distance for belukha, although presently unknown, is expected to be less than that for bowheads, given the presumed poorer sensitivity of belukhas than that of bowheads for low-frequency sounds (Western Geophysical, 1998).

Ringed, Largha and Bearded Seals

No detailed studies of reactions by seals to noise from open water seismic exploration have been published (Richardson *et al.*, 1995). However, there are some data on the reactions of seals to various types of impulsive sounds (J. Parsons as quoted in Greene, *et al.* 1985; Anon., 1975; Mate and Harvey, 1985). These studies indicate that ice seals typically either tolerate or habituate to seismic noise produced from open water sources.

Underwater audiograms have been obtained using behavioral methods for three species of phocinid seals, ringed, harbor, and harp seals (*Pagophilus groenlandicus*). These audiograms were reviewed in Richardson *et al.* (1995). Below 30–50 kHz, the hearing threshold of phocinids is essentially flat down to at least 1 kHz and ranges between 60 and 85 dB (re 1 μPa @ 1 m). There are few data on hearing sensitivity of phocinid seals below 1 kHz. NMFS considers harbor seals to have a hearing threshold of 70–85 dB at 1 kHz (60 FR 53753, October 17, 1995), and recent measurements for a harbor seal indicate that, below 1 kHz, its thresholds deteriorate gradually to 97 dB (re 1 μPa @ 1 m) at 100 Hz (Kastak and Schusterman, 1995a, b).

Because no studies to date have focused on pinniped reaction to underwater noise from pulsed, seismic arrays in open water (Richardson *et al.*, 1991, 1995), as opposed to in-air exposure to continuous noise, substantive conclusions are not possible at this time. However, assuming a sound pressure level of 80–100 dB over its threshold is needed in order to cause annoyance and 130 dB for injury (pain), as is the current thought based upon human studies (Advanced Research Projects Agency and NMFS, 1995), it appears unlikely that pinnipeds would be harassed or injured by low frequency sounds from a seismic source unless they were within close proximity of the array. For permanent injury, pinnipeds would likely need to remain in the high-noise field for extended periods of time. Existing evidence also suggests that, while they may be capable of hearing sounds from seismic arrays, seals appear to tolerate intense pulsatile sounds without known effect once they learn that there is no danger associated with the noise (see, for example, NMFS/Washington Department of Wildlife, 1995). In addition, they will apparently not abandon feeding or breeding areas due to exposure to these noise sources (Richardson *et al.*, 1991) and may habituate to certain noises over time. Since seismic work is fairly common in Beaufort Sea waters, pinnipeds have been previously exposed to seismic noise and may not react to it after initial exposure.

Other Effects

For a discussion on the anticipated effects of ships, boats, and aircraft, on marine mammals and their food sources, please refer to the application (Western Geophysical, 1998). Information on these effects is incorporated in this document by reference (see Western Geophysical, 1998).

Numbers of Marine Mammals Expected to be Taken

Western Geophysical estimates that the following numbers of marine mammals may be subject to Level B harassment, as defined in 50 CFR 216.3:

Species	Population size	Harassment takes in 1998	
		Possible	Probable
Bowhead	8,000	800	<400
Gray whale	23,000	<10	0
Belukha	41,610	250	<150
Ringed seal	1–1.5 million	400	<300
Spotted seal	>200,000	10	<5
Bearded seal	>300,000	50	<30

Effects of Seismic Noise and Other Activities on Subsistence Needs

The disturbance and potential displacement of marine mammals by sounds from seismic activities are the principle concerns related to subsistence use of the area. The harvest of marine mammals (mainly bowhead whales, ringed seals, and bearded seals) is central to the culture and subsistence economies of the coastal North Slope communities (Western Geophysical, 1998). In particular, if migrating bowhead whales are displaced farther offshore by elevated noise levels, the harvest of these whales could be more difficult and dangerous for hunters. The harvest could also be affected if bowheads become more skittish when exposed to seismic noise (Western Geophysical, 1998).

Nuiqsut is the community closest to the area of the proposed activity, and it harvests bowhead whales only during the fall whaling season. In recent years, Nuiqsut whalers typically take zero to four whales each season (Western Geophysical, 1998). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located within the general area of the proposed seismic area. Thus, the possibility and timing of potential seismic operations in the Cross Island area requires Western Geophysical to provide NMFS with a Plan of Cooperation (also called the Communications and Avoidance Agreement) with North Slope Borough residents to avoid any unmitigable adverse impact on subsistence needs.

Whalers from the village of Kaktovik search for whales east, north, and west

of the village. Kaktovik is located 50 mi (80 km) east of the easternmost end of Western Geophysical's planned 1998 seismic exploration area. The westernmost reported harvest location was about 21 km (13 mi) west of Kaktovik, near 70°10'N, 144°W (Kaleak, 1996). That site is approximately 60 km (37 mi) east of the closest part of Western Geophysical's planned seismic exploration area for 1998 (Western Geophysical, 1998).

Whalers from the village of Barrow search for bowhead whales much further from the planned seismic area, >200 km (>125 mi) west (Western Geophysical, 1998).

The location of the proposed seismic activity is south of the center of the westward migration route of bowhead whales, but there is some overlap. Western Geophysical (1998) believes that, although whales may be able to hear the sounds emitted by the seismic array out to a distance of 50 km (30 mi) or more, it is unlikely that changes in migration route will occur at distances of >25 km (>15 mi). Alternatively, Inupiat whalers believe that bowheads begin to divert from their normal migration path more than 48 km (35 mi) away (MMS, 1996).

It is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark, 1992). As a result, Western Geophysical will participate in a Communications and Avoidance Agreement with the whalers to reduce any potential interference with the hunt. Also, it is believed that the monitoring plan proposed by Western Geophysical (1998; also see LGL Ltd. and Greeneridge Sciences Inc, 1998) will provide information that will help resolve uncertainties about the effects of seismic exploration on the accessibility of bowheads to hunters.

While seismic exploration has some potential to influence subsistence seal hunting activities, the peak season for seal hunting is during the winter months when the harvest consists almost exclusively of ringed seals (Western Geophysical, 1998). In summer, boat crews hunt ringed, spotted and bearded seals (Western Geophysical, 1998). The most important sealing area for Nuiqsut hunters is off the Colville delta, extending as far west as Fish Creek and as far east as Pingok Island (Western Geophysical, 1998). This area overlaps with the westernmost portion of the planned seismic area. In this area, during summer, sealing occurs by boat when hunters apparently concentrate on bearded seals (Western Geophysical, 1998).

Mitigation

Western Geophysical plans to use biological observers to monitor marine mammal presence in the vicinity of the seismic array. To avoid the potential for serious injury to marine mammals, Western Geophysical will power down the seismic source if pinnipeds are sighted within the area delineated by the 190 dB isopleth or:

(1) within 60 m (197 ft) of a single airgun or an array of ≤60 in^3.

(2) within 170 m (558 ft) of an array >60 in^3 and ≤750 in^3 at <2.5 m (8.3 ft) depth;

(3) within 280 m (919 ft) of an array >60 in^3 and ≤750 in^3 operating at >2.5 m (8.3 ft) depth;

(4) within 200 m (656 ft) of an array >750 in^3 and ≤1500 in^3 operating at <2.5 m (8.3 ft) depth;

(5) within 350 m (1,148 ft) of an array >750 in^3 and ≤1500 in^3 operating at >2.5 m (8.3 ft) depth;

Western Geophysical will power down the seismic source if bowhead, gray, or belukha whales are sighted within the area delineated by the 180 dB isopleth or:

(1) within 160 m (525 ft) of a single airgun or an array of >60 in^3;

(2) within 660 m (2,165 ft) of an array >60 in^3 and ≤750 in^3 at <2.5 m (8.3 ft) depth;

(3) within 900 m (2,953 ft) of an array >60 in^3 and ≤750 in^3 operating at >2.5 m (8.3 ft) depth;

(4) within 700 m (2,297 ft) of an array >750 in^3 and ≤840 in^3 operating at <2.5 m (8.3 ft) depth; and

(5) within 900 m (2,953 ft) of an array >750 in^3 and ≤840 in^3 operating at >2.5 m (8.3 ft) depth;

In addition, Western Geophysical proposes to ramp-up the seismic source to operating levels at a rate no greater than 6 dB/min. If the array includes airguns of different sizes, the smallest gun will be fired first. Additional guns will be added at intervals appropriate to limit the rate of increase in source level to a maximum of 6 dB/min.

Monitoring

As part of its application, Western Geophysical provided a monitoring plan for assessing impacts to marine mammals from seismic surveys in the Beaufort Sea. This monitoring plan is described in Western Geophysical (1998) and in LGL Ltd. and Greeneridge Sciences Inc. (1998). Although Western Geophysical is prepared to discuss coordination of research to the extent practicable with other seismic operations, Western Geophysical is prepared to sponsor an independent program. As required by the MMPA, this monitoring plan will be subject to a peer-review panel of technical experts prior to formal acceptance by NMFS.

Preliminarily, Western Geophysical plans to conduct the following:

Vessel-Based Visual Monitoring

A minimum of two biologist-observers aboard the seismic vessel will search for and observe marine mammals whenever seismic operations are in progress, and for at least 30 minutes prior to planned start of shooting. These observers will scan the area immediately around the vessels with reticulated binoculars during the daytime and with night-vision equipment during the night (prior to mid-August, there are no hours of darkness). Individual watches will normally be limited to no more than 4 consecutive hours.

When mammals are detected within a safety zone designated to prevent injury to the animals (see Mitigation), the geophysical crew leader will be notified so that shutdown procedures can be implemented immediately.

Aerial Surveys

From September 1, 1998, until 3 days after the seismic program ends, aerial surveys will be conducted daily, weather permitting. The primary objective will be to document the occurrence, distribution, and movements of bowhead and belukha whales in and near the area where they might be affected by the seismic pulses. These observations will be used to estimate the level of harassment takes and to assess the possibility that seismic operations affect the accessibility of bowhead whales for subsistence hunting. Pinnipeds will be recorded when seen. Aerial surveys will be at an altitude of 300 m (1,000 ft) above sea level. Western Geophysical proposes to avoid overflights of the Cross Island area where whalers from Nuiqsut are based during their fall whale hunt.

Consistent with 1996 and 1997 aerial surveys in the U.S. Beaufort Sea, the daily aerial surveys are proposed to cover two grids: (1) A grid of 12 north-south lines spaced 8 km (5 mi) apart and extending from about 20 km (12.5 mi) west of the western side of the then-current seismic exploration area to 50 km (30 mi) east of its eastern edge, and from the barrier islands north to approximately the 100 m (328 ft) depth contour; and (2) a grid of 4 survey lines within the above region, also spaced 8 km (5 mi) apart and mid-way between the longer lines, to provide more intensive coverage of the area of the seismic operations and immediate surrounding waters.

When the seismic program is relocated east or west along the coast during the 1998 season, both survey grids will be relocated a corresponding distance along the coast. Information on the survey program can be found in Western Geophysical (1998) and in LGL Ltd. and Greeneridge Sciences Inc. (1998), which are incorporated in this document by reference.

Acoustical Measurements

The acoustic measurement program proposed for 1998 is designed to be continue work conducted in 1996 and 1997 (see BPXA, 1996a, 1997, and 1998; LGL Ltd. and Greeneridge Sciences Inc., 1996, 1997, and 1998). The acoustic measurement program is planned to include (1) boat-based acoustic measurements, (2) OBC-based acoustic measurements, (3) use of air-dropped sonobuoys and (4) bottom-mounted acoustical recorders.

The boat-based acoustical measurement program is proposed for a 7-day period in August 1998. The objectives of this survey will be as follows: (1) To measure the levels and other characteristics of the horizontally propagating seismic survey sounds from the type(s) of airgun array(s) to be used in 1998 as a function of distance and aspect relative to the seismic source vessel(s) and to water depth.

(2) To measure the levels and frequency composition of the vessel sounds emitted by vessels used regularly during the 1998 program.

(3) To obtain additional site-specific ambient noise data, which determine signal-to-noise ratios for seismic and other acoustic signals at various ranges from their sources.

Western Geophysical and its proposed consultant (Greeneridge Sciences) are investigating the use of the OBC-system to help document horizontal propagation of the seismic surveys. In addition, during late August and September, autonomous seafloor acoustic recorders will be placed on the sea bottom at 3 locations to record low-frequency sounds nearly continuously for up to 3 weeks at a time. Information includes characteristics of the seismic pulses, ambient noise, and bowhead calls. Additional data on these noise sources will be obtained from sonobuoys dropped from aircraft after September 1.

For a more detailed description of planned monitoring activities, please refer to the application and supporting document (Western Geophysical, 1998; LGL Ltd. and Greeneridge Sciences Inc., 1998).

Estimates of Marine Mammal Take

Estimates of takes by harassment will be made through vessel and aerial surveys. Preliminarily, Western Geophysical will estimate the number of (1) marine mammals observed within the area ensonified strongly by the seismic vessel; (b) marine mammals observed showing apparent reactions to seismic pulses (e.g., heading away from the seismic vessel in an atypical direction); (c) marine mammals subject to take by type (a) or (b) when no monitoring observations were possible; and (d) bowheads displaced seaward from the main migration corridor.

Reporting

Western Geophysical will provide an initial report on 1998 activities to NMFS within 90 days of the completion of the seismic program. This report will provide dates and locations of seismic operations, details of marine mammal sightings, estimates of the amount and nature of all takes by harassment, and any apparent effects on accessibility of marine mammals to subsistence users.

A final technical report will be provided by Western Geophysical within 20 working days of receipt of the document from the contractor, but no later than April 30, 1999. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

Consultation

Under section 7 of the Endangered Species Act (ESA), NMFS completed an informal consultation on the issuance of an incidental harassment authorization for similar activities on June 26, 1997. A copy of that document is available upon request (see **ADDRESSES**). If an authorization to incidentally harass listed marine mammals is issued under the MMPA, NMFS will issue an Incidental Take Statement under section 7 of the ESA.

National Environmental Policy Act (NEPA)

In conjunction with the 1996 notice of proposed authorization (61 FR 26501, May 28, 1996) for open water seismic operations in the Beaufort Sea, NMFS released an EA that addressed the impacts on the human environment from issuance of the authorization and the alternatives to the proposed action. No comments were received on that document and, on July 18, 1996, NMFS concluded that neither implementation of the proposed authorization for the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season in the U.S. Beaufort Sea nor the alternatives to that action would significantly affect the quality of the human environment. As a result, the preparation of an environmental impact statement on this action is not required by section 102(2) of NEPA or its implementing regulations. A copy of the EA is available upon request (see **ADDRESSES**).

This year's activity is a continuation of the seismic work conducted in 1996 and 1997. For Western Geophysical's 1998 application, NMFS has conducted a review of the impacts expected from the issuance of an Incidental Harassment Authorization in comparison to those impacts evaluated in 1996. As assessed in detail in this document, NMFS has preliminarily determined that there will be no more than a negligible impact on marine mammals from the issuance of the harassment authorization and that there will not be any unmitigable impacts to subsistence communities, provided the mitigation measures required under the authorization are implemented. Because the activity is substantially the same as the one conducted in 1996 and no new impacts on the environment have been identified, a new EA is not warranted and, therefore, the preparation of an Environmental Impact Statement on this action is not required by section 102(2) of NEPA or its implementing regulations.

Conclusions

NMFS has preliminarily determined that the short-term impact of conducting seismic surveys in the U.S. Beaufort Sea will result, at worst, in a temporary modification in behavior by certain species of cetaceans and possibly pinnipeds. While behavioral modifications may be made by these species to avoid the resultant noise, this behavioral change is expected to have a negligible impact on the animals.

As the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of seismic operations, due to the distribution and abundance of marine mammals during the projected period of activity and the location of the proposed seismic activity in waters generally too shallow and distant from the edge of the pack ice for most marine mammals of concern, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the mitigation

measures mentioned in this document. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

Because bowhead whales are east of the seismic area in the Canadian Beaufort Sea until late August/early September, seismic activities are not expected to impact subsistence hunting of bowhead whales prior to that date. After August 31, 1998, aerial survey flights for bowhead whale assessments will be initiated. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs will be the subject of consultation between Western Geophysical and subsistence users.

Also, while open-water seismic exploration in the U.S. Beaufort Sea has some potential to influence seal hunting activities by residents of Nuiqsut, because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville Delta, and (3) the zone of influence by seismic sources on belukha and seals is fairly small, NMFS believes that Western Geophysical's seismic survey will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for the 1998 Beaufort Sea open water season for a seismic survey provided the above mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed seismic activity would result in the harassment of only small numbers of bowhead whales, gray whales, and possibly belukha whales, bearded seals, and largha seals; would have a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments, and information, concerning this request (see **ADDRESSES**).

Dated: May 14, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13425 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051398E]

Mid-Atlantic Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Comprehensive Management Committee; Committee Chairmen; Information and Education Committee; Habitat Committee; Executive Committee; and Squid, Mackerel, and Butterfish Committee will hold a public meeting.

DATES: The meetings will be held on Tuesday, June 2, 1998, to Thursday, June 4, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: This meeting will be held at the Sheraton Grand Hotel, Bicentennial Park, New Bern, NC; telephone: 919–638–3585.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: On Tuesday, June 2, the Comprehensive Management Committee will meet from 8:00–10:00 a.m. The Committee Chairmen will meet from 10:00–11:00 a.m. The Information and Education Committee will meet from 11:00 a.m. until noon. The Habitat Committee, together with the Dogfish Committee, Surfclam and Ocean Quahog Committee, Squid, Mackerel and Butterfish Committee, Habitat Advisors, and Scientific and Statistical Committee, will meet from 1:00–5:00 p.m. On Wednesday, June 3, the Executive Committee will meet from 7:00–9:00 a.m. Council will meet from 9:00–11:00 a.m. The Atlantic Mackerel, Squid, and Butterfish Committee will meet as a Council Committee of the Whole from 11:00 until noon. Council will meet from 1:00–2:00 p.m. to review the Whiting Fishery Management Plan. Council will meet from 2:00–5:00 p.m., together with the Atlantic States Marine Fisheries Commission (ASMFC) Board, to review Amendment 1 to the Bluefish Fishery Management Plan. On Thursday, June 4, Council will meet from 8:00 a.m. until 5:00 p.m.

Agenda items for this meeting are: Distribution and abundance and EFH identification and recommendations on dogfish, surfclams, ocean quahogs, and squid, mackerel, butterfish; Review and adoption of NMFS recommendations on bluefish EFH; Review and hearing adoption of NMFS consistency amendment for consistency in Northeast vessel permits (replacement and upgrade); Adoption of mackerel limited entry provisions for pubic hearing document; Review and comment on whiting, winter flounder, herring and scallop management measures; Review and adoption of Amendment 1 to the Bluefish FMP for public hearing; Review and adoption of Dogfish FMP for public hearing; Review and adoption of Monkfish FMP; Review comprehensive management matrix; Review Council newsletter, view Council websight; hear committee reports and other fishery management matters.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson- Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13370 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[051398D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in June, 1998 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between June 4 and June 17, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Gloucester, MA, Warwick, RI, and Portland, ME. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director; (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, June 4, 1998, 9:30 a.m.—Joint Habitat Committee and Advisory Panel Meeting

Location: NMFS Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01960; telephone: (978) 281–9300.

Development of essential fish habitat (EFH) designations for Council-managed species and review of the EFH draft public hearing document.

Thursday, June 11, 1998, 10:30 a.m.—Whiting Committee Meeting

Location: Marine Trade Center, Two Portland Fish Pier, Third Floor, Suite 109, Portland, ME 04101; telephone: (207) 775–5450.

Review of the Draft Supplemental Environmental Impact Statement and draft public hearing document associated with (whiting) Amendment 10 to the Northeast Multispecies Fishery Management Plan (FMP).

Wednesday, June 17, 1998, 10 a.m.—Scallop Advisory Panel Meeting

Location: Radisson Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

Review and comment on the management measures proposed for Amendment 7 to the Sea Scallop FMP. The amendment is intended to rebuild the scallop resource by substantially reducing fishing effort.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13369 Filed 5–19–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Individual MCJROTC Instructor Evaluation Summary; NAVMC 10942; OMB Number 0703–0016.

Type of Request: Extension.

Number of Respondents: 348.

Responses Per Respondent: 1.

Annual Responses: 348.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 174.

Needs and Uses: This form provides a written record of the overall performance of duty of Marine instructors who are responsible for implementing the Marine Corps Junior Reserve Officers' Training Corps (MCJROTC). The Individual MCJROTC Instructor Evaluation Summary is completed by principals to evaluate the effectiveness of individual Marine instructors. The form is further used as a performance related counseling tool and as a record of service performance to document performance and growth of individual Marine instructors. Evaluating the performance of instructors is essential in ensuring that they provide quality training.

Affected Public: Individuals or households.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 13, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13379 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Academic Certification for Marine Corps Officer Candidate Program; NAVMC 10469; OMB Number 0703–0011.

Type of Request: Extension.

Number of Respondents: 3,500.

Responses Per Respondent: 1.

Annual Responses: 3,500.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 875.

Needs and Uses: Used by Marine Corps officer procurement personnel, this form provides a standardized method for determining the academic eligibility of applicants for all Reserve officer candidate programs. Use of this form is the only accurate and specific method to determine a Reserve officer applicant's academic qualifications. Each applicant interested in enrolling in an undergraduate or graduate Reserve officer commission program completes and return the form.

Affected Public: Individuals or households.

Frequency: On occasion..

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 13, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13380 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, June 16, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: May 14, 1998.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13373 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0830, Wednesday and 0800, Thursday, June 3 and 4, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detector and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: May 14, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13374 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, June 11, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Doyle, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended (5 U.S.C. App. § 10(d) (1994)) it has been determined that this Advisory Group meeting concerns matters listed in 5

U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: May 14, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13375 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, July 15, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d) (1994), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: May 14, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13376 Filed 5–19–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under P.L. 95–202 and Department of Defense Directive (DoDD) 1000.20 "Members of the Alaska Territorial Guard, Who Served in Alaska Between December 31, 1941, and August 15, 1945 , Under the Authority of Public Law 392, Section 7"

Under the provisions of Section 401, Public Law 95–202 and DoD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group know as: "Members of the Alaska Territorial Guard, who served in Alaska between December 31, 1941, and August 15, 1945, under the authority of Public Law 392, Section 7." Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DoD Civilian/Military Service Review Board, 1535 Command Drive, EE-Wing, 3rd Floor, Andrews Air Force Base, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–13349 Filed 5–19–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF ENERGY

Office of Environmental Management

Environmental Management Site-Specific Advisory Board Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463), and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1015(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Site-Specific Advisory Board has been renewed for a two-year period beginning May 16, 1998.

The purpose of the Board is to provide the Assistant Secretary for Environmental Management with advice and recommendations on environmental management projects and issues such as risk management, economic development, future land use, and budget prioritization activities, from the perspectives of affected groups and State and local governments. Board membership will reflect the full diversity of views in the affected community and region and be composed primarily of people who are directly affected by site clean-up activities. Members will include interested stakeholders from local governments, Indian Tribes, environmental and civic groups, labor organizations, universities, waste management and environmental restoration firms, and other interested parties. Representatives from the Department of Energy (DOE), the Environmental Protection Agency, and State governments will be ex-officio members of the Board. Selection and appointment of Board members will be accomplished using procedures designed to ensure diverse membership and a balance of viewpoints. Consensus recommendations to the DOE from the Board on the resolution of numerous difficult issues will help achieve DOE's objective of an integrated environmental management program.

The Secretary of Energy has determined that renewal of the Environmental Management Site-Specific Advisory Board is necessary to conduct DOE's business and is in the public interest. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act, the DOE Organization Act (Pub. L. 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this advisory board may be obtained from Rachel M. Samuel at (202) 586–3279.

Issued in Washington, D.C. on May 15, 1998.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 98–13451 Filed 5–19–98; 8:45 am]

BILLING CODE 6450–01–P

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DEPARTMENT OF ENERGY

Notice of Program Interest—Comprehensive Test Ban Treaty Research and Development Program

AGENCY: Albuquerque Operations Office (AL). The U.S. Department of Energy (DOE).

ACTION: Notice of program interest—to fund unsolicited applications/proposals for financial assistance awards contributing to the mission of the Comprehensive Test Ban Treaty (CTBT) Research and Development Program.

SUMMARY: The DOE is interested in receiving for consideration applications for Federal Financial Assistance Awards pursuant to the financial assistance rules contained in Title 10 Code of Federal Regulations Part 600 (10 CFR 600), specifically 10 CFR 600.9). On behalf of the DOE CTBT R&D Program, DOE/AL invites Unsolicited Applications/Proposals from interested and qualified Nonprofit Organizations, Institutions of Higher Education, and Commercial Organizations to pursue research that supports the CTBT R&D program mission.

The CTBT R&D Program mission is: "to carry out research and development necessary to provide U.S. government agencies, that are responsible for monitoring and/or verifying CTBT compliance, with technologies, algorithms, hardware and software for integrated systems to detect, locate, identify and characterize nuclear explosions at the thresholds and confidence levels that meet U.S. requirements in a cost-effective manner." Program priorities focus on the advancement of seismic, infrasound, radionuclide, and hydroacoustic knowledge and capabilities. This Notice of Program Interest is intended to encourage the participation of Nonprofit Organizations, Institutions of Higher Education, and Commercial Organizations in furthering these program mission interests.

DATES: This Notice of Program Interest expires *September 30, 1998*. This date does not represent a common deadline for applications but rather that applications may be submitted at any time before the notice expires.

ADDRESSES: Applicants seeking funding consideration by the CTBT R&D Program under this Notice of Program Interest are requested to mark and submit their Unsolicited Applications/Proposals, eight (8) total, as follows:

Original and Copies #1–6: Leslie A. Casey, Treaty Monitoring Program Manager, c/o CTBT R&D Program—Notice of Program Interest—NN–20, U.S. Department of Energy, 1000 Independence, Ave., SW, Washington, DC 20585–0420. DOE/NN–20 will initiate the objective merit review process.

Copy #7: John N. Augustine, Unsolicited Applications/Proposals Manager, c/o CTBT R&D Program—Notice of Program Interest—NN–20, U.S. Department of Energy, Federal Energy Technology Office (FETC), 626 Cochrans Mill Road, PO Box 10940, Pittsburgh, PA 15236–0940. DOE FETC—Pittsburgh will assign a DOE identification number and acknowledge receipt of the proposal.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400, Attn: Mr. Michael G. Loera, Contracts and Procurement Division, Telephone Number: (505) 845–4302, Fax Number: (505) 845–4004.

SUPPLEMENTARY INFORMATION: Responses to this Notice of Program Interest must explain how the proposed work furthers the CTBT R&D Program mission and research issues. These are summarized on the Web Page: "http://www.ctbt.rnd.doe.gov/coordination/", under the heading "R&D Issues and Metrics". Successful applications will: demonstrate a knowledge of the ongoing CTBT R&D Program; offer novel or innovative approaches leading to performance improvements and cost reductions; respond to ground truth data deficiencies; and, follow the guidance provided in the *"Guide for the Submission of Unsolicited Applications/Proposals"*, which is available on the Web Page: "http://www.pr.doe.gov/gdtoc.html". Applicants are, thereby, encouraged to review and acquaint themselves with 10 CFR 600.10, "Form and contents of applications", and with work that has already been performed as represented in the bibliography located at the Program's web site.

Unsolicited Applications/Proposals will be evaluated against many factors. Some of the criteria that are likely to apply include: technical merit; applicant's familiarity with other ongoing work; the relevance and quality of the applicant's prior work; effectiveness of the proposed technical approach; timeliness; cost; and the period of performance. Applicants are, therefore, encouraged to include information in their proposals that facilitate evaluation against these criteria and as a minimum should address the requirements listed below. Cost sharing is not required, but highly encouraged. It is anticipated that Cooperative Agreements will be favored over Grants. The resulting Cooperative Agreement or Grant will be administered by the DOE Albuquerque Operations Office, or possibly by other CTBT Program Office designees.

Unsolicited Applications/Proposals are to be comprised of both technical and cost proposal elements. Unsolicited Proposal requirements and format are as follow:

(1) *Project Description:* (Provide a comprehensive, but succinct [350 character] description of the proposed research project. It should convey the project objective, application, method, product and value to U.S. government agencies and other users).

(2) *Objective(s):* (State research objectives).

(3) *Application:* (Describe the product and how it is to be used. Discuss the product's merits over the current baseline and operational risk considerations).

(4) *User(s):* (List potential users and indicate whether they have expressed interest in the product).

(5) *Prior Work:* (Summarize the current state-of-the-art for the stated field of endeavor. Provide credentials of key participants and describe their previous relevant work. Cite applicable bibliographic references).

(6) *Collaborators:* (Identify other participants and describe their role and contribution).

(7) *Proposed Work & Scientific Basis:* (Specify the technical approach to manage the project; describe specific tasks and subtask activities to be conducted by Work Breakdown Structure (WBS) to achieve the research objectives; and identify key decision points [milestones]. Relate these elements to how they further the stated research objectives and advance the state-of-the-art).

(8) *Research Issues:* (Identify the technical issues that will be addressed by the project; list potential barriers and explain how they will be overcome).

(9) *Tasks:* (By WBS element, list the tasks, associated subtasks, and associated costs. Differentiate the cost for fully burdened labor, equipment, materials, other (such as travel, taxes, fee (if applicable), etc.) [Once Unsolicited Applications/Proposals are selected for funding, a complete break-down by cost element will be required.]

(10) *Milestones:* (List milestones and scheduled completion dates by task/subtask).

(11) *Deliverables:* (List deliverables and scheduled completion dates by task/subtask).

Funding Considerations

Financial Assistance Awards are anticipated to be funded for project duration's of 1–3 years and awards will generally range from $100,000 to $500,000. Total program funds for Unsolicited Applications/Proposals in Fiscal Year (FY) 1998 are not likely to exceed $1,000,000. Unsolicited Applications/Proposals received may be considered for funding at any time following receipt. Unsolicited Applications/Proposals not selected in FY 1998 may be reconsidered for funding in the following year.

Submission, Withdrawal, and Unsuccessful Applications

Unsolicited Applications/Proposals will be accepted on an ongoing basis. Unsolicited Applications/Proposals must state an acceptance period of 180 days; however, Unsolicited Applications/Proposals may be withdrawn by the Applicant at any time by written notification to the DOE Contracting Officer identified below. Unsolicited Applications/Proposals not funded and not withheld for reconsideration will be destroyed and the Applicant will be notified accordingly. A Federal Financial Assistance Award (Grant and Cooperative Agreements) application package which includes a sample award can be obtained from the DOE Contracting Officer identified below or can be down-loaded from the DOE AL Web Page: "http://www.doeal.gov/cpd/ " under the heading "Solicitations".

It is DOE policy to exercise extreme care to ensure that the proposal information is not duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, without written permission of the Applicant. Furthermore, with respect to the Unsolicited Proposal evaluation, the Applicant is hereby informed that it is standard practice of the CTBT R&D program officials to include review by DOE laboratory managers and experts in the topic area of the proposal. If you are an expert and are willing to serve as a reviewer on a non-remunerative basis, the CTBT R&D Program would like to be notified of your interest. Serving as a technical reviewer could encompass these Unsolicited Applications/Proposals, subject to non-disclosure agreements, as well as other proposals related to the CTBT R&D Program. Interested individuals are requested to forward their resume and cover letter expressing their interest to: Manager, Treaty Monitoring Programs (NN–20), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC, 20585–0420. Finally, proposal evaluation may include coordination with other government agencies or their designated contractors, primarily to check for duplication of effort and end user interest. This is an important integration practice appropriate to a full-scope, ongoing and mature program such as the CTBT R&D program.

Issued in Washington, D.C. on May 13, 1998.

Leslie A. Casey,

Treaty Monitoring Program Manager, NN–20.

[FR Doc. 98–13412 Filed 5–19–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting:

NAME: Environmental Management Advisory Board.

DATE AND TIMES: Wednesday, June 10, 1998; 8:30 a.m.–3 p.m.

PLACE: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW.; Room 1E–245, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Special Assistant to the Assistant Secretary for Environmental Management; Environmental Management Advisory Board (EMAB), EM–22, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4400. The Internet address is: James.Melillo@em.doe.gov

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management program from the perspectives of affected groups and state, local, and tribal governments. The Board will help to improve the Environmental Management Program by assisting in the process of securing consensus recommendations, and providing the Department's numerous publics with opportunities to express their opinions regarding the Environmental Management Program.

Tentative Agenda

Wednesday, June 10, 1998

8:30 a.m. Co-Chairmen Open Public Meeting
8:45 a.m. EM–1 Opening Remarks
9:15 a.m. Technology Development & Transfer Committee Report
9:45 a.m. Science Committee Report
10:30 a.m. Break
10:45 a.m. Privatization Committee Report
11:00 a.m. Long Term Stewardship Committee Report
11:15 a.m. 2006 Strategic Planning Committee Reports
12:00 p.m. Working Lunch
12:30 p.m. 2006 Strategic Plan Status
1:00 p.m. Board Discussion
1:45 p.m. Public Comment Period
2:00 p.m. Board Business
2:30 p.m. Public Comment Period
3:00 p.m. Meeting Adjourns

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should either contact James T. Melillo at the address or telephone number listed above, or call 1–(800) 736–3282, the Center for Environ mental Management Information and register to speak during the public comment session of the meeting. Individuals may also register on June 10, 1998 at the meeting site. Every effort will be made to hear all those wishing to speak to the Board, on a first come, first serve basis. Those who call in and reserve time will be given the opportunity to speak first. The Board Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: A meeting transcript and minutes will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on May 14, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–14311 Filed 5–19–98; 8:45 am]

BILLING CODE 6450–01–P

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–406–000]

CNG Transmission Corporation; Informal Settlement Conference

May 14, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, May 20, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 835.214).

For additional information, please contact William J. Collins at (202) 208–0248.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13360 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2912–000]

Duke Power Company; Notice of Filing

May 14, 1998.

Take notice that on April 29, 1998, Duke Power Company tendered the true-up filing for calendar year 1997 under Article II.3 of the Settlement Agreement approved by Commission's Letter Order issued October 9, 1991 in Docket No. ER90–315–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 22, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13351 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–217–000]

Gas Research Institute; Refund Report

May 14, 1998.

Take notice that on May 8, 1998, the Gas Research Institute (GRI) tendered for filing a report listing its 1997 refunds made to its pipeline members.

GRI states that the refunds, totaling $18,621,249 to twenty-eight pipelines, were made in accordance with the Commission's September 27, 1996 Opinion No. 407 (76 FERC ¶ 61,337).

GRI states that it has served copies of the filing to each person included on the Secretary's service list in Docket No. RP96–267–000.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before May 22, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13358 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–781–001]

National Fuel Gas Supply Corporation; Notice of Amendment

May 14, 1998.

Take notice that on May 11, 1998, National Fuel Gas Supply Corporation (National Fuel) 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP97–781–001 an amendment to the pending abandonment application filed on September 29, 1997, in Docket CP97–781–000 for permission and approval to abandon its Deerlick Storage Field (Deerlick) and adjacent facilities located in Warren County, Pennsylvania, all as more fully set forth in the application on file with the Commission and open to public inspection.

National Fuel states that the September 29 Application indicates that there are seven independent producers located on the gathering lines feeding the Deerlick gathering system at eight interconnections. National Fuel claims that it has ascertained that the seven producers deliver gas to National Fuel at thirteen such interconnections and of these thirteen interconnections, ten were installed under National Fuel's blanket certificate in Docket No. CP83–4. National Fuel's amendment includes a revised accounting treatment reflecting the abandonment of the additional interconnections. National Fuel requests that the Commission's abandonment authorization encompasses all ten of these reported interconnections.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 4, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's

Rules. All persons who have heretofore filed need not file again.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13356 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–525–000]

Northern Natural Gas Company; Request Under Blanket Authorization

May 14, 1998.

Take notice that on May 6, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–525–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate two (2) new master meters in Green and Trempealeau Counties, Wisconsin to provide central points of measurement to Wisconsin Gas Company (WGC), under Northern's blanket certificate issued in Docket No. CP82–401–000 [1] pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that WGC has requested the installation of the Monroe and the Black River Falls Master Meters to provide central points of measurement for deliveries to WGC under Northern's currently effective throughput service agreements. Northern also states that the proposed master meters will not impact the volumes currently delivered to WGC through the specified branch lines. Northern estimates a cost of $465,000 to install the new master meters.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13355 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 20 FERC ¶ 62,410 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–58–001]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 14, 1995.

Take notice that on May 8, 1998, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets proposed to become effective on June 1,1998:

Fifth Revised Volume No. 1

Substitute Eighth Revised Sheet No. 54
Substitute Seventh Revised Sheet No. 61
Substitute Seventh Revised Sheet No. 62
Substitute Seventh Revised Sheet No. 63
Substitute Seventh Revised Sheet No. 64

Northern states that the reason for this filing is to resubmit Sheets Nos. 54, 61, 62, 63 and 64 to correct the Mainline fuel True-up Adjustment as derived on a Revised Exhibit No. 2 and to correct the UAF percentage because of administrative oversights.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13357 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR98–13–000]

Tosco Corporation, Complainant v. SFPP, L.P., Respondent; Compliant

May 14, 1998.

Take notice that on April 24, 1998, pursuant to sections 9, 13(1), and 15(1) of the Interstate Commerce Act of 1887 (Act) (49 U.S.C. App. §§ 9, 13(1), 15(1)), Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR § 385.206), and the Procedural Rules Applicable to Oil Pipeline Proceedings (18 CFR § 343.1(a)), Tosco Corporation, including its subsidiaries and affiliates (Tosco), tendered for filing its complaint against the interstate rates and charges of SFPP, L.P. (SFPP).

Tosco alleges that SFPP's system-wide rate structure is excessive, discriminatory and unlawful. Tosco argues that SFPP has violated and continues to violate sections 1(5), 2, 3(1), 4, 6, and 8 of the Act by (a) establishing and charging unjust and unreasonable rates, (b) charging unduly discriminatory and preferential rates and charges, and (c) assessing untariffed rates and charges for jurisdictional service.

Tosco requests that the Commission: (1) Examine the rates and charges collected by SFPP for its jurisdictional interstate service; (2) order refunds to Tosco to the extent the Commission finds that such rates or charges were unlawful; (3) determine just, reasonable, and nondiscriminatory rates for SFPP's jurisdictional interstate service; (4) award Tosco reasonable attorneys' fees and costs; and (5) order such other relief as may be appropriate.

Tosco states that it has served the Compliant on SFPP.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before May 26, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers

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to this complaint shall be due on or before May 26, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13354 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1823–000]

XERXE Group, Inc.; Notice of Filing

May 14, 1998.

Take notice that on April 24, 1998, XERXE Group, Inc., tendered for filing in compliance with the Commission's order issued March 19, 1998, notification of change in corporate status in the above-referenced.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 22, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13350 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5637–003]

Pancheri Inc.; Availability of Environmental Assessment

May 14, 1998.

An environmental assessment (EA) is available for public review. The EA is for an application to amend the Pancheri Hydroelectric Project. The application is to rehabilitate the existing project by upgrading the existing pipe water conveyance system and building a new powerhouse. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Pancheri Hydroelectric Project is located on the Sawmill Creek in Butte County, Idaho.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, N.E., Washington, D.C. 20426. Copies can also be obtained by calling the project manager listed below. For further information, please contact the project manager, Jean A. Potvin, at (202) 219–0022.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13361 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Surrender of Exemption and Dam Removal

May 14, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Surrender of Exemption and Dam Removal.

b. Project No: 4727–013.

c. Licensee: John C. Jones.

d. Name of Project: Grist Mill Project.

e. Location: Souadabscook Stream, Town of Hampden, Penobscot County, ME.

f. Pursuant to: Energy Security Act of 1980, 94 Stat. 611; Federal Power Act, 16 U.S.C. §§ 792–828.

g. Licensee Contact: John C. Jones, P.O. Box 147, Winterport, ME 04496, 207–223–4363.

h. FERC Contact: Dean C. Wight, (202) 219–2675.

i. Comment Date: June 22, 1998.

J. Description of Proposed Action: The exemptee proposes to surrender the exemption from licensing because he has determined that further operation and repair of the project is not economically feasible.

The exemptee further proposes to remove the project dam in lieu of installation of a fish passage facility and in lieu of reducing the height of the dam, as required by the Commission's May 22, 1997 Order Approving Stipulation and Consent Agreement.

k. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13353 Filed 5–19–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00241; FRL–5790–6]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on June 8–10, 1998, in Washington, DC. At this meeting, the NAC/AEGL Committee will address the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: acrolein, carbon tetrachloride, chloroform, crotonaldehyde, hydrogen sulfide, nickel carbonyl, nitrogen oxides, peracetic acid, propylene imine, and propylene oxide.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on Monday, June 8, 1998; from 8:30 a.m. to 5 p.m. on Tuesday, June 9, 1998; and from 8:30 a.m. to 1 p.m. on Wednesday, June 10, 1998.

ADDRESSES: The meeting will be held at the National Endowment for the Arts, 1100 Pennsylvania Ave., NW., Rm. M09, Washington, DC 20506 (located in the Old Post Office Building, across the street from the Federal Triangle Metro stop).

FOR FURTHER INFORMATION CONTACT: Paul S. Tobin, Designated Federal Officer (DFO), Office of Prevention, Pesticides, and Toxic Substances (7406), 401 M St., SW., Washington, DC 20460; (202) 260–1736; e-mail: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet

Electronic copies of this notice and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

Fax-On-Demand

Using a faxphone call (202) 401–0527 and select item 4800 for an index of items in this category.

II. Meeting Procedures

For further information on the meeting, the meeting agenda, the submission of information, or presentation of information on chemicals to be discussed, contact the DFO.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties should contact the DFO to schedule statements or presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers should also contact the DFO as soon as possible to ensure adequate seating arrangements. Direct all inquiries regarding oral presentations, oral statements, submission of written statements, or chemical-specific information to the DFO.

Another meeting of the NAC/AEGL Committee is expected to be held September 1998, but the exact date and meeting location are not yet determined. It is anticipated that the chemicals to be addressed at this meeting will include, but are not limited to, the following: cyclohexylamine, ethylene diamine, glycol ether acetate, HFC–134a, HCFC–141b, methyl isocyanate, piperidine sulfur dioxide, sulfur trioxide, and sulfuric acid. Direct inquiries regarding the submission of data, written statements, or chemical-specific information on the chemicals listed for the September 1998 meeting to the DFO as soon as possible to allow for consideration of this information in the preparation of the NAC/AEGL Committee materials.

List of Subjects

Environmental protection, Hazardous substances, Health.

Dated: May 14, 1998.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 98–13445 Filed 5–19–98; 8:45am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–793; FRL–5773–2]

Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the pesticide chemical pymetrozine, in or on various food commodities.

DATES: Comments, identified by the docket control number PF–793, must be received on or before June 19, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Leonard Cole	Rm. 211, CM #2, 703–305–5412, e-mail:cole.leonard@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions

contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–793] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Norvartis Crop Protection, Inc.

PP 8F4929

EPA has received a pesticide petition (PP 8F4929) from Norvartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of Pymetrozine in or on the raw agricultural commodity cucumbers, fruiting vegetables, potatoes, hops at 0.02, 0.05 parts per million. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of CGA–215944 in plants is understood for the purposes of the proposed tolerance. Studies in rice, tomatoes, cotton and potatoes gave similar results. Identified metabolic pathways have demonstrated that pymetrozine is the residue of concern for tolerance setting purposes.

2. *Analytical method*— i. *Crops.* Novartis has submitted two analytical methods for the determination of pymetrozine and its major crop metabolite, in crop substrates. For both methods, the limit of detection (LOD) is 1.0 ng and the limit of quantitation (LOQ) is 0.02 ppm. Samples are extracted using acetonitrile: 0.05M sodium borate and an aliquot is taken for each method. The aliquots were cleaned up with solid-phase and/or liquid-liquid partitions and analyzed by HPLC with column-switching and UV detection. Both methods have undergone independent laboratory validation. The pymetrozine Analytical Method is proposed as the tolerance enforcement method.

ii. *Livestock.* Novartis has also submitted analytical methods for the determination of pymetrozine in eggs, milk and poultry, dairy and goat tissues, and for its major livestock metabolite in dairy and goat tissues and milk. This method also accounts for a phosphate conjugate, which is a significant metabolite found only in milk. The LOD for the analytical method is 1.0 ng and the LOQ is 0.01 ppm. Samples are extracted using acetonitrile: Water, cleaned up with solid-phase and liquid-liquid partitions, and analyzed for pymetrozine by HPLC with column switching and UV detection. The LOD for the metabolite method is 1.5 ng and the is LOQ of 0.01 ppm. Samples are extracted using methanol: Water. Milk samples are heated to hydrolyze the phosphate conjugate, and all samples are cleaned up with solid-phase partitions and analyzed by HPLC with UV detection. The parent Analytical Method has successfully undergone independent laboratory validation.

3. *Magnitude of residues*—i. *Cucurbits.* Twenty-two field trials were conducted in 13 states representing typical fruiting vegetables growing areas in the United States, including Arizona, California, Florida, Georgia, Indiana, Michigan, New York, North Carolina, Ohio, Oregon, South Carolina, and Texas. Cantaloupes, summer squash, and cucumbers were treated with two post foliar applications of pymetrozine 50WG at 21 and 14 days prior to harvest of mature fruit using a 1X rate of 80 g a.i./A per application (160 g a.i. or 0.35 lb a.i.per a). Samples of summer squash and cucumbers from early harvest harvest intervals (pre-harvest interval (PHI) < 14 days) were collected to demonstrate decline of residues of pymetrozine.

Residue data were generated for pymetrozine for tolerance setting and dietary exposure estimates. Data was generated for a major metabolite for dietary exposure purposes only as this metabolite does not need to be part of the tolerance expression. No pymetrozine residues were found in cantaloupes treated at the 1X rate and harvested at the target PHI of 14 days. Maximum GS–23199 residues of 0.02 ppm were found in only 1 of 16 cantaloupe samples. The maximum pymetrozine residues found in summer squash samples treated at the 1X rate were 0.02 ppm in a sample harvested at 0–day PHI. No pymetrozine residues were found in any 3–day, 7–day, or 14–day sample of squash treated at the 1X rate. No metabolite residues were found in any summer squash sample at any PHI. No pymetrozine or metabolite residues were found in any sample of cucumbers treated at the 1X rate and harvested at 14 days PHI.

No residues of pymetrozine are expected in cucurbits vegetables treated at the 1X rate and harvested 14 days after the last application.

ii. *Fruiting vegetables.* Seventeen field trials were conducted in 12 states representing typical fruiting vegetable growing areas in the United States, including California, Florida, Indiana, Maryland, Michigan, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, Tennessee, and Texas. Tomatoes and peppers were treated

with two post foliar applications of pymetrozine 50 WP 21 and 14 days prior to harvest of mature fruit using a 1X rate of 80 g active ingredient/acre (a.i./A), a 2X rate of 160 g a.i./A, a 3X rate of 240 g a.i./A, and a 5X rate of 400 g a.i./A per application. Samples from early harvest intervals (pre-harvest interval < 14 days) were collected to demonstrate decline of residues of pymetrozine. Mature fruit from two tomato field trials were processed under simulated commercial practice.

Residue data were generated for pymetrozine for tolerance setting and dietary exposure estimates. Data was generated for the major metabolite for dietary exposure purposes only as this metabolite does not need to be part of the tolerance expression. Pymetrozine residues were found in 0– and 3–day PHI samples of tomatoes treated at the 1X rate, but in none of the 7–day PHI 1X samples analyzed. No pymetrozine residues were found in tomatoes treated at the 1X rate and harvested at the target PHI of 14 days. No residues of the metabolite were found in samples harvested with 0–, 3–, or 7–day PHI, but metabolite residues of 0.02 ppm were found in 1 of 22 1X tomato samples harvested with a 14–day PHI.

All analyzed tomato samples treated at exaggerated rates were harvested with a 14–day PHI. No pymetrozine residues were found in any 2X tomato sample. The maximum pymetrozine residues found in 3X and 5X samples were 0.04 ppm and 0.10 ppm. The maximum residues found in 2X, 3X, and 5X samples were 0.02 ppm, 0.08 ppm, and 0.10 ppm.

All analyzed processed tomato fractions were from tomatoes harvested with a 14–day PHI. No residues of pymetrozine were found in any processed fraction from tomatoes treated at exaggerated rates. No 1X processed tomato fraction samples were analyzed. The maximum residues of metabolite found in tomato processed fractions were 0.4 ppm in juice from tomatoes treated at the 5X rate.

All pepper samples analyzed were treated at the 1X rate. Pymetrozine residues of 0.04 ppm were found in 1 of 20 pepper samples harvested at a 14–day PHI. Pymetrozine residues were found in all eight 0–day PHI samples, but in none of the four 3–day or 7–day PHI samples analyzed. No metabolite residues were found in any pepper sample at any PHI.

Little or no residues of pymetrozine are expected in fruiting vegetables treated at the 1X rate and harvested 14 days after the last application.

Tuberous and corm vegetables. Sixteen field trials were conducted in 13 States representing typical potato growing areas in the United States, including Idaho, Washington, Oregon, California, Florida, North Dakota, Minnesota, North Carolina, Wisconsin, Colorado, Maine, New York, and Michigan. Potatoes were treated with two foliar applications of pymetrozine 50 WP made 21 and 14 days prior to first harvest using a 1X rate of 40 g a.i./A, a 3X rate of 120 g a.i./A, and a 5X rate of 400 g a.i./A per application. Samples from early harvest intervals (PHI < 14 days) were collected to demonstrate decline of residues of pymetrozine.

Residue data was generated for pymetrozine for tolerance setting and dietary exposure estimates. Data was generated for the major metabolite for dietary exposure purposes only as this metabolite does not need to be part of the tolerance expression. No residues of pymetrozine or GS–23199 were found in potatoes or processed fractions for any application rate at any PHI in this study.

iii. *Tobacco.* Five field trials were conducted in five states representing typical tobacco growing areas in the United States, including North Carolina, South Carolina, Tennessee, Kentucky, and Virginia. Tobacco was treated with two post foliar applications of pymetrozine 50 WP 21 and 14 days prior to harvest of mature leaves. Rates of 20 g a.i./A and 40 g a.i./A per application were used. Samples from early harvest intervals (PHI < 14 days) were collected to demonstrate decline of residues of pymetrozine.

The maximum residues of pymetrozine found in green leaves of tobacco harvested at 14 days after last application were 0.05 ppm. The maximum residues of metabolite found in green leaves harvested at 14 days after last application were 0.04 ppm. The maximum Detectable residues of pymetrozine found in 23 of 24 samples of cured leaves of tobacco harvessted at 14 days after last application was 0.39 ppm. The maximum residues of metabolite found in cured leaves harvested at 14 days after last application were 0.20 ppm.

In decline studies, detectable residues of pymetrozine were found to decrease with increasing PHI in green leaves. Maximum average metabolite GS–23199 residues were found in 3– and 7– day samples with the lowest average residues in 14–day samples.

iv. *Hops.* Data from eight field trials, conducted in Germany, were submitted August 6,1996. The residue data support a tolerance of 5.0 ppm with a 14–day PHI.

v. *Livestock.* A three-level dairy feeding study was conducted using pymetrozine as the test substance. Holstein dairy cows were dosed daily with pymetrozine at levels equivalent to 0 (Control), 1.0 ppm, 3.0 ppm and 10 ppm. These rates represents 8, 24 and 80 times the maximum expected contribution to the diet. This study was designed to provide data concerning the level of residues of pymetrozine, as pymetrozine and CGA–313124, in milk and tissues which could occur as a result of feeding crops treated with pymetrozine to dairy cows. The results are used to estimate the transfer of residues from the diet to the tissues and milk of livestock.

No detectable residues of pymetrozine or CGA–313124 were observed in samples of liver, kidney, perirenal fat, omental fat, round muscle, or tenderloin muscle from cows dosed with 10 ppm (80X) pymetrozine. No detectable residues of pymetrozine were observed in samples of milk from cows dosed with 10 ppm (80X), 3 ppm (24X), or 1 ppm (8X) pymetrozine at any sampling interval. Detectable residues of CGA–313124 occurred only in milk samples from 80X dosed cows at a maximum level of 0.05 ppm. These results indicate that there is no need to establish a meat and milk tolerance.

B. Toxicological Profile

1. *Acute toxicity.* Pymetrozine has low acute toxicity. The oral LD_{50} in rats is > 5,820 milligrams per kilogram (mg/kg) for males and females, combined. The rat dermal LD_{50} is > 2,000 mg/kg and the rat inhalation LC_{50} is > 1.8 mg/L air. Pymetrozine is not a skin sensitizer in guinea pigs and does not produce dermal irritation in rabbits. It produces minimal eye irritation in rabbits. End-use water-dispersible granule formulations of pymetrozine have similar low acute toxicity profiles.

2. *Genotoxicty.* Pymetrozine did not induce point mutations in bacteria (Ames assay in *Salmonella typhimurium* and *Escherichia coli*) or in cultured mammalian cells (Chinese hamster V79) and was not genotoxic in an *in vitro* unscheduled DNA synthesis assay in rat hepatocytes. Chromosome aberrations were not obeserved in an *in vitro* test using Chinese hamster ovary cells and there were no clastogenic or aneugenic effects on mouse bone marrow cells in an *in vivo* mouse micronucleus test. These studies show that pymetrozine is not genotoxic.

3. *Reproductive and developmental toxicity.* In a teratology study in rats, pymetrozine caused decreased body weights and food consumption in females given 100 and 300 mg/kg/day during gestation. This maternal toxicity was accompanied by fetal skeletal

anomalies and variations consistent with delayed ossification. The no-observed-effect level (NOEL) for maternal and fetal effects in rats was 30 mg/kg/day. A teratology in rabbits showed that pymetrozine caused maternal death and reduced body weight gain and food consumption at 125 mg/kg/day (highest dose tested). Maternal toxicity was accompanied by embryo- and feto-toxicity (abortion in one female and total resorptions in two females). Body weight and food consumption decreases, early resorptions and postimplantation losses were also observed in maternal rabbits given 75 mg/kg/day. There was an increased incidence of fetal skeletal anomalies and variations at these maternally toxic doses. The NOEL for maternal and fetal effects in rabbits was 10 mg/kg/day. Pymetrozine is not teratogenic in rats or rabbits. In a two generation reproduction study in rats, parental body weights and food consumption were decreased, liver and spleen weights were reduced and histopathological changes in liver, spleen and pituitary were observed at 2,000 ppm (highest dose tested). Liver hypertrophy was observed in parental males at 200 ppm (approximately 10–40 mg/kg/day). Reproductive parameters were not affected by treatment with pymetrozine. The NOEL for reproductive toxicity is 2,000 ppm (approximately 110–440 mg/kg/day). Offspring body weights were slightly reduced at 2,000 and 200 ppm and eye opening was slightly delayed in pups at 2,000 ppm. Effects on offspring were secondary to parental toxicity. The NOEL for toxicity to adults and pups is 20 ppm (approximately 1–4 mg/kg/day).

4. *Subchronic toxicity.* Pymetrozine was evaluated in 13–week subchronic toxicity studies in rats, dogs and mice. Liver, kidneys, thymus and spleen were identified as target organs. The NOEL was 500 ppm (33 mg/kg/day) in rats and 100 ppm (3 mg/kg/day) in dogs. In mice, increased liver weights and microscopical changes in the liver were observed at all doses tested. The NOEL in mice was < 1,000 ppm (198 mg/kg/day). No dermal irritation or systemic toxicity occurred in a 28–day repeated dose dermal toxicity study with pymetrozine in rats given 1,000 mg/kg/day. Minimum direct dermal absorption (1.1%) of pymetrozine was detected in rats over a 21 hour period of dermal exposure. Maximum radioactivity left on or in the skin at the application site and considered for potential absorption was 11.9%.

5. *Chronic toxicity.* Based on chronic toxicity studies in the dog and rat, a reference dose (RfD) of 0.0057 mg/kg/day is proposed for pymetrozine. This RfD is based on a NOEL of 0.57 mg/kg/day established in the chronic dog study and an uncertainty factor of 100 to account for interspecies extrapolation and interspecies variability. Minor changes in blood chemistry parameters, including higher plasma cholesterol and phospholipid levels, were observed in the dog at the lowest-observed-effect level (LOEL) of 5.3 mg/kg/day. The NOEL established in the rat chronic toxicity study was 3.7 mg/kg/day, based on reduced body weight gain and food consumption, hematology and blood chemistry changes, liver pathology and biliary cysts.

6. *Animal metabolism.* The metabolism of pymetrozine (CGA–215944) in the rat is well understood. Metabolism involves oxidation of the 5-methylene group of the triazine ring yielding 4,5-dihydro-5-hydroxy-6-methyl-4-[(3-pyridinylmethylene)amino]-1,2,4-triazin-3(2H)-one (CGA–359009). Oxidation of the methyl substituent of the triazine ring led to 4,5-dihydro-6-(hydroxymethyl)-4-[(3-pyridinylmethylene)amino]-1,2,4-triazin-3(2H)-one (CGA–313124) which was further oxidized to the corresponding carboxylic acid, 4,5-dihydro-6-carboxy-4-[(3-pyridinylmethylene)amino]-1,2,4-triazin-3(2H)-one. Hydrolysis of the enamino bridge yielded 4-amino-6-methyl-1,2,4-triazin-3,5(2H,4H)-dione (CGA–294849). This was further degraded to 6-methyl-1,2,4-triazin-3,5(2H,4H)-dione (METABOLITE). Hydrolysis of the enamino bridge of CGA–215944 produced CGA–215525 which undergoes either acylation (CGA–259168) or deamination yielding 4,5-dihydro-6-methyl-1,2,4-triazin-3(2H)-one (CGA–249257). Hydrolysis of the enamino bridge also formed 3-pyridinecarboxaldehyde (CGA–300407), nicotinic acid (CGA–180777), nicotinamide (CGA–180778), 3-pyridinemethanol (CGA–128632) and 1,6-dihydro-1-methyl-6-oxo-3-pyridinecarboxamide. Identified metabolic pathways in animals and plants are similar.

7. *Metabolite toxicology.* The residue of concern for tolerance setting purposes is the parent compound. Metabolites of pymetrozine are considered to be of equal or lesser toxicity than the parent.

8. *Endocrine disruption.* Pymetrozine does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. There is no evidence that pymetrozine has any effect on endocrine function in developmental and reproduction studies. Furthermore, histological investigation of endocrine organs in chronic dog, rat and mouse studies did not indicate that the endocrine system is targeted by pymetrozine.

C. Aggregate Exposure

1. *Food.* For purposes of assessing the potential dietary exposure under the proposed tolerances, Novartis has estimated aggregate exposure based on exposure from residues of 0.05 ppm on fruiting vegetables, 0.02 ppm on cucurbits, 0.02 ppm on potatoes and 5 ppm on hops. A 100% market share was assumed.

2. *Drinking water.* Another potential source of exposure of the general population to pymetrozine is via residues in drinking water. Pymetrozine is not expected to contaminate drinking water based on its environmental attributes and the low application rates applied. Pymetrozine breaks down relatively quickly in the environment by a wide variety of mechanisms and degradation pathways. Leaching studies showed that pymetrozine is tightly bound to soil and is unlikely to leach in the field. Field dissipation studies show little movement beyond the uppermost soil horizon.

3. *Non-dietary exposure.* There are no other uses currently registered for pymetrozine. The proposed uses involve application of pymetrozine to crops grown in an agricultural environment. There are no proposed uses which would be expected to result in residential exposure of pymetrozine. Therefore, there is no potential for non-occupational exposure to the general population. is not expected to be significant.

D. Cumulative Effects

The potential for cumulative effects of pymetrozine and other substances that have a common mechanism of toxicity has also been considered. Pymetrozine belongs to a new chemical class known as pyridine azomethines. It exhibits a unique mode of action which can be characterized as nervous system inhibition of feeding behavior. It does not have a general toxic or paralyzing effect on insects, but selectively interferes with normal feeding activities by affecting nervous system regulation of fluid intake. There is no reliable information to indicate that toxic effects produced by pymetrozine would be cumulative with those of any other chemical including another pesticide. Therefore, Novartis believes it is appropriate to consider only the potential risks of pymetrozine in an aggregate risk assessment.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions and the proposed RfD described above, the aggregate exposure to pymetrozine will utilize 3.78% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. Therefore, Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to pymetrozine residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of pymetrozine, data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat have been considered.

In a teratology study in rats, developmental toxicity anomalies and variations associated was observed only at maternally toxic doses. Similarly, in a rabbit teratology study, was observed only at maternally toxic doses. The NOELs in the rat and rabbit teratology studies were 30 and 10 mg/kg/day, respectively. In the two-generation reproduction study, there were no effects on reproductive parameters. Offspring body weights were slightly reduced and eye opening was slightly delayed at dose levels producing parental toxicity. The NOEL for parental and offspring toxicity was 20 ppm (approximately 1–4 mg/kg/day).

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological requirements, the database relative to pre- and post-natal effects for children is complete. Further, for pymetrozine, the NOEL of 0.57 from the chronic feeding study in dogs, which was used to calculate the RfD (0.0057 mg/kg/day), is already lower than the developmental NOELs (30 and 10 mg/kg/day) from the teratogenicity studies in rats and rabbits by a factor of more than tenfold. In the pymetrozine rat reproduction study, the mild nature of the effects observed (decreased body weight) at the systemic LOEL (10–40 mg/kg/day) and the fact that the effects were observed at a dose that is more than 10 times greater than the NOEL in the chronic dog study (0.57 mg/kg/day) suggest that there is no additional sensitivity for infants and children. Therefore, it is concluded that an additional uncertainty factor is not warranted to protect the health of infants and children and that an RfD of 0.0057 mg/kg/day based on the chronic dog study is appropriate for assessing aggregate risk to infants and children from pymetrozine.

Using the exposure assumptions described above, the percent of the RfD that will be utilized by aggregate exposure to residues of pymetrozine is 0.43% for nursing infants less than 1 year old, 1.49% for non-nursing infants, 3.44% for children 1–6 years old and 2.72% for children 7–12 years old. Therefore, based on the completeness and reliability of the toxicity database, Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to pymetrozine residues.

F. International Tolerances

There are no Codex maximum levels established for residues of pymetrozine.

[FR Doc. 98–13447 Filed 5–19–98; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–804; FRL–5788–8]

Westvaco Corporation; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–804, must be received on or before June 19, 1998.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm, 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Bipin C. Gandhi, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 4-W53, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8380; e-mail: gandhi.bipin@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–804] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will

also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–804) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 4, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Westvaco Corporation

PP 6E4749

EPA has received a pesticide petition (PP 6E4749) from Westvaco Corporation, Chemical Division, 3950 Faber Place Drive, North Charleston, SC 29405, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for residues of acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt (CAS Reg. No. 89678-90-0) when used as an inert ingredient (encapsulating agent, dispensers, resins, fibers and beads) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest, under 40 CFR 180.1001(c) and applied to animals under 40 CFR 180.1001(e). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Toxicity Data

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305) (FRL–3190-1), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without the data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. Westvaco believes that the data and information described below is adequate to ascertain the toxicology and characterize the risk associated with the use of acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt (CAS Reg. No. 89678-90-0) as an inert ingredient in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

In the case of certain chemical substances that are defined as "polymers" the EPA has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The EPA believes that polymers meeting the criteria noted below will present minimal or no risk.

Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt (CAS Reg. No. 89678-90-0) conforms to the definition of polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers.

1. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt contains as an integral part of its composition the atomic elements carbon and hydrogen.

3. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. Acrylic acid, styrene, alpha-methyl styrene ammonium salt copolymer is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt is not manufactured or imported from monomers and/or other reactants that are not already included on the Toxic Substance Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt is not a water absorbing polymer.

7. Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt does not contain any group as reactive functional groups.

8. The minimum number-average molecular weight of the acrylic acid, styrene, alpha-methyl styrene copolymer is listed as 1,200 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

9. The Acrylic acid, styrene, alpha-methyl styrene copolymer has a number-average molecular weight of 1,200 and contains less than 10% oligomeric material below molecular weight 500 and less than 25% oligomeric material below 1,000 molecular weight.

In addition, acrylic acid, styrene, alpha-methyl styrene copolymer is approved by the Food and Drug Administration (FDA) under 21 CFR for contact with food as a component in adhesives (21 CFR 175.105), coatings (21 CFR 175.300), and paper and paperboard (21 CFR 176.170). The ammonium hydroxide utilized to form the ammonium salt is listed in 21 CFR 184.1139 under the section, "Direct food substances affirmed as generally recognized as safe".

B. Aggregate Exposure

Acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt formulations have been in commerce since the mid 1960's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings, such as on newspapers,

corrugated boxes (e.g. pizza boxes) and disposable drinking cups.

Although exposure to acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt may occur through dietary (e.g., food wrapping containing copolymer) and non-occupational (e.g., printed articles) sources, the chemical characteristics of acrylic acid, styrene, alpha-methyl styrenecopolymer ammonium salt lead to the conclusion that there is a reasonable certainty of no harm from aggregate exposure to the polymer. Given the existing widespread and historic use of acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt, any additional exposure resulting from the approval of the copolymer as an inert ingredient in pesticide formulations for use on growing crops or to raw agricultural commodities after harvest is not warranted.

C. Cumulative Effects

At this time there is no information to indicate that any toxic effects produced by acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt would be cumulative with those of any other chemical. Given the compound's categorization as a "low risk polymer" (40 CFR 723.250) and its proposed use as an inert ingredient in pesticide formulations, there is no reasonable expectation of increased risk due to cumulative exposure.

D. International Tolerances

Westvaco is petitioning that acrylic acid, styrene, alpha-methyl styrene copolymer ammonium salt be exempt from the requirement of a tolerance based upon its status as a low risk polymer as per 40 CFR 723.250. Therefore, analytical method to determine residues of acrylic acid, styrene, alpha-methyl styrene copolymer in raw agricultural commodities treated with pesticide formulations containing acrylic acid, styrene, alpha-methyl styrene copolymer have not been proposed.

2. Westvaco Corporation

PP 6E4750

EPA has received a pesticide petition (PP 6E4750) from Westvaco Corporation, Chemical Division, 3950 Faber Place Drive, North Charleston, SC 29405, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for residues of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795-23-4) when used as an inert ingredient (encapsulating agent, dispensers, resins, fibers and beads) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest, under 40 CFR 180.1001(c) and applied to animals under 40 CFR 180.1001(e). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Toxicity Data

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305) (FRL–3190-1), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without the data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. Westvaco believes that the data and information described below is adequate to ascertain the toxicology and characterize the risk associated with the use of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795-23-4) as an inert ingredient in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

In the case of certain chemical substances that are defined as "polymers", the EPA has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The EPA believes that polymers meeting the criteria noted below will present minimal or no risk.

Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795-23-4) conforms to the definition of polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers.

1. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer contains as an integral part of its composition the atomic elements carbon, chlorine, and hydrogen.

3. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250 (d)(2)(ii).

4. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not manufactured or imported from monomers and/or other reactants that are not already included on the Toxic Substance Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not a water absorbing polymer.

7. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer does not contain any group as reactive functional groups.

8. The minimum number-average molecular weight of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is listed as 4,228 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

9. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer has a number-average molecular weight of 4,228 and contains less than 10% oligomeric material below molecular weight 500 and less than 25% oligomeric material below 1,000 molecular weight.

B. Aggregate Exposure

Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer formulations have been in commerce since the mid 1960's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings such as on

newspapers, corrugated boxes (e.g. pizza boxes) and disposable drinking cups.

Although exposure to styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer may occur through dietary (e.g., food wrapping containing copolymer) and non-occupational (e.g., printed articles) sources, the chemical characteristics of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer lead to the conclusion that there is a reasonable certainty of no harm from aggregate exposure to the polymer. Given the existing widespread and historic use of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer, any additional exposure resulting from the approval of the copolymer as an inert ingredient in pesticide formulations for use on growing crops or to raw agricultural commodities after harvest is not warranted.

In addition, styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is approved by the Food and Drug Administration (FDA) under 21 CFR for contact with food as a component in adhesives (21 CFR 175.105), coatings (21 CFR 175.300), and paper and paperboard (21 CFR 176.170).

C. Cumulative Effects

At this time there is no information to indicate that any toxic effects produced by styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer would be cumulative with those of any other chemical. Given the compound's categorization as a "low risk polymer" (40 CFR 723.250) and its proposed use as an inert ingredient in pesticide formulations, there is no reasonable expectation of increased risk due to cumulative exposure.

D. International Tolerances

Westvaco is petitioning that styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer be exempt from the requirement of a tolerance based upon its status as a low risk polymer as per 40 CFR 723.250. Therefore, analytical methods to determine residues of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer in raw agricultural commodities treated with pesticide formulations containing styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer have not been proposed.

[FR Doc. 98–13446 Filed 5–19–98; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Procedures for Monitoring Bank Secrecy Act Compliance; (2) Application to Participate in a Conversion Transaction; (3) Application for Waiver of Prohibition on Receipt of Brokered Deposits by Adequately Capitalized Insured Depository Institutions, Registration of Deposit Brokers; (4) Notice of Branch Closure and (5) Real Estate Lending Standards.

DATES: Comments must be submitted on or before July 20, 1998.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Procedures for Monitoring Bank Secrecy Act Compliance.
OMB Number: 3064–0087.
Frequency of Response: On occasion.
Affected Public: Any financial institution complying with the requirements of the Bank Secrecy Act.
Estimated Number of Respondents: 8,400.
Estimated Time per Response: .5 hours.
Estimated Total Annual Burden: 4,200 hours.
General Description of Collection: 12 CFR 326 requires all insured nonmenber banks to establish and maintain procedures designed to assure and monitor their compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) and the implementing regulations promulgated thereunder by the Department of Treasury at 31 CFR 103.

2. *Title:* Application to Participate in a Conversion Transaction.
OMB Number: 3064–0098.
Frequency of Response: On occasion.
Affected Public: Any depository institution participating in a conversion transaction.
Estimated Number of Respondents: 10.
Estimated Time per Response: 3 hours.
Estimated Total Annual Burden: 30 hours.
General Description of Collection: Section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) provides that no insured depository institution may participate in a conversion transaction without the prior approval of the FDIC and that entrance and exit fees shall be assessed to the participating institutions. The FDIC implements this statutory requirement by requiring depository institutions wishing to participate in conversion transactions to submit a letter application to obtain FDIC approval.

3. *Title:* Application for Waiver of Prohibition on Receipt of Brokered Deposits by Adequately Capitalized Insured Depository Institutions, Registration of Deposit Brokers.
OMB Number: 3064–0099.
Frequency of Response: On occasion.
Affected Public: Any insured depository institution seeking a waiver to the prohibition on the acceptance of brokered deposits.
Estimated Number of Respondents: 175.
Estimated Time per Response: 2.2.
Estimated Total Annual Burden: 385 hours.
General Description of Collection: Section 29 of the Federal Deposit Insurance Act prohibits undercapitalized insured depository institutions from accepting, renewing, or rolling over any brokered deposits.

Adequately capitalized institutions may do so with a waiver from the FDIC, while well-capitalized institutions may accept, renew, or roll over brokered deposits without restriction. Section 29A requires notification by deposit brokers of their activity and authorizes the imposition of certain recordkeeping and reporting requirements.

4. *Title:* Notice of Branch Closure.
OMB Number: 3064–0109.
Frequency of Response: As needed.
Affected Public: Any financial institution that proposes to close a branch.
Estimated Number of Respondents: 1,050.
Estimated Time per Response: 1.333 hours.
Estimated Total Annual Burden: 1,400 hours.
General Description of Collection: Section 42 of the Federal Deposit Insurance Act mandates that an institution that proposes to close a branch notify its primary Federal regulator no later than 90 days prior to the closing. The statue also provides that a notice be posted on the premises of the branch for the 30-day period immediately prior to the closing and that the customers be notified in a mailing at least 90 days prior to the closing. Each insured depository institution is required to adopt policies for branch closings.

5. *Title:* Real Estate Lending Standards.
OMB Number: 3064–0112.
Frequency of Response: As needed.
Affected Public: Any financial institution engaging in real estate lending.
Estimated Number of Respondents: 7,400.
Estimated Time per Response: 20 hours.
Estimated Total Annual Burden: 148,000 hours.
General Description of Collection: Institutions will use real estate lending policies to guide their lending operations in a manner that is consistent with safe and sound banking practices and appropriate to their size, nature and scope of their operations. These policies should address certain lending considerations, including loan-to-value limits, loan administration policies, portfolio diversification standards, and documentation, approval and reporting requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 14th day of May 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–13382 Filed 5–19–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreements(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217–011622
Title: Space Charter Agreement between Croatia Line and the CMA/Italia Space Charter and Sailing Agreement
Parties:
Croatia Line
The CMA/Italia Space Charter and Sailing Agreement and its member lines: Companie Maritime d'Affretement ("CMA") and Italia d'Navigazione S.p.A.
Synopsis: The proposed Agreement authorizes the CMA/Italia Space Charter and Sailing Agreement to charter space to Croatia Line and to enter into cooperative arrangements in the trades between ports on the Mediterranean Sea and the U.S. Atlantic Coast. The parties have requested expedited review.

Dated: May 14, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–13346 Filed 5–19–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Miami, Inc., 8211 NW 68 Street, Miami, FL 33166, Officer; Javier Palenque, President
Reliance Shipping Group, L.L.C., Rt. 5 Box 1018, 5353 I 35, Red Oak, TX 75154, Officers: Don McNally, Managing Member, Gary Childs, Managing Member
Razo Logistics and Documentation Services, 1006 Beckman, Houston, TX 77076, Gloria S. Razo, Sole Proprietor

Dated: May 14, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–13348 Filed 5–19–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Petition P2–98]

In the Matter of Jeremy Anderson, Hitomi Matsutani d/b/a Cargo Master, Ampec Line, and Landsea Brokers, Inc.; Filing of Petition for a Consent Cease and Desist Order

Notice is given that a petition has been filed by the Commission's Bureau of Enforcement ("BOE"), seeking issuance of a consent cease and desist order that would ratify a consent agreement entered into between BOE and Hitomi Matsutani d/b/a/ Cargo Master, Ampec Line, Landsea Brokers, Inc. and Jeremy Anderson, in his individual capacity ("Respondent"). By the terms of the consent agreement, Respondents would be barred from

operating as an NVOCC for a period of two years, and prohibited thereafter from operating as an NVOCC or ocean freight forwarder without the proper bond, tariff or license.

Interested persons may reply to the petition no later than June 5, 1998. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, and shall consist of an original and 15 copies.

Copies of the petition and the consent agreement are available for examination at the Washington, DC office of the Secretary of the Commission, 800 N. Capital Street, NW., Room, 1046.

Joseph C. Polking,

Secretary.

[FR Doc. 98–13347 Filed 5–19–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 4, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. William H. Bosshard, La Crosse, Wisconsin; to acquire additional voting shares of Bosshard Banco, Ltd., La Crosse, Wisconsin, and thereby indirectly acquire voting shares of First National Bank of Bangor, Bangor, Wisconsin, and Intercity State Bank, Schofield, Wisconsin.

Board of Governors of the Federal Reserve System, May 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13448 Filed 5–19–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Regions Financial Corporation, Birmingham, Alabama; to acquire 100 percent of the voting shares of Jacobs Bank, Scottsboro, Alabama. Comments regarding this application must be received not later than June 8, 1998.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Horizons Bancorp, Inc., Monroe, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Horizons Bank, Monroe, Louisiana.

Board of Governors of the Federal Reserve System, May 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13449 Filed 5–19–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-12657) published on page 26607 of the issue for Wednesday, May 13, 1998.

Under the Federal Reserve Bank of Atlanta heading, the entry for Regions Financial Corporation, Birmingham, Alabama, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Regions Financial Corporation, Birmingham, Alabama; to merge with First Community Banking Services (formerly Fayette County Bancshares), Peachtree City, Georgia, and thereby indirectly acquire formerly Fayette County Bank, Peachtree City, Georgia.

Comments on this application must be received by June 8, 1998.

Board of Governors of the Federal Reserve System, May 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13450 Filed 5–19–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Tuesday, May 26, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists

applications, but also indicates procedural and other information about the meeting.

Dated: May 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13478 Filed 5–15–98; 4:22 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be held on Friday, June 5, 1998 from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Nancy Foster, Coordinator of the Advisory Council at the Agency for Health Care Policy and Research 2101 East Jefferson Street, Suite 502, Rockville, Maryland 20852, (301) 594–1349 ext. 1307.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, Assistance Administrator for Equal Opportunity, AHCPR, on (301) 594–6665 ext. 1055 no later than May 22, 1998.

SUPPLEMENTARY INFORMATION:

I. Purpose

The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to AHCPR activities to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services. The Council is composed of members of the public appointed by the Secretary and Federal ex-officio members. The Council will be chaired by Harold S. Luft, Ph.D.

II. Agenda

On Friday, June 5, 1998, the meeting will begin at 8:30 a.m., with the call to order by the Council Chairman. The Administrator, AHCPR, will update the status of current Agency programs and initiatives. The Council will then discuss key issues in dissemination of research findings to promote their use, ethical aspects of using public funds for the development of products that will be marketed commercially, and future directions for research on quality, health economics, and primary care.

The meeting will adjourn at 4:00 p.m. Agenda items are subject to change as priorities dictate.

Dated: May 14, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–13396 Filed 5–19–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0356]

List of Drugs for Which Additional Pediatric Information May Produce Health Benefits in the Pediatric Population; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a list entitled "List of Drugs for Which Additional Pediatric Information May Produce Health Benefits in the Pediatric Population" (hereinafter referred to as "the list"). This is a list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The list is being published under new statutory requirements of the Food and Drug Administration Modernization Act of 1997 (Modernization Act). The purpose of the list is to identify certain drugs for which certain information is necessary to determine if an approved drug can be used safely and effectively in the pediatric population.

DATES: Submit written comments on the procedure and criteria used to develop the list at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written requests for single copies of the list to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Send one self-addressed adhesive label to assist that office in processing your request. Single copies of the list may also be obtained by mail from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), or by calling the CBER Voice Information System at 1–800–835–4709, or 301–827–1800. Copies of the list may be obtained from CBER's FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the list.

FOR FURTHER INFORMATION CONTACT:

Khyati N. Roberts, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6779, FAX 301–594–5493, e-mail robertsk@cder.fda.gov, or

David W. Feigal, Center for Biologics Evaluation and Research (HFM–6), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0376, FAX 301–827–0440, e-mail feigal@cber.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, President Clinton signed into law the Modernization Act (Pub. L. 105–115). Section 111 of the Modernization Act (21 U.S.C. 355A(b)) requires FDA, after consultation with experts in pediatric research, to develop, prioritize, and publish a list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. Inclusion of a drug on the list does not necessarily mean that the drug is entitled to pediatric exclusivity.

FDA developed a draft list in consultation with experts in pediatric research, trade organizations, and other interested persons, and made the draft list available for public comment (see 63 FR 12815, March 16, 1998). After consideration of comments on the draft list, FDA is publishing the list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population and announcing its availability through this notice.

II. Procedure for Updating the List

The Modernization Act also requires FDA to update the list annually. FDA plans to update the list regularly and at least annually. Individuals desiring to comment on the procedure and criteria used to develop the list may submit at any time written comments identified with the docket number found in brackets in the heading of this document. Persons seeking to add a particular drug to the priority section of the list or to have a drug removed from the priority section of the list may submit to the agency a citizen petition that complies with the requirements of 21 CFR part 10. At its discretion, the agency may consult with a sitting advisory committee, which may include pediatric research experts, before determining whether to include a drug on or remove a drug from the list.

III. Electronic Access

Persons with access to the Internet may obtain the list and all updated versions of the list by using the World Wide Web (WWW). For WWW access, connect to CDER at http://www.fda.gov/cder/pediatric or to CBER at http://www.fda.gov/CBER/publications.htm.

IV. Request for Comments

Interested persons may submit at any time to the Dockets Management Branch (address above) written comments regarding the procedure and criteria used to develop the list. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The list and received comments will be available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday. Received comments will be considered in determination whether further revision of the list is warranted.

Dated: May 13, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13554 Filed 5–19–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Addition of Routine Uses to an Existing System of Records

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notification of an addition of routine uses to an existing system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Health Resources and Services Administration (HRSA) is publishing a proposal to add three new routine uses for the records in System of Records 09–15–0056, National Vaccine Injury Compensation Program (VICP), BHPr/HRSA/HHS. HRSA proposes to specify the categories of records in the system, and to expand the list of routine use in record disclosures to include disclosures for research purposes, disclosures to annuity brokers, and disclosures to employees of life insurance companies for the purposes of providing benefits to recipients under the VICP.

DATES: HRSA invites interested parties to submit comments on the addition of new routine uses on or before June 19, 1998. The HRSA/VICP will adopt the new routine uses without further notice 30 days after the date of publication, unless HRSA receives comments which would result in a contrary determination.

ADDRESSES: Please address comments on the altered system of records to the Health Resources and Services Administration (HRSA) Privacy Act Officer, Department of Health and Human Services, 5600 Fishers Lane, Room 14A–20, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Director, Division of Vaccine Injury Compensation, BHPr/HRSA, Room 8A–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–6593. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The routine use changes proposed are to expand the "Routine Uses of Records" to specify conditions for approving access to the system of records for research purposes.

Access to the system is limited to authorized users only. Stringent physical and procedural safeguards are in place to protect information.

The alteration of this system will have a minimal effect on an individual's privacy and should not affect personal rights. The information gathered for research purposes or benefit payment purposes will not be disclosed publicly in identifiable form.

Disclosure of information from this system of records may provide important information about vaccine safety, benefit-payment trends or the VICP.

The following notice is written in the present, rather than the future tense, to avoid the unnecessary expenditure of public funds to republish the notice after the routine use has become effective.

Dated: May 11, 1998.

Claude Earl Fox,

Acting Administrator.

Add to Routine Uses of Records Maintained in the System:

7. A record may be disclosed to annuity brokers and to employees of life insurance companies for the purposes of obtaining financial advice and for the purchase of contracts to provide benefits to recipients of benefits under the Program. Organizations to which information is disclosed for this use will be required to maintain Privacy Act safeguards with respect to such records.

8. A record may be disclosed to contractors for the purpose of providing medical review, analysis and determination as to whether petitions meet the medical requirements for compensation. Contractors will be required to maintain Privacy Act safeguards with respect to such records.

9. A record may be disclosed for a research purpose when the Department:

(A) Has determined that the disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(B) Has determined that the research purpose:

(1) Is consistent with the purpose for which the program was formed, which includes but is not limited to evaluating the safety of vaccines covered under the Program,

(2) Cannot be reasonably accomplished with information in statistical form, and must be provided in an identifiable form to accomplish the research purpose, and

(3) Warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(C) Has required the recipient to:

(1) Establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the record,

(2) Remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and

(3) Make no further use of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(c) When required by law; and

(D) Has secured a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

[FR Doc. 98–13297 Filed 5–19–98; 8:45 am]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Modification to the Standing Announcement Published in the Federal Register on December 9, 1997 (62 FR 236)

AGENCY: Office of Refugee Resettlement (ORR) Administration for Children and Families, DHHS.

ACTION: Notice of correction.

SUMMARY: Notice is hereby given that the ORR Standing Announcement, 62 FR 236, with closing dates of January 31, 1998 and June 30, 1998 will have the following changes.

The following programs will be competed as scheduled in the December 9, 1997 notice: Category 1, Preferred Communities, Category 2, Unanticipated Arrivals, Category 5, Mental Health, and Category 6, Ethnic Community Organizations.

Category 3, Orientation, will be canceled for the June 30, 1998 closing. This program will be competed again with closing date of January 31st beginning in 1999 and each subsequent year until the Standing Announcement is revised or canceled.

Category 4, Technical Assistance to Orientation Grantees, is hereby canceled.

Dated: May 14, 1998.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 98–13433 Filed 5–19–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Availability of Funding To Provide Community Service Employment Opportunities for Refugees Who Have Experienced Long-term Difficulties in Assimilation

AGENCY: Office of Refugee Resettlement, ACF, DHHS.

ACTION: Request for applications for projects to provide community service employment opportunities for refugees who have experienced long-term difficulties in assimilation.

SUMMARY: This program announcement governs the availability of social services funds and award procedures for $16 million in FY 1998 discretionary grants for community service employment for refugees under the Refugee Resettlement Program. These grants, which will be awarded on a competitive basis, are for localities with large concentrations of refugees who have experienced difficulty integrating socially and economically into local communities. Refugees are eligible to participate in these projects regardless of the length of time they have resided in the U.S. Applications may include requests for project periods of up to three years, with an initial budget period of one year. Where awards are made for multiple year project periods, continuation grant applications will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, successful progress of the project, and ACF/ORR's determination that this would be in the best interest of the government.

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this announcement is 93.576.

DATE: The closing date for receipt of applications is July 20, 1998.

ADDRESS: Address applications to: Office of Refugee Resettlement, Division of Community Resettlement, 6th Floor East, Aerospace Building, 370 L'Enfant Promenade, SW, Washington, DC 20447

FOR FURTHER INFORMATION CONTACT: Nguyen T. Kimchi at (202) 401–4556, e-mail: Nkimchi@acf.dhhs.gov, or send correspondence to the above listed address.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Background

There are communities across this country with large concentrations of refugees [1], many of whom entered the United States over a decade ago. For some refugees, language skills, cultural barriers, the lack of financial resources, and years of relying on public assistance, have isolated them from the mainstream, limited their employment opportunities and hindered integration into American communities. Their rate of assimilation has been documented in many localities on such key indicators as poverty levels, welfare utilization, car and home ownership, high school completion, college attendance or graduation, language fluency, employment rates, household income, per capita income, and naturalization rates. Prior to their arrival in the U.S., some refugees have experienced torture, starvation or prolonged malnutrition, which have exacerbated their isolation and difficulty in adapting to life in the United States.

In some of these communities, refugees represent a significant percentage of the population and, relative to non-refugee groups, have a sizeable impact on local services, medical clinics, and school systems.

The purpose of this announcement is to improve refugee rates of assimilation in heavily impacted communities by providing funding for workforce experience and training, earned income for refugees and their families, and access to needed services for refugee communities.

Statutory and Regulatory Authority

The FY 1998 House Appropriations Committee Report (H.R. Rept. No. 105–205) stated that: "The Committee has set-aside $16,000,000 for increased support to communities with large

[1] In addition to persons who meet all requirements of 45 CFR 400.43, "Requirements for documentation of refugee status," eligibility for targeted assistance includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the targeted assistance program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

concentrations of refugees whose cultural differences made assimilation especially difficult justifying a more intense level and longer duration of Federal assistance." Accordingly, ORR has announced in the Notice of Proposed FY 1998 Refugee Social Service Allocations, published in the **Federal Register**, February 13, 1998, that these funds will be made available through discretionary grants for which this announcement solicits applications.

Section 412(c)(1)(A) of the INA authorizes the Director of ORR "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services * * *"

Grant awards are also subject to the following federal regulations: 45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with States, local governments and Indian tribal governments and 45 CFR part 92, Uniform administrative requirements for grants and cooperative agreements to State and local governments.

B. Purpose and Scope

Under this announcement, the Office of Refugee Resettlement solicits applications from eligible applicants who wish to compete for funds to provide community employment services for refugees who have experienced long-term difficulties in assimilation into American communities.

One of the most effective methods to help refugees obtain employment and achieve economic self-sufficiency is through employment experience. Employment through community service offers a job for the individual, household income for refugee families, community participation, cross-cultural exposure for public and private agencies, and access to community services for refugee communities. For these reasons, ORR is providing funding under this announcement to be primarily for employer subsidies to create or increase the number of community work experience jobs for refugees.

Community service employment may be in the public or private sector; however, given the emphasis in this announcement on gaining refugee access to community services, ORR anticipates that most successful applicants will target these subsidies to public and private non-profit organizations that may not otherwise have the resources to provide this type of employment.

Some examples of positions in agencies which may benefit from community work experience subsidies are: interpreters and aides in community health and maternal care clinics, classroom aides and teachers in elementary schools, police and law enforcement assistants for such programs as neighborhood watch, and police storefronts, outreach workers for mental health agencies, aides in local services to the elderly or at satellite centers located in areas with large concentration of elderly refugees, and caseworker assistants in public welfare offices.

Accordingly, this grant announcement makes available $16 million for community service employment to assist communities with large concentrations of refugees who are experiencing difficulty assimilating into local communities.

C. Eligible Applicants

Eligible grantees are private, non-profit organizations and agencies of State governments that are responsible for the refugee program under 45 CFR 400.5.

D. Eligible Refugees

Refugees eligible to participate in projects funded under this announcement must be at least 21 years of age, unemployed, or without earned income, or members of families receiving public assistance.

All eligible refugees must be residents of their respective communities for at least six months. Priority will be given to those refugees who are able to work but unable to find employment. ORR anticipates that refugees targeted for these positions may be long-term welfare recipients (12 months or more) or those who face termination from Temporary Assistance for Needy Families (TANF) within the 12 month period following enrollment in this project.

E. Available Funds

Approximately $16 million will be available for awards. It is expected that most grant awards will be between $1 million and $5 million. ORR anticipates making 4–5 awards with these funds for projects that will secure employment for a minimum of 100 eligible participants.

The Director of ORR will make final award decisions based on such factors as: the geographic distribution of the competitive applications; the extent to which the grants reflect a reasonable distribution of funds across the areas impacted by refugees, and the availability of funds.

F. Use of Funds

Successful applicants will receive grants to identify and develop, as necessary, community service employment positions for low-income or unemployed refugees at local public or private nonprofit organizations. Applicants must demonstrate a specific need for supplementation of available resources to provide these services for refugees. Projects funded under this announcement will be designed to (a) provide income to refugees and their households, employment experience, and eventual transition to unsubsidized employment; and (b) through the presence and assistance of a refugee employee in these agencies, give refugee communities greater access to local community services.

Grantees must establish a network of relationships with appropriate public or private, non-profit employers to identify and develop suitable subsidized community service employment positions. Grant funds may be used to reimburse employers for up to 100% of the employment wage, for a maximum of 12 months, under the terms of a contract in which, in exchange for the salary subsidy, the employer agrees to provide the refugee employee additional supervisory assistance in learning and retaining the job. Employers are expected to retain the refugee employee in this position after the wage subsidy has ended, if the refugee has performed satisfactorily, or, if insufficient funds are available, to assist the refugee employee in securing other employment.

Refugee employees should be eligible for all benefits available to all other employees at the work site. Applicants should identify the types and number of community service employment positions targeted in their project, including job descriptions, qualifications, and salary levels. Project participants must be paid an hourly wage equal to the prevailing rates of pay for persons employed in similar occupations by the same employer. In no event should the wage be lower than the federal minimum wage.

Approximately 75–80% of grant funds are to be designated for salary subsidies. Applicants may designate up to 5% for employer incentives.

Grantees should provide supportive services to assist project participants in retaining successful community service employment. Such supportive services

may include: on-site technical assistance; employment counseling; work-related incidental expenses for such items as work shoes, uniforms, glasses, public transportation passes, etc. if these are not available from other sources.

Whether the applicant is a State refugee agency or a non-profit organization, projects proposed for funding under this announcement must be designed and implemented by coalitions of local community agencies and refugee organizations. These coalitions must identify clear respective roles and responsibilities for each participating agency within the coalition, expressed in a signed written agreement which describes the purpose and activities of each. The extent of local collaboration will be an important factor in the review of the strength of the proposal.

Applicants must also provide for the creation of an Advisory Board, delineating the roles and responsibilities of each member, compensation, if any, to members, a definitive and measurable work plan, and schedule of meetings.

G. Restrictions

Funds may not be used for lobbying, union-related activities, politically-related employment as a form of political patronage. Wage subsidies must be used for a net increase in the number of positions within a given agency, not to replace currently funded positions. Refugees employed as a result of this project may not displace employed workers or workers on lay-off.

Part II. The Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. The Office of Refugee Resettlement uses this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specified project for which funds are requested.

A. Statement of Need

The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed.

The Office of Refugee Resettlement is particularly interested in the following:

A description, with documentation, of the need for services within the proposed target area, including documentation of the number of refugees in the target area and the ratio between refugees to the non-refugee population in the community.

Data and analyses of family and community needs, including the implications of welfare reform and employment patterns on family needs for child care and other support services.

A discussion of how the targeted refugees have the most need of the proposed services. Submit evidence of poor assimilation of refugees relative to the community at-large. Indicators may include: poverty levels, public assistance utilization, unemployment, rates of high school completion, college attendance, car and homeownership, and attainment of citizenship.

B. Design and Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target date.

Identify the kinds of data to be collected, maintained and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a "collection of information" that is "conducted or sponsored" by ACF/ORR. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

The Office of Refugee Resettlement is particularly interested in the following:

The applicant's plans for delivering effective services to refugees in all areas of service and program management.

A description of the proposed target area(s) for services, recruitment strategies, and priorities for selecting refugee clients for participation.

A description of the services and resources of other local refugee employment service and community agencies.

A plan to identify potential employment, to recruit eligible refugees and begin services as soon as possible.

Describe how community service employment positions will be developed with local employers; how these employers will be encouraged to customize the jobs and provide supervisory support to the employees under this project; identify any local employers who have made commitments to the project and describe them (e.g., number and types of jobs, supportive services and training; etc.)

Note: ORR expects that all applicants funded under this announcement will begin serving refugees and their families no later than March, 1999.

A description of the types and number of community service employment positions targeted for the project including job descriptions, qualifications and salary levels.

Documentation of cooperative arrangements with other public or private agencies to assist the applicant in providing effective employment services. Such cooperative arrangements must include a plan to coordinate the funds as appropriate.

C. Results or Benefits Expected

Identify the results and benefits to be derived for refugees and their families as well as for the community. Based on the stated program objectives, a discussion of the specific results or benefits that could be expected for the refugees and families participating in the program. A discussion of the

specific community-wide results or benefits including those resulting from collaborative partnership with other community agencies including the agencies which employ refugees. The qualitative and quantitative data the program will collect to measure progress towards the stated results or benefits. A discussion of how the program will determine the extent to which it has achieved its stated objectives.

Applicants are encouraged to use ORR standards under the Government Performance and Result Act (GPRA) to measure project results. These are:

- The number of refugees who entered employment.
- Cash assistance terminations due to earnings.
- Average hourly wage at placement.
- Employment retention.
- Employment with health benefits.

The Office of Refugee Resettlement is particularly interested in the following:

Numbers, types and average salaries of refugees to be employed in community service employment positions; the degree to which employee benefits, including medical coverage, are available for these jobs; expectations for job or employment retention after one year; expected average earnings one year after placement into subsidized employment; cost per placement into subsidized community service employment.

The application may include other performance outcomes, as appropriate.

D. Project Management and Implementation

Describe the staff and systems capacity for managing the project, to include: key staff resumes or position descriptions; a project organizational chart identifying all agencies involved in the project and their respective roles and responsibilities; Identify the critical activities, time frames, and responsibilities for implementing the project.

Local Collaboration and Sustainability

Identify a coalition of key agencies, respective roles and responsibilities, and agreements. Describe the local partnerships and each member's contribution to the project; the extent to which the project is coordinated with key community activities; the commitment and integration of other community resources; any involvement of, or participation by, local employers; and the extent to which the community and the coalition have developed plans to maintain and expand the capacity to serve the targeted refugee population;

Advisory Board

Identify and submit position descriptions or resumes for Advisory Board positions.

The Office of Refugee Resettlement is particularly interested in the following:

Evidence of the applicant's ability and experience to administer an employment program and to manage a community service employment program. Include a discussion of any proposed changes and improvements in program management.

A description of the applicant's experience in management of employment services for refugees who have had a protracted history of unemployment. A description of the applicant's experience in management of community, State and Federal partnerships. A description of the applicant's history and relationship with the target community. Include a complete discussion of the program's financial status and program operations. Include an organizational chart of the program.

A description of the mechanisms for recruiting and hiring well-trained and appropriately credentialed staff members.

A discussion of all proposed key staff or managerial positions, their proposed salary rates, the length of time they would be employed each year and the applicant's plans for ongoing monitoring and supervision of other staff including refugees employed under the community employment service program if appropriate.

Applicants who are electing to create partnerships with other agencies, providers, or funding sources should provide:

Letters of commitment from partner agencies and providers, including documentation of any additional resources such as child care, health care or transportation subsidies, etc. that will enhance the program. Explain and itemize these resources or services, and state whether or not these costs are included as part of the non-Federal share.

Plans for managing, coordinating or monitoring, and assisting the efforts of partnering agencies and other forms of collaborative arrangements in meeting the goals of the project.

A description of the experience of the applicant and the proposed partnering agencies in collaborating to deliver effective employment services and in managing multiple sources of funding.

A description of how the applicant will track, manage and account for refugee employment costs and, if applicable, the availability of other funding sources.

E. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The Office of Refugee Resettlement is particularly interested in the following:

A description of how your proposed budget is reasonable, appropriate and cost effective in view of the proposed services, strategies and anticipated outcomes.

A description of the extent to which your proposal includes significant other resources to complement the ORR funds.

General Instructions

ORR is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered and a Table of Contents should be included for easy reference.

The Office of Refugee Resettlement is also requesting that applicants provide a summary of the project description which includes:

- The name and address of the applicant agency.
- The total number of employment placements when the program is completed.
- The total ORR funds requested for a 12 month period.
- The amount and source of any additional funding that will help support the project (i.e., funds that are in addition to Federal ORR funds.)
- The community to be served (name of town(s), city(ies) and county(ies) and the targeted refugee groups.
- The proposed type of jobs, hours per week and wages.
- The target date for beginning full services to refugees.

Additional Information

Following is a description of additional information that should be placed in the appendix of the application.

1. Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant position. A biographical sketch will also be required for new key staff as appointed.

2. Organizational Profile

Provide information on the applicant organization and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, contact persons and telephone numbers, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Part III. Criteria for Review and Evaluation of the Grant Application

Information provided in response to Part II of this announcement will be used to review and evaluate applications using the following criteria:

A. Need for Assistance to Increase Assimilation (30 points)

Quality of description and documentation with regard to refugee assimilation and impact on the community.

B. Program Design and Approach (20 points)

Soundness of and innovation in program design and methodology for securing community service employment for refugees, including evidence of collaboration through coalitions of local community agencies and refugee organizations.

C. Results and Benefits (20 points)

Providing effective and responsive services to targeted refugees and families. Employment results which are timely, appropriate, and measurable using ORR standards for outcome performance under GPRA.

D. Project Management and Implementation (15 points)

The extent of demonstrated capacity of the applicant organization, key leaders and managers and, where appropriate, proposed partnering organizations in:

Managing the proposed community employment services in a timely, cost-effective manner.

Working successfully in partnership with the targeted refugee communities, families, and other community organizations, institutions, and agencies.

E. Cost Effectiveness and Budget Appropriateness (15 points)

The extent to which the project's costs are reasonable and cost-effective in view of the activities to be carried out and the anticipated outcomes.

The extent to which proposed salaries and fringe benefits reflect appropriate levels of compensation for the responsibilities of staff.

The extent to which costs for refugee wages in community employment are reasonable and equitable.

Part IV. The Application Process

A. Required Forms

Applicants interested in applying for funds must submit a complete application including the required forms—Standard Form 424 and attachments. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget (OMB) under Control Number 0348–0043), a copy of which was published by ORR in the **Federal Register**, Volume 62, No. 236. pages 64870–64883. SF–424 is also available through the Administration for Children and Families website at: http://www.acf.dhhs.gov (at "Select a Topic" choose Grant Related Forms and Documents). Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under Control Number 0348–0040). Applicants must sign and return the Standard Form 424B with their application. Applicants must provide a certification concerning lobbying. Applicants must provide information consistent with ACF's approved Uniform Project Description (OMB # 0970–0139), as found in Part II of this Program Announcement. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under Control Number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application. Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application. Applicants must also understand that they will be held accountable for the smoking prohibition included within Pub. L. 103–227, Part C Environmental Tobacco Smoke (also known as Pro-Children's Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

B. Application Submission

Applicants submitting proposals should use the following format guidelines: Proposals should be organized according to the evaluation criteria located in Part III. For each of the five specified criteria, applicants should provide information in response to the application requirements described in Part II of this announcement.

One signed original and two complete copies of the grant application, including all attachments, are required. Each application must be limited to no more than 25 double-spaced pages of program narrative (not including the Project Summary and the forms which make up the SF–424A and Budget Justification).

If the narrative portion of the application is more than 25 double-spaced pages, the other pages will be removed from the application and not considered by the reviewers. The attachments/appendices to each application must be limited to no more than 25 pages, (in addition to the 25

pages permitted for the narrative portion of the application). If the attachments/appendices to each application are more than 25 pages, the other pages will be removed from the application and not considered by the reviewers.

C. Application Considerations

Applicants will be scored against the evaluation criteria described above. The review will be conducted by a panel consisting of experts in the areas of refugee and employment services.

The results of the competitive review will be taken into consideration by the Director, Office of Refugee Resettlement, in determining the projects to be funded. The Director of ORR will make the final selection of the applicants to be funded. An application may be funded in whole or in part, depending on the relative need for services, applicant ranking, geographic location, proposed costs, and funds available.

Successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total project period for which support is provided.

D. Checklist for a Complete Application

A complete application consists of the following items in this order:

Introductory Material:

- Cover letter.
- Table of Contents.
- Project Description Summary.

(1) Application for Federal Assistance (SF424).

(2) Budget Information—Non-Construction Programs (SF424A&B).

(3) Budget Justification.

(4) Project Description and Appendices.

(5) Proof of non-profit status as appropriate.

(6) Assurances Non-Construction Programs.

(7) Certification Regarding Lobbying.

(8) Where appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424.

Applicants are reminded that the narrative portion of the application cannot exceed 25 double-spaced pages in a 12-pitch font with 1-½ inch margins at the top and 1 inch at the bottom and both sides and that attachments/Appendices to the application can not exceed 25 pages. Attachments and appendices should be used only to provide supporting documentation such as maps, administration charts, position descriptions, resumes, and letters of intent/agreement. Please do not include books or video tapes as they are not easily reproduced and are, therefore, inaccessible to the reviewers. Each page should be numbered sequentially.

GENERAL—The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. According to the instructions for completing the SF–424A and the preparation of the budget and budget justification, "Federal resources" refers only to the ACF/ORR grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel: Costs of employee salaries and wages. Justification—Identify the project director and for each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies.

Fringe Benefits: Costs of employee fringe benefits unless treated as part of approved indirect cost rate. Justification—Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification—For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF/ORR-sponsored meetings should be detailed in the budget.

Equipment: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification—For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends.

Supplies: Costs of all tangible personal property other than that included under the Equipment category.

Justification—Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, etc. Contracts with secondary recipient organizations, including delegate agencies (if applicable), should be included under this category.

Justification—All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if procurement without competition is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Justify any anticipated procurement action that is expected to be awarded without competition and to exceed the simplified acquisition threshold fixed at 41 USC 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as requests for proposal or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development, and administrative costs.

Justification—Provide computations, a narrative description and a justification for each cost under this category.

Indirect Costs: This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency.

Justification—An applicant proposing to charge indirect costs to the grant must enclose a copy of the current rate

agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the agreement, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income: The estimated amount of income, if any, expected to be generated from this project.

Justification—Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification—The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process.

E. Due Date for the Receipt of Applications

Deadlines: The closing date for submission of applications is 4:30 p.m. (EDT) on July 20, 1998. Mailed applications shall be considered as meeting the deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ORR in time for the independent review. Applications should be mailed to: Division of Community Resettlement, Office of Refugee Resettlement, 6th Floor East, Aerospace Building 370 L'Enfant Promenade, SW., Washington, DC 20447.

Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications hand carried by applicants, courier services, or by overnight/express mail couriers shall be considered as meeting the announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the above stated address, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services may not always deliver as agreed. In addition, some non-postal service carriers will only deliver to ORR's street address which is 901 D Street SW. instead of 370 L'Enfant Promenade, SW.) ORR cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ORR electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ORR shall notify each late applicant that its application will not be considered.

Extension of deadlines: ORR may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ORR does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

F. Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this Program Announcement are approved under the following currently valid OMB control numbers: 424, (0348–0043); 424A (0348–0044); 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Uniform Project Description (0970–0139), Expiration date 10/31/2000. Financial Status Report (SF–269) (0348–0039) and ORR Program Performance Report (0970–0036).

Public reporting burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

G. Executive Order 12372—Notification Process

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-four jurisdictions need not take action regarding Executive Order 12372.

Applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to the ORR, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, 6th Floor East, Aerospace Building, 370 Enfant Promenade, SW., Washington, DC 20447.

Reporting Requirements—Grantees are required to file the Financial Status Report (SF–269) semi-annually and Program Progress Reports on a quarterly basis.

Although ORR does not expect the proposed components/projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on expenditures by budget line item,

project outcomes and participant demographics information which may include but is not limited to: date of birth, sex, country of birth, date of entry, education, employment history, marital status and number of children.

The official receipt point for all reports and correspondence is the ORR Division of Community Resettlement. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Project Officer named in the award letter. The mailing address is: Division of Community Resettlement, Office of Refugee Resettlement, Sixth Floor East, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A final Financial and Program Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: May 14, 1998.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 98–13434 Filed 5–19–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Proposed Project: Feasibility Study To Evaluate the Positive Activities Campaign—New—The Center for Substance Abuse Prevention is launching the Positive Activities Campaign, which is an initiative to encourage adults to become more involved in positive, skill-building activities with youth. The ultimate goal of the initiative is to reduce substance abuse among young people. To determine whether the effects from such a campaign can be evaluated, CSAP is proposing a feasibility study of PAC that consists of both a process and an outcomes evaluation. The evaluation will determine whether change can be measured in communities exposed to PAC, including change in adults' involvement with youth. Data for the process evaluation will come primarily from on-site interviews with key personnel, supported by focus groups with volunteers; data for the outcomes evaluation will be collected through a baseline and follow-up telephone survey of adults. The estimated annual burden hours are as follows:

Data collection instrument	Number of respondents	Hours per response	Total annual response burden
Baseline telephone survey of random sample of adults	1,800	0.20	360
Follow-up telephone survey of respondents from baseline survey	1,600	0.15	240
Interviews with local-level staff for process evaluation	240	2.00	480
Focus groups	120	1.50	270
Total			1,350

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 15, 1998.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–13408 Filed 5–19–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–20]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 19, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone

numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 13, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Campus of Learners Semi-Annual Report.

Office: Public and Indian Housing.

OMB Approval Number: 2577–xxxx.

Description of the Need for the Information and its Proposed Use: Participating PHAs will provide HUD with information on the number of families included in the Campus of Learners Program, Federal dollars supporting the Program, number of residents in classes/training and other opportunities made available to residents. The information will enable HUD to insure that Federal dollars are spent according to that PHA's Strategic Plan.

Form Number: 52350.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: Semi-Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Semi-Annually	25		2		36		1,800

Total Estimated Burden Hours: 1,800.

Status: New.

Contact: Beverly Hardy, HUD, (202) 708–4214; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 13, 1998.

[FR Doc. 98–13371 Filed 5–19–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4369–N–02]

Announcement of OMB Approval Number for Disaster Recovery Grant Reporting (DRGR) Data System

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the Disaster Recovery Grant Reporting (DRGR) data system.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Opper, Department of Housing and Urban Development, Room 7286, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–3587. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the Disaster Recovery Grant Reporting (DRGR) data system. The OMB approval number for this information collection is 2506–0165, which expires on May 31, 2001.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: May 14, 1998.

Kenneth C. Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 98–13372 Filed 5–19–98; 8:45 am]

BILLING CODE 4210–33–M

INTER-AMERICAN FOUNDATION BOARD MEETING

Sunshine Act Meeting

TIME AND DATE: June 8, 1998, 11:30 a.m.—3:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the February 9, 1998, Meeting of the Board of Directors.
2. Report on Grants in Ecuador.
3. Proposal on Future of In-Country Service Contracts.
4. Report on Congressional Affairs.
5. Report by the Board Audit Committee.

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: May 8, 1998.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 98–13574 Filed 5–18–98; 11:56 am]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: University of Pittsburgh, Titusville, PA, PRT–842323.

The applicant requests a permit to import blood and vaginal samples from Mantled howler monkey (*Alouatta palliata*) collected at Ometepe Field Station, Ometepe, Nicaragua, to enhance the survival of the species through scientific research.

Applicant: National Zoological Park, Washington, D.C., PRT–842435.

The applicant requests a permit to export blood samples from captive-hatched ne-ne geese (*Nesochen sandvicensis*) to the United Kingdom for the purpose of scientific research.

Applicant: White Oak Conservation Center, Yulee, FL, PRT–842418.

The applicant requests a permit to export blood samples from black rhinoceros (*Diceros bicornis minor*) to the United Kingdom for the purpose of scientific research.

Applicant: Shannon E. Binns, University of Ottawa, Canada, PRT–842518.

The applicant requests a permit to take and export whole plants and parts of purple coneflower (*Echinacea tennesseensis* and *E. laevigata*) to Canada for the purpose of scientific research.

Applicant: U.S. Department of Agriculture, ARS North Central Regional Plant Intro. Station, Ames, IA, PRT–842520.

The applicant requests a permit to export seeds of purple coneflower (*Echinacea tennesseensis* and *E. laevigata*) to Canada for the purpose of scientific research.

Applicant: Department of Anthropology, City University of New York, New York, NY, PRT–810330

The applicant requests an amendment to this permit to include the import of shed hair samples from gorillas (*Gorilla gorilla*) collected in Nigeria, for scientific research.

Applicant: Wayne P. Steffens, Superior, WI, PRT–842124.

The applicant requests a permit to import and export specimens of Hine's emerald dragonfly (*Somatochlora hineana*) to and from Canada, including salvaged specimens and voucher specimens associated with population surveys for the purposes of scientific research.

Applicant: The Peregrine Fund, Boise, Idaho, PRT–842855.

The applicant request a permit to export captive-born Aplomado falcons (*Falco femoralis septentrionalis*) to Mexico for release as part of the recovery program for this species. This notice covers activities conducted by the applicant over a five year period.

Applicant: H & L Sales Company, Patio Ranch, San Antonio, TX, PRT 704025.

The applicant requests renewal of a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) from their captive herd for the purpose of enhancement of survival of the species. This notice shall cover a period of three years. Permittee must apply for renewal annually.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Mark Cary Connor, Decatur, IL, PRT–842222.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

Applicant: Ken D. Semelsberger, Strongsville, OH, 842192.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Northwest Territories, Canada for personal use.

Applicant: Kenneth J. Semelsberger, Strongsville, OH, 842191.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Northwest Territories, Canada for personal use.

Applicant: Obert L. Haines, Alamosa, CO, PRT–842521.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: May 14, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–13338 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Applicant: Davey Resource Group, Davey Tree Expert Company, Kent, Ohio; Michael D. Johnson, Vertebrate Zoologist.

The applicant requests a permit to take (capture and release) Indiana bat (*Myotis sodalis*) in the state of Ohio. Activities are proposed for the purpose of presence/absence studies aimed at enhancement and survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received on or before June 19, 1998.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5332); FAX: (612/713–5292).

Dated: May 13, 1998.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–13362 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–55–P

U.S. DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On February 20, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 34, Page 8658, that an application had been filed with the Fish and Wildlife Service by John Abercrombie, Las Vegas, NV, for a permit (PRT–839323) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on April 16, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 20, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 34, Page 8658, that an application had been filed with the Fish and Wildlife Service by Wallace D. Gott, Upland, CA, for a permit (PRT–839315) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Northern Beaufort Sea population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on April 16, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 13, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 49, Page 12498, that an application had been filed with the Fish and Wildlife Service by Edwin E. Smith, Houston, TX, for a permit (PRT–838493) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on April 27, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 13, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 49, Page 12498, that an application had been filed with the Fish and Wildlife Service by Dan L. Duncan, Houston, TX, for a permit (PRT–838492) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on April 27, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: May 14, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–13337 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces the organizing meeting of the Ballast Water and Shipping Committee of the Aquatic Nuisance Species Task Force. Topics to be addressed during the meeting are identified.

DATES: The Ballast Water and Shipping Committee will meet from 10 a.m. to 3 p.m. on Thursday, May 28, 1998.

ADDRESSES: the meeting will be held in the first floor conference room at the Northeast-Midwest Institute, 218 D Street, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

LT Lawrence Greene, Ph.D., Committee Chair, U.S. Coast Guard at 202–267–0500, or Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–2025.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, this notice announces a meeting of the Ballast Water and Shipping Committee of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

During the meeting, there will be an in-depth discussion of the Notice of Proposed Rule Making regarding implementation of the National Invasive Species Act of 1996 published by the U.S. Coast Guard in the **Federal Register** on April 10, 1998 (63 FR 17782). The notice addresses national voluntary ballast water management guidelines, requirements for reporting ballast water exchange, and modifications of Great Lakes and Hudson River ballast water management regulations. The meeting will conclude with a discussion of future activities and tasks of the Committee and tasks to be undertaken by individual members.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and the Chair, Ballast Water and Shipping Committee, Plans and Preparedness Division, Office of Response, U.S. Coast Guard (G–MOR–2), 2100 Second Street, SW., Washington, DC 20593–0001, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: May 14, 1998.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 98–13390 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–08–1320–01; WYW136142]

Competitive Coal Lease Sale; Powder River Tract; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that certain coal resources in the Powder River Tract, described below, in Campbell County, Wyoming, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 2 p.m., on Tuesday, June 30, 1998. Sealed bids must be submitted on or before 4 p.m., on Monday, June 29, 1998.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107) of the Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, or Melvin Schlagel, Coal Coordinator, at 307–775–6258 and 307–775–6257, respectively.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Powder River Coal Company of Gillette, Wyoming. The coal resources to be offered consist of all reserves recoverable by surface mining methods in the following-described lands located in Campbell County approximately 48 miles south-southeast of Gillette, Wyoming, and about 7 miles east of State Highway 59 just south of Piney Canyon Road:

T. 41 N., R. 70 W., 6th P.M., Wyoming
Sec. 6: Lots 10 thru 13, 18 thru 21;
Sec. 7: Lots 6, 11, 14, and 19;
Sec. 18: Lots 5, 12, 13, and 20;
Sec. 19: Lots 5, 12 (N2);
Sec. 20: Lots 1 thru 4, 5 (N2), 6 (N2), 7 (N2), 8 (N2);
Sec. 21: Lots 4, 5 (N2);
T. 42 N., R. 70 W., 6th P.M., Wyoming
Sec. 31: Lots 5 thru 20;
Sec. 32: Lots 1 thru 16;
Sec. 33: Lots 1 thru 16;
Sec. 34: Lots 1 thru 16;
Sec. 35: Lots 1 thru 16.
Containing 4224.225 acres.

The tract is adjacent to the North Antelope and Rochelle mines operated by Powder River Coal Company. It contains surface minable coal reserves

in the Wyodak seam currently being recovered in the adjacent, existing mines. The Wyodak seam averages about 74 feet thick and is the primary recoverable coal seam on the tract. The seam splits roughly in two in the far southwestern portion of the LBA and a thin split off the bottom occurs in the eastern portion. There are no coal outcrops on the tract.

The overburden above the main seam ranges from about 200–300 feet thick on the LBA. The total in-place stripping ratio (BCY/Ton) of the coal is 3.0:1.

The tract contains an estimated 532 million tons of minable coal. This estimate of minable reserves includes the two splits mentioned above but does not include any tonnage from localized seams or splits containing less than 5 feet of coal.

The coal is ranked as subbituminous C. The overall average quality is 8742 Btu/lb, 27.93% moisture, 4.21% ash, 0.18% sulfur, and 1.84% sodium in ash. These quality averages place the coal reserves near the high end of the range of coal quality currently being mined in the southern Powder River Basin south of Wright, Wyoming.

There are several oil and gas wells on the tract. The estimate of the bonus value of the coal lease will include consideration of the future oil and gas production from these wells. An economic analysis of this future income stream will determine whether a well is bought out and plugged prior to mining or re-established after mining is completed. Other costs considered will include moving or removing roads, pipelines, and surface facilities.

The tract in this lease offering contains split estate lands. There are qualified surface owners as defined in the regulations at 43 CFR 3400.0–5. Consent granted by the qualified surface owners has been filed with and verified by the Bureau of Land Management. The lands and purchase price of the consent are shown below:

T. 41 N., R. 70 W., 6th P.M., Wyoming
Sec. 19: Lots 5, 12 (N2).
Containing 60.115 acres.

Purchase Price: $10.00 and an overriding royalty of three percent (3%) of the gross realization of all coal mined and sold from the subject property.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Monday, June 29, 1998, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or augur mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the Wyoming State Office at the addresses above. Case file documents, WYW136142, are available for inspection at the Wyoming State Office.

Michael Madrid,

Acting Deputy State Director.

[FR Doc. 98–12953 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Denver Museum of Natural History, Denver, CO

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Denver Museum of Natural History (DMNH) which meet the definition of "sacred objects" and "objects of cultural patrimony" under Section 2 of the Act.

The 164 cultural items consist of 25 Hopi spirit friends or Katsina masks and 31 mask attachments; 59 pahos and prayer feathers; one paho holder; three altar figures from Walpi; five Katsina Society dance items from Walpi; 21 Mazrau Society dance items from Shungopavi; nine Katsina Society dance items from Shungopavi; four Snake Society dance items from Shungopavi; two Katsina Society dance items from Oraivi; one Mazrau Society dance item from Oraivi; one Snake Society medicine pouch from Shungopavi; one Snake Society medicine bundle from Shungopavi; and one Mazrau Society ceremonial canteen from Shungopavi.

In 1973, the three altar figures from Walpi were donated to the DMNH by donors whose names are withheld at the DMNH's request. In 1981, three of the pahos were donated to the DMNH by a donor whose name is withheld at the DMNH's request. Between 1968–1983, the remaining 158 cultural items were donated to the DMNH by Dr. and Mrs. Frances Crane, who had acquired the items from at least 12 different sources, including collectors, gift shops, and dealers.

DMNH accession, catalogue, and computer records indicate these 164 cultural items are of Hopi origin from Hopi villages in northern Arizona. Extensive consultations with representatives of the Hopi Tribe and Hopi traditional religious leaders confirm the Hopi identity of these cultural items. Representatives of the Hopi Tribe and Hopi traditional religious leaders have stated that these 164 cultural items are needed by traditional Hopi religious leaders for the practice of traditional Native American religion by their present-day adherents; and that these items also have on-going historical, traditiona, and cultural importance central to the culture itself and could not have been alientated by any individual.

Based on the above-mentioned information, officials of the Denver Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(3), these 164 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Denver Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(4), these 164 cultural items have ongoing historical, traditional, and cultural importance central to the tribe itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Denver Museum of Natural History have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Hopi Tribe.

This notice has been sent to officials of the Hopi Tribe. Representatives of

any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Dr. Robert Pickering, Chairman of the Anthropology Department, Denver Museum of Natural History, 2001 Colorado Blvd., Denver, CO 80205; telephone (303) 370–6388 before June 19, 1998. Repatriation of these objects to the Hopi Tribe may begin after that date if no additional claimants come forward.

Dated: May 14, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–13397 Filed 5–19–98; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

Ferrosilicon From Brazil, China, Kazakstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission (Commission).

ACTION: Request for comments regarding the institution of section 751(b) review investigations concerning the Commission's affirmative determinations in the following investigations:

Country	Action taken by the Commission			Action taken by the Dept. of Commerce		
	Investigation No.	Date of determination	Federal Register citation	Order No.	Date of order	Federal Register citation
Brazil	731–TA–641	01/24/94	59 FR 10165	A–351–820	03/14/94	59 FR 11769
China	731–TA–567	03/04/93	58 FR 13503	A–570–819	03/11/93	58 FR 13448
Kazakstan	731–TA–566	03/23/93	58 FR 16847	A–843–804	04/07/93	58 FR 18079
Russia	731–TA–568	06/16/93	58 FR 34064	A–821–804	06/24/93	58 FR 34243
Ukraine	731–TA–569	03/23/93	58 FR 16847	A–823–804	04/07/93	58 FR 18079
Venezuela	303–TA–23	06/16/93	58 FR 34064	C–307–808	05/10/93	58 FR 27539
	731–TA–570	06/16/93	58 FR 34064	A–307–807	06/24/93	58 FR 34243

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of investigations pursuant to section 751(b) of the Tariff Act of 1930 (the Act),[1] to review the affirmative determinations of the Commission in the above investigations. The purpose of the proposed review investigations is to determine whether revocation of the existing countervailing duty order on imports of ferrosilicon from Venezuela and the antidumping orders on imports of ferrosilicon from Brazil, China, Kazakstan, Russia, Ukraine, and Venezuela, is likely to lead to continuation or recurrence of material injury.[2] Ferrosilicon is provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00, of the Harmonized Tariff Schedule of the United States.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at http://www.usitc.gov.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 1998, the Commission received a request to review its affirmative determination, as it applied to imports from Brazil (the request), in the light of changed circumstances, pursuant to section 751(b) of the Act.[3] The request was filed by counsel on behalf of Associação Brasileira dos Productores de Ferroligas e de Silicio Metalico (ABRAFE), Companhia Brasileira Carbureto de Calcio (CBCC), Companhia de Ferroligas de Bahia (FERBASA), Nova Era Silicon S/A, Italmagnesio S/A-Industria e Comercio, Rima Industrial S/A, and Companhia Ferroligas Minas Gerais (Minasligas).

The alleged changed circumstances include: (1) The revelation of a nationwide ferrosilicon price-fixing conspiracy maintained by major U.S. ferrosilicon producers from at least as early as late 1989 to at least mid-1991. Following criminal price-fixing investigations by the Antitrust Division of the U.S. Department of Justice, Elkem Metals Co. and American Alloys pleaded guilty in 1995 and 1996, respectively, to conspiring to fix prices of commodity ferrosilicon products. SKW Metals & Alloys Inc. and its executive vice-president were found guilty in 1997 of conspiring to fix prices of commodity ferrosilicon products, and; (2) the consequential invalidation of the Commission's determination of material injury that was based upon improper and distorted price data.

Because the alleged changed circumstances predominantly relate to the domestic industry and are not limited to imports from Brazil, submissions should also address the possibility of the Commission self-initiating reviews of the outstanding orders on China, Kazakstan, Russia, Ukraine, and Venezuela.

Written Comments Requested

Pursuant to § 207.45(b) of the Commission's rules of practice and procedure,[4] the Commission requests comments concerning whether the alleged changed circumstances are sufficient to warrant institution of review investigations.

Written Submissions

In accordance with 201.8 of the Commission's rules,[5] the signed original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 500 E Street, SW, Washington, DC 20436. All comments must be filed no later than June 19, 1998, which is at least 30 days after the date of publication of this notice in the

[1] 19 U.S.C. 1675(b).
[2] 19 U.S.C. 1675(b)(2)(A).
[3] 19 U.S.C. 1675(b).
[4] 19 CFR 207.45(b).
[5] 19 CFR 201.8.

Federal Register. The Commission's determination regarding initiation of review investigations is due within 30 days of the close of the comment period. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's rules.[6] Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Information." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the non-confidential version of the request and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–205–2000.

Issued: May 12, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–13426 Filed 5–19–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,214 and NAFTA–02157]

Fort James Corp., Towel and Tissue Division, Ashland, WI; Negative Determination Regarding Application for Reconsideration

By application dated March 27, 1998, the United Paperworkers International Union (UPIU) Local 1104 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and NAFTA-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notices were signed on March 11, 1998. The TAA and NAFTA–TAA decisions were published in the **Federal Register** on April 3, 1998, (63 FR 16574) and (63 FR 16575), respectively.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The negative TAA determination issued by the Department was based on the binding that the "contributed importantly" test of the worker group eligibility requirements of section 222 of the Trade Act of 1974 was not met for workers of Fort James Corporation, Ashland, Wisconsin producing commercial napkins. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department of Labor surveyed the major declining customers of the subject firm regarding their purchases of commercial napkins. None of the respondents reported import purchases of commercial napkins in 1996, 1997 or in January 1998.

The subject firm workers were denied eligibility to apply for NAFTA–TAA based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. There was no shift in production of commercial napkins from the subject firm to Mexico or Canada, nor were there company or customer imports of like or directly competitive products from Mexico or Canada.

The UPIU Local 1104 asserts that some of the machinery at the Ashland mill is scheduled for delivery to China and Europe by the end of summer 1998. The shipment or sale of production equipment to foreign countries is not a basis for a worker group certification under the Trade Act of 1974.

The UPIU Local 1104 provided import statistics for tablecloths and table napkins made of paper for 1997. this information does not substantiate import impact for workers of Fort James Corporation. There must be company or customer increases of imports of articles like or directly competitive with those produced by workers at the subject firm.

The UPIU Local 1104 asserts that during the petition investigation, the customer list provided by the company did not include all of the Fort James Corporation Ashland customers. The customer list requested by the Department and provided by company officials accounted for Ashland's major declining customers.

Finally, the UPIU Local 1104 asserts that prices for market pulp and paperboard has increased, thereby affecting company cost to compete for materials used in the production of commercial napkins. Price of raw materials to produce a product is not a basis for a worker group certification under the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 4th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13419 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

[6] 19 CFR 201.6.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,104; Sunbeam Corp., Murfreesboro, TN

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–34,461; ARC USA, Pauls Valley, OK

TA–W–34,193; Kat-Em International, A Division of Concord Fabrics Inc., Los Angeles, CA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–34,318; Streamline Fashions Mfg., Inc., Philipsburg, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,223; Geneva Steel, Provo, UT

the investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–34,481; Renfro Corp., Barber Plant, Mt. Airy, NC

Renfro Corp. Officials made a decision to close it's Barber plant and transfer all production to another domestic plant.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–34,376; Beam Corp., A Div. Of Deena Corp., Tolleson, AZ: March 19, 1997.

TA–W–34,359; Canaan Fashions, Brooklyn, NY: March 11, 1997.

TA–W–34,388; Georgia-Pacific Corp., Building Products Div., Oriented Strand Board Mill, Woodland, MR: March 18, 1997.

TA–W–34,385; Delphi Automotive Systems, Delphi Interior and Lighting, Brea Operations, Brea, CA: March 17, 1997.

TA–W–34,265; H.H. Cutler Co., Grand Rapids, MI: February 4, 1997.

TA–W–34,378 & A; Newel Co., Acme Frame—a/k/a Intercraft, Mundelein, IL and Waukegan, IL: March 5, 1997.

TA–W–34,352; Wintron, Bellefonte, PA: March 11, 1997.

TA–W–34,412; Hit Apparel, Inc., Athens, TN: March 18, 1997.

TA–W–34,438; A.D.H. Mfg Corp., Farner, TN: March 31, 1997.

TA–W–34,444; Covington Industries, Inc., Opp, Al and Operating at the Following Locations: A; Samson Plant, Samson, AL, B; Florala Plant, Florala, AL, C; Kinston Plant, Kinston, AL, D: Opp Distribution, Opp, AL, E: Opp Sewing, Opp, AL: March 13, 1997.

TA–W–34,448; IBP, Inc., Luverne, MN: March 18, 1997.

TA–W–34,413; Babcock & Wilcox Co., Paris, TX: March 26, 1997.

TA–W–34,259; Cleveland Kniting Mills, Cleveland, OH: February 9,

TA–W–34,395; Henry I. Siegel Co., Inc., Chic by H.I.S. Div., Monticello, KY: March 24, 1997.

TA–W–34,382; Decora Mongomery City, MO: March 12, 1997.

TA–W–34,251; Donna Maria's Sewing, Inc., Ripley, WV: February 4, 1997.

TA–W–34,381; Cannon County Knitting Mills, Smithville, TN: March 13, 1997.

TA–W–34,404; Henry I. Siegel, Chic By H.I.S. Div., Saltillo, TN: March 17, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of April, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02231; Spirax Sarco, Inc., Allentown, PA

NAFTA–TAA–02309; Harry G. Kramer, III, Pittsburg, PA

NAFTA–TAA–02247; Streamline Fashions Mfg., Inc., Philipsburg, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02282; Georgia-Pacific Corp., Distribution Facility, Eugene, OR

NAFTA–TAA–02338; Johnson Wholesale, Punta Gorda, FL

NAFTA–TAA–02308; Southport Aviation, d/b/a/ Million Air Kansas City, Kansas City, MO

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02322; American Powder Coatings, Inc., El Paso, TX: March 31, 1997.

NAFTA–TAA–02343; Russell Corp., Milton, FL: March 26, 1997.

NAFTA–TAA–02188; Donna Maria's Sewing, Inc., Ripley, WV: February 11, 1997.

NAFTA–TAA–02284; IBP, Inc., Luverne, MN: March 18, 1997.

NAFTA–TAA–02271; Cannon County Knitting Mills, Smithville, TN: March 13, 1997.

NAFTA–TAA–02288; Henry I. Siegel Co., Chic By H.I.S. Div., Monticello, KY: March 24, 1997.

NAFTA–TAA–02273 & A,B,C; Henry I. Siegel Co., Inc., Chic By H.I.S. Div., Saltillo, TN, Gleason, TN, Trezevant, TN and South Fulton, TN: March 17, 1997.

NAFTA–TAA–02306; Covington Industries, Inc., Opp, AL, and

Operating at the Following Locations: A; Samson Plant, Samson, AL, B; Florala Plant, Florala, AL, C; Kinston Plant, Kinston, AL, D; Opp Distribution Plant, Opp, AL, E; Opp Sewing Plant, Opp, AL: March 13, 1997.

NAFTA–TAA–02265; Beam Corp., Div. of Deena, Inc., Tolleson, AZ: March 19, 1997.

NAFTA–TAA–02279; Hit Apparel, Inc., Athens, TN: March 18, 1997.

NAFTA–TAA–02324; A.D.H. Mfg. Corp., Farner, TN: March 31, 1997.

NAFTA–TAA–02252; Briggs Industries, Somerset, PA: March 6, 1997.

I hereby certify that the aforementioned determinations were issued during the month of April 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Connstitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 5, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13416 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,204]

Pride Companies, L.P., Abilene, Texas; Negative Determination Regarding Application for Reconsideration

By application postmarked April 14, 1998, one of the petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on March 20, 1998, and published in the **Federal Register** on April 3, 1998 (63 FR 16574).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The investigation findings for the March 20 denial of TAA for workers of Pride Companies, L.P., Abilene, Texas producing refined petroleum products showed that criteria (1) and (2) of the group eligibility requirements of section 222 of the Trade Act were met; employment, sales and production decreased in January through September 1997 compared with the same time period of the previous year. However, the "contributed importantly" requirement of criterion (3) of section 222 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. A survey conducted by the Department regarding the subject firm's loss of a portion of a competitive bid for military jet fuel in February 1997 revealed that the remainder was awarded to domestic suppliers, with the exception of a very small percentage of the solicitation awarded to a foreign source.

The petitioner asserts that layoffs at the Abilene refinery were the result of increased company purchases of imported products supplied by the Texaco Trading and Transportation Inc. terminal in the Houston ship channel area. The petitioner adds that Texaco Trading and Transportation purchases refined products on the open market from various refineries and distribution terminals.

The investigation findings showed that Pride Companies, L.P. did not purchase any refined petroleum products from Texaco or any foreign sources during the time period relevant to the petition investigation. Information obtained during the investigation shows that Texaco Trading and Transportation Inc. will supply refined petroleum products to Pride, but not until the completion of the conversion of the Abilene refinery to a products and crude oil terminal. Information in Departmental trade adjustment assistance files shows that the primary functions of Texaco Trading and Transportation, Inc. are marketing of domestic crude oil, and transportation of crude oil and products by pipeline and truck.

With respect to the petitioners assertion that U.S. domestic production of refined petroleum is at a maximum and cannot meet demand, U.S. imports of these products declined absolutely and relative to domestic shipment from 1996 to 1997.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 4th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13418 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,199]

Sangamon, Inc., Taylorville, Illinois; Revised Determination on Reconsideration

In response to a letter of March 26, 1998, from the United Paperworkers International Union (UPIU) Local 637, requesting administrative reconsideration of the Department's denial of TAA for workers of the subject firm, the Department reopened its investigation for the former workers of Sangamon, Incorporated.

The initial investigation resulted in a negative determination issued on March 6, 1998, because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met for workers at the subject firm producing everyday and seasonal greeting cards. The denial notice was published in the **Federal Register** on April 3, 1998 (63 FR 16,574).

On reconsideration, the Department conducted further survey analysis of the major declining customer of Sangamon, Incorporated. New survey information shows that the major declining customer has indirect import purchases of greeting cards while reducing purchases from the subject firm.

Statistics on greeting cards show aggregate U.S. imports increased in both quantity and value in 1996 and 1997.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with greeting cards produced by the subject firm contributed importantly to the decline in sales and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I

make the following revised determination:

All workers of Sangamon, Incorporated, Taylorville, Illinois, who became totally or partially separated from employment on or after January 22, 1997 through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 5th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13415 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

ETA–5130 Benefit Appeals Report; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the ETA–5130 Benefit Appeals Report. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 20, 1998. The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Jack Bright, Unemployment Insurance Service, Employment and training Administration, U.S. Department of Labor, Room S–4516, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 219–5340, ext. 177 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The ETA–5130, Benefit Appeals Report, contains information on the number of unemployment insurance appeals and the resultant decisions classified by program, appeals level, cases filed and disposed of (workflow), and decisions by level, appellant and issue. The data on this report is used by both the Regional and National Office Unemployment Insurance staff to monitor the benefit appeals process in the State Employment Security Agencies (SESAs) and to develop any needed plans for remedial action. The data is also needed for workload budgeting and to determine administrative funding. If this information were not available, developing problems might not be discovered early enough to prevent the solutions from being extremely time consuming and costly.

II. Current Actions

Continued collection of the ETA–5130 data will provide for continuous monitoring of the SESAs appellate processes and needed data for the budgeting and administrative funding activities. The data is collected monthly so that developing backlogs of undecided appeals can be detected as early as possible.

Type of Review: Extension.
Agency: Employment and Training Administration.
Title: Benefit Appeals Report.
OMB Number: 1205–0172.
Agency Number: ETA–9016.
Affected Public: State Governments.
Cite/Reference/Form: ETA 5130.
Total Respondents: 53.
Frequency: Monthly.
Total Responses: 636.
Average Time per Response: 2.5 hours.
Estimated Total Burden Hours: 1620 hours.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): $32,400.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 14, 1998.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 98–13414 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02148]

Sangamon, Inc., Taylorville, Illinois; Revised Determination on Reconsideration

In response to a letter of March 26, 1998, from the United States Paperworkers International Union (UPIU) Local 637, requesting administrative reconsideration of the Department's denial of NAFTA–TAA for workers of the subject firm, the Department reopened its investigation for the former workers of Sangamon, Incorporated. The workers produce everyday and seasonal greeting cards.

The initial investigation resulted in a negative determination issued on March 6, 1998, because criteria (3) and (4) of paragraph (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. Sangamon, Incorporated did not import greeting cards from sources located in Mexico or Canada, nor was there a shift in production of greeting cards from the Taylorville plant to Mexico or Canada. Furthermore, a survey of the subject firm's customers revealed that none of the customers reported any purchases of greeting cards from Mexico or Canada in 1996 or 1997. The denial notice was published in the **Federal Register** on March 23, 1998 (63 FR 13879).

On reconsideration, the Department conducted further survey analysis of the major declining customer of Sangamon, Incorporated. New survey information shows that the major declining customer has indirect import purchases of greeting cards from Canada while reducing purchases from the subject firm.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles from Canada like or directly competitive with greeting cards, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Sangamon, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of Sangamon, Incorporated, Taylorville, Illinois, who became totally or partially separated from employment on or after January 22, 1997 through two years from the date of the certification, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 5th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13417 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210

New General Wage Determination Decision

The Number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume VI

Washington
WA980009 (May 22, 1998)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 15 Day of May 1998.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–13424 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Monday, June 8, 1998, in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to determine specific areas of inquiry for the study and to continue taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 2, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 2, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2.

Signed at Washington, DC, this 14th day of May, 1998.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–13420 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Pre-retirement Distributions From ERISA Employer-Sponsored Pension Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, June 9, 1998, of the Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans, which is studying pre-retirement distributions, including in-service distributions and participant loans from ERISA employer-sponsored pension plans. Such distributions are known in the pension benefits community as "leakage."

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to continue gathering statistical information and/or to take additional testimony on the import of these "pension preservation" issues.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 2, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 2, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2.

Signed at Washington, DC, this 14th day of May, 1998.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–13421 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How To Enhance and Encourage the Establishment of Pension Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Monday, June 8, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group formed to study the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also will focus on how to encourage these businesses to establish such pension plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 3:30 p.m., is for Working Group members to continue taking testimony on the topic.

Members of the public are encouraged to file written statement pertaining to the topic by submitting 20 copies on or before June 2, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 2, at the address indicated in this notice

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2.

Signed at Washington, DC, this 14th day of May, 1998.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–13422 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

The One-Hundred and Second Full Open Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, June 9, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 2:30 p.m., is for the Advisory Council's full membership to be updated on its new working groups' progress on their topics of study as well as on regulatory and enforcement projects being undertaken by the Pension and Welfare Benefits Administration (PWBA).

Members of the public are encouraged to file a written statement pertaining to the Council's three topics for study by submitting 20 copies on or before June 2, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. The topics being studied include:

(a) Disclosure of the Quality of Health Care Plans:

(b) Small Business: How to Enhance and Encourage the Establishment of Pension Plans, and

(c) Pre-retirement Distributions from Employer-Sponsored ERISA Plans.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 2, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2.

Signed at Washington, D.C. this 14th day of May, 1998.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–13423 Filed 5–19–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 134th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on June 1, 1998 from 2:00 to 5:00 p.m. in Room 716 and on June 2, 1998 from 9:00 a.m. to 4:45 p.m. in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506.

The Council will meet in closed session on June 1, from 2:00 to 5:00 p.m. for discussion of National Medal of Arts nominations. In accordance with the determination of the Chairman of May 14, 1998, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code. The remainder of the meeting, from 9:00 a.m. to 4:45 p.m. on June 2, will be open to the public. Topics for discussion will include: Remarks by Robert Pinsky, Poet Laureate of the United States; a report on the Endowment's work with the Mayors' Institute on City Design; Federal Interagency Agreements; the Overview Policy Panel report; a Legislative update; budget update and preliminary discussion of the FY 2000 budget; Application Review; Folk & Traditional Arts Infrastructure Initiative Guidelines, a status report on the WritersCorps Program and general discussion.

If, in the course of discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, D.C. 20506, at 202/682–5570.

Dated: May 13, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 98–13344 Filed 5–19–98; 8:45 am]

BILLING CODE 7537–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting; Twentieth Annual Meeting of the Board of Directors

TIME & DATE: 2:00 P.M., Friday, May 29, 1998.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary, 202/376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes: February 20, 1998 Regular Meeting
III. Resolution of Appreciation
IV. Election of Chairman
V. Election of Vice Chairman
VI. Committee Appointments
  a. Audit Committee
  b. Budget Committee
  c. Personnel Committee
VII. Election of Officers
VIII. Board Appointments
IX. Treasurer's Report
X. Executive Director's Quarterly Management Report
XI. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 98–13600 Filed 5–18–98; 12:37 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 18, 25, June 1, and 8, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 18

There are no meetings the week of May 18.

Week of May 25—Tentative

Friday, May 29

11:00 a.m. Affirmation Session (PUBLIC MEETING) (if needed).

1:00 p.m. Briefing on Investigative Matters (Closed—Ex. 5 and 7).

Week of June 1—Tentative

Tuesday, June 2

8:00 a.m. Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 3. (PUBLIC MEETING) (Contact: Bill Travers, 301–415–1200).

1:00 p.m. (Continuation of Millstone meeting.)

Thursday, June 4

3:30 p.m. Affirmation Session (PUBLIC MEETING) (if needed).

Friday, June 5

10:00 a.m. Briefing by EPRI on their Strategic Plan for the Future (PUBLIC MEETING).

Week of June 8—Tentative

Thursday, June 11

11:30 a.m. Affirmation Session (PUBLIC MEETING) (if needed).

Friday, June 5

10:00 a.m. Briefing by Reactor Vendors Owners' Groups (PUBLIC MEETING).

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: May 15, 1998.

William M. Hill, Jr.,

Secy Tracking Officer, Office of the Secretary.

[FR Doc. 98–13479 Filed 5–15–98; 4:23 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 25, 1998, through May 8, 1998. The last biweekly notice was published on May 6, 1998 (63 FR 25101).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 19, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: January 14, 1998.

Description of amendment request: The proposed amendments would change the Technical Specifications to allow replacement of the 125 volt direct current (DC) AT&T batteries with new Charter Power Systems, Inc. (C&D) batteries, and revise the crosstie loading limitation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed change does not involve a significant increase in the probability of consequences of an accident previously evaluated.

The replacement C&D battery has been selected to meet or exceed the design, functional, and operational requirements of those of the present AT&T battery, including crosstie load limitations. The C&D batteries are similar in design to the previously installed Gould batteries (e.g. electrolyte specific gravity and construction of the plates) except for capacity. The replacement C&D batteries have a significantly larger capacity than either the previously installed Gould, or the currently installed AT&T, batteries. This increased capacity can provide additional margin for future use. Also, the C&D batteries are qualified for a 20 year life and meet the latest applicable standards. The short circuit current provided by the C&D batteries is well within the interrupting capability of the existing DC system [c]ircuit breakers.

Additionally, the crosstie limit is increased to take advantage of the larger C&D battery capacity. The C&D batteries were sized based on having sufficient capacity to energize the design basis DC loads of an operating unit with the [Institute of Electrical and Electronics Engineers] IEEE–485 design margin while maintaining the desired limited DC load of 200 amps for a shutdown unit. This proposed change allows use of the C&D batteries' larger capacity.

Also, although adherence to the performance testing intervals stated in IEEE Std 450 could result in a planned shutdown and possible subsequent increase in the probability of occurrence of an accident (e.g. Turbine Trip), it would be part of a controlled and planned shutdown, therefore the increases would not be considered significant.

The overall design, function, and operation of the DC system and equipment has not been altered by these changes. The proposed changes do not affect any accident initiators of precursors and do not alter the design assumptions for the systems or components used to mitigate the consequences of an accident as analyzed in UFSAR [Updated Final Safety Analysis Report] Chapter 15. Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

B. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The replacement C&D batteries will provide the same function as those of the installed AT&T batteries and will be operated with the same types of operational controls. These limits include battery float terminal voltage, individual cell voltage and electrolyte specific gravity, and crosstie loading. Crosstie conditions are allowed under the present Technical Specifications. The crosstie limit is increased to take advantage of the larger C&D battery capacity. The remaining changes are administrative in nature or provide clarification to maintain consistency with other Technical Specifications.

The DC system and its equipment will continue to perform the same function and be operated in the same fashion. The proposed changes do not create any new or common failure modes. The proposed changes do not introduce any new accident initiators or precursors, or any new design assumptions for the systems or components used to mitigate the consequences of an accident. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

C. The proposed change does not involve a significant reduction in a margin of safety.

The replacement C&D batteries will meet or exceed the design, functional, and qualifications of the installed AT&T batteries. The proposed Technical Specification limitations for the C&D batteries are derived from the same methodology as the AT&T batteries with applied margins in accordance with IEEE 485. Increasing the crosstie loading limits takes advantage of the larger C&D battery capacity with its increased design margin. The proposed change to the crosstie loading limit will continue to conservatively envelope the postulated design requirements. The remaining changes are administrative in nature or provide clarification to maintain consistency with other Technical Specifications.

The inherent design conservatism of the DC system and its equipment has not been altered. The DC system and its equipment will continue to be operated with the same degree of conservatism. Therefore, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: May 27, 1997, as supplemented on August 1, 1997, and March 24, 1998.

Description of amendment request: The proposed amendments would revise Technical Specification Section 6, "Administrative Controls," to incorporate revised organizational titles and would delete the Unit 1 License Condition 2.C.(30)(a) related to the function of the Shift Technical Advisor. In addition, the proposed amendments would change the submittal frequency of the Radiological Effluent Release Report from semiannually to annually. The proposed amendments will also make several administrative and editorial changes. The staff's proposed no significant hazards consideration determination for the requested change was published on July 30, 1997 (62 FR 40848).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect any accident initiators or precursors and do not change or alter the design assumptions for systems or components used to mitigate the consequences of an accident. The proposed changes do not affect the design or operation of any system, structure, or component in the plant. There are no changes to parameters governing plant operation, and, no new or different type of equipment will be installed.

The proposed changes provide clarification, consistency with station procedures, programs, the Code of Federal Regulations (10 CFR), other Technical Specifications, and Improved Technical Specifications. These changes do not impact any accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. There is no relaxation of applicable administrative controls. Those administrative requirements which have no effect on safe operation of the plant are eliminated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not affect the design or operation of any plant system, structure, or component. There are no changes to parameters governing plant operation, and, no new or different type of equipment will be installed.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes do not affect the margin of safety for any Technical Specification. The initial conditions and methodologies used in the accident analyses remain unchanged; therefore, accident analyses results are not impacted. Plant safety parameters or setpoints are not affected. All responsibilities described in the Technical Specifications for administrative controls will continue to be performed by individuals possessing the requisite qualifications. Clarifications, relocations, and nomenclature changes neither result in a reduction of personnel responsibilities, nor do they cause a relaxation of programmatic controls. There are no resulting effects on plant safety parameters or setpoints.

Guidance has been provided in "Final Procedures and Standards on No Significant Hazards Considerations," Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations. These proposed amendments most closely fit the example of a purely administrative change to the Technical Specifications to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

The proposed amendment does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings, or a significant relaxation of the bases for the limiting conditions for operations. The proposed change does not reduce the margin of safety as defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois.

Date of amendment request: April 13, 1998.

Description of amendment request: Unreviewed Safety Question involving additional manual actions incorporated in new fire protection procedures as a result of a revised Appendix R Safe Shutdown Safety Analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) No significant increase in the probability or consequences of an accident previously evaluated is involved because of the following:

Two types of previously evaluated accidents are relevant to this criterion: (1) A fire; (2) other accidents evaluated in the Updated Final Safety Analysis Report. For these previously evaluated accidents, the change would not result in an increase in either their probabilities of occurrence or the consequences of their occurrence, for the following reasons:

The additional operator manual actions do not significantly change the probability or consequences of a fire. The likelihood of a fire is unchanged. Additional operations do not significantly change the fire loading nor introduce significant new ignition sources. The quantities and arrangement of combustible materials are not changed through additional manual actions.

The consequences of a fire are unchanged because operator manual actions serve to support the station's ability to achieve and maintain shutdown in the event of a fire.

Additional manual operations are for purposes of safe shutdown in the event of a fire in areas requiring alternate shutdown capability and do not impact other accident scenarios. Also, there is no increase in the predicted frequency of other accidents as a result of this change. Accordingly there is no significant change in the probability or consequences of other accidents previously evaluated because they are independent of this change in procedures for fire scenarios.

(2) The possibility of a new or different kind of accident from any accident previously evaluated is not created because:

The proposed change does not create the possibility of a new or different kind of accident from that previously evaluated for the Quad Cities Station. Although the number of manual actions increased and there may be some compression in the time for taking necessary actions relative to the current safe shutdown analysis and procedures, there is no significant change in the operation of plant equipment following the postulated fire event. The existing safe shutdown analysis already relies on operator manual actions which perform the same type of actions.

The overall approach and methodology to performing these operator actions are not significantly different from the prior approach and methodology. This proposed change does not involve an accident initiator or failure not previously considered. The results or effects of equipment malfunctions

previously evaluated are unchanged as the result of potential operator errors. No new failures would occur, and no new modes of operation are introduced by the proposed changes.

Additional manual actions and the timing thereof provide a somewhat different demand on the plant equipment operators, but still provide an effective method for achieving and maintaining post-fire safe shutdown for areas requiring alternate shutdown capability. As such, the proposed changes do not create the possibility of a new or different kind of accident.

(3) No significant reduction in the margin of safety is involved because:

A change in the fire protection program does not result in a significant reduction in the margin of safety if the change does not result in a significant adverse impact on the plant's ability to achieve and maintain safe shutdown in the event of a fire. The proposed operator manual actions to achieve and maintain safe shutdown in a fire scenario do not significantly affect the capability or reliability of the equipment assumed to operate in the safety analysis.

The types of manual actions to be performed in support of Appendix R safe shutdown functions are not significantly different from those previously considered. The complexity of actions is not significantly changed. Indeed many of the additional actions are designed to provide additional protection from spurious operations which could result from a fire.

Any reduction in margin associated with changes in the time before which certain manual actions must occur is largely a result of re-analyses which incorporate conservatisms not previously considered. In total, the proposed changes do not adversely impact the capability to meet the requirements of Appendix R. Any reduction in margin associated with additional manual actions to achieve and maintain post fire safe shutdown in areas requiring alternate capabilities does not involve a significant reduction in margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Duke Energy Corporation (DEC), et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: May 27, 1997, as supplemented by letters dated March 9, March 20, and April 20, 1998.

Description of amendment request: The proposed amendments would revise the current Technical Specifications (TS) of each unit to conform with NUREG–1431, Revision 1, "Standard Technical Specifications—Westinghouse Plants." The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on July 14, 1997 (62 FR 37628) covering all the proposed changes that were indeed within the scope of NUREG–1431. In DEC's March 9, March 20, and April 20, 1998, supplements, there are proposed changes that are beyond the scope of NUREG–1431, which were, thus, not covered by the staff's July 14, 1997, notice. The following descriptions and proposed no significant hazard analyses cover only those beyond-scope changes. Associated with each change are administrative/editorial changes such that the new or revised requirements would fit into the format of NUREG–1431.

1. Table 3.3–3 of the current TS contains an entry regarding the Containment Pressure Control System, allowing an inoperable channel be placed in trip in 1 hour. DEC proposed to tighten this requirement such that the system supported by the inoperable channel be declared inoperable immediately. No changes to the design of the Containment Pressure Control System or other systems were proposed by DEC.

2. Table 4.3–1 of the Unit 1 current TS has a footnote (No. 13) that specifies a filter time constant of 1.5 seconds in the steam generator low-low level reactor trip circuitry. DEC proposed to delete this time constant since it was never used. No design changes to the instrumentation and control systems are involved.

3. Section 4.5.1.1.c of the current TS requires that power be removed from the accumulator isolation valve when the reactor coolant system pressure is greater than 2000 pounds per square inch gauge (psig). DEC proposed to make this requirement more restrictive, lowering this threshold to 1000 psig on the recommendation of the nuclear vendor, Westinghouse. No design changes to the accumulator system are involved.

4. Section 4.6.5.1.b.1 of the current TS requires that the boron concentration of the ice in the ice condenser be verified once every 9 months to be at least 1800 ppm. DEC proposed to relax the frequency from 9 months to 18 months on the basis that boron, in the form of sodium tetraborate, does not decrease in quantity even though the ice sublimates. No design changes to the ice condenser are involved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), DEC has provided its analyses of the issue of no significant hazards consideration for each of the above proposed changes. The NRC staff has reviewed DEC's analyses against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below.

1. Will the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

For all the changes the answer is "no." The proposed changes will not affect the safety function of the subject systems. There will be no direct effect on the design or operation of any plant structures, systems, or components. No previously analyzed accidents were initiated by the functions of these systems, and the systems were not factors in the consequences of previously analyzed accidents. Therefore, the proposed changes will have no impact on the consequences or probabilities of any previously evaluated accidents.

2. Will the changes create the possibility of a new or difference kind of accident from any accident previously evaluated? For all the changes the answer is "no." The proposed changes would not lead to any hardware or operating procedure change. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the changes involve a significant reduction in a margin of safety?

For all the changes the answer is "no." Margin of safety is associated with confidence in the design and operation of the plant. The proposed changes to the TS do not involve any change to plant design, operation, or analysis. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied for each of the proposed changes. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Project Director: Herbert N. Berkow

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 20, 1998.

Description of amendment request: The Control Room Area Ventilation System (CRAVS) can be actuated by a number of ways, including by the engineered safety features actuation signal (ESFAS) when safety injection is also initiated. The only relationship between automatic actuation of the CRAVS and the ESFAS is through safety injection initiation, applicable in Modes 1, 2, 3, and 4. However, in Tables 3.3–3 and 4.3–2 of the units' Technical Specifications, regarding operability and surveillance requirements, the CRAVS automatic actuation has been erroneously specified for all modes (Modes 1, 2, 3, 4, 5, and 6). The licensee proposed to correct this error by the proposed amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The Control Room Area Ventilation System and ESFAS are not accident initiating systems; they are accident mitigating systems. Therefore, changing the mode requirements for the subject ESFAS functional unit cannot impact accident initiating probabilities. The technical justification associated with this proposed amendment shows that the current Technical Specification mode requirements for the subject functional unit are incorrect as written. The Control Room Area Ventilation System and ESFAS will remain fully capable of performing their design accident mitigation functions for the modes in which they are required. The Control Room Area Ventilation System operability requirement of Technical Specification 3/4.7.6 will continue to be met. Therefore, no accident consequences will be impacted.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. As noted previously, the Control Room Area Ventilation System and ESFAS are not accident initiating systems. Correcting the mode requirements as specified will not impact any plant systems that are accident initiators. No other modifications are being proposed to the plant which would result in the creation of new accident mechanisms. Also, no changes are being made to the way in which the plant is operated, so no new failure mechanisms will be initiated.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of the fission product barriers will not be impacted by implementation of this proposed amendment. Both the Control Room Area Ventilation System and the ESFAS will remain fully capable of performing their design functions for the modes in which they are required. Therefore, no safety margin will be significantly impacted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Project Director: Herbert N. Berkow.

Duke Energy Corporation (DEC), Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: May 27, 1997, as supplemented by letter dated March 9, 1998.

Description of amendment request: The three proposed changes are associated with DEC's application to convert to the Improved Technical Specifications. The first change would increase the surveillance interval for the boron concentration of the ice bed from once per 9 months, to every 18 months. This change is supported by operating experience data, establishes surveillance intervals that coincide with refueling outages, and minimizes containment entries during power operation. The second change would decrease the Reactor Coolant System pressure level at which power is removed from the accumulator isolation valve from 2000 pounds per square inch gauge (psig) to 1000 psig. This change is considered a more restrictive change, and is based on recommendations by Westinghouse Nuclear Safety Advisory Letter 97–003. The third change would revise the Turbine Trip and Feedwater Isolation function to include an initiation signal from the average-low temperature. This change is considered a more restrictive change, and is consistent with the plant design and safety analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for each of the above proposed changes. The NRC staff has reviewed the licensee's analyses against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

1. Will the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes will not affect the safety function of the subject systems. There will be no direct effect on the design or operation of any plant structures, systems, or components. No previously analyzed accidents were initiated by functions of these systems, and the systems were not factors in the consequences of previously analyzed accidents. Therefore, the proposed changes will have no impact on the consequences or probabilities of any previously evaluated accidents.

2. Will the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes would not lead to any hardware or operating procedure change. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the changes involve a significant reduction in a margin of safety?

Margin of safety is associated with confidence in the design and operation of the plant. The proposed changes do not involve any change to the plant design, operation, or analysis. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied for each of the proposed changes. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at

Charlotte, 9201 University City Boulevard, North Carolina.

Attorney for licensee: Mr. Albert Carr, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Project Director: Herbert N. Berkow.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458,- River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: April 9, 1998.

Description of amendment request: The proposed amendment would revise license condition 2.C(13) to allow Final Feedwater Temperature Reduction (FFWTR) at the River Bend Station, Unit No.1(RBS). FFWTR is to be used at the end of each fuel cycle to allow approximately fourteen additional effective full power days of operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

The abnormal operational occurrences or accidents analyzed in the SAR [Safety Analysis Report] have been examined for impact caused by partial feedwater heating during cycle extension or at coastdown condition. The limiting abnormal operation transients, including the Load Rejection with no Bypass (LRNBP) event and the Feedwater Controller Failure (FWCF) maximum demand event, Turbine Trip with No Bypass (TTNBP) and Pressure Regulator Failure Downscale (PRFD) have been analyzed based upon the core nuclear characteristic at end-of-cycle (EOC) conditions including the effects of increased core flow and the proposed reduction in feedwater temperature with an all-rods-out condition.

The LOCA (Loss of Coolant Accident), fuel loading error, rod drop accident, rod withdrawal error, overpressure protections and ATWS (anticipated transient without scram) analyses have been evaluated for the effects of reduced feedwater temperature operation and found acceptable. In addition, the case of the analyzed operational events the current fuel OLMCPR (operating limit minimum critical power ratio) and MAPLHGR (maximum average planar linear heat generation rate) limits bound those necessary for operation and therefore, are not affected by operation with FFWTR therefore, these events are bounded by the current RBS analysis. Because the accident results are acceptable and the current operating fuel limits are unaffected, the consequence of an event previously evaluated remains unaffected.

The probability of an accident is not affected by the proposed changes since no systems or equipment which could initiate an accident are affected. Therefore, the proposed changes do not significantly increase the probability or consequences of any previously evaluated accident.

2. The request does not create the possibility of occurrence of a new or different kind of accident from any accident previously evaluated.

The FFWTR mode of operation is functionally similar to operation with Feedwater Heaters Out of Service (USAR. (Updated Safety Analysis Report) Section 15.1.7). All abnormal operational transients or accidents have been evaluated and the most limiting cases have been analyzed for applicability for the FFWTR operation. Limits on MAPLHGR and OLMCPR (including the power and flow dependent MCPR) which are included in the Core Operating Limits Report (COLR) as part of the normal reload licensing process will continue to assure that operations are within the assumptions, initial conditions and assumed power distribution and therefore will not create a new type of accident. The proposed changes do not involve new setpoints, new system interactions, or physical modifications to the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previous analyzed.

3. The request does not involve a significant reduction in a margin of safety.

The proposed changes do not involve any setpoint changes and would allow steady state power operation at off-rated feedwater temperature conditions as defined in current plant procedures. The transient and accidents described in the SAR are evaluated for effects caused by the reduced feedwater temperature of 100 (degrees) F. As described in Attachment 4 (to the April 9, 1998, amendment request), * * * the FWCF is the most limiting transient under such condition and the required OLMCPR for this event is bounded by the EOC OLMCPR limits set forth in the RBS COLR. The thermal limits MCPR and LHGR curves, and the MAPLHGR limits establish limits on power operation and thereby ensure that the core is operated within the assumptions and initial conditions of the transient or accident analyses.

Operation within these limits set forth by the MCPR limits, the LHGR limits and the MAPLHGR criteria will ensure that the margin of safety will be maintained to the same level described in the Technical Specifications Bases and the SAR. As a result the consequences of postulated transients or accidents are not increased.

The MCPR safety limit, mechanical performance limits and overpressure limits are not exceeded during any transient or postulated accident at normal feedwater temperature or at reduced feedwater temperature condition. Therefore, the proposed changes to allow partial feedwater heating for cycle extension do not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005.

NRC Project Director: John N. Hannon.

Illinois Power Company, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: April 27, 1998.

Description of amendment request: The proposed amendment would change the title of "shift supervisor" to "shift manager" in the Technical Specifications (TS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change replaces the title of "shift supervisor" with the title of "shift manager" as it pertains to the responsibilities of the position described in TS Section 5.1.2. The proposed change does not involve a change to the plant design or to the operation of the plant by qualified operators and senior operators. Although this change involves changes to the Operations department, individuals in those positions comprising the operating crews will continue to have to meet the same licensing, experience, training, and education requirements, notwithstanding the proposed change in the title of the individual with ultimate command authority in the main control room, from "shift supervisor" to "shift manager." Therefore, the operation of CPS is not affected by this change. Further, as also noted, the proposed change does not affect plant design. It therefore would not affect systems, structures, or components important to safety, particularly those associated with the plant accident analyses. As a result, the proposed change does not affect any parameters or conditions that may contribute to the initiation of any accidents previously evaluated, nor does it affect the operation or response of systems, structures, or components assumed to mitigate postulated accidents that have been evaluated/analyzed. On this basis, IP has concluded that the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

(2) As noted above, the proposed change does not involve a change to design or operation of the plant. As a result, the proposed change, which is only administrative in nature, cannot introduce

any new failure modes or precursors, parameters, or conditions that could cause or contribute to the initiation of any new accidents not previously evaluated. On this basis, IP has concluded that the proposed change will not create the possibility of a new or different kind of accident not previously evaluated.

(3) As noted above, the proposed change is an administrative change that involves no changes to plant design or operation, including the design or operation of systems, components, or structures important to safety. On this basis there are no margins of safety affected by the proposed change. As a result, IP has concluded that the proposed change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, IL 61727.

Attorney for licensee: Leah Manning Stetzner, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, IL 62525.

NRC Project Director: Ronald R. Bellamy, Acting.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: April 13, 1998.

Description of amendment request: The proposed amendment would amend the Technical Specifications to base the Limiting Condition for Operation for the fuel storage pool water level on a revised analysis of the fuel handling accident and on a new analysis for radiological shielding during movement of irradiated fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed restrictions on the water level in the spent fuel pool has no impact on the probability or consequences of the remaining applicable design basis accidents. These restrictions are fulfilled by normal operating conditions, preserve initial conditions assumed in the analyses of postulated DBAs and ensure that the conditions of such DBAs are consistent with the analyses. Revised analysis was performed assuming a fuel handling accident occurs after the spent fuel fission products have decayed at least 1-year. The initial conditions assumed a minimum of 19 feet of water for iodine absorption. No credit was taken for control room or spent fuel pool ventilation filtration. The results of the revised analysis demonstrate that the projected doses resulting from a postulated fuel handling accident are insignificant in comparison to 10 CFR part 100 limits. Therefore, the proposed changes to the Technical Specifications do not involve any increase in the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed restrictions on the water level in the spent fuel pool are fulfilled by normal operating conditions and preserve initial conditions assumed in the analysis of postulated DBAs. These additional restrictions do not involve changes to any structure or equipment affecting the safe storage of irradiated fuel. The results of the revised analysis of a fuel handling accident demonstrate that the projected doses are insignificant in comparison to 10 CFR part 100 limits with a minimum of 19 feet of water for iodine absorption. In addition, maintaining this minimum water level will also provide sufficient shielding for personnel radiation protection during fuel movement. Therefore, the proposed changes to the Technical Specifications would not create the possibility of a new or different accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed restrictions on the water level in the spent fuel pool preserve initial conditions assumed in the analyses of postulated DBAs and ensure that margins of safety contained in the analyses are maintained. The margin of safety for the fuel handling accident relates to the acceptance limit which the NRC approved during its review of the license. The fuel handling accident acceptance limit defined in the basis for the Maine Yankee Technical Specification (formerly specified as TS 3.13.D.10) is 10% of 10 CFR part 100 limits. A reduction in margin of safety occurs when the acceptance limit would no longer be met as a result of a proposed change. Since the acceptance limit is met, there is no reduction in margin of safety. The projected dose rates at the specified Fuel Storage Pool water level during fuel movement with a fuel assembly raised to its highest allowable height would result in personnel exposures within that previously assumed. There is no reduction in a margin of safety. The NRC acceptance limit which is that combination of occupancy time and dose rate that maintains personnel doses within 10 CFR 20.1201 limits is not exceeded. Therefore, the proposed changes to the MYTS would not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, PO Box 367, Wiscasset, ME 04578.

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, PO Box 408, Wiscasset, ME 04578.

NRC Project Director: Seymour H. Weiss.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota.

Date of amendment requests: March 2, 1998.

Description of amendment requests: The proposed amendments would remove the spent fuel pool special ventilation system operability-based restriction on crane operations in the spent fuel pool enclosure, while maintaining that restriction during spent fuel handling operations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not affect any system that is a contributor to initiating events for previously evaluated anticipated operational occurrences and design basis accidents. Therefore, the proposed change will not increase the probability of any previously evaluated accident.

The proposed change does not impact the required availability of the spent fuel pool special ventilation system during spent fuel handling operations to mitigate the consequences of a fuel handling accident.

The proposed change does impact the required availability of the spent fuel pool special ventilation system during heavy load handling operations. However, this system is not required to mitigate the consequences of a heavy load dropping onto a spent fuel assembly. Such a requirement is not applicable at Prairie Island, because the heavy loads in the spent fuel pool enclosure are either handled with single-failure-proof cranes, rigging and plant procedures implementing Prairie Island commitments to NUREG–0612, or handled with spent fuel pool protective covers in place as described in the Prairie Island USAR (updated safety analysis report). The use of a single-failure-proof crane with rigging and procedures that implement the requirements of NUREG–0612 assures that the potential for a heavy load

drop is extremely small and therefore consideration of the effects of heavy load drops is not required. Spent fuel pool covers prevent dropped loads* (*The covers do have a limit on the weight load they are analyzed to withstand.) from falling into the spent fuel pool and therefore consideration of the effects of heavy load drops is also not required. These actions taken to reduce the accident initiator probabilities to insignificant magnitudes negate any theoretically small increase in the consequence of a postulated heavy load drop accident resulting from the removal of a requirement to have one train of the spent fuel pool special ventilation system operable during crane operations. It is concluded in summary that the proposed change does not involve a significant increase in the consequences of any accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed change does impact the required availability of the spent fuel pool special ventilation system during heavy load handling operations. Load drop events over spent fuel are well understood and have been thoroughly evaluated. The proposed change will not create any new accident scenarios or create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

The proposed change does not impact the required availability of the spent fuel pool special ventilation system during spent fuel handling operations to mitigate the consequences of a fuel handling accident as described in the USAR. As a result the safety margin inherent in the 10 CFR part 100 dose limits is not reduced.

The proposed change does impact the required availability of the spent fuel pool special ventilation system during heavy load handling operations. However, this system is not required to mitigate the consequences of a heavy load dropping onto a spent fuel assembly because the potential for a load drop is extremely small. Provision of single-failure-proof equipment and compliance with the other requirements of NUREG–0612 (provide) a defense-in-depth approach to assure the safe handling of heavy loads which would otherwise be demonstrated to be safe by the deterministic analysis of the radiological effects of dropped heavy loads.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: November 26, 1997.

Description of amendment request. The amendments to the Units 1 and 2 Technical Specifications Surveillance Requirement Section 4.7.1.3.a involve lowering the Ultimate Heat Sink (UHS) surveillance requirement maximum acceptable spray pond average temperature from 88 °F to 85 °F. This temperature is specified to assure that the post design basic accident (DBA) loss-of-coolant (LOCA) accident/loss of offsite power maximum UHS temperature will be maintained less than the UHS design temperature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve an increase in the probability or consequences of an accident previously evaluated. The proposed change lowers the UHS temperature surveillance requirement so that the maximum post DBA UHS temperature is maintained less than that reported previously.

The UHS provides cooling to equipment and systems required for the safe shutdown of the plant following an accident with radiological consequence potential, such as a LOCA. The change in UHS initial temperature limit to 85 °F assures that the peak temperature will remain less than that reported previously. Therefore, the components cooled by the UHS will not be impacted and will be capable of performing their function as designed.

Based upon the analysis presented above, PP&L (Pennsylvania Power and Light Company) concludes that the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposal does not create the probability of a new or different type of accident from any accident previously evaluated. The proposed change lowers the UHS surveillance requirement temperature so that the maximum post DBA UHS temperature is maintained less than that reported previously. Therefore the operation of the components cooled by the UHS will not be impacted and will be capable of performing their design function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The change does not involve a reduction in the margin of safety. The proposed change lowers the UHS surveillance temperature so that the maximum post DBA UHS temperature is maintained less than that reported previously. The margin of safety is unaffected since the maximum post DBA UHS temperature is not affected. Performance of equipment cooled by the UHS is unaffected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 16, 1998.

Description of amendment request: The proposed amendment would change the design basis and Technical Specifications to support the implementation of Hydrogen Water Chemistry.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No Design Basis Event requiring functioning of the Main Steam Line Radiation monitors is defined in the FSAR. FSAR Section 7.2.1.1.4.2.(i) describing Main Steam Line Radiation monitoring states that for accidents resulting in gross fission

product release "the primary variables for trip initiation would be reactor vessel low level, reactor vessel high pressure, or high neutron flux". Because the Main Steam Line Radiation Monitors [MSLRM] trip function is not used in any accident analyses this proposed setpoint change does not involve an increase in the probability or consequences of an accident previously evaluated.

In conformance to SRP 15.4.9, the analysis of the design basis CRDA assumed release of activity by leakage from an isolated condenser. As described in the FSAR, the main steam line radiation monitors will shut down the mechanical vacuum pump if operating and close its suction valves, thus isolating the condenser in the event of a Main Steam Line-High Radiation trip. Operation of the mechanical vacuum pump following burst failures of fuel rods insufficient to cause a main steam line radiation monitor trip was evaluated to better understand the potential impacts of raising the setpoint. Doses calculated under conservative conditions were small compared to the acceptance criteria for offsite dose of 25% of 10 CFR part 100 limits for offsite dose for the CRDA and 10 CFR 50 limits for control room dose.

Relocation of the Main Condenser Offgas Treatment System Explosive Gas Monitoring System requirements to the FSAR Section 16.3 (Technical Requirements Manual (TRM)) and procedures involves the use of an alternate regulatory process for controlling the instrumentation requirements. The change does not introduce any new modes of plant operation, make any physical changes, alter any operational setpoints, or change the surveillance requirements. Any change in the Main Condenser Offgas Treatment System Explosive Gas Monitoring System requirements would be evaluated pursuant to the requirements of 10 CFR 50.59.

The Technical Specifications, the Explosive Gas Mixture description contained in LCO/Surveillance 3.11.2.6/4.11.2.6 and associated bases will be moved and retained in TS Section 6.0 "Administrative Controls". The LCO specific limit and program details will be relocated to the FSAR Section 16.3 (TRM) and procedures and any changes controlled by the 10 CFR 50.59 process. Therefore, this change does not involve an increase in the probability or consequences of an accident previously evaluated.

These proposed changes to Technical Specifications do not require physical changes to instrument channels other than the Main Steam Radiation Monitor setpoint, or to any systems or component that interfaces with the instrumentation channels, therefore there is no change in the probability or consequences of any accident analyzed in the FSAR.

Finally, revising the TS index is an administrative change.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Main Steam Line Radiation setpoint change does not result in any design or physical configuration changes to the instrumentation channels. Operation incorporating the proposed change will not impair the instrumentation channels from performing as provided in the design basis.

Relocation of the Main Condenser Offgas Treatment System Explosive Gas Monitoring System requirements to the FSAR Section 16.3 (TRM) and procedures involves the use of an alternate regulatory process for controlling the instrumentation requirements. Therefore, the above change does not introduce any accident initiators as it does not involve any new modes of plant operation, make any physical changes, alter any operational setpoints, or change the surveillance requirements.

The Technical Specifications, the Explosive Gas Mixture description contained in LCO/Surveillance 3.11.2.6/4.11.2.6 and associated bases will be moved and retained in TS Section 6.0 "Administrative Controls". The LCO specific limit and program details involves the use of an alternate regulatory process for controlling the requirements.

Since the proposed changes to the Technical Specifications do not adversely impact the reliability of the safety required systems, no new or different kind of accident is created.

3. Involve a significant reduction in a margin of safety.

Raising the trip setpoint does not significantly reduce the sensitivity of the MSLRM's to alarm and initiate actions in response to gross fuel failures during power operation or to the design basis control rod drop accident. The source term assumed for the design basis CRDA greatly exceeds that required to initiate the main steam line high radiation trip. Raising the setpoint does not induce a delay in reaching the setpoint that would result in an increase in offsite dose from the design basis control rod drop accident. The delay time from fuel failure to monitor response is determined by the transport time for steam flow from the reactor vessel to the monitor location, which is not changed by either hydrogen water chemistry or by the monitor setpoint. Consequently, raising the trip setpoint will not result in an incremental increase in activity release, control room dose or offsite dose. Therefore, there is no reduction in the margin of safety for the design basis event.

The radiological consequences of small fuel rupture events, that would produce main steam line radiation levels below the proposed trip setpoint, are not significant. These postulated events were evaluated to better understand the potential impacts of raising the setpoint. The potential offsite doses from such an event, in the absence of a trip, would be small compared to the limits of 10 CFR part 50 for control room dose and to the acceptance criteria of 25% of 10 CFR part 100 limits for offsite dose from the design basis CRDA.

Relocation of the Main Condenser Offgas Treatment System Explosive Gas Monitoring System requirements to FSAR Section 16.3 (TRM) involves the use of an alternate regulatory process for controlling the instrumentation requirements. Any change in the Main Condenser Offgas Treatment System Explosive Gas Monitoring System requirements would be evaluated pursuant to the requirements of 10 CFR 50.59. Also, revising the TS index is an administrative change.

The Explosive Gas Mixture description contained in LCO/Surveillance 3.11.2.6/4.11.2.6 and associated bases will be moved and retained in TS Section 6.0 "Administrative Controls". The LCO specific limit and program details will be relocated to the FSAR Section 16.3 (TRM) and procedures and any changes controlled by the 10 CFR 50.59 process.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 16, 1998, as supplemented by letter dated April 2, 1998.

Description of amendment request: The proposed amendment request would revise Technical Specification 3/4.4.5, "Steam Generators," and its Bases to allow the implementation of 1-volt voltage-based repair criteria for the steam generator tube support plate-to-tube intersections for Unit 2 in accordance with Generic Letter 95–05, and make related Unit 1 administrative changes for consistency of wording (the NRC had previously approved a similar 1-volt voltage-based repair criteria application for Unit 1). In addition, the proposed amendment would make an administrative change to Bases 3/4.4.6.2, "Operational Leakage," to clarify that the allowable steam generator leakage specification applies to both Unit 1 and Unit 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Structural Considerations

Industry testing of model boiler and operating plant tube specimens for free span tubing at room temperature conditions shows typical burst pressures in excess of 5000 psi for indications of ODSCC (outer diameter stress corrosion cracking) with voltage measurements at or below the current structural limit of 5.45 volts. One model boiler specimen with a voltage amplitude of 19 volts also exhibited a burst pressure greater than 5000 psi. Burst testing performed on one intersection pulled from STP (South Texas Project) Unit 1 in 1993 with a 0.51 volt indication yielded a measured burst pressure of 8900 psi at room temperature. Burst testing performed on another intersection pulled from STP Unit 1 in 1995 with a 0.48 volt indication yielded a measured burst pressure of 9950 psi at room temperature.

The next projected end-of-cycle (EOC) voltage compares favorably with the current structural limit considering the voltage growth rate for indications at STP. Using the methodology of Generic Letter 95–05, the structural limit is reduced by allowances for uncertainty and growth to develop a beginning-of-cycle (BOC) repair limit which should preclude EOC indications from growing in excess of the structural limit. The non-destructive examination (NDE) uncertainty to be applied per Generic Letter 95–05 is approximately 20%. The growth allowance will be 30%/EFPY [effective full power year] or a STP Unit 2-specific growth rate, to be calculated in accordance with Generic Letter 95–05, whichever is greater. Where the generator-specific growth rate exceeds both the Unit 2-specific average growth rate and 30%/EFPY, that generator-specific growth rate will be used for that generator. Each succeeding cycle upper voltage repair limit will also be conservatively established based on Generic Letter 95–05 methodology. By adding NDE uncertainty allowances and a growth allowance to the repair limit, the structural limit can be validated.

The upper voltage repair limit could be applied to bobbin coil voltages between the lower and upper repair limits to leave such indications in service independent of RPC [rotating pancake coil] confirmation. However, RPC-confirmed indications will be conservatively removed from service consistent with Generic Letter 95–05.

Leakage Considerations

As part of the implementation of voltage-based repair criteria, the distribution of EOC degradation indications at the TSP (tube support plate) intersections has been used to calculate the primary-to-secondary leakage which is bounded by the maximum leakage required to remain within the applicable dose limits of 10 CFR 100 (10 CFR part 100) and GDC (General Design Criterion) 19. This limit was calculated using the Technical Specification Reactor Coolant System (RCS) Iodine-131 transient spiking values consistent with NUREG–0800. Application of the voltage-based repair criteria requires the projection of postulated Main Steam Line Break (MSLB) leakage based on the projected EOC voltage distribution from the beginning of cycle voltage distribution. Projected EOC voltage distribution is developed using the most recent EOC eddy current results and a voltage measurement uncertainty. Draft NUREG–1477 and Generic Letter 95–05 require that all indications to which voltage-based repair criteria are applied must be included in the leakage projection.

The projected MSLB leakage rate calculation methodology prescribed in Generic Letter 95–05 will be used to calculate the EOC leakage. A Monte Carlo approach will be used to determine the EOC leakage, accounting for all of the bobbin coil eddy current test uncertainties, voltage growth, and an assumed probability of detection of 0.6. The fitted log-logistic probability of leakage correlation will be used to establish the MSLB leak rate for each cycle. This leak rate will be used for comparison with a bounding allowable leak rate in the faulted loop which would result in radiological consequences which are within the dose limits of 10 CFR part 100 for offsite doses and GDC 19 for control room doses. Due to the relatively low voltage levels of indications at STP to date and low voltage growth rates, it is expected that the actual calculated leakage values will be far less than this limit for each successive cycle.

Other Considerations

Those changes associated with grammatical corrections, deleting tube diameter information not applicable to South Texas, and applying the additional reporting requirements to Unit 2, are administrative and do not involve a change to, or the operation of, any safety-related system.

Therefore, implementation of voltage-based repair criteria does not adversely affect steam generator tube integrity and the radiological consequences will remain below the limits of 10 CFR part 100 and GDC 19. Operation of the facility in accordance with the proposed amendment would not result in any increase in the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed steam generator tube voltage-based repair criteria for ODSCC at the TSP intersections does not introduce any significant changes to the plant design basis. Use of the criteria does not provide a mechanism which could result in an accident outside of the region of the TSP elevations because the criteria do not apply outside the thickness of the TSPs. It is therefore expected that for all plant conditions, neither a single nor multiple tube rupture event would likely occur in a steam generator where voltage-based repair criteria has been applied.

Specifically, STP has implemented a maximum leakage rate of 150 gpd [gallons-per-day] per steam generator to help preclude the potential for excessive leakage during all plant conditions. The draft Reg Guide 1.121 criterion for establishing operational leakage rate limits governing plant shutdown is based upon leak-before-break (LBB) considerations to detect a free span crack before potential tube rupture as a result of faulted plant conditions. The 150 gpd limit is intended to provide for leakage detection and plant shutdown in the event of unexpected crack propagation outside the tube support plate thickness resulting in excessive leakage. Draft Reg Guide 1.121 acceptance criteria for establishing operating leakage limits are based on LBB considerations such that plant shutdown is initiated if permissible degradation is exceeded.

Thus, the 150 gpd limit provides for plant shutdown prior to reaching critical degradation lengths. Additionally, the leak-before-break evaluation assumes that the entire crevice area is uncovered during the secondary side blowdown of a MSLB. Typically, it is expected for the vast majority of intersections, that only partial uncovery will occur. Therefore, the proximity of the TSP will enhance the burst capacity of the tube.

Steam generator tube integrity is continually maintained through inservice inspection and primary-to-secondary leakage monitoring. Any tubes falling outside the voltage-based repair criteria limits are removed from service.

Those changes associated with grammatical corrections, deleting tube diameter information not applicable to South Texas, and applying the additional reporting requirements to Unit 2, are administrative and do not involve a change to, or the operation of, any safety-related system.

Therefore, operating the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The use of the voltage-based bobbin probe for dispositioning ODSCC degraded tubes within TSP intersections is demonstrated to maintain steam generator tube integrity in accordance with the requirements of draft Reg Guide 1.121. Draft Reg Guide 1.121 describes a method acceptable to the NRC staff for meeting GDCs 14, 15, 31, and 32 by reducing the probability or the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by inservice inspection, for which tubes with unacceptable degradation are removed from service. Upon implementation of the criteria, even under the worst case conditions, the occurrence of ODSCC at the TSP elevation is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The EOC distribution of indications at the TSP elevations for each successive cycle will be confirmed to result in acceptable primary-to-secondary leakage during all plant conditions.

In addressing the combined effects of loss of coolant accident (LOCA) and safe shutdown earthquake (SSE) on the steam generators, as required by GDC 2, it has been determined that tube collapse may occur in the steam generators at some plants. This is not the case at STP Unit 2 as the TSPs do not become sufficiently deformed as a result

of lateral loads at the wedge supports at the periphery of the plate due to the combined effects of the leak-before-break-limited LOCA rarefaction wave and SSE loadings to affect tube integrity.

Because the leak-before-break methodology is applicable to the STP reactor coolant loop piping, the probability of breaks in the primary loop piping is sufficiently low that they need not be considered in the structural design of the plant. Implementation practices using the bobbin probe voltage based tube plugging criteria bounds Reg Guide 1.83, Rev. 1, considerations by:

(1) Using enhanced eddy current inspection guidelines consistent with those used by EPRI in developing the correlations. This provides consistency in voltage normalization.

(2) Performing a 100% bobbin coil inspection for all hot leg tube support plate intersections and all cold leg intersections down to the lowest cold leg tube support plate with known ODSCC indications at each cycle. The determination of the tube support plate intersections having ODSCC indications shall be based on the performance of at least a 20% random sampling of tubes inspected over their full length, and

(3) Incorporating rotating pancake coil inspection for all tubes with bobbin voltages greater than 1.0 volt. This further establishes the principal degradation morphology as ODSCC.

Implementation of voltage-based repair criteria at TSP intersections will decrease the number of tubes which must be repaired at each subsequent inspection. Since the installation of tube plugs to remove ODSCC degraded tubes from service reduces the RCS flow margin, voltage-based repair criteria implementation will help preserve the margin of flow.

For each cycle the projected EOC primary-to-secondary leak rate allowed is bounded by a leak rate which limits the radiological consequences of a EOC MSLB to within the dose limits of 10CFR100 for offsite doses and 10CFR50, Appendix A, General Design Criteria (GDC) 19 for control room doses. Therefore, this change does not involve a significant reduction in the margin to safety.

The assessment of radiological consequences of an assumed steam line break applicable to STP Unit 1 was provided in Attachment 2 to ST–HL–AE–5359 on May 2, 1996. The submittal was made in response to questions from the Emergency Preparedness and Radiation Protection Branch and is applicable to Unit 2 as well. The staff concluded that the thyroid doses for the Exclusion Area Boundary (EAB), Low Population Zone (LPZ), and control room are within the acceptance criteria.

Those changes associated with grammatical corrections, deleting tube diameter information not applicable to South Texas, and applying the additional reporting requirements to Unit 2, are administrative and do not involve a change to, or the operation of, any safety-related system.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity For a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: April 24, 1998.

Brief description of amendment: The proposed amendment would revise Technical Specification 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation" to allow a 2-hour surveillance interval to facilitate testing of the 6.9 kV Emergency Bus Undervoltage relays.

Date of publication of individual notice in the **Federal Register**: May 4, 1998 (63 FR 24574).

Expiration date of individual notice: May 18, 1998 for comments; June 3, 1998 for hearings.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Northeast Nuclear Energy Company, . Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London, County, Connecticut

Date of amendment request: April 7, 1998.

Description of amendment request: The proposed amendment would replace the pressurizer maximizer water inventory requirement with a pressurizer maximizer indicated level requirement.

Date of publication of individual notice in **Federal Register**: April 23, 1998 (63 FR 20219)

Expiration date of individual notice: May 26, 1998.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, Docket No. 50–423, Millstone Nuclear Power Station, Unit 3, New London, County, Connecticut

Date of amendment request: April 14, 1998.

Description of amendment request: The proposed amendment addresses an earlier identified condition relating to the plant operators' ability to meet the operator response time of 10 minutes assumed in Chapter 15 of the Final Safety Analysis Report for termination of an Inadvertent Safety Injection event.

Date of publication of individual notice in **Federal Register**: April 20, 1998 (63 FR 19532).

Expiration date of individual notice: May 20, 1998.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996, as supplemented on March 2, 1998.

Brief description of amendment request: The proposed amendments would revise the Technical Specifications as follows: (1.n.) Change the surveillance requirement frequency for verification that the average planar

heat generation rate, minimum critical power ratio, linear heat generation rate, and average power range monitor gain and setpoint are within specified limits. Specifically, the frequency would be changed from within 12 hours after completion of a thermal power increase of at least 15 percent of rated thermal power (RTP) to once within 24 hours after greater than or equal to 25 percent RTP, 24 hours thereafter, and prior to exceeding 50 percent RTP; (2.o.) Change the surveillance requirement for the verification of the average power range monitor flow biased simulated thermal power-high time constant from 6 seconds plus or minus 1 second to less than 7 seconds. The lower limit of 5 seconds will be relocated to plant procedures since it is not a condition for operability of this reactor protection system function; (3.p.) Change the frequency of surveillance requirement for rod worth minimizer channel functional test; and (4.q.) Relocate the main steam line radiation monitor reactor protection system and isolation trips from the Technical Specifications to the plant-controlled Technical Requirements Manual.

Date of publication of individual notice in **Federal Register**: 1.n. April 27, 1998 (63 FR 20664); 2.o. April 27, 1998 (63 FR 20669); 3.p. April 27, 1998 (63 FR 20665); 4.q. April 27, 1998 (63 FR 20667).

Expiration date of individual notices: May 27, 1998 (all 4 notices).

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: February 27, 1998.

Brief Description of amendment: The amendment revised the Technical Specifications by revising the pressure-temperature and overpressure limits.

Date of publication of individual notice in **Federal Register**: March 9, 1998 (63 FR 11456).

Expiration date of individual notice: April 8, 1998.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: April 29, 1998.

Brief description of amendments: To amend the Watts Bar Nuclear Plant, Unit 1, Technical Specifications (TS) for the Hydrogen Mitigation System igniters. The amendment revises the TS limiting condition for operation, LCO 3.6.8, to provide temporary requirements for hydrogen ignitors to address the two Train A ignitors which are currently out of service.

Date of publication of individual notice in the **Federal Register**: May 7, 1998 (63 FR 25243).

Expiration date of individual notice: June 8, 1998.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: December 4, 1996, as supplemented March 27, June 9, June 18, July 21, August 14, August 19, September 10, October 6, October 20, October 23, November 5, 1997, and January 12, January 28 and March 16, 1998.

Brief description of amendments: The amendments include the following:

1. The amendments added a new surveillance requirement (SR) 3.4.9.2 to the Improved Technical Specifications (ITS) which requires verification that the capacity of each required bank of pressurizer heaters is equal to or greater than 150 kW every 24 months.

2. The amendments changed the current TS applicability for the pressurizer safety valves for Mode 3 to specify that two safety valves shall be operable with all reactor coolant system (RCS) cold leg temperature ≤365 °F for Unit 1 and >301 °F for Unit 2. This is a less restrictive change.

3. As part of the conversion to the ITS, the amemdment changed a requirement that the power-operated relief valves be demonstrated operable by performing a channel functional test once per 31 days to once per 92 days.

4. The ITS LCO 3.4.1.3 eliminated the limit of 1 gpm total primary-to-secondary leakage through all steam generators and thus will only require a limit of 100 gallons per day through any one steam generator. This is an administrative change.

5. The amendment retains the requirement of SR 4.5.2.f.2 and specifies a frequency of 24 months. The amendment also adds a new SR 3.5.2.7 which requires verification that each LPSI pump stops on an actual or simulated actuation signal.

6. The amendment regarding the control room emergency ventilation system (CREVS) changes the surveillance interval from 18 months to 24 months (each refueling cycle) for SR 4.7.6.1.e.2 requires that each train of CREVS is demonstrated operable at least once every 18 months by verifying that on a control room high radiation test signal, the system automatically switches into a recirculation mode of operation with flow through the HEPA filter and charcoal adsorber banks and that both of the isolation valves in each duct and common exhaust duct, and isolation valve in the toilet exhaust area duct, close. The above change is less restrictive.

7. The amendment changes the surveillance interval regarding the control room emergency temperature system (CRETS) from 62 days on a staggered basis (one train every 31 days) to 24 months (each refueling interval) for SR 4.7.6.1.a.

8. The amendment changes the surveillance interval regarding the spent fuel pool exhaust ventilation system (SFPEVS) from 18 months to 24 months (each refueling interval) for SR 4.9.12.d. This is a less restrictive change.

9. The amendment changes the surveillance interval regarding the penetration room exhaust ventilation system (PREVS) from 18 months to 24 months (each refueling interval) for SR 4.6.6.1.d.2.

Date of issuance: May 4, 1998.

Effective date: As of the date of issuance to be implemented by August 31, 1998.

Amendment Nos.: 227 and 201.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications in its entirety.

Date of initial notice in **Federal Register**: March 6, 1998 (63 FR 11312) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 29, 1997, as supplemented January 28 and April 20, 1998.

Brief Description of amendments: The amendments update the Technical Specification description of Control Rod Assemblies to allow for boron carbide or hafnium absorber materials, as approved by the NRC staff.

Date of issuance: April 27, 1998.

Effective date: April 27, 1998.

Amendment Nos.: 193 and 224.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66137) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: November 7, 1997, as supplemented on March 24, 1998, and April 9, 1998.

Brief description of amendments: The amendments defer the next scheduled Type A containment integrated leak rate test for Byron, Unit 2, until the next refueling outage in 1999.

Date of issuance: May 8, 1998.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 102 and 102.

Facility Operating License Nos. NPF–37 and NPF–66: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 7, 1998 (63 FR 17036) The April 9, 1998, supplement provided clarifying information which did not change the staff's initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: September 26, 1997, as supplemented on April 7, 1998.

Brief description of amendments: The amendments revise Technical Specification 3.6.1.8 to prohibit the simultaneous opening of the drywell and suppression chamber purge system isolation valves and revise the surveillance requirements of TS 3/4.6.5.3, "Standby Gas Treatment System" to upgrade the filter testing methods to more current industry standards. This amendment approves only a portion of the request dated September 26, 1997. The remainder of the request will be addressed in separate correspondence.

Date of issuance: April 27, 1998.

Effective date: Immediately, to be implemented prior to startup of LaSalle, Unit 1, from the current outage and prior to restart of LaSalle, Unit 2, from the current outage.

Amendment Nos.: 125 and 110.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 19, 1997 (62 FR 61840) The April 7, 1998, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 11, 1995, as supplemented January 18, September 3, October 2, October 18, and October 25, 1996, and March 28, 1997.

Brief description of amendment: The amendment revises administrative controls technical specifications (TS) and related surveillance requirements. Amendment 174, issued on October 31, 1996, provided a partial response to the licensee's request. This amendment completes action on the request.

NRC has also granted the request of Consumers Energy to withdraw a portion of its December 11, 1996, application. The proposed change would have deleted the requirements of current TS 4.5.4, "Surveillance for Prestressing System," TS 4.5.5, "End Anchorage Concrete Surveillance," and TS 4.5.8, "Dome Delamination Surveillance," and replaced the requirements with proposed TS 6.5.5, "Containment Structural Integrity Surveillance Program." However, by letter dated March 28, 1997, the licensee withdrew the proposed change. In addition, the staff has denied a portion of the amendment request regarding limitations on the dose rates resulting from radioactive material released in gaseous effluents to areas beyond the site boundary. A separate Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing has been published in the **Federal Register**. For further details with respect to these actions, see the application for amendment dated December 11, 1996, as supplemented above, the licensee's letter dated March 28, 1997, which withdrew this portion of the application for license amendment, and the staff's Safety Evaluation enclosed with the

amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room listed below.

Date of issuance: May 7, 1998.

Effective date: May 7, 1998, to be implemented within 60 days from date of issuance.

Amendment No.: 181.

Facility Operating License No. DPR–20: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 20, 1996 (61 FR 49493) The October 2, October 18, and October 25, 1996, and March 28, 1997, letters provided clarifying information and updated TS pages that were within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland Michigan 49423.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 27, 1995, as supplemented September 4, October 18, and November 26, 1996, June 27 and November 21, 1997, and January 29, and April 10, 1998.

Brief description of amendment: The amendment revises specification requirements and associated bases regarding the electrical power systems to closely emulate the Standard Technical Specifications for Combustion Engineer Plants, NUREG–1432, Revision 1.

Date of issuance: April 29, 1998.

Effective date: The license amendment is effective as of the date of issuance with full implementation within 60 days after Cold Shutdown following completion of the 1998 refueling outage, but no later than October 2, 1998.

Amendment No.: 180.

Facility Operating License No. DPR–20: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 9, 1997 (62 FR 17229) The June 27 and November 21, 1997, and January 29 and April 10, 1998, letters provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 18, 1997, as supplemented by letter dated February 24, 1998.

Brief description of amendment: The amendment decreases the safety limit for the minimum critical power ratio (MCPR) from 1.12 to 1.11 for two recirculation loop operation and from 1.14 to 1.12 for single recirculation loop operation in Technical Specification (TS) 2.1.1.2. Because the proposed amendment is for Cycle 10 operation, the amendment would also revise the footnotes to TSs 2.1.1.2 and 5.6.5 to state that the MCPR values and the items 19 and 20, two topical reports being added to the core operating limits report in TS 5.6.5, are "applicable only for Cycle 10 operation." Cycle 10 operation begins at the plant restart from the current refueling outage No. 9.

Date of issuance: May 8, 1998.

Effective date: May 8, 1998.

Amendment No: 136.

Facility Operating License No. NPF–29: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1998 (62 FR 54872) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: October 4, 1997.

Brief description of amendment: To revise the Final Safety Analysis Report (FSAR) and the Improved Technical Specification (TS) Bases to reflect the modified reactor building fan control logic for fan AHF–1C.

Date of issuance: April 29, 1998.

Effective date: April 29, 1998.

Amendment No.: 166.

Facility Operating License No. DPR–72: Amendment revised the updated FSAR and TS Bases.

Date of initial notice in **Federal Register**: November 13, 1997 (62 FR 60921) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Florida Power and Light Company, et al., Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: July 22, 1997.

Brief description of amendment: The amendment will incorporate a recent evaluation of a postulated inadvertent opening of a main steam safety valve into the current licensing basis for St. Lucie Unit 1.

Date of Issuance: April 30, 1998.

Effective Date: April 30, 1998.

Amendment No.: 154.

Facility Operating License No. NPF–16: Amendment revised the Updated Final Safety Evaluation Report.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45457) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: March 6, 1998, as supplemented March 30, March 31, and April 13, 1998.

Brief description of amendments: The amendments update the Technical Specification heatup and cooldown rate curves and extend their reactor vessel fluence limit from the current 20 effective full power years (EFPYs) to a new value of 35 EFPYs, incorporate into Technical Specifications the use of a Pressure and Temperature Limits Report, and change the power-operated relief valves temperature requirement for operability.

Date of issuance: May 4, 1998.

Effective date: May 4, 1998, with full implementation within 30 days.

Amendment Nos.: 135, 127.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 27, 1998 (63 FR 14972) The March 30, March 31, and April 13, 1998, letters provided clarifying information and updated Technical Specification pages within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania.

Date of application for amendment: February 9, 1998, as supplemented April 8 and 24, 1998.

Brief description of amendment: The amendment revises the minimal critical power ratio safety limits for operation Cycle 8.

Date of issuance: May 4, 1998.

Effective date: As of date of issuance, and shall be implemented within 30 days.

Amendment No.: 127.

Facility Operating License No. NPF–39: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9613) The April 8 and 24, 1998, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.

Date of amendments request: February 14, 1997, as supplemented by letters dated June 20, August 5, September 22, November 19, December 9, December 17, and December 31, 1997, January 23, February 12, February 26, March 3, March 6, March 16, April 3, April 13, and two letters on April 17, 1998.

Brief Description of amendments: The amendments change the maximum reactor core power level for facility operation from 2652 megawatts-thermal (MWt) to 2775 MWt for the Joseph M. Farley Nuclear Plant, Units 1 and 2. The amendments also approve changes to the Technical Specifications to implement uprated power operation.

Date of issuance: April 29, 1998.

Effective date: As of the date of issuance to be implemented prior to entering Mode 4 for Cycle 16 (fall 1998) for Unit 1 and prior to entering Mode 4 for Cycle 13 (spring 1998) for Unit 2.

Amendment Nos.: Unit 1—137; Unit 2—129.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications, Operating Licenses, and adds a new Appendix C to the Operating Licenses.

Date of initial notice in **Federal Register**: October 8, 1997 (62 FR 52588) The November 19, December 9, December 17, and December 31, 1997, January 23, February 12, February 26, March 3, March 6, March 16, April 3, April 13, and two letters on April 17, 1998, provided additional and clarifying information that did not change the scope of the February 14, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 29, 1998, and an Environmental Statement was prepared and dated April 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Berdache Street, Post Office Box 1369, Dothan, Alabama.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas.

Date of amendment request: April 9, 1998 (TXX–98107).

Brief description of amendments: The proposed amendment would allow on a one time basis, the verification of the proper operation of the Unit 2 load shed seal-in contacts and the diesel generator trip bypass contacts at power and crediting performance of Surveillance Requirements (SR) 4.8.1.1.2f.4) and 4.8.1.1.2f.6), at power as opposed to "during shutdown" as currently required by those SR. The proposed amendment would also allow on a one time basis the verification of the proper operation of the Unit 2 lockout relays and contacts to be deferred until the startup from the Unit 2 fourth refueling outage (2RFO4) or earlier outage to at least MODE 3.

Date of issuance: May 8, 1998.

Effective date: May 8, 1998.

Amendment Nos.: Unit 1—Amendment No. 59; Unit 2—Amendment No. 45.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 20, 1998, (63 FR 19534). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of application for amendment: August 8, 1997, as supplemented by letter dated November 10, 1997.

Brief description of amendment: The amendment revises the feedwater isolation engineered safety feature actuation system (ESFAS) functions in Technical Specification Tables 3.3–3, 3.3–4, and 4.3–2.

Date of issuance: April 23, 1998.

Effective date: April 23, 1998, to be implemented within 30 days from the date of issuance.

Amendment No.: 126.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66144) The November 10, 1997, supplemental letter provided additional clarifying information that did not change the staff's original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Missouri—Columbia, Elmer Ellis Library, Columbia, Missouri 65201–5149.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 4, 1998.

Brief description of amendment: The amendment would revise Technical Specification 3.2.4, "Quadrant Power Tilt Ratio," (QPTR) and its associated Bases to reflect (1) a change in the action for determining QPTR when QPTR is above 1.02, (2) a change in the completion time for resetting the power range neutron flux-high trip setpoints after QPTR is determined to be above 1.02, and (3) deletion of actions requiring QPTR to be restored within 24 hours, QPTR to be verified during a return to power operation, resetting the power range neutron flux-high trip setpoint to less than 55 percent following a power reduction to 50 percent reactor thermal power or below, and actions for QPTR in excess of 1.09.

Date of issuance: April 27, 1998.

Effective date: April 27, 1998, to be implemented within 60 days from the date of issuance.

Amendment No.: 116.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 25, 1998 (63 FR 14489) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, MD., this 13th day of May 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13223 Filed 5–19–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 1998.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of May 1, 1998, of 24 rescission proposals and eight deferrals contained in two special messages for FY 1998. These messages were transmitted to Congress on February 3 and February 20, 1998.

Rescissions (Attachments A and C)

As of May 1, 1998, 24 rescission proposals totaling $20 million had been transmitted to the Congress. Congress approved 21 of the Administration's rescission proposals in P.L. 105–174. A total of $17.3 million of the rescissions proposed by the President was rescinded by that measure. Attachment C shows the status of the FY 1998 rescission proposals.

Deferrals (Attachments B and D)

As of May 1, 1998, $3,293 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1998.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

63 FR 7004, Wednesday, February 11, 1998

63 FR 10076, Friday, February 27, 1998

Franklin D. Raines,

Director.

Attachments

ATTACHMENT A.—STATUS OF FY 1998 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Rescissions proposed by the President	20.1
Rejected by the Congress	
Amounts rescinded by P.L. 105–174, the FY 1998 Supplemental Appropriations and Rescissions Act	–17.3
Currently before the Congress	2.8

ATTACHMENT B.—STATUS OF FY 1998 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	4,833.0
Routine Executive releases through May 1, 1998 (OMB/Agency releases of $1,540.1 million, partially offset by cumulative positive adjustment of $0.3 million)	–1,539.8
Overturned by the Congress	
Currently before the Congress	3,293.2

ATTACHMENT C.—STATUS OF FY 1998 RESCISSION PROPOSALS—AS OF MAY 1, 1998

[Amounts in thousands of dollars]

Agency/bureau/account	Amounts pending before Congress			Date of message	Previously withheld and made available	Date made available	Amount rescinded	Congressional action
	Rescission No.	Less than 45 days	More than 45 days					
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service:								
Agricultural Research Service	R98–1		223	2–20–98			223	P.L. 105–174.
Animal and Plant Health Inspection Service:								
Salaries and expenses	R98–2		350	2–20–98			350	P.L. 105–174.
Food Safety and Inspection Service:								
Salaries and expenses	R98–3		502	2–20–98			502	P.L. 105–174.
Grain Inspection, Packers and Stockyards Administration:								
Salaries and expenses	R98–4		38	2–20–98			38	P.L. 105–174.
Agricultural Marketing Service:								
Marketing services	R98–5		25	2–20–98			25	P.L. 105–174.
Farm Service Agency:								
Salaries and expenses	R98–6		1,080	2–20–98			1,080	P.L. 105–174.
Natural Resources Conservation Service:								
Conservation operations	R98–7		378	2–20–98			378	P.L. 105–174.
Rural Housing Service:								
Salaries and expenses	R98–8		846	2–20–98			846	P.L. 105–174.
Food and Nutrition Service:								
Child nutrition programs	R98–9		114	2–20–98	(1)			
Forest Service:								
National forest systems	R98–10		1,094	2–20–98			1,094	P.L. 105–174.
Reconstruction and construction	R98–11		30	2–20–98			30	P.L. 105–174.
Forest and rangeland research	R98–12		148	2–20–98			148	P.L. 105–174.
State and private forestry	R98–13		59	2–20–98			59	P.L. 105–174.
Wildland fire management	R98–14		148	2–20–98			148	P.L. 105–174.
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management:								
Management of lands and resources.	R98–15		1,188	2–20–98			1,188	P.L. 105–174.
Oregon and California grant lands	R98–16		2,500	2–20–98			2,500	P.L. 105–174.
Bureau of Reclamation:								
Water and related resources	R98–17		532	2–20–98	(1)			P.L. 105–174.
Bureau of Mines:								
Mines and minerals	R98–18		1,605	2–20–98			1,605	P.L. 105–174.
United States Fish and Wildlife Service:								
Construction	R98–19		1,188	2–20–98			1,188	P.L. 105–174.
National Park Service:								
Construction	R98–20		1,638	2–20–98			1,638	P.L. 105–174.
Bureau of Indian Affairs:								
Construction	R98–21		737	2–20–98			737	P.L. 105–174.
DEPARTMENT OF TRANSPORTATION								
Office of the Secretary:								
Payments to air carriers	R98–22		2,499	2–20–98			2,499	P.L. 105–174.
Payments to air carriers (Airport and airway trust fund).	R98–23		1,000	2–20–98			1,000	P.L. 105–174.
Maritime Administration:								
Maritime guaranteed loan (Title XI) program account.	R98–24		2,138	2–20–98	(1)			
Total, rescissions		0	20,060		0		17,276	

[1] Funds were never withheld from obligation.

ATTACHMENT D.—STATUS OF FY 1998 DEFERRALS—AS OF MAY 1, 1998

[Amounts in thousands of dollars]

Agency/bureau/account	Amounts transmitted			Date of message	Releases (–)		Congressional action	Cumulative adjustments	Amount deferred as of 5–1–98
	Deferral No.	Original request	Subsequent change (+)		Cumulative OMB/agency	Congressionally required			
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance:									
Economic support fund and International Fund for Ireland.	D98–1	2,330,098	.....	2–3–98	1,317,684	.....	.....	328	1,012,742
International military education and training.	D98–2	43,300	.....	2–3–98	41,900	.....	.....	.....	1,400
Foreign military financing program.	D98–3	1,483,903	.....	2–3–98	160,253	.....	.....	.....	1,323,650
Foreign military financing loan program.	D98–4	60,000	.....	2–3–98	.....	.....	.....	.....	60,000
Foreign military financing direct loan financing account.	D98–5	657,000	.....	2–3–98	.....	.....	.....	.....	657,000
Agency for International Development:									
International disaster assistance, Executive.	D98–6	135,697	.....	2–3–98	20,250	.....	.....	.....	115,447
DEPARTMENT OF STATE									
Other:									
United States emergency refugee and migration assistance fund.	D98–7	115,640	.....	2–3–98	.....	.....	.....	.....	115,640
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses.	D98–8	7,369	.....	2–3–98	.....	.....	.....	.....	7,369
Total, Deferrals		4,833,007	0	.....	1,540,087	.....	.....	328	3,293,248

[FR Doc. 98–13339 Filed 5–19–98; 8:45 am]

BILLING CODE 3110–01–M

PENSION BENEFIT GUARANTY CORPORATION

Approval of Special Withdrawal Liability Rules; International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC"), pursuant to section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, has granted a request on behalf of the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan for approval of a plan amendment modifying special withdrawal liability rules, which rules were approved by PBGC on January 30, 1984 (See Approval of Special Withdrawal Liability Rules ("Notice of Approval"), 49 FR 6043 (February 16, 1984)). A Notice of Pendency of the Request for Approval was published on February 3, 1998 (63 FR 5573) ("Notice of Pendency"). The effect of this notice is to advise the public of the decision on the request.

ADDRESSES: The request for approval and PBGC's response to the request are available for public inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, at PBGC's Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026.

FOR FURTHER INFORMATION CONTACT: Gennice D. Brickhouse, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; Telephone 202–326–4020 (For TTY and TDD, call the Federal relay service at 1–800–877–8339 and ask to be connected to 202–326–4020).

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(f) of the Employee Retirement Income Security Act of 1974 ("ERISA") as amended, PBGC may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the

rules prescribed in section 4203 (b) and (c) of ERISA for the construction and entertainment industries. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that in each instance, the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that PBGC shall prescribe by regulation a procedure by which a plan may by amendment adopt special partial withdrawal liability rules upon a finding by PBGC that the adoption of such rules are consistent with the purposes of Title IV of ERISA.

PBGC's regulation, Extension of Special Withdrawal Liability Rules (29 CFR part 4203), prescribes procedures whereby a multiemployer plan may, pursuant to sections 4203(f) and 4208(e)(3) of ERISA, request PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. Under 29 CFR 4203.3(a), a complete withdrawal rule adopted pursuant to part 4203 must be similar to the rules for the construction and entertainment industries described in section 4203 (b) and (c) of ERISA. A partial withdrawal liability rule adopted pursuant to part 4203 must be consistent with the complete withdrawal rule adopted by the plan. Pursuant to 29 CFR 4203.3(b), a plan amendment adopted pursuant to part 4203 may cover an entire industry or industries, or may be limited to a segment of an industry, and may apply to cessations of the obligation to contribute that occurred prior to the adoption of the amendment.

Each request for approval of a plan amendment establishing special withdrawal liability rules must contain the information specified in 29 CFR 4203.4(d). In acting on such a request, 29 CFR 4203.5(a) provides that PBGC shall approve a plan amendment establishing special withdrawal liability rules if PBGC determines that the plan amendment—

(1) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(2) Will not pose a significant risk to the insurance system.

In making these determinations, PBGC will conduct a comprehensive analysis of the request, the actuarial data submitted and other relevant information relating to the industry and the plan. 29 CFR 4203.4. Under 29 CFR 4203.4(d)(7), the plan must provide information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics that would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base.

Finally, 29 CFR 4203.5(b) requires PBGC to publish a notice of the pendency of a request for approval of a plan amendment containing all the information required under 29 CFR 4203.4(d) in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

Request

On February 3, 1998 (63 FR 5573), PBGC published a notice soliciting public comment on a request on behalf of the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan ("Plan") for approval of a modification to a plan amendment providing for special withdrawal liability rules, which rules were approved by PBGC on January 30, 1984 (Notice of Approval, 49 FR 6043 (1984)), pursuant to section 4203(f) of ERISA and 29 CFR part 4203. The comment period ended on March 20, 1998. One comment was received in opposition to the request. After the close of the comment period, PBGC received a response to the comment and additional information supporting the response.

The Plan is a multiemployer plan, with 114 employers contributing in 1996, maintained pursuant to collective bargaining agreements between the International Longshoremen's & Warehousemen's Union ("ILWU") and the Pacific Maritime Association ("PMA"). The Plan, which is located in San Francisco, covers the loading and unloading of all dry cargo for ocean-going vessels arriving at or departing from ports along the Pacific coast of the United States, including all ports in the states of California, Oregon and Washington. The only cargoes not covered by the Plan are petroleum products and other liquid cargoes and certain cargoes handled by inland boatmen.

The PMA is an employer association whose principal business is to negotiate and administer maritime labor agreements with ILWU. The PMA is composed of stevedore companies and terminal operators as well as American and foreign flag vessel carriers who regularly operate from Pacific coast ports.

As of June 30, 1996, the Plan covered 8,185 active workers, was paying benefits to 9,049 pensioners and survivors, and had 87 inactive participants (or survivors) with vested entitlements. For the Plan Year ending June 30, 1996, the Plan received $99.7 million in contributions, and paid $95 million in benefits and $1.9 million in operating expenses. As of June 30, 1996, Plan assets were more than 13 times total Plan disbursements during the July 1, 1995–June 30, 1996 Plan Year. As of June 30, 1997, the market value of Plan assets was approximately $1.631 billion and the present value of vested liabilities was approximately $1.640 billion.

Plan benefit levels are set in negotiations between the PMA and the ILWU. Contribution rates to the Plan, which are on the basis of either hours worked, shipping tonnage or a combination of the two, are determined annually, solely by the PMA. Since December 24, 1983, the hours worked contribution rate has provided 100 percent of the contributions to the Plan.

The total number of contributing employers has remained relatively stable since 1971. There were 110 contributors in 1972, 107 in 1979, and 114 in 1996. Forty-two percent of the 1996 contributors were not contributors in 1979, and nearly 40 percent of the 1979 contributors were no longer contributing by 1996.

According to the request, over the past four decades the west coast shipping industry has grown steadily, and it looks forward to increased growth in the future. Total dry cargo at all covered ports amounted to 29 million tons in calendar year 1960, 114 million tons in 1980, 182 millions tons in 1990 and 216 million tons in 1996. Because of dramatic productivity gains, this increased shipping activity did not result in increased hours worked. For a time, the industry did not require new workers to replace those retiring from the work force. This accounts for the current high ratio of retirees to active employees covered by the Plan. However, the gains in productivity and the consequent drop in unit labor costs did make it possible to increase wages, contribution rates and total contributions during a period in which the utilization of labor decreased.

It now appears that productively gains alone can no longer keep pace with the increase in shipping activity. Covered hours worked have remained relatively consistent with prior periods from less than 16 million in 1975 to more than 18 million in 1980. However, with the recent growth in trade, covered hours worked have increased from fewer than

15.6 million in 1993 to over 18 million in 1996.

As part of the request, copies of six of the Plan's most recent actuarial valuation reports were submitted. Plan costs for funding purposes are determined on the entry age normal, level dollar method. Benefits are subject to collective bargaining, and contributions are allocated among contributing employers on the basis of the ERISA minimum funding requirements.

The reports show that during the 6-year period spanned by the reports (7/1/91–6/30/97), the Plan population was relatively stable. During that period, the number of retirees decreased 1.8 percent, while the number of active participants decreased 3.4 percent. However, during this same period, tonnage handled increased nearly 20 percent. And, as of the end of the June 30, 1996 Plan Year, annual contributions had increased from $71.1 million to $99.7 million, and Plan assets had risen from $747 million to $1.329 billion.

There were three benefit increases under the Plan during the period covered by the reports. The first, effective July 1, 1992, increased the unfunded actuarial accrued liability by $49 million. The second increase, effective July 1, 1993, increased the unfunded actuarial accrued liability by $501 million. Finally, the third increase, effective July 1, 1996, increased the unfunded actuarial accrued liability by $52 million to approximately $534 million. The Plan's monthly accrual rate for each year of service went from $37 to $70. PBGC notes that the Plan's benefit level exceeds the maximum benefit guaranteed by PBGC under section 4022A(c) of ERISA, which is $16.25 per month per year of service. The monthly maximum benefit payable under the Plan increased from $1,295 to $2,450.

From 1991–1995, contributions increased at a faster rate than benefit payouts. In 1991, benefit payouts were 97% of contributions, and in 1995, they were 95% of contributions.

A summary of the six actuarial valuations is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]

	Valuation date					
	7/1/96	7/1/95	7/1/94	7/1/93	7/1/92	7/1/91
Number of active participants	8,185	7,856	7,682	8,141	8,339	8,469
Number of retired participants	9,049	9,236	9,244	8,979	9,132	9,214
Monthly benefit accrual rate	70	69	69	69	39	37
Maximum monthly benefit	2,450	2,415	2,415	2,415	1,365	1,295
Contributions (000)	N/A	99,696	99,023	87,316	74,139	71,074
Benefits (000)	N/A	94,963	92,437	85,293	71,321	68,848
Market value assets (000)	1,329,082	1,143,335	957,661	950,030	835,063	746,993
Net minimum funding charges w/o credit balance (000)	79,154	85,787	81,247	80,034	47,307	43,987
Normal cost, including operating expenses (000)	20,527	19,180	17,831	18,529	12,821	12,334
Unfunded accrued liability (assets at market value) (000)	534,416	637,646	710,802	664,096	341,037	360,009
Unfunded liability—vested benefits (assets at market value) (000)	354,821	462,132	530,092	476,168	N/A	N/A
Valuation interest rate	6.5	6.5	6.5	6.5	6.5	6.5

[1] Taken from actuarial reports submitted with request.

Approved Special Rules

The complete text of the relevant provisions of the Plan document, the ILWU–PMA Pension Agreement ("Pension Agreement"), containing the approved special withdrawal liability rules is set forth in the Notice of Approval, 49 FR 6043 (1984). Interested persons may obtain a copy of that notice by contacting PBGC. Following is a summary of the special withdrawal liability rules in effect and the text of the approved modification to those rules.

Under the special rules, a complete withdrawal occurs if an employer who makes contributions to the Plan for longshore work permanently ceases to have an obligation to make contributions to the Plan, and: (1) Continues to perform work of the type for which contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States, (2) resumes such work at any time during the Plan Year in which the contribution obligation ceased through the end of the fifth succeeding Plan Year without renewing the contribution obligation, (3) sells or otherwise transfers a substantial portion of its business or assets to another person that performs longshore work without having an obligation to make contributions to the Plan under the collective bargaining agreements under which the Plan is maintained, or (4) ceases to have an obligation to contribute in connection with the withdrawal of every employer from the Plan or substantially all of the employers within the meaning of section 4219(c)(1)(D) of ERISA. A partial withdrawal occurs if an employer incurs a partial withdrawal within the meaning of section 4205 of ERISA and, in addition, at any time from the date of the partial withdrawal through the succeeding five Plan Years: (1) Performs work of the type for which contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States without having an obligation to contribute to the Plan for such work, or (2) sells or otherwise transfers a substantial portion of its business or assets to another person that performs longshore work without having an obligation to make contributions to the Plan under the collective bargaining agreements under which the Plan is maintained.

The amendment adopting the special withdrawal liability rules also added funding requirements to the Agreement. Paragraph 4.042(c) of the Pension Agreement requires a "Special Contribution Amount" and specifies the funding goals that the Plan must meet for Plan Years beginning July 1, 1984:

"(i) The 'Special Contribution Amount' shall be the level annual amount which, on the basis of a Certified Actuarial Projection, the Plan Actuary certifies will, when added to the amounts otherwise required by law (determined without regard to any credit

balance in the funding standard account) * * *, be sufficient to make the Funding Percentage as of the Applicable Funding Goal Date at least equal to the Applicable Funding Goal."

"(ii) The term 'Funding Percentage' shall mean for any Plan Year, the percentage derived by dividing the market value of the assets of the Pension Fund by the present value of the nonforfeitable benefits within the meaning of ERISA section 4213(c)(A), both values to be as determined in the Certified Actuarial Projection as of the end of such Plan Year."

"(iii) For the first through the fifth Plan Years commencing on or after July 1, 1984, the term 'Applicable Funding Goal' for each such Plan Year shall mean 50 percent (50%), and the "Applicable Funding Goal Date" for each such Plan Year shall mean the last day of the tenth such Plan Year; for each succeeding Plan Year, the term 'Applicable Funding Goal' shall mean the percentage set forth in the Accelerated Funding Schedule for the Plan Year commencing four years after the end of the Plan Year in question, and the "Applicable Funding Goal Date" for each such Plan Year shall mean the last day of the Plan Year commencing four years after the end of the Plan Year in question."

"(iv) The 'Accelerated Funding Schedule' shall be the following schedule:

Plan year	Percent
10	50
11	53
12	56
13	59
14	62
15	65
16	68
17	71
18	74
19	77
20 and over	80

"(v) The 'Certified Actuarial Projection' shall be a projection, which is prepared as of each actuarial valuation date so as to derive the Funding Percentage on the Applicable Funding Goal Date, by using the actuarial assumptions and methods utilized in the December 31, 1982 Actuarial Valuation of the Plan and the then current assets and census data, which projection shall be certified to in each Plan Year by the Plan actuary. This projection shall be on the basis of (1) the benefit levels in effect during the Plan Year for which the projection is made and (2) the Contributions required for such Plan Year * * * together with any Special Contribution Amounts. When the Applicable Funding Goal is met for the twentieth or subsequent Plan Year, the Special Contribution Amount may be limited to the amount necessary to maintain such Applicable Funding Goal for each subsequent Plan Year."

Notice of Approval, 49 FR 6043, 6046 (1984).

An additional funding requirement is contained in paragraph 4.011 of the Pension Agreement. That provision requires that: "Notwithstanding any other provision of this Plan, the Contributions for each Plan Year shall be not less than the total administrative costs and benefits to be paid by the Trustee during the Plan Year." Notice of Approval, 49 FR 6043, 6045 (1984).

Modification to Special Rules

On July 21, 1997, the bargaining parties (ILWU and PMA) adopted an amendment to the approved special withdrawal liability rules, which amendment eliminates the requirement under paragraph 4.011 of the Pension Agreement that contributions for each Plan Year shall be at least equal to benefits and administrative costs paid in the year. In lieu of that requirement, the parties signed a Letter of Understanding on July 21, 1997, whereby the parties agree that:

[S]hould the Funding Percentage for the ILWU–PMA Pension Plan (as defined in paragraph 4.042(c)(ii) of the Plan) fall below eighty-five percent (85%) as of the beginning of a particular Plan Year, the Contributions in the following Plan Year shall not be less than the lesser of (a) the total administrative costs and benefits to be paid by the Trustees during said following Plan Year or (b) the amount required to increase the Funding Percentage for said following Plan Year to eighty-five percent (85%).

Because the requirement that contributions be no less than administrative costs and benefits paid in a given year is no longer specifically set out in the Pension Agreement, PBGC indicated in the February 3, 1998 Notice of Pendency that if PBGC should approve the amendment modifying the Plan's special withdrawal liability rules such approval would be under the following condition:

The Plan's special withdrawal liability rules will be void as of the first day of the Plan Year following a Plan Year for which the Plan is not at least eighty-five percent (85%) funded, and during said following Plan Year the Contributions are less than the least of (a) total administrative cost and benefits for said following Plan Year or (b) the amount required to increase the Funding Percentage to eighty-five percent (85%) for said following Plan Year or (c) the maximum tax-deductible contribution to the Plan.

The Plan agreed that it would certify to this condition annually.

No other changes were proposed to the Plan's special withdrawal liability rules.

Decision

To approve a request for an amendment modifying special withdrawal liability rules, PBGC must make two independent determinations, as provided in section 4203(f) of ERISA and 29 CFR 4203.4(a). First, on the basis of a clear showing by the plan, PBGC must determine that the amendment will apply to an industry that has characteristics that would make use of the special rules appropriate. Second, PBGC must determine that the plan amendment will not pose a significant risk to the insurance system. PBGC's discussion on each of those issues follows.

a. Appropriateness

The basic consideration in determining the appropriateness of special withdrawal liability rules is the effect of cessations of contributions by employers on the plan's contribution base. Various characteristics may be indicative of an industry in which cessations typically do not weaken the contribution base. In determining whether an industry has the characteristics that would make an amendment to special rules appropriate, an important line of inquiry is the extent to which the particular industry possesses those characteristics that led Congress to adopt special rules for the construction and entertainment industries. An industry that is similar in terms of those characteristics is generally appropriate for rules similar to the construction and entertainment rules.

The appropriate characteristics include, but are not necessarily limited to, the mobility of the employees, the intermittent nature of the employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

In approving the Plan's request for an amendment providing for special withdrawal liability rules on February 16, 1984, PBGC determined that the industry covered by the Plan clearly evidenced characteristics similar to those of the construction industry, the most important of which was the local nature of the work. The characteristics of the west coast longshore industry that supported approval of special withdrawal liability rules in 1984 continue to apply to the industry today. Specifically, work covered under the Plan is dependent on the comings and goings of ocean-going vessels at west coast ports. Workers are employed by a covered stevedoring company, generally on a daily basis through a dispatch hall system, to work pursuant to contracts with vessel operators. The work must be performed at the port of embarkation or debarkation. Thus, so long as west coast shipping continues, the work performed will continue to be covered by the Plan.

In addition, an employer in this industry cannot withdraw from the Plan while continuing to perform longshore work at Pacific ports, because longshore work along the entire west coast for all ocean-going dry cargo work is covered under collective bargaining agreements that require contributions to the Plan. Because the entire coast is one bargaining unit, and all ports through which ocean-going dry cargo is shipped are completely organized by the ILWU, it is not possible for such cargo to be loaded or unloaded at any point on the coast without contributions being paid to the Plan. Thus, as a practical matter, it is not realistic to expect noncontributory, covered work. Nonetheless, if a former contributing employer were to compete against the Plan's other employers in this way, thereby diminishing the Plan's contribution base, withdrawal liability would be imposed.

Because of the local nature of the work and the requirement that contributions be made to the Plan for all longshore work done on the Pacific coast, the comings and goings of employers do not have an adverse effect on the Plan's contribution base, which is dependent upon the vitality of the west coast shipping industry as a whole, and not upon the continued existence of any particular employers. For these reasons, the covered industry evidences characteristics that indicate that cessations by employers typically do not have a weakening effect on the Plan's contribution base. Thus, PBGC has concluded that the Pacific coast longshore industry continues to evidence characteristics that make the use of special withdrawal liability rules appropriate.

The only comment received in response to the notice questioned the validity of the Plan amendment that is the subject of the request ("Amendment"). Specifically, since the Amendment was not executed and submitted by the Plan's Board of Trustees, the comment questioned whether the Amendment was properly executed and submitted to PBGC. The response to the comment asserts that the process of adopting the Amendment is a settlor function left to the collective bargaining parties, ILWU and PMA. Section 7.02 of the Pension Agreement provides that "[t]he (ILWU) and (PMA) by their mutual agreement in writing may at any time amend, modify, or delete any provisions of the [ILWU–PMA Pension] Agreement." Nothing in the Pension Agreement or the collective bargaining agreement between ILWU and PMA indicates that the Plan's Board of Trustees has the authority to amend the Pension Agreement. The document effecting the Amendment clearly shows that representatives of ILWU and PMA executed it. Thus, based on the Pension Agreement and the executed Amendment, PBGC agrees that the Amendment was properly executed by the appropriate parties, ILWU and PMA.

The comment also questioned whether the Plan's request for approval of the Amendment was properly submitted to PBGC pursuant to PBGC regulation. Pursuant to 29 CFR 4203.4(b), a request for PBGC's approval of a plan amendment must be submitted by the plan sponsor or a duly authorized representative acting on behalf of the plan sponsor. The comment asserts that any request should have been submitted by the Plan sponsor, the Board of Trustees, not PMA or a representative of PMA. Further, the comment asserts that the current Board of Trustees did not approve the request or give PMA the authority to engage a representative to act on behalf of the Board of Trustees in preparing and submitting the request to PBGC. The response to the comment asserts that the Plan's previous Board of Trustees authorized PMA to engage a representative to submit the request on behalf of the Plan. Also, a Plan fiduciary submitted information in support of the position that PMA had the previous Board of Trustees' authorization to proceed with the submission of the request. No information was provided supporting the position that the Plan's previous Board of Trustees failed to authorize PMA to prepare and submit the request. Consequently, PBGC disagrees with the comment and believes that the request was properly submitted for approval by a duly authorized representative of the Plan sponsor.

b. Risk to the Insurance System

In addition to determining that the special withdrawal liability rules are appropriate to this case, PBGC must find that their use will not pose a significant risk to the insurance program.

Copies of the Plan's actuarial reports for the 6-year period (7/1/91–6/30/97) were submitted with the request. The most recent of those reports indicates an unfunded actuarial accrued liability of $534 million, an unfunded liability for vested benefits of $355 million, and assets of $1.329 billion. In the 6-year period, the Plan's unfunded accrued liability increased from $360 million to $534 million, and the monthly accrual rate went from $37 to $70 per month per year of service. These changes increased the monthly maximum benefit from $1,295 to $2,450. The $70 monthly accrual rate exceeds the maximum monthly accrual rate guaranteed by PBGC under section 4022A of ERISA, which is $16.25, or 23.2 percent of the Plan's accrual rate. On the other hand, from 1991–1995, contributions increased at a faster rate than benefit payouts. In 1991, benefit payouts were 97% of contributions, and in 1995, they were 95% of contributions.

In addition to the information already mentioned, the actuarial reports show a stable Plan population, an increase in annual contributions ($71.1 million to $99.7 million), and an increase in Plan assets ($747 million to $1.329 billion). Plan income has also consistently exceeded benefit payouts. The Plan and the covered industry have unique characteristics that suggest that the Plan's contribution base is likely to remain stable. Contributions to the Plan are made with respect to all west coast dry cargo. The industry has had significant growth over the past decades and that growth is expected to continue. The Plan's continuation is dependent only on the continued activity in the west coast shipping industry as a whole. Consequently, the Plan's contribution base is secure and the departure of one employer from the Plan is not likely to have an adverse effect on the contribution base so long as the level of shipping does not decline.

The request states that the main reason that the Plan requests an amendment modifying its special withdrawal liability rules is that the Plan is approaching the point where contributions would no longer be deductible due to ERISA's full funding limit. This has occurred because the Plan's funded status has significantly improved since approval of the amendment establishing special withdrawal liability rules in 1984. The 1984 amendment required that the Plan meet specific funding objectives that were designed to improve the Plan's financial condition. In order for the special rules to apply, the Plan had to meet the objectives each year. At the time that PBGC approved the 1984 amendment establishing the rules, PBGC believed that "meeting these objectives (would) place the Plan on a sound long-term financial basis." The 1984 amendment established a funding objective of fifty percent (50%) in 1984, increasing to eighty percent (80%) in 2004. Every year since the 1984 amendment, the Plan has more than met the funding objectives. Under the proposed Amendment, the Plan's funding goal objective is increased from a projected eighty percent (80%) in 2004 to eighty-five percent (85%) henceforth. If the Amendment is approved, the Plan has agreed that in any Plan Year in

which the Plan's modified funding objectives are not met, the special withdrawal liability rules will be void.

The comment raised concerns relating to the potential for increased risk to the insurance system if the proposed Amendment is approved. According to the comment, "[b]y eliminating the requirement that contributions for each Plan Year be at least equal to benefits and administrative costs, the proposed Plan Amendment would slow the Plan's progress towards a fully funded status while increasing the insurance risk on the (PBGC)." The comment states that the Plan's actuarial projections show that the Plan's full funding limit will not be reached for at least another two years and possibly longer, and that the projections show a gradual decline in contributions, not a sudden drop.

In addressing the comment PBGC has considered the actuarial information provided with the request and the response to the comment. The evidence indicates that the west coast shipping industry covered by the Plan has shown steady growth over the past decades, and the growth is projected to continue. The evidence also indicates that as a result of the steady growth in the industry, the Plan's contribution base has been stable and secure. Due to the nature of the industry, departures of individual employers would not pose a risk to the Plan or the PBGC insurance system. In approving the Plan's special withdrawal liability rules in 1984, PBGC found that meeting the associated funding objectives would place the Plan on a "sound long-term financial basis." Those objectives have been met earlier than projected. The proposed modification to the Plan's special withdrawal liability rules is conditioned on the Plan meeting at least the same funding objectives. Therefore, PBGC has concluded that the proposed modification will not pose a significant risk to the insurance system.

Based on the facts of this case and the representations and statements made in connection with the request for approval, PBGC has determined that the Plan Amendment modifying special withdrawal liability rules (1) will apply only to an industry that has characteristics that would make the use of special withdrawal liability rules appropriate, and (2) will not pose a significant risk to the insurance system. Therefore, PBGC hereby grants the Plan's request for approval of a plan amendment modifying special withdrawal liability rules, as set forth herein. PBGC grants approval under the condition that such approval will expire, and the Plan's special withdrawal liability rules will be void as of the first day of the Plan Year following a Plan Year for which the Plan is not at least eighty-five percent (85%) funded, and during said following Plan Year the Contributions are less than the least of (a) total administrative cost and benefits for said following Plan Year or (b) the amount required to increase the Funding Percentage to eighty-five percent (85%) for said following Plan Year or (c) the maximum tax-deductible contribution to the Plan. The Plan has agreed to certify to these conditions annually. Should the Plan wish to again amend these rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, DC, on this 14th day of May 1998.

David Strauss,

Executive Director.

[FR Doc. 98–13435 Filed 5–19–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39987]; File No. SR–CBOE–98–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Nominees of Member Organizations

May 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("ACT"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 5, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to revise CBOE Rule 3.8, "Nominees," to clarify that a nominee trading for his/her own account pursuant to CBOE Rule 3.8(a)(4)(C) may trade as an independent market maker and/or an independent floor broker.[1] The CBOE also proposes to replace a reference in CBOE Rule 3.8(a)(4)(C) to the CBOE's Market Surveillance Department with a reference to the Exchange.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CBOE Rule 3.8(a)(4)(B) provides that a nominee of a member organization may perform floor functions only on behalf of the member organization for which he or she is authorized. However, CBOE Rule 3.8(a)(4)(C) sets forth an exception to this requirement. Specifically, CBOE 3.8(a)(4)(C) provides that, notwithstanding the provisions of CBOE Rule 3.8(a)(4)(B), a nominee may trade for his/her own account provided that the following three requirements are satisfied: (i) the nominee is a registered broker-dealer; (ii) the nominee has the prior written approval of the nominee's member organization to trade for his/her own account; and (iii) the nominee has the prior written approval of the Exchange's Market Surveillance Department to trade for his/her own account. CBOE Rule 3.8(a)(4)(C) also provides that the approval of the nominee's member organization and of the CBOE's Market Surveillance Department must be filed with the CBOE's Membership Department.

In addition, CBOE Rule 3.8(a)(2) requires a nominee's member organization to guaranty all obligations arising out of the nominee's representation of the member organization, including transactions for the nominee's own account as authorized pursuant to CBOE Rule 3.8(a)(4)(C).

The purpose of the proposal is to clarify that authorization of a nominee

[1] A member who wishes to act as a market maker and as a floor broker on the same business day is subject to the restrictions of CBOE Rule 8.8, "Restrictions on Acting as a Market-Maker and a Floor Broker."

to trade for his/her own account pursuant to CBOE Rule 3.8(a)(4)(C) means authorization of the nominee to trade as an independent market maker and/or as an independent floor broker.[2] Accordingly, the proposal amends CBOE Rule 3.8 by replacing the references to trading by a nominee for his/her own account with references to trading by a nominee as an independent market maker and/or as an independent floor broker.

According to the CBOE, this clarification is consistent with the manner in which the CBOE departments that have administered CBOE Rule 3.8(a)(4)(C) have interpreted the rule and is intended to eliminate any potential ambiguity as to whether CBOE Rule 3.8(a)(4)(C) only authorizes a nominee to act as an independent market maker.[3] Additionally, the CBOE believes that, as a matter or regulatory policy, there is no reason to distinguish between a nominee acting as an independent market maker and a nominee acting as an independent floor broker given that, in either instance, the nominee must have prior written authorization to do so from both the nominee's member organization and from the Exchange, the nominee must be a registered broker-dealer, and the nominee's transactions will be guaranteed by the nominee's member organization.

The proposed rule change also replaces the references in CBOE Rule 3.8(a)(4)(C) to the CBOE's Market Surveillance Department with a reference to the Exchange. The reason for this change is twofold. First, the CBOE's Market Surveillance Department recently was combined into the CBOE's Department of Market Regulation. Second, the Exchange body or bodies that grant approvals under CBOE Rule 3.8(a)(4)(C) may change over time. Currently, Exchange approval under CBOE Rule 3.8(a)(4)(C) is required from both the CBOE's Department of Market Regulation and the CBOE's Membership Committee.

Finally, the CBOE notes that all of the provisions in paragraphs (a)(2), (a)(3), and (a)(4) of CBOE Rule 3.8 which are applicable to nominees are also applicable to a person who has registered his or her membership for a member organization because, under Section 2.4 of the CBOE Constitution ("Registration of Individual Memberships for Member Organizations") such a person represents a member organization is lieu of a nominee. Therefore, the requirements of CBOE Rule 3.8(a)(4)(C) also are applicable to a person who has registered his or her membership for a member organization and desires to also act as an independent market maker and/or as an independent floor broker.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that the proposed change will clarify the Exchange's rules and is thus designed to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[4] and subparagraph (e)(1) of Rule 19b–4 thereunder.[5] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C., 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other that those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–19 and should be submitted by June 10, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13383 Filed 5–19–98; 8:45 am]

BILLING CODE 8010–01–M

[2] As noted above, a member who wishes to act as a market maker and as a floor broker on the same business day is subject to the restrictions of CBOE Rule 8.8. *See* note 1, *supra.*

[3] A member (or the Exchange) providing authorization under CBOE Rule 3.8(a)(4)(C) may specify the capacity in which the nominee may act (*ie.*, the nominee may be authorized to act solely as a floor broker, solely as market maker, or in both capacities). Telephone conversation between Arthur B. Reinstein, Assistant General Counsel, CBOE, and Yvonne Fraticelli, Attorney, Division of Market Regulation, Commission, on May 8, 1998.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(e)(1).

[6] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: "Servicing Agent Agreement".

Type of Request: New Request.

Form No: 1506.

Description of Respondents: Persons filling out Servicing Agent Agreement and Certified Development Companies.

Annual Responses: 4,800.

Annual Burden: 800.

Comments: Send all comments regarding this information collection to Gail Hepler, Financial Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, S.W., Suite 8300, Washington, D.C. 20416. Phone No: 202–205–7530. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: May 8, 1998.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–13341 Filed 5–19–98; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2825]

Revocation of Munitions Exports Licenses and Other Approvals for India

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to India, or transfer U.S. origin defense articles and defense services from a foreign destination to India, or temporarily import defense articles from India pursuant to Section 38 of the Arms Export Control Act are revoked immediately.

EFFECTIVE: May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Deputy Director, Department of State, Office of Defense Trade Controls, Department of State, 703–812–2568.

SUPPLEMENTARY INFORMATION: On May 13, 1998, the President determined pursuant to Section 102 of the Arms Export Control Act (22 U.S.C. 2779aa–1) ("the Glenn Amendment") that India a non-nuclear weapons state, detonated nuclear explosive devices on May 11, 1998, and directed the relevant United States Government agencies—and instrumentalities to take the necessary actions to impose the sanctions described in Section 102(b)(2) of that Act. That provision of law provides for the determination to India of sales of defense articles, defense services, or design and construction services under the Arms Export Control Act, and termination of licenses for the export of any item on the United States Munitions List (USML). Consistent with such law and in furtherance of the foreign policy interests of the United States, the Department of State, through publication of this notice, is revoking all licenses and other approvals for the permanent and temporary export and temporary import of defense articles and defense services to or from India and will deny all applications and other requests for approval to export or otherwise transfer or retransfer defense articles and defense services to India. This revocation order includes all types of licenses/authorizations; manufacturing, technical assistance and distribution agreements; the use of any exemption in the International Traffic in Arms Regulations (ITAR); and, any authorization to retransfer from a foreign destination. This order also extends to the activities and authorizations concerning brokering covered by Part 129 of the ITAR. Therefore, in accordance with Section 123.21 of the ITAR, licenses must be returned immediately to the Department of State, Office of Defense Trade Controls.

Dated: May 15, 1998.

Eric D. Newsom,

Acting Assistant Secretary for Political-Military Affairs.

[FR Doc. 98–13570 Filed 5–19–98; 8:45 am]

BILLING CODE 4710–25–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Allocation of the 200,000 Metric Ton Increase in the Amount Available Under the Raw Cane Sugar Tariff-rate Quota

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the allocation among supplying countries and customs areas for the 200,000 metric ton increase in the amount available under the current raw cane sugar tariff-rate quota triggered by the fact that the stocks to use ratio for sugar reported in the U.S. Department of Agriculture's World Agricultural Supply and Demand Estimates on May 12, 1998, was 14.2 percent.

EFFECTIVE DATE: May 20, 1998.

ADDRESSES: Inquiries may be mailed or delivered to Elizabeth Jones, Economist, Office of Agricultural Affairs (Room 415), Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Elizabeth Jones, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains a tariff-rate quota for imports of raw cane sugar. On September 17, 1997, the Secretary of Agriculture announced the in-quota quantity for the tariff-rate quota for raw cane sugar for the period October 1, 1997–September 30, 1998, and announced an administrative plan under which the quantity available would be increased by 200,000 metric tons, raw value, if the stocks-to-use ratio reported in the May 1998 U.S. Department of Agriculture's World Agricultural Supply and Demand Estimates (WASDE) is less than or equal to 15.5 percent. On May 12, 1998, the WASDE reported a stocks to use ratio of 14.2 percent, thereby triggering a 200,000 metric ton increase in the quantity available under the tariff-rate quota.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007). Additional U.S. Note 5(b)(i) to chapter 17 of the HTS also provides that the quota amounts established under that note may be allocated among supply countries and areas by the United States Trade Representative.

Raw cane sugar allocation

Accordingly, USTR is allocating the 200,000 metric ton increase in the amount available under the raw can sugar tariff-rate quota to the following countries or areas in metric tons, raw value. This allocation is based on the countries' historical trade to the United States:

County	Current FY 1998 allocation	Additional allocation	New FY 1998 allocation
Argentina	56,832	8,731	65,563
Australia	109,699	16,853	126,552
Barbados	7,830	0	7,830
Belize	14,538	2,234	16,772
Bolivia	10,573	1,624	12,198
Brazil	191,642	29,442	221,084
Colombia	31,720	4,873	36,593
Congo	7,258	0	7,258
Cote d'Ivoire	7,258	0	7,258
Costa Rica	19,825	3,046	22,871
Dominican Republic	232,614	35,736	268,350
Ecuador	14,538	2,234	16,772
El Salvador	34,363	5,279	39,643
Figi	11,895	1,827	13,722
Gabon	7,258	0	7,258
Guatemala	63,440	9,746	73,186
Guyana	15,860	2,437	18,297
Haiti	7,258	0	7,258
Honduras	13,217	2,030	15,247
India	10,573	1,624	12,198
Jamaica	14,538	2,234	16,772
Madagascar	7,258	0	7,258
Malawi	13,217	2,030	15,247
Mauritius	15,860	2,437	18,297
Mexico	25,000	0	25,000
Mozambique	17,182	2,640	19,821
Nicaraque	27,755	4,264	32,019
Panama	38,328	5,888	44,217
Papua New Guinea	7,258	0	7,258
Paraguay	7,258	0	7,258
Peru	54,189	8,325	62,513
Philippines	178,426	27,411	205,837
South Africa	30,398	4,670	35,069
St. Kitts & Nevis	7,258	0	7,258
Swaziland	21,147	3,249	24,395
Taiwan	15,860	2,437	18,297
Thailand	18,503	2,843	21,346
Trinidad-Tobago	9,252	1,421	10,673
Uruguay	7,258	0	7,258
Zimbabwe	15,860	2,437	18,297
Total	1,4000,000	200,000	1,600,000

Each allocation to a country that is a net importer of sugar is conditioned on compliance with the requirements of section 902(c)(1) of the Food Security Act of 1985 (7 U.S.C 1446g note).

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 98–13378 Filed 5–19–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Proposed Urban Rail Project Between the Fullerton Transportation Center and Irvine Transportation Center, Orange County, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA), as lead agency, and the Orange County Transportation Authority (OCTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA) on a proposal by OCTA to further study the proposed implementation of an urban rail system within a corridor 45 kilometers (28 miles) long and 9.7 kilometers (6 miles) wide between the Cities of Fullerton and Irvine, known as the Orange County Urban Rail (Urban Rail) Project. In addition to NEPA, the proposed project is subject to compliance with the California Environmental Quality Act (CEQA), therefore, a joint Environmental Impact Report (EIR)/EIS will be prepared.

The EIR/EIS will evaluate the following alternatives: 1) The Local Preferred Strategy (LPS) Alignment Alternative. This alternative would follow the alignment identified in the Priority Corridor Major Investment Study, June 1997, on an elevated guideway. 2) A Lower Cost Alternative (LCA). This alternative would connect the Fullerton and Irvine Transportation Centers and would serve many of the activity centers in the Corridor along a route which minimizes the distance and number of freeway crossings. The system would be primarily at grade on local streets. 3) A No Build Alternative, which involves no change to transportation services or facilities in the corridor beyond already committed projects. Potential new feasible alternatives generated through the scoping process will also be considered.

Scoping will be accomplished through correspondence with interested

persons, organizations, and Federal, State, and local agencies; and one public scoping meeting

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be submitted by June 22, 1998. *Written comments* should be sent to Ms. Cindy Krebs, OCTA, 550 South Main Street, P.O. Box 14184, Orange, CA 92863. *Written comments* may also be made at the public scoping meeting scheduled below. *Scoping Meeting:* The public scoping meeting will take place on: Thursday, June 4, 1998 from 4:30 p.m. to 7:00 p.m. at Fullerton Senior Center. See **ADDRESS** below.

People with special needs should contact Cindy Krebs at OCTA at the address below or by calling (714) 560–5740. A TDD number is also available: (714) 636–4327. The building is accessible to people with disabilities.

The meeting will be held in an "open-house" format, and representatives will be available to discuss the project throughout the time periods given. Informational displays and written material will also be available throughout the time periods given.

ADDRESSES: *Written comments* should be sent to Ms. Cindy Krebs, OCTA, 550 South Main Street, P.O. Box 14184, Orange, CA 92863. *Written comments* may also be made at the public scoping meting as scheduled below. The *Scoping Meeting* will take place at the following location: Thursday, June 4, 1998 from 4:30 p.m. to 7:00 p.m., Fullerton Senior Center, 340 W. Commonwealth Ave., Fullerton, CA 92832.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Krebs, OCTA, 550 South Main Street, P.O. Box 14184, Orange, CA 92863, (714) 560–5740, or fax (714) 560–5794.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and OCTA invite interested individuals, organizations, and Federal, State, and local agencies to participate in defining the alternatives to be evaluated in the EIR/EIS and identifying any significant social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the location, the proposed alternatives, and the impact areas to be evaluated is being mailed to affected Federal, State, and local agencies. Others may request the scoping materials by contacting Ms. Cindy Krebs, OCTA, 550 South Main Street, P.O. Box 14184, Orange, CA 92863, (714) 560–5740, or fax (714) 560–5794. Scoping comments may be made in writing at the public scoping meeting. See the Scoping Meeting section above for the location and time. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives that are less costly or less environmentally damaging while meeting the identified mobility needs. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIR/EIS has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact: Ms. Cindy Krebs, OCTA, 550 South Main Street, P.O. Box 14184, Orange, CA 92863, (714) 560–5740, or fax (714) 560–5794.

II. Description of Study Area and Project Need

The study area extends from the City of Fullerton in a general southward direction through the Cities of Anaheim, Orange, Garden Grove, Santa Ana, and Costa Mesa and then eastward to the City of Irvine, California. The area is approximately 45 kilometers (28 miles) long and 9.7 kilometers (6 miles) wide.

The study corridor contains key activity, employment, and transportation facilities in Orange County such as: Fullerton College, Downtown Fullerton, Fullerton Transportation Center, Orangefair Mall, Downtown Anaheim, Disneyland, Anaheim Convention Center, Anaheim Stadium (Edison Field), Anaheim Amtrak Station, the Arrowhead Pond, the City Mills, the St. Joseph Children's Hospital, the Main Place Mall, Santa Ana Transportation Center, Downtown Santa Ana, the Federal, County and City Civic Center area, South Coast Plaza/Metro, Orange Coast College, John Wayne Airport, UCI, the Irvine Spectrum and Entertainment Center, and the Irvine Transportation Center.

This EIR/EIS is the logical next step in transportation planning and project development following OCTA's completion of a Major Investment Study (MIS) of the mobility needs in the study area. This MIS employed a far-reaching public involvement program, continuous coordination with affected and interested agencies, and a detailed evaluation of a wide range of alternatives to meet the identified mobility needs. As the MIS process was mode-neutral in nature, the public identified a comprehensive set of bus, road, and urban rail alternatives. Detailed analysis at a conceptual engineering level was completed for a set of alternatives to identify project cost, ridership, cost-effectiveness measurements, and environmental benefits and impacts. The results led to the development of a Locally Preferred Strategy (LPS) that includes: (1) optimization of the present system through expanded bus service and increased Metrolink commuter rail service seats and (2) continued study of a light rail system between the Fullerton and Irvine Transportation Centers. This EIS focuses on the light rail alternative.

An effective multi-modal transportation network within the project study area is necessary to meet the future mobility needs of businesses and residents in Orange County. By the year 2020, despite current and planned transportation system improvements, the magnitude and nature of the County's population and employment growth trends are projected to result in continuing transportation challenges in the corridor area as evidenced by: increasing travel—approximately 1.8 million more daily trips; growing transit-reliant population—doubling of senior population; continuing freeway congestion—73 percent of the freeway system will operate at 30 m.p.h. or less during morning and evening peak periods; increasing arterial congestion—major intersections with delay will grow from four percent to 27 percent; and limited travel options—congested freeway and street system, and financially constrained bus and Metrolink service.

III. Alternatives

The alternatives proposed for evaluation include: (1) LPS Alignment Alternative. This alternative would follow the alignment identified in the Priority Corridor Major Investment Study (June, 1997), which provided for an elevated guideway from end to end within the arterial corridors. The elevated guideway would typically be supported on columns within the median. (2) A Lower Cost Alternative (LCA). This alternative would connect the Fullerton and Irvine Transportation Centers and would serve many of the activity centers in the Corridor along a route which minimizes the distance and number of freeway crossings. The system would be primarily at grade on local streets. (3) A No Build Alternative, which involves no change to transportation services or facilities in the corridor beyond already committed projects. Potential new feasible alternatives generated through the scoping process will also be considered.

IV. Probable Effects

FTA and OCTA will evaluate, in the EIR/EIS, all significant social, economic,

and environmental impacts of the alternatives. The previous MIS study evaluated these impacts at a corridor level of detail for the LPS Alternative alignment. These issues will be evaluated at a project level of detail in the Draft EIR/EIS. Among the primary transit issues to be evaluated are the expected increase in transit ridership, the expected increase in mobility for the corridor's transit dependent, the support of the region's air quality goals, the capital outlays needed to construct the project, the cost of operating and maintaining the facilities created by the project, and the financial impacts on the funding agencies. Potentially affected environmental and social resources proposed for analysis include land use and neighborhood impacts, residential and business displacements and relocations, traffic and parking impacts near stations, traffic circulation, visual impacts, impacts on cultural and archaeological resources, and noise and vibration impacts. Impacts on air and water quality, groundwater, hazardous waste sites, and water resources will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate significant adverse impacts will be considered.

V. FTA Procedures

The EIR/EIS and the conceptual engineering for the Urban Rail project will be prepared simultaneously. The EIR/EIS/conceptual engineering process will assess the social, economic, and environmental impacts of the proposed alternatives while refining their design to minimize and mitigate any adverse impacts. After its publication, the Draft EIR/EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis on the Draft EIR/EIS and comments received, OCTA will select a preferred alternative to carry forward into the Final EIR/EIS and complete engineering. Following this action by OCTA, OCTA will request FTA authorization to proceed with the Final EIS/EIR and complete engineering.

Issued: May 15, 1998.

Leslie Rogers,

Regional Administrator Federal Transit Administration Region IX.

[FR Doc. 98–13438 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3782; Notice 1]

Laforza Automobiles, Inc.; Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

Laforza Automobiles, Inc., of Escondido, California, ("Laforza") has applied for a temporary exemption from the automatic restraint requirements of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, as described below. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

Laforza is a Nevada corporation established in August 1997. To date it has produced no motor vehicles. It intends to purchase chassis from Magnum Industriales s.r.l., an Italian company, "where it will undergo the necessary modifications for the US market." A Ford engine, transmission, and associated emission control systems will be installed, and the end result will be a multipurpose passenger vehicle (sport utility) called the Prima 4X4. Laforza estimates a total production of 400 units between the date of the exemption and December 31, 2000. This is the date that its requested temporary exemption would expire.

Laforza seeks an exemption from S4.2.6.1.1 and S4.2.6.2 of Standard No. 208. Paragraph S4.2.6.1.1, in pertinent part, would require Laforza to provide a driver side airbag on not less than 80 percent of all Primas manufactured before September 1, 1998. Paragraph S4.2.6.2 would require all Primas manufactured on and after September 1, 1998, to be equipped with both driver and right front passenger airbags. Although the passenger side airbag is not required until September 1 of this year, "the airbag development program has to include both the passenger and driver side airbags since the development duration for a driver's side airbag would overlap the time when a passenger's side airbag will be required." Laforza continues, "If the development is not combined, many of these tests would have to be repeated with a significant increase in test and material costs."

In the first 6 months after its agreement with Magnum, Laforza spent "an estimated total of 200 manhours and $15,000" on airbag compliance issues. Lacking the resources to independently develop an airbag system, it "has contacted airbag development companies in the US to assist with the project." Laforza has concluded that it will take 2 years to develop and certify the system. If immediate compliance were required, the cost would be $4,000,000. An exemption would permit Laforza to generate revenues "to meet the costs mandated by the airbag development program" and spread these costs over a period of time. Because the company is less than a year old, it could not submit corporate balance sheets and income statements for the three years immediately preceding the filing of its application, as specified by NHTSA's regulation. Its stockholder equity is $900,000.

Laforza argues that "production of the Laforza Prima 4X4 is in the best interest of the public and the US economy," pointing to the uniqueness of the vehicle, and the American components that it incorporates, the powertrain from Ford Motor Company and the purchase of "other parts * * * from approximately five different US companies." The company currently employs 15 people full-time and three people part time, which will grow as production increases. Further, "in addition, * * * at least 50 employees from other companies are involved in the Laforza project." During the exemption period, the Prima will be "equipped with a conventional retractor type, three-point driver and passenger seatbelt system that meets all requirements of FMVSS No. 208," and the vehicle otherwise complies with all Federal motor vehicle safety standards that apply to it.

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Central Docket Management Facility, room Pl–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket (from 10 a.m. to 5 p.m.) at the above address both before and after that date. Comments may also be viewed on the internet at web site dms.dot.gov. To the extent possible, comments filed after the

closing date will also be considered. Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 9, 1998.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued: May 15, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–13437 Filed 5–19–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33570]

Oregon Pacific Railroad Company—Acquisition and Operation Exemption—East Portland Traction Co. and Molalla Western Railway

Oregon Pacific Railroad Company (OPR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate certain rail lines of East Portland Traction Co. (EPTC) and Molalla Western Railway (MWRL) [1] in Clackamas and Multnomah Counties, OR. The line to be acquired from EPTC extends from EPTC milepost 0.26 (at its connection with Union Pacific Railroad Company's (UP) Portland-Eugene mainline at UP MP 769) at or near East Portland, OR, to milepost 4.54 at Milwaukie, a distance of 4.28 miles, and includes 2.11 miles secondary and yard trackage, for a total trackage of 6.39 miles to be operated in Clackamas County, OR. The line to be acquired from MWRL extends from a connection with the UP main track at UP milepost 747.568 in the city of Canby, OR, to MP 757.50 at Molalla, a distance of 9.93 miles, and includes 1.45 miles of secondary and yard trackage, for a total trackage of 11.38 miles to be operated in Clakamas County, OR. The projected revenues of OPR will not exceed those of a Class III railroad.

Because OPR did not file its verified notice, as amended, until May 4, 1998, the effective STB Finance Docket No. 33570 date of the exemption was May 11, 1998 (7 days after the exemption was filed).[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33570, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N. W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard A. Samuels, President, Oregon Pacific Railroad Company, P.O. Box 22548, Portland, OR 97269.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 12, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13094 Filed 5–19–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedules for the Issuance of Definitive Securities and TREASURY DIRECT Securities Accounts

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury is announcing two schedules of fees for marketable Treasury securities. The schedules are for the fees charged for the issuance of definitive securities and the fees for the annual maintenance of certain TREASURY DIRECT securities accounts.

EFFECTIVE DATE: May 14, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–7761.

SUPPLEMENTARY INFORMATION:

On January 23, 1995, the Department of the Treasury established fee schedules for the issuance of definitive securities and the maintenance of certain TREASURY DIRECT securities accounts.

The Treasury has decided that the fees for the issuance of definitive securities and the maintenance of certain TREASURY DIRECT Securities Accounts should remain unchanged from the amounts currently in effect.

Schedule of Fees for Definitive Securities

The fee schedule for the issuance of a definitive security is as follows: a fee of $50 will be charged for each definitive security issued on a transfer, reissue, exchange or withdrawal from book-entry form, or as a result of the granting of relief on account of loss, theft, destruction, mutilation or defacement. Payment of the fee must accompany the request for the issues of securities in physical form. If a request results in the issuance of more than one security, the amount of the fee is arrived at by multiplying the number of pieces requested by $50. The fee announced above shall remain in effect until further notice.

Schedule of Fees for TREASURY DIRECT Securities Accounts

The fee schedule for TREASURY DIRECT securities accounts is as follows: each TREASURY DIRECT securities account holding Treasury bonds, notes and bills pursuant to 31 CFR part 357 that exceeds $100,000 in par amount as of a selected date in May of each year will be charged an annual maintenance fee in the amount of $25. This fee shall remain in effect until further notice. Each account holder will be individually billed.

Dated: May 14, 1998.

Van Zeck,

Commissioner of the Public Debt.

[FR Doc. 98–13409 Filed 5–15–98; 1:31 pm]

BILLING CODE 4810–39–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1040–ES, 1040–ES (NR), 1040–ES (Espanol)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form

[1] An agreement was reached among the parties on December 31, 1996, to transfer all assets from both EPTC and MWRL to OPR effective January 1, 1997. Due to oversight, OPR has been operating the rail lines since January 1, 1997, without appropriate authority from the Board.

[2] Under 49 CFR 1150.32(b), a notice of exemption does not become effective until 7 days after filing.

1040–ES, Estimated Tax for Individuals, Form 1040–ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals, and Form 1040–ES (Espanol),
Contribuciones Federales Estimadas Del Trabajo Por Cuenta Propia Y Sobre el Empleo De Empleados Domesticos—Puerto Rico.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Estimated Tax for Individuals (Form 1040–ES), U.S. Estimated Tax for Nonresident Alien Individuals (Form 1040–ES (NR)), and Contribuciones Federales Estimadas Del Trabajo Por Cuenta Propia Y Sobre el Empleo De Empleados Domesticos—Puerto Rico (Form 1040–ES (Espanol)).

OMB Number: 1545–0087.

Form Number: 1040–ES, 1040–ES (NR), 1040–ES (Espanol).

Abstract: Form 1040–ES is used by U.S. citizens and resident aliens to make estimated tax payments of income (and self-employment) tax due in excess of tax withheld. Form 1040–ES (NR) is used by nonresident aliens to pay any income tax due in excess of tax withheld. Form 1040–ES (Espanol) is printed in Spanish for use in Puerto Rico and includes payment vouchers for payment of self-employment tax on a current basis.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 40,991,991.

Estimated Time Per Response: 2 hr., 40 min.

Estimated Total Annual Burden Hours: 109,302,321.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13452 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1116

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1116, Foreign Tax Credit (Individual, Estate, Trust, or Nonresident Alien Individual).

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit (Individual, Estate, Trust, or Nonresident Alien Individual).

OMB Number: 1545–0121.

Form Number: 1116.

Abstract: Form 1116 is used by individuals (including nonresident aliens), estates, or trusts who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by the IRS to determine if the foreign tax credit is properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 589,900.

Estimated Time Per Respondent: 5 hr., 58 min.

Estimated Total Annual Burden Hours: 3,517,279.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13453 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8736

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

OMB Number: 1545–1054.

Form Number: 8736.

Abstract: Form 8736 is used by partnerships, REMICs, and by certain trusts to request an automatic 3-month extension of time to file Form 1065, Form 1066 or Form 1041. Form 8736 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 36,000.

Estimated Time Per Respondent: 4 hr., 3 min.

Estimated Total Annual Burden Hours: 145,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13454 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8829

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8829, Expenses for Business Use of Your Home.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Expenses for Business Use of Your Home.

OMB Number: 1545–1266.

Form Number: 8829.

Abstract: Internal Revenue Code section 280A limits the deduction for business use of a home to the gross income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to compute the allowable deduction and any carryover, and the IRS uses the information to verify that these amounts are properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,000,000.

Estimated Time Per Respondent: 2 hr., 35 min.

Estimated Total Annual Burden Hours: 10,360,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13455 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–E

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–E, Employee Benefit Plan Declaration and Signature for Electronic/Magnetic Media Filing.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employee Benefit Plan Declaration and Signature for Electronic/Magnetic Media Filing.

OMB Number: 1545–1033.

Form Number: 8453–E.

Abstract: Form 8453–E is used as part of the electronic filing program for Forms 5500, 5500–C/R, and 5500–EZ. The form is the signature document that completes the filing of an employee benefit plan return/report transmitted via electronic or magnetic media.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 54 min.

Estimated Total Annual Burden Hours: 45,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13456 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2350

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2350, pplication for Extension of Time To File U.S. Income Tax Return.

DATES: Written comments should be received on or before May 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File U.S. Income Tax Return.

OMB Number: 1545–0070.

Form Number: 2350.

Abstract: Form 2350 is used to request an extension of time to file in order to meet either the bona fide residence test or the physical presence test to qualify for the foreign earned income exclusion and/or the foreign housing exclusion or deduction. The information furnished is used by the IRS to determine if the extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households

Estimated Number of Respondents: 22,594.

Estimated Time Per Respondent: 55 min.

Estimated Total Annual Burden Hours: 20,786.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13457 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8606

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8606, Nondeductible IRAs (Contributions, Distributions, and Basis).

DATES: Written comments should be received on or before May 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nondeductible IRAs (Contributions, Distributions, and Basis).

OMB Number: 1545–1007.

Form Number: 8606.

Abstract: Internal Revenue Code Section 408(o) allows taxpayers to elect to make nondeductible contributions to individual retirement plans. This section also requires taxpayers to report to the IRS certain information regarding nondeductible contributions and distributions. Form 8606 is used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 997,748.

Estimated Time Per Respondent: 1 hr., 15 min.

Estimated Total Annual Burden Hours: 1,247,185.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13458 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 943, 943–PR, 943–A, and 943A–PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 943, Employer's Annual Tax Return for Agricultural Employees, 943–PR, Planilla Para La Declaracion Anual De La Contribucion Del Patrono De Empleados Agricolas, 943–A, Agricultural Employer's Record of Federal Tax Liability, and 943A–PR, Registro De La Obligacion Contributiva Del Patrono Agricola.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Tax Return for Agricultural Employees (Form 943), Planilla Para La Declaracion Anual De La Contribucion Del Patrono De Empleados Agricolas (Form 943–PR), Agricultural Employer's Record of Federal Tax Liability (Form 943–A), and Registro De La Obligacion Contributiva Del Patrono Agricola (Form 943A–PR).

OMB Number: 1545–0035.

Form Number: 943, 943–PR, 943–A, and 943A–PR.

Abstract: Agricultural employers must prepare and file Form 943 and Form 943–PR (Puerto Rico only) to report and pay FICA taxes and income tax voluntarily withheld (Form 943 only). Agricultural employers may attach Forms 943–A and 943A–PR to Forms 943 and 943–PR to show their tax liabilities for semiweekly periods. The information is used to verify that the correct tax has been paid.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 392,443.

Estimated Time Per Respondent: 11 hr., 14 min.

Estimated Total Annual Burden Hours: 4,409,010.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13459 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8288–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8288–B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

DATES: Written comments should be received on or before July 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

OMB Number: 1545–1060.

Form Number: 8288–B.

Abstract: Section 1445 of the Internal Revenue Code requires transferees to withhold tax on the amount realized from sales or other dispositions by foreign persons of U.S. real property interests. Code sections 1445(b) and (c) allow the withholding to be reduced or eliminated under certain circumstances. Form 8288–B is used to apply for a withholding certificate from IRS to reduce or eliminate the withholding required by Code section 1445.

Current Actions:

Lines 1 through 3 of Form 8288-B have been revised. Line 1 was unclear in its usage and often resulted in duplication of information on lines 2 or 3. In most cases, the filer of the certificate is actually the transferee's or transferor's agent on behalf of the applicant. For this reason, line 1 has been changed to line 4, the header changed to read "Name of withholding agent," and the address block revised so that the requester can inform the IRS where to send the certificate. Also, a separate space on line 4 now requests the name of the estate, trust, or other entity, identification number and phone number. Lines 2 and 3 on the current version are now lines 1 and 2. A box on line 1 of the current version requesting that the applicant identify whether it is the transferee or transferor is now line 3.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 5,079.

Estimated Time Per Respondent: 5 hr., 5 min.

Estimated Total Annual Burden Hours: 25,801.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 5, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–13460 Filed 5–19–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation.

SUBJECT: Board of Directors.

TIME AND DATE: Friday, May 15, 1998.

PLACE: Telephonic Meeting.

STATUS: The Board meeting will be closed to the public.

MATTER TO BE CONSIDERED: Issues related to privatization of the Corporation and other commercial, financial and operational issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle at 301/564–3399.

Dated: May 15, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–13523 Filed 5–15–98; 8:45 am]

BILLING CODE 8720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Veterans' Advisory Committee on Environmental Hazards has been renewed for a 2-year period beginning April 27, 1998, through April 27, 2000.

Dated: May 12, 1998.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–13367 Filed 5–19–98; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Gulf War Expert Scientific Advisory Committee, Notice of Availability of Executive Summary of Meeting Held on March 30–31, 1998

Notice is hereby given that the Executive Summary of the Gulf War Expert Scientific Advisory Committee meeting held on March 30–31, 1998, is available.

The Executive Summary outlines the activities and recommendations of the meeting relative to patient care and medical diagnoses affecting Gulf War era veterans. It is available for public inspection at the below location:

Dr. Robert Allen (13), Executive Secretary, Department of Veterans Affairs, Office of Public Health and Environmental Hazards, VA Central Office, Room 872, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: May 11, 1998.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–13368 Filed 5–19–98; 8:45 am]

BILLING CODE 8320–01–M

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Part II

Department of Health and Human Services

45 CFR Part 46
Protection of Human Research Subjects; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 46

RIN 0925–AA14

Protection of Human Research Subjects

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) is proposing to amend its human subjects protection regulations applicable to research conducted or supported by HHS, by replacing the existing Subpart B of the regulations entitled "Additional DHHS Protections Pertaining to Research, Development, and Related Activities Involving Fetuses, Pregnant Women, and Human In Vitro Fertilization" with new regulations entitled "Additional DHHS Protections for Pregnant Women, Human Fetuses, and Newborns Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization." This revision continues the Department's recognition of the need to provide special protections for the human fetus and newborn in research, while eliminating unnecessary barriers to consent to research that can benefit fetuses or newborns.

Additionally, consistent with recent practices and statutory changes, this proposed regulation provides a mechanism for special ethical reviews on an ad hoc basis as may be deemed appropriate by the Secretary, HHS.

DATES: Comments on the proposed regulation must be received on or before August 18, 1998.

ADDRESSES: Comments must be mailed to: Carol Wigglesworth, Senior Policy Analyst, Office for Protection from Research Risks, 6100 Executive Boulevard, Suite 3B01, MSC–7507, Rockville, MD 20892–7507. The Department invites written comments on the proposed regulations and requests that comments identify the specific regulatory provisions to which they relate.

FOR FURTHER INFORMATION CONTACT: Carol Wigglesworth, Senior Policy Analyst, Office for Protection from Research Risks, 6100 Executive Boulevard, Suite 3B01, MSC–7507, Rockville, MD 20892–7507, (301) 402–5913 (not a toll-free number). Interested persons may obtain a fax copy of the current regulations for the protection of human research subjects (45 CFR 46), including Subpart B as well as Subparts A, C, and D, by telephoning (301) 594–0464 (not a toll free number) and requesting document number 1004.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1975, The Department of Health and Human Services (HHS) [then the Department of Health, Education, and Welfare (HEW)] published regulations pertaining to research involving fetuses, pregnant women, and human in vitro fertilization. Those regulations were consistent with the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (National Commission) and were codified at Subpart B of Title 45, Part 46, of the Code of Federal Regulations. Along with subsequent secondary changes, incorporated on January 11, 1978 and June 1, 1994, these regulations remain in force today. Both the 1975 Report of the National Commission and the 1975 regulations were published in the **Federal Register** on August 8, 1975 (40 FR 33526 (1975)).

During the last four years, the following pertinent events involving research covered by the 1975 regulations occurred:

- The enactment on June 10, 1993 of the "National Institutes of Health (NIH) Revitalization Act of 1993" (Pub. L. 103–43) nullifying the HHS regulatory requirement for Ethical Advisory Board review of research involving in vitro fertilization of human ova at 45 CFR 46.204(d) (59 FR 28276 (1994)).
- The 1994 recommendations of the Institute of Medicine Committee on the Ethical and Legal Issues Relating to the Inclusion of Women in Clinical Studies urging the Office for Protection from Research Risks (OPRR), HHS, to "* * * revise and reissue subpart B * * *" of the human subject protection regulations consistent with the Committee's recommendations for enhanced inclusion of women in research studies (*Women and Health Research:* Ethical and Legal Issues of Including Women in Clinical Studies, National Academy Press, 1994).
- The issuance of a Food and Drug Administration "Guideline for the Study and Evaluation of Gender Differences in the Clinical Evaluation of Drugs" on July 22, 1993 (58 FR 39406 (1993)), the issuance of NIH "Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research" on March 28, 1994 (59 FR 14508 (1994)), and the issuance of a Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry "Policy on the Inclusion of Women and Racial and Ethic Minorities in Externally Awarded Research" on September 15, 1995 (60 FR 47947 (1995)), each designed, in part, to improve the opportunity for women to be included as human subjects in research.
- The enactment on September 30, 1996, of the "Omnibus Consolidated Fiscal Year 1997 Appropriations Act" (Pub. L. 104–208) prohibiting HHS from using funds appropriated by the act for (i) the creation of a human embryo or embryos for research purposes, or (ii) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)). On January 26, 1996, identical language pertinent to FY 1996 funds had been enacted in Pub. L. 104–99.

The impact of these events on research involving pregnant women, fetuses, and in vitro fertilization and the fact that there had been no major review of the regulations applicable to these subjects for nearly two decades, presented a forceful argument for a contemporaneous review of these regulations.

The OPRR, located at NIH, has HHS-wide responsibility for the development, implementation, and compliance oversight of these regulations. The Director, OPRR, convened the Public Health Service Human Subject Regulation Drafting Committee, a committee of representatives of the heads of the pertinent operating components within the Public Health Service, to evaluate Subpart B of 45 CFR Part 46 and to consider if revisions were in order. Beginning in May 1994, this committee met twice monthly over the next 14 months to review the regulations and to make recommendations for any needed revisions.

The Drafting Committee found that the regulations provide adequate protections for women and fetuses. In light of the IOM Report and the NIH guidelines on the Inclusion of Women and Minorities as subjects in Clinical Research, the Drafting Committee concluded that women ought not be unnecessarily excluded from research on the basis of pregnancy.

Accordingly, this proposed rule institutes a policy of presumed opportunity for inclusion of pregnant women in research in place of one of presumed exclusion. Similarly, the proposed rule modifies the consent requirements for fetal research to remove potential barriers to therapeutic research that might provide medical

benefit to a fetus. The Drafting Committee also found that nonsubstantive technical, formatting, and clarifying changes are in order.

In the midst of the Drafting Committee's evaluation and discussion, the National Task Force on AIDS Drug Development, chaired by the Assistant Secretary for Health, recommended that the regulations applicable to pregnant subjects of research be amended to remove any requirement that permission or consent of the father of the fetus be obtained before the woman could become a research subject. The Drafting Committee carefully reviewed the issue of a "paternal consent" requirement for participation of pregnant women and has incorporated into this proposed rule changes which are responsive to the recommendation of the Task Force. The Presidential Advisory Council on HIV/AIDS subsequently addressed the matter of paternal consent during their December 1995 meeting, and recommended that the Secretary, HHS publish for public comment proposed regulations regarding participation of pregnant women in clinical trials, with a revision which will provide that the lack of a written consent from the father of the fetus will not disqualify a pregnant woman from participation in a federally funded clinical trial.

The Drafting Committee approved a proposed rule and recommended that the Assistant Secretary for Health and the Secretary, HHS, publish the proposal for public comment. The notice of proposed rulemaking fulfills that recommendation.

Proposed Changes to Subpart B

See Figure 1 and Table 1.

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Figure 1. Relationships Among Selected Terms Employed in Proposed Subpart B.

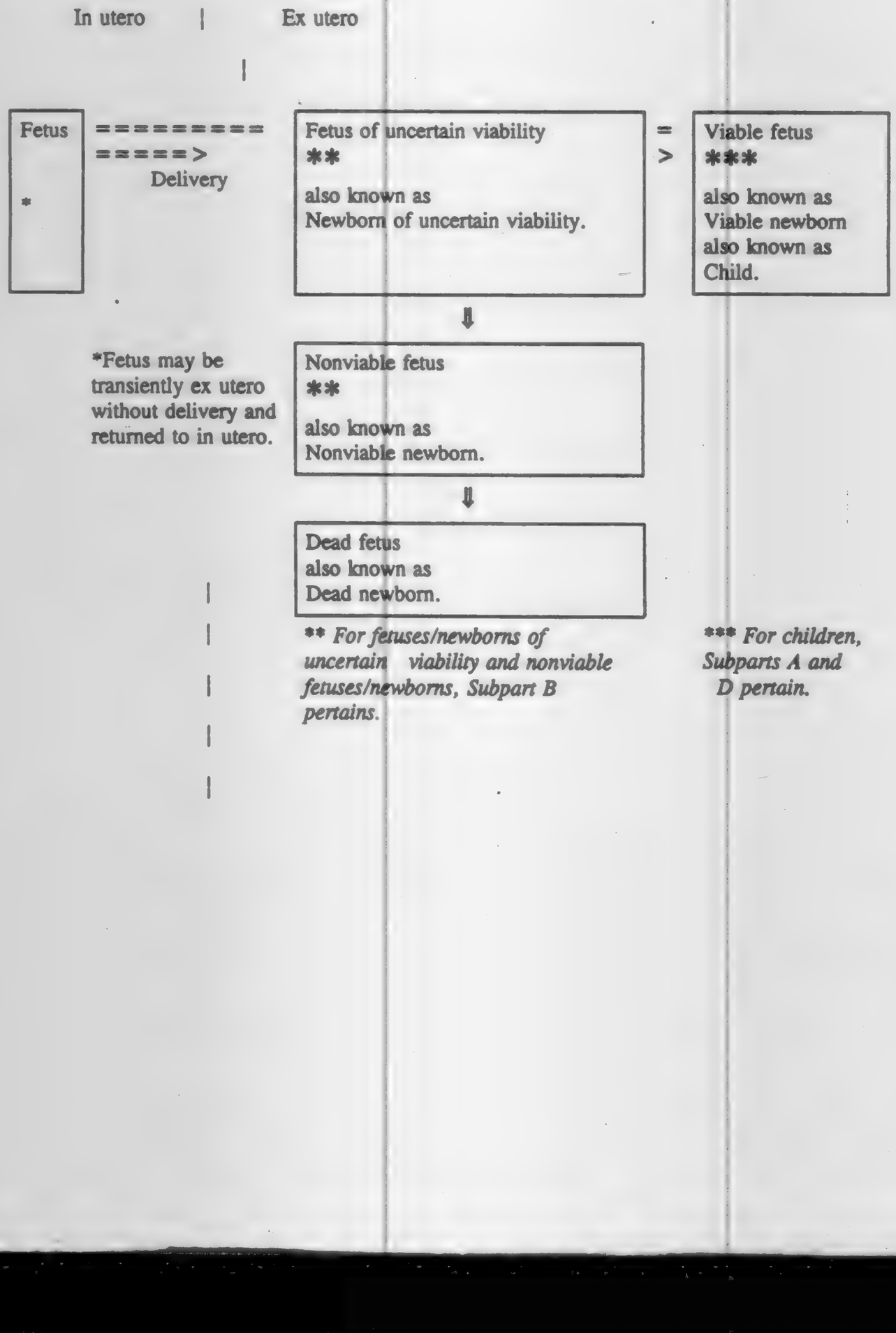


TABLE 1 - Current and Proposed 45CFR46, Subpart B

Content	Current Regulations	Proposed Changes
General limitations.	Appropriate studies on animals and nonpregnant individuals must have been completed. Individuals engaged in research will have no part in any decisions as to the timing, method, and procedures used to terminate the pregnancy, and in determining the viability of the fetus at the termination of the pregnancy. Inducements, monetary or otherwise, may not be offered to abort pregnancy.	*No substantive change.* Language is more explicit about preclinical and clinical studies and resulting data to assess potential risks. *No substantive change.* Redundant language deleted.
Regulatory presumption.	Presumption of *exclusion* of pregnant women from research. Language states "No activity... may be undertaken unless...".	Presumption of *inclusion* of pregnant women in research. Language states "Pregnant women may be involved if all the following conditions are met...".
Definitions:		
"Pregnancy"	From confirmation of implantation until expulsion or extraction of the fetus.	*No substantive change.* Defined as implantation until delivery.
"Fetus"	The product of conception from implantation to an ex utero determination of viability.	*No substantive change.* "[F]rom implantation" replaced with "during pregnancy." "[P]regnancy" defined as implantation until delivery.
"Newborn"	No definition in current rule.	Defined as a fetus after delivery.
"Viable" (current rule) = "viable fetus" or "viable newborn" (proposed)	A fetus that is able to survive, ex utero, to the point of independently maintaining heart beat and respiration.	*No substantive change.* Reference to "newborn" added and reference to "infant" deleted.
"Nonviable fetus" (current rule) = "nonviable fetus" or "nonviable newborn" (proposed)	A fetus, ex utero, which, although living, is not viable.	*No substantive change.* Reference to "newborn" added.
"Dead fetus" (current rule) = "dead fetus" or "dead newborn" (proposed)	A fetus ex utero which exhibits neither heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, nor pulsation of the umbilical cord (if attached).	*No substantive change.* Reference to "newborn" added.
"Children"	No definition in current rule.	Defined as persons who have not attained the legal age for consent, consistent with 45CFR46, Subpart D.
"In vitro fertilization"	Fertilization of human ova outside of the body.	*No change.*
Research involving in vitro fertilization.	IRB review and approval required.	*No change.*
Exempt research.	No categories of research are exempt.	Exemptions at 46.101(b)(1)-(6) pertain.

Research involving pregnant women.	Any risk to the fetus must be the least possible risk for achieving the objectives of the research. Either (1) the purpose of the activity is to mee.. the health needs of the mother and the fetus will be placed at risk only to the minimum extent necessary to meet such needs, or (2) the risk to the fetus is minimal. Consent of the mother and consent of the father are required unless the purpose is to meet the health needs of the mother, or the father is unknown, unavailable, or the pregnancy resulted from rape.	*No substantive change.* This section combined with section on research involving fetuses. *No substantive change.* The risk to the fetus is not greater than minimal, or any risk to the fetus which is greater than minimal is caused solely by activities designed to meet the health needs of the mother or her fetus. Consent of the father is not required. Consent of the mother *or* her legally authorized representative is required. Mother must be informed of the reasonably foreseeable impact of the research on the fetus.
Research involving fetuses.	Any risk to the fetus must be the least possible risk for achieving the objectives of the research. Either (1) the purpose of the activity is to meet the health needs of the particular fetus and the fetus will be placed at risk only to the minimum extent necessary to meet such needs, or (2) the risk to the fetus imposed by the research is minimal and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means. Consent of the mother *and* consent of the father are required unless the father is unknown, unavailable, or the pregnancy resulted from rape.	*No substantive change.* This section combined with section on research involving pregnant women. *No substantive change.* The risk to the fetus is not greater than minimal, or any risk to the fetus which is greater than minimal is caused solely by activities designed to meet the health needs of the mother or her fetus. The requirement for IRB determination about purpose of activity is obviated by new requirement for mother's determination about participation in the activity after being informed about risk to fetus. Consent of the father is not required. Consent of the mother *or* her legally authorized representative is required. Mother must be informed of the reasonably foreseeable impact of the research on the fetus.
Research involving newborns of uncertain viability.	There may be no added risk from the research activity unless the purpose of the research is to enhance the possibility of survival of the particular fetus to the point of viability. Purpose must be the development of important biomedical knowledge which cannot be obtained by other means. Consent of legally competent mother and consent of legally competent father are required, unless the father is unknown, unavailable, or the pregnancy resulted from rape.	*No change.* Consent of the mother *or* the father is required, *or* that of a legally authorized representative of the mother *or* father if both parents are unavailable, temporarily incapacitated, or incompetent.
Research involving nonviable newborns.	The vital functions of the newborn may not be artificially maintained, the research may not terminate the heartbeat or respiration, and there may be no added risk of injury or death. Purpose must be the development of important biomedical knowledge which cannot be obtained by other means. Consent of legally competent mother and consent of legally competent father are required, unless the father is unknown, unavailable, or the pregnancy resulted from rape.	*No change.* Consent of the mother and father are required, *unless* one is unavailable, incompetent, or temporarily incapacitated. Consent of a legally authorized representative is prohibited.
Research involving viable newborns.	Requires that the research be conducted in accord with requirements of other Subparts.	*No substantive change.* An explicit reference to Subpart D, Additional Protections for Children, is added.

Provision for special review by experts.	Requires one or more HHS Ethical Review Boards (EAB) to render advice on issues raised by applications or proposals. Secretary has authority to establish classes of research that must be reviewed by the EAB.	Requirement for EAB deleted. Provides Secretary, HHS, with the discretion, after consulting, as needed with a panel of experts, to modify or waive requirements for specific projects or classes of research.

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Section 46.201 To what do these regulations apply?

Paragraph (a)—There is no substantive change to this paragraph. Consistent with recent revisions of other subparts of Part 46, references to grants and contracts are deleted to demonstrate that these regulations apply to all activities, intramural and extramural, which are conducted or supported by the Department.

Paragraph (b)—It is now proposed that the exemptions at § 46.101(b)(1)–(6) of Subpart A be applicable to Subpart B. These exemptions were proposed, discussed, and promulgated subsequent to the last substantive revision of Subpart B. The proposals, discussions, and promulgations of these exemptions were published in the **Federal Register** on: August 14, 1979 (exemptions first proposed, 44 FR 47688); January 26, 1981 (exemptions first promulgated, 46 FR 8366); March 22, 1982 (new exemption proposed, 47 FR 12276); March 4, 1993 (new exemption promulgated, 48 FR 9276); March 8, 1983 (exemptions added to Subpart D of 45 CFR 46, 48 FR 9814); June 3, 1986 (exemptions proposed for proposed Model Federal Policy for the Protection of Human Subjects, 51 FR 20204); November 10, 1988 (exemptions proposed in revised proposed Federal Policy for the Protection of Human Subjects, 53 FR 45661); and June 18, 1991 (exemptions revised in promulgation of Federal Policy for the Protection of Human Subjects, 56 FR 28003). The Department is particularly interested in comment on the inclusion of these exemptions.

Paragraph (c)—This provision extends the additions, exceptions, and provisions for waiver, as set forth in paragraphs (c) through (i) of § 46.101 of Subpart A of Part 46, to the regulations at Subpart B. The provision is identical to § 46.401(c) of the regulations providing additional protection for research involving children. It does not appear in the existing Subpart B only because the additions, exceptions, and provisions for waiver were not included in Subpart A at the time Subpart B was promulgated.

Paragraphs (c) through (i) of § 46.101 address: the authority of Department and Agency heads to determine the applicability of the regulations to specific research activities or classes of research activities (paragraphs (c), (d), and (i)); the relationship of the regulations to any Federal laws or regulations providing additional protection for human subjects (paragraph (e)); the relationship of the regulations to any state or local laws or regulations which provide additional protection for human subjects (paragraph (f)); the relationship of the regulations to foreign laws or regulations which provide additional protection for human subjects (paragraph (g)); and the authority of Department and Agency heads to determine the applicability of foreign procedures for the protection of human subjects which differ from the requirements of the regulations (paragraph (h)). Note that the proposed § 46.201(c) clarifies that the reference to State or local laws is intended to include the laws of federally recognized American Indian and Alaska Native Tribal Governments.

The authority for determinations by Department and Agency heads under those provisions and the recognition of Federal, State, local, and foreign laws and regulations that provide additional protection for human subjects can and should be applied to the research covered by Subpart B in the same manner as they apply to other research involving human subjects.

Section 46.202 Definitions

The text of the existing § 46.202, "Purpose," is unnecessary because it does not provide any substantive guidance. It is deleted in the proposed regulation. The absence of a "purpose" section is consistent with Subparts A and D of 45 CFR Part 46.

Definitions in existing § 46.203 are moved to § 46.202 in the proposed regulation. The definitions in the proposed regulation are substantively the same as those in the existing regulation; some language has been clarified or simplified and definitions of "newborn" and "children" are provided.

Paragraph (a) *"Secretary"*—no change

Paragraph (b) *"Pregnancy"*—The definition conforms with the standard medical definition of pregnancy. The phrase "expulsion or extraction of the fetus" has been replaced by the commonly used term "delivery" here and throughout Subpart B. The word "confirmation" of implantation has been deleted as unnecessary. (If a woman shows any presumptive sign of pregnancy, such as missed menses, she is considered pregnant until the results of a pregnancy test are negative or until delivery.)

Paragraph (c) *Fetus*—the definition has been simplified by adding the phrase "during pregnancy" and deleting reference to ex utero.

Paragraph (d) *Newborn*—the definition is new and equates to a fetus after delivery.

Paragraph (e) *Nonviable fetus or nonviable newborn*—the definition replaces the current definition of "nonviable fetus" which refers to fetuses ex utero. Both terms (fetus and newborn) are provided because some persons may prefer one term to the other depending on the length of the gestational period. No substantive change is intended.

Paragraph (f) *Dead fetus or dead newborn*—the definition replaces the definition of dead fetus which pertains to a fetus ex utero. Both terms (fetus and newborn) are provided because some persons may prefer one term to the other depending on the length of the gestational period. No substantive change is intended.

Paragraph (g) *Viable fetus or viable newborn*—the definition refers to fetuses after delivery and replaces the current definition which refers to fetuses ex utero. A viable fetus or a viable newborn is a child. Both terms (fetus and newborn) are provided because some persons may prefer one term to the other depending on the length of the gestational period. The meaning of viability is unchanged, and a reference to Subpart D is added.

Paragraph (h) "Children"—the definition in Subpart D is repeated in this subpart for ease of reference.

Paragraph (i) *"In vitro fertilization"*—no change.

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Section 46.203 Duties of IRBs in Connection With Research Involving Pregnant Women, Human Fetuses, Newborns and Human in Vitro Fertilization

Definitions in existing § 46.203 are found in § 46.202 in the proposed regulation.

Definitions in existing § 46.203 are found in § 46.202 in the proposed regulation. There is no substantive change to this section; the language is more concise. The proposed § 46.203 would replace the existing § 46.205 regarding IRB duties, which is duplicative of language in Subpart A.

In assessing research involving pregnant women, IRBs must be attentive to the Department's objective that research it supports include pregnant women unless there are compelling reasons to exclude them. In other words, the presumption is one of inclusion, not exclusion.

Pregnant women are not a vulnerable population solely by virtue of pregnancy. IRBs should consider if proposed research has the potential to diminish or interfere with this population's ability to make a decision. That is, in its review, the IRB should note that the intent of "vulnerable" in Subpart A, section 46.111(a)(3) and (b) of these regulations, when applied to pregnant women, is not that pregnant women have less capacity to make autonomous decisions than men or non-pregnant women, but that sometimes the medical management of pregnancy has the potential to apply coercion to a woman due to her concerns for the health of the fetus. This may be particularly relevant in the case where a researcher views a planned research activity as potentially highly beneficial to a pregnant woman with a life-threatening illness or to a fetus and, therefore, the researcher believes that the potential benefit of the planned research should override the autonomy of a pregnant woman. The 1978 report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (the *Belmont Report*), and the resulting regulations in 45 CFR 46, stand in direct contrast to that position. *The Belmont Report* shall guide the interpretation of the regulations in section 46.203 so that a pregnant woman's decisionmaking autonomy is always preeminent.

Section 46.204 Research Involving Pregnant Women or Fetuses

The existing § 46.204 entitled "Ethical Advisory Boards" calls for the establishment of one or more standing EABs by the Secretary, HHS. These EABs were to have had broad expertise and advise the Secretary with regard to ethical issues raised by research activities covered by Subpart B. This proposed regulation deletes the text of existing § 46.204 (a)–(c) and proposes a provision for convening an ad hoc panel of expert consultants to review proposals for modification or waiver of the regulation which are raised by individual research proposals. (See proposed § 46.207). An EAB has not existed within the Department since 1980, and § 46.204(d), which required EAB review prior to HHS funding of human in vitro fertilization, was nullified June 10, 1993, by the NIH Revitalization Act of 1993, Pub. L. 103–43.

The obligations and requirements in existing §§ 46.206 (General limitations), 46.207 (Activities directed toward pregnant women as subjects) and 46.208 (Activities directed toward fetuses in utero as subjects), are combined into a single section in the proposed rule, § 46.204, for ease of reference.

From the standpoint of risk to mother or fetus, it is irrelevant whether research is "directed toward" the woman or directed toward the fetus, because research on either affects both. Thus, if a pregnant woman and her fetus are involved in research, regardless of whether she or her fetus is the object of the research, the protections should be essentially identical. Accordingly, the proposed regulation combines all relevant protections for pregnant women and fetuses into a single section and deletes any reference to the object of the research.

The proposed rule adds specificity to the current requirement for preclinical studies on animals and nonpregnant individuals, by calling for "scientifically" appropriate studies, including studies on pregnant animals, that provide data to assess potential risks (proposed § 46.204(a)).

The proposed risk threshold is unchanged. Pregnant women or fetuses may not be involved in research unless the risk to the fetus is not greater than minimal, except when the risk to the fetus is caused solely by research designed to meet the health needs of the mother or the fetus (proposed § 46.204(b)). The existing requirement that any risk be the least possible risk for achieving the objectives of the research is also unchanged in the proposed regulation.

The proposed regulation includes a reminder (proposed § 46.204(f)) that research involving pregnant children is subject to the requirements for research involving children in 45 CFR Part 46, Subpart D, Additional DHHS Protections for Children Involved as Subjects in Research.

The existing prohibition on the involvement of research personnel in decisions regarding the timing, method, or procedures to terminate a pregnancy, and in determinations of viability is unchanged (proposed § 46.204(g)). The phrase "terminate the pregnancy" is replaced by "abort" in the proposed rule. The existing prohibition on inducements to terminate pregnancy is strengthened by deleting the phrase "for purposes of the activity" (i.e., research), thus barring any inducement to abortion regardless of the purpose (proposed § 46.204(h)).

The proposed regulation strengthens the existing requirements for informed consent by requiring that the pregnant woman be informed of the reasonably foreseeable impact on the fetus, irrespective of the focus of the research (proposed § 46.204(d)).

Current regulations require, in most instances, that both parents consent and be legally competent. The Department concurs with recent recommendations of the Presidential Advisory Council on HIV/AIDS and the National Task Force on AIDS Drug Development regarding paternal consent and finds that the fetus is best served by eliminating unnecessary barriers to consent for research that has the possibility of benefitting the fetus. Therefore, the proposed regulation modifies the parental consent requirements by permitting research based on the consent of the mother or her legally authorized representative (proposed § 46.204(e)).

The existing regulation (§§ 46.207(b) and 46.208(b)) permits research involving pregnant women and fetuses only if the mother and father are legally competent and have given their informed consent. The father's consent is not required under certain circumstances: if his identity or whereabouts cannot reasonably be ascertained, if he is not reasonably available, or if the pregnancy resulted from rape. Nor is the father's consent required if the purpose of the research is to meet the health needs of the mother.

When research is directed toward the health needs of the fetus, there is currently no exception to the paternal consent requirement equivalent to the one for the health needs of the mother. Thus, under the existing regulation, there are instances in which research intended to benefit the fetus may not occur because one parent refuses, or because one parent is not legally competent.

The parental consent rules in the existing regulation are based in part on the studies and recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The history of the Commission's consideration of the issue and the resulting regulation is pertinent to the proposed modification. In its Research on the Fetus: Report and Recommendations (May 1975), the Commission proposed that: (1) only the woman's consent be required when the research was directed toward her health needs; and (2) in the other kinds of research, the woman's consent be required and be sufficient if the father does not object (page 73). The final rule published on August 8, 1975 as 45 CFR Part 46, Subpart B, Additional DHHS Protections Pertaining to Research, Development, and Related Activities Involving Fetuses, Pregnant Women, and Human In Vitro Fertilization (the existing rule) incorporated the first part of this recommendation, but with respect to research not directed toward the mother's needs it went beyond the recommendation by requiring explicit consent from the father (with the exceptions described above). The rationale was one of practical implementation: the most effective way of determining that the father did not object was to request his consent (40 FR 33526–33527 (1975)).

The Commission looked again at the role of parental consent in its 1976 report, Research Involving Children: Report and Recommendations. It recommended that: (1) the permission [1] of only one parent be required for research involving children that either was not greater than minimal risk, or presented the prospect of direct benefit to the child; and (2) the permission of both parents be required for any other, more problematic, research (pages 12–14). This recommendation was incorporated into 45 CFR Part 46, Subpart D, Additional DHHS Protections for Children Involved as Subjects in Research.

The Commission's recommendations regarding parental consent differ for fetuses and for children despite the similarities when they are subjects of research. The similarities are striking: neither the fetus nor the child (especially an infant) can give consent; the fetus and the child are both vulnerable; both the mother and father have an interest in and legal responsibility for their fetus or their child. Yet the existing requirements for parental consent, based largely on the Commission's recommendations, treat children and fetuses differently. The Commission did not examine or explain the inconsistency. It acknowledged that its report about the fetus was hurried, was its first task, and was done out of sequence (before first examining research in general) (page 61).

In actual experience, one approach to parental consent has presented no problems, the other several problems. Since the regulation for research on children (Subpart D) was issued in 1983, there has been no reported abuse resulting from the policy of requiring only one parent's permission for a child's participation in research that presents no greater than minimal risk or may be of direct benefit to the child or infant. Although both parents have an interest in and responsibility for their child, no parent has been reported to object that research may be conducted with only one parent's permission. Since the regulation governing research on the fetus (Subpart B) was issued in 1975, however, the required consent of both parents for fetal research has posed some difficulties. For example, in the recent trial of the drug zidovudine (AZT) in pregnant women with HIV infection (showing that the drug reduced the percentage of newborns infected with HIV), the requirement to obtain the father's consent was an obstacle to the participation of some women. Some fathers, while "available" in some literal sense, did not wish to be involved with the woman or her pregnancy in any way. In some situations, asking for the father's consent introduced the possibility of retaliation against the pregnant woman by the father. The result in some instances was that fetuses who could benefit from participating in research were excluded when the paternal consent required by the existing regulation could not be obtained.

The barriers to participation posed by the requirement that both parents consent, and the experience with consent by one parent under the regulation for research on children, suggest that accepting consent by one parent provides effective protection for the interests of the fetus and enhances the opportunities for the fetus to benefit from research. In light of the physical realities of pregnancy, any research involving or directed toward the fetus necessarily involves the pregnant woman, and her consent must be sought. Absent her consent, the research could not take place even if the father did consent. Thus, if the consent of one parent is to be sufficient, that parent must be the mother.

The Department recognizes the father's likely interest in and responsibility for the fetus and strongly encourages paternal involvement in decision-making with respect to offspring. The father can normally be assumed to have as much interest, feeling, and concern for the future well-being of the fetus as the mother.

The basic requirements for consent to research in Subpart A offer a framework for participation of the father. Consent may be sought only under circumstances that provide sufficient opportunity to consider whether or not to participate (§ 46.116). In considering whether to participate, many women would wish to consult with the father. In other situations, to seek the consent of the father could be detrimental to the mother or could be an obstacle to a potential therapy for a fetus. The pregnant woman is in the best situation to determine whether she should consult with the father.

Thus, the Department proposes to modify the regulation to accept consent from the mother alone as a sufficient basis for participation of the fetus in the limited classes of research permitted under this subpart, i.e., minimal risk research or research designed to meet the health needs of the mother or her fetus.

A similar barrier to participation is created by the requirement that both parents be legally competent before their consent can be accepted for a fetus to participate in research. Under the other subparts of 45 CFR Part 46 (including the provisions governing research on children (§ 46.408(b))) consent from a legally authorized representative is adequate for participation in research. Thus, it is proposed that consent from a legally authorized representative of the mother could be used as a substitute for the mother's consent (proposed § 46.204(e)). This permits participation in research, including research directed towards the health needs of the pregnant woman or her fetus, even though the pregnant woman is a minor but not emancipated under state law, or is legally incompetent for other reasons. The authorized representative could in many instances be the father.

The proposed changes would establish a consent process that has choice about the best interests of the fetus as its principal objective. The rights and responsibilities of parents and families are recognized by requiring appropriate review and parental involvement.

[1] The term "permission" as used by the Commission and in Subpart D has the same meaning as "consent" for the purposes of this discussion.

Section 46.205 Research Involving Newborns of Uncertain Viability, Nonviable Newborns, and Viable Newborns

It is proposed that the existing § 46.209 be replaced by this section. A number of clarifications are made and the consent requirement is modified to remove barriers to potentially therapeutic research. The proposed title refers to newborns, rather than "fetuses ex utero," and reflects more clearly the three types of situations that may arise after delivery: (a) Viability of the newborn may not be known, (b) the newborn may be known to be nonviable, or (c) the newborn may be known to be viable. The term "activity" is changed to "research" for consistency with other portions of the subpart and to reflect that the regulation addresses risks associated with research activities in contrast to those associated with therapeutic activities that are part of the accepted standard of care.

a. Proposed § 46.205(a) acknowledges that there is sometimes a period of uncertainty about the viability of a newborn. In accordance with section 498 of the Public Health Service Act, 42 U.S.C. 289g, the proposed section limits research during this period to either research that evaluates activities designed to enhance the probability of survival of that particular newborn to viability or risk free research, the purpose of which is the development of important biomedical knowledge which cannot be obtained by other means. As has been the case under the existing regulations, the application of this condition will permit research activities that, in and of themselves, pose no risk to the newborn, such as observational research using monitors or other devices that are already in place as part of normal therapeutic practice, if the purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means.

It is proposed that the consent requirement for research activities on newborns of uncertain viability be changed from the consent of both parents to the consent of either parent, and that the competency requirement for mother and father, in the existing § 46.209(d), be deleted. It is further proposed that if neither parent is able to consent for the reasons given, then the consent of a legally authorized representative of either is sufficient. This less restrictive consent requirement is appropriate for the limited scope of research activities that either must enhance the possibility of survival to viability or pose no risk and be directed toward the development of important biomedical knowledge that cannot be obtained by other means.

The existing regulation, while generally requiring consent from both parents, also recognizes that there may be circumstances when it is not reasonable to require the father's consent; in those circumstances, it allows consent from only one parent, the mother. For research involving the fetus, the mother must clearly be the one to consent. After delivery, however, if consent is to be required from only one parent, HHS proposes that it is appropriate to allow for consent from either the mother or the father. In formulating the new requirement, it is recognized that there may also be circumstances when it is not possible to obtain the mother's consent, (e.g., the mother is under general anesthesia as a result of a surgical delivery). Because of the critical nature of life-saving interventions performed on newborns of uncertain viability, and the limited time available to make decisions regarding participation in potentially beneficial research to enhance the possibility of their survival, the proposed regulation also allows for consent by a legally authorized representative, if needed.

b. With regard to research on nonviable newborns, the proposed regulation is more restrictive. It does not permit a legally authorized representative to consent, and the provisions for IRB waiver of informed consent in Subpart A of 45 CFR Part 46 are not authorized. Research involving nonviable newborns will continue to be strictly limited (i.e., the proposed regulation retains the requirement that the proposed research poses no added risk to the fetus of suffering injury or death and the purpose of the research activity be the "development of important biomedical knowledge that cannot be obtained by other means," and the prohibition against the use of artificial life support or research that would terminate heartbeat or respiration).

In the existing regulation, the consent of both parents is required for research on the nonviable newborn unless, for the reasons given, consent of the father cannot reasonably be obtained then the mother's consent will suffice. In the proposed regulation, the consent of both parents is also required, but if either parent is unable to consent, then the legally effective consent of the other parent will suffice.

The requirement in the existing regulation that both parents be legally competent is replaced by a requirement that at least one parent be competent and provide consent. If neither parent is able to give consent, whether it is because of incompetence or because of some other reason, the research will not be allowed.

c. No substantive changes are proposed to the existing provisions addressing research involving viable newborns. A reference to Subpart D is included.

Section 46.206 Research Involving, After Delivery, the Placenta, the Dead Newborn, or Fetal Material

It is proposed that the existing § 46.210 be replaced by this section. No substantive changes are proposed to the current provisions. The intent of the existing regulation, that *all* placentas after delivery are covered by this section, is clarified.

The Department notes that for cultural reasons, many ascribe special value and significance to the placenta. Further, State, local, or tribal jurisdictions that have laws or regulations concerning research involving the placenta do not necessarily distinguish between the placentas of living or dead fetuses or newborns.

Paragraph (b) of § 46.206 is proposed as a reminder that if, in the course of using the placenta, the dead newborn, or fetal material, a living person (e.g., the mother) is identified in the research, then that living person (e.g., the mother) is a research subject (see definition of human subject at 45 CFR 46.102(f)). In that case, the other subparts of 45 CFR Part 46 are applicable and the researcher is responsible for obtaining any necessary review, assurance, approval, and informed consent.

Section 46.207 Modification or Waiver of Specific Requirements

This proposed section, to replace the existing § 46.211, is parallel to the waiver provisions of Subpart C at § 46.306(a)(2)(C) and (D) and Subpart D at § 46.407. This provision allows the Secretary, HHS, to modify or waive requirements after consultation with appropriate experts and opportunity for public review and comment. In making such a decision, the Secretary must consider whether the risks to the subjects are so outweighed by the sum of the benefits to the subjects and the importance of the knowledge to be gained as to warrant the modification or waiver.

The proposed rule removes the requirement for an EAB, consistent with the NIH Revitalization Act of 1993 (Public Law 103–43).

The following statements are provided for the information of the public.

Executive Order 12866

Executive Order 12866 requires that all regulatory actions reflect consideration of the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term "significant regulatory action" contained in § 3 (f) of the Order, pre-publication review by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) is necessary. OMB deemed this proposed rule a "significant regulatory action," as defined under Executive order 12866. Therefore, the proposed rule was submitted to OIRA for review prior to its publication in the **Federal Register**.

Regulatory Flexibility Act

This proposed rule primarily affects individual persons. None of the changes proposed will have the effect of imposing costs on universities, other research institutions, or other small entities. Therefore, the Secretary certifies that this rule will not have significant impact on a substantial number of small entities and that preparation of an initial regulatory flexibility analysis is not required.

Paperwork Reduction Act

This proposed rule does not contain any new information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 42 CFR Part 46

Health—clinical research, Medical research.

Dated: April 3, 1997.

Harold E. Varmus,

Director, National Institutes of Health.

Approved: September 16, 1997.

Donna E. Shalala,

Secretary.

Editorial Note: This document was received at the Office of The Federal Register May 13, 1998.

For reasons presented in the preamble, it is proposed to amend part 46 of title 45 of the Code of Federal Regulations as set forth below.

PART 46—PROTECTION OF HUMAN SUBJECTS

1. The authority citation for 45 CFR part 46 would be revised to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 289(a).

2. Subpart B of 45 CFR part 46 would be revised to read as follows:

Subpart B—Additional DHHS Protections for Pregnant Women, Human Fetuses, and Newborns Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization

Sec.

46.201 To what do these regulations apply?
46.202 Definitions.
46.203 Duties of IRBs in connection with research involving pregnant women, human fetuses, newborns, and human in vitro fertilization.
46.204 Research involving pregnant women or fetuses.
46.205 Research involving newborns of uncertain viability, nonviable newborns, and viable newborns.
46.206 Research involving after delivery, the placenta, the dead newborn, or fetal material.
46.207 Modification or waiver of specific requirements.

§ 46.201 To what do these regulations apply?

(a) Except as provided in paragraph (b) of this section, this subpart applies to all research involving pregnant women, human fetuses, and newborns as subjects, and to all research involving the in vitro fertilization of human ova, conducted or supported by the Department of Health and Human Services. This includes all research conducted in Department facilities by any person and all research conducted in any facility by Department employees.

(b) The exemptions at § 46.101(b) (1) through (6) are applicable to this subpart.

(c) The additions, exceptions, and provisions for waiver as they appear in § 46.101(c) through (i) are applicable to this subpart. Reference to State or local laws in this subpart and in § 46.101(f) is intended to include the laws of federally recognized American Indian and Alaska Native Tribal Governments.

§ 46.202 Definitions.

The definitions in § 46.102 shall be applicable to this subpart as well. In addition, as used in this subpart:

(a) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services (DHHS) to whom authority has been delegated.

(b) *Pregnancy* encompasses the period of time from implantation until delivery. A woman shall be assumed to be pregnant if she exhibits any of the pertinent presumptive signs of pregnancy, such as missed menses, until the results of a pregnancy test are negative or until delivery.

(c) *Fetus* means the product of conception during pregnancy until a determination is made after delivery that it is viable.

(d) *Newborn* is a fetus after delivery.

(e) *Nonviable fetus* or *nonviable newborn* means a newborn or fetus after delivery that, although living, is not viable.

(f) *Dead fetus* or *dead newborn* means a newborn or fetus after delivery which exhibits neither heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, nor pulsation of the umbilical cord (if still attached).

(g) *Viable fetus* or *viable newborn* means a newborn that is able to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration. The Secretary may from time to time, taking into account medical advances, publish in the **Federal Register** guidelines to assist in determining whether a fetus or newborn is viable for purposes of this subpart. If a newborn is viable then it is a child, and subpart D of this part is applicable.

(h) *Children* are persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted. (See definition of "viable fetus" or "viable newborn" at § 46.202 (g)).

(i) *In vitro fertilization* means any fertilization of human ova which occurs outside the body of a female, either through admixture of donor human sperm and ova or by any other means.

§ 46.203 Duties of IRBs in connection with research involving pregnant women, human fetuses, newborns, and human in vitro fertilization.

In addition to other responsibilities assigned to IRBs under this part, each IRB shall review research covered by this subpart and approve only research which satisfies the conditions of all applicable sections of this subpart and the other subparts of this part.

§ 46.204 Research involving pregnant women or fetuses.

Pregnant women or fetuses may be involved in research if all of the following conditions are met:

(a) Where scientifically appropriate, preclinical studies, including studies on pregnant animals, and clinical studies, including studies on nonpregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;

(b) The risk to the fetus is not greater than minimal, or any risk to the fetus which is greater than minimal is caused solely by activities designed to meet the health needs of the mother or her fetus;

(c) Any risk is the least possible for achieving the objectives of the research.

(d) The woman is fully informed regarding the reasonably foreseeable impact of the research on the fetus (or a resultant child);

(e) The woman's consent or the consent of her legally authorized representative is obtained in accord with the informed consent provisions of subpart A of this part;

(f) For pregnant children, assent and permission are obtained in accord with the provisions of subpart D of this part;

(g) Individuals engaged in the research will have no part in:

(1) Any decisions as to the timing, method, or procedures used to abort a pregnancy, or

(2) Determining the viability of a newborn; and

(h) No inducements, monetary or otherwise, will be offered to abort a pregnancy.

§ 46.205 Research involving newborns of uncertain viability, nonviable newborns, and viable newborns.

(a) *Newborns of uncertain viability.* After delivery and until it has been ascertained whether or not a newborn is viable, a newborn may not be involved as a subject in research covered by this subpart unless both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The purpose of the research is:

(i) To enhance the possibility of survival of the particular newborn to the point of viability, or

(ii) The development of important biomedical knowledge which cannot be obtained by other means and there will be no risk to the newborn resulting from the research, and

(2) The legally effective informed consent of the mother or the father of the newborn or, if neither parent is able to consent because of unavailability, incompetence, or temporary incapacity, the legally effective informed consent of the mother's or the father's legally authorized representative is obtained in accord with Subpart A of this part.

(b) *Nonviable newborns.* After delivery, a nonviable newborn may not be involved as a subject in research covered by this subpart unless all of the following conditions are met:

(1) Vital functions of the newborn will not be artificially maintained;

(2) The research will not terminate the heartbeat or respiration of the newborn;

(3) There will be no added risk to the fetus of suffering injury or death resulting from the research and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means; and

(4) The legally effective informed consents of both the mother and the father of the newborn are obtained in accord with subpart A of this part, except that the waiver and alteration provisions of § 46.116 (c) and (d) do not apply. However, if either parent is unable to consent because of unavailability, incompetence, or temporary incapacity, the informed consent of the other parent of a nonviable newborn will suffice to meet the informed consent requirement of this paragraph (b)(4). The consent of a legally authorized representative of either or both of the parents of a nonviable newborn will not suffice to meet the requirements of this paragraph (b)(4).

(c) *Viable newborns.* A viable newborn is a child and may be included as a subject in research only to the extent permitted by and in accord with the requirements of Subparts A and D of this part.

§ 46.206 Research involving, after delivery, the placenta, the dead newborn, or fetal material.

(a) Research involving, after delivery, the placenta; the dead newborn; macerated fetal material; or cells, tissue, or organs excised from a dead newborn shall be conducted only in accord with any applicable Federal, State or local laws and regulations regarding such activities.

(b) If information associated with material described in paragraph (a) of this section is recorded for research purposes in a manner that living persons can be identified, directly or through identifiers linked to those persons, those persons are research subjects and all pertinent subparts of this part are applicable.

§ 46.207 Modification or waiver of specific requirements.

The Secretary may modify or waive specific requirements of this subpart for specific research projects or classes of research, after consultation with a panel of experts in pertinent disciplines and after opportunity for public review and comment, including a public meeting. In making a decision to modify or waive, the Secretary will consider whether the risks to the subjects are so outweighed by the sum of the benefits to the subjects and the importance of the knowledge to be gained as to warrant such modification or waiver and that such benefits cannot be gained except through a modification or waiver. Any such modifications or waivers will be published as notices in the **Federal Register**.

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Wednesday
May 20, 1998

Part III

Department of Education

Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support; Notice

DEPARTMENT OF EDUCATION

RIN 1820–ZA11

Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority and definitions for fiscal year (FY) 1998 and subsequent years.

SUMMARY: The Secretary proposes a priority for fiscal year (FY) 1998 and subsequent years under section 12(a)(3) of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 762(b)(3)), authorizing the conduct of special projects and demonstrations in carrying out the purposes of the Act. The priority would support five-year projects to expand employment outcomes for individuals with mental or physical disabilities, or both, who receive public support. The priority is intended to enhance collaboration in existing systems to increase competitive employment opportunities for individuals with disabilities who are participants in public support programs funded by Federal, State, and local agencies.

DATES: Comments must be received by the Department on or before June 19, 1998.

ADDRESSES: All comments concerning this proposed priority should be addressed to Dr. Thomas Finch, U.S. Department of Education, 600 Independence Avenue, SW., Room 3038, MES Building, Washington, DC. 20202–2650. Comments may also be sent through the Internet to: comments@ed.gov

You must include the term "Systems-Change Projects" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Pedro Romero, U.S. Department of Education, 600 Independence Avenue, SW., Room 3316, MES Building, Washington, DC. 20202–2650. Telephone: (202) 205–9797. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This proposed priority would address the National Education Goal that every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does *not* solicit applications. In any year in which the Secretary chooses to use this proposed priority, the Secretary invites applications through a notice in the **Federal Register**.

Priority

Background

According to the 1994 Harris Survey of Americans with Disabilities, two-thirds of individuals with disabilities between the ages of 16 and 64 are not working. Many of these individuals receive financial support or services through programs funded by Federal, State, and local agencies. Examples of these programs include Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Statistical data reveal that of the 32 percent of adult recipients of Aid to Families with Dependent Children (AFDC) who had a work or functional disability, 15 percent were able to work despite their functional limitations (National Health Interview Survey on Disability, U.S. Department of Health and Human Services, 1994). Studies conducted in Kansas and Washington indicate that up to 60 percent of the current TANF recipients in those States have some type of disability. At the same time, the TANF program requires recipients to work and also limits the length of TANF assistance—recent developments that further underscore the need to reduce barriers to employment confronted by individuals with disabilities on public support.

In addition, the proportion of individuals with disabilities receiving public support through SSI or SSDI continues to increase. Over the past decade, the total number of SSI and SSDI beneficiaries has doubled, and cash payments for these individuals increased to over $55 billion (World Institute on Disability, 1996). Social Security recipients often do not work since they would lose their Social Security and Medicaid benefits if their earnings increased beyond a threshold level. Thus, few individuals leave the Social Security system. New adult SSI recipients receive benefits for an average of 10 years, whereas individuals who receive SSI benefits as children remain on the rolls for an average of approximately 27 years (Rupp and Scott, 1995).

Many individuals participating in public support programs, including the programs discussed previously, are unable to obtain the services or supports they need to become competitively employed and achieve economic independence. Employment training

programs that serve the general population, as well as employers themselves, are often unable to meet the specialized needs of these individuals. In addition, individuals with disabilities who are not eligible for State vocational rehabilitation services, or who do not believe that they need a comprehensive rehabilitation program, are still unlikely to receive work-related services from employment training programs that serve the general population. Consequently, many individuals with disabilities who are capable of working essentially "fall between the cracks." The Secretary expects that the models developed under the proposed priority will demonstrate how employment training and other related programs can more effectively coordinate services so that individuals with disabilities can obtain employment.

Seventy-nine percent of unemployed individuals with disabilities have indicated that they would prefer to be working (Harris Survey, 1994). The combination of the high costs associated with living with a disability, work-related expenses, and the reduction in public supports available to persons once they become employed often dissuade individuals with disabilities from pursuing competitive work. Some of the specific barriers to the employment that individuals with disabilities commonly confront include—

- Lack of adequate health insurance (e.g., individuals' fear of losing public health care coverage, inability to obtain private medical insurance, or limited access to treatment and prescription services);
- Underutilization of existing work incentives from Social Security and other State and local agencies (e.g., Plan for Achieving Self Support (PASS), and Impairment Related Work Expenses, section 1619a and b of the Social Security Act);
- Lack of affordable, accessible housing and transportation;
- Insufficient education and training services;
- Lack of child care;
- Inadequate supports for employees with disabilities (e.g., onsite and offsite job accommodations and long-term follow-along services); and
- Inadequate supports for employers (e.g., incentives for hiring, retaining, and promoting individuals with disabilities and technical assistance and follow-along consultation to assist employers in addressing the ongoing needs of employees with disabilities and to clarify employer misperceptions and misinformation).

Lack of information and coordination of public support programs can cause program-related barriers that inhibit individuals with disabilities from effectively using available services. In many instances, individuals with disabilities are simply unaware of existing employment-related programs, work incentives, or available services. Another common barrier is the lack of coordination between separate programs with separate eligibility criteria even though the same individuals often require services from each program. The Secretary expects projects to address these types of program-related barriers, as well as any other type of barrier that impedes individuals with disabilities from becoming employed and self-sufficient.

There is a critical need for greater coordination between multiple public programs that support individuals with disabilities that would foster increased economic self-sufficiency and a more efficient use of public resources. In an effort to address this need, the Secretary proposes the following priority in order to provide a framework for assisting individuals with disabilities to reduce their reliance on various public support programs and obtain and maintain employment in the competitive labor market.

The requirements in the priority are designed to facilitate systems-change projects that eliminate barriers to employment for individuals with disabilities and are based on existing studies and reports, the experiences of State vocational rehabilitation agencies in working with individuals participating in other public support programs, and on information provided by other Federal agencies that administer disability-related programs. These Federal agencies were particularly helpful in assisting the Secretary to identify the employment-related barriers confronted by individuals with disabilities that the Secretary proposes to target through this priority and to identify the types of State agencies whose participation in the project would be most critical to eliminating those barriers. The identified State agencies would serve as members of a consortium that the systems-change project would establish under paragraph (A) of the priority.

The Secretary emphasizes that the model systems-change projects that would be supported under this priority are part of a larger effort on the part of the Federal Government to create a coordinated and aggressive national policy to reduce the unemployment rate of individuals with disabilities and to assist those individuals in obtaining competitive jobs. This effort is directly reflected in Executive Order 13078, signed on March 13, 1998, entitled "Increasing Employment of Adults With Disabilities" (63 FR 13111, March 18, 1998). For example, Executive Order 13078, in part, calls for an analysis of existing programs and policies to determine what modifications and innovations may be necessary to remove work-related barriers experienced by individuals with disabilities; the development and recommendation of options for eliminating barriers to health insurance coverage for those with disabilities; and an analysis of work-related youth programs and the outcomes of these programs for young people with disabilities. The Secretary proposes the following priority as one means of addressing the purposes of Executive Order 13078. As other Federal agencies design and carry out activities in response to the Executive order, it is expected that many of those activities will complement the systems-change projects funded under this priority.

The Secretary also emphasizes the need for projects supported under this priority to begin implementing strategies for removing barriers early in the project period in order for the project to have a measurable effect on the rate by which individuals with disabilities become competitively employed. For that reason, the Secretary expects project recipients to work with Rehabilitation Services Administration staff to ensure that planning steps, including development of partnership agreements and, if appropriate, submission of Medicaid waiver requests under paragraph (C) of the priority, are promptly completed and that projects begin implementing their barrier-removal strategies as soon as possible.

The purpose of the proposed absolute priority is to establish five-year model demonstration projects that stimulate and advance systems-change in order to expand employment outcomes for individuals with mental or physical disabilities, or both, who are participants in Federal, State, and local public support programs (e.g., TANF, SSI, SSDI, Medicaid, Medicare, subsidized housing, and food stamps, etc.)

Absolute Priority

Under 34 CFR 75.105(c)(3) and section 12(a)(3) of the Act, the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

A. General Requirements for Applicants

Applicants under this priority shall satisfy the following requirements:

(1) Applicants shall form a consortium of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor. Additional entities (e.g., public and private nonprofit organizations) that could effectively assist in removing barriers to employment for individuals with disabilities also may be included as part of the consortium.

(2) The members of the consortium shall either designate one of their members to apply for the grant or establish a separate, eligible legal entity to apply for the grant. The designated applicant shall serve as the grantee and be legally responsible for the use of all grant funds, overall fiscal and programmatic oversight of the project, and for ensuring that the project is carried out by consortium members in accordance with Federal requirements.

(3) Consortium members shall be substantially involved in the development of the application. Each consortium member's advisory council, if the member has such a council, shall also participate in the development of the application.

(4) The members of the consortium shall enter into an agreement that details the activities that each member plans to perform and that binds each member to the statements and assurances included in the application. Each member is legally responsible for carrying out the activities it agrees to perform and for using the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant. The agreement must be submitted as part of the application.

(5) The application submitted under this priority also must identify the specific locality or region that would be served by the project.

B. Project Objectives

Projects supported under this priority must—

(1) Identify systemic barriers, including State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities who are participants in public support programs from becoming employed.

(2) Develop and implement replicable strategies to remove identified barriers, including, at a minimum, strategies for—

(a) Establishing effective collaborative working relationships among project consortium members and their partners as described in paragraph (C)(1) of this priority (e.g., providing interagency staff training and technical assistance on program requirements and services or collaboratively using labor market and job vacancy information);

(b) Establishing coordinated service delivery systems (e.g., common intake and referral procedures, customer databases, and resource information) and developing innovative services and service approaches that address service gaps (e.g., developing employee and employer support networks);

(c) Improving access to health insurance for individuals with disabilities who become employed;

(d) Increasing the use of existing resources by State and local agencies (e.g., Medicaid waivers, Home Community Based Services waivers, Job Training Partnership Act income exemptions, and work incentive provisions such as Plan for Achieving Self Support);

(3) Design and implement an internal evaluation plan for which—

(a) The methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the project;

(b) The methods of evaluation provide for examining the effectiveness of project implementation strategies;

(c) The methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(d) The methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(e) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

(4) Disseminate information on effective systems-change approaches developed under these projects to Federal, State, and local stakeholders and facilitate the use of systems-change models in other geographic areas. As examples, consortia may make presentations before national, State, or local conferences, consult with and provide technical assistance to other States or localities, develop Internet web sites, and distribute project publications.

C. Project Requirements

In carrying out the priority, the projects must—

(1) Develop partnership agreements, as described under DEFINITIONS, with the local district offices of the Social Security Administration; the State agency or agencies responsible for mental retardation, developmental disabilities, and mental health services; existing transportation or paratransit service providers; and appropriate public and private sector employers. Partnerships also may be formed with other appropriate entities identified by the consortium, including, but not limited to, Centers for Independent Living, consumer advocacy organizations, economic development councils, Private Industry Councils, Governor's committees on the employment of persons with disabilities, developmental disabilities councils, mental health centers, community rehabilitation programs, Indian Tribes, labor unions, and employment and training organizations funded by the U.S. Department of Labor;

(2) Make timely, formal requests for Medicaid waivers if necessary for projects to be able to implement developed strategies;

(3) Implement, in a timely manner, the strategies developed by the project to expand employment outcomes for individuals with mental or physical disabilities, or both;

(4) Participate, as appropriate, in meetings of a Federal Interagency Employment Initiative Workgroup and inform workgroup members of project activities; and

(5) Participate in, and provide data for, an external evaluation of the systems-change projects as directed by the Commissioner of the Rehabilitation Services Administration. The evaluation would examine—(a) The effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, or rules affecting the employment of individuals with disabilities; (b) The effect of specific innovative systems-change approaches and strategies on increasing the number of individuals with disabilities who obtain competitive employment, including job retention, promotion, satisfaction, and wage growth; and (c) The cost effectiveness of employment supports and services implemented by the project.

Proposed Definitions

Consortium means a group of eligible parties formed by the applicant seeking a Federal award under this priority. Members of the consortium shall enter

into an agreement and carry out their responsibilities consistent with the requirements in paragraph (A) of the priority. Members of the consortium shall also ensure that project partners carry out their agreed-upon activities.

Disability with respect to an individual means a physical or mental impairment that substantially limits one or more of the major life activities of that individual, having a record of such an impairment, or being regarded as having such an impairment.

Locality means specific geographical areas within a State or States.

Partner means an entity with which the consortium has entered into an agreement to carry out specific activities, goals, and objectives of the project.

Partnership agreement means a written arrangement between a consortium and its partners to carry out specific activities related to the project.

Public Support means Federal, State, and local public programs that provide resources or services to individuals with disabilities. These programs include, but are not limited to, Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Region means two or more States participating in the project.

Selection Criteria

In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in § 75.210 of the Education Department General Administrative Regulations. The selection criteria to be used for this competition will be provided in the application package for this competition.

Executive Order 12866

This proposed priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The Secretary has determined that there are no costs associated with this priority. Announcement of the priority would not result in costs to State and local governments, recipients of grant funds, or to individuals with disabilities and their families. The benefit from this priority would be to focus activities and Federal assistance on increasing competitive employment outcomes for individuals with disabilities who are participants in public support programs through enhanced collaboration and coordination.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be opportunities to increase potential benefits resulting from this proposed priority without impeding the effective and efficient administration of the program.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority. The Secretary is particularly interested in receiving comments on the composition of the consortium and other consortium requirements. In addition, the Secretary invites comment on whether it is appropriate or feasible for a consortium to serve more than one State.

All comments submitted in response to this proposed priority will be available for public inspection, during and after the comment period, in Room 3038, MES Building, 330 C Street, S.W., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this proposed priority. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 29 U.S.C. 762(b)(3).

(Catalog of Federal Domestic Assistance Number has not been assigned)

Dated: March 24, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–13398 Filed 5–19–98; 8:45 am]

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Part IV

The President

Proclamation 7097—World Trade Week, 1998

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Title 3—

The President

Proclamation 7097 of May 15, 1998

World Trade Week, 1998

By the President of the United States of America

A Proclamation

The American economy is experiencing its longest period of sustained growth in more than a generation, with more than 15 million new jobs, the lowest unemployment rate since 1970, and the lowest inflation rate in more than 30 years. Much of this economic expansion can be attributed to our overseas trade. Today, America is the world's leading exporter. Our exports sustain 12 million jobs—jobs that on average, pay more than jobs not tied to exports. The extraordinary vigor of America's economy reflects the 1998 theme of World Trade Week: "Exporting Pays Off."

Our unparalleled capacity to develop and market high-technology products and processes has given us a strong competitive edge in the international marketplace in everything from aerospace to agriculture. Americans have led the world into the Information Age, and we are poised to lead it into an exciting new era of electronic commerce. Also central to our success in the global economy has been our ability to open foreign markets for American goods and services. During the past 5 years, my Administration has negotiated more than 240 new trade agreements and strengthened efforts to eliminate unfair trading practices in order to help American workers and businesses compete in an international arena that is open and fair and where trade rules are enforced.

To keep America growing, and to maintain our leadership in the global economy, we must expand our exports. We must sustain our advantage in information and other technologies by creating a business climate that encourages investment, by continuing our support of education and research in basic science and technology, and by ensuring that American workers are the best-educated and best-trained work force in the world. The Bureau of Labor Statistics estimates that we will need more than a million new high-skilled workers during the next 10 years to power the information technology field. We must provide working Americans with the skills and training they need to seize these promising employment opportunities.

Our exports and our economic strength depend upon our access to an open, stable, and growing world market. The nations of the world are becoming increasingly intertwined in a global economy. We must continue our efforts to remove foreign barriers to American goods and services, to open new markets, and to keep them open. This week, I will travel to Geneva, Switzerland and address the World Trade Organization to underline just how important free and open trade is to our future prosperity. Fast-track trade authority has been a crucial tool in this endeavor in the past, and it will become increasingly important to our ability to compete in the future with other countries for new markets, new contracts, and new jobs. This traditional trading authority will empower us to negotiate pro-growth, pro-American trade agreements that will maintain the momentum of our economy and ensure that American workers and American businesses can compete on a level playing field with the rest of the world.

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America's leadership in building an open, fair world trade system is paying off in rewards for entrepreneurial initiative, higher wages for working Americans, incentives for technological advances and artistic creation, and prosperity for our Nation. By embracing the challenges of competing in the global marketplace in the 21st century, we can ensure continued growth for American businesses, prosperity for working Americans, and a brighter future for us all.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 17 through May 23, 1998, as World Trade Week. I invite the people of the United States to observe this week with ceremonies, activities, and programs that celebrate the potential of international trade.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

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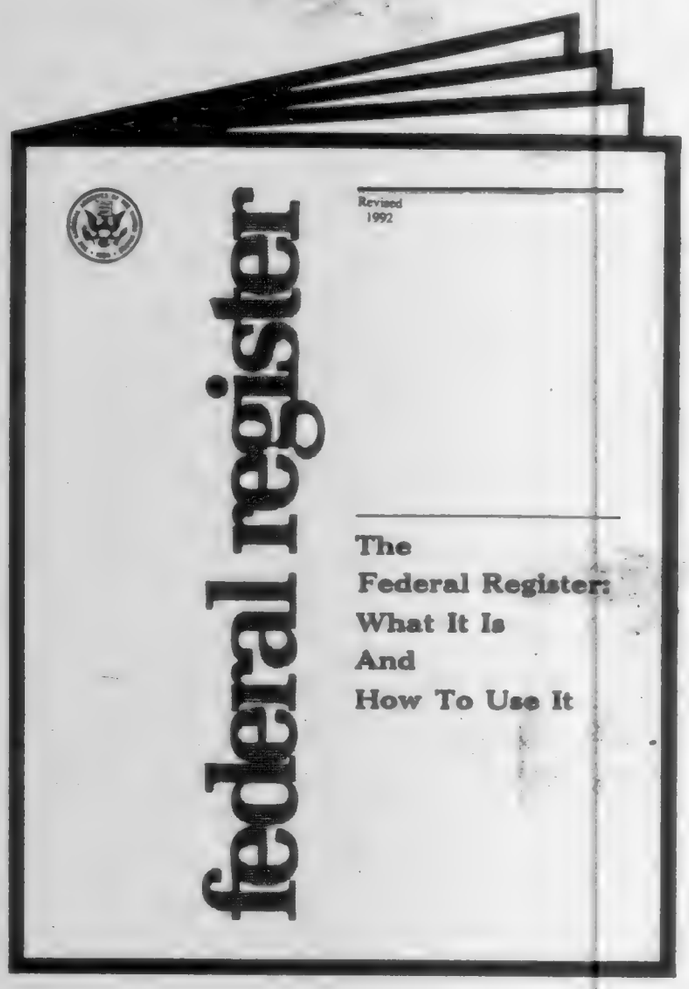
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV98–982–1 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1997–98 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which established interim and final free and restricted percentages for domestic inshell hazelnuts for the 1997–98 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

EFFECTIVE DATE: June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), both as amended, regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 1997–98 marketing year (July 1, 1997, through June 30, 1998). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three "normal" years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine released percentages are specified in section 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 40,000 tons for the Oregon and Washington area.

The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentage portions to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled or otherwise disposed of (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

At its August 28, 1997, meeting, the Board computed and announced preliminary free and restricted percentages of 8 percent and 92 percent, respectively. The Board used the NASS crop estimate of 40,000 tons. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against an underestimate of crop size.

The preliminary free percentage released 3,003 tons of hazelnuts from the 1997 supply for domestic inshell use. The preliminary restricted percentage portion of the 1997 supply for export and kernel markets totaled 34,296 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses current crop estimates to calculate the interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with section 982.40(e).

The Board met on November 13, 1997, and reviewed and approved an amended marketing policy. The Board recommended that the three-year average trade acquisition figure of 4,279 tons be increased by 214 tons for market expansion. The Board also recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 10 percent free and 90 percent restricted. The interim final percentage made an additional 965 tons of inshell hazelnuts available for the domestic inshell market, including product for market expansion. The interim final marketing percentages were based on the Board's final production estimate (42,000 tons) and released 3,968 tons to the domestic inshell market from the 1997 supply subject to regulation. The interim final restricted percentage resulted in a restricted obligation of 35,173 tons.

The final free and restricted percentages were recommended at 12 percent and 88 percent, respectively. The Board also recommended that the final percentages be effective on April 30, 1997. The established final marketing percentages release for domestic inshell use an additional 642 tons from the supply subject to regulation. Thus, a total of 4,610 tons of inshell hazelnuts will be released from the 1997 supply for domestic inshell use. The final restricted percentage resulted in a restricted obligation of 34,531 tons.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1997–98 marketing year:

			Tons
	Inshell Supply Tons		
(1)	Total production (Board's estimate)		42,000
(2)	Less substandard, farm use (disappearance)		2,860
(3)	Merchantable production (Board's adjusted crop estimate)		39,140
(4)	Plus undeclared carryin as of July 1, 1997, subject to regulation		1
(5)	Supply subject to regulation (Item 3 plus Item 4)		39,141
	Inshell Trade Demand		
(6)	Average trade acquisitions of inshell hazelnuts for three prior years		4,279
(7)	Increase to encourage increased sales (5 percent of Item 6)		214
(8)	Less declared carryin as of July 1, 1996, not subject to regulation		525
(9)	Adjusted Inshell Trade Demand		3,968
(10)	15 percent of the average trade acquisitions of inshell hazelnuts for three prior years (Item 6)		642
(11)	Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)		4,610
	Percentages		
		Free	Restricted
(12)	Interim final percentages (Item 9 divided by Item 5) × 100	10	90
(13)	Final percentages (Item 11 divided by Item 5) × 100	12	88

In addition to complying with the provisions of the order, the Board also considered the Department's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. At its November 13, 1997, meeting, the Board recommended that an increase of 5 percent (214 tons) for market expansion be included in the inshell trade demand which was used to compute the interim percentages. The established final percentages are based on the final inshell trade demand, and will make available an additional 642 tons for desirable carryout. The total free supply for the 1997–98 marketing year is 5,135 tons of hazelnuts, which is the final trade demand of 4,610 tons plus the declared carryin of 525 tons. This amount is 120 percent of prior years' sales and exceeds the goal of the Guidelines.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,000 producers of hazelnuts in the production area and approximately 23 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, virtually all of the producers are small agricultural producers and an estimated 20 of the 23 handlers are small agricultural service firms. Thus, the great majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market, provide for market expansion, and help prevent oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 13,000 tons in 1989 to a high of 41,000 tons in 1993, with another record crop of 42,000 tons in 1997. Average production has been around 24,000 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all growers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 53 percent of the 10-year average (1987–1996). Production in the biggest crop year (1996) was 170 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the grower price per pound has increased steadily over the last 4 years, from $.28 in 1992 to $.43 in 1996.

The Board discussed the only alternative to this rule which was not to regulate. Without any regulations in effect, the Board believed that the industry would oversupply the inshell domestic market. With the 1997 hazelnut crop the largest in history, the release of 42,000 tons on the domestic inshell market would cause grower returns to decrease drastically, and completely disrupt the market.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents, on average, approximately 3 percent of total U.S. tree nut production and approximately 3 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the U.S. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts, although China was the largest importer in 1996–97. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens have been accepted by the handlers as necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

The interim final rule was published in the **Federal Register** on January 22, 1998 (63 FR 3251). The Board manager mailed information concerning that action to all known industry members, and it was also made available through the Internet by the Office of the Federal Register. That rule provided a 60-day comment period which ended March 23, 1998. No comments were received.

After consideration of all relevant material presented, including the Board's recommendation and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (63 FR 3251, January 22, 1998), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 63 FR 3251 on January 22, 1998, is adopted as a final rule without change.

Dated: May 14, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–13524 Filed 5–20–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN–98–002]

1998 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This action is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

EFFECTIVE DATE: June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Norma McDill, (202) 720–2145.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be "not significant" for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of the ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 16,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule will affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule will lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses.

The current assessment on imported cotton is $0.012412 per kilogram of imported cotton. The amended assessment is $0.011850, a decrease of $0.000562 or a 4.5 percent decrease from the current assessment. From January through December 1997 approximately $20 million was collected at the $0.012412 per kilogram rate. Should the volume of cotton products imported into the U.S. remain at the same level in 1998, one could expect the decreased assessment to generate $19.1 million or a 4.5 percent decrease from 1997.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991 and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This rule will decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510 (b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is "Agricultural Prices", a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (62 FR 46412) on September 2, 1997, for the purpose of calculating supplemental assessments on imported cotton is $1.6005 per kilogram. This number was calculated using the annual average price received by farmers for Upland cotton during the calendar year 1996 which was $0.726 per pound and multiplying by the conversion factor

2.2046. Using the Average Price Received by U.S. Farmers for Upland Cotton for the calendar year 1997, which is $0.675 per pound, the new value of imported cotton is $1.4881 per kilogram. The amended value is $0.1124 per kilogram less than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.

One Dollar Per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. (500 × .453597).
$1 per bale assessment equals $0.002000 per pound (1÷500)
or $0.004409 per kg. (1÷226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms

The 1997 calendar year average price received by producers for Upland cotton is $0.675 per pound or $1.4881 per kg. (0.675 × 2.2046)=1.4881.
Five tenths of one percent of the average price in kg. equals $0.007441 per kg. (1.4881 × .005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.007441 per kg. which equals $0.011850 per kg.

The current assessment on imported cotton is $0.012412 per kilogram of imported cotton. The amended assessment is $0.011850, a decrease of $0.000562 per kilogram. This decrease reflects the decrease in the Average Price of Upland Cotton Received by U.S. Farmers during the period January through December 1997.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

Eight HTS numbers subject to assessment pursuant to this regulation and found in the assessment table have been changed. In order to maintain consistency between the HTS and the assessment table, the changes to these eight numbers have been incorporated into the assessment table. The last two digits of these numbers were changed to provide for statistical reporting purposes and involve no physical change to the products they represent. Therefore, the assessment rate is not affected by the change. The assessment rate for each of the eight numbers has been applied to each of the new replacement numbers in the assessment table. The following table represents the changes:

Old No.	New No.	Conversion factor	Assessment cents/kg.
5208523040	5208523045	1.1455	1.3574
5208524040	5208524045	1.1455	1.3574
5208524060	5208524065	1.1455	1.3574
5208592020	5208592025	1.1455	1.3574
5208592090	5208592095	1.1455	1.3574
5209516030	5209516035	1.1455	1.3574
5209590020	5209590025	1.1455	1.3574
5211590020	5211590025	0.6873	0.8145

A proposed rule with a request for comments was published in the **Federal Register** (63 FR 15336) on March 31, 1998. No comments were received during the comment period (March 31 through April 30, 1998).

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraphs (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly average prices received by U.S. farmers will be calculated annually. Such average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $1.4881 per kilogram.

(3) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5201000500	0	1.185
5201001200	0	1.185
5201001400	0	1.185
5201001800	0	1.185
5201002200	0	1.185
5201002400	0	1.185
5201002800	0	1.185
5201003400	0	1.185

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5201003800	0	1.185
5204110000	1.1111	1.3167
5204200000	1.1111	1.3167
5205111000	1.1111	1.3167
5205112000	1.1111	1.3167
5205121000	1.1111	1.3167
5205122000	1.1111	1.3167
5205131000	1.1111	1.3167
5205132000	1.1111	1.3167
5205141000	1.1111	1.3167
5205210020	1.1111	1.3167
5205210090	1.1111	1.3167
5205220020	1.1111	1.3167
5205220090	1.1111	1.3167
5205230020	1.1111	1.3167
5205230090	1.1111	1.3167
5205240020	1.1111	1.3167
5205240090	1.1111	1.3167
5205310000	1.1111	1.3167
5205320000	1.1111	1.3167
5205330000	1.1111	1.3167
5205340000	1.1111	1.3167
5205410020	1.1111	1.3167

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5205410090	1.1111	1.3167
5205420020	1.1111	1.3167
5205420090	1.1111	1.3167
5205440020	1.1111	1.3167
5205440090	1.1111	1.3167
5206120000	0.5556	0.6584
5206130000	0.5556	0.6584
5206140000	0.5556	0.6584
5206220000	0.5556	0.6584
5206230000	0.5556	0.6584
5206240000	0.5556	0.6584
5206310000	0.5556	0.6584
5207100000	1.1111	1.3167
5207900000	0.5556	0.6584
5208112020	1.1455	1.3574
5208112040	1.1455	1.3574
5208112090	1.1455	1.3574
5208114020	1.1455	1.3574
5208114060	1.1455	1.3574
5208114090	1.1455	1.3574
5208118090	1.1455	1.3574
5208124020	1.1455	1.3574
5208124040	1.1455	1.3574
5208124090	1.1455	1.3574
5208126020	1.1455	1.3574
5208126040	1.1455	1.3574
5208126060	1.1455	1.3574
5208126090	1.1455	1.3574
5208128020	1.1455	1.3574
5208128090	1.1455	1.3574
5208130000	1.1455	1.3574
5208192020	1.1455	1.3574
5208192090	1.1455	1.3574
5208194020	1.1455	1.3574
5208194090	1.1455	1.3574
5208196020	1.1455	1.3574
5208196090	1.1455	1.3574
5208224040	1.1455	1.3574
5208224090	1.1455	1.3574
5208226020	1.1455	1.3574
5208226060	1.1455	1.3574
5208228020	1.1455	1.3574
5208230000	1.1455	1.3574
5208292020	1.1455	1.3574
5208292090	1.1455	1.3574
5208294090	1.1455	1.3574
5208296090	1.1455	1.3574
5208298020	1.1455	1.3574
5208312000	1.1455	1.3574
5208321000	1.1455	1.3574
5208323020	1.1455	1.3574
5208323040	1.1455	1.3574
5208323090	1.1455	1.3574
5208324020	1.1455	1.3574
5208324040	1.1455	1.3574
5208325020	1.1455	1.3574
5208330000	1.1455	1.3574
5208392020	1.1455	1.3574
5208392090	1.1455	1.3574
5208394090	1.1455	1.3574
5208396090	1.1455	1.3574
5208398020	1.1455	1.3574
5208412000	1.1455	1.3574
5208416000	1.1455	1.3574
5208418000	1.1455	1.3574
5208421000	1.1455	1.3574
5208423000	1.1455	1.3574
5208424000	1.1455	1.3574
5208425000	1.1455	1.3574

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5208430000	1.1455	1.3574
5208492000	1.1455	1.3574
5208494020	1.1455	1.3574
5208494090	1.1455	1.3574
5208496010	1.1455	1.3574
5208496090	1.1455	1.3574
5208498090	1.1455	1.3574
5208512000	1.1455	1.3574
5208516060	1.1455	1.3574
5208518090	1.1455	1.3574
5208523020	1.1455	1.3574
5208523045	1.1455	1.3574
5208523090	1.1455	1.3574
5208524020	1.1455	1.3574
5208524045	1.1455	1.3574
5208524065	1.1455	1.3574
5208525020	1.1455	1.3574
5208530000	1.1455	1.3574
5208592025	1.1455	1.3574
5208592095	1.1455	1.3574
5208594090	1.1455	1.3574
5208596090	1.1455	1.3574
5209110020	1.1455	1.3574
5209110035	1.1455	1.3574
5209110090	1.1455	1.3574
5209120020	1.1455	1.3574
5209120040	1.1455	1.3574
5209190020	1.1455	1.3574
5209190040	1.1455	1.3574
5209190060	1.1455	1.3574
5209190090	1.1455	1.3574
5209210090	1.1455	1.3574
5209220020	1.1455	1.3574
5209220040	1.1455	1.3574
5209290040	1.1455	1.3574
5209290090	1.1455	1.3574
5209313000	1.1455	1.3574
5209316020	1.1455	1.3574
5209316035	1.1455	1.3574
5209316050	1.1455	1.3574
5209316090	1.1455	1.3574
5209320020	1.1455	1.3574
5209320040	1.1455	1.3574
5209390020	1.1455	1.3574
5209390040	1.1455	1.3574
5209390060	1.1455	1.3574
5209390080	1.1455	1.3574
5209390090	1.1455	1.3574
5209413000	1.1455	1.3574
5209416020	1.1455	1.3574
5209416040	1.1455	1.3574
5209420020	1.0309	1.2216
5209420040	1.0309	1.2216
5209430030	1.1455	1.3574
5209430050	1.1455	1.3574
5209490020	1.1455	1.3574
5209490090	1.1455	1.3574
5209516035	1.1455	1.3574
5209516050	1.1455	1.3574
5209520020	1.1455	1.3574
5209590025	1.1455	1.3574
5209590040	1.1455	1.3574
5209590090	1.1455	1.3574
5210114020	0.6873	0.8145
5210114040	0.6873	0.8145
5210116020	0.6873	0.8145
5210116040	0.6873	0.8145
5210116060	0.6873	0.8145
5210118020	0.6873	0.8145

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5210120000	0.6873	0.8145
5210192090	0.6873	0.8145
5210214040	0.6873	0.8145
5210216020	0.6873	0.8145
5210216060	0.6873	0.8145
5210218020	0.6873	0.8145
5210314020	0.6873	0.8145
5210314040	0.6873	0.8145
5210316020	0.6873	0.8145
5210318020	0.6873	0.8145
5210414000	0.6873	0.8145
5210416000	0.6873	0.8145
5210418000	0.6873	0.8145
5210498090	0.6873	0.8145
5210514040	0.6873	0.8145
5210516020	0.6873	0.8145
5210516040	0.6873	0.8145
5210516060	0.6873	0.8145
5211110090	0.6873	0.8145
5211120020	0.6873	0.8145
5211190020	0.6873	0.8145
5211190060	0.6873	0.8145
5211210025	0.4165	0.4936
5211210035	0.4165	0.4936
5211210050	0.6873	0.8145
5211290090	0.6873	0.8145
5211320020	0.6873	0.8145
5211390040	0.6873	0.8145
5211390060	0.6873	0.8145
5211490020	0.6873	0.8145
5211490090	0.6873	0.8145
5211590025	0.6873	0.8145
5212146090	0.9164	1.0859
5212156020	0.9164	1.0859
5212216090	0.9164	1.0859
5509530030	0.5556	0.6584
5509530060	0.5556	0.6584
5513110020	0.4009	0.4751
5513110040	0.4009	0.4751
5513110060	0.4009	0.4751
5513110090	0.4009	0.4751
5513120000	0.4009	0.4751
5513130020	0.4009	0.4751
5513210020	0.4009	0.4751
5513310000	0.4009	0.4751
5514120020	0.4009	0.4751
5516420060	0.4009	0.4751
5516910060	0.4009	0.4751
5516930090	0.4009	0.4751
5601210010	1.1455	1.3574
5601210090	1.1455	1.3574
5601300000	1.1455	1.3574
5602109090	0.5727	0.6786
5602290000	1.1455	1.3574
5602906000	0.526	0.6233
5604900000	0.5556	0.6584
5607902000	0.8889	1.0533
5608901000	1.1111	1.3167
5608902300	1.1111	1.3167
5609001000	1.1111	1.3167
5609004000	0.5556	0.6584
5701104000	0.0556	0.0659
5701109000	0.1111	0.1317
5701901010	1.0444	1.2376
5702109020	1.1	1.3035
5702312000	0.0778	0.0922
5702411000	0.0722	0.0856
5702412000	0.0778	0.0922
5702421000	0.0778	0.0922

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5702913000	0.0889	0.1053
5702991010	1.1111	1.3167
5702991090	1.1111	1.3167
5703900000	0.4489	0.5319
5801210000	1.1455	1.3574
5801230000	1.1455	1.3574
5801250010	1.1455	1.3574
5801250020	1.1455	1.3574
5801260020	1.1455	1.3574
5802190000	1.1455	1.3574
5802300030	0.5727	0.6786
5804291000	1.1455	1.3574
5806200010	0.3534	0.4188
5806200090	0.3534	0.4188
5806310000	1.1455	1.3574
5806400000	0.4296	0.5091
5808107000	0.5727	0.6786
5808900010	0.5727	0.6786
5811002000	1.1455	1.3574
6001106000	1.1455	1.3574
6001210000	0.8591	1.018
6001220000	0.2864	0.3394
6001910010	0.8591	1.018
6001910020	0.8591	1.018
6001920020	0.2864	0.3394
6001920030	0.2864	0.3394
6001920040	0.2864	0.3394
6002203000	0.8681	1.0287
6002206000	0.2894	0.3429
6002420000	0.8681	1.0287
6002430010	0.2894	0.3429
6002430080	0.2894	0.3429
6002921000	1.1574	1.3715
6002930040	0.1157	0.1371
6002930080	0.1157	0.1371
6101200010	1.0094	1.1961
6101200020	1.0094	1.1961
6102200010	1.0094	1.1961
6102200020	1.0094	1.1961
6103421020	0.8806	1.0435
6103421040	0.8806	1.0435
6103421050	0.8806	1.0435
6103421070	0.8806	1.0435
6103431520	0.2516	0.2981
6103431540	0.2516	0.2981
6103431550	0.2516	0.2981
6103431570	0.2516	0.2981
6104220040	0.9002	1.0667
6104220060	0.9002	1.0667
6104320000	0.9207	1.091
6104420010	0.9002	1.0667
6104420020	0.9002	1.0667
6104520010	0.9312	1.1035
6104520020	0.9312	1.1035
6104622006	0.8806	1.0435
6104622011	0.8806	1.0435
6104622016	0.8806	1.0435
6104622021	0.8806	1.0435
6104622026	0.8806	1.0435
6104622028	0.8806	1.0435
6104622030	0.8806	1.0435
6104622060	0.8806	1.0435
6104632006	0.3774	0.4472
6104632011	0.3774	0.4472
6104632026	0.3774	0.4472
6104632028	0.3774	0.4472
6104632030	0.3774	0.4472
6104632060	0.3774	0.4472
6104692030	0.3858	0.4572

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6105100010	0.985	1.1672
6105100020	0.985	1.1672
6105100030	0.985	1.1672
6105202010	0.3078	0.3647
6105202030	0.3078	0.3647
6106100010	0.985	1.1672
6106100020	0.985	1.1672
6106100030	0.985	1.1672
6106202010	0.3078	0.3647
6106202030	0.3078	0.3647
6107110010	1.1322	1.3417
6107110020	1.1322	1.3417
6107120010	0.5032	0.5963
6107210010	0.8806	1.0435
6107220015	0.3774	0.4472
6107220025	0.3774	0.4472
6107910040	1.2581	1.4908
6108210010	1.2445	1.4747
6108210020	1.2445	1.4747
6108310010	1.1201	1.3273
6108310020	1.1201	1.3273
6108320010	0.2489	0.2949
6108320015	0.2489	0.2949
6108320025	0.2489	0.2949
6108910005	1.2445	1.4747
6108910015	1.2445	1.4747
6108910025	1.2445	1.4747
6108910030	1.2445	1.4747
6108920030	0.2489	0.2949
6109100005	0.9956	1.1798
6109100007	0.9956	1.1798
6109100009	0.9956	1.1798
6109100012	0.9956	1.1798
6109100014	0.9956	1.1798
6109100018	0.9956	1.1798
6109100023	0.9956	1.1798
6109100027	0.9956	1.1798
6109100037	0.9956	1.1798
6109100040	0.9956	1.1798
6109100045	0.9956	1.1798
6109100060	0.9956	1.1798
6109100065	0.9956	1.1798
6109100070	0.9956	1.1798
6109901007	0.3111	0.3687
6109901009	0.3111	0.3687
6109901049	0.3111	0.3687
6109901050	0.3111	0.3687
6109901060	0.3111	0.3687
6109901065	0.3111	0.3687
6109901090	0.3111	0.3687
6110202005	1.1837	1.4027
6110202010	1.1837	1.4027
6110202015	1.1837	1.4027
6110202020	1.1837	1.4027
6110202025	1.1837	1.4027
6110202030	1.1837	1.4027
6110202035	1.1837	1.4027
6110202040	1.1574	1.3715
6110202045	1.1574	1.3715
6110202065	1.1574	1.3715
6110202075	1.1574	1.3715
6110909022	0.263	0.3117
6110909024	0.263	0.3117
6110909030	0.3946	0.4676
6110909040	0.263	0.3117
6110909042	0.263	0.3117
6111201000	1.2581	1.4908
6111202000	1.2581	1.4908
6111203000	1.0064	1.1926

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6111205000	1.0064	1.1926
6111206010	1.0064	1.1926
6111206020	1.0064	1.1926
6111206030	1.0064	1.1926
6111206040	1.0064	1.1926
6111305020	0.2516	0.2981
6111305040	0.2516	0.2981
6112110050	0.7548	0.8944
6112120010	0.2516	0.2981
6112120030	0.2516	0.2981
6112120040	0.2516	0.2961
6112120050	0.2516	0.2981
6112120060	0.2516	0.2981
6112390010	1.1322	1.3417
6112490010	0.9435	1.118
6114200005	0.9002	1.0667
6114200010	0.9002	1.0667
6114200015	0.9002	1.0667
6114200020	1.286	1.5239
6114200040	0.9002	1.0667
6114200046	0.9002	1.0667
6114200052	0.9002	1.0667
6114200060	0.9002	1.0667
6114301010	0.2572	0.3048
6114301020	0.2572	0.3048
6114303030	0.2572	0.3048
6115198010	1.0417	1.2344
6115929000	1.0417	1.2344
6115936020	0.2315	0.2743
6116101300	0.3655	0.4331
6116101720	0.8528	1.0106
6116926420	1.0965	1.2994
6116926430	1.2183	1.4437
6116926440	1.0965	1.2994
6116928800	1.0965	1.2994
6117809510	0.9747	1.155
6117809540	0.3655	0.4331
6201121000	0.948	1.1234
6201122010	0.8953	1.0609
6201122050	0.6847	0.8114
6201122060	0.6847	0.8114
6201134030	0.2633	0.312
6201921000	0.9267	1.0981
6201921500	1.1583	1.3726
6201922010	1.0296	1.2201
6201922021	1.2871	1.5252
6201922031	1.2871	1.5252
6201922041	1.2871	1.5252
6201922051	1.0296	1.2201
6201922061	1.0296	1.2201
6201931000	0.3089	0.366
6201933511	0.2574	0.305
6201933521	0.2574	0.305
6201999060	0.2574	0.305
6202121000	0.9372	1.1106
6202122010	1.1064	1.3111
6202122025	1.3017	1.5425
6202122050	0.8461	1.0026
6202122060	0.8461	1.0026
6202134005	0.2664	0.3157
6202134020	0.333	0.3946
6202921000	1.0413	1.2339
6202921500	1.0413	1.2339
6202922026	1.3017	1.5425
6202922061	1.0413	1.2339
6202922071	1.0413	1.2339
6202931000	0.3124	0.3702
6202935011	0.2603	0.3085
6202935021	0.2603	0.3085

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IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
6203122010	0.1302	0.1543
6203221000	1.3017	1.5425
6203322010	1.2366	1.4654
6203322040	1.2366	1.4654
6203332010	0.1302	0.1543
6203392010	1.1715	1.3882
6203399060	0.2603	0.3085
6203422010	0.9961	1.1804
6203422025	0.9961	1.1804
6203422050	0.9961	1.1804
6203422090	0.9961	1.1804
6203424005	1.2451	1.4754
6203424010	1.2451	1.4754
6203424015	0.9961	1.1804
6203424020	1.2451	1.4754
6203424025	1.2451	1.4754
6203424030	1.2451	1.4754
6203424035	1.2451	1.4754
6203424040	0.9961	1.1804
6203424045	0.9961	1.1804
6203424050	0.9238	1.0947
6203424055	0.9238	1.0947
6203424060	0.9238	1.0947
6203431500	0.1245	0.1475
6203434010	0.1232	0.146
6203434020	0.1232	0.146
6203434030	0.1232	0.146
6203434040	0.1232	0.146
6203498045	0.249	0.2951
6204132010	0.1302	0.1543
6204192000	0.1302	0.1543
6204198090	0.2603	0.3085
6204221000	1.3017	1.5425
6204223030	1.0413	1.2339
6204223040	1.0413	1.2339
6204223050	1.0413	1.2339
6204223060	1.0413	1.2339
6204223065	1.0413	1.2339
6204292040	0.3254	0.3856
6204322010	1.2366	1.4654
6204322030	1.0413	1.2339
6204322040	1.0413	1.2339
6204423010	1.2728	1.5083
6204423030	0.9546	1.1312
6204423040	0.9546	1.1312
6204423050	0.9546	1.1312
6204423060	0.9546	1.1312
6204522010	1.2654	1.4995
6204522030	1.2654	1.4995
6204522040	1.2654	1.4995
6204522070	1.0656	1.2627
6204522080	1.0656	1.2627
6204533010	0.2664	0.3157
6204594060	0.2664	0.3157
6204622010	0.9961	1.1804
6204622025	0.9961	1.1804
6204622050	0.9961	1.1804
6204624005	1.2451	1.4754
6204624010	1.2451	1.4754
6204624020	0.9961	1.1804
6204624025	1.2451	1.4754
6204624030	1.2451	1.4754
6204624035	1.2451	1.4754
6204624040	1.2451	1.4754
6204624045	0.9961	1.1804
6204624050	0.9961	1.1804
6204624055	0.9854	1.1677
6204624060	0.9854	1.1677
6204624065	0.9854	1.1677

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
6204633510	0.2546	0.3017
6204633530	0.2546	0.3017
6204633532	0.2437	0.2888
6204633540	0.2437	0.2888
6204692510	0.249	0.2951
6204692540	0.2437	0.2888
6204699044	0.249	0.2951
6204699046	0.249	0.2951
6204699050	0.249	0.2951
6205202015	0.9961	1.1804
6205202020	0.9961	1.1804
6205202025	0.9961	1.1804
6205202030	0.9961	1.1804
6205202035	1.1206	1.3279
6205202046	0.9961	1.1804
6205202050	0.9961	1.1804
6205202060	0.9961	1.1804
6205202065	0.9961	1.1804
6205202070	0.9961	1.1804
6205202075	0.9961	1.1804
6205302010	0.3113	0.3689
6205302030	0.3113	0.3689
6205302040	0.3113	0.3689
6205302050	0.3113	0.3689
6205302070	0.3113	0.3689
6205302080	0.3113	0.3689
6206100040	0.1245	0.1475
6206303010	0.9961	1.1804
6206303020	0.9961	1.1804
6206303030	0.9961	1.1804
6206303040	0.9961	1.1804
6206303050	0.9961	1.1804
6206303060	0.9961	1.1804
6206403010	0.3113	0.3689
6206403030	0.3113	0.3689
6206900040	0.249	0.2951
6207110000	1.0852	1.286
6207199010	0.3617	0.4286
6207210010	1.1085	1.3136
6207210030	1.1085	1.3136
6207220000	0.3695	0.4379
6207911000	1.1455	1.3574
6207913010	1.1455	1.3574
6207913020	1.1455	1.3574
6208210010	1.0583	1.2541
6208210020	1.0583	1.2541
6208220000	0.1245	0.1475
6208911010	1.1455	1.3574
6208911020	1.1455	1.3574
6208913010	1.1455	1.3574
6209201000	1.1577	1.3719
6209203000	0.9749	1.1553
6209205030	0.9749	1.1553
6209205035	0.9749	1.1553
6209205040	1.2186	1.444
6209205045	0.9749	1.1553
6209205050	0.9749	1.1553
6209303020	0.2463	0.2919
6209303040	0.2463	0.2919
6210109010	0.2291	0.2715
6210403000	0.0391	0.0463
6210405020	0.4556	0.5399
6211111010	0.1273	0.1509
6211111020	0.1273	0.1509
6211118010	1.1455	1.3574
6211118020	1.1455	1.3574
6211320007	0.8461	1.0026
6211320010	1.0413	1.2339
6211320015	1.0413	1.2339

IMPORT ASSESSMENT TABLE—Continued
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
6211320030	0.9763	1.1569
6211320060	0.9763	1.1569
6211320070	0.9763	1.1569
6211330010	0.3254	0.3856
6211330030	0.3905	0.4627
6211330035	0.3905	0.4627
6211330040	0.3905	0.4627
6211420010	1.0413	1.2339
6211420020	1.0413	1.2339
6211420025	1.1715	1.3882
6211420060	1.0413	1.2339
6211420070	1.1715	1.3882
6211430010	0.2603	0.3085
6211430030	0.2603	0.3085
6211430040	0.2603	0.3085
6211430050	0.2603	0.3085
6211430060	0.2603	0.3085
6211430066	0.2603	0.3085
6212105020	0.2412	0.2858
6212109010	0.9646	1.1431
6212109020	0.2412	0.2858
6212200020	0.3014	0.3572
6212900030	0.1929	0.2286
6213201000	1.1809	1.3994
6213202000	1.0628	1.2594
6213901000	0.4724	0.5598
6214900010	0.9043	1.0716
6216000800	0.2351	0.2786
6216001720	0.6752	0.8001
6216003800	1.2058	1.4289
6216004100	1.2058	1.4289
6217109510	1.0182	1.2066
6217109530	0.2546	0.3017
6301300010	0.8766	1.0388
6301300020	0.8766	1.0388
6302100010	1.1689	1.3851
6302215010	0.8182	0.9696
6302215020	0.8182	0.9696
6302217010	1.1689	1.3851
6302217020	1.1689	1.3851
6302217050	1.1689	1.3851
6302219010	0.8182	0.9696
6302219020	0.8182	0.9696
6302219050	0.8182	0.9696
6302222010	0.4091	0.4848
6302222020	0.4091	0.4848
6302313010	0.8182	0.9696
6302313050	1.1689	1.3851
6302315050	0.8182	0.9696
6302317010	1.1689	1.3851
6302317020	1.1689	1.3851
6302317040	1.1689	1.3851
6302317050	1.1689	1.3851
6302319010	0.8182	0.9696
6302319040	0.8182	0.9696
6302319050	0.8182	0.9696
6302322020	0.4091	0.4848
6302322040	0.4091	0.4848
6302402010	0.9935	1.1773
6302511000	0.5844	0.6925
6302512000	0.8766	1.0388
6302513000	0.5844	0.6925
6302514000	0.8182	0.9696
6302600010	1.1689	1.3851
6302600020	1.052	1.2466
6302600030	1.052	1.2466
6302910005	1.052	1.2466
6302910015	1.1689	1.3851
6302910025	1.052	1.2466

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6302910035	1.052	1.2466
6302910045	1.052	1.2466
6302910050	1.052	1.2466
6302910060	1.052	1.2466
6303110000	0.9448	1.1196
6303910000	0.6429	0.7618
6304111000	1.0629	1.2595
6304190500	1.052	1.2466
6304191000	1.1689	1.3851
6304191500	0.4091	0.4848
6304192000	0.4091	0.4848
6304910020	0.9351	1.1081
6304920000	0.9351	1.1081
6505901540	1.181	1.3995
6505902060	0.9935	1.1773
6505902545	0.5844	0.6925

* * * * *

Dated: May 15, 1998.

Mary E. Atienza,

Deputy Administrator, Cotton Programs.

[FR Doc. 98–13525 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 240, 245, 274a and 299

[INS NO. 1893–97; AG Order No. 2154–98]

RIN 1115–AF04

Adjustment of Status for Certain Nationals of Nicaragua and Cuba

AGENCY: Immigration and Naturalization Service, Justice, and Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements section 202 of the Nicaragua Adjustment and Central American Relief Act (NACARA) by establishing procedures for certain nationals of Nicaragua and Cuba who have been residing in the United States to become lawful permanent residents of this country. This rule allows them to obtain lawful permanent resident status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

DATES: *Effective date:* This interim rule is effective June 22, 1998.

Comment date: Comments must be submitted on or before July 20, 1998.

ADDRESSES: Please submit written comments, original and two copies,to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1893–97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: *For matters relating to the Immigration and Naturalization Service*—Suzy Nguyen, Adjudications Officer, Office of Adjudications, Immigration and Naturalization Service, 425 I Street NW, Room 3214, Washington, DC 20536, telephone (202) 514–5014; *For matters relating to the Executive Office for Immigration Review*—Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesbury Pike, Suite 2400, Falls Church, VA 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION:

How Does Section 202 of NACARA Affect Nicaraguan and Cuban Nationals?

The Nicaraguan Adjustment and Central American Relief Act (NACARA), enacted as title II of the District of Columbia Appropriations Act, 1998, Pub. L. 105–100 (111 Stat. 2160, 2193), was signed into law on November 19, 1997. As amended, section 202 of NACARA allows certain Nicaragua and Cuban nationals who are physically present in the United States to adjust status to that of lawful permanent resident. In order to be eligible for benefits under NACARA, an applicant must be a national of Nicaragua or Cuba; must be admissible to the United States under all provisions of section 212(a) of the Immigration and Nationality Act (the Act), other than those provisions specifically excepted by NACARA; must have been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment is filed (not counting absences totaling 180 days or less); and must properly file an application before April 1, 2000. In addition, certain family members of NACARA beneficiaries are also eligible for adjustment of status under NACARA.

What Are the Benefits of NACARA?

An alien seeking adjustment of status under NACARA is not subject to a number of the requirements to which aliens seeking adjustment under section 245 of the Act may be subject.

First, a NACARA applicant is not required to have been inspected and admitted or paroled into the United States.

Second, a NACARA applicant is not subject to any of the barriers to adjustment contained in section 245(c) of the Act (e.g., the bars against aliens who have accepted or continued in unauthorized employment, aliens who remained in the United States longer than authorized, and aliens admitted as crewmen, in transmit without visa, or under the visa waiver pilot program). Consequently, an alien who would otherwise be ineligible under section 245(c) may apply for adjustment under NACARA.

Third, NACARA applicants are not subject to the immigrant visa preference system requirements contained in sections 201 and 202 of the Act. Hence, neither the worldwide quota restrictions nor the per-country quota restrictions apply.

Fourth, applicants need not demonstrate that they are not inadmissible under paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Act in order to adjust status under section 202 of Public Law 105–100. Accordingly, NACARA allows an otherwise qualified applicant to adjust status under NACARA notwithstanding inadmissibility for likelihood of becoming a public charge, for failure to obtain a labor certification, for failure to meet certain requirements applicable to foreign-trained physicians, for failure to meet certain standards for foreign health-care workers, for entering or remaining in the country illegally, for violating documentary requirements relating to entry as an immigrant, or for accruing more than 180 days of unlawful presence prior to the alien's last departure or removal.

Fifth, unlike those seeking to adjust status under other provisions of law, a NACARA applicant who has been paroled into the United States and is now in exclusion or removal proceedings before an immigration judge is not barred from filing an application for adjustment of status under the provisions of NACARA while in such proceedings.

What Are the NACARA Requirements Regarding Continuous Physical Presence in the United States

Under the terms of NACARA, eligible applicants must have been physically present in the United States continuously since December 1, 1995. However, they may have been outside of the United States for periods not to exceed 180 days in the aggregate between December 1, 1995, and the date of adjustment of status. A NACARA applicant shall not be considered to

have failed to maintain continuous physical presence in the United States by reason of any absences for periods that do not exceed 180 days in the aggregate. Furthermore, the 180-day cumulative period shall be tolled during an absence authorized pursuant to issuance of an Authorization for Parole of an alien into the United States (Form I–512).

How Can a NACARA Applicant Prove Continuous Physical Presence in the United States?

A NACARA applicant must establish two aspects of physical presence in the United States: commencement on or prior to December 1, 1995, and continuity since that date.

Under section 202(b)(2)(A) of Pub. L. 105–100, as amended, an applicant may prove commencement of continuous physical presence in the United States by demonstrating that on or before December 1, 1995, he or she:

(i) Applied to the Attorney General for asylum;

(ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act (as in effect prior to April 1, 1997);

(iii) was placed in exclusion proceedings under section 236 of such Act (as in effect prior to April 1, 1997);

(iv) Applied for adjustment of status under section 245 of such Act;

(v) Applied to the Attorney General for employment authorization;

(vi) Performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

(vii) Applied for any other benefit under the Immigration and Nationality Act by means of an application establishing the alien's presence in the United States prior to December 1, 1995.

Normally, such demonstration will be made through submission of a photocopy of a Government-issued document. In some cases, the alien may submit other evidence demonstrating one or more of the above actions, which may be verified through Government records.

Section 202(b)(2)(B) of NACARA also permits, but does not require, the Attorney General to provide by regulation for additional methods by which an applicant could prove commencement of continuous physical presence in the United States. The Department of Justice (Department) is availing itself of this authority to allow a NACARA applicant to submit, as evidence of commencement of physical presence in the United States, other documentation issued by state and local authorities (such as school, hospital, police, and public assistance records). The Department believes that these evidentiary options may well provide sufficient opportunities for qualified applicants to establish commencement of physical presence in the United States without encouraging fraudulent applications. However, in order to ensure that no significant group of eligible aliens is precluded from establishing eligibility for NACARA benefits, the Department is soliciting public comments on the need for any additional methods of establishing commencement of physical presence in the United States and suggestions as to what those additional methods should be, including whether the documentary standards listed in 8 CFR 245.13(e)(3) for demonstrating continuity of physical presence should also be applied to the requirement for demonstrating commencement of physical presence. Commenters are encouraged to explain which classes of aliens would benefit from the proposal, and how the proposal could be implemented without severely compromising the integrity of the adjudicative process.

The NACARA statute is silent as to the methods by which an applicant may demonstrate the continuity of his or her physical presence in the United States. By regulation, the Department is hereby providing that a NACARA applicant may demonstrate continuity of physical presence in the United States through the submission of one or more documents issued by any governmental or non-governmental authority. Such documentation must bear the name of the applicant, have been dated at the time it was issued, and bear the signature of the issuing authority. In some cases, a single document may suffice to establish continuity for the entire post-December 1, 1995, period, while in other cases the alien may need to submit a number of documents. For example, a college transcript or an employment record may show that an applicant attended school or worked in the United States throughout the entire post-December 1, 1995, period. On the other hand, an applicant would need to submit a number of monthly rent receipts or electric bills to establish the same continuity of presence. While the Department neither requires nor wants the applicant to submit documentation to show presence on every single day since December 1, 1995, there should be no significant chronological gaps in the documentation, either. Generally, a gap of 3 months or less in documentation is not considered significant. Furthermore, if the applicant is aware of documents already contained in this or her Immigration and Naturalization Service (Service) file that establish physical presence, he or she may merely list those documents, giving the type and date of the document. Examples of such documents might include a written copy of a sworn statement given to a Service officer, the transcript of a formal hearing, and a Record of Deportable/Inadmissible Alien (Form I–213).

How Does an Applicant Establish Admissibility?

The grounds of inadmissibility specified in paragraphs (4) (public charge), (5) (lack of labor certification), (6)(A) (illegal entry), (7)(A) (immigrant not in possession of an immigrant visa or other valid entry document), and (9)(B) (unlawful presence) of section 212(a) of the Act do not apply to NACARA applicants. Additionally, a Nicaraguan or Cuban national present in the United States who has been ordered excluded, deported, or removed from, or who has agreed to depart voluntarily from, the United States may apply for adjustment of status under NACARA.

If a NACARA applicant is inadmissible to the United States under one of the grounds of inadmissibility contained in section 212(a) of the Act other than those specifically excepted by NACARA, but is eligible for an individual waiver of that ground of inadmissibility, he or she may file an application for the waiver concurrently with his or her application for adjustment of status. Adjustment of status may not be granted unless the waiver has first been approved.

How Do the Provisions of NACARA Affect Dependents of Nicaraguan and Cuban Nationals?

The provisions of NACARA also apply to certain dependents. To receive NACARA benefits as a dependent of a NACARA beneficiary, an alien would have to be a national of either Nicaragua or Cuba (but need not necessarily be of the same nationality as the principal beneficiary—a Cuban dependent could qualify through a Nicaraguan principal beneficiary and vice versa); would have to be the spouse, child (i.e., under 21 years of age and unmarried), or unmarried son or daughter (i.e., 21 years of age or older) of a NACARA principal beneficiary at the time of the principal beneficiary's adjustment of status to that of permanent resident; and would have to be admissible to the United States under section 212(a) of the Act (other than those provisions specifically excepted by NACARA). NACARA dependents must be physically present in the United States in order to apply

and must properly file an application before April 1, 2000.

Additionaly, an unmarried son or daughter, other than a child as defined in section 101(b)(1) of the Act, would have to have been physically present in the United States continuously since December 1, 1995 (not counting absences totaling 180 days or fewer). Although many qualifying dependents of NACARA principal beneficiaries would be able to receive NACARA benefits in their own right, some would only be able to qualify under the dependent provisions. Examples of otherwise eligible persons who could only qualify as dependents would include a spouse or child who arrived in the United States between December 1, 1995, and the principal beneficiary's filing date, and a spouse or child who had been absent for an aggregate of more than 180 days.

How Are Dependents Who Do Not Meet NACARA Requirements Affected?

A family member who is unable to qualify for NACARA adjustment of status on his or her own, or as a dependent under the provisions of NACARA, may eventually become eligible for lawful permanent resident status under other provisions of the Act. Examples of such individuals would include a dependent who is not a national of Nicaragua or Cuba, a spouse or child whose relationship to the principal applicant is not established until after the principal applicant is granted permanent resident status, and an unmarried son or daughter over the age of 21 who entered the United States after December 1, 1995. Upon becoming a permanent resident, a NACARA beneficiary could file a visa petition to accord such a dependent immigrant classification under section 203(a)(2) of the Act, thereby enabling the dependent who is not eligible for NACARA benefits to seek immigration to the United States through the normal family-based immigration process.

What Happens if an Applicant Is Already in Exclusion, Deportation, or Removal Proceedings, or Has a Motion To Reopen or Motion To Reconsider Pending Before the Immigration Court or the Board of Immigration Appeals (Board)?

Proceedings Pending Before the Executive Office for Immigration Review (EOIR)

Persons who have proceedings pending before an Immigration Court or the Board, or persons who have a pending motion to reopen or reconsider filed on or before May 21, 1998, shall remain within the jurisdiction of EOIR for the purpose of consideration of applications for adjustment of status under section 202 of NACARA.

Proceedings Pending Before an Immigration Judge

If an alien (other than an arriving alien who has not been paroled into the United States) is in exclusion, deportation, or removal proceedings before an immigration judge, or if an alien has a motion to reopen or motion to reconsider filed on or before May 21, 1998 pending before an immigration judge, jurisdiction over an application for adjustment of status under section 202 of NACARA shall lie with the Immigration Court. The procedure for filing an application for adjustment under NACARA is described below. If an alien who is not clearly ineligible for adjustment of status under section 202 of NACARA and who has a pending motion to reopen or motion to reconsider files an application for adjustment of status under section 202 of NACARA, the immigration judge shall reopen the alien's proceedings for consideration of the adjustment application. Applications shall be subject to the filing requirements of 8 CFR 3.11 and 3.31.

Proceedings Pending Before the Board

If an alien who is not clearly ineligible for adjustment of status under section 202 of NACARA has a pending appeal with the Board, the Board shall remand the proceedings to the immigration judge for the sole purpose of adjudicating the application for adjustment. The Board shall so remand the case regardless of whether the alien has already filed an application for adjustment of status under NACARA. Further, if an alien has a pending motion to reopen or motion to reconsider filed with the Board on or before May 21, 1998, the Board shall reopen and remand the proceedings to the immigration judge for the sole purpose of adjudicating an application for adjustment of status under section 202 of NACARA.

If upon remand the immigration judge denies the application, or the alien fails to file an application for adjustment under section 202 of NACARA, the immigration judge shall return the case to the Board by certification. This will allow the Board to consider the denial of the NACARA application as well as all other outstanding issues from the previously pending appeal or motion. The alien shall not be required to file another Notice of Appeal to the Board of Immigration Appeals of Decision of Immigration Judge (Form EOIR–26), or to pay an appeal filing fee because the immigration judge's certification of the denial to the Board will automatically transfer the immigration judge's decision to the Board.

May an Alien Who Is in Proceedings Before an Immigration Court or the Board of Immigration Appeals Apply for Adjustment of Status Before the Service?

Yes, under certain circumstances. An alien who is in exclusion, deportation, or removal proceedings before an Immigration Court or the Board may move to have the proceeding administratively closed for the purpose of filing an application for adjustment under NACARA. If the Service concurs in such motion, the Immigration Court or the Board, as appropriate, will administratively close the proceedings. Such closure would permit recalendaring of the closed proceedings if, for example, the alien fails to file an application for adjustment of status under NACARA before April 1, 2000, or the Service denies any application for adjustment of status filed by the alien under NACARA. Should the Service deny the application of status filed by the alien under NACARA. Should the Service deny the application, or the alien fail to file the application before April 1, 2000, the Service will move to recalendar the proceedings and the proceedings will be recalendared by the Immigration Court or the Board, as appropriate. In the case of an application denied by the Service, the alien could seek reconsideration of the denied adjustment application in such recalendared proceedings.

What Happens if an Applicant Is the Subject of a Final Order of Removal?

An alien who is the subject of a final order of removal, and who has never filed an application for adjustment of status under section 202 of NACARA with the Immigration Court, must file such application with the Service. However, if such alien has a motion to reopen or a motion to reconsider filed on or before May 2, 1998 pending before an Immigration Court or the Board, then the application for adjustment must be filed with the Immigration Court or with the Board, as appropriate. The mere filing of an application for adjustment of status under section 202 of NACARA with the Service or the referral of a denied application to an immigration judge does not stay the execution of the final order of removal. To request that execution of the final order be stayed by the Service, the alien must file an Application for Stay of Removal (Form I–246), following the procedures set

forth in 8 CFR 241.6. If the application is referred to the immigration judge, and the Service does not grant a stay of execution of the final order, the alien must request that the immigration judge or Board specifically grant a stay of execution of the final order of removal pursuant to 8 CFR 245.13(d)(5)(ii).

When Can an Application Be Filed?

The application period for NACARA benefits begins June 22, 1998 and ends on March 31, 2000.

What Forms and Other Documents Should Be Filed?

Each applicant for NACARA adjustment of status benefits must file a separate Application to Register Permanent Residence or Adjust Status (Form I–485), accompanied by the required application fee and supporting documents described below. NACARA applicants should complete Part 2 (Application Type) of that form by checking box "h—other" and writing "NACARA—Principal" or "NACARA—Dependent" next to that block. Each application filed must be accompanied by the required initial evidence: (1) a birth certificate or other record of birth; (2) two photographs as described in the Form I–485 instructions; (3) a completed Biographic Information Sheet (Form G–325A) if the applicant is between 14 and 79 years of age; (4) a report of medical examination; (5) if the applicant is at least 14 years of age, a local police clearance from each jurisdiction where the alien has resided for six months or longer since arriving in the United States; (6) a copy of the applicant's Arrival-Departure Record (Form I–94) or other evidence of inspection and admission or parole into the United States, if applicable; (7) one or more of the documents described in section 202(b)(2) of NACARA and 8 CFR 245.13(e)(2) to establish commencement of physical presence in the United States; and (8) one or more of the documents described in 8 CFR 245.13(e)(3) to establish continuity of physical presence in the United States. In addition, the applicant must submit a statement showing all departures from and arrivals in the United States since December 1, 1995. Finally, if the alien is applying as the spouse, child, or unmarried son or daughter of another NACARA beneficiary, the applicant must submit evidence of the relationship (for example, a marriage certificate).

Must the Applicant Be Fingerprinted?

Yes. Upon receipt of the application, the Service will instruct the applicant regarding procedures for obtaining fingerprints through one of the Service's Application Support Centers (ASCs) or authorized Designated Law Enforcement Agencies (DLEAs) chosen specifically for that purpose. Those instructions will direct the applicant to the ASC or DLEA nearest the applicant's home, and advice the applicant of the date(s) and time(s) fingerprinting services may be obtained. Applicants should not submit fingerprint cards as part of the initial filing.

Is There a Fee for Filing This Application?

NACARA adjustment of status applications must be submitted with the fee required by 8 CFR 103.7(b)(1) for Form I–485 (currently $130 for applicants 14 years of age or older, and $100 for applicants under age 14). If the application is submitted to the INS Texas Service Center, the fee must also be submitted to that center. If the application is submitted to an Immigration Court or the Board of Immigration Appeals, the fee must be submitted to the appropriate local office of the Service in accordance with 8 CFR 3.31. An applicant who is deserving of the benefits of section 202 of NACARA and is unable to pay the filing fee may request a fee waiver in accordance with 8 CFR 103.7(c).

How and Where Should the Application Be Filed?

If the applicant is not in exclusion, deportation, or removal proceedings before an Immigration Court or the Board of Immigration Appeals, the application and attachments must be submitted by mail to: USINS Texas Service Center, P.O. Box 851804, Mesquite, TX 75185–1804. If the applicant is in proceedings pending before an Immigration Court or the Board of Immigration Appeals, or if the applicant has a motion to reopen or motion to reconsider filed on or before May 21, 1998 pending before an Immigration Court or the Board, the application and attachments must be submitted to the Immigration Court with jurisdiction over the case or to the Board if the Board has jurisdiction. In such cases, the fee should be submitted to the Service pursuant to 8 CFR 3.31, as provided above. It should be noted that if the motion to reopen or motion to reconsider is filed after May 21, 1998, jurisdiction over any application for adjustment of status under NACARA lies with the Service, not with EOIR.

Applications for adjustment of status under NACARA may not be submitted to any other Service locations or to any consular posts.

Will an Applicant Filing an Application for Adjustment of Status Under NACARA With the Service Be Required to Appear Before the Service for an Interview?

The decision whether to require an interview is solely within the discretion of the Service. The Service may elect to waive the interview of the applicant. If the application is adjudicated without interview, a notice of the decision will be mailed to the applicant. If an interview is required, the application will be forwarded to the local Service office having jurisdiction over the applicant's place of residence. The applicant will be notified of the date and time to appear for the interview. If an applicant fails to appear for an interview, the application may be denied in accordance with existing regulations.

Can an Applicant Be Authorized To Work While the Application Is Pending?

An unexpired authorization to accept employment under another provision of the Act will not be invalidated by the filing of an application for adjustment of status under NACARA or by the administrative closure of the exclusion, deportation, or removal proceeding to pursue relief pursuant to NACARA. Furthermore, an applicant for adjustment under NACARA is not precluded from applying for, and being granted, an extension of any such employment authorization for which he or she remains eligible. Any applicant for adjustment of status under NACARA who wishes to obtain initial employment authorization, or continued employment authorization when his or her prior authorization expires, during the pendency of the adjustment of status application may file an Application for Employment Authorization (Form I–765), in accordance with the instructions on the form. With limited exceptions, the interim rule provides that employment authorization will not be granted until the application for adjustment has been pending for 180 days. This approach is in keeping with section 202(c)(3) of NACARA, which mandates approval of employment authorization if the adjustment application "is pending for a period exceeding 180 days," and has not been denied, and which authorizes, but does not mandate, approval of employment authorization if the application has been pending for fewer than 180 days. Under the interim rule, the Department will authorize employment for applicants whose cases have been pending for fewer than 180 days only if the

applicant applies for work authorization and adjustment at the same time. In addition, the Service record must contain evidence that the applicant is a national of Nicaragua or Cuba who had applied to the Service for an immigration benefit, or had been placed in deportation or exclusion proceedings, not later than December 1, 1995, as provided in paragraphs (1)(A)(i) through (v) and (vii) of section 202(b) of NACARA, unless the record also shows that the applicant is clearly ineligible for adjustment of status under NACARA (e.g., the applicant has been convicted of an aggravated felony). The potential benefits of filing for adjustment of status and employment authorization concurrently will be emphasized during public information sessions that the Service will hold with local community groups. The Department believes that limited employment authorization to these circumstances and to circumstances in which 180 days have elapsed since the filing of the application will both: (1) discourage fraudulent applications filed simply as a way to gain work authorization, and (2) permit employment more promptly for those whose applications appear likely to be granted. However, in publishing this interim rule the Department solicits the views of interested parties on this topic.

Can an Application for Adjustment of Status Be Submitted if the Alien Is Outside the United States?

No. The statute and regulations require that an alien be physically present in the United States in order to properly file an application. However, the regulation does contain a special provision allowing an otherwise eligible alien who is outside the United States to submit a request for parole authorization. Such request would have to be accompanied by photocopies of the documents the alien intends to file in support of his or her claim for eligibility for adjustment of status under NACARA if the parole authorization is granted. Parole authorization may be granted, as a matter of discretion, if upon review of the application for parole authorization and related documents it is determined that the application for adjustment of status is likely to be approved once it has been properly filed. The alien would be allowed to file the application after being paroled into the country. Accordingly, the alien must remain outside the United States until the request for parole authorization is approved. Any attempt to enter the United States without the parole authorization could result in the alien's being found inadmissible to, and removed from, the United States.

Can an Applicant Travel Outside the United States While the Application Is Pending?

Nothing in NACARA authorizes the Service to allow an applicant to re-enter the United States without proper documents. If an applicant plans to leave the United States to go to any other country, including Canada or Mexico, before a decision is made on his or her NACARA adjustment application, the applicant should contact the Service to request advance authorization for parole. If an applicant leaves the United States without such advance authorization, action on his or her NACARA adjustment application may be terminated and the application may be denied. An applicant may also experience difficulty when returning to the United States if he or she does not have such advance authorization. Furthermore, any absence from the United States without an advance parole authorization issued prior to departure counts toward the 180-day aggregate time period that the applicant is allowed to be outside the United States.

If an Alien Who Is Under a Final Order of Exclusion, Deportation, or Removal Departs From the United States, Will the Alien Be Effecting His or Her own Exclusion, Deportation, or Removal?

Yes. Such alien would be a "self-deport" and would be subject to the inadmissibility provisions of section 212(a)(9) of the Act, regardless of whether the alien obtained an Authorization for Parole of an Alien Into the United States (Form I–512) prior to departure. While being inadmissible would not preclude the alien from being *paroled* into the United States, it would preclude the alien from being *admitted* to the United States or being granted an adjustment of status, unless the alien first applied for and was granted permission to reapply for admission into the United States.

How Can an Alien Apply for Such Permission?

An Alien needing such permission may file an Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I–212), in accordance with the instructions on that form. Form I–212 may be filed prior to the alien's departure.

Can an Alien Who Has Not Filed the Application for Adjustment Obtain a Form I–512?

Once this regulation becomes effective on June 22, 1998, and except as discussed above, only the NACARA-eligible aliens who have filed an application for adjustment of status will be able to obtain a Form I–512. However, because some individuals may need to travel prior to that date, on December 24, 1997, the Service issued instructions to all local Service offices allowing district directors to issue Form I–512 to aliens who appear to be eligible for adjustment of status under NACARA and need to travel. The interim rules provides that for aliens who departed the United States with a Form I–512 issued pursuant to those December 24, 1997, instructions, the 180-day cumulative period during which an alien may be absent without breaking continuous physical presence in the United States in tolled while the alien is outside the United States in accordance with the conditions of the advance parole authorization. In this fashion, the Department precludes undue hardships for the affected individuals.

Furthermore, for those aliens who were not issued a Form I–512 because they departed before the Service could implement the December 24, 1997, instructions, the interim rule provides for the tolling of the 180-day cumulative period from November 19, 1997, until July 20, 1998, provided the alien departed from the United States prior to December 31, 1997. This provision extends until July 20, 1998, in order to provide interested aliens 30 days from the effective date of the interim regulation to file the application for parole authorization with the Texas Service Center. As discussed above, once the application for parole authorization has been filed the 180-day cumulative period during which an alien is not required to be physically present in the United States is tolled, provided the application for parole authorization is granted. Such tolling would remain in effect until the alien arrives in the United States with the Form I–512 issued by the director of the Texas Service Center.

What Documentation Will Be Issued if the Adjustment Application Is Approved?

After processing is completed, a notice of the decision will be mailed to the NACARA applicant. Applicants should keep this notice for their records. If the application has been approved, an alien registration receipt card will be

mailed separately to the applicant. To obtain temporary evidence of lawful permanent resident status, the applicant may present the original approval notice and his or her passport or other photo identification at his or her local Service office. The local Service office will issue temporary evidence of lawful permanent resident status after verifying the approval of the NACARA adjustment of status application. If the applicant is not in possession of a passport in which such temporary evidence may be endorsed, he or she should also submit two photographs meeting Alien Documentation, Identification, and Telecommunication System (ADIT) specifications so that the Service may prepare and issue temporary evidence of lawful permanent residence status. If the alien previously had been issued a final order of exclusion, deportation, or removal, such order shall be deemed canceled as of the date of the approval of the application for adjustment of status. If the alien had been in exclusion, deportation, or removal proceedings that were administratively closed, such proceedings shall be deemed terminated as of the date of approval of the application for adjustment of status .

What Happens if an Application Is Denied by the Service?

If the Service finds that an applicant is ineligible for adjustment of status under NACARA, the Service will advise him or her of its determination and of the applicant's right to seek, and the procedures for seeking, consideration of the application by an immigration judge. Depending on the individual case circumstances, those procedures could take one of three different routes as follows:

(1) If exclusion, deportation, or removal proceedings had never been commenced, the Service will issue a Notice to Appear, thereby initiating removal proceedings during which the applicant may renew his or her application for adjustment under NACARA before an Immigration Court. In such proceedings, the immigration judge shall adjudicate the renewed application.

(2) If exclusion, deportation, or removal proceedings had been initiated and administratively closed under the procedure set forth in 8 CFR 245.13(d)(3), the Service will advise the alien of the Service's denial of the NACARA adjustment application and will move the Immigration Court, or the Board if at the time of administrative closure the Board had jurisdiction over the case, to recalendar the proceeding. The previously closed removal proceedings will then be recalendared by the Immigration Court or the Board, as appropriate.

(3) If a final order of exclusion, deportation, or removal had been issued, the Service, using Form I–290C, Notice of Certification, will refer its decision to deny the NACARA adjustment application to an immigration judge, who will adjudicate the application in proceedings designed solely for the purpose of such adjudication.

What Happens if an Application Is Denied by the Immigration Court?

If the Immigrant Court denies the NACARA adjustment application of an alien in exclusion, deporting, or removing proceedings before the Immigration Court, the decision to appealed to the Board along with and under the same procedures as all other issues before the Immigration Court in those proceedings. If the Immigration Court denies the NACARA adjustment application of an alien whose case was remanded to the Immigration Court by the Board, the Immigration Court shall certify the decision to the Board for review. If the Immigration Court denies the NACARA adjustment application of an alien whose case was referred by the Service for a NACARA-only inquiry, the alien shall have the right to appeal the decision of the Board, subject to the requests for 8 CFR parts 3 and 240 governing appeals from immigration judges to the Board, including the requirements of filing a Notice of Appeal to the Board of Immigration Appeals of Decision of Immigration Judge (Form EOIR–26) and paying the filing fee.

What Happens if an Alien Fails To Appear for a Hearing Before the Immigration Judge on a NACARA Adjustment as Applicable?

An alien must appear for all scheduled hearings before an immigration judge, unless his or her appearance is waived by the immigration judge. An alien who is in exclusion, deportation, or removal proceedings before the immigration judge and who fails to appear for a hearing regarding a NACARA adjustment application will be subject to the applicable statutory and regulatory *in absentia* procedures (i.e., section 242B of the Act as it existed prior to the amendments of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) on September 30, 1996, for deportation proceedings, and section 240 of the Act as amended IIRIRA for removal proceedings).

What Rules of Procedure Apply in NACARA-only Hearings Conducted on Cases Referred by the Service to the Immigration Court?

Although an alien who is placed before the immigration judge for a NACARA-only hearing after referral on a Notice of Certification (Form I–290) to the Immigration Court by the Service is not specifically subject to the statutory and regulatory provisions governing exclusion, deportation, and removal proceedings, the Department has inserted language in this interim rule reflecting the standards in section 240 of the Act for removal proceedings, including the *in absentia* procedures. Absent specific statutory direction in this area, the procedures of section 240 of the Act were chosen because such procedures are similar to those from the pre-IIRIRA section 242B of the Act and indicate Congress's most recent preference for procedures dealing with failures to appear for immigration proceedings. Use of the language from section 240 of the Act also assures that the *in absentia* procedures used for those in NACARA-only proceedings are consistent with the *in absentia* procedures applicable to aliens who file NACARA adjustment applications in ongoing removal and deportation proceedings.

As for those aliens who, upon reopening and remanding by the Board to the Immigration Court, fail to file a NACARA adjustment application with the Immigration Court, the immigration judge will certify the case back to the Board for consideration of the previously pending appeal or motion. If, prior to receiving a final order from the Board, the alien subsequently requests as remand to file a NACARA adjustment application, the Board shall remand the case to the Immigration Court, unless the alien is clearly ineligible for such relief.

Good Cause Exception

The Department's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B). Section 202 of NACARA became effective immediately upon enactment on November 19, 1997. Publication of this rule as an interim rule will expedite implementation of that section and allow Nicaraguan and Cuban nationals and their spouses and children to apply for and obtain the benefits available to applicants for adjustment of status under NACARA as soon as possible before the statutory application deadline of April 1, 2000.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not, if promulgated, have a significant adverse economic impact on a substantial number of small entities. This rule allows certain Nicaraguan and Cuban nationals to apply for adjustment of status; it has no effect on small entities as that term is defined in 5 U.S.C. 601(6).

Executive Order 12866

This rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 12612

The regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and will not significantly or uniquely affect small government. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

8 CFR Part 240

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 245

Alien, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1324b, 1362, 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002.

2. Section 3.1 is amended by adding paragraph (b)(12) to read as follows:

§ 3.1 General authorities.

* * * * *

(b) * * *

(12) Decisions of Immigration Judges on applications for adjustment of status referred on a Notice of Certification (Form I–290C) to the Immigration Judge in accordance with § 245.13(n)(2) of this chapter or remanded to the Immigration Court in accordance with § 245.13(d)(2) of this chapter.

* * * * *

PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

3. The authority citation for part 240 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; sec. 202, Pub. L. 105–100 (111 Stat. 2160, 2193); 8 CFR part 2.

§ 240.1 [Amended]

4. In § 240.1, paragraph (a) is amended in the first sentence by adding the phrase "and section 202 of Pub. L. 105–100" immediately after the phrase "and 249 of the Act".

§ 240.11 [Amended]

5. In § 240.11, paragraph (a)(1) is amended in the first sentence by revising the phrase "adjustment of status under section 1 of the Act of November 2, 1966 (as modified by section 606 of Pub. L. 104–132) or under section 101 or 104 of the Act of October 28, 1977," to read "adjustment of status under section 1 of the Act of November 2, 1966 (as modified by section 606 of Pub. L. 104–208), section 101 or 104 of the Act of October 28, 1977, or section 202 of Pub. L. 105–100,".

§ 240.31 [Amended]

6. Section 240.31 is amended in the first sentence by adding the phrase ", including the adjudication of applications for adjustment of status pursuant to section 202 of Pub. L. 105–100" immediately after the phrase "and this chapter".

§ 240.41 [Amended]

7. In § 240.41, paragraph (a) is amended in the first sentence by adding the phrase "and section 202 of Pub. L. 100" after "and 249 of the Act".

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

8. The authority citation for part 245 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100 (111 Stat. 2160, 2193); 8 CFR part 2.

9. Section 245.13 is added to read as follows:

§ 245.13 Adjustment of Status of Certain Nationals of Nicaragua and Cuba under Public Law 105–100.

(a) *Aliens eligible to apply for adjustment.* An alien is eligible to apply for adjustment of status under the provisions of section 202 of Pub. L. 105–100, if the alien:

(1) Is a national of Nicaragua or Cuba;

(2) Except as provided in paragraph (o) of this section, has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier that the date the application for adjustment is granted, excluding:

(i) Any periods of absence from the United States not exceeding 180 days in the aggregate; and

(ii) Any periods of absence for which the applicant received an Advance Authorization for Parole (Form I–512) prior to his or her departure from the United States, provided the applicant returned to the United States in accordance with the conditions of such Advance Authorization for Parole;

(3) Is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Act, with the exception of paragraphs (4), (5), (6)(A), (7)(A) and (9)(B). If available, an applicant may apply for an individual waiver as provided in paragraph (c) of this section;

(4) Is physically present in the United States at the time the application is filed; and

(5) Properly files an application for adjustment of status in accordance with this section.

(b) *Qualified family members.* (1) *Existence of relationship at time of adjustment.* The spouse, child, or unmarried son or daughter of an alien eligible for adjustment of status under the provisions of Pub. L. 105–100 is eligible to apply for benefits as a dependent provided the qualifying relationship existed when the principal beneficiary was granted adjustment of status and the dependent meets all applicable requirements of sections 202(a) and (d) of Pub. L. 105–100.

(2) *Spouse and minor children.* If physically present in the United States, the spouse or minor child of an alien who is eligible for permanent residence under the provisions of Pub. L. 105–100 may also apply for and receive adjustment of status under this section, provided such spouse or child meets the criteria established in paragraph (a) of this section, except for the requirement of continuous physical presence in the United States since December 1, 1995. Such application may be filed concurrently with or subsequent to the filing of the principal's application but may not be approved prior to approval of the principal's application.

(3) *Unmarried adult sons and daughters.* An unmarried son or daughter of an alien who is eligible for permanent residence under the provisions of Pub. L. 105–100 may apply for and receive adjustment under this section, provided such son or daughter meets the criteria established in paragraph (a) of this section.

(c) *Applicability of inadmissibility grounds contained in section 212(a).* An applicant for the benefits of the adjustment of status provisions of section 202 of Pub. L. 105–100 need not establish admissibility under paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Act in order to be able to adjust his or her status to that of permanent resident. An applicant under section 202 of Pub. L. 105–100 may also apply for one or more of the immigrant waivers of inadmissibility under section 212 of the Act, if applicable, in accordance with § 212.7 of this chapter.

(d) *Aliens in exclusion, deportation, or removal proceedings, and aliens subject to a final order of exclusion, deportation, or removal.* (1) *Proceedings pending before an Immigration Court.* Except as provided in paragraph (d)(3) of this section, while an alien is in exclusion, deportation, or removal proceedings pending before an immigration judge, or has a pending motion to reopen or motion to reconsider filed with an immigration judge on or before May 21, 1998, sole jurisdiction over an application for adjustment of status under section 202 of Public Law 105–100 shall lie with the immigration judge. If an alien who has a pending motion to reopen or motion to reconsider filed with an immigration judge on or before May 21, 1998 files an application for adjustment of status under section 202 of Pub. L. 105–100, the immigration judge shall reopen the alien's proceedings for consideration of the adjustment application, unless the alien is clearly ineligible for adjustment of status under section 202 of Pub. L. 105–100. All applications for adjustment of status under section 202 of Pub. L. 105–100 filed with an Immigration Court shall be subject to the requirements of §§ 3.11 and 3.31 of this chapter.

(2) *Proceedings pending before the Board of Immigration Appeals.* Except as provided in paragraph (d)(3) of this section, in the case of an alien who either has a pending appeal with the Board or has a pending motion to reopen or motion to reconsider filed with the Board on or before May 21, 1998, the Board shall remand, or reopen and remand, the proceedings to the Immigration Court for the sole purpose of adjudicating an application for adjustment of status under section 202 of Pub. L. 105–100, unless the alien is clearly ineligible for adjustment of status under section 202 of Pub. L. 105–100. If the immigration judge denies, or the alien fails to file, the application for adjustment of status under section 202 of Pub. L. 105–100, the immigration judge shall certify the decision to the Board for consideration in conjunction with the applicant's previously pending appeal or motion.

(3) *Administrative closure of pending exclusion, deportation, or removal proceedings.* (i) In the case of an alien who is in exclusion, deportation, or removal proceedings, or has a pending motion to reopen or a motion to reconsider such proceedings filed on or before May 21, 1998, and who appears to be eligible to file an application for adjustment of status under section 202 of Pub. L. 105–100, the Immigration Court having jurisdiction over such proceedings or motion, or if the matter is before the Board on appeal or by motion, the Board, shall, upon request of the alien and with the concurrence of the Service, administratively close the proceedings, or continue indefinitely the motion, to allow the alien to file such application with the Service as prescribed in paragraph (g) of this section.

(ii) In any case not administratively closed in accordance with paragraph (d)(3)(i) of this section, the immigration judge having jurisdiction over the exclusion, deportation, or removal proceedings shall have jurisdiction to accept and adjudicate any application for adjustment of status under section 202 of Pub. L. 105–100 during the course of such proceedings.

(4) *Aliens with final orders of exclusion, deportation, or removal.* An alien who is subject to a final order of exclusion, deportation, or removal, and who has not been denied adjustment of status under section 202 of Public Law 105–100 by the immigration judge or the Board of Immigration Appeals, may apply to the Service for adjustment of status under section 202 of Pub. L. 105–100.

(5) *Stay of final order of exclusion, deportation, or removal.* (i) *With the Service.* The filing of an application for adjustment under section 202 of Public Law 105–100 with the Service shall not stay the execution of such final order unless the applicant has filed, and the Service has approved an Application for Stay of Removal (Form I–246) in accordance with section 241(c)(2) of the Act and § 241.6 of this chapter.

(ii) *With EOIR.* When the Service refers a decision to an immigration judge on a Notice of Certification (Form I–290C) in accordance with paragraph (m)(3) of this section, the referral shall not stay the execution of the final order. Execution of such final order shall proceed unless a stay of execution is specifically granted by the immigration judge, the Board, or an authorized Service officer.

(6) *Effect on applications for adjustment under other provisions of the law.* Nothing in this section shall be deemed to allow any alien who is in either exclusion proceedings that commenced prior to April 1, 1997, or

removal proceedings as an inadmissible arriving alien that commenced on or after April 1, 1997, and who has not been paroled into the United States, to apply for adjustment of status under any provision of law other than section 202 of Pub. L. 105–100.

(e) *Application and supporting documents.* Each applicant for adjustment of status must file an Application to Register Permanent Residence or Adjust Status (Form I–485). An applicant should complete Part 2 of Form I–485 by checking box "h—other" and writing "NACARA—Principal" or "NACARA—Dependent" next to that block. Each application must be accompanied by:

(1) The fee prescribed in § 103.7(b)(1) of this chapter;

(2) Evidence of commencement of physical presence in the United States not later than December 1, 1997. Such evidence may consist of either:

(i) Documentation evidencing one or more of the activities specified in section 202(b)(2)(A) of Pub. L. 105–100, or

(ii) Other documentation issued by a Federal, State, or local authority provided such other documentation bears the seal of such authority, was dated at the time of issuance, and bears a date of issuance not later than December 1, 1995. Examples of such other documentation include, but are not limited to:

(A) A State driver's license;

(B) A State identification card issued in lieu of a driver's license to a non-driver;

(C) A county or municipal hospital record;

(D) A public college or public school transcript; and

(E) Income tax records;

(3) Evidence of continuity of physical presence in the United States issued by any governmental or non-governmental authority, provided such evidence bears the name of the applicant, was dated at the time it was issued, and bears the signature of the authorized representative of the issuing authority. There should be no chronological gaps in such documentation exceeding 90 days in length, excluding periods when the applicant states that he or she was not physically present in the United States. Such documentation need not bear the seal of the issuing authority and may include, but is not limited to:

(i) School records;

(ii) Rental receipts;

(iii) Utility bill receipts;

(iv) Any other dated receipts;

(v) Personal checks written by the applicant bearing a dated bank cancellation stamp;

(vi) Employment records, including pay checks;

(vii) Credit card statements showing the dates of purchase, payment, or other transaction; and

(viii) For applicants who have had ongoing correspondence or other interaction with the Service, a list of the types and dates of such correspondence or other contact that the applicant knows to be contained or reflected in Service records;

(4) A copy of the applicant's birth certificate;

(5) A complete Biographic Information Sheet (Form G–325A), if the applicant is between 14 and 79 years of age;

(6) A report of medical examination, as specified in § 245.5 of this chapter;

(7) Two photographs, as described in the instructions to Form I–485;

(8) If the applicant is 14 years of age or older, a police clearance from each municipality where the alien has resided for six months or longer since arriving in the United States;

(9) If the applicant is applying as the spouse of another Pub. L. 105–100 beneficiary, a copy of their certificate of marriage and copies of documents showing the legal termination of all other marriages by the applicant or the other beneficiary;

(10) If the applicant is applying as the child, unmarried son, or unmarried daughter of another (principal) beneficiary under section 202 of Pub. L. 105–100 who is not the applicant's biological mother, copies of evidence (such as the applicant's parent's marriage certificate and documents showing the legal termination of all other marriages, an adoption decree, or other relevant evidence) to demonstrate the relationship between the applicant and the other beneficiary;

(11) A copy of the Arrival-Departure Record (Form –I–94) issued at the time of the applicant's arrival in the United States, if the alien was inspected and admitted or paroled; and

(12) If the applicant has departed from and returned to the Untied States since December 1, 1995, an attachment on a plain piece of paper showing:

(i) The date of the applicant's last arrival in the United States before or on December 1, 1995;

(ii) The date of each departure (if any) from the United States since that arrival;

(iii) The reason for each departure; and

(iv) The date, manner, and place of each return to the United States.

(f) *Secondary evidence.* If the primary evidence required in paragraph (e)(4), (e)(9) or (e)(10 of this section is unavailable, church or school records, or other secondary evidence pertinent to the facts in issue, may be submitted. If such documents are unavailable, affidavits may be submitted. The applicant may submit as many types of secondary evidence as necessary to establish the birth, marriage, or other event. Documentary evidence establishing that primary evidence is unavailable must accompany secondary evidence of birth or marriage in the home country. In adjudicating the application for adjustment of status under section 202 of Public Law 105–100, the Service or immigration judge shall determine the weight to be given such secondary evidence. Secondary evidence may not be submitted in lieu of the documentation specified in paragraphs (e)(2) and (e)(3) of this section. However, subject to verification by the Service, if the documentation specified in paragraphs (e)(2) and (e)(3) is already contained in the Service's file relating to the applicant, the applicant may submit an affidavit to that effect in lieu of the actual documentation.

(g) *Filing.* The application period begins on June 22, 1998. To benefit from the provisions of section 202 of Public Law 105–100, an alien must properly file an application for adjustment of status before April 1, 2000. Except as provided in paragraph (d) of this section, all applications for the benefits of section 202 of Pub. L. 105–100 must be submitted by mail to: USINS Texas Service Center, P.O. Box 851804, Mesquite, TX 75185–1804. After proper filing of the application, the Service will notify the applicant to appear for fingerprinting as prescribed in § 103.2(e) of this chapter.

(h) *Jurisdiction.* Except as provide din paragraphs (d) and (i) of this section, the director of the Texas Service Center shall have jurisdiction over all applications for adjustment of status under section 202 of Public Law 105–100.

(i) *Interview.* (1) Except as provided in paragraphs (d), (i)(2), and (i)(3) of this section, all applicants for adjustment of status under section 202 of Pub. L. 105–100 must be personally interviewed by an immigration officer at a local office of the Service. In any case in which the director of the Texas Service Center determines that an interview of the applicant is necessary, that director shall forward the case to the appropriate local Service office for interview and adjudication.

(2) In the case of an applicant who has submitted evidence of commencement of physical presence in the United States consisting of one or more of the documents specified in section 202(b)(2)(A)(i) through (v) or section

202(b)(2)(A)(vii) of Pub. L. 105–100 and upon examination of the application, including all other evidence submitted in support of the application, all relevant Service records and all other relevant law enforcement indices, if the director of the Texas Service Center determines that the alien is clearly eligible for adjustment of status under Pub. L. 105–100 and that an interview of the applicant is not necessary, the director may approve the application.

(3) Upon examination of the application, all supporting documentation, all relevant Service records, and all other relevant law enforcement indices, if the director of the Texas Service Center determines that the alien is clearly ineligible for adjustment of status under Pub. L. 105–100 and that an interview of the applicant is not necessary, the director may deny the application.

(j) *Authorization to be employed in the United States while the application is pending.* (1) *Application.* An applicant for adjustment of status under section 202 of Pub. L. 105–100 who wishes to obtain initial or continued employment authorization during the pendency of the adjustment application must file an Application for Employment authorization (Form I–765), with fee as set forth in § 103.7(b)(1) of this chapter. The applicant may either submit Form I–765 concurrently with Form I–485 or wait for at least 90 days after submission of Form I–485.

(2) *Adjudication and issuance.* In general, employment authorization may not be issued to an applicant for adjustment of status under section 202 of Pub. L. 105–100 until the adjustment application has been pending for 180 days. However, if Service records contain one or more of the documents specified in section 202(b)(2)(A)(i) through (v) and (vii) of Pub. L. 105–100, evidence of the applicant's Nicaraguan or Cuban nationality, and no indication that the applicant is clearly ineligible for adjustment of status under section 202 of Pub. L. 105–100, the application for employment authorization may be approved, and the resulting document issued immediately upon verification that the Service record contains such information. If the Service fails to adjudicate the application for employment authorization upon expiration of the 180-day waiting period or within 90 days of the filing of application for employment authorization, whichever comes later, the alien shall be eligible for interim employment authorization in accordance with § 274a.13(d) of this chapter. Nothing in this section shall preclude an applicant for adjustment of status under Pub. L. 105–100 from being granted an initial employment authorization or an extension of employment authorization under any other provision of law or regulation for which the alien may be eligible.

(k) *Parole authorization for purposes of travel.* (1) *Travel from and return to the United States while the application for adjustment of status is pending.* If an applicant for benefits under section 202 of Pub. L. 105–100 desires to travel outside, and return to, the United States while the application for adjustment of status is pending, he or she must file a request for advance parole authorization on an Application for Travel Document (Form I–131), with fee as set forth in § 103.7(b)(1) of this chapter and in accordance with the instructions on the form. If the alien is either in deportation or removal proceedings, or subject to a final order of deportation or removal, the Form I–131 must be submitted to the Assistant Commissioner for International Affairs; otherwise the Form I–131 must be submitted to the director of the Texas Service Center, who shall have jurisdiction over such applications. If any applicant departs the United States without first obtaining an advance parole, his or her application for adjustment of status under section 202 of Pub. L. 105–100 is deemed to be abandoned as of the moment of his or her departure.

(2) *Parole authorization for the purpose of filing an application for adjustment of status under section 202 of Pub. L. 105–100.* An otherwise eligible applicant who is outside the United States and wishes to come to the United States in order to apply for benefits under section 202 of Pub. L. 105–100 may request parole authorization for such purpose by filing an Application for Travel Document (Form I–131) with the Texas Service Center, at P.O. Box 851804, Mesquite, TX 75185–1804. Such application must be supported by a photocopy of the Form I–485 that the alien will file once he or she has been paroled into the United States. The applicant must include photocopies of all the supporting documentation listed in paragraph (e) of this section, except the filing fee, the medical report, the fingerprint card, and the local police clearances. If the director of the Texas Service Center is satisfied that the alien will be eligible for adjustment of status once the alien has been paroled into the United States and files the application, he or she may issue an Authorization for Parole of an Alien into the United States (Form I–512) to allow the alien to travel to, and be paroled into, the United States for a period of 60 days. The applicant shall have 60 days from the date of parole to file the application for adjustment of status. If the alien files the application for adjustment of status within that 60-day period, the Service may re-parole the alien for such time as is necessary for adjudication of the application. Failure to file such application for adjustment of status within 60 days shall result in the alien being returned to the custody of the Service and being examined as an arriving alien applying for admission. Such examination will be conducted in accordance with the provisions of section 235(b)(1) of the Act if the alien is inadmissible under section 212(a)(6)(C) or 212(a)(7) of the Act, or section 240 of the Act if the alien is inadmissible under any other grounds.

(3) *Effect of departure on an outstanding warrant of exclusion, deportation, or removal.* If an alien who is the subject of an outstanding final order of exclusion, deportation, or removal departs from the United States, with or without an advance parole authorization, such final order shall be executed by the alien's departure. The execution of such final order shall not preclude the applicant from filing an Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I–212) in accordance with § 212.2 of this chapter.

(l) *Approval.* If the director approves the application for adjustment of status under the provisions of section 202 of Pub. L. 105–100, the director shall record the alien's lawful admission for permanent resident as of the date of such approval and notify the applicant accordingly. If the alien had previously been issued a final order of exclusion, deportation, or removal, such order shall be deemed canceled as of the date of the director's approval of the application for adjustment of status. If the alien had been in exclusion, deportation, or removal proceedings that were administratively closed, such proceedings shall be deemed terminated as of the date of approval of the application for adjustment of status by the director. If an immigration judge grants or if the Board, upon appeal, grants an application for adjustment under the provisions of section 202 of Pub. L. 105–100, the alien's lawful admission for permanent residence shall be as of the date of such grant.

(m) *Denial and review of decision.* If the director denies the application for adjustment of status under the provisions of section 202 of Pub. L. 105–100, the director shall notify the

applicant of the decision. The director shall also:

(1) In the case of an alien who is not maintaining valid nonimmigrant status and who had not previously been placed in exclusion, deportation, or removal proceedings, initiate removal proceedings in accordance with § 239.1 of this chapter during which the alien may renew his or her application for adjustment of status under section 202 of Pub. L. 105–100; or

(2) In the case of an alien whose previously initiated exclusion, deportation, or removal proceeding had been administratively closed or continued indefinitely under paragraph (d)(3) of this section, advise the Immigration Court that had administratively closed the proceeding, or the Board, as appropriate, of the denial of the application. The Immigration Court or the Board will then recalendar or reinstate the prior exclusion, deportation, or removal proceeding, during which proceeding the alien may renew his or her application for adjustment under section 202 of Pub. L. 105–100; or

(3) In the case of an alien who is the subject of an outstanding final order of exclusion, deportation, or removal, refer the decision to deny the application by filing a Notice of Certification (Form I–290C) with the Immigration Court that issued the final order for consideration in accordance with paragraph (n) of this section.

(n) *Action of immigration judge upon referral of decision by a Notice of Certification (Form I–290C).* (1) *General.* Upon the referral by a Notice of Certification (Form I–290C) of a decision to deny the application, in accordance with paragraph (m)(3) of this section, and under the authority contained in § 3.10 of this chapter, the immigration judge shall conduct a hearing to determine whether the alien is eligible for adjustment of status under section 202 of Public Law 105–100. Such hearing shall be conducted under the same rules of procedure as proceedings conducted under part 240 of this chapter, except the scope of review shall be limited to a determination on the alien's eligibility for adjustment of status under section 202 of Public Law 105–100. During such proceedings all parties are prohibited from raising or considering any other issues, including but not limited to issues of admissibility, deportability, removability, and eligibility for any form of relief other than adjustment of status under section 202 of Public Law 105–100. Should the alien fail to appear for such hearing, the immigration judge shall deny the application for adjustment under section 202 of Public Law 105–100.

(2) *Appeal of immigration judge decision.* Once the immigration judge issues his or her decision on the application, either the alien or the Service may appeal the decision to the Board. Such appeal must be filed pursuant to the requirements for appeals to the Board from an immigration judge decision set forth in §§ 3.3 and 3.8 of this chapter.

(3) *Rescission of the decision of an immigration judge.* The decision of an immigration judge under paragraph (n)(1) of this section denying an application for adjustment under section 202 of Public Law 105–100 for failure to appear may be rescinded only:

(i) Upon a motion to reopen filed within 180 days after the date of the denial if the alien demonstrates that the failure to appear was because of exceptional circumstances as defined in section 240(e)(1) of the Act; or

(ii) Upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice of the hearing in person (or, if personal service was not practicable, through service by mail to the alien or to the alien's counsel of record, if any) or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien.

(o) *Transition period provisions for tolling the physical presence in the United States provision for certain individuals.* (1) *Departure without advance authorization for parole.* In the case of an otherwise eligible applicant who departed the United States on or before December 31, 1997, the physical presence in the United States provision of section 202(b)(1) of Pub. L. 105–100 is tolled as of November 19, 1997, and until July 20, 1998.

(2) *Departure with advance authorization for parole.* In the case of an alien who departed the United States after having been issued an Authorization for parole of an Alien into the United States (Form I–512), and who returns to the United States in accordance with the conditions of that document, the physical presence in the United States requirement of section 202(b)(1) of Pub. L. 105–100 is tolled while the alien is outside the United States pursuant to the issuance of the Form I–512.

(3) *Request for parole authorization from outside the United States.* In the case of an alien who is outside the United States and submits an application for parole authorization in accordance with paragraph (k)(2) of this section, and such application for parole authorization is granted by the Service, the physical presence in the United States provisions of section 202(b)(1) of Pub. L. 105–100 is tilled from the date the application is received at the Texas Service Center until the alien is paroled into the United States pursuant to the issuance of the Form I–512.

(Approved by the Office of Management and Budget under Control Number 1115–0221.)

PART 274A—CONTROL OF EMPLOYMENT OF ALIENS

10. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

§ 274a.12 [Amended]

11. In § 274a.12, paragraph (c)(9) is amended in the second sentence by revising the term "Employment authorization" to read: "Except as provided in § 245.13(j) of this chapter, employment authorization".

§ 274a.13 [Amended]

12. In § 274a.13, paragraph (d) is amended in the first sentence by revising the phrase "§ 274a.12(c)(8), which is governed by paragraph (a)(2) of this section, and § 274a.12(c)(9) in so far as it is governed by § 245.13(j) of this chapter".

PART 299—IMMIGRATION FORMS

13. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

14. Section 299.1 is amended in the table by:

a. Revising the entry for Form "I–290C", and by

b. Adding the entry for Form "I–485 Supplement B" in proper numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
. . .	. . .	. . .
I–290C	03–01–98	Notice of Certification.
. . .	. . .	. . .
I–485 Supplement B	03–01–98	NACARA Supplement to Form I–485 Instructions.
. . .	. . .	. . .

15. Section 299.5 is amended in the table by adding the entry for Form "I–485 Supplement B" in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
. .	. . .	
I–485 Supplement B	NACARA Supplement to Form I–485 Instructions	1115–0221
. .	. . .	

Dated: May 12, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–13246 Filed 5–20–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–40–AD; Amendment 39–10534; AD 98–11–07]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires a one-time inspection of the double shuttle valve in the upper fuselage fairing for incorrectly labeled part numbers, and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to ensure replacement of the double shuttle valves when they have reached their maximum life limit; incorrectly labeled part numbers of the double shuttle valves that are not replaced could result in the failure of the roll control spoilers, and, consequently, lead to reduced controllability of the airplane.

DATES: Effective June 25, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 25, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR 13577). That action proposed to require a one-time inspection of the double shuttle valve in the upper fuselage fairing for incorrectly labeled part numbers, and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD. It will take approximately 1 work hour per airplane to accomplish the required inspection at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–07 Dornier Luftfahrt GmbH: Amendment 39–10534. Docket 98–NM–40–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3086 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure replacement of the double shuttle valves when they have reached their maximum life limit, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time visual inspection of the double shuttle valve in the upper fuselage fairing to determine if the part number of the valve is labeled correctly, in accordance with Dornier Service Bulletin SB–328–27–236, Revision 1, dated November 5, 1997.

(b) If the inspection required by paragraph (a) of this AD reveals that the installed double shuttle valve is labeled incorrectly, prior to further flight, accomplish paragraphs (b)(1) and (b)(2) of this AD, in accordance with Dornier Service Bulletin SB–328–27–236, Revision 1, dated November 5, 1997.

(1) Revise the valve identification label to correctly identify the part number of the double shuttle valve, and delete any reference to operating pressure (i.e., BAR 205).

(2) Verify that the installed valve is within the limits specified for that particular part number in accordance with the service bulletin. If the installed double shuttle valve is outside the limits, prior to further flight, replace the double shuttle valve with a new part.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Dornier Service Bulletin SB–328–27–236, Revision 1, dated November 5, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 1997–321/2, dated January 15, 1998.

(f) This amendment becomes effective on June 25, 1998.

Issued in Renton, Washington, on May 13, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13312 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 90F–0310]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 1,11-(3,6,9-trioxaundecyl)bis-3-(dodecylthio)propionate as an antioxidant for can end cements used in contact with food. This action is in response to a petition filed by Goodyear Tire and Rubber Co.

DATES: The regulation is effective May 21, 1998. Submit written objections and requests for a hearing by June 22, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 30, 1990 (55 FR 45656), FDA announced that a food additive petition (FAP 0B4223) had been filed by Goodyear Tire and Rubber Co., Akron, OH 44316–0001 (presently c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 1,11-(3,6,9-trioxaundecyl)bis-3-(dodecylthio)propionate as an antioxidant for can end cements used in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency

concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 22, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
1, 11-(3, 6, 9-Trioxaundecyl) bis-3-(dodecylthio) propionate (CAS Reg. No. 64253–30–1).	For use only as provided in § 175.300(b)(3)(xxxi) of this chapter at 4.0 parts per 100 parts rubber.
* * *	* * *

Dated: May 11, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–13469 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 78N–036L]

RIN 0910–AA01

Package Size Limitation for Sodium Phosphates Oral Solution and Warning and Direction Statements for Oral and Rectal Sodium Phosphates for Over-the-Counter Laxative Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to limit the container size for sodium phosphates oral solution (dibasic sodium phosphate/monobasic sodium phosphate oral solution) to not greater than 90 milliliters (mL) (3 ounces (oz)) when used as an over-the-counter (OTC) laxative drug product. FDA is limiting the container size because of reports of deaths associated with an overdosage of sodium phosphates oral solution when the product was packaged in a larger-size container and a larger than intended dose was ingested inadvertently. The agency is also requiring warning and direction statements to inform consumers that exceeding the recommended dose of oral and rectal sodium phosphates products in a 24-hour period can be harmful. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

DATES: The regulation is effective June 22, 1998, however compliance with

§ 201.307(b)(2) and (b)(3) is not mandatory until September 18, 1998.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Turner, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 21, 1975 (40 FR 12902), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC laxative, antidiarrheal, emetic, and antiemetic drug products, together with the recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products (the Panel), which was the Advisory Review Panel responsible for evaluating data on the active ingredients in these classes. The Panel recommended monograph status for phosphate salts, such as sodium phosphates oral solution (40 FR 12902 at 12940), but did not recommend any container size limitations.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC laxative drug products was published in the **Federal Register** of January 15, 1985 (50 FR 2124). The agency also proposed monograph status for sodium phosphates oral solution (50 FR 2124 at 2152 and 2155), but did not recommend any container size limitations. The agency proposed the following dosage for sodium phosphates oral solution for adults and children 12 years of age and over: 3.42 to 7.56 grams (g) of dibasic sodium phosphate and 9.1 to 20.2 g of monobasic sodium phosphate [1] in a single daily dose. (See proposed § 334.58(d)(5)(i) (21 CFR 334.58(d)(5)(i)), 50 FR 2124 at 2155.) In addition to its use as an OTC laxative for the relief of occasional constipation, sodium phosphates oral solution [2] is used as part of a bowel cleansing regimen in preparing a patient for surgery or for preparing the colon for x-ray or endoscopic examination. (See proposed § 334.80(a)(2), 50 FR 2124 at 2157.) Sodium phosphates oral solution and sodium phosphates enema [3]; respectively, are the current United States Pharmacopeia (USP) names for the oral and rectal dosage forms of the combination of sodium phosphates ingredients.

In the **Federal Register** of March 31, 1994 (59 FR 15139), the agency proposed to amend the tentative final monograph for OTC laxative drug products to limit the OTC container size for sodium phosphates oral solution to not greater than 90 mL. The agency also proposed a warning for all oral and rectal dosage forms of sodium phosphates products to inform consumers not to exceed the recommended dosage unless directed by a doctor. Interested persons were invited to submit written comments on the proposed regulation and on the agency's economic impact determination by May 31, 1994.

In response to the proposal, two manufacturers of laxative drug products submitted comments. Neither comment addressed the agency's economic impact determination. Copies of these comments are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Additional information that has come to the agency's attention since publication of the proposal is also on public display in the Dockets Management Branch.

In the proposal, the agency discussed its reasons for limiting the package size for sodium phosphates oral solution (59 FR 15139). The agency noted that the major trade product containing sodium phosphates oral solution was marketed in 45-mL, 90-mL, and 240-mL bottles. The purgative dose or dose used for colonoscopy is 45 mL. Because the product was available in three sizes, the manufacturer's labeling advised physicians to prescribe by volumes and not to prescribe by the bottle and not to exceed the recommended dosage, as serious side effects may occur. Despite this labeling, the multiple container sizes available in the marketplace have caused consumer confusion and appear to have been involved in several consumer deaths.

The agency determined that the OTC availability of the 240-mL container of sodium phosphates oral solution creates a potential safety risk, particularly for elderly persons who are likely to use the product for bowel cleansing prior to surgery or a diagnostic procedure involving the colon. Because of the reported cases of accidental overdosing and the confusion that has occurred between 240-mL and 90-mL container sizes, the agency proposed that the 240-mL size container of sodium phosphates oral solution should no longer remain in the OTC marketplace. In the interest of safety, the agency proposed to limit the maximum OTC container size for this product to 90 mL.

The agency proposed to include the package size limitation and warning in the monograph for OTC laxative drug products. However, that monograph has not been finalized to date. Because of the potential safety risk involved, the agency has decided to finalize both the package size limitation and several new warning and direction statements prior to completion of the final monograph for OTC laxative drug products. The agency has decided to include this information in part 201 (21 CFR part 201) at this time and to incorporate it into the final monograph for OTC laxative drug products at a later date.

In the **Federal Register** of February 27, 1997 (62 FR 9024), FDA proposed to establish a standardized format for the labeling of OTC drug products. Until the proposal is finalized, manufacturers, distributors, and packagers must comply with the final rule published herein and all other currently applicable labeling regulations. The agency will eventually use the final labeling rule to incorporate the information included herein in part 201 into the final monograph for OTC laxative drug products.

II. The Agency's Conclusions on the Comments

1. One comment stated that, according to the USP 22 (Ref. 1), the current terminology for sodium phosphate is monobasic sodium phosphate and for sodium biphosphate it is dibasic sodium phosphate. The comment stated that the tentative final monograph should be amended accordingly.

Under agency regulations in 21 CFR 299.4(e), the established name of a drug is the current compendial name or the USAN (U.S. Adopted Names Council) adopted name listed in the USP Dictionary of USAN and International Drug Names. Both the U.S. Pharmacopeia 23/National Formulary 18 (Ref. 2) and the USP Dictionary of USAN and International Drug Names, 1997 (Ref. 3) list the current name for sodium phosphate as "dibasic sodium phosphate," and for sodium

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[1] In the tentative final monograph for OTC laxative drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2124), and in the proposed rule for package size limitation for OTC laxative drug products published in the **Federal Register** of March 31, 1994 (59 FR 15139), the agency referred to dibasic sodium phosphate as "sodium phosphate," and monobasic sodium phosphate as "sodium biphosphate." The current nomenclature in the *USP Dictionary of USAN and International Drug Names, 1997* is "dibasic sodium phosphate" and "monobasic sodium phosphate," respectively. This final rule uses the current nomenclature.

[2] Sodium phosphates oral solution is the official name for a solution of dibasic sodium phosphate and monobasic sodium phosphate in the *U.S. Pharmacopeia 23/National Formulary 18, 1995.*

[3] Sodium phosphates enema is the official name for a solution of dibasic sodium phosphate and monobasic sodium phosphate in the *U.S. Pharmacopeia 23/National Formulary 18, 1995.*

biphosphate as "monobasic sodium phosphate." (See footnote 1, supra.) It appears that the comment inadvertently reversed the names of the ingredients.

2. One comment stated that the agency's proposal that the final rule be effective 30 days after its publication in the **Federal Register** is insufficient time. The comment argued that 30 days would not be enough time for relabeling of its sodium phosphates products and requested that the final rule be effective 120 days after its publication in the **Federal Register**.

The agency is instituting a split effective date for this final rule. Because of the potential serious safety risk involved, the agency has determined that initial introduction or initial delivery for introduction into interstate commerce of any container size of sodium phosphates oral solution greater than 90 mL should cease as soon as possible (within 30 days of this final rule). However, the agency concurs with the comment that manufacturers need more than 30 days to relabel these drug products and is granting the 120 days requested by the comment. Because of the potential serious safety risks, the agency has determined that manufacturers need to work promptly to relabel their products. The agency is providing manufacturers the option to use supplementary labeling (e.g., stick-on labeling) to add the new warning and direction information to currently manufactured products not yet introduced into interstate commerce or on package labeling that has not yet been incorporated into the manufacturing process. If manufacturers choose not to use stick-on labeling, they are encouraged to have new labeling containing the new warning and direction information printed as expeditiously as possible in the interest of safe use of these products.

3. One comment stated that sodium phosphates oral solution should not be marketed in packages containing more than 45 mL. The comment argued that 45 mL of this product equals the "single daily dose" of solution generally recognized as safe and effective for use as a laxative and bowel cleansing agent in the tentative final monograph. The comment provided data to show that taking more than this amount has been shown to cause significant changes in blood levels of sodium, potassium, phosphate, chloride, and calcium, thereby imposing a risk of serious injury (Refs. 4, 5, and 6).

The agency does not agree with the comment that packages containing more than 45 mL of sodium phosphates oral solution should not be marketed. Problems that previously occurred involved confusion resulting from the availability of a 240-mL container size (59 FR 15139). (In 1993, the manufacturer of the major trade product containing this solution ceased manufacture and initiated a market withdrawal of the 240-mL container size.) The oral solution is currently marketed in 45-mL and 90-mL containers. The agency has not received any reports that a one-time 90 mL dose has resulted in a death or a serious adverse reaction requiring medical treatment.

The agency has reviewed the submitted data (Refs. 4, 5, and 6) and agrees that taking more than 45 mL of sodium phosphates solution over a 10- to 12-hour period can result in significant changes in electrolytes and may impose a risk of serious injury. (See comment 4 in section II of this document.) Therefore, the agency is requiring specific warning and direction statements to ensure that the correct dose is used and that consumers do not use more than the recommended dose in a 24-hour period. The agency proposed to amend the tentative final monograph for OTC laxative drug products to include in § 334.58(c)(2)(iv) the following warning for oral and rectal dosage forms of sodium phosphates products: "Do not exceed recommended dose unless directed by a doctor. Serious side effects many occur from excess dosage" (59 FR 15139).

In this final rule, the agency is revising the proposed warning by adding 24-hour dosing information and by simplifying the language. The agency is also requiring separate warnings for oral and rectal enema drug products. For oral sodium phosphates drug products, the new warning states: "Taking more than the recommended dose in 24 hours can be harmful." For rectal sodium phosphates drug products, the new warning states: "Using more than one enema in 24 hours can be harmful." Both warnings must be in boldface type and appear as the first statement under the heading "Warnings." (See comment 5 in section II of this document.)

The agency is also adding new directions in boldface type immediately preceding the dosage information, which state: "Do not" ("take" or "use") "more unless directed by a doctor. See Warnings." (See comment 4 in section II of this document.) The new directions appear in § 201.307(b)(3)(i).

The agency notes that sodium phosphates oral solution is available for general laxative use for relief of occasional constipation at a single daily dose of 20 mL to 45 mL for adults and children 12 years of age and over. Thus, a larger size container (90 mL) may be more convenient for consumers to purchase and have available for future use. The agency is also aware that the 45-mL and 90-mL container sizes are often recommended and prescribed by physicians for bowel cleansing prior to surgery and diagnostic procedures of the colon. Accordingly, the agency is allowing the 90-mL container of sodium phosphates oral solution to remain on the OTC market. However, in an effort to prevent consumers from taking an entire 90-mL container in 1 day (24 hours), the agency is adding additional statements in the directions in § 201.307(b)(3)(ii) to inform consumers how much of the oral solution may be taken as a single daily dose and not to take more than the recommended daily dose in a 24-hour period. The agency has also revised the format for stating children's ages from that proposed in § 334.58(d)(5)(i) of the tentative final monograph (50 FR 2124 at 2155). The directions now state:

Adults and children 12 years of age and over: Oral dosage is dibasic sodium phosphate 3.42 to 7.56 grams (g) and monobasic sodium phosphate 9.1 to 20.2 g (20 to 45 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 45 mL (9 teaspoonfuls or 3 tablespoonfuls) in a 24-hour period."

Children 10 and 11 years of age: Oral dosage is dibasic sodium phosphate 1.71 to 3.78 g and monobasic sodium phosphate 4.5 to 10.1 g (10 to 20 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 20 mL (4 teaspoonfuls) in a 24-hour period."

Children 5 to 9 years of age: Oral dosage is dibasic sodium phosphate 0.86 to 1.89 g and monobasic sodium phosphate 2.2 to 5.05 g (5 to 10 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 10 mL (2 teaspoonfuls) in a 24-hour period." Children under 5 years of age: ask a doctor.

The agency notes that the directions for sodium phosphates oral solution contain separate dosages for children 10 and 11 years of age and for children 5 to 9 years of age. These age ranges are not consistent with age ranges used for the majority of OTC laxative drug products, which recommend dosages for children 6 to 11 years of age. Therefore, elsewhere, in this issue of the **Federal Register**, the agency is proposing to revise the directions for sodium phosphates oral solution to limit the OTC use of these products to children 6 years of age and above.

The proposed directions state:

* * * Children 6 to 9 years of age: Oral dosage is dibasic sodium phosphate 0.86 to 1.89 g and monobasic sodium phosphate 2.2 to 5.05 g (5 to 10 mL dibasic sodium phosphate/monobasic sodium phosphate oral

solution) as a single daily dose. 'Do not take more than 10 mL (2 teaspoonfuls) in a 24-hour period.' Children under 6 years of age: ask a doctor.

4. One comment requested that sodium phosphates oral solution products bear a warning against consuming more than 45 mL in a 24-hour period unless directed by a physician. The comment contended that there are potentially serious health problems associated with high doses of this product. The comment submitted data to show that consuming more that 45 mL of sodium phosphates oral solution in 24 hours has resulted in significant changes in blood levels of sodium, potassium, phosphate, chloride, and calcium, thereby imposing a risk of serious injury (Refs. 4, 5, and 6).

The agency has reviewed the submitted data and agrees that ingesting more that 45 mL of sodium phosphates oral solution in a 24-hour period may be harmful. Clarkston et al. (Ref. 4) compared a polyethylene glycol (PEG) based gastrointestinal lavage to a sodium phosphates oral regimen. In this randomized trial, 26 subjects took 4 liters (L) of the PEG solution and 25 subjects took two 45-mL doses of sodium phosphates oral solution 11 hours apart. The subjects had a chemistry panel and ionized calcium done prior to taking the drug and on the morning of the colonoscopy. The results indicated that the sodium phosphates solution caused a decrease in ionized serum calcium and serum potassium, with concomitant increases in phosphate. The investigators stated that the sodium phosphates oral regimen resulted in statistically significant changes in serum sodium, potassium, phosphorus, and calcium ($p < 0.01$). The investigators concluded that the risk of symptoms of hypocalcemia must be considered due to the abnormal low levels of ionized calcium that frequently occur with this regimen.

Vanner et al. (Ref. 5) compared a standard PEG based gastrointestinal solution to a sodium phosphates oral solution prior to colonoscopy. In this parallel, single-blinded, randomized study, 54 subjects received two 45-mL doses of the sodium phosphates oral solution 11 hours apart, and 48 subjects received 4 L of the PEG solution. The subjects had blood tests on admission and the morning of the procedure. The authors concluded that the sodium phosphates oral solution was safe and effective because serial measurements of blood tests, postural pulse, and blood pressure changes did not reveal any clinically significant changes in intravascular volume. One "syncopal episode" occurred in the sodium phosphates group. The authors mentioned that the subject's vital signs did not appear to indicate that hypovolemia (abnormally decreased volume of circulating plasma) was the cause. The authors reported that hyperphosphatemia occurred with sodium phosphates, but serum phosphate values returned to normal within 24 hours, and no concomitant decrease in calcium was seen. They added that histological assessment for possible preparation-induced changes revealed no difference between the two drugs.

The agency notes that numerous induced electrolyte abnormalities occurred in this study. The data showed statistically significant decreases in potassium and increases in hematocrit, sodium, chloride, osmolality, and phosphate. Extreme serum phosphate levels reached 11.6 milligrams/deciliter (mg/dL) in the sodium phosphates group and 4.7 mg/dL in the PEG group; normal values are 2.5 to 4.1 mg/dL. In hyperphosphatemia, excessive complexing of calcium with phosphate may contribute to a decrease in plasma ionized calcium, which results in hypocalcemia. Calcium levels were not reported for the entire sodium phosphates group nor was the risk of hypokalemia mentioned. The agency notes that the postural changes in pulse, systolic blood pressure, and the one "syncopal episode" were most likely due to decreased intravascular volume in subjects in the sodium phosphates group.

Because elevated phosphate levels are known to occur with sodium phosphates use, 15 subjects were randomly selected to have serum phosphate and calcium levels measured at 4 p.m. on the day of colonoscopy and at 8 a.m. the following day. Seven of the fifteen subjects received the sodium phosphates regimen. Vanner et al. reported that 2 hours after the second dose, the mean serum phosphorus was 7.2 mg/dL (nearly twice the pre-study value of 3.7 mg/dL), while the total calcium values continued to decline for at least 24 hours after the dose was taken.

The agency believes that the Vanner et al. study showed that postural increases in pulse, decreases in systolic blood pressure, and serum electrolyte and plasma volume shifts were greater in the sodium phosphates group than in the PEG group. The incidence of postural elevation in heart rate, indicating significant reduction in intravascular volume, was also three times higher in the sodium phosphates group than in the PEG group. Because of the small sample size, the fact that none of the study subjects died or had serious side effects that required hospitalization cannot be interpreted to mean that two 45-mL doses of sodium phosphates oral solution are safe to ingest without a physician's supervision.

Warner and DiPalma (Ref. 6) stated that sodium phosphates oral solution is extremely popular for use as a bowel cleansing agent because it is effective, easy to administer, and well tolerated. However, they contended that little data are available concerning its safety. They mentioned that the majority of trials evaluating the product for use as a bowel cleanser have not systematically monitored electrolytes. They asserted that the solubility product of calcium and phosphate, when exceeded, leads to soft tissue calcification in areas where an alkaline internal environment enhances calcium phosphate salt deposit, primarily in the kidneys, heart, blood vessel, cornea, lungs, and gastric mucosa. They stated that the normal calcium-phosphate product is 40 mg/dL, which is tightly regulated through absorption, excretion, and intracellular/extracellular ion shifts; and that the in vitro solubility product of calcium is 58 mg/dL, well above the normal value (Ref. 6). Warner and DiPalma mentioned that Vanner et al. (Ref. 5) and Kolts (Ref. 7) have presented limited data to show phosphate levels rising to as high as 7 mg/dL with relatively unchanged serum calcium values. According to Warner and DiPalma, the increase in phosphate levels appeared quite transient, but because sampling was so infrequent, it is impossible to ascertain whether even these high values represent the peak phosphate concentrations after administration of sodium phosphates oral solution.

Kolts (Ref. 8) responded to Warner and DiPalma, and argued that sodium phosphates oral solution should be the preparation of choice for most endoscopy outpatients due to its low cost, comfort for the patient, and low incidence of adverse side events. Kolts stated that the sodium phosphates oral solution used in his study (Ref. 7) had been sold OTC for more than 100 years and the manufacturer had not reported any serious side effects, except when the solution was taken in massive overdoses or if used when contraindicated. Kolts added that there were no reports of adverse events such as ectopic calcification in the literature from 1966 to 1993 from the use of phosphate catharsis in people with normal renal function. Kolts concluded that his (Ref. 7) and Vanner's (Ref. 5) studies documented the minor changes

in clinically relevant electrolytes as well as the lack of adverse symptoms from sodium phosphates oral solution.

The agency finds that the data show that sodium phosphates oral solution can cause alterations in serum levels of sodium, potassium, phosphate, chloride, and calcium. In some people, such changes can be life-threatening. The agency has particular concerns about hypocalcemia occurring due to its reported frequency when two 45-mL doses of sodium phosphates oral solution are given over a 24-hour period. The reduction of calcium levels reflects changes in ionized calcium (Ref. 9). Hypocalcemia with subsequent low levels of ionized calcium may result in neuromuscular irritability, heart block, and cardiovascular failure (Ref. 9).

In the tentative final monograph for OTC laxative drug products (50 FR 2124 at 2155), the agency proposed a maximum single daily oral dose of 7.56 g of dibasic sodium phosphate and 20.2 g of monobasic sodium phosphate. The major manufacturer of sodium phosphates products recommends (as part of a bowel cleansing regimen in preparation for surgery or preparation of the colon for x-ray or endoscopic examination) (Ref. 10) that 45 mL be given at 7 p.m. and again at 6 a.m. the following morning. The agency notes that 0.9 g/5 mL of dibasic sodium phosphate is equivalent to 17.1 to 18.9 g/100 mL of sodium phosphates oral solution, and that 2.4 g/5 mL of monobasic sodium phosphate is equivalent to 45.6 to 50.4 g/100 mL of sodium phosphates oral solution according to the USP 23 (Ref. 2). Therefore, over an 11-hour period, 90 mL of solution (approximately 16.2 g of dibasic sodium phosphate and 43.2 g of monobasic sodium phosphate) containing 9.9 g of sodium could be consumed. The manufacturer of this product has not submitted sufficient data to demonstrate the safety of more than 45 mL of this solution in a 24-hour period (Ref. 11). Thus, the agency concludes that the safe oral use of more than 7.56 g of dibasic sodium phosphate and 20.2 g of monobasic sodium phosphate in a 24-hour period has not been demonstrated at this time. Therefore, the agency will not include a greater dosage in a 24-hour period in the OTC or professional labeling in the final monograph for OTC laxative drug products, which will be published in a future issue of the **Federal Register**.

The agency agrees with the comment that the labeling for sodium phosphates oral solution should include a warning not to ingest more than the recommended dose in a 24-hour period. Accordingly, the agency is including the following warning in § 201.307(b)(2)(i) for oral products that contain sodium phosphates: "Taking more than the recommended dose in 24 hours can be harmful." The sentence is required to appear in boldface type as the first statement under the heading "Warnings." The agency is also requiring in § 201.307(b)(3)(i) that the directions for oral and rectal sodium phosphates products contain the following statements in boldface type immediately preceding the dosage information: "Do not" ("take" or "use") "more unless directed by a doctor. See Warnings." (See comment 5 in section II of this document.) These additional statements are intended to refer consumers to the warnings when they read the directions for the product.

5. One comment disagreed with the proposed warning in § 334.58(c)(2)(iv) for rectal enema sodium phosphates drug products, which states: "Do not exceed recommended dose unless directed by a doctor. Serious side effects may occur from excess dosage." The comment argued that the agency provided no concrete or specific evidence to support this warning. The comment stated that its sodium phosphates enema contains 19 g/118 mL (equivalent to 16 g/100 mL) of monobasic sodium phosphate and 7 g/118 mL (equivalent to 7 g/100 mL) of dibasic sodium phosphate. In contrast, the oral product contains 2.4 g/5 mL (equivalent to 48 g/100 mL) of monobasic sodium phosphate and 0.9 g/5 mL (equivalent to 18 g/100 mL) of dibasic sodium phosphate. The comment stated that because the phosphate concentration of the enema is only one-third that of the oral product, use of the enema is not likely to result in overdosage. The comment added that an overdosage is unlikely to occur due to the way enemas are used and the results they produce. The comment mentioned that the enema product is clearly labeled "Not intended for oral consumption," and that the current labeling clearly states the appropriate dosage. Thus, the comment concluded that the warning should not be required for sodium phosphates enema products. Another comment stated that the dosage and administration section of products containing sodium phosphates should be allowed to contain statements similar to the following proposed warning: "Do not exceed recommended dose unless directed by a doctor. Serious side effects may occur from excess dosage." The comment indicated that such statements should be allowed, but do not need to be included in the final rule.

The agency notes that the first comment made an error in its statement of the amount of dibasic sodium phosphate per 100 mL. It should have been approximately 6 g/mL which is consistent with USP 23 (Ref. 2), which states that each 100 mL of sodium phosphates enema solution contains not less than 5.7 g and not more than 6.3 g of dibasic sodium phosphate.

The agency is aware of numerous reports of misuse of sodium phosphates enemas that resulted in adverse effects (Refs. 12 through 23). Wason et al. (Ref. 12) reported the case of a normal 5-month-old child who was given an entire adult sodium phosphates enema by her mother. Within 30 minutes, the child became extremely ill; consciousness decreased; and shock, hyperphosphatemia, hypocalcemia, and acidosis developed. The child was hospitalized and responded to intravenous (IV) fluid replacement and aluminum hydroxide gel. Oxnard, O'Bell, and Grupe (Ref. 13) reported that a 4-year-old child with chronic renal failure became profoundly hyperphosphatemic and hypocalcemic after receiving an entire adult sodium phosphates enema. The child developed muscle twitching, acidosis, severe diarrhea, and tachycardia, and was hospitalized, subsequently responding to IV calcium gluconate, calcium chloride, and sodium bicarbonate.

Other authors have reported that children (4 months to 2 1/2 years old) with gastrointestinal anomalies, such as Hirschsprung's disease (congenital megacolon), and chronic renal failure were at high risk for complications after the use of sodium phosphates enemas (Refs. 13 through 20). These children received varying amounts of adult or pediatric sodium phosphates enemas for constipation and bowel cleansing prior to surgery. Three of the children had cardiac arrest after the use of hypertonic sodium phosphates enemas (Refs. 17, 19, and 20). Martin et al. (Ref. 19) reported that an 11-month-old child died after receiving four adult sodium phosphates enemas. Loughnan and Mullins (Ref. 17) reported that a 9-month-old child suffered severe and permanent brain damage after receiving a pediatric sodium phosphates enema. Reedy and Zwiren (Ref. 20) reported that a 17-month-old child received two pediatric sodium phosphates enemas as a "bowel prep" on the day of surgery and was successfully resuscitated after experiencing cardiac arrest during induction of anesthesia. The authors noted that the child had received sodium phosphates enemas chronically but that a possible electrolyte imbalance was not suspected, and the child was not screened for any possible electrolyte problems prior to surgery.

Other authors (Refs. 21, 22, and 23) have reported acidosis, hypocalcemia, and hyperphosphatemia that occurred in adults and children after the use of sodium phosphates enema products. Davis et al. (Ref. 21) state that these products can cause electrolyte imbalances, which can cause severe reactions and could result in death, when administered in the recommended doses to individuals with normal renal function.

The agency is also aware of serious electrolyte imbalances occurring in individuals who used more than one sodium phosphates enema in a 24-hour period (Refs. 15, 16, 24, 25, and 26). Thus, an electrolyte imbalance can result from an excess dose of either the oral solution or the enema dosage form. Because of the serious side effects that can occur from overdosage, the agency considers it important to include information against exceeding the recommended dose of sodium phosphates drug products in both the warnings and directions sections of product labeling. The agency concludes that this information needs to be required, not just voluntarily included at a manufacturer's discretion.

III. References

The following references are on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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IV. Summary of Significant Changes From the Proposed Rule

The agency is making the following changes based on comments submitted in response to the proposal (59 FR 15139) and other relevant information that has come to the agency's attention. The agency had proposed to include the package size limitation and the labeling in the final monograph for OTC laxative drug products (proposed 21 CFR part 334). However, that final monograph has not been completed to date. Therefore, at this time the agency is including this information in part 201 subpart G, Specific Labeling Requirements for Specific Drug Products. New § 201.307 will be titled *Sodium phosphates; package size limitation, warnings, and directions for over-the-counter sale*. When the laxative final monograph is complete, it will incorporate the requirements in § 201.307. A summary of the changes made by the agency follows:

1. The package size limitation of 90 mL (3 oz) for sodium phosphates oral solution proposed in § 334.25 appears in § 201.307(b)(1) and is effective 30 days after date of publication of this final rule in the **Federal Register**. The relabeling requirements in § 201.307 are effective 120 days after date of publication of this final rule in the **Federal Register**. (See comment 2 in section II of this document.)

2. The agency has revised the warning for oral and rectal dosage forms of sodium phosphates proposed in § 334.58(c)(2)(iv). The agency is adding a new warning for oral sodium phosphates products, which appears in § 201.307(b)(2)(i) and states: "Taking more than the recommended dose in 24 hours can be harmful." (See comment 5 in section II of this document.) The agency is adding a new warning for rectal sodium phosphates products, which appears in § 201.307(b)(2)(ii) and states: "Using more than one enema in 24 hours can be harmful." These warnings must appear in boldface type and must be the first statement in product labeling under the heading "Warnings."

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3. The agency is adding new directions in § 201.307(b)(3)(i) for oral and rectal sodium phosphates that state: "Do not" ("take" or "use") "more unless directed by a doctor. See Warnings." (See comment 4 in section II of this document.) These directions must be in boldface type and immediately precede the dosage information.

4. The agency is including specific directions in § 201.307(b)(3)(ii) that inform consumers not to take more than the recommended daily dose in a 24-hour period. (See comment 3 in section II of this document.)

V. The Agency's Final Conclusions on OTC Laxative Drug Products Containing Sodium Phosphates

The agency has determined that there is sufficient evidence to show that an overdose of sodium phosphates products can cause an electrolyte imbalance. This imbalance can occur if an excess dose of either the sodium phosphates oral solution or the sodium phosphates enema were used. This electrolyte imbalance can cause severe reactions and result in death. Accordingly, this final rule establishes a container size limit for oral sodium phosphates products and new warning and direction statements for OTC laxative drug product containing sodium phosphates. To better protect consumers who use products containing these ingredients, the agency concludes that the container size must be limited to 90 mL (3 oz). In addition, labeling needs to alert consumers not to exceed the recommended dose of an oral or rectal sodium phosphates product in a 24-hour period. Therefore, the agency is requiring the following warning for oral dosage forms of sodium phosphates in § 201.307(b)(2)(i): "Taking more than the recommended dose in 24 hours can be harmful." The agency is also requiring a similar warning for rectal dosage forms of sodium phosphates in § 201.307(b)(2)(ii): "Using more than one enema in 24 hours can be harmful." Furthermore, the agency is requiring that the directions for oral and rectal sodium phosphates products in § 201.307(b)(3)(i) state: "Do not" ("take" or "use") "more unless directed by a doctor. See Warnings." These additional statements are intended to refer consumers to the warnings when they read the directions for the product. Because of the dire consequences that can occur from an overdose of sodium phosphates, the warnings are required to appear in boldface type as the first sentence under the heading "Warnings." The direction statements are required to appear in boldface type immediately preceding the dosage information. In addition, the agency is including specific directions that inform consumers not to take more than the recommended daily dose in a 24-hour period in § 201.307(b)(3)(ii). (See comment 3 in section II of this document.)

VI. Analysis of Impacts

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (59 FR 15139 at 15141). FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that minimize any significant impact of the rule on small entities.

Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The proposed rule that has led to the development of this final rule was published on March 31, 1994, before the Unfunded Mandates Reform Act was enacted. The agency explains in this final rule that the final rule will not result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million.

The agency believes that this final rule is consistent with the principles set out in the Executive Order and in these two statutes. The purpose of this final rule is to limit the OTC container size of one laxative drug product (sodium phosphates oral solution) to not more than 90 mL and to add warning and direction statements to the labeling of oral and rectal OTC sodium phosphates drug products. This container size limitation and the warning and direction statements concern product toxicity and are intended to help ensure the safe and effective use of all OTC sodium phosphates drug products. Potential benefits include reduced toxicity when consumers use these products.

The manufacturer of the only major trade product containing sodium phosphates oral solution marketed in a container size larger that 90 mL has already withdrawn that size product from the market. The agency is not able to identify any other sodium phosphates oral solution marketed by another manufacturer in a container exceeding 90 mL.

Regarding relabeling, the agency has been informed that relabeling costs of the type required by this final rule generally average about $2,000 to $3,000 per stock keeping unit (SKU) (individual products, packages, and sizes). The agency is aware of 3 manufacturers that together produce 4 SKU's of oral sodium phosphates drug products and approximately 125 SKU's of rectal sodium phosphates drug products. There may be a few additional small manufacturers or a few additional products in the marketplace that are not identified in the sources FDA reviewed. Assuming that there are about 130 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $260,000 to $390,000. The agency believes that actual cost could be lower for several reasons. First, most of the label changes will be made by private label manufacturers that tend to use simpler and less expensive labeling. Second, the agency is allowing supplementary labeling (e.g., stick-on labeling) to be used for those products not undergoing a new labeling printing within 120 days.

The final rule would not require any new reporting and recordkeeping activities. Therefore, no additional professional skills are needed. There are no other Federal rules that duplicate, overlap, or conflict with the final rule.

The agency considered but rejected several container size and labeling alternatives: (1) A container size limit of 45, 60, or 120 mL; (2) voluntary relabeling; (3) publication of the labeling information in the FDA Drug Bulletin or professional journals; and (4) an exemption from coverage for small entities. The alternate container sizes were not selected because 90 mL represents the upper limit of the two doses per container and physicians often prescribe this amount for bowel cleansing prior to surgery and diagnostic procedures of the colon. The agency does not consider voluntary relabeling or an exemption from coverage acceptable because they do not assure that consumers or health professionals will have the most recent needed information for safe and effective use of these sodium

phosphates drug products. The agency considers the third alternative useful and may proceed with such publications. However, such publications do not provide a permanent labeling requirement, which the agency considers necessary for these products.

This final rule may have a significant economic impact on the manufacturers of this product, all of which are considered small entities, using the U.S. Small Business Administration designations for this industry (750 employees). The agency believes that any other unidentified manufacturer of these products may also be a small entity. These manufacturers will need to change the information panel of each affected sodium phosphates SKU. Among the steps the agency is taking to minimize the impact on these small entities are: (1) To provide 120 days for implementation, as one comment requested, to enable entities to use up some existing labeling stock, and (2) to provide for the use of supplementary labeling (e.g., stick-on labeling) if necessary. The agency believes that these actions should help reduce the relabeling cost for small entities.

The agency considered a longer implementation period. The agency proposed a 30-day effective date, considered extending this to 60 days, and in response to public comment has extended the effective date to 120 days to reduce the economic burden on small entities. The agency considered but rejected a longer effective date because it would not assure that consumers have the most recent needed information for safe and effective use of OTC sodium phosphates drug products at the earliest possible time. The agency concludes that the overriding safety considerations warrant a 120-day implementation period.

The analysis shows that this final rule is not economically significant under Executive Order 12866 and that the agency has undertaken important steps to reduce the burden to small entities. Nevertheless, some entities, especially those private label manufacturers that provide labeling for a number of the affected products, may incur significant impacts. Thus, this economic analysis, together with other relevant sections of this document, serves as the agency's final regulatory flexibility analysis, as required under the Regulatory Flexibility Act. Finally, this analysis shows that the Unfunded Mandates Act does not apply to the final rule because it would not result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million.

VII. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a "public disclosure of information orginally supplied by the Federal government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VIII. Environmental Impact

The agency has determined under 21 CFR 25.31(c) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

2. Section 201.307 is added to subpart G to read as follows:

§ 201.307 Sodium phosphates; package size limitation, warnings, and directions for over-the-counter sale.

(a) Reports in the medical literature and data accumulated by the Food and Drug Administration indicate that multiple container sizes of sodium phosphates oral solution available in the marketplace have caused consumer confusion and appear to have been involved in several consumer deaths. Sodium phosphates oral solution has been marketed in 45-milliliter (mL), 90-mL, and 240-mL container sizes. The 45-mL and 90-mL container sizes of sodium phosphates oral solution are often recommended and prescribed by physicians for bowel cleansing prior to surgery and diagnostic procedures of the colon. Sodium phosphates oral solution (adult dose 20 mL to 45 mL) is also used as an over-the-counter (OTC) laxative for the relief of occasional constipation. Accidental overdosing and deaths have occurred because the 240-mL container was mistakenly used instead of the 45-mL or 90-mL container. The Food and Drug Administration is limiting the amount of sodium pnosphates oral solution to not more than 90 mL (3 ounces (oz)) per OTC container because of the serious health risks associated with the ingestion of larger than intended doses of this product. Further, because an overdose of either oral or rectal enema sodium phosphates can cause an electrolyte imbalance, additional warning and direction statements are required for the safe use of any OTC laxative drug product containing sodium phosphates.

(b) Any OTC drug product for laxative or bowel cleansing use containing sodium phosphates as an active ingredient when marketed as described in paragraph (a) of this section is misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless packaged and labeled as follows:

(1) Package size limitation for sodium phosphates oral solution: Container shall not contain more than 90 mL (3 oz).

(2) Warnings. The following sentences shall appear in boldface type as the first statement under the heading "Warnings."

(i) Oral dosage forms. "Taking more than the recommended dose in 24 hours can be harmful."

(ii) Rectal enema dosage forms. "Using more than one enema in 24 hours can be harmful."

(3) Directions—(i) The labeling of all orally or rectally administered OTC drug products containing sodium phosphates shall contain the following directions in boldface type immediately preceding the dosage information: "Do not" ("take" or "use") "more unless directed by a doctor. See Warnings."

(ii) For products containing dibasic sodium phosphate/monobasic sodium phosphate identified in § 334.16(d) marketed as a solution. Adults and children 12 years of age and over: Oral dosage is dibasic sodium phosphate 3.42 to 7.56 grams (g) and monobasic sodium phosphate 9.1 to 20.2 g (20 to 45 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 45 mL (9 teaspoonfuls or 3 tablespoonfuls) in a 24-hour period." Children 10 and 11 years of age: Oral dosage is dibasic sodium phosphate 1.71 to 3.78 g and monobasic sodium phosphate 4.5 to 10.1 g (10 to 20 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 20 mL (4 teaspoonfuls) in a 24-

hour period." Children 5 to 9 years of age: Oral dosage is dibasic sodium phosphate 0.86 to 1.89 g and monobasic sodium phosphate 2.2 to 5.05 g (5 to 10 mL dibasic sodium phosphate/ monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 10 mL (2 teaspoonfuls) in a 24-hour period." Children under 5 years of age: ask a doctor.

(c) After June 22, 1998, for package size limitation and September 18, 1998, for labeling in accord with paragraph (b) of this section, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce, or any such drug product that is repackaged or relabeled after these dates regardless of the date the product was manufactured, initially introduced, or initially delivered for introduction into interstate commerce, that is not in compliance with this section is subject to regulatory action.

Dated: April 28, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12053 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor name from Protiva, a unit of Monsanto, to Monsanto Co.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Protiva, a unit of Monsanto has informed FDA of a change of sponsor name to Monsanto Co. Accordingly, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Protiva, A Unit of Monsanto Co." and by alphabetically adding a new entry for "Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63167" and in the table in paragraph (c)(2) in the entry for "059945" by removing the sponsor name "Protiva, A Division of Monsanto Co." and adding in its place "Monsanto Co."

Dated: May 8, 1998.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–13162 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 96 new animal drug applications (NADA's) and 4 abbreviated animal drug applications (ANADA's) from Hoffmann-La Roche, Inc., to Roche Vitamins, Inc.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, has informed FDA that it has transferred the ownership of and all rights and interests in approved NADA's and ANADA's to Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298. Accordingly, the agency is amending the regulations in 21 CFR parts 510 and 558 to reflect the change of sponsor. The agency is also amending the regulations in § 510.600(c)(1) and (c)(2) by removing Hoffmann-La Roche, Inc., because the sponsor no longer sponsors any approved new animal drugs, and by alphabetically adding an entry for Roche Vitamins, Inc.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Hoffmann-La Roche, Inc.," and by alphabetically adding an entry for "Roche Vitamins, Inc.," and in the table in paragraph (c)(2) by removing the entry for "000004" and by numerically adding an entry for "063238" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
• • •	• • • •
Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298	063238
• • •	• • • •

(2) * * *

Drug labeler code	Firm name and address
• • •	• • • •
063238	Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298
• • •	• • • •

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

3. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1)(iii), under the "Limitations" column in the entries for "Bacitracin 4 to 50", "Bacitracin 5 to 35 plus roxarsone 34 (0.00375%)", and "Bacitracin 10 to 50 plus roxarsone 15.4 to 45.4 (0.0017% to 0.005%)" by removing "000004 and 046573" and adding in its place "046573 and 063238", and under the "Sponsor" column by removing "000004" wherever it appears and adding in its place "063238".

§ 558.78 [Amended]

4. Section 558.78 *Bacitracin zinc* is amended in paragraph (a)(2), in the table in paragraph (d)(1), under the "Sponsor" column, and in paragraph (d)(2)(ii) by removing "000004" wherever it appears and adding in its place "063238".

§ 558.95 [Amended]

5. Section 558.95 *Bambermycins* is amended in paragraph (d)(1)(xi)(*b*) and (d)(1)(xii)(*b*) by removing "Nos. 012799 and 000004" and adding in its place "Nos. 012799 and 063238".

§ 558.120 [Amended]

6. Section 558.120 *Carbarsone (not U.S.P.)* is amended in paragraph (d)(1)(iii)(*b*) by removing "Nos. 000004 and 046573" and adding in its place "Nos. 046573 and 063238".

§ 558.128 [Amended]

7. Section 558.128 *Chlortetracycline* is amended in paragraph (a)(1) by removing "000004" and adding in its place "063238", and in the table in paragraph (d)(1), under the "Sponsors" column, by removing "000004" wherever it appears and adding in its place "063238".

§ 558.145 [Amended]

8. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (a)(1) by removing "000004 and 046573" and adding in its place "046573 and 063238", and in paragraph (a)(2) by removing "000004" and adding in its place "063238".

§ 558.175 [Amended]

9. Section 558.175 *Clopidol* is amended in paragraph (d)(1)(iii)(*b*) and (d)(1)(iv)(*b*) by removing "Nos. 000004 and 046573" and adding in its place "Nos. 046573 and 063238".

§ 558.195 [Amended]

10. Section 558.195 *Decoquinate* is amended in the table in paragraph (d) in the entry for "27.2 (0.003 pct.), Roxarsone 11 to 45 (0.0012–0.005 pct.) plus Bacitracin 12 to 50" under the "Limitations" column by removing "Nos. 000004, 011716, and 046573" and adding in its place "Nos. 011716, 046573, and 063238".

§ 558.305 [Amended]

11. Section 558.305 *Laidlomycin propionate potassium* is amended in paragraph (a) by removing "000004" and adding in its place "063238".

§ 558.311 [Amended]

12. Section 558.311 *Lasalocid* is amended in paragraphs (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) by removing "000004" and adding in its place "063238"; in the table in paragraph (e)(1)(v) under the "Limitations"column by removing "000004" and adding in its place "063238" and under the "Sponsors" column by removing "000007" and adding in its place "063238"; and in paragraphs (e)(2)(v) and (e)(3)(v) by removing "000004" and adding in its place "063238".

§ 558.340 [Amended]

13. Section 558.340 *Maduramicin ammonium* is amended in paragraph (a) by removing "000004" and adding in its place "063238".

§ 558.342 [Amended]

14. Section 558.342 *Melengestrol acetate* is amended in paragraph (d)(3)(ii) by removing "000004" and adding in its place "063238", and in paragraph (d)(6)(ii) by removing "Nos. 000004, 000009, and 000986", and adding in its place "Nos. 000009, 000986, and 063238".

§ 558.355 [Amended]

15. Section 558.355 *Monensin* is amended in paragraphs (b)(8), (b)(9), (f)(1)(iv)(*b*), (f)(1)(v)(*b*), (f)(1)(xiv)(*b*), (f)(1)(xv)(*b*) by removing "000004" and adding in its place "063238", and in paragraph (f)(1)(xvi)(*b*) by removing "Nos. 000004 and 046573" and adding in its place "Nos. 046573 and 063238".

§ 558.515 [Amended]

16. Section 558.515 *Robenidine hydrochloride* is amended in paragraphs (a) and (d)(1)(vi)(*b*) by removing "000004" and adding in its place "063238".

§ 558.550 [Amended]

17. Section 558.550 *Salinomycin* is amended in paragraphs (a)(1), (d)(1)(vii)(*c*), (d)(1)(xv)(*c*), and (d)(1)(xvi)(*c*) by removing "000004" and adding in its place "063238", and in paragraph (d)(1)(ix)(*c*) by removing "Nos. 000004 and 046573" and adding in its place "Nos. 046573 and 063238".

§ 558.575 [Amended]

18. Section 558.575 *Sulfadimethoxine, ormetoprim* is amended in paragraphs (a)(1) and (a)(2) by removing "000004" and adding in its place "063238".

§ 558.582 [Amended]

19. Section 558.582 *Sulfamerazine* is amended in paragraph (a) by removing "000004" and adding in its place "063238".

§ 558.600 [Amended]

20. Section 558.600 *Tiamulin* is amended in paragraph (c)(4)(ii) by removing "000004 and 046573" and adding in its place "046573 and 063238".

Dated: May 8, 1998.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–13161 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 537

Burmese Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing the Burmese Sanctions Regulations to implement Executive Order 13047 of May 20, 1997, "Prohibiting New Investment in Burma."

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: 202/622–2480, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat® readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self–expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On May 20, 1997, the President issued Executive Order 13047 (the "Order"), effective at 12:01 a.m. EDT on May 21, 1997, certifying to Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, (Public Law 104–208) (the "Act") that the Government of Burma has committed large–scale repression of the Democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by U.S. persons, contained in that section. The President also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). The Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Order. In implementation of the Order, the Treasury Department is issuing the Burmese Sanctions Regulations, 31 CFR part 537 (the "Regulations").

Section 537.201 of the Regulations implements section 1 of the Order, and prohibits new investment in Burma by U.S. persons. The term *new investment*, defined in section 4(d) of the Order, means any of the following activities, if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after May 21, 1997:

(1) the entry into a contract that includes the economic development of resources located in Burma;

(2) the entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(3) the purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(4) the entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation.

Section 537.202 of the Regulations implements section 2(a) of the Order and prohibits any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute prohibited new investment in Burma if engaged in by a United States person or within the United States.

Section 537.203 of the Regulations implements section 2(b) of the Order and prohibits any transaction by a U.S. person or within the United States that evades or avoids, or that has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Order.

The prohibitions contained in these sections are subject to the exemption contained in section 3 of the Order, implemented in § 537.204 of the Regulations, which excludes from the new investment and facilitation prohibitions the entry into or performance or financing of a contract to sell or purchase goods, services, or technology. This exemption, however, does not apply where the entry into such a contract on or after the effective date of the Order is for the general supervision and guarantee of another person's performance of a contract for the economic development of resources located in Burma; or where such

contract provides for payment, in whole or in part, in: (1) shares of ownership, including an equity interest, in the economic development of resources located in Burma; or (2) participation in royalties, earnings or profits in the economic development of resources located in Burma. Section 537.301 indicates that the term *economic development of resources located in Burma* shall not be construed to include not–for–profit educational, health, or other humanitarian programs or activities. See § 537.301.

Transactions otherwise prohibited under § 537.201 may not be authorized unless the President, or the President's duly authorized designee, exercises waiver authority provided in section 570(e) of the Act, upon a determination and certification to Congress that application of the waived sanction would be contrary to the national security interests of the United States. Transactions otherwise prohibited under §§ 537.202 and 537.203 but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E of this part or by a specific license issued pursuant to the procedures described in subpart C of 31 CFR part 501. Civil and criminal penalties for violation of the Regulations are described in subpart G.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553)(the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

As authorized in the APA, the Regulations are being issued without prior notice and public comment procedure. The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget ("OMB") under control number 1505–0164. An adjustment to the approved burden hours to reflect the additional burden imposed in administering the Regulations has been filed with OMB. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 537

Administrative practice and procedure, Burma, Penalties, New investment, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 31 CFR part 537 is added to read as follows:

PART 537—BURMESE SANCTIONS REGULATIONS

Subpart A—Relation of this Part to Other Laws and Regulations

Sec.

537.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

537.201 Prohibited new investment by U.S. persons.
537.202 Prohibited approval or other facilitation by a U.S. person of a foreign person's investment.
537.203 Evasions; attempts; conspiracies.
537.204 Exempt transactions.

Subpart C—General Definitions

537.301 Economic development of resources located in Burma.
537.302 Effective date.
537.303 Entity.
537.304 Foreign person.
537.305 General license.
537.306 Government of Burma.
537.307 License.
537.308 New investment.
537.309 Nongovernmental entity in Burma.
537.310 Person.
537.311 Resources located in Burma.
537.312 Specific license.
537.313 United States.
537.314 United States person; U.S. person.

Subpart D—Interpretations

537.401 Reference to amended sections.
537.402 Effect of amendment.
537.403 Economic development of resources located in Burma.
537.404 Purchase of shares in economic development projects in Burma.
537.405 Investment in entities involved in economic development projects in Burma.
537.406 General supervision and guarantee.
537.407 Activities under pre–May 21, 1997 agreements.
537.408 Sale or purchase of goods, services or technology.
537.409 Approval or other facilitation of a foreign person's investment.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

537.501 General and specific licensing procedures.
537.502 Effect of license or authorization.
537.503 Exclusion from licenses and authorizations.
537.504 Divestiture of U.S. person's equity investment in Burma.

Subpart F—Reports

537.601 Recordkeeping and reporting requirements.

Subpart G—Penalties

537.701 Penalties.
537.702 Prepenalty notice.
537.703 Response to prepenalty notice; informal settlement.
537.704 Penalty imposition or withdrawal.
537.705 Administrative collection action; referral to United States Department of Justice.

Subpart H—Procedures

537.801 Procedures.
537.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

537.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; sec 570, Pub. L. 104–208, 110 stat. 3009–166; E.O. 13047, 61 FR 28301, 3 CFR, Comp., p. 202.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 537.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 537.201 Prohibited new investment by U.S. persons.

Except to the extent provided in regulations, orders, directives, or licenses that may by issued in conformity with section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208)(the "Act"), new investment in Burma by United States persons is prohibited.

Note to § 537.201: Section 570 of the Act provides that the prohibition contained in this section may be waived, temporarily or permanently, by the President if he determines and certifies to Congress that the application of this sanction would be contrary to the national interests of the United States. Licenses are thus not available for purposes of authorizing transactions prohibited under this section in the absence

of such a waiver determination and certification to Congress.

§ 537.202 Prohibited approval or other facilitation by a U.S. person of a foreign person's investment.

Except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part, any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute prohibited new investment in Burma under this part if engaged in by a United States person or within the United States is prohibited.

§ 537.203 Evasions; attempts; conspiracies.

Except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part, any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited.

§ 537.204 Exempt transactions.

Nothing in this part shall be construed to prohibit the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology, except:

(a) Where the entry into such a contract on or after the effective date is for the general supervision and guarantee of another person's performance of a contract for the economic development of resources located in Burma; or

(b) Where such contract provides for payment, in whole or in part, in:

(1) Shares of ownership, including an equity interest, in the economic development of resources located in Burma; or

(2) Participation in royalties, earnings, or profits in the economic development of resources located in Burma.

Note to § 537.204: The term *economic development of resources located in Burma* is defined in § 537.301 to exclude not–for–profit educational, health or other humanitarian programs or activities.

Subpart C—General Definitions

§ 537.301 Economic development of resources located in Burma.

The term *economic development of resources located in Burma* shall not be construed to include not–for–profit educational, health, or other humanitarian programs or activities.

§ 537.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, May 21, 1997.

§ 537.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 537.304 Foreign person.

The term *foreign person* means any citizen or national of a foreign state or any entity not organized under the laws of the United States.

§ 537.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 537.306 Government of Burma.

The term *Government of Burma* includes:

(a) The state and the Government of Burma, as well as any political subdivision, agency, or instrumentality thereof;

(b) Any entity owned or controlled directly or indirectly by the foregoing.

§ 537.307 License.

Except as otherwise specified, the term *license* means any license or authorization contained in this part, or issued pursuant to the authority of this part under procedures set forth in this part or in subpart C of part 501 of this chapter.

§ 537.308 New investment.

The term *new investment* means any of the following activities, if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after the effective date:

(a) The entry into a contract that includes the economic development of resources located in Burma;

(b) The entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(c) The purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(d) The entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation.

§ 537.309 Nongovernmental entity in Burma.

The term *nongovernmental entity in Burma* means a partnership, association, trust, joint venture, corporation, or other organization, wheresoever organized, that is located in Burma or exists for the exclusive or predominant purpose of engaging in the economic development of resources located in Burma or derives its income predominantly from such economic development, and is not the Government of Burma.

§ 537.310 Person.

The term *person* means an individual or entity.

§ 537.311 Resources located in Burma.

The term *resources located in Burma* means any resources, including natural, agricultural, commercial, financial, industrial and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma.

§ 537.312 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to the authority of this part.

§ 537.313 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 537.314 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 537.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 537.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil

or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 537.403 Economic development of resources located in Burma.

The term *economic development of resources located in Burma* refers to activities pursuant to a contract the subject of which includes responsibility for the development or exploitation of resources located in Burma, including making or attempting to make those resources accessible or available for exploitation or economic use. Examples include contracts conferring rights to explore for, develop, extract, or refine petroleum, natural gas, or minerals in the ground in Burma; contracts to take over a mining operation in Burma; acquire a forest or agricultural area and exploit the timber or other crops; or acquire land and construct and run a hotel or factory on it. The term *economic development of resources located in Burma* is defined in § 537.301 specifically to exclude contracts for not–for–profit educational, health or other humanitarian programs or activities. See also § 537.204 for the exception that applies to the entry into, performance of, or financing of a contract to sell or purchase goods, services or technology.

§ 537.404 Purchase of shares in economic development projects in Burma.

The purchase of shares, including an equity interest, in the economic development of resources located in Burma, is prohibited when those shares are purchased after the effective date directly or indirectly from the Government of Burma or a nongovernmental entity in Burma, unless purchased pursuant to an agreement entered into prior to May 21, 1997. U.S. persons may purchase debt instruments issued by the Government of Burma or a nongovernmental entity in Burma, directly or indirectly, provided that such instruments are not convertible into equity, and do not provide for participation, including as collateral or security, in royalties, earnings, or profits in the economic development of resources located in Burma.

§537.405 Investments in entities involved in economic development projects in Burma.

(a) The purchase of shares in a third–country company that is engaged in the economic development of resources located in Burma is prohibited by § 537.201 where the company's profits are predominantly derived from the company's economic development of resources located in Burma.

(b) If a U.S. person holds shares in an entity which subsequently engages exclusively or predominantly in the economic development of resources located in Burma or subsequently derives its income exclusively or predominantly from such economic development, the United States person is not required to relinquish its shares, but may not purchase additional shares. Divestment of the shares in such an entity to a foreign person — constituting the facilitation of that foreign person's investment in Burma — is authorized under general license pursuant to § 537.504.

§537.406 General supervision and guarantee.

Section 537.201 prohibits the entry by a U.S. person into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma, if the U.S. person's contract is entered into on or after the effective date, unless undertaken pursuant to, or in exercise of rights under, a pre–effective date agreement. For the purposes of § 537.201, only the entry into contracts for supervision and guarantee at the top level of project management, such as entry into a contract with a development project's sponsor or owner to become a prime contractor or general manager for a development project, will be considered new investment in Burma. By contrast, subcontracts to provide goods, services, or technology to a prime contractor or general manager of a development project are exempt from the prohibitions of this part pursuant to § 537.204 unless:

(a) The functional scope of the subcontractor's obligations is substantially similar to that of a prime contractor's or general manager's obligations; or

(b) The consideration for such subcontracts includes a share of ownership in, or participation in the royalties, earnings or profits of, the economic development of resources located in Burma.

§ 537.407 Activities under pre–May 21, 1997 agreements.

(a) Activities undertaken by a U.S. person pursuant to an agreement entered into prior to May 21, 1997, between the U.S. person and the Government of Burma or a nongovernmental entity in Burma are not prohibited new investments, as defined in § 537.308.

(b) A U.S. person who is a party to a pre–effective date agreement for the development of economic resources located in Burma may enter into subsequent agreements with foreign persons where such agreements are pursuant to, or in exercise of rights under, the pre–effective date agreement. The facilitation of foreign persons' investment in Burma under these circumstances is authorized pursuant to the general license contained in § 537.504.

(c) A U.S. person may not enter into a contract for the economic development of resources located in Burma after May 21, 1997, if pursuant to, or in exercise of rights under, a pre–effective date agreement, unless the contractual arrangement is specifically contemplated in the pre–effective date agreement.

(d) The exercise of rights under pre–effective date agreements may include the exercise of options to extend the contract, depending on such factors as the degree of specificity with which the option to extend is described in the pre–effective date agreement, and the degree to which the party wishing to renew can enforce its decision to exercise the option.

§ 537.408 Sale or purchase of goods, services or technology.

(a) Section 537.204 exempts from any prohibition under this part the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology, except:

(1) Where the entry into a contract on or after the effective date is for the general supervision and guarantee of another person's performance of a contract for the economic development of resources located in Burma; or

(2) Where such contract provides for payment, in whole or in part, in:

(i) Shares of ownership, including an equity interest, in the economic development of resources located in Burma; or

(ii) Participation in royalties, earnings, or profits in the economic development of resources located in Burma.

(b) *Examples:* The following examples are based upon the assumption that neither § 537.204(a) nor § 537.204(b) applies.

(1) A U.S. person may market goods or services in Burma through a sales representative or sales agent, or through a U.S. person or subsidiary established and operating in Burma before May 21, 1997, or through any established foreign (including Burmese) distributorship.

The U.S. person may not, however, establish and operate a new business, branch, office or showroom in Burma to market such goods or services or facilitate the establishment of a new foreign entity to do so. This would constitute the development of a commercial resource.

(2) A U.S. person may rent, lease or purchase space in existing buildings in connection with the continued operation of a business in operation prior to the effective date. It may change locations, modify and renovate existing space and upgrade machinery or equipment. Unless pursuant to a pre–effective date agreement or the exercise of specific rights under such agreement, however, the U.S. person may not expand its business operations by opening additional stores, branches, offices or showrooms beyond the number that were in existence immediately prior to May 21, 1997. The U.S. person may not construct a new commercial building to house its business as this would constitute the economic development of land and commercial resources in Burma.

(3) A U.S. person involved in exempt activities may hire and train Burmese employees to carry out such activities. The employment of personnel in Burma under these circumstances is considered the purchase of employment services which is exempt from prohibition under § 537.204. Any training incidental to the performance of the employee's services is likewise exempt. For example, a U.S. person engaged in the sale of copy machines may hire and train a Burmese employee to carry out activities pursuant to such sales, including office support personnel, personnel to provide after–sale service and maintenance in accordance with the terms of a purchase or lease agreement, sales representatives and supervisory personnel. A U.S. person may not, however, open a business after the effective date, the purpose of which is the sale of vocational skills training in the maintenance of copy machines, as this would constitute the economic development of human resources in Burma.

(4) Contracts for the purchase or sale of services incident to the registration and renewal of patents, trademarks and copyrights are not prohibited by this part.

(5) A U.S. bank is allowed to provide trade financing as a service either to the Government of Burma or to nongovernmental entities in Burma, but cannot provide them loans earmarked for economic development of resources in Burma if loan repayment is secured by the project. A U.S. bank can provide development project financing as a service, so long as the financing instruments are not convertible into equity, and do not provide for participation, including as collateral or security, in royalties, earnings, or profits in the economic development of resources located in Burma.

§ 537.409 Approval or other facilitation of a foreign person's investment.

(a) The prohibition contained in § 537.202 against approval or other facilitation of a foreign person's investment in Burma bars any action by a U.S. person that assists or supports a foreign person's activity that would constitute prohibited new investment under § 537.201 if engaged in by a U.S. person. This facilitation prohibition is subject to the exemption for trade in goods, services and technology set forth in § 537.204.

(b) *Examples:* (1) A U.S. corporation is prohibited from brokering, financing, guaranteeing, or approving the entry by any foreign person, including a foreign affiliate, into a contract for the development of, e.g., a natural gas field, a tourist hotel complex, or a rubber plantation in Burma, unless pursuant to the affiliate's exercise of rights under an agreement entered into prior to the effective date. An independent U.S. contractor, however, may perform brokerage, financing, or guarantee services if under a service contract meeting the conditions of § 537.204.

(2) The sale to a foreign person of a U.S. person's equity or income interest in a development project in Burma constitutes facilitation of that foreign person's investment in Burma, unless pursuant to a pre–effective date agreement. Such a sale, however, is authorized by general license under § 537.504.

(3) A U.S. national or permanent resident alien employed in Burma or in a third country by a foreign person may participate in any decision–making role in an activity by the foreign person that includes economic development of resources located in Burma as exempt employment services pursuant to § 537.204, unless such services are undertaken pursuant to a post–effective date agreement between the foreign person and the Government of Burma or a nongovernmental entity in Burma and:

(i) involve the general supervision and guarantee of the foreign person's performance of a contract for the economic development of resources located in Burma, or

(ii) where the individual U.S. person's compensation is provided for, in whole or in part, from shares of ownership in the development project or participation in royalties, earnings, or profits in the development project.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 537.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see subpart C of part 501 of this chapter.

§ 537.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 537.503 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 537.504 Divestiture of U.S. person's equity investment in Burma.

Notwithstanding the prohibition in § 537.202 against the facilitation by a

U.S. person of a foreign person's investment, all transactions related to the divestiture or transfer to a foreign person of a U.S. person's share of ownership including an equity interest in the economic development of resources located in Burma are authorized. U.S. persons participating in such transactions valued at more than $10,000 are required, within 10 business days after the agreement is signed, to file a report for statistical purposes with the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue NW—Annex, Washington, DC 20220.

Note to § 537.504: This authorization includes arrangements by U.S. persons with pre–effective date investments in Burma to "farm in" or sell a stake in the investment to a foreign person. For purposes of this section, the term *farm–in arrangement* is defined to mean the sale of an equity interest in an investment in the economic development of resources located in Burma.

Subpart F—Reports

§ 537.601 Recordkeeping and reporting requirements.

For provisions relating to records and reports, see subpart B of part 501 of this chapter.

Subpart G—Penalties

§ 537.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (the "Act"), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 537.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 537.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 537.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any response to the prepenalty notice, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(2) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collection and

reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 537.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 537.801 Procedures.

For provisions relating to procedures, see subpart C of part 501 of this chapter.

§ 537.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 13047 or any further executive orders relating to the national emergency declared in Executive Order 13047 may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 537.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures pursuant to statements of licensing policy, and to other procedures, see § 501.901 of this chapter.

Dated: April 21, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 11, 1998.

James E. Johnson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–13477 Filed 5–18–98; 9:52 am]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–041]

RIN 2121–AA97

Safety Zone; Fleet Week Air/Sea Demonstrations, Hudson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Hudson River, rectangular in shape, perpendicular to the USS INTREPID, for air/sea demonstrations. The safety zone is in effect from 10:30 a.m. until 12:30 p.m. on May 22, 23, and 24, and from 2:30 p.m. until 4:30 p.m. on May 22, 23, 24 and 25, 1998. This action is necessary to provide for the safety of life on navigable waters in the event of aircraft problems developing during the demonstrations. It is intended to restrict vessel traffic in the Hudson River.

DATES: This rule is effective from 10:30 a.m. until 12:30 p.m. on May 22, 23, and 24, and from 2:30 p.m. until 4:30 p.m. on May 22, 23, 24 and 25, 1998.

ADDRESSES: Comments may be mailed to Commander (wob) (CGD01–98–041), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305–5005, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying in room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4195.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that conclusive information for these events was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with these air/sea demonstrations, which are intended for public entertainment.

Background and Purpose

The U.S. Marine Corps, Navy, and Coast Guard hold joint air/sea demonstrations in and over the Hudson River in the vicinity of the USS INTREPID Museum as a part of Fleet Week festivities. This regulation establishes a safety zone which includes those waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, outbound to a position at 40°46′10″N latitude, 074°00′13″W longitude (NAD 1983), south to a point at 40°45′54″N, 074°00′24″W (NAD 1983), then inbound to the northeast corner of Pier 83 where it intersects the seawall. The safety zone is in effect from 10:30 a.m. until 12:30 p.m. on May 22, 23, and 24, and from 2:30 p.m. until 4:30 p.m. on May 22, 23, 24 and 25, 1998. The safety zone prevents vessels from transiting this portion of the Hudson River and is needed to protect commercial and recreational traffic from the hazards associated with the turbulence generated by vertical take-off aircraft. Vessels moored at piers within the safety zone may remain moored for the duration of the safety zone; however, they will not be allowed to transit from their moorings without permission from the Captain of the Port, New York, during the effective periods of the safety zone.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following: commercial and recreational vessels navigating the Hudson River can alter their route west of the affected area, commercial ferries will be allowed to transit to and from

their berths at Pier 83, Manhattan during the demonstration at the discretion of the Captain of the Port, and the extensive, advance notifications which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612, and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary section 165.T01–041 to read as follows:

§ 165.T01–041 Safety Zone; Fleet Week Air/Sea Demonstrations, Hudson River, New York.

(a) *Location*. The following area is a safety zone: those waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, outbound to a position at 40°46′10″ N latitude, 074°100′13″ W longitude (NAD 1983), south to a point at or near 40°45′54″ N latitude, 074°00′24″ W longitude (NAD 1983), then inbound to the northeast corner of Pier 83, Manhattan, where it intersects the seawall.

(b) *Effective period*. This section is in effect from 10:30 a.m. until 12:30 p.m. on May 22, 23, and 24, and from 2:30 p.m. until 4:30 p.m. on May 22, 23, 24 and 25, 1998.

(c) *Regulations*.

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 15, 1998.

Richard C. Vlaun,

Captain, U.S. Coast Guard Captain of the Port, New York.

[FR Doc. 98–13580 Filed 5–18–98; 4:49 pm]

BILLING CODE 4910–15–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ10

Veterans Education: Increase in Rates Payable for Cooperative Training Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). The Veterans' Benefits Act of 1997 provided a new statutory formula for use in calculating the monthly rates of educational assistance payable under the Montgomery GI Bill—Active Duty to someone pursuing cooperative training. The new formula increases the monthly rates of educational assistance, effective from October 9, 1996, for veterans in cooperative training who were formerly eligible for assistance under the Veteran Era GI Bill. This final document amends the regulations to reflect the increased rates.

DATES: Effective Date: October 9, 1996

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service, Veterans Benefits Administration, (202) 273–7187.

SUPPLEMENTARY INFORMATION: VA is amending the "ALL VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM (MONTGOMERY GI BILL—ACTIVE DUTY)" regulations set forth at 38 CFR Part 21, Subpart K. VA is required by statute to calculate the monthly rate of educational assistance payable to veterans and servicemembers training under the Montgomery GI Bill—Active Duty (MGIB). The calculation is based on statutory formulas.

Effective October 9, 1996, Pub. L. 105–114 changed the statutory formula used to determine the monthly rate of educational assistance under the MGIB payable to a veteran in cooperative training who was formerly eligible for assistance under the Vietnam Era GI Bill. This final rule revises the regulations containing the monthly rate of educational assistance payable to such a veteran to reflect the new statutory formula.

The changes set forth in this final rule are applied from the effective date of the statutory changes.

This final rule merely reflects statutory requirements and adjustments made based on the newly established formula. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612 and does not directly affect small entities. This final rule directly affects only individuals. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility

analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 12, 1998.

Togo D. West, Jr.,

Secretary.

For the reasons set out above, 38 CFR part 21, subpart K, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 39, unless otherwise noted.

2. In § 21.7137, paragraph (a)(3) is revised to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) * * *

(3) The monthly rate payable to a veteran who is pursuing a cooperative course is the rate stated in the following table:

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Oct. 9, 1996–Sept. 30, 1997	$615.87	$651.37	$682.87	$16.00
On or after Oct. 1, 1997	627.85	663.85	694.85	16.00

(Authority: 38 U.S.C. 3015)

* * * * * * *

[FR Doc. 98–13526 Filed 5–20–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL–5990–4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) for the State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: In 1990, 1991 and 1993, the State of Nevada, Department of Conservation and Natural Resources (NDCNR), requested delegation of authority for the implementation and enforcement of specified New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). EPA's review of the State of Nevada's laws, rules and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and EPA granted the delegations as requested.

EFFECTIVE DATE: The effective dates of the delegation authority for the NDCNR agency are: September 10, 1992, February 24, 1993, and September 23, 1993.

ADDRESSES: Copies of the requests for delegation of authority and EPA's letters of delegation are available for public inspection at EPA's Region 9 office during normal business hours and at the following location: State of Nevada, Department of Conservation and Natural Resources, 333 W. Nye Lane, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Section (Air-4), Air Division, EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Tel: (415) 744–1189.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1), and 112(l)(1) of the Clean Air Act as amended in 1990, authorize the Administrator to delegate his or her authority to implement and enforce the standards set out in 40 CFR part 60, Standards of Performance for New Stationary Sources (NSPS) and 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

The State of Nevada requested authority for delegation of certain NSPS and NESHAPS categories. After a thorough review of the categories requested for delegation, the Regional Administrator, EPA Region IX determined that such delegation was appropriate for these source categories. By letters dated September 10, 1992, February 24, 1993, and September 23, 1993, EPA delegated its authority for 40 CFR part 60 and part 61 for the following subparts:

NSPS	40 CFR part 60, subpart
Industrial-Commercial-Institutional Steam Generating Units.	Db
Small Industrial-Commercial-Institutional Steam Generating Units.	Dc
Municipal Waste Combustors	Ea
Petroleum Refineries	J
Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.	DDD
VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	III
VOC Emissions from SOCMI Distillation Operations.	NNN
Calciners and Dryers in Mineral Industries.	UUU

NESHAPS	40 CFR part 61, subpart
Benzene Emissions from Benzene Transfer Operations.	BB
Benzene Waste Operations	FF

Under the terms of the delegations, NDCNR is required to follow all applicable provisions of 40 CFR parts 60 and 61, including but not limited to use of EPA's test methods and continuous monitoring procedures.

As of the effective dates of the delegations, NDCNR has primary authority to enforce the standards listed above. EPA retains independent enforcement authority, and will exercise such authority in a manner consistent with EPA's "Timely and Appropriate Enforcement Response to Significant Air Pollution Violators" Guidance, and any revisions thereto, and applicable enforcement agreements.

As of the effective dates of the delegations, all notifications and reports required of sources by the above standards should be sent to NDCNR with a copy to EPA Region IX.

The EPA hereby notifies the public that it has delegated the authority over the above-listed NSPS and NESHAPS subparts to the State of Nevada, Department of Conservation and Natural Resources.

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. sections 7401, 7410, 74121, 7412, and 7601).

Dated: March 23, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–13617 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6015–6]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the National Lead Industries/Taracorp/ Golden Auto Parts Superfund site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the National Lead Industries/Taracorp/ Golden Auto Parts Site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Minnesota, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Lawrence Schmitt at (312) 353–6565 (SR–6J), Remedial Section Chief or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: St. Louis Park Library, 3240 Library Lane, St. Louis Park, MN 55417 and St. Louis Park City, 5005 Minnetonka, St. Louis Park, MN 55416. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: National Lead Industries/Taracorp/Golden Auto Parts Site located in St. Louis Park, Minnesota. A Notice of Intent to Delete for this site was published April 3, 1998 (63 FR 16465). The closing date for comments on the Notice of Intent to Delete was May 4, 1998. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 8, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site "NL Industries/Taracorp/Golden Auto, St. Louis Park".

[FR Doc. 98–13441 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6015–7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the H & K Sales Superfund site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the H & K Sales site in Michigan from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Michigan, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Michigan have determined that

remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Kevin Adler at (312) 886–7078 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: The Alvah N. Belding Library, 302 East Main Street, Belding, Michigan 48809. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: H & K Sales Site located in Belding, Michigan. A Notice of Intent to Delete for this site was published March 30, 1998 (63 FR 15125). The closing date for comments on the Notice of Intent to Delete was April 29, 1998. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 8, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site "H & K Sales, Belding."

[FR Doc. 98–13440 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AC81

National Flood Insurance Program; Removal of Form

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule removes appendix A to part 65, which contains the FEMA Standard Flood Hazard Determination form, and removes reference to the form and tells readers how to obtain copies of it. The form is used in the process of making, increasing, extending, renewing, selling, or transferring mortgages to ensure that buildings and mobile homes located in an identified Special Flood Hazard Area (SFHA) are covered by flood insurance. FEMA will publish notices of the availability of the form from time to time; the form is also available by fax-on-demand and on the Internet at FEMA's web site. Removal of the form from the CFR will enhance FEMA's ability to incorporate changes to the form outside of the rulemaking process, while continuing to provide full notice of availability of the form to the public and to affected parties.

EFFECTIVE DATE: This rule is effective on May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or by facsimile at (202) 646–4596 (not toll-free calls) for additional information.

SUPPLEMENTARY INFORMATION. As part of our implementation of the National Flood Insurance Reform Act of 1994, FEMA published a final rule at 60 FR 35276, July 6, 1995, to establish a standard form for determining whether a building or mobile home is located in an SFHA, whether flood insurance is required, and whether Federal flood insurance is available. The federal entities for lending regulation published a final rule (60 FR 35286, July 6, 1995) requiring use of the form. Use of the form by federally regulated lenders became mandatory on January 2, 1996. The OMB number for the current form expires on April 30, 1998 but OMB has extended the expiration date for an additional 90 days.

During the two years that this form has been in use, many users have commented on the form asking FEMA to make minor changes and clarifications. By separate notice published today in the **Federal Register** we propose changes to the form and we request comments on the proposed changes from the public and from other Federal agencies.

This rule removes Appendix A to Part 65—Federal Emergency Management Agency, Standard Flood Hazard Determination Form and Instructions. The form will continue in use and will continue to be available by written request, by fax-on-demand, and through the Internet at http://www.fema.gov/nfip/mpurfi.htm. Removal of the form from the Code of Federal Regulations will enhance FEMA's ability to incorporate changes to the form outside of the rulemaking process, while continuing to provide full notice of the availability of the form to the public and to affected parties.

This rule also revises 44 CFR 65.16, Standard Flood Hazard Determination Form and instructions. The revision removes the reference to the form and instructions being found in Appendix A to Part 65 and tells how readers can obtain copies of the form and its accompanying instructions.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

Regulatory Flexibility Act.

The Director certifies that this rule is not a major rule under Executive Order 12291. It will not have significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, and is not expected (1) to affect adversely the availability of disaster assistance

funding to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, or (3) to create any additional burden on small entities. FEMA has not prepared a regulatory flexibility analysis of this proposed rule.

Paperwork Reduction Act

This final rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Congressional Review of Agency Rulemaking

This final rule has been submitted to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L. 104–121. The rule is not a "major rule" within the meaning of that Act. It is an administrative action in support of normal day-to-day activities. It does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, and (2) from the Paperwork Reduction Act. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub.L. 104–4. It does not meet the $100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp, p. 376.

Appendix A to Part 65 [Removed]

2. Appendix A to Part 65—Federal Emergency Management Agency, Standard Flood Hazard Determination Form and Instructions is removed.

3. Section 65.16 is revised to read as follows:

§ 65.16 Standard Flood Hazard Determination Form and Instructions.

(a) Section 528 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 1365(a)) directs FEMA to develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title is available. The purpose of the form is to determine whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), whether flood insurance is required, and whether federal flood insurance is available. Use of this form will ensure that required flood insurance coverage is purchased for structures located in an SFHA, and will assist federal entities for lending regulation in assuring compliance with these purchase requirements.

(b) The form is available by written request to Federal Emergency Management Agency, PO Box 2012, Jessup, MD 20794; ask for the Standard Flood Hazard Determination form. It is also available by fax-on-demand; call (202) 646–3362, form # 23103. Finally, the form is available through the Internet at http://www.fema.gov/nfip/mpurfi.htm.

Dated: May 14, 1998.

James L. Witt,

Director.

[FR Doc. 98–13443 Filed 5–20–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 97–21, 96–45, DA 98–158]

Universal Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** of August 1, 1997, (62 FR 41304). The regulations related to the administration of the Commission's federal universal service support mechanism.

DATES: Effective on May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION:

Background

On January 29, 1998, the Commission released errata to the Report and Order and Second Order on Reconsideration, DA 98–158, in CC Dockets 97–21 and 96–45. This correction reflects the changes included in that errata. The full text of the errata is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW, Washington, DC.

Need for Correction

As published, the final regulations contain an incorrect cross-reference.

List of Subjects in 47 CFR Part 54

Health facilities, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214 and 254.

§ 54.507 Cap [Corrected]

2. In § 54.507, paragraph (g)(4), in the first sentence, remove the reference to "(f)(2) and (f)(3)" and add, in its place "(g)(2) and (g)(3)."

Federal Communications Commission.

Lisa Gelb,

Chief, Accounting Policy Division.

[FR Doc. 98–13238 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–185; RM–9080, RM–9197]

Radio Broadcasting Services; Vergennes, VT, Willsboro and Malone, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Watertown Radio Associates, reallots Channel 244A from Vergennes,

Vermont, to Willsboro, New York, and modifies Station WXPS(FM)'s license accordingly. *See* 62 FR 45784, August 29, 1997. In response to a counterproposal filed by Cartier Communications, the Commission substitutes Channel 243C3 for Channel 243A at Malone, New York, and modifies the license of Station WVNV(FM) to reflect the higher powered channel. Both channels can be allotted in compliance with the Commission's minimum distance separation requirements. Channel 244A can be allotted to Willsboro with a site restriction of 5.2 kilometers (3.2 miles) southeast at coordinates 44–19–20 NL and 73–21–00 WL. Channel 243C3 can be allotted with a site restriction of 16.0 kilometers (10.0 miles) northeast at coordinates 44–54–40 NL and 74–06–40 WL. Since both allotments create short-spacing conflicts to Canadian stations, we have obtained Canadian approval for Channel 244A at Willsboro and Channel 243C3 at Malone as specially negotiated short-spaced allotments. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–185, adopted May 6, 1998, and released May 15, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 244A at Vergennes.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 243A and adding Channel 243C3 at Malone; by adding Willsboro, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13566 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–12; 9220]

Radio Broadcasting Services; Speculator, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Michael Celenza and Peter Hunn, allots Channel 243A to Speculator, NY, as the community's first local FM service. *See* 63 FR 7360, February 13, 1998. Channel 243A can be allotted to Speculator in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 43–29–50 North Latitude; 74–21–44 West Longitude. Canadian concurrence in the allotment has been received since Speculator is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective June 29, 1998. A filing window for Channel 243A at Speculator, NY, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, 202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–12, adopted May 6, 1998, and released May 15, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Speculator, Channel 243A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13565 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–23; RM–9226]

Radio Broadcasting Services; Eureka, Montana

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel *240C3 to Bozeman, Montana, and reserves the channel for noncommercial educational use in response to a petition filed by Bozeman Educational Access Radio. *See* 63 FR 11401, March 9, 1998. The coordinates for Channel *240C3 at Bozeman are 45–40–48 and 111–02–18. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–23, adopted May 6, 1998, and released May 15, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel *240C3 at Bozeman.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13564 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–15; RM–9142]

Radio Broadcasting Services; Brinkley and Colt, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 272C2 from Brinkley to Colt, Arkansas, and modifies the authorization of East Arkansas Broadcasters, Inc. for Station KQMC-FM to specify operation on Channel 272C2 at Colt, Arkansas, as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. *See* 63 FR 7361, Feburary 13, 1998. The allotment of Channel 272C2 to Colt will provide that community with its first local aural transmission facility without depriving Brinkley of local aural service. Coordinates used for Channel 272C2 at Colt are 34–58–10 NL and 90–51–07 WL. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–15, adopted May 6, 1998, and released May 15, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 272C2 at Brinkley and adding Colt, Channel 272C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13563 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1842 and 1853

Revision to the NASA FAR Supplement on Contractor Performance Information

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: This is an interim rule amending the NASA FAR Supplement (NFS) to implement FAR requirement to evaluate contractor performance. Since the changes either conform NASA procedures to those of the FAR, implement FASA-related FAR changes, or affect acquisition procedures to the extent that immediate adoption is necessary, NASA is issuing the changes as an interim rule, with an effective date 60 days after publication.

DATES: This rule is effective July 20, 1998. All comments on this interim rule should be in writing and must be received by July 20, 1998.

ADDRESSES: Paul Brundage, Code HK, NASA Headquarters, 300 E Street, SW, Washington, DC 20456–0001.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, (202) 358–0481.

SUPPLEMENTARY INFORMATION:

Background

FAR 42.15 requires that Federal agencies evaluate contract performance for each contract in excess of $100,000. NASA is amending the NFS to provide specific internal procedures for accomplishing this evaluation.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This interim rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

Lists of Subjects in 48 CFR Parts 1842 and 1853

Government procurement.

Deidre Lee,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1842 and 1853 are amended as follows:

1. The authority citation for 48 CFR Parts 1842 and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1842—CONTRACT ADMINISTRATION

Subpart 1842.15 [Added]

2. Subpart 1842.15 is added to read as follows:

Subpart 1842.15—Contractor Performance Information

Sec.

1842.1501 General.
1842.1502 Policy.
1842.1503 Procedures.

1842.1501 General.

Communications with contractors are vital to improved performance and this is NASA's primary objective in evaluating past performance. Other objectives include providing data for both future source selections and for reports under NASA's Contractor Performance Assessment Program (CPAP). While the evaluations must reflect both shortcomings and achievements during performance, they should also elicit from the contractors their views on impediments to improved performance emanating from the Government or other sources.

1842.1502 Policy. (NASA Supplement paragraph (a))

(a) Within 60 days of every anniversary of the award of a contract having a term exceeding one year, contracting officers shall conduct interim evaluations of performance on

contracts subject to FAR subpart 42.15 and this subpart. The final evaluation shall cover only the last period of performance (i.e., it shall not be cumulative).

1842.1503 Procedures. (NASA Supplement paragraphs (a), (b), and (c))

(a) The contracting officer shall determine who (e.g., the technical office or end users of the products or services) evaluates appropriate portions of the contractor's performance. The evaluations are subjective in nature. Nonetheless, the contracting officer, who has responsibility for the evaluations, shall ensure that they are reasonable.

(b) NASA Form 1680, entitled, "Evaluation of Performance," shall be used to document evaluations. This provides for a five-tiered rating (using the definitions for award fee evaluation scoring found in 1816.405–275) covering the following attributes: quality, timeliness, price or control of costs (not required for firm-fixed-price contracts or firm-fixed-price contracts with economic price adjustment), and other considerations. Evaluations used in determining award fee payments satisfy the requirements of this subpart and do not require completion of NASA Form 1680. In addition, hybrid contracts containing both award fee and non-award fee portions do not require completion of NASA Form 1680.

(c) Contracting Officers shall ensure that the Government discusses all evaluations with contractors and shall record the date and the participants on the evaluation form. Contracting officers shall sign and date the evaluation after considering any comments received from the contractor within 30 days of the contractor's receipt of the evaluation. If a contractor in its timely comments disagrees with an evaluation and requests a review at a level above the contracting officer, it shall be provided within 30 days. While the FAR forbids use of the evaluations for source selections more than three years after contract completion, they shall nevertheless be retained in the contract file as provided in FAR 4.8, Government Contract Files.

PART 1853—FORMS

1853.242–72 [Added]

3. Section 1853.242–72 is added to read as follows:

1853.242–72 Evaluation of Performance (NASA Form 1680).

NASA Form 1680, Evaluation of Performance. Prescribed in 1842.1503.

[FR Doc. 98–13511 Filed 5–20–98; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015–8123–06; I.D. 042798B]

RIN 0648–AI84

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations; Technical Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this document to correct and clarify the meaning of a final rule to reduce bycatch of several marine mammal stocks that occur incidental to fishing for swordfish and thresher shark with drift gillnet gear offshore California and Oregon. These amendments are nonsubstantive.

DATES: Effective May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, NMFS, Southwest Region, 562–980–4016; or Victoria Cornish, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1997 (62 FR 51805), NMFS published a final rule requiring new training, equipment, and gear modifications for operators and vessels in the California/Oregon drift gillnet fishery for thresher shark and swordfish to reduce the mortality and serious injury of several marine mammal stocks that occurs incidental to fishing operations. The regulatory text was codified in subpart C of 50 CFR part 229.

Amendments to 50 CFR Part 229

NMFS has determined that the meaning of term "extender" might be unclear to some readers. An "extender" is a line that attaches a buoy (float) to a drift gillnet's floatline. To clarify this term, NMFS is adding a definition for "extender" to § 229.31(b).

Since floatlines are attached at the top of drift gillnets, the length of extender lines determine the depth in the water column at which the net is fished. NMFS intended the final rule to require that all extenders used in the fishery be at least 6 fathoms (36 ft., 10.9 m) long because the length of extenders controls the depth the net is fished in the water column. The depth of the net in the water column is correlated with marine mammal bycatch; observer data indicate that nets deployed shallower in the water column entangle more marine mammals. However, the word, "all" was inadvertently omitted from the regulatory text. NMFS is clarifying that "all" extenders deployed must be at least 6 fathoms (36 ft., 10.9 m) long during all sets under § 229.31(b). Accordingly, since floatlines are attached to the top of the nets, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

NMFS is removing the outdated reference to "October 30, 1997" under § 229.31(c)(2).

Also, in the same section, the final rule requires that, while at sea, drift gillnet vessels with multifilament gillnets on board must carry enough pingers to meet the configuration requirements set forth under § 229.31(c)(3). The goal of this requirement is to facilitate enforcement of the pinger requirement during at-sea boardings by enforcement agents onto drift gillnet vessels that are not actively fishing. The term "multifilament" was intended to identify the typical gear type used in the fishery and not to describe a narrow class of fishing vessels. NMFS believes that any vessel that could potentially fish in the fishery should have the required number of pingers on board at all times while at sea. To ensure that the final rule remains inclusive, NMFS is deleting the term "multifilament" under § 229.31(c)(2).

NMFS is also adding a figure to part 229 which illustrates the pinger configuration and extender requirements (see figure 1).

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined that this final rule, technical amendment, makes only minor, non-substantive changes and does not change operating practices in the fishery. Therefore, there is good cause under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and an opportunity for public comment. Such

procedures are unnecessary. Because this rule makes no substantive changes to the existing regulations, it is not subject to a delay of effective date under 5 U.S.C. 553(d).

As this rule is not subject to the requirement to provide prior notice and an opportunity for public comment under 5 U.S.C. 553, or any other law, the analytical requirements of the Regualtory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: May 15, 1998.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229–AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. In § 229.31, paragraphs (b) and (c)(2) are revised to read as follows:

§ 229.31 Pacific Offshore Cetacean Take Reduction Plan.

* * * * *

(b) Extenders. An *extender* is a line that attaches a buoy (float) to a drift gillnet's floatline. The floatline is attached to the top of the drift gillnet. All extenders (buoy lines) must be at least 6 fathoms (36 ft; 10.9 m) in length during all sets. Accordingly, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

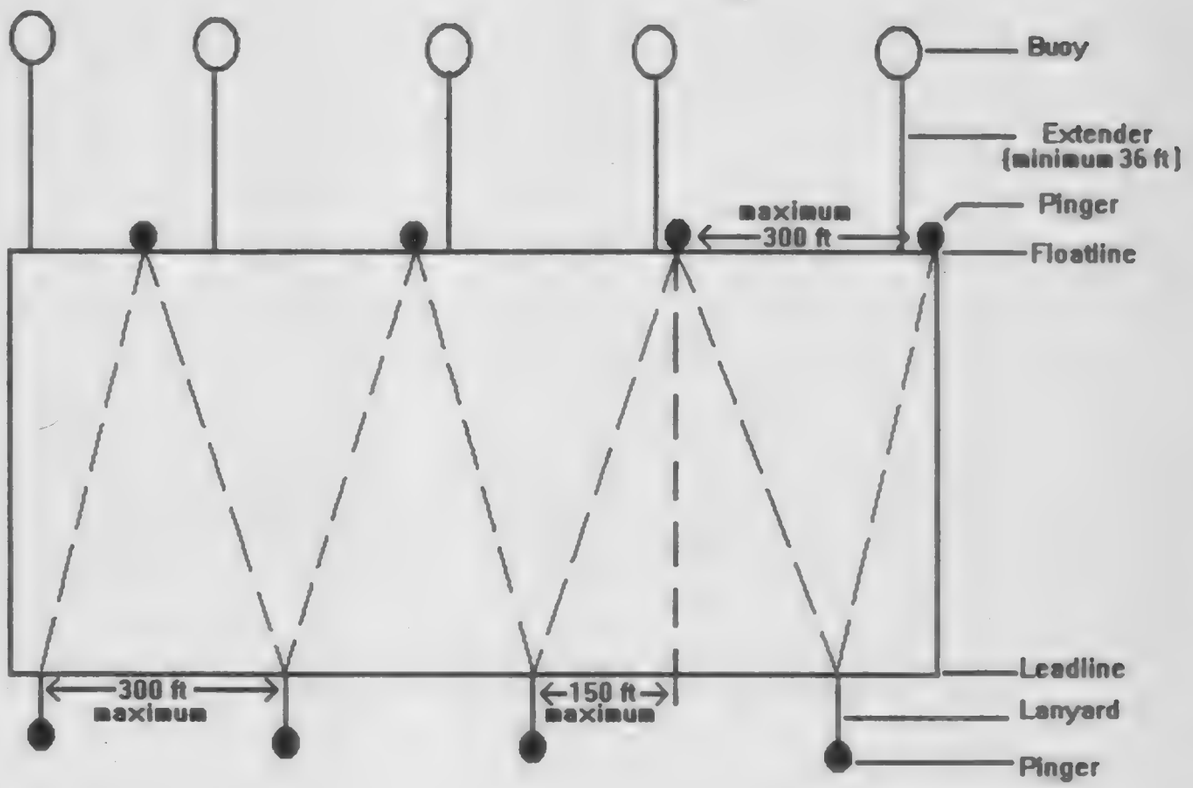
(c) * * *

(2) While at sea, drift gillnet vessels with gillnets onboard must carry enough pingers to meet the configuration requirements set forth under paragraph (c)(3) of this section.

* * * * *

3. Figure 1 to part 229 is added to read as follows:

Figure 1 – Drift Gillnet Pinger Configuration and Extender Requirements



[FR Doc. 98–13498 Filed 5–20–98; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 980320071–8128–02; I.D. 012198C]

RIN 0648–AK87

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Annual Quota Specifications and Effort Controls

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final specifications; final rule.

SUMMARY: NMFS announces specifications and amends the regulations for the Atlantic tuna fisheries to set annual Atlantic bluefin tuna (ABT) fishing category quotas and General category effort controls. These specifications and amendments are necessary to implement the 1996 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) required by the Atlantic Tunas Convention Act (ATCA) and to achieve domestic management objectives.

DATES: The final specifications are effective May 15, 1998. The amendment to 50 CFR 285.22 (a)(3) is effective June 22, 1998.

ADDRESSES: Copies of supporting documents, including a Final Environmental Assessment-Regulatory Impact Review (EA/RIR), are available from Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown at 978-281-9260; or Sarah McLaughlin at 301–713–2347.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of ICCAT. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

ICCAT has identified the western stock of ABT as overexploited and recommends fishing quotas for contracting parties. Based on the 1996 revised stock assessment, parties at the 1996 meeting of ICCAT adopted a recommendation to increase the annual scientific monitoring quota of ABT in the western Atlantic Ocean from 2,200 metric tons (mt) to 2,354 mt. The share allocated to the United States was increased from 1,306 mt to 1,344 mt to apply each year for the 1997 and 1998 fishing years. NMFS amended the Atlantic tuna fisheries regulations in 1997 to implement that ICCAT recommendation as required by ATCA.

Background information and rationale for these specifications were provided in the preamble to the proposed specifications (63 FR 16220, April 2, 1998) and are not repeated here. These specifications allocate the total ICCAT-recommended quota among the several established fishing categories.

Changes From the Proposed Specifications

Based on recently revised estimates of recreational landings for 1997, NMFS has determined that 4 mt remained unharvested in the Angling category at the end of 1997. Therefore, the final specifications set the 1998 Angling category quota at 269 mt and the large school/small medium subquota at 153 mt, with 81 mt to the northern area and 72 mt to the southern area. These estimates remain preliminary. Should further revisions to the 1997 recreational landings estimates require, NMFS will effect inseason adjustments as necessary.

Based on consideration of comments received during the 30-day comment period, the following changes are made to the final specifications. Three additional restricted-fishing days are established for July in order to extend the fishery for the June-August time period. In addition, August 1 is substituted for August 2. August 2 had been proposed because it followed last year's pattern for August (Sundays, Wednesdays, and market-related days); however, August 1, which is a market-related date, is preferable.

Based on comments received, a revision is also made to the regulatory text at 50 CFR part 285. Section 285.22(a)(3) is amended to allow for more flexible timing of the New York Bight set-aside allocation, e.g., prior to October. The New York Bight set-aside will be implemented when it is determined that ABT have migrated to the New York Bight area and when the coastwide General category is closed.

These changes to the specifications and regulatory text will improve NMFS' ability to implement the ICCAT recommendation and to further the management objectives for the Atlantic tuna fisheries.

Fishing Category Quotas

No changes have been made to the baseline quotas established for 1997. However, the ICCAT recommendation allows, and U.S. regulations require, the addition of any underharvest in 1997 to that same category for 1998. Therefore, NMFS adjusts the 1998 quotas for the ABT fishery to account for underharvest in 1997. The ABT fishing category quotas for the 1998 fishing year are as follows: General category–657 metric tons (mt); Harpoon category—53 mt; Purse Seine category—250 mt; Angling category—269 mt; Incidental category—114 mt; and Reserve—52 mt.

The Angling category is subdivided as follows: School ABT—108 mt (consistent with the ICCAT limitation on annual catch of school ABT to 8 percent by weight of the total annual domestic quota, i.e., 1,344 mt), with 57 mt to the northern area (New Jersey and north) and 51 mt to the southern area (Delaware and south); large school/small medium ABT—153 mt, with 81 mt to the northern area and 72 mt to the southern area; large medium/giant ABT—8 mt, with 3 mt to the northern area and 5 mt to the southern area.

The Incidental category is subdivided as follows: 89 mt to longline vessels operating south of 34° N. lat.; 24 mt to longline vessels operating north of 34° N. lat.; and 1 mt to vessels using other gear authorized for incidental take.

The General category is distributed as follows, based upon historical catch patterns (1983-96): 60 percent for June-August, 30 percent for September, and 10 percent for October-December. These percentages will be applied only to the adjusted coastwide General category of 647 mt, with the remaining 10 mt being reserved for the New York Bight fishery. The New York Bight set-aside area was redefined in 1997 as the area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. Thus, of the 647 mt, 388 mt will be available in the period beginning June 1 and ending August 31; 194 mt will be available in the period beginning September 1 and ending September 30; and 65 mt will be available in the period beginning October 1 and ending December 31.

When the coastwide General category fishery has been closed in any quota period, NMFS may publish a notification in the **Federal Register** to make available up to 10 mt of the quota set aside for the New York Bight area.

The daily catch limit for the set-aside area will be one large medium or giant ABT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant ABT is authorized only within the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period may be carried over for the purpose of renewing the set-aside fishery at a later date.

Attainment of the subquota in any quota period will result in a closure until the beginning of the following quota period. The subquota for the following quota period will be adjusted by any underharvest or overharvest in the previous quota period. Announcements of inseason closures will be filed with the Office of the Federal Register, stating the effective date of closure, and will be disseminated by the Highly Migratory Species (HMS) Fax Network, the Atlantic Tunas Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line to check the status of the fishery before leaving for a fishing trip. The phone numbers for the Atlantic Tunas Information Line are (301) 713-1279 and (978) 281-9305. Information regarding the Atlantic tuna fisheries is also available through NextLink Interactive, Inc., at (888) USA-TUNA.

Restricted-Fishing Days

NMFS has added 3 restricted fishing days in July to the proposed schedule of restricted fishing days in order to extend the fishery for the June-August time period. July 8 and 25 are added to coordinate with Japanese market closure dates and July 19, which is a Sunday on which higher catch rates are anticipated. Accordingly, persons aboard vessels permitted in the General category are prohibited from fishing (including tag and release fishing) for ABT of all sizes on the following days: July 8, 15, 16, 19, 22, 25, and 29; August 1, 5, 9, 11, 12, 13, 16, 19, 23, 26, and 30; and September 2, 6, 9, 13, 16, 19, 20, 23, 27, and 30. These restricted fishing days will improve distribution of fishing opportunities without increasing ABT mortality.

Comments and Responses

General Category Quota

Comment: NMFS received several comments that the Reserve does not need to be increased given NMFS' ability to closely monitor the fishery and should be allocated to the General category now rather than at the end of the year, so that the historical ratio of landings before and after September 1 is preserved. Last year, 70 mt were transferred into the General category effective October 1. General category fishermen in the northern New England area feel that this action favored southern New England fishermen because of the location of ABT in the fall.

Response: To ensure that the United States does not exceed its quota and for scientific research and monitoring purposes, NMFS is maintaining the Reserve as proposed (52 mt for 1998).

Harpoon Category Quota

Comment: NMFS received over 100 comments that 15 mt of the Reserve should be allocated to the Harpoon category at the beginning of the season. The commenters do not think that it is fair that the General and Angling categories, which have had their annual quotas increased through initial allocation and inseason actions, may again receive some of the Reserve while the Harpoon category has remained at the same quota level since 1992.

Response: As stated in the 1997 final quota specifications, NMFS takes into consideration the contribution of each fishing category to catch-per-unit-effort (CPUE) indices for the purposes of stock assessment when allocating the quota. Because catch rates are strongly influenced by weather and sea conditions and many harpooners use spotter aircraft to assist in the location of ABT, it is difficult to standardize CPUE from the harpoon fishery. Although Harpoon fishery data could potentially be incorporated into an index of abundance, such an index would be less reliable than the existing rod and reel based index which covers a larger number of years, fishing areas, and size classes. NMFS is not allocating any additional quota to the Harpoon category at this time; however, longterm quota allocations are being considered by the HMS Advisory Panel (HMS AP) during the development of the fishery management plan (FMP).

Angling Category Quota

Comment: NMFS received several comments from commercial fishermen to reduce the Angling category quota, which has increased over recent years even when the quota has been exceeded. Recreational fishermen requested reallocation of quota from the commercial categories to the Angling category because of increased participation and the economic impact on the recreational fishing industry.

Response: Because longterm quota allocations will be addressed by the HMS AP, no changes are made to the Angling category quota in the final specifications. Reallocation of quota to or from the Angling category to or from other categories or the Reserve would require further environmental and economic analyses due to changes in the size composition of landings.

Purse Seine Category Quota

Comment: NMFS received several comments, mostly from recreational fishermen, that the Purse Seine category quota should be reduced (e.g., by 50 percent) or eliminated and that the quota be reallocated to the General and Angling categories.

Some purse seiners submitted comments in support of the status quo, and some indicated that the quota should return to the pre–1995 level of 301 mt, although not at the expense of other categories. One individual commented that NMFS should treat the Purse Seine category like other categories; overharvest should be deducted from the Reserve or from the following year's quota, with no additional penalty, and underharvest should be added to the following year's quota, in accordance with ICCAT recommendations.

Response: Because longterm quota allocations will be addressed by the HMS AP, no changes are made to the Purse Seine category quota in the final specifications. Reallocation of quota to or from the Purse Seine category to or from other categories or the Reserve would require further environmental and economic analyses due to changes in the size composition of landings. NMFS is required to add any underharvest to the same category for the following year when there is an ICCAT recommendation to do so.

Incidental Category Quota

Comment: One commenter argued that the late-season transfer of quota from the Incidental category to other categories should be returned to the Incidental category. The commenter recognized that, when this issue was addressed at the January HMS AP meeting, members supported leaving the transferred quota in the General category for the 1998 fishing season, especially since the Incidental category is not likely to be filled. The commenter urged NMFS not to set such a precedent and to address the restrictive catch limits that result in the inability of longline vessels to meet their quotas.

Response: The primary issue regarding Incidental category quota allocation is the recommendation of ICCAT to reduce dead discards of ABT. This issue will be examined in the coming months as HMS prepares a proposed rule to implement that ICCAT recommendation. Once such measures are in place, NMFS may consider the longterm quota needs for this category. Therefore, NMFS maintains the status quo allocation at this time.

Time Period Subquotas

Several commenters believe that the 10 percent allocated to the General category for October should be divided between June-August and September. Some commenters proposed that the quota be divided as follows: 25 percent for June, 25 percent for July, 25 percent for August, and 25 percent for September through December. Other commenters supported an allocation of 50 percent for June through August, 35 percent for September, and 15 percent for October through December, plus a 25–mt set-aside for the New York Bight area. They also requested that NMFS be flexible regarding the opening date of the New York Bight set-aside fishery; i.e., make the quota available when ABT are present in the Mud Hole area.

Response: NMFS maintains the status quo time period subquota breakdown in these final specifications. Longterm effort control issues will be addressed by the AP in the course of FMP development. In addition, NMFS maintains the New York Bight set-aside at 10 mt. However, NMFS amends the regulations in conjunction with these final specifications to allow for more flexible timing of the New York Bight set-aside allocation. The 1997 regulations specified that only when the third period (October through December) General category catch was projected to have reached 65 mt, would NMFS open the fishery for the remaining 10 mt of the General category quota for the New York Bight set-aside. Through this final rule, NMFS amends the regulations in to allow more flexibility in managing the New York Bight set-aside, by permitting the implementation of the set-aside earlier than October, if necessary.

Restricted Fishing Days (RFDs)

Comment: A organization representing General category fishermen requested additional days for July through October to correspond with Japanese market closure dates or to enhance General category fishing opportunities and scientific monitoring by extending the season. Other commenters felt that RFDs should be scheduled for the first half of July in the same manner as used for the second half of July. Many others felt that RFDs do not help increase market prices and are burdensome to fishermen that could otherwise fish for other species or take care of other business after the ABT season closes.

Other commenters preferred to have more fishing days with low catch rates early in the season (June through August) as opposed to only a few fishing days with high catch rates late in the season. They noted that a late season fishery (September/October) may be to the detriment of the northern New England fishery while benefitting the Southern New England (Cape Cod and Islands) fishery due to migration patterns of ABT in the fall.

NMFS also received a comment that the General category RFDs should be implemented for the Harpoon category as well to extend the Harpoon category season, and some commercial fishermen commented that tagging and releasing ABT should be allowed on RFDs for scientific monitoring purposes.

Response: NMFS has added 3 restricted fishing days in July to the proposed schedule of restricted fishing days in order to extend the fishery for the June-August time period. July 8 and 25 are added to coordinate with Japanese market closure dates, and July 19 is added, which is a Sunday on which higher catch rates are anticipated. In addition, NMFS is substituting August 1 for August 2. August 2 had been proposed because it followed last year's pattern for August (Sundays, Wednesdays, and market-related days); however, August 1, which is a market-related date, is preferable.

Because the October through December allocation is small, HMS believes that October RFDs would not appreciably extend the fishery. Also, weather is unpredictable in the October fishery, and poor sea conditions may limit participation. Should enough quota be transferred to the late season fishery to merit RFDs, NMFS could adjust the effort control calendar with a minimum 3-day notification to fishermen. NMFS maintains that, for enforcement reasons, all fishing for ABT should be prohibited on RFDs. At this time, NMFS does not intend to implement RFDs for the Harpoon category. One of the main purposes of the RFDs is to extend the season in the General category in order to collect CPUE data. As the Harpoon category is not used for collecting this type of information, RFDs are not necessary.

Spotter Aircraft

Comment: Although the use of spotter aircraft was not addressed in the proposed specifications, NMFS requested further comment on issues to be considered by the HMS AP for the HMS FMP and to implement future ICCAT recommendations. Many commenters felt that spotter aircraft use by vessels permitted in the Harpoon category should be prohibited for reasons of fairness, safety, and/or enforceability. Most commenters indicated that aircraft should continue to be used only by Purse Seine vessels.

Response: NMFS intends to gather more public comments and data, and would need to conduct further analyses on this issue prior to making any changes to the regulations. This issue will be considered by the HMS AP during FMP deliberations.

Other Comments

Angling category season. Mid-Atlantic commenters requested that NMFS establish "date-certain" seasons, whereby the Angling category fishery in a particular area will be opened at the appropriate time (when ABT are in the area) for a period of 30 days, at a designated catch limit. This would improve trip planning for Charter/Headboat captains.

Angling category geographical areas. There was some support for moving the north/south boundary from Delaware Bay to off Beach Haven, New Jersey. Others supported a third zone, intended to increase fishing opportunities in the Mid-Atlantic region. Others oppose the creation of a third zone because of the potential monitoring difficulties.

General category set-asides. NMFS received requests from North Carolina fishermen for a portion of the General category quota to allow General category and Charter/Headboat category fishermen to land and sell large medium and giant ABT in the winter months (November-December). NMFS also received requests for a set-aside for the Connecticut/Rhode Island/New York area. Many General category participants have opposed new set-asides, especially for North Carolina.

General/Angling category separation. Some commenters opposed the prohibition on recreational fishing by General category permit holders because the fishery comprises mixed size classes and trip planning is difficult when vessels are limited to one quota category.

Charter/Headboat catch limits. Some commenters opposed the new regulation that requires Charter/Headboats to fish under either the General category or

Angling category catch limits, based on the size of the first ABT retained. Some Charter/Headboat constituents found that the restriction puts undue burden on their daily fishing practices and encourages waste through discarding or highgrading. NMFS received a suggestion for a sliding scale of increasing catch limits based on Coast Guard documented passenger capacity of a Charterboat. This would enable larger boats to attract business.

Angling category monitoring. Some commenters opposed the coastwide expansion of the recreational harvest tagging pilot program in North Carolina and the use of permits to monitor the recreational fishery; enhancement of the Large Pelagic Survey is preferred.

Gear types. NMFS received several comments from spearfishermen requesting that they be allowed to spear tunas, specifically ABT. The requesters stated that they would have a minimal impact on the fishery due to the small subquota and number of fishermen involved.

Several commenters objected to the prohibition on harpoon gear in the Charter/Headboat permit category. Some argued that the harpoon is critical to safely boat an ABT and is currently in widespread use. Other commenters would like to use harpoons as fishing gear in the Charter/Headboat category while fishing for large medium, and giant ABT.

Response: NMFS intends to address the specific issue of Angling category catch limits and time/area openings and closures during the season through existing regulatory authority in order to enhance fishing opportunities for Angling category participants coastwide. Comments regarding the appropriate distribution will be considered as NMFS effects inseason adjustments.

Temporal and geographic subdivisions for all categories, quota monitoring, and modifications of catch limits and gear types are issues under discussion by NMFS and the HMS AP as a comprehensive HMS FMP is being developed. Therefore, NMFS will not address these issues in these final quota and effort control specifications, pending further consideration and appropriate analyses.

Reminder of Recent Changes for the General and Charter/Headboat Permit Categories

NMFS published by final rule on June 5, 1997 (62 FR 30741), a measure that was effective January 1, 1998, prohibiting persons aboard vessels permitted in the General category from retaining ABT less than the large medium size class. This action effectively separated the commercial and recreational fisheries, with the exception of charter/headboats.

In the same final rule, NMFS specified that anglers aboard vessels permitted in the Charter/Headboat category may collectively fish under either the daily Angling category limits or the daily General category limit as applicable on that day. The size category of the first ABT retained or possessed will determine the fishing category of all persons aboard the vessel and the applicable catch limits for that day. On designated restricted fishing days, persons aboard vessels permitted in the Charter/Headboat category may fish for school, large school, and small medium ABT only, provided the Angling category remains open, and are subject to the Angling category catch limits in effect.

Classification

These final specifications and regulatory amendments are published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that these specifications and amendments are necessary to implement the recommendations of ICCAT and are necessary for the management of the Atlantic tuna fisheries.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed specifications, if implemented, would not have a significant economic impact on a substantial number of small entities. This determination remains valid for the final specifications/final rule. Therefore, no Regulatory Flexibility Analysis was prepared.

These quota and effort control specifications impose no requirements with which fishermen will have to come into compliance, and are necessary to help ensure that the U.S. actions are consistent with its international obligations at ICCAT. Therefore, NMFS has determined that there is good cause to waive the 30-day delay in the effective date normally required by 5 U.S.C. 553(d). NMFS will rapidly communicate these final specifications through the FAX network and NOAA weather radio.

These final specifications and regulatory amendments have been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: May 15, 1998.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

PART 285–ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. In § 285.22, paragraph (a)(3) is revised to read as follows:

§ 285.22 Quotas.

* * * * * *

(a) * * *

(3) When the coastwide General category fishery has been closed in any quota period under paragraph (a)(2) of this section, the Director may publish a notification in the **Federal Register** to make available up to 10 mt of the quota set aside for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. The daily catch limit for the set-aside area will be one large medium or giant ABT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant ABT is authorized only within the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period established under paragraph (a)(1) of this section may be carried over for the purpose of renewing the set-aside fishery at a later date.

* * * * * *

[FR Doc. 98–13521 Filed 5–18–98; 1:32 pm]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246–7293–02; I.D. 051498C]

Fisheries of the Northeastern United States; Scup Fisheries; Rescission of 1998 Summer Period Scup Fisheries Closures in Delaware, New Hampshire, Maryland, and Massachusetts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rescission of closures.

SUMMARY: NMFS issues this notification announcing the rescission of closures previously issued for the Delaware, New Hampshire, Massachusetts, and Maryland Summer period scup fisheries for 1998. This rescission is in compliance with an April 27, 1998, Order of the United States District Court for Massachusetts (Court), which voided state-by-state allocation of the Summer period commercial scup fishing quota. The public is advised that landings are allowed for the Summer period in Delaware, New Hampshire, Maryland, and Massachusetts and that the quota is being administered on a coastwide basis.

DATES: Effective May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978–281–9221.

SUPPLEMENTARY INFORMATION: NMFS, in compliance with regulations found at 50 CFR 648.120, closed the 1998 scup Summer period commercial fisheries of Delaware and New Hampshire (62 FR 66304, December 18, 1997), Massachusetts (63 FR 3478, January 23, 1998), and Maryland (63 FR 23227, April 28, 1998) after determining through quota adjustments that these States had used their entire available Summer period commercial scup quota. These closures were to be effective May 1, 1998, through October 31, 1998.

In response to a lawsuit filed by the Commonwealth of Massachusetts, the Court, on April 27, 1998, ordered that the state-by-state allocation system for the summer commercial scup fishery, as codified in 50 CFR 648.120, is void. Since the state closures were triggered by the state-by-state allocation system required under 50 CFR 648.120, the basis for closing these fisheries is removed, and the closures are rescinded. The 1998 Summer period quota of 1,780,794 lb (807,755 kg) will be administered on a coastwide basis.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13497 Filed 5–18–98; 9:52 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 09–302051–8119–02; I.D. 021198B]

RIN 0648–AK78

Fisheries of the Northeastern United States; Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1998 Summer Flounder, Scup, and Black Sea Bass Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the FMP for the Summer Flounder, Scup, and Black Sea Bass Fisheries. This rule implements a possession limit of eight fish per person and a minimum fish size of 15 inches (38 cm) for the 1998 summer flounder recreational fishery; a minimum fish size of 10 inches (25.4 cm) and an August 1 through August 15 seasonal closure for the 1998 black sea bass recreational fishery; and no change in the current regulations for the 1998 scup recreational fishery. The intent of this rule is to comply with the regulations implementing the FMP for the fisheries that require NMFS to implement measures for the upcoming fishing year that will prevent overfishing of these resources.

DATES: Effective June 22, 1998.

ADDRESSES: Copies of the Environmental Assessment prepared for the 1998 summer flounder, scup, and black sea bass specifications and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Management Specialist, (978) 281–9280.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. Implementing regulations for the fishery are found at 50 CFR part 648.

Sections 648.100, 648.120, and 648.140 outline the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder, scup, and black sea bass fisheries. Pursuant to these sections, the Administrator, Northeast Region, NMFS, implements measures for the fishing year to ensure achievement of the fishing mortality rate specified in the FMP. This document announces the following measures pertaining to the recreational fishery, which are unchanged from the proposed measures that were published in the **Federal Register** on March 17, 1998 (63 FR 13208): (1) An individual possession limit of eight fish per person and a minimum fish size of 15 inches (38 cm) for the 1998 summer flounder recreational fishery; (2) a minimum fish size of 10 inches (25.4 cm) and an August 1 through August 15 seasonal closure for the 1998 black sea bass recreational fishery; and (3) no-change in the current regulations for the 1998 scup recreational fishery (a minimum fish size of 7 inches (17.78 cm)). The preamble to the proposed rule provided background concerning the development of these measures and that information is not repeated here.

In addition to these measures, the Council and Commission considered measures to reduce discard mortality associated with the recreational fishery. Discard mortality was addressed for the commercial fishery by requiring each state to establish a 15 percent commercial quota set aside for a bycatch fishery. The Council intended to recommend a recreational hook requirement to address discard mortality in that sector.

However, Commission staff presented the results of a literature review that revealed few available studies available on which to base hook size requirements for summer flounder. Therefore, the Council and Commission took action based on the limited studies available and testimony from fishery participants. During the 1998 fishery,

the Council and Commission intend to publicize their support for the voluntary use of circle hooks greater than 2/0 in size when fishing for summer flounder. Given the absence of definitive data, this appears to be a reasonable way to begin to address this issue for the recreational fishery.

Comments and Responses

Two comments were received immediately after the Council meeting in December 1997. One comment was received during the comment period for the proposed rule, which ended April 16, 1998.

Comment 1: New Jersey Congressman Frank Pallone supports a 14.5–inch (36.8–cm) minimum fish size, eight fish per person possession limit, and a May 15 to October 15 open season for summer flounder; and a 9.5–inch (24.1–cm) minimum fish size and a "reasonable seasonal restriction" for black sea bass. Congressman Pallone feels that the proposed summer flounder and black sea bass recreational specifications will have a greater negative impact on the New York and New Jersey area than on any other area in the Mid-Atlantic region.

Response: NMFS notes that the FMP calls for substantial reductions in commercial and recreational harvests of both summer flounder and black sea bass coastwide in 1998. Summer flounder measures are intended to achieve a 20.2–percent reduction from 1997 catches. The Congressman proposed a less restrictive minimum fish size for summer flounder than those recommended by the Council and published in the proposed rule. The seasonal closure supported by the Congressman appears to be intended to provide the additional reductions in catch required for 1998. NMFS notes that the Council had an extended discussion about including a closed season in the recreational measures for summer flounder for 1998. That discussion identified several concerns that are unresolved by the Congressman's proposal.

First, the seasonal restriction would require the fishery to be closed from January 1 through May 14, as well as from October 16 through December 31. However, this final rule will not be published until April or May. Therefore, the first portion of the Congressman's proposed closed season could not be implemented for 1998. Second, because summer flounder migrate seasonally, it is difficult to specify a closed season that will achieve a consistent reduction throughout the geographic range of the species. The Council discussed closed seasons at length and several Council members expressed concern that closures in either spring or fall would have disproportionate negative impacts upon such southern states as Virginia and North Carolina. There is no evidence that any particular state will be affected disproportionately.

The 1998 black sea bass measures are intended to achieve landings that are a 47–percent reduction from those in 1996 (the last year for which complete landings are available). The Congressman supports a 9.5–inch (24.1–cm) minimum fish size with a "reasonable seasonal restriction." Since the minimum fish size supported by the Congressman is less restrictive than that adopted here, the seasonal restriction would have to be more restrictive in order to meet the reduction necessary. At the December 1997 Council meeting, Council members and the public in attendance focused on three potential management tools available for managing the black sea bass fishery: an individual possession limit, minimum fish size, and seasonal restrictions. In that discussion, as well as in the recommendations of the Monitoring Committee, of the Industry Advisors and, ultimately, of the Council, consensus was that an increase to a 10–inch (25.4–cm) minimum fish size and a 15-day closure was preferable to restrictive possession limits or additional seasonal restrictions. In fact, the Council's Industry Advisors noted that they had agreed that a 10–inch (25.4–cm) size limit would have fewer negative effects than any other potential management measures on all user groups. The Congressman did not explain why he preferred a 9.5–inch (24.1–cm) minimum fish size to a 10–inch (25.4–cm) minimum fish size or what he would consider a "reasonable" seasonal closure.

Finally, the Congressman noted that the proposed measures will have a more severe impact upon fishery participants in New York and New Jersey than in any other states. NMFS recognizes that the recreational fishery is important to these states, but is not convinced that this conclusion is supported. In fact, during the Council discussion, several members noted concern that the increase in the summer flounder minimum fish size would be more restrictive in such southern states as Virginia and North Carolina than in the northern portions of the management area. NMFS concludes that specific measures may have somewhat different impacts geographically, but, overall, NMFS determined that the rule would not have a significant impact upon a substantial number of small entities, which would affect New York and New Jersey disproportionately (see **Classification** section).

Comment 2: The State of Maryland Department of Natural Resources (DNR) commented in support of the initial Council proposal, which would allow states to implement a 14.5–inch (36.8–cm) minimum fish size and six fish per person possession limit, and closed season as long as it achieves the same conservation benefit as the 15–inch (38–cm) minimum fish size and the eight fish per person possession limit. DNR expressed serious concern that a minimum fish size of 15 inches (38 cm) would have the effect of denying Maryland harvesters the opportunity to catch legal summer flounder in Chesapeake Bay and, to some extent in other coastal bays.

Response: The FMP does not allow the Council to specify alternative possession limits or minimum fish sizes. At the time the Council made its recommendation, the members specified that, if alternative measures were not allowed, the preferred measure would be the 15–inch (38–cm) minimum fish size and eight fish per person possession limit. It will be necessary to amend the FMP to establish a measure that will allow the Council to specify a set of alternative measures with equivalent conservation benefits from which states may select the set of measures that are most appropriate for their fisheries. NMFS understands that the Council intends to discuss this issue further as part of a future amendment to the FMP.

Recreational survey data suggests that, while the percentage of fish greater than or equal to 15 inches (38 cm) in size in the Chesapeake Bay may be a lower percentage than that in the coast as a whole (60 percent), there are larger fish present in the Bay.

Comment 3: One commenter supported raising the black sea bass minimum size limit to 10 inches (25.4 cm), but has expressed concern regarding the lack of a possession limit and the August 1 through August 15 seasonal closure. The commenter supports a possession limit of 30 fish per person for "full day" vessels and 20 fish per person for "half day" vessels in the Ocean City, Maryland, area. To accommodate the vessels that make trips longer than 12 hours, the commenter suggests a possession limit of 50 fish per person and a possession limit of 30 fish per person for private and charter vessels conducting trips longer than 12 hours. Additionally, the commenter feels the August closure would have a serious financial impact on the owners and crews of vessels from the Ocean City, Maryland, area and

would "simply allow for a great September."

Response: Possession limits were discussed at the December 1997 Council meeting. Marine Recreation Statistical Survey data showed that the average number of black sea bass landed per successful trip was 5.4 in 1996. Council analysis showed that imposing a 10–inch (25.4–cm) minimum size limit and a possession limit as low as seven fish per person would achieve the necessary reduction in recreational black sea bass landings and, on average, allow an additional three fish per person possession. However, at the December 1997 meeting, public comment of those industry members in support of possession limit restrictions strongly supported a greater than 20 fish per person possession limit. As a result of these discussions, the Council and Commission proposed two alternative options that would allow each state to choose either of the two options, one of which did contain a 20 fish per person possession limit. However, the FMP does not allow the Council to specify alternative measures or to adopt measures that differ from those specified by the Council. NMFS did not recommend the 20 fish per person possession limit because the seasonal restriction appears to be more widely accepted based on comments from the December 1997 Council meeting and the comment period for the proposed rule. This is the only comment in opposition.

The commenter's suggestion of "half day" versus "full day" possession limits is not feasible at this time. To implement this type of measure, a method to track vessel departures and arrivals would have to be developed. Any such system for the recreational sector would be burdensome and not cost effective for the industry. Regarding the commenter's suggestion of allowing an unlimited possession of black sea bass is "hardly good science," Council analysis of the best data available shows that the seasonal closure and minimum fish size implemented in 1998 are expected to constrain anglers by the needed 47 percent in 1998.

The commenter provided no indication of support for seasonal closures in general. While the commenter notes that the proposed seasonal closure will likely have a serious financial impact on owners and crews in the Ocean City, Maryland area, he admits that croaker may replace black sea bass during the August 1 through August 15 closure and that the respite provided by the closure will result in a "great September." As noted in an earlier response, NMFS concludes that specific measures may have somewhat different impacts geographically, but, overall, NMFS determined that the rule would not have a significant impact upon recreational fishermen in this sector. It is likely that recreational anglers will target other species that are relatively more abundant (such as striped bass) when faced with potential reductions in the amount of summer flounder and black sea bass they are allowed to catch due to decreases in the respective recreational harvest limits.

Classification

This action is authorized by 50 CFR part 648.

This final rule has been determined to be not significant for purposes of E.O. 12866.

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Because no comments were received regarding this certification and the basis for it remains unchanged, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 15, 1998.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) The minimum size for summer flounder is 15 inches (38 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats holding a moratorium permit if fishing with more than three crew members.

* * * * *

3. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) No person shall possess more than eight summer flounder in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit or is issued a summer flounder dealer permit. * * *

* * * * *

4. Section 648.142 is revised to read as follows:

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(6) and fishermen subject to the possession limit may not fish for black sea bass from August 1 through August 15. This time period may be adjusted pursuant to the procedures in § 648.140.

5. In § 648.143, paragraph (a) is revised, existing paragraph (b) is redesignated as paragraph (c), and new paragraph (b) is added to read as follows:

§ 648.143 Minimum fish sizes.

(a) The minimum size for black sea bass is 10 inches (25.4 cm) total length for all vessels issued a moratorium permit under § 648.4(a)(7) that fish for or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35°15.3' N. Lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canada border. The minimum size may be adjusted for commercial vessels pursuant to the procedures in § 648.140.

(b) The minimum size for black sea bass is 10 inches (25.4 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats, holding a moratorium permit if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

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[FR Doc. 98–13595 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 051598A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 17, 1998, through 1200 hrs, A.l.t., September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI, which is defined at § 679.21(e)(5)(ii)(A), was established by the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) as 37 mt.

In accordance with § 679.21(e)(9), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI has been caught. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using hook-and-line gear in the BSAI.

Maximum retainable bycatch amounts may be found at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI being exceeded and disrupt the FMP's objective of limiting hook-and-line Pacific halibut mortality. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13500 Filed 5–18–98; 9:52 am]

BILLING CODE 3510–22–F

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Proposed Rules

Federal Register
Vol. 63, No. 98
Thursday, May 21, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Public Meeting on Part 70 Rulemaking Activities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will host a public meeting in Rockville, Maryland to discuss issues associated with NRC 10 CFR Part 70 rulemaking activities. This meeting will provide information on the status of staff activities consistent with Commission direction in a Staff Requirements Memorandum (SRM) dated August 26, 1997.

DATES: The meeting is scheduled for May 28, 1998 from 9:00 a.m. to 1:00 p.m. The meeting is open to the public. Persons who wish to attend the meeting should contact Jim Hennigan at (301) 415–6850 at least one week prior to the meeting.

ADDRESSES: NRC's auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the meeting site is located adjacent to the White Flint Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Lidia Roché, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–7830, fax: (301) 415–5390, e-mail: lar2@nrc.gov. Copies of the documents referred to above can be obtained from the NRC public document room. In addition, you can view SECY–97–137 via the Internet at http://www.nrc.gov/NRC/COMMISSION/activities.html.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide information on the status of NRC staff activities pertaining to the revision of 10 CFR Part 70. The focus of the rulemaking under development is on the features recommended in SECY–97–137, "Proposed Resolution to Petition for Rulemaking Filed by the Nuclear Energy Institute" (June 30, 1997) which was approved by the Commission in an SRM dated August 26, 1997. The basic elements of the rule under development are 1) the performance of an Integrated Safety Analysis (ISA) by licensees authorized to possess Special Nuclear Material (SNM) in quantities sufficient to constitute a potential for a nuclear criticality; 2) the establishment of limits to identify the adverse consequences that the licensee must protect against; 3) the inclusion of the safety bases in the license; and 4) allowance for licensees to make certain change to their facilities without prior approval by NRC.

Dated at Rockville, Maryland this 15th day of May, 1998.

For the Nuclear Regulatory Commission.

Elizabeth Q. Ten Eyck,

Director, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 98–13556 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–07–AD]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG–400 gliders. The proposed action would require replacing the propeller shaft, the bearings, and the front drive belt retaining rings with ones of improved design. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the propeller shaft, which could result in loss of glider propulsion during critical phases of flight.

DATES: Comments must be received on or before June 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Glaser-Dirks Flugzeugbau GmbH, Im Schollengarten 19–20, 7520 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. 98–CE–07–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Glaser-Dirks Model DG–400 gliders. The LBA reports that the propeller shafts installed on some of these Model DG–400 gliders have failed during flight. An LBA investigation of these incidents showed that the propeller shaft currently installed had a torque tensioning problem which was causing the shaft to rotate. In some cases, the propeller drive belt damaged the front retaining rings and came off the upper pulley, which also damaged the propeller.

These conditions, if not corrected, could result in loss of propulsion during critical phases of flight.

Relevant Service Information

DG Flugzeugbau has issued Technical Note No. 826/32, dated July 19, 1996, and DG Flugzeugbau WORKING INSTRUCTION No. 1 for TN 826/32, dated July, 1996, which specifies procedures for replacing the propeller shaft, the bearings, and the front drive belt retaining rings with parts of improved design.

The LBA classified this service bulletin as mandatory and issued German AD 96–243 DG Flugzeugbau, dated August 29, 1996, in order to assure the continued airworthiness of these gliders in Germany.

The FAA's Determination

This glider model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Glaser-Dirks Model DG–400 gliders of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the propeller shaft, the bearings, and the front drive belt retaining rings with parts of improved design. Accomplishment of the proposed action would be in accordance with DG Flugzeugbau Technical Note No. 826/32, dated July 19, 1996, and DG Flugzeugbau WORKING INSTRUCTION No. 1 for TN 826/32, dated July, 1996.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per glider to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $460 per glider. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $266,000, or $760 per glider.

Proposed Compliance Time

The compliance time of the proposed AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected glider ranges throughout the fleet. For example, one owner may operate the glider 25 hours TIS in one week, while another operator may operate the glider 25 hours TIS in one year. In order to ensure that all of the owners/operators of the affected glider have replaced the propeller shaft, bearings and front drive belt retaining rings within a reasonable amount of time, the FAA is proposing a compliance time of 4 calendar months.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Glaser-Dirks Flugzeugbau GMBH: Docket No. 98–CE–07–AD.

Applicability: Model DG–400 gliders, all serial numbers, certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 4 calendar months after the effective date of this AD, unless already accomplished.

To prevent failure of the propeller shaft, which could result in loss of glider propulsion during critical phases of flight, accomplish the following:

(a) Replace the propeller shaft, the bearings, and the front drive belt retaining rings with parts of improved design in

accordance with paragraph 2 of the Instructions section of DG Flugzeugbau Technical Note No. 826/32, dated July 19, 1996, and WORKING INSTRUCTION No. 1 for TN 826/32, dated July, 1996.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to DG Flugzeugbau Technical Note No. 826/32, dated July 19, 1996, and DG Flugzeugbau WORKING INSTRUCTION No. 1 for TN 826/32, dated July, 1996, should be directed to DG Flugzeugbau GmbH, P.O. Box 4120, 76625 Bruchsal, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 96–243 DG–Flugzeugbau, dated August 29, 1996.

Issued in Kansas City, Missouri, on May 13, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13518 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–21–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. Models MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The proposed action would require incorporating several modifications to the operating systems and installing a placard with operating limitations within the pilot's clear view. Service history of the affected airplanes prompted the FAA to examine the design of these airplanes and analyze the ability of the pilots of these airplanes to fly and operate in icing conditions. The actions specified by the proposed AD are intended to prevent departure from controlled flight and to assist the pilot in detecting ice accumulation on the airplane when flying in icing conditions that exceed the airplane's ice protection capability, which could result in possible loss of control of the airplane.

DATES: Comments must be received on or before July 22, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Dallas, Texas 75248; telephone (972) 980–5001; facsimile (972) 980–5091. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. John Dow, Aerospace Engineer, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106, telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–21–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Service history of the Mitsubishi MU–2B series airplanes prompted the FAA to examine the design of these airplanes and analyze the ability of the pilots of these airplanes to fly and operate in icing conditions. The FAA recently conducted a special certification review (SCR) for the Mitsubishi MU–2B series airplanes. This examination shows that several accidents have occurred, and that future accidents/incidents may be prevented by modifications to the airplane design and by additional training to enhance the pilot's ability to manage the airplane in adverse operating conditions. The training issues were addressed in AD 97–20–14. Indications are that the pilot is not detecting or properly interpreting the visual cues of ice build-up on the airframe. The pilots of the airplanes involved in the accidents did not exit the icing conditions, but instead, relied on the autopilot to fly the airplane. In these accidents, the airplanes stalled while on autopilot, which resulted in departure from controlled flight into a spin or near vertical spiral until ground contact was made.

Explanation of Departure From Controlled Flight

Airplanes that fly in these severe icing conditions, although infrequently encountered, can accumulate ice formations that increase drag quickly and raise stall speeds significantly. Combining these elements with a loss of airspeed can cause aerodynamic flow separation or stall on one or both wings. This stall can result in an uncontrolled

rolling or pitching, especially if yawing is present at the stall. Heavy ice-induced stalls can occur very suddenly at airspeeds well in excess of normal stall speeds, with no artificial warning (stick shaker) or natural pre-stall buffet (stick shaker) to advise the pilot that the airplane is about to stall. If the pilot has put the airplane controls on autopilot, and takes no corrective actions during the ice induced slowdown, the autopilot then contributes to the departure from controlled flight.

The certification tests and operation of the MU–2B series airplanes reveal that these airplanes have the capability to cope with normal icing conditions. However, the FAA's current understanding of freezing rain and drizzle, known as supercooled large drops (SLD), shows that atmospheric icing conditions exist that exceed the capability of the pneumatic ice protection found on turbopropeller airplanes, including the MU–2B series airplanes. Flight into SLD, or freezing rain and freezing drizzle, can cause ice accretion on and beyond the active portion of the de-icing boots, on the upper and lower surfaces of the wing, as well as other unprotected surfaces of the airplane. The ice that forms beyond the boots cannot be removed. Ice increases drag, leading to decreased airspeed, and if level flight is maintained, increased angle-of-attack. This evolution can ultimately lead to aerodynamic flow separation over the wing, or stall. Ice can also form around the engine inlets. The accumulated ice might then loosen and be ingested into the engine, interrupt the airflow, and flame out the engine at a critical time.

Relevant Service Information

Mitsubishi has issued the following service bulletins which specify procedures that address the concerns in this proposed action.

- Test Instrumentation, Inc. Document No. MU2–1001, Rev. C., dated June 15, 1997, and Mitsubishi MU–2 Service Bulletin (SB) No. 231, dated July 2, 1997: these documents include procedures for incorporating an audible trim-in-motion alert system to notify the pilot that the trim is trimming nose-up while the autopilot is engaged;
- Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated May 21, 1997, and Mitsubishi MU–2 SB No. 232, dated July 2, 1997: these documents include procedures for modifying the existing pneumatic de-icing system to assure that both wing and tailplane boots are receiving enough inflation pressure when the De-Ice System Annunciation is in the "ON" position, and circuit breaker modification is made;
- Mitsubishi MU–2 SB No. 217, Revision B, dated November 7, 1996 and Test Instrumentation Inc. Document No. MU2–6005, dated September 28, 1997: these documents include procedures for incorporating an ice detector system that includes an ice probe that will enunciate the presence of actual icing conditions.

The service bulletin specifies using a Rosemont ice detector, part number (P/N) 0871CT1, but this part may be substituted with Rosemont P/N 0871HL1/HL2 or an FAA-approved equivalent part number;

- Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997, and Mitsubishi MU–2 SB No. 231, dated July 2, 1997: these documents include procedures for incorporating an automatic autopilot disconnect system that turns off the autopilot when the airspeed of the airplane falls between 130 to 140 knots indicated airspeed (KIAS);
- Mitsubishi MU–2 SB No. 226B, Revision B, dated October 27, 1997: this document includes procedures for incorporating an auto-ignition (re-light) system; and
- Mitsubishi MU–2 SB No. 074/74–001, dated October 9, 1991: this document includes procedures for incorporating an engine ignition unit replacement (to increase the engines tolerance of ice) and reduce the chances of engine flame-out during critical phases of flight.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the accidents described above, including the previously referenced service information, the FAA has determined that AD action should be taken. Taking AD action is needed to prevent departure from controlled flight and to assist the pilot in detecting ice accumulation on the airplane when flying in icing conditions that exceed the airplane's ice protection capability, which could result in possible loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other MU–2B series airplanes of the same type design, the proposed AD would require incorporating the following:

(1) An ice detection system,

(2) A de-ice monitoring system,

(3) An automatic autopilot disconnect system and a trim-in-motion alert system,

(4) An engine continuous-duty ignition unit replacement,

(5) An auto-ignition (re-light) system, and

(6) Fabricating a placard (using ⅛-inch letters) and installing this placard within the pilot's clear view with the following words:

> Prior to the first flight of the each day, a negative torque sensing (NTS) check and a Propeller Feather Valve check must be performed in accordance with the Normal Checklist Procedures.

Proposed Compliance Time

The FAA has determined that the compliance time of the proposed AD should be specified in calendar time instead of hours time-in-service. Although the condition addressed by the proposed AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation. The potential for the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The proposed compliance time of "12 calendar months after the effective date of this AD" would not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish the proposed action in a reasonable time period.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 was enacted by Congress to assure that small entities are not unnecessarily or disproportionately burdened by government regulations. This Act establishes "as principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a "significant economic impact on a substantial number of small entities." If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis as described in the Act. However, if after a review for a proposed or final rule, an agency

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determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, Section 605(b) of the Act provides that the head of the agency may so certify and a Regulatory Flexibility Analysis is not required. The Certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA has determined that this proposed AD would have a significant economic impact on a substantial number of small entities. After a review of alternatives, as required by Section 603(c) of the Act, the proposed AD is the least costly alternatives to improve the safety of the Mitsubishi MU–2B series airplanes that may encounter in-flight icing conditions.

The entities affected by this AD are believed to be mostly in Standard Industrial Classification (SIC) 4522, "Air Transportation, Nonscheduled." Under the Small Business Administration (SBA), *Table of Size Standards*, March 1, 1996, an entity in SIC 4522 would be a small business if it has fewer than 1,500 employees.

The U.S. Registered Aircraft Database shows approximately 200 operators of Mitsubishi MU–2B series airplanes in the United States, but that only 13 entities operate two or more of these airplanes. Ownership of more than one MU–2B series airplane is believed to be limited to five percent of the affected aircraft owners. Only one of these operators had ten or more of these airplanes. The total number of owners operating of MU–2B series airplanes is in the range of 320 to 340, and the names of the owners suggest that the majority of these airplanes are operated by small entities. Consequently, this proposed AD is likely to affect a substantial number of small entities.

The initial cost for each owner/operator of an MU–2B series airplane is estimated to be approximately $25,728. Reported usage rates of 32 to 33 hours per month (almost 400 hours per year) indicate that an airplane would be subject to a total of four inspections per year. At a nominal inspection time of one hour per inspection and labor cost of $60 per hour, the proposed annual inspection costs would be approximately $240 per airplane. These estimates include costs for the associated record keeping. A reasonable range of costs arising from this proposed AD is suggested in the following table:

Cost of capital	Remaining life of aircraft	Annualized cost		Present value of total cost
		Initial	Total	
10%/year	20 years	$3,022	$3,262	$27,771
15%/year	20 years	4,110	4,350	27,230
10%/year	10 years	4,187	4,427	27,203
15%/year	10 years	5,126	5,366	26,933

The remaining life for an affected airplane will depend on the demand for the types of service provided (such as cargo delivery and medical evacuation), as well as the difference in cost between providing this service with the MU–2B series airplanes and the cost of using alternative aircraft or modes of transportation. According to the manufacturer, detailed inspections show that deterioration of the airframes has been quite small, so that a 20-year life expectancy may be a reasonable assumption. In addition, the manufacturer acknowledged recent instances of retired MU–2B series airplanes being returned to service. These considerations suggest that it is reasonable to assume a relatively long expected life for many of the MU–2B series airplanes, so that the annualized cost per affected aircraft may average less than $5,000.

With an average annual cost per airplane in the range of $3,200 to $5,400 (consistent with 10 to 20 years of remaining life and capital costs of 10 to 15 percent per year), the present value of the total cost would be approximately $27,000 per airplane. The total annualized cost of this proposed AD for the U.S. fleet would be in the range of $1 million (320×$3,200 = $1,024,000) to $1.8 million (340×$5,400 = $1,836,000). The present discounted value of total costs imposed by the proposed AD are in the range of $8.6 million to $9.4 million.

Market values for the affected airplanes are believed to be in the range of $300,000 to $800,000, depending on the airplane's age, condition, and installed equipment. Therefore, the proposed AD costs would be about 3.5 percent to 9 percent (($27,000/$800,000)×100% = 3.5% to ($27,000/$300,000) ×100% = 9%) of the market value of the airplane. Because the costs imposed by the proposed AD would be proportionately higher for less expensive airplanes, it is likely that they would also be proportionately higher for smaller, less financially strong operators than for larger operators.

Based on the above-referenced conditions, the proposed AD would have a substantial economic impact on a significant number of small entities.

Cost Versus Benefits

The purpose of the proposed AD is to improve flight safety under icing conditions for Mitsubishi MU–2B series airplanes. The National Transportation Safety Board (NTSB) Accident-Incident Database indicates that three Mitsubishi MU–2B airplane accidents occurred from 1982 through 1996, with a total of 14 fatalities. All three accidents were related to loss of control of the airplane while flying in severe icing conditions. These three airplane accidents amount to about one percent of the MU–2B series airplane fleet. All were part 91 operations.

In one of these accidents, involving eight fatalities in 1996, the pilot continued flight into (unforecast) severe icing conditions with known in-operative anti-ice gear. The NTSB report attributed the accident to flying with known equipment deficiencies and failure to maintain airspeed.

In a second accident, involving five fatalities in 1990, the NTSB noted that the probable cause included improper flight planning, which resulted in flight into icing conditions, along with failure to maintain adequate airspeed and control. Pilot inexperience in this Mitsubishi MU–2B series airplane was also cited as a related factor.

In a third accident involving one fatality in 1988, the pilot was the sole occupant. The pilot of the 1988 accident reported an uncontrolled descent shortly after starting to climb, following a descent that had been made in order to remove structural icing. Although the reason for this accident was indicated to be undetermined, the airplane was believed to have had problems with cabin pressurization, as well as some structural damage associated with landing in an overweight condition, prior to encountering the icing. Crew error was found to be one of the causes of the first two accidents, and seems

likely in the third accident. Timely warnings of the ice forming on the airframe may have prevented some or all of these accidents.

In developing this Regulatory Flexibility Analysis several alternatives to proposing this AD were considered. The alternatives included: (1) taking no action, including issuance of the proposed AD, (2) requiring additional training and the provision of special instructions relating to operating in icing conditions for MU–2B series pilots, (3) banning the MU–2B series airplanes from flights into known or suspected icing conditions, and (4) issuing the proposed AD.

Alternative (1): taking no action. Taking no action would permit the continuation of current conditions that could result in a repeat of icing-related accidents similar to those that have occurred over the past 10 years.

Alternative (2): requiring additional training. A requirement for additional training is addressed in AD 97–20–14, Amendment 39–10150 (62 FR 51594) issued on September 26, 1997, which requires periodic training of pilots and crew flying any Mitsubishi MU–2 series airplane into possible or forecast icing conditions. This training should assist in reducing future ice-related accidents for the affected airplanes.

Alternative (3): banning flight into known or suspected icing conditions. Banning flight into known or suspected icing conditions would not eliminate inadvertent encounters with icing conditions aloft. Such restrictions may have little effect flying into unforecast icing conditions with inoperable anti-ice equipment and insufficient flight planning. Unknown forecast conditions aloft and insufficient flight planning contributed to two of the accidents (and 13 of the 14 fatalities) cited. In addition, such a ban would impose costs on owners/operators in the form of significant losses in value for the airplanes, since the airplanes would be prevented from making flights, despite being outfitted with anti-ice equipment.

Alternative (4): issuing the proposed AD. Issuing the proposed AD would result in the installation of equipment that would provide a timely warning at the onset of icing conditions, so that most accidents resulting from inadvertent encounters with severe icing conditions could possibly be prevented.

A benefit/cost comparison for this proposed AD can be made by noting that the present value of the costs imposed by this rule are on the order of $9 million. The present value of a single life saved sometime over the next 20 years (making use of the Department of Transportation's value for an avoided fatality of $2.7 million) is approximately $1.43 million. This figure reflects 1/20 of an annual avoided fatality ($2.7 million / 20 = $135,000) discounted over 20 years at the Office of Management and Budget-specified discount rate of 7 percent.

With these figures in mind, the proposed AD would have benefits in excess of costs if it were to result in the avoidance of a single accident that involves 6 or 7 fatalities ($9 million / $1.43 million = 6.29 avoided fatalities) over the next 20 years. Adding the benefit of avoiding the loss of an airplane worth nearly a half million dollars to the benefit presented above increases the benefits relative to costs related to the proposed actions.

Although it may be assumed that current operators of these airplanes are now aware of the dangers posed by icing conditions, so that icing-related accidents are now less likely than in the recent past, the avoidance of 6 or 7 icing-related fatalities over the next 20 years is not implausible. These airplanes can carry up to 12 passengers and crewmembers. The past 10 years' experience implies an annual icing-related accident rate of 0.33 (3/10 = 0.33) with an annual icing-related fatality rate of 1.4 (14/10 = 1.4). Seven avoided fatalities over the next 20 years implies an annual avoided fatality rate of 0.35 (7/20 = 0.35), or one-fourth of the average Mitsubishi MU–2B airplane icing-related fatality rate observed over the past 10 years.

For reasons outlined above, the FAA has determined that the proposed AD is likely to have benefits in excess of costs and is not aware of a less costly alternative that would be likely to bring about a significant improvement in the safety of Mitsubishi MU–2B series airplanes that encounter in-flight icing conditions.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Mitsubishi Heavy Industries, Ltd.: Docket No. 97–CE–21–AD.

Applicability: Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, and MU–2B–60 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 12 calendar months after the effective date of this AD, unless already accomplished.

To prevent departure from controlled flight and to assist the pilot in detecting ice accumulation on the airplane when flying in icing conditions that exceed the airplane's ice protection capability, which could result in possible loss of control of the airplane, accomplish the following:

(a) Incorporate an ice detection system in accordance with the instructions in Mitsubishi MU–2 Service Bulletin (SB) No. 217, Revision B, dated November 7, 1996, and Test Instrumentation Inc. Document No. MU2–6005, dated September 28, 1997.

Note 2: The Rosemount ice detection probe (part number (P/N) 0871 HL1/HL2 or an FAA-approved equivalent part number) may be substituted for the Rosemount P/N 0871CT1 called out in Mitsubishi MU–2B SB No. 217, Revision B, dated November 7, 1996, and Test Instrumentation Inc. Document No. MU2–6005, dated September 28, 1997.

(b) Incorporate a pneumatic de-ice monitoring system in accordance with the instructions in Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated May 21, 1997, and Mitsubishi MU–2 SB No. 232, dated July 2, 1997.

(c) Incorporate a trim-in-motion alerting system and an automatic autopilot disconnect system in accordance with the instructions in Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997, Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997, and Mitsubishi MU–2 SB No. 231, dated July 2, 1997.

(d) Incorporate an engine ignition unit replacement in accordance with the instructions in Mitsubishi MU–2B SB No. 074/74–001, dated October 9, 1991.

(e) Incorporate an auto-ignition (re-light) system in accordance with the instructions in Mitsubishi MU–2 SB No. 226B, Revision B, dated October 27, 1997.

(f) Fabricate a placard with the following words and install this placard within the pilot's clear view:

Prior to the first flight of the day, a negative torque sensing (NTS) check and a Propeller Feather Valve check must be performed in accordance with the Normal Checklist Procedures.

(g) Paragraph (f) of this AD can be accomplished by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(j) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Dallas, Texas; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 13, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13517 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 150

[Docket No. 2923]

Compatible Land Use Planning Initiative

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: The FAA is seeking new ideas regarding how the agency can better influence land use decisions around airports. Noise contours around airports will continue to shrink with the elimination of noisier Stage 2 airplanes by the year 2000. The FAA now seeks to develop a process that will better influence long-term land use planning and zoning around airports. This notice solicits suggestions about methods the FAA can use to encourage and help State and local governments achieve and maintain land use compatibility around airports.

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: Comments should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 29231, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: 9-nprm-cmts@faa.dot.gov. Comments must be marked Docket No. 29231. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Trickey, Policy and Regulatory Division, AEE–300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone, (202) 267–3496; facsimile, (202) 267–5594; email, alan.trickey@faa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Aircraft noise is a serious problem for communities around airports. Federal, state and local governments have spent several billion dollars for the acquisition of land, soundproofing, changes in airport operations and airspace, and processing of complaints. The airline industry has expended billions more to acquire quieter aircraft that reduce noise exposure levels. Although this collective effort has resulted in significant progress, additional measures are needed to maintain current gains and prevent the development of new noncompatible land uses around airports.

The FAA has been actively engaged in measures to solve the problem of aircraft noise since the 1960's. Specifically, the FAA has issued regulations phasing out noisier airplanes. The noisiest Stage 1 airplanes were phased out of commercial operations in the United States by 1988. The current phaseout will eliminate large Stage 2 airplanes from operations in the contiguous United States by the year 2000. The FAA provides grants to airport operators willing to undertake noise abatement measures such as the purchase of land and soundproofing of residences.

Based on several studies, the FAA expects noise contours at most airports to continue to shrink for several years into the 21st century due to the elimination of noisier aircraft. After the completion of the Stage 2 phaseout by the year 2000, the FAA anticipates that these contours could begin to expand again at some airports primarily due to increases in operations. It is essential for local jurisdictions to plan ahead to maintain the land use compatibility already achieved near airports and to control land uses to prevent new noise-sensitive development within an agreed upon protection zone.

The U.S. Constitution, gives individual States the authority over land use, though such authority is often delegated to local governments. Some airports are operated by the state or municipal governments that have the power to achieve appropriate land use controls through zoning and other authorities. But even when governmental bodies are themselves airport operators, the noise effects of their airports often occur in areas outside their jurisdictions. Land use decisions generally reflect the needs of the community, which include but are

not limited to considerations of aviation noise.

The FAA is charged with the responsibility to maintain a safe and efficient national airspace system. The FAA fosters compatible land use planning both to facilitate access to airports commensurate with the demands of air commerce and to abate the aviation noise effects in the airport vicinity. Even though the Federal government lacks the authority to zone land, the FAA may use its influence to encourage compatible land use in the vicinity of an airport. The agency exerts this influence through airport development grant agreements, environmental review requirements, grants for airport noise compatibility planning, and educational instruments on compatible land use planning. The FAA has issued guidelines for land use compatibility around airports to assist those responsible for determining land use. These guidelines are primarily contained in 14 CFR Part 150 and related guidance.

In January 1995, an FAA-sponsored Study Group on Compatible Land Use, which was composed of community, airport, and aviation representatives, produced a report with recommendations for Federal initiatives to promote compatible land use planning and controls around airports. The group's recommendations included the following concepts:

- Provide direct Federal funding through the Airport Improvement Program (AIP) to non-airport sponsors who have land use planning jurisdiction;
- Encourage cooperative agreements between airport sponsors and communities;
- Revise FAA regulations in Part 150 or supporting guidelines to recognize and publicize successful land use compatibility concepts, encourage more effective public participation and encourage innovative land-use control techniques;
- Strengthen the linkage between Part 150 noise compatibility programs and existing Federal programs that reinforce land use planning, such as Federal Housing Administration and Department of Veterans Affairs policies not to accept properties in high-noise areas for mortgage insurance.

The FAA has implemented portions of these recommendations. These ideas are presented here only to stimulate thought for addition ideas.

Request for Comments

The FAA is soliciting comments on any concepts that might serve to promote compatible land use planning by state and local authorities and to discourage development of noncompatible land uses around airports. The FAA is particularly interested in bold, innovative, and creative options that could be implemented quickly to discourage development of noncompatible land uses, as well as long-term solutions. Comments that provide a factual basis for the suggestions are particularly helpful. The more specific the suggestions for FAA action, the better. Ultimately, any process should achieve long-term cost avoidance for all levels of government.

The FAA will review information from public comments and other sources to identify methods that might assist State and local governments in achieving and maintaining land use compatibility around airports. Further action would depend on the nature and scope of the methods identified.

Communications should identify the notice docket number and be submitted in triplicate using one of the media specified in the ADDRESSES paragraph above. All communications will be filed in the docket. The docket is available for public inspection both before and after the closing date for receipt of comments.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. [29231]." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Issued in Washington, D.C. on May 15, 1998.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 98–13577 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Proposed Technical Changes; Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed technical changes.

SUMMARY: The Commission proposes to amend the flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14 to make several technical changes that would correct the definition of "tight-fitting garment."[1] The proposed changes will clarify the points where garment measurements should be made.

DATES: Written comments concerning this proposed amendment are due no later than August 4, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 504–0800 or delivered to the Office of the Secretary, room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be submitted in five copies and captioned "Sleepwear." Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0550, extension 2354.

SUPPLEMENTARY INFORMATION:

A. Background

In 1971, the Secretary of Commerce issued a flammability standard for children's sleepwear in sizes 0 through 6X, which became effective in 1972. That standard, issued under Section 4 of the Flammable Fabrics Act ("FFA"), 15 U.S.C. 1193, prescribes tests for children's sleepwear garments and fabrics intended for use in children's sleepwear. The flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR Part 1615.

In 1973, responsibility for administration and enforcement of the FFA was transferred to the Consumer Product Safety Commission by provisions of section 30(b) of the Consumer Product Safety Act. 15 U.S.C. 2079(b). In 1974, the Commission issued a flammability standard for children's sleepwear in sizes 7 through 14, to become effective in 1975. The tests in that standard are substantially the same as those in the standard for children's sleepwear in sizes 0 through 6X. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

Both standards require that test specimens must self-extinguish when exposed to a small open-flame ignition source. Self-extinguishing fabrics and garments are those that stop burning when removed from an ignition source.

[1] The Commission voted to issue the proposed changes 2–0. Commissioners Mary Gall and Thomas Moore voted in favor of issuing the proposed rule. Chairman Ann Brown abstained.

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Both standards require manufacturers of sleepwear garments to perform prototype tests on specimens of fabric, seams, and trim with acceptable results before beginning production of sleepwear garments. Both standards also require manufacturers of sleepwear fabrics and garments to group fabrics and garments into production units and to randomly sample and test products from each production unit. Neither standard requires that specific fabrics or flame-retardant treatments be used in the manufacture of children's sleepwear.

On September 9, 1996, the Commission issued a final rule amending the flammability standards for children's sleepwear to exclude from the definition of "children's sleepwear" (1) garments sized for infants nine months of age or younger and (2) tight-fitting sleepwear garments for children older than nine months. 61 FR 47634.

The Commission found that such tight-fitting sleepwear did not present an unreasonable risk of injury. Rather, the Commission's information showed that sleepwear incidents occurred with loose-fitting garments such as nightgowns. A review of literature for that amendment showed that fit can influence garment flammability. Garments that fit close to the body are less likely to catch fire in the first place and less likely to allow heat to develop between the fabric and the body, thus decreasing the likelihood of thermal injury. *Id.* The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards as they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However, the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 1, 1998. 62 FR 60163.

The Commission defined tight-fitting garments as those that did not exceed certain measurements in the chest, waist, seat, upper arm, thigh, wrist, and ankle for each size ranging from over 9 months through children's size 14. In the amendments, the Commission specified maximum allowable measurements for each of these locations for each size garment. 61 FR 47644–47.

B. Statutory Provisions

The FFA provides that the Commission can issue or amend a flammability standard when the standard may be needed to protect the public from an unreasonable risk of the occurrence of fire leading to death, injury or significant property damage. 15 U.S.C. 1193(a).

Section 4(g) of the FFA, states that a proceeding "for the promulgation of a regulation under this section" shall be initiated by publication of an advance notice of proposed rulemaking ("ANPR"). 15 U.S.C. 1193(g). That section requires that the ANPR identify the product and the nature of the risk at issue; summarize the alternatives under consideration; provide information about existing relevant standards; and invite interested persons to submit comments on the ANPR. *Id.*

Due to the technical nature and narrow scope of this proceeding, an ANPR conforming to the requirements of section 4(g) would be of no value to the public or the Commission. This proposed amendment would simply correct errors in the previous amendments to the children's sleepwear standards. The only change that would result if this amendment were to be issued in final is that some locations on sleepwear garments would be measured in a slightly different place to determine whether they could be exempt as tight-fitting garments. Thus, the Commission is initiating this rulemaking with this notice of proposed rulemaking ("NPR") rather than an ANPR.

C. Proposed Amendments

1. Need for Technical Changes

Once manufacturers began to design tight-fitting sleepwear that would meet the amendments, they identified some problems with design and construction of these garments. First, in December 1996, it became apparent that the location specified to measure the upper arm ("at a line perpendicular to the sleeve. Extending from the outer edge of the sleeve to the arm pit") would result in an unworkable garment. Some garment manufacturers asserted that measuring the upper arm at this location could result in an opening at the upper end of the sleeve (the armhole) that would be uncomfortable to the wearer. Thus, the Commission staff sent an enforcement letter to industry clarifying the measurement point for the upper arm.

Industry members told CPSC staff of other manufacturing problems they were having with making tight-fitting sleepwear. On June 4, 1997, an industry task force presented the staff with recommendations for producing cotton garments. They suggested a new set of garment dimensions as well as revised points of measurements. Most dimensions were larger than those in the Commission's standard. The staff reviewed the suggestions from the industry task force and those of other industry members. The staff concluded that some technical changes to the standard were necessary for manufacturers to make workable garments. However, the staff concluded that most of the changes advocated by the industry task force and others would result in larger garments that would not meet the standard's safety criteria. As mentioned above, the Commission based its exemption for tight-fitting garments on information showing that garments close to the body and touching it at key points would not present an unreasonable risk. The revisions suggested by industry would produce garments that would fall away from the body.

It seemed apparent to the staff that some adjustments needed to be made to the locations for measurements specified in the amendments for some points on the garments. The staff believed that these adjustments would be needed for the point of measurement of the upper arm, the seat, and the thigh. The staff also examined possible changes to the sweep (bottom of the top of a two-piece garment). In order to better assess this need and to determine if the possible changes would result in practical, wearable garments, the staff conducted structured observations of some garments.

2. Observations

The staff conducted a series of observations to see if the technical changes that appeared necessary would result in practical garments. The staff considered practical garments to be ones that adhere to the intentions of the regulation to provide a snug fit while permitting the wearer to move without undue discomfort or restraint. Eight manufacturers provided garments for children to try on so that the staff could assess the comfort and fit of the various garments. Numerous different fabrics were used (several 1x1 rib knits, several interlock knits, and a thermal knit). Garment fit was evaluated by CPSC staff with experience in garment design and construction. During the observations children put on and took off the garments, played actively and simulated sleeping. The staff observers looked for indications that the garments were binding or causing discomfort. The children also took garments home to sleep in.

One garment that met the current tight-fitting requirements was included. It proved to be impractical for several reasons. Measuring the upper arm from the arm pit produced an armhole too small to be comfortable and made it

impossible for a child to remove the garment top without assistance. The points of measurement for the thigh and seat resulted in pants that were unnecessarily tight in these areas. This tightness would also tend to further restrict the fabrics that could be used.

The garments made according to measurement locations contemplated by the staff appeared to be wearable, comfortable and suitable for sleeping and play. Children (or parents of smaller children) had no problems putting the garments on or removing them. The children's bodies remained covered when they moved about. The fabrics' stretch accommodated leg and arm movements so the children were able to bend, squat, run and roll. The children reported no discomfort sleeping in the garments overnight.

3. Substance of Changes

Measurement of Upper Arm

As explained above, this proposed amendment would allow manufacturers to measure sleepwear garments at a location that better approximates the true upper arm of the garment. In an effort to simplify the definition of "tight-fitting garment" the 1996 sleepwear amendments called for measuring from the arm pit; however, this does not allow sufficient room at the upper opening of the sleeve. Under the proposed correction, the upper arm would be measured from the shoulder to approximately one quarter the length of the arm.

The maximum upper arm dimensions for each size specified in the 1996 sleepwear amendments would remain unchanged. These are indicated in the charts provided in the September 9, 1996 **Federal Register** notice. 61 FR 47644–47 (codified at 16 CFR 1615.1(o) and 1616.2(m)). This proposed amendment would only change the location where the upper arm is measured.

To determine the appropriate point for the upper arm measurement, the staff considered available sizing and body measurements. For sizes 9 months through 6x the staff based its calculations on the arm lengths given in ASTM standards D4910–95a and D5826–95. Currently there is no ASTM standard for body measurements for sizes 7 through 14. Therefore the staff based its calculations for these sizes on the 1977 anthropometric study of U.S. children conducted by the University of Michigan.

Measurement of Seat

The 1996 sleepwear amendments state that the seat should be measured "at widest location between waist and crotch." 16 CFR 1615.1(o) and 1616.2(m) (see footnotes to chart). If read literally, this describes a location immediately above the bottom of the crotch and is essentially the same location as specified for the thigh measurement. This is not where the seat/hip measurement is normally made under general industry practices. A literal reading of this direction results in a more contstricted pant in the seat and thigh area.

Originally, the staff considered measuring just above the curve in the crotch seam, some specified number of inches above the bottom of the crotch. A different distance would be specified for groups of sizes, e.g., 2½ inches above the bottom of the crotch for infant sizes.

However, during the observations the staff found that specifying the point of measurement as 4 inches above the crotch consistently matched the seat/hip location on the wearer. Specifying a uniform measurement for all sizes also has the advantage of being easier to apply both for manufacturers and for Commission enforcement. Thus, the Commission proposes to specify that the seat should be measured 4 inches above the crotch for all sizes.

Measurement of Thigh

The amendments state that the thigh measurement should be taken "at a line perpendicular to the leg extending from the outer edge of the leg to the crotch." 16 CFR 1615.1(o) and 1616.2(m)(see footnotes to chart). This calls for measuring the thigh right at the bottom of the crotch. This is not really the location of the thigh and means measuring at a point where bulky seams join. Typical practice in the garment design and manufacturing industry is to measure the thigh at a point one inch down the inseam from its intersection with the crotch seam. This provides a more accurate measurement of the thigh without interference from the bulky intersection of the seams. Thus, the Commission proposes that the thigh be measured at this point.

Sweep

The staff also considered whether any change should be made to the sweep of the top of a two-piece garment. The existing standard provides that the sweep must be equal to or less than the waist dimension. This is specified in the notes to the chart specifying where to measure the waist ("on two-piece garment, measure width at the bottom of the upper piece, and the top of the lower piece."). The staff considered also allowing an hourglass silhouette that essentially is allowed now for one-piece garments. However, the observations showed that such an hourglass shape for a two-piece garment could create extra loose fabric around the waist after a child has raised her arms. That is, after a child is moving around the top would ride up to the waist creating loose fabric. Thus, the Commission is not proposing to make any changes to the sweep of the garments.

D. Effective Date

Section 4(b) of the FFA provides that an amendment of a flammability standard shall become effective one year from the date it is promulgated, unless the Commission finds for good cause that an earlier or later effective date is in the public interest and publishes that finding. 15 U.S.C. 1193(b). Section 4(b) also requires that an amendment of a flammability standard shall exempt product "in inventory or with the trade" on the date the amendment becomes effective, unless the Commission limits or withdraws that exemption because those products are so highly flammable that they are dangerous for use by consumers.

The Commission has reason to believe that an effective date 30 days after publication of final amendments will be in the public interest. This would provide adequate notice to the public and would allow for the prompt initiation of these minor adjustments.

The Commission does not propose to withdraw or limit the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA. The Commission notes that on December 9, 1996 the Commission staff issued an enforcement policy stating that it would exercise its enforcement discretion concerning the measurement of the upper arm between the shoulder and the elbow. Specific measurement points for each size were given in a table. Thus, manufacturers may currently use the table reproduced below in the proposed amendments when measuring the sleepwear garment's upper arm. The other proposed technical changes are also minor in nature, simply changing the point of measurement. Thus, the Commission believes that a 30-day effective date once the changes have been issued as a final rule is appropriate. Manufacturers who wish to may use the proposed points of measurement in making garments, and the staff will not take any enforcement action. Of course, manufacturers may also continue to use the points of measurement specified in the 1996 amendments until any changes become effective.

E. Impact on Small Businesses

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission hereby certifies that the proposed amendments to the flammability standards for children's sleepwear described below will not have a significant impact on a substantial number of small businesses or other small entities. The proposed amendments clarify where the upper arm, seat and thigh measurements should be taken to determine whether a children's sleepwear garment may be exempt as a "tight-fitting garment." These changes in the location of measurement will not have an impact on small businesses.

F. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed amendments to the children's sleepwear standards.

The Commission's regulations state that amendments such as this one normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(3). The Commission has no information indicating that this particular amendment would affect the environment. Therefore, the Commission determines that neither an environmental assessment nor an environmental impact statement is required.

G. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. These amendments, if issued in final, would slightly modify the flammability standards for children's sleepwear under the FFA. The FFA provides that, generally, when a flammability standard issued under the FFA is in effect, "no State or political subdivision of a State may establish or continue in effect a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire" as the FFA standard "unless the State or political subdivision standard or other regulation is identical" to the FFA standard. 15 U.S.C. 1203(a). A local standard may be excepted from this preemptive effect if: (1) the local standard provides a higher degree of protection from the risk of occurrence of fire than the FFA standard or (2) the State or political subdivision applies to the Commission for an exemption from the FFA's preemption clause and the Commission grants the exemption through a process specified at 16 CFR part 1061. 15 U.S.C. 1203(b) and (c).

Thus, the proposed amendments would modify the points specified for measuring garments exempt from the sleepwear flammability standards that preempt non-identical state or local flammability standards or regulations which are designed to protect against the same risk of occurrence of fire as the FFA flammability standards for children's sleepwear.

In accordance with Executive Order 12612 of October 26, 1987, the Commission certifies that the proposed amendments do not have sufficient implications for federalism to warrant a Federalism Assessment.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Sleepwear, Textiles, Warranties.

Conclusion

For the reasons stated above and pursuant to the authority of section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) the Commission proposes to amend 16 CFR parts 1615 and 1616 as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X

1. The authority citation for part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

2. Section 1615.1 is amended by revising paragraph (o) introductory text and (o)(1) to read as follows:

§ 1615.1 Definitions.

* * * * *

(o) *Tight-fitting garment* means a garment which:

(1)(i) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 9–12 mos							
Maximum Dimension:							
Centimeters	48.3	48.3	48.3	14.3	26.7	10.5	13
(inches)	(19)	(19)	(19)	(5⅝)	(10½)	(4⅛)	(5⅛)
Size 12–18 mos							
Maximum Dimension:							
Centimeters	49.5	49.5	50.8	14.9	28.3	10.5	13.1
(inches)	(19½)	(19½)	(20)	(5⅞)	(11⅛)	(4⅛)	(5⅛)
Size 18–24 mos							
Maximum Dimension:							
Centimeters	52.1	50.8	53.3	15.6	29.5	11	13.6
(inches)	(20½)	(20)	(21)	(6⅛)	(11⅝)	(4¼)	(5⅜)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 2							
Maximum Dimension:							
Centimeters	52.1	50.8	53.3	15.6	29.8	11.4	14
(inches)	(20½)	(20)	(21)	(6⅛)	(11¾)	(4½)	(5½)
Size 3							
Maximum Dimension:							
Centimeters	53.3	52.1	56	16.2	31.4	11.7	14.9
(inches)	(21)	(20½)	(22)	(6⅜)	(12⅜)	(4⅝)	(5⅞)
Size 4							
Maximum Dimension:							
Centimeters	56	53.3	58.4	16.8	33.0	12.1	15.9
(inches)	(22)	(21)	(23)	(6⅝)	(13)	(4¾)	(6¼)
Size 5							
Maximum Dimension:							
Centimeters	58.4	54.6	61.0	17.5	34.6	12.4	16.8
(inches)	(23)	(21½)	(24)	6⅞)	13⅝)	(4⅞)	(6⅝)
Size 6							
Maximum Dimension:							
Centimeters	61.0	55.9	63.5	18.1	36.2	12.7	17.8
(inches)	(24)	(22)	(25)	(7⅛)	(14¼)	(5)	(7)
Size 6X							
Maximum Dimension:							
Centimeters	62.9	57.2	65.4	18.7	37.8	13.0	18.7
(inches)	(24¾)	(22½)	(25¾)	(7⅜)	(14⅞)	(5⅛)	(7⅜)

Note: Measure the dimensions on the front of the garment. Lay garment, right side out, on a flat, horizontal surface. Smooth out wrinkles. Measure distances as specified below and multiply them by two. Measurements should be equal to or less than the maximum dimensions given in the standards.

(A) Chest—measure distance from arm pit to arm pit (A to B) as in Diagram 1.

(B) Waist—See Diagram 1. *One-piece garment*, measure at the narrowest location between arm pits and crotch (C to D). *Two-piece garment*, measure width at both the bottom/ sweep of the upper piece (C to D) and, as in Diagram 3, the top of the lower piece (C to D).

(C) Wrist—measure the width of the end of the sleeve (E to F), if intended to extend to the wrist, as in Diagram 1.

(D) Upper arm—draw a straight line from waist/sweep D through arm pit B to G. Measure down the sleeve fold from G to H. Refer to table below for G to H distances for each size. Measure the upper arm of the garment (perpendicular to the fold) from H to I as shown in Diagram 1.

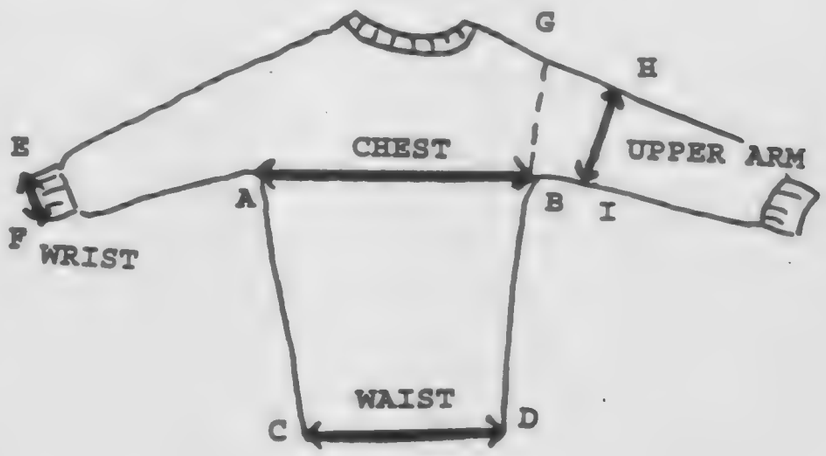


Diagram 1

DISTANCE FROM SHOULDER (G) TO (H) FOR UPPER ARM MEASUREMENT FOR SIZES 9 MONTHS THROUGH 6X

9–12 mo	12–18 mo	18–24 mo	2	3	4	5	6	6x
5.8 cm 2⅛"	6.6 cm 2⅝"	7.4 cm 2⅞"	7.4 cm 2⅞"	8.1 cm 3¼"	8.8 cm 3½"	9.5 cm 3¾"	10.3 cm 4"	11 cm 4⅜"

(E) Seat—Fold the front of the pant in half to find the bottom of the crotch at J as in the left side of Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the garment as in the right side of Diagram 2. Measure the seat from L to M through K as shown.

(F) Thigh—measure from the bottom of the crotch (J) 1 inch down the inseam to N as in the left side of Diagram 2. Unfold the garment and measure the thigh from the inseam at N to O as shown in the right side of Diagram 2.

(G) Ankle—measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in the right side of Diagram 2.

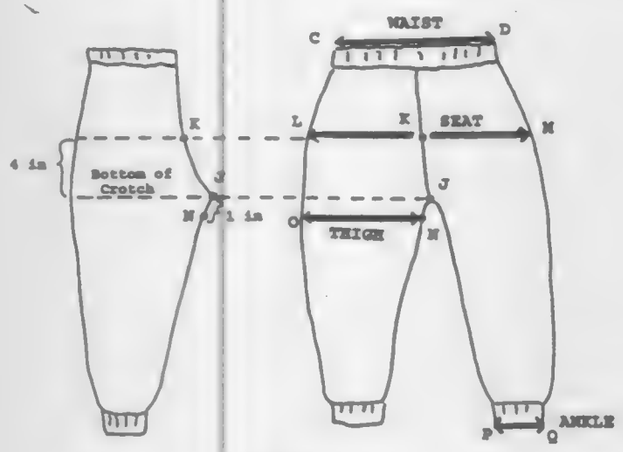


Diagram 2

* * * * *

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14

1. The authority for part 1616 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat 569–570; 15 U.S.C. 1193.

2. Section 1616.2 is amended by revising paragraph (m) introductory text and (m)(1) to read as follows:

§ 1616.2 Definitions.

* * * * *

(m) *Tight-fitting garment* means a garment which:

(1)(i) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 7 Boys [1]							
Maximum Dimension:							
Centimeters	63.5	58.4	66	18.7	37.2	13.0	18.7
(inches)	(25)	(23)	(26)	(7⅜)	(14⅝)	(5⅛)	(7⅜)
Size 7 Girls							
Maximum Dimension:							
Centimeters	63.5	58.4	67.3	18.7	38.7	13.0	18.7
(inches)	(25)	(23)	(26½)	(7⅜)	(15¼)	(5⅛)	(7⅜)
Size 8 Boys [1]							
Maximum Dimension:							
Centimeters	66	59.7	67.3	19.4	38.4	13.3	19.1
(inches)	(26)	(23½)	(26½)	(7⅝)	(15⅛)	(5¼)	(7½)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 8 Girls							
Maximum Dimension:							
Centimeters	66	59.7	71.1	19.4	41.3	13.3	19.1
(inches)	(26)	(23½)	(28)	(7⅝)	(16¼)	(5¼)	(7½)
Size 9 Boys [1]							
Maximum Dimension:							
Centimeters	68.6	61.0	69.2	20	39.7	13.7	19.4
(inches)	(27)	(24)	(27¼)	(7⅞)	(15⅝)	(5⅜)	(7⅝)
Size 9 Girls							
Maximum Dimension:							
Centimeters	68.6	61.0	73.7	20	42.6	13.7	19.4
(inches)	(27)	(24)	(29)	(7⅞)	(16¾)	(5⅜)	(7⅝)
Size 10 Boys [1]							
Maximum Dimension:							
Centimeters	71.1	62.2	71.1	20.6	41.0	14	19.7
(inches)	(28)	(24½)	(28)	(8⅛)	(16⅛)	(5½)	(7¾)
Size 10 Girls							
Maximum Dimension:							
Centimeters	71.1	62.2	76.2	20.6	43.8	14	19.7
(inches)	(28)	(24½)	(30)	(8⅛)	(17¼)	(5½)	(7¾)
Size 11 Boys [1]							
Maximum Dimension:							
Centimeters	73.7	63.5	73.7	21	42.2	14.3	20
(inches)	(29)	(25)	(29)	(8¼)	(16⅝)	(5⅝)	(7⅞)
Size 11 Girls							
Maximum Dimension:							
Centimeters.							
Centimeters	73.7	63.5	78.7	21	45.1	14.3	20
(inches)	(29)	(25)	(31)	(8¼)	(17¾)	(5⅝)	(7⅞)
Size 12 Boys [1]							
Maximum Dimension:							
Centimeters	76.2	64.8	76.2	21.6	43.5	14.6	20.3
(inches)	(30)	(25½)	(30)	(8½)	(17⅛)	(5¾)	(8)
Size 12 Girls							
Maximum Dimension:							
Centimeters	76.2	64.8	81.3	21.6	46.7	14.6	20.3
(inches)	(30)	(25½)	(32)	(8½)	(18½)	(5¾)	(8)
Size 13 Boys [1]							
Maximum Dimension:							
Centimeters	78.7	66	78.7	22.2	44.8	14.9	20.6
(inches)	(31)	(26)	(31)	(8¾)	(17⅝)	(5⅞)	(8⅛)
Size 13 Girls							
Maximum Dimension:							
Centimeters	78.7	66	83.8	22.2	47.6	14.9	20.6
(inches)	(31)	(26)	(33)	(8¾)	(18¾)	(5⅞)	(8⅛)
Size 14 Boys [1]							
Maximum Dimension:							
Centimeters	81.3	67.3	81.3	22.9	46	15.2	21
(inches)	(32)	(26½)	(32)	(9)	(18⅛)	(6)	(8¼)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
	Size 14 Girls						
Maximum Dimension:							
Centimeters	81.3	67.3	86.4	22.9	49.5	15.2	21
(inches)	(32)	(26½)	(34)	(9)	(19½)	(6)	(8¼)

[1] Garments not explicitly labeled and promoted for wear by girls must not exceed these maximum dimensions.

(ii) **Note:** Measure the dimensions on the front of the garment. Lay garment, right side out, on a flat, horizontal surface. Smooth out wrinkles. Measure distances as specified below and multiply them by two. Measurements should be equal to or less than the maximum dimensions given in the standards.

(A) Chest—measure distance from arm pit to arm pit (A to B) as in Diagram 1.

(B) Waist—See Diagram 1. *One-piece garment,* measure at the narrowest location between arm pits and crotch (C to D). *Two-piece garment,* measure width at both the bottom/sweep of the upper piece (C to D) and, as in Diagram 3, the top of the lower piece (C to D).

(C) Wrist—measure the width of the end of the sleeve (E to F), if intended to extend to the wrist, as in Diagram 1.

(D) Upper arm—draw a straight line from waist/sweep D through arm pit B to G. Measure down the sleeve fold from G to H. Refer to table below for G to H distances for each size. Measure the upper arm of the garment (perpendicular to the fold) from H to I as shown in Diagram 1.

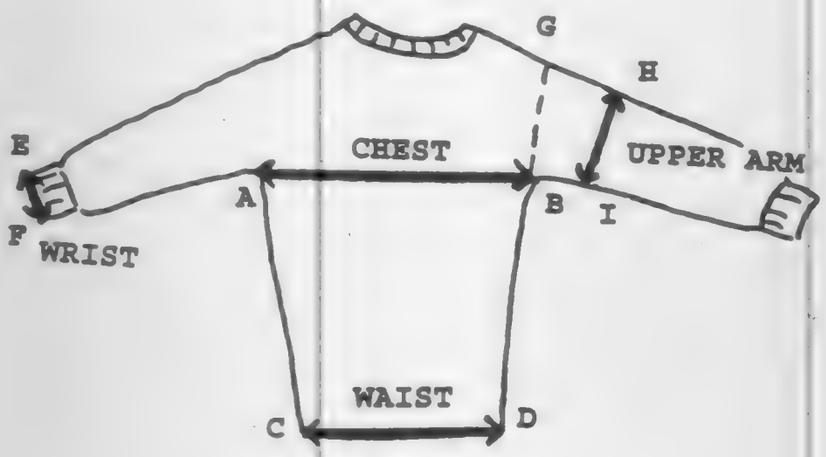


Diagram 1

DISTANCE FROM SHOULDER (G) TO (H) FOR UPPER ARM MEASUREMENT FOR SIZES 7 THROUGH 14

7	8	9	10	11	12	13	14
11.4 cm 4½"	11.7 cm 4"	11.9 cm 4¾"	12.5 cm 4"	12.8 cm 5"	13.1 cm 5"	13.7 cm 5"	14.2 cm 5"

(E) Seat—Fold the front of the pants in half to find the bottom of the crotch at J as in the left side of Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the garment as in the right side of Diagram 2. Measure the seat from L to M through K as shown.

(F) Thigh—measure from the bottom of the crotch (J) 1 inch down the inseam to N as in the left side of Diagram 2. Unfold the garment and measure the thigh from the inseam at N to O as shown in the right side of Diagram 2.

(G) Ankle—measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in the right side of Diagram 2.

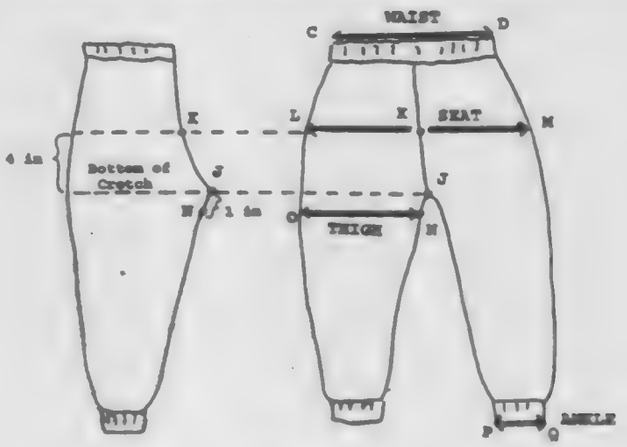


Diagram 2

* * * * *

Dated: May 12, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

References

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland:

1. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to the Commission, "Children's Sleepwear Flammability Standards—Technical Amendments," April 27, 1998.

2. Report from C. Craig Morris, Ph.D., Directorate for Epidemiology and Health Sciences, "Clothing-Related Thermal Burns in Children Under 15 Years Old." March 1998.

3. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to File, "Technical Amendments of the Children's Sleepwear Flammability Standards—Snug-fitting" Requirements, March 31, 1998.

4. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Children's Sleepwear Update," April 9, 1998.

5. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Economic Considerations of Revisions to the Children's Sleepwear Standard," April 9, 1998.

6. Memorandum from Patricia Fairall, Program Manager to Margaret Neilly, Project Manager, "Industry Request for clarification of sleepwear segregation of tight-fitting garments," March 3, 1998.

7. Carolyn Meiers, Directorate for Engineering, to Margaret Neily, Project Manager, "Methodology for Structured Sleepwear Observations," March 31, 1998.

8. ASTM Standards D4910–95a and D5826–95.

9. Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design. Highway Safety Research Institute. Ann Arbor, Michigan: University of Michigan (1977).

10. Log of February 18, 1998 meeting, prepared by Margaret Neily, "Children's Sleepwear—snug-fitting requirements," March 4, 1998.

11. Memorandum from Linda Fansler, Division of Engineering, Lab Sciences, to Margaret Neily, Project Manager, "Tolerance," April 8, 1998.

[FR Doc. 98–13026 Filed 5–20–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Proposed Clarification of Statement of Policy; Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed clarification of statement of policy.

SUMMARY: The Commission proposes to amend the policy statements on the flammability of children's sleepwear so that infant garments (sized for a child nine months and under) and "tight-fitting" garments (as defined in the sleepwear standards) can be marketed and promoted with other sleepwear.[1]

DATES: Written comments concerning this proposed amendment are due not later than August 4, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone:

[1] The Commission voted 2–0 to propose clarifying the enforcement policy statement. Commissioners Mary Gall and Thomas Moore voted in favor of issuing the proposal. Chairman Ann Brown abstained.

(301) 504–0800 or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Copies should be submitted in five copies and captioned "Sleepwear Policy Statement." Comments may also be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Patricia Fairall, Program Manager, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400, extension 1369.

SUPPLEMENTARY INFORMATION:

A. Background

The Consumer Product Safety Commission enforces two flammability standards for children's sleepwear. The flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR Part 1615. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

On September 9, 1996, the Commission issued a final rule amending the flammability standards for children's sleepwear to exclude from the definition of "children's sleepwear," codified at 16 CFR 1615.1(a) and 1616.2(a), (1) garments sized for infants nine months of age or younger and (2) tight-fitting garments for children older than nine months. 61 FR 47634. The Commission found that such tight-fitting garments did not present an unreasonable risk of injury. Rather, the Commission's information showed that many severe incidents occurred with loose-fitting garments such as oversized t-shirts used inappropriately as sleepwear. The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards because they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However, the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 9, 1998.

B. Clarification

The Commission has become aware that the garment industry is concerned about the policy statements in 16 CFR 1615.64(d) and 1616.65(d), which suggest segregation of items covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards. The purpose of the September 9, 1996 final rule was to allow garments sized for a child nine months and under and tight-fitting garments in sizes above nine months to be sold and used as sleepwear. Therefore, the Commission proposes to modify the policy statements at 1615.64(d) and 1616.65(d) to provide that infant garments (defined in the amended sleepwear standard at 16 CFR 1615.1(c)(1) as sized for a child nine months and under) and "tight-fitting" garments (defined in the amended sleepwear standard at 16 CFR 1615.1(o) and 1616.2(m)) can be marketed and promoted with other sleepwear.

For the reasons stated above and pursuant to the authority of Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193), the Commission proposes to amend 16 CFR 1615.64 and 1616.65 to read as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X

1. The authority citation for part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

2. Section 1615.64 is amended by revising paragraph (d) introductory text to read as follows:

§ 1615.64 Policy to clarify scope of the standard.

* * * * *

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or, otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. "Infant garments" as defined by § 1615.1(c) and "tight-fitting" garments as defined by § 1615.1(o) are exempt from the standard which requires flame resistance. They may be marketed as sleepwear for purposes of this section. Additionally, retailers are advised:

* * * * *

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14

1. The authority citation for part 1616 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

2. Section 1616.65 is amended by revising paragraph (d) introductory text to read as follows:

§ 1616.65 Policy scope of the standard.

* * * * *

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or, otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. "Tight-fitting" garments as defined by § 1616.2(m) are exempt from the standard which requires flame resistance. They may be marketed as sleepwear for purposes of this section. Additionally, retailers are advised:

* * * * *

Dated: May 12, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–13028 Filed 5–20–98; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 334

[Docket No. 78N–036L]

RIN 0910–AA01

Laxative Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is amending the tentative final monograph for over-the-counter (OTC) laxative drug products to include additional general and professional labeling for oral and rectal dibasic sodium phosphate/monobasic sodium phosphate (sodium phosphates) drug products. FDA is proposing new warnings and directions for these products and a new time to effect statement for rectal products based on new data submitted after publication of the tentative final monograph for OTC laxative drug products. This proposal is part of the ongoing review of OTC drug products conducted by FDA. Elsewhere in this issue of the **Federal Register** the agency is finalizing the package size limitation and warning prior to the completion of the final monograph for OTC laxative drug products.

DATES: Submit written comments or objections by August 19, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Turner, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 21, 1975 (40 FR 12902), FDA published, under 21 CFR 330.10(a)(6), an advance notice of proposed rulemaking to establish a monograph for OTC laxative, antidiarrheal, emetic, and antiemetic drug products, together with the recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products (the Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in these classes. The Panel recommended monograph status for phosphate salts, such as sodium biphosphate [1] and sodium phosphate [2] (40 FR 12902 at 12940).

The agency's proposed regulation, in the form of a tentative final monograph, for OTC laxative drug products was published in the **Federal Register** of January 15, 1985 (50 FR 2124). The agency also proposed monograph status for sodium phosphates oral solution [3]. (See proposed § 334.58(d)(5)(i), 50 FR 2124 at 2152 and 2155.) In addition to its use as an OTC laxative for the relief of occasional constipation, sodium phosphates oral solution is used as part of a bowel cleansing regimen in preparing a patient for surgery or for preparing the colon for x-ray or endoscopic examination. (See proposed § 334.80(a)(2), 50 FR 2124 at 2157.) Sodium phosphates oral solution and sodium phosphates enema [4], respectively, are the current United States Pharmacopeia (USP) names for the oral and rectal dosage forms of the combination of sodium phosphates ingredients.

In the **Federal Register** of March 31, 1994 (59 FR 15139), the agency proposed to amend the tentative final monograph for OTC laxative drug products to limit the OTC container size for sodium phosphates oral solution to not greater than 90 milliliters (mL). The agency noted that the major trade product containing sodium phosphates oral solution was marketed in 45-mL, 90-mL, and 240-mL bottles. The purgative dose or dose used for colonoscopy is 45 mL. Because the product was available in three sizes, the manufacturer's labeling advised physicians to prescribe by volume and not to prescribe by the bottle and not to exceed the recommended dosage, as serious side effects may occur. Despite this labeling, the multiple container sizes available in the marketplace have caused consumer confusion and appear to have been involved in several consumer deaths (59 FR 15139 at 15140).

Because of the reported cases of accidental overdosing and the confusion that has occurred between 240-mL and 90-mL container sizes, the agency proposed that the 240-mL size container of sodium phosphates oral solution should no longer remain in the OTC marketplace. In the interest of safety, the agency proposed to limit the maximum OTC container size for this product to 90 mL.

The agency proposed to include the package size limitation and a warning (informing consumers not to exceed the recommended dosage unless directed by a doctor) in the monograph for OTC laxative drug products. However, that monograph has not been finalized to date. Because of the potential serious safety risk involved, elsewhere in this issue of the **Federal Register** the agency is finalizing the package size limitation and warning prior to the completion of the final monograph for OTC laxative drug products. The agency is including this information in part 201 (21 CFR part 201) at this time and will incorporate it into the final monograph for OTC laxative drug products at a later date.

Based on new data submitted since the January 15, 1985, and the March 31, 1994, proposals were published, the agency is proposing in this document additional general and professional labeling for oral and rectal sodium phosphates products for OTC laxative use. In the **Federal Register** of February 27, 1997 (62 FR 9024), FDA proposed to establish a standardized format for the labeling of OTC drug products. When the agency finalizes that proposal, the agency will also amend the final version of the rule proposed herein, as needed, to conform to the final labeling rule. Copies of previous rulemakings discussed above and information that has come to the agency's attention since publication of the proposals are on public display in the Dockets Management Branch (address above).

II. The Agency's Labeling Proposals for Sodium Phosphates

A. Introduction

One comment informed the agency of modifications made in the labeling of its rectal enema sodium phosphates product. The comment had expanded the professional labeling to include additional warning statements regarding use in patients with a colostomy, congenital megacolon, imperforate anus, impaired renal function, heart disease, congestive heart failure, preexisting electrolyte disturbances (such as dehydration or those secondary to the use of diuretics), or in patients using calcium channel blockers, diuretics, or other medications that may affect electrolyte levels, as hypocalcemia, hyperphosphatemia, hypernatremia, and acidosis may occur. The comment cited several references (Refs. 1, 2, and 3) to support its warning statements. The professional labeling also included information on the treatment of electrolyte imbalances. The comment stated that the labeling no longer recommends the use of this enema product in children under 2 years of age. The comment mentioned that a summarized version of the professional

[1] The Panel designated this ingredient "sodium biphosphate." However, monobasic sodium phosphate is currently the official name for this ingredient in the *USP Dictionary of USAN and International Drug Names*, 1997.

[2] The Panel designated this ingredient "sodium phosphate." However, dibasic sodium phosphate is currently the official name for this ingredient in the *USP Dictionary of USAN and International Drug Names*, 1997.

[3] Sodium phosphates oral solution is the official name for a solution of dibasic sodium phosphate and monobasic sodium phosphate in the *U.S. Pharmacopeia 23/National Formulary 18*, 1995.

[4] Sodium phosphates enema is the official name for a solution of dibasic sodium phosphate and monobasic sodium phosphate in the *U.S. Pharmacopeia 23/National Formulary 18*, 1995.

labeling will appear on the product's retail carton.

The agency agrees with the comment that the professional labeling for these sodium phosphates products should be expanded to include more information for health professionals to ensure safe use. As a result of the comment's additional warnings, the agency has reevaluated all of the labeling for sodium phosphates products (oral and rectal). The agency notes that the comment included calcium channel blockers in its professional warning. However, the agency is not aware of any specific data to show that sodium phosphates products should not be used in patients taking calcium channel blockers. Therefore, calcium channel blockers will not be included in the professional warning for sodium phosphates products at this time.

B. Professional Labeling

In § 334.80(b)(2) of the tentative final monograph for OTC laxative drug products (50 FR 2124 at 2157), the agency proposed the following warnings in the professional labeling for products containing sodium phosphates: "Do not use in patients with megacolon, as hypernatremic dehydration may occur. Use with caution in patients with impaired renal function." The comment's labeling and information in the literature provide a basis to expand this warning. Individuals with impaired renal function (Refs. 4 through 8, including the elderly (Ref. 5)), heart disease (Refs. 8, 9, and 10), acute myocardial infarction (Refs. 11 and 12), unstable angina (Ref. 12), dehydration (Refs. 1 and 9), or who are on diuretics (Ref. 10) are at risk for an electrolyte imbalance to occur with use of oral and rectal sodium phosphates products. Sodium phosphates can cause alterations in serum levels of sodium, potassium, phosphate, chloride, and calcium and, in some people, such changes can be life threatening. The reduction of calcium levels reflects changes in ionized calcium (Ref. 13). Hypocalcemia with subsequent low levels of ionized calcium may result in neuromuscular irritability, heart block, and cardiovascular failure (Ref. 13). Therefore, the agency has determined that the warnings in the professional labeling for oral and rectal sodium phosphates products in proposed § 334.80(b)(2) (redesignated as § 334.80(b)(2)(i) in this proposal) should be expanded. The agency has made an effort to present the warning information in a new format using specific headings to make it clearer and more readable as follows:

"Do not use" (these three words in bold print) "in patients with congestive heart failure."

"Use with caution" (these three words in bold print) "in patients with impaired renal function, heart disease, acute myocardial infarction, unstable angina, preexisting electrolyte disturbances (such as dehydration or those secondary to the use of diuretics), the elderly, or people taking drugs that may affect electrolyte levels."

The agency is also including the following information regarding prevention and treatment of an electrolyte imbalance.

"Monitor electrolytes." (these two words in bold print) "Give sufficient fluid replacement with all oral and rectal sodium phosphates products to prevent dehydration." "What can occur:" (these three words in bold print) "Hypocalcemia, hyperphosphatemia, hypernatremia, hypokalemia, and acidosis. These conditions are more likely to occur when more than one dose of sodium phosphates is given in a 24-hour period."

"What you should do:" (these four words in bold print) "Advise people to follow recommended dose. Treatment of electrolyte imbalance may require immediate medical intervention with appropriate electrolyte and fluid replacement. (Some examples of references for treatment of this condition are Fonkalsrud, E., and J. Keen, Hypernatremic Dehydration Hypertonic Enemas in Congenital Megacolon, *The Journal of the American Medical Association*, 199:584586, 1967, and Edmondson, S., and T. D. Almquist, Iatrogenic Hypocalcemic Tetany, *Annals of Emergency Medicine*, 19:938–940, 1990.)"

The agency is including additional warnings for rectal sodium phosphates products because of reports of its misuse in certain individuals by health professionals. Fatal or life-threatening consequences have resulted from excess dosages of sodium phosphates enemas in adults (Refs. 4, 6, and 14) and in young children (Refs. 10, 15, and 16). The agency notes that many of these adverse effects occurred when sodium phosphates enemas were used in children under 2 years of age. Sodium phosphates enemas have also been misused in individuals with colon abnormalities (Refs. 1, 4, 10, 17, and 18) and rectal abnormalities (Refs. 5, 19, and 20). Individuals with a functional abnormality of the colon, e.g., a colostomy (Refs. 10, 21, and 22), imperforate anus (Refs. 4 and 21), atonic colon (Ref. 4), or congenital megacolon (Refs. 1, 4, 10, and 21) are at risk for hyperosmotic dehydration and hyperphosphatemia with the use of sodium phosphates enemas. Such individuals have a tendency to retain the enema for a prolonged period of time, and considerable absorption of the phosphate ion occurs. Several cases of rectal gangrene have occurred after an enema nozzle injury in individuals with hemorrhoids (Refs. 19, 20, and 23). The authors believed that the rectal injury was compounded due to the necrotizing effect of the sodium phosphates on the rectal tissue. Other reports (Refs. 19, 20, and 23 through 26) indicate that following an enema tip injury to the rectum, the presence of sodium phosphates causes a pronounced inflammatory response and tissue damage which, if untreated, can produce serious consequences. Based on the above, the agency is proposing to add the following warnings in the professional labeling in proposed § 334.80(b)(2)(ii) for sodium phosphates enemas to inform health professionals to carefully monitor use in certain individuals or not to use at all. This information is also presented in the new format using specific headings:

"Do not use" (these three words in bold print) "sodium phosphates enemas in children under 2 years of age or in patients with congenital megacolon or imperforate anus because of the risk of hyperosmotic dehydration and hyperphosphatemia."

"Stop using" (these two words in bold print) "if there is resistance to the enema tip. Forcing the tip into the rectum can result in a serious injury that requires immediate medical attention."

"Use sodium phosphates enema with extreme caution" (these seven words in bold print) "in patients with a colostomy or atonic colon (because of the risk of hyperosmotic dehydration and hyperphosphatemia) or with a rectal abnormality, such as hemorrhoids (because sodium phosphates can cause serious damage to the rectal mucosa if an enema tip injury occurs). Using more than one sodium phosphates enema in a 24-hour period can cause serious electrolyte problems."

The "Do not use" warning for sodium phosphates enemas in § 334.80(b)(2)(ii)(A) may be combined with the "Do not use" warning for all sodium phosphates products in § 334.80(b)(2)(i)(A). The warning proposed for sodium phosphates products in § 334.80(b)(2) of the tentative final monograph, which stated "Do not use in patients with megacolon, as hypernatremic dehydration may occur. Use with caution in patients with impaired renal function," is superseded by the warnings in this amendment.

The agency notes that the comment stated that a summarized version of the professional labeling will appear on the product's retail package. Professional labeling is labeling provided to health professionals but not to the general public. Therefore, a summarized version of this professional labeling should not appear on the retail package. As discussed in section II.C of this document, the agency has developed labeling for sodium phosphates products that it believes adequately

informs consumers of the proper use of these products.

C. OTC Labeling

In § 334.58(c)(2)(i) of the tentative final monograph (50 FR 2124 at 2155), the agency proposed the following warning for products containing sodium phosphates: "Do not use this product if you have kidney disease, unless directed by a doctor." The agency is proposing to expand the warning for oral and rectal products that contain sodium phosphates because consumers who have kidney disease (Refs. 4 through 7), heart problems (Refs. 8 through 12), or are dehydrated (Refs. 1 and 9) should not use sodium phosphates products, unless directed by a doctor.

The agency has also determined that a new warning is needed to restrict the number of days that all oral and rectal sodium phosphates products can be used, unless directed by a doctor. The Panel in its report (40 FR 12902 at 12941) and the agency in the tentative final monograph (50 FR 2124 at 2153) recommended that the use of sodium phosphates be restricted to 1 week (7 days). However, the agency has reviewed new data indicating that sodium phosphates can cause electrolyte imbalances within 24 hours after the initial dose is taken (Refs. 4, 11, and 12) (also see the final rule for oral and rectal OTC sodium phosphates drug products published elsewhere in this issue of the **Federal Register**). These blood level changes have occurred in individuals with no underlying renal failure or active heart disease (Refs. 11, 12, and 27). The agency is concerned that daily use of sodium phosphates products for 7 days may cause significant changes in the sodium, potassium, phosphate, chloride, and/or calcium blood levels. In the interest of consumer safety and to help reduce the risk of adverse effects that can occur from sequential doses of sodium phosphates, the agency believes that use of sodium phosphates should be limited to 3 days instead of 7 days. The revised warning for oral and rectal sodium phosphates, which appears in proposed § 334.58(c)(2)(i), states: "Do not use if" (these four words in bold print) "you have kidney disease, heart problems, or are dehydrated, or for more than 3 days, without asking a doctor."

In § 334.58(c)(2)(ii) of the tentative final monograph (50 FR 2124 at 2155), the agency proposed the following warning for oral dosage forms of sodium phosphates identified in § 334.16(d), (e), or (f): "Do not give to children under 5 years of age unless directed by a doctor." However, the agency is proposing to revise the directions for oral sodium phosphates products in new § 201.307(b)(3)(ii) (21 CFR 201.307(b)(3)(ii)) (designated as § 334.58(d)(5)(i) in this proposal) and in proposed § 334.58(d)(6) and (d)(7) to be consistent with other oral OTC laxative drug products. (See section II.D of this document.) Therefore, for consistency, the proposed warning in § 334.58(c)(2)(ii) for oral sodium phosphates is revised to state: "Do not give to children under 6 years of age, without asking a doctor."

In § 334.58(c)(2)(iii) of the tentative final monograph (50 FR 2124 at 2155), the agency proposed the following warning for sodium phosphates enemas: "Do not give to children under 2 years of age unless directed by a doctor." The agency also proposed the following direction for sodium phosphates enemas in § 334.58(d)(5)(ii) (50 FR 2124 at 2155): "* * * Children under 2 years of age: consult a doctor." However, because of adverse effects that have occurred when sodium phosphates enemas were used in children under 2 years of age, the agency is revising the warning and direction statements. Therefore, in § 334.58(c)(2)(iii) of this proposal, the revised warning for sodium phosphates rectal products states: "Do not use in children under 2 years of age." The corresponding direction, which appears in § 334.58(d)(5)(ii)(A) in this proposal, is revised to state: "* * * Do not use in children under 2 years of age." The agency believes it is necessary to have this information in both the warning and direction sections of the labeling because of the adverse effects that can occur when sodium phosphates enemas are used in children under 2 years of age.

D. Directions

Effectiveness is not increased when a sodium phosphates enema is retained more than 5 minutes (Refs. 28, 29, and 30). Data indicate that a sodium phosphates enema is usually expelled from the rectum within 20 minutes (Refs. 28, 29, and 30) and that increased blood levels of phosphorus and sodium and decreased levels of calcium can occur within several hours (Refs. 13, 17, and 30) if the enema is retained. Therefore, the agency is proposing a new direction for sodium phosphates rectal products in § 334.58(d)(5)(ii)(B) in this proposal, which states: "If no urge is felt after 5 minutes of using, try to empty bowel. Call a doctor promptly if no liquid comes out of the rectum after 30 minutes because dehydration could occur."

The agency is proposing a new direction in § 334.58(d)(5)(ii)(C) for sodium phosphates rectal products. A sodium phosphates enema can cause serious damage to the rectal mucosa if the enema tip causes a rectal injury (Refs. 19, 20, and 23). If the enema tip perforates the rectum, antibiotic treatment or a temporary colostomy may be needed to prevent sepsis (Refs. 23 through 26, and 31). All rectal bleeding resulting from an enema tip injury should be medically evaluated because rectal perforations can be painless (Refs. 20, 25, and 31). Therefore, the new direction states: "Stop using if tip is hard to insert. Forcing the tip into the rectum can cause injury (especially if you have hemorrhoids). If enema tip causes rectal bleeding or pain, get immediate medical care."

The agency is aware that labeling that was submitted to the Panel (Ref. 32) and currently marketed labeling (Ref. 33) for oral sodium phosphates products contain dosages for children 5 to 9 years of age, and for children 10 and 11 years of age. The Panel in its report (40 FR 12902 at 12940) and the agency in the tentative final monograph (50 FR 2124 at 2155) recommended dosages of oral sodium phosphates products for these age groups. Elsewhere, in this issue of the **Federal Register**, the agency included the above age ranges in the directions in new § 201.307(b)(3)(ii). The agency notes that the directions for sodium phosphates oral solution contain separate dosages for children 10 and 11 years of age, and for children 5 to 9 years of age. These age ranges are not consistent with age ranges used for the majority of OTC laxative drug products, which recommend dosages for children 6 to 11 years of age.

Therefore, the agency is proposing to revise the directions for oral sodium phosphates products in new § 201.307(b)(3)(ii) (designated as § 334.58(d)(5)(i) in this proposal), and in proposed § 334.58(d)(6) and (d)(7) to be consistent with other oral OTC laxative drug products. The proposed directions in § 334.58(d)(5)(i) state:

> * * * Children 6 to 9 years of age: Oral dosage is dibasic sodium phosphate 0.86 to 1.89 g and monobasic sodium phosphate 2.2 to 5.05 g (5 to 10 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. 'Do not take more than 10 mL (2 teaspoonfuls) in a 24-hour period.' Children under 6 years of age: ask a doctor.

The proposed directions in § 334.58(d)(6) for products containing dibasic sodium phosphate identified in § 334.16(e) state: "* * * Children 6 to 9 years of age: Oral dosage is 0.86 to 1.89 g in a single daily dose. Children under 6 years of age: ask a doctor." The

proposed directions in § 334.58(d)(7) for products containing monobasic sodium phosphate identified in § 334.16(f) state: "* * * Children 6 to 9 years of age: Oral dosage is 1.12 to 5.05 g in a single daily dose. Children under 6 years of age: ask a doctor."

E. Time to Effect

The agency is proposing to revise the time to effect statement in proposed § 334.58(b)(2) for sodium phosphates rectal products from 2 to 15 minutes to 1 to 5 minutes. In three studies (Refs. 28, 29, and 30), 98 subjects (280 observations) were evaluated to determine the time to effect following use of sodium phosphates enema. In 98 percent of the observations (33 subjects accounted for 261/280 observations), the reported time to effect was within 10 minutes. In 83 percent of the observations, the time to effect was between 1 and 5 minutes. The average time to effect was 4 to 5 minutes and the mode was 3 to 5 minutes. The data do not indicate that sodium phosphates is more effective if the solution is retained more than 5 minutes (Refs. 28, 29, and 30). Therefore, the agency is proposing to revise § 334.58(b)(2) to state: "This product generally produces bowel movement in 1 to 5 minutes."

The agency invites specific comments on these proposed labeling statements. The agency will discuss its decision on these labeling proposals in a future issue of the **Federal Register**. Until the agency makes a final determination on these labeling statements, the agency encourages all manufacturers of sodium phosphates products voluntarily to label their products to include the proposed labeling statements. Because FDA is encouraging that the proposed labeling statements be used on a voluntary basis at this time, the agency will give manufacturers ample time after publication of a final rule to use up any labeling implemented in conformance with this document.

III. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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IV. Summary of the Agency's Proposal for OTC Laxative Drug Products Containing Sodium Phosphates

Based on new information, the agency is proposing changes in the labeling for oral and rectal sodium phosphates drug products. A summary of the changes proposed in this document follows.

1. The agency is revising proposed § 334.16(d), (e), and (f) of the monograph to use the current USP names for dibasic sodium phosphate/monobasic sodium phosphate (sodium phosphates) drug products. (See section I of this document.)

2. The agency is revising the warning proposed in § 334.58(c)(2)(ii) for

products containing oral sodium phosphates identified in § 334.16(d), (e), and (f) to state: "Do not give to children under 6 years of age, without asking a doctor."(See section II.C of this document.)

3. The agency is revising the directions for oral sodium phosphates in new § 201.307(b)(3)(ii) (designated as § 334.58(d)(5)(i) in this proposal) and in proposed § 334.58(d)(6) and (d)(7) to be consistent with other oral OTC laxative drug products. The directions will include oral dosages for children 6 years of age and older and state to ask a doctor for children under 6 years of age. (See section II.D of this document.)

4. The agency is changing the "time to effect" statement proposed in § 334.58(b)(2) for rectal dosage forms of sodium phosphates from 2 to 15 minutes to 1 to 5 minutes. (See section II.E of this document.)

5. The agency is expanding the warning for oral and rectal sodium phosphates proposed in § 334.58(c)(2)(i) to state: "Do not use if" (these four words in bold print) "you have kidney disease, heart problems, or are dehydrated, or for more than 3 days, without asking a doctor." (See section II.C of this document.)

6. The agency is revising the warning proposed for rectal dosage forms of sodium phosphates in § 334.58(c)(2)(iii) which stated, "Do not give to children under 2 years of age unless directed by a doctor," to read: "Do not use in children under 2 years of age." The agency is also revising the direction proposed for rectal sodium phosphates in § 334.58(d)(5)(ii) which stated, "Children under 2 years of age: consult a doctor," with a new direction in § 334.58(d)(5)(ii)(A) that states: "Do not use in children under 2 years of age." (See section II.C of this document.)

7. The agency is proposing new directions for rectal dosage forms of sodium phosphates in § 334.58(d)(5)(ii)(B) that state: "If no urge is felt after 5 minutes of using, try to empty bowel. Call a doctor promptly if no liquid comes out of the rectum after 30 minutes because dehydration could occur." (See section II.D of this document.)

8. The agency is proposing new directions in § 334.58(d)(5)(ii)(C) for rectal dosage forms of sodium phosphates that state: "Stop using if tip is hard to insert. Forcing the tip into the rectum can cause injury (especially if you have hemorrhoids). If enema tip causes rectal bleeding or pain, get immediate medical care." (See section II.D of this document.)

9. The agency is revising the professional labeling for oral and rectal sodium phosphates proposed in § 334.80(b)(2) to include additional "Do not use" and "Use with caution" warnings. The agency is also including new information about monitoring electrolytes and treating electrolyte imbalances. The new warnings and other information appear in § 334.80(b)(2)(i) and (b)(2)(ii). (See section II.B of this document.)

10. The agency has made an effort to shorten and simplify some of the labeling, e.g., by using the phrase "without asking a doctor" instead of "unless directed by a doctor." The agency has also proposed a new format for professional labeling. The agency believes that these changes will provide a clear and readable format for these labeling statements. FDA is inviting specific comments on this labeling format and on the wording of these statements.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities.

Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the principles set out in the Executive Order and in these two statutes. The purpose of this proposed rule is to add warning and direction statements to the general OTC and health professional (for health professionals only) labeling of oral and rectal OTC sodium phosphates drug products. These warning and direction statements concern product toxicity and are intended to help ensure the safe and effective use of all OTC sodium phosphates drug products. Potential benefits include reduced toxicity when consumers use, and health professionals recommend, these products.

The agency has been informed that relabeling costs of the type required by this proposed rule (changes to both consumer and professional labeling) generally average about $3,000 to $4,000 per stock keeping unit (SKU) (individual products, packages, and sizes). The agency is aware of 3 manufacturers that together produce 4 SKU's of oral sodium phosphates drug products and approximately 125 SKU's of rectal sodium phosphates drug products. There may be a few additional small manufacturers or a few additional products in the marketplace that are not identified in the sources FDA reviewed. Assuming that there are about 130 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $390,000 to $520,000.

The agency also believes that actual costs could be lower for several reasons. First, most of the label changes will be made by private label manufacturers that tend to use simpler and less expensive labeling. Second, labeling changes would not be required until the final monograph for OTC laxative drug products is issued and becomes effective. The agency is proposing a 12-month implementation period that would allow the manufacturers to coordinate these changes with routinely scheduled label printing and/or other revisions required by the final monograph for OTC laxative drug products. Thus, relabeling costs for these products would be mitigated or reduced by the cost of other labeling changes that the final monograph will also require.

The proposed rule would not require any new reporting and recordkeeping activities. Therefore, no additional professional skills are needed. There are no other Federal rules that duplicate, overlap, or conflict with the proposed rule.

The agency considered but rejected several labeling alternatives: (1) Voluntary relabeling, (2) publication of the labeling information in the *FDA Drug Bulletin* or professional journals, and (3) an exemption from coverage for small entities. The agency does not consider the first or third alternative acceptable because they do not assure that consumers or health professionals will have the most recent needed information for safe and effective use of these sodium phosphates drug products. The agency considers the second alternative useful and may proceed with such publications. However, such publications do not provide a permanent labeling requirement, which

the agency considers necessary for these products.

This proposed rule may have a significant economic impact on the manufacturers of these products, all of which are considered to be small entities, using the U.S. Small Business Administration designations for this industry (750 employees). The agency believes that any other unidentified manufacturer of these products is also likely to be a small entity. These manufacturers will need to change the information panel of each affected sodium phosphates SKU and print new professional labeling. Among the steps the agency is taking to minimize the impact on these small entities are: (1) To provide 1 year for implementation to enable entities to use up existing labeling stock, and (2) to allow these labeling changes to be coordinated with other labeling changes required by the final monograph. The agency believes that these actions should help reduce the relabeling cost for small entities.

The agency considered but rejected both a shorter and a longer implementation period. While the agency would like to have this new labeling in place as soon as possible, it considers a period less than 1 year difficult for manufacturers to implement all of the labeling required by the final monograph. The agency considered a longer effective date but finds it unacceptable because it would not assure that consumers have the most recent needed information for safe and effective use of OTC sodium phosphates drug products at the earliest possible time. Manufacturers are encouraged to implement the new labeling as soon as possible after the final monograph is published.

The analysis shows that this proposed rule is not economically significant under Executive Order 12866 and that the agency has undertaken important steps to reduce the burden to small entities. Nevertheless, some entities, especially those private label manufacturers that provide labeling for a number of the affected products, may incur significant impacts. Thus, this economic analysis, together with other relevant sections of this document, serves as the agency's initial regulatory flexibility analysis, as required under the Regulatory Flexibility Act. Finally, this analysis shows that the Unfunded Mandates Act does not apply to the proposed rule because it would not result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC laxative drug products containing sodium phosphates. Comments regarding the impact of this rulemaking on OTC laxative drug products containing sodium phosphates should be accompanied by appropriate documentation. The agency is providing a period of 90 days from the date of publication of this proposed rulemaking in the **Federal Register** for development and submission of comments on this subject. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

VI. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements proposed in this document are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the proposed labeling statements are a "public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VII. Environmental Impact

The agency has determined under 21 CFR 25.31(c) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Request for Comments

Interested persons may, on or before August 19, 1998, submit written comments or objections on the proposed regulation to the Dockets Management Branch (address above). Three copies of all comments or objections are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments and objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FDA is proposing that any final rule based on this proposal be effective 12 months after the date of its publication in the **Federal Register**.

List of Subjects in 21 CFR Part 334

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 334.(proposed in the **Federal Register** of January 15, 1985, 50 FR 2124) be amended as follows:

PART 334—LAXATIVE DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 334 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

2. Section 334.16 is amended by revising paragraphs (d), (e), and (f) to read as follows:

§ 334.16 Saline laxative active ingredients.

* * * * *

(d) Dibasic sodium phosphate/ monobasic sodium phosphatemarketed as a solution.

(e) Dibasic sodium phosphate.

(f) Monobasic sodium phosphate.

3. Section 334.58 is amended by revising paragraph (b)(2), by revising paragraph (c)(2), by revising the heading of paragraph (d)(5) and text of paragraph (d)(5)(i), by redesignating paragraph (d)(5)(ii) as (d)(5)(ii)(A) and revising new (d)(5)(ii)(A), by adding new paragraphs (d)(5)(ii)(B) and (d)(5)(ii)(C), and by revising the headings and text of paragraphs (d)(6) and (d)(7) to read as follows:

§ 334.58 Labeling of saline laxative drug products.

* * * * *

(b) * * *

(2) *Rectal dosage forms.* "This product generally produces bowel movement in 1 to 5 minutes."

(c) * * *

(2) *For products containing dibasic sodium phosphate or monobasic sodium phosphate identified in § 334.16(d), (e), or (f)*—(i) "Do not use if" (these four words in bold print) "you have kidney disease, heart problems, or are dehydrated, or for more than 3 days, without asking a doctor."

(ii) *Oral dosage forms.* "Do not give to children 5 years of age and under, without asking a doctor."

(iii) *Rectal dosage forms.* "Do not use in children under 2 years of age."

(d) * * *

(5) *For products containing dibasic sodium phosphate/ monobasic sodium phosphate identified in § 334.16(d) and marketed as a solution*—(i) Oral dosage. Adults and children 12 years of age and over: Oral dosage is dibasic sodium phosphate 3.42 to 7.56 grams and monobasic sodium phosphate 9.1 to 20.2 grams (20 to 45 milliliters (mL)

dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 45 mL (9 teaspoonfuls or 3 tablespoonfuls) in a 24-hour period." Children 10 and 11 years of age: Oral dosage is dibasic sodium phosphate 1.71 to 3.78 grams and monobasic sodium phosphate 4.5 to 10.1 grams (10 to 20 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 20 mL (4 teaspoonfuls) in a 24-hour period." Children 6 to 9 years of age: Oral dosage is dibasic sodium phosphate 0.86 to 1.89 gram and monobasic sodium phosphate 2.2 to 5.05 grams (5 to 10 mL dibasic sodium phosphate/monobasic sodium phosphate oral solution) as a single daily dose. "Do not take more than 10 mL (2 teaspoonfuls) in a 24-hour period." Children under 6 years of age: ask a doctor.

(ii) *Rectal enema dosage.* (A) Adults and children 12 years of age and over: Enema dosage is dibasic sodium phosphate 6.84 to 7.56 grams and monobasic sodium phosphate 18.24 to 20.16 grams in a single daily dose. Children 2 to 11 years of age: Enema dosage is dibasic sodium phosphate 3.42 to 3.78 grams and monobasic sodium phosphate 9.12 to 10.08 grams in a single daily dose. "Do not use in children under 2 years of age." (Manufacturers should convert these dosages to the amount of solution to be used.)

(B) "If no urge is felt after 5 minutes of using, try to empty bowel. Call a doctor promptly if no liquid comes out of the rectum after 30 minutes because dehydration could occur."

(C) "Stop using if tip is hard to insert. Forcing the tip into the rectum can cause injury (especially if you have hemorrhoids). If enema tip causes rectal bleeding or pain, get immediate medical care."

(6) *For products containing dibasic sodium phosphate identified in § 334.16(e).* Adults and children 12 years of age and over: Oral dosage is 3.42 to 7.56 grams in a single daily dose. Children 10 to 11 years of age: Oral dosage is 1.71 to 3.78 grams in a single daily dose. Children 6 to 9 years of age: Oral dosage is 0.86 to 1.89 gram in a single daily dose. Children under 6 years of age: ask a doctor.

(7) *For products containing monobasic sodium phosphate identified in § 334.16(f).* Adults and children 12 years of age and over: Oral dosage is 4.5 to 20.2 grams in a single daily dose. Children 10 to 11 years of ages: Oral dosage is 2.25 to 10.1 grams in a single daily dose. Children 6 to 9 years of age: Oral dosage is 1.12 to 5.05 grams in a single daily dose. Children under 6 years of age: ask a doctor.

4. Section 334.80 is amended by redesignating paragraph (b)(2) as paragraph (b)(2)(i) and revising it, and by adding paragraph (b)(2)(ii), to read as follows.

§ 334.80 Professional labeling.

* * * * *

(b) * * *

(2) *For products containing dibasic sodium phosphate or monobasic sodium phosphate identified in § 334.16(d), (e), or (f)*—(i) *Oral and rectal dosage forms*—(A) "Do not use" (these three words in bold print) "in patients with congestive heart failure."

(B) "Use with caution" (these three words in bold print) "in patients with impaired renal function, heart disease, acute myocardial infarction, unstable angina, preexisting electrolyte disturbances (such as dehydration or those secondary to the use of diuretics), the elderly, or people taking drugs that may affect electrolyte levels."

(C) "Monitor electrolytes." (these two words in bold print) "Give sufficient fluid replacement with all oral and rectal sodium phosphates products to prevent dehydration."

(D) "What can occur:" (these three words in bold print) "Hypocalcemia, hyperphosphatemia, hypernatremia, hypokalemia, and acidosis. These conditions are more likely to occur when more than one dose of sodium phosphates is given in a 24-hour period."

(E) "What you should do:" (these four words in bold print) "Advise people to follow recommended dose. Treatment of electrolyte imbalance may require immediate medical intervention with appropriate electrolyte and fluid replacement. (Some examples of references for treatment of this condition are Fonkalsrud, E., and J. Keen, 'Hypernatremic Dehydration Hypertonic Enemas in Congenital Megacolon,' *The Journal of the American Medical Association*, 199:584–586, 1967, and Edmondson, S., and T. D. Almquist, 'Iatrogenic Hypocalcemic Tetany,' *Annals of Emergency Medicine*, 19:938–940, 1990.)"

(ii) *Rectal dosage forms.* (A) "Do not use" (these three words in bold print) "sodium phosphates enema in children under 2 years of age or in patients with congenital megacolon or imperforate anus because of the risk of hyperosmotic dehydration and hyperphosphatemia."

(B) "Stop using" (these two words in bold print) "if there is resistance to the enema tip. Forcing the tip into the rectum can result in a serious injury that requires immediate medical attention."

(C) "Use sodium phosphates enema with extreme caution" (these seven words in bold print) "in patients with a colostomy or atonic colon (because of the risk of hyperosmotic dehydration and hyperphosphatemia) or with a rectal abnormality, such as hemorrhoids (because sodium phosphates can cause serious damage to the rectal mucosa if an enema tip injury occurs). Using more than one sodium phosphates enema in a 24-hour period can cause serious electrolyte problems."

* * * * *

Dated: April 27, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12054 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGDO1–98–002]

RIN 2121–AA97

Safety Zone; New York Super Boat Race, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the lower Hudson River, for the New York Super Boat Race. The temporary safety zone would be in effect on Sunday, September 13, 1998, from 11:30 a.m. until 4:00 p.m. unless extended or terminated sooner by the Captain of the Port, New York. The proposed safety zone would restrict vessel traffic in the Lower Hudson River between Battery Park and Pier 76 in Manhattan. The proposed safety zone is needed to protect racing participants and spectator craft from the hazards associated with high speed powerboat racing.

DATES: Comments must be received on or before August 19, 1998.

ADDRESSES: Comments should be mailed to Lieutenant Junior Grade Alma Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Alma Kenneally, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4195.

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SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments.

Persons submitting comments should include their names and addresses, identify this notice (CGD01–98–002) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES.** If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

Super Boat International Productions, Inc. has submitted an Application for Approval of Marine Event for a Super Boat Race in the waters of the Lower Hudson River. This regulation would establish a temporary safety zone in the waters of the Lower Hudson River south of a line drawn from the northwest corner of Pier 76 in Manhattan and a point in Weehawken, New Jersey at approximate position 40°45′52″N 074°01′01″W, and north of a line connecting the following points:

Latitude	*Longitude*
40°42′16.0″N	074°01′09.0″W, then south to
40°41′55.0″N	074°01′16.0″W, then southwest to
40°41′47.0″N	074°01′36.0″W, then northwest to
40°41′55.0″N	074°01′59.0″W, then to shore at
40°42′20.5″N	074°02′06.0″W.

The safety zone would be effective on Sunday, September 13, 1998, from 11:30 a.m. until 4:00 p.m., unless extended or terminated sooner by the Captain of the Port of New York. This safety zone would restrict vessel traffic in the Lower Hudson River south of a line drawn from Pier 76 in Manhattan to a point located directly opposite on the New Jersey shoreline and north of a line drawn between Battery Park in Manhattan and the southern most point of Ellis Island in the Upper New York Bay. This safety zone is needed to protect mariners from the hazards associated with a boat race in which the participants transit at excessive speeds.

This event will include up to 40 powerboats, 24 to 50 feet in length, racing on an 8 mile oval course at speeds in excess of 100 mph. No more than 100 spectator craft are expected for the event.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone would restrict vessel traffic in the Lower Hudson River south of a line drawn from Pier 76 in Manhattan to a point located directly opposite on the New Jersey shoreline and north of a line drawn between Battery Park in Manhattan and the southern most point of Ellis Island in the Upper New York Bay on Sunday, September 13, 1998, from 11:30 a.m. until 4:00 p.m., unless extended or terminated sooner by the Captain of the Port of New York. Although this regulation would prevent traffic from transiting this area, the effect of this regulation would not be significant for several reasons: the volume of commercial vessel traffic transiting the Lower Hudson River on a Sunday is less than half of the normal daily traffic volume; pleasure craft desiring to view the event will be directed to designated spectator viewing areas outside the safety zone; pleasure craft can take an alternate route through the East River and the Harlem River; the duration of the event is limited to four and one half hours; the extensive advisories which will be made to the affected maritime community by Local Notice to Mariners, Safety Voice Broadcast, and facsimile notification.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (21 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule, is adopted, will have significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federal implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–002, is added to read as follows:

§ 165.T01–062 Safety Zone; New York Super Boat Race, Hudson River, New York and New Jersey.

(a) *Location.* The following area is a safety zone: All waters of the Lower Hudson River between Pier 76 in Manhattan and a point on the New Jersey shore in Weehawken, New Jersey at 40°45′52″N 074°01′01″W, and north of a line connecting the following points:

Latitude	*Logitude*
40°42′16.0″N	074°01′09.0″W, then south to
40°41′55.0″N	074°01′16.0″W, then west to
40°41′47.0″N	074°01′36.0″W, then northwest to
40°41′55.0″N	074°01′59.0″W, then to shore at
40°42′20.5″N	074°02′06.0″W.

(b) *Effective period.* This safety zone is in effect on Sunday, September 13, 1998, from 11:30 a.m. until 4 p.m., unless terminated sooner by the Captain of the Port New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 8, 1998.

L.M. Brooks,

Captain, U.S. Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 98–13581 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH115–1; FRL–6100–7]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency, (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve an April 27, 1998, request from Ohio, for State Implementation Plan (SIP) maintenance plan revisions for the following maintenance areas in Ohio: Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County and Preble County. The revisions would remove the air quality triggers from each area's contingency plan. The contingency plans were included in these areas' maintenance plans to correct violations of the one hour ozone National Ambient Air Quality Standard (NAAQS).

DATES: Written comments on this proposal must be received on or before June 22, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Scott Hamilton at (312) 353–4775 before visiting the Region 5 office.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4775.

SUPPLEMENTARY INFORMATION:

I. Attainment Areas in Ohio

Since the Clean Air Act (CAA) attainment status designations were made, all of the Ohio areas listed in the summary section of this **Federal Register** Notice have attained the one hour ozone standard and have been redesignated to attainment for ozone. As a requirement to being redesignated to attainment, these areas developed maintenance plans. The purpose of the maintenance plans is to assure maintenance of the one hour ozone NAAQS for at least ten years. Included in the maintenance plans were contingency provisions. The purpose of the contingency provisions are to identify and correct any violation of the one hour ozone NAAQS in a timely fashion. Triggers are included in the contingency provisions to identify the need to implement measures and correct air quality problems until such time as a revised maintenance or attainment plan could be developed to address the level of the air quality problem. Triggering events in the contingency plans could be linked to ozone air quality and/or an emission level of ozone precursors.

The maintenance plan approvals were finalized by USEPA and published in the **Federal Register** for these Ohio areas as follows: Canton and Youngstown (61 FR 3319; January 31, 1996), Cleveland (61 FR 20458; May 7, 1996), Columbus (61 FR 3591; February 1, 1996), Steubenville, Columbiana County and Preble County (60 FR 7453; February 8, 1995), Toledo (60 FR 39115; August 1, 1995) and Clinton County (61 FR 11560; March 21, 1996).

II. One Hour Ozone Standard Revocation

On July 18, 1998, USEPA finalized a revision to the NAAQS for ozone which changed the standard from 0.12 parts per million (ppm) averaged over one hour, to 0.08 ppm, averaged over eight hours. USEPA is revoking the one hour standard in separate rulemakings based on an area's attainment of the one hour ozone standard. The first round of revocations will be for areas attaining the one hour standard based on quality assured air monitoring data for the years 1994–1996. The second round of one hour ozone standard revocations will be for areas attaining the one hour standard based on quality assured air monitoring data for the years 1995–1997. After these two rulemakings are finalized, the USEPA intends to publish rulemakings on an annual basis revoking the one hour ozone standard for additional areas that come into attainment of the one hour standard.

On January 16, 1998, USEPA published a proposed rule (63 FR 2726) in the **Federal Register** proposing to revoke the one hour ozone standard in areas attaining the standard based on quality assured air monitoring data for the years 1994–1996 (first round of revocations). In that proposal, USEPA proposed to revoke the one hour ozone standard in the Ohio areas subject to this proposed action [Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties)] as

well as Clinton, Columbiana and Preble Counties.

On July 16, 1997, President Clinton issued a directive to Administrator Browner on implementation of the new ozone standard, as well as the current one hour ozone standard (62 FR 38421). In that directive the President laid out a plan on how the new ozone and particulate matter standards, as well as the current one hour standard, are to be implemented. A December 29, 1997, memorandum entitled "Guidance for Implementing the 1-Hour and Pre-Existing PM10 NAAQS" signed by Richard D. Wilson, USEPA's Acting Assistant Administrator for Air and Radiation reflected that directive. The purpose of this guidance document is to ensure that the momentum gained by States to attain the one hour ozone NAAQS was not lost when moving toward implementing the eight hour ozone NAAQS.

The guidance document explains that maintenance plans will remain in effect for areas where the one hour standard is revoked; however, these maintenance plans may be revised to withdraw certain contingency measure provisions that have not been triggered or implemented prior to USEPA's determination of attainment and revocation. Where the contingency measure is linked to the one hour ozone standard or air quality ozone concentrations, the measures may be removed from the maintenance plan. Measures linked to non-air quality elements, such as emissions increases or vehicle miles traveled, may be removed if the State demonstrates that removing the measure will not affect an area's ability to attain the eight hour ozone standard.

In other words, after the one hour standard is revoked for an area, USEPA believes it is permissible to withdraw contingency measures designed to correct violations of that standard. Therefore, since such measures were designed to address future violations of a standard that no longer exists, it is no longer necessary to retain them. Furthermore, USEPA believes that future attainment and maintenance planning efforts should be directed toward attaining the eight hour ozone NAAQS.

III. Review of the State Submittal

In a letter from Donald R. Schregardus, Director, Ohio Environmental Protection Agency (OEPA) received by USEPA on April 27, 1998, OEPA officially requested that all air quality triggers be deleted from the maintenance plans for the areas in Ohio now attaining the one hour ozone standard and where USEPA has proposed to revoke the one hour standard (the areas listed in the Summary Section). As part of the implementation of the eight hour ozone standard, the State's ozone air quality will be evaluated and eight hour attainment and nonattainment designations will be made. USEPA believes that Ohio's request is consistent with the December 29, 1997, guidance document and the July 16, 1997, Presidential Directive, and that the request is approvable.

The OEPA has officially announced a public hearing on this matter to be held on June 1, 1998.

This revision is being proposed under a procedure called parallel processing, whereby USEPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed USEPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than any consistent with this notice, the USEPA will publish a final rulemaking on the revisions. The final rulemaking action by USEPA on Ohio's request to revise the maintenance plans to remove air quality triggers will occur only after the one hour ozone standard has been revoked in final and Ohio's public hearing documentation is submitted to the USEPA.

While Ohio requested that the air quality triggers in Dayton's maintenance plan be removed, USEPA has yet to propose revocation of the one hour standard for Dayton. Revocation of the one hour standard is a prerequisite for revising maintenance plans to remove contingency provisions. USEPA will address Dayton in a future rulemaking.

IV. USEPA Proposed Action

The USEPA is proposing to approve the requested revision to the above mentioned maintenance plans in Ohio. The USEPA is parallel processing this request concurrent with the state proceedings. Written comments must be received by USEPA on or by June 22, 1998.

V. Administrative Requirements

(A) Future Requests

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

(B) Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

(C) Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

(D) Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

(E) Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Sections 3745.70–3745.73 of the Ohio Revised Code). USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs,

including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio Clean Air Act program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Implementation plans.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 7, 1998.

Robert Springer,

Acting Regional Administrator, Region V.

[FR Doc. 98–13614 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY27–1–178, FRL–6101–5]

Approval and Promulgation of Implementation Plans; Emission Trade to Meet Reasonably Available Control Technology for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing approval of a revision to the New York State Implementation Plan for ozone. This revision proposes to establish and require an emission trade between Niagara Mohawk Power Corporation and Champion International Paper Corporation which will result in both sources meeting the requirements of Reasonably Available Control Technology for oxides of nitrogen. The intended effect of this proposed action is to approve source-specific permit conditions, requiring the sources to trade emissions in accordance with requirements of the Clean Air Act, and resulting in emission reductions which will help toward attaining the national ambient air quality standards for ozone.

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the state submittal and other information are available for public inspection during normal business hours, by appointment, at the Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York; as well as the New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Environmental Engineer, Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007–1866; (212) 637–4014.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (the Act) requires that States develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of oxides of nitrogen (NO_X) in areas which have been classified as "moderate," "serious," "severe," and "extreme," ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, Sept. 17, 1979). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the Act. The Act's NO_X requirements are further described in more detail in "The General Preamble for Implementation of Title I of the Clean Air Act Amendments," (57 FR 13498, April 16, 1992) and "The NO_X Supplement to the General Preamble" (57 FR 55620, November 25, 1992).

The entire State of New York is included in the OTR, therefore RACT must be applied to all major stationary sources of NO_X emissions. New York State has defined a major stationary source for NO_X as a source in the New York City metropolitan area and the lower Orange County metropolitan area which has the potential to emit 25 tons per year (TPY) and as a source in the rest of the State which has the potential to emit 100 TPY.

New York State adopted its NO_X RACT regulation, part 227–2, on January 19, 1994. Part 227–2, section 2.5(b) allows for system-wide emissions averaging as a compliance strategy. The average must be weighted so the mass emission rate of the units in operation is equivalent to the mass emission rate that would be achieved if each operating unit individually met the applicable RACT emission limit. Averaging may include units owned and operated by the same person.

II. State Submittal

On November 8, 1995, New York proposed for comment special permit conditions for the Niagara Mohawk Power Corporation and the Champion International Paper Corporation for an emission trade to meet the NO_X RACT requirements of part 227–2. New York approved the special permit conditions on December 14, 1995, having received no public comments. On April 9, 1996, New York State submitted the special permit conditions to EPA as a source-specific revision to the State Implementation Plan (SIP) for ozone. New York submitted additional technical information on April 30, 1996, October 17, 1996 and December 5, 1996. The SIP revision was reviewed by EPA in accordance with the completeness criteria found at Title 40, part 51, appendix V of the *Code of Federal Regulations*. EPA determined the SIP revision to be administratively and technically complete in a June 4, 1996 letter to New York.

In the process of its review of the April 9, 1996 SIP revision, EPA noted deficiencies in the special permit conditions. In a February 6, 1997 letter, EPA requested New York to correct these deficiencies, delaying review of the SIP revision. New York re-proposed for comment the special permit conditions for the emission trade on September 24, 1997. New York approved the special permit conditions on December 2, 1997, having received no public comments. On February 2, 1998, New York submitted to EPA the December 2, 1997 special permit conditions. The February 2, 1998 submittal supplemented the original April 9, 1996 SIP revision.

For a more detailed discussion of New York's SIP submittal and EPA's proposed action, the reader is referred to the Technical Support Document (TSD) which was developed as part of this action. Copies of the TSD are found at the previously mentioned addresses.

III. Analysis of State Submittal

A. Facility Descriptions

Niagara Mohawk Power Corporation (NMPC) operates four fossil fuel-fired utility plants in New York State; the

Oswego, Albany, C.R. Huntley, and Dunkirk Steam Stations. There are two Titles of the Act which impose NO_X emission limits on NMPC's fossil fuel-fired generating plants. All of NMPC's fossil units became subject to the Title I NO_X RACT requirements as of May 31, 1995. NMPC's coal-fired units are also subject to the Title IV Acid Rain requirements for NO_X. However, the Title I NO_X RACT requirements established by New York in part 227–2 are currently more restrictive on NMPC's units than the emission limits established by the Title IV rules. NMPC has developed a plan to comply with the NO_X RACT emission limits through the installation of air pollution control technology. In addition to these controls, NMPC uses a system-wide averaging scheme as a fallback to meeting the NO_X RACT requirements.

Champion International Paper Corporation (Champion) owns and operates two coal-fired boilers at its paper mill in Deferiet, Jefferson County. Under part 227–2, the two boilers are subject to the NO_X RACT emission limit of 0.5 lbs/MMBtu (pounds per million British Thermal Units). Stack tests completed in October 1995 and May 1997 indicated average NO_X emissions ranging from 0.665 lbs/MMBtu to 0.893 lbs/MMBtu.

Champion determined it would be technically infeasible for the two boilers to meet the NO_X RACT emission limit with conventional NO_X control technologies. Champion initially planned to meet the NO_X RACT requirements through the compliance option of repowering. However, after discussions with NMPC and New York, Champion decided to achieve compliance with RACT, as prescribed by part 227–2, by utilizing beyond-RACT emission reductions from the NMPC system-wide averaging plan.

B. Special Permit Conditions for the Emission Trade

New York has modified the permits for both NMPC and Champion in order to allow the implementation of the emission trade. For NMPC, which is creating the emission reductions, the special permit conditions require emissions of NO_X to be reduced below RACT-allowable emissions by the amount to be traded. For Champion, which will be using NMPC's emission reductions, the special permit conditions allow emissions of NO_X to be emitted in excess of the RACT-allowable emissions, but only by 90% of the amount to be traded.

The special permit conditions for NMPC, allow compliance to be demonstrated on either a unit-by-unit basis or on a system-wide average. Surplus NO_X reductions, in pounds, are calculated as the difference between the amount of NO_X allowed to be emitted by a given unit (lbs/MMBtu) and the actual amount of NO_X emitted by the unit (lbs/MMBtu), multiplied by the actual heat input, in MMBtu. Surplus NO_X reductions are calculated each hour for each unit. Compliance on a daily basis is determined by summing the surplus NO_X reductions created by each unit for each 24-hour period. From September 16 of each year to April 30 of the following year, compliance is based on a 30-day rolling average (Btu-weighted). The special permit conditions include example spreadsheets and tables to be used in tracking the surplus NO_X reductions for each unit and for the entire system and demonstrating compliance. The TSD includes a step-by-step example of an emission averaging calculation.

The source of the data used to calculate NMPC's NO_X emissions (lbs/MMBtu and heat input) will be the Continuous Emissions Monitors that have been installed pursuant to 40 CFR part 75. All of NMPC's fossil fired units are subject to the monitoring requirements of 40 CFR part 75. NMPC will submit quarterly compliance reports to New York to meet the NO_X RACT reporting requirements, showing the amount of NO_X generated each hour for each unit, and a summary of exceedances, should they occur.

In order for NMPC to demonstrate RACT compliance and to apply additional surplus NO_X reductions toward RACT compliance at the Champion Deferiet facility, NMPC will calculate the net amount of surplus NO_X reductions that were created by the NMPC system. The special permit conditions also require NMPC to hold at least 1.4 tons (2,800 pounds) of surplus NO_X reductions at the end of each 30-day rolling period, from September 16 to April 30, inclusive. From May 1 to September 15, NMPC must hold at least 1.3 tons (2,600 pounds) of surplus NO_X reductions at the end of each 24-hour period. In the event that less than 1.3 tons are held from May 1 to September 15, NMPC must notify New York and within five days must hold surplus NO_X reductions equal to the shortfall, multiplied by 1.10. Failure to hold the appropriate amount of surplus NO_X reductions, based on the time of the year, is considered a violation of the permit.

Champion's special permit conditions determine compliance using two formulas, depending on the time of year. Both formulas ensure Champion's boilers will not exceed 0.50 lbs/MMBtu, by subtracting the surplus NO_X reductions received from NMPC, in pounds, from Champion's daily NO_X emissions, in pounds, then dividing that by the daily heat input in MMBtu. Compliance with the 30-day rolling average will be determined by adding the amount of NO_X, in pounds, emitted during the previous 29 days (minus the amount of surplus NO_X reductions available for compliance) to the NO_X emitted during the most recently completed day (minus the amount of surplus NO_X reductions available for compliance that day), and dividing that sum by the sum of the daily heat inputs for the most recently completed 30 days.

The actual NO_X emissions rate for Champion's boilers will be determined through annual emissions testing as the average of three runs at maximum load. Such testing will be conducted using EPA Test Method 7E, with State oversite. Emission results will be used to calculate NO_X mass emissions for the period following testing, not to be applied for the previous year. Champion must maintain records for a period of at least five years of the (1) quantity of coal burned each day, (2) stack test reports, (3) daily total steam flow for each boiler, (4) daily prorated NO_X rate for the combined boilers, and (5) records of surplus NO_X reductions, creditable surplus NO_X reductions and the 10% set-aside.

For Champion, the amount of surplus NO_X reductions available from NMPC for compliance is 1.3 tons or 1.4 tons per day, depending on the time of year, therefore the amount of surplus NO_X reductions needed for compliance will not exceed 1.3 or 1.4 tons per day. From May 1 to September 15, creditable surplus NO_X reductions will be generated daily and defined as the daily difference between the surplus NO_X reductions generated by NMPC and those needed by Champion. In the event NMPC is unable, on a daily basis, to generate surplus NO_X reductions sufficient to satisfy Champion's need, the difference will be deducted from the creditable surplus NO_X reductions accumulated during the previous 30-day period. In the event NMPC notifies Champion that surplus NO_X reductions will be unavailable for a period of 30 consecutive days or more, Champion must submit an alternative NO_X RACT Compliance Plan to New York within 60 days. The Compliance Plan shall include the use of any or all creditable surplus NO_X reductions to remain in compliance with part 227–2 until implementation of the alternative NO_X RACT Compliance Plan. The Compliance Plan will include a plan to comply with the provisions of part 227–

2, a schedule for implementing RACT, and the use of creditable surplus NO_X reductions to offset emissions during the interim period of submittal and implementation of the RACT plan.

The special permit conditions also require Champion to set aside 10% of the 497.2 TPY received from NMPC for use by Champion as a benefit to the environment. Therefore only 447.48 TPY will be used by Champion for compliance purposes, while 49.72 TPY will be retired to benefit the environment.

The special permit conditions will terminate if the Champion Deferiet facility permanently shuts down or if NMPC and Champion terminate their agreement. The special permit conditions will also terminate if New York approves an alternate means for Champion to comply with RACT, such as, some other emission trade subject to EPA approval, or direct compliance with part 227–2 through the implementation of NO_X control technologies and strategies.

C. Consistency of the Emission Trade With Part 227–2 and EPA's Emission Trading Guidance Documents

The special permit conditions for NMPC and Champion include formulas to provide that the emission trade is on a Btu-weighted basis. These formulas ensure that the generation and calculation of surplus NO_X reductions are based on the units in operation during the compliance period. The formulas also ensure the mass emission rate of the units in operation is equivalent to the mass emission rate that would be achieved if each operating unit individually met the applicable RACT emission limit. The NMPC and Champion compliance plans clearly indicate which units at which facility will be included with the emission trade. Since the emission trade includes units owned and operated by two different persons, New York submitted this emission average as a source-specific SIP revision. Lastly, the affected facilities are located in Upstate New York, outside of the New York City severe nonattainment area. Therefore, it is not necessary to include any geographical constraints in the special permit conditions with respect to trades outside severe nonattainment areas, pursuant to part 227–2, section 2.5(b).

The April 9, 1996 submittal letter provides the evidence that New York has the legal authority under State law to approve and implement the compliance plan. The special permit conditions were processed in accordance with part 621.14 for inclusion in the Certificate to Operate. New York proposed approval of the SIP revision pursuant to part 227–2. Any violation of the special conditions of each source's permit will be enforced as prescribed by Chapter 19 of the New York State Environmental Conservation Law. The emission trade is enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements and is acceptable to the Agency. To verify compliance, NMPC and Champion are required to calculate daily averaged NO_X emissions records and submit these records in quarterly reports as prescribed by the special permit conditions. These conditions ensure compliance on a daily basis and include data obtained exclusively during operating hours to establish the average daily NO_X emissions.

Overall, part 227–2 provides a compliance option for owners of multiple affected units to choose cost-effective control options to meet an overall equivalent emission limit, in order to comply with part 227–2. Should a source not comply with this provision it would constitute a violation of part 227–2 and would subject the source owner or operator to civil and applicable criminal penalties. EPA believes this is sufficient to ensure that sources comply and should EPA have to take enforcement action, it could use the same provision to obtain compliance.

Since the 1970's, EPA has developed several emission trading programs and guidance documents to allow industry and States more flexibility in meeting statutory requirements of the Act. Overall, New York's emission trade between NMPC and Champion to meet the NO_X RACT requirements is consistent with EPA's emission trading guidance.

EPA's "Emissions Trading Policy Statement" (51 FR 43814, December 4, 1986) provides the Agency's historical guidance on emission trading programs (bubbles, netting, offsets and banking) to allow more flexibility in meeting Act requirements. The 1986 Policy discusses how only emission reductions which are surplus, quantifiable, enforceable and permanent may be used in an emission trade.

NMPC's NO_X emission reductions are surplus because the formulas in the special permit conditions are based on the difference between the amount of NO_X allowed to be emitted by RACT and the actual amount of NO_X emitted. Therefore, only those NO_X emission reductions below the RACT-allowable limits are considered surplus and available for use by Champion.

NMPC's NO_X emissions (lbs/MMBtu and heat input) are quantifiable through the Continuous Emissions Monitors that have been installed pursuant to 40 CFR part 75.

The legally-enforceable vehicles for the emission trade are the special permit conditions for NMPC and Champion, approved by New York on December 2, 1997.

NMPC's emission reductions used by Champion are considered permanent because NMPC's special permit conditions require NMPC to hold at least 1.3 or 1.4 tons of surplus NO_X reductions depending on the time of year. NMPC's NO_X emission reductions are also considered permanent because they are based on the implementation of various control strategies.

"The NO_X Supplement to the General Preamble" (57 FR 55620, November 25, 1992) specifies that in cases where States adopt an areawide averaging rule for a group of sources, the emission limits, emission quantification methods, and monitoring and recordkeeping requirements applicable to each owner/operator in the group must be clearly specified. In addition, the rule must specify appropriate penalties for violation of the various requirements. Also, SIP measures must be converted into legally-enforceable vehicles such as a regulation or permit. EPA's current thinking is to also allow trading for other NO_X source categories, either within one facility, among several facilities or among several emission units at a facility.

While New York's averaging provision and this source-specific SIP revision are not intended to be a generic areawide trading rule, the Region believes this emission trade between NMPC and Champion is a logical extension of the NO_X Supplement. New York's emission trade between NMPC and Champion is consistent with EPA's general guidance (NO_X Supplement) on trading to meet the NO_X RACT requirements. The legally-enforceable vehicles for the emission trade are the special permit conditions for NMPC and Champion, approved by the New York on December 2, 1997. The permits clearly specify the emission limits, emission quantification methods, testing, monitoring and recordkeeping requirements applicable to each owner/operator in the trade. Civil and criminal sanctions associated with a violation of the special permit conditions are found within Article 71 of the State regulation.

EPA's Economic Incentive Program (EIP) Rules (40 CFR part 51, subpart U) contain the rules and guidance for EIP's that a State may choose to adopt for any criteria pollutant, as explicitly allowed for in the Act. The EIP rules provide an opportunity to encourage the

development and early implementation of appropriate EIP's. Since the EIP rules and guidance are broadly applicable to any kind of EIP, the guidance generally covers the same type of emission trading programs that have historically been addressed by the Emissions Trading Policy Statement. Therefore, trades which fall under the Emissions Trading Policy Statement represent one particular model for how States could choose to design such a program that would be approvable under the EIP rules.

Since the NMPC and Champion emission trade is consistent with the provisions of the Emissions Trading Policy Statement, it is also consistent with the EIP guidance. In addition to meeting the criteria in the Emissions Trading Policy Statement, the NMPC/Champion emission trade provides for additional emission reductions which meet the "benefit-sharing" goal of the EIP rules and guidance.

D. Summary

Major sources of NO_X are numerous and varied. As a result, New York has tried to allow for some flexibility in part 227–2. Part 227–2 allows owners and operators of multiple units to average emissions over all the units operated, with some appropriate restrictions. The use of post combustion control is not precluded for any source category. The owner or operator of a facility may choose to use post combustion control as a cost-effective control strategy for a particular application, as a means of "over control" for an averaging scheme or for use in an emission offset plan.

The source-specific SIP revision provides an innovative way for an affected source to achieve emission reductions (at less cost) equal to or beyond the reductions required by NO_X RACT. As a result of the emission trade, NMPC is required to create emission reductions of at least 1.3 or 1.4 tons of NO_X per day. As mentioned in its Fourth Quarter 1995 Compliance report, NMPC holds surplus NO_X reductions for Champion of 42 tons per 30-day rolling period (1.4 tons/day x 30 days). The report shows NMPC's 30-day compliance margin ranges from 323 to 543 tons, which is well beyond the amount to hold for Champion. For Champion, the emission trade allows the facility to exceed its NO_X allowable emissions, but only by the amount traded. For example, in a worst case scenario, emission increases by Champion will be contemporaneously offset by equivalent emission decreases at NMPC. Also, without the emission trade, Champion would have requested a waiver from New York, which if granted would have resulted in emission increases greater than 1.3 or 1.4 tons per day. In addition, Champion is required to retire 10% of the surplus NO_X reductions it receives from NMPC as a benefit to the environment.

EPA has reviewed NMPC's and Champion's applications and New York's source-specific SIP revision for completeness and approvability. EPA agrees with New York's determination that the emission trade between NMPC and Champion provides an innovative way for an affected source to achieve emission reductions equal to or beyond the reductions required by NO_X RACT, at less cost to industry. While this emission trade does not constitute traditional RACT, it does provide a compliance option for owners of multiple affected units to choose cost-effective control options to meet an overall emission reduction equivalent to RACT. The permit conditions for the emission trade serve as approved SIP emission limits for these facilities. Finally, EPA believes these permit conditions address the criteria of surplus, quantifiable, enforceable and permanent and therefore, proposes approval.

It should be noted that New York, the other OTR States and EPA, are developing future NO_X trading rules which will have broader applicability than this source-specific SIP revision. New York's adoption of the OTR's NO_X Budget Program and finalization of EPA's "Ozone Transport SIP Call" may replace the emission trade discussed in this proposed action, as well as establish an overall, generic emission trading program.

Conclusion: EPA is proposing full approval of the source-specific permit conditions requiring NMPC and Champion to trade emissions to meet the requirements of NO_X *RACT. EPA is proposing approval of these special permit conditions, as submitted by the State of New York on April 9, 1996 and supplemented on February 2, 1998, as part of the SIP.*

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Regional Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 13, 1998

Herbert Barrack,

Acting Regional Administrator for Policy and Management.

[FR Doc. 98–13610 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–6100–9]

RIN 2060–AG85

Opportunity To Comment on Documents Used by the Department of Energy To Certify the Rocky Flats Environmental Technology Site To Ship Transuranic Waste to WIPP, as Required in: Criteria for the Certification and Re-certification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Certification Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents used to certify the Rocky Flats Environmental Technology Site (RFETS) to ship transuranic radioactive waste to the Waste Isolation Pilot Plant (WIPP). The documents include: "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997). These documents are available for review in the public dockets listed in **ADDRESSES.** The EPA will be using these documents to evaluate RFETS's quality assurance and waste characterization programs and processes. The EPA will perform an inspection at RFETS the week of June 22–26, 1998.

DATES: EPA is requesting public comment on these documents. Comments must be received by EPA's official Air Docket on or before June 22, 1998.

ADDRESSES: Comments should be submitted to: Docket No. A–93–02, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

The DOE documents, "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997) are available for review in the official EPA Air Docket in Washington DC, Docket No. A–93–02, Category X–B, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10am–9pm, Friday–Saturday, 10am–6pm, and Sunday 1pm–5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Monday–Thursday, 8am–9pm, Friday, 8am–5pm, Saturday–Sunday, 1pm–5pm; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Monday–Thursday, 8am–12am, Friday, 8am–5pm, Saturday, 9am–5pm, and Sunday, 1pm–9pm.

As provided in EPA's regulations at 40 CFR Part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Chuck Byrum, Office of Radiation and Indoor Air, (505) 665–7555 or call EPA's 24-hour toll-free WIPP Information Line, 1–800–331–WIPP.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Energy (DOE) is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a potential deep geologic repository for disposal of transuranic (TRU) radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992, as amended (Pub. L. No. 102–579), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Most TRU waste consists of items contaminated during the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges.

On May 13, 1998, the U.S. Environmental Protection Agency (EPA) announced its final compliance certification decision to the Secretary of Energy. This decision states that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR Part 191 and the WIPP Compliance Criteria at 40 CFR Part 194.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions; and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until EPA has approved, in accordance with the approval process set forth at § 194.8(b), the procedures developed to comply with the waste characterization requirements of § 194.24(c)(4). As part of the EPA's decision-making process, DOE is required to submit to EPA appropriate documentation used to certify each DOE waste generator site for shipment of transuranic radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, D.C., and informational dockets in the State of New Mexico for public review and comment.

The documents submitted to EPA include: "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997). The "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" sets forth the waste characterization procedures for TRU wastes at Rocky Flats. The "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" sets forth the quality assurance program that DOE purports to comply with the

requirements of § 194.22. After EPA reviews these documents for adequacy, EPA will conduct an inspection of a DOE audit of the site to determine whether the requirements set out in these documents are being adequately implemented in accordance with Conditions 2 and 3 of EPA's WIPP certification decision (Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations: Certification Decision). Section 194.8 of the WIPP Compliance Criteria (as amended by the final certification decision) provides the public at least 30 days to comment on the documents placed in EPA's docket relevant to the site approval process.

If EPA determines that the provisions in the documents are adequately implemented, EPA will notify DOE by letter and place the letter in the official Air Docket in Washington DC, and in the informational docket locations in New Mexico. A positive approval letter will allow DOE to begin shipping TRU waste from RFETS. EPA will not make a determination of compliance before the inspection or before the 30-day comment period has closed.

Information on EPA's radioactive waste disposal standards (40 CFR Part 191), the compliance criteria (40 CFR Part 194), and EPA's certification decision is filed in the official EPA Air Docket, Dockets No. R–89–01, A–92–56, and A–93–02, respectively, and is available for review in Washington DC, and at the three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: May 14, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–13606 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–64; RM–9272]

Radio Broadcasting Services; St. Anne, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by STARadio Corporation proposing the allotment of Channel 293A at St. Anne, Illinois, as the community's first local aural transmission service. Channel 293A can be allotted to St. Anne in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (6.6 miles) southeast to avoid short-spacings to the licensed sites of Station WYBA(FM), Channel 292A, Lansing, Illinois, and Station WGCY(FM), Channel 292A, Gibson City, Illinois. The coordinates for Channel 293A at St. Anne are North Latitude 40–56–20 and West Longitude 87–39–10.

DATES: Comments must be filed on or before July 6, 1998, and reply comments on or before July 21, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Michael Ruger, Esq., Baker & Hostetler, LLP, 1050 Connecticut Ave., NW., Suite 1100, Washington, DC 20036–5304 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–64, adopted May 6, 1998, and released May 15, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–13567 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Part 1609

RIN: 3206–AI27

Prohibition of "Gag Clauses" in the Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed rule making.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend the regulations to prohibit health benefit carriers participating in the Federal Employees Health Benefits (FEHB) Program from entering into contractual provisions with health care providers or health care workers that would include a provision for incentive payments as an inducement to reduce or limit communication with, or the delivery of health care services to, FEHB enrollees. The rule is intended to ensure providers' and health care workers' ability to communicate with, and advise patients of, any medically necessary treatment options.

DATES: Comments must be received on or before July 20, 1998.

ADDRESSES: Comments should be directed to Abby L. Block, Chief, Insurance Policy and Information Division, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, (202) 606–0004.

SUPPLEMENTARY INFORMATION: You may submit comments and data by sending electronic mail (E-mail) to: MWKASZYN@OPM.Gov.

On February 20, 1998, the President signed an Executive Memorandum directing the Office of Personnel Management (OPM) to take the necessary steps to bring the FEHB Program into contractual compliance with the Consumer (Patient) Bill of Rights and Responsibilities by no later than year end 1999. The Memorandum specifically directed OPM to propose regulations within 90 days to prohibit practices that restrict physician-patient communications about medically necessary treatment options. This action will prohibit FEHB participating carriers

from placing incentives in contracts with health care providers or health care workers that would limit providers' or health care workers' ability to discuss medically necessary treatment options with Federal enrollees. We are aware that a proposal to enact a "gag clause" regulation raises three broad areas of concern regarding: (1) potential impairment of a health plan's ability to review utilization against appropriate treatment protocols, (2) potential conflict with providers' (including carriers') ethical or moral beliefs, and (3) impact on providers' or workers' ability to discuss non-covered or high cost treatment options. This regulation is not intended to limit a health plan's ability to perform utilization review nor is it intended to cause providers or health care workers to discuss treatment options that they would not ordinarily discuss in their normal course of practice because such options are against their professional judgement and/or ethical, moral or religious beliefs. The regulation will ensure that providers or health care workers have the ability to communicate fully and openly with patients regarding medically necessary treatment options regardless of cost or whether the benefits are covered by their health plan. Simply stated, the amended regulation is intended to remove any contractual impediment to a candid and open physician-patient relationship.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 48 CFR Part 1609

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Reporting and record keeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

For the reasons set forth in the preamble OPM proposes to amend 48 CFR Part 1609 as follows:

Subpart 1609.70—Minimum Standards for Health Benefit Carriers

1. The authority citation for 48 CFR Part 1609 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. In § 1609.7001 new paragraph (c)(7) is added to read as follows:

§ 1609.7001 Minimum Standards for Health Benefits Carriers

* * * * *

(c) * * *

(7) Entering into contracts with providers or health care workers that include incentive plans that directly or indirectly create an inducement to limit communication of, or reduce, medically necessary services to any individual covered under the FEHB Program.

[FR Doc. 98–13782 Filed 5–19–98; 2:20 pm]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–97–2095; Notice 1]

RIN 2137–AC11

Pipeline Safety: Adoption of Industry Standards for Breakout Tanks

AGENCY: Research and Special Programs Administration (RSPA),DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would incorporate industry consensus standards for aboveground storage tanks into the regulations for the transportation of hazardous liquids by pipelines. This action would upgrade the pipeline safety regulations for breakout tanks to the level of the industry standards currently applicable to other steel petroleum tanks at tank farms and refineries throughout the United States. The proposed incorporation of these industry published standards would ensure the safety of breakout tanks used in the transportation of petroleum, petroleum products or anhydrous ammonia.

DATES: RSPA invites interested persons to submit comments by July 20, 1998. Late filed comments will be considered as far as practicable.

ADDRESSES: All commenters should identify the docket number as RSPA–97–2095 and the subject heading as "Pipeline Safety: Adoption of Industry Standards for Breakout Tanks." Written comments should be mailed or delivered to the Docket Facility, U.S. Department of Transportation, Room #PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The original and two copies of the comments should be submitted. Persons mailing comments and desiring confirmation of their receipt must include a self-addressed stamped postcard. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Comments may also be submitted electronically via e-mail to ops.comments@rspa.dot.gov. Files should be sent in ASCII or text format.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, Office of Pipeline Safety (OPS), telephone: (202) 366–2036, FAX: (202) 366–4566, e-mail: albert.garnett@rspa.dot.gov regarding the subject matter of this notice; or the Docket Facility, telephone (800) 647–5527 regarding copies of this notice or other material in the docket.

Comments that have been scanned into the docket may be accessed electronically and read at http://dms.dot.gov. General information about the RSPA/Office of Pipeline Safety programs can be obtained by accessing OPS's internet homepage at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Definition and Regulation of Breakout Tanks

In 49 CFR § 195.2 a breakout tank is defined as a tank used to: (a) relieve surges in a hazardous liquid pipeline system; or (b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline. Hazardous liquids are defined in 195.2 as: petroleum, petroleum products, or anhydrous ammonia.

Breakout tanks are designed, constructed, operated, and maintained to the same industry standards as other storage tanks throughout the petroleum industry. Consequently, breakout tanks are indistinguishable from other storage tanks that may be located at the same pipeline terminal. They are simply tanks that the operator has assigned to breakout tank functions.

These steel storage tanks are constructed in various configurations, sizes, and material properties to safely contain the liquids and their volatility at the design temperature(s) and pressure(s). Most breakout tanks are aboveground vertical cylindrical tanks that are classified as either atmospheric

tanks or low-pressure tanks. However, liquefied petroleum gas (LPG) may be stored at high-pressures in aboveground tanks with configurations that are more similar to that of ASME Code pressure vessels.

Atmospheric Storage Tanks

Atmospheric storage tanks are those designed to operate their vapor spaces at internal pressures that are approximately atmospheric (vapor pressures not exceeding 2.5 psig). Atmospheric storage tanks are used for commodities such as: crude oil, heavy oils, gas oils, furnace oils, naphtha, gasoline, and nonvolatile chemicals. The roofs of atmospheric storage tanks may take various forms.

An atmospheric cone-roof tank has roof plates that are supported by internal rafters, purlins, columns, and by the top of the cylindrical tank shell. An atmospheric umbrella-roof tank has roof plates formed from curved segments that are completely supported by the top of the cylindrical tank shell. When such fixed roof tanks are fitted with an internal floating roof, the breathing and filling losses are minimized by the elimination of the vapor space above the stored liquid.

Another type of atmospheric tank uses an external floating roof that is also designed to minimize the breathing and filling losses by the elimination of the vapor space above the stored liquid. Occasionally, such an "open-top" external floating-roof tank is retrofitted with an aluminum roof that is supported at the top of the cylindrical tank shell. This aluminum fixed roof shields the (former external) floating-roof and the stored hazardous liquid from the adverse effects of severe rainfalls and snowfalls.

Low-Pressure Storage Tanks

Low-pressure tanks are those designed to operate their vapor spaces at internal pressures above 2.5 psig, but not exceeding 15 psig. Low pressure storage tanks are used for commodities such as: light crude oils, some gasoline blending stocks, light naphtha, pentane, and some highly volatile liquids.

There are several designs to withstand the vapor pressure that may develop in low-pressure tanks. Tanks without a device or means to change the internal volume (i.e., vary the vapor space above the stored liquid) have hemispherical, spheroidal, and noded spheroidal configurations to contain the stored liquid and vapor pressure. Other roof designs accommodate the vapor pressure by providing a variable vapor space above the stored liquid. Such tanks are described as breather-roofs, balloon-roofs, and vapor-dome roofs.

High-Pressure Tanks

Breakout tanks used to contain pressures of at least 15 psig are designed in accordance with the ASME Boiler and Pressure Vessel Code, Pressure Vessels, Section VIII, Division 1 and 2. Such pressure tanks with spherical or cylindrical (horizontal) configurations are often used to store highly volatile liquids such as liquefied petroleum gas (LPG). LPG includes propane, propylene, butanes (normal butane and isobutane), and butylenes. Because of their configuration, tanks that store LPG are commonly described as "spheres" and "bullets".

Number of Breakout Tanks

There are at least 9,000 breakout tanks in the United States. This estimate is based on the results of an "Aboveground Storage Tank Survey" conducted for the American Petroleum Institute (API) that were presented in an April 1989 report. In that 1989 report, an estimated 9,197 breakout tanks were calculated to have a total capacity of 556,183,000 barrels. Approximately, 18% were over 100,000 barrels capacity and 71% were estimated to have been constructed since 1948.

Breakout Tank Accident Reporting

Section 195.50 "Reporting accidents." sets out the requirements, including the threshold limits, for accidents to pipelines (includes accidents to breakout tanks) that are to be reported to RSPA by the operator.

Need To Adopt Industry Standards

The failure of a storage tank not associated with pipeline transportation provided much of the incentive to improve industry standards for aboveground steel storage tanks. On January 2, 1988, at a barge terminal in Florefee, Pennsylvania, a newly recommissioned 120 ft. diameter by 48 ft. high storage tank suddenly collapsed and released 3.9 million gallons of diesel oil. Although the earthen dike contained most of the diesel oil, an estimated 750,000 gallons were spilled into the Monongahela River and eventually flowed into the Ohio River. Recovery was estimated at 27.3%.

The publicity and costly consequences of this failure caused widespread concern about the safety of all aboveground storage tanks. Responding to the aftermath of this event, petroleum industry engineers instituted a review of the various industry published standards applicable to aboveground storage tanks. These reviews resulted in considerable updating of existing standards and the development of several new standards by the American Petroleum Institute.

In the 10-year period from 1987–1996, operators of breakout tanks reported 152 accidents to RSPA. These accidents caused no deaths; three injuries to pipeline personnel; $12,422,894 of property damage; and 153,972 barrels to be spilled (of which 39,087 barrels were not recovered). The three injuries occurred as a result of explosions. The causes were reported as: 25 leaks in the tank floor; 30 incorrect operations; 8 outside forces; and 26 malfunctions of control or relief equipment. The remaining 63 were related to problems with floating roof water drain lines, lightning, and miscellaneous other causes.

The pipeline safety regulations have not been revised to reflect the updating and development of new industry standards for aboveground steel storage tanks. Instead, they remain very limited in scope and too general to address many safety-related aspects. For example, in "Subpart C—Design Requirements", the design of breakout tanks is set out in a single sentence in § 195.132, which reads: "Each aboveground breakout tank must be designed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads." This fails to spell out several critical engineering subjects, such as materials, design, fabrication, erection, methods of inspecting joints, welding procedure and welder qualifications, and marking. Moreover, there is no mention of other important topics including foundations, external floating roofs, seismic design, aluminum dome roofs, internal floating roofs, undertank leak detection and subgrade protection, and requirements for operating at elevated temperatures. These topics are covered in detail in API Standard 650—"Welded Steel Tanks for Oil Storage." In the pipeline safety regulations for hazardous liquids, similar insufficiencies for breakout tanks exist in "Subpart D-Construction", "Subpart E-Pressure Testing," and "Subpart F-Operation and Maintenance."

Consequently, RSPA recognizes the need to update the safety regulations for breakout tanks. The most appropriate means of updating is the incorporation by reference into Part 195 of selected industry consensus standards. They are widely understood and have been extensively implemented by the operators of breakout tanks.

Recommendations by Texas Transportation Institute

To obtain professional assistance in the selection of the industry standards to be incorporated into the regulations for breakout tanks, RSPA contracted with the Texas Transportation Institute (TTI) for engineering support services. TTI is associated with Texas A&M University at College Station, Texas. TTI's findings are contained in their report titled—"Engineering Support Services For The Office Of Pipeline Safety (Task 1) July 1997."

TTI conducted a review of industry publications relating to the aboveground steel storage tanks commonly used at petroleum pipeline terminals. TTI engineers also visited 16 petroleum pipeline terminals in six states. The terminals selected were geographically dispersed in an effort to observe a sampling of the breakout tanks in the contiguous 48 states. The terminals were located in Newark, NJ; Baton Rouge, LA; Tulsa, OK; Houston, Colorado City, Kermit, and McCamey, TX; Long Beach, Morro Bay, Bakersfield and Concord, CA; and Superior, WI.

The 411 storage tanks observed at the 16 terminals had a storage capacity of 47 million barrels. Along with their site-specific observations, the TTI engineers noted that the majority of these breakout tanks were built before 1950 [apparently, these 411 tanks were constructed earlier than the estimated average age of the 9,147 tanks reported under the heading "Number of Breakout Tanks" (above)] and that all tanks built before 1936 were riveted. They also reported that the general condition and appearance of the tanks was excellent.

Based on their literature review, discussions with terminal personnel, and personal observations of the breakout tanks, the TTI engineers recommended the incorporation by reference into 49 CFR Part 195 of six API Standards, four API Recommended Practices, and NAPA 30, a Code published by the National Fire Protection Association. RSPA sought the input of storage tank professionals representing the API on these findings.

Pre-Notice Consultation

RSPA provided its stakeholders (i.e. operators of breakout tanks, the petroleum industry and the general public) the opportunity to provide early input on RSPA's intent to incorporate industry standards for storage tanks through a series of meetings:

- On January 29, 1997, in New Orleans, LA, at a public meeting attended by representatives of both the pipeline industry and environmental interests (public and government), a representative of OPS presented the need for updating the breakout tank regulations and announced the industry standards being considered for adoption into 49 CFR Part 195. (Notice of Public Hearing; Response Plans for Onshore Oil Pipelines) (62 FR 2989; January 21, 1997).
- On April 9, 1997, in San Diego, CA, at the 62nd API Spring Refining Meeting, a representative of OPS advised fellow members of the API Subcommittee on Pressure Vessels and Tanks of RSPA's plans to adopt certain API aboveground tank standards and portions of NFPA 30.
- On May 7, 1997, in Washington, DC, at its semi-annual meeting, a representative of OPS made a similar presentation to the Technical Hazardous Liquid Pipeline Safety Standards Committee and to others at the open meeting (Meetings of Pipeline Safety Advisory Committees) (62 FR 16212; April 4, 1997).

Consensus Standards Proposed To Be Incorporated By Reference

RSPA proposes to incorporate nine of the eleven TTI recommendations. Not proposed for adoption is API Standard 2015—"Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning Through Recommissioning". Tank cleaning is not covered under the pipeline safety regulations. The potential hazards to personnel and the environment associated with tank cleaning are covered under regulations issued by the Occupational Health and Safety Administration (OSHA) and the Environmental Protection Agency (EPA).

Also, not proposed for adoption is API Standard 2610—"Design, Construction, Operation, Maintenance, and Inspection of Terminal & Tank Facilities". This standard is a compilation of industry knowledge, information, and management practices for all relevant aspects of terminal and tank operations aggregated into an overview document. It was prepared to be an indexing standard and references some 145 documents that were prepared and published by a myriad of federal and other national and international organizations. Consequently, API Standard 2610 is too complex for inclusion in this rulemaking.

In addition to the nine TTI documents selected, RSPA proposes to incorporate three additional documents: API Specification 12F—"Specification for Shop Welded Tanks for Storage of Production Liquids"; API Publication 2026—"Safe Descent Onto Floating Roofs of Tanks in Petroleum Service"; and API Standard 2510—"Design and Construction of LPG Installations."

Section 195.3(c) currently lists the full title and edition of 18 publications incorporated by reference in Part 195. Now, this notice would incorporate an additional five API Standards, one API Specification, four API Recommended Practices, one API Publication, and portions of NAPA 30.

API Standards, Specifications, Recommended Practices, Publications and NAPA 30

In the preamble of this notice the term "standard(s)" has been used generically to describe certain industry consensus documents developed for aboveground steel petroleum storage tanks. More specifically, the API standards selected for incorporation by reference have been classified by API as Standards, Specifications, Recommended Practices, and Publications. Similarly, NFPA 30 has been classified by the NFPA as a Code. RSPA understands that these classifications have been chosen to indicate the varying levels of prescriptiveness intended by the publishers.

This proposal attempts to follow the intended level of prescriptiveness between these Standards, Specifications, Codes, Recommended Practices, and Publications. However, this proposal provides clarification necessary for incorporation into Federal rules. Accordingly, for this rulemaking, operators of breakout tanks would be expected to comply with these industry classifications as follows:

- Standard, Specification or Code—An operator would be expected to comply with the provisions as though they were printed in full in Part 195.
- Recommended Practice—An operator would be expected to follow the provisions unless the operator notes in the procedural manual the reasons why compliance with all or certain provisions is not necessary for the safety of a particular breakout tank or tanks.
- Publication—These provisions provide guidelines, safety practices and precautions for the operator's review and consideration for inclusion in the procedural manual.

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Documents [1] To Be Incorporated by Reference

1. API SPECIFICATION 12F—Specification for Shop Welded Tanks for Storage of Production Liquids, Eleventh Edition, November 1, 1994.

This specification covers materials, design, fabrication, and testing requirements for aboveground shop-fabricated vertical, cylindrical, closed top, welded steel breakout tanks for nominal capacities of 90 to 750 barrels and internal pressures that are approximately atmospheric.

This specification is designed to provide tanks for use in the storage of crude petroleum and other liquids commonly handled and stored by the oil production segment of the industry. [However, these storage tanks are occasionally located on crude oil pipeline systems and a few are known to be breakout tanks.]

This specification contains Appendices A through F. Appendix A discusses tank bolting. Appendix B discusses normal venting. Appendix C discusses emergency venting. Appendix D discusses walkways, stairways and ladders. Appendix E discusses details of purchase order with the manufacturer. Appendix F discusses the use of the API Monogram.

2. API STANDARD 620—Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Ninth Edition, February 1996 (Including Addenda 1 and 2)

This standard covers materials, design, fabrication, inspection and testing, marking and pressure- and vacuum-relieving devices for large, welded, low pressure carbon steel aboveground storage tanks (including flat-bottom tanks) that have wall shapes that can be generated by a contour around a single vertical axis of revolution. This standard is applicable to tanks that are intended to: (a) hold or store liquids with gases or vapors above their surface; or (b) hold or store gases or vapors alone.

The tanks described in this standard are designed for metal temperatures not greater than 250°F and with pressures in their gas or vapor spaces not more than 15 psig. This standard is applicable to tanks installed in areas where the lowest recorded one-day mean atmospheric temperature is -50°F. [Although tanks designed to this standard are more commonly found in other petroleum facilities, a few are located on pipeline systems and known to be breakout tanks.]

The standard contains Appendices A through R. Appendix A discusses definitions. Appendix B discusses use of materials not identified with listed specifications. Appendix C discusses suggested practice regarding foundations. Appendix D discusses suggested practice regarding supporting structures. Appendix E discusses suggested practice regarding attached structures (internal & external). Appendix F discusses examples illustrating application of rules to various design problems. Appendix G discusses considerations regarding corrosion allowance and hydrogen-induced cracking. Appendix H discusses recommended practice for use of preheat, post-heat, and stress relief. Appendix I discusses suggested practice for peening. Appendix J discusses technical inquiries. Appendix K discusses the suggested practice for determining the relieving capacity required. Appendix L discusses seismic design. Appendix M discusses recommended scope of manufacturer's report. Appendix N discusses installation of pressure-relieving devices. Appendix O discusses suggested practice regarding installation of low-pressure tanks. Appendix P is blank and reserved for future use. Appendix Q discusses low-pressure storage tanks for liquefied hydrocarbon gases at temperatures between −60°F and −270°F. Appendix R discusses low-pressure storage tanks for refrigerated products at temperatures from +40°F to −60°F.

3. API STANDARD 650—Welded Steel Tanks for Oil Storage, Ninth Edition, May 1993 (Including Addenda 1 through 4)

This standard covers material, design, fabrication, erection (including inspection, testing & repairs), inspecting joints, welding procedure and welding qualifications, and marking for vertical, cylindrical, aboveground, closed- and open-top, welded steel storage tanks in various sizes and capacities for internal vapor or gas pressures approximating atmospheric pressure (not greater than 2.5 psig or not exceeding the weight of the roof plates), except when designed for tanks subject to seismic loading. This standard applies only to tanks whose entire bottoms are uniformly supported and to tanks in nonrefrigerated service that have a maximum operating temperature of 200°F.

This standard contains Appendices A through P and Appendix S. Appendix A discusses optional design for small tanks. Appendix B discusses design and construction of foundations. Appendix C discusses external floating roofs. Appendix D discusses submission of technical inquiries. Appendix E discusses seismic design. Appendix F discusses design for small internal pressures. Appendix G discusses structurally supported aluminum dome roofs. Appendix H discusses internal floating roofs. Appendix I discusses undertank leak detection and subgrade protection. Appendix J discusses complete shop assembly of vertical tanks not exceeding 20 feet in diameter. Appendix K discusses variable-design-point method. Appendix L discusses data sheets for purchaser when ordering and manufacturer when completing construction. Appendix M discusses requirements for tanks operating at temperatures 200°F to 500°F. Appendix N discusses use of new or unused materials not completely identified. Appendix O discusses under-bottom connections. Appendix P discusses allowable external loads on tank shell openings. Appendix S discusses austenitic stainless steel storage tanks.

4. API RECOMMENDED PRACTICE 651—Cathodic Protection of Aboveground Petroleum Storage Tanks, Second Edition, Dec. 1997

The purpose of this recommended practice is to present procedures and practices for achieving effective corrosion control on aboveground storage tank bottoms through the use of cathodic protection. It contains provisions for the application of cathodic protection to new and existing storage tanks. Corrosion control methods based on chemical control of the environment or the use of protective coatings are not covered in detail.

The intent is to provide information and guidance specific to aboveground steel storage tanks in hydrocarbon service. Specific cathodic protection designs are not provided. Such designs should be provided by a person thoroughly familiar with cathodic protection practices.

5. API RECOMMENDED PRACTICE 652—Lining of Aboveground Petroleum Storage Tank Bottoms, Second Edition, December 1997

This recommended practice presents procedures and practices for achieving effective corrosion control in aboveground storage tanks by application of tank bottom linings to both existing and new storage tanks. In many cases, tank bottom linings have proven to be an effective method of

[1] The descriptions of these documents are excerpted from material in the introductory paragraphs and other parts and appendices of the listed documents. They do not summarize all the provisions in these documents.

preventing internal corrosion of steel tank bottoms.

The intent of this recommended practice is to provide information and guidance specific to aboveground steel storage tanks in hydrocarbon service. It is intended to serve only as a guide and detailed tank bottom specifications are not included.

6. API STANDARD 653—Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition, December 1995 (Including Addenda 1 and 2)

This standard covers carbon and low alloy steel tanks built to API Standard 650 or its predecessor Standard 12C. It provides minimum requirements for maintaining the integrity of welded or riveted, non-refrigerated, atmospheric pressure, aboveground storage tanks after they have been placed in service. It covers the maintenance inspection, repair, alteration, relocation and reconstruction of such tanks. It discusses tank evaluation, brittle fracture considerations, inspection, materials, design considerations for reconstruction, repair and alteration, dismantling and reconstruction, examination and testing, marking and record keeping.

The scope is limited to the tank foundation, bottom, shell, structure, roof, attached appurtenances, and nozzles to the face of the first flange, first threaded joint, or first welding-end connection. Many of the design, welding, examination, and material requirements of API Standard 650 can be applied in the maintenance inspection, rating, repair, and alteration of in-service tanks. In case of an apparent conflict between the requirements of API standard 653 and API Standard 650 or its predecessor Standard 12C, this standard shall govern for tanks that have been placed in service.

This standard employs the principles of API Standard 650. However, storage tank owners/operators, based on consideration of specific construction and operating details, may apply this standard to any steel tank constructed in accordance with a tank specification.

This standard covers the varied conditions which may occur in an existing tank. When design and construction details are not given, and are not available in the standard to which the tank was originally constructed, then details that will provide a level of integrity equal to the level provided by the current edition of API Standard 650 must be used.

This standard contains Appendices A through E. Appendix A provides a table listing past editions of API welded storage tank standards. Appendix B discusses evaluation of tank bottom settlement. Appendix C provides sample checklists for internal and external inspection of tanks. Appendix D provides information and forms relating to the API Authorized Inspector Certification Program. Appendix E discusses the procedure for submission of technical inquiries.

7. API STANDARD 2000—Venting Atmospheric and Low-Pressure Storage Tanks, Fourth Edition, September 1992

This standard covers the normal and emergency venting requirements for liquid petroleum or petroleum products storage tanks and aboveground and underground refrigerated storage tanks designed for operation at pressures from vacuum through 15 psig (1.034 bar gauge). Discussed in this standard are the causes of overpressure or vacuum, determination of venting requirements, means of venting, selection, installation, and maintenance of vents, and testing and marking of relief devices. Detailed engineering studies of a particular tank and its operating conditions may indicate that the appropriate venting capacity for the tank is not the venting capacity estimated in accordance with this standard. If a tank's operating conditions could deviate from those used in developing this standard, detailed engineering studies should be performed.

This standard contains Appendices A through C. Appendix A discusses thermal venting and oil movement venting. Appendix B discusses the basis of the emergency venting tables. Appendix C discusses the types and operating characteristics of vents.

8. API RECOMMENDED PRACTICE 2003—Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents, Fifth Edition, December 1991

This recommended practice presents the current technology in the fields of static electricity, lightning, and stray currents applicable to the prevention of hydrocarbon ignition. The recommendations for protection are based on research and practical experience in the petroleum industry. Their use should lead to improved safety practices and evaluations of existing installations and procedures.

This recommended practice contains Appendices A through D. Appendix A discusses the fundamentals of static electricity. Appendix B discusses the measurement and detection of static electricity. Appendix C is a static ignition questionnaire developed to permit recording and transmittal of circumstances involved in an ignition from static electricity. Appendix D is a bibliography supporting restrictions given in the text.

9. API PUBLICATION 2026—Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service, Second Edition, April 1998

This publication addresses the hazards associated with access/egress onto open-top, covered open-top and internal floating roofs of in-service petroleum storage tanks and identifies some of the most common practices and procedures for safely accomplishing this activity.

This publication is intended primarily for those persons who are required to perform inspection, service, maintenance or repair activities that involve descent onto floating roofs of in-service petroleum tanks.

This publication does not cover general considerations that apply to climbing onto petroleum storage tanks and other structures, including, but not limited to: (a) slippery or ice-covered stairways and walkways, (b) access during electrical storms, and (c) access during emergency conditions (such as to extinguish a fire or cover exposed product with foam). This publication may not apply to daily or routine tasks of tank gaugers and other personnel involved in non-permit confined spaces; however, such persons shall be trained and shall be made aware of the potential hazards described herein.

Preparations and precautions for entering petroleum storage tanks that have been removed from service for cleaning are covered in API Standard 2015.

10. API RECOMMENDED PRACTICE 2350—Overfill Protection for Storage Tanks in Petroleum Facilities, Second Edition, Jan. 1996

Preventing petroleum storage tanks from being overfilled is an important safety and environmental concern. The safe operation of a petroleum storage facility is dependent upon the receipt of product into the intended storage tank within its defined capacity. Aboveground storage tank overfills can be effectively reduced by developing and implementing practical and safe operating procedures for storage facilities and by providing for careful selection of equipment, scheduled maintenance programs, and employee training.

Recognizing the need for flexibility, this recommended practice covers both manual procedures and automatic

systems that can be used to protect against overfills.

This recommended practice contains Appendices A through C. Appendix A discusses overfill protection system installation. Appendix B discusses determination of tank capacity and product levels. Appendix C discusses overfill protection equipment.

11. API STANDARD 2510—Design and Construction of LPG Installations, Seventh Edition, May 1995.

This standard is written to cover the design, construction, and location of liquefied petroleum gas (LPG) installations at pipeline terminals, tank farms, and at other facilities specified in the standard. The standard is written for LPG tanks with pressures in their gas or vapor spaces greater than 15 psig.

However, for the purposes of this rulemaking only the sections relating to: the design and construction of LPG tanks; spill containment; tank foundations and supports; and tank accessories including pressure-and vacuum-relieving devices, are proposed for incorporation by reference into Part 195.

This standard is not intended to apply to the design, construction, or relocation of frozen earth pits, underground storage caverns or wells, underground or mounded storage tanks, and aboveground concrete storage tanks. Moreover, this standard also is not intended to apply to the following installations:

a. Those covered by API Standard 2508—"Design and Construction of Ethane and Ethylene Installations at Marine and Pipeline Terminals, Natural Gas Processing Plants, Refineries, Petrochemical Plants, and Tank Farms". [API lists this standard as Out-of-Print.]

b. Those covered by NFPA 58—"Storage and Handling of Liquefied Petroleum Gases'; and NFPA 59—"Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants".

c. U.S. Department of Transportation (DOT) containers.

d. Gas utility company facilities; refinery equipment; gas processing equipment; and transfer systems from process equipment before LPG storage.

e. Tanks with less than 2,000 gallons of storage capacity.

This standard contains Appendix A. Appendix A discusses Piping, Valves, Fittings, and Optional Equipment.

12. NFPA 30—Flammable and Combustible Liquids Code, 1996 Edition.

NFPA Code 30 applies to the storage, handling and use of flammable liquids and combustible liquids. Such liquids are defined and classified in Chapter 1 "General Provisions". In Section 1–7.3.1 "Flammable Liquids", liquids are classified as "Class I liquids" by laboratory procedures that determine their closed-cup flash point and their Reid vapor pressure. In Section 1–7.3.1 such "Class I liquids" may be further classified as Class IA liquids, Class IB liquids, or Class IC liquids.

In Chapter 2 "Tank Storage", Section 2–3.4.3 applies to impounding around tanks by diking. In this section the impounded liquids are identified as "Class I liquids". Although the great majority of hazardous liquids stored in breakout tanks are "Class I liquids", that term is not used in part 195. Therefore, for the purposes of adopting Section 2–3.4.3 into part 195, the term "Class I liquids" must be replaced by "hazardous liquids'.

Section 2–3.4.3 Impounding Around Tanks by Diking

Describes the protection of adjoining property or waterways by diking around aboveground storage tanks.

Section 2–3.4.2 Remote Impounding

Describes the protection of adjoining property or waterways by drainage to a remote impounding area, so that the impounded liquid will not be held against the aboveground storage tanks.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department of Transportation (DOT) does not consider this action to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993) and was not reviewed by the Office of Management and Budget. DOT does not consider this action significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979).

This NPRM would amend the regulations for breakout tanks to include the incorporation by reference of certain of the latest industry published standards for aboveground storage tanks. The adoption of industry standards is consistent with the President's goal of regulatory reinvention and improvement of customer service to the American people. There is minimal or no cost for operators of breakout tanks to comply with this rule because these consensus standards have been developed and implemented by industry organizations to ensure the safety of aboveground petroleum storage tanks.

The proposed standards for steel storage tanks were specifically developed by the API. API is the major petroleum industry trade organization and many of its members are operators of petroleum pipelines with tank farms. Additionally, the proposed standard for secondary containment is taken from an NFPA code that is a widely used industry standard for the design of diking (containment by impounding) for aboveground storage tanks. The NFPA is an association with a membership of more than 67,000 individuals and over 100 national trade and professional organizations. Its mission is to reduce the burden of fire on the quality of life by advocating scientifically based consensus codes and standards, research, and education for fire and safety issues.

The operators of breakout tanks storing hazardous liquids are very familiar with these API storage tank and NFPA diking standards because they have been extensively implemented at pipeline terminals throughout the United States. Conversations with an industry storage tank organization representing medium and smaller operators of breakout tanks confirm that most of their members are already complying with the proposed tank standards. Because the economic impact of this proposal is minimal, the incorporation by reference of these industry published standards does not warrant preparation of a Regulatory Evaluation.

For several years, OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards", encouraged, but did not require, agencies to participate in consensus standards bodies and to adopt voluntary consensus standards whenever possible. The National Technology Transfer and Advancement Act of 1995 (NTTAA, Pub. L. 104–113) codified and expanded the participation and reporting requirement of OMB Circular A–119. Federal agencies and departments are now required to use technical standards that are developed and adopted by voluntary consensus bodies, where practicable. RSPA's proposed adoption of the API and NFPA standards for petroleum storage tanks meets the goals and requirements set forth in both OMB Circular A–119 and NTTAA.

B. Regulatory Flexibility Act

As discussed above, RSPA is proposing the incorporation of consensus standards that were developed and published by authoritative organizations associated with the petroleum industry. Consequently, these safety standards are well known and have been

implemented by operators of aboveground storage tanks at hazardous liquid pipeline terminals throughout the United States. RSPA has had conversations with an operators' association representing these tank farms and with other persons and those parties do not expect this proposal to have a significant economic impact on the smaller operators of breakout tanks. Nonetheless, RSPA is particularly interested in receiving comments from any small business operators believing otherwise.

Moreover, in the event that some operators of breakout tanks have not yet implemented all the safety-related items in these industry developed standards, the regulations proposed in this notice would allow operators 18 months for compliance after the date of publication the final rule.

Therefore, based on the facts available which indicate the anticipated minimal impact of this rulemaking action, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

C. Federal Assessment

The proposed rulemaking action would not have substantial direct effects on states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with the Executive Order 12612 (52 FR 41685; Oct. 30, 1987), RSPA has determined that the action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Unfunded Mandates

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of over $100 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

E. Paperwork Reduction Act

The proposed API Standard 653 includes sample checklists, provided for the operators periodic inspection of welded or riveted, non-refrigerated, atmospheric pressure, aboveground steel storage tanks. The checklists identify the tank components and auxiliary items that should be considered for inspection and provides blank spaces for insertion of the inspection date and notation of the inspector's comments (if any). The use of the checklists improves the effectiveness and minimizes the paperwork burden associated with the existing inspection requirements in 49 CFR Section 195.432. This API standard has been published for several years and during that time it has been available to all operators of petroleum storage tanks (i.e. refinery, marketing, production and pipeline).

For the API Recommended Practices referred to in this rulemaking, it is stated that the operator would be expected to follow the provisions unless the operator notes in the procedural manual the reasons why compliance with all or certain provisions is not necessary for the safety of a particular breakout tank or tanks. Each operator's procedural manual already requires the inclusion and updating of similar safety-related procedures and practices, so that such annotation is consistent with the long standing function of the procedural manual. Moreover, most operators already follow the API Recommended Practices that are proposed for adoption and would not need to make such an annotation in the procedural manual.

Therefore, there is no additional burden and no paperwork analysis is required for this proposal.

List of Subjects in 49 CFR Part 195

Carbon dioxide, Incorporation by reference, Hazardous liquids, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA proposes to amend Part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE [AMENDED]

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Section 195.3 would be amended by adding paragraphs (b)(7),(c)(2)(iv) through (c)(2)(xiv), and (c)(6) and revising paragraph (c)(3)(v) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(b) * * *

(7) National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101.

(c) * * *

(2) * * *

(iv) API Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids" (Eleventh Edition, November 1, 1994).

(v) API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (Ninth Edition, February 1996, Including Addenda 1 and 2).

(vi) API Standard 650 "Welded Steel Tanks for Oil Storage" (Ninth Edition, February 1996 (Including Addenda 1 through 4).

(vii) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (Second Edition, Dec. 1997).

(viii) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tanks Bottoms" (Second Edition, December 1997).

(ix) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (Second Edition, December 1995 (Including Addenda 1 and 2).

(x) API Standard 2000 "Venting Atmospheric and Low-Pressure Storage Tanks" (Fourth Edition, September 1992).

(xi) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents' (Fifth Edition, December 1991).

(xii) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (Second Edition, April 1998).

(xiii) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (Second Edition, January 1996).

(xiv) API Standard 2510 "Design and Construction of LPG Installations" (Seventh Edition, May 1995).

* * * * *

(3) * * *

(v) ASME Boiler and Pressure Vessel Code, Section VIII "Pressure Vessels," Division 1 and 2. (1995 edition with 1995 Addenda).

* * * * *

(6) National Fire Protection Association (NFPA):

(i) ANSI/NFPA 30 "Flammable and Combustible Liquids Code," (1996).

(ii) [Reserved]

3. Section 195.132 would be revised to read as follows:

§ 195.132 Design and construction of breakout tanks.

(a) Breakout tanks must be designed and constructed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

(b) For aboveground breakout tanks first placed in service on or after [18

months after date of publication of final rule], compliance with paragraph (a) of this section requires one of the following:

(1) Shop-fabricated, vertical, cylindrical, closed top, welded steel tanks with nominal capacities of 90 to 750 barrels (14.3 to 119.2 m^3) and internal pressures that are approximately atmospheric must be designed and constructed in accordance with API Specification 12F.

(2) Welded, low-pressure (i.e., internal vapor space not greater than 15 psig (103.4 kPa)), carbon steel tanks that have wall shapes that can be generated by a single vertical axis of revolution must be designed and constructed in accordance with API Standard 620.

(3) Vertical, cylindrical, welded steel tanks with pressures approximating atmospheric pressures (i.e., internal vapor pressures not greater than 2.5 psig (17.2 kPa), or not greater than the weight of the roof plates) must be designed and constructed in accordance with API Standard 650.

(4) High pressure steel tanks (i.e., pressures in their gas or vapor space greater than 15 psig (103.4 kPa)) with a nominal capacity of 2000 gallons (7571 liters) or more of liquefied petroleum gas (LPG) must be designed and constructed in accordance with API Standard 2510.

4. Section 195.205 would be added to read as follows:

§ 195.205 Repair, alteration and reconstruction of breakout tanks that have been in service.

(a) Breakout tanks that have been repaired, altered, or reconstructed and returned to service must be capable of withstanding the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

(b) On or after [18 months after date of publication of final rule], compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For atmospheric pressure tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and others (such as those built to API Standard 650 or its predecessor Standard 12C), repair, alteration, and reconstruction must be in accordance with API Standard 653.

(2) For tanks built to API Specification 12F, API Standard 620, or API Standard 2510, the repair, alteration, and reconstruction, must be in accordance with those respective standards.

5. Section 195.242 would be amended by adding paragraphs (c) and (d) to read as follows:

§ 195.242 Cathodic protection system.

* * * * *

(c) For the bottoms of aboveground breakout tanks, with greater than 500 barrels (79.5 m^3) capacity, built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of a cathodic protection system under paragraph (a) of this section on or after [18 months after date of publication of final rule] must be in accordance with API Recommended Practice 651, unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

(d) For the internal bottom of aboveground breakout tanks, built to API Specification 12F, API Standard 620 and others (such as API Standard 650 or its predecessor Standard 12C), the installation of a tank bottom lining on or after [18 months after date of publication of final rule] must be in accordance with API Recommended Practice 652, unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API Recommended Practice 652 is not necessary for the safety of a particular breakout tank.

6. Section 195.264 would be revised to read as follows:

§ 195.264 Secondary containment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

(b) On or after [18 months after date of publication of final rule], compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of secondary containment must be in accordance with the following sections of NFPA 30:

(i) Secondary containment by impounding around a breakout tank must be installed in accordance with Section 2–3.4.3 "Impounding around Tanks by Diking", except that "hazardous liquids" must be substituted for the term "Class I liquids" wherever that term appears in Section 2–3.4.3; and

(ii) Secondary containment by drainage to a remote impounding area must be installed in accordance with Section 2–3.4.2 "Remote Impounding."

(2) For tanks built to API Standard 2510, the installation of secondary containment must be in accordance with Sections 3 or 9 of API Standard 2510.

(c) Breakout tank areas must be adequately protected against unauthorized entry.

(d) Normal/emergency relief venting must be provided for each atmospheric pressure breakout tank. Pressure/vacuum-relieving devices must be provided for each low-pressure and high-pressure breakout tank.

(e) For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks on or after [18 months after date of publication of final rule], compliance with paragraph (d) of this section requires the following for the tanks specified:

(1) Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specification 12F must be in accordance with Section 4, and Appendices B and C, of API Specification 12F.

(2) Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000.

(3) Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with Section 7 of API Standard 620 and its references to the normal and emergency venting requirements in API Standard 2000.

(4) Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 5 or 9 of API Standard 2510.

7. Section 195.305 would be added to read as follows:

§ 195.305 Pressure testing breakout tanks.

(a) For breakout tanks built to API Specification 12F and first placed in service on or after [18 months after date of publication of final rule], pneumatic testing must be in accordance with Section 5.3 of API Specification 12F.

(b) For breakout tanks built to API Standard 620 and first placed in service on or after [18 months after date of publication of final rule], hydrostatic and pneumatic testing must be in accordance with Section 5.18 of API Standard 620.

(c) For breakout tanks built to API Standard 650 and first placed in service

on or after [18 months after date of publication of final rule], hydrostatic and pneumatic testing must be in accordance with Section 5.3 of API Standard 650.

(d) For atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and others (such as those that were built to API Standard 650 or its predecessor Standard 12C), that are returned to service on or after [18 months after date of publication of final rule], the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in Section 10.3 of API Standard 653.

(e) For breakout tanks built to API Standard 2510 and first placed in service on or after [18 months after date of publication of final rule], pressure testing must be in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 or 2.

8. Section 195.405 would be added to read as follows:

§ 195.405 Protection against ignitions and safe access/egress involving floating roofs.

(a) Protection provided on or after [18 months after date of publication of final rule] against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks, must be in accordance with API Recommended Practice 2003, unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API Recommended Practice 2003 is not necessary for the safety of a particular breakout tank.

(b) The hazards associated with access/egress onto floating roofs of in-service breakout tanks to perform inspection, service, maintenance or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Publication 2026. On or after [18 months after date of publication of final rule] the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Publication 2026 for inclusion in the procedure manual (§ 195.402(c)).

9. Section 195.416 would be amended by adding paragraph (j) to read as follows:

§ 195.416 External corrosion control.

* * * * *

(j) For breakout tanks where corrosion of the tank bottom is controlled by a cathodic protection system, the cathodic protection system must be inspected to ensure it is operated and maintained in accordance with API Recommended Practice 651, unless the operator notes in the procedure manual (§ 195.402(c)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

10. Section 195.428 would be amended by revising the title and by adding paragraphs (c), (d) and (e) to read as follows:

§ 195.428 Overpressure safety devices and overfill protection systems.

* * * * *

(c) Except as provided in paragraph (d) of this section, aboveground breakout tanks must have an overfill protection system in accordance with API Recommended Practice 2350, on or after [18 months after date of publication of final rule], unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API Recommended Practice 2350 is not necessary for the safety of a particular breakout tank. However, API Recommended Practice 2350 does not apply to tanks with less than 600 gallons (2271 liters) of storage capacity.

(d) Breakout tanks that were built to API Standard 2510 must have an overfill protection system in accordance with Section 5.1.2 of API Std. 2510 on or after [18 months after date of publication of final rule].

(e) The inspection and testing of each overfill protection system on or after [18 months after date of publication of final rule] must be in accordance with the requirements for inspection and testing of pressure control equipment in paragraphs (a) and (b) of this section.

11. Section 195.432 would be revised to read as follows:

§ 195.432 Inspection of in service Breakout tanks.

(a) Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each breakout tank (including atmospheric and pressure tanks).

(b) On or after [18 months after date of publication of final rule], compliance with paragraph (a) of this section for the inspection of the breakout tanks specified requires the following:

(1) For tanks that are constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated (such as atmospheric tanks built to API Standard 650 or its predecessor Standard 12C), the integrity inspection must be in accordance with Section 4 of API Standard 653.

(2) [Reserved].

Issued in Washington, DC on May 15, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–13579 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–97–3251]

RIN 2127–AG67

Consumer Information Regulations; Uniform Tire Quality Grading Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rulemaking action follows the agency's granting of a petition filed by the Association of International Automobile Manufacturers (AIAM) for rulemaking to amend the Uniform Tire Quality Grading Standards (UTQGS) to remove the requirement that vehicle manufacturers provide general UTQGS information to purchasers and potential purchasers at the point of sale of new motor vehicles. That information is normally provided in leaflets that inform customers of the existence of the UTQGS, explain their purpose, and explain how consumers can use UTQGS information in purchasing replacement tires for passenger motor vehicles. Because new passenger cars are typically equipped with tires from any one of a number of tire manufacturers, the leaflets do not contain any information on the tires provided on a specific vehicle.

Pursuant to the AIAM petition, the agency proposes to amend the consumer information regulation by removing the requirement that motor vehicle manufacturers provide general UTQGS information to purchasers and prospective purchasers of new motor vehicles at the point of sale, requiring instead that such information be included in owners' manuals, as some auto manufacturers already do. Elimination of the point-of-sale requirement would remove a burden on motor vehicle manufacturers and dealers, yet should have little effect on consumers. NHTSA believes that the general UTQGS information is of little value to consumers at the point of sale of new vehicles because the vehicles are sold with tires selected by the

manufacturer and the consumer has limited, if any, choice in selecting tire brands and models. Further, consumers normally have little interest in replacement tires when shopping for or purchasing a new vehicle. The agency believes that consumers would be better served by requiring such information to be included in owners' manuals for the future reference of those consumers when purchasing replacement tires. Finally, this action also proposes to delete the definitions of *brake power unit*, *lightly loaded vehicle weight*, *maximum loaded vehicle weight*, and *maximum sustained vehicle speed* from part 575 because they are no longer pertinent to the Consumer Information Regulations.

DATES: Comment closing date: Comments on this notice must be received on or before July 20, 1998.

Proposed effective date: If adopted, the amendments proposed herein would become effective for new motor vehicles introduced more than 180 days following publication of the final rule in the **Federal Register**. Optional early compliance would be permitted beginning on the date of publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number noted above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street SW, Washington, DC 20590. Docket room hours are from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For technical issues, Mr. P.L. Moore, Safety Standards Engineer, Office of Planning and Consumer Programs, Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, telephone (202) 366–5222.

For legal issues: Walter K. Myers, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590; telephone (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Background

Section 30123(e) of Title 49, U.S. Code requires the Secretary of Transportation to prescribe a uniform quality grading system for motor vehicle tires. The purpose of such system is to assist consumers in making informed decisions when purchasing tires.

Authority to implement that requirement was delegated to the Administrator of NHTSA. In accordance with that statutory mandate, NHTSA issued the UTQGS in 49 Code of Federal Regulations (CFR), § 575.104. The UTQGS, applicable to new passenger car tires, in general require motor vehicle and tire manufacturers and tire brand name owners to provide consumers with grading information for each tire of which they are the manufacturer or brand name owner with respect to their tires' relative performance regarding treadwear, traction, and temperature resistance. Excluded from the standards are deep tread, winter-type snow tires, space-saver or temporary-use spare tires, tires with nominal rim diameters of 10 to 12 inches, and limited production tires.

Section 575.6(a) of Title 49, CFR requires that at the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle must provide, in writing and in the English language, the information specified in §§ 575.103 and 575.104 that is applicable to the vehicle and its tires. The required information regarding tires is set forth in § 575.104(d)(1)(iii) which requires the vehicle manufacturer to list all possible grades for traction and temperature resistance and restate verbatim the explanation for each of the three performance areas. The information must also contain a statement referring the reader to the tire sidewall for the specific tire grades for the tires with which the vehicle is equipped. In addition, § 575.6(c) requires each manufacturer of motor vehicles, each brand name owner of tires, and each manufacturer of tires for which there is no brand name owner to provide the information specified in subpart B of part 575 [1] to prospective purchasers at each location at which its vehicles or tires are offered for sale. The subpart B information pertaining to tires specified in § 575.104(d)(1)(ii) is also the general information on tire grading with additional specific grade rating information required only of the tire manufacturer or tire brand name owner.

The Petition

The AIAM petitioned the agency to amend 49 CFR 575.6(a), (c), and (d), and the applicable portions of § 575.104(d) to delete the requirement that motor vehicle manufacturers provide UTQGS information to purchasers and prospective purchasers at the point of sale of new vehicles. AIAM argues that new vehicles are sold with tires that are selected by the manufacturers for the particular vehicle models. Thus, the tires are not an item of choice for the vehicle purchaser. AIAM states that UTQGS information can be helpful when consumers are shopping for replacement tires, and that such information would be provided by tire manufacturers or brand name owners as required by the regulation.

AIAM asserts that deletion of the requirement for motor vehicle manufacturers and their dealers to provide UTQGS information for new cars would eliminate unnecessary administrative and paperwork expenses for documents that are of no value to purchasers and prospective purchasers of new motor vehicles. AIAM asserts that in its members' experience, consumers do not ask for this information at new car dealerships.

Finally, AIAM states that some vehicle manufacturers currently include UTQGS information in their owners' manuals where it is available to vehicle owners as a reference when considering the purchase of replacement tires.

Agency Analysis and Proposal

NHTSA has no information on the cost of vehicle manufacturers of supplying UTQGS information at all its sales offices. However, considering that approximately 10 to 12 million vehicles are produced annually equipped with passenger car tires for the U.S. domestic market, the current provisions require many millions of leaflets or brochures, since auto manufacturers are required to provide this information not only to purchasers but to prospective purchasers as well. NHTSA believes that the AIAM point is well taken that purchasers, and especially prospective purchasers of new motor vehicles, would not normally be concerned about replacement tires while shopping for or purchasing a new vehicle.

AIAM makes the point that, although not currently required, some vehicle manufacturers include UTQGS information in their owners' manuals. NHTSA believes that to be an excellent practice and an effective source of UTQGS information since owners' manuals are primary references for vehicle owners regarding virtually all aspects of their vehicles, and remain so for the life of the vehicle. Thus, when vehicle owners are ready to replace their tires, their owner's manual is a convenient source of UTQGS information for their consideration in selecting replacement tires.

NHTSA is persuaded by the AIAM petition that UTQGS information would be of more value to consumers if set forth in owners' manuals rather than in new car show rooms. Accordingly, NHTSA proposes to amend, among other things, § 575.6(a)(1) by requiring

[1] Subpart B of 49 CFR Part 575 includes § 575.103, *Truck-camper loading*; § 575.104, *Uniform tire quality grading standards*; and § 575.105, *Utility vehicles*.

vehicle manufacturers to include § 575.104 information in the owner's manual of each vehicle it produces; and to amend paragraph (d)(1)(iii) of § 575.104 to require that the UTQGS information prescribed in § 575.104, Figure 2, Part II, be included in each vehicle's owner's manual. Those amendments would have the effect of deleting the requirement that vehicle manufacturers provide UTQGS information to purchasers and prospective purchasers of new passenger cars at the point of sale location, and to make that information available to vehicle owners in their owners' manuals. Thus, the information would still be available to consumers, yet would relieve manufacturers of the burden of providing quantities of information of questionable value to purchasers and prospective purchasers of new passenger cars.

NHTSA also proposes to delete the definitions of *brake power unit, lightly loaded vehicle weight, maximum loaded vehicle weight,* and *maximum sustained vehicle speed* from § 575.2(c) because they are no longer pertinent to Part 575. Those definitions applied to §§ 575.101, *Vehicle stopping distance;* 575.102, *Tire reserve load;* and 575.106, *Acceleration and passing ability,* all of which have been removed from Part 575 in previous rulemaking actions. In addition, NHTSA proposes to revise Example 2 in § 575.6(a)(1) to be more representative of the type of tables that might appear in response to § 575.103.

Finally, NHTSA proposes to amend § 575.104(c)(1) to exclude tires with nominal rim diameters of 12 inches or less, rather than tires with nominal rim diameters of 10 to 12 inches. NHTSA is proposing this change in order to eliminate any ambiguity about grading tires smaller than 10 inches, such as tires with rim diameters of 8 inches, that should also be excluded. NHTSA notes that there are few passenger car applications in the U.S. of tires with rim diameters of 12 inches or less.

Issues for NHTSA's Evaluation

As stated above, the objective of the UTOGS is to provide meaningful comparative information to consumers that will assist them in making informed selections when purchasing passenger car tires. NHTSA continues its interest in providing the most effective and efficient ways of promulgating that information. Therefore, in order to obtain additional data for the agency's evaluation of the issues raised in this petition, NHTSA solicits comments on the following specific questions:

1. To what extent do consumers and potential consumers consider the UTOGS information provided by vehicle manufacturers at the point of sale of new passenger cars?

2. What costs are incurred in the preparation, printing, and distribution of UTOGS information at the point of sale of new passenger cars?

3. In what quantities do vehicle manufacturers currently dispense UTOGS information at the point of sale of new passenger cars?

4. How much lead time would be required and what costs would be incurred or saved by vehicle manufacturers by not having to provide UTOGS information at the point of sale, but by having to include such information in owners' manuals?

5. How much time is currently devoted by manufacturers to the preparation and distribution of UTOGS information to purchasers and prospective purchasers of new passenger cars?

6. Should any information be added to or deleted from that UTOGS information currently required?

7. What would be the costs and/or other problems for passenger car manufacturers to provide, in leaflet form or in the owner's manual, the UTOGS ratings for the specific tires provided on each individual vehicle?

Rulemaking Analyses and Notices

(a) *Executive Order 12866 and DOT Regulatory Policies and Procedures.* This document was not reviewed under Executive order 12866, *Regulatory Planning and Review.* NHTSA has analyzed the impact of this rulemaking action and has determined that it is not "significant" under the DOT's regulatory policies and procedures. This proposed action would relieve motor vehicle manufacturers of the requirement to provide UTOGS information to purchasers and prospective purchasers of new motor vehicles at the points of sale of those vehicles, but would require the manufacturers of vehicles equipped with passenger car tires to include that UTOQS information in the owner's manual of each individual such vehicle. Thus, although this proposed action, if finalized, would relieve vehicle manufacturers of one requirement and impose another, NHTSA believes that the cost of adding UTOQS information to owners' manuals, which vehicle manufacturers are already required to provide, would be minimal and in any case, less than the cost of preparing and providing separate UTOQS information at new vehicle dealerships. AIAM pointed out in its petition that some vehicle manufacturers already include UTOQS information in their owners' manuals. NHTSA believes, therefore, that implementation of this proposed regulatory action would result in an as-yet undetermined net overall cost savings to vehicle manufacturers. The agency hopes to receive more specific cost information from the public comments (see question No. 4, Issues for NHTSA's Evaluation, above). The agency believes, however, that any net cost savings would be minimal, therefore not warranting preparation of a full regulatory evaluation.

(b) *Regulatory Flexibility Act.* NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The amendments proposed herein would primarily affect manufacturers of passenger cars and multipurpose passenger vehicles (MPV) that are equipped with passenger car tires. The Small Business Administration (SBA) regulation at 13 CFR part 121 define a small business in part as a business entity "which operates primarily within the United States" (13 CFR 121.105(a)).

SBA's size standards are organized according to Standard Industrial Classification (SIC) codes. SIC code No. 3711, "Motor Vehicles and Passenger Car Bodies," has a small business size standard of 1,000 employees of fewer. SIC code No. 3714, "Motor Vehicle Parts and Accessories," has a small business size standard of 750 or fewer employees.

For manufacturers of passenger cars and MPVs, NHTSA estimates that there are at most 5 small manufacturers of passenger cars in the U.S. Because each such manufacturer serves a niche market, often specializing in replicas or "classic" cars, production for each such manufacturer is fewer than 100 cars per year. Thus, there are at most 500 such cars manufactured per year by U.S. small businesses.

By contrast, NHTSA estimates that there are 9 large manufacturers of passenger cars and light trucks and vans (LTV) in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15.5 million passenger cars and LTVs. Thus, NHTSA does not believe that small businesses manufacture even 0.1 percent of the total U.S. passenger car and LTV production per year.

In view of the above discussion, NHTSA believes that small businesses, small organizations, and small governmental units would be affected

by the proposed amendments only to the extent that there could be a very slight, minimal decrease in the cost of new passenger cars. Thus, the agency has not prepared a preliminary regulatory flexibility analysis.

(c) *Executive Order No. 12612, Federalism.* NHTSA has analyzed this rulemaking action in accordance with the principles and criteria of E.O. 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(d) *National Environmental Policy Act.* NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act and has determined that implementation of this rulemaking action will not have any significant impact on the quality of the human environment.

(e) *Paperwork Reduction Act.* The provisions of the proposed amendments herein requiring manufacturers to provide information in owners' manuals explaining the UTQGS tire quality grades for the benefit of consumers are considered to be third-party information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The information collection requirements for 49 CFR part 575 have been submitted to and approved by OMB pursuant to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* This collection of information authority has been assigned control numbers 2127–0049 for part 575, excluding the UTQGS; and 2127–0519 for § 575.104 (UTQGS).

(f) *Civil Justice Reform.* These proposed amendments would have no retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision of a state may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

Comments

Interested persons are invited to submit comments on the amendments proposed herein. It is requested but not required that any comments be submitted in duplicate (original and 1 copy).

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in concise fashion. Necessary attachments, however may be appended to those comments without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address noted above and 1 copy from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information in 49 CFR part 512, *Confidential Business Information.*

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received after the closing date will be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on today's proposal will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rule docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 575 would be amended as follows:

PART 575—CONSUMER INFORMATION REGULATIONS

1. The authority citation for part 575 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 575.2(c) would be amended by removing the definitions of *Brake power unit, Lightly loaded vehicle weight, Maximum loaded vehicle weight,* and *Maximum sustained vehicle speed.*

3. Section 575.6 would be amended by revising paragraphs (a)(1), (d)(1)(i), (d)(1)(ii), and (d)(2). Section 575.104 would be amended by revising (c)(1); (d)(1)(ii); and (d)(1)(iii), to read as follows:

§ 575.6 Requirements.

(a)(1) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide the Uniform Tire Quality Grading information required by § 575.104(d)(1)(iii) in the owner's manual of each vehicle it produces. The vehicle manufacturer shall also provide to the purchaser, in writing and in the English language, the information specified in § 575.103 of this part that is applicable to that vehicle. The information provided with a vehicle may contain more than one table, but the document must either:

(i) Clearly and unconditionally indicate which of the tables apply to the vehicle with which it is provided, or

(ii) contain a statement on its cover referring the reader to the vehicle certification label for specific information concerning which of the tables apply to that vehicle. If the manufacturer chooses option in paragraph (a)(1)(ii) of this section, the vehicle certification label shall include such specific information.

Example 1. Manufacturer X furnishes a document containing several tables that apply to various groups of vehicles that it produces. The document contains the following notation on its front page: "The information that applies to this vehicle is contained in Table 5." That notation satisfies the requirement.

Example 2. Manufacturer Y furnishes a document containing several tables as in Example 1, with the following notation on its front page:

"Information applies as follows:
Model P. Regular cab, 135 in. (3,430 mm) wheel base—Table 1.
Model P. Club cab, 142 in. (3,607 mm) wheel base—Table 2.
Model Q—Table 3."

This notation does not satisfy the requirement, since it is conditioned on the

model or the equipment of the vehicle with which the document is furnished, and therefore additional information is required to select the proper table.

* * * * *

(d)(1)(i) Except as provided in paragraph (d)(1)(ii) of this section, in the case of all sections of subpart B other than § 575.104, as they apply to information submitted prior to new model introduction, each manufacturer of motor vehicles shall submit to the Administrator 2 copies of the information specified in subpart B of this part that is applicable to the vehicles offered for sale, at least 90 days before information on such vehicles is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section.

(ii) Where an unforeseen preintroduction modification in vehicle design or equipment results in a change in vehicle performance for a characteristic included in subpart B of this part, a manufacturer of motor vehicles may revise information previously furnished under paragraph (d)(1)(i) of this section by submission to the Administrator of 2 copies of the revised information reflecting the performance changes, at least 30 days before information on such vehicles is first provided to prospective purchasers pursuant to paragraph (c) of this section.

(d)(2) In the case of § 575.104, and all other sections of subpart B as they apply to post-introduction changes in information submitted for the current model year, each manufacturer of motor vehicles, each brand name owner of tires, and each manufacturer of tires for which there is no brand name owner shall submit to the Administrator 3 copies of the information specified in subpart B of this part that is applicable to the vehicles or tires offered for sale, at least 30 days before it is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section.

* * * * *

§ 575.104 Uniform Tire Quality Grading Standards.

* * * * *

(c) *Application*: (1) This section applies to new pneumatic tires for use on passenger cars. However, this section does not apply to deep tread, winter-type snow tires, space-saver or temporary use spare tires, tires with nominal rim diameters of 12 inches or less, or to limited production tires as defined in paragraph (c)(2) of this section.

* * * * *

(d) * * * (1) * * *

(ii) In the case of the information required by § 575.6(c) to be furnished to prospective purchasers of tires, each tire manufacturer or band name owner shall, as part of that information, list all possible grades for traction and temperature resistance, and restate verbatim the explanation for each performance area specified in Figure 2. The information need not be in the same format as in Figure 2. The information must indicate clearly and unambiguously the grade in each performance area for each tire of that manufacturer or brand name owner offered for sale at the particular location.

(iii) Each manufacturer of motor vehicles equipped with passenger car tires shall include in the owner's manual of each such vehicle a list of all possible grades for traction and temperature resistance and restate verbatim the explanation for each performance area specified in Figure 2, Part II. The information need not be in the exact format of Figure 2, Part II, but it must contain a statement referring the reader to the tire sidewall for the specific tire grades for the tires with which the vehicle is equipped, as follows:

Uniform Tire Quality Grading

Quality grades can be found where applicable on the tire sidewall between tread shoulder and maximum section width. For example:

Treadwear 200 Traction AA Temperature A

* * * * *

Issued on May 13, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–13277 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–59–M

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Notices

Federal Register
Vol. 63, No. 98
Thursday, May 21, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–050–1]

Availability of an Environmental Assessment and Finding of No Significant Impact for Field Testing Edwardsiella Ictaluri Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and finding of no significant impact concerning authorization to ship for the purpose of field testing and the field testing of an unlicensed live bacterial vaccine for use in catfish. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared. With this notice, we state our intention to authorize shipment of this vaccine for field testing 14 days after the date of this notice, unless new substantial issues bearing on the effects of the action contemplated here are brought to our attention. We also state our intention to issue a veterinary biological product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and finding of no significant impact and the product meets all other requirements for licensure.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the docket number, date, and complete title of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737-1231; telephone (301) 734–5338; fax (301) 734–4314; e-mail jgreenberg@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

In determining whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA). APHIS has concluded that field testing the unlicensed veterinary biological product will not significantly affect the quality of the human environment. Based on this finding of no significant impact (FONSI), we have determined that there is no need to prepare an environmental impact statement.

An EA and FONSI have been prepared by APHIS concerning the field testing of the following unlicensed veterinary biological product:

Requester: Alpharma NW Inc.

Product: Edwardsiella Ictaluri Vaccine, Avirulent Live Culture, Code 1531.R0.

Field test locations: Arkansas, Louisiana, and Mississippi.

The above-mentioned product is an *aro*A gene-deleted bacterial vaccine for use as an aid in preventing enteric septicemia in channel catfish.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to authorize shipment of the above product for the initiation of field tests 14 days from the date of this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA and FONSI that were generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and FONSI, APHIS does not intend to issue a separate EA to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 15th day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–13571 Filed 5–20–98; 8:45 am]
BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Longleaf Ecosystem Restoration Project, National Forests in Alabama, Conecuh National Forest, Covington and Escambia Counties, AL

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Forest Service will prepare an Environmental Impact Statement on a proposal to emphasize expansion of the longleaf ecosystem across the Conecuh National Forest in a systematic five-year program involving:

1. Restoration cuts (regeneration) of 2,334 acres of off-site trees to restore 64 sites to the native longleaf pine/wiregrass ecosystem.
2. Thinning (intermediate cuts) of 1,939 acres of off-site trees (mostly slash pine) on about 56 sites to promote future conversion to the longleaf pine/wiregrass ecosystem.

DATES: Comments concerning this analysis should be received in writing by June 22, 1998.

ADDRESSES: Send written comments to: District Ranger, Conecuh NF, Route 5, Box 157, Andalusia, Alabama 36420.

FOR FURTHER INFORMATION CONTACT: Gary Taylor, District Ranger, Robert Taylor, Silviculturist, Debbie Foley, NEPA Coordinator, Rick Lint, Wildlife Biologist, Telephone number: 334–222–2555, FAX Number: 334–222–6485.

SUPPLEMENTARY INFORMATION:

A. The Proposal

1. Restoration cut (regenerate) 2,334 acres to restore 64 sites from off-site trees (mostly slash pine) to the native longleaf pine/wiregrass ecosystem. Priority will be given to retaining existing longleaf pines on these sites.
2. Thin (intermediate cut) 1,939 acres of off-site trees (mostly slash pine) of 56 sites to favor and promote future conversion to the native longleaf pine/wiregrass ecosystem.
3. Re-establish restoration cut areas with longleaf pine seedlings within five years of cutting. Site preparation would include drum chopping and burning and/or chemical site prep and burning and/or shearing and windrowing of residual brush and logging slash. The type of site preparation prescribed for each site will be the least intensive treatment needed to insure survival of the planted longleaf seedlings.

B. Needs for the Proposal

1. Restore the longleaf pine/sandhills ecosystem to provide more suitable (preferred) habitat for the red-cockaded woodpecker (RCW) to aid in recovery. RCW is an endangered species.
2. Return acreage occupied by other tree species to native longleaf pine and promote recovery of the longleaf ecosystem.
3. Establish a systematic program to aid in longleaf ecosystem restoration.
4. Implement the goals and objectives of the Forest Plan. Specifically, to protect habitat and improve conditions for threatened, endangered and sensitive species occurring on National Forest lands

C. Nature and Scope of the Decision To Be Made

Whether, and to what extent to, implement an accelerated program of restoring sites to longleaf pine and associated understory species. Historically, these sites were part of the longleaf pine/sandhills ecosystem but now contain off-site species that were artificially introduced.

In the late 1960's and early 1970's regeneration of longleaf pine was difficult and often unsuccessful. Longleaf is more difficult to plant than other southern pines and most research on growing longleaf has only been done in recent years. Currently, about 13,000 acres (about 23%) of native longleaf pine sites on the Conecuh National Forest are forested in slash, loblolly, and in some cases sand pine. Of this, about 10,000 acres were planted to other species (now considered off-site) and about 3,000 acres reverted due to exclusion of fire from an ecosystem that evolved with and, is dependent on, fire. With the exclusion of fire, less tolerant species flourished in the Conecuh National Forest. The longleaf pine/sandhills ecosystem once encompassed some 90+ million acres ranging from Southern Virginia to East Texas. This acreage has been reduced to less than 3 million acres today due to conversion of forests to agriculture and urban areas, as well as conversion to other species.

Beginning in 1987, through applied research, the availability of containerized seedlings, and experience, managers became very successful at planting longleaf pine with the expectation of adequate survival. Seedling survival on the Conecuh National Forest now averages about 90%.

Many sensitive, threatened, and endangered plants and animals depend on this ecosystem for survival of their species. The staff of the Conecuh National Forest is committed to restoring this ecosystem on the native sites best suited to this important forest ecosystem.

D. Proposed Scoping Process

The scoping period associated with this NOI will be thirty (30) days in length, beginning the day after publication of this notice. A public tour will be held on June 5 and 6 from 9 am until 1 pm. These tours are intended to show interested individuals a few of the sites proposed for treatment, as well as similar sites that have been treated in the past few years. These tours will serve as the public scoping meeting.

Scoping for this proposal began in February 1997 when initial information was shared with the public and plans were to document the analysis in an Environmental Analysis. The proposal has been refined since that time and some preliminary issues and alternatives have been developed (and are included in this notice). A decision to proceed with an Environmental Impact Statement has been made due to potential effects for the RCW and the possible need for Formal Consultation with the Fish and Wildlife Service (USDI). Thus, an additional scoping period is being conducted at this time.

The Conecuh National Forest is seeking additional information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the Draft Environmental Impact Statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives.

A. Preliminary Issues Identified to Date Include

1. What impacts will the release of woody/brushy understory vegetation resulting from thinning treatments have on the efforts to restore historic longleaf ecosystem understory?
2. Can the existing longleaf ecosystem understory species be protected and maintained during implementation of the silviculture treatments (cutting and site preparation)? Currently, many of these stands have a desirable understory and care should be taken to tailor site preparation methods so as to preserve this understory.
3. What short and long-term impacts will there be on the recreational

experience along the Conecuh Trail? Five stands proposed for cutting are visible from the trail and concern exists to protect the scenic value along the trail.

4. Do the long-term benefits of this project to Conecuh National Forest ecosystem restoration efforts justify the costs of reforestation at this time? Short-term economic impacts of the proposed action verses the ecological benefits of the restoration was questioned.

5. Can off-site treatments to restore the longleaf ecosystem be implemented in order to have long-term (and possible short-term) benefits to the red-cocked woodpecker (RCW) while having no negative impacts to the existing RCW population?

6. Long-term ecological concerns/benefits need to take priority over economic incentives. A concern was raised that economic benefits and support of the timber industry should be secondary to long-term ecological needs.

7. Impacts of timber harvest to recreational uses (other than the Conecuh Trail).

8. Importance of downed logs for rare amphibians, especially near known dusky gopher frog breeding ponds.

9. Protection of soil and water resources.

10. Scope/size of the project (whether an EIS might be needed instead of an EA).

11. Fragmentation (concern not to increase).

12. Early successional age class direction in the Land Management Plan (LMP). According to the LMP, early successional habitat should range from a minimum of 6% to a maximum of 17% per habitat unit.

13. Big Bay (Bear Bay) roadless criteria.

14. Cumulative effects. Whether cumulative effects could be adequately evaluated with a project of this magnitude.

B. Possible Alternatives Identified to Date Include

1. No Action: This alternative will serve as a baseline for comparison of alternatives. This alternative will be fully developed and analyzed.

2. Proposed Action: As listed above, this alternative would include a five-year systematic program of thinning and restoration cuts, including site preparation methods proven to result in fully stocked stands of free to grow seedlings in three to five years after cutting is complete.

3. Modified Proposed Action that takes a more conservative approach to longleaf ecosystem restoration with fewer restoration cuts and more thinning. Age class distributions relevant to existing RCW guidance would be given more consideration than long-term ecosystem needs.

4. Follow our normal order of entry into compartments as recommended in the Forest Land Management Plan. This would result in treatment of approximately 78% of the original proposal and reduce the scope of the project.

5. Modified proposed action that is more sensitive to the economic impacts of establishing the new longleaf stands. The majority of the timber to be sold from the regeneration and thinning is pulpwood, thus expected revenues will not cover the cost of site preparation and planting of longleaf in the areas. This alternative will assess ways to reduce the cost of reforestation. This would be accomplished by: (a) Reducing the minimum acceptable stocking per acre; (b) reducing the number of trees planted per acre; (c) reducing acceptable survival rates; and (d) doing the minimum site preparation to accomplish (a). This alternative will also look at other possible funding sources for planting. For example, the National Forest Foundation and American Forests Global Re-Leaf program are two possible non-governmental funding sources that have provided funding in the past. Also, a national initiative for ecosystem restoration funding would fit this project nicely and help in the funding to establish the new stands of longleaf.

6. Treat every known off-site stand (approximately 13,000 acres) by either thinning or restoring to longleaf at this time.

7. Modified Proposed Action that places more emphasis on RCW areas in the Boggy Hollow area and on the western side of the CNF.

8. Modified Proposed Action that would drop all proposed treatments for compartments 34 and 48. This was previously identified on the RARE II inventory (Big Bay).

9. Uneven-age Management. Consider whether the purpose and need could be accomplished with this management regime.

C. Special Permit Needs

There are no special permits required from any State or Federal agencies in order to implement this project.

D. Lead Agency

The USDA Forest Service is the lead agency for this project. The Fish and Wildlife Service (USDI) has been involved with this proposal since inception and will continue to be throughout this analysis. Formal consultation may be required in order to implement one or more of the alternatives.

The Conecuh Ranger District requests that comments be as specific as possible for this proposal and be sent to: District Ranger Gary L. Taylor, USDA, Forest Service, Route 5 Box 157, Andalusia, Alabama 36420.

It is estimated that the draft EIS will be available for public comment by August 15, 1998. It is very important that those interested in this proposed action participate at this time. To be helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewers' position and contentions: *Vermon Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS). *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

Estimated Date for FEIS

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the FEIS. The final is scheduled to be completed by November 1998. The responsible official will consider the comments, responses, environmental consequences discussed in the final supplement, applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 215. The responsible official for this project will be Gary L. Taylor, District Ranger for the Conecuh Ranger District, National Forests in Alabama at: Route 5 Box 157, Andalusia, Alabama 36420.

Dated: May 15, 1998.

Gary L. Taylor,

District Ranger.

[FR Doc. 98–13544 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–52–M

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Coeur d'Alene, Idaho, June 4–6, 1998. The purpose of the meeting is to review the status of the Council's annual report, continue discussion on emerging issues in Urban and Community Forestry, and determine the grant categories for the 1999 Challenge Cost-Share grant program.

DATES: The meeting will be held June 4–6, 1998.

ADDRESSES: The meeting will be held at the Shilo Inn, 702 W. Appleway, Coeur d'Alene, Idaho. A tour of local projects will be available June 4, 9:00 a.m.–4:00 p.m.

Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 1042 Park West Court, Glenwood Springs, CO 81601.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, (970) 928–9264.

SUPPLEMENTARY INFORMATION: The Challenge Cost-Share grant categories, identified by the Council, are advertised annually to solicit proposals for projects to advance the knowledge of, and promote interest in, urban and community forestry. Pursuant to 5 U.S.C. 552b(c)(9)(B), the meeting will be closed from approximately 8:30 to 10:00 a.m. on June 6 in order for the Council to determine the categories for the 1999 Challenge Cost-Share grant program. Otherwise, the meeting is open to the public

Person who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals, who have made written requests by May 22, will have the opportunity to address the Council at those sessions. Council discussion is limited to Forest Service staff and Council members.

Dated: May 15, 1998.

Dan Glickman,

Secretary, Department of Agriculture.

[FR Doc. 98–13598 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Maricopa-Stanfield Watershed, Pinal County, Arizona

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Maricopa-Stanfield Watershed, Pinal County, Arizona.

FOR FURTHER INFORMATION CONTACT: Michael Somerville, State Conservation, Natural Resources Conservation Service, 3003 North Central Avenue, Suite 800, Phoenix, Arizona, 85012. Telephone: (602) 280–8808.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environmental. As a result of these findings, Michael Somerville, State Conservation, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are agricultural water management and includes a mixture of land treatment and management practices to conserve irrigation water. The planned works of improvement include irrigation land leveling, suitable irrigation water conveyance, structures for turnouts and water measurement for irrigation water management, and plant, and fertility management practices (not cost-shared) including irrigation water management, crop residue use, conservation cropping sequence, appropriate erosion control practices as needed, nutrient management and pest management.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on the file and may be reviewed by contacting Don Paulus, at (602) 280–8780.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: May 8, 1998.

Michael Somerville,

State Conservation.

[FR Doc. 98–13597 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural-Business Cooperative Service

Notice of Request for Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request a reinstatement of an information collection in support of the program for "Rural Development Loan Servicing."

DATES: Comments on this notice must be received by July 20, 1998, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: David W. Lewis, Loan Specialist, Rural Business-Cooperative Service, USDA, Stop 3224, 1400 Independence Ave., SW, Washington, DC 20250–3224, Telephone: (202) 690–0797.

SUPPLEMENTARY INFORMATION:

Title: Rural Development Loan Servicing.

OMB Number: 0570–0015.

Expiration Date of Approval: April 30, 1998.

Type of Request: Reinstatement of Information Collection.

Abstract: This regulation is for servicing and liquidating loans made by

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the Rural Business-Cooperative Service (RBS), under the Intermediary Relending Program (IRP) to eligible IRP intermediaries and applies to ultimate recipients and other involved parties. This regulation is also for servicing the existing Rural Development Loan Fund (RDLF) loans previously approved and administered by the U.S. Department of Health and Human Services (HHS) under 45 CFR part 1076. The objective of the IRP is to improve community facilities and employment opportunities and increase economic activity in rural areas by financing business facilities and community development. This purpose is achieved through loans made by RBS to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community development. The regulations contain various requirements for information from the intermediaries and some requirements may cause the intermediary to require information from ultimate recipients. The information requested is vital to RBS for prudent loan servicing, credit decisions and reasonable program monitoring. The provisions of this subpart supersede conflicting provisions of any other subpart.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.02 hours per response.

Respondents: Non-profit corporations, public agencies, and cooperatives.

Estimated number of Respondents: 420.

Estimated number of responses per respondent: 9.96.

Estimated total annual burden on respondents: 12,675 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 14, 1998.

Wilbur T. Peer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 98–13639 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–XY–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

National Sheep Industry Improvement Center; Strategic Plan

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of the 1998 Strategic Plan for the National Sheep Industry Improvement Center. Section 759 of the Federal Agriculture Improvement and Reform Act of 1996, known as the 1996 Farm Bill, requires the National Sheep Industry Improvement Center to submit a yearly strategic plan to the Secretary of Agriculture. That plan is now available to the public.

ADDRESSES: Requests for copies of the Plan should be directed to Jay B. Wilson, Executive Director, National Sheep Industry Improvement Center, Denver Federal Center, Building 20, Room A1311, P.O. Box 281028, Lakewood, CO 80228–1028. Phone (303)–236–2858. FAX: (303)–236–7683.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson at Phone (303)–236–2858 or Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Cooperative Services, RBS, USDA, 1400 Independence Ave, SW, Stop 3252, Washington, DC 20250–3252, telephone (202) 690–0368, (This is not a toll free number.) FAX 202–690-2723, or e-mail thomas.stafford@usda.gov.

SUPPLEMENTARY INFORMATION: The Federal Agriculture Improvement and Reform Act of 1996, known as the 1996 Farm Bill, established a National Sheep Industry Improvement Center. The Center is to (1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States; (2) optimize the use of available human capital and resources within the sheep or goat industries; (3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to special needs of the sheep or goat industries on both a regional and national basis; and (5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry. The Center has a Revolving Fund established in the Treasury to carry out the purposes of the Center. The Act requires the Center to submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

The strategic plan is required to identify (1) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center; (2) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan; (3) funding priorities; (4) selection criteria for funding; and (5) a method of distributing funding. In addition, the Plan summarizes the sheep and goat industries' needs and problems as determined from a series of public hearings.

The Board of Directors has submitted this plan to the Secretary of Agriculture and wishes to make it available to the public.

Dated: May 13, 1998.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 98–13471 Filed 5–20–98; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees on the African American Population, on the American Indian and Alaska Native Populations, on the Asian and Pacific Islander Populations, and on the Hispanic Population

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a joint meeting followed by separate and concurrently held meetings of the Census Advisory Committee (CAC) on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population.

Each of the Committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the population totals from Census 2000 and on ways that decennial census data can be disseminated to maximize their usefulness to these communities and other users.

The Committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of their members to provide advice and recommendations during the research and development, design, planning, and implementation phases of Census 2000.

DATES: The joint meeting will convene on June 4–5, 1998. The June 4 meeting will begin at 8:30 a.m. and end at 5 p.m; the June 5 meeting will begin at 8:45 a.m. and end at 4:45 p.m.

ADDRESSES: The meeting will take place at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Anyone wishing additional information about this meeting, or who wishes to submit written statements or questions, may contact Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 1649, Federal Building 3, Washington, DC 20233, telephone 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the June 4 combined meeting, which will begin at 8:30 a.m. and end at 5 p.m., will include: (1) introductory remarks and update; (2) updates on Dress Rehearsal operations and activities and on Census 2000; (3) observation reports on the Dress Rehearsal; and (4) advertising strategy for the Dress Rehearsal.

The four committees will meet separately and concurrently from 10 a.m. to 12 noon and from 3:30 p.m. to 5 p.m. The Joint Committee meeting will break for the concurrent meetings. The following are the June 4 agendas for the four committees.

The agenda for the CAC on the African American Population will include: (1) the election of the chair-elect; (2) the review of Committee recommendations and responses; (3) an update on constituency-building; (4) the census information centers reengineered; and (5) a review of topics for next day discussions.

The agenda for the CAC on the American Indian and Alaska Native Populations will include: (1) The review of Committee recommendations and responses; (2) the coding of American Indian Tribes; (3) statistical methodology issues; (4) an update on constituency-building; (5) a status report of state-recognized tribes; (6) the census information centers reengineered; (7) an update on census operations relating to American Indian and Alaska Natives areas; and (8) a review of topics for next day discussions.

The agenda for the CAC on the Asian and Pacific Islander Populations will include: (1) The election of chair-elect; (2) the review of Committee recommendations and responses; (3) an update on Hawaiian homelands; (4) a status report on the hiring of partnership specialists; (5) the census information centers reengineered; and (6) a review of topics for next day discussions.

The agenda for the CAC on the Hispanic Population will include: (1) the election of the chair-elect; (2) a review of Committee recommendations and responses; (3) an update on constituency-building; (4) the census information centers reengineered; and (5) a review of topics for next day discussions.

The agenda for the June 5 combined meeting, which will begin at 8:45 a.m. and end at 4:45 p.m., includes: (1) Sampling and estimation in the Dress Rehearsal and in Census 2000; (2) how do we evaluate the Dress Rehearsal and Census 2000?; (3) recruitment and hiring procedures for field operations; (4) topic sessions on reengineered address list operation and on plans for Census 2000 data products; (5) how do we get the communities involved in Census 2000?; (6) an Advisory Committee conversation; (7) Committee recommendations; and, (8) public comment.

On June 5, the four committees will meet separately and concurrently from 11:45 a.m. to 1:45 p.m. The Joint Committee will break for these concurrent meetings. Each of the four Committees (African American Population, American Indian and Alaska Native Populations, Asian and Pacific Islander Populations, and Hispanic Population) will address draft recommendations.

All meetings are open to the public, and a brief period is set aside on June 5 during the closing session for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least three days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Dated: May 18, 1998.

Bradford R. Huther,

Deputy Director, Bureau of the Census.

[FR Doc. 98–13671 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/10/98–5/15/98

Firm name	Address	Date petition accepted	Product
Shepard Clothing Company, Inc.	800 Acushnet Avenue, New Benford, MA 02741.	04/14/98	Mens and boys suits, jackets and blazers.

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LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/10/98–5/15/98—Continued

Firm name	Address	Date petition accepted	Product
Louisiana Royal Seafood, Inc.	1031 Frank Wyatt, Breaux Bridge, LA 70517.	04/14/98	Processed crab meat and boiled crabs.
F.E. Hale Manufacturing Company	650 West German Street, Herkimer, NY 13350.	04/14/98	Wooden bookcases made of birch, oak and walnut.
A & J Industries, Inc.	213 North Sunnylane, Moore, OK 73153.	04/14/98	Printed circuit boards.
Aggregate Machinery, Inc. dba Thunderbird II	3575 Blossom Drive NE, Salem, OR 97305.	04/16/98	Portable crushers, sorters and screeners, and conveyors.
Contech Manufacturing, Inc.	3400 NE Robson Road, Claremore, OK 74017.	04/21/98	Parts for submersible pumps, chisels, wedges, metal carts, and shovels.
NOA Medical Industries, Inc.	801 Terry Land, Washington, MO 63090.	05/01/98	Hospital/nursing home beds and tables.
ULU Factory, Inc. (The)	298 East Ship Creek Avenue, Anchorage, AK 99501.	05/01/98	Stainless steel alloy knives, silver and gold jewelry, knife handles, sharpeners and wood cutting blocks.
Westin-Nielsen Corporation	4301 White Bear Parkway, St. Paul, MN 55110.	05/01/98	Upholstered chairs with wood frames and swivel chairs with internal wood frame.
Jefferson Mills, Inc.	P.O. Box 698, Pulaski, VA 24301.	05/01/98	Textured nylon and polyester yarn.
G.A. Braun, Inc.	461 E. Brighton Avenue, Syracuse, NY 13205.	05/04/98	Commercial industrial laundry equipment and textile dyeing equipment.
Tech Laboratories, Inc.	955 Belmont Avenue, Haledon, NJ 07508.	05/05/98	Rotary switches, single and three phase transformers, printed circuit boards.
Tridan Tool & Machine, Inc.	130 North Jackson, Danville, IL 61834.	05/05/98	Machinery for bending and forming air conditioning coils and parts for that machinery.
Virginia Plastics Company, Inc.	1701 Midland Road, Salem, VA 24153.	05/06/98	Insulated conducting cable, cable assemblies (cordsets) and printed circuit connectors.
Desert Glass Works, Inc.	2801 North El Paso Street, Colorado Springs, CO 80907.	05/07/98	Machines and parts for semiconductor devices—quartzware tanks, carriers and furnace parts.
Millennium Food Technologies, L.C.	701 North 15th Street, Suite 500, St. Louis, MO 63103.	05/12/98	Confections, condiments, snackfoods and personal care items (body washes, shampoos and oils).
Gastineau Log Homes, Inc.	10423 Old Highway 54, New Bloomfield, MO 65063.	05/12/98	Red oak logs and log home kits.
Hofmann & Leavy, Inc.	3251 Southwest 13th Drive, Deerfield Beach, FL 33442.	05/12/98	Ornamental trimmings—tassles, pompoms and similar articles of cotton or man made fibers.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 14, 1998.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 98–13551 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Export Administration; Notice of Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration (PECSEA) will be held June 17, 1998, 9:00 a.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Administration export control initiatives.
4. Task Force reports.

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below: Ms. Lee Ann Carpenter, OAS/EA MS: 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 16, 1997, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: May 15, 1998.

William V. Skidmore,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 98–13464 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

National Telecommunication's and Information Administration

Meeting for the Spectrum Planning and Advisory Committee (SPAC)

AGENCY: National Telecommunication's and Information Administration, Commerce.

ACTION: Notice of meeting, Spectrum Planning and Policy Advisory Committee (SPAC).

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix, notice is hereby given that the Spectrum Planning and Policy Advisory Committee (SPAC) will meet on June 12, 1998 from 9:30 a.m. to 5 p.m. in Room 1605 at the United States Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC.

The Committee was established on July 19, 1965 as the Frequency Management Advisory Council (FMAC). The name was changed in April, 1991, and in July, 1993, to reflect the increased scope of its mission. The objective of the Committee is to advise the Secretary of Commerce on radio frequency spectrum planning matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Committee consists of nineteen members, fifteen from the private sector, and four from the Federal Government, whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Discussion of GPS Spectrum Issues for WRC–99;

(2) Present and Future Spectrum Management Actions;

(3) ITU Conferences (D Sector, Plenipot, WRC–99); and

(4) Public Safety Program update.

The meeting will be open to public observations. Public entrance to the building through the main entrance is on 14th Street midway between Pennsylvania Avenue and Constitution Avenue. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before June 1, 1998. Other public statements regarding Committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Federal Information Relay Service (FIPS) on 1–800–877–8339.

Copies of the minutes will be available upon request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to the Executive Secretary, SPAC, Mr. Richard A. Lancaster, National Telecommunications and Information Administration, Room 4082, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–4487.

Dated: May 14, 1998.

Richard A. Lancaster,

Executive Secretary, Spectrum Planning and Policy Advisory Committee, National Telecommunication's and Information Administration.

[FR Doc. 98–13505 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–60–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing and Increasing Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

May 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing and increasing limits.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information in the quota status of these limits, refer to the Quota Status Reports posted on the

bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In a Memorandum of Understanding dated April 24, 1998, the Governments of the United States and Turkey agreed, among other things, to establish a limit for cotton and man-made fiber textile products in Categories 352/652 for periods beginning on June 1, 1998 and extending through December 31, 2002. The first period will be prorated, June 1, 1998 through December 31, 1998, followed by four consecutive one-year periods. Also, agreement was reached to increase the 1998 base limits for Categories 338–S/339–S/638–S/639–S and 410. Flexibility adjustments previously applied to Categories 338–S/339–S/638–S/639–S and 410 are being adjusted accordingly.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a prorated limit for Categories 352/652 for the period June 1, 1998 through December 31, 1998 and to adjust the current limits for Categories 338–S/339–S/638–S/639–S and 410.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67839, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements.

May 14, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in turkey and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on May 21, 1998, you are directed to establish a limit for Categories 352/652 for the period June 1, 1998 through December 31, 1998 and to increase the current limits for Categories 338–S/339–S/638–S/639–S and 410, pursuant to a Memorandum of Understanding dated April 24, 1998 between the Governments of the United States and Turkey, and as provided for under the Uruguay Round Agreement on Textiles and Clothing (ATC):

Category	New and adjusted limits [1]
338/339/638/639	5,907,500 dozen of which not more than 5,100,324 dozen shall be in Categories 338–S/339–S/638–S/639–S[2].
352/652	1,700,274 dozen.
410/624	1,302,343 square meters of which not more than 959,923 square meters shall be in Category 410.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997 and May 31, 1998 (Categories 352/652).

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.100030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.001, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 611090.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–13466 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

May 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 21, 1998.

FOR FURTHER INFORMATION CONTACT:

Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 63528, published on December 1, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 14, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 25, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on May 21, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334/634	276,850 dozen.
336/636	234,553 dozen.
340/640	414,978 dozen.
347/348	497,254 dozen of which not more than 254,295 dozen shall be in Categories 347–T/348–T[2].
352	294,572 dozen.

Category	Adjusted twelve-month limit [1]
847	189,593 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6304.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6317.90.9050.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–13467 Filed 5–20–98; 8:45 am]

BILLING CODE 3510–DR–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, May 28, 1998, 10:30 a.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Part Open to the Public; Part Closed.

MATTERS TO BE CONSIDERED:

Open to the Public

1. CPSC Vice Chairman. The Commission will elect a Vice Chairman.

Closed to the Public

2. Compliance Status Report. The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 18, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–13814 Filed 5–19–98; 3:35 pm]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for New Foster Grandparent Projects—Nationwide; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a notice in the **Federal Register** of April 15, 1998, (63 FR 18380) concerning the availability of funds to support Foster Grandparents. The notice contained an incorrect deadline for applications. The new deadline is revised as follows: "Applications must be received by 5 p.m. Eastern Daylight Time, June 26, 1998".

FOR FURTHER INFORMATION CONTACT: Barbara Wilson (202) 606–5000, ext. 261.

Dated: May 15, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–13548 Filed 5–20–98; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for New Retired and Senior Volunteer Projects—Nationwide; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a notice in the **Federal Register** of April 15, 1998, (63 FR 18381) concerning the availability of funds to support RSVP volunteers. The notice contained an incorrect deadline for applications. The new deadline is revised as follows: "Applications must be received by 5 p.m. Eastern Daylight Time, June 26, 1998".

FOR FURTHER INFORMATION CONTACT: Barbara Wilson (202) 606–5000, ext. 261.

Dated: May 15, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–13547 Filed 5–20–98; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for New Senior Companion Projects—Nationwide; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a notice in the **Federal Register** of April 15, 1998, (63 FR 18383) concerning the availability of funds to support a national organization and five of its local affiliates to operate new Senior Companion Projects. The notice contained an incorrect deadline for applications. The new deadline is revised as follows: "Applications must be received by 5 p.m. Eastern Daylight Time, June 26, 1998".

FOR FURTHER INFORMATION CONTACT: Barbara Wilson (202) 606–5000, ext. 261.

Dated: May 15, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–13546 Filed 5–20–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision and General Conformity Determination for Realignment of F/A–18 Aircraft and Operational Functions From Naval Air Station (NAS) Cecil Field, Florida, to Other East Coast Installations

AGENCY: Department of the Navy, DoD.

ACTION: Notice of record of decision.

SUMMARY: The Department of the Navy, after carefully weighing the operational, environmental, and cost implications of relocating F/A–18 aircraft from NAS Cecil Field to other Naval and Marine Corps installations, announces its decision to realign two F/A–18 fleet squadrons to Marine Corps Air Station (MCAS) Beaufort, South Carolina, and nine F/A–18 fleet squadrons and the Fleet Replacement Squadron (FRS) to Naval Air Station (NAS) Oceana, Virginia.

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FOR FURTHER INFORMATION CONTACT: Mr. J. Daniel Cecchini, Atlantic Division Naval Facilities Engineering Command (Code 2032DC), 1510 Gilbert Street, Norfolk, VA 23511–2699, telephone (757) 322–4891.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is provided as follows:

The Department of the Navy (DON), pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687), Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4331 et seq.), and the regulations of the Council on Environmental Quality that implement NEPA procedures (40 CFR Parts 1500–1508), hereby announces its decision to realign two F/A–18 fleet squadrons (24 aircraft and 500 military personnel) to Marine Corps Air Station (MCAS) Beaufort, South Carolina, and nine F/A–18 fleet squadrons and the Fleet Replacement Squadron (FRS) (156 aircraft and 3,700 military and civilian personnel) to Naval Air Station (NAS) Oceana, Virginia. The realignment will be accomplished as set out in Alternative Realignment Scenario (ARS) 2, which is described in the Final Environmental Impact Statement (FEIS).

To support the additional personnel and operation and maintenance of the aircraft, four construction projects are required at MCAS Beaufort; 14 construction projects, primarily consisting of additions to existing facilities, are required at NAS Oceana.

The realignment of the fleet squadrons to MCAS Beaufort will increase aircraft operations at MCAS Beaufort, associated military training areas along the coast of South Carolina and Georgia, and the Townsend Bombing Range in Georgia. The realignment of the fleet squadrons and FRS to NAS Oceana will increase aircraft operations at NAS Oceana, Naval Auxiliary Landing Field (NALF) Fentress, Virginia, and associated military training areas and target ranges located primarily in eastern North Carolina. This includes the Brant Island Shoal (BT–9), Piney Island (BT–11), and Dare County target ranges. Pursuant to Section 176(c) of the Clean Air Act (CAA) (42 U.S.C. 7476(c)), the DON has determined that the realignment of F/A–18 aircraft to NAS Oceana under ARS 2 conforms to Virginia's State Implementation Plan. The entire State of South Carolina is classified as attainment for all criteria pollutants. Therefore, the air quality effects of ARS 2 at MCAS Beaufort are exempt from the General Conformity Rule.

Realignment of the F/A–18 aircraft and operational functions from NAS Cecil Field will begin in 1998 and is expected to be completed in 1999.

Background

The 1993 Defense Base Closure and Realignment Commission (BRAC) recommended closure of NAS Cecil Field and realignment of all of its aircraft and associated personnel to MCAS Cherry Point, North Carolina; MCAS Beaufort, South Carolina; and NAS Oceana, Virginia.

In 1995, the BRAC Commission revised its recommendations regarding realignment of NAS Cecil Field assets by redirecting all aircraft and associated personnel to "* * * other naval air stations, primarily [NAS] Oceana; [MCAS] Beaufort; [NAS] Jacksonville, Florida; [NAS] Atlanta, Georgia; or other Navy or Marine Corps air stations with necessary capacity and support infrastructure." In separate actions, some of the NAS Cecil Field assets have been relocated to NAS Jacksonville (six S–3 ASW squadrons) and NAS Atlanta (two reserve F/A–18 squadrons). This ROD selects a receiving site for the NAS Cecil Field active duty F/A–18 aircraft.

As the 1995 BRAC Commission did not recommend realignment to a specific base, the DON conducted a multi-stage screening process to identify reasonable and feasible alternatives for realignment of NAS Cecil Field F/A–18 active duty aircraft to east/gulf coast Navy or Marine Corps air station(s) with necessary capacity and support infrastructure.

Process

A Notice of Intent (NOI) to prepare an EIS for the transfer of up to ten squadrons of F/A–18 aircraft from NAS Cecil Field to NAS Oceana was published in the **Federal Register** on November 16, 1995. This notice also indicated that separate NEPA documentation would be prepared for the transfer of two operational (active duty) F/A–18 squadrons from NAS Cecil Field to MCAS Beaufort. On August 23, 1996, in recognition of the non-specific language contained in the 1995 BRAC Commission mandates, the DON published an amended NOI in the **Federal Register** indicating its intent to expand its alternatives analysis and to prepare a single comprehensive document for realignment of all operational Atlantic Fleet F/A–18 fleet aircraft and the FRS from NAS Cecil Field. The DON reopened its scoping process and held two additional scoping meetings.

A Notice of Availability (NOA) of the Draft EIS (DEIS) and a Draft CAA Conformity Determination were published in the **Federal Register** on September 19, 1997, and in local newspapers the following week. Seven public hearings were held on the DEIS—one in South Carolina, four in North Carolina, and two in Virginia—between October 20 and November 17, 1997. Approximately 275 individuals, agencies, and organizations submitted comments. All verbal and written comments were addressed in Appendix I of the FEIS.

An NOA of the FEIS and the Final CAA Conformity Determination were published in the **Federal Register** on March 20, 1998, and announced in local newspapers the preceding week. Approximately 440 letters were received on the FEIS during the 30-day public review period; substantive comments are addressed later in this ROD.

Alternatives Considered

The DON screened 20 Navy and Marine Corps air installations located along the Atlantic Coast and the Gulf of Mexico using capacity, support infrastructure, and operational criteria. Only three installations met these criteria—NAS Oceana, MCAS Beaufort, and MCAS Cherry Point.

Because none of the three installations would be able to accommodate all F/A–18 fleet and FRS aircraft without some expansion of existing facilities or new construction, the DON developed alternative realignment scenarios (ARSs) designed to make the best use of excess capacity at each installation.

ARS 1 proposed realigning all 11 F/A–18 fleet squadrons and the FRS at NAS Oceana. This was identified in the FEIS as an operationally preferred alternative because single-siting the Atlantic Fleet F/A–18 Strike/Fighter Wing would provide the same configuration that currently exists at NAS Cecil field. This alternative expands capacity at NAS Oceana and requires 14 construction projects.

ARS 2 proposed realigning two F/A–18 fleet squadrons to MCAS Beaufort and nine F/A–18 fleet squadrons and the FRS to NAS Oceana. This was identified in the FEIS as an operationally acceptable alternative because it would: result in the least degradation of single-site benefits; fully utilize excess capacity at both NAS Oceana and MCAS Beaufort; take advantage of the F/A–18 training facilities that currently exist at MCAS Beaufort; and result in only slightly higher construction and life-cycle costs than ARS 1. It requires some construction at NAS Oceana, but is the lowest cost dual-site alternative.

ARS 3 proposed realigning three F/A–18 fleet squadrons to MCAS Cherry

Point and eight F/A–18 fleet squadrons and the FRS to NAS Oceana. This alternative maximizes the use of existing hangar and apron capacity at MCAS Cherry Point and sends the remaining assets to NAS Oceana. This alternative requires some construction at NAS Oceana.

ARS 4 proposed realigning five F/A–18 fleet squadrons to MCAS Beaufort and six F/A–18 fleet squadrons and the FRS to NAS Oceana. This alternative expands capacity at MCAS Beaufort and requires some construction at NAS Oceana. It utilizes all available capacity at NAS Oceana and reduces noise and air quality impacts at NAS Oceana and NALF Fentress.

ARS 5 proposed realigning five F/A–18 fleet squadrons to MCAS Cherry Point and six F/A–18 fleet squadrons and the FRS to NAS Oceana. This alternative expands capacity at MCAS Cherry Point and requires some construction at NAS Oceana. It utilizes all available capacity at NAS Oceana and reduces noise and air quality impacts at NAS Oceana and NALF Fentress. ARS 5 is the environmentally preferred alternative.

Environmental Impacts

The DON analyzed the potential impacts of all ARSs on: airfield operations; military training areas; target ranges; land use; socioeconomics and community services; infrastructure and utilities; transportation; noise; air quality; topography, geology and soils; water resources; vegetation and wildlife; wetlands; cultural resources; hazardous materials and waste management; and installation restoration programs. The DON also considered the potential cumulative impacts of the project and whether the proposed action would be consistent with federal policies addressing environmental justice.

Since the DON has decided to implement ARS 2, this ROD focuses on the major impacts of ARS 2 at MCAS Beaufort and NAS Oceana. ARS 2 creates significant land use and noise impacts at MCAS Beaufort and NAS Oceana. Impacts on all other resources or functions analyzed in the FEIS were less than significant.

Land Use

Increases in airfield operations at MCAS Beaufort and NAS Oceana will result in the expansion of aircraft noise zones and the expansion and reconfiguration of accident potential zones (APZs). The expansion of APZs and noise zones has the potential to adversely affect use of land underlying the APZs and noise zones. Certain land uses, such as residential development, are considered incompatible with noise zone III where the day-night average noise level (Ldn) is greater than 75dB(A). High-density residential and commercial development is also considered incompatible land use in APZs.

Impacts to future private development actions may occur as a result of implementing ARS 2 because additional area may be subject to development restrictions in local airfield encroachment zones. The City of Beaufort has in place an ordinance that requires disclosure when selling property within the Beaufort noise zones. The City of Virginia Beach's airfield noise attenuation and safety ordinance places additional requirements (i.e., noise attenuation) on private development in high aircraft noise areas within the 1978 Air Installations Compatible Use Zones (AICUZ) noise zones. Although the ARS 2 footprint is larger than the 1978 AICUZ footprint at NAS Oceana, 1 landowners would be able to continue development based on existing property zoning and applicable sound attenuation requirements.

In addition, the U.S. Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), and the U.S. Department of Veterans Affairs (VA) restrict the availability of mortgage loans for existing and new homes in noise zones II (i.e. 65–75 dB(A) Ldn) and III (i.e. greater than 75 dB(A) Ldn) and the APZs nearest the runways (i.e. the clear zones).

APZs will expand by 1,894 acres around MCAS Beaufort compared to the 1994 AICUZ. Thirteen percent of this area is residential. APZ expansion at MCAS Beaufort is driven by an increase in the number and type of operations flown by Navy F/A–18 aircraft.

Changes in APZs around NAS Oceana are a result of two different factors. Changes between 1978 APZs and 1997 APZs at NAS Oceana are due in large part to a change in the criteria used by the DON to develop APZs. The result of this change is that APZs will expand by 2,759 and 3,473 acres around NAS Oceana and NALF Fentress, respectively, compared to the 1978 AICUZ. Changes in APZs from 1997 to 1999 reflect the addition of Navy F/A–18 operations as a result of this ROD causing a 1,751 acre APZ increase around NAS Oceana. There would be no change in the size of the APZ around NALF Fentress from addition of the F/A–18 aircraft. Forty-one percent of the total projected NAS Oceana APZ area and five percent of the total projected NALF Fentress APZ areas are residential.

Individuals living or working within an APZ are slightly more at risk from an aircraft accident, in the unlikely event that one occurs, than others living or working near NAS Oceana, NALF Fentress, or MCAS Beaufort outside designated APZs.

Noise

Expansion of noise zones under ARS 2 also has the potential to adversely affect public health and safety. Compared to the 1997 MCAS Beaufort AICUZ, this action will expose 1,659 new people to the 65 to 75 dB(A) Ldn noise zone and 644 new people to the 75+dB(A) Ldn noise zone.

Compared to the 1978 NAS Oceana and NALF Fentress AICUZ, this action will expose 18,486 new people to the 65 to 75 dB(A) Ldn noise zone and 14,668 new people to the 75+dB(A) Ldn noise zone. Compared to the 1997 noise contours and APZs prepared as part of the EIS process, this action will expose 45,852 new people to the 65 to 75 dB(A) Ldn noise zone and 46,781 new people to the 75+dB(A) Ldn noise zone.

Individuals living in 65+dB(A) noise zones may be annoyed and experience interference with daily activities such as sleep, conversation, television viewing, and outdoor recreation. Homeowners may incur costs to ensure that sufficient sound attenuation exists within their dwellings to achieve the Environmental Protection Agency (EPA) desired interior noise level goal of 45 dB(A) Ldn. There is very little probability that long term physical affects, such as hearing loss, will result from exposure to the projected noise levels. A recent study suggests, however, some individuals, particularly children, may temporarily experience stress or elevated blood pressure.

The EIS used public schools as representative sensitive noise receptors to predict impacts. While the discussion of impacts in the FEIS focused on public schools, the impacts discussed in the FEIS could be experienced at private schools and other sensitive receptors as well.

No public schools are located within the 65 dB(A) Ldn or greater noise zone around MCAS Beaufort. Twenty-one public schools in the vicinity of NAS Oceana and NALF Fentress will be within the 65 dB(A) Ldn or greater noise zone with the implementation of ARS 2. Six of these schools are in the 75 dB(A) Ldn or greater noise contour. The projected increases in noise at these schools vary, ranging from an 8 to 20 dB(A) Ldn increase over existing (1997) conditions.

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Studies conducted by Cornell University researchers have shown that learning ability and comprehension may be impaired in children exposed to high noise levels. Local school authorities may incur costs to ensure that sufficient sound attenuation exists within the schools to achieve the EPA desired interior noise level goal of 45 dB(A) Ldn. Exposure to high levels of noise while outdoors in schoolyards cannot be mitigated through sound attenuation.

Schools and Housing

Realignment of two squadrons to MCAS Beaufort involves the transfer of 500 military personnel and 600 dependents to the area. Realignment of nine squadrons and the FRS to NAS Oceana involves the transfer of 3,700 military and civilian personnel and 4,600 dependents to the Hampton Roads area. Most of the relocating families will live off-base due to the lack of on-base housing. Sufficient housing vacancies and school capacity exists in the local community to accommodate this influx of personnel. Therefore, local community services and infrastructure are not expected to be significantly impacted at either MCAS Beaufort or NAS Oceana.

Traffic

Traffic will increase in the vicinity of MCAS Beaufort by 1999 due to the proposed realignment and regional growth exclusive of the realignment. Two roadways in the vicinity of MCAS Beaufort are projected to operate at Level of Service (LOS) F in 1999. However, the projected LOS is attributed to regional growth exclusive of the realignment and the island geography of the region. Traffic volume associated with the realignment is less than 2% of the projected 1999 traffic volume for local roadways.

Regional roadways in the vicinity of NAS Oceana will experience an increase in daily traffic as a result of the personnel increase under ARS 2. In most cases, projected LOS on these roadways will be C or better upon completion of roadway improvements already planned by local governments independent of this action. Some roadway segments along First Colonial Road and Virginia Beach Boulevard will continue to operate at LOS D, E, or F, with or without the realignment. The delay in traffic flow associated with LOS D, E, and F is a result of projected regional growth, not traffic increases associated with ARS 2.

Air Quality

Air emissions at NAS Oceana and NALF Fentress will have a net emission increase of approximately 2 tons per year of volatile organic compounds (VOCs), 349 tons per year of nitrogen oxides (NO_X), 298 tons per year of carbon monoxide (CO), 9 tons per year of sulfur dioxide (SO_2) and 195 tons per year of particulate matter (PM_{10}). The DON completed a conformity determination under Section 176(c) of the CAA and EPA's implementing regulations demonstrating that the projected increases in emissions of ozone precursors (VOC and NO_X) conform to the allowable emissions in the recently revised Commonwealth of Virginia's State Implementation Plan (SIP).

In revising its SIP, Virginia expressly included emission levels associated with the realignment of F/A–18 aircraft from NAS Cecil Field. As part of this realignment decision, I approve the Final CAA Conformity Determination included as Appendix E in the FEIS.

Mitigation

Noise

In response to public comment the DON will request congressional authorization to increase the priority of funding to accelerate the construction schedule of an already planned $12 million aircraft acoustical enclosure ("hush house") at NAS Oceana to reduce noise emissions associated with the high-power, in-aircraft engine maintenance tests.

Land Use

In response to public comment, the DON will also move some local flight pattern operations from runway 5R to runway 5L at NAS Oceana. This mitigation measure will remove the City of Virginia Beach's Brookwood and Plaza Elementary Schools from APZ–2, and decrease the number of people living in the 75 dB Ldn and greater noise zone by 322 individuals.

Response to Comments Received Regarding the Final Environmental Impact Statement

The DON received comments on the FEIS from 1 federal agency, 10 members of Congress and elected state officials, 10 state agencies, 2 local governments, and numerous citizen groups and private individuals. Many of the comments received simply stated support for or opposition to the proposed realignment.

Several commentors suggested that a supplemental EIS was necessary to address additional alternatives. The comments received on the FEIS did not present new or additional information that substantially affected the analysis of environmental impacts in the FEIS. The range of alternatives analyzed in the EIS is based upon the BRAC-directed realignment, provides a logical basis for analysis of environmental impacts and, permits a reasoned choice by the decision-maker. I have reviewed the comments and the range of alternatives and have determined that a supplemental EIS is not warranted.

Other substantive comments received are addressed below by subject matter.

Noise

Sound Attenuation—Many commentors, including EPA, were critical of the lack of discussion of the cost of sound attenuation as mitigation for noise impacts. As indicated in the FEIS, the DON does not have legal authority to expend federal funds on improvements to state, local, or private property. Specific Congressional authorization and appropriation would be required to obtain funds for this purpose. The DON does not intend to request such authority.

In addition, the decision to implement sound attenuation for buildings and homes surrounding the airfields is an individual choice made by local governments, school boards, and individual homeowners. Therefore, any attempt to determine these costs would be speculative in nature.

The FEIS discusses potential sound attenuation such as air conditioning and insulation, and, as requested, the DON will work with local officials to help them conduct detailed engineering evaluations at those schools of particular concern. Upon request, the DON will also provide technical information on sound mitigation to any affected entity in the MCAS Beaufort or NAS Oceana/NALF Fentress regions.

Noise Impacts on Children—Citizens Concerned About Jet Noise noted that the FEIS discussion of impacts on children did not include reference to a study entitled Noise: A Hazard for the Fetus and Newborn (RE9728). In response to that comment, the DON reviewed the study and found it to be not relevant to discussion of noise impacts related to aircraft overflight. The study focused on the type of continuous noise found in the workplace and used a very narrow range of subjects (i.e. those in neonatal intensive care units). The constant workplace noise the study focused on does not correlate to intermittent aircraft noise or the discrete noise events generally associated with an airfield environment. A Cornell University study, Chronic Noise Exposure and Reading Deficits: The Mediating Effects of Language Acquisition (Evans 1997),

which specifically addressed health effects from aircraft noise on children, was used in analyzing impacts associated with aircraft noise in the FEIS.

Property Values

Several commentors criticized the FEIS for not addressing changes in property values due to noise impacts. As discussed in the FEIS, property values are dynamic, vary over time and reflect factors including neighborhood characteristics and individual housing characteristics. Any discussion of changes in property value would, therefore, be too speculative for inclusion in the EIS.

Aircraft Maintenance

Commentors from the State of North Carolina suggested that life cycle costs for facilities at MCAS Cherry Point in ARS 3 and ARS 5 were overstated because they included construction of facilities for, and outfitting of, an F/A–18 Aircraft Intermediate Maintenance Department (AIMD). These commentors suggested that intermediate maintenance work at MCAS Cherry Point in ARS 3 and ARS 5 could be accomplished for a substantially lower cost by using Naval Aviation Depot (NADEP) Cherry Point. In light of these comments, the DON, examined using the NADEP in lieu of a stand-alone AIMD. My evaluation of this issue included a thorough review of Navy AIMD requirements and procedures, a point-by-point analysis of the assertions made regarding NADEP capabilities, and a visit to the NADEP on May 11, 1998. This evaluation confirmed the conclusion that it would be necessary to establish an AIMD at MCAS Cherry Point. The NADEP does not have the excess capacity needed to take on the intermediate maintenance requirement, does not have the capabilities needed to perform AIMD functions, and the additional workload could not be assigned without significant expansion of the facilities, equipment, and workforce at the NADEP. Additionally, the intermediate maintenance workload in support of tactical aircraft needs to be performed by military personnel to ensure maintenance proficiency while deployed and to support sea/shore rotation, technical advancement, and career progression. I also noted that intermediate maintenance on Marine Corps aircraft assigned to Cherry Point is performed by Marine Aircraft Logistical Squadron (MALS), not the NADEP.

Transportation

EPA commented that a peak hour LOS analysis needed to be completed for the roadways around NAS Oceana. NAS Oceana gate count traffic data indicate peak LOS times do not correlate with regional peak traffic flow. Therefore, a peak analysis would not have contributed to the analysis of impacts of the proposed action.

Carbon Monoxide (CO) Hot Spot Analysis

Another commentor suggested that a CO hot spot analysis should have been conducted at heavily used intersections. As discussed in the FEIS, degradation in the LOS would occur on only one on-base roadway segment. No off-base roadway segments would experience degradation of LOS on a long-term basis as a result of the proposed action. Therefore, there is no need to conduct a CO hot spot analysis since the Hampton Roads Planning District Commission traffic study indicated that LOS would not deteriorate due to the planned roadway improvements on roadways that surround the base.

Fuel Handling

EPA asked for more information about potential fuel spills. NAS Oceana has been pro-active in improving its fuel spill prevention, control, and countermeasures in the past few years. Spill response procedures have been and continue to be adequate to handle any spill encountered or expected.

Fuel Dumping

EPA commented on emergency fuel dumping. As noted on pages 4.3–8 and B–1–18 in the FEIS, emergency fuel dumping is extremely rare. DON policy directs that it not occur below 6,000 feet above ground level unless necessary to save the pilot and/or aircraft. In the event of an engine failure on a dual engine fighter, like the F/A–18, the pilot should be able to operate with the remaining engine or climb above 6,000 feet before dumping fuel, thus minimizing the impacts associated with the release of the fuel. (Above 6,000, the fuel has enough time to completely vaporize and dissipate before reaching the ground, and thus has a negligible effect at ground level.) Therefore, any impact from fuel dumping would not be significant.

Sediment and Water Quality Sampling at BT–9/11

EPA recommended gathering more information about sediment quality in target locations. The 1991 Sirrene Study test results for BT–9 which analyzed sediments impacted by approximately 40 years of military bombing activities showed no significant differences in water and sediment quality between the range areas and non-range areas. As a direct result of this study, as indicated in their letter of May 28, 1992, to the Marine Corps, the State of North Carolina determined that continuous monitoring was not required, and future, narrowly focused sampling would only be required as a result of changes in ordnance volume or type, or some indication of significant water or sediment quality degradation.

U.S. Fish and Wildlife Service (USFWS) Red Wolf Re-introduction Program

EPA expressed concern about potential impacts to the Red Wolf. USFWS's only concern has been their continued access to the range to monitor Red Wolf populations. In our response to USFWS comments, set out in Appendix I of the FEIS, the DON agreed to continue to make the range accessible to the USFWS consistent with DON operational use of the range.

Water Supply Issue

One commentor asked for clarification on the water supply sources available to NAS Oceana. In the event of a regional drought, the Navy would rely on an existing Norfolk/Suffolk well pumping contract to assure water for our bases.

Family Housing Costs

The State of North Carolina questioned the family housing costs under ARS 5. Subsequently, the DON conducted a detailed review of all housing costs and other expense items and has identified the following necessary revisions:

1. In ARS 5, the DON inadvertently used the Variable Housing Allowance (VHA) rate for Beaufort, South Carolina, instead of Havelock, North Carolina, to determine family housing costs for five squadrons at MCAS Cherry Point. The change is shown as item 1 in the table below.

2. In all five ARSs, an incorrect number of enlisted bachelor loading was used. The change is shown as item 2 in the table below.

3. In ARS 2, the NAS Oceana off-base bachelor officers housing component was inadvertently omitted. The change is shown as item 3 in the table below.

4. In all five ARSs, Basic Allowance for Quarters (BAQ) was not included since it remains fixed across varying economies. However, since the mix of housing in each ARS varies between on-base and off-base, adding BAQ to the life-cycle cost analysis would improve the accuracy of our analysis. The resulting increase in ARS 1 was

established as the baseline for which adjustments to ARSs 2–5 were made. The change is shown as item 4 on the table below:

	ARS 1 ($M)	ARS 2 ($M)	ARS 3 ($M)	ARS 4 ($M)	ARS 5 ($M)
FEIS	285.3	307.1	465.3	686.4	535.6
Item 1					−9.2
Item 2	−33.7	−33.3	−33.7	−33.7	−33.3
Item 3		5.1			
Item 4		−12.9	−7.8	−75.6	−13.1
Revised	251.6	266.0	423.8	577.1	481.0

The overall effect of these changes is not significant. (Note: Two commentors suggested that the DON use a shorter life-cycle cost analysis than the 30-year analysis performed in the EIS. In response, the DON conducted a 25 year life-cycle analysis for each alternative. The change was not significant.)

Outlying Fields

One commentor suggested that further consideration should be given to the use of outlying fields in addition to or in lieu of NALF Fentress. There are no other outlying airfields within 50 miles of NAS Oceana that could accommodate F/A–18 operations. Chapter 2 of the FEIS discusses the operational and fiscal reasons for establishing a 50-mile limitation.

Seatack Elementary School

One commentor asked for clarification of the location of Seatack Elementary School relative to the new APZs. Under ARS 2, APZ–2 bisects Seatack Elementary school.

Chesapeake Bay Water Quality

EPA expressed concern about potential impacts to the Chesapeake Bay water quality from NO_X emissions. As indicated in the FEIS, the NO_X emissions from the proposed action conform to Virginia's State Implementation Plan. Calculations indicate the net increase in NO_X emissions over the Chesapeake Bay watershed from implementing ARS 2 will be approximately 1 ton per day to the regional airshed. This amount is minor compared to the overall input to the bay from all existing terrestrial and atmospheric sources. Therefore, the affect of the projected increase in air traffic and the associated air emissions over the Chesapeake Bay will be minimal.

State Historic Preservation Determination

Under Section 106 of the National Historic Preservation Act, the Virginia State Historic Preservation Office and the South Carolina Department of Archives and History concurred with the DON's determination that implementation of ARS 2 would have "no effect" on historic properties.

Conclusions

In deciding where to realign F/A–18 fleet and FRS aircraft from NAS Cecil Field, I considered the following: 1995 BRAC Commission recommendations concerning capacity and infrastructure; F/A–18 operational requirements; costs associated with construction of facilities, operation and maintenance of aircraft, and training of personnel; environmental impacts; and comments received during the DEIS and FEIS public review periods.

I have analyzed and carefully weighed all of these factors and have decided, on behalf of the DON, to direct realignment of two F/A–18 fleet squadrons (24 aircraft) to MCAS Beaufort, South Carolina, and nine F/A–18 fleet squadrons and the FRS (for a total of 156 aircraft) to NAS Oceana, Virginia. ARS 2, which stations most of the squadrons at NAS Oceana and collocates two Navy squadrons with their Marine Corps counterparts at MCAS Beaufort, offers operational benefits that are not realized under the other alternatives: it establishes air wing integrity at MCAS Beaufort for the joint Navy-Marine Corps squadrons that deploy together, while retaining air wing integrity for the squadrons located at NAS Oceana. It also reduces usage of the North Carolina training ranges, and environmental impacts are slightly less than in ARS 1. While costs are slightly greater than in ARS 1, ARS 2 is the least expensive dual-siting alternative, it fully uses excess capacity at MCAS Beaufort, and it takes full advantage of existing Marine Corps training and maintenance facilities.

Implementation of ARS 2 will result in significant land use and noise impacts on the local communities around MCAS Beaufort, NAS Oceana, and NALF Fentress. In addition to the specific mitigation measures identified in this Record of Decision, the DON will continue to review its operational procedures at NAS Oceana, NALF Fentress, and MCAS Beaufort to determine if any additional mitigation is feasible and practicable.

Dated: May 18, 1998.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities).

[FR Doc. 98–13637 Filed 5–20–98; 8:45 am]

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DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Visit DRBC's Web Site at http://www.state.nj.us/drbc/drbc.htm

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 27, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in the Stroud Water Research Center at 970 Spencer Road, Avondale, Pennsylvania.

An informal conference among the Commissioners and staff will be held at 10:00 a.m. at the same location and will include a presentation and discussion on implementation of the Christina Basin strategy; discussion of DRBC advisory committee functions and 1998 DRBC meeting schedule and locations.

In addition to the application listed below which is scheduled for public hearing, the Commission will also address the following: Minutes of the April 21, 1998 business meeting; announcements; General Counsel's report; report on Basin hydrologic conditions; status of compliance—Evansburg Water Company; and public dialogue.

The subject of the hearing will be as follows:

Application for Approval of the Following Project Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Camden-Wyoming Sewer and Water Authority D–97–30 CP.* An

application for approval of a ground water withdrawal project to supply up to 21 million gallons (mg)/30 days of water to the applicant's distribution system from existing Well Nos. 2 and 4, and to limit the withdrawal from all wells to 21 mg/30 days. The project is located in Camden-Wyoming, Kent County, Delaware.

Documents relating to this item may be examined at the Commission's offices. A preliminary docket is available upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Dated: May 12, 1998.

Susan M. Weisman,

Secretary.

[FR Doc. 98–13572 Filed 5–20–98; 8:45 am]

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DEPARTMENT OF ENERGY

Notice of Floodplain and Wetlands Involvement of Bayou Choctaw Pipeline Extension to Placid Refinery, Iberville and West Baton Rouge Parishes, Louisiana

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) hereby provides notice that the proposed construction of an approximately 16-mile crude oil pipeline segment to connect the existing DOE-owned Bayou Choctaw pipeline in Iberville Parish, Louisiana, to the Placid Oil Refinery in Port Allen, West Baton Rouge Parish, Louisiana, would occur in a 100-year floodplain and would involve wetlands. Pursuant to 10 CFR Part 1022, DOE will prepare a floodplain and wetlands assessment which will be incorporated in an environmental assessment (EA) being prepared in accordance with the National Environmental Policy Act (NEPA).

DATES: Written comments should be postmarked or transmitted electronically or by facsimile by June 5, 1998.

ADDRESSES: Written comments, questions about the proposed action, and requests to review the draft EA should be directed to Mr. Hal Delaplane, Strategic Petroleum Reserve (FE–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone (202) 586–4730, Fax (202) 586–7919, E-mail = hal.delaplane@hq.doe.gov.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN AND WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Under Executive Order 11988, Floodplain Management, and 10 CFR Part 1022, Compliance with Floodplain-Wetlands Environmental Review Requirements (http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa__reg/1022/1022.htm), notice is given that DOE is considering a request from Shell Pipe Line Corporation (Shell) to amend Shell's lease of DOE's Bayou Choctaw crude oil pipeline. Shell has asked for the change to enable it to construct its own 16-mile pipeline from a tie-in to the DOE pipeline at the Strategic Petroleum Reserve Bayou Choctaw Facility in Iberville Parish, Louisiana, to the Placid Oil Refinery near Port Allen, West Baton Rouge Parish, Louisiana. This project would not occur within the Coastal Zone of Louisiana but would be within a 100-year floodplain and would involve wetlands.

Before it approves Shell's request, DOE will prepare an EA of the construction and operation of the extended Bayou Choctaw pipeline to Placid Refinery pursuant to 10 CFR Part 1021, DOE NEPA Implementing Procedures (http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa__reg/1021/nepa1021.htm). Shell has also applied to the U.S. Army Corps of Engineers (USACE), New Orleans District, for a construction permit pursuant to Section 404 of the Clean Water Act. DOE is coordinating its NEPA compliance process with the USACE permit process (33 CFR Parts 320–330, http://ceres.ca.gov/wetlands/permitting/404/corps__permit__regulations.html).

The 24-inch steel pipeline would be constructed in existing pipeline and utility corridors for all but about 2 miles of its length. As shown in the map below, about 7.7 miles of the proposed route is within the 100-year floodplain. The pipeline would cross sugarcane fields and about 8.5 miles of forested wetlands. About 86 acres of bottomland hardwoods would be impacted.

Push-site construction would be used in wetland areas. The pipeline would be directionally drilled under the Intracoastal Waterway and Interstate 10. Eight additional road crossings and two railroad crossings would be by slick bore or directional drill. Crossings of Bayou Bourbeaux and six drainage canals would be by open cut trench or directional drill.

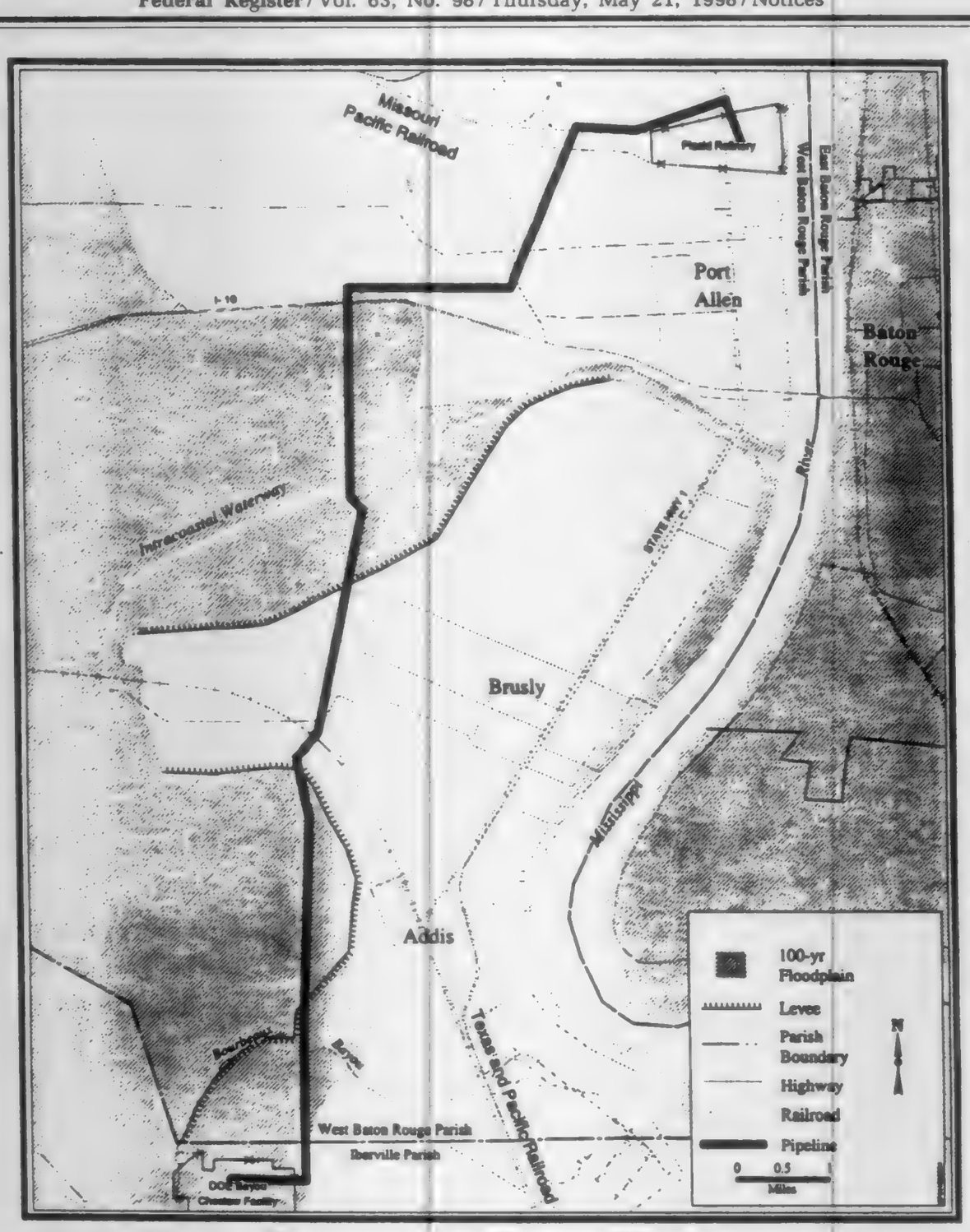
In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain and wetlands assessment for this proposed action. The assessment will be incorporated in the EA being prepared for the proposed project in accordance with NEPA. DOE expects to have a draft of the EA available for public review in June 1998. Copies may be requested by telephone, facsimile, or e-mail from the address given above. A floodplain statement of findings will be included in any finding of no significant impact that is issued following completion of the EA or may be issued separately.

Issued in Washington, DC, on May 1, 1998.

Robert S. Keipowing,

Acting, Assistant Secretary for Fossil Energy.

BILLING CODE 6450–01–P



Floodplains Near Proposed Pipeline

[FR Doc. 98–13589 Filed 5–20–98; 8:45 am]

BILLING CODE 6450–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–8–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 15, 1998.

Take notice that on May 12, 1998, Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, First Revised Volume No. 1, bear a proposed effective date of June 1, 1998.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage service purchased from Columbia Gas Transmission Corporation (Columbia). The storage service purchased from Columbia is under its Rate Schedules SST and FSS the costs of which comprise the rates and charges under ESNG's Rate Schedule CFSS. The changes are reflected in the rates applicable to storage service rendered by ESNG under its Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13491 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85–221–105]]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

May 15, 1998.

Take notice that on May 12, 1998, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 30,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to Prairielands Energy Marketing, Inc., for term ending May 31, 1999.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication in such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (888 1st Street, N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13492 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board—Task Force on Education

DATES AND TIMES: Friday, June 5, 1998, 8:30 AM—3:30 PM.

ADDRESSES: U.S. Department of Energy, Program Review Center (Room 8E–089), Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–4040 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Task Force on Education is to provide information and recommendations to the Secretary of Energy Advisory Board on ways to make the Department's scientific, technical and supercomputing capabilities more available to our Nation's schools, colleges and universities, and to provide recommendations on how the Department can best enhance science, technology, engineering and mathematics education in the United States. The Task Force on Education will prepare a report for submission to the Secretary of Energy Advisory Board.

Tentative Agenda

Friday, June 5, 1998

8:30–8:45 AM Welcome and Opening Remarks—Dr. Hanna Gray, Task Force Chairman.
8:45–10:15 AM Task Force Discussion.
10:15–10:30 AM Break.
10:30–12:00 PM Presentations.
12:00–1:00 PM Lunch Break.
1:00–2:30 PM Presentations.
2:30–3:15 PM Discussion of Task Force Action Plan.
3:15–3:30 PM Public Comment Period.

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation: The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C., the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the

beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Task Force on Education and future reports may be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on May 15, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–13588 Filed 5–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Small Entity Compliance Guidance and Civil Penalty Reduction and Waiver Pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996; Statement of Policy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy today publishes a statement of policy regarding guidance to small entities concerning compliance with statutory and regulatory requirements and the waiver or reduction of civil penalties for small entities that violate statutory and regulatory requirements. This policy statement is published to comply with sections 213 and section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996.

DATES: This policy takes effect on June 22, 1998.

ADDRESSES: Interested persons may submit any comments or suggestions with respect to this policy statement to Michael W. Bowers, U.S. Department of Energy, Office of General Counsel, GC–74, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, U.S. Department of Energy, Office of General Counsel, GC–74, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Background

The Small Business Regulatory Enforcement Fairness Act (SBREFA), which was enacted as title II of Pub. L. 104–121, was signed into law on March 29, 1996. The primary goals of SBREFA as stated in the Act are to implement recommendations of the 1995 White House Conference on Small Business; provide small entities enhanced opportunities for judicial review of final agency action; encourage small business participation in the regulatory process; develop more accessible sources of information on regulatory and reporting requirements for small entities; create a more cooperative regulatory environment for small businesses; and make federal regulators more accountable for "excessive" enforcement actions.

Section 221 of SBREFA, 5 U.S.C. 601 note, defines the term "small entity" as having the same meaning as in section 601 of the Regulatory Flexibility Act (RFA). The RFA defines "small entity" as any "small business," "small organization," or "small governmental jurisdiction." 5 U.S.C. 601(6). Under the RFA, a "small business" has the same meaning as "small business concern" under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration (SBA) and after an opportunity for public comment, establishes other appropriate definitions. 5 U.S.C. 601(3). Under the Small Business Act, a "small business concern" is one that is independently owned and operated and not dominant in its field of operation (15 U.S.C. 632(a)(1)). SBA regulations further define "small business concern" using number of employees or annual income by industry category. 13 CFR part 121. SBA's regulations also provide that the affiliates of an enterprise are included in determining its size. 13 CFR 121.103. The RFA defines "small organization" as a not-for-profit enterprise which is independently owned and operated and not dominant in its field, unless an agency, after opportunity for public comment, establishes other definitions of the term appropriate to its activities and publishes such definitions in the **Federal Register**. 5 U.S.C. 601(4). The RFA defines a "small governmental jurisdiction" as governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000, unless an agency establishes other appropriate definitions after opportunity for public comment. 5 U.S.C. 601(5). The Department of Energy (DOE or Department) has not established alternative definitions of these terms. The RFA definitions of these terms are included in Section III of the policy statement published today.

The Department currently does not administer any program that is focused principally on the regulation of small entities. DOE does administer programs that involve financial assistance to, or procurement from, small entities. Moreover, requirements in particular rules issued by DOE, which may be enforced by assessment of civil penalties, may apply to some small entities as well as large ones. Therefore, to comply with sections 213 and 223 of SBREFA, the Department has issued the policies set forth in this notice in order to provide for: (1) Guidance to small entities concerning compliance with statutes and regulations under the Department's jurisdiction, and (2) the reduction and waiver of civil penalties for small entities.

II. Policy on Compliance Guidance to Small Entities

Under section 213 of SBREFA, 5 U.S.C. 601 note, each agency that regulates the activities of small entities is directed to establish a program for responding to inquiries from small entities concerning compliance, utilizing existing functions and personnel of the agency to the extent practicable. Section 213(a) provides: "Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity."

The Department provides a variety of information and guidance to persons about compliance with the requirements of the programs it administers. Each substantive area under the Department's jurisdiction has staff members who respond to inquiries about compliance with applicable laws and regulations. If sources of general information are insufficient to provide the needed guidance or assistance, DOE staff members may provide specific, informal advice, or may advise the requester to

use a more formal method to obtain answers to its inquiry. Following are some examples of information and procedures that are available to persons, including small entities, subject to particular DOE regulatory requirements:

• DOE directives, including compliance guides, are available on an Internet website (http://www.explorer.doe.gov). These directives primarily apply to the Department's management and operation of its facilities and to DOE contractors and subcontractors if incorporated into contracts. Explorer links to the DOE Technical Standards Program's home page (http://apollo.osti.gov/html/techstds/techstds.html), which provides access to guides and handbooks pertaining to use of technical standards in DOE programs. The Department of Energy home page (http://www.doe.gov) also includes links to information (e.g., names and telephone numbers of contact persons) provided by various program offices to assist persons who must comply with regulatory requirements.

• DOE has issued a formal policy that addresses issuance of guidance documents, including technical standards, to assist contractors in implementing environment, safety and health requirements at DOE sites (DOE P 450.2A). That policy also commits DOE to provide opportunities for public input on guidance relating to nuclear safety rules, including publication of notice of the availability of such guidance and acceptance of public comments. DOE also has published a detailed statement of policy concerning enforcement of nuclear safety requirements as an appendix to its procedural rules for DOE nuclear activities. 10 CFR part 820, appendix A. This policy statement was amended on October 8, 1997 (62 FR 52479).

• The Office of Energy Efficiency and Renewable Energy has promulgated rules for the Alternative Fuel Transportation Program that allow an owner or operator of a fleet of motor vehicles to request an interpretive ruling on how DOE's regulations apply to its particular facts and circumstances. 10 CFR 490.5. The regulations provide that "[n]o person who obtains an interpretive ruling * * * shall be subject to an enforcement action for civil penalties or criminal fines for actions reasonably taken in reliance thereon * * *" 10 CFR 490.5(i). The Office also issued a "plain English" compliance guide when it published regulations for the program.

The Department has not established a separate program specifically to provide compliance guidance to small entities. The programs administered by DOE generally involve large companies with contracts to conduct operations at DOE facilities or regulation of private sector companies, such as appliance manufacturers, that are not small entities. The Department's policy is that each program office with authority to bring enforcement actions against small entities for violations of statutory or regulatory requirements should provide compliance guidance to small entities to the extent appropriate and practicable. Under this policy, DOE usually will answer inquiries of small entities concerning compliance if doing so does not interfere with a matter that currently is under investigation or the subject of governmental proceedings.

The Department's policy on providing compliance guidance to small entities includes several conditions on responding to requests by small entities for written guidance applying law to facts they have provided. These conditions are necessary because SBREFA provides that agency guidance may be considered as evidence in any civil or administrative enforcement proceeding. The policy provides that before responding in writing to a small entity's request, DOE offices should require the person who has requested the written guidance to provide in writing the specific facts and circumstances relevant to its request and to identify the pertinent statute or regulation. In addition, the policy calls for DOE offices to consult with legal counsel, and any other DOE office or agency with an interest in the matter, before providing a written response to a small entity. With regard to DOE nuclear activities, the Secretary has delegated to the General Counsel the responsibility for formulating and issuing any interpretation concerning the Atomic Energy Act of 1954, other nuclear statute, or a DOE nuclear safety requirement. 10 CFR 820.51.

III. Policy on Reduction and Waiver of Civil Penalties for Small Entities

Section 223(a) of SBREFA, 5 U.S.C. 601 note, provides the following general standard for agency reduction and waiver policies: "Each agency regulating the activities of small entities shall establish a policy or program * * * to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities."

DOE interprets the term "civil penalites" in section 223 to mean civil money penalties. This interpretation is consistent with the provision that an agency may consider a small entity's "ability to pay," and the requirement in section 223(c) that each agency report to Congress on the "total amount of penalty reductions and waivers" under its policy or program.

Section 223(b) provides that agency policies or programs are "(s)ubject to the requirements of other statutes" and, thus, do not supersede existing laws on penalties. It provides, moreover, that agency policies or programs shall contain conditions or exclusions, which may include, but shall not be limited to: (1) Requiring the small entity to correct the violation within a reasonable time; (2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state; (3) excluding from the program small entities that have been subject to multiple enforcement actions by the agency; (4) excluding violations involving willful or criminal conduct; (5) excluding violations that pose serious health, safety, or environmental threats; and (6) requiring a good faith effort to comply with the law.

Several conditions or exclusions suggested in SBREFA are similar to provisions of a Presidential memorandum on regulatory reform issued on April 21, 1995, which directed executive agencies to modify penalties for small businesses. The memorandum provides that agencies shall exercise their discretion "to waive the imposition of all or a portion of a penalty when the violation is corrected within a time period appropriate to the violation in question * * *. The provisions (of this section) shall apply only where there has been a good faith effort to comply with applicable regulations and the violation does not involve criminal wrongdoing or significant threat to health, safety, or the environment." Memorandum of the President of the United States to Executive Agencies, "Regulatory Reform—Waiver of Penalties and Reduction of Reports" (April 21, 1995) (5 U.S.C. 601 note).

The Department has authority to impose civil penalties under various statutes. Section 18 of the Price-Anderson Amendments Act of 1988, 42 U.S.C. 2282a, authorizes DOE to impose civil money penalties of up to $110,000 on certain persons for violation of DOE nuclear safety requirements in any

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applicable rule, regulation or order.[1] The Department has published a statement of enforcement policy for implementing this authority. 10 CFR part 820, appendix A. Under the National Defense Authorization Act for Fiscal Years 1992 and 1993, DOE may impose civil penalties on any contractor of DOE who fails to provide for the training of individuals involved in hazardous substance response or emergency response at DOE nuclear weapons facilities, or who fails to certifiy such training. 42 U.S.C. 7274d. The Department also has authority to impose civil penalties for violation of certain provisions of the Energy Policy Act, 42 U.S.C. 13262; the Energy Policy and Conservation Act, 42 U.S.C. 6303; the Program Fraud Civil Remedies Act, 31 U.S.C. 3801–3812; and various other statutes. As mentioned previously, the programs administered by DOE generally involve large contractors and companies, but DOE rules sometimes apply to individual small entities that may be subject to assessment of civil penalties for violation of regulatory requirements.

DOE will consider whether to reduce or waive civil penalties that have been assessed against small entities on a case-by-case basis. Under the DOE policy, small entities are not eligible for the reduction or waiver of a civil penalty if: (1) The violation involves willful or criminal conduct; (2) the small entity has not made a good faith effort to comply with the law; or (3) the violation poses a serious threat to health, safety, or the environment. These exclusions are given as examples in SBREFA and are consistent with the President's memorandum on waiver of penalties for small businesses.

The Department's policy statement includes a non-exclusive list of factors that DOE may weigh in deciding whether to reduce or waive a civil penalty that has been assessed against an eligible small entity. DOE will consider a reduction or waiver of a civil penalty in the following circumstances: (1) The small entity has not been subject to previous enforcement actions for statutory or regulatory violations; (2) the small entity has a low degree of culpability (e.g., violation was committed inadvertently or without knowledge of requirements); (3) the small entity cooperated fully during the investigation that revealed the violation; (4) the small entity engaged in subsequent corrective actions to mitigate the effects of the violation and prevent future violations; (5) the small entity reasonably relied on misleading or erroneous advice given by a DOE officer or employee; and (6) the small entity is unable financially to pay the penalty. Each factor does not necessarily need to be present for a small entity to qualify for reduction or waiver of a civil penalty, and some factors may be weighed more heavily than others, depending on the particular circumstances.

The Department does not intend this policy statement on reduction and waiver of civil penalties for small entities to change its current policies for enforcing nuclear safety requirements under 10 CFR part 820. This statement of policy complements, and is not intended to be inconsistent with, the statement of enforcement policy in part 820. In enforcing nuclear safety requirements, the Department encourages and rewards contractors who promptly identify, report, and correct non-compliant conditions before they become serious health, safety or environmental threats. See General Statement of Enforcement Policy, appendix A to 10 CFR part 820, "Procedural Rules for DOE Nuclear Activities." The Department's policy is to reduce significantly the base civil penalty for a DOE contractor who identifies and promptly reports a violation to DOE. On the other hand, the policy provides for setting a civil penalty assessment above the base civil penalty if a covered contractor fails to promptly report and correct potential violations.

The DOE policy concerning the reduction and waiver of civil penalties for small entities does not create a right or remedy for any person. The Department reserves the right to reduce or waive civil penalties in circumstances other than those listed under the policy statement if it is legally permissible and in the public interest to do so.

IV. Congressional Notification

Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, DOE will submit to Congress a report regarding the issuance of this policy statement prior to the effective date. The report will note that the Office of Management and Budget has determined that this statement of policy does not constitute a "major rule" under that Act. 5 U.S.C. 804(2).

Issued in Washington, D.C., on May 12, 1998.

Mary Anne Sullivan,
Acting General Counsel.

Statement of Policy on Compliance Guidance and Reduction and Waiver of Civil Penalties for Small Entities

The Department of Energy (DOE or Department) has issued this policy statement to comply with sections 213 and 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which was enacted as title II of Pub. L. 104–121. Section 213(b) of SBREFA, 5 U.S.C. 601 note, requires agencies that regulate the activities of small entities to establish a program for responding to inquiries from small entities concerning information on, and advice about, compliance with statutory and regulatory requirements. Section 223 of SBREFA, 5 U.S.C. 601 note, requires each agency regulating the activities of small entities to establish a program or policy to provide for the reduction, and under appropriate circumstances, for the waiver of civil penalties for violations of statutory or regulatory requirements by small entities.

I. Compliance Guidance to Small Entities

The following policies apply to inquiries from small entities concerning compliance with applicable statutes and regulations:

1. Each DOE office with authority to bring enforcement actions against small entities for violation of statutory or regulatory requirements (hereafter "DOE office") should answer inquiries by small entities concerning the application of statutes and regulations to specific facts or circumstances, unless answering an inquiry may interfere with an ongoing investigation or proceeding or otherwise would not be appropriate or practicable.

2. DOE offices should require a small entity that requests DOE to provide written guidance applying the law to facts to state the specific facts and circumstances relevant to its request and to identify the pertinent statute or regulation and the related question on which guidance is sought.

3. DOE offices should consult with Department legal counsel, and any other office or agency with an interest in the matter, before responding in writing to a request by a small entity for guidance regarding how a statute or regulation applies to particular facts and circumstances.

4. DOE offices should deny a request by a small entity for compliance guidance if the small entity has not

[1] DOE recently revised the civil penalty amounts specified in the PAAA and other statutes to comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104–134. See Final Rule, Inflation Adjustment of Civil Monetary Penalties, 62 FR 46181 (Sept. 2, 1997).

provided sufficient information upon which to base a response, or for other good cause.

II. Reduction and Waiver of Civil Penalites for Small Entities

1. DOE offices shall consider on a case-by-case basis whether to reduce or waive an initial assessment of a civil penalty against a small entity for violation of a statutory or regulatory requirement in accordance with the policies that follow.

2. A small entity that has been assessed a civil penalty by DOE shall not be eligible for a reduction or waiver of the penalty if any of the following apply:

(a) The violation involves willful or criminal conduct by the small entity;

(b) The small entity has not made a good faith effort to comply with the law; or

(c) The violation poses a serious threat to health, safety, or the environment.

3. Subject to the exclusions in paragraph 2, DOE offices may consider the following factors in deciding whether to reduce or waive a civil penalty against a small entity:

(a) The small entity's history of legal or regulatory violations;

(b) The degree of culpability of the small entity when it committed the violation;

(c) The extent to which the small entity cooperated during the investigation;

(d) The extent to which the small entity engaged in subsequent corrective actions to mitigate the effects of the violation and prevent future violations;

(e) The extent to which the small entity reasonably relied on misleading or erroneous advice given by a DOE employee;

(f) The ability of the small entity to pay the civil penalty, in whole or in part; and

(g) Any other relevant fact.

4. DOE offices should require a person requesting the reduction or waiver of a civil penalty under this policy to establish that it meets the definition of "small entity" set forth in Section III of this statement of policy.

5. This policy on reduction and waiver of civil penalties for small entities complements, and does not supersede, the general statement of enforcement policy in 10 CFR part 820, appendix A, which applies to enforcement of nuclear safety requirements.

6. The Department reserves the right to reduce or waive civil penalties in appropriate individual circumstances where it determines that a reduction or waiver is permitted by law and warranted by the public interest.

III. Definition of "Small Entity"

For purposes of this policy, *small entity* means a "small business," "small organization," or "small governmental jurisdiction" as defined by the Regulatory Flexibility Act. 5 U.S.C. 601. The Regulatory Flexibility Act definitions are as follows:

(1) Small business has the same meaning as the term "small business concern" under section 3 of the Small Business Act, unless (DOE), after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of (DOE) and publishes such definition(s) in the **Federal Register**;

(2) Small organization means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless (DOE) establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of (DOE) and publishes such definition(s) in the **Federal Register**; and

(3) Small governmental jurisdiction means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless (DOE) establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of (DOE) and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the **Federal Register**.

[FR Doc. 98–13587 Filed 5–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–530–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

May 15, 1998.

Take notice that on May 8, 1998, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, PA 15275, filed in Docket No. CP98–530–000, a request, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211), for authorization to install a tap, metering, electronic flow measurement, and appurtenant facilities for the delivery of transportation gas to AFG Industries, Inc. (AFG) in Flemington District, Taylor County, West Virginia, under Equitrans' blanket certificate authorization issued in Docket No. CP83–508–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Equitrans seeks authorization to install a tap connection on its existing pipeline, Number GST–902. Equitrans relates that it will have a ten year firm transportation agreement with AFG. Equitrans states that the annual delivered volumes will be approximately 1,642,000 Dth, with a peak day volume of 5,000 Dth and a daily contractual obligation of 4,300 Dth. Equitrans asserts that all volumes delivered to AFG will be within contractually permissible levels.

Equitrans states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers. Equitrans estimates the cost to construct the facilities at approximately $127,200, a portion of which will be reimbursed by AFG to Equitrans. Equitrans has sent a copy of this request to the West Virginia Public Service Commission.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13495 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–000–NY/VT]

New England Power Company; Notice of Scoping Meetings Pursuant to the National Environmental Policy Act of 1969 for an Applicant Prepared Environmental Assessment

May 15, 1998.

Pursuant to the Energy Policy Act of 1992, and as part of the license application, the New England Power Company (NEP) intends to prepare an Applicant Prepared Environmental Assessment (APEA) to file along with the license application, with the Federal Energy Regulatory Commission (Commission) for the Fifteen Mile Falls (FMF) Project No. 2077. The license for the project expires on July 31, 2001.

In October 1995, NEP initiated the cooperative consultation process, and in December 1995, state and federal agencies, local interests, and nongovernmental organizations (NGOs), undertook a cooperative effort for the relicensing of the FMF Project. The process involved identification of environmental issues associated with the relicensing of the FMF Project, including: a public informational meeting in February 1996, a project site visit for agencies/stakeholders, and a public meeting to solicit comments on the Initial Consultation Document (ICD) in June 1996.

As a result of the cooperative consultation process, settlement negotiation meetings were conducted during the spring of 1997, resulting in a signed Settlement Agreement on August 6, 1997.

NEP obtained support from the parties involved in the cooperative process and Settlement Agreement to pursue the APEA process for the relicensing of the FMF Project. On March 9, 1998, NEP requested, and on April 22, 1998, obtained FERC's approval to enter the APEA process. As part of the APEA process, NEP has prepared a Scoping Document I (SDI), which provides information on the scoping process, APEA schedule, background information, environmental issues, and proposed project alternatives.

The purpose of this notice is to: (1) advise all parties as to the proposed scope of the environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; and (2) advise all parties of their opportunity for comment.

Scoping Process

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine what issues should be addressed in the document to be prepared pursuant to the National Environmental Policy Act of 1969 (NEPA). The SDI will be circulated to enable appropriate federal, state, and local resource agencies, Indian tribes, NGOs, and other interested parties to participate in the scoping process. SDI provides a brief description of the proposed action, project alternatives, the geographic and temporal scope of a cumulative effects analysis, and a list of issues.

Scoping Meetings and Site Visit

NEP and FERC staff will conduct two scoping meetings and a site visit. All interested individuals, organizations, and agencies are invited to attend and assist in identifying the scope of environmental issues that should be analyzed in the APEA.

The public scoping meeting will be held on June 4, 1998, from 7:00 to 9:00 pm at the Littleton Opera House, Main Street, Littleton, NH. The agency scoping meeting will be held on June 5, 1998, from 9:30 to 12:00 am at the North Country Council Conference Room, 107 Glessner Road, Bethlehem, NH. The site visit will commence at 9:30 am on June 4, 1998. Those persons interested should meet at Moore Visitor Center, Rtes. 135/18, Littleton, NH. For more details, interested parties should contact John Ragonese, NEP, (603)–443–9229, prior to the meeting date.

Objectives

At the scoping meetings, NEP and FERC staff will: (1) summarize the environmental issues identified for analysis in the APEA; (2) solicit from the meeting participants all available information, especially quantified data, on the resources at issue, and (3) encourage statements from experts and the public on issues that should be analyzed in the APEA. Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist in defining and clarifying the issues to be addressed.

Meeting Procedures

The meeting will be conducted according to the procedures used at Commission scoping meetings. Because this meeting will be a NEPA scoping meeting, the Commission will not conduct another scoping meeting when the application and APEA are filed with the Commission in Spring 1999.

The meetings will be recorded by a stenographer and become a part of the formal record of the Commission proceeding on the FMF Project. Individuals presenting statements at the meetings will be asked to identify themselves for the record. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. Persons choosing not to speak but wishing to express an opinion, as well as speakers unable to summarize their positions within their allotted time, may submit written statements for inclusion in the public record no later than June 19, 1998.

All filings should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. All comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, and should clearly show the following captions on the first page: Fifteen Mile Falls Project, FERC No. 2077. A copy of each filing should also be sent to John Ragonese, New England Power Company, 407 Miracle Mile, Suite 2, Lebanon, NH 02766.

Based on all written comments, a Scoping Document II (SDII) may be issued. SDII will include a revised list of issues, based on the scoping sessions.

For further information regarding the APEA scoping process, please contact William Guey-Lee, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426 at (202) 219–2794, or John Ragonese, New England Power Company, at (603) 443–9229.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–13482 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–531–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 15, 1998.

Take notice that on May 11, 1998, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP98–531–000 a request pursuant to Sections

157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities in Webster Parish, Louisiana, under NGT's blanket certificate issued in the Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT specifically requests authority to install a 3-inch tap, 3-inch regulatory setting, and 6-inch meter station, on NGT's Line S in Webster Parish, Louisiana, under Subpart G of Part 284 of the Commission's Regulation. NGT states that this meter station is being constructed to provide service to Arkla, a distribution division of NorAm Energy Corp. (Arkla). NGT states the estimated volumes to be delivered through these facilities are approximately 3,008,086 MMBtu annually and 14,857 MMBtu on a peak day. NGT states the cost of the facilities to be installed is $64,198, and that $59.375 will be reimbursed by Arkla. NGT also states that Arkla will install 550 feet of 6-inch pipe to connect this point to an addition to its Louisiana distribution system which it is acquiring from Louisiana-Nevada Gas Transit Company.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13496 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–533–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

May 15, 1998.

Take notice that on May 11, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–525–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization to upgrade an existing delivery point located in Dodge County, Minnesota, to accommodate natural gas deliveries to U.S. Energy Services, Inc. (USEI), under Northern's blanket certificate issued in Docket No. CP82–401–000 [1] pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that it requests authority to upgrade this delivery point to accommodate natural gas deliveries to USEI under currently effective throughput service agreements. Northern asserts that USEI has requested the upgrade of the existing delivery point to provide increased natural gas service to the Al-Corn town border station. The estimated incremental volumes proposed to be delivered to USEI at this delivery point are 400 MMBtu on a peak day and 146,000 MMBtu on an annual basis. Northern has stated that the estimated cost to upgrade the delivery point is $24,500.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13480 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 20 *FERC* ¶ 62,410 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–524–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

May 15, 1998

Take notice that on May 6, 1998, Northern Natural Gas Company, (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–524–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon and remove three town border stations (TBSs), all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to abandon and remove one TBS in Saunders County, Nebraska, and two TBSs in Rice County, Minnesota. Northern constructed the subject facilities pursuant to 2.55 of the regulations and proposes to abandon them because the gas service downstream of the TBSs have been discontinued and that no other use exist for the facilities.

Northern states that the abandonment will not result in any disruption or disadvantage any of Northern's customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13490 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–526–000]

Panhandle Eastern Pipe Line Company; Notice of Application

May 15, 1998.

Take notice that on May 6, 1998, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed an application in Docket No. CP98–526–000 pursuant to section 7(b) of the Natural Gas Act, as amended, and Part 157 of the Commission's Regulations for permission and approval to abandon by removal, the Bison Compressor Station, including the two compressor units, and appurtenant facilities located in Kingfisher County, Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

The Bison Compressor Station is equipped with two 1,674 compressor units (U–340 and U–341), with compression horsepower totaling 3,348 (hp). Panhandle states that this compression is no longer required to meet its customers' delivery requirements. Panhandle also requests authorization to abandon in place the fencing, engine room and warehouse buildings, overhead crane, yard lights, other minor items, and all below-grade piping. Panhandle will transfer title of these items to the landowners upon abandonment authorization. The landowners have agreed to accept the facilities Panhandle proposes to abandon in place, by Letter of Agreement between Panhandle and Woods Acres, Inc. on February 27, 1998. All piping, other than road crossings, to be retired and abandoned in place will be cut 30 inches below grade, filled with water and capped. Road crossings will be filled with concrete slurry instead of water.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 5, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214) and 385.211 and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion of leave to intervene is timely filed or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13494 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–193–001]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 14, 1998.

Take notice that on May 8, 1998, Shell Gas Pipeline Company (SGPC) tendered for filing an amendment to its filing in Docket No. RP98–193–000, as part of its FERC Gas Tariff, Original Volume No. 1, a revised title sheet proposed to become effective May 24, 1998.

SGPC states that the purpose of this filing is to reflect an address and telephone change for the corporate office of SGPC.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13481 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–522–000]

Texas Gas Transmission Corporation Columbia Gulf Transmission Company; Notice of Application

May 15, 1998.

Take notice that on May 5, 1998, Texas Gas Transmission Corporation (Texas Gas) P.O. Box 20008, Owensboro, Kentucky 42304, and Columbia Gulf Transmission Company (Columbia Gulf) P.O. Box 683, Houston, Texas 77001–0683, filed a joint application for Texas Gas to abandon by transfer, to Columbia Gulf, Texas Gas' interest in certain jointly-owned supply lateral facilities, and appurtenances, in the Eugene Island and Vermilion Areas, Offshore Louisiana, and for Columbia Gulf to acquire and own Texas Gas' interest in such facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas states that the facilities were originally constructed and operated jointly with Columbia Gulf to support its merchant function; however, due to the termination of the related third-party transportation agreements, Texas Gas no longer has a firm transportation commitment involving the facilities. As such, Texas Gas wishes to abandon these facilities to streamline its transmission operations. Columbia Gulf states that any shippers desiring access to the supplies attached to these laterals will be able to obtain transportation service from Columbia Gulf, thus none of the interruptible shippers currently utilizing the Texas Gas' capacity in the subject facilities will be subject to a diminution or termination of service.

Any person desiring to be heard or to make any protest with reference to said

application should on or before June 5, 1998, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas and Columbia Gulf to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13493 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–83–000]

The Trees Oil Company; Notice of Petition for Adjustment

May 15, 1998.

Take notice that on May 7, 1998, The Trees Oil Company (Trees) filed a petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978, for relief from making Kansas ad valorem tax refunds to Northern Natural Gas Company (Northern). The refunds are required by the Commission's September 10, 1997 order, in Docket No. RP97–369–000 *et al.*,[1] on remand from the D.C. Circuit Court of Appeals,[2] that directed First Sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. Alternatively, if it is not relieved from making the subject refunds, Trees requests that the Commission permit Trees to amortize its refund obligation over a 5-year period. Trees petition is on file with the Commission and open to public inspection.

Trees states that Northern sent Trees a Statement of Refunds Due for $192,815.47 in principal and $301,471.37 in interest, computed through December 31, 1997, for a total of refund liability of $494,286.84. Trees states that the Northern Statement covers seven wells, from which Trees made sales to Northern from 1983 to July 1, 1987. Trees asserts that the Statement includes an amount that Trees previously refunded to Northern[3] and Kansas ad valorem tax reimbursements on one well (the Warner well) that did not result in a price in excess of the applicable maximum lawful price (MLP).

Trees also states that during the applicable 1983–1987 period, 37.5 percent of the working interest in these wells was owned by a Pennsylvania Trust which was subsequently terminated, liquidated, and closed in 1991. Trees asserts that the Kansas ad valorem tax reimbursements distributed to this trust are unrecoverable, and that, once the necessary revisions are made to remove (a) the previously refunded principal and interest, (b) the Kansas ad valorem taxes that did not exceed the applicable MLP, and (c) the unrecoverable Pennsylvania Trust reimbursements, Trees refund liability consists of $99,611.52 in principal and $162,013.50 in interest, computed through December 31, 1997.

Trees also suggests that this $99,611.52 amount should be further reduced because it: 1) includes the principal and interest on pre-October 1983 production, the liability for which has been disputed before the U.S. Court of Appeals for the Fifth Circuit in *Anadarko Petroleum Corporation* v. *FERC* and *Union Pacific Resources Company* v. *FERC*, Case No. 98–60043; and (2) includes unrecoverable royalty amounts. Trees asserts that when the reimbursements attributable to pre-October 1983 production are excluded, along with the royalties attributable to the Pennsylvania Trust's working interest, the principal amount of its refund obligation to Northern is $80,538.82.

Trees also states that it is a small "mother and daughter operation" with no other administrative personnel. Trees explains that the subject wells were priced at the relatively low, NGPA section 104, flowing gas rate, which provided Trees with little, if any, income during the period from 1983–1987. Trees includes condensed December 31, 1983–1987 income statements to support its assertions, and states that the revenues shown on these statements include revenues from Trees' other oil and gas interests, and that the expenses include (a) its own share of the operating costs, (b) intangible drilling costs, (c) administrative costs, including salaries, rent, payroll taxes, and other office expenses, and (d) other expenses, including travel costs, seminars, licenses, and legal fees. Trees contends that, because these estimates show losses for four of the five years, despite small salaries and little, if any, drilling and exploration expense, they demonstrate how important the tax reimbursements were to Trees' economic viability and survivability during that period.

Trees also provides another condensed income statement for the year ending December 31, 1997, and notes that it plans to drill five wells in 1998 and convert a well to salt water disposal. Trees states that it is pursuing this drilling program in part out of consideration of the implied obligations of the leases for further development and to protect against drainage. Trees contends that this drilling program will tax its cash flow and financial resources, regardless of whether Trees is required to make Kansas ad valorem tax refunds. Trees adds that two of the committed wells have already been drilled, and that the total cost to drill and equip all five wells (if they are successful), and to convert the other, will be approximately $1,900,000, of which Trees' share of the costs will be $475,000. Trees contends that it has no monetary cushion to pay its drilling costs and also pay the Kansas ad valorem tax refunds.

Therefore, Trees contends that it should be relieved from having to refund any of these tax reimbursements. In the alternative, Trees requests permission to amortize its refund obligation over a 5-year period.

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[1] See 80 FERC ¶ 61,264 (1997); Order Denying Rehearing issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

[3] Trees explains that Northern's Statement includes a payment of $26,083.44 that Northern made to Trees on April 7, 1989, for 1988 taxes, an amount that Trees subsequently refunded, with interest, on July 1, 1994.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13487 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–156–007]

Viking Gas Transmission Company; Notice of Request for Extension of Time

May 15, 1998.

Take notice that on April 30, 1998, Viking Gas Transmission Company (Viking) filed for an extension of implementation dates for computer-related capacity release GISB standards.

Viking requests the Commission to grant Viking an extension of time to June 1, 1999, to implement the computer-related capacity release GISB standards. Viking says it needs additional time to test and to implement its capacity release computer components. Viking claims its ability to test and to implement its capacity release computer components has been delayed due to complications that arose in conjunction with its conversion to an Internet-based EBB in place of a dial-up EBB.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 22, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13488 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98–12–000]

Enogex Inc.; Notice of Petition for Rate Approval

May 15, 1998.

Take notice that on May 1, 1998 Enogex Inc. (Enogex) filed pursuant to Section 284.123(b)(2) of the Commission's Regulations, 18 CFR 284.123(b)(2), a petition for rate approval to establish new rates for interruptible transportation services which Enogex provides under Section 311(a)(2) of the Natural Gas Policy Act of 1978. The proposed maximum rate for interruptible transportation service is $0.5470 per MMBtu, to be effective May 1, 1998.

Enogex also proposes an optional monetary settlement (cash out) for quantities of gas which are below nominated delivery amounts (underdeliveries) or greater than nominated delivery amounts (overdeliveries), to reduce the number of priority categories for curtailment purposes, and to make certain minor changes, clarifications and corrections to the Enogex Statement of Enogex Inc. in Compliance with 18 CFR Part 284. Enogex has submitted a revised Statement in Compliance with its petition for rate approval, to be effective June 1, 1998.

Pursuant to Section 284.123(b)(2)(ii) of the Commission's Regulations, if the Commission does not act within 150 days of the filing date, the rates Enogex proposes will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed with the Secretary of the Commission on or before June 1, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13486 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 10865–001 and 11495–000]

Warm Creek Hydro, Inc. and Nooksack River Hydro, Inc.; Notice of Site Visit

May 15, 1998.

The Federal Energy Regulatory Commission (Commission) has received an application for license for the proposed Warm Creek Project No. 10865 and Clearwater Creek Project No. 11495. The projects are located in Whatcom County, Washington.

The Commission issued a notice to prepare an Environmental Impact Statement (EIS) on the hydroelectric projects in accordance with the National Environmental Policy Act.

The Commission's staff will visit the project site on Wednesday, June 10, 1998. The site visit will begin at 9:00 a.m. at the Acme Cafe on Highway 9 in Acme, Washington. Interested individuals, organizations, and agencies are invited to attend the site visit to gain a better understanding of the proposed projects. People interested in attending the site visit should provide their own transportation.

If you have any questions please contact Tim Looney at (202) 219–2852.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13485 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–159–001]

Williams Gas Pipelines Central; Notice of Refund Report

May 15, 1998.

Take notice that on May 13, 1998, Williams Gas Pipelines Central, Inc. (Williams), filed a report of refunds made to Shippers pursuant to a Commission order issued April 13, 1998 (April 13 order), in Docket No. RP98–159–000.

Williams states that on March 11, 1998, it filed its annual report of net revenues received from cash-out activity for the twelve-month period ending September 30, 1997. The report proposed to make such refunds to Shippers listed on the refund report, including interest from April 1, 1998 through the date of the refund, upon Commission approval of the report of refunds. The April 13 order required Williams to make refunds to its customers as proposed in the March 11 filing within 30 days of the order. The interest calculation has been updated from the original report to include interest from April 1, 1998 through May 12, 1998.

Williams states that a copy of its filing was served on all Shippers receiving a refund, all participants listed on the service lists maintained by the Commission in the docket referenced above and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13489 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3561–000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 14, 1998.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER97–3561–000]

Take notice that on May 11, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing the Settlement Agreement between Virginia Electric and Power Company, North Carolina Eastern Municipal Power Agency, North Carolina Electric Membership Corporation, Old Dominion Electric Cooperative, Inc., and Virginia Municipal Electric Association No. 1. The Settlement is to be treated as an Offer of Settlement as to The Office of Attorney General of the Commonwealth of Virginia, Division of Consumer Counsel.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Econnergy Energy Company, Inc.

[Docket No. ER98–2553–000]

Take notice that on May 11, 1998, Econnergy Energy Company, Inc. (Econnergy), filed an amended petition to the commission for acceptance of Econnergy Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Econnergy intends to engage in wholesale electric power and energy purchases and sales as a marketer. Econnergy is not in the business of generating or transmitting electric power. Econnergy is not a subsidiary or affiliate of any other company.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Alliant Service, Inc.

[Docket No. ER98–2938–000]

Take notice that on May 11, 1998, Alliant Services, Inc., tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service, establishing Central Illinois Light Company as a point-to-point Transmission Customer under the terms of the Alliant Services, Inc., transmission tariff.

Alliant Services, Inc., requests an effective date of April 14, 1998, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2943–000]

Take notice that on May 11, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing revised tariff sheets establishing rates for retail transmission service and related ancillary services to be rendered pursuant to Con Edison's open access transmission tariff, FERC Electric Tariff, Original Volume No. 1. The proposed rates are based upon a revenue requirement stipulated by settlement in Con Edison's transmission rate case and are designed in accordance with a methodology which has been approved by the New York State Public Service Commission (PSCNY) in conjunction with Con Edison's retail access program.

Con Edison states that a copy of this filing has been served by mail upon the PSCNY and the parties to Docket Nos. ER98–1631 and OA96–138–000.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. MidAmerican Energy Company

[Docket No. ER98–2944–000]

Take notice that on May 11, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50303 submitted for filing with the Commission a Service Agreement dated April 29, 1998, with Montezuma Municipal Light and Power (Montezuma) entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff), and a Power Sales Agreement dated April 29, 1998, with Montezuma Municipal Light and Power entered into pursuant to the Service Agreement and the Tariff.

MidAmerican requests an effective date of May 1, 1998, for this Agreement, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Montezuma, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. MidAmerican Energy Company

[Docket No. ER98–2945–000]

Take notice that on May 11, 1998, MidAmerican Energy Company tendered for filing a proposed change in its Rate Schedule for Power Sales, FERC Electric Rate Schedule, Original Volume No. 5. The proposed change consists of certain reused tariff sheets consistent with the quarterly filing requirement.

MidAmerican states that it is submitting these tariff sheets for the purpose of complying with the requirements set forth in Southern Company Services, Inc., 75 FERC ¶ 61,130 (1996), relating to quarterly filings by public utilities of summaries of short-term market-based power transactions. The tariff sheets contain summaries of such transactions under the Rate Schedule for Power Sales for the applicable quarter.

MidAmerican proposes an effective date of the first day of the applicable quarter for the rate schedule change. Accordingly, MidAmerican requests a waiver of the 60-day notice requirement for this filing. MidAmerican states that this date is consistent with the requirements of the Southern Company Services, Inc., order and the effective date authorized in Docket No. ER96–2459–000.

Copies of the filing were served upon MidAmerican's customers under the Rate Schedule for Power Sales and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Alliant Service, Inc.

[Docket No. ER98–2946–000]

Take notice that on May 11, 1998, Alliant Services, Inc., tendered for filing an executed Service Agreements for firm and non-firm point-to-point transmission service, establishing Upper Peninsula Power Company as a point-to-point Transmission Customer under the terms of the Alliant Services, Inc., transmission tariff.

Alliant Services, Inc., requests an effective date of April 15, 1998, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER98–2947–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Wheelabrator Martell, Inc. (Wheelabrator), for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Meter Service Agreement to be made effective as of April 28, 1998.

The ISO states that this filing has been served on Wheelabrator and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–2948–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and Modesto Irrigation District (Modesto), for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of April 24, 1998.

The ISO states that this filing has been served on Modesto and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER98–2949–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and Modesto Irrigation District (Modesto), for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Meter Service Agreement to be made effective as of April 21, 1998.

The ISO states that this filing has been served on Modesto and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–2950–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Wheelabrator Martell, Inc. (Wheelabrator) and the ISO for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Participating Generator Agreement to be made effective as of April 28, 1998.

The ISO states that this filing has been served upon Wheelabrator and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket Nos. ER98–2951–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and the British Columbia Power Exchange Corporation (British Columbia PX), for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of April 21, 1998.

The ISO states that this filing has been served on the British Columbia PX and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–2952–000]

Take notice that on May 11, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and the Bonneville Power Administration (BPA), for acceptance by the Commission.

The ISO is requesting a waiver of the 60-day prior notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of April 30, 1998.

The ISO states that this filing has been served on BPA and the California Public Utilities Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER98–2953–000]

Take notice that on May 11, 1998, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the "Companies", tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Market-Based Power Sales Customers (collectively referred to herein as the Customers):

Constellation Power Source, Inc.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customers to enter into separately scheduled short-term transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Company Services, Inc.

[Docket No. ER98–2954–000]

Take notice that on May 11, 1998, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company) filed four (4) umbrella service agreements for short-term firm point-to-point transmission service between SCS, as agent for Southern Company, and (i) OGE Energy Resources, (ii) Southern Illinois Power Cooperative, (iii) Southern Wholesale Energy, a Department of SCS, and (iv) Tractebel Energy Marketing, Inc., and one (1) service agreement for non-firm point-to-point transmission service executed between SCS, as agent for Southern Company, and Southern Illinois Power Cooperative under the Open Access Transmission Tariff of Southern Company.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas & Electric Company

[Docket No. ER98–2955–000]

Take notice that on May 11, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an unexecuted Purchase and Sales Agreement between LG&E and Columbia Energy Power Marketing Corporation under LG&E's Rate Schedule GSS.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas And Electric Company

[Docket No. ER98–2956–000]

Take notice that on May 11, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an unexecuted Purchase and Sales Agreement between LG&E and Avista Energy, Inc., under LG&E's Rate Schedule GSS.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2957–000]

Take notice that on May 11, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94, for transmission service for the Long Island Lighting Company (LILCO). The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station. The Supplement provides for a decrease in annual revenues under the Rate Schedule of $13,322.50. Con Edison has requested that this increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Arizona Public Service Company

[Docket No. ER98–2958–000]

Take notice that on May 11, 1998, Arizona Public Service Company filed a notice effective midnight the 31st day of August 1998, Rate Schedule FPC No. 58, effective date September 1, 1976 by FPC order dated January 19, 1977 and filed with the Federal Energy Regulatory Commission by Arizona Public Service Company is to be canceled.

Copies of the proposed cancellation has been served upon Wellton-Mohawk Irrigation & Drainage District and The Arizona Corporation Commission.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Niagara Mohawk Power Corporation

[Docket No. ER98–2959–000]

Take notice that on May 11, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Pennsylvania Power & Light, Inc., (PP&L). This Transmission Service Agreement specifies that PP&L has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and PP&L to enter into separately scheduled transactions under which NMPC will provide transmission service for PP&L as the parties may mutually agree.

NMPC requests an effective date of April 29, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PP&L.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Idaho Power Company

[Docket No. ER98–2960–000]

Take notice that on May 11, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company's FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Equitable Power Services Co.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Kansas City Power & Light Company

[Docket No. ER98–2974–000]

Take notice that on May 11, 1998, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated April 13, 1998, between KCPL and Amoco Energy Trading Corporation. KCPL proposes an effective date of April 20, 1998, and

requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Kansas City Power & Light Company

[Docket No. ER98–2975–000]

Take notice that on May 11, 1998, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated April 13, 1998, between KCPL and Amoco Energy Trading Corporation. KCPL proposes an effective date of April 20, 1998, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Consumers Power Energy

[Docket No. ES97–7–004]

Take notice that on April 27, 1998, Consumers Power Energy (Consumers), filed an amendment to its application in this proceeding, under Section 204 of the Federal Power Act. The amendment seeks authorization to issue up to an additional $175 million of first-mortgage bonds, as security for other securities being issued by consumers. Consumers also requests a waiver of the Commission's competitive bid or negotiated placement requirements, under 18 CFR 34.2, Placement of Securities.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13560 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–72–000, et al.]

Western Kentucky Energy Corp., et al.; Electric Rate and Corporate Regulation Filings

May 13, 1998.

Take notice that the following filings have been made with the Commission:

1. Western Kentucky Energy Corp.

[Docket No. EG98–72–000]

Take notice that on May 7, 1998, Western Kentucky Energy Corp. (WKEC), a Kentucky Corporation, with its principal place of business at P.O. Box 32010, 220 West Main Street, Louisville, Kentucky 40202, filed with the Federal Energy Regulatory Commission a letter (Clarification Letter), which clarifies the description of eligible facilities (Facilities) to be leased and/or operated by WKEC contained in Section II of its Application for Determination of Exempt Wholesale Generator Status which was filed with the Commission on April 30, 1998 (Application).

The Clarification Letter explains that Section II of the Application describes each of the four plants which WKEC proposed to lease and/or operate as having associated facilities, including step-up transformers and related equipment necessary to interconnect with the transmission facilities of Big Rivers Electric Corporation. WKEC states that the associated facilities which are transmission facilities are not a part of the Facilities to be leased and/or operated by WKEC, and at no time will WKEC own, lease, or operate any transmission facilities.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Indeck Operations International, Inc.

[Docket No. EG98–74–000]

Take notice that on May 7, 1998, Indeck Operations International, Inc., a corporation organized and existing under the laws of the State of Illinois, with its address at 600 North Buffalo Grove Road, Suite 300, Buffalo Grove, Illinois 60089 (the Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's Regulations.

The Applicant will be engaged directly and exclusively in the business of (A) operating an eligible facility located in Escuintla, Guatemala and eligible facilities located in Linden, Guyana and (B) based on agency relationships with the owners of each facility, selling electric energy at wholesale and retail.

The Escuintla Plant consists of a nominal 38 MW diesel generation facility utilizing heavy fuel oil as its primary fuel and No. 2 fuel oil as a backup fuel. The Guyana Plants consist of a nominal 27 MW steam-electric generating facility utilizing heavy fuel oil and a nominal 5 MW diesel generation facility utilizing distillate fuel.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Phibro Inc.

[Docket Nos. EL98–45–000 and EC98–41–000]

Take notice that on May 6, 1998, Phibro Inc. (Phibro), tendered for filing a request that the Commission issue an order disclaiming jurisdiction over the forthcoming merger (Merger) of Citicorp with and into a subsidiary of Phibro's parent, Travelers Group Inc. (Travelers). In the alternative, Phibro requests that the Commission approve the proposed transaction and/or grant any other authorization the Commission may deem to be needed under Section 203 of the Federal Power Act. As explained in the Petition, the Merger will have no effect on the jurisdictional facilities, rates or services of Phibro and will be consistent with the public interest.

Phibro requests expeditious action on the application in order that there be no delay in the Merger.

Comment date: June 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER98–2150–001]

Take notice that on May 8, 1998, Illinois Power Company (Illinois Power), filed its refund report in compliance with the Commission's April 10, 1998, Letter Order in Docket No. ER98–2150–000.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER98–2932–000]

Take notice that on May 8, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing revisions to two agreements between PG&E and the City of Santa Clara, California (City or Santa Clara): (1) a revised Exhibit A–1 (forecast for the years 1998 and 1999) to Appendix A under PG&E Rate Schedule FERC No. 85; and (2) a change in the energy rate under PG&E Rate Schedule FERC No. 108 for the firm system power sale by PG&E to the City.

Copies of this filing were served upon City and the California Public Utilities Commission.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Houston Lighting & Power Company

[Docket No. ER98–2933–000]

Take notice that on May 8, 1998, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA), with LG&E Energy Marketing, Inc. (LG&E), for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of May 8, 1998.

Copies of the filing were served on LG&E and the Public Utility Commission of Texas.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Indiana Gas and Electric Company

[Docket No. ER98–2934–000]

Take notice that on May 8, 1998, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing one (1) service agreement for firm transmission service and one (1) service agreement for non-firm transmission service under Part II of its Transmission Services Tariff, both agreements with East Kentucky Power Cooperative, Inc.

Copies of the filing were served upon each of the parties to the service agreement.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company

[Docket No. ER98–2935–000]

Take notice that on May 8, 1998, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customers: TransCanada Power Corp., and Entergy Power Marketing Corp.; and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with LG&E Power Marketing, Inc. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER98–2936–000]

Take notice that on May 8, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff, between Idaho Power Company and American Electric Power Service Corporation.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Pennsylvania Electric Company

[Docket No. ER98–2937–000]

Take notice that on May 8, 1998, Pennsylvania Electric Company (doing business as GPU Energy), filed a Transmission Agency Agreement with Allegheny Electric Cooperative, Inc., for transmission and certain ancillary services under the open access transmission tariff administered by PJM Interconnection, L.L.C.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER98–2939–000]

Take notice that on May 8, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing, Service Agreements to provide Non-Firm Point-To-Point Transmission Service and Firm Point-To-Point Transmission Service to the Merchant Energy Group of the Americas, Inc., under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to the Merchant Energy Group of the Americas, Inc.

NUSCO requests that the Service Agreement become effective May 11, 1998.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Minnesota Power & Light Company

[Docket No. ER98–2940–000]

Take notice that on May 8, 1998, Minnesota Power & Light Company tendered for filing a signed Non-Firm Point-to-Point Transmission Service Agreement with Merchant Energy Group of the Americas, Inc., under its Non-Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: May 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13558 Filed 5–20–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–835–002, et al.]

Yankee Atomic Electric Company, et al. Electric Rate and Corporate Regulation Filings

May 15, 1998.

Take notice that the following filings have been made with the Commission:

1. Yankee Atomic Electric Company

[Docket No. ER95–835–002]

Take notice that on April 8, 1997, Yankee Atomic Electric Company tendered for filing an amended compliance report in the above-referenced docket.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Stratton Energy Associates, (a New York limited partnership)

[Docket Nos. EC98–42–000 and ER98–2931–000]

Take notice that on May 6, 1998, Stratton Energy Associates (SEA), a New York limited partnership, submitted petition for waiver of the Commission's rule restricting the filing of rate schedules to a period no less than 60 days, but not more than 120 days, prior to the date on which electric service is scheduled to commence and become effective under the rate schedule. 18 CFR 35.3. This request is made with regard to SEA's Rate Schedule No. 2, which is being filed simultaneously with such petition.

SEA further requests that the Commission waive its cost-of-service filing requirements applicable to initial rate filings, 18 CFR 35.12(b)(5), and to accept the SEA Rate Schedule No. 2 as filed. SEA also petitions the Commission to waive certain Commission rules that the Commission has previously determined not to be appropriately applicable to qualifying facilities such as the SEA facility.

Finally, SEA requests that the Commission find that the SEA Rate Schedule No. 2 constitutes a formula rate. Therefore, upon any acceptance of this rate by the Commission, any changes in charges due to the operation of the formula need not be filed with the Commission as a change in a rate schedule. See 13 CFR 35.13.

SEA Rate Schedule No. 2 governs the sale of electricity from a 45 megawatt biomass fired electric generation facility located in the Town of Eustis, Maine (the Project).

The purpose of these filings is to allow for the closing and implementation of a series of transactions that will provide savings to the ratepayers of CMP, to the extent determined by the Maine Public Utilities Commission. SEA Rate Schedule No. 2 will replace an existing high cost wholesale power sales agreement between SEA and Central Maine Power Company (CMP). The effective date of SEA Rate Schedule No. 2, and closing on associated transactions, is subject to final approval by the Maine Public Service Commission. The transactions do not require and will not result in the withdrawal of any capacity from the market.

SEA requests that the Commission expedite public review of the filing, in light of the fact that the Maine Public Utilities Commission is reviewing the actual ratepayer impact of the forgoing transactions in a concurrent docket. The Commission ordinarily allows 60 days after the date of such a filing before final action can be taken.

Comment date: June 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Atlantic City Electric Company, Inc.

[Docket No. ER97–3189–013]

Take notice that on March 27, 1998, Public Service Electric and Gas Company submitted an amendment to the compliance filing it submitted on January 26, 1998 in compliance with Ordering Paragraph (P) and (T) of the Commission's Order in Pennsylvania-New Jersey-Maryland Interconnection, et al., 81 FERC ¶ 61,257 (1997). PSE&G states that this amendment is required to conform the rates in the January 26, 1998, compliance filing with the revised transmission rates filed in response to the Commission's order on clarification in Pennsylvania-New Jersey-Maryland Interconnection, *et al.*, 82 FERC ¶ 61,068 (1998).

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER98–857–000]

Take notice that on May 12, 1998, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively, the CSW Operating Companies) gave notice of the withdrawal of their filing in the above captioned proceeding. The CSW Operating Companies state that the Commission's December 10 order issued in Docket No. OA97–24–000 and the submission of a revised open access transmission tariff on February 17, 1998 in response to that order, renders the submission of their filing in this proceeding unnecessary.

The CSW Operating Companies state that a copy of this filing has been served on the Public Utility Commission of Texas, the Louisiana Public Service Commission, the Arkansas Public Service Commission, the Oklahoma Corporation Commission and all parties to this proceeding.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PJM Interconnection, L.L.C.

[Docket No. ER98–1386–000]

Take notice that on April 17, 1998, the PJM Interconnection, L.L.C. (PJM), tendered for filing a letter stating that MidCon and MC2 rescind their request to withdraw from membership in PJM.

Comment date: May 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Co.

[Docket No. ER98–2434–000]

Take notice that on May 12, 1998, The Washington Water Power Company (WWP), filed notice of withdrawal of its filing with the Federal Energy Regulatory Commission of a Long-Term Firm Point-To-Point Transmission Service Agreement with Avista Energy, Inc.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power & Light Company

[Docket No. ER98–2628–000]

Take notice that on April 24, 1998, Minnesota Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Oeste Power Generation, L.L.C.

[Docket No. ER98–2961–000]

Take notice that on May 12, 1998, Oeste Power Generation, L.L.C. (Oeste Power), tendered for filing a service agreement establishing NorAm Energy Services, Inc. (NES), as a customer under Oeste Power's market-based rate sales tariff. Oeste Power requests an effective date of April 13, 1998, for the service agreement.

Oeste Power states that a copy of the filing was served on NES.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Alta Power Generation, L.L.C.

[Docket No. ER98–2962–000]

Take notice that on May 12, 1998, Alta Power Generation, L.L.C. (Alta Power), tendered for filing a service agreement establishing NorAm Energy Services, Inc. (NES), as a customer under Alta Power's market-based rate sales tariff. Alta Power requests an effective date of April 13, 1998, for the service agreement.

Alta Power states that a copy of the filing was served on NES.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Ocean Vista Power Generation, L.L.C.

[Docket No. ER98–2963–000]

Take notice that on May 12, 1998, Ocean Vista Power Generation, L.L.C. (Ocean Vista), tendered for filing a service agreement establishing NorAm Energy Services, Inc. (NES), as a customer under Ocean Vista's market-based rate sales tariff. Ocean Vista requests an effective date of April 13, 1998, for the service agreement.

Ocean Vista states that a copy of the filing was served on NES.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Mountain Vista Power Generation, L.L.C.

[Docket No. ER98–2964–000]

Take notice that on May 12, 1998, Mountain Vista Power Generation, L.L.C. (Mountain Vista), tendered for filing a service agreement establishing NorAm Energy Services, Inc. (NES), as a customer under Mountain Vista's market-based rate sales tariff. Mountain Vista requests an effective date of April 13, 1998 for the service agreement.

Mountain Vista states that a copy of the filing was served on NES.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER98–2965–000]

Take notice that on May 12, 1998, Consumers Energy Company (Consumers) tendered for filing an executed Service Agreement for Network Integration Transmission Service pursuant to Consumers' Open Access Transmission Service Tariff and a Network Operating Agreement. Both were with the Cannon-Muskegon Corporation and have effective dates of May 1, 1998.

Copies of the filed agreement were served upon the Michigan Public Service Commission and the customer.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER98–2966–000]

Take notice that on May 12, 1998, FirstEnergy System filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Merchant Energy Group of the Americas, the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under this Service Agreement is April 27, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Alliant Service, Inc.

[Docket No. ER98–2967–000]

Take notice that on May 12, 1998, Alliant Services, Inc., tendered for filing an executed Service Agreements for firm and non-firm point-to-point transmission service, establishing Northern States Power Company as a point-to-point Transmission Customer under the terms of the Alliant Services, Inc., transmission tariff.

Alliant Services, Inc., requests an effective date of April 17, 1998, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Montaup Electric Company

[Docket No. ER98–2968–000]

Take notice that on May 12, 1998, Montaup Electric Company (Montaup), tendered for filing certain revisions to the service agreements between Montaup and its two retail affiliates doing business in Rhode Island, Blackstone Valley Electric Company and Newport Electric Corporation, and between Montaup and its retail affiliate doing business in the Commonwealth of Massachusetts, Eastern Edison Company. Montaup requests that these service agreements be accepted and allowed to be made effective as of June 11, 1998.

According to Montaup, the purpose of its filing is to effectuate a reduction in Montaup's Installed Capability Responsibility as that term is defined in Section 12.2 of the New England Power Pool Tariff on file with the Commission.

Copies of the filing were served upon Montaup's jurisdictional customers and upon affected state agencies.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. FirstEnergy System

[Docket No. ER98–2969–000]

Take notice that on May 12, 1998, FirstEnergy System filed Service Agreements to provide Firm Point-to-Point Transmission Service for Merchant Energy Group of the Americas and AYP Energy, Incorporated, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective dates under the Service Agreements are April 27, 1998 and May 1, 1998 respectively, for the above mentioned Service Agreements in this filing.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Delmarva Power & Light Company

[Docket No. ER98–2970–000]

Take notice that on May 16, 1998, Delmarva Power & Light Company (Delmarva), tendered for filing executed umbrella service agreements with Continental Energy Services, L.L.C., VTEC Energy, Inc., SCANA Energy Marketing, Inc., and Southern Company Energy Marketing L.P., under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, that was filed by Delmarva in Docket No. ER96–2571–000. Delmarva requests that the Commission make the agreements effective as of their respective execution dates.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. El Segundo Power, LLC

[Docket No. ER98–2971–000]

Take notice that on May 12, 1998, El Segundo Power, LLC, tendered for filing pursuant to Section 205 of the Federal Power Act an amendment to its Electric Rate Schedule FERC No. 1, which would allow El Segundo Power, LLC to sell ancillary services at market-based rates. El Segundo Power, LLC, has requested an effective date of April 15, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Long Beach Generation LLC

[Docket No. ER98–2972–000]

Take notice that on May 12, 1998, Long Beach Generation LLC tendered for filing pursuant to Section 205 of the Federal Power Act an amendment to its Electric Rate Schedule FERC No. 1, which would allow Long Beach Generation LLC to sell ancillary services at market-based rates. Long Beach Generation LLC has requested an effective date of April 14, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Lyon Rural Electric Cooperative

[Docket No. ES98–32–000]

Take notice that on May 7, 1998, Lyon Rural Electric Cooperative (Lyon), filed an application with the Federal Energy Regulatory Commission, under Section 204 of the Federal Power Act, requesting an order authorizing the issuance of up to $3,500,000] in long-term debt, over a two-year period commencing June 30, 1998. Lyon also requests to be granted a waiver of the Commission's competitive bid or negotiated placement requirement, under 18 CFR 34.2, pursuant to the authorization requested in this docket.

Comment date: June 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Tampa Electric Company

[Docket Nos. OA96–116–002 and ER95–1775–002]

Take notice that on April 20, 1998, Tampa Electric Company tendered for filing corrected tariff sheets for the Settlement Agreement filed on January 20, 1998 in the above-referenced dockets.

Comment date: May 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Westmoreland-LG&E Partners (Roanoke Valley)

[Docket Nos. QF92–180–004, EL98–47–000, Docket Nos. EL94–10–002, QF86–177–003]

Take notice that on May 11, 1998, Westmoreland-LG&E Partners (the Partnership) submitted a Petition for Declaratory Order or, in the Alternative, Request for Waiver of QF Ownership Standard. The Partnership is the owner of a 45.1 MW topping-cycle cogeneration facility that has previously been certified by the Commission as a qualifying cogeneration facility, see Westmoreland-LG&E Partners (Roanoke Valley II), 60 FERC ¶62,215 (1992); Westmoreland-LG&E Partners (Roanoke Valley II), 64 FERC ¶62,215 (1993).

Comment date: June 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13559 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–331]

Duke Energy Corporation; Notice of Availability of Environmental Assessment

May 15, 1998.

An Environmental Assessment (EA) is available for public review. The EA was prepared for an application filed by the Duke Energy Corporation, licensee for the Catawba-Wateree Hydroelectric Project. In its application filed on August 9, 1996, the licensee requests permission to grant an easement of project property to Overlook Properties to construct one boat ramp and 180 floating boat slips at 10 locations. The proposed facilities would provide access for residents of Overlook Subdivision to Mountain Island Lake near Charlotte in Mecklenberg County, North Carolina. On May 29, 1997, the licensee filed a supplement to permit Overlook Properties, Inc. to dredge a 0.86-acre area to improve water depth for boating access.

The EA finds that the proposed action would not be a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be obtained by calling the Commission's public reference room at (202) 208–1371.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13483 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License

May 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of License.

b. *Project No.:* 2233–034.

c. *Date Filed:* April 13, 1998.

d. *Applicants:* Simpson Paper Company (Simpson), Portland General Electric Company (PGE), and Smurfit Newsprint Corporation (Smurfit).

e. *Name of Project:* Willamette Falls Hydroelectric Project.

f. *Location:* On the Willamete River in Clackamas County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)-825(r).

h. *Contacts:* Jeanne Verville, Simpson Paper Company, 1201 Third Avenue, Suite 4900, Seattle, WA 98101–3045, (206) 224–5000. Gary Hackett, Portland General Electric Company, 121 S.W. Salmon, Portland, OR 97204, (503) 464–8005. Jerry Stanley, Smurfit Newsprint Corporation, 427 Main Street, Oregon City, OR 97045, (503 650–4529.

i. *FERC Contact:* Mr. Lynn R. Miles, (202) 219–2671.

j. *Comment Date:* June 29, 1998.

k. *Description of the Application:* Simpson, the licensee for Willamette Falls Hydroelectric Project, jointly and severally with PGE and Smurfit, requests Commission approval to transfer the project license to PGE and Smurfit.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but

only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13484 Filed 5–20–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6100–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Source Compliance and State Action Reporting/Compliance Reporting to the Aerometric Information and Retrieval System (AIRS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Source Compliance and State Action Reporting, EPA ICR Number 0107, OMB control number 2060–0096, current expiration date 7/31/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 21, 1998.

ADDRESSES: US EPA Office of Compliance, 401 M Street, Washington DC Copies of background materials may be obtained without charge from Mark Antell (2222A) at this address, or electronically, via EMAIL request to antell.mark@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Mark Antell, 202/564–5003, FAX 202/564-0032, EMAIL antell.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are State, District, Commonwealth and territorial governments.

Title: Source Compliance and State Action Reporting, OMB Control Number 2060–0096, EPA ICR No. 0107 expiring July 31, 1998.

Abstract: Source Compliance and State Action reporting is an activity whereby State, District, Commonwealth and territorial (hereafter referred to as State) governments make air compliance information available to EPA on a quarterly basis via input to the Aerometric Information and Retrieval System (AIRS). The information provided to EPA includes compliance determinations and compliance activities. EPA uses this information to assess progress toward meeting emission requirements developed under the authority of the Clean Air Act to protect and maintain the atmospheric environment and the public health. The compliance information in AIRS is used by many States and by all ten EPA Regional offices on a frequent basis for managing activities of their air pollution control programs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement:

The burden for this effort was reduced dramatically in the mid 90's from 145633 hours/yr (pre-1995 ICR inventory), to the current approved 58686 hours. The burden change was due to reduced reporting requirements and improved technology. This request reflects modest but continuing burden reductions for similar reasons.

Number of respondents—55 (State governments).

Number of hours required per response—52 to 405 depending on State size.

Number of responses required per respondent per year—4.

Total hours/cost requested—55,500/ $1.47 million.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 14, 1998.

Elaine Stanley,

Director, Office of Compliance.

[FR Doc. 98–13607 Filed 5–20–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00237; FRL–5781–4]

Toxic Chemicals; Asbestos and PCBs; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections described below. The ICRs are: (1) a continuing ICR entitled "Reporting and Recordkeeping Requirements for Asbestos Abatement Worker Protection," EPA ICR No. 1246.06, OMB No. 2070-0072, which relates to reporting requirements found at 40 CFR part 763, subpart G, and (2) a continuing ICR entitled "PCB Notification and Manifesting of PCB Waste Activities, and Records of PCB Storage and Disposal," EPA ICR No. 1446.06, OMB No. 2070-0112, which relates to reporting requirements found at 40 CFR part 761. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Each comment must bear the respective docket control number and administrative record numbers, as follows: comments on ICR No. 1246.06 should reference docket control number "OPPTS–00237" and administrative record number 192; comments on ICR No. 1446.06 should reference docket control number "OPPTS–00237" and administrative record number 193. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G099, Washington, DC 20460. Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit III. of this document. No TSCA Confidential Business Information (CBI) should be submitted through e-mail.

All comments that contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information contact: Tony Baney, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–3933; Fax: 202–260–1724; e-mail: baney.tony@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of the ICRs are available from the EPA Home Page at the Federal Register - Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

Fax-on-Demand

Use a faxphone to call 202-401-0527 and select item 4059 for a copy of ICR No. 1246.06, or select item 4060 for a copy of ICR No. 1446.06.

I. Background

Affected entities: Entities potentially affected by this action are: with respect to ICR No. 1246.06, state and local governments without OSHA-approved state plans that have employees engaged in asbestos abatement; and, with respect to ICR No. 1446.06, persons who own or operate equipment containing polychlorinated biphenyls (PCBs) or who own or operate PCB storage and disposal facilities. For each collection of information addressed in this notice, EPA would like to solicit comments to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collections

EPA is seeking comments on the following two ICRs, as well as the Agency's intention to renew the corresponding OMB approvals.

Title: Reporting and Recordkeeping Requirements for Asbestos Abatement Worker Protection.

ICR numbers: EPA ICR No. 1246.06, OMB No. 2070–0072.

Approval expiration date: August 31, 1998.

Abstract: EPA's asbestos worker protection rule (40 CFR 763, subpart G) is designed to provide occupational exposure protection to state and local government employees who are engaged in asbestos abatement activities in states that do not have state plans approved by the Occupational Safety and Health Administration (OSHA). The rule provides protection for public employees not covered by the OSHA standard from the adverse health effects associated with occupational exposure to asbestos.

This rule requires state and local governments to monitor employee exposure to asbestos, take action to reduce exposure, to monitor employee health, train employees about asbestos hazards, and provide employees with information about exposures to asbestos and the associated health effects. The rule also requires state and local governments to notify EPA before commencing any asbestos abatement project. State and local governments must maintain medical surveillance and monitoring records and training records on their employees, must establish a set of written procedures for respirator programs, and must maintain procedures and records of respirator fit tests. EPA will use the information to

monitor compliance with the asbestos worker protection rule.

Responses to the collection of information are mandatory (see 40 CFR part 763, subpart G). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The burden to respondents for complying with this ICR is estimated to total 47,133 hours at a cost of $2,394,000. These totals are based on an average burden of approximately 22.7 hours per response for an estimated 2,080 respondents making one or more responses annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: PCB Notification and Manifesting of PCB Waste Activities, and Records of PCB Storage and Disposal.

ICR numbers: EPA ICR No. 1446.06, OMB No. 2070-0112.

Approval expiration date: September 30, 1998.

Abstract: Section 6(e) of the Toxic Substances Control Act (TSCA) directs EPA to regulate the marking, disposal, manufacturing, processing, distribution in commerce, and use of PCBs. EPA has promulgated rules prescribing methods for disposal of PCBs and criteria for the storage and handling of PCBs prior to disposal. These regulations require persons who own or operate equipment containing PCBs, or persons who own and operate facilities that store or dispose of PCB waste, to maintain records and submit certain reports, including third-party notifications, on the handling and disposition of such PCBs and PCB Items. This ICR addresses the burden associated with such recordkeeping and reporting requirements.

Responses to the collection of information are mandatory (see 40 CFR part 761). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The burden to respondents for complying with this ICR is estimated to total 175,453 hours per year with an annual cost of $7,337,200. These totals are based on an average burden ranging between approximately 1 hour and 428 hours per response, depending upon the category of respondent, for an estimated 50,955 respondents making one or more responses annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Record and Electronic Submissions

The official record for this document, as well as the public version, has been established for this document under docket number "OPPTS-00237" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form addressing ICR No. 1246.06 must be identified by docket control number "OPPTS-00237" and administrative record number 192. All comments and data in electronic form addressing ICR No. 1446.06 must be identified by docket control number "OPPTS-00237" and administrative record number 193. Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Information collection requests, Reporting and recordkeeping.

Dated: May 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–13629 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–F

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Graphic Arts Industry Subject to New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standards for the Graphic Arts Industry, OMB Control Number 2060–0105, expiration date 7/31/98. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 0657.06

SUPPLEMENTARY INFORMATION:

Title: NSPS for Graphic Arts Industry (OMB Control No. 2060–0105, expiration date 7/31/98; EPA ICR No. 0657.06). This is a request for extension of a currently approved collection.

Abstract: The EPA is charged under Section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost * * * and energy requirements) the Administrator determines has been

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adequately demonstrated [Section 111 (a)(1)].

In addition, Section 114 (a) requires that any owner or operator subject to any Subpart to establish and maintain records, make reports, install, use and maintain monitoring equipment or methods as required, and provide other information as EPA may deem necessary.

The New Source Performance Standards (NSPS) for subpart QQ were proposed on October 28, 1980, and promulgated on November 8, 1982. These standards apply to the following facilities in NSPS Subpart QQ: each publication rotogravure printing press (not including proof presses) commencing construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR Part 60, subpart QQ.

Owners or operators of the affected facilities described have certain notification, reporting, and record keeping requirements under this rule. One example of each is: a one-time-only notification of the date of the anticipated and actual dates of startup, keep records of monthly emissions calculations, and a report of the initial performance test. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such reports and records.

Approximately 21 facilities are currently subject to the standard, and it is estimated that an additional 3 facilities will become subject to the standard in the next three years. It is further assumed that less than half of the existing facilities will be adding or modifying a press during the three year period. Therefore, there are 189 existing presses subject to this standard and an additional 10 affected units will be added each year. This is based upon the AIRS Facility Subsystem Report. All reports are sent to the delegated State or Local Authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Information is entered into the AIRS database.

The information requested as part of this rule includes one-time-only notifications; records about the initial performance test, changes in the operation of the facility, and the exceeding of parameters; and semi-annual reports of the exceeded results.

Notifications are used to inform the agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 12/02/97 (62 FR 63703). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 60 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency.

Respondents/Affected entities: Owners/Operators of publication Rotogravure printing presses.

Estimated Number of Respondents: 24.

Frequency of Response: On occasion, Semi-Annually.

Estimated total Annual Hour Burden: 2988.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0657.06 and OMB Control No. 2060–0105 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: May 18, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–13611 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6101–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Pollutant Discharge Elimination System for the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Pollutant Discharge Elimination System Great Lakes Water Quality Guidance (EPA ICR Number 1639.03; OMB Control Number 2040–0180; expiration date June 30, 1998). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22; 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1639.03.

SUPPLEMENTARY INFORMATION:

Title: National Pollutant Discharge Elimination System Great Lakes Water Quality Guidance (OMB Control No. 2040–0180; EPA ICR No.1639.03) expiring June 30, 1998. This is a request for extension of a currently approved collection.

Abstract: Section 101 of the Great Lakes Critical Programs Act (CPA) amends Section 118 of the Clean Water Act (CWA) and directs EPA to publish water quality guidance for the Great Lakes System. Provisions of the Guidance are codified in 40 CFR Part 132. The Guidance establishes minimum water quality criteria, implementation procedures, and antidegradation provisions for the Great Lakes System.

Permitting authorities currently require dischargers to provide information such as the name, location, and description of facilities to identify the facilities that require permits. EPA and authorized NPDES States store much of this basic information in the

Permit Compliance System (PCS) database. PCS provides EPA with a nationwide inventory of NPDES permit holders. EPA Headquarters uses the information contained in the PCS to develop reports on permit issuance, backlogs, and compliance rates. The Agency also uses the information to respond to public and Congressional inquiries, develop and guide its policies, formulate its budgets, assist States in acquiring authority for permitting programs, and manage its programs to ensure national consistency in permitting.

NPDES permit applications and requests for supplemental information currently require information about wastewater treatment systems, pollutants, discharge rates and volumes, whole effluent toxicity testing and other data. Additional information collection requirements that may be necessary to implement State, Tribal, or EPA promulgated provisions consistent with the final Guidance include: (1) Monitoring (pollutant-specific and whole effluent toxicity or WET); (2) pollutant minimization programs; (3) bioassays to support the development of water quality criteria; (4) antidegradation policy/demonstrations; and (5) regulatory relief options (e.g., variances from water quality criteria).

This information may be used to ensure compliance with provisions consistent with the Guidance and re-evaluate existing permit conditions and monitoring requirements. Data on discharges is entered into STORET and PCS, EPA's databases for ambient water quality data and NPDES permits, respectively. Results of water quality criteria testing will be entered into an EPA Information Clearinghouse database.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 29, 1997, (62 FR 67637–67639); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18.8 hours per response. The burden will vary among dischargers and states and, depending on effluent quality, according to the requirements of the Guidance provisions. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Industries and local governments, as POTWs, discharging toxic pollutants to waters in the Great Lakes System as defined in 40 CFR 132.2; the governments of the eight Great Lakes States (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin).

Estimated Number of Respondents: 588 major industrial and POTW dischargers, and 3,207 minor dischargers.

Frequency of Response: varies depending on dischargers effluent characteristics.

Estimated Total Annual Hour Burden: 43,395 hours.

Estimated Total Annualized Cost Burden: $2,504,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1639.03 and OMB Control No. 2040–0180 in any correspondence to: Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and, Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 15, 1998.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–13612 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5990–3]

Delegation of National Emission Standards for Hazardous Air Pollutants; Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: The purpose of this notice is to announce that on January 5, 1998, EPA granted the Commonwealth of Pennsylvania's request for partial delegation of the National Emission Standards for Hazardous Air Pollutants (NESHAPs), and associated infrastructure programs. This request for partial delegation of authority only pertains to affected sources of hazardous air pollutants (HAPs), for all source categories which are located at major sources. EPA granted the delegation with certain restrictions. The restrictions involve EPA's retainment of certain authorities including: implementation and enforcement of standards that control radionuclides or that apply to an area source which is not located at a major source, implementation and enforcement of an accidental release program, approvals of alternative means of limiting emissions, alternative control technologies, alternative test methods, alternative monitoring methods; and the authority to make certain applicability determinations. In addition, certain provisions will be delegated only on a case-by-case basis and require notification by the Pennsylvania Department of Environmental Protection (PADEP) to EPA. These provisions include: approvals of compliance extensions, site-specific test plans, performance evaluation plans; approvals of minor alternatives to test methods, monitoring, and shorter sampling times/volumes; and waivers of performance testing and record keeping.

EFFECTIVE DATES: The effective date of the delegation authority is January 5, 1998.

ADDRESSES: Copies of the requests for delegation of authority and EPA's letters of delegation are available for public inspection at EPA's Region III Office, 841 Chestnut Bldg., Philadelphia, PA 19107; PADEP's Central Office, the PADEP regional offices, the Allegheny County Bureau of Air Pollution Control office and the Philadelphia Air Management Services office during normal business hours. The addresses of these offices are provided below. Effective immediately, all notifications,

requests, applications, reports and other correspondence required pursuant to 40 CFR part 63 for major sources, as defined in 40 CFR part 70, to be sent to the Administrator should be submitted to EPA Region III office and, with respect to sources located in listed counties, to the following addresses. Although, by this delegation, PADEP is the sole agency authorized to implement and enforce the 40 CFR part 63 standards, Allegheny County Bureau of Air Pollution Control and Philadelphia Air Management Services will serve as agents to PADEP for the receipt of all notifications, requests, applications, reports and other correspondence required pursuant to 40 CFR part 63 for major sources, as defined in 40 CFR part 70 for Allegheny County and Philadelphia County, respectively. Allegheny County Bureau of Air Pollution Control and Philadelphia Air Management Services will notify PADEP's Central Office of the receipt of this information for proper implementation and enforcement.

PADEP Central Office—Rachel Carson State Office Building, 400 Market Street, 12th Floor, Harrisburg, PA 17105–8468, Telephone: 717–787–9702, Contact: Permit Chief

PADEP Region I-Southeast Regional Office, Lee Park—Suite 6010, 555 North Lane, Conshohocken, PA 19428, Telephone: 610–832–6242,Contact: Program Manager Counties: Bucks, Chester, Delaware, Montgomery

PADEP Region II-Northeast Regional Office, Two Public Square, Wilkes-Barre, PA 18711–0790, Telephone: 717–826–253, Contact: Program Manager, Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wyoming

PADEP Region III–Southcentral Regional Office, One Ararat Boulevard, Harrisburg, PA 17110, Telephone: 717–657–4587, Contact: Program Manager, Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, York

PADEP Region IV-Northcentral Regional Office, 208 West 3rd Street, Suite 101, Williamsport, PA 17701, Telephone: 717–327–3637, Contact: Program Manager Counties: Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union

PADEP Region V-Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222–4745, Telephone 412–442–4174, Contact: Program Manager, Counties: Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington, Westmoreland

PADEP Region VI-Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335–3481, Telephone 814–332–6940, Contact: Program Manager, Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, Warren

Allegheny County—Allegheny County Health Department, Plan Review Section, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, PA 15201, Telephone 412–578–8111

Philadelphia County—Department of Public Health, Air Management Services, 321 University Avenue, Spelman Building, Philadelphia, PA 19104, Telephone 215–823–7584

FOR FURTHER INFORMATION CONTACT: Dianne J. Walker, Permit and Technical Assessment Section (3AP11), Air Protection Division, EPA Region III, 841 Chestnut Street, Philadelphia, PA 19107, Telephone: 215–566–3297.

SUPPLEMENTARY INFORMATION: Section 112(l) of the Clean Air Act, as amended November 15, 1990, and 40 CFR part 63, subpart E, authorizes EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of emission standards of hazardous air pollutants.

On February 13, 1996, the Pennsylvania Department of Environmental Protection (PADEP) requested partial delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs) and associated infrastructure programs, pursuant to section 112 of the Clean Air Act (CAA), as set forth in 40 CFR part 63. This request was made in the CAA Title V Operating Permits Program Implementation Agreement which was negotiated between PADEP and EPA. This request for partial delegation of authority only pertains to affected sources of hazardous air pollutants (HAPs), as defined in 40 CFR part 63, for all source categories which are located at major sources, as defined in 40 CFR part 70.

On July 30, 1996, EPA approved PADEP's Title V Operating Permits Program. Requirements for approval, specified in 40 CFR 70.4(b), encompass CAA section 112(l)(5) requirements for approval of a program for delegation of CAA section 112 standards as promulgated by EPA as they apply to 40 CFR part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation and an expeditious compliance schedule for enforcing standards, which are also requirements under 40 CFR part 70. Therefore, as part of the Title V Operating Permits Program approval, EPA also promulgated full approval under CAA section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of the CAA section 112 standards that are unchanged from Federal standards as promulgated in 40 CFR part 63. This program for delegation only applies to sources covered by the 40 CFR part 70 program.

On January 5, 1998, the Environmental Protection Agency granted the request for partial delegation with certain restrictions. The following authorities will be retained by EPA Region III: (1) implementation and enforcement of standards that control radionuclides (40 CFR 63.12(b)(1)); (2) implementation and enforcement of standards that apply to an area source, as defined in 40 CFR 63.2, which is not located at a major source, as defined in 40 CFR part 70; (3) implementation and enforcement of an accidental release program, as defined in CAA section 112(r) and 40 CFR part 68; (4) approval of alternative means of emission limitations and alternative control technologies; (5) approval of alternative test methods; (6) approval of alternative monitoring methods; and, (7) the authority to make certain applicability determinations, as required by formal requests from owners or operators of facilities or the public. In addition, certain provisions of 40 CFR part 63 are delegated on a case-by-case basis to PADEP and require PADEP to notify U.S. EPA Region III, in writing. These provisions include: (1) compliance extensions; (2) approval of site-specific test and performance evaluation plans; (3) approval of minor alternatives to test methods and monitoring; (4) approval of shorter sampling times/volumes; (5) waiver of performance testing and, (6) waiver of record keeping. As of January 5, 1998, PADEP has primary authority to enforce the standards in 40 CFR part 63 for CAA part 70 sources, however, EPA will retain independent enforcement authority. Pennsylvania has adopted by reference all existing NESHAPs and the corresponding amendments and revisions into 25 Code 127.35. Because PADEP will automatically incorporate by reference all future 40 CFR part 63 NESHAPs and all future amendments and revisions into 25 Code 127.35, this delegation will be automatic (i.e.,

delegation is granted upon Federal promulgation of a standard, amendment or revision).

If the Administrator determines that Pennsylvania cannot adequately implement or enforce the requirements of 40 CFR part 63, this delegation may be revoked in whole or in part.

EPA hereby notifies the public that it has partially delegated the authority for implementation and enforcement of the NESHAPs, pursuant to 40 CFR part 63, as outlined above, to the Pennsylvania Department of Environmental Protection.

The Office of Management and Budget has exempted this action informing the public of partial delegation of NESHAPS to PADEP, as outlined above, from Executive Order 12688 review. This notice is issued under the authority of sections 101, 110, 112 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 7412, 7601).

Dated: March 18, 1998.

Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

[FR Doc. 98–13618 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6100–1]

Interim Policy for Addressing Public Health and Welfare Impacts Caused by Wildland and Prescribed Fires in the Nation's Wildlands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the EPA has issued an "Interim Air Quality Policy on Wildland and Prescribed Fires." The policy addresses public health and welfare impacts caused by wildland and prescribed fires in the Nation's wildlands (areas with little development, such as forests and grasslands). The policy applies to all wildland and prescribed fires managed to achieve resource benefits on public, Indian and privately owned wildlands, regardless of the cause of ignition (e.g., lightning, land management decision, accidental, etc.) or purpose of the fire (e.g., resource management, hazard reduction, etc.). The policy does not apply to other open burning activities, such as burning at residential, commercial or industrial sites; open burning of land-clearing waste or construction debris. It also does not apply to open burning of agricultural waste, crop residue or land in the U.S. Department of Agriculture (USDA) Conservation Reserve Program.

This is an interim policy for two reasons. First, EPA expects recommendations from the USDA based on input from USDA's Air Quality Task Force on how to address public health and welfare impacts caused by agricultural burning. Those recommendations may affect the Agency's understanding of fires in the wildlands versus agricultural fires. Second, until the final rules for implementing EPA's regional haze program are promulgated, it is not possible to formulate final policy with respect to the impact of wildland and prescribed fires on regional haze.

The policy was issued in response to plans by some Federal, tribal and State wildland owners/managers to significantly increase the use of wildland and prescribed fires to achieve resource benefits. The absence of fire effects, due to past management practices, has allowed plant species (e.g., trees and shrubs) that would normally be eliminated by fires to proliferate, vegetation to become dense and insect infestations to go unchecked. In response, wildland owners/managers plan to significantly increase their use of fires to correct these unhealthy conditions and to reduce the risk of wildfires to public and fire fighter safety. The policy integrates two public policy goals: (1) to allow fire to function, as nearly as possible, in its natural role in maintaining healthy wildland ecosystems; and (2) to protect public health and welfare by mitigating the impacts of air pollutant emissions on air quality and visibility.

FOR FURTHER INFORMATION CONTACT: For specific questions on the policy, contact Mr. Kenneth Woodard, U.S. EPA, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5697, or Mr. Gary Blais, U.S. EPA, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3223.

SUPPLEMENTARY INFORMATION: The EPA does not directly regulate the use of fire within a State or on Indian lands. The EPA's authority is to enforce the Clean Air Act requirements to attain and maintain the national ambient air quality standards (NAAQS) adopted to protect public health and welfare. This policy recommends that States/tribes implement smoke management programs (SMP's) to mitigate the public health and welfare impacts of fires managed for resource benefits. The goals of SMP's are to mitigate the nuisance and public safety hazards (e.g., on roadways and at airports, etc.) posed by smoke intrusions into populated areas; to prevent deterioration of air quality and NAAQS violations; and to address visibility impacts in mandatory Class I Federal areas. The SMP's establish procedures and requirements for minimizing air pollutant emissions and managing smoke dispersion.

Electronic Availability

A World Wide Web site has been developed for policy and guidance issued by the Office of Air and Radiation. The Uniform Resource Location for the home page of the web site is *http://www.epa.gov/ttn/oarpg*. For assistance, the TTN Helpline is (919) 541–5384. For those persons without electronic capability, a copy may be obtained from Ms. Virginia Wyatt, MD–15, Air Quality Strategies and Standards Division, RTP NC 27711, telephone (919) 541–5628.

Dated: May 15, 1998.

Jeffrey S. Clark,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 98–13616 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6100–4]

Public Water System Supervision Program Revision for the State of Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provision of section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Ohio is revising its approved Public Water System Supervision (PWSS) primacy program. The Ohio Environmental Protection Agency (OEPA) has adopted new analytical methods, withdrawn outdated analytical methods, and updated older analytical methods for regulated drinking water contaminants. The OEPA has also removed legally obsolete or redundant rules from its regulations, and has adopted technical amendments to correct typographical errors and clarify regulatory language. These regulations correspond to the NPDWRs promulgated by the U.S. Environmental Protection Agency (U.S. EPA) on June 30, 1994, (59 FR 33860–33864); on July 1, 1994, (59 FR 34320–34325); on June 29, 1995, (60

FR 33926–33932); and, on December 5, 1994, (59 FR 62456–62471), as amended on June 29, 1995, (60 FR 34084–34086). The U.S. EPA has completed its review of Ohio's PWSS primacy program revision.

The U.S. EPA has determined that the Ohio rule revision meets the requirements of the Federal rule. Therefore, the U.S. EPA is proposing to approve the OEPA's rule revision.

All interested parties are invited to submit written comments on these proposed determinations, and may request a public hearing on or before June 22, 1998. If a public hearing is requested and granted, the corresponding determination shall not become effective until such time following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator.

Requests for public hearing should be addressed to: William Spaulding (WD–15J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Ohio. A notice will be sent to the person(s) requesting the hearing as well as to the State of Ohio. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and should the Regional Administrator not elect to hold a hearing on his own motion, these determinations shall become effective on June 22, 1998. Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents related to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Ohio Environmental Protection Agency, Division of Drinking and Ground Waters, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43215–1099, State Docket Officer: Mr. Bernie Clark, (614) 644–2752.

Safe Drinking Water Branch, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Spaulding, Region 5, Safe Drinking Water Branch at the Chicago address given above, telephone 312/886–9262.

(Section 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated: May 11, day of May 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 98–13608 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6100–2]

Common Sense Initiative Council (CSIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory for the CSI council meeting, an open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the CSI Council will meet on the dates and times described below. The meeting is open to the public. Seating at the meeting will be on a first-come basis and limited time will be provided for public comment. For further information, please contact the individual listed below.

Common Sense Initiative Council Meeting—June 9, 1998

The Common Sense Initiative Council will hold an open meeting on Tuesday, June 9, 1998, from 8:30a.m. EST to 5:30p.m. EST. The meeting will be held at the Crystal City Sheraton, 1800 Jefferson-Davis Highway, Arlington, Virginia, 703–486–1111 or 1–800–325–3535.

The Council Agenda will focus on a variety of topics including: Discussion of five issue papers on Sector-Based Environmental Protection (SBEP) which will form the basis for the SBEP Action Plan, a Stakeholder Involvement Workgroup report, an update on the PrintSTEP project from the Printing Sector Subcommittee, recommendations from the Computer and Electronics Sector Subcommittee, discussion of Reinventing Environmental Information issues concerning data gaps, data quality, and burden reduction, and performance measures for CSI.

For further information concerning this Common Sense Initiative Council meeting, contact Kathleen Bailey, Designated Federal Officer, on (202) 260–7417, or email: bailey.kathleen@epamail.epa.gov.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above Sector Subcommittee announcement will be publicly available at the meeting. Thereafter, these documents, together with the official minutes for the meeting, will be available for public inspection in room 3802M of EPA Headquarters, Common Sense Initiative Staff, 401 M Street, SW, Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically on our web site at http./ /www.epa.gov/commonsense.

Gregory Ondich,

Acting Designated Federal Officer.

[FR Doc. 98–13615 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6100–8]

Public Meeting To Discuss Adverse Environmental Impacts Resulting From Cooling Water Intake Structures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting

SUMMARY: The Environmental Protection Agency will hold a public meeting to discuss issues associated with defining and measuring adverse environmental impacts from cooling water intake structures. The purpose of this meeting is to facilitate an exchange of information that will assist EPA in developing regulatory options for

minimizing adverse environmental impact. The public meeting is open to anyone wishing to attend.

SUPPLEMENTARY INFORMATION: In 1995, EPA entered into a Consent Decree that requires the Agency, no later than July 2, 1999, to propose regulations implementing Section 316(b) of the Clean Water Act, 33 U.S.C Section 1326(b), and to take final action with respect to the regulations no later than August 13, 2001. The Agency is currently developing these regulations for proposal. Section 316(b) provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of Section 316(b) is to minimize the impingement and entrainment of fish and other aquatic organisms as they are drawn into a facility's cooling water intake.

The issues that EPA has developed for discussion fall into three categories: (1) Environmental Criteria: Defining and Assessing Adverse Environmental Impacts; (2) Plant Characteristics: Determining the Contribution to Adverse Environmental Impacts; and (3) Minimizing Adverse Environmental Impacts: Designing an Approach. The following is a potential list of issues for discussion at the June 29, 1998 public meeting:

(1) Environmental Criteria: Defining and Assessing Adverse Environmental Impact

- What constitutes an adverse environmental impact? Should the impact be defined in terms of actual and/or potential effects?
- What environmental parameters are most important for defining adverse environmental impacts?
- For which environmental parameters might qualitative or quantitative thresholds and/or decision criteria be developed for determining adverse impacts?
- What approaches and methods are most appropriate for assessing adverse environmental impact?

(2) Plant Characteristics: Determining the Contribution to Adverse Environmental Impact

- What factors related to the location, design, construction, and capacity of cooling water intake structures most significantly contribute to adverse environmental impacts? (For example: source waterbody type, flow rate, velocity, configuration of intake, type of technology at the intake.)
- For which such factors (e.g., velocity, flow rate, waterbody type, etc.) might qualitative or quantitative thresholds and/or decision criteria be developed?

(3) Minimizing Adverse Environmental Impact: Designing an Approach

- What information should be considered when designing an approach to minimize adverse environmental impacts.
- What are possible approaches to defining and measuring the cumulative effects of impingement and entrainment?

DATES: The public meeting will be held on Monday, June 29, 1998. The meeting will begin promptly at 10:00 a.m. and will end at approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The Crystal City Marriott phone number is (703) 413–5500. The nearest Metro stop is Crystal City station on either the Blue or the Yellow Line. If you need overnight accommodations, please call the hotel directly. A block of 25 rooms is reserved for the night of Sunday, June 28, 1998. The rooms are listed under "U.S. EPA 316(b) Meeting."

FOR FURTHER INFORMATION CONTACT: Deborah Nagle, senior project manager, Office of Wastewater Management (4203), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; phone number is (202) 260–2656 and E-mail address is nagle.deborah@epamail.epa.gov. To register for the meeting, please contact Betty Peterson of SAIC via FAX at (703) 903–1374 or via mail at 1710 Goodridge Drive (1–11–7), McLean, VA 22102. Please register by June 22, 1998.

Dated: May 14, 1998.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 98–13613 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6101–1]

Extension of Period of Submission of Section 111(d) Plans for Existing Municipal Solid Waste (MSW) Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Administrator has determined that it is necessary to extend the submission deadline for section 111(d) Plans for MSW landfills for the States of Arkansas and Oklahoma and for Chattanooga-Hamilton County, Tennessee as described below. The reasons for this action are set forth in the memorandum, *Supplemental Justification for Extending Municipal Solid Waste Landfill Section 111(d) Plan Submittals*, which is located in the docket and on EPA's website. These Plans, which are required under section 111(d) of the Clean Air Act (the Act) for existing landfills (40 CFR Part 60, subpart B), describe how the State or Local air pollution agency or Indian Tribe will implement the MSW landfill emission guidelines. The guidelines were promulgated on March 12, 1996 under 40 CFR Part 60, subpart Cc (61 FR 9905). The section 111(d) Plans were due December 12, 1996.

ADDRESSES: Office of Air Radiation Docket and Information Center (Air Docket 6102), Room M 1500, U.S. Environmental Protection Agency, Attention: Docket No. A–97–37, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 5:30 p.m. on weekdays, and a reasonable fee may be charged for copying. The Air Docket may be called at (202) 260–7548. The EPA's Office of Air and Radiation Policy and Guidance website may be accessed at: http://www.epa.gov/ttn/oarpg/amend.html.

FOR FURTHER INFORMATION CONTACT: For Chattanooga-Hamilton County, Mr. Scott Davis, EPA Region IV, 61 Forsyth Street, S.W., Atlanta, GA 30303, telephone (404) 562–9127; for Arkansas or Oklahoma, Lt. Mick Cote, EPA Region VI, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: The EPA promulgated standards of performance for new MSW landfills and emission guidelines for existing MSW landfills on March 12, 1996. These standards of performance and emission guidelines, which were developed under section 111 of the Act, regulate emissions of nonmethane organic compounds from MSW landfills. Section 111(d) of the Act requires States to submit a Plan to the EPA that addresses how States will regulate, implement and enforce standards of performance on existing MSW landfills and specifies when those Plans must be submitted. This requirement is codified under 40 CFR 60.23.

Section 60.27 of 40 CFR authorizes the EPA Administrator to extend the period for submission of a section 111(d) Plan whenever he or she determines it is necessary. Arkansas,

Oklahoma and Chattanooga-Hamilton County have shown good faith in developing and committing to submit their Plans in an expedited manner. Based on EPA's analysis of the State and local air pollution agency requests, Arkansas and Oklahoma and Chattanooga-Hamilton County are granted extensions until July 31, 1998. The memorandum, *Supplemental Justification for Extending Municipal Solid Waste Landfill Section 111(d) Plan Submittals*, mentioned previously, documents the States' efforts and explains why EPA is granting an extension for the section 111(d) Plan submittals to these States' and locality's air pollution agencies.

(Authority: 42 U.S.C. 7401–7671q)

Dated: May 13, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–13609 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30454; FRL–5789–1]

Certains Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 22, 1998.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30454] and the file symbols to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM-22), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 247, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703 305–7740, e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 71280–G. Applicant: Premium Compounded Products, LLC, 1208 East 12th St., Wilmington, DE 19802. Product Name: Migratrol R001. Plant growth regulator. Active ingredient: Cuprous chloride at 50 percent. Proposed classification/Use: None. For the control of root growth in nursery pots.

2. File Symbol: 71280–R. Applicant: Premium Compounded Products. Product Name: Cuprous Chloride. Plant growth regulator. Active ingredient: Cuprous chloride at 98.2 percent. Proposed classification/Use: None. For the control of root growth in nursery pots.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30454] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30454]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: May 11, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–13627 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–OH; FRL–5790–2]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Ohio's Authorization Application

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On April 13, 1998, the State of Ohio submitted an application for EPA approval to administer and enforce

training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Ohio's application, and provides a 45–day public comment period and an opportunity to request a public hearing on the application.

DATES: Submit comments on the authorization application on or before July 6, 1998. Public hearing requests must be submitted on or before June 5, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by tracking number "PB-402404-OH" (in duplicate) to: Environmental Protection Agency, Region 5, DT-8J, 77 West Jackson Blvd., Chicago, IL 60604.

Comments, data, and requests for a public hearing may also be submitted electronically to: turpin.david@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Erik Maurer, Project Officer, Environmental Protection Agency, Region V, DT-8J, 77 West Jackson Blvd., Chicago, IL 60604, Telephone: (312) 353-1263, e-mail address: maurer.erik@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the U.S. Congress passed Pub. L. 102-550 which included the Residential Lead-Based Paint Hazard Reduction Act of 1992. This Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV--Lead Exposure Reduction (15 U.S.C. 2681 *et seq.*).

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. In lieu of the Federal program, a State or Tribe may seek authorization from EPA to administer and enforce their own lead-based paint activities program (TSCA, Title IV, section 404 (a)).

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated the final TSCA section 402/404 regulations. On August 31, 1998, EPA will institute the Federal program in States or Tribes that do not have an authorized program. States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. These applications must be reviewed by EPA within 180 days of receipt of the complete application. To receive final program authorization, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684 *et seq.*).

II. State Program Description Summary

Chapter 3742 of the Ohio Revised Code contains Ohio's lead licensing statutes. Chapters 3701-32 and 3701-82 of the Ohio Administrative Code contain the rules that amplify Chapter 3742. Together, the statutes and rules set up a licensing program operated by the Ohio Department of Health (ODH) for individuals engaged in lead-based paint activities. The statutes and rules also require ODH to approve lead testing laboratories, lead training providers, and lead abatement systems and products. In addition, they require physicians and laboratories to report lead poisoning cases to the State. Finally, they set up standards for the proper conduct of lead inspection, lead assessment, and lead abatement activities.

ODH licenses individuals in five lead disciplines: lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, and lead risk assessor. To become licensed, potential contractors, workers, inspectors, and assessors must successfully complete an ODH-approved training course for the discipline in question, properly complete the licensing application, pay the appropriate license fee, and pass an independently administered state licensing examination. Registered sanitarians, sanitarians-in-training, certified industrial hygienists, and hygienists-in-training are exempted from the initial training requirement, but are required to pass the required certification exams and attend refresher training. ODH does not require project designers to pass a State licensing examination as a condition of licensing. Project designers are subject to rigorous education, experience, and training requirements as a condition of licensing.

A resident may conduct lead activities on his or her residence without a license. In most other cases, licensed personnel must conduct lead inspection, lead abatement, or lead assessment activities on a private residence or place of education or day care for a child under the age of 6. Any lead work conducted must comply with the work practices contained in rule 3701-32-02 of the Ohio Administrative Code. Rule 3701-32-02 references the suggested work practice procedures contained in the United States Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint in Housing (Guidelines). Pertinent chapters of the Guidelines are attachments to rule 3701-32-02 and other rules, and thus are part of Ohio's work practice standard.

Licensed personnel must prepare a lead inspection, lead risk assessment, or lead abatement report when conducting activities covered by Chapter 3742. The report must contain information recommended in the Guidelines and required by rule. All samples collected must be sent to an approved laboratory for analysis. Licensed personnel must keep copies of the report for a period of 3 years and are required to furnish reports to appropriate individuals.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail, or refuse to comply with any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure, or refusal to comply with any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under the tracking number "PB–402404–OH." Copies of this notice, the State of Ohio's authorization application, and all comments received on the application are available for inspection in the Region V office, from 8:30 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The application materials are available at: Toxics Program Section, Environmental Protection Agency, Region V, 8th floor, 77 West Jackson Blvd., Chicago, IL.

Electronic comments can be sent directly to EPA at:

turpin.david@epamail.epa.gov

Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by

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the tracking number "PB–402404–OH." Electronic comments on this document may be filed online at many Federal Depository Libraries.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: May 11, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–13628 Filed 5–20–98; 8:45 am]

BILLING CODE 6560–50–F

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: June 9, 1998. The White House Conference Center, Truman Room, Third Floor, 726 Jackson Place, NW., Washington, DC 20500.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Committee of Advisors on Science and Technology (PCAST) will meet in open session on Tuesday, June 9, 1998, at approximately 10:00 a.m. to discuss (1) international S&T issues, (2) public understanding of science and technology, and (3) topics of Congressional concern. This session will end at approximately 3:30 p.m.

PUBLIC COMMENTS: There will be a time allocated for the public to speak on any of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. Written comments are welcome anytime prior to or following the meeting. Please notify Holly Gwin, OSTP Chief of Staff, at 202–456–6140 or fax your requests/comments to 202–456–6026.

FOR FURTHER INFORMATION CONTACT: For information regarding time, place, and agenda please call Holly Gwin, OSTP Chief of Staff, at 202–456–6140, prior to 3:00 p.m. on Friday, June 5, 1998. Please note that public seating for this meeting is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by the Assistant to the President for Science and Technology, and by John Young, former President and CEO of the Hewlett-Packard Company.

Dated: May 18, 1998.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 98–13599 Filed 5–20–98; 8:45 am]

BILLING CODE 3170–01–M

FARM CREDIT ADMINISTRATION

[BM–14–May–98–02]

Interest Rate Risk Management

AGENCY: Farm Credit Administration.

ACTION: Proposed policy statement with request for comment.

SUMMARY: The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), is issuing for comment a proposed policy statement that provides guidance on interest rate risk management practices to Farm Credit System (System) institutions and describes the Agency's approach to evaluating interest rate risk when making a determination of capital adequacy.

The proposed policy statement identifies key elements of sound business principles and practices for interest rate risk management by a System institution. The policy statement also provides criteria by which the Agency will evaluate the adequacy and effectiveness of a System institution's interest rate risk management.

DATES: Written comments should be received on or before June 22, 1998.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or sent by facsimile transmission to (703) 734–5784. Comments may also be submitted via electronic mail to "reg-comm@fca.gov." Copies of all communications received will be available for review by interested parties in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Andrew D. Jacob, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Wendy R. Laguarda, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

The FCA's proposed Capital Phase III rule, in §§ 615.5180 and 615.5182, proposes that System banks and other System institutions (excluding the Federal Agricultural Mortgage Corporation) with interest rate risk implement appropriate risk management practices (*see* 62 FR 49623, Sept. 23, 1997). Proposed § 615.5181 provides that a System institution's board of directors (board) is responsible for maintaining effective oversight of interest rate risk management whereas senior management is responsible for ensuring that interest rate risk is properly managed. In the supplementary information to the proposed Capital Phase III rule, the Board stated its intention to provide additional guidance regarding sound interest rate risk management practices for A System institution.

In addition, proposed §§ 615.5350(b)(7) and 615.5355(a)(4) provide that the FCA may take action against an institution for failure to maintain sufficient capital for interest rate risk exposures. A System institution found to have high levels of exposure or weak interest rate risk management practices may be directed by the Agency to take corrective action, which may include raising additional capital, strengthening interest rate risk management expertise, improving interest rate risk management practices, reducing levels of exposure, or a combination thereof. The supplementary information to the proposed Capital Phase III rule states that a risk assessment approach will be used to evaluate a System institution's capital adequacy for interest rate risk and to determine what corrective action, if any, may be necessary. Additional guidance is now being provided by the FCA in this proposed policy statement.

Over the past several years, FCA examiners have considered the level of interest rate risk exposure, as well as the effectiveness of interest rate risk management practices, when concluding on an institution's capital adequacy and compliance with the requirements of § 615.5200(b)(7).[1] Considering previous examination results, the Agency does not anticipate that a System institution will be required to hold additional capital or enhance existing risk management practices for interest rate risk based solely on the Agency's implementation of the criteria contained in the proposed policy statement.

II. Discussion

The proposed policy statement addresses prudent interest rate risk management principles that the FCA expects a System institution to consider in its interest rate risk management processes. The FCA has emphasized these principles over the past several years in its examination, supervisory, and regulatory efforts. Moreover, many System institutions have already implemented interest rate risk management practices consistent with the principles contained in this policy statement. The policy statement also provides criteria by which the Agency will evaluate the adequacy and effectiveness of a System institution's interest rate risk management. In addition, the principles discussed here are consistent with the joint policy statement issued by other Federal financial institution regulatory agencies on interest rate risk management principles as applied to federally insured and supervised commercial banks and savings banks (*see* 61 FR 33166, June 26, 1996).[2]

Interest rate changes can affect an institution's earnings by changing net interest income and the level of other interest-sensitive income and operating expenses. Changes in interest rates also affect the underlying market value of an institution's assets, liabilities and off-balance sheet instruments. This occurs because the present value of a financial instrument's future cashflows, and in many cases the cashflows themselves, change when interest rates change. The combined effects of the changes in the present values of an institution's assets and liabilities reflect the change in an institution's underlying market value of equity.

Interest rate risk results from:

- Maturity or coupon adjustment timing differences of assets, liabilities, and off-balance sheet instruments (repricing or mismatch risk);
- Changes in the slope of the yield curve (yield curve risk);
- Imperfect correlation in the adjustment of the rates earned and paid on different instruments with otherwise similar repricing characteristics (basis risk); and
- Interest rate-related options embedded in assets, liabilities, and off-balance sheet instruments (options risk).

While interest rate risk is an inherent part of banking, it can become excessive and pose a significant threat to an institution's earnings and capital base. Accordingly, a well-managed risk management process that maintains interest rate risk within prudent levels is essential to the safety and soundness of a System institution.

III. Request for Comment

The Board requests comment on the Agency's proposed policy statement on interest rate risk management as set forth below in its entirety.

Policy Statement on Interest Rate Risk Management

BM–14–May–98–02

FCA–PS–##

Effective Date: None; Proposed Policy Statement with request for comment. Comment period is 30 days from publication in the **Federal Register**.

Effect on Previous Actions: None.

Source of Authority: Sections 5.9 and 5.17 of the Farm Credit Act of 1971, as amended.

I. Purpose

Interest rate risk is the exposure of a Farm Credit System (System) institution's financial condition to adverse movements in interest rates. This policy statement provides guidance to System institutions on prudent interest rate risk management principles. The policy statement also provides criteria by which the Farm Credit Administration (FCA or Agency) will evaluate the adequacy and effectiveness of a System institution's interest rate risk management.

II. Board of Directors' Responsibilities

Effective board of directors (board) oversight of an institution's interest rate risk activities is the cornerstone of a sound risk management process. The board should understand the nature and level of interest rate risks and how such risks relate to the overall business strategies of the institution. The board should also define its risk tolerance levels and expectations for interest rate risk management. To accomplish effective oversight, a board should, at a minimum, carry out the following responsibilities:

- Approve major business strategies and policies addressing interest rate risk, including establishing relevant risk limits, and integrating such strategies and policies into the institution's overall strategic and financial planning processes;
- Ensure that senior management implements a sound risk management process that facilitates the identification, measurement, monitoring, reporting, and control of interest rate risk;
- Monitor the institution's performance and overall interest rate risk profile to ensure that risk is maintained at prudent levels; and
- Ensure that adequate resources and proper control systems are devoted to interest rate risk management, including measurement activities.

III. Senior Management Responsibilities

Senior management is responsible for ensuring that interest rate risk is properly managed on both a long-range and day-to-day basis. In managing the institution's activities, senior management should, at a minimum:

- Develop and implement procedures that translate the board's major business strategies and policies addressing interest rate risk, including risk limits, into operating standards;
- Ensure adherence to the lines of authority and responsibility that the board has approved for managing, measuring, and reporting interest rate risk exposures;
- Oversee the implementation and maintenance of management information and other systems that appropriately manage and control interest rate risk; and
- Establish proper internal controls and audits over the interest rate risk management process.

An institution's board or senior management may delegate authority for implementing many aspects of board policy on risk management to an internal committee composed of qualified officers and staff members. Any such risk management committee should be a decision-making body involved in the acquisition, allocation, and pricing of the institution's resources in a manner consistent with both the goals established in a business plan and the risk tolerances established by the board.

IV. Interest Rate Risk Management Process

Effective control of interest rate risk requires a comprehensive management process that includes the following elements:

- Policies and procedures designed to control the nature and amount of interest rate risk that the institution assumes;
- A system for identifying and measuring interest rate risk;
- A system for monitoring and reporting interest rate risk; and
- A system of internal controls, review, and audit to ensure the integrity of the overall risk management process.

Each of the foregoing elements is discussed below.

A. Risk Limits

Each System institution should establish appropriate controls to effectively limit interest rate risk exposures within the risk tolerances established by the board. Established risk limits should be consistent

[1] Section 615.5200(b)(7) requires the board of directors of a System institution to consider other risk-oriented activities, such as interest rates risks, in developing its formal written capital adequacy plan.

[2] The Federal agencies that issued a joint policy statement on interest rate risk management are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

with the overall measurement approach and should consider capital levels and earnings performance. Risk limits also should be clearly defined, ensure that exposures will not lead to an unsafe or unsound condition, be consistent with the nature and complexity of the institution's activities, and be evaluated within the institution's total risk-bearing capacity. The risk limits should address the potential impact of changes in market interest rates on both reported earnings and the market value of equity. Exceptions to established risk limits should be appropriately reported, approved, and controlled. In addition, risk limits should be reviewed at least annually to ensure that they remain appropriate. A System institution's board and senior management should further ensure that adequate operational procedures, controls, and risk limits are in place prior to introducing a new product, hedging, or position-taking strategy that has the potential to increase materially the institution's interest rate risk exposure.

B. Interest Rate Risk Identification and Measurement

Senior management should ensure the adequacy and completeness of the interest rate risk identification and measurement system. The quality and reliability of the identification and measurement system depends on the type of system used, the quality of the data, and various assumptions used in the model; therefore, close attention to these areas is needed. Senior management should ensure that the identification and measurement system:

- Enables management to recognize and identify in a timely and accurate manner risks arising from the institution's existing activities and from new business activities;
- Captures and measures all material sources of interest rate risk in ways that are consistent with the scope of the institution's activities[3] and considers all relevant repricing and maturity data such as current balances, contractual rates, principal payments, interest reset dates, maturities, index rates, and rate caps and floors;
- Contains assumptions that are clearly communicated to and understood by risk managers and the board of directors; and
- Measures an institution's vulnerability to loss under stressful market conditions, including a breakdown of key assumptions.

When assessing the scope of an institution's exposure, risk managers should consider the effect on earnings and, when appropriate, market value of equity. The effect on earnings is important because reduced earnings or losses can adversely affect liquidity and capital adequacy. The effect on market value of equity is important because adverse changes in the market value of assets, liabilities, and off-balance sheet instruments can affect the future performance and liquidity of a System institution.

C. Monitoring and Reporting

Each System institution must have adequate information systems for monitoring and reporting interest rate risk exposures. These systems should provide the board, senior management, and any risk management committee with clear, concise, and timely summaries of the institution's aggregate exposures, compare current exposure to policy limits, and allow for a determination of whether the institution holds sufficient capital in relation to the level of risk exposure. Risk reports should provide sufficient information for the board and senior management to assess exposure. The frequency of internal reporting should be determined by the board and senior management and should depend on the amount and complexity of an institution's level of risk.

D. Internal Controls and Audits[4]

Each System institution should maintain an effective system of internal controls as part of its interest rate risk management process. Controls should include a process for identifying and evaluating risk, establishing appropriate approval processes and exposure limits, and requiring reconciliations, audits, and other mechanisms designed to provide reasonable assurance that interest rate risk is managed in a safe and sound manner. The controls should ensure official lines of authority and the appropriate separation of duties to avoid conflicts of interest, and should ensure that personnel follow established policies and procedures.

An institution with more complex interest rate risk exposures should ensure that its interest rate risk process is audited on a regular basis. The audits should be conducted by qualified individuals who are independent of the function they are assigned to audit. The audits should test the effectiveness of controls and ensure appropriate follow-up with management where risk limits have been exceeded or deficiencies in interest rate risk management are identified. Audits of risk measurement systems and models should include assessments of the assumptions, parameters, and methodologies used. The audit results should be reported to the board and senior management.

E. Additional Guidance on the Interest Rate Risk Management Process

The interest rate risk management process will vary among each System institution in accordance with the level of its interest rate risk exposure. For instance, a System bank, direct lender association, or a service corporation that is exposed to and managing major sources of interest rate risk should employ comprehensive interest rate risk management and measurement practices that address all applicable elements of an effective interest rate risk management process discussed in this policy statement. These practices should ensure the establishment and maintenance of adequate controls over the identification, measurement, monitoring, and reporting of all sources of interest rate risk.

The formality and comprehensiveness of the risk management process will vary among each System association depending on the extent to which interest rate risk is centrally managed by its funding bank. For instance, a direct lender association that is managing some sources of interest rate risk locally and that has the potential for a moderate level of interest rate risk exposure should implement an interest rate risk program that includes:

(a) A policy that defines the board's interest rate risk tolerance arising from the sources of interest rate risk being managed locally and that sets risk limits from an earnings perspective and, if appropriate considering the sources of interest rate risk being managed, a market value of equity perspective;

(b) Procedures and practices established by senior management that adequately identify, measure, control, monitor, and report interest rate risks within the association's direct control;

(c) Procedures and practices established by senior management that ensure that the board understands the sources and exposure levels of interest rate risk;

(d) Reliable information systems and modeling capabilities that are commensurate with the nature of the interest rate risk being managed and that measure interest rate risk under various economic scenarios; and

(e) Consideration of interest rate risk exposures in the capital adequacy plan as required by § 615.5200(b)(7).

Finally, a direct lender association that relies on its funding bank to manage essentially all sources of interest rate risk and that has a minimal level of interest rate risk exposure should establish an interest rate risk management program that includes:

(a) A policy that establishes the board's tolerance for interest rate risk;

(b) Procedures to ensure that the board and senior management understand the sources and exposure levels of interest rate risk;

(c) Consideration of interest rate risk exposures in the capital adequacy plan as required by § 615.5200(b)(7); and

(d) An analysis, prepared at least annually, of potential earnings exposure to changing interest rates.

V. FCA's Capital Assessment for Interest Rate Risk

FCA examiners will assess an institution's capital adequacy for interest rate risk based on the evaluation of an institution's level of interest rate risk exposure and its risk management practices performed in accordance with the FCA's Financial Institution Rating System. The results of an institution's interest rate risk management measures will be considered when evaluating interest rate risk exposure levels.

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[3] For a System institution with a high level of interest rate risk or a complex risk exposure, interest rate risk should be measured over a range of potential interest rate changes, economic scenarios, and yield curve shifts so as to effectively capture all material interest rate risk exposures (options, mismatch/repricing, basis, and yield curve). For a System association where the majority of interest rate risk is managed by the funding bank, any locally managed interest rate risk should be measured at least annually as part of its annual financial planning process.

[4] "Audits" is used here to refer to audits performed by either internal or external auditors. An institution can rely on qualified internal auditors to perform the audit functions by may wish to consider using external auditors if the interest rate risk exposures are complex and appropriate interest rate risk management practices and critical to controlling risk exposures at prudent levels.

Dated: May 15, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–13626 Filed 5–20–98; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

May 13, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 20, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060-0430.

Title: 47 CFR 1.1206, Permit-but-disclose proceedings.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit, individuals or households, not-for-profit institutions, Federal Government, State, Local, or Tribal Government.

Number of Respondents: 10,000 responses.

Estimated Time Per Response: 1/2 hour.

Estimated Cost per Respondent: $25/response.

Total Annual Burden: 5,000 hours.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: The Commission's rules require that a public record be made of ex parte presentations (*i.e.*, written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in "permit-but-disclose" proceedings, such as notice-and-comment rule makings and declaratory ruling proceedings. Persons making such presentations must file two copies of written presentations and two copies of a memorandum reflecting new data or arguments in oral presentations no later than the next business day after the presentation. Effective June 30, 1998, if ex parte presentations are filed electronically, only one copy need be filed. Parties to permit-but-disclose proceedings, including interested members of the public, use information regarding ex parte presentations to respond to the arguments made and data presented in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the ex parte materials helps ensure that the interested persons have fair notice of presentations made to the Commission and the development of a complete record.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13465 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 15, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 20, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0676.

Title: Policies and Rules Concerning Changing Long Distance Carrier (CC Docket No. 91–64), Section 64.1100.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 75 respondents.

Estimated Time Per Response: 1.23 hours per response (avg.).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 92.75 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Needs and Uses: The rules require IXCs who generate customer PIC change

orders through telemarketing to independently verify, by one of the four alternative procedures, that customers have agreed to change their long distance service before submitting those orders on behalf of the customer to the local exchange carrier (LEC). The IXC must within three business days of the customer's request for a PIC change send each new customer an information package that contains information concerning the requested change and a postpaid postcard which the customer can use to deny, cancel, or confirm a service order. The information package required in the fourth alternative verification procedure is intended to provide a low cost verification procedure for small carriers that utilize telemarketing as a means of competing with large IXCs.

OMB Approval No.: 3060–0665.
Title: Section 64.702—Public Dissemination of Information by Providers of Operator Services.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.
Number of Respondents: 436 respondents.
Estimated Time Per Response: 8 hours per response (avg.).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 3488 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Needs and Uses: 47 CFR Section 64.707 requires that operator service providers regularly publish and make available at no cost upon request from consumers written materials that describe any changes in operator services and choices available to consumers. A statute, 47 USC Section 226(d)(4)(B), required adoption of this rules. This requirement was a response to a widespread failure of operator service providers to provide information necessary for informed consumer choice in the marketplace. OSPs will provide this information primarily to consumers in the form of a written report that will be regularly updated at the OSP's discretion. Consumers will use this information to increase their knowledge of the choices available to them in the operator service marketplace.

OMB Approval No.: 3060–0515.
Title: Section 43.21(c)—Miscellaneous Common Carrier Letter Filing Requirement.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.
Number of Respondents: 18 respondents.
Estimated Time Per Response: 1 hour per response (avg.).
Frequency of Response: Annual reporting requirement.
Total Annual Burden: 18 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Needs and Uses: Pursuant to Section 43.21(c), each miscellaneous common carrier with operating revenues for a calendar year in excess of the indexed revenue threshold, as defined in 32.900, million must file a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. The letter must be filed not later than April 1 of the following year. The information is used by staff members to regulate and monitor the telephone industry and by the public to analyze the industry.

OMB Approval No.: 3060–0519.
Title: Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CC Docket No. 92–90).
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.
Number of Respondents: 30,000 respondents.
Estimated Time Per Response: 31.2 hours per response (avg.).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 936,000 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Needs and Uses: In CC Docket No. 92–90, the Commission implemented final rules pursuant to the requirements of the Telephone Consumer Protection Act of 1991, Pub. L. 102–243, Dec. 20, 1991 (TCPA) which added Section 227 to the Communication Act of 1934, as amended, to restrict the use of automatic telephone dialing systems, artificial or prerecorded messages, facsimile machines, or other devices to send unsolicited advertisements. The rules require that telephone solicitors maintain and use company-specific lists of residential subscribers who request not to receive further telephone calls (company-specific do-not-call lists), thereby affording consumers the choice of which solicitors if any, they will hear from by telephone. Telephone solicitors also are required to have a written policy for maintaining do-not-call lists, and are responsible for informing and training their personnel in the existence and use of such lists. The rules require that those making telephone solicitations identify themselves to called parties, and that basic identifying information also be included in telephone facsimile transmissions. The Commission believes that these rules are the best means of preventing unwanted telephone solicitations.

OMB Approval No.: 3060–0169.
Title: Sections 43.51 and 43.53—Reports and Records of Communication Common Carriers and Certain Affiliates.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.
Number of Respondents: 71 respondents.
Estimated Time Per Response: 84.91 hours per response (avg.).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 6029 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Needs and Uses: 47 CFR Sections 43.51 and 43.53 require common carriers to submit reports so that the FCC can monitor various activities of these carriers to determine the impact on the just and reasonable rates required by the Communications Act of 1934, as amended.

OMB Approval No.: 3060–0166.
Title: Part 42—Preservation of Records of Communication Common Carriers.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.
Number of Respondents: 68 respondents.
Estimated Time Per Response: 2 hours per response (avg.).
Frequency of Response: On occasion reporting requirement.
Total Annual Burden: 136 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Needs and Uses: Part 42 prescribes the regulations governing the preservation of records of communications common carriers that are fully subject to the jurisdiction of the FCC. The requirements are necessary to ensure the availability of carrier records needed by Commission staff for regulatory purposes.

OMB Approval No.: 3060–0391.
Title: Monitoring Program for Impact of Federal-State Joint Board Decisions.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Business or other for profit.

Number of Respondents: 668 respondents.

Estimated Time Per Response: 2 hours per response (avg.).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1336 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Needs and Uses: The Commission has a monitoring program which requires the periodic reporting by telephone companies and the National Exchange Carrier Association (NECA). Certain companies are required to submit information on network usage and growth. This information is generally maintained by all companies that settle on a cost basis. The information is being collected for the Commission by NECA. The information is used by the Commission, Joint Board, Congress and the general public to assess the impact of several Joint Board decisions.

OMB Approval No.: 3060–0470.

Title: Computer III Remand Proceeding: Bell Operating Company Safeguards, and Tier 1 LEC Safeguards (CC Docket No. 90–623) and Implementation of Further Cost Allocation Uniformity (MO&)).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 18 respondents.

Estimated Time Per Response: 600 hours per response (avg.).

Freqency of Response: On occasion and annual reporting requirements.

Total Annual Burden: 10,800 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Needs and Uses: 47 CFR Section 64.903(a) requires local exchange carriers with annual operating revenues that equal or exceed the indexed revenue threshold, as defined in Section 32.900 file a manual containing the information specified in Section 64.903(a)(1)–(6). Section 64.903(b) requires that carriers update their cost allocation manuals at least annually, except that changes to the cost apportionment table and to the description time reporting procedures must be filed at least 15 days before the carrier plans to implement the changes. The cost allocation manual is reviewed by the Commission to ensure that all costs are properly classified between regulated and nonregulated activity. Uniformity in the CAMs will help improve the joint cost allocation process. In addition, this uniformity will give the Commission greater reliability in financial data submitted by the carriers through the Automated Reporting Management Information System (ARMIS).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13569 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Submitted to OMB for Review and Approval

May 14, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 22, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0214 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0392.

Title: 47 CFR 1 Subpart J—Pole Attachment Complaint Procedures.

Form No: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit; State, local and tribal governments.

Number of Respondents: 1,381.

Estimated Time Per Response: .5–35 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure.

Cost to Respondents: $267,122 ($262,500 for outside legal counsel estimated at $150 per hour; $4,622 for filing expenses, postage and stationery costs, etc.).

Total Annual Burden: 3,047 hours.

Needs and Uses: On February 6, 1998, the Commission released a Report and Order, FCC 98–20, in CS Docket No. 97–151. In this Report and Order, the Commission adopts rules implementing Section 703 of the Telecommunications Act of 1996 relating to pole attachments. Section 703 requires the Commission to prescribe regulations to govern the charges for pole attachments used by the telecommunications carriers to provide telecommunications services. Information collection requirements regarding pole attachment provisions are used by the Commission to hear and resolve petitions for stay and complaints as mandated by Section 224 of the Communications Act of 1934. Information filed has been used to determine the merits of the petitions and complaints. Additionally, state certifications are used to make public notice of the state's authority to regulate the rates, terms and conditions for pole attachments.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13568 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 98–580]

Program To Monitor Impacts of Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 24, 1998, the Common Carrier Bureau issued a Public

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Notice to solicit comment on its proposed program to monitor the impacts of universal service support mechanisms and to issue reports documenting the results of that monitoring program. Previously, on May 8, 1997, the Commission released a Report and Order implementing section 254 of the Communications Act, as amended, and creating a new set of universal service support mechanisms. The Public Notice describes a monitoring program, developed in consultation with the states, and that will enable the public, the Commission, and other policy makers to assess and evaluate the new universal service support mechanisms.

DATES: Comments to the Public Notice are due on or before May 26, 1998. Reply comments are due on or before June 10, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554, with a copy to Scott Bergmann of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, N.W., Suite 500, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Deputy Chief of the Industry Analysis Division, Common Carrier Bureau, at (202) 418–0952, or Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice released April 24, 1998 (DA 98–580). The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Summary of The Public Notice

1. On May 8, 1997, the Commission released a Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96–45, FCC 97–157, (62 FR 32862, June 17, 1997) (hereafter *Universal Service Order*), implementing section 254 of the Communications Act, as amended, (47 U.S.C. Section 151 *et seq.*) and creating a new set of universal service support mechanisms. In the *Universal Service Order*, the Commission also decided to create a new program to monitor the universal service support mechanisms and to issue reports documenting the results of that monitoring program at least once a year. The Commission delegated responsibility for creating this monitoring program and for compiling the Monitoring Reports to the Common Carrier Bureau (Bureau), in consultation with the state staff of the Universal Service Joint Board. This Public Notice seeks comment on the proposed monitoring program.

2. The Commission instructed the Bureau to issue publicly available Monitoring Reports that are based on information provided by the administrator of the universal service support mechanisms to the Commission relating to the determination and amounts of payments made and monies received with respect to the universal service support mechanisms. With this guidance, the Commission delegated to the Bureau discretion over the exact content and timing of the Monitoring Reports. This Public Notice describes a monitoring program that we have developed in consultation with the states and that will enable the public, the Commission, and other policy makers, to assess and evaluate the new universal service support mechanisms. We issue this Public Notice to seek comment, particularly from those states, industry participants, and other members of the public not actively involved in CC Docket 96–45, on the proposed monitoring program. We note that, with some exceptions described below, the data included in the proposed Monitoring Reports are obtained pursuant to existing information collections, and thus impose no new reporting requirements on carriers, states, or any person other than the universal service administrator.

I. Background

3. In the 1996 Act, Congress adopted new section 254 of the Communications Act, as amended, and articulated a new statutory basis for federal universal service support mechanisms. Section 254 directs the Commission and states to establish support mechanisms to ensure the delivery of affordable telecommunications service to all Americans, including low-income consumers, eligible schools and libraries, and rural health care providers. The Commission, in the *Universal Service Order*, set forth a plan to meet all of the statutory requirements and to implement a universal service support system that will be sustainable over time.

II. Proposal

4. The new monitoring program will document and assess three aspects of the new universal service support mechanisms: (1) the contribution of support to the universal service support mechanisms; (2) the disbursement of support through the explicit universal service support mechanisms; and, (3) various measures of the impacts of the universal service support mechanisms. With respect to contributions, we propose to receive and report data on the monies collected by the administrator and to analyze the revenue data on which those contributions are based. This information will provide one measure of the overall size of the universal service support mechanisms. Similarly, with respect to disbursements, we propose to receive and report data on the monies distributed by the administrator and to analyze the various data (concerning, for example, costs to provide service in high cost areas, participation in low-income assistance plans, and provision of services through the new schools and libraries and rural health care support mechanisms) obtained by the administrator in the course of making disbursements. Finally, we propose to collect and report data on a number of measures (e.g., rates, penetration, usage, quality of service, and infrastructure), as a means of evaluating the effectiveness and efficiency of the universal service support mechanisms.

5. As a general matter, we seek comment on the proposals set forth in this Public Notice, including the organization, format, and content of individual sections of the Monitoring Report. In particular, we invite parties to address proposed additions to, or modifications of, sections included in the previous Monitoring Reports, as well as the proposed elimination of certain sections. We invite commenters to identify any additional information that they believe should be provided in the Monitoring Reports, and request that they explain why it would be in the public interest to add such information to the Monitoring Reports.

6. As we implement the new Monitoring Reports, we note that the Commission has delegated to the Bureau the authority to administer the monitoring program. Thus, the Bureau may change the content or timing of the Monitoring Reports if it is necessary or desirable to do so. In order to allow parties to submit, or review, materials and comments concerning the monitoring program at any time, we

have created a separate Bureau file number (CCB–IAD File No. 98–101) for all pleadings concerning the monitoring program.

7. In addition, we seek comment on whether we should supplement the Monitoring Report data on federal mechanisms with corresponding data on state universal service mechanisms. One of the Commission's fundamental goals in the *Universal Service Order* was to "create sustainable and harmonious federal and state methods of continuously fulfilling universal service goals" in cooperation with the Universal Service Joint Board. If we were to include data on state universal service support mechanisms in the Monitoring Reports, they would present a more comprehensive picture of the impact of both federal and state universal service support mechanisms on the industry and customers, materially enhancing the usefulness of the monitoring program. We note, however, that the federal universal service mechanisms are designed to address that portion of the cost of providing telecommunications services that is attributable to interstate service. Accordingly, and in light of these universal service goals, we seek comment on whether it would be appropriate, useful, and feasible to include state data in the Monitoring Reports.

8. Given the close relationship between the Commission's previous universal service support mechanisms and those new support mechanisms outlined in the *Universal Service Order*, we propose to adopt the structure and content of the past Monitoring Reports, *i.e.*, those issued in CC Docket 87–339, with modifications described herein. The new Monitoring Reports, proposed in the Public Notice, contain eleven sections, each described in the Public Notice. To address certain new aspects of the universal service support mechanisms, we propose to add four sections to the Monitoring Report. These new sections would report data on: (1) contributions to the universal service support mechanisms and accompanying industry revenue information; (2) the new rural health care mechanism; (3) the new schools and libraries mechanism; and (4) quality of service.

III. Procedural Issues

9. *Procedures for Filing.* Interested parties may file comments in CC Docket No. 96–45 not later than May 26, 1998. Reply comments may be filed not later than June 10, 1998. All filings should refer to the pleadings as Program to Monitor Impacts of Universal Service Support Mechanisms, CC Docket 96–45, CCB–IAD File No. 98–101. One original and four copies of all comments must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. Two copies should also be sent to Ms. Terry Conway, Industry Analysis Division, Common Carrier Bureau, 2033 M Street, NW., Suite 500, Washington, D.C. 20554. Copies of documents filed with the Commission may be obtained from the International Transcription Service (ITS), 1231 20th Street, NW., Suite 140, Washington, D.C. 20036, (202) 857–3800. Documents are also available for review and copying at the Reference Center, Room 239, 1919 M Street, NW., Washington, D.C., Monday, from 9:45 a.m. to 4:30 p.m., and Tuesday through Friday from 9:00 a.m. to 4:30 p.m., (202) 418–0270.

10. This proceeding is a non-restricted proceeding. *See* 47 CFR 1.1200(a), 1.1206. Accordingly, *ex parte* presentations are permitted, provided that they are disclosed in conformance with the Commission's *ex parte* rules.

11. *Paperwork Reduction Act.* We note that substantially all of the data included in the proposed Monitoring Reports is obtained pursuant to existing information collections that have previously been approved by the Office of Management and Budget (OMB), pursuant to the Paperwork Reduction Act of 1995, Public Law No. 104–13. We tentatively conclude that certain proposals in this Public Notice might be subject to approval by the OMB, pursuant to the Paperwork Reduction Act, since they might impose new or modified collection requirements. Our analysis indicates that the following proposals may require OMB approval: (1) any collection of voluntarily submitted data from states concerning state universal service mechanisms (See paragraph 9 of the Public Notice); (2) any expansion of the Commission's local rate survey (See paragraphs 37–38 of the Public Notice); and (3) collection of certain usage data (See paragraph 43–45 of the Public Notice). All other proposals associated with the program either require responses from fewer than ten parties or are continuations of requirements that already have OMB approval. We invite the general public to comment on the new or modified information collections. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Federal Communications Commission.

Peyton L. Wynns,

Chief, Industry Analysis Division.

[FR Doc. 98–13562 Filed 5–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Program; Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice with request for comments.

SUMMARY: The Federal Emergency Management Agency gives notice of certain changes to the FEMA Standard Flood Hazard Determination form, which form is used to ensure that buildings and mobile homes located within an identified Special Flood Hazard Area (SFHA) will be covered by flood insurance. We invite public comment on the changes to the form.

DATES: Please submit any comments in writing on or before July 20, 1998.

ADDRESSES: Please submit any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) (202) 646–4536, or (email) *rules@fema.gov*.

SUPPLEMENTARY INFORMATION: As part of our implementation of the National Flood Insurance Reform Act of 1994, FEMA published a final rule at 60 FR 35276, July 6, 1995, to establish a standard form for determining whether a building or mobile home is located in an SFHA, whether flood insurance is required, and whether federal flood insurance is available. The federal entities for lending regulation published a final rule (60 FR 35286, July 6, 1995) requiring use of the form. Use of the form by federally regulated lenders became mandatory on January 2, 1996. The OMB number for the current form expires on April 30, 1998 but OMB has extended the expiration date for an additional 90 days.

During the two years that this form has been in use, many users have commented on the form asking FEMA to make minor changes and clarifications. By separate rule published today in the **Federal Register** we have removed the form from 44 CFR part 65, Appendix A.

The form will continue in use and will continue to be available by written request, by fax-on-demand, and through the Internet at http://www.fema.gov/nfip/ mpurfi.htm. Removal of the form from the Code of Federal Regulations will enhance FEMA's ability to incorporate changes to the form outside of the rulemaking process, while continuing to provide full notice of the availability of the form to the public and to affected parties. By this notice we propose changes to the form and we request comments on the proposed changes from the public and from other Federal agencies.

Our proposed changes to the form include:

(1) a new reference to Otherwise Protected Areas (OPAs) in Section C, "Federal Flood Insurance Availability." OPAs have restrictions on the sale of flood insurance similar to those on Coastal Barrier Resources Areas;

(2) a minor wording change to Section D, "Determination," to simplify the statement as follows: The parenthetical phrase (Zones beginning with the letters "A" or "V") would be changed to (Zones containing the letters "A" or "V");

(3) numbering of the items listed in Sections A, B, and C to facilitate their reference in the instructions.

(4) revision of the instructions to include some clarifications and to include information on the form's availability via the FEMA fax-on-demand line and Internet site.

We notified users informally about the proposed revision by letter dated January 23, 1998, including lending regulators, federal agency lenders, government-sponsored enterprises for housing, flood zone determination companies, and lender trade associations.

Collection of Information

Title: Standard Flood Hazard Determination.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0264.

Form Number: Form Number 83–91, Standard Flood Hazard Determination.

Abstract. Federally regulated lending institutions (or third party), federal agency lenders, and government-sponsored enterprises for housing, complete this form when making, increasing, extending, renewing or purchasing any loan to document the factors considered when determining whether flood insurance is required and whether flood insurance is available. The statutory requirement for these parties to determine whether a building or mobile home securing a loan is located in an area having special flood hazards and whether flood insurance is available was first enacted in the Flood Disaster Protection Act of 1973. The Standard Flood Hazard Determination form was later required by the National Flood Insurance Reform Act of 1994 and provides a consistent method for documenting the required information.

Federally regulated lending institutions, federal agency lenders, and government-sponsored enterprises for housing process an estimated 12,000,000 loan applications each year that require the information. If they do not collect the information on the revised Standard Flood Hazard Determination form for each loan, then federally-backed loans may be inadequately insured against flood losses. Flood insurance is designed to decrease the financial impact of flooding on the federal government, on taxpayers, and on citizens in areas prone to flooding.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden Hours. 4,000,000 hours.

FEMA form	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A×B×C)
81–93	12,000,000	1	.33	4,000,000

Estimated Cost. $99,000,000 (12,000,000 × .33 × $25 = $99,000,000).

Comments

FEMA does not collect the information contained on the Standard Flood Hazard Determination form. FEMA developed the form in response to a congressional mandate to establish a standard form for determining whether a building or mobile home is located in an SFHA and whether federal flood insurance is available. This form is considered a recordkeeping requirement. FEMA is soliciting written comments (a) to evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information has practical utility; (b) to evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) to enhance the quality, utility, and clarity of the information to be collected; and (d) to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: May 14, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

FEMA Form 81–93, Federal Emergency Management Agency, Standard Flood Hazard Determination, as proposed to be amended, reads as follows:

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY **STANDARD FLOOD HAZARD DETERMINATION**	*See The Attached Instructions*	*O.M.B. No. 3067-0264 Expires April 30, 1998*

SECTION I - LOAN INFORMATION

1. LENDER NAME AND ADDRESS	2. COLLATERAL *(Building/Mobile Home/Personal Property)* PROPERTY ADDRESS *(Legal Description may be attached)*	
3. LENDER ID. NO.	4. LOAN IDENTIFIER	5 AMOUNT OF FLOOD INSURANCE REQUIRED $

SECTION II

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY JURISDICTION

1. NFIP Community Name	2. County(ies)	3. State	4. NFIP Community Number

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING/MOBILE HOME

1. NFIP Map Number or Community-Panel Number (Community name, if not the same as "A")	2. NFIP Map Panel Effective/ Revised Date	3. LOMA/LOMR	4. Flood Zone	5. No NFIP Map
		☐ yes Date		

C. FEDERAL FLOOD INSURANCE AVAILABILITY *(Check all that apply)*

1. ☐ Federal Flood insurance is available *(community participates in NFIP)*. ☐ Regular Program ☐ Emergency Program of NFIP
2. ☐ Federal Flood insurance is not available because community is not participating in the NFIP.
3. ☐ Building/Mobile Home is in a Coastal Barrier Resources Area (CBRA) or Otherwise Protected Area (OPA). Federal Flood insurance may not be available.

CBRA/OPA designation date: _____

D. DETERMINATION

IS BUILDING/MOBILE HOME IN SPECIAL FLOOD HAZARD AREA (ZONES CONTAINING THE LETTERS "A" OR "V")? ☐ YES ☐ NO

If yes, flood insurance is required by the Flood Disaster Protection Act of 1973.
If no, flood insurance is not required by the Flood Disaster Protection Act of 1973.

E. COMMENTS *(Optional)*:

This determination is based on examining the NFIP map, any Federal Emergency Management Agency revisions to it, and any other information needed to locate the building/mobile home on the NFIP map.

F. PREPARER'S INFORMATION

NAME, ADDRESS, TELEPHONE NUMBER *(If other than Lender)*	DATE OF DETERMINATION

FEMA Form 81-93, OCT 97 **This form may be locally reproduced.**

[FR Doc. 98–13444 Filed 5–20–98; 8:45 am]
BILLING CODE 6718–04–C

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Oswego County, MHC, Oswego, New York, Pathfinder Bancorp, MHC, Oswego, New York, to acquire or retain more than 50 percent of the voting shares of Oswego County MHC, Oswego, New York. In connection with this application, Oswego County, MHC, Oswego, New York, also has applied to become a bank holding company.

2. PASL Holding Corp., New York, New York, and MetBank Holding Corp., New York, New York; to become bank holding companies by acquiring more than 50 percent of the voting shares of Metropolitan National Bank, New York, New York.

3. RSI Bancorp, MHC, and RSI Bancorp, Inc., both of Rahway, New Jersey; to become bank holding companies by acquiring more than 50 percent of the voting shares of The Rahway Savings Institution, Rahway, New Jersey.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Commerce Bancorp, Inc., Cherry Hill, New Jersey; to acquire 100 percent of the voting shares of Commerce Bank/Delaware, National Association, Wilmington, Delaware.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Gold Banc Corporation, Inc., Leawood, Kansas; to acquire 100 percent of the voting shares of Farmers State Bancshares of Sabetha, Sabetha, Kansas, and thereby indirectly acquire Farmers State Bank, Sabetha, Kansas.

Board of Governors of the Federal Reserve System, May 18, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13642 Filed 5-20-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 26190, May 12, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:00 noon, Monday, May 18, 1998.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting: Bank supervisory matter.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at

http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 18, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13688 Filed 5–18–98; 4:41 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background. Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Annual Survey of Eligible Bankers Acceptances

Agency form number: FR 2006

OMB Control number: 7100-0055

Frequency: annual

Reporters: U.S. commercial banks, U.S. branches and agencies of foreign banks, Edge and agreement corporations

Annual reporting hours: 46

Estimated average hours per response: 0.65

Number of respondents: 70

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a), 625, and 3105(b)) and is given confidential treatment (5 U.S.C. 522(b)(4)).

Abstract: The FR 2006 report provides information on eligible U.S. dollar acceptances that are payable in the

United States. The data are used for constructing the monetary aggregates, a nonfinancial debt aggregate, and a measure of short- and intermediate-term business credit.

2. Report title: Notice of Proposed Stock Redemption

Agency form number: FR 4008

OMB control number: 7100-0131

Frequency: on occasion

Reporters: bank holding companies

Annual reporting hours: 822

Estimated average hours per response: 15.5

Number of respondents: 53

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(c)) and is not given confidential treatment.

Abstract: The Federal Reserve System requires a bank holding company (BHC), other than a well-run company, to give written notice to its District Federal Reserve Bank before purchasing or redeeming its equity securities (collectively, redeeming or redemption) if the consideration paid for the proposed redemption and other redemptions over the preceding twelve months is 10 percent or more of the company's consolidated net worth. There is no formal reporting form; the BHC notifies the Federal Reserve by letter prior to making the proposed redemption. The Federal Reserve uses the information to fulfill its statutory obligation to supervise bank holding companies.

3. Report title: Notice Claiming Status as an Exempt Transfer Agent

Agency form number: FR 4013

OMB control number: 7100-0137

Frequency: on occasion

Reporters: banks, bank holding companies, and trust companies

Annual reporting hours: 16

Estimated average hours per response: 2

Number of respondents: 8

Small businesses are affected.

General description of report: This information collection is voluntary (15 U.S.C. 78q-l(c)(1)) and is not given confidential treatment.

Abstract: Banks, bank holding companies, and trust companies subject to the Federal Reserve's supervision that are low-volume transfer agents voluntarily file the FR 4013 notice on occasion with the Federal Reserve Board. Transfer agents are institutions that provide securities transfer, registration, monitoring, and other specified services on behalf of securities issuers. The purpose of the notice, which is effective until the agent withdraws it, is to claim exemption from certain rules and regulations of the Securities and Exchange Commission (SEC). The Federal Reserve uses the notices for supervisory purposes because the SEC has assigned to the Federal Reserve responsibility for collecting the notices and verifying their accuracy through examinations of the respondents. The notice is made by letter; there is no reporting form.

4. Report titles: Notice By Financial Institutions of Government Securities Broker or Government Securities Dealer Activities; Notice By Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer

Agency form numbers: FR G-FIN, FR G-FINW

OMB control number: 7100-0224

Frequency: on occasion

Reporters: state member banks, foreign banks, uninsured state-chartered branches or state-chartered agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge corporations

Annual reporting hours: 33 (32 hours for FR G-FIN: 1 hour for FR G-FINW)

Estimated average hours per response: 1 hour for FR G-FIN; 15 minutes for FR G-FINW

Number of respondents: 37 (32 for FR G-FIN; 5 for FR G-FINW)

Small businesses are affected.

General description of report: This information collection is mandatory (15 U.S.C. 78o-5(a)(1)(B)(ii)) and is not given confidential treatment.

Abstract: Each financial institution that acts as a government securities broker or dealer is required to notify its appropriate regulatory authority of its broker-dealer activities, unless exempted from the notice requirement by Treasury Department regulation. Notification is required to record the intent to engage in government securities broker or dealer activity, to amend information submitted previously, and to record termination of such activity. Financial institutions use forms G-FIN and G-FINW to fulfill these notification requirements. The Federal Reserve uses the information in its supervisory capacity to measure compliance with the Government Securities Act of 1986.

Board of Governors of the Federal Reserve System, May 15, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98-13641 Filed 5-20-98; 8:45AM]

Billing Code 6210-01-F

GENERAL ACCOUNTING OFFICE

Cost Accounting Standards Board Review Panel; Notice of Public Meeting

The Cost Accounting Standards Board (CASB) Review Panel was established in March 1998 to study, analyze, and assess the mission of the CASB in light of recent federal acquisition reforms. Formed at the request of Congress, the panel includes members from government, industry, and the accounting profession. It is anticipated that the panel will conclude its studies, analyses, and deliberations by the end of the current year and issue a report with recommendations to the Congress in early 1999. In conducting its work, the panel is seeking to obtain a broad spectrum of views from all interested parties including those in the government contracting community, academia, the accounting profession, and industry.

Meetings of the panel for the purpose of obtaining views from the public will take place on June 16 and June 17, 1998, between 1 p.m. and 5 p.m. and June 18, 1998, between 9 a.m. and 12:00 p.m. The panel is particularly interested in views concerning: (1) The Cost Accounting Standards Board's mission in a rapidly evolving integrated civil-military industry; (2) costs, benefits, and risk assessment in the application of cost accounting standards to government contractors (including differences based on industry, segment, type of cost, character of goods or services, contract type, and so forth); (3) the relationship of cost accounting standards to generally accepted accounting principles, activity-based cost systems, and cost allowability principles (including levels of complexity, overlap, duplication, conflict, and so forth).

The panel will convene at the U.S. General Accounting Office, Staats Briefing Room, 441 G Street, NW., Washington, DC 20548. The meetings will be open to the public, however, attendance at each session will be limited to the seating available. Entry to the GAO Building is obtained by clearance which must be granted in advance of the meeting. Those who would like to make presentations and those otherwise planning to attend should contact Mr. Ralph Dawn at 202–512–4501 by June 10, 1998. A written summary of remarks for those making presentations must be submitted by June 10, 1998, with a complete written statement to be submitted by June 15, 1998.

In addition, interested individuals are invited to make suggestions to the panel

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regarding (1) topics that the panel should consider, and (2) names of individuals with applicable expertise that the panel should hear from. Those suggestions should be sent via the CASB Review Panel's web page at http://www.gao.gov or by leaving recorded messages at 202–512–4501.

Ralph C. Dawn,

Staff Director, Cost Accounting Standards Board Review Panel.

[FR Doc. 98–13638 Filed 5–20–98; 8:45 am]

BILLING CODE 1610–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects 1. Study of Medicare Home Health Practice Variations—NEW—The Office of the Assistant Secretary for Planning and Evaluation is proposing a study which will examine how patient, provider, agency, market and regulatory factors affect variations in home health practice. A sample of 48 Medicare-certified home health agencies (from eight states) will be studied. Within each of these agencies, 24 patients (with congestive heart failure or diabetes) will be sampled. The results will identify agency characteristics and behaviors that are related to differences in lengths of stay for patients with similar risk factors.— Respondents: For-profit, Non-profit Institutions; Burden Information for the Administrator Questionnaire—Number of Respondents: 48; Burden per Response: 36 minutes: Burden: 29 hours—Burden Information for the Care Provider Questionnaire—Number of Responses: 1152; Burden per Response: 1 hour: Burden: 1152 hours—Total Burden: 1181 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC, 20201. Written comments should be received within 60 days of this notice.

Dated: May 11, 1998.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 98–13476 Filed 5–20–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary Assistant Secretary for Planning and Evaluation Notice Inviting Applications for New Award for Fiscal Year 1998

AGENCY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE), Office of the Secretary (OS).

ACTION: Announcement of the availability of funds and request for applications from states to determine the status of Temporary Assistance to Needy Families (TANF) recipients after they leave the TANF caseload, eligible families who are diverted before being enrolled, or eligible families who fail to enroll.

SUMMARY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE), with support from the U.S. Department of Labor and the Economic Research Service of the U.S. Department of Agriculture, announces the availability of funds and invites applications for research into the status of individuals and families who leave the TANF program, who apply for cash welfare but are never enrolled because of non-financial eligibility requirements or diversion programs, and/or who appear to be eligible but are not enrolled (hereafter jointly referred to as welfare leavers). Approximately eight to ten States or counties will receive funding that will enable them to track and monitor how individuals and their families do in the first year after they leave welfare and provide a foundation for longer follow-up. States may choose any method for such tracking, including the linking of administrative data, surveys or other methods as appropriate. We are particularly interested in learning about individuals' ability to obtain employment and the support provided by their earnings, public programs besides TANF, and other sources. The funds could support a newly designed project or could be used to add new data sources and analyses to an existing project.

In addition, ASPE announces the availability of supplementary funding from the Office of Policy Development and Research (PD&R) of the U.S. Department of Housing and Urban Development (HUD) to track the consequences of welfare reform for low-income families with children who receive housing assistance. These funds will only be available to ASPE Grantees.

CLOSING DATE: The deadline for submission of applications under this announcement is July 6, 1998.

MAILING ADDRESS: Application instructions and forms should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 405F, Hubert H. Humphrey Building, Washington, D.C. 20201, Telephone: (202) 690–8794. Copies of this program announcement and many of the required forms may also be obtained electronically at the ASPE World Wide Web Page: http://aspe.os.dhhs.gov. Requests for forms and administrative questions will be accepted and responded to up to 10 working days prior to closing date of receipt of applications. Application submissions may not be faxed or submitted electronically.

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ASPE World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to the Grants Officer at the address or phone number listed above. Technical questions should be directed to Christopher Snow, DHHS, ASPE, Telephone, 202–690–6888 E-mail, csnow@osaspe.dhhs.gov. Written technical questions may also be faxed to 202–690–6562 or may be addressed to

Mr. Snow at the following address. Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 404E, Hubert H. Humphrey Building, Washington, D.C. 20201.

Part I Supplementary Information

Legislative Authority

This grant is authorized by Section 1110 of the Social Security Act (42 U.S.C. 1310) and awards will be made from funds appropriated under PL 105–78 Department of Health and Human Services Appropriations Act, 1998.

Eligible Applicants

Given the nature of the research involved, competition is open only to State agencies and counties that administer TANF programs with populations greater than 500,000. Consortia of States are also encouraged to apply, as long as a single State agency is identified as the lead and agrees to handle grant funds and sub-granting. Public or private nonprofit organizations, including universities and other institutions of higher education, may collaborate with States in submitting an application, but the principal Grantee will be the State. Private for-profit organizations may also apply jointly with States, with the recognition that grant funds may not be paid as profit to any recipient of a grant or subgrant.

Available Funds

Approximately $2,350,000 is available from ASPE, in funds appropriated for fiscal year 1998. ASPE anticipates providing approximately eight to ten awards of between $200,000 and $250,000 each. If additional funding becomes available in fiscal years 1998 or 1999 additional projects may be funded or some projects may receive second year funding to allow extended tracking of families who left the TANF caseload or were diverted from the roles.

The Economic Research Service (ERS) of the U.S. Department of Agriculture has provided a portion of the total funding in order to support analyses of outcomes for families in rural areas, particularly rural areas with historically high concentrations of poverty. ERS funding under this ASPE announcement is separate from the ERS grant program—"Status of Households who Leave the Food Stamp Program." If applicant is applying to both grant programs (ASPE and ERS) the application should specify how the projects will be coordinated. The U.S. Department of Labor has also provided a portion of the total funding, in order to support greater use of in-depth, in-person interviews.

Office of Policy Development and Research (PD&R) of the U.S. Department of Housing and Urban Development (HUD) expects to make available up to $350,000 over and above the ASPE awards through supplemental grants for analyses including assisted housing recipients.

Background

Since 1993, AFDC caseloads have seen unprecedented declines. A portion of the decline can be attributed to increasing numbers of former recipients leaving the rolls. The remainder is comprised of fewer families entering the rolls than in previous periods. While it is likely that a strong economy has enabled many people to move in to the workplace, or to remain there, there is little beyond anecdotes to indicate for certain what has happened to them. Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), with its time limits and emphasis on employment, the trend in caseload declines may continue.

The studies funded under this announcement build on previous ASPE sponsored data-linkage and research projects. In FY 1996 and 1997, ASPE awarded grants to five states (and one county) for the purpose of linking administrative databases from multiple programs in order to study the interactions between programs and the use of multiple sources of assistance by recipients. Also in FY 1997, ASPE and ACF sponsored a study on the effects of formal and informal TANF diversion programs on recipients and on participation in other public programs, particularly Medicaid.

Administrative records provide a reliable estimate of individuals receiving benefits. Historically, however, AFDC administrative records have only tracked the status of individuals and families while they were receiving welfare. Examining the situation of recipients once they leave, or of applicants who never receive cash welfare, takes additional efforts by welfare agencies, such as linking public assistance databases to those that store earnings data (e.g. unemployment insurance records) and data on other public programs (e.g. Food Stamps, Medicaid, Child Care).

A number of issues may be identified using linked administrative data, including whether the adults are employed, how long they are employed, how much they are earning, whether their earnings have increased, and whether they have returned to TANF. It may also be possible to provide an indication whether family well-being has improved, worsened or been maintained, by examining families' involvement with the child welfare system, whether they continue to receive Medicaid and child care subsidies, have any food or housing insecurity, and receive other federal, state or community sources of support they have, etc. (See suggested topical areas below).

Many states have begun planning or implementing efforts to track welfare reform outcomes on recipients. These efforts have employed a range of methods, which include linking administrative databases, telephone or in person interviews or surveys, and focus groups—Maryland and South Carolina, for example, have recently released preliminary reports tracking some characteristics of families who have left their public assistance programs, using very different methodologies.

Maryland's report relied on linked administrative data from TANF, Child Welfare and the Unemployment Insurance system to look at: history of welfare receipt; reasons for case closure, including sanctions; employment and earnings over time both before and after case closure; the industries in which welfare leavers were employed; and the incidence of child welfare investigations and foster care placements among children in families who had left welfare.

Although the Maryland study was not intended to attribute cause and effect, it allowed cross-tabulations of workforce success and recidivism against length of last welfare spell and months of lifetime welfare receipt, and against work history before, during and after welfare. In the summer of 1998, Maryland plans to supplement and enrich these results with a survey to explore outcomes that cannot be measured with administrative data.

South Carolina tracked welfare leavers who had been subject to work requirements or who had voluntarily sought work using two state-designed and administered sample surveys. An important feature of South Carolina's approach was the great effort made to achieve a high response rate and therefore reduce response bias. Surveyors attempted to contact former welfare families several times by telephone, and if still unsuccessful, sent out interviewers for in person interviews. These techniques resulted in 77% and 78% response rates for the two surveys.

Because survey instruments were used rather than administrative data,

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South Carolina has been able to gather rich information on former welfare recipients and their families. For example, they were able to determine whether the recipients' perceived reasons for case closure corresponded to the administrative record. When they examined employment outcomes, they gathered a much richer set of employment outcomes than is typically available through administrative data (e.g. Unemployment Insurance wage records). They were also able to get reasons for unemployment and barriers to work, wages and work hours, rather than aggregated earnings, and to determine the actual jobs held by former recipients, rather than simply the industry in which they worked.

Another area that South Carolina examined through their surveys was child care, including availability, type and location (family, neighbors, commercial centers, etc.), costs and funding sources, and the barrier that lack of child care or child care problems presented in finding and maintaining employment. Other areas included medical insurance coverage, transportation, children's educational status, and use of and knowledge of other public services, including Medicaid, Food Stamps, child care subsidies, rent subsidies or public housing, adult education, mental health and substance abuse services.

Finally, South Carolina asked recipients about deprivations that they had encountered, whether while on welfare or since exit, including inability to pay for rent, utilities or food, homelessness, car repossessions, lack of needed medical treatment and changes in children's schools or living arrangements.

Part II Purpose and Responsibilities

Purpose

The purpose of this announcement is to partner with States and support State efforts to track former TANF recipients and their families, families who apply for cash welfare but are never enrolled because of non-financial eligibility requirements or diversion programs, and/or families who appear to be eligible but are not enrolled. In particular, ASPE would like to support State efforts to ascertain the sources of support used by these families, including employment, their use of public programs, their well-being, the extent of any resource insecurity or deprivation and the circumstances of children.

A proposed study should include at least two cohorts. For example, the first cohort of families could be those who left the roles or were diverted at least one full year before the second calendar quarter of 1998. This would allow the Grantee to immediately look retrospectively at a full year of families' experiences, and to complete their initial analysis of this cohort in time for the interim report. The Grantee should record the characteristics of families at the point of closure, including the reason for closure. The former recipients and their families should then be identified and tracked in administrative records from multiple programs and/or through other data-gathering techniques for the subsequent 12 months. In the interest of cross-State comparability, ASPE would prefer that if possible this cohort be drawn from families who left or were diverted during the last quarter of calendar year 1996 and tracked during the full calendar year 1997.

The data sources and analysis used for the second cohort may be more extensive than those used for the first, since more time is available. For example, applicants may propose to enrich their administrative data by linking individual records with survey data or other data sources. Additionally, the Grantee would be able to follow this cohort during the term of the project, at least in part, rather than looking solely retrospectively. Richness of data will be an important criterion under which proposals are evaluated.

ASPE understands that there is a great degree of variation in State programs and in the amount and scope of data available to states. It is therefore highly unlikely that every applicant would be able to address all of the issues and questions raised in the following section. It is also unlikely that every applicant can propose a study that includes both welfare leavers and families diverted from the rolls.

However, subgroup analyses contrasting cases that close due to earnings, sanctions and time limits, as well as those which are never enrolled due to formal or informal diversion practices are strongly encouraged. Comparisons of characteristics and outcomes of rural versus urban populations and analyses special populations (e.g. the disabled, substance abusers) are also of interest.

One type of possible subgroup analysis would involve HUD assisted families. Approximately 1.1 million households receiving AFDC benefits before the enactment of PRWORA were also receiving HUD housing assistance. Because of this substantial overlap in populations served, PD&R wishes to obtain reliable evidence about the interaction of welfare reform with housing programs. Grantees receiving supplementary funding from PD&R will receive, subject to satisfactory execution of confidentiality agreements, a file containing identifiers of families with children, (or a more narrowly targeted group, as defined by the Grantee) living in public and assisted housing in the state as of a month designated by the Grantee. PD&R is interested in the experience of these families relative to families not assisted; it is also interested in the experience of families living in public housing relative to the experience of families receiving tenant-based assistance or families receiving Section 8 project-based assistance.

Because the focus of TANF is moving families to work, and because employment and earnings levels are such important precursors to well-being, the one required focus will be on the employment and earnings status of the affected individuals. All applicants must describe how they intend to address employment issues. Examples of questions of interest regarding employment and earnings include:

- How long does it take recipients and former recipients to find jobs? What types of jobs do they hold? How long do they stay in their jobs? If they are not employed, why not? What level of wages do they receive and how much do they receive in total earnings? What sort of work schedules do they have? What, if any, employer provided fringe benefits and training are available to them? What fringe benefits do they actually receive? Are there any significant barriers to accessing these fringe benefits?

Additional policy relevant topical areas which States may wish to address include child care usage, medical insurance coverage, receipt of other public benefits and child and family well-being. While each of the topical areas presented below present a range of issues, the suggested questions are in no way meant to be exhaustive. If prospective applicants have additional questions which they feel are relevant within the context of welfare reform, they are encouraged to raise them in their proposal. Again, richness of data is strongly encouraged and will be an important criterion under which proposals are evaluated.

Topical areas which applicants may wish to address, with examples of potential questions.

- *Food Stamps*—What role do food stamps play in supporting welfare leavers?
- *Family support*—What role do family resources and support play? What role do child support payments play?

• *Health insurance*—Do families have access to health insurance? From what source (employer provided, Medicaid, CHIP)? Are premiums or copays are required? Which family members are covered?

• *Child care*—To what extent is child care available to welfare leavers and what are the most common arrangements? What is the source of payment for childcare? What is the quality of these arrangements? To what extent are eligible child care recipients taking advantage of services? How do child care arrangements change once people leave welfare, either via work or due to sanctions and time limits?

• *Child Welfare/Foster Care*—What is the incidence of children found to have been neglected or abused, or to enter foster care, following the elimination of financial assistance to a family? How does this compare with their experiences while on welfare?

• *Child living arrangements/Kinship Care*—Do we observe changes in child living arrangements that are correlated with the imposition of time limits, sanctions and work requirements? For instance, do we find that increasing numbers/proportions of children are being cared for by relatives other than parents (either as assistance units headed by relatives or as child-only assistance units)?

• *Diverted cases*—What types of families are diverted and for what reasons? Of cases diverted, how many later come onto welfare? What alternative sources of support do they have?

• *Awareness of benefits*—To what extent are families aware of the availability of transitional and other benefits available to welfare leavers and those diverted from ongoing cash assistance? To what extent do they avail themselves of these benefits?

• *Recidivism*—How many families return to welfare, when and why? What effect do other issues listed here appear to have on recidivism?

• *Attitudes*—What are former recipients attitudes toward work, TANF, leaving TANF, and their situation?

• *Health Insecurity*—What is the health status of each family member? Do they have difficulties accessing health care?

• *Food Insecurity*—Do families report having enough money for food? Do they rely on food pantries?

• *Housing Insecurity*—Have families been forced to double-up or move in with relatives? Do they report not always having enough money to pay the rent? Have they experienced periods of homelessness?

• *Barriers to self-sufficiency*—Do former recipients appear to face any of the following barriers to employment: disability, illiteracy, limited English proficiency, domestic violence, mental illness or substance abuse.

• *Reasons for case closure*—What reason is recorded in the case record? What reason is reported by the recipient?

Grantee Responsibilities

1. Prior to completion of the final work plan (analysis plan), the Grantee should meet with relevant federal personnel, other Grantees and invited experts in Washington, D.C., to discuss the preliminary methodology and design of the research project including what research questions will be answered and what methodology the Grantee will employ to answer the questions.

As part of this process, all the Grantees will take part in a joint discussion of their proposed study designs. This will encourage a level of comparability of issues to be addressed and data created across the various projects, as well as allow for peer-to-peer contacts and technical assistance among Grantees.

2. No later than 30 days after this meeting and consultation the Grantee should submit an outline progress to date, if any, and a final work plan that is based on and updates the work plan submitted in the original application.

3. A second meeting will be planned later in the grant period in Washington, D.C., to discuss preliminary findings and the format for the interim and final reports (for Grantees outside the Washington, D.C. area this may take place by telephone). A preliminary draft of the interim report, including initial results, if any, and a plan for any further data collection and analysis, should be delivered to the Federal Project Officer within 90 days of submission of the final work plan. The Federal Project Officer will return comments on the draft interim report to the Grantee and a minimum of three (3) copies of an interim report should be delivered to the Grants Officer within 30 days. One of these copies must be unbound, suitable for photocopying; if only one is the original (has the original signature, is attached to a cover letter, etc.), it should not be this copy.

4. After completing their analysis, the Grantee will prepare a final report describing the procedures used to conduct the analysis, barriers encountered in completing the project and the results of the analysis. A draft of this report should be delivered to the Federal Project Officer before the completion of the project. The Federal Project Officer will return comments on the draft report to the Grantee and at least three (3) copies of a final report should be delivered to the Grants Officer before the completion of the project. One of these copies must be unbound, suitable for photocopying; if only one is the original (has the original signature, is attached to a cover letter, etc.), it should not be this copy.

5. To encourage wider analysis, Grantee will make all data available to the research community. ASPE prefers that this result in a public-use data file. In preparing the public-use data file, data should be edited as appropriate to ensure confidentiality of individuals. If the applicant feels that provision of a public-use data file is impossible, the application should explain why and should fully articulate how the applicant will make the data available to qualified researchers and to ASPE. In either case, the plan for data dissemination will be evaluated and scored during the evaluation of proposals.

ASPE Responsibilities

1. ASPE will convene one to two meetings of Grantees, federal personnel, and relevant experts in the areas the Grantees choose to address. The first meeting will take place within 60 days of award and will allow for technical assistance and peer-to-peer contacts before final research design decisions have been made, as well as assuring that data constructs meet some standard of validity and comparability. A second meeting may be held approximately 6 to 8 months into the grant period to provide Grantees the ability to meet and discuss their progress to date, and assess and receive assistance with any problems that have arisen.

3. ASPE will provide consultation and technical assistance in planning, and operating grant activities.

4. ASPE will assist in information exchange and the dissemination of reports to appropriate Federal, state and local entities.

Part III Application Preparation and Evaluation Criteria

This section contains information on the preparation of applications for submission under this announcement, on the forms necessary for submission, and on the evaluation criteria under which the applications will be reviewed. Potential applicants should read this section carefully in conjunction with the information provided above. The application must contain the required Federal forms, title page, table of contents, and the sections

listed below. All pages of the narrative should be numbered.

The application should include the following elements:

1. *Abstract:* A one page summary of the proposed project.

2. *Goals and objective of the project:* An overview that describes (1) the project, (2) the specific research questions to be investigated, (3) proposed accomplishments, and (4) knowledge and information to be gained from the project by the applicant, the government, and the research community. If the applicant is also applying for a grant to study the outcomes of welfare reform on Food Stamp Program leavers through the Economic Research Service, U.S. Department of Agriculture, then the applicant should specify here how the two activities would be coordinated. If the planned project builds on any current project, the application should describe how funding under this announcement will enhance, not substitute for, current state or local efforts.

3. *Methodology and Design:* Provide a description and justification of how the proposed research project will be implemented, including methodologies, chosen approach, data sources, and a research plan consistent with a descriptive, tabular analysis. The proposed research plan should:

(a) Describe in detail how the applicant plans to define welfare leavers, families who apply for cash welfare but are never enrolled because of non-financial eligibility requirements or diversion programs, and/or families who appear to be eligible but are not enrolled.

(b) Identify how the proposed datasets and variables will be used by the Grantee to answer each of the research questions described in the proposal.

(c) Identify important questions/issues for which data currently are not available, and strategies for dealing with this lack of data when it pertains to the research questions in the proposal.

(d) Describe in detail the methodology the applicant will use to extract samples of all families who leave the TANF program, families who apply for cash welfare but are never enrolled because of non-financial eligibility requirements or diversion programs, and/or families who appear to be eligible but are not enrolled. Applicants are encouraged to use a full population sample, but at minimum, a successful application will use a scientifically acceptable probability sampling method in which every sampling unit in the population has a known, non-zero chance to be included in the sample and a sample size large enough to make statistically reliable comparisons between planned subgroups.

(e) If administrative data-linking is planned, describe the criteria for the selection of existing data sets, as well as the methods used to clean, standardize and link the case level data from the different sources. Applicants should discuss thoroughly how they intend to match case records from different data sources, and what internal validity checks will ensure the accuracy of the matches. The architecture for the resulting data set should also be discussed in detail.

(f) If survey data collection is planned, identify and describe the methodology used to gather survey data. In particular, identify the sampling plan, the survey mode (e.g. telephone, in-person, mail), and the steps that will be taken to address any biases inherent in each. This should include steps planned to ensure a high response rate, such as a mixed mode design, multiple attempts to contact sample members, or respondent payments. Because of the importance of a high response rate in ensuring reliability, these procedures will be an important part of the evaluation of proposals.

(g) If qualitative research or focus groups are planned, the application should include a complete plan for data collection procedures and analysis, including the planned composition of groups, planned discussion topics or facilitator's questions, a plan for summarizing and organizing the results, and what this part of the project is expected to add to the interim and final reports. The application should demonstrate a familiarity with the difficulties and potential biases of this approach, and plans to avoid or resolve them.

(h) Identify the methodology the Grantee will use to analyze the data and organize the interim and final reports. Complex data analysis is neither expected nor preferred. Simple tabular analysis and descriptive statistics are appropriate. The description should include subgroup analyses planned, report organization and proposed tabulations, including table shells illustrating how the results will be presented.

To the extent that the analysis uses data on individuals from multiple, separate sources, such as administrative databases from several State agencies, the proposal should discuss measures taken to maintain confidentiality, as well as demonstrate that the Grantee has obtained authorized access to those data sources. The preferred form of proof is a signed interagency agreement with each of the relevant agencies/departments. Though not preferable, letters of support from the appropriate agencies are acceptable, provided that the letter clearly states that the proposing agency has the authorization to access and link all necessary data. Applicants must assure that the collected data will only be used for management and research purposes, and that all identifying information will be kept completely confidential, and should present the methods that will be used to ensure confidentiality of records and information once data are made available for research purposes.

4. *Experience, capacity, qualifications, and use of staff:* Briefly describe the applicant's organizational capabilities and experience in conducting pertinent research projects. If the proposal involves linking administrative databases from multiple programs the proposal should detail the applicant's experience in conducting relevant projects using linked administrative program data or identify key subcontractors with such experience. If the proposal involves survey work, the proposal should describe the applicant's experience in conducting relevant surveys or identify key subcontractors with such experience. Similarly, if the proposal involves qualitative data collection or analysis, the experience of the applicant or key subcontractors with this type of research and with these populations must be described in detail. If the applicant plans to contract for any of the work (e.g. data-linking, survey design or administration, qualitative analysis), and the contractors have not been retained, describe the process by which they will be selected. Identify the key staff who are expected to carry out the project and provide a résumé or curriculum vitae for each person. Provide a discussion of how key staff will contribute to the success of the project, including the percentage of their time which will be devoted to the project.

Applicants should demonstrate access to computer hardware and software for storing and analyzing the data necessary to complete this project.

5. *Work plan:* A work plan should be included which describes the start and end dates of the project, the responsibilities of each of the key staff, and a time line which indicates the sequence of tasks necessary for the completion of the project. It should identify other time commitments of key staff members such as other projects and/or teaching or managerial responsibilities in absolute and percentage terms. The work plan should

include a discussion of plans for dissemination of the results of the study, e.g., articles in journals and presentations to the State legislature or at conferences. It should also discuss in detail how resulting data and analysis will be made available to qualified researchers and to ASPE. As noted above, ASPE prefers that the data be edited as appropriate for confidentiality and issued as a public-use data file. If the applicant believes that provision of a public-use file would be impossible, the application should explain why and should fully articulate how the applicant will make the data available to qualified researchers and to ASPE.

6. *Budget:* Applicants must submit a request for federal funds using Standard Form 424A and include a detailed breakdown of all Federal line items. A narrative explanation of the budget should be included which explains fund usage in more detail. The applicant should clearly state how the funds associated with this announcement will be used and describe the extent to which these funds will be used for purposes that would not otherwise be incorporated within the project. The applicant should also document the level of funding from other sources, if any, and describe how these funds will be utilized.

All applicants must budget for two trips to the Washington, D.C., area, for at least two people on each trip. As part of this grant, ASPE will schedule one to two meetings for all funded projects. The first meeting will be for planning purposes, where applicants will have the opportunity to meet, discuss their projects, and receive feedback from both the other Grantees and from ASPE staff and invited experts. This meeting will occur not more than 60 days after the proposals are funded. The second meeting will be approximately 6 to 8 months into the grant period, and will provide Grantees the ability to meet and discuss their progress to date, and assess and receive assistance with any problems that have arisen.

Optional PD&R supplement: Applicants who wish to be considered for the PD&R supplement should attach an appendix to the main proposal. The appendix must contain a proposal to analyze the experience of families assisted by the different HUD programs relative to families not assisted and relative to each other, using state agency files matched with the file provided by HUD. The supplementary proposal should identify the subsets of low-income families with children in the state that the applicant considers of greatest policy interest. The elements of this supplementary proposal should be the same as the elements of the main proposal, i.e., abstract; goals and objectives; methodology and design; experience, capacity, qualifications, and use of staff; work plan; and budget.

Review Process and Funding Information

Applications will be initially screened for compliance with the timeliness and completeness requirements. Three (3) copies of each application are required. One of these copies must be in an unbound format, suitable for copying. If only one of the copies is the original (i.e. carries the original signature and is accompanied by a cover letter) it should not be this copy.

A Federal panel will review and score all applications that are submitted by the deadline date and which meet the screening criteria (all information and documents as required by this Announcement.) The panel will review the applications using the evaluation criteria listed below to score each application. These review results will be the primary element used by the ASPE in making funding decisions. The Department reserves the option to discuss applications with other Federal or State staff, specialists, experts and the general public. Comments from these sources, along with those of the reviewers, will be kept from inappropriate disclosure and may be considered in making an award decision.

As a result of this competition, between 8 and 10 grants are expected to be made from funds appropriated for fiscal year 1998. Additional awards may be made depending on the policy relevance of proposals received and the available funding, including funds that may become available in FY99. The Department reserves the right to make fewer awards. The average grant is expected to be between $200,000 and $250,000.

After ASPE has decided to fund a proposal from a particular state, PD&R will decide whether to fund the optional proposal related to HUD-assisted families, if there is one. In making this determination, PD&R will use all of the criteria listed below except item 5 (ability to sustain project after funding).

Reports

As noted in the Grantee Responsibilities, three substantive reports are required under the grant. (1) A final work plan is due 30 days after the initial consultation meeting. (2) An interim report including initial results, if any, and a plan for any further data collection and analysis is due 90 days later. (3) A final report including all results and analysis is due before the end of the project.

In addition, Grantees shall provide concise quarterly progress reports. The specific format and content for these reports will be provided by the project officer.

State Single Point of Contact (E.O. No. 12372)

DHHS has determined that this program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. 12372.

Deadline for Submission of Applications

The closing date for submission of applications under this announcement is July 6, 1998. Hand-delivered applications will be accepted Monday through Friday, excluding Federal holidays during the working hours of 9:00 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW in Washington, D.C. When hand-delivering an application, call (202) 690–8794 from the lobby for pick up. A staff person will be available to receive applications. Application submissions may not be faxed or submitted electronically.

An application will be considered as meeting the deadline if it is either (1) received at, or hand-delivered to, the mailing address on or before July 6, 1998, or (2) postmarked before midnight five days prior to July 6, 1998 and received in time to be considered during the competitive review process (within two weeks of the deadline date).

When mailing applications, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.) or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the deadline will be considered late applications and will not be considered or reviewed in the current competition. DHHS will send a letter to this effect to each late applicant.

DHHS reserves the right to extend the deadline for all proposals due to natural disasters, such as floods, hurricanes, or

earthquakes; or if there is a widespread disruption of the mail; or if DHHS determines a deadline extension to be in the best interest of the government. However, DHHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Application Forms

Copies of applications should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 405F, Hubert H. Humphrey Building, Washington, D.C. 20201, Telephone: (202) 690–8794. Requests for forms and questions (administrative and technical) will be accepted and responded to up to 10 working days prior to closing date of receipt of applications.

Copies of this program announcement and many of the required forms may also be obtained electronically at the ASPE World Wide Web Page *http://aspe.os.dhhs.gov*. You may fax your request to (202) 690–6518 to the attention of the Grants Officer. Application submissions may not be faxed or sent electronically.

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ASPE World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

Also see section entitled "Components of a Complete Application." All of these documents must accompany the application package.

Length of Application

Applications should be as brief as possible but should assure successful communication of the applicant's proposal to the reviewers. In no case shall an application for the primary ASPE grant (excluding the resumes, appendices and other appropriate attachments) be longer than 30 single spaced pages. Applications should be neither unduly elaborate nor contain voluminous supporting documentation. Applications for the supplemental PD&R grant should be no longer than 12 single-spaced pages, and should make frequent reference to the primary application for purposes of brevity.

Selection Process and Evaluation Criteria

Selection of the successful applicant will be based on the technical and financial criteria described in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The review panel will prepare a summary of all applicant scores and strengths/weaknesses and recommendations and submit it to the ASPE for final decisions on the award.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications. Applications will be reviewed as follows:

1. *Goals, Objectives, and Potential Usefulness of the Analyses* (25 points). The potential usefulness of the objectives and how the anticipated results of the proposed project will advance policy knowledge and development. If the proposed project builds on previous work the application should explain how. Applications will be judged on the quality and policy relevance of the proposed questions. Applications which do not address employment and earnings factors will not be considered fundable.

2. *Quality and Soundness of Methodology and Design* (30 points). The appropriateness, soundness, and cost-effectiveness of the methodology, including the research design, selection of existing data sets, data gathering procedures, statistical techniques, and analytical strategies. Richness of policy relevant data will be an important scoring factor in this criterion.

If administrative data-linking is planned, a critical scoring element will be the proposal's discussion of the methods used to clean, standardize and link the case level data from the different sources, including any proposed links between administrative data and surveys. Applicants should discuss thoroughly how they intend to match case records from different data sources, and what internal validity checks will ensure the accuracy of the matches. The architecture for the resulting data set should also be discussed thoroughly. Other design considerations include whether the agency applying has already obtained authorization to obtain and use data from the state or local agencies whose data would be linked, and how confidentiality of the records and information will be ensured. If applicants are unable to ensure the security of information included in the project, then it is highly unlikely that they will receive funding.

If survey data collection is planned, reviewers will evaluate the methodology proposed to gather survey data. In particular, reviewers will evaluate the sampling plan, the survey mode (e.g. telephone, in-person, mail), and the steps that will be taken to address any biases inherent in each. This will include evaluating steps planned to ensure a high response rate, such as a mixed mode design, multiple attempts to contact sample members, or respondent payments. Because of the importance of a high response rate in ensuring reliability, these procedures will be an important part of the evaluation of proposals containing surveys.

If qualitative research or focus groups are planned, reviewers will evaluate the plan for data collection and analysis, including the planned composition of groups, planned discussion topics or facilitator's questions, a plan for summarizing and organizing the results, and what this part of the project is expected to add to the interim and final reports. The extent to which the application demonstrates a familiarity with the difficulties and potential biases of this approach, and plans to avoid or resolve them, will also be a scoring factor.

3. *Qualifications of Personnel and Organizational Capability.* (20 points). The qualifications of the project personnel for conducting the proposed research as evidenced by professional training and experience, and the capacity of the organization to provide the infrastructure and support necessary for the project. Reviewers will evaluate the applicant's principal investigator and staff on research experience and demonstrated research skills. Proposals which involve linking of administrative data and assembling of large databases will also be evaluated in terms of the experience of the applicant's or subcontractor's experience with such linking efforts. Proposals which involve survey work will be evaluated in terms of the applicant's or subcontractor's's experience in conducting relevant surveys. Similarly, if the proposal involves qualitative data collection or analysis, it will be evaluated in terms of the experience of the applicant or key subcontractors with this type of research and with these populations. If the applicant plans to contract for any of the

work (e.g. data-linking, survey design or administration, qualitative analysis), and the contractors have not been retained, reviewers will consider the process by which they will be selected. Ratings may consider references on prior research projects. Principal investigator and staff time commitments also will be a factor in the evaluation. Reviewers will rate the applicant's pledge and ability to work in collaboration with other scholars or organizations in search of similar goals. Reviewers also will evaluate the applicant's demonstrated capacity to work with a range of government agencies.

4. *Ability of the Work Plan and Budget to Successfully Achieve the Project's Objectives.* (20 points). Reviewers will examine if the work plan and budget are reasonable and sufficient to ensure timely implementation and completion of the study and whether the application demonstrates an adequate level of understanding by the applicant of the practical problems of conducting such a project. Adherence to the work plan is particularly important because it is necessary in order to produce results in the time frame desired; demonstration of an applicant's ability to meet the schedule will be an important part of this criterion. Reviewers will also examine the use of any additional funding and the role that funds provided under this announcement will play in the overall project. The proposed strategy for dissemination of analysis results and data will also be considered. It should also discuss in detail how resulting data will be made available to qualified researchers and to ASPE. As noted above, ASPE prefers that the data be edited as appropriate for confidentiality and issued as a public-use data file. If the applicant believes that provision of a public-use file would be impossible, the application should explain why and should fully articulate how the applicant will make the data available to qualified researchers and to ASPE.

5. *Ability to Sustain Project After Funding* (5 points). Reviewers will consider whether the proposal adequately addresses the following questions: How will the tracking of outcomes for these populations become an institutionalized function within the agency once the grant funding expires? Where will the newly created data set reside? What agency(ies) will have responsibility for and jurisdiction over the resulting data? What are the sources of financial and staff support for maintaining the database? How will the data be used for future policy planning, research and evaluation?

Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary for Planning and Evaluation will notify the applicants of the disposition of their applications. If approved, a signed notification of the award will be sent to the business office named in the ASPE checklist.

3. *The Assistant Secretary's Discretion.* Nothing in this announcement should be construed as to obligate the Assistant Secretary for Planning and Evaluation to make any awards whatsoever. Awards and the distribution of awards among the priority areas are contingent on the needs of the Department at any point in time and the quality of the applications which are received.

The Catalog of Federal Domestic Assistance number is 93–239.

Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424);
2. Budget Information—Non-construction Programs (Standard Form 424A);
3. Assurances—Non-construction Programs (Standard From 424B);
4. Table of Contents;
5. Budget Justification for Section B Budget Categories;
6. Proof of Non-profit Status, if appropriate;
7. Copy of the applicant's Approved Indirect Cost Rate Agreement, if necessary;
8. Project Narrative Statement, organized in five sections addressing the following topics:
   (a) Abstract,
   (b) Goals, Objectives and Usefulness of the Project,
   (c) Methodology and design,
   (d) Background of the Personnel and Organizational Capabilities and
   (e) Work plan (timetable);
9. Any appendices or attachments;
10. Certification Regarding Drug-Free Workplace;
11. Certification Regarding Debarment, Suspension, or other Responsibility Matters;
12. Certification and, if necessary, Disclosure Regarding Lobbying;
13. Supplement to Section II—Key Personnel;
14. Application for Federal Assistance Checklist.

Dated: May 13, 1998.

Margaret A. Hamburg,

Assistant Secretary for Planning and Evaluation.

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BILLING CODE 4151–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98090]

Evaluation of Health-Care Worker Glove Protection During Surgery and Effects of Storage, Chemicals, Disinfectants on Glove Integrity; Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for the evaluation of health-care worker glove protection during surgery and the effects of storage, chemicals, and disinfectants on glove integrity. This program addresses the "Healthy People 2000" priority area(s) area of Occupational Safety and Health.

The purpose of the program is to evaluate gloves (non-latex polymer e.g., nitrile, vs natural latex rubber (NLR)) in surgery; (veterinary surgery is suggested as a surrogate for human surgery) and to evaluate the effects of storage conditions, disinfectants, detergents, other chemicals, and blood and body fat on vinyl, NLR, and non-latex polymer examination gloves and latex and non-latex polymer surgical gloves.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $600,000 is available in FY 1998 to fund approximately three awards, preferably at least one in each category (A and B). It is expected that

the average award will be $200,000, ranging from $150,000 to $300,000. It is expected that the awards will begin on or about September 1, 1998, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds: The applicant should allocate funds for at least one annual CDC/NIOSH directed meeting.

Programmatic Interest

The applicant may address either or both of the components identified below:

A. Evaluate the degradation characteristics of examination and surgical gloves.

B. Evaluation of the similarities and differences of NLR and non-latex gloves during surgery including protection of wearer from needlestick and other sharp injuries (puncture and tear resistance) and worker acceptance.

D. Cooperative Agreement Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Develop, implement, and evaluate a study protocol.

2. Provide statistical analysis of the data.

3. Disseminate study results to the scientific community.

4. Collaborate with CDC/NIOSH on these activities and the activities listed below.

B. CDC/NIOSH Activities

1. Providing scientific and technical collaboration including study design and protocol development, and data analysis.

2. Monitor and evaluate scientific and operational accomplishments of the project through site visits, telephone calls, and review of technical reports and interim data analysis.

3. Collaborate with awardee(s) on data analysis, and interpretation of findings.

4. Review the results of the study and collabroate, where appropriate, in the preparation and publication of results in peer-reviewed journals.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001)(adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit. On or before July 23, 1998, submit the application to: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98090, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding of the Problem (15%)

Responsiveness to the objective of the cooperative agreement including: (a) Applicant's understanding of the general objectives of the proposed cooperative agreement, and (b) evidence of ability to design an effective evaluation study.

2. Experience (15%)

The extent to which the applicant's prior work and experience in developing and performing laboratory assay (Part A) and/or surgical assays (Part B).

3. Goals, Objectives and Methods (35%)

The extent to which the proposed goals and objectives are clearly stated, time-phased, and measurable. The extent to which the methods are sufficiently detailed to allow assessment of whether the objectives can be achieved for the budget period. Clearly state the evaluation method for evaluating the accomplishments. The extent to which a qualified plan is proposed that will help achieve the goals stated in the proposal.

4. Facilities and Resources (10%)

The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project. The proposal should include a commitment from the participating institution, as evidenced by a written agreement. For applicants applying to conduct the evaluation of glove performance in surgery, the proposal should include a commitment, as evidenced by a written agreement, from the chief of surgery, head of operating room nursing, and other directors with jurisdiction over the surgical suite, when such exist at the applicant's institution.

5. Project Management and Staffing Plan (15%)

The extent to which the management staff and their working partners are clearly described, appropriately assigned, and have pertinent skills and experiences. The extent to which the applicant proposes to involve appropriate personnel who have the needed qualifications to implement the proposed plan. The extent to which the applicant has the capacity to design, implement, and evaluate the proposed intervention program.

6. Collaboration (10%)

The extent to which all partners are clearly described and their qualifications and the extent to which their intentions to participate are explicitly stated. The extent to which the applicant provides proof of support (e.g., letters of support and/or memoranda of understanding) for proposed activities. Evidence or a statement should be provided that these funds do not duplicate already funded components of ongoing projects.

7. Budget Justification (Not Scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

8. Human Subjects (Not Scored)

If human subjects will be involved, how will they be protected, i.e., describe the review process which will govern their participation. The applicant must demonstrate that they have met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and

ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

9. Animal Subjects (Not Scored)

If the proposed project involves research on animal subjects, the applicant must comply with the "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office of Protection from Research Risks at the National Institutes of Health.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual progress reports including a brief program description and a listing of program goals and objectives accompanied by a comparison of the actual accomplishments related to the goals and objectives established for the period;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I (included in the application package).

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–3 Animal Subjects Requirements
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a) and 671(e)(7)). The Catalog of Federal Domestic Assistance number is 93.262 for the National Institute for Occupational Safety and Health.

J. Where To Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked to leave your name, address, and phone number and will need to refer to NIOSH Announcement 98090. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail. PLEASE REFER TO NIOSH ANNOUNCEMENT NUMBER 98090 WHEN REQUESTING INFORMATION AND SUBMITTING AN APPLICATION.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained by contacting: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98090, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209, telephone (404) 842–6804, Email address: vxw1@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance contact:

Scott Deitchman, M.D., telephone (404) 639–1534, Email sed2@cdc.gov

or

Robert Mullan, M.D., telephone (404) 639–1533, Email rjm1@cdc.gov, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), HIV Activity, 1600 Clifton Rd., NE., Mailstop D–40, Atlanta, GA 30333.

National Occupational Research Agenda (NORA): CDC, NIOSH is committed to the program priorities developed by NORA. Copies of the publication, "The National Occupational Research Agenda" may be obtained from The National Institute of Occupational Safety and Health, Publications Office, 4676 Columbia Parkway, Cincinnati, OH 45226–1998 or phone 1–800–356–4674, and is available through the NIOSH Home Page, "http://www.cdc.gov/niosh/nora.html".

Dated: May 14, 1998.

Diane D. Porter,

Acting Director, National Institute For Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13516 Filed 5–20–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 98067]

Cooperative Agreement for a Suicide Prevention Research Center; Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year 1998 cooperative agreement funds to establish a Suicide Prevention Research Center. This program addresses the Healthy People 2000 priority area of Violent and Abusive Behavior.

The purposes are:

1. To support Suicide Prevention Research Center (SPRC) which represent CDC's largest national extramural investment in suicide prevention research and training, intervention development, and evaluation;

2. To integrate collectively, in the context of a national program, the disciplines of epidemiology, medicine, biostatistics, public health, and behavioral and social sciences in order to prevent injuries from suicidal behavior more effectively;

3. To identify and evaluate current and new interventions for the prevention and control of suicide-related injuries;

4. To bring the knowledge and expertise of SPRC to bear on the development and improvement of effective public and private sector programs for suicide prevention and control; and

5. To facilitate suicide prevention efforts supported by various governmental and non-governmental agencies within a geographic region.

For additional information please see Addendum 2, Background and Definitions (included in the application package).

B. Eligible Applicants

Applications may be submitted by public and private nonprofit

organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

C. Availability of Funds

Approximately $500,000 is expected to be available in fiscal year (FY) 1998 to fund one new center project. It is expected that the award will begin on or around September 30, 1998, and will be made for a 12 month budget period, not to exceed a project period of three years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

D. Program Requirements

The following are applicant requirements:

1. Applicant must demonstrate expertise in some form of suicide prevention research.

2. Applicant must provide a director (Principal Investigator) who has specific authority and responsibility to carry out the project.

E. Cooperative Agreement Activities

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for activities listed under 2. (CDC Activities).

1. Recipient Activities:

a. Conduct, evaluate, and publish suicide prevention research.

b. Design, implement, and evaluate suicide prevention programs.

c. Collaborate with outside agencies and other entities which will allow for implementation of any proposed intervention activities.

d. Collaborate with at least one National organization that has suicide prevention as its major objective and whose members are actively engaged in suicide prevention activities.

e. Develop a curricula and graduate training programs in disciplines relevant to suicide prevention (e.g., epidemiology or behavioral sciences).

f. Disseminate injury control research findings, translate them into interventions, and evaluate their effectiveness.

2. CDC Activities:

a. Collaborate in establishing research and evaluation priorities, and defining the target populations.

b. Provide technical assistance.

F. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

1. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

2. Applications must be organized as follows: Applications for support of a SPRC should follow the PHS Form 398 (Revised 9/91, OMB Control Number 0925–0001) format and should include the following information:

a. Face page.

b. Description (abstract) and personnel.

c. Table of contents.

d. Detailed budget for the initial budget period: The budget should reflect the composite figures for the grant as well as breakdown budgets for individual projects within the grant.

e. Budget for entire proposed project period including budgets pertaining to consortium/contractual arrangements.

f. Core Faculty: Biographical sketches of key personnel, consultants, and collaborators, beginning with the Principal Investigator and core faculty.

g. Organizational collaboration: The applicant must describe a collaborative relationship with at least one National organization that has suicide prevention as its major objective and whose members are actively engaged in suicide prevention activities. The collaborating organization should be described in terms that demonstrate how collaboration with the applicant will strengthen the proposed SPRC. Roles and activities for collaborating organizations must be clearly specified in relation to the SPRCs goals and objectives. Evidence of relationships should be documented through letters that detail commitments and a clear statement of the role, activities, and participating personnel of each organization.

h. Research and prevention plan including:

1. The proposed activities should be clearly described in terms of need, scientific basis, expected interactions, and anticipated outcomes, including the expected effect on injury morbidity and mortality. In selecting the theme, applicants should consider the findings in *Injury In America* and the *Year 2000 Objectives for the Nation*.

2. A research plan (design and methods) including hypothesis and expected outcome, value to field, and specific, measurable, and time-framed objectives consistent with the proposed theme and activities for each project within the proposed grant. The applicant must demonstrate that they have met the CDC/ATSDR policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed projects. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation;

b. The proposed justification when representation is limited or absent;

c. A statement as to whether the design of the study is adequate to measure differences when warranted; and

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

Human Subjects: If the proposed research involves obtaining data through intervention or interaction with an individual(s) or identifiable private information then the applicant must provide background information on the precautions that will be put in place to protect human subjects.

3. A description of the core faculty and its role in implementing and evaluating the proposed programs.

4. Charts showing the proposed organizational structure of the SPRC and its relationship to the broader institution of which it is a part, and, where applicable, to affiliate institutions or collaborating organizations. These charts should clearly detail the lines of authority as they relate to the center or the project, both structurally and operationally. SPRC's should report to an appropriate organizational level (e.g., dean of a school, vice president of a university, or commissioner of health), demonstrating strong institution-wide support of SPRC activity and ensuring oversight of the process of interdisciplinary activity.

5. Documentation of the involved public health agencies and other public and private sector entities to be involved in the proposed program, including letters that detail commitments of support and a clear statement of the role, activities, and participating personnel of each agency or entity.

G. Submission and Deadline

Submit the original and five copies of PHS Form 398 (Revised 9/91, OMB

Control Number 0925–0001). Please adhere to the instructions on the Errata Instruction Sheet for PHS Form 398. Forms are in the application kit.

On or before July 21, 1998, submit to:

Lisa T. Garbarino, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 98067, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Room 300, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

H. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent reviewer group appointed by CDC. Applicants will be evaluated according to the following criteria (Maximum of 100 total points):

1. Core faculty, staff, and organizational capacity (30 points)

a. *Core faculty:* Qualifications, experience, and/or ability of core faculty in conducting research relevant to suicide prevention. Faculty history and experience in receiving research support from competitive sources of funding.

b. *Staffing plan:* Qualifications, adequacy, and appropriateness of personnel to accomplish the proposed activities.

c. *Organizational capacity:* Existence and availability of organizational resources and support for achieving research and prevention goals.

2. Organizational collaboration (30 points)

a. The extent to which the collaborative relationship (joint activities and access to the collaborative organization's membership for promoting prevention activities) will be considered and will strengthen the proposed SPRC.

b. The extent to which the collaborating organization is a National organization that has suicide prevention as its major objective and whose members are actively engaged in suicide prevention activities.

3. Research and prevention plan (40 points)

a. The extent to which suicide is a public health problem in the State(s) or region to be served by the SPRC.

b. The extent to which the applicant plans to provide consultation, technical assistance, and training to public and private agencies and institutions in the area of suicide prevention.

c. The extent to which the research plan is responsive to needed research in the area of suicide prevention.

d. If human subjects are involved, how they will be protected, i.e., describe the review process which will govern their participation. The applicant must demonstrate that they have met the CDC/ATSDR policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed projects. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation;

2. The proposed justification when representation is limited or absent;

3. A statement as to whether the design of the study is adequate to measure differences when warranted; and

4. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Budget (not scored)

Soundness of the proposed budget in terms of adequacy of resources and their allocation.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

a. Quarterly progress reports;

b. Financial status report, no more than 90 days after the end of the budget period; and

c. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to: Lisa T. Gabarino, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Room 300, Atlanta, Georgia 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum 1 (included in the application kit).

AR98–1 Human Subjects Requirements

AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR98–7 Executive Order 12372 Review

AR98–9 Paperwork Reduction Act Requirements

AR98–10 Smoke-Free Workplace Requirements

AR98–11 Healthy People 2000

AR98–12 Lobbying Restrictions

AR98–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

J. Authority and Catalog of Federal Domestic Assistance Number

This program announcement is authorized under sections 301, 317, and 391–394A (42 U.S.C. 241, 247b, and 280b–280b–3) of the Public Health Service Act as amended. The Catalog of Federal Domestic Assistance number is 93.136.

K. Where To Obtain Additional Information:

To receive additional written information call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name, organization, address, and phone number and will need Announcement Number 98067.

All application procedures and guidelines are contained within that package or can be found on the CDC Homepage. The address for the CDC Homepage is (http://www.cdc.gov). For your convenience, you may be able to retrieve a copy of the PHS Form 398 from (http://www.nih.gov.grants/funding).

Business management technical assistance, contact: Lisa T. Garbarino, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Room 300, Atlanta, Georgia 30305–2209, Telephone (404) 842–6796, E-mail address lgt1@cdc.gov.

For program technical assistance, contact: Timothy Thornton, Division of Violence Prevention, National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–60, Atlanta, Georgia 30341–3724, Telephone (770) 488–4389, E-mail address tnt1@cdc.gov.

Dated: May 15, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13545 Filed 5–20–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on HIV and STD Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on HIV and STD Prevention.

Times and Dates:

8:30 a.m.–5 p.m., June 16, 1998.

8:30 a.m.–12 p.m., June 17, 1998.

Place: Corporate Square Office Park, Corporate Square Boulevard, Building 11, Room 1413, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV and STD prevention efforts including maintaining surveillance of HIV infection, AIDS, and STDs, the epidemiologic and laboratory study of HIV/AIDS and STDs, information/education and risk reduction activities designed to prevent the spread of HIV and STDs, and other preventive measures that become available.

Matters to be Discussed: Agenda items include issues pertaining to syphilis elimination; HIV prevention activities in the rural U.S.; and priority prevention services for HIV-infected persons. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Beth Wolfe, Committee Management Analyst, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, Mailstop E–07, Atlanta, Georgia 30333, telephone (404) 639–8008.

Dated: May 15, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13550 Filed 5–20–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Health Research Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: Mine Health Research Advisory Committee (MHRAC).

Time and Date: 9 a.m.–4 p.m., June 26, 1998.

Place: The Washington Court Hotel, Montpelier Room, 525 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by space available. The meeting room accommodates approximately 50 people.

Purpose: The Committee is charged with advising the Secretary; the Assistant Secretary for Health; the Director, Centers for Disease Control and Prevention; and the Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, on priorities in mine safety and health research, including grants and contracts for such research, 30 U.S.C. 812(b)(2), ection 102(b)(2).

Matters to be Discussed: The agenda will include MHRAC history; funding; the Federal Advisory Committee Act; Research Program Transition: FY 1996–FY 1998; FY 1997 and FY 1998 Accomplishments in Disaster Prevention and Response; and Mining Research Gaps and Emerging Themes.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Larry Grayson, Ph.D., Executive Secretary, MHRAC, NIOSH, CDC, 200 Independence Avenue, SW., Room 715–H, Humphrey Building, Washington, DC 20201, telephone (202) 401–2192, fax (202) 260–4464.

Dated: May 15, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13549 Filed 5–20–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98P–0062]

Determination That Carbinoxamine Maleate 4–Milligram Immediate-Release Tablets Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that carbinoxamine maleate (Clistin®) 4-milligram (mg) immediate-release tablets were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for carbinoxamine maleate 4-mg immediate-release tablets.

FOR FURTHER INFORMATION CONTACT: Richard L. Schwartzbard, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products with Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

In a citizen petition dated January 22, 1998 (Docket No. 98P–0062/CP1), submitted in accordance with 21 CFR 314.122, Sage Pharmaceuticals requested that the agency determine whether carbinoxamine maleate (Clistin®) 4-mg immediate-release tablets were withdrawn from sale for reasons of safety or effectiveness. Carbinoxamine maleate (Clistin®) 4-mg immediate-release tablets were the subject of approved NDA 8–915.[1] On

[1] NDA 8–915 also covered Clistin® R–A, a controlled-release form of carbinoxamine maleate tablets. In the **Federal Register** of July 29, 1983 (48

January 26, 1993, the R. W. Johnson Pharmaceutical Research Institute notified FDA in writing that carbinoxamine maleate (Clistin®) 4-mg immediate-release tablets were no longer being marketed under NDA 8–915 and requested the withdrawal of that application. FDA complied and announced the withdrawal of approval for NDA 8–915 in the **Federal Register** of March 2, 1994 (59 FR 9989).

FDA has reviewed its records and, under § 314.161, has determined that carbinoxamine maleate 4-mg immediate-release tablets were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will maintain carbinoxamine maleate 4-mg immediate-release tablets in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to carbinoxamine maleate 4-mg immediate-release tablets may be approved by the agency.

Dated: May 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13468 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0317]

Prompt Review of Supplemental Applications for Approved Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Devices and Radiological Health (CDRH) and Center for Biologics Evaluation and Research (CBER), in accordance with the FDA Modernization Act of 1997 (FDAMA), are publishing standards for the prompt review of supplemental applications submitted for devices approved under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*). Also, in accordance with FDAMA, CDRH and CBER are designating an individual within each center to be responsible for encouraging prompt review of supplements and for working with sponsors to facilitate development and submission of data to support such supplements.

DATES: Written comments by August 19, 1998.

ADDRESSES: Submit written comments concerning this notice to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Robert M. Navazio, Center for Devices and Radiological Health (HFZ–30), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1282, or

Jerome A. Donlon, Center for Biologics Evaluation and Research (HFM–200), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–3028, 301–827–3028.

SUPPLEMENTARY INFORMATION:

I. Background

FDAMA was enacted on November 21, 1997, in order to streamline the process of bringing safe and effective drugs, medical devices, and other therapies to the U.S. market. Section 403 of FDAMA addresses FDA's review of supplemental applications ("supplements") submitted for articles approved under the act or section 351 of the Public Health Service Act.

Section 403(a) of FDAMA requires FDA to publish in the **Federal Register**, not later than 180 days after enactment of FDAMA, standards for the prompt review of supplements. Section 403(b) requires FDA to issue final guidances by that same date to clarify the requirements for, and facilitate the submission of, data to support the approval of supplements. Section 403(b) also requires the guidance to clarify those circumstances in which published matter may be the basis for approval of supplements, to specify data requirements that will avoid duplication of previously submitted data, and to define those supplements that are eligible for priority review. Section 403(c) requires FDA to designate an individual within each center of FDA (except the Center for Food Safety and Applied Nutrition) to be responsible for encouraging prompt review of supplements and working with sponsors to facilitate development and submission of data to support supplements. Section 403(d) requires FDA to implement programs and policies that will foster collaboration between FDA, the National Institutes for Health, and others to identify studies that may support supplements and to encourage sponsors to submit and develop supplements based on such studies.

In this notice, CDRH and CBER are publishing performance standards they have established for the prompt review of premarket approval application (PMA) supplements, in accordance with section 403(a) of FDAMA. Also, the Director, Office of Device Evaluation, CDRH, and the Deputy Director, Medical, CBER are designated as the individuals within each center who will be responsible for encouraging the prompt review of PMA supplements and working with sponsors to facilitate development and submission of data to support supplements, in accordance with section 403(c). Elsewhere in this issue of the **Federal Register**, CDRH is publishing a notice of availability of final guidance to industry to clarify the requirements for, and facilitate the submission of, data to support the approval of supplements, in accordance with section 403(b).

II. FDAMA Section 403(a)

Following approval of a PMA or receipt of an order declaring a product development protocol (PDP) completed, the sponsor of the approved PMA or completed PDP must submit a supplement to the PMA or PDP for review and approval by FDA before making a change affecting the safety and effectiveness of the device, unless the device is of a type for which FDA has advised that an alternate submission is permitted.

FDA measures its performance with respect to review of supplements by tracking and analysis of groups of incoming applications. These groups of submissions are referred to as Receipt Cohorts.

A. PDP Supplements

In accordance with 21 CFR 814.19, a class III device for which a product development protocol has been declared completed by FDA will be considered to have an approved PMA. Accordingly, FDA intends to review PDP supplements in the same timeframe it reviews PMA supplements.

FDA does not have baseline data for PDP supplements because no submissions of such supplements have been received. To the extent applicable, FDA intends to apply to PDP supplements the same performance standards described below for PMA supplements.

FR 34514). FDA withdrew approval of NDA 8–915 as it pertained to Clistine® R–A because no person submitted bioavailability data showing that the product was effective as a controlled-release dosage form.

B. PMA Supplements

In accordance with FDA regulations, PMA supplements ordinarily are required to be reviewed within 180 days (21 CFR 814.39(c)).

The legislative history of section 403 of FDAMA indicates that Congress expected FDA to publish performance standards for those supplements submitted for changes in product use. Therefore, the data that follow do not reflect FDA performance standards for PMA supplements submitted for other changes, e.g., labeling or manufacturing. Historically, FDA has received approximately 300 to 500 PMA supplements per year. Approximately 10 percent of these supplements address changes in the indication for use. Performance for the PMA supplement receipt cohort for changes in indication received during fiscal year (FY) 1996 and FY 97 was just over 70 percent completed within 180 days.

Tracking for PMA supplements will continue to be accomplished using Receipt Cohorts as the basis for program performance. Projected performance for the FY 98 receipt cohort for changes in indication is expected to be 65 percent reviewed within 180 days. This estimate is based on making the best use of available FY 98 resources during a time of increasing workload attributable to implementation of FDAMA. In FY 99, FDA will continue reengineering the device review process with emphasis on these new requirements. If adequate funding is provided, FDA expects that performance will be back to 70 percent in FY 99 and anticipates enhanced performance levels in subsequent years.

III. FDAMA Section 403(c)

FDA has designated the following individuals within CDRH and CBER to work with sponsors to facilitate the development and submission of data to support supplemental applications for approved articles in accordance with section 403(c) of FDAMA:

Director, Office of Device Evaluation, Center for Devices and Radiological Health (HFZ–400), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2022, and

Deputy Director, Medical Center for Biologics Evaluation and Research (HFM–1), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028.

IV. Comments

Interested persons may, on or before August 19, 1998, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 18, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13721 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0333]

Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled, "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review." The FDA Modernization Act of 1997 (FDAMA) requires the agency to issue final guidance to clarify circumstances in which published matter may be the basis for approval of a supplemental application, specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application and define supplemental applications that are eligible for priority review.

DATES: Written comments concerning this guidance may be submitted at anytime.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance document entitled, "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments on "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review" to the contact persons listed below. See the SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT:

Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186; or

Jerome A. Donlon, Center for Biologics Evaluation and Research, 1401 Rockville Pike (HFM–200), Rockville, MD 20852–1448, 301–827–3028.

SUPPLEMENTARY INFORMATION:

I. Background

Section 403(b) of FDAMA (Pub. L.105–115) provides that not later than 180 days after the date of enactment, the Secretary of the Department of Health and Human Services (FDA by delegation) shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for approved articles under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262). The guidances shall:

(1) Clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) Specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) Define supplemental applications that are eligible for priority review.

Section 403(b) of FDAMA is applicable to multiple centers within FDA. Availability of the draft guidance prepared by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) (CDER/CBER draft guidance) was announced in the **Federal Register** of March 21, 1997 (62 FR 13650). The CDER/CBER draft guidance describes the use of literature and the types of study design that may support supplemental effectiveness claims for approved drug and biological products. CDRH issued draft guidance

on March 20, 1998, that set forth its perspective on the applicability of the CDER/CBER draft guidance to medical devices.

The agency received two comments on the draft guidance. Both comments encouraged the agency to issue two separate guidance documents, one for devices and one for drugs and biologics, rather than a single guidance document. Also, both comments requested device-specific examples in the guidance document. One comment requested additional guidance on other provisions of FDAMA.

Although CDRH initially had expected the final guidance issued in accordance with 403(b) of the act to be a single agency document that addressed devices, drugs and biologics, both CDRH and CBER have decided, in the interest of clarity and consistent with comments received on the draft guidance, to issue a separate guidance document for medical devices. This final guidance for medical devices builds upon the foundation developed in the CDER/CBER draft guidance regarding the use of published literature, draws upon the existing premarket approval application (PMA) regulation, and refers to earlier guidance documents developed by CDRH that describe efforts to avoid duplication of previously submitted data and that define supplemental applications that are eligible for priority review. In this final guidance, device specific examples have replaced the drug examples presented in the CDER/CBER draft guidance.

This guidance has been revised to account for all class III products approved as PMA's, including humanitarian device exemption (HDE) products and product development protocols (PDP's). A Class III device for which a PDP has been declared completed by FDA is considered to have an approved PMA § 814.19 (21 CFR 814.19). Supplements to PDPs, therefore, will be treated as PMA supplements for purposes of this guidance. This guidance also provides examples of how the use of published literature may be used in support of a PMA, PDP, or HDE supplement.

Published literature would most frequently be used to support supplements for new indications for use of an approved device. In accordance with § 814.110, an applicant seeking approval for a new indication for use for an approved humanitarian use device must submit an original HDE. Therefore, this guidance would apply to HDE supplements only in unusual circumstances. The agency intends to issue additional guidance documents on other provisions of FDAMA and will solicit public comment on those guidances in accordance with FDA's Good Guidance Practices.

II. Significance of Guidance

This guidance document represents the agency's current thinking on "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review." Both the Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER) have responsibilities for the regulation of medical devices. This document applies to medical devices regulated by either CDRH or CBER and reflects the current thinking of both centers on the subject of this guidance. This document does not apply to medical devices licensed by CBER. This document is being issued as final guidance. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGPs. Written comments may be submitted at any time.

III. Electronic Access

In order to receive "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (380) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the World Wide Web for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidance for Industry, Supplements to Approved Applications for Class III Medical Devices: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. This guidance is also available from CBER on the World Wide Web at http://www.fda.gov/cber/guidelines.htm.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this final guidance. Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 18, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13720 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–237]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Multi-State Evaluation of Dual Eligibles Demonstration; *Form No.:* HCFA–R–237 OMB #0938–NEW; *Use:* This survey provides information needed to evaluate dual eligible demonstrations on issues of satisfaction and gather health and functional status to be used in other analyses. Dual eligible demonstrations provide HCFA the opportunity to determine whether changes in payment and reimbursement and alternative ways to provide health services results in better coordination, increased satisfaction, and improved outcomes of those eligible for both Medicare and Medicaid. Respondents to the survey include demonstration enrollees both living in the community and in institutions, their families, disenrollees and corresponding comparison groups.

Frequency: One time submission; *Affected Public:* Individuals or Households; *Number of Respondents:* 2,900; *Total Annual Responses:* 2,900; *Total Annual Hours:* 2,106.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 11, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–13575 Filed 5–20–98; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Caner Institute; Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Frederick Cancer Research and Development Center Advisory Committee.

The open portion of the meeting will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person in advance of the meeting.

Committee Name: Frederick Cancer Research and Development Center Advisory Committee.

Date: June 11–12, 1998.

Place: Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, Maryland 21702–1201.

Open: 8:30 a.m.—10:00 a.m.

Agenda: Discussion of administrative matters such as future meetings, budget and information items related to the operation of the NCI Frederick Cancer Research and Development Center.

Closed: June 11–10:00 a.m. to Recess, June 12–10:00 a.m. to Adjournment.

Agenda/Purpose: Presentations and discussions of previous site visit report and response for the Molecular Basis of Carcinogenesis Laboratory held December 11–12, 1997. There will be a site review of the Chemistry of Carcinogenesis Laboratory and a review of two Principal Investigators in the Molecular Virology and Carcinogenesis Laboratory both with ABL–Basic Research Program contract.

Contact Person: David J. Goldstein, Ph.D., Executive Secretary, Frederick Cancer Research and Development Center, P.O. Box B, Frederick, MD 21702–1201, Telephone: 301–846–1108.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552(C)(6), Title 5, U.S.C. The report and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the programs, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: May 13, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13535 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

This meeting will be open to the public as indicated below, with attendance by the public limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 609, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708). A summary of the meeting and the roster of committee members will be provided upon request. Other information pertaining to the meeting may be obtained from the contract person indicated below.

Committee Name: President's Cancer Panel.

Date: June 2, 1998.

Place: Yale University, Hope 110 Lecture Hall, 315 Cesar Street, New Haven, CT.

Open: 9:30 a.m. to Adjournment.

Agenda: Quality of Cancer Care/Quality of Life, Defining Quality of Life and Survivorship.

Contract Person: Maureen O. Wilson, Ph. D., Executive Secretary, National Cancer

Institute, Building 31, Room 4A48, Bethesda, MD 20892, Telephone: (301) 496–1148.

This notice is published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 13, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13536 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 8 and 9, 1998 in Building 10, Room 10B16, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 8 from 9 a.m. until approximately 10 a.m. for general remarks by the Director, Intramural Research Program, National Eye Institute (NEI), on matters concerning the intramural program of the NEI. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 8 from approximately 10 a.m. until recess and on June 9 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Division of Biometry and Epidemiology. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Colleen Genovese, Counselor Assistant, NEI, Building 10, Room 10N202 Bethesda, Maryland 20892, (301) 496–3123, will provide a summary of the meeting, roster of committee members, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Genovese in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research; National Institutes of Health)

Dated: May 14, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13529 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Heart, Lund, and Blood Institute meetings:

Name of Committee: Heart, Lung, and Blood Program Project Review Committee.

Date: June 25, 1998.

Time: 8:00 a.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Contact Person: Jeffrey H. Hurst, Ph.D., Scientific Review Administrator, NHLBI/Review Branch, Two Rockledge Center, Room 7208, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0303.

Purpose/Agenda: To review and evaluate program project grant applications.

Name of Committee: National Heart, Lung, and Blood Special Emphasis Panel (Thrombocytopenia: Pathogenesis and Treatment).

Date: June 10, 1998.

Time: 8:00 a.m.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Contact Person: Eric H. Brown, Ph.D., Two Rockledge Center, Room 7204, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0299.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13541 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: June 10, 1998.

Time: 1:00 p.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Katherine Woodbury-Harris, Mr. Phillip Wiethorn, Scientific Review Administrators, Scientific Review Branch, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate RFP Contract Proposal(s).

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: May 14. 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13528 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Dates: July 27, 28, 29, 1998.

Time: 8:30 a.m.

Place: ANA Hotel, 2401 M Street N.W., Washington, DC 20037, (202) 429–2400.

Phone: (202) 429–2400.

Contact Person: Dr. Lillian Pubols, Chief, Scientific Review Branch, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, Maryland 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: May 14, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13530 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Treatment for Lead-Exposed Children Follow-up.

Date: June 12, 1998.

Time: 9:00 a.m.

Place: National Institute of Environmental Health Sciences, East Campus, Building 4401, Room 3446, Research Triangle Park, North Carolina 27709.

Contact Person: Dr. Ethel Jackson, Scientific Review Administrator, National Institute of Environmental Health Sciences, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 37709, (919) 541–7826.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health).

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH

[FR Doc. 98–13531 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Review of Conference Grants—R13s (Telephone Conference Call).

Date: June 3, 1998.

Time: 1:00 p.m.

Place: National Institute of Environmental Health Sciences, East Campus, Building 4401, Room 3446, Research Triangle Park, NC 27709.

Contact Person: Dr. Carol Shreffler, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1445.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the grant/contract review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13532 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Inmate Immunity in Vertebrates and Insects and Inmate Immune Response to Microbial Infection.

Date: June 26, 1998.

Time: 8:30 a.m. to Adjournment.

Place: Bethesda Ramada Hotel and Conference Center, Parlor Room, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–2550.

Contact Person: Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892, (301) 496–8206.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13533 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National

Institute of Dental Research, on June 4–5, 1998, in Building 30, Trendley Dean Conference Room, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on June 4 for the Pain and Neurosensroy Mechanisms Branch presentations and from 8:30 a.m. to 10:30 a.m. on June 5 for a tour of the facilities and poster presentations, Building 49. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. until 9:00 a.m. on June 4 an from 10:30 a.m. until adjournment on June 5 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Dental Research (NIDR), including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Brent Jaquet, Director, Office of Communications and Health Education, NIDR, NIH, Building 31, Room 5B55, Bethesda, Maryland 20892 (telephone: 301–496–6705; e-mail: JaquetB@OD31.nidr.nih.gov) will provide a summary of the meeting, roster of committee members and substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13534 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose/Agenda: To review and evaluate a grant application.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: June 18, 1998.

Time: 3:30 p.m. to adjournment.

Place of Meeting: Radisson Suite Resort, Hilton Head Island, 12 Park Lane, Hilton Head, South Carolina 29928.

Contact Person: Ron Suddendorf, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–2926.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: June 19, 1998.

Time: 4:00 p.m. to adjournment.

Place of Meeting: Holiday Inn Oceanfront, Palm Meeting Room, Hilton Head Island, South Carolina 29938.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The proposal and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance, Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: May 13, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13537 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: AIDS International Training and Research Program.

Date: June 8–10, 1998.

Time: 9:00 a.m. to Adjournment.

Place: Holiday Inn, Bethesda, Versailles Room, 8120 Wisconsin Avenue, Bethesda, MD 20814, (301) 652–2000.

Contact Person: Dr. Stanley Oaks, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C06, Bethesda, MD 20892, (301) 496–7042.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856 Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 13, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13538 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Drug Abuse (NIDA) Initial Review Group and Special Emphasis Panel meetings.

Purpose/Agenda: To review and evaluate grant application and contract proposals.

Name of Committee: NIDA Special Emphasis Panel (Medication Development).

Date: June 2, 1998.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20854.

Contact Person: Khursheed Asghar, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: Basic Behavioral Science Research Subcommittee.

Date: June 2–3, 1998.

Time: 8:30 a.m.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (Contract Review—"Evaluation of the National Youth Anti-Drug Media Campaign").

Date: June 9, 1998.

Time: 9:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase MD 20818.

Contact Person: Mr. Eric Zatman, Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–1644.

Name of Committee: Epidemiology and Prevention Research Subcommittee.

Date: June 9–11, 1998.

Time: 8:30 a.m.

Place: Crystal City Courtyard Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Susan L. Coyle, Ph. D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (Contract Review—"GMP Synthesis of Bulk Drug Substances").

Date: June 15, 1998.

Time 9:00 a.m.

Place: Doubie Tree Hotel, 1750 Rockville Pike, Rockville, MD 20854.

Contact Person: Mr. Lyle Furr, Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–1644.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552(c)(6), Title 5, U.S.C. The applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated May 13, 1998.

Anna Snouffer,

Acting NIH Committee Management Officer.

[FR Doc. 98–13539 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communications Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: June 9, 1998.

Time: 3 pm to adjournment.

Place: 6120 Executive Blvd, Rockville MD 20852, (telephone conference call).

Contact Person: Richard S. Fisher, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, Bethesda MD 20892–7180, 301–496–8693.

Purpose/Agenda: To review and evaluate grant applications. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13540 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of K08 (98–33).

Dates: May 15, 1998.

Time: 8:00 a.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. William Gartland, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of R03s (98–32).

Dates: May 28, 1998.

Time: Noon.

Place: Natcher Building, Rm. 4AN–445, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. William Gartland, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 14, 1998.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 98–13542 Filed 5–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with the Environmental Systems Research Institute (ESRI), Redlands, CA. The purpose of the CRADA is to conduct research and development in the management, access, distribution, and application of geospatial data related to elevation, hydrologic, watershed, national atlas, raster, and image data programs. Any other organization interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

ADDRESSES: Inquiries may be addressed to the Acting Chief of Research, U.S. Geological Survey, National Mapping Division, 500 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; Telephone (703) 648–4643, facsimile (703) 648–4706; Internet "ebrunson@usgs.gov."

FOR FURTHER INFORMATION CONTACT: Ernest B. Brunson, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: May 7, 1998.

Richard E. Witmer,

Chief, National Mapping Division.

[FR Doc. 98–13583 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 19.99 acres as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on April 30, 1998. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band Of Umpqua Tribe of Indians

Douglas County, Oregon

The following described real property is located in the Southeast quarter of Section 32, Township 29 South, Range 5 West, Willamette Meridian, Douglas County, Oregon: Beginning at a 5/8 inch iron rod located on the easterly right-of-way boundary of U.S. Interstate Highway No. 5, said 5/8 inch iron rod bears North 89°36′02″ East 4,377.78 feet from the west-northwest corner of the Thomas Whitted Donation Land Claim No. 44; thence along said easterly right-of-way boundary of said U.S. Interstate Highway No. 5, North 50°59′35″ East 207.83 feet to a 5/8 inch iron rod; thence leaving said easterly right-of-way boundary of said U.S. Interstate Highway No. 5 and running South 43°50′08″ East along the northeasterly line of that property described in Recorder's No. 95–12052, Records of Douglas County, Oregon, 778.78 feet to a 5/8 inch iron rod located on the westerly boundary of the Tri-City State Airport; thence along said westerly boundary of said Tri-City State Airport, South 49°45′00″ West 1,162.50 feet to a railroad iron fence corner; thence leaving said westerly boundary of said Tri-City State Airport, and running North 43°49′11″ West along the southwesterly line of that property described in Recorder's No. 95–12052, Records of Douglas County, Oregon, 722.64 feet to a 5/8 inch iron rod located on the said easterly right-of-way boundary of said U.S. Interstate Highway No. 5; thence along said easterly right-of-way boundary of said U.S. Interstate Highway No. 5, North 46°06′30″ East 952.93 feet to the point of beginning.

Together with a perpetual easement for access to a well, granted by George D. Weaver to Donald L. Mauck and Hulda M. Mauck, by instrument dated January 29, 1971, and recorded December 10, 1973, in Book 535, Page 200, Recorder's No. 73–17681, Records of Douglas County, Oregon.

Also together with a perpetual easement for installation and maintenance of a water pump and irrigation pipeline granted by the Oregon State Board of Aeronautics, to Donald L. Mauck and Hulda M. Mauck, husband and wife, George D. Weaver, and to the Weaver Water Improvement District, by easement dated October 17, 1966, and recorded December 7, 1966, in Book 382, Recorder's No. 66–13325, Records of Douglas County, Oregon. Containing 19.99 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: April 30, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–13470 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–07–1230–00; 8371]

Arizona: Lake Havasu Shoreline Project for 1998–1999 and Subsequent Use Seasons; Establishment of Fee Campsites and Supplementary Rules, Lake Havasu Field Office, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of fees and supplementary rules for the use of boat-access shoreline campsites along Lake Havasu, a manmade lake on the Arizona/California state line.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office announces establishment of the Lake Havasu Shoreline Project. The program, initiated in 1997, manages the shoreline riparian area. It includes the preexisting shoreline camp sites as federal fee camp sites under the authorities described in 36 CFR part 71. The camp sites had been developed as designated fee sites by the Arizona State Parks Department while these lands were under a lease from the Bureau of Land Management. The lease was voluntarily terminated, leaving the developed sites to return to the jurisdiction of the BLM.

EFFECTIVE DATE: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: Don Applegate, Project Manager, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona, 86406, telephone (520) 505–1244; E-mail dappleg@az.blm.gov.

SUPPLEMENTARY INFORMATION: The primary purpose of the Shoreline Project is to provide long-term areas for boating and camping use. The sites designated as campsites are, in most cases, the traditional use areas of boat camping visitors. Designated sites were selected by Arizona State Parks using criteria based on visitor use patterns, availability of shoreline access, and a need to establish sanitation facilities in heavily-used riparian areas.

This program is being established to safely and properly accommodate the increasing demand for boat camping visits and to provide natural resource protection through improved management of the camping use and the riparian area. The designation of fee campsites assures that specific locations are available for such use year after year.

Authority for the designation of fee campsites is contained in Title 43, Code of Federal Regulations, Part 8360, Subpart 8365, Sections 2 and 2–3.

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Authority for the payment of fees is in Title 36, Code of Federal Regulations, Subpart 71. Authority for including this project in the Fee Demonstration Pilot program is contained in the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66) and the FY 1996 Appropriations Act (Public Law 104–134).

The authority for establishing supplementary rules is contained in Title 43, Subpart 8365, Section 1–6. The shoreline campsite supplementary rules have been developed to manage continued use of the sites until a management plan can be completed. These rules will be available in the local office having jurisdiction over the sites affected, and will be posted at the sites. Violations of supplementary rules are punishable as class A misdemeanors.

The following are the legal descriptions for each of the shoreline campsites:

Legal Locations of Lake Havasu Shoreline Campsites

The following is a list of the 125 shoreline campsites with a legal location to the nearest quarter-quarter-quarter section. The list is organized to reflect that many of the camps are located in small clusters under a single common name. In general, it starts with the northermost sites and ends with the southernmost.

Northern Sites

Gila and Salt River Meridian

Bluebird 1, 2, & 3
T. 13 N., R. 20 W., Sec. 25, NW¼SW¼NW¼
Wren Cove 1, 2, & 3
T. 13 N., R. 20 W., Sec. 25, SE¼SW¼NW¼
Mallard Cove 1
T. 13 N., R. 20 W., Sec. 25, NE¼NE¼SW¼
Mallard Cove 2, 3, 4, 5, & 6
T. 13 N., R. 20 W., Sec. 25, NW¼NE¼SW¼
Teal Point 1, 2, & 3
T. 13 N., R. 20 W., Sec. 25, SW¼NE¼SW¼
Widgeon Key
T. 13 N., R. 20 W., Sec. 25, NW¼SW¼SW¼
Widgeon Key 1, 2, & 4 (There is no #3)
T. 13 N., R. 20 W., Sec. 25, NW¼SW¼SE¼
Road Runner 1, 2, 3, & 4
T. 13 N., R. 20 W., Sec. 25, SE¼SW¼SE¼
Hêron Cove & Heron Cove 2
T. 13 N., R. 20 W., Sec. 36, NW¼NE¼NE¼
Cholla
T. 13 N., R. 20 W., Sec. 36, NE¼NE¼NE¼
Solitude Cove
T. 13 N., R. 19 W., Sec. 31, NW¼NW¼NW¼
Kingfisher
T. 13 N., R. 19 W., Sec. 31, NE¼SW¼NW¼
Balance Rock Cove
T. 13 N., R. 19 W., Sec. 31, SE¼NE¼NW¼
Frog Point
T. 13 N., R. 19 W., Sec. 31, SE¼SE¼NW¼
Friendly Island 1, 2, 3
T. 13 N., R. 19 W., Sec. 31, NE¼NE¼SW¼
Friendly Island 4
T. 13 N., R. 19 W., Sec. 31, SE¼NE¼SW¼
Friendly Island 5
T. 13 N., R. 19 W., Sec. 31, SW¼NE¼SW¼
Goose Bay 1 & 2
T. 13 N., R. 19 W., Sec. 31, SE¼NE¼SW¼
Pilot Rock 1 & 2
T. 12 N., R. 20 W., Sec. 1, SE¼NE¼NE¼
Sand Isle 4
T. 12 N., R. 19 W., Sec. 15, NE¼SW¼SW¼
Standard Wash 1
T. 12 N., R. 19 W., Sec. 15, SW¼SE¼SW¼
Standard Wash 2 & 3
T. 12 N., R. 19 W., Sec. 22, SE¼NW¼NE¼
Standard Wash 4 & 5
T. 12 N., R. 19 W., Sec. 22, NW¼SW¼NE¼
Standard Wash 6
T. 12 N., R. 19 W., Sec. 22, SE¼NE¼NW¼
Echo Cove 1, 2, & 3
T. 12 N., R. 19 W., Sec. 23, SW¼NW¼SW¼
Echo Cove 4
T. 12 N., R. 19 W., Sec. 23, SE¼NW¼SW¼
Coyote Cove 1 & 2
T. 12 N., R. 19 W., Sec. 23, SE¼NE¼SW¼
BLM 1
T. 12 N., R. 19 W., Sec. 23, SW¼NW¼SE¼
BLM 2
T. 12 N., R. 19 W., Sec. 23, NW¼NW¼SE¼
Whyte's Retreat 1 & 2
T. 12 N., R. 18 W., Sec. 32, SW¼SW¼NW¼
Rocky Landing 1
T. 12 N., R. 18 W., Sec. 32, NW¼NW¼SW¼
Rocky Landing 2 & 3
T. 12 N., R. 18 W., Sec. 32, SE¼NW¼SW¼
Rocky Landing 4
T. 12 N., R. 18 W., Sec. 32, NE¼SW¼SW¼
Satellite Cove 1 & 2
T. 12 N., R. 18 W., Sec. 32, NE¼SE¼SW¼
Satellite Cove 3
T. 12 N., R. 18 W., Sec. 32, SE¼SE¼SW¼
Satellite Cove 4
T. 12 N., R. 18 W., Sec. 32, NW¼SE¼SW¼
Hum Hum Cove 1 & 2
T. 12 N., R. 18 W., Sec. 32, SE¼SE¼SW¼
Cove of the Little Foxes
T. 12 N., R. 18 W., Sec. 32, SE¼SE¼SW¼
Disneyland 1 & 2
T. 11 N., R. 18 W., Sec. 5, NW¼NW¼NE¼
Disneyland 3 & 4
T. 11 N., R. 18 W., Sec. 5, NE¼NW¼NE¼
Gnat Keys 1 & 2
T. 11 N., R. 18 W., Sec. 5, NE¼SW¼NW¼
Gnat Keys 3
T. 11 N., R. 18 W., Sec. 4, SE¼NW¼SW¼
Gnat Keys 4
T. 11 N., R. 18 W., Sec. 4, NE¼SW¼SW¼
Bass Isle
T. 11 N., R. 18 W., Sec. 4, SW¼NE¼SW¼
Hi Isle 1
T. 11 N., R. 18 W., Sec. 4, SW¼SE¼SW¼
Hi Isle 2, 3, 4, 5, 6, & 7
T. 11 N., R. 18 W., Sec. 9, NW¼NE¼NW¼
Hi Isle 8, 9, 10, 11 & 12
T. 11 N., R. 18 W., Sec. 9, SW¼NE¼NW¼
Hi Isle 13
T. 11 N., R. 18 W., Sec. 9, NE¼NE¼NW¼
Hi Isle 14 & 15
T. 11 N., R. 18 W., Sec. 9, SW¼NE¼NW¼
Big Horn 1, 2, 3, 4, & 5
T. 11 N., R. 18 W., Sec. 9, NE¼SE¼NW¼
Big Horn 6
T. 11 N., R. 18 W., Sec. 9, SE¼SW¼NE¼
Bass Bay 1, 2, & 3
T. 11 N., R. 18 W., Sec. 9, SW¼SW¼NE¼
Larned Landing 1, 2, & 3
T. 11 N., R. 18 W., Sec. 9, NW¼NW¼SE¼
Larned Landing 4 & 5
T. 11 N., R. 18 W., Sec. 9, SE¼NW¼SE¼
Bill Williams 1 & 2
T. 11 N., R. 18 W., Sec. 9, SW¼NE¼SE¼
Bill Williams 3
T. 11 N., R. 18 W., Sec. 9, NW¼NE¼SE¼
Bill Williams 4 & 5
T. 11 N., R. 18 W., Sec. 10, NE¼NW¼SW¼

Supplemental Rules

The following are supplemental rules for the designated shoreline campsites on the public lands described above. These special rules are in addition to existing rules and regulations that apply to all public lands as previously established in 43 Code of Federal Regulations (CFR) as well as other Federal laws applicable to the use of public lands.

Recreation Use Permit

A use permit is required for any use of the designated camp site, including occupying a campsite for any length of time. The mooring of any watercraft or floating platform offshore in the vicinity or cove of any campsite be will be considered an occupation of the campsite and will require the purchase of a permit.

The fee for a use permit will be in accordance with the fee schedule, requirements, and procedures established under the Recreation Fee Demonstration Pilot program, and are payable in U.S. funds only.

Permit receipts must be displayed or presented upon demand to the authorized BLM officer inspecting the site. Should the occupants be away from camp, the receipt must be visibly displayed in a conspicuous place.

Permits may not be reassigned or transferred between individuals and/or camp sites.

An authorized BLM officer may revoke, without reimbursement, any permit when the permittee (or permittees) violates any BLM rule or

regulation. Any permittee (or permittees) whose permit is revoked must remove all property and leave the campsite within 1 hour of notice.

Site Occupation

A camp site is considered occupied after the appropriate permit fee has been paid and the permittee has taken possession of the site by leaving personal property at the site.

No person will occupy a camp site in violation of instructions from a BLM official or when there is reason to believe that the unit is occupied by another camper. No person(s), other than authorized personnel during the commission of their duties, will occupy a permitted camp site without the consent of the permittee.

Campsites must not be left unoccupied overnight.

A single vessel and the occupants thereof may occupy only one site.

Quiet Hours

Quiet hours are from 10 p.m. to 6 a.m. in accordance with applicable state time zone standards.

Wood Collection

Cutting or collecting any firewood is prohibited, including dead and down wood and all other vegetative material.

Mooring

The mooring of vessels to vegetation, signs, cabanas, tables, grills or fire rings, toilets, trash receptacles, or other structures not designed for such use is prohibited.

Glass Containers

No person will have in their possession glass or ceramic food or beverage containers of any type while occupying a shoreline campsite.

Firearms

The discharge or use of firearms or weapons is prohibited inside or within ½ mile of any occupied campsite.

Sanitation

Persons using a campsite must keep their site free of litter and trash during the period of occupancy and remove all personal equipment and clean their sites upon departure.

Persons bringing or allowing pets in camp areas will be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.

Alcoholic Beverages

The following are prohibited:

—The sale or gift of an alcoholic beverage to a person less than 21 years of age.

—The possession of an alcoholic beverage by a person less than 21 years of age.

—The consumption of an alcoholic beverage by a person less than 21 years of age.

Authority and Penalties

This notice is published under the authority of Title 43, Code of Federal Regulations, Subpart 8365, Section 1–6. Violations are punishable as Class A misdemeanors.

Dated: May 15, 1998.

Lonna M. O'Neal,

Acting State Director, Arizona.

[FR Doc. 98–13515 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–052–06–1420–00]

Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State office, Bureau of Land Management, Santa Fe, New Mexico, on June 11, 1998.

New Mexico Principal Meridian, New Mexico

T. 13 N., R. 11 E., accepted May 8, 1998, for Group 921 NM;
Supplemental Plat for T. 10 N., Range 4 East.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Failure to submit the statement of reasons may result in dismissal of the protest.

The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: May 11, 1998.

John P. Bennett,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. 98–13573 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 41 N., R. 60 W., accepted May 12, 1998
T. 58 N., R. 60 W., accepted May 12, 1998
T. 38 N., R. 74 W., accepted May 12, 1998
T. 20 N., R. 112 W., accepted May 12, 1998

Sixth Principal Meridian, Nebraska

T. 24 N., R. 9 E., accepted May 12, 1998
T. 25 N., R. 9 E., accepted May 12, 1998

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: May 12, 1998.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 98–13596 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; N–62533]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, has filed an application (N–62533) to withdraw 2,243.20 acres of public land in Clark County, Nevada, to be used by the Nevada National Guard for military training. This notice closes the land for up to 2 years from surface entry and mining.

DATES: Comments and requests for meeting should be received on or before August 19, 1998.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 702–861–6532.

SUPPLEMENTARY INFORMATION: On April 17, 1998, the Department of the Army, Los Angeles District, Corps of Engineers, filed an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 19 S., R. 62 E.,
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 8, W½;
Secs. 16 and 17.

The area described contains 2,243.24 acres in Clark County.

The purpose of the proposed withdrawal is for use by the Nevada National Guard for military training. Training will consist of land navigation by soldiers on foot, wheeled and tracked vehicles on existing roads, eye safe laser sighting of targets, and tank crew proficiency course. No live fire will be allowed. The land described above was formerly used by the U.S. Air Force as part of the Nellis Small Arms Range.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Other uses which will be permitted during this segregative period are rights-of-way, leases, and permits.

The temporary segregation of the land in connection with a withdrawal application shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Corps of Engineers.

Dated: May 12, 1998.

William K. Stowers,

Lands Team Lead.

[FR Doc. 98–13585 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

Title: Report of Sales and Royalty Remittance, Form MMS–2014.

OMB Control Number: 1010–0022.

Comments: This collection of information has been submitted to the Office of Management and Budget (OMB) for approval. In compliance with the Paperwork Reduction Act of 1995, Section 3506(c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, and are inviting your comments. Is this information collection necessary for us to properly do our job? Have we accurately estimated the public's burden for responding to this collection? Can we enhance the quality, utility, and clarity of the information we collect? Can we lessen the burden of this information collection on the respondents by using automated collection techniques or other forms of information technology?

Comments should be made directly to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB Control Number: 1010–0022), Washington, DC 20503; telephone (202) 395–7340. Copies of these comments should also be sent to us. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; the courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225; and the e-Mail address is RMP.comments@mms.gov. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

Copies of the proposed information collection and related explanatory material may be obtained by contacting Dennis C. Jones, Rules and Publications Staff, telephone (303) 231–3046, FAX (303) 231–3385, e-Mail Dennis.C.Jones@mms.gov.

DATES: Written comments should be received on or before June 22, 1998.

SUMMARY: The Secretary of the Interior is responsible for the collection of royalties from leases producing minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands and Federal onshore and offshore leases, to collect the royalties due, and to distribute the funds in accordance with those laws.

The Minerals Management Service (MMS) performs the royalty management function for the Secretary. When a company or individual enters

into a contract to develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the United States or Indian tribe or allottee a share (royalty) monthly of the full value received for the minerals taken from leased lands.

The Auditing and Financial System (AFS) is the automated fiscal accounting system used by the Royalty Management Program (RMP) to account for revenues collected from Federal and Indian leases. The Report of Sales and Royalty Remittance, Form MMS–2014, is the only document used for reporting royalties, certain rents, and other lease-related transactions to MMS. AFS relies on data reported by payors on Form MMS–2014 for the majority of its processing.

In addition to accounting for royalties reported by payors, AFS, using Form MMS–2014 information, performs numerous other functions. These functions include monthly distribution of mineral revenues to State, Indian, and U.S. Treasury accounts; providing royalty accounting and statistical information to States, Indians, and others who have a need for such information; and identifying under reporting and nonreporting so MMS can promptly collect revenues. Sales and royalty information gathered through AFS is compared with production data collected by a second MMS system, the Production Accounting and Auditing System. This comparison of reported production with reported sales provides MMS with valuable cross-check capabilities for verification of production with reported sales.

Failure to collect the information provided by Form MMS–2014 would render it impossible to ensure that MMS is collecting and disbursing the full value of royalties received from production of leased lands. Collection of royalties directly impacts the amount of funds made available to the United States Treasury, to State governments, and to Indian tribes and allottees.

Description of Respondents: Companies or individuals (payors) that contract to develop, produce, and dispose of minerals from Federal or Indian lands and agree to pay the United States, Indian tribe or allottee royalties on the full value received for minerals taken from leased lands.

Frequency of Response: Monthly.

Estimated Reporting and Recordkeeping Burden: 7 minutes per manually completed report, 2 minutes per electronically completed report, and 12 hours annually for recordkeeping.

Annual Responses: 3,300,000.

Annual Burden Hours: 189,000 hours.

Bureau Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated: April 22, 1998.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 98–13474 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

Title: Stripper Royalty Rate Reduction Notification (Form MMS–4377).

OMB Control Number: 1010–0090.

Comments: This collection of information has been submitted to the Office of Management and Budget (OMB) for approval of an extension of a currently approved information collection. In compliance with the Paperwork Reduction Act of 1995, Section 3506 (c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, and are inviting your comments. Is this information collection necessary for us to properly do our job? Have we accurately estimated the public's burden for responding to this collection? Can we enhance the quality, utility, and clarity of the information we collect? Can we lessen the burden of this information collection on the respondents by using automated collection techniques or other forms of information technology?

Comments should be made directly to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB Control Number 1010–0090), Washington, DC 20503; telephone (202) 395–7340. Copies of these comments should also be sent to us. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O.Box 25165, MS–3021, Denver, Colorado 80225–0165; the courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225; and the e-Mail address is RMP.comments@mms.gov. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

Copies of the proposed information collection and related explanatory material may be obtained by contacting Dennis C. Jones, Rules and Publications Staff, telephone (303) 231–3046, FAX (303) 231–3385, e-Mail Dennis.C.Jones@mms.gov.

DATES: Written comments should be received on or before June 22, 1998.

SUMMARY: To encourage continued production, provide an incentive for enhanced oil recovery projects, discourage abandonment of properties producing less than 15 barrels of oil per well-day, and reduce the operator's expenses, the Bureau of Land Management (BLM) will grant royalty rate reductions to operators of stripper oil properties. BLM amended 43 CFR 3103.4–2 to establish the conditions under which an operator or owner of a stripper oil property can obtain a reduction in the royalty rate for a property producing less than 15 barrels of oil per well-day. The amended regulations provided instructions for calculation of royalty rates based on the property's annual production rate.

Operators are then required to notify the Minerals Management Service (MMS) of the reduced royalty rate using Form MMS–4377, Stripper Royalty Rate Reduction Notification. The form requires identification of the operator, name of the contact person, lease and agreement numbers, calculated royalty rate, current royalty rate, qualifying period, and effective date of royalty rate reduction. MMS uses the information provided on the form to update the database with accepted reduced royalty rates. The reduced royalty rate will become effective for all oil production from qualifying properties the first day of the month after MMS receives notification of the rate change.

Description of Respondents: Operators of low producing oil wells.

Frequency of Response: Annually.

Annual Recordkeeping Burden: 200 hours.

Annual Responses: 800.

Annual Burden Hours: 600 hours.

Bureau Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated: April 23, 1998.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 98–13475 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Jamaica Bay Unit of Gateway National Recreation Area, Brooklyn, NY; Concession Contract

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing recreational services including a golf driving range, miniature golf course, tennis courts, and baseball batting facilities for the public within Jamaica Bay Unit of Gateway National Recreation Area, Brooklyn, New York, for a period of ten (10) years from date of contract execution.

EFFECTIVE DATE: July 20, 1998.

ADDRESSES: Interested parties should contact National Park Service, Boston Support Office, Concession Management Program, 15 State Street, Boston, MA 02109–3572, ATTN: Lynne Koser, Telephone (617) 223–5209, to obtain a copy of the prospectus describing the requirements of the proposed contract. The cost for each prospectus is $50.00. Checks should be made payable to the National Park Service and sent to the above address.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1997, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Concession Management Program, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: May 4, 1998.

Chrysandra L. Walter,

Acting Regional Director, Northeast Region.

[FR Doc. 98–13512 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously scheduled for Wednesday, May 13, 1998 in San Francisco will be canceled.

The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Naomi T. Gray
Mr. Michael Alexander
Ms. Lennie Roberts
Mr. Trent Orr
Ms. Jacqueline Young
Mr. R. H. Sciaroni
Dr. Edgar Wayburn
Mr. Mel Lane
Ms. Amy Meyer, Vice Chair
Dr. Howard Cogswell
Mr. Jerry Friedman
Ms. Yvonne Lee
Mr. Redmond Kernan
Mr. Merritt Robinson
Mr. John J. Spring
Mr. Joseph Williams

Dated: May 6, 1998.

Len McKenzie,

Deputy Superintendent, Golden Gate National Recreation Area.

[FR Doc. 98–13513 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Keweenaw National Historical Park Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: June 9, 1998; 8:30 a.m. until 4:30 p.m.

ADDRESSES: Keweenaw National Historical Park Headquarters, 100 Red Jacket Road (2nd floor), Calumet, Michigan 49913–0471.

The Chairman's welcome; minutes of the previous meeting; update on the general management plan; update on park activities; old business; new business; next meeting date; adjournment. This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Superintendent, Keweenaw National Historical Park, Frank C. Fiala, PO Box 471, Calumet, Michigan 49913–0471, 906–337–3168.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

Dated: May 4, 1998.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 98–13514 Filed 5–20–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 18, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a

telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ES, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10325, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaulate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Agency: Employment and Training Administration.

Title: Planning Guidance and Instructions for Submission of Annual State Plans for FY 1999 Welfare-to-Work Formula Grants.

OMB Number: 1205–NEW.

Frequency: On occasion.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 54.

Total Responses: 54.

Estimated Time Per Respondent: 10 hours.

Total Burden Hours: 540 hours.

Total annualized capital/startup costs: –0–.

Total annual costs (operating/maintaining systems or purchasing services): –0–.

Description: The Balanced Budget Act of 1997, signed by the President on August 5, 1997, authorizes the Department of Labor to provide Welfare-to-Work (WtW) grants to States and local communities to provide transitional employment assistance to move Temporary Assistance for Needy Families (TANF) recipients with significant employment barriers into unsubsidized jobs providing long-term employment opportunities. WtW funds will be provided through formula grants to States, grants to Indian tribes and competitive grants to public and private entities. This planning guidance addresses the requirements necessary for States' plans to received the formula grant funds in fiscal year 1999. Separate guidance will be issued for both the grants to Indian tribes and the competitive grants.

Agency: Employment and Training Administration.

Title: Welfare-to-Work Competitive Grants: Solicitation for Grant Applications.

OMB Number: 1205–0387.

Form Number: ETA 9070.

Frequency: On occasion.

Affected Public: State, Local or Tribal Government, Not-for-profit institutions, Business or other for-profit.

Number of Respondents: 600.

Total Responses: 600.

Estimated Time Per Respondent: 20 hours.

Total Burden Hours: 12,000.

Total annualized capital/startup costs: –0–

Total annual costs (operating/maintaining systems or purchasing services): 480,000.

Description: The Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work (WtW) grants which include both formula grants to States and localities, and competitive grants local communities. These grants are intended to help support achievement of the welfare reform goals within the Personal Responsibility and Work Reconciliation Act (PRWORA) of 1996. Under the WtW grants programs, approximately 25% of funds not allocated by the formula grants (to States and localities) will be awarded directly to the local governments, Private Industry Councils (PICs), political subdivisions and private entities. Those private entities who apply must submit an application in conjunction with the applicable PIC or political subdivision and in consultation with the Governor.

ETA Form 9070, to be submitted by all applications for WtW competitive grant funds, provides a one-page synopsis of each project, including organizational type, contact information, service area and characteristics, areas of special interest to the Department that will be addressed by the proposed project, and proposed outcomes.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–13623 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Attestations by Employers Using Alien Crewmembers for Longshore Activities at Locations in the State of Alaska

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension to the collection of information on the Attestation by Employers Using Alien Crewmembers to Perform Longshore Work at Locations in the State of Alaska. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 20, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collections techniques or other forms of information, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments and questions regarding the collection of information on Form ETA 9033–A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska, should be directed to James Norris, Chief, Division of Foreign Labor Certifications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210 ((202) 219–5263 (this is not a toll-free number)).

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required due to amendments to section 258 of the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) (INA). The amendments created an Alaska exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports. Under the Alaska exception, before any employer may use alien crewmembers to perform longshore work in the State of Alaska, it must submit an attestation to ETA containing the elements prescribed by the INA.

The INA further requires that the Department make available for public examination in Washington, DC, a list of employers which have filed attestations, and for each such employer, a copy of the employer's attestation and accompanying documentation it has received.

II. Current Actions

In order for the Department to meet its statutory responsibilities under the INA there is a need for an extension of an existing collection of information pertaining to employers' seeking to use alien crewmembers to perform longshore activities at locations in the State of Alaska.

Type of Review: Extension of a currently approved collection without change.

Agency: Employment and Training Administration, Labor.

Title: Attestations by Employers Using Alien Crewmembers for Longshore Activities at Locations in the State of Alaska.

OMB Number: 1205–0352.

Affected Public: Businesses or other for-profit.

Form: Form ETA 9033–A.

Total Respondents: 350.

Frequency of Response: Annually.

Total Response: 350.

Average Burden Hours Per Response: 3.

Estimate Total Annual Burden Hours: 1,050.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also be become a matter of public record.

Signed at Washington DC this 15th day of May, 1998.

John R. Beverly, III,

Director, U.S. Employment Service.

[FR Doc. 98–13619 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations: Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension to the collection of information on the Labor Condition Application for H–1B nonimmigrants. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSE** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSE** section below on or before July 20, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collections techniques or other forms of information, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments and questions regarding the collection of information on Form ETA 9035, Labor Condition Application for H–1B Nonimmigrants, should be directed to James Norris, Chief, Division of Foreign Labor Certifications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, D.C. 20210 ((202) 219–5263 (this is not a toll-free number)).

SUPPLEMENTARY INFORMATION:

I. Background

The Immigration and Naturalization Act (INA) requires that before any alien may be admitted or otherwise provided status as an H–1B nonimmigrant, the prospective employer must have filed with the Department a labor condition application stating that they will offer prevailing wages and working conditions, that there is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment, and that they have provided notice of such filing to the bargaining representative or, if there is none, by positing notice of filing in conspicuous locations at the place of employment. Further, the employer must make certain documentation available for public examination. Complaints may be filed with the Department alleging a violation of the labor condition application process. If reasonable cause is found to believe a violation has been committed, the Department will conduct an investigation and, if appropriate, assess penalties. The INA places a limit of

65,000 per year on the number of aliens who can be admitted to the U.S. on H–1B visas and further limits these workers to a maximum of six years duration of stay under H–1B status.

The INA requires that the Department make available for public examination in Washington, DC, a list of employers which have filed labor condition applications.

II. Current Actions

In order for the Department to meet its statutory responsibilities under the INA there is a need for an extension of an existing collection of information pertaining to employers' seeking to use H–1B nonimmigrants in specialty occupations or as fashion models of distinguished merit and ability. There is an increase in burden due to a sustained increase in the number of labor condition applications filed by employers each year.

Type of Review: Extension of a currently approved collection without change.

Agency: Employment and Training Administration, Labor.

Title: Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models.

OMB Number: 1205–0310.

Affected Public: Businesses or other for-profit; not-for-profit institutions; Federal government; State, Local or Tribal government.

Form: Form ETA 9035.

Total Respondents: 250,000.

Frequency of Response: On occasion.

Total Responses: 250,050.

Average Burden Hours Per Response: 1.25.

Estimate Total Annual Burden Hours: 250,050.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington D.C. this 15th day of May, 1998.

John R. Beverly III,

Director, U.S. Employment Service.

[FR Doc. 98–13620 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Escape and Evacuation Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Escape and Evacuation. MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before July 20, 1998.

ADDRESSES: Submit comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Theresa M. O'Malley, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 719, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. O'Malley can be reached at tomalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30, CFR § 57.11053 requires the development of an escape and evacuation plan specifically addressing the unique conditions of each underground metal and nonmetal mine. Section 57.11053 also requires that revisions be made as mining progresses. The plan must be available to the inspector and conspicuously posted for the benefit of affected miners. The plan is required to be reviewed jointly by the operator and MSHA once every 6 months.

II. Current Actions

An accurate, up-to-date plan is vital to the safety of the miners and rescue personnel in the event of an emergency. The plans are monitored by MSHA to ensure that plans are updated as mining progresses and that the escape routes are still effective.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: 30 CFR § 57.11053, *Escape and Evacuation Plans.*

OMB Number: 1219–0046.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc: 30 CFR § 57.11053.

Estimated Total Burden Cost: $233,280.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $2,430.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 14, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–13621 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR 98–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Cadmium in Construction

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Cadmium in Construction (29 CFR 1926.1127) standard. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addresses section of this notice. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by July 20, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–7, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Adrian Corsey, Directorate of Policy, Occupational Safety and Health Administration, (OSHA), U.S. Department of Labor, Room N3627, telephone (202) 219–4690. A copy of the referenced information collection request is available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Adrian Corsey at (202) 219–4690 extension 144 or Barbara Bielaski at (202) 219–8076 extension 142. For electronic copies of the Information Collection Request on Cadmium in Construction, contact OSHA's WebPage on the Internet at http://www.osha-slc.gov/ and click on "Information Collection Request".

SUPPLEMENTARY INFORMATION:

I. Background

The Cadmium standard and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to cadmium. The standard requires that employers establish a compliance program, including exposure monitoring and medical records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. Also the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Cadmium in Construction (29 CFR 1926.1127).

OMB Control Number: 1218–0186.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 10,000.

Frequency: On occasion.

Total Responses: 243,555.

Average Time per Response: Ranges from 5 minutes to maintain records to 1.5 hours for an employee to have a medical exam.

Estimated Total Burden Hours: 34,813.

Total Annualized capital/startup costs: –0–.

Total initial annual costs (operating/maintaining systems or purchasing services): $2,232,500.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collected. The comments will become a matter of public record.

Signed at Washington, DC, this 18th day of May, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–13624 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–28]

Agency Information Collection Activities; Proposed Collection; Comment Request; Logging Operations (29 CFR 1910.266)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of the information collection requirements contained in the standard on Logging Operations (29 CFR 1910.266). The Agency is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including

whether the information will have practical utility;

- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted on or before July 20, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–98–28, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–8061. A copy of the referenced information collection request is available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Theda Kinney at (202) 219–8061, extension 100, or Barbara Bielaski at (202) 219–8076, extension 142. For electronic copies of the Information Collection Request on Logging Operations (29 CFR 1910.266), contact OSHA's WebPage on the Internet at http://www.osha.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as are necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collection by employers as necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents.

Section 1910.266(i)(10)(i) requires an employer to verify that employees have been trained in the safe performance of assigned work tasks, first-aid and CPR by preparing written certification records. Section 1910.266(i)(10)(ii) requires an employer to maintain the certification records.

The training certification is necessary to assure compliance with the requirement that employees have been trained in the various precautions and safe practices in logging operations. The information collected would also be used by compliance officers to determine that employees have been properly trained according to the requirements set forth in 29 CFR 1910.266(i).

II. Current Actions

This notice requests public comment on OSHA's burden hour estimates prior to OSHA seeking Office of Management and Budget (OMB) approval of the information collection requirements contained in the Logging Operations standard.

Type of Review: Extension of a Currently Approved Collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Logging Operations (29 CFR 1910.266).

OMB Number: 1218–0198.

Agency Number: Docket Number ICR–98–28.

Affected Public: Business or other for-profit; State or local governments.

Number of Respondents: 86,400.

Frequency: Initially, On Occasion.

Average Time per Response: 3 minutes (0.05 hr.).

Estimated Total Burden Hours: 4,320.

Total Annualized Capital/Startup Costs: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. The comments will become a matter of public record.

Signed at Washington, D.C., this 18th day of May 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–13625 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that two collections of information have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval numbers and expiration dates.

FOR FURTHER INFORMATION CONTACT: Helen Beall, Division of Training and Educational Programs, Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, IL 60018, telephone (847) 297–4810.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 1997, (62 FR 35234), the Agency announced its intent to request renewal of its OMB approval for the Grantee Quarterly Progress Report and for the Application for Training Grant. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has reinstated its approval for both information collections and assigned OMB control number 1218–0020 to the Application for Training Grant and number 1218–0100 to the Grantee Quarterly Progress Report. The approvals expire 4/30/2001. Under 5 CFR 1320.5(b), and Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: May 15, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–13622 Filed 5–20–98; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under Section

10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: June 4, 1998 from 9:30 AM to 5:00 PM, and June 5, 1998 from 9:30 AM to 5:00 PM.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Shelly W. Coles, National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006. Telephone (202) 632–1507.

SUPPLEMENTARY INFORMATION: The Board is established under Section 384 of the Adult Education Act, as amended by Title I of P.L. 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions (a) makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships. The Board will meet in Washington, DC on June 4, 1998 from 9:30 AM to 5:00 PM, and June 5, 1998 from 9:00 AM to 5:00 PM. The meeting of the Board is open to the public. This meeting of the Institute's Advisory Board will focus on the following agenda items: recent research developments in brain development of literacy skills; the Institute's role in the area of adult literacy and learning disabilities; and recent legislative activities that impact on the Institute and the literacy field. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006 from 8:30 AM to 5:00 PM.

Dated: May 18, 1998.

Andrew J. Hartman,

Director, National Institute for Literacy.

[FR Doc. 98–13605 Filed 5–20–98; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Infrastructure.

Date & Time: June 10, 1998, 11 a.m.–6p.m. daily; June 11, 1998, 8 a.m.–1 p.m.

Place: Room 310, NSF, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. DeLill Nasser, Program Director, Plant Genome Research, Division of Biological Infrastructure, Room 615, NSF, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate proposals for sequencing the Arabidopsis thaliana genome as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: May 1, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–13633 Filed 5–20–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date & Time: June 11 and 12, 1998: 8:30 a.m. to 5:00 p.m.

Place: Rooms 530 and 580, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Drs. Jorn Larson-Basse and Sunil Saigal, Control, Materials and Mechanics Cluster, Division of Civil and Mechanical Systems, Room 545, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, 22230 703/306–1361 x5073 or x5069.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 18, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–13634 Filed 5–20–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications System (1196).

Date and Time: June 8–9, 1998; 8:30 a.m. to 5:00 p.m.

Place: Room 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Kishan Baheti, Program, Director, Knowledge Modeling and Computational Intelligence (KMCI), Division of Electrical and Communications Systems, National Science Foundations, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230, Telephone: (703) 306–1339.

Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals in the Knowledge Modeling and Computational Intelligence program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical and information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c) (4) and (6) the Government in the Sunshine Act.

Dated: May 18, 1998.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 98–13630 Filed 5–20–98; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal Education, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Elementary, Secondary and Informal Education (#59).

Date and Time: Thursday, June 11, 1998, 8:30 a.m. to 9:00 p.m., Friday, June 12, 1998, 8:30 a.m. to 1:00 p.m.

Place: National Science Foundation, Third Floor, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Donald Jones Program Director, Local Systemic Change Through Teacher Enhancement in Science Program, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1620.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Local Systemic Change Through Teacher Enhancement in Science proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 18, 1998

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 98–13635 Filed 5–20–98; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunity in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (CEOSE) (1173).

Date & Time: June 9 (1:00 to 5:30 p.m.), June 10 (8:45–5:00) and June 11, 1998, (8:30–3:00).

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Darryl G. Gorman, Executive Secretary, CEOSE, National Science Foundation, 4201 Wilson Blvd., Arlington, Va. 22230. Phone (703) 306–1391.

Minutes: May be obtained from the Executive Secretary at the above address.

Purpose of Meeting: To advise NSF on policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities currently underrepresented in scientific, engineering, professional, and technical fields and to advise NSF concerning implementation of the provisions of the Science and Engineering Equal Opportunities Act.

Agenda

Tuesday June 9: 1:00–500 p.m.

1:00 p.m. Welcome
Meeting Rules and Etiquette
Approval of February 1998 Minutes
1:30 p.m. CEOSE biannual Congressional Report Workshop:
Review 1996 report content/ recommendations and preparation process Design 1998 report:
(1) objectives; (2) format; (3) schedule; (4) assignments
5:00 p.m. Finalization of Report outline and Schedule
5:30 p.m. Adjourn for the day

Wednesday June 10: 8:45 a.m.–5:00 p.m.

8:45 a.m. Congressional Report—Widder
9:45 a.m. Break
10:00 a.m. Assistant to Deputy Director for Human Resource Development, HRD Report—Wanda Ward
10:30 a.m. Directorate Advisory Committee Liaison Reports—CEOSE Liaisons
11:00 a.m. Merit Review Criteria—David Schindel
11:30 a.m. Digital Library project—Steve Griffin
12:00 a.m. Working Lunch
1:00 p.m. Federal Agencies' Best Practices—Castro/Committee
Guest: Dr. Clifton Poodry, NIH
3:00 p.m. Capacity building workshop II (2 hours)—Jolly/Committee
5:00 p.m. Recommendations on capacity-building
5:30 p.m. Adjourn for the day

Thursday June 11: 8:30 a.m.–3:00 p.m.

8:30 a.m. Chair's report: Marilyn Suiter
9:00 a.m. Disabilities: Recommendations—Committee
10:00 a.m. Technology Display—Guest: TARGET Center, Dept. of Agriculture
11:00 a.m. Dr. Joseph Bordogna, Acting Deputy Director, NSF
1:00 p.m. Updating the "Strategic/ Functional Plan"
2:00 p.m. Planning the next meeting
3:00 p.m. Adjourn

Dated: May 18, 1998.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 98–13631 Filed 5–20–98; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSF/DOE Nuclear Science Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: NSF/DOE Nuclear Science Advisory Committee (1176).

Date and Time: June 9, 1998; 8:30 a.m. to 6:00 p.m.

Place: Argonne National Laboratory, Argonne, IL 60439.

Type of Meeting: Open.

Contact Person: Dr. Bradley Keister, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1891.

Purpose of Meeting: To present and discuss a charge concerning laboratory facilities funded by the Department of Energy.

Agenda: Presentation of the charge concerning DOE facilities (D. Kovar, DOE) Development and discussion of plan, to respond to the charge Public Comment (*).

(*) Persons wishing to speak should make arrangements through the Contact Person identified above.

Dated: May 18, 1998.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 98–13632 Filed 5–20–98; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: NRC Form 314—Certificate of Disposition of Materials.

3. How often the collection is required: The form is submitted once, when a licensee terminates its license.

4. Who will be required or asked to report: Persons holding an NRC license for the possession and use of radioactive byproduct, source, or special nuclear material who are ceasing licensed activities and terminating the license.

5. The estimated number of annual respondents: 400.

6. An estimate of the total number of hours needed annually to complete the requirement or request: An average of 0.5 hours per response, for a total of 200 hours.

7. An indication of whether Section 3507(d), Public Law 104–13 applies: Not applicable.

8. Abstract: NRC Form 314 furnishes information to NRC regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by June 22, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0028), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Md, this 14th day of May 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer

[FR Doc. 98–13506 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power and Light Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License DPR–23, issued to Carolina Power and Light Company (the licensee), for operation of the H.B. Robinson Steam Electric Plant (HBR), Unit 2, located in Darlington County, South Carolina.

The proposed amendment would revise the HBR Updated Final Safety Analysis Report (UFSAR) to include the evaluation of a previously unanalyzed spent fuel cask drop scenario. The scenario involves postulated drop of a loaded spent fuel shipping cask as the cask is being moved from the decontamination facility to the shipping railcar with the valve box cover removed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's regulations.

By June 19, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature and extent of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specific requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in this matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish the facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudication Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, and to William D. Johnson, Vice President and Senior Counsel, Carolina Power and Light Company, Post Office Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based on a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated August 28, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC and at the local public document room located at Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland this 13th day of April, 1998.

For the Nuclear Regulatory Commission.

P.T. Kuo,

Acting Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13503 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Palisades Nuclear Plant; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of a request by Consumers Energy Company (the licensee) for an amendment to Facility Operating License No. DPR–20 issued to the licensee for operation of the Palisades Nuclear Plant, located in Van Buren County, Michigan. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on September 20, 1996 (61 FR 49493).

The purpose of the licensee's amendment request was to revise the Technical Specifications to conform the administrative controls section of the Technical Specifications to the guidance of NUREG–1432, "Standard Technical Specifications, Combustion Engineering Plants," and to revise associated surveillance requirements. As part of its request, the licensee proposed to revise Technical Specifications limitations on the dose rate resulting from radioactive material released in gaseous effluents to areas beyond the site boundary. The licensee's submittal did not include sufficient information for the staff to evaluate this proposed change.

The NRC staff has concluded that a portion of the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated May 7, 1998.

By June 22, 1998, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 11, 1995, as supplemented January 18, September 3, October 2, October 18, October 25, 1996, and March 28, 1997, and (2) the Commission's letter to the licensee dated May 7, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, MD, this 7th day of May 1998.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13507 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Palisades Nuclear Plant; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of a request by Consumers Energy Company (the licensee) for an amendment to Facility Operating License No. DPR–20 issued to the licensee for operation of the Palisades Nuclear Plant, located in Van Buren County, Michigan. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on November 5, 1997 (62 FR 59915).

The purpose of the licensee's amendment request was to revise the Technical Specifications regarding inspection requirements for the reactor coolant pump (RCP) flywheels. As part of its request, the licensee proposed to revise Technical Specification 6.5.6 to apply the provisions of Surveillance Requirement 4.0.2, which permits extension of surveillance intervals by up to 25%, to the flywheel inspection program. The licensee's submittal did not include sufficient information for the staff to evaluate this proposed change.

The NRC staff has concluded that a portion of the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the

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proposed change by a letter dated May 15, 1998.

By June 22, 1998, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated January 18, 1996, as supplemented by letters dated October 1, 1997, and January 29, and April 27, 1998, and (2) the Commission's letter to the licensee dated May 15, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland, this 15th day of May 1998.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13557 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–14 and NPF–22 issued to Pennsylvania Power and Light Company for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2 located in Luzerne County, Pennsylvania.

The proposed amendment would change the Technical Specifications (TS) for SSES, Units 1 and 2 to implement the provisions of Generic Letter 86–10 related to the relocation of SSES, Units 1 and 2 Fire Protection Program from the TS to a licensee controlled document, the SSES Technical Requirements Manual. This notice supersedes the previous notice published in the **Federal Register** on October 25, 1995 (60 FR 54724), in its entirety.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change relocates the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the Technical Requirements Manual. No requirements are being added or deleted. A requirement is proposed to require written procedures for the implementation of the Technical Requirements Program. Review and approval of those portions of the Fire Protection Program contained in the Technical Requirements Manual and revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the fire protection Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specifications. Requiring review by the Plant Operations Review Committee reinforces the importance of the Technical Requirements Manual and the requirements controlled by it and assures a multidisciplined review. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. No design basis accidents are affected by the change, nor are safety systems adversely affected by the change. Therefore, there is no impact on the probability of [oc]currence or the consequences of any design basis accidents.

Approval, as defined in Technical Specification 6.8.2, of procedures listed in Technical Specification 6.8.1 is proposed to be changed from the "Superintendent of Plant-Susquehanna" to General Manager-Susquehanna SES. This change is administrative in nature and as such is no impact on the probability of [oc]currence or the consequences of any design basis accidents.

The proposed changes to the license conditions for Units 1 and 2 are administrative in nature in that these changes only update the listing of NRC approved safety evaluations and as such are no impact on the probability of [oc]currence or the consequences of any design basis accidents.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes relocate the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the Technical Requirements Manual. The proposed change requires written procedures to cover the implementation of the Technical Requirements Program No requirements are being added or deleted by the Technical Requirements Manual. There are no new failure modes associated with the proposed changes. Therefore, since the plant will continue to operate as designed, the proposed changes will not modify the plant response to an accident.

Approval, as defined in Technical Specification 6.8.2, of procedures listed in Technical Specification 6.8.1 has been change[d] from the "Superintendent of Plant Susquehanna" to General Manager-Susquehanna SES. This change is administrative in nature and as such creates no new failure modes and will not modify the plant response to an accident.

The proposed changes to the license conditions for Units 1 and 2 are administrative in nature in that these changes only update the listing of NRC approved safety evaluations and as such create no new failure modes and will not modify the plant response to an accident.

3. Involve a significant reduction in a margin of safety.

No change is being proposed for the Fire Protection Program requirements themselves. The relevant Technical Specifications are being relocated, and the requirements contained therein are being incorporated into the Technical Requirements Manual. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. A written procedure will be in place for the implementation of the Technical Requirements Program. Fire Protection Program changes will be subject to the provisions of 10C FR 50.59 and the current

fire protection license condition. As such, the changes do not directly affect any protective boundaries nor [do they] impact the safety limits for the boundary. Review and approval of those portions of the Fire Protection Program contained in the Technical Requirements Manual and the revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the fire protection Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specification[s]. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. Thus, there are no adverse impacts on the protective boundaries, safety limits, or margin of safety.

Since operability and surveillance requirements will remain in a controlled document, the changes do not reduce the effectiveness of Technical Specification requirements. Any changes to the Fire Protection Program requirements will be made in accordance with the provisions of 10 CFR 50.59 and the fire protection license condition.

Approval, as defined in Technical Specification 6.8.2, of procedures listed in Technical Specification 6.8.1 has been change[d] from the "Superintendent of Plant Susquehanna" to General Manager-Susquehanna SES. This change is administrative in nature and as such there is no adverse impact[ ] on the protective boundaries, safety limits, or margin of safety.

The proposed changes to the license conditions for Units 1 and 2 are administrative in nature in that these changes only update the listing of NRC approved safety evaluations and as such there is no adverse impacts on the protective boundaries, safety limits, or margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 22, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10-CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 12, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 15th day of May 1998.

For the Nuclear Regulatory Commission

Victor Nerses,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13561 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–352]

Philadelphia Electric Company, Limerick Generation Station, Unit 1; Notice of Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 128 to Facility Operating License No. NPF–39, issued to Philadelphia Electric Company (the licensee), which approves installation of replacement suction strainers for operation of the Limerick Generating Station (LGS), Unit 1, located in Montgomery and Chester Counties, Pennsylvania. The amendment is effective as of the date of issuance and shall be implemented within 30 days.

The amendment documents the NRC staff's approval of the implementation of a plant modification to support the installation of replacement suction strainers for the emergency core cooling systems at the LGS, Unit 1.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on January 29, 1998 (63 FR 4496). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (63 FR 25526).

For further details with respect to the action, see (1) the application for amendment dated October 6, 1997, as supplemented by submittals dated February 2 and May 13, 1998, (2) Amendment No. 128 to License No. NPF–39, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 14th of May 1998.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13555 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District, Cooper Nuclear Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. DRP–46 issued to Nebraska Public Power District (the licensee), for operation of Cooper Nuclear Station located in Nemaha County, Nebraska.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Nebraska Public Power District from the requirements of 10 CFR 70.24, which require a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated February 23, 1998.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear

material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Cooper Nuclear Station Technical Specifications (TSs), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TSs requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR part 50, "General Design Criteria for Nuclear Power Plants," Criterion 62, requires the criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at Cooper Nuclear Station, as identified in the TSs and the Updated Safety Analysis Report (USAR). Cooper Nuclear Station TSs Section 5.5, Fuel Storage, states that, "The new fuel storage vault shall be such that K_{eff} dry is less than 0.90 and flooded is less than 0.95. These K_{eff} limits are satisfied by maintaining the maximum, exposure-dependent K_∞ of the individual fuel bundles ≤1.29." USAR Section X–2.0, New Fuel Storage, states that, "The new fuel racks shall be designed with sufficient spacing between the new fuel assemblies to assure that under normal conditions (dry) the fully loaded array will have a K_{eff} <0.90. Under abnormal conditions, in the event of complete flooding, the fully loaded array will have a K_{eff} <0.95. * * * The analysis, which shows that the new fuel storage vault will have a K_{eff} ≤0.90 dry and a K_{eff} <0.95 flooded, provided the maximum exposure-dependent K_∞ ≤1.31, has been approved by the Nuclear Regulatory Commission as a part of GESTAR II." Note: to provide further assurance, the Technical Specifications have a more conservative limit than the USAR.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the Technical Specifications, design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Cooper Nuclear Station" dated February 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on May 7, 1998, the staff consulted with Mr. John Fassell, Health Physicist, of the Nebraska Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 23, 1998, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Dated at Rockville, Md., this 14th day of May 1998.

For The Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13509 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System, Nuclear Project No. 2 (WNP–2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21 issued to Washington Public Power Supply System (the licensee), for operation of WNP–2 located in Benton County, Washington.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the maximum yield strength for emergency core cooling system suction strainer materials listed in the WNP–2 Final Safety Analysis Report (FSAR).

The proposed action is in accordance with the licensee's application for amendment dated April 16, 1998, as supplemented by letters dated April 28 and May 8, 1998.

The Need for the Proposed Action

The proposed action is needed to support the progression to startup for WNP–2, which is currently in a refueling outage. During this outage newly designed suction strainers have been installed in the suppression pool. They are designed to protect ECCS pumps from fibrous or other material that could be transported to the suppression pool after a design basis accident such as a loss of coolant accident. The licensee determined after fabrication of these strainers that the stanless steel material had measured yield strength which exceeded the limit which was specified in the FSAR. Excessive yield strength can make the stainless steel susceptible to stress corrosion cracking (SCC) under certain environmental conditions. The licensee identified this as an unreviewed safety issue and submitted an amendment request which would change the yield strength for the installed strainers. Approval of this amendment will enable the licensee to change reactor mode and declare the strainers operable while progressing to startup and full power operation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and, based on the testing and analytical information provided by the licensee, concludes that the increase in yield strength for the specific material used in the suction strainers is acceptable. The licensee has an effective cleanup system for the suppression pool, which maintains a desired level of water cleanliness sufficient to avoid conditions that would support SCC. Further, the licensee has conducted a fracture mechanics analysis and has determined that cracking in the surface martensitic structure of the strainers will not propagate to a critical size and, thus, not jeopardize the strainers' safety related function of protecting the ECCS pumps and spray nozzles. Also, the licensee's analysis has demonstrated that the strainers have adequate structural integrity to preclude failure when the forces of design basis hydrodynamic loads are applied. Lastly, a Strauss test using actual strainer material samples demonstrated acceptable stress corrosion cracking resistance.

The staff has concluded that this change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable offsite or occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for WNP–2.

Agencies and Persons Consulted

In accordance with its stated policy, on May 13, 1998, the staff consulted with the Washington State official, Mr. R. Cowley of the Department of Health, State of Washington Energy Facility Site Evaluation Council, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 16, 1998, as supplemented by letters dated April 28, 1998, and May 8, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richmond Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, MD., this 14th day of May 1998.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13504 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on June 11–12, 1998, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

Portions of the meeting will be closed to public attendance to discuss Westinghouse Electric Company proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, June 11, 1998—8:30 a.m. until the conclusion of business.

Friday, June 12, 1998—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Westinghouse AP600 Test and Analysis Program (TAP) in support of the AP600 design certification. During this meeting, the Subcommittee will focus its review on the issues associated with the Westinghouse TAP for the Passive Containment System, including those identified in the February 19, 1998 ACRS letter to the NRC Executive Director for Operations. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with

any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Westinghouse Electric Company, the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 14, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–13472 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation, Vermont Yankee Nuclear Power Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated April 9, 1998, Mr. Michael J. Daley, on behalf of the New England Coalition on Nuclear Pollution, Inc. (or Petitioner), requested that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to the Vermont Yankee Nuclear Power Station. The Petitioner requests that the NRC issue an order requiring that the licensee's administrative limits, which preclude Vermont Yankee Nuclear Power Station from operating with a torus water temperature above 80 °F or with service water injection temperature greater than 50 °F, shall remain in force until certain conditions are met. The requested conditions include a complete reconstitution of the licensing basis for the maximum torus water temperature, submittal to the NRC of a technical specifications amendment request establishing the correct maximum torus water temperature, and completion of NRC review of the amendment request.

As the basis for this request, the Petitioner states that the licensee has been unable to demonstrate an ability to either justify the operational limits for the maximum torus water temperature or maintain operations within existing administrative limits (torus water temperature is critical to the proper functioning of the containment). The Petitioner also states that the NRC must move from a "wait and see" posture to active intervention, with immediate imposition of the order as a necessary first step.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by § 2.206, appropriate action will be taken on this petition within a reasonable time.

By letter dated May 13, 1998, the Director denied Petitioner's request for immediate action at Vermont Yankee Nuclear Power Station.

A copy of the petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC. 20555–0001 and at the local public document room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, MD, this 13th day of May, 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13508 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 040–07982]

Consideration of Amendment Request To Approve a Decommissioning Plan for Alliant Techsystems, Inc., and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Intent to approve decommissioning plan license amendment and opportunity for Hearing related to source materials license for Alliant Techsystems, Inc.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Material License No. SUB–971, issued to Alliant Techsystems, Inc., to authorize decontamination and decommissioning activities of those areas of the licensee's Twin Cities Army Ammunition Plant, Depleted Uranium Facilities, New Brighton, Minnesota, site which require remediation prior to release for unrestricted use.

The licensee requested the amendment in a letter dated October 6, 1997. The amendment would incorporate the licensee's *Decommissioning Plan for the Twin Cities Army Ammunition Plant, Depleted Uranium Facilities, New Brighton, Minnesota*. The plan discusses the administrative and technical procedures necessary for performing the decommissioning project as follows: (1) Summary of Plan (including background, description of facilities to be remediated, etc.); (2) Choices of Decommissioning Alternatives and Decommissioning Activities (including decommissioning schedule, organization and program responsibilities); (3) Protection of Occupational and Public Health and Safety (including radiation protection, asbestos protection and waste management programs); (4) Final Radiation Safety Survey; (5) Decommissioning Cost Estimate and Funding Plan; (6) Decommissioning Quality Assurance Plan; and (7) References and Appendices.

The NRC will require the licensee to remediate the Depleted Uranium facilities to meet NRC's decommissioning criteria, and during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the decommissioning plan, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. Staff review findings and approval of the plan will be documented in an amendment to License No. SUB–971.

The NRC hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** Notice. The request for a hearing must be filed with the Office of the Secretary either:

1. Hand deliver to: 11555 Rockville Pike, Rockville, MD between 7:45 a.m. and 4:15 p.m., Federal workdays; or

2. Send to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC. 20555–0001, Attention: Docketing and Services Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than the applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The licensee, Alliant Techsystems, Inc., Attention: Francisco L. Lisbona III, Radiation Safety Officer, Building 502, Twin Cities Arsenal, New Brighton, MN 55112;

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or, .

3. By mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the application for amendment request is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555 or at NRC's Region III offices located at 801 Warrenville Road, Lisle, IL 60532-4351. Persons desiring to review documents at the Region III office should call Mr. George McCann at (630) 829–9856 several days in advance to assure that the documents will be readily available for review.

Dated at Lisle, Illinois, this 8th day of May 1998.

For the Nuclear Regulatory Commission.

Roy J. Caniano,

Deputy Director, Division of Nuclear Materials Safety, Region III.

[FR Doc. 98–13510 Filed 5–20–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: 3:00 p.m., May 14, 1998.

PLACE: Commission Conference Room, 1333 H Street, NW, Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Emergency meeting to discuss issue in Docket No. R97–1.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, (202) 789–6830.

Dated: May 18, 1998.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 98–13687 Filed 5–18–98; 4:41 pm]

BILLING CODE 7710–FW–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, June 1, 1998; 8:30 a.m., Tuesday, June 2, 1998.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: June 1 (Closed); June 2 (Open).

MATTERS TO BE CONSIDERED:

Monday, June 1—1:00 p.m. (Closed)

1. Briefing on Postal Rate Commission Opinion and Recommended Decision in Docket No. R97–1.
2. Corporate Credit Rating.
3. Compensation Issues.
4. Corporate Call Management.
5. Tray Management System.

Tuesday, June 2—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, May 4–5, 1998.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Capital Investment.
   a. 175 Next Generation Flat Sorting Machines.
4. Tentative Agenda for the June 29–30, 1998, meeting in Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–13813 Filed 5–19–98; 3:39 pm]

BILLING CODE 7710–12–M

POSTAL SERVICE

Privacy Act of 1974, System of Records

AGENCY: Postal Service.

ACTION: Notice of new system of records.

SUMMARY: The purpose of this document is to publish notice of a new Privacy Act system of records, USPS 040.050, Customer Programs-Customer Electronic Document Preparation and Delivery Service Records. The new system contains information provided by customers who use the Postal Service's electronic-to-paper document printing and mailing service. Customers using this service electronically send a master document and mailing list to a postal control center, which electronically routes the documents to print sites for printing and mailing for Postal Service delivery.

DATES: Any interested party may submit written comments on the proposed new system of records. This proposal will become effective without further notice on June 30, 1998, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to: Payroll Accounting/Records, United States Postal Service, 475 L'Enfant Plaza SW Rm 8831, Washington, DC 20260–5243.

Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, (202) 268-2608.

SUPPLEMENTARY INFORMATION: The proposed system of records will collect information related to a new electronic-to-paper mailing and delivery service offered by the Postal Service. The service will facilitate increased use of the mail while providing a means for small-volume customers to have quality mailings promptly prepared and delivered.

Customers who use the service will create documents on their desktop computers and, using a postal icon on their computer screen, transmit that document and an associated address file through the Internet to a network

control center. The network control center electronically routes the digital documents to commercial print sites where they are printed, assembled, and entered into the mailstream for Postal Service delivery, often on the next day.

Before transmission to a print site, addresses on the list will be standardized and updated with any forwarding information that has been provided by customers. The product is a complete, correct, and standardized address that can be read by automation equipment and matched to a ZIP Code resulting in savings to the Postal Service through more effective operations and savings to the customer who has avoided duplication and remailings. Address correction is limited to notification to the customer of any addresses that are invalid and the Postal Service will not otherwise supplement or verify name or address information on the list. In providing these services, the Postal Service does not compile or disclose any mailing list.

The original list submitted by the customer will not be copied and may be returned to the customer after conversion. One copy of the converted list will be maintained under secured conditions for a period of 30 days to confirm quality handling of the order and to serve the customer who wishes to make a follow-up mailing using the same document and/or list. The list will be retained longer than 30 days or updated only at the customer's request.

System design provides for maintenance of information by the name of the customer requesting the service and not by the names of persons or entities on that customer's mailing list. The customers requesting the service will be primarily small businesses to which the Privacy Act will not apply. Nevertheless, to the extent records are covered by the Privacy Act, measures have been taken to protect them. The measures, discussed below, are intended also to ensure compliance with the Postal Reorganization Act (39 U.S.C. 412), which prohibits the Postal Service from releasing lists of the names or addresses of its customers or other persons.

Printing and mailing will be performed by commercial printers operating under a license agreement with the Postal Service. These licensees will not be maintaining records and, consequently, not operating a system of records. Nevertheless, because of the sensitive nature of the information, under the terms of a license agreement, the licensees must agree that any information received from the Postal Service in the course of the agreement must be kept in strict confidence and not disclosed to any person; must not be used by the licensee for any purpose other than to satisfy the conditions of the agreement; and must be provided with safeguards to prevent unauthorized access, disclosure, or misuse. Licensee sites will be subject to impromptu compliance inspections by the Postal Inspection Service.

Rather than apply all of its general routine uses (authorized third party disclosures) considered applicable to most Postal Service systems of records, the Postal Service has limited the application of routine uses to four situations. The first allows disclosure to the Department of Justice relative to litigation in which the Postal Service has an interest. The second allows disclosure to a law enforcement agency for criminal or civil law enforcement purposes. The third allows a disclosure to a congressperson that would occur only at the prompting of the records subject. The third allows disclosure to a contractor to perform an agency function, a disclosure that will be necessary as discussed above. Each of these is relevant and necessary to accomplish the system's purpose.

The terms of agreements with customers who use this new service will provide that the mailing lists transmitted to the Postal Service will remain the property of the customer. Consequently, routine uses within the proposed system will not apply to these lists.

Security controls have been applied to protect the information during transmission and physical maintenance. The network control center to which a customer transmits its order is housed in a Postal Service computer complex with access to the building controlled by guards, access to rooms controlled by the use of card keys, and access to systems controlled by log on identifications and passwords. Industry standard security and encryption technology will be used for Internet transmission between the customer and the network control center. Dedicated lines will be used for transmission between the network control center and the licensee. As discussed above, the terms of the license agreement will provide for the protection of information received by the licensee who will be subject to audit by the Postal Inspection Service.

For the above reasons, the Postal Service is establishing this grouping of records as a system of records subject to the Privacy Act.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the following proposed system has been sent to Congress and to the Office of Management and Budget for their evaluation.

USPS 040.050

SYSTEM NAME:

Customer Programs—Customer Electronic Document Preparation and Delivery Records, USPS 040.050.

SYSTEM LOCATION:

Marketing, Headquarters; and Information Systems Service Center, San Mateo, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who electronically request mail preparation and delivery service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of customer requesting service, USPS-assigned order number, and billing information; address list provided by the customer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

PURPOSE(S):

To promote increased use of the mail by providing electronic document preparation and mailing services for customers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Note: Mailing lists contained within this system are owned by the customer submitting the mailing list; consequently, no routine uses apply to these mailing lists.

1. Records from this system may be disclosed to the Department of Justice or to other counsel representing the Postal Service, or may be disclosed in a proceeding before a court or adjudicative body before which the Postal Service is authorized to appear, when (a) the Postal Service; or (b) any postal employee in his or her official capacity; or (c) any postal employee in his or her individual capacity whom the Department of Justice has agreed to represent; or (d) the United States when it is determined that the Postal Service is likely to be affected by the litigation, is a party to litigation or has an interest in such litigation, and such records are determined by the Postal Service or its counsel to be arguably relevant to the litigation, provided, however, that in each case, the Postal Service determines that disclosure of the records is a use of the information that is compatible with the purpose for which it was collected. This routine use specifically contemplates that information may be released in response to relevant

discovery and that any manner of response allowed by the rules of the forum may be employed.

2. When the Postal Service becomes aware of an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, or in response to the appropriate agency's request on a reasonable belief that a violation has occurred, the relevant records may be referred to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the prompting of that individual.

4. Records or information from this system may be disclosed to an expert, consultant, or other person who is under contract to the Postal Service to fulfill an agency function, but only to the extent necessary to fulfill that function. This may include disclosure to any person with whom the Postal Service contracts to reproduce, by typing, photocopy, or other means, any record for use by Postal Service officials in connection with their official duties or to any person who performs clerical or stenographic functions relating to the official business of the Postal Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Name and address of customer will be automated during conversion and then stored off-line on magnetic media.

RETRIEVABILITY:

Postal Service-assigned job number and customer name and customer identification number.

SAFEGUARDS:

Access to these records is limited to those persons whose official duties require such access. Access to automated records is restricted by the use of encryption technology, dedicated lines, and authorized access codes. Licensees who have access to information are required by the terms of the license agreement to protect the information from unauthorized access; to limit its use to that provided by the license agreement; and to apply appropriate administrative and physical safeguards to protect the information.

RETENTION AND DISPOSAL:

Records supporting a customer order will be destroyed 30 days from completion of order, unless maintained longer at customer's request. Disposal will be by data deletion from magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Marketing Officer & Senior Vice President, United States Postal Service, 475 L'Enfant Plz SW, Washington DC 20260–2400.

NOTIFICATION PROCEDURE:

Individuals wanting to know whether information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, customer identification number, address, and order number, if known.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Information is furnished by record subjects (customers) requesting the service.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–13591 Filed 5–20–98; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Sick Pay and Miscellaneous Payment Report; OMB 3220–0175 Under Section 6 of the Railroad Unemployment Insurance Act (RUIA) and Section 9 of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) maintains for each railroad employee a record of compensation paid to that employee by all railroad employers for whom the employee worked after 1936. This record, which is used by the RRB to determine eligibility for, and amount of, benefits due under the laws its administers, is conclusive as to the amount of compensation paid to an employee during such period(s) covered by the report(s) of the compensation by the railroad employer(s). Further, the Railroad Retirement Solvency Act of 1983 added subsection 1(h)(8) to the RRA which expanded the definition of compensation for purposes of computing the Tier 1 portion of an annuity to include sickness payments and certain payments other than sick pay which are considered compensation within the meaning of Section 1(h)(8). The information reporting requirements for employers are prescribed in 20 CFR 209.

To enable the RRB to establish and maintain the record of compensation, employers are required under Section 6 of the RUIA and Section 9 of the RRA to file with the RRB, in such manner and form and at such times as the RRB by rules and regulation may prescribe, reports of compensation of employees.

The RRB utilizes Form BA–10, Report of Miscellaneous Compensation and Sick Pay, to collect information regarding sick pay and certain other types of payments, referred to as miscellaneous compensation, under Section 1(h)(8) of the Railroad Retirement Act from railroad employers. In addition, the form is used by employers to report any necessary adjustments in the amounts of sick pay or miscellaneous compensation. Employers have the option of submitting the reports on the aforementioned form, or, in like format, on magnetic tape, tape cartridges or PC diskettes. Submission of the mandatory reports is requested annually. One response is required of each respondent. No changes are proposed to Form BA–10. The completion time for Form BA–10 is estimated at 55 minutes per response.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received on or before July 20, 1998.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–13582 Filed 5–20–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39992; File No. SR–CBOE–98–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Automatic Execution of Small Retail Orders in Equity Options

May 14, 1998

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], notice is hereby given that on April 6, 1998, the Chicago Board Options Exchange, Inc.,("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the CBOE. On May 13, 1998, the CBOE submitted to the Commission Amendment No. 1 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes amend CBOE Rule 6.8 and Interpretation and Policy .02 thereunder to provide added flexibility to the Exchange's Retail Automatic Execution System ("RAES") where the best bid or offer on the Exchange for a given equity option is inferior to the best bid or offer for the same option in another market where the option is traded.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide for the automatic execution on RAES of eligible retail orders to buy or sell equity options at a price that may be one tick better than the best price currently quoted on the Exchange if the better price is then being quoted in another market where the same options are traded. Under existing CBOE Rule 6.8(a)(ii), the execution price automatically attached to an equity option order executed in RAES is the prevailing market quote on CBOE at the time the order is entered into the system. If at that same time another market is displaying a better quote for the option, under the existing Rules the order is not automatically executed, but instead, pursuant to Interpretation and Policy .02 under CBOE Rule 6.8, is rerouted for non-automated handling. In most cases, especially where the market away from the CBOE is better by only one "tick" (*i.e.*, by one minimum quote interval), the order is usually manually executed on CBOE at the better price.

The proposed rule change will automate the process of filing equity option orders through RAES at any better price being quoted in another market, so long as the price is better by no more than one tick. If the market away from the CBOE purports to be better than the CBOE's quoted market by more than one tick, the existing procedure will continue to apply whereby the order is rerouted out of RAES to the Designated Primary Market Maker or Order Book Official for non-automated handling.

By automating the execution of eligible retail orders for equity options in the manner described above (referred to as "RAES Auto-Step-Up"), investors will be assured the prompt, automatic execution of these orders at the best available prices, even if those prices are being quoted in a market by more than one tick. This proposal should minimize the delay inherent in manually handling orders in this circumstance, and thereby reduce the risk to investors that, as a result of an adverse move in the market while their orders are being manually handled, they may receive an inferior execution.

The Exchange continues to believe that manual handling is called for where prices apparently quoted in other markets are more than one tick better than the Exchange's best quotes, because the quotes in other markets may be displayed in error or may otherwise not be likely to be available, and because even if Exchange market makers determine to provide an execution at such better prices, this decision should be made on a case-by-case basis by the market makers rather than automatically. In addition, the proposed rule change authorizes the Chairman of the appropriate Floor Procedure Committee or his or her designee to disable RAES Auto-Step-Up for specified classes or series of options or in respect of specified markets when such action is deemed to be warranted by circumstances or conditions applicable to such options or markets. This authority would be expected to be exercised in circumstances such as communication or system problems, fast markets, and similar situations that could make quotes unreliable.

While the Exchange expects that eventually the Floor Procedure Committees will determine to apply the RAES Auto-Step-Up to all or nearly all option classes traded on the floor, the proposed rule change would permit the program to be initiated on a class by class or trading station by station basis.[3] To provide for the orderly introduction of this change to the exchange's RAES procedures and to measure its effect before expanding it to equity options floor-wide, the Exchange intends to introduce the change RAES procedure to selected classes of equity options during an initial evaluation period, and then over time to expand the changed procedure to cover a larger number of equity options unless, upon evaluation, such expansion appears not to be warranted. Members will be given

[1] 15 U.S.C. 78s(b)(1).

[2] In Amendment No. 1, the Exchange clarifies the operation of the proposed rule change. More specifically, the Amendment explains the process of designating options to which the proposed automatic execution feature applies as well as reasons for suspending the new feature. See Letter from Timothy Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Ken Rosen, Attorney, Division of Market Regulation, Commission, dated May 11, 1998 ("Amendment No. 1").

[3] See Amendment No. 1.

advance notice of each class of options to which these revised procedures apply.

By enhancing the ability of eligible retail orders in multiply-traded options to receive best execution, the Exchange believes the proposed rule change will promote just and equitable principles of trade and protect investors and the public interest, in furtherance of the objectives of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissions, Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All Submissions should refer to File No. SR–CBOE–98–13 and should be submitted by June 11, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13501 Filed 5–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39991; File No. SR–CHX–98–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating to Membership Dues and Fees

May 13, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Proposed of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is twofold. First, the proposed rule change would reduce the total fixed fee paid by specialist from $345,000 to $220,000 per month. This reduction reflects a continuing effort by the Exchange to enhance the effectiveness and efficiency of its specialists' operations by reducing costs and thereby encouraging improved competition.

Second, the proposed rule change will expand the type of charges which are eligible to be offset by transaction credits to include the cost of rebills—certain fees and charges that are paid by the Exchange and then "rebilled" to the specialists. The Exchange has concluded that the economic rationale for providing transaction credits as an offset to specialist fees is equally applicable to rebills and to other monthly fees owed by specialists, as both charges represent actual expenses to the specialist. Because there is no relevant distinction between rebills and other monthly fees, the application of transaction credits to both types of fees eliminates an artificial barrier and results in the appropriate recognition of the contribution of the specialists to overall CHX revenue. This proposed rule change is particularly important in light of the fact that numerous CHX specialist units have entirely offset their fixed fees and are again in a position where their future contribution to overall CHX revenue will not be recognized.

The Exchange's Finance Committee has determined that after the proposed changes in fee structure, the Exchange will have ample capital and resources to continue to fulfill its proscribed duties in its capacity as a self-regulatory organization and as a registered national securities exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act[3] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that he proposed rule change will impose any inappropriate burden on competition.

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b)(40.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act [4] and subparagraph (e) of Rule 19b–4 thereunder.[5] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–98–10 and should be submitted by June 11, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[4] 15 U.S.C. 78s(b)(3)(A).
[5] 17 CFR 240.19b–4(e).
[6] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 98–13502 Filed 5–20–98; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2820]

Bureau of Finance and Management Policy

AGENCY: Department of State.
ACTION: 30-Day notice of information collection; client satisfaction survey.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: New Collection.
Originating Office: Bureau of Finance and Management Policy.
Title of Information Collection: Client Satisfaction Survey.
Frequency: Annually.
Form Number: None.
Respondents: Foreign Service annuitants.
Estimated Number of Respondents: 3,000.
Average Hours Per Response: 30 minutes.
Total Estimated Burden: 1,500.

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: March 16, 1998.
Glen H. Johnson,
Acting Chief Information Officer.
[FR Doc. 98–13586 Filed 5–20–98; 8:45 am]
BILLING CODE 4710–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–98–3713]

Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry

AGENCY: Office of the Secretary, DOT.
ACTION: Notice extending comment period.

SUMMARY: The Department (or DOT) has issued a proposed Statement of the Department of Transportation's Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry. On April 10, 1998, the Department published the proposed statement and requested public comment. By this notice, the Department is now extending the due date for comments to July 24, 1998 from June 9, 1998 and the due date for reply comments to September 8, 1998 from July 9, 1998.

DATES: Comments must be submitted on or before July 24, 1998. Reply comments must be submitted on or before September 8, 1998.

ADDRESSES: To facilitate the consideration of comments, each commenter should file eight copies of each set of comments. Comments must be filed in Room PL–401, Docket OST–98–3713, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Late-filed comments will be considered to the extent possible.

FOR FURTHER INFORMATION CONTACT: Jim Craun, Director (202–366–1032) or Randy Bennett, Deputy Director (202–366–1053), Office of Aviation and International Economics, Office of the Assistant Secretary for Aviation and International Affairs, or Betsy Wolf (202–366–9349), Senior Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh St. SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: DOT published a proposed Statement of the Department of Transportation's Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry and requested comments on the proposed statement

(63 FR 17919, April 10, 1998). The proposed policy statement was developed by the Department of Transportation in consultation with the Department of Justice and sets forth tentative findings and guidelines for use by DOT in evaluating whether major air carriers' competitive responses to new entry warrant enforcement action under 49 U.S.C. 41712. The due dates for comments and reply comments were June 9, 1998 and July 9, 1998, respectively.

On May 8, 1998, the Air Transport Association of America (ATA), an association of 22 U.S. airlines and five foreign carriers, filed an emergency petition requesting that the Department extend the time for filing comments by 120 days. The ATA stated that it was filing the petition on an emergency basis because fewer than 30 days remained in the comment period. It claimed that the 60-day time period originally set does not give the parties adequate time to prepare well-reasoned responses to the complicated economic, legal, and policy issues raised in the statement and that in order to participate in a full discussion of these issues, the ATA and its member airlines must consult with economic and legal experts. Since those experts must review studies, reports, and other data that address these issues, the ATA argued that the current 60-day comment period is inadequate.

The ATA also asserted that the Department has failed to identify the research and source material for its proposed statement on a timely basis and therefore an extension of the comment period is necessary. Citing Department rules in 49 CFR § 5.25(a), the ATA likewise stated the Secretary is to grant a petition for extension of time where the petitioner shows that additional time is in the public interest, so long as the petitioner has good cause for the extension and a substantive interest in the proposed action. The ATA claimed that the extension is clearly in the public interest and is consistent with previous similar Department rulemakings involving complex economic issues. Furthermore, as an association representing the entities that the statement would affect, the ATA pointed out that it has an obvious substantive interest.

We have determined that it would be reasonable and in the public interest to give commenters more time for preparing their responses to the proposed statement. While the issues are complex and the statement involves a major policy initiative, we do not agree, however, with the ATA that an extension of 120 days is necessary. The addition of 60 days to the 90 days already established for comments and reply comments provides commenters with a total of 150 days to prepare and provide remarks—an amount of time that we find is sufficient to balance the needs for an adequate comment period while not unnecessarily delaying the Department's initiative for promoting competition and protecting consumers. We will therefore give commenters an additional 60 days to prepare their comments and reply comments.

Specifically, the due date for comments will be extended to July 24, 1998 from June 9, 1998 and the due date for reply comments will be extended to September 8, 1998 from July 9, 1998. (Since the actual addition of 60 days results in a due date for reply comments of September 7, 1998—a Federal holiday, the due date for reply comments was extended to September 8, 1998.)

Issued in Washington, DC, on May 18, 1998, under authority delegated by 49 CFR 1.56(a).

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–13698 Filed 5–19–98; 10:07 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–97–050]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: LMRWSAC will meet on Monday, June 15, 1998, from 9:00 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before June 5, 1998. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before June 5, 1998.

ADDRESSES: LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to Mr. M.M. Ledet, Commander, Eighth Coast Guard District (m), 501 Magazine Street, New Orleans, LA 70130–3396.

FOR FURTHER INFORMATION CONTACT: M.M. Ledet, committee administrator, telephone 504–589–4686, fax 504–589–4999.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meeting

Lower Mississippi River Waterways Safety Advisory Committee (MLRWSAC). The agenda includes the following:

(1) Introduction of committee members.
(2) Introduction and remarks by RADM P. Pluta, Committee Sponsor.
(3) Approval of the January 28, 1998 minutes.
(4) Old Business.
a. Widening of the navigational channel.
b. VTS update.
c. Bridge clearance gauges.
(5) New Business.
a. South Pass dredging.
b. Bear Industries permit request.
c. Southwest Pass wingdam.
d. Visual surveillance of area around new steel dock at Mississippi River mile 161.0.
(6) Next meeting.
(7) Adjournment.

Procedural

The meeting is open to the public. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Committee Administrator no later than June 5, 1998. Written material for distribution at a meeting should reach the Coast Guard no later than June 5, 1998. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 28 copies to the Committee Administrator no later than June 5, 1998.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Committee Administrator as soon as possible.

Dated: May 5, 1998.

A.L. Gerfin, Jr.,

Capt., USCG, Acting Commander, Eighth Coast Guard District.

[FR Doc. 98–13640 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Advisory Circular (AC) No. 120–28D, Criteria for Approval of Category III Weather Minima for Takeoff, Landing, and Rollout

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of a draft advisory circular.

SUMMARY: This notice announces the availability of a draft AC, recommended by the Aviation Rulemaking Advisory Committee (ARCA), which provides information and guidance on obtaining and maintaining approval of Category III landing weather minima and low visibility takeoff criteria, including the installation and approval of associated aircraft systems. This draft AC would incorporate changes to AC 20–57 resulting from the harmonization efforts of the Federal Aviation Administration, European Joint Aviation Authority and other regulatory authorities. This notice solicits public comment on the draft AC.

DATES: Comments on the draft AC must be received on or before July 20, 1998.

ADDRESSES: Send all comments on the draft AC to Jim Enias, Technical Programs Division (AFS–400), Room 835, Federal Aviation Administration, 800 Independence Ave., SW., Washington DC 20591.

FOR FURTHER INFORMATION CONTACT: Jim Enias, Technical Programs Division (AFS–400), Federal Aviation Administration, Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7211.

Comments Invited

The FAA invites interested parties to submit comments on this draft AC, as recommended by the ARAC. Commenters should identify AC 120–28D and submit comments to the person and address listed above. The FAA will consider all communications received on or before the closing date for comments before completing its review of this ARAC recommended AC. The recommended draft AC and comments received may be inspected at the Office of Flight Standards Service, Technical Programs Division, Room 935, Federal Aviation Administration (Federal Office Building 10A), between the hours of 9 a.m. and 5 p.m. weekdays, except Federal holidays.

Background

This draft AC was received from the ARAC on December 15, 1997. The AC recommended by the ARAC would set forth an acceptable means, but not the only means, of obtaining and maintaining approval of operations in Category III landing weather minima and low visibility takeoff criteria including the installation and approval of associated aircraft systems. It includes additional or revised Category III criteria for use in conjunction with heads-up displays, satellite navigation systems, low visibility takeoff guidance systems, wide-body fail passive operations, and use of Category III criteria during certain engine inoperative operations.

This draft AC should be reviewed in conjunction with the regulatory requirements of 14 CFR parts 121, 125, and 135, as applicable. This draft AC would not change, add, or delete any regulatory requirement or authorize any deviation from parts 121, 125, or 135.

This draft revision also updates and incorporates provisions of the former AC 20–57 into AC 120–28, since AC 20–57's former provisions are directly related to and dependent on criteria provided in the draft AC.

The FAA is currently reviewing this ARAC recommendation and may make revisions to this document before it is issued. These revisions may include editorial changes to ensure that this AC does not impose requirements on operators independent of the current regulations. The regulations themselves, referenced in the draft AC, may be reviewed for revisions, as appropriate. It should be noted that the draft AC explicitly states that nothing in it is intended to preclude an operator from proposing and demonstrating to the FAA its ability to operate to Category III minima with a different equipment configuration, or alternatively to an RVR minima lower than presently described in this document.

If, after review of this recommendation, the FAA decides to make any substantive changes in the draft AC, the revised document will be made available again for comment before final issuance.

This draft revision incorporates changes resulting from the first steps toward international all weather operations criteria harmonization taken by the FAA, JAA, and several other regulatory authorities. Subsequent revisions of this AC are planned as additional all weather operations harmonization items are agreed and completed by FAA and JAA, or internationally.

Issued in Washington, DC on May 15, 1998.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

[FR Doc. 98–13578 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for June 8 and 9, 1998, beginning at 8:30 a.m. on June 8. Arrange for oral presentations by June 1, 1998.

ADDRESSES: Aerospace Industries Association, 1250 Eye Street, NW. (Suite 1100), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463; 5 U.S.C. App II), notice is given of an ARAC meeting to be held June 8–9, 1998, at Aerospace Industries Association, 1250 Eye Street, NW. (Suite 1100), Washington, DC. The agenda will include:

Monday, June 8, 1998

- Opening Remarks.
- FAA Report.
- Joint Aviation Authorities (JAA) Report.
- Transport Canada Report.
- Executive Committee (EXCOM) Meeting Report.
- Harmonization Management Team Report.
- Harmonization Program Plan.
- Flight Test Harmonization Working Group (HWG) Report.
- Systems Design and Analysis HWG Report and Vote.
- Ice Protection HWG Report.
- Powerplant Installation HWG Report.
- Engine HWG Report.
- Flight Guidance System HWG Report.

Tuesday, June 9, 1998

- General Structures HWG Report.
- Electromagnetic Effects HWG Report.
- Loads & Dynamics HWG Report.
- Airworthiness Assurance HWG Report.
- Hydraulic Test HWG Report and Vote.
- Brake Systems Harmonization Working Group (if needed).
- Review Action Items.

The Systems Design and Analysis HWG is requesting a vote for formal FAA economic and legal review of a draft notice and advisory circular relating to a review of 14 CFR 25.1309, European Joint Aviation Requirements (JAR) 25.1309, associated Advisory Circular 25.1309–1A, and Advisory Circulars Joint Numbers 1 through 8. The Hydraulic Test HWG is requesting a vote for the acceptance of a disposition of comments to Notice of Proposed Rulemaking No. 96–6. The proposed rulemaking would amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the JAR.

Attendance is open to the public, but will be limited to the space available. Arrangements may be made to present statements, request the public must make arrangements by June 1, 1998, to present oral statements at the meeting. Written statements may be presented to the Committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. Copies of the documents to be voted upon may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC on May 13, 1998.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–13519 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on PFC Application (98–03–I–00–OTH) To Impose Only a Passenger Facility Charge (PFC) at North Bend Municipal Airport; Submitted by the City of North Bend, North Bend, Oregon

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose only a PFC at North Bend Municipal Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue, S.W., Suite 250; Renton, Washington 98055–4056.

Om addition, one copy of any comments submitted to the FAA must be mailed or delivered to Gary Le Tellier, Airport Manager, at the following address: City of North Bend, P.O. Box B, North Bend, OR 97459.

Air carriers and foreign air carriers may submit copies of written comments previously provided to North Bend Municipal airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue, S.W., Suite 250; Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (98–03–I–00–OTH) to impose only a PFC at North Bend Municipal Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 13, 1998, the FAA determined that the application to impose only a PFC submitted by the City of North Bend, Oregon, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 22, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1998.

Proposed charge expiration date: January 1, 2001.

Total estimated PFC revenue: $136,800.

Brief description of proposed projects—(Impose Only): East Side. Terminal Area Site Preparation; and East Airport Roadway Alignment, and Runway 13—31 Safety Area.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled air taxi/commercial operators utilizing aircraft having a seating capacity of less than 20 passengers not to be required to collect PFCs.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional Office, Airports Division, 1601 Lind Avenue, S.W., Suite 315; Renton, Washington 98055–4056.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the North Bend Municipal Airport, North Bend, Oregon.

Issued in Renton, Washington on May 134, 1998.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 98–13576 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3701; Notice 1]

Mitsubishi Motor Sales of America Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Mitsubishi Motor Sales of America (MMSA) of Cypress, California, has determined that some of its 1994–1998 models fail to meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 118, "S4," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defects and Noncompliance Reports." MMSA has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the

noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

During the periods indicated below, the applicant imported and sold and/or distributed approximately 57,294 vehicles equipped with power sunroofs that did not meet certain requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 118. Specifically, FMVSS No. 118 requires that power windows, partitions, and sunroofs only be operable under certain circumstances. One of those circumstances specifies that a power sunroof may operate:

during the interval between the time the locking device which controls the activation of the vehicle's engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors. 49 CFR 571.118 S4(e) states that once the ignition key is turned off and either of the two front doors is opened, the power sunroof must not operate.

In the Mitsubishi vehicles identified below, activation of the power sunroof stops immediately after the ignition is turned off and the driver's side door is open. The sunroof continues to operate, however, for thirty seconds after the ignition is turned off and the passenger front door is opened. This continued operation does not comply with the requirements of S4 FMVSS No.118.

Make	Line	Model year	No. of affected vehicles	Dates of manufacture
MMC	Mitsubishi 3000GT	1994–98	5,855	5/94—4/98
MMC	Mitsubishi Mirage (Coupe & Sedan)	1997–98	1,383	6/96—5/98
Mitsubishi Motor Manufacturing of America, Inc.	Mitsubishi Galant	1994–98	50,056	3/93—3/98

MMSA supports its application for inconsequential noncompliance with the following:

MMSA does not believe that the foregoing noncompliance will impact motor vehicle safety for the following reasons, FMVSS 118 sets forth requirements for power operated windows, partitions, and roof panel systems (e.g., sunroofs) to minimize the risk of injury or death from accidental operation of these systems. The National Highway Traffic Safety Administration (NHTSA or the Agency) has identified children as the group of people most likely at risk from unsupervised or inadvertent operation of power windows and sunroofs. See 57 FR 23958 (1992). In order to address the foregoing concerns, FMVSS 118 S4 specifies the conditions under which a power window, partition or sunroof may operate. S4(e) specifically requires that power windows, partitions and sunroofs not be operational when the ignition key is off *and* either one of the vehicle's front doors is opened. The power windows may continue to operate after the ignition has been turned off, but prior to the opening of either of the vehicle's front doors.

"FMVSS 118 S4(e) was designed to reduce the possibility of *unsupervised* children from operating the power windows, partitions or sunroofs in a vehicle. Specifically, S4(e) is based on the logical presumption that after a vehicle's ignitions is turned off, but prior to opening either of the vehicle's front doors, an adult will remain in the vehicle to supervise and protect children from the safety risks associated with operation of a power window, partition, or sunroof system. Hence there is little to no additional risk in allowing continued operation of the power window, partition or sunroof after the ignition is turned off but prior to the opening of either front door because of the presence of the supervising adult. This premise is especially true for the driver side door. In most circumstances, and adult driver normally exits the vehicle from the driver side door. If the vehicle's driver side door has not been opened, the adult driver is most likely still in the vehicle".

MMSA believes that the failure to comply is inconsequential to motor vehicle safety for the following reasons:

"The power sunroof immediately ceases to operate when the ignition key is turned off and the driver side door is open. The sunroof will continue to operate, however, for approximately 30 seconds after the ignition key is turned off and the passenger side door is open. The rationale supporting this feature was to allow the driver to close the sunroof even if the driver has turned off the ignition and the passenger has opened the door and exited the vehicle. This delay in operation cut-off is a convenience feature similar to those found in Japanese and European versions of the affected Mitsubishi vehicles. As long as the driver door remains closed, the adult driver inevitably remains in the vehicle to supervise any operation of the power sunroof. It is highly unlikely that the driver would exit from the front passenger side in the affected vehicles. Each of the vehicles listed above has a front seating configuration consisting of two bucket type seats and a center console that rises up from the floor space between the driver and passenger seats. The transmission shift lever for these automatic and standard transmission vehicles rises up from the center console. The combination of bucket seats, center console, and gear shift make exiting the affected vehicles from the driver's side through the passenger side door extremely difficult and highly unfeasible. In addition, the period of operation for the sunroof after the front passenger door is extremely short (i.e., 30 seconds). This short period of time is sufficient to allow drivers to close the sunroof prior to exiting the vehicle, but insufficient to cause any safety concerns for children. Consequently, continued, short-term operation of the sunroof after the ignition has been turned off and the passenger side door opened, but prior to the opening of the driver's side door, does not pose any significant safety concern. The probability of unsupervised children being exposed to injury from the foregoing sunroof system during the 30 seconds after the ignition key has been turned off and the front passenger door only is opened is non-existent."

Additionally, MMSA asserts that the situation is similar to another situation involving vehicles manufactured by Volkswagen of America, Inc. (Volkswagen). In Volkswagen's case, the company manufactured approximately 20,000 vehicles with power windows. The power windows ceased to operate immediately after the ignition was turned off and the driver's size door was opened. The windows continued to operate, however, for ten minutes after the ignition was turned off and the front passenger door only was opened. Volkswagen petitioned the Agency for a determination of inconsequential noncompliance. See 60 FR 26475 (1995). NHTSA granted the petition based on reasons similar to those set forth above by MMSA. See 60 FR 48197 (1995).

Interested persons are invited to submit written data, views, and arguments on the application of the petitioner described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in

the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 28, 1998.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 14, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–13520 Filed 5–20–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33567]

Albany & Eastern Railroad Company—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Albany & Eastern Railroad Company (AERC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF), and to operate 17.40 miles of rail line between MP–14.50, at or near Lebanon, and MP–31.90, at or near Foster, in Linn County, OR.[1] AERC also is acquiring incidental trackage rights over Union Pacific Railroad Company's (UP) rail line between MP–688.96, at or near Lebanon, and MP–691.52, at or near Albany, and over BNSF's line between MP–0.0, at Albany, and MP–0.89, east of Albany, in Linn County, OR, a total of 13.62 miles. The incidental trackage rights will permit AERC to interchange traffic with BNSF at its Albany yard.

The transaction was expected to be consummated on or shortly after May 8, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33567, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

[1] AERC will acquire the track, ties, and other improvements, and a permanent, irrevocable easement to operate on this line, but not the real estate.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 14, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13593 Filed 5–20–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–494X]

Akron Barberton Cluster Railway Company—Abandonment Exemption—in Summit County, OH

Akron Barberton Cluster Railway Company (ABCR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 4.14 miles of its line of railroad from Valuation Station 440 + 00 at Main Street to Valuation Station 658 + 63 at Seiberling Avenue, in Summit County, OH. The line traverses United States Postal Service Zip Codes 44301, 44305, 44300 and 44311.

ABCR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 20, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 1, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 10, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423. A copy of any petition filed with the Board should be sent to applicant's representative: Christopher E. V. Quinn, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45 Floor, 180 North Stetson Avenue, Chicago, IL 60601.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

ABCR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 26, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ABCR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by ABCR's filing of a notice of consummation by May 21, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 8, 1998.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary.

[FR Doc. 98–13093 Filed 5–20–98; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INFORMATION AGENCY

College and University Partnerships Program for Russian Regional Investment Initiative in Samara Oblast

ACTION: Request for proposals.

SUMMARY: The Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop a partnership with a specified institution of higher education from Russia in specified fields. Non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may also apply to facilitate a partnership between a U.S. college or university with one of the foreign institutions.

USIA seeks proposals from US universities, or NGOs representing US universities, to develop partnerships with one of the two following Russian institutions of higher learning: with the Samara State Aerospace University's International Marketing Institute in the field of public administration; or with the Togliatti Academy of Business and Banking in the field of business education.

Participating institutions exchange faculty and administrators for a combination of teaching, lecturing, faculty and curriculum development, collaborative research, and/or outreach, for periods ranging from one week (for planning visits) to an academic year. The FY 98 program will also support the establishment and maintenance of Internet and/or e-mail communication facilities as well as interactive distance learning programs at foreign partner institutions. Applicants may propose other project activities not listed above that are consistent with the goals and activities of the College and University Partnerships Program.

The program awards up to $150,000 for a two-year period to defray the cost of travel and per diem with an allowance for educational materials and some aspects of project administration. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. USIA anticipates awarding two grants in the amount of $150,000 each.

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open markets Support Act of 1992 (Freedom Support Act). Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number: All communications with USIA concerning this RFP should refer to the College and University Partnerships Program for Russian Regional Investment Initiative in Samara Oblast and reference number E/ASU–98–09.

Deadline For Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, July 17, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted.

Approximate program dates: Grants should begin on or about September 1, 1998.

Duration: September 1, 1998–August 30, 2000.

FOR FURTHER INFORMATION, CONTACT: Office of Academic Programs; Advising, Teaching, and Specialized Programs Division; Specialized Programs Branch, (E/ASU) room 349, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, telephone: (202) 619–4126, fax: (202) 401–1433, internet: jcebra@usia.gov to request a Solicitation Package containing more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download A Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive A Solicitation Package Via Fax on Demand: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401–7616. Please request a "Catalog" of available documents and order numbers when first entering the system.

Please specify USIA Program Officer Jonathan Cebra on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: E/ASU–98–09, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIA Moscow for its review, with the goal of reducing the time it takes to get post's comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 provides that

"in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy", USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Guidelines

The College and University Partnership Program for Russian Regional Investment Initiative in Samara Oblast is limited to the following specific academic disciplines:

(1) Public administration—the Russian partner for this partnership must be Samara State Aerospace University's International Marketing Institute and the focus should be on developing training programs for civil servants;

(2) Business education—the Russian partner for this partnership must be the Togliatti Academy of Business and Banking.

Proposals must focus on curriculum, faculty, and staff development in one of these eligible disciplines. Administrative reform at the Russian partner should also be a project component.

Projects should involve the development of new academic programs or the building and/or restructuring of an existing program or programs, and should promote higher education's role in the transition to market economies and open democratic systems. Feasibility studies to plan partnerships will not be considered.

Whenever feasible, participants should make their training and personnel resources, as well as results of their collaborative research, available to government, NGOs, and business.

Participating institutions should exchange faculty and/or staff members for teaching/lecturing and consulting.

U.S. institutions are responsible for the submission of proposals and should collaborate with their foreign partners in planning and preparing proposals. U.S. and foreign partner institutions are encouraged to consult about the proposed project with USIA E/ASU staff in Washington, DC. Preference will be given to proposals which demonstrate evidence of previous relations with the foreign partner institution(s).

Guidelines

U.S. Partner and Participant Eligibility

In the U.S., participation in the program is open to accredited two- and four-year colleges and universities, including graduate schools. Applications from consortia of U.S. colleges and universities are eligible. Applications from non-profit service and professional organizations or non-governmental organizations proposing to facilitate a partnership between a U.S. university and a foreign partner are also eligible. The lead U.S. institution in the consortium is responsible for submitting the application and each application from a consortium must document the lead school's stated authority to represent the consortium. Participants representing the U.S. institution who are traveling under USIA grant funds must be faculty, staff, or advanced graduate students from the participating institution(s) and must be citizens.

Foreign Partner and Participant Eligibility

Overseas, participation is limited to the following institutions:

Samara State Aerospace University's International Marketing Institute—in the field of public administration; Togliatti Academy of Business and Banking—in the field of business education.

Participants represenitng the foreign institutions must be faculty, staff or advanced students of the partner institution, and be citizens, nationals, or permanent residents of the country of the foreign partner, and be qualified to hold a valid passport and U.S. J–1 visa.

Ineligibility

A proposal will be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established herein and in the Solicitation Package;

(2) It is not received by the deadline;

(3) It is not submitted by the U.S. partner;

(4) One of the partner institutions is ineligible;

(5) The academic discipline(s) is/are not listed as eligible in the RFP, herein;

(6) The amount requested of USIA exceeds $150,000 for the two-year project.

Please refer to program-specific guidelines (POGI) in the Solicitation Package for further details.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: May 14, 1998.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–13522 Filed 5–20–98; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Women Veterans will be held on June 16–19, 1998, at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC. The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs, and activities administered by the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

On June 16, 17 and 18, the sessions will convene from 9:00 a.m. to 5:00 p.m. and on June 19, from 9:00 a.m. to 1:00 p.m. The Committee will meet in conference room 230, at VA Central Office. All sessions will be open to the public. It will be necessary for those wishing to attend to contact Ms. Maryanne Carson, Department of Veterans Affairs, Washington, DC (phone 202–273–6193) prior to June 5, 1998. A tentative agenda follows:

Tuesday, June 16, 1998

9:00 am Introduction of new members—Chair/Vice Chair

9:15 am Opening remarks: Secretary Togo D. West, Jr.

10:00 am Briefing: Under Secretary for Benefits

10:30 am Break

10:45 am Briefing: Director, Readjustment Service
11:15 am Briefing: Acting Director, National Cemetery System
11:45 am Briefing: Veterans Service Organizations Liaison
12:15 pm Lunch
1:30 pm Briefing: Under Secretary for Health
2:00 pm Briefing: Center for Veterans Analysis & Statistics
2:30 pm Briefing: DAS for Congressional Affairs
3:00 pm Break
3:15 pm Briefing: Chief, Network Officer
3:45 pm Briefing: DAS Public Affairs
4:15 pm Advisory Committee on Women Veterans, Chair/Vice Chair

Wednesday, June 17, 1998

8:00 am Advisory Committee on Women Veterans, Chair/Vice Chair
8:30 am Report: Women Veterans Health Status, Dr. Katherine Skinner
9:30 am Briefing: Assistant Secretary Veteran's Employment & Training, DOL
10:00 am Briefing: Regional Administrator, Women's Bureau, DOL
10:15 am Break
11:00 am Update: Women Veteran Health Program
11:30 am Update: Persian Gulf Illness & Research Initiatives on Women
12 noon Lunch
1:00 pm Report: Barriers to Care, Dr. Jessica Wolfe
1:30 pm Update: Veterans Benefits Initiatives
2:00 pm Site Visit: Women's Memorial

Thursday, June 18, 1998

8:30 am
Breakout: Subcommittee Working Groups
Legislative—conference room 732
Health Care—conference room 742
1:00 pm
Executive Session
Reports: Subcommittee Working Groups
Discussion: 1998 Report of Advisory Committee
Discussion: Network Strategic Plan Summary 1998–2002

Friday, June 19, 1998

9:00 am
Executive Session
Discussion: Survey of Veterans Report
Discussion: Site Visit fall 1998
Side Visits Reports
Wrap Up
1:00 pm Adjourn

Dated: May 14, 1998.
By Direction of the Secretary.

Heyward Bannister,
Committee Management Officer.

[FR Doc. 98–13527 Filed 5–20–98; 8:45 am]
BILLING CODE 8320–01–M

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federal register

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May 21, 1998

Part II

Environmental Protection Agency

40 CFR Parts 72 and 75

Acid Rain Program; Continuous Emission Monitoring Rule Revisions; Acid Rain Program: Determinations Under EPA Study of Bias Test and Relative Accuracy and Availability Analysis; Proposed Rules

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72 and 75

[FRL–6007–8]

RIN 2060–AG46

Acid Rain Program; Continuous Emission Monitoring Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Title IV of the Clean Air Act (CAA or the Act), as amended by the Clean Air Act Amendments of 1990, authorizes the Environmental Protection Agency (EPA or Agency) to establish the Acid Rain Program. The Acid Rain Program and the provisions in this proposed rule benefit the environment by preventing the serious, adverse effects of acidic deposition on natural resources, ecosystems, materials, visibility, and public health. The program does this by setting emissions limitations to reduce the acidic deposition precursor emissions of sulfur dioxide and nitrogen oxides. On January 11, 1993, the Agency promulgated final rules, including the final continuous emission monitoring (CEM) rule, under title IV. On May 17, 1995, the Agency published direct final and interim rules to make the implementation of the CEM rule simpler. Subsequently, on November 20, 1996, the Agency published a final rule in response to public comments received on the direct final and interim rules.

These proposed revisions to the CEM rule would make a number of further minor changes to make the implementation of the CEM rule simpler, more streamlined, and more efficient for both EPA and the facilities affected by the rule. Furthermore, the proposed revisions would provide reduced monitoring burdens for affected facility units with low mass emissions. In addition, the proposed revisions would establish quality assurance requirements for moisture monitoring systems and add a new flow monitor quality assurance test to assure the accuracy of data reported from these types of monitoring systems. Finally, the proposed revisions would create a new monitoring option, the F-factor/fuel flow method, for certain units.

DATES: *Comments.* All public comments must be received on or before July 20, 1998.

Public Hearing. Anyone requesting a public hearing must contact EPA no later than May 31, 1998. If a hearing is held, it will take place June 8, 1998, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments must be mailed (in duplicate if possible) to: EPA Air Docket (6102), Attention: Docket No. A–97–35, Room M–1500, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Public Hearing. If a public hearing is requested, it will be held at the Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in the Education Center Auditorium. Refer to the Acid Rain homepage at www.epa.gov/acidrain for more information or to determine if a public hearing has been requested and will be held.

Docket. Docket No. A–97–35, containing supporting information used to develop the proposal is available for public inspection and copying from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Macedonia, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone number (202) 564–9123 or the Acid Rain Hotline at (202) 564–9620. Electronic copies of this notice and technical support documents can be accessed through the Acid Rain Division website at http://www.epa.gov/acidrain.

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I. Regulated Entities

Entities potentially regulated by this action are fossil fuel-fired boilers and turbines that serve generators producing electricity, generate steam, or cogenerate electricity and steam. While part 75 primarily regulates the electric utility industry, today's proposal could potentially affect other industries. The proposal includes NO_X mass provisions for the purpose of serving as a model which could be adopted by a state, tribal, or federal NO_X mass reduction program covering the electric utility and other industries. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Electric service providers, boilers and turbines from a wide range of industries.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities which EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in §§ 72.6, 72.7, and 72.8 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

II. Background and Summary of the Proposed Rule

Title IV of the Act requires EPA to establish an Acid Rain Program to reduce the adverse effects of acidic deposition. On January 11, 1993, the Agency promulgated final rules implementing the program, including the CEM rule (58 FR 3590–3766). Technical corrections were published on June 23, 1993 (58 FR 34126) and July 30, 1993 (58 FR 40746–40752). A notice of direct final rulemaking and of interim final rulemaking further amending the regulations was published on May 17, 1995 (60 FR 26510 and 60 FR 26560). Subsequently, on November 20, 1996, a final rule was published in response to public comments received on the direct final and interim rules (61 FR 59142–59166).

The issues addressed by this proposed rule are: (1) revised definitions of gas-fired, oil-fired, and peaking unit to allow for changes in unit fuel usage and/or operation; (2) a minor wording correction of the applicability provisions in Part 72; (3) new excepted methodologies for units with low mass emissions; (4) new QA/QC requirements for moisture monitoring systems; (5) clarifying changes to the certification and recertification process; (6) substitute data requirements for CO_2 and heat input, as well as a prohibition against low data availability; (7) clarifying revisions to the petition provisions for alternatives to part 75 requirements; (8) NO_X mass monitoring provisions provided as a model for adoption by state, tribal, or federal NO_X mass reduction programs; (9) clarifying changes to span and range requirements; (10) clarifying revisions to general QA/QC requirements; (11) calibration gas concentrations for daily calibration error tests; (12) linearity test requirements; (13) a new flow-to-load QA test for flow monitors; (14) reductions in and/or clarifications to the relative accuracy test audit (RATA) and bias test requirements; (15) clarifying revisions to the procedures for CEM data validation; (16) clarifying revisions to the SO_2 emissions data protocol for gas-fired and oil-fired units (Appendix D); (17) determining CO_2 emissions (Appendix G, sections 2.1 and 5); (18) recordkeeping and reporting changes to reflect the proposed revisions; (19) a revised traceability protocol (Appendix H); and (20) a new optional F-factor/fuel flow method (Appendix I). In addition, the preamble also includes a discussion on potential provisions to allow for the use of predictive emissions modeling systems (PEMS) as an alternative to CEMS for certain units.

Many of the changes proposed today are minor technical revisions based on comments received from utilities following the initial implementation of part 75. Based on experience gained in the early years of the program, utilities have developed a number of suggestions that EPA believes would simplify and streamline the monitoring process without sacrificing data quality. In addition, the Agency is proposing to reduce the monitoring requirements for units with low mass emissions to reduce burdens on those types of units and to add new monitoring options for some units. The Agency has also proposed new quality assurance requirements based on gaps identified by EPA during evaluation of the initial implementation of part 75. Finally, several minor technical changes are also proposed in order to maintain uniformity within the rule itself and to clarify various provisions.

III. Detailed Discussion of Proposed Revisions

A. Use of Projections in the Definitions of Gas-Fired, Oil-Fired, and Peaking Unit

Background

Section 72.2 of the January 11, 1993 rule provides definitions for the terms "gas-fired," "oil-fired," and "peaking unit." Each definition provides a limit on the fuel usage or capacity factor averaged over a three year period, as well as an individual limit on each of the three years, in order to qualify under the definition. The May 17, 1995 revisions to part 75 amended those definitions by adding provisions for how a unit would initially qualify to meet the definition. Each definition provides for the case where a unit has three years of historical data demonstrating qualification, as well as the case where a unit does not have data for one or more of the three previous years (e.g., a new unit or a unit that has been in an extended shutdown). In addition, the gas-fired definition provides for the case where a unit's fuel usage is projected to change on or before January 1, 1995 and the peaking unit definition provides for the case where a unit's capacity factor is projected to change on or before the certification deadline (either 1995 or 1996) for NO_X

monitoring in § 75.4. In each case where historical data does not exist or is not representative based on projected change, the amended definitions set provisions for allowing projections of unit operation to be used in place of historical data in order to meet the criteria of the respective definition. However, none of the three definitions provides for the case where a unit's fuel usage or capacity factor is expected to change after initial classification.

Under the existing rule, the importance of determining whether a unit qualifies under the definitions of gas-fired, oil-fired, and peaking unit, centers on the differences in regulatory requirements and options for different classifications of units. For example, under § 75.11(d)(2), a unit that qualifies as gas-fired or oil-fired has an additional option for monitoring SO_2 emissions using the excepted protocol of Appendix D, in lieu of an SO_2 CEMS and flow monitor. Additionally, under § 75.14(c), a unit that qualifies as gas-fired is exempt from opacity monitoring, and, under section 2.3 of Appendix G to part 75, a gas-fired unit has an additional option for determining CO_2 mass emissions in lieu of a CO_2 CEMS or using carbon sampling in conjunction with a fuel flowmeter. Qualifying under the definition of peaking unit also has the advantage of allowing additional regulatory options. For example, a peaking unit has the option of monitoring NO_X emission rate using the excepted protocol under Appendix E, in lieu of a NO_X CEMS. Further, under section 2.3.1 of Appendix B to part 75, a peaking unit is required to perform annual quality assurance flow monitor RATAs at a single load level instead of at three load levels.

Utility representatives have contacted EPA for guidance about how a change in the manner of operation of the unit after certification and initial classification of the unit affects the status of the unit with respect to the definitions of gas-fired, oil-fired, and peaking unit. For example, a utility representative contacted the Agency about a unit designed to burn gas and/or oil that historically had burned primarily oil and was classified as an oil-fired unit. The utility had decided to switch from oil to burn almost entirely gas at the unit and asked whether it was necessary to wait three years after the switch to gas in order to gather three years of historical data, to qualify for the additional regulatory options available only for gas-fired units. The utility requested permission to use projections of fuel usage certified by the designated representative, to demonstrate that the unit would meet the gas-fired definition after the switch to gas, so that the unit could be exempt from opacity monitoring and qualify to use equation G–4 to determine CO_2 mass emissions. The existing rule would require such a unit to wait three years after the change in operation in order to qualify as gas-fired. Based on EPA's experience of implementing the provisions of Parts 72 and 75, the definitions of the terms gas-fired, oil-fired, and peaking unit are not sufficiently detailed or flexible to address situations where a permanent change in the manner of operation after the initial classification (i.e, capacity factor or fuel usage) affects the gas-fired, oil-fired, or peaking unit status.

Discussion of Proposed Changes

Today's proposal would amend the definitions of the terms gas-fired, oil-fired, and peaking unit, to add provisions for an existing unit that does not presently qualify under the definition but that experiences a permanent change in operation (i.e., fuel usage for the gas-and oil-fired definitions and capacity factor for the peaking unit definition).

For the definition of gas-fired, the proposed revisions would allow an existing unit to qualify under the definition if the designated representative submits a minimum of 720 hours of unit operating data demonstrating that the unit meets the percentage criteria of a gas-fired unit (i.e., no less than 90.0 percent of the unit's heat input from the combustion of gaseous fuels with a total sulfur content no greater than natural gas and the remaining heat input from the combustion of fuel oil), accompanied by a certification statement from the designated representative. The designated representative statement would certify that the changed pattern of fuel usage, represented in the 720 hours of data, is considered permanent and is projected to continue for the foreseeable future.

The proposed definition of oil-fired unit would simplify the provisions for qualification, for purposes of part 75. The proposed definition would simply require that a unit burn only fuel oil and gaseous fuels with a total sulfur content no greater than natural gas and that the unit does not meet the definition of gas-fired, in order to qualify as oil-fired. With this simplification, a unit could qualify under any of the following circumstances: (1) a new unit projected to burn only fuel oil and gaseous fuels with a sulfur content no greater than natural gas but projected to burn too much oil to qualify as gas-fired; (2) an existing gas-fired unit, which burns only fuel oil and natural gas, but which exceeds the gas-fired annual limit of 15 percent of the annual heat input from fuel oil; and (3) an existing coal-fired unit that is converted to only burn fuel oil and/or gas but which projects it will burn too much oil to qualify as gas-fired.

The proposed definition of peaking unit would allow an existing unit whose capacity factor is projected to change, to qualify as a peaking unit if the designated representative submits a demonstration satisfactory to the Administrator that the unit will qualify as a peaking unit, using the three calendar years beginning with the first full year following the change in the unit's capacity factor as the three year period. This demonstration would need to show that the unit's capacity factor in the year following the permanent change in operation did not exceed 10.0 percent and that the projected average annual capacity factor for the unit in the three year period and the projected capacity for each of the two individual projected years will meet the definition of a peaking unit.

Additionally, under today's proposal, the gas-fired definition would be revised to clarify the requirements as they apply for the purposes of part 75 versus the requirements for the purposes of all other Parts under the Acid Rain Program. This proposed revision is merely editorial and would not change the intent of the existing regulation.

Rationale

The Agency proposes to allow projections of fuel usage or capacity factor in conjunction with some actual data to be used for the purpose of meeting the criteria of the gas- or oil-fired or peaking unit definitions, respectively. The Agency believes it is unnecessary to require three years to pass before a unit that the designated representative certifies has permanently changed its manner of operation is allowed to utilize the additional regulatory options allowed for units meeting the definitions of gas-fired, oil-fired, and peaking unit. The Agency believes it is sufficient to require the designated representative to submit representative data that the unit would qualify under the definition following the permanent change in operation or fuel usage (i.e., 720 hours for the gas-fired definition and a full year for the peaking unit definition) and to certify that the change in fuel usage or capacity factor is considered permanent and that the unit is expected to continue to meet the definition of gas-fired, oil-fired, or peaking unit, as applicable, into the foreseeable future.

Under the existing rule, the peaking unit definition does provide for the

situation where a unit's operation is projected to change and the unit will meet the peaking unit definition with those projections. However, this provision is limited to the case where a unit's operation has changed by the certification deadline for NO_X monitoring. The existing rule does not provide for the scenario where a change to the unit's operation after the certification deadline would affect the peaking unit status and where the designated representative might want to take advantage of regulatory options that are available under this new status.

EPA believes that it is appropriate to allow a unit to use the regulatory options that are only allowed for peaking units, if a unit's operation permanently changes such that it meets the capacity factor definition with one year of actual data and two years of projections. If the projections are incorrect, the unit will lose its peaking unit status and will not be able to use projections again to qualify.

Similarly, under the existing rule, the gas-fired definition does provide for the situation where an existing unit that does not qualify under the gas-fired definition experiences a change in operations or fuel usage that would result in the unit qualifying as gas-fired in future years. However, this provision is limited to the case where a unit's operation has changed by the certification deadline for SO_2 and opacity monitoring, from 1995 through 1997. The existing rule does not provide for the scenario where a change to the unit's fuel usage after the certification deadline would affect the gas-fired status and that the designated representative might want to take advantage of regulatory options that are available under this new status.

However, EPA believes that it is appropriate to allow a unit to use the regulatory options that are only allowed for gas-fired units, if a unit's fuel usage permanently changes such that it meets the gas-fired definition with 720 hours of actual data and projections of fuel usage to make up the remainder of the three year period. If the projections are incorrect, the unit will lose its gas-fired status and will not be able to use projections again to qualify.

B. Wording Correction of the Applicability Provisions in Part 72

Background

Section 72.6(b)(1) currently includes, in the list of types of units that are unaffected units under the Acid Rain Program, "[a] simple combustion turbine that commenced operation before November 15, 1990." 40 CFR 72.6(b)(1). Title IV actually provides, through statutory definitions and provisions setting emission limitations, that a simple combustion turbine that commenced *commercial* operation before the enactment of title IV, i.e., November 15, 1990, is an unaffected unit. A simple combustion turbine commencing commercial operation on or after November 15, 1990 is an affected unit (unless it is exempt under some other provision, e.g., the new units exemption under § 72.7).

To begin, the definition of "existing unit" in section 402(8) of the Act excludes existing simple combustion turbines (i.e., those that commenced commercial operation prior to November 15, 1990) and so excludes them from being affected units subject to an SO_2 emission limitation under section 405(a)(1). As stated in that section 402(8):

> "existing unit" means a unit * * * that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990 [i.e., November 15, 1990] * * * For purposes of this title, existing units shall not include simple combustion turbines * * * 42 U.S.C. 7651a(8).

In contrast, the statutory definition of "new unit" does not exclude any new simple combustion turbines, and under section 403(e), all new utility units are affected units subject to an SO_2 emission limitation. As stated in section 402(10):

> "new unit" means a unit that commences commercial operation on or after the date of enactment of the Clean Air Act Amendments of 1990 [i.e., November 15, 1990]. 42 U.S.C. 7651a(10).

A unit that commences commercial operation *after* November 15, 1990, and so does not meet the definition of "existing unit", is therefore a new unit and an affected unit subject to Acid Rain Program requirements.

While § 72.6(b)(1) states that a simple combustion turbine that "commenced operation" before November 15, 1990 is not an affected unit, EPA interprets this provision, consistent with the Act, to refer to commencement of commercial operation. However, in order to remove any ambiguity and any possibility of erroneous application of the statutory exemption for simple combustion turbines, EPA believes that the regulatory provision should be corrected.

Discussion of Proposed Changes

Today's proposal would revise the existing § 72.6(b)(1) in order to make it consistent with title IV of the Act. EPA proposes to revise the language of the provision to refer expressly to "commercial operation," rather than simply "operation," of a simple combustion turbine.

Rationale

EPA notes that the existing § 72.6(b)(1) was not intended to deviate from the provisions in the Act concerning simple combustion turbines. In proposing the applicability provisions that were finalized (with changes) as § 72.6, EPA explained that:

> simple combustion turbines would be subject to Acid Rain Program requirements in Phase II (as new units) if such units commenced commercial operation on or after November 15, 1990, because the statutory exemption for simple combustion turbines is only applicable to existing units. 56 FR 63002, 63008 (1991).

In noting that new simple combustion turbines are affected units, EPA requested comment on whether a "*de minimis* exclusion should be included in the final rule" for "very small units" from the Acid Rain Program. *Id.* In response to comments supporting an exemption for simple combustion turbines and other units, EPA established in the final rule an exemption for new units (including new simple combustion turbines) serving generators with total capacity of 25 MWe or less. 58 FR 3590, 3593–4 (1992); Response to Comment at P–22 and P–23 (1993). In the final rule preamble, EPA did not indicate any intention to make any other changes concerning the applicability of the Acid Rain Program to new simple combustion turbines.

C. Low Mass Emissions Excepted Methodology

Background

In the January 11, 1993 Acid Rain permitting rule, EPA provided for a conditional exemption from the emissions reduction, permitting, and emissions monitoring requirements of the Acid Rain Program for new units having a nameplate capacity of 25 MWe or less that burn fuels with a sulfur content no greater than 0.05 percent by weight, because of the *de minimis* nature of their emissions (see 58 FR 3593–94 and 3645–46). Moreover, in the January 11, 1993 monitoring rule, EPA allowed gas-fired and oil-fired peaking units to use the provisions of Appendix E, instead of CEMS, to determine the NO_X emission rate, stating that this was a *de minimis* exception. EPA allowed this exception from the requirements of section 412 of the Clean Air Act because the NO_X emissions from these units would be extremely low, both

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collectively and individually, and because the cost of measuring a ton of NO_X with CEMS could be several hundred dollars per ton of NO_X monitored (see 58 FR 3644–45). One utility wrote to the Agency, suggesting that the Agency consider further regulatory relief for other units with extremely low emissions that do not fall under the categories of small new units burning fuels with a sulfur content less than or equal to 0.05 percent by weight or gas-fired and oil-fired peaking units (see Docket A–97–35, Item II–D–31). The utility specifically suggested that the Agency consider an exemption, the ability to use Appendix E, or some other simplified methods which are more cost effective.

In the process of implementing part 75, other utilities also have suggested to EPA that it provide regulatory relief to low mass emitting units (see Docket A–97–35, Items II–D–29, II–E–25). These units might be low mass emitting because they use a clean fuel, such as natural gas, and/or because they operate relatively infrequently. Some utilities stated that they spend a great deal of time reviewing the emissions data when preparing quarterly reports for these units. Others indicated that it would be important to reduce monitoring and quality assurance (QA) requirements in order to save time and money currently devoted to units with minimal emissions (see Docket A–97–35, Item II–E–25).

Discussion of Proposed Changes

Today's proposal would incorporate optional reduced monitoring, quality assurance, and reporting requirements into part 75 for units that burn only natural gas or fuel oil, emit no more than 25 tons of SO_2 and no more than 25 tons of NO_X annually, and have calculated annual SO_2 and NO_X emissions (reflecting their potential emissions during actual operation) that do not exceed such limits.

A unit would initially qualify for the reduced requirements by demonstrating to the Administrator's satisfaction that the unit meets the applicability criteria in proposed § 75.19(a). Proposed § 75.19(a) would require facilities to submit historical actual (or projections, as described below) and calculated emissions data from the previous three calendar years demonstrating that a unit falls below the 25-ton cutoffs for SO_2 and NO_X. The calculated emissions data for the previous three calendar years would be determined by applying the emission factors and maximum rated hourly heat input, under § 75.19(c), to the hours of operation and fuel burned during the previous three calendar years. The data demonstrating that a unit meets the applicability requirements of § 75.19(a) would be submitted in a certification application for approval by the Administrator to use the low mass emissions excepted methodology. The Agency requests comments on whether a unit that exceeded the 25-ton emissions cutoff for a part of the previous three years, but that has made a permanent change in the operation of the unit such that it would expect to meet the applicability criteria based on projections of future operation, should be allowed to use the excepted methodology.

For units that lack historical data for one or more of the previous three calendar years (including new units that lack any historical data), proposed § 75.19(a) would require the facility to provide (1) any historical emissions and operating data, beginning with the unit's first calendar year of commercial operation, that demonstrates that the unit falls under the 25-ton cutoffs for SO_2 and NO_X, both with actual emissions and with calculated emissions using the proposed methodology, as described above; and (2) a demonstration satisfactory to the Administrator that the unit will continue to emit below the tonnage cutoffs (e.g., for a new unit, applying the emission rates and hourly heat input, under § 75.19(c), to a projection of annual operation and fuel usage to determine the projected mass emissions).

For units with historical actual (or projections, as described above) emissions and calculated emissions falling below the tonnage cutoffs, facilities would be allowed to use the optional methodology in proposed § 75.19(c) in lieu of either CEMS or, where applicable, in lieu of the excepted methods under Appendix D, E, or G for the purpose of determining and reporting heat input, NO_X emission rate, and NO_X, SO_2, and CO_2 mass emissions. Under the optional methodology in proposed § 75.19(c), a facility would calculate and report hourly SO_2 and CO_2 mass emissions based on the unit's maximum rated hourly heat input and the appropriate emission factor, defined in § 75.19(c), Tables 1a and 1c, for the fuel burned that hour. Similarly, a facility would calculate and report hourly NO_X mass emissions as the product of the maximum rated hourly heat input and the appropriate fuel and boiler type NO_X emission rate located in proposed Table 1b. The facility would no longer be required to keep monitoring equipment installed on low mass emissions units, nor would it be required to meet the quality assurance test requirements or QA/QC program requirements of Appendix B to part 75. Moreover, emissions reporting requirements would be reduced by requiring only that the facility report the unit's hourly mass emissions of SO_2, CO_2, and NO_X, the unit's NO_X emission rate, and the fuel type burned for each hour of operation, and report the quarterly total and year-to-date cumulative mass emissions, heat input, and operating time, in addition to the unit's quarterly average and year-to-date average NO_X emission rate for each quarter. Facilities would continue to be required to monitor, record, and report opacity data for oil-fired units, as specified under §§ 75.14(a), 75.57(f), and 75.64(a)(iii) respectively. Under § 75.14(c) and (d), however, gas-fired, diesel-fired, and dual-fuel reciprocating engine units would continue to be exempt from opacity monitoring requirements.

If an initially qualified unit were subsequently to burn fuel other than natural gas or fuel oil, the unit would be disqualified from using the reduced requirements starting the first date on which the fuel (other than natural gas or fuel oil) was burned.

In addition, if an initially qualified unit were to subsequently exceed the 25-ton cutoff for either SO_2 or NO_X while using the proposed methodology, the facility would no longer be allowed to use the reduced requirements in proposed § 75.19(c) for determining the affected unit's heat input, NO_X emission rate, or SO_2, CO_2, and NO_X mass emissions. Proposed § 75.19(b) would allow the facility two quarters from the end of the quarter in which the exceedance of the relevant 25-ton cutoff(s) occurred to install, certify, and report SO_2, CO_2, and NO_X data from a monitoring system that meets the requirements of §§ 75.11, 75.12, and 75.13, respectively.

Rationale

In addressing concerns from utilities about the cost of monitoring, quality assurance testing, and reporting emissions from low-emitting sources, EPA considered how to establish reduced requirements. Utilities have indicated to EPA that it would be more helpful for the Agency to reduce testing requirements for monitoring equipment than it would be to reduce only reporting requirements (see Docket A–97–35, Item II–E–25). The Agency considered whether a reduction in monitoring or reporting requirements might have unintended adverse consequences for the environment. In order to minimize this possibility, but still make the program more cost

effective for facilities, the Agency is proposing to allow an exception from full monitoring and reporting requirements for low mass emitting units. In proposing these reduced requirements, the Agency is exercising its discretion to allow *de minimis* exceptions from statutory requirements in administering the Clean Air Act (see, e.g., *Alabama Power Co.* v. *Costle*, 636 F.2d 323, 360–61 (D.C. Cir. 1979); and 58 FR 3593–94 and 3645–46). The Agency, in exercising its discretion, believes that in light of the *de minimis* aggregate amount of emissions from low-emitting units as a group, little or no environmental benefit would be derived from continuing to require the additional accuracy of monitoring data from low-emitting units under the existing regulations, if such units are subjected instead to the proposed optional requirements. EPA also notes that any such benefit would be greatly outweighed by the cost of providing the more accurate data.

In drafting today's proposal, the Agency considered six relevant questions: (1) What parameters should the applicability criteria be based on? (2) How should estimated emissions be calculated? (3) What cutoff emission level should be used to determine applicability of the reduced requirements? (4) What should the on-going applicability requirements be? (5) What should the reduced monitoring and quality assurance requirements be for these units? and (6) What should the recordkeeping and reporting requirements be for these units?

1. Applicability Criteria

The Agency believes that the initial criteria for a unit to qualify for the excepted monitoring should be consistent with the on-going criteria for using such monitoring so that only units that can likely continue to use the methodology will qualify in the first place. With the reduced monitoring requirements under this exception, a unit will not need to install monitors. Consequently, the Agency believes that the on-going applicability criteria should not depend on measurements from emissions monitoring equipment and that actual emissions data or actual heat input data, which are measured by the monitoring equipment, would not be appropriate as the primary applicability criteria for initial qualification for the exception or as the criteria for on-going qualification.

The Agency considered what criteria, other than actual measurements, should be used as a basis for determining applicability to use the reduced monitoring and reporting exception. EPA considered various parameters to use in the applicability criteria, including: estimated emissions or heat input, the fuel burned, the unit capacity factor, and annual generation measured in MW-hr. Because the Agency's objectives for the exception include ensuring that the total emissions from the group of units that would qualify under the exception are *de minimis* and allowing more cost effective monitoring for units in such a group, the Agency believes it would be preferable to base the applicability on estimated emissions. While it may be simpler to base qualification for reduced monitoring *solely* on the fuel burned, the unit capacity factor, or the annual generation than to estimate the emissions, the Agency believes that it would be more difficult under that approach to ensure that total emissions that qualify under the exception were *de minimis*. The Agency further believes that using any of the other parameters, while attempting to ensure that the total emissions from the group are *de minimis*, might exclude some units that actually have low emissions. For example, a unit that burns mostly natural gas with emergency oil would be excluded from an exception limited to units that burn only natural gas. The Agency believes that an applicability criteria based on emissions would relate more directly to the objectives behind the optional exception than would other operating factors that might serve as a proxy for emissions.

2. Method for Determining Emissions

The Agency considered several methods for determining the estimated emissions as the basis for applicability of the reduced monitoring and reporting excepted methodology. For each of the methods considered, rather than using actual measured sulfur and carbon values, CO_2, SO_2, and flow CEM readings, NO_X CEM readings, or NO_X values from an Appendix E NO_X-versus-heat input correlation, a facility would calculate the unit's emissions based on an emission rate factor and default heat input. Since the units that would qualify for the excepted methodology would still be accountable for reporting emissions to the Agency and surrendering allowances based on those emissions, where applicable, the emissions estimations would not just be used to determine if the unit qualifies under the exception; the reported estimations would also be used to determine compliance. The Agency considered its goals for emissions accounting in order to establish the emission rate factors and default heat input. The Agency maintains that it would be inappropriate to select values that would potentially underestimate emissions, thereby undermining the Agency's ability to determine compliance and achieve emission reductions under title IV or any other regulatory program involving SO_2, CO_2, or NO_X. Some industry representatives suggested that facilities would be willing to use a conservative emission estimate, such as a maximum potential emission rate times the maximum heat input, if it would allow them to save time and money currently spent on monitoring and quality assurance (see Docket A–97–35, Items II–D–30, II–D–43, II–D–45, II–E–13, and II–E–25).

The Agency explored basing the estimated emissions on a unit's maximum potential emissions, i.e., converting the unit's nameplate capacity (which assumes maximum possible operation) to a maximum annual heat input for the unit and multiplying by the unit's maximum emission rate (which assumes the highest emission rate of all fuels capable of being burned at the unit). This option would have several advantages. It would ensure that emissions are not underestimated, would allow for reduced monitoring requirements, and would ensure that a unit that initially qualifies for the exception would continue to qualify without having to reevaluate the unit's emissions each year (unless some modification was made to the unit to increase its nameplate capacity or allow a higher emitting fuel to be burned). This approach, however, would likely disqualify gas-fired units that sometimes burn oil or peaking units that operate infrequently, since maximum potential emissions would be substantially higher than their actual emissions and would likely exceed the applicability criteria limit. Using this method to estimate emissions for purposes of an applicability cutoff would greatly diminish the usefulness of the reduced requirements and would fail to fully meet the intended purpose of today's proposal.

In place of using a heat input derived from maximum possible operation (i.e., nameplate capacity), the Agency considered estimating heat input by multiplying the actual operating hours times a maximum rated hourly heat input for the unit. While this would require re-evaluation of a unit's eligibility each year, this would allow an infrequently operated peaking unit to qualify if its emissions are low, which EPA believes is worth the additional burden of annual re-evaluation. Therefore, the Agency is proposing to use maximum rated hourly heat input as the heat input in the emissions

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estimation. Maximum rated hourly heat input would be defined, in § 72.2, as a unit-specific maximum hourly heat input (mmBtu) based on the manufacturer's rating of the unit or, if that value has been exceeded in practice, based on the highest observed hourly heat input. In addition, there would be provisions for a lower maximum hourly heat input to be used if the unit has undergone modifications which permanently limit its capacity.

The Agency also considered what emission rate(s) to apply, instead of using the highest emission rate of all fuels capable of being burned at the unit, in order to avoid underestimation and to allow a unit that primarily burns gas but has the ability to burn oil to qualify for the reduced requirements. The Agency believes that it would be appropriate to use emission rates based on uncontrolled emissions for the actual fuel burned in any given hour to estimate emissions for purposes of the initial and on-going applicability cutoffs to qualify to use the low mass emissions excepted methodology and for purposes of emissions reporting, allowance accounting, and compliance. This approach would avoid disqualifying gas-fired units simply because of their occasional use of oil and would also avoid underestimating emissions.

For determining SO_2 mass emissions using the low mass emissions methodology, EPA proposes the use of emission factors in lb/mmBtu based on its AP–42 air pollution emission rate factors, which are established from the sulfur content and gross calorific value of the fuel being burned (see Docket A–97–35, Items II–A–11, II–I–1). Since the SO_2 emissions are directly proportional to the amount of sulfur in the fuel and in light of the limited variability in the sulfur content of natural gas and oil, the proposed SO_2 mass emission factors should be fairly representative of uncontrolled, actual emissions. Because of the relatively low sulfur content of natural gas or oil, it is doubtful that any of such units have SO_2 controls. The proposed factors fall within the typical range of sulfur content and gross calorific value for each fuel, although somewhat on the conservative side for sulfur content of diesel fuel and natural gas other than pipeline natural gas.

For determining NO_X mass emissions and emission rate, EPA proposes using the fuel- and unit-type-specific NO_X emission rate factors based on 90th percentile emission rate data reported under part 75 generally for uncontrolled units (see Docket A–97–35, Item II–A–9). While attempting to develop an accounting approach for NO_X emissions from low mass emission units, EPA encountered several issues. The first issue involves the use of AP–42 factors. During the finalization of the core part 75 monitoring rule, EPA considered allowing peaking units with negligible emissions both individually and collectively to estimate NO_X emissions using AP–42 emission rate factors. EPA rejected this approach in the January 11, 1993 final rule preamble at 58 FR 3644–45 because the AP–42 emission rate factors are derived from industry-wide average estimates of emissions for different fuel and boiler types and are not based on actual historical operating experience of the units to which the estimates would be applied. Applying AP–42 factors could result in underestimation of NO_X emissions because actual NO_X emissions can vary significantly from unit to unit. The formation of NO_X from the combustion of fossil fuels is dependent on the amount of nitrogen in the fuel being combusted and on the mix of nitrogen and oxygen in combustion air. Further, the NO_X formation process depends on unit-specific factors of combustion gas temperature and stoichiometry of fuel and air local to the flame. Consequently, there can be significant variations in the level of NO_X emissions from unit to unit due to variations in combustion conditions. Therefore, EPA is not proposing the use of AP–42 factors to estimate NO_X emissions from low mass emissions units. Instead, now that three years of actual historical operating data collected under part 75 are available, it was possible to develop the default NO_X emission rate factors being proposed today. Although the default NO_X emission rate factors in today's proposal are generic factors, they should not underestimate NO_X emissions because they are based on the 90th percentile of actual annual average emission rates reported generally from uncontrolled units under part 75.

The Agency also considered using site-specific NO_X emission rate factors based on historical emission data or emissions testing data for the unit. For example, a facility might use the maximum value ever recorded by the CEM for the unit, or it might use the highest NO_X emission rate value calculated from the unit's most recent Appendix E NO_X test, or it might use site-specific values similar to those discussed in the guidance manual for implementing the NO_X budget program in the OTR (see Docket A–97–35, Item II–I–7). The application of site-specific NO_X emission factors for low mass emission units raises several issues. First, for units with pollution controls where the emission factor is based on controlled emissions, the site-specific emission factor could underestimate actual emissions if the controls are not operating properly. EPA considered only allowing site-specific NO_X emission factors with units that do not utilize NO_X emission controls; however, EPA realizes that many units employ at least some form of NO_X emission controls (e.g., water or steam injection). EPA also considered allowing a source with controls to use a site-specific emission factor only if it could demonstrate that the pollution controls are operating properly. However, this would involve extensive, additional recordkeeping and tracking to verify the proper operation of pollution controls and ensure that emissions are not underestimated; this would run contrary to the general approach under the exception of reducing monitoring and reporting requirements. A second issue involves verifying that the site-specific NO_X emission factor is still representative over time or after unit modifications. This would require future NO_X emission rate testing. Therefore, for purposes of creating a methodology that is simple to implement and in order to reduce future testing requirements for facilities with low mass emitting units, the Agency proposes instead using NO_X emission rate factors based on fuel and unit type and reflecting uncontrolled emissions. EPA requests comments on this approach, whether other approaches should be used, and especially whether there are any additional boiler types not represented in today's proposed rule for which NO_X emission rates should be provided.

For determining CO_2 mass emissions, today's rule proposes to use CO_2 emission rate factors in tons/mmBtu. The CO_2 emission rate factors are derived based on ideal gas theory and standard Agency F_c factors for estimating the volume of CO_2 to be emitted when a certain heat input of a particular fuel is burned (see Docket A–97–35, Item II–A–11). This resembles the approach currently used in Equation G–4 of Appendix G for gas-fired units.

Therefore, the Agency believes that an appropriate method of estimating emissions for the purposes of qualifying for a reduced monitoring and reporting exception and for purposes of emissions accounting and compliance for units under the exception is to calculate emissions based on the actual number of operating hours and the actual fuel burned using maximum rated hourly heat input and fuel-based and, for NO_X unit-type-based, emission factors. The Agency requests comments on this approach and on whether an alternate

approach should be used. While the Agency believes that the resulting emissions estimates will in most, if not all, cases be conservative and result in an overestimation of emissions, it would be possible, however unlikely, that the estimate could underestimate the actual emissions for some types of units. Therefore, for existing units with historical emissions data available, the proposal would require that in addition to meeting the applicability criteria using the emissions estimates calculated as described above, the unit would have to meet the cutoffs for initial qualification for the exception using the actual annual emissions monitored during the three years prior to applying to use the exception.

3. Cutoff Limit for Applicability

EPA began developing applicability criteria by first considering the level of projected aggregate emissions determined to be *de minimis* for purposes of developing the new unit exemption promulgated in the January 11, 1993 Acid Rain permitting rule (*see* 58 FR 3593–94 and 3645–46). Aggregate emissions projected for units under the exemption were approximately 138 cumulative tons of SO_2 and 1934 cumulative tons of NO_X emitted per year. The Agency then conducted a study of actual emissions data from 1996 quarterly reports under part 75 and evaluated potential tonnage cutoffs for SO_2 and NO_X. The Agency compared the cumulative mass emissions from groups of units emitting less than various specified amounts to the total emissions reported under the Acid Rain program during the year (see Docket A–97–35, Item II-A–10). For example, the study shows what proportion of total SO_2 was emitted by units with both actual and potential [1] emissions of 25 tons or less per year, 50 tons or less per year, 60 tons or less per year, and 75 tons or less per year. From these analyses, EPA also estimated how many units might be eligible for reduced requirements for determining emissions and how much of an impact the new emissions accounting option would have on nationwide emissions accounting.

EPA is proposing cutoff values of 25 tons per year of SO_2 and 25 tons per year of NO_X. In order to qualify as a low mass emissions unit, a unit would have to demonstrate that both actual historical emissions and potential emissions (calculated with maximum hourly heat input, emission factors and either, for existing units, actual historical number of operating hours or, for new units, projections of future annual operating hours) do not exceed 25 tons each for SO_2 and NO_X on an annual basis. Based upon its analyses (see Docket A–97–35, Item II-A–10), EPA estimates that this tonnage cutoff level would mean that the group of units subject to the proposed reduced requirements, even after Acid Rain Program emission reductions are considered, would have total annual emissions of about 16 tons of SO_2 and 90 tons of NO_X (less than a thousandth of a percent of total annual SO_2 emissions and about 0.002 percent of total annual NO_X emissions for all affected units). Both amounts, 16 tons of SO_2 and 90 tons of NO_X, are less than the total number of tons of those pollutants determined to be *de minimis* for purposes of the new unit exemption. Today's proposal to treat low mass emission units as *de minimis* is consistent with the *de minimis* conclusions reached for new units.

While the reduced requirements are somewhat less accurate than the methodologies under the existing regulations, the reduced requirements are intended to yield emissions data that are conservative and that, to the extent they are inaccurate, are likely to overstate emissions. Moreover, EPA believes that the level of inaccuracy (i.e., overstatement of emissions) would similarly be extremely low (i.e., less than a thousandth of a percent). Both the total emissions subject to the reduced requirements and the potential amount of overstatement of emissions are *de minimis*. Moreover, any overstatement of regulated emissions would have the effect of tightening emission limits (e.g., by requiring surrender of more allowances for SO_2 than otherwise). Any overstatement of other emissions would be too small to affect adversely the air quality related activities (e.g., air quality modeling) for which the emissions data would be used.

EPA would, however, be concerned about extending today's proposed reductions in monitoring, quality assurance, and reporting requirements to units that exceed the 25-ton cutoffs for actual or potential emissions. Section 412 of the CAA requires all affected units to monitor SO_2, volumetric flow, NO_X, and opacity using continuous emission monitoring systems or an alternative monitoring system approved by the Administrator as having the same precision, reliability, accessibility, and timeliness. In addition, section 412 of the Act requires that emissions data be quality-assured. Section 821 of the Clean Air Act Amendments of 1990 provides that, through regulations issued by the Administrator, all affected units must be required to monitor CO_2 emissions in the same manner and to the same extent as SO_2 and NO_X are monitored under section 412. Part 75 of EPA's rules requires monitoring of SO_2, NO_X, and CO_2 and allows certain exceptions to the statutory requirement for CEMS or CEMS-equivalent alternative monitoring: in Appendix D because, *inter alia*, the information gathered using the Appendix D methods is as precise, reliable, accessible, and useful as that from CEMS, and compares acceptably with regard to timeliness; and in Appendix E because the emissions from all units eligible to use Appendix E are negligible and such units do not have emission limitations for NO_X under the Acid Rain Program (see 58 FR 3641–45). The proposed reduced monitoring and reporting requirements for low mass emissions units would not yield information equivalent to that from CEMS. EPA must balance the benefits of reduced monitoring, quality assurance, and reporting requirements for units against the intent of the statute that monitoring with CEMS or their equivalent be required so as to obtain reliable, precise, timely, and readily accessible information on emissions. EPA solicits comment on whether 25 tons is the appropriate cutoff level for applicability of the low mass emission excepted methodology.

In particular, EPA is concerned that extending the proposed reduction in requirements to units with more than this *de minimis* level of emissions could have a negative impact on the environment. Emissions data from the Acid Rain Program are being used for a variety of efforts, including emissions modeling and establishing baseline emissions information (prior to any emission reductions) for new air pollution control programs. Using less accurate methods to monitor more than a *de minimis* amount of emissions could potentially undermine efforts to establish baseline emissions and to assess what emission reductions have already taken place and how much further emissions must be reduced in order to meet air quality standards.

Furthermore, with regard to coal-fired units, such units account for the largest proportion of all emissions, tend to be operated more frequently, and generally have much higher emission rates in lb/mmBtu for SO_2, NO_X and CO_2, and the majority of the units have emission limitations and emission reduction

[1] The terms "potential emissions" used in this section of the preamble have a different meaning than the terms "potential to emit" used elsewhere by the Agency.

requirements for SO_2 and NO_X. In addition, the sulfur content in coal and gaseous fuels other than natural gas is much more variable than for natural gas and oil, and the emission factors for coal or gaseous fuels other than natural gas, particularly an SO_2 emission factor, are therefore less reliable and much more likely to understate, rather than overstate, emissions. Based on these considerations, the proposed rule would restrict the use of the reduced requirements to gas-fired units and oil-fired units that burn natural gas and/or fuel oil.

In order to qualify for the proposed low mass emissions excepted methodology, the proposed applicability criteria would require a unit to meet annual tonnage cutoffs of 25 tons each for SO_2 and NO_X. EPA considered whether the excepted methodology should be available on a pollutant specific level so that, for example, a unit which falls below the tonnage cutoff for SO_2 but not for NO_X could use the proposed excepted methodology under § 75.19 to measure SO_2 emissions but use a NO_X CEM or the excepted methodology under Appendix E, where applicable, to measure NO_X emissions. EPA believes this approach would not be appropriate because some of the same monitoring equipment and reporting software is necessary for measuring and reporting both of the pollutants. One of the prime benefits of the low mass emissions excepted methodology would be the simplified reporting which would require less time and a less sophisticated Data Acquisition and Handling System. In particular, the need for a DAHS that could calculate substitute data using the missing data algorithms would be removed because there are no missing data algorithms for the low mass emissions excepted methodology. If the excepted methodology is only applied to one of the pollutants, much of the benefit would be negated because the DAHS would still need to be capable of calculating substitute data for the measured pollutant and close to the full quarterly report would still be required. Another prime benefit of the proposed low mass emissions excepted methodology would be the removal of monitoring and quality assurance requirements. However, EPA believes that almost all units that would qualify for a 25-ton cutoff for only one pollutant would meet the cutoff for SO_2, not NO_X, and would already be using Appendices D and E. A unit using a fuel flowmeter to determine SO_2 mass emissions under Appendix D likely uses the same fuel flowmeter to determine CO_2 emissions and heat input. Additionally, the same fuel flowmeter is used to determine NO_X emissions under Appendix E. Even if the unit were allowed to use the proposed low mass emissions excepted methodology for SO_2 in lieu of Appendix D, the unit would still have to install, certify, operate, maintain, quality assure, and report from a fuel flowmeter to determine NO_X emission rate and heat input. Accurate heat input is important since heat input is used to calculate NO_X mass emissions. In short, the cost of operation, maintenance, and quality assurance of the fuel flowmeter would not be removed simply by removing the requirement to monitor SO_2. Even if a unit that qualified under the low mass emissions excepted methodology for SO_2 but not for NO_X was currently monitoring with Appendix D, for SO_2 and heat input, and using a NO_X CEM, for NO_X emission rate, using the excepted methodology for SO_2 but not for NO_X would have little benefit since the installation, certification, and quality assurance testing of the fuel flowmeter would still be required to determine heat input. Therefore, today's proposed low mass emissions excepted methodology would be provided as an option only if the unit has low mass emissions of both SO_2 and NO_X. EPA solicits comment on this approach and on whether any benefit of allowing the excepted methodology for one pollutant only would outweigh the added complexity in the excepted methodology.

EPA also considered whether a tonnage cutoff for CO_2 emissions was appropriate as part of the proposed applicability criteria for low mass emissions units. However, the proposed excepted methodology under § 75.19 would require the use of a standard emission factor (in lb of NO_X/mmBtu) for NO_X to determine eligibility for the exception. This would effectively establish an upper limit on the annual heat input for a given fuel and boiler type at the level that would allow the unit to meet the tonnage cutoff applicability requirements. Because CO_2 emissions are directly proportional to heat input, there would be a built-in annual CO_2 emissions cutoff inherent in the methodology.

4. Continuing Applicability Criteria

In drafting today's proposal, EPA also considered how to ensure that after individual units initially qualified to use the reduced monitoring exception, they could continue to use the exception only if they continued to have *de minimis* emissions. Many of the units that would qualify as low mass emissions units under the proposal have low emissions either because they use pipeline natural gas and/or because they operate infrequently. In both of these situations, it is conceivable that a unit's emissions could become significant if the unit's fuel or hours of operation were to change. Most gas-fired units are capable of burning oil, but generally do so only when pipeline natural gas is not available. However, if the prices of gas and oil were to change such that oil became far more economical than gas, some gas-fired units might switch to burning high sulfur oil. Similarly, increases in demand for electricity could cause some peaking units to operate more frequently, thereby generating more emissions. Therefore, EPA is proposing that in order to ensure that emissions from units using the reduced requirements would remain *de minimis*, units would have to continue to meet the applicability criteria in order to qualify as low mass emissions units. Because of the conservative heat input and in some cases, conservative emission factors, the Agency believes that meeting the applicability criteria of less than 25 tons of both SO_2 and NO_X when calculating the emissions using the low mass emissions excepted methodology, will ensure that the actual emissions of the low mass emission units will be below those levels. Therefore, once the methodology is implemented, the on-going applicability would only require that the limits be met with the calculated mass emissions, i.e., the facilities would be required to continue to meet the 25-ton cutoffs on an annual basis, as determined using the emission calculation procedures in proposed § 75.19.

It would, therefore, be necessary for low mass emissions units to report NO_X mass emissions, in addition to the required SO_2 mass emissions and NO_X emission rate, in order to determine continuing applicability. A continuing applicability provision of this nature would prevent a unit from continuing to use the reduced requirements when its emissions were no longer negligible. If a unit initially met the applicability criteria but failed to meet one or both of the annual 25-ton cutoffs in a future year, the unit would become disqualified from using the exception. Sufficient time would be necessary to purchase, install, and certify CEMS or the equipment necessary for monitoring under Appendices D and/or E. Therefore, a unit would not be disqualified until two calendar quarters after the quarter in which the 25-ton cutoff is exceeded and would not be required to certify and report from

monitoring systems until then. If that unit changes, or is projected to change, its fuel or amount of operation in the future so that it would again meet the 25-ton SO_2 and NO_x cutoffs, the unit could again qualify as a low mass emissions unit. However, if the unit initially qualified based on projected operating hours and fuel usage and then was disqualified the unit could not use projected data to qualify again. The unit would need to monitor using CEMS, an approved alternative monitoring system, or an optional protocol under Appendices D and/or E, where applicable, for at least an additional three years in order to accumulate three years of actual data.

5. Reduced Monitoring and Quality Assurance Requirements

As discussed above, today's proposed rule would allow facilities to use a maximum rated hourly heat input value and an emission rate factor to determine the mass emissions from a low-emitting unit for each hour of actual operation. This approach would involve no actual emissions monitoring and no quality assurance activities. Instead, the facility would only need to keep track of whether the unit combusted any fuel for a particular hour and what type of fuel was combusted. In this way, the proposed revisions would significantly reduce the burden on affected facilities, while still ensuring that emissions are not underreported.

6. Reduced Reporting Requirements

Some utilities have mentioned that they find it troublesome to spend as much time or more reviewing quarterly report submissions for small, infrequently operating gas-fired units as they spend reviewing quarterly report submissions for large coal-fired units (see Docket A–97–35, Items II–D–75, II–E–25). EPA agrees that facility environmental personnel should be able to spend a greater percentage of their time focusing on units with higher emissions than on low mass emissions units, which, as discussed above, account for such a small portion of total emissions. Thus, today's proposed rule would simplify the reporting requirements for low-emitting units so that facilities could spend less of their environmental department resources on units with negligible emissions. For units that rely on the procedures in proposed § 75.19(c), the owner or operator would have no requirements related to records or reports of certification testing and would be exempt from all of the specific recordkeeping requirements in §§ 75.54(b) through (e) or 75.57(b) through (e) relating to operating parameter and emissions records. Instead, the rule would require only that an initial certification application, containing data supporting the applicability demonstration, and a monitoring plan be submitted and that limited hourly, quarterly, and year-to-date cumulative data be reported on a quarterly basis. The hourly record would only be reported for hours of unit operation, and an hour in which the unit combusted fuel for any portion of the hour would be considered a full hour, for simplicity.

One utility has suggested that it would be less burdensome if it could simply report its quarterly cumulative emissions, without reporting any supporting hourly data; other utility representatives have indicated that it would be no more burdensome to report an hourly default emission value if the utility were already reporting hourly operating information (see Docket A–97–35, Item II–E–25). For purposes of modeling air quality, the Agency considers hourly operating information far more valuable (e.g., for modeling discrete periods of ozone exceedance) than just a quarterly emission value with no time or date mentioned. Furthermore, because facilities already keep track of the operation of their units for business purposes, keeping track of and reporting hourly operating information should not be a substantial burden. According to industry representatives, however, allowing facilities to record and report default emission values instead of hourly measured values would significantly speed up their review of quarterly reports prior to submission to the Agency (see Docket A–97–35, Item II–E–25). Thus, requiring facilities to report hourly operational data and the default emissions data for the fuel burned that hour, but not hourly measured emissions or heat input in additional record types, would preserve the Agency's ability to model air quality while imposing far less burden upon facilities than the current part 75 requirements. Furthermore, because hourly default values would be employed, the need for missing data procedures would be eliminated and the Data Acquisition and Handling System (DAHS) could be greatly simplified. In fact, the reporting requirements for a low mass emissions unit could most likely be fulfilled with the use of a commercially available spreadsheet software package. EPA has incorporated this approach into today's proposed rule.

D. Quality Assurance Requirements for Moisture Monitoring Systems

Background

Section 75.11(b) of the original January 11, 1993 Acid Rain rule requires the owner or operator to continuously (or on an hourly basis) account for the moisture content of the stack gas when SO_2 concentration is measured on a dry basis. The moisture content is needed to correct the measured hourly stack gas volumetric flow rates to a dry basis when calculating SO_2 mass emission rates in lb/hr. Section 75.13(a) of the rule, as amended on May 17, 1995, contains provisions for CO_2 monitoring paralleling the provisions of § 75.11(b); that is, when CO_2 concentration is measured on a dry basis, a correction for stack gas moisture content is needed to accurately determine the CO_2 mass emissions. The stack gas moisture content is also needed when a dry-basis O_2 monitor is used to account for CO_2 emissions and, in some instances, when accounting for unit heat input (see §§ 75.13(c), 75.16(e), and Equations F–14b, F–16, F–17 and F–18 in Appendix F) or when determining NO_x emission rate in lb/mmBtu (see section 3.2 in Appendix F, and Equations 19–3 through 19–5, 19–8, and 19–9 in Method 19 of Appendix A to part 60).

As presently codified, part 75 does not specify any quality assurance requirements for moisture measurement devices. Implementation has shown this to be an unfortunate omission in the rule, since approximately 5 to 10 percent of the continuous emission monitors in the Acid Rain Program require moisture corrections to accurately measure SO_2, CO_2, or NO_x emissions or heat input (see Docket A–97–35, Item II–I–6). The accuracy of the stack gas moisture measurements directly affects the accuracy of the reported SO_2 mass emission rates, CO_2 mass emission rates, NO_x emission rates and heat input values. An error of 1.0 percent H_2O in measured moisture content causes a 1.0 percent error in the reported emission rate or heat input value. Failure to quality assure the moisture data can therefore result in significant under-reporting of SO_2, CO_2, and NO_x emissions and heat input. The Agency does not know the extent of inaccuracy that currently exists in the measurement of moisture by affected units but believes it is important to require certification and quality assurance of moisture monitors—just as is required for other CEMS used under part 75—because the success of the SO_2 trading system depends on accurate monitoring.

Discussion of Proposed Changes

Today's proposal would incorporate into part 75 quality assurance requirements for moisture monitoring systems. Section 75.11(b) would be revised to require the owner or operator to install, maintain, operate, and *quality assure* a moisture monitoring system. Proposed § 75.11(b) also specifies that a moisture monitoring system may either consist of: (1) a continuous moisture sensor; (2) an oxygen analyzer (or analyzers) capable of measuring O_2 on both a wet basis and on a dry basis; or (3) a system consisting of a temperature sensor and a certified DAHS component capable of determining moisture from a lookup table, i.e., a psychrometric chart (this third option would apply only to saturated gas streams following wet scrubbers). Corresponding changes would be made to §§ 75.12, 75.13(c) and 75.16(e) to require that a quality assured moisture monitoring system be used whenever moisture corrections are needed to accurately account for NO_x emissions, CO_2 emissions, or heat input.

Requirements for the initial certification of moisture monitoring systems are proposed in three new sections, §§ 75.20(c)(5), (c)(6), and (c)(7). To make room for the new sections, existing § 75.20(c)(3) would be deleted; existing §§ 75.20(c)(4) and (c)(5) would be redesignated as §§ 75.20(c)(3) and (c)(4); and existing §§ 75.20(c)(6), (c)(7), and (c)(8) would be redesignated, respectively, as §§ 75.20(c)(8), (c)(9), and (c)(10). The certification requirements for continuous moisture sensors are found in proposed § 75.20(c)(6) and include a 7-day calibration error test and a relative accuracy test audit (RATA). For moisture monitoring systems consisting of one or more wet- and dry-basis oxygen analyzers, the proposed certification requirements are found in § 75.20(c)(5) and include a 7-day calibration error test, a linearity test and a cycle time test of each O_2 analyzer, and a RATA of the moisture measurement system. Corresponding revisions to § 75.22(a)(4) are proposed, specifying that EPA Method 4 (either the standard procedure or the midget impinger procedure) would be used as the reference method for the moisture RATAs. For saturated gas streams, if a lookup table is used to determine the hourly stack gas moisture content, the certification requirement in proposed § 75.20(c)(7) would consist of a DAHS verification. At a minimum, the DAHS verification would have to demonstrate, at three temperatures covering the normal range of stack temperatures, that the software extracts the proper moisture value from the lookup table and applies it correctly to the emission calculations. In today's proposal, a new § 75.4(i) would also be added, requiring owners or operators to complete all of the applicable moisture monitoring system certification tests specified in proposed §§ 75.20(c)(5), (c)(6), and (c)(7) no later than January 1, 2000.

Proposed performance specifications for moisture monitoring systems are found in sections 3.1, 3.2, 3.3, and 3.5 of Appendix A to part 75. These specifications would apply to continuous moisture sensors and to wet- and dry-basis oxygen analyzers. The proposed calibration error specification in section 3.1 for continuous moisture sensors is 3.0 percent of span. A new section, 2.1.5, would be added to Appendix A, defining the span of a moisture sensor as equal to the full-scale range of the instrument and requiring that the range be consistent with section 2.1 of Appendix A. For moisture monitoring systems consisting of wet- and dry-basis O_2 analyzers, the proposed span values and performance specifications for calibration error, linearity, and cycle time in sections 2.1.3, 3.1, 3.2, and 3.5 of Appendix A would be the same as the current specifications for O_2 monitors. The proposed relative accuracy (RA) specification for moisture monitoring systems is found in a new section, 3.3.6, in Appendix A and would be equal to 10.0 percent. An alternative RA specification would also be provided in section 3.3.6, i.e., the relative accuracy would also be acceptable if the difference between the mean difference of the reference method measurements and the moisture monitoring system measurements is within ± 1.0 percent H_2O. A relative accuracy specification of 10.0 percent is being proposed in order to maintain consistency with the relative accuracy requirements for the other program monitors (SO_2, NO_x, flow rate, and CO_2). The Agency notes that moisture RATAs have not previously been required by any other EPA continuous monitoring regulation, and therefore there is no relative accuracy database upon which to draw. However, moisture data are sometimes collected using EPA Method 4 during each run of a part 75 gas monitor RATA to convert the gas reference method readings from a dry basis to a wet basis. Therefore, some part 75 sources that currently account for moisture using wet- and dry-basis oxygen analyzers or a moisture sensor should be able to construct moisture RATAs from previous test data by comparing the Method 4 moisture data from the gas monitor RATAs against the readings recorded by the moisture sensor or O_2 analyzers at the time of the gas RATAs. EPA encourages those facilities that currently make moisture corrections in their emission equations to perform this type of data analysis, if possible, and to provide comment on the appropriateness of the proposed moisture relative accuracy specification.

On-going QA requirements for moisture monitoring systems are also proposed in sections 2.1.1, 2.1.4, 2.2.1, 2.3.1.1, and 2.3.1.2 of Appendix B to part 75. Proposed section 2.1.1 of Appendix B would require daily calibrations of moisture monitoring systems. Continuous moisture sensors would be calibrated in accordance with the manufacturers' recommended procedures. Proposed section 2.1.4 would give control limits for the daily calibrations (i.e., ± 1.0 percent O_2 for oxygen analyzers and ± 6.0 percent of span for continuous moisture sensors). Proposed section 2.2.1 would require quarterly linearity checks of wet- and dry-basis oxygen analyzer(s). Proposed section 2.3.1.1 would require semiannual RATAs of moisture monitoring systems, and proposed section 2.3.1.2 would specify that if a moisture monitoring system achieves a relative accuracy of ≤ 7.5 percent or if the mean difference between the CEMS and reference method values is within ± 0.7 percent H_2O, the system qualifies for an annual, rather than semiannual RATA frequency.

Missing data procedures for moisture are included in today's proposal in a new section, § 75.37. The proposed missing moisture data procedures are as follows:

(1) Begin by using the following "initial" missing data procedures as of the date and time of provisional certification of the moisture monitoring system or as of January 1, 2000 (whichever is earlier). Substitute 0.0 percent moisture for each hour of missing data if no prior quality assured data exist, and for the first 720 hours of quality assured monitor operating data, substitute, for each hour of each missing data period, the average of the "hour before" and "hour after" moisture values.

(2) After 720 hours of quality assured data have been obtained, provided that the moisture data availability is ≥ 90.0 percent, substitute the average of the "hour before" and "hour after" values for each hour of the missing data period.

(3) When the percent data availability for moisture is below 90.0 percent, substitute 0.0 percent moisture for each hour of the missing data period.

These proposed missing data procedures are considerably simpler than the corresponding procedures for SO_2, NO_X, CO_2, and flow rate, in that they do not include the concepts of lookback periods, 90th, or 95th percentile values. However, the procedures are also somewhat less representative than the missing data procedures for SO_2, NO_X, CO_2, and flow rate, because the most conservative possible value (0.0 percent moisture) is substituted when the moisture monitor data availability drops below 90.0 percent. The Agency solicits comment on whether the simpler (but less accurate) missing data procedures or the more complex (but more representative) procedures are more appropriate.

Finally, §§ 75.57(c) and 75.59(a) (revised versions of §§ 75.54(c) and 75.56(a)) would be added in today's proposal to require that records be kept of the following: (1) Component-system identification code for the moisture monitoring system; (2) hourly average moisture readings (including, if applicable, hourly averages from each wet- and dry-basis O_2 analyzer); (3) percent data availability for the moisture monitoring system; (4) daily and 7-day calibrations of moisture monitoring systems; (5) linearity tests of each wet and dry oxygen analyzer used to determine moisture; and (6) relative accuracy tests of moisture monitoring systems.

In summary, EPA is proposing quality assurance (QA) procedures for moisture monitoring systems because the Agency believes that continuous, quality assured, direct measurement of the stack gas moisture content or continuous measurement of surrogate parameters, such as wet- and dry-basis oxygen concentrations, is the best way to ensure the accuracy of the reported emission data when moisture corrections must be applied. However, the Agency is willing to consider and solicits comment on simpler alternative methods of accounting for the stack gas moisture content, such as using a conservative default moisture value. Any proposed alternative methodology submitted to the Agency for consideration would have to provide a comparable level of accuracy and would have to ensure that emissions and heat input are not under-reported.

E. Certification/Recertification Procedural Changes

Background

Currently, § 75.20 lays out the process for certifying monitoring systems. Section 75.20(a) specifies the requirements for initial certification, including the contents of a certification application, when the application must be submitted and the process for reviewing and acting on an application. Sections 75.20(a)(3) and (4) of the existing rule establish a certification application review period of 120 days (after receipt of a complete application) for EPA to review an application and issue an approval or disapproval. For a continuous emission monitor (CEM), initial certification includes the following tests: relative accuracy, bias, linearity (pollutant monitors only), 7-day calibration error, cycle response time (pollutant monitors only), missing data, and formula verification. All of these tests must be passed for a CEM to be certified and produce valid quality assured data. Once a CEMS is certified, § 75.20(b) specifies that if something changes that significantly affects the ability of the CEM to accurately measure concentration or volumetric flow, the affected monitoring system(s) must be recertified. Recertification includes one or more of the initial certification tests. All required recertification tests must be passed, and a recertification application must be submitted in order for a CEM to be recertified. Section 75.20(b)(5) of the existing rule establishes a 60 day review period for recertification applications. Separate but similar certification and recertification test requirements apply for a monitoring system other than a CEM, i.e., an excepted monitoring system under Appendix D or E, an alternative monitoring system under subpart E, or a system under proposed Appendix I.

Submittal requirements for certification and recertification applications are included in §§ 75.60 and 75.63 of the current part 75. Generally, these provisions require submittal of certification test results in electronic formats, with some information required to be submitted in hardcopy format. Certification or recertification test results also must be submitted electronically in quarterly reports under § 75.64. Finally, § 75.61 requires the designated representative to provide advance notice to the applicable state or local agency and EPA Regional Office of certification and recertification testing.

In many respects, monitoring plan requirements are tied to the certification/recertification process because a modification to the monitoring system that requires a recertification application also usually requires a monitoring plan update. In addition, because it contains the information about what type of equipment is located where, the monitoring plan is an essential tool in the review of a certification or recertification application. Section 75.53 specifies the content of monitoring plans and when changes to the plan are required. Section 75.62(a) specifies the submission requirements for monitoring plans.

Based on EPA's initial experience with part 75 implementation and the numerous questions and problems encountered in the review of certification and recertification applications and monitoring plans, the Agency believes that the certification and recertification provisions and the related sections of the rule are possibly neither sufficiently detailed nor clear. Therefore, in today's rulemaking, EPA is proposing to revise those provisions and sections in order to improve the certification/recertification process. The issues addressed in today's proposed rule include the following: (1) whether a particular provision applies to initial certification, recertification, or both; (2) the scope of events that require submittal of a recertification application; (3) the review period lengths for initial certification and recertification applications; (4) the criteria governing disapproval of an incomplete certification or recertification application; (5) the format (electronic or hardcopy) in which test notifications, certification and recertification applications, and monitoring plans are to be submitted; (6) which EPA Regional Offices and state and local agency offices must receive test notifications, certification and recertification applications, and monitoring plans, and whether the submittal and notice requirements can be waived; and (7) when a monitoring plan needs to be revised. The proposed revisions on these topics and the rationale for the changes are discussed below.

The Agency notes that today's package of proposed revisions to part 75 includes other substantive revisions to the certification and recertification provisions in part 75. These are discussed elsewhere in this preamble. The provisions of most significance are related to certain proposed QA/QC revisions, back-up monitoring systems, CEM data validation issues, and the new Appendix I procedures. See sections III.D, O, R and T of this preamble for further discussion.

Discussion of Proposed Changes

The proposed revisions discussed in this section affect § 75.20 generally, as well as specific aspects of §§ 75.20(a)(4), (b)(1), (b)(5), and (g)(6); 75.21(e)(1); 75.53(b); new § 75.53(e) and (f); 75.60(b); 75.61(a); 75.62(a); 75.63(a) and

(b); 75.64(a), (b) and (d) and the addition of § 75.59 as a revised version of § 75.56. Proposed revisions to § 75.20 would clarify which provisions apply to initial certification, recertification, or both. Proposed revisions to § 75.20(b)(1) and (g)(6) would provide a narrow definition of recertification events, thereby significantly reducing the number of monitoring system changes, configuration changes or changes in the manner of operation that would require submission of a recertification application. Proposed revisions to § 75.20(b)(5) would make the lengths of the review periods the same for initial certification and recertification applications. Proposed revisions to § 75.20(a)(4) would clarify what constitutes a complete certification or recertification application and also would more clearly define EPA's authority to disapprove an incomplete application.

Proposed revisions to § 75.53(b) would expand the universe of monitoring system changes that require monitoring plan revisions to include any change that would make the information in the current plan inaccurate (currently, only changes that require recertification require monitoring plan changes). Sections 75.53(e) and (f), which are revised versions of existing § 75.53(c) and (d), would clarify which elements of a monitoring plan must be submitted in electronic format and which elements must be submitted in hardcopy format. Section 75.53(e) would revise existing § 75.53(c) so that after January 1, 2000 an owner or operator would have to report the unit stack height in the monitoring plan. Section 75.59 (a revised version of § 75.56) would specify the minimum required content (as of January 1, 2000) for the hardcopy portion of a certification or recertification application. Section 75.60(b) would more clearly define the general requirements for submittal of reports and petitions. Section 75.61(a) would allow for certification and recertification test notices to be sent in various alternative media and would allow for EPA or a State or local agency to waive test notices in some circumstances. Section 75.62(a) would be revised to clarify when monitoring plans are to be submitted and to whom elements of the monitoring plan must be submitted. Similarly, § 75.63(a) would be revised to detail which elements of a certification or recertification application are to be submitted electronically, which elements are to be submitted in hard copy, and to whom the various elements would be submitted. Section 75.63(b) would clarify when and how failed tests are to be reported in a certification or recertification application. Finally, § 75.64(a) would specify that the hardcopy monitoring plan is not to be submitted with a quarterly report. The rationale for these changes is discussed below.

Rationale

1. Initial Certification Versus Recertification

Several provisions in the current rule refer either to certifications or to certification applications; however, it is not always clear whether these provisions apply solely to initial certifications or whether they also apply to recertifications. Therefore, today's proposed revisions would make a number of minor text edits throughout § 75.20 for clarification. There are, however, some events that do not fit neatly under the definition of initial certification or recertification (e.g., construction of a new stack with a new CEM at an existing unit when a scrubber is installed). This element of subjectivity in classifying an event as a certification or recertification makes it desirable for the certification and recertification processes to be as similar as possible. Having one general process with one set of rules rather than having two separate processes also makes program implementation easier. Currently, the main differences between initial certifications and recertifications are the types of tests required and the lengths of the application review periods. Today's proposed rule revisions would attempt to minimize these differences to the extent possible in order to bring greater uniformity and consistency to the certification and recertification process.

(a) *Scope of Recertification Events.* The proposed revisions would narrow the scope of the types of changes to a monitoring system that would be classified as "recertification events" and would require submittal of a recertification application. Sections 75.20(b)(1) and (g)(6) would define a recertification event as any change that requires the performance of an accuracy test of a monitoring system, i.e., either a relative accuracy test audit (RATA) of a CEMS, an accuracy test of a fuel flowmeter, or a retest to develop the Appendix E NO_x correlation curve. For changes to a monitoring system or process that do not require a system accuracy test but require one or more of the other (lesser) quality assurance tests to be performed (e.g., linearity test or 7-day calibration error test), those other required tests would be classified as diagnostic tests rather than as recertification tests in § 75.20(b)(1) of the proposal. For instance, a source would be required to conduct a linearity check after replacing a capillary tube in a gas analyzer with a tube from a like model and manufacturer (see Docket A–97–35, Item II–I–9, Policy Manual, Question 13.13). However, because this change to the CEMS does not require a RATA, it would not be considered a recertification event. Therefore, no recertification application would be required, and the linearity test would be considered a diagnostic test. Note that even though diagnostic tests would not be classified as recertifications, the recertification data validation procedures in proposed § 75.20(b)(3) of today's rule would apply to these tests. EPA believes that the proposed narrowing of the definition of a recertification event will significantly reduce the number of required recertification applications and will make the submittal requirements for initial certifications and recertifications more consistent.

(b) *Recertification Review Period.* Consistent with the proposed narrowing of the definition of a recertification event, EPA also proposes to revise § 75.20(b)(5) by increasing the recertification application review period from 60 days to 120 days to make it the same as the review period for initial certifications. The advantage of making the two review periods consistent is that there would be no need to distinguish which requirements are applicable to which events. Some events combine aspects of initial certification and of recertification. For example, the certification of a new CEMS on a new stack at an existing unit when a scrubber is installed can be thought of as initial certification because it is an entirely new system in a new location; however, this event also involves aspects of recertification because it is an existing unit which has been reporting emissions from certified systems. Therefore, the Agency believes that making the review periods the same would reduce confusion and case-by-case determination of how long the review period should be for a given application. The Agency believes that it would be more effective to establish consistent procedural requirements for both initial certification and recertification events, rather than attempting to classify each event as an initial certification or recertification.

In making the review periods consistent, EPA considered reducing the length of the review period for initial certifications. EPA considered both the

time it takes to complete a thorough technical review of an application and the time it takes to resolve issues raised during that technical review. The resolution of issues raised during a review can take a significant amount of time because it involves coordination between the source submitting the application, the applicable state and/or local air agency, the applicable EPA Regional Office, and the Acid Rain Division at EPA headquarters. Therefore, even though EPA would anticipate receiving fewer recertification applications under today's proposed revisions, EPA believes that a 120-day review period is necessary for recertifications (which, according to today's proposed definition of a recertification event, would involve the review of monitoring system accuracy tests) in order to coordinate resolution of issues raised during the technical review of an application.

EPA recognizes that there are concerns with increasing the recertification review period to longer than 60 days, as more hours of data could be invalidated if an application were disapproved. However, EPA believes that the criteria for approval of monitoring system certification tests are clear and that when an application is submitted, the owner/operator should know whether or not the performance specifications of part 75 have been met. In EPA's experience of four years of implementation, disapprovals are rarely issued; in fact, less than 2 percent of all monitoring system applications submitted between 1993 and September 1997 were disapproved (see Docket A–97–35, Item II–A–4). In most cases where applications have been disapproved, the owner or operator should have been aware of the deficiencies before the application was submitted. Additionally, EPA has found that a longer review period has allowed more time to resolve minor deficiencies which could have served as grounds for disapproval, but which, given sufficient time, were often resolved without issuing a notice of disapproval and without invalidating any hourly emissions data.

2. Disapproval of an Incomplete Application

Section 75.20(a)(4) of the existing rule requires EPA to issue a "notice of approval or disapproval of the certification application within 120 days of receipt of the complete certification application." This provision implies that an application must be complete in order to issue a disapproval. In attempting to implement this provision, EPA has encountered the problem of incomplete applications. The Agency has, in most of these instances, issued a notice of incompleteness to the source. However, affected sources have not always complied with the incomplete notices and have sometimes failed to submit the information requested to complete the application in a timely manner. Therefore, EPA proposes to clarify that EPA may disapprove an incomplete certification or recertification application if the submittal deadline is passed. Before a disapproval would be issued for an incomplete application, the designated representative would receive a notice of insufficiency and be given a reasonable period of time to complete the application. If the complete application was not received by this extended deadline, EPA could issue a notice of monitoring system disapproval. The Agency believes that this provision will result in faster resolution of incomplete certification or recertification applications, thereby eliminating extended periods of uncertainty about data validation status.

3. Submittal Requirements for Certification and Recertification Applications

The current rule requires the owner or operator to submit certification and recertification applications to the Administrator (i.e., the Acid Rain Division of EPA) and to the appropriate EPA Regional Office and state or local air agency. Hardcopy test results must be submitted, as well as an updated monitoring plan and electronic test results. The electronic test results must also be submitted to the Administrator as part of the next quarterly report.

Sections 75.20(a)(4)(ii), 75.59, and 75.63 of today's proposal would revise and clarify the completeness, format, and submittal requirements for certification and recertification applications. For a certification or recertification application to be considered complete, the appropriate information specified in proposed § 75.63 would be sent to the Administrator, to the EPA Regional Office, and to the state and local air agency. Under proposed § 75.63, the Administrator would receive only a hardcopy application form and would not receive any hardcopy test results, unless specifically requested. The Administrator would, however, receive certification and recertification test results electronically in the quarterly report. In most cases, the electronic test results would be submitted in the quarter in which the testing is completed. However, there may be occasional exceptions to this, for initial certification testing and for recertification testing, when a series of tests spans two consecutive calendar quarters.

The local and State agencies, as well as the EPA Regional Office would receive a hardcopy application form, electronic test results, and hardcopy test results. For recertification tests, today's proposal would allow the EPA Regional Office or the state or local air agency to waive the requirement for a hardcopy recertification test report for their respective offices. The EPA Regional Office or the state or local agency could also reinstate that requirement at a later date. EPA Regional Offices and state and local agencies have historically received hardcopy certification and recertification reports with varying contents and formats. Section 75.59(a)(10) would specify the minimum content for hardcopy certification and recertification reports for gas and stack flow CEMS. Section 75.63(a)(2)(iii) would limit the amount of reporting for "non-recertification events" that require diagnostic tests. For a diagnostic test, the only reporting requirement would be to submit the applicable electronic test results in the next quarterly report. For DAHS verifications, no reporting would be required; instead, records of the tests would be maintained on-site in a manner suitable for inspection.

This series of revisions is intended both to clarify the elements of a complete application, and to clarify how and to whom the essential information should be submitted. By not requiring hardcopy test reports to be sent to the Administrator and by allowing the EPA Regional Office or state or local agencies to waive hardcopy recertification test reports, the Agency believes that unnecessary hardcopy reporting to offices that do not intend to review the reports will be eliminated.

Finally, § 75.63(b) would clarify that for failed certification or recertification tests, only tests that affect data validation would need to be reported. For example, if the ordinary rules of data validation, rather than the retrospective validation procedures, were applied and a test failure occurred during the initial certification testing for a new unit, only the passed test would be reported if the test was subsequently repeated and passed. However, if the conditional data validation procedures set forth in § 75.20(b)(3) of today's proposal had been utilized during that same initial certification, the failed test would have to be reported because it would affect the data validation of hourly emissions.

4. Decertification Applicability

The proposed revisions to § 75.21(e)(1) would clarify that excepted monitoring systems under Appendix D, E, or I or an alternative monitoring system under subpart E may be decertified in accordance with § 75.21(e)(1). The proposed revisions would also clarify that decertification would apply to both an initial certification and a recertification. EPA believes that logic and consistency dictate the need for these changes.

5. Recertification Test Notice

Section 75.61(a) would be revised to reduce the burdens associated with submitting notices of recertification tests. The proposed revisions would allow EPA or the state agency to waive notification requirements for recertification tests. Currently, a designated representative must notify EPA and the state agency prior to commencing certification or recertification testing so that EPA or a state representative has an opportunity to observe the testing. Allowing the recertification notification requirement to be waived and providing more media options for notifications will help conserve paper, reduce the reporting burden, and provide more flexibility to facilities when scheduling tests. In addition, the Agency solicits comment on whether § 75.61 should be revised to state that the requirement for written notification could be satisfied by mail, facsimile, or e-mail, subject to approval by the agency receiving the notification.

6. Monitoring Plans

In §§ 75.53(e) and (f), which are revised versions of § 75.53(c) and (d), and § 75.62, today's proposal clarifies completeness and formatting requirements for monitoring plans. In § 75.53(e), the existing provisions would be separated into two separate paragraphs (e)(1) and (e)(2) to clarify which parts of the monitoring plan must be submitted in electronic format and which elements must be submitted in hardcopy format. In addition, a number of minor changes would be made to clarify the actual required content of the plan. Similarly, in § 75.53(f), the same type of revisions would be made to clarify the electronic versus hardcopy elements of monitoring plans for specific situations (Appendix D, E, and I units, units claiming an opacity exemption, and units with add-on emission controls). These proposed revisions are generally consistent with existing implementation of the monitoring plan reporting requirements and primarily would serve to clarify possibly ambiguous elements of the current rule. The revisions reflected in § 75.53(e) would add a requirement to electronically report in the monitoring plan the unit stack height above ground level and the stack base elevation above sea level. EPA understands that these data are readily available to unit owners and operators. EPA collects stack heights for some units, e.g., for new or modified sources subject to 40 CFR § 51.166. However, stack height data is not currently collected for all of the units affected under title IV of the Act. Moreover, the stack height data that the Agency has is inconsistent, i.e., some of the data are for stack height above sea level, some are for above ground level, and some are undefined. Stack height data is necessary to improve the modeling of plume height and transport of sulfates and nitrates as part of acidic deposition and other atmospheric modeling. EPA conducts atmospheric modeling as part of the congressionally-mandated program of air pollution monitoring, analysis, modeling, and inventory research under section 103 of the Act. Such modeling is also used to analyze the impact of the Act on the public health, economy, and environment, pursuant to section 312 of the Act. (See also, e.g., *Human Health Benefits From Sulfate Reductions Under Title IV of the 1990 Clean Air Act Amendments* at 3–6 through 3–11 (EPA, 1995)). EPA is also proposing to collect the Energy Information Administration (EIA) flue identification numbers associated with each unit. While this data is already reported to EIA, it is difficult to correlate it with the unit and stack level data reported to EPA. By having sources specify for each unit and stack the corresponding flue identification number reported to EIA, it will be easier to correlate the emissions data reported to EPA to other data that is reported to EIA and is used for atmospheric modeling purposes, such as stack exit temperature and velocity.

Section 75.62 would be revised to clarify which parts of the monitoring plan must be submitted to the EPA Regional Office and state and local agencies, and when such submittals are required. The Administrator would receive an electronic monitoring plan at the following times: (1) no later than 45 days prior to the initial certification application; (2) at the time of a recertification application, if a change in the hardcopy monitoring plan information is associated with the recertification event; and (3) in each electronic quarterly report. The EPA Regional Office and state and local agency would receive the required hardcopy monitoring plan 45 days prior to an initial certification. Thereafter, hardcopy monitoring plan information (changed portions, only) would be submitted as follows: (1) with a recertification application, if a change in the hardcopy monitoring plan information is associated with the recertification event; and (2) within 30 days of any other event with which a hardcopy monitoring plan change is associated. Finally, today's proposed rule would require a complete monitoring plan to be kept on-site in a form suitable for inspection (this could include an electronic portion which could be printed out for inspection). These revisions are intended to clarify the monitoring plan format and submission requirements, but are generally consistent with existing practices.

Today's proposal would also clarify when revisions must be made to the monitoring plan. Currently, only changes that require recertification require monitoring plan revisions. The EPA recognizes, however, that many changes affecting the information in a monitoring plan would not require recertification. Therefore, § 75.53(b) would be revised to require that the owner or operator update a monitoring plan whenever information in the monitoring plan changes (e.g., a change to a serial number for a component of a monitoring system), and § 75.62 would require submission of the revised monitoring plan in the next quarterly report or, for hardcopy portions, within 30 days of the change. This revision would assure that the monitoring plan does not contain outdated, erroneous information.

Section 75.64(a) would clarify that no hardcopy monitoring plan is to be submitted with a quarterly report.

7. Submittal Requirements for Petitions and Other Correspondence

Section 75.60(b)(5) would clarify what hardcopy information is sent to the Administrator for petitions and other communications. These revisions would clarify the existing rule, but would not represent a significant change in the requirements for these types of submittals.

F. Substitute Data

1. Missing Data Procedures for CO_2 and Heat Input

Background

In the May 17, 1995 rule, two new sections, §§ 75.35 and 75.36, were added to part 75. These two new sections provided, respectively, missing data procedures for CO_2 and heat input,

which were not provided in the original January 11, 1993 rule. Section 75.35 specifies that for CO_2, the initial missing data procedures of § 75.31 are to be followed for the first 720 quality assured monitor operating hours following initial certification. Thereafter, provided that the CO_2 data availability (as of the last hour of the previous quarter) is maintained above 90.0 percent and provided that the length of any CO_2 missing data period does not exceed 72 consecutive hours, a simple average of the "hour before" and "hour after" CO_2 concentrations is used to fill in missing data periods. However, if the monitor availability as of the last hour in the previous quarter is below 90.0 percent or if a CO_2 missing data period exceeds 72 consecutive hours in length (regardless of the percent monitor availability), then the fuel sampling procedures of Appendix G must be used to provide substitute CO_2 data.

Section 75.36 has a parallel structure to § 75.35. For units that determine unit heat input by using a flow monitor and a diluent (CO_2 or O_2) monitor, the initial missing data procedures of § 75.31 are to be followed for the first 720 quality assured monitor operating hours (for the diluent monitor) and for the first 2,160 quality assured monitor operating hours (for the flow monitor), following initial certification. Thereafter, the standard missing data procedures of § 75.33 are to be followed for the flow monitor. For the diluent monitor, the on-going missing data provisions of § 75.36 are nearly identical to those for CO_2 in § 75.35 (i.e., use an "hour before hour after" missing data algorithm, provided that the monitor availability is ≥ 90.0 percent and the missing data period length is ≤ 72 hours). However, when the diluent monitor availability is < 90.0 percent or when the diluent missing data period exceeds 72 hours, § 75.36 specifies that the owner or operator must use the procedures in section 5.5 of Appendix F to determine the hourly heat input.

Utility representatives have asked EPA to consider revising the missing data procedures for CO_2 and heat input (see, e.g., Docket A–97–35, Items II–D–20, II–D–30, II–E–13, and II–E–14). The utilities object to several elements of the current procedures. They suggest that the Appendix G procedures are burdensome and that the missing data procedures are considerably different from the standard missing data procedures for SO_2, NO_X, and flow rate, which are based solely on historical data and monitor availability and require no additional procedures such as fuel sampling.

Discussion of Proposed Changes

EPA has reconsidered the provisions of §§ 75.35 and 75.36 in light of the concerns raised by the regulated community, and is proposing revisions to the diluent gas missing data procedures for CO_2 and for heat input determinations. The Agency proposes that the same missing data routines prescribed in § 75.33(b) for SO_2 pollutant concentration monitors also be applied to the CO_2 and O_2 data streams that are used to determine CO_2 emissions and heat input. The diluent gas substitute data values would therefore be determined in a purely mathematical way, based on historical data and the percent monitor data availability; no fuel sampling procedures would be required.

Note that these proposed revisions would require the percent monitor data availability to be known on an hourly basis. This would require the percent availability for CO_2 and O_2 monitors to be updated hourly within the data acquisition system. EPA realizes that this would involve software modifications, and in cases where the unit heat input is determined using a flow monitor and an O_2 diluent monitor in accordance with Equation F–17 or F–18, some new recordkeeping provisions would also be required. The necessary recordkeeping provisions have been proposed in § 75.57(g). To allow time for software revisions to be made, the revised missing data procedures in §§ 75.35 and 75.36 would not take effect until January 1, 2000. The owner or operator could, however, opt to use the new procedures prior to January 1, 2000.

EPA believes that today's proposed revisions to the missing data procedures for CO_2 and heat input determinations would be relatively easy to implement because the missing data routines for SO_2 monitors are well-established and are familiar to both the regulated community and to software vendors. The Agency believes that the proposed revised missing data procedures would ensure that data availability remains high and would, over time, reduce the cost of compliance with the requirements of part 75.

2. Prohibition Against Low Monitor Data Availability

Background

Under the current rule, when a unit uses SO_2, flow rate, and NO_X monitoring systems to account for its emissions, for each clock hour in which a CEMS fails to provide quality assured data, a substitute data value must be reported to EPA in accordance with the standard missing data procedures of § 75.33. The method required for determining the appropriate substitute data values under § 75.33 depends on several factors, such as the overall monitor data availability and the length of the missing data period. For monitor data availabilities ≥ 90.0 percent, the substitute data value (which is reported for each clock hour of the missing data period) will normally be the arithmetic average of the readings from the hour before and the hour after the missing data period. At other times, it will be the 90th (or 95th) percentile value from a lookback period of 720 (for SO_2) or 2,160 (for NO_X and flow rate) quality assured monitor operating hours. When the data availability drops below 90.0 percent, the substitute data value for SO_2 will be the maximum concentration recorded in the last 720 quality assured monitor operating hours, and for flow rate and NO_X, the substitute data value will be the maximum flow rate or NO_X emission rate recorded in the last 2,160 quality assured monitor operating hours at the corresponding load range.

Based on four years of program implementation, EPA believes that the standard missing data procedures need to be strengthened. As presently written, the missing data algorithms lack a safeguard which will ensure that high monitor data availability continues to be maintained in future years. In the current version of § 75.33, no distinction is made between data availabilities of 89.0 percent, 50.0 percent or 10.0 percent. For all three of these data availability percentages, the substitute data value is the same (i.e., the maximum value in a lookback period of 720 or 2,160 quality-assured monitor operating hours). This has potentially serious consequences. For example, if the substitute data value from the lookback period is non-punitive or perhaps is even favorable to the facility (e.g., if a low-sulfur fuel was burned during the lookback period), there would be little incentive to repair a malfunctioning CEMS in a timely manner and emissions could possibly be under-reported for a long period of time. Currently, part 75 does not specifically address this "gaming activity."

Discussion of Proposed Changes

In order to maintain the credibility of the SO_2 allowance accounting system and to ensure that affected units continue to comply with their part 76 NO_X emission limits, monitor data availability must not be allowed to deteriorate indefinitely without clear and significant consequence to the facility. Therefore, in today's rulemaking, EPA is proposing to add a

safeguard to part 75 to ensure that this does not happen. A new paragraph 75.33(d) would be added, which would make it a violation of the primary measurement requirement of § 75.10(a) to allow the annual monitor data availability to drop below 80.0 percent for SO_2, NO_X, flow rate, or CO_2. Based on an analysis conducted on data availability information for the third quarter of 1996, EPA believes that affected facilities will easily be able to comply with the 80.0 percent data availability criterion (see analyses in Docket A–97–35, Item II–B–16). The results of that analysis indicated a mean percent monitor data availability of 96.9 percent for SO_2, 95.0 percent for NO_X, and 96.6 percent for flow rate. Although there were 13 (out of 995 total) SO_2 monitors, 21 (out of 997 total) flow monitors, and 46 (out of 1365 total) NO_X monitoring systems with percent monitor availabilities below 80.0 percent in the 4th quarter of 1996, the Agency expects that many of these systems would be exempt from the prohibition based on a limited number of operating hours in the previous year (see Docket A–97–35, Item II–A–8).

The proposed prohibition would not apply to units that have only a limited number of operating hours (less than 3000 hours of operation in the previous 12 calendar quarters) because such units can have a low data availability percentage without necessarily having extended monitor downtime incidents. In addition, no violation would occur if the low monitor availability is caused by a sudden and reasonably unforeseeable event beyond the control of the owner or operator (such as destruction of monitoring equipment by fire or flood). The owner or operator would, however, be required to notify the Administrator, in writing, within 7 days of the occurrence of such catastrophic events and also to provide notification to the EPA Regional Office and to the appropriate State agency. The owner or operator would be further required to submit a corrective action plan, including an implementation schedule. Thus, this proposed prohibition should not result in violations of part 75, except for situations involving poor operation and maintenance practices, which are clearly *not* beyond the control of the owner or operator.

Another option considered by the Agency was to modify the standard missing data algorithms for SO_2, NO_X, and flow rate as follows. Under this option, the algorithms for monitor data availabilities of 90.0 percent to 100.0 percent would remain unchanged. The algorithms currently used for *all* monitor data availabilities below 90.0 percent would be retained, but these would apply only to data availabilities between 80.0 percent and 89.9 percent. Finally, a new algorithm would be added for monitor data availabilities below 80.0 percent. When the data availability drops below 80.0 percent, the appropriate *maximum* substitute data value would have to be used (i.e., the maximum potential concentration for SO_2 or CO_2, the maximum NO_X emission rate, or the maximum potential flow rate). EPA believes that requiring maximum values to be reported when the data availability drops below 80.0 percent would provide incentive to the affected sources to keep their monitors well-maintained. Because any changes to the standard missing data algorithms would require software modifications, this option, if adopted, would not take effect until January 1, 2000. The Agency has not proposed this option because it would require software changes for all affected units even though very few units have data availabilities that fall below 80.0 percent. The Agency seeks comment, however, on whether this option should be used instead of the proposed prohibition given that it is more consistent with the structure of the missing data requirements in part 75 and would be self-implementing without any need to initiate enforcement actions to achieve the desired result of continued high data availabilities that assure accurate reporting of emissions.

The Agency also emphasizes that the required data availability for the Acid Rain Program would remain at 100.0 percent even if the proposed prohibition is adopted, meaning that substitute data would have to be supplied for any periods in which data from a certified monitoring system are not available. This approach is in sharp contrast to most other CEMS programs that do not rely on substitute data. In those programs, the Agency, as well as State and local agencies, expect and often require much higher data availabilities than 80.0 percent. Based on the number of units with data availability higher than 95.0 percent under the Acid Rain Program, CEMS data availability less than 95.0 percent may well indicate a failure to properly operate and maintain a CEMS. Many agencies rely on that 95.0 percent availability level to target systems for inspection and other compliance-related follow-up actions. In addition, agencies have adopted various required minimum data availabilities for CEMS that far exceed the 80.0 percent level selected for the prohibition proposed in today's rulemaking.

It is also important to note that monitor availability under part 75 and monitor downtime under other programs are not always the same. Under part 75, a source may have actual monitoring data that are suspect, based on an evaluation of various quality assurance activities. In this situation, the owner or operator may, as a conservative measure, report substitute data rather than the actual data. In contrast, this type of missing data substitution does not occur under most other programs. In most programs, the suspect data would simply be invalidated and no emission data would be reported for those hours.

Therefore, because of the structure of the missing data provisions in the Acid Rain Program and the generally applicable economic incentive to achieve high data availabilities under part 75, it would be improper to equate the proposed prohibition in today's rulemaking with a required minimum data availability requirement established for other programs that do not have the same features. The Agency does not intend that this proposed provision should serve as a precedent for evaluating the appropriate achievable data availability for other programs. Consistent with current practices, the Agency would continue to expect CEMS to achieve high data availability and that, generally, monitor downtime in excess of 5.0 percent may warrant appropriate investigation and follow-up activities.

G. General Authority to Grant Petitions Under Part 75

Background

Section 75.66(a) provides generally that a designated representative of a unit subject to part 75 may submit a petition to the Administrator. Sections 75.66(b) through (h) address petitions to the Administrator on the specified topics of alternative flow monitoring methods, alternatives to standards incorporated by reference, alternative monitoring systems, parametric monitoring procedures, missing data for units with add-on emission controls, emission or heat input apportionments, and the partial recertification process. Each of these subsections set forth the items which must be included with a particular type of petition. In addition, § 75.66(i) states that, for any other petition to the Administrator under part 75, the designated representative for an affected unit shall include sufficient information for the evaluation of such petition.

Discussion of Proposed Changes

Today's proposal would revise § 75.66(a) to state clearly that the designated representative of an affected unit may petition the Administrator for authorization to apply an alternative to any requirement under part 75 or incorporated by reference in part 75, regardless of whether another section of part 75 explicitly allows such a petition concerning the particular requirement. EPA views this change as a clarification to the general authority already provided by §§ 75.66(a) and (i). The proposed rule would also be amended to include new paragraphs (i) through (l), which would set forth the specific requirements for other petitions that are explicitly allowed by other sections of the rule but which are not currently included in this section. In addition, the proposed rule, at § 75.66(m), would also indicate the appropriate documentation to be submitted for petitions under subsection (a), except those under subsections (b) through (l), where the required documentation is already specified. The required documentation in subsection (m) would be: (1) Identification of the unit; (2) information explaining why the proposed alternative should be used instead of the existing part 75 provision; (3) descriptions and, if applicable, diagrams of the equipment and procedures to be used in the proposed alternative; and (4) information demonstrating that the proposed alternative is consistent with the purposes of the provision for which an alternative is requested and is consistent with the purposes of part 75 and of section 412 of the Act.

Rationale

As presently codified, EPA is concerned that the rule does not state clearly what types of petitions may be submitted under § 75.66. In particular, existing subsection (i) could be interpreted as referring only to petitions that are mentioned in other sections of part 75 and that are not specifically listed in § 75.66(b) through (h). EPA has not interpreted § 75.66(i) in this manner. In administering the Act, EPA has inherent discretion to grant *de minimis* exceptions from statutory or regulatory requirements, where EPA determines that holding the regulated entity to the applicable requirement would yield a gain of trivial or no benefit, provided Congress has not unambiguously demonstrated its intent to foreclose such exceptions. *See, e.g., Public Citizen* v. *Young*, 831 F.2d 1108, 113 (D.C. Cir. 1987); *Alabama Power Co.* v. *Costle*, 636 F.2d 323, 360–61 (D.C. Cir. 1979). Since the issuance of part 75 in 1993, EPA has accepted, and, in some cases exercised its discretion and granted, petitions under § 75.66 that requested exceptions and that were not specifically referenced in § 75.66(b) through (h) or elsewhere in part 75 (see Docket A–97–35, Item II–B–17). Such petitions have included, for example, a request to set a CO_2 span lower than that required by part 75 in order to more accurately quality assure the CO_2 monitor. Another petition requested an alternative to the requirement to perform an annual RATA on a unit that was scheduled to shutdown, prior to the deadline for performing the RATA, in order to install a scrubber, construct a new stack, and install and certify new CEMS. A petition was also submitted for permission to use a propane sampling frequency as specified in the State operating permit and to then calculate SO_2 emissions by using the highest sulfur content recorded during the previous 365 days and report these data in quarterly reports. These petitions were submitted for the purpose of requesting alternatives to various requirements of part 75, even though the ability to petition the Agency on these issues was not referenced explicitly in other sections of part 75 or in § 75.66(b) through (h). In most cases, the circumstances leading to the request for an alternative to a part 75 requirement were not anticipated during the drafting of part 75 regulations. In fact, today's proposal revises several part 75 requirements to allow for alternatives that were originally requested and approved through the petition process set forth in § 75.66. The Agency continues to believe that the general provision allowing petitions for alternatives to part 75 requirements is necessary to enable EPA to address circumstances that were not foreseen during the development of such requirements. This is important since circumstances can sometimes vary significantly from boiler to boiler. While the response to comment document for the January 11, 1993 rule (see Docket A–91–69, Item V–C–1, Issue # M–8.8.2) might be read to bar petitions for exceptions from any provision of part 75, EPA maintains that such a reading would be inconsistent with the regulatory language of §§ 75.66(a) and (i) that allow such petitions, and with the established practice of the Agency in administering part 75.

The existing § 75.66(i) states that for petitions other than § 75.66(b) through (h) petitions submitted under the section, the designated representative should include sufficient information for the evaluation of the petition. No other information is provided concerning the contents of such petitions. As §§ 75.66(b) through (h) all provide a list of the type of information that should be included in petitions submitted under the respective sections, the Agency believes that, in addition to amending § 75.66(a) to clarify that petitions may be submitted for circumstances that may not be covered by other sections authorizing petitions to the Administrator, it is appropriate to provide units with a list of the type of information that should be included with the petition. Similarly, EPA believes that it is appropriate to add to the section provisions setting forth the information requirements for those petitions that are explicitly allowed under other sections of part 75 but that are not listed in the existing § 75.66. All these revisions would make the petition process more uniform and minimize confusion regarding what information EPA would require in order to accept and consider any petition for an alternative to a part 75 requirement.

H. NO_X Mass Monitoring Provisions for Adoption by NO_X Mass Reduction Programs

Background

Part 75 contains requirements for monitoring NO_X emissions with a continuous emission monitoring system or other approved method. Owners and operators are required to calculate hourly, quarterly average, and annual average NO_X emission rates (in lb/mmBtu). Part 75, however, currently contains no requirements for reporting NO_X mass emissions (in tons). Other NO_X emission reduction programs being developed pursuant to title I of the Act (such as the NO_X Budget Program in the Ozone Transport Region) are expected to require reporting of NO_X mass emissions from many of the units affected under the Acid Rain Program. To streamline reporting burdens under multiple programs and to allow for the administration of multi-state NO_X mass trading programs, the Agency believes it appropriate to amend part 75 to include provisions for monitoring, recording, and reporting NO_X mass emissions that could apply to such trading programs. These provisions would provide standard procedures—resulting in precise, reliable, accessible, and timely emissions data—that could be adopted under a state or federal NO_X mass emission reduction program. To the extent that these standard provisions are adopted, the burden on industry would be reduced and the administration of the programs would be facilitated, in

that the Agency or implementing states would not need to develop NO_X mass monitoring provisions anew and industry would not need to become familiar with multiple approaches to NO_X mass monitoring.

Discussion of Proposed Changes

The proposed NO_X mass emissions provisions would apply only where EPA, states, or groups of states incorporate them and mandate their use through a separate regulatory action. The proposed amendments would make changes to §§ 75.1, 75.2, 75.4, 75.16, 75.17, Appendix D, section 2.1.2.2, and Appendix F, section 5.5. They would also add a new subpart H containing new §§ 75.70, through 75.73 and a new section 8 in Appendix F containing sections 8.1, 8.1.1, 8.1.2, 8.1.3, 8.1.4, 8.2, 8.3, 8.3.1, and 8.3.2.

Section 75.1, the purpose and scope section, would be amended to broaden the scope by adding that part 75 will also set forth provisions for monitoring and reporting NO_X mass emissions that EPA, states, or groups of states may require sources to use to demonstrate compliance with a NO_X mass emission reduction program. Section 75.2 would be amended to add that the provisions of part 75 may also apply to sources subject to a state or federal NO_X mass emission reduction program.

The compliance date section, § 75.4(a), would be altered to state that the provisions relating to monitoring and reporting of NO_X mass emissions become applicable on the deadlines specified in the applicable state or federal NO_X mass emission reduction program requiring the use of part 75 to monitor and report NO_X mass emissions.

Section 75.16 would be amended to state that title IV affected units using the provisions of part 75 to monitor and report NO_X mass emissions under a state or federal NO_X mass emission reduction program would have to meet the heat input monitoring and determination requirements in both § 75.16 and in subpart H, §§ 75.71 and 75.72. Section 75.17 would be amended to state that title IV affected units using the provisions of part 75 to monitor and report NO_X mass emissions under such a program would have to meet the NO_X emission monitoring and determination requirements in both § 75.17 and subpart H, §§ 75.71 and 75.72.

The applicable procedures for the monitoring and determination of NO_X mass emissions would be added in proposed subpart H, §§ 75.70, 75.71, and 75.72 and corresponding recordkeeping and reporting requirements would be set forth in § 75.73.

Section 75.70 would set forth the general requirements including: definitions, compliance dates, incorporation by reference, initial certification and recertification procedures, quality assurance and quality control requirements, substitute data requirements, and requirements regarding petitions. In general these provisions for monitoring NO_X mass would mirror the provisions for monitoring of SO_2, NO_X, and CO_2 for compliance with title IV. However, because the program would be a state program, rather than a federal program, there would be some differences in the administrative requirements. These differences would be most pronounced for units that were not subject to Acid Rain emission limitations and were not already subject to the provisions of part 75. The major differences in administrative requirements would involve the process for petitioning under § 75.66 and the process for certifying and recertifying monitors. Under the existing Acid Rain Program, the Administrator must approve all petitions under § 75.66. Under this proposal, petitions for units that were only subject to the provisions of part 75 because they were subject to a state or federal NO_X mass emission reduction program, would have to be approved by both the permitting authority for the applicable NO_X mass program and the Administrator. The permitting authority would also be responsible for reviewing and approving or disapproving certification and recertification applications for such units.

Section 75.71 sets forth the general monitoring methodologies that would be allowed for different types of units. The proposal would require units to determine hourly NO_X mass emissions (in lb) by monitoring NO_X emission rate (in lbs/mmBtu) and heat input (in mmBtu/hr) on an hourly basis and by multiplying those two values and the hourly unit operating time (in hour or fraction of an hour) together. Coal units and other units that burn solid fuel and that are covered by subpart H would be required to measure NO_X emission rate using a NO_X emission rate CEM consisting of a NO_X concentration CEM and a diluent CEM (CO_2 or O_2 CEM) and to measure heat input using a diluent CEM and a continuous volumetric flow monitor. All gas- and oil-fired units covered by subpart H would be allowed to use that approach or, alternatively, could measure NO_X emission rate using a NO_X emission rate CEM and heat input by using a fuel flowmeter and performing fuel sampling and analysis. This alternative for determining heat input from gas- and oil-fired units is set forth in Appendix D of part 75. Gas and oil units that qualify as either peaking units or low mass emission units under part 75 would also have additional lower cost monitoring methodologies available to them. Peaking units, for example, would have the option to do source testing to create heat input versus NO_X emission rate correlation curves. Then, based on hourly measurement of heat input from a fuel flowmeter and fuel sampling and analysis using the provisions in Appendix D to part 75, the heat input vs NO_X emission rate correlation curves would be used to estimate the hourly NO_X emission rate. This rate would be used in conjunction with hourly measured heat input to determine NO_X mass. A unit that qualifies as a low mass emission unit would have the option to use a fuel-type and boiler-type specific default NO_X emission rate and the unit's maximum rated hourly heat input to determine NO_X mass emissions. The low mass emissions unit provisions are in proposed § 75.19.

Section 75.72 sets forth the specific requirements for monitoring emissions at units that share common stacks and/or common pipes, for units that emit to multiple stacks and for units that receive fuel from multiple pipes. These provisions mirror similar provisions in § 75.16 for monitoring SO_2 mass emissions from similar units and groups of units.

Appendix D, section 2.1.2.2 would indicate that the heat input apportionment procedures of that section would not be applicable for units whose compliance with this part is required under a NO_X mass emissions reduction program. Instead, the unit would have to meet the heat input monitoring and determination requirements in subpart H, §§ 75.71 and 75.72.

The applicable procedures for calculating NO_X mass emissions would be added in proposed section 8 of Appendix F. Section 8.1 of Appendix F contains proposed equations for determining hourly NO_X mass emissions, section 8.2 contains proposed equations for determining quarterly, cumulative annual and ozone season NO_X mass emissions, and section 8.3 contains specific provisions for monitoring NO_X emissions from a common stack. Additionally, revisions to section 5.5 of Appendix F would indicate that the heat input calculation procedures of section 5.5.3 would not be applicable for units whose compliance with this part is required under a NO_X mass emissions reduction program.

Rationale

(a) *Authority to Propose NO_X Mass Provisions.* The authority for the proposed NO_X mass provisions rests in two separate portions of the Act. First, section 412(a) states that the owner or operator of an affected source under title IV must monitor and quality assure data for sulfur dioxide and nitrogen oxide for each affected unit at the source. 42 U.S.C. 7651k(a). This section does not limit the nitrogen oxide data requirement to emission rate data in lb/mmBtu or to data necessary for compliance with emission limits established under title IV. Indeed, oil- and gas-fired units have been required to report NO_X emission rate data under part 75 even though only existing coal units are subject to NO_X emission limits under title IV. (*See* 58 FR 3590, 3644, January 11, 1993). Thus, the Agency believes that providing for reporting NO_X mass emissions under part 75 is an appropriate exercise of the authority under section 412, particularly since NO_X mass emissions reporting may be required under a separate applicable requirement.

Second, independently of the authority granted by section 412, section 114(a) of the Act gives the Administrator broad authority to collect data for "the purpose of developing or assisting in the development of any implementation plan under section 110 or 111(d)", "of determining whether any person is in violation of any such standard or a requirement of such a plan", or "carrying out any other provision of [the] Act" (except certain provisions of title II concerning mobile sources). Section 114 is, of course, not limited to sources that are affected units under title IV. Moreover, section 301(a)(1) authorizes the Administrator "to prescribe such regulations as are necessary to carry out his functions" under the Act, including the functions specified in section 114. Thus, EPA maintains that the Agency is authorized to adopt provisions in part 75 that could govern monitoring of NO_X mass emissions, especially where such information is expected to support States' efforts to attain ambient air quality standards.

From a policy perspective, now is the appropriate and most efficient time to adopt these changes. In July 1997, EPA Administrator Carol Browner announced a series of initiatives to reform environmental data management and collection (see Docket A–97–35, Item II–I–21). The new initiatives are intended to streamline reporting requirements and increase coordination across different programs that affect the same sources. There are a number of examples of ongoing efforts to streamline the reporting of emissions for utility units. One example is a proposal to revise the NSPS NO_X standards for utility and industrial boilers subject to reporting under 40 CFR part 60. That proposal would allow facilities to submit NSPS reports through part 75 reporting (see 62 FR 36948, July 9, 1997). Another example is the Ozone Transport Commission's NO_X Budget program. That program is expected to require utility sources and certain industrial sources in the northeast to reduce emissions of NO_X through a trading program similar to the Acid Rain SO_2 trading program. On January 31, 1996, the OTC released the Model Rule which outlines procedures for the monitoring and reporting of NO_X mass emissions; these procedures are based on the monitoring and reporting requirements set forth in part 75 (see Docket A–97–35, Items II–I–7 and II–I–22). Today's proposal would facilitate the coordination of reporting under the Acid Rain Program and NO_X mass programs like the OTC NO_X Budget Program.

In addition, the Agency believes it is appropriate to include these requirements in the current proposal because the Acid Rain affected units may be undertaking DAHS software changes to respond to the other proposed revisions to part 75 if they are adopted. The Agency would enable facilities to coordinate the necessary software changes by proposing the revised reporting requirements to allow for NO_X mass emission reporting at this time along with the other part 75 revisions. Although EPA is proposing this requirement now to facilitate software changes, the requirement to actually record and report NO_X mass emission data under part 75 generally would not become effective for any unit unless and until a program requiring such recording and reporting is implemented for that particular unit (EPA notes that, as discussed elsewhere in Section III.C.4. of this preamble, a limited group of title IV affected units (i.e., low mass emissions units) would be required to record and report NO_X mass emissions for purposes of the Acid Rain Program.) In addition, if a state elected to require the use of these requirements to support a state NO_X mass emission monitoring and reporting requirement, these requirements would not become federally enforceable until those requirements were approved by EPA as part of the SIP.

(b) *Monitoring Methodology.* The proposed requirement would require sources to determine NO_X mass as a function of hourly average NO_X emission rates, heat input rates, and unit operating time. EPA is proposing this approach because it accurately accounts for NO_X mass emissions without requiring any changes to the current missing data routines and quality assurance requirements in part 75. An alternative to this approach, not included in today's proposal, would be to measure total mass emissions using a NO_X pollutant concentration monitor, a volumetric flow monitor and unit operating time, analogous to the approach taken currently for SO_2 emissions. This methodology would have two advantages: first, there would be less missing data from a NO_X pollutant concentration monitor than from a NO_X CEMS which (under the existing and proposed rule) contains both a NO_X pollutant concentration monitor and a diluent monitor; and second, it would avoid possible overestimation from a bias adjustment factor applied to the NO_X system to correct bias in the diluent monitor (see Docket A–97–35, Item II–D–96).

However, this methodology would also have a number of disadvantages. In order to monitor NO_X as total mass emissions using a NO_X pollutant concentration monitor and a volumetric flow monitor, several major changes would need to be made to part 75. The entire concept of a NO_X CEMS—and the quality assurance tests and missing data procedures associated with the NO_X CEMS—might need to be revised, to include either a NO_X CEMS with only a NO_X pollutant concentration monitor and a DAHS (in which case, a separate flow monitoring system would also be required in order to determine NO_X mass), or a NO_X CEMS with a NO_X pollutant concentration monitor, a volumetric flow monitor, and a DAHS. Since the relative accuracy standard currently in part 75 for NO_X systems is in lb/mmBtu, it would be necessary to establish a new relative accuracy standard for NO_X concentration in ppm if the NO_X/flow method described above were incorporated into the final rule. Bias adjustment would also have to occur on the newly defined NO_X CEMS. It would also be necessary to create a missing data procedure either for NO_X concentration in ppm or for hourly NO_X mass emission rate in lb/hr. Hourly NO_X mass emission rate would be calculated using the same formula as for SO_2 mass emission rate (Equation F–1 or F–2), only using a constant of 1.194×10^{-7}(lb/scf)/ppm NO_X. In addition, this methodology would not easily support the monitoring and reporting of NO_X emission rate data in lb/mmBtu.

Therefore, in order to meet the emission rate reporting requirements, affected sources under title IV would still be required to maintain a diluent CEMS and the current NO_X emission rate missing data procedures. The Agency has not proposed this approach because it does not believe that the benefits of slightly reduced amounts of missing data for NO_X mass and removal of the bias adjustment factor for the diluent monitor justify the complication of having two separate procedures for monitoring NO_X emissions from a given unit. Nevertheless, the Agency requests comment on whether this approach to measuring mass emissions should be used in lieu of the proposed heat input and emission rate approach for sources required to report NO_X mass.

(c) *Common Stack and Pipe Monitoring.* The Agency notes that the proposed procedures for monitoring NO_X emission rate at a common stack to determine NO_X mass emissions under the proposed § 75.72 procedures are different than the procedures currently allowed for monitoring NO_X emission rate in § 75.17. The Agency is concerned that the § 75.17 provisions would be too imprecise for measuring NO_X mass emissions because the two values used to determine NO_X mass emissions (NO_X emission rate and heat input) are not required to be measured at the same location. In the existing rule, NO_X emission rate may be monitored at the unit level in the duct leading to the common stack and heat input can be determined from measurements at the common stack and then apportioned to the individual units using unit load. While this heat input apportionment method has been allowed for Acid Rain purposes, it is not accurate in all cases because it does not account for different heat rates from the units exhausting to the common stack and does not account for differences in operating time at the units. It has been allowed by the Agency for Acid Rain purposes because apportioned heat input determined under § 75.16 (e) had only a limited effect on emissions trading (i.e., on the SO_2 allowance program). Although apportioned heat input determined under § 75.16(e) is used to determine compliance with the reduced utilization provisions of the Acid Rain Program, the apportioned heat input estimate was deemed accurate enough for that purpose and for the relatively small number of units and short period involved. Determinations of reduced utilization are required only for Phase I units during 1995–1999 and for opt-in units. However, for purposes of a NO_X mass trading program, the heat input value would be used in the calculation to determine NO_X mass, and an imprecise unit level heat input value could cause the NO_X mass emissions from some units to be underestimated. The NO_X mass trading program could be undermined by the lack of a consistent emissions value for each NO_X allowance. Therefore, the proposed provisions for monitoring heat input and NO_X emission rate from units in a NO_X mass trading program would be similar to the provisions that are currently used for monitoring SO_2 mass emissions at a common stack at § 75.16. The provisions for monitoring SO_2 mass emissions require that the two values needed to determine SO_2 mass emissions, stack flow rate and SO_2 concentration, be monitored at the same location. The Agency is proposing that, for purposes of determining NO_X mass emissions, a facility could use the same location options currently available for SO_2: the facility could either monitor both NO_X emission rate and heat input at the common stack level or monitor them both at the unit level. The Agency is also proposing a third option: heat input could be monitored at the unit level and summed to the common stack level, while NO_X emission rate could be monitored at the common stack level. Even though this option would allow NO_X emission rate and heat input to be measured at different locations, it does not have the inherent inaccuracies described above because it does not require heat input apportionment.

Similarly, the optional procedures currently allowed for the apportionment of heat input measured at a common pipe in Appendix D, section 2.1.2.2 are not available for units with a common pipe under subpart H. As discussed above for common stacks, the Agency is concerned that the heat input apportionment under Appendix D, section 2.1.2.2 provisions would be too imprecise for the purpose of calculating NO_X mass emissions. In the existing rule, heat input can be determined from measurements at the common pipe and then apportioned to the individual units using unit load. For purposes of calculating NO_X mass emissions under subpart H for a unit which is supplied fuel from a common pipe, the measurement of fuel flow rate would have to be made at the pipe leading to the individual unit in order to determine unit level heat input.

The Agency solicits comment on the proposed approach for monitoring NO_X mass emissions at a common stack or pipe and whether it is appropriate to mirror the common stack and pipe provisions for SO_2 mass emissions.

(d) *Multiple duct/stack monitoring.* The current provisions for monitoring NO_X emission rate, in §§ 75.17(c)(1) and (2), allow the owner or operator to determine NO_X emission rate for a unit that exhausts through multiple ducts or stacks using a Btu-weighted sum of the NO_X emission rates measured in each duct or stack or by monitoring NO_X emission rate in only one duct or stack. The new proposed § 75.72 would set forth specific requirements for monitoring NO_X mass in multiple ducts or stacks and would in some cases place a number of limits on the options in § 75.17(c) and in some cases not allow the options in § 75.17(c). The proposed options for monitoring NO_X mass are similar to the existing provision in § 75.16(d) for monitoring SO_2 mass emissions at multiple ducts/stacks. They are also similar to the provisions being used in the OTC NO_X Budget Program to determine NO_X mass in similar situations.

The new proposed § 75.72 does not contain an option for any units to use a Btu-weighted sum of the NO_X emission rates measured in each duct or stack. The reason that this option is not appropriate is that in order to use this option to determine a unit's NO_X emission rate, the owner or operator of the unit would have to monitor both NO_X emission rate and heat input in each duct or stack. (As discussed above, the heat input apportionment method allowed under § 75.17 is not sufficiently accurate for a NO_X mass program.) These two values allow the calculation of NO_X mass and, therefore, there is no reason to determine a Btu-weighted sum for purposes of this subpart.

The new proposed § 75.72 would not allow coal units to monitor NO_X emission rate in only one duct or stack. The proposal would also not allow gas and oil units to monitor the NO_X emission rate in only one duct or stack, unless heat input is determined using the provisions of Appendix D to this part and the owner or operator makes a demonstration that the emission rate would always be the same in both ducts or stacks. Reasons that the emission rate might vary include the use of add-on emission controls in the ducts or stacks or venting of emissions to one duct or stack and not the other.

These limitations are required for monitoring mass emissions (in lbs), but are not necessary for monitoring emission rate (in lbs/mmBtu) at coal units or gas and oil units that use continuous volumetric flow monitors, because, for reasons discussed above, monitoring mass requires the monitoring of both emission rate and heat input. Since the amount of stack

flow that is vented to each duct or stack could vary significantly depending upon the location and use of dampers and induction fans in the ducts or stacks, it is necessary to measure volumetric flow in both ducts or stacks in order to determine heat input for the unit(s). In order to accurately use these heat input values to determine NO_X mass, it is also necessary to measure NO_X emission rate in both ducts or stacks. Therefore, proposed § 75.72 would require monitoring of heat input and NO_X emission rate in both ducts or stacks for coal units and gas-and oil-fired units that use continuous volumetric flow monitors and exhaust to multiple ducts or stacks.

Since gas-and oil-fired units that are using the procedures in appendix D of part 75 to determine heat input based on fuel consumption do not have to measure volumetric flow in the duct or stack in order to determine heat input, EPA believes it is appropriate to allow these units to measure NO_X emission rate in only one duct or stack if they can demonstrate to both the permitting authority and the Administrator that the NO_X emission rate in either duct or stack is representative of the NO_X emission rate in each duct or stack. Therefore, proposed § 75.72 allows gas- and oil-fired units that are using the procedures in appendix D of part 75 to measure NO_X emission rate in only one duct or stack if they can demonstrate to both the permitting authority and the Administrator that the NO_X emission rate in either duct or stack is representative of the NO_X emission rate in each duct or stack.

(e) *Reporting of NO_X* Mass Emissions. The Agency also notes that the proposed procedures differ in two key respects from the way data is currently reported under part 75. The first difference is that the proposal would require reporting of hourly NO_X mass emissions, in lbs, (instead of hourly mass emission rate, in lb/hr, as is currently required for the reporting of SO_2 under part 75). The OTC NO_X Budget Program is expected to require the reporting of hourly mass emissions, in lb, rather than hourly mass emission rates, in lb/hr, because of experience under the Acid Rain Program with reporting hourly SO_2 and CO_2 mass emission rates. As discussed in Section III.R.1 of this preamble, the reporting of hourly SO_2 and CO_2 mass emission rates has been a source of some confusion in the implementation of the Acid Rain Program. For the reasons presented in Section III.R.1 of this preamble, EPA is not proposing to change the existing SO_2 and CO_2 reporting requirements. However, the existing part 75 does not require any NO_X mass emission reporting, and in order to avoid the problems experienced under the Acid Rain Program and to be consistent with the OTC NO_X Budget Program, EPA proposes here to base the new NO_X reporting on mass emissions in pounds. Maintaining consistency with the provisions expected to be adopted for the OTC NO_X Budget Program is important to ensure that a central body such as EPA would be able to effectively administer the program if states opted to participate in a multi-state NO_X trading program larger than the Ozone Transport Region covered by the OTC NO_X Budget Program.

The second key difference is that, in addition to reporting a quarterly and cumulative annual total emissions value, the proposed revisions would also require reporting of a cumulative ozone season total value. Generally, the ozone season extends from May 1 to September 30 of every year. The cumulative ozone season emissions would be reported with the second quarter and third quarter reports submitted to EPA. The reason that reporting would be required on an ozone season basis is that one of the main reasons the data is being collected is to support other programs designed to control emissions during the ozone season.

(f) *Role of EPA and States/Localities in Administering the Monitoring Portion of a NO_X* Trading Program. The Agency also notes that another important potential difference between the use of this part to support the Acid Rain Program under Title IV of the CAA and the use of this part to support other NO_X mass emission reduction programs is the role that EPA and the state or local permitting authority that may establish such a program will play. Under the Acid Rain Program, even though many states have assumed the role of the permitting authority under Phase II of the program, EPA still retains authority to issue approvals and disapprovals related to all of the monitoring and reporting issues, such as certification of monitoring systems under § 75.20, approval of petitions under § 75.66 and approvals of alternate monitoring petitions under § 75.48. EPA believes that if a NO_X mass emission reduction program is approved as part of a SIP or if EPA agrees to work with individual or groups of states to help administer the monitoring and reporting portion of a NO_X mass emission reduction program, EPA would still have to be involved in the approval process.

The level of this involvement might vary depending upon the specific type of approval or disapproval. It also would vary depending upon whether or not the unit had an Acid Rain emission limitation. For instance, EPA would play a significant role in the approval of an alternate monitoring petition under § 75.48 or any other petitions under § 75.66. For a unit with an Acid Rain emission limitation, any petition would already have to be approved by EPA. In order to streamline the process for these sources, EPA believes that EPA should continue to issue approvals and disapprovals of petitions. However, since sources would also be using the monitored data to meet SIP requirements, EPA would take this action in consultation with the applicable state. For units that are not subject to an Acid Rain emission limitation, EPA would still need to be involved in petition determinations. There are two primary reasons that this involvement would be necessary. The first would be as part of EPA's typical role in assuring that any alternative to the approved SIP will still result in the air quality benefit that would have been derived if the permitting authority had not deviated from the SIP. The second would be as part of EPA's role in administering the emissions tracking portion of a NO_X mass emission reduction program. If EPA was not involved and a state approved, for a unit, an alternative that allowed variations to the reporting requirements, EPA might not be able to administer the emissions tracking portion of the program for that unit. Similarly, for approval and disapproval of certification applications and recertification applications, EPA believes that there should be two separate requirements; one for units subject to an Acid Rain emission limitation, and one for units not subject to an Acid Rain emission limitation. For units subject to an Acid Rain emission limitation, EPA would still approve or disapprove certification and recertification applications. This would streamline the process for units since they would only have to deal with one regulatory agency for both programs. For units not subject to an Acid Rain emission limitation, the permitting authority would approve certification and recertification applications. EPA requests comment on this approach and whether the respective roles of the Administrator and the permitting authority should be different for units that are subject to both an Acid Rain emission limitation and to a NO_X mass emission reduction program and for units that are subject solely to a NO_X mass emission reduction program.

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I. Span and Range Requirements

Background

The span and range requirements for part 75 continuous emission monitoring systems are found under section 2.1 of Appendix A to the January 11, 1993, rule, as amended on May 17, 1995. Sections 2.1.1, 2.1.2, 2.1.3 and 2.1.4 of Appendix A give the specific span and range requirements for SO_2 monitors, NO_X monitors, diluent (O_2 and CO_2) monitors, and flow rate monitors, respectively.

The span of a CEMS provides an estimate of the highest expected value for the parameter being measured by the CEMS. For instance, the span value of an SO_2 monitor should be an approximation, based on the type of fuel being combusted, of the highest SO_2 concentration likely to be recorded by the CEMS during operation of the affected unit. The range of a CEMS is the full-scale setting of the instrument. Under part 75, the range of a monitor must be equal to or greater than the span value. Section 2.1 of Appendix A further specifies that the range must be chosen such that the majority of the readings during normal operation fall between 25.0 and 75.0 percent of full-scale. Part 75 span values are used to determine the appropriate reference gas concentrations and reference signals for daily calibration of the CEMS; the reference concentrations and signal values are expressed as percentages of the span value. The allowable daily calibration error for a CEMS is also expressed as a percentage of span.

Sections 2.1.1 through 2.1.4 of Appendix A to the January 11, 1993 rule specified procedures for determining the span values for four parameters: SO_2, NO_X, diluent gas (O_2 or CO_2), and volumetric flow rate. For SO_2, the "maximum potential concentration" (MPC) was first calculated based on fuel sampling results from the previous 12 months (using the highest sulfur content and lowest heating value in Equation A–1a or A–1b). The SO_2 span value was then obtained by multiplying the MPC by 1.25 and rounding the result upward to the next highest multiple of 100.0 ppm. The MPC values for NO_X were specified in the rule and were based on the type of fuel being combusted (e.g., 800.0 ppm for coal-firing and 400.0 ppm for oil-firing). The NO_X span value was then determined by multiplying the MPC by 1.25 (e.g., 1000.0 ppm for coal-firing and 500.0 ppm for oil-firing). For CO_2 and O_2, a span value of 20.0 percent CO_2 or O_2 was required for all diluent monitors. For flow rate, the "maximum potential velocity" (MPV) was first determined either using Equation A–3a (or A–3b) or from historical test data (i.e., from velocity traverses conducted at or near maximum load). Then, the span value was obtained by multiplying the MPV by 1.25 and rounding the result upward to the next highest multiple of 100 feet per minute (fpm).

In the January 11, 1993 rule, the SO_2 or NO_X monitor range derived from the MPC was referred to as the "high-scale." The rule further specified that whenever the majority of the readings during normal operation were expected to be less than 25.0 percent of the high full-scale range value (e.g., if a scrubber were used to reduce SO_2 emissions), a second, "low-scale" span and range would be required. The low scale of the CEMS would be defined as 1.25 times the "maximum expected concentration" (MEC). The original rule was prescriptive regarding the method of determining the MEC. For SO_2, the MEC was to be calculated using Equation A–2; for NO_X, an MEC value of 320.0 ppm was to be used for coal-firing and 160.0 ppm for oil-or gas-firing.

In the first two years of Acid Rain Program implementation, it became increasingly clear to both the regulated community and to EPA that the span and range provisions of part 75 lacked sufficient flexibility and clarity. The NO_X provisions were particularly problematic, being overly prescriptive in some instances and sometimes requiring two spans and ranges when a single, appropriately-sized range would suffice. Also, the units of the flow rate span were expressed in terms of velocity (i.e., feet per minute), and this was not consistent with either the units of measure used for daily monitor calibrations or the units used for electronic reporting of flow rate data.

The May 17, 1995 rule attempted to address these deficiencies, as follows. For SO_2, an alternative means of determining the MPC, in lieu of using historical fuel sampling data, was added; the MPC could be based upon 30 days of historical CEMS data. The use of historical CEMS data was also allowed as an option for MEC determinations, instead of using Equation A-2. For NO_X, the method of determining the MPC was made less prescriptive. First, a comprehensive list of MPC values was promulgated (Tables 2–1 and 2–2 in Appendix A), taking into consideration the unit type in addition to the fuel type. The MPC value from this list could be used in lieu of the fuel-based MPC prescribed in the original rule. Second, two alternative methods of determining the MPC or MEC were added, i.e., from historical CEMS data or from emission test results. Finally, flexibility was added to the dual-range requirements for NO_X monitors so that, in many instances, the span and range requirements of part 75 could be met on a site-specific basis, using a single span and range.

The span provisions for CO_2 and O_2 were not significantly changed in the May 17, 1995 rule. For flow rate, however, a more detailed procedure for determining the span value was added. This addition was considered necessary because during the first year of program implementation it came to light that there are actually two important span values associated with flow rate: (a) the "calibration" span value used for daily calibrations, and (b) the "flow rate" span value in units of standard cubic feet per hour (scfh). These two span values are both derived from the MPV, but are almost invariably expressed in different units of measure, and, therefore, the two spans are generally not equal numerically. For instance, the calibration span value for the daily calibration of a differential pressure-type flow monitor, expressed in units of inches of water, is a small number (generally less than 5.0 in. H_2O); while the flow rate span value, in scfh, is a very large number, usually in the tens or hundreds of millions.

The May 17, 1995 rule also revised the procedures for adjusting the span and range of SO_2, NO_X, and flow monitors. Sections 2.1.1.4, 2.1.2.4, and 2.1.4 of Appendix A to the original rule had specified that span and range adjustments were required whenever the MPC, the MEC, or the MPV changed significantly. When a significant change in the MPC, MEC, or MPV occurred, a new range setting was to be established and a new span value defined, equal to 80.0 percent of the adjusted range value. The revised sections 2.1.1.4, 2.1.2.4, and 2.1.4 of Appendix A to the May 17, 1995 rule changed this procedure, requiring the new span value to be determined first, followed by the new range. The May 17, 1995 rule also added procedures for addressing full-scale exceedances, specifying that the full-scale value is to be reported for an exceedance of one hour and that a range adjustment is required for an exceedance greater than one hour. Finally, the May 17, 1995 rule specified that whenever the range of a gas monitor is adjusted, a linearity test is required, and a calibration error test must be done when the range of a flow monitor is adjusted.

Discussion of Proposed Changes

Since promulgation of the May 17, 1995 rule, EPA has continued to receive questions and comments about the span and range sections of part 75. Many of

the questions and comments have centered on the adjustment of span and range. The following questions are typical: When must the span and range be changed? What constitutes a "significant" change in the MPC, MEC, or MPV? When a span and range adjustment is required, what are the deadlines for making the changes and for completing the required linearity test? How should full-scale exceedances be reported? There also appears to be some lingering confusion and misunderstanding about how to determine the flow rate span values and how to calculate the maximum potential flow rate (MPF) and the NO_X maximum emission rate (MER) (see Docket A–97–35, Items II–B–8, II–D–67, and II–E–31). In view of this, EPA believes that the span and range sections of the rule are still not sufficiently clear, flexible, or detailed and are in need of further revision. In June, 1996, a national part 75 CEM Implementation Workgroup meeting was held in Washington D.C. to discuss possible revisions to part 75. One of the principal topics of discussion was span and range (see Docket A–97–35, Item II–E–32). Today's rulemaking proposes comprehensive revisions to sections 2.1 through 2.1.4 of Appendix A, based in part on the discussions of the June, 1996 meeting. The principal changes are described in paragraphs (1) through (5), below.

1. Maximum Potential Values

The basic procedure for determining the maximum potential of SO_2 concentration would be unchanged by today's proposal. However, two new provisions would be added to section 2.1.1.1 of Appendix A to prevent overestimation of the MPC. The first of these provisions would allow the exclusion of clearly anomalous fuel sampling results when determining the MPC. The second provision would apply to units for which the designated representative certifies that the highest sulfur fuel is never combusted alone, but is always blended or co-fired with other fuel(s) during normal operation. For such units, the MPC would be calculated using best estimates of the highest sulfur content and lowest gross calorific value expected for the blend or fuel mixture and inserting these values into Equation A–1a or A–1b. The best estimates of the highest percent sulfur and lowest GCV for a blend or fuel mixture would be derived from weighted-average values based upon the historical composition of the blend or mixture in the previous 12 (or more) months.

The alternative procedure for determining the MPC of SO_2 based upon quality assured historical CEMS data would be retained, but it is proposed that the MPC be based, at a minimum, upon the previous 720 quality assured monitor operating hours, rather than the previous 30 unit operating days. This is to ensure that a sufficient quantity of valid data is used for the MPC determination. Making the determination based on 30 unit operating days does not provide that assurance, particularly for units that may only operate for a few hours a day (e.g., peaking units). Revised section 2.1.1.1 would also specify that for a unit with add-on SO_2 emission controls, the historical CEMS data option may only be selected if the certified SO_2 monitor used to determine the MPC is located at the control device inlet.

For NO_X, the general procedures for determining the MPC would also remain the same, i.e., either: (1) use the MPC value prescribed in the original rule, (2) use the unit-specific value listed in Table 2–1 or 2–2, or (3) determine the MPC by emission testing or from historical CEM data. However, the following changes to section 2.1.2.1 of Appendix A are proposed. First, a statement would be added that the MPC would have to be based upon the combustion of whichever fuel or blend combusted at the unit produces the highest level of NO_X emissions. Second, an advisory statement would be added, noting that the initial MPC value determined for a unit that is not equipped with low-NO_X burners (LNB) would have to be re-evaluated if a low-NO_X burner system is subsequently installed and optimized. Third, if historical CEMS data are used to determine the MPC, the determination would have to be based on the previous 720 (or more) quality assured monitor operating hours (instead of the previous 30 unit operating days). Fourth, units with add-on NO_X emission controls could only use the historical CEM data option if the historical data represented uncontrolled emissions (e.g., if the certified CEMS used to collect the data were located prior to the control device inlet or, for a unit with seasonal NO_X controls, if the historical data were from a period when the controls were not operating). Fifth, if emission testing is used for the MPC determination, sufficient tests would have to be performed at various loads and excess oxygen levels to ensure that a credible MPC value is obtained. For units with add-on NO_X emission controls, the emission test data would have to be collected upstream of all controls, or, for a unit with seasonal controls, during a period when the controls were not operating. Finally, a specific requirement to calculate the maximum potential NO_X emission rate (MER) would be added to section 2.1.2.1 of Appendix A. The May 17, 1995 rule had provided a definition of the MER in § 72.2; however, a corresponding requirement to calculate the MER was not included in part 75 at that time. The MER is occasionally needed to provide substitute NO_X emission rates during missing data periods. The owner or operator would be permitted to use the diluent cap value of 5.0 percent CO_2 or 14.0 percent O_2 for boilers (or 1.0 percent CO_2 or 19.0 percent O_2 for turbines) in the NO_X MER calculation.

For CO_2, today's proposed rule would add a new section 2.1.3.1 to Appendix A, which provides a definition of the MPC. The MPC for CO_2 pollutant concentration monitors would be 14.0 percent for boilers and 6.0 percent CO_2 for combustion turbines. Alternatively, the MPC could be based on a minimum of 720 hours of representative quality assured historical CEM data.

For flow rate, the procedure for determining the MPV would be essentially unchanged by today's proposed rule, i.e., the MPV would either be determined from Equation A–3a (or A–3b, as applicable) in Appendix A, or it would be based on velocity traverse data taken at or near maximum load. However, a procedure for calculating the maximum potential flow rate (MPF) would be added to section 2.1.4.1 of Appendix A. The MPF is occasionally used to provide substitute flow rate data; therefore, a clear, consistent method of determining the MPF is needed.

2. Maximum Expected SO_2 and NO_X Concentrations

Today's proposal would significantly change the procedures for determining the maximum expected concentration (MEC) of SO_2. The purpose of the revisions would be to ensure that the proper span(s) and range(s) are selected for SO_2 measurement. Proposed section 2.1.1.2 of Appendix A would require the MEC to be determined for units with SO_2 controls and also for uncontrolled units that burn both high- and low-sulfur fuels (or blends) as primary or backup fuels (e.g., high- and low-sulfur coal or different grades of fuel oil).

The revised procedures for determining the MEC for SO_2 would be as follows. For units with emission controls, Equation A–2 in Appendix A would be used to calculate the MEC. For uncontrolled units that burn both high-sulfur and low-sulfur fuels or blends as primary or backup fuels, Equation A–1a or A–1b in Appendix A (which in the

current rule is reserved for MPC calculations) would be used to determine an MEC value for each fuel or blend, with three important exceptions. The MEC would not be calculated for: (1) the highest-sulfur fuel or blend (because it would be duplicative of the MPC calculation); (2) fuels or blends with a total sulfur content no greater than the total sulfur content of natural gas, i.e., ≤ 0.05 percent sulfur by weight, because § 75.11(e)(3)(iv) of the current rule specifies that natural gas combustion does not trigger a dual span and range requirement for the SO_2 monitor (for gas firing, the MEC and low-scale span values would be too low to be practical for quality assurance purposes, e.g., < 5 ppm for pipeline natural gas); and (3) fuels or blends that are combusted only during unit startup, because such fuels are infrequently used and are not representative of normal unit operation.

Today's proposal would continue to allow the same flexibility in the SO_2 MEC determination that was introduced in the May 17, 1995 rule. That is, if a certified SO_2 CEMS is already installed, the owner or operator could determine the MEC based upon historical continuous monitoring data, in lieu of using mathematical equations. If this option were chosen for a unit with SO_2 controls, the MEC would be the maximum SO_2 concentration measured at the control device outlet by the CEMS over the previous 720 or more quality assured monitor operating hours with the unit and the control device both operating normally. For units that burn both high- and low-sulfur fuels or blends as primary and backup fuels and have no SO_2 controls, the MEC for each fuel would be the maximum SO_2 concentration measured by the CEMS over the previous 720 or more quality assured monitor operating hours in which that fuel or blend was the only fuel being burned in the unit.

Today's rule also proposes to change the way in which the MEC is determined for NO_X. Revised section 2.1.2.2 of Appendix A would require a determination of the MEC during normal operation for units with add-on NO_X controls capable of reducing NO_X emissions to 20.0 percent or less of the uncontrolled level (i.e., steam injection, water injection, selective catalytic reduction or selective non-catalytic reduction). A separate MEC determination would be required for each type of fuel combusted, except for fuels that are only used for unit startup or for flame stabilization. The MEC would be determined in one of three ways: (1) using Equation A–2 in Appendix A; or, if that equation is not appropriate, (2) by emission testing or (3) by using historical CEMS data from the previous 720 (or more) quality assured monitor operating hours. Revised section 2.1.2.2 would give specific guidelines and procedures by which to obtain the MEC when the emission testing or CEMS data options are selected. All CEMS or emission test data used for the MEC determination would be taken under stable operating conditions with all control devices and methods operating properly.

3. *Span and Range Values*

For SO_2, NO_X, and flow rate, respectively, revised sections 2.1.1.3, 2.1.2.3 and 2.1.4.2 of Appendix A would allow the high-scale span value to be between 100.0 and 125.0 percent of the maximum potential value (i.e., the MPC or MPV), rounded off appropriately. This is a change from the current rule which requires the high span to be set at 125.0 percent of MPC or MPV, rounded off appropriately. However, the change is not expected to be disruptive, because properly sized span values previously determined by multiplying the MPC or MPV by 1.25 could continue to be used. The change would allow the owner or operator to set the span value in such a way that a small exceedance of MPC or MPV would not require a span change (see paragraph 5, "Adjustment of Span and Range," below). The added flexibility in span selection would also allow different units with similar (but not identical) MPCs for SO_2 and/or NO_X to use the same span value and to use the same calibration gas concentrations, which could result in cost savings for some facilities. In 1996, EPA received and approved a petition from one utility to equalize the SO_2 span values at several of its coal-fired units (see Docket A–97–35, Items II–C–23, II–D–71).

For CO_2 and O_2 monitors, today's proposal would revise section 2.1.3 of Appendix A to allow the owner or operator maximum flexibility in selecting an appropriate span value. The CO_2 or O_2 span value would not be determined in the same way as an SO_2, NO_X, or flow rate span value. Rather, for CO_2 monitors installed on boilers, any convenient span value between 14.0 percent and 20.0 percent CO_2 representing the percent diluent in the flue gas would be acceptable. For combustion turbines, any CO_2 span value between 6.0 and 14.0 percent CO_2 could be used. For O_2 monitors, a span value between 15.0 percent and 25.0 percent O_2 could be selected. However, if the O_2 concentrations are expected to be consistently below 15.0 percent, an alternative span value of less than 15.0 percent could be used, provided that an acceptable technical justification was included in the monitoring plan. The proposed rule would also allow purified instrument air containing 20.9 percent O_2 to be used as the high level calibration gas for oxygen monitors having span values greater than or equal to 21.0 percent O_2.

There are two principal reasons why EPA is proposing increased flexibility in the selection of the CO_2 and O_2 span values. The first is to encourage greater accuracy in the diluent gas measurements. The revisions would allow the span value to be customized so that the concentration of the upscale calibration gas used for daily calibrations can be as close as possible to the actual average CO_2 or O_2 concentrations in the stack. In 1996, EPA received and approved a petition from one utility to use a CO_2 span value of 15.0 percent for its coal-fired units, rather than the 20.0 percent span value required by part 75 (see Docket A–97–35, Items II–C–20, II–D–68). The second reason for revising the CO_2 and O_2 span requirements is to eliminate unnecessary high-level span and range requirements. The current rule requires a high span value of 20.0 percent for all CO_2 and O_2 monitors. However, there are many units (e.g., combustion turbines) for which the diluent gas concentrations are so low that the guideline in the current section 2.1 of Appendix A (i.e., that the majority of the readings be within 25.0 to 75.0 percent of full-scale) cannot be met unless a second, low-scale span and range are used. For most of these units, there are technical and safety reasons why the diluent concentrations must remain low; therefore, it is unreasonable to require a high range to be maintained if a lower range will suffice and can never be exceeded. During the Phase II certification process, EPA approved CO_2 span values of 10.0 percent for a number of combustion turbines and waived the high-scale range requirement (see Docket A–97–35, Items II–C–19, II–C–21, II–D–64).

Today's proposal would not change the basic way in which the full-scale range setting of a monitor is determined. The range would still have to be set greater than or equal to the span value. However, the guideline for selecting an appropriate full-scale range in section 2.1 of Appendix A would be revised as follows. With few exceptions, the full-scale range would be selected so that, to the extent practicable, the readings during typical unit operation fall between 20.0 and 80.0 percent of full-scale; this represents a slight increase in flexibility from the "25-to-75 percent of

full-scale" guideline in the current rule. Today's proposal would also emphasize that section 2.1 is only a guideline and would cite three specific cases in which it is inapplicable. Specifically, the guideline would not apply to: (1) quality assured SO_2 readings obtained during the combustion of natural gas or fuel with equivalent total sulfur content (because the resulting SO_2 emissions are too low to be subject to the span and range requirements); (2) quality assured SO_2 or NO_X readings on the high range for an affected unit with SO_2 or NO_X emission controls and two span values (because the high range is not the normal operating range for the unit); and (3) quality assured SO_2 or NO_X readings less than 20.0 percent of the low measurement range for a dual-span unit with SO_2 or NO_X emission controls, provided that the low readings are associated with periods of high control device efficiency (because it is not necessary to re-range a monitor based on non-representative hours of exceptional control performance).

For flow monitors, today's rule proposes to revise section 2.1.4.2 of Appendix A to more clearly define the "calibration span value" (which is the span expressed in the units of measure used for the daily calibrations) and the "flow rate span value" (which is the span expressed in the units used for electronic data reporting, i.e., scfh). The proposed rule defines these two span values in considerable detail and outlines how to use them. EPA believes that this will result in greater consistency in implementation of the part 75 flow rate monitoring requirements.

4. Dual Span and Range Requirements for SO_2 and NO_X

In today's rule, revisions are proposed to the dual span and range requirements for SO_2 and NO_X monitors in sections 2.1.1.4 and 2.1.2.4 of Appendix A. The revised provisions are essentially the same for both pollutants. To determine whether a second, low-scale span is required in addition to the high-scale span based on the MPC, each of the maximum expected concentration (MEC) values determined under revised section 2.1.1.2 or 2.1.2.2 of Appendix A would be compared against the maximum potential concentration (MPC) determined under proposed sections 2.1.1.1 or 2.1.2.1. If this comparison shows any of the MEC values to be < 20.0 percent of the MPC, a low-scale span would be required. If several of the MEC values are found to be < 20.0 percent of the MPC, then the low-scale span would be based upon whichever MEC value is closest to 20.0 percent of the MPC. The low-scale span value would be determined in a manner similar to the high-scale span, i.e., by multiplying the MEC by a factor between 1.00 and 1.25 and rounding off the result appropriately.

When both a high-scale span and a low-scale span are required for SO_2 or NO_X, proposed sections 2.1.1.4 and 2.1.2.4 would allow the owner or operator to use either of the following monitor configurations to meet the dual-range requirement: (1) a single analyzer with two ranges, or (2) two separate analyzers connected to a common probe and sample interface. The use of other monitoring configurations would be subject to the approval of the Administrator. The monitor configurations would be represented in the monitoring plan as follows: (a) the high and low ranges could be designated as two separate, primary monitoring systems; (b) the high and low ranges could be designated as separate components of a single, primary monitoring system; or (c) one range (the "normal" range) could be designated as a primary monitoring system, and the other range as a non-redundant backup monitoring system. The high and low ranges would be quality assured according to their designation in the monitoring plan. Primary monitoring systems would have to meet the QA requirements for primary systems in § 75.20(c), Appendix A, and Appendix B, with the following exception: relative accuracy test audits (RATAs) would be required only on the normal range. For units with emission controls, the low range would be considered normal; for other units, the range in use at the time of the scheduled RATA would be considered normal. Non-redundant backup systems would have to meet the applicable QA requirements for "like-kind replacement analyzers" in proposed § 75.20(d).

Today's rule would add a new alternative provision under sections 2.1.1.4 and 2.1.2.4 of Appendix A for dual-span units with SO_2 or NO_X emission controls. The new provision would allow the owner or operator to use a "default high-range value" in lieu of operating, maintaining, and quality assuring a high-scale monitor range. The default high-range value would be 200.0 percent of the MPC (based on uncontrolled emissions). This value would be reported whenever the SO_2 or NO_X concentration exceeded the full-scale of the low-range analyzer. The default high-range value is being proposed for controlled units that seldom, if ever, experience full-scale exceedances of the low monitor range during normal operation (e.g., units that have a permit condition requiring cessation of unit operation when a full-scale exceedance occurs or units that experience low-range exceedances only during startup). EPA solicits comment on the proposed approach of using a default high-range value in lieu of a high range monitor and on the value of the default.

EPA specifically requests comment on whether the proposed dual-span monitoring configurations, monitoring system designations, and quality assurance requirements are adequate, or whether there are additional configurations (e.g., one range with two spans, two separate analyzers with separate probes, etc.) that should be included in the rule.

Finally, when two spans and ranges are required, proposed revised sections 2.1.1.4 and 2.1.2.4 of Appendix A would specify that the low range would have to be used to record emission data when the SO_2 or NO_X concentrations are expected to be consistently below 20.0 percent of the MPC (i.e., when a fuel or blend with a MEC value < 20.0 percent of the MPC is combusted). And if the full-scale of the low range is exceeded, the high range would be used to record data (or, if applicable, the default high range value would be reported).

5. *Adjustment of Span and Range*

In today's rule, detailed guidelines and procedures are proposed for adjusting the span and range of the CEMS in revised sections 2.1.1.5, 2.1.2.5, 2.1.3.2 and 2.1.4.3 of Appendix A. The intent of these provisions is to ensure that each owner or operator assesses the adequacy of all CEMS span values on at least a quarterly basis (and whenever operational changes are planned) and, based on that assessment, makes any necessary adjustments to the spans or ranges in a timely manner. EPA believes that the proposed procedures are sufficiently flexible so that frequent span and range adjustments will not be necessary. The procedures are primarily directed at CEMS with improperly-sized spans and ranges, to bring them into full conformance with part 75 requirements or for future changes in unit operation (e.g., fuel switch or low-NO_X burner installation) that may significantly affect the level of emissions or flow. All required span or range adjustments would have to be made no later than 45 days after the end of the quarter in which the need to adjust the span or range is identified, unless the span change would require new calibration gases to be ordered for daily calibration error and linearity tests, in which case, the owner or operator would have up to

90 days after the end of the quarter to make the span adjustment.

The revised procedures for span and range adjustment would be as follows. First, if the maximum value upon which the high span value is based (i.e., the MPC or, for flow rate, the MPF) is exceeded during a calendar quarter, but the span is not exceeded, the span or range would not have to be adjusted. However, for missing data purposes, if any quality assured hourly concentration or flow rate exceeds the MPC or MPF by ≥ 5.0 percent during the quarter, a new MPC or MPF would have to be defined, equal to the highest value recorded during the quarter, and a monitoring plan update would be required. Second, for the high measurement range, if any quality assured reading exceeded the span value by ≥ 10.0 percent during the quarter but did not exceed the range, a new MPC or MPF (as applicable) would have to be defined, equal to the highest on-scale reading recorded during the quarter, and the span value would also have to be changed. If the new span value exceeded the current full-scale range setting, then a new range setting would also be required. Similar span adjustment requirements would apply to the low scale if the two measurement ranges are used separately for distinctly different modes of operation (e.g., during the combustion of different fuels), rather than being used in combination to provide a continuum of measurement range capability.

The proposed procedures for responding to full-scale exceedances are as follows. Whenever the full-scale of a high monitor range is exceeded, excluding hours of non-representative operating conditions (e.g., a trial burn of a new fuel), corrective action would be required to adjust the span and range. In addition, any time the range is exceeded, a value of 200.0 percent of the current full-scale range would be reported to EPA for each hour of each full-scale exceedance. The Agency believes that 200.0 percent of the range is sufficiently conservative to ensure that emissions would not be under-reported. One utility that experienced a full-scale exceedance of the high SO_2 monitor range estimated from the results of fuel sampling that the SO_2 concentration was approximately 150.0 percent of full-scale during the incident (see Docket A–97–35, Item II–D–24).

For units with two span values and two measurement ranges for a particular parameter (e.g., SO_2), when the full-scale of the low range is exceeded, provided that the high monitor range is available to record emission data, no corrective actions would be required. However, if, at the time of the low-range exceedance or during the continuation of the low-range exceedance, the high range is either out-of-service or out-of-control for any reason (and therefore is not available to record quality assured data), the MPC would have to be reported until the readings either returned to the low scale or until the high scale returned to service and was able to provide quality assured data. However, if the reason the high scale is unavailable is because of a high scale exceedance, 200.0 percent of the high range value would be reported for each hour of the exceedance.

Proposed sections 2.1.1.5(e), 2.1.2.5(e), and 2.1.4.3(e) of Appendix A would require that the monitoring plan be updated whenever changes are made in the maximum potential values, maximum expected values, span values, or full-scale range settings. The updates would be made in the quarter in which the changes become effective. The proposed sections 2.1.1.5(e) and 2.1.2.5(e) of Appendix A would further require a linearity test to be done whenever the span of a gas monitor is adjusted, if the span change is significant enough to require new calibration gases for daily calibration error tests and linearity checks. Finally, proposed sections 2.1.4.3(c) and (d) of Appendix A would require a calibration error test to be done whenever a flow monitor span or range is adjusted (unless the adjustment requires a significant change to the flow monitor that would require recertification under § 75.20(b)).

J. Quality Assurance/Quality Control (QA/QC) Program

1. QA/QC Plan

Background

Section 1 of Appendix B to part 75 as originally promulgated on January 11, 1993 sets forth provisions for developing and implementing a quality control program. As part of the quality control program, section 1 requires that the source develop and maintain a quality control plan that documents how the equipment used to report emissions data for part 75 is maintained and quality assured. While the provisions in sections 1.1, 1.2, and 1.4 of Appendix B to part 75 are applicable only to continuous emissions monitoring systems, the provisions in sections 1.3 and 1.5 of the existing rule are more generally applicable to all monitoring systems under part 75. The quality assurance requirements for excepted monitoring systems under Appendices D and E and for alternative monitoring systems under subpart E are provided in the respective Appendices or subpart of part 75, as revised; however, specific guidelines for the quality control plans for these systems are not given.

Based on the experience of state and EPA inspectors at Acid Rain field audits, there has been confusion and inconsistency among industry sources regarding the contents of the quality control plan. In some cases, utility staff have requested further guidance from EPA on what the quality control plan should contain. Based on this experience, the Agency believes that the quality control program provisions in section 1 of Appendix B need to be revised. Specifically, the rule needs to be clarified in two areas: (1) the applicability of the QA/QC program (i.e., do the provisions apply to all monitoring systems, only to CEMS, or only to specific excepted or alternative monitoring systems?); and (2) the recordkeeping requirements for repair and maintenance events. In addition, several utilities have asked EPA to consider deleting the requirement to maintain an inventory of spare parts, which they believe to be unnecessary and burdensome.

Discussion of Proposed Changes

The proposed revisions discussed in this section affect section 1 of Appendix B to part 75. The terms "quality control program and plan" would be changed to "quality assurance/quality control program and plan." The scope of section 1 would be expanded to include QA/QC program provisions for excepted monitoring systems under Appendices D, E, and I and alternative monitoring systems under subpart E. Section 1 would also be reordered to separate the requirements applicable to all monitoring systems (section 1.1) from the requirements specific to CEMS (section 1.2). The preventative maintenance provisions, in section 1.3 of the existing rule, would be moved to section 1.1.1 of the proposal, and would be revised to delete the requirement to maintain an inventory of spare parts. A new section 1.1.3 would be added to specify the requirements for maintaining records of testing, maintenance, and repair activities. QA/QC program requirements specific to excepted monitoring systems under Appendices D, E, and I would be added in section 1.3. These provisions would require written procedures to be maintained for fuel flowmeter testing, primary element inspection, and fuel sampling and analysis as well as requiring a description of equipment and records of testing to be maintained. Section 1.3.6 would make the

recordkeeping requirements consistent with the quality assurance requirements of section 2.3.1 of Appendix E. Section 1.3.7 would specify which QA/QC program requirements apply for excepted monitoring systems under Appendix I. Finally, section 1.4 would define the QA/QC program requirements for alternative monitoring systems approved under subpart E, based on the quality assurance requirements of subpart E.

Rationale

The Agency believes that the manner in which quality assurance/quality control (QA/QC) and maintenance-related activities are performed can have a significant effect upon the accuracy of the data reported by a monitoring system. Therefore, today's proposal seeks to ensure that adequate records are kept to document that each monitoring system and its ancillary components is being maintained and operated in a proper manner. Section 1 in Appendix B to part 75 would, therefore, be amended to provide sources with General guidance regarding QA/QC program requirements. However, the Agency recognizes that QA/QC programs may vary from site to site and that many sources have already developed and implemented an effective QA/QC program. It is the Agency's intent to allow each source the flexibility to develop and implement a QA/QC program that will result in the reporting of accurate emissions data through proper equipment calibration, maintenance and troubleshooting procedures.

(a) *Inventory of Spare Parts.* Section 1.3 of Appendix B to part 75 in the January 11, 1993 rule requires that an inventory of spare parts be maintained as part of the QA/QC program. The intent of this requirement is one of the fundamental goals of a QA/QC program, i.e., to maximize the availability of quality-assured data from the monitoring system. Since maintenance and repairs are required in order to keep the monitoring system operating properly, the need for replacement parts will arise over the term of use of the monitoring equipment. In order to minimize the amount of time when the system is unable to provide data because a new part is needed, the existing rule requires that the source maintain an inventory of spare parts. The Agency has received comments on this requirement from both affected utilities and from state inspectors arguing that it is unnecessary and cumbersome (see Docket A–97–35, Item II–D–49, II–E–28). Commenters have suggested that different approaches have been effectively employed to ensure that spare parts are available in a timely manner; however, not all of these approaches require that an inventory of spare parts be kept on-site. For example, some spare parts may be available on a very timely basis from a local supplier, making it unnecessary to maintain spare parts on-site. The Agency believes that these different approaches may be adequate substitutes for keeping an on-site inventory of spare parts. Therefore, the requirement to maintain an inventory of spare parts would be removed in today's proposal, although the objective of an effective QA/QC program, i.e., to maximize data availability, would not change.

(b) *Maintenance Records.* The Agency believes that maintaining records of monitoring system maintenance and repairs is an essential component of an effective QA/QC program. Several utilities have indicated that they agree and have instituted QA/QC programs which include maintaining such records (see, e.g., Docket A–97–35, Item II–D–88). However, some EPA and state inspectors have found that not all sources keep adequate records of maintenance and repairs in their QA/QC program. EPA believes that this failure to keep adequate records compromises the effectiveness of the QA/QC program. Therefore, today's proposal would require each source to maintain proper records of all testing, maintenance, or repair activities performed on any monitoring system or component. Additionally, today's proposal would require that these records and any additional supporting documentation be made available for review during an audit.

(c) *Excepted Monitoring System Requirements.* The required quality assurance activities for excepted monitoring systems are set forth in the respective Appendices D, E, or I. Today's proposed revisions in section 1.3 of Appendix B would specify that information on the approved methods, test procedures and test results must be maintained on-site suitable for inspection as part of the QA/QC program. The proposed revisions would consolidate all of the QA/QC requirements in Appendix B rather than having them spread out in Appendices D, E, and I.

2. Flow Monitor Polynomial Coefficient

Background

Many of the stack gas volumetric flow rate monitors currently in use by affected sources use software polynomial coefficients to convert electrical signals from the monitors into flow rate values that are electronically reported to the Acid Rain Division. The flow rate values generated from these monitors are used by the source's data acquisition and handling system (DAHS) to compute hourly mass emission rates of SO_2, CO_2, and hourly heat input rates. Currently, affected sources are not specifically required to report, record, or document the numerical values of the polynomial coefficients used by their flow monitors.

Discussion of Proposed Changes

Proposed § 75.59(a)(5)(vi) and proposed revisions to section 1.1.3 of Appendix B would require the current values of the flow monitor coefficients to be recorded and would require records to be kept of any changes or adjustments to the coefficient values. The proposed revisions in § 75.20(b) define flow monitor coefficient adjustment as an event which requires recertification.

Rationale

(a) *Recordkeeping of Coefficients.* The agency has recently become aware (by a comment received in response to a request for review of the Acid Rain Audit Manual) of a potentially serious omission in the flow monitor recordkeeping requirements of part 75 (see Docket A–97–35, Item II–D–92). The commenter indicated that part 75 lacks a requirement to document the values of the polynomial coefficients which are programmed into the software of most flow monitoring devices, and that the Acid Rain CEM audit manual does not recommend that Agency or state auditors check the coefficient values. The values of the polynomial coefficients are important because they are directly related to the accuracy of a flow monitor. The coefficient values are usually established at three different load levels (low, mid, and high), in a process called "linearization" or "characterization" of the monitor. Linearization is done in an attempt to ensure that the flow monitor reads accurately across all load levels. The Agency agrees with the commenter that the flow monitor variables are a critical component of the flow monitoring system and that the adjustment of those variables represents a significant change to the flow monitoring system. Therefore, today's rulemaking proposes to add § 75.59(a)(5)(vi) to require owners and operators of affected sources to record the numerical values of the flow monitor polynomial coefficients used during initial certification of the monitor and during each subsequent relative accuracy test audit (RATA). In

addition, section 1 of Appendix B to part 75 would be revised to require that any changes to the flow monitor polynomial coefficients be documented and maintained as part of the QA/QC program maintenance records. Section 1 of Appendix B would also be changed to require the source to document procedures related to the adjustment of flow monitor variables in its QA/QC plan. The values of the flow monitor coefficients and the related adjustment procedures would be required to be kept on-site, in a format suitable for review by an inspector during an audit.

(b) *Recertification After Adjustment of Coefficients.* Since changing the flow monitor polynomial constants relinearizes the instrument, significantly altering the monitored reading, today's proposed rule would amend § 75.20(b) to require recertification subsequent to any flow monitor polynomial coefficient change. Since a three level RATA is the only part 75 quality assurance test that checks the linearity of a flow monitor, the recertification would require a three level RATA.

K. Calibration Gas Concentration for Daily Calibration Error Tests

Background

All part 75 gas monitoring systems are required by section 2.1.1 of Appendix B of the current rule to pass daily calibration error tests, in order to validate emission data from the CEMS. The procedures for conducting the daily calibration error tests are found in section 6.3.1 of Appendix A. Each daily calibration error test consists of injecting two protocol gases of known concentration into the CEMS and comparing the responses of the instrument to the tag values of the protocol gases. The two required gas concentrations for the calibration error tests are zero-level (i.e., 0.0 to 20.0 percent of the span value of the instrument) and high-level (80.0 to 100.0 percent of span).

The span values of part 75 SO_2 and NO_X monitors are determined by multiplying the maximum potential concentration (MPC) by 1.25 and rounding the result upward to the nearest 100.0 ppm. For CO_2 and O_2 monitors, a span value of 20.0 percent O_2 or CO_2 is prescribed. These span values have been deliberately oversized to prevent full-scale exceedances from occurring. Consequently, the SO_2, NO_X, CO_2, and O_2 readings obtained during normal unit operation are generally well below the span values and typically range from about 25.0 to 75.0 percent of full-scale. Because of the oversized span values, the concentrations of the high-level calibration gases used for daily calibration error tests are often much higher than the actual pollutant and diluent gas concentrations in the stack. As a result, the representativeness of the daily calibration error test can be questioned, because the test does not always check the accuracy of an analyzer on the part of the scale where most of the readings occur. For instance, typical CO_2 concentrations for many part 75 units range from about 10.0 to 12.0 percent CO_2 (i.e., 50.0 to 60.0 percent of the span value). However, when CO_2 analyzers are calibrated, the high-level calibration gas concentrations (i.e., 16.0 to 20.0 percent CO_2) are considerably higher than normal stack emissions. In view of this, EPA believes it would be appropriate to allow the owner or operator to have greater flexibility in selecting a representative upscale gas for daily calibrations. One State agency has successfully implemented this type of flexibility in its CEM program. The State's CEM rule specifies the acceptable range of values for the upscale calibration gas, but adds the following qualifying statement, "* * *unless an alternative concentration can be demonstrated to better represent the normal source operating levels *–*–*" (see Docket A–97–35, Item II–D–72).

Discussion of Proposed Changes

Today's rule proposes to add flexibility to the procedures for conducting the calibration error tests of part 75 gas monitors to encourage daily calibrations to be done more representatively. Section 6.3.1 of Appendix A would be revised so that, beginning on January 1, 2000, either the mid-level gas (50.0 to 60.0 percent of span) or the high-level gas (80.0 to 100.0 percent of span) could be used as the upscale calibration gas for daily calibration error tests. A corresponding change would be made to the procedure for calculating the calibration error in section 7.2.1 of Appendix A. Prior to January 1, 2000, the owner or operator would have the option of using the mid-level calibration gas for daily calibrations if it better represents the typical stack gas concentrations than the high-level gas.

L. Linearity Test Requirements

Background

Section 75.20(c) of the current part 75 rule requires a 3-point linearity test of each SO_2 and NO_X pollutant concentration monitor and each diluent gas (O_2 or CO_2) monitor, as part of the initial certification process. A linearity test consists of a series of nine reference calibration gas injections at three different known concentration levels (low, mid, and high) to establish the accuracy of a gas analyzer across its measurement range. The procedures for conducting linearity tests are found in section 6.2 of Appendix A to part 75. Section 6.1 of Appendix A specifies that linearity tests must be done while the unit is operating.

After the initial certification of a gas monitoring system, section 2.2 of Appendix B to part 75 requires periodic linearity tests to be performed. A linearity check is required during each unit operating quarter or, for bypass stacks, during each quarter in which flue gases are discharged through the stack. For units with two span values for a particular parameter (e.g., units with add-on SO_2 controls), linearity tests must be conducted on both the "low" and "high" monitor ranges. Successive linearity tests are, to the extent practicable, to be conducted no less than 2 months apart.

Utility representatives have asked EPA to consider changing the requirement for the unit to be operating when linearity tests are done (see Docket A–97–35, Items II–D–20, II–D–65, II–E–13, II–E–14). This has been requested because owners and operators of peaking units and other units that operate on an "on-call" basis have experienced difficulty in complying with the requirement for the unit to be on-line during linearity tests. For instance, a unit may only operate for a few hours in a quarter and not be needed again until the next quarter. In such a situation, the utility might be forced to re-start and operate the unit (whether or not it is needed) to comply with the linearity test requirement. Some of the utility representatives have also expressed the opinion that for certain monitoring technologies (e.g., dry extractive), on-line and off-line linearity tests are essentially equivalent.

Discussion of Proposed Changes

1. Unit Operation During Linearity Tests

Today's rule proposes to revise the linearity test requirements of part 75 to make them easier with which to comply. EPA agrees that the current linearity test requirements of part 75 lack flexibility and that compliance with the requirements is particularly difficult for infrequently operated units. However, the Agency does not agree with the utility representatives that have suggested allowing off-line linearity tests as the best solution to the problem. Nor is the Agency proposing to allow technology-specific exemptions to the on-line linearity test requirement.

Rather, today's proposal would retain the requirement for linearity tests to be performed while the unit is combusting fuel at conditions of typical stack temperature and pressure. A clarifying statement would be added to section 6.2 of Appendix A, indicating that the unit does not have to be generating electricity during the test. But EPA would continue to require that a linearity test be performed while the unit is combusting fuel at conditions of typical stack temperature and pressure in order to test the monitoring system under the same conditions as when the monitor is measuring emissions, in order to account for any temperature and pressure effects. An on-line linearity test challenges a CEMS while it is in equilibrium with the stack environment and has been sampling stack gas continuously for a period of time.

2. Linearity Test Frequency

The Agency proposes instead to add flexibility to the linearity test requirements by changing the basis upon which the frequency of linearity tests is determined and by providing a linearity grace period. In today's proposal, section 2.2 of Appendix B would be revised to require that a linearity test be performed in each "QA operating quarter" rather than in each "unit operating quarter" or "bypass stack operating quarter." For linearity tests, a QA operating quarter would be defined in the same way as for RATAs, i.e., as a calendar quarter in which the unit operates for at least 168 hours (or, for common stacks, a quarter in which effluent gases discharge through the stack for at least 168 hours). EPA believes that the QA operating quarter methodology would, in most instances, enable the owner or operator of a peaking unit or other infrequently operated unit to complete an on-line linearity test within the calendar quarter in which it is due. However, the following additional changes would be made to further ensure that the linearity test requirements can be met: (1) the requirement to perform successive linearity tests at least 2 months apart would be reduced to allow successive tests to be done one month (30 days) apart; and (2) a new section, 2.2.4, would be added to Appendix B, providing a 168 unit operating hour grace period after the end of each QA operating quarter in which to complete the required test. Thus, to make it easier for infrequently operated units to complete the required linearity tests in the quarters in which they are due, the required waiting time between successive linearity tests would be reduced. And, if circumstances should prevent a linearity test from being completed in the QA operating quarter in which it is due, the test could be done during the grace period. If the required linearity test were not completed by the end of the grace period, data from the monitor would be considered invalid from the hour after the grace period expires until the hour of completion of a subsequent successful linearity test.

For infrequently operated units, certain calendar quarters would not qualify as QA operating quarters. Therefore, in accordance with today's proposed rule, no linearity tests would be required in those quarters. However, this exemption from linearity testing would not be without limit. Proposed section 2.2.2 of Appendix B would allow no more than four consecutive calendar quarters to elapse following the quarter in which the last linearity test was conducted, without a subsequent linearity test having to be performed. That is, a linearity test would either have to be done by the end of the fourth consecutive elapsed calendar quarter since the last test or within a 168 unit operating hour grace period after the end of the fourth consecutive elapsed quarter. Data from the monitor would become invalid if the linearity test was not completed by the end of the grace period and would remain invalid until a linearity test was successfully completed.

Today's proposal would also change the requirement for units with two span values for a particular parameter (e.g., units with add-on SO_2 controls) to perform quarterly linearity tests on both the low and high monitor ranges. Section 2.2.1 of Appendix B would be revised to require a linearity test of a monitor range only if that range is used to report data during the QA operating quarter. However, under proposed section 2.2.3(e) of Appendix B, at least one linearity test of each range would still be required every four calendar quarters to maintain data validation on the range.

3. Linearity Test Method

Today's proposal would add two new requirements to section 6.2 of Appendix A: (1) that all linearity tests must be done "hands-off," meaning that no adjustments of the CEMS other than certain calibration error adjustments would be permitted prior to or during the linearity test period; and (2) to the extent practicable, each linearity test would have to be completed within a period of 24 unit operating hours. These proposed provisions are intended to ensure greater consistency in the way in which linearity tests are conducted and to ensure that the tests are completed in a timely manner. The allowable calibration adjustments prior to and during a linearity test would be defined in proposed section 2.1.3 of Appendix B. For a further discussion, see Section O of this preamble, "CEM Data Validation," below.

4. Exemptions

Finally, section 6.2 of Appendix A would be revised to exempt SO_2 and NO_x monitors with span values of 30 ppm or less from the linearity test requirements of part 75. At these low span values, the linearity test begins to lose its significance. For example, typical low, mid, and high calibration gases for a span value of 30.0 ppm would be 24.0 ppm, 18.0 ppm, and 9.0 ppm, respectively. The appropriate linearity performance specification in section 3.2 of Appendix A is ± 5.0 ppm at each calibration gas level. Therefore, in this illustration, the monitor reading could be 14.0 ppm for both the "low" and "mid" gases or 20.0 ppm for both the "mid" and "high" gases. Even though a valid straight line comparing the reference gas concentrations and the monitor readings cannot be constructed from such data, the monitor would still appear to pass the linearity test.

M. Flow-to-Load Test

Background

The current quality assurance requirements for flow rate monitoring systems in Appendices A and B to part 75 include daily calibration error tests, daily interference checks, quarterly leak checks (for differential pressure type monitors only), and semiannual or annual relative accuracy test audits. Of these required QA tests, only the RATA provides a true evaluation of a flow monitor's measurement accuracy by direct comparison against an independent reference method. The daily calibration error test purports to check flow monitor accuracy, but, as explained below, the ability of the test to accomplish this objective is somewhat questionable.

There is a distinct difference between the daily calibration error test of a flow rate monitor and the calibration error test of a gas monitor. To calibrate a gas monitor, a protocol gas of known concentration is sent through the monitoring system and analyzed. This generally serves as a reliable indicator of the system's ability to accurately measure pollutant or diluent gas concentrations, because the calibration closely simulates the sampling and analysis of stack gas by the monitoring

system. A flow monitor calibration error test, on the other hand, does not provide the same level of assurance of data quality. Generally, a flow monitor calibration checks the system's internal electronic components by means of reference signals. The calibration error test is useful in that it can diagnose certain types of monitor problems, but it is not a "true" calibration of the monitor, since it does not evaluate the system's ability to measure an actual stack gas flow rate. In order to perform true daily flow monitor calibrations, two reference stack gas flow rates would have to be generated and measured. Practical considerations preclude such calibrations from being done, however, because the unit load level would have to be significantly varied during each operating day, and suitable reference method measurements (e.g., velocity traverses using EPA Method 2) would have to be made daily at each calibration load level.

Because of the limited usefulness of the flow monitor daily calibration error test, EPA believes that a more substantive, periodic QA test is needed to ensure that the accuracy of the reported flow rate data is maintained in the interval between successive RATAs. The Agency is particularly concerned about the potential for poor data quality from flow monitors that are not properly maintained. For instance, the sensors of DP and thermal-type monitors are subject to plugging and/or fouling, which will cause the monitors to read lower than true and can result in under-reporting of emissions. One utility observed a substantial increase in the readings from its flow monitor after the sensors were cleaned during a unit outage. Apparently, the sensor problems had not been detected by the daily calibration error tests (see Docket A–97–35, Item II–E–29). A second utility experienced a gradual deterioration of the monitor's performance in the 9-month period following the RATA. By the sixth month (at load levels and CO_2 concentrations virtually identical to the conditions at the time of the RATA), the flow monitor readings were consistently 15.0 to 20.0 percent lower than the baseline average flow rate measured by EPA Reference Method 2 during the RATA. However, during the 9-month period, the flow monitor had consistently passed its daily calibration error tests (see Docket A–97–35, Item II–B–11). During a State inspection of a third utility, the inspector observed a consistent 20.0 to 30.0 percent difference between the hourly flow rates measured by the primary and redundant backup flow monitors even though both monitors had been passing their daily calibration error tests. In this instance, the primary flow monitor was being used for data reporting and was reading higher than the redundant backup monitor; therefore, it is unlikely that emissions were being under-reported. Had the primary monitor malfunctioned and the redundant backup been used, however, emissions would have been significantly under-reported (see Docket A–97–35, Item II–B–10).

Discussion of Proposed Changes

In view of the apparent shortcomings of the flow monitor daily calibration error test, EPA proposes to add a new flow monitor quality assurance test, the "flow-to-load test," to part 75. The flow-to-load test, which would be performed quarterly, is described in proposed sections 7.7 of Appendix A and 2.2.5 of Appendix B. The proposed quarterly flow-to-load test would be required beginning in the first quarter of the year 2000.

The basic premise of the flow-to-load test is that a meaningful correlation exists between the stack gas volumetric flow rate and unit load. In general, for a single unit discharging to a single stack, as the load increases, the flow rate increases proportionally, and the flow rate at a given load should remain relatively constant if the same type of fuel is burned (see Docket A–97–35, Items II–B–9, II–D–69). Common stacks are somewhat less predictable, because the same combined unit load can be produced in a number of ways by using different combinations of boilers. Despite this, if the diluent gas concentration is properly taken into account, the flow-to-load characteristics of common stacks often become more normalized (see Docket A–97–35, Items II–B–9, II–D–73, II–D–74, II–D–76, II–D–83, II–D–84). The flow-to-load ratio, or a normalized ratio, can thus serve as a quantitative indicator of flow monitor accuracy from quarter to quarter until the next RATA is performed.

The quarterly flow-to-load ratio test would be conducted as follows. The owner or operator would be required to determine R_{ref}, a reference value of the ratio of flow rate to unit load, each time that a successful normal-load flow RATA is performed. The value of R_{ref} would be reported in the electronic quarterly report required under § 75.64, along with the completion date of the associated RATA. If two load levels (e.g., mid and high) are designated as normal, the owner or operator would determine a separate R_{ref} value for each normal load level. The reference flow-to-load ratio would be calculated as follows:

$$R_{ref} = \frac{(Q_{ref})}{L_{avg}} \times 10^{-5}$$

In the equation above, R_{ref} is the reference value of the flow-to-load ratio from the most recent normal-load flow RATA; Q_{ref} is the average stack gas volumetric flow rate (in scfh) measured by the reference method during the normal-load RATA; and L_{avg} is the average unit load during the normal-load flow RATA. For a common stack, L_{avg} would be the sum of the operating loads of all units that discharge through the stack. For a unit that discharges its emissions through multiple stacks or ducts, Q_{ref} would be the sum of the total volumetric flowrates that discharge through all of the stacks (or ducts). The reference flow-to-load ratio would be rounded off to 2 decimal places.

As an alternative, the owner or operator could calculate a reference value of the gross heat rate (GHR) in lieu of R_{ref}. In order to exercise this option, quality assured diluent gas (CO_2 or O_2) data would have to be available for each hour of the most recent normal-load flow RATA. The reference value of the GHR would be determined as follows:

$$(GHR)_{ref} = \frac{(\text{Heat Input})_{avg}}{L_{avg}} \times 1000$$

In the equation above, $(GHR)_{ref}$ is the reference value of the gross heat rate at the time of the most recent normal-load flow RATA; $(\text{Heat Input})_{avg}$ is the arithmetic average hourly heat input during the normal-load flow RATA; and L_{avg} is the average unit load during the normal-load flow RATA. In calculating $(\text{Heat Input})_{avg}$, the average volumetric flow rate measured by the reference method during the RATA would be used in conjunction with the average diluent gas concentration measured during the RATA, substituting these values into the applicable heat input equation in Appendix F.

After establishing the reference flow-to-load or GHR value, an evaluation of the flow-to-load ratio or GHR would be required for each primary and redundant backup flow monitor on a quarterly basis. The owner or operator would be required to evaluate the flow-to-load ratio in each "QA operating quarter" (i.e., each quarter in which the unit or stack operates for at least 168 hours). At the end of each QA operating quarter, the owner or operator would calculate the flow-to-load ratio for every hour during the quarter in which: (1) the unit (or combination of units, for a common stack) operated within ±10.0 percent of L_{avg}, the average load during the most recent normal-load flow

RATA; and (2) a quality assured hourly average flow rate was obtained with a certified flow rate monitor. The owner or operator would have the option of using either bias-adjusted flow rates or unadjusted flow rates in the hourly flow-to-load ratios, provided that all of the ratios were calculated the same way. EPA had originally considered proposing that only unadjusted flow rates should be used to calculate the flow-to-load ratios. However, in response to comments received from CEMS Utility Workgroup members, the Agency is proposing to allow either unadjusted or bias-adjusted flow rates to be used, on the condition that the acceptance criteria for the flow-to-load test would be more stringent if bias-adjusted flow rates are used (see Docket A–97–35, Item II–D–82).

For a common stack, the "load" in each hourly flow-to-load ratio would be the sum of the hourly operating loads of all units that discharge through the stack. For a unit that discharges its emissions through multiple stacks (or for a unit that monitors total flow rate in multiple ducts or breechings), the "flow" in the flow-to-load ratio would be the combined hourly volumetric flow rate through all of the stacks (or ducts). Each hourly flow-to-load ratio would be rounded off to 2 decimal places.

Alternatively, the owner or operator could calculate the hourly gross heat rate (GHR) values in lieu of the hourly flow-to-load ratios. However, an hourly GHR could only be determined for those hours within ±10.0 $\pi\epsilon\rho\psi\epsilon\nu\tau$ $o\phi$ Λ_{avg} for which quality assured flow rate and diluent gas (CO_2 or O_2) concentration data are available from a certified CEMS or reference method. The owner or operator could use either bias-adjusted flow rates or unadjusted flow rates to determine the hourly GHR values.

The calculated hourly flow-to-load ratios (or gross heat rates) would be analyzed at the end of the quarter. A separate data analysis would be performed for each primary and each redundant backup flow rate monitor used to record and report data during the quarter. Each analysis would be based on a minimum of 168 hours of data. If two RATA load levels are designated as normal, the analysis would be performed at the higher load unless fewer than 168 data points were available at that load, in which case, the analysis would be performed at the lower load. If, for a particular flow monitor, fewer than 168 hourly flow-to-load ratios (or GHR values) were available at any normal load level, a flow-to-load (or GHR) evaluation would not be required for that monitor for that calendar quarter.

For each flow monitor, E_h, the difference (absolute value) between each hourly flow-to-load ratio and R_{ref}, would be expressed as a percentage of R_{ref} (or, if the GHR is used, the absolute difference between each hourly GHR value and $(GHR)_{ref}$ would be expressed as a percentage of $(GHR)_{ref}$). Then, E_f, the arithmetic average of all of the E_h values, would be calculated. Note that R_{ref} would always be based upon the most recent normal-load RATA, even if that RATA was performed in the calendar quarter being evaluated.

The owner or operator would be required to report the results of each quarterly flow-to-load (or GHR) evaluation in the electronic quarterly report required under § 75.64. The results of a quarterly flow-to-load (or GHR) evaluation would be considered acceptable, and no further action would be required if the average absolute percentage difference (E_f) did not exceed the following limits:

(i) 15.0 percent, if L_{avg} for the most recent normal load flow RATA is ≥ 50 megawatts (or ≥ 500 klb/hr of steam) and if unadjusted flow rates were used in the calculations;

(ii) 10.0 percent, if L_{avg} for the most recent normal load flow RATA is ≥ 50 megawatts (or ≥ 500 klb/hr of steam) and if bias-adjusted flow rates were used in the calculations;

(iii) 20.0 percent, if L_{avg} for the most recent normal load flow RATA is < 50 megawatts (or < 500 klb/hr of steam) and if unadjusted flow rates were used in the calculations;

(iv) 15.0 percent, if L_{avg} for the most recent normal load flow RATA is < 50 megawatts (or < 500 klb/hr of steam) and if bias-adjusted flow rates were used in the calculations.

If E_f exceeded the applicable limit, the owner or operator would have two available options: (1) perform a RATA, as described in proposed section 2.2.5.2 of Appendix B, unless a monitor malfunction is diagnosed and corrected, in which case an abbreviated flow-to-load test could be performed, in lieu of a RATA, in accordance with section 2.2.5.3 of Appendix B and discussed below; or (2) re-examine the hourly data used for the flow-to-load or GHR analysis and recalculate E_f, after excluding all non-representative hourly flow rates. If the owner or operator were to choose option (2), i.e., to recalculate E_f, only the flow rates for the following hours would be considered non-representative and could be excluded from the data analysis:

(1) Any hour in which the type of fuel combusted was different from the fuel burned during the most recent normal-load RATA. The type of fuel would be different if the fuel is in a different state of matter (i.e., solid, liquid, or gas) or is a different classification of coal (e.g., bituminous versus sub-bituminous) than the fuel burned during the RATA;

(2) Any hour in which an SO_2 scrubber was bypassed;

(3) Any hour in which "ramping" occurred, i.e., the hourly load differed by more than + 15.0 percent from the load during the preceding hour or the subsequent hour;

(4) If a normal-load flow RATA was performed and passed during the quarter being analyzed, any hour prior to completion of that RATA; and

(5) If a problem with the accuracy of the flow monitor was discovered during the quarter and corrected, any hour prior to completion of the subsequent diagnostic test described in proposed section 2.2.5.3 of Appendix B, confirming that the corrective actions were successful.

After identifying and excluding any non-representative hourly data in accordance with (1) through (5) above, the owner or operator could analyze the remaining data a second time. At least 168 representative hourly ratios or GHR values at normal load would have to remain in order to perform the analysis; otherwise, the flow-to-load (or GHR) analysis would not be required for that monitor for that calendar quarter.

If, after re-analyzing the data, E_f is found to be within the applicable limit in (i), (ii), (iii), or (iv), above, then no further action would be required. However, if E_f is still outside the applicable limit, the monitor would be declared out-of-control as of the first hour of the quarter following the quarter in which the flow-to-load test was failed. The owner or operator would then perform a RATA as described in proposed section 2.2.5.2 of Appendix B, unless, as the result of an investigation, an instrument malfunction is discovered and corrected as described in proposed section 2.2.5.1 of Appendix B.

If a problem with the monitor is identified, all corrective actions (e.g., non-routine maintenance, repairs, major component replacements, re-linearization of the monitor, etc.) would have to be documented in the operation and maintenance records for the monitor. Data from the monitor would remain invalid until a "probationary" calibration error test of the monitor was passed following completion of all corrective actions, at which point data from the monitor would be assigned a "conditionally valid" status. The owner or operator would then perform an abbreviated flow-to-load test (found in proposed section 2.2.5.3 of Appendix B) to verify that the corrective actions were

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effective, unless the linearity of the flow monitor was affected by the corrective actions (e.g., by the changing of its polynomial coefficients). If the flow monitor linearity was affected, the owner or operator would no longer have the option of performing the abbreviated flow-to-load test in section 2.2.5.3 of Appendix B, but would instead be required to perform a 3-load recertification RATA in accordance with the recertification test period and data validation procedures of § 75.20(b)(3).

The abbreviated flow-to-load test in proposed section 2.2.5.3 of Appendix B is based on a recertification policy developed jointly by EPA, several utility representatives, and one flow monitor vendor (see Docket A–97–35, Items II–B–1, II–D–70, II–I–9, and II–I–16). Use of the abbreviated flow-to-load test would not be limited to situations in which a quarterly flow-to-load test has been failed. Rather, the test could be performed after any documented repair, component replacement, or other corrective maintenance to a flow monitor (except for changes affecting the linearity of the flow monitor, such as adjusting the flow monitor coefficients) to demonstrate that the repair, replacement, or other corrective maintenance has not significantly affected the monitor's ability to accurately measure the stack gas volumetric flow rate. Data from the monitoring system would be considered invalid from the hour of commencement of the repair, replacement, or other corrective maintenance until the hour in which a "probationary" calibration error test is passed following completion of the repair, replacement, or other corrective maintenance and any associated adjustments to the monitor. The abbreviated flow-to-load test would have to be completed within 168 unit operating hours of the probationary calibration error test (or, for peaking units, within 30 unit operating days, if that is less restrictive). Data from the monitor would be considered "conditionally valid" (as defined in § 72.2) beginning with the hour of the probationary calibration error test.

Following a flow-to-load test failure, the abbreviated flow-to-load test could be performed if the investigation into the cause of the test failure revealed a problem with the flow monitor and the problem was subsequently corrected without having to re-linearize the flow monitor. The test procedures would be as follows. The unit(s) would be operated in such a way as to reproduce, as closely as practicable, the exact conditions at the time of the most recent normal load flow RATA. To achieve this, the load should be held constant to within ± 5.0 percent of the average load during the RATA, and the diluent gas (CO_2 or O_2) concentration should be maintained within ± 0.5 percent CO_2 or O_2 of the average diluent concentration during the RATA. For common stacks, to the extent possible, the same combination of units and load levels that were used during the RATA should be used. When the process parameters have been set, a minimum of 6 and a maximum of 12 consecutive hourly average flow rates would be recorded using the flow monitor(s) for which E_f was outside the applicable limit. For peaking units, a minimum of 3 and a maximum of 12 consecutive hourly average flow rates would be required. The corresponding hourly load values and, if applicable, the hourly diluent gas concentrations would also be recorded. The flow-to-load ratio or the GHR would be calculated for each hour in the test hour period using proposed Equation B–1 or B–1a in Appendix B. Then, E_h would be determined for each hourly flow-to-load ratio or GHR using proposed Equation B–2 in Appendix B. Finally, E_f, the arithmetic average of the E_h values, would be determined.

The results of the abbreviated flow-to-load test would be considered acceptable, and no further action would be required if the value of E_f did not exceed the applicable limit specified in proposed section 2.2.5.1 of Appendix B. All conditionally valid data recorded by the flow monitor would then be considered quality assured, beginning with the hour of the probationary calibration error test that preceded the abbreviated flow-to-load test. However, if E_f was found to be above the applicable limit, all conditionally valid data recorded by the flow monitor would be considered invalid back to the hour of the probationary calibration error test that preceded the abbreviated flow-to-load test, and a single-load RATA would be required, in accordance with proposed section 2.2.5.2 of Appendix B.

When a single-load RATA is performed because the owner or operator is unable to reconcile a quarterly flow-to-load test failure, either by excluding non-representative hours and recalculating E_f or by passing the abbreviated flow-to-load test after performing component replacement or other corrective maintenance on the flow monitor, then data from the monitor would remain invalid until the hour of successful completion of the single-load RATA.

Rationale

EPA believes that the proposed methodology for the quarterly flow-to-load test is fundamentally sound. It has been developed through a series of teleconferences and face-to-face meetings between EPA, members of the regulated community, and State and local agency personnel (see Docket A–97–35, Items II–D–77, II–D–80, II–D–81, II–D–82, II–D–85, II–E–23, II–E–24, II–E–25, II–E–26, and II–E–28). In addition, some provisions of the flow-to-load test were revised following pre-proposal comment. Specifically, the proposal reflects, in section 2.2.5.1 (b) of Appendix B to part 75, a commenter's request that if a quarterly flow-to-load test is failed and the monitor malfunction is discovered and corrected (without the need to relinearize the monitor), the correction could be verified using the abbreviated flow-to-load test in lieu of performing a single load RATA (see Docket A–97–35, Item II–D–42).

The proposed tolerance limits set forth in paragraphs (i), (ii), (iii), and (iv) of section 2.2.5 of Appendix B are believed to be both reasonable and achievable. When these tolerance limits are met, it provides a strong indication that the flow monitor is still accurate to within 10.0 percent of the reference method baseline established during the last normal-load flow RATA and would, therefore, appear to be in control with respect to the relative accuracy requirements of part 75. An extra tolerance of 5.0 percent has been incorporated into the limits to account for imprecision in the flow-to-load methodology. An extra 5.0 percent tolerance has also been added for smaller units (i.e., normal load less than 50 megawatts or 500 klb/hr of steam), because the flow-to-load ratio or GHR for such units is very sensitive to small variations in load (see Docket A–97–35, Item II–B–7).

To test the viability of the proposed tolerance limits, EPA analyzed quarterly flow rate and load data from the third quarter of 1996 for 21 units and stacks, including 9 single units, 11 common stacks, and 1 multiple-stack unit (see Docket A–97–35, Items II–A–1, II–A–2, II–A–3). The units chosen for this analysis were selected as a representative sample of units that would be affected by this QA test requirement and included various operational circumstances (e.g., baseloaded and peaking units, single fuel units, and units that burn multiple fuels). The flow-to-load test was applied to each unit or stack in the manner described above, except that *no* hours within ± 10.0 percent of L_{avg} were excluded from the data analysis. The data from these same units plus one additional multiple-stack unit were

analyzed a second time, with each flow-to-load ratio being multiplied by the diluent gas concentration. This is similar, but not identical, to calculating the GHR. Once again, no hours within ± 10.0 percent of L_{avg} were excluded. In both analyses, *unadjusted* flow rates were used in the ratios. The results of the two data analyses were nearly the same. Only one failure of the quarterly flow-to-load test was observed in each analysis (i.e., the failure rate was < 5.0 percent). The average value of E_f was 6.1 percent for the analysis without the diluent gas corrections and 6.4 percent for the analysis with the diluent gas corrections. A few units and stacks had a much lower E_f value when the diluent correction was applied, but in most cases, the diluent correction had relatively little effect. These results suggest that the flow-to-load test can provide EPA with the necessary assurance that flow monitors continue to generate accurate data from one RATA to the next. The results also indicate that the test should be relatively easy to pass if flow monitors are properly maintained and operated.

Because of the added quality assurance that would be provided by performing the flow-to-load or GHR test each quarter, EPA has reconsidered the scope of the other quality assurance tests for flow monitors. In today's proposed rule, the Agency is proposing to reduce the annual 3-load flow RATA requirement to a 2-load RATA and to reduce the frequency of 3-load RATAs to once every five years (and whenever a flow monitor is re-linearized). In addition, single-load flow RATA testing would be allowed in lieu of the annual 2-load test if the facility could demonstrate that a unit has operated at a single load level for at least 85.0 percent of the time in the four "QA operating quarters" prior to the scheduled RATA. (See Section N.2 of this preamble, below, for further discussion.) The Agency believes that, taken together, these proposed changes will reduce the cost and burden of quality assurance testing for flow monitors, while ensuring high data quality. The proposed reduction in the amount of required RATA testing is considered feasible because of the increased quality assurance provided by the quarterly flow-to-load test. EPA requests comment on the proposed revisions to flow monitor quality assurance requirements.

N. RATA and Bias Test Requirements

Background

Section 6.5 of Appendix A to the January 11, 1993 rule, as amended on May 17, 1995 and November 20, 1996, requires relative accuracy test audits of all primary and redundant backup SO_2, NO_X, CO_2, and flow monitoring systems to be performed during the initial certification of the CEMS. A RATA consists of a series of 9 or more simultaneous test runs, comparing measurements made by the continuous monitoring system against an EPA reference test method. The procedures for conducting RATAs are found in section 6.5 of Appendix A to part 75.

Following the initial certification of a CEMS, section 2.3 of Appendix B to part 75 requires that periodic RATAs of gas and flow monitors be performed to quality assure the data from the CEMS on an on-going basis. The frequency at which relative accuracy testing is required depends upon the results of the last RATA of a monitoring system. Part 75 currently requires RATAs to be performed semiannually, unless a monitoring system achieves a low enough relative accuracy to qualify for an annual test frequency. The Agency has always interpreted "semiannually" to mean that the deadline for the next RATA is the end of the second calendar quarter following the quarter in which a RATA is successfully completed, and "annually" to mean that the next RATA is due by the end of the fourth calendar quarter following the quarter in which a RATA is successfully completed. For monitors installed on peaking units and bypass stacks, however, the RATA deadlines are based on operating quarters, not calendar quarters. That is, the next RATA is due either at the end of the second or fourth unit operating quarter (for peaking units) or bypass stack operating quarter following the quarter in which a RATA is successfully completed.

For SO_2, NO_X, and CO_2 monitors, the RATAs are to be conducted while the unit is operating at normal load and while combusting the fuel that is normal for the unit. Flow monitor RATAs are to be conducted at three different loads, evenly spaced over the operating range of the unit. When a flow monitor is on a semiannual RATA frequency, a normal-load RATA rather than a 3-load RATA may be conducted to satisfy the semiannual test requirement, but a 3-load RATA is still required annually. Note that for flow monitors installed on peaking units and bypass stacks, 3-level flow RATAs are not required; RATAs are performed only at the normal load.

For SO_2, NO_X, and flow monitoring systems, section 7.6 of Appendix A requires that each time a RATA is successfully completed, a bias test be performed to determine if the system has a low measurement bias. If a monitoring system fails the bias test, a "bias adjustment factor" (BAF) must be applied to all subsequent emission data reported from that monitoring system. For 3-load flow RATAs, the bias test is done at the normal load. If a flow monitor fails the normal-load bias test, then a BAF must be calculated at each of the three load levels, and the highest of the three BAFs is applied to all flow data reported from the monitor.

When a RATA is due, section 2.3.1 in Appendix B of the rule allows the owner or operator two attempts to achieve an annual RATA frequency and/or a favorable BAF. If a second attempt is made, the RATA frequency and BAF obtained in the second RATA supersede the results of the first RATA. Once the RATA frequency has been established as semiannual or annual, section 2.3.1 of Appendix B specifies that (to the extent practicable) the next RATA of the CEMS may not be done until at least four months have elapsed.

Finally, § 75.21(a)(6) of the November 20, 1996 rule provides an exemption from the RATA requirements of part 75 for SO_2 monitors installed on units that burn only natural gas or fuel with a sulfur content no greater than natural gas. For units that burn both gas and higher-sulfur fuel, such as oil, as primary or backup fuels, § 75.21(a)(5) requires that the RATA of the SO_2 monitor be done when the higher-sulfur fuel is burned. Section 75.21(a)(7) further states that calendar quarters in which only fuel with a sulfur content no greater than natural gas is burned are to be excluded in determining the deadline for the next SO_2 monitor RATA.

Two utility groups, UARG and the Class of '85, have requested that EPA consider revising the RATA requirements of part 75 to make them more flexible, easier with which to comply, and less costly. Some of the possible changes suggested by these groups are as follows: (1) reduce the frequency of required RATAs; (2) determine RATA deadlines based on the amount of unit operation since the last RATA, rather than the number of calendar quarters that have elapsed; (3) remove the requirement to achieve a more stringent relative accuracy standard in order to obtain an annual RATA frequency; (4) except for initial certification, allow flow RATAs to be done at a single load; (5) allow single-point sampling during gas RATAs; and (6) allow a grace period in which to complete a RATA whenever a deadline is not met (see Docket A–97–35, items II–D–20, II–D–30, II–D–65, II–E–13, II–E–14).

Discussion of Proposed Changes

EPA is proposing revisions to the RATA requirements of part 75 based upon experience gained through implementation of the rule and in light of the recommendations made by the utility groups. Today's rulemaking sets forth the proposed changes, which are intended to make the RATA requirements less burdensome without sacrificing data quality.

1. RATA Frequency

EPA does not propose to revise the basic semiannual and annual RATA requirements of part 75 or the incentive system by which to obtain an annual RATA frequency (i.e., to obtain the reduced frequency, a better percentage relative accuracy is required). Instead, the Agency proposes to re-define the terms "semiannual RATA frequency" and "annual RATA frequency," and to change the method by which RATA deadlines are determined.

Today's rule proposes to amend section 2.3 of Appendix B so that the deadline for the next RATA is determined on the basis of "quality assurance operating quarters," rather than calendar quarters. This change would apply, with few exceptions, to all primary and redundant backup monitoring systems, including monitors installed on peaking units and bypass stacks. A "QA operating quarter" would be defined as a calendar quarter in which a unit operates for at least 168 hours or, for common-stacks and bypass stacks, a quarter in which flue gases discharge through the stack for at least 168 hours.

Any calendar quarter that does not qualify as a QA operating quarter would be excluded in determining the deadline for the next RATA. EPA therefore proposes to re-define the term "semiannual RATA frequency" to mean that the next RATA is due at the end of the second QA operating quarter following the quarter in which a RATA is successfully completed. Similarly, "annual RATA frequency" would mean that the next RATA is due at the end of the fourth QA operating quarter following the quarter in which a RATA is successfully completed.

The QA operating quarter methodology has been proposed principally for the benefit of cycling and peaking units to make the part 75 RATA requirements easier to meet. The proposed methodology will not greatly affect base-loaded units, since they seldom operate for less than 168 hours in a quarter. For base-loaded units, the QA operating quarter method is, in most instances, equivalent to the familiar calendar quarter scheme for determining RATA deadlines. Note, however, that on occasion a base-loaded unit may obtain an extended RATA deadline by the QA operating quarter methodology, e.g., when the unit goes into an extended outage (planned or forced) and experiences one or more quarters in which the unit operates for less than 168 hours.

Although the QA operating quarter method allows RATA deadlines to be extended by the exclusion of quarters in which the unit(s) operate for less than 168 hours, such exclusion of calendar quarters is not without limit. Section 2.3.1.1 of Appendix B proposes to allow a maximum of eight consecutive calendar quarters to elapse following the quarter in which the last RATA was performed. A RATA would either have to be performed by the end of the eighth consecutive elapsed calendar quarter since the last RATA or within a 720 unit operating hour "grace period" following the end of the eighth consecutive elapsed quarter. Failure to complete a RATA within the grace period would cause data from the monitoring system to become invalid from the hour of expiration of the grace period until the hour of completion of a successful RATA.

Although the proposed QA operating quarter methodology would serve as the basis for determining the RATA deadline for most routine quality assurance RATAs, there are five notable instances in the current rule or in today's proposal where the RATA deadline is either not determined solely on that basis or is determined entirely on another basis. The first instance is for a unit that burns both natural gas (or fuel with equivalent total sulfur content) and other higher-sulfur fuels as primary or backup fuels and that uses an SO_2 monitor to account for SO_2 mass emissions. Section 75.21(a)(7) of the current part 75 (redesignated as § 75.21(a)(9) in today's proposal) specifies that irrespective of the number of hours of unit operation in the quarter, any calendar quarter in which natural gas (or fuel with a total sulfur content no greater than the total sulfur content of natural gas) is the only fuel combusted in the unit (i.e., a "gas-only" quarter) is to be excluded in determining the deadline for the next RATA of the SO_2 monitoring system. Section 75.21(a)(5) of the current rule further states that for such units, the RATA of an SO_2 monitoring system is to be performed only when the higher-sulfur fuel is being combusted. Second, as discussed in section III.N.6 of this preamble, § 75.21(a)(7) of today's proposed rule would conditionally exempt from SO_2 RATA requirements any unit certified by the designated representative to burn fuel(s) with a sulfur content greater than natural gas only as emergency backup fuel or for short-term testing, provided that the annual usage of the higher-sulfur fuel(s) is kept below 480 hours. However if, during any quarter, the annual usage of the higher-sulfur fuel exceeded 480 hours, an SO_2 RATA would be required either in that quarter or during a subsequent grace period. Thus, for RATAs of SO_2 monitoring systems, it is evident that the number of unit operating hours in a calendar quarter is not the only consideration that determines the deadline for the next RATA; the total sulfur content of the fuel being combusted must also be considered. Third, as discussed in section III.O.6 of this preamble, for certain non-redundant backup monitoring systems, § 75.20(d) of today's proposal would require a periodic RATA every eight *calendar* quarters (rather than QA operating quarters). Fourth, as discussed in section III.N.2 of this preamble, under section 2.3.1.3 of Appendix B in today's proposal, 3-level flow RATAs would have to be performed once in every period of five consecutive *calendar* years (e.g., prior to permit renewal) and whenever a flow monitor is re-linearized. Fifth, as discussed in section III.O.4 of this preamble, for recertification RATAs, which are not regularly scheduled tests, but are done on an "as-required" basis, § 75.20(b)(3) of today's proposal specifies that the deadline for completing such RATAs would be 720 unit operating hours after the start of the recertification test period.

2. RATA Load Levels

Today's proposed rule would more clearly define the load levels at which RATAs are done in order to provide greater consistency in the way that RATAs are performed. The current provisions of part 75 are neither sufficiently standardized nor clear in defining the appropriate RATA load levels, particularly for flow RATAs. For example, section 6.5.2 of Appendix A specifies that the "low" load audit point for a 3-level flow RATA can be located anywhere from the minimum safe, stable load to 50.0 percent of the maximum load. Also, there is no minimum required load separation between the audit points at adjacent load levels. If adjacent audit points are too close together, a 3-level flow evaluation loses its significance. Finally, while the current rule requires gas and flow RATAs to be conducted at normal

load, no definition of normal load is provided. It could be inferred from the current section 6.5.2 of Appendix A that the "mid" load level is considered normal because it requires the 3-load RATA to be done at a frequently used low load, a frequently used high operating load, and a normal load. However, experience in implementing the program has shown that for many units, the high load level is considered normal by the facility. For a few units, low load is considered normal, and for still others, the normal load can depend upon the time of day or the season of the year.

Proposed section 6.5.2.1 of Appendix A would therefore require the owner or operator first to define the "range of operation" for each unit or common stack equipped with hardware CEMS. The range of operation would extend from the minimum safe, stable load to the "maximum sustainable load," which is the higher of: (a) the nameplate capacity of the unit (less any physical or regulatory deratings), or (b) the highest sustainable load, based on at least four quarters of representative historical data. For a common stack, the lower boundary of the range of operation would be the lowest minimum safe, stable load for any of the individual units using the stack. The upper boundary of the range would be obtained by adding together the maximum sustainable loads of all units using the stack, or if that combined load is unattainable in practice, by using the highest sustainable combined load based on at least four quarters of representative historical data. Three load levels would then be defined in terms of the range of operation. The "low" level would be the lower 30.0 percent of the range; the "mid" level would be the central portion (30.0 percent to 60.0 percent) of the range; and the "high" level would be 60.0 percent to 100.0 percent of the range. Proposed section 6.5.2 of Appendix A would specify that for multi-level flow RATAs, the audit points at adjacent load levels (e.g., low and mid, or mid and high) must be separated by no less than 25.0 percent of the range of operation. The owner or operator would be required to report the upper and lower boundaries of the range of operation in the electronic quarterly report required under § 75.64.

Section 6.5.2.1 of Appendix A in today's proposal would further require the owner or operator to determine, for each unit or common stack on which CEMs are installed (except for peaking units), the two load levels (low, mid, or high) that are the most frequently used. The two-fold purpose of this determination, which would be required, at a minimum, annually (just prior to the annual quality assurance RATAs and in the same calendar quarter as the RATAs), would be to identify the normal load level(s) and to identify the two load levels that are the most appropriate for annual 2-level flow monitor audits and for flow monitor bias adjustment factor calculations. To make the determination, the owner or operator would construct an historical load frequency distribution (e.g., histogram), depicting the relative number of operating hours at each of the three load levels, low, mid, and high. The frequency distribution would be based upon all available data from the four most recent QA operating quarters, as defined in proposed section 2.3.1.1 of Appendix B. The load frequency distribution would be used to determine the percentage of the time (to the nearest 0.1 percent) that each load level (low, mid, and high) has been used in recent history and thereby to identify the two most frequently used load levels. A summary of the data used for these determinations would be maintained on-site in a format suitable for inspection, and the results of the determinations would be included in the electronic quarterly report under § 75.64. The proposed revisions discussed in this paragraph would become effective as of January 1, 2000.

The owner or operator would be required under proposed section 6.5.2.1 of Appendix A to designate the most frequently used load level (low, mid, or high) as the normal load level for each unit or common stack (except for peaking units). The owner or operator would also have the option of designating the second most frequently used load level as an additional normal load level. Today's proposal would, therefore, not limit normal load to a single load level. This way of defining normal load is particularly appropriate for units that operate on a diurnal cycle and units that operate at distinctly different load levels during different seasons of the year due to ambient conditions, electrical demand, etc. EPA believes that the added flexibility in the definition of normal load (i.e., not confining it to a single load level) will allow the normal-load RATA requirements of part 75 to be more easily met. The owner or operator would be required to identify the selected normal load level(s) in the electronic quarterly report required under § 75.64. For peaking units, the entire range of operation would, for simplicity, be considered normal.

Revisions to section 2.3.1.3 of Appendix B are proposed in today's rule, requiring the routine quality assurance RATAs of flow monitors to be done as follows. For flow monitors installed on peaking units and bypass stacks, no changes are proposed; the requirement to perform only single-load flow RATAs at normal load would be retained. For all other flow monitors, the routine semiannual and annual RATAs would be done at 2 loads (i.e., the two most frequently used load levels, as identified in section 6.5.2.1 of Appendix A), with two exceptions: (1) the 2-load flow RATA could be performed alternately with a single-load flow RATA at the most frequently used (normal) load level, if the flow monitor is on a semiannual RATA frequency; and (2) a single-load flow RATA at the most frequently used load level could be performed in lieu of the 2-load RATA if, for the four QA operating quarters prior to the quarter in which the RATA is conducted, the historical load frequency distribution constructed under section 6.5.2.1 of Appendix A shows that the unit has operated at the most frequently used load level for ≥ 85.0 percent of the time. For all units, the requirement to perform periodic 3-load flow RATAs would be retained, but the frequency would be changed from annual to once every five calendar years. A 3-load RATA would also be required whenever a flow monitor is re-linearized (i.e., when its polynomial coefficients are changed). EPA is proposing to reduce the required frequency of 3-load RATAs and to allow limited use of single-load flow RATA testing principally because of the added assurance of data quality that will be provided by the proposed quarterly flow-to-load test.

3. Flow Monitor Bias Adjustment Factors

Today's rulemaking proposes to change the method of determining the bias adjustment factor for multiple-load flow RATAs. For 2-load RATAs (which would be done at the two most frequently used load levels as identified in proposed section 6.5.2.1 of Appendix A), the bias test would be done at the load level (or levels) designated as normal. If the monitor were to fail the bias test at any load level designated as normal, a bias adjustment factor (BAF) would be calculated at both load levels, and the higher of the two BAFs would then be applied to the subsequent flow data. For 3-load RATAs, the bias test would be required at each load level designated as normal under proposed section 6.5.2.1 of Appendix A. If the bias test were failed at any load level designated as normal, BAFs would be calculated only at the two most frequently used load levels (not all three

levels), and the higher of the two BAFs would be applied to subsequent flow data. Thus, for all multiple-load flow RATAs, the appropriate BAF would be determined in the same way. For 3-load RATAs, this methodology for determining the BAF when the normal-load bias test is failed differs from the current rule, which requires the highest BAF from any of the three levels to be applied to subsequent data. Experience gained in the first few years of program implementation has shown that in many instances, the highest BAF has been from a load level that is seldom used (generally the low load level), which can result in an unrepresentatively high BAF being applied to the normal-load flow rate data.

4. Number of RATA Attempts

Section 2.3.1.4 of Appendix B to today's proposed rule would remove the restriction limiting to two the number of RATA attempts that may be done to achieve an annual RATA frequency. In addition, the requirement that successive RATAs be conducted no less than 4 months apart would be removed from section 2.3.1 of Appendix B. The proposed rule would conditionally allow the owner or operator to perform as many RATAs as are necessary to achieve a better relative accuracy percentage or a more favorable bias adjustment factor, the condition being that the data validation procedures for RATAs in proposed section 2.3.2 of Appendix B would have to be followed (these procedures are discussed in detail in Section II.O of this preamble, "CEM Data Validation"). The Agency believes that this extra flexibility will provide an incentive for owners or operators to optimize CEMS performance and to eliminate bias from their monitoring systems and to reduce the frequency of the required RATAs.

5. Concurrent SO_2 and Flow RATAs

Today's proposed rulemaking would delete the requirement for concurrent SO_2 and flow RATA testing from § 6.5 of Appendix A. This requirement was included in the January 11, 1993 rule in order to generate a data base from which EPA could determine the appropriateness of setting a combined flow rate-SO_2 system relative accuracy specification. Section 3.3.5 of Appendix A was reserved for this future standard, which, if promulgated, would have become effective on January 1, 2000. After three years of program implementation, data collection, and evaluation, however, the Agency believes it is not appropriate or necessary to propose a combined flow rate-SO_2 system relative accuracy standard. Instead, EPA believes it would be more appropriate to retain the individual relative accuracy specifications for the SO_2 and flow monitors. Because the historical relative accuracy percentages of the individual component monitors have proven to be so low (i.e., average relative accuracy less than 5.0 percent for the period from the first quarter of 1995 through the second quarter of 1996), the Agency believes that it is not necessary to promulgate the combined standard (see Docket A–97–35, Item II–I–27). Data analysis from an EPA study (see Docket A–97–35, Item II–I–14) indicates that quality assuring the individual component monitors to 7.5 percent relative accuracy (the RA value needed to qualify for an annual RATA frequency) effectively ensures that a combined flow rate-SO_2 standard of 10.0 to 15.0 percent relative accuracy will be consistently achieved. That same study also indicates that meeting a combined flow rate-SO_2 standard of 10.0 percent does not necessarily ensure that the individual component monitor relative accuracies will be ≤ 10.0 percent. In view of this and given that flow monitors are also used to calculate heat input and CO_2 mass emissions, the Agency believes it is appropriate to maintain individual relative accuracy standards for the flow monitor and SO_2 monitor. EPA solicits comment on its proposed treatment of this issue.

6. SO_2 RATA Exemptions and Reduced Requirements

Today's proposed rulemaking would clarify the RATA requirements for units that burn principally natural gas and other very low-sulfur fuels. In § 75.21(a)(6) of the November 20, 1996 rule, an exemption from SO_2 RATA requirements was provided for units that have SO_2 monitors and exclusively burn natural gas (or fuels with a sulfur content no greater than natural gas). Today's proposed rule would clarify this exemption from SO_2 RATAs by interpreting the term "fuel with a total sulfur content no greater than the total sulfur content of natural gas" to mean any type of fuel that has a total sulfur content of less than or equal to 0.05 percent sulfur by weight. The rationale for this is as follows. In order to meet the definition of natural gas in § 72.2, the total sulfur content of the gas cannot exceed 20 grains/100 scf. When this sulfur content is converted to a weight percentage, it comes out slightly higher than 0.05 percent sulfur by weight (see Docket A–97–35, Item II–B–14). Consequently, for a unit that has an SO_2 monitor and for which the designated representative certifies that the unit burns only fuels (whether solid, liquid, or gaseous) with a total sulfur content of > 0.05 percent sulfur by weight, the SO_2 monitor would be exempted from the part 75 RATA requirements. The Agency takes comment on this approach and on whether 0.05 percent sulfur by weight is an appropriate applicability threshold for fuels other than natural gas.

Finally, § 75.21(a)(7) of today's rule proposes reduced RATA requirements for units with SO_2 monitors for which the designated representative certifies that the units burn fuel(s) with a total sulfur content greater than the total sulfur content of natural gas (e.g., distillate oil) only as emergency backup fuel(s) and/or for short-term testing. For such units, RATA testing of the SO_2 monitor would only be required if fuel with a total sulfur content greater than the total sulfur content of natural gas (i.e., > 0.05 percent sulfur by weight) is combusted for more than 480 hours in a calendar year. If the higher-sulfur fuel usage were to exceed 480 hours in a particular year, then an SO_2 RATA, conducted while burning the higher-sulfur fuel, would be required either by the end of the quarter in which the exceedance occurred or within a 720 unit operating hour grace period following that calendar quarter. In this instance, if the grace period were used, proposed section 2.3.3 in Appendix B would specify that it would begin with the first unit operating hour in which the higher-sulfur fuel is combusted in the unit, following the calendar quarter in which the annual usage of the higher-sulfur fuel exceeded 480 hours. The 480-hour criterion for maintaining an SO_2 RATA exemption is consistent with many state and local air permits which contain a similar exemption from particulate emission testing for gas-fired units that burn oil for only 400 to 500 hours per year (see Docket A–97–35, Item II–E–23). EPA believes that these provisions would effectively eliminate the need to start up a unit and/or to burn an infrequently used, uneconomical, and higher-emitting fuel solely for the purpose of performing a RATA of the SO_2 monitor.

7. QA Provisions for SO_2 Monitors, for Natural Gas Firing or Equivalent

In § 75.11(e) of the November 20, 1996 revisions to part 75, three SO_2 compliance options were promulgated for units with SO_2 CEMS during hours in which only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) is burned. One of the compliance options was to allow the use of an SO_2 monitoring system, subject to

certain restrictions and quality assurance provisions. The restrictions and QA provisions, which are found at §§ 75.11(e)(3)(i) through (iv), are as follows: (i) a calibration gas with a concentration of 0.0 percent of span must be used for daily calibration error tests of the CEMS; (ii) the response of the monitoring system to the 0.0 percent calibration gas must be adjusted to read exactly 0.0 ppm each time that a daily calibration error test is passed; (iii) any hourly average of less than 2.0 ppm recorded by the SO_2 monitor while fuel is being combusted in the unit(s) (including zero and negative averages) must be reported as a default value of 2.0 ppm; and (iv) if a unit combusts only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) and never combusts any other type of fuel, the SO_2 monitor span must be set to a value not exceeding 200.0 ppm. Compliance with conditions (i) through (iv) is required by January 1, 1999, except that conditions (i) and (ii) are always optional for units that combust natural gas only during unit startup.

The provisions in §§ 75.11(e)(3)(i) through (iv), as presently codified, apply only to the combustion of *gaseous* fuel with a total sulfur content no greater than the total sulfur content of natural gas. However, as noted above (under "SO_2 RATA Exemptions and Reduced Requirements"), today's proposed rulemaking would add an interpretation of the term "fuel with a total sulfur content no greater than the total sulfur content of natural gas" to § 75.21(a)(6). The term would include *any* fuel (whether solid, liquid, or gaseous) with a total sulfur content of ≤ 0.05 percent by weight. EPA believes that it is appropriate to apply the quality assurance and reporting provisions in §§ 75.11(e)(3)(i) through (iv) to the combustion of *all* fuels with a total sulfur content ≤ 0.05 percent by weight. Therefore, in today's proposed rule, a new section, § 75.21(a)(8) would be added, extending the QA provisions of §§ 75.11(e)(3)(i) through (iv) to the combustion of all types of fuels with a total sulfur content no greater than the total sulfur content of natural gas. The new requirements would become effective on January 1, 2000.

Note that EPA has reconsidered one of the four QA provisions for the use of an SO_2 monitor during natural gas (or fuel with equivalent total sulfur content) combustion in §§ 75.11(e)(3)(i) through (iv). Specifically, the Agency believes that § 75.11(e)(3)(ii), which requires a daily adjustment of the monitor's calibration to read *exactly* 0.0 ppm, may be too stringent because in practice it can be very difficult to attain a reading of exactly 0.0 ppm with a zero-level calibration gas, particularly when manual calibration adjustments are made. Therefore, today's rulemaking proposes to revise § 75.11(e)(3)(ii) as follows. Rather than requiring a daily adjustment of the SO_2 monitor's calibration, an adjustment would only be required when the "as-found" response of the monitor to the zero gas during a daily calibration error test exceeded the performance specification of the instrument (i.e., ±2.5 percent of span). And instead of requiring the calibration to be adjusted to exactly 0.0 ppm, the procedures for routine calibration adjustments in proposed section 2.1.3 of Appendix B would be followed, to bring the "as-left" response of the instrument (i.e., the response during the additional calibration error test required by proposed section 2.1.3 of Appendix B) "as close as practicable" to the true value of the zero gas (0.0 ppm).

The Agency solicits comment on the proposed approach for QA provisions for SO_2 CEMS for gas-firing or equivalent.

8. General RATA Test Procedures

Under today's proposal, sections 6.5, 6.5.1, and 6.5.2 of Appendix A, which describe the general requirements for RATAs, would be extensively revised. Some of the proposed changes are simply structural, but others are substantive. For instance, as previously discussed above under "Concurrent SO_2 and Flow RATAs," the requirement to perform concurrent SO_2 and flow RATAs would be deleted from the regulation. Further, section 6.5 would now recognize that more than one type of fuel and more than one monitor range may be considered normal for a particular unit. Also, the requirement to complete each RATA within 7 consecutive calendar days would be modified to require that the RATA be completed within 168 unit operating hours (for single-load flow RATAs and, to the extent practicable, for 2-load and 3-load flow RATAs). However, for the multiple-load flow RATAs, up to 720 unit operating hours would be allowed, if necessary, to complete the testing. This is consistent with Agency guidance published in March, 1995, Policy Question 8.15 of the Acid Rain Policy Manual, which discusses allowing up to 30 calendar days to complete all three levels of a 3-load flow RATA (see Docket A–97–35, Item II–I–9). Even though the policy says the RATAs at the individual load levels should be completed within 7 days, thirty days are acceptable to complete the 3-load RATA in order to account for the possibility that the unit might shut down in between levels of the RATA or that certain load levels may be difficult to attain and to hold. Today's proposal would allow 720 unit operating hours (irrespective of the number of calendar days) to complete a multiple-load flow RATA. EPA believes that this proposed requirement provides greater flexibility than currently allowed.

Sections 6.5.1 and 6.5.2 of Appendix A would be re-titled "Gas Monitoring Systems (Special Considerations)" and "Flow Monitor RATAs (Special Considerations)," respectively. Proposed section 6.5.1 contains a recommendation that, for initial monitor certifications, the RATA not be commenced until all of the other certification tests have been completed. Section 6.5.2 would be amended, as previously discussed under "Flow RATA Load Levels." The definition of normal load would be revised and the number of loads and the load levels at which flow RATAs are to be performed would be more clearly defined.

Today's rule proposes changes to section 6.5.6 of Appendix A, which pertains to RATA traverse point selection. Proposed section 6.5.6 would allow the following alternative reference method measurement point locations. For *all* moisture determinations, a single reference method point, located at least 1.0 meter from the stack wall, could be used. For gas RATAs, the owner or operator would have four options: (1) at *any* location (including locations where stratification is expected), a minimum of six traverse points along a diameter, located in accordance with Method 1 in Appendix A to part 60, could be used; (2) at locations where stratification is not expected and section 3.2 of Performance Specification No. 2 ("PS No. 2") in Appendix B to part 60 allows the use of a short reference method measurement line (with three points located at 0.4, 1.0, and 2.0 meters from the stack wall), the owner or operator could use an alternative 3-point measurement line, locating the three points 4.4 percent, 14.6 percent and 29.6 percent of the way across the stack, in accordance with Method 1 in Appendix A to part 60; (3) at locations where stratification is expected (i.e., after a wet scrubber or when dissimilar gas streams are combined), the short measurement line from section 3.2 of PS No. 2 (or the alternative line described in option (2) above) could be used in lieu of the "long" measurement line prescribed in section 3.2 of PS No. 2, provided that a stratification test is performed prior to each RATA at the location and certain acceptance criteria

are met; and (4) a single reference method measurement point, located no less than 1.0 meter from the stack wall, could be used at *any* test location if a stratification test is performed prior to each RATA at the location and certain acceptance criteria are met. EPA's Office of Air Quality Planning and Standards (OAQPS) has endorsed the use of the Method 1 traverse points as an alternative to the points prescribed by PS No. 2 (see Docket A–97–35, Item II–C–22).

Regarding option (3) above, one utility and one stack testing firm have requested that EPA allow the short measurement line to be used at scrubbed unit stacks, citing logistical difficulties and safety concerns associated with using the long measurement line prescribed by PS No. 2 for sampling locations following wet scrubbers (see Docket A–97–35, Items II–D–66, II–D–78). Both parties appeared willing to perform stratification testing to demonstrate that the gas streams are not significantly stratified. EPA responded to these requests by issuing policy guidance which discusses allowing the short measurement line to be used for scrubbed units, provided that stratification test results show the stratification at the sampling location to be minimal (see Docket A–97–35, Item II–I–9, Policy Manual, Question 8.25). Regarding single-point RATA testing (option (4), above), which utility groups asked EPA to consider, today's proposed rule would allow it on the condition that a stratification test at the sampling location demonstrates stratification to be essentially absent.

Sections 6.5.6.1 and 6.5.6.2 of Appendix A in today's proposed rule provide two stratification test protocols which may be used to demonstrate that a sampling location qualifies for the alternative RM measurement point locations allowed under proposed section 6.5.6 (i.e., options (3) and (4), above). The first stratification test protocol, in proposed section 6.5.6.1, is based upon technical guidance issued by OAQPS (see Docket A–97–35, Item II–I–3) and would consist of measuring the SO_2, NO_X, and diluent gas concentrations at a minimum of 12 traverse points, located in accordance with Method 1 in Appendix A to part 60. The gas concentration measurements would be made using Reference Methods 6C, 7E, and 3A in Appendix A to part 60. The average NO_X, SO_2, and CO_2 (or O_2) concentration at each of the individual traverse points would be determined, and the arithmetic average NO_X, SO_2, and CO_2 (or O_2) concentrations for all traverse points calculated. This 12-point test would have to be passed one time at the sampling location under consideration. Once the 12-point test has been passed at the candidate sampling location, the second (abbreviated) stratification test protocol, in proposed section 6.5.6.2, could be done prior to subsequent RATAs at the location in lieu of the 12-point test. The abbreviated test would be done either at 3 points (located in accordance with the long measurement line in PS No. 2) or at 6 points along a diameter (located according to EPA Method 1 in Appendix A to part 60).

The acceptance criteria for the stratification test results are given in proposed section 6.5.6.3 of Appendix A. For each pollutant or diluent gas, the short 3-point reference method measurement line specified in section 3.2 of PS No. 2 (or the alternative 3-point line described in proposed section 6.5.6 of Appendix A) could be used for that pollutant or diluent gas in lieu of the long measurement line in section 3.2 of PS No. 2, if the concentration at each individual traverse point differed by no more than ±10.0 percent from the arithmetic average concentration for all traverse points. The results would also be acceptable if the concentration at each individual traverse point differed by no more than ±5.0 ppm or 0.5 percent CO_2 (or O_2) from the arithmetic average concentration for all traverse points. Further, for each pollutant or diluent gas, a single reference method measurement point located at least 1.0 meter from the stack wall could be used for that pollutant or diluent gas, if the concentration at each individual traverse point differed by no more than ±5.0 percent from the arithmetic average concentration for all traverse points. The results would also be acceptable if the concentration at each individual traverse point differed by no more than ±3.0 ppm or 0.3 percent CO_2 (or O_2) from the arithmetic average concentration for all traverse points. Finally, proposed section 6.5.6.3 would require the owner or operator to keep the results of all stratification tests on-site, suitable for inspection, as part of the supplementary RATA records required under § 75.56(a)(7) and § 75.59(a)(7).

Today's rule also proposes to clarify the sampling strategy for RATAs in section 6.5.7 of Appendix A. The proposed revisions make it clear that for gas monitor RATAs, the minimum time per run is 21 minutes, and all of the necessary data for each run (i.e., pollutant concentration measurements and, if applicable, diluent concentration data and moisture measurements) would have to be collected, to the extent practicable, within a 60-minute period. The proposed revisions would also require the pollutant and diluent concentration measurements to be made simultaneously during RATAs of SO_2/diluent and NO_X/diluent monitoring systems. For flow monitor RATAs, the minimum time per run would be 5 minutes. A requirement to properly account for flow pulsations (e.g., by sight-weighted averaging) at each velocity traverse point would be added, as well as a clear statement that successive flow RATA runs may be done as rapidly as practicable, with no required waiting period between runs. Proposed section 6.5.7 of Appendix A states that a minimum of one set of auxiliary data (moisture and diluent gas measurements) would have to be collected for every three RATA runs or for every clock hour of a flow RATA (whichever is less restrictive). A related change to § 75.22(a)(4) is also proposed, which would allow the alternative moisture measurement techniques described in section 1.2 of Method 4 in Appendix A to part 60 to be used for stack gas molecular weight determinations.

9. Reference Method Testing Issues

Discussion of Proposed Changes

Currently, § 75.22 specifies several reference methods (Reference Methods 2, 2A, 2C, or 2D) as appropriate methods for determining volumetric flow under part 75. The Agency is currently conducting a study of the accuracy of Reference Method 2 to determine whether changes to Method 2 or the addition of other alternatives to the Method are appropriate. Thus, the Agency anticipates that, in the future, revisions to Method 2 in part 60 may create alternatives beyond the specific reference methods specified in § 75.22(a)(2). Therefore, in § 75.22(a)(2), EPA proposes to add: "or its allowable alternatives, except for 2B and 2E" to Method 2 to automatically incorporate into part 75 anticipated future revisions to the Method 2 requirements in Appendix A to part 60.

Section 75.22 specifies a number of instrumental reference methods from Appendix A to part 60 (Reference Methods 3A, 6C, 7E, and 20) as appropriate test methods for conducting CEMS performance tests under part 75. These methods require the use of calibration gases to calibrate the reference analyzers. Currently, however, part 60 does not require that EPA protocol gas be used when performing instrumental reference methods. The Agency believes that protocol gas should be used when performing instrumental reference methods in order

to achieve accurate results. Therefore, proposed § 75.22(c)(1) would state that, for purposes of part 75, instrumental reference methods must be performed using calibration gases as defined in section 5 of Appendix A to part 75.

10. Alternative Relative Accuracy Specifications and Specifications for Low-Emitters

One utility group has suggested to EPA (see Docket A–97–35, Item II–E–13) that there is inconsistency and apparent inequity in the relative accuracy specifications for units that qualify as low emitters of NO_X and SO_2 (i.e., sources with average SO_2 concentrations of 250.0 ppm or less and/or average NO_X emission rates of 0.20 lb/mmBtu or less). Specifically, they have questioned the appropriateness of the alternative relative accuracy specifications used to determine the RATA frequency (i.e., semiannual or annual). Under section 3.3 of Appendix A and section 2.3.1 of Appendix B to the current part 75 rule, the RATA frequency for an SO_2 monitor installed on a low-emitting SO_2 source may be determined in either of two ways: by the normal relative accuracy specification (i.e. the RATA frequency is semiannual if the relative accuracy is > 7.5 percent but ≤ 10.0 percent, and annual if ≤ 7.5 percent relative accuracy is achieved), or by the alternative specification (i.e., the RATA frequency is semiannual if the reference method mean value and CEMS mean value differ by > 8.0 ppm but ≤ 15.0 ppm, and annual if the two mean values differ by ≤ 8.0 ppm). For low-emitting NO_X sources, the RATA frequency for the NO_X monitoring system is determined in the identical manner to SO_2 when the normal specification is applied. For the alternative specification, the NO_X RATA frequency is semiannual if the CEMS and reference method mean values differ by ≤ 0.01 lb/mmBtu but ≤ 0.02 lb/mmBtu, and annual if the mean values differ by > 0.01 lb/mmBtu. The 8.0 ppm value for SO_2 was originally determined based on the performance of a single set of monitors at a facility regulated under subpart Da of the NSPS in part 60. However, in the first few years of Acid Rain Program implementation, many part 75 utilities with wet scrubbers have found it difficult to consistently meet the 8.0 ppm criterion for obtaining an annual RATA frequency.

The utility group maintains that since, when the normal relative accuracy (RA) specification is applied, the criterion for obtaining an annual RATA frequency is to achieve a relative accuracy 25.0 percent below the RA specification in section 3.3 of Appendix A (i.e., 7.5 percent RA is 25.0 percent below the specification of 10.0 percent), the criterion for an annual RATA frequency should be essentially the same when the alternative specification is applied. Under the current rule, the alternative SO_2 specification requires that the mean CEMS and reference method values differ by no more than 8.0 ppm in order to obtain an annual RATA frequency. This is 47.0 percent below the 15.0 ppm alternative RA specification. Similarly for NO_X, the alternative NO_X specification for an annual RATA frequency requires the difference between the CEMS and reference method mean values to be ≤ 0.01 lb/mmBtu, or 50.0 percent below the 0.02 lb/mmBtu alternative RA specification.

EPA agrees that the alternate RA specifications for low emitters of SO_2 and NO_X appear to be somewhat inequitable, and today's rulemaking proposes changes to these specifications. In proposed section 2.3.1 of Appendix B, the alternative relative accuracy specification for low emitters of SO_2, (i.e., the difference between the reference method and CEMS mean values) that must be met by an SO_2 monitor in order to obtain an annual RATA frequency would be changed from 8.0 ppm to 12.0 ppm. For low emitters of NO_X, the alternative low emitter relative accuracy specification that must be met by a NO_X-diluent monitoring system in order to obtain an annual RATA frequency would be changed from 0.01 lb/mmBtu to 0.015 lb/mmBtu.

In today's rule, EPA is also proposing an alternative relative accuracy specification of 0.025 lb/mmBtu for SO_2-diluent monitoring systems to obtain an annual RATA frequency and an alternative relative accuracy specification of ±0.7 percent CO_2 or O_2, by which CO_2 and O_2 monitors could obtain an annual RATA frequency. During the investigation of the alternative RA specifications for the SO_2 and NO_X-diluent monitoring systems, the Agency noted that for SO_2-diluent systems, part 75 specifies only an alternative RA criterion of 0.030 lb/mmBtu for a semiannual RATA frequency, but fails to specify a corresponding alternative RA criterion for obtaining an annual RATA frequency. Similarly, for CO_2 and O_2 monitors, EPA noted that an alternative relative accuracy specification of ±1.0 percent CO_2 or O_2 (in terms of the mean difference between the reference method and CEM values during the RATA) is given for obtaining a semiannual RATA frequency, but no corresponding alternative criterion is given for obtaining an annual frequency.

EPA notes that in order to make the annual RATA frequency criteria for NO_X-diluent and SO_2-diluent monitoring systems more equitable, a third decimal place is required. However, §§ 75.54 and 75.55 currently require NO_X and SO_2 emission rates in lb/mmBtu to be reported only to 2 decimal places. Therefore, revisions are being proposed, see §§ 75.57(d)(6) and 75.58(a)(1)(iv), to require that, beginning on January 1, 2000, all NO_X emission rates in lb/mmBtu must be reported to three decimal places. Prior to January 1, 2000, the owner or operator would have the option of reporting NO_X emission rates to either two or three decimal places. Note that no corresponding change is being proposed for the reporting of SO_2 emission rates in lb/mmBtu, since such emission rates will only be reported to EPA by units that have installed Phase I Qualifying Technologies for a three-year period (1997–1999), and are not required to be reported thereafter. EPA solicits comments on the appropriateness of requiring *all* NO_X lb/mmBtu emission rates to be reported to three decimal places. The Agency favors this approach, particularly for quality assurance purposes, due to increased precision in the calculation of RATA results. The Agency notes that this proposed change would not affect the way in which compliance with the NO_X emission limits under part 76 is determined. Compliance with part 76 NO_X limits, in lb/mmBtu, would still be based on two decimal places.

All of the proposed revisions to the part 75 relative accuracy specifications in today's rulemaking are summarized in proposed Figure 2 of Appendix B.

11. *Bias Adjustment Factors for Low Emitters*

As discussed in the preceding section, sources that qualify as low emitters of SO_2 and/or NO_X have two ways to evaluate the relative accuracy of SO_2 and NO_X monitoring systems: (a) by the normal relative accuracy specification (i.e., 10.0 percent RA), and (b) by the alternative RA specification (i.e., the difference between the mean CEMS and reference method values is within ±15.0 ppm for SO_2 low emitters, or within ±0.02 lb/mmBtu for NO_X low emitters).

The normal RA is determined by a statistical analysis of the reference method and CEMS data from the RATA. Mathematically, the normal RA is the sum of the absolute values of the mean difference (d_{mean}) and the confidence coefficient (cc), expressed as a percentage of the mean reference method value $(RM)_{avg}$. The mean difference indicates how closely the CEMS measurements agree with the

reference method and is generally the principal contributor to the percentage relative accuracy in the RA equation. The confidence coefficient (cc) is a statistical term related to the standard deviation and is an indicator of the amount of scatter in the data.

Section 7.6 of Appendix A requires a bias test of each SO_2 and NO_X monitoring system whenever a RATA of the CEMS is performed. If the mean difference is greater than the absolute value of the confidence coefficient, the CEMS measurements are systematically lower than the corresponding references method measurements, i.e., the monitoring system has a low bias. In such cases, sources are given two options. The first, preferred by EPA, is to locate and eliminate the source of the measurement bias in the instrument. The second option is to apply a bias adjustment factor (BAF). This alternative was developed in response to an industry request to provide an alternative for sources that choose not to expend the effort to locate and eliminate the technical problem causing the systematic measurement error. The BAF is equal to $1.000 + |d_{mean}| / (CEM)_{avg}$, where $(CEM)_{avg}$ is the mean value of the CEMS measurements from the RATA.

At least one utility has questioned whether it is appropriate for low emitters to calculate a BAF in the usual way when a CEMS fails a RATA by the normal RA specification, but passes by the alternative specification, because in such cases the BAF can become inordinately high, particularly at very low emission levels (see Docket A–97–35, Items II–D–62 and II–E–23). Since both the percent relative accuracy and the BAF are based upon the same statistical terms (d_{mean} and cc), the utility questions whether the standard calculation procedure for the BAF is adequate to determine a meaningful BAF for low emitters. Just as the value obtained from the standard relative accuracy equation tends to become large for low emitters, so, too, the BAF is seen as becoming inordinately large for low emitters which use the current BAF equation.

As this comment suggests, it is not uncommon for an SO_2 or NO_X CEMS installed on a low-emitting unit to fail a RATA by the normal specification of 10.0 percent RA and to pass the same RATA by the alternative RA specification. For instance, suppose that the mean RM and CEMS values during an SO_2 RATA of a low emitter are 51.0 ppm and 40.0 ppm, respectively, and that d_{mean} is 11.0 ppm and the confidence coefficient is 0.50. Suppose further that the bias test is failed. Then, the percent RA by the normal specification (i.e., $|d_{mean}| + |cc| / (RM)_{avg}$) would exceed 20.0 percent, indicating a failed RATA, but the alternative RA specification would indicate a pass (i.e., $(CEMS)_{avg}$ is within ±15.0 ppm of $(RM)_{avg}$). In this same illustration, the BAF would be 1 + 11 / 40 = 1.275.

In fact, if it is assumed that the difference between the CEMS and the reference method measurements does not decrease as emissions decline, then the lower the SO_2 or NO_X emissions, the more likely it is for the CEMS to fail the normal relative accuracy specification because the mean difference becomes a larger percentage of the average reference method value. It was precisely in response to such concerns that the alternative relative accuracy specifications were originally included in part 75.

Today's rule proposes to provide an option in the way the BAF is determined for low emitters of SO_2 and NO_X. Low emitters of SO_2 and NO_X would be given the choice of using either: (a) the normal BAF calculation procedure described above and found in Equation A–12, section 7.6.5 of Appendix A, or (b) an alternative default bias adjustment factor of 1.111.

The justification is as follows: for units that meet the normal relative accuracy standard of RA ≤ 10.0 percent, the theoretically maximum possible Bias Adjustment Factor is 1.111 (see Docket A–97–35, Item II–B–2). Therefore, low-emitting units meeting the alternative relative accuracy standards ($|d_{mean}| \leq 15.0$ ppm for SO_2 low emitters and $|d_{mean}| \leq 0.02$ lb/mmBtu for NO_X low emitters) should not have to apply a bias adjustment any higher than the maximum BAF value applicable to units meeting the normal relative accuracy standard. EPA solicits comment on allowing the alternative BAF of 1.111 for low-emitting units.

12. Clarification of Diluent Monitor Certification Requirements

Today's proposed rule would clarify the certification requirements for diluent gas (CO_2 and O_2) monitors, in response to comments received on the pre-proposal draft of the rule (see Docket A–97–35, Item II–D–52). Section 75.20(c)(1)(iii) of the current rule requires a RATA of each NO_X continuous monitoring system to be done for initial certification. Even though the NO_X system consists of two component monitors (NO_X concentration and diluent gas), the required RATA is done on a system basis in units of lb/mmBtu. Separate RATAs of the individual component monitors are not required, except when the diluent component monitor is also used as a CO_2 pollutant concentration monitor or to account for unit heat input, in which case § 75.20(c)(5)(iii) in the current rule requires a RATA of the diluent monitor. To be sure that this is clear, today's proposed rule would add a statement to § 75.20(c)(1)(iii), indicating that the RATA for the NO_X-diluent system shall be done on a system basis (i.e., individual component RATAs are unnecessary for certification of a NO_X-diluent system). Therefore, units that have installed NO_X monitoring systems, but that use Appendix D for SO_2 emission accounting and Appendix G for CO_2 accounting, would not be required to submit separate RATA results for the diluent monitor.

A second point of clarification would be added in proposed § 75.20(c)(3), which was previously designated as § 75.20(c)(4). The new section would make it clear that when a diluent monitor (O_2 or CO_2) is used both as a CO_2 pollutant concentration monitor and for heat input determinations, only one set of diluent monitor certification test results would have to be submitted under the component and system ID codes of the CO_2 monitoring system. This is appropriate because there is no such thing as a "heat input monitoring system" or an "oxygen monitoring system" under part 75.

13. Daily Calibration Requirements for Redundant Backup Monitors

Section 75.20(d)(1) of the current rule requires redundant backup ("hot-standby") monitoring systems to be operated during all periods of unit operation and to meet all of the quality assurance requirements of Appendix B, including daily calibrations and interference checks, quarterly linearity checks and leak checks, and semiannual or annual RATAs. One commenter on a pre-proposal draft of today's proposed rule requested that EPA consider changing the daily calibration requirement for redundant backup monitors (see Docket A–97–35, Item II–D–35). The commenter recommended that the daily calibrations be made mandatory only for days on which the redundant backup monitoring system is actually used to report emission data to EPA. Daily calibrations would be optional on all other days. Fewer calibrations of redundant backup systems would considerably reduce calibration gas consumption. The commenter estimated that this change could result in an annual savings of more than $100,000 for his company. EPA agrees that the request is reasonable, provided that the redundant

backup systems are kept on hot-standby and are calibrated prior to each use for reporting. The Agency therefore proposes to amend § 75.20(d)(1) accordingly.

14. Daily Performance Specification and Control Limits for Low-Span DP Flow Monitors

Section 3.1 of Appendix A of the current rule gives the calibration error performance specification for flow monitors. Section 2.1.4 of Appendix B gives the calibration error limits for daily operation of flow monitors. For initial certification, a flow monitor is required to meet a calibration error specification of ≤ 3.0 percent of the span value. For daily operation of the flow monitor, the calibration error must not exceed 6.0 percent of span. These specifications are both reasonable and achievable for the vast majority of flow monitors. However, when a differential pressure (DP) type flow monitor is used to measure stack gas flow rate in a stack that has low exit velocities, it can be very difficult for the monitor to pass its daily calibration error tests. This is because the daily calibration span value for a DP flow monitor is expressed in units of inches of water. For stack exit velocities less than 2000 feet per minute, the calibration span value will be a very small number (0.20 inches of water or less). When performing a daily calibration error test of a flow monitor with a span value of 0.20 inches of water, the test would be failed (i.e., the calibration error would exceed 6.0 percent of span) if the response of the monitor deviated from either the zero or high reference signal by 0.02 inches of water. For span values of 0.15 inches of water or less, the calibration error test would be failed if the monitor's response deviated from the reference signals by 0.01 inches of water. One utility with a DP type flow monitor with a span value less than 0.15 inches of water has indicated to EPA that it cannot pass daily calibrations unless the monitor responses exactly equal the reference signal values (see Docket A–97–35, Item II–E–30). Clearly, these daily calibration specifications are too stringent for low span DP-type flow monitors. In view of this, EPA is proposing alternative calibration error specifications for DP type flow monitors with low span values, with "low" span value meaning a span value of 0.20 inches of water or less. The alternative performance specification for initial certification, given in proposed section 3.1 of Appendix A, would be ± 0.01 inches of water, rather than ± 3.0 percent of span. The alternative specification for daily operation of the monitor, given in proposed section 2.1.4 of Appendix B, would be ± 0.02 inches of water, rather than ± 6.0 percent of span. Since the results of a calibration error test of a DP type flow monitor are reported to 2 decimal places, the performance specification of ± 0.01 inches of water, is the tightest specification that could be imposed, short of requiring the monitor to read exactly the reference value with zero tolerance (which is what the current specification of ± 3.0 percent of span essentially imposes on a DP flow monitor with very low span). The Agency solicits comment on this proposed approach and on the value of the alternate specification.

O. CEM Data Validation

Background

The current requirements of part 75 regarding CEM data validation are as follows. Section 75.10 specifies that a valid hourly average from a CEMS must be based on a minimum of four evenly spaced data points (i.e., one point in each 15-minute quadrant of the clock hour), except that two evenly spaced data points separated by at least 15 minutes are sufficient to validate an hourly average when daily calibration error tests and/or other required quality assurance activities are conducted during the hour. Data from a CEMS are considered to be quality assured, provided that the monitoring system has passed all of the initial certification tests required under § 75.20(c) and provided that the CEMS is not "out-of-control," as a result of having failed any of the daily, quarterly, semiannual, and/or annual quality assurance tests required in sections 2.1 through 2.3 of Appendix B. Out-of-control periods extend from the hour of failure of a QA test until the hour of completion of a subsequent successful QA test of the same type. For instance, if a linearity check of a gas monitor is failed, the monitor is considered out-of-control from the hour of completion of the failed test until the hour of completion of a subsequent successful linearity test.

Finally, § 75.20(b)(3) specifies that when a change is made to a CEMS such that recertification of a monitor becomes necessary, data from the CEMS are invalid from the hour in which the change is made to the system until the hour of completion of all required recertification tests.

In the first three years of implementing part 75, EPA has received numerous requests from the utilities for guidance concerning CEM data validation. This has prompted the Agency to re-examine these provisions of the rule. From this re-examination, the Agency believes that the current data validation provisions of part 75 are neither sufficiently detailed nor flexible to address the complex realities of daily operation of utility boilers and continuous emission monitoring systems. Therefore, today's proposed rule would set forth more comprehensive data validation criteria.

Discussion of Proposed Changes

Today's proposed rule would set forth proposed guidelines for the validation of CEM data, attempting to take into account the realities associated with the operation and maintenance of electric utility steam generating units and continuous emission monitoring systems. The proposed guidelines would govern CEM data validation as it pertains to six principal areas: (1) calibration error tests and adjustment of gas and flow monitors; (2) linearity tests of gas monitors; (3) relative accuracy test audits of gas and flow monitoring systems; (4) recertifications of gas or flow monitors; (5) data from non-redundant backup monitoring systems; and (6) missed QA test deadlines. These proposed guidelines for data validation are discussed in detail below.

1. Recalibration and Adjustment of CEMS

Today's proposed rule would revise section 2.1.3 of Appendix B, the "recalibration" section. The May 17, 1995 rule recommends (but does not require) the calibration of a monitor to be adjusted whenever the daily calibration error exceeds the performance specification in Appendix A. For example, if the calibration error of a gas monitor exceeds 2.5 percent of span, but does not exceed the daily control limit of 5.0 percent of span, the monitor is considered to be out-of-adjustment but not out-of-control, and EPA recommends that calibration of the monitor be adjusted.

Today's proposal would re-title section 2.1.3 as "Additional Calibration Error Tests and Calibration Adjustments." The recommendation to adjust the monitor when the calibration error exceeds the Appendix A performance specification would be retained, but definitions of "routine calibration adjustments" and "non-routine calibration adjustments" would be added. Routine calibration adjustments would be defined as adjustments made to a CEMS following a successful calibration error test. The purpose of these adjustments would be to bring the monitor readings as close as practicable to the tag values of the reference calibration gases or to the

known values of the flow monitor reference signals. Non-routine calibration adjustments would be adjustments in either direction (toward or away from the reference value), but within the performance specifications of the monitor (i.e., within ± 2.5 percent of span for an SO_2 or NO_X monitor, ± 0.5 percent CO_2 or O_2 for a diluent monitor, or ± 3.0 percent of span for a flow monitor). Non-routine calibration adjustments would be permitted, provided that an acceptable technical justification is included in the QA/QC program required under section 1 of Appendix B. An additional calibration error test would be required following non-routine adjustments, to demonstrate that the instrument is still operating within its performance specifications.

In addition to the daily calibration error requirements in section 2.1.1 of Appendix B, today's proposed rule would require a calibration error test in four specific instances: (1) whenever a daily calibration error test is failed; (2) when a CEMS is returned to service following routine or corrective maintenance that may affect the ability of the CEMS to accurately measure and record emissions data; (3) following routine calibration adjustments in which the monitor's calibration is physically adjusted, e.g., by means of a potentiometer (however, an additional calibration error test would not be required if a mathematical algorithm in the DAHS is used to make the routine adjustments); and (4) following non-routine calibration adjustments. Data from the CEMS would be considered invalid until the required additional calibration error test had been successfully completed.

EPA is proposing to allow non-routine calibration adjustments within the performance specifications of an instrument for two principal reasons. First, commenters have expressed concern that restricting allowable adjustments to routine calibration adjustments would limit their ability to make adjustments within the acceptable plus or minus control limits of a monitor, particularly prior to linearity tests and RATAs. They have indicated that this flexibility is necessary because the tag values of reference gases are not 100.0 percent accurate and adjustments of the analyzer may be needed to account for these inaccuracies (see Docket A–97-35, Item II–I–15). EPA agrees that this is a legitimate concern. Because there is a tolerance of ± 2.0 percent on the different reference gases used for daily calibration error tests, linearity tests, and RATAs, it may be necessary to adjust toward or away from the tag value in order to make sure that the test specifications are met. The Agency believes, however, that it is appropriate to limit the calibration adjustments to within the instrument's performance specifications (i.e., ± 2.5 percent of span (for SO_2 and NO_X), ± 3.0 percent of span (for flow rate), and ± 0.5 percent CO_2 or O_2) in order to provide an on-going demonstration that the CEMS can simultaneously comply with the applicable daily, quarterly, semiannual, or annual performance specifications in Appendix A. One utility has expressed concern about its vendor's practice of making large calibration adjustments to the CO_2 monitor prior to RATA testing (see Docket A–97–35, Item II–D–63).

The second reason for proposing to allow non-routine calibration adjustments is the sensitivity of dilution-extractive monitors to changes in barometric pressure, temperature, and molecular weight. EPA believes that the best way to deal with this deficiency in the dilution-extractive monitoring technology is to develop a mathematical algorithm (site-specific, if necessary) that continuously applies a correction to the measurement in order to compensate for pressure, temperature, and molecular weight, as necessary, and to program the algorithm into the DAHS. However, in commenting on a pre-proposal draft of today's proposed rule, a number of utilities indicated that they prefer to account for dilution probe pressure effects by manually adjusting the monitor's calibration in anticipation of barometric pressure changes (e.g., approaching weather fronts) (see Docket A–97–35, Items II–D–41, II–D–55). After much deliberation, the Agency is proposing to allow such adjustments, provided that: (1) the calibration of the monitor is not adjusted outside of its performance specifications; (2) an additional calibration error test is done to verify that the adjustments have been properly made; and (3) the procedures used for the adjustments are included in the QA/QC program for the CEMS. Despite this, EPA still prefers that automatic pressure, temperature, and molecular weight compensation be used, where necessary, and would strongly encourage all facilities with dilution-extractive monitors to develop and apply the necessary mathematical algorithm(s).

2. Linearity Tests

Today's proposal would provide rules for data validation during linearity tests, in proposed section 2.2.3 of Appendix B. A routine quality assurance linearity test could not be commenced if the CEMS were operating "out-of-control" with respect to any of its other daily, semiannual, or annual quality assurance tests. Linearity tests would be done "hands-off," as follows. Prior to the test, both routine and non-routine calibration adjustments, as defined in proposed section 2.1.3 of Appendix B, would be permitted. During the linearity test period, however, no adjustment of the monitor would be permitted except for routine daily calibration adjustments following successful daily calibration error tests (the Agency notes that it is unlikely for calibration error tests to be done during a linearity test period except when two or more operating days are required to complete the test, e.g., for a peaking unit).

Proposed section 2.2.3 of Appendix B would specify that when a linearity check is failed or aborted due to a problem with the monitor, the monitor would be declared out-of-control as of the hour in which the test is failed or aborted. Data from the monitor would remain invalid until the hour of completion of a subsequent successful hands-off linearity test. This proposed requirement is not substantially different from the out-of-control provision in the current rule. It would merely extend the definition of out-of-control to include linearity tests that are aborted prior to completion due to a problem with the monitor. The underlying assumption is that the aborted linearity test would not have been passed if all nine gas injections had been completed. However, a linearity test that is aborted for a reason unrelated to a monitor malfunction (e.g., an unplanned or forced unit outage) would not trigger an out-of-control period.

Finally, a new section, 2.2.4, would be added to Appendix B, providing a linearity test grace period of 168 unit operating hours. The purpose of the grace period would be to give the owner or operator a window of opportunity in which to perform a linearity test, when either: (1) the required linearity test cannot be completed within the QA operating quarter in which it is due, or (2) four consecutive calendar quarters have elapsed since the end of the calendar quarter in which a linearity test of a monitor (or range) was last done. Data validation during a grace period would be done according to the applicable provisions of proposed section 2.2.3 of Appendix B. Proposed section 2.2.4 of Appendix B would specify that if the required linearity test has not been completed within the grace period, data from the monitor would become invalid, beginning with the first hour following the expiration of the grace period and would remain invalid until the hour of completion of a

subsequent successful, hands-off linearity test. Proposed section 2.2.4 would further specify that a linearity test done during a grace period could only be used to meet the linearity test requirement of a previous QA operating quarter, not the requirement of the quarter in which the grace period is used. Note that proposed sections 2.2.3 and 2.2.4 of Appendix B would also extend the 168 unit operating hour grace period to apply to the quarterly leak checks of differential pressure-type flow monitors.

3. RATAs

Today's proposal would provide rules for data validation during gas and flow monitor RATA tests, in section 2.3.2 of Appendix B. Proposed section 2.3.2 would specify that a routine quality assurance RATA could not be commenced if the monitoring system is out-of-control with respect to any of its daily quality assurance assessments, including the additional calibration error test requirements of proposed section 2.1.3 of Appendix B. All RATAs would be done "hands-off," as follows. Prior to the RATA , both routine and non-routine calibration adjustments would be permitted, in accordance with proposed section 2.1.3 of Appendix B. During the RATA test period, however, only routine calibration adjustments (as defined in proposed section 2.1.3 of Appendix B) would be permitted. For 2-level and 3-level flow RATAs, no linearization of the monitor would be permitted between load levels.

Note that EPA is proposing to allow pre-RATA adjustments and linearization of a CEMS, principally to encourage facilities to optimize the performance of their CEMS by achieving the best possible relative accuracy results in a cost-effective manner with little or no data loss. The Agency believes that there is no significant risk in allowing pre-RATA adjustments, provided that the monitor's continued accuracy between successive RATAs can be reasonably established. For gas monitors, EPA believes that the daily calibration error tests and quarterly linearity tests, which challenge the analyzers with protocol gases of known concentration, provide that assurance. For flow monitors, however, the daily calibration error tests, which check the internal electronics of the flow monitor but do not evaluate the actual flow measurement capability of the instrument, do not provide the necessary assurance. Therefore, in today's rulemaking, EPA is proposing a new flow monitor quality assurance requirement, the "flow-to-load test," to provide a reasonable indicator of continued flow monitor accuracy between successive RATAs. The flow-to-load test has been discussed in detail under section III.M. of this preamble.

If a RATA is failed or aborted due to a problem with the CEMS, proposed section 2.3.2 of Appendix B would specify that the monitoring system is out-of-control as of the hour in which the test is failed or aborted. Data from the monitoring system would remain invalid until the hour of completion of a subsequent successful hands-off RATA. This proposed requirement is essentially the same as the out-of-control provision in the current rule, except that it would extend the definition of out-of-control to include RATAs that are aborted prior to completion due to a problem with the CEMS. Note, however, that a RATA which is terminated for a reason unrelated to monitor malfunction (e.g., process operating problems or unit outage) would not trigger an out-of-control period.

For multiple-load flow RATAs, each load level would be treated as a separate RATA. Therefore, if a flow RATA is failed at a particular load level, previously-passed RATAs at the other loads would not have to be repeated unless the flow monitor has to be re-linearized. In that case, a subsequent 3-load RATA would be required.

If a daily calibration error test is failed during a RATA test period, proposed section 2.3.2 of Appendix B would require invalidation of the RATA, and an out-of-control period would begin with the hour of the failed calibration error test. The RATA could not to be re-started until a subsequent calibration error test had been passed, following corrective actions.

Proposed section 2.3.2 of Appendix B further specifies that when the RATA of a CO_2 pollutant concentration monitor (or an O_2 monitor used to measure CO_2 emissions) is failed and that same CO_2 (or O_2) monitor also serves as the diluent component in a NO_X-diluent (or SO_2-diluent) monitoring system, then both the CO_2 (or O2) monitor and the associated NO_X-diluent (or SO_2-diluent) system would be considered to be out-of-control until the hour of completion of subsequent hands-off RATAs which demonstrate that both systems are in-control and have met the applicable relative accuracy specifications in sections 3.3.2 and 3.3.3 of Appendix A. The beginning of the out-of-control period for each monitoring system would be the hour of completion of the failed or aborted RATA of the CO_2 (or O_2) monitor. The lengths of the out-of-control periods would, therefore, be determined from the same reference point for both the CO_2 (or O2) monitoring system and the NO_X-diluent (or SO_2-diluent) monitoring system.

Today's proposal would clarify the way in which RATA results are to be reported to EPA in the electronic quarterly report required under § 75.64. Proposed section 2.3.2 of Appendix B specifies that only the results of completed and partial RATAs that affect data validation would have to be reported. That is, all completed passed RATAs, all completed failed RATAs, and all RATAs aborted due to a problem with the CEMS would have to be included in the quarterly report. Therefore, aborted RATA attempts followed by corrective maintenance, re-linearization of the monitor, or any other adjustments other than those allowed under proposed section 2.1.3 of Appendix B would have to be reported. RATAs which are aborted or invalidated due to problems with the reference method or due to operational problems with the affected unit(s) would not need to be reported, because such runs do not affect the validation status of emission data recorded by the CEMS. In addition, aborted RATA attempts which are part of the process of optimizing a monitoring system's performance would not have to be reported, provided that in the period from the end of the aborted test to the commencement of the next RATA attempt: (1) no corrective maintenance or re-linearization of the CEMS is performed, and (2) no adjustments other than the calibration adjustments allowed under proposed section 2.1.3 of Appendix B are made. However, such RATA runs would still have to be documented and kept on-site as part of the official test log.

Whenever a required RATA has not been completed by its deadline, section 2.3.3 of Appendix B of today's proposed rulemaking would provide a grace period of 720 unit operating hours in which to complete the test. Data validation during a grace period would be done according to the applicable provisions of proposed section 2.3.2 of Appendix B. Proposed section 2.3.3 would specify that if the RATA is not completed by the end of the grace period, data from the CEMS would become invalid upon expiration of the grace period and remain invalid until the hour of completion of a subsequent successful hands-off RATA.

EPA has proposed a 720 unit operating hour RATA grace period because the Agency believes this will allow the facility sufficient time to schedule the RATA, to provide all required test notifications, and to complete the testing. The proposed grace period would be based on unit

operating hours rather than clock hours, because this is believed to be more equitable for peaking and cycling units. Data validation during the grace period would be prospective, i.e., data from the monitoring system would be considered valid during the grace period until the time of the RATA. If the RATA is failed or aborted due to a problem with the CEMS, data would be invalidated from the hour in which the test is failed or aborted, forward. Data would not be invalidated retrospectively back to the beginning of the grace period. Several utilities have expressed a preference for a grace period with prospective data invalidation, because it is simple to implement and is consistent with other part 75 provisions for which data invalidation is prospective when a test is failed (see Docket A–97–35, Item II–E–23).

4. Recertification of Gas and Flow Monitors

Today's proposed rule would revise § 75.20(b)(3) concerning data validation during recertification test periods. In the January 11, 1993 rule, as amended on May 17, 1995, § 75.20(b)(3) specifies that for any replacement, change, or modification to a monitoring system requiring recertification of the CEMS, all data from the CEMS are considered invalid from the hour of that replacement, change, or modification until the hour of completion of all required recertification tests. Today's rulemaking proposes to conditionally allow emission data generated by the CEMS during a recertification test period to be used for part 75 reporting, provided that the required tests are successfully completed in a timely manner and that certain data validation rules are followed during the recertification test period. Proposed sections 6.2, 6.3.1, and 6.5 of Appendix A would allow these new data validation procedures to also be applied to the initial certification of monitoring systems. The proposed revisions are based, in part, on policy guidance issued by EPA to address the initial certification of CEMS when a wet scrubber is installed on an affected unit (see Docket A–97–35, Item II–I–9, Policy Manual, Question 16.10). The intent of that policy guidance and of today's proposal is to minimize the number of hours of substitute data or maximum potential values that must be reported during a monitor certification or recertification period.

In proposed § 75.20(b)(3), specific rules are provided for data validation during the recertification test period. The recertification test period would begin with the first successful calibration error test after making the change to the CEMS and completing all necessary post-change adjustments, re-programming, linearization, etc. of the CEMS. The post-change activities could also include preliminary tests such as trial RATA runs or a challenge of the monitor with calibration gases. The first successful calibration error test following all of these activities would be known as a probationary calibration error test. Data from the CEMS would be considered invalid from the hour in which the replacement, modification, or change to the system is commenced until the hour of completion of the probationary calibration error test, at which point, the data status would become conditionally valid.

Today's proposal would place a specific time limit on the length of the recertification test period, depending upon the type(s) of test(s) required. If a linearity test or cycle time test is required, the test would have to be completed within 168 unit operating hours of the hour in which the probationary calibration error test was passed, marking the beginning of the recertification test period. If a RATA is required, it would have to be completed within 720 unit operating hours. If a 7-day calibration error test were required, it would have to be completed within 21 unit operating days. Routine daily calibration error tests would continue to be done as required by part 75 throughout the recertification test period. If a particular recertification test is not completed within the specified number of hours, data validation would be done as follows. For a late linearity test, RATA, or cycle time test that is passed on the first attempt, or for a late 7-day calibration error test (whether or not it is passed on the first attempt), data from the monitoring system would be invalidated from the hour of expiration of the recertification test period until the hour of completion of the late test. However, for a late linearity test, RATA, or cycle time test that is failed on the first attempt or aborted on the first attempt due to a problem with the monitor, all conditionally valid data from the monitoring system would be invalidated from the hour of the probationary calibration error test that initiated the original recertification test period to the hour of completion of the late recertification test. Data would remain invalid until successful completion of the failed/aborted test and any additional recertification or diagnostic tests that are required as a result of changes made to the monitoring system to correct the problem(s) that caused failure of the late recertification test.

A conditionally valid status would be assigned to emission data generated by a CEMS during a recertification test period. The conditionally valid data status would begin with the first hour of the recertification test period (i.e., the hour in which the probationary calibration error test is passed, following completion of all necessary monitor adjustments, preliminary tests, etc.). The conditionally valid status of the CEMS data would continue throughout the recertification test period, provided that the required recertification tests are done "hands-off" (i.e., with no adjustments, reprogramming, etc. of the CEMS other than the calibration adjustments allowed under proposed section 2.1.3 of Appendix B) and provided that the recertification tests and required daily calibration error tests continue to be passed. If all of the required recertification tests and calibration error tests are passed hands-off, with no failures and within the required time period, then all of the conditionally valid emission data recorded by the CEMS during the recertification test period would be considered quality assured and suitable for part 75 reporting. Note, however, that if a required recertification test has not been completed by the end of a calendar quarter, the owner or operator would indicate this by using a suitable conditional data flag in the electronic quarterly report for that quarter. The owner or operator would be required to resubmit the report for that quarter if the required recertification test is subsequently failed. In the resubmitted report, the owner or operator would use the appropriate missing data routine in § 75.31 or § 75.33 to replace each hour of conditionally valid data that was invalidated by the failed recertification test with substitute data. In addition, if conditionally valid data is submitted to the Agency in any quarterly report, the owner or operator would have to indicate in the end of the year compliance report required under § 72.90 whether the final status of the conditionally valid data has been determined. Note that in certain instances where a recertification test period spans two calendar quarters, it may be possible to avoid use of the conditional data flag and quarterly report resubmittal. If a required recertification test(s) is completed no later than 30 days after the end of a calendar quarter (i.e., prior to the quarterly report submittal deadline), the test data and results may be submitted

with the quarterly report, even though the test dates are from the next calendar quarter. If the recertification test(s) is passed, this would allow the "conditionally valid" data to be reported as quality assured, in lieu of using a conditional data flag. If the test(s) is failed, conditionally valid data could be replaced with substitute data, as appropriate, and resubmittal of the quarterly report would not be necessary.

If a recertification test is failed or aborted due to a problem with the CEMS or if a routine daily calibration error test is failed during a recertification test period, proposed § 75.20(b)(3) specifies that data validation would be done as follows:

(1) If any required recertification test is failed, the test would have to be repeated. If any recertification test, other than a 7-day calibration error test, is failed or aborted due to a problem with the CEMS, the original recertification test period would end and any necessary maintenance activities, adjustments, linearizations, and reprogramming of the CEMS would need to be completed before a new recertification test period could begin. The new recertification test period would begin with a probationary calibration error test. The tests that would be required in this new recertification test period would include any tests that were required for the initial recertification event which were not successfully completed and any recertification or diagnostic tests required as a result of changes that were made to the monitoring system to correct the problems that caused failure of the recertification test;

(2) If a linearity test, RATA, or cycle time test is failed or aborted due to a problem with the CEMS, all conditionally valid emission data recorded by the CEMS would be invalidated from the hour of commencement of the original recertification test period to the hour in which the test is failed or aborted. Data from the CEMS would remain invalid until the hour in which a new probationary calibration error test is passed following all of the necessary maintenance procedures, diagnostic tests, etc., at which time the conditionally valid status of emission data from the CEMS would begin;

(3) If a 7-day calibration error test is failed within the recertification test period, the test would have to be re-started. Previously-recorded conditionally valid emission data from the CEMS would not be invalidated by a failed 7-day calibration error test unless the calibration error on the day of the failed 7-day calibration error test exceeded twice the performance specification in section 3 of Appendix A (causing the monitor to be considered out-of-control); and

(4) If a calibration error test is failed during a recertification test period, the CEMS would be considered out-of-control as of the hour in which the calibration error test is failed. Emission data from the CEMS would be invalidated prospectively from the hour of the failed calibration error test until the hour of completion of a subsequent successful calibration error test following corrective action, at which time the conditionally valid data status would resume. Failure to perform a required daily calibration error test during a recertification test period would also cause data from the CEMS to be invalidated prospectively from the hour in which the calibration error test was due until the hour of completion of a subsequent successful calibration error test. Following a failed or missed calibration error test, no recertification tests could be performed until the required subsequent calibration error test had been passed.

5. Recertification and QA

In today's proposed rule, a new section, 2.4, entitled "Recertification, Quality Assurance, and RATA Deadlines" would be added to Appendix B. The purpose of this section would be to clarify the inter-relationship between normal quality assurance testing of CEMS and recertification events and to further clarify how RATA deadlines are determined. Appendix B to part 75 currently requires periodic (daily, quarterly, and semiannual or annual) quality assurance tests of all CEMS. The required daily QA tests include calibration error tests of all monitors and interference checks of flow monitors. Quarterly QA tests include linearity checks of gas monitors and leak checks of differential pressure-type flow monitors. The required semiannual or annual QA tests for all types of CEMS are RATAs.

Under the current rule, when a significant change is made to a CEMS which affects the ability of the monitoring system to accurately read and record emissions data, § 75.20(b) specifies that the CEMS must be recertified. To recertify a monitoring system, one or more of the following tests that were performed for initial certification of the CEMS must be repeated. That is, depending upon the nature of the change made to a CEMS, one or more of the following tests may be required for recertification: (1) calibration error test, (2) cycle time test, (3) linearity check, (4) RATA, or (5) DAHS verification. Notice that recertification tests (1), (3), and (4) are the same types of tests that are done for routine daily, quarterly, and semiannual or annual QA. There is, therefore, a connection between routine QA tests and recertification tests. Proposed § 75.20(b) would further clarify that any change to a CEMS that does not require a RATA would not be considered a recertification event, and, therefore, would not require a recertification application. In such cases, the required tests would be considered diagnostic tests.

Routine QA tests are generally planned and scheduled in advance, while recertification tests are performed on an as-required basis. Despite this, it is sometimes possible to coordinate component replacements or other changes to a CEMS with the QA test schedule for the CEMS. For instance, suppose that in a particular quarter, a CEMS component is replaced, and a RATA is required to recertify the monitoring system. Suppose, further, that in the quarter of the component replacement, the annual RATA is due, but has not yet been conducted. In this case, the recertification RATA could serve a dual purpose, i.e., to recertify the CEMS and to meet the annual RATA requirement. For this reason, EPA proposes to recommend in today's rule that, to the extent practicable, component replacements, system upgrades, and other events that require recertification be coordinated with the periodic (daily, quarterly, and semiannual or annual) QA testing required under Appendix B. Proposed section 2.4 of Appendix B clarifies that when a particular test is done for the dual purpose of recertification and routine QA, the data validation rules in § 75.20(b)(3) pertaining to recertification would take precedence and would be followed. In a similar manner, a required diagnostic test (e.g., linearity check) could also be used to satisfy a quarterly linearity test requirement.

Proposed section 2.4 of Appendix B emphasizes that, in general, whenever a RATA is performed, whether for QA purposes, recertification purposes, or both, the projected deadline for the next RATA (i.e., whether the next test is due in 2 or 4 QA operating quarters) would be established based upon the percentage relative accuracy obtained. For 2-load and 3-load flow RATAs, the projected deadline for the next RATA would be established according to the highest relative accuracy at any of the loads tested. There would, however, be two important exceptions to this for single-load flow RATAs. Irrespective of

the relative accuracy percentage obtained, the results of a single-load flow RATA could only be used to establish an annual RATA frequency if: (1) the single-load flow RATA is specifically required under section 2.3.1.3(b) of Appendix B for flow monitors installed on peaking units and bypass stacks, or (2) the single-load RATA is allowed under proposed section 2.3.1.3(c) of Appendix B for ≥ 85.0 percent historical unit operation at a single-load level. No other single-load flow RATA could be used to establish an annual frequency; however, a 2-load flow RATA could be performed in place of any required single-load RATA, in order to achieve an annual frequency.

6. Data From Non-Redundant Backup Monitors

Today's rule proposes to revise the quality assurance and data validation requirements in § 75.20(d) for non-redundant backup monitoring systems. Under the May 17, 1995 rule, a "non-redundant backup monitoring system" is defined as a "cold" backup monitoring system which is brought into service on an as-needed basis, rather than being operated continuously. Non-redundant backup monitors must be initially certified at each location at which they are to be used, but unlike "redundant backup" monitors which are operated continuously and kept on "hot-standby," non-redundant backup systems are not required to meet the daily and quarterly quality assurance requirements of Appendix B, except when they are actually used for data reporting. A linearity test of each non-redundant backup gas monitor is required before it is placed in service, and each non-redundant backup flow monitor must pass a calibration error test before being used to report data. The use of non-redundant backup monitors is restricted to 720 hours a year at a particular unit or stack, unless a 7-day calibration error test is passed. A periodic recertification RATA of each non-redundant backup monitor is required at least once every two years, at each location where it is to be used.

Section 75.20(d) of today's proposal would clarify and expand the definition of a non-redundant backup monitoring system. Under the proposal, two distinct types of non-redundant backup systems would be defined: (1) type-1 is a system that has its own separate probe, sample interface, and analyzer (e.g., a portable gas monitoring system), and (2) type-2 is a system consisting of one or more like-kind replacement analyzers that use the same sample probe and interface as the primary monitoring system. This would include non-redundant backup analyzers that are used to meet the dual span and range requirements for SO_2 or NO_x under proposed sections 2.1.1.4 and 2.1.2.4 of Appendix A.

The "type-1" system is the familiar non-redundant backup system described in the current version of part 75. However, the "type-2" system is a new kind of non-redundant backup monitoring system. EPA believes that allowing limited use of type-2 monitoring systems will encourage facilities that do not have redundant backup monitors to perform better maintenance on their primary analyzers. The Agency is concerned that primary analyzers with excessive, recurring daily calibration drift (i.e., monitors that fail calibration error tests more often than expected) are sometimes kept in service to avoid using substitute data, when the analyzers should be in the shop for maintenance. If the monitor readings tend to drift low from day to day, this can result in under-reporting of emissions, because data validation for daily calibrations under part 75 is prospective. That is, data are invalidated from the hour of a failed calibration error test forward, while data recorded from the hour of the previous successful calibration to the hour of the failed calibration are considered valid. EPA believes that allowing limited use of type-2 non-redundant backup monitoring systems would provide a simple way (i.e., like-kind analyzer replacement) for primary analyzers to be properly maintained and repaired with minimal data loss.

Today's proposal would retain the requirement for type-1 non-redundant backup monitoring systems to be initially certified (except for a 7-day calibration error test) at each location at which they are to be used. However, type-2 systems would require no initial certification. Both types of systems would have to pass a linearity test (for gas monitors) or a calibration error test (for flow monitors) each time that they were used to report emission data. For a type-2 "mix-and-match" NO_x monitoring system consisting of one primary analyzer and one like-kind replacement analyzer, only the like-kind replacement analyzer would have to pass a linearity test, provided that the primary analyzer is operating and not out-of-control with respect to any of its quality assurance requirements. When a non-redundant backup monitoring system is brought into service, emission data from the non-redundant backup system could be deemed conditionally valid during the linearity test period, as follows. After making the like-kind replacement and prior to conducting the linearity test, a probationary calibration error test could be done to begin the period of conditionally valid data. If the linearity test is then passed within 168 unit operating hours of the probationary calibration error test, the conditionally valid data would be validated. However, if the linearity test is either failed, aborted due to a problem with the CEMS, or not completed as required, then all of the conditionally valid data would be invalidated beginning with the hour of the probationary calibration error test, and data from the non-redundant backup CEMS would remain invalid until the hour of completion of a successful linearity test.

Under today's proposal, when a non-redundant backup system is used for part 75 reporting, the bias adjustment factor (BAF) from the most recent RATA of the system would be applied to the data generated by the system. If no RATA results were available for a type-2 system, the primary monitoring system BAF would be applied to the data generated by the type-2 system.

Today's proposal would retain the restrictions of the current rule, which limit the annual usage of a non-redundant backup monitoring system to 720 hours at a particular location (unit or stack). To use a non-redundant backup system for more than 720 hours per year at a particular location would require a RATA of the system at that location. For type-1 systems, a recertification RATA would be required at least once every eight calendar quarters at each location at which the system is to be used. All non-redundant backup monitoring systems (type-1 and type-2) would have to be assigned unique system and component identification numbers and would have to be included in the monitoring plan for the unit or stack.

7. Missed QA Test Deadlines

As discussed above under the subsections on "Linearity Tests" and "Relative Accuracy Test Audits," proposed sections 2.2.4 and 2.3.3 of Appendix B to today's rulemaking would allow a grace period in which to perform required linearity tests and RATAs whenever a test cannot be completed by the end of the quarter in which it is due. EPA believes it is appropriate to allow a grace period because circumstances beyond the control of the owner or operator (e.g., unplanned unit outages) sometimes arise which prevent the deadline for a quality assurance test from being met.

The proposed linearity grace period is 168 unit operating hours, and the proposed RATA grace period is 720 unit operating hours. A linearity grace period

could only be used to satisfy the linearity requirement from a previous quarter. For any RATA (or RATAs, if more than one attempt is made) conducted during a grace period, the deadline for the next RATA would be calculated from the quarter in which the RATA was originally due, not from the quarter in which the RATA is actually completed.

Data validation during a grace period would be done according to the applicable provisions in proposed section 2.2.3 of Appendix B (for linearities) or section 2.3.2 of Appendix B (for RATAs). Data from a CEMS would become invalid upon expiration of a grace period if the required linearity test or RATA had not been completed. Data from the CEMS would remain invalid after the expiration of the grace period until the required test is successfully completed.

P. Appendix D

1. Pipeline Natural Gas Definitions

Background

Appendix D provides an optional protocol by which oil-fired and gas-fired units may account for their SO_2 mass emissions. Under the definitions of "oil-fired" and "gas-fired" in § 72.2, Appendix D may be used to measure SO_2 emissions from gaseous fuels only if the gaseous fuel's sulfur content is less than or equal to that of natural gas.

In developing Appendix D, EPA assumed that virtually all of the gaseous fuel combusted by affected units in the Acid Rain Program would be pipeline natural gas. Section 2.3 of Appendix D of the January 11, 1993 rule allowed for accounting for SO_2 emissions from gaseous fuel using EPA's "National Allowance Database (NADB) emission rate." The NADB was used to establish a baseline of historical SO_2 emissions in order to allocate allowances. For the vast majority of units combusting pipeline natural gas, NADB used the historical heat input from gas and an emission rate of 0.0006 pounds of SO_2 per measured million British thermal units (lb/mmBtu) (see Docket A–92–06; Docket A–94–16, Item II–F–2). This default factor is derived from EPA Publication AP–42 and is based on a sulfur content of 0.2 grains per 100 standard cubic feet of gaseous fuel (gr/100 scf) (see Docket A–97–35, Item II–I–1). Use of this default SO_2 emission rate factor for pipeline natural gas was clarified by EPA in its Acid Rain Policy Manual (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.4).

Section 2.3.2 of Appendix D, as revised by the May 17, 1995 direct final rule, explicitly allows owners or operators to use a default emission factor of 0.0006 (lb/mmBtu) to estimate SO_2 emissions during hours in which pipeline natural gas is combusted. Alternatively, section 2.3.1 of Appendix D, also as revised by the May 17, 1995 direct final rule, allows for determining SO_2 emissions from any gaseous fuel with a sulfur content no greater than natural gas by performing daily fuel sampling, analyzing the sulfur content of the gaseous fuel, and multiplying that sulfur content in grains per 100 standard cubic feet (gr/100scf) times the volume of gaseous fuel combusted. Units combusting gaseous fuels with a total sulfur content greater than natural gas (i.e., > 20 gr/100scf) are not allowed to use the procedures of Appendix D and must instead use an SO_2 CEMS and a flow monitor to determine SO_2 mass emissions. This limitation is explicitly stated in § 75.11(e)(4), as revised on November 20, 1996.

The definition of "natural gas" in § 72.2, as revised by the May 17, 1995 direct final rule, indicates that the sulfur content of natural gas is "1 grain or less hydrogen sulfide per 100 standard cubic feet, and 20 grains or less total sulfur per 100 standard cubic feet." This definition was taken from Requirements of the Federal Energy Regulatory Commission (FERC) for regulation of the transmission of natural gas. "Pipeline natural gas" is also defined in § 72.2. However, the definition is simply "natural gas that is provided by a supplier through a pipeline," and provides no specifications for sulfur content or hydrogen sulfide content.

Section 2.3.2.2 of Appendix D requires documentation of the contractual sulfur content of pipeline natural gas from the supplier. This documentation was intended to demonstrate that the natural gas is supplied through a pipeline, as well as that it meets the sulfur content definition for natural gas.

Questions over the applicability of Appendix D and the apparent inconsistencies between the definitions "natural gas" and "pipeline natural gas" in § 72.2 and the provisions of section 2.3 of Appendix D have caused confusion during program implementation since the May 17, 1995 direct final rule. Some utilities have interpreted section 2.3.2.2 of Appendix D to allow pipeline natural gas to have a sulfur content as high as 20 gr/100 scf, which is one hundred times higher than the sulfur content upon which the 0.0006 lb/mmBtu emission factor is based. During the process of applying for certification of monitoring equipment for six gas-fired units, one utility indicated to the Agency that it intended to use a default emission rate of 0.0006 lb/mmBtu and heat input to account for SO_2 mass emissions from propane liquefied petroleum gas (see Docket A–97–35, Item II–D–6). Based upon the information provided by the utility in its monitoring plan for the units, the sulfur content of propane was several times higher than that of pipeline natural gas, with a range of sulfur content between 0.08 and 2.72 gr/100 scf, compared to a typical sulfur content of 0.2 gr/100 scf for pipeline natural gas, upon which the default SO_2 emission rate of 0.0006 lb/mmBtu is based. Later information submitted by the utility indicated that during the previous three years, the sulfur content of propane combusted at that plant had an average value of 0.83 gr/100 scf and a maximum value of 2.20 gr/100 scf (see Docket A–97–35, Item II–D–60). EPA rejected the utility's monitoring approach using the default emission rate for pipeline natural gas because it would have resulted in an underestimation of SO_2 emissions, as well as not following the procedures of Appendix D (see Docket A–97–35, Item II–C–2).

Other utilities have tried to use the default SO_2 emission rate of 0.0006 lb/mmBtu for higher sulfur gaseous fuels, such as digester gas (see Docket A–94–16, Item II–D–71). EPA issued policy guidance to ensure that other utilities were aware that the default SO_2 emission rate of 0.0006 lb/mmBtu should only be used for pipeline natural gas with a low sulfur content of 0.2 gr/100 scf (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.15, as originally published in March 1996). However, several utilities were concerned that this excluded some pipeline natural gas (see Docket A–97–35, Items II–B–3, II–E–16). As stated in the technical support document for the May 17, 1995 direct final rule, EPA had intended that all pipeline natural gas would qualify for use of the default SO_2 emission rate of 0.0006 lb/mmBtu. Therefore, the Agency revised its guidance to clarify that a facility needed only to document that it was using pipeline natural gas, without documenting a sulfur content of 0.2 gr/100 scf (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.15, as revised in June 1996). During this process, the Agency became concerned that the definition of pipeline natural gas in § 72.2 was not clear enough and that the sulfur content documentation required for pipeline natural gas in section 2.3.2.2 of Appendix D was confusing and possibly inappropriate.

Discussion of Proposed Changes

For the definition of pipeline natural gas in § 72.2, today's proposal includes a revised definition that would indicate pipeline natural gas is low in the sulfur-bearing compound hydrogen sulfide (H_2S). The proposed revised definition would specifically include the maximum hydrogen sulfide content for pipeline natural gas permitted by fuel purchase or transportation contracts. The hydrogen sulfide content of pipeline natural gas is proposed to be up to 0.3 gr/100 scf.

In addition, section 2.3 of Appendix D would be revised. As under the current rule provisions, sources would be allowed to use a default SO_2 emission rate of 0.0006 lb SO_2/mmBtu in conjunction with unit heat input to calculate the SO_2 mass emission rate during the combustion of pipeline natural gas. In order to demonstrate that the pipeline natural gas qualifies to use the default SO_2 emission rate of 0.0006 lb/mmBtu, it would be necessary for the designated representative to provide information in the monitoring plan on the gas's maximum hydrogen sulfide content from the facility's purchase contract with the pipeline gas supplier or from the pipeline natural gas supplier's transportation contract. In such contracts, or in the tariff sheets associated with them, the pipeline gas supplier typically agrees to provide natural gas with a maximum hydrogen sulfide content of 0.25 gr/100 scf or 0.30 gr/100 scf. If a facility has previously submitted contract information from its pipeline gas supplier containing a limit on the sulfur content, this information typically also verifies the limit on the hydrogen sulfide content. For pipeline natural gas, it would not be necessary to provide sampling information to verify that the hydrogen sulfide content actually meets the quality specification limit on the hydrogen sulfide content stated in the definition of pipeline natural gas.

If a facility wanted to demonstrate that another gaseous fuel had an SO_2 emission rate no greater than pipeline natural gas, and thus, could use the default emission rate factor of 0.0006 lb/mmBtu, the designated representative would provide sulfur content and GCV information in the monitoring plan for the unit or could petition under § 75.66(i) after initial certification for the unit. It would be necessary for the designated representative to demonstrate that the gaseous fuel has an SO_2 emission rate no greater than 0.0006 lb/mmBtu. The designated representative would need to provide at least 720 hours of data for the demonstration. The data could come from the fuel supplier, if the fuel came from a gas supplier.

For all units using Appendix D, proposed section 2.3.3 would require the designated representative to provide information to the Agency demonstrating that the total sulfur content of the gaseous fuel meets the requirements of Appendix D and that the unit meets the § 72.2 definition of "gas-fired" or "oil-fired." Additionally, the gas-fired definition would be revised to indicate that the restriction of burning gaseous fuels containing no more sulfur than natural gas is actually a restriction on the total sulfur in the fuel. The gaseous fuel's total sulfur content would have to be shown to be less than or equal to 20 grains total sulfur per 100 standard cubic feet of gaseous fuel.

Rationale

The Agency proposes to introduce specific hydrogen sulfide content values into the definition of pipeline natural gas in order to provide a guideline that will separate gaseous fuels with a higher sulfur content from low sulfur pipeline natural gas. The maximum hydrogen sulfide content of 0.3 gr/100 scf is being proposed for two reasons. First, hydrogen sulfide contents of 0.25 or 0.3 gr/100 scf are typically required under pipeline gas transmission contracts, and should be relatively easy to document (see Docket A–97–35, Item II–E–19). In addition, 0.2 gr/100 scf is the sulfur content equivalent to the default emission rate factor of 0.0006 lb/mmBtu from the Agency's AP–42 emission factors that may be used by units combusting pipeline natural gas under section 2.3.2 of Appendix D (see Docket A–97–35, Item II–A–6). A maximum hydrogen sulfide content of 0.3 gr/100 scf corresponds to this default emission rate far more closely than a total sulfur content of 20.0 gr/100 scf or a hydrogen sulfide content of 1.0 gr/100 scf and, yet, would allow for some variability in the hydrogen sulfide content above a 0.2 gr/100 scf average. EPA believes that all or virtually all pipeline natural gas that is supplied through a pipeline for commercial use can meet these qualifications.

Pipeline natural gas is composed predominantly of methane (CH_4). Hydrogen sulfide is the predominant molecule containing sulfur in pipeline natural gas. Therefore, restricting the hydrogen sulfide content of pipeline natural gas to 0.3 gr/100 scf serves as a proxy for a limit on the total sulfur content, while being relatively easy to document. This revised definition of pipeline natural gas would also serve to restrict the default emission rate factor from being inappropriately applied to higher sulfur gaseous fuels, such as liquefied petroleum gas (see Docket A–97–35, Item II–D–6) or digester gas (see Docket A–94–16, Item II–D–71).

Appendix D of today's proposed rule would be revised to clarify the documentation requirements for sulfur content and hydrogen sulfide content of gaseous fuel, including pipeline natural gas. The original wording of section 2.3.2.2 implied that pipeline natural gas only need to have a total sulfur content of 20 gr/100 scf, roughly 100 times the sulfur content associated with the default emission rate of 0.0006 lb/mmBtu. Some utilities found this confusing (see Docket A–97–35, Items II–D–6, II–E–10). Therefore, EPA issued guidance to clarify that the default emission rate factor was only intended to apply to lower sulfur pipeline natural gas (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.15).

However, some utilities using pipeline natural gas were concerned that because their fuel suppliers were not willing to certify or agree to a sulfur content of 0.3 gr/100 scf by contract, they might be required to perform daily gas sampling (see Docket A–97–35, Items II–B–3, II–E–15, II–E–16). This was not the Agency's intent. The Agency merely wishes to ensure that facilities provide adequate documentation to demonstrate that the unit will not be underestimating SO_2 emissions for a high sulfur gaseous fuel by using an inappropriate default emission rate factor that applies to extremely low sulfur gas. Similar to EPA's Policy Manual Question 2.15 referred to above, a facility would need only to provide the fuel quality specification for total sulfur content and hydrogen sulfide from the pipeline supplier, or from the tariff sheet for the pipeline, in order to qualify to use the default emission rate.

If a facility intends to use the default emission rate factor for a gaseous fuel other than pipeline natural gas, sulfur content and GCV data would have to be provided and analyzed to demonstrate that the fuel has an SO_2 emission rate no greater than 0.0006 lb/mmBtu. A minimum of 720 hours of data would be required for the demonstration. Each hourly value of the total sulfur content (in gr/100 scf) would be divided by the GCV value (in Btu/100 scf) and then multiplied by a conversion factor of 10^6 Btu/mmBtu. This would provide a ratio of the number of grains of sulfur in the fuel to the heat content of the fuel. For pipeline natural gas with an assumed SO_2 emission rate of 0.0006 lb/mmBtu, a sulfur content of 0.2 gr/100 scf and a

GCV value of 100,000 Btu per hundred scf, the value of the "sulfur-to-heat content" ratio is 2.0 gr/mmBtu. Therefore, a candidate gaseous fuel would qualify to use the default SO_2 emission rate of 0.0006 lb/mmBtu for part 75 reporting purposes if the 720 hours of historical data demonstrate that the mean value of the sulfur-to-heat content ratio is 2.0 gr/mmBtu or less.

To demonstrate that a unit qualifies to use Appendix D when combusting a gaseous fuel, the designated representative for the facility would be required to show that the gaseous fuel has a total sulfur content of 20 grains/100 scf or less. This demonstration would apply to all gaseous fuels. For gaseous fuels other than pipeline natural gas, the sulfur content information could come either from contractual information on the sulfur content based on routine vendor sampling and analysis or from historic fuel sampling data to show the gaseous fuel's sulfur content (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.15). For gaseous fuels that are produced in batches or lots with a relatively uniform sulfur content, such as liquefied petroleum gases, it would be sufficient to provide historical information on each batch over the past year. This approach was accepted by the Agency for six units combusting liquefied petroleum gas (see Docket A–97–35, Items II–C–14 and II–D–22).

In addition to documenting the total sulfur content of the fuel, the owner or operator would be required to submit certain other fuel-specific information. As previously noted, for units combusting pipeline natural gas, a designated representative would be required to provide contractual information to demonstrate that the natural gas is supplied under specification and has a hydrogen sulfide content less than or equal to 0.3 gr/100 scf. And historical data would have to be provided, as described above, to obtain permission to use the default SO_2 emission rate of 0.0006 lb/mmBtu for a fuel other than pipeline natural gas. For other gaseous fuels that are not produced in batches with relatively uniform sulfur content, such as gaseous fuel generated through an industrial process (e.g., digester gas from a paper mill), since the sulfur content of the gaseous fuel could be highly variable, section 2.3.3.4 of today's proposed revisions to Appendix D would require a minimum of 720 hours of historical data documenting the sulfur content of the fuel under representative operating conditions. This information would allow the Agency to determine how variable the sulfur content is and if the daily sampling procedure under section 2.3.1 of Appendix D is sufficient to capture this variability without allowing the underestimation of sulfur content. If the sulfur variability were too great, continuous sampling using a gas chromatograph and hourly reporting of sulfur content would be required under today's proposed rule.

2. Fuel Sampling

(a) *Fuel Oil.*

Background

Diesel fuel is distillate fuel oil of grades No. 1 or 2. Diesel fuel is heavily refined and has a much lower sulfur content and greater consistency than other grades of fuel oil. Section 2.2 of Appendix D to the May 17, 1995 direct final rule provides three options for sampling of diesel fuel and two options for sampling of other fuel oils. First, for all fuel oils, including diesel fuel, daily manual sampling is allowed. Second, diesel fuel and other fuel oils may also be sampled continuously using an automated sampler according to ASTM D4177–82 (Reapproved 1990), either using continuous drip sampling or flow proportional sampling. The samples would then be mixed to form a daily composite sample. Third, diesel fuel may be sampled "as-delivered," upon receipt of a shipment. These sampling approaches were selected to ensure that sulfur content values would be as accurate as possible, would not underestimate SO_2 mass emissions, and would account for any variability in the sulfur content of fuel.

Many utilities have expressed concern about the cost of daily oil sampling (see Docket A–97–35, Items II–D–18, II–D–20, II–E–13, II–E–14). Some utilities indicated that for a unit that burns oil every day, the cost of daily oil sampling is greater than the cost of SO_2 CEMS and flow monitors. Furthermore, industry representatives provided information indicating that within a given shipment of fuel oil from a supplier, the variability in sulfur content is low (see Docket A–97–35, Items II–D–18 and II–D–59). Many companies already have state or Federal requirements for sampling of fuel from each truck delivery or in a storage tank on site at the plant whenever fuel is added to the storage tank (see Docket A–97–35, Item II–D–93). The storage tank is a tank at a plant that holds oil that is actually combusted by the unit on that day. In other words, no fuel will be blended between the time when a fuel lot is transferred to the storage tank and when the fuel is combusted in the unit. In other cases, such as EPA's NSPS regulations for industrial boilers under 40 CFR part 60, subpart Db, companies keep copies of fuel receipts from the supplier to indicate the sulfur content is below the required sulfur content. Based upon this information, EPA is proposing to reduce the required sampling frequency for fuel oil. This would be a significant reduction in burden and cost of using Appendix D, without causing underestimation of SO_2 emissions.

Discussion of Proposed Changes

Several utilities suggested that the Agency propose to allow sampling of each delivery of oil (see Docket A–97–35, Items II–D–18, II–D–20, II–E–13, II–E–22). Under this approach, either a facility or its supplier would sample each truck or barge containing oil before the fuel is transferred into a tank at the plant. If a delivery shipped in a group of trucks were purchased under the same order and were specified to have the same gross calorific value, density, and sulfur content, then only one sample would be necessary for the group of trucks. Samples taken by the supplier would not need to be split and kept on hand at the site. This approach is currently allowed only for diesel fuel under section 2.2.1.2 of Appendix D, but would be extended to apply to all fuel oils under today's proposed rule. This approach would be particularly useful to a facility that receives large, infrequent deliveries of fuel or to a facility that already has other State or Federal regulations requiring sampling of each truck or barge delivered to the plant.

A similar approach suggested by another industry representative, allowing facilities to use a sample of oil taken from a tank belonging to the supplier before the oil is delivered, is also proposed in today's rulemaking. The supplier could take the sample and the facility would be able to use that value as long as it keeps records of the fuel analysis results from the supplier. This approach would be particularly useful to a facility that receives a delivery of oil from a single supplier's tank that is shipped in many different trucks. This approach also would be useful for a small facility that would prefer to rely on samples taken by the supplier rather than taking its own samples and paying for their analysis.

Finally, the Agency proposes a third sampling approach, allowing a facility to sample oil manually from its storage tank at the plant whenever oil is added to the tank. This approach would yield samples that are more representative of the oil combusted because it would include any fuel remaining in the tank as well as all fuel added. Sampling from the storage tank at the plant would be

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useful to a facility that burns oil infrequently and adds oil to its storage tank infrequently. It also would be helpful where a facility already has other State or Federal regulations requiring sampling after adding fuel to the storage tank.

Both the "before delivery" and "as delivered" sampling approaches would require a sample for each "lot" of oil; consequently, a suitable definition of a "lot" is needed. For purposes of determining when an oil sample should be taken for the NSPS applicable to utility boilers, section 5.2.2.2 of Method 19 in Appendix A to 40 CFR part 60 relies on a definition of fuel "lot" developed by the American Society for Testing and Materials (ASTM). This definition states that "the lot size of a product oil is the weight of product oil from one pretreatment facility and intended as one shipment (ship load, barge load, etc.)." In essence, a lot is a single batch of oil that has uniform properties and is purchased from a single supplier and delivered to a buyer. Among those uniform fuel properties are gross calorific value, density, sulfur content, and viscosity. In today's rulemaking, EPA proposes to adopt this definition of a lot of oil for use in the Acid Rain Program.

The Agency also considered whether it is appropriate to keep the current approach of daily manual oil sampling as an option. Although it seems unlikely that facilities would choose daily sampling option if they have the three options of sampling by lot, sampling upon addition of fuel to a storage tank, or continuous sampling, a utility group has requested that EPA retain daily manual sampling as an option. The agency is, therefore, proposing to retain daily manual oil sampling as an option in Appendix D to allow facilities this additional flexibility. An industry representative suggested that EPA could define the oil combusted during a 24-hour period as a lot. For the reasons discussed below and in the section addressing sulfur content, density, and gross calorific values used in calculations, EPA is not incorporating this suggestion in today's proposed rule.

EPA also reconsidered whether it is necessary to require daily composite samples when samples are taken continuously with an automatic sampler. In today's proposal, the Agency is proposing that continuous samples may be composited on a weekly basis rather than daily. The Agency also considered allowing an even longer compositing period, such as a month, but is not proposing this option for the reasons discussed below. A weekly composite sample of oil that is sampled continuously would be an attractive option for a facility that wants the most representative and accurate sulfur content data possible. This also would be a useful option for those few facilities that receive oil via a pipeline, rather than in discrete lots.

Rationale

Facilities wish to be able to perform less frequent fuel sampling in order to save money. From the information EPA has examined over the previous year, the Agency believes that less frequent oil sampling can be technically justified. Based upon information provided by utilities, the sulfur content of a lot of oil varies from sample to sample, with a standard deviation of 0.036 percent S to 0.063 percent S, or 5.62 to 6.85 percent of the average sulfur content for all daily samples between deliveries (see e.g., Docket A–97–35, Item II–D–18). Density and gross calorific value of oil in a lot should vary even less than sulfur content, because sulfur is an impurity in the composition of the fuel and not an essential physical property of the oil, as is density. Furthermore, the difference between the sulfur content, density, gross calorific value, and carbon content of a fuel during the first daily sample after a new delivery is received and the average sulfur content, density, gross calorific value, and carbon content for all daily samples from between two deliveries is extremely small (see Docket A–97–35, Items II–B–18 and II–D–18 for supporting information). Therefore, the Agency expects that the variability of fuel characteristics within a lot is low enough that only a single representative sample is necessary for the lot. Data have indicated that there could be a significant difference in sulfur content between shipments, however (see Docket A–97–35, Items II–B–12, II–B–18 and II–D–18). The Agency believes that differences between lots, which could potentially result in the underestimation of SO_2 emissions, can be dealt with by selecting a conservative sulfur content, density, or gross calorific value that would not be exceeded in any sample, rather than retaining more frequent sampling requirements. Therefore, today's proposal incorporates this approach.

Prior to drafting today's proposed rule revisions, EPA requested comments on removing the option to perform daily manual oil sampling for Appendix D units. At least one utility group expressed interest in retaining the option to allow flexibility. The prime benefit to a facility from continuing to use daily manual sampling would appear to be that the facility could continue to use the same daily operating procedures and that reprogramming of a DAHS would not be necessary. Note that when using the approach of daily manual oil samples, a facility calculates SO_2 mass emissions using the highest sulfur content in the previous 30 daily oil samples. Therefore, this approach requires more frequent analysis than either the proposed weekly composite sample for continuous samples or the proposed sampling by lot, and provides less accurate and more conservative results. The Agency believes it would be simpler and less confusing for both the Agency and for the regulated community to deal with a smaller number of approaches to sampling and calculating SO_2 emissions. However, the Agency is retaining this option since at least some affected utilities want the flexibility to continue to use this option.

EPA also considered the suggestion to define a 24-hour period as a lot in order to allow facilities to continue to perform daily manual sampling. EPA is not proposing this approach because of the added complexity, compared to keeping the current language in section 2.2.4 of Appendix D concerning manual daily sampling of oil. If a lot were defined as an arbitrary 24-hour period, the other requirements in the current rule (e.g., conservative sulfur, gross calorific value, and density values used to calculate SO_2 mass emission rate and heat input rate) would need to be retained to ensure that SO_2 emissions were not underestimated. Furthermore, using the terminology of a "lot" for both a delivery and a period of time, while requiring different treatment of sample data from the two different types of "lots," could potentially be confusing. It seems preferable to keep the current language for daily manual samples.

Because the Agency now believes it is appropriate to sample each fuel lot instead of sampling daily, the Agency reconsidered whether daily composite samples are necessary when a facility performs automated continuous sampling. Because continuous samplers take fuel samples multiple times each hour, they are highly representative of the oil being burned. Flow proportional samplers take samples automatically when a certain volume or mass of fuel has passed by, rather than during a particular time period. Generally, automatic samplers take multiple samples each hour; however, only one sample per hour is required under section 2.2.3 of Appendix D of the current rule. Even if the compositing time period is extended, the composite sample will be representative of the sulfur content, density, and gross calorific value of the oil between samples. Therefore, the Agency believes

that the compositing period could be extended from a day to as long a period as a month. However, EPA believes that it is unlikely that any container for taking samples from an automatic sampler would be large enough to accommodate all automatic samples taken during a month. In addition, at least one industry representative suggested that weekly composite samples were appropriate (see Docket A–97–35, Item II–D–30). Therefore, in section 2.2.3 of today's proposed rule, EPA would extend the allowable length of the compositing period for automatic samples to one week. The Agency believes this will make automatic sampling less costly, while taking into account the physical limitations of sampling equipment.

(b) *Gaseous Fuels.*

Background

Section 2.3 of Appendix D, as revised in the May 17, 1995 direct final rule, provides only one approach for sampling gaseous fuel: under section 2.3.1, gaseous fuel sampling must be performed daily. Relatively few utilities perform daily sampling upon gaseous fuels, choosing instead to use a default SO_2 emission rate for pipeline natural gas. In part, this is because the vast majority of gaseous fuel used by power plants is pipeline natural gas. Under section 2.3.2 of Appendix D, facilities may calculate SO_2 mass emissions from pipeline natural gas using a default emission rate instead of performing fuel sampling. Because of the difficulty and potential danger of sampling gaseous fuel, gas sampling is generally conducted by the supplier, rather than by the facility.

Those few utilities combusting gaseous fuels other than pipeline natural gas have expressed concern about the difficulty and expense of daily sampling, particularly in comparison to the value of SO_2 allowances for low SO_2 emissions from relatively clean fuel (see, e.g., Docket A–97–35, Items II–E–11, II–E–20). For gaseous fuels that are delivered in discrete batches or "lots," one would expect the gaseous fuel to behave like an ideal gas; sulfur should be evenly distributed throughout the batch. On this principle, the Ohio Environmental Protection Agency allowed a plant to take propane samples from each discrete delivery, rather than on a daily basis (see Docket A–97–35, Items II–C–14 and II–D–22).

Discussion of Proposed Changes

Today's proposal incorporates three different sampling approaches for gaseous fuels: sampling by lot, daily sampling, and continuous sampling with a gas chromatograph. For gaseous fuel that is delivered in discrete lots, such as liquefied petroleum gas, the gaseous fuel could be sampled either daily or for each lot delivered. Any gaseous fuels other than pipeline natural gas that are not delivered in discrete lots, such as digester gas or sour natural gas pumped directly from a field, would, at a minimum, need to be sampled daily. The samples could be taken either by the supplier or by the facility. However, if the average sulfur content and sulfur variability of such a fuel were too high (i.e., mean sulfur content > 7 gr/100 scf and standard deviation from the mean > 5 gr/100 scf, based on 720 hours of representative historical data), continuous sampling with a gas chromatograph and hourly reporting of sulfur content would be required.

Rationale

The approach of sampling upon a lot or discrete delivery of gaseous fuel is being incorporated into today's proposed rule for the following reasons. The Agency believes that discrete deliveries are sufficiently different from pipeline transmission of fuel that a different sampling approach is appropriate. According to the ideal gas law, all gas within an enclosed volume is mixed with a consistent composition; therefore, a single sample should be representative of all gas in the volume. Although gaseous fuels delivered by lot, such as liquefied petroleum gas, are higher in sulfur content and have a wider range of sulfur contents than pipeline natural gas, they still have relatively low sulfur contents compared to liquid and solid fuels. Thus, less frequent gas sampling appears appropriate, based on the small difference in the accuracy of calculated SO_2 mass emissions. For this same reason, the Agency allowed as-delivered sampling for diesel fuel in the May 17, 1995 direct final rule (see Docket A–94–16, Item II–F–2). Finally, because of the difficulty of sampling gaseous fuels, EPA believes that it is less burdensome and less dangerous if gas sampling is conducted by the gas supplier. It is the Agency's understanding that the sampling for a gas in a discrete delivery or lot is typically conducted once for the lot, rather than on a daily basis. Through a petitioning process, EPA has already allowed one utility to perform sampling upon a lot or discrete delivery of gaseous fuel (see Docket A–97–35, Items II–C–14 and II–D–22).

EPA is proposing to require daily or continuous sampling of gaseous fuels other than pipeline natural gas or the equivalent that are not shipped in discrete lots, such as sour natural gas pumped directly from a field, landfill gas, or digester gas. Such gaseous fuels cannot be guaranteed to be stable in sulfur content. Therefore, proposed section 2.3.3.4 in Appendix D would require a minimum of 720 hours of representative historical data to characterize the sulfur variability of such fuels. For the 720 hours of demonstration data, the mean value and standard deviation of the fuel sulfur content would be calculated. If the mean value does not exceed 7 gr/100 scf (equivalent to about 10 ppm of SO_2 emissions to the atmosphere), daily sampling would suffice. If the mean value is greater than 7 gr/100 scf, however, the variability of the sulfur content would be assessed in terms of the standard deviation. If the standard deviation exceeds 5 gr/100 scf, the sulfur variability would be considered too high and continuous sampling of the fuel with a gas chromatograph would be required. If continuous sampling were required, the owner or operator would have to implement a quality assurance program for the gas chromatograph. A copy of the QA plan would be kept on-site, suitable for inspection. For fuel with a low average sulfur content or a low sulfur variability, daily sampling would be sufficient. However, for gaseous fuel with a higher sulfur content, if the sulfur variability were too great, continuous sampling of the fuel with a gas chromatograph and hourly reporting of sulfur content would be required.

3. Sulfur, Density and Gross Calorific Value Used in Calculations

(a) Fuel Oil.

Background

The hourly SO_2 mass emissions rate due to combustion of oil is calculated using the mass flow rate of oil combusted and a sulfur content value from a sample. If a unit's oil flow rate is measured with a volumetric fuel flowmeter rather than a mass fuel flowmeter, then it will be necessary to determine the mass flow rate of oil from the volume of fuel and a density value from an oil sample. The heat input rate is calculated using the flow rate of oil multiplied by the gross calorific value (GCV) of a sample.

The sulfur content, density, and GCV used to calculate emissions and heat input depend upon the oil sampling method used. Some sampling methods are more accurate than others. For example, for flow proportional or continuous drip sampling, the actual sulfur content from a sample is used to calculate SO_2 mass emissions. However,

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when daily manual samples are taken under section 2.2.4 of Appendix D, a facility must use the highest fuel sulfur content recorded at that unit from the most recent 30 daily samples, which is not necessarily the sulfur content of the fuel being burned at any particular time. For units where diesel fuel is sampled upon delivery, section 2.2.1.2 instructs a facility to calculate SO_2 emissions using the highest sulfur content of any oil supply combusted in the previous 30 days that the unit combusted oil. In daily manual sampling and as-delivered sampling, conservative sulfur values are used to avoid the possibility of underestimating SO_2 mass emissions due to variations in sulfur content. Gross calorific values are taken from the most recent sample, rather than using the highest value in the previous 30 days, because, for natural gas, GCV is more consistent than sulfur content.

Today's proposed rule includes changes to the sampling frequency for oil. Therefore, it is also necessary to make corresponding changes to the sulfur content, density, and GCVs to be used in calculations. For example, where oil samples would no longer be taken daily, it would be inappropriate to calculate SO_2 mass emissions based upon a certain number of daily samples. In developing today's proposal, EPA considered what fuel analysis data values for sulfur content, density, and GCV would be appropriate and consistent with the approaches for taking manual samples. The appropriate sulfur content, density, and GCV values were considered for manual samples taken from a storage tank at the facility whenever fuel is added to the tank, for samples taken from each lot before the delivery is transferred from tank trucks or barges, and for samples taken from the fuel supplier's storage tank.

Discussion of Proposed Changes

EPA has re-evaluated the sulfur content, density, and GCVs to be used to calculate SO_2 mass emissions and heat input based upon the new oil sampling approaches. For daily manual oil sampling, a facility would continue to use the highest sulfur content from previous 30 daily samples, and the actual density and GCV. For continuous oil sampling with an automatic sampler, a facility would continue to use the actual sulfur content, density, and GCV. For the two new methods of manual sampling, EPA considered whether conservative or actual values should be used to calculate emissions and heat input. EPA also considered whether the same type of calculational value should be used for sulfur content, density, and GCV. For example, if conservative sulfur content and density values are used to calculate the SO_2 mass emission rate, should a conservative or an actual measured GCV be used to calculate the heat input rate?

For manual samples taken from a storage tank at a plant whenever fuel is added to the tank, EPA considered the following options: (1) using the highest sulfur content and density from the previous three samples, and the actual GCV, (2) using the highest sulfur content from the previous three samples, and the actual density and GCV, (3) using the actual sulfur content, density, and GCV, (4) using the highest sulfur content, density, and GCV from the previous calendar year, and (5) using the maximum sulfur content, density, and GCV allowed by fuel purchase contract with the fuel supplier. The third, fourth, and fifth options are incorporated into today's proposal in section 2.2.4.2. Under this approach, a facility would take a sample from the storage tank whenever fuel is added to the tank. No blending of fuel would be allowed from the time the oil is sampled until the fuel is combusted by the unit. The sample would be analyzed for sulfur content, density, and GCV. Based on the selected option (3, 4, or 5), the appropriate values would then be used to calculate the SO_2 mass emission rate and the heat input rate from the date and hour in which the transfer of oil is complete until the date and hour when oil is again added to the tank.

EPA considered several different options for the case where a facility or its supplier would sample each oil delivery (or the supplier's storage tank) before the fuel is transferred into a tank at the plant. EPA considered whether or not these values needed to be conservative and concluded that there was a real possibility of underestimating SO_2 emissions by using the fuel analysis values from a delivery. The options that EPA considered to avoid the underestimation were: (1) using the highest sulfur content and density from all samples taken from oil combusted during the previous 30 days, and the actual GCV, (2) using the maximum sulfur content, density, and GCV in the fuel purchase contract specifications, (3) using the highest sulfur content, density, and GCV from a sample taken in the previous calendar year, and (4) using the highest sulfur content, density, and GCV ever recorded for the unit. The second and third options are incorporated into today's proposed rule in section 2.2.4.3 of Appendix D.

Under the selected options, a facility or its supplier would need to sample a delivery of fuel before it is transferred into a storage tank. The facility would then need to keep records of the fuel analytical results for three years. The facility would use the conservative value it selected under option (2) or (3), above, in order to calculate the SO_2 mass emission rate and the heat input rate. If an as-delivered sample were ever analyzed and found to have a sulfur content, density, or GCV that exceeded the value being used in calculations (i.e., the contract specification, or the maximum value measured in the previous calendar year), then the new sampled value would be used to calculate the SO_2 mass emission rate or the heat input rate, as follows. For a unit using a default value of the maximum value measured during the previous calendar year, that new sample value would become the new default value and would be reported for the remainder of the current year and the next year, unless superseded by a higher sampled value. For a unit using a default value of a contract specification, the new sample value would continue to be used as the new default value instead of the contract specification value, unless superseded by a higher sampled value or by a new contract.

Rationale

EPA considers continuous sampling and the measurement of fuel from a storage tank at a plant after each addition of fuel to the tank to be highly accurate methods that will be representative of the fuel combusted in a unit. However, if samples are taken from the truck or barge used to ship the fuel, or if samples are taken "as-delivered," the sample values will not necessarily accurately reflect the oil being combusted by the unit at any particular time (see Docket A–97–35, Item II–E–22). For example, a storage tank could contain oil with an average sulfur content of 0.6 percent. Then a new delivery with a sulfur content of 0.4 percent is received and transferred to the tank. The "as-delivered" sample value from the delivery truck would underestimate the emissions at that time, since the fuel actually combusted will combine a mixture of the old fuel supply in the storage tank and the new fuel that is added. Thus, a more conservative sulfur value should be used to calculate SO_2 emissions if samples are taken from the delivery containers or from a container used by the oil supplier.

For density and GCV, today's proposal, at the suggestion of some industry representatives, uses conservative values determined by the same method for both parameters (see Docket A–97–35, Item II–E–24). This

has the advantage of being easy to remember and to program. However, if greater accuracy is desired, a facility would always have the option of using actual sulfur content, density, and GCVs if it took samples from its storage tank after each addition of fuel to the tank, or if it took continuous, automatic samples.

EPA considered which conservative values would be appropriate for sulfur, density, and GCV. EPA at first considered using the maximum value from all oil supplies combusted in the previous 30 days. This is similar to the current wording of section 2.2.1.2 of Appendix D for calculation of SO_2 emissions from diesel fuel as-delivered sampling. However, in the process of implementing this provision of part 75, EPA found this wording was somewhat confusing and issued policy guidance to clarify section 2.2.1.2 of Appendix D (see Docket A–97–35, Item II–I–9, Policy Manual, Question 2.9). This policy essentially directs facilities to keep track of the amount of fuel used as well as its sulfur content. Because of the more complicated nature of this accounting, some industry representatives suggested that it would be simpler to use a conservative default value that would not require tracking fuel usage (see Docket A–97–35, Item II–E–24). Of the default values considered, EPA felt that the most appropriate default values would be the maximum values established by agreement with the fuel supplier through a contract or the maximum measured value from all samples in the previous calendar year. Contractual limits should be higher than or equal to the actual sulfur content, density, or GCV. Because not all units would necessarily have a fuel contract limiting oil sulfur content, density, or GCV, EPA is also proposing to provide the option of using the maximum oil sulfur content, density, or GCV in the previous calendar year.

The Agency also considered whether the current provisions of 2.2.4 of Appendix D should be retained for calculation of SO_2 emissions using the highest sulfur from the previous 30 daily samples when performing daily manual sampling. As discussed above in Section III.P.2(a) of this preamble on oil sampling frequency, the Agency is proposing to retain the option as requested by at least one utility representative.

(b) *Gaseous Fuels.*

Background

The vast majority of Acid Rain units which burn gaseous fuels combust pipeline natural gas. Section 2.3.2 of Appendix D contains a provision for calculation of SO_2 mass emissions from pipeline natural gas using a default SO_2 emission rate in lb/mmBtu and the heat input rate of pipeline natural gas. However, if a facility or its supplier is sampling gaseous fuel for sulfur content, either because it is not pipeline natural gas or because the facility chooses to use a sampled value, then Appendix D requires the facility to calculate the SO_2 mass emission rate using the sulfur content of the sample and the volume of gas combusted, and to calculate the heat input using the GCV of the sample and the volume of gas combusted (see Equations D–5 and F–20). Because of the nature of gaseous fuels, they are always measured with a volumetric fuel flowmeter. The formulas for calculating the SO_2 mass emission rate and the heat input rate use volume directly and do not require information on gas density. The current provisions of Appendix D allow a facility to calculate the SO_2 mass emission rate and the heat input rate using the actual value from a daily sample of gaseous fuel.

When the provisions of section 2.3 of Appendix D were added to part 75 in the May 17, 1995 direct final rule, EPA presumed that virtually every utility combusting gaseous fuel was combusting pipeline natural gas. However, the Agency found that utilities were combusting other types of gaseous fuels. One utility submitted a monitoring plan and a certification application for fuel flowmeter monitoring systems that indicated the utility was also using propane liquefied petroleum gas (LPG) (see Docket A–97–35, Item II–D–6). The utility indicated that it wished to use the default emission rate factor reserved for pipeline natural gas in its monitoring plan and later petitioned the Agency specifically for permission to use the default emission rate factor of 0.0006 lb/mmBtu. In conversations with utility staff, EPA found that the utility wanted to avoid the expense of additional daily samples and the trouble of entering daily sulfur values manually into its data acquisition and handling system (see Docket A–97–35, Items II–E–11, II–E–20). The Agency eventually approved a revised petition for the utility that allowed the utility to take propane samples from each discrete delivery, rather than on a daily basis, where the utility calculates sulfur dioxide emissions from propane by using the highest sulfur content recorded during the previous 365 days and reports these data in its quarterly electronic data report (see Docket A–97–35, Items II–C–14 and II–D–22).

The Agency found that there were also some utilities burning gaseous fuels that were by-products of an industrial process (see Docket A–94–16, Item II–D–71). EPA had concerns that such "digester gas" might have a more variable sulfur content than pipeline natural gas, since the gaseous fuel would begin with a higher sulfur content than pipeline natural gas and would not necessarily go through a process that would reduce and stabilize the sulfur content.

Discussion of Proposed Changes

In today's proposed rule, the provisions for sampling gaseous fuels are found in section 2.3.1 of Appendix D. For gaseous fuels that are delivered in discrete lots, a facility would use conservative values for sulfur content and GCV to calculate the SO_2 mass emission rate and the heat input rate. For the sulfur content value, the highest sampled sulfur content from the previous calendar year or the maximum value allowed by contract would be used to calculate the SO_2 mass emission rate. For GCV, the highest of all sampled values in the previous calendar year or the maximum value allowed by contract would be used to calculate the heat input rate. If, for any gas sample, the assumed sulfur content or GCV were exceeded, the sampled value would become the new assumed value. For units using the contract value, the sampled value would continue to be used unless a new (higher) contract specification were put in place or unless an even higher sampled value is obtained. For units using the maximum value from the previous year, the sampled value would continue to be used for the remainder of the current year and for the next calendar year unless it was superseded by an even higher sampled value.

For any gaseous fuel where daily fuel sampling is required, a facility would use the highest sulfur in the previous 30 daily samples. For gaseous fuels other than pipeline natural gas, where daily sampling of sulfur content is required, the highest GCV from the previous 30 daily samples would be used. For pipeline natural gas, where monthly sampling of GCV only is required, the actual measured GCV, the highest of all sampled values in the previous calendar year, or the maximum value allowed by contract would be used.

For a gaseous fuel that is not produced in batches and that has a relatively high sulfur content and a high sulfur variability, continuous sampling with a gas chromatograph would be required. Sulfur content would be reported as actual measured hourly average values. The GCV would also be determined on an hourly basis, or,

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alternatively, the highest value in the previous 30 unit operating days could be reported.

Rationale

For gaseous fuel supplied in discrete deliveries, EPA is proposing to take the same approach as for fuel oil that is being delivered to a plant by barge or truck. EPA has already approved this approach with one utility that combusts liquefied petroleum gas (see Docket A–97–35, Items II–C–14 and II–D–22). Because a discrete delivery of gaseous fuel would be maintained in an enclosed chamber with a relatively constant temperature and pressure, one would expect the gaseous fuel to behave like an ideal gas. Thus, sulfur and other constituents of the fuel should be evenly distributed throughout the delivery of fuel. Using conservative values to calculate the SO_2 mass emission rate and the heat input rate should account for any variability between deliveries. Furthermore, this reduces the number of changes that would be made to a data acquisition and handling system to add fuel supply data.

For gaseous fuel other than pipeline natural gas, where daily fuel sampling is required, EPA considered leaving unchanged the current provisions of section 2.3.1 of Appendix D that would allow a utility to use the actual value from a day's sample to calculate the SO_2 mass emission rate and the heat input rate. However, the Agency believes that it is appropriate to change the sulfur content value to be a somewhat conservative historical value. This is because the Agency has concerns that there may be some gaseous fuels other than natural gas, such as digester gas, that may have significant variability in their sulfur content over the course of a day or a longer period of time. This might result in the underestimation of the SO_2 mass emission rate.

In the case of fuel oil, some industry representatives suggested it was simplest to determine the appropriate conservative values for sulfur content, density, and GCV by the same method (see Docket A–97–35, Item II–E–24). With one exception (for fuels with relatively high sulfur content and high sulfur variability), today's proposal follows this suggestion for gaseous fuels. The proposal uses the highest sulfur content and the highest GCV from the previous 30 daily samples. This is currently the procedure used to determine the sulfur value used in calculations from daily manual oil samples. Since this algorithm for daily manual oil sample calculations is already being used by many software programmers, it is a good conservative value to use for daily samples in this case. The Agency notes that currently, the heat input is calculated using the actual sampled GCV and that this change would require software reprogramming for units where gaseous fuel is sampled daily. However, for pipeline natural gas that is sampled monthly for GCV, facilities could continue to use the actual GCV measured in a monthly sample. The other two options are more conservative and would require software changes. The Agency requests comment on the proposal to use the more conservative GCV value to determine the heat input rate for gas combustion when gaseous fuel is sampled daily (which differs from the current procedure in section 2.3.1.3 of Appendix D and section 5.5.2 of Appendix F).

For gaseous fuel that has a relatively high sulfur content and high sulfur variability, daily sampling is not considered adequate to ensure that SO_2 emissions will not be underestimated. Therefore, for such fuels, continuous sampling with a gas chromatograph and hourly reporting of sulfur content would be required. For GCV, which is expected to be less variable than sulfur content, either the actual hourly measured value or the highest GCV value obtained in the last 30 unit operating days could be reported.

4. Missing Data Procedures for Sulfur, Density, and Gross Calorific Value

Background

(a) *Fuel Oil.* The May 17, 1995 direct final rule included missing data procedures for missing analytical information on sulfur content, density, and GCV in section 2.4 of Appendix D. These procedures are based on a daily sampling frequency. For example, missing sulfur content, density, or GCV data are to be calculated using the highest measured sulfur content, oil density, or GCV during the previous thirty days when the unit burned oil. This was intended to mean that the substitute data values are to be based on the previous thirty daily oil samples for which data are available.

In order to ensure that a DAHS is capable of implementing the missing data procedures required by the rule, § 75.20(c)(7) and § 75.20(g)(1)(ii) require testing of each DAHS. EPA issued policy guidance discussing how facilities should report the results of these tests for units measured with fuel flowmeters. This policy guidance provided a form checklist that facilities could use to show the results of their own tests of the missing data substitution procedures (see Docket A–97–35, Item II–I–9, Policy Manual, Question 15.9). Some utilities objected to testing the DAHS missing data procedures on the grounds that they should never miss sample data. In part, this would be because the facility is required, under section 2.2.5 of Appendix D, to split its sample and keep a portion. One utility offered to substitute the maximum potential sulfur content, which would require less complicated DAHS programming than using the maximum sulfur content of the previous 30 daily samples.

(b) *Gaseous Fuels.* Section 2.4.1 of Appendix D, as revised by the May 17, 1995 direct final rule, provides missing data substitution procedures for missing sulfur data from daily samples of gaseous fuel. The DAHS is required to substitute the highest measured sulfur content recorded during the previous 30 days when the unit combusted gaseous fuel. As for oil, this was intended to be the highest sulfur value from the previous 30 daily samples with available sulfur values. Section 2.4.2 of Appendix D requires the substitution of the highest measured GCV recorded during the previous three months that the unit burned gaseous fuel when data are missing from a monthly gaseous fuel sample. As for fuel oil, the missing data procedures for gaseous fuels are linked to the frequency of fuel sampling.

A utility indicated to EPA that because it receives gas sampling information from its supplier, it should never have missing data for GCV. The utility suggested that it should not have to go to the expense of programming its DAHS for missing data procedures that should never need to be used. This argument was similar to that used by another utility when referring to missing data procedures for manual samples of fuel oil taken upon each delivery.

Discussion of Proposed Changes

EPA proposes to revise the missing data substitution procedures for both fuel oil and gaseous fuel, in order to simplify them. For any instance in which the sulfur content, GCV, or density value is missing, the maximum potential value would be reported until the results of a subsequent valid sulfur content analysis, GCV determination, or density measurement are obtained. The proposed appropriate maximum potential values are specified in the table below. The default values for sulfur content, GCV, and density of residual oil and diesel fuel were taken from handbook values (see Docket A–97–35, Item II–A–7). The default maximum sulfur content values for gaseous fuel are consistent with the maximum sulfur content allowed under

the definition of natural gas and the *de facto* maximum sulfur content of pipeline natural gas, based on the proposed definition. Thus, any gas with a sulfur content that did not allow it to qualify as pipeline natural gas (i.e., greater than 0.30 gr/100 scf) but still allowed it to be measured following Appendix D procedures (i.e., total sulfur content not exceeding 20.0 gr/100 scf) would have a default maximum potential sulfur content of 20.0 gr/100 scf. The default values for GCV of gaseous fuels were taken from handbook values (see Docket A–97–35, Item II–I–1). For pipeline natural gas, it is assumed that the gas is primarily methane (GCV of 1050 Btu/scf) with a small amount of other hydrocarbons with a higher GCV (see Docket A–97–35, Item II–E–19). For other gaseous fuels, it is assumed that they are primarily butane (GCV of 2100 Btu/scf), the hydrocarbon gas with the highest GCV of gases commercially used for fuel.

MAXIMUM POTENTIAL DEFAULT VALUES FOR SULFUR CONTENT, DENSITY, AND GCV DATA

Parameter	Fuel	Maximum potential default value
Sulfur content	residual oil	3.5 percent by weight.
	diesel fuel	1.0 percent by weight.
	pipeline natural gas	0.30 gr/100 scf.
	gaseous fuels with sulfur content greater than pipeline natural gas.	20.0 gr/100 scf.
GCV/heat content	residual oil	19,500 Btu/lb.
	diesel fuel	20,000 Btu/lb.
	pipeline natural gas	1100 Btu/scf.
	gaseous fuels with sulfur content greater than pipeline natural gas.	2100 Btu/scf.
Oil Density	residual oil	8.5 lb/gal,
	diesel fuel	7.4 lb/gal.

Rationale

(a) *Fuel Oil.* It seems possible that a facility might occasionally miss a sample taken with an automatic sampler, and thus, would have missing data. Therefore, today's proposal includes a provision for substitution of missing sulfur content, density, and GCV data from continuous, automatic sampling.

Based upon comments from some utilities, it seems relatively unlikely that both a facility and its supplier would miss performing a sample during a delivery. Both a facility and its fuel supplier will want to verify that the fuel delivered is actually supplying the heat content that it is supposed to, either under a contract or a fuel specification; thus, both a facility and its fuel supplier will have an incentive to ensure sampling takes place for a delivery. Furthermore, if samples taken by a facility are split, then there should generally be the ability to provide analytical data for that fuel, even if test results were somehow lost. Because the event of missing fuel samples is unlikely for as-delivered samples, EPA believes that it would be appropriate to establish a simple, conservative value that could easily be substituted in a data acquisition and handling system. This would be easier to program than using historical values that require tracking fuel usage over an extended period of time.

EPA is specifically proposing the most conservative (maximum potential) values for missing data purposes. This would ensure that substituted missing data values would be less advantageous to a facility than taking samples and using sulfur content, density, and GCV data from samples. In addition, several utilities suggested to EPA that this was a reasonable approach (see Docket A–97–35, Item II–E–24).

(b) *Gaseous Fuels.* As mentioned previously, gas sampling is generally performed by fuel suppliers because of the difficulty and potential danger of opening up a pressurized pipe containing a highly flammable gas. It seems extremely unlikely that a fuel supplier would not have information available on the sulfur content or GCV of gaseous fuel, since industrial customers will purchase fuel or agree to a contract based upon these characteristics. The exception to this might be gaseous fuel manufactured through an industrial process that is not produced specifically for sale as a fuel, such as digester gas. In today's proposed rule, EPA is using the same reasoning as above for missing manual fuel oil sample data and is using the same basic substitution approach for missing sulfur content and GCV data for gaseous fuel.

EPA considered keeping the existing missing data substitution procedures from sections 2.4.1 and 2.4.2 of Appendix D for missing data from gaseous fuel. This would have the advantage of requiring no reprogramming of software for facilities already following the existing procedures. EPA also considered using the maximum sulfur content or GCV from the previous calendar year, the same procedure proposed in today's rule for calculation of SO_2 mass emission rate or heat input, for discrete deliveries of gas or for manual samples of oil taken from a delivery truck or barge. However, using the proposed maximum value would require little reprogramming and would greatly simplify the missing data procedures. In policy guidance, the Agency has indicated it would accept a simplified DAHS for units using the procedures of Appendices D and E. In particular, these policies endorse manual entry of fuel analytical data, simplified missing data procedures for fuel flowmeters, and a DAHS that uses commercial spreadsheet software instead of a specialized custom software for purposes of part 75 (see Docket A–97–35, Item II–I–9, Policy Manual, Questions 14.72 and 14.73). In keeping with the policy of allowing Appendices D and E units to use commercial spreadsheet software, EPA has proposed what it believes to be the simplest possible missing data substitution procedure for missing sulfur content and GCV data. In addition, using the proposed maximum potential sulfur content or GCV would ensure that substituted missing data values are more conservative than the values normally used to calculate the SO_2 mass emission rate and the heat input rate.

5. Installation of Fuel Flowmeters for Recirculation

Background

The current provisions of section 2.1.1 of Appendix D require the use of an additional "return" fuel flowmeter when some fuel is recirculated, i.e., initially sent toward a unit and then diverted away from the unit without being burned. This additional fuel flowmeter is required, regardless of the amount of fuel being diverted.

At least one utility has requested to use only the fuel flowmeter measuring fuel leaving the oil tank without a second fuel flowmeter to measure any fuel diverted away by the recirculation fuel line. The utility argued that using a single fuel flowmeter would result only in the overestimation of SO_2 emissions, since the utility would measure a larger amount of fuel usage. This would allow the facility to avoid the expense of installation, certification, and quality assurance testing on a fuel flowmeter on the recirculation fuel line. Since the proportion of fuel being recirculated was minimal, the utility was willing to use a more conservative SO_2 emissions calculation in exchange for devoting fewer resources for the testing and maintenance of the recirculation line fuel flowmeter.

Discussion of Proposed Changes

In today's proposal, EPA proposes to allow facilities to use only a fuel flowmeter on the main fuel line from the oil tank if the amount of oil recirculated is demonstrated to be less than 5.0 percent of total fuel usage for each hour during the year.

Rationale

EPA believes that it is reasonable not to require installation, certification and quality assurance of secondary fuel flowmeters in cases where the amount of fuel to be combusted is a small proportion of the total fuel used, and where knowing the exact volume of the recirculated fuel makes little difference in the calculation of emissions and heat input. EPA has allowed one utility to use an estimate of the maximum oil usage at start-up, rather than requiring the utility to install a return line oil flowmeter to measure the startup fuel flow rate.

At first, EPA considered making the installation of a fuel flowmeter on a recirculation fuel line optional. Presumably, if the cost in lost SO_2 allowances were greater than the cost of installing and maintaining a fuel flowmeter, then a facility would choose to use a fuel flowmeter on the recirculation fuel line. However, many fuel flowmeters used under Appendix D for determining the SO_2 mass emission rate and the heat input rate are also used to estimate the NO_X emission rate in lb/mmBtu under Appendix E to part 75. The Appendix E procedures estimate hourly NO_X emission rates using a correlation between measured NO_X emission rates and heat input rates. The correlation is established during a testing period. Therefore, subsequent to the test period, if the hourly heat input values should become less accurate, it could result in the estimated NO_X emission rates becoming less accurate. Such loss in accuracy could occur if the heat input rates during the initial testing period were based upon subtraction of measured volumes or masses of recirculated fuel from the total fuel flow rates, and then the facility later began estimating, rather than measuring, the recirculated fuel volumes or masses. The potential inaccuracy would increase if the proportion of recirculated oil to the total flow rate of oil varies over time. The NO_X emission rate can sometimes increase with increases in the heat input rate and can sometimes decrease with increases in the heat input rate, depending on the particular type of boiler; in addition, when certain types of control equipment are installed, the NO_X emission rate may not have any relationship with the heat input. Thus, an overestimation of the heat input rate would sometimes result in the overestimation and sometimes result in the underestimation of the NO_X emission rate under Appendix E. For these reasons, EPA believes that there needs to be some limits on the cases where a facility can choose not to use a return fuel flowmeter.

In today's proposed rule, EPA is proposing that a facility may choose to use only a fuel flowmeter on the main fuel line from the oil tank and not install a return meter in those cases where the previously measured proportion of oil from the recirculation line is less than or equal to 5.0 percent of the unit's total oil usage during each hour of the year. EPA believes that an error of 5.0 percent in the heat input rate should be small enough that it will not significantly affect accounting for the NO_X emission rate under Appendix E. An analysis of emissions data from a gas-fired Appendix E unit with a higher than average NO_X emission rate for gas (0.157 lb/mmBtu) showed that a 5.0 percent increase in heat input would change the quarterly average NO_X emission rate by only 3.17 percent (0.152 vs. 0.157 lb/mmBtu) (see Docket A–97–35, Item II–B–19). At the same time, EPA believes that an average proportion of 5.0 percent of total fuel usage should provide relief for the most extreme situations where it might cost more to perform quality assurance testing on a return fuel flowmeter than the value of the allowances saved by monitoring with the return flowmeter.

The Agency also considered whether it would be more appropriate to determine the proportion of recirculated fuel on an hourly average basis or on an annual average basis to determine if the returned fuel was less than 5.0 percent of total fuel usage. The Agency concluded that the proportion of fuel could be determined only if a return fuel flowmeter were already installed on the recirculation fuel line. Thus, there would appear to be little advantage to basing the proportion of fuel on an annual basis. Hourly average fuel flow rate would also be more directly related to the heat input rate used to calculate hourly NO_X emission rate under Appendix E. EPA notes this is not fully consistent with the objective of revising this provision, i.e., to exempt facilities from installation and operation of additional fuel flowmeters. Therefore, the Agency believes it is better to base the reduced fuel flow rate monitoring requirement either on actual historical fuel flowmeter data or on some other method, as yet unknown, that would yield a reasonable estimate of the average proportion of fuel recirculated to the total amount of fuel used. At this time, the Agency is unaware of what other methods could provide a reasonable estimate of the average proportion of fuel recirculated to the total amount of fuel used, either on an hourly or an annual basis. Accordingly, the Agency would allow facilities to suggest methods through the petitioning process of § 75.66.

6. Fuel Flowmeter Testing

(a) *Fuel Flowmeter Accuracy Tests.*

Background

Sections 2.1.5 and 2.1.6 of Appendix D, as revised by the May 17, 1995 direct final rule, refer to calibration and recalibration of fuel flowmeters. Section 2.1.5.2 gives procedures for a test of the flowmeter accuracy by comparing a candidate flowmeter against another flowmeter that has already been calibrated according to specified procedures. If a flowmeter does not meet the specified accuracy, then it would need to be recalibrated by adjusting it, then retested to ensure it is reading accurately.

Some utilities have found confusing the terminology of "calibration" for a test that compares measurements from two different flowmeters. Generally, the

term "calibration" is used to refer to adjustments made to a flowmeter to ensure it is reading accurately. However, the type of test described in section 2.1.5.2 is more like a relative accuracy test audit than a calibration, in that it checks the flowmeter accuracy by comparing the fuel flowmeter readings against readings from an outside standard.

Discussion of Proposed Changes

To alleviate the confusion surrounding flowmeter testing, today's proposal introduces the term "flowmeter accuracy test." This terminology is used in sections 2.1.5 and 2.1.6 of Appendix D.

Rationale

EPA believes that the term "flowmeter accuracy test" more clearly reflects the nature of the test that is performed. Introducing this new term also will clarify that the word "calibration" refers to flowmeter adjustments, rather than to a comparative test between a candidate flowmeter and a reference meter.

(b) *Methods for Fuel Flowmeter Accuracy Testing.*

Background

Section 2.1.5.1 of Appendix D, as revised by the May 17, 1995 direct final rule, includes a list of standards and procedures that may be used to determine if a flowmeter is sufficiently accurate for use under the Acid Rain Program. However, because of the large number of different brands and kinds of fuel flowmeters, there are also many manufacturers' procedures that are not explicitly permitted under part 75. Consequently, many Acid Rain certification applications for units with fuel flowmeters have contained petitions under §§ 75.23 and 75.66 for approval of other fuel flowmeter testing procedures. Among those methods was AGA Report No. 7 for turbine flowmeters. This method was incorporated by reference into part 75 in the November 20, 1996 final rule. In addition, another standard method that EPA approved through petitions is American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the *Manual of Petroleum Measurement Standards,* October 1988 edition (see reproduction of this document in Docket A–97–35, Item II–D–10 (Attachment B)).

In the process of implementing part 75, many utilities have commented on the problems of testing and calibrating fuel flowmeters. Unlike CEMS or stack flow monitors, it is not always possible to perform an accuracy test with the fuel flowmeter remaining in the pipe where it is installed. Utilities have stated that certain fuel flowmeters are extremely difficult to remove, send out for testing, recalibrate, and then reinstall (see Docket A–97–35, Item II–E–22). In addition, removing a fuel flowmeter from in-line may require stopping flow of the fuel and possibly shutting down the unit, with negative economic consequences (see Docket A–97–35, Item II–E–8). In addition, if a facility needs to operate a unit while the flowmeter is being tested at a laboratory, then no flow data will be available for the fuel measured by the flowmeter unless the facility has a backup fuel flowmeter. Utilities have petitioned for alternative quality assurance procedures for fuel flowmeters in order to avoid the inconvenience and expense of removing the fuel flowmeter and testing it (see Docket A–97–35, Item II–D–9). Because of this, the Agency has been evaluating various ways of testing a fuel flowmeter in-line (that is, still installed in the pipe in its regular position).

Some utilities have suggested that an alternative way to check fuel flowmeter accuracy would be to compare over time the ratio of the fuel flowrate to unit output ("load"), measured either in electrical generation in MWe or in steam flow in 1000 lb/hr (see Docket A–97–35, Item II–E–21). A fuel flow-to-load comparison could be used to determine if fuel flowmeter readings are still similar to the readings obtained the last time the fuel flowmeter was tested against an outside method. A significant change in the amount of fuel used at a load level would call into question the validity of fuel flow readings from a flowmeter. A fuel flow-to-load comparison could provide this check without removal of the fuel flowmeter from its installed location, which would be of considerable benefit to facilities.

Discussion of Proposed Changes

EPA is proposing to incorporate by reference the standard: American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the *Manual of Petroleum Measurement Standards.* The Agency also specifically requests comment on any other voluntary consensus standards from standard setting organizations, such as API, AGA, ASME, or ISO, that would be appropriate for incorporation by reference into part 75. Any suggested methods should also be submitted to the Agency as part of the comments to assist in the Agency's evaluation.

Section 2.1.7 of Appendix D to today's proposed rule includes provisions for an optional, supplemental quality assurance test for fuel flowmeters using a ratio of the fuel flow rate and the unit load. The fuel flow rate-to-load ratio comparison test would provide an additional way to meet the requirement to periodically test fuel flowmeter accuracy. This test would serve as a supplement to more rigorous fuel flowmeter tests. These more rigorous tests include the standards incorporated by reference under section 2.1.5.1 of Appendix D that require the fuel flowmeter to be taken out of line and shipped to a laboratory, and the "master meter" comparison procedures under section 2.1.5.2 of Appendix D. For orifice-, nozzle-, and venturi-type flowmeters, the more rigorous tests would include an inspection of the primary element and an accuracy test on the transmitters or transducers. If a facility performed and passed regular quarterly fuel flow-to-load ratio testing, then it would need to perform the more rigorous checks on monitor performance only once every 20 calendar quarters (five years).

The fuel flow-to-load ratio test would require a facility to establish a baseline period from a period of time when the fuel flowmeter is known to be operating properly. After establishing this baseline of accurate fuel flow data (or heat input rate data), a facility would calculate the fuel flow-to-load ratio (or "gross heat rate" (GHR)) during the baseline period. In each "flowmeter operating quarter" that the fuel flowmeter operates after the baseline period is completed, the facility would calculate the fuel flow-to-load ratio (or GHR) for each hour the fuel flowmeter is used to report data. The facility would compare the hourly fuel flow-to-load ratio (or GHR) to the fuel flow-to-load ratio (or GHR) during the baseline period in order to calculate the absolute value of the percentage difference for each hour. Next, the facility would calculate the average percentage difference for the quarter. If the percentage difference exceeded the specified limits for the test, the fuel flowmeter would fail the test. The key elements of the fuel flow rate-to-load evaluation are discussed in the following paragraphs.

(1) *Use of Gross Heat Rate-to-Load Ratio.* Today's proposed rule would allow a facility the option of calculating either the ratio of the fuel flow rate to the gross generation in MWe or the steam flow rate in thousands of pounds of steam per hour ("fuel flow-to-load ratio") or the ratio of the heat input rate to the gross generation in MWe or the steam flow rate in thousands of pounds of steam per hour ("GHR"). In order to allow a meaningful comparison, a facility would use one of these two ratios consistently, both in calculating

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an initial baseline ratio and in calculating hourly ratios during a particular quarter. Equations D–1c and D–1e describe the calculation of the fuel flow-to-load ratio for the baseline period and for hourly values during a calendar quarter, respectively. For the GHR, the respective equations are Equations D–1d and D-1f. These equations are found in proposed sections 2.1.7.1 and 2.1.7.2 of Appendix D.

(2) *Baseline Period for Fuel Flow-to-Load Ratio.* The provisions for calculating the baseline fuel flow-to-load ratio or gross heat rate are found in section 2.1.7.1 of today's proposed rule. EPA is proposing that the owner or operator of a facility would establish a baseline of fuel flow rate (or heat input rate) data following a flowmeter accuracy test under either section 2.1.5.1 or 2.1.5.2 of Appendix D, or following both a transmitter or transducer accuracy test under section 2.1.6.1 of Appendix D and an inspection of a primary element for an orifice-, nozzle-, or venturi-type fuel flowmeter under section 2.1.6.6. Throughout section 2.1.7 of today's proposed rule, these are referred to as "the most recent quality assurance procedure(s)." The baseline period of fuel flow rate (or heat input rate) data for a fuel flowmeter to be tested under section 2.1.7 would use the first 168 hours of quality assured data measured by that flowmeter following the most recent quality assurance procedure(s) for which: (1) only the fuel measured by that fuel flowmeter is combusted (i.e., no co-firing of fuels occurs); (2) the load is relatively stable and not "ramping" rapidly up or down; and (3) the load is sufficiently above the minimum safe, stable operating load (unless low-load operation is normal for the unit).

Today's proposal includes a limit to the length of time over which the baseline period could extend. The baseline period of 168 hours could not extend for longer than the end of the second calendar quarter following the calendar quarter in which the most recent quality assurance procedure(s) was performed. For orifice-, nozzle-, and venturi-type fuel flowmeters, two quality assurance procedures would be required: both a transmitter or transducer accuracy test under section 2.1.6.1 of Appendix D and an inspection of a primary element, such as an orifice plate. For practical purposes, this means that the transmitter or transducer accuracy test and the primary element inspection would have to be completed either in the same calendar quarter or in consecutive calendar quarters. If there were not 168 hours of quality-assured fuel flowmeter data from hours when a single fuel is combusted, then the fuel flowmeter would not be allowed to be tested using the fuel flow-to-load ratio as a supplement to other quality assurance tests.

The 168 hours of quality-assured fuel flowmeter data next would be averaged and divided by the average load, in megawatts or 1000 lb steam/hr, during the same 168 hours to determine the baseline fuel flow-to-load ratio (see Equation D–1c). Alternatively, the facility could instead calculate the gross heat rate by averaging hourly heat input rate during the 168 hours of the baseline period and by dividing the average heat input rate by the average load during the same 168 hours (see Equation D–1d).

In cases where the fuel flowmeter is located on a common pipe header, one fuel flow rate measurement could be associated with the load from several units that receive fuel from the common pipe header. In order to analyze the fuel flow-to-load ratio for a flowmeter on a common pipe header, the load from all units receiving fuel from the common pipe header would have to be combined for each hour, averaged over the baseline period of 168 hours, and compared to the average fuel flow rate during the baseline period. If a single unit receives fuel from multiple pipes, each pipe with its own fuel flowmeter, then the flow rates from all fuel flowmeters would have to be added together to obtain the average fuel flowrate for the unit to be divided by the unit load.

(3) *Data Preparation and Analysis.* In each flowmeter operating quarter following the final quarter of the baseline period, all hourly fuel flowmeter data would be compared to the load. A flowmeter operating quarter would be a calendar quarter in which the unit combusts the fuel measured by the fuel flowmeter for at least 168 hours. For each hour in which the fuel is combusted, the owner or operator would calculate the fuel flow-to-load ratio (or GHR) (see Equation D–1e for the fuel flow-to-load ratio and Equation D–1f for the GHR). Hourly fuel flow rates on common pipe headers would be compared to the sum of the loads from all units receiving fuel from the common pipe header. For units with multiple pipes and multiple fuel flowmeters, the total hourly fuel flow rate for the fuel would be compared to the unit load.

Next, the facility would compare the hourly fuel flow-to-load ratios (or GHRs) to the baseline fuel flow-to-load ratio (or GHR). The absolute value of the percentage difference would be calculated for each hour using Equation D–1g. Then the facility would calculate the average value of the percentage difference for the quarter, using each hourly percentage difference in Equation D–1h.

The quarterly average of the hourly percentage difference values next would be compared to the limitation. For either the fuel flow-to-load ratio or the GHR, Ef, the quarterly average of the hourly percentage difference values would need to be no greater than 10.0 percent, unless the average of the hourly loads used for the analysis was ≤ 50 MWe (or ≤ 500 klb/hr of steam), in which case the limit on Ef would be 15.0 percent. If a fuel flowmeter were to fail to meet this limit when using all data in the flowmeter operating quarter, then the facility would have the option of excluding certain hours. Otherwise, a failure to meet the 10.0 percent (or 15.0 percent, if applicable) limit would be considered a failure of the fuel flow-to-load ratio test.

(4) *Optional Data Exclusions.* As mentioned above, if a fuel flowmeter's data would not meet the 10.0 percent (or 15.0 percent, if applicable) limit on the quarterly average of the percentage difference values, then a facility could opt to exclude certain hours of unrepresentative fuel flow rate (or heat input rate) data and then reanalyze the smaller set of data. The types of data that EPA proposes as non-representative would be the same as the hours excluded during the baseline period, including: (1) hours when the unit combusts multiple fuels measured by multiple fuel flowmeters, such as co-firing of gas and residual oil or co-firing of residual oil and diesel fuel; (2) hours when the unit load is rapidly rising or falling, sometimes referred to as "ramping," to such a degree that the load in a given hour differs by more than ± 15.0 percent from the load during either the previous hour or the hour afterwards; or (3) hours in which the unit load is in the lower 10.0 percent of the unit's operating range, unless operation at those low levels is considered normal for the unit. The facility would proceed to analyze the remaining quarterly fuel flow rate or heat input rate values, provided that there are at least 168 hours remaining for the quarter after excluding non-representative hours. If less than 168 representative hours remained after excluding the allowable hours, then a flow-to-load or GHR test would not be required for that flowmeter for that flowmeter operating quarter. If the fuel flowmeter data still failed to meet the 10.0 percent (or 15.0 percent, if applicable) limit on the quarterly average of the percentage difference values after excluding the allowable

hours, the flowmeter would fail the fuel flow-to-load ratio test.

(5) *Consequences of Failing Fuel Flow-to-Load Ratio or GHR Tests.* There would be two primary consequences of failing a fuel flow-to-load ratio or a GHR test. First, the data from the fuel flowmeter would no longer be considered quality-assured. Thus, the facility would need to invalidate data from the fuel flowmeter following the test. Proposed section 2.1.7.4 of Appendix D specifies that the missing data procedures of section 2.4.2 of Appendix D would be used to substitute for the invalid data (unless a different fuel flowmeter is available that has been tested for accuracy and has been demonstrated to meet the accuracy specification), beginning with the first hour the fuel measured by the fuel flowmeter is used during the quarter following the flowmeter operating quarter in which the meter fails the fuel flow-to-load ratio test. Second, in order to establish that the fuel flowmeter is again operating properly and providing quality-assured data, the facility would perform a fuel flowmeter accuracy test according to sections 2.1.5.1 or 2.1.5.2 of Appendix D or, for orifice-, nozzle-, and venturi-type flowmeters, a transmitter or transducer accuracy test according to section 2.1.6.1 of Appendix D. In addition to the transmitter or transducer test, orifice-, nozzle-, and venturi-type fuel flowmeters would need to be further tested following a failed flow-to-load or GHR test in order to ensure that the problem causing the failure of the fuel flow-to-load ratio was a problem with the transmitters or transducers.

Once the orifice-, nozzle-, or venturi-type flowmeter has been recalibrated and passes a transmitter or transducer accuracy test according to section 2.1.6.1 of Appendix D, the facility would perform a shortened version of the fuel flow-to-load ratio test. The shortened version of the test would use six to twelve hours of data following the passed transmitter or transducer accuracy test. If the fuel flowmeter passed the abbreviated fuel flow-to-load ratio test, then its data would be considered valid, beginning with the time and date of the passed transmitter or transducer accuracy test. However, if the fuel flowmeter were to fail the abbreviated fuel flow-to-load ratio test, then it would be necessary for the facility to inspect the primary element for corrosion or damage. Furthermore, data would be considered invalid until the orifice-, nozzle-, or venturi-type fuel flowmeter passes an inspection of the primary element. Although data from the flowmeter would be considered quality-assured after successful completion of all required accuracy testing, visual inspections and diagnostic tests, the baseline would have to be re-established no later than the end of the second flowmeter operating quarter following the quarter in which the quality assurance tests are completed.

Rationale:

EPA is proposing to incorporate by reference the standard: American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the *Manual of Petroleum Measurement Standards*, October 1988 edition. The Agency has already approved this method of fuel flowmeter testing in response to a petition (see Docket A–97–35, Item II-C–6). This is also a standard agreed to by API that is traceable to NIST standards. The Agency has a general policy of approving standards from technically knowledgeable groups such as the Organization for International Standards (ISO), the American Society for Testing and Materials (ASTM), the American Society of Mechanical Engineers (ASME), the American Gas Association (AGA), the Gas Processors Association (GPA), and API. EPA would also be willing to incorporate additional standards by reference if commenters supply a copy for consideration.

The Agency recognizes that it is difficult and sometimes costly to take a fuel flowmeter out from its installation location to be tested (see Docket A–97–35, Item II-E–22). Today's proposed rule would provide the flexibility of an additional approach for testing fuel flowmeters where they are installed. Today's proposal for a fuel flow rate-to-load comparison test would allow facilities to assure the quality of their fuel flow rate data without taking a fuel flowmeter out of line. Several industry representatives suggested that a fuel flow rate-to-load comparison was a useful approach to quality assuring data (see Docket A–97–35, Items II–E–22, II–E–23). Some industry representatives felt that a fuel flow rate-to-load ratio was straightforward and even more representative than a stack flow rate-to-load ratio (see Docket A–97–35, Item II-E–23).

In general, utilities have indicated that the idea of a fuel flow-to-load ratio is an appropriate quality assurance test for fuel flowmeters (see Docket A–97–35, Items II–D–30, II–D–41, II–E–33). Use of the fuel flow-to-load ratio was first suggested to the Agency as an alternative to annual orifice inspections (see Docket A–97–35, Item II–E–22). One utility mentioned that the fuel flow-to-load ratio test would be most useful if it allowed them to stretch the time between transmitter or transducer accuracy tests on orifice-, nozzle-, and venturi-type fuel flowmeters, as well as primary element inspections and fuel flowmeter accuracy tests performed in-line against a "master meter" or performed in a laboratory (see Docket A–97–35, Item II–D–49).

Utilities have also indicated that they would prefer the provisions of the fuel flow-to-load ratio test to be as similar as possible to the stack flow-to-load ratio test in today's proposed rule (see Docket A–97–35, Item II-E–33). This would be easier for facilities to comply with because they would need to learn fewer new procedures, they could use the same equations and algorithms in computer software or hand calculations, and they could report information in a similar format. To the extent possible, the Agency has incorporated this suggestion in today's proposed rule. However, because monitoring with fuel flowmeters is not identical to monitoring with stack volumetric flow monitors, there are some differences in the procedures and in the data to be recorded and reported.

Today's proposed rule would allow the quarterly fuel flow-to-load ratio test as an optional supplement to flowmeter accuracy tests under section 2.1.5.1 or 2.1.5.2 of Appendix D, transmitter or transducer accuracy tests under section 2.1.6.1 of Appendix D for orifice-, nozzle-, and venturi-type fuel flowmeters, and visual inspections of the primary element required under section 2.1.6.6 of Appendix D for orifice-, nozzle-and venturi-type fuel flowmeters. These more rigorous fuel flowmeter quality assurance procedures would still be required at least once every 20 calendar quarters (five years), even if the procedures of section 2.1.7 of Appendix D were followed. The Agency has proposed a quarterly fuel flow-to-load ratio test for several reasons: (1) this is consistent with the provisions of the proposed volumetric stack flow-to-load ratio test in today's proposed rule; (2) the test involves examining data more closely when preparing quarterly reports; and (3) a quarterly test allows facilities to find problems in fuel flowmeter data before an entire year has passed. The Agency also considered requiring the fuel flow-to-load ratio to be used more frequently than quarterly, perhaps daily; however, this would require facilities to spend far more time and effort in evaluating data at different times during the quarter than they may do currently, particularly for small, infrequently operated units. In addition, many utilities claim that fuel

flowmeters tend to be stable, and therefore little change would be expected over short time periods such as a day (see Docket A–97–35, Item II–E–33).

EPA is proposing that the optional fuel flow-to-load ratio test could serve as a supplement to other quality assurance procedures for fuel flowmeters for up to 20 calendar quarters (five years). EPA is proposing a time period of 20 calendar quarters for the following reasons. First, it is similar to the current provision in section 2.1.5.2 of Appendix D, which allows a reference fuel flowmeter to be accuracy tested as seldom as once in five calendar years if comparison with an in-line "master" flowmeter shows less than a 1.0 percent difference in their flow rates. Second, a five-year test cycle offers certain administrative advantages. For instance, fuel flowmeters used to provide heat input data for the heat input-versus-load correlation of Appendix E could be accuracy-tested before each Appendix E test (i.e., once every five years). In addition, a five-year period would ensure that fuel flowmeters are tested by the time the unit's operating permit is renewed. The 20 calendar quarter (five-year) period is consistent with the provisions for reduced three-level flow RATAs for stack flow monitors. The 20 calendar quarter (five-year) period between tests is also consistent with the proposed time between quality assurance tests for fuel flowmeters that are used very infrequently. Repeating the periodic quality assurance procedures for fuel flowmeters at least every five years would catch slow, long-term changes in heat rates mentioned by a facility and would allow a facility to update its baseline data periodically (see Docket A–97–35, Item II–D–49). Finally, allowing the option of a 20 calendar quarter (five-year) period between more rigorous quality assurance procedures would be safer and less costly than annual testing, while, in coordination with quarterly fuel flow-to-load ratio testing, still providing assurance of the quality of the data.

(1) *Use of Gross Heat Rate or Flow-to-Load Ratio.* Today's proposed rule would allow a facility the option of calculating either the ratio of the fuel flow rate to the gross generation in MWe or the steam flow rate in thousands of pounds of steam per hour ("fuel flow-to-load ratio") or the ratio of the heat input rate to the gross generation in MWe or the steam flow rate in thousands of pounds of steam per hour ("gross heat rate" or "GHR"). One utility suggested that, because the load is created based upon a number of factors in addition to the fuel flow rate, such as the gas heat rate (i.e., gross calorific value), a ratio of the heat input to the unit load would be a better test than the ratio of the fuel flow rate to the unit load (see Docket A–97–35, Item II–D–50). In addition, some utilities pointed out that the Agency allows facilities to use either a stack flow-to-load ratio or a heat input-to-load ratio (gross heat rate) as a diagnostic test on stack volumetric flow monitors, through Policy Manual Question 13.15 (see Docket A–97–35, Item II–I–9). The Agency agrees that the heat input-to-load ratio (GHR) is also a technically appropriate check on the performance of fuel flowmeters. Therefore, today's proposal includes options for both the fuel flow-to-load ratio and the GHR.

(2) *Baseline Period for Fuel Flow-to-Load Ratio or GHR.* When using this type of comparison test, it is important to establish a baseline of reliable data to which hourly data can later be compared. For the stack volumetric flow-to-load ratio, the baseline of reliable data consists of data from the reference method for flow, Method 2 of Appendix A to 40 CFR part 60. However, there is no universally applicable test for flowmeters that is performed in-line with a reference method while the unit is operating, parallel to the flow RATA. EPA asked several utilities what could be a source of baseline data to which the fuel flowmeter could later be compared. One utility suggested using fuel flowmeter readings during a time when the unit is operating at a steady load, such as when the unit undergoes Appendix E testing for a NO_X-versus-heat input correlation or when a NO_X CEMS undergoes a normal level RATA (see Docket A–97–35, Item II–D–41). A second utility recommended that the baseline be established just after performing a transmitter calibration, i.e., after performing a quality assurance test on the fuel flowmeter (see Docket A–97–35, Item II–D–49). The Agency believes that using fuel flowmeter data taken immediately following a flowmeter quality assurance test would be most likely to be accurate and representative of proper operation of the fuel flowmeter. Flowmeter quality assurance tests might include any of the methods incorporated by reference in section 2.1.5.1 of Appendix D; meter testing against a certifiable "master" meter under section 2.1.5.2 of Appendix D; or transmitter or transducer accuracy testing under section 2.1.6.1 of Appendix D, and inspection of a primary element for an orifice-, nozzle-, or venturi-type fuel flowmeter under section 2.1.6.6 of Appendix D. This approach is proposed in today's rule.

The utilities supporting the idea of using fuel flowmeter data taken immediately after a flowmeter quality assurance test have suggested that it would be important to have a fairly large number of hours in the baseline, on the order of 100 or more, to ensure that the baseline period is representative of typical operation (see Docket A–97–35, Item II–E–33). In today's rule, EPA is proposing to use the first 168 hours of quality assured data measured by that flowmeter for which: (1) only the fuel measured by that fuel flowmeter is combusted; (2) the unit load is not significantly "ramping" up or down; and (3) the unit load is safely above the minimum safe, stable load. The Agency believes that a baseline period containing 168 hours of data is sufficiently long to be representative of different unit operating conditions that may occur later. This specific time period is consistent with the minimum number of hours that a unit combusts a fuel before the quarter counts toward the deadline for the next quality assurance test, and with the minimum number of hours that a unit combusts a fuel before a quarter needs to be evaluated using the fuel flow-to-load ratio. Certain hours would be excluded from the baseline (i.e., periods of co-firing, unstable, or low load), because the fuel flow-to-load ratio or GHR would tend to be less reliable during those periods.

Today's proposal would also limit the baseline period so that it may extend no more than two quarters beyond the quarter in which the flowmeter passes its accuracy tests. The Agency has concerns that if the baseline data were to extend longer than this, the performance of the fuel flowmeter might degrade. In order for the baseline data to reflect fuel flow rate data that are most likely to be accurate, the Agency is proposing that the fuel flow rate or heat input rate data used in the baseline period must either be obtained in the calendar quarter in which the quality assurance procedure is performed, or within two calendar quarters after the QA test. The Agency considered limiting the time period to the same calendar quarter as the quality assurance procedure or to one flowmeter operating quarter beyond the QA test. However, because a quality assurance procedure may be conducted at any time during a quarter, it could be difficult for a facility to collect 168 hours of fuel flowmeter data after a quality assurance procedure in the same calendar quarter or even (for infrequently operated units that ramp

up and down often) in the next calendar quarter.

For orifice-, nozzle-, and venturi-type fuel flowmeters, two quality assurance procedures would be required prior to collecting the baseline data: (1) a transmitter or transducer accuracy test, and (2) an inspection of a primary element. The Agency considered whether these two quality assurance procedures should be separated and whether the baseline period could simply be based upon a time period after the most recent quality assurance procedure. The Agency believes that the baseline period data would be more reliable if they were taken shortly after completing both quality assurance procedures for orifice-, nozzle-, and venturi-type fuel flowmeters. Using the same time period for both tests simplifies administration of the fuel flow-to-load ratio test. EPA also notes that a unit does not need to be operating in order to perform the tests; thus, it should not be burdensome for a facility to plan to coordinate the two quality assurance procedures.

(3) *Data Preparation and Analysis.* The proposed procedures for data preparation and analysis for the fuel flow-to-load ratio are similar to those for the volumetric stack flow-to-load ratio. Equations of the same form as those for the stack volumetric flow-to-load ratio are used to calculate the hourly fuel flow-to-load ratio, the hourly absolute value of the percentage difference between the baseline fuel flow-to-load ratio and the hourly fuel flow-to-load ratio, and the quarterly average percentage difference. Common pipe headers would be treated in the same way as common stacks. If there were multiple units associated with a single fuel flowmeter or flow monitor, the total load from all units would be summed before the flow rate data are divided by the load data to calculate the flow-to-load ratio. Fuel flowmeters on multiple pipes would be treated in the same way as multiple stacks associated with a single unit. If there are multiple fuel flowmeters or flow monitors associated with a single unit, the flow rates from all fuel flowmeters for the same fuel or all flow monitors would be added together before the flow rate data are divided by the load data to calculate the flow-to-load ratio.

Certain aspects of the volumetric stack flow-to-load ratio test are not the same for the fuel flow-to-load ratio test. For example, the volumetric stack flow-to-load ratio test requires the facility to screen out those hours when the unit operates further than 10.0 percent away from the average load during the most recent normal-load flow RATA. As was discussed previously, there is no equivalent of an in-line flow RATA for fuel flowmeters. EPA does not believe that there is a need to screen out hours for the fuel flow-to-load test when the unit operates at a load somewhat less than or greater than normal. Some facilities have indicated that the fuel flow-to-load ratio or GHR based on fuel flow readings is less variable over different loads than the volumetric stack flow-to-load ratio (see Docket A–97–35, Items II–E–33 and II–D–98). However, preliminary evidence has also indicated that the fuel flow-to-load ratio or GHR can be significantly different at very low operating loads than at other load levels (see Docket A–97–35, Item II–A–5). For this reason, EPA is proposing to allow hours in which the unit load is within the lower 10.0 percent of the range of operation to be excluded from both the baseline data and the quarterly flow-to-load or GHR analysis, unless such low loads are considered normal for the unit.

Another feature of the volumetric stack flow-to-load ratio test that differs from the fuel flow-to-load ratio test is the treatment of bias-adjusted data. Fuel flow rate data are never adjusted for bias. There is no bias test for fuel flowmeters. Bias-adjustment of data is an issue for the volumetric stack flow-to-load ratio test because bias-adjusted data has already been adjusted to make it more consistent with the value of the reference method data. Thus, bias-adjusted volumetric stack flow data must meet a stricter quarterly average percentage difference of 10.0 percent from the reference flow-to-load ratio, whereas the allowable difference is 15.0 percent when unadjusted volumetric stack flow data are used. (See discussion of stack flow-to-load test in Section III.M. of this preamble.) EPA notes that since the same fuel flow meter is used to produce both the baseline data and the quarterly data, the fuel flow-to-load ratio is more closely analogous to the use of bias-adjusted volumetric flow data. Therefore, the limit on the quarterly average percentage difference from baseline for fuel flow rate data should be at least as stringent as that for bias-adjusted volumetric flow data (10.0 percent). Information provided by facilities on the gross heat rate derived from fuel flow rate data have shown less variability than the corresponding stack heat rate (see Docket A–97–35, Item II–D–98). Based upon this information, EPA is proposing a limit of 10.0 percent on E_f, the quarterly average percentage difference from the baseline for the quarterly flow rate-to-load or GHR evaluation. EPA considered whether it would be appropriate to set a different limit for smaller units, as was done for the stack flow-to-load test. Analysis of some preliminary fuel flow-to-load data has shown that for lower loads (e.g., < 50 MWe), the flow-to-load ratio is quite sensitive to small changes in load (see Docket A–97–35, Item II–A–5). This indicates that it would be appropriate to set a higher limit for smaller units. Therefore, today's rule proposes a limit of 15.0 percent on the value of E_f when the quarterly average load used for the data analysis is 50 megawatts or less (or ≤ 500 klb steam per hour). The Agency solicits comment on the 15.0 percent limit for loads less than or equal to 50 megawatts.

(4) *Optional Data Exclusions.* As for volumetric stack flow monitors, if a fuel flowmeter's data would not meet the limit on the percentage deviation from the baseline, then a facility could opt to exclude certain hours of unrepresentative fuel flow rate (or heat input rate) data and then reanalyze the smaller set of data. The hours of data that EPA proposes to view as non-representative for fuel flowmeters are: (1) hours when the unit combusts multiple fuels; (2) hours when the unit load in a given hour would differ by more than ± 15.0 percent from the load during either the previous hour or the subsequent hour; or (3) hours when the load is very close to the minimum safe, stable load (unless operation in that range is normal).

The baseline period for fuel flowmeters and the data used for the quarterly flow-to-load or GHR analyses would include only those hours when a single fuel is combusted—the fuel measured by the fuel flowmeter. If the quarterly fuel flow rate data included hours when multiple fuels are co-fired, the fuel flow-to-load ratio or GHR for the fuel flowmeter being tested would be biased low. This could result in a failure of the flow-to-load test or GHR evaluation. Today's proposed rule would also allow a facility to exclude from the baseline data and the quarterly analyses those hours that are not representative because the unit's load is changing rapidly. Specifically, hours could be excluded when the unit load in a given hour would differ by more than ± 15.0 percent from the load during either the previous hour or the hour afterwards. There will be a lag in the time between when electricity is generated and registered as load and the time that the fuel flowmeter measures the fuel that is combusted to generate the load. Therefore, during an hour when the load changes rapidly, the fuel flow rate will not necessarily be changing by the same amount or in the

same direction. At least one utility has suggested that the Agency consider such an exclusion for the proposed fuel flow-to-load ratio test (see Docket A–97–35, Item II–D–41).

In general, the fuel flow is directly proportional to load, with a linear graphical relationship. However, this is not always the case at extremely low loads (see Docket A–97–35, Items II–E–33, II–D–98). Therefore, today's proposed rule would allow certain low-load hours to be excluded from the flow-to-load baseline and quarterly data analyses. Specifically, loads in the lower 10.0 percent of the "range of operation" of the unit, (as that term is defined in proposed section 6.5.2.1 of Appendix A in today's proposal) could be excluded, unless such loads are considered normal for the unit.

Today's proposed rule, in section 2.1.7 of Appendix D, would also exempt a fuel flowmeter from the fuel flow-to-load ratio test in a quarter when a more rigorous quality assurance test is performed. This is unlike the volumetric stack flow-to-load ratio, which is required each QA operating quarter, including quarters when the flow monitor is tested with a RATA (provided, of course, that sufficient data for the analysis are obtained after the RATA).

(5) *Consequences of Failing the Fuel Flow-to-Load Ratio Test.* The consequences of failing the fuel flow-to-load ratio test would be similar to the consequences of failing quality assurance tests in general for fuel flowmeters. Data from the fuel flowmeter would no longer be considered quality assured. Because the fuel flow-to-load ratio test is only performed at the end of a quarter, the facility would invalidate data from the fuel flowmeter beginning with the first hour in the quarter after the quarter in which the meter fails the fuel flow-to-load ratio test. In order to establish that the fuel flowmeter is operating properly and providing quality assured data again, the facility would perform a flowmeter accuracy test or (for orifice-, nozzle-, and venturi-type flowmeters) a transmitter or transducer accuracy test. The Agency believes it is appropriate to perform an accuracy test if the fuel flow-to-load ratio test is failed, because in such cases the facility has had the benefit of postponing the accuracy test based upon the assumption that the fuel flowmeter has continued to measure accurately and consistently with its operation during the baseline period.

Note that for orifice-, nozzle-, and venturi-type fuel flowmeters, a transmitter/transducer test alone would not suffice to demonstrate that the flowmeter is back in control. The owner or operator would still need to ensure that the cause of the failed fuel flow-to-load ratio test was a problem with the transmitters or transducers rather than a problem with the primary element. Sudden changes in flowmeter performance are likely to be caused by a problem with transmitters (see Docket A–97–35, Item II–D–33). However, it cannot be assumed that the transmitters are solely responsible for degradation in monitor performance. In order to verify that the primary element is not contributing additional error to the fuel flow measurements because of corrosion, a facility would conduct an abbreviated (6 to 12 hour) version of the fuel flow-to-load ratio test, similar to the diagnostic test for volumetric stack flow monitors in Policy Manual Question 13.15 (see Docket A–97–35, Item II–I–9). The Agency believes that this abbreviated fuel flow-to-load ratio test would provide additional assurance that the fuel flowmeter is indeed operating properly. In addition, it would be more timely than waiting for another calendar quarter to pass to repeat the fuel flow-to-load ratio. The abbreviated test would also be less burdensome than removing the primary element from the fuel pipe. EPA believes the abbreviated fuel flow-to-load ratio test strikes a reasonable balance by providing some additional quality assurance in a timely manner. If the orifice-, nozzle-, or venturi-type fuel flowmeter failed the abbreviated fuel flow-to-load ratio test, then it would appear that the primary element may also have a problem. Therefore, upon failure of an abbreviated fuel flow-to-load ratio test, the facility would be required to inspect the primary element and to repair or replace it, as necessary.

The rules for data validation upon failure of the fuel flow-to-load ratio are not parallel with the procedures for data validation following failure of the volumetric stack flow-to-load ratio test in that there is no conditional validation of data. A number of utilities have emphasized that they wish to spend less time and effort preparing and evaluating quarterly reports for units using Appendix D, which are generally smaller and less frequently operated than coal-fired units or oil-fired units that choose to use CEMS (see Docket A–97–35, Item II–E–33). The concept of conditional data validation for fuel flowmeters is not consistent with this objective, because it would introduce additional complexity into the process, would require significantly more time and resources to quality-assure the data, and might require additional DAHS programming. Therefore, the Agency is not proposing the use of conditional data validation for fuel flowmeters.

(c) Fuel Flowmeter Quality Assurance Testing Frequency

Background

Section 2.1.6.1 of Appendix D, as revised by the May 17, 1995 direct final rule, requires regular quality assurance "recalibrations" (accuracy tests) of fuel flowmeters at least annually (once every four calendar quarters). For fuel flowmeters that were not used on a regular basis, such as fuel flowmeters used to measure the usage of emergency fuel or backup fuel, or flowmeters installed on peaking units, owners or operators are allowed to do flowmeter accuracy tests once every four quarters when the unit actually combusts the fuel measured by the flowmeter, rather than once every four calendar quarters. Flowmeters can be retested either by using one of the methods incorporated by reference in section 2.1.5.1 of Appendix D to part 75 or by an in-line comparison of the fuel flowmeter against a "master" fuel flowmeter using the procedure in section 2.1.5.2 of Appendix D.

Some utilities have expressed concern about the annual fuel flowmeter testing requirement (see Docket A–97–35, Items II–D–20, II–E–13, II–E–14). In many cases, it is neither practical nor cost-effective to modify the fuel pipes (e.g., to install a parallel length of pipe) to allow installation of a master fuel flowmeter for comparison testing. Thus, most utilities must remove a fuel flowmeter from the pipe and return it to a laboratory or to the manufacturer to be retested. In some cases, especially for oil flowmeters, this can be difficult.

Some utilities have raised the issue of whether there should be a minimum time period that a fuel flowmeter is used before a quality assurance test is required. For instance, a utility might test its unit's burners once each quarter for a few hours to ensure that the unit can be operated when needed and may not operate for the rest of the quarter. Under the current rule, the fuel flowmeter would have to be quality assurance tested after four such operating quarters, even though the flowmeter was only used for a few hours in those calendar quarters.

Discussion of Proposed Changes

Today's proposed rule includes a provision that only those calendar quarters in which the fuel measured by the fuel flowmeter is combusted for at least 168 hours would count toward determining the next quality assurance test deadline. The 168-hour time period

is roughly equivalent to one week of operation while combusting the fuel measured by a particular fuel flowmeter. A calendar quarter in which the fuel measured by a fuel flowmeter is combusted for 168 hours or more would be called a "flowmeter operating quarter." For example, if a unit combusted oil for 200 hours in the first calendar quarter of the year, 10 hours in the second calendar quarter, 250 hours in the third calendar quarter, and 100 hours in the fourth calendar quarter, then only the first and third calendar quarters would be considered flowmeter operating quarters for the oil flowmeter. Only the first and third calendar quarters would count toward determining the deadline for the next required oil flowmeter accuracy test.

In today's proposed rule, each fuel flowmeter would need to be accuracy tested at least once every four flowmeter operating quarters. However, the deadline for testing infrequently-used meters could not be extended indefinitely. No more than 20 calendar quarters (five years) would be allowed to elapse between successive flowmeter accuracy tests, regardless of the number of "flowmeter operating quarters" that have elapsed since the last test. The interval between successive quality assurance tests could also be extended for up to 20 calendar quarters if the quarterly fuel flow rate-to-load procedures in proposed section 2.1.7 of Appendix D were implemented.

Rationale

In evaluating the frequency of fuel flowmeter accuracy testing, EPA considered simply extending the less strict requirement for fuel flowmeter quality assurance testing for peaking units, backup fuel, and emergency fuel to apply to all units and all fuel flowmeters. Thus, quality assurance testing would be required once every four quarters in which the unit combusted the fuel measured by the flowmeter.

One industry representative recommended that the Agency require fuel flowmeter calibrations once every four unit operating quarters, where a unit operates at least 168 hours in the quarter (see Docket A–97–35, Item II–E–13). This approach would treat all fuel flowmeters the same, whether they were used for primary, emergency, or backup fuel.

Another utility suggested that the Agency consider creating some sort of diagnostic test comparing the flow rate of the fuel flowmeter to the unit load (generation) to determine whether the fuel flowmeter readings are degrading over time, rather than specifying a particular frequency for accuracy testing (see Docket A–97–35, Item II–E–22). Although this suggestion was originally referring to problems with corrosion of an orifice plate, such a test could also be used for other types of fuel flowmeters as a check on the quality of fuel flowmeter data.

The Agency also considered extending the typical time between accuracy tests to the equivalent of two years. This time was suggested by a member of the AGA subcommittee responsible for the drafting of AGA Report No. 7 for turbine-type flowmeters (see Docket A–97–35, Item II–E–17). The Agency also considered extending the typical time between accuracy testing to 12 calendar quarters—the equivalent of three years. Three years is the period of time that records must be retained in a file at the source under § 75.54 (or proposed § 75.57).

The Agency also considered allowing fuel flowmeters to continue for up to five calendar years between accuracy tests. This is similar to the current provision in section 2.1.5.2 of Appendix D, which allows a reference fuel flowmeter to be accuracy tested as seldom as once in five calendar years, if the in-line comparison with a master fuel flowmeter shows a 1.0 percent or less difference in their flow rates. A five-year test cycle offers certain administrative advantages. For instance, fuel flowmeters used to provide heat input data for the heat input-versus-load correlation of Appendix E could be accuracy-tested before each Appendix E test (i.e., once every five years). In addition, the five calendar-year period would ensure that fuel flowmeters are tested by the time the unit's operating permit is renewed. Facilities might find this time cycle easier to determine than a time period based upon a number of calendar quarters. However, test data would need to be retained for five years, rather than for three years, the recordkeeping period for most records under part 75. However, the Agency is not proposing this option because five years is far too long a period of time to allow a unit to continue with no checks at all upon the quality of its data. Such an approach would allow the use of data from a fuel flowmeter that potentially had been reading inaccurately for the previous five years.

Another option that EPA evaluated was to establish different fuel flowmeter quality-assurance testing frequencies depending on the fuel measured by the fuel flowmeter. Under this approach, oil flowmeters would need to be tested every four calendar quarters in which oil was combusted. Gas flowmeters would only need to be tested once every five years. The two fuels would be treated differently because units emit less NO_x and far less SO_2 when combusting gas than when combusting oil. In addition, gaseous fuels, particularly pipeline natural gas, should be less corrosive; therefore, a gas flowmeter should be less likely to degrade than an oil flowmeter.

EPA beljeves that today's proposed approach to reducing the fuel flowmeter quality assurance testing frequency takes into account many of the concerns raised by utilities. All unit types and fuel types would have the same frequency of testing. This would avoid confusion that could follow from an approach that set different requirements for fuels or units that are used less frequently. A group of utilities had indicated that they prefer a more consistent approach (see Docket A–97–35, Item II–E–13). Under today's proposal, infrequently-used fuel flowmeters (e.g., meters for backup fuel or emergency fuel) would only need to be calibrated once every five years. When a facility renews its operating permit, the permitting agency could verify that all fuel flowmeters have been tested at least once in the previous five years.

The minimum period of 168 hours of fuel flowmeter usage which defines a "flowmeter operating quarter" is consistent with the definition of a "QA operating quarter" in Appendix B in today's proposed rule for the quality assurance of CEMS. The Agency believes that using a consistent minimum number of hours in a calendar quarter for both CEMS and fuel flowmeters will make implementation easier for facilities and air regulatory agencies. In addition, 168 hours should be a sufficiently long period of time to ensure that short-term usage of backup fuel or emergency fuel or short-term tests of a unit do not trigger unnecessary quality assurance testing.

Today's proposed rule would also provide more flexibility in the methods that could be used for fuel flowmeter quality assurance testing. As discussed above in Section III.P.2 of this preamble, a new testing procedure has been proposed that would allow a facility to test flow rate-to-load ratio of the fuel flowmeter while leaving it installed. Thus, the Agency believes that the overall burden of fuel flowmeter testing has been significantly reduced. In addition to the reduced frequency of testing discussed above, the Agency believes the less burdensome testing procedures should address concerns of the regulated community.

The Agency requests comment on whether facilities would prefer to base

the frequency of fuel flowmeter quality assurance testing on the type of fuel used or the amount of time the fuel flowmeter is used. Under the first approach, gas flowmeters would receive greater regulatory relief. Under the second approach, which is being proposed in today's rule, infrequently-used flowmeters (typically oil flowmeters) would receive greater regulatory relief.

(d) Orifice, Nozzle, and Venturi Visual Inspections

Background

Section 2.1.6 of Appendix D, as revised in the May 17, 1995 direct final rule, created special provisions for the ongoing quality assurance testing of orifice fuel flowmeters. Orifice-, nozzle-, and venturi-type fuel flowmeters are designed and installed within a set of physical specifications, such as the orifice diameter (see Docket A–97–35, Item II–D–13). Maintaining these physical specifications determines the flowmeter's ability to read accurately. Thus, it is not necessary to take an orifice-, nozzle-, or venturi-type flowmeter out of line and send it to a laboratory to determine its accuracy.

After installation of an orifice-, nozzle-, or venturi-type flowmeter is complete, the two major factors that contribute to error in flow readings are: drift in the transmitters (or transducers) which determines the total pressure, differential pressure and temperature, and corrosion of the primary element (e.g., the orifice plate) itself. Quality assurance testing of the transmitters is discussed in the next section of the preamble. In order to identify cases where error might result from corrosion of the orifice plate, the May 17, 1995 direct final rule added a requirement for an annual visual inspection of the orifice plate. If an orifice plate fails the inspection, then the facility must perform a test on the transmitters during the next calendar quarter. A procedure for visual inspections is given in Appendix B of part 2 of American Gas Association (AGA) Report No. 3, which is one of the accepted standards for installation and use of orifice flowmeters.

Some facilities have expressed concern with the frequency of visual inspections (see Docket A–97–35, Items II–D–20, II–E–13, II–E–14). This process must be done either with a tool, such as a boroscope, or else the primary element must be removed from the pipe and lifted out to be inspected. In the case of large, heavy orifices, it is necessary to use a crane to remove the orifice. Fuel must not be flowing through the pipe while the orifice plate is being removed (see Docket A–97–35, Item II–E–8).

The current provisions of Appendix D to part 75 do not explicitly state the consequences of failing a quality assurance test. Section 2.1.5.1 of Appendix D states that if a fuel flowmeter exceeds the flowmeter accuracy of ± 2.0 percent of the upper range value, then the flowmeter may not be used under part 75. Section 2.1.5.2 states that if a fuel flowmeter's accuracy exceeds ± 2.0 percent of the upper range value, then the flowmeter must be recalibrated to meet that accuracy, or it must be replaced with another flowmeter that meets the specification. Neither section explicitly states the impact upon the validity of data if a test is failed. However, if fuel flowmeter systems are to be treated parallel with continuous emission monitoring systems under § 75.21(e)(2), the consequences of failing a quality assurance test for a fuel flowmeter or an inspection of the primary element should result in the monitor being considered out-of-control and the data being considered invalid.

In section 2.1.6.1 of Appendix D, the specific consequence of failing a visual inspection of the primary element is that the transmitters must be tested in the following calendar quarter, rather than waiting until the regular annual calibration is required. However, no mention is made of any mandatory corrective action(s) to eliminate the corrosion problem.

Discussion of Proposed Changes

Section 2.1.6.6 of Appendix D in today's rulemaking proposes to require visual inspections of primary elements (i.e., orifice, nozzle or venturi) at the frequency recommended by the manufacturer or once every three years, whichever is more frequent. The Agency solicits comment on the proposed frequency of visual inspections.

The proposed rule would also explicitly require repair or replacement of the primary element and invalidation of data when a visual inspection is failed. Once the primary element is replaced or repaired, the new or repaired primary element would have to demonstrate that it meets the overall flow rate accuracy of ± 2.0 percent of the upper range value. This could be demonstrated by showing that the new or repaired primary element meets the design and installation requirements of AGA Report No. 3 or ASME MFC–3M, the same methods required for initial certification. Alternatively, the flow rate accuracy could be demonstrated by testing the fuel flowmeter against a reference fuel flowmeter using the provisions of section 2.1.5.2 of Appendix D. Finally, whenever a primary element is repaired, the fuel flowmeter transmitters would also have to be tested before the fuel flowmeter is used to provide quality assured data.

Rationale

During the process of reviewing certification applications for units using orifice flowmeters, the Agency learned of one plant where orifice corrosion was a serious problem. This utility had an orifice flowmeter which had been installed in the 1960's. This utility did not have documentation of the standard used to install the orifice as a demonstration of the meter's accuracy. In order to qualify for certification, the utility inspected the orifice. The utility personnel discovered that the orifice had been completely eaten away and was incapable of reading the flow rate (see Docket A–97–35, Item II–E–22). The utility replaced the orifice before it was able to have its fuel flowmeter certified. In addition, it was required to invalidate the flow rate data from the orifice meter and substitute for the missing data. Based upon this experience, the Agency believes that corrosion of an orifice can be a problem, and that in severe cases of corrosion, replacement of the orifice is necessary.

Despite this, many utilities have expressed concern over the difficulty of removing an orifice from place for visual inspection (see Docket A–97–35, Items II–D–20, II–E–13, II–E–14), because removal requires halting the flow of gas through the pipeline in order to remove the orifice, which can be expensive (see Docket A–97–35, Item II–E–8).

Utilities have provided the Agency with several suggestions for reducing the frequency of primary element inspections. One industry group recommended that the Agency reduce the inspection frequency to once every five years, to be coordinated with renewal of the plant's operating permit under title V of the Act (see Docket A–97–35, Items II–D–20, II–E–13, and II–E–14). One utility representative mentioned that most orifice manufacturers recommend an inspection once every three years; thus, he recommended that the Agency require visual inspections the earlier of once every three years or the time period specified by the manufacturer (see Docket A–97–35, Item II–D–41). Another utility suggested that the Agency consider creating some sort of diagnostic test comparing the flow rate of the fuel flowmeter to unit load (generation) to determine whether the fuel flowmeter readings are degrading

over time, rather than specifying a particular time period (see Docket A–97–35, Item II–E–22).

EPA agrees that it would be helpful to facilities to reduce the frequency of visual inspections from their current annual frequency. Having considered all of the options suggested by the utilities, the Agency is proposing that the primary element of all nozzle, venturi and orifice fuel flowmeters be visually inspected at the frequency recommended by the manufacturer or once every three years, whichever is the more frequent. The Agency believes that up to three years between visual inspections is a technically sound period of time that will assure the quality of fuel flow rate data, while providing regulatory relief from the current annual requirement.

The Agency also has reconsidered the consequences of failure of a visual inspection. The May 17, 1995 direct final rule added a requirement to test a flowmeter's transmitters in the calendar quarter following a failed inspection, but the rule does not explicitly require that the primary element be repaired or replaced, nor does it explicitly require data from the fuel flowmeter to be invalidated.

Today's proposed rule would require the primary element to be removed following a failed visual inspection and would require the problem to be corrected. The Agency believes that it is appropriate to provide two options for correcting the problem: either replace the element with a new one or repair it. This would provide flexibility to facilities, while still assuring that the fuel flowmeter will be repaired to give quality assured data.

Today's proposed rule would also change the timing of the requirement for fuel flowmeter transmitter or transducer testing if a primary element fails its visual inspection. The Agency believes that it would be appropriate also to test the fuel flowmeter transmitters before the fuel flowmeter is placed into service again. This would be a more thorough quality assurance check of the entire fuel flowmeter than simply addressing the problem with the primary element. Thus, when the fuel flowmeter is placed into service again, its accuracy would be tested as fully as possible. In addition, EPA proposes to remove the requirement for a test on the flowmeter transmitters in the calendar quarter following a failed visual inspection. This requirement might be appropriate if it seemed that transmitter drift was likely to be a problem or if the Agency had no other means of assuring the quality of the data from the flowmeter after a problem with the primary element was known to have occurred. However, the Agency believes that problems with the primary element are separate from problems with drift in the transmitters. Because today's proposal would require a check on the fuel flowmeter transmitters after repair or replacement of the primary element, requiring an additional test of the transmitters in the following calendar quarter appears to be unnecessary.

The proposed rule gives procedures for data validation when a primary element fails a visual inspection. The element would have to be replaced or repaired, and the transmitters would have to be tested before data would again be valid from the fuel flowmeter. During the period in which the flowmeter data are considered invalid, the appropriate missing data substitution procedures would be used. The Agency has clarified that these data validation procedures would also apply to failures of other fuel flowmeter quality assurance tests. EPA believes that this will make facilities' obligations clearer. In addition, the Agency believes that fuel flowmeter systems should be treated as consistently as possible with CEMS. Consistent treatment simplifies the part 75 requirements and is more equitable for sources using different monitoring approaches.

(e) Orifice, Venturi, and Nozzle Flowmeter Transmitter Testing

Background

As discussed previously, once an orifice-, nozzle-, or venturi-type flowmeter has been installed, one of the major causes of error in the measured flow rates is drift in the transmitters or transducers that determines the total pressure, differential pressure, and temperature. The flow measurement error for these types of flowmeters is a combination of the errors in these individual transmitters or transducers and a constant error value associated with the physical dimensions of the primary element. The May 17, 1995 direct final rule added a requirement that flowmeter transmitters be tested at least annually. The transmitters are also required to be retested in the next calendar quarter if the overall flow rate error is greater than 1.0 percent of the upper range value of the flowmeter. For practical purposes, this requires a facility to know the error from the physical dimensions of the primary element in order to determine if the flowmeter meets the overall accuracy requirement.

Some utilities asked the Agency how to determine the overall flowmeter accuracy from individual transmitter values (see Docket A–97–35, Item II–E–31). EPA addressed this issue in Policy Guidance (see Docket A–97–35, Item II–I–9, Policy Manual, Question 10.17). This guidance included a formula for calculating total flowmeter accuracy from error in transmitter readings for differential pressure, static pressure and temperature, and error from all other sources (i.e. physical dimensions of the primary element). Some utilities indicated that they do not always have information available on the constant error from other portions of the primary element (see Docket A–97–35, Item II–E–13). The policy guidance also indicated that a facility could report test results electronically using the highest amount of error from any of the three transmitters. Provided that the highest error from an individual transmitter is 1.0 percent of the upper range value of the transmitter or less, the overall flowmeter accuracy will be less than 2.0 percent of the upper range value (see Docket A–97–35, Item II–I–10).

EPA has also observed that transmitter test data reported for orifice-, nozzle-, and venturi-type flowmeters have not been consistent. Some facilities test each transmitter once at three different levels, including a low, middle, and high value (see Docket A–97–35, Item II–D–16). Others test each transmitter at five different levels, including zero, full scale, and three intermediate levels (see Docket A–97–35, Item II–D–17). The Agency had previously issued some guidance on reporting test results, both for orifice flowmeters and other flowmeters (see Docket A–97–35, Items II–I–4, p. 3–58, and II–I–9, Policy Manual, Questions 10.17 and 12.27). However, this guidance appears to have been insufficient, as utilities have continued to request guidance in how to perform and report test results (see Docket A–97–35, Item II–D–21). Questions have included the number of levels at which transmitters should be tested, whether all of these levels must be non-zero, the number of times the transmitter should be tested at a particular level, if results may be reported in hardcopy or should be reported electronically, and how data should be reported electronically.

Discussion of Proposed Changes

Today's proposed rule would make the requirement to assess the total accuracy of orifice-, nozzle-, and venturi-type fuel flowmeters from the transmitter/transducer test results an option. As an alternative, proposed section 2.1.6.5 in Appendix D would allow each of the three transmitters (static pressure, differential pressure, and temperature) individually to meet

an accuracy specification of 1.0 percent of the upper range value of the transmitter.

Today's rulemaking also proposes a procedure in section 2.1.6.1 of Appendix D for testing the accuracy of orifice-, nozzle-, and venturi-type fuel flowmeters. Each transmitter would be calibrated against NIST-traceable reference values at least once at the zero level and at a minimum of two other levels across the range of values that the transmitter reads during normal unit operation. Note that in many instances this would be a portion of the full-scale range of the transmitter, rather than the entire range. In addition, revised section 2.1.6.2 of today's proposed rule includes the new Equation D–1a to clarify how to calculate the error from an individual transmitter.

Finally, today's proposal would clearly specify the consequences of failure of an accuracy test on transmitters in section 2.1.6.5 of Appendix D. Just as CEM data are considered invalid from the time that a quality assurance test is failed until the test is subsequently passed, data from a fuel flowmeter would be considered invalid from the date and time of a failed transmitter accuracy test until the date and time of a passed transmitter accuracy test.

Rationale

The Agency considered two main options for determining the accuracy of a transmitter or transducer of an orifice-, nozzle-, or venturi-type fuel flowmeter. In the first approach (which is consistent with current policy guidance), these types of fuel flowmeters would be required to meet an accuracy of 2.0 percent of the upper range value of the total flow rate of the fuel flowmeter. The accuracy would be determined using the square root of the sum of the squares of all sources of error in the fuel flowmeter, according to the following equation:

$$\frac{dq_v}{q_v} = \left(K^2 + \left[\frac{-dP_f}{2P_f}\right]^2 + \left[\frac{d\Delta P}{2\Delta P}\right]^2 + \left[\frac{dT_f}{2T_f}\right]^2 \right)^{1/2}$$

Where: dq_v/q_v = Error in the volumetric flow rate due to transmitter drift at a given level;
K = Original error resulting from installation of orifice (including all other variables);
dP_f = Average difference between static pressure transmitter reading(s) and reference static pressure reading(s) at a given level;
P_f = Average reference static pressure reading at a given level;
$d\Delta P$ = Average difference between differential pressure transmitter reading(s) and reference differential pressure reading(s) at a given level;
ΔP = Average reference differential pressure reading at a given level;
dT_f = Average difference between temperature transmitter reading(s) and reference temperature reading(s) at a given level; and
T_f = Average reference temperature reading at a given level.

If the error calculations for error from the primary element of the fuel flowmeter were not available, then the facility could use a default value of 1.0 percent of the upper range value error from all parts of the fuel flowmeter except for the differential pressure, static pressure, and temperature transmitters. (In other words, the factor "K" in the equation above would be equal to 1.0 percent of the upper range value.) However, this would almost certainly trigger the requirement for recalibration or retesting of the accuracy of the transmitters in the next calendar quarter because the fuel flowmeter accuracy would exceed 1.0 percent of the upper range value. Based upon statements from the American Gas Association, it is the Agency's understanding that for an orifice-, nozzle-, or venturi-type fuel flowmeter meeting AGA Report No. 3 or ASME MFC–3M, the maximum error from portions of the meter other than the transmitters should be 1.0 percent of the upper range value (see Docket A–94–16, Item II–F–2, and this Docket, A–97–35, Item II–E–18).

In the second approach to determining error for orifice-, nozzle-, and venturi-type fuel flowmeters, each transmitter or transducer would be tested separately for accuracy, and each transmitter or transducer would be required to meet an accuracy specification of 1.0 percent of the full scale range of the transmitter. Under this approach, it would no longer be necessary to determine the total error in the flowrate from the fuel flowmeter. Because this proposal would eliminate the calculation of the total error in flowrate, there would no longer need to be a requirement to retest the accuracy of the transmitters in the next calendar quarter when the total fuel flowmeter accuracy exceeds 1.0 percent of the upper range value.

In today's rule, EPA proposes to allow both of the approaches described above for calculating the total flowmeter accuracy. The second approach (i.e., calculating individual transmitter accuracy) is simpler than calculating the total error in the flow rate, although it is less directly related to the accuracy of SO_2 mass emission rate and heat input measurements than the fuel flowrate. An individual transmitter accuracy specification of 1.0 percent of the full scale of each transmitter would be slightly stricter than a total fuel flowmeter accuracy specification of 2.0 percent of the upper range value of the fuel flowmeter, because one transmitter could potentially have an error greater than 1.0 percent of its full scale range while the entire error in the fuel flowrate would still be less than 2.0 of the upper range value of the fuel flowmeter. Thus, the option of calculating the total error in the fuel flowrate has been retained in today's proposal. At least one industry representative suggested allowing both approaches of calculating accuracy when testing transmitters of an orifice-, nozzle-, or venturi-type fuel flowmeter (see Docket A–97–35, Item II–E–24).

The Agency considered two main methodologies for transmitter testing on orifice-, nozzle-, and venturi-type flowmeters. The first method would be to require a five-point test that checks the linearity of the transmitter. The transmitter would be tested against an NIST traceable method (e.g., testing a pressure transmitter against an NIST traceable deadweight transmitter) at the following percentages of the full scale range of the transmitter: 0.0 percent, 20.0 to 30.0 percent, 40.0 to 60.0 percent, 70.0 to 80.0 percent, and 100.0 percent. This is the general approach that was taken by many utilities that provided transmitter calibration results to EPA (see Docket A–97–35, Items II–D–26 through 28).

The second method would be to require a comparison to an NIST traceable transmitter at the zero level and at least two other levels across the range of readings on the transmitter or transducer. This would be different from the first method in that the transmitter would only need to be tested across the range where the transmitter is

actually used. For example, if a fuel flowmeter transmitter's readings never rise higher than 60.0 percent of the full scale range of the transmitter, then the transmitter could be tested at 0.0 percent, 30.0 percent, and 60.0 percent of full scale. These procedures are reflected in the proposed revised section 2.1.6.1 of Appendix D.

The Agency is proposing the second method in today's rule, i.e., that each individual transmitter must be tested at three or more points across its normal range of readings. EPA realizes that it is standard industry procedure to test a fuel flowmeter at five levels across its entire range (see Docket A–97–35, Item II–E–24). However, the Agency is aware of at least one case where a fuel flowmeter failed to meet an accuracy specification of 2.0 percent of the upper range value when it was tested at 100.0 percent of the upper range value. However, the fuel flowmeter was never used to measure a rate greater than roughly 55.0 percent of the upper range value (see Docket A–97–35, Item II–D–15). If this flowmeter had only been required to test across the range where the fuel flowmeter actually measured fuel flow rates, it would have met the accuracy specification. Section 2.1.5 requires fuel flowmeters that are tested against a master fuel flowmeter to be tested across the range of measured fuel flowrate only. Requiring testing of each transmitter at three or more points across the range of all readings would still ensure that the transmitter reads accurately across all readings, while reducing the possibility that the transmitter might fail an accuracy test because of a high error reading at the high end of the transmitter's range where the transmitter is never used. At least one utility has mentioned that this would be helpful (see Docket A–97–35, Item II–E–24). The Agency solicits comment on the proposed approach.

Today's proposed rule also includes Equation D–1a for calculating error from an individual flowmeter transmitter. The Agency feels that this would clarify the calculation. It also would prevent the possible confusion that would occur if a facility attempted to use the existing Equation D–1, which is designed for a fuel flowmeter that is compared to another fuel flowmeter.

Finally, under today's proposal, when a transducer or transmitter test is failed, a fuel flowmeter would be considered out-of-control, and its data would be considered invalid until the date and time the transmitter is retested and meets an accuracy of 1.0 percent of its full scale.

(f) Reporting of Fuel Flowmeter Testing Data

Background

As mentioned above in Section III.P.5 of the preamble, utilities have had questions about how to report the results of their fuel flowmeter testing data. In certification applications and quality assurance testing results, utilities have reported test data in a variety of ways. In some cases, the Agency was unable to determine the flowmeter accuracy from the testing information provided because data were not labeled as reference flow rate data, flowmeter data, or accuracy data. For example, for turbine flowmeters, data on the reproducibility of the "K-factor" was often presented. However, these are not flow rate data, nor is it clear what the accuracy of the flow rate is (see Docket A–97–35, Item II–D–9). Sometimes data were presented in tables. Other data were presented in graphs (see Docket A–97–35, Item II–D–9). In many cases, Agency or state environmental agency staff needed to request additional information from utilities to determine if they had met the accuracy requirement for fuel flowmeters (see Docket A–97–35, Items II–C–3, II–C–5).

To clarify the requirements for certification applications for fuel flowmeters, the Agency issued policy guidance about the type of information to provide (see Docket A–97–35, Item II–I–9, Policy Manual, Question 12.27). This guidance included a sample table with an example of how to submit information for a fuel flowmeter that is tested against a master meter or flow prover reference value.

Discussion of Proposed Changes

EPA proposes to add a sample table to Appendix D (Table D–1) for summarizing the results of accuracy tests of fuel flowmeters that are calibrated by comparison against other fuel flowmeters or a prover. In addition, EPA proposes to add a separate table for summarizing the results of calibrations of the transmitters or transducers of an orifice-, nozzle-, or venturi-type fuel flowmeter.

Rationale

In today's proposed rule, EPA would provide clarification in the form of a table for summarizing the quality assurance test results of fuel flowmeters that are compared against other fuel flowmeters or a prover. A second table is provided for summarizing the results of calibrations of transmitters or transducers of an orifice-, nozzle-, or venturi-type fuel flowmeter. This second table accounts for differences in the testing procedure for transmitters or transducers. In both cases, EPA has tried to make clear what critical information would have to be reported in order to demonstrate that the fuel flowmeter (or the transmitter of an orifice-, nozzle-, or venturi-type fuel flowmeter) meets the accuracy specification. In addition, EPA will design revised electronic record types with this type of information so that test results may be more easily reported electronically. The Agency is aware that this has been difficult or confusing for some utilities (see Docket A–97–35, Items II–D–23, and II–I–9, Policy Manual, Question 12.27). The Agency also considered adding a sample graph for reporting accuracy data. However, EPA feels that it would be easier to compare the data in tabular format and to enter it into the electronic data format than to enter values from a graph. Most of the graphs provided to EPA have been relatively easy to read, and there appears to be less of a need for an example to be included in Appendix D (see Docket A–97–35, Item II–D–9).

7. Use of Uncertified Commercial Gas Flowmeter

Background

Currently, a facility using Appendix D may either install its own gas flowmeter or use a commercial gas flowmeter owned by a pipeline natural gas supplier, provided that the meter meets the reporting and accuracy requirements of Appendix D, including initial certification and continuing quality assurance requirements. Some utilities have suggested to EPA that they would like to be able to use data from the commercial billing of pipeline natural gas without having to demonstrate that the gas flowmeter meets initial certification and continuing quality assurance requirements (see Docket A–97–35, Items II–D–45, II–D–49). Those utilities assert that because the amount of gas measured is already subject to market forces, the monitoring should be sufficiently accurate for the Acid Rain Program. Utilities have mentioned that gas companies often are already conducting meter calibrations as quality assurance, but utility customers generally do not have access to this information (see Docket A–97–35, Items II–D–49, II–E–33). Facilities would find it advantageous to rely upon their commercial billing charges for accounting for pipeline natural gas usage because they would need to devote less time, effort, and money to the maintenance of gas fuel flowmeters. This is particularly desirable to facilities since the SO_2 emissions from pipeline

natural gas are extremely low compared to the SO_2 emissions from other fuels.

Discussion of Proposed Rule Changes

Proposed section 2.1.4.2 of Appendix D would allow facilities to record and report the gas flow rate, the heat input rate, and emission values based on gas flowmeter readings from a flowmeter used for commercial billing of pipeline natural gas without meeting the certification requirements of section 2.1.5 of Appendix D or the quality assurance requirements of section 2.1.6 of Appendix D under specified conditions. Relief from the certification and quality assurance requirements for gas flowmeters used for commercial billing would be limited to flowmeters where the gas flowmeter is used for commercial billing under a contract with another company having no common owner with the unit(s) served by the flowmeter, which would exclude any gas flowmeters used for transfers of gas between different divisions, subsidiaries, or affiliates of the same company.

If the commercial billing gas flowmeter would be used without undergoing certification or quality assurance under part 75 requirements, then the designated representative would need to report hourly records of the gas flow rate, the heat input rate, and emissions due to combustion of pipeline natural gas, as well as heat input rate for each unit if the commercial billing gas flowmeter is on a common pipe header. This would be similar to the reporting currently done for a certified gas flowmeter, but no quality assurance records would be required. The quarterly report would contain record types 303 for fuel flow rate and heat input rate, record type 314 for the SO_2 mass emission rate, either record type 320 or 323 for the NO_X emission rate in lb/mmBtu, and either record type 330 or 331 for CO_2 mass emissions. It also would be necessary for the designated representative to identify the commercial billing gas flowmeter in Table B (electronic record type 510) of the monitoring plan for the unit.

So long as the records from the commercial billing gas flowmeter are the values used for commercial billing, the designated representative would report those values from the commercial billing gas flowmeter without adjustment. If the records from the commercial billing gas flowmeter are not consistent with the values used for commercial billing because of some problem that needs to be reconciled between the gas vendor and the facility customer, then the designated representative would consider the readings from the commercial billing gas flowmeter to be invalid for that billing period and would report hourly records using the missing data procedures for fuel flowmeter data found in section 2.4 of Appendix D for all hours of gas combustion during that billing period. A facility would not be able to use the commercial billing value in the quarterly report if the commercial billing value was different from the value on the commercial billing gas flowmeter.

Rationale

Utilities have suggested that the purchase of pipeline natural gas from a vendor is subject to market forces that ensure accurate monitoring (see Docket A–97–35, Item II–D–49). Utilities have stated that gas vendors already have procedures for certification and meter calibration and that the gas vendors have an even greater incentive than utilities to maintain a high monitor "uptime" (i.e., availability) for gas fuel flowmeters. Typically, utilities will work together with their gas vendors if they believe there is any sort of discrepancy in their monthly billing for pipeline natural gas (see Docket A–97–35, Items II–D–33, II–E–33).

The Agency believes that this argument is reasonable. However, EPA also understands that some utilities require their gas vendor to correct their billing values based upon the evidence of the utility's own gas flowmeters. In addition, it is likely that utilities will be combusting more pipeline natural gas in the future as they respond to current and potential future environmental requirements for reducing NO_X and CO_2. Therefore, the Agency believes that there must be conditions placed upon reporting emissions and heat input for the Acid Rain Program from gas flowmeters used for commercial billing if the gas flowmeters will not be required to meet the certification and quality assurance requirements of part 75.

The Agency is proposing to limit the waiver from certification and quality assurance requirements to commercial billing gas flowmeters that are used in billing transactions between companies with entirely different ownership (e.g., a pipeline natural gas vendor and a separate electric utility company with no owners in common). Some utilities requested the relief from quality assurance requirements based upon the reasoning that a gas vendor would do its own quality assurance and maintenance, and perhaps with better accuracy than a utility would be able to maintain, but the utility would not necessarily have access to the test results and would not have control over what quality assurance might occur (see Docket A–97–35, Items II–D–49, II–E–33). This reasoning is sound if the utility and the gas vendor have no common owners, but it would not necessarily be sound if a gas supplier were part of the same company as the electric utility. Also, utilities suggested that a gas vendor may have an incentive to overstate the amount of gas in order to bill more, rather than having an incentive to underestimate or under-report (see Docket A–97–35, Item II–D–49). Once again, this argument is reasonable if the gas vendor is a separate entity, but may not be reasonable if the gas supplier has common owners with the electric utility. Therefore, today's proposed rule includes a limitation on the waiver from certification and quality assurance requirements for commercial billing gas flowmeters to those gas flowmeters used for commercial billing between companies with separate ownership.

EPA solicits comment on the proposed approach of allowing the use of uncertified fuel flowmeters for purposes of determining emissions and heat input in the limited circumstances described above.

EPA has proposed in today's rule that a facility may only report data from a commercial billing gas flowmeter if the data are used in a commercial transaction. A group of utilities suggested that the Agency allow facilities to report quarterly SO_2 emissions based on gas supplier data, including any reconciliation that has taken place (see Docket A–97–35, Item II–D–45). Such a reconciliation between a gas vendor and its customer may occur if the customer believes there is a discrepancy in their monthly billing for pipeline natural gas (see Docket A–97–35, Items II–D–33, II–E–33). If a facility and its gas vendor determined that gas supply information from a fuel flowmeter were not sufficiently accurate to purchase gas, then the Agency presumes the gas supply information is also not sufficiently accurate for emissions accounting.

The Agency also considered whether a facility should be able to use the reconciled gas volumes agreed upon for billing if that value were not from the commercial billing gas flowmeter. In general in the Acid Rain Program, hand-typed corrections to emissions data are not permitted (see Docket A–97–35, Item II–I–14), with the primary exception of cases where sound engineering judgement indicates there is an obvious error that cannot exist, such as a negative concentration reading.

Allowing a facility to enter a commercial billing value by hand would contradict this basic reporting policy of the Acid Rain Program.

Today's proposed rule also specifies the type and frequency of information that would be required to be reported by a facility concerning pipeline natural gas. Some utilities have requested the ability to report only a quarterly cumulative SO_2 mass emission number for emissions from gas (see Docket A–97–35, Item II–D–45). However, the Agency believes that there are several reasons for maintaining hourly heat input rate and emissions data during combustion of pipeline natural gas. First, hourly data is the most useful interval of data for air quality modeling in order to see if progress is being made in reducing emissions. Hourly data from combustion of pipeline natural gas will become even more important as more units switch to combusting pipeline natural gas in order to reduce their emissions. In addition, hourly data are easier to check for anomalous values than quarterly data. Further, hourly heat input rate data is necessary in order to determine the NO_X emission rate when using the NO_X-versus-heat input rate correlation of Appendix E to part 75. Also, since hourly data are already being recorded, reported, and processed by automated computer data acquisition and handling systems, a change to this requirement would require costly reprogramming for industry and for EPA. For all of these reasons, EPA is proposing that facilities continue to report hourly gas flow rates, heat input rates, and emissions from commercial billing gas flowmeters that are not required to meet the certification and quality assurance requirements of part 75.

Q. Appendix G

1. Use of ASTM D5373–93 for Determining the Carbon Content of Coal

Background

Appendix G to part 75 provides procedures for determining CO_2 emissions from fuel sampling and analysis instead of from a CO_2 CEMS and a flow monitor. Section 2.1 of Appendix G includes a mass-balance equation for determining CO_2 (see Equation G–1), the frequency for sampling fuel, and the specific methods for analyzing fuel for carbon content. Section 2.3 of Appendix G provides a method for determining CO_2 mass emissions from a gas-fired unit from its heat input using Equation G–4. Some facilities use Appendix G procedures to determine CO_2 mass emissions every day for their units. Other facilities might use the procedures of section 2.1 of Appendix G only to provide CO_2 mass emissions during extended periods when CO_2 data are missing from their CO_2 CEMS, under the provisions of § 75.36.

A utility and its fuel analysis laboratory contacted EPA concerning use of an additional ASTM method for analysis of carbon content. The industry staff felt that the new infrared analysis method, ASTM D5373–93, was the most up-to-date method and that this method should be at least as accurate as the methods specified in Appendix G to part 75 (see Docket A–97–35, Item II–D–25). Based upon the precision and bias information in the method, EPA approved its use under § 75.66 (see Docket A–97–35, Item II–C–16).

Discussion of Proposed Changes

Today's proposed rule would allow the use of ASTM D5373–93, "Standard Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal and Coke," for Section 2.1 of Appendix G to part 75. This method is for determining the carbon content of coal. ASTM D5373–93 would also be incorporated by reference in § 75.6. Facilities would also continue to have the option to use ASTM D3178–89 to analyze coal for carbon content.

Rationale

EPA has previously approved the use of ASTM D5373–93 for analyzing the carbon content of coal (see Docket A–97–35, Item II–C–16). The Agency believes this method is of sufficient accuracy for use in the Acid Rain Program. In addition, EPA historically has accepted analytical methods from standard-setting organizations such as the American Society for Testing and Materials (ASTM). The Agency solicits comment on the use of ASTM D5373–93 for analyzing the carbon content of coal.

2. Changes to Fuel Sampling Frequency

Background

Section 2.1 of Appendix G (as revised by the May 17, 1995 direct file rule) specifies that fuel sampling should be done weekly for gas or oil for each shipment for diesel fuel and at least once per month for gaseous fuel. The sampling frequencies for diesel fuel and for gaseous fuel are consistent with the frequency for sampling under Appendix D to part 75.

Most gas-fired and oil-fired units that perform fuel sampling for sulfur content under Appendix D also perform fuel sampling for carbon content. Today's proposed rule would reduce the frequency with which facilities need to sample oil or gas under Appendix D.

Discussion of Proposed Changes

The fuel sampling frequency specified in section 2.1 of Appendix G would be made consistent with the proposed requirements for Appendix D oil and gas sampling. Thus, all oil samples could be taken upon delivery, either from the delivery vessel itself or from the storage tank after a delivery is transferred. Gas samples would be taken monthly (for pipeline natural gas), for each shipment (for gases delivered in lots), or daily (for fuels that are analyzed daily for sulfur). Coal samples would continue to be taken weekly.

Rationale

Appendix D of today's proposed rule would reduce the required sampling frequency of oil and gaseous fuels delivered in lots. Based upon information provided by one utility, the variability of carbon content in oil is less than the variability of sulfur content (see Docket A–97–35, Item II–D–18). Some utilities have stated that they would prefer the procedures for sulfur and GCV to be similar (see Docket A–97–35, Item II–D–24). Based upon this statement, the Agency believes that facilities would also prefer to have consistent fuel sampling procedures for Appendices D and G. Therefore, the Agency believes it is appropriate to make the fuel sampling frequency for carbon analysis under Appendix G consistent with the fuel sampling frequency for sulfur content under Appendix D. Similarly, section 5.5 of Appendix F would be revised to make the gas sampling frequency consistent with Appendix D. The Agency solicits comment on the proposed changes to the fuel sampling frequency.

3. Addition of Missing Data Procedures for Fuel Analytical Data

Background

Appendix D provides procedures for substituting missing fuel analytical information, either for sulfur or GCV. However, Appendix G to part 75 does not specify what should be done if carbon content data are missing.

Some software programmers asked EPA what missing data procedures should be used for carbon content data (see Docket A–97–35, Item II–E–5). The Agency responded to this question at a public conference and in policy guidance (see Docket A–97–35, Items II–E–5, and II–I–9, Policy Manual, Question 6.3). In its policy guidance, EPA stated that facilities should "[f]ill in the most recent carbon content . . . available for that fuel type (gas, oil or

coal) of the same grade (for oil) or rank (for coal). If at all possible, use a carbon content value from the same fuel supply."

Discussion of Proposed Changes

Today's proposed rule would allow facilities to substitute for missing carbon content prior to January 1, 2000, using either the most recent carbon content for that fuel type, grade and rank, or procedures parallel to those of Appendix D. Beginning January 1, 2000, facilities would substitute for missing carbon content data using procedures consistent with Appendix D. For gaseous fuels and for oil sampled manually, these procedures would provide for a conservative maximum carbon content value. Specifically, the permissible conservative carbon content values would be either the maximum carbon content measured in the previous calendar year or, if this information were not available, a default value based upon handbook fuel characteristics. For weekly coal samples or composite oil samples, CO_2 mass emissions would be calculated using the highest carbon content from the previous four carbon samples available.

Rationale

Software programmers have already indicated that it is useful to have a procedure for filling in missing carbon content data for purposes of programming (see Docket A–97–35, Item II–E–5). Some utilities have stated that they would prefer the missing data procedures to be similar for both sulfur and GCV, even if both values are conservative (see Docket A–97–35, Item II–E–24). Therefore, the Agency believes that facilities would also prefer to have Appendix G missing data procedures for carbon content that are parallel with those for sulfur content and GCV in Appendix D. Thus, today's proposal would allow for missing data for manual oil samples or for gaseous fuel using the maximum carbon content measured in the previous calendar year or, if this information were not available, a default value based upon handbook fuel characteristics.

In determining the conservative default carbon content values that would be used for missing data substitution in the event that no previous carbon content samples are available, the Agency consulted several handbook reference tables on fuel characteristics. Specifically, the Agency reviewed handbook values for the carbon content of coal (of various ranks), oil (of various grades), and gas (of different types). (see Docket A–97–35, Items II–I–18, II–I–19, II–I–20). In the case of coal, there was a fairly wide range of carbon content values for different ranks of coal. Therefore, today's rule would propose separate default carbon content values for Anthracite, Bituminous, and Subbituminous/Lignite. In contrast, the carbon content values for different grades of residual oil were fairly consistent. For this reason, today's rule proposes a single default carbon content value for all grades of oil. Finally, for gaseous fuels, the handbooks which were reviewed presented a fairly narrow range of values for natural gas but a much wider range of values for other types of gaseous fuels. Therefore, today's rule proposes a value for natural gas and a separate, conservative value for all other types of gaseous fuels.

The Agency solicits comment on the proposed revisions to the missing data procedures under Appendix D.

R. Reporting Issues

1. Partial Unit Operating Hours and Emission and Fuel Flow Rates

Background

For affected units that use CEMS to account for emissions under part 75, hourly emission rates of SO_2 (in lb/hr), NO_X (in lb/mmBtu), and CO_2 (in tons/hr), and hourly heat input rates (in mmBtu/hr) are calculated using the applicable equations in Appendix F. For affected units that use fuel flow meters and fuel analysis (or default emission rates) rather than CEMS, the applicable equations in Appendices D, F and G (for certain gas-fired units) are used to determine the hourly SO_2 and CO_2 mass emission rates and heat input rates. For oil and gas-fired peaking units that use Appendix E to account for NO_X emissions, the hourly NO_X emission rates in lb/mmBtu are derived from a graph of NO_X emission rate versus heat input rate, the hourly heat input rates being derived from the applicable equation in Appendix F. Under § 75.54(b)(2), unit operating time is reported by rounding the actual operating time up to the nearest 15 minutes.

The equations in Appendices D through G assume that each unit operating hour consists of a full 60 minutes of unit operation (or, for common stacks, that emissions are discharged through the stack for 60 minutes in each hour); the equations do not attempt to account for partial unit operating hours. This is a shortcoming in the current rule, because partial unit operating hours sometimes occur during periods of unit startup, shutdown, and malfunction. Therefore, to ensure accurate accounting of SO_2 and CO_2 mass emissions and unit heat input, part 75 should address the issue of partial unit operating hours. Note, that because NO_X emission rates are measured with respect to heat input (lb/mmBtu), rather than with respect to time (lb/hr), this discussion is not relevant for NO_X emission rate. Many vendors and utilities have asked EPA for guidance on how to calculate mass emission rates during partial unit operating hours (see, e.g., Docket A–97–35, Item II–D–4).

The crux of the partial unit operating hour issue is when to adjust the emission data for unit operating time, before the reporting of hourly values or at the quarterly summation. For many units, there are very few hours of partial operation, and adjusting the data for operating time merely involves multiplying by 1, a seemingly inconsequential issue. For other units, such as peaking and cycling units, which start up and shut down often, the issue of how the data is reported is relevant because there can be a significant amount of partial unit operating hours. Definitive and standardized reporting requirements allow facilities and/or vendors to program their software such that their calculated result equals the result calculated by EPA.

For SO_2 and CO_2, the question is whether to report hourly emissions on a mass basis (i.e., lb or tons) or on a mass emission rate basis (i.e., lb/hr or tons/hr). For heat input, the question is whether to report the total hourly heat input (in mmBtu) or the hourly heat input rate (in mmBtu/hr). For example, suppose that a unit emits for a full 60 minutes in a particular clock hour at an SO_2 concentration of 602.5 parts per million (ppm), a CO_2 concentration of 10.0 percent, a volumetric flow rate of 4,000,000 standard cubic feet per hour (scfh), and a heat input rate of 300 mmBtu/hr. Suppose further that the same unit operates for only 15 minutes in the next hour and all of the parameters (i.e., SO_2 and CO_2 concentration, flow rate, and heat input rate) remain unchanged. If unit operating time is disregarded, the SO_2 mass emission rate (calculated from Equation F–1 in Appendix F) would be the same (400 lb/hr) for both the partial operating hour and the full unit operating hour. Similarly, the CO_2 mass emission rate would be the same (22.8 tons/hr) and the heat input rate would be the same (300 mmBtu/hr) for both the full and partial operating hours. The mass emission rates and heat input rate for the partial unit operating hour are the same as the full-hour values because they are based solely upon data recorded during unit operation, i.e., in

the first 15 minutes of the hour. The hourly average rates for the partial hour do not include "zero" values for the three 15-minute periods of unit non-operation during the clock hour (e.g., an SO_2 emission rate of (400 lb/hr + 0 + 0 + 0)/4 = 100 lb/hr would not be appropriate). If the emission and heat input rates are adjusted by multiplying them by the operating time, then, for the full operating hour (i.e., operating time = 1.0), the SO_2 and CO_2 mass emissions and heat input would be, respectively, 400 lb SO_2, 22.8 tons CO_2, and 300 mmBtu. For the partial hour (operating time = 0.25), the corresponding values would all be divided by four, i.e., 100 lb SO_2, 5.7 tons CO_2, and 75 mmBtu, respectively.

Software vendors and utilities have requested clarification as to whether hourly SO_2 mass emission values should be reported as totals, in lb, or as rates, in lb/hr. As early as November of 1993, EPA stated that hourly SO_2 mass emission values should be reported as rates in lb/hr. Then, when determining quarterly cumulative SO_2 mass emissions, each hourly emission rate would be converted to a mass basis by multiplying it by the unit operating time (expressed as a fraction of an hour) for the same hour. Similarly, hourly heat input values would be expressed as rates, in mmBtu/hr, and hourly CO_2 mass emissions would be expressed as rates, in tons/hr. Parallel issues were also addressed by the Agency's policy, for units that determine SO_2 and CO_2 mass emissions and heat input from fuel flow rates and fuel analyses under Appendix D to part 75 (see Docket A–97–35, Item II–I–9, Policy Manual, Questions 14.14, 14.36 and 14.37).

Some utilities have requested that the Agency change its policy and allow reporting of hourly total SO_2 and CO_2 mass emissions and heat input instead of mass emission rates and heat input rates (see Docket A–97–35, Item II–E–14). The utilities argued that this would simplify determination of the total year-to-date SO_2 mass emissions, in order to estimate the number of allowances needed to cover a unit's emissions or to prepare a report on mass emissions for a state environmental agency, because the reported values would already be multiplied by the hourly operating time. Thus, by performing the multiplication by operating time before reporting the hourly value rather than waiting until calculating the quarterly value, it might save a calculation step if a facility wanted to use the data for another purpose. For these reasons, reporting of totals is a preferred approach for some facilities. However, other utilities that have incorporated the correct rate approach into their software have indicated that they would prefer not to have to revise their software to report in totals.

Partial unit operating hours must also be considered in the recording and reporting of hourly unit load. The standard missing data procedures in § 75.33 require historical flow rate data to be placed in load "bins" (ranges) based upon the maximum operating electrical generation (or steam flow rate) of the unit. However, the recorded hourly volumetric flow rate value in scfh applies only to the fraction of the hour in which the unit operates. Therefore, the reported load for the hour should be based upon the average electrical generation during the period when the unit operates. Thus, the electrical generation should be recorded as a rate for the period when the unit operates, rather than an integrated total for the entire hour. The units for reporting hourly load should, therefore, be MWe or 1000 lb/hr of steam, and not MW-hr or 1000 lb of steam.

Discussion of Proposed Changes

In today's rulemaking, EPA is proposing to amend part 75 to clarify that heat input, fuel flow, SO_2 mass emissions, and CO_2 mass emissions are all to be reported on an hourly basis as rates. Today's proposal also would clarify that the hourly emission rates are to be based only upon data collected during periods of unit operation (i.e., for partial unit operating hours, emission rates or heat input rates of zero that are recorded during periods of non-operation are not to be included in the hourly average emission rates). These clarifications are found in proposed § 75.57, and Appendices D, E and F to part 75. Today's proposed rule would also clarify that the proper units of reporting for load are MWe and lb/hr of steam.

Today's proposal would also provide new options for reporting unit operating time. While the current requirement to report operating time rounded to the nearest 15 minutes would be retained as an option, the proposal would allow more flexibility by specifying that, for reporting purposes, unit operating time be rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

Consistent with the requirement to report hourly SO_2 and CO_2 mass emissions and hourly heat input as rates, today's rulemaking proposes to revise the quarterly summation formulas for SO_2 and CO_2 and to add summation formulas for heat input in Appendix F to part 75. The proposed formulas show that hourly mass emission rates or heat input rates would be multiplied by unit operating time before summing to get total mass emissions. Today's proposal also includes new formulas in Appendix D for summing hourly SO_2 mass emission rates and hourly heat input values from fuel flowmeter systems in order to determine quarterly and annual total SO_2 mass emissions and total heat input. The Appendix D and F equations revised or added to address summations include Equations D–6, D–7, D–8, D–9, F–3, F–12, F–24, and F–25.

In addition, EPA is proposing optional recordkeeping provisions for determining total heat input, total SO_2 mass emissions or total CO_2 mass emissions for the hour. In addition to reporting the required emission and heat input rates, owners or operators could choose to report the total hourly heat input and mass emissions under this option.

Rationale

As stated above, some utilities have expressed a preference for reporting hourly total values for SO_2 and CO_2 mass emissions and heat input, rather than rates (see Docket A–97–35, Item II–E–14). They have stated that this is easier to understand and that reporting hourly total values, instead of or in addition to rates, would make it easier to determine the cumulative total mass emissions at any time during the year.

One representative requested that EPA consider allowing either method of calculation (i.e., hourly rates or totals), so long as the annual mass emissions and heat inputs are correctly determined and reported. EPA notes that, although this approach may appear advantageous because it would not require some facilities to reprogram their DAHS software, it would require other facilities to reprogram their software and it would make it difficult for EPA to verify emissions calculations from reported hourly data. Because EPA considers it essential to the Acid Rain Program to be able to recalculate annual compliance values based upon hourly emission information reported by facilities, the Agency is not revising the rule to take the representative's suggestion. EPA considered using the total mass emissions (or total heat input) approach instead of the mass emission rate (or heat input rate) approach currently stated in Agency policy (see Docket A–97–35, Item II–I–9, Policy Manual, Questions 14.14 and 14.36). In fact, as discussed in section III.H. of this preamble, the Agency is proposing, under subpart H of part 75, model

reporting requirements for NO_X mass emissions that would (if adopted by an applicable state or federal authority) require hourly NO_X mass emissions to be reported as a total value (in lb) rather than an hourly mass emission rate (in lb/hr). However, using hourly mass emission totals for values currently reported to the Agency would have the distinct disadvantage of requiring both EPA and the utilities who correctly implemented the mass emission rate approach to reprogram software to perform the new calculations, whereas retaining the use of SO_2 and CO_2 emission and heat input hourly rates offers several advantages.

First, using hourly mass emission rates and heat input rates instead of totals is consistent with the units of measure in which flow rate is recorded. Volumetric flow monitors measure flow rate during a given time in standard cubic feet per hour scfh, rather than total flow in standard cubic feet (scf). When SO_2 concentration is multiplied by volumetric flow rate, one calculates a mass emission rate rather than a total mass of SO_2. Similarly, multiplying a volumetric flow rate by a diluent gas concentration yields a heat input rate in mmBtu/hr, rather than a total heat input in mmBtu.

Second, the current missing data procedures for volumetric flow rate, which are based upon the assumption that flow is a rate that is comparable from one hour to another, rather than a total volumetric flow that will vary depending upon the unit operating time, would no longer be appropriate if volumetric flow rate were changed to a total volumetric flow. Third, for Appendix E gas-fired or oil-fired peaking units, it is critical that heat input rate, and not total heat input, be used to determine the NO_X emission rate. The Appendix E correlation curve formulas are based upon heat input rate rather than total heat input. Appendix E allows a facility to create a correlation of the NO_X emission rate measured in the stack during stack testing and heat input combusted during that same period of time, rather than installing CEMS on gas-fired or oil-fired peaking units. If a facility were mistakenly to use the total heat input from an hour rather than the heat input rate, it would correlate to the wrong portion of the NO_X to heat input rate correlation curve and would incorrectly estimate NO_X emission rate. For example, if heat input totals were used to determine NO_X emission rate from the Appendix E curve, the unit would have a different NO_X emission rate if it combusted 25,000 mmBtu in half an hour than if it combusted 25,000 mmBtu during a full hour. This would apply both under the current provisions of Appendix E and today's revised provisions to Appendix E.

In view of the above considerations, today's proposed rule would affirm that facilities are to report SO_2 and CO_2 emissions and heat input as rates on an hourly basis. However, facilities would also be allowed, at their discretion, to report SO_2 and CO_2 emissions and heat input as hourly totals, in addition to reporting them as rates. This approach would not require reprogramming of computerized reporting software for those utilities that are following EPA's current policy, and would provide consistent reporting that allows EPA to recalculate emissions and heat input values. Those utilities that find recording and reporting of hourly total SO_2 and CO_2 mass emissions and heat input to be desirable would be able to do so. EPA will provide the necessary electronic record types to support this optional reporting.

Although today's proposed rule would affirm that emissions and heat input are to be reported as rates, rather than totals, EPA has become concerned that for partial unit operating hours, some utilities are incorrectly calculating hourly average flow rates by including flow rates of zero in the hourly average to represent periods of non-operation, rather than basing the average flow rate solely on the minutes of operation of the affected unit during the clock hour. In one example, it appears that the software is designed to calculate the average flow rate by including data from all minutes during those fifteen-minute quadrants of an hour when the unit operates, thus including some minutes when the unit is not operating, rather than creating an average flow rate just from merely those minutes when the unit is operating and emitting (see Docket A–97–35, Item II–C–17). EPA suspects that still other utilities may be calculating an average hourly flow rate that includes flow rates of zero for whole quadrants of an hour when a unit does not operate. This can result in the flow rate values for partial operating hours being under-reported to EPA and a lowering of the average flow rates in the load ranges used to provide substitute flow rate data, both of which can cause underestimation of SO_2 mass emissions.

The Agency is also concerned that this same kind of improper data averaging may be occurring when hourly gas concentrations are determined during partial operating hours. EPA would, therefore, require in today's proposal that facilities base all of their reported hourly average concentrations, flow rates, emission rates, and heat input rates solely upon data that are recorded during unit operation (that is, when the unit is combusting fuel and emitting).

Some utilities have indicated that the approach of averaging in readings of zero from periods of non-operation has been incorporated to compensate for having to report operating time rounded up to the nearest fifteen minutes (Note, this is not an acceptable approach). A utility representative indicated that reporting operating time to less precision can cause overestimation of emissions because the operating time is multiplied by the mass emission rate. Thus, a mass emission rate of 400 lb/hr measured over a period of 20 minutes, during an hour when the unit shut down, would be multiplied by an operating time of .5 hr (i.e., 20 minutes rounded up to the nearest fifteen minutes) and would result in 200 lb of SO_2 being reported rather than the 132 lb of SO_2 that was actually emitted. The utility suggested that a solution would be to allow operating time to be reported to more precision than is currently allowed. Therefore, today's proposal would allow flexibility for reporting unit operating time to greater precision. While the current requirement to report operating time rounded up to the nearest 15 minutes would be retained as an option, the proposal would allow more flexibility by specifying that unit operating time be rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator). Thus, a facility could decide whether it had enough partial operating hours (e.g., unit start-ups and shutdowns) to merit changing their software to report operating time to more precision.

2. Use of Bias-Adjusted Flow Rates in Heat Input Calculations.

In late 1995, the first year of the Phase I SO_2 allowance program, EPA conducted an audit of the Phase I-affected units. Data from the second quarter of 1995 were retrieved from the Emission Tracking System (ETS) in order to determine whether the SO_2 emission rates and heat input values were being properly reported. The results of the audit showed that a number of sources were not reporting heat input correctly. The problem in most instances was that the unadjusted flow rate was being used in the heat input equation, rather than the bias-adjusted value. EPA believes that this is attributable to the fact that part 75 does not explicitly state that the bias-adjusted flow rate is to be used in heat input

calculations. The Agency has attempted to clarify this through policy guidance (see Docket A–97–35, Item II–I–9, Policy Manual, Question 14.81). To correct the situation, the necessary language would be added to section 7.6.5 of Appendix A in today's proposed rule.

3. Removing the Restriction on Using the Diluent Cap Only for Start-Up

Background:

Based on the May 17, 1995 direct final rule, sections 3.3.4, 4.1, 4.4.1, 5.1, 5.2.1, 5.2.2, 5.2.3, and 5.2.4 of Appendix F currently provide for the substitution of a constant CO_2 or O_2 value for a measured value from a CO_2 or O_2 monitor during unit start-up. This provision was originally created in response to concerns from some utilities that their NO_X emission rate in lb/mmBtu was being overestimated during unit start-up (see Docket A–90–51, Item IV–D–220, Letter from English, Mark G., Deputy General Counsel, Kansas City Power & Light Company on EPA's Proposed Part 75 regulations; see also Docket A–94–16, Item II–F–2). During unit start-up or other periods when the unit is at a low load level, CO_2 concentrations are lower than during normal operation and O_2 concentrations are higher than during normal operation. The NO_X emission rate equation, however, is not designed to be used in these situations because it assumes complete combustion and normal operating conditions. As a result, the NO_X emission rate equation overestimates the NO_X emission rate when the CO_2 concentration is very low or the O_2 concentration is very high, such as during start-up. The equations for calculating emission rates in lb/mmBtu use measured CO_2 concentration or the difference between ambient air's O_2 concentration and the measured O_2 concentration in the denominator. For example, NO_X emission rate is calculated using a NO_X pollutant concentration monitor and a CO_2 diluent monitor using the following equation:

$$E_{NO_X} = 1.194 \times 10^{-7}\, C_{NO_X}\, F_c \frac{100}{\%CO_2}$$

When a small CO_2 concentration is entered into this equation, the calculated NO_X emission rate will be very high and will overestimate the actual emissions.

The idea of capping CO_2 or O_2 concentration was implemented in part 75 for determination of NO_X emission rate, CO_2 mass emissions, and heat input during unit start-up. The cap concentration was set at a minimum CO_2 concentration of 5.0 percent CO_2 and a maximum O_2 concentration of 14.0 percent O_2, based upon some information provided by utilities for boilers (see Docket A–94–16, Item II–D–34).

Some utilities asked EPA to consider extending this cap on diluent gas concentrations to other situations when a unit is operating at a low level (see, e.g., Docket A–97–35, Items II–D–20 and 30, and Docket A–97–35, Items II–E–13 and II–E–14). In addition to unit start-up, this might include periods of unit shutdown or unit "banking," where a unit is combusting a very small amount of fuel to keep the boiler warm, but little or no electricity is generated. During these other situations where a unit operates at a low level, the CO_2 concentration will be very low and the O_2 concentration will be very high, resulting in high calculated NO_X emission rate values like those during unit start-up. One software vendor specifically mentioned that it would be easiest to implement the diluent cap if it could be used any time the CO_2 concentration would fall below or the O_2 concentration would rise above the cap value (see Docket A–97–35, Item II–E–7). This could be implemented mathematically in the software, rather than having to examine the unit operation or the number of hours since the unit started operating in order to trigger use of the diluent cap.

During the process of implementing the May 17, 1995 direct final rule, EPA issued guidance that explained that facilities may use the diluent cap values for calculating NO_X emission rate during unit start-up whenever the CO_2 concentration is below 5.0 percent or the O_2 concentration is above 14.0 percent, and also may use the actual measured CO_2 or O_2 concentration values at all times for calculating CO_2 mass emissions or heat input (see Docket A–97–35, Item II–I–9, Policy Manual, Question 14.39). In Question 14.39, EPA recommended that even if the diluent cap is used to calculate NO_X emission rate, the actual diluent measurement should be used for the purpose of calculating CO_2 mass emissions or heat input, because the purpose of the diluent cap was "to avoid using an extreme diluent concentration in the denominator of the equation to calculate emission rate in lb/mmBtu." The formulas for calculating hourly CO_2 mass emission rate or hourly heat input rate do not use the CO_2 or O_2 concentrations in the denominator of the equation. Thus, use of the diluent cap would tend to overestimate both CO_2 mass emission rate and hourly heat input.

Discussion of Proposed Changes

Today's proposed rule would allow facilities to use diluent cap values of 14.0 percent O_2 or 5.0 percent CO_2 for boilers and 19.0 percent O_2 or 1.0 percent CO_2 for turbines. For the purpose of calculating NO_X emission rates in lb/mmBtu, the diluent cap would be allowed to be used for any hour in which the average measured CO_2 concentration is below the cap value or the average measured O_2 concentration is above the cap value. Diluent cap values would still be allowed to be used to calculate CO_2 mass emissions or heat input, as well as NO_X (or SO_2) emission rate in lb/mmBtu.

Rationale

EPA acknowledges that there are periods of low unit operation or low load in addition to unit start-up where the calculated NO_X emission rate would be overestimated if it were based upon measured diluent concentrations. Therefore, the Agency believes that extending use of the diluent cap is appropriate. The Agency believes that allowing use of the diluent cap anytime when the actual measured value is above the cap (for O_2) or below the cap (for CO_2) is easier to program and to implement than limiting the use of the diluent cap based upon unit load, another option that EPA considered. The Agency believes that it is unlikely that a unit would ever be able to operate at a high load and still have an O_2 or CO_2 concentration beyond the diluent cap value. Therefore, it is not necessary to limit the use of the diluent cap value based on unit load.

The Agency is also proposing new diluent cap values for turbines. Turbines tend to operate with much higher levels of excess O_2 than boilers. For example, Method 20 of Appendix A, 40 CFR part 60, the procedure for testing SO_2, NO_X and diluent gas from stationary gas turbines subject to the NSPS, requires testers to correct data to a typical concentration of 15.0 percent O_2. Emissions data reported to EPA confirms that for turbines, hourly concentrations of O_2 are typically between 14.0 and 16.0 percent and hourly concentrations of CO_2 are typically between 3.0 and 4.0 percent. Thus, a turbine's diluent gas concentration is likely to consistently exceed the diluent cap value of 14.0 percent O_2 and to be consistently below the cap value of 5.0 percent CO_2 promulgated in the May 17, 1995 direct final rule. If these values were allowed to be used by turbines at all times rather than just during unit start-up, a turbine

could conceivably report its NO_X emission rate using only the diluent cap value and never report the actual monitored diluent concentrations, thereby consistently underestimating the NO_X emission rate. Therefore, today's proposal provides diluent cap values of 19.0 percent O_2 or 1.0 percent CO_2 that are clearly beyond the typical O_2 or CO_2 concentrations measured at turbines, while still providing some relief at extreme diluent concentrations. It is EPA's observation that turbines with NO_X CEMS have not reported emissions using the diluent cap thus far. Thus, no turbines should need to reprogram software in order to report the use of the new diluent cap value for turbines with a new method of determination code.

EPA considered removing the option for facilities to use the diluent cap for heat input rate and CO_2 concentration, as well as for NO_X (and SO_2) emission rate in lb/mmBtu, but is not proposing to do so in today's proposal. As explained previously, the diluent cap was created in order to calculate more representative NO_X emission rate data during certain unusual circumstances. However, when a diluent cap value is used to calculate the hourly CO_2 mass emission rate or the heat input rate, the final calculation would often be less representative of actual emissions or heat input during those hours. The Agency also found that allowing some facilities to use the diluent cap only for NO_X emission rate and others to use the diluent cap also for hourly CO_2 mass emission rate and heat input rate makes it difficult to check emissions and heat input rate data to verify that calculations are performed correctly. This is because a data acquisition and handling system could use either the actual reported diluent gas concentration or the diluent cap value to calculate NO_X emission rate, CO_2 mass emission rate, or heat input rate, but there is currently no provision in the electronic data reporting format for a facility to indicate which value was used to calculate the heat input. However, some utilities have indicated that making a change to discontinue using the diluent cap for calculations of heat input rate and CO_2 mass emission rate would require a significant change in their software calculations (see Docket A–97–35, Item II–E–25). Therefore, today's proposed rule would allow facilities the options of (1) not using the diluent cap at all, (2) using the diluent cap only for calculating NO_X (or SO_2) emission rate in lb/mmBtu, or (3) using the diluent cap for calculating NO_X (or SO_2) emission rate in lb/mmBtu, heat input rate, and CO_2 emissions. In addition, EPA is proposing to add a minor additional reporting requirement to indicate whether the diluent cap is used in calculating CO_2 and heat input in the electronic data reporting format. This would allow EPA to verify facilities' calculations, while requiring less reprogramming than changing the calculations for heat input and CO_2 emissions.

The Agency solicits comment on the proposed revisions relating to the diluent cap.

4. Complex Stacks—General Issues

Background

Many power plants regulated under part 75 have relatively simple stack and monitoring configurations. Many utilities have one stack for each affected unit and have CEMS installed on the stack. Other plants have more than one unit discharging to the atmosphere through a common stack, with CEMS installed on the common stack. Still others have individual units that exhaust into multiple stacks and have CEMS installed on each stack. The monitoring requirements for these various configurations are addressed in §§ 75.13, 75.16, 75.17, and 75.18. EPA has issued guidance to assist utilities in preparing quarterly reports for these unit and stack configurations (see Docket A–97–35, Items II–I–4 and II–I–9, Policy Manual, Section 17).

For the configurations described above, the process of accounting for emissions and heat input from the units and stacks will follow simple mathematical rules. For example, for single unit-single stack configurations, the emissions and heat input for the unit are directly determined from the stack CEMS (or from an excepted methodology, where applicable). For units discharging through a common stack with CEMS on the common stack, the combined emissions and heat input are determined from the CEMS, and the heat input to each individual unit is determined by apportionment of the combined heat input, using a ratio of the unit load to the combined load of all units utilizing the common stack. For a single unit exhausting through multiple stacks, the sum of the SO_2 and CO_2 mass emissions and heat input for the different stacks equals the total SO_2 and CO_2 mass emissions and heat input for the unit.

However, in implementing part 75, EPA has become aware of a number of affected units that have stack exhaust configurations which are more complex than the configurations described above. For example, one utility has a configuration in which two units can emit through two different stacks at the same time, combining their emissions in both stacks (see Docket A–97–35, Items, II–C–1, II–D–12). In this case, the stack configuration is both a common stack and a multiple stack configuration. EPA has had significant problems in determining the emissions and heat input from these units, and in one case, EPA rejected the quarterly reports for the units (see Docket A–97–35, Item II–C–8). The utility worked closely with EPA to resolve the reporting issues resulting from this unusual situation (see Docket A–97–35, Item II–D–21). Other utilities with similar situations have contacted the Agency to ensure there would not be problems with their reporting (see, e.g. Docket A–97–35, Item II–D–5).

There have been other cases in which a unit that is accountable for holding SO_2 allowances shares a common stack with a unit that does not hold SO_2 allowances (e.g., where an affected unit and a non-affected unit share a common stack or, prior to 1/1/2000, where a Phase I unit and a Phase II unit share a common stack). These are termed "subtractive stack" situations in the following discussion. Utilities with subtractive stack situations have generally used the provisions of § 75.16(a)(2)(ii)(C) or § 75.16(b)(2)(ii)(B). These provisions allow a facility to monitor separately the common stack and the unit with no allowance requirement and to subtract the emissions from the non-affected or Phase II unit from the common stack emissions. In some cases, it has not been clear in the electronic quarterly reports whether a utility is reporting combined emissions from all of the units using the common stack or whether the emissions from the non-affected unit(s) have already been subtracted out of the reported emissions (see Docket A–97–35, Item II–C–18). This confusion in interpreting the quarterly emissions reports has made compliance determination difficult.

The Agency found that there is a potential problem with the underestimation of emissions using this subtractive approach. In some cases, the error in the monitors' measurements might be such that a larger emissions value is subtracted from a smaller value, resulting in the reporting of false negative emissions (see Docket A–97–35, Item A–94–16–IV–D–18, Comments from Monitor Labs). In other cases, there may be an incentive for making inaccurate measurements with the monitoring systems installed on a unit with no allowance requirement. For

example, if the SO_2 pollutant concentration monitor on a unit with no allowance requirement did not operate properly and had a significant amount of missing data, the facility would calculate SO_2 emissions from the unit using a conservative, high concentration value. Therefore, emissions reported for the units with allowance requirements would, as a result of the subtraction, be less than the actual emissions. Thus, a facility might have a disincentive for good monitor performance and accuracy, because it could lower the emissions reported for the units with allowance requirements. Though allowed under the current wording of Appendix A to part 75 and subpart D of part 75, this is contrary to the intent of the missing data substitution procedures, which is to encourage good monitor performance while preventing any systematic underestimation of emissions. (See Docket A–97–35, Items II–B–13, II–E–4, and II–I–12.)

Discussion of Proposed Changes

Today's proposed rulemaking would add a general regulatory requirement to §§ 75.16 and 75.17 for facilities with complex stack configurations (i.e., subtractive stack situations or configurations involving combinations of common stacks and multiple stacks) to receive approval from EPA's Administrator for a method of calculating and reporting emissions from the units and stacks in the configuration. The facility would be required to reach agreement with the Agency on issues such as: identification of the stack in its quarterly report, representation of the configuration in its monitoring plan, groups of units for which cumulative emissions must be reported, testing procedures, use of the bias test, and use of the missing data substitution procedures. This would apply both to sources that already have certified monitoring equipment and are submitting quarterly reports and to units that do not yet have certified monitoring systems (e.g. new units).

Rationale

The Agency evaluated two basic approaches to resolving issues in these complex stack monitoring configurations. First, EPA considered resolving the issues through policy guidance and through instructions for submitting quarterly reports. Second, the Agency considered putting detailed instructions in part 75 for reporting from and testing of monitoring systems installed in these complex stack configurations. These rule provisions would have explicitly addressed missing data substitution to ensure that when emissions are reported, they are not underestimated from units with an allowance requirement or a NO_x emission limitation. For example, EPA could have required, for the subtracted unit(s), that the facility only use those provisions of the standard missing data procedures that are not intended to be conservative estimates, such as the average SO_2 concentration during the hour before and the hour after a missing data period. Another approach for missing data substitution could have been to count zero emissions for the unit with no allowance requirement during any missing data periods. Or perhaps creation of a site-specific missing data procedure could have been required (see Docket A–97–35, Items II–E–4 and II–I–12). To prevent a potential underestimation of emissions and a disincentive for more accurate monitoring due to application of a bias adjustment on a monitor on a unit with no allowance requirement where its emissions are subtracted from a common stack, EPA could have required that the bias calculation be based upon both the monitors on the common stack and the monitors on units with no allowance requirement, resulting in a single bias adjustment factor for the subtractive stack situation.

However, EPA's experience thus far in implementing the program indicates that each complex monitoring configuration tends to be unique. Thus, the Agency has rejected the two approaches discussed above and has decided instead to make General regulatory revisions that allow for case-by-case resolution of issues in individual plant situations, rather than making extensive, detailed revisions to part 75 to address each unique situation.

The Agency prefers to make regulatory revisions rather than addressing issues solely through policy and guidance. In some cases, the Agency has given advice to utilities on how to report emissions, and the utility involved has not followed the Agency guidance (see Docket A–97–35, Items II–C–7, II–C–24, and II–D–8). In another case, the current provisions of part 75 for missing data substitution and for the bias test appeared to be in conflict with guidance that the Agency wanted to issue in order to ensure that emissions are not underestimated in a subtractive stack situation (see Docket A–97–35, Item II–B–13). Therefore, today's proposed rule would require owners or operators of facilities with complex stack configurations to apply for approval of their monitoring plans and reporting methodologies from EPA's Administrator on a case-by-case basis. The Agency believes that the General regulatory provisions requiring approval of a complex monitoring situation by EPA's Administrator will give both facilities and the Agency flexibility to deal with site-specific cases, while also giving the Agency regulatory authority to resolve any case-specific problems.

It is possible that any final rule resulting from today's proposal may not be promulgated until 1999. Thus, EPA is proposing to require the Administrator's approval of the monitoring plans and reporting methodologies only for those situations that will exist on and after January 1, 2000. Any subtractive stack situations that exist only during the duration of Phase I would not fall under this requirement. However, complex stack situations that exist where affected and non-affected units share a common stack would need to meet today's proposed requirement. Similarly, in situations where coal-fired units sharing a common stack have different NO_x emission limitations under part 76, or situations where some units sharing a common stack have a NO_x emission limitation under part 76 and others have no NO_x emission limitations under part 76, any complex monitoring configuration would need to be approved by EPA's Administrator.

5. Complex Stacks—Heat Input at Common Stacks

Background

For a unit that utilizes a flow monitor to determine SO_2 mass emissions, section 5 of Appendix F to part 75 requires heat input to be calculated using the installed flow monitor and a diluent gas (O_2 or CO_2) monitor. The January 11, 1993 final rule indicated that units with common stacks, multiple stacks, or bypass stacks should follow the same General procedures for monitoring heat input as are used for monitoring SO_2 under § 75.16. As written, those procedures allowed facilities to monitor their heat input either by placing individual monitors on each unit that serves a common stack or by placing monitors only on the common stack and measuring a combined heat input from all of the units sharing the common stack. The May 17, 1995 rule required the combined heat input measured by monitors on the common stack to be apportioned to the individual units, in two specific provisions. First, unit level heat input was required under § 75.16(e)(2) for cases in which a knowledge of the heat input for each unit is critical to compliance determination (i.e., for situations where any units using the common stack have

a NO_x emission limit). Second, § 75.16(e)(3) required unit level heat input to be determined for all other common stacks, but only until the year 2000. The November 20, 1996 rule outlined the acceptable methodology for apportioning heat input, i.e., by using the ratio of the unit load in MWe or lb of steam per hour to the combined load of all units utilizing the common stack (provided that all of the units utilizing the common stack are combusting fuel with the same F-factor).

Discussion of Proposed Changes

Today's proposed rule would revise the existing requirements found in § 75.54(b) and two specific provisions of § 75.16(e) for accounting of heat input for units serving a common stack, a by-pass stack, or multiple stacks. First, EPA would require determination and reporting of the unit level heat input to be continued after the year 2000 for all affected units, rather than restricting it to certain situations after 2000. Second, EPA would clarify that the proper units of measure for load to be used in an apportionment of common stack heat input to determine unit level heat input are totals of MWe-hr and 1000 lb of steam, rather than rates of MWe and 1000 lb/hr of steam.

Rationale

EPA considered leaving the current provisions of § 75.16(e) and § 75.54(b) from the May 17, 1995 and November 20, 1996 rules unchanged. However, this would have the serious drawback of requiring the facilities to reprogram their computer software for certain units and not for others. Corresponding monitoring plan changes would also be required. Additionally, EPA would have to reprogram its emission tracking software to accommodate two different heat input reporting methodologies for common stacks. In view of these considerations, EPA is proposing to continue to receive individual heat input data from all affected units. This information is useful for developing inventories of total NO_x mass emissions in tons in support of other Agency rulemakings. Without such information, the inventories would be based on assumptions about how units operate, rather than being based on unit level heat input as reported from the facility.

The Agency believes that a relatively small number of sources would be affected by this proposed change. This is because (1) most coal-fired units would still need to report unit level heat input under the current provisions of § 75.16(e)(2), even after the year 2000; and (2) gas-fired and oil-fired units using fuel flowmeters to determine heat input and to implement the procedures of Appendix D or Appendix E would still be required to monitor heat input for each unit under section 2.1 of Appendix D. Because of the usefulness of having heat input data for individual units, because of the burden of reprogramming software to remove the heat input apportionment by the year 2000, and because of the small number of sources that would benefit from retaining the current provisions of § 75.16(e)(3), EPA believes it is reasonable to require all units that measure combined heat input at a common stack to continue to apportion heat input to the individual units. The Agency solicits comment on the number of sources that would be affected by this revision.

6. Start-Up Reporting—Units Shutdown Over the Compliance Deadline

Background

As currently written, part 75 requires that units which are shutdown over an applicable compliance date specified in § 75.4 must submit a notice of the planned and (if different) actual shutdown date. In addition, § 75.4(d) provides an extended certification deadline for such units of "the earlier of 45 unit operating days or 180 calendar days after the date that the unit recommences commercial operation of the affected unit." If an owner or operator subsequently recommences commercial operation of the unit, a notice related to the planned and (if different) actual date of recommencement of commercial operation is required. In addition to these notices, § 75.64 requires that after the applicable compliance date passes, the owner or operator must submit quarterly reports for such units. If the unit remains shut down and does not operate during the quarter, the quarterly report must show zero emissions. Utility commenters (see, e.g., Docket A–97–35, Items II–D–20, II–D–30) have recommended that this quarterly report requirement for shutdown units be deleted because it is unnecessary and burdensome.

Discussion of Proposed Changes

Section 75.64(a) would be modified so that quarterly reporting is not required until the first quarter in which a previously shutdown unit recommences commercial operation. In this case, the first quarterly report would contain data beginning with the hour in which the unit recommences commercial operation.

Rationale

Units that are shutdown over their applicable certification deadlines are required to submit notice, pursuant to § 75.61(a)(3), of the planned date of recommencement of commercial operation and also must submit a follow-up notice if the actual date of recommencement of commercial operation is different from the planned date. As a result of these notice provisions, EPA will know whenever the status of a shutdown unit changes. Because shutdown units have no emissions, the Agency believes that quarterly reporting in addition to the notice provisions is unnecessary to fulfill the emission reporting objectives of the Act.

The Agency notes, however, that the proposed revision differs from that suggested by certain utilities (see Docket A–97–35, Item II–D–30). The utilities proposed tying the reporting requirement to the certification deadline in § 75.4(d). However, under § 75.4(d), facilities are required to report emissions data using special provisions in that section prior to the extended certification deadline in § 75.4(d). Thus, the proposed revisions would tie the obligation for quarterly reporting to the quarter in which commercial operation is recommenced.

7. Start-Up Reporting—New Units

Background

As currently written, § 75.64(a) requires the first quarterly report for new units to be submitted for the quarter corresponding to the compliance date in § 75.4. However, the current provision is unclear about which hourly emissions data need to be included in the first quarterly report if the compliance deadline does not correspond to the first hour in the quarter.

Discussion of Proposed Changes

Section 75.64(a) would be modified to clarify that a new unit must start reporting data beginning with the earlier of the date and time of provisional certification or the compliance deadline in § 75.4(b).

Rationale

These proposed revisions are generally consistent with existing implementation of the new unit reporting requirements, and primarily would serve to clarify ambiguous elements of the current rule.

8. Recordkeeping and Reporting Provisions

Background

Subpart F and subpart G of the existing part 75 regulation set forth the recordkeeping and reporting requirements that accompany the monitoring provisions of part 75. Specifically, in subpart F, § 75.53 contains the monitoring plan requirements, § 75.54 contains the general recordkeeping provisions, § 75.55 lists the general recordkeeping provisions for specific situations, and § 75.56 consists of the certification, quality assurance and quality control record provisions. In subpart G, § 75.62 lists the monitoring plan reporting provisions, § 75.62 contains the reporting requirements for initial certification and recertification applications, and § 75.64 discusses the provisions for quarterly reports. Quarterly reports are electronic data files containing emissions and operating data from affected units, as well as monitoring plan information and the results of certification and quality assurance tests. Under § 75.64, these electronic data reports are required to be submitted to the Agency each calendar quarter. This electronic information is used by the Agency for many different purposes, including implementation of the SO_2 allowance trading program, determination of compliance with emission limits, development of reports on utility emissions, and modeling of air quality to assess the effectiveness of the Act.

In order to effectively use the electronic quarterly report information, EPA created a standardized reporting format, the electronic data reporting (EDR) format. The electronic file formats and record structures of the EDR provide the vehicle by which required information is submitted to the Agency every calendar quarter. The EDR primarily defines the order, length, and placement of information within the electronic report or file. The individual tables of the EDR define the record type, type code, start column, data element description, units, range, length, and FORTRAN format for each data element in the electronic report. The information in the EDR fields mirrors the required information set forth in subparts F and G of part 75. Considering both the volume of information contained in each quarterly report (e.g, operating and emissions data for each of the hours in the quarter) and the number of reports submitted to the Agency (i.e., currently, 1765 reports are received each quarter for the 2055 affected units; some reports contain information for more than one unit if several units are interrelated, as in a common stack configuration), a standard format is critical in order for the Agency to review, verify, and use the information reported. A standard format allows the Agency to develop software to receive and verify the files and to correlate and separate out specific information for compliance determinations. A standard format also allows software vendors to create standard software which can be utilized by many affected units. This is more cost effective than developing site-specific software and thus reduces the software cost to industry.

Today's rulemaking proposes a number of revisions to subparts F and G of part 75 (the reporting and recordkeeping sections of the rule). The majority of these changes are necessary to implement the proposed substantive revisions to the sections of the rule and appendices discussed elsewhere in this notice. In addition, EPA is proposingrevisions to these subparts in order to streamline implementation of the program and to coordinate reporting under the Acid Rain Program with other programs.

To support the changes to the recordkeeping provisions, new §§ 75.57, 75.58, and 75.59 would be added. These sections would replace existing §§ 75.54, 75.55, and 75.56. The addition of new sections is necessary because the proposed revisions would not be mandatory until January 1, 2000, and to have the proposed revisions listed throughout existing effective sections could lead to confusion. However, an owner or operator would be free to follow the provisions of §§ 75.57, 75.58, and 75.59 before January 1, 2000, if he chooses to do so. In addition, the owner or operator would be required to satisfy, prior to January 1, 2000, the elements in these sections that support a regulatory option proposed in other sections of part 75 if the owner or operator elects to implement that option prior to January 1, 2000.

Because, as discussed above, the Acid Rain Program relies on a standardized electronic data reporting format, EPA has also developed draft revisions to the EDR formats and instructions (draft EDR version 2.1). The following discussion refers to both the rule sections and EDR record types (RTs) that would be affected by the proposed revisions.

Discussion of Proposed Changes

There are a number of proposed rule changes to the recordkeeping and reporting requirements of part 75 and corresponding draft EDR revisions that would be necessary to implement the substantive revisions proposed by EPA and discussed elsewhere in this preamble. These include the following requirements:

(1) Changes to support new CO_2 missing data requirements (see § 75.57 and RT 202, 210, and 211);

(2) Changes to support new reporting, QA and missing data requirements for moisture monitoring (see §§ 75.53, 75.57, and 75.59, and RT 211, 212, 220, and 618);

(3) Changes to support optional Appendix I (flow methodology for gas and oil units) (see §§ 75.57 and 75.58, and RT 220, 302, 303, 608, and 609);

(4) Changes to support more flexibility for units that have multiple range analyzers (see §§ 75.53 and 75.59, and RT 230, 530, 600, 601, and 602);

(5) Changes to support the use of the diluent cap during all hours (see § 75.57 and RT 300 and 330);

(6) Changes to support test exemptions and extensions for units that operate infrequently (see §§ 75.59 and 75.64, and RT 301, 697, and 698);

(7) Changes to support increased flexibility in fuel sampling (see § 75.58 and RT 302, 303, 313, and 314);

(8) Changes to allow reporting of hourly total values in addition to hourly rates (see § 75.57 and RT 300, 310, and 330);

(9) Changes to support the proposed re-definition of unit operating loads (see §§ 75.53 and 75.59, and RT 535 and 611);

(10) Changes to support reporting of conditional data during recertification events (see § 75.59, and RT 556);

(11) Changes to support a new quarterly flow-to-load QA check for flow monitors (see § 75.59, and RT 605 and 606);

(12) Changes to allow QA test grace periods (see § 75.59, and RT 699);

(13) Changes to support simplified reporting for low mass emissions units (see §§ 75.53, 75.58, and 75.63, and RT 360, 508, and 531);

(14) Changes to support fuel flow-to-load QA checks for fuel flow meters (see § 75.59, and RT 628 and 629); and

(15) Changes to support expanded reporting of RATA supporting information (see § 75.59, and RT 614, 615, 616, 617, and 618).

In addition, since the EDR version 1.3 was released, EPA has developed additional record types to aid in the implementation of the program, by allowing the designated representative to certify the validity of quarterly reports using an electronic certification statement. The proposed revisions would adopt the necessary rule language to implement these miscellaneous record types (see § 75.64, and RT 900, 901, 910, and 920).

The proposed revisions would also set forth optional requirements for reporting of NO_X mass emissions that states or EPA could adopt as part of a NO_X mass trading program, such as the OTC NO_X Budget Program. In this situation both a rule change and an EDR change would be needed (see §§ 75.57 and 75.64 and RT 301, 307, and 328).

The proposed rule revisions also include a number of changes that EPA believes will facilitate implementation of the program. These include:

(1) Reporting of test numbers, reasons for tests and indicators of aborted tests (see § 75.59, and RT 560, 600, 601, 602, 603, 610, and 611);

(2) Changing the deadlines for reporting the RATA supporting information that was originally required on January 1, 1998 (see § 75.59, and RT 614, 615, 616, 617, and 618);

(3) Reporting of an optional record type that will allow facilities to provide contact person information that many facilities currently provide in quarterly report cover letters (see § 75.59, and RT 999);

(4) Based on comments received, the rule would be revised so that reporting the reasons for missing data as part of the quarterly report would become optional, but would still need to be maintained on-site (see §§ 75.56 and 75.59, and RT 550);

(5) Reporting of facility location, identification, and EDR version numbers to support the transition from EDR 1.3 to EDR 2.1 (see § 75.64, and RT 100 and 102);

(6) Reporting of information documenting the calculation of heat input (see § 75.57, and RT 300);

(7) Reporting of reference method backup QA data (see § 75.59(a)(11), and RTs 260, 261, and 262);

(8) Expanded reporting of unit definition information (see §§ 75.53, and RTs 504, 585, 586, and 587);

(9) Reporting of Appendix E segment ID information (see § 75.58, and RT 323, 324, and 560);

(10) Reporting of qualification data for peaking units or gas-fired units (see § 75.53, and RT 507);

(11) Reporting of the qualifying test for off-line calibrations (see § 75.59, and RT 623);

(12) Reporting of Appendix E emission rate test data (see §§ 75.59, and RT 650–653);

(13) Reporting of span effective date information and flow rate span values (see § 75.53, and RT 530); and

(14) Removal of the recordkeeping provisions of §§ 75.50, 75.51, and 75.52 that are no longer effective.

Rationale

The majority of the proposed changes to subparts F and G are needed to support proposed substantive changes elsewhere in part 75. EPA is also proposing certain minor revisions to the order and wording of provisions in these subparts so that the records required by the rule match up consistently with the record type descriptions in the EDR. Certain utility groups previously had objected that EPA had not made the EDR format available for formal public notice and comment. The Agency maintains that it is not required to provide notice and comment for the EDR. The data included in (or proposed to be included in) the EDR are also listed in the rule (or the proposed rule revisions) as requirements under the recordkeeping and/or reporting provisions of §§ 75.53 through 75.64, which have already undergone (or are undergoing) public notice and comment. Since the EDR simply shows how to present electronically the data whose submission is (or will be) required by the rule, it is the rule, not the EDR, that imposes the data requirements. Notice and comment on the contents of the EDR would therefore be unnecessary and duplicative. Moreover, the requirement to present the rule's data requirements in a specified format is authorized by § 75.64(d), which requires a quarterly report to be submitted in the format specified by the Administrator. Like the data requirements, this format requirement in part 75 was adopted after public notice and comment.

In today's rulemaking, EPA has developed draft EDR revisions simultaneously with the proposed rule revisions and is therefore including the draft EDR revisions in the docket for comment at the same time as the proposed rule revisions (see Docket A–97–35, Item II-A–12). EPA is also posting the draft EDR v2.1 revisions and draft EDR v2.1 reporting instructions on the Acid Rain Homepage (www.epa.gov/acidrain). However, the Agency maintains that notice and comment are not necessary for revisions to the EDR so long as the data included in the EDR is the same as the data required by rule provisions that have undergone or are undergoing notice and comment. Thus, future EDR revisions may be made without prior notice and comment on the EDR in order to implement rule revisions for which notice and opportunity for comment are provided. However, the Agency will continue its informal procedures for involving the affected stakeholders in any such EDR revisions.

There are a number of other proposed changes to §§ 75.54–75.64 that have been included to implement existing provisions in other sections of part 75. First, information on test numbers and reasons for tests would be required so that quality-assurance test data can be more easily correlated and interpreted. Second, the reporting of various run-specific and point-specific RATA support information would be required (e.g., point velocity head readings, gas reference method quality-assurance data, moisture reference method data, etc.). The Agency believes that most testing companies currently either collect these data electronically or enter the data into computer programs manually to determine RATA results. By requiring the reporting of these data elements in a standard electronic format, the Agency believes that both facilities and regulatory personnel would be able to more easily interpret data that are currently provided by test contractors in many different hardcopy formats.

The Agency is proposing not to require the electronic reporting of RATA support information prior to the year 2000. Sections 75.56 (a)(5)(iii)(F) and (a)(7) and § 75.64(a)(1) of part 75 currently require RATA supporting information to be reported in the electronic quarterly report. EPA believes, however, that it would be more cost effective to require the more detailed RATA support records to be electronically reported beginning in the year 2000, rather than having a two-stage implementation. The Agency has notified all designated representatives that this RATA supporting information will not be required to be reported electronically, in RT612 and 613 of the quarterly report, prior to January 1, 2000.

The Agency notes that certain data elements (e.g., yaw angle, pitch angle, axial velocity, wall effect point identifier, etc.) have been included in anticipation of future revisions to EPA Reference Method 2. EPA is presently evaluating a number of alternative flow rate measurement methodologies, such as the use of a 3-dimensional probe. Depending on the outcome of the Agency's evaluation, one or more of these alternative flow measurement techniques may be allowed beginning in the year 2000. Therefore, EPA believes it is appropriate to include data elements to support these anticipated Method 2 revisions in draft EDR version 2.1.

Finally, by changing the requirements for reporting the results of the most recent RATA from requiring it to be reported in the quarter in which it was

performed, to requiring it to be reported in the quarter in which it was performed and each subsequent quarter in which a BAF that was calculated using the results of that RATA are used, EPA would make the individual quarterly reports more self contained and make it easier for people who are using the reported data to understand how the BAFs reported in those reports were applied. EPA considered adding a field to the hourly emissions data record for each pollutant to indicate the BAF applied in that hour. However, the Agency received requests from utilities on an early draft of the EDR revisions that the hourly emissions data record types not be revised to add a field for BAF. The Agency believes that reporting the results of the most recent RATA, including the BAF, in each quarterly report would accommodate the utilities' requests not to add the BAF to each hourly record type and would achieve the objective of making the quarterly reports easier to interpret because the BAF being applied will be found in each quarterly report. In addition, since electronic RATA results involve a relatively small amount of information that can be copied into subsequent reports and does not have to be recreated, it should not be a significant burden to reporting facilities.

The proposed revisions would also remove the requirement to report the reasons for missing data and make it optional. However, even if the information is not reported, the reasons for missing data would have to be maintained on site in a manner suitable for inspection. Based on the high data availability achieved during initial implementation of the program, the Agency believes that this type of information is not needed in the review of most quarterly reports. For those situations in which the Agency may wish to review this information, the records would still be on-site for audit purposes or for submittal to the Agency.

The EPA is also proposing to incorporate additions which would allow the reporting of electronic signatures and certification statements so that no hardcopy reporting of any kind (e.g., cover letters) would be necessary to meet the quarterly report requirements.

Finally, the removal of recordkeeping §§ 75.50, 75.51, and 75.52 (and the corresponding explanatory text included in Appendix J to the existing rule) is necessary because those sections were scheduled for replacement during the May 17, 1995 rule revisions. At that time, §§ 75.54, 75.55, and 75.56 were added as replacements for §§ 75.50, 75.51, and 75.52, effective January 1, 1996. Because the effective date is now past, the old sections and Appendix J will be removed and reserved in order to prevent any confusion.

9. Electronic Transfer of Quarterly Reports

Background

Sections 75.64(a) and (d) of the original January 11, 1993 Acid Rain rule requires emissions, monitoring, and quality assurance data to be electronically reported to the Administrator on a quarterly basis in a format to be specified by the Administrator. Version 1.3 of the Electronic Data Reporting (EDR) format (see Docket A–97–35, Item II–I–5) further specifies the record structures to be used to report the required data elements. Page 3–3 of the May 1995 Acid Rain Program CEMS Submission Instructions (see Docket A–97–35, Item II–I–4) further specifies the mode of transmission of the electronic data file to the Agency. Three modes of transfer are listed as options: (a) by mail on diskette, (b) by mail on magnetic tape, or (c) through direct electronic transfer.

Since the beginning of the program, the Agency has received quarterly reports by mail on diskette and through direct electronic transfer. To date, the magnetic tape option has never been utilized. Based on the first four years of implementation of part 75, the Agency believes that the use of the direct electronic transfer mode of transmission has many advantages to the Agency and to the affected sources. In fact, more than seventy percent of the reports for sources currently affected by part 75 were submitted directly to the EPA mainframe with EPA-provided software in second quarter 1997, and the number of sources using this option has steadily increased over time (see Docket A–97–35, Item II–I–8).

Discussion of Proposed Changes

Today's proposal would require quarterly reports to be submitted via direct electronic transfer unless otherwise approved by the Administrator. This would remove the option of sending files through the mail on interceding media except for hardship cases where a modem is not available or where technical difficulties prevent the successful transmission of files via modem.

An additional revision to section 4 of Appendix A to part 75 would require data acquisition and handling systems (DAHS) to be capable of transmitting a record of measurements and other required information by direct computer-to-computer electronic transfer via modem and EPA-provided software.

Rationale

For each quarterly report submitted, the Agency performs an assessment which results in a feedback report for the submitting designated representative. This feedback report provides information to the facility that may be used in making trading decisions, that may indicate that a change is needed to the facility software, and/or that may indicate that the file needs to be corrected and resubmitted. A major advantage of submission through direct electronic transfer with a modem and EPA-provided software is that the designated representative submitting the file receives the EPA assessment of the submitted data much more quickly than for a file that is transmitted through the mail on diskette. Currently, for a file that is submitted to the Agency by electronic transfer via modem and EPA-provided software, the EPA assessment is received by the designated representative, via modem and EPA-provided software, immediately (typically within ten minutes) after the transmission of the quarterly report file. However, for files submitted on diskette that must travel through the mail system and be processed by Agency personnel, a letter containing the EPA assessment is currently sent to the designated representative through the mail and arrives 45 days or later from when the submission was originally received by the Agency. Therefore, with direct electronic transfer, potential errors get corrected and resolved more quickly and trading decisions can be made with assurance that submitted data meets the minimum quality standards acceptable to the Agency. Additionally, the source may electronically submit the quarterly report, via modem and EPA software, prior to the deadline, immediately receive the EPA assessment, fix any errors, and resubmit the file by the deadline. Many utilities have indicated that this is an important advantage over submission of the quarterly report by diskette.

Another benefit of direct electronic transfer is the reduced risk of error in transmission to the Agency or handling at the Agency. Throughout the implementation of the program, many files submitted on diskette through the mail have been lost, returned to the sender, damaged in transit, or contained viruses (see Docket A–97–35, Item II–I–8). When a file is submitted using direct electronic transfer of a quarterly report, the designated representative submitting the file(s) receives an immediate

confirmation that the file was received by the Agency.

Further, immediate feedback from the agency on quarterly report submissions may also contribute to cost savings for facilities if a file submitted via direct electronic transfer is rejected and required to be amended and resubmitted. Utilities have indicated that submitting the report to EPA, receiving feedback, and making the necessary corrections to the file in a single work session significantly reduces the cost of reworks, particularly for facilities that retain their master file at the individual plant locations.

An additional advantage to direct electronic transfer is the reduced cost to the Agency resulting from the minimized EPA labor hours required to process a diskette. For instance, a diskette transmitted through the mail must be catalogued, scanned for readability and viruses, uploaded to the EPA mainframe Emissions Tracking System, and renamed. On the other hand, transmission of a file by direct computer-to-computer electronic transfer using EPA software eliminates all of those manual steps because they are performed automatically by the EPA software used for transmission of the report.

A possible concern about a requirement to submit the quarterly report via modem is the possibility that source may not be equipped with a modem and electronic transfer capability. Although the Agency believes that most sources currently have a modem or will have a modem by the year 2000, the Agency understands that a very small percentage might not. Therefore, the Agency would accept petitions from sources unable to transmit files via modem in order to allow transmission via diskette for hardship cases.

Additionally, a utility group representative raised a concern about the possibility of a computer at either the facility source or at the EPA being inoperative at the time of the deadline for transmission, preventing a source from successfully transferring the quarterly report to the Agency. In order to minimize the risk of this type of problem, there is a wide window, currently thirty days, during which EPA will accept quarterly report transmissions each quarter. Additionally, EPA has instituted preventative measures to minimize the possibility that the EPA computer would be inoperative for an extended length of time, preventing quarterly report transmission. Nevertheless, the Agency accepts that it is conceivable that a technical difficulty could prevent the successful electronic submission of a quarterly report and, therefore, would also approve diskette submission on an as-needed basis for sources unable to transfer a file via modem and EPA-provided software due to technical difficulties. Furthermore, EPA solicits comment on whether it should allow a grace period for late submissions due to a technical difficulty with the EPA computer.

Finally, section 4 of Appendix A to part 75 would be amended to require the DAHS to be capable of transmitting the required information by direct electronic transfer via modem and EPA-provided software, for consistency with the proposed § 75.64(f). In addition, section 4 of Appendix A to part 75 would retain the requirement for the DAHS to be capable of transmitting a record of measurements and other required information via an IBM-compatible personal computer diskette so that an on-site inspector could collect electronic data on a diskette for review.

S. Revised Traceability Protocol for Calibration Gases

Background

Currently, Appendix H to part 75 requires affected units to follow a 1987 version of EPA Protocol procedures for developing calibration gases. This protocol document has been superseded by a later version, the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA 600/R–97/121. The 1997 document is actually five protocols. Two of these protocols (formerly known as Protocols 1 and 2) have been combined to allow both CEMS and ambient air analyzers to be calibrated from gases produced either without dilution (Procedure G1) or with dilution (Procedure G2). The remaining three protocols (Procedures P1, P2, and P3) describe procedures that are mandatory for ambient air quality analyzers (not continuous emission monitoring systems).

The 1997 Protocol document, described above, is required by other parts of the CFR, such as the NSPS provisions in part 60. Because the old and new protocols specify different certification periods (i.e., useful shelf lives) for most calibration gases, some affected units that must comply with both part 60 and part 75 have been forced to replace calibration gas cylinders more frequently because of the shorter certification period in the 1987 Protocol procedures required by part 75.

Under the 1987 Protocol document, affected units with low SO_2 emission rates occasionally had difficulty finding calibration gases that were within the concentration ranges required by Appendix A to part 75. The 1997 Protocol document allows calibration gases to be developed over a wider range of concentrations than was previously allowed.

Under the current part 75 rule, "Protocol 1 gases must be vendor-certified to be within 2.0 percent of the concentration specified on the cylinder label (tag value)." However, no method is specified to determine the uncertainty value. The overall uncertainty in the concentration estimated for a calibration gas comes from many different sources, including uncertainty in the reference standards, uncertainty in the analyzer multi-point calibration, uncertainty in the zero/span correction factors, and measurement imprecision.

Discussion of Proposed Changes and Rationale

Today's rule proposes to remove Appendix H and revise parts 72 and 75 to be consistent with the 1997 Protocol document. The following sections of part 75 would be revised: §§ 72.2 and 72.3; sections 5.1.1 through 5.1.6, 6.2, and 6.3.1 of Appendix A; and all of Appendix H.

The final rule would incorporate by reference the 1997 Protocol document. This is the preferred option for the following reasons: (a) calibration gas certification periods would be identical under parts 60 and 75, thereby allowing affected units to reduce expenditures on calibration gas without sacrificing accuracy or performance; (b) lower emitting affected units would more easily be able to comply with the required range of calibration gas concentrations; (c) improved assaying procedures and accuracy determinations would be allowed; and (d) a wider selection of calibration gases would be allowed.

While today's proposal would retain the requirement for EPA protocol gases to be within 2.0 percent of the tag value, section 5.1.3 in Appendix A would be revised to specify the use of the uncertainty calculation procedure in section 2.1.8 of the 1997 Protocol document for estimating the analytical uncertainty associated with the assay of the calibration gas. This uncertainty estimate includes the uncertainty of the reference standard and any gas manufacturer's intermediate standard (GMIS) and interference correction equation that may be used in developing the calibration gas.

EPA proposes to change the term "Protocol 1 gas" to "EPA protocol gas" because the 1997 Protocol document combines the Protocol 1 and Protocol 2

procedures; therefore, the term "Protocol 1 gas" would no longer be used.

Today's proposal would also continue to allow a "research gas mixture" to be used as a calibration gas. However, an RGM would need to meet the same 2.0 percent uncertainty requirement that a protocol gas would meet.

The proposed rule would explicitly allow GMISs to be used as calibration gas for two reasons. First, an EPA protocol gas may be made from a GMIS. Therefore, GMISs are at least as accurate as EPA protocol gases. Second, GMISs are more readily available and less expensive than standard reference material or National Institute of Standards and Technology (NIST) traceable reference material, both of which are allowable as calibration gas under part 75.

Today's proposal clarifies that NIST/EPA-approved certified reference materials (CRMs) would be acceptable as calibration gas by adding those CRMs to the definition of "calibration gas" in § 72.2.

The 1997 Protocol document accepts primary reference standards from the Netherlands Measurement Institute as being equivalent to standard reference materials from the NIST. As a result, today's proposal adds "standard reference material-equivalent compressed gas primary reference material" to the "calibration gas" definition in § 72.2 and to section 5.1.2 of Appendix A.

Finally, the definition of "zero air material" would be revised to accommodate other acceptable procedures.

Major differences between the 1987 Protocol procedures and the 1997 Protocol procedures are explained on pages 1–1 through 1–3 of the 1993 Protocol document and on pages 1–1 through 1–2 of the 1997 Protocol document (see Docket A–97–35, Items II–I–23 and 24).

T. Appendix I—New Optional Stack Flow Monitoring Methodology

Background

Section 412 of the Act requires that units subject to title IV install SO_2 concentration monitors and volumetric flow monitors for the purpose of determining SO_2 emissions. The purpose of the volumetric flow requirement is to enable a unit to convert SO_2 concentrations into mass emission rates of pounds per hour (lbs/hr). Volumetric flow is also used to determine heat input rate in mmBtu/hr and CO_2 mass emission rate in ton/hr.

In December 1991, 56 FR 63002 (December 3, 1991), EPA proposed an exception to the requirement to install SO_2 concentration monitors and volumetric flow monitors at oil- and gas-fired units in Appendix D to part 75. The exception relies on fuel flowmeters and fuel sampling and analysis to determine SO_2 emissions from oil- and gas-fired units. In comments on the December 1991 proposed rule, some industry commenters also advocated allowing oil- and gas-fired units to use a diluent monitor, an F-factor, and a fuel flowmeter as an alternative to a volumetric flow monitor. An F-factor is a fuel-specific constant that relates the heat content of a fuel and the volume of gases given off upon combustion. It is used to convert pollutant concentrations into units of pounds of pollutant per million British thermal units of heat input (lb/mmBtu). EPA already allows the use of F-factors in emissions monitoring under part 75 and under 40 CFR part 60, subparts Da and Db. Method 19 of Appendix A to part 60 uses F-factors as the reference methods for calculating SO_2 and NO_x emissions in terms of lb/mmBtu for subpart Da and Db units. F-factors also are used in the performance tests for certain pollutants required under § 60.8 to determine if a source is in compliance with a particular emission standard in lb/mmBtu. Part 75 also uses F-factors in conjunction with diluent gas and volumetric flow data to determine heat input under section 5 of Appendix F to part 75. Table 19–1 of Method 19 in Appendix A to part 60 and Table 1 in section 3.3.5 of Appendix F to part 75 list the appropriate F-factors for different types of fuel, including oil and natural gas.

Although the commenters supported the two exceptions included in Appendix D, some commenters did not believe the exceptions would be economical at all oil- and gas-fired units. According to one commenter, fuel sampling protocols have an inherently high bias because they assume a 100 percent conversion of fuel sulfur into SO_2, which results in higher emissions reporting from fuel sampling protocols than from CEMS. The commenter claimed that the high bias appears to be in the range of 5 to 10 percent. According to the commenter, the higher emissions reporting "penalty" that is inherent in fuel sampling protocols would justify installing SO_2 CEMS at some oil- and gas-fired units, particularly large, base-loaded oil-fired units. In addition, the commenter claimed that, for oil- and gas-fired units which install SO_2 CEMS, use of the "F-factor/fuel flow method"—which includes use of an F-factor, a fuel flowmeter, fuel sampling data, and a diluent (CO_2 or O2) concentration monitor—would provide much more accurate and precise information than volumetric flow monitors (see Docket A–90–51, Item IV–D–184).

In a four-day experiment performed in 1991 by one commenter, measurements from the F-factor/fuel flow method were compared to those generated by a combined SO_2 CEMS and a volumetric flow monitor. However, EPA did not believe that four consecutive days of data were sufficient to support a conclusive equivalency determination. Instead, in the January 11, 1993 final rule (58 FR 3590, 3643), EPA reserved Appendix I to part 75 for the F-factor/fuel flow method and stated that, to be approved, the method would have to meet the criteria for alternative methods as required by section 412 of the Act and the provisions of § 75.40 in a 30-day (720 hour) trial.

Section 412 of the Act requires that an alternative monitoring system provide information with "the same precision, reliability, accessibility, and timeliness as that provided by CEMS . . ." 42 U.S.C. 7651k. To be approved, the alternative monitoring system must meet the criteria for alternative methods in a 720 hour trial as required by the provisions of subpart E of part 75. The rule designates a certified CEMS or a reference method according to Appendix A to part 60 as the reference for evaluating the alternative monitoring system's performance.

In order to meet the precision and reliability criteria, an alternative monitoring system must achieve performance specifications and quality assurance requirements equivalent to those for CEMS. In addition, to demonstrate precision, an alternative monitoring system must pass three statistical tests evaluating the flow CEMS and alternative method in terms of their respective systematic error, random error, and correlation. Additionally, to meet the reliability criterion, the alternative monitoring system is required to match a certified CEMS in terms of annual availability. Finally, to meet the accessibility and timeliness criteria, an alternative monitoring system must match the CEMS' ability to record requisite emissions data on an hourly basis and report results within 24 hours.

In 1995, Long Island Lighting Company (LILCO) sponsored an "alternative flow monitor demonstration project" to demonstrate the equivalency of fuel flow measurements and F-factor calculations to stack instrument flue gas measurements for the determination of volumetric flow. The project was

performed by Entropy at LILCO's Port Jefferson Unit 4, a 180 MW oil-fired unit that burns residual oil with a maximum sulfur content of one percent. The components of the alternative method consisted of a fuel flowmeter and a CO_2 CEMS. The alternative F-factor/fuel flow method was compared to a flue gas volumetric flow CEMS.

Testing of the F-factor/fuel flow method took place in April–May 1995, and 739 hours of data were collected over a wide range of operating loads (40 MW—190 MW). Fuel oil samples were taken daily and analyzed for density and carbon content. The alternative method successfully passed statistical tests but showed statistically significant bias (see Docket A–97–35, Item II–D–14). Due to the bias uncovered during the test, EPA concluded that the alternative flow monitor demonstration project did not meet the requirements of subpart E of part 75 for an alternative monitoring system. However, EPA is proposing that a default multiplier, derived from the demonstration data, be incorporated into the equations used under Appendix I to compensate for the detected systematic bias and thereby help to ensure that emissions are not underestimated when using the F-factor/fuel flow method. With these provisions, EPA proposes to include the F-factor/fuel flow method as an excepted method for determining flow in Appendix I to part 75. The proposed default multiplier, 1.12, is based on the data and results of the LILCO demonstration and is supported by EPA and the Class of '85 Regulatory Response Group. The default multiplier would be incorporated into the equations used under Appendix I whenever a relative accuracy test audit is performed on a component-by-component basis as was proposed in the LILCO demonstration.

Discussion of Proposed Changes

EPA proposes to include the F-factor/fuel flow method in Appendix I as an excepted method for use in place of a volumetric flow monitor for oil- and gas-fired units that burn only natural gas and/or fuel oil. The F-factor/fuel flow method uses fuel flow measurement, fuel sampling data, CO_2 (or O_2) CEMS data and F-factors to determine the flow rate of the stack gas. EPA proposes limiting use of the F-factor/fuel flow method to oil- and gas-fired units that burn only natural gas and/or fuel oil because of the greater fuel consistency of oil and natural gas and because the fuel flow rates of oil and natural gas can be monitored accurately with a fuel flowmeter, unlike the feed rate of coal.

Appendix I flow monitoring would be done using any of the following combinations of components: a CO_2 monitor and a volumetric oil flowmeter, a CO_2 monitor and a mass oil flowmeter, a CO_2 monitor and a volumetric gas flowmeter, an O_2 monitor and a volumetric oil flowmeter, an O_2 monitor and a mass oil flowmeter, or an O_2 monitor and a volumetric gas flowmeter.

Today's proposal would amend § 75.20, "Certification and Recertification Procedures," to add certification and recertification procedures for units using Appendix I flow monitoring systems. Initial certification of the components of the F-factor/fuel flow method would be performed either component by component or on a system basis. If each component is tested separately, then the fuel flowmeter would be tested in accordance with section 2.1.5 of Appendix D, and the CO_2 or O_2 monitor would have to pass a 7-day calibration test, a linearity check, a cycle time test and a relative accuracy test audit (RATA) using Method 3A from Appendix A to part 60. A bias test would also have to be conducted. If the excepted Appendix I flow monitoring system is tested as an entire system, then the following tests would be performed: a 7-day calibration error test, a linearity check, and a cycle time test on the CO_2 or O_2 monitor, and a relative accuracy test audit on the entire excepted flow monitoring system using Method 2 from Appendix A to part 60, and a bias test. The owner or operator would also test the data acquisition and handling system. Upon successful completion of all certification tests, the Appendix I system would be considered provisionally certified.

Today's proposal would amend § 75.21, "Quality Assurance and Quality Control Requirements," to include Appendix I flow monitoring systems. A unit utilizing the optional F-factor/fuel flow method would have to meet ongoing quality assurance testing requirements. First, the daily and quarterly assessment requirements for a CO_2 or O_2 monitor in sections 2.1 and 2.2 of Appendix B would have to be followed. Second, one of the following would have to be met, depending on whether the owner or operator chooses to test the method on a component-by-component basis or on a system level: (1) the fuel flow meter quality assurance requirements and a separate RATA on the CO_2 (or O_2) monitor; or (2) a system level flow RATA. If the components are tested separately, the applicable procedures in section 2.1.6 of Appendix D would have to be followed for the fuel flowmeter quality assurance (i.e., a flow meter accuracy test, a transmitter accuracy test and primary element inspection, and/or the supplemental quarterly fuel flow-to-load quality assurance testing) and the applicable RATA procedures in sections 6.5 through 6.5.2.2 of Appendix A for the CO_2 (or O_2) monitor would be followed. In addition, the bias test would have to be performed on the CO_2 (or O_2) monitor and, if the bias test is failed, a bias adjustment factor (BAF) would have to be calculated and applied to hourly data.

If the entire system is tested, the applicable procedures in sections 6.5 through 6.5.2.2 of Appendix A would have to be used to meet the performance specifications for flow relative accuracy in section 3.3.4 of Appendix A. The bias test would have to be performed on the volumetric flow data and, if the bias test is failed, a BAF would have to be calculated using the procedures in section 7.6 of Appendix A.

Several other sections of the rule would be modified or added in order to incorporate the new excepted method described in Appendix I, including §§ 75.30, 75.57, 75.58, and 75.59. Section 75.30, "General Provisions" (for missing data substitution procedures), would be modified by adding quality assured data from a certified excepted flow monitoring system under Appendix I to the list of monitoring systems that measure flow rate data, for which the missing data substitution procedures of subpart D are required. If fuel sampling data, fuel flow rate data, and diluent gas data are missing, then the data acquisition and handling system would have to substitute for missing volumetric flow data. In addition, § 75.57, would include additional information that Appendix I flow monitoring systems must record. This includes fuel flow rate data and data from component monitors. Section 75.58(g) would be added to address specific volumetric flow rate record provisions for units using the optional protocol in Appendix I. Section 75.59, "Certification, Quality Assurance and Quality Control Record Provisions," would also include certification and quality assurance information that facilities must record for Appendix I flow monitoring system tests.

Finally, the new proposed Appendix I would describe the applicability, procedures, calculations, missing data, and recordkeeping and reporting requirements for units using Appendix I to determine flow.

The Appendix I formulas are more complex if an O_2 monitor is used. EPA proposes to allow the use of an O_2 monitor for Appendix I; however, the

initial programming of the formulas and monitoring plan development may take longer for Appendix I flow monitoring systems that use an O_2 monitor.

Volumetric stack flow rate during oil combustion would be calculated from (1) a bias adjustment factor from the applicable bias test results; (2) the fuel flow rate (in gal/hr); (3) the fuel density (in lb/gal); (4) the percent carbon by weight; (5) the CO_2 (or O_2) concentration percent by volume; and (6) the appropriate conversion factor. The carbon content of the fuel would have to be determined according to the procedures in section 2.1 of Appendix G and the density of the oil would have to be determined according to the procedures in section 2.2 of Appendix D.

Rationale: EPA is proposing an F-factor/fuel flow method in Appendix I to part 75 as an excepted method to measure volumetric flow directly with a flow monitor because this method would allow fuel flow measurement with a gas or oil flowmeter, fuel sampling data, CO_2 (or O_2) CEMS data, and F-factors to determine the flow rate of the stack gas rather than a volumetric flow monitor. The F-factor/fuel flow method would be available for use by oil-fired and gas-fired units, as defined under § 72.2, provided that they only burn natural gas and/or fuel oil. For these units, EPA believes that the proposed method would provide acceptably accurate measurements of volumetric flow, while affording cost savings that some industry representatives estimate could be substantial. The Agency solicits comment on the proposed Appendix I and associated changes to part 75.

Appendix I may offer cost savings to some oil and gas fired units. Representatives from oil- and gas-fired units have estimated that the costs of operating, maintaining and testing volumetric flow monitors range from approximately $15,000 to $25,000 per year. In contrast, using the F-factor/fuel flow method is estimated to result in costs of only approximately $5,000 to $7,000 per year due to elimination of the operating, maintenance, testing and fuel costs associated with the volumetric flow monitor.

U. The Use of Predictive Emissions Modeling Systems (PEMS)

A number of parties have submitted preliminary field test data designed to demonstrate that EPA should set forth specific requirements for alternative monitoring methodologies that predict NO_X emission rates at gas-fired units. These "predictive emissions modeling systems" (PEMS) use mathematical models to predict NO_X emission rates based on sensor readings of key operating parameters. The agency is evaluating the submitted data and will consider taking further action under a future rulemaking if additional study demonstrates the equivalency of PEMS to CEMS for well defined classes of units.

IV. Administrative Requirements

A. Public Hearing

If requested as specified in the **DATES** section of this preamble, a public hearing will be held to discuss the proposed regulations. Persons wishing to make oral presentations at the public hearing should contact EPA at the address given in the **ADDRESSES** section of this preamble. If necessary, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days of the hearing. Written statements should be addressed to the Air Docket address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the public hearing, if held, and all written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket in Washington, DC (see the **ADDRESSES** section of this preamble).

B. Public Docket

The Docket for this regulatory action is A–97–35. The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review. The docket is available for public inspection at EPA's Air Docket, which is listed under the **ADDRESSES** section of this preamble.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This proposed rule is not expected to have an annual effect on the economy of $100 million or more. However, pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is a significant action because it raises novel policy issues. As such, the proposed rule has been submitted for OMB review. Any written comments from OMB and any EPA response to OMB comments are in the public docket for this proposal.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments

to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This proposed rule is not expected to result in expenditures of more than $100 million in any one year and, as such, is not subject to section 202 of the UMRA. Although the proposed rule is not expected to significantly or uniquely affect small governments, the Agency has notified all potentially affected small governments that own or operate units potentially affected by the proposal in order to assure that they have the opportunity to have meaningful and timely input on the proposed rule. EPA will continue to use its outreach efforts related to part 75 implementation, including a policy manual that is generally updated on a quarterly basis, to inform, educate, and advise all potentially impacted small governments about compliance with part 75.

E. Paperwork Reduction Act

The information collection requirements in this proposal have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1835.01), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW, Washington, DC 20460, by calling (202) 260–2740, or via the Internet at www.gov/icr.

Currently, all affected utilities are required to keep records and submit electronic quarterly reports under the provisions of part 75. The proposed rule includes several new options for compliance with part 75 which have been requested by affected utilities. To implement these options, EPA would have to modify the existing recordkeeping and reporting requirements. In some circumstances, these changes would result in significant reductions in the reporting and recordkeeping burdens or costs for some units (such as low mass emissions units). However, these changes would require modifications to the software used to generate electronic reports. In addition, there would be some increased burden or costs for certain units to fulfill the new quality assurance procedures proposed in these proposed revisions. Finally, several other technical revisions to the existing reporting and recordkeeping requirements have been proposed to clarify existing provisions or to facilitate reporting for other regulatory programs in the context of Acid Rain Program reporting. Although these one-time software changes would tend to increase the short-term burdens allocated to the Acid Rain Program, such changes should reduce a source's overall long-term burden by streamlining the source's reporting obligations under both the Acid Rain Program and the Act.

The average annual projected hour burden is 2,608,836, which is based on an estimated 835 likely respondents (on a per utility basis). The projected cost burden resulting from the collection of information is $47,555,000, which includes a total projected capital and start-up cost of $1,436,000 (for monitoring equipment/software), and a total projected operation and maintenance cost (which includes purchase of testing contractor services and total projected fuel sampling and analysis cost of $716,000) of $46,119,000. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 21, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by June 22, 1998. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities.

Today's proposed revisions to part 75 result in a net cost reduction to utilities affected by the Acid Rain Program, including small entities. Most importantly, the proposed changes to Appendix D and the addition of an optional calculation procedure instead of actual monitoring for oil- and gas-fired units with low mass emissions would significantly reduce the cost of complying with part 75 for oil-and gas-fired units, many of which are owned or operated by small entities. Therefore, I certify this action will not have a significant economic impact on a substantial number of small entities.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("ANTTAA"), Pub L. No. 104–113 15 USC 272 note, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This regulatory action proposes to incorporate by reference voluntary consensus standards pursuant to § 12(d) of the NTTAA. The EPA has adopted the general policy of using voluntary

consensus standards from technically knowledgeable groups such as the Organization for International Standards (ISO), the American Society for Testing and Materials (ASTM), the American Society of Mechanical Engineers (ASME), the American Gas Association (AGA), the Gas Processors Association (GPA), and the American Petroleum Institute (API).

EPA invites public comment on the voluntary consensus standards which are proposed to be incorporated by reference for use in part 75. EPA has not identified any additional voluntary consensus standards which might be applicable to this rulemaking. This does not indicate that other applicable standards do not exist or that any other standards should not be allowed. Therefore, EPA also invites public comment on any other voluntary consensus standards which may be appropriate for the proposed regulatory action. Further, if additional applicable voluntary consensus standards are identified in the future, the designated representative may petition under § 75.66(c) to use an alternative to any standard incorporated by reference and prescribed in this part.

EPA proposes to incorporate by reference the following voluntary consensus standards for use under part 75:

a. ASTM D5373–93 "Standard Methods for Instrumental Determination of Carbon, Hydrogen and Nitrogen in laboratory samples of Coal and Coke." This standard is proposed to be incorporated by reference for use under section 2.1 of Appendix G to part 75 and is discussed further in section III.Q.1 of this preamble.

b. API Section 2 "Conventional Pipe Provers" from Chapter 4 of the *Manual of Petroleum Measurement Standards*, October 1988 edition. This standard is proposed to be incorporated by reference for use under paragraph (g)(1)(i) of § 75.20 and under section 2.1.5.1 of Appendix D to part 75. The proposal to incorporate this standard by reference is discussed further in section III.P.6.(b) of this preamble.

List of Subjects in 40 CFR Parts 72 and 75

Air pollution control, Carbon dioxide, Continuous emission monitors, Electric utilities, Environmental protection, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 27, 1998.

Carol M. Browner,

Administrator, U.S. Environmental Protection Agency.

For the reasons set out in the preamble, title 40 chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

PART 72—PERMITS REGULATION

1. The authority for part 72 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 72.2 is amended by revising the definitions of "calibration gas," "excepted monitoring system," "gas-fired," "pipeline natural gas," "span," "stationary gas turbine," and "zero air material"; by revising paragraph (2) of "oil-fired" and paragraph (2) of the "peaking unit"; by adding paragraph (3) to the definition of "peaking unit"; by adding new definitions for "conditionally valid data," "EPA protocol gas," "gas manufacturer's intermediate standard," "low mass emissions unit," "maximum rated hourly heat input," "ozone season," "probationary calibration error test," "research gas mixture (RGM)", and "standard reference material-equivalent compressed gas primary reference material"; and by removing the definition of "protocol 1 gas," to read as follows:

§ 72.2 Definitions.

* * * * *

Calibration gas means:

(1) A standard reference material;

(2) A standard reference material-equivalent compressed gas primary reference material;

(3) A NIST traceable reference material;

(4) NIST/EPA-approved certified reference materials;

(5) A gas manufacturer's intermediate standard;

(6) An EPA protocol gas;

(7) Zero air material; or

(8) A research gas mixture.

* * * * *

Conditionally valid data means data from a continuous monitoring system that are not quality assured, but which may become quality assured if certain conditions are met. Examples of data that may qualify as conditionally valid are: data recorded by an uncertified monitoring system prior to its initial certification; or data recorded by a certified monitoring system following a significant change to the system that may affect its ability to accurately measure and record emissions. A monitoring system must pass a probationary calibration error test, in accordance with section 2.1.1 of appendix B of part 75 of this chapter, to initiate the conditionally valid data status. In order for conditionally valid emission data to become quality assured, one or more quality assurance tests or diagnostic tests must be passed within a specified time period.

* * * * *

EPA protocol gas means a calibration gas mixture prepared and analyzed according to section 2 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA–600/R–97/121 or such revised procedure as approved by the Administrator.

* * * * *

Excepted monitoring system means a monitoring system that follows the procedures and requirements of § 75.19 of this chapter or of appendix D or E to part 75 for approved exceptions to the use of continuous emission monitoring systems.

* * * * *

Gas-fired means:

(1) For all purposes under the Acid Rain Program, except for part 75 of this chapter, the combustion of:

(i) Natural gas or other gaseous fuel (including coal-derived gaseous fuel), for at least 90.0 percent of the unit's average annual heat input during the previous three calendar years and for at least 85.0 percent of the annual heat input in each of those calendar years; and

(ii) Any fuel, except coal or solid or liquid coal-derived fuel for the remaining heat input, if any.

(2) For purposes of part 75 of this chapter, the combustion of:

(i) Natural gas or other gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas (including coal-derived gaseous fuel) for at least 90.0 percent of the unit's average annual heat input during the previous calendar years and for at least 85.0 percent of the annual heat input in each of those calendar years; and

(ii) Fuel oil, for the remaining heat input, if any.

(3) For purposes of part 75 of this chapter, a unit may initially qualify as gas-fired if the designated representative demonstrates to the satisfaction of the Administrator that the requirements of paragraph (2) of this definition are met, or will in the future be met, through one of the following submissions:

(i) For a unit for which a monitoring plan has not been submitted under § 75.62 of this chapter,

(A) The designated representative submits fuel usage data for the unit for

the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62; or

(B) For a unit that does not have fuel usage data for one or more of the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62, if the designated representative submits: the unit's designated fuel usage; all available fuel usage data (including the percentage of the unit's heat input derived from the combustion of gaseous fuels), beginning with the date on which the unit commenced commercial operation; and the unit's projected fuel usage.

(ii) For a unit for which a monitoring plan has already been submitted under § 75.62, that has not qualified as gas-fired under paragraph (3)(i) of this definition, and whose fuel usage changes, the designated representative submits either:

(A) Three calendar years of data following the change in the unit's fuel usage, showing that no less than 90.0 percent of the unit's average annual heat input during the previous three calendar years, and no less than 85.0 percent of the unit's annual heat input during any one of the previous three calendar years is from the combustion of gaseous fuels with a total sulfur content no greater than the total sulfur content of natural gas and the remaining heat input is from the combustion of fuel oil; or

(B) A minimum of 720 hours of unit operating data following the change in the unit's fuel usage, showing that no less than 90.0 percent of the unit's heat input is from the combustion of gaseous fuels with a total sulfur content no greater than the total sulfur content of natural gas and the remaining heat input is from the combustion of fuel oil, and a statement that this changed pattern of fuel usage is considered permanent and is projected to continue for the foreseeable future.

(iii) If a unit qualifies as gas-fired under paragraph (2)(i) or (ii) of this definition, the unit is classified as gas-fired as of the date of the submission under such paragraph.

(4) For purposes of part 75 of this chapter, a unit that initially qualifies as gas-fired must meet the criteria in paragraph (2) of this definition each year in order to continue to qualify as gas-fired. If such a unit fails to meet such criteria for a given year, the unit no longer qualifies as gas-fired starting January 1 of the year after the first year for which the criteria are not met. If a unit failing to meet the criteria in paragraph (2) of this definition initially qualified as a gas-fired unit under paragraph (3)(ii) of this definition, the unit may qualify as a gas-fired unit for a subsequent year only under paragraph (3)(i) of this definition.

* * * * *

Gas manufacturer's intermediate standard (GMIS) means a compressed gas calibration standard that has been assayed and certified by direct comparison to a standard reference material (SRM), an SRM-equivalent PRM, a NIST/EPA-approved certified reference material (CRM), or a NIST traceable reference material (NTRM), in accordance with section 2.1.2.1 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA–600/R–97/121.

* * * * *

Low mass emissions unit means a gas-fired or oil-fired unit that burns only natural gas and/or fuel oil and that qualifies under §§ 75.19(a) and (b) of this chapter.

* * * * *

Maximum rated hourly heat input means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

Oil-fired means:

* * * * *

(2) For purposes of part 75 of this chapter, a unit may qualify as oil-fired if the unit burns only fuel oil and gaseous fuels with a total sulfur content no greater than the total sulfur content of natural gas and if the unit does not meet the definition of gas-fired.

* * * * *

Ozone season means the period of time from May 1st to September 30th, inclusive.

* * * * *

Peaking unit means:

* * * * *

(2) For purposes of part 75 of this chapter, a unit may initially qualify as a peaking unit if the designated representative demonstrates to the satisfaction of the Administrator that the requirements of paragraph (1) of this definition are met, or will in the future be met, through one of the following submissions:

(i) For a unit for which a monitoring plan has not been submitted under § 75.62,

(A) The designated representative submits capacity factor data for the unit for the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62; or

(B) For a unit that does not have capacity factor data for one or more of the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62, the designated representative submits: all available capacity factor data, beginning with the date on which the unit commenced commercial operation; and projected capacity factor.

(ii) For a unit for which a monitoring plan has already been submitted under § 75.62, that has not qualified as a peaking unit under paragraph (2)(i) of this definition, and where capacity factor changes, the designated representative submits either:

(A) Three calendar years of data following the change in the unit's capacity factor showing an average capacity factor of no more than 10.0 percent during the three previous calendar years and a capacity factor of no more than 20.0 percent in each of those calendar years; or

(B) One calendar year of data following the change in the unit's capacity factor showing a capacity factor of no more than 10.0 percent and a statement that this changed pattern of operation resulting in a capacity factor less than 10.0 percent is considered permanent and is projected to continue for the foreseeable future.

(3) For purposes of part 75 of this chapter, a unit that initially qualifies as a peaking unit must meet the criteria in paragraph (1) of this definition each year in order to continue to qualify as a peaking unit. If such a unit fails to meet such criteria for a given year, the unit no longer qualifies as a peaking unit starting January 1 of the year after the year for which the criteria are not met. If a unit failing to meet the criteria in paragraph (1) of this definition initially qualified as a gas-fired unit under paragraph (2)(ii) of this definition, the unit may qualify as a peaking unit for a subsequent year only under paragraph (2)(i) of this definition.

* * * * *

Pipeline natural gas means natural gas that is provided by a supplier through a pipeline and that contains 0.3 grains or less of hydrogen sulfide per 100 standard cubic feet. The hydrogen sulfide content of the natural gas must be documented either through quality characteristics specified by a purchase contract or pipeline transportation contract, through certification of the gas vendor, based on routine vendor sampling and analysis, or through at least one year's worth of analytical data on the fuel hydrogen sulfide content from samples taken at least monthly, demonstrating that all samples contain

0.3 grains or less of hydrogen sulfide per 100 standard cubic feet.

* * * * *

Probationary calibration error test means an on-line calibration error test performed in accordance with section 2.1.1 of appendix B of part 75 of this chapter that is used to initiate a conditionally valid data period.

* * * * *

Research gas mixture (RGM) means a calibration gas mixture developed by agreement of a requestor and NIST that NIST analyzes and certifies as "NIST traceable." RGMs may have concentrations different from those of standard reference materials.

* * * * *

Span means the highest pollutant or diluent concentration or flow rate that a monitor component is required to be capable of measuring under part 75 of this chapter.

* * * * *

Standard reference material-equivalent compressed gas primary reference material (SRM-equivalent PRM) means those gas mixtures listed in a declaration of equivalence in accordance with section 2.1.2 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA–600/R–97/121.

* * * * *

Stationary gas turbine means a turbine that is not self-propelled and that combusts natural gas, other gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas, or fuel oil in order to heat inlet combustion air and thereby turn a turbine, in addition to or instead of producing steam or heating water.

* * * * *

Zero air material means either:

(1) A calibration gas certified by the gas vendor not to contain concentrations of SO_2, NO_X, or total hydrocarbons above 0.1 parts per million (ppm), a concentration of CO above 1 ppm, a concentration of CO_2 above 400 ppm; or

(2) Ambient air conditioned and purified by a CEMS for which the CEMS manufacturer or vendor certifies that the particular CEMS model produces conditioned gas that does not contain concentrations of SO_2, NO_X, or total hydrocarbons above 0.1 ppm, a concentration of CO above 1 ppm, or a concentration of CO_2 above 400 ppm; or

(3) For dilution-type CEMS, conditioned and purified ambient air provided by a conditioning system concurrently supplying dilution air to the CEMS; or

(4) A multicomponent mixture certified by the supplier of the mixture that the concentration of the component being zeroed is less than or equal to the applicable concentration specified in paragraph (1) of this definition, and that the mixture's other components do not interfere with the specific CEM readings or cause the CEM being zeroed to read concentrations of the gas being zeroed.

3. Section 72.3 is amended by adding in alphabetical order, new acronyms for kacfm, kscfh, and NIST to read as follows:

§ 72.3 Measurements, abbreviations, and acronyms.

* * * * *

kacfm—thousands of cubic feet per minute at actual conditions.

kscfh—thousands of cubic feet per hour at standard conditions.

NIST—National Institute of Standards and Technology.

* * * * *

§ 72.6 [Amended]

4. Section 72.6 is amended by removing from paragraph (b)(1) the word "operation" and adding, in its place, the words "commercial operation."

5. Section 72.90 is amended by revising paragraph (c)(3) to read as follows:

§ 72.90 Annual compliance certification report.

* * * * *

(c) * * *

(3) Whether all the emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly report. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made.

* * * * *

PART 75—CONTINUOUS EMISSION MONITORING

6. The authority citation for part 75 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651k.

7. Section 75.1 is amended by revising paragraph (a) to read as follows:

§ 75.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to establish requirements for the monitoring, recordkeeping, and reporting of sulfur dioxide, nitrogen oxides, and carbon dioxide emissions, volumetric flow, and opacity data from affected units under the Acid Rain Program pursuant to Sections 412 and 821 of the Clean Air Act, 42 U.S.C. 7401-7671q as amended by Public Law 101–549 (November 15, 1990) (the Act). In addition, this part sets forth provisions for the monitoring, recordkeeping, and reporting of NO_X mass emissions with which EPA, individual States, or groups of States may require sources to comply in order to demonstrate compliance with a NO_X mass emission reduction program, if these provisions are adopted as requirements under such a program.

* * * * *

8. Section 75.2 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 75.2 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, the provisions of this part apply to each affected unit subject to Acid Rain emission limitations or reduction requirements for SO_2 or NO_X.

* * * * *

(c) The provisions of this part may apply to sources subject to a State or federal NO_X mass emission reduction program, if these provisions are adopted as requirements under such a program.

9. Section 75.4 is amended by revising paragraphs (a) introductory text and (d)(1) and adding a new paragraph (i) to read as follows:

§ 75.4 Compliance dates.

(a) The provisions of this part apply to each existing Phase I and Phase II unit on February 10, 1993. For substitution or compensating units that are so designated under the Acid Rain permit which governs that unit and contains the approved substitution or reduced utilization plan, pursuant to § 72.41 or § 72.43 of this chapter, the provisions of this part become applicable upon the issuance date of the Acid Rain permit. For combustion sources seeking to enter the Opt-in Program in accordance with part 74 of this chapter, the provisions of this part become applicable upon the submission of an Opt-in permit application in accordance with § 74.14 of this chapter. The provisions of this part for the monitoring, recording, and reporting of NO_X mass emissions become applicable on the deadlines specified in the applicable State or federal NO_X mass emission reduction program, if these provisions are adopted as requirements under such a program. In accordance with § 75.20, the owner or operator of each existing affected unit shall ensure that all monitoring systems required by

this part for monitoring SO_2, NO_X, CO_2, opacity, and volumetric flow are installed and that all certification tests are completed no later than the following dates (except as provided in paragraphs (d) through (h) of this section):

* * * * *

(d) * * *

(1) The maximum potential concentration of SO_2, the maximum potential NO_X emission rate, the maximum potential flow rate, as defined in section 2.1 of appendix A to this part, or the maximum potential CO_2 concentration, as defined in section 2.1.3.1 of appendix A to this part.

* * * * *

(i) In accordance with § 75.20, the owner or operator of each affected unit at which SO_2 concentration is measured on a dry basis or at which moisture corrections are required to account for CO_2 emissions, NO_X emission rate in lb/mmBtu, or heat input, shall ensure that the continuous moisture monitoring system required by this part is installed and that all applicable initial certification tests required under § 75.20(c)(5), (c)(6), or (c)(7) for the continuous moisture monitoring system are completed no later than the following dates:

(1) January 1, 2000, for a unit that is existing and has commenced commercial operation by October 3, 1999; or

(2) For a new affected unit which has not commenced commercial operation by October 4, 1999, not later than 90 days after the date the unit commences commercial operation; or

(3) For an existing unit that is shutdown and is not yet operating by January 1, 2000, not later than the earlier of 45 unit operating days or 180 calendar days after the date that the unit recommences commercial operation.

10. Section 75.5 is amended by revising paragraph (f)(2) to read as follows:

§ 75.5 Prohibitions.

* * * * *

(f) * * *

(2) The owner or operator is monitoring emissions from the unit with another certified monitoring system or an excepted methodology approved by the Administrator for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

* * * * *

11. Section 75.6 is amended by redesignating paragraph (a)(40) as paragraph (a)(41) and by adding new paragraphs (a)(40) and (f) to read as follows:

§ 75.6 Incorporation by reference.

* * * * *

(a) * * *

(40) ASTM D5373–93, "Standard Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal and Coke," for appendix G to this part.

* * * * *

(f) The following materials are available for purchase from the following address: American Petroleum Institute, Publications Department, 1220 L Street NW, Washington, DC 20005–4070: American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the Manual of Petroleum Measurement Standards, October 1988 (Reaffirmed 1993), for § 75.20 and appendix D to this part.

12. Section 75.10 is amended by revising paragraphs (d)(3) and (f) to read as follows:

§ 75.10 General operating requirements.

* * * * *

(d) * * *

(3) Failure of an SO_2, CO_2, or O_2 pollutant concentration monitor, flow monitor, or NO_X continuous emission monitoring system to acquire the minimum number of data points for calculation of an hourly average in paragraph (d)(1) of this section, shall result in the failure to obtain a valid hour of data and the loss of such component data for the entire hour. An hourly average NO_X or SO_2 emission rate in lb/mmBtu is valid only if the minimum number of data points is acquired by both the pollutant concentration monitor (NO_X or SO_2) and the diluent monitor (O_2 or CO_2). For a moisture monitoring system consisting of one or more oxygen analyzers capable of measuring O_2 on a wet-basis and a dry-basis, an hourly average percent moisture value is valid only if the minimum number of data points is acquired for both the wet-and dry-basis measurements. Except for SO_2 emission rate data in lb/mmBtu, if a valid hour of data is not obtained, the owner or operator shall estimate and record emission, moisture, or flow data for the missing hour by means of the automated data acquisition and handling system, in accordance with the applicable procedure for missing data substitution in subpart D of this part.

* * * * *

(f) *Minimum measurement capability requirement.* The owner or operator shall ensure that each continuous emission monitoring system and component thereof is capable of accurately measuring, recording, and reporting data, and shall not incur a full scale exceedance, except as provided in sections 2.1.1.5, 2.1.2.5, and 2.1.4.3 of appendix A to this part.

* * * * *

13. Section 75.11 is amended by revising paragraphs (a), (b), (d)(1), (d)(2), (e)(2), (e)(3) introductory text, (e)(3)(ii), (e)(3)(iv), and (e)(4) and by adding paragraph (d)(3), to read as follows:

§ 75.11 Specific provisions for monitoring SO_2 emissions (SO_2 and flow monitors).

(a) *Coal-fired units.* The owner or operator shall meet the general operating requirements in § 75.10 for an SO_2 continuous emission monitoring system and a flow monitoring system for each affected coal-fired unit while the unit is combusting coal and/or any other fuel, except as provided in paragraph (e) of this section, in § 75.16, and in subpart E of this part. During hours in which only natural gas or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 20 grains per 100 standard cubic feet (gr/100 scf)) is combusted in the unit, the owner or operator shall comply with the applicable provisions of paragraph (e)(1), (e)(2), or (e)(3) of this section.

(b) *Moisture correction.* Where SO_2 concentration is measured on a dry basis, the owner or operator shall install, operate, maintain, and quality assure a continuous moisture monitoring system for measuring and recording the moisture content of the flue gases, in order to correct the measured hourly volumetric flow rates for moisture when calculating SO_2 mass emissions (in lb/hr) using the procedures in appendix F to this part. The following continuous moisture monitoring systems are acceptable: a continuous moisture sensor; an oxygen analyzer (or analyzers) capable of measuring O_2 both on a wet basis and on a dry basis; or a stack temperature sensor and a moisture look-up table, i.e., a psychrometric chart (for saturated gas streams following wet scrubbers, only). The moisture monitoring system shall include as a component the automated data acquisition and handling system (DAHS) for recording and reporting both the raw data (e.g., hourly average wet and dry-basis O_2 values) and the hourly average values of the stack gas moisture content derived from those data. When a moisture look-up table is used, the moisture monitoring system shall be represented as a single component, the certified DAHS, in the monitoring plan for the unit or common stack.

* * * * *

(d) * * *

(1) By meeting the general operating requirements in § 75.10 for an SO_2 continuous emission monitoring system

and flow monitoring system. If this option is selected, the owner or operator shall comply with the applicable provisions in paragraph (e)(1), (e)(2), or (e)(3) of this section during hours in which the unit combusts only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas);

(2) By providing other information satisfactory to the Administrator using the applicable procedures specified in appendix D to this part for estimating hourly SO_2 mass emissions. Appendix D shall not, however, be used when the unit combusts gaseous fuel with a total sulfur content greater than the total sulfur content of natural gas (i.e., > 20 gr/100 scf); when such fuel is burned, the owner or operator shall comply with the provisions of paragraph (e)(4) of this section; or

(3) By using the low mass emissions excepted methodology in § 75.19(c) for estimating hourly SO_2 mass emissions if the affected unit qualifies as a low mass emissions unit under § 75.19(a) and (b).

(e) * * *

(2) When gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 20 gr/100 scf) is combusted in the unit, the owner or operator may, in lieu of operating and recording data from the SO_2 monitoring system, determine SO_2 emissions by certifying an excepted monitoring system in accordance with § 75.20 and with appendix D to this part, by following the fuel sampling and analysis procedures in section 2.3.1 of appendix D to this part, by meeting the recordkeeping requirements of § 75.55 or § 75.58, as applicable, and by meeting all quality control and quality assurance requirements for fuel flowmeters in appendix D to this part. If this compliance option is selected, the hourly unit heat input reported under § 75.54(b)(5) or § 75.57(b)(5), as applicable, shall be determined using a certified flow monitoring system and a certified diluent monitor, in accordance with the procedures in section 5.2 of appendix F of this part. The flow monitor and diluent monitor shall meet all of the applicable quality control and quality assurance requirements of appendix B of this part.

(3) When gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 20 gr/100 scf) is burned in the unit, the owner or operator may determine SO_2 mass emissions by using a certified SO_2 continuous monitoring system, in conjunction with a certified flow rate monitoring system. However, on and after January 1, 2000, the SO_2 monitoring system shall be subject to the following provisions; prior to January 1, 2000, the owner or operator may comply with these provisions:

* * * * *

(ii) The calibration response of the SO_2 monitoring system shall be adjusted, either automatically or manually, in accordance with the procedures for routine calibration adjustments in section 2.1.3 of appendix B to this part, whenever the zero-level calibration response during a required daily calibration error test exceeds the applicable performance specification of the instrument in section 3.1 of appendix A to this part (i.e., ± 2.5 percent of the span value or ± 5 ppm, whichever is less restrictive). This calibration adjustment is optional if gaseous fuel is burned in the affected unit only during unit startup.

* * * * *

(iv) In accordance with the requirements of section 2.1.1.2 of appendix A to this part, for units that sometimes burn natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) and at other times burn higher-sulfur fuel(s) such as coal or oil, a second low-scale SO_2 measurement range is not required when natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) is combusted. For units that burn only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) and burn no other type(s) of fuel(s), the owner or operator shall set the span of the SO_2 monitoring system to a value no greater than 200 ppm.

(4) During any hours in which a unit combusts only gaseous fuel(s) with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 20 gr/100 scf), the owner or operator shall meet the general operating requirements in § 75.10 for an SO_2 continuous emission monitoring system and a flow monitoring system.

* * * * *

14. Section 75.12 is amended by revising the title; by redesignating existing paragraphs (b), (c), and (d) as paragraphs (c), (d), and (f), respectively; by adding new paragraphs (b) and (e); and by revising the newly designated paragraph (c), to read as follows:

§ 75.12 Specific provisions for monitoring NO_x emission rate (NO_x and diluent gas monitors).

* * * * *

(b) *Moisture correction.* If a correction for the stack gas moisture content is needed to properly calculate the NO_x emission rate in lb/mmBtu, i.e., if the NO_x pollutant concentration monitor measures on a different moisture basis from the diluent monitor, the owner or operator shall install, operate, maintain, and quality assure a continuous moisture monitoring system, as defined in § 75.11(b).

(c) *Determination of NO_x emission rate.* The owner or operator shall calculate hourly, quarterly, and annual NO_x emission rates (in lb/mmBtu) by combining the NO_x concentration (in ppm), diluent concentration (in percent O_2 or CO_2), and percent moisture (if applicable) measurements according to the procedures in appendix F to this part.

* * * * *

(e) *Low mass emissions units.* Notwithstanding the requirements of §§ 75.12(a) and (c), the owner or operator of an affected unit that qualifies as a low mass emissions unit under § 75.19(a) and (b) shall comply with one of the following:

(1) Meet the general operating requirements in § 75.10 for a NO_x continuous emission monitoring system;

(2) Meet the requirements specified in paragraph (d)(2) of this section for using the excepted monitoring procedures in appendix E to this part, if applicable; or

(3) Use the low mass emissions excepted methodology in § 75.19(c) for estimating hourly NO_x emission rate and hourly NO_x mass emissions.

* * * * *

15. Section 75.13 is amended by revising paragraphs (a) and (c) and by adding paragraph (d) to read as follows:

§ 75.13 Specific provisions for monitoring CO_2 emissions.

(a) *CO_2 continuous emission monitoring system.* If the owner or operator chooses to use the continuous emission monitoring method, then the owner or operator shall meet the general operating requirements in § 75.10 for a CO_2 continuous emission monitoring system and flow monitoring system for each affected unit. The owner or operator shall comply with the applicable provisions specified in §§ 75.11(a) through (e) or § 75.16, except that the phrase "SO_2 continuous emission monitoring system" is replaced with "CO_2 continuous emission monitoring system," the phrase "SO_2 concentration" is replaced with "CO_2 concentration," the term "maximum potential concentration of SO_2" is replaced with "maximum potential concentration of CO_2," and the phrase "SO_2 mass emissions" is replaced with "CO_2 mass emissions."

* * * * *

(c) *Determination of CO_2 mass emissions using an O_2 monitor*

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according to appendix F. If the owner or operator chooses to use the appendix F method, then the owner or operator may determine hourly CO_2 concentration and mass emissions with a flow monitoring system; a continuous O_2 concentration monitor; fuel F and F_c factors; and, where O_2 concentration is measured on a dry basis, a continuous moisture monitoring system, as defined in § 75.11(b), using the methods and procedures specified in appendix F to this part. For units using a common stack, multiple stack, or bypass stack, the owner or operator may use the provisions of § 75.16, except that the phrase "SO_2 continuous emission monitoring system" is replaced with "CO_2 continuous emission monitoring system," the term "maximum potential concentration of SO_2" is replaced with "maximum potential concentration of CO_2," and the phrase "SO_2 mass emissions" is replaced with "CO_2 mass emissions."

(d) *Determination of CO_2 mass emissions from low mass emissions units.* The owner or operator of a unit that qualifies as a low mass emissions unit under §§ 75.19(a) and (b) shall comply with one of the following:

(1) Meet the general operating requirements in § 75.10 for a CO_2 continuous emission monitoring system and flow monitoring system;

(2) Meet the requirements specified in paragraph (b) or (c) of this section for use of the methods in appendix G or F to this part, respectively; or

(3) Use the low mass emissions excepted methodology in § 75.19(c) for estimating hourly CO_2 mass emissions.

16. Section 75.16 is amended by:

a. Revising paragraphs (b)(2)(ii)(B), (b)(2)(ii)(D), (d)(2), and (e)(1);

b. Removing paragraphs (e)(2) and (e)(3);

c. Redesignating existing paragraphs (e)(4) and (e)(5) as paragraphs (e)(2) and (e)(3), respectively;

d. Revising the last sentence and adding a new sentence to the end of the newly designated paragraph (e)(3); and

e. Adding a new paragraph (e)(4), to read as follows:

§ 75.16 Special provisions for monitoring emissions from common, bypass, and multiple stacks for SO_2 emissions and heat input determinations.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(B) Install, certify, operate, and maintain an SO_2 continuous emission monitoring system and flow monitoring system in the duct from each nonaffected unit; determine SO_2 mass emissions from the affected units as the difference between SO_2 mass emissions measured in the common stack and SO_2 mass emissions measured in the ducts of the nonaffected units, not to be reported as an hourly average value less than zero; combine emissions for the Phase I and Phase II affected units for recordkeeping and compliance purposes; calculate and report SO_2 mass emissions from the Phase I and Phase II affected units, pursuant to an approach approved by the Administrator, such that these emissions are not underestimated; or

* * * * *

(D) Petition through the designated representative and provide information satisfactory to the Administrator on methods for apportioning SO_2 mass emissions measured in the common stack to each of the units using the common stack and on reporting the SO_2 mass emissions. The Administrator may approve such demonstrated substitute methods for apportioning and reporting SO_2 mass emissions measured in a common stack whenever the demonstration ensures that there is a complete and accurate accounting of all emissions regulated under this part and, in particular, that the emissions from any affected unit are not underestimated.

* * * * *

(d) * * *

(2) Install, certify, operate, and maintain an SO_2 continuous emission monitoring system and flow monitoring system in each stack. Determine SO_2 mass emissions from each affected unit as the sum of the SO_2 mass emissions recorded for each stack. Notwithstanding the prior sentence, if another unit also exhausts flue gases to one or more of the stacks, the owner or operator shall also comply with the applicable common stack requirements of this section to determine and record SO_2 mass emissions from the units using that stack and shall calculate and report SO_2 mass emissions from the affected units and stacks, pursuant to an approach approved by the Administrator, such that these emissions are not underestimated.

(e) * * *

(1) The owner or operator of an affected unit using a common stack, bypass stack, or multiple stack with a diluent monitor and a flow monitor on each stack may choose to install monitors to determine the heat input for the affected unit, wherever flow and diluent monitor measurements are used to determine the heat input, using the procedures specified in paragraphs (a) through (d) of this section, except that the terms "SO_2 mass emissions" and "emissions" are replaced with the term "heat input" and the phrase "SO_2 continuous emission monitoring system and flow monitoring system" is replaced with the phrase "a diluent monitor and a flow monitor." The applicable equation in appendix F to this part shall be used to calculate the heat input from the hourly flow rate, diluent monitor measurements, and (if the equation in appendix F requires a correction for the stack gas moisture content) hourly moisture measurements. Notwithstanding the options for combining heat input in paragraphs (a)(1)(ii), (a)(2)(ii), (b)(1)(ii), and (b)(2)(ii) of this section, the owner or operator of an affected unit with a diluent monitor and a flow monitor installed on a common stack to determine the combined heat input at the common stack shall also determine and report heat input to each individual unit.

* * * * *

(3) * * * The heat input may be apportioned either by using the ratio of load (in MWe-hr) for each individual unit to the total load for all units utilizing the common stack or by using the ratio of steam flow (in 1000 lb) for each individual unit to the total steam flow for all units utilizing the common stack. The heat input should be apportioned according to the procedures in appendix F to this part.

(4) Notwithstanding paragraph (e)(1) of this section, any affected unit that is using the procedures in this part to meet the monitoring and reporting requirements of a State or federal NO_X mass emission reduction program must also meet the requirements for monitoring heat input in §§ 75.71 and 75.72.

17. Section 75.17 is amended by adding introductory text before paragraph (a) and by revising paragraph (a)(2)(i)(C) to read as follows:

§ 75.17 Specific provisions for monitoring emissions from common, by-pass, and multiple stacks for NO_X emission rate.

Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section, the owner or operator of an affected unit that is using the procedures in this part to meet the monitoring and reporting requirements of a State or federal NO_X mass emission reduction program must also meet the provisions for monitoring NO_X emission rate in §§ 75.71 and 75.72.

(a) * * *

(2) * * *

(i) * * *

(C) Each unit's compliance with the applicable NO_X emission limit will be determined by a method satisfactory to

the Administrator for apportioning to each of the units the combined NO_X emission rate (in lb/mmBtu) measured in the common stack and for reporting the NO_X emission rate, as provided in a petition submitted by the designated representative. The Administrator may approve such demonstrated substitute methods for apportioning and reporting NO_X emission rate measured in a common stack whenever the demonstration ensures that there is a complete and accurate estimation of all emissions regulated under this part and, in particular, that the emissions from any unit with a NO_X emission limitation are not underestimated.

* * * * *

18. Section 75.19 is added to subpart B to read as follows:

§ 75.19 Optional SO_2, NO_X, and CO_2 emissions calculation for low mass emissions units.

(a) *Applicability.* (1) Consistent with the requirements of paragraphs (a)(2) and (b) of this section, the low mass emissions excepted methodology in paragraph (c) of this section may be used in lieu of continuous emission monitoring systems or, if applicable, in lieu of excepted methods under appendix D or E to this part, for the purpose of determining hourly heat input, hourly NO_X emission rate, and hourly NO_X, SO_2, and CO_2 mass emissions from a low mass emissions unit. A low mass emissions unit is a gas-fired or oil-fired unit that burns only natural gas and/or fuel oil and that:

(i) Emits no more than 25 tons of SO_2 annually and no more than 25 tons of NO_X annually; and

(ii) Has calculated emissions of no more than 25 tons of SO_2 annually and no more than 25 tons of NO_X annually based on the maximum rated hourly heat input, the actual operating time for each fuel burned, and the low mass emissions excepted methodology, calculations, and values in paragraph (c) of this section.

(2) A unit may initially qualify as a low mass emissions unit only under the following circumstances:

(i) The designated representative provides historical actual and calculated emissions data from the previous three calendar years immediately prior to the submission of an application to use the low mass emissions excepted methodology, and the data demonstrates to the satisfaction of the Administrator that the unit meets the criteria in paragraphs (a)(1)(i) and (ii) of this section; or

(ii) If a unit does not have the historical data required in paragraph (a)(2)(i) of this section for any one or more of the previous three calendar years, the designated representative submits:

(A) Any historical annual emissions and operating data, as required in paragraphs (a)(1)(i) and (a)(1)(ii) of this section, beginning with the unit's first calendar year of commercial operation, and the data demonstrates to the satisfaction of the Administrator that the unit meets the criteria in paragraphs (a)(1)(i) and (a)(1)(ii) of this section; and

(B) A demonstration satisfactory to the Administrator that the unit will continue to qualify as a low mass emissions unit under the requirements of this paragraph (a). The demonstration shall include any historical emissions and operating data for less than a calendar year for the unit and projected emissions information for the unit, as determined using projected operating hours and fuel usage, and the low mass emissions excepted methodology, calculations, and values in paragraph (c) of this section.

(b) *Disqualification.* If a unit that initially qualifies as a low mass emissions units under this section changes the fuel that is burned in the unit such that a fuel other than natural gas or fuel oil is combusted in the unit, the unit is disqualified from using the low mass emissions excepted methodology as of the first hour that the new fuel is combusted in the unit. In addition, if a unit that initially qualifies as a low mass emissions unit under this section emits more than 25 tons of SO_2 or 25 tons of NO_X in any calendar year or has calculated emissions greater than 25 tons of SO_2 or 25 tons of NO_X in any calendar year, as determined using the low mass emission equations in paragraph (c) of this section, the owner or operator of the unit shall have two quarters from the end of the quarter in which the exceedance occurs to install, certify, and report SO_2, NO_X, and CO_2 from monitoring systems that meet the requirements of §§ 75.11, 75.12, and 75.13, respectively. The unit shall be disqualified as a low mass emissions unit as of the end of the second quarter following the quarter in which either of the 25 ton limits was exceeded. A unit that has been disqualified from using the low mass emissions excepted methodology may subsequently qualify again as a low mass emissions unit under paragraph (a)(2) of this section, provided that if such unit qualified under paragraph (a)(2)(ii) of this section, the unit may subsequently qualify again if the unit meets the requirements of paragraph (a)(2)(i) of this section.

(c) *Low mass emissions excepted methodology, calculations, and values.*—(1) *Operating time.* (i) Report an hourly record if the unit operated for any portion of the hour or if records are missing, as to whether or not the unit operated for any portion of that hour.

(ii) Quarterly operating time (hr) is equal to the sum of all of the reported operating hours in the quarter, such that any hour in which the unit combusted fuel for any portion of the hour is considered a full hour.

(iii) Year-to-date cumulative operating time (hr) is equal to the sum of all of the reported operating hours in the year to date, such that any hour in which the unit combusted fuel for any portion of the hour is considered a full hour.

(2) *Heat input.* (i) Hourly heat input (mmBtu) is equal to the maximum rated hourly heat input, as defined in § 72.2 of this chapter. However, the owner or operator of an affected unit may petition the Administrator under § 75.66 for a lower value for maximum rated hourly heat input than that defined in § 72.2 of this chapter. The Administrator may approve such lower value if the owner or operator demonstrates that either the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently.

(ii) Calculate the quarterly total heat input (mmBtu) using Equation 7a as follows:

$$HI_{qtr} = T_{qtr} \times HI_{hr} \quad \text{(Eq. 7a)}$$

where:

T_{qtr} = Actual number of operating hours in the quarter, in hr.

HI_{hr} = Hourly heat input under paragraph (c)(2)(i) of this section, in mmBtu.

(iii) Calculate the year-to-date cumulative heat input (mmBtu) as the sum of all of the hourly heat input values in the year to date.

(3) SO_2. (i) Calculate the hourly total SO_2 mass emissions (lbs) using Equation 7b and the appropriate fuel-based SO_2 emission factor from Table 1a for the fuel being burned in that hour. If more than one fuel is burned in the hour, use the highest emission factor for all of the fuels burned in the hour. If records are missing as to which fuel was burned in the hour, use the highest emission factor for all of the fuels capable of being burned in that unit.

TABLE 1a.—SO_2 EMISSION FACTORS (LB/MMBTU) FOR VARIOUS FUEL TYPES

Fuel type	SO_2 Emission factors
Pipeline Natural Gas	0.0006 lb/mmBtu.

TABLE 1a.—SO_2 EMISSION FACTORS (LB/MMBTU) FOR VARIOUS FUEL TYPES—Continued

Fuel type	SO_2 Emission factors
Natural Gas	0.06 lb/mmBtu.
Residual Oil	2.1 lb/mmBtu.
Diesel Fuel	0.5 lb/mmBtu.

$W_{SO2} = EF_{SO2} \times HI_{hr}$

(Eq. 7b)

Where:

W_{SO2} = SO_2 mass emissions, in lbs.

EF_{SO2} = Fuel-based SO_2 emission factor from Table 1a of this section, in lb/mmBtu.

HI_{hr} = Hourly heat input under paragraph (c)(2)(i) of this section, in mmBtu.

(ii) Calculate the quarterly total SO_2 mass emissions (tons) by summing all of the hourly SO_2 mass emissions under paragraph (c)(3)(i) of this section in the quarter and dividing by 2000 lb/ton.

(iii) Calculate the year-to-date cumulative SO_2 mass emissions (tons) by summing all of the SO_2 mass emissions under paragraph (c)(3)(i) of this section in the year to date.

(4) NO_X. (i) Determine the hourly NO_X emission rate (lb/mmBtu) by using the appropriate fuel and boiler type default NO_X emission rate in Table 1b for the fuel being burned in that hour. If more than one fuel is burned in the hour, use the highest emission rate for all of the fuels burned in the hour. If records are missing as to which fuel was burned in the hour, use the highest emission factor for all of the fuels capable of being burned in that unit.

TABLE 1b.—NO_X EMISSION RATES (LB/MMBTU) FOR VARIOUS BOILER/FUEL TYPES

Boiler type	Fuel type	NO_X Emission rate
Tangentially fired	Oil	0.366
Tangentially fired	Gas	0.290
Dry Bottom Wall fired	Oil	0.490
Dry Bottom Wall fired	Gas	0.400
Combustion Turbine	Oil	0.258
Combustion Turbine	Gas	0.172
Combined Cycle	Oil	0.273
Combined Cycle	Gas	0.273

(ii) Calculate the hourly total NO_X mass emissions (lbs) as the product of the NO_X emission rate (lb/mmBtu) and hourly heat input (mmBtu), using Equation 7c as follows:

$W_{NOX} = EF_{NOX} \times HI_{hr}$

(Eq. 7c)

where:

W_{NOX} = NO_X mass emissions, in lbs.

EF_{NOX} = Boiler-type and fuel-type NO_X emission factor from Table 1b of this section, in lb/mmBtu.

HI_{hr} = Hourly heat input under paragraph (c)(2)(i) of this section, in mmBtu.

(iii) Calculate the quarterly average NO_X emission rate (lb/mmBtu) by summing all of the hourly NO_X emission rates for the quarter and dividing the total by the number of reported operating hours under paragraph (c)(1)(i) of this section in the quarter.

(iv) Calculate the quarterly total NO_X mass emissions (tons) by summing all of the hourly NO_X mass emissions under paragraph (c)(4)(ii) of this section in the quarter and dividing the total by 2000 lb/ton.

(v) Calculate the year-to-date cumulative average NO_X emission rate (lb/mmBtu) by summing all of the hourly NO_X emission rates for all of the hours in the year to date and dividing the total by the number of reported operating hours under paragraph (c)(1)(i) of this section in the year to date.

(vi) Calculate the year-to-date cumulative NO_X mass emissions total (tons) by summing all of the hourly NO_X mass emissions under paragraph (c)(4)(ii) of this section in the year to date.

(5) *CO_2*. (i) Calculate the hourly total CO_2 mass emissions (tons) using Equation 7d and the appropriate fuel-based CO_2 emission factor from Table 1c for the fuel being burned in that hour. If more than one fuel is burned in the hour, use the highest emission factor for all of the fuels burned in the hour. If records are missing as to which fuel was burned in the hour, use the highest emission factor for all of the fuels capable of being burned in that unit.

TABLE 1c.—CO_2 EMISSION FACTORS (TON/MMBTU) FOR GAS AND OIL

Fuel type	CO_2 emission factors
Natural Gas	0.059 ton/mmBtu.
Oil	0.081 ton/mmBtu.

$W_{CO2} = EF_{CO2} \times HI_{hr}$

(Eq. 7d)

Where:

W_{CO2} = CO_2 mass emissions, in tons.

EF_{CO2} = Fuel-based CO_2 emission factor from Table 1c, in ton/mmBtu.

HI_{hr} = Hourly heat input under paragraph (c)(2)(i) of this section, in mmBtu.

(ii) Calculate the quarterly total CO_2 mass emissions (tons) by summing all of the hourly CO_2 mass emissions under paragraph (c)(5)(i) of this section in the quarter.

(iii) Calculate the year-to-date cumulative CO_2 mass emissions (tons) by summing all of the hourly CO_2 mass emissions under paragraph (c)(5)(i) of this section in the year to date.

(d) The quality control and quality assurance requirements in § 75.21 are not required for a low mass emissions unit for which the optional low mass emissions excepted methodology in paragraph (c) of this section is being used in lieu of a continuous emission monitoring system or an excepted monitoring system under appendix D or E to this part.

Subpart C—[Amended]

19. Section 75.20 is amended by:

a. Revising the title of the section;

b. Revising the titles of paragraphs (a)(3), (a)(4), (c), (d), (g), (g)(1), (g)(2), (g)(4), and (g)(5);

c. Revising paragraphs (a) introductory text, (a)(1), (a)(3), (a)(4) introductory text, (a)(4)(i), (a)(4)(ii), (a)(4)(iii), (a)(5)(i), (b), (c) introductory text, (c)(1)(iii), (d)(1), (d)(2), (g) introductory text, (g)(1) introductory text, (g)(1)(i), (g)(2), (g)(4), and (g)(5);

d. Removing existing paragraph (c)(3);

e. Revising and redesignating existing paragraphs (c)(4), (c)(5), (c)(6), (c)(7), and (c)(8) as paragraphs (c)(3), (c)(4), (c)(8), (c)(9), and (c)(10), respectively; and revising newly designated paragraphs (c)(4) introductory text, (c)(8) introductory text, (c)(8)(i),

(c)(9)(ii), and (c)(10) introductory text; and

f. Adding new paragraphs (c)(5), (c)(6), (c)(7), (g)(6), (g)(7), (h), and (i), to read as follows:

§ 75.20 Initial certification and recertification procedures.

(a) *Initial certification approval process.* The owner or operator shall ensure that each continuous emission or opacity monitoring system required by this part, which includes the automated data acquisition and handling system, and, where applicable, the CO_2 continuous emission monitoring system, meets the initial certification requirements of this section and shall ensure that all applicable initial certification tests under paragraph (c) of this section are completed by the deadlines specified in § 75.4 and prior to use in the Acid Rain Program. In addition, whenever the owner or operator installs a continuous emission or opacity monitoring system in order to meet the requirements of §§ 75.13 through 75.18, where no continuous emission or opacity monitoring system was previously installed, initial certification is required.

(1) *Notification of initial certification test dates.* The owner or operator or designated representative shall submit a written notice of the dates of initial certification testing at the unit as specified in § 75.61(a)(1).

* * * * *

(3) *Provisional approval of certification (or recertification) applications.* Upon the successful completion of the required certification (or recertification) procedures of this section for each continuous emission or opacity monitoring system or component thereof, each continuous emission or opacity monitoring system or component thereof shall be deemed provisionally certified (or recertified) for use under the Acid Rain Program for a period not to exceed 120 days following receipt by the Administrator of the complete certification (or recertification) application under paragraph (a)(4) of this section, provided that no continuous emission or opacity monitor systems for a combustion source seeking to enter the Opt-in Program in accordance with part 74 of this chapter shall be deemed provisionally certified (or recertified) for use under the Acid Rain Program. Data measured and recorded by a provisionally certified (or recertified) continuous emission or opacity monitoring system or component thereof, in accordance with the requirements of appendix B to this part, will be considered valid quality-assured data (retroactive to the date and time of provisional certification or recertification)), provided that the Administrator does not invalidate the provisional certification (or recertification) by issuing a notice of disapproval within 120 days of receipt by the Administrator of the complete certification (or recertification) application. Note that if the data validation procedures of paragraph (b)(3) of this section are applied to the initial certification (or recertification) of a continuous emissions monitoring system, it is possible for data recorded by the CEMS during the certification (or recertification) test period to be quality assured retrospectively, upon completion of all of the certification (or recertification) tests. Therefore, in certain instances, the date and time of provisional certification (or recertification) of the CEMS may be earlier than the date and time of completion of the required certification (or recertification) tests.

(4) *Certification (or recertification) application formal approval process.* The Administrator will issue a notice of approval or disapproval of the certification (or recertification) application to the owner or operator within 120 days of receipt of the complete certification (or recertification) application. In the event the Administrator does not issue such a written notice within 120 days of receipt, each continuous emission or opacity monitoring system which meets the performance requirements of this part and is included in the certification (or recertification) application will be deemed certified (or recertified) for use under the Acid Rain Program.

(i) *Approval notice.* If the certification (or recertification) application is complete and shows that each continuous emission or opacity monitoring system meets the performance requirements of this part, then the Administrator will issue a written notice of approval of the certification (or recertification) application within 120 days of receipt.

(ii) *Incomplete application notice.* A certification (or recertification) application will be considered complete when all of the applicable information required to be submitted in § 75.63 has been received by the Administrator, the EPA Regional Office, and the appropriate State and/or local air pollution control agency. If the certification (or recertification) application is not complete, then the Administrator will issue a written notice of incompleteness that provides a reasonable timeframe for the designated representative to submit the additional information required to complete the certification (or recertification) application. If the designated representative has not complied with the notice of incompleteness by a specified due date, then the Administrator may issue a notice of disapproval specified under paragraph (a)(4)(iii) of this section. The 120-day review period shall not begin prior to receipt of a complete application.

(iii) *Disapproval notice.* If the certification (or recertification) application shows that any continuous emission or opacity monitoring system or component thereof does not meet the performance requirements of this part, or if the certification (or recertification) application is incomplete and the requirement for disapproval under paragraph (a)(4)(ii) of this section has been met, the Administrator shall issue a written notice of disapproval of the certification (or recertification) application within 120 days of receipt. By issuing the notice of disapproval, the provisional certification (or recertification) is invalidated by the Administrator, and the data measured and recorded by each uncertified continuous emission or opacity monitoring system or component thereof shall not be considered valid quality-assured data beginning with the following time: from the hour of the probationary calibration error test that began the initial certification (or recertification) test period, if the data validation procedures of paragraph (b)(3) of this section were used to retrospectively validate data; or from the date and time of completion of the invalid certification tests until the date and time that the owner or operator completes subsequently approved initial certification tests, if the data validation procedures of paragraph (b)(3) of this section were not used. The owner or operator shall follow the procedures for loss of initial certification in paragraph (a)(5) of this section for each continuous emission or opacity monitoring system or component thereof which is disapproved for initial certification. For each disapproved recertification, the owner or operator shall follow the procedures of paragraph (b)(5) of this section.

* * * * *

(5) * * *

(i) Until such time, date, and hour as the continuous emission monitoring system or component thereof can be adjusted, repaired, or replaced and certification tests successfully completed, the owner or operator shall substitute the following values, as applicable, for each hour of unit operation during the period of invalid

data specified in paragraph (a)(4)(iii) of this section or in § 75.21: the maximum potential concentration of SO_2 as defined in section 2.1.1.1 of appendix A to this part to report SO_2 concentration; the maximum potential NO_X emission rate, as defined in § 72.2 of this chapter to report NO_X emissions; the maximum potential flow rate, as defined in section 2.1.4.1 of appendix A to this part to report volumetric flow; or the maximum potential concentration of CO_2, as defined in section 2.1.3.1 of appendix A to this part to report CO_2 concentration data; and

* * * * *

(b) *Recertification approval process.* Whenever the owner or operator makes a replacement, modification, or change in a certified continuous emission monitoring system or continuous opacity monitoring system that is determined by the Administrator to significantly affect the ability of the system to accurately measure or record the SO_2 or CO_2 concentration, stack gas volumetric flow rate, NO_X emission rate, or opacity, or to meet the requirements of § 75.21 or appendix B to this part, the owner or operator shall recertify the continuous emission monitoring system or continuous opacity monitoring system, according to the procedures in this paragraph. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit operation that is determined by the Administrator to significantly change the flow or concentration profile, the owner or operator shall recertify the monitoring system according to the procedures in this paragraph. Examples of changes which require recertification include: replacement of the analyzer; change in location or orientation of the sampling probe or site; changing of flow rate monitor polynomial coefficients; and complete replacement of an existing continuous emission monitoring system or continuous opacity monitoring system. The owner or operator shall recertify a continuous opacity monitoring system whenever the monitor path length changes or as required by an applicable State or local regulation or permit. Any change to a stack flow rate or gas monitoring system for which the Administrator determines that a RATA is not necessary shall not be considered a recertification event. In such cases, any other tests that the Administrator determines to be necessary (linearity checks, calibration error tests, DAHS verifications, etc.) shall be performed as diagnostic tests, rather than recertification tests. The data validation procedures in paragraph (b)(3) of this section shall be applied to linearity checks, 7-day calibration error tests, and cycle time tests when these are required as diagnostic tests. When the data validation procedures of paragraph (b)(3) of this section are applied in this manner, replace the word "recertification" with the word "diagnostic."

(1) *Tests required.* For recertification testing after changing the flow rate monitor polynomial coefficients, the owner or operator shall complete a 3-level RATA. For all other recertification testing, the owner or operator shall complete all initial certification tests in paragraph (c) of this section that are applicable to the monitoring system, except as otherwise approved by the Administrator.

(2) *Notification of recertification test dates.* The owner, operator, or designated representative shall submit notice of testing dates for recertification under this paragraph as specified in § 75.61(a)(1)(ii), unless all of the tests in paragraph (c) of this section are required for recertification, in which case the owner or operator shall provide notice in accordance with the notice provisions for initial certification testing in § 75.61(a)(1)(i).

(3) *Recertification test period requirements and data validation.* (i) In the period extending from the hour of the replacement, modification or change made to a monitoring system that triggers the need to perform recertification test(s) of the CEMS to the hour of successful completion of a probationary calibration error test (according to paragraph (b)(3)(ii) of this section) following the replacement, modification, or change to the CEMS, the owner or operator shall either substitute for missing data, according to the standard missing data procedures in §§ 75.33 through 75.37, or report emission data using a reference method or another monitoring system that has been certified or approved for use under this part.

(ii) Once the modification or change to the CEMS has been completed and all of the associated repairs, component replacements, adjustments, linearization, and reprogramming of the CEMS have been completed, a probationary calibration error test is required to establish the beginning point of the recertification test period. In this instance, the first successful calibration error test of the monitoring system following completion of all necessary repairs, component replacements, adjustments, reprogramming, and any preliminary tests (e.g., trial RATA runs or a challenge of the monitor with calibration gases other than those used to perform the daily calibration error test) shall be the probationary calibration error test. The probationary calibration error test must be passed before any of the required recertification tests are commenced.

(iii) Beginning with the hour of commencement of a recertification test period, emission data recorded by the CEMS are considered to be conditionally valid, contingent upon the results of the subsequent recertification tests.

(iv) Each required recertification test shall be completed no later than the following number of unit operating hours after the probationary calibration error test that initiates the test period:

(A) For a linearity test and/or cycle time test, 168 consecutive unit operating hours;

(B) For a RATA (whether normal-load or multiple-load), 720 consecutive unit operating hours; and

(C) For a 7-day calibration error test, 21 consecutive unit operating days.

(v) All recertification tests shall be performed hands-off, as follows. No adjustments to the calibration of the CEMS, other than the adjustments described in section 2.1.3 of appendix B to this part, are permitted prior to or during the recertification test period. Routine daily calibration error tests shall be performed throughout the recertification test period, in accordance with section 2.1.1 of appendix B to this part. The additional calibration error test requirements in section 2.1.3 of appendix B to this part shall also apply during the recertification test period.

(vi) If all of the required recertification tests and required daily calibration error tests are successfully completed in succession with no failures, and if each recertification test is completed within the time period specified in paragraph (b)(3)(iv)(A), (B), or (C) of this section, then all of the conditionally valid emission data recorded by the CEMS shall be considered quality assured, from the hour of commencement of the recertification test period until the hour of completion of the required test(s).

(vii) If a required recertification test is failed or aborted due to a problem with the CEMS, or if a calibration error test is failed during a recertification test period, data validation shall be done as follows:

(A) If any required recertification test is failed, it shall be repeated. If any recertification test other than a 7-day calibration error test is failed or aborted due to a problem with the CEMS, the original recertification test period is ended, and a new recertification test period must be commenced with a

probationary calibration error test. The tests that are required in this new recertification test period will include any tests that were required for the initial recertification event which were not successfully completed and any recertification or diagnostic tests that are required as a result of changes made to the monitoring system to correct the problems that caused the failure of the recertification test. The new recertification test sequence shall not be commenced until all necessary maintenance activities, adjustments, linearizations, and reprogramming of the CEMS have been completed;

(B) If a linearity test, RATA, or cycle time test is failed or aborted due to a problem with the CEMS, all conditionally valid emission data recorded by the CEMS are invalidated, from the hour of commencement of the recertification test period to the hour in which the test is failed or aborted. Data from the CEMS remain invalid until the hour in which a new recertification test period is commenced, following corrective action, and a probationary calibration error test is passed, at which time the conditionally valid status of emission data from the CEMS begins;

(C) If a 7-day calibration error test is failed within the recertification test period, previously-recorded conditionally valid emission data from the CEMS are not invalidated, provided that the calibration error on the day of the failed 7-day calibration error test does not exceed twice the performance specification in section 3 of appendix A to this part; and

(D) If a calibration error test is failed (i.e., the results of the test exceed twice the performance specification in section 3 of appendix A to this part) during a recertification test period, the CEMS is out-of-control as of the hour in which the calibration error test is failed. Emission data from the CEMS shall be invalidated prospectively from the hour of the failed calibration error test until the hour of completion of a subsequent successful calibration error test following corrective action, at which time the conditionally valid status of data from the monitoring system resumes. Failure to perform a required daily calibration error test during a recertification test period shall also cause data from the CEMS to be invalidated prospectively, from the hour in which the calibration error test was due until the hour of completion of a subsequent successful calibration error test. Previously-passed recertification tests in the sequence and previously-recorded conditionally valid data shall not be affected by a late calibration error test. Whenever a calibration error test is failed or missed during a recertification test period, no further recertification tests shall be performed until the required subsequent calibration error has been passed, re-establishing the conditionally valid status of data from the monitoring system.

(viii) If any required recertification test is not completed within its allotted time period, data validation shall be done as follows. For a late linearity test, RATA, or cycle time test that is passed on the first attempt, data from the monitoring system shall be invalidated from the hour of expiration of the recertification test period until the hour of completion of the late test. For a late 7-day calibration error test, whether or not it is passed on the first attempt, data from the monitoring system shall also be invalidated from the hour of expiration of the recertification test period until the hour of completion of the late test. For a late linearity test, RATA, or cycle time test that is failed on the first attempt or aborted on the first attempt due to a problem with the monitor, all conditionally valid data from the monitoring system shall be considered invalid back to the hour of the first probationary calibration error test which initiated the recertification test period. Data from the monitoring system shall remain invalid until the hour of successful completion of the late recertification test and any additional recertification or diagnostic tests that are required as a result of changes made to the monitoring system to correct problems that caused failure of the late recertification test.

(ix) If any required recertification test of a monitoring system has not been completed by the end of a calendar quarter and if data contained in the quarterly report is conditionally valid pending the results of test(s) to be completed in a subsequent quarter, the owner or operator shall indicate this by means of a suitable conditional data flag in the electronic quarterly report for that quarter. The owner or operator shall resubmit the report for that quarter if the required recertification test is subsequently failed. In the resubmitted report, the owner or operator shall use the appropriate missing data routine in § 75.31 or § 75.33 to replace with substitute data each hour of conditionally valid data that was invalidated by the failed recertification test. In addition, if the owner or operator submits any conditionally valid data (as defined in § 72.2 of this chapter) in any of the four quarterly reports for a given year, the owner or operator shall indicate the status of the conditionally valid data (i.e., resolved or unresolved) in the annual compliance certification report required under § 72.90 of this chapter for that year. Alternatively, if any required recertification test is not completed by the end of a particular calendar quarter but is completed no later than 30 days after the end of that quarter (i.e., prior to the deadline for submitting the quarterly report under § 75.64), the test data and results may be submitted with the earlier quarterly report even though the test date(s) are from the next calendar quarter. In such instances, if the recertification test(s) are passed in accordance with the provisions of paragraph (b)(3) of this section, conditionally valid data may be reported as quality-assured, in lieu of reporting a conditional data flag. If the recertification test(s) is failed and if conditionally valid data are replaced, as appropriate, with substitute data, then neither the reporting of a conditional data flag nor resubmission is required.

(x) If the replacement, modification, or change requiring recertification of the CEMS is such that the data collected by the prior certified monitoring system are no longer representative, such as after a change to the flue gas handling system or unit operation that requires changing the span value to be consistent with section 2.1 of appendix A to this part, the owner or operator shall substitute for missing data as follows, in the period extending from the hour of commencement of the replacement, modification, or change requiring recertification of the CEMS to the hour of commencement of the recertification test period:

(A) For a change that results in a significantly higher concentration or flow rate, substitute maximum potential values according to the procedures in paragraph (a)(5) of this section; or

(B) For a change that results in a significantly lower concentration or flow rate, substitute data using the standard missing data procedures.

(C) The owner or operator shall then use the initial missing data procedures in § 75.31, beginning with the first hour of quality assured data obtained with the recertified monitoring system, unless otherwise provided by § 75.34 for units with add-on emission controls.

(4) *Recertification application.* The designated representative shall apply for recertification of each continuous emission or opacity monitoring system used under the Acid Rain Program. The owner or operator shall submit the recertification application in accordance with § 75.60, and each complete recertification application shall include the information specified in § 75.63.

(5) *Approval or disapproval of request for recertification.* The procedures for

provisional certification in paragraph (a)(3) of this section shall apply to recertification applications. The Administrator will issue a written notice of approval or disapproval according to the procedures in paragraph (a)(4) of this section. In the event that a recertification application is disapproved, data from the monitoring system are invalidated and the applicable missing data procedures in § 75.31 or § 75.33 shall be used from the date and hour of receipt of such notice back to the hour of the probationary calibration error test that began the recertification test period. Data from the monitoring system remain invalid until a subsequent probationary calibration error test is passed, beginning a new recertification test period. The owner or operator shall repeat all recertification tests or other requirements, as indicated in the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval. The designated representative shall submit a notification of the recertification retest dates, as specified in § 75.61(a)(1)(ii), and shall submit a new recertification application according to the procedures in paragraph (b)(4) of this section.

(c) *Initial certification and recertification procedures.* Prior to the deadline in § 75.4, the owner or operator shall conduct initial certification tests and in accordance with § 75.63, the designated representative shall submit an application to demonstrate that the continuous emission or opacity monitoring system and components thereof meet the specifications in appendix A to this part. The owner or operator shall compare reference method values with output from the automated data acquisition and handling system that is part of the continuous emission monitoring system being tested. Except as specified in paragraphs (b)(1), (d), and (e) of this section, the owner or operator shall perform the following tests for initial certification or recertification of continuous emission or opacity monitoring systems or components according to the requirements of appendix A to this part:

(1) * * *

(iii) A relative accuracy test audit. For the NO_X-diluent system, the RATA shall be done on a system basis, in units of lb/mmBtu.

* * * * *

(3) The initial certification test data from an O_2-or a CO_2-diluent gas monitor certified for use in a NO_X continuous emission monitoring system may be submitted to meet the requirements of paragraph (c)(4) of this section. Also, for a diluent monitor that is used both as a CO_2 monitoring system and to determine heat input, only one set of diluent monitor certification data need be submitted (under the component and system identification numbers of the CO_2 monitoring system).

(4) For each CO_2 pollutant concentration monitor, each O_2 monitor which is part of a CO_2 continuous emission monitoring system, each diluent monitor used to monitor heat input and each SO_2-diluent continuous emission monitoring system:

* * * * *

(5) For each continuous moisture monitoring system consisting of wet-and dry-basis O_2 analyzers:

(i) A 7-day calibration error test of each O_2 analyzer;

(ii) A cycle time test of each O_2 analyzer;

(iii) A linearity test of each O_2 analyzer; and

(iv) A RATA, directly comparing the percent moisture measured by the monitor to a reference method.

(6) For each continuous moisture sensor:

(i) A 7-day calibration error test; and

(ii) A RATA, directly comparing the percent moisture measured by the monitor sensor to a reference method.

(7) For a continuous moisture monitoring system consisting of a temperature sensor and a data acquisition and handling system (DAHS) software component programmed with a moisture lookup table:

(i) A demonstration that the correct moisture value for each hour is being taken from the moisture lookup tables and applied to the emission calculations. At a minimum, the demonstration shall be made at three different temperatures covering the normal range of stack temperatures.

(ii) [Reserved]

(8) The owner or operator shall ensure that initial certification or recertification of a continuous opacity monitor for use under the Acid Rain Program is conducted according to one of the following procedures:

(i) Performance of the tests for initial certification or recertification, according to the requirements of Performance Specification 1 in appendix B to part 60 of this chapter; or

* * * * *

(9) * * *

(ii) Proper computation and application of the missing data substitution procedures in subpart D of this part and the bias adjustment factors in section 7 of appendix A to this part.

(10) The owner or operator shall provide, or cause to be provided, adequate facilities for initial certification or recertification testing that include:

* * * * *

(d) *Initial certification and recertification and quality assurance procedures for optional backup continuous emission monitoring systems.*

(1) *Redundant backups.* The owner or operator of an optional redundant backup continuous emission monitoring system shall comply with all the requirements for initial certification and recertification according to the procedures specified in paragraphs (a), (b), and (c) of this section. The owner or operator shall operate the redundant backup continuous emission monitoring system during all periods of unit operation, except for periods of calibration, quality assurance, maintenance, or repair. The owner or operator shall perform upon the redundant backup continuous emission monitoring system all quality assurance and quality control procedures specified in appendix B to this part, except that the daily assessments in section 2.1 of appendix B to this part are optional for days on which the redundant backup monitoring system is not used to report emission data under this part. For any day on which a redundant backup monitoring system is used to report emission data, the system must meet all of the applicable daily assessment criteria in appendix B to this part.

(2) *Non-redundant backups.* The owner or operator of an optional non-redundant backup continuous emission monitoring system shall comply with all of the following requirements for initial certification, quality assurance, recertification, and data reporting:

(i) For a non-redundant backup gas monitoring system that has its own separate probe, sample interface, and analyzer or for a non-redundant backup flow monitor, all of the tests in paragraph (c) of this section are required for initial certification of the system, except for the 7-day calibration error test.

(ii) For a non-redundant backup gas monitoring system consisting of one or more like-kind replacement analyzers that use the same probe and sample interface as a primary monitoring system, no initial certification of the non-redundant backup monitoring system is required. Note that a non-redundant backup analyzer, connected to the same probe and interface as a primary analyzer in order to satisfy the dual span requirements of section

2.1.1.4 or 2.1.2.4 of appendix A to this part, shall be considered a like-kind, non-redundant backup analyzer.

(iii) Each non-redundant backup monitoring system shall comply with the daily and quarterly quality assurance and quality control requirements in appendix B to this part for each day and quarter that the non-redundant backup monitoring system is used to report data, except that the requirements for when a linearity test must be performed are superseded by the requirements of this section. The owner or operator shall ensure that each non-redundant backup continuous emission monitoring system passes a linearity check (for pollutant concentration and diluent gas monitors) or a calibration error test (for flow monitors) prior to each use for recording and reporting emissions. For a non-redundant backup NO_X-diluent or SO_2-diluent monitoring system consisting of a primary pollutant analyzer and a like-kind replacement diluent analyzer (or vice-versa), provided that the primary analyzer is operating and is not out-of-control with respect to any of its quality assurance requirements, only the like-kind replacement analyzer must pass a linearity check before the system is used for data reporting. When a non-redundant backup monitoring system is brought into service prior to conducting the linearity test, a probationary calibration error test (as described in paragraph (b)(3)(ii) of this section), which will begin a period of conditionally valid data, may be performed in order to allow the use of data retrospectively, as follows. Conditionally valid data from the CEMS are validated back to the hour of completion of the probationary calibration error test if the following conditions are met: if no adjustments are made to the monitor other than those specified in section 2.1.3 of appendix B to this part between the probationary calibration error test and the successful completion of the linearity test, and if the linearity test is passed within 168 unit operating hours of the probationary calibration error test. However, if the linearity test is either failed, aborted due to a problem with the CEMS, or not completed as required, then all of the conditionally valid data are invalidated back to the hour of the probationary calibration error test, and data from the CEMS remain invalid until the hour of completion of a successful linearity test.

(iv) When data are reported from a non-redundant backup monitoring system, the appropriate bias adjustment factor (BAF) shall be determined as follows:

(A) Apply the BAF from the most recent RATA of the non-redundant backup system (even if that RATA was done more than 12 months previously); or

(B) If no RATA results are available for the non-redundant backup system (e.g., for a non-redundant backup gas monitoring system that uses the same probe and sample interface as the primary monitoring system), apply the primary monitoring system BAF.

(v) A non-redundant backup system may not be used for reporting data from a particular affected unit or common stack for more than 720 hours in any one calendar year, unless the monitoring system passes a RATA at that same unit or stack.

(vi) For each non-redundant backup gas monitoring system that has its own separate probe, sample interface, and analyzer and for each non-redundant backup flow monitor, no more than eight successive calendar quarters shall elapse following the quarter in which the last RATA of the monitoring system was done at a particular unit or stack, without performing a subsequent RATA. Otherwise, the monitoring system may not be used to report data from that unit or stack until the hour of completion of a successful RATA at that location.

* * * * *

(g) *Initial certification and recertification procedures for excepted monitoring systems under appendices D and E.* The owner or operator of a gas-fired unit, oil-fired unit, or diesel-fired unit using the optional protocol under appendix D or E to this part shall ensure that an excepted monitoring system under appendix D or E to this part meets the applicable general operating requirements of § 75.10, the applicable requirements of appendices D and E to this part, and the initial certification or recertification requirements of this paragraph.

(1) *Initial certification and recertification testing.* The owner or operator shall use the following procedures for initial certification and recertification of an excepted monitoring system under appendix D or E to this part.

(i) When the optional SO_2 mass emissions estimation procedure in appendix D to this part or the optional NO_X emissions estimation protocol in appendix E to this part is used, the owner or operator shall provide data from a flowmeter accuracy test (or shall provide a statement of calibration if the flowmeter meets the accuracy standard by design) for each fuel flowmeter, according to the appropriate calibration procedures using one of the following standard methods: ASME MFC–3M–1989 with September 1990 Errata, "Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi"; ASME MFC–4M–1986 (Reaffirmed 1990) "Measurement of Gas Flow by Turbine Meters"; ASME MFC–5M–1985, "Measurement of Liquid Flow in Closed Conduits Using Transit-Time Ultrasonic Flowmeters"; ASME MFC–6M–1987 with June 1987 Errata, "Measurement of Fluid Flow in Pipes Using Vortex Flow Meters"; ASME MFC–7M–1987 (Reaffirmed 1992), "Measurement of Gas Flow by Means of Critical Flow Venturi Nozzles"; ASME MFC–9M–1988 with December 1989 Errata, "Measurement of Liquid Flow in Closed Conduits by Weighing Method"; ISO 8316: 1987(E) "Measurement of Liquid Flow in Closed Conduits—Method by Collection of the Liquid in a Volumetric Tank"; Section 8, Calibration from American Gas Association Transmission Measurement Committee Report No. 7: Measurement of Gas by Turbine Meters (1985 Edition); American Gas Association Report No. 3: Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids Part 1: General Equations and Uncertainty Guidelines (October 1990 Edition), Part 2: Specification and Installation Requirements (February 1991 Edition), and Part 3: Natural Gas Applications (August 1992 Edition), excluding the modified calculation procedures of Part 3; or American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the Manual of Petroleum Measurement Standards, October 1988 (Reaffirmed 1993), as required by appendices D and E to this part (all methods incorporated by reference under § 75.6).

* * * * *

(2) *Initial certification and recertification testing notification.* The designated representative shall provide initial certification testing notification and periodic retesting notification for an excepted monitoring system under appendix E to this part as specified in § 75.61. The designated representative shall submit recertification testing notification, as specified in § 75.61, for quality assurance related NO_X emission rate testing under section 2.3 of appendix E to this part for an excepted monitoring system under appendix E to this part. Initial certification testing notification or periodic retesting notification is not required for testing of a fuel flowmeter or for testing of an excepted monitoring system under appendix D to this part.

* * * * *

(4) *Initial certification or recertification application.* The designated representative shall submit an initial certification or recertification application in accordance with §§ 75.60 and 75.63.

(5) *Provisional approval of initial certification and recertification applications.* Upon the successful completion of the required initial certification or recertification procedures for each excepted monitoring system under appendix D or E to this part, each excepted monitoring system under appendix D or E to this part shall be deemed provisionally certified for use under the Acid Rain Program during the period for the Administrator's review. The provisions for the initial certification or recertification application formal approval process in paragraph (a)(4) of this section shall apply, except that "continuous emission or opacity monitoring system" shall be replaced with "excepted monitoring system" and except that "shall follow the procedures for loss of initial certification in paragraph (a)(5)" or "shall follow the procedures of paragraph (b)(5)" shall be replaced with "shall follow the procedures for loss of certification in paragraph (g)(7)". Data measured and recorded by a provisionally certified excepted monitoring system under appendix D or E to this part will be considered quality assured data from the date and time of completion of the last initial certification or recertification test, provided that the Administrator does not revoke the provisional certification by issuing a notice of disapproval in accordance with the provisions in paragraph (a)(4) or (b)(5) of this section.

(6) *Recertification requirements.* Recertification of an excepted monitoring system under appendix D or E to this part is required for any modification to the system or change in operation that could significantly affect the ability of the system to accurately account for emissions and for which the Administrator determines that an accuracy test of the fuel flowmeter or a retest under appendix E to this part to re-establish the NO_X correlation curve is required. Examples of such changes or modifications include fuel flowmeter replacement, changes in unit configuration, or exceedance of operating parameters.

(7) *Procedures for loss of certification or recertification for excepted monitoring systems under appendices D and E to this part.* In the event that a certification or recertification application is disapproved for an excepted monitoring system, data from the monitoring system are invalidated, and the applicable missing data procedures in section 2.4 of appendix D or section 2.5 of appendix E to this part shall be used from the date and hour of receipt of such notice back to the hour of the provisional certification. Data from the excepted monitoring system remain invalid until all required tests are repeated and the excepted monitoring system is again provisionally certified. The owner or operator shall repeat all certification or recertification tests or other requirements, as indicated in the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval. The designated representative shall submit a notification of the certification or recertification retest dates if required under paragraph (g)(2) of this section and shall submit a new certification or recertification application according to the procedures in paragraph (g)(4) of this section.

(h) *Initial certification and recertification procedures for low mass emission units using the excepted methodologies under § 75.19.* The owner or operator of a gas-fired, oil-fired, or diesel-fired unit using the optional low mass emissions excepted methodologies under § 75.19 shall meet the applicable general operating requirements of § 75.10, the applicable requirements of § 75.19, and the applicable certification requirements of this paragraph (h).

(1) *Monitoring plan.* The designated representative shall submit a monitoring plan in accordance with §§ 75.53 and 75.62.

(2) *Certification application.* The designated representative shall submit a certification application in accordance with § 75.63(a)(1)(iii).

(3) *Approval of certification applications.* Upon submission of the required certification application for approval to use the low mass emissions excepted methodology under § 75.19, the excepted methodology shall be deemed provisionally certified for use under the Acid Rain Program during the period for the Administrator's review. The provisions for the certification application formal approval process in the introductory text of paragraph (a)(4) and in paragraphs (a)(4)(i), (ii), and (iv) of this section shall apply, except that "continuous emission or opacity monitoring system" shall be replaced with "excepted methodology."

(4) *Disapproval of certification applications.* If the Administrator determines that the certification application does not demonstrate that the unit meets the requirements of §§ 75.19(a) and (b), the Administrator shall issue a written notice of disapproval of the certification application within 120 days of receipt. By issuing the notice of disapproval, the provisional certification is invalidated by the Administrator, and the data recorded under the excepted methodology shall not be considered valid. The owner or operator shall follow the procedures for loss of certification:

(i) The owner or operator shall substitute the following values, as applicable, for each hour of unit operation during the period of invalid data specified in paragraph (a)(4)(iii) of this section or in §§ 75.21(e) (introductory paragraph) and 75.21(e)(1): the maximum potential concentration of SO_2, as defined in section 2.1 of appendix A to this part to report SO_2 concentration; the maximum potential NO_X emission rate, as defined in § 72.2 of this chapter to report NO_X emissions; the maximum potential flow rate, as defined in section 2.1 of appendix A to this part to report volumetric flow; or the maximum CO_2 concentration used to determine the maximum potential concentration of SO_2 in section 2.1.1.1 of appendix A to this part to report CO_2 concentration data until such time, date, and hour as a continuous emission monitoring system or excepted monitoring system, where applicable, is installed and provisionally certified;

(ii) The designated representative shall submit a notification of certification test dates, as specified in § 75.61(a)(1)(ii), and a new certification application according to the procedures in paragraph (a)(2) of this section; and

(iii) The owner or operator shall install and provisionally certify continuous emission monitoring systems or excepted monitoring systems, where applicable, no later than 180 unit operating days after the date of issuance of the notice of disapproval.

(i) *Initial certification and recertification procedures for excepted flow monitoring systems under appendix I.* The owner or operator of a gas-fired unit, oil-fired unit, or diesel-fired unit using the optional protocol under appendix I to this part shall ensure that an excepted flow monitoring system under appendix I to this part meets the applicable general operating requirements of § 75.10, the applicable requirements of appendix I to this part, and the initial certification and recertification requirements of this paragraph.

(1) *Initial certification and recertification testing.* The owner or operator shall, where applicable, use the

following procedures for certification and recertification of an excepted flow monitoring system under appendix I to this part.

(i) For an excepted flow monitoring system under appendix I to this part where each component is tested separately, perform the following tests on each O_2 or CO_2 component monitor:

(A) 7-day calibration error test;

(B) Linearity check;

(C) Cycle time test;

(D) Relative accuracy test audit using Test Method 3A from appendix A to part 60 of this chapter; and

(E) Bias test.

(ii) For an excepted flow monitoring system under appendix I to this part where each component is tested separately, meet the certification procedures under paragraph (g)(1)(i) of this section and the recertification procedures under paragraph (g)(6) of this section on each fuel flowmeter component using the standards specified, or meet the testing procedure under section 2.1.5.2 of appendix D to this part.

(iii) For an excepted flow monitoring system under appendix I to this part that is tested as an entire system, perform the following tests:

(A) 7-day calibration error test on the O_2 or CO_2 monitor,

(B) Linearity check on the O_2 or CO_2 monitor,

(C) Cycle time test on the O_2 or CO_2 monitor,

(D) Relative accuracy test audit on the entire excepted flow monitoring system under appendix I to this part, using Test Method 2 (or its allowable alternatives) from appendix A to part 60 of this chapter, and

(E) Bias test on the entire excepted flow monitoring system under appendix I to this part.

(iv) For the automated data acquisition and handling system used as part of an excepted flow monitoring system under appendix I to this part, the owner or operator shall perform tests designed to verify:

(A) The proper computation of hourly averages for volumetric flow rates, heat input, and pollutant mass emissions; and

(B) The proper computation and application of the missing data substitution procedures for volumetric flow in subpart D of this part.

(2) *Initial certification and recertification testing notification.* The designated representative shall provide initial certification and recertification testing notification for an excepted flow monitoring system under appendix I to this part, as specified in § 75.61, for any relative accuracy test audit.

(3) *Monitoring plan.* The designated representative shall submit a monitoring plan in accordance with §§ 75.53 and 75.62. For a unit that previously had a flow monitoring system or an excepted monitoring system under appendix D to this part and later submits a revised monitoring plan for an excepted flow monitoring system under appendix I to this part, the designated representative shall submit the revised monitoring plan no later than 45 days prior to the first day of certification testing.

(4) *Certification or recertification application.* The designated representative shall submit an initial certification or recertification application in accordance with §§ 75.60 and 75.63.

(5) *Approval of initial certification and recertification applications.* Upon successful completion of the required initial certification or recertification procedures for each excepted monitoring system under appendix I to this part, each excepted monitoring system under appendix I to this part shall be deemed provisionally certified for use under the Acid Rain Program during the period for the Administrator's review. The provisions for the initial certification (or recertification) application formal approval process in paragraph (a)(4) of this section shall apply, except that "continuous emission or opacity monitoring system" shall be replaced with "excepted monitoring system" and except that "shall follow the procedures for loss of initial certification in paragraph (a)(5)" or "shall follow the procedures of paragraph (b)(5)" shall be replaced with "shall follow the procedures for loss of certification in paragraph (i)(7)". Data measured and recorded by a provisionally certified excepted monitoring system under appendix I to this part will be considered quality assured data from the date and time of completion of the final certification test, provided that the Administrator does not revoke the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete initial certification or recertification application in accordance with the provisions in paragraph (a)(4) of this section.

(6) *Recertification requirements.* A recertification of an excepted flow monitoring system under appendix I to this part is required for any modification to the equipment used in the appendix I excepted flow monitoring system that would require recertification under paragraph (b) or (g) of this section.

(7) *Procedures for loss of certification for excepted monitoring systems under appendix I to this part.* In the event that a certification or recertification application is disapproved for an excepted monitoring system under appendix I to this part, data from the monitoring system are invalidated, and the applicable missing data procedures in section 4 of appendix I to this part shall be used from the date and hour of receipt of such notice back to the hour of the provisional certification. Data from the excepted monitoring system remain invalid until all required tests are repeated and the excepted monitoring system is again provisionally certified. The owner or operator shall repeat all certification or recertification tests or other requirements, as indicated in the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval. The designated representative shall submit a notification of the certification or recertification retest dates, if required under paragraph (i)(2) of this section, and shall submit a new certification or recertification application according to the procedures in paragraph (i)(4) of this section.

20. Section 75.21 is amended by:

a. Revising paragraphs (a)(2), (a)(4), (a)(5), (a)(6) and (e);

b. Redesignating existing paragraphs (a)(7) and (a)(8) as paragraphs (a)(9) and (a)(10), respectively; revising newly designated paragraph (a)(9); and

c. Adding new paragraphs (a)(7), (a)(8), and (f), to read as follows:

§ 75.21 Quality assurance and quality control requirements.

(a) * * *

(2) The owner or operator shall ensure that each non-redundant backup continuous emission monitoring system meets the quality assurance requirements of § 75.20(d) for each day and quarter that the system is used to report data.

* * * * *

(4) When a unit combusts only natural gas or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas and SO_2 emissions are determined in accordance with § 75.11(e)(3), the owner or operator of a unit with an SO_2 continuous emission monitoring system is not required to perform the daily or quarterly assessments of the SO_2 monitoring system under appendix B to this part on any day or in any calendar quarter in which only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content

of natural gas) is combusted in the unit. Notwithstanding, the results of any daily calibration error test and linearity test of the SO_2 monitoring system performed while the unit is combusting only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) shall be considered valid. If any such test is failed, the SO_2 monitoring system shall be considered to be out-of-control. The length of the out-of-control period shall be determined in accordance with the applicable procedures in section 2.1.4 or 2.2.3 of appendix B to this part.

(5) For a unit with an SO_2 continuous monitoring system, in which natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) is sometimes burned as a primary and/or backup fuel and in which higher-sulfur fuel(s) such as oil or coal are, at other times, burned as primary or backup fuel(s), the owner shall perform the relative accuracy test audits of the SO_2 monitoring system (as required by section 6.5 of appendix A to this part and section 2.3.1 of appendix B to this part) only when the higher-sulfur fuel is combusted in the unit and shall not perform SO_2 relative accuracy test audits when gaseous fuel is the only fuel being combusted.

(6) If the designated representative certifies that a unit with an SO_2 monitoring system burns only fuel(s) with a total sulfur content no greater than the total sulfur content of natural gas, the SO_2 monitoring system is exempted from the relative accuracy test audit requirements in appendices A and B to this part. For the purposes of this part, a fuel having a total sulfur content no greater than 0.05 percent sulfur by weight shall be deemed to qualify as a "fuel with a total sulfur content no greater than the total sulfur content of natural gas."

(7) If the designated representative certifies that a particular unit with an SO_2 monitoring system combusts fuel(s) with a total sulfur content greater than the total sulfur content of natural gas (i.e., >0.05 percent sulfur by weight) only as emergency backup fuel(s) or for short-term testing, the SO_2 monitoring system shall be conditionally exempted from the RATA requirements of appendices A and B to this part, provided that the unit combusts the higher-sulfur fuel(s) for no more than 480 hours per calendar year. If, in a particular calendar year, the higher-sulfur fuel usage exceeds 480 hours, a RATA of the SO_2 monitor shall be performed (while combusting the higher-sulfur fuel) either by the end of the calendar quarter in which the exceedance occurs or by the end of a 720 unit operating hour grace period following the quarter in which the exceedance occurs (see SO_2 RATA provisions in section 2.3.3 of appendix B to this part for further discussion of the grace period).

(8) On and after January 1, 2000, the quality assurance provisions of §§ 75.11(e)(3)(i) through 75.11(e)(3)(iv) shall apply (except that the term "gaseous fuel" shall be replaced with "fuel") to all units with SO_2 monitoring systems during hours in which only fuel having a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤0.05 percent sulfur by weight) is combusted in the unit, except for units that use such fuel only for unit startup.

(9) Provided that a unit with an SO_2 monitoring system is not exempted under paragraph (a)(6) or (a)(7) of this section from the SO_2 RATA requirements of this part, any calendar quarter during which a unit combusts only fuel(s) with a total sulfur content no greater than the total sulfur content of natural gas (i.e. ≤0.05 percent sulfur by weight) shall be excluded in determining the quarter in which the next relative accuracy test audit must be performed for the SO_2 monitoring system. However, no more than eight successive calendar quarters shall elapse after a relative accuracy test audit of an SO_2 monitoring system, without a subsequent relative accuracy test audit having been performed. The owner or operator shall ensure that a relative accuracy test audit is performed either by the end of the eighth successive elapsed calendar quarter since the last RATA or in the next calendar quarter in which a fuel with a total sulfur content greater than the total sulfur content of natural gas is burned in the unit.

* * * * *

(e) *Consequences of audits.* The owner or operator shall invalidate data from a continuous emission monitoring system or continuous opacity monitoring system upon failure of an audit under paragraph (a)(4)(iv) of § 75.20, an audit under appendix B to this part, or any other audit, beginning with the unit operating hour of completion of a failed audit as determined by the Administrator. The owner or operator shall not use invalidated data for reporting either emissions or heat input, nor for calculating monitor data availability.

(1) *Audit decertification.* Whenever both an audit of a continuous emission or opacity monitoring system (or component thereof, including the data acquisition and handling system), or an audit of any excepted monitoring system under appendix D, E, or I to this part, or of any alternative monitoring system under subpart E of this part, and a review of the initial certification application or of a recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of this part, both at the time of the initial certification or recertification application submission and at the time of the audit, the Administrator will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to EPA or the State agency regarding the facility. By issuing the notice of disapproval, the certification status is revoked, prospectively, by the Administrator. The data measured and recorded by each system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the procedures in § 75.20(a)(5) for initial certification or § 75.20(b)(5) for recertification to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system.

(2) *Out-of-control period.* Whenever a continuous emission monitoring system or continuous opacity monitoring system fails a quality assurance audit, an audit under § 75.20(a)(4)(iv), or another audit, the system is out-of-control. The owner or operator shall follow the procedures for out-of-control periods in § 75.24.

(f) *Excepted flow monitoring systems under appendix I.* The owner or operator of an affected unit shall operate, calibrate, and maintain each excepted flow monitoring system under appendix I to this part used under the Acid Rain Program according to the quality assurance and quality control procedures in appendices B and I to this part.

21. Section 75.22 is amended by revising paragraphs (a)(2), (a)(4), and (c)(1) introductory text to read as follows:

§ 75.22 Reference test methods.

(a) * * *

(2) Method 2 or its allowable alternatives, except for 2B and 2E, are the reference methods for determination of volumetric flow.

* * * * *

(4) Method 4 (either the standard procedure described in section 2 of the method or the moisture approximation procedure described in section 3 of the method) shall be used to correct pollutant concentrations from a dry basis to a wet basis (or from a wet basis to a dry basis) and shall be used when relative accuracy test audits of continuous moisture monitoring systems are conducted. For the purpose of determining the stack gas molecular weight, however, the alternative techniques for approximating the stack gas moisture content described in section 1.2 of Method 4 may be used in lieu of the procedures in sections 2 and 3 of the method.

* * * * *

(c) * * *

(1) Instrumental EPA Reference Methods 3A, 6C, 7E, and 20 shall be conducted using calibration gases as defined in section 5 of appendix A to this part. Otherwise, performance tests shall be conducted and data reduced in accordance with the test methods and procedures of this part unless the Administrator:

* * * * *

22. Section 75.24 is amended by revising paragraph (d) to read as follows:

§ 75.24 Out-of-control periods.

* * * * *

(d) When the bias test indicates that an SO_2 monitor, volumetric flow monitor, or NO_x continuous emission monitoring system is biased low (i.e., the arithmetic mean of the differences between the reference method value and the monitor or monitoring system measurements in a relative accuracy test audit exceed the bias statistic in section 7 of appendix A to this part), the owner or operator shall adjust the monitor or continuous emission monitoring system to eliminate the cause of bias such that it passes the bias test or calculate and use the bias adjustment factor as specified in section 2.3.4 of appendix B to this part and in accordance with § 75.7.

* * * * *

23. Section 75.30 is amended by revising paragraphs (a)(2) and (d) to read as follows:

§ 75.30 General provisions.

(a) * * *

(2) A valid quality assured hour of flow data (in scfh) has not been measured and recorded for an affected unit from a certified flow monitor, or from a certified excepted flow monitoring system under appendix I to this part, or by an approved alternative monitoring system under subpart E of this part; or

* * * * *

(d) The owner or operator shall comply with the applicable provisions of this paragraph during hours in which a unit with an SO_2 continuous emission monitoring system combusts only natural gas or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas.

(1) Whenever a unit with an SO_2 continuous emission monitoring system combusts only pipeline natural gas and the owner or operator is using the procedures in section 7 of appendix F to this part to determine SO_2 mass emissions pursuant to § 75.11(e)(1), the owner or operator shall, for purposes of reporting heat input data under § 75.54(b)(5) or § 75.57(b)(5), as applicable, and for the calculation of SO_2 mass emissions using Equation F–23 in section 7 of appendix F to this part, substitute for missing data from a flow monitoring system, CO_2-diluent monitor or O_2-diluent monitor using the missing data substitution procedures in § 75.36.

(2) Whenever a unit with an SO_2 continuous emission monitoring system combusts gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≥20 gr/100 scf) and the owner or operator uses the gas sampling and analysis and fuel flow procedures in appendix D to this part to determine SO_2 mass emissions pursuant to § 75.11(e)(2), the owner or operator shall substitute for missing total sulfur content, gross calorific value, and fuel flowmeter data using the missing data procedures in appendix D to this part and shall also, for purposes of reporting heat input data under § 75.54(b)(5) or § 75.57(b)(5), substitute for missing data from a flow monitoring system, CO_2-diluent monitor, or O_2-diluent monitor using the missing data substitution procedures in § 75.36.

(3) The owner or operator of a unit with an SO_2 monitoring system shall not include hours, when the unit combusts only natural gas (or a gaseous fuel with total sulfur content no greater than the total sulfur content of natural gas), in the SO_2 data availability calculations in § 75.32 or in the calculations of substitute SO_2 data using the procedures of either § 75.31 or § 75.33, when SO_2 emissions are determined in accordance with § 75.11(e)(1) or (e)(2). For the purpose of the missing data and availability procedures for SO_2 pollutant concentration monitors in §§ 75.31 and 75.33 only, all hours during which the unit combusts only natural gas, or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas, shall be excluded from the definition of "monitor operating hour," "quality assured monitor operating hour," "unit operating hour," and "unit operating day," when SO_2 emissions are determined in accordance with § 75.11(e)(1) or (e)(2).

(4) During all hours in which a unit with an SO_2 continuous emission monitoring system combusts only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) and the owner or operator uses the SO_2 monitoring system to determine SO_2 mass emissions pursuant to § 75.11(e)(3), the owner or operator shall determine the percent monitor data availability for SO_2 in accordance with § 75.32 and shall use the standard SO_2 missing data procedures of § 75.33.

24. Section 75.32 is amended by revising the last sentence in paragraph (a)(3) to read as follows:

§ 75.32 Determination of monitor data availability for standard missing data procedures.

(a) * * *

(3) * * * The owner or operator of a unit with an SO_2 monitoring system shall, when SO_2 emissions are determined in accordance with § 75.11(e)(1) or (e)(2), exclude hours in which a unit combusts only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) from calculations of percent monitor data availability for SO_2 pollutant concentration monitors, as provided in § 75.30(d).

* * * * *

25. Section 75.33 is amended by adding a new paragraph (d) to read as follows:

§ 75.33 Standard missing data procedures.

* * * * *

(d) On and after January 1, 2000, failure to maintain a monitor data availability, as calculated pursuant to § 75.32, of at least 80.0 percent for SO_2, NO_x, flow rate, or CO_2 shall be considered a violation of the primary measurement requirement of § 75.10(a). This paragraph (d) shall not apply: if, for a particular unit or stack for which the monitor data availability drops below 80.0 percent, less than 3,000 unit operating hours have been accumulated in the previous 12 calendar quarters; or if a data availability percentage of less than 80.0 percent results from a sudden and reasonably unforeseeable event beyond the control of the owner or operator, such as catastrophic monitor failure or destruction of monitoring equipment by fire, flood, etc. If such

circumstances have caused (or are projected to cause) the monitor data availability to drop below 80.0 percent, the owner or operator shall notify the Administrator, in writing, within 7 days of the event(s). Notification, in writing, shall also be provided to the EPA Regional Office and to the appropriate State agency. The written notifications shall fully explain the circumstances that have caused (or may cause) the low monitor data availability and shall contain an action plan and a projected time schedule for correction of the problem. Failures that are caused in part by poor maintenance or careless operation shall not, for the purposes of this paragraph, be considered reasonably unforeseeable events beyond the control of the owner or operator.

26. Section 75.34 is amended by revising paragraph (a)(3) to read as follows:

§ 75.34 Units with add-on emission controls.

(a) * * *

(3) The designated representative may petition the Administrator under § 75.66 for approval of site-specific parametric monitoring procedure(s) for calculating substitute data for missing SO_2 pollutant concentration and NO_x emission rate data in accordance with the requirements of paragraphs (b) and (c) of this section and appendix C to this part. The owner or operator shall record the data required in appendix C to this part, pursuant to § 75.55(b) or § 75.58(b), as applicable.

* * * * *

27. Section 75.35 is amended by revising paragraphs (a) and (c) to read as follows:

§ 75.35 Missing data procedures for CO_2 data.

(a) On and after January 1, 2000, the owner or operator of a unit with a CO_2 continuous emission monitoring system (or an O_2-diluent monitor that is used to determine CO_2 concentration in accordance with appendix F to this part) shall substitute for missing CO_2 concentration data using the procedures of this section. Prior to January 1, 2000, the owner or operator may substitute for missing CO_2 or O_2 concentration data using the procedures of this section.

* * * * *

(c) Upon completion of the first 720 quality assured monitor operating hours following initial certification of the CO_2 continuous emission monitoring system, the owner or operator shall provide substitute data for CO_2 concentration or CO_2 mass emissions required under this subpart, including CO_2 data calculated from O_2 measurements using the procedures in appendix F to this part, in accordance with the procedures in § 75.33(b), except that the terms "SO_2 concentration" and "SO_2 pollutant concentration monitor" shall be replaced, respectively, with "CO_2 concentration" and "CO_2 pollutant concentration monitor."

28. Section 75.36 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 75.36 Missing data procedures for heat input.

(a) When hourly heat input is determined using a flow monitoring system and a diluent gas (O_2 or CO_2) monitor, substitute data must be provided to calculate the heat input whenever quality assured data are unavailable from the flow monitor, the diluent gas monitor, or both. When flow rate data are unavailable, substitute flow rate data for the heat input calculation shall be provided according to § 75.31 or § 75.33, as applicable. On and after January 1, 2000, when diluent gas data are unavailable, the owner or operator shall provide substitute O_2 or CO_2 data for the heat input calculations in accordance with this section. Prior to January 1, 2000, the owner or operator may substitute for missing CO_2 or O_2 concentration data using the procedures in this section.

(b) During the first 720 quality assured monitor operating hours following initial certification (i.e., following the date and time of completion of successful certification tests of the CO_2 or O_2 monitor), the owner or operator shall provide substitute CO_2 or O_2 data, as applicable, for the calculation of heat input (under section 5.2 of appendix F to this part) according to § 75.31(b).

(c) Upon completion of the first 720 quality assured monitor operating hours following initial certification of the CO_2 (or O_2) monitor, the owner or operator shall provide substitute data for CO_2 or O_2 concentration to calculate heat input according to the procedures in § 75.33(b), except that the term "SO_2 concentration" shall be replaced with "CO_2 concentration" or "O_2 concentration" (as applicable) and the term "SO_2 pollutant concentration monitor" shall be replaced with "CO_2-diluent monitor" or "O_2-diluent monitor" (as applicable).

* * * * *

29. Section 75.37 is added to subpart D to read as follows:

§ 75.37 Missing data procedures for moisture.

The owner or operator shall substitute for missing moisture data (beginning no later than January 1, 2000 or the date and hour on which the unit or stack is required to begin reporting under § 75.64, whichever date is earlier) as follows:

(a) Where no prior quality assured percent moisture data exist, substitute 0.0 percent moisture for each unit operating hour;

(b) For the first 720 quality assured monitor operating hours, substitute for each hour of the missing data period the average of the percent moisture values obtained during the hour before and the hour after the missing data period;

(c) Once 720 quality assured monitor operating hours have been obtained, begin calculating the percent data availability of the moisture monitoring system, in accordance with § 75.32;

(d) When the percent data availability, as of the last hour in the missing data period, is ≥90.0 percent, substitute for each hour of the missing data period the average of the percent moisture values obtained during the hour before and the hour after the missing data period;

(e) If the percent data availability of the moisture monitor is < 90.0 percent as of the last hour in the missing data period, substitute 0.0 percent moisture for each hour of the missing data period.

Subpart E—[Amended]

30. Section 75.48 is amended by revising paragraphs (a)(3)(ii) and (a)(3)(iii) to read as follows:

§ 75.48 Petition for an alternative monitoring system.

(a) * * *

(3) * * *

(ii) Hourly test data for the alternative monitoring system at each required operating level and fuel type. The fuel type, operating level and gross unit load shall be recorded.

(iii) Hourly test data for the continuous emissions monitoring system at each required operating level and fuel type. The fuel type, operating level and gross unit load shall be recorded.

* * * * *

31. Section 75.50 is removed and reserved.

§ 75.50 [Removed and Reserved]

32. Section 75.51 is removed and reserved.

§ 75.51 [Removed and Reserved]

33. Section 75.52 is removed and reserved.

§ 75.52 [Removed and Reserved]

34. Section 75.53 is amended by revising paragraphs (a) and (b) and adding paragraphs (e) through (f) to read as follows:

§ 75.53 Monitoring plan.

(a) *General Provisions.*

(1) Compliance dates. Beginning on January 1, 2000, the owner or operator shall comply with the provisions in paragraphs (a), (b), (e) and (f) of this section only. Before January 1, 2000, the owner or operator shall comply with either paragraphs (a) through (d) or paragraphs (a), (b), (c), and (f) of this section, except that the owner or operator shall comply with provisions in paragraphs (e) and (f) of this section only before January 1, 2000, when those provisions support a regulatory option provided in another section of this part 75 and the regulatory option is exercised before January 1, 2000.

(2) The owner or operator of an affected unit shall prepare and maintain a monitoring plan. Except as provided in paragraphs (d) (or (f), as applicable) of this section, a monitoring plan shall contain sufficient information on the continuous emission or opacity monitoring systems, excepted methodology under § 75.19, or excepted monitoring systems under appendix D or E to this part and the use of data derived from these systems to demonstrate that all unit SO_2 emissions, NO_x emissions, CO_2 emissions, and opacity are monitored and reported.

(b) Whenever the owner or operator makes a replacement, modification, or change in the certified continuous emission monitoring system, continuous opacity monitoring system, excepted methodology under § 75.19, excepted monitoring system under appendix D, E, or I to this part, or alternative monitoring system under subpart E of this part, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to a serial number for a component of a monitoring system), then the owner or operator shall update the monitoring plan.

* * * * *

(e) *Contents of the monitoring plan.* Each monitoring plan shall contain the information in paragraph (e)(1) of this section in electronic format and the information in paragraph (e)(2) of this section in hardcopy format.

(1) *Electronic.* (i) ORISPL numbers developed by the Department of Energy and used in the National Allowance Database, for all affected units involved in the monitoring plan, with the following information for each unit:

(A) Short name;

(B) Classification of unit as one of the following: Phase I (including substitution or compensating units), Phase II, new, or nonaffected;

(C) Type of boiler (or boilers for a group of units using a common stack);

(D) Type of fuel(s) fired by boiler, fuel type start and end date, primary/secondary fuel indicator, and, if more than one fuel, the fuel classification of the boiler;

(E) Type(s) of emission controls for SO_2, NO_x, and particulates installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process; control equipment code, installation date, and optimization date; control equipment retirement date (if applicable); and, an indicator for whether the controls are an original installation;

(F) Maximum hourly heat input capacity;

(G) Date of first commercial operation;

(H) Unit retirement date (if applicable);

(I) Maximum hourly gross load (in MW, rounded to the nearest MW, or steam load in 1000 lb/hr, rounded to the nearest 100 lb/hr);

(J) Identification of all units using a common stack;

(K) Activation date for the stack/pipe;

(L) Retirement date of the stack/pipe (if applicable); and

(M) Indicator of whether the stack is a bypass stack.

(ii) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, type of fuel associated with the methodology, missing data approach for the methodology, methodology start date, and methodology end date (if applicable).

(iii) The following information:

(A) Program(s) for which the EDR is submitted;

(B) Unit classification;

(C) Reporting frequency;

(D) Program participation date;

(E) State regulation code (if applicable); and

(F) State or local regulatory agency code.

(iv) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer and/or probe) in the continuous emission monitoring systems (i.e., SO_2 pollutant concentration monitor, flow monitor, moisture monitor; NO_x pollutant concentration monitor and diluent gas monitor), the continuous opacity monitoring system, or excepted monitoring system (i.e., fuel flowmeter, data acquisition and handling system), including:

(A) Manufacturer, model number and serial number;

(B) Component/system identification code assigned by the utility to each identifiable monitoring component (such as the analyzer and/or probe). Each code shall use a three-digit format, unique to each monitoring component and unique to each monitoring system;

(C) Designation of the component type or method of operation, such as in situ pollutant concentration monitor or thermal flow monitor;

(D) Designation of the system as a primary, redundant backup, non-redundant backup, like kind non-redundant backup, data backup, or reference method backup system, as provided in § 75.10(e);

(E) First and last dates the system reported data; and

(F) Status of the monitoring component.

(v) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(A) For hardware components, the manufacturer and model number; and

(B) For software components, identification of the provider and model/version number.

(vi) Explicit formulas for each measured emission parameter, using component/system identification codes for the primary system used to measure the parameter to link continuous emission monitoring system or excepted monitoring system observations with reported concentrations, mass emissions, or emission rates, according to the conversions listed in appendix D, E, or F to this part. Formulas for backup monitoring systems are required only if different formulas for the same parameter are used for the primary and backup monitoring systems (e.g., if the primary system measures pollutant concentration on a different moisture basis from the backup system). The formulas must contain all constants and factors required to derive mass emissions or emission rates from component/system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. Each emissions formula is identified with a unique three digit code. The owner or operator of a low mass emissions unit for which the owner or operator is using the optional low mass emissions excepted methodology in § 75.19(c) is not required to report such formulas.

(vii) Inside cross-sectional area (ft^2) at flue exit (for all units) and at flow monitoring location (for units with flow monitors, only).

(viii) Stack height (ft) above ground level and stack base elevation above sea level.

(ix) Flue identification number, as reported to the Energy Information Administration (EIA).

(x) For each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculation), maximum potential NO_X emission rate, span value, full-scale range, daily calibration units of measure, span effective date/hour, span inactivation date/hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in scfh) for each unit or stack using SO_2, NO_X, CO_2, O_2, or flow component monitors.

(xi) If the monitoring system or excepted methodology provides for the use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each such value for each parameter:

(A) Identification of the parameter;

(B) Default, maximum, minimum, or constant value, and units of measure for the value;

(C) Purpose of the value;

(D) Indicator of use during controlled/uncontrolled hours;

(E) Type of fuel;

(F) Source of the value;

(G) Value effective date and hour;

(H) Date and hour value is no longer effective (if applicable); and

(I) For units using the excepted methodology under § 75.19, the applicable SO_2 emission factor.

(2) *Hardcopy.* (i) Information, including (as applicable) identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, maximum potential NO_X emission rate, and span; and apportionment strategies under §§ 75.13 through 75.17.

(ii) Description of site locations for each monitoring component in the continuous emission or opacity monitoring systems, including schematic diagrams and engineering drawings specified in paragraphs (e)(2)(iv) and (e)(2)(v) of this section and any other documentation that demonstrates each monitor location meets the appropriate siting criteria.

(iii) A data flow diagram denoting the complete information handling path from output signals of continuous emission monitoring system components to final reports.

(iv) For units monitored by a continuous emission or opacity monitoring system, a schematic diagram identifying entire gas handling system from boiler to stack for all affected units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(vi), and (e)(1)(vii) of this section. The schematic diagram must depict stack height and the height of any monitor locations. Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common stack.

(v) For units monitored by a continuous emission or opacity monitoring system, stack and duct engineering diagrams showing the dimensions and location of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(f) *Contents of monitoring plan for specific situations.* The following additional information shall be included in the monitoring plan for the specific situations described:

(1) For each gas-fired unit or oil-fired unit for which the owner or operator uses the optional protocol in appendix D to this part for estimating heat input and/or SO_2 mass emissions or in appendix I to this part for estimating stack flow rate, or for each gas-fired or oil-fired peaking unit for which the owner/operator uses the optional protocol in appendix E to this part for estimating NO_X emission rate (using a fuel flowmeter), the designated representative shall include the following additional information in the monitoring plan:

(i) *Electronic.* (A) Parameter monitored;

(B) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(C) Test method used to check the accuracy of each fuel flowmeter;

(D) Submission status of the data; and

(E) Monitoring system identification code.

(ii) *Hardcopy.* (A) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s). Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common pipe.

(B) For units using the optional protocol for gaseous fuel in appendix D to this part, historical fuel sampling information on the sulfur content of the gaseous fuel according to section 2.3.3 of appendix D to this part.

(2) For each gas-fired peaking unit and oil-fired peaking unit for which the owner or operator uses the optional procedures in appendix E to this part for estimating NO_X emission rate, the designated representative shall include in the monitoring plan:

(i) *Electronic.* Unit operating and capacity factor information demonstrating that the unit qualifies as a peaking unit or gas-fired unit, as defined in § 72.2 of this chapter.

(ii) *Hardcopy.* (A) A protocol containing methods used to perform the baseline or periodic NO_X emission test; and

(B) Unit operating parameters related to NO_X formation by the unit.

(3) For each gas-fired unit and diesel-fired unit or unit with a wet flue gas pollution control system for which the designated representative claims an opacity monitoring exemption under § 75.14, the designated representative shall include in the hardcopy monitoring plan the information specified under § 75.14(b), (c), or (d), demonstrating that the unit qualifies for the exemption.

(4) For each monitoring system recertification, maintenance, or other event, the designated representative shall include the following additional information in electronic format in the monitoring plan:

(i) Component/system identification code;

(ii) Event code or code for required test;

(iii) Event begin date and hour;

(iv) Conditional data period begin date and hour (if applicable);

(v) Date and hour that last test is successfully completed; and

(vi) Indicator of whether conditionally valid data were reported at the end of the quarter.

35. Section 75.54 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 75.54 General recordkeeping provisions.

* * * * *

(g) *Missing data records.* The owner or operator shall record the causes of any missing data periods and the actions

taken by the owner or operator to cure such causes.

(h) *Compliance dates.* On January 1, 2000, the provisions of this section are no longer applicable. Before January 1, 2000, the owner or operator shall comply with either this section or § 75.57. Beginning on January 1, 2000, the owner or operator shall comply with § 75.57 only.

36. Section 75.55 is amended by adding a new paragraph (g) to read as follows:

§ 75.55 General recordkeeping provisions for specific situations.

* * * * *

(g) *Compliance dates.* On January 1, 2000, the provisions of this section are no longer applicable. Before January 1, 2000, the owner or operator shall comply with either this section or § 75.58. Beginning on January 1, 2000, the owner or operator shall comply with § 75.58 only.

37. Section 75.56 is amended by adding new paragraphs (a)(5)(vii) and (e) to read as follows:

§ 75.56 Certification, quality assurance, and quality control record provisions.

(a) * * *

(5) * * *

(vii) For flow monitors, the flow polynomial equation used to linearize the flow monitor and the numerical values of the polynomial coefficients of that equation.

* * * * *

(e) *Compliance dates.* On January 1, 2000, the provisions of this section are no longer applicable. Before January 1, 2000, the owner or operator shall comply with either this section or § 75.59. Beginning on January 1, 2000, the owner or operator shall comply with § 75.59 only.

38. Section 75.57 is added to Subpart F to read as follows:

§ 75.57 General recordkeeping provisions.

(a) *Recordkeeping requirements for affected sources.* The owner or operator of any affected source subject to the requirements of this part shall maintain for each affected unit a file of all measurements, data, reports, and other information required by this part at the source in a form suitable for inspection for at least three (3) years from the date of each record. Unless otherwise provided, throughout this subpart the phrase "for each affected unit" also applies to each group of affected or nonaffected units utilizing a common stack and common monitoring systems, pursuant to §§ 75.13 through 75.18, or utilizing a common pipe header and common fuel flowmeter, pursuant to section 2.1.2 of appendix D to this part. The file shall contain the following information:

(1) The data and information required in paragraphs (b) through (f) of this section, beginning with the earlier of the date of provisional certification or the deadline in § 75.4(a), (b), or (c);

(2) The supporting data and information used to calculate values required in paragraphs (b) through (f) of this section, excluding the subhourly data points used to compute hourly averages under § 75.10(d), beginning with the earlier of the date of provisional certification or the deadline in § 75.4(a), (b), or (c);

(3) The data and information required in § 75.55 or § 75.58 for specific situations, as applicable, beginning with the earlier of the date of provisional certification or the deadline in § 75.4(a), (b), or (c);

(4) The certification test data and information required in § 75.56 or § 75.59 for tests required under § 75.20, beginning with the date of the first certification test performed; the quality assurance and quality control data and information required in § 75.56 or § 75.59 for tests; and the quality assurance/quality control plan required under § 75.21 and appendix B to this part, beginning with the date of provisional certification;

(5) The current monitoring plan as specified in § 75.53, beginning with the initial submission required by § 75.62; and

(6) The quality control plan as described in section 1 of appendix B to this part, beginning with the date of provisional certification.

(b) *Operating parameter record provisions.* The owner or operator shall record for each hour the following information on unit operating time, heat input rate, and load, separately for each affected unit and also for each group of units utilizing a common stack and a common monitoring system or utilizing a common pipe header and common fuel flowmeter.

(1) Date and hour;

(2) Unit operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator));

(3) Hourly gross unit load (rounded to nearest MWge) (or steam load in 1000 lb/hr at stated temperature and pressure, rounded to the nearest 1000 lb/hr, if elected in the monitoring plan);

(4) Operating load range corresponding to hourly gross load of 1 to 10, except for units using a common stack or common pipe header, which may use up to 20 load ranges for stack or fuel flow, as specified in the monitoring plan;

(5) Hourly heat input rate (mmBtu/hr, rounded to the nearest tenth);

(6) Identification code for formula used for heat input, as provided in § 75.53; and

(7) For CEMS units only:

(i) F-factor for heat input calculation; and

(ii) Indication of whether the diluent cap was used for heat input calculations for the hour.

(c) *SO_2 emission record provisions.* The owner or operator shall record for each hour the information required by this paragraph for each affected unit or group of units using a common stack and common monitoring systems, except as provided under § 75.11(e) or for a gas-fired or oil-fired unit for which the owner or operator is using the optional protocol in appendix D to this part or for a low mass emissions unit for which the owner or operator is using the optional low mass emissions methodology in § 75.19(c) for estimating SO_2 mass emissions:

(1) For SO_2 concentration during unit operation, as measured and reported from each certified primary monitor, certified back-up monitor, or other approved method of emissions determination:

(i) Component-system identification code, as provided in § 75.53;

(ii) Date and hour;

(iii) Hourly average SO_2 concentration (ppm, rounded to the nearest tenth);

(iv) Hourly average SO_2 concentration (ppm, rounded to the nearest tenth), adjusted for bias if bias adjustment factor is required, as provided in § 75.24(d);

(v) Percent monitor data availability (recorded to the nearest tenth of a percent), calculated pursuant to § 75.32; and

(vi) Method of determination for hourly average SO_2 concentration using Codes 1–55 in Table 4a of this section.

(2) For flow rate during unit operation, as measured and reported from each certified primary monitor, certified back-up monitor, or other approved method of emissions determination:

(i) Component system identification code, as provided in § 75.53 (including the separate identification code for the moisture monitoring system, if applicable);

(ii) Date and hour;

(iii) Hourly average volumetric flow rate (in scfh, rounded to the nearest thousand);

(iv) Hourly average volumetric flow rate (in scfh, rounded to the nearest thousand), adjusted for bias if bias

adjustment factor required, as provided in § 75.24(d);

(v) Hourly average moisture content of flue gas (percent, rounded to the nearest tenth), where SO_2 concentration is measured on a dry basis. If the continuous moisture monitoring system consists of wet- and dry-basis oxygen analyzers, record both the wet- and dry-basis oxygen hourly averages (in percent O_2, rounded to the nearest tenth);

(vi) Percent monitor data availability (recorded to the nearest tenth of a percent), for the flow monitor, and, if applicable, separately for the moisture monitoring system, calculated pursuant to § 75.32; and

(vii) Method of determination for hourly average flow rate using Codes 1–55 in Table 4a of this section.

(3) For SO_2 mass emission rate during unit operation, as measured and reported from the certified primary monitoring system(s), certified redundant or non-redundant back-up monitoring system(s), or other approved method(s) of emissions determination:

(i) Date and hour;

(ii) Hourly SO_2 mass emission rate (lb/hr, rounded to the nearest tenth);

(iii) Hourly SO_2 mass emission rate (lb/hr, rounded to the nearest tenth), adjusted for bias if bias adjustment factor required, as provided in § 75.24(d); and

(iv) Identification code for emissions formula used to derive hourly SO_2 mass emission rate from SO_2 concentration and flow data in paragraphs (c)(1) and (c)(2) of this section, as provided in § 75.53.

TABLE 4A.—CODES FOR METHOD OF EMISSIONS AND FLOW DETERMINATION

Code	Hourly emissions/flow measurement or estimation method
1	Certified primary emission/flow monitoring system.
2	Certified backup emission/flow monitoring system.
3	Approved alternative monitoring system.
4	Reference method: SO_2: Method 6C. Flow: Method 2. NO_X: Method 7E. CO_2 or O2: Method 3A.
5	For units with add-on SO_2 and/or NO_X emission controls: SO_2 concentration or NO_X emission rate estimate from Agency preapproved parametric monitoring method.
6	Average of the hourly SO_2 concentrations, CO_2 concentrations, flow rate, or NO_X emission rate for the hour before and the hour following a missing data period.
7	Hourly average SO_2 concentration, CO_2 concentration, flow rate, or NO_X emission rate using initial missing data procedures.
8	90th percentile hourly SO_2 concentration, flow rate, or emission rate.
9	95th percentile hourly SO_2 concentration, flow rate, or NO_X emission rate.
10	Maximum hourly SO_2 concentration, flow rate, or NO_X emission rate.
11	Hourly average flow rate or NO_X emission rate in corresponding load range.
12	Maximum potential concentration of SO_2, maximum potential concentration of CO_2, maximum potential flow rate, or maximum potential NO_X emission rate, as determined using section 2.1 of appendix A to this part.
13	Fuel analysis data from appendix G to this part for CO_2 mass emissions. (This code is optional through 12/31/99, and shall not be used after 1/1/00.)
14	Diluent cap value (if the cap is replacing a CO_2 measurement, it shall be 5.0 percent for boilers and 1.0 percent for turbines; if it is replacing an O_2 measurement, it shall be 14.0 percent for boilers and 19.0 percent for turbines.
15	Fuel analysis data from appendix G to this part for CO_2 mass emissions. (This code is optional through 12/31/99, and shall not be used after 1/1/00.)
16	SO_2 concentration value of 2 ppm during hours when only natural gas (or fuel with equivalent sulfur content) is combusted.
19	200.0 percent of the MPC; default high range value.
20	200.0 percent of the full-scale range setting (full-scale exceedance of high range).
40	Stack volumetric flow calculated using the procedures of appendix I.
54	Other quality assured methodologies approved through petition. These hours are included in missing data lookback and are included as unavailable hours for percent monitor availability calculations.
55	Other substitute data approved through petition. These hours are not included in missing data lookback and are included as unavailable hours for percent monitor availability calculations.

(d) *NO_X emission record provisions.* The owner or operator shall record the information required by this paragraph for each affected unit for each hour, or partial hour during which the unit operates, except for a gas-fired peaking unit or oil-fired peaking unit for which the owner or operator is using the optional protocol in appendix E to this part or a low mass emissions unit for which the owner or operator is using the optional low mass emissions excepted methodology in § 75.19(c) for estimating NO_X emission rate. For each NO_X emission rate as measured and reported from the certified primary monitor, certified back-up monitor, or other approved method of emissions determination:

(1) Component system identification code, as provided in § 75.53 (including identification code for the moisture monitoring system, if applicable);

(2) Date and hour;

(3) Hourly average concentration (ppm, rounded to the nearest tenth);

(4) Hourly average diluent gas concentration (percent O_2 or percent CO_2, rounded to the nearest tenth) and, if applicable, the hourly average moisture content of the stack gas (percent H_2O, rounded to the nearest tenth). If the continuous moisture monitoring system consists of wet- and dry-basis oxygen analyzers, also record both the hourly wet- and dry-basis oxygen readings (in percent O_2, rounded to the nearest tenth);

(5) Hourly average NO_X emission rate (lb/mmBtu, rounded either to the nearest hundredth or thousandth prior to January 1, 2000 and rounded to the nearest thousandth on and after January 1, 2000);

(6) Hourly average NO_X emission rate (lb/mmBtu, rounded either to the nearest hundredth or thousandth prior to January 1, 2000 and rounded to the nearest thousandth on and after January 1, 2000), adjusted for bias if bias adjustment factor is required, as provided in § 75.24(d). The requirement to report hourly NO_X emission rates to the nearest thousandth shall not affect NO_X compliance determinations under part 76 of this chapter; compliance with each applicable emission limit under part 76 shall be determined to the nearest hundredth pound per million Btu;

(7) Percent monitoring system data availability (recorded to the nearest tenth of a percent), for the NO_X

monitoring system, and, if applicable, separately for the moisture monitoring system, calculated pursuant to § 75.32;

(8) Method of determination for hourly average NO_X emission rate using Codes 1–55 in Table 4a of this section;

(9) Identification code for emissions formulas used to derive hourly average NO_X emission rate and total NO_X mass, as provided in § 75.53, and F-factor used to convert NO_X concentrations into emission rates;

(e) *CO_2 emission record provisions.* Except for a low mass emissions unit for which the owner or operator is using the optional low mass emissions excepted methodology in § 75.19(c) for estimating CO_2 mass emissions, the owner or operator shall record or calculate CO_2 emissions for each affected unit using one of the following methods specified in this section:

(1) If the owner or operator chooses to use a CO_2 continuous emission monitoring system (including an O_2 monitor and flow monitor, as specified in appendix F to this part), then the owner or operator shall record for each hour or partial hour during which the unit operates the following information for CO_2 mass emissions, as measured and reported from the certified primary monitor, certified back-up monitor, or other approved method of emissions determination:

(i) Component/system identification code, as provided in § 75.53;

(ii) Date and hour;

(iii) Hourly average CO_2 concentration (in percent, rounded to the nearest tenth);

(iv) Hourly average volumetric flow rate (scfh, rounded to the nearest thousand scfh);

(v) Hourly average moisture content of flue gas (percent, rounded to the nearest tenth), where CO_2 concentration is measured on a dry basis. If the continuous moisture monitoring system consists of wet- and dry-basis oxygen analyzers, also record both the hourly wet- and dry-basis oxygen readings (in percent O_2, rounded to the nearest tenth);

(vi) Hourly average CO_2 mass emission rate (tons/hr, rounded to the nearest tenth);

(vii) Percent monitor data availability for both the CO_2 monitoring system and, if applicable, the moisture monitoring system (recorded to the nearest tenth of a percent), calculated pursuant to § 75.32;

(viii) Method of determination for hourly average CO_2 mass emission rate using Codes 1–55 in Table 4a of this section;

(ix) Identification code for emissions formula used to derive hourly average CO_2 mass emission rate, as provided in § 75.53; and

(x) Indication of whether the diluent cap was used for CO_2 calculation for the hour.

(2) As an alternative to paragraph (e)(1) of this section, the owner or operator may use the procedures in § 75.13 and in appendix G to this part, and shall record daily the following information for CO_2 mass emissions:

(i) Date;

(ii) Daily combustion-formed CO_2 mass emissions (tons/day, rounded to the nearest tenth);

(iii) For coal-fired units, flag indicating whether optional procedure to adjust combustion-formed CO_2 mass emissions for carbon retained in flyash has been used and, if so, the adjustment;

(iv) For a unit with a wet flue gas desulfurization system or other controls generating CO_2, daily sorbent-related CO_2 mass emissions (tons/day, rounded to the nearest tenth); and

(v) For a unit with a wet flue gas desulfurization system or other controls generating CO_2, total daily CO_2 mass emissions (tons/day, rounded to the nearest tenth) as sum of combustion-formed emissions and sorbent-related emissions.

(f) *Opacity records.* The owner or operator shall record opacity data as specified by the State or local air pollution control agency. If the State or local air pollution control agency does not specify recordkeeping requirements for opacity, then record the information required by paragraphs (f) (1) through (5) of this section for each affected unit, except as provided in § 75.14 (b), (c), and (d). The owner or operator shall also keep records of all incidents of opacity monitor downtime during unit operation, including reason(s) for the monitor outage(s) and any corrective action(s) taken for opacity, as measured and reported by the continuous opacity monitoring system:

(1) Component/system identification code;

(2) Date, hour, and minute;

(3) Average opacity of emissions for each six minute averaging period (in percent opacity);

(4) If the average opacity of emissions exceeds the applicable standard, then a code indicating such an exceedance has occurred; and

(5) Percent monitor data availability (recorded to the nearest tenth of a percent), calculated according to the requirements of the procedure recommended for State Implementation Plans in appendix M to part 51 of this chapter.

(g) *O_2-diluent record provisions.* The owner or operator of a unit using a flow monitor and an O_2-diluent monitor to determine heat input, in accordance with Equation F–17 or F–18 of appendix F to this part, shall keep the following records for the O_2-diluent monitor:

(1) Component-system identification code, as provided in § 75.53;

(2) Date and hour;

(3) Hourly average O2 concentration (in percent, rounded to the nearest tenth);

(4) Percent monitor data availability (recorded to the nearest tenth of a percent), calculated pursuant to § 75.32;

(5) Method of determination code for O_2 concentration data using Codes 1–55, substituting the words "O_2 concentrations" and "O_2 concentration" for the words "CO_2 concentrations" and "CO_2 concentration" in the descriptions of Codes 6 and 7 in Table 4a of this section, respectively.

(h) *Missing data records.* The owner or operator shall record the causes of any missing data periods and the actions taken by the owner or operator to cure such causes.

(i) Compliance dates. Beginning on January 1, 2000, the owner or operator shall comply with the provisions in paragraphs (a), (b), (e) and (f) of this section only. Before January 1, 2000, the owner or operator shall comply with either paragraphs (a) through (d) or paragraphs (a), (b), (c), and (f) of this section, except that the owner or operator shall comply with provisions in paragraphs (e) and (f) of this section only before January 1, 2000, when those provisions support a regulatory option provided in another section of this part 75 and the regulatory option is exercised before January 1, 2000.

39. Section 75.58 is added to read as follows:

§ 75.58 General recordkeeping provisions for specific situations.

(a) *Specific SO_2 emission record provisions for units with qualifying Phase I technology.* In addition to the SO_2 emissions information required in § 75.54(c), from January 1, 1997 through December 31, 1999, the owner or operator shall record the applicable information in this paragraph for each affected unit on which SO_2 emission controls have been installed and operated for the purpose of meeting qualifying Phase I technology requirements pursuant to § 72.42 of this chapter and § 75.15.

(1) For units with post-combustion emission controls:

(i) Component/system identification codes for each inlet and outlet SO_2-diluent continuous emission monitoring system;

(ii) Date and hour;

(iii) Hourly average inlet SO_2 emission rate during unit operation (lb/mmBtu, rounded to nearest hundredth);

(iv) Hourly average outlet SO_2 emission rate during unit operation (lb/mmBtu, rounded to nearest hundredth);

(v) Percent data availability for both inlet and outlet SO_2-diluent continuous emission monitoring systems (recorded to the nearest tenth of a percent), calculated pursuant to Equation 8 of § 75.32 (for the first 8,760 unit operating hours following initial certification) and Equation 9 of § 75.32, thereafter; and

(vi) Identification code for emissions formula used to derive hourly average inlet and outlet SO_2 mass emissions rates for each affected unit or group of units using a common stack.

(2) For units with combustion and/or pre-combustion emission controls:

(i) Component/system identification codes for each outlet SO_2-diluent continuous emission monitoring system;

(ii) Date and hour;

(iii) Hourly average outlet SO_2 emission rate during unit operation (lb/mmBtu, rounded to nearest hundredth);

(iv) For units with combustion controls, average daily inlet SO_2 emission rate (lb/mmBtu, rounded to nearest hundredth), determined by coal sampling and analysis procedures in § 75.15; and

(v) For units with pre-combustion controls (i.e., fuel pretreatment), fuel analysis demonstrating the weight, sulfur content, and gross calorific value of the product and raw fuel lots.

(b) *Specific parametric data record provisions for calculating substitute emissions data for units with add-on emission controls.* In accordance with § 75.34, the owner or operator of an affected unit with add-on emission controls shall either record the applicable information in paragraph (b)(3) of this section for each hour of missing SO_2 concentration data or NO_X emission rate (in addition to other information), or shall record the information in paragraph (b)(1) of this section for SO_2 or paragraph (b)(2) of this section for NO_X through an automated data acquisition and handling system, as appropriate to the type of add-on emission controls:

(1) For units with add-on SO_2 emission controls petitioning to use or using the optional parametric monitoring procedures in appendix C to this part, for each hour of missing SO_2 concentration or volumetric flow data:

(i) The information required in § 75.54(b) or § 75.57(b) for SO_2 concentration and volumetric flow, if either one of these monitors is still operating;

(ii) Date and hour;

(iii) Number of operating scrubber modules;

(iv) Total feedrate of slurry to each operating scrubber module (gal/min);

(v) Pressure differential across each operating scrubber module (inches of water column);

(vi) For a unit with a wet flue gas desulfurization system, an in-line measure of absorber pH for each operating scrubber module;

(vii) For a unit with a dry flue gas desulfurization system, the inlet and outlet temperatures across each operating scrubber module;

(viii) For a unit with a wet flue gas desulfurization system, the percent solids in slurry for each scrubber module.

(ix) For a unit with a dry flue gas desulfurization system, the slurry feed rate (gal/min) to the atomizer nozzle;

(x) For a unit with SO_2 add-on emission controls other than wet or dry limestone, corresponding parameters approved by the Administrator;

(xi) Method of determination of SO_2 concentration and volumetric flow using Codes 1–55 in Table 4 of § 75.54 or Table 4a of § 75.57; and

(xii) Inlet and outlet SO_2 concentration values, recorded by an SO_2 continuous emission monitoring system, and the removal efficiency of the add-on emission controls.

(2) For units with add-on emission controls petitioning to use or using the optional parametric monitoring procedures in appendix C to this part, for each hour of missing NO_X emission rate data:

(i) Date and hour;

(ii) Inlet air flow rate (scfh, rounded to the nearest thousand);

(iii) Excess O_2 concentration of flue gas at stack outlet (percent, rounded to nearest tenth of a percent);

(iv) Carbon monoxide concentration of flue gas at stack outlet (ppm, rounded to the nearest tenth);

(v) Temperature of flue gas at furnace exit or economizer outlet duct (°F);

(vi) Other parameters specific to NO_X emission controls (e.g., average hourly reagent feedrate);

(vii) Method of determination of NO_X emission rate using Codes 1–55 in Table 4 of § 75.54 or Table 4a of § 75.57; and

(viii) Inlet and outlet NO_X emission rate values recorded by a NO_X continuous emission monitoring system and the removal efficiency of the add-on emission controls.

(3) For units with add-on SO_2 or NO_X emission controls following the provisions of § 75.34(a)(1) or (a)(2), the owner or operator shall, for each hour of missing SO_2 or NO_X emission data, record:

(i) Parametric data which demonstrate the proper operation of the add-on emission controls, as described in the quality assurance/quality control program for the unit. The parametric data shall be maintained on site and shall be submitted, upon request, to the Administrator, EPA Regional office, State, or local agency;

(ii) A flag indicating either that the add-on emission controls are operating properly, as evidenced by all parameters being within the ranges specified in the quality assurance/quality control program, or that the add-on emission controls are not operating properly;

(iii) For units petitioning under § 75.66 for substituting a representative SO_2 concentration during missing data periods, any available inlet and outlet SO_2 concentration values recorded by an SO_2 continuous emission monitoring system; and

(iv) For units petitioning under § 75.66 for substituting a representative NO_X emission rate during missing data periods, any available inlet and outlet NO_X emission rate values recorded by a continuous emission monitoring system.

(c) *Specific SO_2 emission record provisions for gas-fired or oil-fired units using optional protocol in appendix D to this part.* In lieu of recording the information in § 75.54(c) or § 75.57(c), the owner or operator shall record the applicable information in this paragraph for each affected gas-fired or oil-fired unit for which the owner or operator is using the optional protocol in appendix D to this part for estimating SO_2 mass emissions.

(1) For each hour when the unit is combusting oil:

(i) Date and hour;

(ii) Hourly average flow rate of oil, while the unit combusts oil, with the units in which oil flow is recorded (gal/hr, lb/hr, m^3/hr, or bbl/hr, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(iii) Sulfur content of oil sample used to determine SO_2 mass emission rate (rounded to nearest hundredth for diesel fuel or to the nearest tenth of a percent for other fuel oil) (flag value if derived from missing data procedures);

(iv) Method of oil sampling (flow proportional, continuous drip, as delivered, manual from storage tank, or daily manual);

(v) Mass rate of oil combusted each hour (lb/hr, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(vi) SO_2 mass emission rate from oil (lb/hr, rounded to the nearest tenth);

(vii) For units using volumetric oil flowmeters, density of oil with the units in which oil density is recorded (flag

value if derived from missing data procedures);

(viii) Gross calorific value (heat content) of oil used to determine heat input (Btu/mass unit) (flag value if derived from missing data procedures);

(ix) Hourly heat input rate from oil, according to procedures in appendix F to this part (mmBtu/hr, to the nearest tenth);

(x) Fuel usage time for combustion of oil during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)) (flag to indicate multiple/single fuel types combusted); and

(xi) Monitoring system identification code.

(2) For gas-fired units or oil-fired units using the optional protocol in appendix D to this part for daily manual oil sampling, when the unit is combusting oil, the highest sulfur content recorded from the most recent 30 daily oil samples (rounded to nearest tenth of a percent).

(3) For gas-fired units or oil-fired units, using the optional protocol in appendix D to this part for using an assumed sulfur content or density, or for as-delivered fuel sampled from each delivery:

(i) Record the measured sulfur content, GCV and, if applicable, density from each fuel sample; and

(ii) Record and report the assumed sulfur content, GCV and, if applicable, density used to calculate SO_2 mass emission rate or heat input rate.

(4) For each hour when the unit is combusting gaseous fuel:

(i) Date and hour;

(ii) Hourly heat input rate from gaseous fuel, according to procedures in appendix F to this part (mmBtu/hr, rounded to the nearest tenth);

(iii) Sulfur content or SO_2 emission rate, in one of the following formats, in accordance with the appropriate procedure from appendix D to this part:

(A) Sulfur content of gas sample (rounded to the nearest 0.1 grains/100 scf) (flag value if derived from missing data procedures); or

(B) SO_2 emission rate from NADB or default SO_2 emission rate of 0.0006 lb/mmBtu for pipeline natural gas;

(iv) Hourly flow rate of gaseous fuel, while the unit combusts gas (100 scfh) (flag value if derived from missing data procedures);

(v) Gross calorific value (heat content) of gaseous fuel used to determine heat input rate (Btu/100 scf) (flag value if derived from missing data procedures);

(vi) Heat input rate from gaseous fuel, while the unit combusts gas (mmBtu/hr, rounded to the nearest tenth);

(vii) SO_2 mass emission rate due to the combustion of gaseous fuels (lb/hr);

(viii) Fuel usage time for combustion of gaseous fuel during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)) (flag to indicate multiple/single fuel types combusted); and

(ix) Monitoring system identification code.

(5) For each oil sample or sample of diesel fuel:

(i) Date of sampling;

(ii) Sulfur content (percent, rounded to the nearest hundredth for diesel fuel and to the nearest tenth for other fuel oil) (flag value if derived from missing data procedures);

(iii) Gross calorific value or heat content (Btu/lb) (flag value if derived from missing data procedures); and

(iv) Density or specific gravity, if required to convert volume to mass (flag value if derived from missing data procedures).

(6) For each sample of gaseous fuel for sulfur content:

(i) Date of sampling;

(ii) Sulfur content (grains/100 scf, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(7) For each sample of gaseous fuel for gross calorific value:

(i) Date of sampling; and

(ii) Gross calorific value or heat content (Btu/100 scf) (flag value if derived from missing data procedures).

(8) For each oil sample or sample of gaseous fuel:

(i) Type of oil or gas; and

(ii) Type of sulfur sampling and value used in calculations.

(d) *Specific NO_X emission record provisions for gas-fired peaking units or oil-fired peaking units using optional protocol in appendix E to this part.* In lieu of recording the information in paragraph § 75.54(d) or § 75.57(d), the owner or operator shall record the applicable information in this paragraph for each affected gas-fired peaking unit or oil-fired peaking unit for which the owner or operator is using the optional protocol in appendix E to this part for estimating NO_X emission rate. The owner or operator shall meet the requirements of this section, except that the requirements under paragraphs (d)(1)(vii), (d)(2)(vii), and (d)(3)(vi) of this section shall become applicable on the date on which the owner or operator is required to monitor, record, and report NO_X mass emissions under an applicable State or federal NO_X mass emission reduction program, if the provisions of subpart H of this part are adopted as requirements under such a program.

(1) For each hour when the unit is combusting oil:

(i) Date and hour;

(ii) Hourly average fuel flow rate of oil while the unit combusts oil with the units in which oil flow is recorded (gal/hour, lb/hr, or bbl/hour) (flag value if derived from missing data procedures);

(iii) Gross calorific value (heat content) of oil used to determine heat input (Btu/lb) (flag value if derived from missing data procedures);

(iv) Hourly average NO_X emission rate from combustion of oil (lb/mmBtu);

(v) Heat input rate of oil (mmBtu/hr, rounded to the nearest tenth;

(vi) Fuel usage time for combustion of oil during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)); and

(vii) NO_X mass emissions, calculated in accordance with section 8.1 of appendix F to this part.

(2) For each hour when the unit is combusting gaseous fuel:

(i) Date and hour;

(ii) Hourly average fuel flow rate of gaseous fuel, while the unit combusts gas (100 scfh) (flag value if derived from missing data procedures);

(iii) Gross calorific value (heat content) of gaseous fuel used to determine heat input (Btu/100 scf) (flag value if derived from missing data procedures);

(iv) Hourly average NO_X emission rate from combustion of gaseous fuel (lb/mmBtu, rounded to nearest hundredth);

(v) Heat input rate from gaseous fuel, while the unit combusts gas (mmBtu/hr, rounded to the nearest tenth);

(vi) Fuel usage time for combustion of gaseous fuel during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)); and

(vii) NO_X mass emissions, calculated in accordance with section 8.1 of appendix F to this part.

(3) For each hour when the unit combusts any fuel:

(i) Date and hour;

(ii) Hourly average heat input rate from all fuels (mmBtu/hr, rounded to the nearest tenth);

(iii) Hourly average NO_X emission rate for the unit for all fuels;

(iv) For stationary gas turbines and diesel or dual-fuel reciprocating engines, hourly averages of operating parameters under section 2.3 of appendix E to this part (flag if value is

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outside of manufacturer's recommended range);

(v) For boilers, hourly average boiler O_2 reading (percent, rounded to the nearest tenth) (flag if value exceeds by more than 2 percentage points the O_2 level recorded at the same heat input during the previous NO_X emission rate test);

(vi) NO_X mass emissions, calculated in accordance with section 8.1 of appendix F to this part;

(vii) Segment ID of the correlation curve; and

(viii) Monitoring system identification code.

(4) For each fuel sample:

(i) Date of sampling;

(ii) Gross calorific value (heat content) (Btu/lb for oil, Btu/100 scf for gaseous fuel); and

(iii) Density or specific gravity, if required to convert volume to mass.

(e) *Specific SO_2 emission record provisions during the combustion of gaseous fuel.* (1) If SO_2 emissions are determined in accordance with the provisions in § 75.11(e)(2) during hours in which only natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) is combusted in a unit with an SO_2 continuous emission monitoring system, the owner or operator shall record the information in paragraph (c)(3) of this section in lieu of the information in §§ 75.54(c)(1) and (c)(3) or §§ 75.57(c)(1) and (c)(3), for those hours.

(2) The provisions of this paragraph apply to a unit which, in accordance with the provisions of § 75.11(e)(3), uses an SO_2 continuous emission monitoring system to determine SO_2 emissions during hours in which only natural gas or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas is combusted in the unit. If the unit sometimes burns only natural gas (or gaseous fuel with total sulfur content no greater than the total sulfur content of natural gas) as a primary and/or backup fuel and at other times combusts higher-sulfur fuels, such as coal or oil, as primary and/or backup fuel(s), then the owner or operator shall keep records on-site, suitable for inspection, of the type(s) of fuel(s) burned during each period of missing SO_2 data and the number of hours that each types of fuel was combusted in the unit during each missing data period. This recordkeeping requirement does not apply to an affected unit that burns natural gas (or gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas) exclusively, nor does it apply to a unit that burns such gaseous fuel(s) only during unit startup.

(f) *Specific SO_2, NO_X, and CO_2 record provisions for gas-fired or oil-fired units using the optional low mass emissions excepted methodology in § 75.19.* In lieu of recording the information in §§ 75.54(b) through (e) or § 75.57(b) through (e), the owner or operator shall record, for each hour when the unit is operating for any portion of the hour, the following information for each affected low mass emissions unit for which the owner or operator is using the optional low mass emissions excepted methodology in § 75.19(c):

(1) Date and hour;

(2) Fuel type (pipeline natural gas, natural gas, residual oil, or diesel fuel) (note: if more than one type of fuel is combusted in the hour, indicate the fuel type which results in the highest emission factors for SO_2, CO_2, and NO_X);

(3) Average hourly NO_X emission rate (lb/mmBtu, rounded to the nearest thousandth);

(4) Hourly NO_X mass emissions (lbs, rounded to the nearest tenth);

(5) Hourly SO_2 mass emissions (lbs, rounded to the nearest tenth); and

(6) Hourly CO_2 mass emissions (tons, rounded to the nearest tenth).

(g) *Specific provisions for gas-fired units or oil-fired units using optional protocol in appendix I to this part.* In addition to recording the information in § 75.54(c) or § 75.57(c), as applicable, the owner or operator shall record the applicable information in this paragraph for each affected unit for which the owner or operator is using the optional protocol in appendix I to this part. This includes:

(1) For each hour when the unit is combusting oil:

(i) Date and hour;

(ii) Hourly average flow rate of oil with the units in which oil flow is recorded (gal/hr, lb/hr, m^3/hr, or bbl/hr, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(iii) Method of oil sampling (flow proportional, continuous drip, as delivered, or manual);

(iv) Mass of oil combusted each hour (lb/hr, rounded to the nearest tenth);

(v) For units using volumetric oil flowmeters, density of oil (flag value if derived from missing data procedures);

(vi) Gross calorific value (heat content) of oil used to determine heat input (Btu/mass unit) (flag value if derived from missing data procedures);

(vii) Hourly heat input rate from oil, according to procedures in appendix F to this part (mmBtu/hr, to the nearest tenth); and

(viii) Fuel usage time for combustion of oil during the hour (rounded up to the nearest 15 minutes).

(2) For each hour when the unit is combusting gaseous fuel:

(i) Date and hour;

(ii) Hourly heat input rate from gaseous fuel according to procedures in appendix F to this part (mmBtu/hr, rounded to the nearest tenth);

(iii) Hourly flow rate of gaseous fuel (100 scfh) (flag value if derived from missing data procedures);

(iv) Gross calorific value (heat content) of gaseous fuel used to determine heat input (Btu/100 scf) (flag value if derived from missing data procedures);

(v) Heat input rate from gaseous fuel (mmBtu/hr, rounded to the nearest tenth);

(vi) Fuel usage time for combustion of gaseous fuel during the hour (rounded up to the nearest 15 minutes); and

(vii) F-factor (F_c=Carbon-based F-factor of 1040 scf CO_2/mmBtu for natural gas, or F_d=Dry basis, O_2-based F-factor of 8,710 dscf/mmBtu for natural gas).

(3) For each oil sample or sample of diesel fuel:

(i) Date of sampling;

(ii) Gross calorific value or heat content (Btu/lb) (flag value if derived from missing data procedures);

(iii) Density or specific gravity, if required to convert volume to mass (flag value if derived from missing data procedures); and

(iv) Percent carbon by weight.

(4) For each monthly sample of gaseous fuel:

(i) Date of sampling; and

(ii) Gross calorific value or heat content (Btu/100 scf) (flag value if derived from missing data procedures).

(5) Hourly average diluent gas concentration (percent O_2 or percent CO_2, rounded to the nearest tenth).

(h) *Compliance dates.* Beginning on January 1, 2000, the owner or operator shall comply with this section only. Before January 1, 2000, the owner or operator shall comply with either this section or § 75.55; except that if a regulatory option provided in another section of this part 75 is exercised prior to January 1, 2000, then the owner or operator shall comply with any provisions of this section that support the regulatory option beginning with the date on which the option is exercised.

40. Section 75.59 is added to read as follows:

§ 75.59 Certification, quality assurance, and quality control record provisions.

(a) *Continuous emission or opacity monitoring systems.* The owner or

operator shall record the applicable information in this section for each certified monitor or certified monitoring system (including certified backup monitors) measuring and recording emissions or flow from an affected unit.

(1) For each SO_2 or NO_x pollutant concentration monitor, flow monitor, CO_2 monitor (including O_2 monitors used to determine CO_2 emissions), moisture sensor, or diluent gas monitor (including wet-and dry-basis O_2 monitors used to determine percent moisture), the owner or operator shall record the following for all daily and 7-day calibration error tests, including any follow-up tests after corrective

(i) Component/system identification code;

(ii) Instrument span and span scale;

(iii) Date and hour;

(iv) Reference value (i.e., calibration gas concentration or reference signal value, in ppm or other appropriate units);

(v) Observed value (monitor response during calibration, in ppm or other appropriate units);

(vi) Percent calibration error (rounded to the nearest tenth of a percent) (flag if using alternative performance specification for low emitters or differential pressure flow monitors);

(vii) Calibration gas level;

(viii) Test number and reason for test;

(ix) For 7-day calibration tests for certification or recertification, a certification from the cylinder gas vendor or CEMS vendor that calibration gas, as defined in § 72.2 of this chapter and appendix A to this part, was used to conduct calibration error testing;

(x) Description of any adjustments, corrective actions, or maintenance following test; and

(xi) For the qualifying test for off-line calibration, the owner or operator shall indicate whether the unit is off-line or on-line.

(2) For each flow monitor, the owner or operator shall record the following for all daily interference checks, including any follow-up tests after corrective action:

(i) Code indicating whether monitor passes or fails the interference check; and

(ii) Description of any adjustments, corrective actions, or maintenance following test.

(3) For each SO_2 or NO_x pollutant concentration monitor, CO_2 monitor (including O_2 monitors used to determine CO_2 emissions), or diluent gas monitor (including wet-and dry-basis O_2 monitors used to determine percent moisture), the owner or operator shall record the following for the initial and all subsequent linearity check(s), including any follow-up tests after corrective action:

(i) Component/system identification code;

(ii) Instrument span and span scale;

(iii) Date and hour;

(iv) Reference value (i.e., reference gas concentration, in ppm or other appropriate units);

(v) Observed value (average monitor response at each reference gas concentration, in ppm or other appropriate units);

(vi) Percent error at each of three reference gas concentrations (rounded to nearest tenth of a percent) (flag if using alternative performance specification);

(vii) Calibration gas level;

(viii) Mean of reference values and mean of measured values;

(ix) Test number and reason for test (flag if aborted test); and

(x) Description of any adjustments, corrective action, or maintenance following test.

(4) For each flow monitor (where applicable) the owner or operator shall record items in paragraphs (a)(4)(i) through (v) of this section, for all quarterly leak checks, including any follow-up tests after corrective action, and items in paragraphs (a)(4)(vi) and (vii) of this section, for all flow-to-load ratio and gross heat rate tests:

(i) Component/system identification code;

(ii) Date and hour;

(iii) Reason for test;

(iv) Code indicating whether monitor passes or fails the quarterly leak check;

(v) Description of any adjustments, corrective actions, or maintenance following test;

(vi) Test data from the flow-to-load ratio or gross heat rate evaluation, including:

(A) Component/system identification code;

(B) Calendar year and quarter;

(C) Indication of whether the test is a flow-to-load ratio or gross heat rate evaluation;

(D) Indication of whether bias adjusted flow rates were used;

(E) Average absolute percent difference between reference ratio (or BHR) and hourly ratios (or GHE values);

(F) Test result;

(G) Number of hours used in final quarterly average;

(H) Number of hours exempted for use of a different fuel type;

(I) Number of hours exempted for load ramping up or down;

(J) Number of hours exempted for scrubber bypass;

(K) Number of hours exempted for hours preceding a normal-load flow RATA; and

(L) Number of hours exempted for hours preceding a successful diagnostic test, following a documented monitor repair or major component replacement; and

(vii) Reference data for the flow-to-load ratio or gross heat rate evaluation, including:

(A) Reference flow RATA end date and time;

(B) Test number;

(C) Reference RATA load and load level;

(D) Average reference method flow rate during reference flow RATA;

(E) Reference flow/load ratio;

(F) Average reference method diluent gas concentration during flow RATA and diluent gas units of measure;

(G) Fuel specific F_d- or F_c-factor during flow RATA and F-factor units of measure; and

(H) Reference gross heat rate value.

(5) For each SO_2 pollutant concentration monitor, flow monitor, CO_2 pollutant concentration monitor (including any O_2 concentration monitor used to determine CO_2 mass emissions or heat input), NO_x continuous emission monitoring system, SO_2-diluent continuous emission monitoring system, moisture monitoring system, and approved alternative monitoring system, the owner or operator shall record the following information for the initial and all subsequent relative accuracy test audits:

(i) Reference method(s) used;

(ii) Individual test run data from the relative accuracy test audit for the SO_2 concentration monitor, flow monitor, CO_2 pollutant concentration monitor, NO_x continuous emission monitoring system, SO_2-diluent continuous emission monitoring system, moisture monitoring system, or approved alternative monitoring systems, including:

(A) Date, hour, and minute of beginning of test run;

(B) Date, hour, and minute of end of test run;

(C) System identification code;

(D) Test number and reason for test;

(E) Operating load level (low, mid, high, or normal, as appropriate) and number of load levels comprising test;

(F) Run number;

(G) Run data for monitor, in the appropriate units of measure;

(H) Run data for reference method, in the appropriate units of measure;

(I) Flag value (0, 1, or 9, as appropriate) indicating whether run has been used in calculating relative accuracy and bias values or whether the test was aborted prior to completion;

(J) Average gross unit load; and

(K) Flag to indicate whether an alternative performance specification has been used.

(iii) Calculations and tabulated results, as follows:

(A) Arithmetic mean of the monitoring system measurement values, of the reference method values, and of their differences, as specified in Equation A–7 in appendix A to this part.

(B) Standard deviation, as specified in Equation A–8 in appendix A to this part.

(C) Confidence coefficient, as specified in Equation A–9 in appendix A to this part.

(D) Relative accuracy test results, as specified in Equation A–10 in appendix A to this part. (For multi-level flow monitor tests the relative accuracy test results shall be recorded at each load level tested. Each load level shall be expressed as a total gross unit load, rounded to the nearest MWe, or as steam load, rounded to the nearest thousand lb/hr.)

(E) Bias test results as specified in section 7.6.4 in appendix A to this part.

(F) Bias adjustment factor from Equations A–11 and A–12 in appendix A to this part for any monitoring system that failed the bias test (except as provided in section 7.6.5 of appendix A to this part) and 1.000 for any monitoring system that passed the bias test. (For multi-load RATAs of flow monitors only, when the bias test is passed at the load level(s) designated as normal in section 6.5.2.1 of appendix A to this part, the system BAF shall be recorded as 1.000. When the bias test is failed at any load level designated as normal in section 6.5.2.1 of appendix A to this part, bias adjustment factors shall be recorded at the two most frequently used load levels, as defined in section 6.5.2.1 of appendix A to this part.)

(iv) Description of any adjustment, corrective action, or maintenance following test.

(v) F-factor value(s) used to convert NO_X pollutant concentration and diluent gas (O_2 or CO_2) concentration measurements into NO_X emission rates (in lb/mmBtu), heat input or CO_2 emissions.

(vi) For flow monitors, the flow polynomial equation used to linearize the flow monitor and the numerical values of the polynomial coefficients of that equation.

(6) For each SO_2, NO_X, CO_2, or O_2 pollutant concentration monitor, NO_X-diluent continuous emission monitoring system, or SO_2-diluent continuous emission monitoring system, the owner or operator shall record the following information for the cycle time test:

(i) Component/system identification code;

(ii) Date;

(iii) Start and end times;

(iv) Upscale and downscale cycle times for each component;

(v) Stable start monitor value;

(vi) Stable end monitor value;

(vii) Reference value of calibration gas(es);

(viii) Calibration gas level; and

(ix) Cycle time result for the entire system.

(x) Reason for test.

(7) The owner or operator shall also record, for each relative accuracy test audit, supporting information sufficient to substantiate compliance with all applicable sections and appendices in this part. This RATA supporting information shall include, but shall not be limited to, the following data elements:

(i) For each RATA using Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter to determine volumetric flow rate:

(A) Information indicating whether or not the location meets requirements of Method 1 in appendix A to part 60 of this chapter; and

(B) Information indicating whether or not the equipment passed the required leak checks.

(ii) For each run of each RATA using Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter to determine volumetric flow rate, record the following data elements (as applicable to the measurement method used):

(A) Operating load level (low, mid, high, or normal, as appropriate);

(B) Number of reference method traverse points;

(C) Average absolute stack gas temperature (° F);

(D) Barometric pressure at test port (inches of mercury);

(E) Stack static pressure (inches of H_2O);

(F) Absolute stack gas pressure (inches of mercury);

(G) Percent CO_2 and O_2 in the stack gas, dry basis;

(H) CO_2 and O_2 reference method used;

(I) Moisture content of stack gas (percent H_2O);

(J) Molecular weight of stack gas, dry basis (lb/lb-mole);

(K) Molecular weight of stack gas, wet basis (lb/lb-mole);

(L) Stack diameter (or equivalent diameter) at the test port (ft);

(M) Average square root of velocity head of stack gas (inches of H_2O) for the run;

(N) Stack or duct cross-sectional area at test port (ft^2);

(O) Average axial velocity (ft/sec); and

(P) Total volumetric flow rate (scfh, wet basis).

(iii) For each traverse point of each run of each RATA using Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter to determine volumetric flow rate, record the following data elements (as applicable to the measurement method used):

(A) Reference method probe type;

(B) Pressure measurement device type;

(C) Traverse point ID;

(D) Probe or pitot tube calibration coefficient;

(E) Date of latest probe or pitot tube calibration;

(F) ΔP at traverse point (inches of H_2O);

(G) T_s, stack temperature at the traverse point (° F);

(H) Calculated impact (total) velocity at the traverse point (ft/sec);

(I) Composite (wall effects) traverse point identifier;

(J) Number of points included in composite traverse point;

(K) Yaw angle of flow at traverse point (degrees);

(L) Pitch angle of flow at traverse point (degrees); and

(M) Calculated axial velocity at traverse point (ft/sec).

(iv) For each RATA using Method 6C, 7E, or 3A in appendix A to part 60 of this chapter to determine SO_2, NO_X, CO_2, or O_2 concentration:

(A) Pollutant or diluent gas being measured;

(B) Span of reference method analyzer;

(C) Type of reference method system (e.g., extractive or dilution type);

(D) Reference method dilution factor (dilution type systems, only);

(E) Reference gas concentrations (zero, mid, and high gas levels) used for the 3-point pre-test analyzer calibration error test (or for dilution type reference method systems, for the 3-point pre-test system calibration error test) and for any subsequent recalibrations;

(F) Analyzer responses to the zero-, mid-, and high-level calibration gases during the 3-point pre-test analyzer (or system) calibration error test and during any subsequent recalibration(s);

(G) Analyzer calibration error at each gas level (zero, mid, and high) for the 3-point pre-test analyzer (or system) calibration error test and for any subsequent recalibration(s) (percent of span value);

(H) Reference gas concentration (zero, mid, or high gas levels) used for each pre-run or post-run system bias check or (for dilution type reference method

systems) for each pre-run or post-run system calibration error check;

(I) Analyzer response to the calibration gas for each pre-run or post-run system bias (or system calibration error) check;

(J) The arithmetic average of the analyzer responses to the zero-level gas, for each pair of pre- and post-run system bias (or system calibration error) checks;

(K) The arithmetic average of the analyzer responses to the upscale calibration gas, for each pair of pre-and post-run system bias (or system calibration error) checks;

(L) The results of each pre-run and each post-run system bias (or system calibration error) check using the zero-level gas (percentage of span value);

(M) The results of each pre-run and each post-run system bias (or system calibration error) check using the upscale calibration gas (percentage of span value);

(N) Calibration drift and zero drift of analyzer during each RATA run (percentage of span value);

(O) Moisture basis of the reference method analysis;

(P) Moisture content of stack gas, in percent, during each test run (if needed to convert to moisture basis of CEMS being tested);

(Q) Unadjusted (raw) average pollutant or diluent gas concentration for each run;

(R) Average pollutant or diluent gas concentration for each run, corrected for calibration bias (or calibration error) and, if applicable, corrected for moisture;

(S) The F-factor used to convert reference method data to units of lb/mmBtu (if applicable);

(T) The code for the formula used to convert reference method data to units of lb/mmBtu (if applicable);

(U) Date(s) of the latest analyzer interference test(s);

(V) Results of the latest analyzer interference test(s);

(W) Date of the latest NO_2 to NO conversion test (Method 7E only);

(X) Results of the latest NO_2 to NO conversion test (Method 7E only); and

(Y) For each calibration gas cylinder during each RATA, record the cylinder gas vendor, cylinder number, expiration date, pollutant(s) in the cylinder, and certified gas concentration(s).

(v) For each test run of each moisture determination using Method 4 in appendix A to part 60 of this chapter (or its allowable alternatives), whether the determination is made to support a gas RATA, to support a flow RATA, or to quality assure the data from a continuous moisture monitoring system, record the following data elements (as applicable to the moisture measurement method used):

(A) Parameter (SO_2, NO_x, flow, CO_2, or H_2O), to indicate whether the moisture determination is used to support a gas or flow rate RATA or whether the determination is used to quality assure a moisture monitoring system;

(B) Test number;

(C) Run number;

(D) The beginning date, hour, and minute of the run;

(E) The ending date, hour, and minute or the run;

(F) Unit operating level (low, mid, high, or normal, as appropriate);

(G) Moisture measurement method;

(H) Volume of H_2O collected in the impingers (ml);

(I) Mass of H_2O collected in the silica gel (g);

(J) Dry gas meter calibration factor;

(K) Average dry gas meter temperature (°F);

(L) Barometric pressure (inches of mercury);

(M) Differential pressure across the orifice meter (inches of H_2O);

(N) Initial and final dry gas meter readings (ft^3);

(O) Total sample gas volume, corrected to standard conditions (dscf); and

(P) Percentage of moisture in the stack gas (percent H_2O).

(vi) The upper and lower boundaries of the range of operation (as defined in section 6.5.2.1 of appendix A to this part) for the unit or common stack on which the continuous emission monitor(s) are installed, expressed in megawatts or thousands of lb/hr of steam;

(vii) The load level(s) designated as normal in section 6.5.2.1 of appendix A to this part for the unit or common stack on which the continuous emission monitor(s) are installed, expressed in megawatts or thousands of lb/hr of steam;

(viii) Except for peaking units, the two load levels (i.e., low, mid, or high) identified in section 6.5.2.1 of appendix A to this part as the most frequently used;

(ix) Except for peaking units, the relative frequency (percentage) of historical usage of each load level (low, mid, and high) in the previous four QA operating quarters, as determined in section 6.5.2.1 of appendix A to this part, to the nearest 0.1 percent. The beginning and ending calendar quarters in the historical look-back period shall also be recorded. A summary of the data used to determine the most frequently and second most frequently used load levels and the percentage of time that each load level has been used historically shall be kept on-site in a format suitable for inspection;

(x) Indication of whether the unit/stack qualifies for single load flow RATA testing (operation for ≥ 85.0 percent of operating hours is at a single load level); and

(xi) Date of the load analysis described in paragraphs (a)(7)(vi) through (a)(7)(x) of this section.

(8) For each certified continuous emission monitoring system, continuous opacity monitoring system, or alternative monitoring system, the date and description of each event which requires recertification of the system and the date and type of each test performed to recertify the system in accordance with § 75.20(b).

(9) Hardcopy quality assurance relative accuracy test reports, certification reports, or recertification reports for pollutant concentration or stack flow CEMS shall include, as a minimum, the following elements (as applicable to the type(s) of test(s) performed):

(i) Summarized test results near the front of the report;

(ii) DAHS printouts of the CEMS data generated during the calibration error, linearity, cycle time, and relative accuracy tests;

(iii) For pollutant concentration monitor relative accuracy tests at normal operating load:

(A) The raw reference method data from each run (usually in the form of a computerized printout, showing a series of one-minute readings and the run average);

(B) The raw data and results for all required pre-test and post-test quality assurance checks (i.e., calibration gas injections) of the reference method analyzers;

(C) The raw data and results for any moisture measurements made during the relative accuracy testing;

(D) Tabulated, final, corrected reference method run data (i.e., the actual values used in the relative accuracy calculations), along with the equations used to convert the raw data to the final values and example calculations to demonstrate how the test data were reduced;

(iv) For flow monitor relative accuracy tests:

(A) The raw Reference Method 2 data, including auxiliary moisture data (often in the form of handwritten data sheets);

(B) The tabulated, final volumetric flow rate values used in the relative accuracy calculations (determined from the Method 2 data and other necessary measurements, e.g., moisture, stack temperature and pressure, etc.), along

with the equations used to convert the raw data to the final values and example calculations to demonstrate how the test data were reduced;

(v) Calibration gas certificates for the gases used in the linearity, calibration error, and cycle time tests and for the calibration gases used to quality assure the gas monitor reference method data during the relative accuracy test audit;

(vi) Laboratory calibrations of the source sampling equipment;

(vii) A copy of the test protocol used for the CEMS certifications or recertifications, including narrative that explains any testing abnormalities, problematic sampling, and analytical conditions that required a change to the test protocol, and/or solutions to technical problems encountered during the testing program;

(viii) Diagrams illustrating test locations and sample point locations (to verify that locations are consistent with presented information in the monitoring plan). Include a discussion of any special traversing or measurement scheme. The discussion shall also confirm that sample points satisfied applicable acceptance criteria; and

(ix) Names of key personnel involved in the test program, including test team members, plant contacts, agency representatives or test observers on site, etc.

(10) Whenever reference methods are used as backup monitoring systems pursuant to § 75.20(d)(3), the owner or operator shall record the following information:

(i) For each test run using Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter to determine volumetric flow rate, record the following data elements (as applicable to the measurement method used):

(A) Unit or stack identification number;

(B) Reference method system and component identification numbers;

(C) Run date and hour;

(D) The data elements in paragraph (a)(7)(ii) of this section, except for paragraphs (a)(7)(ii) (A), (F), (H), and (L);

(E) Data element in paragraph (a)(7)(iii)(A) of this section.

(ii) For each reference method test run using Method 6C, 7E, or 3A in appendix A to part 60 of this chapter to determine SO_2, NO_X, CO_2, or O_2 concentration:

(A) Unit or stack identification number;

(B) The reference method system and component identification numbers;

(C) Run number;

(D) Run start date and hour;

(E) Run end date and hour;

(F) Data elements in paragraph (a)(7)(iv) (B) through (I) and (L) through (O) of this section; and

(G) Stack gas density adjustment factor (if applicable).

(iii) For each hour of each reference method test run using Method 6C, 7E, or 3A in appendix A to part 60 of this chapter to determine SO_2, NO_X, CO_2, or O_2 concentration:

(A) Unit or stack identification number;

(B) The reference method system and component identification numbers;

(C) Run number;

(D) Run date and hour;

(E) Pollutant or diluent gas being measured;

(F) Unadjusted (raw) average pollutant or diluent gas concentration for the hour; and

(G) Average pollutant or diluent gas concentration for the hour, adjusted as appropriate for moisture, calibration bias (or calibration error) and stack gas density.

(11) For each other quality-assurance test or other quality assurance activity, the owner or operator shall record the following:

(i) Component/system identification code;

(ii) Parameter;

(iii) Test or activity completion date and hour;

(iv) Test or activity description;

(v) Test result;

(vi) Reason for test;

(vii) Test code.

(12) For each quality assurance test extension or exemption request, the owner or operator shall record the following:

(i) For a RATA deadline extension or exemption request:

(A) Monitoring system identification code;

(B) Date of last RATA;

(C) RATA expiration date without extension;

(D) RATA expiration date with extension;

(E) Type of RATA extension of exemption claimed or lost;

(F) Year to date hours of fuel usage with a sulfur content >0.05 percent by weight; and

(G) Year to date hours of non-redundant back-up CEMS use at the unit/stack.

(ii) For a linearity test quarterly exemption:

(A) Component/system identification code; and

(B) Basis for exemption.

(iii) For a quality assurance test extension claim based on a grace period:

(A) Component/system identification code;

(B) Type of test;

(C) Beginning of grace period;

(D) Date and hour of completion of required quality assurance test or maximum allowable grace period if no quality assurance test was completed during the grace period; and

(E) Number of unit/stack operating hours from the beginning of the grace period to the completion of the quality assurance test or the maximum allowable grace period.

(13) An indication of which data have been excluded from the quarterly span and range evaluations of the SO_2 and NO_X monitors and the reasons for excluding the data, as required in sections 2.1.1.5 and 2.1.2.5 of appendix A to this part. For purposes of reporting under § 75.64(a)(1), this information shall be reported with the quarterly report as descriptive text consistent with § 75.64(g).

(b) *Excepted monitoring systems for gas-fired and oil-fired units.* The owner or operator shall record the applicable information in this section for each excepted monitoring system following the requirements of appendix D to this part or appendix E to this part for determining and recording emissions from an affected unit.

(1) For each oil-fired unit or gas-fired unit using the optional procedures of appendix D to this part for determining SO_2 mass emissions and/or heat input or the optional procedures of appendix E to this part for determining NO_X emission rate, for certification and quality assurance testing of fuel flowmeters tested against a reference fuel flow rate (i.e., flow rate another fuel flowmeter under section 2.1.5.2 of appendix D to this part or flow rate from a procedure according to a standard incorporated by reference under section 2.1.5.1 of appendix D to this part):

(i) Date and hour of test completion;

(ii) Upper range value of the fuel flowmeter;

(iii) Flowmeter measurements during accuracy test (and mean of values), including units of measure;

(iv) Reference flow rates during accuracy test (and mean of values), including units of measure;

(v) Average flowmeter accuracy as a percent of upper range value for low, mid, and high fuel flowrates;

(vi) Indicator of whether test method was a lab comparison to reference meter or an in-line comparison against a master meter;

(vii) Test result (aborted, pass, or fail);

(viii) Component and system identification numbers of the fuel flowmeter being tested;

(ix) Date and hour fuel flowmeter was reinstalled (only for tests not performed inline); and

(x) Description of fuel flowmeter calibration specification or procedure (in the certification application, or periodically if a different method is used for annual quality assurance testing).

(2) For each transmitter or transducer accuracy test for an orifice-, nozzle-, or venturi-type flowmeter used under section 2.1.6 of appendix D to this part:

(i) Date of test;

(ii) Full-scale value of the transmitter or transducer;

(iii) Transmitter input (pre-calibration) prior to accuracy test, including units of measure;

(iv) Expected transmitter output during accuracy test (reference value from NIST-traceable equipment), including units of measure;

(v) Actual transmitter output during accuracy test, including units of measure;

(vi) Transmitter or transducer accuracy as a percent of the full-scale value;

(vii) Transmitter output level as a percent of the full-scale value);

(viii) Transmitter or transducer accuracy, as a percent of full-scale value, and overall accuracy (if applicable), as a percent of upper range value;

(ix) Test and run number;

(x) Time of run (only for tests against another flowmeter inline);

(xi) Component and system identification numbers of the fuel flowmeter being tested;

(xii) Transmitter or transducer type (differential pressure, static pressure, or temperature); and

(xiii) Test result.

(3) For each visual inspection of the primary element or transmitter or transducer accuracy test for an orifice-, nozzle-, or venturi-type flowmeter under sections 2.1.6.1 through 2.1.6.6 of appendix D to this part:

(i) Date of inspection/test;

(ii) Hour of completion of inspection/test;

(iii) Component and system identification numbers of the fuel flowmeter being inspected/tested; and

(iv) Results of inspection/test (pass or fail).

(4) For fuel flowmeters that are tested using the flow-to-load ratio procedures of section 2.1.7 of appendix D to this part:

(i) Test data for the fuel flowmeter flow-to-load ratio or gross heat rate check, including:

(A) Component/system identification code;

(B) Calendar year and quarter;

(C) Indication of whether the test is for flow-to-load ratio or gross heat rate;

(D) Test result;

(E) Number of hours excluded due to co-firing;

(F) Number of hours excluded due to ramping;

(G) Number of hours excluded for lower 10.0 percent range of operation; and

(H) Quarterly average absolute percent difference between baseline ratio (or baseline GHR) and hourly quarterly ratios (or GHR value).

(ii) Reference data for the fuel flowmeter flow-to-load ratio or gross heat rate evaluation, including:

(A) Completion date and hour of most recent primary element inspection;

(B) Completion date and hour of most recent flowmeter or transmitter accuracy test;

(C) Beginning and hour of baseline period;

(D) Completion date and hour of baseline period;

(E) Average fuel flow rate;

(F) Average load;

(G) Baseline fuel flow-to-load ratio and fuel flow-to-load units of measure;

(H) Baseline GHR and GHR units;

(I) Number of hours excluded due to ramping; and

(J) Number of hours excluded in lower 10.0 percent of range of operation.

(5) For gas-fired peaking units or oil-fired peaking units using the optional procedures of appendix E to this part, for each initial performance, periodic, or quality assurance/quality control-related test:

(i) For each run of emission data;

(A) Run start date and time;

(B) Run end date and time;

(C) Fuel flow rate (lb/hr, gal/hr, scf/hr, bbl/hr, or m^3/hr);

(D) Gross calorific value (heat content) of fuel (Btu/lb or Btu/scf);

(E) Density of fuel, and units of measure for fuel density (if needed to convert mass to volume);

(F) Total heat input during the run (mmBtu);

(G) Hourly heat input rate for run (mmBtu/hr);

(H) Response time of the O2 and NO_X reference method analyzers;

(I) NO_X concentration (ppm);

(J) O_2 concentration (percent O_2);

(K) NO_X emission rate (lb/mmBtu);

(L) Fuel or fuel combination (by heat input fraction) combusted;

(M) Run number;

(N) Operating level;

(O) Elapsed time;

(P) Test number;

(Q) Monitoring system identification code for appendix E system, and oil or fuel flow system;

(R) Heat input from oil and/or gas during the run;

(S) Volumetric flow of oil and/or gas during the run, and units of measure for volumetric flow; and

(T) Mass fuel flow during the run.

(ii) For each unit load and heat input:

(A) Average NO_X emission rate (lb/mmBtu);

(B) F-factor used in calculations;

(C) Average heat input rate (mmBtu/hr);

(D) Unit operating parametric data related to NO_X formation for that unit type (e.g., excess O_2 level, water/fuel ratio);

(E) Fuel or fuel combination (by heat input fraction) combusted;

(F) Completion date and time of last run in level; and

(G) Arithmetic mean of reference method values at this level.

(c) For units with add-on SO_2 and NO_X emission controls following the provisions of § 75.34(a)(1) or (a)(2), the owner or operator shall keep the following records on-site in the quality assurance/quality control plan required by section 1 in appendix B to this part:

(1) A list of operating parameters for the add-on emission controls, including parameters in § 75.55(b), appropriate to the particular installation of add-on emission controls; and

(2) The range of each operating parameter in the list that indicates the add-on emission controls are properly operating.

(d) *Excepted flow monitoring systems under appendix I.* The owner or operator shall record the applicable information in this section for each certified excepted flow monitoring system under appendix I to this part measuring and recording flow from an affected unit.

(1) *Certification test records.* Record the results of the following tests:

(i) For each CO_2 or O_2 component monitor:

(A) 7-day calibration error tests, as specified in paragraph (a)(1) of this section;

(B) Cycle time test, as specified in paragraph (a)(6) of this section; and

(C) Linearity checks, as specified in paragraph (a)(3) of this section.

(ii) For each appendix I flow monitoring system tested in a component by component assessment:

(A) Flowmeter accuracy test data (or a statement of calibration, if the flowmeter meets the accuracy standard by design), as specified in paragraph (b)(1) of this section;

(B) Relative accuracy test and bias data for the CO_2 (or O_2) monitor, as specified in paragraphs (a)(5) and (a)(7) of this section; and

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(C) Fuel sampling and analysis data, as specified in section 2.3 of appendix I to this part.

(iii) For each appendix I flow monitoring system tested in a system relative accuracy assessment:

(A) Relative accuracy test and bias data for the appendix I flow monitoring system, as specified for a flow monitoring system in paragraphs (a)(5) and (a)(7) of this section; and

(B) Fuel sampling and analysis data, as specified in section 2.3 of appendix I to this part.

(2) *Quality assurance/quality control test records.* Record the results of the following tests:

(i) For CO_2 or O_2 monitors:

(A) Daily calibration error tests, as specified in paragraph (a)(1) of this section; and

(B) Quarterly linearity checks, as specified in paragraph (a)(3) of this section.

(ii) For each appendix I flow monitoring system tested in a component-by-component assessment:

(A) Flowmeter accuracy test data, as specified in paragraph (b)(1) or (b)(2) of this section and paragraph (b)(3) or (b)(4) of this section;

(B) Relative accuracy test and bias data for the CO_2 (or O_2) monitor, as specified in paragraphs (a)(5) and (a)(7) of this section; and

(C) Fuel sampling and analysis data, as specified in section 2.3 of appendix I to this part.

(iii) For each appendix I flow monitoring system tested in a system relative accuracy assessment:

(A) Relative accuracy test and bias data for the appendix I flow monitoring system, as specified for a flow monitoring system in paragraphs (a)(5) and (a)(7) of this section; and

(B) Fuel sampling and analysis data, as specified in section 2.3 of appendix I to this part.

(e) *Compliance dates.* Beginning on January 1, 2000, the owner or operator shall comply with this section only. Before January 1, 2000, the owner or operator shall comply with either this section or § 75.56; except that if a regulatory option provided in another section of this part 75 is exercised prior to January 1, 2000, then the owner or operator shall comply with any provisions of this section that support the regulatory option beginning with the date on which the option is exercised.

41. Section 75.60 is amended by revising paragraphs (a), (b)(1), and (b)(2) and by adding new paragraphs (b)(3), (b)(4), (b)(5) and (b)(6) to read as follows:

§ 75.60 General provisions.

(a) The designated representative for any affected unit subject to the requirements of this part shall comply with all reporting requirements in this section and with the requirements of § 72.21 of this chapter for all submissions.

(b) * * *

(1) *Initial certifications.* The designated representative shall submit initial certification applications according to § 75.63.

(2) *Recertifications.* The designated representative shall submit recertification applications according to § 75.63.

(3) *Monitoring plans.* The designated representative shall submit monitoring plans according to § 75.62.

(4) *Electronic quarterly reports.* The designated representative shall submit electronic quarterly reports according to § 75.64.

(5) *Other petitions and communications.* The designated representative shall submit petitions, correspondence, application forms, designated representative signature, and petition-related test results in hardcopy to the Administrator. Additional petition requirements are specified in §§ 75.66 and 75.67.

(6) *Quality assurance RATA reports.* If requested by the applicable EPA Regional Office, appropriate State, and/or appropriate local air pollution control agency, the designated representative shall submit the quality assurance RATA report within 45 days after completing a quality assurance RATA according to section 2.3.1 of appendix B to this part, or within 15 days of receiving the request, whichever is later. The designated representative shall report the hardcopy information required by § 75.59(a)(10) to the applicable EPA Regional Office, appropriate State, and/or appropriate local air pollution control agency that requested the RATA report.

* * * * *

42. Section 75.61 is amended by revising paragraphs (a) introductory text, (a)(1) introductory text, and (b) and by adding a new paragraph (a)(1)(iv) to read as follows:

§ 75.61 Notifications.

(a) *Submission.* The designated representative for an affected unit (or owner or operator, as specified) shall submit notice to the Administrator, to the appropriate EPA Regional Office, and to the applicable State and local air pollution control agencies for the following purposes, as required by this part.

(1) *Initial certification and recertification test notifications.* The owner or operator or designated representative for an affected unit shall submit written notification of initial certification tests, recertification tests, and revised test dates as specified in § 75.20 for continuous emission monitoring systems, for alternative monitoring systems under subpart E of this part, or for excepted monitoring systems under appendix E or I to this part, except as provided in paragraphs (a)(1)(iv) and (a)(4) of this section and except for testing only of the data acquisition and handling system.

* * * * *

(iv) *Waiver from notification requirements.* The Administrator, the appropriate EPA Regional Office, or the applicable State or local air pollution control agency may issue a waiver from the requirement of paragraph (a)(1) of this section to provide it for a unit or a group of units for one or more recertification tests. The Administrator, the appropriate EPA Regional Office, or the applicable State or local air pollution control agency may also discontinue the waiver and enforce the requirement of paragraph (a)(1) of this section to provide it notice of recertification testing for future tests for a unit or a group of units.

* * * * *

(b) The owner or operator or designated representative shall submit notification of certification tests and recertification tests for continuous opacity monitoring systems as specified in § 75.20(c)(8) to the State or local air pollution control agency.

* * * * *

43. Section 75.62 is amended by revising paragraphs (a) and (c) to read as follows:

§ 75.62 Monitoring plan.

(a) *Submission.*—(1) *Electronic.* Using the format specified in paragraph (c) of this section, the designated representative for an affected unit shall submit a complete, electronic, up-to-date monitoring plan file (except for hardcopy portions identified in paragraph (a)(2) of this section) to the Administrator: No later than 45 days prior to the initial certification test; at the time of recertification application submission; and in each electronic quarterly report.

(2) *Hardcopy.* The designated representative shall submit all of the hardcopy information required under § 75.53 to the appropriate EPA Regional Office and the appropriate State and/or local air pollution control agency prior to initial certification. Thereafter, the

designated representative shall submit hardcopy information only if that portion of the monitoring plan is revised. The designated representative shall submit the required hardcopy information: no later than 45 days prior to the initial certification test; with any recertification application, if a hardcopy monitoring plan change is associated with the recertification event; and within 30 days of any other event with which a hardcopy monitoring plan change is associated, pursuant to § 75.53(b).

* * * * *

(c) *Format.* Each monitoring plan shall be submitted in a format specified by the Administrator.

44. Section 75.63 is revised to read as follows:

§ 75.63 Initial certification or recertification application.

(a) *Submission.* The designated representative for an affected unit or a combustion source shall submit applications and reports as follows:

(1) *Initial certifications.* (i) Within 45 days after completing all initial certification tests, submit to the Administrator the electronic information required by paragraph (b)(1) of this section and a hardcopy certification application form (EPA form 7610–14). Except for subpart E applications or unless specifically requested by the Administrator, do not submit a hardcopy of the test data and results to the Administrator.

(ii) Within 45 days after completing all initial certification tests, submit the hardcopy information required by paragraph (b)(2) of this section to the applicable EPA Regional Office and the appropriate State and/or local air pollution control agency.

(iii) For units for which the owner or operator is applying for certification approval of the optional excepted methodology under § 75.19 for low mass emissions units, submit:

(A) To the Administrator, the electronic information required by paragraph (b)(1)(i) of this section, the hardcopy information required by paragraph (b)(3) of this section, and a hardcopy certification application form (EPA form 7610–14) signed by the designated representative.

(B) To the applicable EPA Regional Office and appropriate State and/or local air pollution control agency, the hardcopy information required by paragraphs (b)(2)(i), (iii), and (iv) of this section and by paragraph (b)(3) of this section.

(2) *Recertifications.* (i) Within 45 days after completing all recertification tests, submit to the Administrator the electronic information required by (b)(1) of this section and a hardcopy certification application form (EPA form 7610–14). Except for subpart E applications or unless specifically requested by the Administrator, do not submit a hardcopy of the test data and results to the Administrator.

(ii) Within 45 days after completing all recertification tests, submit the hardcopy information required by paragraph (b)(2) of this section to the applicable EPA Regional Office and the appropriate State and/or local air pollution control agency. The applicable EPA Regional Office or appropriate State or local air pollution control agency may waive the requirement for submission to it of a hardcopy recertification. The applicable EPA Regional Office or the appropriate State or local air pollution control agency may also discontinue the waiver and enforce the requirement of this paragraph (a)(2)(ii) to provide a hardcopy report of the recertification test data and results.

(iii) Notwithstanding the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section, for an event for which the Administrator determines that only diagnostic tests (see § 75.20(b)) are required rather than a RATA, an accuracy test of the fuel flowmeter, or a retest of the appendix E NO_X correlation curve, no hardcopy submittal of any kind is required; however, the results of all diagnostic test(s) shall be submitted in the electronic quarterly report required under § 75.64. For DAHS (missing data and formula) verifications, neither a hardcopy nor an electronic submittal of any kind is required; these test results shall be kept on-site, suitable for inspection.

(b) *Contents.* Each application for initial certification or recertification shall contain the following information, as applicable:

(1) *Electronic.* (i) A complete, up-to-date version of the electronic portion of the monitoring plan, according to § 75.53(c) and (d), or § 75.53(e) and (f), as applicable, in the format specified in § 75.62(c).

(ii) The results of the test(s) required by § 75.20, including the type of test conducted, testing date, information required by § 75.56 or § 75.59, as applicable, and the results of any failed tests that affect data validation.

(2) *Hardcopy.* (i) Any changed portions of the hardcopy monitoring plan information required under § 75.53(c) and (d), or § 75.53(e) and (f), as applicable.

(ii) The results of the test(s) required by § 75.20, including the type of test conducted, testing date, information required by § 75.59(a)(10), and the results of any failed tests that affect data validation.

(iii) Certification or recertification application form (EPA form 7610–14).

(iv) Designated representative signature.

(3) If the owner or operator is applying to use the optional low mass emissions excepted methodology in § 75.19(c) in lieu of a certified monitoring system,

(i) A statement that the unit burns only natural gas or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only natural gas or fuel oil and a list of the fuels that are projected to be burned;

(ii) A statement that the unit meets the applicability requirements in § 75.19(a) and (b); and

(iii) Any unit historical actual and projected emissions data and calculated emissions data demonstrating that the affected unit qualifies as a low mass emissions unit under § 75.19(a) and (b).

(c) *Format.* The electronic portion of each certification or recertification application shall be submitted in a format to be specified by the Administrator. The hardcopy test results shall be submitted in a format suitable for review and shall include the information in § 75.59(a)(10).

45. Section 75.64 is amended by revising paragraphs (a) introductory text, (d), and (e); by redesignating existing paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) as paragraphs (a)(2), (a)(3), (a)(4), (a)(5),(a)(6) and (a)(8), respectively; by revising newly designated paragraphs (a)(2), and (a)(4); by adding new paragraphs (a)(1), (a)(7), (a)(9), (f), and (g); and by removing the third sentence in paragraph (c), to read as follows:

§ 75.64 Quarterly reports.

(a) *Electronic submission.* The designated representative for an affected unit shall electronically report the data and information in paragraphs (a), (b), and (c) of this section to the Administrator quarterly, beginning with the data from the later of: the last (partial) calendar quarter of 1993 (where the calendar quarter data begins at November 15, 1993), the calendar quarter corresponding to the date of provisional certification, or the calendar quarter corresponding to the relevant deadline for initial certification in § 75.4(a), (b), or (c), whichever quarter is earlier (where the report contains hourly data beginning with the hour of provisional certification or the hour corresponding to the relevant certification deadline, whichever is earlier). For an affected unit subject to

§ 75.4(d) that is shutdown on the relevant compliance date in § 75.4(a), the owner or operator shall submit quarterly reports for the unit beginning with the data from the quarter in which the owner or operator recommences commercial operation of the unit (where the report contains hourly data beginning with the first hour of recommenced commercial operation of the unit). For any provisionally-certified monitoring system, § 75.20(a)(3) shall apply for initial certifications, and § 75.20(b)(5) shall apply for recertifications. Each electronic report must be submitted to the Administrator within 30 days following the end of each calendar quarter. Each electronic report shall include the date of report generation, for the information provided in paragraphs (a)(2) through (a)(9) of this section, and shall also include for each affected unit (or group of units using a common stack):

(1) Facility information:

(i) Identification, including:

(A) Facility/ORISPL number;

(B) Calendar quarter and year data contained in the report; and

(C) EDR version used for the report.

(ii) Location, including:

(A) Plant name and facility ID;

(B) EPA AIRS facility system ID;

(C) State facility ID;

(D) Source category/type;

(E) Primary SIC code;

(F) State postal abbreviation;

(G) County code; and

(H) Latitude and longitude.

(2) The information and hourly data required in §§ 75.53 through 75.59, excluding:

(i) Descriptions of adjustments, corrective action, and maintenance;

(ii) Information which is incompatible with electronic reporting (e.g., field data sheets, lab analyses, quality control plan);

(iii) Opacity data listed in § 75.54(f) or § 75.57(f), and in § 75.59(a)(9);

(iv) For units with SO_2 or NO_x add-on emission controls that do not elect to use the approved site-specific parametric monitoring procedures for calculation of substitute data, the information in § 75.55(b)(3) or § 75.58(b)(3);

(v) The information recorded under § 75.56(a)(7) for the period prior to January 1, 2000;

(vi) Information required by § 75.54(g) or § 75.57(h) concerning the causes of any missing data periods and the actions taken to cure such causes; and

(vii) Hardcopy monitoring plan information required by § 75.53 and hardcopy test data and results required by § 75.56 or § 75.59;

(viii) Records of flow polynomial equations and numerical values required by § 75.56(a)(5)(vii) or § 75.59(a)(5)(vi);

(ix) Daily fuel sampling information required by § 75.58(c)(3)(i) for units using assumed values under appendix D;

(x) Information required by §§ 75.59(b)(1)(ii), (iii), (iv), and (x), and (b)(2) concerning fuel flowmeter accuracy tests and transmitter/transducer accuracy tests;

(xi) Stratification test results required as part of the RATA supplementary records under §§ 75.56(a)(7) or 75.59(a)(7);

(xii) Data and results of RATAs that are aborted or invalidated due to problems with the reference method or operational problems with the unit and data and results of linearity checks that are aborted or invalidated due to operational problems with the unit; and

(xiii) The summary of data used to determine the percentage of historical usage of each load level as required under § 75.59(a)(8)(iv).

(xiv) Supplementary RATA information required under §§ 75.59(a)(7)(iv)(A), (U), (V), (W), (X), and (Y).

* * * * *

(4) Average NO_x emission rate (lb/mmBtu, rounded to the nearest hundredth prior to January 1, 2000 and to the nearest thousandth on and after January 1, 2000) during the quarter and cumulative NO_x emission rate for the calendar year.

* * * * *

(7) Unit/stack/pipe operating hours for quarter and cumulative unit/stack/pipe operating hours for calendar year.

* * * * *

(9) For low mass emissions units for which the owner or operator is using the optional low mass emissions methodology in § 75.19(c) to calculate NO_x mass emissions, the designated representative must also report tons (rounded to the nearest tenth) of NO_x emitted during the quarter and cumulative NO_x mass emissions for the calendar year.

* * * * *

(d) *Electronic format.* Each quarterly report shall be submitted in a format to be specified by the Administrator, including both electronic submission of data and electronic or hardcopy submission of compliance certifications.

(e) *Phase I qualifying technology reports.* In addition to reporting the information in paragraphs (a), (b), and (c) of this section, the designated representative for an affected unit on which SO_2 emission controls have been installed and operated for the purpose of meeting qualifying Phase I technology requirements pursuant to § 72.42 of this chapter shall also submit reports documenting the measured percent SO_2 emissions removal to the Administrator on a quarterly basis, beginning the first quarter of 1997 and continuing through the fourth quarter of 1999. Each report shall include all measurements and calculations necessary to substantiate that the qualifying technology achieves the required percent reduction in SO_2 emissions.

(f) *Method of submission.* Beginning with the quarterly report for the first quarter of the year 2000, all quarterly reports shall be submitted to EPA by direct computer-to-computer electronic transfer via modem and EPA-provided software, unless otherwise approved by the Administrator.

(g) Any cover letter text accompanying a quarterly report shall either be submitted in hardcopy to the Agency or be provided in electronic format compatible with the other data required to be reported under this section.

46. Section 75.65 is revised to read as follows:

§ 75.65 Opacity reports.

The owner or operator or designated representative shall report excess emissions of opacity recorded under § 75.54(f) or § 75.57(f), as applicable, to the applicable State or local air pollution control agency.

47. Section 75.66 is amended by revising paragraphs (a) and the first sentence of (e) introductory text; by redesignating paragraph (i) as paragraph (m) and revising it; and by adding paragraphs (i) through (l), to read as follows:

§ 75.66 Petitions to the Administrator.

(a) *General.* The designated representative for an affected unit subject to the requirements of this part may submit a petition to the Administrator requesting that the Administrator exercise his or her discretion to approve an alternative to any requirement prescribed in this part or incorporated by reference in this part. Any such petition shall be submitted in accordance with the requirements of this section. The designated representative shall comply with the signatory requirements of § 72.21 of this chapter for each submission.

* * * * *

(e) *Parametric monitoring procedure petitions.* The designated representative for an affected unit may submit a petition to the Administrator, where each petition shall contain the information specified in § 75.55(b) or

§ 75.58(b), as applicable, for the use of a parametric monitoring method. * * * * * * * * * *

(i) *Emergency fuel petition.* The designated representative for an affected unit may submit a petition to the Administrator to use the emergency fuel provisions in Section 2.1.4 of Appendix E of this part. The designated representative shall include the following information in the petition:

(1) Identification of the affected unit(s);

(2) A procedure for determining the NO_x emission rate for the unit when the emergency fuel is combusted; and

(3) A demonstration that the permit restricts use of the fuel to emergencies only.

(j) *Petition for alternative method of accounting for emissions prior to completion of certification tests.* The designated representative for an affected unit may submit a petition to the Administrator to use an alternative to the procedures in § 75.4 (d)(3), (e)(3), (f)(3) and/or (g)(3) to account for emissions during the period between the compliance date for a unit and the completion of certification testing for that unit. The designated representative shall include:

(1) Identification of the affected unit(s);

(2) A detailed explanation of the alternative method to account for emissions of the following parameters, as applicable: SO_2 mass emissions (in lbs), NO_x emission rate (in lbs/mmbtu), CO_2 mass emissions (in lbs) and, if the unit is subject to the requirements of subpart H of this part, NO_x mass emissions (in lbs); and

(3) A demonstration that the proposed alternative does not underestimate emissions.

(k) *Petition for an alternative to the stabilization criteria for the cycle time test in section 6.4 of Appendix A of this part.* The designated representative for an affected unit may submit a petition to the Administrator to use an alternative stabilization criteria for the cycle time test in section 6.4 of Appendix A of this part, if the installed monitoring system does not record data in 1-minute or 3-minute intervals. The designated representative shall provide a description of the alternative criteria.

(l) *Petition for an alternative to the maximum rated hourly heat input used to determine emissions under the low mass emissions excepted methodology in § 75.19.* The designated representative for an affected unit may submit a petition to the Administrator to use an alternative to the maximum rated hourly heat input to determine emissions under the low mass emissions excepted methodology set forth in § 75.19. The designated representative shall provide the following information:

(1) Identification of the affected unit(s);

(2) Information demonstrating that the maximum rated hourly heat input, as defined in § 72.2 of this chapter, is not representative of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently; and

(3) Information documenting that the proposed alternative maximum heat input is representative of the unit's highest potential heat input.

(m) *Any other petitions to the Administrator under this part.* Except for petitions addressed in paragraphs (b) through (l) of this section, any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(1) Identification of the affected unit(s);

(2) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(3) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

(4) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of this part and of section 412 of the Act and that any adverse effect of approving such alternative will be *de minimis;* and

(5) Any other relevant information that the Administrator may require.

48. Subpart H is added to read as follows:

Subpart H—NO_x Mass Emissions Provisions

Sec.

75.70 NO_x mass emissions provisions.
75.71 Specific provisions for monitoring NO_x emission rate and heat input for the purpose of calculating NO_x mass emissions.
75.72 Determination of NO_x mass emissions.
75.73 Recordkeeping and reporting.

Subpart H—NO_x Mass Emissions Provisions

§ 75.70 NO_x mass emissions provisions.

(a) The owner or operator of a unit shall comply with the requirements of this subpart only if such compliance is required by an applicable state or federal NO_x mass emission reduction program that incorporates by reference, or otherwise adopts the requirements of, this subpart. For purposes of this subpart, the term "affected unit" shall mean any unit that is subject to a state or federal NO_x mass emission reduction program requiring compliance with this subpart, the term "nonaffected unit" shall mean any unit that is not subject to such a program, the term "permitting authority" shall mean the permitting authority under an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart, and the term "designated representative" shall mean the responsible party under the applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart. In addition, as set forth in this subpart, the provisions of subparts A, C, D, E, F, and G and appendices A through G applicable to NO_x emission rate and heat input shall apply to the owner or operator of a unit required to meet the requirements of this subpart by a state or federal NO_x mass emission reduction program, except that the term "affected unit" shall mean any unit that is subject to a state or federal NO_x mass emission reduction program requiring compliance with this subpart, the term "permitting authority" shall mean the permitting authority under an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart, and the term "designated representative" shall mean the responsible party under the applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(b) *Compliance dates.* The owner or operator of an affected unit shall meet the compliance deadlines established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(c) *Prohibitions.* (1) No owner or operator of an affected unit or a non-affected unit under § 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with paragraph (g) of this section.

(2) No owner or operator of an affected unit or a non-affected unit under § 75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged emissions of NO_x to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this part.

(3) No owner or operator of an affected unit or a non-affected unit under § 75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other

approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this part.

(4) No owner or operator of an affected unit or a non-affected unit under § 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this part, except under any one of the following circumstances:

(i) During the period that the unit is covered by a retired unit exemption under § 96.5 that is in effect;

(ii) The owner or operator is monitoring NO_x mass emissions from the affected unit with another certified monitoring system approved, in accordance with the provisions of paragraph (d) of this section; or

(iii) The designated representative submits notification of the date of certification testing of a replacement monitoring system in accordance with § 75.73(d)(5).

(d) *Initial certification and recertification procedures.* (1) The owner or operator of an affected unit that is subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures of this part except that:

(i) The owner or operator shall meet any additional requirements set forth in an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(ii) For any additional NO_x emission rate CEMS required under the common stack provisions in § 75.72, the owner or operator shall meet the requirements of paragraph (d)(2) of this section.

(2) The owner or operator of an affected unit that is not subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart. The owner or operator of an affected unit that is subject to an Acid Rain emissions limitation shall, for any additional NO_x emission rate CEMS required under the common stack provisions in § 75.72, comply with the initial certification and recertification procedures established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(e) *Quality assurance and quality control requirements.* The owner or operator shall meet the quality assurance and quality control requirements in § 75.21.

(f) *Missing data procedures.* Except as provided in § 75.34, the owner or operator shall provide substitute data for each affected unit and each non-affected unit under § 75.72(b)(2)(ii) using a continuous emissions monitoring system in accordance with the missing data procedures in subpart D of this part whenever the unit combusts fuel and:

(1) A valid quality assured hour of NO_x emission rate data (in lb/mmBtu) has not been measured and recorded for an affected unit or non-affected unit under § 75.72(b)(2)(ii) by a certified NO_x continuous emission monitoring system or by an approved monitoring system under subpart E of this part;

(2) A valid quality assured hour of flow data (in scfh) has not been measured and recorded for an affected unit or non-affected unit under § 75.72(b)(2)(ii) from a certified flow monitor or by an approved alternative monitoring system under subpart E of this part; or

(3) A valid quality assured hour of heat input data (in mmBtu) has not been measured and recorded for an affected unit from a certified flow monitor and a certified diluent (CO_2 or O_2) monitor or by an approved alternative monitoring system under subpart E of this part or by an accepted monitoring system under appendix D to this part.

(g) *Petitions.* (1) The owner or operator of an affected unit that is subject to an Acid Rain emissions limitation may submit a petition to the Administrator requesting an alternative to any requirement of this subpart. Such a petition shall meet the requirements of § 75.66 and any additional requirements established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart. Use of an alternative to any requirement of this subpart is in accordance with this subpart and with such state or federal NO_x mass emission reduction program only to the extent that the petition is approved by the Administrator, in consultation with the permitting authority.

(2) Notwithstanding paragraph (g)(1) of this section, petitions requesting an alternative to a requirement concerning any additional CEMS required solely to meet the common stack provisions of § 75.72, shall be submitted to the permitting authority and the Administrator and shall be governed by paragraph (g)(3)(ii) of this section. Such a petition shall meet the requirements of § 75.66 and any additional requirements established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(3)(i) The owner or operator of an affected unit that is not subject to an Acid Rain emissions limitation may submit a petition to the permitting authority and the Administrator requesting an alternative to any requirement of this subpart. Such a petition shall meet the requirements of § 75.66 and any additional requirements established by an applicable state or federal NO_x mass emission reduction program that adopts the requirements of this subpart.

(ii) Use of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that it is approved by both the permitting authority and the Administrator.

§ 75.71 Specific provisions for monitoring NO_x emission rate and heat input for the purpose of calculating NO_x mass emissions.

(a) *Coal-fired units.* The owner or operator of an affected unit shall meet the general operating requirements in § 75.10 for a NO_x continuous emission monitoring system (including a NO_x pollutant concentration monitor and an O_2- or CO_2-diluent gas monitor) to measure NO_x emission rate and for a continuous flow monitoring system and an O_2- or CO_2-diluent gas monitor to measure heat input, except as provided by the Administrator in accordance with subpart E of this part.

(b) *Moisture correction.* If a correction for the stack gas moisture content is needed to properly calculate the NO_x emission rate in lb/mmBtu (i.e., if the NO_x pollutant concentration monitor measures on a different moisture basis from the diluent monitor), the owner or operator of an affected unit shall install, operate, maintain, and quality assure a continuous moisture monitoring system, as defined in § 75.11(b).

(c) *Gas-fired nonpeaking units or oil-fired non-peaking units.* The owner or operator of an affected unit that qualifies as a gas-fired or oil-fired unit but not as a peaking unit, as defined in § 72.2 of this chapter, based on information submitted by the designated representative in the monitoring plan shall either:

(1) Meet the requirements of paragraph (a) of this section and, if applicable, paragraph (b) of this section; or

(2) Meet the general operating requirements in § 75.10 for a NO_x continuous emission monitoring system, except as provided, where applicable, in paragraph (e)(2) of this section or by the

Administrator in accordance with subpart E of this part, and use the procedures specified in appendix D to this part for determining hourly heat input. However, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the NO_X mass reporting provisions of this subpart.

(d) *Peaking units that combust natural gas or fuel oil.* The owner or operator of an affected unit that combusts only natural gas or fuel oil and that qualifies as a peaking unit, as defined in § 72.2 of this chapter, based on information submitted by the designated representative in the monitoring plan shall either:

(1) Meet the requirements of paragraph (c) of this section; or

(2) Use the procedures in appendix D to this part for determining hourly heat input and the procedure specified in appendix E to this part for estimating hourly NO_X emission rate. However, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the NO_X mass reporting provisions of this subpart. In addition, if after certification of an excepted monitoring system under appendix E to this part, a unit's operations exceed a capacity factor of 20.0 percent in any calender year or exceed a capacity factor of 10.0 percent averaged over three years, the owner or operator shall meet the requirements of paragraph (c) of this section or, if applicable, paragraph (e) of this section by no later than December 31 of the following calender year.

(e) *Low mass emissions units.* Notwithstanding the requirements of paragraphs (c) and (d) of this section, the owner or operator of an affected unit that qualifies as a low mass emissions unit under § 75.19(a) shall comply with one of the following:

(1) Meet the applicable requirements specified in paragraph (c) or (d) of this section for monitoring NO_X emission rate and heat input; or

(2) Use the low mass emissions excepted methodology in § 75.19(c) for estimating hourly emission rate, hourly heat input, and hourly NO_X mass emissions.

(f) *Other units.* The owner or operator of an affected unit that combusts wood, refuse, or other materials shall comply with the monitoring provisions specified in paragraph (a) of this section and, where applicable, paragraph (b) of this section.

§ 75.72 Determination of NO_X mass emissions.

The owner or operator of an affected unit shall calculate hourly NO_X mass emissions (in lbs) by multiplying the hourly NO_X emission rate (in lbs/mmBtu) by the hourly heat input (in mmBtu/hr) and the hourly operating time (in hr). The owner or operator shall also calculate quarterly and cumulative year-to-date NO_X mass emissions and cumulative NO_X mass emissions for the ozone season (in tons) by summing the hourly NO_X mass emissions according to the procedures in section 8 of appendix F to this part.

(a) *Unit utilizing common stack with other affected unit(s).* When an affected unit utilizes a common stack with one or more affected units, but no nonaffected units, the owner or operator shall either:

(1) Record the combined NO_X mass emissions for the units exhausting to the common stack, install, certify, operate, and maintain a NO_X continuous emissions monitoring system in the common stack and:

(i) Install, certify, operate, and maintain a continuous flow monitoring system at the common stack; or

(ii) If all of the units using the common stack are eligible to use the procedures in appendix D to this part, use the procedures in appendix D to this part to determine heat input for each affected unit and use the combined heat input of all of the units exhausting to the common stack for calculating NO_X mass emissions; however, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the NO_X mass reporting provisions of this subpart; or

(2) Install, certify, operate, and maintain a NO_X continuous emissions monitoring system in the duct to the common stack from each affected unit and:

(i) Install, certify, operate, and maintain a flow monitor in the duct to the common stack from each affected unit; or

(ii)(A) For any unit using the common stack and eligible to use the procedures in appendix D to this part, use the procedures in appendix D to determine heat input for that affected unit. However, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the mass reporting provisions of this subpart; and

(B) Install, certify, operate, and maintain a flow monitor in the duct to the common stack for each remaining affected unit.

(b) *Unit utilizing common stack with nonaffected unit(s).* When one or more affected units utilizes a common stack with one or more nonaffected units, the owner or operator shall either:

(1) Install, certify, operate, and maintain a NO_X continuous emission monitoring system in the duct to the common stack from each affected unit; and

(i) Install, certify, operate, and maintain a continuous flow monitoring system in the duct to the common stack from each affected unit; or

(ii)(A) For any unit using the common stack and eligible to use the procedures in appendix D to this part, use the procedures in appendix D to determine heat input for that affected unit; however, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the mass reporting provisions of this subpart; and

(B) Install, certify, operate, and maintain a flow monitor in the duct to the common stack for each remaining affected unit that exhausts to the common stack; or

(2) Install, certify, operate, and maintain a NO_X continuous emission monitoring system in the common stack; and

(i) Designate the nonaffected units as affected units in accordance with the applicable state or federal NO_X mass emissions reduction program and meet the requirements of paragraph (a)(1) of this section; or

(ii)(A) Install, certify, operate, and maintain a continuous flow monitoring system in the common stack and a NO_X continuous emission monitoring system in the duct to the common stack from each nonaffected unit and either install, certify, operate, and maintain a continuous flow monitoring system in the duct from each nonaffected unit or, for any nonaffected unit exhausting to the common stack and otherwise eligible to use the procedures in appendix D to this part, determine heat input using the procedures in appendix D for that nonaffected unit (however, the heat input apportionment provisions in section 2.1.2 of appendix D to this part shall not be used to meet the NO_X mass reporting provisions of this subpart), and for any remaining nonaffected unit that exhausts to the common stack, install, certify, operate, and maintain a flow monitor in the duct to the common stack; and

(B) Submit a petition to the permitting authority and the Administrator to allow a method of calculating and reporting the NO_X mass emissions from the affected units as the difference between NO_X mass emissions measured in the common stack and NO_X mass emissions measured in the ducts of the nonaffected units, not to be reported as an hourly value less than zero. The permitting authority and the

Administrator may approve such a method whenever the designated representative demonstrates, to the satisfaction of the permitting authority and the Administrator, that the method ensures that the NO_X mass emissions from the affected units are not underestimated; or

(iii) Install a continuous flow monitoring system in the common stack and record the combined emissions from all units as the combined NO_X mass emissions for the affected units for recordkeeping and compliance purposes; or

(iv) Submit a petition to the permitting authority and the Administrator to allow use of a method for apportioning NO_X mass emissions measured in the common stack to each of the units using the common stack and for reporting the NO_X mass emissions. The permitting authority and the Administrator may approve such a method whenever the designated representative demonstrates, to the satisfaction of the permitting authority and the Administrator, that the method ensures that the NO_X mass emissions from the affected units are not underestimated.

(c) *Unit with bypass stack.* Whenever any portion of the flue gases from an affected unit can be routed to avoid the installed NO_X continuous emissions monitoring system, the owner and operator shall either:

(1) Install, certify, operate, and maintain a NO_X continuous emissions monitoring system and a continuous flow monitoring system on the bypass flue, duct, or stack gas stream and calculate NO_X mass emissions for the unit as the sum of the emissions recorded by all required monitoring systems; or

(2) Monitor NO_X mass emissions on the bypass flue, duct, or stack gas stream using the reference methods in § 75.22(b) for NO_X concentration, flow, and diluent and calculate NO_X mass emissions for the unit as the sum of the emissions recorded by the installed monitoring systems on the main stack and the emissions measured by the reference method monitoring systems.

(d) *Unit with multiple stacks.* Notwithstanding § 75.17(c), when the flue gases from an affected unit utilize two or more ducts feeding into two or more stacks (which may include flue gases from other affected or nonaffected unit(s)), or when the flue gases from an affected unit utilize two or more ducts feeding into a single stack and the owner or operator chooses to monitor in the ducts rather than in the stack, the owner or operator shall either:

(1) Install, certify, operate, and maintain a NO_X continuous emission monitoring system and a continuous flow monitoring system in each duct feeding into the stack or stacks and determine NO_X mass emissions from each affected unit using the stack or stacks as the sum of the NO_X mass emissions recorded for each duct; or

(2) Install, certify, operate, and maintain a NO_X continuous emissions monitoring system and a continuous flow monitoring system in each stack, and determine NO_X mass emissions from the affected unit using the sum of the NO_X mass emissions recorded for each stack, except that where another unit also exhausts flue gases to one or more of the stacks, the owner or operator shall also comply with the applicable requirements of paragraphs (a) and (b) of this section to determine and record NO_X mass emissions from the units using that stack; or

(3) If the unit is eligible to use the procedures in appendix D to this part, install, certify, operate, and maintain a NO_X continuous emissions monitoring system in one of the ducts feeding into the stack or stacks and use the procedures in appendix D to this part to determine heat input for the unit, provided that:

(i) There are no add-on NO_X controls at the unit;

(ii) The unit is not capable of emitting solely through an unmonitored stack (i.e., has no dampers); and

(iii) The owner or operator of the unit demonstrates to the satisfaction of the permitting authority and the Administrator that the NO_X emission rate in the monitored duct or stack is representative of the NO_X emission rate in each duct or stack.

§ 75.73 Recordkeeping and reporting.

(a) *General recordkeeping provisions.* The owner or operator of any affected unit shall maintain for each affected unit and each non-affected unit under § 75.72(b)(2)(ii) a file of all measurements, data, reports, and other information required by this part at the source in a form suitable for inspection for at least three (3) years from the date of each record. Except for the certification data required in § 75.57(a)(4) and the initial submission of the monitoring plan required in § 75.57(a)(5), the data shall be collected beginning with the earlier of the date of provisional certification or the deadline in § 75.70. The certification data required in § 75.57(a)(4) shall be collected beginning with the date of the first certification test performed.

The file shall contain the following information:

(1) The information required in §§ 75.57(a)(2), (a)(4), (a)(5), (a)(6), (b), (c)(2), (d), (g), and (h);

(2) The information required in §§ 75.58 (b), (d), and (g);

(3) For each hour when the unit is operating, NO_X mass emissions, calculated in accordance with section 8.1 of appendix F to this part;

(4) During the second and third calendar quarters, cumulative ozone season heat input and cumulative ozone season operating hours;

(5) Heat input and NO_X methodologies for the hour;

(6) *Specific heat input record provisions for gas-fired or oil-fired units using the procedures in appendix D to this part.* In lieu of the information required in § 75.57(c)(2), the owner or operator shall record the following information in this paragraph for each affected gas-fired or oil-fired unit and each non-affected gas-or oil-fired unit under § 75.72(b)(2)(ii) for which the owner or operator is using the procedures in appendix D to this part for estimating heat input:

(i) For each hour when the unit is combusting oil:

(A) Date and hour;

(B) Hourly average flow rate of oil, while the unit combusts oil (in gal/hr, lb/hr, m^3/hr, or bbl/hr, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(C) Method of oil sampling (flow proportional, continuous drip, as delivered, manual from storage tank, or daily manual);

(D) Mass rate of oil combusted each hour (in lb/hr, rounded to the nearest tenth) (flag value if derived from missing data procedures);

(E) For units using volumetric oil flowmeters, density of oil (flag value if derived from missing data procedures);

(F) Gross calorific value (heat content) of oil used to determine heat input (in Btu/mass unit) (flag value if derived from missing data procedures);

(G) Hourly heat input rate from oil, according to procedures in appendix F to this part (in mmBtu/hr, to the nearest tenth);

(H) Fuel usage time for combustion of oil during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)) (flag to indicate multiple/single fuel types combusted); and

(I) Monitoring system identification code;

(ii) For gas-fired units or oil-fired units, using the procedures in appendix D to this part with an assumed density or for as-delivered fuel sampled from each delivery:

(A) Measured GCV and, if applicable, density from each fuel sample; and

(B) Assumed GCV and, if applicable, density used to calculate heat input rate;

(iii) For each hour when the unit is combusting gaseous fuel:

(A) Date and hour;

(B) Hourly heat input rate from gaseous fuel, according to procedures in appendix F to this part (in mmBtu/hr, rounded to the nearest tenth);

(C) Hourly flow rate of gaseous fuel, while the unit combusts gas (in 100 scfh) (flag value if derived from missing data procedures);

(D) Gross calorific value (heat content) of gaseous fuel used to determine heat input rate (in Btu/100 scf) (flag value if derived from missing data procedures);

(E) Heat input rate from gaseous fuel, while the unit combusts gas (in mmBtu/hr, rounded to the nearest tenth);

(F) Fuel usage time for combustion of gaseous fuel during the hour (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)) (flag to indicate multiple/single fuel types combusted); and

(G) Monitoring system identification code;

(iv) For each oil sample or sample of diesel fuel:

(A) Date of sampling;

(B) Gross calorific value or heat content (in Btu/lb) (flag value if derived from missing data procedures); and

(C) Density or specific gravity, if required to convert volume to mass (flag value if derived from missing data procedures);

(v) For each sample of gaseous fuel:

(A) Date of sampling; and

(B) Gross calorific value or heat content (in Btu/100 scf) (flag value if derived from missing data procedures);

(vi) For each oil sample or sample of gaseous fuel:

(A) Type of oil or gas; and

(B) Percent carbon or F-factor of fuel;

(7) *Specific NO_X, record provisions for gas-fired or oil-fired units using the optional low mass emissions excepted methodology in § 75.19.* In lieu of recording the information in § 75.57(b), (c)(2), (d), and (g), the owner or operator shall record, for each hour when the unit is operating for any portion of the hour, the following information for each affected low mass emissions unit for which the owner or operator is using the low mass emissions excepted methodology in § 75.19(c):

(i) Date and hour;

(ii) If one type of fuel is combusted in the hour, fuel type (pipeline natural gas, natural gas, residual oil, or diesel fuel) or, if more than one type of fuel is combusted in the hour, the fuel type which results in the highest emission factors for NO_X;

(iii) Average hourly NO_X emission rate (in lb/mmBtu, rounded to the nearest thousandth); and

(iv) Hourly NO_X mass emissions (in lbs, rounded to the nearest tenth).

(b) *Certification, quality assurance and quality control record provisions.* The owner or operator of any affected unit shall record the applicable information in § 75.59 for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii).

(c) *Monitoring plan record provisions.* (1) *General provisions.* The owner or operator of an affected unit shall prepare and maintain a monitoring plan for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii). Except as provided in paragraph (d) or (f) of this section, a monitoring plan shall contain sufficient information on the continuous emission monitoring systems, excepted methodology under § 75.19, or excepted monitoring systems under appendix D or E to this part and the use of data derived from these systems to demonstrate that all the unit's NO_X emissions are monitored and reported.

(2) Whenever the owner or operator makes a replacement, modification, or change in the certified continuous emission monitoring system, excepted methodology under § 75.19, excepted monitoring system under appendix D or E to this part, or alternative monitoring system under subpart E of this part, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to a serial number for a component of a monitoring system), then the owner or operator shall update the monitoring plan.

(3) *Contents of the monitoring plan for units not subject to an Acid Rain emissions limitation.* Each monitoring plan shall contain the information in § 75.53(e)(1) in electronic format and the information in § 75.53(e)(2) in hardcopy format. In addition, to the extent applicable, each monitoring plan shall contain the information in § 75.53(f)(1)(i), (f)(2)(i), and (f)(4) in electronic format and the information in § 75.53(f)(1)(ii) and (f)(2)(ii) in hardcopy format.

(d) *General reporting provisions.* (1) The designated representative for an affected unit shall comply with all reporting requirements in this section and with any additional requirements set forth in an applicable state or Federal NO_X mass emission reduction program that adopts the requirements of this subpart.

(2) The designated representative for an affected unit shall submit the following for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii):

(i) Initial certification applications in accordance with § 75.70(d);

(ii) Monitoring plans in accordance with paragraph (e) of this section; and

(iii) Quarterly reports in accordance with paragraph (f) of this section.

(3) *Other petitions and communications.* The designated representative for an affected unit shall submit petitions, correspondence, application forms, and petition-related test results in accordance with the provisions in § 75.70(g).

(4) *Quality assurance RATA reports.* If requested by the permitting authority, the designated representative of an affected unit shall submit the quality assurance RATA report for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii) by the later of 45 days after completing a quality assurance RATA according to section 2.3 of appendix B to this part or 15 days of receiving the request. The designated representative shall report the hardcopy information required by § 75.59(a)(10) to the permitting authority.

(5) *Notifications.* The designated representative for an affected unit shall submit written notice to the permitting authority according to the provisions in § 75.61 for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii).

(e) *Monitoring plans.* (1) *Submission.*

(i) *Electronic.* The designated representative for an affected unit shall submit a complete, electronic, up-to-date monitoring plan file (except for hardcopy portions identified in paragraph (e)(1)(ii) of this section) for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii) as follows:

(A) To the permitting authority, no later than 45 days prior to the initial certification test and at the time of recertification application submission; and

(B) To the Administrator, no later than 45 days prior to the initial certification test, at the time of recertification application submission, and in each electronic quarterly report.

(ii) *Hardcopy.* The designated representative of an affected unit shall

submit all of the hardcopy information required under § 75.53, for each affected unit or group of units monitored at a common stack and each non-affected unit under § 75.72(b)(2)(ii), to the permitting authority prior to initial certification. Thereafter, the designated representative shall submit hardcopy information only if that portion of the monitoring plan is revised. The designated representative shall submit the required hardcopy information: no later than 45 days prior to the initial certification test; with any recertification application, if a hardcopy monitoring plan change is associated with the recertification event; and within 30 days of any other event with which a hardcopy monitoring plan change is associated, pursuant to § 75.53(b).

(2) [Reserved]

(f) *Quarterly reports.* (1) *Electronic submission.* The designated representative for an affected unit shall electronically report the data and information in this paragraph (f)(1) and in paragraphs (f)(2) and (3) of this section to the Administrator quarterly. Each electronic report shall include the date of report generation, for the information provided in paragraphs (f)(1)(ii) through (f)(1)(vi) of this section, and shall also include for each affected unit or group of units monitored at a common stack:

(i) Facility information:

(A) Identification, including:

(*1*) Facility/ORISPL number;

(*2*) Calendar quarter and year data contained in the report; and

(*3*) EDR version used for the report;

(B) Location, including:

(*1*) Plant name and facility ID;

(*2*) EPA AIRS facility system ID;

(*3*) State facility ID;

(*4*) Source category/type;

(*5*) Primary SIC code;

(*6*) State postal abbreviation;

(*7*) County code; and

(*8*) Latitude and longitude;

(ii) The information and hourly data required in paragraph (a) of this section, except for:

(A) Descriptions of adjustments, corrective action, and maintenance;

(B) Information which is incompatible with electronic reporting (e.g., field data sheets, lab analyses, quality control plan);

(C) For units with NO_X add-on emission controls that do not elect to use the approved site-specific parametric monitoring procedures for calculation of substitute data, the information in § 75.58(b)(3);

(D) Information required by § 75.57(h) concerning the causes of any missing data periods and the actions taken to cure such causes;

(E) Hardcopy monitoring plan information required by § 75.53 and hardcopy test data and results required by § 75.59;

(F) Records of flow polynomial equations and numerical values required by § 75.59(a)(5)(vi);

(G) Daily fuel sampling information required by § 75.58(c)(3)(i) for units using assumed values under appendix D;

(H) Information required by § 75.59(b)(2) concerning transmitter/transducer accuracy tests;

(I) Stratification test results required as part of the RATA supplementary records under § 75.56(a)(7) or § 75.59(a)(7);

(J) Data and results of RATAs that are aborted or invalidated due to problems with the reference method or operational problems with the unit and data and results of linearity checks that are aborted or invalidated due to operational problems with the unit; and

(K) The summary of data used to determine the percentage of historical usage of each load level as required under § 75.59(a)(8)(iv);

(iii) Average NO_X emission rate (lb/mmBtu, rounded to the nearest thousandth) during the quarter and cumulative NO_X emission rate for the calendar year;

(iv) Tons of NO_X emitted during quarter, cumulative tons of NO_X emitted during the year, and, during the second and third calender quarters, cumulative tons of NO_X emitted during the ozone season;

(v) During the second and third calender quarters, cummulative heat input for the ozone season; and

(vi) Unit/stack/pipe operating hours for quarter, cumulative unit/stack/pipe operating hours for calendar year, and, during the second and third calender quarters, cumulative operating hours during the ozone season.

(2) The designated representative shall affirm that the component/system identification codes and formulas in the quarterly electronic reports submitted to the Administrator pursuant to paragraph (e) of this section represent current operating conditions.

(3) *Compliance certification.* The designated representative shall submit and sign a compliance certification in support of each quarterly emissions monitoring report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this part, including the quality assurance procedures and specifications; and

(ii) With regard to a unit with add-on emission controls and for all hours where data are substituted in accordance with § 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the monitoring plan and the substitute values do not systematically underestimate NO_X emissions.

(4) The designated representative shall comply with all of the quarterly reporting requirements in §§ 75.64(d), (f), and (g).

Appendix A to Part 75—Specifications and Test Procedures

Appendix A—[Amended]

49.–53. Appendix A to part 75 is amended by revising section 2.1 to read as follows:

* * * * *

2. Equipment Specifications

2.1 Instrument Span and Range

In implementing sections 2.1.1 through 2.1.5 of this appendix, set the measurement range for each parameter (SO_2, NO_X, CO_2, O_2, or flow rate) high enough to prevent full-scale exceedances from occurring, yet low enough to ensure good measurement accuracy and to maintain a high signal-to-noise ratio. To meet these objectives, it is recommended that the range be selected such that the readings obtained during typical unit operation are kept, to the extent practicable, between 20.0 and 80.0 percent of full-scale range of the instrument. Note that this guideline does not apply to: (1) SO_2 readings obtained during the combustion of natural gas or fuel with a total sulfur content no greater than the total sulfur content of natural gas; (2) SO_2 or NO_X readings recorded on the high measurement range, for units with SO_2 or NO_X emission controls and two span values; or (3) SO_2 or NO_X readings less than 20.0 percent of full-scale on the low measurement range for a dual span unit with SO_2 or NO_X emission controls, provided that the readings occur during periods of high control device efficiency.

2.1.1 SO_2 Pollutant Concentration Monitors

Determine, as indicated below, the span value(s) and range(s) for an SO_2 pollutant concentration monitor so that all potential and expected concentrations can be accurately measured and recorded. Note that if a unit exclusively combusts fuel(s) with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 0.05 percent sulfur by weight), the SO_2 monitor span requirements in § 75.11(e)(3)(iv) apply in lieu of the requirements of this section.

2.1.1.1 Maximum Potential Concentration

Make an initial determination of the maximum potential concentration (MPC) of SO_2 by using Equation A–1a or A–1b. Base the MPC calculation on the maximum percent sulfur and the minimum gross calorific value (GCV) for the highest-sulfur

fuel to be burned. The maximum sulfur content and minimum GCV shall be determined from all available fuel sampling and analysis data for that fuel from the previous 12 months (minimum), excluding clearly anomalous fuel sampling results. If the designated representative certifies that the highest-sulfur fuel is never burned alone in the unit during normal operation but is always blended or co-fired with other fuel(s), the MPC may be calculated using a best estimate of the highest sulfur content and lowest gross calorific value expected for the blend or fuel mixture and inserting these values into Equation A–1a or A–1b. Derive the best estimate of the highest percent sulfur and lowest GCV for a blend or fuel mixture from weighted-average values based upon the historical composition of the blend or mixture in the previous 12 (or more) months. If insufficient representative fuel sampling data are available to determine the maximum sulfur content and minimum GCV, use values from contract(s) for the fuel(s) that will be combusted by the unit in the MPC calculation.

Alternatively, if a certified SO_2 CEMS is already installed, the owner or operator may make the initial MPC determination based upon quality assured historical data recorded by the CEMS. If this option is chosen, the MPC shall be the maximum SO_2 concentration observed during the previous 720 (or more) quality assured monitor operating hours when combusting the highest-sulfur fuel (or highest-sulfur blend if fuels are always blended or co-fired) that is to be combusted in the unit or units monitored by the SO_2 monitor. For units with SO_2 emission controls, the certified SO_2 monitor used to determine the MPC must be located at or before the control device inlet. Report the MPC and the method of determination in the monitoring plan required under § 75.53.

When performing fuel sampling to determine the MPC, use ASTM Methods: ASTM D3177–89, "Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke"; ASTM D4239–85, "Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods"; ASTM D4294–90, "Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy"; ASTM D1552–90, "Standard Test Method for Sulfur in Petroleum Products (High Temperature Method)"; ASTM D129–91, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)"; ASTM D2622–92, "Standard Test Method for Sulfur in Petroleum Products by X-Ray Spectrometry" for sulfur content of solid or liquid fuels; ASTM D3176–89, "Standard Practice for Ultimate Analysis of Coal and Coke"; ASTM D240–87 (Reapproved 1991), "Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter"; or ASTM D2015–91, "Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter" for GCV (incorporated by reference under § 75.6).

$$\text{MPC (or MEC)} = 11.32\times10^{6}\left(\frac{\%S}{GCV}\right)\left(\frac{20.9-\%O_{2w}}{20.9}\right)$$

(Eq. A–1a)

or

$$\text{MPC (or MEC)} = 66.93\times10^{6}\left(\frac{\%S}{GCV}\right)\left(\frac{\%CO_{2w}}{100}\right)$$

(Eq. A–1b)

Where:

MPC=Maximum potential concentration (ppm, wet basis). To convert to dry basis, divide the MPC by 0.9).

MEC=Maximum expected concentration (ppm, wet basis). To convert to dry basis, divide the MEC by 0.9).

%S=Maximum sulfur content of the fuel to be fired, wet basis, weight percent, as determined by ASTM D3177–89, ASTM D4239–85, ASTM D4294–90, ASTM D1552–90, ASTM D129–91, or ASTM D2622–92 for solid or liquid fuels (incorporated by reference under § 75.6).

$\%O_{2w}$=Minimum oxygen concentration, percent wet basis, under typical operating conditions.

$\%CO_{2w}$=Maximum carbon dioxide concentration, percent wet basis, under typical operating conditions.

11.32×10^{6}=Oxygen-based conversion factor in (Btu/lb)(ppm)/%.

66.93×10^{6}=Carbon dioxide-based conversion factor in (Btu/lb)(ppm)/%.

Note: All percentage values to be inserted in the equations of this section are to be expressed as a percentage, not a fractional value (e.g., 3, not .03).

2.1.1.2 Maximum Expected Concentration

Make an initial determination of the maximum expected concentration (MEC) of SO_2 whenever: (a) SO_2 emission controls are used; or (b) both high-sulfur and low-sulfur fuels (e.g., high-sulfur coal and low-sulfur coal or different grades of fuel oil) or high-sulfur and low-sulfur fuel blends are combusted as primary or backup fuels in a unit without SO_2 emission controls. For units with SO_2 emission controls, use Equation A–2 to make the initial MEC determination. When high-sulfur and low-sulfur fuels or blends are burned as primary or backup fuels in a unit without SO_2 controls, use Equation A–1a or A–1b to calculate the initial MEC value for each fuel or blend, except for: (1) the highest-sulfur fuel or blend (for which the MPC was previously calculated in section 2.1.1.1 of this appendix); (2) fuels or blends with a total sulfur content no greater than the total sulfur content of natural gas, i.e., ≤ 0.05 percent sulfur by weight; or (3) fuels or blends that are used only for unit startup.

For each MEC determination, substitute into Equation A–1a or A–1b the highest sulfur content and minimum GCV value for that fuel or blend, based upon all available fuel sampling and analysis results from the previous 12 months (or more), or, if fuel sampling data are unavailable, based upon fuel contract(s).

Alternatively, if a certified SO_2 CEMS is already installed, the owner or operator may make the initial MEC determination(s) based upon historical monitoring data. If this option is chosen for a unit with SO_2 emission controls, the MEC shall be the maximum SO_2 concentration measured downstream of the control device outlet by the CEMS over the previous 720 (or more) quality assured monitor operating hours with the unit and the control device both operating normally. For units that burn high- and low-sulfur fuels or blends as primary and backup fuels and have no SO_2 emission controls, the MEC for each fuel shall be the maximum SO_2 concentration measured by the CEMS over the previous 720 (or more) quality assured monitor operating hours in which that fuel or blend was the only fuel being burned in the unit.

$$\text{MEC} = \text{MPC}\left(\frac{100-RE}{100}\right)$$

(Eq. A–2)

where:

MEC=Maximum expected concentration (ppm).

MPC=Maximum potential concentration (ppm), as determined by Eq. A–1a or A–1b.

RE=Expected average design removal efficiency of control equipment (percent).

2.1.1.3 Span Value(s) and Range(s)

Determine the high span value and the high full-scale range of the SO_2 monitor as follows. (Note: For purposes of this part, the high span and range refer, respectively, either to the span and range of a single span unit or to the high span and range of a dual span unit.) The high span value shall be obtained by multiplying the MPC by a factor no less than 1.00 and no greater than 1.25. Round the

span value upward to the next highest multiple of 100 ppm. If the SO_2 span concentration is ≤ 500 ppm, the span value may be rounded upward to the next highest multiple of 10 ppm, instead of the nearest 100 ppm. The high span value shall be used to determine concentrations of the calibration gases required for daily calibration error checks and linearity tests. Select the full-scale range of the instrument to be consistent with section 2.1 of this appendix and to be greater than or equal to the span value. Report the full-scale range setting and calculations of the MPC and span in the monitoring plan for the unit. Note that for certain applications, a second (low) SO_2 span value may be required (see section 2.1.1.4 of this appendix). If an existing state, local, or federal requirement for span of an SO_2 pollutant concentration monitor requires a span lower than that required by this section or by section 2.1.1.4 of this appendix, the state, local, or federal span value may be used if a satisfactory explanation is included in the monitoring plan, unless span and/or range adjustments become necessary in accordance with section 2.1.1.5 of this appendix. Span values higher than those required by either this section or section 2.1.1.4 of this appendix must be approved by the Administrator.

2.1.1.4 Dual Span and Range Requirements

For most units, the high span value based on the MPC, as determined under section 2.1.1.3 of this appendix will suffice to measure and record SO_2 concentrations (unless span and/or range adjustments become necessary in accordance with section 2.1.1.5 of this appendix). In some instances, however, a second (low) span value based on the MEC may be required to ensure accurate measurement of all possible or expected SO_2 concentrations. To determine whether two SO_2 span values are required, proceed as follows:

(a) For units with SO_2 emission controls, compare the MEC from section 2.1.1.2 of this appendix to the MPC value from section 2.1.1.1 of this appendix. If the MEC is ≥20.0 percent of the MPC, then the high span value and range determined under section 2.1.1.3 of this appendix are sufficient. If the MEC is < 20.0 percent of the MPC, however, a second (low) span value is required.

(b) For units that combust high- and low-sulfur primary and backup fuels (or blends) and have no SO_2 controls, compare the MPC value from section 2.1.1.1 of this appendix (for the highest-sulfur fuel or blend) to the MEC value for each of the other fuels or blends, as determined under section 2.1.1.2 of this appendix. If all of the MEC values are ≥20.0 percent of the MPC, the high span and range determined under section 2.1.1.3 of this appendix are sufficient, regardless of which fuel or blend is burned in the unit. If any MEC value is <20.0 percent of the MPC, however, a second (low) span value must be used when that fuel or blend is combusted.

(c) When two SO_2 spans are required, the owner or operator may either use a single SO_2 analyzer with a dual range (i.e., low- and high-scales) or two separate SO_2 analyzers connected to a common sample probe and sample interface. For units with SO_2 emission controls, the owner or operator may use a low range analyzer and a default high range value, as described in paragraph (f) of this section, in lieu of maintaining and quality assuring a high-scale range. Other monitor configurations are subject to the approval of the Administrator.

(d) The owner or operator shall designate the monitoring systems and components as follows: (1) designate the low and high monitor ranges as separate components of a single, primary monitoring system; or (2) designate the low and high monitor ranges as separate, primary monitoring systems; or (3) designate the normal monitor range as a primary monitoring system and the other monitor range as a non-redundant backup monitoring system; or (4) for units with SO_2 controls, if the default high range value is used, designate the low range analyzer as the primary monitoring system.

(e) Each monitoring system designated as primary shall meet the initial certification and quality assurance requirements for primary monitoring systems in § 75.20(c) and appendices A and B to this part, with one exception: relative accuracy test audits (RATAs) are required only on the normal range (for units with SO_2 emission controls, the low range is considered normal). Each monitoring system designated as a non-redundant backup shall meet the applicable quality assurance requirements in § 75.20(d).

(f) For dual span units with SO_2 emission controls, the owner or operator may, as an alternative to maintaining and quality assuring a high monitor range, use a default high range value. If this option is chosen, the owner or operator shall report a default SO_2 concentration of 200.0 percent of the MPC for each unit operating hour in which the full-scale of the low range SO_2 analyzer is exceeded.

(g) The high span value and range shall be determined in accordance with section 2.1.1.3 of this appendix. The low span value shall be obtained by multiplying the MEC by a factor no less than 1.00 and no greater than 1.25, and rounding the result upward to the next highest multiple of 10 ppm (or 100 ppm, as appropriate). For units that burn high- and low-sulfur primary and backup fuels or blends and have no SO_2 emission controls, select, as the basis for calculating the appropriate low span value and range, the fuel-specific MEC value closest to 20.0 percent of the MPC (from paragraph (b) of this section). The low range must be greater than or equal to the low span value, and the required calibration gases must be selected based on the low span value. For units with two SO_2 spans, use the low range whenever the SO_2 concentrations are expected to be consistently below 20.0 percent of the MPC, i.e., when the MEC of the fuel or blend being combusted is less than 20.0 percent of the MPC. When the full-scale of the low range is exceeded, the high range shall be used to measure and record the SO_2 concentrations; or, if applicable, the default high range value in paragraph (f) of this section shall be reported for each hour of the full-scale exceedance.

2.1.1.5 Adjustment of Span and Range

For each affected unit or common stack, the owner or operator shall make a quarterly evaluation of the MPC, MEC, span, and range values for each SO_2 monitor and shall make any necessary span and range adjustments, with corresponding monitoring plan updates, as described in paragraphs (a) through (e), below. Span and range adjustments may be required as a result of changes in the fuel supply, changes in the manner of operation of the unit, installation or removal of emission controls, etc. In implementing the provisions in paragraphs (a) through (e), below, note that SO_2 data recorded during short-term, non-representative process operating conditions (e.g., a trial burn of a different type of fuel) shall be excluded from the analysis; however, if the high range is exceeded, 200.0 percent of the high range must still be reported as the hourly SO_2 concentration for each hour of the full-scale exceedance, as required by paragraph (c)(1) of this section. The owner or operator shall document all such unrepresentative operating conditions in the quarterly report required under § 75.64 and shall indicate which data (dates and hours) have been excluded from the quarterly span and range evaluation.

Make each required span or range adjustment no later than 45 days after the end of the quarter in which the need to adjust the span or range is identified, except that up to 90 days after the end of that quarter may be taken to implement a span adjustment if the calibration gases currently being used for daily calibration error tests and linearity checks are unsuitable for use with the new span value.

(a) No span or range adjustment is required if, during a calendar quarter, the hourly SO_2 concentration exceeds the MPC but does not exceed the high span value. However, for missing data purposes, if any of the hourly SO_2 concentrations exceed the current MPC by ≥5.0 percent, a new MPC equal to the highest quality assured hourly SO_2 concentration recorded during the quarter must be defined in the monitoring plan. Update the monitoring plan to reflect the new MPC value.

(b) A span adjustment is required if any of the on-scale, quality assured hourly SO_2 concentrations exceed the high span value by ≤ 10.0 percent during a quarter, but do not exceed the high range. Define a new MPC value (as applicable) equal to the highest quality assured on-scale SO_2 concentration recorded during the quarter, and set the new span value according to section 2.1.1.3 of this appendix, using the new MPC value. If the new span value exceeds the current full-scale range, adjust the range setting also. Update the monitoring plan to reflect the new MPC, the new span value, and (if applicable) the new full-scale range. Where separate ranges are used to measure emissions from the combustion of different types of fuel, the low span and MEC shall be increased in the manner described in this paragraph if any on-scale hourly value exceeds the low span value by 10.0 percent or more.

(c) Whenever a full-scale range is exceeded during a quarter and the exceedance is not caused by a monitor out-of-control period, proceed as follows:

(1) For exceedances of the high range, report 200.0 percent of the current full-scale range as the hourly SO_2 concentration for

each hour of the full-scale exceedance and make adjustments to the MPC, span, and range to prevent future full-scale exceedances.

(2) For units with two SO_2 spans and ranges, if the low range is exceeded, no further action is required, provided that the high range is available and is not out-of-control or out-of-service for any reason. However, if the high range is not able to provide quality assured data at the time of the low range exceedance or at any time during the continuation of the exceedance, report the MPC as the SO_2 concentration until the readings return to the low range or until the high range is able to provide quality assured data (unless the reason that the high-scale range is not able to provide quality assured data is because the high-scale range has been exceeded; if the high-scale range is exceeded follow the procedures in paragraph (c)(1) of this section).

(d) If the fuel supply, the composition of the fuel blend(s), the emission controls, or the manner of operation change such that the maximum expected or potential concentration changes significantly, adjust the span and range setting to assure the continued accuracy of the monitoring system. The owner or operator should evaluate whether any planned changes in operation of the unit may affect the concentration of emissions being emitted from the unit or stack and should plan any necessary span and range changes needed to account for these changes, so that they are made in as timely a manner as practicable to coordinate with the operational changes. Determine the adjusted span(s) using the procedures in sections 2.1.1.3 and 2.1.1.4 of this appendix (as applicable). Select the full-scale range(s) of the instrument to be greater than or equal to the new span value(s) and to be consistent with the guidelines of section 2.1 of this appendix.

(e) Whenever changes are made to the MPC, MEC, full-scale range, or span value of the SO_2 monitor, as described in paragraphs (a) through (d) of this section, record and report (as applicable) the new full-scale range setting, the new MPC or MEC and calculations of the adjusted span value in an updated monitoring plan. The monitoring plan update shall be made in the quarter in which the changes become effective. In addition, record and report the adjusted span as part of the records for the daily calibration error test and linearity check specified by appendix B to this part. Whenever the span value is adjusted, use calibration gas concentrations that meet the requirements of section 5.1 of this appendix, based on the adjusted span value. When a span adjustment is so significant that the calibration gases currently being used for daily calibration error tests and linearity checks are unsuitable for use with the new span value, then a diagnostic linearity test using the new calibration gases must be performed and passed. Data from the monitor are considered invalid from the hour in which the span is adjusted until the required linearity check is passed in accordance with section 6.2 of this appendix.

2.1.2 NO_X Pollutant Concentration Monitors

Determine, as indicated below, the span and range value(s) for the NO_X pollutant concentration monitor so that all expected NO_X concentrations can be determined and recorded accurately.

2.1.2.1 Maximum Potential Concentration

The maximum potential concentration (MPC) of NO_X for each affected unit shall be based upon whichever fuel or blend combusted in the unit produces the highest level of NO_X emissions. Make an initial determination of the MPC using the appropriate option below. Note that an initial MPC value determined for a unit that is not equipped with low-NO_X burners must be re-evaluated if a low-NO_X burner system is subsequently installed.

Option 1: Use 800 ppm for coal-fired and 400 ppm for oil-or gas-fired units as the maximum potential concentration of NO_X (if an MPC of 1600 ppm for coal-fired units or 480 ppm for oil-or gas-fired units was previously selected under this part, that value may still be used, provided that the guidelines of section 2.1 of this appendix are met);

Option 2: Use the specific values based on boiler type and fuel combusted, listed in Table 2–1 or Table 2–2;

Option 3: Use NO_X emission test results; or

Option 4: Use historical CEM data over the previous 720 (or more) unit operating hours when combusting the fuel or blend with the highest NO_X emission rate.

For the purpose of providing substitute data during NO_X missing data periods in accordance with §§ 75.31 and 75.33 and as required elsewhere under this part, the owner or operator shall also calculate the maximum potential NO_X emission rate (MER), in lb/mmBtu, by substituting the MPC for NO_X in conjunction with the minimum CO_2 or maximum O_2 concentration (under all unit operating conditions except for unit startup, shutdown, and upsets) and the appropriate F-factor into the applicable equation in appendix F to this part. The diluent cap value of 5.0 percent CO_2 (or 14.0 percent O_2) for boilers or 1.0 percent CO_2 (or 19.0 percent O_2) for combustion turbines may be used in the NO_X MER calculation.

Report the method of determining the initial MPC and the calculation of the maximum potential NO_X emission rate in the monitoring plan for the unit.

For units with add-on NO_X controls, NO_X emission testing may only be used to determine the MPC if testing can be performed on uncontrolled emissions (e.g., measured at or before the control device inlet). If NO_X emission testing is performed, use the following guidelines. Use Method 7E from appendix A to part 60 of this chapter to measure total NO_X concentration. (Note: Method 20 from appendix A to Part 60 may be used for gas turbines, instead of Method 7E.) Operate the unit, or group of units sharing a common stack, at the minimum safe and stable load, the normal load, and the maximum load. If the normal load and maximum load are identical, an intermediate level need not be tested. Operate at the highest excess O_2 level expected under normal operating conditions. Make at least three runs of 20 minutes (minimum) duration with three traverse points per run at each operating condition. Select the highest point NO_X concentration (e.g., the highest one-minute average) from all test runs as the MPC for NO_X.

If historical CEM data are used to determine the MPC, the data must represent a minimum of 720 quality assured monitor operating hours, obtained under various operating conditions, including the minimum safe and stable load, normal load (including periods of high excess air at normal load), and maximum load. For units with add-on NO_X controls, historical CEM data may only be used to determine the MPC if there are 720 quality assured monitor operating hours of CEM data measuring uncontrolled emissions (e.g., the CEM data are collected at or before the control device inlet). The highest hourly NO_X concentration in ppm shall be the MPC.

2.1.2.2 Maximum Expected Concentration

Make an initial determination of the maximum expected concentration (MEC) of NO_X during normal operation for affected units with add-on NO_X controls of any kind (i.e., steam injection, water injection, SCR, or SNCR). Determine a separate MEC value for each type of fuel (or blend) combusted in the unit, except for fuels that are only used for unit startup and/or flame stabilization. Calculate the MEC of NO_X using Equation A–2, if applicable, inserting the maximum potential concentration, as determined using the procedures in section 2.1.2.1 of this appendix. Where Equation A–2 is not applicable, set the MEC either by: (1) measuring the NO_X concentration using the testing procedures in this section; or (2) using historical CEM data over the previous 720 (or more) quality assured monitor operating hours. Include in the monitoring plan for the unit each MEC value and the method by which the MEC was determined.

If NO_X emission testing is used to determine the MEC value(s), the MEC for each type of fuel (or blend) shall be based upon testing at minimum load, normal load, and maximum load. At least three tests of 20 minutes (minimum) duration, using at least 3 traverse points, shall be performed at each load, using Method 7E from appendix A to part 60 of this chapter (Note: Method 20 from appendix A to part 60 may be used for gas turbines instead of Method 7E). The test must be performed at a time when all NO_X control devices and methods used to reduce NO_X emissions are operating properly. The testing shall be conducted downstream of all NO_X controls. The highest point NO_X concentration (e.g., the highest one-minute average) recorded during any of the test runs shall be the MEC.

If historical CEM data are used to determine the MEC value(s), the MEC for each type of fuel shall be based upon 720 (or more) hours of quality assured data representing the entire load range under stable operating conditions. The data base for the MEC shall not include any CEM data recorded during unit startup, shutdown, or malfunction or during any NO_X control device malfunctions or outages. All NO_X control devices and methods used to reduce

NO_x emissions must be operating properly during each hour. The CEM data shall be collected downstream of all NO_x controls. For each type of fuel, the highest of the 720 (or more) quality assured hourly average NO_x concentrations recorded by the CEMS shall be the MEC.

2.1.2.3 Span Value(s) and Range(s)

Determine the high span value of the NO_x monitor as follows. The high span value shall be obtained by multiplying the MPC by a factor no less than 1.00 and no greater than 1.25. Round the span value upward to the next highest multiple of 100 ppm. If the NO_x span concentration is ≤ 500 ppm, the span value may be rounded upward to the next highest multiple of 10 ppm, rather than 100 ppm. The high span value shall be used to determine the concentrations of the calibration gases required for daily calibration error checks and linearity tests. Note that for certain applications, a second (low) NO_x span value may be required (see section 2.1.2.4 of this appendix).

If an existing state, local, or federal requirement for span of an NO_x pollutant concentration monitor requires a span lower than that required by this section or by section 2.1.2.4 of this appendix, the state, local, or federal span value may be used, where a satisfactory explanation is included in the monitoring plan, unless span and/or range adjustments become necessary in accordance with section 2.1.2.5 of this appendix. Span values higher than required by this section or by section 2.1.2.4 of this appendix must be approved by the Administrator.

Select the full-scale range of the instrument to be consistent with section 2.1 of this appendix and to be greater than or equal to the high span value. Include the full-scale range setting and calculations of the MPC and span in the monitoring plan for the unit.

2.1.2.4 Dual Span and Range Requirements

For most units, the high span value based on the MPC, as determined under section 2.1.2.3 of this appendix will suffice to measure and record NO_x concentrations (unless span and/or range adjustments must be made in accordance with section 2.1.2.5 of this appendix). In some instances, however, a second (low) span value based on the MEC may be required to ensure accurate measurement of all expected and potential NO_x concentrations. To determine whether two NO_x spans are required, proceed as follows:

(a) Compare the MEC value(s) determined in section 2.1.2.2 of this appendix to the MPC value determined in section 2.1.2.1 of this appendix. If the MEC values for all fuels (or blends) are ≥ 20.0 percent of the MPC, the high span and range values determined under section 2.1.2.3 of this appendix are sufficient, irrespective of which fuel or blend is combusted in the unit. If any of the MEC values is < 20.0 percent of the MPC, two spans (low and high) are required, one based upon the MPC and the other based on the MEC.

(b) When two NO_x spans are required, the owner or operator may either use a single NO_x analyzer with a dual range (low-and high-scales) or two separate NO_x analyzers connected to a common sample probe and sample interface. For units with add-on NO_x emission controls (i.e., steam injection, water injection, SCR, or SNCR), the owner or operator may use a low range analyzer and a "default high range value," as described in paragraph 2.1.2.4(e) of this section, in lieu of maintaining and quality assuring a high-scale range. Other monitor configurations are subject to the approval of the Administrator.

(c) The owner or operator shall designate the monitoring systems and components as follows: (1) designate the low and high ranges as separate components of a single, primary monitoring system; or (2) designate the low and high ranges as separate, primary monitoring systems; or (3) designate the normal range as a primary monitoring system and the other range as a non-redundant backup monitoring system; or (4) for units with add-on NO_x controls, if the default high range value is used, designate the low range analyzer as the primary monitoring system.

(d) Each monitoring system designated as primary shall meet the initial certification and quality assurance requirements for primary monitoring systems in § 75.20(c) and appendices A and B to this part, with one exception: relative accuracy test audits (RATAs) are required only on the normal range (for dual span units with add-on NO_x emission controls, the low range is considered normal). Each monitoring system designated as non-redundant backup shall meet the applicable quality assurance requirements in § 75.20(d).

(e) For dual span units with add-on NO_x emission controls (i.e., steam injection, water injection, SCR, or SNCR), the owner or operator may, as an alternative to maintaining and quality assuring a high monitor range, use a default high range value. If this option is chosen, the owner or operator shall report a default value of 200.0 percent of the MPC for each unit operating hour in which the full-scale of the low range NO_x analyzer is exceeded.

(f) The high span and range shall be determined in accordance with section 2.1.2.3 of this appendix. The low span value shall be 100.0 to 125.0 percent of the MEC, rounded up to the next highest multiple of 10 ppm (or 100 ppm, if appropriate). If more than one MEC value (as determined in section 2.1.2.2 of this appendix) is <20.0 percent of the MPC, the low span value shall be based upon whichever MEC value is closest to 20.0 percent of the MPC. The low range must be greater than or equal to the low span value, and the required calibration gases for the low range must be selected based on the low span value. For units with two NO_x spans, use the low range whenever NO_x concentrations are expected to be consistently <20.0 percent of the MPC, i.e., when the MEC of the fuel being combusted is <20.0 percent of the MPC. When the full-scale of the low range is exceeded, the high range shall be used to measure and record the NO_x concentrations; or, if applicable, the default high range value in paragraph (e) of this section shall be reported for each hour of the full-scale exceedance.

2.1.2.5 Adjustment of Span and Range

For each affected unit or common stack, the owner or operator shall make a quarterly evaluation of the MPC, MEC, span, and range values for each NO_x monitor and shall make any necessary span and range adjustments, with corresponding monitoring plan updates, as described in paragraphs (a) through (e), below. Span and range adjustments may be required as a result of changes in the fuel supply, changes in the manner of operation of the unit, installation or removal of emission controls, etc. In implementing the provisions in paragraphs (a) through (e), below, note that NO_x data recorded during short-term, non-representative operating conditions (e.g., a trial burn of a different type of fuel) shall be excluded from the analysis; however, if the high range is exceeded, 200.0 percent of the high range must still be reported as the hourly NO_x concentration for each hour of the full-scale exceedance, in accordance with paragraph (c)(1) of this section. The owner or operator shall document all such unrepresentative operating conditions in the quarterly report required under § 75.64 and shall indicate which data have been excluded from the quarterly span and range evaluation.

Make each required span or range adjustment no later than 45 days after the end of the quarter in which the need to adjust the span or range is identified, except that up to 90 days after the end of that quarter may be taken to implement a span adjustment if the calibration gases currently being used for daily calibration error tests and linearity checks are unsuitable for use with the new span value.

(a) No span or range adjustment is required if, during a calendar quarter, the hourly NO_x concentration exceeds the MPC but does not exceed the high span value. However, for missing data purposes, if any of the hourly NO_x concentrations exceed the current MPC by ≥ 5.0 percent, a new MPC equal to the highest quality assured hourly NO_x concentration recorded during the quarter must be defined in the monitoring plan. Update the monitoring plan to reflect the new MPC value.

(b) A span adjustment is required whenever any of the on-scale, quality assured, hourly NO_x concentrations exceed the high span value by ≥ 10.0 percent during a quarter but do not exceed the high range. Define a new MPC value (as applicable) equal to the highest quality assured on-scale NO_x concentration recorded during the quarter, and set the new span value according to section 2.1.2.3 or 2.1.2.4 of this appendix (as applicable), using the new MPC value. If the new span value exceeds the current full-scale range, adjust the range setting also. Update the monitoring plan to reflect the new MPC, the new span value, and (if applicable) the new full-scale range. Where separate ranges are used to measure emissions from different fuels or in different seasons (i.e. where seasonal controls are used), the low span and MEC shall be increased in the manner described in this paragraph if any on-scale hourly value exceeds the low span value by 10.0 percent or more.

(c) Whenever a full-scale range is exceeded during a quarter and the exceedance is not caused by a monitor out-of-control period, proceed as follows:

(1) For exceedances of the high range, report 200.0 percent of the current full-scale

range as the hourly NO_x concentration for each hour of the full-scale exceedance and make adjustments to the MPC, span, and range to prevent future full-scale exceedances.

(2) For units with two NO_x spans and ranges, if the low range is exceeded, no further action is required, provided that the high range is available and is not out-of-control or out-of-service for any reason. However, if the high range is not able to provide quality assured data at the time of the low range exceedance or at any time during the continuation of the exceedance, report the MPC as the NO_x concentration until the readings return to the low range or until the high range is able to provide quality assured data (unless the reason that the high-scale range is not able to provide quality assured data is because the high-scale range has been exceeded; if the high-scale range is exceeded follow the procedures in paragraph (c)(1) of this section).

(d) If the fuel supply, emission controls, or other process parameters change such that the maximum expected concentration or the maximum potential concentration changes significantly, adjust the NO_x pollutant concentration span(s) and (if necessary) monitor range(s) to assure the continued accuracy of the monitoring system. The owner or operator should evaluate whether any planned changes in operation of the unit or stack may affect the concentration of emissions being emitted from the unit and should plan any necessary span and ranges changes needed to account for these changes, so that they are made in as timely a manner as practicable to coordinate with the operational changes. Determine the adjusted span(s) using the procedures in section 2.1.2.3 or 2.1.2.4 of this appendix (as applicable). Select the full-scale range(s) of the instrument to be greater than or equal to the adjusted span value(s) and to be consistent with the guidelines of section 2.1 of this appendix.

(e) Whenever changes are made to the MPC, MEC, full-scale range, or span value of the NO_x monitor as described in paragraphs (a) through (d) of this section, record and report (as applicable) the new full-scale range setting, the new MPC or MEC, maximum potential NO_x emission rate, and the adjusted span value in an updated monitoring plan for the unit. The monitoring plan update shall be made in the quarter in which the changes become effective. In addition, record and report the adjusted span as part of the records for the daily calibration error test and linearity check required by appendix B to this part. Whenever the span value is adjusted, use calibration gas concentrations that meet the requirements of section 5.1 of this appendix, based on the adjusted span value. When a span adjustment is significant enough that the calibration gases currently being used for daily calibration error tests and linearity checks are unsuitable for use with the new span value, a linearity test using the new calibration gases must be performed and passed. Data from the monitor are considered invalid from the hour in which the span is adjusted until the required linearity check is passed in accordance with section 6.2 of this appendix.

2.1.3 CO_2 and O_2 Monitors

For an O_2 monitor (including O_2 monitors used to measure CO_2 emissions or percentage moisture), select a span value between 15.0 and 25.0 percent O_2. For a CO_2 monitor installed on a boiler, select a span value between 14.0 and 20.0 percent CO_2. For a CO_2 monitor installed on a combustion turbine, an alternative span value between 6.0 and 14.0 percent CO_2 may be used. An alternative O_2 span value below 15.0 percent O_2 may be used if an appropriate technical justification is included in the monitoring plan. Select the full-scale range of the instrument to be consistent with section 2.1 of this appendix and to be greater than or equal to the span value. Select the calibration gas concentrations for the daily calibration error tests and linearity checks in accordance with section 5.1 of this appendix, as percentages of the span value. For O_2 monitors with span values ≥21.0 percent O_2, purified instrument air containing 20.9 percent O_2 may be used as the high-level calibration material.

2.1.3.1 Maximum Potential Concentration of CO_2

For CO_2 pollutant concentration monitors, the maximum potential concentration shall be 14.0 percent CO_2 for boilers and 6.0 percent CO_2 for combustion turbines. Alternatively, the owner or operator may determine the MPC based on a minimum of 720 hours of quality assured historical CEM data representing the full operating load range of the unit(s).

2.1.3.2 Adjustment of Span and Range

Adjust the span value and range of a CO_2 or O_2 monitor according to the general guidelines in section 2.1.1.5 of this appendix (insofar as those provisions are applicable), replacing the term "SO_2" with "CO_2 or O_2." Set the new span and range in accordance with section 2.1.3 of this appendix and provide a rationale for the new span value in the monitoring plan.

2.1.4 Flow Monitors

Select the full-scale range of the flow monitor so that it is consistent with section 2.1 of this appendix and can accurately measure all potential volumetric flow rates at the flow monitor installation site.

2.1.4.1 Maximum Potential Velocity and Flow Rate

Make an initial determination of the maximum potential velocity (MPV) using Equation A–3a or A–3b, or determine the MPV (wet basis) from velocity traverse testing using Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter. If using test values, use the highest average velocity (determined from the Method 2 traverses) measured at or near the maximum unit operating load. Express the MPV in units of wet standard feet per minute (fpm). For the purpose of providing substitute data during periods of missing flow rate data in accordance with §§ 75.31 and 75.33 and as required elsewhere in this part, calculate the maximum potential stack gas flow rate (MPF) in units of standard cubic feet per hour (scfh), as the product of the MPV (in units of wet, standard fpm) times 60, times the cross-sectional area of the stack or duct (in ft^2) at the flow monitor location.

2.1.4.2 Span Values and Range

Determine the span and range of the flow monitor as follows. Convert the MPV, as determined in section 2.1.4.1 of this appendix, to the same units of flow rate that are used for daily calibration error tests (e.g., scfh, kscfh, kacfm, or differential pressure (inches of water)). Next, determine the "calibration span value" by multiplying the MPV (converted to equivalent daily calibration error units) by a factor no less than 1.00 and no greater than 1.25, and rounding up the result to at least 2 significant figures. For calibration span values in inches of water, retain at least 2 decimal places. Select appropriate reference signals for the daily calibration error tests as percentages of the calibration span value. Finally, calculate the "flow rate span value" (in scfh) as the product of the MPF, as determined in section 2.1.4.1 of this appendix, times the same factor (between 1.00 and 1.25) that was used to calculate the calibration span value. Round off the flow rate span value to the nearest 1000 scfh. Select the full-scale range of the flow monitor so that it is greater than or equal to the span value and is consistent with section 2.1 of this appendix. Include in the monitoring plan for the unit: calculations of the MPV, MPF, calibration span value, flow rate span value, and full-scale range (expressed both in units of scfh and, if different, in the units of calibration).

$$MPV = \left(\frac{F_d H_f}{A}\right)\left(\frac{20.9}{20.9 - \%O_{2d}}\right)\left(\frac{100}{100 - \%H_2O}\right)$$

(Eq. A–3a)

or

$$MPV = \left(\frac{F_c H_f}{A}\right)\left(\frac{100}{\%CO_{2d}}\right)\left(\frac{100}{100 - \%H_2O}\right)$$

(Eq. A–3b)

Where:

MPV=maximum potential velocity (fpm, standard wet basis),

F_d=dry-basis F factor (dscf/mmBtu) from Table 1, Appendix F of this part,

F_c=carbon-based F factor (scfCO_2/mmBtu) from Table 1, Appendix F this part,

HF=maximum heat input (mmBtu/minute) for all units, combined, exhausting to the stack or duct where the flow monitor is located,

A=inside cross sectional area (ft2) of the flue at the flow monitor location,

$\%O_{2d}$=maximum oxygen concentration, percent dry basis, under normal operating conditions,

$\%CO_{2d}$=minimum carbon dioxide concentration, percent dry basis, under normal operating conditions,

$\%H_2O$=maximum percent flue gas moisture content under normal operating conditions.

2.1.4.3 Adjustment of Span and Range

For each affected unit or common stack, the owner or operator shall make a quarterly evaluation of the MPV, MPF, span, and range values for each flow rate monitor and shall make any necessary span and range adjustments with corresponding monitoring plan updates, as described in paragraphs (a) through (e), below. Span and range adjustments may be required as a result of changes in the fuel supply, changes in the stack or ductwork configuration, changes in the manner of operation of the unit, installation or removal of emission controls, etc. In implementing the provisions in paragraphs (a) through (e), below, note that flow rate data recorded during short-term, non-representative operating conditions (e.g., a trial burn of a different type of fuel) shall be excluded from the analysis; however, if the high range is exceeded, 200.0 percent of the full-scale range must still be reported as the hourly flow rate for each hour of the full-scale exceedance, in accordance with paragraph (c) of this section. The owner or operator shall document all such unrepresentative operating conditions in the quarterly report required under § 75.64 and shall indicate which data have been excluded from the quarterly span and range evaluation. Make each required span or range adjustment no later than 45 days after the end of the quarter in which the need to adjust the span or range is identified.

(a) No span or range adjustment is required if, during a calendar quarter, the hourly flow rate exceeds the MPF but does not exceed the flow rate span value. However, for missing data purposes, if any of the hourly flow rates exceed the current MPF by ≥5.0 percent, a new MPF equal to the highest quality assured hourly flow rate recorded during the quarter must be defined in the monitoring plan. Update the monitoring plan to reflect the new MPF value.

(b) A span adjustment is required whenever any of the on-scale, quality assured, hourly flow rates exceed the flow rate span value by ≥10.0 percent during a quarter. Define a new MPF equal to the highest on-scale flow rate recorded during the quarter, and set the new flow rate span value according to section 2.1.4.2 of this appendix. Then, calculate the new calibration span value by converting the new flow rate span value from units of scfh to units of daily calibration. If the new flow rate span value exceeds the current full-scale range, adjust the range setting also. Update the monitoring plan to reflect the new span and (if applicable) range values.

(c) Whenever the full-scale range is exceeded during a quarter, provided that the exceedance is not caused by a monitor out-of-control period, report 200.0 percent of the current full-scale range as the hourly flow rate for each hour of the full-scale exceedance. If the range is exceeded, make adjustments to the MPF, flow rate span, and range to prevent future full-scale exceedances. Calculate the new calibration span value by converting the new flow rate span value from units of scfh to units of daily calibration. A calibration error test must be performed and passed to validate data on the new range.

(d) If the fuel supply, stack or ductwork configuration, operating parameters, or other conditions change such that the maximum potential flow rate changes significantly, adjust the span and range to assure the continued accuracy of the flow monitor. The owner or operator should evaluate whether any planned changes in operation of the unit may affect the flow of the unit or stack and should plan any necessary span and range changes needed to account for these changes, so that they are made in as timely a manner as practicable to coordinate with the operational changes. Calculate the adjusted calibration span and flow rate span values using the procedures in section 2.1.4.2 of this appendix.

(e) Whenever changes are made to the MPV, MPF, full-scale range, or span value of the flow monitor, as described in paragraphs (a) through (d) of this section, record and report (as applicable) the new full-scale range setting, calculations of the flow rate span value, calibration span value, MPV, and MPF in an updated monitoring plan for the unit. The monitoring plan update shall be made in the quarter in which the changes become effective. Record and report the adjusted calibration span and reference values as parts of the records for the calibration error test required by appendix B to this part. Whenever the calibration span value is adjusted, use reference values for the calibration error test that meet the requirements of section 2.2.2.1 of this appendix, based on the most recent adjusted calibration span value. Perform a calibration error test according to section 2.1.1 of appendix B to this part whenever making a change to the flow monitor span or range, unless the range change also triggers a recertification under § 75.20(b).

2.1.5 Moisture Sensors

The span value of a continuous moisture sensor shall be equal to the full-scale range of the instrument. The range shall be selected in accordance with the requirements of section 2.1 of this appendix.

* * * * *

54. Section 3 of appendix A to part 75 is amended by revising section 3.1 and the last sentence in the first paragraph of section 3.2; by adding a new section 3.3.6; and by revising section 3.5, to read as follows:

3. Performance Specifications

3.1 Calibration Error

The initial calibration error of SO_2 and NO_x pollutant concentration monitors shall not deviate from the reference value of either the zero or upscale calibration gas by more than 2.5 percent of the span of the instrument, as calculated using Equation A–5 of this appendix. Alternatively, where the span value is less than 200 ppm, calibration error test results are also acceptable if the absolute value of the difference between the monitor response value and the reference value, |R–A| in Equation A–5 of this appendix, is ≥5 ppm. The calibration error of CO_2 or O_2 monitors (including O_2 monitors used to measure CO_2 emissions or percent moisture) shall not deviate from the reference value of the zero or upscale calibration gas by >0.5 percent O_2 or CO_2, as calculated using the term |R–A| in the numerator of Equation A–5 of this appendix. The calibration error of flow monitors shall not exceed 3.0 percent of the calibration span value of the instrument, as calculated using Equation A–6 of this appendix. For differential pressure-type flow monitors, the calibration error test results are also acceptable if |R—A|, the absolute value of the difference between the monitor response and the reference value in Equation A–6, does not exceed 0.01 inches of water. The calibration error of a continuous moisture sensor shall not exceed 3.0 percent of the span value, as calculated using Equation A–5 of this appendix.

3.2 Linearity Check

* * * For CO_2 or O_2 monitors (including O_2 monitors used to measure CO_2 emissions or percent moisture):

* * * * *

3.3 * * *

3.3.6 Relative Accuracy for Moisture Monitoring Systems

The relative accuracy of a moisture monitoring system shall not exceed 10.0 percent. The relative accuracy test results are also acceptable if the mean difference of the reference method measurements (in percent H_2O) and the corresponding moisture monitoring system measurements (in percent H_2O) are within ±1.0 percent H_2O.

* * * * *

3.5 Cycle Time

The cycle time for pollutant concentration monitors, oxygen monitors used to determine percent moisture, and any other continuous emission monitoring system(s) required to perform a cycle time test shall not exceed 15 minutes.

55. Section 4 of appendix A to part 75 is amended by revising the introductory paragraph and paragraph (6) to read as follows:

4. Data Acquisition and Handling Systems

Automated data acquisition and handling systems shall: (1) Read and record the full range of pollutant concentrations and volumetric flow from zero through span; and (2) provide a continuous, permanent record of all measurements and required information as an ASCII flat file capable of transmission both by direct computer-to-computer electronic transfer via modem and EPA-provided software and by an IBM-compatible personal computer diskette.

* * * * *

(6) Provide a continuous, permanent record of all measurements and required information as an ASCII flat file capable of transmission both by direct computer-to-computer electronic transfer via modem and EPA-provided software and by an IBM-compatible personal computer diskette.

56. Section 5 of appendix A to part 75 is amended by revising sections 5.1, 5.2.1, 5.2.2, 5.2.3, and 5.2.4 to read as follows:

5. Calibration Gas

5.1 Reference Gases

For the purposes of part 75, calibration gases include the following:

5.1.1 Standard Reference Materials (SRM)

These calibration gases may be obtained from the National Institute of Standards and Technology (NIST) at the following address: Quince Orchard and Cloppers Road, Gaithersburg, MD 20899–0001.

5.1.2 SRM-Equivalent Compressed Gas Primary Reference Material (PRM)

Contact the Gas Metrology Team, Analytical Chemistry Division, Chemical Science and Technology Laboratory of NIST, at the above address, for a list of vendors and cylinder gases.

5.1.3 NIST Traceable Reference Materials

Contact the Gas Metrology Team, Analytical Chemistry Division, Chemical Science and Technology Laboratory of NIST, at the above address, for a list of vendors and cylinder gases.

5.1.4 EPA Protocol Gases

EPA Protocol gases must be vendor-certified to be within 2.0 percent of the concentration specified on the cylinder label (tag value), using the uncertainty calculation procedure in section 2.1.8 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA–600/R–97/121.

A copy of EPA–600/R–97/121 is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 703–487–4650 and from the Office of Research and Development, (MD–77B), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Attn: Berne Bennett, 919–541–2366.

5.1.5 Research Gas Mixtures

Research gas mixtures must be vendor-certified to be within 2.0 percent of the concentration specified on the cylinder label (tag value), using the uncertainty calculation procedure in section 2.1.8 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA–600/R–97/121. Inquiries about the RGM program should be directed to: National Institute of Standards and Technology, Analytical Chemistry Division, Chemical Science and Technology Laboratory, B–324 Chemistry, Gaithersburg, MD 20899.

5.1.6 Zero Air Material

Zero air material is defined in § 72.2 of this chapter.

5.1.7 NIST/EPA-Approved Certified Reference Materials

Existing certified reference materials (CRMs) that are still within their certification period may be used as calibration gas.

5.1.8 Gas Manufacturer's Intermediate Standards

Gas manufacturer's intermediate standards is defined in § 72.2 of this chapter.

* * * * *

5.2.1 Zero-level Concentration

0.0 to 20.0 percent of span, including span for high-scale or both low-and high-scale for SO_2, NO_x, CO_2, and O_2 monitors, as appropriate.

5.2.2 Low-level Concentration

20.0 to 30.0 percent of span, including span for high-scale or both low-and high-scale for SO_2, NO_x, CO_2, and O_2 monitors, as appropriate.

5.2.3 Mid-level Concentration

50.0 to 60.0 percent of span, including span for high-scale or both low-and high-scale for SO_2, NO_x, CO_2, and O_2 monitors, as appropriate.

5.2.4 High-level Concentration

80.0 to 100.0 percent of span, including span for high-scale or both low-and high-scale for SO_2, NO_x, CO_2, and O_2 monitors, as appropriate.

57. Section 6 of appendix A to part 75 is amended by revising sections 6.2, 6.3.1, 6.5, 6.5.1, 6.5.2, 6.5.6, 6.5.7, and 6.5.9 to read as follows:

6. Certification Tests and Procedures

* * * * *

6.2 Linearity Check

For the purposes of initial certification, recertification, and quality assurance, check the linearity of each SO_2, NO_x, CO_2, and O_2 monitor while the unit, or group of units for a common stack, is combusting fuel at conditions of typical stack temperature and pressure; it is not necessary for the unit to be generating electricity during this test. Notwithstanding these requirements, if the SO_2 or NO_x span value for a particular monitor range is ≤30 ppm, that range is exempted from the linearity test requirements of this part.

Challenge each monitor with calibration gas, as defined in section 5.1 of this appendix, at the low-, mid-, and high-range concentrations specified in section 5.2 of this appendix. For units using emission controls and other units using both a high and a low span, perform a linearity check on both the low-and high-scales for initial certification. For on-going quality assurance of the CEMS, perform linearity tests on the range(s) and at the frequency specified in section 2.2.1 of appendix B to this part.

Introduce the calibration gas at the gas injection port, as specified in section 2.2.1 of this appendix. Operate each monitor at its normal operating temperature and conditions. For extractive and dilution type monitors, pass the calibration gas through all filters, scrubbers, conditioners, and other monitor components used during normal sampling and through as much of the sampling probe as is practical. For in-situ type monitors, perform calibration checking all active electronic and optical components, including the transmitter, receiver, and analyzer. Challenge the monitor three times with each reference gas (see example data sheet in Figure 1). Do not use the same gas twice in succession. The linearity check must be done hands-off, as follows. No adjustments other than the calibration adjustments described in section 2.1.3 of appendix B to this part are permitted prior to or during the linearity test period. To the extent practicable, the duration of each linearity test, from the hour of the first injection to the hour of the last injection, shall not exceed 24 unit operating hours. Record the monitor response from the data acquisition and handling system. For each concentration, use the average of the responses to determine the error in linearity using Equation A–4 in this appendix.

Linearity checks are acceptable for monitor or monitoring system certification, recertification, or quality assurance if none of the test results exceed the applicable performance specifications in section 3.2 of this appendix.

The status of emission data from a CEMS prior to and during a linearity test period shall be determined as follows:

(a) For the initial certification of a CEMS, data from the monitoring system are considered invalid until all certification tests, including the linearity test, have been successfully completed, unless the data validation procedures in § 75.20(b)(3) are used. When the procedures in § 75.20(b)(3) are followed, substitute the words "initial certification" for "recertification," and complete all of the initial certification tests by the applicable deadline in § 75.4, rather than within the time periods specified in § 75.20(b)(3)(iv) for the individual tests.

(b) For the routine quality assurance linearity checks required by section 2.2.1 of appendix B to this part, use the data validation procedures in section 2.2.3 of appendix B to this part.

(c) When a linearity test is required as a diagnostic test or for recertification, use the data validation procedures in § 75.20(b)(3).

(d) For linearity tests of non-redundant backup monitoring systems, use the data validation procedures in § 75.20(d)(2)(iii).

(e) For linearity tests performed during a grace period and after the expiration of a grace period, use the data validation procedures in sections 2.2.3 and 2.2.4, respectively, of appendix B to this part.

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6.3 * * *

6.3.1 Pollutant Concentration Monitor and CO_2 or O_2 Monitor 7-day Calibration Error Test

For the purposes of initial certification and recertification, measure the calibration error of each pollutant concentration monitor and CO_2 or O_2 monitor while the unit is combusting fuel at conditions of typical temperature and pressure (but not necessarily generating electricity) once each day for 7 consecutive operating days according to the following procedures. (In the event that extended unit outages occur after the commencement of the test, the 7 consecutive unit operating days need not be 7 consecutive calendar days.) Units using dual span monitors must perform the calibration error test on both high-and low-scales of the pollutant concentration monitor. The daily calibration error test procedures in this section shall also be used to perform the daily assessments and additional calibration error tests required under sections 2.1.1 and 2.1.3 of appendix B to this part.

Do not make manual or automatic adjustments to the monitor settings until after taking measurements at both zero and high concentration levels for that day during the 7-day test. If automatic adjustments are made following both injections, conduct the calibration error test such that the magnitude of the adjustments can be determined and recorded. Record and report test results for each day using the unadjusted concentration measured in the calibration error test prior to making any manual or automatic adjustments (i.e., resetting the calibration).

The calibration error tests should be approximately 24 hours apart, (unless the 7-day test is performed over non-consecutive days). Perform calibration error tests at both the zero-level concentration and either the mid-level or high-level concentration, as specified in section 5.2 of this appendix. In addition, repeat the procedure for SO_2 and NO_X pollutant concentration monitors using the low-scale for units equipped with emission controls or other units with dual span monitors. Use only calibration gas, as specified in section 5.1 of this appendix.

Introduce the calibration gas at the gas injection port, as specified in section 2.2.1 of this appendix. Operate each monitor in its normal sampling mode. For extractive and dilution type monitors, pass the calibration gas through all filters, scrubbers, conditioners, and other monitor components used during normal sampling and through as much of the sampling probe as is practical. For in-situ type monitors, perform calibration, checking all active electronic and optical components, including the transmitter, receiver, and analyzer. Challenge the pollutant concentration monitors and CO_2 or O_2 monitors once with each calibration gas. Record the monitor response from the data acquisition and handling system. Using Equation A–5 of this appendix, determine the calibration error at each concentration once each day (at approximately 24-hour intervals) for 7 consecutive days according to the procedures given in this section.

Calibration error tests are acceptable for monitor or monitoring system certification if none of these daily calibration error test results exceed the applicable performance specifications in section 3.1 of this appendix.

The status of emission data from a CEMS during a 7-day calibration error test period shall be determined as follows:

(a) For the initial certification of a CEMS, data from the monitoring system are considered invalid until all certification tests, including the 7-day calibration error test, have been successfully completed, unless the data validation procedures in § 75.20(b)(3) are used. When the procedures in § 75.20(b)(3) are followed, substitute the words "initial certification" for "recertification," and complete all of the initial certification tests by the applicable deadline in § 75.4, rather than within the time periods specified in § 75.20(b)(3)(iv) for the individual tests.

(b) When a 7-day calibration error test is required as a diagnostic test or for recertification, use the data validation procedures in § 75.20(b)(3).

* * * * *

6.5 Relative Accuracy and Bias Tests

For the purposes of initial certification, recertification, and quality assurance, perform the required relative accuracy test audits as follows for each CO_2 and SO_2 pollutant concentration monitor, each flow monitor, each NO_X continuous emission monitoring system, each O_2 monitor used to calculate heat input or CO_2 concentration, each moisture monitoring system, and each SO_2-diluent continuous emission monitoring system (lb/mmBtu) used by units with a qualifying Phase I technology for the period during which the units are required to monitor SO_2 emission removal efficiency, from January 1, 1997 through December 31, 1999:

(a) All relative accuracy test audits shall be done "hands-off", as follows:

(1) No adjustments, linearizations, or reprogramming of the CEMS, other than the calibration adjustments described in section 2.1.3 of appendix B to this part, are permitted prior to and during the RATA test period.

(2) For 2-level and 3-level flow monitor audits, no re-linearization of the monitor (i.e., changing of the polynomial coefficients) is permitted between load levels.

(b) Except as provided in § 75.21(a)(5), perform each RATA while the unit (or units, if more than one unit exhausts into the flue) is combusting the fuel that is normal for that unit (for some units, more than one type of fuel may be considered normal; e.g., a unit that combusts gas or oil on a seasonal basis). When relative accuracy test audits are performed on continuous emission monitoring systems or component(s) on bypass stacks/ducts, use the fuel normally combusted by the unit (or units, if more than one unit exhausts into the flue) when emissions exhaust through the bypass stack/ducts.

(c) Perform each RATA at the load level(s) specified in section 6.5.1 or 6.5.2 of this appendix or in section 2.3.1.3 of appendix B to this part, as applicable.

(d) For monitoring systems with dual ranges, perform the relative accuracy test on the range normally used for measuring emissions. For units with add-on SO_2 or NO_X controls or for units that need a dual range to record high concentration "spikes" during startup conditions, the low range is considered normal. However, for some dual span units (e.g., for units that switch fuels and have both a high and low span value), either of the two measurement ranges may be considered normal; in such cases, perform the RATA on the range that is in use at the time of the scheduled test.

(e) Record monitor or monitoring system output from the data acquisition and handling system.

(f) For initial certification and recertification RATAs and for the quality assurance RATAs required by § 75.20(d) or by section 2.3.1 of appendix B to this part, complete each single-load relative accuracy test audit within a period of 168 consecutive unit operating hours. For 2-level and 3-level flow monitor RATAs, complete all of the RATAs at all levels, to the extent practicable, within a period of 168 consecutive unit operating hours; however, if this is not possible, up to 720 consecutive unit operating hours may be taken to complete a multiple-load flow RATA.

(g) The status of emission data from the CEMS prior to and during the RATA test period shall be determined as follows:

(1) For the initial certification of a CEMS, data from the monitoring system are considered invalid until all certification tests, including the RATA, have been successfully completed, unless the data validation procedures in § 75.20(b)(3) are used. When the procedures in § 75.20(b)(3) are followed, substitute the words "initial certification" for "recertification," and complete all of the initial certification tests by the applicable deadline in § 75.4, rather than within the time periods specified in § 75.20(b)(3)(iv) for the individual tests.

(2) For the routine quality assurance RATAs required by section 2.3.1 of appendix B to this part, use the data validation procedures in section 2.3.2 of appendix B to this part.

(3) For recertification RATAs, use the data validation procedures in § 75.20(b)(3).

(4) For quality assurance RATAs of non-redundant backup monitoring systems, use the data validation procedures in §§ 75.20(d)(2)(v) and (vi).

(5) For RATAs performed during and after the expiration of a grace period, use the data validation procedures in sections 2.3.2 and 2.3.3, respectively, of appendix B to this part.

(h) For each SO_2 or CO_2 pollutant concentration monitor, each flow monitor, and each NO_X continuous emission monitoring system, calculate the relative accuracy, in accordance with section 7.4 of this appendix. In addition (except for CO_2 monitors), test for bias and determine the appropriate bias adjustment factor, in accordance with sections 7.6.4 and 7.6.5 of this appendix, using the data from the relative accuracy test audits.

6.5.1 Gas Monitoring System RATAs (Special Considerations)

(a) For the purposes of initial certification, recertification, and quality assurance, perform the required relative accuracy test audits for each SO_2 or CO_2 pollutant

concentration monitor, each O_2 monitor, each NO_x continuous emission monitoring system, and each SO_2-diluent continuous emission monitoring system (lb/mmBtu) used by units with a qualifying Phase I technology for the period during which the units are required to monitor SO_2 emission removal efficiency, from January 1, 1997 through December 31, 1999, at the normal load level for the unit (or combined units, if common stack), as defined in section 6.5.2.1 of this appendix. If two load levels have been designated as normal, the RATAs may be done at either load level.

(b) For the initial certification of a gas monitoring system and for recertifications in which, in addition to a RATA, one or more other tests are required (i.e., a linearity test, cycle time test, or 7-day calibration error test), EPA recommends that the RATA not be commenced until the other required tests of the CEMS have been passed.

6.5.2 Flow Monitor RATAs (Special Considerations)

(a) Except for flow monitors on bypass stacks/ducts and peaking units, perform relative accuracy test audits for the initial certification of each flow monitor at three different exhaust gas velocities (low, mid, and high), corresponding to three different load levels within the range of operation, as defined in section 6.5.2.1 of this appendix. For a common stack/duct, the three different exhaust gas velocities may be obtained from frequently used unit/load combinations for the units exhausting to the common stack. Select the three exhaust gas velocities such that the audit points at adjacent load levels (i.e., low and mid or mid and high), in megawatts (or in thousands of lb/hr of steam production), are separated by no less than 25.0 percent of the range of operation, as defined in section 6.5.2.1 of this appendix.

(b) For flow monitors on bypass stacks/ducts and peaking units, the flow monitor relative accuracy test audits for initial certification and recertification shall be single-load tests, performed at the normal load, as defined in section 6.5.2.1 of this appendix.

(c) The semiannual and annual quality assurance flow monitor RATAs required under appendix B to this part shall be done at the load level(s) specified in section 2.3.1.3 of appendix B.

(d) Flow monitor recertification RATAs shall be done at three load level(s), unless otherwise specified in paragraph (b) of this section or unless otherwise approved by the Administrator.

6.5.2.1 Range of Operation and RATA Load Levels (Definitions)

The owner or operator shall determine the upper and lower boundaries of the "range of operation" for each unit (or combination of units, for common-stack configurations) that uses CEMS to account for its emissions. The lower boundary of the range of operation of a unit shall be the minimum safe, stable load (or, for common-stacks, the lowest of the minimum safe, stable loads for any of the units discharging through the stack). The upper boundary of the range of operation of a unit shall be the maximum sustainable load. The "maximum sustainable load" is the higher of: (1) the nameplate or rated capacity of the unit, less any physical or regulatory limitations or other deratings, or (2) the highest sustainable unit load, based on at least four quarters of representative historical operating data. For common-stacks, the maximum sustainable load is the sum of all of the maximum sustainable loads of the individual units discharging through the stack, unless this load is unattainable in practice, in which case use the highest sustainable combined load for the units that discharge through the stack, based on at least four quarters of representative historical operating data. The load values for the unit(s) shall be expressed either in units of megawatts or thousands of lb/hr of steam load.

The operating levels for relative accuracy test audits shall, except for peaking units, be defined as follows: (1) the low operating level shall be the first 30.0 percent of the range of operation; (2) the mid operating level shall be the middle portion (30.0 to 60.0 percent) of the range of operation; and (3) the high operating level shall be the upper end (60.0 to 100.0 percent) of the range of operation. For example, if the upper and lower boundaries of the range of operation are 100 and 1100 megawatts, respectively, then the low, mid, and high operating levels would be 100 to 400 megawatts, 400 to 700 megawatts, and 700 to 1100 megawatts, respectively.

The provisions of this paragraph become effective January 1, 2000. This determination shall be made just prior to conducting the quality assurance RATAs required under section 2.3 of appendix B of this part (in the same calendar quarter in which the RATAs are conducted) but not required more frequently than once a year, if the RATA(s) are conducted semiannually. The owner or operator shall determine, for each unit or common stack (except for peaking units) the load level (low, mid or high) that is the most frequently used. In addition, the owner or operator shall determine which load level is the second most frequently-used. To make the determinations, the owner or operator shall construct a historical load frequency distribution (e.g., histogram), depicting the relative number of operating hours at each of the three load levels, low, mid and high. The frequency distribution shall be based upon all available data from the four most recent QA operating quarters, as defined in section 2.3.1.1 of appendix B of this part. The owner or operator shall use the frequency distribution to determine, to the nearest 0.1 percent, the percentage of the time that each load level (low, mid, high) has been used in the previous four QA operating quarters. A summary of the data used for these determinations shall be kept on-site in a format suitable for inspection and the results of the determinations shall be included in the electronic quarterly report under § 75.64.

Except for peaking units, the owner or operator shall designate the most frequently used load level as the normal load level for each unit (or combination of units, for common stacks). The owner or operator may also, if appropriate, designate the second most frequently used load level as an additional normal load level for the unit or stack. For peaking units, the entire operating load range shall be considered normal.

Beginning on January 1, 2000, the owner or operator shall report the upper and lower boundaries of the range of operation for each unit (or combination of units, for common stacks), in units of megawatts or thousands of lb/hr of steam production, in the electronic quarterly report required under § 75.64. Except for peaking units, the owner or operator shall also indicate in the electronic quarterly report: (1) the two load levels (low, mid, or high) that are the most frequently used, as determined under this section; (2) the relative (percent) historical usage of each load level, as determined under this section; and (3) the load level (or levels) designated as normal under this section.

6.5.2.2 Multi-Load Flow RATA Results

For each multi-load flow RATA, calculate the flow monitor relative accuracy at each operating level. If a flow monitor relative accuracy test is failed or aborted due to a problem with the monitor on any level of a 2-level (or 3-level) relative accuracy test audit, the RATA must be repeated at that load level. However, the entire 2-level (or 3-level) relative accuracy test audit does not have to be repeated unless the flow monitor polynomial coefficients are changed, in which case a 3-level RATA is required.

* * * * *

6.5.6 Reference Method Traverse Point Selection

Select traverse points that ensure acquisition of representative samples of pollutant and diluent concentrations, moisture content, temperature, and flue gas flow rate over the flue cross section. To achieve this, the reference method traverse points shall meet the requirements of section 3.2 of Performance Specification 2 ("PS No. 2") in appendix B to part 60 of this chapter (for SO_2, NO_x, and moisture monitoring system RATAs), Performance Specification 3 in appendix B to part 60 of this chapter (for O_2 and CO_2 monitor RATAs), Method 1 (or 1A) (for volumetric flow rate monitor RATAs), Method 3 (for molecular weight), and Method 4 (for moisture determination) in appendix A to part 60 of this chapter.

The following alternative reference method traverse point locations are permitted for moisture and gas monitor RATAs:

(a) For all moisture determinations, a single reference method point, located at least 1.0 meter from the stack wall, may be used.

(b) For gas monitoring system RATAs, the owner or operator may use any of the following options:

(1) At any location (including locations where stratification is expected), use a minimum of six traverse points along a diameter, in the direction of any expected stratification. The points shall be located in accordance with Method 1 in appendix A to part 60 of this chapter.

(2) At locations where section 3.2 of PS No. 2 allows the use of a short reference method measurement line (with three points located at 0.4, 1.0, and 2.0 meters from the stack wall), the owner or operator may use an alternative 3-point measurement line, locating the three points at 4.4, 14.6, and 29.6 percent of the way across the stack, in

accordance with Method 1 in appendix A to part 60 of this chapter.

(3) At locations where stratification is likely to occur (i.e., following a wet scrubber or when dissimilar gas streams are combined), the short measurement line from section 3.2 of PS No. 2 (or the alternative line described in paragraph (c) of this section) may be used in lieu of the prescribed "long" measurement line in section 3.2 of PS No. 2, provided that the 12-point stratification test described in section 6.5.6.1 of this appendix is performed and passed one time at the location (according to the acceptance criteria of section 6.5.6.3(a) of this appendix) and provided that either the 12-point stratification test or the alternative (abbreviated) stratification test in section 6.5.6.2 of this appendix is performed and passed prior to each subsequent RATA at the location (according to the acceptance criteria of section 6.5.6.3(a) of this appendix).

(4) A single reference method measurement point, located no less than 1.0 meter from the stack wall, may be used at any sampling location if the 12-point stratification test described in section 6.5.6.1 of this appendix is performed and passed one time at the location (according to the acceptance criteria of section 6.5.6.3(b) of this appendix) and provided that either the 12-point stratification test or the alternative (abbreviated) stratification test in section 6.5.6.2 of this appendix is performed and passed prior to each subsequent RATA at the location (according to the acceptance criteria of section 6.5.6.3(b) of this appendix).

6.5.6.1 Stratification Test

(a) With the unit(s) operating under steady-state conditions at normal load, as defined in section 6.5.2.1 of this appendix, use a traversing gas sampling probe to measure the pollutant (SO_2 or NO_X) and diluent (CO_2 or O_2) concentrations at a minimum of twelve (12) points, located according to Method 1 in appendix A to part 60 of this chapter.

(b) Use Methods 6C, 7E, and 3A in appendix A to part 60 of this chapter to make the measurements. Data from the reference method analyzers must be quality assured by performing analyzer calibration error and system bias checks before the series of measurements and by conducting system bias and calibration drift checks after the measurements, in accordance with the procedures of Methods 6C, 7E, and 3A.

(c) Measure for a minimum of 2 minutes at each traverse point. To the extent practicable, complete the traverse within a 2-hour period.

(d) If the load has remained constant (± 3.0 percent) during the traverse and if the reference method analyzers have passed all of the required quality assurance checks, proceed with the data analysis.

(e) Calculate the average NO_X, SO_2, and CO_2 (or O_2) concentrations at each of the individual traverse points. Then, calculate the arithmetic average NO_X, SO_2, and CO_2 (or O_2) concentrations for all traverse points.

6.5.6.2 Alternative (Abbreviated) Stratification Test

(a) With the unit(s) operating under steady-state conditions at normal load, as defined in section 6.5.2.1 of this appendix, use a traversing gas sampling probe to measure the pollutant (SO_2 or NO_X) and diluent (CO_2 or O2) concentrations at three points. The points shall be located according to the specifications for the long measurement line in section 3.2 of PS No. 2 (i.e., locate the points 16.7 percent, 50.0 percent, and 83.3 percent of the way across the stack). Alternatively, the concentration measurements may be made at six traverse points along a diameter. The six points shall be located in accordance with Method 1 in appendix A to part 60 of this chapter.

(b) Use Methods 6C, 7E, and 3A in appendix A to part 60 of this chapter to make the measurements. Data from the reference method analyzers must be quality assured by performing analyzer calibration error and system bias checks before the series of measurements and by conducting system bias and calibration drift checks after the measurements, in accordance with the procedures of Methods 6C, 7E, and 3A.

(c) Measure for a minimum of 2 minutes at each traverse point. To the extent practicable, complete the traverse within a 1-hour period.

(d) If the load has remained constant (± 3.0 percent) during the traverse and if the reference method analyzers have passed all of the required quality assurance checks, proceed with the data analysis.

(e) Calculate the average NO_X, SO_2, and CO_2 (or O_2) concentrations at each of the individual traverse points. Then, calculate the arithmetic average NO_X, SO_2, and CO_2 (or O_2) concentrations for all traverse points.

6.5.6.3 Stratification Test Results and Acceptance Criteria

(a) For each pollutant or diluent gas, the short reference method measurement line described in section 3.2 of PS No. 2 may be used in lieu of the long measurement line prescribed in section 3.2 of PS No. 2, if the results of a stratification test, conducted in accordance with section 6.5.6.1 or 6.5.6.2 of this appendix (as appropriate; see section 6.5.6(b)(3) of this appendix), show that the concentration at each individual traverse point differs by no more than ±10.0 percent from the arithmetic average concentration for all traverse points. The results are also acceptable if the concentration at each individual traverse point differs by no more than ±5 ppm or ±0.5 percent CO_2 (or O_2) from the arithmetic average concentration for all traverse points.

(b) For each pollutant or diluent gas, a single reference method measurement point, located at least 1.0 meter from the stack wall may be used for that pollutant or diluent gas if the results of a stratification test, conducted in accordance with section 6.5.6.1 or 6.5.6.2 of this appendix (as appropriate; see section 6.5.6(b)(4) of this appendix), show that the concentration at each individual traverse point differs by no more than ±5.0 percent from the arithmetic average concentration for all traverse points. The results are also acceptable if the concentration at each individual traverse point differs by no more than ±3 ppm or ±0.3 percent CO_2 (or O_2) from the arithmetic average concentration for all traverse points.

(c) The owner or operator shall keep the results of all stratification tests on-site, suitable for inspection, as part of the supplementary RATA records required under § 75.56(a)(7) or § 75.59(a)(7), as applicable.

6.5.7 Sampling Strategy

Conduct the reference method tests so they will yield results representative of the pollutant concentration, emission rate, moisture, temperature, and flue gas flow rate from the unit and can be correlated with the pollutant concentration monitor, CO_2 or O_2 monitor, flow monitor, and SO_2 or NO_X continuous emission monitoring system measurements. The minimum acceptable time for a gas monitoring system RATA run or for a moisture monitoring system RATA run is 21 minutes. For each run of a gas monitoring system RATA, all necessary pollutant concentration measurements, diluent concentration measurements, and moisture measurements (if applicable) must, to the extent practicable, be made within a 60-minute period. For NO_X-diluent or SO_2-diluent monitoring system RATAs, the pollutant and diluent concentration measurements must be made simultaneously. For flow monitor RATAs, the minimum time per run shall be 5 minutes. Flow rate reference method measurements may be made either sequentially from port to port or simultaneously at two or more sample ports. The velocity measurement probe may be moved from traverse point to traverse point either manually or automatically. If, during a flow RATA, significant pulsations in the reference method readings are observed, be sure to allow enough measurement time at each traverse point to obtain an accurate average reading (e.g., a "sight-weighted" average from a manometer). A minimum of one set of auxiliary measurements for stack gas molecular weight determination (i.e., diluent gas data and moisture data) is required for every clock hour of a flow RATA or for every three test runs (whichever is less restrictive). Successive flow RATA runs may be performed without waiting in-between runs. If an O_2-diluent monitor is used as a CO_2 continuous emission monitoring system, perform a CO_2 system RATA (i.e., measure CO_2, rather than O_2, with the reference method). To properly correlate individual SO_2 or NO_X continuous emission monitoring system data (in lb/mmBtu) and volumetric flow rate data with the reference method data, annotate the beginning and end of each reference method test run (including the exact time of day) on the individual chart recorder(s) or other permanent recording device(s).

* * * * *

6.5.9 Number of Reference Method Tests

Perform a minimum of nine sets of paired monitor (or monitoring system) and reference method test data for every required (i.e., certification, recertification, semiannual, or annual) relative accuracy test audit. For 2-level and 3-level relative accuracy test audits of flow monitors, perform a minimum of nine sets at each of the operating levels.

Note: The tester may choose to perform more than nine sets of reference method tests. If this option is chosen, the tester may reject a maximum of three sets of the test results, as long as the total number of test

results used to determine the relative accuracy or bias is greater than or equal to nine. Report all data, including the rejected CEM data and corresponding reference method test results.

* * * * *

58. Section 7 of appendix A to part 75 is amended by revising the introductory text of section 7.2.1 and the term "R" following equation A–5 and by revising section 7.6.4; and by adding 4 paragraphs at the end of section 7.6.5 and a new section 7.7 to read as follows:

7. Calculations

* * * * *

7.2 * * *

7.2.1 Pollutant Concentration and Diluent Monitors

For each reference value, calculate the percentage calibration error based upon instrument span for daily calibration error tests using the following equation:

* * * * *

(Eq. A–5)

Where:

R=Reference value of zero or upscale (high-level or mid-level, as applicable) calibration gas introduced into the monitoring system.

* * * * *

7.6.4 Bias Test

For gas monitoring systems, if the mean difference, d, is greater than the absolute value of the confidence coefficient, |cc|, the monitor or monitoring system has failed to meet the bias test requirement. For flow monitor bias tests, if the mean difference, d, is greater than |cc| at any load level designated as normal under section 6.5.2.1 of this appendix, the monitor has failed to meet the bias test requirement.

7.6.5 * * *

For single-load RATAs of SO_2-and NO_X-diluent monitoring systems and for single-load flow RATAs required or allowed under section 6.5.2 of this appendix and sections 2.3.1.3(b) and 2.3.1.3(c) of appendix B to this part, the appropriate BAF is determined directly from the RATA results at normal load, using Equation A–12. Notwithstanding, when a NO_X or SO_2 CEMS installed on a low-emitting affected unit (i.e., average SO_2 concentration during the RATA <250 ppm or average NO_X emission rate <0.200 lb/mmBtu) meets the normal 10.0 percent relative accuracy specification (as calculated using Equation A–10) or the alternate relative accuracy specification in section 3.3 of this appendix for low-emitters, but fails the bias test, the BAF may be determined using Equation A–12, or a default BAF of 1.111 may be used.

For a 2-level flow RATA, if the RATA is passed but the bias test is failed at a load level designated as normal under section 6.5.2.1 of this appendix, use Equation A–12 to calculate the bias adjustment factor at both of the operating levels. For a 3-level flow monitor relative accuracy test audit, if the RATA is passed but the bias test is failed at a load level designated as normal under section 6.5.2.1 of this appendix, calculate bias adjustment factors only for the two most-frequently used load levels, as determined in section 6.5.2.1 of this appendix. For both 2-level and 3-level flow RATAs, whenever the bias test is failed at a load level designated as normal under section 6.5.2.1 of this appendix, apply the larger of the two calculated bias adjustment factors to subsequent flow monitor data using Equation A–11.

Each time a RATA is successfully completed and the appropriate bias adjustment factor has been determined, apply the BAF prospectively to all monitoring system data, beginning with the first clock hour following the hour in which the RATA was completed. For a 2-load flow RATA, the "hour in which the RATA was completed" refers to the hour in which the testing at both loads was completed; for a 3-load RATA, it refers to the hour in which the testing at all three loads was completed.

Use the bias-adjusted values in computing substitution values in the missing data procedure, as specified in subpart D of this part, and in reporting the concentration of SO_2, the flow rate, and the average NO_X emission rate, the unit heat input, and the calculated mass emissions of SO_2 and CO_2 during the quarter and calendar year, as specified in subpart G of this part.

7.7 Reference Flow-to-Load Ratio or Gross Heat Rate

The owner or operator shall determine R_{ref}, the reference value of the ratio of flow rate to unit load, each time that a successful flow RATA is performed at a load level designated as normal in section 6.5.2.1 of this appendix. The owner or operator shall report the current value of R_{ref} in the electronic quarterly report required under § 75.64 and shall also report the completion date of the associated RATA. If two load levels have been designated as normal under section 6.5.2.1 of this appendix, the owner or operator shall determine a separate R_{ref} value for each of the normal load levels. The requirements of this section shall become effective as of January 1, 2000. The reference flow-to-load ratio shall be calculated as follows:

$$R_{ref} = \frac{Q_{ref}}{L_{avg}} \times 10^{-5}$$

(Eq. A–13)

Where:

R_{ref}=Reference value of the flow-to-load ratio, from the most recent normal-load flow RATA, scfh/megawatts or scfh/1000 lb/hr of steam.

Q_{ref}=Average stack gas volumetric flow rate measured by the reference method during the normal-load RATA, scfh.

L_{avg}=Average unit load during the normal-load flow RATA, megawatts or 1000 lb/hr of steam.

In Equation A–13, for a common stack, L_{avg} shall be the sum of the operating loads of all units that discharge through the stack. For a unit that discharges its emissions through multiple stacks, Q_{ref} will be the sum of the total volumetric flow rates that discharge through all of the stacks. Round off the value of R_{ref} to 2 decimal places.

In addition to determining R_{ref} or as an alternative to determining R_{ref}, a reference value of the gross heat rate (GHR) may be determined. In order to use this option, quality assured diluent gas (CO_2 or O_2) must be available for each hour of the most recent normal-load flow RATA. The reference value of the GHR shall be determined as follows:

$$(GHR)_{ref} = \frac{(\text{Heat Input})_{avg}}{L_{avg}} \times 1000$$

(Eq. A–13a)

Where:

$(GHR)_{ref}$=Reference value of the gross heat rate at the time of the most recent normal-load flow RATA, Btu/kwh or Btu/lb steam load.

$(\text{Heat Input})_{avg}$=Average hourly heat input during the normal-load flow RATA, as determined using the applicable equation in appendix F to this part, mmBtu/hr.

L_{avg}=Average unit load during the normal-load flow RATA, megawatts or 1000 lb/hr of steam.

In the calculation of $(\text{Heat Input})_{avg}$, use Q_{ref}, the average volumetric flow rate measured by the reference method during the RATA, and use the average diluent gas concentration measured during the flow RATA.

* * * * *

59. Section 1 of appendix B to part 75 is revised as follows:

Appendix B to Part 75—Quality Assurance and Quality Control Procedures

1. Quality Assurance/Quality Control Program

Develop and implement a quality assurance/quality control (QA/QC) program for the continuous emission monitoring systems, excepted monitoring systems approved under appendix D, E, or I to this part, and alternative monitoring systems under subpart E of this part, and their components. At a minimum, include in each QA/QC program a written plan that describes in detail (or that refers to separate documents containing) complete, step-by-step procedures and operations for each of the following activities. Upon request from regulatory authorities, the source shall make all procedures, maintenance records, and ancillary supporting documentation from the manufacturer (e.g., software coefficients and troubleshooting diagrams) available for review during an audit.

1.1 Requirements for All Monitoring Systems

1.1.1 Preventive Maintenance

Keep a written record of procedures needed to maintain the monitoring system in proper operating condition and a schedule for those procedures. This shall, at a minimum, include procedures specified by the manufacturers of the equipment and, if applicable, additional or alternate procedures developed for the equipment.

1.1.2 Recordkeeping and Reporting

Keep a written record describing procedures that will be used to implement the recordkeeping and reporting requirements in subparts E, F, and G and appendices D, E, and I of this part, as applicable.

1.1.3 Maintenance Records

Keep a record of all testing, maintenance, or repair activities performed on any monitoring system or component in a location and format suitable for inspection. A maintenance log may be used for this purpose. The following records should be maintained: date, time, and description of any testing, adjustment, repair, replacement, or preventive maintenance action performed on any monitoring system and records of any corrective actions associated with a monitor's outage period. Additionally, any adjustment that recharacterizes a system's ability to record and report emissions data must be recorded (e.g., changing flow monitor polynomial coefficients, temperature and pressure coefficients, and dilution ratio settings), and a written explanation of the procedures used to make the adjustment(s) shall be kept.

1.2 Specific Requirements for Continuous Emissions Monitoring Systems

1.2.1 Calibration Error Test and Linearity Check Procedures

Keep a written record of the procedures used for daily calibration error tests and linearity checks (e.g., how gases are to be injected, adjustments of flow rates and pressure, introduction of reference values, length of time for injection of calibration gases, steps for obtaining calibration error or error in linearity, determination of interferences, and when calibration adjustments should be made). Identify any calibration error test and linearity check procedures specific to the continuous emission monitoring system that vary from the procedures in appendix A to this part.

1.2.2 Calibration and Linearity Adjustments

Explain how each component of the continuous emission monitoring system will be adjusted to provide correct responses to calibration gases, reference values, and/or indications of interference both initially and after repairs or corrective action. Identify equations, conversion factors, assumed moisture content, and other factors affecting calibration of each continuous emission monitoring system.

1.2.3 Relative Accuracy Test Audit Procedures

Keep a written record of procedures and details peculiar to the installed continuous emission monitoring systems that are to be used for relative accuracy test audits, such as sampling and analysis methods.

1.2.4 Parametric Monitoring for Units with Add-on Emission Controls

The owner or operator shall keep a written (or electronic) record including a list of operating parameters for the add-on SO_2 or NO_X emission controls, including parameters in § 75.55(b) or § 75.58(b), as applicable, and the range of each operating parameter that indicates the add-on emission controls are operating properly. The owner or operator shall keep a written (or electronic) record of the parametric monitoring data during each SO_2 or NO_X missing data period.

1.3 Specific Requirements for Excepted Systems Approved under Appendices D, E, and I

1.3.1 Fuel Flowmeter Accuracy Test Procedures

Keep a written record of the specific fuel flowmeter accuracy test procedures. These may include: standard methods or specifications listed in § 75.20(g) and section 2.1.5.1 of appendix D to this part and incorporated by reference under § 75.6; the procedures of sections 2.1.5.2 or 2.1.7 of appendix D to this part; or other methods approved by the Administrator through the petition process of § 75.66(c).

1.3.2 Transducer or Transmitter Accuracy Test Procedures

Keep a written record of the procedures for testing the accuracy of transducers or transmitters of an orifice-, nozzle-, or venturi-type fuel flowmeter under section 2.1.6 of appendix D to this part. These procedures should include a description of equipment used, steps in testing, and frequency of testing.

1.3.3 Fuel Flowmeter, Transducer, or Transmitter Calibration and Maintenance Records

Keep a record of adjustments, maintenance, or repairs performed on the fuel flowmeter monitoring system. Keep records of the data and results for fuel flowmeter accuracy tests and transducer accuracy tests, consistent with appendix D to this part.

1.3.4 Primary Element Inspection Procedures

Keep a written record of the standard operating procedures for inspection of the primary element (i.e., orifice, venturi, or nozzle) of an orifice-, venturi-, or nozzle-type fuel flowmeter. Examples of the types of information to be included are: what to examine on the primary element; how to identify if there is corrosion sufficient to affect the accuracy of the primary element; and what inspection tools (e.g., boroscope), if any, are used.

1.3.5 Fuel Sampling Method and Sample Retention

Keep a written record of the standard procedures used to perform fuel sampling, either by utility personnel or by fuel supply company personnel. These procedures should specify the portion of the ASTM method used, as incorporated by reference under § 75.6, or other methods approved by the Administrator through the petition process of § 75.66(c). These procedures should describe safeguards for ensuring the availability of an oil sample (e.g., procedure and location for splitting samples, procedure for maintain sample splits on site, and procedure for transmitting samples to an analytical laboratory). These procedures should identify the ASTM analytical methods used to analyze sulfur content, gross calorific value, and density, as incorporated by reference under § 75.6, or other methods approved by the Administrator through the petition process of § 75.66(c).

1.3.6 Appendix E Monitoring System Quality Assurance Information

Identify the unit manufacturer's recommended range of quality assurance- and quality control-related operating parameters. Keep records of these operating parameters for each hour of unit operation (i.e., fuel combustion). Keep a written record of the procedures used to perform NO_X emission rate testing. Keep a copy of all data and results from the initial and from the most recent NO_X emission rate testing, including the values of quality assurance parameters specified in section 2.3 of appendix E to this part.

1.3.7 Appendix I Additional Requirements

1.3.7.1 For all appendix I systems, the fuel sampling and analysis requirements in section 1.3.5 of this appendix shall be met; and, for the diluent monitor, the Calibration Error Test and Linearity Check Procedures requirements in sections 1.2.1 and 1.2.2 of this appendix shall be met.

1.3.7.2 For appendix I systems that are certified according to the system certification procedures, the Relative Accuracy Test Audit Procedures requirement in section 1.2.3 of this appendix shall be met for the annual or semiannual Method 2 flow RATA.

1.3.7.3 For appendix I systems that are certified according to the component-by-component certification procedures, the fuel flowmeter requirements applicable to the type of fuel flowmeter used in sections 1.3.1 through 1.3.5 of this appendix shall be met. The Relative Accuracy Test Audit Procedures requirement in section 1.2.3 of this appendix shall be met for the diluent monitor that is part of the appendix I system.

1.4 Requirements for Alternative Systems Approved under Subpart E

1.4.1 Daily Quality Assurance Tests

Explain how the daily assessment procedures specific to the alternative monitoring system are to be performed.

1.4.2 Daily Quality Assurance Test Adjustments

Explain how each component of the alternative monitoring system will be adjusted in response to the results of the daily assessments.

1.4.3 Relative Accuracy Test Audit Procedures

Keep a written record of procedures and details peculiar to the installed alternative monitoring system that are to be used for relative accuracy test audits, such as sampling and analysis methods.

60. Section 2 of appendix B to part 75 is amended by:

a. Revising sections 2.1.1, 2.1.3, 2.1.4, 2.2, 2.3; revising paragraph (1) of section 2.1.5.1;

b. Redesignating existing section 2.4 as section 2.5; and

c. Adding a new section 2.4, to read as follows:

2. Frequency of Testing

* * * * *

2.1 * * *

2.1.1 Calibration Error Test

Except as provided in section 2.1.1.2 of this appendix, perform the daily calibration error test of each gas monitoring system (including moisture monitoring systems consisting of wet- and dry-basis O_2 analyzers) according to the procedures in section 6.3.1 of appendix A to this part, and perform the daily calibration error test of each flow monitoring system according to the procedure in section 6.3.2 of appendix A to this part. For continuous moisture sensors, follow the manufacturer's recommended procedures for the daily calibration error check. Include the calibration procedures as part of the quality assurance program required under section 1 of this appendix.

* * * * *

2.1.3 Additional Calibration Error Tests and Calibration Adjustments

In addition to the daily calibration error tests required under section 2.1.1 of this appendix, a calibration error test of a CEMS shall be performed in accordance with section 2.1.1 of this appendix, as follows: (1) whenever a daily calibration error test is failed; (2) whenever a monitoring system is returned to service following repair or corrective maintenance that could affect the monitor's ability to accurately measure and record emissions data; and (3) after making certain calibration adjustments, as described in this section. In all cases, data from the CEMS are considered invalid until the required additional calibration error test has been successfully completed.

Routine calibration adjustments of a monitor are permitted after any successful calibration error test. These routine adjustments shall be made so as to bring the monitor readings as close as practicable to the known tag values of the calibration gases or to the actual value of the flow monitor reference signals. An additional calibration error test is required following routine calibration adjustments where the monitor's calibration has been physically adjusted (e.g., by turning a potentiometer) to verify that the adjustments have been made properly. An additional calibration error test is not required, however, if the routine calibration adjustments are made by means of a mathematical algorithm programmed into the data acquisition and handling system. The EPA recommends that routine calibration adjustments be made, at a minimum, whenever the daily calibration error exceeds the limits of the applicable performance specification in appendix A to this part for the pollutant concentration monitor, CO_2 or O_2 monitor, or flow monitor.

Additional (non-routine) calibration adjustments of a monitor are permitted, provided that an appropriate technical justification is included in the quality control program required under section 1 of this appendix. The allowable non-routine adjustments are as follows. The owner or operator may physically adjust the calibration of a monitor (e.g., by means of a potentiometer), provided that the post-adjustment zero and upscale responses of the monitor are within the performance specifications of the instrument given in section 3.1 of appendix A to this part. An additional calibration error test is required following such adjustments to verify that the monitor is operating within the performance specifications.

2.1.4 Data Validation

(a) An out-of-control period occurs when the calibration error of an SO_2 or NO_x pollutant concentration monitor exceeds 5.0 percent of the span value (or exceeds 10 ppm, for span values <200 ppm), when the calibration error of a CO_2 or O_2 monitor (including O_2 monitors used to measure CO_2 emissions or percent moisture) exceeds 1.0 percent O_2 or CO_2, or when the calibration error of a flow monitor or a moisture sensor exceeds 6.0 percent of the span value, which is twice the applicable specification of appendix A to this part. Notwithstanding, a differential pressure-type flow monitor for which the calibration error exceeds 6.0 percent of the span value shall not be considered out-of-control if $|R - A|$, the absolute value of the difference between the monitor response and the reference value in Equation A–6, is ≤0.02 inches of water. The out-of-control period begins with the hour of completion of the failed calibration error test and ends with the hour following the hour of completion of a successful calibration error test. Note, however, that if the failed calibration, corrective action, and successful calibration error test occur within the same hour, emission data for that hour recorded by the monitor after the successful calibration error test may be used for reporting purposes, provided that 2 or more valid readings are obtained as required by § 75.10. A NO_x-diluent continuous emission monitoring system is considered out-of-control if the calibration error of either component monitor exceeds twice the applicable performance specification in appendix A to this part. Emission data shall not be reported from an out-of-control monitor.

(b) An out-of-control period also occurs whenever interference of a flow monitor is identified. The out-of-control period begins with the hour of completion of the failed interference check and ends with the hour of completion of an interference check that is passed.

2.1.5 * * *

2.1.5.1 * * *

(1) Data from a monitoring system are invalid, beginning with the first hour following the expiration of a 26-hour data validation period or beginning with the first hour following the expiration of an 8-hour start-up grace period (as provided under section 2.1.5.2 of this appendix), if the required subsequent daily assessment has not been conducted.

* * * * *

2.2 Quarterly Assessments

For each primary and redundant backup continuous emission monitoring system, perform the following quarterly assessments. This requirement is effective as of the calendar quarter following the calendar quarter in which the monitor or continuous emission monitoring system is provisionally certified.

2.2.1 Linearity Check

Perform a linearity check, in accordance with the procedures in section 6.2 of appendix A to this part, for each primary and redundant backup SO_2 and NO_x pollutant concentration monitor and each primary and redundant backup CO_2 or O_2 monitor (including O_2 monitors used to measure CO_2 emissions or to continuously monitor moisture) at least once during each QA operating quarter. A QA operating quarter is a calendar quarter in which the unit operates (i.e., combusts fuel) for at least 168 hours or, for common stacks and bypass stacks, a calendar quarter in which flue gases are discharged through the stack for at least 168 hours. For units using both a low and high span value, a linearity check is required only on the range(s) used to record and report emission data during the QA operating quarter. Conduct the linearity checks no less than 30 days apart, to the extent practicable. The data validation procedures in section 2.2.3 of this appendix shall be followed.

2.2.2 Leak Check

For differential pressure flow monitors, perform a leak check of all sample lines (a manual check is acceptable) at least once during each QA operating quarter. For this test, the unit does not have to be in operation. Conduct the leak checks no less than 30 days apart, to the extent practicable. If a leak check is failed, follow the applicable data validation procedures in section 2.2.3(f) of this appendix.

2.2.3 Data Validation

(a) A routine quality assurance linearity test shall not be commenced if the monitoring system is operating out-of-control with respect to any of the daily, quarterly, or semiannual quality assurance assessments required by sections 2.1, 2.2, and 2.3 of this appendix or with respect to the additional calibration error test requirements in section 2.1.3 of this appendix.

(b) Linearity checks shall be done hands-off, as follows. No adjustments of the monitor are permitted prior to or during the linearity test period, other than the routine and non-routine calibration adjustments described in section 2.1.3 of this appendix. The non-routine adjustments are permitted only prior to the test, not during the test period.

(c) If a daily calibration error test is failed during a linearity test period, prior to completing the test, the linearity test is invalidated and must be repeated. Data from the monitor are invalidated prospectively from the hour of the failed calibration error test until the hour of completion of a subsequent successful calibration error test. The linearity test shall not be re-commenced until the monitor has successfully completed a calibration error test.

(d) An out-of-control period occurs when a linearity test is failed (i.e., when the error in linearity at any of the three concentrations in the quarterly linearity check (or any of the six concentrations, when both ranges of a single analyzer with a dual range are tested) exceeds the applicable specification in

section 3.2 of appendix A to this part) or when a linearity test is aborted due to a problem with the CEMS. For a NO_x-diluent or SO_2-diluent continuous emission monitoring system, the system is considered out-of-control if either of the component monitors exceeds the applicable specification in section 3.2 of appendix A to this part or if the linearity test of either component is aborted due to a problem with the monitor. The out-of-control period begins with the hour of the failed or aborted linearity check and ends with the hour of completion of a satisfactory linearity check following corrective action and/or monitor repair. Note that a monitor shall not be considered out-of-control when a linearity test is aborted for a reason unrelated to the monitor's performance (e.g., a forced unit outage).

(e) No more than four successive calendar quarters shall elapse after the quarter in which a linearity check of a CEMS (or range of a CEMS) was last performed without a subsequent linearity test having been conducted. If a linearity test has not been completed by the end of the fourth calendar quarter since the last linearity test, then the linearity test must be completed within a 168 unit operating hour "grace period" (as provided in section 2.2.4 of this appendix) following the end of the fourth successive elapsed calendar quarter, or data from the CEMS (or range) will become invalid.

(f) An out-of-control period also occurs when a flow monitor sample line leak is detected. The out-of-control period begins with the hour of the failed leak check and ends with the hour of a satisfactory leak check following corrective action.

(g) For each monitoring system, report the results of all completed and partial linearity tests that affect data validation (i.e., all completed, passed linearity checks; all completed, failed linearity checks; and all linearity checks aborted due to a problem with the monitor) in the quarterly report required under § 75.64. Note that linearity attempts which are aborted or invalidated due to problems with the reference calibration gases or due to operational problems with the affected unit(s) need not be reported. Such partial tests do not affect the validation status of emission data recorded by the monitor. However, a record of all linearity tests and attempts (whether reported or not) must be kept on-site as part of the official test log for each monitoring system.

2.2.4 Linearity and Leak Check Grace Period

When a required linearity test or flow monitor leak check has not been completed by the end of the QA operating quarter in which it is due or if, due to infrequent operation of a unit or infrequent use of a required high range of a CEMS, four successive calendar quarters have elapsed after the quarter in which a linearity check of a CEMS (or range) was last performed without a subsequent linearity test having been done, the owner or operator has a grace period of 168 consecutive unit operating hours in which to perform a linearity test or leak check of that CEMS (or range). The grace period begins with the first unit operating hour following the calendar quarter in which the linearity test was due. Data validation during a linearity or leak check grace period shall be done in accordance with the applicable provisions in section 2.2.3 of this appendix.

If, at the end of the 168 unit operating hour grace period, the required linearity test or leak check has not been completed, data from the monitoring system (or range) shall be invalid, beginning with the hour following the expiration of the grace period. Data from the monitoring system (or range) remain invalid until the hour of completion of a subsequent successful hands-off linearity test or leak check of the CEMS (or range). Note that when a linearity test or a leak check is conducted within a grace period for the purpose of satisfying the linearity test or leak check requirement from a previous QA operating quarter, the results of that linearity test or leak check may only be used to meet the linearity check or leak check requirement of the previous quarter, not the quarter in which the grace period is used.

2.2.5 Flow-to-Load Ratio or Gross Heat Rate Evaluation

For each installed flow rate monitoring system on each unit or common stack, the owner or operator shall evaluate the flow-to-load ratio quarterly, i.e., for each QA operating quarter, as defined in sections 2.2.1 and 2.3.1.1 of this appendix. At the end of each QA operating quarter, the owner or operator shall use Equation B–1 in this appendix to calculate the flow-to-load ratio for every hour during the quarter in which: (1) the unit (or combination of units, for a common stack) operated within ±10.0 percent of L_{avg}, the average load during the most recent normal-load flow RATA; and (2) a quality assured hourly average flow rate was obtained with a certified flow rate monitor.

$$R_h = \frac{Q_h}{L_h} \times 1000$$

(Eq. B–1)

Where:

R_h = Hourly value of the flow-to-load ratio, scfh/megawatts *or* scfh/1000 lb/hr of steam load.

Q_h = Hourly stack gas volumetric flow rate, as measured by the flow rate monitor, scfh.

L_h = Hourly unit load, megawatts or 1000 lb/hr of steam; must be within ±10.0 percent of L_{avg} during the most recent normal-load flow RATA.

In Equation B–1, the owner or operator may use either bias-adjusted flow rates or unadjusted flow rates, provided that all of the ratios are calculated the same way. For a common stack, L_h shall be the sum of the hourly operating loads of all units that discharge through the stack. For a unit that discharges its emissions through multiple stacks or monitors its emissions in multiple breechings, Qh will be the combined hourly volumetric flow rate for all of the stacks or ducts. Round off each value of R_h to 2 decimal places.

Alternatively, the owner or operator may calculate the hourly gross heat rates (GHR) in lieu of the hourly flow-to-load ratios. The hourly GHR shall be determined only for those hours in which quality assured flow rate data and diluent gas (CO_2 or O_2) concentration data are both available from a certified CEMS or reference method. If this option is selected, calculate each hourly GHR value as follows:

$$(GHR)_h = \frac{(\text{Heat Input})_h}{L_h} \times 1000$$

(Eq. B–1a)

Where:

$(GHR)_h$ = Hourly value of the gross heat rate, Btu/kwh or Btu/lb steam load.

$(\text{Heat Input})_h$ = Hourly heat input, as determined from the quality assured flow rate and diluent data, using the applicable equation in appendix F to this part, mmBtu/hr.

L_h = Hourly unit load, megawatts or 1000 lb/hr of steam; must be within ± 10.0 percent of L_{avg} during the most recent normal-load flow RATA.

In Equation B–1a, the owner or operator may either use bias-adjusted flow rates or unadjusted flow rates in the calculation of (Heat Input)h, provided that all of the heat input values are determined in the same manner.

The owner or operator shall evaluate the calculated hourly flow-to-load ratios (or gross heat rates) as follows. A separate data analysis shall be performed for each primary and each redundant backup flow rate monitor used to record and report data during the quarter. Each analysis shall be based on a minimum of 168 hours of data. When two RATA load levels are designated as normal, the analysis shall be performed at the higher load level, unless there are fewer than 168 data points available at that load level, in which case the analysis shall be performed at the lower load level. If, for a particular flow monitor, fewer than 168 hourly flow-to-load ratios (or GHR values) are available at any of the load levels designated as normal, a flow-to-load (or GHR) evaluation is not required for that monitor for that calendar quarter.

For each flow monitor, use Equation B–2 in this appendix to calculate E_h, the absolute percentage difference between each hourly R_h value and R_{ref}, the reference value of the flow-to-load ratio, as determined in accordance with section 7.7 of appendix A to this part. Note that R_{ref} shall always be based upon the most recent normal-load RATA, even if that RATA was performed in the calendar quarter being evaluated.

$$E_h = \frac{|R_{ref} - R_h|}{R_{ref}} \times 100$$

(Eq. B–2)

Where:

E_h = Absolute percentage difference between the hourly average flow-to-load ratio and the reference value of the flow-to-load ratio at normal load.

R_h = The hourly average flow-to-load ratio, for each flow rate recorded at a load level within ± 10.0 percent of L_{avg}.

R_{ref} = The reference value of the flow-to-load ratio from the most recent normal-load flow RATA, determined in accordance with section 7.7 of appendix A to this part.

Equation B–2 shall be used in a consistent manner. That is, use R_{ref} and R_h if the flow-to-load ratio is being evaluated, and use $(GHR)_{ref}$ and $(GHR)_h$ if the gross heat rate is being evaluated. Finally, calculate E_f, the arithmetic average of all of the hourly E_h values. The owner or operator shall report the results of each quarterly flow-to-load (or gross heat rate) evaluation, as determined from Equation B–2, in the electronic quarterly report required under § 75.64.

The results of a quarterly flow-to-load (or gross heat rate) evaluation are acceptable, and no further action is required, if the calculated value of E_f is less than or equal to: (i) 15.0 percent, if L_{avg} for the most recent normal-load flow RATA is ≥50 megawatts (or ≥500 klb/hr of steam) and if unadjusted flow rates were used in the calculations; (ii) 10.0 percent, if L_{avg} for the most recent normal-load flow RATA is ≥50 megawatts (or ≥500 klb/hr of steam) and if bias-adjusted flow rates were used in the calculations; (iii) 20.0 percent, if L_{avg} for the most recent normal-load flow RATA is <50 megawatts (or <500 klb/hr of steam) and if unadjusted flow rates were used in the calculations; or (iv) 15.0 percent, if L_{avg} for the most recent normal-load flow RATA is <50 megawatts (or <500 klb/hr of steam) and if bias-adjusted flow rates were used in the calculations.

If E_f is above these limits, the owner or operator shall: (a) implement Option 1 in section 2.2.5.1 of this appendix; (b) perform a RATA in accordance with Option 2 in section 2.2.5.2 of this appendix; or (c) re-examine the hourly data used for the flow-to-load or GHR analysis and recalculate E_f, after excluding all non-representative hourly flow rates.

If the owner or operator chooses to recalculate E_f, the flow rates for the following hours are considered non-representative and may be excluded from the data analysis:

(1) Any hour in which the type of fuel combusted was different from the fuel burned during the most recent normal-load RATA. For purposes of this determination, the type of fuel is different if the fuel is in a different state of matter (i.e., solid, liquid, or gas) than is the fuel burned during the RATA or if the fuel is a different classification of coal (e.g., bituminous versus sub-bituminous);

(2) Any hour in which an SO_2 scrubber was bypassed;

(3) Any hour in which "ramping" occurred, i.e., the hourly load differed by more than ±15.0 percent from the load during the preceding hour or the subsequent hour;

(4) If a normal-load flow RATA was performed and passed during the quarter being analyzed, any hour prior to completion of that RATA; and

(5) If a problem with the accuracy of the flow monitor was discovered during the quarter and was corrected (as evidenced by passing the abbreviated flow-to-load test in section 2.2.5.3 of this appendix), any hour prior to completion of the abbreviated flow-to-load test.

After identifying and excluding all non-representative hourly data in accordance with (1) through (5) above, the owner or operator may analyze the remaining data a second time. At least 168 representative hourly ratios or GHR values must be available to perform the analysis; otherwise, the flow-to-load (or GHR) analysis is not required for that monitor for that calendar quarter.

If, after re-analyzing the data, E_f meets the applicable limit in (i),(ii), (iii), or (iv), above, no further action is required. If, however, E_f is still above the applicable limit, the monitor shall be declared out-of-control, beginning with the first hour of the quarter following the quarter in which E_f exceeded the applicable limit. The owner or operator shall then either implement Option 1 in section 2.2.5.1 of this appendix or Option 2 in section 2.2.5.2 of this appendix.

2.2.5.1 Option 1

Within one week of the end of the calendar quarter for which the flow-to-load (or GHR) evaluation indicates noncompliance, investigate and troubleshoot each flow monitor for which E_f has been found to be above the applicable limit. Evaluate the results of each investigation as follows:

(a) If the investigation fails to uncover a problem with the flow monitor, a RATA shall be performed in accordance with Option 2 in section 2.2.5.2 of this appendix.

(b) If a problem with the flow monitor is identified through the investigation (including the need to re-linearize the monitor by changing the polynomial coefficients), corrective actions shall be taken. All corrective actions (e.g., non-routine maintenance, repairs, major component replacements, re-linearization of the monitor, etc.) shall be documented in the operation and maintenance records for the monitor. Data from the monitor shall remain invalid until a probationary calibration error test of the monitor is passed following completion of all corrective actions, at which point data from the monitor are conditionally valid. The owner or operator shall then either: (1) complete the abbreviated flow-to-load test in section 2.2.5.3 of this appendix; or (2) perform a 3-level recertification RATA according to the recertification test period and data validation procedures of § 75.20(b)(3), if the corrective action has affected the linearity of the flow monitor (e.g., by requiring changes to the flow monitor polynomial coefficients).

2.2.5.2 Option 2

Perform a single-load RATA (at a load designated as normal under section 6.5.2.1 of appendix A to this part) of each flow monitor for which E_f is outside of the applicable limit. Data from the monitor remain invalid until the required RATA has been successfully completed.

2.2.5.3 Abbreviated Flow-to-Load Test

The following abbreviated flow-to-load test may be performed after any documented repair, component replacement, or other corrective maintenance to a flow monitor (except for changes affecting the linearity of the flow monitor, such as adjusting the flow monitor coefficients) to demonstrate that the repair, replacement, or other maintenance has not significantly affected the monitor's ability to accurately measure the stack gas volumetric flow rate. Data from the monitoring system are considered invalid from the hour of commencement of the repair, replacement, or maintenance until the hour in which a probationary calibration error test is passed following completion of the repair, replacement, or maintenance and any associated adjustments to the monitor. The abbreviated flow-to-load test shall be completed within 168 unit operating hours of the probationary calibration error test (or, for peaking units, within 30 unit operating days, if that is less restrictive). Data from the monitor are considered to be conditionally valid (as defined in § 72.2 of this chapter), beginning with the hour of the probationary calibration error test.

Operate the unit(s) in such a way as to reproduce, as closely as practicable, the exact conditions at the time of the most recent normal-load flow RATA. To achieve this, it is recommended that the load be held constant to within ±5.0 percent of the average load during the RATA and that the diluent gas (CO_2 or O_2) concentration be maintained within ±0.5 percent CO_2 or O_2 of the average diluent concentration during the RATA. For common stacks, to the extent practicable, use the same combination of units and load levels that were used during the RATA. When the process parameters have been set, record a minimum of 6 and a maximum of 12 consecutive hourly average flow rates, using the flow monitor(s) for which E_f was outside the applicable limit. For peaking units, a minimum of 3 and a maximum of 12 consecutive hourly average flow rates are required. Also record the corresponding hourly load values and, if applicable, the hourly diluent gas concentrations. Calculate the flow-to-load ratio (or GHR) for each hour in the test hour period, using Equation B–1 or B–1a. Determine E_h for each hourly flow-to-load ratio (or GHR), using Equation B–2 of this appendix and then calculate E_f, the arithmetic average of the E_h values.

The results of the abbreviated flow-to-load test shall be considered acceptable, and no further action is required if the value of E_f does not exceed the applicable limit specified in section 2.2.5.1 of this appendix. All conditionally valid data recorded by the flow monitor shall be considered quality assured, beginning with the hour of the probationary calibration error test that preceded the abbreviated flow-to-load test. However, if E_f is outside the applicable limit, all conditionally valid data recorded by the flow monitor shall be considered invalid back to the hour of the probationary calibration error test that preceded the abbreviated flow-to-load test, and a single-load RATA is required in accordance with section 2.2.5.2 of this appendix. If the flow monitor must be re-linearized, however, a 3-load RATA is required, in accordance with the recertification test period and data validation procedures of § 75.20(b)(3).

2.3 Semiannual and Annual Assessments

For each primary and redundant backup continuous emission monitoring system, perform relative accuracy assessments either

semiannually or annually, as specified in subsection 2.3.1.1 or 2.3.1.2, below, for the type of test and the performance achieved. This requirement is effective as of the calendar quarter following the calendar quarter in which the continuous emission monitoring system is provisionally certified. A summary chart showing the frequency with which a relative accuracy test audit must be performed, depending on the accuracy achieved, is located at the end of this appendix in Figure 2.

2.3.1 Relative Accuracy Test Audit (RATA)

2.3.1.1 Standard RATA Frequencies

Except as otherwise specified in § 75.21(a)(6) or (a)(7) or in section 2.3.1.2 of this appendix, perform relative accuracy test audits semiannually, i.e., once every two successive QA operating quarters for each primary and redundant backup SO_2 pollutant concentration monitor, flow monitor, CO_2 pollutant concentration monitor (including O2 monitors used to determine CO_2 emissions), moisture monitoring system, NO_X-diluent continuous emission monitoring system, or SO_2-diluent continuous emission monitoring system used by units with a Phase I qualifying technology for the period during which the units are required to monitor SO_2 emission removal efficiency, from January 1, 1997 through December 31, 1999. A QA operating quarter is a calendar quarter in which the unit operates for at least 168 hours or, for a common stack or bypass stack, a calendar quarter in which flue gases are discharged through the stack for at least 168 hours. A calendar quarter that does not qualify as a QA operating quarter shall be excluded in determining the deadline for the next RATA. No more than eight successive calendar quarters shall elapse after the quarter in which a RATA was last performed without a subsequent RATA having been conducted. If a RATA has not been completed by the end of the eighth calendar quarter since the quarter of the last RATA, then the RATA must be completed within a 720 unit operating hour grace period (as provided in section 2.3.3 of this appendix) following the end of the eighth successive elapsed calendar quarter, or data from the CEMS will become invalid.

The relative accuracy test audit frequency of a CEMS may be reduced, as specified in subsection 2.3.1.2, below, for primary or redundant backup monitoring systems which qualify for less frequent testing. Perform all required RATAs in accordance with the applicable procedures and provisions in sections 6.5 through 6.5.2.2 of appendix A to this part and subsections 2.3.1.3 and 2.3.1.4 of this appendix.

2.3.1.2 Reduced RATA Frequencies

Relative accuracy test audits of primary and redundant backup SO_2 pollutant concentration monitors, CO_2 pollutant concentration monitors (including O2 monitors used to determine CO_2 emissions), moisture monitors, flow monitors, or NO_X-diluent or SO_2-diluent monitoring systems may be performed annually (i.e., once every four successive QA operating quarters, rather than once every two successive QA operating quarters) if any of the following conditions are met for the specific monitoring system involved: (1) the relative accuracy during the audit of an SO_2 or CO_2 pollutant concentration monitor (including an O2 pollutant monitor used to measure CO_2 using the procedures in appendix F to this part) or of a NO_X-diluent or SO_2-diluent continuous emissions monitoring system is ≤7.5 percent; (2) prior to January 1, 2000, the relative accuracy during the audit of a flow monitor is ≤10.0 percent at each operating level tested; (3) on and after January 1, 2000, the relative accuracy during the audit of a flow monitor is ≤7.5 percent at each operating level tested; (4) on low flow (≤10.0 fps) stacks/ducts, when flow monitor achieves a relative accuracy ≤7.5 percent (10.0 percent if prior to January 1, 2000) during the audit or when the monitor mean, calculated using Equation A–7 in appendix A to this part, is within ±1.5 fps of the reference method mean; (5) on low SO_2 emitting units (average SO_2 concentrations 250 ppm, or average SO_2 emission rate 0.500 lb/mmBtu for SO_2-diluent continuous emission monitoring systems), when the CEMS achieves a relative accuracy ≤7.5 percent during the audit or when the monitor mean value from the RATA is within ± 12 ppm (or 0.025 lb/mmBtu for SO_2-diluent continuous emission monitoring systems) of the reference method mean value; (6) on low NO_X emitting units (average NO_X emission rate ≤0.200 lb/mmBtu), when the NO_X continuous emission monitoring system achieves a relative accuracy ≤7.5 percent or when the monitoring system mean value from the RATA, calculated using Equation A–7 in appendix A to this part, is within ± 0.015 lb/mmBtu of the reference method mean value; (7) for a CO_2 or O2 monitor, when the mean difference between the reference method values from the RATA and the corresponding monitor values is within ±0.7 percent CO_2 or O2; and (8) when the relative accuracy of a continuous moisture monitoring system is ≤7.5 percent or when the mean difference between the reference method values from the RATA and the corresponding monitoring system values is within ±0.7 percent H2O.

2.3.1.3 RATA Load Levels

(a) For SO_2 pollutant concentration monitors, CO_2 pollutant concentration monitors (including O_2 monitors used to determine CO_2 emissions), moisture monitoring systems, and SO_2-diluent and NO_X-diluent monitoring systems, the required RATA tests shall be done at the load level designated as normal under section 6.5.2.1 of appendix A to this part. If two load levels are designated as normal, the required RATA(s) may be done at either load level.

(b) For flow monitors installed on peaking units and bypass stacks, all required relative accuracy test audits shall be single-load audits at the normal load, as defined in section 6.5.2.1 of appendix A to this part.

(c) For all other flow monitors, the RATAs shall be performed as follows. When a flow monitor qualifies for an annual RATA frequency under section 2.3.1.2 of this appendix, the annual RATA shall be done at the two most frequently used load levels, as determined under section 6.5.2.1 of appendix A to this part. The annual 2-load flow RATA may be performed alternately with a single-load flow RATA at the most frequently used (normal) load level if the flow monitor is on a semiannual RATA frequency. In addition, a single-load flow RATA, at the most frequently used load level, may be performed in lieu of the 2-load RATA if, for the four QA operating quarters prior to the quarter in which the RATA is performed, the historical load frequency distribution determined under section 6.5.2.1 of appendix A to this part shows that the unit has operated at the most frequently used load level for ≤85.0 percent of the time. Finally, a 3-load RATA, at the low-, mid-, and high-load levels, determined under section 6.5.2.1 of appendix A to this part, shall be performed at least once in every period of five consecutive calendar years, and a 3-load RATA is required whenever a flow monitor is re-linearized, i.e., when one or more of its polynomial coefficients are changed. For all multi-level flow audits, the audit points at adjacent load levels (e.g., mid and high) shall be separated by no less than 25.0 percent of the "range of operation," as defined in section 6.5.2.1 of appendix A to this part.

2.3.1.4 Number of RATA Attempts

The owner or operator may perform as many RATA attempts as are necessary to achieve the desired relative accuracy test audit frequencies and/or bias adjustment factors. However, the data validation procedures in section 2.3.2 of this appendix must be followed.

2.3.2 Data Validation

(a) A routine quality assurance RATA shall not commence if the monitoring system is operating out-of-control with respect to any of the daily and quarterly quality assurance assessments required by sections 2.1 and 2.2 of this appendix or with respect to the additional calibration error test requirements in section 2.1.3 of this appendix.

(b) All RATAs must be done hands-off, as follows. No adjustment of the monitor's calibration is permitted prior to or during the RATA test period, other than the adjustments described in section 2.1.3 of this appendix. The non-routine calibration adjustments described in section 2.1.3 of this appendix are permitted only prior to the RATA, not during the test period. For 2-level and 3-level flow monitor audits, no linearization of the monitor is permitted in-between load levels.

(c) For single-load RATAs, if a daily calibration error test is failed during a RATA test period, prior to completing the test, the RATA is invalidated and must be repeated. Data from the monitor are invalidated prospectively from the hour of the failed calibration error test until the hour of completion of a subsequent successful RATA. The subsequent RATA shall not be re-commenced until the monitor has successfully passed a calibration error test in accordance with section 2.1.3 of this appendix. For multiple-load flow RATAs, each load level is treated as a separate RATA (i.e., when a calibration error test is failed prior to completing the RATA at a particular load level, only the RATA at that load level is invalidated; the results of any previously-passed RATA(s) at the other load level(s) are unaffected).

(d) If a RATA is failed (that is, if the relative accuracy exceeds the applicable

specification in section 3.3 of appendix A to this part) or if the RATA is aborted prior to completion due to a problem with the CEMS, then all emission data from the CEMS are invalidated prospectively from the hour in which the RATA is failed or aborted. Data from the CEMS remain invalid until the hour of completion of a subsequent RATA that meets the applicable specification in section 3.3 of appendix A to this part. Note that a monitoring system shall not be considered out-of-control when a RATA is aborted for a reason other than monitoring system malfunction (see paragraph (g) of this section).

(e) For a 2-level or 3-level flow RATA, if, at any load level, a RATA is failed or aborted due to a problem with the CEMS, the RATA at that load level must be repeated. Data from the flow monitor are invalidated from the hour in which the test is failed or aborted and remain invalid until the successful completion of a RATA at the failed load level. RATA(s) that were previously passed at the other load level(s) do not have to be repeated unless the flow monitor must be re-linearized following the failed or aborted test. If the monitor is re-linearized, a subsequent 3-load RATA is required.

(f) For a CO_2 pollutant concentration monitor (or an O_2 monitor used to measure CO_2 emissions) which also serves as the diluent component in a NO_X-diluent (or SO_2-diluent) monitoring system, if the CO_2 (or O_2) RATA is failed, then both the CO_2 (or O_2) monitor and the associated NO_X-diluent (or SO_2-diluent) system are considered out-of-control until the hour of completion of subsequent hands-off RATAs which demonstrate that both systems have met the applicable relative accuracy specifications in sections 3.3.2 and 3.3.3 of appendix A to this part. The out-of-control period for each monitoring system begins with the hour of completion of the failed CO_2 (or O_2) monitor RATA.

(g) For each monitoring system, report the results of all completed and partial RATAs that affect data validation (i.e., all completed, passed RATAs; all completed, failed RATA; and all RATAs aborted due to a problem with the CEMS) in the quarterly report required under § 75.64. Note that RATA attempts that are aborted or invalidated due to problems with the reference method or due to operational problems with the affected unit(s) need not be reported. Such runs do not affect the validation status of emission data recorded by the CEMS. In addition, aborted RATA attempts that are part of the process of optimizing a monitoring system's performance do not have to be reported, provided that, in the period extending from the hour in which the test is aborted to the hour of commencement of the next RATA attempt: (1) no corrective maintenance or reprogramming of the monitoring system is done; and (2) only the calibration adjustments allowed under section 2.1.3 of this appendix are made. However, a record of all RATAs and RATA attempts (whether reported or not) must be kept on-site as part of the official test log for each monitoring system.

(h) Each time that a hands-off RATA of an SO_2 pollutant concentration monitor, a NO_X-diluent monitoring system, or a flow monitor is successfully completed, perform a bias test in accordance with section 7.6.4 of appendix A to this part. Apply the appropriate bias adjustment factor to the reported SO_2, NO_X, or flow rate data, in accordance with section 7.6.5 of appendix A to this part.

(i) Failure of the bias test does not result in the monitoring system being out-of-control.

2.3.3 RATA Grace Period

The owner or operator has a grace period of 720 consecutive unit operating hours in which to complete the required RATA for a particular CEMS, whenever: (a) a required RATA has not been performed by the end of the QA operating quarter in which it is due; (b) five consecutive calendar years have elapsed without a required 3-load flow RATA having been conducted; (c) an SO_2 RATA has not been completed by the end of the calendar quarter in which the annual usage of fuel(s) with a total sulfur content greater than the total sulfur content of natural gas exceeds 480 hours, for a unit which is conditionally exempted under § 75.21(a)(7) from the SO_2 RATA requirements of this part; or (d) eight successive calendar quarters have elapsed, following the quarter in which a RATA was last performed, without a subsequent RATA having been done, due to: (1) infrequent operation of the unit(s); (2) frequent combustion of fuel(s) with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤0.05 percent sulfur by weight) (SO_2 monitors, only); or (3) a combination of factors (1) and (2).

Except for SO_2 monitoring system RATAs, the grace period shall begin with the first unit operating hour following the calendar quarter in which the required RATA was due. For SO_2 monitor RATAs, the grace period shall begin with the first unit operating hour in which fuel with a total sulfur content greater than the total sulfur content of natural gas (i.e., >0.05 percent sulfur by weight) is burned in the unit(s), following the quarter in which the required RATA is due. Data validation during a RATA grace period shall be done in accordance with the applicable provisions in section 2.3.2 of this appendix.

If, at the end of the 720 unit operating hour grace period, the RATA has not been completed, data from the monitoring system shall be invalid, beginning with the first unit operating hour following the expiration of the grace period. Data from the CEMS remain invalid until the hour of completion of a subsequent hands-off RATA. Note that when a RATA (or RATAs, if more than one attempt is made) is done during a grace period in order to satisfy a RATA requirement from a previous quarter (i.e., for reasons (a), (b), or (d) in this section), the deadline for the next RATA shall be determined from the quarter in which the RATA was due, not from the quarter in which the grace period is used.

2.3.4 Bias Adjustment Factor

Except as otherwise specified in section 7.6.5 of appendix A to this part, if an SO_2 pollutant concentration monitor, flow monitor, or NO_X continuous emission monitoring system fails the bias test specified in section 7.6 of appendix A to this part, use the bias adjustment factor given in Equations A–11 and A–12 of appendix A to this part to adjust the monitored data.

2.4 Recertification, Quality Assurance, and RATA Deadlines

When a significant change is made to a monitoring system such that recertification of the monitoring system is required in accordance with § 75.20(b), a recertification test (or tests) must be performed to ensure that the CEMS continues to generate valid data. In many instances, a required recertification test is the same type of test as one of the routine, periodic quality assurance tests required by this appendix (e.g., a linearity test or a RATA). When this occurs, the recertification test may be used to satisfy the quality assurance test requirement of this appendix. For example, if, for a particular change made to a CEMS, one of the required recertification tests is a linearity check and the linearity test is successful, then, unless another recertification event occurs in that same QA operating quarter, it would not be necessary to perform a subsequent linearity test of the CEMS in that quarter. For this reason, EPA recommends that owners or operators coordinate component replacements, system upgrades, and other events that may require recertification, to the extent practicable, with the periodic quality assurance testing required by this appendix. When a quality assurance test is done for the dual purpose of recertification and routine quality assurance, the applicable data validation procedures in § 75.20(b)(3) shall be followed in lieu of the procedures in this appendix.

Except as provided in section 2.3.3 of this appendix, whenever a successful RATA of a gas monitor or a successful 2-load or 3-load RATA of a flow monitor is performed (irrespective of whether the RATA is done to satisfy a recertification requirement or to meet the quality assurance requirements of this appendix, or both), the deadline for the next RATA shall be established based upon the date and time of completion of the RATA and the relative accuracy percentage obtained. For 2-load and 3-load flow RATAs, use the highest percentage relative accuracy at any of the loads to determine the deadline for the next RATA. The results of a single-load flow RATA may be used to establish a RATA deadline when: (1) the single-load flow RATA is specifically required under section 2.3.1.3(b) of this appendix (for flow monitors installed on peaking units and bypass stacks); or (2) the single-load RATA is allowed for a unit that has operated at the most frequently used load level for ≥85.0 percent of the time, under section 2.3.1.3(c) of this appendix. No other single-load flow RATA may be used to establish an annual RATA frequency; however, a 2-load flow RATA may be performed in place of any required single-load RATA, in order to establish an annual RATA frequency.

2.5 Other Audits

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61. Figures 1 and 2 at the end of appendix B are revised to read as follows:

FIGURE 1.—QUALITY ASSURANCE TEST REQUIREMENTS

Test	QA test frequency requirements		
	Daily*	Quarterly*	Semiannual*
Calibration Error (2 pt.)	✔		
Interference (flow)	✔		
Flow-to-Load Ratio		✔	
Leak Check (DP flow monitors)		✔	
Linearity (3 pt.)		✔	
RATA (SO_2, NO_X, CO_2, percent H_2O) [1]		✔	
RATA (flow) [1,2]			✔

*For monitors on bypass stack/duct, "daily" means bypass operating days, only. "Quarterly" means once every QA operating quarter. "Semiannual" means once every two QA operating quarters.

[1] Conduct RATA annually (i.e., once every four QA operating quarters), if monitor meets accuracy requirements to qualify for less frequent testing.

[2] For flow monitors installed on peaking units and bypass stacks, conduct all RATAs at a single, normal load. For other flow monitors, conduct RATAs at the two most frequently used loads. Alternating single-load and 2-load RATAs may be done if a monitor is on a semiannual frequency. A single-load RATA may be done in lieu of a 2-load RATA if, in the past four QA operating quarters, the unit has operated at one load level for ≥ 85.0 percent of the time. A 3-load RATA is required at least once in every period of five consecutive calendar years and whenever a flow monitor is re-linearized.

FIGURE 2.—RELATIVE ACCURACY TEST FREQUENCY INCENTIVE SYSTEM

RATA	Semiannual[1] (percent)	Annual[1]
SO_2	7.5% < RA ≤ 10.0% or ± 15.0 ppm [2]	RA ≤ 7.5.% or ± 12.0 ppm [2]
SO_2/diluent	7.5% < RA ≤ 10.0% or ± 0.030 lb/mmBtu [2]	RA ≤ 7.5% or ± 0.025 lb/mmBtu [2]
NO_X/diluent	7.5% < RA ≤ 10.0% or ± 0.020 lb/mmBtu [2]	RA ≤ 7.5% or ±0.015 lb/mmBtu [2]
Flow (Phase I)	10.0% < RA ≤ 15.0% or ± 1.5 fps [2]	RA ≤ 10.0%
Flow (Phase II)	7.5% < RA ≤ 10.0% or ± 1.5 fps [2]	RA ≤ 7.5%
CO_2/O_2	7.5% < RA ≤ 10.0% or ± 1.0% CO_2/O_2 [2]	RA ≤ 7.5% or ± 0.7% CO_2/O_2 [2]
Moisture	7.5% < RA ≤ 10.0% or ± 1.0% H_2O_2	RA ≤ 7.5% or ± 0.7% H_2O_2

[1] The deadline for the next RATA is the end of the second (if semiannual) or fourth (if annual) successive QA operating quarter following the quarter in which the CEMS was last tested. Exclude calendar quarters in which the unit operates for < 168 hours (or, for common stacks and bypass stacks, exclude quarters in which gases discharge through the stack for < 168 hours) in determining the RATA deadline. For SO_2 monitors, QA operating quarters in which only fuel with a total sulfur content no greater than the total sulfur content of natural gas (i.e., ≤ 0.05 percent sulfur by weight) is combusted may also be excluded. However, the exclusion of calendar quarters is limited as follows: the deadline for the next RATA shall be no more than 8 calendar quarters after the quarter in which a RATA was last performed.

[2] The difference between monitor and reference method mean values applies to moisture monitors, CO_2, and O_2 monitors, low emitters, or low flow, only.

62. Section 2 of appendix C to part 75 is amended by revising sections 2.1 and 2.2.1 and by revising Table C–1 to read as follows:

Appendix C to Part 75—Missing Data Estimation Procedures

* * * * *

2. Load-Based Procedure for Missing Flow Rate and NO_X Emission Rate Data

2.1 Applicability

This procedure is applicable for data from all affected units for use in accordance with the provisions of this part to provide substitute data for volumetric flow rate (scfh) and NO_X emission rate (in lb/mmBtu).

2.2 * * *

2.2.1 For a single unit, establish 10 operating load ranges defined in terms of percent of the maximum hourly average gross load of the unit, in gross megawatts (MWge), as shown in Table C–1. (Do not use integrated hourly gross load in MW-hr.) For units sharing a common stack monitored with a single flow monitor, the load ranges for flow (but not for NO_X) may be broken down into 20 operating load ranges in increments of 5.0 percent of the combined maximum hourly average gross load of all units utilizing the common stack. If this option is selected, the twentieth (uppermost) operating load range shall include all values greater than 95.0 percent of the maximum hourly average gross load. For a cogenerating unit or other unit at which some portion of the heat input is not used to produce electricity or for a unit for which hourly average gross load in MWge is not recorded separately, use the hourly gross steam load of the unit, in pounds of steam per hour at the measured temperature (°F) and pressure (psia) instead of MWge. Indicate a change in the number of load ranges or the units of loads to be used in the precertification section of the monitoring plan.

TABLE C–1.—DEFINITION OF OPERATING LOAD RANGES FOR LOAD-BASED SUBSTITUTION DATA PROCEDURES

Operating load range	Hourly gross load*
1	0–10
2	>10–20
3	>20–30
4	>30–40
5	>40–50
6	>50–60
7	>60–70
8	>70–80
9	>80–90
10	>90

*Percent of maximum hourly gross load or maximum hourly gross steam load (percent).

* * * * *

63. Section 1 of appendix D to part 75 is amended by revising section 1.1 to read as follows:

Appendix D to Part 75—Optional SO_2 Emissions Data Protocol for Gas-Fired and Oil-Fired Units

1. Applicability

1.1 This protocol may be used in lieu of continuous SO_2 pollutant concentration and flow monitors for the purpose of determining hourly SO_2 emissions and heat input from:

(1) gas-fired units, as defined in § 72.2 of this chapter; or (2) oil-fired units, as defined in § 72.2 of this chapter. This optional SO_2 emissions data protocol contains procedures for conducting oil sampling and analysis in section 2.2 of this appendix; the procedures for oil sampling may be used for any gas-fired unit or oil-fired unit. In addition, this optional SO_2 emissions data protocol contains three procedures for determining SO_2 emissions due to the combustion of gaseous fuels having a total sulfur content no greater than 20 grains per 100 standard cubic foot.

* * * * *

64. Section 2 of appendix D to part 75 is amended by:

a. Revising section 2.1 *Flowmeter Measurements*;

b. Revising sections 2.2, 2.2.1, 2.2.3, 2.2.4, 2.2.6, and 2.2.8; and removing and reserving section 2.2.2;

c. Revising sections 2.3, 2.3.1, 2.3.1.3, 2.3.2; redesignating section 2.3.1.4 as 2.3.1.4.1 and revising it; and adding sections 2.3.1.4.1, 2.3.1.4.2, 2.3.1.4.3, and 2.3.3; and

d. Revising section 2.4.1; removing section 2.4.2; redesignating sections 2.4.3, 2.4.3.1, 2.4.3.2, and 2.4.3.3 as 2.4.2, 2.4.2.1, 2.4.2.2, and 2.4.2.3, respectively; revising newly designated sections 2.4.2, 2.4.2.1, and 2.4.2.3; and redesignating section 2.4.4 as 2.4.3.

2. Procedure

2.1 Flowmeter Measurements

For each hour when the unit is combusting fuel, measure and record the flow rate of fuel combusted by the unit, except as provided for gas in section 2.1.4.1 of this appendix. Measure the flow rate of fuel with an in-line fuel flowmeter, and automatically record the data with a data acquisition and handling system, except as provided in section 2.1.4 of this appendix.

2.1.1 Measure the flow rate of each fuel entering and being combusted by the unit. If a portion of the flow greater than 5.0 percent of the annual average flow rate from the main pipe is diverted from the unit without being burned and that diversion occurs downstream of the fuel flowmeter, an additional in-line fuel flowmeter is required to account for the unburned fuel. In this case, record the flow rate of each fuel combusted by the unit as the difference between the flow measured in the pipe leading to the unit and the flow in the pipe diverting fuel away from the unit. The hourly average proportion of flow rate from the pipe diverting fuel away from the unit to total fuel usage by the unit may be determined by using fuel usage data from fuel flowmeters in a previous year or by using a method approved by the Administrator under the provisions of § 75.66(i).

2.1.2 Install and use fuel flowmeters meeting the requirements of this appendix in a pipe going to each unit, or install and use a fuel flowmeter in a common pipe header (i.e., a pipe carrying fuel for multiple units). However, the use of a fuel flowmeter in a common pipe header and the provisions of sections 2.1.2.1 and 2.1.2.2 of this appendix are not applicable to any unit that is using the provisions of subpart H of this part to monitor, record, and report NO_X mass emissions under a state or federal NO_X mass emission reduction program. For all other units, if the fuel flowmeter is installed in a common pipe header, do one of the following:

2.1.2.1 Measure the fuel flow rate in the common pipe, and combine SO_2 mass emissions for the affected units for recordkeeping and compliance purposes; or

2.1.2.2 Provide information satisfactory to the Administrator on methods for apportioning SO_2 mass emissions and heat input to each of the affected units demonstrating that the method ensures complete and accurate accounting of the actual emissions from each of the affected units included in the apportionment and all emissions regulated under this part. The information shall be provided to the Administrator through a petition submitted by the designated representative under § 75.66. Satisfactory information includes apportionment, using fuel flow measurements, the ratio of hourly integrated gross load (in MWe-hr) in each unit to the total load for all units receiving fuel from the common pipe header, or the ratio of hourly steam flow (in 1000 lb) at each unit to the total steam flow for all units receiving fuel from the common pipe header, and documentation that shows the provisions of sections 2.1.5 and 2.1.6 of this appendix have been met for the fuel flowmeter used in the apportionment.

2.1.3 For a gas-fired unit or an oil-fired unit that continuously or frequently combusts a supplemental fuel for flame stabilization or safety purposes, measure the flow rate of the supplemental fuel with a fuel flowmeter meeting the requirements of this appendix.

2.1.4 Situations in Which Certified Flowmeter Is Not Required

2.1.4.1 Start-up or Ignition Fuel

For an oil-fired unit that uses gas solely for start-up or burner ignition or a gas-fired unit that uses oil solely for start-up or burner ignition, a flowmeter for the start-up fuel is not required. Estimate the volume of oil combusted for each start-up or ignition either by using a fuel flowmeter or by using the dimensions of the storage container and measuring the depth of the fuel in the storage container before and after each start-up or ignition. A fuel flowmeter used solely for start-up or ignition fuel is not subject to the calibration requirements of sections 2.1.5 and 2.1.6 of this appendix. Gas combusted solely for start-up or burner ignition does not need to be measured separately.

2.1.4.2 Gas Flowmeter Used for Commercial Billing

A gas flowmeter used for commercial billing of pipeline natural gas may be used to measure, record, and report hourly fuel flow rate. A gas flowmeter used for commercial billing of pipeline natural gas is not required to meet the certification requirements of section 2.1.5 of this appendix or the quality assurance requirements of section 2.1.6 of this appendix under the following circumstances: (1) the gas flowmeter is used for commercial billing under a contract, provided that the company providing the gas under the contract and each unit combusting the gas do not have any common owners and are not owned by subsidiaries or affiliates of the same company; (2) the designated representative reports hourly records of gas flow rate, heat input rate, and emissions due to combustion of pipeline natural gas; (3) the designated representative also reports hourly records of heat input rate for each unit, if the gas flowmeter is on a common pipe header, consistent with section 2.1.2 of this appendix; (4) the designated representative reports hourly records directly from the gas flowmeter used for commercial billing if these records are the values used, without adjustment, for commercial billing, or reports hourly records using the missing data procedures of section 2.4 of this appendix if these records are not the values used, without adjustment, for commercial billing; and (5) the designated representative identifies the gas flowmeter in the unit's monitoring plan.

2.1.5 For the purposes of initial certification, each fuel flowmeter used to meet the requirements of this protocol shall meet a flowmeter accuracy of ± 2.0 percent of the upper range value (i.e, maximum calibrated fuel flow rate) across the range of fuel flow rate to be measured at the unit. Flowmeter accuracy may be determined under section 2.1.5.1 of this appendix for initial certification either by design or by measurement under laboratory conditions by the manufacturer, by an independent laboratory, or by the owner or operator, or may be determined under section 2.1.5.2 of this appendix by measurement against a NIST traceable reference method.

2.1.5.1 Use the procedures in the following standards to verify flowmeter accuracy or design, as appropriate to the type of flowmeter: ASME MFC–3M–1989 with September 1990 Errata ("Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi"); ASME MFC–4M–1986 (Reaffirmed 1990), "Measurement of Gas Flow by Turbine Meters"; American Gas Association Report No. 3, "Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids Part 1: General Equations and Uncertainty Guidelines" (October 1990 Edition), Part 2: "Specification and Installation Requirements" (February 1991 Edition), and Part 3: "Natural Gas Applications" (August 1992 edition) (excluding the modified flow-calculation method in Part 3); Section 8, Calibration from American Gas Association Transmission Measurement Committee Report No. 7: Measurement of Gas by Turbine Meters (1985 Edition); ASME MFC–5M–1985 ("Measurement of Liquid Flow in Closed Conduits Using Transit-Time Ultrasonic Flowmeters"); ASME MFC–6M–1987 with June 1987 Errata ("Measurement of Fluid Flow in Pipes Using Vortex Flow Meters"); ASME MFC–7M–1987 (Reaffirmed 1992), "Measurement of Gas Flow by Means of Critical Flow Venturi Nozzles"; ISO 8316: 1987(E) "Measurement of Liquid Flow in Closed Conduits—Method by Collection of

the Liquid in a Volumetric Tank"; American Petroleum Institute (API) Section 2, "Conventional Pipe Provers," from Chapter 4 of the Manual of Petroleum Measurement Standards, October 1988 (Reaffirmed 1993); or MFC–9M–1988 with December 1989 Errata ("Measurement of Liquid Flow in Closed Conduits by Weighing Method") for all other flowmeter types (incorporated by reference under § 75.6). The Administrator may also approve other procedures that use equipment traceable to National Institute of Standards and Technology standards. Document such procedures, the equipment used, and the accuracy of the procedures in the monitoring plan for the unit, and submit a petition signed by the designated representative under § 75.66(c). If the flowmeter accuracy exceeds ±2.0 percent of the upper range value, the flowmeter does not qualify for use under this part.

2.1.5.2 Alternatively, determine the flowmeter accuracy of a fuel flowmeter used for the purposes of this part by comparing it to the measured flow from a reference flowmeter which has been either designed according to the specifications of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix, or tested for accuracy during the previous 365 days, using a standard listed in section 2.1.5.1 of this appendix or other procedure approved by the Administrator under § 75.66 (all standards incorporated by reference under § 75.6). Any secondary elements, such as pressure and temperature transmitters, must be calibrated immediately prior to the comparison. Perform the comparison over a period of no more than seven consecutive unit operating days. Compare the average of three fuel flow rate readings over 20 minutes or longer for each meter at each of three different flow rate levels. The three flow rate levels shall correspond to: (1) normal full unit operating load, (2) normal minimum unit operating load, and (3) a load point approximately equally spaced between the full and minimum unit operating loads. Calculate the flowmeter accuracy at each of the three flow levels using the following equation:

$$ACC = \frac{|R - A|}{URV} \times 100$$

(Eq. D–1)

Where:

ACC = Flowmeter accuracy as a percentage of the upper range value, including all error from all parts of both flowmeters.

R = Average of the three flow measurements of the reference flowmeter.

A = Average of the three measurements of the flowmeter being tested.

URV = Upper range value of fuel flowmeter being tested (i.e. maximum measurable flow).

Notwithstanding the requirement for calibration of the reference flowmeter within 365 days prior to an accuracy test, when an in-place reference meter or prover is used, the reference meter calibration requirement may be waived if, during the previous in-place accuracy test with that reference meter, the reference flowmeter and the flowmeter being tested agreed to within ± 1.0 percent of each other at all levels tested. This exception to calibration and flowmeter accuracy testing requirements for the reference flowmeter shall apply for periods of no longer than five consecutive years (i.e., 20 consecutive calendar quarters).

2.1.5.3 If the flowmeter accuracy exceeds the specification in section 2.1.5 of this appendix, the flowmeter does not qualify for use for this appendix. Either recalibrate the flowmeter until the flowmeter accuracy is within the performance specification, or replace the flowmeter with another one that is demonstrated to meet the performance specification. Substitute for fuel flow rate using the missing data procedures in section 2.4.2 of this appendix until quality assured fuel flow data become available.

2.1.5.4 For purposes of initial certification, when a flowmeter is tested against a reference fuel flow rate (i.e., fuel flow rate from another fuel flowmeter under section 2.1.5.2 of this appendix or flow rate from a procedure according to a standard incorporated by reference under section 2.1.5.1 of this appendix), report the results of flowmeter accuracy tests using Table D–1 below.

TABLE D–1.—TABLE OF FLOWMETER ACCURACY RESULTS

Measurement level (percent of URV)	Run No.	Time of run (HHMM)	Candidate flowmeter reading	Reference flow reading	Percent accuracy (percent of URV)
Test number:__ Test completion date [1]:__ Test completion time [1]: __					
Reinstallation date [2] (for testing under 2.1.5.1 only):__ Reinstallation time [2]:__					
Unit or pipe ID: Component/System ID :					
Flowmeter serial number: Upper range value:					
Units of measure for flowmeter and reference flow readings:					
Low (Minimum) level	1				
__ percent [3] of URV	2				
	3				
	Average				
Mid-level	1				
__ percent [3] of URV	2				
	3				
	Average				
High (Maximum) level	1				
__ percent [3] of URV	2				
	3				
	Average				

[1] Report the date, hour, and minute that all test runs were completed.
[2] For laboratory tests not performed inline, report the date, hour, and minute that the fuel flowmeter was reinstalled following the test.
[3] It is required to test at least at three different levels, from minimum to maximum.

2.1.6 Quality Assurance

Test the accuracy of each fuel flowmeter prior to use under this part and at least once every four fuel flowmeter QA operating quarters thereafter. A "fuel flowmeter QA operating quarter" is a unit operating quarter in which the unit combusts the fuel measured by the fuel flowmeter for more than 168 hours. Notwithstanding these requirements, no more than 20 successive calendar quarters shall elapse after the quarter in which a fuel flowmeter was last tested for accuracy without a subsequent flowmeter accuracy test having been conducted. Test the flowmeter accuracy more frequently if required by manufacturer specifications.

Except for orifice-, nozzle-, and venturi-type flowmeters, perform the required flowmeter accuracy testing using the procedures in either section 2.1.5.1 or section 2.1.5.2 of this appendix. Each fuel flowmeter

must meet the accuracy specification in section 2.1.5 of this appendix.

For orifice-, nozzle-, and venturi-type flowmeters (that are designed according to the specifications of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix (both standards incorporated by reference under § 75.6) or that have satisfied the initial certification test requirement by meeting an accuracy of 2.0 percent of the upper range value or less by comparison with another fuel flowmeter, following the procedures of section 2.1.5.2 of this appendix), perform a transmitter accuracy test once every four flowmeter QA operating quarters and a primary element visual inspection once every 12 calendar quarters, according to the procedures in sections 2.1.6.1 through 2.1.6.6 of this appendix for periodic quality assurance.

Notwithstanding the requirements of this section, if the procedures of section 2.1.7 of this appendix are performed during each fuel flowmeter QA operating quarter, subsequent to a required flowmeter accuracy test or transmitter accuracy test and primary element inspection, where applicable, those procedures may be used to meet the requirement for periodic quality assurance testing for a period of up to 20 calendar quarters from the previous accuracy test or transmitter accuracy test and primary element inspection, where applicable.

2.1.6.1 Transmitter or Transducer Accuracy Test for Orifice-, Nozzle-, and Venturi-Type Flowmeters

Calibrate the differential pressure transmitter or transducer, static pressure transmitter or transducer, and temperature transmitter or transducer, as applicable, using equipment that has a current certificate of traceability to NIST standards. Check the calibration of each transmitter or transducer by comparing its readings to that of the NIST traceable equipment at least once at each of the following levels: the zero-level and at least two other levels across the range of readings on the transmitter or transducer corresponding to normal unit operation. Determine either the accuracy of each individual transmitter or transducer of the orifice-, nozzle-, or venturi-type flowmeter according to section 2.1.6.2 of this appendix, or determine the accuracy of the entire orifice-, nozzle-, or venturi-type flowmeter according to section 2.1.6.3 of this appendix.

2.1.6.2 Transmitter or Transducer Accuracy Calculation

Calculate the flowmeter accuracy at each level across the range of readings on the transmitter or transducer corresponding to normal unit operation by using the following equation:

$$ACC = \frac{|R - T|}{FS} \times 100$$

(Eq. D–1a)

Where:

ACC=Accuracy of the transmitter or transducer as a percentage of full-scale.

R=Reading of the NIST-traceable reference value (in milliamperes, inches of water, psi, or degrees).

T=Reading of the transmitter or transducer being tested (in milliamperes, inches of water, psi, or degrees, consistent with the units of measure of the NIST-traceable reference value).

FS = Full-scale range of the transmitter or transducer being tested.

2.1.6.3 Total Flowmeter Accuracy Calculation

Use the transmitter or transducer accuracy calculated from Equation D–1a to determine if each individual transmitter or transducer meets an accuracy of ± 1.0 percent of its full-scale range at each level. If one or more of the transmitters or transducers does not meet this accuracy at each level, then either: (1) follow the data validation procedures in section 2.1.6.5 of this appendix, or (2) determine the total flowmeter accuracy at each level, i.e. error in the volumetric flow rate, including all transmitters or transducers and the primary element, using the following equation:

$$\frac{dq_v}{q_v} = \left(K^2 + \left[\frac{-dP_f}{2P_f} \right]^2 + \left[\frac{d\Delta P}{2\Delta P} \right]^2 + \left[\frac{dT_f}{2T_f} \right] \right)^{1/2}$$

(Eq. D–1b)

Where:

dq_v/q_v=Error in the volumetric flow rate due to transmitter drift at a given level.

K=Original error resulting from installation of orifice (including all other variables). For an orifice-, nozzle-, or venturi-type flowmeter that was originally installed to the specifications of AGA Report No. 3 or ASME MFC–3M, as cited in section 2.1.5.1 of this appendix, an assumed value of 1.0 percent of the upper range value may be used for "K" if original error data or dimensional information from installation of the meter or other information on total installation error are not available.

dP_f=Average difference between static pressure transmitter reading(s) and reference static pressure reading(s) at a given level.

P_f=Average reference static pressure reading at a given level.

$d\Delta P$=Average difference between differential pressure transmitter reading(s) and reference differential pressure reading(s) at a given level.

ΔP = Average reference differential pressure reading at a given level.

dT_f=Average difference between temperature transmitter reading(s) and reference temperature reading(s) at a given level.

T_f=Average reference temperature reading at a given level.

Note: For gases, overall flow rate is directly related to pressure and is inversely related to temperature. Therefore, when performing this test on a gas fuel flowmeter, it is recommended that readings be entered into the equation at the following levels:

TABLE D–2—RECOMMENDED LEVELS FOR USING TRANSMITTER TEST RESULTS TO CALCULATE OVERALL GAS FLOWMETER ACCURACY

Level of total flow calculation	Level of static pressure reading	Level of differential pressure reading	Level of temperature reading
Low	Low	Low	High.
Mid	Mid	Mid	Mid.
High	High	High	Low.

If the overall flowmeter accuracy at each flow rate level is less than or equal to ± 2.0 percent of the upper range value of the fuel flowmeter, then the fuel flow rate data remain valid, and the data invalidation procedures of section 2.1.6.5 of this appendix are not required. If the overall flowmeter accuracy at any flow rate level is greater than ± 2.0 percent of the upper range value of the

fuel flowmeter, then data from the fuel flowmeter are considered invalid, beginning with the date and hour of a failed accuracy test and continuing until the date and hour of a successful accuracy test for all transmitters or transducers; during the period when data from the fuel flowmeter are considered invalid, provide data from another fuel flowmeter that meets the requirements of § 75.20(d) and section 2.1.5 of this appendix, or substitute for fuel flow rate using the missing data procedures in section 2.4.2 of this appendix.

2.1.6.4 Recordkeeping and Reporting of Transmitter or Transducer Accuracy Results

Record the accuracy of the orifice, nozzle, or venturi meter or its individual transmitters or transducers and keep this information in a file at the site or other location suitable for inspection. When testing individual orifice, nozzle, or venturi meter transmitters or transducers for accuracy, include the information displayed in Table D–3 below. At a minimum, record results for each transmitter or transducer at the zero-level and at least two other levels across the range of the transmitter or transducer readings that correspond to normal unit operation.

TABLE D–3.—TABLE OF FLOWMETER TRANSMITTER OR TRANSDUCER ACCURACY RESULTS

Measurement level (percent of full-scale)	Run number (if multiple runs) [2]	Run time (HHMM)	Transmitter/ Transducer input (pre-calibration)	Expected transmitter/ transducer output (reference)	Actual transmitter/ transducer output [3]	Percent accuracy (percent of full-scale)
Test number: __ Test completion date: __ Unit or pipe ID: __						
Flowmeter serial number: Component/System ID:						
Full-scale value: Units of measure [3]:						
Transducer/Transmitter Type (check one): __ Differential Pressure __ Static Pressure __ Temperature						
Low (Minimum) level. __ percent [1] of full-scale.						
Mid-level. __ percent [1] of full-scale. (If tested at more than 3 levels).						
2nd Mid-level. __ percent [1] of full-scale. (If tested at more than 3 levels).						
High (Maximum) level. __ percent [1] of full-scale.						

[1] At a minimum, it is required to test at zero-level and at least two other levels across the range of the transmitter or transducer readings corresponding to normal unit operation.
[2] It is required to test at least once at each level.
[3] Use the same units of measure for all readings (e.g., use degrees (°), inches of water (in H_2O), pounds per square inch (psi), or milliamperes (ma) for both transmitter or transducer readings and reference readings).

In addition, when testing the whole orifice, nozzle, or venturi meter for accuracy, record the information displayed in Table D–1 above. At a minimum, record the overall flowmeter accuracy results for the entire fuel flowmeter at the zero-level and at least two other levels across the range of normal unit operation.

Report the final result of the accuracy test (pass or fail) for the combination of all transmitters or transducers of the orifice, nozzle or venturi meter in the emissions report of the quarter in which the accuracy is determined, using the electronic format specified by the Administrator under § 75.64.

2.1.6.5 Failure of Transducer or Transmitter

Except as provided in section 2.1.6.3 of this appendix, if the accuracy during a calibration or test of an individual transmitter or transducer is greater than ±1.0 percent of the full-scale range for that transmitter or transducer at any level or if the individual transmitter or transducer fails to operate properly, recalibrate the transmitter or transducer or replace the transmitter or transducer with another one until the transmitter or transducer accuracy is less than or equal to ±1.0 percent of the full-scale range for that transmitter or transducer, consistent with sections 2.1.6.1 and 2.1.6.2 of this appendix. Data from the fuel flowmeter are considered invalid, beginning with the date and hour of a failed accuracy test (or a failure to operate properly) for any transmitter or transducer and continuing until the date and hour of an accuracy test for all transmitters or transducers in which all transmitters or transducers meet an accuracy of ±1.0 percent of the full-scale range for that transducer or transmitter. During this period, provide data from another fuel flowmeter that meets the requirements of § 75.20(d) and section 2.1.5 of this appendix, or substitute for fuel flow rate using the missing data procedures in section 2.4.2 of this appendix. Record and report test data and results, consistent with section 2.1.6.4 of this appendix and § 75.56 or § 75.59, as applicable.

2.1.6.6 Primary Element Inspection

Conduct a visual inspection of the orifice, nozzle, or venturi at least once every twelve calendar quarters. Notwithstanding this requirement, the procedures of section 2.1.7 of this appendix may be used to reduce the inspection frequency of the orifice, nozzle, or venturi to at least once every twenty calendar quarters. The inspection may be performed using a boroscope. If the visual inspection indicates that the orifice, nozzle, or venturi has become damaged or corroded, then: (1) replace the primary element with another primary element meeting the requirements of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix (both standards incorporated by reference under § 75.6); (2) replace the primary element with another primary element, and demonstrate that the overall flowmeter accuracy meets the accuracy specification in section 2.1.5 of this appendix under the procedures of section 2.1.5.2 of this appendix; or (3) restore the damaged or corroded primary element to "as new" condition; determine the overall accuracy of the flowmeter, using either the specifications of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix (both standards incorporated by reference under § 75.6); and retest the transmitters or transducers prior to providing quality assured data from the flowmeter. If the primary element size is changed, calibrate the transmitter or transducers consistent with the new primary element size. Data from the fuel flowmeter are considered invalid, beginning with the date and hour of a failed visual inspection and continuing until the date and hour when: (1) the damaged or corroded primary element is replaced with another primary element meeting the requirements of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix (both standards incorporated by reference under § 75.6); (2) the damaged or corroded primary element is replaced, and the overall accuracy of the flowmeter is demonstrated to meet the accuracy specification in section 2.1.5 of this

appendix under the procedures of section 2.1.5.2 of this appendix; or (3) the restored primary element is installed to meet the requirements of American Gas Association Report No. 3 or ASME MFC–3M–1989, as cited in section 2.1.5.1 of this appendix (both standards incorporated by reference under § 75.6) and its transmitters or transducers are retested to meet the accuracy specification in section 2.1.6.4 of this appendix. During this period, provide data from another fuel flowmeter that meets the requirements of § 75.20(d) and section 2.1.5 of this appendix, or substitute for fuel flow rate using the missing data procedures in section 2.4.2 of this appendix.

2.1.7 Fuel Flow-to-Load Quality Assurance Testing for Certified Fuel Flowmeters

The procedures of this section may be used as an optional supplement to the quality assurance procedures in section 2.1.5.1, 2.1.5.2, 2.1.6.1, or 2.1.6.6 of this appendix when conducting periodic quality assurance testing of a certified fuel flowmeter. Note, however, that these procedures may not be used unless the 168 hour baseline data requirement of 2.1.7.2 has been met. If, following a flowmeter accuracy test or flowmeter transmitter test and primary element inspection, where applicable, the procedures of this section are performed during each subsequent flowmeter QA operating quarter, as defined in section 2.1.6 of this appendix (excluding the quarter(s) in which the baseline data are collected), then these procedures may be used to meet the requirement for periodic quality assurance for a period of up to 20 calendar quarters from the previous periodic quality assurance procedure(s) performed according to sections 2.1.5.1, 2.1.5.2, or 2.1.6.1 through 2.1.6.6 of this appendix. The procedures of this section are not required for any quarter in which a flowmeter accuracy test or a transmitter accuracy test and a primary element inspection, where applicable, are conducted. Notwithstanding the requirements of § 75.54(a) or § 75.57(a), as applicable, when using the procedures of this section, keep records of the test data and results from the previous flowmeter accuracy test under section 2.1.5.1 or 2.1.5.2 of this appendix, records of the test data and results from the previous transmitter or transducer accuracy test under section 2.1.6.1 of this appendix for orifice-, nozzle-, and venturi-type fuel flowmeters, and records of the previous visual inspection of the primary element required under section 2.1.6.6 of this appendix for orifice-, nozzle-, and venturi-type fuel flowmeters until the next flowmeter accuracy test, transmitter accuracy test, or visual inspection is performed, even if the previous flowmeter accuracy test, transmitter accuracy test, or visual inspection was performed more than three years previously.

2.1.7.1 Baseline Flow Rate-to-Load Ratio or Heat Input-to-Load Ratio

Determine R_{base}, the baseline value of the ratio of fuel flow rate to unit load, following each successful periodic quality assurance procedure performed according to section 2.1.5.1, 2.1.5.2, or 2.1.6.1 and 2.1.6.6 of this appendix. Establish a baseline period of data consisting, at a minimum, of 168 hours of quality assured fuel flowmeter data taken immediately after the most recent quality assurance procedure(s), during which only the fuel measured by the fuel flowmeter is combusted (i.e. only gas, only residual oil, or only diesel fuel is combusted by the unit). During the baseline data collection period, the owner or operator may exclude the following data as non-representative: (1) any hour in which the unit is "ramping" up or down, i.e., the load during the hour differs by more than 15.0 percent from the load in the previous or subsequent hour; and (2) any hour in which the unit load is in the lower 10.0 percent of the range of operation, as defined in section 6.5.2.1 of appendix A to this part, unless operation in this lower portion of the range is considered normal for the unit. The baseline data must be obtained no later than the end of the second calendar quarter following the calendar quarter of the most recent quality assurance procedure for that fuel flowmeter. For orifice-, nozzle-, and venturi-type fuel flowmeters, if the fuel flow-to-load ratio is to be used as a supplement both to the transmitter accuracy test under section 2.1.6.1 of this appendix and to primary element inspections under section 2.1.6.6 of this appendix, then the baseline data must be obtained after both procedures are completed and no later than the end of the second calendar quarter following the calendar quarter of both the most recent transmitter or transducer test and the most recent primary element inspection for that fuel flowmeter. From these 168 (or more) hours of baseline data, calculate the baseline fuel flow rate-to-load ratio as follows:

$$R_{base} = \frac{Q_{base}}{L_{avg}}$$

(Eq. D–1c)

Where:

R_{base}=Value of the fuel flow rate-to-load ratio during the baseline period; 100 scfh/MWe or 100 scfh/klb per hour steam load for gas-firing; (lb/hr)/MWe or (lb/hr)/klb per hour steam load for oil-firing.

Q_{base}=Average fuel flow rate measured by the fuel flowmeter during the baseline period, 100 scfh for gas-firing and lb/hr for oil-firing.

L_{avg}=Average unit load during the baseline period, megawatts or 1000 lb/hr of steam.

In Equation D–1c, for a common pipe header, L_{avg} is the sum of the operating loads of all units that receive fuel through the common pipe header. For a unit that receives its fuel through multiple pipes, Q_{base} is the sum of the fuel flow rates for a particular fuel (i.e., gas, diesel fuel, or residual oil) from each of the pipes. Round off the value of R_{base} to the nearest tenth.

Alternatively, a baseline value of the gross heat rate (GHR) may be determined in lieu of R_{base}. The baseline value of the GHR, GHR_{base}, shall be determined as follows:

$$(GHR)_{base} = \frac{(\text{Heat Input})_{avg}}{L_{avg}} \times 1000$$

(Eq. D–1d)

Where:

$(GHR)_{base}$=Baseline value of the gross heat rate during the baseline period, Btu/kwh or Btu/lb steam load.

$(\text{Heat Input})_{avg}$=Average (mean) hourly heat input rate recorded by the fuel flowmeter during the baseline period, as determined using the applicable equation in appendix F to this part, mmBtu/hr.

L_{avg}=Average (mean) unit load during the baseline period, megawatts or 1000 lb/hr of steam.

Report the current value of R_{base} (or GHR_{base}) and the completion date of the associated quality assurance procedure in each electronic quarterly report required under § 75.64.

2.1.7.2 Data Preparation and Analysis

Evaluate the fuel flow rate-to-load ratio (or GHR) for each flowmeter QA operating quarter, as defined in section 2.1.6 of this appendix. At the end of each flowmeter QA operating quarter, use Equation D–1e in this appendix to calculate R_h, the hourly fuel flow-to-load ratio, for every quality assured hourly average fuel flow rate obtained with a certified fuel flowmeter.

$$R_h = \frac{Q_h}{L_h}$$

(Eq. D–1e)

Where:

R_h=Hourly value of the fuel flow rate-to-load ratio; 100 scfh/MWe, (lb/hr)/MWe, 100 scfh/1000 lb/hr of steam load, or (lb/hr)/1000 lb/hr of steam load.

Q_h = Hourly fuel flow rate, as measured by the fuel flowmeter, 100 scfh for gas-firing or lb/hr for oil-firing.

L_h = Hourly unit load, megawatts or 1000 lb/hr of steam.

For a common pipe header, L_h shall be the sum of the hourly operating loads of all units that receive fuel through the common pipe header. For a unit that receives its fuel through multiple pipes, Q_h will be the sum of the fuel flow rates for a particular fuel (i.e., gas, diesel fuel, or residual oil) from each of the pipes. Round off each value of R_h to the nearest tenth.

Alternatively, calculate the hourly gross heat rates (GHR) in lieu of the hourly flow-to-load ratios. If this option is selected, calculate each hourly GHR value as follows:

$$(GHR)_h = \frac{(\text{Heat Input})_h}{L_h} \times 1000$$

(Eq. D–1f)

Where:

$(GHR)_h$ = Hourly value of the gross heat rate, Btu/kwh or Btu/lb steam load.

$(\text{Heat Input})_h$ = Hourly heat input rate, as determined using the applicable equation in appendix F to this part, mmBtu/hr.

L_h = Hourly unit load, megawatts or 1000 lb/hr of steam.

Evaluate the calculated flow rate-to-load ratios (or gross heat rates) as follows. Perform a separate data analysis for each fuel flowmeter following the procedures of this

section. Base each analysis on a minimum of 168 hours of data. If, for a particular fuel flowmeter, fewer than 168 hourly flow-to-load ratios (or GHR values) are available, a flow-to-load (or GHR) evaluation is not required for that flowmeter for that calendar quarter.

For each hourly flow-to-load ratio or GHR value, calculate the percentage difference (percent D_h) from the baseline fuel flow-to-load ratio using Equation D–1g.

$$\%D_h = \frac{|R_{base} - R_h|}{R_{base}} \times 100$$

(Eq. D–1g)

Where:

$\%D_h$ = Absolute value of the percentage difference between the hourly fuel flow rate-to-load ratio and the baseline value of the fuel flow rate-to-load ratio (or hourly and baseline GHR).

R_h = The hourly fuel flow rate-to-load ratio (or GHR).

R_{base} = The value of the fuel flow rate-to-load ratio (or GHR) from the baseline period, determined in accordance with section 2.1.7.1 of this appendix.

Consistently use R_{base} and R_h in Equation D–1g if the fuel flow-to-load ratio is being evaluated, and consistently use $(GHR)_{base}$ and $(GHR)_h$ in Equation D–1g if the gross heat rate is being evaluated.

Next, determine the arithmetic average of all of the hourly percent difference (percent D_h) values using Equation D–1h, as follows:

$$SO_{2_c} = \sum_{q=1}^{\text{the current quarter}} SO_{2_q}$$

(Eq. D–1h)

Where:

E_f = Quarterly average percentage difference between hourly flow rate-to-load ratios and the baseline value of the fuel flow rate-to-load ratio (or hourly and baseline GHR).

$\%D_h$ = Percentage difference between the hourly fuel flow rate-to-load ratio and the baseline value of the fuel flow rate-to-load ratio (or hourly and baseline GHR).

q = Number of hours used in fuel flow-to-load (or GHR) evaluation.

When the quarterly average load value used in the data analysis is greater than 50 MWe (or 500 klb steam per hour), the results of a quarterly fuel flow rate-to-load (or GHR) evaluation are acceptable and no further action is required, if the quarterly average percentage difference (E_f) is no greater than 10.0 percent. When the arithmetic average of the hourly load values used in the data analysis is ≤ 50 MWe (or 500 klb steam per hour), the results of the analysis are acceptable if the value of E_f is no greater than 15.0 percent.

2.1.7.3 Optional Data Exclusions

If E_f is outside the limits in section 2.1.7.2 of this appendix, the owner or operator may re-examine the hourly fuel flow rate-to-load ratios (or GHRs) that were used for the data analysis and identify and exclude fuel flow-to-load ratios or GHR values for any non-representative fuel flow-to-load ratios or GHR values. Specifically, the R_h or $(GHR)_h$ values for the following hours shall be considered non-representative: (1) any hour in which the unit combusted another fuel in addition to the fuel measured by the fuel flowmeter being tested; (2) any hour for which the load differed by more than ± 15.0 percent from the load during either the preceding hour or the subsequent hour; and (3) any hour for which the unit load was in the lower 10.0 percent of the range of operation, as defined in section 6.5.2.1 of appendix A to this part, unless operation in this lower portion of the range is considered normal for the unit.

After identifying and excluding all non-representative hourly fuel flow-to-load ratios or GHR values, analyze the quarterly fuel flow rate-to-load data a second time.

2.1.7.4 Consequences of Failed Fuel Flow-to-Ratio Test

If E_f is outside the applicable limit in section 2.1.7.2 of this appendix (after analysis using any optional data exclusions under section 2.1.7.3 of this appendix), perform transmitter accuracy tests according to section 2.1.6.1 of this appendix for orifice-, nozzle-, and venturi-type flowmeters, or perform a fuel flowmeter accuracy test, in accordance with section 2.1.5.1 or 2.1.5.2 of this appendix, for each fuel flowmeter for which E_f is outside of the applicable limit. In addition, for an orifice-, nozzle-, or venturi-type fuel flowmeter, repeat the fuel flow-to-load ratio comparison of section 2.1.7.2 of this appendix using six to twelve hours of data following a passed transmitter accuracy test in order to verify that no significant corrosion has affected the primary element. If, for the abbreviated 6–to–12 hour test, the orifice-, nozzle-, or venturi-type fuel flowmeter is not able to meet the limit in section 2.1.7.2 of this appendix, then perform a visual inspection of the primary element according to section 2.1.6.6 of this appendix, and repair or replace the primary element, as necessary.

Substitute for fuel flow rate, for any hour when that fuel is combusted, using the missing data procedures in section 2.4.2 of this appendix, beginning with the first hour of the calendar quarter following the quarter for which E_f was found to be outside the applicable limit and continuing until quality assured fuel flow data become available. Following a failed flow rate-to-load or GHR evaluation, data from the flowmeter shall not be considered quality assured until the hour in which all required flowmeter accuracy tests, transmitter accuracy tests, visual inspections and diagnostic tests have been passed. Additionally, a new value of R_{base} or $(GHR)_{base}$ shall be established no later than two flowmeter QA operating quarters after the quarter in which the required quality assurance tests are completed (for orifice-, nozzle-, or venturi-type fuel flowmeters, a new value of R_{base} or $(GHR)_{base}$ shall only be established if both a transmitter accuracy test and a primary element inspection have been performed).

2.1.7.5 Test Results

Report the results of each quarterly flow rate-to-load (or GHR) evaluation, as determined from Equation D–1h, in the electronic quarterly report required under § 75.64. Table D–4 is provided as a reference on the type of information to be recorded under § 75.59 and reported under § 75.64.

TABLE D–4.—BASELINE INFORMATION AND TEST RESULTS FOR FUEL FLOW-TO-LOAD TEST

Time period	
Baseline period	Quarter

Plant name:_____ State:_____ ORIS code:_____

Unit/pipe ID #:_____ Fuel flowmeter component and system ID #s:___–___

Calendar quarter (1st, 2nd, 3rd, 4th) and year:_____

Range of operation:_____ to_____ MWe or klb steam/hr (indicate units)

Completion date and time of most recent primary element inspection (orifice-, nozzle-, and venturi-type flowmeters only). ___/___/___ ___:___	Number of hours excluded from quarterly average due to co-firing different fuels:_____hrs.
Completion date and time of most recent flowmeter or transmitter accuracy test. ___/___/___ ___:___	Number of hours excluded from quarterly average due to ramping load:_____hrs.
Beginning date and time of baseline period	Number of hours in the lower 10.0 percent of the range of operation excluded from quarterly average:_____hrs.

TABLE D–4.—BASELINE INFORMATION AND TEST RESULTS FOR FUEL FLOW-TO-LOAD TEST—Continued

Time period	
Baseline period	Quarter
___/___/___ ___:___ End date and time of baseline period: ___/___/___ ___:___ Average fuel flow rate:_____ (100 scfh for gas and lb/hr for oil) ..... Average load:_____ (MWe or 1000 lo steam/hr)	Number of hours included in quarterly average:_____hrs. Quarterly percentage difference between hourly ratios and baseline ratio:_____ percent. Test result: pass, fail

Plant name:_____ State:_____ ORIS code:_____

Unit/pipe ID#:_____ Fuel flowmeter component and system ID #:___–___

Calendar quater (1st, 2nd, 3rd, 4th) and year:_____

Range of operation:_____ MWe or klb steam/hr (indicate units)

Time period	
Baseline fuel flow-to-load ratio:_____ Units of fuel flow-to-load:_____ Baseline GHR:_____ Units of fuel flow-to-load:_____ Number of hours excluded from baseline ratio or GHR due to ramping load:_____ hrs. Number of hours in the lower 10.0 percent of the range of operation excluded from baseline ratio or GHR:_____ hrs.	

2.2 Oil Sampling and Analysis

Perform sampling and analysis of oil to determine the percentage of sulfur by weight in the oil combusted by the unit. Calculate SO_2 mass emissions and heat input rate using the sulfur content, density, and gross calorific value (heat content), as described in the sections below and in Table D–5.

TABLE D–5.—OIL SAMPLING METHODS AND SULFUR, DENSITY AND GROSS CALORIFIC VALUE USED IN CALCULATIONS

Parameter	Sampling technique/frequency	Value used in calculations
Oil Sulfur Content..	Daily manual sampling	Highest sulfur content from previous 30 daily samples.
	Flow proportional/weekly composite..	Actual measured value.
	In storage tank (after addition of fuel to tank)	Actual measured value OR highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
	As delivered (in delivery truck or barge).[1]	Highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
Oil Density	Daily manual sampling	Actual measured value.
	Flow proportional/weekly composite..	Actual measured value.
	In storage tank (after addition of fuel to tank)	Actual measured value OR highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
	As delivered (in delivery truck or barge).[1]	Highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
Oil GCV	Daily manual sampling	Actual measured value.
	Flow proportional/weekly composite	Actual measured value.
	In storage tank (after addition of fuel to tank)	Actual measured value OR highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
	As delivered (in delivery truck or barge).[1]	Highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]

[1] Assumed values may only be used if sulfur content, gross calorific value, or density of each sample is no greater than the assumed value used to calculate emissions or heat input.

2.2.1 When combusting oil, sample the oil: (1) from the storage tank for the unit after each addition of oil to the storage tank, in accordance with section 2.2.4.2 of this appendix; (2) from the fuel lot in the shipment tank or container upon receipt of each oil delivery or from the fuel lot in the oil supplier's storage container, in accordance with section 2.2.4.3 of this appendix; (3) following the flow proportional sampling methodology in section 2.2.3 of this appendix; or (4) following the daily manual sampling methodology in section 2.2.4.1 of this appendix. For purposes of this appendix, a fuel lot of oil is the mass or volume of product oil from one source (supplier or pretreatment facility), intended as one shipment or delivery (ship load, barge load, group of trucks, discrete purchase of diesel fuel through pipeline, etc.), which meets the fuel purchase specifications for sulfur content and GCV. A storage tank is a container at a plant holding oil that is actually combusted by the unit, such that

blending of any other fuel with the fuel in the storage tank occurs from the time that the fuel lot is transferred to the storage tank to the time when the fuel is combusted in the unit.

2.2.2 [Reserved]

2.2.3 Flow Proportional Sampling

Conduct flow proportional oil sampling or continuous drip oil sampling in accordance with ASTM D4177–82 (Reapproved 1990), "Standard Practice for Automatic Sampling of Petroleum and Petroleum Products" (incorporated by reference under § 75.6), every day the unit is combusting oil. Extract oil at least once every hour and blend into a composite sample. The sample compositing period may not exceed 7 calendar days (168 hr). Use the actual sulfur content (and where density data are required, the actual density) from the composite sample to calculate the hourly SO_2 mass emission rates for each operating day represented by the composite sample. Calculate the hourly heat input rates for each operating day represented by the composite sample, using the actual gross calorific value from the composite sample.

2.2.4 Manual Sampling

2.2.4.1 Daily Samples

Representative oil samples may be taken from the storage tank or fuel flow line manually every day that the unit combusts oil according to ASTM D4057–88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products" (incorporated by reference under § 75.6), provided that the highest fuel sulfur content recorded at that unit from the most recent 30 daily samples is used for the purpose of calculating SO_2 emissions under section 3 of this appendix. Use the gross calorific value measured from that day's samples to calculate heat input. If oil supplies with different sulfur contents are combusted on the same day, sample the highest sulfur fuel combusted that day.

2.2.4.2 Sampling from a Unit's Storage Tank

Take a manual sample after each addition of oil to the storage tank. No additional fuel shall be blended with the sampled fuel prior to combustion. Sample according to the single tank composite sampling procedure or all-levels sampling procedure in ASTM D4057–88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products" (incorporated by reference under § 75.6). Use the sulfur content (and where required, the density) of either the most recent sample or one of the conservative assumed values described in section 2.2.4.3 of this appendix, to calculate SO_2 mass emission rate. Calculate heat input rate using the gross calorific value from either: (1) the most recent oil sample taken or (2) one of the conservative assumed values described in section 2.2.4.3 of this appendix.

2.2.4.3 Sampling from Each Delivery

Alternatively, an oil sample may be taken from the shipment tank or container upon receipt of each lot of fuel oil or from the supplier's storage container which holds the lot of fuel oil. For the purpose of this section, a lot is defined as a shipment or delivery (e.g., ship load, barge load, group of trucks, discrete purchase of diesel fuel through a pipeline, etc.) which meets the fuel purchase specifications for sulfur content and GCV. Oil sampling may be performed either by the owner or operator of an affected unit, an outside laboratory, or a fuel supplier, provided that samples are representative and that sampling is performed according to either the single tank composite sampling procedure or the all-levels sampling procedure in ASTM D4057–88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products" (incorporated by reference under § 75.6). Except as otherwise provided in this section 2.2.4.3, calculate SO_2 mass emission rate using the sulfur content (and where required, the density) from one of the two values below, and calculate heat input using the gross calorific value from one of the two following values: (1) the highest value sampled during the previous calendar year or (2) the maximum value indicated in the contract with the fuel supplier unit. Continue to use this assumed value unless and until the actual sampled sulfur content, density, or gross calorific value of a delivery exceeds the assumed value.

If the actual sampled sulfur content, gross calorific value, or density of an oil sample is greater than the assumed value for that parameter, then use the actual sampled value for sulfur content, gross calorific value, or density of fuel to calculate SO_2 mass emission rate or heat input rate as the new assumed sulfur content, gross calorific value, or density. Continue to use this new assumed value to calculate SO_2 mass emission rate or heat input rate unless and until: (1) it is superseded by a higher value from an oil sample; (2) a new contract with a higher maximum sulfur content, gross calorific value, or density is adopted, in which case the new contract value becomes the assumed value; or (3) both the calendar year in which the sampled value exceeded the assumed value and the subsequent calendar year have elapsed.

* * * * *

2.2.6 Where the flowmeter records volumetric flow rate rather than mass flow rate, analyze oil samples to determine the density or specific gravity of the oil.

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2.2.8 Results from the oil sample analysis must be available no later than thirty calendar days after the sample is composited or taken. However, during an audit, the Administrator may require that the results of the analysis be available as soon as practicable, and no later than 5 business days after receipt of a request from the Administrator.

2.3 SO_2 Emissions from Combustion of Gaseous Fuels

Account for the hourly SO_2 mass emissions due to combustion of gaseous fuels for each day when gaseous fuels are combusted by the unit using the procedures in either section 2.3.1 or 2.3.2. The procedures in section 2.3.1 may be used for accounting for SO_2 mass emissions from any gaseous fuel with a total sulfur content ≤20.0 gr/100 scf. The procedures in section 2.3.2 may be used for pipeline natural gas or for any gaseous fuel for which the designated representative demonstrates to the satisfaction of the Administrator, in a petition to the Administrator under § 75.66(i), that the fuel has an SO_2 emission rate no greater than 0.0006 lb/mmBtu. Values used for calculations of SO_2 mass emission rates are summarized in Table D–6, below.

TABLE D–6.—GAS SAMPLING METHODS AND SULFUR AND HEAT CONTENT (GCV) VALUES USED IN CALCULATIONS

Parameter	Sampling technique/frequency	Value used in calculations
Gas Sulfur Content	Gaseous fuel in lots—as-delivered sampling [1]	Highest of all sampled values in previous calendar year OR maximum value allowed by contract [1]
	Any gaseous fuel—daily sampling [2]	Highest sulfur in previous 30 daily samples.
	Any gaseous fuel—continuous sampling (at least hourly) with a gas chromatograph.	Actual measured hourly average sulfur content.
Gas GCV/heat content	Gaseous fuel in lots—as-delivered sampling [1]	Highest of all sampled values in previous calendar year OR maximum value allowed by contract.[1]
	Gaseous fuels other than pipeline natural gas that are sampled for sulfur content—daily sampling.	Highest GCV in previous 30 daily samples.
	Gaseous fuels other than pipeline natural gas that are sampled for sulfur content—continuous sampling (at least hourly).	Actual measured hourly average GCV or highest GCV in previous 30 unit operating days.
	Pipeline natural gas—monthly sampling for GCV only.	Actual measured GCV OR highest of all sampled values in previous calendar year OR maximum value allowed by contract.[3]

[1] Assumed sulfur and GCV values may only continue to be used if sulfur content and gross calorific value of each as-delivered sample is no greater than the assumed value used to calculate emissions or heat input.

[2] Continuous sampling (at least hourly) may be required if the sulfur content exhibits too much variability (see section 2.3.3.4, below).
[3] Assumed GCV values of the highest sampled value in the previous calendar year or the maximum value allowed by contract may only continue to be used if gross calorific value of each monthly sample is no greater than the assumed value used to calculate heat input.

2.3.1 For gaseous fuels received in shipments or lots, sample each shipment or lot of fuel. A fuel lot for gaseous fuel is the volume of product gas from one source (supplier or pretreatment facility), intended as one shipment or delivery, which meets the fuel purchase specifications for sulfur content and GCV. For gaseous fuels, other than pipeline natural gas, that are not delivered in discrete lots or shipments, sample the gaseous fuel at least daily. Continuous sampling (at least hourly) with a gas chromatograph may be required if the sulfur content exhibits too much variability (see section 2.3.3.4, below). For gaseous fuel meeting the definition of pipeline natural gas in § 72.2 of this chapter, either use the procedures of section 2.3.2 of this appendix or sample the gaseous fuel at least daily. Sampling may be performed by either the owner or operator or by the fuel supplier.

* * * * *

2.3.1.3 Determine the heat content or gross calorific value for a sample using the procedures of section 5.5 of appendix F to this part to determine the heat input rate for each hour the unit combusted gaseous fuel. Calculate heat input using the appropriate GCV from sections 2.3.1.4.1 through 2.3.1.4.3 of this appendix.

2.3.1.4 Calculate the hourly SO_2 mass emission rate, in lb/hr, using Equation D–4 of this appendix. Multiply the hourly metered volumetric flow rate of gas combusted (in 100 scfh) by the appropriate sulfur content from sections 2.3.1.4.1 through 2.3.1.4.2 of this appendix.

2.3.1.4.1 For gaseous fuels received in shipments or lots, use one of the following values: (1) the highest sulfur content and GCV from all shipments in the previous calendar year or (2) the maximum sulfur content and maximum GCV values established by agreement with the fuel supplier through a contract. Continue to use this assumed value until and unless the actual sampled sulfur content or gross calorific value of a delivery exceeds the previously reported assumed value.

If the actual sampled sulfur content or gross calorific value of a gas sample is greater than the assumed value for that parameter, then use the actual sampled value for sulfur content or gross calorific value of gas to calculate SO_2 mass emission rate or heat input rate as the new assumed sulfur content or gross calorific value. Continue to use this sampled value to calculate SO_2 mass emission rate or heat input rate until: (1) it is superseded by a new, higher value from a gas sample; (2) a new contract with a higher maximum sulfur content or gross calorific value is adopted, in which case the new contract value becomes the new assumed value; or (3) both the calendar year in which the sampled value exceeded the assumed value and the subsequent calendar year have elapsed.

2.3.1.4.2 For gaseous fuels other than pipeline natural gas that are not received in shipments or lots that are transmitted by pipeline and sampled daily, use the highest sulfur content and GCV from the previous 30 daily gas samples. When continuous gas sampling (at least hourly) is required, use the actual measured hourly average sulfur content for each hour that the gaseous fuel is combusted.

2.3.1.4.3 For pipeline natural gas, use the highest sulfur content in the previous 30 daily gas samples, and the GCV from: (1) one or more samples taken during the most recent month when the unit burned gas for at least 48 hours; (2) the highest GCV from all samples in the previous calendar year; or (3) the maximum GCV values established by agreement with the fuel supplier through a contract. Continue to use this assumed value unless and until the actual sampled sulfur content or gross calorific value of a delivery exceeds the previously reported assumed value.

If the actual sampled sulfur content or gross calorific value of a gas sample is greater than the assumed value for that parameter, use the actual sampled value for sulfur content or gross calorific value of gas to calculate SO_2 mass emission rate or heat input rate as the new assumed sulfur content or gross calorific value. Continue to use this sampled value to calculate SO_2 mass emission rate or heat input rate until: (1) it is superseded by a new, higher value from a gas sample; (2) a new contract with a higher maximum sulfur content or gross calorific value is adopted, in which case the new contract value becomes the new assumed value; or (3) both the calendar year in which the sampled value exceeded the assumed value and the subsequent calendar year have elapsed.

2.3.2 If the fuel is pipeline natural gas, as defined in § 72.2 of this chapter, calculate SO_2 emissions under this section using a default SO_2 emission rate of 0.0006 lb/mmBtu.

2.3.2.1 Use the default SO_2 emission rate of 0.0006 lb/mmBtu and the hourly heat input rate from pipeline natural gas in mmBtu/hr, as determined using the procedures in section 5.5 of appendix F to this part. Calculate SO_2 mass emission rate using Equation D–5 of this appendix. Determine the heat content or gross calorific value for at least one sample each month that the gaseous fuel is combusted using the procedures in section 5.5 of appendix F to this part.

2.3.2.2 The procedures in this section 2.3.2 may also be used for a gaseous fuel other than pipeline natural gas if the Administrator approves a petition under § 75.66(i) in which the designated representative demonstrates that the gaseous fuel combusted at the unit has an SO_2 emission rate no greater than 0.0006 lb/mmBtu. To demonstrate this, the petition shall include at least 720 hours of fuel sampling data, indicating the total sulfur content and GCV of the fuel for each hour. Each hourly value of the total sulfur content in the gas or blend (in gr/100 scf) shall be converted to a "fuel sulfur-to-heating value ratio," by dividing the total sulfur content by the gross calorific value of the fuel (in Btu/100 scf) and then multiplying by a conversion factor of 10^6 Btu/mmBtu. The mean value of the fuel sulfur-to-heating value ratios shall then be calculated. If the mean value of the ratios does not exceed 2.0 grains of sulfur per mmBtu, then the default SO_2 emission rate of 0.0006 lb/mmBtu may be used to account for SO_2 mass emissions under this part, whenever the gaseous fuel is combusted.

2.3.3 For all types of gaseous fuels, the owner or operator shall provide, in the monitoring plan for the unit, historical fuel sampling information on the sulfur content of the gaseous fuel sufficient to demonstrate that use of this appendix is applicable because the gas has a total sulfur content of 20.0 grain/100 scf or less. Provide this information with the initial monitoring plan for the unit and following any significant changes in gas contract or source of supply. However, for units combusting pipeline natural gas that have gas flowmeters certified prior to the effective date of this rule, this information may be retained on site in a form suitable for inspection, rather than submitted as an update to the monitoring plan. In addition, provide the following specific information in the monitoring plan required under § 75.53, depending on the type of gaseous fuel:

2.3.3.1 For pipeline natural gas, provide information demonstrating that the definition of pipeline natural gas in § 72.2 of this chapter has been met. This demonstration must be made using one of the following sources of information: (1) the gas quality characteristics specified by a purchase contract or by a pipeline transportation contract; (2) a certification of the gas vendor, based on routine vendor sampling and analysis; or (3) at least one year's worth of analytical data on the fuel hydrogen sulfide content from samples taken monthly or more frequently.

2.3.3.2 For gaseous fuel other than pipeline natural gas for which a petition has been submitted and approved under section 2.3.2.2 of this appendix, provide the information required to be included in the petition pursuant to section 2.3.2.2.

2.3.3.3 For liquefied petroleum gas and other gaseous fuels provided in batches or lots having uniform sulfur content, provide either contractual information from the fuel supplier or provide historical information on each lot of liquefied petroleum gas from at least one year.

2.3.3.4 For any other gaseous fuel or blend, including gas produced by a variable process (e.g., digester gas or landfill gas), provide data on the fuel sulfur content, as follows. Provide a minimum of 720 hours of data, indicating the total sulfur content of the gas or blend (in gr/100 scf). The data shall be obtained with a gas chromatograph, and, for gaseous fuel produced by a variable process, the data shall be representative of all process operating conditions. The data shall be reduced to hourly averages and shall be

used to determine whether daily sampling of the sulfur content of the gas or blend is sufficient or whether sampling, at least hourly, with a gas chromatograph is required. Specifically, daily gas sampling shall be sufficient, provided that either: (1) the mean value of the total sulfur content of the gas or blend is ≤7 grains per 100 scf; or (2) the standard deviation of the hourly average values from the mean does not exceed 5 grains per 100 scf. If the gas or blend does not meet requirement (1) or (2), then sampling, at least hourly, of the fuel with a gas chromatograph (GCH) and hourly reporting of the hourly average sulfur content of the fuel is required. If sampling, at least hourly, from a gas chromatograph is required, the owner or operator shall develop and implement a program to quality assure the data from the GCH, in accordance with the manufacturer's recommended procedures. The quality assurance procedures shall be kept on-site, in a form suitable for inspection.

2.4 * * *

2.4.1 Missing Data for Oil and Gas Samples

When oil sulfur content, density, or gross calorific value data are missing or invalid for an oil or gas sample taken according to the procedures in section 2.2.3, 2.2.4.1, 2.2.4.2, 2.2.4.3, 2.3.1, 2.3.1.1, 2.3.1.2, or 2.3.1.3 of this appendix, then substitute the maximum potential sulfur content, density, or gross calorific value of that fuel from Table D–7 of this appendix.

TABLE D–7.—MISSING DATA SUBSTITUTION PROCEDURES FOR SULFUR, DENSITY, AND GROSS CALORIFIC VALUE

Parameter	Data Missing data substitution maximum potential value
Oil Sulfur Content	3.5 percent for residual oil, or. 1.0 percent for diesel fuel.
Oil Density	8.5 lb/gal for residual oil, or 7.4 lb/gal for diesel fuel.
Oil GCV	19,500 Btu/lb for residual oil, or 20,000 Btu/lb for diesel fuel.
Gas Sulfur Content	0.30 gr/100 scf for pipeline natural gas, or 20.0 gr/100 scf for other gaseous fuel.
Gas GCV/Heat Content	1100 Btu/scf for pipeline natural gas, or 2100 Btu/scf for other gaseous fuel.

2.4.2 Whenever data are missing from any fuel flowmeter that is part of an excepted monitoring system under appendix D or E to this part, where the fuel flowmeter data are required to determine the amount of fuel combusted by the unit, use the procedures in sections 2.4.2.2 and 2.4.2.3 of this appendix to account for the flow rate of fuel combusted at the unit for each hour during the missing data period. In addition, a fuel flowmeter used for measuring fuel combusted by a peaking unit may use the simplified fuel flow missing data procedure in section 2.4.2.1 of this appendix.

2.4.2.1 Simplified Fuel Flow Missing Data for Peaking Units.

If no fuel flow rate data are available for a fuel flowmeter system installed on a peaking unit (as defined in § 72.2 of this chapter), then substitute for each hour of missing data using the maximum potential fuel flow rate. The maximum potential fuel flow rate is the lesser of the following: (1) the maximum fuel flow rate the unit is capable of combusting or (2) the maximum flow rate that the flowmeter can measure (i.e, upper range value of flowmeter leading to a unit).

2.4.2.2 * * *

2.4.2.3 For hours where two or more fuels are combusted, substitute the maximum hourly fuel flow rate measured and recorded by the flowmeter (or flowmeters, where fuel is recirculated) for the fuel for which data are missing at the corresponding load range recorded for each missing hour during the previous 720 hours when the unit combusted that fuel with any other fuel. For hours where no previous recorded fuel flow rate data are available for that fuel during the missing data period, calculate and substitute the maximum potential flow rate of that fuel for the unit as defined in section 2.4.2.2 of this appendix.

2.4.3 * * *

65. Section 3 of appendix D to part 75 is amended by:

a. Revising sections 3, 3.1, 3.2, 3.2.1, 3.2.3, 3.2.4, and 3.3;

b. Redesignating section 3.4 as section 3.5 and revising the introductory text; and

c. Adding a new section 3.4, to read as follows:

3. Calculations

Use the calculation procedures in section 3.1 of this appendix to calculate SO_2 mass emission rate. Where an oil flowmeter records volumetric flow rate, use the calculation procedures in section 3.2 of this appendix to calculate the mass flow rate of oil. Calculate hourly SO_2 mass emission rate from gaseous fuel using the procedures in section 3.3 of this appendix. Calculate hourly heat input rate for oil and for gaseous fuel using the equations in section 5.5 of appendix F to this part. Calculate total SO_2 mass emissions and heat input as provided under section 3.4 of this appendix.

3.1 SO_2 Mass Emission Rate Calculation for Oil

3.1.1 Use the following equation to calculate SO_2 mass emissions per hour (lb/hr):

$$M_{SO_2} = 2.0 \times M_{oil} \times \frac{\%S_{oil}}{100.0}$$

(Eq. D–2)

where:

MSO_2 = Hourly mass emission rate of SO_2 emitted from combustion of oil, lb/hr.

M_{oil} = Mass rate of oil consumed per hr, lb/hr.

$\%S_{oil}$ = Percentage of sulfur by weight measured in the sample.

2.0 = Ratio of lb SO_2/lb S.

3.1.2 Record the SO_2 mass emission rate from oil for each hour that oil is combusted.

3.2 Mass Flow Rate Calculation for Oil Using Volumetric Flow Rate

3.2.1 Where the oil flowmeter records volumetric flow rate rather than mass flow rate, calculate and record the oil mass flow rate for each hourly period using hourly oil flow rate measurements and the density or specific gravity of the oil sample.

* * * * *

3.2.3 Where density of the oil is determined by the applicable ASTM procedures from section 2.2.5 of this appendix, use the following equation to calculate the rate of the mass of oil consumed (in lb/hr):

$M_{oil} = V_{oil} \times D_{oil}$

(Eq. D–3)

Where:

M_{oil} = Mass rate of oil consumed per hr, lb/hr.

V_{oil} = Volume rate of oil consumed per hr, measured in scf, gal, barrels, or m^3.

D_{oil} = Density of oil, measured in lb/scf, lb/gal, lb/barrel, or lb/m^3.

3.2.4 Calculate the hourly heat input rate to the unit from oil (mmBtu/hr) by multiplying the heat content of the daily oil sample by the hourly oil mass rate.

3.3 SO_2 Mass Emissions Rate Calculation for Gaseous Fuels

3.3.1 Use the following equation to calculate the SO_2 emission rate using the gas sampling and analysis procedures in section 2.3.1 of this appendix:

$$M_{(SO_2)g} = \left(\frac{2.0}{7000}\right) \times Q_g \times S_g$$

(Eq. D–4)

Where:

$M_{(SO2)g}$ = Hourly mass rate of SO_2 emitted due to combustion of gaseous fuel, lb/hr.

Q_g = Hourly metered flow rate of gaseous fuel combusted, 100 scf/hr.

S_g = Sulfur content of gaseous fuel, in grain/100 scf.

2.0 = Ratio of lb SO_2/lb S.

7000 = Conversion of grains/100 scf to lb/100 scf.

3.3.2 Use the following equation to calculate the SO_2 emission rate using the

0.0006 lb/mmBtu emission rate in section 2.3.2 of this appendix:

$M_{(SO2)g} = ER \times HI_g$

(Eq. D–5)

Where:

$M_{(SO2)g}$ = Hourly mass rate of SO_2 emissions from combustion of pipeline natural gas, lb/hr.

ER = SO_2 emission rate of 0.0006 lb/mmBtu for pipeline natural gas.

Hi_g = Hourly heat input rate of pipeline natural gas, calculated using procedures in appendix F to this part, in mmBtu/hr.

3.3.3 Record the SO_2 mass emission rate for each hour when the unit combusts gaseous fuel.

3.4 Conversion of Rates to Totals and Summation of Quarterly and Cumulative Values

3.4.1 SO_2 Mass Emissions Conversions and Summations.

For a unit or for a common pipe, calculate total quarterly SO_2 mass emissions (using Equation D–6) and total cumulative SO_2 mass emissions (using Equation D–7). First convert hourly SO_2 mass emission rates for each fuel to total hourly SO_2 mass emissions, by multiplying the hourly rates by the fuel usage time. Second, sum the total hourly SO_2 mass emissions from all fuels for the quarter. Third, convert the quarterly SO_2 mass emission total to tons. Finally, for cumulative emissions, sum the quarterly SO_2 mass emission totals, in tons, for each quarter in the year to date.

$$SO_{2_q} = \frac{1}{2000} \sum_{\text{first fuel}}^{\text{last fuel}} \sum_{\text{hour}=1}^{n} \sum_{\text{first system}}^{\text{last system}} SO_{2i\ \text{fuel system}}\, t_i$$

(Eq. D–6)

Where:

SO_{2q} = Total SO_2 mass emissions for the quarter, tons.

$SO_{2i\ \text{fuel system}}$ = SO_2 mass emission rate for a given fuel for a particular fuel flow system, lb/hr.

t_i = Fuel usage time for the fuel and system, hour or fraction of an hour.

$$SO_{2_c} = \sum_{q=1}^{\text{the current quarter}} SO_{2_q}$$

(Eq. D–7)

Where:

SO_{2c} = Total SO_2 mass emissions for the year to date, tons.

SO_{2q} = Total SO_2 mass emissions for the quarter, tons.

3.4.2 Heat Input Conversions and Summations

$$HI_q = \sum_{\text{first fuel}}^{\text{last fuel}} \sum_{\text{hour}=1}^{n} \sum_{\text{first system}}^{\text{last system}} HI_{i\ \text{fuel system}}\, t_i$$

(Eq. D–8)

Where:

HI_q = Total heat input for the quarter, mmBtu.

$HI_{i\ \text{fuel system}}$ = Heat input rate during fuel usage for a given fuel for a particular fuel flow system, using Equation F–19 or F–20, mmBtu/hr.

t_i = Fuel usage time for the fuel and system, hour or fraction of an hour.

$$HI_c = \sum_{q=1}^{\text{the current quarter}} HI_q$$

(Eq. D–9)

Where:

HI_c=Total heat input for the year to date, mmBtu.

HI_q=Total heat input for the quarter, mmBtu.

3.5 Records and Reports

Calculate and record quarterly and cumulative SO_2 mass emissions and heat input for each calendar quarter using the procedures and equations of section 3.4 of this appendix.

* * * * *

Calculate total quarterly (using Equation D–8) and total cumulative (using Equation D–9) heat input for a unit or common pipe with fuel flow systems.

APPENDIX E TO PART 75—OPTIONAL NO_X EMISSIONS ESTIMATION PROTOCOL FOR GAS-FIRED PEAKING UNITS AND OIL-FIRED PEAKING UNITS

* * * * *

66. Section 2 of appendix E to part 75 is amended by revising sections 2.5.4 and 2.5.5 to read as follows:

2. Procedure

* * * * *

2.5 Missing Data Procedures

* * * * *

2.5.4 Substitute missing data from a fuel flowmeter using the procedures in section 2.4.2 of appendix D to this part.

2.5.5 Substitute missing data for gross calorific value of fuel using the procedures in sections 2.4.1 of appendix D to this part.

67. Section 3 of Appendix E to part 75 is amended by revising sections 3.1, 3.3.1, and 3.3.4 to read as follows:

3. Calculations

3.1 Heat Input

Calculate the total heat input by summing the product of heat input rate and fuel usage time of each fuel, as in the following equation:

$H_T = HI_{fuel\ 1} t_1 + HI_{fuel\ 2} t_2 + HI_{fuel\ 3} t_3 + \ldots + HI_{last\ fuel} t_{last}$

(Eq. E–1)

Where:

H_T=Total heat input of fuel flow or a combination of fuel flows to a unit, mmBtu.

$HI_{fuel\ 1,2,3,....last}$=Heat input rate from each fuel, in mmBtu/hr as determined using Equation F–19 or F–20 in section 5.5 of appendix F to this part, mmBtu/hr.

$t_{1,2,3,....last}$=Fuel usage time for each fuel (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)).

* * * * *

3.3 * * *

3.3.1 Conversion from Concentration to Emission Rate.

Convert the NO_X concentrations (ppm) and O_2 concentrations to NO_X emission rates (to the nearest 0.01 lb/mmBtu for tests performed prior to January 1, 2000 or to the nearest 0.001 lb/mmBtu for tests performed on and after January 1, 2000), according to the appropriate one of the following equations: F–5 in appendix F to this part for dry basis concentration measurements or 19–3 in Method 19 of appendix A to part 60 of this chapter for wet basis concentration measurements.

* * * * *

3.3.4 Average NO_X Emission Rate During Co-firing of Fuels.

$$E_h = \frac{\sum_{f=1}^{\text{all fuels}} \left(E_f \times HI_f t_f\right)}{H_T}$$

(Eq. E–2)

Where:

E_h=NO_X emission rate for the unit for the hour, lb/mmBtu.

E_f=NO_X emission rate for the unit for a given fuel at heat input rate HI_f, lb/mmBtu.

HI_f=Heat input rate for the hour for a given fuel, during the fuel usage time, as determined using Equation F–19 or F–20 in section 5.5 of appendix F to this part, mmBtu/hr

H_T=Total heat input for all fuels for the hour from Equation E–1.

t_f=Fuel usage time for each fuel (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)).

Note: For hours where a fuel is combusted for only part of the hour, use the fuel flow rate or mass flow rate during the fuel usage time, instead of the total fuel flow or mass flow during the hour, when calculating heat input rate using Equation F–19 or F–20.

68. Section 2 of appendix F to part 75 is revised to read as follows:

Appendix F to Part 75—Conversion Procedures

* * * * *

2. Procedures for SO_2 Emissions

Use the following procedures to compute hourly SO_2 mass emission rate (in lb/hr) and quarterly and annual SO_2 total mass emissions (in tons). Use the procedures in Method 19 in appendix A to part 60 of this chapter to compute hourly SO_2 emission rates (in lb/mmBtu) for qualifying Phase I technologies. When computing hourly SO_2 emission rate in lb/mmBtu, a minimum concentration of 5.0 percent CO_2 and a maximum concentration of 14.0 percent O_2 may be substituted for measured diluent gas concentration values at boilers during hours when the hourly average concentration of CO_2 is less than 5.0 percent CO_2 or the hourly average concentration of O_2 is greater than 14.0 percent O_2.

2.1 When measurements of SO_2 concentration and flow rate are on a wet basis, use the following equation to compute hourly SO_2 mass emission rate (in lb/hr):

$$E_h = KC_hQ_h$$

(Eq. F–1)

Where:

E_h = Hourly SO_2 mass emission rate during unit operation, lb/hr.

$K = 1.660 \times 10^{-7}$ for SO_2, (lb/scf)/ppm.

C_h = Hourly average SO_2 concentration during unit operation, stack moisture basis, ppm.

Q_h = Hourly average volumetric flow rate during unit operation, stack moisture basis, scfh.

2.2 When measurements by the SO_2 pollutant concentration monitor are on a dry basis and the flow rate monitor measurements are on a wet basis, use the following equation to compute hourly SO_2 mass emission rate (in lb/hr):

$$E_h = KC_{hp}Q_{hs}\frac{(100 - \%H_2O)}{100}$$

(Eq. F–2)

Where:

E_h = Hourly SO_2 mass emission rate during unit operation, lb/hr.

$K = 1.660 \times 10^{-7}$ for SO_2, (lb/scf)/ppm.

C_{hp} = Hourly average SO_2 concentration during unit operation, ppm (dry).

Q_{hs}= Hourly average volumetric flow rate during unit operation, scfh as measured (wet).

$\%H_2O$ = Hourly average stack moisture content during unit operation, percent by volume.

2.3 Use the following equations to calculate total SO_2 mass emissions for each calendar quarter (Equation F–3) and for each calendar year (Equation F–4), in tons:

$$E_q = \frac{\sum_{h=i}^{n} E_h t_h}{2000}$$

(Eq. F–3)

Where:

E_q = Quarterly total SO_2 mass emissions, tons.

E_h = Hourly SO_2 mass emission rate, lb/hr.

t_h = Unit operating time, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

n = Number of hourly SO_2 emissions values during calendar quarter.

2000 = Conversion of 2000 lb per ton.

$$E_a = \sum_{q=1}^{4} E_q$$

(Eq. F–4)

Where:

E_a = Annual total SO_2 mass emissions, tons.

E_q = Quarterly total SO_2 mass emissions, tons.

q = Quarters for which E_q are available during calendar year.

2.4 Round all SO_2 mass emission rates and totals to the nearest tenth.

69. Section 3 of appendix F to part 75 is amended by revising sections 3.3.2, 3.3.3, 3.3.4, 3.4, and 3.5 to read as follows:

3. Procedures for NO_X Emission Rate

* * * * *

3.3 * * *

3.3.2 E = Pollutant emissions during unit operation, lb/mmBtu.

3.3.3 C_h = Hourly average pollutant concentration during unit operation, ppm.

3.3.4 $\%O_2$, $\%CO_2$ = Oxygen or carbon dioxide volume during unit operation (expressed as percent O_2 or CO_2). A minimum concentration of 5.0 percent CO_2 and a maximum concentration of 14.0 percent O_2 may be substituted for measured diluent gas concentration values at boilers during hours when the hourly average concentration of CO_2 is <5.0 percent CO_2 or the hourly average concentration of O_2 is >14.0 percent O_2. A minimum concentration of 1.0 percent CO_2 and a maximum concentration of 19.0 percent O_2 may be substituted for measured diluent gas concentration values at stationary gas turbines during hours when the hourly average concentration of CO_2 is <1.0 percent CO_2 or the hourly average concentration of O_2 is >19.0 percent O_2.

* * * * *

3.4 Use the following equations to calculate the average NO_X emission rate for each calendar quarter (Equation F–9) and the average emission rate for the calendar year (Equation F–10), in lb/mmBtu:

$$E_q = \sum_{i=1}^{n} \frac{E_i}{n}$$

(Eq. F–9)

Where:

E_q = Quarterly average NO_X emission rate, lb/mmBtu.

E_i = Hourly average NO_X emission rate during unit operation, lb/mmBtu.

n = Number of hourly rates during calendar quarter.

$$E_a = \sum_{i=1}^{m} \frac{E_i}{m}$$

(Eq. F–10)

Where:

E_a = Average NO_X emission rate for the calendar year, lb/mmBtu.

E_i = Hourly average NO_X emission rate during unit operation, lb/mmBtu.
m = Number of hourly rates for which E_i is available in the calendar year.

3.5 Round all NO_X emission rates to the nearest 0.01 lb/mmBtu prior to January 1, 2000 and to the nearest 0.001 lb/mmBtu on and after January 1, 2000.

70. Section 4 of appendix F to part 75 is amended by revising sections 4.1, 4.2, 4.3, and 4.4.1 to read as follows:

4. Procedures for CO_2 Mass Emissions

* * * * *

4.1 When CO_2 concentration is measured on a wet basis, use the following equation to calculate hourly CO_2 mass emissions rates (in tons/hr):

$E_h = KC_hQ_h$

(Eq. F–11)

Where:

E_h = Hourly CO_2 mass emission rate during unit operation, tons/hr.
$K = 5.7 \times 10^{-7}$ for CO_2, (tons/scf) /%CO_2.
C_h = Hourly average CO_2 concentration during unit operation, wet basis, percent CO_2. For boilers, a minimum concentration of 5.0 percent CO_2 may be substituted for the measured concentration when the hourly average concentration of CO_2 is < 5.0 percent CO_2, provided that this minimum concentration of 5.0 percent CO_2 is also used in the calculation of heat input for that hour. For stationary gas turbines, a minimum concentration of 1.0 percent CO_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of CO_2 is < 1.0 percent CO_2, provided that this minimum concentration of 1.0 percent CO_2 is also used in the calculation of heat input for that hour.
Q_h = Hourly average volumetric flow rate during unit operation, wet basis, scfh.

4.2 When CO_2 concentration is measured on a dry basis, use Equation F–2 to calculate the hourly CO_2 mass emission rate (in tons/hr) with a K-value of 5.7×10^{-7} (tons/scf) percent CO_2, where E_h = hourly CO_2 mass emission rate, tons/hr and C_{hp} = hourly average CO_2 concentration in flue, dry basis, percent CO_2.

4.3 Use the following equations to calculate total CO_2 mass emissions for each calendar quarter (Equation F–12) and for each calendar year (Equation F–13):

$$E_{CO_2q} = \sum_{h=1}^{H_R} E_h t_h$$

(Eq. F–12)

Where:

$E_{(CO_2)q}$ = Quarterly total CO_2 mass emissions, tons.
E_h = Hourly CO_2 mass emission rate, tons/hr.
t_h = Unit operating time, in hours or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).
H_R = Number of hourly CO_2 mass emission rates available during calendar quarter.

* * * * *

4.4 * * *

4.4.1 Use appropriate F and F_c factors from section 3.3.5 of this appendix in the following equation to determine hourly average CO_2 concentration of flue gases (in percent by volume):

$$CO_{2d} = 100\frac{F_c}{F}\frac{20.9 - O_{2d}}{20.9}$$

(Eq. F–14a)

Where:

CO_{2d} = Hourly average CO_2 concentration during unit operation, percent by volume, dry basis.
F, F_c = F-factor or carbon-based F_c-factor from section 3.3.5 of this appendix.
20.9 = Percentage of O_2 in ambient air.
O_{2d} = Hourly average O2 concentration during unit operation, percent by volume, dry basis. For boilers, a maximum concentration of 14.0 percent O_2 may be substituted for the measured concentration when the hourly average concentration of O_2 is > 14.0 percent O_2, provided that this maximum concentration of 14.0 percent O_2 is also used in the calculation of heat input for that hour. For stationary gas turbines, a maximum concentration of 19.0 percent O_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of O_2 is > 19.0 percent O_2, provided that this maximum concentration of 19.0 percent O_2 is also used in the calculation of heat input for that hour.

$$CO_{2w} = \frac{100}{20.9}\frac{F_c}{F}\left[20.9\left(\frac{100 - \%H_2O}{100}\right) - O_{2w}\right]$$

or

(Eq. F–14b)

Where:

CO_{2w} = Hourly average CO_2 concentration during unit operation, percent by volume, wet basis.
O_{2w} = Hourly average O_2 concentration during unit operation, percent by volume, wet basis. For boilers, a maximum concentration of 14.0 percent O_2 may be substituted for the measured concentration when the hourly average concentration of O_2 is > 14.0 percent O_2, provided that this maximum concentration of 14.0 percent O_2 is also used in the calculation of heat input for that hour. For stationary gas turbines, a maximum concentration of 19.0 percent O_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of O_2 is > 19.0 percent O_2, provided that this maximum concentration of 19.0 percent O_2 is also used in the calculation of heat input for that hour.
F, F_c = F-factor or carbon-based F_c-factor from section 3.3.5 of this appendix.
20.9 = Percentage of O_2 in ambient air.
%H_2O = Moisture content of gas in the stack, percent.

* * * * *

71. Section 5 of appendix F to part 75 is amended by revising sections 5, 5.1, 5.2, 5.5, 5.5.1, and 5.5.2 and by adding new sections 5.3, 5.6, and 5.7 to read as follows:

5. Procedures for Heat Input

Use the following procedures to compute heat input rate to an affected unit (in mmBtu/hr or mmBtu/day):

5.1 Calculate and record heat input rate to an affected unit on an hourly basis, except as provided below. The owner or operator may choose to use the provisions specified in § 75.16(e) or in section 2.1.2 of appendix D to this part in conjunction with the procedures provided below to apportion heat input among each unit using the common stack or common pipe header.

5.2 For an affected unit that has a flow monitor (or approved alternate monitoring system under subpart E of this part for measuring volumetric flow rate) and a diluent gas (O_2 or CO_2) monitor, use the recorded data from these monitors and one of the following equations to calculate hourly heat input rate (in mmBtu/hr).

5.2.1 When measurements of CO_2 concentration are on a wet basis, use the following equation:

$$HI = Q_w \frac{1}{F_c} \frac{\%CO_{2w}}{100}$$

(Eq. F–15)

Where:

HI = Hourly heat input rate during unit operation, mmBtu/hr.

Q_w = Hourly average volumetric flow rate during unit operation, wet basis, scfh.

F_c = Carbon-based F-factor, listed in section 3.3.5 of this appendix for each fuel, scf/mmBtu.

$\%CO_{2w}$ = Hourly concentration of CO_2 during unit operation, percent CO_2 wet basis. For boilers, a minimum concentration of 5.0 percent CO_2 may be substituted for the measured concentration when the hourly average concentration of CO_2 is < 5.0 percent CO_2, provided that this minimum concentration of 5.0 percent CO_2 is also used in the calculation of CO_2 mass emissions for that hour. For stationary gas turbines, a minimum concentration of 1.0 percent CO_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of CO_2 is < 1.0 percent CO_2, provided that this minimum concentration of 1.0 percent CO_2 is also used in the calculation of CO_2 mass emissions for that hour.

5.2.2 When measurements of CO_2 concentration are on a dry basis, use the following equation:

$$HI = Q_h \left[\frac{(100 - \%H_2O)}{100 F_c} \right] \left(\frac{\%CO_2 d}{100} \right)$$

(Eq. F–16)

Where:

HI = Hourly heat input rate during unit operation, mmBtu/hr.

Q_h = Hourly average volumetric flow rate during unit operation, wet basis, scfh.

F_c = Carbon-based F-Factor, listed above in section 3.3.5 of this appendix for each fuel, scf/mmBtu.

$\%CO_{2d}$ = Hourly concentration of CO_2 during unit operation, percent CO_2 dry basis. For boilers, a minimum concentration of 5.0 percent CO_2 may be substituted for the measured concentration when the hourly average concentration of CO_2 is < 5.0 percent CO_2, provided that this minimum concentration of 5.0 percent CO_2 is also used in the calculation of CO_2 mass emissions for that hour. For stationary gas turbines, a minimum concentration of 1.0 percent CO_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of CO_2 is < 1.0 percent CO_2, provided that this minimum concentration of 1.0 percent CO_2 is also used in the calculation of CO_2 mass emissions for that hour.

$\%H_2O$ = Moisture content of gas in the stack, percent.

5.2.3 When measurements of O_2 concentration are on a wet basis, use the following equation:

$$HI = Q_w \frac{1}{F} \frac{\left[(20.9/100)(100 - \%H_2O) - \%O_2 w \right]}{20.9}$$

(Eq. F–17)

Where:

HI = Hourly heat input rate during unit operation, mmBtu/hr.

Q_w = Hourly average volumetric flow rate during unit operation, wet basis, scfh.

F = Dry basis F-Factor, listed above in section 3.3.5 of this appendix for each fuel, dscf/mmBtu.

$\%O_{2w}$ = Hourly concentration of O_2 during unit operation, percent O_2 wet basis. For boilers, a maximum concentration of 14.0 percent O_2 may be substituted for the measured concentration when the hourly average concentration of O_2 is > 14.0 percent O_2, provided that this maximum concentration of 14.0 percent O_2 is also used in the calculation of CO_2 mass emissions for that hour. For stationary gas turbines, a maximum concentration of 19.0 percent O_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of O_2 is > 19.0 percent O_2, provided that this maximum concentration of 19.0 percent O_2 is also used in the calculation of CO_2 mass emissions for that hour.

$\%H_2O$ = Hourly average stack moisture content, percent by volume.

5.2.4 When measurements of O_2 concentration are on a dry basis, use the following equation:

$$HI = Q_w \left[\frac{(100 - \%H_2O)}{100 F} \right] \left[\frac{(20.9 - \%O_{2d})}{20.9} \right]$$

(Eq. F–18)

Where:

HI = Hourly heat input rate during unit operation, mmBtu/hr.

Qw = Hourly average volumetric flow during unit operation, wet basis, scfh.

F = Dry basis F-factor, listed above in section 3.3.5 of this appendix for each fuel, dscf/mmBtu.

$\%H_2O$ = Moisture content of the stack gas, percent.

$\%O_{2d}$ = Hourly concentration of O_2 during unit operation, percent O_2 dry basis. For boilers, a maximum concentration of 14.0 percent O_2 may be substituted for the measured concentration when the hourly average concentration of O_2 is > 14.0 percent O_2, provided that this maximum concentration of 14.0 percent O_2 is also used in the calculation of CO_2 mass emissions for that hour.. For stationary gas turbines, a maximum concentration of 19.0 percent O_2 may be substituted for measured diluent gas concentration values during hours when the hourly average concentration of O_2 is > 19.0 percent O_2, provided that this maximum concentration of 19.0 percent O_2 is also used in the calculation of CO_2 mass emissions for that hour.

5.3 Heat Input Summation (for Heat Input Determined Using a Flow Monitor and Diluent Monitor)

5.3.1 Calculate total quarterly heat input for a unit or common stack using a flow monitor and diluent monitor to calculate heat input, using the following equation:

$$HI_q = \sum_{hour=1}^{n} HI_i t_i$$

(Eq. F–18a)

Where:

HI_q = Total heat input for the quarter, mmBtu.

HI_i = Hourly heat input rate during unit operation, using Equation F–15, F–16, F–17, or F–18, mmBtu/hr.

t_i = Hourly operating time for the unit or common stack, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

5.3.2 Calculate total cumulative heat input for a unit or common stack using a flow monitor and diluent monitor to calculate heat input, using the following equation:

$$HI_c = \sum_{q=1}^{\text{the current quarter}} HI_q$$

(Eq. F–18b)

Where:

HI_c = Total heat input for the year to date, mmBtu.

HI_q = Total heat input for the quarter, mmBtu.

5.4 [Reserved]

5.5 For a gas-fired or oil-fired unit that does not have a flow monitor and is using the procedures specified in appendix D to this part to monitor SO_2 emissions or for any unit using a common stack for which the owner or operator chooses to determine heat input by fuel sampling and analysis, use the following procedures to calculate hourly heat input rate in mmBtu/hr. The procedures of section 5.5.3 of this appendix shall not be used to determine heat input from a coal unit that is required to comply with the provisions of this part for monitoring, recording, and reporting NO_X mass emissions under a state or federal NO_X mass emission reduction program.

5.5.1 When the unit is combusting oil, use the following equation to calculate hourly heat input rate:

$$HI_o = M_o \frac{GCV_o}{10^6}$$

(Eq. F–19)

Where:

HI_o = Hourly heat input rate from oil, mmBtu/hr.

M_o = Mass rate of oil consumed per hour, as determined using procedures in appendix D to this part, in lb/hr, tons/hr, or kg/hr.

GCV_o = Gross calorific value of oil, as measured by ASTM D240–87 (Reapproved 1991), ASTM D2015–91, or ASTM D2382–88 for each oil sample under section 2.2 of appendix D to this part, Btu/unit mass (incorporated by reference under § 75.6).

10_6 = Conversion of Btu to mmBtu. When performing oil sampling and analysis solely for the purpose of the missing data procedures in § 75.36, oil samples for measuring GCV may be taken weekly, and the procedures specified in appendix D to this part for determining the mass rate of oil consumed per hour are optional.

5.5.2 When the unit is combusting gaseous fuels, use the following equation to calculate heat input rate from gaseous fuels for each hour:

$$HI_g = \frac{(Q_g \times GCV_g)}{10^6}$$

(Eq. F–20)

Where:

HI_g=Hourly heat input rate from gaseous fuel, mmBtu/hour.

Q_g=Metered flow rate of gaseous fuel combusted during unit operation, hundred cubic feet.

GCV_g=Gross calorific value of gaseous fuel, as determined by sampling (for each delivery for gaseous fuel in lots, for each daily gas sample for gaseous fuel delivered by pipeline, for each hourly average for gas measured hourly with a GCH, or for each monthly sample of pipeline natural gas, or as verified by the contractual supplier at least once every month pipeline natural gas is combusted, as specified in section 2.3 of appendix D to this part) using ASTM D1826–88, ASTM D3588–91, ASTM D4891–89, GPA Standard 2172–86 "Calculation of Gross Heating Value, Relative Density and Compressibility Factor for Natural Gas Mixtures from Compositional Analysis," or GPA Standard 2261-90 "Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography," Btu/100 scf (incorporated by reference under § 75.6).

10^6=Conversion of Btu to mmBtu.

* * * * *

5.6 Heat Input Rate Apportionment for Units Sharing a Common Stack or Pipe

5.6.1 Where applicable, the owner or operator of an affected unit that determines heat input rate at the unit level by apportioning the heat input monitored at a common stack or common pipe using megawatts should apportion the heat input rate using the following equation:

$$HI_i = HI_{CS}\left(\frac{t_{CS}}{t_i}\right)\left[\frac{MW_i t_i}{\sum_{i=1}^{n} MW_i t_i}\right]$$

(Eq. F–21a)

Where:

HI_i=Heat input rate for a unit, mmBtu/hr.

HI_{CS}=Heat input rate at the common stack or pipe; mmBtu/hr.

MW_i=Gross electrical output, MWe.

t_i=Operating time at a particular unit, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

t_{CS}=Operating time at common stack, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

n=Total number of units using the common stack.

i=Designation of a particular unit.

5.6.2 Where applicable, the owner or operator of an affected unit that determines the heat input rate at the unit level by apportioning the heat input rate monitored at a common stack or common pipe using steam load should apportion the heat input rate using the following equation:

$$HI_i = HI_{CS}\left(\frac{t_{CS}}{t_i}\right)\left[\frac{SF_i t_i}{\sum_{i=1}^{n} SF_i t_i}\right]$$

(Eq. F–21b)

Where:

HI_i=Heat input rate for a unit, mmBtu/hr.

HI_{CS}=Heat input rate at the common stack or pipe, mmBtu/hr.

SF=Gross steam load, lb/hr.

t_i=Operating time at a particular unit, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

t_{CS}=Operating time at common stack, hour or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

n=Total number of units using the common stack.

i=Designation of a particular unit.

5.7 Heat Input Rate Summation for Units with Multiple Stacks or Pipes

The owner or operator of an affected unit that determines the heat input rate at the unit level by summing the heat input rates monitored at multiple stacks or multiple pipes should sum the heat input rates using the following equation:

$$HI_{Unit} = \frac{\sum_{s=1}^{n} HI_s t_s}{t_{Unit}}$$

(Eq. F–21c)

Where:

HI_{Unit}=Heat input rate for a unit, mmBtu/hr.

HI_s=Heat input rate for each stack or duct leading from the unit, mmBtu/hr.

t_{Unit}=Operating time for the unit, hour or fraction of the hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

t_s=Operating time during which the unit is exhausting through the stack or duct, hour or fraction of the hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator).

72. Section 8 of appendix F to part 75 is added to read as follows:

8. Procedures for NO_X Mass Emissions

The owner or operator of a unit that is required to monitor, record, and report NO_X mass emissions under a state or federal NO_X mass emission reduction program must use the procedures in section 8.1 to account for hourly NO_X mass emissions, and the procedures in section 8.2 to account for quarterly, seasonal, and annual NO_X mass emissions if the provisions of subpart H of this part are adopted as requirements under such a program.

8.1 Use the following procedures to calculate hourly NO_X mass emissions in lbs for the hour.

8.1.1 If both NO_X emission rate and heat input are monitored at the same unit or stack level (e.g, the NO_X emission rate value and heat input value both represent all of the units exhausting to the common stack), use the following equation:

$$M_{NO_{X_h}} = E_h HI_h t_h$$

(Eq. F–23)

Where:

$M_{NOx(h)}$=NO_X mass emissions in lbs for the hour.

E_h=Hourly average NO_X emission rate for hour h, lb/mmBtu.

H_{ih}=Hourly average heat input rate for hour h, mmBtu/hr.

t_h=Monitoring location operating time for hour h, in hours or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator). If the combined NO_X emission rate and heat input are monitored for all of the units in a common stack, the monitoring location operating time is equal to the total time when any of those units was exhausting through the common stack.

8.1.2 If NO_X emission rate is measured at a common stack and heat input is measured at the unit level, sum the hourly heat inputs at the unit level according to the following formula:

$$HI_{CS} = \frac{\sum_{u=1}^{p} HI_u t_u}{t_{CS}}$$

(Eq. F–24)

Where:

HI_{CS}=Hourly average heat input rate for hour h for the units at the common stack, mmBtu/hr.

t_{CS}=Common stack operating time for hour h, in hours or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator)(e.g., total time when any of the units which exhaust through the common stack are operating).

HI_u=Hourly average heat input rate for hour h for the unit, mmBtu/hr.

t_u=Unit operating time for hour h, in hours or fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator). Use the hourly heat input rate at the common stack level and the hourly average NO_X emission rate at the common stack level and the procedures in section 8.1.1 of this appendix to determine the hourly NO_X mass emissions at the common stack.

8.1.3 If a unit has multiple ducts and NO_X emission rate is only measured at one duct, use the NO_X emission rate measured at the duct, the heat input measured for the unit, and the procedures in section 8.1.1 of this appendix to determine NO_X mass emissions.

8.1.4 If a unit has multiple ducts and NO_X emission rate is measured in each duct, heat input shall also be measured in each duct and the procedures in section 8.1.1 of this appendix shall be used to determine NO_X mass emissions.

8.2 Use the following procedures to calculate quarterly, cumulative ozone season, and cumulative yearly NO_X mass emissions, in tons:

$$M_{(NO_X)_{time\ period}} = \frac{\sum_{h=1}^{p} M_{(NO_X)_h}}{2000}$$

(Eq. F–25)

Where:

$M_{(NOX)time\ period}$=NO_X mass emissions in tons for the given time period (quarter, cumulative ozone season, cumulative year-to-date).

$M_{(NOX)h}$=NO_X mass emissions in lbs for the hour.

p=The number of hours in the given time period (quarter, cumulative ozone season, cumulative year-to-date).

8.3 Specific provisions for monitoring NO_X mass emissions from common stacks. The owner or operator of a unit utilizing a common stack may account for NO_X mass emissions using either of the following methodologies, if the provisions of subpart H are adopted as requirements of a state or federal NO_X mass reduction program:

8.3.1 The owner or operator may determine both NO_X emission rate and heat input at the common stack and use the procedures in section 8.1.1 of this appendix to determine hourly NO_X mass emissions.

8.3.2 The owner or operator may determine the NO_X emission rate at the common stack and the heat input at each of the units and use the procedures in section 8.1.2 of this appendix to determine the hourly NO_X mass emissions.

APPENDIX G TO PART 75—DETERMINATION OF CO_2 EMISSIONS

* * * * *

73. Section 2 of appendix G to part 75 is amended by revising the term "Wc" that follows Equation G–1 to read as follows:

2. Procedures for Estimating CO_2 Emissions From Combustion

2.1 * * *

(Eq. G–1)

Where:

* * * * *

W_C=Carbon burned, lb/day, determined using fuel sampling and analysis and fuel feed rates. Collect at least one fuel sample during each week that the unit combusts coal, one sample per each shipment for oil and diesel fuel, and one fuel sample for each delivery for gaseous fuel in lots, for each daily gas sample for gaseous fuel delivered by pipeline, or for each monthly sample of pipeline natural gas. Collect coal samples from a location in the fuel handling system that provides a sample representative of the fuel bunkered or consumed during the week. Determine the carbon content of each fuel sampling using one of the following methods: ASTM D3178–89 or ASTM D5373–93 for coal; ASTM D5291–92 "Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants," ultimate analysis of oil, or computations based upon ASTM D3238–90 and either ASTM D2502–87 or ASTM D2503–82 (Reapproved 1987) for oil; and computations based on ASTM D1945–91 or ASTM D1946–90 for gas. Use daily fuel feed rates from company records for all fuels and the carbon content of the most recent fuel sample under this section to determine tons of carbon per day from combustion of each fuel. (All ASTM methods are incorporated by reference under § 75.6). Where more than one fuel is combusted during a calendar day, calculate total tons of carbon for the day from all fuels.

* * * * *

74. Appendix G to part 75 is amended by adding a new section 5 and Table G–1 to read as follows:

5. Missing Data Substitution Procedures for Fuel Analytical Data

Use the following procedures to substitute for missing fuel analytical data used to calculate CO_2 mass emissions under this appendix.

5.1 Missing Carbon Content Data Prior to 1/1/2000

Prior to January 1, 2000, follow either the procedures of this section or the procedures of section 5.2 of this appendix to substitute for missing carbon content data. On and after January 1, 2000, use the procedures of section 5.2 of this appendix to substitute for missing carbon content data, not the procedures of this section.

5.1.1 Most Recent Previous Data

Substitute the most recent, previous carbon content value available for that fuel type (gas, oil, or coal) of the same grade (for oil) or rank (for coal). To the extent practicable, use a carbon content value from the same fuel supply. Where no previous carbon content data are available for a particular fuel type or rank of coal, substitute the default carbon content from Table G–1 below.

5.1.2 [Reserved]

5.2 Missing Carbon Content Data on and After 1/1/2000

Prior to January 1, 2000, follow either the procedures of this section or the procedures of section 5.1 of this appendix to substitute for missing carbon content data. On and after January 1, 2000, use the procedures of this section to substitute for missing carbon content data.

5.2.1 Missing Weekly Samples

If carbon content data are missing for weekly coal samples or composite oil samples from continuous sampling, substitute the highest carbon content from the previous four carbon samples available. If no previous carbon content data are available, use the default carbon content from Table G–1, below.

5.2.2 Manual Sample From Storage Tank

If carbon content data are missing for manual oil or diesel fuel samples taken from the storage tank after transfer of a new delivery of fuel, substitute the highest carbon content from all samples in the previous calendar year. If no previous carbon content data are available from the previous calendar year, use the default carbon content from Table G–1, below.

5.2.3 As-Delivered Sample

If carbon content data are missing for as-delivered samples of oil, diesel fuel, or gaseous fuel delivered in lots, substitute the highest carbon content from all deliveries of that fuel in the previous calendar year. If no previous carbon content data are available for that fuel from the previous calendar year, use the default carbon content from Table G–1, below.

5.2.4 Sample of Gaseous Fuel Supplied by Pipeline

If carbon content data are missing for a gaseous fuel that is supplied by a pipeline and sampled on either a monthly or a daily basis for sulfur and gross calorific value, substitute the highest carbon content available for that fuel from the previous calendar year. If no previous carbon content data are available for that fuel from the previous calendar year, use the default carbon content from Table G–1, below.

TABLE G–1.—MISSING DATA SUBSTITUTION PROCEDURES FOR MISSING CARBON CONTENT DATA

Parameter	Sampling technique/frequency	Missing data substitution procedure
Oil and coal carbon content	All oil and coal samples, prior to January 1, 2000	Most recent, previous carbon content value available for that grade of oil.
	Weekly coal sample or Flow proportional/weekly composite oil sample (beginning no later than January 1, 2000).	Highest carbon in previous 4 weekly samples.
	In storage tank (after addition of fuel to tank) (beginning no later than January 1, 2000).	Maximum carbon content from all samples in previous calendar year.
	As delivered (in delivery truck or barge) (beginning no later than January 1, 2000).	Maximum carbon content from all deliveries in previous calendar year.
Gas carbon content	All gaseous fuel samples, prior to January 1, 2000	Most recent, previous carbon content value available for that type of gaseous fuel.
	Gaseous fuel in lots—as-delivered sampling (beginning no later than January 1, 2000).	Maximum carbon content of all samples in previous calendar year.
	Gaseous fuel delivered by pipeline that is sampled for sulfur content—daily sampling (beginning no later than January 1, 2000).	Maximum carbon content of all samples in previous calendar year.
	Pipeline natural gas that is not sampled for sulfur content—monthly sampling for GCV and carbon only (beginning no later than January 1, 2000).	Maximum carbon content of all samples in previous calendar year.
Default coal carbon content	All	Anthracite: 90.0 percent. Bituminous: 85.0 percent. Subbituminous/Lignite: 75.0 percent.
Default oil carbon content	All	90.0 percent.

TABLE G–1.—MISSING DATA SUBSTITUTION PROCEDURES FOR MISSING CARBON CONTENT DATA—Continued

Parameter	Sampling technique/frequency	Missing data substitution procedure
Default gas carbon content ..	All	Natural gas: 75.0 percent. Other gaseous fuels: 90.0 percent.

5.3 Gross Calorific Value Data

For a gas-fired unit using the procedures of section 2.3 of this appendix to determine CO_2 emissions, substitute for missing gross calorific value data used to calculate heat input by following the missing data procedures for gross calorific value in section 2.4 of appendix D to this part.

Appendix H To Part 75—Revised Traceability Protocol No. 1

75. Appendix H to part 75 is removed and reserved.

76. Appendix I to part 75 is added as follows:

Appendix I To Part 75—Optional F-Factor/Fuel Flow Method

1. Applicability

1.1 This procedure may be used in lieu of continuous flow monitors for the purpose of determining volumetric flow from gas-fired units, as defined in § 72.2 of this chapter, or oil-fired units, as defined in § 72.2 of this chapter, provided that the units burn only pipeline natural gas, natural gas, and/or fuel oil. These procedures use fuel flow measurement, fuel sampling data, CO_2 (or O_2) CEMS data, and F-factors to determine the flow rate of the stack gas. These procedures may only be used during those hours when only one type of fuel is combusted.

1.2 Apply to the Administrator, in a certification application, for approval to use this method in lieu of a continuous flow monitor, no later than the deadlines for the certification of continuous emission monitoring systems specified in §§ 75.20 and 75.63.

2. Procedure

2.1 Initial Certification and Recertification Testing

Either of the following procedures may be used to perform initial certification and recertification testing of the appendix I excepted flow monitoring system:

2.1.1 Component-by-Component Certification Testing

Test both the fuel flowmeter component and the CO_2 (or O_2) monitor component separately, following the procedures of this part. Determine BAF_{System} and BAF_{CO2} or BAF_{O2}, using the procedures in section 3.7 of this appendix.

2.1.1.1 Certification of the Fuel Flowmeter

Test the fuel flowmeter according to the procedures and performance specifications in section 2.1.5 of appendix D to this part.

2.1.1.2 Certification of the CO_2 (or O_2) Monitor

Test the CO_2 or O_2 monitor according to the procedures and performance specifications in appendix A to this part. Notwithstanding the requirements of appendix A to this part, calculate the BAF of the CO_2 or O_2 monitor according to section 3.7 of this appendix.

2.1.2 System Certification Testing

Test the entire appendix I flow monitoring system to meet the relative accuracy requirements for flow, as found in section 3.3.4 of appendix A to this part, using the applicable procedures in sections 6.5 through 6.5.2.2 of appendix A to this part. Use the fuel sampling data for density and carbon content to calculate the hourly volumetric flow rate according to section 2.3 of this appendix. Perform the bias test and, if necessary, calculate a bias adjustment factor for the appendix I flow monitoring system using the procedures in section 7.6 of appendix A to this part. Also perform the 7-day calibration error test, cycle time test, and linearity check on the CO_2-or O_2-diluent monitor.

2.2 On-Going Quality Assurance Testing

2.2.1 Daily Assessments

The CO_2 or O_2 monitor shall meet the daily assessment requirements in section 2.1 of appendix B to this part.

2.2.2 Quarterly Assessments

The CO_2 or O_2 monitor shall meet the quarterly assessment requirements in section 2.2 of appendix B to this part.

2.2.3 Semiannual or Annual Assessments

2.2.3.1 Component-by-Component Assessments

Test both the fuel flowmeter and the CO_2 (or O_2) monitor separately. Determine BAF_{System} and BAF_{CO2} or BAF_{O2} using the procedures in section 3.7 of this appendix.

2.2.3.1.1 Assessment of the Fuel Flowmeter

The fuel flowmeter shall meet the periodic quality assurance requirements in section 2.1.6 of appendix D to this part. The fuel flowmeter shall meet the flowmeter accuracy specification in section 2.1.5 of appendix D to this part.

2.2.3.1.2 Relative Accuracy Assessment of the CO_2 (or O_2) Monitor

Test the CO_2 or O_2 monitor for relative accuracy according to the applicable procedures in sections 6.5 through 6.5.2.2 of appendix A to this part. Determine the relative accuracy test frequency (i.e., semiannual or annual) using section 2.3.1 and figure 2 in appendix B to this part. Perform the bias test and calculate any bias adjustment factor, as specified in section 3.7.1 of this appendix for the CO_2 monitor or as specified in section 3.7.2 of this appendix for the O_2 monitor.

2.2.3.2 System Relative Accuracy Assessment

Test the entire appendix I flow monitoring system to meet the relative accuracy requirements for flow, as found in section 3.3.4 of appendix A to this part, using the procedures in section 6.5.2 of appendix A to this part. Use Reference Method 2 (or its allowable alternatives) in appendix A to part 60 of this chapter to obtain the reference method flow rate value for each run. Use the appropriate equation selected from Eq. I–1 through Eq. I–9 to calculate the Appendix I flow rate value for each RATA run. Base the fuel sampling on section 2.3 of this appendix. Determine the schedule for future relative accuracy tests using the provisions of section 2.3.1 and figure 2 of appendix B to this part for a flow monitoring system. Perform the bias test and, if necessary, calculate a bias adjustment factor for the appendix I flow monitoring system using the procedures in section 7.6 of appendix A to this part.

2.3 Fuel Sampling and Analysis

2.3.1 Carbon Content of Oil

Determine carbon content of the oil by using the following procedures. Collect at least one sample per each shipment for oil and diesel fuel. Determine the carbon content of the fuel sampling using one of the following methods: ASTM D5291–92 "Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants," ultimate analysis of oil, or computations based upon ASTM D3238–90 and either ASTM D2502–87 or ASTM D2503–82 (Reapproved 1987) for oil.

2.3.2 Density of Oil

Determine the density of oil using the procedures in section 2.2 of appendix D to this part.

2.3.3 Gross Calorific Value of Natural Gas

Determine gross calorific value of natural gas by using the procedures in section 5.5.2 of appendix F to this part.

3. Calculations

3.1 Hourly Volumetric Flow during Combustion of Oil Only for Systems that Use a CO_2 Monitor and a Volumetric Oil Flowmeter

$$Q_s = \frac{32.08 \times V \times \rho \times \%C}{\%CO_2}$$

(Eq. I–1)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–10A or I–10B (for component-by-component testing) in section 3.7 of this appendix or by Equation I–11 (for system testing) in section 3.8 of this appendix.

V=Volumetric oil flow rate, gal/hr.

ρ=Oil density, lb/gal.

%C=Percent carbon by weight.

$\%CO_2$=CO_2 concentration, percent by volume.

32.08=Conversion factor, 385 scf CO_2/12 lb C, volume of CO_2 emitted for each pound carbon in oil.

3.2 Hourly Volumetric Flow during Combustion of Oil Only for Systems that Use an O_2 Monitor and a Volumetric Oil Flowmeter

3.2.1 If relative accuracy is determined on a system basis, use the following equation to determine the volumetric stack flow rate:

$$Q_s = \frac{207.6379 \times BAF_{system} \times V \times \rho \times \%C \times (20.9)(100)}{(20.9 - \%O_{2d}) \times (100 - \%H_2O)}$$

(Eq. I–2)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–11 (for system testing) in section 3.8 of this appendix.

V=Volumetric oil flow rate, gal/hr.

ρ=Oil density, lb/gal.

%C=Percent carbon by weight.

$\%O_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_2O$=Percent moisture in the flue gas.

207.6379=Conversion factor, 385 scf CO_2/12 lb C×9190 dscf O_2/1420 scf CO_2, volume of O_2 emitted for each pound carbon in oil.

3.2.2 If relative accuracy is determined on a component by component basis, use the following equation to determine the volumetric stack flow rate:

$$Q_s = \frac{207.6379 \times 1.12 \times V \times \rho \times \%C \times (20.9)(100)}{\left[20.9 - (BAF_{O2} \times \%O_{2d})\right] \times (100 - \%H_2O)}$$

(Eq. I–3)

Where:

Q_s Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{O2}=Bias adjustment factor for the O_2 monitor, as determined by section 3.7.2 of this appendix.

V=Volumetric oil flow rate, gal/hr.

ρ=Oil density, lb/gal.

%C=Percent carbon by weight.

$\%O_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_2O$=Percent moisture in the flue gas.

1.12=Default multiplier used to compensate for systematic error in the demonstration data.

207.6379=Conversion factor, 385 scf CO_2/12 lb C×9190 dscf O_2/1420 scf CO_2, volume of O_2 emitted for each pound carbon in oil.

3.3 Hourly Volumetric Flow during Combustion of Oil Only for Systems that Use a CO_2 Monitor and a Mass Oil Flowmeter

$$Q_s = \frac{32.08 \times BAF_{system} \times M \times \%C}{\%CO_2}$$

(Eq. I–4)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–10A or I–10B (for component by component testing) in section 3.7 of this appendix or by Equation I–11 (for system testing) in section 3.8 of this appendix.

M=Oil mass flow rate, lb/hr.

%C=Percent carbon by weight.

$\%CO_2$=CO_2 concentration, percent by volume.

32.08=Conversion factor, 385 scf CO_2/12 lb C, volume of CO_2 emitted for each pound carbon in oil.

3.4 Hourly Volumetric Flow during Combustion of Oil Only for Systems that Use an O_2 Monitor and a Mass Oil Flowmeter

3.4.1 If relative accuracy is determined on a system basis, use the following equation to determine the volumetric stack flow rate:

$$Q_s = \frac{207.6379 \times BAF_{system} \times M \times \%C \times (20.9)(100)}{(20.9 - \%O_{2d}) \times (100 - \%H_2O)}$$

(Eq. I–5)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–11 (for system testing) in section 3.8 of this appendix.

M=Oil mass flow rate, lb/hr.

%C=Percent carbon by weight.

$\%O_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_2O$=Percent moisture in the flue gas.

207.6379=Conversion factor, 385 scf CO_2/12 lb C×9190 dscf O_2/1420 scf CO_2, volume of O_2 emitted for each pound carbon in oil.

3.4.2 If relative accuracy is determined on a component by component basis, use the following equation to determine the volumetric stack flow rate:

$$Q_s = \frac{207.6379 \times 1.12 \times M \times \%C \times (20.9)(100)}{\left[20.9 - (BAF_{O2} \times \%O_{2d})\right] \times (100 - \%H_2O)}$$

(Eq. I–6)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{O2}=Bias adjustment factor for the O2 monitor, as determined by section 3.7.2 of this appendix.

M=Oil mass flow rate, lb/hr.

%C=Percent carbon by weight.

$\%O_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_2O$=Percent moisture in the flue gas.

1.12=Default multiplier used to compensate for systematic error in the demonstration data.

207.6379=Conversion factor, 385 scf CO_2/12 lb C×9190 dscf O_2/1420 scf CO_2, volume of O_2 emitted for each pound carbon in oil.

3.5 Hourly Volumetric Flow during Combustion of Natural Gas Only for Systems that Use a CO_2 Monitor and a Volumetric Gas Flowmeter

$$Q_s = \frac{0.01 \times BAF_{system} \times V \times GCV \times F_c}{\%CO_2}$$

(Eq. I–7)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–10A or I-10B (for component by component testing) in section 3.7 of this appendix or by Equation I–11 (for system testing) in section 3.8 of this appendix.

V=Volumetric gas flow rate, 100 scfh.

GCV=Gross calorific value of the gaseous fuel, Btu/scf.

F_c=Carbon-based F-factor of 1040 scf CO_2/mmBtu for natural gas, from section 3 of appendix F to this part.

$\%CO_2$=CO_2 concentration, percent by volume.

0.01=Conversion factor, 10^{-6} mmBtu/Btu×10^2 scf/100 scf×10^2 (conversion of fraction to percentage).

3.6 Hourly Volumetric Flow during Combustion of Natural Gas Only for Systems that Use an O_2 Monitor and a Volumetric Gas Flowmeter

3.6.1 Determining Flow for Systems that Are Tested on a System Basis

$$Q_s = \frac{0.01 \times BAF_{system} \times V \times GCV \times F_d \times (20.9)(100)}{(20.9 - \%O_{2d}) \times (100 - \%H_2O)}$$

(Eq. I–8)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{system}=Bias adjustment factor for the system, as determined by Equation I–11 (for system testing) in section 3.8 of this appendix.

V=Volumetric gas flow rate, 100 scfh.

GCV=Gross calorific value of the natural gas, Btu/scf.

F_d=Dry basis, O_2-based F-factor for natural gas, 8,710 dscf/mmBtu.

$\%O_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_2O$=Percent moisture in the flue gas.

0.01=Conversion factor, 10^{-6} mmBtu/Btu x 10^2 scf/100 scf×10^2 (conversion of fraction to percentage).

3.6.2 Determining Flow for Systems that are Tested on a Component-by-Component Basis

$$Q_s = \frac{0.01 \times 1.12 \times V \times GCV \times F_d \times (20.9)(100)}{[20.9 - (BAF_{O2} \times \%O_{2d})] \times (100 - \%H_2O)}$$

(Eq. I–9)

Where:

Q_s=Volumetric stack flow rate, adjusted for bias, in scfh.

BAF_{O2}=Bias adjustment factor for the O_2 monitor, as determined by section 3.7.2 of this appendix.

V=Volumetric gas flow rate, 100 scfh.

GCV=Gross calorific value of the natural gas, Btu/scf.

F_d=Dry basis, O_2-based F-factor for natural gas, 8,710 dscf/mmBtu.

$\%O2_{2d}$=Dry basis O_2 concentration, percent by volume.

$\%H_d2O$=Percent moisture in the flue gas.

1.12=Default multiplier used to compensate for systematic error in the demonstration data.

0.01=Conversion factor, 10^{-6} mmBtu/Btu x 10^2 scf/100 scf x 10^2 (conversion of fraction to percentage).

3.7 Bias Adjustment Factor for a System Tested Component-by-Component

3.7.1 Calculation of the System Bias Adjustment Factor, BAF_{system}, for CO_2 Monitor

Calculate the mean difference of the relative accuracy test data for the CO_2 monitor, $\bar{d}$, using Equation A–7 in section 7.3.1 of appendix A to this part. Calculate the confidence coefficient (cc) using Equation A–9 in section 7.3.3 of appendix A to this part.

If $\bar{d}$ < -cc, where $\bar{d}$ is defined by Equation A–7, calculate the bias adjustment factor for a system tested component by component, as follows:

$$BAF_{system} = \frac{1.12}{\left(1 + \frac{\bar{d}}{\overline{CEM}}\right)}$$

(Eq. I–10A)

If $\bar{d} \geq$ -cc, then

BAF_{system}=1.12

(Eq. I–10B)

Where:

BAF_{system}=Overall bias adjustment factor for the appendix I flow monitoring system.

1.12=Default multiplier used to compensate for systematic error in the demonstration data.

$\bar{d}$=Mean difference between the reference method and continuous emission monitoring system (RM_i-CEM_i) as defined in Equation A–7 in section 7.3.1 of appendix A to this part.

$\overline{CEM}$=Mean of the data values provided by the CO_2 monitor during the relative accuracy test audit.

3.7.2 Calculation of the Component Bias Adjustment Factor, BAF_{O2}, for O_2 Monitor

Perform the bias test for the O_2 monitor using the procedures in section 7.6 of appendix A to this part and, if necessary, calculate a bias adjustment factor.

3.8 Bias Adjustment Factor for a System Tested on a System Level

Calculate the bias adjustment factor for a system tested on a system level, as follows:

BAF_{System}=$GAF_{flow\ rate}$

(Eq. I–11)

Where:

BAF_{system}=Overall bias adjustment factor for the appendix I flow monitoring system.

$BAF_{flow\ rate}$=Bias adjustment factor from relative accuracy testing using Reference Method 2 for volumetric flow rate.

4. Missing Data

4.1 The owner or operator shall provide substitute volumetric flow data using the flow missing data procedures in subpart D of this part.

4.2 [Reserved]

5. Recordkeeping and Reporting

Follow the applicable monitoring plan provisions of § 75.53, the applicable general recordkeeping provisions of § 75.57, the specific recordkeeping provisions of § 75.58(g), the certification recordkeeping provisions of § 75.59(d)(1), and the quality assurance test recordkeeping provisions of § 75.59(d)(2). Maintain a quality assurance/quality control plan, as specified in appendix

B to this part. Follow the reporting provisions of §§ 75.60 through 75.67.

77. Appendix J to part 75 is removed and reserved.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 75

[FRL–6007–7]

RIN 2060–AH64

Acid Rain Program: Determinations under EPA Study of Bias Test and Relative Accuracy and Availability Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed determinations and proposed rulemakings.

SUMMARY: Title IV of the Clean Air Act Amendments of 1990 (the Act) authorizes EPA to establish a program to reduce the adverse effects of acidic deposition. The Act requires electric utilities affected by the Acid Rain Program to install continuous emission monitoring systems (CEMS) to measure emissions of sulfur dioxide (SO_2), nitrogen oxides (NO_X), and carbon dioxide (CO_2). On January 11, 1993, Continuous Emission Monitoring regulations were published. They established procedures and requirements for installing, certifying, operating, and quality assuring CEMS at Acid Rain affected utility units. In response to comments and litigation from representatives of the electric utility industry and environmental advocacy groups, provisions were incorporated in the CEMS regulations requiring EPA to conduct studies, reach determinations, and, if necessary, initiate rulemakings on the appropriateness of retaining or revising three elements in the CEMS regulations: the bias test, relative accuracy test, and the availability trigger conditions of the Missing Data Substitution Procedure. This Notice of Proposed Rulemaking presents EPA's proposed determinations and consequent proposed rule revisions.

DATES: *Comments.* Comments on the proposed determinations and rule revisions must be received on or before July 6, 1998.

Public Hearing. Anyone requiring a public hearing must contact EPA no later than June 1, 1998. If a hearing is held, it will take place June 5, 1998, beginning at 10:00 a.m.

ADDRESSES: *Comments.* All written comment must be identified with the appropriate docket number (Docket No. A–97–56) and must be submitted in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, D.C. 20460.

Public Hearing. If a public hearing is requested, it will be held at the Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, in the Education Center Auditorium. Refer to the Acid Rain homepage at www.epa.gov/acidrain for more information or to determine if a public hearing has been requested and will be held.

Docket. Docket No. A–97–56, containing supporting information used to develop the proposed determinations and rule revisions is available for public inspection and copying from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section at the above address.

FOR FURTHER INFORMATION CONTACT: Elliot Lieberman at (202) 564 9136, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; or the Acid Rain Hotline at (202) 564 9620. Electronic copies of this notice and technical support documents can be accessed through the Acid Rain Division website at http://www.epa.gov/acidrain.

SUPPLEMENTARY INFORMATION:

I. EPA Studies Under 40 CFR 75.7
  A. Background
  B. Collaborative Field Study
  C. Certification Test Study
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I. EPA Studies Under 40 CFR 75.7

A. Background

To ensure a consistent level of precision and accuracy in the emission measurements obtained across the Acid Rain Program, Part 75 of the Acid Rain regulations requires a series of performance tests to be conducted on each CEMS both at initial certification and periodically thereafter. Among the required performance tests is the relative accuracy test audit (RATA) in which a minimum of nine simultaneous measurements are taken from a unit's installed CEMS and an EPA approved reference method. The paired RATA data are then subjected to two statistical tests: The relative accuracy test, which establishes the degree of accuracy of the CEMS relative to the reference method; and the bias test, which uses a t-statistic to determine if the CEMS measurements are consistently lower than the reference method measurements. *See* 40 CFR Part 75, Appendix A and B.

As stated in the preamble of the January 1993 regulations, EPA found that "both statistical theory and field test results show that the bias test is a sound and effective statistical procedure for detecting consistent measurement error in the long-term operation of a CEMS" (58 FR 3590, 3627 (1993)). However, at the time of promulgation of the Acid Rain regulations, although utilities had extensive experience with the relative accuracy test, they had virtually no previous experience with the bias test. This unfamiliarity led to several concerns with the bias test. Thus, the January 1993 regulations committed EPA to conduct field studies to determine "whether there are statistically significant variances" in the EPA-approved reference methods that utilities use to test the performance of the CEMS installed under the Acid Rain Program and "whether the bias test should be adjusted to compensate for statistical variances in the reference method" (58 FR 3628).

In particular, EPA was required to:

1. Investigate whether there are statistically significant variances in the EPA reference methods (Issue #1);

2. Distinguish between the variability in reference monitor readings attributable to measurement error and the variability due to the choice of reference monitor among those certified by the Agency (Issue #2);

3. Investigate possible differences in bias test failure rates by emission levels (Issue #3); and

4. Assess whether any adjustments are necessary to properly determine measurement bias (Issue #4).

The regulations called for the completion of a study addressing these issues by October 31, 1993. In response, EPA conducted two studies. The first was a collaborative field study, involving four independent reference method test teams, at Big Rivers Electric Corporation's Green Generating Station, Unit 2, in Sebree, Kentucky. This location was specifically selected for testing because its relatively low range of SO_2 emission concentrations (from 56 ppm to 231 ppm) would allow EPA to examine bias test failure rates at SO_2 emission levels different from those prevailing in previous field studies and consider an industry concern that

contradictory bias test results were more likely to occur at low, than at high, emission concentrations. Field work for this study was completed from August 16–31, 1993. Separate data summary (Docket Item, A–97–56, II–A–1) and statistical analyses reports summary (Docket Item, A–97–56, II–A–2) were completed in March 1994 and September 1996 respectively.

The second study involved collection and analysis of bias test results from the field tests conducted by affected units under Part 75 for certification of their CEMS. The certification test data, including the bias test, were submitted to EPA from November 1993 to September 1996. The study results reported here (and contained in Docket Item, A–97–56, II–A–3) were available in 1997 only after the CEMS at the majority of both Phase I and Phase II (lower emitting) units had been received and certified by EPA.

B. Collaborative Field Study

In the collaborative field study at Unit 2 of Big Rivers Electric Corporation's Green Generating Station ("Green Unit 2"), four labs (i.e., test teams) simultaneously performed Reference Methods 6C (for SO_2), 7E (for NO_X), and 3A (for CO_2). To test the two general monitoring technologies available for performing the reference methods, two of the teams used "wet-basis" sampling techniques and two used "dry-basis" techniques. In the "wet-basis" sampling techniques, a dilution probe is used to extract a diluted sample of the effluent from the stack gas. The diluted gas sample is then analyzed using an ambient-level analyzer (e.g., pulsed fluorescence for SO_2, chemiluminescence for NO_X, and infrared absorption for CO_2), which does not require removal of moisture from the gas sample. In the "dry-basis" sampling techniques, a gas sample is extracted from the effluent stream without dilution. Moisture is condensed from the gas sample and the resulting dry sample is then analyzed using a source-level analyzer (infrared or ultraviolet for SO_2, chemiluminescence for NO_X, and infrared for CO_2).

Seventy-two runs of usable data (out of 76 total runs) were collected by the four labs. Concurrent measurements were also collected from Green Unit 2's SO_2, NO_X, and CO_2 continuous emissions monitoring systems, previously certified under the Acid Rain Program. On 36 of the runs, each lab and the unit's CEMS used separate calibration gases as required under 40 CFR Part 75. On the other 36 runs, all labs and the plant's CEMS shared common gases when calibrating.

Issues #1 and #2 involve evaluation of the sources of variability inherent in EPA's reference methods. In the consideration of these two issues only the reference method measurements were analyzed, not the unit's CEMS. Issues #3 and #4 involve a comparison of the CEMS and the reference method measurements to determine if bias (systematic error) is detected in the CEMS measurement. In the consideration of these two issues, the unit's CEMS measurements were paired with each of the four lab's concurrent reference method measurements. This produced four sets of concurrent Relative Accuracy Test Audits (RATA's) which could be used in evaluating bias test result consistency across the four labs.

To address the first two issues concerning the sources and extent of variability inherent in the reference methods, the collaborative field study employed an experimental design (technically known as a "randomized complete block design") which allowed the quantification of the relative variability associated with (i) among-laboratory variation, (ii) variation between monitoring technologies (i.e., "wet-basis" or "dry-basis" sampling techniques), (iii) the variability associated with different calibration gas scenarios (i.e., separate or shared calibration gases), and (iv) random error.

Applying an analysis of variance (ANOVA) statistical procedure to the field study data, EPA found that the overall variation in the reference methods, considering all the monitoring technologies and calibration gas scenarios, was 2.93%RSD (Relative Standard Deviation) for SO_2, 2.01%RSD for NO_X, and 1.59%RSD for CO_2. Reference method variations below approximately 3%RSD are consistent with the findings of an earlier collaborative field study, reported in Docket Item, A–97–56, II–A–5, where variations of 1.4%RSD and 2.9%RSD were found for SO_2 and NO_X respectively. (The variation for CO_2 is not available from the earlier study since that study did not include CO_2 reference method measurements.) Based on these findings, with respect to Issue #1 EPA believes that the statistically significant variances in the EPA reference methods are small.

The analysis in the most recent collaborative study also revealed that the range in the Relative Standard Deviation due to the choice of reference method monitor (i.e., different analyzers using "wet-basis" or "dry-basis" technology) among allowable reference method technologies was very small (below 1%RSD) whether the labs used separate or shared calibration gases. Consequently, EPA believes with respect to Issue #2 that the variability due to the choice of reference method monitor among those available is very small.

As noted earlier, Issues #3 and #4 require consideration of simultaneous measurements by the unit's CEMS along with the four test labs. To respond to Issue #3, concerning the consistency of the bias test results, the field test data were analyzed to determine how much agreement was found among the four labs as to whether the CEM was biased or not biased when current provisions of Part 75 are followed. In particular, the consistency in bias test results was evaluated by counting the number of concurrent RATA's in which agreement among the four test teams was 100% (all four labs agree), 75% (three out of four labs agree) and 50% (two labs find bias and two find no bias). For each pollutant there was never less than 75% agreement among the test teams when the reference methods and the installed CEMS were each calibrated using independently selected calibration gases, as is required under 40 CFR Part 75. For NO_X and CO_2 there was always 100% agreement. For SO_2 there was 100% agreement in bias test results in more than 76% of the concurrent RATA's.

These test results lead EPA to believe that even at a site exhibiting low SO_2 emission concentrations, there is a high degree of consistency in bias test results.

C. Certification Test Study

To respond further to Issue #3, EPA analyzed the consistency in bias test results across the universe of affected units, by conducting a study of the bias test results for all CEMS for which certification tests data were submitted under Part 75 between November 1993 and September 1996. To see how test results were affected by emission levels, the pass/fail rates at different concentrations (SO_2) and emission rates (NO_X) were compared for 1023 SO_2 and 1293 NO_X bias tests submitted under the Acid Rain Program. This analysis was not performed on CO_2 monitors, because under Part 75 units are not required to perform the bias test on their CO_2 monitors.

Grouping monitors according to the average concentration level (for SO_2 CEMS) and average emission rate (for NO_X CEMS), reported by the CEMS during the RATA, the pass/fail rates were plotted at regular increasing SO_2 emission concentration levels and NO_X emission rates. The resulting graphs revealed that the percentage of passes and fails remained relatively consistent

across concentration and emission rate categories. For example, for all SO_2 monitors, 73% (750 out of a total of 1023 monitors) passed the bias test. Assigning each tested monitor to one of fourteen 100 ppm categories, beginning at 0–100 ppm and ending at above 1300 ppm, showed that the percent of passing monitors in all but three of the concentration categories fell between 70 and 90%. The three categories whose passing rates were outside this range were 400–500 ppm (56% passing), 600–700 ppm (69%), and above 1300 ppm (63%). Thus, there was little or no apparent correlation between concentration level and bias test failure rates.

The graphical analysis for SO_2 monitors was confirmed by calculation of the r-squared value for the data. The r-squared value is a measure of the strength of the linear relationship between two data sets. R-squared can take on values from zero to one. A high r-squared value, i.e., closer to 1 than to 0, would suggest that the bias test pass/fail rate is highly correlated with the emission concentration level, e.g., that bias test failure is more likely with low emission concentration as suggested by utilities. A low r-squared value, i.e., closer to 0 than to 1, would suggest the absence of correlation between the bias pass/fail rate and the emission concentration level. For the plotted SO_2 data, the r-squared value was low: 0.0109.

The same graphical and statistical analysis was performed on the certification test data submitted for NO_X CEMS. Bias test pass/fail rates for 1293 NO_X monitors were divided into sixteen 0.1 lb/mmBTU categories. Considering all these categories, 67% (866 out of a total of 1293 monitors) passed the bias test. A plot of the data by emission category showed the bias test passing rate fell between 65% and 85% in all but of 3 of the 16 NO_X emission categories. The three emission rate categories whose passing rates were outside this range were not correlated to the measured NO_X emission rate: 0.1–0.2 lb/mmBTU (47% passing), 0.4–0.5 lb/mmBTU (59%), and 1.4–1.5 lb/mmBTU (50%). Again, there was little or no apparent correlation between bias test pass/fail rates and emission rate, and this was confirmed by the statistical analysis. The r-squared value for the NO_X data was low: 0.1109.

Thus, the graphical and statistical analysis performed in the certification test study indicates consistent bias test results across emission levels.

D. Proposed Findings and Conclusions

Based on the analyses performed to address Issues #1–3 in the collaborative and certification field studies, EPA considered Issue #4, concerning the necessity and feasibility of adjustments to the bias test. EPA currently believes that the small variability in the reference methods (less than 3%RSD across all gas scenarios and monitor technologies) indicates that there is very low probability that a continuous emission monitoring system will fail the bias test for reasons other than the presence of true measurement bias in the CEMS. The high level of consistency in bias test results seems to support this view.

Based on these studies, EPA proposes to find that:

1. The variability attributable to measurement error and to the choice of reference monitor technology in the Agency's approved test methods for SO_2, NO_X, and CO_2 is low (below 3.0% Relative Standard Deviation).

2. Differences in measurement variability among different allowable reference method technologies are small (below 1.0% RSD).

3. There is a high occurrence of consistency in bias test results.

4. There is no evidence that bias test failure rates are significantly influenced by emission levels.

Documentation of these proposed findings can be found in four docket items: A Collaborative Field Evaluation of EPA Test Methods 6C, 7E, and 3A (March 1994) (Docket Item, A–97–56, II–A–1) gives a detailed description of the collaborative field test activities, site characteristics, and equipment employed, presents data obtained in the field study, and discusses preliminary findings on the variability of the reference methods. A second report, An Operator's Guide to Eliminating Bias in CEM System (November 1994) (Docket Item, A–97–56, II–A–6) is an independent technical guidance document advising environmental technicians on procedures for detecting and correcting engineering problems that could produce measurement bias in CEM systems. A third report, Statistical Analysis of Reference Method Variability and Bias Test Consistency in the Collaborative Field Study of EPA Test Methods 6C, 7E, and 3A at Big Rivers Electric Corporation, Green Generating Station, Unit 2 (September 1996) ((Docket Item, A–97–56, II–A–2), focuses on the analysis of the collaborative study field data, reports the results of this analysis with respect to the four issues that the study was designed to address, and, based on this analysis, makes recommendations concerning whether adjustments are needed to the bias test. Finally, the graphs and supporting data from the certification test study can be found in "Bias Test Pass/Fail Rates at Different SO_2 and NO_X Emission Levels as Reported in Certification Relative Accuracy Test Audits (RATA's) submitted through September 1996 under 40 CFR Part 75." (December 1997) (Docket Items, A–97–56, II–A–3 and II–A–4).

Based on the proposed findings enumerated above, EPA proposes to determine that adjustments to the equations in the bias test are technically unnecessary to properly determine measurement bias. EPA therefore proposes not to initiate a rulemaking to change the bias test under § 75.7.

II. EPA Analyses in Response to 40 CFR 75.8

A. Background

In accordance with a settlement agreement, signed on April 17, 1995 in *Environmental Defense Fund v. Browner*, No. 93–1203 and consolidated cases (D.C. Cir., 1993), which addressed various CEMS issues, § 75.8 was adopted as part of the direct final rule, dated May 17, 1995, amending the January 11, 1993 rule's CEM provisions. Section 75.8 required EPA to evaluate the appropriateness of the current relative accuracy and availability trigger conditions for missing data substitution for SO_2, NO_X, and CO_2 CEMS and flow monitors. This evaluation was to be based on initial certification test data and quarterly report data for the 1993–1996 period. Using the evaluation, EPA was to determine whether to retain the current specifications or propose alternative performance specifications. A report evaluating this data was to be prepared by July 1, 1997, and EPA is to issue either a notice determining that the current rule provisions are appropriate or a notice proposing revisions. Any proposal revising the current rule is to be issued by October 31, 1997 and finalized by October 31, 1998. The results of EPA's evaluations of the current relative accuracy and availability trigger conditions are described below.

B. Relative Accuracy

Relative accuracy is a statistical indicator of how closely the measurements by an installed CEM approximate those obtained by a concurrently used EPA reference method during a 9–12 run field demonstration (known as the relative accuracy test audit (RATA)) that must

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be performed periodically for each CEMS under Part 75. Relative accuracy is expressed as a percent deviation of the CEMS results from the reference method results. The lower the relative accuracy value for a CEMS, the closer its measurements are to the reference method. Under 40 CFR Part 75, Appendix A, § 3, and Appendix B, § 2.3.1, all SO_2, NO_X, and CO_2 CEMS are required to have in a RATA a relative accuracy of 10%. Those that have a superior relative accuracy of 7.5% or less have one year to undergo their next RATA. Those that have a relative accuracy equal to or less than the required 10% but greater than 7.5% must undergo their next RATA within six months. The tighter specification of 7.5% is referred to as the "reduced frequency standard," while the 10% specification is known as the "normal frequency standard." For flow monitors the normal frequency standard is 15%, while the reduced frequency standard is 10%. On January 1, 2000 the normal and reduced frequency standards for flow monitors will be lowered to correspond to the standards for the pollutant CEMS, i.e., 10% and 7.5% respectively.

The evaluation of initial certification test data submitted for 1993–1996 showed that the average relative accuracy was 3.42% for the 965 SO_2 CEMS installed under the Acid Rain Program, 3.62% for 1272 NO_X CEMS, 3.28% for 1097 CO_2 CEMS., and 6.88% for 1070 flow monitors. This means that for all pollutants and flow, the average relative accuracy was below the reduced frequency standard. Furthermore, 91.3% of all SO_2 CEMS, 94.1% of all NOx CEMS, 96.3% of all CO_2 CEMS, and 91.9% of all flow monitors met their respective reduced frequency standard. See Docket Item, A–97–56, II–A–7 for a complete analysis of the certification test relative accuracy results.

A similar evaluation was performed on the relative accuracy test results reported in quarterly reports for the 1994–1996 period. This analysis showed that the average relative accuracy over the three years of data was 3.49% on 2802 SO_2 RATAs, 3.67% on 3935 NO_X RATAs, 3.06% on 2736 CO_2 RATAs, and 5.78% on 3019 flow RATAs. Like the certification test results, the data in the quarterly reports indicate that for each type of monitor, the average relative accuracy was below the reduced frequency standard. In addition, on 96.2% of the SO_2 RATAs, 96.0% of the NO_X RATAs, 97.9% of the CO_2 RATAs, and 93.5% of flow RATAs, the monitors met their respective reduced frequency standard. A complete analysis of the quarterly report relative accuracy test results can be found in Docket Item, A–97–56, II–A–8.

The relative accuracy test results obtained by these installed CEMS imply that no appreciable improvement in achieved relative accuracies could be expected unless the relative accuracy standard were brought down to or below these currently achieved average relative accuracies. However, studies cited above (Docket Item, A–97–56, II–A–2 and II–A–5) of the variability of the reference methods for SO_2, NO_X, and CO_2 suggest that such reduced relative accuracy standards might be beyond the technological limits of current monitoring technology since they approach the variability inherent in the reference methods themselves. Thus, tightening the relative accuracy standards further for these CEMS is unlikely to produce a corresponding improvement in the achievable relative accuracy.

Moreover, the existing regulations already provide that the normal and reduced frequency relative accuracy standards for flow monitors will be tightened to the same levels as for the other CEMS beginning in the year 2000. In light of the already low average relative accuracy (reflecting high monitor accuracy) for flow monitors, there is little or no basis at this time for concluding that any further tightening would be appropriate. In addition, EPA believes that the results of the tightening in 2000 should be evaluated before any further tightening is contemplated.

Therefore, based on the evaluation required under § 75.8, the Agency proposes to conclude that the current performance specifications for relative accuracy are appropriate at this time.

C. Availability Trigger Conditions for Missing Data Substitution Procedure

In 40 CFR 75.30–75.38 (Subpart D) a missing data procedure is prescribed for calculating emissions when valid data are not being supplied by a unit's continuous emissions monitoring system. The missing data procedure is a multi-tiered computational routine for deriving a substitution value from values previously recorded, or the highest potential values, by the monitor. The procedure is based on the premise that the lower the annual monitor availability and/or the longer the gap in recorded data, the more conservative the value to be substituted.

In concert, two trigger conditions determine the conservativeness of the substituted value. The first trigger condition is annualized monitor availability, i.e., the percentage of the immediately preceding 8760 unit operating hours in which valid, quality assured data was obtained. The second trigger condition is the length of the current period during which valid data are not being produced. Current availability trigger conditions include three tiers: (1) less than 90% availability, (2) equal to or greater than 90% but less than 95% availability, and (3) 95% or greater availability.

To determine if retaining the current availability trigger conditions is appropriate, the Agency analyzed the annual percent monitor availability (PMA) as reported in the 1994–1996 quarterly emission reports. The PMA indicates the proportion of the operating hours in each year that the monitor was providing valid, quality assured measurements. High PMAs would indicate that current trigger conditions are providing a sufficient incentive for keeping monitors operating properly.

The evaluation of the quarterly report data for 1994–1996 showed that the average PMA for SO_2 CEMS was 94.7% in 1994, 96.7% in 1995, and 97.2% in 1996. For the same three year period it was 91.8%, 94.1%, and 95.8% for NOx CEMS, and 95.0%, 96.3%, and 97.0% for flow monitors. As a rule, separate percent monitor availabilities for the CO_2 CEMS are not routinely reported, since CO_2 CEMS usually serve as diluent components in NO_X systems. However, the average PMA for CO2 CEMS in a given year must be at least as good as the corresponding average of the reported NO_X PMAs. Not only are the average PMAs above the 95% availability trigger level, but they have also consistently increased in each successive year of the Acid Rain Program. To appreciably improve monitor availabilities would require increasing the third tier availability trigger up to or above the high average availabilities currently being achieved. EPA believes that such an increase in the required availabilities would be close to or beyond the limits of what is reasonable to expect from current CEMS technology when properly operated under the conditions prevailing in utility stacks. A complete summary of the PMA's submitted in the 1994–1996 quarterly reports can be found in Docket Item, A–97–56, II–A–9.

Moreover, any tightening of the availability trigger conditions would require reprogramming of most affected units' data acquisition and handling systems, which automatically calculate and record the appropriate substitution values for periods when valid CEMS data are not available. Given the current high levels of monitor availability, there is little or no basis for finding that adjusting the trigger conditions would improve availability sufficiently to

justify the reprogramming costs that such a change would impose.

Therefore, based on the evaluation required under § 75.8, the Agency proposes to determine that retaining the current performance specifications for availability trigger conditions is appropriate at this time.

III. Proposed Rule Revisions

Having completed the studies and evaluations required in 40 CFR 75.7 and 75.8 and in light of EPA's determinations proposed above for retaining current rule provisions for the bias test, relative accuracy, and availability trigger conditions, EPA proposes revising Part 75 to delete §§ 75.7 and 75.8.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is a "significant regulatory action" because the rule seems to raise novel legal or policy issues. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA, any written EPA response to those comments, and any changes made in response to OMB suggestions or recommendations are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble.

B. Unfunded Mandates Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, before promulgating a proposed or final rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 205 generally requires that, before promulgating a rule for which a written statement must be prepared, EPA identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator explains why that alternative was not adopted. Finally, section 203 requires that, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. The plan must provide for notifying any potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

As discussed above, the proposed rule would eliminate two sections requiring studies and evaluations by EPA of certain existing regulatory provisions and would not include any other changes to the existing regulations. The proposed rule therefore would not change in any way the expenditure by State, local, and tribal governments or the private sector, or the effect on small governments, resulting from the existing regulations.

C. Paperwork Reduction Act

This action proposing revisions to the continuous emission monitoring regulations would not impose any new information collection burden. OMB has previously approved the information collection requirements contained in the continuous emission monitoring regulations, 40 CFR part 75, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* Note, however, that the Agency is proposing other revisions to the continuous emission monitoring regulations in a separate action in today's **Federal Register** and that those revisions would result in a change to the current information collection burden.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

D. Regulatory Flexibility

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, generally requires federal agencies to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

As discussed above, the proposed rule would eliminate two sections requiring studies and evaluations by EPA and would not include any other changes to the existing regulations. The proposed rule therefore does not change in any way the potential impacts on small entities resulting from the existing regulations. Therefore, I hereby certify

that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 75

Environmental protection, Air pollution control, Carbon dioxide, Continuous emissions monitors, Electric utilities, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 27, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 75 of title 40, chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

PART 75—[AMENDED]

1. The authority citation for part 75 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 75.7 is removed and reserved.

3. Section 75.8 is removed and reserved.

[FR Doc. 98–11750 Filed 5–20–98; 8:45 am]

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Part III

United States Sentencing Commission

Amendments to the Sentencing Guidelines for United States Courts; Notice

UNITED STATES SENTENCING COMMISSION

Amendments to the Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of submission to Congress of amendments to the sentencing guidelines, policy statements, and official commentary; notice of proposed amendment for public comment.

SUMMARY: Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, on May 1, 1998, submitted to the Congress amendments to the sentencing guidelines, policy statements, and official commentary together with reasons for the amendments. The amendments submitted to Congress are set forth in Part I of this notice.

In addition, pursuant to its authority under section 994(a), (o), and (p) of such title and section 2(g) of the No Electronic Theft Act of 1997, Pub. L. 105–147, the Commission is considering promulgating an amendment to the guidelines and commentary in order to implement directives to the Commission contained in the No Electronic Theft Act. The proposed amendment and a synopsis of the issues addressed are set forth in Part II of this notice. The Commission seeks comment on the proposed amendment, as well as alternative proposed amendments. Bracketed text within a proposal indicates alternative proposals and that the Commission invites comment and suggestions for appropriate policy choices.

DATES: Pursuant to 28 U.S.C. 994(p), the Commission has specified an effective date of November 1, 1998, for the amendments submitted to Congress, subject to their acceptability to Congress.

Written public comment on the amendments proposed to implement the directives in the No Electronic Theft Act of 1997 should be submitted not later than August 31, 1998.

ADDRESSES: Public comment on the amendment proposed to implement the directives in the No Electronic Theft Act of 1997 should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2–500, Washington, D.C. 20002–8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Mike Courlander, Public Affairs Officer, telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent agency in the judicial branch of the U.S. Government, is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to review periodically and revise guidelines previously promulgated and authorizes it to submit guideline amendments to the Congress not later than the first day of May each year. See 28 U.S.C. 994(o), (p). Additionally, a number of the amendments included in Part I of this report are authorized and directed by, or otherwise respond to, a variety of enactments of the 105th Congress. Absent action of Congress to the contrary, the amendments become effective on the date specified by the Commission (i.e., November 1, 1998) by operation of law.

Notice of the amendments submitted to the Congress on May 1, 1998, was first published in the **Federal Register** of January 6, 1998 (63 FR 602). Public hearings on the proposed amendments were held in San Francisco, CA, on March 5, 1998, and in Washington, DC, on March 12, 1998. After review of the hearing testimony and additional public comment, the Commission promulgated the amendments set forth in Part I below, each having been approved by at least four voting Commissioners.

In the **Federal Register** of January 6, 1998, the Commission also published a proposal from the Department of Justice on the implementation of the directives contained in the No Electronic Theft Act, as well as a general issue for comment on how these directives might best be carried out. The Commission heard testimony on these directives at the public hearing in Washington, DC, on March 12, 1998, and reviewed additional written public comment received on this issue in response to the **Federal Register** notice. The Commission also informally solicited and received the input of parties interested in copyright and trademark infringement sentencing issues, such as representatives of the Department of Justice, the defense bar, and other key groups, in an effort to determine how best to implement the directives. As a result of this input and after reviewing the hearing testimony and additional written public comment, the Commission voted, on April 23, 1998, to publish for comment the three proposals contained in Part II, below.

In connection with its ongoing process of guideline review, the Commission welcomes comment on any aspect of the sentencing guidelines, policy statements, and official commentary.

Authority: 28 U.S.C. 994(a), (o), (p).

Richard P. Conaboy
Chairman.

Part I—Amendments Submitted to Congress on May 1, 1998

1. *Amendment:* Section 2B1.1(b) is amended by adding at the end the following new subdivision:

"(8) If the offense involved theft of property from a national cemetery, increase by 2 levels.".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 1 by adding at the end the following new paragraph:

"*National cemetery* means a cemetery (A) established under section 2400 of title 38, United States Code, or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.".

The Commentary to § 2B1.1 captioned "Background" is amended by adding at the end the following new paragraph:

"Subsection (b)(8) implements the instruction to the Commission in Section 2 of Public Law 105–101.".

Section 2B1.3(b) is amended by adding at the end the following new subdivision:

"(4) If property of a national cemetery was damaged or destroyed, increase by 2 levels.".

The Commentary to § 2B1.3 captioned "Application Notes" is amended in Note 1 by adding at the end the following new paragraph:

"*National cemetery* means a cemetery (A) established under section 2400 of title 38, United States Code, or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.".

The Commentary to § 2B1.3 captioned "Background" is amended by inserting before the first paragraph the following:

"Subsection (b)(4) implements the instruction to the Commission in Section 2 of Public Law 105–101.".

Section 2K1.4(b) is amended by striking "Characteristic" and inserting "Characteristics"; and by adding at the end the following new subdivision:

"(2) If the base offense level is not determined under (a)(4), and the offense occurred on a national cemetery, increase by 2 levels.".

The Commentary to § 2K1.4 is amended by adding at the end the following new application note and background commentary:

"4. *National cemetery* means a cemetery (A) established under section

2400 of title 38, United States Code, or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.

Background: Subsection (b)(2) implements the directive to the Commission in Section 2 of Public Law 105–101.".

Reason for Amendment: The purpose of this amendment is to provide an increase for property offenses committed against national cemeteries. This amendment implements the directive to the Commission in the Veterans' Cemetery Protection Act of 1997, Pub. L. 105–101, § 2, 111 Stat. 2202, 2202 (1997). This Act directs the Commission to provide a sentence enhancement of not less than two levels for any offense against the property of a national cemetery. In response to the legislation, this amendment adds a two-level enhancement to §§ 2B1.1 (Theft), 2B1.3 (Property Destruction), and 2K1.4 (Arson). *National cemetery* is defined in the same way as that term is defined in the statute.

2. *Amendment:* Section 2F1.1(b) is amended by striking subdivision (5) in its entirety and inserting the following:

"(5) (A) If the defendant relocated, or participated in relocating, a fraudulent scheme to another jurisdiction to evade law enforcement or regulatory officials; (B) if a substantial part of a fraudulent scheme was committed from outside the United States; or (C) if the offense otherwise involved sophisticated concealment, increase by 2 levels. If the resulting offense level is less than level 12, increase to level 12.".

Section 2F1.1(b) is amended by adding at the end the following new subdivision:

"(7) If the offense was committed through mass-marketing, increase by 2 levels.".

The Commentary to § 2F1.1 captioned "Application Notes" is amended by redesignating Notes 14 through 18, as Notes 15 through 19, respectively; and by inserting after Note 13 the following new Note 14:

"14. For purposes of subsection (b)(5)(B), *United States* means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

For purposes of subsection (b)(5)(C), *sophisticated concealment* means especially complex or especially intricate offense conduct in which deliberate steps are taken to make the offense, or its extent, difficult to detect. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore bank accounts ordinarily indicates sophisticated concealment.".

The Commentary to § 2F1.1 captioned "Application Notes" is amended by adding at the end the following new note:

"20. *Mass-marketing,* as used in subsection (b)(7), means a plan, program, promotion, or campaign that is conducted through solicitation by telephone, mail, the Internet, or other means to induce a large number of persons to (A) purchase goods or services; (B) participate in a contest or sweepstakes; or (C) invest for financial profit. The enhancement would apply, for example, if the defendant conducted or participated in a telemarketing campaign that solicited a large number of individuals to purchase fraudulent life insurance policies.".

Section 2T1.1(b) is amended by striking subdivision (2) in its entirety and inserting the following:

"(2) If the offense involved sophisticated concealment, increase by 2 levels.".

The Commentary to § 2T1.1 captioned "Application Notes" is amended by striking Note 4 in its entirety and inserting the following:

"4. For purposes of subsection (b)(2), *sophisticated concealment* means especially complex or especially intricate offense conduct in which deliberate steps are taken to make the offense, or its extent, difficult to detect. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore bank accounts ordinarily indicates sophisticated concealment.".

Section 2T1.4(b) is amended by striking subdivision (2) in its entirety and inserting the following:

"(2) If the offense involved sophisticated concealment, increase by 2 levels.".

The Commentary to § 2T1.4 captioned "Application Notes" is amended by striking Note 3 in its entirety and inserting the following:

"3. For purposes of subsection (b)(1), *sophisticated concealment* means especially complex or especially intricate offense conduct in which deliberate steps are taken to make the offense, or its extent, difficult to detect. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore bank accounts ordinarily indicates sophisticated concealment.".

Section 2T3.1(b) is amended by striking subdivision (1) in its entirety and inserting the following:

"(1) If the offense involved sophisticated concealment, increase by 2 levels.".

The Commentary to § 2T3.1 captioned "Application Notes" is amended by adding at the end the following new note:

"3. For purposes of subsection (b)(1), *sophisticated concealment* means especially complex or especially intricate offense conduct in which deliberate steps are taken to make the offense, or its extent, difficult to detect. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore bank accounts ordinarily indicates sophisticated concealment.".

Reason for Amendment: This amendment has three purposes: (1) to provide an increase for fraud offenses that use mass-marketing to carry out the fraud; (2) to provide an increase for fraud offenses that involve conduct, such as sophisticated concealment, that makes it difficult for law enforcement authorities to discover the offense or apprehend the offender; and (3) to clarify and conform an existing enhancement that provides an increase for tax offenses that similarly involve sophisticated concealment.

First, this amendment adds a two-level enhancement in the fraud guideline for offenses that are committed through mass-marketing. The Commission identified mass-marketing as a central component of telemarketing fraud and also determined that there were other fraudulent schemes that relied on mass-marketing to perpetrate the offense (for example, Internet fraud). Accordingly, rather than provide a limited enhancement for telemarketing fraud only, the Commission determined that a generally applicable specific offense characteristic in the fraud guideline would better provide consistent and proportionate sentencing increases for similar types of fraud, while also ensuring increased sentences for persons who engage in mass-marketed telemarketing fraud.

Second, this amendment provides an increase for fraud offenses that involve conduct, such as sophisticated concealment, that makes it difficult for law enforcement authorities to discover the offense or apprehend the offenders. The new enhancement provides a two-level increase and a "floor" offense level of level 12 in the fraud guideline and replaces the current enhancement for "the use of foreign bank accounts or transactions to conceal the true nature or extent of fraudulent conduct." There are three alternative provisions to the enhancement. The first two prongs address conduct that the Commission

has been informed often relates to telemarketing fraud, although the conduct also may occur in connection with fraudulent schemes perpetrated by other means. Specifically, the Commission has been informed that fraudulent telemarketers increasingly are conducting their operations from Canada and other locations outside the United States. Additionally, testimony offered at a Commission hearing on telemarketing fraud indicated that telemarketers often relocate their schemes to other jurisdictions once they know or suspect that enforcement authorities have discovered the scheme. Both types of conduct are specifically covered by the new enhancement. The third prong provides an increase if any offense covered by the fraud guideline otherwise involves sophisticated concealment. This prong addresses cases in which deliberate steps are taken to make the offense, or its extent, difficult to detect.

Third, this amendment provides a two-level enhancement for conduct related to sophisticated concealment of a tax offense. The primary purpose of this amendment is to conform the language of the current enhancement for "sophisticated means" in the tax guidelines to the essentially equivalent language of the new sophisticated concealment enhancement provided in the fraud guideline. Additionally, the amendment resolves a circuit conflict regarding whether the enhancement applies based on the personal conduct of the defendant or the overall offense conduct for which the defendant is accountable. Consistent with the usual relevant conduct rules, application of this new enhancement for sophisticated concealment accordingly is based on the overall offense conduct for which the defendant is accountable.

3. *Amendment:* Section 2K2.1(a) is amended in subdivision (4) by striking "the defendant" after "20, if"; in subdivision (4)(A) by inserting "the defendant" before "had one"; in subdivision (4)(B) by striking "is a prohibited person, and"; and in subdivision (4)(B) by inserting "; and the defendant (i) is a prohibited person; or (ii) is convicted under 18 U.S.C. 922(d)" after "' 921(a)(30)".

Section 2K2.1(a)(6) is amended by inserting "(A)" after "defendant"; and by inserting "; or (B) is convicted under 18 U.S.C. 922(d)" after "person".

The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 6 by striking "or" before "(vi)"; and by inserting "; or (vii) has been convicted in any court of a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33)" after "922(d)(8)".

The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 12 in the first paragraph by striking "924(j) or (k), or 26 U.S.C. 5861(g) or (h)" and inserting "924 (l) or (m)"; and in the second paragraph by striking "only" after "if the"; and by inserting "or 26 U.S.C. 5861(g) or (h)" after "922(k)".

Reason for Amendment: This amendment has three purposes: (1) to change the definition of "prohibited person" in the firearms guideline so that it includes a person convicted of a misdemeanor crime of domestic violence; (2) to provide the same base offense levels for both a prohibited person and a person who is convicted under 18 U.S.C. 922(d) of transferring a firearm to a prohibited person; and (3) to make several technical and conforming changes to the firearms guideline.

The first part of the amendment amends Application Note 6 of § 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition) to include a person convicted of a misdemeanor crime of domestic violence within the scope of "prohibited person" for purposes of that guideline. It also defines "misdemeanor crime of domestic violence" by reference to the new statutory definition of that term in 18 U.S.C. 921(a).

This part of the amendment addresses section 658 of the Treasury, Postal Service, and General Government Appropriations Act, Pub. L. 104–208, 110 Stat. 3009 (1996) (contained in the Omnibus Consolidated Appropriations Act for Fiscal Year 1997). Section 658 amended 18 U.S.C. 922(d) to prohibit the sale of a firearm or ammunition to a person who has been convicted in any court of a misdemeanor crime of domestic violence. It also amended 18 U.S.C. 922(g) to prohibit a person who has been convicted in any court of a misdemeanor crime of domestic violence from transporting or receiving a firearm or ammunition. Section 922(s)(3)(B)(i), which lists the information a person not licensed under 18 U.S.C. 923 must include in a statement to the handgun importer, manufacturer, or dealer, was amended to require certification that the person to whom the gun is transferred was not convicted in any court of a misdemeanor crime of domestic violence. Section 658 also amended 18 U.S.C. 921(a) to define "misdemeanor crime of domestic violence".

Violations of 18 U.S.C. 922(d) and (g) are covered by § 2K2.1. The new provisions at § 922(d) (sale of a firearm to a "prohibited person") and § 922(g) (transporting, possession, and receipt of a firearm by a "prohibited person") affect Application Note 6 of § 2K2.1, which defines "prohibited person". This part of the amendment conforms Application Note 6 of § 2K2.1 to the new statutory provisions.

The second part of this amendment increases the base offense level for a defendant who is convicted under 18 U.S.C. 922(d), which prohibits the transfer of a firearm to a prohibited person. Specifically, this part amends the two alternative base offense levels that pertain to prohibited persons in the firearms guideline in order to make those offense levels applicable to the person who transfers the firearm to the prohibited person. A person who is convicted under 18 U.S.C. 922(d) has been shown beyond a reasonable doubt either to have known, or to have had reasonable cause to believe, that the transferee was a prohibited person.

This part of the amendment derives from a recommendation by the United States Department of Justice and is generally consistent with a proposed directive contained in juvenile justice legislation approved by the Senate Judiciary Committee in 1997.

The third part of this amendment makes two technical and conforming changes in Application Note 12 of § 2K2.1. First, the amendment corrects statutory references to 18 U.S.C. 924(j) and (k), which were added as a result of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103–322, 108 Stat. 1796 (1994). In the Economic Espionage Act of 1996, Pub. L. 104–294, 110 Stat. 3488 (1996), Congress again amended 18 U.S.C. 924 and redesignated the provisions as subsections (l) and (m). The amendment conforms Application Note 12 to that redesignation. Second, the amendment corrects the misplacement of the reference to 26 U.S.C. 5861(g) and (h).

4. *Amendment:* The Commentary to § 2J1.6 captioned "Application Notes" is amended in Note 3 in the first paragraph by striking "3D1.2" and inserting "3D1.1"; and by striking the second paragraph in its entirety and inserting the following as the new second paragraph:

"In the case of a conviction on both the underlying offense and the failure to appear, the failure to appear is treated under § 3C1.1 (Obstructing or Impeding the Administration of Justice) as an obstruction of the underlying offense, and the failure to appear count and the count or counts for the underlying

offense are grouped together under § 3D1.2(c). (Note that 18 U.S.C. 3146(b)(2) does not require a sentence of imprisonment on a failure to appear count, although if a sentence of imprisonment on the failure to appear count is imposed, the statute requires that the sentence be imposed to run consecutively to any other sentence of imprisonment. Therefore, unlike a count in which the statute mandates both a minimum and a consecutive sentence of imprisonment, the grouping rules of §§ 3D1.1–3D1.5 apply. See § 3D1.1(b), comment. (n.1), and § 3D1.2, comment. (n.1).) The combined sentence will then be constructed to provide a 'total punishment' that satisfies the requirements both of § 5G1.2 (Sentencing on Multiple Counts of Conviction) and 18 U.S.C. 3146(b)(2). For example, if the combined applicable guideline range for both counts is 30–37 months and the court determines that a 'total punishment' of 36 months is appropriate, a sentence of 30 months for the underlying offense plus a consecutive six months' sentence for the failure to appear count would satisfy these requirements. (Note that the combination of this instruction and increasing the offense level for the obstructive, failure to appear conduct has the effect of ensuring an incremental, consecutive punishment for the failure to appear count, as required by 18 U.S.C. 3146(b)(2).)".

The Commentary to § 2J1.6 captioned "Application Notes" is amended by redesignating Note 4 as Note 5; and by inserting the following as new Note 4:

"4. If a defendant is convicted of both the underlying offense and the failure to appear count, and the defendant committed additional acts of obstructive behavior (e.g., perjury) during the investigation, prosecution, or sentencing of the instant offense, an upward departure may be warranted. The upward departure will ensure an enhanced sentence for obstructive conduct for which no adjustment under § 3C1.1 (Obstruction of Justice) is made because of the operation of the rules set out in Application Note 3.".

The Commentary to § 2P1.2 captioned "Application Notes" is amended in Note 2 by striking "as amended," after "18 U.S.C. 1791(c),"; and by inserting "by the inmate" after "served".

The Commentary to § 2P1.2 captioned "Application Notes" is amended in Note 2 by inserting before the first paragraph the following:

"In a case in which the defendant is convicted of the underlying offense and an offense involving providing or possessing a controlled substance in prison, group the offenses together under § 3D1.2(c). (Note that 18 U.S.C. 1791(b) does not require a sentence of imprisonment, although if a sentence of imprisonment is imposed on a count involving providing or possessing a controlled substance in prison, section 1791(c) requires that the sentence be imposed to run consecutively to any other sentence of imprisonment for the controlled substance. Therefore, unlike a count in which the statute mandates both a minimum and a consecutive sentence of imprisonment, the grouping rules of §§ 3D1.1–3D1.5 apply. See § 3D1.1(b), comment. (n.1), and § 3D1.2, comment. (n.1).) The combined sentence will then be constructed to provide a 'total punishment' that satisfies the requirements both of § 5G1.2 (Sentencing on Multiple Counts of Conviction) and 18 U.S.C. 1791(c). For example, if the combined applicable guideline range for both counts is 30–37 months and the court determines a 'total punishment' of 36 months is appropriate, a sentence of 30 months for the underlying offense plus a consecutive six months' sentence for the providing or possessing a controlled substance in prison count would satisfy these requirements.".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 6 by striking "Where" and inserting "If"; and by striking "where" both places it appears and inserting "if".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 7 in the first sentence by striking "Where" and inserting "If"; by striking "both of the" and inserting "both of an"; by inserting "(e.g., 18 U.S.C. § 3146 (Penalty for failure to appear); 18 U.S.C. § 1621 (Perjury generally))" after "obstruction offense" the first place it appears; and by striking "the underlying" the first place it appears and inserting "an underlying".

Section 3D1.1(b) is amended by striking the first sentence in its entirety and inserting the following:

"Exclude from the application of §§ 3D1.2–3D1.5 any count for which the statute (1) specifies a term of imprisonment to be imposed; and (2) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment.".

The Commentary to § 3D1.1 captioned "Application Notes" is amended by striking Note 1 in its entirety and inserting the following:

"1. Subsection (b) applies if a statute (A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. See, e.g., 18 U.S.C. 924(c) (requiring mandatory term of five years to run consecutively). The multiple count rules set out under this Part do not apply to a count of conviction covered by subsection (b). However, a count covered by subsection (b) may affect the offense level determination for other counts. For example, a defendant is convicted of one count of bank robbery (18 U.S.C. 2113), and one count of use of a firearm in the commission of a crime of violence (18 U.S.C. 924(c)). The two counts are not grouped together pursuant to this guideline, and, to avoid unwarranted double counting, the offense level for the bank robbery count under § 2B3.1 (Robbery) is computed without application of the enhancement for weapon possession or use as otherwise required by subsection (b)(2) of that guideline. Pursuant to 18 U.S.C. 924(c), the mandatory five-year sentence on the weapon-use count runs consecutively to the guideline sentence imposed on the bank robbery count. See § 5G1.2(a).

Unless specifically instructed, subsection (b) does not apply when imposing a sentence under a statute that requires the imposition of a consecutive term of imprisonment only if a term of imprisonment is imposed (i.e., the statute does not otherwise require a term of imprisonment to be imposed). See, e.g., 18 U.S.C. 3146 (Penalty for failure to appear); 18 U.S.C. 924(a)(4) (regarding penalty for 18 U.S.C. 922(q) (possession or discharge of a firearm in a school zone)); 18 U.S.C. 1791(c) (penalty for providing or possessing a controlled substance in prison). Accordingly, the multiple count rules set out under this Part do apply to a count of conviction under this type of statute.".

The Commentary to § 3D1.2 captioned "Application Notes" is amended in Note 1 in the third sentence by striking "mandates imposition of a consecutive sentence" and inserting "(A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment"; and by inserting "; id., comment. (n.1)" after "§ 3D1.1(b)".

Section 5G1.2(a) is amended by striking "mandates a consecutive sentence" and inserting "(1) specifies a term of imprisonment to be imposed; and (2) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment"; and by inserting "by that statute" after "determined".

The Commentary to § 5G1.2 is amended in the last paragraph by striking the first three sentences and inserting:

"Subsection (a) applies if a statute (1) specifies a term of imprisonment to be imposed; and (2) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. See, e.g., 18 U.S.C. § 924(c) (requiring mandatory term of five years to run consecutively to any other term of imprisonment). The term of years to be imposed consecutively is determined by the statute of conviction, and is independent of a guideline sentence on any other count.".

The Commentary to § 5G1.2 is amended in the last paragraph in the fourth sentence by inserting ", e.g.," after "See"; and by adding at the end the following new sentence:

"Subsection (a) also applies in certain other instances in which an independently determined and consecutive sentence is required. See, e.g., Application Note 3 of the Commentary to § 2J1.6 (Failure to Appear by Defendant), relating to failure to appear for service of sentence.".

Reason for Amendment: The purpose of this amendment is to clarify how several guideline provisions, including those on grouping multiple counts of conviction, work together to ensure an incremental, consecutive penalty for a failure to appear count. This amendment addresses a circuit conflict regarding whether the guideline procedure of grouping the failure to appear count of conviction with the count of conviction for the underlying offense violates the statutory mandate of imposing a consecutive sentence. *Compare United States* v. *Agoro*, 996 F.2d 1288 (1st Cir. 1993) (grouping rules apply), and *United States* v. *Flores*, No. 93–3771, 1994 WL 163766 (6th Cir. May 2, 1994) (unpublished) (same), with *United States* v. *Packer*, 70 F.3d 357 (5th Cir. 1995) (grouping rules defeat statutory purposes of 18 U.S.C. § 3146), cert. denied, 117 S. Ct. 75 (1996). The amendment maintains the current grouping rules for failure to appear and obstruction of justice, but addresses internal inconsistencies among different guidelines and explains how the guideline provisions work together to ensure an incremental, consecutive penalty for the failure to appear count. Specifically, the amendment (1) more clearly distinguishes between statutes that require imposition of a consecutive term of imprisonment only if imprisonment is imposed (e.g., 18 U.S.C. § 3146 (Penalty for failure to appear); 18 U.S.C. § 1791(b), (c) (Penalty for providing or possessing contraband in prison)), and statutes that require both a minimum term of imprisonment and a consecutive sentence (e.g., 18 U.S.C. § 924(c) (Use of a firearm in relation to crime of violence or drug trafficking offense)); (2) states that the method outlined for determining a sentence for failure to appear and similar statutes ensures an incremental, consecutive punishment; (3) adds an upward departure provision if offense conduct involves multiple obstructive acts; (4) makes conforming changes in § 2P1.2 (Providing or Possessing Contraband in Prison) because the relevant statute, 18 U.S.C. 1791, is similar to 18 U.S.C. 3146; and (5) makes conforming changes in §§ 3C1.1, 3D1.1, 3D1.2, and 5G1.2.

5. *Amendment:* The Commentary to § 3B1.3 captioned "Application Notes" is amended in the first paragraph of Note 1 in the third sentence by inserting "public or private" after "position of"; in the fourth sentence by striking "would apply" and inserting "applies"; and in the last sentence by striking "would" and inserting "does.".

The Commentary to § 3B1.3 captioned "Application Notes" is amended by redesignating Note 2 as Note 3; and by inserting the following as new Note 2:

"2. This enhancement also applies in a case in which the defendant provides sufficient indicia to the victim that the defendant legitimately holds a position of private or public trust when, in fact, the defendant does not. For example, the enhancement applies in the case of a defendant who (A) perpetrates a financial fraud by leading an investor to believe the defendant is a legitimate investment broker; or (B) perpetrates a fraud by representing falsely to a patient or employer that the defendant is a licensed physician. In making the misrepresentation, the defendant assumes a position of trust, relative to the victim, that provides the defendant with the same opportunity to commit a difficult-to-detect crime that the defendant would have had if the position were held legitimately.".

The Commentary to § 3B1.3 captioned "Background" is amended by inserting after the first sentence the following:

"The adjustment also applies to persons who provide sufficient indicia to the victim that they legitimately hold a position of public or private trust when, in fact, they do not.".

Reason for Amendment: The purpose of this amendment is to establish that the two-level increase for abuse of a position of trust applies to a defendant who is an imposter, as well as to a person who legitimately holds and abuses a position of trust. This amendment resolves a circuit conflict on that issue. Compare *United States* v. *Gill*, 99 F.3d 484 (1st Cir. 1996) (adjustment applied to defendant who posed as licensed psychologist), and *United States* v. *Queen*, 4 F.3d 925 (10th Cir. 1993) (adjustment applied to defendant who posed as financial broker), cert. denied, 510 U.S. 1182 (1994), with *United States* v. *Echevarria*, 33 F.3d 175 (2d Cir. 1994) (defendant who poses as physician does not occupy a position of trust). The amendment adopts the majority appellate view and provides that the abuse of position of trust adjustment applies to an imposter who pretends to hold a position of trust when in fact he does not. The Commission has determined that, particularly from the perspective of the crime victim, an imposter who falsely assumes and takes advantage of a position of trust is as culpable and deserving of increased punishment as is a defendant who abuses an actual position of trust.

6. *Amendment:* Section 3C1.1 is amended by inserting "(A)" after "If"; by inserting "the course of" after "during"; and by inserting "of conviction, and (B) the obstructive conduct related to (i) the defendant's offense of conviction and any relevant conduct; or (ii) a closely related offense" after "instant offense".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 2 in the second sentence by striking "Note 3" and inserting "Note 4"; in the third sentence by striking "Note 4" and inserting "Note 5"; and in the fourth sentence by striking "Notes 3 and 4" and inserting "Notes 4 and 5".

The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 4 in the first paragraph by striking "Note 7" and inserting "Note 8".

The Commentary to § 3C1.1 captioned "Application Notes" is amended by redesignating Notes 1 through 8, as Notes 2 through 9, respectively; and by inserting the following as new Note 1:

"1. This adjustment applies if the defendant's obstructive conduct (A) occurred during the course of the investigation, prosecution, or sentencing of the defendant's instant offense of conviction, and (B) related to (i) the defendant's offense of conviction and any relevant conduct; or (ii) an otherwise closely related case, such as that of a co-defendant.".

Reason for Amendment: The purpose of this amendment is to clarify what the term *instant offense* means in the obstruction of justice guideline, § 3C1.1. This amendment resolves a circuit conflict on the issue of whether the adjustment applies to obstructions that occur in cases closely related to the defendant's case or only those specifically related to the offense of which the defendant convicted. Compare *United States* v. *Powell*, 113

F.3d 464 (3d Cir.) (adjustment applies if defendant attempts to impede the prosecution of a co-defendant who is charged with the same offense for which defendant was convicted), cert. denied, 118 S. Ct. 454 (1997), *United States* v. *Walker*, 119 F.3d 403 (6th Cir.) (same), cert. denied, 118 S. Ct. 643 (1997), *United States* v. *Acuna*, 9 F.3d 1442 (9th Cir. 1993) (adjustment applies if defendant attempts to obstruct justice in a case closely related to his own), and *United States* v. *Bernaugh*, 969 F.2d 858 (10th Cir. 1992) (adjustment applies when defendant testifies falsely at his own hearing about co-defendants' roles in the offense), with *United States* v. *Perdomo*, 927 F.2d 111 (2d Cir. 1991) (cannot apply adjustment based on obstructive conduct outside the scope of charged offense), and *United States* v. *Partee*, 31 F.3d 529 (7th Cir. 1994) (same). The amendment, which adopts the majority view, instructs that the obstruction must relate either to the defendant's offense of conviction (including any relevant conduct) or to a closely related case. The amendment also clarifies the temporal element of the obstruction guideline (i.e., that the obstructive conduct must occur during the investigation, prosecution, or sentencing of the defendant's offense of conviction).

7. Amendment: The Commentary to § 3C1.1 captioned "Application Notes" is amended in Note 4 in the first sentence of the first paragraph by striking "enhancement" and inserting "adjustment"; and by inserting "or affect the determination of whether other guideline adjustments apply (e.g., § 3E1.1 (Acceptance of Responsibility))" after "guideline range"; in the second sentence by striking "enhancement" and inserting "adjustment"; in subdivision (d) by striking the period at the end and inserting a semicolon; and by adding at the end the following new subdivision:

"(e) lying to a probation or pretrial services officer about defendant's drug use while on pre-trial release, although such conduct may be a factor in determining whether to reduce the defendant's sentence under § 3E1.1 (Acceptance of Responsibility).".

Reason for Amendment: The purpose of this amendment is to establish that lying to a probation officer about drug use while released on bail does not warrant an obstruction of justice adjustment under § 3C1.1. This amendment resolves a circuit conflict on that issue. Compare *United States* v. *Belletiere*, 971 F.2d 961 (3d Cir. 1992) (lying about drug use is not obstructive conduct that impedes government's investigation of instant offense), and *United States* v. *Thompson*, 944 F.2d 1331 (7th Cir. 1991) (same), cert. denied, 502 U.S. 1097 (1992), with *United States* v. *Garcia*, 20 F.3d 670 (6th Cir. 1994) (falsely denying drug use, while not outcome-determinative, is relevant), cert. denied, 513 U.S. 1159 (1995). The amendment, which adopts the majority view, excludes from application of § 3C1.1 a defendant's denial of drug use while on pre-trial release, although the amendment provides that such conduct may be relevant in determining the application of other guidelines, such as § 3E1.1 (Acceptance of Responsibility).

8. *Amendment:* Section 5K2.13 is amended by striking the text in its entirety and inserting:

"A sentence below the applicable guideline range may be warranted if the defendant committed the offense while suffering from a significantly reduced mental capacity. However, the court may not depart below the applicable guideline range if (1) the significantly reduced mental capacity was caused by the voluntary use of drugs or other intoxicants; (2) the facts and circumstances of the defendant's offense indicate a need to protect the public because the offense involved actual violence or a serious threat of violence; or (3) the defendant's criminal history indicates a need to incarcerate the defendant to protect the public. If a departure is warranted, the extent of the departure should reflect the extent to which the reduced mental capacity contributed to the commission of the offense.

Commentary

Application Note:

1. For purposes of this policy statement—

Significantly reduced mental capacity means the defendant, although convicted, has a significantly impaired ability to (A) understand the wrongfulness of the behavior comprising the offense or to exercise the power of reason; or (B) control behavior that the defendant knows is wrongful.".

Reason for Amendment: The purpose of this amendment is to allow (except under certain circumstances) a diminished capacity departure if there is sufficient evidence that the defendant committed the offense while suffering from a significantly reduced mental capacity. This amendment addresses a circuit conflict regarding whether the diminished capacity departure is precluded if the defendant committed a "crime of violence" as that term is defined in the career offender guideline. Compare *United States* v. *Poff*, 926 F.2d 588 (7th Cir.) (en banc) (definition of "non-violent offense" necessarily excludes a crime of violence), cert. denied, 502 U.S. 827 (1991), *United States* v. *Maddalena*, 893 F.2d 815 (6th Cir. 1989) (same), *United States* v. *Mayotte*, 76 F.3d 887 (8th Cir. 1996) (same), *United States* v. *Borrayo*, 898 F.2d 91 (9th Cir. 1989) (same), and *United States* v. *Dailey*, 24 F.3d 1323 (11th Cir. 1994) (same), with *United States* v. *Chatman*, 986 F.2d 1446 (D.C. Cir. 1993) (court must consider all the facts and circumstances to determine whether offense was non-violent; terms are not mutually exclusive), *United States* v. *Weddle*, 30 F.3d 532 (4th Cir. 1994) (same), and *United States* v. *Askari*, F.3d, 1998 WL 164561 (3d Cir. 1998) (en banc) ("non-violent offenses" are those that do not involve a reasonable perception that force against persons may be used in committing the offense), abrogating *United States* v. *Rosen*, 896 F.2d 789 (3d Cir. 1990) (non-violent offense means the opposite of crime of violence). The amendment replaces the current policy statement with a new provision that essentially represents a compromise approach to the circuit conflict. The new policy statement allows a diminished capacity departure if there is sufficient evidence that the defendant committed the offense while suffering from a significantly reduced mental capacity, except under the following three circumstances: (1) the significantly reduced mental capacity was caused by the voluntary use of drugs or other intoxicants; (2) the facts and circumstances of the defendant's offense indicate a need to protect the public because the offense involved actual violence or a serious threat of violence; or (3) the defendant's criminal history indicates a need to incarcerate the defendant to protect the public. The amendment also adds an application note that defines "significantly reduced mental capacity" in accord with the decision in *United States* v. *McBroom*, 124 F.3d 533 (3d Cir. 1997). The McBroom court concluded that "significantly reduced mental capacity" included both cognitive impairments (i.e., an inability to understand the wrongfulness of the conduct or to exercise the power of reason) and volitional impairments (i.e., an inability to control behavior that the person knows is wrongful). The application note specifically includes both types of impairments in the definition of "significantly reduced mental capacity".

9. *Amendment:* Section 5B1.3(d) is amended by adding at the end the following new subdivision:

"(6) Deportation

If (A) the defendant and the United States entered into a stipulation of

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deportation pursuant to section 238(c)(5) of the Immigration and Nationality Act (8 U.S.C. § 1228(c)(5)); or (B) in the absence of a stipulation of deportation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable—a condition ordering deportation by a United States district court or a United States magistrate judge.".

Section 5D1.3(d) is amended by adding at the end the following new subdivision:

"(6) Deportation

If (A) the defendant and the United States entered into a stipulation of deportation pursuant to section 238(c)(5) of the Immigration and Nationality Act (8 U.S.C. § 1228(c)(5)); or (B) in the absence of a stipulation of deportation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable—a condition ordering deportation by a United States district court or a United States magistrate judge.".

Section 5D1.3(e)(5) is amended by striking "to provide just punishment for the offense,".

Section 5B1.3(c) is amended by inserting "(Policy Statement)" before "The following".

Section 5B1.3(d) is amended by inserting "(Policy Statement)" before "The following".

Section 5B1.3(e) is amended in the title by adding "(Policy Statement)" at the end.

Section 5D1.3(c) is amended by inserting "(Policy Statement)" before "The following".

Section 5D1.3(d) is amended by inserting "(Policy Statement)" before "The following".

Section 5D1.3(e) is amended in the title by adding "(Policy Statement)" at the end.

Reason for Amendment: The purpose of this amendment is to make several technical and conforming changes to the guidelines relating to conditions of probation and supervised release. The amendment has three parts. First, the amendment adds to § 5B1.3 a condition of probation regarding deportation, in response to section 374 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L 104–208, 110 Stat. 3009 (1996). That section amended 18 U.S.C. § 3563(b) to add a new discretionary condition of probation with respect to deportation. Second, this amendment deletes the reference in the supervised release guideline to "just punishment" as a reason for the imposition of curfew as a condition of supervised release. The need to provide "just punishment" is not included in 18 U.S.C. § 3583(c) as a permissible factor to be considered in imposing a term of supervised release. Third, this amendment amends the guidelines pertaining to conditions of probation and supervised release to indicate that discretionary (as opposed to mandatory) conditions are advisory policy statements of the Commission, not binding guidelines.

10. *Amendment:* Section 5K2.0 is amended in the first paragraph in the first sentence by inserting a comma after "3553(b)"; by striking "guideline" and inserting "guidelines"; in the second sentence by striking "guidelines" and inserting "guideline range"; in the third sentence by striking "controlling" after "The"; by striking "can only be made by the courts" and inserting "rests with the sentencing court on a case-specific basis"; in the last sentence by inserting "determining" after "consideration in"; by striking "guidelines" and inserting "guideline range"; by striking "guideline level" and inserting "weight"; by inserting "under the guidelines" after "factor"; and by inserting before the period at the end "or excessive".

Section 5K2.0 is amended in the last paragraph by striking "An" and inserting "Finally, an"; by striking "not ordinarily relevant" and inserting ", in the Commission's view, 'not ordinarily relevant' "; and by striking "in a way that is important to the statutory purposes of sentencing".

The Commentary to § 5K2.0 is amended by inserting before the first paragraph the following:

"The United States Supreme Court has determined that, in reviewing a district court's decision to depart from the guidelines, appellate courts are to apply an abuse of discretion standard, because the decision to depart embodies the traditional exercise of discretion by the sentencing court. *Koon* v. *United States*, 116 S. Ct. 2035 (1996). Furthermore, '[b]efore a departure is permitted, certain aspects of the case must be found unusual enough for it to fall outside the heartland of cases in the Guideline. To resolve this question, the district court must make a refined assessment of the many facts bearing on the outcome, informed by its vantage point and day-to-day experience in criminal sentencing. Whether a given factor is present to a degree not adequately considered by the Commission, or whether a discouraged factor nonetheless justifies departure because it is present in some unusual or exceptional way, are matters determined in large part by comparison with the facts of other Guidelines cases. District Courts have an institutional advantage over appellate courts in making these sorts of determinations, especially as they see so many more Guidelines cases than appellate courts do.' Id. at 2046–47.".

Reason for Amendment: The purpose of this amendment is to reference specifically in the general departure policy statement the United States Supreme Court's decision in *United States* v. *Koon*, 116 S. Ct. 2035 (1996). This amendment (1) incorporates the principal holding and key analytical points from the Koon decision into the general departure policy statement, § 5K2.0; (2) deletes language inconsistent with the holding of Koon; and (3) makes minor, non-substantive changes that improve the precision of the language of § 5K2.0.

11. *Amendment:* Section 2B3.2(b) is amended in subdivision (2) by striking "(b)(6)" and inserting "(b)(7)".

The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 5 in the first sentence by striking "subsections (1) and (2)" and inserting "subsections (a)(1), (a)(2), and (b)".

The Commentary to § 6A1.3 is amended in the third paragraph by striking "117 U.S." after "Watts," both places it appears and inserting "117 S. Ct.".

Reason for Amendment: This amendment corrects technical errors in §§ 2B3.1, 2K2.1, and 6A1.3.

Part II—Proposed Amendment in Response to the No Electronic Theft Act of 1997

Synopsis of Proposed Amendment: In section 2(g) of the No Electronic Theft Act of 1997, Pub. L. 105B147, Congress directed the Commission to (1) "ensure that the applicable guideline range for a defendant convicted of a crime against intellectual property (including offenses set forth at section 506(a) of title 17, United States Code, and sections 2319, 2319A, and 2329 of title 18, United States Code) is sufficiently stringent to deter such a crime and to adequately reflect the additional considerations set forth in paragraph (2)"; and (2) "ensure that the guidelines provide for consideration of the retail value and quantity of the items with respect to which the crime against intellectual property was committed."

Three possible approaches for implementing these directives are set forth below. Option One is the result of the Commission's review and consideration of the directives, after taking into account pertinent hearing testimony, written public comment, and

other input of interested parties. Upon the Commission's request for input from the Department of Justice, the Department proposed Options Two and Three as possible approaches for carrying out the statutory directives. The Commission invites comment on each of these three proposals, as well as any other comment on how the congressional directives might best be implemented. Additionally, the Commission invites comment on whether the Commission can and should promulgate any of these proposed amendments (or any other amendments to the guidelines, policy statements, and official commentary to carry out these directives) pursuant to the emergency amendment authority of section 21 of the Sentencing Act of 1987.

Note: Persons commenting on this issue may wish to consider whether the authority of the Commission to adopt emergency amendments to the guidelines in order to implement the directives is sufficiently clear inasmuch as the authority to act on an emergency basis under section 21 of the Sentencing Act of 1987, which was cited in section 2(g) of the No Electronic Theft Act of 1997, has expired and may not have been revived adequately by that section.

Proposed Amendment:

Option One [Commission Proposal]:

Strike § 2B5.3 and insert the following:

§ 2B5.3. Criminal Infringement of Copyright or Trademark

(a) Base Offense Level: 6

(b) Specific Offense Characteristics

(1) If (A) the offense involved (i) the infringement of a copyright other than a copyright violation under 18 U.S.C. 2319A, (ii) the infringement of both a copyright and a trademark, or (iii) palmed-off counterfeit goods; and (B) the infringed value exceeded $2,000, increase by the number of levels from the monetary table in § 2F1.1 (Fraud and Deceit) corresponding to that value.

(2) If (A) subsection (b)(1) does not apply; and (B) the infringing value exceeded $2,000, increase by the number of levels from the monetary table in § 2F1.1 corresponding to that value.

[(3) If the offense involved online electronic infringement, increase by 2 levels.]

[(4) If the offense was not committed for commercial advantage or private financial gain, decrease by [2] levels, but not below level 6.]

[(5) If the offense involved the conscious or reckless risk of serious bodily injury or death, increase by [2] levels. If the resulting offense level is less than level [13][14], increase to level [13][14]].

Commentary

Application Notes:

1. For purposes of this guideline—

Infringed value means the average retail value of the infringed-upon item multiplied by the number of infringing items. *Infringed-upon item* means the legitimate item with respect to which or against which the crime against intellectual property was committed. *Average retail value of the infringed-upon item* generally means the average price that a well-informed consumer typically would pay for the legitimate item (which may be less than the Manufacturer's Suggested Retail Price). In cases involving the interception of a communication in violation of 18 U.S.C. § 2511, the *average retail value of the infringed-upon item* means the price the user would have paid if that communication had been obtained lawfully.

Infringing value means the average retail value of the infringing item multiplied by the number of infringing items.

Infringing item means the item that violates the copyright or trademark laws.

Palmed-off counterfeit goods means counterfeit goods that a consumer reasonably would believe are the legitimate items, because of price comparability and apparent substitutability.

Online electronic infringement includes the unlawful producing, reproducing, distributing, selling, performing, or trafficking in copyrighted or trademarked articles or services via an electronic bulletin board, a worldwide web site, or any online facility.

Commercial advantage or private financial gain includes receipt, or expectation of receipt, of anything of value, including the receipt of other protected works.

2. The enhancement in subsection (b)(2) applies to any infringement case not covered by subsection (b)(1) and in which the infringing value exceeded $2,000. The types of cases to which subsection (b)(2) is intended to apply include, for example, most cases involving trademark infringement, as well as cases involving the unlawful recording of a musical performance in violation of 18 U.S.C. § 2319A.

3. There may be cases in which the offense level substantially understates or overstates the seriousness of the offense or the culpability of the defendant. In such cases, an upward or downward departure, as appropriate, may be warranted.

Background: This guideline treats copyright and trademark violations much like fraud. The enhancements in subsections (b)(1) and (2) are intended as an approximate determination of the aggregate pecuniary harm resulting from trafficking in goods or services that violate the copyright or trademark laws.

The Electronic Communications Privacy Act of 1986 prohibits the interception of satellite transmission for purposes of direct or indirect commercial advantage or private financial gain. Such violations are similar to copyright offenses and are therefore covered by this guideline.".

Option Two [Department of Justice Proposal]:

Strike § 2B5.3 and insert the following:

"§ 2B5.3. Criminal Infringement of Copyright or Trademark

(a) Base Offense Level: 6

(b) Specific Offense Characteristics

(1) If the economic harm exceeded $2,000, increase by the corresponding number of levels from the table in § 2F 1.1 (Fraud and Deceit).

(2) If the offense involved online electronic infringement, increase by 2 levels.

(3) If the offense posed a threat to public health and safety, increase by 2 levels.

Commentary

Statutory Provisions: 17 U.S.C. § 506(a); 18 U.S.C. 2318, 2319, 2319A, 2320, 2511. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:

1. For purposes of this guideline—

Infringed upon items means the items (including phonorecords and computer programs) with respect to which or against which the crime against intellectual property was committed.

Infringing items means the items that violate the copyright or trademark laws; often, infringing trademarks, and the items bearing them, are referred to as *counterfeit* and items that infringe copyrights are referred to as *pirated*.

Retail value means the Manufacturer's Suggested Retail Price (MSRP).

Copies means both copies and phonorecords.

Trafficked in includes transported, transferred, distributed, sold or otherwise disposed of.

2. *Economic harm* in 2318, 2319 (506(a)), and 2320 cases is the retail value of the infringed upon items, multiplied by the number of copies produced and trafficked in. This recognizes that infringement causes losses not only for the trademark and copyright owners, but for others in the distribution chains of legitimate articles, and for members of the public who are

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deceived into buying what they may believe are legitimate articles.

A single copy that is produced and then sold by a single defendant counts as one copy.

3. *Economic harm* in 2319A cases is the retail value of the infringing items, multiplied by the number of copies produced (including the number of primary unlawful fixations, i.e., 'masters,' from which those copies are made) and/or transmissions and/or the number of copies sold, offered for sale, distributed, offered for distribution, rented, offered for rent, and trafficked in. The value of infringing items is the standard in these cases because merchandise that violates § 2319A has no legitimate counterpart. A single copy that is produced and then sold by a single defendant counts as one copy.

4. *Online electronic infringement* includes the producing, reproducing, distributing, selling, performing, or trafficking in copyrighted or trademarked articles or services via an electronic bulletin board, a worldwide web site, or any online *facility*. The ease with which infringers can operate in the online environment and the access they have to limitless numbers of customers gives them the capability of causing substantial harm. For example, a defendant may post copyrighted material to an electronic bulletin board, making it accessible for others to illegally obtain, copy, and further distribute. In such an instance, it may not be possible to determine precisely the number of items (copies) downloaded by persons who access the facility, but it is reasonable to assure, based on the worldwide possibility for distribution and the number of items offered at the facility, that the harm is substantial.

5. In many instances, items that violate the trademark and copyright laws also present public health and safety hazards. These hazards can appear in many contexts. For example, counterfeit products, such as automotive parts, airplane parts, foodstuffs, pharmaceuticals, and electrical devices, place members of the public in danger. The enhancement shall apply in cases in which the products, if used in their intended manner, would threaten public health and safety.

6. An upward departure may be warranted in cases in which the economic harm underrepresents the actual harm or would lead to an unfair result. This Application Note applies in infringement situations, other than those referred to in Application Note 4, in which the number of copies produced and trafficked in is impossible to calculate and the harm to the copyright or trademark owner, others in the legitimate distribution chains, and the public is substantial. For example, rather than operate as an individual, a defendant may be part of a distribution or manufacturing network in which he or she supplies other distributors with unlawful products or parts of products, such as counterfeit handbags or watches or their parts or pirated sound recordings or motion pictures. In such an instance, it may not be possible to determine precisely the number of items (copies) provided to other persons for distribution, but it is reasonable, based on the available facts (including the number of persons in the distribution network), that the number is large enough to create substantial harm. The upward departure provided for in this Application Note is available regardless of whether the conduct was for financial gain.

7. A downward departure may be warranted in cases in which the retail price of the infringing items is less than 30% of the retail value of the infringed upon item. In such cases, it may not be reasonable to conclude that each sale of an infringing item represents a lost sale for the copyright or trademark owner or others in the distribution chain. For example, a counterfeit watch may retail for $15, while the infringed upon watch may retail for $5,000. A sentencing calculation based on the retail value of the infringed items may lead to an unfair result.

Background: This guideline treats copyright and trademark violations much like fraud.

The Electronic Communications Privacy Act of 1986 prohibits the interception of satellite transmission for purposes of direct or indirect commercial advantage or private financial gain. Such violations are similar to copyright offenses and are, therefore, covered by this guideline.".

Option Three [Department of Justice Proposal]:

Strike § 2B5.3 and insert the following:

§ 2B5.3. Criminal Infringement of Copyright or Trademark

(a) Base Offense Level: 6

(b) Specific Offense Characteristics

(1) If the economic harm exceeded $2,000, increase by the corresponding number of levels from the table in § 2F1.1 (Fraud and Deceit).

(2) If the offense involved online electronic infringement, increase by 2 levels.

(3) If the retail price of the infringing items is less than 50% of the manufacturer's suggested retail price of the infringed upon items, decrease by 2 levels; if the retail price of the infringing items is less than 30% of the manufacturer's suggested retail price of the infringed upon items, decrease by 4 levels.

Commentary

Statutory Provisions: 17 U.S.C. § 506(a), 18 U. S. C. 2318, 2319, 2319A, 2320, 2511. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:

1. For purposes of this guideline

Infringed upon items means the legitimate items (including phonorecords and computer programs) with respect to which or against which the crime against intellectual property was committed.

Infringing items means the items that violate the copyright or trademark laws; often, infringing trademarks, and the items bearing them, are referred to as *counterfeit* and items that infringe copyrights are referred to as *pirated*.

Copies means both copies and phonorecords.

2. *Economic harm* in section 2318, 2319 (506(a)), and 2320 cases is the manufacturer's suggested retail price (msrp) of the infringed upon items, multiplied by the number of copies involved in the offense. This recognizes that the economic harm caused by infringement affects not only the trademark and copyright owners, but also others in the distribution chains of legitimate articles, and members of the public who are deceived into buying what they may believe are legitimate articles.

Because there is no infringed upon item in section 2319A cases, 'economic harm' in those cases is the retail price of the infringing items, multiplied by the number of copies involved in the offense (including the number of primary unlawful recordings, i.e., 'masters,' from which those copies are made).

Economic harm in section 2511 caves is the price the user or users would have paid if the service had been obtained lawfully.

3. *Online electronic infringement* includes the producing, reproducing, distributing, selling, performing, or trafficking in copyrighted or trademarked articles or services via an electronic bulletin board, a worldwide web site, or any online *facility*. The ease with which infringers can operate in the online environment and the access they have to limitless numbers of customers gives them the capability of causing substantial harm.

4. An upward departure may he warranted in cases in which the unlawful conduct presents a reasonably

foreseeable risk to public health or safety. These hazards appear in many contexts. For example, counterfeit products, such as automotive parts, airplane parts, foodstuffs, pharmaceuticals, and electrical devices, place members of the public in danger.

5. An upward departure may be warranted in cases in which the standard calculation of economic harm under-represents the actual harm or would lead to an unfair result. This Application Note applies in infringement situations, other than those referred to in Application Note 3, in which the number of copies involved in the offense is impossible to calculate and the harm to the copyright or trademark owner, others in the legitimate distribution chain, and the public is substantial. For example, rather that operate as an individual, a defendant may be part of a distribution or manufacturing network in which he or she supplies other distributors with unlawful products or parts of products, such as counterfeit handbags or watches or their parts or pirated sound recordings or motion pictures or their packaging, In such cases, it may not be possible to determine precisely the number of items (copies) provided to other persons for distribution, but it is reasonable, based on the available facts (including the number of persons in the distribution network), that the number is large enough to create substantial harm. The upward departure provided for in this Application Note is available regardless of whether the conduct was for commercial advantage or financial gain.

Background: This guideline treats copyright and trademark violations much like fraud.

The Electronic Communications Privacy Act of 1986 prohibits the interception of satellite transmission for purposes of direct or indirect commercial advantage or private financial gain. Such violations are similar to copyright offenses and are, therefore, covered by this guideline.".

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Part IV

Department of Housing and Urban Development

Notice and Request for Comments on HUD's Implementation of the Small Business Regulatory Enforcement Fairness Act of 1996; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4347–N–01]

Notice and Request for Comments on HUD's Implementation of the Small Business Regulatory Enforcement Fairness Act of 1996

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This notice solicits comments on HUD's implementation of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The notice describes HUD's implementation to date of SBREFA and additional implementation plans.

DATES: COMMENT DUE DATE: July 20, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this document to the Regulations Division, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title and to the specific sections in the regulation. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Casimir Bonkowski, Director, Office of Small and Disadvantaged Businesses, Department of Housing and Urban Development, Room 3130 451 Seventh Street, S.W., Washington, DC 20410, telephone 202–708–1428. Hearing- or speech-impaired persons may use the telecommunications system for the hearing-impaired (TTY) by contacting the Federal Information Relay Service on 1–800–877-TTY (1–800–877–8339) or (202) 708–9300. (Other than the "800" TTY number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. The Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104–121, 110 Stat. 847, approved March 29, 1996) ("SBREFA") provides, among other things, for agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

Section 213 of SBREFA requires each covered agency to establish a program to answer inquiries concerning information and advice about compliance with statutes and regulations within the agency's jurisdiction. The agency must use information received during these inquiries to help small entities interpret and apply the regulations to specific facts.

Section 223 of SBREFA requires each covered agency to establish a policy or program to reduce or waive civil penalties when a small entity violates a statute or regulation. Under appropriate circumstances, an agency may consider ability to pay when it assesses a penalty against a small entity. [1]

II. Identification of HUD Regulations That May Have a Significant Economic Impact on a Substantial Number of Small Entities

Although HUD is not generally regarded as a "regulatory agency", HUD has important regulatory responsibilities, including oversight and enforcement of the Real Estate Settlement Procedures Act (RESPA) and the Interstate Land Sales Full Disclosure Act; oversight over certain activities of government-sponsored enterprises (GSEs); oversight and enforcement of FHA mortgage insurance programs; and the establishment and enforcement of lead-based paint hazard control standards and manufactured housing standards.

HUD has long had in place a systematic process for determining whether newly developed rules are likely to have a significant economic impact on a substantial number of small entities. The typical HUD rule implements statutory directions for the administration of grant programs. Rules of this type are intended to reflect Congressional mandates that, by their nature, have universal applicability to the portion of the public affected by the rule. These rules generally do not lend themselves to the provision of special procedures, or exemptions from requirements, applicable to small entities. Although HUD Rules are generally not the type to lend themselves to special procedures or exemptions for small entities, HUD nevertheless has developed a process intended to introduce additional scrutiny to existing procedures for safeguarding the interests of small entities during development and following implementation of regulations.

To ensure that there is a meaningful assessment of HUD rules to determine which rules, if any, will have a significant economic impact on substantial number of small businesses, HUD:

(1) Targets regulations that may impact small businesses at the earliest opportunity in the development process; and

(2) Assigns oversight responsibility to HUD's Office of Small and Disadvantaged Business Utilization (OSDBU) to review:

(i) the HUD program office's assessment of any significant economic impact on a substantial number of small entities;

(ii) the HUD program office's assessment and disposition of all alternative rule implementation strategies submitted by small entities, and

(iii) the small entity compliance guides prepared by the program offices, where applicable.

III. Guidance to Small Entities

To help small entities understand their obligations under the regulations administered by HUD, HUD provides both general guidance and individualized advice. OSDBU maintains the requirements of the SBREFA and Regulatory Flexibility Act on the HUD web site with instructions to small entities on the OSDBU role as small business Ombudsman, as well as copies of compliance guides, names of HUD staff with familiarity in HUD programs that may impact small businesses, to answer questions, and a users forum where representatives of small entities can ask questions on a specific rule as a means of providing a fast means of clarifying issues. Additionally, small entities can download regulations, forms, and documentation from the HUD web pages. If a small entity does not have access to a computer, HUD will mail this information on request.

To ensure that we evaluate and update our small entity assistance program periodically, HUD works with the Small Business Administration to identify small business concerns in the housing industry.

IV. Rights of Small Entities in Enforcement Actions

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, under appropriate circumstances, waive civil penalties when a small entity violates a statute or

[1] The applicable procurement statutes and regulations do not provide for special consideration of or rights for small governmental entities. SBREFA did not make statutory changes that would result in changes to the Federal Acquisition Regulation to address small entities.

regulation. (For purposes of brevity, this policy or program is referred to as the "small entity compliance policy.")

Section 223 also requires an agency's small entity compliance policy to contain conditions or exclusions (subject to any restrictions or limitations that may be imposed on the agency by other statutes), which conditions or exclusions may include, but are not limited to the following:

(1) Requiring small entities to correct the violation within a reasonable correction period;

(2) Limiting applicability of the small entity compliance policy to violations discovered when small entities participate in a compliance assistance or audit program operated by the agency;

(3) Excluding from applicability of the small entity compliance policy those small entities that have been subject to multiple enforcement actions by the agency;

(4) Excluding from applicability of the small entity compliance policy violations involving willful or criminal conduct or that pose serious health, safety, or environmental threats, safety, or requiring a good-faith effort to comply with the law.

Federal statutes and regulations authorize HUD to impose civil penalties in conjunction with regulatory and enforcement issues. Under these authorities, HUD has authority to issue civil money penalties for violations of requirements governing its grant, mortgage insurance, and the regulatory programs, identified earlier in this notice.

In establishing its policy for implementation of SBREFA, following enactment of SBREFA, HUD reported to President Clinton and the Congress that, under appropriate circumstances, HUD may consider ability to pay in determining penalty assessments on small entities. HUD notes that the ability to pay is a legislative directive for many programs under the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989). HUD's policy to date has been to assist regulated entities in achieving compliance with requirements in order to avoid any penalty process.

Where penalties are determined appropriate, HUD's policy is to consider: (1) the nature of the violation (the violation must not be one that is repeated or multiple, willful, criminal or poses health or safety risks), (2) whether the entity has shown a good faith effort to comply with the regulations; and (3) the resources of the regulated entity. Depending upon the circumstances surrounding the violation, it is not HUD's intent to put any individual or entity out of business by the penalties or settlement amounts paid to the Federal Government.

V. Small Entities' Comments on Agencies Enforcement Activities

Section 222 of SBREFA requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.

To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices which are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call [provide telephone number].

HUD intends to work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD. HUD intends to include this language in HUD general circulation issuances and publications regarding enforcement actions. HUD welcomes comments on the manner in which it has implemented SBREFA to date, and the additional action intended to be taken as described in this notice.

Dated: May 14, 1998.

Andrew Cuomo,

Secretary.

[FR Doc. 98–13636 Filed 5–20–98; 8:45 am]

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–251–AD; Amendment 39–10537; AD 98–11–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that requires an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is acceptable; and follow-on corrective action, if necessary. This amendment is prompted by reports that the speed brake handle jammed in the ground spoiler position. The actions specified by this AD are intended to prevent a jammed speed brake handle pin, which could result in retraction of the spoilers and full advancement of the left throttle during a go-around.

DATES: Effective June 26, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 26, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5336; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes was published in the **Federal Register** on February 19, 1998 (63 FR 8371). That action proposed to require an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is acceptable; and follow-on corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 2,050 McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $375,000, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–10 McDonnell Douglas: Amendment 39–10537. Docket 97–NM–251–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50, and DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–346, Revision 01, dated July 29, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a jammed speed brake handle pin, which could result in retraction of the spoilers and full advancement of the left throttle during a go-around, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is "acceptable", in accordance with McDonnell Douglas Service Bulletin DC9–27–346, Revision 01, dated July 29, 1997.

Note 2: The criteria for determining whether the staking is "acceptable" are defined in Figure 1 of the service bulletin.

(1) Condition 1. If the pin passes the axial force check and the staking is found to be acceptable, no further action is required by this AD.

(2) Condition 2. If the pin passes the axial force check and the staking is found to be unacceptable, accomplish the actions specified in Condition 2, Option 1, or Condition 2, Option 2 of the Accomplishment Instructions of the service bulletin. These actions shall be accomplished at the times specified in paragraph E. "Compliance" of the service bulletin. Accomplishment of the replacement of the speed brake latching lever constitutes terminating action for the repetitive inspection requirements of this AD.

(3) Condition 3. If the pin fails the axial force check and the staking is found to be unacceptable, accomplish the actions specified in Condition 3, Option 1, or Condition 3, Option 2 of the Accomplishment Instructions of the service bulletin. These actions shall be accomplished at the times specified in paragraph E. "Compliance" of the service bulletin. Accomplishment of the replacement of the speed brake latching lever constitutes terminating action for the repetitive inspection requirements of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with McDonnell Douglas Service Bulletin DC9–27–346, Revision 01, dated July 29, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 26, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13407 Filed 5–21–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–165–AD; Amendment 39–10540; AD 98–11–13]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes, and Hawker 800 (U–125A Military Derivative) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 800XP series airplanes and Hawker 800 (U–125A military derivative) airplanes. This action requires removal of the sealant from the firewall mounting flanges and mounting points of the fire extinguisher assemblies; removal of sealant obstructing the discharge tubes of the fire extinguisher assemblies; cleaning and flushing of the mounting flanges, mounting points, and discharge tubes with solvent; and installation of new gaskets on the firewall mounting flanges and mounting points. This amendment is prompted by reports of excessive sealant applied during manufacture of the firewall mounting flanges and mounting points of the fire extinguisher assemblies, which subsequently entered and obstructed the discharge tubes. The actions specified in this AD are intended to prevent obstructions of the discharge tubes of the fire extinguisher assemblies, which could result in improper distribution of the fire extinguishing agent within the nacelle in the event of a fire.

DATES: Effective June 8, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–165–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager Service

Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Randy Griffith, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4145; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that, during manufacture testing of the fire suppression system on a Raytheon Model Hawker 800XP series airplane, the system failed to operate properly. Investigation has revealed that the discharge tubes of the fire extinguisher assemblies were obstructed. Testing of other Model Hawker 800XP series airplanes and a Hawker 800 (U–125A military derivative) airplane revealed similar obstructions of the discharge tubes of the fire extinguisher assemblies. The cause of the obstructions has been attributed to excessive sealant applied during manufacture of the firewall mounting flanges and mounting points of the fire extinguisher assemblies, which subsequently entered and obstructed the discharge tubes. This condition, if not corrected, could result in improper distribution of the fire extinguishing agent within the nacelle in the event of a fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB.26–3197, dated April 1998, which describes procedures for removal of the sealant from the firewall mounting flanges and mounting points of the fire extinguisher assemblies; removal of sealant obstructing the discharge tubes of the fire extinguisher assemblies; cleaning and flushing of the mounting flanges, mounting points, and discharge tubes with solvent; and installation of new gaskets on the firewall mounting flanges and mounting points. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent obstructions of the discharge tubes of the fire extinguisher assemblies, which could result in improper distribution of the fire extinguishing agent within the nacelle in the event of a fire. This AD requires removal of the sealant from the firewall mounting flanges and mounting points of the fire extinguisher assemblies; removal of sealant obstructing the discharge tubes of the fire extinguisher assemblies; cleaning and flushing of the mounting flanges, mounting points, and discharge tubes with solvent; and installation of new gaskets on the firewall mounting flanges and mounting points.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–165–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

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§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–13 Raytheon Aircraft Company (Formerly Beech): Amendment 39–10540. Docket 98–NM–165–AD.

Applicability: Model Hawker 800XP series airplanes and Hawker 800 (U–125A military derivative) airplanes, as listed in Raytheon Service Bulletin SB.26–3197, dated April 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent obstructions of the discharge tubes of the fire extinguisher assemblies, which could result in improper distribution of the fire extinguishing agent within the nacelle in the event of a fire, accomplish the following:

(a) Within 25 days after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, in accordance with Raytheon Service Bulletin SB.26–3197, dated April 1998.

(1) Remove the sealant from the firewall mounting flanges and mounting points of the fire extinguisher assemblies;

(2) Remove all sealant obstructing the discharge tubes of the fire extinguisher assemblies;

(3) Clean and flush the mounting flanges, mounting points, and discharge tubes with solvent; and

(4) Install new gaskets on the firewall mounting flanges and mounting points.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Raytheon Service Bulletin SB.26–3197, dated April 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 8, 1998.

Issued in Renton, Washington, on May 15, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13684 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29226; Amdt. No. 1869]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8620 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with

the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 15, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * Effective Upon Publication.

FDC date	State	City	Airport	FDC No.	SIAP
04/29/98	MA	Bedford	Laurence G. Hanscom Field	8/2601	VOR Rwy 23 Amdt 8A...
04/29/98	MA	Beverly	Beverly Muni	8/2593	NDB or GPS–A Amdt 12...
04/29/98	MA	Beverly	Beverly Muni	8/2594	VOR Rwy 16 Amdt 4...
04/29/98	MA	Beverly	Beverly Muni	8/2595	LOC Rwy 16 Amdt 5...
04/29/98	ME	Augusta	Augusta State	8/2600	ILS Rwy 17 Amdt 2...
04/29/98	ME	Bangor	Bangor Intl	8/2599	ILS Rwy 33 Amdt 10...
04/29/98	ME	Bar Harbor	Hancock County-Bar Harbor	8/2598	LOC/DME BC Rwy 4 Amdt 1...
04/29/98	ME	Presque Isle	Northern Maine Regional Airport at Presque Isle.	8/2597	ILS Rwy 1 Amdt 5...
04/30/98	IN	Bloomington	Bloomington/Monroe County	8/2619	VOR or GPS Rwy 6, Amdt 16A...
04/30/98	IN	Bloomington	Bloomington/Monroe County	8/2620	VOR or GPS Rwy 17, Amdt 11A...
04/30/98	IN	Bloomington	Bloomington/Monroe County	8/2621	VOR or GPS Rwy 24, Amdt 10A...
04/30/98	IN	Bloomington	Bloomington/Monroe County	8/2622	VOR/DME Rwy 35, Amdt 14A...
04/30/98	IN	Bloomington	Bloomington/Monroe County	8/2623	ILS Rwy 35, Amdt 4A...
05/01/98	CT	Hartford	Hartford-Brainard	8/2646	GPS Rwy 2 Orig...
05/01/98	CT	Hartford	Hartford-Brainard	8/2657	VOR or GPS–A Amdt 9A...
05/01/98	CT	Hartford	Hartford-Brainard	8/2658	NDB Rwy 2 Amdt 2...
05/01/98	CT	Hartford	Hartford-Brainard	8/2660	LDA Rwy 2 Amdt 1A...
05/01/98	IL	Chicago	Chicago O'Hare Intl	8/2652	VOR Rwy 22R Amdt 8A...
05/01/98	NC	Asheboro	Asheboro Muni	8/2664	NDB or GPA Rwy 21 Amdt 2A...
05/04/98	ME	Eastport	Eastport Muni	8/2699	GPS Rwy 15 Orig-A...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2750	ILS Rwy 14, Amdt 3...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2751	VOR or GPS Rwy 32, Amdt 8A...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2752	ILS Rwy 32, Amdt 4A...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2754	VOR or GPS Rwy 14, Amdt 16...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2755	NDB Rwy 32, Amdt 6...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2756	Radar-1, Amdt 5A...
05/05/98	FL	Sarasota (Bradenton)	Sarasota/Bradenton Intl	8/2761	VOR or GPS Rwy 22, Amdt 10...
05/05/98	WI	Fort Atkinson	Fort Atkinson Muni	8/2749	VOR or GPS–A, Orig...

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FDC date	State	City	Airport	FDC No.	SIAP
05/07/98	FL	St. Petersburg	St. Petersburg-Clearwater Intl	8/2786	ILS Rwy 17L, Amdt 19B...
05/07/98	MS	Greenville	Mid Delta Regional	8/2788	ILS Rwy 18L Amdt 9...
05/07/98	NC	Kenansville	Duplin County	8/2795	LOC Rwy 22 Orig-A...
05/07/98	NC	Kenansville	Duplin County	8/2796	NDB or GPS Rwy 22 Amdt 5A...
05/07/98	OH	Lorain/Elyria	Lorain County Regional	8/2783	VOR or GPS–A, Amdt 2...
05/07/98	OH	Lorain/Elyria	Lorain County Regional	8/2785	ILS Rwy 7, Amdt 6...
05/08/98	FL	Marco Island	Marco Island	8/2824	VOR/DME Rwy 17, Amdt 6...
05/08/98	FL	Marco Island	Marco Island	8/2825	GPS Rwy 17, Orig...
05/08/98	FL	Marco Island	Marco Island	8/2832	LOC Rwy 17, Orig...
05/08/98	FL	Tallahassee	Tallahassee Regional	8/2827	VOR or GPS Rwy 18, Amdt 9...
05/08/98	FL	Tallahassee	Tallahassee Regional	8/2828	Radar-1, Amdt 4...
05/08/98	SC	Clemson	Clemson-Oconee County	8/2817	NDB or GPS–A Amdt 5...
05/13/98	IN	Bloomington	Bloomington/Monroe County	8/2899	NDB or GPS Rwy 35, Amdt 4A...

[FR Doc. 98–13750 Filed 5–21–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29227; Admt. No. 1870]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revoke SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) eqipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV"

without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on May 15, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33, and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

* * * *Effective June 18, 1998*

Bethel, AK, Bethel, VOR or GPS RWY 18, Amdt 8B CANCELLED
Bethel, AK, Bethel, VOR RWY 18, Amdt 8B
Bethel, AK, Bethel, VOR or GPS RWY 36, Amdt 7A CANCELLED
Bethel, AK, Bethel, VOR RWY 36, Amdt 7A
Kotzebue, AK, Ralph Wien Memorial, VOR/DME or GPS RWY 8, Amdt 2 CANCELLED
Kotzebue, AK, Ralph Wien Memorial, VOR/DME RWY 8, Amdt 2
Kotzebue, AK, Ralph Wien Memorial, VOR/DME 2 or GPS RWY 26, Orig CANCELLED
Kotzebue, AK, Ralph Wien Memorial, VOR/DME 2 RWY 8, Orig
McGrath, AK, McGrath, VOR/DME or TACAN or GPS RWY 16, Orig CANCELLED
McGrath, AK, McGrath, VOR/DME or TACAN or RWY 16, Orig
Greenville, AL, Greenville Muni, NDB or GPS RWY 32, Amdt 4 CANCELLED
Greenville, AL, Greenville Muni, NDB RWY 32, Amdt 4
Atlanta, GA, Fulton County Airport-Brown Field, VOR/DME or GPS RWY 26, Orig CANCELLED
Atlanta, GA, Fulton County Airport-Brown Field, VOR/DME RWY 26, Orig
Delano, CA, Delano Muni, VOR or GPS RWY 32, Amdt 6 CANCELLED
Delano, CA, Delano Muni, VOR RWY 32, Amdt 6
Milledgeville, GA, Baldwin County, NDB or GPS RWY 28, Orig CANCELLED
Milledgeville, GA, Baldwin County, NDB RWY 28, Orig
Knoxville, IA, Knoxville Muni, NDB or GPS RWY 15, Amdt 6 CANCELLED
Knoxville, IA, Knoxville Muni, NDB RWY 15, Amdt 6
Knoxville, IA, Knoxville Muni, NDB or GPS RWY 33, Amdt 5 CANCELLED
Knoxville, IA, Knoxville Muni, NDB RWY 33, Amdt 5
Mapleton, IA, Mapleton Muni, NDB or GPS RWY 20, Amdt 4 CANCELLED
Mapleton, IA, Mapleton Muni, NDB RWY 20, Amdt 4
Osceola, IA, Osceola Muni, VOR/DME or GPS RWY 18, Amdt 1 CANCELLED
Osceola, IA, Osceola Muni, VOR/DME RWY 18, Amdt 1
Vinton, IA, Vinton Veterans Memorial Airpark, NDB or GPS RWY 27, Amdt 3A
Vinton, IA, Vinton Veterans Memorial Airpark, NDB RWY 27, Amdt 3A
Portland, IN, Portland Muni, NDB or GPS RWY 27, Amdt 7 CANCELLED
Portland, IN, Portland Muni, NDB RWY 27, Amdt 7
Frankfort, KY, Capital City, VOR or GPS RWY 24, Amdt 2 CANCELLED
Frankfort, KY, Capital City, VOR RWY 24, Amdt 2
Louisville, KY, Standiford Field, NDB or GPS RWY 29, Amdt 19A CANCELLED
Louisville, KY, Standiford Field, NDB RWY 29, Amdt 19A
Frenchville, ME, Northern Aroostook Regional, NDB or GPS RWY 32, Amdt 5 CANCELLED
Frenchville, ME, Northern Aroostook Regional, NDB RWY 32, Amdt 5
Beaver Island, MI, Beaver Island, NDB RWY 27, Orig CANCELLED
Beaver Island, MI, Beaver Island, NDB or GPS RWY 27, Orig
Burlington, NC, Burlington-Alamance Regional, NDB or GPS RWY 6 Amdt 4 CANCELLED
Burlington, NC, Burlington-Alamance Regional, NDB RWY 6 Amdt 4
Hickory, NC, Hickory Regional, NDB or GPS RWY 24, Amdt 4C CANCELLED
Hickory, NC, Hickory Regional, NDB RWY 24, Amdt 4C
Kenansville, NC, Duplin County, NDB or GPS RWY 22, Amdt 5A CANCELLED
Kenansville, NC, Duplin County, NDB RWY 22, Amdt 5A
Ainsworth, NE, Ainsworth Muni, VOR or GPS RWY 35, Amdt 3A CANCELLED
Ainsworth, NE, Ainsworth Muni, VOR RWY 35, Amdt 3A
Aurora, NE, Aurora, Muni, NDB or GPS RWY 16, Amdt 2 CANCELLED
Aurora, NE, Aurora, Muni, NDB RWY 16, Amdt 2
Gordon, NE, Gordon Muni, NDB or GPS RWY 22, Amdt 2 CANCELLED
Gordon, NE, Gordon Muni, NDB RWY 22, Amdt 2
Kimball, NE, Kimball Muni/Robert E. Arraj Field, NDB or GPS RWY 28, Orig-A CANCELLED
Kimball, NE, Kimball Muni/Robert E. Arraj Field, NDB RWY 28, Orig-A
Grove, OK, Grove Muni, VOR/DME RNAV or GPS RWY 36, Amdt 2 CANCELLED
Grove, OK, Grove Muni, VOR/DME RNAV RWY 36, Amdt 2
Philadelphia, PA, Northeast Philadelphia, VOR/DME RNAV or GPS RWY 15, Amdt 2 CANCELLED
Philadelphia, PA, Northeast Philadelphia, VOR/DME RNAV RWY 15, Amdt 2
Philadelphia, PA, Northeast Philadelphia, VOR/DME RNAV or GPS RWY 33, Amdt 4 CANCELLED
Philadelphia, PA, Northeast Philadelphia, VOR/DME RNAV RWY 33, Amdt 4
Lubbock, TX, Lubbock Intl, VOR/DME RNAV or GPS RWY 8, Amdt 2 CANCELLED
Lubbock, TX, Lubbock Intl, VOR/DME RNAV RWY 8, Amdt 2
Lubbock, TX, Lubbock Intl, NDB or GPS RWY 17R, Amdt 15 CANCELLED
Lubbock, TX, Lubbock Intl, NDB RWY 17R, Amdt 15
Lubbock, TX, Lubbock Intl, NDB or GPS RWY 26, Amdt 2 CANCELLED
Lubbock, TX, Lubbock Intl, NDB RWY 26, Amdt 2

Racine, WI, John H Batten Field, VOR/DME RNAV RWY 22, Amdt 3 CANCELLED
Racine, WI, John H Batten Field, VOR/DME RNAV or GPS RWY 22, Amdt 3
Racine, WI, John H Batten Field, NDB RWY 4, Amdt 3A CANCELLED
Racine, WI, John H Batten Field, NDB or GPS RWY 4, Amdt 3A
Ravenswood, WV. Jackson County, VOR/DME or GPS RWY 3, Amdt 2A CANCELLED
Ravenswood, WV. Jackson County, VOR/DME RWY 4, Orig

[FR Doc. 98–13747 Filed 5–21–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29225; Amdt. No. 1868]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 15, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the

Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME, or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective 18 June, 1998

Birmingham, AL, Birmingham Intl, RADAR–1, Amdt 19
Crestview, FL, Bob Sikes, LOC RWY 17, Amdt 2, CANCELLED
Crestview, FL, Bob Sikes, ILS RWY 17, Orig
Louisville, KY, Louisville Intl-Standiford Field, NDB OR GPS RWY 1, Amdt 8A, CANCELLED
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 1, Amdt 11B, CANCELLED
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 19, Amdt 9B, CANCELLED
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 35L, Orig
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 17L, Orig
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 35R, Orig
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 29, Orig

Effective 16 July, 1998

Fernandina Beach, FL, Fernandina Beach Muni, GPS RWY 13, Orig
Marshall, MN, Marshall Muni-Ryan Field, VOR RWY 12, Amdt 7
Marshall, MN, Marshall Muni-Ryan Field, ILS RWY 12, Amdt 1
Cleveland, OH, Cuyahoga County, ILS RWY 23, Amdt 13
Dayton, OH, Dayton-Wright Brothers, LOC RWY 20, Amdt 5
Dayton, OH, Dayton-Wright Brothers, NDB OR GPS–A, Amdt 1
Okmulgee, OK, Okmulgee Muni, VOR OR GPS–A, Orig
Okmulgee, OK, Okmulgee Muni, VOR OR GPS RWY 22, Amdt 1, CANCELLED
Pawtucket, RI, North Central State, VOR/DME RNAV RWY 5, Amdt 6, CANCELLED
Pawtucket, RI, North Central State, VOR/DME RNAV RWY 23, Amdt 5, CANCELLED
Nashville, TN, Nashville Intl, ILS RWY 2R, Amdt 5
Salt Lake City, UT, Salt Lake City Intl, RADAR–1, Amdt 15, CANCELLED
Salt Lake City, UT, Salt Lake City Muni 2, RADAR–2, Amdt 1, CANCELLED
Land O'Lakes, WI, Kings Land O'Lakes, NDB OR GPS RWY 14, Amdt 9
Land O'Lakes, WI, Kings Land O' Lakes, NDB RWY 32, Orig

Effective August 13, 1998

Galena, AK, Edward G. Pitka, Sr., GPS RWY 7, Orig
Galena, AK, Edward G. Pitka, Sr., GPS RWY 25, Orig
Nome, AK, Nome, GPS RWY 2, Orig
Nome, AK, Nome, GPS RWY 9, Orig
Nome, AK, Nome, GPS RWY 27, Orig
Yakutat, AK, Yakutat, GPS RWY 11, Orig
Yakutat, AK, Yakutat, GPS RWY 29, Orig
Tuscaloosa, AL, Tuscaloosa Muni, VOR OR TACAN OR GPS RWY 22, Amdt 14
Camarillo, CA, Camarillo, GPS RWY 8, Orig
Camarillo, CA. Camarillo, GPS RWY 26, Orig
Redlands, CA, Redlands Muni, GPS–A, Orig
Gainesville, GL, Gainesville Regional, GPS RWY 10, Orig
Gainesville, FL, Gainesville Regional, GPS RWY 28, Orig
Tallahassee, FL, Tallahassee Regional, ILS RWY 27, Amdt 5
Boone, IA, Boone Muni, GPS RWY 14, Amdt 1
Boone, IA, Boone Muni, GPS RWY 32, Orig
Baltimore, MD, Baltimore-Washington Intl, ILS RWY 28, Amdt 12
Baltimore, MD, Baltimore-Washington Intl, ILS RWY 33L, Amdt 8
Ord, NE, Evelyn Sharp Field, NDB OR GPS RWY 13, Amdt 4
Ord, NE, Evelyn Sharp Field, GPS RWY 31, Orig
Lawton, OK, Lawton-Ft Sill Regional, VOR RWY 35, Amdt 20
Lawton, OK, Lawton-Ft Sill Regional, ILS RWY 35, Amdt 7
Lawton, OK, Lawton-Ft Sill Regional, RADAR-1, Amdt 4
New Lisbon, WI, Mauston-New Lisbon Union, GPS RWY 32, Amdt 1
Cody, WI, Yellowstone Regional, GPS–B, Orig

Note: The FAA published an Amendment in Docket No. 29199, Amdt No. 1865 to Part 97 of the Federal Aviation Regulations (VOL 63, No. 81, Page 23209; dated April 28, 1998) under Section 97.33 effective June 18, 1998, which is hereby amended to read:

** * * Effective August 13, 1998*

Delano, CA, Delano Muni, VOR RWY 32, Amdt 7
Delano, CA, Delano Muni, GPS RWY 32, Orig
Porterville, CA, Porterville, Muni, GPS RWY 12, Orig
Porterville, CA, Porterville Muni, GPS RWY 30, Orig

The following procedures are rescinded:

Tracy, CA, Tracy Muni, GPS RWY 25, Orig
Tracy, CA, Tracy Muni, GPS RWY 29, Orig

[FR Doc. 98–13746 Filed 5–21–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 207, 208, 212, and 380

[Docket OST–97–2356]

RIN 2105–AB91

Aviation Charter Rules

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: DOT is amending its charter air transportation regulations to update the rules, make changes reflecting current operating procedures and include the following specific modifications:

Eliminate the 10-day waiting period after the filing of a prospectus or an amendment before Public Charters may be advertised or sold;

Allow charter operators to accept payment by credit cards for Public Charter flights;

Delete the minimum contract size of 20 seats for passenger charters;

Permit direct air carriers to sell charter flights within 7 days of departure;

Codify the Department's practice allowing a "sub-operator" to buy into another Public Charter operator's prospectus as a principal;

Eliminate the requirement for brief or "mini" prospectus to be filed by direct air carriers conducting foreign-originating flights for foreign charter operators;

Consolidate the rules applicable to U.S. and foreign direct air carriers into a single part; and

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Broaden the definitions of "immediate family" in parts 212 and 380 to include the member's (or student participant's) spouse, children, and parents, whether or not they share a household with the member. This action is taken at the Department's initiative and responds to President Clinton's Regulatory Reinvention Initiative.

EFFECTIVE DATE: The rule shall become effective on June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Charles W. McGuire, Chief, Special Authorities Division (X–57), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–1037.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 1992, the Department of Transportation issued a notice of proposed rulemaking (NPRM) [57 FR 42864, September 16, 1992] which proposed to (1) replace the filing of prospectus for Public Charters with an annual registration by charter operators; (2) eliminate the regulation of "major changes" in charter itineraries and the specific terms of Public Charter operator-participant contracts, but require that consumers receive actual notice of important terms affecting the charter; (3) simplify the financial security arrangements applicable to charter operators; (4) eliminate the financial security arrangements applicable to direct air carriers; (5) permit consumers to make credit card payments to charter operators for Public Charters; (6) remove the prohibition against charter sales within 7 days of departure by direct air carriers or charter operators affiliated with direct air carriers; (7) simplify and eliminate unnecessary requirements applicable to non-public charters (i.e., single entity, affinity, and mixed charters), and add provisions for the operation of gambling, junkets; and (8) consolidate the rules applicable to direct air carriers into a single part, removing obsolete and repetitive references and requirements.

Comments and reply comments on the Department's proposals were filed by 17 direct air carriers, 20 charter operators, 6 trade associations, 3 banks that serve (or served) as depository banks for charters, 1 state department of transportation, and 15 private citizens.[1]

[1] Specifically, comments in this proceeding were filed by Aeronautica de Cancun, Air 2000 Limited, Air Canada, Air Espana S.A., Air Transport Association of America (on behalf of Alaska Airlines, American Airlines, Continental Airlines, Delta Air Lines, Trans World Airlines, United Air Lines, and USAir), Airline Brokers Company, Association of Retail Travel Agents, American Society of Travel Agents, American Trans Air, Apple Vacations, Av Atlantic, Azores Express, Balair, Bruce Hall Sports, Condor Flugdienst, First of America Bank, Funway Holidays, Funjet, Great American Airways, GMV International, Hapag-Lloyd Fluggesellschaft, Harrah's Casino Hotel Atlantic City, Jamaica Express, Marazul Charters, Military Travel Corporation, Minnesota Department of Transportation, MLT Vacations, National Air Carrier Association (on behalf of American Trans Air, Evergreen International Airlines, Miami Air, Tower Air, and World Airways), National Bank of Royal Oak, North American Airlines, NW Tours, Northwest Airlines, Private Jet Expeditions, Regional Airline Association, Relvas Tours, Rich International Airways, Ryan International Airlines, Santo Tours, Schwaben International, Security Pacific National Trust Company (New York), Sunbird Vacations, Sunburst Holidays, The Surety Association of America, Trans Global Tours, Trans-National Travel, Trans World Airlines, Travel Impressions, United States Tour Operator Association, Worldwide Airline Services d/b/a Leisure Air, and a number of individuals.

While many of those responding supported the basic goals of reducing the burden of paperwork, simplifying the regulatory process, eliminating obsolete requirements, and liberalizing relationships in the marketplace, when it came to the proposed changes to the basic consumer protection provisions of the regulations, the majority urged the Department to retain the existing requirements. Except as discussed below we have decided not to adopt many of the rule changes proposed in the NPRM.

Discussion of Comments

The issues specifically addressed by commenters agreeing of disagreeing with proposals in the NPRM or offering alternative approaches fall primarily into the following categories: (1) Filing Requirements: (2) Protection of the Charter Participants' Expectations; (3) Protection of the Charter Participants' Funds; (4) Financial/Security Rules Applicable to Direct Air Carriers; (5) Direct Air Carrier Responsibilities; (6) Use of Credit Cards for Payments to Charter Operators; and (7) Other Matters.

(1) Filing Requirements

The NPRM proposed to substitute an annual registration requirement for U.S. charter operators in place of the present prospectus filings for each series of flights. This form would identify the applicant and its ownership, and would certify the existence of a contract with the carrier and the existence of a valid security agreement and that both complied with the requirements of Part 380. The applicant would be required to notify the Department within 10 days of any change in the required information. Once the proper registration was filed, the charter operator could begin sales immediately without filing a flight program and without waiting the 10 days for approval. The proposed treatment of foreign charter operators was slightly different in that they would still be required to seek authority in the U.S. as they do now.

While commenters generally approved of the proposal to require only an annual registration by charter operators, three of the industry associations (Association of Retail Travel Agents, American Society of Travel Agents and National Air Carriers Association) commented about several essential requirements of the registration process which permit the Department to regulate or discipline charter operators. The commenters referred specifically to the filing of schedules and changes thereto as well as to the certification that required security agreements to be in place. One of the associations also stated that if one believes the existing bond/escrow rules should be retained, then "specific identifying information for the operator's escrow accounts should also be provided and kept current." The purpose of the proposed relaxation of prospectus filing rules in the NPRM was to make the process less burdensome and possibly less expensive for the charter operator and to reduce the Department's regulatory workload. We are sympathetic to these comments and our further review of the mechanism of this proposed change leads us to conclude that the removal of the current system of prospectuses and amendments would compromise charter participants' ability to be assured of the legitimacy of charter programs and our ability to maintain useful records necessary to monitor Public Charter programs. The Department will not adopt the change proposed in the NPRM to replace the prospectus filing with an annual registration.

(2) Protection of Public Charter Participants' Expectations

Current charter rules contain provisions designed to protect the expectations of members of the public flying on Public Charters (14 CFR 380.30–380.33a). These rules prescribe the essential elements of contracts between charter operators and charter participants, and provide that certain major changes (hotels, flight dates, origin and destination cities, price) would entitle charter participants to cancel and receive a refund. The rules included precise requirements regarding the time for notifying charter participants of such changes and providing refunds where applicable.

In the NPRM, we proposed to eliminate the current provisions in the Public Charter rules that (1) specify the

contents of the contract between the charter operator and the charter participant; (2) regulate certain "major changes" in the price or itinerary that would entitle charter participants to cancel and receive a refund; and (3) prohibit charter operators from accepting charter participants' payments without first obtaining a signed operator-participant contract (§§ 380.31–380.33 and 380.12). In place of these provisions, we proposed to require charter operators to provide prospective participants with notice of, and access to, any conditions imposed by the operator (proposed § 380.7). The notice was to include, among other things, the terms under which the operator reserves the right to change the itinerary or price of the charter, and the charter participant's rights to cancel and receive funds under various circumstances. The notice, which would have been provided to the participant at the time of sale, could have been part of the charter operator's brochures or other solicitation materials. Just as with scheduled service (See 14 CFR Part 253), if a participant did not receive such notice, he or she would not have been bound by any term restricting refunds, imposing monetary penalties, or allowing the operator to change the itinerary or raise prices. The proposed rule also provided that, if a person purchased a charter and requested a copy of the full operator-participant contract within 5 days of the purchase, that person's payment would have been fully refundable if she or she canceled within 5 days after receiving the full contract, or by the day of the flight, whichever was earlier.

While some commenters supported our proposed elimination of the government-imposed contract provisions and the requirement that signed operator-participant contracts be received with or before receipt of payment for a charter flight, all who commented opposed some part of the notice of conditions offered as a substitute. The National Air Carriers Association and several charter operators opposed that portion of the proposed rule that would allow a customer up to 5 days after purchasing a charter trip to request a copy of the full contract and an additional 5 days after receiving the contract to cancel and receive a full refund. One of the commenters stated that such a provision would present serious practical difficulties, leaving charter operators with no viable opportunity to resell a late-canceling participant's seat and very likely incurring substantial cancellation fees for accommodations reserved for that charter participant. An adverse side effect of this situation described by the commenter would be that on heavily booked flights potential charter participants desiring to travel would be turned away and denied travel due to someone else's tardiness in deciding to cancel. It was suggested that a full charter operator-participant agreement be provided to the charter participant at or before the time of purchase. Then, when the charter participant had made the purchase, there should be no right to cancel and receive a full refund on the basis of dissatisfaction with the terms and conditions. Referring to the practice in the scheduled air carrier industry where the passenter is required to purchase a ticket within 24 hours after making a reservation, a commenter proposed that the section could be revised to provide that, in cases where the full agreement is furnished to the charter participant at time of purchase, the contract review period is limited to one day during which the customer may cancel and receive a full refund. The commenter also noted that the charter participant always has the right to obtain and study the contract and take any time necessary to fully consider the terms and conditions prior to paying.[2] We believe that the commenters have raised valid concerns over the details of the proposed notice of conditions and how it would work in practice.

We also received comments urging us to retain some or all of the "major change" provisions of our current rules, particularly those dealing with material changes in the origin or destination of the flights, the departure/return dates, the hotels provided, and the price of the trip. The current rules require that charter participants be informed of any such changes and in many situations be given the opportunity to cancel and be given a full refund if they find the changes unacceptable.

The existing rule states that beginning 10 days before departure, operators and carriers may not cancel a charter (unless it is physically impossible to operate) or raise the price. If at any time the operator changes a date or city, or raises the price by more than 10 percent, affected participants have the right to cancel and receive a full refund. Participants must be notified of such "major changes" within 10 days. Overbooking on charters is banned.

[2] In order to satisfy the requirements of this section, the notice would have to be in writing and in a form that allows the participant to review it. Thus, reciting the notice in a radio commercial or flashing a graphic in a TV commercial would not suffice.

The NPRM proposed to abolish all of those protections. For example, the operator would simply be required to provide notice of the existence of any contract conditions that permit him to make such changes. Under the proposed rule, operators could wait until the day of departure to cancel a flight due simply to lagging sales. They could change the destination of the charter, or move the departure date by a week, or raise the price by $200 two days before the flight; if anyone wanted to cancel as a result, the operator could impose a 100 percent cancellation penalty—and then resell the seat.

The regulatory reform rationale driving the NPRM was an attempt to redefine a part of the industry that appeared to be heavily restricted by artificial distinctions among the various kinds of air transportation available to the public. To accomplish this, the Department proposed to remove administrative burdens on airlines and charter operators, simplify financial security requirements, and liberalize sales of charters by eliminating time constraints, operator-participant contracts, major change rules, and requirements for non-public charters. It was noted that current charter rules still impose limitations on direct air carriers flying charters that are relatively stringent compared with those relating to the operation of scheduled air service. Similarly detailed requirements apply to charter operators who sell charter reservations to the general public. A significant part of the consumer protection features of the current rule concerns price changes, cancellations, itinerary changes and the contents of operator-participant contracts designed to ensure participants' expectations.

The notice requirement proposed in the NPRM was modeled on the contract disclosure rule for scheduled service, 14 CFR Part 253. However, charters work differently from scheduled service; all the market forces that might modify the behavior of a scheduled carrier are not in play in charter service. By the nature of the scheduled system, carriers operate flights even where the revenues on a particular operation don't cover their costs (i.e., the load factor is low). However, flight cancellations due to lack of participation and other changes are more likely to occur on charters, and when they do occur are likely to be at the last possible moment allowable under the rules, currently 10 days before departure of the outbound flight. Absent the current rule banning cancellations within the last 10 days before departure, a charter operator could wait to cancel or make another major change until two

or three days before planned departure in hopes of getting sizable bookings through wholesalers shortly before departure. Allowing charter operators unfettered discretion to fail to keep their end of the bargain with consumers would be unfair.

Also, when scheduled-service flights experience irregularities, passengers have more options than charter passengers because:

- Scheduled carriers operate more frequent flights than do charter operators. For example, if an 8 a.m. scheduled flight to Denver is canceled, the same carrier can usually rebook a passenger on another of its, or another airline's, Denver flights no more than a few hours later.
- Many scheduled airlines have agreements with each other so that one scheduled carrier can put passengers from its canceled or delayed flight on another airline's flight, at no additional cost to a passenger.
- Scheduled carriers operate many different routes; they may serve more than one airport in the same city. If they cancel a flight they might be able to reroute the passengers via another city or to another airport at the same destination city with limited inconvenience to the passengers.

We conclude that while the notice regime of Part 253 (Notice of Terms of Contract and Carriage) has worked well to protect schedule passengers, our proposal to apply a similar approach in the charter area would likely result in an unacceptable risk to charter participants. The American Society of Travel Agents (ASTA) commenting on the proposed annual registration thought it might be worth trying but "charter operators should still be required to file copies of promotional material containing the proposed flight schedules at least 10 days before a flight." ASTA went on to say that the requirement would be "to discourage the publication of fictitious flight schedules which are then changed at the last minute to convenience the tour operator or the airline." This theme was also expressed by the Association of Retail Travel Agents (ARTA) which said that "we realize from experience the need for updated promotional materials containing proposed flight schedules at least 10 days before flight." ARTA continued this discussion stating that "Agents need to see the exact product available to enable them to fully inform their customers so that prices and scheduling can be compared for customer benefits." Comments from the University of Minnesota touched the broader scope of the issue stating that the present process for regulating Public Charters, including the filing process, had proved to be beneficial and necessary. We will retain these provisions along with the other parts of the customer protection package in the final rule.

(3) Protection of the Charter Participants Funds

We tentatively concluded in the NPRM that the present financial security requirements applicable to Public Charters should be revised. Under the current rules, Public Charter operators must obtain either (1) an acceptable security arrangement in an amount equal to the charter price for the air transportation if air-only or, if land arrangements are involved, in an amount equal to one, two, or three times the price of the air transportation depending on the duration of the charter trip; or (2) an acceptable security arrangement in the amount of $10,000 per flight up to a maximum of $200,000 for 20 or more flights plus a depository (escrow) account at a bank, into which all payments by or on behalf of charter participants must be deposited and from which they may not be removed except under specified conditions (§§ 380.34, 380.34a, 380.35).

We postulated that existing financial security requirements may be unduly burdensome on or costly to Public Charter operators, and proposed to substitute one or more of the various options set forth in the NPRM for the existing surety/escrow combination. The options proposed in the NPRM were: (1) A security agreement [3] in an amount of at least $30,000 times the number of flights up to a maximum of $600,000; (2) a security agreement sufficient to cover the cost of air transportation sold but not yet provided to consumers (i.e., a "rolling bond" under which the amount of the security could increase or decrease over time as the number of charter participants who have paid but have not completed their travel changes); (3) a requirement that U.S. or foreign direct air carriers participating in Public Charter programs bear financial responsibility for charter participant funds paid for charter air transportation (i.e., by either refunding moneys paid or providing the transportation for which it was paid) in the event of insolvency or other failure to perform by the charter operator; (4) a security agreement in an amount not less than the charter price for the air transportation (whether or not the charter flights being sold include land arrangements); or (5) a security agreement in an amount not less than the cost of the charter trip paid by the participant, including air transportation and land arrangements, if applicable.

None on these options included retention of the existing surety/escrow system of protecting charter participant funds; however, in view of comments in earlier rulemakings in support of the present escrow system, we specifically asked for comments on whether we should retain that system.

Virtually all of the parties and individuals that commented on the NPRM discussed the financial security options, with a large majority in favor of retaining the surety/escrow option for charter operators permitted under the present rules. Those who commented on the specific alternative financial security measures generally noted that each would provide a measure of financial protection, but the comments were varied as to which, if any, should be adopted. Several commenters felt the escrow requirement should be done away with, but that the amount of any required security agreement should be less than the $30,000 per flight/ $600,000 maximum amount proposed.

Of those opposed to the current surety/escrow option, several charter operators cited administrative burdens and large fees imposed by banks. One charter operator complained in particular of fees of between $175 and $260 per departure, which it asserts are not offset by interest earned on an escrow account, and of being assessed other expenses related to maintaining the account, such as for wire transfer fees, cancellation fees, and other charges incurred by the bank to pay hotels, land operators, and air carriers. Others submitted comments against retention of the current surety/escrow option, primarily on the basis that such arrangements have not always sufficiently protected consumers' funds, particularly when operators have filed for protection under bankruptcy laws.

In support of retaining the present surety/escrow option, many individual charter operators and an association representing charter operators asserted that the present system provides a necessary discipline on the industry and that financially stable and responsible charter operators are not burdened by the escrow system. One of these commenters pointed out that the escrow account system has worked well, when

[3] Term security agreement would be defined as it is today to include either a surety bond, or a surety trust agreement or letter-of-credit that provides protection equal to or greater than that provided by a bond (See new § 380.2). The agreement would have to be for an amount that would cover all one-way or round-trip flights that the Public Charter operator will actively advertise, sell, or operate at any one time, including any flights that may be completed but are within the 60-day period for the filing of claims.

properly administered, to provide consumer protection at little or no cost, and it should continue as an option. It suggested, however, that there is no need to require a security agreement, such as the $10,000 per flight/$200,000 maximum required under present rules, in addition to the depository account.

The members of the banking industry that commented on the NPRM, as well as the private citizens who commented, were unanimously in favor of retaining some form of protection requiring a depository account. One bank that handles charter operator escrow accounts stated that the depository method is the safest and most economical manner in which to provide protection of consumer funds, in particular because of the high risk to banks of surety bonds and trusts, the costs of which must be passed on to charter operators and, ultimately, consumers. Another bank asserted that the interest earned on escrow accounts more than makes up for any charges assessed by the banks for maintenance of the accounts.

Many of the direct air carriers and associations filing comments on behalf of direct air carriers recognized that the present surety/escrow system carries with it certain costs and burdens. Most, however, suggested that it be kept in place because it has proven to be an effective means of protecting charter participant payments. One of these commenters suggested retention of the present escrow system, at least until the Department has had an opportunity to examine the effects on the charter industry of other changes to the Public Charter rules that may result from this proceeding. Another suggested that if there is to be a change, we retain the present surety/escrow system, and, in the interest of allowing the industry to respond to market requirements, also allow any of the other proposed systems as optional requirements.

The $30,000-per-flight, $600,000 maximum alternative received some support from several direct air carriers and from well-established charter operators. Many other direct air carriers and charter operators, as well as financial institutions, argued against such a security agreement requirement as being too expensive for many charter operators to obtain and maintain. Other commenters noted the requirement, which would triple currently required security amounts, would be unnecessarily broad for the many small-aircraft, domestic charter operations, so that the security required per flight could far exceed the cost of the air transportation. On the other hand, one commenter noted that the $30,000-per-flight figure could be insufficient to cover certain wide-body aircraft operations, while another felt that the $600,000 maximum would be insufficient to cover many large charter operator programs.

We see merit in each of the comments. We recognize that the proposed $30,000-per-flight, $600,000 maximum amount might not fully cover the operations of all charter operators. However, we are also concerned that adoption of the proposal could result in a situation where charter operators, particularly small businesses, would be required to obtain security in an amount far exceeding the cost of the flight, if it could be afforded at all. We conclude that we should not adopt this proposed alternative for protecting participant payments.

Another method of financial security discussed by the NPRM is a security agreement sufficient to cover the cost of air transportation sold but not yet provided to consumers. This "rolling bond" alternative would allow the amount of the security to increase or decrease over time as the number of charter participants who have paid but have not completed their travel changes.[4] This option was addressed by one charter operator and two of the banks. The charter operator was in favor of the option but one of the banks declared it "unworkably difficult" to administer since it could involve maintaining records and accounts involving dozens of charter flights and thousands of charter participants each day. We have determined not to adopt this option at this time since, under the rolling bond concept, the amount of coverage with respect to the protection of funds is determined solely by the charter operator and we are not convinced such a program could be administered to afford effective consumer protection. We will not adopt the rolling bond as an alternative security measure.

Another option that we have concluded should not be afforded to charter operators is to permit a direct carrier to agree to bear financial responsibility for charter participant funds paid to the charter operators, either by refunding moneys paid or providing the transportation paid for by the consumer. Most of the direct air carriers and their associations commenting on specific alternative proposals strongly urged the Department not to adopt this option. The many objections to adopting this financial security measure centered on a concern that holding a direct air carrier to be the guarantor of a charter operator's obligations would change the fundamental relationship of the two entities where direct air carriers have historically been merely contractors supplying services, without any effective means to assess or control the financial risks associated with such responsibility. It was argued that the direct air carrier and a non-affiliated charter operator have at best an arm's-length relationship and that the airline has no realistic opportunity or capability to effectively investigate the charter operator's financial status, managerial competence, or compliance disposition. It was also pointed out that the airline is not a party to any agreement between the charter operator and the participants and should not be placed in the middle of any disputes arising out of the participants' dissatisfaction with the arrangements.

Relating to the discussion above, one major direct air carrier and its affiliated charter operator, in a joint comment, suggested that the Department should adopt the option, expanded to allow a direct air carrier to assume financial responsibility for all of the obligations of an affiliated charter operator, including the affiliate's obligations for those flights for which it is not the direct air carrier. Permitting the direct air carrier to stand behind the obligations of its affiliate would, according to this commenter, afford a greater incentive to monitor the charter operator's business and provide a superior level of protection for consumers in those cases in which he direct air carrier is a scheduled carrier with wide operations. Several other commenters suggested that no affiliation should be required between the direct air carrier performing the flights and the charter operator whose programs would be backed.

Although we are somewhat receptive to this proposal, particularly where there is a true affiliation between the charter operator and direct air carrier (e.g., where one controls, is controlled by, or is under common control with the other), we are concerned that a blanket approval of this type of arrangement could lead to abuses, either where the direct air carrier overextends itself and guarantees a large charter program for which it has insufficient capacity available to operate in the event it becomes necessary to do so, or where financially weak direct air carriers "rent" their backing to charter operators seeking to avoid the financial security

[4] As with the air-only security agreement discussed above, under this option charter operators would be required to retain records sufficient to enable us to ascertain the separate cost to the consumer of the air and land portions of a charter package.

rules. We have decided, therefore, not to expand the rule as requested, but to review any such proposed arrangements on a case-by-case under the waiver provisions of § 380.9. Any direct air carrier seeking to provide such guarantees to operators must be prepared to demonstrate to our satisfaction that it has the wherewithal to undertake such an arrangement, particularly if it involves a substantial charter program.

One financial security option proposed in the NPRM is a security agreement in an amount not less than the charter price for the air transportation, whether or not the charter flight being sold includes land arrangements. Some of those that commented on this option were concerned about the lack of protection it entails for the land portion of a charter participant's payments and pointed out that it may provide less protection than is available today. As has been the case for years, today any consumer can purchase as a "package" from a retail travel agent or other entity a tour that includes travel on scheduled service and land arrangements that are independent of the air service. While the air portion of the price of the tour is "protected" after the ticket is issued, in the sense that the direct air carrier is obligated to honor the ticket for transportation or provide a refund, there is no Department-mandated protection for the land portion of the tour price. We reasoned that, to the extent present requirements place charter operators at a competitive disadvantage in providing services to consumers at the lowest possible price, it may be in the public interest to modify those requirements. Under this financial security option, we could do so without providing any less protection than that afforded purchasers of tours using scheduled service.[5]

In the NPRM, we also expressed our concern that the availability of this option, under which only the air transportation portion would be protected by a security agreement, could be subject to abuse if a charter operator would attempt to allocate only a small portion of the total tour package cost to the air transportation to be provided. We presented several possibilities for dealing with this problem, including a requirement that charter operators state separately their prices for the air and land portions of a package or a requirement that charter operators retain records sufficient to enable the Department to ascertain the separate cost to consumers of the air and land portions.

We have concluded however that we should not adopt this proposal. Charter air tours involving land accommodations are distinguishable from tour packages using scheduled service. As discussed earlier, in the event of a flight cancellation or change, passengers using scheduled service have more options than do charter passengers and they are more likely to reach their destination in a timely fashion without serious inconvenience or monetary loss. Passengers using scheduled service are therefore less likely to forfeit any portion of their land arrangements as a result of a flight irregularity or other problem. We thus remain concerned about a system that would fail to protect the land as well as the air portions of a charter participant's trip. The present rule in this regard appears reasonable and to have worked well and, on balance, we see no reason to change it at this time. The Department has authority to handle potential abuses in this area through its general authority to investigate and prohibit unfair and deceptive practices or unfair methods of competition (e.g., 49 U.S.C. 41712).[6]

The comments on the alternative of requiring a security agreement that would cover the cost of both the air and land portion of a charter trip received little direct support. Those opposed to the proposal cited the expense, in general, of obtaining such security. The opposition, however, was based on supposition that the Department would require such a large security agreement. In recognition of the fact that the expense of obtaining and maintaining financial security in an amount sufficient to cover the charter operator's cost of air and land may be unattractive to, or unattainable for, some charter operators, we will not adopt this financial security alternative as a requirement.

We continue to believe that there is a need for protection of charter participants' funds and for their right to receive refunds for services paid for but not received. As we pointed out in the NPRM, there is a unique financial risk inherent in the sale of charter transportation by charter operators that have not been required to meet our fitness requirements, and we conclude that the public benefits of retaining financial protections for charter participant funds significantly outweigh the cost of compliance.

After careful consideration of all of the comments in this proceeding, we have determined that we should retain the existing financial security rules as the means by which charter operators provide financial protection for consumer funds. A number of commenters stressed the view that significant benefits of the present system outweigh any administrative burdens and costs of compliance. Such comments from those intimately involved in the charter industry, particularly those parties upon whom the costs and burdens of the escrow requirements most heavily fall, together with the demonstrated benefits of the existing surety/escrow system, convince us that we should retain the existing system.

As a final point on the protection of consumer funds, we note elsewhere in this rule that we are allowing the use of credit cards as a means by which charter participants may pay for charter flights. If charter customers follow the trend of scheduled air transportation passengers, upwards of 70 percent of charter participants will be paying for their trips by credit card and not by cash or check. Those paying by credit cards will also be afforded the protections of Federal credit card laws.

(4) Financial Security Rules Applicable to Direct Air Carriers

Under the current rules, direct air carriers conducting charter flights are required to establish either (1) a surety bond in an unlimited amount, or (2) an escrow account into which all charter payments are to be deposited until after the flight is operated (14 CFR 207.17, 208.40, 212.12). These requirements apply to all U.S.-originating passenger charters, including Public and "non-public" type charters, as well as Overseas Military Personnel Charters originating outside of the United States. Direct air carriers using escrow accounts that engage in direct sales of Public Charters (i.e., without using an independent Public Charter operator) are also required to meet the bonding requirements of Part 380 applicable to Public Charter operators in addition to their flight escrow account.

We indicated in the NPRM that we were tentatively of the view that the present financial security requirements applicable to direct air carriers conducting charters, including direct

[5] Indeed, adoption of this option may enhance competition in other ways, as is apparent from the comments of one party that arranges both charter and scheduled service tour packages, and, as an enhancement to consumers and retail agents, elects to advertise the fact that it places in escrow the land portion of the scheduled service tours.

[6] Moreover, as part of their continuing obligation under new § 380.10 to ensure that any Public Charters they conduct are in compliance with the rules, we also expect that the direct air carriers performing the charters will ensure that the security agreement is at least in an amount sufficient to cover the cost of the air transportation to be provided as set forth in the direct air carrier charters operator contract.

sale Public Charters, were unnecessary, and we proposed to eliminate those requirements.[7]

Comments on this proposal were filed by several air carriers, charter operators, travel agent associations, and banks. Most of the direct air carriers agreed with the proposal that financial security arrangements should no longer be imposed on direct air carriers since airlines conducting charters are subject to the same fitness requirements as those operating scheduled flights; indeed, many carriers that operate charters also provide scheduled service. Moreover, scheduled flights are not subject to any such financial security requirements. These carriers also stated that the current security requirements are costly restrictions that produce little, if any, benefit while placing charter operations at a competitive disadvantage to scheduled service.

The proposed rule change was opposed by one air carrier, several charter operations, two travel agent associations, the banks, and most of the individuals filing comments, citing airline liquidations and bankruptcies in recent years and the apprehension they assert will be felt by charter operators who will be hesitant to take a chance on new entrants in the industry without the financial controls that are now in place. One commenter stated that more and more charter flights are being provided by new entrant U.S. and foreign carriers and that, since these carriers are the leading edge of competition in charter markets, it would be counterproductive to adopt a charter rule that has the effect of reducing their access to charter traffic. Another commenter stated that charter deposits transferred to direct air carriers represent relatively large sums of money in a single transaction with transfers made shortly before the flight operates, and it is not unreasonable, in these circumstances, for the direct air carrier to continue to provide depository protection for these sums, which have been afforded such protection while in the hands of the charter operator. Another commenter cited its concern that participants could claim against a charter operator's security agreement if they do not receive the charter trips they have purchased even though the charter operator had paid the direct air carrier.

We will continue to require direct air carriers to maintain a surety or escrow account for the protection of customer payments for charter flights that they operate. Our decision to retain this requirement is premised, in part, on our view that even though such carriers have been subjected to a "fitness" evaluation by the Department, the charter participants' funds should continue to be protected after leaving the security of the charter operator's escrow account and until the charter participant has received the service that was promised. Moreover, in the event of a stranding, charter participants are less likely than scheduled passengers to be carried by other airlines or to benefit from ticketing procedures common among scheduled carriers (e.g., where travel on a defaulting airline is via a ticket issued by another carrier, or vice-versa).

(5) Direct Air Carrier Responsibilities

Under the proposed rules, direct air carriers would be responsible, as they currently are, for ensuring that any charter they conduct meets the requirements of the charter rules—that is, they would have to take reasonable steps to verify that the Public Charter operators with which they contract meet the registration and financial security requirements of Part 380, and single entity or affinity charters meet the definitional requirements for those charter types (proposed §§ 212.30(d) and 212.5(f)). Direct air carriers would be free to establish whatever contractual requirements they deemed necessary in order to ensure compliance with the rules. Direct air carriers would also be responsible, as they have been in the past, for providing return transportation to any charter participant who has purchased round-trip transportation and whom they transported on an outbound flight, unless that charter participant's return flight is covered by a contract with another direct air carrier (proposed § 212.3(e)). We also proposed to add a provision to Part 380 (proposed § 380.10) to state that, should the direct air carrier fail to make a "reasonable effort" to verify that the Public Charter operator had met the Department's financial security requirements, that air carrier would bear the responsibility to provide the charter transportation or refund the air transportation portion of the charter participant payments in the event of the charter operator's failure to do so.

The inclusion of the requirement to provide return transportation was opposed by several direct air carriers and charter operators, principally because the NPRM had proposed to eliminate prepayment requirements that are a part of current regulations (§§ 207.13(b), 208.32(e), 212.8(a), 380.11) for both the outbound and return leg of charter round trips. The commenters stated that these prepayment rules worked as a mechanism to ensure that the direct air carrier would have the funds to either compensate the charter participants or cover the cost of transportation and that, without payments from the charter operator to cover the flights, the direct air carrier would have to endure a significant financial burden for which it was not responsible. One commenter proposed that the rule be revised to limit the direct air carrier's responsibility to the funds it had received from the charter operator to pay for the return leg. While the air carrier can always require the charter operator to pay the full price of the flight up front as a contractual matter, we agree that the rules should retain the prepayment requirements and the carrier will be responsible for the return air transportation of all round-trip Public Charter participants that it carries outbound, as in the current rule. This rule was written to protect the charter participants by ensuring that the charter operator had not only engaged the services of an air carrier but had also paid for the flight. We will retain the prepayment requirements of Parts 207, 208, 212, and § 380.11.

Comments were also received from a number of direct air carriers arguing that the refund-or-provision-of-transportation requirement proposed in new § 380.10 is an unfair and unworkable expansion of the "reasonable effort" concept of the current rules (§ 380.40). One carrier stated that this requirement would make the direct air carrier both the regulator and the guarantor of a charter operator and would "reformulate the nature of charter transportation. Recasting the carrier as the overseer of the charter operator would fundamentally change what has been understood to be a supplier-purchaser relationship." Several commenters view the NPRM language as a wholesale shift of responsibilities away from the charter operator, and argue that such shifting of the risk for charter operator performance to the direct air carrier will place greater financial pressure on the direct air carrier which, in turn, will make charter activities less attractive. The Department's rational that such a rule would minimize government oversight of the charter industry and help protect charter participants is a worthy goal, say the commenters, but the way to achieve it is not by handing the enforcement role over to the airlines. Several commenters stated that they should be given an explanation of what constitutes

[7] U.S. and Canadian air taxi operators that perform Public Charters are also subject to the financial security requirements applicable to direct air carriers. Under the proposed rule, those requirements, contained in §§ 298.38 and 294.32, would also have been eliminated.

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"reasonable effort" so they will be on notice as to what is expect of them. Others suggested that charter operators should be required to give the direct air carriers a certification of compliance with Department regulations, and that should be sufficient to satisfy this requirement.

We appreciate the concern of those many commenters who feel that § 380.10 as proposed might be an expansion of direct carrier responsibility. Direct air carriers have long been responsible under present § 380.40 for ensuring that charter operators comply with all the requirements of our Public Charter rules. Indeed, our Office of Aviation Enforcement and Proceedings has not hesitated to pursue direct carriers for violating this provision.[8] Nevertheless, we recognize that each situation involving a charter problem presents a different set for circumstances, and the fact that a problem occurs may not be causally related to a failure by a direct air carrier to have ensured compliance with Part 380. It was not our intent in proposing the language in the NPRM to make direct air carriers the guarantors of charter operations. Our intent was merely to clarify a significant obligation of direct air carriers that has for years been impressed upon them as a part of our charter enforcement policy. Upon reflection, we recognize that the present language under § 380.40 is understood and appropriate and we will make no changes. Accordingly, we are omitting this proposed section 380.10 from the final rule and will retain the language of § 380.40 in its present form. We emphasize to direct air carriers, however, that in doing so we are not diluting to any degree their long-standing obligation to ensure that charter operators comply with Part 380. Nor are we indicating any lessened resolve on our part to enforce this requirement to the extent necessary to ensure that consumers are not harmed.

Based on the number of comments received on this point, we recognize that the term "reasonable effort" may require further clarification. At a minimum, we would expect direct air carriers to verify that the Public Charter operators with whom they contract have filed with the Department a prospectus (that has been accepted)—they can accomplish this by contacting the Department's Special Authorities Division directly—and that they have, in fact, entered into a security arrangement in an amount sufficient to meet the requirements of our rules—they can accomplish this by contacting the named securer/escrow bank.[9]

(6) Use of Credit Cards for Payments to Charter Operators

The Public Charter (Part 380) was developed to protect the public by assuring that the individual participant receives the air flight and accommodations contracted for and that all payments to the charter operator are securely held and properly used. Among other provisions, Part 380 requires that each operator provide a security arrangement based on its total cost of the flights in its charter program or both a bank depository account (escrow account) and a $10,000 per flight security arrangement. Most operators choose the escrow account/security arrangement combination. When the depository/security combination is used, payments to the charter operator from or on behalf of charter participants must be in the form of a check or money order made payable to the bank in which the escrow account is located. In practice, checks not so payable are endorsed over and deposited into the escrow account. The bank then disburses the money to the direct air carrier and, thereafter in some circumstances, to providers of non-air arrangements that are part of the Public Charter package. This check or money order payment required was put in place long before credit cards became a preferred form of payment for charter service. The NPRM pointed out that the restriction in the rule against credit card payments is inconsistent with the reality of today's marketplace and denies consumers additional protections that may be gained when they use credit cards to pay for goods and services. For example, if services are not received or there is a problem, the consumer may not be required to pay a remaining amount and may even get a refund. The NPRM supported the view that many consumers prefer to use credit cards and charter operators can also benefit by offering the additional flexibility to the customer. The NPRM also noted that for years the Enforcement Office has as a matter of enforcement policy permitted charter operators to accept payment by credit card so long as certain consumer protection conditions are met.

Virtually all the commenters supported the rule change to allow direct credit card sales for Public Charters. Based on the comments and recent experience, the Department has decided to allow charter operators with depository accounts [10] to accept payment by credit card from charter participants into those accounts. If the credit card merchant account is separate from the depository account, it must be used solely as a conduit with all credit card payments toward Public Charter trips immediately remitted to the depository account in full, without holdback. If a separate bank is to be used as a conduit for the receipt of credit card payments, the Department must be satisfied that there are adequate procedural safeguards. For example, the Department may require the charter operator to furnish a copy of or certify that there is in place, an agreement between the charter operator and the credit card merchant bank sufficient to preclude participant funds from being held back.

In situations involving direct bookings by telephone, the Department will allow the Public Charter operator to accept credit card payments for its trips provided that the charter operator advises the customers: (1) That he or she has the right to receive the operator-participant contract before making a booking; (2) that the operator-participant contract will be mailed to the participant within 24 hours of accepting payment by credit card; and (3) that the operator-participant contract must be signed, and the signed portion returned to the operator, before travel. While the operator is free to establish a deadline for participants who pay by credit card to sign and return the contract, a full refund must be made of any amounts charged to a credit card for any participant who cancels before the operator-participant contract is signed.

(7) Other Matters

Minimum contract size and advance purchase requirements. Many commenters expressly supported our proposal to eliminate the 20-seat minimum contract size for less-than-planeload charters, and the 7-day advance purchase requirement for Public Charters sold directly to the public by direct air carriers or affiliated charterers. Several, however, expressed concern that the absence of these provisions could lead to abuse, especially in some international markets. One stated that, in cases where the United States has a restrictive scheduled and a liberal charter relationship with a foreign government, carriers could, absent the current minimum contract size and advance

[8] See Order 92–2–1, January 2, 1992 (America West); Order 92–4–50, April 28, 1992 (Mark Air); Order 92–6–17, June 11, 1992 (Faucett); and Order 94–3–34, March 21, 1994 (Express One).

[9] See also n.3, *supra*.

[10] Public Charter operators with bonds equaling their total flight costs (or multiples thereof for trips exceeding 14 days) have always been permitted to accept payment in any form.

purchase rules, set up basically unrestricted direct sale charters to circumvent scheduled route or capacity limitations. This commenter and one other felt that retention of these kinds of restrictions on charters would help prevent the undermining of bilateral scheduled service regimes by charter operations. Another commenter expressed concern that carriers might sell individual seats on charters without complying with the requirements of our Public Charter rules.

We have decided to eliminate the minimum contract size and advance purchase rules, as we proposed to do. We recognize the concerns raised by the commenters over the possible implications of this change in some international markets, but we find that these concerns do not warrant our retention of these restrictive provisions. Significantly, as we noted in the NPRM, the final rule will allow the Department to limit or prohibit the operation of direct sale Public Charters by a foreign air carrier if we find that such action is necessary in the public interest. Thus, we have ample ability to redress problems that might arise, should such action prove necessary. Furthermore, we believe that the rule as adopted makes it clear that any sale by a direct air carrier of an individual charter seat to the public must be done under the direct sale provisions of Part 380.

Additional information with charter operator registrations. Several commenters proposed that we require additional information from Public Charter operators at the time of their registration under the proposed filing system. Three commenters suggested that operators be required to file a copy of their promotional material showing flight schedules to be operated. Another suggested that operators be required to provide a copy of the contract of carriage they would enter into with their charter participants. A third suggested that operators be required to file a certification of any complaints made against them by state or local consumer agencies.

We will not adopt these suggestions. With respect to the filing of promotional material with flight schedules, the current prospectus filing requirement includes flight schedules, and, as is now the case, we will request copies of advertisements when appropriate. The other two suggestions, for charter operators to file copies of their operator-participant contracts, and certifications of complaints, are not required under our current rules, and we see no public interest reason to impose these burdens as a part of this proceeding.

We will, however, amend the rule with respect to the information required to be filed on the ownership of the charter operator (Part 380, Subpart E—Registration of Foreign Charter Operators) to replace the reference in the proposed rule to "stockholders" holding 10 percent or more of the company's stock with "persons" owning 10 percent or more of the company, since the proposed rule did not take into account the fact that many charter operators may be sole proprietorships or partnerships that do not have stockholders. Moreover, in order to accurately determine the citizenship of the charter operator, we will require that, if any such persons are themselves organizations or corporations, the 10 percent owners of those companies must also be identified back through the company's structure to individual persons who own stock in the ultimate "parent" company of the charter operator. Requiring such information is also consistent with our procedures in reviewing the ownership structure of direct air carriers.

Filing of claims against Public Charter operators and securers, and payment of claims. Three commenters suggested shortening the provision in proposed § 380.6(d) that allows Public Charter participants 60 days after the termination of a flight to make a claim against the Public Charter operator (this requirement is contained in current § 380.34(d)). The commenters argued that retaining the 60-day claim period requires operators to maintain expensive security instruments for this period, and that there is no need for such a long period since charter participants will know no later than upon returning from their Public Charter whether their payments were lost in progress to the providers of services—most commonly airlines and hotel operators—or that refunds are due under the operator-participant contract, e.g., for a flight cancellation or other major change requiring a partial or full refund.

Another commenter urged a requirement that claims against a security instrument be paid within 45 days of their submission.

We will not adopt these suggestions. With respect to the 60-day claim period, we note that while in some cases a Public Charter participant will immediately know of the need to submit a written claim, there are other instances, such as a delay in obtaining a promised refund from a charter operator, where the charter participant may not realize this need until well into the claim period. The 60-day claim period has been a part of our charter regulations for many years, and has, we believe, worked well in providing charter participants sufficient time to seek redress of problems they have encountered on Public Charters. We find no public interest reason to modify this provision at this time.

With respect to requiring the payment of claims within 45 days, we do not believe that such a condition is warranted. The resolution of claims can, in some cases, be a complex, time-consuming process, involving negotiations between and among the charter participant, the charter operator, and the securer, and at times the use of the courts. Mandating a 45-day period for claim resolution could be disruptive to this process, to the detriment of all parties. In any event, should a charter operator unreasonably delay the resolution of a claim, such that its action represented an unfair or deceptive practice within the meaning of 49 U.S.C. 41712, it would be subject to enforcement action by the Department.

Payment of claims under security agreement. One commenter objected to proposed § 380.6(a)(1), which pertains to payments by a securer to charter participants with claims against the charter operator's security agreement, because it would permit the entity providing the security to make payment to claimants without the charter operator's agreement or a judgment from an appropriate court of law. The portion of the rule of concern to the commenter states that the securer shall pay a claimant where it "is determined by the person providing the security or adjudged by a court of competent jurisdiction" that payment is due to a claimant. The basis for the objection is the commenter's concern that the securer will have no incentive to deny even the most frivolous of claims filed against the security agreement, since any amounts it pays out to claimants will be recoverable from the charter operator's collateral that secures the agreement.

The security agreement is intended to compensate consumers for claims incurred under the operator-participant contract, as a result of flight cancellations, and/or for major changes not accepted by the participant, in all cases in which the participant has not received an appropriate refund. That compensation should be provided as soon as practicable. To require in all cases the approval of the charter operator or a court judgment prior to payment could unnecessarily delay compensation from being made for legitimate claims. We do not share the commenter's concern that a securer

could feel free to make payments to claimants without concern for the actual legitimacy of their claims, since in doing so it would, at a minimum, risk losing future business and open itself to potential liability to the charter operator. It is our intent that securers approach such matters using a "reasonableness" standard, and give consideration to all facts surrounding the flight cancellation or other problem that gave rise to the claim. So long as the charter operator is available, we would expect the charter operator to be given a reasonable opportunity to comment before the securer makes payments. We will adopt the rule as proposed, since it will benefit consumers who experience problems for which the charter operator has failed to provide timely compensation.

Flight delays and substitute air transportation. One commenter urged that we retain the current requirements in §§ 208.32a and 208.33 that require charter air carriers to take certain action in the event of flight delays of specific periods. Under these regulations, charter air carriers in some instances provide substitute air transportation for the charter passengers involved, and in some instances provide payment for incidental expenses including food and lodging to the passengers affected. The commenter stated that, absent this requirement, the charter operator would bear the costs involved in these situations, and those costs would be especially burdensome on small charter operators. We will not retain this requirement. The flight delay requirements at issue here currently apply only to U.S. charter-only direct air carriers; they do not apply to the charter operations of U.S. scheduled carriers or foreign air carriers. We see no reason to continue these 30-year old requirements solely for one class of air carrier, when the majority of carriers are not subject to the rules. As we stated in the NPRM, both direct air carriers and charter operators have a commercial interest in providing amenities and/or alternate transportation for passengers when charter flights are delayed. To the extent that a charter operator is concerned about the costs it may incur in dealing with a possible flight delay, its proper forum for dealing with that concern is in negotiating the terms of its contract with the direct air carrier.

Subcontracting. One commenter urged the Department to amend its rules to permit a "primary" charter operator to contract with and be responsible to the direct carrier for payment for a charter flight and to subcontract seats on the flight to other operators without the need for the latter operators' having contracts with the direct air carrier. Under this proposal, both the "primary" and subcontracting charter operators would be registered with the Department. Another commenter urged that we also allow single entity charterers to subcontract seats to other single entity charterers, stating that such a provision would be useful in cases where a direct air carrier preferred to contract with only one charterer.

The Public Charter operator/sub-operator separate filing arrangement has existed informally for many years [11] and we will codify it here. However, we will not adopt the proposal to allow single entity charterers to subcontract seats. The operator/sub-operator concept entails a contract between a Public Charter operator that sells charter flights in its own right (either directly to the public, through its agents, or a combination of both) and a second Public Charter operator that piggy-backs its program onto the program of the primary operator with the primary operator retaining at least as many seats for itself as it has subcontracted to one or more sub-operators.[12] Once the Department has accepted the prospectus, the second Public Charter operator—the sub-operator—may advertise in its own right using its own securer and depository bank. However, subcontracting of single entity charters has never been permitted. Under the single entity concept, passengers may not directly or indirectly pay toward their trips. Although Public Charter operators are themselves indirect air carriers, single entity charterers are not. Alternatives for prospective single entity charterers include using smaller aircraft, special fares of part charters on schedule flights, and split charters—multiple charters on a single charter flight.

Small aircraft operations. One commenter asserted that a clarification is needed in our rules concerning Public Charter operations by operators of small aircraft. It noted that proposed § 380.1 states that the Part applies to air transportation furnished by certificated air carriers or foreign air carriers, but makes no mention of operations by non-certificated air taxi operators or commuter air carriers conducting operations under 14 CFR Part 298. It states that §§ 380.1 and 380.2 of the current rule provide for such operations, and that the definition of "direct air carrier" in proposed § 380.2 does include carriers operating under Part 298. The commenter suggests that we amend proposed § 380.1 to provide that the Part applies to air transportation furnished by "direct air carriers" which it states will resolve any ambiguity.

We will adopt this suggestion. It was not our intent in issuing the NPRM to remove the current ability of air taxi operators or commuter air carriers to conduct Public Charters under Part 380, and we will make the change in § 380.1 recommended by the commenter.

OMPC's and educational institutions. In the NPRM, we proposed to retain rules providing for the operation of two specialized charter types: Overseas Military Personnel Charters (OMPC's), now contained in 14 CFR Part 372, and charters conducted by educational institutions, now contained in 14 CFR 380.17. However, we specifically requested comments on whether these rules are still needed. We received one comment on each question. An OMPC operator supported continuation of the OMPC rules, stating that Germany, the major market for OMPC's, grants special relief for OMPC operations, in light of their role of providing low-cost transportation for U.S. military and civilian personnel and their families on furlough or authorized leave from an official station in a foreign country. We will retain Part 372 for air carriers to continue to provide this necessary and humanitarian service. A direct air carrier supported continuation of the special provisions in Part 380 for educational institutions, stating that the rules have provided a benefit that should remain available. The occasional use of these special provisions by air carriers assures us that there is a need and we will adopt the proposed

[11] Under 14 CFR 380.30(a), solicitation materials for Public Charters must identify the charter operator and the direct air carrier. Under 14 CFR 380.32(a), operator-participant contracts must state the name and complete mailing address of the charter operator. A sub-operator has its binding commitment for a specific number of seats on Public Charter flights shown in another Public Charter prospectus already filed with (and accepted by) the Department, but also must file its own prospectus and is bound independently by our charter rules. Unlike an agent, for example, a sub-operator advertises and sells as a Public Charter operator using its own escrow bank and security agreement. (Order 87–7–10, July 2, 1987, n. 2 at 3.)

[12] The sub-operator concept was devised as a way for direct air carriers to avoid the downsides of split charters and at the same time to permit multiple Public Charter operators to share a planeload charter contracted by a Public Charter operator. Heretofore, there has been a 20-seat minimum contract size. It has never been intended for use by middlemen brokers selling off most or all of the aircraft to Public Charter operators. Unless the direct air carrier is fully bonded, payments should go from the sub-operator's escrow account to the direct air carrier's escrow account with the primary Public Charter operator responsible for payment of the difference between the amount paid by one or more sub-operators and the amount it has agreed to pay the direct air carrier for the flight. Without a waiver granted upon a showing that it is in the public interest, sub-operator contracts may not exceed half of a planeload charter.

language in new § 380.3(d) concerning charters for educational institutions.

Affinity charter certifications. One commenter expressed concern with the provision in proposed § 212.5(f) that would require direct air carriers conducting affinity (pro rata) charters to obtain, and retain for two years, a certification by the chartering organization that all passengers are eligible for transportation under the rule. The commenter argued that the direct air carrier should not bear the responsibility and burden of obtaining and holding these certifications, but that the charterer should have this responsibility.

We will, however, adopt the provision as proposed. We continue to believe that the responsibility for obtaining and retaining the necessary certification of eligibility for an affinity charter property rests with the direct air carrier involved. Moreover, our proposal represents a significant reduction in the burden on direct air carriers and affinity organizations, since the certification would replace the detailed "Statement of Supporting Information" now required. Finally, should a problem arise with an affinity charter, having the certification in the hands of the direct air carrier, rather than with an organization whose identity and location would likely be unknown to us, would assure that we can promptly obtain information on the charter from that carrier.

Long-term wet leases. One commenter recommended that we modify proposed §§ 212.2 and 212.8(a), which would continue the current requirement in §§ 207.1, 207.10, 208.3, and 208.5, that U.S. air carriers conducting wet lease operations (that is, charters involving the lease of aircraft and crew) on behalf of foreign air carriers obtain prior Department approval, in the form of a statement of authorization, for all "long-term" wet leases of 60 days' duration or longer. The commenter proposed that the prior approval requirement apply only to wet leases by U.S. air carriers of 120 days or longer, stating that the change would relieve a burden and "better reflect the realties of the marketplace."

We will not adopt this suggestion. The purpose of the prior-approval requirement for U.S. air carrier long-term wet leases to foreign air carriers is to enable us to assure that these operations, which, because of their extended duration, may represent a significant benefit to the foreign carrier lessee, are in the public interest. The fact that a U.S. carrier is proposing to conduct the wet lease is a significant consideration, but it is not itself sufficient to meet the public interest test. Other public interest criteria as listed in the rule may figure in our decision. We believe that we need to continue the level of scrutiny of these types of wet lease operations that we have been exercising, and, in the absence of any compelling argument for changing the current provision, we will retain the 60-day threshold in the final rule. We do not believe that retention of this provision will pose a significant burden on U.S. air carriers, as the application process for a statement of authorization is uncomplicated, involving the filing of a minimal amount of information with the Department.

Direct Sales. The NPRM proposed that certificated and foreign air carriers could offer for sale and operate Public Charter flights under Part 380 directly to the public and need not comply with registration requirements or the requirements concerning financial security arrangements. While no comments were received on the proposed elimination of filing requirements for direct sales, the overall tenor of comments submitted was to retain the consumer protection provisions of the rule. We have responded to these public comments by retaining other participant protection elements and will do so for direct sale customers as well. We will, therefore, not adopt the wording of the NPRM but will take this opportunity to rewrite the section to eliminate confusing directions in the old rule.

Miscellanous. Several commenters proposed other changes to the proposed rule, from Federal licensing of Public Charter operators to the enactment of a single charter type to replace affinity, single entity, mixed, and Public Charters. Since these matters are well beyond the scope of this proceeding and have not been adequately justified, we will not address them here.

Effectiveness of the rule. The provisions of this rule will become effective 30 days after publication in the **Federal Register**.

Conclusion

After carefully weighing the comments provided in response to the NPRM, we have decided to adopt the revisions as discussed above.

Regulatory Impact

Excutive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures. Because the requirements contained in this final rule clarify the applicability of the multiple Air Charter regulations to a specific segment of the industry and reduce selected portions of the regulatory burden on these operators, the Department has concluded that this final rule does mot constitute a significant rule under either Executive Order 12866 or DOT's policies and procedures.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.* requires a review of rules to assess their impact on small entities. The Department certifies that this final rule does not have a significant economic impact on a substantial number of small entities. The Public Charter industry is composed of approximately 250 charter operators half of which are small commercial enterprises that file for a single flight. The only change these operators will notice in filing a prospectus under the new rule will be the saving of $39 in not having to request a waiver of the 10-day waiting period. The Department has concluded that there are no substantial economic impacts for small units of government, business, or other organizations.

Paperwork Reduction Act

This rule contains information collection requirements that have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 2507 *et seq.).* Collection-of-information requirements include reporting, recordkeeping, notification, and other similar requirements. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. We will publish a notice in the **Federal Register** prior to the effective date of this final rule of OMB's decision to approve, modify, or disapprove the information collection requirements. The paperwork burden for the filing of Public Charter prospectuses will not changes as a result of this Final Rule because the applications and amendments must still be prepared and submitted to the Department.

Environmental Impact

The Department has evaluated this final rule in accordance with its procedures for ensuring full consideration of the potential environmental impacts of its actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.),* other environmental statutes, Executive Orders, and DOT Order 5610.1c. It has

been determined that this final rule does not have any effect on the quality of the environment.

Federalism Implications

The Department has analyzed this rule under the principles and criteria contained in Executive Order 12612 ("Federalism") and has determined that the rule does not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates on State, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–1538).

Summary of Cost/Benefits

Our analysis of the impact of changes made in the Public Charter rule clearly indicates that the changes are beneficial. Elimination of the 10-day waiting period after filing a prospectus will save the cost of a waiver request. We are also deleting the requirement to file a brief (mini) prospectus by direct air carriers conducting foreign-originating flights for foreign charter operators. And finally, we are consolidating three largely repetitive rules applicable to direct air carriers conducting charter flights.

In order to estimate the cost savings to industry from not requesting a waiver of the 10-day waiting period, we reviewed our 1996 record of filings. We approved nearly 800 prospectus filings during the year, most of which included a filing fee of $39 and an additional $39 for a waiver request. Of the total fees received, $62,400, nearly half would be saved under the new rule. In addition, we received between 700 and 800 waiver requests for amendments to Public Charter prospectuses, changing or eliminating flights. Eliminating filing fees for such amendments should provide an additional cost saving to charter operators of approximately $50,000. Cost savings in time and effort for those filing prospectuses under the new rule will be minimal since the filings and the amendments must still be provided.

In considering the cost savings to airlines conducting foreign originating flights for foreign tour operators we note that many foreign air carriers retain the services of U.S. law firms to provide these documents. Since most foreign air carriers are exempt from out filing fees because of reciprocity agreements with the U.S., the cost savings to the air carriers will be the expense of retaining a law firm to produce and file information heretofore required by Public Charter regulations.

Finally, rewrite of the four principal parts of the Code of Federal Regulations that address passenger air charter operations provides a more condensed and useable reference for the charter industry and for those desiring to engage in Public Charters. Consolidating Parts 207 and 208 into a revised Part 212 has eliminated duplicative wording while retaining these two parts with only an applicability statement to avoid confusion since a number of Department orders now in effect require adherence to the requirements. These and other benefits of this Final Rule which can not be quantified such as eliminating certain waiver requirements, allowing charter operators to accept credit card payments and including current practices concerning amendments to filings, simplifies the process for applications and does so without compromising consumer protection.

List of Subjects in 14 CFR Parts 207, 208, 212, 380

Air Carriers, Air Transportation, Charter Flights, Reporting and recordkeeping requirements, Surety bonds.

1. Part 207 is revised to read as follows:

PART 207—CHARTER TRIPS BY U.S. SCHEDULED AIR CARRIERS

Sec.
207.1 Applicability.
207.2 Terms of service.

Authority: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41102, 41103, 41301, 41504, 41702, 41708, 41712, 46101.

§ 207.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter air transportation conducted by air carriers holding certificates under 49 U.S.C. 41102 authorizing the operation of scheduled air transportation services.

§ 207.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of part 212 of this chapter.

2. Part 208 revised to read as follows:

PART 208—CHARTER TRIPS BY U.S. CHARTER AIR CARRIERS

Sec.
208.1 Applicability.
208.2 Terms of service.

Authority: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41102, 41103, 41301, 41504, 41702, 41708, 41712, 46101.

§ 208.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter air transportation conducted by air carriers holding certificates under 49 U.S.C. 41102 authorizing the operation of charter air transportation services.

§ 208.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of Part 212 of this chapter.

3. Part 212 is revised to read as follows:

PART 212—CHARTER RULES FOR U.S. AND FOREIGN DIRECT AIR CARRIERS

Sec.
212.1 Scope.
212.2 Definitions.
212.3 General provisions.
212.4 Authorized charter types.
212.5 Operation of affinity (pro rata) charters.
212.6 Operation of gambling junket charters.
212.7 Direct sales.
212.8 Protection of customers' payments.
212.9 Prior authorization requirements.
212.10 Application for statement of authorization.
212.11 Issuance of statement of authorization.
212.12 Waiver.

Appendix A—Certificated or Foreign Air Carrier's Surety Bond Under part 212 of the Regulations of the Department of Transportation (14 CFR Part 212)

Appendix B—Certification of Compliance

Authority: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41103, 41504, 41702, 41708, 41712, 46101.

§ 212.1 Scope.

This part applies to all charter flights, and all other flights carrying charter passengers or cargo, in interstate and/or foreign air transportation by U.S. certificated air carriers or in foreign air transportation by foreign air carriers. It does not apply to any flights performed by a commuter air carrier, air taxi operator, or certificated air carrier operating "small aircraft" under part 298 of this chapter. Nothing in this part gives authority to operate a type or level of service not authorized by certificate, foreign air carrier permit, or exemption, except that a certificated air carrier

authorized to conduct scheduled operations may conduct charter flights, in interstate and/or foreign air transportation, without limitation as to the points served.

§ 212.2 Definitions.

For the purposes of this part:

Affinity (pro rata) charter means a charter arranged by an organization on behalf of its membership, and which meets the requirements of § 212.5.

Certificated air carrier means a U.S. direct air carrier holding a certificate issued under 49 U.S.C. 41102.

Charter flight means a flight operated under the terms of a charter contract between a direct air carrier and its charterer or lessee. It does not include scheduled interstate air transportation, scheduled foreign air transportation, or nonscheduled cargo foreign air transportation, sold on an individually ticketed or individually waybilled basis.

Charter operator means:

(1) A "Public Charter operator" as defined in § 380.2 of this chapter, or

(2) An "Overseas Military Personnel Charter operator" as defined in § 372.2 of this chapter.

Direct air carrier means a certificated or foreign air carrier that directly engages in the operation of aircraft under a certificate, permit, or exemption issued by the Department.

Fifth freedom charter means a charter flight carrying traffic that originates and terminates in countries other than the carrier's home country, regardless of whether the flight operates via the home country.

Foreign air carrier means a direct air carrier which is not a citizen of the United States as defined in 49 U.S.C. 40102(a) that holds a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing direct foreign air transportation.

Fourth freedom charter means a charter flight carrying traffic that terminates in the carrier's home country having originated in another country.

Gambling junket charter means a charter arranged by a casino, hotel, cruise line, or its agents, the purpose of which is to transport passengers to the casino, hotel, or cruise ship where gambling facilities are available, and which meets the requirements of § 212.6.

Long-term wet lease means a wet lease which either—

(1) Lasts more than 60 days, or

(2) Is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

Mixed charter means a charter, the cost of which is borne partly by the charter participants and partly by the charterer, where all the passengers meet the eligibility requirements for "affinity (pro rata)" charters of § 212.5.

Part charter means flight carrying both charter and scheduled passenger traffic.

Single entity charter means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

Third freedom charter means a charter flight carrying traffic that originates in the carrier's home country and terminates in another country.

Wet lease means a lease between direct air carriers by which the lessor provides all or part of the capacity of an aircraft, and its crew, including operations where the lessor is conducting services under a blocked space or code-sharing arrangement.

§ 212.3 General provisions.

(a) Certificated and foreign air carriers may conduct charter flights as described in this part, and may carry charter passengers on scheduled flights, or charter cargo on scheduled or nonscheduled flights (or on the main deck or in the belly of passenger charter flights), subject to the requirements of this chapter and any orders of, or specific conditions imposed by, the Department.

(b) Charter flights may be operated on a round-trip or one-way basis, with no minimum group, shipment, or contract size.

(c) Contracts to perform charter flights must be in writing and signed by an authorized representative of the certificated or foreign air carrier and the charterer prior to the operation of the flights involved. The written agreement shall include:

(i) The name and address of either the surety whose bond secures advance charter payments received by the carrier, or of the carrier's depository bank to which checks or money orders for the advance charter payments are to be made payable as escrow holder pending completion of the charter trip; and

(2) A statement that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such trips.

(d) A certificated or foreign air carrier must make a reasonable effort to verify that any charterer with which it contracts, and any charter it conducts, meets the applicable requirements of this chapter.

(e) The certificated or foreign air carriers shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation, *provided*, however, that in the case of a passenger charter for less than the entire of an aircraft, the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(f) A certificated or foreign air carrier operating a U.S.-originating passenger charter shall be responsible to return to his or her point of origin any passenger who purchased round trip transportation on that charter and who was transported by that carrier on his or her outbound flight; except that this provision shall not apply in cases where the return transportation is to be provided by another certificated or foreign air carrier.

(g) A certificated or foreign air carrier may not perform any charter flight for which a statement of authorization is required under § 212.9 until one has been granted by the Department. In addition, if a foreign air carrier is required to obtain a statement of authorization under paragraph (e) of that section, neither it, not any charter operator, or any other person shall advertise or sell any passenger charter services except those that have been specifically authorized by the Department.

(h) A certificated air carrier may not operate charters where such operations would result in a substantial change in the scope of its operations within the meaning of part 204 of this chapter.

(i) A certificated air carrier may not limit its baggage liability for interstate charter flights except as set forth in part 254 of this chapter.

(j) A certificated air carrier may not, except as set forth in part 121 of the Federal Aviation Regulations (14 CFR part 121), limit the availability, upon reasonable request, of air transportation and related services to a person who

may require help from another person in expeditiously moving to an emergency exit for evacuation of an aircraft.

(k) A certificated air carrier holding a certificate to conduct only cargo operations may not conduct passenger charters.

(l) A certificated air carrier may not perform any charter in interstate commerce within the State of Alaska.

(m) A foreign air carrier may operate charters in foreign air transportation only to the extent authorized by its foreign air carrier permit under 49 U.S.C. 41302 or exemption authority under 49 U.S.C. 40109, and only to the extent to which such operations are consistent with the provisions of any applicable bilateral aviation undertaking.

§ 212.4 Authorized charter types.

Certificated and foreign air carriers may conduct the following charter types, subject to the provisions of this part:

(a) Affinity (pro rata) charters.

(b) Single entity charters, including:

(1) Wet leases involving the carriage of passengers and/or cargo, provided, that the wet lessee holds appropriate economic authority from the Department to conduct the proposed operations; and

(2) Charters pursuant to contracts with the Department of Defense, provided, that foreign air carriers may conduct charters for the Department of Defense only to the extent that such operations are consistent with the provisions of 49 U.S.C. 40118.

(c) Mixed charters.

(d) Gambling junket charters.

(e) Public Charters in accordance with part 380 of this chapter (including operations by educational institutions as defined in that part).

(f) Overseas military personnel charters in accordance with part 372 of this chapter.

(g) Cargo charters.

§ 212.5 Operation of affinity (pro rata) charters.

An affinity (pro rata) charter operated by a certificated or foreign air carrier must meet the following criteria:

(a) The aircraft must be chartered by an organization, no part of whose business is the formation of groups for transportation or solicitation or sale of transportation services, for the purpose of providing air transportation to its members and their immediate families.

(b) The charter must be organized by the organization itself, or by a person or company who acts not as a principal, but as an agent for the chartering organization or the certificated or foreign air carrier.

(c) No solicitation, sales, or participation may take place beyond the bona fide members of an eligible chartering organization, and their immediate families (spouse, children, and parents). All printed solicitation materials shall contain the following notice in boldface, 10-point or larger type—

Some of the Federal rules that protect against tour changes and loss of passengers' money in publicly sold charters do not apply to this charter flight.

(d) "Bona fide members" are members of an organization who: Have not joined the organization merely to travel on a charter flight; and who have been members of the chartering organization for a minimum of six months prior to the date of commencement of the affected flight; *provided*, that the "six month" rule does not apply to:

(1) Employees of a single commercial establishment, industrial plant, or government agency, or

(2) Students and employees of a single school.

(e) The charter price due the direct air carrier shall be prorated equally among all the charter passengers, except that children under 12 may be offered discounted or free transportation.

(f) The certificated or foreign air carrier shall make reasonable efforts to assure that passengers transported meet the eligibility requirements of this section. The certificated or foreign air carrier shall also obtain (no later than the date of departure), and maintain for two years, a certification by an authorized representative of the chartering organization that all passengers are eligible for transportation under this section.

§ 212.6 Operation of gambling junket charters.

A gambling junket charter operated by a certificated or foreign air carrier must meet the following criteria:

(a) The aircraft must be chartered by

(1) A casino, hotel, or cruise line duly licensed by the government of any state, territory or possession of the United States, or by a foreign government, or

(2) An agent of such a casino, or cruise line on behalf of that casino, hotel, or cruise line.

(b) The casino, hotel, or cruise line or its agents, may not require a passenger to incur any expense in taking the trip, *provided*, that this provision shall not preclude the casino, hotel, or cruise line or its agents, from requiring prospective passengers to pay nominal reservation fees that are duly refundable by the casino, hotel, or cruise line before the flight, establish a minimum line-of-credit at the casino, hotel, or cruise line, bring (but not necessarily spend) a specified minimum amount of money, or meet other requirements that do not place them in financial jeopardy; nor does it preclude the casino, hotel, or cruise line, or its agents, from offering operational land packages for a fee.

§ 212.7 Direct sales.

(a) Certificated and foreign air carriers may sell or offer for sale, and operate, as principal, Public Charter flights under part 380 of this chapter directly to the public.

(b) Each certificated or foreign air carrier operating a charter trip under this section shall comply with all the requirements of part 380 of this chapter, except that:

(1) Those provisions of part 380 relating to the existence of a contract between a charter operator and a direct air carrier do not apply;

(2) A depository agreement shall comply with § 380.34a (d) and (f);

(3) A security agreement shall comply with § 380.34 (c) and (d); and

(i) If no depository agreement is used, protect charter participant payments (including those for ground accommodations and services) and assure the certificated or foreign air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant payments (including those for ground accommodations and services) and assure the certificated or foreign air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) The Department reserves the right to limit or prohibit the operation of direct sales Public Charters by a foreign air carrier upon a finding that such action is necessary in the public interest.

§ 212.8 Protection of customers' payments.

(a) Except as provided in paragraph (c) of this section, no certificated air carrier or foreign air carrier shall perform any charter trip (other than a cargo charter trip) originating in the United States or any Overseas Military

Personnel Charter trip, as defined in part 372 of this chapter, nor shall such carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Department a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums payable in advance to the carrier by charterers, in connection with any such trip to be performed by said carrier, shall be deposited with and maintained by the bank, as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay the carrier either by check or money order made payable to the depository bank. Such check or money order and any cash received by the carrier from a charterer (or its agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the check or money order or the cash, along with a statement showing the name and address of the charterer (or its agent); provided, however, that where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may be authorized by the carrier to deduct its commission and remit the balance of the advance payment to the carrier either by check or money order made payable to the designated bank.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed; provided, however, that the bank may be required by the terms of the agreement to pay over to the carrier a specified portion of such escrowed funds, as payment for the performance of the outbound segment of a round-trip charter upon the carrier's written certification that such segment has been so completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter, provided however, that in the case of a split charter escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight.

(5) As used in this section the term "bank" means a bank insured by the Federal Deposit Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Department. Claims against the escrow may be made only with respect to the non-performance of air transportation.

(c) The carrier may elect, in lieu of furnishing an escrow agreement pursuant to paragraph (a) of this section, to furnish and file with the Department a surety bond with guarantees to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all overseas military personnel charter trips, as defined in part 372 of this chapter, to be performed, in whole or in part, by such carrier pursuant to any contracts entered into by such carrier. The amount of such bond shall be unlimited.[1] Claims under the bond may be made only with respect to the non-performance of air transportation.

(d) The bond permitted by this section shall be in the form set forth as the appendix to this part. Such bond shall be issued by a bonding or surety company—

(1) Which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better or

(2) Which is listed in the U.S. Department of Treasury's notice listing companies holding Certificates of Authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies, published in the **Federal Register** on or about July 1. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which there is located the office or usual residence of the agency designated by the carrier under 49 U.S.C. 46103 to receive service of notices, process and other documents issued by or filed with the Department of Transportation. For the purposes of this section the term "State" includes any territory or possession of the United States, or the District of Columbia. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Department will notify the certificated or foreign air carrier by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time limit set forth in the notification, no amounts payable in advance by customers for the subject charter trips shall be accepted by the carrier.

(e) The bond required by this section shall provide that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such charter trip. The contract between the carrier and the charterer shall contain notice of this provision.

§ 212.9 Prior authorization requirements.

(a) Certificated air carriers shall obtain a statement of authorization for each long-term wet lease to a foreign air carrier.

(b) Foreign air carriers shall obtain a statement of authorization for each:

(1) Fifth freedom charter flight to or from the United States;

(2) Long-term wet lease;

(3) Charter flight for which the Department specifically requires prior authorization under paragraph (e) or (f) of this section; or

(4) Part charter.

(c) The Department may issue blanket statements of authorization to foreign air carriers to conduct fifth freedom charters. The standards for issuing such blanket authorizations shall be those stated in § 212.11. The Department may revoke any authority granted under this paragraph at any time without hearing.

(d) The Department may at any time, with or without hearing, but with at least 30 days' notice, require a foreign air carrier to obtain a statement of authorization before operating any charter flight. In deciding whether to impose such a requirement, the Department will consider (but not be limited to considering) whether the country of the carrier's nationality:

(1) Requires prior approval for third or fourth freedom charter flights by U.S. air carriers;

(2) Has, over the objection of the U.S. Government, denied rights of a U.S. air carrier guaranteed by a bilateral agreement; or

(3) Has otherwise impaired, limited, or denied the operating rights of U.S. air carriers, or engaged in unfair, discriminatory, or restrictive practices with respect to air transportation services to, from, through, or over its territory.

[1] While the face amount of the bond is unlimited, claims are limited to amounts that are paid to carrier for U.S.-originating passenger charter flights that carrier fails to perform or to refund.

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(e) The Department, in the interest of national security, may require a foreign air carrier to provide prior notification or to obtain a statement of authorization before operating any charter flight over U.S. territory.

§ 212.10 Application for statement of authorization.

(a) Application for a statement of authorization shall be submitted on OST Form 4540 except that for part charters or long-term wet leases the application may be in letter form. An application for a long-term wet lease shall describe the purpose and terms of the wet lease agreement. An original and two copies of an application shall be submitted to the Department of Transportation, Office of International Aviation, U.S. Air Carrier Licensing Division, X–44 (for an application by a certificated air carrier), or Foreign Air Carrier Licensing Division, X–45 (for an application by a foreign air carrier), 400 Seventh Street, SW., Washington, DC 20590. Upon a showing of good cause, the application may be transmitted by facsimile (fax) or telegram, or may be made by telephone, provided, that in the case of a fax or telephone application, the applicant must confirm its request (by filing an original and two copies of its application as described above) within three business days.

(b) A copy of each application for a long-term wet lease shall also be served on the Director of Flight Standards Service (AFS–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, and on each certificated air carrier that is authorized to serve the general area in which the proposed transportation is to be performed.

(c)(1) Applicants for statements of authorization filed by foreign air carriers shall include documentation to establish the extent to which the country of the applicant's nationality deals with U.S. air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement, and

(i) The Department has not established that the country accords reciprocity;

(ii) The Department has found reciprocity defective in the most recent prior approval application involving the country; or

(iii) Changes in reciprocity have occurred since the most recent Department finding for the country in question.

(2) Applications filed by certificated or foreign air carriers to conduct long-term wet leases shall include, for the country of the lessee's nationality, the documentation specified in paragraph (c)(1) of this section.

(d)(1) Applications shall be filed at least 5 business days before commencement of the proposed flight or flights, except as specified in paragraphs (d)(2), (d)(3), and (d)(4) of this section. Late applications may be considered upon a showing of good cause for the lateness.

(2) Applications for a part charter or for a long-term wet lease shall be filed at least 45 calendar days before the date of the first proposed flight.

(3) Applications specifically required under § 212.9(d) shall be filed at least 30 calendar days before the proposed flight or flights (10 calendar days for cargo charters), unless otherwise specified by the Department.

(4) Applications required by a Department order under § 212.9(e) shall be filed at least 14 calendar days before the proposed flight or flights, unless otherwise specified by the Department.

(5) Where an application is required by more than one provision of this part and/or order of the Department, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(6) The Department may require service of applications as it deems necessary.

(e)(1) Any part in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application or before the date of the proposed flight or flights, whichever is earlier. Memorandums will be considered to the extent practicable; the Department may act on an application without waiting for supporting or opposing memorandums to be filed.

(2) Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Department is requested to consider.

(3) A copy of each memorandum shall be served on the certified or foreign air carrier applying for approval.

(f)(1) Unless otherwise ordered by the Department, each application and memorandum filed in response will be available for public inspection at the Office of International Aviation immediately upon filing. Notice of the filing of all applications shall be published in the Department's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Department finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

§ 212.11 Issuance of statement of authorization.

(a) The Department will issue a statement of authorization if it finds that the proposed charter flight, part charter, or wet lease meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the public interest the Department will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought to covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which an applicant foreign air carrier's home country (and, in the case of a long-term wet lease, the lessee's home country) deals with U.S. air carriers on the basis of substantial reciprocity.

(3) Whether the applicant or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease:

(i) Whether the lessor (applicant) or its agent or the lessee (charterer) or its agent has previously violated the provisions of the Department's charter regulations.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the lessor owns and/or controls the lessee, or is owned and/or controlled by the lessee.

(c) The Department will submit any denial of an authorization specifically required of a foreign air carrier under § 212.9(d) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Department where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President. For the purposes of this paragraph, an application filed by a foreign air carrier under § 212.9(d) to conduct a cargo charter will be considered as timely filed only if it is filed at least 30 calendar days before the proposed flight, notwithstanding the 10-day filing requirement for cargo charters in § 212.10(d)(3).

(d) The Department will publish notice of its actions on applications for

statements of authorization in its Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters of endorsed forms advising applicants of action taken on their applications.

§ 212.12 Waiver.

The Department may grant a waiver of any of the provisions of this part upon a finding that such waiver is in the public interest. A certificated or foreign air carrier may request a waiver by filing a written application with the Department, citing the specific provision to be waived and providing justification for such waiver.

Appendix A—Certificated or Foreign Air Carrier's Surety Bond Under Part 212 of the Regulations of the Department of Transportation (14 CFR Part 212)

Know all persons by these presents, that we _____ (Name of certificated or foreign air carrier) of _____, (City) _____ (State or Country) as Principal (hereinafter called Principal), and _____ (name of Surety) a corporation created and existing under the laws of the State of _____ (State) as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in an unlimited amount, as required by 14 CFR 212.8, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the principal, a certificated air carrier holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102, or a foreign air carrier holding a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing that foreign air carrier to engage in charter trips in foreign air transportation, is subject to rules and regulations of the Department of Transportation relating to security for the protection of charterers of civil aircraft and has elected to file with the Department of Transportation such a bond as will guarantee to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all Overseas Military Personnel Charters, as defined in 14 CFR part 372, to be performed, in whole or in part, by such certificated or foreign air carrier pursuant to contracts entered into by such carrier after the execution date of this bond, and

Whereas this bond is written to assure compliance by the Principal with rules and regulations of the Department of Transportation relating to security for the protection of charterer of civil aircraft for charter trips (other than cargo charters) originating in the United States or of Overseas Military Personnel Charter trips and shall inure to the benefit of any and all such charterers to whom the Principal may be held legally liable for any of the damages herein described.

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to such charterer any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts made by the Principal while this bond is in effect for the performance of charter trips (other than cargo charter trips) originating in the United States and of Overseas Military Personnel Charter trips, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder in any specified amount. The surety agrees to furnish written notice to the Department of Transportation forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the _____ day of _____, _____, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Department of Transportation at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Department. The Surety shall not be liable hereunder for the payment of the damages hereinbefore described which arise as the result of any contracts for the performance of air transportation services made by the Principal after the termination of this bond becomes effective, as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts for the performance of air transportation services made by the Principal after the termination of this bond becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charterer who shall within sixty (60) days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by this bond give written notice of claim to the certificated or foreign air carrier, or, if it is unavailable, to the Surety, and all liability on this bond for such charter trip shall automatically terminate sixty (60) days after the termination date thereof except for claims filed within the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the _____ day of _____, _____.

Principal

Name _____

By: Signature and title _____

Witness _____

Surety

Name _____

By: Signature and title _____

Witness _____

Bonding or surety company must be listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better or in the Department of the Treasury listing of companies holding certificates of authority as acceptable sureties on Federal bonds. In addition, the bonding or surety company shall be one legally authorized to issue bonds of that type in the State(s) in which the charter flight(s) originate. Agents must provide satisfactory proof that they have the requisite authority to issue this bond.

Appendix B—Certification of Compliance

Organization Charterworthiness for Affinity Charter Air Transportation and Eligibility of All Prospective Passengers for Such Flights Under Part 212 of the Regulations of the Department of Transportation (14 CFR Part 212)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

4. Part 380 is revised to read as follows:

PART 380—PUBLIC CHARTERS

Subpart A—General Provisions

Sec.
380.1 Applicability.
380.2 Definitions.
380.3 General provisions.
380.4 Enforcement.

Subpart B—Conditions and Limitations

380.10 Public Charter requirements.
380.11 Payment to direct air carrier(s).
380.12 Cancellation by charter operator and notice to participants.
380.13 Prohibition on sale of round trips with open returns.
380.14 Unused space.
380.15 Substitution for charter participants.
380.17 Charters conducted by educational institutions.

Subpart C—Requirements Applicable to Charter Operators

380.20 Relief from the Statute.
380.21 380.23 [Reserved]
380.24 Suspension of exemption authority.
380.25 Prospectus filing and related requirements.
380.26 Discrimination.
380.27 Methods of competition.
380.28 Charter prospectus.
380.29 Charter contract.
380.30 Solicitation materials.
380.31 General requirements for operator-participant contracts.
380.32 Specific requirements for operator-participant contracts.
380.33 Major changes in itinerary or price; refunds.
380.33a Operator's option plan.
380.34 Security and depository agreements.
380.34a Substitution of direct air carrier's security or depository agreement.
380.35 Disbursements from depository account.
380.36 Record retention.

Subpart D—Requirements Applicable to Direct Air Carriers

380.40 Charter not to be performed unless in compliance with this part 380.
380.41 380.42 [Reserved]
380.43 Cancellations by direct air carriers.

380.45 Suspension of exemption authority.
380.46 Charter trip reporting.

Subpart E—Registration of Foreign Charter Operators

380.60 Purpose.
380.61 Operations by foreign charter operators.
380.62 Registration applications.
380.63 Objections to registration applications.
380.64 Department action on a registration application.
380.65 Notification of change of operations or ownership.
380.66 Cancellation or conditioning of the registration.
380.67 Waiver of sovereign immunity.
Appendix A—Public Charter Operator's Surety Bond Under Part 380 of the Special Regulations of the Department of Transportation (14 CFR Part 380)
Appendix B Public Charter Surety Trust Agreement

Authority: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41103, 41301, 41504, 41702, 41708, 41712, 46101.

Subpart A—General Provisions

§ 380.1 Applicability.

This part applies to Public Charter air transportation of passengers in interstate or foreign air transportation, whether furnished by direct air carriers or Public Charter operators. This part also relieves such charter operators from various provisions of subtitle VII of Title 49 of the United States Code (statute), formerly Title IV of the Federal Aviation Act of 1958, as amended, for the purpose of enabling them to provide Public Charters utilizing aircraft chartered from such direct air carriers. It also declines jurisdiction over foreign Public Charter operators operating foreign-originating Public Charters.

§ 380.2 Definitions.

For the purposes of this part:

Certificated air carrier means a U.S. direct air carrier holding a certificate issued under the statute.

Charter flight means a flight operated under the terms of a charter contract between a direct air carrier and its customer. It does not include scheduled air transportation, scheduled foreign air transportation, or nonscheduled cargo air transportation, sold on an individually ticketed or individually waybilled basis.

Direct air carrier means a certificated or foreign air carrier, or an air taxi operator or commuter air carrier registered under part 298 of this chapter, or a Canadian charter air taxi operator registered under part 294 of this chapter, that directly engages in the operation of aircraft under a certificate, permit or exemption issued by the Department.

Educational institution means a school that is operated as such on a year-round basis and is empowered to grant academic degrees or secondary school diplomas by any government in the United States or by a foreign government.

Foreign air carrier means a direct air carrier that holds a foreign air carrier permit issued under the statute or an exemption issued under the statute authorizing direct foreign air transportation.

Foreign Public Charter opertor means an indirect air carrier which is not a citizen of the United States as defined in the statute, that is authorized to engage in the formation of groups for transportation on Public Charters in accordance with this part.

Indirect air carrier means any person who undertakes to engage indirectly in air transportation operations and who uses for such transportation the services of a direct air carrier.

Public Charter means a one-way or round-trip charter flight to be performed by one or more direct air carriers that is arranged and sponsored by a charter operator.

Public Charter operator means a U.S. or foreign Public Charter operator.

Security agreement means:

(1) A surety bond issued by a company—

(i) That is listed in the Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better, or

(ii) That is listed in the U.S. Department of Treasury's notice listing companies holding Certificates of Authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies, published in the **Federal Register** in the first week in July; or

(2) A Surety trust agreement or a letter-of-credit, issued by a Federal Deposit Insurance Corporation-insured financial institution, which provides substantially equivalent protection.

Statute means Subtitle VII of Title 49 of the United States Code (Transportation).

Sub-operator means a Public Charter operator that has contracted for its charter seats from a Public Charter operator that has contracted from one or more direct air carriers. A sub-operator is itself an indirect air carrier, not an agent of the Public Charter operator from which it has obtained its seat.

U.S. Public Charter operator means an indirect air carrier that is a citizen of the United States as defined in 49 U.S.C. 40102(a) and that is authorized to engage in the formation of groups for transportation on Public Charters in accordance with this part.

§ 380.3 General provisions.

(a) Public Charters may be operated on a one-way or round-trip basis, with no minimum group or contract size. Public Charters may be sold on an air-only basis, or with mandatory or optional land arrangements.

(b) A U.S. Public Charter operator operating a Public Charter which originates in a foreign country shall not be subject to the requirements of §§ 380.25, 380.28, 380.30 and 380.35.

(c) The Department declines to exercise jurisdiction over a foreign Public Charter operator which operates a Public Charter originating in a foreign country, but reserves the right to exercise its jurisdiction over any foreign Public Charter operator at any time its finds that such action is in the public interest.

(d)(1) An educational institution operating a Public Charter need not comply with the financial security requirements of § 380.34 if each student participant in the charter is enrolled in a formal academic course of study outside the United States, sponsored by or in conjunction with that institution, that is of at least four weeks' duration.

(2) The spouse, children, and parents of a student participant may accompany the participant on a charter operated under this section.

(e) The Department, upon application or on its own initiative, may waive any of the provision of this part if it finds such action to be in the public interest.

§ 380.4 Enforcement.

In the case of any violation of the provision of the Statute or of this part, or any other rule, regulations, or order issued under the Statute, the violator may be subject to a proceeding pursuant to the Statute before the Department or a U.S district court, as the case may be, to compel compliance therewith; to civil penalties pursuant to the provisions of the Statute, or to criminal penalties pursuant to the provisions of the Statute, or other lawful sanctions.

Subpart B—Conditions and Limitations

§ 380.10 Public Charter requirements.

Public Charters under this part shall meet the following requirements:

(a)–(b) [Reserved]

(c) If the charter is on a round-trip basis, the departing flight and returning need not be performed by the same direct air carrier.

(d) The air transportation portion of the charter must be performed by direct air carriers that hold authority under

Chapter 411 and 413 of the Statute, or are operating under 14 CFR part 298, except that only U.S. citizen direct air carriers may provide air transportation for operations in interstate air transportation.

§ 380.11 Payment to direct air carrier(s).

Except for air taxi operators and commuter air carriers (which are governed by 14 CFR 298.38) and Canadian charter air taxi operators (which are governed by 14 CFR 294.32), the direct air carrier(s) shall be paid in full for the cost of the charter transportation (for both legs, if a round-trip charter) prior to the scheduled date of flight departure, as provided for in the basic charter regulations applicable to the direct air carrier(s) under part 212 of this chapter.

§ 380.12 Cancellation by charter operator and notice to participants.

(a) The charter operator may not cancel a charter for any reason (including insufficient participation), except for circumstances that make it physically impossible to perform the charter trip, less than 10 days before the scheduled date of departure of the outbound trip.

(b) If the charter operator cancels 10 or more days before the scheduled date of departure, the operator must so notify each participant in writing within 7 days after the cancellation but in any event not less than 10 days before the scheduled departure date of the outbound trip. If a charter is canceled less than 10 days before scheduled departure (i.e., for circumstances that make it physically impossible to perform the charter trip), the operator must get the message to each participant as soon as possible.

§ 380.13 Prohibition on sale of round trips with open returns.

The charter operator shall not accept any participant's payment for return transportation unless the participant has specified a particular return flight.

§ 380.14 Unused space.

Noting contained in this part shall preclude a charter operator from utilizing any unused space on an aircraft by it for a Public Charter for the transportation, on a free or reduced basis, of such charter operator's employees, directors, and officers, and parents and immediate families of such persons.

§ 380.15 Substitution for charter participants.

Subsititues may be arranged for charter participants at any time preceding departure. Participants who provide the charter operator or its sales agent with a substitute participant, or who are substituted for by a participant found by the operator, shall receive a refund of all moneys paid to the operator, except that the operator may reserve the right to retain an administrative fee not to exceed $25 for effecting the substitution.

§ 380.17 Charters conducted by educational institutions.

(a) This section shall apply only to charters conducted by educational institutions for charter groups comprised of bona fide participants in a formal academic course of study abroad which is of at least 4 weeks duration. The charter group may also include a student participant's immediate family (spouse, children, and parents). Except as modified in this section, all terms and conditions of this part applicable to the operation of Public Charters shall apply to charters conducted by educational institutions.

(b) An educational institution conducting such a charter shall submit to the Office of Aviation Analysis, Special Authorities Division, a statement, signed by its president, certifying that it meets the definition of "educational institution" set forth in § 380.2.

(c) An educational institution conducting such a charter need not comply with the requirements of §§ 380.25, 380.28, 380.34, and 380.35.

Subpart C—Requirements Applicable to Charter Operators

§ 380.20 Relief from the Statute.

(a) To the extent necessary to permit them to organize and arrange public charters, charter operators and foreign charter operators are hereby relieved from the following provisions of Subtitle VII of Title 49 of the U.S. Code, only if and so long as they comply with the provisions and the conditions imposed by this part:

(1) Chapter 411.

(2) Chapter 413.

(3) Chapter 415.

(4) Chapter 419.

(5) If foreign charter operators receive interstate air transportation rights, any other provision of the statute that would otherwise prohibit them from organizing and arranging Public Charters in interstate air transportation.

(b) A charter operator who is a citizen of the United States shall not be subject to the following requirements with respect to Public Charters that originate in a foreign country: §§ 380.25, 380.28, and 380.30 through 380.35.

§§ 380.21–380.23 [Reserved]

§ 380.24 Suspension of exemption authority.

The Department reserves the power to deny the exemption authority of any charter operator, without hearing, if it finds that such action is necessary in the public interest or is otherwise necessary in order to protect the rights of the traveling public.

§ 380.25 Prospectus filing and related requirements.

A charter operator may organize and operate a Public Charter only in accordance with this part, and subject to the following conditions:

(a) No charter operator shall operate, sell, receive money from any prospective participant for, or offer to sell or otherwise advertise a charter or series of charters until the Office of Aviation Analysis, Special Authorities Division, has accepted a Public Charter prospectus as described in § 380.28.

(b) If within 10 days after the filing the Department notifies the charter operator that it has rejected the prospectus for noncompliance with this part, the prohibitions set forth in paragraph (a) of this section shall continue until the Department advises that it has accepted the prospectus.

(c) The following amendments to a filed prospectus may be made:

(1) The addition or cancellation of any flight;

(2) A change in any flight, date, origin city or destination city; and

(3) A change in or addition of any direct air carrier, securer, or depository bank.

(d) The charter operator shall amend the prospectus to reflect any change described in paragraph (c) of this section. The amendment shall be filed in the manner and form used for the original prospectus. It shall become effective upon filing unless the operator is otherwise notified.

(e) The charter operator shall notify the depository bank (if any) and the securer of any change described in paragraph (c) of this section not later than when filing a prospectus amendment to reflect the change. If the securer is unable to adjust the security agreement as required by the change, the Office of Aviation Analysis, Special Authorities Division shall be advised of this fact within 2 business days.

(Approved by the Office of Management and Budget under Control Number 2106–0005).

§ 380.26 Discrimination.

No charter operator shall make, give, or cause any undue or unreasonable preference or advantage to any

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particular person, port, locality, or description of traffic in air transportation in any respect whatsoever, or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 380.27 Methods of competition.

No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

§ 380.28 Charter prospectus.

(a) The charter prospectus shall include an original and two copies of the following:

(1) From the charter operator and the direct air carrier:

(i) The proposed flight schedule, listing the origin and destination cities, dates, type of aircraft, number of seats, and charter price for each flight;

(ii) The tour itinerary (if any) including hotels (name and length of stay at each), and other ground accommodations and services; and

(iii) A statement that they have entered into a charter contract that covers the proposed flight schedule, that the contract complies with all applicable Department regulations, and that a copy of the schedule has been sent to the depository bank (if any) and the operator's securer. The schedule shall be identified with a number assigned by the charter operator that does not duplicate any schedule numbers assigned by the operator to other proposed flight schedules. The proposed flight schedule, tour itinerary (if any), and statement shall be filed on OST Form 4532.

(2)(i) From the charter operator and the securer, a statement:

(A) That they have entered into a security agreement covering the proposed flight schedule that complies with § 380.34, including the amount of the coverage, the number assigned to it by the securer, and the amount of any outstanding claims against it, and

(B) That the securer has received a copy of the proposed flight schedule. The statement shall identify the proposed flight schedule by the schedule number assigned by the charter operator in accordance with paragraph (a) of this section. If there are any outstanding claims against the agreement, the charter operator and securer shall also state that they have executed a rider or amendment increasing the coverage by the amount of the claims, or that the securer will separately pay any claims for which it may be liable without impairing the agreement or reducing the amount of its coverage.

(ii) These statements shall be filed an OST Form 4533.

(3) If a depository agreement is used, a statement from the charter operator, the direct air carrier, and the depository bank:

(i) That they have entered into a depository agreement covering the proposed flight schedule that complies with § 380.34, and

(ii) That the bank has received a copy of the proposed flight schedule by the schedule number assigned by the charter operator in accordance with paragraph (a)(1) of this section. This statement shall be filed on OST Form 4534.

(b) Each of the statements described in paragraph (a) of this section shall also include the names and addresses of the parties to it, and the originals shall be signed by those parties.

(c) The prospectus may cover a series of charters performed by one charter operator if the departure of the last charter is not more than one year after the departure of the first.

(d) If the prospectus covers a series of charters and the air transportation will be performed by more than one direct air carrier, the prospectus shall include separate statements in accordance with paragraphs (a)(1) and (a)(3) of this section to cover the flights that will be performed by each direct carrier.

(Approved by the Office of Management and Budget under Control Number 2106–0005).

§ 380.29 Charter contract.

The charter contract between the charter operator or foreign charter operator and the direct air carrier shall evidence a binding commitment on the part of the carrier to furnish the air transportation required for the trip or trips covered by the contract.

§ 380.30 Solicitation materials.

(a) All solicitation materials for a Public Charter shall include the name of the charter operator and the name of the direct air carrier.

(b) Any solicitation material that states a price per passenger shall also include one of the following:

(1) A statement referring to the operator-participant contract for further information about conditions applicable to the charter; or

(2) The full text of the operator-participant contract.

(c) Except as set forth in § 380.33a for operator's option plan contracts, if the charter prospectus names alternative dates or cities, any solicitation material that states a price per passenger shall also state that the actual dates or cities have not yet been selected, if that is the case.

(d) Any solicitation material that names a hotel but does not name every hotel named in the operator-participant contract shall also state that substitutions may be made.

(e) In any solicitation material from a direct air carrier, indirect air carrier, or an agent of either, for a charter, charter tour (*i.e.*, a combination of air transportation and ground accommodations), or a charter tour component (*e.g.*, a hotel stay), any price stated for such charter, tour, or component shall be the entire price to be paid by the participants to the air carrier, or agent, for such charter, tour, or component.

§ 380.31 General requirements for operator-participant contracts.

(a) Except for telephone sales for which payment is made by credit card as described in paragraph (b) of this section, the charter operator shall not accept payment from or on behalf of a prospective participant unless the participant has agreed to the conditions of the charter by signing an operator-participant contract as described in § 380.32. If a member of a group that will travel together pays for the group, that member may sign the contract on behalf of the group.

(b) For telephone sales only, the charter operator may accept payment by credit card without the participant having first signed an operator-participant contract provided that the charter operator first advises the customer:

(1) That he or she has the right to receive the operator-participant contract before making a booking;

(2) That the operator-participant contract will be mailed to the participant within 24 hours of accepting payment by credit card; and

(3) That the operator-participant contract must be signed, and the signed portion returned to the operator, before travel.

(4) A full refund must be made of any amounts charged to a credit card for any participant who cancels before the operator-participant contract is signed.

(c) The contract form may include a space that participants may check to authorize the charter operator to retain their money while attempting to make other arrangements for them if there is no space available on the flight or on specific alternative flights they have requested.

(d) If there is no space available on the flight or specific alternative flights requested by the participant the

operator shall return all the participant's money within 7 days after receiving it unless the participant, in accordance with paragraph (c) of this section, has authorized the operator to retain the payments while the operator attempts to make other arrangements for the participant. If the operator retains the payments while attempting to make other arrangements for the participant, it shall notify the participant of the fact within 7 days after receiving the payments, but in no event later than the departure. For the purpose of the time periods in this paragraph, receipt of money by a travel agent on behalf of a charter operator will not be considered as receipt by the operator.

(e) Except as set forth in § 380.33a for operator's option plan contracts, the operator-participant contract shall not specify alternative dates for the outbound or return flights, or alternative origin or destination cities for any flight leg.

(f) The contract form shall be printed in 7-point or larger type. The statements required by paragraph (a), (f), (h), (l), (r), (s), and (x) of § 380.32 shall be printed so as to contrast with the rest of the contract by the use of bold-faced type, capital letters, or a type size that is at least 50 percent larger than that used for the rest of the contract.

(g) The contract form shall include a space that participants may check to indicate that they wish to be furnished details of trip cancellation, health, and accident insurance.

(h) The contract form shall be designed so as to enable participants to retain a copy of the general terms and conditions after signing it. The specific information supplied by participants (such as choices of dates, cities, or other options) need not be retainable.

§ 380.32 Specific requirements for operator-participant contracts.

Contracts between charter operators and charter participants shall state:

(a) The name and complete mailing address of the charter operator;

(b) The name of the direct air carrier, the dollar amounts of that carrier's liability limitations for participant's baggage, the type and capacity of the aircraft to be used for the flight, and the conditions governing aircraft-equipment substitutions;

(c) The dates of the outbound and return flights;

(d) The origin and destination cities of each flight leg;

(e) The amount and schedule of payments;

(f) If a depository agreement as provided in § 380.34(b) is used: That all checks, money orders, and credit card drafts must be made payable to the escrow account at the depository bank (identifying bank) [1] or, when the charter is sold to the participant by a retail travel agent, checks and money orders may be made payable to the agent, who must in turn make his check payable to the escrow account at the depository bank;

(g) The tour itinerary, if any, including the name and location of the hotels, length of stay at each, and other ground accommodations and services that are part of the tour;

(h) That the charter operator may not cancel the charter less than 10 days before the scheduled departure date, except for circumstances that make it physically impossible to perform the charter tip;

(i) That if a charter is canceled 10 or more days before the scheduled departure date, the operator will notify the participant in writing within 7 days after the cancellation, but in any event at least 10 days before the scheduled departure;

(j) That is a charter is canceled less than 10 days before departure (*i.e.*, for circumstances that make it physically impossible to perform the charter trip), the operator will get the message to the participant as soon as possible;

(k) That if the charter is canceled, a refund will be made to the participant within 14 days after the cancellation;

(l) The right to refunds if the participant changes plans is limited;

(m) The right to refunds if the participant changes plans, including

(1) The right to a full refund, for sales made by credit card, until an operator-participant contract is signed; and

(2) That any participant who wishes to cancel will receive a full refund (less any applicable administrative fee, not to exceed $25) upon providing a substitute participant to the charter operator or its sales agent, or upon being substituted for by a participant found by the charter operator;

(n) The procedure for obtaining the refunds described in paragraph (m) of this section, including that they will be made within 14 days after the cancellation or substitution;

(o) The meaning of "major change", as set forth in § 380.33(a);

(p) That if the charter operator knows of a major change 10 or more days before scheduled departure, the operator will notify the participant of the change within 7 days after first knowing of it, but in any event at least 10 days before scheduled departure;

(q) That is the operator first knows of a major change less than 10 days before scheduled departure, the operator will get the message to the participant as soon as possible;

(r) That within 7 days after receiving a pre-departure notification of a major change but in no event later than departure, the participant may cancel, and that a full refund will be made to the participant within 14 days after canceling;

(s) That upon a post-departure notification of a major change, the participant may reject the substituted hotel or the changed date, origin, or destination of a flight leg and be sent, within 14 days after the return date named in the contract, a refund of the portion of his payment allocable to the hotel accommodations or air transportation not provided;

(t) That the participants rights and remedies set forth in the contract, including the procedures for major changes, shall be in addition to any other rights or remedies available under applicable law, although the operator may condition a refund on the participant's waiver of additional remedies;

(u) That trip cancellation, health, and accident insurance is available and that the operator will furnish details of the insurance to participants who check the space provided for this purpose on the contract form;

(v) The name and address of the surety company or bank issuing the security agreement; and that unless the charter participant files a claim with the charter operator or, if he is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to that participant. Termination means the date of arrival (or in the case of a canceled charter, the intended date or arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary;

(w) For international flights only: That additional restrictions may be imposed on the flight by the foreign government involved, and that if landing rights are denied by a foreign government the flight will be canceled with a full refund to the participant.

[1] If the credit card merchant account is separate from the depository account, it must be used solely as a conduit, i.e., all credit card payments toward Public Charter trips must be immediately remitted to the depository account in full, without holdback, or retention of any portion of the participant's payment. If the depository bank is not the credit card merchant bank, the Department must be satisfied that there are adequate procedural safeguards for the protection of participants' payments.

This statement need not be included in the contract if—

(1) The prospectus includes a certification by the charter operator and the direct air carrier that landing rights have been obtained from all the foreign governments involved, and

(2) All the foreign governments involved have adopted country-of-origin rules for charterworthiness;

(x) That the charter operator is the principal and is responsible to the participants for all services and accommodations offered in connection with the charter. However, the contract may expressly provide that the charter operator, unless negligent, is not responsible for personal injury or property damage caused by any direct air carrier, hotel or other supplier of services in connection with the charter.

§ 380.33 Major changes in itinerary or price; refunds.

(a) For the purposes of this section, "major change" means any of the following:

(1) A change in the departure or return date shown in the operator-participant contract, (or, if the contract states alternative dates, the date designated to the participant by the charter operator in accordance with § 380.33a(b)), unless the change results from a flight delay. In any event, however, a date change that the operator knows of more than 2 days before the scheduled flight date, and any delay of more than 48 hours, will be considered a major change.

(2) A change in the origin or destination city shown in the operator-participant contract for any flight leg (or, if the contract states alternative cities, the city designated to the participant by the operator in accordance with § 380.33a(b)), unless the change affects only the order in which cities named in a tour package are visited.

(3) A substitution of any hotel that is not named in the operator-participant contract; and

(4) A price increase to the participant that occurs 10 or more days before departure and results in an aggregate price increase of more than 10 percent.

(b) The charter operator shall not increase the price to any participant less than 10 days before departure.

(c) The charter operator shall notify all participants of major changes, as required by the operator-participant contracts. This notification shall include the participants' rights to refunds required to be described in the operator-participant contract. The operator shall, if applicable, also notify the participants that the acceptance of a refund constitutes a waiver of their legal rights.

(d) Except as otherwise specified, notifications and refunds required by this part are considered made at the time they are mailed or sent by an equivalent method.

(e) The charter operator shall make all refunds required to be described in the operator-participant contract within the time limits set forth in paragraphs (k), (n), (r), and (s) of § 380.32, as applicable.

§ 380.33a Operator's option plan.

(a) For the purposes of this part, an operator's option plan contract that states alternative dates for the outbound or return flights, or alternative origin or destination cities for any flight leg.

(b) Operator's option plan contracts shall state, in addition to the information required by § 380.32, that the selection of the actual dates or cities, as applicable, is at the charter operator's option and will not entitle the participant to a refund, and that the operator will notify the participant of the actual dates or cities at least 10 days before the earliest of any alternative dates for the outbound flight.

(c) Contract forms for all operator's option plan contracts shall be labeled "OPERATOR'S OPTION PLAN" in bold-faced capital letters at least ¼ inch high. The statement required by paragraph (b) of this section and the statement of alternative dates (§ 380.32(c)) or alternative cities (§ 380.32(d)), as applicable, shall be printed so as to contrast with the rest of the contract, as set forth in § 380.31(f).

(d) Any solicitation material that states a price per passenger for an operator's option plan contract shall clearly and conspicuously—

(1) Identify that price as being for the operator's option plan,

(2) Name all the possible dates or cities, as applicable, and

(3) State that the selection of the actual dates or cities is at the charter operator's option.

(e) Charter operators and their agents shall not misrepresent to prospective participants, orally, in solicitation materials, or otherwise, the probability that any particular city or date will be selected from among the alternatives named in an operator's option plan contract.

(f) The charter operator shall notify all participants with operator's option plan contracts of the actual dates or cities, as applicable, as required by contracts.

§ 380.34 Security and depository agreements.

(a) Except as provided in paragraph (b) of this section, the charter operator or foreign charter operator shall furnish a security agreement in an amount for not less than the charter price for the air transportation, if only air transportation is involved, or, if the charter involves land accommodations in addition to air transportation, a security agreement in one of the following amounts dependent upon the length of the charter or series of charters:

(1) For a charter or series of charters of 14 days or less, security in an amount of not less than the charter price for the air transportation to be furnished in connection with such charter or series of charters;

(2) For a charter or series of charters of more than 14 days but less than 28 days security in an amount of not less than twice the charter price; and

(3) For a charter or series of charters of 28 days or more, security in an amount of not less than three times the charter price: Provided, however, That the liability of the securer to any charter participant shall not exceed amounts paid by that participant to the charter operator with respect to the charter.

(b) The direct air carrier and the charter operator or foreign charter operator may elect, in lieu of furnishing a security agreement as provided under paragraph (a) of this section, to comply with the requirements of paragraphs (b)(1) and (b)(2) of this section, as follows:

(1) The charter operator shall furnish a security agreement in an amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000. The liability of the securer to any charter participant shall not exceed the amount paid by the participant to the charter operator for that charter.

(2) The direct air carrier and charter operator or foreign charter operator shall enter into an agreement with a designated bank, the terms of which shall provide that all payments by charter participants paid to charter operators or foreign charter operators and their retail travel agents shall be deposited with and maintained by the bank subject to the following conditions:

(i) On sales made to charter participants by charter operators or foreign charter operators the participant shall pay by check, money order, or credit card draft payable to the bank; [2] on sales made to charter participants by retail travel agents, the retail travel agent may deduct his commission and remit the balance to the designated bank by check, money order, or electronic transfer: Provided, That the travel agent

[2] See also n.1, *supra*.

agrees in writing with the charter operator or foreign charter operator that if the charter is canceled the travel agent shall remit to the bank the full amount of the commission previously deducted or received within 10 days after receipt of notification of cancellation of the charter; except for the credit card company's usual commission (not to exceed 3 percent), the charter operator shall not permit any portion of a charter participant's payments by credit cared to be "held back" by the credit card merchant bank; [3]

(ii) The bank shall pay the direct air carrier the charter price for the transportation not earlier than 60 days (including day of departure) prior to the scheduled day of departure of the originating or returning flight, upon certification of the departure date by the air carrier: Provided, That, in the case of a round trip charter contract to be performed by one carrier, the total round trip charter price shall be paid to the carrier not earlier than 60 days prior to the scheduled day of departure of the originating flight;

(iii) The bank shall reimburse the charter operator or foreign charter operator for refunds made by the latter to the charter participant upon written notification from the charter operator or foreign charter operator;

(iv) If the charter operator, foreign charter operator or the direct air carrier notifies the bank that a charter has been canceled, the bank shall make applicable refunds directly to the charter participants;

(v) After the charter price has been paid in full to the direct air carrier, the bank shall pay funds from the account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing ground accommodations and services, if any, in connection with the charter or series of charters upon presentation to the bank of vendors' bills and upon certification by the charter operator or foreign charter operator of the amounts payable for such ground accommodations and services and the person or companies to whom payment is to be made: Provided, however, That the total amounts paid by the bank pursuant to paragraphs (b)(2)(ii) and (v) of this section shall not exceed either the total cost of the air transportation, or 80 percent of the total deposits received by the bank less any refunds made to charter participants pursuant to paragraphs (b)(2)(ii) and (iv) of this section, whichever is greater;

(vi) As used in this section, the term "bank" means a bank insured by the Federal Deposit Insurance Corporation;

(vii) The bank shall maintain a separate accounting for each charter group;

(viii) Notwithstanding any other provisions of this section, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of the security agreement in the form prescribed in this section in excess of the minimum coverage required by paragraph (b)(1) of this section; an escrow with the designated bank of Federal, State, or municipal bonds or other securities, consisting of certificates of deposit issued by banks having a stated policy of redeeming such certificates before maturity at the request of the holder (subject only to such interest penalties or other conditions as may be required by law), or negotiable securities which are publicly traded on a securities exchange, all such securities to be made payable to the escrow account: Provided, That such other securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: And provided, further, That should the market value of such other securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account, in an amount equal to the amount of such decreased value; and

(ix) Except as provided in paragraph (b)(2)(i), (iii), (iv), (v), and (viii) of this section, the bank shall not pay out any funds from the account prior to 2 banking days after completion of each charter, when the balance in the account shall be paid the charter operator or foreign charter operator, upon certification of the completion date by the direct air carrier: Provided, however, That if the Charter involves air transportation only and the bank has paid the direct air carrier(s) the charter price for the originating flight, and the returning flight if any, and has paid all refunds due to participants, as provided in paragraph (b)(2)(ii) and (iii), respectively, of this section, then the bank may pay the balance in the account to the charter operator upon certification by the direct air carrier performing the originating flight that such flight has in fact departed.

(c)(1) The security agreement required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter operator or foreign charter operator and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter operator or foreign charter operator and the charter participants.

(2) The security agreement may be either:

(i) A surety bond in the form set forth as appendix A to this part;

(ii) A surety trust agreement in the form set forth as appendix B to this part; or

(iii) An arrangement with a bank (for instance, a standby letter of credit) that provides protection of charter participants' funds equivalent to or greater than that provided by the Bond in appendix A. An arrangement that furnishes a lesser degree of protection than would be provided under the bond shall be invalid to that extent, and instead the bank, the charter operator or foreign charter operator, and the charter participants shall have the same rights and liabilities as provided under a bond in the form of appendix A. If the arrangement does not give as much protection as a bond against the risk of the charter operator's bankruptcy, the bank shall be liable in the event of bankruptcy to the same extent as if it had entered into a bond.

(3) Any agreement under paragraph (c)(2)(iii) of this section shall include a statement that, in the event that the other provisions of the agreement do not provide protection to charter participants comparable to that provided under a bond in the form of appendix A, the bank shall assume, for the benefit of the charter participants, all the liabilities it would have if it entered into the bond.

(4) The security agreement shall be effective on or before the date the charter prospectus is filed with the Department.

(5) The security agreement shall be specifically identified by the issuing securer with a numbering system so that the Department can identify the security agreement with the specific charter or charters to which it relates. These data may be set forth in an addendum attached to the security agreement, which addendum must be signed by the charter operator or foreign charter operator and the securer.

(6) When security is provided by a surety bond, such bond shall be issued by a bonding or surety company that is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the

[3] "Holdback" is an amount in excess of usual commissions that a credit card merchant bank sometimes retains to cover potential charge-backs or other charges.

charter originates. For purposes of this section the term "State" includes any territory or possession of the United States, or the District of Columbia.

(7) When security is provided by a security agreement other than a bond, the agreement shall be issued by a national bank complying with the provisions of 12 CFR 7.7010(a), or by a State bank complying with applicable State laws that give authority to issue such agreements, and all such banks must be insured by the Federal Deposit Insurance Corporation.

(d) The security agreement required by this section shall provide that unless the charter participant files a claim with the charter operator or foreign charter operator, or, if it is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to such charter participant. Terminations means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary.

§ 380.34a Substitution of direct air carrier's security or depository agreement.

(a) A direct air carrier may substitute its own security agreement and/or depository arrangements, as specified in this section, for those required of the charter operator under § 380.34, but only for charter trips in which all the air transportation is provided by one direct air carrier. Charter operators are relieved from § 380.34 to the extent that the direct carrier substitutes its own arrangements.

(b) The direct air carrier may substitute its security agreement for all of the arrangements required of the charter operator under § 380.34 (a) or (b). Alternatively, it may substitute its depository agreement for the depository agreement required of the charter operator under § 380.34(b)(2). If the direct carrier substitutes its depository agreement, it may also obtain and substitute a security agreement for the one otherwise required of the charter operator under § 380.34(b)(1). If the direct carrier substitutes its depository agreement only, the charter operator must supply the security agreement required under § 380.34(b)(1).

(c) If the direct carrier substitutes a security agreement for all the charter operator's requirements under § 380.34, the charter operator shall include in the charter prospectus, in place of the information in § 380.28(a)(2) regarding the charter operator's security agreement:

(1) A statement by the direct air carrier on OST Form 4535 that it will take responsibility for all charter participant payments (including those for ground accommodations and services) and for the fulfillment of all the charter operator's contractual and regulatory obligations to the charter participants.

(2) A statement from the direct air carrier and its securer (under § 212.12 of this chapter), OST Form 4533, that they have entered into a security agreement assuring the direct air carrier's responsibilities to charter participants under this section in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant), and that the securer has received a copy of the proposed flight schedule identified by the schedule number assigned by the charter operator under this part.

(d) A substitute depository agreement under this section shall be signed by the direct air carrier, the charter operator, and the depository bank, and shall provide, in addition to existing requirements under § 212.8 of this chapter, that:

(1) Payments by or on behalf of charter participants shall be allocated to the flight accounts matching the participant's itinerary in the following way: Each account shall have allocated to it the charter cost of the participant's air transportation on that flight. The portion of each payment not intended for air transportation services shall be allocated to the account for the return flight in the participant's itinerary. If there is only one flight in the itinerary, the entire payment shall be allocated to that account.

(2) The bank shall pay funds from a flight account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing ground accommodations and services, if any, in connection with the charter flight, upon presentation to the bank of vendor's bills and upon certification by the person who contracted for the ground accommodations or services of the amounts payable and the persons or companies to whom payment is to be made, except that no disbursement shall be made that would reduce the balance in the account below the charter cost of the flight.

(3) On sales made to participants by a person other than a retail travel agent, the participant shall pay by check, money order, or credit card draft payable to the bank. On sales made to participants by a retail travel agent, payments shall be made in the same manner unless the agent deducts its commission and remits the balance to the bank by check, money order, or electronic transfer. The agent may deduct its commission only if it agrees in writing with its principal (the charter operator or direct air carrier, as applicable) that, if the charter is canceled, the agent shall remit to the bank the full amount of the commission previously deducted or received within 10 days after receipt of notification of the cancellation. The depository bank shall pay refunds directly to participants according to the terms of the operator-participant contract and the terms of this part.

(e) If the direct carrier substitutes a security agreement in addition to substituting a depository agreement, the charter prospectus information must include all the information required by paragraphs (c) and (d) of this section, except for the amount of the security agreement. That agreement shall be in an amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000.

(f) A copy of the depository agreement under paragraph (d) of this section shall be filed with the Department, and it shall not be effective until approved by the Department.

(g) A copy of the security agreement under paragraph (c) or paragraph (e) of this section shall be filed with the Department. It shall insure the financial responsibility of the direct air carrier for supplying the transportation and all other accommodations, services, and facilities in accordance with the contracts between the charter operator and the charter participants. Such security agreement shall meet all the other requirements of § 380.34 (c) and (d).

§ 380.35 Disbursements from depository account.

No charter operator or direct air carrier shall cause its agents or the depository bank to make disbursements or payments from deposits except in accordance with the provisions of this part.

§ 380.36 Record retention.

Every charter operator conducting a charter pursuant to this part shall comply with the applicable record-retention provisions of part 249 of this chapter.

Subpart D—Requirements Applicable to Direct Air Carriers

§ 380.40 Charter not to be performed unless in compliance with this part 380.

(a) For all Public Charters other than foreign-originating charters organized by foreign charter operators: A direct air carrier shall not perform air transportation in connection with such a charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with and that the charter operator's authority under this part has not been suspended by the Department.

(b) For foreign-originating Public Charters organized by foreign charter operators: A direct air carrier shall not perform air transportation in connection with such a charter unless—

(1) The charter is conducted in accordance with subpart B of this part and

(2) The charter operator conforms to all requirements of this part that are applicable to charter operators within the Department's jurisdiction, other than §§ 380.25, 380.28, 380.30 through 380.36, and 380.50.

§§ 380.41–380.42 [Reserved]

§ 380.43 Cancellations by direct air carriers.

The direct air carrier shall not cancel any charter under this part less than 10 days before the scheduled departure date, except for circumstances that make it physically impossible to perform the charter trip.

§ 380.45 Suspension of exemption authority.

The Department reserves the power to suspend the exemption authority of any air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

§ 380.46 Charter trip reporting.

The direct air carrier shall promptly notify the Office of Aviation Analysis, Special Authorities Division, regarding any charters covered by a prospectus filed under § 380.28 that are later canceled.

Subpart E—Registration of Foreign Charter Operators

§ 380.60 Purpose.

This subpart establishes registration procedures for foreign charter operators intending to engage in the formation of groups for transportation on Public Charters that originate in the United States.

§ 380.61 Operation by foreign charter operators.

(a) Each foreign charter operator shall be registered under this subpart and file a prospectus under § 380.25 before organizing groups for transportation on Public Charters that originate in the United States.

(b) Each foreign charter registered under this subpart shall comply with the other provisions of this part directed to charter operators.

§ 380.62 Registration applications.

(a) To be registered under this subpart, a foreign charter operator shall file two copies of an application for registration with the Office of Aviation Analysis, Special Authorities Division. The Department will list the names and nationalities of all persons applying for registration in its Weekly Summary of Filings.

(b) The application shall be made on OST Form 4530, which can be obtained from the Office of Aviation Analysis, Special Authorities Division.

(c) The applicant shall clearly indicate in its application for registration whether it requests authority to engage in foreign and/or interstate air transportation.

§ 380.63 Objections to registration applications.

Any person objecting to the registration application of a foreign charter operator or to a proposed change in the name or ownership of that operator shall file an objection with the Office of Aviation Analysis, Special Authorities Division, within 28 days after the Department receives the properly completed registration application.

§ 380.64 Department action on a registration application.

(a) After a registration is received, one of the following actions will be taken.

(1) The application will be approved by the stamping of the effective date of registration on OST Form 4530 and returning the duplicate copy of the form to the operator;

(2) Additional information will be requested for the applicant;

(3) The applicant will be notified that its application will require further analysis or procedures, or is being referred to the Department for formal action;

(4)The registration application will be rejected if it does not comply with the filing requirements of this subpart;

(5) The application will be approved subject to such terms, conditions, or limitations as may be required by the public interest; or

(6) The registration application will be rejected for reasons relating to the failure of effective reciprocity or if the Department finds that it would be in the public interest to do so.

(b) One of the actions described in paragraph (a) of this section will normally be taken within 60 days after the registration application is received. The Department will also consider requests for faster action that include a full explanation of the need for expedited action.

§ 308.65 Notification of change of operations or ownership.

(a) Not later than 30 days before any change in its name or address or before a temporary or permanent cessation of operations, each foreign charter operator registered under this subpart shall notify the Office of Aviation Analysis, Special Authorities Division, of the change by resubmitting OST Form 4530.

(b) A foreign charter operator registered under this subpart shall apply for an amendment to that registration not later than 30 days after either of the following events:

(1) A person listed on its existing registration as owning or holding beneficial interest in at least 10 percent of the operator or of the operator's stock reduces its holding to below 10 percent;

(2) A person not listed on the existing registration as owning or holding beneficial interest in at least 10 percent of the operator or of the operator's stock becomes an owner or holder of 10 percent or more of the company or of its stock.

(c) An application for an amendment shall be made by resubmitting OST Form 4530. The existing registration shall remain valid pending Department action on the amendment.

§ 380.66 Cancellation or conditioning of the registration.

The registration of a foreign charter operator may be canceled or subjected to additional terms, conditions, or limitations if any of the following occur:

(a) The operator files a written notice with the Department that it is discontinuing its charter operations;

(b) A substantial ownership interest is acquired by persons who are not citizens of the same country as the registrant; or

(c) The Department finds, after notice and an opportunity for responses, that it is in the public interest to do so. In making this finding, the Department will consider whether effective reciprocity exists between the United States and the government of the foreign charter operator.

§ 380.67 Waiver of sovereign immunity.

By accepting an approved registration form under this subpart, an operator waives any right it may have to assert any defense of sovereign immunity from suit in any proceeding against it, in any court or other tribunal of the United States, that is based upon a claim arising out of operations by the operator under this part.

Appendix A—Public Charter Operator's Surety Bond Under Part 380 of the Special Regulations of the Department of Transportation (14 CFR Part 380)

Know all men by these presents, that we _____ (name of charter operator) of _____, (city) _____ (state or country) as Principal (hereinafter called Principal), and_____ (name of surety) a corporation created and existing under the laws of the State of _____ (State) as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in the sum of $_____ (see § 380.34(f) of Part 380) for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas Principal intends to become a Public Charter operator pursuant to the provisions of part 380 of the Department's Special Regulations and other rules and regulations of the Department relating to insurance or other security for the protection of charter participants, and has elected to file with the Department of Transportation such a bond as will insure financial responsibility with respect to all moneys received from charter participants for services in connection with a Public Charter to be operated subject to Part 380 of the Department's Special Regulations in accordance with contracts, agreements, or arrangements therefor, and

Whereas this bond is written to assure compliance by Principal as an authorized charter operator with Part 380 of the Department's Special Regulations, and other rules and regulations of the Department relating to insurance and other security for the protection of charter participants, and shall inure to the benefit of any and all charter participants to whom Principal may be held legally liable for any damages herein described.

Now, therefor, the condition of this obligation is such that if Principal shall pay or cause to be paid to charter participants any sum or sums for which Principal may be held legally liable by reason of Principal's failure faithfully to perform, fulfill and carry out all contracts, agreements, and arrangements made by Principal while this bond is in effect with respect to the receipt of moneys from charter participants, and proper disbursement thereof pursuant to and in accordance with the provisions of Part 380 of the Department's Special Regulations, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of Surety with respect to any charter participant shall not exceed the charter price paid by or on behalf of such participant.

The liability of Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall Surety's obligation hereunder exceed the amount of said penalty.

Surety agrees to furnish written notice to the Office of Aviation Analysis, Department of Transportation, forthwith of all suits or claims filed and judgments rendered, and payments made by Surety under this bond.

The bond shall cover the following charters:[1]

Surety company's bond No. _____

Date of flight departure _____

Place of flight departure _____

This bond is effective on the _____ day of _____, 12:01 a.m., standard time at the address of Principal as stated herein and as hereinafter provided. Principal or Surety may at any time terminate this bond by written notice to: "Special Authorities Division (P–57), Office of Aviation Analysis, U.S. Department of Transportation, Washington, DC 20590," such termination to become effective thirty (30) days after the actual receipt of said notice by the Department. Surety shall not be liable hereunder for the payment of any damages hereinbefore described which arise as a result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the bond hereunder for the payment of any damages arising as a result of contracts, agreements, or arrangements for the supplying of transportation and other services made by Principal prior to the date that such termination becomes effective. Liability of Surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular charter described herein give written notice of claim to the charter operator or, if it is unavailable, to Surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of each particular charter covered by this bond except for claims made in the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the _____ day of _____, _____.

Principal

Name _____

By: Signature and title

Surety

Name _____

By: Signature and title _____

Only corporations may qualify to act as surety and they must meet the requirements set forth in § 380.34(c)(6) of Part 380.

[1] These data may be supplied in addendum attached to the bond.

Appendix B—Public Charter Surety Trust Agreement

This Trust Agreement is entered into between _____ (charter operator) incorporated under the law of _____ with the principal place of business being _____ (hereinafter referred to as the Operator), and _____ (Bank) with its principal place of business being _____ (hereinafter referred to as the "Trustee"), for the purpose of creating a trust to become effective as of the _____ day of _____, _____, which trust shall continue until terminated as hereinafter provided.

The Operator intends to become a Public Charter operator pursuant to the provisions of Part 380 of the Department's Special Regulations and other rules and regulations of the Department relating to insurance or other security for the protection of charter participants, and has elected to file with the Department of Transportation such a Surety Trust Agreements as will insure financial responsibility with respect to all moneys received from charter participants for services in connection with a Public Charter to be operated subject to Part 380 of the Department's Special Regulations in accordance with contracts, agreements, or arrangements therefor.

This Surety Trust Agreement is written to assure compliance by the Operator with the provisions of Part 380 of the Department's Special Regulations and other rules and regulations of the Department relating to insurance or other security for the protection of charter participants.

It shall inure to the benefit of any and all charter participants to whom the Operator may be held legally liable for any of the damages herein described.

It is mutually agreed by and between the operator and Trustee that the Trustee shall manage the corpus of the trust and carry out the purposes of the trust as hereinafter set forth during the term of the trust for the benefit of charter participants (who are hereinafter referred to as "Beneficiaries.")

Beneficiaries of the trust created by this Agreement shall be limited to those charter participants who meet the following requirements:

1. Those for whom Operator or Operator's agent has received payment toward participation in one or more charters operated by or proposed to be operated by Operator.

2. Who have legal claim or claims for money damages against the Operator by reason of the Operators' failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Operator while this trust is in respect to the receipt of moneys and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations; and

3. Who have given notice of such claim or claims in accordance with this Trust Agreement, but who have not been paid by the Operator.

The Operator shall convey to the Trustee legal title to the trust corpus, which has a value of $_____ by the time of the execution of this Agreement.

Trustee shall assume the responsibilities of the Trustee over the said trust corpus and shall distribute from the trust corpus to any and all Beneficiaries to whom the Operator, in its capacity as a Public Charter operator, may be held legally liable by reason of the Operator's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Operator, while this trust is in effect with respect to the receipt of moneys and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations in connection with said charters, such damages as will discharge such liability while this trust is in effect; Provided, however, That the liability of the trust to any Beneficiary shall not exceed the charter price (as defined in Part 380 of the Department's Special Regulations) paid by or on behalf on any such Beneficiary; Provided, further, That there shall be on obligation of the trust to any Beneficiary if the Operator shall pay or cause to be paid to any Beneficiary any sum or sums for which the Operator may be held legally liable by reasons of its failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Operator in its capacity as charter operator while this trust is in effect with respect to the receipt of moneys and proper disbursement thereof pursuant to Part 380 of the Department's Special Regulations; And provided still further, That the liability of the trust as administered by the Trustee shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments, shall amount in the aggregate to $_____. Notwithstanding anything herein to the contrary, in no event shall the obligation of the trust or the Trustee hereunder exceed the aggregate amount of $_____.

The Trustee agrees to furnish written notice to the Office of Aviation Analysis, Department of Transportation, forthwith of all suits of claims filed and judgments rendered (of which it has knowledge), and of payments made by the Trustee under the terms of this trust.

The Trust shall not be liable hereunder for the payment of any damages hereinbefore described which arise as a result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Operator after the termination of this trust as herein provided, but such termination shall not affect the liability of the trust hereunder for the payment of any damages arising as a result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Operator prior to the date that such termination becomes effective.

Liability of the trust shall in all events be limited only to a Beneficiary or Beneficiaries who shall within sixty days after the termination of the particular charter give written notice of claim to the Operator or, if it is unavailable, to the Trustee, and all liability of the trust with respect to participants in a charter shall automatically terminate sixty days after the termination date of each particular charter covered by this trust except for claims filed in the time provided herein. Sixty-one days after the completion of the last charter covered by this Trust Agreement, the trust shall automatically terminate except for claims of any Beneficiary or Beneficiaries previously made in accordance with this Agreement still pending on and after said sixty-first day. To the extent of such claims, the trust shall continue until those claims are discharged, dismissed, dropped, or otherwise terminated; the remainder of the trust corpus shall be conveyed forthwith to the Operator. After all remaining claims which are covered by this Trust Agreement pending on and after the said sixty-first day have been discharged, dismissed, dropped, or otherwise terminated, the Trustee shall convey forthwith the remainder of the trust corpus, if any, to the Operator.

Either the Operator or Trustee may at any time terminate this trust by written notice to: "Special Authorities Division (P–57), Office of Aviation Analysis, U.S. Department of Transportation, Washington, DC 20590," such termination to become effective thirty days after the actual receipt of said notice by the Department.

In the event of any controversy or claim arising hereunder, the Trustee shall not be required to determine same or take any other action with respect thereto, but may await the settlement of such controversy or claim by final appropriate legal proceedings, and in such event shall not be liable for interest or damages of any kind.

Any Successor to the Trustee by merger, consolidation, or otherwise, shall succeed to this trusteeship and shall have the powers and obligations set forth in this Agreement.

The trust created under this Agreement shall be operated and administered under the laws of the State of _____.

IN WITNESS WHEREOF, the Operator and Trustee have executed this instrument on the _____ day of _____, _____.

Trustee

Name _____

By: Signature and title

Charter Operator

Name _____

By: Signature and title

Issued in Washington, DC, on May 8, 1998.

Charles A. Hunnicutt,

Assistant Secretary For Aviation and International Affairs.

[FR Doc. 98–12980 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–62–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6015–3]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability.

SUMMARY: This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program.

EFFECTIVE DATE: May 22, 1998.

ADDRESSES: Information relevant to this document is contained in Air Docket A–91–42, U.S. Environmental Agency, Office of Air and Radiation Docket and Information Center, Room M–1500, 401 M Street, SW, Washington, DC 20460. Telephone: (202) 260–7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: William Monroe at (202) 564–9161 or fax (202) 565–2093, U.S. EPA, Stratospheric Protection Division, 401 M Street, S.W., Mail Code 6205J, Washington, D.C. 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296–1996; EPA World Wide Web Site (http://www.epa.gov/ozone/title6/snap).

SUPPLEMENTARY INFORMATION:

I. Section 612 Program
  A. Statutory Requirements
  B. Regulatory History
II. Listing of Acceptable Substitutes
  A. Aerosols
III. Additional Information
Appendix A—Summary of Acceptable Decisions

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

• *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

• Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding

list of acceptable alternatives for specific uses.

• *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.

• *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

• *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

• *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, by this notice EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that Notice-and-Comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a *substitute* as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published documents listing acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), July 28, 1995 (60 FR 38729), February 8, 1996 (61 FR 4736), September 5, 1996 (61 FR 47012), March 10, 1997 (62 FR 10700), June 3, 1997 (62 FR 30275), and February 24, 1998 (63 FR 9151), and published Final Rulemakings restricting the use of certain substitutes on June 13, 1995 (60 FR 31092), May 22, 1996 (61 FR 25585), and October 16, 1996 (61 FR 54029).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decision for substitutes for class I and class II substances in the aerosol sector. For copies of the full list of SNAP decisions in all industrial sectors, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

Part A below presents a detailed discussion of the substitute listing determination; by major use sector; the table summarizing today's listing decision is in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but for listings of acceptable substitutes, they are not legally binding under section 612 of the Clean Air Act. Thus, adherence to recommendations in the comments is not mandatory for use of a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Aerosols

1. Acceptable Substitute

Under section 612 of the Clean Air Act, EPA is authorized to review substitutes for class I (CFCs) and class II (HCFCs) chemicals. The following decision expands the acceptable listing for propellants in the aerosol sector.

(a) Aerosol Propellants

(1) HFC–227ea

HFC–227ea is an acceptable substitute for CFC–11, CFC–12, CFC–114, HCFC–22, and HCFC–142b as a propellant in the aerosol sector. HFC–227ea has a zero ozone depletion potential and an atmospheric lifetime of 36.5 years, yet this compound contributes to global warming with a 100-year global warming potential (GWP) of 2,900 relative to carbon dioxide. Despite this concern, the Agency has listed this substitute as acceptable in today's notice since it meets a specialized medical application in metered dose inhalers (MDIs), used by asthmatics and others with chronic obstructive pulmonary diseases, where only one other substitute meets the medical requirements.

III. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as all EPA publications on protection of stratospheric ozone, are available from EPA's Ozone World Wide Web site at "http://www.epa.gov/ozone/title6/snap" and from the stratospheric Protection Hotline whose number is listed above.

Dated: May 8, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A: SUMMARY OF ACCEPTABLE DECISIONS

[Aerosol Propellants]

ODS being replaced	Substitute	Decision	Comments
CFC–11, CFC–12, CFC–114, HCFC–22, HCFC–142b as aerosol propellant.	HFC–227ea	Acceptable	Despite the relatively high global warming potential of this compound, the Agency has listed this substitute as acceptable since it meets a specialized application in MDIs where other substitutes do not provide acceptable performance.

[FR Doc. 98–13125 Filed 5–21–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300658; FRL–5790–1]

RIN 2070–AB78

Hydroxyethylidine Diphosphonic Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of hydroxyethylidine diphosphonic acid (HEDP), when used as an inert ingredient (stabilizer/ chelator) in antimicrobial pesticide formulations applied in or on raw agricultural commodities. Ecolab, Inc. requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

DATES: This regulation is effective May 22, 1998. Objections and requests for hearings must be received by EPA on or before July 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300658], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300658], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300658]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–8377, e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1997 (62 FR 66091) (FRL–5760–5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP 7E4922) for a tolerance exemption by Ecolab Inc., 370 N. Wabasha Street, St. Paul, Minnesota 55102. This notice included a summary of the petition prepared by Ecolab Inc., the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of the inert ingredient hydroxyethylidine diphosphonic acid (HEDP), when used as an inert ingredient (stabilizer and chelator) in antimicrobial pesticide formulations used in or on raw agricultural commodities.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of the Food Quality Protection Act, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100 percent of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of HEDP and to make a determination on aggregate exposure, consistent with section 408(b)(2), for an exemption from the requirement of a tolerance for residues of HEDP when used as an inert ingredient in antimicrobial pesticide formulations applied to raw agricultural commodities. EPA's assessment of the dietary exposures and risks associated

with establishing the tolerance exemption follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by HEDP are discussed below.

1. *Acute toxicity.* A rat acute oral study with an LD_{50} of 2,400 mg/kg.

2. *Genotoxicity.* HEDP was reported to be non-mutagenic in a *Salmonella*/ Mammalian microsome test or in a L5178Y TK mouse lymphoma cell point mutation assay, with and without mammalian microsomal activation.

3. *Subchronic toxicity*— i. *Dogs.* In a subchronic feeding study in beagle dogs (4 dogs/sex/dose), HEDP was administered at doses of 0, 1,000, 3,000, or 10,000 ppm for 90 days. The NOEL was 3,000 ppm (75 milligrams/ kilogram/day (mg/kg/day)) and the Lowest Observed Effect Level (LOEL) was 10,000 ppm (250 mg/kg/day based on decreased weight gain in females, and decreased testicular weight accompanied by evidence of bilateral focal degeneration of the testicular germinal epithelium in males.

ii. *Rats.* In a subchronic feeding study in rats, Sprague-Dawley strain rats were fed HEDP at dietary concentrations of 0, 3,000, 10,000 and 30,000 ppm for 90 days. The NOEL was 10,000 ppm (approximately 500 mg/kg/day) and the LOEL was 30,000 ppm (approximately 1,500 mg/kg/day) based on decreased body weight, decreased food consumption, slight anemia, and decreased heart, liver, and kidney weights.

4. *Developmental toxicity study.* In a developmental toxicity study, rabbits were administered HEDP at doses of 0, 25, 50 and 100 mg/kg/day, either incorporated into feed or by intubation with water. The NOEL for both systemic and developmental effects was 50 mg/ kg/day and the LOEL was 100 mg/kg/ day gavage dose based on decreased maternal weight gain/ food consumption and decreased fetal body weights.

5. *Reproductive toxicity study.* In a combined two-generation reproduction/ developmental toxicity study, rats (22 rats/sex/dose) were administered HEDP at doses of 0, 0.1, and 0.5 percent in the diet. The NOEL for developmental and reproductive findings was 50 mg/kg/day (0.1 percent in the diet) and the LOEL was 250 mg/kg/day (0.5 percent in the diet) based on reduced litter size in the first litter (F1a) and an increase in stillborn pups in the second liter (F1b). These effects occurred in the absence of maternal toxicity and were seen in both reproductive litters of the first generation.

B. Toxicological Endpoints

1. *Acute toxicity.* An acute dietary risk assessment is not required because no significant treatment-related effects attributable to a single exposure (dose) were seen in the oral studies conducted with HEDP.

2. *Short - and intermediate - term toxicity.* A short- and intermediate-term risk assessment is not required for HEDP since significant short- and intermediate- term exposures are not expected as a result of the proposed use pattern.

3. *Chronic toxicity.* EPA has established the RfD for HEDP at 0.05 mg/kg/day. This RfD is based on a reproductive/developmental toxicity study in rats with a NOEL of 50 mg/kg/ day. An uncertainty factor of 1,000 was used in the calculation of the RfD to account for intraspecies variability (tenfold uncertainty factor), interspecies extrapolation (tenfold uncertainty factor), lack of chronic toxicity/ carcinogenicity data (threefold uncertainty factor), and the additional sensitivity of infants and children (threefold uncertainty factor). The product of these four individual uncertainty factors results in an overall uncertainty factor of 1,000.

4. *Carcinogenicity.* A survey of the open literature has not revealed any studies as to the carcinogenicity of HEDP. Since HEDP has been determined to be nonmutagenic in genotoxicity testing and no preneoplastic lesions have been noted in any of the available animal or human test data, it is expected that the use of an additional threefold uncertainty factor in the chronic risk assessment of HEDP to account for the lack of carcinogenicity data should be protective of any possible cancer risk.

C. Exposures and Risks

1. *From food and feed uses.* Risk assessments were conducted by EPA to assess dietary exposures and risks from HEDP as follows:

i. *Acute exposure and risk.* Since there are no acute toxicological concerns for HEDP, an acute dietary risk assessment was not required.

ii. *Chronic exposure and risk.* For the purpose of assessing chronic dietary exposure from HEDP, EPA considered the proposed use of HEDP as a component of an antimicrobial pesticide formulation at a concentration not to exceed 1 percent of the formulation and a maximum use rate of the antimicrobial formulation used in fruit and vegetable wash water of 1 ounce/16.4 gallons of water. There are no established U.S. tolerances for HEDP, and there are no other registered uses for HEDP on food or feed crops in the United States. In conducting this exposure assessment, EPA assumed that residues of 1 part per billion (ppb) of HEDP would be present in all raw agricultural commodities, resulting in a large overestimate of dietary exposure and protective of any chronic dietary exposure scenario. (Limted data provided by the petitioner and prior estimations of dietary intake made by the U.S Food and Drug Administration (FDA) for the use of HEDP in antimicrobial applications to processed foods indicate that residues of HEDP in the treated commodities would be unlikely to exceed 1 ppb.) Based on the assumption that residues would be present at 1 ppb in all items consumed in the diet, it is estimated that the resultant dietary exposure would be 0.00004 mg/kg/day for adults (U.S. population) and 0.0001 mg/kg/day for children.

2. *From drinking water*— i. *Acute exposure and risk.* Since there are no acute toxicological concerns for HEDP, an acute drinking water risk assessment was not required.

ii. *Chronic exposure and risk.* For the purposes of assessing chronic exposure in drinking water, EPA has considered the current use of HEDP as an antiscalant in municipal drinking water treatment systems at a maximum concentration of 25 ppb in consumed water. Based on a typical average daily consumption of 2 liters of water/ day by adults and 1 liter water/day by children. The exposure to HEDP from drinking water exposure would not be expected to exceed 0.0007 mg/kg/day for adults and 0.0025 mg/kg/day for children.

3. *From non-dietary exposure.* Since there are no acute toxicological concerns for HEDP, an acute nondietary risk assessment was not required.

Chronic exposure and risk. While non-dietary exposure to HEDP as a result of its use in antimicrobial pesticide formulations applied to raw agricultural commodites is unlikely other uses of HEPD for which non-dietary exposure may result include its use in various personal care and over-the-counter pharmaceutical products. It is expected that the exposures associated with these uses would not exceed 0.0049 mg/kg/day for adults and 0.0204 mg/kg/day for children.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether HEDP has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, HEDP does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that HEDP has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

Using the extremely conservative exposure assumptions described above, EPA has concluded that aggregate exposure to HEDP from all pesticide and nonpesticide uses will not exceed 0.006 mg/kg/day for adults (12 percent of the RfD) and 0.023 mg/kg/day for children (46 percent of the RfD. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA does not expect the aggregate exposure to exceed 100 percent of the RfD. EPA therefore concludes that there is a reasonable certainty that no harm will result from aggregate exposure to HEDP residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

Safety factor for infants and children. In assessing the potential for additional sensitivity of infants and children to residues of HEDP, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the NOEL in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/MOE (safety) is designed to account for inter-species extraoplation and inter-species variability. EPA believes that reliable data support using the hundredfold margin/factor, rather than the thousandfold margin/factor, when EPA has a complete data base under existing guidleines, and when the severity of the effect in infants or children, the potency or unusual toxic properties of a compound, or the quality of the exposure data do not raise concerns regarding the adequacy of the standard margin/factor.

The following factors support retention of a tenfold uncertainly factor: (i) The reproductive effects were observed at dose levels in which there was no apparent maternal toxicity, (ii) the study was not conducted in accordance with OPP's Subdivision F (Hazard Evaluation: Humans and Domestic Animals) Pesticide Assessment Guidelines, and (iii) a prenatal developmental toxicity study of HEDP in rats conducted via the gavage route of administration was not available (the dietary developmental toxicity study in rats which was conducted as part of the reproductive study did not completely meet Subdivision F Pesticide Assessment Guideline requirements. However, the noted reproductive effects (decreased average number of live fetuses and increases in stillborn pups) were seen as separate, single litter events of the first generation but not of the second generation which would render less significance to a finding of a treatment-related effect. Taking into account that in this case there are study deficiencies not absent studies, the evidence of a reproductive effects in the absence of maternal toxicity is equivocal, and developmental effects were observed in rabbits at dose levels in which maternal toxicity was not observed, EPA has concluded that the tenfold uncertainty factor for infants and children should be reduced to a threefold uncertainty factor.

III. Other Considerations

A. Analytical Enforcement Methodology

The Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for HEDP.

B. International Residue Limits

No Codex maximum residue levels have been established for HEDP.

IV. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of HEDP when used as an inert ingredient (stabilizer/ chelator) in antimicrobial pesticide formulations applied to raw agricultural commodites at a level not to exceed 1 percent of the antimicrobial pesticide formulation.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by July 21, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Docket and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300658] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

This final rule establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 8, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001, in paragraph (c), the table is amended by alphabetically adding the inert ingredient "hydroxyethylidine diphosphonic acid (HEDP)" to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
Hydroxyethylidine diphosphonic acid (HEDP) (CAS Reg. No. 2809–21–4).	For use in antimicrobial pesticide formulations at not more than 1 percent.	Stabilizer, chelator
* * *	* * *	*

* * * * *

[FR Doc. 98–13603 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300659; FRL–5790–3]

RIN 2070–AB78

Bacillus Thuringiensis Subspecies tolworthi Cry9C Protein and the Genetic Material Necessary for its Production in Corn; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends an exemption from the requirement of a tolerance for resid ues of the insecticide, *Bacillus thuringiensis* subspecies *tolworthi* Cry9C protein and the genetic material necessary for its production in corn for feed use only; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed. Plant Genetic Systems (America), Inc. submitted a petition to the EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996 requesting the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of this plant-pesticide in or on corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed.

EFFECTIVE DATE: This regulation is effective May 22, 1998. Objections and requests for hearings must be received by EPA on or before July 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300659], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300659], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300659]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location, telephone number, and e-mail: Room CS15–W29, 2800 Jefferson Davis Highway, Arlington, VA, 703–308–8715, e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Plant Genetic Systems (America), Inc., 7200 Hickman Road, Suite 202, Des Moines, IA 50322 has requested in pesticide petition (PP 7F4826) the establishment of an exemption from the requirement of a tolerance for residues of the insecticide *Bacillus thuringiensis* subspecies *tolworthi* Cry9C protein and the genetic material necessary for its production in corn in or on all raw agricultural commodities. A notice of filing (FRL–5739–9) was published in the **Federal Register** (62 FR 49224, September 19, 1997), and the notice announced that the comment period would end on October 20, 1997; no comments were received. Plant Genetic Systems (America), Inc. submitted an amendment to their petition on April 24, 1998 to request the establishment of an exemption from the requirement of a tolerance for residues of the insecticide *Bacillus thuringiensis* subspecies *tolworthi* Cry9C protein and the genetic material necessary for its production in corn only in corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed. This exemption from the requirement of a tolerance will permit the marketing of feed corn containing the plant-pesticide; as well as meat, poultry, milk, or eggs resulting from animals fed such feed. The data submitted in the petition and all other relevant material have been evaluated. Following is a summary of EPA's findings regarding this petition as required by section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as recently amended by the Food Quality Protection Act (FQPA), Pub. L. 104–170.

I. Risk Assessment and Statutory Findings

A. Product Identity/Chemistry

The Cry9C gene was originally isolated from a *Bacillus thuringiensis* subsp. *tolworthi* strain. The gene was then synthesized with plant preferred codons before it was stably inserted into corn plants to produce a truncated and modified Cry9C protein. The tryptic core of the microbially produced Cry9C delta-endotoxin is similar to the Cry9C protein found in event CBH351 save for a single amino acid substitution in the internal sequence and the addition of two amino acids to the *N*-terminus. The Cry9C protein was produced and purified from a bacterial host to utilize in the mammalian toxicity studies due to the bacterium's greater production potential. Product analysis that compared the Cry9C protein from the two sources included: SDS-PAGE, Western blots, *N*-terminal amino acid sequencing, glycosylation tests (for possible post- translational modifications) and insect bioassays. No analytical method was included since this petition requests an exemption from the requirement of a tolerance.

B. Mammalian Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Additionally, section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." A high-dose acute oral toxicity study (3,760 mg/kg body weight) showed no mortalities. Transient weight losses were seen in three female treated animals, with one not recovering her pre-dosing, pre-fast weight at 14 days after dose administration. The treated males showed no weight losses. Transient weight loss has been observed in similar studies conducted on other purified Cry proteins as well as microbial pesticides containing Cry proteins and is not considered a significant adverse effect. The *in vitro* digestibility study showed the Cry9C protein to be stable to pepsin digestion at pH 2.0 for 4 hours. The Cry9C protein is also heat stable, not being affected by incubation at 90 ° C for 10 minutes. The Cry9C protein in corn is the trypsin resistant core and is therefore stable to tryptic digest. A search for amino acid homology did not reveal any significant homology with known toxins or allergens. The genetic material necessary for the production of the plant-pesticide active ingredient is the nucleic acids (DNA) which comprise genetic material encoding the Cry9C protein and its regulatory regions. Regulatory regions are the genetic material that control the expression of the genetic material encoding the proteins, such as promoters, terminators, and enhancers. DNA is common to all forms of plant and animal life and the Agency knows of no instance where these nucleic acids have been associated with toxic effects related to their consumption as a component of food. These ubiquitous nucleic acids as they appear in the subject plant-pesticide have been adequately characterized by the applicant and supports EPA's conclusion that no mammalian toxicity is anticipated from dietary exposure to the genetic material necessary for the production of the Cry9C protein.

C. Aggregate Exposure

The available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the Cry9C protein residue include dietary exposure and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the Cry9C plant-pesticide is contained within plant cells essentially eliminating these exposure routes or reducing these exposure routes to negligible. Drinking water is unlikely to be significantly contaminated with Cry9C protein due to the low expression of the protein in corn tissue, degradation of plant materials in the soil and low leaching potential of a protein from a soil matrix. Minimal to non-existent oral exposure could occur from ingestion of meat, poultry, eggs or milk from animals fed corn containing the plant-pesticide and from drinking water. While unlikely, meat, eggs or milk from animals fed corn containing the plant-pesticide could contain negligible but finite residues. This is viewed as a remote possibility due to the low Cry9C expression level in corn tissue (3 to 250 µg/gm dry weight), the anticipated degradation and elimination of the Cry9C protein by the animal or the lack of uptake of such a large protein by the animal's intestinal tract. It is not possible to establish with certainty whether finite residues will be incurred, but there is no reasonable expectation of finite residues. However, the best available information on the uptake of intact proteins from the diet would indicate that the intact Cry9C protein would not be available in products from animals fed corn products containing Cry9C protein.

D. Cumulative Effects

The Agency has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations included the cumulative effects on adults as well as on infants and children of such residues and other substances with a common mechanism of toxicity. Since there is no indication of mammalian toxicity to the Cry9C protein from the studies submitted, there is no reason to believe there would be cumulative toxic effects.

E. Safety Determination

The tolerance exemption is limited to residues of the Cry9C protein resulting from feed use only. The basis of safety for this tolerance exemption includes both the results of the acute oral study at high doses indicating no toxicity and the anticipated minimal to nonexistent human dietary exposure of the Cry9C protein via animal feed use. Bt microbial pesticides, containing Cry proteins other than Cry9C, have been applied for more than 30 years to food and feed crops consumed by the U.S. population. There have been no human safety problems attributed to the specific Cry proteins. An oral dose of the tryptic core Cry9C protein of at least 3,760 mg/kg was administered to 10 animals without mortality demonstrating a high degree of safety for the protein. Transient weight loss in three female rodents was observed, but not in any males. Transient weight loss has been observed in similar studies conducted on other purified Cry proteins as well as microbial pesticides and this is not considered a significant adverse effect.

A comparison of the amino acid sequence of the Cry9C protein with those found in the PIR, Swiss-Prot and HIV AA data bases did not reveal any significant homology with known toxins or allergens. The *in vitro* digestibility study showed the Cry9C protein to be stable to pepsin at pH 2.0. The Cry9C protein was shown to be stable to heat at 90 ° C for 10 minutes and the Cry9C protein in corn is the trypsin resistant core and is therefore stable to tryptic digest. The best available information to date would indicate that edible products derived from animals such as meat, milk

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and eggs, intended for human consumption, have not been shown to be altered in their allergenicity due to changes in the feed stock utilized. This information would include no transfer of allergenic factors from cattle fed soybeans to the derived meat or milk eaten by individuals with food sensitivity to soybeans.

F. Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. In this instance, based on all the available information, the Agency concludes that infants and children will consume only minimal, if any, residues of this plant-pesticide and that there is a finding of no toxicity. Thus, there are no threshold effects of concern and, as a result the provision requiring an additional margin of safety does not apply. Further, the provisions of consumption patterns, special susceptibility, and cumulative effects do not apply.

G. Other Considerations

1. *Analytical method.* The Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation; therefore, the agency has concluded that an analytical method is not required for enforcement purposes for this plant-pesticide.

2. *Effects on the endocrine systems.* EPA does not have any information regarding endocrine effects for these kinds of pesticides at this time. The Agency is not requiring information on the endocrine effects of these plant-pesticides at this time; and Congress allowed 3 years after August 3, 1996, for the Agency to implement a screening and testing program with respect to endocrine effects.

H. Existing Tolerances

A temporary exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* subsp. *tolworthi* Cry9C and the genetic material necessary for the production of this protein in corn, only in corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed was established on April 10, 1998 under 40 CFR 180.1192 [63 FR 69]. The exemption from the requirement of a tolerance in this rule makes permanent the temporary tolerance exemption of 40 CFR 180.1192.

II. Conclusion

Based on the toxicology data cited and the limited exposure expected with animal feed use, there is reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *Bacillus thuringiensis* subspecies *tolworthi* Cry9C protein and the genetic material necessary for its production in corn. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, the temporary tolerance exemption is limited to feed use only. The conclusion of safety is supported by the lack of toxicity after administration of a high oral dose (3,760 mg/kg), the lack of homology to known toxins or allergens, and the minimal to nonexistent exposure via dietary and non-dietary routes. This exemption from the requirement of a tolerance will be revoked if any experience with or scientific data on this pesticide indicate that the tolerance is not safe.

III. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance exemption regulation issued by EPA under new section 408(e) as was provided in the old section 408. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person adversely affected by this regulation may by June 22, 1998, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

IV. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300659] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services, Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. The official record for

this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

V. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 11, 1998.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. Section 180.1192 is revised to read as follows:

§ 180.1192 Bacillus thuringiensis subspecies tolworthi Cry9C protein and the genetic material necessary for its production in corn; exemption from the requirement of a tolerance.

The plant-pesticide *Bacillus thuringiensis* subspecies *tolworthi* Cry9C protein and the genetic material necessary for its production in corn is exempted from the requirement of a tolerance for residues, only in corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed.

[FR Doc. 98–13604 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7244]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act.

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act.

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification.

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism.

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Yavapai	Town of Cottonwood.	April 22, 1998, April 29, 1998, The Verde Independent.	The Honorable Ruben Jauregui, Mayor, Town of Cottonwood, 827 North Main Street, Cottonwood, Arizona 86326.	March 12, 1998 ...	040096
Navajo	City of Holbrook ..	April 15, 1998, April 22, 1998, Holbrook Tribune-News.	The Honorable Claudia Maestas, Mayor, City of Holbrook, P.O. Box 70, Holbrook, Arizona 86025.	March 20, 1998 ...	040067
Navajo	Unincorporated Areas.	April 15, 1998, April 22, 1998, Holbrook Tribune-News.	The Honorable Lewis Tenney, Chairperson, Navajo County Board of Supervisors, P.O. Box 668, Holbrook, Arizona 86025.	March 20, 1998 ...	040066
Maricopa	City of Phoenix	February 20, 1998, February 27, 1998, The Arizona Republic.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003–1611.	February 3, 1998	040051
California:					
San Bernardino	City of Colton	February 19, 1998, February 26, 1998, The Colton Courier.	The Honorable Karl E. Gayton, Mayor, City of Colton, 650 North La Cadena Drive, Colton, California 92324.	January 21, 1998	060273
Orange	City of Fullerton ...	April 16, 1998, April 23, 1998, Fullerton News-Tribune.	The Honorable Don Bankhead, Mayor, City of Fullerton, 303 West Commonwealth Avenue, Fullerton, California 92832.	March 13, 1998 ...	060219
Sacramento	Unincorporated Areas.	February 20, 1998, February 27, 1998, Sacramento Bee.	The Honorable Illa Collin, Chairperson, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.	January 28, 1998	060262
San Bernardino	City of San Bernardino.	February 19, 1998, February 26, 1998, The Sun.	The Honorable Tom Minor, Mayor, City of San Bernardino, 300 North D Street, San Bernardino, California 92418.	January 21, 1998	060281
Colorado:					
Arapahoe	Unincorported Areas.	March 12, 1998, March 19, 1998, Littleton Independent.	The Honorable Polly Page, Chairperson, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, Colorado 80166.	February 18, 1998	080011

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arapahoe	Town of Columbine Valley.	March 12, 1998, March 19, 1998, Littleton Independent.	The Honorable Michael J. Tanner, Mayor, Town of Columbine Valley, 5931 South Middlefield Road, Suite 101, Columbine Valley, Colorado 80123.	February 18, 1998	080014
Arapahoe	Town of Columbine Valley.	March 19, 1998, March 26, 1998, Littleton Independent.	The Honorable Michael J. Tanner, Mayor, Town of Columbine Valley, 5931 South Middlefield Road, Suite 101, Columbine Valley, Colorado 80123.	March 6, 1998	080014
Douglas	Unincorporated Areas.	February 18, 1998, February 25, 1998, Douglas County News Press.	The Honorable M. Michael Cooke, Chairman, Douglas County Board of Commissioners, 101 Third Street, Castle Rock, Colorado 80104.	February 6, 1998	080049
Jefferson	City of Golden	April 17, 1998 April 24, 1998 *Golden Transcript.*	The Honorable Jan Schenck, Mayor, City of Golden, 911 Tenth Street, Golden, Colorado 80401.	March 24, 1998 ...	080090
Jefferson	Unincorporated Areas.	April 15, 1998 April 22, 1998 *Columbine Community Courier.*	The Honorable Michelle Lawrence, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, Colorado 80419.	March 20, 1998 ...	080087
Jefferson	Unincorporated Areas.	April 17, 1998 April 24, 1998 *Golden Transcript.*	The Honorable Michelle Lawrence, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, Colorado 80419.	March 24, 1998 ...	080087
Arapachoe	City of Littleton	March 12, 1998 March 19, 1998 *Littleton Independent.*	The Honorable Pat Cronenberger, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, Colorado 80165.	February 18, 1998	080017
Arapahoe	City of Littleton	March 19, 1998 March 26, 1998 *Littleton Independent.*	The Honorable Pat Cronenberger, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, Colorado 80165.	March 6, 1998	080017
Iowa:					
Polk	City of Grimes	March 5, 1998 March 12, 1998 *Northeast Dallas County Record.*	The Honorable Brad Long, Mayor, City of Grimes, P.O. Box 460, Grimes, Iowa 50111.	February 6, 1998	190228
Kansas:					
Sedgwick	City of Wichita	March 13, 1998 March 20, 1998 *Wichita Eagle.*	The Honorable Bob Knight, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	February 19, 1998	200328
Sedgwick	City of Wichita	April 23, 1998 April 30, 1998 *Wichita Eagle.*	The Honorable Bob Knight, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	March 18, 1998 ...	200328
Nebraska:					
Lancaster	City of Lincoln	March 12, 1998 March 19, 1998 *Lincoln Journal Star.*	The Honorable Mike Johanns, Mayor, City of Lincoln, 555 South 10th Street, Lincoln, Nebraska 68508.	February 17, 1998	315273
New Mexico:					
Bernalillo	City of Albuquerque.	February 6, 1998 February 13, 1998 *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	January 26, 1998	350002
Bernalillo	City of Albuquerque.	April 29, 1998 May 6, 1998 *Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	March 25, 1998 ...	350002
Eddy	City of Artesia	February 3, 1998 February 10, 1998 *Artesia Daily Press.*	The Honorable Ernest Thompson, Mayor, City of Artesia, P.O. Box 1310, Artesia, New Mexico 88211–1310.	January 12, 1998	350016
Bernalillo	Unincorporated Areas.	February 6, 1998 February 13, 1998 *The Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County, Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	January 26, 1998	350001

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State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Bernalillo	Unincorporated Areas.	March 18, 1998 March 25, 1998 *The Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County, Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	February 27, 1998	350001
Eddy	City of Carlsbad	March 13, 1998 March 20, 1998 *Current Argus.*	The Honorable Gary L. Perkowski, Mayor, City of Carlsbad, P.O. Box 1569, Carlsbad, New Mexico 88221–1569.	February 20, 1998	350017
Eddy	Unincorporated Areas.	March 13, 1998 March 20, 1998 *Current Argus.*	The Honorable Stephen Massey, County Manager, Eddy County, P.O. Box 1139, Carlsbad, New Mexico 88221–1139.	February 20, 1998	350120
Oklahoma:					
Garfield	City of Enid	April 16, 1998 April 23, 1998 *Enid News and Eagle.*	The Honorable Mike Cooper, Mayor, City of Enid, P.O. Box 1768, Enid, Oklahoma 73702.	March 13, 1998	400062
Cleveland	City of Norman	March 3, 1998 March 10, 1998 *Norman Transcript.*	The Honorable Bill Nations, Mayor, City of Norman, P.O. Box 370, Norman, Oklahoma 73070–0370.	February 13, 1998	400046
Garfield	Town of North Enid.	April 16, 1998 April 23, 1998 *Enid News and Eagle.*	The Honorable Chris Scott, Mayor, Town of North Enid, 220 Redwood, North Enid, Oklahoma 73701.	March 13, 1998	400425
Tulsa	City of Tulsa	April 16, 1998 April 23, 1998 *Tulsa World.*	The Honorable M. Susan Savage, Mayor, City of Tulsa, 200 Civic Center, Tulsa, Oklahoma 74103.	March 16, 1998	405381
Oregon:					
Jackson	Unincorporated Areas.	March 12, 1998 March 19, 1998 *Medford Mail-Tribune.*	The Honorable Sue Kupillas, Chairperson, Jackson County, Board of Commissioners, 10 South Oakdale, Room 200, Medford, Oregon 97501.	June 17, 1998	415589
Jackson	City of Medford	March 12, 1998 March 19, 1998 *Medford Mail-Tribune.*	The Honorable Jerry Lausmann, Mayor, City of Medford, 411 West Eighth Street, Medford, Oregon 97501.	June 17, 1998	410096
Clackamas	City of West Linn	April 16, 1998 April 23, 1998 *West Linn Tidings.*	The Honorable Jill Thorn, Mayor, City of West Linn, P.O. Box 48, West Linn, Oregon 97068–0048.	March 24, 1998	410024
Texas:					
Collin	City of Allen	February 4, 1998 February 11, 1998 *Plano Star Courier.*	The Honorable Kevin Lilly, Mayor, City of Allen, One Butler Circle, Allen, Texas 75013.	January 9, 1998	480131
Potter and Randall.	City of Amarillo	February 19, 1998, February 26, 1998, *Amarillo Daily News.*	The Honorable Kel Seliger, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, Texas 79150.	January 30, 1998	480529
Williamson	City of Cedar Park	March 18, 1998, March 25, 1998, *Hill Country News.*	The Honorable Dorothy Duckett, Mayor, City of Cedar Park, City Hall, 600 North Bell Boulevard, Cedar Park, Texas 78613.	March 5, 1998	481282
Bexar, Comal, and Guadalupe.	City of Cibolo	March 12, 1998, March 19, 1998, *The Herald.*	The Honorable Sam Bauder, Mayor, City of Cibolo, P.O. Box 88, Cibolo, Texas 78108.	February 11, 1998	480267
Collin, Dallas, Denton, Kaufman, and Rockwall.	City of Dallas	February 3, 1998, February 10, , 1998, *Dallas Morning News.*	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, Texas 75201.	January 20, 1998	480171
Dallas	City of Dallas	April 1, 1998, April 8, 1998, *Dallas Morning News.*	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, Texas 75201.	July 7, 1998	480171
El Paso	City of El Paso	February 3, 1998, February 10, 1998, *El Paso Times.*	The Honorable Carlos M. Ramirez, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	January 16, 1998	480214
El Paso	City of El Paso	April 23, 1998, April 30, 1998, *El Paso Times.*	The Honorable Carlos M. Ramirez, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	March 23, 1998	480214

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Dallas	City of Farmers Branch.	April 3, 1998, April 10, 1998, *Metro Crest News*.	The Honorable Bob Phelps, Mayor, City of Farmers Branch, P.O. Box 819010, Farmers Branch, Texas 75381–9010.	July 9, 1998	480174
Tarrant	City of Fort Worth	February 5, 1998, February 12, 1998, *Fort Worth Star-Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, City Hall, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	January 20, 1998	480596
Tarrant	City of Fort Worth	April 17, 1998, April 24, 1998, *Fort Worth Star-Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, City Hall, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	March 12, 1998	480596
Dallas	City of Grand Prairie.	March 19, 1998, March 26, 1998, *Grand Prairie News*.	The Honorable Charles England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	February 25, 1998	485472
Harris	Unincorporated Areas.	February 18, 1998, February 25, 1998, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	May 4, 1998	480287
Tarrant	City of Hurst	April 21, 1998 April 28, 1998 *Dallas Morning News*	The Honorable Bill Souder, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, Texas 76054.	March 24, 1998	48061
Collin	City of Plano	February 4, 1998 February 11, 1998 *Plano Star Courier*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	January 9, 1998	480140
Collin	City of Plano	April 22, 1998 April 29, 1998 *Plano Star Courier*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	March 19, 1998	480140
Collin	City of Plano	April 22, 1998 April 29, 1998 *Plano Star Courier*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	March 19, 1998	480140
Bexar, Comal, and Guadalupe.	City of Schertz	March 12, 1998 March 19, 1998 *The Herald*	The Honorable Hal Baldwin, Mayor, City of Schertz, P.O. Drawer I, Schertz, Texas 78154.	February 11, 1998	480269
Washington:					
Columbia	Unincorporated Areas.	March 4, 1998 March 11, 1998 *Dayton Chronicle*	The Honorable Charles G. Reeves, Chairman, Columbia County, Board of Commissioners, 341 East Main, Dayton, Washington 99328.	June 9, 1998	530029
Pierce	City of Orting	March 17, 1998 March 24, 1998 *Pierce County Herald*	The Honorable Guy S. Colorossi, Mayor, City of Orting, P.O. Box 489, Orting, Washington 98360–0489.	February 26, 1998	530143

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13735 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7257]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield.	City of Stamford ...	March 18, 1998, March 25, 1998, *The Advocate.*	The Honorable Dannel P. Malloy, Mayor of the City of Stamford, 888 Washington Boulevard, P.O. Box 10152, Stamford, Connecticut 06904–2152.	June 23, 1998	090015 C
Florida: Charlotte ...	Unincorporated areas.	April 13, 1998, April 20, 1998, *Sarasota Herald-Charlotte AM Edition.*	Mr. Matthew D. DeBoer, Chairman of the Charlotte County Board of Commissioners, 18500 Murdock Road, Room 536, Port Charlotte, Florida 33948–1094.	April 7, 1998	120061 E
Illinois: Lake	Village of Beach Park.	March 27, 1998, April 3, 1998, *The News-Sun.*	The Honorable Milton Jensen, Mayor of the Village of Beach Park, 11270 West Wadsworth Road, Beach Park, Illinois 60099.	March 19, 1998	171022 F
Indiana: Marion	City of Indianapolis.	March 17, 1998, March 24, 1998, *The Indianapolis Star.*	The Honorable Stephen Goldsmith, Mayor of the City of Indianapolis, 200 East Washington Street, City-County Building, Suite 2501, Indianapolis, Indiana 46204–3357.	March 2, 1998	180159 D
New Jersey: Ocean	Township of Dover	April 8, 1998, April 15, 1998, *Ocean County Observer.*	The Honorable George Wittmann, Mayor of the Township of Dover, P.O. Box 728, Toms River, New Jersey 08754.	July 14, 1998	345293 D
North Carolina: Dare.	Unincorporated areas.	March 3, 1998, March 10, 1998, *The Coastland Times.*	Ms. Geneva H. Perry, Chairwoman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	February 24, 1998	375348 E
Ohio:					
Warren	City of Springboro	April 14, 1998, April 21, 1998, *The Star Press.*	The Honorable Ray Wellbrock, Mayor of the City of Springboro, 320 West Central Avenue, Springboro, Ohio 45066.	October 6, 1998 ...	390564 B
Warren	Unincorporated areas.	April 14, 1998, April 21, 1998, *The Star Press.*	Mr. C. Michael Kilburn, President, Warren County Board of Commissioners, 320 East Silver Street, Lebanon, Ohio 45036.	October 6, 1998 ...	390757 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tennessee: Metropolitan Government.	City of Nashville and Davidson County.	April 6, 1998, April 13, 1998, *The Tennessean.*	The Honorable Philip Bredesen, Mayor of the Metropolitan Government of Nashville and Davidson County, 107 Metropolitan Courthouse, Nashville, Tennessee 37201.	March 31, 1998	470040 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13734 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Illinois:					
DuPage and Cook (FEMA Docket No. 7233).	Village of Bensenville.	September 3, 1997, September 10, 1997, Press Publications.	Mr. John C. Geils, President of the Village of Bensenville, 700 West Irving Park Road, Bensenville, Illinois 60106.	August 27, 1997 ..	170200 C
Cook (FEMA Docket No. 7243).	Village of Schaumburg.	September 30, 1997, October 7, 1997, Daily Herald.	The Honorable Al Larson, Mayor of the Village of Schaumburg, 101 Schaumburg Court, Schaumburg, Illinois 60193–1899.	January 5, 1998 ...	170158 D

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13731 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act.

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act.

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification.

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism.

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No. 7232).	Town of Cave Creek.	November 5, 1997, November 12, 1997, *Foothills Sentinel.*	The Honorable Thomas Augherton, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, Arizona 85331.	October 20, 1997	040136
Arizona: Maricopa (FEMA Docket No. 7232).	City of El Mirage	November 5, 1997, November 12, 1997, *Daily News-Sun.*	The Honorable Maggie Reese, Mayor, City of El Mirage, P.O. Box 26, El Mirage, Arizona 85335.	October 20, 1997	040041
Arizona: Maricopa (FEMA Docket No. 7232).	Unincorporated Areas.	November 5, 1997, November 12, 1997, *Daily News-Sun.*	The Honorable Don Stapley, Chairperson, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, Arizona 85003.	October 20, 1997	040037
Arizona: Maricopa (FEMA Docket No. 7236).	Unincorporated Areas.	November 19, 1997, November 26, 1997, *Tempe Tribune.*	The Honorable Don Stapley, Chairpeson, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, Arizona 85003.	October 20, 1997	040037
Arizona: Maricopa (FEMA Docket No. 7232).	City of Surprise ...	November 5, 1997, November 12, 1997, *Daily News-Sun.*	The Honorable Joan Schafer, Mayor, City of Surprise, 12425 West Bell Road, Suite D–100, Surprise, Arizona 85374.	October 20, 1997	040053
Arizona: Maricopa (FEMA Docket No. 7236).	City of Tempe	November 19, 1997, November 26, 1997, *Tempe Tribune.*	The Honorable Neil Giuliano, Mayor, City of Tempe, P.O. Box 5002, Tempe, Arizona 85280.	October 20, 1997	040054
Arizona: Pima (FEMA Docket No. 7232).	City of Tucson	October 21, 1997, October 28, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	October 1, 1997 ..	040076
Arizona: Maricopa (FEMA Docket No. 7232).	Town of Wickenburg.	October 21, 1997, October 28, 1997, *The Arizona Republic.*	The Honorable Dallas Gant, Mayor, Town of Wickenburg, 155 North Tegner Street, Suite A, Wickenburg, Arizona 85390.	October 1, 1997 ..	040056
California: San Diego (FEMA Docket No. 7236).	City of Encinitas ..	December 4, 1997, December 11, 1997, *Encinitas Sun.*	The Honorable John Davis, Mayor, City of Encinitas, 505 South Vulcan Avenue, Encinitas, California 92024.	November 10, 1997.	060726
California: Kern (FEMA Docket No. 7236).	Unincorporated Areas.	November 20, 1997, November 27, 1997, *Mojave Desert News.*	The Honorable Steve Perez, Chairman, Kern County Board of Supervisors, 1115 Truxton Avenue, Fifth Floor, Bakersfield, California 93301.	October 31, 1997	060075
California: Alameda (FEMA Docket No. 7232).	City of Livermore	September 10, 1997, September 17, 1997, *The Independent.*	The Honorable Cathie Brown, Mayor, City of Livermore, 1052 South Livermore Avenue, Livermore, California 94550.	August 14, 1997 ..	060008
Riverside (FEMA Docket No. 7232).	City of Murrieta	October 9, 1997, October 16, 1997, *The Californian.*	The Honorable Gary Smith, Mayor, City of Murrieta, 26442 Beckman Court, Murrieta, California 92562.	September 11, 1997.	060751
Sonoma (FEMA Docket No. 7236).	City of Petaluma ..	December 2, 1997, December 9, 1997, *Argus Courier.*	The Honorable Patricia Hilligoss, Mayor, City of Petaluma, P.O. Box 61, Petaluma, California 94953–0061.	November 6, 1997	060379
San Diego (FEMA Docket No. 7232).	City of Poway	October 16, 1997, October 23, 1997, *Poway News Chieftain.*	The Honorable Don Higginson, Mayor, City of Poway, 13325 Civic Center Drive, Poway, California 92064.	January 22,1997	060702

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State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Placer (FEMA Docket No. 7236).	City of Roseville ..	November 12, 1997, November 19, 1997, *The Press-Tribune.*	The Honorable Claudia Gamar, Mayor, City of Roseville, 311 Vernon Street, Suite 200, Roseville, California 95678.	October 20, 1997	060243
San Mateo (FEMA Docket No. 7236).	City of San Carlos	December 16, 1997, December 23, 1997, *San Mateo Times.*	The Honorable Sally Mitchell, Mayor, City of San Carlos, 600 Elm Street, San Carlos, California 94070.	November 12, 1997.	060327
San Diego (FEMA Docket No. 7236).	Unincorporated Areas.	November 13, 1997, November 20, 1997, *San Diego Union-Tribune.*	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, California 92101.	February 18, 1998	060284
San Diego (FEMA Docket No. 7236).	Unincorporated Areas.	November 21, 1997, November 28, 1997, *San Diego Union-Tribune.*	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, California 92101.	February 26, 1997	060284
San Diego (FEMA Docket No. 7236).	Unincorporated Areas.	December 4, 1997, December 11, 1997, *San Diego Union Tribune.*	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	November 10, 1997.	060284
Santa Barbara (FEMA Docket No. 7232).	Unincorporated Areas.	October 17, 1997, October 24, 1997, *Santa Barbara News-Press.*	The Honorable Naomi Schwartz, Chairperson, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	September 15, 1997.	060331
San Diego (FEMA Docket No. 7236).	City of Vista	November 14, 1997, November 21, 1997, *Vista Press.*	The Honorable Gloria McClellan, Mayor, City of Vista, P.O. Box 1988, Vista, California 92085.	February 18, 1998	060297
San Diego (FEMA Docket No. 7236).	City of Vista	November 21, 1997, November 28, 1997, *Vista Press.*	The Honorable Gloria McClellan, Mayor, City of Vista, P.O. Box 1988, Vista, California 92085.	February 26, 1998	060297
Colorado:					
Arapahoe (FEMA Docket No. 7236).	Unincorporated Areas.	November 20, 1997, November 27, 1997, *The Villager.*	The Honorable Polly Page, Chairperson, Arapahoe County Board of County Commissioners, 5334 South Prince Street, Littleton, Colorado 80166.	November 3, 1997	080081
Adams, Boulder, and Jefferson (FEMA Docket No. 7232).	City of Broomfield	September 25, 1997, October 2, 1997, *Broomfield Enterprise Sentinel.*	The Honorable Bill Berens, Mayor, City of Broomfield, One Descombes Drive, Broomfield, Colorado 80038–1415.	September 5, 1997.	085073
El Paso (FEMA Docket No. 7232).	City of Colorado Springs.	September 24, 1997, October 1, 1997, *Gazette Telegraph.*	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	August 20, 1997 ..	080060
El Paso (FEMA Docket No. 7232).	City of Colorado Springs.	November 7, 1997, November 14, 1997, *Gazette Telegraph.*	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	October 9, 1997 ..	080060
Douglas (FEMA Docket No. 7232).	Unincorporated Areas.	October 1, 1997, October 8, 1997, *Douglas County News Press.*	The Honorable Michael Cooke, Chairman, Douglas County Board of Commissioners, 101 Third Street, Castle Rock, Colorado 80104.	August 27, 1997 ..	080049
Larimer (FEMA Docket No. 7232).	Unincorporated Areas.	October 3, 1997, October 10, 1997, *Loveland Daily Reporter-Herald.*	The Honorable Jim Disney, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, Colorado 80522.	September 8, 1997.	080101
Boulder (FEMA Docket No. 7232).	City of Longmont	October 24, 1997, October 31, 1997, *Daily Times-Cal.*	The Honorable Leona Stoecker, Mayor, City of Longmont, 350 Kimbark Street, Longmont, Colorado 80501.	September 24, 1997.	080027
Larimer (FEMA Docket No. 7232).	City of Loveland ..	October 3, 1997, October 10, 1997, *Loveland Daily Reporter-Herald.*	The Honorable Treva Edwards, Mayor, City of Loveland, 500 East Third Street, Loveland, Colorado 80537.	September 8, 1997.	080103

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Adams, Boulder, and Jefferson (FEMA Docket No. 7232).	City of Westminster.	September 25, 1997, October 2, 1997, *Broomfield Enterprise Sentinel.*	The Honorable Nancy M. Heil, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, Colorado 80030.	September 5, 1997.	080008
Hawaii:					
Maui County (FEMA Docket No. 7236).	Maui	November 20, 1997, November 27, 1997, *Maui News.*	The Honorable Linda Crockett-Lingle, Mayor, Maui County, 250 South High Street, Wailuku, Maui, Hawaii 96793.	October 22, 1997	150003
Idaho:					
Canyon (FEMA Docket No. 7232).	Unincorporated Areas.	September 11, 1997, ... September 18, 1997, ... *Idaho Press-Tribune*	The Honorable Abel Vasquez, Chairperson, Canyon County Commissioners, Canyon County Courthouse, 1115 Albany Street, Caldwell, Idaho 83605.	August 26, 1997 ..	160208
Canyon (FEMA Docket No. 7232).	City of Nampa	September 11, 1997, ... September 18, 1997, ... *Idaho Press-Tribune*	The Honorable Winston K. Goering, Mayor, City of Nampa, 411 Third Street South, Nampa, Idaho 83651.	August 26, 1997 ..	160038
Canyon (FEMA Docket No. 7236).	City of Nampa	November 18, 1997, ... November 25, 1997, ... *Idaho Press-Tribune*	The Honorable Winston K. Goering, Mayor City of Nampa, 411 Third Street South, Nampa, Idaho 83651.	October 24, 1997	160038
Kansas: Johnson (FEMA Docket No. 7232).	City of Overland Park.	October 21, 1997, ... October 28, 1997, ... *The Legal Record*	The Honorable Ed Eilert, Mayor, City of Overland Park, City Hall, 8500 Santa Fe Drive, Overland Park, Kansas 66212.	September 25, 1997.	200174
Louisiana:					
Caddo Parish (FEMA Docket No. 7236).	Unincorporated Areas.	November 14, 1997, ... November 21, 1997, ... *The Times*	The Honorable Judy Durham, Administrator and Chief Executive Officer, Caddo Parish, 525 Marshall Street, Shreveport, Louisiana 71101.	October 20, 1997	220361
Rapides Parish (FEMA Docket No. 7236).	City of Pineville ...	December 11, 1997, ... December 18, 1997, ... *Alexandria Daily Town Talk.*	The Honorable Fred H. Baden, Mayor, City of Pineville, P.O. Box 3820, Pineville, Louisiana 71361.	November 17, 1997.	220151
Rapides Parish (FEMA Docket No. 7236).	Unincorporated Areas.	December 11, 1997, ... December 18, 1997, ... *Alexandria Daily Town Talk.*	The Honorable Richard Billings, President, Rapides Parish Police Jury, 701 Murray Street, Alexandria, Louisiana 71301.	November 17, 1997.	220145
Caddo Parish (FEMA Docket No. 7236).	City of Shreveport	November 14, 1997, ... November 21, 1997, ... *The Times*	The Honorable Robert Williams, Mayor, City of Shreveport, P.O. Box 31109, Shreveport, Louisiana 71130.	October 20, 1997	220036
Missouri:					
St. Louis (FEMA Docket No. 7232).	City of Chesterfield.	October 1, 1997, ... October 8, 1997, ... *Press Journal and Chesterfield Journal.*	The Honorable Nancy Greenwood, Mayor, City of Chesterfield, 922 Roosevelt Parkway, Chesterfield, Missouri 63107–2080.	January 6, 1998 ..	290896
Jackson (FEMA Docket No. 7236).	City of Kansas City.	November 7, 1997, ... November 14, 1997, ... *The Kansas City Star*	The Honorable Emanuel Cleaver, Mayor, City of Kansas City, City Hall, 414 East 12th Street, 29th Floor, Kansas City, Missouri 64106–2785.	August 20, 1997 ..	290173
St. Louis (FEMA Docket No. 7232).	City of Wildwood	October 1, 1997, ... October 8, 1997, ... *Press Journal* and *Chesterfield Journal.*	The Honorable R. W. Marcantano, Mayor, City of Wildwood, 16962 Manchester Road, Wildwood, Missouri 63040.	January 6, 1998 ..	290922
Nevada:					
Clark (FEMA Docket No. 7236).	Unincorporated Areas.	November 21, 1997, November 28, 1997, *Las Vegas Review Journal.*	The Honorable Yvonne Atkinson Gates, Chairperson, Clark County Board of Commissioners, 225 East Bridger Avenue, Las Vegas, Nevada 89155.	October 27, 1997	320003
Washoe (FEMA Docket No. 7236).	City of Sparks	December 3, 1997, December 10, 1997, *The Daily Sparks Tribune.*	The Honorable Bruce H. Breslow, Mayor, City of Sparks, P.O. Box 857, Sparks, Nevada 89432–0857.	November 5, 1997	320021
New Mexico:					
Bernalillo (FEMA Docket No. 7232).	City of Albuquerque.	September 26, 1997, October 3, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	September 5, 1997.	350002

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Bernalillo (FEMA Docket No. 7232).	City of Albuquerque.	October 2, 1997, October 9, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Alburquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	September 10, 1997.	350002
Bernalillo (FEMA Docket No. 7232).	City of Albuquerque.	October 7, 1997, October 14, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	September 15, 1997.	350002
Bernalillo (FEMA Docket No. 7232).	City of Albuquerque.	October 24, 1997, October 31, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	September 25, 1997.	350002
Bernalillo (FEMA Docket No. 7232).	City of Albuquerque.	November 4, 1997, November 11, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	October 3, 1997 ..	350002
Bernalillo (FEMA Docket No. 7236).	City of Albuquerque.	November 19, 1997, November 26, 1997, *The Albuquerque Journal.*	The Honorable Martin J. Chávez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	October 24, 1997	350002
Bernalillo (FEMA Docket No. 7232).	Unincorporated Areas.	September 26, 1997, October 3, 1997, *The Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	September 5, 1997.	350001
Bernalillo (FEMA Docket No. 7236).	Unincorporated Areas.	November 21, 1997, November 28, 1997, *The Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	October 31, 1997	350001
Oklahoma:					
Comanche (FEMA Docket No. 7236).	City of Lawton	December 5, 1997, December 12, 1997, *The Lawton Constitution.*	The Honorable John Marley, Mayor, City of Lawton, City Hall, 103 Southwest Fourth Street, Lawton, Oklahoma 73501.	October 31, 1997	400049
Comanche (FEMA Docket No. 7236).	City of Lawton	December 5, 1997, December 12, 1997, *The Lawton Constitution.*	The Honorable John Marley, Mayor, City of Lawton, City Hall, 103 Southwest Fourth Street, Lawton, Oklahoma 73501.	November 14, 1997.	400049
Tulsa (FEMA Docket No. 7236).	City of Tulsa	January 9, 1998, January 16, 1998, *Tulsa World.*	The Honorable Susan Savage, Mayor, City of Tulsa, 200 Civic Center, 11th Floor, Tulsa, Oklahoma 74103.	December 9, 1997	405381
Oregon:					
Coos (FEMA Docket No. 7232).	City of Bandon	October 1, 1997, October 8, 1997, *Bandon Western World.*	The Honorable Judy Densmore, Mayor, City of Bandon, P.O. Box 67, Bandon, Oregon 97411.	September 5, 1997.	410043
Lane (FEMA Docket No. 7232).	Unincorporated Areas.	October 1, 1997, October 8, 1997, *The Register-Guard.*	The Honorable Cindy Weeldreyer, Chairman, Lane County Board of Commissioners, 125 East Eighth Avenue, Eugene, Oregon 97401.	August 29, 1997 ..	415591
Texas:					
Johnson (FEMA Docket No. 7232).	City of Burleson ...	November 5, 1997, November 12, 1997, *Burleson Star.*	The Honorable Rick Roper, Mayor, City of Burleson, City Hall, 141 West Renfro, Burleson, Texas 76028.	October 16, 1997	485459
Dallas (FEMA Docket No. 7236).	City of Carrollton	November 21, 1997, November 28, 1997, *Metrocrest News.*	The Honorable Milburn Gravely, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	October 29, 1997	480167
Williamson (FEMA Docket No. 7232).	City of Cedar Park	September 10, 1997, September 17, 1997, *Hill Country News.*	The Honorable Dorothy Duckett, Mayor, City of Cedar Park, City Hall, 600 North Bell Boulevard, Cedar Park, Texas 78613.	August 18, 1997 ..	481282
Dallas (FEMA Docket No. 7232).	City of DeSoto	October 2, 1997, October 9, 1997, *Best Southwest Focus.*	The Honorable Richard Rozier, Mayor, City of DeSoto, 211 East Pleasant Run Road, DeSoto, Texas 75115.	September 11, 1997.	480172
Collin (FEMA Docket No. 7232).	City of Frisco	September 19, 1997, September 26, 1997, *Frisco Enterprise.*	The Honorable Kathy Seei, Mayor, City of Frisco, City Hall, P.O. Box 1100, Frisco, Texas 75034.	September 3, 1997.	480134

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Collin (FEMA Docket No. 7232).	City of Frisco	October 24, 1997, October 31, 1997, *Frisco Enterprise.*	The Honorable Kathy Seei, Mayor, City of Frisco, City Hall, P.O. Box 1100, Frisco, Texas 75034.	September 25, 1997.	480134
Dallas (FEMA Docket No. 7236).	City of Garland	December 11, 1997, December 18, 1997, *The Garland News.*	The Honorable James Ratliff, Mayor, City of Garland, 200 North Fifth Street, Garland, Texas 75040.	November 14, 1997.	485471
Harris (FEMA Docket No. 7232).	Unincorporated Areas.	October 24, 1997, October 31, 1997, *Houston Chronicle.*	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	October 9, 1997 ..	480287
Harris (FEMA Docket No. 7232).	Unincorporated Areas.	October 23, 1997, October 30, 1997, *Houston Chronicle.*	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	September 19, 1997.	480287
Tarrant (FEMA Docket No. 7232).	City of Hurst	October 1, 1997, October 8, 1997, *Dallas Morning News.*	The Honorable Bill Souder, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, Texas 76054.	September 8, 1997.	480601
Johnson (FEMA Docket No. 7232).	Unincorporated Areas.	November 5, 1997, November 12, 1997, *Burleson Star.*	The Honorable Roger Harmon, Johnson County Judge, Johnson County Courthouse, #2 Main Street, Cleburne, Texas 76031.	October 16, 1997	480879
Williamson (FEMA Docket No. 7232).	City of Leander	October 1, 1997, October 8, 1997, *Austin American-Statesman.*	The Honorable Charles Eaton, Mayor, City of Leander, P.O. Box 319, Leander, Texas 78646–0319.	September 3, 1997.	481536
Montgomery (FEMA Docket No. 7232).	Unincorporated Areas.	October 22, 1997, October 29, 1997, *Woodlands Sun.*	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	September 26, 1997.	480483
Montgomery (FEMA Docket No. 7232).	City of Oak Ridge North.	October 22, 1997, October 29, 1997, *Woodlands Sun.*	The Honorable Gary North, Mayor, City of Oak Ridge North, 27326 Robinson Road, Suite 115, Conroe, Texas 77385.	September 26, 1997.	481560
Collin and Dallas (FEMA Docket No. 7232).	City of Plano	September 17, 1997, September 24, 1997, *Plano Star Courier.*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	September 3, 1997.	480140
Collin and Denton (FEMA Docket No. 7236).	City of Plano	December 24, 1997, December 31, 1997, *Plano Star Courier.*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	November 14, 1997.	480140
Collin (FEMA Docket No. 7232).	City of Plano	October 22, 1997, October 29, 1997, *Plano Star Courier.*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	September 19, 1997.	480140
Collin and Dallas (FEMA Docket No. 7232).	City of Richardson	September 17, 1997, September 24, 1997, *Plano Star Courier.*	The Honorable Gary Slagel, Mayor, City of Richardson, P.O. Box 830309, Richardson, Texas 75083–0309.	September 3, 1997.	480184
Utah: Salt Lake (FEMA Docket No. 7236).	City of Draper	December 2, 1997, December 9, 1997, *Salt Lake Tribune.*	The Honorable Richard D. Elsop, Mayor, City of Draper, 12441 South 900 East, Draper, Utah 84020.	November 6, 1997	490244

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13730 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALASKA	
Emmonak (City), Unorganized Borough (FEMA Docket No. 7238)	
Yukon River:	
Over the entire corporate limits of the City	Δ 20
—To indicate mean sea level (approximate).	
Maps are available for inspection at the City Office, Emmonak, Alaska.	
ARKANSAS	
Lakeview (Town), Phillips County (FEMA Docket No. 7238)	
White River:	
At the intersection of Center and Martin Luther King	*173
Approximately 1,500 feet east of the intersection of Martin Luther King and Maple	*173
Maps are available for inspection at the Town of Lakeview Town Hall, 14264 Highway 44, Helena, Arkansas.	
West Helena (City), Phillips County (FEMA Docket No. 7238)	
Crooked Creek:	
Just downstream of Airport Road	*228
Crooked Creek Lateral "A":	
Approximately 400 feet upstream of Mimosa Street	*258
Approximately 1,300 feet upstream of Mimosa Street	*266
Caney Creek:	
Approximately 300 feet downstream of Little Rock Road	*211
Approximately 700 feet downstream of Highway 49	*225
Approximately 200 feet upstream of Highway 49	*232
Caney Creek Lateral "A":	
Approximately 100 feet upstream of confluence with Caney Creek	*232
Caney Creek Lateral "D":	
Approximately 500 feet downstream of Little Rock Road	*207
Approximately 100 feet upstream of Little Rock Road	*211
Maps are available for inspection at the City of West Helena City Hall, 98 East Plaza, West Helena, Arkansas.	
Phillips County (Unincorporated Areas) (FEMA Docket No. 7238)	
Crooked Creek:	
At confluence with Lick Creek	*197
Just downstream of Quarles Lane	*252
Crooked Creek Lateral "A":	
At confluence with Crooked Creek	*242
Approximately 3,000 feet downstream of Hill Road	#2
Approximately 550 feet downstream of Hill Road	*270
Crooked Creek Lateral "B":	
At confluence with Crooked Creek	*231
Approximately 800 feet upstream of Kelsa Street	*238
Crooked Creek Lateral "C":	
At confluence with Crooked Creek	*234
Approximately 1,750 feet downstream from Sebastian Street	*238
Caney Creek:	
At confluence with Beaver Bayou Ditch	*183
Approximately 4,250 feet upstream of Springdale Road	*279
Caney Creek Lateral "A":	
Approximately 200 feet upstream of confluence with Caney Creek	*232
Approximately 2,000 feet upstream of County Highway 242	*246
Caney Creek Lateral "C":	
At confluence with Caney Creek	*205
Just downstream of Little Rock Road	*210

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Caney Creek Lateral "D":	
At confluence with Caney Creek	*198
Just downstream of Little Rock Road	*210
Beaver Bayou Ditch:	
At Missouri Pacific Railroad	*173
Just south of Missouri Pacific Railroad	*182
Lick Creek:	
At confluence with Big Creek	*173
Approximately 3,700 feet upstream of Missouri Pacific Railroad	*199
Freedonia Branch:	
Just downstream of U.S. Route 49	*212
Approximately 2,200 feet upstream of Farm Road	*230
Main Outlet Ditch:	
Just upstream of Long Lake	*179
Approximately 300 feet upstream of Missouri Pacific Railroad	*182
Mississippi River:	
At U.S. Highway 49	*197
Approximately 2.75 miles upstream of U.S. Highway 49	*198
Maps are available for inspection at 620 Cherry Street, Helena, Arkansas.	
CALIFORNIA	
Gilroy (City), Santa Clara County (FEMA Docket No. 7226)	
Uvas Creek East Overbank Above Highway 101:	
Just above Highway 101	*186
Approximately 2,000 feet upstream of Highway 101	*192
West Branch Llagas Creek:	
Approximately 500 feet upstream of Golden Gate Avenue	*232
West Branch Llagas Creek, East Split:	
Approximately 300 feet north of Day Road	*222
Approximately 500 feet north of Golden Gate Avenue	*232
Uvas Creek East Overbank Above SPRR:	
Ponding north of Bolsa Road between the Southern Pacific Railroad and Uvas Creek	*175
Just south of the intersection of Monterey Highway and the Southern Pacific Railroad	*187
Maps are available for inspection at the City of Gilroy City Hall, 7351 Rosanna Street, Gilroy, California.	
Sacramento (City), Sacramento County (FEMA Docket No. 7063)	
American River:	
Just upstream of confluence with the Sacramento River	*31
Just upstream of State Highway 160	*36
Approximately 8,000 feet upstream of Business Interstate 80	*42
Approximately 2,000 feet upstream of H Street	*46
Approximately 700 feet downstream of Watt Avenue	*52
American River (Detailed Flooding Adjacent to the River):	
At the intersection of N and 28th Streets	*26
At the intersection of W and 33rd Streets	*26
At the intersection of 35th Street and Folsom Boulevard	*28
At the intersection of 41st and M Streets	*30
At the intersection of D and 46th Streets	*32
Just north of the intersection of Business Route 80 and the Southern Pacific Railroad	*43
At the intersection of Callister and Carlson Drives	*44
Approximately 3,000 feet south of the intersection of Arden and Challenge Ways	*44
At the intersection of Jordan Way and Jed Smith Drive	*45
At the intersection of Julliard and Occidental Drives	*48
At Mossglen Circle	*49
Arcade Creek:	
Just upstream of confluence with Natomas East Main Drainage Canal	*36
Approximately 1,300 feet upstream of Rio Linda Boulevard	*33
Just upstream of Marysville Boulevard	*40
Deep Ponding:	
At the intersection of Deer Gren Drive and Red Deer Way	*16
Approximately 1,000 feet west of the intersection of Archean Way and Deer Creek Drive	*16
At the intersection of Decathalon Circle and Archean Way	*16
Approximately 500 feet west of the intersection of Deer Gren Drive and Red Deer Way	*16
Approximately 800 feet west of Black Trail and Deer Gren Drives	*16
At the intersection of Deer Lake Drive and Evalita Way	*16
Approximately 300 feet east of the intersection of Deer Water and Sea Meadow Ways	*16
Approximately 800 feet southeast of the intersection of Deer Lake Drive and Sea Forest Way	*16
At the intersection of Amina and Chinquapin Ways	*16
Approximately 2,000 feet southwest of the intersection of Ernhardt Avenue and Franklin Boulevard	*16
Approximately 3,000 feet southwest of the intersection of Ernhardt Avenue and Franklin Boulevard	*16
Approximately 400 feet southwest of the intersection of Ernhardt Avenue and Franklin Boulevard	*16
Approximately 400 feet north of the intersection of Eddington Court and Euler Way	*16
At the intersection of Deer Creek Drive and Decathalon Circle	*16
Approximately 200 feet south of the intersection of Mack Road and Archean Way	*16
South of the intersection of Deer Lake Drive and De la Vina Way	*16
Approximately 300 feet east of the intersection of Deer Water Way and Deer Lake Drive	*16
Approximately 50 feet southwest of the intersection of Valley Hi Drive and Chinquapin Way	*16
Approximately 800 feet south of the intersection of Deer Lake Drive and Sea Forest Way	*16
At the intersection of Valley Hi Drive and Halkeep Way	*16
Approximately 1,000 feet south of the intersection of La Coruna and Valley Hi Drives	*16
Approximately 8,000 feet south of the intersection of 23rd Street and Craig Avenue	*16
At the intersection of Meadowview Road and 24th Street	*18
At the intersection of Meadowgate Drive and Winner Way	None
At the intersection of Golfview Drive and Mangrum Avenue	*18
At the intersection of Greenhaven Drive and Pocket Road	*19
At the intersection of Havenside Drive and Florin Road	*19
At the intersection of Riverside Boulevard and Park Riviera Drive	*19
At the intersection of 26th and Euclid Avenues	*19
At the intersection of Freeport Boulevard and Wentworth Avenue	*24
At the intersection of Ninth Avenue and 33rd Street	*24
At the intersection of P and 18th Streets	*24
At the intersection of Truxel Road and West El Camino Avenue	None
At the intersection of Del Paso and El Centro Roads	None
At the intersection of Orchard Lane and West El Camino Avenue	None

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At the intersection of Bercut Drive and Richards Boulevard	*35
At the intersection of North 12th and Sitka Streets	*35
At the intersection of Bell Court Avenue and Englewood Street	None
At the intersection of Taylor Street and Interstate Highway 880	None
At the intersection of Norwood and Las Palmas Avenues	*36
Approximately 2,000 feet west of the intersection of 20th and A Streets	*38
At the intersection of Response Road and Heritage Lane	*41
Dry Creek:	
Just upstream of confluence with Natomas East Main Drainage Canal	*38
Approximately 8,700 feet upstream of confluence with Natomas East Main Drainage Canal	*40
Lower Magpie Creek:	
Approximately 500 feet upstream of Natomas East Main Drainage Canal	*19
Just downstream of Rio Linda Boulevard	*32
Morrison Creek:	
Approximately 300 feet upstream of Elk Grove Florin Road	*47
Natomas East Drainage Canal:	
Just upstream of confluence with Natomas Main Drainage Canal	None
Just downstream of Elkhorn Boulevard	None
Natomas East Main Drainage Canal:	
Approximately 1,000 feet upstream of Northgate Boulevard	*35
Just downstream of Interstate 880	*37
Approximately 2,500 feet upstream of Main Avenue	*38
Just downstream of the City of Sacramento corporate limits	*31
Natomas Main Drainage Canal:	
Just upstream of Garden Highway	None
Just upstream of Interstate 80	None
Natomas West Drainage Canal:	
Just upstream of confluence with Natomas Main Drainage Canal	None
Just downstream of Del Paso Road	None
Robla Creek:	
Just upstream of confluence with Natomas East Main Drainage Canal	*38
Just upstream of Rio Linda Boulevard	*39
Sacramento River:	
Approximately 4,000 feet downstream of Sleepy River Way	*24
Approximately 200 feet upstream of Evros River Court	*27
Approximately 1,200 feet upstream of 43rd Avenue	*29
Approximately 1,000 feet upstream of Darnel Way	*30
Approximately 3,000 feet upstream of I Street	*31
Shallow Flooding:	
Approximately 500 feet southeast of the intersection of Arden and Challenge Ways	#2
At the intersection of Woodbine and 47th Avenues	#2
Approximately 500 feet north of the intersection of 47th Avenue and Romack Circle	#3
At the intersection of Kitchner Avenue and Zelda Way	#3
At the intersection of Edna and 24th Streets	#3
At the intersection of Alvarado and Riviera Drives	#2
At the intersection of Arcade Boulevard and Clay Street	#1
Approximately 1,500 feet north of the intersection of Tunis Road and Barros Drive	None
Approximately 800 feet south of the intersection of Arden Way and Evergreen Street	#1
Unionhouse Creek:	
Just upstream of the confluence with Morrison Creek	*16
Approximately 400 feet downstream of Franklin Boulevard	*16
Maps are available for inspection at the City of Sacramento Department of Public Works, Engineering Division, 927 Tenth Street, Room 100, Sacramento, California.	
Sacramento (City), Sacramento County (FEMA Docket No. 7218)	
Morrison Creek:	
Approximately 6,440 feet downstream of confluence with Unionhouse Creek	*16
Approximately 370 feet downstream of Meadowview Road	*16
Unionhouse Creek:	
Approximately 260 feet downstream of Western Pacific Railroad	*16
Approximately 530 feet downstream of Franklin Boulevard	*16
Elder Creek:	
At confluence with Morrison Creek	*16
Approximately 1,700 feet upstream of confluence with Morrison Creek	*16
Maps are available for inspection at the City of Sacramento City Hall, 915 I Street, Room 207, Sacramento, California.	
Sacramento County (Unincorporated Areas) (FEMA Docket No. 7063)	
American River:	
Just downstream of Northrop Avenue	*42
Approximately 1,000 feet downstream of Watt Avenue	*52
Approximately 14,000 feet upstream of Watt Avenue	*58
Approximately 23,000 feet upstream of Watt Avenue	*60
Approximately 7,000 feet downstream of confluence with Carmichael Creek	*66
Approximately 1,900 feet upstream of confluence with Carmichael Creek	*76
Approximately 5,500 feet upstream of confluence with Carmichael Creek	*80
Approximately 9,700 feet upstream of confluence with Carmichael Creek	*86
Approximately 500 feet downstream of Sunrise Boulevard	*92
Approximately 6,600 feet upstream of Sunrise Boulevard	*100
Approximately 300 feet downstream of Hazel Avenue	*106
Approximately 300 feet upstream of Hazel Avenue	*114
Just upstream of Nimbus Dam	*126
American River (Detailed Flooding Adjacent to the River):	
At the intersection of Ethan Drive and El Camino Avenue	*41
At the intersection of Keith Way and Violet Street	*41
At the intersection of Fair Oaks Boulevard and Munroe Street	*44
At the intersection of the Southern Pacific Railroad and Reith Court	*49
At the intersection of Watt Avenue and La Riviera Drive	*50
At the intersection of Manlove Road and Folsom Boulevard	*50
At the intersection of Estates and American River Drives	*55
At the intersection of American River Drive and Whitehall Way	*55
Approximately 100 feet east of the intersection of Huntsman Drive and Mayhew Road	*56
At the intersection of Mayhew Road and Folsom Boulevard	*56
Approximately 7,000 feet downstream of Hazel Avenue, South Overbank	*102
American River (Shallow Flooding):	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 8,000 feet upstream of Watt Avenue, South Overbank	#1
Approximately 100 feet north of the intersection of La Riviera Drive and Folsom Boulevard	#1
Just southeast of the intersection of La Riviera Drive and Folsom Boulevard	#2
Approximately 500 feet west of the intersection of Folsom Boulevard and Mayhew Road	None
Approximately 1,100 feet north and 200 feet west of the intersection of Folsom Boulevard and Mayhew Road	None
Approximately 1,500 feet downstream of Nimbus Dam, South Overbank	None
Carmichael Creek:	
Just upstream of confluence with the American River	*74
Approximately 125 feet downstream of Palm Drive	*76
Chicken Ranch Slough:	
Approximately 700 feet downstream of Hurley Way	*33
Just downstream of Hernando Road	*43
Deep Ponding:	
At the intersection of Beach Lake Road and Interstate Route 5	*16
At the intersection of the Union Pacific Railroad and Laguna Creek	*16
At the intersection of two unnamed roads approximately 3,000 feet west of the intersection of the Union Pacific Railroad and Laguna Creek	*16
Approximately 2,000 feet southeast of the intersection of Unionhouse Creek and the Union Pacific Railroad	*16
Approximately 200 feet southeast of the intersection of Unionhouse Creek and the Union Pacific Railroad	*16
At the intersection of Stonecrest Avenue and Interstate Route 5	*18
Approximately 2,000 feet southwest of the intersection of Sacramento Boulevard and Fruitridge Road	None
Approximately 3,000 feet west of the intersection of Sacramento Boulevard and Lemon Hill Avenue	None
At the intersection of Elkhorn Boulevard and Powerline Road	None
At the intersection of Delta and Powerline Roads	None
At the intersection of Elverta and Powerline Roads	None
At the intersection of El Centro and Elverta Roads	None
Approximately 2,500 feet east of the intersection of Elverta Road and Natomas East Drainage Canal	None
At the intersection of Interstate Route 5 and Schoolhouse Road	None
At the intersection of Del Paso and Powerline Roads	None
At the intersection of Meister Way and Powerline Road	None
At the intersection of El Centro Road and Elkhorn Boulevard	None
At the intersection of Garden Highway and San Juan Road	None
Approximately 2,000 feet west of the intersection of Elverta Road and the Union Pacific Railroad	None
Just west of the intersection of Sorento and Del Paso Roads	None
Dry Creek:	
Just east of West Fourth Street, along Ascot Avenue	None
At the intersection of Ascot Avenue and West Second Street	None
Approximately 300 feet east of the intersection of Ascot Avenue and West Second Street	None
Dry Creek, North Branch:	
Approximately 200 feet upstream of confluence with Dry Creek, West Overbank	*41
Approximately 600 feet upstream of confluence with Dry Creek, West Overbank	*41
Just upstream of Marysville Boulevard, West Overbank	*41
Natomas East Drainage Canal:	
Just upstream of Elkhorn Boulevard	None
Just downstream of the Sacramento-Sutter County boundary	None
Natomas East Main Drainage Canal:	
Approximately 2,700 feet downstream of Sorento Road	*31
Just downstream of confluence with Natomas East Main Drainage Canal Tributary I	*31
Approximately 5,800 feet upstream of confluence with Natomas East Main Drainage Canal Tributary F	*33
Natomas East Main Drainage Canal (Shallow Flooding):	
Approximately 2,500 feet downstream of Elkhorn Boulevard, West Overbank	None
At Elkhorn Boulevard, West Overbank	None
Approximately 1,300 feet upstream of Elkhorn Boulevard, West Overbank	None
Approximately 4,500 feet upstream of Elverta Road, West Overbank	None
Natomas East Main Drainage Canal Tributary F:	
Just upstream of confluence with Natomas East Main Drainage Canal	*33
Just downstream of Rio Linda Boulevard	*36
Natomas East Main Drainage Canal Tributary G:	
Just upstream of confluence with Natomas East Main Drainage Canal	*33
Approximately 40 feet downstream of Elwyn Avenue	*37
Natomas East Main Drainage Canal Tributary I:	
Approximately 1,000 feet upstream of confluence with Natomas East Main Drainage Canal	*31
Just downstream of West Second Street	*33
Natomas Main Drainage Canal:	
Just upstream of Interstate Highway 80	None
Natomas North Drainage Canal:	
Approximately 2,200 feet downstream of the access road	None
Just downstream of the Sacramento-Sutter County boundary	None
Natomas West Drainage Canal:	
Just upstream of confluence with Natomas Main Drainage Canal	None
Just downstream of Elkhorn Boulevard	None
At Elkhorn Boulevard	None
Sacramento River:	
Approximately 200 feet upstream of Freeport Bridge	*25
Approximately 5,000 feet upstream of Freeport Bridge	*26
Approximately 4,000 feet upstream of Interstate Route 80	*31
Approximately 4,000 feet downstream of Interstate Route 80	*31
Approximately 5,000 feet upstream of San Juan Road	*32
Approximately 5,000 feet upstream of Powerline Road	*33
Approximately 5,000 feet downstream of Interstate Highway 5	*35
Approximately 4,500 feet downstream of Elkhorn Boulevard	*36
Approximately 500 feet upstream of Elkhorn Boulevard	*37
Approximately 8,200 feet upstream of Elverta Road	*38
Shallow Flooding:	
At the intersection of Lemon Hill Avenue and Franklin Boulevard	#1
Strong Ranch Slough:	
Approximately 200 feet downstream of Howe Avenue	*33
Just downstream of Wyda Way	*43

Maps are available for inspection at the Sacramento County Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
San Jose (City), Santa Clara County (FEMA Docket No. 7214)	
Calabazas Creek:	
Approximately 600 feet downstream of Prospect Drive	*290
Just downstream of Prospect Drive	*297
Alamitos Creek Above Percolation Pond:	
At Percolation Pond	*196
At Winfield Boulevard	*203
800 feet upstream of Almaden Expressway	*327
Berryessa Creek:	
Just upstream of Morrill Avenue	*110
Approximately 200 feet upstream of Piedmont Road	*218
South Babb Creek:	
Approximately 700 feet downstream of Clayton Road	*200
At private drive 300 feet downstream of Clayton Road	*208
Upper Silver Creek:	
At Yerba Buena Road	*170
Just above private drive near intersection of Silver Creek and Yerba Buena Roads	*280
Maps are available for inspection at the City of San Jose City Hall, 801 North First Street, Room 308, San Jose, California.	
Santa Clara County (Unincorporated Areas) (FEMA Docket No. 7226)	
Alamitos Creek:	
At projection of Pfeiffer Court across Graystone Lane	*260
At confluence of Arroyo Calero	*283
East Little Llagas Creek:	
At confluence with Llagas and Church Creeks	*248
Just upstream of Middle Avenue	*304
Madrone Channel:	
At confluence with East Little Llagas Creek	*305
Approximately 2,000 feet upstream of East Main Avenue	*369
San Tomas Aquino Creek:	
At intersection of Davis and Gianera Streets	*15
At intersection of Fillmore and North Fourth Streets	*17
Tennant Creek:	
At confluence with East Little Llagas Creek	*288
Just upstream of Middle Avenue	*308
Approximately 1,500 feet upstream of Tennant Avenue	*346
Uvas Creek:	
Just above the Southern Pacific Railroad	*174
Just upstream of Hecker Pass Highway (Highway 152)	*246
Just below Uvas Reservoir	*398
Watsonville Road Overflow:	
Just downstream of Watsonville Road	*320
At confluence with Llagas Creek	*303
West Branch Llagas Creek:	
Just upstream of Day Road	*221
Along Turlock Avenue between Highland Avenue and Fitzgerald Road	#1
Approximately 2,500 feet upstream of Coolidge Avenue	*291
West Little Llagas Creek:	
Just upstream of Highway 101	*305
Just downstream of Monterey Highway	*316
Calabazas Creek:	
Approximately 600 feet downstream of Prospect Road	*290
Just downstream of Prospect Road	*297
Middle Avenue Overflow (From West Little Llagas Creek):	
At confluence with Llagas Creek just north of San Martin Avenue	*283
At intersection of Middle and Murphy Avenues	*305
West Branch Llagas Creek-Upper Split:	
Approximately 1,000 feet west of Coolidge Avenue	*278
At Harding Avenue, 500 feet north of intersection with Highland Avenue	*267
Uvas Creek (South Split):	
Just north of Bloomfield Avenue between Monterey Highway and the Southern Pacific Railroad	*166
Approximately 3,000 feet north of Bloomfield Avenue between Monterey Highway and the Southern Pacific Railroad	*179
Maps are available for inspection at the Santa Clara County Department of Land Use and Development, Central Permit Office, 70 West Hedding Street, San Jose, California.	
Sutter County (Unincorporated Areas) (FEMA Docket No. 7063)	
Cross Canal:	
At confluence with the Sacramento River	*39
At confluence with Pleasant Grove Creek Canal	*40
Deep Ponding:	
At the intersection of Sankey and Power Line Roads	None
At the intersection of Sankey Road and Pacific Avenue	None
At the intersection of Riego and Power Line Roads	None
Natomas East Main Drainage Canal:	
Approximately 2,000 feet south of Sankey Road	*37
At the Sacramento County line	*33
Pleasant Grove Creek Canal:	
At confluence with Cross Canal	*40
At confluence with Pleasant Grove Creek	*41
Sacramento River:	
At confluence with Cross Canal	*39
At the Sacramento County line	*38
Maps are available for inspection at the Sutter County Department of Public Works, Planning Department, Suite D, 1160 Civic Center Boulevard, Yuba City, California.	
Tulare County (Unincorporated Areas) (FEMA Docket No. 7238)	
Kaweah River Overflow:	
Just above State Highway 198	*186
Approximately 200 feet upstream of Persian Ditch	*293
Approximately 1,150 feet upstream of Shirk Road	*299
Maps are available for inspection at the Tulare County Courthouse, 2800 West Burrell, Room 10, Visalia, California.	
Visalia (City), Tulare County (FEMA Docket No. 7238)	
Kaweah River Overflow:	
Just above State Highway 198	*186
Approximately 200 feet upstream of Persian Ditch	*293
Approximately 1,150 feet upstream of Shirk Road	*299
Maps are available for inspection at the City of Visalia Planning and Building Department, 707 West Acequia, Visalia, California.	
KANSAS	
Kansas City (City), Wyandotte County (FEMA Docket No. 7238)	
Island Creek:	
At confluence with Missouri River	*766
Just upstream of 123rd Street	*839
Just upstream of Polfer Road (westernmost bridge)	*870
Honey Creek:	
At confluence with Island Creek	*777
Just upstream of Hubbard Street	*812
Just upstream of 115th Street	*864
Maps are available for inspection at 701 North Seventh Street, Fourth Floor, Room 421, Kansas City, Kansas.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
LOUISIANA	
Robeline (Village), Natchitoches Parish (FEMA Docket No. 7238)	
Winn Creek:	
Approximately 1,200 feet downstream of abandoned railroad	*141
Approximately 1,500 feet upstream of Louisiana Highway 120	*148
Maps are available for inspection at 122 Depot Street, Robeline, Louisiana.	
Sulphur (City), Calcasieu Parish (FEMA Docket No. 7238)	
Sumpter Bayou:	
At confluence with Gilbert Lateral, approximately 1,800 feet downstream of Lightning Street	*11
At western corporate limit, approximately 700 feet upstream of Drost Street	*12
Maps are available for inspection at the City of Sulphur Public Works Department, 500 North Huntington Street, Sulphur, Louisiana.	
MONTANA	
Ravalli County (and Incorporated Areas) (FEMA Docket No. 7238)	
Bitterroot River:	
At Ravalli-Missoula County boundary	[1] +3,194
Approximately 3,400 feet upstream of Stevensville cutoff	[1] +3,279
Approximately 4,600 feet upstream of Stevensville cutoff	[1] +3,280
Just upstream of U.S. Highway 93	[2] +3,517
Approximately 4,400 feet upstream of West Bridge Road	[2] +3,558
Approximately 1.2 miles upstream of West Bridge Road	[2] +3,563
At U.S. Highway 93	[3] +3,956
Approximately 2.4 miles upstream of U.S. Highway 93	[3] +4,002
Left Branch of Bitterroot River:	
At Ravalli-Missoula County boundary	[1] +3,194
Approximately 1.5 miles upstream of Ravalli-Missoula County boundary	[1] +3,203
Maps are available for inspection at the City of Hamilton Office of Building Development, 223 South Second Street, Hamilton, Montana.	
Maps are available for inspection at the Ravalli County Planning Office, 205 Bedford, Hamilton, Montana.	
Maps are available for inspection at the Village of Stevensville City Hall, 219 College, Stevensville, Montana.	
Maps are available for inspection at the Town of Darby Town Hall, 101 East Tanner, Darby, Montana.	
NEBRASKA	
Columbus (City), Platte County (FEMA Docket No. 7238)	
Loup River:	
Approximately 1,000 feet upstream of City of Columbus eastern extraterritonal limit	*1,425
At City of Columbus western extraterritonal limit	*1,466
Maps are available for inspection at the City Engineer's Office, 2424 14th Street, Columbus, Nebraska.	
Platte Center (Village), Platte County (FEMA Docket No. 7238)	
Em Creek:	
Approximately 1,700 feet downstream of Fourth Street	*1,530
Just upstream of First Street	*1,546
Shell Creek:	
At the Union Pacific Railroad	*1,532
Approximately 2,500 feet west of F Street	*1,532
Maps are available for inspection at the Village of Platte Center Auditorium, 315 Fourth Street, Platte Center, Nebraska.	
Platte County (Unincorporated Areas) (FEMA Docket No. 7238)	
Elm Creek:	
Approximately 1,700 feet downstream of Fourth Street	*1,530
Approximately 1 mile upstream of Platte County Route 381	*1,558
Shell Creek:	
Approximately 1 mile downstream of the Union Pacific Railroad	*1,522
Approximately 3,000 feet upstream of the Union Pacific Railroad	*1,533
Maps are available for inspection at the Platte County Highway Department, 2610 14th Street, Columbus, Nebraska.	
OKLAHOMA	
Hartshorne (City), Pittsburg County (FEMA Docket No. 7238)	
Blue Creek:	
Approximately 650 feet downstream of Seneca Avenue	*673
Just upstream of Modoc Avenue	*691
Maps are available for inspection at the City of Hartshorne City Hall, 1101 Penn Avenue, Hartshorne, Oklahoma.	
OREGON	
Lincoln City (City), Lincoln County (FEMA Docket No. 7222)	
Pacific Ocean:	
On the ocean side of Oregon Coast Highway at its crossing of Schooner Creek	*10
Along the ocean side of Oregon Coast Highway at its crossing of the D River	*21
Along the entire portion of Southwest Anchor Avenue between 32nd and 36th Streets	*24
Maps are available for inspection at the City of Lincoln City Planning Department, 801 Southwest Highway 101, Lincoln City, Oregon.	
TEXAS	
Newton County (Unincorporated Areas) (FEMA Docket No. 7181)	
Sabine River:	
At the border of Orange and Newton Counties	*17
At the State Highway 12 bridge	*24
At the U.S. Highway 190 bridge	*72
At the State Highway 63 bridge	*107
At the border of Newton County and Sabine Parish	*117
Maps are available for inspection at the Newton County Courthouse, Highway 190 West, Newton, Texas.	
WYOMING	
Cokeville (Town), Lincoln County (FEMA Docket No. 7238)	
South Fork:	
Approximately 1,100 feet downstream of Pacific Street at the northwestern border of the Town of Cokeville corporate limits	*6,186
Approximately 1,200 feet upstream of U.S. Highway 30N at the northeastern border of the Town of Cokeville corporate limits.	
Spring Creek:	*6,208
Approximately 3,000 feet downstream of East Main Street at the northern boundary of the Town of Cokeville corporate limits	*6,181

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 2,000 feet upstream of private drive at the northeastern border of the Town of Cokeville corporate limits	*6,213
Maps are available for inspection at the Town Clerk's Office, 110 Pine Street, Cokeville, Wyoming.	
Lincoln County (Unincorporated Areas) (FEMA Docket No. 7238)	
Smiths Fork:	
Approximately 2,600 feet downstream of Pacific Street	*6,183
Approximately 2,350 feet upstream of U.S. Highway 30N	*6,217
South Fork:	
Approximately 2,100 feet downstream of Union Pacific Railroad	*6,183
Approximately 1,600 feet upstream of U.S. Highway 30N	*6,215
Spring Creek:	
Approximately 2,800 feet upstream of U.S. Highway 30N	*6,218
Approximately 1,000 feet upstream of Union Pacific Railroad	*6,180
Maps are available for inspection at the Lincoln County Planning Office, Beech Street and Topaz Avenue, Kemmerer, Wyoming.	

[1] To convert from NAVD to NGVD, subtract 3.5 feet.
[2] To convert from NAVD to NGVD, subtract 3.6 feet.
[3] To convert from NAVD to NGVD, subtract 3.7 feet.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13733 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register.**

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Huntsville (City), Madison County (FEMA Docket Nos. 7199 and 7243)	
Aldridge Creek:	
At confluence with Tennessee River	*576
Downstream side of Drake Avenue	*679
Big Cove Creek:	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.75 mile upstream of confluence with Flint River	*601
Downstream side of Dug Hill Road	*654
Bradford Creek:	
At confluence with Barren Fork Creek	*570
At upstream side of I–565	*616
Dry Creek 1:	
Approximately 800 feet upstream of confluence with Broglan Branch	*666
Approximately 1,400 feet upstream of Mastin Lake Road	*747
Dry Creek 2:	
Approximately 550 feet downstream of Indian Creek Road	*672
Approximately 1.02 miles upstream of Pulaski Pike	*818
Tributary 1 to Dry Creek 2:	
At confluence with Dry Creek 2	*705
Approximately 2,100 feet upstream of Rideout Road	*746
Tributary 2 to Dry Creek 2:	
At Nick Fitcheard Road	*736
Approximately 0.6 mile downstream of Garner Road	*769
Tributary 3 to Dry Creek 2:	
Backwater area surrounding intersection of Nick Fitcheard Road and Bob Wade Lane	*764
Approximately 1.4 miles upstream of Bob Wade Lane	*780
Tributary 4 to Dry Creek 2:	
At confluence with Dry Creek 2	*770
Approximately 2,000 feet upstream of Pulaski Pike	*789
Fagan Creek:	
At confluence with Huntsville Spring Branch	*610
Approximately 0.65 mile upstream of Tel-Fair Drive	*715
Indian Creek:	
At State Route 20	*613
Approximately 0.7 mile upstream of confluence of Tributary 2 to Indian Creek	*685
Tributary 1 to Indian Creek:	
Approximately 750 feet upstream of confluence with Indian Creek	*618
Approximately 50 feet upstream of railroad	*634
Tributary 2 to Indian Creek:	
At confluence with Indian Creek	*673
Approximately 1,000 feet upstream of confluence with Indian Creek	*675
Tributary 3 to Indian Creek:	
Approximately 250 feet downstream of Jeff Road	*715
Approximately 500 feet downstream of U.S. Route 72	*756
Knox Creek:	
Approximately 3,000 feet downstream of Balch Road	*692
At confluence of Tributary to Knox Creek	*738
Tributary to Knox Creek:	
At confluence with Knox Creek	*738
At Capshaw Road	*752
Limestone Creek:	
At State Route 20	*573
At railroad	*585
Miller Branch:	
Approximately 1,000 feet east of intersection of Boeing Circle and Boeing Boulevard	*571
Approximately 2.04 miles upstream of Wall-Triana Highway	*573
Mountain Brook Branch:	
At confluence with Fagan Creek	*647
Approximately 1,040 feet upstream of Darnell Street	*703
Beaverdam Creek 2:	
Approximately 500 feet upstream of State Route 20	*570
At Old Highway 20	*572
Betts Spring Branch:	
At confluence with Barren Fork Creek	*570
At Lady Ann Lake Dam	*577
Chase Creek:	
At confluence with Flint River	*660
Approximately 0.5 mile upstream of Old Gurley Road	*732
Flint River:	
Approximately 300 feet downstream of confluence of Chase Creek	*660
Approximately 1.8 miles upstream of confluence of Chase Creek	*665
Lady Ann Lake:	
Shoreline within community	*577
Peevey Creek:	
Approximately 0.6 mile upstream of confluence with Robinson Mill Creek	*607
Approximately 100 feet upstream of Little Cove Road	*628
Piney Creek:	
At Joe Wheeler Highway	*564
At Roberts Road	*572
Tennessee River:	
Approximately 0.6 mile upstream of confluence of Unnamed Tributary to Tennessee River	*575
Approximately 2.5 miles downstream of confluence of Flint River	*577
Withers Spring Branch:	
Approximately 1,200 feet downstream of Airport Road	*567
Approximately 0.48 mile upstream of Old Highway 20	*661
McDonald Creek:	
Approximately 0.5 mile upstream of Patton Road	*603
Approximately 1,500 feet downstream of confluence of Unnamed Tributary to McDonald Creek	*620
Blue Spring Creek:	
Upstream side of Leland Drive	*702
Downstream side of Pulaski Pike	*750
Maps available for inspection At the Huntsville City Hall, 320 Fountain Circle, Huntsville, Alabama.	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Madison County (Unincorporated Areas) (FEMA Docket Nos. 7199 and 7243)	
Aldridge Creek:	
At confluence with Tennessee River	*576
Approximately 0.52 mile upstream of railroad bridge	*576
Big Cove Creek:	
Approximately 0.75 mile upstream of confluence with Flint River	*601
At Dug Hill Road	*654
Bradford Creek:	
At confluence with Barren Fork Creek	*570
Approximately 2,000 feet downstream of Palmer Road	*641
Brier Fork Flint River:	
At confluence with Flint River	*672
Approximately 130 feet upstream of confluence of Unnamed Tributary to Brier Fork Flint River	*742
Unnamed Tributary to Brier Fork Flint River:	
At confluence with Brier Fork Flint River	*742
At upstream crossing of U.S. Route 431	*790
Chase Creek:	
At confluence with Flint River	*660
Approximately 650 feet upstream of Old Gurley Road	*721
Beaverdam Creek 1:	
At confluence with Brier Fork Flint River	*701
At Mount Lebanon Road	*755
Dry Creek 2:	
At confluence with Indian Creek	*672
Approximately 300 feet downstream of Indian Creek Road	*673
Approximately 1,100 feet upstream of confluence of Tributary 4 to Dry Creek 2	*773
Tributary 1 to Dry Creek 2:	
At confluence with Dry Creek 2	*705
Approximately 2,300 feet upstream of Rideout Road	*749
Tributary 2 to Dry Creek 2:	
At confluence of Dry Creek	*726
At Rideout Road	*732
Approximately 20 feet downstream of Garner Road	*782
Tributary 3 to Dry Creek 2:	
At confluence with Dry Creek 2	*759
At downstream side of Bob Wade Lane	*764
Tributary 4 to Dry Creek 2:	
At confluence with Dry Creek 2	*770
Approximately 500 feet upstream of confluence with Dry Creek 2	*773
Flint River:	
At confluence with Tennessee River	*578
Upstream side of Ryland Pike	*646
Approximately 0.5 mile upstream of Ryland Pike	*647

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
At confluence of Brier Fork Flint River	*672
Huntsville Spring Branch:	
Approximately 260 feet downstream of Martin Road	*575
Approximately 1,000 feet upstream of Martin Road	*575
Indian Creek:	
At State Route 20	*613
Upstream side of Old Moravia Road	*701
Tributary 1 to Indian Creek:	
At confluence with Indian Creek	*616
Approximately 750 feet upstream of railroad	*639
Tributary 2 to Indian Creek:	
Approximately 1,000 feet upstream of confluence with Indian Creek	*675
Approximately 4,075 feet upstream of confluence with Indian Creek	*700
Tributary 3 to Indian Creek:	
At confluence with Indian Creek	*699
Approximately 160 feet upstream of U.S. Route 72	*7[illegible]
Knox Creek:	
At County Line Road	*680
Approximately 1,500 feet downstream of confluence of Tributary to Knox Creek	*733
Mill Creek:	
Approximately 3,100 feet upstream of Browns Ferry Road	*676
Approximately 250 feet downstream of Angela Drive	*731
Peevey Creek:	
Approximately 0.6 mile upstream of confluence of Robinson Mill Creek	*607
Approximately 0.4 mile upstream of Little Cove Road	*635
Tennessee River:	
At Limestone/Madison County boundary	*567
At confluence of Paint Rock River	*579
Unnamed Tributary to Tennessee River:	
At confluence with Tennessee River	*575
At Sockwell Drive	*575
Yellow Bank Creek:	
At confluence with Flint River	*580
At Oak Grove Road	*580
Tributary to Knox Creek:	
Approximately 500 feet upstream of confluence with Knox Creek	*739
At upstream side of Wall-Triana Highway	*743
Miller Branch:	
At Wall-Triana Highway	*571
Approximately 2 miles upstream of Wall-Triana Highway	*573
Betts Spring Road:	
At confluence with Barren Fork Creek	*570
Approximately 0.7 mile upstream of James Record Road	*576
McDonald Creek:	
At upstream side of Patton Road	*588
Approximately 1,500 feet downstream of confluence of Unnamed Tributary to McDonald Creek	*620
Tennessee River (backwater area):	
At a point approximately 1.1 miles southwest of the intersection of Martin Road and U.S. Route 231	*575
Maps available for inspection at the Madison County Engineering Building, 814 Cook Avenue, Huntsville, Alabama.	
New Hope (City), Madison County (FEMA Docket Nos. 7199 and 7243)	
Yellow Bank Creek:	
At Oak Grove Road	*580
Approximately 0.57 mile upstream of West Carpenter Road	*592
Tributary to Yellow Bank Creek:	
Approximately 600 feet upstream of confluence with Yellow Bank Creek	*581
Approximately 1.180 feet upstream of Maple Road	*588
Maps available for inspection at the New Hope City Hall, 5415 Main Drive, New Hope, Alabama.	
CONNECTICUT	
Fairfield (Town), Fairfield County (FEMA Docket No. 7247)	
Londons Brook:	
Approximately 430 feet downstream of State Route 59	*107
Approximately 1,100 feet upstream of Casmir Drive	*173
Londons Brook Divided Flow:	
At confluence with Londons Brook	*118
At Bond Street	*129
Maps available for inspection at the Town of Fairfield Planning and Zoning Department, 725 Old Post Road, Fairfield, Connecticut.	
GEORGIA	
Charlton County (Unincorporated Areas) (FEMA Docket No. 7243)	
St. Mary's River:	
Approximately 500 feet downstream of County boundary	*9
Approximately 1.0 mile upstream of upstream crossing of State Route 94	*116
Maps available for inspection at the Charlton County Assessor's Office, 100 North 3rd Street, Folkston, Georgia.	
KENTUCKY	
Elkhorn City (City), Pike County (FEMA Docket No. 7190)	
Elkhorn Creek:	
At the confluence with Russell Fork	*786
Approximately 700 feet upstream of Higgins Road	*800
Maps available for inspection at the Elkhorn City Hall, corner of Patty Lovelace Drive and Carson Island Road, Building 395, Elkhorn City, Kentucky.	
Pike County (Unincorporated Areas) (FEMA Docket Nos. 7190 and 7247)	
Johns Creek:	
Approximately 100 feet downstream of State Route 3227	*715
Approximately 50 feet upstream of Stinking Branch Road	*839
Long Fork:	
Approximately 500 feet upstream of the confluence with Shelby Creek	*834
Approximately 0.3 mile upstream of confluence of Sugarcamp Branch	*959
Elkhorn Creek:	
Approximately 750 feet downstream of Higgins Road	*792
Approximately 250 feet upstream of the confluence of Upper Pigeon Branch	* 1,233
Ashcamp Branch:	
At the confluence with Elkhorn Creek	* 1,062
Tug Fork:	
Approximately 0.35 mile upstream of confluence of Turkey Creek	*663
Approximately 0.5 mile upstream of confluence of Sycamore Creek	*674
Shelby Creek:	
Approximately 1.14 mile upstream of confluence with Levisa Fork	*688
Approximately 0.26 mile upstream of Low Water Crossing	*821
Maps available for inspection at the Pike County Courthouse, Judge Executive's Office, 324 Main Street, Pikeville, Kentucky.	
Pikeville (City), Pike County (FEMA Docket Nos. 7190 and 7247)	
Pikeville Pond:	
Approximately 800 feet upstream of the confluence with Levisa Fork	*670
Approximately 1,750 feet upstream of Baird Avenue	*686
Harolds Branch:	
At confluence with Pikeville Pond	*672

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 290 feet upstream of confluence with Pikeville Pond	*672
Ferguson Creek:	
At confluence with Pikeville Pond	*670
Approximately 0.25 mile upstream of confluence with Pikeville Pond	*670
Maps available for inspection at the Building Inspector's Office, 260 Hambley Boulevard, Pikeville, Kentucky.	
MARYLAND	
Caroline County (Unincorporated Areas) (FEMA Docket No. 7243)	
Miles Branch:	
Downstream corporate limits	*12
At Wright Road	*37
Maps available for inspection at the Caroline County Planning Office, 109 Market Street, Caroline County Courthouse, Second Floor, Denton, Maryland.	
Federalsburg (Town), Caroline and Dorchester Counties (FEMA Docket No. 7243)	
Miles Branch:	
At Reliance Avenue (State Route 313)	*22
Approximately 0.8 mile upstream of Reliance Avenue	*34
Maps available for inspection at the Federalsburg Town Hall, 118 North Main Street, Federalsburg, Maryland.	
MINNESOTA	
Chaska (City), Carver County (FEMA Docket No. 7247)	
East Creek:	
Approximately 1,875 feet upstream of confluence with Minnesota River	*712
Approximately 100 feet upstream of North Valley Road	*775
Minnesota River:	
At upstream side of Milwaukee Road Railroad	*724
Approximately 1,320 feet upstream of Milwaukee Road Railroad	*724
Old Clay Hole:	
Entire shoreline within community	*729
Ponding Areas at Outlet A:	
Entire shoreline within community	*719
Courthouse Lake:	
Entire shoreline within community	*703
Maps available for inspection at the City of Chaska Engineer's Office, One City Hall Plaza, Chaska, Minnesota.	
NEW YORK	
Camden (Town), Oneida County (FEMA Docket No. 7243)	
Cobb Brook:	
At confluence with West Branch Fish Creek	*472
Approximately 0.82 mile upstream of Shady Lane	*574
Mad River:	
At downstream corporate limits	*520
Approximately 100 feet upstream of River Road	*597
West Branch Fish Creek:	
Approximately 0.4 mile downstream of Brewer Road	*461
Approximately 1.12 miles upstream of State Route 13	*526
Maps available for inspection at the Camden Town Hall, Code Enforcement Office, Second Street, Camden, New York.	
Endicott (Village), Broome County (FEMA Docket No. 7243)	
Susquehanna River:	
Approximately 1,500 feet upstream of the confluence of Nanticoke Street	*829
Approximately 600 feet upstream of the Vestal Avenue bridge	*830
Maps available for inspection at the Endicott Municipal Building, 1009 East Main Street, Endicott, New York.	
Rome (City), Oneida County (FEMA Docket No. 7243)	
Wood Creek:	
Approximately 600 feet downstream of Erie Canal Triple Culvert	*414
Approximately 100 feet upstream of West Dominick Street	*438
Maps available for inspection at the City Engineer's Office, Rome City Hall, Liberty Plaza, Rome, New York.	
NORTH CAROLINA	
Catawba County (Unincorporated Areas) (FEMA Docket No. 7231)	
Catawba River (Lake Hickory):	
At Oxford Dam	*935
At confluence of Snow Creek	*935
Catawba River (Lookout Shoals Lake):	
At Lookout Shoals Dam	*847
Approximately 4.3 miles upstream of Lookout Shoals Dam	*849
Catawba River (Lake Norman):	
At downstream county boundary	*761
Approximately 0.6 mile downstream of NC 1004	*763
Elk Shoal Creek:	
Approximately 875 feet upstream of confluence with Catawba River	*849
Approximately 750 feet upstream of State Route 1700	*849
Dellinger Creek:	
At confluence with Elk Shoal Creek	*850
Approximately 850 feet upstream of confluence with Elk Shoal Creek	*853
Maps available for inspection at the Catawba County Zoning Office, 100A Southwest Boulevard, Newton, North Carolina.	
Watauga County (Unincorporated Areas) (FEMA Docket No. 7243)	
Watauga River:	
Approximately 0.75 mile upstream of Breached Dam	*2,905
Approximately 0.79 mile upstream of Aldridge Road (SR 1594)	*3,240
Maps available for inspection at the Watauga County Planning and Inspections Department, County Courthouse, 842 West King Street, Suite 7, Boone, North Carolina.	
PENNSYLVANIA	
Carroll (Township), Perry County (FEMA Docket No. 7235)	
Sherman Creek:	
Approximately 0.43 mile downstream of State Route 34	*442
Downstream side of Pisgah State Road	*457
Unnamed Tributary to Sherman Creek:	
Confluence with Sherman Creek	*446
Approximately 350 feet downstream of Private Road	*447
Maps available for inspection at the Office of the Township Secretary, 5235 Spring Road, Shermans Dale, Pennsylvania.	
WISCONSIN	
Avoca (Village), Iowa County (FEMA Docket No. 7243)	
Wisconsin River:	
At upstream corporate limits	*688
At downstream corporate limits	*686
Maps available for inspection at the Avoca Village Hall, 407 Front Street, Avoca, Wisconsin.	
Boscobel (City), Grant County (FEMA Docket No. 7243)	
Wisconsin River:	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.91 mile downstream of U.S. Route 61	*655
Approximately 0.56 mile upstream of U.S. Route 61	*657
Sanders Creek:	
At U.S. Route 61	*657
Approximately 90 feet upstream of upstream corporate limits	*678
Maps available for inspection at the Boscobel City Hall, 1006 Wisconsin Avenue, Boscobel, Wisconsin.	
Iowa County (Unincorporated Areas) (FEMA Docket No. 7227)	
Wisconsin River:	
At downstream county boundary	*680
At upstream county boundary	*731
Maps available for inspection at the Iowa County Zoning Office, 222 North Iowa Street, Dodgeville, Wisconsin.	
Manitowoc County (Unincorporated Areas) (FEMA Docket No. 7243)	
Sheboygan River:	
At county boundary	*845
At corporate limits of Kiel (State Routes 67 and 32)	*882
Maps available for inspection at the Manitowoc County Planning & Park Commission, 4319 Expo Drive, Manitowoc, Wisconsin.	
Merrill (City), Lincoln County (FEMA Docket No. 7247)	
Wisconsin River:	
Approximately 1.1 miles downstream of U.S. Route 51	*1,241
Approximately 500 feet upstream of Alexander Dam	*1,276
Prairie River:	
At the confluence with Wisconsin River	*1,252
Approximately 1,480 feet upstream of Third Street	*1,259
Devil Creek:	
At the confluence with Wisconsin River	*1,254
At Heldt Street	*1,266
Maps available for inspection at the City of Merrill Building Inspector/Zoning Administrator's Office, Merrill City Hall, 1004 East First Street, Merrill, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13732 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 97–D321]

Defense Federal Acquisition Regulation Supplement; Waiver of Domestic Source Restrictions

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has adopted as final, with changes, an interim rule that was published in the **Federal Register** on February 4, 1998. The rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 811 of the National Defense Authorization Act for Fiscal Year 1998. Section 811 limits the authority for waiver of the domestic source restrictions of 10 U.S.C. 2534(a).

EFFECTIVE DATE: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule with request for comments was published at 63 FR 5744 on February 4, 1998. The rule amended DFARS Parts 225 and 252 to implement Section 811 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85). Section 811 provides that DoD may exercise the authority of 10 U.S.C. 2534(d), to waive the domestic source restrictions of 10 U.S.C. 2534(a), only if the waiver is made for a particular item and for a particular foreign country. 10 U.S.C. 2534(a) contains domestic source restrictions applicable to procurement of the following items: Buses, chemical weapons antidote, components for naval vessels (including air circuit breakers, anchor and mooring chain, and totally enclosed lifeboats), and ball and roller bearings.

One source submitted comments in response to the interim rule. The comments were considered in the formation of the final rule. The final rule adds guidance to clarify that, for contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to (1) subcontracts entered into on or after the effective date of the waiver; and (2) options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because there are no known small business manufacturers of buses, air circuit breakers, or the restricted chemical weapons antidote; the acquisition of anchor and mooring chain, totally enclosed lifeboat survival systems, and noncommercial ball and roller bearings is presently restricted to domestic sources by defense appropriations acts; and the restrictions of 10 U.S.C. 2534(a) do not apply to purchases of commercial items incorporating ball or roller bearings.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because this final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C 3501, et seq.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Parts 225 and 252, which was published at 63 FR 5744 on February 4, 1998, is adopted as final with the following changes:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.7005 is amended by adding paragraph (a)(4) to read as follows:

225.7005 Waiver of certain restrictions.

* * * * *

(a) * * *

(4) For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to—

(i) Subcontracts entered into on or after the effective date of the waiver; and

(ii) Options for the procurement of items that are exercised after the effective date of the waiver, if the option

prices are adjusted for any reason other than the application of the waiver.

* * * * *

3. Section 225.7019–3 is amended by adding paragraph (b)(4) to read as follows:

225.7019–3 Waiver.

* * * * *

(b) * * *

(4) For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to—

(1) Subcontracts entered into on or after the effective date of the waiver; and

(ii) Options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

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[FR Doc. 98–13741 Filed 5–21–98; 8:45 am]

BILLING CODE 5000–04–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1816

Revision to the NASA FAR Supplement on Technical Performance Incentive Guidance.

AGENCY: National Aeronautics and Space Administration(NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FARSupplement (NFS) to correct inconsistencies on technical performance incentive guidance.

EFFECTIVE DATE: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA Office of Procurement, Contract Management Division (Code HK), (202) 358–0478.

SUPPLEMENTARY INFORMATION:

Background

NFS section 1816.402–270, NASA Technical Performance Incentives, requires the use of positive and negative performance incentives in hardware contracts greater than $25M unless waived in writing by the Center Director. New section 1816.402, Application of Predetermined, Formula-Type Incentives, was added as a final rule in the March 17, 1998 **Federal Register** (63 FR 12997–12998). This section provided guidance on the appropriate selection and use of positive and negative performance incentives, but did not change the mandatory requirement in 1816.402–270 which appears to preempt those guidelines in certain circumstances. This incongruity is rectified by adding language to 1816.402–270 stating that NASA has considered the guidelines in 1816.402 and has determined that performance incentives are appropriate for, and must be used in, hardware contracts greater than $25M. Additional administrative revisions are made to indicate that this policy does not apply to commercial acquisitions under FAR Part 12 and that negative incentives are not required for contracts which already require total contractor liability for product performance.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the RegulatoryFlexibility Act (5 U.S.C. 601 *et seq.*). This final rule does not impose any reporting requirements or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1816

Government procurement.

Deidre A. Lee,

Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1816 is amended as follows:

PART 1816—TYPES OF CONTRACTS

1. The authority citation for 48 CFR Part 1816 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1816.402–270, paragraphs (a), (b), and (c) are revised to read as follows:

1816.402–270 NASA technical performance incentives.

(a) Pursuant to the guidelines in 1816.402, NASA has determined that a performance incentive shall be included in all contracts based on performance-oriented documents (see FAR 11.101(a)), except those awarded under the commercial item procedures of FAR part 12, where the primary deliverable(s) is (are) hardware with a total value (including options) greater than $25 million. Any exception to this requirement shall be approved in writing by the Center Director. Performance incentives may be included in hardware contracts valued under $25 million acquired under procedures other than FAR Part 12 at the discretion of the procurement officer upon consideration of the guidelines in 1816.402. Performance incentives, which are objective and measure hardware performance after delivery and acceptance, are separate from other incentives, such as cost or delivery incentives.

(b) When a performance incentive is used, it shall be structured to be both positive and negative based on hardware performance after delivery and acceptance, unless the contract type requires complete contractor liability for product performance (e.g., fixed price). In this latter case, a negative incentive is not required. In structuring the incentives, the contract shall establish a standard level of performance based on the salient hardware performance requirement. This standard performance level is normally the contract's minimum performance requirement. No incentive amount is earned at this standard performance level. Discrete units of measurement based on the same performance parameter shall be identified for performance above and, when a negative incentive is used, below the standard. Specific incentive amounts shall be associated with each performance level from maximum beneficial performance (maximum positive incentive) to, when a negative incentive is included, minimal beneficial performance or total failure (maximum negative incentive). The relationship between any given incentive, either positive and negative, and its associated unit of measurement should reflect the value to the Government of that level of hardware performance. The contractor should not be rewarded for above-standard performance levels that are of no benefit to the Government.

(c) The final calculation of the performance incentive shall be done when hardware performance, as defined in the contract, ceases or when the maximum positive incentive is reached. When hardware performance ceases below the standard established in the contract and a negative incentive is included, the Government shall calculate the amount due and the contractor shall pay the Government that amount. Once hardware performance exceeds the standard, the contractor may request payment of the incentive amount associated with a given level of performance, provided that such payments shall not be more frequent than monthly. When hardware performance ceases above the standard level of performance, or when the maximum positive incentive is reached, the Government shall calculate the final performance incentive earned and

unpaid and promptly remit it to the contractor.

* * * * *

[FR Doc. 98–13778 Filed 5–21–98; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 365, 372, 373, 374, and 377

RIN 2125–AE41

Federal Motor Carrier Regulations; Authority Corrections

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical corrections.

SUMMARY: This document makes technical amendments to the authority statements for various FHWA motor carrier regulations in order to remove the obsolete authority citations provided in the subparts. This correction is necessary due to changes required by the ICC Termination Act of 1995 (ICCTA) and the transfer of certain regulatory functions to the FHWA from the former Interstate Commerce Commission (ICC). The effect of these amendments is to remove the outdated authority citations listed in the subparts.

DATES: This final rule is effective May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Falk, Office of the Chief Counsel, Motor Carrier Law Division, (202) 366–1384, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On October 21, 1996, the FHWA published a final rule that transferred and redesignated certain motor carrier transportation regulations from chapter X of title 49, Code of Federal Regulations, to the FHWA in chapter III of that title. See Motor Carrier Transportation; Redesignation of Regulations From the Surface Transportation Board Pursuant to the ICC Termination Act of 1995 [61 FR 54706]. Another document also made technical amendments to former ICC regulations and was published on April 1, 1997. Technical Amendments to Former Interstate Commerce Commission Regulations in Accordance With the ICC Termination Act of 1995. [62 FR 15417]. The technical changes made in both of these documents were required by section 204 of the ICCTA, Public Law 104–88, 109 Stat. 803. Part 365, Rules for governing applications for operating authority, subpart D (formerly part 1181); part 372, Exemptions, commercial zones, and terminal areas, subparts A, B, and C (formerly parts 1047, 1048, and 1049, respectively); part 373, Receipts and bills, subparts A and B (formerly parts 1051 and 1081, respectively); part 374, Passenger carrier regulations, subparts A, B, C, and D (formerly parts 1055, 1061, 1063, and 1064, respectively); and part 377, Payment of transportation charges, subparts A and B (formerly parts 1052 and 1320, respectively) included in the new statutory authority at the part level, but inadvertently failed to remove the former ICC authority at the subpart levels. Accordingly, the FHWA removes the obsolete ICC authority citations in the subpart levels noted above and retains the current authority citations in the part levels which reflect the changes mandated by the ICCTA.

Rulemaking Analyses and Notices

This final rule makes only minor technical corrections to existing regulations by removing obsolete ICC authority citations at the subpart levels of FHWA regulations. This rule replaces outdated authority citations with current statutory authority and the regulatory standards are not changed in any way. Therefore, the FHWA finds good cause to adopt the rule without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The Department of Transportation's regulatory policies and procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making this rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects existing regulations.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, and since this rulemaking action makes only technical corrections to the authority citations in current regulations, the FHWA hereby certifies that this action will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates on State, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Excutive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 44 U.S.C. 3501 *et seq.*,

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 432 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda for Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 365

Administrative practice and procedures, Brokers, Buses, Freight forwarders, Highways and roads, Motor carriers.

49 CFR Part 372

Buses, Commercial zones, Freight forwarders, Highway and roads, Motor carriers.

49 CFR Part 373

Buses, Highways and roads, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 374

Baggage liability, Buses, Civil rights, Discrimination, Freight forwarders, Handicapped, Highways and roads, Motor carrier.

49 CFR Part 377

Credit, Freight forwarders, Highways and roads, Motor carriers.

Issued on: May 14, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, chapter III, as set forth below:

PART 365—[AMENDED]

1. The authority citation for 49 CFR part 365 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.48.

1a. The authority citation for subpart D is removed.

PART 372—[AMENDED]

2. The authority citation for 49 CFR part 372 continues to read as follows:

Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

2a. The authority citations for subparts A, B, and C are removed.

PART 373—[AMENDED]

3. The authority citation for part 373 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

3a. The authority citations for subparts A and B are removed.

PART 374—[AMENDED]

4. The authority citation for part 374 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14101; 49 CFR 1.48.

4a. The authority citations for subparts A, B, C, and D are removed.

PART 377—[AMENDED]

5. The authority citation for 49 CFR part 377 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

5a. The authority citations for subparts A and B are removed.

[FR Doc. 98–13436 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1152 and 1155

[STB Ex Parte No. 566]

Rail Service Continuation Subsidy Standards

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the Code of Federal Regulations rules concerning standards for determining subsidies for the continuation of rail service on rail properties not transferred to Consolidated Rail Corporation (Conrail) under the Final System Plan pursuant to the Regional Rail Reorganization Act of 1973. It is also amending the regulations concerning offers of financial assistance to provide rules for the purchase or subsidization of rail lines that have been continuously subsidized since the inception of the Final System Plan.

EFFECTIVE DATE: June 21, 1998.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served and published in the **Federal Register** on August 8, 1997 (62 FR 42734), the Board proposed to remove the regulations at 49 CFR part 1155 that concern subsidy standards for certain rail lines of railroads in reorganization not included in the Final System Plan, described *infra*. The NPR noted that these regulations are based, at least partially, on statutes that are still in effect. 45 U.S.C. 744 (c) and (d). Under the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA),[1] however, the Rail Services Planning Office (RSPO), the statutory body that developed the regulations, has been abolished. *See* repealed 49 U.S.C. 10361–64. Moreover, the Board has in place analogous offer of financial assistance (OFA) regulations providing national subsidy standards. 49 CFR 1152.27. Finally, the NPR stated that the regional subsidy regime at 45 U.S.C. 744, which applies to "rail service on rail properties of a railroad in reorganization," may be outdated and may apply only to a limited number of situations. Accordingly, we instituted this proceeding to determine whether these regulations may be eliminated in light of the national OFA standards, whether portions of the part 1155 regulations could be transferred to the national standards, or whether they have a continuing vitality and should be retained.

After considering the record, we will eliminate the part 1155 rules and modify the national OFA rules at 1152.27. Because the part 1155 rules have only limited applicability, it is unnecessary to maintain these detailed regulations. However, to provide an opportunity for rail service continuation and to deal with abandonments of lines that are still being subsidized, we are modifying our national OFA regulations at 49 CFR 1152.27 to require that the line owner give notice of the abandonment or discontinuance to enable interested persons to purchase or subsidize the line.

Background

Our NPR gave a detailed background for the part 1155 regulations and will be repeated only as necessary. The part 1155 rules were based on the Regional Rail Reorganization Act of 1973, Public Law 93–236, 87 Stat. 985, 45 U.S.C. 701 *et seq.* (3R Act), as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Public Law 94–210, 90 Stat. 127. In response to the bankruptcy of the Penn Central Transportation Company and seven other major railroads in the Northeast and Midwest,[2] the 3R Act provided for the development and ultimate approval by Congress of a Final System Plan (Plan) for the redesign of rail services in

[1] Effective January 1, 1996, the ICCTA abolished the Interstate Commerce Commission and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [Interstate Commerce Commission] that are based on provisions of law repealed and not substantively reenacted by this Act."

[2] The Lehigh Valley Railroad Company, the Central Railroad of New Jersey, the Ann Arbor Railroad Company, the Lehigh and Hudson Valley Railroad Company, the Boston and Maine Corporation, the Erie Lackawanna Railway Company, and the Reading Railroad.

the region. Lines that could not be operated profitably and were not considered essential to the rail transportation system would not be included in the Plan. The 3R Act's Plan created Conrail as a for-profit corporation to reorganize the bankrupt rail services in the region.

Section 304 of the 3R Act permitted the summary discontinuance of service over those lines not included in the Plan without Interstate Commerce Commission (ICC or Commission) approval if 60 days' notice was given and certain parties were notified. Beginning 120 days after such discontinuance, the summary abandonment of a line was allowed if 30 days' notice was given and the parties were notified. The 3R Act, in effect, authorized the discontinuance and abandonment of the lines not included in the Plan; ICC approval was not needed.[3] However, section 304(c)(2) of the 3R Act (codified at 45 U.S.C. 744(c)(2)(A)) stated that an abandonment or discontinuance could not be carried out if a shipper, or public authority, or any responsible person offered a rail service continuation subsidy.[4] The 4R Act amended the 3R Act by adding a new section 45 U.S.C. 744(d) which specified that a "designated operator" would be the rail carrier conducting operations when a subsidizer guaranteed payment.[5] Although not needing ICC authority to operate or abandon, the designated operators were common carriers.[6]

The use of the subsidy is limited to rail service and rail properties of a railroad in reorganization[7] in the region[8] that are not included in the Plan. 45 U.S.C. 744(a). Moreover, the subsidy must be made within 2 years of the effective date of the Plan[9] or within "2 years after the date on which the final rail service continuation payment is received, whichever is later * * *." 45 U.S.C. 744(c)(1).

The 3R Act, as amended by the 4R Act, also created RSPO[10] which was authorized to issue standards for defining the subsidy-related terms "revenue attributable to rail properties," "avoidable costs of providing service," "a reasonable return on the value," and "reasonable management fee" found in section 304. Section 205(d)(6).[11] Subsequently, the ICC issued regulations that are now codified at 49 CFR 1155. The regulations define the terms noted above (revenue attributable, avoidable costs, return on value, reasonable management fee) for determining the subsidy payment for the continuation of train service over lines not included in the Plan. The regulations are largely self-executing with little role provided for the ICC.[12]

The 4R Act also instituted the national OFA procedures. It allowed an abandonment to be postponed for up to 6 months if a financially responsible person offered to purchase or subsidize the line. Section 802. (This provision was originally codified at 49 U.S.C. 1a(6)(a) and subsequently recodified without substantive change at former 49 U.S.C. 10905.) In essence, the regional subsidy provision of 45 U.S.C. 744 was expanded to apply to all carriers. In November 1976, the ICC promulgated regulations that were predicated on the part 1155 regulations, although, due to factual and statutory differences, there were certain variations. The OFA rules are now found at 49 CFR 1152.27.[13]

The ICCTA was the latest legislative action applicable to these regulations. There was no change to 45 U.S.C. 744(c). The changes to section 744(d) do not affect part 1155. The RSPO statutes—49 U.S.C. 10361–64—were repealed. Former 49 U.S.C. 10905 was modified and is now found at 49 U.S.C. 10904, but the changes there do not affect our analysis.

In our NPR, we stated that we were reexamining part 1155 because of the changes made by the ICCTA, the availability of our national subsidy standards, and the likelihood that few situations fall within the regional subsidy framework. Comments were filed by the Association of American Railroads (AAR) and the Delaware Valley Railway Company, Inc. (DV).

Comments of the Parties

The AAR, in its brief comment, supports the removal of part 1155, arguing that rules "are of marginal, if any, utility * * *."

DV is a Class III short line railroad.[14] It has operated over a rail line owned by a subsidiary of the Reading Company, the corporate successor of the bankrupt Reading Railroad Company. DV expresses its belief that the regional standards "substantially duplicate the National OFA standards," and supports removal of the part 1155 regional regulations because of the availability of the national OFA standards. It claims that, to keep separate regulations applicable to only a few lines and

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[3] See *Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions 49 CFR 1120A*, Finance Docket No. 28990F (ICC served July 16, 1981) at 9–10 (footnote omitted): "A rail line which was approved for abandonment under the Final System Plan * * * but over which operations were continued by a [designated operator], comes within the meaning of abandoned or authorized for abandonment * * *."

[4] This subsidy "covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such properties plus a reasonable return on the value of such rail properties * * *."

[5] The subsidy payment was now defined at section 744(d) as "the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties, together with a *reasonable management fee* as determined by [RSPO]." (Emphasis supplied.)

[6] See *Application Proc.-Construct, Acq. Or Oper. R. Lines*, 365 I.C.C. 516, 523 (1982) and *Exemption of Certain Designated Operators from Section 11343*, 361 I.C.C. 379 (1979), *aff'd in part and remanded in part sub nom. McGinness* v. *ICC*, 662 F.2d 853 (D.C. Cir. 1981). See also 49 CFR 1150.16: "Although the designated operator will not be required to seek and obtain authority from the Board either to commence or terminate operations, the designated operator is a common carrier by railroad subject to all other provisions of 49 U.S.C. Subtitle IV."

[7] A "railroad in reorganization" is defined at 45 U.S.C. 702(16) as a railroad which is subject to a bankruptcy proceeding and which has not been determined by a court to be reorganizable or not subject to reorganization pursuant to this chapter as prescribed in section 717(b) of this title. A 'bankruptcy proceeding' includes a proceeding pursuant to section 77 of the Bankruptcy Act and an equity receivership or equivalent proceeding * * *."

[8] "Region" is defined at 45 U.S.C. 702(17) as "the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business in the aforementioned jurisdictions (as determined by [ICC] order) * * *."

[9] The Plan was submitted to Congress on July 26, 1975. It was approved when neither the House of Representatives nor the Senate objected to it. The Plan was formally approved in section 601(e) of the 4R Act.

[10] RSPO was established as "an office in the Interstate Commerce Commission." Former 49 U.S.C. 10361. In resolving the issue of whether final orders or regulations of RSPO were to be considered orders or regulations of the ICC, the court held that "[a]lthough Congress gave to the RSPO final administrative responsibility for certain determinations, we conclude that the RSPO is sufficiently part of the ICC so that its orders are to be considered orders of the ICC for purposes of the Hobbs Act." *Southeastern Pennsylvania Transp. Auth.* v. *I.C.C.*, 644 F.2d 238, 240, n.3 (3d Cir. 1981).

[11] The language of section 205 pertaining to RSPO was eventually codified at 49 U.S.C. 10361–64.

[12] However, under 49 CFR 1155.3(a), a carrier giving notice of intent to discontinue service shall submit an "Estimate of Subsidy Payment" to, *inter alia*, RSPO. Under 49 CFR 1155.4(c), a party desiring an interpretation of the standards can file a petition with RSPO. Under § 1155.9, if the parties cannot agree on certain issues, the matter could be arbitrated. The ICC was not directly involved in reviewing disputes.

[13] The Staggers Rail Act of 1980, Public Law 96–448, 94 Stat. 1895, further revised former 49 U.S.C. 10905. Section 402. The 6-month negotiating period was shortened and, when a carrier and shipper could not agree to terms, the ICC upon request would set, and the carrier was bound by, the purchase or subsidy price.

[14] DV is involved in a pending proceeding in which relief is sought, *inter alia*, under 49 CFR part 1155. *RailAmerica, Inc., and the Delaware Valley Railway Company, Petition to Set Subsidy Terms Under 45 U.S.C. 744(c) and 49 CFR Part 1155*, STB Finance Docket No. 33285.

another standard for all other lines, would cause "unnecessary, wasteful, potentially inconsistent, and duplicative regulation." It seeks to amend the national OFA standards to handle the few situations that would still fall under the regional standards.

In response to the question of whether there are any "railroads in reorganization," DV claims that the Reading Company, while "concededly not a railroad in reorganization under that [3R Act] statute, is a successor to a railroad in reorganization and should be subject to the provisions of 49 CFR part 1155 on that basis." [15] It argues that Congress did not intend that carriers could avoid regulatory oversight by reorganizing themselves, and that the Board should focus on the rail property and rail service at issue and not the status of the owning entity.[16]

Discussion and Conclusions

Because of the changes in the ICCTA and the fact that there appear to be few lines being operated under the regional subsidy regime, we will remove the more than 30 pages of regulations at part 1155. While technically there may no longer be any 3R Act railroads in reorganization, there appear to be a few lines that have been continuously subsidized under 49 U.S.C. 744, and these lines require special procedures. Therefore, we are issuing regulations at 49 CFR 1152.27(n) that would provide for summary abandonment and discontinuance on notice by the carrier owning the line, and that would allow for the opportunity to subsidize and purchase lines under the national OFA rules.

As noted, *supra*, these lines were effectively approved for abandonment and discontinuance under section 744, and, for those lines that have been continually subsidized, we do not believe that the approval to abandon or discontinue has been removed. Accordingly, Board authorization is not needed for cessation of service. Lines of railroad in the Northeast that were not included in the Plan and are no longer being subsidized under section 744 but continue to be operated are common carrier lines subject to the regular abandonment and national OFA regime of the Interstate Commerce Act.

The commenters generally support the removal of part 1155 (with DV also seeking a concomitant modification of the national OFA rules). Moreover, the record indicates that the regulations appear to be unnecessary. They were determined and issued by an office (RSPO) that has been abolished by the ICCTA.[17] Under former 49 U.S.C. 10362(b)(7), RSPO was to "maintain, and from time to time revise and republish * * * standards for determining the revenue attributable to the rail properties, the avoidable costs of providing transportation, a reasonable return on value, and a reasonable management fee * * *." As noted, this section, as well as RSPO, has been abolished. There are, however, parallel sections in force—45 U.S.C. 744(c) and (d)—that pertain to subsidies for the continuation of rail freight service. Even here, however, support for the subsidy regulations is uncertain, because section 744(d)(1) and (d)(2) refer to laws repealed by the ICCTA.[18]

Even if the ICCTA does not mandate the removal of the regulations, there appears to be little need for the subsidy rules, because of the availability of the national standards and because the circumstances and conditions that the regional standards were to address have largely expired. Under 45 U.S.C. 744(a)(1) and (c)(1), the regional subsidy program applies to a "rail service on rail properties of a railroad in reorganization" and is not available "after 2 years from the effective date of the [Plan] or more than two years after the last rail service continuation payment is received, whichever is later * * *." There may not be any railroads in reorganization as defined by the statute. In *Consolidated Rail Corp.* v. *Reading Co.*, 654 F. Supp. 1318, 1323 (Sp. Ct. RRRA 1987) (*Reading*), a case arose that involved whether personal injury claims could be brought against Conrail and National Railroad Passenger Corporation pursuant to section 709(b) of the 3R Act (45 U.S.C. 797h(b)). That section provided for assumption by Conrail of personal injury claims against "a railroad in reorganization." The court looked at the definition of railroad in reorganization (45 U.S.C. 702(16)), *supra*, and stated that certain predecessor railroads of Conrail were not railroads in reorganization because they were no longer "subject to a bankruptcy proceeding." These carriers had undergone reorganization, final consummation orders had been entered, and the carriers had been discharged in bankruptcy.[19] The court found that "[w]here, as is the case here, the definition of a statutory term is clear and unequivocal it is controlling." *Id.* (citations omitted.)

As a consequence of *Reading*, there will, at a minimum, be no new lines that can be added to the regional subsidy regime. This does not, however, end our inquiry. There appears to be at least one line that has been subsidized since the enactment of the regional subsidy program. Such lines have already been approved for abandonment and discontinuance. Moreover, it can be argued that these lines still fall within the ambit of section 744. Under these circumstances, we believe that the best approach will be to eliminate part 1155, but modify the OFA regulations for situations involving lines that are still being subsidized under the regional standards.

The notice periods will follow the basic regime of section 744. Summary discontinuance of service without Board approval may be effected if 60 days' notice is given by the owner of the line and certain parties are notified.[20] Beginning 120 days thereafter, the summary abandonment of a line is allowed if 30 days' notice is given and the parties are notified.

We are requiring the owner of the line, and not the designated operator, to provide the notice that triggers the OFA process. We are retaining the provision by which a designated operator may terminate service in accordance with the terms of its agreement and is only required to give notice of termination of service to the shippers on the line. 49 CFR 1150.11. No time period is specified for the notice. We hope that

[15] DV claims it involves "one of the few instances, if not the last instance, of rail service provided over railroad property owned by the successor to a bankrupt railroad not transferred to Conrail or another rail carrier under the [Plan]." [Footnote omitted.]

[16] These concerns are moot, because we are finding that the abandonment and discontinuance of lines still being subsidized will fall under the special national OFA standards at 49 CFR 1152.27(n). Formerly subsidized lines that are being abandoned or discontinued will come under the regular OFA rules at section 1152.27.

[17] We note that the regulations assign continuing responsibilities to the abolished office (issuing interpretations, receiving estimates of subsidy payments).

[18] Under 45 U.S.C. 744(d)(1), the defunct RSPO is to determine the terms a subsidizer is to pay a designated operator. Section 744(d)(1) states that the terms "revenue attributable," "avoidable costs," and "reasonable management fee" are to be determined by "the Office," defined at 45 U.S.C. 702(12) as RSPO.

Moreover, under 45 U.S.C. 744(d)(2), the term "reasonable return on value" is to be developed according to the standards of 205(d)(6) of the 3R Act, which, as noted, was codified at the now repealed RSPO statute, 49 U.S.C. 10362.

[19] The court noted (*Id.* at 1323, n.2) the following consummation dates: Erie Lackawanna, Inc. (November 30, 1982); Reading Co. (December 31, 1980); Penn Central Transportation Co. (October 24, 1978); Lehigh Valley Railroad Co. (September 1, 1982); and the Central of New Jersey (September 14, 1979). We note that despite this ruling, section 797h(b) has not been removed.

[20] Notice shall be to the Board, governor and transportation agencies and the government of each political subdivision of each state in which such rail properties are located and to each shipper who has used the rail service during the previous 12 months.

the designated operator and line owner will coordinate the giving of notice so that there will be no break in service. We recognize, however, that under our present "designated operator" rules, it is possible that the operator could terminate service before the notice period has expired. This eventuality is a natural outcome of such subsidy regimes where service is tied specifically to an agreement. Nevertheless, given the specified time periods and the ability of the Board to set terms and conditions under the national standards, we expect that any breaks in service would be of short duration.

The New OFA Rules

We are modifying 49 CFR 1152.27 by adding a new paragraph (n). Abandonment or discontinuance notice must be given, affording interested persons an opportunity to purchase or subsidize the line under our national OFA standards.[21] The applicable time limits will run from the date of the notice as the Board does not approve the cessation of service for these lines.

We will generally apply the national OFA standards applicable to class exemptions found at 49 CFR 1152.27 to these summary abandonments and discontinuances.[22] For example, a party may discontinue [23] or abandon service on a line of railroad formerly in reorganization that was not included in the Plan on 60 days' notice and, beginning 120 days after discontinuance, on 30 days' notice, respectively. Notice of summary abandonment or discontinuance will be published by the Board in the **Federal Register** within 20 days of filing. 49 CFR 1152.27(b)(2)(ii). Expressions of intent to file an offer must be filed no later than 10 days after the **Federal Register** publication. Paragraph (c)(2)(i) of section 1152.27. An offer must be filed within 30 days of the **Federal Register** publication. Paragraphs (b)(2)(ii) and (c)(2)(ii)(B) of section 1152.27.

The Board will review offers to determine if a financially responsible person has offered assistance. If this criterion is met, the Board will postpone the effective date of the summary abandonment (but not the discontinuance) [24] within 35 days of the **Federal Register** publication. Paragraph (e)(2) of § 1152.27. If the carrier and financially responsible person fail to agree on the amount or terms of subsidy or purchase, either party may request the Board to establish the conditions and amount of the compensation. This request must be filed within 30 days after the offer of purchase or subsidy is made, and the Board will issue a decision within 30 days after the request is due. Paragraphs (g)(1) and (h)(1) of § 1152.27.

Lines of the former railroads in reorganization under the 3R Act are under Board jurisdiction insofar as the institution of new rail service is involved. See *Delaware and Hudson Ry. Co.—Modified Cert. Of PC&N*, 363 I.C.C. 808 (1981) (holding that where a line had formally been operated under subsidy and was later abandoned, the carrier was required to file an application under former 49 U.S.C. 10901 to operate the line). Thus, in those instances, any future abandonment or discontinuance would be subject to the abandonment and OFA procedures of 49 U.S.C. 10903–04.

The Board concludes that the removal of the rule and the addition of the new rule will not have a significant effect on a substantial number of small entities. It appears that the eliminated, as well as the new, rule does not apply to many situations. In those situations where the rule changes are applicable, they are consistent with the new statutory framework. Moreover, there should not be any significant change from current practice under the new rules.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1152

Administrative practice and procedure, Conservation, Environmental protection, National forests, National parks, National trails system, Public land-grants, Public lands-rights-of-way, Railroads, Recreation and recreation areas, Reporting and recordkeeping requirements.

49 CFR Part 1155

Railroads, Uniform System of Accounts.

Decided: May 13, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended as set forth below:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. The authority citation for part 1152 is revised to read as follows:

Authority: 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, 10903–10905, and 11161.

2. In § 1152.27, paragraph (n) is added to read as follows:

§ 1152.27 Financial assistance procedures.

* * * * *

(n) *Special provisions for summary discontinuance and abandonment of lines not part of the Final System Plan.* (1) Board authorization is not needed for the cessation of service on a line of railroad formerly in reorganization that was not included in the Final System Plan (Plan) under the Regional Rail Reorganization Act of 1973, 45 U.S.C. 701 *et seq.*, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, if the line has been continuously subsidized since the inception of the Plan. To provide an opportunity for rail service continuation through offers of financial assistance, however, the owner of the line must give not less than 60 days' notice of a discontinuance, and beginning 120 days after discontinuance, not less than 30 days' notice of abandonment. Designated operators need only comply with the notice requirements of § 1150.11 of this title. In instances of discontinuance by a designated operator, the line owner is not obligated to operate the line. Notice is to be sent by the line owner to the Board, the governor and transportation agencies and the government of each political subdivision of each state in which such rail properties are located and to each shipper who has used the rail service

[21] Under the statute, the standards for subsidizing lines are the same for both the national OFA (49 U.S.C. 10904(f)(1)(C)) and regional subsidy (45 U.S.C. 744(c)(2)): the difference between the revenue attributable to the line and the avoidable costs of providing service plus a reasonable return on the value of the line. The regional standards also provide that designated operators are to receive a reasonable management fee discussed *infra*. Unlike section 744, however, the national OFA statute provides that the standard for purchasing a line is its fair market value. This standard will be used in processing offers under section 1152.27(n).

[22] The one significant difference is that we are incorporating into new section 1152.27(n)(2) the reasonable management fee standard for designated operators (4½ %) from section 1155.7(o).

[23] As noted, the owner of the lines gives the notice that triggers the OFA process for discontinuances. The designated operator follows the notice requirements of 49 CFR 1150.11.

[24] We cannot postpone the effective date of the discontinuance because, under our rules, designated operators need only comply with the notice requirements of 49 CFR 1150.11, and, in instances of discontinuance, the line owner is not obligated to operate the line.

during the previous 12 months. The Board will generally apply the OFA procedures in this section (49 CFR 1152.27) for class exemptions to summary abandonment and discontinuance notices (except that the Board will not postpone the effective date of a summary discontinuance). For example, notice of summary abandonment or discontinuance will be published by the Board in the **Federal Register** within 20 days of filing. Paragraph (b)(2)(ii) of this section. Expressions of intent to file an offer must be filed no later than 10 days after the **Federal Register** publication. Paragraph (c)(2)(i) of this section. An offer must be filed within 30 days of the **Federal Register** publication. Paragraphs (b)(2)(ii) and (c)(2)(ii)(B) of this section. The Board will review offers to determine if a financially responsible person has offered assistance. If this criterion is met, the Board will postpone the effective date of the summary abandonment (but not the discontinuance) within 35 days of the **Federal Register** publication. Paragraph (e)(2) of this section. If the carrier and financially responsible person fail to agree on the amount or terms of subsidy or purchase, either party may request the Board to establish the conditions and amount of the compensation. This request must be filed within 30 days after the offer of purchase or subsidy is made, and the Board will issue a decision within 30 days after the request is due. Paragraphs (g)(1) and (h)(1) of this section.

(2) Where a designated operator is being used, it shall be paid a reasonable management fee. If the parties cannot agree on this fee, it shall be four and one-half percent of the total annual revenues attributable to the branch.

PART 1155—[REMOVED]

3. Part 1155 is removed.

[FR Doc. 98–13592 Filed 5–21–98; 8:45 am]
BILLING CODE 4915–00–P

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VOL 63 ISS 99 MY 22 1998

UMI

Proposed Rules

Federal Register
Vol. 63, No. 99
Friday, May 22, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1160

[DA–98–04]

Fluid Milk Promotion Order; Invitation to Submit Comments on Proposed Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document invites written comments on a proposal to amend the Fluid Milk Promotion Order. The proposed amendments, requested by the National Fluid Milk Processor Promotion Board, which administers the Order, would modify the membership status and term of office of Board members. The proposed rule would also amend order language pertaining to committees and intellectual property rights (patents, copyrights, inventions, and publications). The Board believes that the proposed amendments are necessary to maintain Board membership continuity. The changes should allow the Board to operate in a more effective and efficient manner.

DATES: Comments are due no later than June 22, 1998.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Promotion and Research Branch, 1400 Independence Avenue, SW, Stop 0233, Room 2734 South Building, Washington, DC 20250–0233. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in Room 2734 South Building during regular business hours.

FOR FURTHER INFORMATION CONTACT: David R. Jamison, Chief, USDA/AMS/Dairy Programs, Promotion and Research Branch, 1400 Independence Avenue, SW, Stop 0233, Room 2734 South Building, Washington, DC 20250–0233, (202) 720–6909, David__Jamison@usda.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those employing less than 500 employees. There are approximately 250 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. Most of the parties subject to the Order are considered small entities.

Several changes are proposed to the Order provisions of the Fluid Milk Promotion Order (7 CFR Part 1160) concerning membership on the National Fluid Milk Processor Promotion Board (Board) and the terms of office for Board members. The Order is authorized under the Fluid Milk Promotion Act of 1990 (7 USC 6401–6417). The Board requested the amendments.

The Order provides for a 20-member board with 15 members representing geographic regions and five at-large members, at least three of whom are to be fluid milk processors and at least one member from the general public. To the extent practicable, members representing geographic regions should represent processing operations of differing sizes.

Currently, the Order provides that a fluid milk processor can be represented on the Board by not more than one member. The Board in its petition for rulemaking noted that it is more difficult to maintain the single member representation; that processors are larger in size and operate in several geographic areas; and that, to maintain continuity and provide a consistent pool of processor representatives, a change in the Order provisions is needed to allow more than one representative on the Board. The proposed amendments would allow a fluid milk processor to have two members on the Board.

Currently, except in those instances where a Board member changes fluid milk processor affiliation and is eligible to serve on the Board in another capacity during the same term, a Board member whose processor affiliation has changed cannot continue to serve on the Board. This proposed rule would allow Board members whose fluid milk processor company affiliation has changed to serve on the Board for a period of up to 60 days or until a successor is appointed, whichever is sooner, provided that the eligibility requirements of the Order are still met. This should help in the reduction of Board vacancies and foster continuity in Board activities and membership.

Another change that would contribute to greater continuity on the Board would allow Board members who fill vacancies with a term of 18 months or less to serve two consecutive full 3-year terms. Currently, the order provides that except for the initial staggered appointments, Board members could only serve two consecutive terms.

Another change would permit the Board to establish working committees of persons other than Board members to assist the Board with activities by providing information, knowledge, and expertise that otherwise might not be available.

Finally, the amendments would also modify the intellectual property provisions of the Order to specifically provide for and allow joint ownership of intellectual property, i.e., patents, copyrights, inventions, and publications, that is developed using joint funds.

These amendments to Order provisions should not add any burden to regulated parties because they relate to provisions concerning membership on the Board, the establishment of working committees, and joint ownership for patents, copyrights, inventions, and publications. The proposed changes would not impose additional reporting or collecting requirements. No relevant Federal rules have been identified that duplicate, overlap, or conflict with the rule.

Accordingly, pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866 and the Paperwork Reduction Act

This proposed rule has been reviewed by the Office of Management and Budget and has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. If adopted,

this proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law and request a modification of the Order or to be exempted from the Order. A person subject to an order is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved previously by the Office of Management and Budget (OMB) and were assigned OMB No. 0581–0093, except for Board members' nominee background information sheets that were assigned OMB No. 0505–0001.

Statement of Consideration

The proposed rule would amend the membership and term-of-office provisions of the Fluid Milk Promotion Order. Currently, the Order provides that a fluid milk processor can be represented on the Board by not more than one member. The Board in its recommendation for rulemaking noted that it is more difficult to maintain the single member representation; that processors are larger in size and operate in several geographic areas; and that, to maintain continuity and provide a consistent pool of processor representatives, a change in the Order provisions is needed to allow more than one representative on the Board. The proposed amendments would allow a fluid milk processor to have two members on the Board.

The proposed amendments also would allow Board members whose fluid milk processor company affiliation has changed to serve on the Board for a period of up to 60 days or until a successor is appointed, whichever is sooner. Currently, except in those instances where a Board member changes fluid milk processor affiliation and is eligible to serve on the Board in another capacity during the same term, a Board member whose processor affiliation has changed cannot continue to serve on the Board. This proposed rule would allow Board members whose fluid milk processor company affiliation has changed to serve on the Board for a period of up to 60 days or until a successor is appointed, whichever is sooner, provided that the eligibility requirements of the Order are still met. This should help in the reduction of Board vacancies and foster continuity in Board activities and membership.

The proposed amendments would also allow Board members who fill vacancies with a term of 18 months or less to serve two additional 3-year terms. Currently, the Order states that, except for the initial staggered Board appointments of 1- or 2-year terms, Board members may only serve two consecutive terms. Thus any time served with the initial term is considered a complete term. The Board feels that this rule change would allow for greater continuity of membership.

This document also proposes to amend two additional sections of the Fluid Milk Promotion Order. The proposed amendments would permit the Board to establish working committees of persons other than Board members to assist the Board with activities by providing information, knowledge, and expertise that otherwise might not be available.

The proposed amendments also would modify the section on patents, copyrights, inventions, and publications by allowing jointly developed intellectual property to be jointly owned. Currently, the Order does not specifically provide for such joint ownership. This proposed amendment would allow the Board greater flexibility concerning intellectual property as it relates to ownership rights.

A thirty-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate so as to permit implementation of the changes, if adopted, as soon as possible.

List of Subjects in 7 CFR Part 1160

Fluid milk products, Milk, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1160 be amended as follows:

PART 1160—FLUID MILK PROMOTION PROGRAM

1. The authority citation for 7 CFR Part 1160 continues to read as follows:

Authority: 7 U.S.C. 6401–6417.

2. In § 1160.200, paragraph (a) is revised to read as follows:

§ 1160.200 Establishment and membership.

(a) There is hereby established a National Fluid Milk Processor Promotion Board of 20 members, 15 of whom shall represent geographic regions and five of whom shall be at-large members of the Board. To the extent practicable, members representing geographic regions shall represent fluid milk processing operations of differing sizes. No fluid milk processor shall be represented on the Board by more than two members. The at-large members shall include at least three fluid milk processors and at least one member from the general public. Except for the member or members from the general public, nominees appointed to the Board must be active owners or employees of a fluid milk processor. The failure of such a member to own or work for a fluid milk processor or its successor fluid milk processor shall disqualify that member for membership on the Board except that such member shall continue to serve on the Board for a period of up to 60 days following the disqualification or until the appointment of a successor Board member to such position, whichever is sooner, provided that such person continues to meet the criteria for serving on the Board as a processor representative.

* * * * *

3. In § 1160.201, paragraph (b) is revised to read as follows:

§ 1160.201 Term of office.

* * * * *

(b) No member shall serve more than two consecutive terms, except that any member who is appointed to serve for an initial term of one or two years shall be eligible to be reappointed for two three-year terms. Appointment to another position on the Board is considered a consecutive term. Should a non-board member be appointed to fill a vacancy on the Board with a term of 18 months or less remaining, the appointee shall be entitled to serve two consecutive 3-year terms following the term of the vacant position to which the person was appointed.

4. In § 1160.208, paragraph (g) is revised to read as follows:

§ 1160.208 Powers of the Board.

* * * * *

(g) To select committees and subcommittees, to adopt bylaws, and to adopt such rules for the conduct of its business as it may deem advisable; and the Board may establish working committees of persons other than Board members;

* * * * *

5. In § 1160.505, the text is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1160.505 Patents, copyrights, inventions and publications.

* * * * *

(b) Should patents, copyrights, inventions, and publications be developed through the use of funds collected by the Board under this subpart, and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions, and publications shall be determined by the agreement between the Board and the party contributing funds towards the development of such patent, copyright, invention, and publication in a manner consistent with paragraph (a) of this section.

Dated: May 18, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–13772 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

7 CFR Parts 3015, 3016 and 3019

RIN 0503–AA16

Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Department of Agriculture, USDA.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On February 17, 1998, USDA published in the **Federal Register** (63 FR 7734) a Notice of Proposed Rulemaking (NPRM) in which USDA proposed to revise its grants management regulations in order to bring the entitlement programs it administers under the same regulations that already apply to nonentitlement programs and identify exceptions to these general rules that apply only to entitlement programs. This document extends the comment period for that NPRM in order to give interested parties ample time to comment.

DATES: The period for written comments is extended from May 19, 1998 to June 18, 1998.

ADDRESSES: Comments must be mailed or faxed to Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, Room 3022 South Building, 1400 Independence Avenue, SW, Washington, D.C. 20250; FAX (202) 690–1529. Written comments may be inspected at the above address from 8:00 a.m. to 5:00 p.m. A copy of the Regulatory Cost/Benefit Assessment referenced in the Regulatory Impact Analysis section of this preamble can be obtained from Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, Room 3022 South Building, 1400 Independence Avenue, SW, Washington, D.C. 20250. This assessment may be examined at the same address.

FOR FURTHER INFORMATION CONTACT: Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, at the above address; telephone (202) 720–1553.

Dated: May 19, 1998.

Sally Thompson,

Chief Financial Officer.

[FR Doc. 98–13773 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–09–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–24, PA–28R, PA–30, PA–32R, PA–34, and PA–39 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise Airworthiness Directive (AD) 97–01–01, which currently requires repetitively inspecting the main gear sidebrace studs for cracks on The New Piper Aircraft, Inc. (Piper) Models PA–24, PA–28R, PA–30, PA–32R, PA-34, and PA–39 series airplanes, and replacing any main gear sidebrace stud found cracked. The Federal Aviation Administration (FAA) has approved certain alternative methods of compliance (AMOC) for AD 97–01–01, and has determined that these AMOC's should be incorporated into the AD. The proposed AD would retain all the actions of AD 97–01–01, and would incorporate certain AMOC's as a way of accomplishing the actions specified in AD 97–01–01. The actions specified by the proposed AD are intended to prevent a main landing gear collapse caused by main gear sidebrace stud cracks, which could result in loss of control of the airplane during landing operations.

DATES: Comments must be received on or before July 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96-CE–09-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Information that applies to the proposed AD may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William O. Herderich, Aerospace Engineer, FAA, Atlanta Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6084; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by

interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-CE-09-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96-CE-09-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 97-01-01, Amendment 39-9872 (62 FR 10, January 2, 1997), currently requires repetitively inspecting the main gear sidebrace studs for cracks on Piper Models PA-24, PA-28R, PA-30, PA-32R, PA-34, and PA-39 series airplanes, and replacing any main gear sidebrace stud found cracked. The actions specified by AD 97-01-01 are intended to prevent a main landing gear collapse caused by main gear sidebrace stud cracks, which could result in loss of control of the airplane during landing operations.

Actions Since Issuance of Previous Rule

Since issuance of AD 97-01-01, the FAA has approved alternative methods of compliance for modifying the existing bracket assembly as terminating action for the repetitive inspection requirement of that AD.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the subject described above, the FAA has determined that (1) the alternative methods of compliance approved for modifying the existing bracket assembly should be made available as an option of complying with the current AD; and (2) AD action should be taken to prevent a main landing gear collapse caused by main gear sidebrace stud cracks, which could result in loss of control of the airplane during landing operations.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Models PA-24, PA-28R, PA-30, PA-32R, PA-34, and PA-39 series airplanes of the same type design, the FAA is proposing to revise AD 97-01-01. The proposed AD would retain all the actions of AD 97-01-01, and would incorporate alternative methods of compliance for modifying the existing bracket assembly, as terminating action for the repetitive inspection requirement of that AD.

Cost Impact

The cost impact of the proposed AD would be the same as is currently required by AD 97-01-01. As a courtesy, the FAA is reprinting that cost information in the following paragraphs.

The FAA estimates that 13,200 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $3,960,000. This figure represents the total cost of the proposed initial inspection, and does not reflect costs for any of the proposed repetitive inspections or possible replacements. The FAA has no way of determining how many main gear side brace studs may need replacement or how many repetitive inspections each owner/operator may incur over the life of the airplane.

In addition, the proposed AD would require the same inspections required by AD 95-20-07 (which was superseded by AD 97-01-01). The only difference between the proposed AD and AD 95-20-07 is the addition of an inspection-terminating modification option and the elimination of (from the "Applicability" section of the AD) certain airplanes that incorporate a certain main side brace stud assembly. The proposed AD would also not provide any additional cost impacts over that already required by AD 95-20-07.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13, is amended by removing Airworthiness Directive 97-01-01, Amendment 39-9872 (62 FR 10, January 2, 1997), and by adding a new AD to read as follows:

The New Piper Aircraft, Inc.: Docket No. 96-CE-09-AD; Revises AD 97-01-01, Amendment 39-9872.

Applicability: The following airplane models and serial numbers, certificated in any category:

1. All serial numbers of Models PA-24, PA-24-250, PA-24-260, PA-24-400, PA-30, and PA-39 airplanes;

2. The following model and serial number airplanes that are not equipped with a Piper part number (P/N) 78717-02 (or FAA-approved equivalent part number) main gear sidebrace stud in both right and left main gear sidebrace bracket assemblies:

Model	Serial Nos.
PA-28R-180	28R-30002 through 28R-31135, and 28R-7130001 through 28R-7130013.
PA-28R-200	28R-35001 through 28R-35820, and 28R-7135001 through 28R-7635539.
PA-28R-201	28R-7737002 through 28R-7737096.
PA-28R-201T ..	28R-7703001 through 28R-7703239.
PA-32R-300	32R-7680001 through 32R-7780444.

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Model	Serial Nos.
PA–34–200	All serial numbers.
PA–34–200T	34–7570001 through 34–7770372.

Note 1: P/N 78717–02 sidebrace stud was installed at manufacture on Piper Model PA–34–200T airplanes, serial numbers 34–7670325 through 34–7770372.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required initially as follows, and thereafter as specified in the body of this AD:

1. For the affected Models PA–28R–180, PA–28R–200, PA–28R–201, PA–28R–201T, PA–32R–300, PA–34–200, and PA–34–200T airplanes: Within the next 100 hours time-in-service (TIS) after the effective date of this AD; or, if the main gear sidebrace stud has already been inspected or replaced as specified in this AD, within 500 hours TIS after the last inspection or replacement; whichever occurs later.

2. For the affected Models PA–24, PA–24–250, PA–24–260, PA–24–400, PA–30, and PA–39 airplanes: Within the next 100 hours TIS after the effective date of this AD; or, if the main gear sidebrace stud has already been inspected or replaced as specified in this AD, within 1,000 hours TIS after the last inspection or replacement; whichever occurs later.

To prevent main landing gear (MLG) collapse caused by main gear sidebrace stud cracks, which could result in loss of control of the airplane during landing operations, accomplish the following:

Note 3: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.
Level 4: (A), (B), (C), etc.

Level 2, Level 3, and Level 4 structures are designations of the Level 1 paragraph they immediately follow.

(a) Remove both the left and right main gear sidebrace studs from the airplane in accordance with the instructions contained in the Landing Gear section of the maintenance manual, and inspect each main gear sidebrace stud for cracks, using Type I (fluorescent) liquid penetrant or magnetic particle inspection methods. Figure 1 of this AD depicts the area of the sidebrace stud shank where the sidebrace stud is to be inspected.

Note 4: All affected Models PA–24 and PA–24–250 airplanes were equipped at manufacture with P/N 20829–00 main gear sidebrace studs. All affected Models PA–24–260, PA–24–400, PA–30, and PA–39 airplanes were equipped at manufacture with P/N 22512–00 main gear sidebrace studs. The Appendix included with this AD contains information on determining the P/N of the bracket assembly (which contains the main gear side brace stud) on the affected PA–28R, PA–32R, and PA–34 series airplanes.

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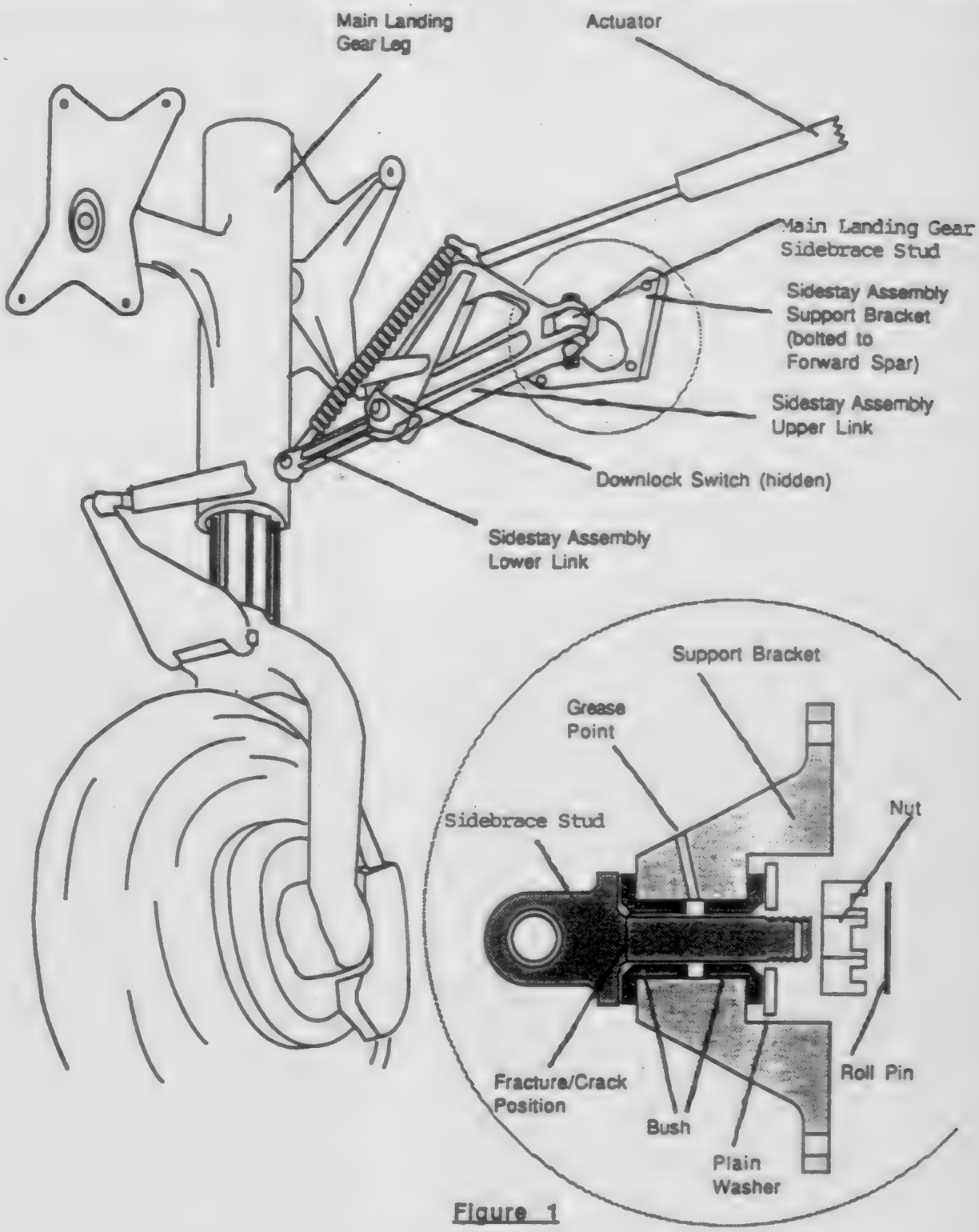


Figure 1

Note: This figure is provided to depict the area of the sidebrace stud to be inspected. This is not intended to represent the configuration of all models affected.

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(1) For any main gear sidebrace stud found cracked, prior to further flight, replace the cracked stud with an FAA-approved serviceable part (part numbers referenced in the table in paragraph (b) of this AD or FAA-approved equivalent part number) in accordance with the instructions contained in the Landing Gear section of the applicable maintenance manual, and accomplish one of the following, as applicable:

(i) Reinspect (and replace as necessary) as specified in paragraph (b) of this AD; or

(ii) For the affected Models PA–28R–180, PA–28R–200, PA–28R–201, PA–28R–201T, PA–32R–300, PA–34–200, and PA–34–200T airplanes, the 9/16-inch main gear sidebrace studs (P/N 95299–00, 95299–02, or P/N 67543, as applicable) are no longer manufactured. Install a new main gear sidebrace stud bracket assembly, P/N 95643–06, P/N 95643–07, P/N 95643–08, or P/N 95643–09, as applicable. No repetitive inspections will be required by this AD for these affected airplane models when this bracket assembly is installed; or

(iii) For the affected Models PA–28R–180, PA–28R–200, PA–28R–201, PA–28R–201T, PA–32R–300, PA–34–200, and PA–34–200T airplanes, ream the existing two-piece bushings to an inside diameter of .624-inch to .625-inch, chamfer the head side of the bushing to accommodate the radius in the shank of the main gear sidebrace stud, and install the 5/8-inch stud, P/N 78717–02. No repetitive inspections will be required by this AD when this action is accomplished. If the bushings cannot be reamed while installed in the bracket (i.e., the bushings are loose), then install a main gear sidebrace bracket assembly, P/N 95643–06, P/N 95643–07, P/N 95643–08, or P/N 95643–09, as applicable. Models PA–28R–180 and PA–28R–200 with serial numbers as specified in the Appendix to this AD may be equipped with a bracket casting identified with casting number 67073–2 or 67073–3 and may require the following modification to P/N 78717–02 for proper installation:

(A) Reduce the length of the stud to 1.688 ± 0.15 inches;

(B) Add additional rolled threads to 1.125 ± .015 inches from the flange. Note that the stud is heat treated to 180 to 200 ksi; and

(C) Drill an additional roll pin hole 90 degrees to the existing hole, and approximately 1.480 inches from the flange.

(iv) No repetitive inspections will be required by this AD when a P/N 78717–02 (or FAA-approved equivalent part number) main gear sidebrace stud is installed in the existing bracket assembly or when a bracket assembly, P/N 95643–07 (or FAA-approved equivalent part number), P/N 95643–08 (or FAA-approved equivalent part number), or P/N95643–09 (or FAA-approved equivalent part number), as applicable, is installed.

(2) For any main gear sidebrace stud not found cracked, prior to further flight, reinstall the uncracked stud in accordance with the instructions contained in the Landing Gear section of the applicable maintenance manual, and reinspect and replace (as necessary) as specified in paragraph (b) of this AD.

(b) Reinspect both the left and right main gear sidebrace studs, using Type I (fluorescent) liquid penetrant or magnetic particle inspection methods. Replace any cracked stud or reinstall any uncracked stud as specified in paragraphs (a)(1) and (a)(2) of this AD, respectively:

Part number installed	TIS inspection interval (hours)	Model airplanes installed on
20829–00 (Piper parts) or FAA-approved equivalent part number.	1,000	PA–24 and PA–24–250.
22512–00 (Piper parts) or FAA-approved equivalent part number.	1,000	PA–24–260, PA–24–400, PA–30, and PA–39.
95299–00 or 95299–02 (Piper parts) or FAA-approved equivalent part number.	500	PA–28R–180 and PA–28R–200 not equipped with casting number 67073–2 or 67073–3, PA–28R–201, PA–28R–201T, PA–32R–300, PA–34–200, and PA–34–200T.
67543 (Piper parts) or FAA-approved equivalent part number	500	PA–28R–180 and PA–28R–200 equipped with casting number 67073–02 or 67073–03.

Note 5: Accomplishing the actions of this AD does not affect the requirements of AD 77–13–21, Amendment 39–3093. The tolerance inspection requirements of that AD still apply for Piper PA–24, PA–30, and PA–39 series airplanes.

(c) Owners/operators of the affected Models PA–28R–180, PA–28R–200, PA–28R–201, PA–28R–201T, PA–32R–300, PA–34–200, and PA–34–200T airplanes may accomplish one of the following at any time to terminate the repetitive inspection requirement of this AD:

(1) Install a main gear sidebrace bracket assembly, P/N 95643–06 (or FAA-approved equivalent part number), P/N 95643–07 (or FAA-approved equivalent part number), P/N 95643–08 (or FAA-approved equivalent part number), or P/N 95643–09 (or FAA-approved equivalent part number), as applicable, which contains the 5/8-inch diameter main gear sidebrace stud, P/N 78717–02 (or FAA-approved equivalent part number), and the one-piece bushing, P/N 67026–12 (or FAA-approved equivalent part number). Accomplish these installations in accordance with the instructions contained in the Landing Gear section of the applicable maintenance manual; or

(2) Ream the existing two-piece bushings to an inside diameter of .624-inch to .625-inch, chamfer the head side of the bushing to accommodate the radius in the shank of the main gear sidebrace stud, and install the 5/8-inch stud, P/N 78717–02 (or FAA-approved equivalent part number). No repetitive inspections will be required by this AD when this action is accomplished. If the bushings cannot be reamed while installed in the bracket (i.e., the bushings are loose), then install a main gear sidebrace bracket assembly, P/N 95643–06 (or FAA-approved equivalent part number), P/N 95643–07 (or FAA-approved equivalent part number), P/N 95643–08 (or FAA-approved equivalent part number), or P/N 95643–09 (or FAA-approved equivalent part number), as applicable. Models PA–28R–180 and PA–28R–200 with serial numbers as specified in the Appendix to this AD may be equipped with a bracket casting identified with casting number 67073–2 or 67073–3 and may require the following modification to P/N 78717–02 (or FAA-approved equivalent part number) for proper installation:

(i) Reduce the length of the stud to 1.688 ± 0.15 inches;

(ii) Add additional rolled threads to 1.125 ± .015 inches from the flange. Note that the stud is heat treated to 180 to 200 ksi; and

(iii) Drill an additional roll pin hole 90 degrees to the existing hole, and approximately 1.480 inches from the flange.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 97–01–01, Amendment 39–9872 (revised by this action), or AD 95–20–07, Amendment 39–9386 (superseded by AD 97–01–01), are considered approved as alternative methods of compliance with this AD.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) Information related to this AD may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(g) This amendment revises AD 97–01–01, Amendment 39–9872, which superseded AD 95–20–07, Amendment 39–9386.

Appendix to Docket No. 96–CE–09–AD Information to Determine Main Gear Sidebrace Stud Assembly Part Number (P/N)

—The P/N 95643–00/-01/-02/-03 bracket assembly contains the 9/16-inch diameter main gear sidebrace stud, P/N 95299–00/-02, and a two-piece bushing, P/N 67026–6.
—The P/N 95643–06/-07/-08/-09 bracket assembly contains the 5/8-inch diameter main gear sidebrace stud, P/N 78717–02, and a one-piece bushing, P/N 67026-12.
—Both the one-piece and the two-piece bushing have a visible portion of the bushing flange, i.e., bushing shoulder.
—Whether a one-piece or two-piece bushing is installed may be determined by measuring the outside diameter of the bushing flange with a micrometer (jaws of the caliper must be 3/32-inch or less). The two-piece bushing will have an outside diameter of 1.00 inch and the one-piece bushing will have an outside diameter of 1.128 to 1.130 inches. This measurement is not valid for the following airplanes:

Model	Serial Nos.
PA–28R–180	28R–30004 through 28–31270.
PA–28R–200	28R–35001 through 28R–35820, and 28R–7135001 through 28R–7135062.

The main gear sidebrace studs on these airplanes will require removal to determine the P/N installed.

—The one-piece bushing contains a visible chamfer in the center of the bushing, and the chamfer in the two-piece bushing is not visible when the stud is installed.
—If P/N 95643–00/-01/-02/-03 bracket assembly is installed or the above information cannot be utilized, the main gear sidebrace stud will need to be removed from the bracket to determine the shank diameter and main gear sidebrace stud P/N.
—P/N 95299–00 and P/N 95299–02 main gear sidebrace studs are 9/16-inch in diameter.
—P/N 78717–00 main gear sidebrace studs are 5/8-inch in diameter.
—P/N 95643–00/-01/-02/-03 bracket assembly may have been modified to accommodate the 5/8-inch diameter main gear sidebrace stud, P/N 78717–02.
—The embossed number of 95363 on the bracket forging is not the bracket assembly P/N.
—The bracket assemblies identified with casting number 67073–2 or 67073–3 contain a 9/16-inch diameter main gear sidebrace stud, P/N 67543, and two-piece bushing, P/N 67026–2 and 67026–3.
—Model PA–28R–180 airplanes, serial numbers 28R-30004 through 28R–31270; and Model PA–28R–200 airplanes, serial numbers 28R–35001 through 28R–35820 and 28R–7135001 through 28R–7135062, are equipped from the factory with bracket assemblies identified with casting number 67073–2 and 67073–3.
—P/N 67543 main gear sidebrace studs are 9/16-inch in diameter.

Issued in Kansas City, Missouri, on May 14, 1998.

Michael Gallagher,

Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13656 Filed 5–21–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–72–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Models TB9 and TB10 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA—Groupe AEROSPATIALE (Socata) Models TB9 and TB10 airplanes. The proposed AD would require repetitively inspecting the wing front attachments on the wing and fuselage sides for cracks, and repetitively incorporating a certain modification kit (type of kit and time of incorporation depends on whether cracks are found during the inspection). The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent structural failure of the wing front attachments caused by fatigue cracking, which could result in the wing separating from the airplane if the airplane is operated with cracked wing front attachments over an extended period of time.

DATES: Comments must be received on or before June 25, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–CE–72–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone: 33–5–62–41–76–52; facsimile: 33–5–62–41–76–54; or the Product Support Manager, SOCATA Aircraft, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; facsimile: (954) 964–1402. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–72–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–CE–72–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

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Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Socata Model TB9 airplanes and certain Socata Model TB10 airplanes. The DGAC reports 15 cases of cracks found on the wing front attachments of the referenced airplanes.

This condition, if not detected and corrected in a timely manner, could result in structural failure of the wing attachment and the wing separating from the airplane if the airplane is operated with cracked wing front attachments over an extended period of time.

Relevant Service Information

Socata has issued Service Bulletin No. SB 10–081–57, Amendment 1, dated August 1996, which specifies procedures for inspecting the wing front attachments on the wing and fuselage sides for cracks. Also included in this service bulletin is reference to certain wing front attachment kits that should be incorporated on the Socata Models TB9 and TB10, depending on the inspection results. The procedures for incorporating the modification kits are in the Technical Instructions for Modification included with each kit.

The DGAC classified this service bulletin as mandatory and issued DGAC AD 94–264(A), dated December 7, 1994, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Socata Models TB9 and TB10 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the wing front attachments on the wing and fuselage sides for cracks, and repetitively incorporating a certain modification kit (type of kit and time of incorporation depends on whether cracks are found during the inspection). Accomplishment of the proposed inspections would be in accordance with Socata Service Bulletin No. SB 10–081–57, Amendment 1, dated August 1996. Accomplishment of the proposed modifications, as applicable, would be required in accordance with the Technical Instructions for Modification included with each kit.

Cost Impact

The FAA estimates that 113 airplanes in the U.S. registry would be affected by the proposed AD.

The proposed inspection would take approximately 3 workhours per airplane to accomplish, at an average labor rate of approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $20,340, or $180 per airplane.

The proposed modification would take approximately 32 workhours to accomplish, at an average labor rate of $60 per hour. Parts cost approximately $1,125 per airplane. Based on these figures, the total cost impact of the proposed modifications on U.S. operators is estimated to be $344,085, or $3,045 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Socata—Groupe Aerospatiale: Docket No. 95–CE–72–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model TB9, serial numbers 1 through 9999; and

Model TB10, serial numbers 1 through 803, 805, 806, 809 through 815, 820, 821, and 822.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural failure of the wing front attachments caused by fatigue cracking, which could result in the wing separating from the airplane if the airplane is operated with cracked wing front attachments over an extended period of time, accomplish the following:

Note 2: The compliance times of this AD are presented in landings instead of hours time-in-service (TIS). If the number of landings is unknown, hours TIS may be used by multiplying the number of hours TIS by 1.5.

(a) For all affected airplanes, upon accumulating 3,000 landings on the wing front attachments or within the next 100 landings after the effective date of this AD,

whichever occurs later, and thereafter at intervals not to exceed 3,000 landings, inspect the wing front attachments (both the wing sides and fuselage sides) in accordance with Socata Service Bulletin No. SB 10–081–57, Amendment 1, dated August 1996.

(b) For all affected airplanes, accomplish the following on the wing front attachments on the wing sides:

(1) If no cracks are found on the wing front attachments on the wing sides during any inspection required by paragraph (a) of this AD, upon accumulating 12,000 landings on these wing front attachments or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6,000 landings provided no cracks are found during any inspection required by paragraph (a) of this AD, incorporate Modification Kit OPT10 911000 in accordance with Socata Technical Instruction No. 9110, which incorporates the following pages:

Pages	Revision level	Date
0 and 1	Amendment	January 31, 1992.
2 through 11	Original Issue	October 1985.

(2) If a crack(s) is found on the wing front attachments on the wing sides during any inspection required by paragraph (a) of this AD, prior to further flight, incorporate Modification Kit OPT10 911000 in accordance with Socata Technical Instruction No. 9110. Incorporate this kit at intervals not to exceed 6,000 landings thereafter provided no cracks are found during any inspection required by paragraph (a) of this AD.

(c) For Models TB9 and TB10 airplanes, with a serial number in the range of 1 through 399, or with a serial number of 413; that do not have either Socata Service Letter (SL) 10–14 incorporated or Socata Modification Kit OPT10 908100 incorporated, accomplish the following on the wing front attachments on the fuselage sides:

(1) If no cracks are found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, upon accumulating 6,000 landings on these wing front attachments or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 12,000 landings provided no cracks are found during any inspection required by paragraph (a) of this AD, incorporate Modification Kit OPT10 919800 in accordance with Socata Technical Instruction of Modification OPT10 9198–53, dated October 1994.

(2) If a crack(s) is found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, prior to further flight, incorporate Modification Kit OPT10 919800 in accordance with Socata Technical Instruction of Modification OPT10 9198–53, dated October 1994. Incorporate this kit at intervals not to exceed 12,000 landings thereafter provided no cracks are found during any inspection required by paragraph (a) of this AD.

(d) For Models TB9 and TB10 airplanes, with a serial number in the range of 1 through 399, or with a serial number of 413; that have either Socata Service Letter (SL) 10–14 incorporated or Socata Modification Kit OPT10 908100 incorporated, accomplish the following on the wing front attachments on the fuselage sides:

(1) If no cracks are found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, upon accumulating 12,000 landings on these wing front attachments or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 12,000 landings provided no cracks are found during any inspection required by paragraph (a) of this AD, incorporate Modification Kit OPT10 919800 in accordance with Socata Technical Instruction of Modification OPT10 9198–53, dated October 1994.

(2) If a crack(s) is found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, prior to further flight, incorporate Modification Kit OPT10 919800 in accordance with Socata Technical Instruction of Modification OPT10 9198–53, dated October 1994. Incorporate this kit at intervals not to exceed 12,000 landings thereafter provided no cracks are found during any inspection required by paragraph (a) of this AD.

(e) For Models TB9 and TB10 airplanes, with a serial number in the range of 400 through 412, or with a serial number in the range of 414 through 9999; accomplish the following on the wing front attachments on the fuselage sides:

(1) If no cracks are found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, upon accumulating 12,000 landings on these wing front attachments or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 12,000 landings provided no cracks are found during any inspection required by paragraph (a) of this AD, incorporate Modification Kit OPT10 908100 in accordance with Socata Technical Instruction of Modification OPT10 9181–53, Amendment 2, dated October 1994.

(2) If a crack(s) is found on the wing front attachments on the fuselage sides during any inspection required by paragraph (a) of this AD, prior to further flight, incorporate Modification Kit OPT10 908100 in accordance with Socata Technical Instruction of Modification OPT10 9181–53, Amendment 2, dated October 1994. Incorporate this kit at intervals not to exceed 12,000 landings thereafter provided no cracks are found during any inspection required by paragraph (a) of this AD.

Note 3: "Unless already accomplished" credit may be used if the kits that are required by paragraphs (c)(1), (d)(1), and (e)(1) of this AD are aleady incorporated on the applicable airplanes. As specified in the AD, repetitive incorporation of these kits would still be required at intervals not to exceed 12,000 landings provided no cracks are found.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(h) Questions or technical information related to the service information referenced in this AD should be directed to the SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone: 33–5–62–41–76–52; facsimile: 33–5–62–41–76–54; or the Product Support Manager, SOCATA Aircraft, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; facsimile: (954) 964–1402. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

Note 5: The subject of this AD is addressed in French AD 94–264(A), dated December 7, 1994.

Issued in Kansas City, Missouri, on May 14, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13653 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 315 and 601

[Docket No. 98N–0040]

Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA), in response to the requirements of the Food and Drug Administration Modernization Act of 1997 (FDAMA), is proposing to amend the drug and biologics regulations by adding provisions that would clarify the evaluation and approval of in vivo

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radiopharmaceuticals used in the diagnosis or monitoring of diseases. The proposed regulations would describe certain types of indications for which FDA may approve diagnostic radiopharmaceuticals. The proposed rule also would include criteria that the agency would use to evaluate the safety and effectiveness of a diagnostic radiopharmaceutical under the Federal Food, Drug, and Cosmetic Act (the act) and the Public Health Service Act (the PHS Act).

DATES: Submit comments on this proposed rule on or before August 5, 1998. Submit written comments on the information collection provisions by June 22, 1998. See section IV of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit comments of the information collection provisions to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Dano B. Murphy, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210; or Brian L. Pendleton, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5649.

SUPPLEMENTARY INFORMATION:

I. Introduction

Radiopharmaceuticals are used for a wide variety of diagnostic, monitoring, and therapeutic purposes. Diagnostic radiopharmaceuticals are used to image or otherwise identify an internal structure or disease process, while therapeutic radiopharmaceuticals are used to effect a change upon a targeted structure or disease process.

The action of most radiopharmaceuticals is derived from two components: A nonradioactive delivery component, i.e., a carrier and/or ligand; and a radioactive imaging component, i.e., a radionuclide. Nonradioactive delivery ligands and carriers are usually peptides, small proteins, or antibodies. The purpose of ligands and carriers is to direct the radionuclide to a specific body location or process. Once a radiopharmaceutical has reached its targeted location, the radionuclide component can be detected. The imaging component usually is a short-lived radioactive molecule that emits radioactive decay photons having sufficient energy to penetrate the tissue mass of the patient. The emitted photons are detected by specialized devices that generate images of, or otherwise detect, radioactivity, such as nuclear medicine cameras and radiation detection probe devices.

On November 21, 1997, the President signed FDAMA into law. Section 122(a)(1) of FDAMA directs FDA to issue proposed and final regulations on the approval of diagnostic radiopharmaceuticals within specific timeframes. As defined in section 122(b) of FDAMA, a radiopharmaceutical is an article "that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans * * * that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons[,] or * * * any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article." Section 122(a)(1)(A) of FDAMA states that FDA regulations will provide that, in determining the safety and effectiveness of a radiopharmaceutical under section 505 of the act (for a drug) (21 U.S.C. 355) or section 351 of the PHS Act (for a biological product) (42 U.S.C. 262), the agency will consider the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component), and the estimated absorbed radiation dose of the radiopharmaceutical.

FDAMA requires FDA to consult with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry before proposing any regulations governing the approval of radiopharmaceuticals. Accordingly, in the **Federal Register** of February 2, 1998 (63 FR 5338), FDA published a notification of a public meeting entitled "Developing Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring." The notice invited all interested persons to attend the meeting, scheduled for February 27, 1998, and to comment on how the agency should regulate radiopharmaceuticals. In particular, FDA invited comment on the following topics: (1) The effect of the use of a radiopharmaceutical in the practice of medicine on the nature and extent of safety and effectiveness evaluations; (2) the general characteristics of a radiopharmaceutical that should be considered in the preclinical and clinical pharmacological and toxicological evaluations of a radiopharmaceutical (including the radionuclide as well as the ligand and carrier components); (3) determination and consideration of a radiopharmaceutical's estimated absorbed radiation dose in humans; and (4) the circumstances under which an approved indication for marketing might refer to manifestations of disease (biochemical, physiological, anatomic, or pathological processes) common to, or present in, one or more disease states.

Approximately 50 individuals from industry, academic institutions, professional medical organizations, and patient advocacy groups attended the February 27, 1998, public meeting and/or submitted comments in response to the notice. FDA has considered all of these comments in drafting this proposed rule.

The proposed rule applies to the approval of in vivo radiopharmaceuticals (both drugs and biologics) used for diagnosis and monitoring. The proposed regulations will not apply to radiopharmaceuticals used for therapeutic purposes. The regulations include a definition of diagnostic radiopharmaceuticals (which includes radiopharmaceuticals used for monitoring) and provisions that address the following aspects of diagnostic radiopharmaceuticals: (1) General factors to be considered in determining safety and effectiveness, (2) possible indications for use, (3) evaluation of effectiveness, and (4) evaluation of safety.

To establish these regulations, FDA proposes to add a new part 315 to title 21 of the Code of Federal Regulations (CFR) and to rename subpart D and add §§ 601.30 through 601.35 in part 601 (21 CFR part 601). These new provisions would complement and clarify existing regulations on the approval of drugs and biologics in parts 314 (21 CFR parts 314) and 601, respectively. In addition to these regulatory changes, FDA is in the process of revising and supplementing its guidance to industry on product approval and other matters related to the regulation of diagnostic radiopharmaceutical drugs and biologics. This guidance will address the application of the proposed rule. FDA will make such guidance available in draft form for public comment in accordance with the agency's Good Guidance Practices (see 62 FR 8961, February 27, 1997).

Positron emission tomography (PET) drugs are a particular type of radiopharmaceutical. Section 121 of FDAMA addresses these products

separately from other diagnostic radiopharmaceuticals and requires FDA to develop appropriate approval procedures and current good manufacturing practice requirements for PET products within the next 2 years. Although FDA expects the standards for determining the safety and effectiveness of diagnostic radiopharmaceuticals set forth in this proposed rule to apply to PET diagnostic products under the approval procedures that FDA intends to develop for those products, the agency will address this issue when it publishes its proposal on PET drugs.

II. Description of the Proposed Rule

The proposed rule would add a new part 315 to the CFR containing provisions on radiopharmaceutical drugs subject to section 505 of the act that are used for diagnosis and monitoring. Corresponding provisions applicable to radiopharmaceutical biological products subject to licensure under section 351 of the PHS Act would be set forth in revised subpart D of part 601. Both proposed regulations are discussed in the following section of this document.

A. Scope

Proposed §§ 315.1 and 601.30 define the scope of the diagnostic radiopharmaceutical provisions, i.e., that they apply only to radiopharmaceuticals used for diagnosis and monitoring and not to radiopharmaceuticals intended for therapeutic uses. FDA intends that these regulations will apply only to diagnostic radiopharmaceuticals that are administered in vivo. In vitro diagnostic products generally are regulated as medical devices under the act, although they may also be biological products subject to licensure under section 351 of the PHS Act (see 21 CFR 809.3(a)).

Some radiopharmaceuticals may have utility as both diagnostic and therapeutic drugs or biologics. When a particular radiopharmaceutical drug or biologic is proposed for both diagnostic and therapeutic uses, FDA will evaluate the diagnostic claims under the provisions in part 315 (for drugs) or subpart D of part 601 (for biologics) and evaluate the therapeutic claims under the regulations applicable to other drug or biologic applications.

B. Definition

The proposed ruling in §§ 315.2 and 601.31 would include a definition of "diagnostic radiopharmaceutical" that is identical to the definition of "radiopharmaceutical" in section 122(b) of FDAMA. Thus, a "diagnostic radiopharmaceutical" would be defined as an article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article. FDA interprets "disease or a manifestation of a disease" to include conditions that may not ordinarily be considered diseases, such as essential thrombocytopenia and bone fractures. In addition, FDA interprets the definition as including articles that exhibit spontaneous disintegration leading to the reconstruction of unstable nuclei and the subsequent emission of nuclear particles or photons.

C. General Factors Relevant to Safety and Effectiveness

In §§ 315.3 and 601.32, FDA proposes to incorporate in its regulations the requirement in section 122 of FDAMA that the agency consider certain factors in determining the safety and effectiveness of diagnostic radiopharmaceuticals under section 505 of the act or section 351 of the PHS Act. These factors are as follows: (1) The proposed use of a diagnostic radiopharmaceutical in the practice of medicine; (2) the pharmacological and toxicological activity of a diagnostic radiopharmaceutical, including any carrier or ligand component; and (3) the estimated absorbed radiation dose of the diagnostic radiopharmaceutical. Other sections of the proposed regulations describe how the agency will assess these factors. In addition, FDA intends to provide further information in guidance to industry.

D. Indications

In §§ 315.4(a) and 601.33(a), FDA proposes to specify some of the types of indications for which the agency may approve a diagnostic radiopharmaceutical. These categories of indications are as follows: (1) Structure delineation; (2) functional, physiological, or biochemical assessment; (3) disease or pathology detection or assessment; and (4) diagnostic or therapeutic management. Approval may be possible for claims other than those listed. (In these and other provisions on diagnostic radiopharmaceuticals in the proposed rule, the terms "indication," "indication for use," and "claim" have the same meaning and are used interchangeably.)

A diagnostic radiopharmaceutical that is intended to provide structural delineation is designed to locate and outline anatomic structures. For example, a radiopharmaceutical might be developed to distinguish a structure that cannot routinely be seen by any other imaging modality, such as a drug designed to image the lymphatics of the small bowel.

A diagnostic radiopharmaceutical that is intended to provide a functional, physiological, or biochemical assessment is used to evaluate the function, physiology, or biochemistry of a tissue, organ system, or body region. Functional, physiological, and biochemical assessments are designed to determine if a measured parameter is normal or abnormal. Examples of a functional or physiological assessment include the determination of the cardiac ejection fraction, myocardial wall motion, and cerebral blood flow. Examples of a biochemical assessment include the evaluation of sugar, lipid, protein, or nucleic acid synthesis or metabolism.

A diagnostic radiopharmaceutical that is intended to provide disease or pathology detection or assessment information assists in the detection, location, or characterization of a specific disease or pathological state. Examples of this type of diagnostic radiopharmaceutical include a radiolabeled monoclonal antibody used to attach to a specific tumor antigen and thus detect a tumor and a peptide that participates in an identifiable transporter function associated with a specific neurological disease.

A diagnostic radiopharmaceutical that is intended to assist in diagnostic or therapeutic patient management provides imaging, or related, information leading directly to a diagnostic or therapeutic patient management decision. Examples of this type of indication include: (1) Assisting in a determination of whether a patient should undergo a diagnostic coronary angiography or will have predictable clinical benefit from a coronary revascularization, and (2) assisting in a determination of the resectability of a primary tumor.

Proposed §§ 315.4(b) and 601.33(b) reflect the intent of section 122(a)(2) of FDAMA, which states that in appropriate cases, FDA may approve a diagnostic radiopharmaceutical for an indication that refers to "manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, one or more disease states." Where a diagnostic radiopharmaceutical is not intended to provide disease-specific information, the proposed indications for use may refer to a process or to more than one disease or condition. This would allow FDA to approve a product

for an indication (e.g., delineation of a particular anatomic structure or functional assessment of a specific organ system) that would encompass manifestations of disease that are common to multiple disease states. An example of a manifestation that is common to multiple diseases is tumor metastases to the liver caused by various malignancies.

E. Evaluation of Effectiveness

The specific criteria that FDA would use to evaluate the effectiveness of a diagnostic radiopharmaceutical are stated in proposed §§ 315.5(a) and 601.34(a). These provisions state that FDA assesses the effectiveness of a diagnostic radiopharmaceutical by evaluating its ability to provide useful clinical information that is related to its proposed indication for use. The nature of the indication determines the method of evaluation, and because an application may include more than one type of claim, FDA might need to employ multiple evaluation criteria. FDA would require that any such claim be supported with information demonstrating that the potential benefit of the diagnostic radiopharmaceutical outweighs the risk to the patient from administration of the product.

Under proposed §§ 315.5(a)(1) and 601.34(a)(1), a claim of structure delineation would be established by demonstrating the ability of a diagnostic radiopharmaceutical to locate and characterize normal anatomic structures. In §§ 315.5(a)(2) and 601.34(a)(2), FDA proposes that a claim of functional, physiological, or biochemical assessment would be established by demonstrating that the diagnostic radiopharmaceutical could reliably measure the function or the physiological, biochemical, or molecular process. A reliable measurement would need to be supported by studies in normal and abnormal patient populations, consistent with the proposed claim and would require a qualitative or quantitative understanding of how the measurement varies in normal and abnormal subjects.

The agency proposes, in §§ 315.5(a)(3) and 601.34(a)(3), that a claim of disease or pathology detection or assessment would be established by demonstrating in a defined clinical setting that the diagnostic radiopharmaceutical had sufficient accuracy in identifying or characterizing the disease or pathology. The term "accuracy" refers to the diagnostic performance of the product as measured by factors such as sensitivity, specificity, positive predictive value, negative predictive value, and reproducibility of test interpretation. The term "sufficient accuracy" means accuracy that is good enough to indicate that the product would be useful in one or more clinical settings. FDA believes that the data demonstrating accuracy must be obtained from patients in a clinical setting(s) reflecting the proposed indication(s). For example, if a claim is for diagnosis of tumor in patients with a negative computed tomography (CT) scan for disease and a borderline serum carcinoembryonic antigen (CEA), the accuracy of the diagnostic radiopharmaceutical should be assessed in such patients rather than only in patients with CT-diagnosed disease or high serum CEA.

Under proposed §§ 315.5(a)(4) and 601.34(a)(4), for a claim of diagnostic or therapeutic patient management, the applicant must establish effectiveness by demonstrating in a defined clinical setting that the test is useful in such patient management. For example, an imaging agent might be studied in a manner that would demonstrate its usefulness in directing local excision of cancer-laden lymph nodes and sparing a wide area of nondiseased lymphatic tissue.

In §§ 315.5(a)(5) and 601.34(a)(5), FDA proposes that, for claims that do not fall within the indication categories in §§ 315.4 and 601.33, the applicant may consult with the agency on how to establish effectiveness.

Proposed §§ 315.5(b) and 601.34(b) specify that the accuracy and usefulness of diagnostic information provided by a diagnostic radiopharmaceutical must be determined by comparison with a reliable assessment of actual clinical status. To obtain such a reliable assessment, a diagnostic standard or standards of demonstrated accuracy must be used, if available. An example of such a standard is a tissue biopsy confirmation of a site of a diagnostic radiopharmaceutical localization. If an accurate diagnostic standard is not available, the actual clinical status must be established in some other manner, such as through patient followup.

FDA intends to develop a guidance document that will provide more detailed guidance to industry on the types of clinical investigations that would meet regulatory requirements for obtaining approval for particular types of indications for diagnostic radiopharmaceuticals. The guidance may address such matters as appropriate clinical endpoints and suitable diagnostic standards. For indications that are common to multiple disease states, the guidance may address clinical trial design and statistical analysis considerations for patient populations that provide a range of representative disease processes.

F. Evaluation of Safety

FDA's proposed approach to the evaluation of the safety of diagnostic radiopharmaceuticals is set forth in §§ 315.6 and 601.35. Proposed §§ 315.6(a) and 601.35(a) state that the safety assessment of a diagnostic radiopharmaceutical includes, among other things, the following: The radiation dose; the pharmacology and toxicology of the radiopharmaceutical, including any radionuclide, carrier, or ligand; the risks of an incorrect diagnostic determination; the adverse reaction profile of the drug; and results of human experience with the radiopharmaceutical for other uses.

In §§ 315.6(b) and 601.35(b), FDA proposes that the assessment of the adverse reaction profile of a diagnostic radiopharmaceutical (including the carrier or ligand) include, but not be limited to, an evaluation of the product's potential to elicit the following: (1) Allergic or hypersensitivity responses, (2) immunologic responses, (3) changes in the physiologic or biochemical function of target and non-target tissues, and (4) clinically detectable signs or symptoms.

Proposed §§ 315.6(c)(1) and 601.35(c)(1) state that FDA may require, among other information, the following types of preclinical and clinical data to establish the safety of a diagnostic radiopharmaceutical: (1) Pharmacology data, (2) toxicology data, (3) a clinical safety profile, and (4) a radiation safety assessment. Other information that may be required to establish safety includes information on chemistry, manufacturing, and controls.

Under proposed §§ 315.6(c)(2) and 601.35(c)(2), the amount of new safety data required would depend on the characteristics of the diagnostic radiopharmaceutical and available information on the safety of the product obtained from other studies and uses. This information might include, but would not be limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide of the product, and results of preclinical studies on the product. Proposed §§ 315.6(c)(2) and 601.35(c)(2) further states that FDA will categorize diagnostic radiopharmaceuticals based on defined characteristics that relate to safety risk and will specify the amount and type of safety data appropriate for each category. The paragraph states, as an example, that required safety data would be limited for diagnostic

radiopharmaceuticals with well-established low-risk profiles.

Proposed §§ 315.6(d) and 601.35(d) discusses the radiation safety assessment that will be required for a diagnostic radiopharmaceutical. FDA proposes that the applicant for approval of a diagnostic radiopharmaceutical establish the radiation dose of the product by radiation dosimetry evaluations in humans and appropriate animal models. Such evaluations must consider dosimetry to the total body, to specific organs or tissues, and, as appropriate, to target organs or target tissues. FDA notes that the use of occupational radiation dosimetry limits is not required in performing such evaluations. The maximum tolerated dose of the diagnostic radiopharmaceutical need not be established.

FDA intends to provide guidance on safety assessments for diagnostic radiopharmaceuticals. Such guidance may include a classification of diagnostic radiopharmaceuticals based on quantity administered, adverse event profile, and proposed patient population. The guidance would allow the safety information required to meet regulatory requirements to vary according to the class of the radiopharmaceutical. The guidance will also address evaluations of radiation dosimetry.

III. Analysis of Economic Impacts

FDA has examined the impact of the proposed rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–114). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts and equity). Under the Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the agency must analyze significant regulatory options that would minimize any significant economic impact of a rule on small entities. The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any mandate that results in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any 1 year.

The agency has reviewed this proposed rule and has determined that the rule is consistent with the principles set forth in the Executive Order and in these two statutes. FDA finds that the rule will not be a significant rule under the Executive Order. Further, the agency finds that, under the Regulatory Flexibility Act, the rule will not have a significant economic impact on a substantial number of small entities. Also, since the expenditures resulting from the standards identified in the rule are less than $100 million, FDA is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

The proposed rule clarifies existing FDA requirements for the approval and evaluation of drug and biological products already in place under the act and the PHS Act. Existing regulations (parts 314 and 601) specify the type of information that manufacturers are required to submit in order for the agency to properly evaluate the safety and effectiveness of new drugs or biological products. Such information is usually submitted as part of a new drug application (NDA) or biological license application or as a supplement to an approved application. The information typically includes both nonclinical and clinical data concerning the product's pharmacology, toxicology, adverse events, radiation safety assessments, chemistry, and manufacturing and controls.

The proposed regulation recognizes the unique characteristics of diagnostic radiopharmaceuticals and sets out the agency's approach to the evaluation of these products. For certain diagnostic radiopharmaceuticals, the proposed regulation may reduce the amount of safety information that must be obtained by conducting new clinical studies. This would include approved radiopharmaceuticals with well-established low-risk safety profiles because such products might be able to use scientifically sound data established during use of the radiopharmaceutical to support the approval of a new indication for use. In addition, the clarification achieved by the proposed rule is expected to reduce the costs of submitting an application for approval of a diagnostic radiopharmaceutical by improving communications between applicants and the agency and by reducing wasted effort directed toward the submission of data that is not necessary to meet the statutory approval standard.

Manufacturers of in vitro and in vivo diagnostic substances are defined by the Small Business Administration as small businesses if such manufacturers employ fewer than 500 employees. The agency finds that only 2 of the 8 companies that currently manufacture or market radiopharmaceuticals have fewer than 500 employees. [1] Moreover, the proposed rule would not impose any additional costs but, rather, is expected to reduce costs for manufacturers of certain diagnostic radiopharmaceuticals, as discussed previously. Therefore, in accordance with the Regulatory Flexibility Act, FDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IV. Proposed Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. The Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

[1] Medical and Healthcare Marketplace Guide, Dorland's Biomedical, sponsored by Smith Barney Health Care Group, 13th ed., 1997 to 1998.

Title: Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring.
Description: FDA is proposing regulations for the evaluation and approval of in vivo radiopharmaceuticals used for diagnosis and monitoring. The proposed rule would clarify existing FDA requirements for approval and evaluation of drug and biological products already in place under the authorities of the act and the PHS Act. Those regulations, which appear in primarily at parts 314 and 601, specify the information that manufacturers must submit to FDA for the agency to properly evaluate the safety and effectiveness of new drugs or biological products. The information, which is usually submitted as part of an NDA or new biological license application or as a supplement to an approved application, typically includes, but is not limited to, nonclinical and clinical data on the pharmacology, toxicology, adverse events, radiation safety assessments, and chemistry, manufacturing and controls. The content and format of an application for approval of new drugs and antibiotics are set out in § 314.50 and for new biological products in § 601.25. Under the proposed regulation, information required under the act and the PHS Act and needed by FDA to evaluate safety and effectiveness would still need to be reported.
Description of Respondents: Manufacturers of in vivo radiopharmaceuticals used for diagnosis and monitoring.

To estimate the potential number of respondents that would submit applications or supplements for diagnostic radiopharmaceuticals, FDA used the number of approvals granted in fiscal year 1997 (FY 1997) to approximate the number of future annual applications. In FY 1997, FDA approved seven diagnostic radiopharmaceuticals and received one new indication supplement; of these, three respondents received approval through the Center for Drug Evaluation and Research and five received approval through the Center for Biologics Evaluation and Research. The annual frequency of responses was estimated to be one response per application or supplement. The hours per response refers to the estimated number of hours that an applicant would spend preparing the information referred to in the proposed regulations. The time needed to prepare a complete application is estimated to be approximately 10,000 hours, roughly one-fifth of which, or 2,000 hours, is estimated to be spent preparing the portions of the application that are affected by these proposed regulations. The proposed rule would not impose any additional reporting burden beyond the estimated current burden of 2,000 hours because safety and effectiveness information is already required by preexisting regulations (parts 314 and 601). In fact, clarification by the proposed regulation of FDA's standards for evaluation of diagnostic radiopharmaceuticals is expected to streamline overall information collection burdens, particularly for diagnostic radiopharmaceuticals that may have well-established low-risk safety profiles, by enabling manufacturers to tailor information submissions and avoid conducting unnecessary clinical studies. The following table indicates estimates of the annual reporting burdens for the preparation of the safety and effectiveness sections of an application that are imposed by existing regulations. The burden totals do not include an increase in burden because no increase is anticipated. This estimate does not include the actual time needed to conduct studies and trials or other research from which the reported information is obtained. FDA invites comments on this analysis of information collection burdens.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
315.4, 315.5, and 315.6	3	1	3	2,000	6,000
601.33, 601.34, and 601.35	5	1	5	2,000	10,000
Total	8		8		16,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Interested persons and organizations may submit comments on the information collection requirements of this proposed rule by June 22, 1998, to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attn: Desk Officer for FDA.

At the close of the 30-day comment period, FDA will review the comments received, revise the information collection provisions as necessary, and submit these provisions to OMB for review. FDA will publish a notice in the **Federal Register** when the information collection provisions are submitted to OMB, and an opportunity for public comment to OMB will be provided at that time. Prior to the effective date of the proposed rule, FDA will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VII. Request for Comments

Interested persons may, on or before August 5, 1998, submit to the Dockets Management Branch (address above) written comments on this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 315

Biologics, Diagnostic radiopharmaceuticals, Drugs.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, the Food and Drug Modernization Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR chapter I be amended as follows:

1. Part 315 is added to read as follows:

PART 315—DIAGNOSTIC RADIOPHARMACEUTICALS

Sec.

315.1 Scope.
315.2 Definition.
315.3 General factors relevant to safety and effectiveness.
315.4 Indications.
315.5 Evaluation of effectiveness.
315.6 Evaluation of safety.

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 379e; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

§ 315.1 Scope.

The regulations in this part apply to radiopharmaceuticals intended for in vivo administration for diagnostic and monitoring use. They do not apply to radiopharmaceuticals intended for therapeutic purposes. In situations where a particular radiopharmaceutical is proposed for both diagnostic and therapeutic uses, the radiopharmaceutical shall be evaluated taking into account each intended use.

§ 315.2 Definition.

For purposes of this part, diagnostic radiopharmaceutical means:

(a) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(b) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article as defined in paragraph (a) of this section.

§ 315.3 General factors relevant to safety and effectiveness.

FDA's determination of the safety and effectiveness of a diagnostic radiopharmaceutical shall include consideration of the following:

(a) The proposed use of the diagnostic radiopharmaceutical in the practice of medicine;

(b) The pharmacological and toxicological activity of the diagnostic radiopharmaceutical (including any carrier or ligand component of the diagnostic radiopharmaceutical); and

(c) The estimated absorbed radiation dose of the diagnostic radiopharmaceutical.

§ 315.4 Indications.

(a) For diagnostic radiopharmaceuticals, the categories of proposed indications for use include, but are not limited to, the following:

(1) Structure delineation.

(2) Functional, physiological, or biochemical assessment.

(3) Disease or pathology detection or assessment.

(4) Diagnostic or therapeutic patient management.

(b) Where a diagnostic radiopharmaceutical is not intended to provide disease-specific information, the proposed indications for use may refer to a process or to more than one disease or condition.

§ 315.5 Evaluation of effectiveness.

(a) The effectiveness of a diagnostic radiopharmaceutical is assessed by evaluating its ability to provide useful clinical information related to its proposed indications for use. The method of this evaluation will vary depending upon the proposed indication(s) and may use one or more of the following criteria:

(1) The claim of structure delineation is established by demonstrating the ability to locate and characterize normal anatomical structures.

(2) The claim of functional, physiological, or biochemical assessment is established by demonstrating reliable measurement of function(s) or physiological, biochemical, or molecular process(es).

(3) The claim of disease or pathology detection or assessment is established by demonstrating in a defined clinical setting that the diagnostic radiopharmaceutical has sufficient accuracy in identifying or characterizing the disease or pathology.

(4) The claim of diagnostic or therapeutic patient management is established by demonstrating in a defined clinical setting that the test is useful in diagnostic or therapeutic patient management.

(5) For a claim that does not fall within the indication categories identified in § 315.4, the applicant or sponsor should consult FDA on how to establish the effectiveness of the diagnostic radiopharmaceutical for the claim.

(b) The accuracy and usefulness of the diagnostic information shall be determined by comparison with a reliable assessment of actual clinical status. A reliable assessment of actual clinical status may be provided by a diagnostic standard or standards of demonstrated accuracy. In the absence of such diagnostic standard(s), the actual clinical status shall be established in another manner, e.g., patient followup.

§ 315.6 Evaluation of safety.

(a) Factors considered in the safety assessment of a diagnostic radiopharmaceutical include, among others, the following: The radiation dose; the pharmacology and toxicology of the radiopharmaceutical, including any radionuclide, carrier, or ligand; the risks of an incorrect diagnostic determination; the adverse reaction profile of the drug; and results of human experience with the radiopharmaceutical for other uses.

(b) The assessment of the adverse reaction profile includes, but is not limited to, an evaluation of the potential of the diagnostic radiopharmaceutical, including the carrier or ligand, to elicit the following:

(1) Allergic or hypersensitivity responses.

(2) Immunologic responses.

(3) Changes in the physiologic or biochemical function of the target and non-target tissues.

(4) Clinically detectable signs or symptoms.

(c) (1) To establish the safety of a diagnostic radiopharmaceutical, FDA may require, among other information, the following types of data:

(i) Pharmacology data.

(ii) Toxicology data.

(iii) Clinical adverse event data.

(iv) Radiation safety assessment.

(2) The amount of new safety data required will depend on the characteristics of the product and available information regarding the safety of the diagnostic radiopharmaceutical obtained from other studies and uses. Such information may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of preclinical studies. FDA will categorize diagnostic radiopharmaceuticals based on defined characteristics relevant to risk and will specify the amount and type of safety data appropriate for each category. For example, for a category of radiopharmaceuticals with a well-established low-risk profile, required safety data will be limited.

(d) The radiation safety assessment shall establish the radiation dose of a diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal models. Such an evaluation must consider dosimetry to the total body, to specific organs or tissues, and, as appropriate, to target organs or target tissues. The maximum tolerated dose need not be established.

PART 601—LICENSING

2. The authority citation for part 601 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 374,

379e, 381; 42 U.S.C. 216, 241, 262, 263; 15 U.S.C. 1451–1461; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

§ 601.33 [Redesignated as § 601.28]

3. Section 601.33 *Samples for each importation* is redesignated as § 601.28 and transferred from subpart D to subpart C, and the redesignated section heading is revised to read as follows:

§ 601.28 Foreign establishments and products: samples for each importation.

* * * * *

4. Subpart D is amended by revising the title and adding §§ 601.30 through 601.35 to read as follows:

Subpart D—Diagnostic Radiopharmaceuticals

Sec.

601.30 Scope.
601.31 Definition.
601.32 General factors relevant to safety and effectiveness.
601.33 Indications.
601.34 Evaluation of effectiveness.
601.35 Evaluation of safety.

Subpart D—Diagnostic Radiopharmaceuticals

§ 601.30 Scope.

This subpart applies to radiopharmaceuticals intended for in vivo administration for diagnostic and monitoring use. It does not apply to radiopharmaceuticals intended for therapeutic purposes. In situations where a particular radiopharmaceutical is proposed for both diagnostic and therapeutic uses, the radiopharmaceutical shall be evaluated taking into account each intended use.

§ 601.31 Definition.

For purposes of this subpart, diagnostic radiopharmaceutical means:

(a) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(b) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article as defined in paragraph (a) of this section.

§ 601.32 General factors relevant to safety and effectiveness.

FDA's determination of the safety and effectiveness of a diagnostic radiopharmaceutical shall include consideration of the following:

(a) The proposed use of the diagnostic radiopharmaceutical in the practice of medicine;

(b) The pharmacological and toxicological activity of the diagnostic radiopharmaceutical (including any carrier or ligand component of the diagnostic radiopharmaceutical); and

(c) The estimated absorbed radiation dose of the diagnostic radiopharmaceutical.

§ 601.33 Indications.

(a) For diagnostic radiopharmaceuticals, the categories of proposed indications for use include, but are not limited to, the following:

(1) Structure delineation.

(2) Functional, physiological, or biochemical assessment.

(3) Disease or pathology detection or assessment.

(4) Diagnostic or therapeutic patient management.

(b) Where a diagnostic radiopharmaceutical is not intended to provide disease-specific information, the proposed indications for use may refer to a process or to more than one disease or condition.

§ 601.34 Evaluation of effectiveness.

(a) The effectiveness of a diagnostic radiopharmaceutical is assessed by evaluating its ability to provide useful clinical information related to its proposed indications for use. The method of this evaluation will vary depending upon the proposed indication and may use one or more of the following criteria:

(1) The claim of structure delineation is established by demonstrating the ability to locate and characterize normal anatomical structures.

(2) The claim of functional, physiological, or biochemical assessment is established by demonstrating reliable measurement of function(s) or physiological, biochemical, or molecular process(es).

(3) The claim of disease or pathology detection or assessment is established by demonstrating in a defined clinical setting that the diagnostic radiopharmaceutical has sufficient accuracy in identifying or characterizing the disease or pathology.

(4) The claim of diagnostic or therapeutic patient management is established by demonstrating in a defined clinical setting that the test is useful in diagnostic or therapeutic patient management.

(5) For a claim that does not fall within the indication categories identified in § 601.33, the applicant or sponsor should consult FDA on how to establish the effectiveness of the diagnostic radiopharmaceutical for the claim.

(b) The accuracy and usefulness of the diagnostic information shall be determined by comparison with a reliable assessment of actual clinical status. A reliable assessment of actual clinical status may be provided by a diagnostic standard or standards of demonstrated accuracy. In the absence of such diagnostic standard(s), the actual clinical status shall be established in another manner, e.g., patient followup.

§ 601.35 Evaluation of safety.

(a) Factors considered in the safety assessment of a diagnostic radiopharmaceutical include, among others, the following: The radiation dose; the pharmacology and toxicology of the radiopharmaceutical, including any radionuclide, carrier, or ligand; the risks of an incorrect diagnostic determination; the adverse reaction profile of the drug; and results of human experience with the radiopharmaceutical for other uses.

(b) The assessment of the adverse reaction profile includes, but is not limited to, an evaluation of the potential of the diagnostic radiopharmaceutical, including the carrier or ligand, to elicit the following:

(1) Allergic or hypersensitivity responses.

(2) Immunologic responses.

(3) Changes in the physiologic or biochemical function of the target and non-target tissues.

(4) Clinically detectable signs or symptoms.

(c) (1) To establish the safety of a diagnostic radiopharmaceutical, FDA may require, among other information, the following types of data:

(i) Pharmacology data.

(ii) Toxicology data.

(iii) Clinical adverse event data.

(iv) Radiation safety assessment.

(2) The amount of new safety data required will depend on the characteristics of the product and available information regarding the safety of the diagnostic radiopharmaceutical obtained from other studies and uses. Such information may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of preclinical studies. FDA will categorize diagnostic radiopharmaceuticals based on defined characteristics relevant to risk and will specify the amount and type of safety data appropriate for each category. For example, for a category of radiopharmaceuticals with a well-established low-risk profile, required safety data will be limited.

(d) The radiation safety assessment shall establish the radiation dose of a

diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal models. Such an evaluation must consider dosimetry to the total body, to specific organs or tissues, and, as appropriate, to target organs or target tissues. The maximum tolerated dose need not be established.

Dated: April 15, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13797 Filed 5–20–98; 11:44 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 89

[FRL–6014–4]

RIN 2060–AH65

Control of Emissions of Air Pollution from New CI Marine Engines at or Above 37 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: EPA is issuing this Advance Notice of Proposed Rulemaking (ANPRM) to invite comment from all interested parties on EPA's plans to propose emission standards and other related provisions for new propulsion and auxiliary marine compression-ignition (CI) engines at or above 37 kilowatts (kW). This action supplements an earlier action for these engines initiated as part of an overall control strategy for new spark-ignition (SI) and CI marine engines (Notice of Proposed Rulemaking (NPRM) published November 9, 1994, modified in a Supplemental Notice of Proposed Rulemaking (SNPRM) published at February 7, 1996). The engines covered by today's action are used for propulsion and auxiliary power on both commercial and recreational vessels for a wide variety of applications including, but not limited to, barges, tugs, fishing vessels, ferries, runabouts, and cabin cruisers. This document does not address diesel marine engines rated under 37 kW, which are included in a proposed rulemaking for land-based nonroad CI engines published at September 24, 1997.

DATES: EPA requests comment on this ANPRM no later than June 22, 1998. Should a commenter miss the requested deadline, EPA will try to consider any comments received prior to publication of the NPRM that is expected to follow this ANPRM. There will also be opportunity for oral and written comment when EPA publishes the NPRM.

ADDRESSES: Materials relevant to this action are contained in Public Docket A–97–50, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

Comments on this notice should be sent to Public Docket A–97–50 at the above address. EPA requests that a copy of comments also be sent to Jean Marie Revelt, U.S. EPA, 2565 Plymouth Road, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Margaret Borushko, U.S. EPA, Engine Programs and Compliance Division, (734) 214–4334.

SUPPLEMENTARY INFORMATION:

I. Purpose and Background

A. Purpose

Ground level ozone levels continue to be a significant problem in many areas of the United States. In the past, the main strategy employed in efforts to reduce ground-level ozone was reduction of volatile organic compounds (VOCs). In recent years, however, it has become clear that NO_X controls are often a more effective strategy for reducing ozone. As a result, attention has turned to NO_X emission controls as the key to improving air quality in many areas of the country. Building on the emission standards for CI engines promulgated in the early 1990s, EPA has recently promulgated a new emission control program for on-highway CI engines and proposed a new program for nonroad CI engines.[1, 2] Both of these programs contain stringent standards that will greatly reduce NOx emissions from these engines.

Similarly, particulate matter (PM) is also a problem in many areas of the country. Currently, there are 80 PM–10 nonattainment areas across the U.S. (PM–10 refers to particles less than or equal to 10 microns in diameter). PM, like ozone, has been linked to a range of serious respiratory health problems. Levels of PM caused by mobile sources are expected to rise in the future, due to the predicted increase in the number of individual mobile sources. Both of the new emission programs referred to above, for on-highway and nonroad CI engines, are anticipated to reduce ambient PM levels, either through a reduction in directly emitted particulate matter or through a reduction in indirect (atmospheric) PM formation caused by NO_X emissions.

Domestic and ocean-going CI marine engines account for approximately 4.5 percent of total mobile source NOx emissions nationwide. However, because of the nature of their operation, the contribution of these engines to NO_X levels in certain port cities and coastal areas is much higher. To address these emissions, today's action outlines a control program for CI marine engines at or above 37 kW that builds on EPA's programs for on-highway and land-based nonroad diesel engines identified above, EPA's recent locomotive rule, discussed below, and the International Convention on the Prevention of Pollution from Ships (MARPOL 73/78), Annex VI—Air Pollution developed by the International Maritime Organization (IMO).[3] If the emission standards and other requirements for those CI marine engines that use the same technologies reflected in EPA's on-highway, land-based nonroad, or locomotive rules are implemented as discussed in today's action, EPA would expect to see NO_X and PM reductions on a per-engine basis comparable to those achieved by engines subject to those rules. The numerical levels that EPA is considering applying to very large CI marine engines were intended by IMO to result in a 30 percent NO_X reduction. EPA continues to investigate IMO's anticipated reductions for those engines, based on the age and other characteristics of the U.S. fleet.

B. Statutory Authority

Section 213(a) of the Clean Air Act (CAA) directs EPA to: (1) conduct a study of emissions from nonroad engines and vehicles; (2) determine whether emissions of carbon monoxide (CO), oxides of nitrogen (NO_X), and volatile organic compounds (VOCs, including hydrocarbons (HC)) from nonroad engines and vehicles are significant contributors to ozone or CO in more than one area which has failed to attain the national ambient air quality standards (NAAQS) for ozone or CO; and (3) if nonroad emissions are determined to be significant, regulate those categories or classes of new

[1] In this notice, the term "land-based nonroad" and "nonroad" refers to the land-based CI engines and equipment regulated under 40 CFR part 89. It does not include locomotive engines.

[2] *See* 62 FR 54694 (October 21, 1997) and 62 FR 50152 (September 24, 1997).

[3] A copy of MARPOL 73/78 Annex VI and the associated NO_X Technical Code is available in this docket.

nonroad engines and vehicles that cause or contribute to such air pollution.

The Nonroad Engine and Vehicle Emission Study required by section 213(a)(1) was completed in November 1991.[4] The determination of the significance of emissions from nonroad engines and vehicles in more than one NAAQS nonattainment area was published on June 17, 1994.[5] At the same time, the first set of regulations for new land-based nonroad CI engines at or above 37 kW was promulgated.[6] These are often referred to as the nonroad Tier 1 standards for large CI engines. EPA has also issued proposed or final rules for other categories of nonroad engines, including gasoline engines less than 19 kW,[7] gasoline marine engines (outboards and personal watercraft),[8] and locomotives.[9] Today's action pertains to all diesel marine engines greater than 37 kW.

C. Regulatory Background

The marine engine industry consists of a complex set of entities that manufacture a wide variety of engines. The primary entities involved include engine manufacturers, which produce marine versions of their land-based nonroad engines, and post-manufacturer marinizers, which purchase engines in various stages of completion and adapt them for operation in the marine environment. Engine sizes range from very small engines used for auxiliary purposes onboard vessels or to propel sailboats to very large engines used to propel ocean-going cargo ships. However, as more fully described below, these engines can be categorized into three basic types: those that are derived from or that use land-based nonroad technologies; those that are derived from or that use locomotive technologies; and those that are designed for propulsion on very large ocean-going vessels.

Numerical emission standards for CI marine engines were originally proposed in 1994 as part of the proposed rule for control of emissions from new SI and CI marine engines.[10] At that time, EPA had a limited understanding of the CI marine industry and, relying on the similarities between nonroad and CI marine engines, proposed to apply the same emission levels as those in the then just-developed land-based nonroad rule. The nonroad Tier 1 standards are set out in Table 1. EPA proposed that these standards for CI marine engines become effective January 1, 1999 for engines less than 560 kW, and January 1, 2000, for engines 560 KW and above. Although no upper limits on engine size were proposed for application of these standards to CI marine engines, EPA requested comment on whether an upper limit should be established above which the emission control program being developed concurrently by the International Maritime Organization (Annex VI, Air Pollution to the International Convention on the Prevention of Pollution from Ships, MARPOL 73/78) should apply. Annex VI contains, among other provisions,[11] requirements to limit NO_X emissions from diesel marine engines, but sets no limits for other pollutants (*i.e.*, HC, CO, PM). Negotiations were concluded September 26, 1997, and a final version of the Annex was signed by participating IMO member nations, including the U.S. delegation. The Annex in its entirety will acquire the force of law in the United States only after it is ratified by Congress. Table 1 also contains the IMO's NO_X limits, which are intended to apply to new engines greater than 130 kW installed on vessels constructed on or after January 1, 2000, or which undergo a major conversion after that date.

TABLE 1.—COMPARISON OF PROPOSED NUMERICAL EMISSION LIMITS—EPA AND IMO

Agency	Engine speed	HC (g/kW-hr)	CO (g/kW-hr)	NO_x (g/kW-hr)	PM (g/kW-hr)
EPA (Nonroad Tier 1)	all	1.3	11.4	9.2	0.54
IMO	n <130 rpm	None	None	17.0	None.
	130 rpm≤n<2000 rpm	None	None	$45*n^{(-0.2)}$	None.
	n ≥ 2000	None	None	9.8	None.

In response to the NPRM, several commenters requested that EPA harmonize domestic emission standards for CI marine engines to the levels being considered by IMO, in effect applying the proposed IMO limits domestically. Because the proposed IMO standards were not as stringent as the proposed domestic standards, this was a significant issue. On February 7, 1996, EPA published a Supplemental NPRM to address this and other concerns in more detail.[12] Specifically, EPA identified and requested comment on three alternative harmonization approaches: (1) Adopt the IMO NOx emission standard instead of the standard proposed in the NPRM; (2) retain the proposed average NOx emission standard of 9.2 g/kW-hr and also adopt the IMO emission standards across the engine speed range as a cap which no engine could exceed; or (3) determine an appropriate engine speed or engine power output cutoff point such that engines of high horsepower and low and medium speeds would be subject to IMO emission limits and engines of low horsepower and high speed would be subject to the proposed 9.2 g/kW-hr average standard with the 9.8 g/kW-hr IMO level as a cap which no engine could exceed. EPA also sought comment on harmonizing the numerical emission limits for other pollutants. Options considered were to drop, retain, or alter the proposed standards for HC, CO, PM, and smoke.

While the development of the national marine rule and the MARPOL negotiations continued, EPA began a new action for land-based nonroad diesel engines as part of a new Agency initiative to reduce national NOx and PM emissions from mobile sources. EPA proposed a rule that would set more stringent standards for land-based nonroad engines and equipment, known as Tier 2 standards (set out in Table 3, below).[13] EPA proposed that these Tier 2 standards come into effect as early as 2001 for some engine categories. That

[4] This study is available in docket A–92–28.

[5] See 59 FR 31306.

[6] See 59 FR 31306 (June 17, 1994).

[7] See 60 FR 34582 (July 3, 1995) for the final rule establishing Tier 1 standards and 62 FR 14740 (March 27, 1997) for the ANPRM discussing Tier 2 standards.

[8] See 61 FR 52087 (October 4, 1996) for the final rule. EPA did not set numerical emission standards for sterndrive and inboard gasoline marine engines in this rule.

[9] See 62 FR 6365 (February 11, 1997); the final rule was signed December 17, 1997 and is available electronically (see Section VI below).

[10] See 59 FR 55929 (November 9, 1994).

[11] Other provisions include requirements for ozone-depleting substances, sulfur content of fuel, incineration, VOCs from refueling, and fuel quality.

[12] See 61 FR 4600 (February 7, 1996).

[13] See 62 FR 50152 (September 24, 1997).

proposed rule also included more stringent Tier 3 standards (also set out in table 3), which would go into effect subject to a feasibility review in 2001. That feasibility review will be conducted through a public rulemaking process. Finally, marine and land-based nonroad CI engines less than 37 KW were included in the diesel land-based nonroad rule, with standards to come into effect as early as 1999 for Tier 1 and 2004 for Tier 2. Smaller CI marine engines were included in the proposal because they were not subject to any emission limits at the time (the existing marine NPRM covered only CI marine engines at or greater than 37 kW).

Also during this time, and pursuant to its Clean Air Act obligations, EPA proposed a rule that would set emission standards for new locomotive engines, which has since been finalized. [14] The locomotive program consists of three separate sets of standards, with applicability of the standards dependent on the date a locomotive is first manufactured. The first set of standards (Tier 0) applies to locomotives and locomotive engines originally manufactured from 1973 through 2001. The Tier 0 standards will be phased in over a two year period beginning in 2000, and will apply at the time of each remanufacture (as well as at the time of original manufacture for those covered locomotives originally manufactured in 2000 and 2001). The second set of standards (Tier 1) apply to locomotives and locomotive engines originally manufactured from 2002 through 2004. Such locomotives and locomotive engines will be required to meet the Tier 1 standards at the time of original manufacture and at each subsequent remanufacture. The final set of standards (Tier 2) apply to locomotives and locomotive engines originally manufactured in 2005 and later. Such locomotives and locomotive engines will be required to meet the Tier 2 standards at the time of original manufacture and at each subsequent remanufacture. The numerical standards are contained in Table 2.

TABLE 2.—LOCOMOTIVE STANDARDS

[Line-haul only]

Tier	HC (g/kW-hr)	CO (g/kW-hr)	NO_x (g/kW-hr)	PM (g/kW-hr)
Tier 0	1.3	6.7	12.7	0.80
Tier 1	0.7	2.9	9.9	0.6
Tier 2	0.4	2.0	7.4	0.27

EPA's efforts toward new emission limits for land-based nonroad diesel engines and locomotive engines led EPA to reconsider its approach to the control of emissions from CI marine engines. Again, because of the similarities between land-based nonroad and locomotive engines and CI marine engines, EPA is considering a rule based on applying the anticipated new technologies to CI marine engines. As a result, EPA did not take final action on CI marine engines when it adopted standards for marine spark-ignition engines. [15] Instead, EPA is pursuing a separate initiative for marine diesel engines which involves proposing a more ambitious emission control program than those proposed in 1994 and modified in 1996. The remainder of this ANPRM describes the new approach the Agency is considering for regulating emissions from new CI marine engines.

II. General Approach for Emission Control Program

A. Building on Land-Based Nonroad and Locomotive Rulemakings

Because of the similarities between certain CI marine engines and land-based nonroad diesel and locomotive engines, EPA intends to continue the same general approach as described in the earlier NPRM and SNPRM. That is, EPA envisions that the emission control program for CI marine engines at or above 37 kW will in many cases be an outgrowth of and depend on EPA's proposed emission control program for other land-based engines. However, instead of basing the program on the land-based nonroad Tier 1 program, this new proposal will look to the newer Tier 2 and locomotive programs. EPA intends to draw on both of those programs for elements such as numerical standards, compliance program, and manufacturer flexibility provisions. At the same time, EPA recognizes that differences between the engines may make it difficult to apply those programs to CI marine engines. Therefore, EPA seeks comments on all aspects of the basic program outlined below and on the suitability of applying provisions of the land-based and locomotive rulemakings in this context. Interested parties should refer directly to those rules, cited above, for more details on their contents.

B. Program Scope

The emission control program contemplated by today's action is intended to cover all new propulsion or auxiliary compression-ignition engines of 37 kW or greater offered for sale, introduced into commerce, or imported into the United States for installation on a vessel that is registered or flagged in the United States. Engines produced for installation on vessels not registered or flagged in the United States may be covered by an export exemption, as long as those vessels are not operated solely within United States. With regard to size, this rule is intended to cover all new engines from a 37 kW engine used on a small recreational vessel to a 30,000 kW or larger engine installed on an ocean-going container ship. With regard to application, the requirements are intended to cover both recreational and commercial engines. EPA requests comment generally on the proposed scope of the program and, in particular, on its effect on international commerce.

For purposes of this rulemaking, EPA considers a propulsion engine to be an engine that serves to move a vessel through water, either directly or indirectly. Any other engine installed on a vessel is considered to be an auxiliary engine. However, portable auxiliary engines of any size not permanently affixed to a marine vessel (e.g., auxiliary engines that are not permanently installed but, instead, are mounted on pallets that can be easily removed from the vessel) are not intended to be covered by this rule; those engines are subject to the land-based nonroad rule.

C. Emission Standards

1. Need for Multi-Category Approach

The engines to be covered by the emission control program contemplated

[14] See 62 FR 6365 (February 11, 1997); the final rule was signed December 17, 1997, and is available electronically (see section VI below).

[15] See 61 FR 52087 (October 4, 1996).

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in today's action are very diverse, in terms of engine size, emission technology, control hardware, and costs associated with reducing emissions. EPA therefore believes that it is not reasonable to propose one set of numerical emission levels for all CI marine engines. Because of the differences among engines, numerical standards that are reasonable and feasible for a 37 kW engine used on an 18-foot boat may not be reasonable or feasible for a 1500 kW engine installed on a tug or a 20,000 kW engine installed on an ocean-going container ship. Similarly, numerical emission limits that are appropriate for very large engines may be too loose for smaller engines, leaving them virtually unregulated. Therefore, EPA is considering setting different numerical standards for different size CI marine engines, as discussed in further detail below. EPA seeks comment on how the categories of engines should be defined. Options for defining the categories include engine power, displacement, bore size, or underlying engine technology.

While it is also possible to consider setting numerical standards based on the use of the vessel (i.e., whether it is used for commercial or recreational purposes), EPA is not considering doing so. Regardless of their ultimate use, CI marine engines of similar size can and do use the same emission control technologies, although they may be calibrated differently for performance reasons. Therefore, there appears to be no need to make such a use-based distinction for purposes of the proposed rulemaking.

2. Category 1: Engines Similar to Land-Based Nonroad

EPA is considering defining as a first category of CI marine engines those engines that are derived from land-based nonroad CI engines or that use similar technologies. As noted above, EPA recently issued an NPRM for control of emissions from land-based nonroad CI engines. Preliminary research confirms that many CI marine engines are derived from land-based nonroad CI engines covered in that NPRM, using the same base engine or engine block as their land-based counterparts and employing the same or similar engine technologies. Therefore, EPA believes that the NOx emission control technologies utilized for nonroad engines can be extended to these marine engines, and concomitantly that the numerical emission levels specified for Tier 2 and Tier 3 land-based nonroad engines are appropriate for CI marine engines. The land-based nonroad standards are set out in Table 3. CI marine engines should be able to achieve these emission limits on the E3 duty cycle (described below in section I.D. of today's ANPRM) by applying technologies under development for land-based nonroad engines, including increased use of turbocharging, better engine cooling, electronic controls, and exhaust gas recirculation. Because of the relationship between land-based and marine engines, the 2001 feasibility review intended for land-based engine standards would be expanded to include a re-evaluation of any Tier 3 standards adopted for marine engines. EPA requests comment on the appropriateness of extending land-based requirements to this category of CI marine engines and on the appropriateness of promulgating Tier 3 standards for marine engines prior to a formal technology review.

TABLE 3.—PROPOSED STANDARDS AND IMPLEMENTATION DATES FOR LAND-BASED NONROAD CI ENGINES RATED OVER 37 KW

Rated power (kW)	Standard level	NMHC+NO_x (g/kW-hr)	CO (g/kW-hr)	PM (g/kW-hr)	Implementation date
37 ≤75	Tier 2	7.5	5.0	0.40	2004
	Tier 3	4.7	5.0		2008
75 ≤130	Tier 2	6.6	5.0	0.30	2003
	Tier 3	4.0	5.0		2007
130 ≤225	Tier 2	6.6	3.5	0.20	2003
	Tier 3	4.0	3.5		2006
225 ≤450	Tier 2	6.4	3.5	0.20	2001
	Tier 3	4.0	3.5		2006
450 ≤560	Tier 2	6.4	3.5	0.20	2002
	Tier 3	4.0	3.5		2006
>560	Tier 2	6.4	3.5	0.20	2006

Table 3 also sets out the proposed implementation dates for land-based nonroad engines. EPA seeks comment on applying these dates to CI marine engines. Specifically, EPA seeks comment on the extent to which implementation should be delayed to provide additional time to work out the marinization of the land-based engine or application of technology to uncontrolled CI marine engines as new standards are implemented. In addition, if such delays are required, EPA seeks comment on the appropriate extension of the schedule.

If the standards described above are directly applied to CI marine engines, one important result would be that engines greater than 560 kW would remain unregulated until 2006. To close this gap, EPA is considering applying interim standards to these engines. One option would be to apply the Tier 1 standards described in Table 1, to go into effect in 2000 as originally proposed in the CI marine NPRM.[16] The other option is to apply the IMO NOx emission limits in the interim. These standards are also scheduled to apply beginning in 2000. EPA seeks comment on the relative merits of these two approaches. If the Tier 1 standards are adopted, EPA does not believe the effective dates should be delayed for CI marine since these emission limits are similar to those of the IMO which will go into effect for engines installed on vessels constructed on or after January 1, 2000.

[16] See 59 FR 55929 (November 9, 1994).

3. Category 2: Engines Similar to Locomotive Engines

EPA is considering defining as a second category of CI marine engines those engines that are derived from locomotive engines or that use similar technologies. These engines are typically used in vessels such as tugs, ferries, and small coastal container or bulk carriers that operate primarily in US waters. Despite their relatively small number, these engines contribute

disproportionately to coastal and port NO_x levels due to the high power ratings, high number of hours they are used, and the way they are used (high load factors).

EPA is considering two ways to address emissions from engines in this category. The first approach would be to apply the NO_x emission limits contained in MARPOL Annex VI, as reflected in the NOx curve. These limits would apply to new engines constructed on or after January 1, 2000. Alternatively, due to their relatively high contribution to the NOx and PM inventories on a per engine basis, more stringent emission limits may be appropriate for these engines. Thus, the second approach would be to apply the numerical emission limits for new locomotive engines to these CI marine engines (see Table 2, above). EPA seeks comment on both of these approaches, and on the extent to which the implementation dates in the locomotive rule should be adjusted to accommodate application of those standards to marine engines.[17]

4. Category 3: Low Speed, High Horsepower Engines

EPA is considering defining as a third category of CI marine engines those low speed, high horsepower engines that are used for propulsion purposes on ocean-going engines or Great Lakes freighters. These engines, which are typically larger than those derived from locomotive engines, are built to unique specifications onboard the vessel, and are manufactured in very small numbers. For such new engines, EPA is considering setting numerical standards for this category consistent with the IMO NO_x curve (see Table 1 above). EPA believes this approach to be reasonable for this category of engines, primarily because of their use patterns. Such engines are used in large vessels that engage in ocean travel and may operate only a limited amount of time in U.S. ports, while they are loading or unloading cargo and/or people. Setting standards more stringent than those adopted by IMO for such engines may accordingly have only a minimal impact on U.S. air quality, especially since the more stringent standards could apply only to engines installed on vessels flagged or registered in the United States. In addition, because more stringent standards would apply only to U.S. vessels, they may also affect the competitiveness of U.S. shipping vessels in the world transportation market, since engines installed on foreign-flagged vessels would need to comply only with the IMO emission limits. EPA seeks comment on the appropriateness of this approach for these very large engines.

With regard to the effective date for Category 3 engines, EPA is considering two approaches. The first reflects the approach typically used by EPA: standards are effective based on the construction date of the engine. Under this approach, EPA would require engines manufactured on or after January 1, 2000 to meet these limits. The second approach reflects the approach typically used by IMO and which is incorporated in MARPOL Annex VI: standards are effective based on the construction date of the vessel on which they are installed. Under this approach, engines installed on vessels constructed on or after January 1, 2000 would be required to meet these limits. The difference between these two approaches is not insignificant, since construction on a vessel may begin up to two years before the engine is manufactured and installed. Thus, using the IMO approach may lead to earlier implementation. EPA seeks comment on the relative merits of either approach.

5. Smoke Standards

In previous diesel engine emission control programs, EPA has typically set smoke standards as well as NO_x and PM emission limits for diesel engines. However, as in the proposed rule for land-based and small marine nonroad engines, EPA does not intend to propose a smoke standard for the CI marine engines subject to this rule. This is primarily because a test procedure to accurately measure smoke levels has not yet been developed for marine engines. While the test for land-based engines could be used, it may be inappropriate because it does not reflect how marine engines are actually operated. In addition, current PM controls for CI engines, as well as customer awareness and demand for smoke-controlled engines, may effectively control smoke from these engines beyond any levels the Agency may reasonably set. EPA seeks comment on the necessity of setting smoke standards.

6. Remanufacturing Requirements

To address the fact that certain types of engines are kept in service for very long periods of time, both the locomotive rule and the IMO's NO_x emission control program contain remanufacturing requirements. The locomotive rule's three tiers of numerical emission limits apply to freshly manufactured [18] and existing engines whenever they are remanufactured to a condition similar to freshly manufactured. The MARPOL Annex VI NO_x curve emission limits apply to new engines and to existing engines when they are substantially modified. Remanufacturing provisions were included in both of these rules because of the slow rate of fleet turnover in these sectors, which prevents the realization of significant emission reductions from these categories of engines until well into the future. EPA seeks comment on the appropriateness of applying these rebuild provisions to Category 2 and 3 engines.

While remanufacturing provisions could be extended to Category 1 engines, EPA is not currently considering doing so for two reasons. First, current industry rebuilding practices for Category 1 engines may make it difficult to implement a remanufacturing program. As noted above, there is a large degree of diversity among these engines, in terms of their applications (e.g., auxiliary/propulsion engines on fishing vessels, barges, tugs, recreational vessels, etc.). This diversity, in turn, is likely to lead to a diverse set of remanufacturing practices, depending on application and engine type. In other words, engines on fishing vessels may not be remanufactured at the same rate as engines on recreational vessels. This diversity may make it difficult to set a uniform process and standard on the Category 1 segment of the marine industry. Second, it is not clear that a remanufacturing requirement for Category 1 engines would yield an emission benefit large enough to offset the potential burden on users, and so may not justify such a requirement. At the same time, EPA is considering extending the proposed land-based nonroad rebuild provisions to Category 1 engines. EPA seeks comment on the characteristics of rebuilding practices for Category 1 engines, the appropriateness of extending a remanufacturing requirement to those engines, and whether a remanufacturing requirement, if extended, should vary according to the intended use of the engine.

D. Duty Cycles

To ensure the benefits of the emission control program, engine manufacturers must certify their engines to the required emission limits using an appropriate duty cycle. The many kinds of duty cycles that exist for marine

[17] See 62 FR 6365 (February 11, 1997); the final rule was signed December 17, 1997, and is available electronically (see section VI below).

[18] In the locomotive rule, EPA defined a new locomotive to include both freshly manufactured, and remanufactured to like-new condition.

engines make it necessary to specify which duty cycle will be used to demonstrate compliance with the specified emission limits. The choice of duty cycle is a function of engine size, engine characteristics, and how the engine is used. EPA is considering separate duty cycles for propulsion and auxiliary applications for each of the three categories of engines described above.

For Category 1 propulsion engines, EPA is considering two duty cycles: the International Standards Organization (ISO) E3 and E5 duty cycles. The E3 cycle is a four-mode steady-state cycle which was developed to represent in-use operation of commercial marine diesel propulsion engines. The E5 duty cycle, which was developed to represent in-use operation of recreational marine diesel engines, is similar to the E3 except that it includes an idle mode and is more heavily weighted towards lower power modes. At this time, EPA is considering proposing to require use of the E3 duty cycle for these engines.[19]

To ease the certification burden associated with this rule, EPA is considering proposing a flexibility to marine engine manufacturers that was proposed in the land-based nonroad rule for CI marine engines less than 37 kW. This provision would allow marine engines to be included in land-based engine families, thus avoiding the necessity of performing a separate certification test for both the land-based nonroad and marine engines. In essence, the flexibility would enable manufacturers to certify propulsion marine engines on ISO's C1 test cycle, which is an 8-mode test designed for variable speed, variable load engines. Although the C1 test procedure may not be as representative of marine operation as the E3 or E5 cycles, it should provide comparable assurance of control. If this flexibility is adopted in the CI marine engine program, the engine manufacturer will not be relieved of the responsibility to ensure that the marine engine in fact meets the emission limits on the E3 test cycle even though it is part of a land-based family. EPA seeks comment on whether this cross-over testing should be allowed.

For Category 3 propulsion engines, EPA is considering applying the duty cycles and procedures contained in the International Maritime Organization's NOx Technical Code.[20] These test cycles are set out in Table 5.

TABLE 5.—DUTY CYCLES—CATEGORY ENGINES

(As set out in Annex VI NOx Technical Code)

Engine	Cycle
Constant-speed marine engines for ship's main propulsion, including diesel electric drive	E2
Variable-pitch propeller sets	E2
Propeller law operated main and propeller law operated auxiliary engines	E3

Finally, for Category 2 propulsion engines, EPA requests comment on whether one of the two approaches described above is appropriate, or whether another duty cycle should be required.

With regard to auxiliary engines of any category, EPA intends to propose the ISO D2 duty cycle for variable-speed engines, which was designed for constant-speed generator sets with an intermittent load. In addition, EPA is considering extending the C1 flexibility described above to marine auxiliary engines. EPA seeks comment on the appropriateness of this cross-over testing for auxiliary engines.

E. Certification and Compliance Requirements

1. Certification

EPA is planning to put into place certification, engine family selection, recordkeeping and reporting requirements similar to those proposed in the nonroad land-based rule. EPA seeks comments on any revisions to these elements that may be necessary in the context of the CI marine engine emission control program, and any alterations that may be required for the different categories of CI marine engines.

2. Averaging, Banking, and Trading

In past federal mobile source rulemakings, EPA has adopted averaging, banking, and trading programs, and each of the programs referred to in today's ANPRM (on-highway [21] and land-based nonroad [22], locomotive [23], and gasoline marine [24] rules) include such programs. EPA requests comment on the need or applicability of such a program to CI marine engines.

3. Interface with IMO

Although EPA does not anticipate any difficulties with the interface between the domestic and IMO certification programs, EPA seeks comment on any problems that could arise.

4. Other Compliance Issues

EPA plans to draw on the compliance program set out in the land-based nonroad NPRM. [25] EPA intends to include selective enforcement auditing and recall provisions, in which engines are tested at the production line or in the field, respectively. EPA also intends to propose emission defect warranty and reporting requirements for marine diesel engines. Tampering prohibitions and importation restrictions will be outlined in the NPRM. EPA requests comment on how to apply these programs to marine diesel engines. Commenters are encouraged to provide detailed discussion of any revisions that may be needed to the land-based nonroad version of these programs to accommodate the marine engine market. EPA seeks comment on applying similar requirements to Category 2 and Category 3 engines, and how such provisions should interface with IMO requirements. In addition, EPA seeks comment on whether the production line testing program contained in the locomotive rule should be extended to Category 1 engines as an alternative to selective enforcement auditing.

F. Other Issues

1. Competitiveness with Spark-Ignition Engines

In response to the original marine NPRM, some commenters argued that CI engines should be subject to no more stringent regulation than gasoline SI sterndrive or inboard engines. [26] According to these commenters, CI

[19] An explanation of EPA's preliminary view on using the E3 duty cycle is set forth in Memorandum to Docket #A–96–40 from Mike Samulski, "Selection of Duty Cycle to Propose for High Speed CI Marine Engines (February 19, 1997).

[20] A copy of this document is available in this docket.

[21] See 62 FR 54694 (October 21, 1997).

[22] See 62 FR 50152 (September 24, 1997).

[23] See 62 FR 6365 (February 11, 1997).

[24] See 61 FR 52087 (October 4, 1996).

[25] See 62 FR 50152 (September 24, 1997).

[26] See 59 FR 55929 (November 9, 1994).

marine engines compete directly with SI sterndrive and inboard engines in certain markets, particularly for inboard cruisers. As described in the final rule for SI marine engines, EPA determined not to set standards for SI marine sterndrive and inboard engines, and these engines remain unregulated at this time.[27]

EPA understands that manufacturers of inboard cruisers often give customers a choice of purchasing either gasoline or diesel engines for certain types of vessels. However, information obtained from vessel manufacturers indicates that the choice of engine is complex. Customers primarily consider reliability, durability, fuel economy, and power when making their engine choice. In other words, the decision of whether to purchase a gasoline engine or a diesel engine appears to depend mainly on the intended usage patterns of the consumer. Typically, diesel engines are more attractive to customers interested in slow cruising over long distances, while gasoline engines are more attractive to customers interested in certain performance characteristics (e.g., speed). Thus, diesel engines do not appear to compete directly with gasoline engines in that the performance of the engines is not similar and the engines are not completely interchangeable in terms of use.

Current pricing of the engines further supports this argument. Information received by EPA suggests that at nearly the same power rating, the price of diesel engines is estimated to be double that for counterpart gasoline engines, in part due to fabrication requirements. EPA believes that if the two engine types were truly competitive, their prices would be more similar. EPA nevertheless recognizes that diesel and gasoline engines are offered on some of the same or similar vessels, and is therefore requesting additional information on this issue.

2. Voluntary Low-Emitting Engine Program

EPA is interested in adopting voluntary standards involving very low-emitting engine technologies, similar to those proposed in the land-based nonroad engine NPRM. The nonroad "Blue Sky Series" program sets out voluntary standards which manufacturers can meet using novel technologies or alternative fuels. The intended goal of adopting voluntary standards is two-fold: to increase the potential for emission reductions and to encourage the development and initial introduction of new technologies. The creation of incentives to produce Blue Sky Series engines would be left to the discretion of states or other organizations. The concentrated use of large marine engines near certain nonattainment areas should motivate consideration of these voluntary low-emission standards for new engines. Retrofit of existing engines may also be appropriate, but would not fall under the Blue Sky Series program.

Voluntary standards for diesel marine engines could be set up to be similar to those proposed for land-based engines, with some important differences. First, as proposed in the land-based nonroad NPRM, Blue Sky Series engines would be certified using the highway transient test. Testing these engines on a transient test cycle is important to ensure adequate control of particulate emissions. Use of the highway test cycle for large CI marine engines would, however, be problematic because of the very different operating modes experienced in use. Voluntary standards for some or all marine diesel engines would therefore need to rely on the ISO C1 or another test cycle, with a corresponding shift in focus to reducing NOx emissions. Second, the numerical levels for the voluntary standards proposed in the land-based nonroad NPRM would need to be revised, to reflect the potential for achieving superior emission control from the various sizes of marine engines. Finally, as with the land-based nonroad Blue Sky Series program, manufacturers would not be relieved of the responsibility to demonstrate compliance with the prevailing mandatory standards, although initial certification of such engines could be streamlined.

EPA requests comment on the potential success of a voluntary emission standards program for CI marine engines. EPA further requests comment on the appropriate makeup of a program of voluntary standards for all sizes of CI marine engines, including those subject to the MARPOL Annex VI NOx levels.

III. Potential Impacts

EPA will include detailed analysis of the emissions reductions and air quality benefits that would result from the standards proposed in the NPRM. EPA will also include in the NPRM an analysis of the expected environmental and economic impacts of meeting the proposed emission standards. The estimated economic impacts for land-based nonroad engines to meet proposed standards will be the starting point for a projection of Category 1 engine impacts. EPA expects that manufacturers will comply with diesel marine emission standards by marinizing engines that have been designed for land-based emission standards. Adjustments will be made to account for the unique design and operation of the marinized engines. Cost calculations will include certification and testing costs, as well as a consideration of fuel economy impacts resulting from the anticipated technologies; however, no fuel economy penalty was projected for land-based engines. Cost estimates for Category 2 engines will be similarly derived from the analysis completed for locomotive engines. EPA does not currently contemplate proposing standards more stringent than IMO levels for Category 3 engines and therefore intends not to estimate any cost impact for those engines.

IV. Small Business Concerns

Section 605 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* requires the Administrator to assess the economic impact of proposed rules on small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, Public Law 104–121, amended the RFA to strengthen its analytical and procedural requirements and to ensure that small entities are adequately considered during rule development. The Agency accordingly requests comment on the potential impacts on a small business of the program outlined in today's proposal. Such comments will help the Agency meet its obligations under SBREFA and will suggest how EPA can minimize the impacts of this rule for small companies that may be adversely affected.

EPA has identified three distinct groups of entities involved in the marine industry that could be affected by the emission control program under consideration. The first group, considered by EPA as "post-manufacturer marinizers," are companies that purchase an engine block from an engine manufacturer and modify it in such as way to make it adaptable to the marine environment. As with the SI marine emission standards, these companies would need to certify the marinized engines under the standards contemplated here. Most of these companies would be considered small business entities according to the size standards defined by Small Business Administration (SBA) regulations. Through early outreach efforts, EPA has learned that these small post-manufacturer marinizers may face at least two challenges not faced by large companies. First, they may have to redesign their end product, to

[27] See 61 FR 52087 (October 4, 1996).

incorporate a change made by their engine supplier in response to new emission requirements for CI land-based or marine engines. Second, many if not all of these companies will be facing compliance requirements for the first time. EPA requests comment on the burdens expected to be faced by these companies and potential flexibility provisions that may provide necessary relief. To identify potential flexibility provisions, commenters are encouraged to examine the proposed in the land-based nonroad NPRM.[28]

The second group of companies that may be affected by the proposed program are engine manufacturers that produce a wide variety of on-highway and nonroad engines. As noted above, CI marine engines produced by these manufacturers are typically derived from land-based nonroad or on-highway engines or are based on the same technology. Because these engine manufacturers have control over the manufacturing process for the base on-high or nonroad engine, they also have more control than the post-manufacturer marinizers over the internal design of the marine engines they market as well as more flexibility over the marinizing process. Typically, these engine manufacturers are considered large according to the SBA size standards. EPA requests comment on the degree to which these larger CI marine engine manufacturers will be affected by the proposed emission control program and, more specifically, the extent to which it would be appropriate to include flexibility provisions for these manufacturers.

The final group of companies that may be affected by the proposed program are vessel manufacturers. They may be affected to the extent that they need to accommodate changed engine designs from their engine suppliers. EPA expects that most of the application of emission control technology to achieve proposed emission limits will not affect vessel design. EPA seeks comment from vessel manufacturers and others on the potential impact on vessel design, as well as the appropriateness of equipment manufacturer flexibilities.

V. Public Participation

The Agency is committed to a full and open regulatory process and looks forward to input from a wide range of interested parties as the rulemaking process develops. If EPA proceeds as expected with a proposed rule, these opportunities will include a formal public comment period and a public hearing. EPA encourages all interested parties to become involved in this process as it develops.

With today's action, EPA opens a comment period for this ANPRM. Comments will be accepted through June 22, 1998. The Agency strongly encourages comment on all aspects of this proposal. The most useful comments are those supported by appropriate and detailed rationales, data, and analyses. All comments, with the exception of proprietary information, should be directed to the EPA Air Docket Section, Docket No. A–97–50 before the date specified above. Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information "Confidential Business Information" and (2) sending proprietary information directly to the contact person listed (see FOR FURTHER INFORMATION CONTACT) and not to the public docket. This will help ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission of confidential information as part of the basis for an NPRM, then a nonconfidential version of the document that summarizes the key data or information should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and in accordance with the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it will be made available to the public without further notice to the commenter.

VI. Copies of Documents

This ANPRM is available in the public docket as described under ADDRESSES above. This document is also available electronically from the EPA internet Web site. This service is free of charge, except for any cost incurred for internet connectivity. The electronic **Federal Register** version is made available on the day of publication on the first Web site listed below. The EPA Office of Mobile Sources also publishes these notices on the second Web site listed below.

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VII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, for any rule subject to section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the requirements of UMRA do not extend to advance notices of proposed rulemaking such as this Advance Notice.

VIII. Administrative Designation and Regulatory Analysis

Under Executive Order (EO) 12866, the Agency must determine whether this regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order.[29] The EO defines "significant regulatory action" as any regulatory action (including an advanced notice of proposed rulemaking) that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A draft of this ANPRM was reviewed by OMB prior to publication, as

[28] See 62 FR 50152 (September 24, 1997).

[29] See 58 FR 51735 (October 4, 1993).

required by EO 12866. Any written comments from OMB and any EPA response to OMB comments have been placed in the public docket for this Notice.

List of Subjects in 40 CFR Part 89

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

Dated: May 11, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–13791 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6101–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Operable Units 100–IU–1 and 100-IU–3 of the Hanford 100 Area Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete portions of the Hanford 100 Area NPL Superfund Site. The portions proposed to be deleted are the 100–IU–1 and 100–IU–3 Operable Units from the National Priories List. The 100–IU–1 and IU–3 Operable Units are part of the Hanford 100 Area NPL Site located at the U.S. Department of Energy (DOE) Hanford Site, located in southeastern Washington State. EPA is requesting comment on this action.

The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the 100–IU–1 and 100–IU–3 Operable Units is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1995).

This proposal for partial deletion pertains to all known waste areas located in the 100–IU–1 and 100–IU–3 Operable Units. The waste areas in 100–IU–3 were associated with former military sites used to defend the Hanford Site during the Cold War. In addition, a 2–4,D burial ground is located in the 100–IU–3 Operable Unit. The primary waste areas in the 100–IU–1 Operable Unit were associated with decontamination of rail cars at the Riverland Railroad Car Wash Pit, a munitions cache, a pesticide container area, and a 2–4,D container area.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the **Federal Register** and a newspaper of record.

ADDRESSES: Comments may be sent to: Dennis Faulk, Superfund Site Manager, USEPA, 712 Swift #5, Richland, Washington 99352; (509) 376–8631.

Information Repositories: Information and the deletion docket is available for review at the information repository listed below:

U.S. Department of Energy, Public Reading Room, Washington State University, Tri-Cities Consolidated Information Center, Room 101L, 2770 University Drive, Richland, Washington 99352.

In addition, the Notice of Intent to Delete can be reviewed at the following information repositories: Portland State University, Branford Price Millar Library, Science and Engineering Floor, 934 SW Harrison and Park, Portland, Oregon; University of Washington, Suzzallo Library, Government Publications Room, Seattle, Washington; Gonzaga University, Foley Center, East 502 Boone, Spokane, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Faulk; (509)376–8631.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region 10 announces its intent to delete the 100–IU–1 and 100–IU–3 Operable Units from the National Priories List. The 100–IU–1 and IU–3 Operable Units are part of the Hanford 100 Area NPL Site located at The U.S. Department of Energy(DOE) Hanford Site, located in southeastern Washington State. EPA is requesting comment on this action.

EPA proposes to delete the 100–IU–1 and 100–IU–3 Operable Units from the 100 Area NPL because all appropriate CERCLA response activities have been completed. The waste areas in the 100–IU–1 and 100–IU–3 Operable Units were cleaned up by the DOE between 1992 and 1994 using expedited response actions (ERA). At the Hanford Site, the term ERA is used to describe actions taken under CERCLA removal authority as described in 40 CFR 300.415. In February 1996, a no further action record of decision was signed documenting that previous ERA's had removed all contaminants from the waste areas in the 100–IU–1 and 100–IU–3 Operable Units to below cleanup levels for residential use established under the Washington State Model Toxics Control Act (MTCA). It should be noted, cleanup activities are continuing at other operable units of the Hanford 100 Area NPL Site.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to human health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.425(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for remedial actions if conditions at the site warrant such action.

EPA will accept comments concerning its intent for partial deletion for thirty (30) days after publication of this notice in the **Federal Register** and a newspaper of record.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect human health or the environment. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(I). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate response actions under CERCLA have been implemented under DOE's removal authority, and no further response action is deemed necessary; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to human health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent remedial actions at the area deleted if future site conditions warrant

such actions. Section 300.425(e)(3) of the NCP provides that remedial actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for information purposes and to assist Agency management.

The following procedures were used for the proposed deletion of the 100–IU–1 and 100–IU–3 Operable Units:

(1) EPA Region 10 has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Washington, through the Washington Department of Ecology, concurs with this proposed partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a newspaper of record and has been distributed to appropriate federal, State, and local officials and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the **Federal Register** and newspaper of record.

(4) EPA has made all relevant documents available at the information repositories listed previously.

This **Federal Register** document, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent of Partial Deletion. The public is asked to comment on EPA's proposal to delete the operable units from the NPL. All critical documents needed to evaluate EPA's decision are included in the Deletion Docket and are available for review at the information repository previously listed.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repository previously listed. Members of the public are encouraged to contact EPA Region 10 to obtain a copy of the Responsiveness Summary. If, after review of all public comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the operable units does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of the 100–IU–1 and 100–IU–3 Operable Units of the Hanford 100 Area NPL Site and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The Hanford 100 Area Site was added to the NPL in November 1989. EPA Region 10 is proposing deletion of portions of the Hanford 100 Area NPL Site. Specifically the 100–IU–1 Operable Unit and 100–IU–3 Operable Unit. The 100–IU–1 Operable Unit is a 13 square mile area with boundaries of Washington State Route 240 on the east, Washington State Highway 24 on the south, Hanford Site boundary on the west, and the Columbia River on the north. The 100–IU–3 Operable Unit is a 140 square mile area located at the northern most extent of the Hanford 100 Area NPL Site, north of the Columbia River.

100–IU–1 Operable Unit

Based on past disposal practices two waste areas; the Army Munitions Burial Site (munitions cache) and the Riverland Railroad Car Wash Pit were included as subunits in the 100–IU–1 Operable Unit. In addition, during investigations a pesticide container disposal area and a 2–4,D container area were also discovered and included as part of the operable unit.

The Riverland Railroad Car Wash Pit operated from 1943 until 1956 and was used to decontaminate railcars. Radioactive decontamination was required before railroad maintenance personnel could work on the railcars and locomotives.

An operable unit visual inspection found one homestead area containing a pile of empty pesticide containers. Characterization activities identified aldrin and dieldrin as contaminants of concern in the soil. Aldrin and dieldrin are carcinogenic and relatively immobile in soils. The chemicals were produced for about 10 years, from the early 1950s to early 1960s.

A 2–4,D container area was discovered in July 1994 during an archaeological survey performed by Pacific Northwest Laboratories. Two 5-gallon containers were found on the surface among some sage brush. In addition, nine 5-gallon containers, with just the pour spouts exposed, were found buried among the sage brush. Partial container markings indicated that the containers may have contained 2–4,D.

The munitions cache received various military explosives in the 1970s. The explosives were remnants left from various military exercises in the area. The area consisted of a wooden box placed in a hole in the ground about 0.6 m by 0.9 m by 0.6 m (2 ft by 3 ft by 2 ft) deep. On May 22, 1986, the box with contents went to the Yakima Firing Range for destruction.

Characterization activities confirmed the presence of diesel fuel contamination in the concrete and soil at the Riverland Railroad Car Wash Pit and pesticide soil contamination at the pesticide container area. Characterization of the 2–4,D container area did not find any contaminated soil around or beneath the containers. Based on results of sampling at the 2–4,D container area, the empty containers were designated nonregulated. At the pesticide container area, sampling indicated the primary hazardous constituents of concern were aldrin and dieldrin contaminated soils. The munitions cache was sampled and no contamination was present.

There is no known groundwater contamination associated with the 100–IU–1 Operable Unit. There are two shallow depth groundwater monitoring wells within the Operable Unit. One well is located down gradient of the Riverland Railroad Car Wash Pit and the second well is located down gradient and to the northwest. Sample analysis data from as far back as 1971 do not show groundwater contamination.

EPA and Ecology issued an action memorandum to DOE in June, 1993 requiring the removal of all pesticide contaminated soils, filling in the munitions cache hole, performing an explosive ordnance survey, and cleaning up the diesel contaminated concrete and soils at the Riverland Railroad Car Wash Pit.

The munitions cache hole was filled in on July 27, 1993. The Riverland Ordnance Survey was part of the Hanford Site-wide ordnance and explosive waste (OEW) archive search conducted by the U. S. Army Corps of Engineers. This search indicated that

the potential for ordnance in 100–IU–1 was minimal and, therefore, no further action was required regarding ordnance.

The pesticide container area cleanup activities started on July 6, 1993. On-site immunoassay field screening was used to monitor cleanup activity success. Drums containing crushed pesticide containers and drums containing aldrin and dieldrin contaminated soils were sent to an appropriate disposal facility located in the 200 Area of Hanford. The pesticide area was backfilled on September 1, 1993 after laboratory sample results confirmed that the soil contamination levels were below 2 parts per million (pmm) which is the cleanup level for aldrin and dieldrin as specified by the MTCA.

The Riverland Railroad Wash Car Pit cleanup activities started on July 12, 1993 when the soil covering the shop concrete pad was removed. The entire cleanup action was monitored with immunoassay field screening kits that detected diesel (TPH) concentrations at or above 200 ppm. Demolition of the concrete pad began on September 21, 1993 and diesel contaminated soil removal started on September 27, 1993. The contaminated material consisted of soils beneath the concrete pad, clay drain pipes and associated soils, and drainage ditch soils. A total of 430 cubic yards of material were removed and hauled to a bioremediation facility onsite. Bioremediation activities were completed in 1996. Sample results indicated that all soils were below the MTCA cleanup level of 200 ppm for TPH. All excavations were backfilled with clean soil.

100–IU–3

In April of 1992, Ecology and the EPA recommended that the 100–IU–3 Operable Unit be investigated and remediated using a non-time critical ERA. Results of field work which commenced in the summer of 1992 indicated that full scale hazard mitigation and the proper abandonment of water wells needed to be performed. Field work also indicated investigation and remediation of the 100–IU–3 military landfills was warranted. The H–O6–L landfill, considered to be the largest and suspected to contain the most hazardous waste, would be fully characterized (i.e., anomalous areas identified within the landfill boundaries would be fully excavated to undisturbed or natural horizons; excavated materials would be field screened, sampled and analyzed if necessary). Materials identified as hazardous or regulated would be stockpiled for treatment or off-site disposal.

Additional characterization and remediation of the other landfills would be dependent on the amounts and types of wastes found at the H–O6–L landfill. It was reasoned that because the military areas were under the same command, similar operating practices would be in place for each. Therefore, using an analogous approach, environmental waste found at the H–O6–L landfill would be expected to be present at the other landfills. Similarly, if no environmental waste was discovered at the H–O6–L landfill, the expectation was that the other landfills would also be free of contamination.

The Action Memorandum also required that DOE investigate the possible presence of ordnance in the 100–IU–3 Operable Unit. Ordnance, if found, was to be handled and disposed of in accordance with current U.S. Army regulations. An ordnance and explosive waste (OEW) record search was initiated in November of 1993. The search consisted of a records review and site visit, ordnance and explosive waste contamination analysis, and an archives search. The search concluded that there is a very small potential for the presence of OEW. Given the expanse of the 100–IU–3 Operable Unit, the likelihood of finding any ordnance through a field search would be minimal, and the costs would be great. Therefore, no further action was recommended.

Decommissioning of water wells began in June 1994 and was concluded in October 1994. In all, 9 water supply wells and one monitoring well were decommissioned in accordance with requirements set forth by the Washington State Department of Ecology. Localized contamination was discovered in three 100–IU–3 Operable Unit water supply wells. The contamination appeared to have been a result of vandals dumping oil and other debris down the well casing. In each case the contamination was contained within the casing. The oil and contaminated water were successfully purged from each well and the casings were steamed cleaned. Follow up water sampling and testing was conducted to confirm cleanup.

Full characterization and remediation at the H–06–L landfill began on April 19, 1994. Activities conducted consisted of geophysical investigations, excavation and field screening of buried wastes, sampling and analysis of suspect wastes, and segregation of confirmed hazardous or contaminated materials. Geophysical investigations employed electromagnetic profiling and magnetic techniques to locate buried metallic and non-metallic waste materials. Areas exhibiting anomalous geophysical response were marked in the field for subsequent excavation.

Excavated wastes were field screened using several criteria including visual observation, direct-reading instruments, and analyte-specific field analytical kits. Suspect wastes were sampled for characterization by an off-site laboratory under a quick turn-around schedule. Materials confirmed as hazardous were segregated pending determination of proper waste designation and disposition. Excavations were backfilled with clean material and graded to original conditions.

Approximately 600 cubic yards of DDT contaminated soil were discovered at the H–O6–L landfill. This material was disposed of at an off-site permitted landfill. Also, 200 cubic yards of petroleum contaminated soil was found and disposed of at an approved off-site facility. Six drums of soil contaminated with metals and soil from beneath several pesticide cans were disposed at an off-site facility. No ordnance or explosive waste was discovered.

The remaining 100–IU–3 military landfills received limited characterization and remediation that required excavation at each identified geophysical anomaly. Full excavations would only be required when field screening indicated the possible presence of contaminants. Characterization and remediation of 100–IU–3 landfills concluded on August 11, 1994.

In July of 1994, four exploratory holes were drilled under the buried tanks at the 2,4-D burial ground. The tanks were first located using a magnetometer. The holes were drilled at an incline in order to obtain samples from directly beneath the tanks. Eighteen samples were taken and no samples detected 2,4-D. In 1997, new information led to a re-investigation of the 2,4-D burial ground. Laboratory data showed elevated levels of 2,4-D and dioxin. The site was excavated and soils containing 2, 4-D and dioxin were shipped off-site for disposal. A portion of the soil was contaminated with 2,4-D only and was bioremediated onsite.

Community Involvement

Public participation activities for the cleanup of the 100–IU–1 and 100–IU–3 Operable Units were conducted as required under CERCLA Section 113(k), 42 U.S.C. 9613(k) and Section 117, 42 U.S.C. 9617. Public review included the following activities:

Public comment on the removal cleanup plan for 100–IU–1 from May 3 through June 9, 1993.

Public comment was accepted from November 8, 1993 through January 8,

1994 for the 100–IU–3 removal cleanup plan. A public meeting was held in Mattawa, Washington on December 14, 1993 for the 100–IU–3 Operable Unit.

Public comment was held from June 25 through August 9, 1995 regarding the proposed plan for 100–IU–1 and 100–IU–3 Operable Units.

Current Status

In February 1996, a no further action record of decision was signed documenting that previous removal actions done in 1993 and 1994 removed all contaminants to below the Washington Administrative Code (WAC), WAC 173–340 Washington State Model Toxics Control Act (MTCA) and that these areas do not pose a threat to human health or the environment.

The State of Washington, through the Department of Ecology, concurs with EPA's final determination regarding this proposed partial deletion.

Dated: May 15, 1998.

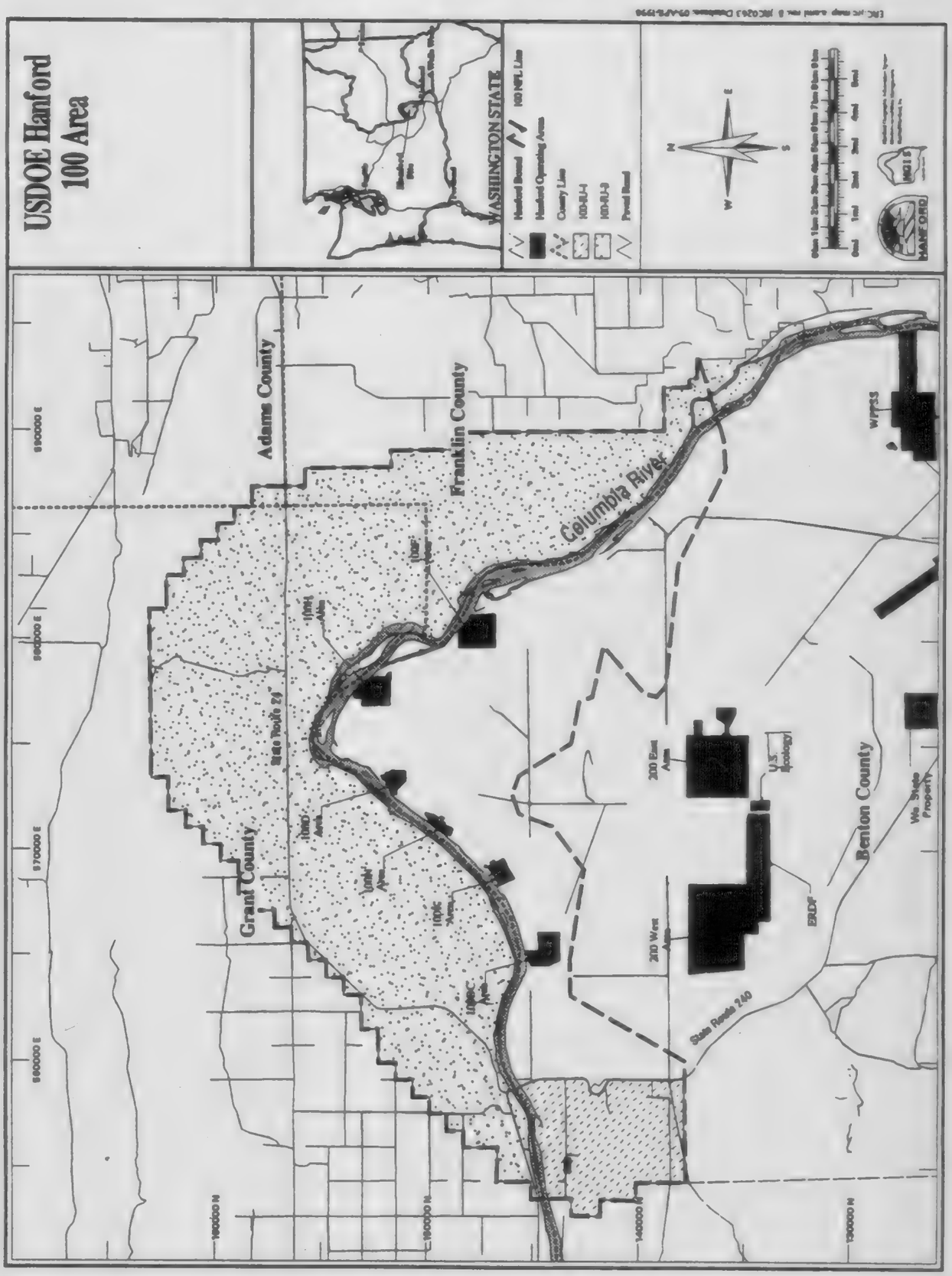
Charles E. Findley,

Acting Regional Administrator, Region 10, Environmental Protection Agency.

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Appendix—Map of USDOE Hanford 100 Area



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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7246]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood InsuranceProgram (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612,Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Quartzsite (Town) La Paz County.	Tyson Wash	Approximately 2,500 feet downstream of Tyson Drive.	None	*816
			Approximately 1,100 feet upstream of Tyson Drive.	None	*836
		Plymouth Wash	Approximately 500 feet upstream of confluence with Tyson Wash.	None	*830
			Just downstream of Plymouth Wash	None	*877
		Plomosa Wash	Approximately 750 feet upstream of confluence with Tyson Wash.	*851	*852
			Approximately 1,500 feet upstream of Plymouth Road.	None	*901
		La Cholla Wash-Main Branch.	At confluence with Tyson Wash	*838	*840
			Approximately 5,900 feet upstream of Kofa Road.	None	*917
		La Cholla Wash-North Branch.	Approximately 1,200 feet downstream of Tyson Drive.	None	*823
			Approximately 1,000 feet upstream of Kofa Road.	None	*870

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Town of Quartzsite Office of Planning and Zoning, Town Hall, 465 North Plymouth, Quartzsite, Arizona.					
Send comments to The Honorable Patty Bergen, Mayor, Town of Quartzsite, 465 North Plymouth, Quartzsite, Arizona 85346.					
Arizona	Yavapai County (Unincorporated Areas).	Dry Creek	Approximately 1,500 feet downstream of Sunset Hills Drive.	None	*4,025
			Approximately 2,000 feet upstream of Sunset Hills Drive.	None	*4,058
Maps are available for inspection at the Yavapai County Flood Control District, 255 East Gurley Street, Prescott, Arizona.					
Send comments to The Honorable Gherat Brownlow, Chairperson, Yavapai County Board of Supervisors, 1015 Fair Street, Room 310, Prescott, Arizona 86301.					
California	Burbank (City) Los Angeles County.	Lockheed Drain Channel ..	At confluence with Burbank Western Flood Control Channel.	None	*578
			Approximately 1.1 miles upstream of access road.	None	*711
		Lake Street Overflow	Approximately 410 feet downstream of Chestnut Street.	None	*576
			Approximately 310 feet upstream of Chestnut Street.	None	*577
		North Overflow	At confluence with Lockheed Drain Channel.	None	*592
			At divergence from Lockheed Drain Channel.	None	*641
		Flow Along Empire Avenue.	Approximately 140 feet downstream of Hollywood Way.	None	*669
			Approximately 0.4 mile upstream of Hollywood Way.	None	*691
Maps are available for inspection at the City of Burbank Department of Public Works, 275 East Olive Avenue, Burbank, California.					
Send comments to The Honorable Bob Kramer, Mayor, City of Burbank, 275 East Olive Avenue, Burbank, California 91502.					
California	Humboldt County (Unincorporated Areas).	Eastside Channel	Approximately 400 feet south of intersection of Market Street and Van Ness Avenue.	None	*28
		Williams Creek	At confluence with Salt River	None	*28
			At Rose Avenue	None	*47
			Approximately 1,150 feet upstream of Grizzly Bluff Road.	None	*65
		Janes Creek	Approximately 800 feet upstream of Samoa Road.	None	*7
			Approximately 140 feet upstream of Lumberyard Road.	*24	*24
		Mad River (At Blue Lake)	Approximately 6,000 feet upstream of confluence with Noisy Creek.	None	*65
			At Hatchery Road	None	*86
		Dave Power's Creek	Approximately 100 feet upstream of an unnamed road (log bridge).	None	*72
			Approximately 2,150 feet upstream of confluence with Mad River.	*77	*75
Maps are available for inspection at the Humboldt County Planning Department, 3015 H Street, Eureka, California.					
Send comments to The Honorable John E. Murray, Humboldt County Administrative Officer, 825 Fifth Street, Eureka, California 95501.					
California	Los Angeles (City)	Overflow Area of Lockheed Storm Drain.	At Vanowen Street	None	*702
	Los Angeles County.		Approximately 350 feet upstream of Vanowen Street.	None	*707
Maps are available for inspection at the B Permit Desk, 14410 Sylvan Street, Second Floor, Van Nuys, California, and the Stormwater Management Division, 650 South Spring Street, Suite 700, Los Angeles, California.					
Send comments to The Honorable Richard J. Riordan, Mayor, City of Los Angeles, City Hall East, Eighth Floor, 200 North Main Street, Los Angeles, California 90012.					
California	Menlo Park (City) ...	Shallow Flooding	At the intersection of Laurel Avenue and Haight Street.	None	*24
	San Mateo County		At the intersection of Pope Street and Woodland Avenue.	None	*43
			At the intersection of Willow and Middlefield Roads.	None	*56

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City of Menlo Park Engineering Department, 701 Laurel Street, Menlo Park, California. Send comments to The Honorable Chuck Kinney, Mayor, City of Menlo Park, 701 Laurel Street, Menlo Park, California 94025.					
California	Napa (City)	Napa Creek	At confluence with Napa River	*22	*21
	Napa County		Approximately 200 feet upstream of State Highway 29.	*44	*46.1
Maps are available for inspection at the City of Napa Department of Public Works, 1195 Third Street, Napa, California. Send comments to The Honorable Ed Henderson, Mayor, City of Napa, P.O. Box 0660, Napa, California 94559.					
California	Palo Alto (City)	Shallow Flooding	At the intersection of Canning Avenue and Wildwood Lane.	#2	*10
	Santa Clara County		At the intersection of Palo Alto Avenue and Chaucer Street.	#1	*40
			At the intersection of Palo Alto Avenue and Byron Street.	#1	*56
Maps are available for inspection at the City of Palo Alto Public Works Department, 250 Hamilton Avenue, Sixth Floor, Palo Alto, California. Send comments to The Honorable Dick Rosenbaum, Mayor, City of Palo Alto, 250 Hamilton Avenue, Palo Alto, California 94301.					
California	Santa Clara (City)	San Tomas Aquino Creek	Just upstream of Old Mountain View Alviso Road.	None	*11
	Santa Clara County		Approximately 300 feet upstream of Monroe Street.	None	*53
Maps are available for inspection at the City of Santa Clara Department of Public Works, 1500 Warburton Avenue, Santa Clara, California. Send comments to The Honorable Judy Nadler, Mayor, City of Santa Clara, City Hall, 1500 Warburton Avenue, Santa Clara, California 95050.					
California	Shasta Lake (City)	Churn Creek	Approximately 8,200 feet downstream of Ashby Road.	*662	*663
	Shasta County		Just upstream of Hill Street	None	*811
			Approximately 900 feet upstream of wooden footbridge.	None	*1,119
California	Churn Creek	North Branch	Approximately 850 feet downstream of Coeur d'Alene Avenue.	*715	*710
		Just upstream of Southern	Pacific Railroad	*792	*793
			Approximately 2,900 feet upstream of Shasta Dam Boulevard.	None	*786
		Churn Creek South Branch.	Approximately 3,600 feet downstream of Shasta Gateway Drive.	None	*683
			Approximately 450 feet upstream of Phoenix Spa Road.	None	*748
		Nelson Creek	Approximately 1,650 feet downstream of Southern Pacific Railroad.	None	*734
			Just upstream of Southern Pacific Railroad.	None	*776
			Approximately 950 feet upstream of Flanagans Road.	None	*865
		Little Churn Creek	Just upstream of Lake Boulevard	None	*815
			Approximately 2,300 feet upstream of Lake Boulevard.	None	*859
		Rich Gulch Creek	Approximately 170 feet upstream of Lake Boulevard.	None	*832
			Approximately 2,550 feet upstream of Lake Boulevard.	None	*907
		Salt Creek	Approximately 4,100 feet downstream of Twin View Boulevard.	*647	*647
			Just downstream of Shasta Dam Boulevard.	*758	*755
			Approximately 1,200 feet upstream of Black Canyon Road.	None	*835
		Salt Creek North Branch	Approximately 650 feet downstream of Deer Creek Road.	None	*736
			Just downstream of Southern Pacific Railroad.	None	*835
			Just upstream of Shop Road	None	*941
		Salt Creek South Branch	Approximately 300 feet downstream of Deer Creek Boulevard.	None	*680
			Approximately 2,400 feet upstream of Smith Avenue.	None	*735

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California		Moody Creek	Approximately 1,550 feet upstream of Moody Creek Road.	None	*674
			At confluence with Rancheria Creek	None	*810
			Approximately 4,200 feet upstream of confluence with Rancheria Creek.	None	*856
		Rancheria Creek	Approximately 250 feet upstream of confluence with Moody Creek.	None	*813
			Approximately 6,000 feet upstream of confluence with Moody Creek.	None	*890
		Rancheria Creek North Branch.	Approximately 100 feet upstream of confluence with Rancheria Creek.	None	*815
			Approximately 5,850 feet upstream of confluence with Rancheria Creek.	None	*867
Maps are available for inspection at the City of Shasta Lake Planning Division, 1650 Stanton Drive, Shasta Lake, California. Send comments to Mr. Alan Harvey, City Manager, City of Shasta Lake, 1650 Stanton Drive, Shasta Lake, California.					
California	Shasta County (Unincorporated Areas).	Churn Creek North Branch	Approximately 3,100 feet upstream of Shasta Dam Boulevard.	None	*992
			Approximately 3,750 feet upstream of Shasta Dam Boulevard.	None	*1,043
		Churn Creek South Branch.	Just downstream of Southern Pacific Railroad.	None	*748
			Just upstream of Southern Pacific Railroad.	None	*758
		Little Churn Creek	Approximately 2,700 feet upstream of Lake Boulevard.	None	*864
			Approximately 3,150 feet upstream of Lake Boulevard.	None	*871
		Rich Gulch Creek	Approximately 600 feet upstream of Southern Pacific Railroad.	None	*912
			Approximately 1,000 feet upstream of Southern Pacific Railroad.	None	*921
		Nelson Creek	Approximately 950 feet upstream of Flanagans Road.	None	*865
			Approximately 1,600 feet upstream of Flanagans Road.	None	*873
		Salt Creek (Upper Reach)	Approximately 800 feet downstream of Southern Pacific Railroad.	None	*835
			Just upstream of Southern Pacific Railroad.	None	*889
		Moody Creek	Approximately 750 feet downstream of Moody Creek Drive.	None	*660
			Just downstream of Cascade Boulevard	None	*768
			Approximately 9,150 feet upstream of Cascade Boulevard.	None	*868
		Rancheria Creek	Approximately 850 feet downstream of Southern Pacific Railroad.	None	*895
			Just upstream of Southern Pacific Railroad.	None	*992
		Rancheria Creek North Branch.	Approximately 2,600 feet upstream of confluence with Rancheria Creek.	None	*841
			Approximately 6,400 feet upstream of confluence with Rancheria Creek.	None	*872
Maps are available for inspection at 1855 Placer Street, Room 206, Redding, California. Send comments to The Honorable Doug Latimer, Chief Administrative Officer, Shasta County, 1815 Yuba Street, Suite 2, Redding, California 96001.					
Colorado	Larimer County (Unincorporated Areas).	Coal Creek	Approximately 3,000 feet downstream of Fourth Street.	None	*5,166
			Approximately 3,000 feet upstream of Windsor Ditch.	None	*5,230
Maps are available for inspection at the Larimer County Engineering Department, 218 West Mountain, Fort Collins, Colorado. Send comments to The Honorable Cheryl Olson, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, Colorado 80522.					
Colorado	Wellington (Town)	Coal Creek	Approximately 2,000 feet downstream of Fourth Street.	*5,180	*5,182

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
	Larimer County		Approximately 1,000 feet north of Windsor Ditch.	None	*5,222

Maps are available for inspection at the Town of Wellington Town Hall, 3735 Cleveland Avenue, Wellington, Colorado.
Send comments to The Honorable George Lutz, Mayor, Town of Wellington, P.O. Box 245, Wellington, Colorado 80549.

Kansas	Perry (City) Jefferson County.	Kansas River	Approximately 1,700 feet downstream of County Highway 215.	*848	+846
Kansas			At confluence of Delaware River	*850	+850
		Delaware River	At Seventh Street, extended to River	*850	+850

Maps are available for inspection at the City of Perry City Hall, 119 Elm Street, Perry, Kansas.
Send comments to The Honorable Matt Willkomm, Mayor, City of Perry, P.O. Box 724, Perry, Kansas 66073.
*Elevation in feet (NGVD)
+Elevation in feet (NAVD)
Please note that to convert to NAVD, add 0.26 foot to NGVD elevations.

Louisiana	Lafayette Parish and Incorporated Areas.	Bayou Queue de Tortue ...	Approximately 2,400 feet downstream of State Route 719, at confluence of South Branch.	None	*27
			Just upstream of State Route 343	*34	*32
		Duson Branch	Approximately 1,420 feet downstream of U.S. Route 90.	*34	*31
			Approximately 70 feet upstream of Anderson Road.	*34	*33
		North Branch	Approximately 1,300 feet downstream of U.S. Route 90.	None	*29
			Approximately 600 feet upstream of State Route 1096.	None	*31
		South Branch	At confluence with Bayou Queue de Tortue.	None	*28
			At divergence from Bayou Queue de Tortue.	None	*31

Maps are available for inspection at 806 First Street, Duson, Louisiana.
Send comments to The Honorable Gene Hernandez, Mayor, Town of Duson, P.O. Box 10, Duson, Louisiana 70529–0010.
Maps are available for inspection at 707 West University Avenue, Lafayette, Louisiana.
Send comments to The Honorable Walter Comeaux, Parish President, Lafayette Parish, P.O. Box 4017-C, Lafayette, Louisiana 70502.

Louisiana	Natchez (Village) Natchitoches Parish.	Bayou Natchez	Approximately 4/5 mile downstream of Main Street near corporate limits.	*107	*106
			Approximately 9/10 mile upstream of Main Street near corporate limits.	*107	*106

Maps are available for inspection at 181 Main Street, Natchez, Louisiana.
Send comments to The Honorable Clave Davis, Mayor, Village of Natchez, P.O. Box 229, Natchez, Louisiana 71456.

Louisiana	Natchitoches Parish (Unincorporated Areas).	Cane River-Old River-Bayou Natchez.	Cane River-Red Bayou Diversion Canal at Parish boundary, approximately 1 mile downstream of confluence with Cane River.	None	*99
			Cane River approximately 1.5 miles upstream of State Route 119.	*106	104
			Old River at City of Natchitoches southwest corporate limits, just downstream of State Route 1.	*110	*110
		Bayou Bonna Vista	At confluence with Winn Creek	None	*154
			At Natchitoches Parish corporate limits, approximately 2.2 miles upstream of confluence with Winn Creek.	None	*163
		Cox Branch	At confluence with Bayou DuPont	None	*141
			At Natchitoches Parish corporate limits, approximately 2 miles upstream of Louisiana Highway 120.	None	*162
		Bayou DuPont	At confluence with Little River	None	*129
			At Louisiana Highway 120	None	*145
		Winn Creek	At confluence with Bayou DuPont	None	*136
			At Parish Route 349	None	*195

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at 203 St. Denis, Room 116, Natchitoches, Louisiana. Send comments to Mr. Randy Lucky, Police Jury Administrator, P.O. Box 799, Natchitoches, Louisiana 71458.					
Louisina	Richland Parish (Unincorporated Areas).	Bayou Macon	Approximately 4 miles downstream of Interstate 20.	None	*75
			Approximately 5.4 miles upstream of U.S. 80.	None	*79
Maps are available for inspection at Courthouse Square, Richland Parish, Louisiana. Send comments to The Honorable Earnes Greer, Jr., Police Jury President, P.O. Box 668, Rayville, Louisiana 71269.					
Lousiana	Slidell (City)	Diversion Canal (W–14 Main).	At Daney Street	*9	*9
	St. Tammany Parish.		Approximately 700 feet upstream of Pawns Road.	None	*19.5
		Bayou Vincent	Approximately 1,500 feet downstream of West Hall Avenue.	*9	*9
			Approximately 1,000 feet downstream of Interstate Highway 12.	*14.5	*13.8
Louisiana		West Diversion Canal	At confluence with Bayou Vincent	None	*11.8
			At confluence with Diversion Canal (W–14 Main).	None	*15.1
		Rein Canal West	At confluence with Diversion Canal (W–14 Main).	None	*14.1
			At confluence with Rein Canal East	None	*15.1
		Rein Canal East	2,800 feet above confluence with French Branch.	None	*15
Maps are available for inspection at the City of Slidell City Hall, 2056 Second Street, Slidell, Louisiana. Send comments to The Honorable Salvatore Caruso, Mayor, City of Slidell, P.O. Box 828, Slidell, Louisiana 70959.					
Louisiana	St. Tammany Parish (Unincorporated Areas).	West Diversion Canal	At confluence with Bayou Vincent	None	*11.8
			2,600 feet upstream of Southern Railroad	None	*14.6
		Bayou Vincent	Approximately 1,000 feet downstream of West Hall Road.	None	*9
			Approximately 1,000 feet downstream of Interstate Highway 12.	*16.7	*16.5
		Rein Canal East	At confluence with French Branch	None	*14.2
			160 feet upstream of Interstate Highway 10.	None	*14.8
		Diversion Canal (W–14 Main).	At Daney Street	None	*9
			Approximately 700 feet upstream of Pawns Boulevard.	None	*19.8
Maps are available for inspection at 21490 Koop Road, Mandeville, Louisiana. Send comments to The Honorable Steve Stefanick, St. Tammany Parish President, 21490 Koop Road, Mandeville, Louisiana 70471.					
Nevada	Churchill County (Unincorporated Areas).	New River Drain	Just upstream of Harrigan Road	None	*3,956
			At divergence from Carson River	None	*3,974
Maps are available for inspection at the Churchill County Planning Department, 180 West First Street; Fallon, Nevada. Send comments to The Honorable James Regan, Commissioner, Churchill County, 10 West Williams Avenue, Fallon, Nevada 89406.					
Nevada	Fallon (City)	New River Drain	At Harrigan Road	None	*3,956
	Churchill County		Approximately 75 feet upstream of Taylor Place.	None	*3,967
Maps are available for inspection at the City of Fallon City Hall, Building Inspector's Office, 55 West Williams Avenue, Fallon, Nevada. Send comments to The Honorable Ken Tedford, Jr., Mayor, City of Fallon, 55 West Williams Avenue, Fallon, Nevada 89406.					
Oklahoma	Cleveland County and Incorporated Areas.	Chouteau Creek (North of Lexington).	Just downstream of Bryant Road	*1,071	*1,071
			Just upstream of Bryant Road	None	*1,073
			Just upstream of Cemetery Road	None	*1,124
		Dripping Springs Creek	Just downstream of Cemetery Road	*1,107	*1,107
			At confluence with Chouteau Creek	None	*1,085

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at 201 South Jones, Norman, Oklahoma.					
Send comments to The Honorable Bill Graves, Chairman, Board of County Commissioners, 201 South Jones, Norman, Oklahoma 73069.					
Maps are available for inspection at 12031 Slaughterville Road, Lexington, Oklahoma.					
Send comments to The Honorable David Robinson, Mayor, Town of Slaughterville, 12031 Slaughterville Road, Lexington, Oklahoma 73051–7411.					
Oregon	Keizer (City) Marion County.	Lake Labish Ditch	At confluence with Claggett Creek	None	*122
			Just upstream of River Road	None	*132
			Approximately 3,300 feet upstream of River Road.	None	*133
Maps are available for inspection at 930 Chemawa Road, Keizer, Oregon.					
Send comments to The Honorable Dennis Koho, Mayor, City of Keizer, P.O. Box 21000, Keizer, Oregon 97307.					
Oregon	Douglas County (Unincorporated Areas).	Newton Creek	Just upstream of Stephens Street	None	*519
			Approximately 1,180 feet upstream of Parker Road.	None	*583
		South Umpqua River	Approximately 5,600 feet downstream of confluence of Newton Creek.	*428	*429
			At confluence of Newton Creek	*434	*433
Maps are available for inspection at the Douglas County Planning Department, Justice Building, Room 106, Douglas County Courthouse, Roseburg, Oregon.					
Send comments to The Honorable Joyce Morgan, Chairperson, Douglas County Board of Commissioners, 1036 Southeast Douglas, Roseburg, Oregon 97470.					
Oregon	Roseburg (City) Douglas County.	South Umpqua River	Approximately 5,160 feet downstream of confluence with Newton Creek.	*428	*428
			Approximately 170 feet downstream of confluence with Newton Creek.	*438	*437
Oregon			Just downstream of Interstate Highway 5	*422	*443
		Newton Creek	At confluence with South Umpqua River	*433	*433
			Just upstream of Stewart Parkway	None	*487
			Just upstream of Stephens Street	None	*520
Maps are available for inspection at the City of Roseburg Community Development Department, 900 Southeast Douglas Avenue, Roseburg, Oregon.					
Send comments to The Honorable Jeri Kimmel, Mayor, City of Roseburg, 900 Southeast Douglas Avenue, Roseburg, Oregon 97470.					
Oregon	Marion County (Unincorporated Areas).	Lake Labish Ditch	At City of Keizer-Marion County line, approximately 4,050 feet upstream of River Road.	None	*133
Maps are available for inspection at the Marion County Community Development Department, 3150 Lancaster Drive Northeast, Salem, Oregon.					
Send comments to The Honorable Randall Franke, Chairperson, Marion County Board of Commissioners, 100 High Street Northeast, Salem, Oregon 97301–3670.					
Texas	Bastrop County and Incorporated Areas.	Cedar Creek	Approximately 5,600 feet downstream of Farm Market (FM) Road 535.	*410	*411
			Approximately 200 feet downstream of Watts Lane.	*432	*432
			Just downstream of FM 812	None	*451
Maps are available for inspection at the Bastrop County Courthouse, 804 Pecan Street, Bastrop, Texas.					
Send comments to The Honorable Peggy Walicek, Judge, Bastrop County, 804 Pecan Street, Bastrop, Texas 78602.					
Texas	Caldwell County (Unincorporated Areas).	San Marcos River	At confluence of Plum Creek	*354	*341
			Just upstream of U.S. Highway 10	*358	*355
			Just upstream of U.S. Highway 90	*380	*379
			Just upstream of State Highway 671	*411	*409
			Just upstream of State Highway 20	*442	*442
			Just upstream of FM Road 1977	*487	*485
			Just upstream of County Road 21	*559	*564
		Bypass Creek	At confluence with San Marcos River	*549	*553
			Approximately 150 feet upstream of Camp Gary Access Road.	*577	*577

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Martindale Diversion	Approximately 2.8 miles downstream of FM Road 1979 at the convergence with the San Marcos River.	None	*500
			Just downstream of FM Road 1979 at the divergence from the San Marcos River.	None	*522
		Brushy Creek	Approximately 1 mile downstream of Highway 21.	None	*539
			Just upstream of Highway 21 at the northwest County boundary.	None	*542
Maps are available for inspection at the Caldwell County Courthouse, Main and San Antonio Streets, Lockhart, Texas. Send comments to The Honorable Rebecca Hawener, Caldwell County Judge, County Courthouse, Third Floor, Main and San Antonio Streets, Lockhart, Texas 78644.					
Texas	Luling (City) Caldwell County.	San Marcos River	At the southernmost corporate limits of the City of Luling.	None	*360
			Approximately 4,000 feet upstream of U.S. Highway 80.	None	*363
Maps are available for inspection at the City of Luling City Secretary's Office, City Hall, 509 East Crockett, Luling, Texas. Send comments to The Honorable John A. Moore, Mayor, City of Luling, City Hall, P.O. Box 630, Luling, Texas 78648–0630.					
Texas	Martindale (Town) Caldwell County.	San Marcos River	Approximately 400 feet downstream of FM Road 1979 at the southeastern corporate limits.	*517	*515
			Approximately 0.5 mile upstream of access road.	*539	*538
		Martindale Diversion	Approximately 0.5 mile downstream of FM Road 1979 at the southern corporate limits.	None	*512
			Just downstream of FM Road 1979 at the divergence from the San Marcos River.	None	*522
Maps are available for inspection at the Town of Martindale Town Hall, 409 Main Street, Martindale, Texas. Send comments to The Honorable Maybeth Bayley, Mayor, Town of Martindale, P.O. Box 365, Martindale, Texas 78655.					
Washington	Bothell (City) King and Snohomish Counties.	North Creek	At confluence with Sammamish River	*22	*22
			At 208th Street Southeast	None	*123
Maps are available for inspection at the City of Bothell Department of Community Development, 9654 Northeast 182nd Street, Bothell, Washington. Send comments to The Honorable Debbie Treen, Mayor, City of Bothell, City Hall, 18305 101st Avenue Northeast, Bothell, Washington 98011.					
Washington	Mason County (Unincorporated Areas).	Skokomish River	Just upstream of State Route 106	*16	*17
			Approximately 2,000 feet downstream of confluence of North and South Fork Skokomish Rivers.	*54	*52
Maps are available for inspection at the Mason County Department of Community Development, 411 North Fifth Street, Shelton, Washington. Send comments to The Honorable Mary Jo Cady, Chairperson, Mason County Board of Commissioners, 411 North Fifth Street, Shelton, Washington 98584.					
Washington	Okanogan County (Unincorporated Areas).	Early Winters Creek	Approximately 0.5 mile downstream of State Highway 20.	None	#5
			Approximately 0.5 mile upstream of State Highway 20.	None	#5
Maps are available for inspection at the Okanogan County Planning and Development Office, 237 Fourth Avenue, Okanogan, Washington. Send comments to The Honorable Ed Thiele, Chairperson, Board of Okanogan County Commissioners, P.O. Box 1009, Okanogan, Washington 98840.					
Wyoming	Ranchester (Town) Sheridan County.	Tongue River	Approximately 6,350 feet downstream of Wolf Creek Road at southeastern corner of Town.	*3,742	*3,741
			Just upstream of Wolf Creek Road at intersection of corporate limits.	*3,762	*3,761
			Approximately 3,050 feet upstream of Wolf Creek Road at western end of Rowlings Drive.	*3,766	*3,767

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Five Mile Creek	At corporate limits near confluence with Tongue River.	None	*3,763
			Just upstream of unnamed road located approximately 3,000 feet upstream of U.S. Route 14.	None	*3,785
Maps are available for inspection at the Town of Ranchester Town Hall, 145 Coffeen Street, Ranchester, Wyoming.					
Send comments to The Honorable Brad Lanka, Mayor, Town of Ranchester, P.O. Box 435, Ranchester, Wyoming 82839.					
Wyoming	Thermopolis (Town) Hot Springs County.	Big Horn River	At northeasternmost corporate limit, approximately 4,900 feet downstream of State Park Street.	None	*4,302
			At southernmost corporate limit, approximately 4,400 feet upstream of Eighth Street.	None	*4,332
Maps are available for inspection at the Town of Thermopolis Town Hall, 420 Broadway, Thermopolis, Wyoming.					
Send comments to The Honorable Mike Mortimore, Mayor, Town of Thermopolis, P.O. Box 603, Thermopolis, Wyoming 82443.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13737 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7255]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	Birmingham (City) Jefferson County.	Tarrant Springs Branch	Approximately 25 feet upstream of confluence of Fivemile Creek.	*592	*591
			Approximately 500 feet downstream of Carson Road.	*708	*707
		Valley Creek	Approximately 750 feet upstream of U.S. Route 11.	*484	*486
			Approximately 1,200 feet upstream of 4th Avenue.	*570	*565
		Unnamed Creek 10	Approximately 700 feet downstream of Houston Road.	None	*659
			Approximately 500 feet upstream of Houston Road.	None	*672
		Black Creek (Fivemile Creek Basin)	At confluence with Fivemile Creek	*430	*426
			Approximately 911 feet downstream of Walker Chapel Road.	*430	*429
		Village Creek	Approximately 150 feet upstream of Avenue F.	*522	*523
			Approximately 9.8 miles upstream of West Boulevard.	None	*694
		Unnamed Creek 32	Approximately 0.4 mile downstream of 50th Street.	*595	*594
			Approximately 0.22 mile upstream of 64th Place South.	654	652
		Approximately 0.22 mile upstream of 64th Place South.	*654	*652	
		Old Unnamed Creek 34	At confluence with Village Creek	*665	*668
			At confluence with Unnamed Creek 34.	*683	*684
		Unnamed Creek 34	At confluence with Village Creek	None	*679
			Approximately 0.47 mile upstream of Private Road.	*696	*695

Maps available for inspection at the City Hall, Planning and Engineering Office, 710 North 20th Street, 5th Floor, Birmingham, Alabama.

Send comments to The Honorable Richard Arrington, Jr., Mayor of the City of Birmingham, Jefferson County, City Hall, 710 North 20th Street, Birmingham, Alabama 35203.

Alabama	Graysville (City)	Fivemile Creek	At downstream corporate limits	None	*323
	Jefferson County		At upstream corporate limits	None	*330

Maps available for inspection at the City Hall, 246 South Main Street, Graysville, Alabama.

Send comments to The Honorable Wayne Tuggle, Mayor of the City of Graysville, City Hall, Jefferson County, 246 South Main Street, Graysville, Alabama 35073.

Alabama	Homewood (City)	Shades Creek	Approximately 0.73 mile downstream of Interstate 65.	*623	*621
	Jefferson County		Approximately 1,056 feet downstream of U.S. Route 280.	*651	*650

Maps available for inspection at the Homewood Zoning Department, 175 Citation Court, Homewood, Alabama.

Send comments to The Honorable Barry McCulley, Mayor of the City of Homewood, P.O. Box 59666, Homewood, Alabama 35259.

Alabama	Hoover (City) Jefferson County.	Patton Creek	Approximately 725 feet upstream of Hurricane Branch.	*424	*425
			Approximately 600 feet upstream of Southland Drive.	*514	*513

Maps available for inspection at the City Hall, 100 Municipal Drive, Hoover, Alabama.

Send comments to The Honorable Frank S. Skinner, Jr., Mayor of the City of Hoover, City Hall, Jefferson County, 100 Municipal Drive, Hoover, Alabama 35216.

Alabama	Jefferson County (Unincorporated Areas).	Unnamed Creek 11	At the confluence with Unnamed Creek 10.	*617	*616
			Approximately 130 feet upstream of Wood Drive Circle.	None	*692
		Barton Branch	Just upstream of State Highway 79.	*574	*573

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 75 feet upstream of Goodrich Drive.	None	*627
		Tarrant Springs Branch	Approximately 0.62 mile upstream of confluence with Fivemile Creek.	*608	*609
			Approximately 400 feet downstream of Carson Road.	*708	*707
		Huckleberry Branch	Approximately 825 feet upstream of Tyler Road.	None	*513
			Approximately 0.27 mile upstream of Mountain Oaks Drive.	None	*824
		Patton Creek	Approximately 0.76 mile downstream of Patton Chapel Road.	*425	*424
			Downstream Westridge Drive	*531	*533

Maps available for inspection at the Jefferson County Courthouse/Land Development/Room 202A, 716 North 21st Street, Birmingham, Alabama.

Send comments to Ms. Mary Buckelew, President of the Jefferson County Commission, Jefferson County, Room 211, 716 North 21st Street, Birmingham, Alabama 35263.

Connecticut	Greenwich (Town), Fairfield.	Long Island Sound	At intersection of Indian Harbor Drive and Oneida Drive.	*12	*13
			Approximately 950 feet east of the intersection of River Avenue and Byram Shore Road (Captain Harbor).	*18	*20

Maps available for inspection at the Town of Greenwich Planning & Zoning Department, 101 Field Point Road, Greenwich, Connecticut.

Send comments to Mr. Thomas Ragland, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06836.

Connecticut	Wallingford (Town), New Haven County.	Quinnipiac River	Approximately 1,300 feet upstream of corporate limits.	*22	*23
			Approximately 0.8 mile upstream of State Route 150 (Hall Avenue).	*40	*41
		Mansion Road Brook	Approximately 120 feet downstream of Wilbur Cross Parkway (State Route 15).	*28	*29
		Oakdale Brook	Approximately 200 feet downstream of Wilbur Cross Parkway (State Route 15).	*31	*32

Maps available for inspection at the Town of Wallingford Department of Planning and Zoning, 45 South Main Street, Wallingford, Connecticut.

Send comments to The Honorable William W. Dickinson, Jr., Mayor of the Town of Wallingford, 45 South Main Street, Wallingford, Connecticut 06492.

Delaware	Milford (City), Kent and Sussex Counties.	Mispillion River	Approximately 100 feet downstream of Washington Street.	*9	*10
			Immediately upstream of U.S. Route 113.	*11	*13
		Mullet Run	Approximately 500 feet upstream of confluence with Mispillion River.	*10	*11
			Approximately 800 feet upstream of confluence with Mispillion River.	*10	*11
		Presbyterian Branch	At confluence with Mispillion River	*11	*13
			Approximately 300 feet upstream of confluence with Mispillion River (At Kings Highway).	*11	*13

Maps available for inspection at the Milford City Hall, 201 South Walnut Street, Milford, Delaware.

Send comments to Mr. Richard D. Carmean, City of Milford Floodplain/City Manager, 201 South Walnut Street, P.O. Box 159, Milford, Delaware 19963.

Delaware	Sussex County ..... (Unincorporated Areas)	Betts Pond/Shoals Branch	At downstream face of U.S. Route 113.	None	*15
			Approximately 250 feet upstream of County Road 432.	None	*35

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Sussex County Planning & Zoning Office, Sussex Administration #2 The Circle, Georgetown, Delaware. Send comments to Mr. Robert Stickels, Sussex County Administrator, Sussex County Administrative Office Building, P.O. Box 589, Georgetown, Delaware 19947.					
Florida	Leesburg (City), Lake County.	Lake Hollywood	Entire shoreline	*75	*77
		Ponding Area K1–1	Entire shoreline	*73	*69
		Ponding Area K1–2B	Entire shoreline	*75	*74
		Ponding Area K1–2C	Entire shoreline	*75	*73
		Ponding Area K1–2D	Entire shoreline	*75	*73
Maps available for inspection at the City of Leesburg Engineering Department, 501 West Meadow Street, Leesburg, Florida. Send comments to Mr. Anthony O. Otte, Leesburg City Manager, P.O. Box 490630, Leesburg, Florida 34749.					
Georgia	Augusta-Richmond County. (Unincorporated Areas)	Oates Creek	Approximately 50 feet upstream of Fort Gordon Highway	*126	*125
			Approximately 30 feet downstream of Olive Road	*147	*146
		Oates Creek Tributary No. 1	At confluence with Oates Creek	*147	*144
			At Olive Road	155	154
		Rocky Creek	Just downstream of New Savannah Road.	*126	*125
			Approximately 800 feet downstream of Old Savannah Road.	*131	*130
		Butler Creek	Just downstream of Windsor Spring Road.	*187	*188
			Just upstream of Windsor Spring Road.	*189	*190
		Rocky Creek Tributary No. 2	At confluence with Rocky Creek	*129	*128
			Approximately 0.3 mile upstream of confluence with Rocky Creek.	*129	*128
Maps available for inspection at the Augusta-Richmond County Planning Department, 525 Telfair Street, Augusta, Georgia. Send comments to The Honorable Larry E. Sconyers, Mayor of Augusta-Richmond County, City-County Municipal Building, 530 Greene Street, Room 806, Augusta, Georgia 30911.					
Massachusetts	Bourne (Town), Barnstable County	Buzzards Bay	At the intersection of Captain's Row and Mooring Road on Mashnee Island.	None	*23
			Approximately 600 feet south of the intersection of Scraggy Neck Road and Hospital Cove Road.	*14	*15
		Cape Cod Bay	Approximately 800 feet north of the intersection of Norris Road and Hillside Avenue.	*25	*16
			At the intersection of Pilgrim Road and Phillips Road.	*10	*11
Maps available for inspection at the Bourne Town Hall, 24 Perry Avenue, Buzzards Bay, Massachusetts. Send comments to Mr. Thomas Barlow, Chairman of the Town of Bourne Board of Selectmen, 24 Perry Avenue, Buzzards Bay, Massachusetts 02532.					
Michigan	Ionia (Township) Ionia County.	Grand River	Approximately 0.4 mile downstream of State Route 66.	None	*644
			Approximately 1.7 miles upstream of State Route 66.	None	*646
Maps available for inspection at the Ionia Township Hall, 2664 Nickleplate Road, Ionia, Michigan. Send comments to Mr. Larry Listerman, Township of Ionia Supervisor, 2664 Nickleplate Road, Ionia, Michigan 48846.					
Michigan	Owosso (Township), Shiawassee County.	Owasso Drain	At the downstream corporate limits	None	*740
			Approximately 1,500 feet upstream of Delaney Road.	None	*743
Maps available for inspection at the Owosso Township Hall, 2998 West M21, Owosso, Michigan. Send comments to Mr. Clare Walter, Owosso Township Supervisor, 2998 West M21, Owosso, Michigan 48867.					
New Jersey	Watchung (Borough), Somerset County.	Stony Brook	Approximately 40 feet downstream of Johnston Drive.	*114	*115
			Approximately 150 feet upstream of Somerset Street.	*188	*187

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		East Branch Stony Brook	Approximately 675 feet downstream of Valley Drive.	*212	*213
			Approximately 20 feet downstream of Meadowlark Drive.	*238	*237
		Green Brook	At Raymond Avenue	*129	*128
			Approximately 1,600 feet upstream of Apple Tree Road.	*406	*405

Maps available for inspection at the Watchung Borough Hall, 15 Mountain Boulevard, Watchung, New Jersey.

Send comments to The Honorable Anthony F. Addario, Mayor of the Borough of Watchung, 15 Mountain Boulevard, Watchung, New Jersey 07060.

New York	Camillus (Village) Onondaga County.	Ninemile Creek	At northern corporate limits within Town of Camillus.	*411	*407
			Approximately 1,600 feet upstream of Unnamed Stream East.	*415	*411
		Unnamed Stream East	At the confluence with Ninemile Creek.	*415	*410
			Approximately 310 feet upstream of confluence within Ninemile Creek.	*415	*414

Maps available for inspection at the Camillus Village Hall, 37 Main Street, Camillus, New York.

Send comments to The Honorable Richard E. Raichlin, Mayor of the Village of Camillus, 37 Main Street, Camillus, New York 13031.

North Carolina	Halifax County (Unincorporated Areas).	Lake Gaston	Entire shoreline within county	*204	*205

Maps available for inspection at the Halifax County Zoning Department, 26 North King Street, Room 102, Halifax, North Carolina.

Send comments to Mr. Charles B. Archer, Halifax County Manager, P.O. Box 38, Halifax, North Carolina 27839.

Ohio	Bay Village (City), Cuyahoga County.	Wischmeyer Creek	Approximately 120 feet downstream of West Lake Road.	*606	*605
			At the upstream City of Bay Village corporate limits.	*649	*651

Maps available for inspection at the Bay Village City Hall, 350 Dover Center Road, Bay Village, Ohio.

Send comments to The Honorable Thomas Jelepis, Mayor of the City of Bay Village, 350 Dover Center Road, Bay Village, Ohio 44140.

Pennsylvania	Bensalem (Township), Bucks County.	Neshaminy Creek	Upstream side of U.S. Route 1	*47	*48
			Downstream side of Old Lincoln Highway.	*48	*49

Maps available for inspection at the Bensalem Township Building, Office of Building and Planning, 2400 Byberry Road, Bensalem, Pennsylvania.

Send comments to The Honorable Joseph Digirolamo, Mayor of the Township of Bensalem, 2400 Byberry Road, Bensalem, Pennsylvania 19020.

Pennsylvania	Bridgeton (Township), Bucks County.	Delaware River	At downstream corporate limits	*136	*135
			At upstream corporate limits	*149	*147

Maps available for inspection at the Bridgeton Township Zoning Office, 1370 Bridgeton Hill Road, Upper Black Eddy, Pennsylvania.

Send comments to Ms. Barbara Guth, Chairman of the Bridgeton Township Board of Supervisors, P.O. Box 200, Upper Black Eddy, Pennsylvania 18972.

Pennsylvania	Bristol (Borough), Bucks County.	Delaware River	Approximately 4,500 feet upstream of the confluence of Mill Creek No. 1.	*11	*12
			At upstream corporate limits	*11	*12
		Mill Creek No. 1	Approximately 500 feet upstream of Maple Beach Road.	*11	*12
			At downstream side of Pond Street.	*13	*14

Maps available for inspection at the Bristol Borough Municipal Building, 250 Pond Street, Bristol, Pennsylvania.

Send comments to Mr. Fidel Esposito, Bristol Borough Manager, 250 Pond Street, Bristol, Pennsylvania 19007.

Pennsylvania	Buckingham (Township), Bucks County.	Watson Creek	Approximately 50 feet downstream of Mill Road.	None	*280
			Upstream side of Mill Road	None	*281

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Buckingham Township Zoning Office, 4613 Hughesian Way, Buckingham, Pennsylvania. Send comments to Ms. Deborah Rendon, Buckingham Township Manager, P.O. Box 413, Buckingham, Pennsylvania 18912.					
Pennsylvania	Durham (Township), Bucks County.	Delaware River	At downstream corporate limits	*152	*153
			Approximately 960 feet upstream from the confluence of Cooks Creek.	*157	*156
Maps available for inspection at the Durham Township Municipal Building, 215 Old Furnace Road, Durham, Pennsylvania. Send comments to Mr. Bartley E. Millett, Chairman of the Durham Township Board of Supervisors, P.O. Box 4, Durham, Pennsylvania 18972–8039.					
Pennsylvania	Falls (Township), Bucks County.	Delaware River	At downstream corporate limit	*12	*13
			Approximately 2.3 miles upstream of the confluence of Scott's Creek.	*13	*14
Maps available for inspection at the Falls Township Offices, Department of Code Enforcement, 188 Lincoln Highway, Suite 100, Fairless Hills, Pennsylvania. Send comments to Mr. James Dillon, Falls Township Manager, 188 Lincoln Highway, Suite 100, Fairless Hills, Pennsylvania 19030.					
Pennsylvania	Lower Makefield (Township), Bucks County.	Delaware River	Approximately 900 feet upstream of downstream corporate limits.	*29	*28
			At upstream corporate limits	*48	*47
Maps available for inspection at the Lower Makefield Township Building, 1100 Edgewood Road, Yardley, Pennsylvania. Send comments to Ms. Grace Godshalk, Chairperson of the Lower Makefield Board of Supervisors, 1100 Edgewood Boulevard, Yardley, Pennsylvania 19067.					
Pennsylvania	Middletown (Township), Bucks County.	Chub Run	At upstream side of Gilliam Avenue.	None	*196
			Approximately 90 feet upstream of Gilliam Avenue.	None	*196
		Neshaminy Creek	Upstream side of Old Lincoln Highway.	*50	*51
			Approximately 325 feet upstream of West Maple Avenue.	*63	*64
		Queen Anne Creek	Approximately 750 feet downstream of Oxford Valley Road.	None	*71
			Approximately 650 feet downstream of Oxford Valley Road.	None	*71
Maps available for inspection at the Middletown Township Hall, 2140 Trenton Road, Levittown, Pennsylvania. Send comments to Mr. John Burke, Middletown Township Manager, 2140 Trenton Road, Levittown, Pennsylvania 19056–1483.					
Pennsylvania	Morrisville (Borough), Bucks County.	Delaware River	Approximately 845 feet downstream of U.S. Route 1/Lincoln Highway.	*21	*22
			Approximately 1,160 feet upstream of Calhoun Road.	*28	*27
Maps available for inspection at the Morrisville Municipal Building, 35 Union Street, Morrisville, Pennsylvania. Send comments to Mr. Charles Grabowski, President of the Morrisville Borough Council, 142 Hillcrest Avenue, Morrisville, Pennsylvania 19067.					
Pennsylvania	New Britain (Township), Bucks County.	North Branch Neshaminy Creek.	Approximately 1,850 feet upstream of Park Avenue.	None	*252
			Approximately 0.72 mile upstream of Park Avenue.	None	*259
		Cooks Run	Approximately 150 feet above confluence with Neshaminy Creek.	*232	*233
			Approximately 1,420 feet above confluence with Neshaminy Creek.	*232	*241

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the New Britain Township Hall, 207 Park Avenue, Chalfont, Pennsylvania. Send comments to Mr. Robert Bender, New Britain Township Manager, 207 Park Avenue, Chalfont, Pennsylvania 18914.					
Pennsylvania	New Hope (Borough), Bucks County.	Delaware River	Approximately 1,450 feet upstream of downstream corporate limits.	*68	*69
			Approximately 260 feet downstream of upstream corporate limits.	*73	*72
		Aquetong Creek	At confluence with Delaware River	*70	*69
			Approximately 925 feet upstream of confluence with Delaware River.	*70	*69
Maps available for inspection at the New Hope Borough Hall, 41 North Main Street, New Hope, Pennsylvania. Send comments to Ms. Victoria Keller, New Hope Borough Manager, 41 North Main Street, New Hope, Pennsylvania 18938.					
Pennsylvania	Nockamixon (Township), Bucks County.	Delaware River	At downstream corporate limits	*149	*147
			Approximately 1,350 feet upstream of corporate limits.	*155	*153
		Gallows Run	At confluence with Delaware River	*155	*153
			Approximately 400 feet downstream of Fire Line Road.	*155	*154
		Haycock Creek	Approximately 1,525 feet downstream of Church Road.	None	*399
			At Haycock Run Road	None	*437
Maps available for inspection at the Nockamixon Township Building, 589 Lake Warren Road, Ferndale, Pennsylvania. Send comments to Mr. John R. MacFarland, Chairman of the Township of Nockamixon Board of Supervisors, P.O. Box 45, Revere, Pennsylvania 18953.					
Pennsylvania	Northampton (Township), Bucks County.	Mill Creek No. 2	Approximately 0.4 mile downstream of upstream crossing of Bristol Road.	None	*193
			Approximately 0.2 mile downstream of upstream crossing of Bristol Road.	None	*211
Maps available for inspection at the Township of Northampton Zoning Department, 55 Township Road, Richboro, Pennsylvania. Send comments to Mr. D. Bruce Townsend, Northampton Township Manager, 55 Township Road, Richboro, Pennsylvania 18954–1592.					
Pennsylvania	Perkasie (Borough), Bucks County.	East Branch Perkiomen Creek.	Downstream corporate limit	*307	*308
			Approximately 1,300 feet upstream of East Callowhill Road.	*319	*317
Maps available for inspection at the Perkasie Borough Hall, 311 South Ninth Street, Perkasie, Pennsylvania. Send comments to Mr. John Cornelius, Perkasie Borough Manager, P.O. Box 275, Perkasie, Pennsylvania 18944.					
Pennsylvania	Plumstead (Township), Bucks County.	Delaware River	At downstream corporate limits	*97	*98
			At confluence of Tohickon River	*103	*101
		Tohickon Creek	At confluence with Delaware River	*103	*101
			Approximately 0.5 mile upstream of confluence with Delaware River.	*103	*101
Maps available for inspection at the Plumstead Township Municipal Building, 5186 Stump Road, Plumsteadville, Pennsylvania. Send comments to Ms. Karen E. Helsel, Chairwoman of the Township of Plumstead Board of Supervisors, 5186 Stump Road, P.O. Box 387, Plumsteadville, Pennsylvania 18949.					
Pennsylvania	Quakertown (Borough), Bucks County.	Morgan Creek	Approximately 0.6 mile downstream of CONRAIL railroad tracks.	None	*486
			Approximately 0.7 mile downstream of CONRAIL railroad tracks.	None	*486

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Quakertown Borough Hall, 15–35 North Second Street, Quakertown, Pennsylvania. Send comments to Mr. David L. Woglom, Quakertown Borough Manager, P.O. Box 727, Quakertown, Pennsylvania 18951.					
Pennsylvania	Richland (Township), Bucks County.	Licking Creek	Approximately 1,550 feet upstream of Main Street.	None	*510
			Approximately 2,150 feet upstream of Main Street.	None	*511
Maps available for inspection at the Richland Township Municipal Building, 1328 California Road, Richlandtown, Pennsylvania. Send comments to Mr. Bruce Fosselman, Richland Township Manager, P.O. Box 249, Richlandtown, Pennsylvania 18955–0249.					
Pennsylvania	Riegelsville (Borough), Bucks County.	Delaware River	Approximately 0.8 mile downstream of Riegelsville Highway Bridge.	*158	*157
			Upstream corporate limits	*163	*165
Maps available for inspection at the Riegelsville Municipal Building, 615 Easton Road, Riegelsville, Pennsylvania. Send comments to Mr. Thomas E. Stinnett, President of the Riegelsville Borough Council, P.O. Box 551, Riegelsville, Pennsylvania 18077.					
Pennsylvania	Solebury (Township), Bucks County.	Delaware River	Approximately 2,400 feet downstream of confluence with Pidcock Creek.	*62	*63
			At upstream corporate limits	*96	*98
		Coppernose Run	At confluence with Delaware River	*92	*94
			Approximately 280 feet upstream of confluence with Delaware River.	*96	*97
		Primose Creek	At confluence with Delaware River	*76	*75
			Approximately 150 feet upstream of confluence with Delaware River.	*76	*75
		Paunacussing Creek	At confluence with Delaware River	*96	*97
			Approximately 1,450 feet upstream of confluence with Delaware River.	*96	*97
		Cuttalossa Creek	At confluence with Delaware River	*90	*92
			Downstream side of dam	*90	*92
Maps available for inspection at the Solebury Township Municipal Building, 3092 Sugan Road, Solebury, Pennsylvania. Send comments to Mr. Thomas D. Caracio, Chairman of the Township of Solebury Board of Supervisors, 3092 Sugan Road, P.O. Box 139, Solebury, Pennsylvania 18963.					
Pennsylvania	Tinicum (Township), Bucks County.	Delaware River	Approximately 1,100 feet downstream from Point Pleasant Byrum Highway.	*103	*101
			At upstream corporate limits	*136	*135
		Tohickon Creek	At confluence with Delaware River	*103	*101
			Approximately 0.5 mile upstream of confluence with Delaware River.	*103	*101
		Cafferty Run	Approximately 1,225 feet upstream from confluence with Pennsylvania Canal.	*123	*122
			Approximately 750 feet downstream from Geigel Hill Road.	*123	*122
Maps available for inspection at the Tinicum Township Municipal Building, 163 Municipal Road, Pipersville, Pennsylvania. Send comments to Mr. Nicholas C. Forte, Chairman of the Township of Tinicum Board of Supervisors, 163 Municipal Road, Pipersville, Pennsylvania 18947.					
Pennsylvania	Tullytown (Borough), Bucks County.	Delaware River	Approximately 0.5 mile upstream of confluence of Martins Creek.	*12	*13
			Upstream corporate limits	*12	*13
		Martins Creek	Upstream side of Bristol Pike	None	*22
			Upstream corporate limits	None	*22

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Borough of Tullytown Municipal Building, 500 Main Street, Tullytown, Pennsylvania. Send comments to Mr. Edward Czyczk, Tullytown Borough Council President, Tullytown Municipal Building, 500 Main Street, Tullytown, Pennsylvania 19007.					
Pennsylvania	Upper Makefield (Township), Bucks County.	Delaware River	At downstream corporate limits	*48	*47
			Approximately 1,700 feet downstream of confluence with Pidcock Creek.	*62	*63
		Jericho Creek	At confluence with Delaware River	*56	*58
			Approximately 600 feet upstream of River Road.	*57	*58
		Pidcock Creek	Approximately 300 feet downstream of Windy Bush Road.	None	*107
			At upstream corporate limit	None	*108
Maps available for inspection at the Upper Makefield Township Building, 1076 Eagle Road, Newtown, Pennsylvania. Send comments to Ms. Rose Marie Sauter, Chairperson of the Township of Upper Makefield Board of Supervisors, 1076 Eagle Road, Newtown, Pennsylvania 18940.					
Pennsylvania	Yardley (Borough), Bucks County.	Delaware River	Approximately 1,720 feet downstream of CONRAIL bndge.	*36	*40
			At upstream corporate limits	*42	*43
		Brock Creek	At confluence with Delaware River	*41	*42
			Approximately 355 feet upstream of Main Stream.	*41	*42
		Silver Creek No. 1	At confluence with Pennsylvania Canal.	*40	*41
			Approximately 100 feet downstream of Main Street.	*40	*41
Maps available for inspection at the Yardley Borough Hall, 56 South Main Street, Yardley, Pennsylvania. Send comments to Mr. Joseph Hunter, Yardley Borough Council President, 56 South Main Street, Yardley, Pennsylvania 19067.					
West Virginia	Monongalia County (Unincorporated Areas).	Aaron Creek	Approximately 1,100 feet downstream of Route 64.	*846	*845
			Just downstream of Interstate 48 ..	None	*949
Maps available for inspection at the Monongalia County Office of Emergency Management, 74 Vandervort Drive, Morgantown, West Virginia. Send comments to Mr. John W. Pyles, President of the Monongalia County Commission, 243 High Street, Morgantown, West Virginia 26505.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 11, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–13736 Filed 5–21–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket 96–45, 97–160; DA 98–848]

Forward-Looking Economic Cost Mechanism For Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Public Notice, we seek to augment the record on certain issues relating to the creation of a federal forward-looking economic cost mechanism, including the appropriate input values for that mechanism and the level of the revenue benchmark.

DATES: Comments from interested parties are due on May 26, 1998, and reply comments are due on June 9, 1998.

ADDRESSES: Interested parties must file an original and five copies of their comments with the Office of Secretary, Federal Communications Commission, Room 222, 1919 M Street, NW., Washington, DC 20554. Parties should send three copies of their comments to Sheryl Todd, Common Carrier Bureau, Federal Communications Commission, 2100 M. St, NW., 8th Floor, Washington, DC 20554. Parties should send one copy of their comments to the Commission's copy contractor, International Transcription Service, 1231 20th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Brad Wimmer, Accounting Policy Division, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION:

1. On May 8, 1997, the Commission released a *Universal Service Order* on Universal Service CC Docket No. 96–45, FCC 97–157 (released May 8, 1997) 62 FR 32862 (June 17, 1997). In the *Universal Service Order*, the Commission adopted a plan for universal service support for rural, insular, and high cost areas that will replace existing implicit federal subsidies with explicit, competitively neutral federal universal service support mechanisms. The Commission adopted the Joint Board's recommendation that an eligible carrier's level of universal service support should be based upon the forward-looking economic cost of

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constructing and operating the network facilities and functions used to provide the services that will be supported by the federal universal service support mechanisms. The Commission determined that, beginning January 1, 1999, non-rural carriers will receive support based on the forward-looking economic cost of providing the supported services. The Commission further determined that high cost support for rural carriers should continue essentially unchanged and should not be based on forward-looking costs until further review has been completed, but no sooner than 2001.

2. Consistent with the Joint Board's recommendation, the Commission concluded in the *Universal Service Order* that it would need to determine costs based on a careful analysis of efficient network design, engineering practices, available technologies, and current technology costs. That is, to determine forward-looking costs, the Commission decided to look at all of the costs and cost-causative factors that go into building a network. The Commission decided to do this in two stages: First, it would look at the network design, engineering, and technology issues relevant to designing a network to provide the supported services. Second, the Commission said that it would look at the costs of the components of the network, such as cabling and switch costs, and various capital cost parameters, such as debt-equity ratios and depreciation rates ("input values").

3. In a Further Notice of Proposed Rulemaking (*Further Notice*) 62 FR 42457 (Aug. 7, 1997), the Commission established a multi-phase plan to develop a federal mechanism that would send the correct signals for entry, investment, and innovation.[1] In particular, the Commission sought comment on the platform design and input values that it should adopt in a federal mechanism to estimate the cost of each of the elements of the telephone network necessary for non-rural carriers to provide the supported services to high cost areas. On July 9, 1997, the Bureau sought information through a "Data Request" from certain non-rural local exchange carriers (LECs) and holding companies to assist the Commission in evaluating the models and selecting a federal mechanism.[2]

Issues for Comment

4. We have already received significant comment in response to the *Further Notice* and *Data Request*. In light of the passage of time, however, we wish to give parties the opportunity to update their comments regarding the input values that should be used in the federal mechanism and in setting the level of the revenue benchmark. We also seek further comment on certain issues that may not have been adequately addressed by commenters in response to the *Further Notice* or *Data Request*. We note that parties' arguments for and against specific input values are significantly more persuasive when accompanied by supporting empirical data, including the assumptions on which those data are based. If empirical data are unavailable, we encourage parties to explain how proposed input values are otherwise verifiable and appropriate. By seeking additional comments on specific input values, we are not prejudging the outcome of issues raised in the Report to Congress or in the Public Notice on Proposals to Revise the Methodology for Determining Universal Service Support.[3] We emphasize that we are not seeking comment in this Public Notice on the network design, engineering and technology issues.

5. The issues relating to input values were outlined in the *Further Notice* and *Data Request*, and parties are encouraged to review the *Further Notice* and *Data Request* closely before preparing any comments concerning inputs. Parties that have already filed thorough comments concerning inputs in response to the *Further Notice* and *Data Request* should not reiterate those comments; the Commission will consider inputs comments filed in response to the *Further Notice* and *Data Request*, as well as comments filed in response to this Public Notice, in selecting the input values for the federal mechanism.

A. Inputs Issues

i. Customer Location Data

6. In the *Further Notice*, the Commission requested comment on the use of data that associate the location of each customer with latitudinal and longitudinal coordinates (geocode data) in a forward-looking economic cost mechanism.[4] In a *Public Notice* released on November 13, 1997 (62 FR 65389 (Dec.12, 1997)), the Common Carrier Bureau (Bureau) recommended that "models be capable of accepting and using geocode data to the extent that such data are available and reliable."[5]

7. The only geocode data currently on the record are those provided by the proponents of the HAI model.[6] The Metromail database on which HAI's residential geocodes are based is a commercial database developed primarily for the purpose of direct marketing. HAI's geocodes for businesses are based on a database of business addresses compiled by Dun & Bradstreet.

8. We seek comment on any alternative source of geocode data, or databases that could be used to develop geocodes for use in 1999, including information on the openness, reliability, and cost of the data.[7] For example, WorldCom notes the availability of global positioning satellite (GPS) devices, which they contend can provide latitude and longitude coordinates that are more precise than geocoding methods utilized by HAI.[8] We seek comment on whether the benefits of geocoding using a GPS device outweigh the burdens associated with developing the data, compared to

[1] Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, *Further Notice of Proposed Rulemaking*, CC Docket Nos. 96–45, 97–160, 12 FCC Rcd 18,514 (rel. July 18, 1997) 62 FR 42457 (Aug. 7, 1997) (*Further Notice*).

[2] Federal-State Joint Board on Universal Service, CC Docket No. 96–45, *Order*, DA 97–1433 (rel. July 9, 1997) (*Data Request*).

[3] See Federal-State Joint Board on Universal Service, Report to Congress, CC Docket No. 96–45 (April 10, 1998) at para. 197 ("We are committed to issuing a reconsideration order in response to the petitions filed asking the Commission to reconsider the decision to fund 25 percent of the required support amount."); Proposals to Revise the Methodology for Determining Universal Service Support, Public Notice, DA 98–715 (rel. April 15, 1998) ("We seek to augment the record by encouraging interested parties to submit additional proposals for modifying the Commission's methodology (for determining the appropriate level of federal universal service support for non-rural carriers).").

[4] *Further Notice*, 12 FCC Rcd at 18,536, 18,579–80 paras. 44, 176.

[5] Guidance To Proponents Of Cost Models In Universal Service Proceeding: Customer Location and Outside Plant, *Public Notice*, CC Docket Nos. 96–45, 97–160, DA–2372 (rel. Nov. 13, 1997) 62 FR 65389 (Dec.12, 1997).

[6] HAI was submitted by AT&T and MCI. See Letter from Richard N. Clarke, AT&T, to Magalie Roman Salas, FCC, dated Dec. 11, 1997). Versions of HAI filed before February 3, 1998, were known as the Hatfield Model.

[7] In filings with the Common Carrier Bureau, several incumbent LECs have represented that they have geocoded a relatively large percentage of their customers. See, *e.g.*, Letter from Ted Hackman, Cincinnati Bell, to Secretary, FCC, dated April 24, 1998 (99.8%,99.6%, and 99.2% of its customer accounts for Ohio, Kentucky, and Indiana, respectively); Letter from W. Scott Randolph, GTE, to Secretary, FCC, dated April 27, 1998.

[8] A GPS device can associate the physical structure to which a carrier provides services, such as a house, with coordinates identified by satellite technology. Letter from David Porter, WorldCom, to William Caton, FCC, dated Oct. 16, 1997 (World Com Oct. 16 *ex parte*) at 3.

alternative methods of obtaining geocoded data. We also request comment on other possible methods and technologies for geocoding business and residential locations, and their associated costs, in particular for partial use in determining support for 1999. Commenters suggesting alternative sources of data should include empirical evidence documenting and verifying the accuracy of these data sources, including how these data are typically used, who is currently using the data, the extent to which these data would be available for determining support in 1999, and the criteria used to develop these data.

ii. Maximum Copper Loop Length

9. In addition, we seek to augment the record on the appropriate maximum loop length that the federal mechanism should assume is permissible without the use of significantly more expensive electronics. The proponents of the BCPM model [9] assert that copper loops longer than 12,000 feet would require the use of a substantially more expensive extended-range card in the digital loop carrier (DLC), while the HAI proponents assert that copper lengths can extend to 18,000 feet using only a slightly more expensive card in the DLC. The resolution of this question has a significant effect on cost estimates because the maximum copper length constrains the maximum size of a serving area. We seek comment on this issue. In particular, we seek comment on the type and cost of line cards required to serve loops between 12,000 and 18,000 feet from a DLC remote terminal.

iii. Defining "Households"

10. We also seek further comment on the appropriate input value to measure the number of households used in the federal mechanism. The sixth criterion identified in the Universal Service Order specifies that a "model must estimate the cost of providing service for all businesses and households within a geographic region." [10] It appears that the Census Bureau uses the term "households" as a term of art to refer to occupied housing units.[11] Different parties have advocated alternative interpretations of the sixth criterion. BCPM identifies the cost of outside plant that would serve all housing units,[12] occupied or not, while HAI identifies the cost of serving Census-defined households with telephones.[13]

11. We encourage parties to submit additional comment on the appropriate universe of "households" that should be assumed for purposes of calculating the forward-looking cost of providing the supported services: total housing units (occupied and unoccupied), total households (housing units that are occupied), or households with telephones.[14] We also seek comment on the HAI proponents' assumption that uninhabited housing units or households without telephones are more likely to be located in remote areas than households with telephones.

12. In particular, we seek comment on alternative sources of data to those used in HAI [15] and BCPM [16] for determining the number of residential and business customers located in either the wire center, Census Block Group (CBG),[17] or CB.[18] Any such information should include empirical evidence documenting and verifying the accuracy, cost, and current availability of these data sources. We ask commenters to address whether we should require incumbent LECs to provide the universal service administrator with wire center boundary data and the number of residential, multi-line and single-line business lines served in each wire center.

iv. Depreciation

13. In the Universal Service Order, the Commission articulated a set of criteria that acceptable cost studies or models must meet in order to be used to determine federal high-cost support. These criteria were adopted to ensure consistency in the calculations of federal universal service support. In criterion five, the Commission noted that "(e)conomic lives and future net salvage percentages used in calculating depreciation expense should be within the FCC-authorized range and use currently authorized depreciation lives." [19]

14. We seek comment on the particular values of depreciation lives and future net salvage percentages we should use to determine the forward-looking cost of providing supported services in a competitive environment. Commenters submitting specific proposals should submit the data and a description of the methodologies used to derive their estimates of depreciation lives and future net salvage values for all classes of assets. Because economic lives may differ from physical lives for a variety of reasons, we ask commenters to identify all of the factors used to derive their estimates. Commenters should discuss and quantify the impact all factors considered in their analysis have on projected economic lives and salvage values. For example, commenters should address the effect potential or actual competition, changes in asset prices, or the desire to introduce new services may have on asset lives. Commenters should also explain fully why their approach is appropriate for a model being used to estimate the forward-looking cost of providing supported services in high-cost areas and whether determining the cost of supported services requires the use of depreciation lives and salvage rates

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[9] BCPM is sponsored by BellSouth, U S West, and Sprint Local Telephone Company. *See Submission to CC Docket Nos. 96–45 and 97–160 by Bellsouth, U S West, and Sprint dated Dec. 11, 1997.*

[10] *Universal Service Order*, 12 FCC Rcd at 8915 para. 250.

[11] See the Census Bureau's website at http://www.census.gov/population/estimates/housing/prhuhht1.txt (defining a housing unit as "a house, an apartment, a mobile home, a group of rooms or a single room that is occupied (or if vacant, is intended for occupancy) as a separate living quarters."). *See also* the Census Bureau's website at http://www.census.gov/population/methods/sthhmet.txt ("A housing unit is classified as vacant if no one is living in it, unless its occupants are only temporarily absent * * *. Vacant units are excluded if they are open to the elements; that is, the roof, walls, windows, and/or doors no longer protect the interior from the elements, or if there is positive evidence that the unit is condemned or is to be demolished.")

[12] BCPM December 11 submission, Model Methodology at 8.

[13] AT&T and MCI *ex parte*, December 23, 1997.

[14] We note that the question of which "households" and business locations should be included for purposes of estimating the forward-looking cost of providing the supported services is distinct from the question of which lines should be supported. Indeed, we specified that the model must estimate the costs incurred to provide multi-line business services, special access, private lines and multiple residential connections. *Universal Service Order*, 12 FCC Rcd at 8915 para. 250. *Cf. Recommended Decision*, 12 FCC Rcd 87, 132–134, paras. 89–92 (1996) (recommending that support should be provided only for primary residential connections and single-line business connections, and that business connections should receive a lower level of support).

[15] In determining the number of customers in a Census Block (CB) or wire center, HAI utilizes the PNR National Access Line Model (NALM). The PNR NALM uses PNR survey information, the Local Exchange Routing Guide (LERG), Business Location Research (BLR) wire-center boundaries, a Dun & Bradstreet business database, the Metromail household database, the Claritas 1996 demographic database, and U.S. Census Bureau estimates to calculate both the number of residential and business locations and access lines in each CB, and in each wire center in the United States.

[16] BCPM also uses U.S. Census Bureau data and business line data obtained from PNR.

[17] A census block group is a collection of census blocks. The Bureau of the Census defines a "census block group" as "generally contain[ing] between 250 and 550 housing units, with the ideal size being 400 housing units." U.S. Census Bureau, 1990 Census of Population and Housing, at App. A, "Area Classifications" (issued Mar. 1992).

[18] We note that our request for a source of accurate and reliable data about the number of residential and business customers in a geographic area is related to our request for accurate, reliable, and extensive geocode data.

[19] *Universal Service Order*, 12 FCC Rcd at 8914 para. 250.

specifically designed for that purpose. Commenters recommending asset lives and salvage values that fall outside of Commission ranges should explain fully why such lives are appropriate. Finally, we note that BCPM and HAI use different methodologies for computing depreciation expenses. HAI uses straight-line depreciation,[20] while BCPM incorporates many different methodologies,[21] to compute depreciation and capital expenses. We seek comment on the specific advantages of the different methodologies available for calculating rates of economic depreciation (including those used in BCPM and HAI), the use of different methodologies for different assets, and the effect of their use on calculated costs. Commenters should provide studies supporting the methodologies advocated.

v. Cost of Installing Outside Plant

15. In the *Further Notice*, the Commission noted that a carrier's outside plant consists of a mix of aerial, underground, and buried cable. The cost of installing each type of outside plant depends on terrain conditions, line density, and other factors. For example, depending on the situation, cable can be placed in trenches dug by hand or with a backhoe, or it may be plowed directly into the ground. The total cost of construction depends upon the cost of each of these activities and the percentage of cable that is placed in each manner. In the *Further Notice*, the Commission tentatively concluded that installation costs for cable should vary based on terrain and line density and reached other tentative conclusions about the cost of installing outside plant.[22] The model proponents have filed default values for the cost of each of these activities and the percentage of cable that would be installed in each manner. We seek comment on the tentative conclusions in the *Further Notice* and the model proponents' default values. Additionally, Dr. David Gabel of Queens College has analyzed data from the Rural Utilities Service regarding the cost of installing cables. We seek comment on Dr. Gabel's analysis and whether it is applicable to non-rural carriers.[23] Parties supporting or refuting the appropriateness of the default values, or proposing alternate values, should provide documentation in support of their position. For example, parties may provide information on labor and capital tools rates, along with the quantity of inputs needed to construct the plant. Commenters should also address whether it is appropriate to use a composite rate for the nation or whether these rates should differ by state or region.

B. Revenues to be Included and Level of the Benchmark

16. In the *Universal Service Order*, the Commission determined that the level of federal high cost support that eligible non-rural carriers will receive will be 25 percent of the difference between the estimated forward-looking economic cost of providing the supported services and a revenue benchmark.[24] The Joint Board recommended that the Commission adopt a nationwide revenue benchmark to calculate such support. Because the "cost estimated by the proxy models includes the cost of the facilities used to provide (local, discretionary, access, and other) services," [25] the Joint Board concluded that the benchmark should include revenues generated by all of the services provided over the network being modeled.[26] Further, the Joint Board recommended that the Commission adopt separate benchmarks for residential and business services.[27] In April 1997, a majority of the state members of the Joint Board concluded that the Commission should establish a benchmark based on cost—specifically, the national average proxy cost—rather than revenue against which to compare costs in a given area in order to determine support for that area.[28]

17. In the *Universal Service Order*, the Commission adopted the Joint Board's recommendation to establish a revenue-based benchmark, but indicated its intention to seek comment on the specific benchmark or benchmarks that should be used.[29] In the *Universal Service Order*, the Commission found that the calculation of the revenue benchmarks must be consistent with the method of calculating the forward-looking cost of constructing and operating the network.[30] In particular, it indicated in the *Universal Service Order* that the Commission would clarify the appropriate amount of access charge revenue that should be included in the revenue benchmark.[31] We seek comment generally on the amount of access revenues that should be included in the benchmark. Also, in the *Universal Service Order*, the Commission noted that the models filed in this proceeding do not include estimates of the costs of all the elements used in the delivery of access services.[32] Because access charges currently are above cost, however, the Commission concluded that "unless and until both interstate and intrastate access charges have been reduced to recover only per-minute switch and transport costs, access revenues should be included in the benchmark." [33] Similarly, the Commission also stated that "(w)e will seek further information to clarify the appropriate amount of * * * intraLATA toll revenue that should be included in the revenue benchmark." [34] We, therefore, seek comment on whether we should exclude from the revenue-benchmark estimates, for purposes of determining universal service support, the incremental costs associated with the provision of services that are not supported by universal service but which contribute to the revenue benchmark. We seek comment on this issue and ask commenters to provide estimates of the amount that should be deducted from the benchmark. We note that the models exclude the costs of switching and transport for intraLATA toll and interstate and intrastate access services. Alternatively, we seek comment on whether the models should be altered to include the incremental costs associated with the provision of services that are not supported by

[20] HAI Dec. 11 submission, Model Description at 67.

[21] BCPM Dec. 11 submission, Model Methodology at 80.

[22] See *Further Notice*, 12 FCC Rcd at 18,541–18,544, paras. 60–69.

[23] Dr. Gabel's paper is available on the World Wide Web at http://www.nrri.ohio-state.edu/, and also via a link from the Commission's Universal Service home page.

[24] *Universal Service Order*, 12 FCC Rcd at 8925–8926 para. 270. See also Federal-State Joint Board on Universal Service, Report to Congress, CC Docket No. 96–45, FCC 98–67, paras. 219–231 (rel. April 10, 1998). See also Common Carrier Bureau Seeks Comment on Proposals to Revise the Methodology for Determining Universal Service Support, *Public Notice*, DA 98–715 (rel. April 15, 1998).

[25] The Joint Board stated that "[d]iscretionary services include services that are added on to basic local service, e.g., call waiting, call forwarding or caller ID." *Recommended Decision*, 12 FCC Rcd at 246 n.1002.

[26] *Recommended Decision*, 12 FCC Rcd at 246–47.

[27] *Recommended Decision*, 12 FCC Rcd at 247.

[28] Second State Proxy Models Report at 14.

[29] *Universal Service Order*, 12 FCC Rcd at 8919–20, 8923–24 paras. 259, 266.

[30] *Universal Service Order*, 12 FCC Rcd at 8924 para. 267. Specifically, for purposes of determining support, a revenue benchmark could be considered consistent with forward-looking cost estimates if all of the facilities used to deliver services included in the revenue benchmark are included in the cost estimates.

[31] *Universal Service Order*, 12 FCC Rcd at 8924 para. 267.

[32] *Universal Service Order*, 12 FCC Rcd at 8921 para. 262.

[33] *Universal Service Order*, 12 FCC Rcd at 8921 para. 262.

[34] *Universal Service Order*, 12 FCC Rcd at 8924 para. 267.

universal service but which contribute to the revenue benchmark.

18. We also encourage parties to provide further information about the services that can be provided over the network that the universal service mechanism is designed to support, and the revenues related to those services, because such information will enable us to set the benchmarks accurately. Based on 1994 data received in response to our earlier data request in CC Docket No. 80–286, the Commission suggested in the *Universal Service Order* that the benchmarks might be set at approximately $31 for residential service and $51 for business service.[35]

Final Regulatory Flexibility Analysis

19. In the *Universal Service Order* we conducted a Final Regulatory Flexibility Analysis (FRFA),[36] as required by the Regulatory Flexibility Act (RFA).[37] We received no petitions for reconsideration of that FRFA. In this present Public Notice, the Commission promulgates no additional final rules, and our action does not affect the previous analysis. If commenters believe that the proposals discussed in this Public Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13654 Filed 5–21–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC13

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for the San Xavier Talussnail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of public comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the public comment period for the proposal to list the San Xavier talussnail (*Sonorella eremita*) is reopened. This land snail is known to occur at a single site near Tucson, Arizona, in an area of limestone talus about 50 by 100 feet in size.

DATES: The comment period originally closed on May 24, 1994. This notice reopens the public comment period, which now closes on July 21, 1998.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Bills, Arizona Ecological Services Field Office, at the above address or telephone (602) 640–2720.

SUPPLEMENTARY INFORMATION:

Background

The San Xavier talussnail was first proposed as endangered on March 23, 1994 (59 FR 13691). At that time, a 60-day public comment period was opened until May 23, 1994, and all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. A final determination of whether to list the San Xavier talussnail has not yet been made.

Following a recent examination of property boundaries, the Service discovered that the owner of the habitat occupied by the San Xavier talussnail is not the entity previously believed to be the owner. In consideration of the new information concerning ownership of the species' habitat and the length of time that has elapsed since the initial proposal, the Service has determined that reopening the comment period is necessary. The Service is seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. The Service is seeking any new information that may have been developed since the proposal was published, and that may expand the current knowledge concerning the status, distribution, or threats surrounding the San Xavier talussnail.

Author: The primary author of this document is Jennifer Fowler-Probst, Arizona Ecological Services Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: May 13, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–13795 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AD74

Extension of Comment Period: Migratory Bird Hunting Regulations Regarding Baiting and Baited Areas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Service is extending the comment period on the **Federal Register** rule dated March 25, 1998 (63 FR 14415) that invites public comments on proposed changes to the migratory bird hunting regulations regarding baiting and baited areas.

DATES: The deadline for receipt of comments will be extended form May 25, 1998 to October 1, 1998.

ADDRESSES: Comments regarding this proposed rulemaking should be addressed to: Director, U.S. Fish and Wildlife Service, Post Office Box 3247, Arlington, Virginia 22203–3247, or sent via electronic mail to: R9LE—WWW@FWS.GOV. Comments may be hand delivered to 4401 North Fairfax Drive, Suite 500, Arlington, Virginia 22203. The public may inspect comments during normal business hours at 4401 North Fairfax Drive, Suite 500, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Keven Adams, Chief, Division of Law Enforcement, telephone 703/358–1949, or Paul Schmidt, Chief, Office of Migratory Bird Management, telephone 703/358–1714.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service (Service) has authority (16 U.S.C. 703–712 and 16 U.S.C. 742a-j) to regulate activities involving the hunting and other taking of migratory game birds. The Service has promulgated regulations (50 CFR part 20) for the hunting of migratory game birds that

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[35] *Universal Service Order*, 12 FCC Rcd at 8924 para. 267.

[36] *Universal Service Order*, 12 FCC Rcd at 9219–9260 paras. 870–983.

[37] See 5 U.S.C. 604. The RFA, see 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

includes sections for *Methods of Take* and *Definitions of Terms.*

In a **Federal Register** notice dated March 25, 1998, the Service proposed new regulatory language for: accidental scattering of agricultural crops or natural vegetation incidental to hunting, normal agricultural and soil stabilization practices, baited areas, baiting, manipulation, natural vegetation, and top-sowing of seeds. Proposed changes also included new guidance with respect to hunting over natural vegetation that has been manipulated. However, no change was proposed regarding application of strict liability to the migratory game bird baiting regulations.

The Service has received request from a number of organizations to extend the comment period. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds. Therefore, to facilitate substantive public review, the Service is extending the comment period through October 1, 1998.

Dated: May 19, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–13875 Filed 5–21–98; 8:45 am]

BILLING CODE 4710–55–M

Notices

Federal Register
Vol. 63, No. 99
Friday, May 22, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 18, 1998.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Respondent Information Evaluation.

OMB Control Number: 0535–New.

Summary of Collection: The National Agricultural Statistics Service's (NASS) primary function is to prepare and issue state and national estimates of crop and livestock production. Preparation of these estimates requires voluntary cooperation from thousands of crop and livestock producers regarding their operations each year. A serious threat to NASS data quality is nonresponse to surveys. NASS is initiating a coordinated effort to increase voluntary survey cooperation. This effort requires the collection of information on how NASS data is used and what data and services would be helpful in the future.

Need and Use of The Information: Information about the many uses of NASS reports will be used to enlist the cooperation of producers whose information the reports are based on. Public forums with producers will be used to develop potential educational material for use in conjunction with ongoing NASS survey programs. These materials will be tested in a variety of formats suited to different channels of communications with respondents including interviewers, State Statistical Office personnel, survey questionnaires, releases and publications, print and broadcast media, and educational settings.

Description of Respondents: Business or other for-profit.

Number of Respondents: 11,717.

Frequency of Responses: Reporting: Quarterly; annually.

Total Burden Hours: 572.

Grain Inspection, Packers and Stockyards Administration

Title: "Clear Title" Regulations to Implement Section 1324 of the Food Security Act of 1985.

OMB Control Number: 0580–0016.

Summary of Collection: In conjunction with Section 1324 of the Food Security Act of 1985, the Grain Inspection, Packers and Stockyards Administration (GIPSA), on behalf of the Secretary of Agriculture, is authorized to certify State central filing systems. The central filing systems are necessary in certain states to notify buyers of farm products of any mortgages or liens on the products. Information is collected from State agencies describing their proposed central filing systems.

Need and Use of the Information: GIPSA uses the information supplied by State agencies to carry out the Secretary's responsibility for determining whether a State's central filing system for notification of buyers of farm products of any mortgages or liens on the products meets certification requirements under Section 1324 of the Food Security Act of 1985.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden hours: 12.

Food and Nutrition Service

Title: Issuance Reconciliation Report: FNS–46.

OMB Control Number: 0584–0080.

Summary of Collection: The Food and Nutrition Service (FNS), on behalf of the Secretary of Agriculture, administers the Food Stamp Program through State agencies. These State agencies are accountable for issuance and control of food stamp coupons. Accordingly, States are liable to USDA for any financial losses involved in the acceptance, storage, and issuance of food stamp coupons. Information is required from State agencies on wrongfully issued benefits including undocumented issuances, and returned benefits, stolen and transacted accountable issuance documents, replacement benefits, and obligations from the exchange of food stamp coupons for any reason.

Need and Use of the Information: FNS provides the FNS–46 form, Issuance Reconciliation Report, for State agencies to use in reporting reconciliation results from analyzes of the benefit issuances for all issuance systems with the record-for-issuance file. FNS uses this information to assess liability and to determine billing amounts.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 388.

Frequency of Responses: Reporting: Monthly.

Total Burden hours: 37,248.

National Agricultural Statistics Service

Title: Beef Cattle Pesticide Use.

OMB Control Number: 0535–NEW.

Summary of Collection: The National Agricultural Statistics Service (NASS) has been asked by Colorado State University (CSU) to conduct a Beef Cattle Pesticide Use Survey in 12 Western States. The survey is designed to provide information on insecticides applied to beef cattle, insecticides used for cattle facilities, and non-pesticide insect management practices. Data collected will help provide quality information to fulfill certain requirements of the food Quality Protection Act of 1996. In order to do an effective risk assessment, accurate pesticide use information is essential. CSU will use the results from this survey to produce a Pesticide Benefit Assessments report for the Environmental Protection Agency (EPA). Information from this report will aid the EPA in evaluating the risks and the benefits of pesticide use.

Need and Use of the Information: NASS will collect data to develop a uniform survey system to determine the amount of active ingredients from insecticides applied to beef cattle and beef cattle facilities and to measure pest management practices on beef cattle. Data from the survey will provide the necessary insecticide use data needed by EPA. The data will provide factual information on the level of insecticide use and types of pest prevention measures being implemented.

Description of Respondents: Farm.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Other (One-time).

Total Burden hours: 467

National Agricultural Statistics Service

Title: Agricultural Prices.

OMB Control Number: 0535–0003.

Summary of Collection: Estimates of prices received by farmers and prices paid for production goods and services are needed by the U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), to compute Parity Prices in accordance with requirements of the Agricultural Adjustment Act of 1938 as amended (Title III, Subtitle A, Section 301a) and estimate value of production, inventory values, and cash receipts from farming.

In addition, NASS provides commodity product prices used in the calculation of the Basic Formula Prices for Milk, determines the level for farmer owned reserves and provides guidelines for Risk Management Agency price selection options and determines Federal disaster prices to be paid and the grazing fee on Federal lands. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This status specifies that "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain by the collection of statistics * * * and shall distribute them among agriculturalists".

Need and Use of the Information: The NASS price program has undergone significant modifications including the updating of weights and changing the construction of prices and paid by farmers indexes. The indexes are used in computing the parity prices that NASS is required by statute to publish monthly. Parity prices are used to establish and maintain Federal Market Orders. Currently, there are 41 market orders that use these prices.

Description of Respondents: Business or other for-profit; farm.

Number of Respondents: 19,387.

Frequency of Responses: Reporting: On occasion; monthly; annually.

Total Burden Hours: 14,484.

Animal Plant and Health Inspection Service

Title: Exotic Newcastle Disease in Birds and Poultry; Chlamydiosis in Poultry.

OMB Control Number: 0579–0016.

Summary of Collection: Title 21, U.S.C. authorizes the United States Department of Agriculture and the Animal Plant and Health Inspection Service (APHIS) to take necessary actions to prevent, control and eliminate domestic diseases, as well as to prevent and to manage non-domestic diseases such as exotic Newcastle disease (END) and Chlamydiosis. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing our ability to compete in the world market of animals and animal product trade.

Need and Use of the Information: APHIS will collect information through the use of documents attesting to the health status of the birds or poultry being moved, the number and types of birds or poultry being moved in a particular shipment, the shipment's point of origin, the shipment's destination, and the reason for the interstate movement. These documents also provide useful "traceback" information in the event an infected bird or chicken is discovered and an investigation must be launched to determine where the bird or chicken originated. The information provided by these documents is critical to APHIS' ability to prevent the interstate spread of Exotic Newcastle Disease, which is highly contagious and capable of causing significant economic harm to the U.S. poultry industry.

Description of Respondents: Business or other for-profit; Individuals or households; farms; State, Local or Tribal Government.

Number of Respondents: 45.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 21.

Food and Nutrition Service

Title: Study of WIC Participants and Program Characteristics: 1998 and 2000.

OMB Control Number: 0584–New.

Summary of Collection: Section 17(g)(5) of the Child Nutrition Act of 1996 as amended through Public Law 105–24, July 3, 1997, authorizes the Food and Nutrition Service (FNS) to manage the Special Supplement Nutrition Program for Women, Infants, and Children (WIC) which was created by the Congress in 1972 as an adjunct to health care for low-income pregnant, postpartum, and breastfeeding women as well as for low-income infants and children (up to age five) who are at nutritional risk. The WIC Program provides nutritious food, nutritional needs of these individuals and to prevent health problems associated with poor nutrition during pregnancy and early childhood. The purpose of the 1998 and 2000 studies of WIC participant and program characteristics (PC98 and PC2000) are to collect data, to prepare a report, and to develop a set of analysis files on the characteristics of WIC participants and programs. The data collected for the study will be used by FNS to manage the WIC Program, prepare WIC budgets, answer specific analytic questions, and guide future research.

Need and Use of the Information: FNS will collect information through the use of questionnaires, surveys, and applications on the income and nutritional risk characteristics of WIC participants; data on WIC program participation for migrant farm worker families; and other information on WIC participation that is deemed appropriate by the Secretary of Agriculture. The information collected in the study will be used by FNS for general program monitoring such as reviewing State budget submissions and fiscal reports. Access to current data is crucial to meeting other management information needs such as preparing federal budget estimates, responding to congressional inquiries, and developing appropriate research initiatives for the WIC Program.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 447.

Frequency of Responses: Reporting: Biennially.

Total Burden Hours: 105.

Nancy Sternberg,

Departmental Information Clearance Officer.

[FR Doc. 98–13694 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Request an Extension of a Currently Approved Information Collection

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Agricultural Research Service's (ARS) intention to request an extension of a currently approved information collection, Form AD–761, USDA Patent License Application for Government Invention that expires August 31, 1998.

DATES: Comments must be received by July 27, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact June Blalock, USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350; Telephone Number 301–504–5989.

SUPPLEMENTARY INFORMATION:

Title: USDA Patent License Application for Government Invention.

OMB Number: 0518–0003.

Expiration Date of Approval: August 31, 1998.

Type of Request: To extend a currently approved information collection.

Abstract: The USDA patent licensing program grants patent licenses to qualified businesses and individuals who wish to commercialize inventions arising from federally supported research. The objective of the program is to use the patent system to promote the utilization of inventions arising from such research. The licensing of federally owned inventions must be done in accordance with the terms, conditions and procedures prescribed under 37 CFR Part 404. Application for a license must be addressed to the Federal agency having custody of the invention. Licenses may be granted but only if the license applicant has supplied the Federal agency with a satisfactory plan for the development and marketing of the invention and with information about the applicant's capability to fulfill the plan. 37 CFR 404.8 sets forth the information which must be provided by a license applicant. For the convenience of the applicant, USDA has itemized the information needed on Form AD–761, and instructions for completing the form are provided to the applicant. The information submitted is used to determine whether the applicant has both a complete and sufficient plan for developing and marketing the invention and the necessary manufacturing, marketing, technical and financial resources to carry out the submitted plan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Description of Respondents: Businesses or other for profit individuals.

Estimated Number of Respondents: 150.

Frequency of Responses: One time per invention.

Estimated Total Annual Burden on Respondents: 450 hours.

Copies of this information collection and related instructions can be obtained without charge from June Blalock, USDA, ARS, Office of Technology Transfer by calling 301–504–5989.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: June Blalock, USDA, ARS, Office of Technology Transfer, Room 415, Bldg. 005, BARC-West, Beltsville, Maryland 20705–2350. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–13770 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–039–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the regulations for the importation of logs, lumber, and other unmanufactured wood articles.

DATES: Comments on this notice must be received by July 21, 1998 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 98–039–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket No. 98–039–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations for the importation of logs, lumber, and other unmanufactured wood articles, contact Mr. Ronald C. Campbell, Staff Officer, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 139, Riverdale, MD 20737–1236, (301) 734–6799. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS, Information Collection Coordinator, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Foreign Quarantine Notices, Logs and Lumber.

OMB Number: 0579–0119.

Expiration Date of Approval: September 30, 1998.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is responsible for, among other things, preventing the introduction and dissemination of plant pests into or through the United States. As part of this responsibility, APHIS regulates the importation of logs, lumber, and other unmanufactured wood articles.

In administering the regulations, we collect information from persons both within and outside the United States who are involved in growing, handling, processing, transporting, and importing unmanufactured wood articles. The information is provided on a number of forms and other documents, including applications for permits, various accompanying importer documents or certificates, notices of arrival, and compliance agreements. This information is vital to ensure that unmanufactured wood articles imported into the United States do not harbor plant pests.

We are asking the Office of Management and Budget (OMB) to approve the continued use of this information collection activity.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .15078 hours per response.

Respondents: Importers, processors, shippers, foreign plant health protection authorities.

Estimated annual number of respondents: 80,005.

Estimated annual number of responses per respondent: 12.530.

Estimated annual number of responses: 1,002,472.

Estimated total annual burden on respondents: 151,152 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–13769 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed North Round Valley Timber Sale, Rapid River Roadless Area, Payette National Forest, Adams County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service published a Revised Notice of Intent to prepare an environmental impact statement (EIS) for the Lockwood and North Valley Timber Sales in the **Federal Register** on December 19, 1991 (Vol. 56, No. 244, page 65881). That revised notice is hereby revised to show three changes: (1) Separate EIS's for each proposed timber sale, (2) the name of the EIS's, and (3) the schedule for the North Round Valley Timber Sale EIS.

(1) The Lockwood and North Round Valley Timber Sales Draft EIS was released in January 1992. A Final EIS was completed in 1993 but was never released to the public because of the listing of Chinook salmon and subsequent delays with consultation under the Endangered Species Act. During the large wildfires on the Forest in 1994, the interdisciplinary team assigned to the Lockwood/North Round Valley projects was disbanded, and the Final EIS was put on hold through the post-fire landscape and salvage analyses conducted in 1994 and 1995. In 1996, the Forest formed a new interdisciplinary team to complete the Final EIS and to analyze changed conditions since 1993. As part of the analysis, the team recommended that the two timber sales be separated into two EIS's primarily due to differences in the level of effects and controversy associated with each project.

(2) This Revised Notice of Intent covers the proposed North Round Valley Timber Sale. A separate Revised Notice of Intent will be prepared for the proposed Lockwood Timber Sale.

(3) The North Round Valley Timber Sale Final EIS is scheduled to be released in the spring or early summer of 1998. The exact date will depend on when consultation on threatened and proposed species is completed with the National Marine Fisheries Services and U.S. Fish and Wildlife Service.

ADDRESSES: Send written comments or requests to David Alexander, Forest Supervisor, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Questions about the action should be directed to David Ede, Team Leader, at (208) 347–0331; or Kimberly Brandel, New Meadows District Ranger, at (208) 347–0300.

SUPPLEMENTARY INFORMATION: The USDA Forest Service is proposing to harevest and regenerate timber in the North Round Valley Timber Sale on the New Meadows Ranger District of the Payette National Forest in Adams County, Idaho. The area is located in the Round Valley Creek and Trail Creek subwatersheds, which drain into the Little Salmon River

The Preferred Alternative would harvest an estimated 184 acres with shelterwood prescriptions designed to thin out overstocked stands of mostly grand fir, which would leave a healthy overstory of mixed species that are within the historic range of variability for this area. Proposed logging systems include tractor and helicopter. Proposed harvest units are on or near existing roads, so no new road would be constructed. An estimated 0.5 mile of existing road would be reconstructed. All reconstructed road would be closed following sale-related activities. In addition, 6.3 miles of currently open roads in the Round Valley Creek subwatershed would be closed year-round to public motorized vehicles, and 4.0 miles of existing roads would be obliterated. Closures and obliteration would improve wildlife habitat and water quality over the long term.

An estimated 125 acres would be harvested in the Rapid River Roadless Area (0.6 percent of the roadless area), but no new road construction or reconstruction would occur in the roadless area. Three roadless units (90 acres) would be harvested by helicopter, and two roadless units would be tractor-

skidded to nearby existing roads. This portion of the roadless area is a narrow finger with roads and harvest units on three sides, which currently has relatively low potential for wilderness.

The responsible Official is David F. Alexander, Forest Supervisor, Payette National Forest.

Dated: May 11, 1998.

David F. Alexander,

Forest Supervisor.

[FR Doc. 98–13686 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC); Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on June 1 at the Medford District of the Bureau of Land Management at 3040 Biddle Road, Medford, Oregon.

The meeting will begin at 9:00 a.m. and continue until 5:00 p.m. Agenda items to be covered include: (1) Coordinated watershed restoration between federal and non-federal land managers; (2) Province monitoring priorities; (3) Forest health issues; (4) Report from local BLM and Forest Service on local issues; (5) Coarse Wood Management evaluation process; (6) Review of Committee operating guides; and (7) Public comment. All Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Dated: May 12, 1998.

Charles J. Anderson,

Acting Forest Supervisor, Designated Federal Official.

[FR Doc. 98–13755 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

New York City Watershed, Delaware, Schoharie, Greene, Ulster, and Sullivan Counties, New York State

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Soil Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the New York City Watershed, Delaware, Schoharie, Greene, Ulster, and Sullivan Counties, New York State.

FOR FURTHER INFORMATION CONTACT: Richard D. Swenson, State Conservationist, Natural Resources Conservation Service, 441 S. Salina St., Suite 354, Syracuse, New York 13202–2450, telephone 315/477–6504.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard D. Swenson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are enhance existing programs and to develop new ones that will protect the drinking water supply of New York City. The planned works of improvement include better forestry practices, conservation easements, resource data inventory, technology development, education/outreach, and operation and maintenance of whole farm plans.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Richard D. Swenson. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Melvin Womack,

Acting State Conservationist.

[FR Doc. 98–13685 Filed 5–21–98; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality; Meeting

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of meeting.

SUMMARY: The Task Force on Agricultural Air Quality will meet to discuss the relationship between agricultural production and air quality. The meeting is open to the public.

DATES: The meeting will convene Wednesday, June 17, 1998, at 8:30 a.m. and continue until 5:00 p.m. The meeting will resume Thursday, June 18, 1998, from 8:30 a.m. to 5:00 p.m. Written material and requests to make oral presentations should reach the Natural Resources Conservation Service on or before June 12, 1998.

ADDRESSES: The meeting will be held at the Doubletree Spokane City Center Hotel, 322 North Spokane Falls Court, Spokane, Washington 99201, telephone (509) 455–9600. Written material and requests to make oral presentations should be sent to George Bluhm, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827.

FOR FURTHER INFORMATION CONTACT: George Bluhm, Designated Federal Official, telephone (916) 752–1018, fax (916) 752–1552.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the June 17–18, 1998, meeting that may appear after this **Federal Register** Notice is published, may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/faca/aaqtf.html.

Draft Agenda of the June 17–18, 1998, Meeting

A. Opening Remarks
1. Call meeting to order—George Bluhm, DFO
2. Introduce Chairperson and Chief of NRCS—Pearlie Reed
3. Welcome to Washington research—Keith Saxton
4. Welcome to Washington NRCS operations—Leonard Jordan, STC

B. Past Actions
1. Air quality within USDA—Pearlie Reed
2. Extension of Federal Advisory Committee Act Committee—George Bluhm
3. Revised recommendations on air quality research needs—Jim Trotter
4. USDA Air Quality Research Management Team—Richard Amerman, Berlie Schmidt

C. Status Reports
1. Agricultural Burning Subcommittee—Robert Quinn
2. Model MOU—volunteer program with bad actor clause—Dennis Tristao
3. EPA emission factors, communication with EMAD—Emmett Barker, Sally Shaver
4. Health effects—Thomas Ferguson
5. NRCS Air Resource Action Plan—George Bluhm
6. Particulate matter research issues—Robert Flocchini, Keith Saxton

D. New Issues
1. Conservation application and carbon sequestration in Iowa—Dr. Keith Paustian, Colorado State University
2. Air quality initiative, Research Subcommittee—Jim Trotter
3. Forest research on air quality—Bill Summers
4. Washington State CRP—Leonard Jordan
5. A Natural Events Action Plan for Eastern Washington—EPA Region X and Washington State Department of Ecology
6. Agricultural residue burning: needs and impacts on regional agriculture—regional grass seed and cereal producers, Washington State Department of Ecology

E. Set Date and Location for Next Meeting
F. Public Input

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may present oral presentations during the June 17–18 meeting. Persons wishing to make oral presentations should notify George Bluhm no later than June 12, 1998. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 25 copies to George Bluhm no later than June 12, 1998.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact George Bluhm as soon as possible.

Dated: April 15, 1998.

Danny D. Sells,

Associate Chief, Natural Resources Conservation Service.

[FR Doc. 98–13670 Filed 5–21–98; 8:45 am]

BILLING CODE 3014–16–P

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Meeting

TIME AND DATE: 9:00 a.m.–1:00 p.m., June 18, 1998.

PLACE: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101

STATUS: Most of the meeting will be open to the public. An executive session closed to the public will be held from about 9:15 a.m. to 10:00 a.m.

MATTERS TO BE CONSIDERED:

Portions Open to the Public: The primary purpose of this meeting is to hear a status report on the siting of the regional disposal facility; hear a report on the expenditure of a $2 million grant to the Pennsylvania Department of Environmental Protection (PADEP); consider the impact of high volume low-activity waste shipped to Envirocare of Utah; consider granting about $462,000 to the PADEP to continue the community partnering program; consider adoption of an interregional agreement for the uniform application of manifesting procedures; consider a revised budget for 1998–99; consider a budget for 1999–2000; and to elect officers.

Portions Closed to the Public: Executive Session from about 9:15 a.m. to 10:00 a.m. to discuss a personnel matter.

CONTACT PERSON FOR MORE INFORMATION: Marc S. Tenan, Executive Director, at 717–234–6295.

Marc S. Tenan,

Executive Director.

[FR Doc. 98–12574 Filed 5–21–98; 8:45 am]

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and a service previously furnished by such agencies.

EFFECTIVE DATE: June 22, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On January 5, April 3 and 20, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 203, 16470 and 19474) of proposed additions to and deletions from the Procurement List:

Additions

The following comments pertain to Shirt, Sleeping.

Comments were received from the current contractor for the sleeping shirts. The contractor indicated that the shirts are an important part of one of its plants' production during certain months of the year.

While these shirts may be important to one of the contractor's three plants for part of the year, the Committee looks at the overall impact of a Procurement List addition on the contractor's total sales when it makes its impact determinations. The impact of this addition on the contractor's total sales is very small, and well below the level which the Committee normally considers to be severe adverse impact. The Committee is only adding ten percent of the Government requirement for the shirts to the Procurement List at this time, which will leave 50 percent of the requirement available for competitive procurement from this contractor or its competitors. The Committee's earlier addition to the Procurement List of 40 percent of the Government requirement caused only a slight decline in the contractor's sales. Consequently, the Committee does not believe that addition of the sleeping shirts to the Procurement List will have a severe adverse impact on the contractor.

The following comments pertain to Central Facility Management, The Jimmy Carter Presidential Library, Atlanta, Georgia.

Comments were received from the current contractor for this service. The contractor noted that it expects a severe reduction in its total sales during this

year, due to cutbacks in Government funding for services such as those it provides and that, consequently, loss of this contract to the Procurement List would have a severe adverse impact on the company. The contractor further noted that it is in its eighth year of providing this service at this location. The contractor's projections assume that when the contracts it currently holds are re-bid to reduce the costs, it will not succeed in obtaining any of the new contracts. The Committee views this as an unrealistically pessimistic projection. Under the circumstances, even taking into account the contractor's greater dependence on this relatively small contract after eight years and the impact of another recent addition to the Procurement List, the Committee does not believe that the percentage of the firm's sales represented by this contract is substantial enough to result in a severe adverse impact on the contractor.

The following comments pertain to Food Service and Food Service Attendant, Postwide, Fort Hood, Texas.

Comments were received from the current contractor for this service. The contractor claimed that the addition of the service to the Procurement List would have a severe adverse impact on the contractor as it represents a substantial portion of the contractor's sales. The contractor also noted that it is performing the contract under the Small Business Administration's (SBA) 8(a) Program, that the service has been in the 8(a) Program for a while, and that addition of the service to the Procurement List would foreclose future 8(a) Program participants from performing the contract.

The Government contracting activity responsible for this service has informed the Committee that if the Committee does not add the service to the Procurement List, the service will remain in the 8(a) Program. The contractor will graduate from the 8(a) Program in June, 1998, so it would not be eligible for subsequent contracts for the service whether or not the Committee adds it to the Procurement List. Consequently, any impact the contractor suffers will not be a result of the addition of the service to the Procurement List.

The Committee's Javits-Wagner-O'Day (JWOD) Program, like the 8(a) Program, is the result of Congressional desire to use the Federal procurement system to assist specific disadvantaged groups. The JWOD Program's target population, people who are blind or have severe disabilities, has an unemployment rate well above that of other groups. Consequently, the Committee believes it should maximize the creation of jobs for its target population where it can do so within the limits of its statute and regulations. The 8(a) Program is considerably larger than the JWOD Program and, because it imposes no constraints on the types of individuals employed by participating firms, has access to a broader range of contracts than does the JWOD Program. Consequently, the Committee believes the 8(a) Program can more easily locate contracting opportunities for its target population than the JWOD Program can.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Shirt, Sleeping
8415–00–890–2099
8415–00–890–2100
8415–00–890–2101
8415–00–890–2102
8415–00–890–2103
8415–00–935–6855
(Additional 10% of the Government's requirement)

Services

Base Supply Center, Tinker Air Force Base, Oklahoma

Central Facility Management, The Jimmy Carter Presidential Library, Atlanta, Georgia

Food Service and Food Service Attendant, Postwide, Fort Hood, Texas

Janitorial/Custodial, VA Outpatient Clinic, Winston-Salem, North Carolina

Janitorial/Custodial, Surface Warfare Officer School Navy Buildings, 52 C.H.I., 138 C.H.I., 370 C.P., 446 C.P., 1164 C.H.I., 1183 C.H.I., 1268 C.H.I. & 1284 C.H.I, Newport, Rhode Island

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities and service are hereby deleted from the Procurement List:

COMMODITIES

Cover, Generator Set
6115–00–945–7545

Cabinet, Storage
7125–00–378–4261
7125–00–449–6862
7125–00–693–4352

Pillowcase
7210–00–081–1380

Service

Commissary Shelf Stocking and Custodial, Naval Station, Charleston, South Carolina.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–13728 Filed 5–21–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposal(s) to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 22, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Grounds Maintenance

Mifflin County USARC, Lewistown, Pennsylvania

NPA: Juniata Assocation for the Blind, Lewistown, Pennsylvania

Medical Transcription

97th Medical Group, Altus AFB, Oklahoma

NPA: Kentucky Industries for the Blind, Louisville, Kentucky

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

The following services have been proposed for deletion from the Procurement List:

Grounds Maintenance

Naval Station, Mobile, Alabama

Grounds Maintenance

Portland Air National Guard Base, Portland, Oregon

Janitorial/Custodial

Pacific Highway Border Station, USDA Building, Blaine, Washington

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–13739 Filed 5–21–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Additions and Deletions to the Procurement List; Correction

In the document appearing on page 24152, F.R. Doc. 98–11628, in the issue of May 1, 1998, in the second column, a door knob conversion kit in 56 different varieties, each denominated by a National Stock Number (NSN), is listed as deleted from the Procurement List, effective June 1, 1998. The Committee voted to delete all 56 varieties of the kit based on information that Government orders did not justify continued production by nonprofit agencies for the blind. In addition, one of the services listed in the same document as deleted from the Procurement List is Grounds Maintenance, Naval and Marine Corps Reserve Center, Dayton, Ohio. The Committee voted to delete this service from the Procurement List based on information that this Reserve Center had closed. Since the May 1, 1998 deletion notice, the Committee has discovered that the Reserve Center has not closed and will remain open for the immediate future. The Committee also discovered that seven varieties of the door knob conversion kit had not been included on the list of NSNs requested for deletion because of a lack of Government orders.

Consequently, the Committee on May 14, 1998 reconsidered its decisions and voted not to delete the seven NSNs of the door knob conversion kit and the grounds maintenance service from the Procurement List. Accordingly, the notice of May 1, 1998 referenced above is corrected to remove Grounds Maintenance, Naval and Marine Corps Reserve Center, Dayton, Ohio from the list of services deleted from the Procurement List. The notice is also corrected to remove the following NSNs from the list of door knob conversion kit NSNs deleted from the Procurement List:

Door Knob Conversion Kit

5340–01–394–0237, 5340–01–394–0238, 5340–01–394–0239, 5340–01–394–

0240, 5340–01–394–0241, 5340–01–394–0242, 5340–01–394–3874

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–13740 Filed 5–21–98; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on June 9, 1998, at JC Penney, Government Relations Office, Suite 1015, 1156 15th Street NW, Washington, DC 20036. The purpose of the meeting is for the Committee to continue planning for the upcoming press conference to release its report entitled "Residential Mortgage Lending Disparities in Washington, DC."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Steven Sims, 202–862–4815 or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 12, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13659 Filed 5–21–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 3:30 p.m. on June 18, 1998, at the University of Massachusetts at Dartmouth, Room 228, Group Two Building, 285 Old Westport Road, North Dartmouth, Massachusetts 02747. The purpose of the meeting is to: (1) Discuss followup activities of the 3/21/98 conference including report preparation; (2) plan future activities; and (3) receive briefings from city officials and community representatives from Tauton, Fall River, and New Bedford.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Fletcher Blanchard, 413–585–3786, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 15, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13663 Filed 5–21–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 6:00 p.m. on June 11, 1998, at the Crowne Plaza Hotel, Fifth and Jefferson Street, Dayton, Ohio 45402. The purpose of the meeting is to receive information regarding "Employment Opportunities for Minorities in Montgomery County, Ohio."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Altagracia Ramos, 614–466–6715, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 15, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13662 Filed 5–21–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on June 12, 1998, at the Pennsylvania Convention Center (Administrative Level Board Room), East Concourse Entrance, 12th and Arch Street, Philadelphia, Pennsylvania 19107. The purpose of the meeting is to review a draft project proposal and continue planning for a future briefing on barriers confronting women and minority business owners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Sieglinde Shapiro, 215–204–6749, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 15, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–13664 Filed 5–21–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general

public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 21, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: R. David Belli, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, DC 20230 (Telephone: 202–606–9800).

SUPPLEMENTARY INFORMATION:

I. Abstract

The BE–48 Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons will obtain data from U.S. insurance companies on their reinsurance and other insurance transactions with foreign persons. The information gathered is needed, among other purposes, to support U.S. trade policy initiatives and to compile the U.S. international transactions, input-output, and national income and product accounts. Apart from minor clarifications to the instructions for reporting commissions and changes to the pre-printed list of countries to reflect recent shifts in the geographic composition of cross-border insurance transactions, BEA is not proposing changes to the form or instructions at this time.

II. Method of Collection

The survey will be sent each year to potential respondents in January and responses are due by March 31. A U.S. person who engages in reinsurance transactions with foreign persons or who acts in the capacity of a primary insurer with foreign persons is required to report if, with respect to transactions with foreign persons, any of the following six items equaled or exceeded $1 million (positive or negative) in the reporting period: (1) Premiums earned, and (2) losses, on reinsurance assumed; (3) premiums incurred, and (4) losses, on reinsurance ceded; and (5) premiums earned, and (6) losses, on primary insurance sold. A U.S. person that receives a form but is not required to report data must file an exemption claim.

III. Data

OMB Number: 0608–0016.
Form Number: BE–48.
Type of Review: Regular submission.
Affected Public: U.S. insurance companies or groups engaging in reinsurance or other insurance transactions with foreign persons.
Estimated Number of Responses: 400.
Estimated Time Per Response: 4 hours.
Estimated Total Annual Burden Hours: 1,600.
Estimated Total Annual Cost: $48,000 (based on an estimated reporting burden of 1,600 hours and an estimated hourly cost of $30).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 19, 1998.

Madeleine Clayton,

Management Analyst, Office of Management and Organization.

[FR Doc. 98–13794 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Census 2000, Special Place Facility Questionnaire Operation and Military Installation Group Quarters Address List Operation.
Form Number(s): D–351, D–351(MIL).
Agency Approval Number: 0607–0786.
Type of Request: Reinstatement, with change, of an expired collection.
Burden: 112,618 hours.
Number of Respondents: 450,473.
Avg Hours Per Response: 15 minutes.
Needs and Uses: Planning is currently underway for the Census 2000. The Census Bureau must provide everyone in the United States and Outlying Areas the opportunity to be counted in Census 2000, including persons living at group quarters (GQs) (student dorms, shelters, group homes, etc.) and housing units (HUs) at and/or associated with special places (SPs). One of the major requirements for enumeration of persons at SP facilities is to identify the GQs and any associated HUs at each SP.

The Census Bureau will maintain a file of SPs and GQs that was created from the 1990 census GQ files and is being updated from ongoing programs and other activities that will be carried out prior to Census 2000.

We plan to phone each SP in our updated file of SPs and GQs and conduct a computer assisted interview to identify and collect updated information about the GQs and HUs at each SP. Personal visit interviews will be conducted for a small number of cases. This operation will be very similar to that conducted for the 1995 and 1996 Census Tests and the 2000 Census Dress Rehearsal currently being conducted. Additionally, we plan to conduct a listing operation at military installations to collect essentially the same information.

All information gathered during this operation will be used to help us in Census 2000 to properly enumerate individuals that live in the HUs and GQs associated with SPs in the United States and Outlying Areas.

Affected Public: Business or other for-profit, individuals or households, not-for-profit institutions, Federal government.
Frequency: One time.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13 USC, Sections 141 and 193.
OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk

Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–13793 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received a request to conduct a new shipper administrative review of the antidumping duty order on brake rotors from the People's Republic of China. In accordance with 19 CFR 351.214(d), we are initiating this administrative review.

EFFECTIVE DATE: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Sunkyu Kim, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1766 or 482–2613, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the provisions codified at 19 CFR part 351 (62 FR 27295, May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Yantai Chen Fu Machinery Co., Ltd., ("YCFM"), in accordance with 19 CFR 351.214(d), for a new shipper review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC"), which has an April anniversary date. YCFM ("the respondent") has certified that it did not export brake rotors to the United States during the period of investigation ("POI"), and that it is not affiliated with any exporter or producer which did export brake rotors during the POI.

In accordance with section 751(a)(2)(B) of the Act, as amended, and 19 CFR 351.214(b), and based on information on the record, we are initiating the new shipper review as requested.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide *de jure* and *de facto* evidence of an absence of government control over the company's export activities. Accordingly we will issue a separate rates questionnaire to the above-named respondent, allowing 30 days for response. If the response from the respondent provides sufficient indication that the YCFM is not subject to either *de jure* or *de facto* government control with respect to its exports of brake rotors, this review will proceed. If, on the other hand, YCFM does not demonstrate its eligibility for a separate rate, then YCFM will be deemed to be affiliated with other companies that exported during the POI and that did not establish entitlement to a separate rate, and this review will be terminated.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on brake rotors from the PRC. On May 11, 1998, YCFM agreed to waive the time limits in order that the Department, pursuant to 19 CFR 351.214(j)(3), may conduct this review concurrent with the first annual administrative review of this order for the period October 10, 1996–March 31, 1998, which is being conducted pursuant to section 751(a)(1) of the Act. See, Antidumping Duties, Countervailing Duties; Final Rule, (62 FR 27295, 27395, May 19, 1997). Therefore, we intend to issue the final results of this review not later than 245 days after the last day of the anniversary month.

Antidumping duty proceeding	Period to be reviewed
PRC: Brake Rotors, A–570–846:	
Yantai Chen Fu Machinery Co., Ltd ...	10/10/96–03/31/98

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed company. This action is in accordance with 19 CFR 351.214(e) and (j)(3).

Interested parties that need access to the proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: May 14, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 98–13803 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Commission

[A–351–820]

Ferrosilicon From Brazil: Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On January 16, 1998, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on Ferrosilicon from Brazil. This review covers exports of this merchandise to the United States by one manufacturer/exporter, Companhia de Ferro Ligas da Bahia, during the period March 1, 1996, through February 28, 1997.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have not changed the final results from those presented in the preliminary results.

EFFECTIVE DATE: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel or Sal Tauhidi, AD/CVD Enforcement Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5849 or (202) 482–4851, respectively.

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SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department of Commerce's (the Department's) regulations refer to the regulations as codified at 19 CFR part 353 (April 1, 1997).

Background

The Department published the antidumping duty order on ferrosilicon from Brazil on March 14, 1994 (59 FR 11769). On January 16, 1998, the Department published the preliminary results of the 1996–1997 administrative review of that antidumping duty order (63 FR 2661). On March 4, 1998, and March 16, 1998, we received case and rebuttal briefs from Companhia de Ferro Ligas da Bahia (Ferbasa), and Aimcor and SKW Metals & Alloys, Inc. (the petitioners). Based on our analysis of the comments received, we have not changed the final results from those presented in the preliminary results.

Scope of Review

The merchandise subject to this review is ferrosilicon, a ferro alloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element. Ferrosilicon is a ferro alloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon. Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this review. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferro alloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferro alloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium. Ferrosilicon is currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this review is dispositive.

Ferrosilicon in the form of slag is included within the scope of this order if it meets, in general, the chemical content definition stated above and is capable of being used as ferrosilicon. Parties that believe their importations of ferrosilicon slag do not meet these definitions should contact the Department and request a scope determination.

Analysis of Comments Received

Comment 1

Ferbasa maintains that the Department's recalculation of cost of manufacturing (COM) for ferrosilicon based on the six-month period, September 1, 1996 through February 28, 1997, instead of the twelve-month fiscal year, January 1, 1996 through December 31, 1996, is inconsistent with the instructions set forth in the Department's questionnaire. Ferbasa notes the fact that, in a letter from the Department dated June 19, 1997, the Department allowed the company to report home market sales data for the six-month period. (See, the Department's letter from Holly Kuga to Gilvan Durao, Executive Director of Ferbasa.) At the same time, however, Ferbasa observes that it followed the Department's questionnaire instructions which allow respondents to report production costs on a fiscal-year basis in certain circumstances.

Ferbasa adds that the Department verified its submitted fiscal year costs and notes that the recalculation of COM based on a six-month period is inconsistent with the full-year selling, general and administrative expenses (SG&A) and interest ratio calculations used by the Department to compute cost of production (COP) in the preliminary results of this case. For these reasons, Ferbasa contends that the Department must use the company's full fiscal-year cost data to compute COP for the final results of this administrative review.

The petitioners argue that the Department correctly calculated Ferbasa's COM based on the six-month period rather than the submitted fiscal year data. The petitioners note that the Department reasonably recalculated COM based on the period of time which coincides with Ferbasa's reported home market sales data. Moreover, the petitioners maintain that the fact Ferbasa reported its cost data on a fiscal-year basis does not obligate the Department to use that information in its sales-below-cost analysis.

The petitioners further note that both the fiscal year and the six-month data were tested at verification and, therefore, the Department is not compelled to use only the submitted fiscal-year data. Finally, the petitioners conclude that the Department's normal calculation of SG&A and interest expense ratios based on the fiscal year data is appropriate.

Department's Position

We agree with petitioners that it was appropriate in this case for us to revise Ferbasa's submitted COM figures to reflect the six-month period. Based on a timely request from Ferbasa, we permitted the company to limit its reporting of home market sales to only those months that were contemporaneous to its one U.S. sale. We further note that the Department's questionnaire reflects our general practice of allowing a respondent to report costs for its normal fiscal year *if* this fiscal period corresponds closely with the period under investigation or review.

In the instant proceeding, although Ferbasa's fiscal year corresponds closely with the entire period under review it was not sufficiently correlated to the sales reporting period. We advised Ferbasa of our intent to examine at verification the extent to which the submitted fiscal year costs were representative of costs incurred during the six-month sales reporting period. (See, Cost Verification Agenda, October 27, 1997, Section IV. C., at 5.)

Based on our testing at verification, we determined that the reported fiscal year costs were *not* reasonably reflective of the costs incurred to produce the subject merchandise sold during the six-month sales reporting period. (See, Memorandum to the Official File re: Verification of Cost of Production and Constructed Value Information (Cost Verification Report), at 2, and Section IV.C., at 10 (January 12, 1998); see also,

Memorandum to the Official File re: Adjustments to Cost of Production and Constructed Value (January 12, 1998).)

Accordingly, in reaching our preliminary determination we relied on the actual costs incurred to produce the subject merchandise during the six-month period contemporaneous to the reported sales. This approach is consistent with the Department's obligation to ensure that the calculations are based on costs which "* * * reasonably reflects and accurately captures all of the actual costs incurred in producing * * * the product under investigation or review." (See, Statement of Administrative Action accompanying the URRA, H.R. 5110, H.R. Doc. No. 103–316, vol. 1 (1994) at 834 (SAA); see also Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 63 FR 13170, 13192 (March 18, 1998), where the Department determined that the POR costs differed from the company's fiscal year costs, and after reviewing the information, based the margin calculations on the POR costs rather than on the fiscal year costs.) Accordingly, we continue to rely on costs incurred during the six-month period in these final results.

As to Ferbasa's comment that the Department's general practice of calculating SG&A and interest expense based on the fiscal year requires that COM be based on that same period, we disagree. The Department normally calculates SG&A and interest expenses over the closest corresponding fiscal year's audited financial statements. We then use these ratios to determine the per-unit SG&A and interest expense associated with each product. This calculation measures, over a full fiscal year, the level of G&A expenses associated with the company's sales. The basis for calculating these ratios over the full fiscal year is not because it is the exact same period as that examined for the cost calculation, but rather because using the annual ratio is most reflective of these type of expenses, which are typically incurred unevenly throughout the year. (See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Argentina, 60 FR 33,539, 33,549 (June 28, 1995); and Final Determination of Sales at Less Than Fair Value: Hot-Rolled Carbon Steel Flat Products, Cold-Rolled Carbon Steel Flat Products, Corrosion-Resistant Carbon Steel Flat Products, and Cut-to Length Carbon Steel Plate from Canada, 58 FR 37105, 37113 (July 9, 1993).)

Comment 2

Ferbasa contends that the Department should not have included valued added taxes (IPI and ICMS) in the calculation of constructed value (CV). According to Ferbasa, section 773(a)(6)(B) of the Act provides for the exclusion of home market consumption taxes from normal value (NV) in order to maintain a tax neutral comparison for purposes of measuring whether dumping has occurred.

The petitioners contend that the Department properly included the IPI and ICMS taxes in CV. According to the petitioners, section 773(e) of the Act provides that any home market tax imposed on export goods should be included in CV unless the tax is refunded or remitted upon exportation. The petitioner argues that Ferbasa has not stated nor did the verification conclude that these IPI and ICMS taxes have been remitted or refunded upon exportation.

Department's Position:

Because the NV in these final results was based on Ferbasa's home market prices and not on CV, this issue is moot. Therefore, we are not addressing it here.

Final Results of Review

Our final results are unchanged from those presented in our preliminary results. Therefore, the dumping margin for Ferbasa remains at zero percent for the period March 1, 1996, through February 28, 1997.

The following deposit requirement will be effective for all shipments of subject merchandise from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise in the final results of this review, earlier review or the LTFV investigation, whichever is the most recent; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit will be 35.95 percent, the "All Others" rate made effective by the antidumping duty order (59 FR 11769, March 14, 1994).

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 14, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13802 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–826]

Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Brazil; Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order in part.

SUMMARY: In response to a request made on April 27, 1998, by the Gulf States Tube Division of Vision Metals ("Gulf

States")[1], a petitioner in this case, the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing a preliminary intent to revoke in part the antidumping duty order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil, the scope of which currently includes certain glass-lined seamless pressure pipe. Gulf States and Koppel Steel Corporation, the petitioners in this case, have expressed no further interest in the relief provided by the antidumping duty order with respect to certain glass-lined seamless pressure pipe imported from Brazil. Accordingly, we intend to revoke this order in part.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Helen M. Kramer or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0405 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On August 3, 1995, the Department published the amended final determination and antidumping duty order in the less-than-fair-value (LTFV) investigation of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil (60 FR 39707). On April 27, 1998, Gulf States, a petitioner, requested partial revocation of the antidumping duty order due to changed circumstances, pursuant to 19 U.S.C. 1675(b)(1) and 19 CFR 351.222(g), 62 FR 27,296 at 27,400–01 (May 19, 1997), with respect to imports from Brazil of certain glass-lined seamless pressure pipe. On May 1, 1998, the second petitioner, Koppel Steel Corporation, informed the Department by telephone that it has no interest in continuing the application of the order to glass-lined seamless pressure pipe. See Memorandum for the File from Helen M. Kramer, Case Analyst, to Linda Ludwig, Program Manager (May 1, 1998).

Scope of the Review

Imports covered by this review and partial revocation are shipments of seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness or manufacturing process (hot-finished or cold-drawn) that (1) has been cut into lengths of six to 120 inches, (2) has had the inside bore ground to a smooth surface, (3) has had multiple layers of specially formulated corrosion resistant glass permanently baked on at temperatures of 1,440 to 1,700 degrees Fahrenheit in thicknesses from 0.032 to 0.085 inch (40 to 80 mils), and (4) has flanges or other forged stub ends welded on both ends of the pipe. The special corrosion resistant glass referred to in this definition may be glass containing by weight (1) 70 to 80 percent of an oxide of silicone, zirconium, titanium or cerium (Oxide Group RO_2), (2) 10 to 15 percent of an oxide of sodium, potassium, or lithium (Oxide Group RO), (3) from a trace amount to 5 percent of an oxide of either aluminum, cobalt, iron, vanadium, or boron (Oxide Group R_2O_3, or (4) from a trace amount to 5 percent of a fluorine compound in which fluorine replaces the oxygen in any one of the previously listed oxide groups. These glass-lined pressure pipes are commonly manufactured for use in glass-lined equipment systems for processing corrosive or reactive chemicals, including acrylates, alkanolamines, herbicides, pesticides, pharmaceuticals and solvents.

The glass-lined pressure pipes subject to this review are currently classifiable under subheadings 7304.39.0020, 7304.39.0024 and 7304.39.0028 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and U.S. Customs' purposes only. The written description of the scope of this review remains dispositive.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke in Part

At the request of the petitioner, Gulf States, in accordance with section 751(b) of the Act and section 351.216 of the Department's regulations, the Department is initiating a changed circumstances review of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil to determine whether partial revocation of the antidumping duty order is warranted with respect to glass-lined seamless pressure pipe. Section 782(h)(2) of the Act and section 351.222(g)(1)(i) of the Department's regulations provide that the Department may revoke an order if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order. In addition, in the event the Department determines that expedited action is warranted, section 351.221(c)(3)(ii) of the regulations permits the Department to combine the notices of initiation and preliminary results.

In accordance with section 751(b) of the Act and sections 351.222(g)(1)(i) and 351.221(c)(3), we are initiating this changed circumstances administrative review and have determined that expedited action is warranted. Our decision to expedite this review stems from the domestic industry's lack of interest in applying the antidumping duty order to glass-lined seamless pressure pipe.

Based on the expression of no interest by Gulf States and Koppel Steel and absent any objection by any other domestic interested parties, we have preliminarily determined that substantially all of the domestic producers of the like product have no interest in continued application of the antidumping duty order to glass-lined seamless pressure pipe from Brazil.

Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke, in part, the antidumping duty order as it relates to imports of certain glass-lined seamless pressure pipe from Brazil.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will issue the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our

[1] Gulf States was previously a division of Quanex Corporation.

preliminary determination. See section 351.216(e) of the Department's regulations.

If final revocation occurs, we will instruct the U.S. Customs Service to end the suspension of liquidation and to refund, with interest, any estimated antidumping duties collected for all unliquidated entries of glass-lined seamless pressure pipe from Brazil. The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This initiation of review and notice are in accordance with sections 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 351.216, 351.221, and 351.222 (62 FR 27396, 27398–9, May 19, 1997).

Dated: May 18, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–13801 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011996A]

Endangered and Threatened Wildlife; Recovery Plans for Listed Sea Turtles

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS and the Fish and Wildlife Service (FWS), Department of the Interior, (collectively, the Services) announce the availability of the final recovery plans for U.S. Pacific populations of endangered and threatened sea turtles, as required by the Endangered Species Act of 1973 (ESA).

DATES: May 22, 1998.

ADDRESSES: Requests for copies of the recovery plans may be submitted to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies may be purchased from the U.S. Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, MD 20814, 1–800–582–3421. Electronic copies in .pdf format are also available at NMFS' Protected Resources internet website (www.nmfs.gov/prot_res/).

FOR FURTHER INFORMATION CONTACT: Barbara Schroeder, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301–713–1401, or Sandy MacPherson, FWS, 6620 Southpoint Dr. South, Jacksonville, FL 32216, Phone: 904–232–2580.

SUPPLEMENTARY INFORMATION:

Background

The ESA is administered jointly by the Services. NMFS has jurisdiction over most species in the marine system while FWS has jurisdiction elsewhere. Listed endangered and threatened species under NMFS jurisdiction are enumerated in 50 CFR 222.23(a) and 50 CFR 227.4, respectively. The List of Endangered and Threatened Wildlife, which contains species under the jurisdiction of both Services, is found in 50 CFR 17.11(h).

Pursuant to a Memorandum of Agreement between the two Services, the jurisdiction over listed sea turtles is shared: FWS has responsibility for sea turtles primarily in the terrestrial environment, while NMFS has responsibility for sea turtles primarily in the marine environment. Presently, all sea turtle species found in the United States are listed as follows: Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered; loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and olive ridley (*Lepidochelys olivacea*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, and for breeding populations of olive ridleys on the Pacific coast of Mexico, which are listed as endangered.

Section 4(f)(1) of the ESA requires that the Secretary of the Interior or the Secretary of Commerce develop and implement recovery plans for the conservation and survival of endangered and threatened species listed pursuant to section 4(c) of the ESA, unless such plans would not promote the conservation of the species. Pursuant to section 4(f)(4) of the ESA, prior to final approval and implementation of a new or revised recovery plan, the Secretary shall provide public notice and an opportunity for public review and comment. The Services published a notice of availability of the draft recovery plans in the **Federal Register** on March 12, 1996 (61 FR 9978). No comments were received during the 60-day comment period.

The recovery plans are for the U.S. Pacific populations of the loggerhead, olive ridley, leatherback, hawksbill, green turtle and the East Pacific population of the green turtle. These are the first comprehensive recovery plans for sea turtle populations in the U.S. Pacific. To accomplish the drafting of the recovery plans, a team was formed consisting of professional biologists with experience in the region and with marine turtles.

While similar in format to previous sea turtle recovery plans for the Atlantic and the Caribbean, the unique nature of the Pacific required some changes to that format. The geographic scope of these plans is much larger than any previously attempted, with over 5,000 islands and 3,000 miles (4,827 km) of ocean, as well as the mainland United States, to consider. Furthermore, the amount of jurisdictional overlap between nations, commonwealths, territories, and compact-of-free-association-states and the various turtle populations required a broader management perspective than has been attempted previously. Finally, sea turtles have not been studied as intensively in the Pacific as in other U.S. areas, and thus there is a large void in basic biological information. For these reasons, these plans have more extensive text on the general biology of the turtles, so that they might act as a resource to managers seeking a handy reference to the species. The plans are also subdivided into U.S. jurisdictional areas (i.e. the various commonwealths and territories), so that local managers can address issues within their respective regions more easily.

To implement these plans, NMFS will form implementation teams, where needed, consisting of representatives from Federal agencies, states, territories, and commonwealths. The team(s) will produce a plan that identifies solutions for achieving recovery of these populations.

Authority: 16 U.S.C. 1531–1543 *et seq.*

Dated: May 15, 1998.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13763 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051398F]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a committee meeting.

SUMMARY: The North Pacific Fishery Management Council's Community Development Quota (CDQ) Committee will meet in Juneau, AK.

DATES: The meeting will be held on Thursday, June 18, 1998.

ADDRESSES: The meeting will be held in Room 445C at the NMFS Regional Office, 709 W. 9th Street, Juneau, AK 99801.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will meet to discuss halibut small-boat fleet composition and enforcement issues related to the possibility of moving the CDQ program out of the NMFS Restricted Access Management Division.

Although other issues not contained in this agenda may come before this committee for discussion, in accordance with the Magnuson-Stevens Fishery Management Conservation Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: May 15, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13762 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051398G]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's Halibut Guideline Harvest Committee will meet in Anchorage, AK.

DATES: The meeting will be held on Friday, June 19, 1998.

ADDRESSES: The meeting will be held in Room 229, of the Old Federal Building, 605 W. 4th Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will meet to discuss a proposed banking program for the halibut charter boat fleet, whereby unharvested halibut would accrue for use in a year when the charter fleet's allocation is projected to be below a minimum amount needed to meet the committee's goal of not shortening the fishing season or reducing the 2–fish bag limit. Other topics will include the proposed moratorium on halibut charter vessels and a rod permit program.

Although other issues not contained in this agenda may come before this committee for discussion, according to the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal discussion during this meeting. Action will be restricted to those issues specifically identified in the agenda in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: May 15, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13764 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051498B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, Honolulu Laboratory, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822–2396, has requested an amendment to scientific research Permit No. 848–1335.

DATES: Written or telefaxed comments must be received on or before June 22, 1998.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Protected Species Program Manager, Pacific Islands Area Office, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2941).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 848–1335, issued on June 10, 1997 (62 FR 32586) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the endangered species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 FR 222.23).

The permit holder is currently authorized to conduct population assessment, disease assessment, recovery actions, and pelagic ecology

studies of Hawaiian monk seals (*Monachus* schauinslandi) at all locations within the Hawaiian Archipelago and at Johnston Atoll, through May 31, 2002. The permit holder is now requesting that the permit be amended to authorize the relocation or removal of up to 10 adult male Hawaiian monk seals from the Northwestern Hawaiian Islands, in the event that such seals are known to cause mortality to nursing or weaned pups.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 15, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13499 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051198A]

Marine Mammals; File No. 704–1444

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that University of Alaska Museum, 907 Yukon Drive, Fairbanks, AK 99775–1200, (Principal Investigator: Gordon H. Jarrell, Ph.D.) has been issued a permit to collect, import/export marine mammal specimens for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On February 13, 1998, notice was published in the **Federal Register** (63 FR 7403) that a request for a scientific research permit to collect, import/export marine mammal specimens had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 15, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–13765 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration (NTIA)

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; Notice of Open Meeting

ACTION: Notice is hereby given of a meeting of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, created pursuant to Executive Order 13038.

SUMMARY: The President established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC) to advise the Vice President on the public interest obligations of digital broadcasters. The Committee will study and recommend which public interest obligations should accompany broadcasters' receipt of digital television licenses. The President designated the National Telecommunications and Information Administration as secretariat for the Committee.

AUTHORITY: Executive Order 13038, signed by President Clinton on March 11, 1997.

DATES: The meeting will be held on Monday, June 8, 1998 from 9:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting is scheduled to take place at the Marquette Hotel, 710 Marquette Avenue, Minneapolis, MN 55402. This location is subject to change. If the location changes, another **Federal Register** notice will be issued. Updates about the location of the meeting will also be available on the Advisory Committee's homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm or you may call Karen Edwards at 202–482–8056. The meeting will also be broadcast over the Internet. The broadcast can be accessed via the Advisory Committee's homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Designated Federal Officer and Telecommunications Policy Specialist, at the National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4720, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Telephone: 202–482–8056; Fax: 202–482–8058; E-mail: piac@ntia.doc.gov.

Media Inquiries: Please contact Paige Darden at the Office of Public Affairs, at 202–482–7002.

Agenda

Monday, June 8
- Opening remarks
- Committee deliberations
- Public Comment
- Closing remarks

This agenda is subject to change. For an updated, more detailed agenda, please check the Advisory Committee at www.ntia.doc.gov/pubintadvcom/pubint.htm.

Public Participation: The meeting will be open to the public, with limited seating available on a first-come, first-served basis. This meeting is physically accessible to people with disabilities. Any member of the public requiring special services, such as sign language interpretation or other ancillary aids, should contact Karen Edwards at least five (5) working days prior to the meeting at 202–482–8056 or at piac@ntia.doc.gov.

Members of the public may submit written comments concerning the Committee's affairs at any time before or after the meeting. The Secretariat's

guidelines for public comment are described below and are available on the Advisory Committee homepage (www.ntia.doc.gov/pubintadvcom/pubint.htm) or by calling 202–482–8056.

Guidelines for Public Comment: The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters welcomes public comments.

Oral Comment: In general, opportunities for oral comment will usually be limited to no more than five (5) minutes per speaker and no more than thirty (30) minutes total at each meeting.

Written Comment: Written comments must be submitted to the Advisory Committee Secretariat at the address listed below. Comments can be submitted either by letter addressed to the Committee (please place "Public Comment" on the bottom left of the envelope and submit at least thirty-five (35) copies) or by electronic mail to piac@ntia.doc.gov (please use "Public Comment" as the subject line). Written comments received within three (3) workings days of a meeting and comments received shortly after a meeting will be compiled and sent as briefing material to Committee members prior to the next scheduled meeting.

Obtaining Meeting Minutes: Within thirty (30) days following the meeting, copies of the minutes of the meeting may be obtained over the Internet at www.ntia.doc.gov/pubintadvcom/pubint.htm, by phone request at 202–482–8056, by email request at piac@ntia.doc.gov or by written request to Karen Edwards; Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4720; 14th Street and Constitution Avenue NW, Washington, DC 20230.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 98–13771 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Quota and Visa Requirements for Certain Cotton Textile Products Produced or Manufactured in Turkey

May 18, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending quota and visa requirements.

EFFECTIVE DATE: June 2, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In exchange of notes dated January 16, 1998 and March 27, 1998, the Governments of the United States and Turkey agreed that discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5208.52.3035, 5208.52.4035, 5209.51.6032 (Category 313); 5209.51.6015 (Category 314); 5208.52.4055 (Category 315); 5208.59.2085 (Category 317); 5208.59.2015, 5209.59.0015 and 5211.59.0015 (Category 326) which is produced or manufactured in Turkey and imported on or after June 2, 1998 will no longer be subject to visa requirements. Also, for quota purposes, discharge printed fabric classified in the aforementioned HTS numbers, produced or manufactured in Turkey and imported on or after June 2, 1998 will not be subject to 1998 limits, regardless of the date of export. The new designations for Categories 313, 314, 315, 317 and 326 will be 313–O, 314–O, 315–O, 317–O and 326–O. The 1998 quota levels for the new part-categories remain unchanged.

Effective on June 2, 1998, products in Categories 313, 314, 315, 317 and 326, produced or manufactured in Turkey and exported from Turkey on or after March 27, 1998 must be accompanied by a 313–O, 314–O, 315–O, 317–O and 326–O part-category visa. There will be a grace period from March 27, 1998 through June 30, 1998 during which products exported from Turkey in Categories 313, 314, 315, 317 and 326 may be accompanied by the whole or new part-category visa.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the export quota and visa requirements.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 52 FR 6859, published on March 5, 1987; and 62 FR 67839, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey and exported during the twelve-month period which begins on January 1, 1998 and extends through December 31, 1998.

Effective on June 2, 1998, pursuant to exchange of notes dated January 16, 1998 and March 27, 1998 between the Governments of the United States and Turkey and under the terms of the Uruguay Round Agreement on Textiles and Clothing, discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5208.52.3035, 5208.52.4035, 5209.51.6032 (Category 313); 5209.51.6015 (Category 314); 5208.52.4055 (Category 315); 5208.59.2085 (Category 317); 5208.59.2015, 5209.59.0015 and 5211.59.0015 (Category 326) which is produced or manufactured in Turkey and imported on or after June 2, 1998 will no longer be subject to visa requirements. Also, for quota purposes, discharge printed fabric classified in the aforementioned HTS numbers, produced or manufactured in Turkey and imported on or after June 2, 1998 will not be subject to 1998 limits, regardless of the date of export. The new designations for Categories 313, 314, 315, 317 and 326 will be 313–O [1], 314–O [2], 315–O [3], 317–O [4] and 326–O [5].

The import restraint limits for the new part-categories remain the same as the 1998

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

sublimits in the Fabric Group for Categories 313, 314, 315, 317 and 326.

Effective on June 2, 1998, you are directed to amend further the directive dated March 2, 1987 to require a part-category visa for products in Categories 313–O, 314–O, 315–O, 317–O and 326–O, produced or manufactured in Turkey and exported on or after March 27, 1998. There will be a grace period from March 27, 1998 through June 30, 1998 during which products exported from Turkey in Categories 313, 314, 315, 317 and 326 may be accompanied by the whole or new part-category visa.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–13796 Filed 5–21–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order to Designate Contract Markets and Amendment Order of November 7, 1997, as Applied to Such Contracts; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order to Chicago Board of Trade; correction.

SUMMARY: On May 13, 1998, the Commission published in the **Federal Register** (63 FR 26575) a final Order to the Chicago Board of Trade. The purpose of the Order was to designate the Chicago Board of Trade as a contract market in corn and soybeans futures contracts and amend the Order of November 7, 1997, as applied to such contracts. This correction includes Attachments 1 and 2 which were inadvertently omitted.

DATES: This Order became effective on May 7, 1998.

ADDRESSES: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Steve Manaster, Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5260, or electronically, Mr. Architzel at [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: The Commission is correcting inadvertent omissions in the publication of the final Order to the Chicago Board of Trade whereby the Commodity Futures Trading Commission ordered that the applications for contract market designation in corn and in soybeans submitted by the Board of Trade of the City of Chicago (CBT) on December 19, 1997 and supplemented on March 20, 1998, be granted and amended its Order under section 5a(a)(10), dated November 7, 1997, to permit the applications for designation to be granted. Under this Order, the Commission took the following actions:

(1) Granted under section 5 of the Commodity Exchange Act (Act) the CBT's application for designation as a contract market in soybeans and approved under section 5a(a)(12) of the Act all of the proposed rules of the contract market contained in Attachment 1 to the Order;

(2) Granted under section 5 of the Act the CBT's application for designation as a contract market in corn and approved under section 5a(a)(12) of the Act all of the proposed rules of the contract market contained in Attachment 2 to the Order;

The Commission is publishing Attachments 1 and 2 which were inadvertently omitted and were referred to on page 26575, column 3, paragraphs (1) and (2).

Issued in Washington, DC on May 14, 1998.

Jean A. Webb,

Secretary of the Commission, Commodity Futures Trading Commission.

Attachment 1—Proposed Soybean Futures Contract Rules

Soybean Futures

ChXS Trading Conditions

XS04.01 Unit of Trading—(see 1004.00)

XS05.01 Months Traded In—(see 1005.01A)

XS06.01 Price Basis—(see 1006.00 and 1006.01)

XS05.01 Hours of Trading—(see 1007.00 and 1007.02)

XS08.01 Trading Limits—(see 1008.01 and 1008.02)

XS09.01 Last Day of Trading—(see 1009.02 and 1009.03)

XS10.01 Margin Requirements—see 431.03)

XS11.01 Disputes—All disputes between interested parties may be settled by arbitration as provided in the Rules and Regulations.

XS12.01 Position Limits and Reportable Positions—(see 425.01)

ChXS Delivery Procedures

XS36.00 Grade Differentials—(see 1036.00)

XS36.01 Soybean Location Delivery Differentials—Soybeans for shipment from regular shipping stations located within the Chicago Switching District or the Burns Harbor, Indiana Switching District may be delivered in satisfaction of Soybean futures contracts at contract price, subject to the differentials for class and grade outlined above. Soybeans for shipment from regular shipping stations located within the Lockport-Seneca Shipping District may be delivered in satisfaction of soybean futures contracts at a premium of 2¢ per bushel over contract price, subject to the differentials for class and grade outlined above. Soybeans for shipment from regular shipping stations located within the Ottawa-Chillicothe Shipping District may be delivered in satisfaction of Soybean futures contracts at a premium of 2½¢ per bushel over contract price, subject to the differentials for class and grade outlined above. Soybeans for shipment from regular shipping stations located within the Peoria-Pekin Shipping District may be delivered in satisfaction of Soybean futures contracts at a premium of 3¢ per bushel over contract price, subject tot he differentials for class and grade outlined above. Soybeans for shipment from regular shipping stations located within the Havana-Grafton Shipping District may be delivered in satisfaction of soybean futures contracts at a premium of 3½¢ per bushel over contract price, subject to the differentials for class and grade outlined above. Soybeans for shipment from regular shipping stations located in the St. Louis-East St. Louis and Alton Switching Districts may be delivered in satisfaction of Soybean futures contracts at a premium of 6¢ per bushel over contract price, subject to the differentials for class and grade outlined above.

XS38.01 Grades—(see 1038.00 and 1038.01)

XS41.01 Delivery Points—Soybean Shipping Certificates shall specify shipment from one of the warehouses or shipping stations currently regular for delivery and located in one of the following territories:

A. Chicago and Burns Harbor, Indiana Switching District—When used in these Rules and Regulations, the Chicago Switching District will be that area

geographically defined by Tariff ICC WTL 8020-Series and that portion of the Illinois Waterway at or above river mile 304 which includes the Calumet Sag Channel and the Chicago Sanitary & Ship Canal. When used in these Rules and Regulations, Burns Harbor, Indiana Switching District will be that area geographically defined by the boundaries of Burns Waterway Harbor at Burns Harbor, Indiana which is owned and operated by the Indiana Port Commission.

B. Lockport-Seneca Shipping District—When used in these Rules and Regulations, the Lockport-Seneca Shipping District will be that portion of the Illinois Waterway below river mile 304 at the junction of the Calumet Sag Channel and Chicago Sanitary & Ship Canal and above river mile 244.6 at the Marseilles Lock and Dam. Shipping stations within the Lockport-Seneca Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushes against the futures contracts.

C. Ottawa-Chillicothe Shipping District—When used in these Rules and Regulations, the Ottawa-Chillicothe Shipping District will be that portion of the Illinois Waterway below river mile 244.6 at the Marseilles Lock and Dam and at or above river mile 170 between Chillicothe and Peoria, IL. Shipping stations within the Ottawa-Chillicothe Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

D. Peoria-Pekin Shipping District—When used in these Rules and Regulations, the Peoria-Pekin Shipping District will be that portion of the Illinois Waterway below river mile 170 between Chillicothe and Peoria, IL and at or above river mile 151 at Pekin, IL. Shipping stations within the Peoria-Pekin Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

E. Havana-Grafton Shipping District—When used in these Rules and Regulations, the Havana-Grafton Shipping District will be that portion of the Illinois Waterway below river mile 151 at Pekin, IL to river mile 0 at Grafton, IL. Shipping stations within the Havana-Grafton Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

F. St. Louis-East St. Louis and Alton Switching Districts—When used in these Rules and Regulations, St. Louis-East St. Louis and Alton Switching Districts will be that portion of the upper Mississippi River below river mile 218 at Grafton, IL and above river mile 170 at Jefferson Barracks Bridge in south St. Louis, MO. Shipping stations on the St. Louis-East St. Louis and Alton Switching Districts must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

XS43.01 Deliveries by Soybean Shipping Certificate—(see 1043.01)

XS43.02 Registration of Soybean Shipping Certificates—(see 1043.02)

XS43.03 Reissuance of Shipping Certificates—(see 1043.03)

XS44.01 Certificates Format—The following form of Soybean Shipping Certificate shall be used with proper designation, indicating shipping station.

Board of Trade of the City of Chicago
Soybean Shipping Certificate for Delivery in Satisfaction of Contract for 5,000 Bushels of Soybeans

This certificate not valid unless registered by the Registrar of the Board of Trade of the City of Chicago.

Soybeans Shipping Station of (grade) _____
Located at _____
Registered total daily rate of loading of _____ bushes.

Total rate of loading per day shall be in accordance with Regulation 1081.01 (12) G and H. A premium charge of $_____ cents per bushel per calendar day for each day is to be assessed starting the day after registration by the Registrar of this Certificate through the business day loading is complete.

For value received and receipt of this document properly endorsed and lien for payment of premium charges the undersigned shipper, regular for delivery under the Rules and Regulations of the Board of Trade of the City of Chicago, hereby agrees to deliver 5,000 bushels of Soybeans in bulk conforming to the standards of the Board of Trade of the City of Chicago and ship said Soybeans in accordance with orders of the lawful owner of this document and in accordance with Rules and Regulations of the Board of Trade of the City of Chicago. Delivery shall be by water or rail conveyance according to the registered loading capability of the shipper.

Signed at _____ this _____ day of _____, 19 ____

___ Chicago, Il or Burns Harbor, IN Switching District
___ Lockport-Seneca Shipping District
___ Ottawa-Chillicothe Shipping District
___ Peoria-Pekin Shipping District
___ Havana-Grafton Shipping District
___ St. Louis-East St. Louis and Alton Switching Districts

By _____
Authorized Signature of Issuer

Registration date _____
Registrar's Number _____
Registrar for Soybeans
Board of Trade of the City of Chicago

Registration canceled for purpose of shipment of Soybeans by owner of certificate or by issuer of certificate for purpose of withdrawal of certificate.

Cancellation Date _____

Registrar

All premium charges have been paid on Soybeans covered by this certificate from date of registration, not counting date of registration but counting date of payment.

Date_____ by _____
Date_____ by _____
Date_____ by _____
Date_____ by _____

Delivery of this Soybean Shipping Certificate to issuer is conditioned upon loading of Soybeans in accordance with Rules and Regulations of the Board of Trade of the City of Chicago and a lien is claimed until all loadings are complete and proper shipping documents presented accompanying demand draft for freight and premium charges due which I (we) agree to honor upon presentation.

_____
Owner of this Soybean Shipping Certificate or his duly authorized agent

Date_____, 19 _____

XS46.01 Location for Buying or Selling Delivery Instruments-(see 1046.00A)

XS47.01 Delivery Notices-(see 1047.01)

XS48.01 Method of Delivery-(see 1048.01)

XS49.01 Time of Delivery, Payment, Form of Delivery Notice-(see 1049.00)

XS49.02 Time of Issuance of Delivery Notice-(see 1049.01)

XS49.03 Buyer's Report of Eligibility to Receive Delivery-(see 1049.02)

XS49.04 Seller's Invoice to Buyers-(see 1049.03)

XS49.05 Payment-(see 1049.04)

XS50.01 Duties of Members-(see 1050.00)

XS51.01 Office Delivers Prohibited-(see 1051.01)

XS54.01 Failure to Accent Delivery-(see 1054.00 and 1054.00A)

XS56.01 Payment of Premium Charges-To be valid for delivery on futures contracts, all shipping certificates covering Soybeans under obligation for shipment must indicate the applicable premium charge. No shipping certificates shall be valid for delivery on futures contracts unless the premium charges on such Soybeans shall have been paid up to and including the 18th calendar day of the preceding month, and such payment endorsed on the shipping certificate. Unpaid accumulated premium charges at the posted rate applicable to the warehouse or

shipping station where the grain under obligation for shipment shall be allowed and credited to the buyer by the seller to and including date of delivery. Further, no shipping certificate shall be valid for delivery if the shipping certificate has expired prior to delivery or has an expiration date in the month in which delivered.

If premium charges are not paid on-time up to and including the 18th calendar day preceding the delivery months of March, July and September and by the first Calendar day of each of these delivery months, a late charge will apply. The late charge will be an amount equal to the total unpaid accumulated premium charges rates multiplied by the "prime interest rate" in effect on the day that the accrued premium charges are paid plus a penalty of 5 percentage points, all multiplied by the number of calendar days that premium is overdue, divided by 360 days. The terms "prime interest rate" shall mean the lowest of the rates announced by each of the following four banks at Chicago, Illinois, at its "prime rate": Bank of America-Illinois, the First National Bank of Chicago, Harris Trust & Savings Bank, and the Northern Trust Company.

The premium charges on Soybeans for delivery from regular shippers within the Chicago Switching District or the Burns Harbor, Indiana Switching District shall not exceed 12/100 of one cent per bushel per day.

The premium charges on Soybeans for delivery from regular shippers within the Lockport-Seneca Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Soybeans for delivery from regular shippers within the Ottawa-Chillicothe Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Soybeans for delivery from regular shippers within the Peoria-Pekin Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Soybeans for delivery from regular shippers within the Havana-Grafton Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Soybeans for delivery from regular shippers in the St. Louis-East St. Louis and Alton Switching Districts shall not exceed 10/100 of one cent per bushel per day.

ChXS Regularity of Issuers of Shipping Certificates

XS81.01 Regularity of Warehouses and Issuers of Shipping Certificates—

Persons operating grain warehouses or shippers who desire to have such warehouses or shipping stations made regular for the delivery of grain under the Rules and Regulations shall make application for an initial Declaration of Regularity on a form prescribed by the Exchange prior to May 1, 1994, and every even year thereafter, for a two-year term beginning July 1, 1994, and every even year thereafter, and at any time during a current term for the balance of that term. Regular grain warehouses or shippers who desire to increase their regular capacity during a current term shall make application for the desired amount of total regular capacity on the same form. Initial regularity for the current term and increases in regularity shall be effective either thirty days after a notice that a bona fide application has been received is posted on the floor of the exchange, or the day after the application is approved by the Exchange, whichever is later. Applications for a renewal of regularity shall be made prior to May 1, 1994, and every even year thereafter, for the respective years beginning July 1, 1994, and every even year thereafter, and shall be on the same form.

The following shall constitute the requirements and conditions for regularity:

(1) The warehouse or shipping station making application shall be inspected by the Registrar or the United States Department of Agriculture. Where application is made to list as regular a warehouse which is not regular at the time of such application, the applicant may be required to remove all grain from the warehouse and to permit the warehouse to be inspected and the grain graded, after which such grain may be returned to the warehouse and receipts issued therefor.

The operator of a shipping station issuing Soybean Shipping Certificates shall limit the number of Shipping Certificates issued to an amount not to exceed:

(a) 30 times his registered total daily rate of loading barges,

(b) a value greater than 25 percent of the operator's net worth,

(c) and in the case of Chicago, Illinois and Burns Harbor, Indiana Switching Districts only, his registered storage capacity.

The shipper issuing Soybean Shipping Certificates shall register his total daily rate of loading barges at his maximum 8 hour loadout capacity in an amount not less than:

(a) one barge per day at each shipping station within the Lockport-Seneca Shipping District, within the Ottawa-Chillicothe Shipping District, within the Peoria-Pekin Shipping District, within the Havana-Grafton Shipping District, and within the St. Louis-East St. Louis and Alton Switching Districts and

(b) three barges per day at each shipping station in the Chicago, Illinois and Burns Harbor, Indiana Switching District.

(2) Shippers located in the Chicago, Illinois and Burns Harbor, Indiana Switching District shall be connected by railroad tracks with one or more railway lines.

XS81.01(3) through XS81.01(12)G(8)—(see 1081.01(3) through 1081.01(12)G(8))

XS81.01(12)G (9) In the event that it had been announced that river traffic will be obstructed for a period of fifteen days or longer as a result of one of the conditions of impossibility listed in regulation 1081.01(12)(G)(8) and in the event that the obstruction will affect a majority of regular shipping stations, then the following barge load-out procedures for soybeans shall apply to shipping stations upriver from the obstruction.

(a) The maker and taker of delivery may negotiate mutually agreeable terms of performance.

(b) If the maker and/or the taker elect not to negotiate mutually agreeable terms of performance, then the maker is obligated to provide the same quantity and like quality of grain pursuant to the terms of the shipping certificate(s) with the following exceptions and additional requirements:

(i) The maker must provide loaded barge(s) to the taker on the Illinois River between the lowest closed lock and St. Louis, inclusive, or on the Mid-Mississippi River between Lock 11 at Dubuque, Iowa and St. Louis, inclusive.

(ii) The loaded barge(s) provided to the taker must have a value equivalent to C.I.F. NOLA, with the maker of delivery responsible for the equivalent cost, insurance and freight.

(iii) The taker of delivery shall pay the maker 18¢ per bushel for Chicago and Burns Harbor Switching District shipping certificates, 16¢ per bushel for Lockport-Seneca District shipping certificates. 15½¢ per bushel for Ottawa-Chillicothe District shipping certificates, 15¢ per bushel for Peoria-Pekin District shipping certificates, and 14 ½¢ per bushel for Havana-Grafton District shipping certificates as a reimbursement for the cost of barge freight.

(c) In the event that the obstruction or condition of impossibility listed in regulation 1081.01(12)(G)(8) will affect a

majority of regular shipping stations, but no announcement of the anticipated period of obstruction is made, then shipment may be delayed for the number of days that such impossibility prevails.

XS81.01(12)H Barge Load-Out Rates for Soybeans—(see 1081.01(12)(H)

XS81.01(13) Location—For the delivery of Soybeans, regular warehouses or shipping stations may be located within the Chicago Switching District or within the Burns Harbor, Indiana Switching District or within the Lockport—Senaca Shipping District or within the Ottawa—Chillicothe Shipping District or within the Peoria-Pekin Shipping District or within the Havana-Grafton Shipping District or in the St. Louis-East St. Louis and Alton Switching Districts.

No such warehouse or shipping station within the Chicago Switching District shall be declared regular unless it is conveniently approachable by vessels of ordinary draft and has customary shipping facilities. Ordinary draft shall be defined as the lesser of (1) channel draft as recorded in the Lake Calumet Harbor Draft Gauge, as maintained by the Corps of Engineers, U.S. Army, minus one (1) foot, or (2) 20 feet.

Delivery in Burns Harbor must be made "in store" in regular elevators or by shipping certificate at regular shipping stations providing water loading facilities and maintaining water depth equal to normal seaway draft of 27 feet.

In addition, deliveries of grain may be made in regular elevators or shipping stations within the Burns Harbor Switching District PROVIDED that:

(a) When grain represented by shipping certificates is ordered out for shipment by a barge, it will be the obligation of the party making delivery to protect the barge freight rate from the Chicago Switching District (i.e. the party making delivery and located in the Burns Harbor Switching District will pay the party taking delivery an amount equal to all expenses for the movement of the barge from the Chicago Switching District, to the Burns Harbor Switching District and the return movement back to the Chicago Switching District).

If inclement weather conditions make the warehouse or shipping station located in the Burns Harbor Switching District unavailable for barge loadings for a period of five or more calendar days, the party making delivery will make grain available on the day following this five calendar day period to load into a barge at one mutually agreeable water warehouse or shipping station located in the Chicago Switching District; PROVIDED that the party making delivery is notified on the first day of that five-day period of inclement weather that the barge is available for movement but cannot be moved from the Chicago Switching District to the Burns Harbor Switching District, and is requested on the last day of this five day calendar period in which the barge cannot be moved.

(b) When grain represented by shipping certificates is ordered out for shipment by vessel, and the party taking delivery is a recipient of a split delivery of grain between a warehouse or shipping station located in Burns Harbor and a warehouse or shipping station in Chicago, and the grain in the Chicago warehouse or shipping station will be loaded onto this vessel; it will be the obligation of the party making delivery at the request of the party taking delivery to protect the holder of the shipping certificates against any additional charges resulting from loading at one berth in the Burns Harbor Switching District and at one berth in the Chicago Switching District as compared to a single berth loading at one location. The party making delivery, at his option, will either make the grain available at one water warehouse or shipping station operated by the party making delivery and located in the Chicago Switching District for loading onto the vessel, make grain available at the warehouse or shipping station in Burns Harbor upon the surrender of shipping certificates issued by other regular elevators or shipping stations located in the Chicago Switching District at the time vessel loading orders are issued, or compensate the party taking delivery in an amount equal to all applicable expenses, including demurrage charges, if any, for the movement of the vessel between a berth in the other switching district. On the day that the grain is ordered out for shipment by vessel, the party making delivery will declare the regular warehouse or shipping station in which the grain will be available for loading.

Delivery within the Lockport-Seneca Shipping District or within the Ottawa-Chilicothe Shipping District or within the Peoria-Pekin Shipping District of within the Havana-Grafton Shipping District must be made at regular shipping station providing water loading facilities and maintaining water depth equal to the draft of the Illinois River maintained by the Corp of Engineers

Delivery in the St. Louis-East St. Louis and Alton Switching Districts must be made at regular shipping stations providing water loading facilities and maintaining water depth equal to the draft of the Mississippi River maintained by the Corp of Engineers.

XS81.01(14) Billing—(see 1081.01(14)A and 1081.01(14)D

XS81.01(15) through XS81.01(17)—(see 1081.01(15) through 1081.01(17))

XS81.01A Inspection (see 1081.01A)

XS81.01B Billing When Grain is Loaded Out (see 1081.01B)

XS81.01C Car of Specified Capacity (see 1081.01C)

XS82.01 Insurance (see 1082.00)

XS83.01 Variation Allowed (See 1083.00)

XS83.02 Excess or Deficiency in Quantity (see 1083.01)

XS84.0 Revocation, Expiration or Withdrawal of Regularity (see 1084.01)

XS85.01 Application for Declaration of Regularity (see 1085.01)

XS86.01 Federal Warehouses (see 1086.01)

Attachment 2—Proposed Corn Futures Contract Rules

Corn Futures

ChXC Trading Conditions

XC01.01 Application of Regulations—Transactions in Corn futures shall be subject to the General Rules of the Association as far as applicable and shall also be subject to Regulations contained in this chapter which are exclusively applicable to trading in Corn.

XC04.01 Unit of Trading—(see 1004.00)

XC05.01 Months Traded In—(see 1005.01A)

XC06.01 Price Basis—(see 1006.00 and 1006.01)

XC07.01 Hours of Trading—(see 1007.00 and 1007.02)

XC08.01 Trading Limits—(see 1008.01 and 1008.02)

XC09.01 Last Day of Trading—(see 1009.02 and 1009.03)

XC10.01 Margin Requirements—(see 431.03)

XC11.01 Disputes—All disputes between interested parties may be settled by arbitration as provided in the Rules and Regulations.

XC12.01 Position Limits and Reportable Positions—(see 425.01)

ChXC Delivery Procedures

XC36.00 Grade Differentials—(see 1036.00)

XC36.01 Corn Locational Delivery Differentials—Corn for shipment from regular shipping stations located within the Chicago Switching District or the Burns Harbor, Indiana

Switching District may be delivered in satisfaction of corn futures contracts at contract price, subject to the differentials for class and grade outlined above. Corn for shipment from regular shipping stations located within the Lockport-Seneca Shipping District may be delivered in satisfaction of corn futures contracts at a premium of 2¢ per bushel over contract price, subject to the differentials for class and grade outlined above. Corn for shipment from regular shipping stations located within the Ottawa-Chillicothe Shipping District may be delivered in satisfaction of corn futures contracts at a premium of 2 ½¢ per bushel over contract price, subject to the differentials for class and grade outlined above. Corn for shipment from regular shipping stations located within the Peoria-Pekin Shipping District may be delivered in satisfaction of corn futures contracts at a premium of 3¢ per bushel over contract price, subject to the differentials for class and grade outlined above.

XC38.01 Grades—(see 1038.00 and 1038.01)

XC41.00 Delivery Points—Corn Shipping Certificates shall specify shipment from one of the warehouses or shipping stations currently regular for delivery and located in one of the following territories:

A. Chicago and Burns Harbor, Indiana Switching District—When used in these Rules and Regulations, the Chicago Switching District will be that area geographically defined by Tariff ICC WTL 8020-Series and that portion of the Illinois Waterway at or above river mile 304 which includes the Calumet Sag Channel and the Chicago Sanitary & Ship Canal. When used in these Rules and Regulations, Burns Harbor, Indiana Switching District will be that area geographically defined by the boundaries of Burns Waterway Harbor at Burns Harbor, Indiana which is owned and operated by the Indiana Port Commission.

B. Lockport-Seneca Shipping District—When used in these Rules and Regulations, the Lockport-Seneca Shipping District will be that portion of the Illinois Waterway below river mile 304 at the junction of the Calumet Sag Channel and the Chicago Sanitary & Ship Canal and above river mile 244.6 at the Marseilles Lock and Dam. Shipping stations within the Lockport-Seneca Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

C. Ottawa-Chillicothe Shipping District—When used in these Rules and Regulations, the Ottawa-Chillicothe Shipping District will be that portion of the Illinois Waterway below river mile 244.6 at the Marseilles Lock and Dam and at or above river mile 170 between Chillicothe and Peoria, IL. Shipping stations within the Ottawa-Chillicothe Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

D. Peoria-Pekin Shipping District—When used in these Rules and Regulations, the Peoria-Pekin Shipping District will be that portion of the Illinois Waterway below river mile 170 between Chillicothe and Peoria, IL and above river mile 151 at Pekin, IL. Shipping stations within the Peoria-Pekin Shipping District must deliver 5,000 bushel shipping certificates of a like kind and quality of grain in multiples of 55,000 bushels against the futures contracts.

XC43.01 Deliveries by Corn Shipping Certificate—(see 1043.01)

XC43.02 Registration of Corn Shipping Certificates—(see 1043.02)

XC43.03 Reissuance of Shipping Certificates—(see 1043.03)

XC44.01 Certificate Format—The following form of Corn Shipping Certificate shall be used with proper designation, indicating shipping station.

Board of Trade of The City of Chicago Corn Shipping Certificate For Delivery in Satisfaction of Contract for 5,000 Bushels of Corn

This certificate not valid unless registered by the Registrar of the Board of Trade of the City of Chicago.

_____
(grade)
Corn Shipping Station of _____
Located at _____

Registered total daily rate of loading of _____ bushels.

Total rate of loading per day shall be in accordance with Regulation 1081.01(12) G and H. A premium change of $_____ cents per bushel per calendar day for each day is to be assessed starting the day after registration by the Registrar of this Certificate through the business day loading is complete.

For value received and receipt of this document properly endorsed and lien for payment of premium charges the undersigned shipper, regular for delivery under the Rules and Regulations of the Board of Trade of the City of Chicago, hereby agrees to deliver 5,000 bushels of Corn in bulk conforming to the standards of the Board of Trade of the City of Chicago and ship said Corn in accordance with orders of the lawful owner of this document and in accordance with Rules and Regulations of the Board of Trade of the City of Chicago. Delivery shall be by water or rail conveyance according to the registered loading capability of the shipper.

Signed at _____ this _____ day of _____, 19____

____ Chicago, IL or Burns Harbor, IN Switching District
____ Lockport-Seneca Shipping District
____ Ottawa-Chillicothe Shipping District
____ Peoria-Pekin Shipping District

By _____
Authorized Signature of Issuer

Registration date _____
Registrar's Number _____
Registrar for Corn
Board of Trade of the City of Chicago

Registration canceled for purpose of shipment of Corn by owner of certificate or by issuer of certificate for purpose of withdrawal of certificate.

Cancellation Date _____

_____
Registrar

All premium charges have been paid on Corn covered by this certificate from date of registration, not counting date of registration but counting date of payment.

Date_____ by _____
Date_____ by _____
Date_____ by _____
Date_____ by _____

Delivery of this Corn Shipping Certificate to issuer is conditioned upon loading of Corn in accordance with Rules and Regulations of the Board of Trade of the City of Chicago and a lien is claimed until all loadings are complete and proper shipping documents presented accompanying demand draft for freight and premium charges due which I (we) agree to honor upon presentation.

_____
Owner of this Corn Shipping Certificate or his duty authorized agent

Date_____, 19____

XC46.01 Location for Buying or Selling Delivery Instruments—(see 1046.00A)

XC47.01 Delivery Notices—(see 1047.01)

XC48.01 Method of Delivery—(see 1048.01)

XC49.01 Time of Delivery, Payment, Form of Delivery Notice—(see 1049.00)

XC49.02 Time of Issuance of Delivery Notice—(see 1049.01)

XC49.03 Buyer's Report of Eligibility to Receive Delivery—(see 1049.02)

XC49.04 Seller's Invoice to Buyers—(see 1049.03)

XC49.05 Payment—(see 1049.04)

XC50.01 Duties of Members—(see 1050.00)

XC51.01 Office Deliveries Prohibited—(see 1051.01)

XC54.01 Failure to Accent Delivery—(see 1054.00 and 1054.00A)

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XC56.01 Payment of Premium Charges—To be valid for delivery on futures contracts, all shipping certificates covering Corn under obligation for shipment must indicate the applicable premium charge. No shipping certificates shall be valid for delivery on futures contracts unless the premium charges on such Corn shall have been paid up to and including the 18th calendar day of the preceding month, and such payment endorsed on the shipping certificate. Unpaid accumulated premium charges at the posted rate applicable to the warehouse or shipping station where the grain under obligation for shipment shall be allowed and credited to the buyer by the seller to and including date of delivery. Further, no shipping certificate shall be valid for delivery if the shipping certificate has expired prior to delivery or has an expiration date in the month in which delivered.

If premium charges are not paid on-time up to and including the 18th calendar day preceding the delivery months of March, July and September and by the first calendar day of each of these delivery months, a late charge will apply. The late charge will be an amount equal to the total unpaid accumulated premium charges rates multiplied by the "prime interest rate" in effect on the day that the accrued premium charges are paid plus a penalty of 5 percentage points, all multiplied by the number of calendar days that premium is overdue, divided by 360 days. The terms "prime interest rate" shall mean the lowest of the rates announced by each of the following four banks at Chicago, Illinois, at its "prime rate": Bank of America-Illinois, The First National Bank of Chicago, Harris Trust & Savings Bank, and the Northern Trust Company.

The premium charges on Corn for delivery from regular shippers within the Chicago Switching District or the Burns Harbor, Indiana Switching District shall not exceed 12/100 of one cent per bushel per day.

The premium charges on Corn for delivery from regular shippers within the Lockport-Seneca Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Corn for delivery from regular shippers within the Ottawa-Chillicothe Shipping District shall not exceed 10/100 of one cent per bushel per day.

The premium charges on Corn for delivery from regular shippers within the Peoria-Pekin Shipping District shall not exceed 10/100 of one cent per bushel per day.

ChXC Regularity of Issuers of Shipping Certificates

XC81.01 Regularity of Warehouses and Issuers of Shipping Certificates—Persons operating grain warehouses or shippers who desire to have such warehouses or shipping stations made regular for the delivery of grain under the Rules and Regulations shall make application for an initial Declaration of Regularity on a form prescribed by the Exchange prior to May 1, 1994, and every even year thereafter, for a two-year term beginning July 1, 1994, and every even year thereafter, and at any time during a current term for the balance of that term. Regular grain warehouses or shippers who desire to increase their regular capacity during a current term shall make application for the desired amount of total regular capacity on the same form. Initial regularity for the current term and increases in regularity shall be effective either thirty days after a notice that a bona fide application has been received is posted on the floor of the exchange, or the day after the application is approved by the Exchange, whichever is later. Applications for a renewal of regularity shall be made prior to May 1, 1994, and every even year thereafter, for the respective years beginning July 1, 1994, and every even year thereafter, and shall be on the same form.

The following shall constitute the requirements and conditions for regularity:

(1) The warehouse or shipping station making application shall be inspected by the Registrar or the United States Department of Agriculture. Where application is made to list as regular a warehouse which is not regular at the time of such application, the applicant may be required to remove all grain from the warehouse and to permit the warehouse to be inspected and the grain graded, after which such grain may be returned to the warehouse and receipts issued therefor.

The operator of a shipping station issuing Corn Shipping Certificates shall limit the number of Shipping Certificates issued to an amount not to exceed:

(a) 30 times his registered total daily rate of loading barges,

(b) a value greater than 25 percent of the operator's net worth,

(c) and in the case of Chicago, Illinois and Burns Harbor, Indiana Switching Districts only, his registered storage capacity.

The shipper issuing Corn Shipping Certificates shall register his total daily rate of loading barges at his maximum 8 hour loadout capacity in an amount not less than:

(a) one barge per day at each shipping station within the Lockport-Seneca Shipping District, within the Ottawa-Chillicothe Shipping District, and within the Peoria-Pekin Shipping District and

(b) three barges per day at each shipping station in the Chicago, Illinois and Burns Harbor, Indiana Switching District.

(2) Shippers located in the Chicago, Illinois and Burns Harbor, Indiana Switching District shall be connected by railroad tracks with one or more railway lines.

XC81.01(3) through XC81.01(12)G(8)–(see 1081.01(3) through 1081.01(12)G(8))

XC81.01(12)G(9) In the event that it has been announced that river traffic will be obstructed for a period of fifteen days or longer as a result of one of the conditions of impossibility listed in regulation XC81.01(12)(G)(8) and in the event that the obstruction will affect a majority of regular shipping stations, then the following barge load-out procedures for corn shall apply to shipping stations upriver from the obstruction:

(a) The maker and taker of delivery may negotiate mutually agreeable terms of performance.

(b) If the maker and/or the taker elect not to negotiate mutually agreeable terms of performance, then the maker is obligated to provide the same quantity and like quality of grain pursuant to the terms of the shipping certificate(s) with the following exceptions and additional requirements:

(i) The maker must provide loaded barge(s) to the taker on the Illinois River between the lowest closed lock and St. Louis, inclusive, or on the Mid-Mississippi River between Lock 11 at Dubuque, Iowa and St. Louis, inclusive.

(ii) The loaded barge(s) provided to the taker must have a value equivalent to C.I.F. NOLA, with the maker of delivery responsible for the equivalent cost, insurance and freight.

(iii) The taker of delivery shall pay the maker 18¢ per bushel for Chicago and Burns Harbor Switching District shipping certificates, 16¢ per bushel for Lockport-Seneca District shipping certificates, 15½¢ per bushel for Ottawa-Chillicothe District shipping certificates, and 15¢ per bushel for Peoria-Pekin District shipping certificates as a reimbursement for the cost of barge freight.

(c) In the event that the obstruction or condition of impossibility listed in

regulation XC81.01(12)(G)(8) will affect a majority of regular shipping stations, but no announcement of the anticipated period of obstruction is made, then shipment may be delayed for the number of days that such impossibility prevails.

XC81.01(12)H Barge Load-Out Rates for Corn—(see 1081.01(12)H)

XC81.01(13) Location—For the delivery of corn, regular warehouses or shipping stations may be located within the Chicago Switching District or within the Burns Harbor, Indiana Switching District or within the Lockport-Seneca Shipping District, or within the Ottawa-Chillicothe Shipping District or within the Peoria-Pekin Shipping District.

No such warehouse or shipping station within the Chicago Switching District shall be declared regular unless it is conveniently approachable by vessels of ordinary draft and has customary shipping facilities. Ordinary draft shall be defined as the lesser of (1) channel draft as recorded in the Lake Calumet Harbor Draft Gauge, as maintained by the Corps of Engineers, U.S. Army, minus one (1) foot, or (2) 20 feet.

Delivery in Burns Harbor must be made "in store" in regular elevators or by shipping certificate at regular shipping stations providing water loading facilities and maintaining water depth equal to normal seaway draft of 27 feet.

In addition, deliveries of grain may be made in regular elevators or shipping stations within the Burns Harbor Switching District PROVIDED that:

(a) When grain represented by shipping certificates is ordered out for shipment by a barge, it will be the obligation of the party making delivery to protect the barge freight rate from the Chicago Switching District (i.e. the party making delivery and located in the Burns Harbor Switching District will pay the party taking delivery an amount equal to all expenses for the movement of the barge from the Chicago Switching District, to the Burns Harbor Switching District and the return movement back to the Chicago Switching District).

If inclement weather conditions make the warehouse or shipping station located in the Burns Harbor Switching District unavailable for barge loadings for a period of five or more calendar days, the party making delivery will make grain available on the day following this five calendar day period to load into a barge at one mutually agreeable water warehouse or shipping station located in the Chicago Switching District; PROVIDED that the party making delivery is notified on the first day of that five-day period of inclement weather that the barge is available for movement but cannot be moved from the Chicago Switching District to the Burns Harbor Switching District, and is requested on the last day of this five day calendar period in which the barge cannot be moved.

(b) When grain represented by shipping certificates is ordered out for shipment by vessel, and the party taking delivery is a recipient of a split delivery of grain between a warehouse or shipping station located in Burns Harbor and a warehouse or shipping station in Chicago, and the grain in the Chicago warehouse or shipping station will be loaded onto this vessel; it will be the obligation of the party making delivery at the request of the party taking delivery to protect the holder of the shipping certificates against any additional charges resulting from loading at one berth in the Burns Switching District and at one berth in the Chicago Switching District as compared to a single berth loading at one location. The party making delivery, at his option, will either make the grain available at one water warehouse or shipping station operated by the party making delivery and located in the Chicago Switching District for loading onto the vessel, make grain available at the warehouse or shipping station in Burns Harbor upon the surrender of shipping certificates issued by other regular elevators or shipping stations located in the Chicago Switching District at the time vessel loading orders are issued, or compensate the party taking delivery in an amount equal to all applicable expenses, including demurrage charges, if any, for the movement of the vessel between a berth in the other switching district. On the day that the grain is ordered out for shipment by vessel, the party making delivery will declare the regular warehouse or shipping station in which the grain will be available for loading.

Delivery within the Lockport-Seneca Shipping District, or within the Ottawa-Chillicothe Shipping District or within the Peoria-Pekin Shipping District must be made at regular shipping stations providing water loading facilities and maintaining water depth equal to the draft of the Illinois River maintained by the Corp of Engineers.

XC81.01(14) Billing—(see 1081.01(14)A and 1081.01(14)D)

XC81.01(15) through XC81.01(17)—(see 1081.01(15) through 1081.01(17))

XC81.01A Inspection (see 1081.01A)

XC81.01B Billing When Grain is Loaded Out (see 1081.01B)

XC81.01C Car of Specified Capacity (see 1081.01C)

XC82.01 Insurance (see 1082.00)

XC83.01 Variation Allowed (see 1083.00)

XC83.02 Excess or Deficiency in Quantity (see 108.01)

XG84.01 Revocation, Expiration or Withdrawal of Regularity (see 1084.01)

XC85.01 Application for Declaration of Regularity (see 1085.01)

XC86.01 Federal Warehouses (see 1086.01)

[FR Doc. 98–13335 Filed 5–21–98; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 26, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13865 Filed 5–20–98; 12:55 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 19, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13866 Filed 5–20–98; 12:55 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 12, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13867 Filed 5–20–98; 12:54 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 15, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13868 Filed 5–20–98; 12:54 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 29, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13869 Filed 5–20–98; 12:54 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 22, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13870 Filed 5–20–98; 12:53 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 15, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13871 Filed 5–20–98; 12:53 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 8, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13872 Filed 5–20–98; 12:53 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 1:00 p.m., Monday, June 1, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13873 Filed 5–20–98; 12:53 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Thursday, May 28, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–13874 Filed 5–20–98; 12:53 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Historical Records Declassification Advisory Panel

AGENCY: Department of Defense, Historical Advisory Committee.

ACTION: Notice.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Historical Records Declassification Advisory Panel. The purpose of this meeting is to discuss recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit if declassified. The OSD Historian will chair these meetings.

DATE: Friday, June 19, 1998.

TIME: Meeting will begin at 9:00 a.m.

ADDRESS: The National Archives Building, Room 410, 7th and Pennsylvania Avenue, N.W., Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Cynthia Kloss, Room 3C281, Office of the Deputy Assistant Secretary of Defense (Intelligence & Security), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20301–6000, telephone (703) 695–2289/2686.

Dated: May 18, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13713 Filed 5–21–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Service Committee on Military Justice: Public Meeting

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the 1998 annual public meeting of the JSC. This notice also describes the functions of the JSC.

DATES AND TIMES: Wednesday, 15 July 1998 at 2:00 p.m.

ADDRESSES: Room 808, 1501 Wilson Blvd, Arlington, VA 22209–2403.

FUNCTION: The JSC was established by the Judge Advocates General in 1972. The JSC currently operates under Department of Defense Directive 5500.17, May 8, 1996. The function of the JSC is to improve military justice through preparation and evaluation of proposed amendments and changes to the Uniform Code of Military Justice and the Manual for Courts-Martial.

AGENDA: The JSC will receive public comment concerning its 1998 draft review of the Manual for Courts-Martial as published on May 11, 1998.

This notice is provided in accordance with DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 8, 1996. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

FOR FURTHER INFORMATION CONTACT: LtCol Thomas C. Jaster, U.S. Air Force, Air Force Legal Services Agency, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332–8000, (202) 767–1539; FAX (202) 404–8755.

Dated: May 18, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–13714 Filed 5–21–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (As of April 1998)

Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of April 1998, include the installation and state where the cost comparison is being performed, the total authorizations under study, public announcement date and anticipated solicitation date. The following initiatives are in various stages of completion.

COST COMPARISONS

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation scheduled for
EIELSON AFB	AK	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	10	18–Oct–96	01–Jul–98
ELMENDORF AFB	AK	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	16	28–Jul–97	06–Apr–98
EIELSON AFB	AK	MILITARY FAMILY HOUSING MANAGEMENT	16	17–Nov–97	17–May–98
ELMENDORF AFB	AK	MILITARY FAMILY HOUSING MANAGEMENT	22	19–Sep–96	15–Apr–98
MARCH AFB	CA	BASE OPERATING SUPPORT	228	06–Jan–98	11–Apr–99
VANDENBERG AFB	CA	BASE OPERATING SUPPORT	211	29–Jul–96	15–Jan–98
VANDENBERG AFB	CA	CIVIL ENGINEERING	5	29–Jul–96	01–Nov–97
VANDENBERG AFB	CA	CIVIL ENGINEERING MATERIAL ACQUISITION.	12	06–May–96	30–Oct–97
LOS ANGELES AFS	CA	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	85	01–Jul–97	30–Jul–98
LOS ANGELES AFS	CA	HOUSING MANAGEMENT	10	01–Jul–97	30–Jul–98
TRAVIS AFB	CA	MILITARY FAMILY HOUSING MAINTENANCE	38	05–May–97	25–Jun–97
LOS ANGELES AFS	CA	SERVICES ACTIVITIES	8	01–Jul–97	30–Jul–98
VANDENBERG AFB	CA	STRUCTURAL MAINTENANCE	32	06–May–96	30–Oct–97
VANDENBERG AFB	CA	TRAINER FABRICATION	12	24–Nov–97	01–Jan–99
ONIZUKA AFB	CA	UTILITIES PLANT	25	06–May–96	01–Nov–97
BUCKLEY ANGB	CO	AIRFIELD MANAGEMENT	34	22–Mar–95	01–Jul–98
PETERSON AFB	CO	BASE OPERATING SUPPORT	121	29–Jul–96	03–Jul–97
BUCKLEY ANGB	CO	CIVIL ENGINEERING	55	24–Nov–97	01–Jan–99
PETERSON AFB	CO	CIVIL ENGINEERING MATERIAL ACQUISITION.	8	29–Jul–96	09–Jan–98
FALCON AFB	CO	UTILITIES PLANT	21	06–May–96	01–Nov–97
DOVER AFB	DE	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	24	05–Sep–97	02–Jun–98
HOMESTEAD ARB	FL	BASE OPERATING SUPPORT	138	06–Jan–98	11–May–99
EGLIN AFB	FL	CIVIL ENGINEERING	96	03–Dec–96	15–Apr–98

COST COMPARISONS—Continued

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation scheduled for
MACDILL AFB	FL	CIVIL ENGINEERING	310	06–Nov–97 ..	26–Jan–99
HURLBURT FIELD	FL	COMMUNICATION FUNCTIONS	24	12–Nov–97 ..	
HURLBURT FIELD	FL	ENVIRONMENTAL	13	23–Sep–97 ..	20–Jul–98
PATRICK AFB	FL	HOUSING MANAGEMENT	7	29–Jul–96 ...	15–Jan–98
DOBBINS ARB	GA	BASE OPERATING SUPPORT	120	06–Jan–98 ..	02–Mar–98
ROBINS AFB	GA	EDUCATION SERVICES	29	28–Feb–97 ..	28–Feb–98
RAMSTEIN AB	GERMY	MESS ATTENDANTS	33	10–Jul–96 ...	01–Mar–97
SPANGDAHLEM AB	GERMY	MESS ATTENDANTS	16	10–Jul–96 ...	01–Mar–97
RAMSTEIN AB	GERMY	MILITARY FAMILY HOUSING MAINTENANCE	142	19–Jun–97 ..	01–Mar–98
HICKAM AFB	HI	BASE OPERATING SUPPORT	503	11–Mar–97 ..	15–May–98
SCOTT AFB	IL	BASE SUPPLY	108	03–Jun–97 ..	28–Aug–98
SCOTT AFB	IL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	181	19–Mar–98...	
SCOTT AFB	IL	MEDICAL FACILITY MAINTENANCE	8	09–Jan–98 ..	16–Jun–98
GRISSOM AFB	IN	BASE OPERATING SUPPORT	162	06–Jan–98 ..	08–Jan–99
NEW ORLEANS NAS	LA	BASE OPERATING SUPPORT	59	13–Jun–96 ..	10–Aug–99
WESTOVER AFB	MA	BASE OPERATING SUPPORT	189	06–Jan–98 ..	10–May–98
HANSCOM AFB	MA	COMMUNICATION FUNCTIONS	93	28–Feb–97 ..	15–Apr–98
HANSCOM AFB	MA	DATA PROCESSING	18	28–Feb–97 ..	15–Apr–98
ANDREWS AFB	MD	AIRCRAFT MAINTENANCE AND SUPPLY	846	25–Jul–97 ...	21–Dec–98
ANDREWS AFB	MD	MEDICAL FACILITY MAINTENANCE	11	09–Oct–97 ..	04–Sep–98
MINN/ST PAUL IAP ARS	MN	BASE OPERATING SUPPORT	92	06–Jan–98 ..	11–Aug–98
KEESLER AFB	MS	TECHNICAL TRAINING CENTER EQUIPMENT MAINTENANCE.	253	13–Jun–96 ..	25–Aug–97
MALMSTROM AFB	MT	BASE COMMUNICATIONS	72	06–Oct–97 ..	01–Jan–99
MALMSTROM AFB	MT	BASE SUPPLY	149	06–May–96	20–Dec–97
MALMSTROM AFB	MT	HEATING SYSTEMS	36	24–Nov–97 ..	01–Jan–99
MULTIPLE INSTALLATIONS:	MULT:	ADMINISTRATIVE SWITCHBOARD	94	19–Jun–97 ..	06–Jul–98
RAF MILDENHALL	UKING				
RAMSTEIN AB	GERMY				
SEMBACH AB	GERMY				
SPANGDAHLEM AB	GERMY				
MULTIPLE INSTALLATIONS:	MULT:	GENERAL LIBRARY	23	29–Jul–97 ...	01–Apr–98
F E WARREN AFB	WY				
MALMSTROM AFB	MT				
PATRICK AFB	FL				
PETERSON AFB	CO				
VANDENBERG AFB	CA				
MULTIPLE INSTALLATIONS:	MULT:	TECHNICAL TRAINING-ELECTRONIC PRINCIPLES.	157	03–Dec–96 ..	12–Sep–97
KEESLER AFB	MS	TRAINING.			
LACKLAND AFB	TX				
NEW BOSTON AS	NH	BASE OPERATING SUPPORT	48	03–Dec–97 ..	16–Dec–98
NIAGRA FALLS IAP	NY	BASE OPERATING SUPPORT	29	06–Jan–98 ..	30–Jan–98
OFFUTT AFB	NE	DATA AUTOMATION	346	24–Sep–97 ..	29–May–98s
KIRTLAND AFB	NM	BASE COMMUNICATIONS	228	06–Nov–97 ..	12–Jul–98
KIRTLAND AFB	NM	BASE SUPPLY	170	02–May–96	01–Jul–97
KIRTLAND AFB	NM	COMMUNICATION FUNCTIONS	54	29–Apr–97 ..	02–Feb–98
CANNON AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE	21	16–Apr–96 ..	23–Jul–97
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE	66	12–May–97	07–Jul–98
WRIGHT PATTERSON AFB	OH	ACADEMIC AND PLATFORM INSTRUCTIONS	115	15–Aug–97 ..	08–Sep–98
YOUNGSTOWN REGIONAL AIRPORT ARS.	OH	BASE OPERATING SUPPORT	89	13–Jun–96 ..	12–Jun–99
WRIGHT PATTERSON AFB	OH	CIVIL ENGINEERING	698	15–Aug–97 ..	08–Sep–98
TINKER AFB	OK	CIVIL ENGINEERING	567	15–Apr–97 ..	13–Feb–98
GREATER PITTSBURG IAP	PA	BASE OPERATING SUPPORT	97	13–Jun–96 ..	09–Feb–99
WILLOW GROVE ARS	PA	BASE OPERATING SUPPORT	67	13–Jun–96 ..	11–Nov–98
CHARLESTON AFB	SC	MILITARY FAMILY HOUSING MAINTENANCE	14	23–Sep–97 ..	20–Jun–98
SHAW AFB	SC	MILITARY FAMILY HOUSING MAINTENANCE	33	09–Jul–97 ...	09–Jun–98
CARSWELL AFB	TX	BASE OPERATING SUPPORT	80	13–Jun–96 ..	06–Feb–99
BROOKS AFB	TX	LABORATORY SUPPORT SERVICES	44	02–May–96	24–Jul–97
HILL AFB	UT	HEATING SYSTEMS	38	29–Apr–97 ..	24–Jun–98
HILL AFB	UT	RECREATIONAL SUPPORT	7	02–May–96	24–Jun–98
LANGLEY AFB	VA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	18	05–Feb–98 ..	01–Jun–98
LANGLEY AFB	VA	MILITARY FAMILY HOUSING MAINTENANCE	16	24–Nov–97 ..	15–May–98
MCCHORD AFB	WA	HEATING SYSTEMS	11	23–Sep–97 ..	01–Oct–98
MCCHORD AFB	WA	MILITARY FAMILY HOUSING MAINTENANCE	15	23–Sep–97 ..	01–Oct–98
GENERAL MITCHELL IAP ARS	WI	BASE OPERATING SUPPORT	81	13–Jun–96 ..	11–Jul–98

COST COMPARISONS—Continued

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation scheduled for
F E WARREN AFB	WY	BASE COMMUNICATIONS	76	30-Oct-97	01-Jan-99
F E WARREN AFB	WY	BASE SUPPLY	157	01-Aug-96	01-Jan-98
F E WARREN AFB	WY	HEATING SYSTEMS	18	06-May-96	12-Mar-98

DIRECT CONVERSIONS

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation scheduled for
EIELSON AFB	AK	TRANSIENT AIRCRAFT MAINTENANCE	14	18-Oct-96	01-Jul-98
ELMENDORF AFB	AK	TRANSIENT AIRCRAFT MAINTENANCE	12	10-Nov-97	12-Jun-98
DAVIS MONTHAN AFB	AZ	CIVIL ENGINEERING	5	24-Jan-97	30-Apr-98
DAVIS MONTHAN AFB	AZ	GENERAL LIBRARY	6	24-Jan-97	30-Apr-98
VANDENBERG AFB	CA	CIVIL ENGINEERING	9	29-Jul-96	16-Dec-97
TRAVIS AFB	CA	ENVIRONMENTAL	11	23-Sep-97	30-Sep-98
TRAVIS AFB	CA	FURNISHINGS MANAGEMENT	3	14-Mar-97	26-Feb-98
LOS ANGELES AFS	CA	PACKING AND CRATING	4	01-Jul-97	30-Apr-98
FALCON AFB	CO	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	209	06-May-96	05-Jan-98
FALCON AFB	CO	ENGINEERING DATA CENTER	6	17-Nov-97	05-Jan-99
PETERSON AFB	CO	PACKING AND CRATING	9	10-Sep-97	01-Sep-98
PATRICK AFB	FL	CIVIL ENGINEERING MATERIAL ACQUISITION	6	06-May-96	30-Oct-97
MACDILL AFB	FL	MEDICAL TRANSCRIPTION CENTER	5	03-Jun-97	03-Oct-97
PATRICK AFB	FL	TRANSIENT AIRCRAFT MAINTENANCE	11	10-Sep-97	05-Jan-99
SCOTT AFB	IL	GROUNDS MAINTENANCE	3	17-Mar-97	01-Oct-98
AVIANO AB	ITALY	WAR RESERVE MATERIEL (WRM)	30	16-Aug-96	
BARKSDALE AFB	LA	CIVIL ENGINEERING	6	11-Jun-97	01-Jun-98
BARKSDALE AFB	LA	GENERAL LIBRARY	6	11-Jun-97	15-May-98
BARKSDALE AFB	LA	HOSPITAL SERVICES	3	01-Dec-97	15-Feb-98
ANDREWS AFB	MD	SOFTWARE PROGRAMMING	23	18-Jun-97	28-Jul-98
MULTIPLE INSTALLATIONS:	MULT:	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	27	21-Feb-96	13-Nov-97
PRUEM AB	GERMY				
RAMSTEIN AB	GERMY				
SPANDAHLEM	GERMY				
MULTIPLE INSTALLATIONS:	MULT:	MAINTENANCE DATA AND TECHNICAL ORDER LIBRARY.	67	29-Jul-96	30-Sep-97
F E WARREN AFB	WY				
MALMSTROM AFB	MT				
MINOT AFB	ND				
VANDENBERG AFB	CA				
MCGUIRE AFB	NJ	GENERAL LIBRARY	6	17-Mar-97	28-May-98
SEYMOUR JOHNSON AFB	NC	GENERAL LIBRARY	7	11-Jun-97	14-Oct-97
SEYMOUR JOHNSON AFB	NC	TRANSIENT AIRCRAFT MAINTENANCE	8	12-Nov-97	25-Nov-98
OFFUTT AFB	NE	HOSPITAL MAINTENANCE	7	01-May-96	01-Mar-97
OFFUTT AFB	NE	PROTECTIVE COATING	8	11-Jun-97	01-May-98
NELLIS AFB	NV	WEAPONS SYSTEMS TRAINER OPERATIONS	14	12-Jun-97	07-Nov-97
KIRTLAND AFB	NM	DORMITORY MANAGEMENT	6	28-Feb-97	26-Mar-98
TINKER AFB	OK	GENERAL LIBRARY	5	01-Jul-96	06-Apr-98
ALTUS AFB	OK	MEDICAL STENOGRAPHY	2	17-Nov-97	10-Apr-98
NORTH FIELD AUXILIARY ACR FIELD.	SC	GROUNDS MAINTENANCE	1	14-Mar-97	27-Apr-98
CHARLESTON AFB	SC	HEATING SYSTEMS	9	14-Mar-97	18-May-98
INCIRLIK AB	TURKY	BASE OPERATING SUPPORT	220	08-Sep-97	21-Jul-97
INCIRLIK AB	TURKY	COMMUNICATION FUNCTIONS	56	08-Sep-97	01-May-98
RANDOLPH AFB	TX	FLYING TRAINING	45	20-Jan-98	03-Aug-98
RANDOLPH AFB	TX	GENERAL LIBRARY	7	03-Dec-96	15-Apr-98
HILL AFB	UT	FACILITIES SERVICES MAINTENANCE	4	10-Mar-97	24-Jun-98
HILL AFB	UT	GENERAL LIBRARY	5	02-May-96	02-May-98
HILL AFB	UT	HOUSING MANAGEMENT	8	10-Mar-97	24-Jun-98
LANGLEY AFB	VA	HOSPITAL SERVICES	6	01-Dec-97	15-Apr-98
MCCHORD AFB	WA	GENERAL LIBRARY	6	17-Mar-97	03-Oct-98
MCCHORD AFB	WA	GROUNDS MAINTENANCE	9	17-Mar-97	01-Apr-98
F E WARREN AFB	WY	FOOD SERVICES	17	29-Jul-97	01-Dec-98
F E WARREN AFB	WY	HOUSING MANAGEMENT	8	24-Nov-97	01-Jan-99

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–13645 Filed 5–21–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

The Community College of the Air Force (CCAF) Board of Visitors Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on June 4, 1998 at 8:00 a.m. on the First Floor Conference Room, 363 Training Squadron, Bldg. 1025, Missile Road, Sheppard Air Force Base, Texas. The meeting will be open to the public.

The purpose of the meeting is to review and discuss academic policies and issues relative to the operation of the CCAF. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact 1st Lt Cornel Taite, Designated Federal Officer for the Board, at the address below no later than 4:00 p.m. on May 25,1998. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to 1st Lt Cornel Taite no later than three days prior to the time of the board meeting for distribution. Visual aids must be submitted to 1st Lt Cornel Taite on a 3 ½" computer disc in Microsoft PowerPoint format no later than 4:00 p.m. on May 25, 1998 to allow sufficient time for virus scanning and formatting of the slides.

For further information, contact Lieutenant Cornel Taite, (334) 953–7322, Community College of the Air Force, 130 West Maxwell Boulevard, Maxwell Air Force Base, Alabama, 36112–6613, or through electronic mail at cotaite@max1.au.af.mil.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–13667 Filed 5–21–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of no Significant Impact for the Realignment of Missions and Personnel at Fort Meade, Maryland

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended relocating the Defense Investigative Service (DIS) from Fort Holabird, Maryland, to a new facility to be built on Fort Meade, Maryland, and closing the leased space at Crown Ridge in Fairfax County, Virginia, and relocating the Information Systems Software Center (ISSC) to Fort Meade. ISSC has two component elements, the Software Development Center-Washington (SDC–W) and the Executive Software Systems Directorate (ESSD). The Commission also recommended realigning Fort Meade by eliminating inpatient services at Kimbrough Army Community Hospital (KACH) and reducing the facility to a clinic and outpatient surgical center.

An Environmental Assessment (EA) examined the proposed transfer of personnel and missions to 445 civilian and 67 military positions and Form 71 civilian and 57 military positions at Fort Meade, Maryland. Plans for relocation include construction of a new facility for the DIS in the Central Administrative Area and renovation of a portion of Pershing Hall to house the ISSC elements of SDC–W and ESSD. This allows for construction of DIS in a developed area and collocates the two ISSC functions in the same building, enhancing mission effectiveness.

No significant adverse impacts are anticipated from any of the alternatives analyzed in the EA. All of the alternatives, including the Army's preferred alternative, could result in some minor adverse impacts that can be avoided or minimized. Minor adverse impacts may occur in the areas of noise, stormwater, soil, traffic and transportation, and asbestos and lead-based paint management. Noise will be minimized by limiting construction hours. Stormwater and soil erosion control plans will minimize impacts to water resources. Asbestos and lead-based paint, if encountered during renovation, will be removed, encapsulated, or disposed of in accordance with all applicable laws. Additionally, the Fort Meade Transportation Master Plan will reduce impacts on traffic. Unsuitable soil, wetlands and cultural resources are present only on the DIS Alternative B site and would be avoided if that site were selected. Section 106 consultation with the Maryland State Historic Preservation Office has been completed for the preferred alternative sites.

Therefore, based on the analysis found in EA, which was incorporated into the Finding of No Significant Impact (FNSI), it has been determined that implementation of the proposed action will not have significant individual or cumulative impacts on the quality of the natural or the human environment. Because no significant environmental impacts will result from implementation of the proposed action, an Environmental Impact Statement is not required and will not be prepared.

DATES: Public comments must be submitted on or before June 22, 1998. The Army will not initiate the proposed action for 30 days following completion of the EA and publication of this Notice of Availability.

ADDRESSES: Individuals wishing to review the EA may obtain a copy and may provide comments during this 30-day period by writing to the U.S. Army Corps of Engineers, ATTN: Ms. Maria de la Torre (CENAB–PL–E), P.O. Box 1715, Baltimore, Maryland 21203–1715 or by sending a telefax to (410) 962–4698. Individuals wishing to review the EA may examine a copy at the following locations: Fort George G. Meade Library, Building 4418, Fort Meade, Maryland; and the Provinces Library, 2624 Annapolis Road, Severn, Maryland.

Dated: May 14, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 98–13723 Filed 5–21–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Release of the Notice of Availability on the Final Environmental Impact Statement (Final EIS) on the Disposal and Reuse of Fort Ritchie, Maryland

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The proposed action evaluated by this Final EIS is the disposal of Fort Ritchie, Maryland, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510.

The EIS analyzes the environmental consequences of the disposal and subsequent reuse of the 638 acres comprising Fort Ritchie. Two disposal alternatives were analyzed: (1) The No Action Alternative, which entails maintaining the property in caretaker status after closure; and (2) the Encumbered Disposal Alternative, which entails transferring the property to future owners with Army-imposed limitations, or encumbrances, on the future use of the property. Additionally, the Final EIS analyses the potential environmental and socioeconomic consequences of three reuse alternatives: (1) Low Intensity Reuse Alternative; (2) Low-Medium Intensity Reuse Alternative; and (3) Medium Intensity Reuse Alternative. Disposal alternatives were developed by the Army. Reuse alternatives were developed by the Fort Ritchie Local Redevelopment Authority. The resources areas evaluated for potential impacts by the proposed action (disposal) and the secondary action (reuse) include: Land Use; Climate; Air Quality; Noise; Geology, Soils, and Topography; Water Resources; Infrastructure; Hazardous and Toxic Substances; Biological Resources and Ecosystems; Cultural Resources; Legacy Resources; Sociological Environment; Economic Development; Quality of Life; Installation Agreement, and Permits and Regulatory Authorizations. The Army's preferred alternative for disposal of Fort Ritchie is disposal with encumbered title on all Fort Ritchie property transfers. An encumbrance is any Army-imposed or legal constraint on the future use or development of the property. Encumbrances support future Army interests, regulatory and statutory compliance, promote continued protection of sensitive resources to foster environmentally sustainable redevelopment, hasten availability of property, or provide mitigation requirements. Encumbrances determined relevant in the EIS to disposal of Fort Ritchie relate to wetlands, historical resources, threatened and endangered species, utilities easements, easements and rights-of-way, access easements, utility interdependencies, remedial activities, and lead-based paint. Property will be remediated as appropriate and retained in caretaker status until transfer by encumbered title.

The Army proposes to make the 638 acres available for conveyance to, and subsequent reuse by, the Fort Ritchie Local Redevelopment Authority (LRA).

COPIES: Comments received on the Draft EIS have been considered and responses included in a document dated January 1998. This document, together with the Draft EIS dated July 1997, constitute the Final EIS. Copies of the January 1998 document, along with the July 1997 Draft EIS, will be available for review at the following locations: Adams County Library, Gettysburg, PA; Alexander Hamilton Library, Waynesboro, PA; Blue Ridge Summit Library, Blue Ridge Summit, PA; C. Burr Artz Central Library, Frederick, MD; Robert F. Barrick Library, Fort Ritichie, MD; and the Washington County Free Library, Hagerstown, MD.

DATES: Written pubic comments and suggestions received within 30 days of the publication of the Environmental Protection Agency's Notice of Availability for this action will be considered by the Army during final decision making.

ADDRESSES: A copy of the January 1998 document and the July 1997 Draft EIS, together which constitute the Final Impact Statement, may be obtained from, and comments provided to, the U.S. Army Corps of Engineers, ATTN: Mr. Clifford Kidd (CENAB–PL–EM), Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203–1715, or by calling direct to (410) 962–3100.

Dated: May 14, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 98–13722 Filed 5–21–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability and Public Hearings for Draft Environmental Impact Statement for Beaufort Sea Oil and Gas Development/Northstar Project, Beaufort Sea, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4371 et seq.), the Army Corps of Engineers, Alaska District, in coordination with the Environmental Protection Agency (EPA); the Minerals Management Service (MMS); the U.S. Fish and Wildlife Service (USFWS); the National Marine Fisheries Service (NMFS); and the North Slope Borough as cooperating agencies, is issuing a Draft Environmental Impact Statement (DEIS) for oil and gas development activities within the Northstar Unit in the Beaufort Sea, Alaska.

DATES: Written comments on the DEIS, draft National Pollutant Discharge Elimination System (NPDES) permit, or draft 1422 Underground Injection Control (UIC) permit will be accepted during the public review period, beginning June 1, 1998 and ending July 30, 1998. All written comments on the DEIS and related federal permits and approvals should be sent to the Alaska District Army Corps of Engineers, Regulatory Branch no later than July 30, 1998.

FOR FURTHER INFORMATION CONTACT: Copies of the DEIS including appendices, or information on matters pertaining to this notice can be obtained on request from: Ms. Terry Carpenter, Project Manager, Alaska District Army Corps of Engineers, Regulatory Branch, P.O. Box 898, Anchorage, AK 99506–0898, fax (907) 753–5567.

SUPPLEMENTARY INFORMATION: 1. BP Exploration (Alaska) Inc. (BPXA) proposes to develop and produce oil and gas from the Northstar Unit, located between 2 and 8 miles offshore of Point Storkersen in the Alaskan Beaufort Sea. Oil and gas drilling, processing, and production is proposed to be located at Seal Island, a manmade gravel island built during the 1980s. BPXA's proposed project includes reconstructing and enlarging Seal Island and directionally drilling production, gas injection, and disposal wells from the island. Transportation of oil and gas would be by buried subsea pipelines from Seal Island to shore and above-ground pipelines from the shore to onshore facilities and the beginning of the TransAlaska Pipeline System (TAPS) at Pump Station 1.

2. Because this project represents the first development of Outer Continental Shelf oil and gas resources in the Alaskan Beaufort Sea, the DEIS addresses a range of potentially applicable technologies and development/production options and provides useful information to evaluate future development proposals.

3. Analysis of these options for the Northstar reservoir resulted in identification of 4 action alternatives for development/production of oil and gas from the Northstar Unit. The DEIS evaluates the impacts of the 4 action alternatives and a no action alternative, and identifies an environmentally preferred alternative.

4. The DEIS consists of 4 volumes, with an additional 3 volumes of appendices (A-Project Description; B-Biological Assessment; C-J-other

information, including NPDES documents). The DEIS Executive Summary can also be viewed at the following web site: http://www.northstareis.com.

5. Copies of the DEIS and appendices are also available for public review at:

a. Alaska Resources Library and Information Services, 3150 C Street, Suite 100, Anchorage, Alaska 99503.

b. Z.J. Loussac Library, 3600 Denali Street, Anchorage, Alaska 99503.

c. Tuzzy Consortium Library, Barrow, Alaska.

d. North Slope Borough Office, Barrow, Alaska.

e. Barrow City Office, Barrow, Alaska.

f. Alaska Eskimo Whaling Commission Office, Barrow, Alaska.

g. Nuiqsut City Office, Nuiqsut, Alaska.

h. Kaktovik City Office, Kaktovik, Alaska.

i. Noel Wien Public Library, 1215 Cowles Street, Fairbanks, Alaska 99701.

j. Valdez Consortium Library, P.O. Box 609, Valdez, Alaska 99686.

k. Juneau Public Library, 292 Marine Way, Juneau, Alaska 99801.

6. This DEIS is intended to meet the NEPA compliance and/or other public notice requirements for the following agency actions:

a. *Corps of Engineers:* Section 10, Rivers and Harbors Act; Section 404, Clean Water Act; Section 103, Marine Protection, Resources, and Sanctuary Act.

b. *Environmental Protection agency:* Section 402, Clean Water Act (NPDES); Part C, Safe Drinking Water Act (UIC).

c. *Minerals Management Service:* Outer Continental Shelf (OCS) Development and Production Plan.

7. EPA's draft 402 NPDES and UIC permits and explanatory fact sheets are included in this DEIS as Appendices F, G, H, and J and are intended for public review and comment.

8. The MMS is requesting comments on the Northstar Project Description (Appendix A of the DEIS, and analyzed as Alternative 2 in the DEIS). The Northstar development project includes drilling wells into, and producing oil from, two OCS leases, and requires an approved Development and Production Plan (DPP). The Northstar Project Description (Appendix A) was developed to meet the submission requirements under 30 CFR 250.34 for a DPP. The MMS has determined that the Project Description, in conjunction with the DEIS, meets the requirements under 30 CFR 250.34(f). The Northstar development offshore facilities will be located on State of Alaska submerged lands. An oil spill contingency plan will be submitted pursuant to 30 CFR 254.50 and 254.53. The plan will be reviewed under the State of Alaska Department of Environmental Conservation process, and is not part of either the DEIS or DPP.

9. No OCS action to approve, disapprove, or require modification to the DPP will be taken by MMS until the Final EIS is released. No OCS development and production activities can be conducted unless and until the DPP is approved as required by 30 CFR 250.34(1).

10. A Biological Assessment, as required by the Endangered Species Act, is included as Appendix B to the DEIS. This document will be used to initiate formal consultation under Section 7 of the Endangered Species Act with the USFWS and NMFS on three species: the endangered bowhead whale, and the threatened spectacled and Steller's eiders.

11. All written comments on the DEIS, draft NPDES permit, draft UIC permit, or DPP should be sent to: Ms. Terry Carpenter, Project Manager, Regulatory Branch, Alaska District Army Corps of Engineers, P.O. Box 898, Anchorage, AK 99506–0898. Comments specific to EPA's draft permit will be forwarded to EPA for their consideration, and those specific to MMS's DPP will be forwarded to MMS.

12. The U.S. Army Corps of Engineers will be conducting public workshops at 5 locations in Alaska early in the 60-day comment period. These workshops are intended to help the public become familiar with the DEIS and the draft NPDES and UIC permits.

13. To collect oral and written comments on the DEIS (Corps), the draft NPDES and UIC permits (EPA), or the DPP (MMS), separately scheduled public hearings will be held at the same 5 locations in Alaska. A court reporter will record the proceedings at each public hearing.

14. The public workshops and public hearings will be held on the following dates:

a. *Public Workshops:*

(1) Tuesday, June 23, 1998, 7:30 p.m.—Nuiqsut Community Center, Nuiqsut, Alaska.

(2) Wednesday, June 24, 1998, 6:00 p.m.—Kaktovik Community Center, Kaktovik, Alaska.

(3) Thursday, June 25, 1998, 7:30 p.m.—North Slope Borough Assembly Room, Barrow, Alaska.

(4) Tuesday, June 30, 1998, 7:00 p.m.—BLM Conference Room, Fairbanks, Alaska.

(5) Wednesday, July 1, 1998, 7:00 p.m.—Federal Building Conference Room, Anchorage, Alaska.

b. *Public Hearings:*

(1) Monday, July 13, 1998, 7:30 p.m.—North Slope Borough Assembly Room, Barrow, Alaska.

(2) Tuesday, July 14, 1998, 7:00 p.m.—Kaktovik Community Center, Kaktovik, Alaska.

(3) Wednesday, July 15, 1998, 7:00 p.m.—Nuiqsut Community Center, Nuiqsut, Alaska.

(4) Thursday, July 16, 1998, 7:00 p.m.—BLM Conference Room, Fairbanks, Alaska.

(5) Monday, July 20, 1998, 7:00 p.m.—Wilda Marston Theatre at Z.J. Loussac Library, Anchorage, Alaska.

15. An Inupiat translator will be available at the public hearings held in Barrow, Kaktovik and Nuiqsut. Oral and written comments on the DEIS received during the public review period will be addressed in the Final Environmental Impact Statement.

16. The federal permits and approvals are also subject to review for consistency with the State Coastal Management Program. Coastal Consistency review of the Northstar development project will be initiated on June 1, 1998 with release of the DEIS.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–13751 Filed 5–21–98; 8:45 am]

BILLING CODE 3710–NL–P

DEPARTMENT OF DEFENSE

Department of the Navy

Public Hearing for the Draft Environmental Impact Statement for Increased Flight and Related Operations in the Patuxent River Complex, Patuxent River, MD

AGENCY: Department of the Navy, DOD.

ACTION: Announcement of public hearing.

SUMMARY: The Department of the Navy has prepared and filed with the Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for Increased Flight and Related Operations in the Patuxent River Complex, Patuxent River, MD. A public hearing will be held for the purpose to receive oral and written comments on the DEIS. Federal, state and local agencies, and interested individuals are invited to be present or represented at the hearing.

DATES: Hearing dates are as follows:

1. June 10, 1998, 7:00 to 8:30 p.m., Lusby, MD
2. June 15, 1998, 7:00 to 8:30 p.m., Cambridge, MD
3. June 17, 1998, 7:00 to 8:30 p.m., Heathsville, VA

ADDRESSES: Hearing locations are as follows:

1. Lusby—Patuxent High School, 12485 Rousby Hall Road, Lusby, MD
2. Cambridge—Cambridge-South Dorchester High School, 2474 Cambridge Bypass, Cambridge, MD
3. Heathsville—Northumberland High School, 6234 Northumberland Highway (US Route 360), Heathsville, VA

FOR FURTHER INFORMATION CONTACT: Ms. Sue Evans or Ms. Kelly Burdick, (888) 276–5201.

SUPPLEMENTARY INFORMATION: Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–1508) implemental procedure provisions of the National Environmental Policy Act (NEPA), the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for Increased Flight and Related Operations in the Patuxent River Complex, Patuxent River, MD. This notice announces the dates and locations of the public hearings.

The DEIS identifies and evaluates the potential environmental impacts of increasing flight and related ground operations in test areas of the Patuxent River Complex that are controlled and scheduled by the Naval Air Warfare Center, Aircraft Division (NAWCAD). The complex includes all the flight and ground test facilities at NAS Patuxent River and OLF Webster Field Annex, as well as the restricted airspaces, aerial and surface firing range, and targets (Hooper, Hannibal, and Tangier Island) comprising the Chesapeake Test Range (CTR). The DEIS assesses the impacts of the no action alternative and three proposed future operations workload alternatives. The no action alternative would maintain the complex's current level of flight hours into the future (18,400 annually, which represents an approximate ten-year average of annual flight hours). The three workload alternatives propose increases in baseline operations by as few as 2,500 annual flight hours or as many as 6,200 annual flight hours.

A Notice of Intent to prepare the EIS was published in the **Federal Register** on April 1, 1997 and five public scoping meetings were held between May 6 and May 15, 1997. A Notice of Availability of the DEIS was published in the **Federal Register** on May 15, 1998.

The DEIS has been distributed to various federal, state, and local agencies, elected officials, special interest groups, the public, and the media. In addition, copies are available for review at 18 repositories around the Chesapeake Bay:

—Anne Arundel South County Branch Library, Deale, MD.
—Caroline County Public Library, Denton, MD.
—Calvert County Public Library, Prince Frederick, MD.
—Dorchester County Central Library, Cambridge, MD.
—Somerset County Libraries, Deale Island, Princess Anne, and Ewell (Smith Island), MD.
—St. Mary's County Libraries, Lexington Park and Leonardtown, MD.
—St. Mary's College Library, St. Mary's City, MD.
—Talbot County Libraries, Easton and Oxford, MD.
—Worcester County Library, Pocomoke City, MD.
—Eastern Shore Public Library, Accomac, VA.
—Central Rappahannock Law Library, Fredericksburg, VA.
—Northumberland County Library, Heathsville, VA.
—Tangier Island Public School Library, Tangier, VA.
—Laurel Public Library, Laurel, DE.

Three public hearings will be held to inform the public of the DEIS findings and to solicit and receive oral and written comments. From 5:00 p.m. to 8:30 p.m., the Navy will set up information stations that will describe the findings of the DEIS. Navy staff will be available to answer questions from meeting attendees and receive comments. At 7:00 p.m., a formal public hearing will be held where oral statements will be heard and transcribed by a stenographer; however, to ensure accuracy of the record, all statements delivered at the public hearing should be submitted in writing. All comments, both oral and written, will become part of the public record in the study. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Ms. Sue Evans at Office of Legal Counsel, 47031 Liljencrantz Road, Bldg. 435, Mail Stop 39, Patuxent River, MD 20670–5440, fax (301) 342–1840. Written comments are requested not later than June 29, 1998.

Dated: May 19, 1998.

Lou Rae Langevin,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 98–13781 Filed 5–21–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 22, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the

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need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 19, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.
Title: Application for Ability to Benefit Testing Approval.
Frequency: Annually.
Affected Public: Individuals or households; Businesses or other for-profits; Not-for-profit institutions.
Reporting and Recordkeeping Hour Burden:
Responses: 150,090.
Burden Hours: 77,040.
Abstract: The Secretary will publish a list of approved tests which can be used by postsecondary educational institutions to establish the ability to benefit for a student who does not have a high school diploma or its equivalent.

[FR Doc. 98–13766 Filed 5–21–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extensions: Proposed Collection Comment Request

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Agency Information Collection Extensions: proposed collection comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the Office of Management and Budget (OMB) for extension under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The package covers the collection of information concerning annual applications from the owners of qualified renewable energy generation facilities for the consideration of renewable energy production incentive payments. This information is used by the Department to determine if the applicant's facility qualifies for these payments and to determine the amount of net electricity produced for sale that qualifies for these payments. This information is critical to ensure that the Government has sufficient information to ensure the proper use of public funds for these incentive payments.

DATES: Comments regarding the information collection package should be submitted to the OMB Desk Officer at the following address no later than June 22, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB Desk officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the DOE contact listed in this notice.)

ADDRESSES: Address comments to DOE Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), Room 10102, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert H. Brewer, Office of Utility Technologies (EE–10), Department of Energy, Washington, DC 20585, (202) 586–2206.

SUPPLEMENTARY INFORMATION: The package contains the following information: (1) Title of the information collection package; (2) current OMB control number; (3) type of respondents; (4) estimated number of responses; (5) estimated total burden hours, including record keeping hours, required to provide the information; (6) purpose; and (7) number of collections.

Package Title: Renewable Energy Production Incentives.
Current OMB No.: 1910–0068.
Type of Respondents: State, municipal, county, and non-profit electric cooperative owners of qualified renewable energy generation facilities that produce electricity for sale.
Estimated Number of Respondents: 18
Estimated Total Burden Hours: 205
Purpose: To receive annual payment consideration for electricity produced in the prior fiscal year, an annual application has to be submitted by the owner/agent of the owner that provides information which establishes the qualification of the facility (ownership qualifications, type of renewable energy source used, time of first use for new or converted facilities, sale of electricity produced, and location in a State) and information on the metered/calculated amount of electricity produced. An owner of a qualified facility can submit an annual application for each of the first ten fiscal years of that facility's operation.

Statutory Authority: Paperwork Reduction Act of 1995, Pub. L. No 104–13, 44 U.S.C. 3507 (g) and (h).

Issued in Washington, DC, on May 18, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–13729 Filed 5–21–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Program Special Projects Financial Assistance

AGENCY: The Department of Energy.

ACTION: Notice for second round funding for 1998 State Energy Program special projects.

SUMMARY: As options offered under the State Energy Program (SEP) for fiscal year 1998, the Office of Energy Efficiency and Renewable Energy is announcing the availability of financial assistance to States for special project activities for Remote Applications of Solar and Renewable Energy to Reduce or Avoid Diesel and Gasoline Power Generation. Funding is being provided by the Office of Utility Technologies in the Office of Energy Efficiency and Renewable Energy. States that are awarded funding for special projects will carry out their projects in conjunction with their efforts under SEP, with the special projects funding and activities tracked separately so that the end-use sector programs may follow the progress of their projects.

The projects must meet the relevant requirements of the program providing the funding, as well as of SEP, as specified in the program guidance/solicitation. Among the goals of the special projects activities are to assist States to: accelerate deployment of energy efficiency and renewable energy technologies; facilitate the acceptance of emerging and underutilized energy efficiency and renewable energy technologies; and increase the responsiveness of Federally funded technology development efforts to private sector needs.

DATES: The program guidance/solicitation is available on May 22, 1998. Applications must be received by July 20, 1998.

ADDRESSES AND FOR FURTHER INFORMATION CONTACT: Ms. Faith Lambert at the U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2319, for referral to the appropriate DOE Regional Support Office.

SUPPLEMENTARY INFORMATION: Funding for this category of SEP Special Projects was offered in the original 1998 Special Projects notice published in the **Federal Register** dated December 4, 1997 (62 FR 64211). Applications received in response to that notice did not cover the total amount of funding available, so DOE is offering States another opportunity to apply for this category of Special Projects.

Availability of Fiscal Year 1998 Funds

With this publication, DOE is announcing the availability of at least $1,200,000 in financial assistance funds for fiscal year 1998. The awards will be made though a competitive process. The end-use sector program that is participating in this SEP special projects offering for fiscal year 1998, is:

- Utility Technologies: Projects to promote remote applications of solar and renewable energy to reduce or avoid diesel and gasoline power generation.

Restricted Eligibility

Eligible applicants for purposes of funding under this program are limited to the 50 States, the District of Columbia, Puerto Rico, or any territory or possession of the United States, specifically, the State energy or other agency responsible for administering the State Energy Program pursuant to 10 CFR part 420. For convenience, the term State in this notice refers to all eligible State applicants.

The Catalog of Federal Domestic Assistance number assigned to the State Energy Program is 81.041.

Requirements for cost sharing contributions will be addressed in the program guidance/solicitation for the special project activity, as appropriate. Cost sharing beyond any required percentage is desirable.

Any application must be signed by an authorized State official, in accordance with the program guidance/solicitation.

Evaluation Review and Criteria

A first tier review for completeness will occur at the appropriate DOE Regional Support Office. Applications found to be complete will undergo a merit review process by panels comprised of members representing the participating end-use sector program in DOE's Office of Energy Efficiency and Renewable Energy. A decision as to the applications selected for funding will then be made by the Director, Office of State and Community Programs, or designee, based on the findings of the technical merit review and any stated program policy factors. DOE reserves the right to fund, in whole or in part, any, all or none of the applications submitted in response to this notice.

More detailed information is available from the U.S. Department of Energy Headquarters at (202) 586–2319.

Issued in Washington, DC, on May 18, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–13738 Filed 5–21–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2498–000]

Cobisa-Person Limited Partnership; Notice of Filing

May 18, 1998.

Take notice that on April 22, 1998, the Public Service Company of New Mexico tendered for filing a Certificate of Concurrence the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 27, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13692 Filed 5–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–10–001]

Pacific Gas and Electric Company; Notice of Filing

May 18, 1998.

Take notice that on April 20, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing the following unilateral contracts between itself and the San Francisco Bay Area Rapid Transit District (BART): (1) A Service Agreement for Network Integration Transmission Service, and (2) a Network Operating Agreement.

PG&E is filing these Agreements in compliance with the Commission's March 20, 1998, Order Requiring Utility to Provide Network Transmission Service in Docket No. EL98–10–000. This Order required PG&E to file, within thirty days of the March 20, 1998, Order a network transmission service agreement for BART.

Copies of this filing have been served upon the California Public Utilities Commission, BART, the California Independent System Operator and other intervenors to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 29, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on the file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13690 Filed 5–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1224–001]

Southern California Edison Company; Notice of Filing

May 18, 1998.

Take notice that on April 28, 1998, Southern California Edison Company tendered for filing executed copies of the Radial Line Agreements for the Coolwater Generating Station and Mandalay Generating Station in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before May 29, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13691 Filed 5–21–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6101–7]

Agency Information Collection Activities; Submission for OMB Review, Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Superfund Site Evaluation and Hazard Ranking System, OMB Control No. 2050–0005 to expire on July 31, 1998. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1488.04.

SUPPLEMENTARY INFORMATION:

Title: Superfund Site Evaluation and Hazard Ranking System, (EPA ICR No. 1488.04, OMB Control No. 2050–0005) expiring July 31, 1998. This ICR requests an extension of a currently approved collection.

Abstract: Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 1980 and 1986) amends the National Oil and Hazardous Substances Contingency Plan (NCP) to include criteria prioritizing releases throughout the U.S. before undertaking remedial action at uncontrolled hazardous waste sites. The Hazard Ranking System (HRS) is a model that is used to evaluate the relative threats to human health and the environment posed by actual or potential releases of hazardous substances, pollutants, and contaminants. The HRS criteria take into account the population at risk, the hazard potential of the substances, as well as the potential for contamination of drinking water supplies, direct human contact, destruction of sensitive ecosystems, damage to natural resources affecting the human food chain, contamination of surface water used for recreation or potable water consumption, and contamination of ambient air.

Under this ICR the States will apply the HRS by identifying and classifying those releases that warrant further investigation. The HRS score is crucial since it is the primary mechanism used to determine whether a site is eligible to be included on the National Priorities List (NPL). Only sites on the NPL are eligible for Superfund-financed remedial actions.

HRS scores are derived from the sources described in this information collection, including field reconnaissance, taking samples at the site, and reviewing available reports and documents. States record the collected information on HRS documentation worksheets and include this in the supporting reference package. States then send the package to the EPA region for a completeness and accuracy review, and the Region then sends it to EPA Headquarters for a final quality assurance review. If the site scores above the NPL designated cutoff value, and if it meets the other criteria for listing, it is then eligible to be proposed on the NPL.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 4, 1998 (63 FR 10607). Three requests for copies of the ICR were received; however, EPA received no comments.

Burden Statement: Depending on the number and type of activities performed, burden for the collection of site assessment information is estimated to range from 53 to 1,899 hours per site. The number of hours required to assess a particular site depends on how far a site progresses through the site assessment process. Sites where only a pre-CERCLIS screening is performed will typically require approximately 53 hours, while sites that progress to NPL listing will require approximately 1,899 hours. The burden estimates include reporting activities and minimal record keeping activities. The States are reimbursed 100 percent of their costs, except for record maintenance. The ICR does not impose burden for HRS activities on local governments or private businesses. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents: State agencies or Indian Tribes requesting oversight of the site.

Estimated Number of Respondents: 60 States or Indian Tribes.

Estimated Total Annual Burden on Respondents: 203,373 hours.

Estimated Total Annualized Cost Burden: 0 (reimbursed by EPA).

Frequency of Response: Periodically/ Per SARA Section 116(b).

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1488.04 and OMB Control No. 2050–0005 in any correspondence.

Ms. Sandy Farmer,
U.S. Environmental Protection Agency,
OPPE Regulatory Information Division (2137),
401 M Street, S.W.,
Washington, DC 20460;

and

Office of Information and Regulatory Affairs,
Office of Management and Budget,
Attention: Desk Officer for EPA,
725 17th Street, NW.,
Washington, DC 20503.

Dated: May 18, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–13786 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5492–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed May 11, 1998 Through May 15, 1998

Pursuant to 40 CFR 1506.9.

EIS No. 980178, Final EIS, NOA, MA, New Bedford Harbor Environment Restoration Plan, Implementation, Acushnet River, Buzzards Bay, MA, Due: June 22, 1998, Contact: Rolland A. Schmitten (301) 713–2239.

EIS No. 980179, Final EIS, AFS, MT, Meadow Timber Sales, Implementation, Timber Harvesting, Road Construction and Prescribed Burning, Fortine Ranger District, Kootenai National Forest, Lincoln County, MT, Due: June 22, 1998, Contact: Joleen Durham (406) 882–4451.

EIS No. 980180, Draft EIS, FHW, MO, US 60 Highway Project, Improvement from East of Willow Springs to West of Van Buren, Funding, NPDES Permit and COE 404 Permit, Howell, Shannon and Carter Counties, MO, Due: July 6, 1998, Contact: Don Neumann (573) 636–7104.

EIS No. 980181, Final EIS, USA, MD, PA, MD, PA, Fort Ritchie Disposal and Reuse for BRAC of 638 Acres, Implementation, Frederick and Washington Counties, MD and Adams and Franklin Counties, PA, Due: June 22, 1998, Contact: Clifford Kidd (410) 962–3100.

EIS No. 980182, Draft EIS, BLM, CA, Telephone Flat Geothermal Power Plant within the Glass Mountain Known Geothermal Resource Area, Construction, Operation and Decommissioning of a 48 megawatt (MW) Geothermal Plant, Modoc National Forest, Siskiyou County, CA, Due: July 22, 1998, Contact: Randall Sharp (520) 233–8848.

EIS No. 980183, Final Supplement EIS, FHW, NC, Smith Creek Parkway, Updated and Supplemental Information, Construction from Third Street to Kornegay Avenue, U.S. Coast Guard Permit, COE Section 10 and 404 Permits, Wilmington, Hanover County, NC, Due: June 22, 1998, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 980184, Final EIS, SCS, NB, KS, Turkey Creek Watershed Plan, Watershed Protection and Flood Protection, Johnson and Pawnee Counties, NB and Marshall and Nemaha Counties, KS, Due: June 22, 1998, Contact: Craig Derickson (402) 437–4112.

EIS No. 980185, Final EIS, BLM, CA, NV, Rangeland Health Standards and Guidelines for Livestock Grazing on Public Rangelands in California and Northwestern Nevada, CA and NV, Due: June 22, 1998, Contact: James Morrison (916) 978–4642.

EIS No. 980186, Draft EIS, UAF, ND, Minuteman III Missile System Dismantlement, Intercontinental Ballistic Missile (ICBM) Launch Facilities (LFs) and Missile Alert Facilities (MAFs), Deployment Areas, Grand Forks Air Force Base, ND, Due: July 6, 1998, Contact: Jonathan D. Farthing (210) 536–3069.

EIS No. 980187, Final EIS, AFS, AK, Chasina Timber Sale, Harvesting Timber and Road Construction, Tongass National Forest, Craig Ranger District, Ketchikan Administrative Area, AK, Due: June 22, 1998, Contact: Norm Matson (907) 228–6273.

EIS No. 980188, Final EIS, COE, NY, Atlantic Coast of Long Island Jones Inlet to East Rockaway Inlet Storm Damage Reduction Project, Construction, Long Beach Island, Nassau County, NY, Due: June 22, 1998, Contact: Steven Sinkevich (212) 264–2198.

EIS No. 980189, Draft Supplement EIS, HI Ma'aLaea Harbor Improvements for Light-Draft-Vessels, Entrance Channel Realignment and Breakwater Modification, Additional Information, Island of Maui, Maui County, HI, Due: July 6, 1998, Contact: Benton Ching (808) 438–1157.

Dated: May 19, 1998.

Anne Norton Miller,

Deputy Director, Office of Federal Activities.

[FR Doc. 98–13779 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5492–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 4, 1998 Through May 8, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–AFS–B61023–NH

Rating EC2, Waterville Valley Ski Resort Project, Development of Snowmaking Water Impoundments Project, Special-Use-Permits, Dredge and Fill Permit and COE Section 404 Permit, White Mountain National Forest, Pemigewasset Ranger District, Town of Waterville Valley, Grafton County, NH.

Summary: EPA expressed environmental concerns and suggested that the impact to water quality from alternatives two and four be further developed in the FEIS. EPA recommended mitigation option two to offset unavoidable wetland impacts associated with the project.

ERP No. D–COE–K32050–CA

Rating EO2, Oakland Harbor Inner and Outer Deep Navigation (–50 Foot) Improvement Project, Implementation, Feasibility Study, Port of Oakland, Alameda and San Francisco Counties, CA.

Summary: EPA expressed environmental objections due to potential air quality impacts, especially emissions of oxides of nitrogen (NOx) associated with dredging, dredged material transport/disposal and related construction work. Despite these significant NOx emissions, there is no indication from the DEIS that NOx mitigation measures proposed by the Corps would suffice for purposes of making a positive conformity finding. EPA expressed serious concerns that the EIS may have unnecessarily constrained the range of reasonable action alternatives by eliminating a detailed analysis of dredge depths less than –50 feet. EPA asked the Corps to determine

if other dredging alternatives that provide less depth overall, less depth over portions of the project and/or phasing in –50 foot depths at key areas first may constitute reasonable alternatives for purposes of NEPA analysis.

ERP No. D–COE–K36124–CA

Rating EC2, Yuba River Basin Investigation Study, Flood Protection, also portions of the Feather River Basin below Oroville Dam, City of Maryville, Yuba County, CA.

Summary: EPA expressed environmental concerns over potential adverse impacts to water quality due to stormwater runoff during construction activities. EPA also recommended that the Corps conduct the necessary hazardous, toxic and radioactive waste site investigations during the current feasibility phase in order to achieve full public disclosure. EPA also recommended that the FEIS analyze the indirect/cumulative effects of induced growth in the floodplain.

ERP No. D–COE–K36125–CA

Rating EC2, Hansen Dam Water Conservation and Supply Study, Flood Protection, Implementation, Los Angeles County, CA.

Summary: EPA expressed environmental concerns that the DEIS did not specifically analyze an "end of pipe" water conservation alternative as an alternative to increasing water supply, or as a means of augmenting water conservation, at Hansen Dam. EPA believed that an actual "end of pipe" water conservation alternative may constitute a reasonable alternative for purposes of the Corps' NEPA analysis. EPA noted that the three action alternatives analyzed in detail in the DEIS are not true "water conservation" alternatives but are actually alternatives to "increase storage capacity" at Hansen Dam for release during peak summer use periods. Implementation and/or expansion of water conservation programs and efforts in the dam's service area should be an integral element of the project.

ERP No. D–COE–K39047–CA

Rating EO2, Santa Clara River and Major Tributaries Project, Approval of 404 Permit and 1603 Streambed Alteration Agreement, In portions of the City of Santa Clarita, Los Angeles County, CA.

Summary: EPA expressed environmental objection because of the project's potential to adversely impact the physical and biological qualities of the Santa Clara River System and because the measures to avoid and/or mitigate such impacts were not fully developed and presented in the DEIS. EPA also expressed concern that the DEIS did not address the full scope of the anticipated (development-related) actions and impacts directly and indirectly associated with the proposed project.

ERP No. D–FAA–E51045–FL

Rating EC2, Miami International Airport Master Plan Update for the Proposed New Runway, Funding and COE Section 404 Permit, Miami-Dade County, FL.

Summary: EPA continued to have environmental concerns; though noise impacts will be reduced by the year 2000 and 2005, significant noise-impacts to the adjacent community remain. The need for additional noise mitigation was stated.

ERP No. D–FRC–L05219–WA

Rating LO, Sullivan Creek Hydroelectric (FERC No. 2225) Project, An Application for Amendment of License, Public Utility District No. 1, Sullivan Creek, Pend Oreille County, WA.

Summary: EPA had no objection to the project as proposed. No formal comment letter was sent to the preparing agency.

ERP No. DS–COE–C32030–00

Rating LO, Arthur Kill Channel-Howland Hook Marine Terminal, Deepening and Realignment, Limited Reevaluation Report (LRR) Port of New York and New Jersey, NY and NJ.

Summary: EPA believed that there has not been a significant change in the environmental conditions of the project area since the issuance of the FEIS. EPA does not anticipate that the proposed project would result in significant adverse environmental impacts. Therefore, EPA has no objection to the project's implementation.

Final EISs

ERP No. F–AFS–L65292–ID

Caribou National Forest, Implementation, Federal Phosphate Leasing Proposal for the Manning Creek and Dairy Syncline Tracts, Caribou County, ID.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–USN–C11013–NY

Naval Weapons Industrial Reserve Plant Calverton Disposal and Reuse, Implementation, Towns of Riverhead and Brookhaven on Long Island, Suffolk County, NY.

Summary: EPA continued to express environmental concern regarding wetland avoidance and requested that the Record of Decision include additional information on contaminant remediation, endangered/threatened species, historic/cultural resources and environmental justice.

Dated: May 19, 1998.

Anne Norton Miller,

Deputy Director, Office of Federal Activities.

[FR Doc. 98–13780 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6102–2]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Great Lakes Chemical Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on injection well no migration petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Great Lakes Chemical Corporation (GLCC), for two Class I injection wells located at El Dorado, Arkansas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by GLCC, of the specific restricted hazardous wastes identified in the exemption, into two Class I hazardous waste injection wells (WDW–5 and WDW–6) at the El Dorado, Arkansas facility, until July 1, 2005, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued March 6, 1998. The public comment period closed on April 20, 1998. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of May 13, 1998.

ADDRESSES: Copies of the petition and all pertinent information relating thereto

are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–SG) 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/ UIC Section, EPA—Region 6, telephone (214) 665–7165.

Oscar Ramirez, Jr.,

Acting Director, Water Quality Protection Division.

[FR Doc. 98–13784 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6101–8]

Water Conservation Plan Guidelines Subcommittee Conference Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On June 4, 1998, the Water Conservation Plan Guidelines Subcommittee of the Local Government Advisory Committee (LGAC) will hold a conference call. The Subcommittee will discuss public comments received on the draft Water Conservation Plan Guidelines and make changes they deem appropriate to their final recommendations for advice and guidance to the Agency on the water conservation plan guidelines for public water systems, including the section of the draft guidelines which provides information to States on implementation of the guidelines.

Section 1455 of the Safe Drinking Water Act, as amended, requires EPA to publish guidelines for water conservation plans for three size ranges of public water systems. States may require water systems to submit a water conservation plan consistent with EPA's guidelines as a condition of receiving a loan from a State Drinking Water Loan Fund. The Subcommittee conference call is open and all interested persons are invited to attend on a space-available basis. Members of the public interested in attending the Subcommittee conference call should call the Designated Federal Official to reserve space.

DATES: The Subcommittee conference call will be held from 1:00 p.m. to 3:00 p.m. on Thursday, June 4, 1998.

ADDRESSES: The conference call will be held at the U.S. Environmental Protection Agency, Washington Information Center, Conference Room 8 South, 401 M Street, SW, Washington, DC 20460. Requests for a summary of the call can be obtained by writing to John E. Flowers, U. S. Environmental Protection Agency, Office of Wastewater Management (Mail Code 4204), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official for this Subcommittee is John E. Flowers. He is the point of contact for information concerning any Subcommittee matters and can be reached by calling (202) 260–7288.

Dated: May 15, 1998.

Michael B. Cook,

Director, Office of Wastewater Management.

[FR Doc. 98–13787 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6101–6]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This will be the first meeting of the Local Government Advisory Committee in 1998 and the first meeting since the appointment of 23 new members. The full Committee will spend time during the first day in orientation, but will also consider recommendations put forward by the Water Conservation Subcommittee and review and discuss the Community-Based Environmental Protection Framework, a draft Agency document. During the second day, the subcommittees will meet and develop their agendas and work plans.

From 11:30–11:45 p.m. on the 11th, the Committee will hear comments from the public. Each individual or organization wishing to address the Committee will be allowed three minutes. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

DATES: The meeting will begin at 8:30 a.m. on Thursday, June 11th and conclude at 4:00 p.m. on the 12th.

ADDRESSES: The meeting will be held in Chicago, Illinois at DePaul University, located at 333 South State Street, Suite 520.

Requests for Minutes and other information can be obtained by writing to 401 M Street, SW (1306), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this Committee is Denise Zabinski Ney. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–0419.

Dated: May 18, 1998.

Denise Zabinski Ney,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 98–13785 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–60–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Public Law 105–121, November 26, 1997, to advise the Board of Directors on the development and implementaion of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and place: Tuesday, June 9, 1998, at 10:00 a.m. to 12:00 noon. The meeting will be held at the Export-Import Bank in room 1143, 811 Vermont Avenue, NW, Washington, D.C. 20571.

Agenda: The meeting will include a discussion of the development and implementation of policies and programs designed to support the expansion of Ex-Im Bank's financial commitments in Sub-Saharan Africa. The discussion will focus on the innovative financial structures necessary to meet the challenges in risk-taking posed for Ex-Im in Sub-Saharan Africa and insights in marketing in the region.

Public participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 2, 1998, Megan Becher, Room 1210, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3507 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: Megan Becher, Room 1210, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3507.

Kenneth Hansen,

General Counsel.

[FR Doc. 98–13777 Filed 5–21–98; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 11, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13758 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1998:

Floyd and Towns Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Dora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Laurence W. Zensinger,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–13759 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1216–DR]

Kentucky; Amendment #2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kentucky, (FEMA–1216–DR), dated April 29, 1998, and related determinations.

EFFECTIVE DATE: May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Kentucky, is hereby amended to include following areas among those determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 29, 1998:

The counties of Breathitt, Johnson, Lee, Letcher, and Magoffin for Public Assistance.

The county of Pike for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13761 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1215–DR]

Tennessee; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1215–DR), dated April 20, 1998, and related determinations.

EFFECTIVE DATE: May 12, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 20, 1998:

Madison County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–13760 Filed 5–21–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 232–011539–002

Title: CMN/Ivaran/TMM Space Charter and Sailing Agreement

Parties:

Compania Maritima Nacional (d/b/a Grupo, Libra) ("CMN"), A/S Ivaran Rederi, Transportacion Maritima Mexicana, S.A. de C.V.

Synopsis: The proposed amendment reflects a change in the ownership of party A/S Ivaran Rederi and notes a change in their corporate name to "Ivaran Lines Limited." It also reflects the addition of a d/b/a/ name for Agreement party CMN. The parties have requested a shortened review period.

Agreement No.: 224–201053

Title: Alabama State Docks Department/ T&S Services, Inc., Terminal Agreement

Parties:

Alabama State Docks Department
T&S Services, Inc. ("T&S")

Synopsis: The Agreement permits T&S to perform cargo and freight handling services at the Port of Mobile. The Agreement will terminate on December 31, 2002.

Dated: May 18, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–13668 Filed 5–21–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 9, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. John Douglas Dreier, Sparta, Wisconsin; to acquire additional voting shares of Community Bancorp, Inc., Norwalk, Wisconsin, and thereby indirectly acquire additional voting shares of Community State Bank, Norwalk, Wisconsin.

Board of Governors of the Federal Reserve System, May 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13789 Filed 5–21–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. NationsBank Corporation and NationsBank (DE) Corporation, both in Charlotte, North Carolina (collectively, NationsBank); to merge with BankAmerica Corporation, San Francisco, California (BankAmerica), and thereby acquire the following bank subsidiaries of BankAmerica: Bank of America National Trust and Savings Association, San Francisco, California; Bank of America Texas, National Association, Dallas, Texas; Bank of America National Association, Phoenix, Arizona; and Bank of America Community Development Bank, Walnut Creek, California. On consummation of the proposed transaction, NationsBank would be renamed BankAmerica Corporation. NationsBank may form one or more intermediate bank holding companies.

In connection with the proposed transaction, NationsBank has provided notice to acquire all of the nonbank subsidiaries of BankAmerica and to engage, directly or indirectly through such nonbank subsidiaries, in a variety of nonbanking activities that previously have been determined to be permissible for bank holding companies. NationsBank also would continue to control all of its existing bank and nonbank subsidiaries. The nonbanking companies that NationsBank proposes to acquire are listed in the notice filed with the Board and include Bank of America, FSB, Portland, Oregon; BA Futures, Incorporated, Chicago, Illinois; BankAmerica Insurance Group, Inc.,

San Diego, California; DFO Partnership, San Francisco, California; First Franklin Financial Corporation, San Jose, California; First Franklin Funding Corporation, San Jose, California; General Fidelity Life Insurance Company, San Diego, California; Security Pacific Capital Leasing Corporation, San Francisco, California; and Security Pacific Housing Services, Inc., San Diego, California. The nonbanking activities of the companies to be acquired also are listed in the notice and include extending credit and servicing loans, pursuant to 12 CFR 225.28(b)(1); leasing personal and real property, pursuant to 12 CFR 225.28(b)(3); operating a savings association through Bank of America, FSB, Portland, Oregon, pursuant to 12 CFR 225.28(b)(4)(ii); providing financial and investment advisory services, pursuant to 12 CFR 225.28(b)(6); providing securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactional services, pursuant to 12 CFR 225.28(b)(7); underwriting and dealing in certain government obligations and money market instruments that state member banks may underwrite or deal in, pursuant to 12 CFR 225.28(b)(8)(i); acting as principal, agent, or broker in connection with the sale of credit-related insurance, pursuant to 12 CFR 225.28(b)(11)(i); engaging in community development activities, pursuant to 12 CFR 225.28(b)(12); providing data processing and data transmission services, pursuant to 12 CFR 225.28(b)(14); and engaging in all activities that BankAmerica currently is authorized by Board Order to conduct. As part of the proposed transaction, NationsBank proposes to engage through BancAmerica Robertson Stephens, San Francisco, California, in underwriting and dealing in all types of debt and equity securities (other than interests in open-end investment companies) to a limited extent in accordance with previous Board decisions. In addition, NationsBank proposes to engage, directly or indirectly through its subsidiaries, in certain other activities that the Board previously has approved by Order, including providing administrative services to open-end and closed-end investment companies.

In connection with the proposed transaction, NationsBank also has applied to acquire an option to purchase up to 19.9 percent of the outstanding shares of BankAmerica's common stock. BankAmerica also has applied to acquire an option to purchase up to 19.9 percent of the outstanding shares of NationsBank Corporation's common stock. These options would expire upon consummation of the merger. Comments regarding this application must be received not later than June 24, 1998.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Associated Banc-Corp, Green Bay, Wisconsin; to merge with Citizens Bankshares, Inc., Shawano, Wisconsin, and thereby indirectly acquire Citizens Bank, National Association, Shawano, Wisconsin.

In connection with this application, Applicant also has applied to acquire Wisconsin Finance Corporation, Shawano, Wisconsin, and thereby indirectly acquire Citizens Financial Services, Inc., Shawano, Wisconsin, and thereby engage in extending credit and servicing loans and acting as principal, agent, or broker for credit related insurance, pursuant to §§ 225.28(b)(1) and 225.28(b)(11)(ii) of the Board's Regulation Y.

2. West Burlington Bancorporation, Inc., West Burlington, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of West Burlington Bank, West Burlington, Iowa.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. M.I.F. Limited, Chisholm, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Chisholm Bancshares, Inc., Chisholm, Minnesota, and thereby indirectly acquire First National Bank, Chisholm, Minnesota.

2. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of First Bancshares, of Valley City, Inc., Valley City, North Dakota, and thereby indirectly acquire First State Bank of Casselton, Casselton, North Dakota; Litchville State Bank, Litchville, North Dakota; and First National Bank of Valley City, Valley City, North Dakota.

In connection with this application, Applicant also has applied to acquire Peoples Insurance Agency, Inc., Valley City, North Dakota, and thereby engage in general insurance agency activities, pursuant to § 225.28(b)(1)(vii) of the Board's Regulation Y.

3. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Little Mountain Bancshares, Inc., Monticello, Minnesota, and thereby indirectly acquire First National Bank of Monticello, Monticello, Minnesota.

In connection with this application, Applicant proposes to transfer the mortgage origination and servicing business of the First National Bank of Monticello to its wholly owned subsidiary, Norwest Mortgage, Inc., Des Moines, Iowa. Norwest Mortgage Inc., proposes to engage in these activities, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. UCBH Holdings, Inc., San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of United Commercial Bank, F.S.B., San Francisco, California. United Commercial Bank, F.S.B., will convert to a bank charter.

Board of Governors of the Federal Reserve System, May 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13790 Filed 5–21–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than June 9, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Commerce Bancorp, Cherry Hill, Pennsylvania; to acquire Commerce Capital, Philadelphia, Pennsylvania, and thereby engage in Tier II securities underwriting and dealing and related activites, including bonds issued by not-for-profit entities that qualify under Section 501(c)(3) of the Internal Revenue Code for a tax exempt status; and bonds issued by private entities that qualify under Section 142(d) of the Internal Revenue Code for a partially tax exempt status (subject to only to the alternative minimum tax). *See* Citicorp, 75 Fed. Res. Bull., 751 (1989) & 83 Fed. Res. Bull. 510 (1997).

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. CITBA Financial Corporation, Mooresville, Indiana; to acquire Independent Bankers Life Insurance Company of Indiana, Phoenix, Arizona, a reinsurance subsidiary, and thereby indirectly engage in underwriting credit life, accident and health insurance directly related to extensions of credit by the banks and bank holding companies owning stock in the insurance agency, pursuant to § 225.28(b)(11)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13788 Filed 5–21–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 27, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

DATED: May 20, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13862 Filed 5–20–98; 12:55 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98P–0160]

Determination That Cimetidine 100 mg Tablets Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that cimetidine 100 milligram (mg) tablets were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for drugs that refer to cimetidine 100 mg tablets.

FOR FURTHER INFORMATION CONTACT: Virginia G. Beakes, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417)(the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products with Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA's regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

In citizen petitions dated March 9, 1998 (Docket No. 98P–0160/CP 1), and March 13, 1998 (Docket No. 98P–0160/CP 2), submitted in accordance with 21 CFR 314.122, Apotex Corp. and Novopharm Limited, respectively, requested that the agency determine whether cimetidine (Tagamet HB) 100 mg tablets were withdrawn from sale for reasons of safety or effectiveness. Cimetidine 100 mg tablets are the subject of approved NDA 20–238 held by SmithKline Beecham Consumer Healthcare LP (SmithKline Beecham). In 1997, SmithKline Beecham withdrew cimetidine 100 mg tablets from sale.

FDA has reviewed its records and, under § 314.161, has determined that cimetidine 100 mg tablets were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will maintain cimetidine 100 mg tablets in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to cimetidine 100 mg tablets may be approved by the agency.

Dated: May 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13650 Filed 5–21–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Devices; Implementation of Third Party Review Under the Food and Drug Administration Modernization Act of 1997; Emergency Processing Request Under OMB Review

[Docket No. 98N–0331]

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a program under which persons may be accredited to review premarket notifications and recommend initial classification of certain medical devices. At the same time, FDA is announcing the termination of the Third Party Review Pilot Program. This notice announces the criteria to accredit or deny accreditation to persons (Accredited Persons) who request to conduct premarket notification reviews consistent with provisions of the FDA Modernization Act of 1997 (FDAMA). FDA is also announcing that this proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). FDA is requesting OMB approval within 45 days of receipt of this submission. FDA is taking this action to implement section 210 of FDAMA. The availability of guidance detailing the review of submissions, training for third party reviewers, and basic document processing by FDA is announced elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments on the collection of information by June 22, 1998. FDA will begin accepting applications for accreditation of Accredited Persons on July 20, 1998, and intends to make a list of Accredited Persons available on or about September 23, 1998. Beginning November 21, 1998, the agency will accept reviews and recommendations from Accredited Persons. On that same date, FDA plans to terminate the Third Party Review Pilot Program that began on August 1, 1996. FDA is currently planning to provide periodic training sessions for Accredited Persons, with the first such session scheduled for October 14-16, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: John F. Stigi, Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597, FAX 301–443–8818.

SUPPLEMENTARY INFORMATION:

I. Background

A. Third Party Review Pilot Program

In the **Federal Register** of April 3, 1996 (61 FR 14789), FDA announced that it would begin a 2-year voluntary pilot program to test the feasibility of using third party reviewers to improve the efficiency of the agency's review of 510(k)'s for selected low-and-moderate risk medical devices. FDA had previously solicited public comments on its plans for the pilot program in a notice issued in the **Federal Register** of June 1, 1995 (60 FR 28618), and at a public workshop held June 19, 1995. The comments received by the agency were addressed in the **Federal Register** notice (61 FR 14789).

The program announced in the April 3, 1996, notice provided for third party review for 251 types of devices that were included in the pilot program. These included all class I devices that were not exempt from 510(k) at that time (221 devices), and 30 class II devices, 24 of which were to be phased into the program over time.

Under the pilot program, persons required to submit 510(k)'s for the eligible devices were permitted to contract with an FDA Recognized Third Party and submit a 510(k) directly to the third party for review. Persons who did not wish to participate in the pilot continued to submit 510(k)'s directly to FDA. The third party applied FDA's 510(k) review criteria and submitted its documented review and recommendation on the substantial equivalence of the device to FDA. FDA then checked the review and issued a decision letter. FDA established a 30-day performance goal for its issuance of final decisions based on third party reviews.

The purpose of the pilot program was to: (1) Provide manufacturers of eligible devices with an alternative review process that could yield more rapid marketing clearance decisions, and (2) enable FDA to target its scientific review resources at higher-risk devices while maintaining confidence in the review by third parties of low-to-moderate risk devices. The pilot program was intended to determine the feasibility of these outcomes.

The agency received applications for recognition as third party reviewers from 37 prospective third parties. These applications were reviewed by a Third Party Recognition Board established by FDA. On July 11, 1996, FDA made publicly available a list of seven Recognized Third Parties, and immediately began a training program for third party review.

The pilot program began August 1, 1996, as scheduled. During the first 18 months of the pilot program, FDA received 22 510(k)'s that were reviewed by Recognized Third Parties. In contrast, during the same period, FDA received more than 1,300 510(k)'s for third party-eligible devices that were not reviewed by third parties.

B. FDA Modernization Act of 1997

The President signed FDAMA into law on November 21, 1997. Section 210 of FDAMA codifies and expands the ongoing Third Party Review Pilot Program by establishing a new section 523 of Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360m), directing FDA to accredit persons in the private sector to conduct the initial review of 510(k)'s for selected low-to-moderate risk devices. This section specifies that an Accredited Person may not review class III devices or class II devices that are permanently implantable, life-supporting, life-sustaining, or for which clinical data are required. This section also sets limits on the number of class II devices requiring clinical data that may be ineligible for Accredited Person review.

II. FDAMA Third Party Review Program

Under the provisions of FDAMA, FDA is establishing the criteria it will use to determine whether it will accredit or deny accreditation of persons for the purpose of reviewing reports submitted under section 510(k) of the act (21 U.S.C. 360(k)) and making recommendations to FDA regarding the initial classification of devices under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)). As intended by Congress,

this process is an expansion of FDA's Third Party Review Pilot Program. This expanded program is applicable to a greater number and variety of devices. To ensure accurate and timely review, Accredited Persons will be expected to consult review guidance or national and/or international standards recognized by FDA. FDA is making available on the CDRH home page on the World Wide Web a list of devices for which there are recognized standards or review guidance and which will be eligible for review by Accredited Persons. FDA will update the list regularly.

To be accredited by FDA, applicants must demonstrate that they have the appropriate qualifications and facilities to conduct competent 510(k) reviews and have instituted effective controls to prevent any conflict of interest or appearance of conflict of interest that might affect the review process.

In accordance with FDAMA, to be accredited by FDA an applicant must, at a minimum, have the following qualifications:

(1) An Accredited Person may not be a Federal Government employee;

(2) An Accredited Person shall be an independent organization not owned or controlled by a manufacturer, supplier, or vendor of devices and have no organizational, material, or financial affiliation with such a manufacturer, supplier, or vendor;

(3) An Accredited Person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation;

(4) An Accredited Person shall not engage in the design, manufacture, promotion, or sale of devices;

(5) An Accredited Person shall operate in accordance with generally accepted professional and ethical business practices and agree in writing that, at a minimum, it will:

(a) Certify that reported information accurately reflects data reviewed;

(b) Limit work to that for which competence and capacity are available;

(c) Treat information received, records, reports, and recommendations as proprietary information;

(d) Promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

(e) Protect against the use of any officer or employee of the Accredited Person who has a financial conflict of interest regarding the device, and annually make available to the public disclosures of the extent to which the Accredited Person, and the officers and employees of the Accredited Person, have maintained compliance with requirements relating to financial conflicts of interest.

In accordance with FDAMA, an Accredited Person also must, at a minimum, maintain records that support its initial and continuing qualifications to be an Accredited Person. These records include:

(1) Documenting the training qualifications of the Accredited Person and the employees of the Accredited Person;

(2) The procedures used by the Accredited Person for handling confidential information;

(3) The compensation arrangements made by the Accredited Person; and

(4) The procedures used by the Accredited Person to identify and avoid conflicts of interest.

In addition to the above minimum requirements for Accredited Persons, FDA is establishing the following:

1. Personnel Qualifications

FDA expects to consider several factors with respect to personnel qualifications when it considers accrediting applicants. These include:

(1) Whether the applicant's personnel have demonstrated knowledge of:

- The Federal Food, Drug, and Cosmetic Act (21 U.S.C., 301 *et seq.*);
- The Public Health Service Act (42 U.S.C., 201 *et seq.*); and
- The regulations implementing these statutes, particularly 21 CFR parts 800 through 1299.

(2) Whether the applicant:

- Has established, documented, and executed policies and procedures to ensure that 510(k)'s are reviewed by qualified personnel, and will maintain records on the relevant education, training, skills, and experience of all personnel who contribute to the technical review of a 510(k);
- Has clear written instructions for duties and responsibilities with respect to 510(k) reviews available to its personnel;
- Has employed personnel who, as a whole, are qualified in all of the scientific disciplines addressed by the 510(k)'s that the Accredited Person accepts for review;
- Has identified at least one individual who is responsible for providing supervision over 510(k) reviews and who has sufficient authority and competence to assess the quality and acceptability of these reviews; and
- Is prepared to conduct technically competent reviews at the time of requesting accreditation by FDA.

(3) For appropriate review of a particular class II device, FDA will expect specialized education or experience to assure a technically competent review. In addition, Accredited Persons will be expected to consult national and/or international standards recognized by FDA or review guidance.

2. Facilities

FDA expects to accredit persons that have the capability to interface with FDA's electronic data systems, including FDA home page, CDRH home page, and CDRH Facts-On-Demand. At a minimum, this would include a computer system with a modem and an independent facsimile machine. FDA will rely extensively on the use of FDA's electronic data systems for timely public dissemination of guidance documents to Accredited Persons.

3. Prevention of Conflicts of Interest

FDA expects Accredited Persons to be impartial and free from any commercial, financial, and other pressures that might present a conflict of interest or an appearance of conflict of interest. To that end, when deciding whether to accredit a person, FDA will consider whether the person has established, documented, and executed policies and procedures to prevent any individual or organizational conflict of interest, including conflicts of contractors or individual contract employees.

4. Training

Accredited Persons must certify in their application that they will have designated employees attend FDA training for Accredited Persons. FDA plans to provide such training on a periodic basis for persons newly accredited. FDA encourages applicants who wish to begin submitting reviews on November 21, 1998, to apply at least 60 days before the scheduled October 14 through 16, 1998 training session. FDA will not accept 510(k) reviews and recommendations from Accredited Persons that have failed to have at least one designated employee attend a training session for Accredited Persons.

C. Safeguards

The Third Party Review Program established by FDAMA includes safeguards to maintain a high level of quality in 510(k)'s reviewed by Accredited Persons and to minimize risk to public health. To ensure that persons accredited under section 523 of the act will continue to meet the standards of accreditation, the statute requires FDA to: (1) Make onsite visits on a periodic basis to each Accredited Person to audit the performance of such person, and (2) take such additional

measures as the agency determines to be appropriate.

In addition, the statute permits FDA to suspend or withdraw accreditation of any person accredited under section 523 of the act, after providing notice and an opportunity for an informal hearing, when such person is substantially not in compliance with the requirements of this section or poses a threat to public health or fails to act in a manner consistent with the purposes of this section.

The act also has been amended to establish a new prohibited act section to protect the integrity of the Accredited Person Program established by section 523 of the act. It is a prohibited act under new section 301(y)(1) of the act (21 U.S.C. 331(y)(1)) for an Accredited Person to:

(1) Submit a report that is false or misleading in any material respect;

(2) Disclose confidential information or trade secrets without the express written consent of the person who submitted such information or secrets to the Accredited Person; or

(3) Receive a bribe in any form or do a corrupt act associated with a responsibility delegated to the Accredited Person under the act.

FDA also is requiring applicants who wish to become an Accredited Person to establish policies designed to identify, prevent, and ensure reporting to FDA, of instances of forum shopping by submitters of 510(k)'s. Submitters of 510(k)'s who consult with more than one party in order to find the Accredited Person who is most likely to recommend clearance of the 510(k) will undermine the independence and integrity of the Accredited Person Review Program. FDA, therefore, expects Accredited Persons to ensure that the submitters of the 510(k)'s they are reviewing have not previously presented the submission to another Accredited Person.

It is not feasible to identify or state categorically all of the criteria for evaluating whether a submitter has forum shopped. However, if FDA determines that a submitter has obtained reviews of the same 510(k) from more than one Accredited Person, there will be a presumption of forum shopping and FDA may refuse to provide special processing of a submitter's 510(k) unless the submitter can explain to FDA's satisfaction why the circumstances do not indicate forum shopping.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This voluntary third party review program contains information collection provisions which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). FDA has submitted this proposed collection of information to OMB and has requested emergency processing under section 3507(j) of the Paperwork Reduction Act of 1995 and 5 CFR 1320.13. The information is essential to the agency's mission and is needed immediately to meet the statutory deadline for implementation of the voluntary third party review program as required by FDAMA. The use of normal clearance procedures would be likely to result in the prevention or disruption of this collection of information. The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual recordkeeping and periodic reporting burden. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing each collection of information.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Medical Devices; FDAMA Third-Party Review.

Description: Section 210 of FDAMA establishes a new section 523 of the act, directing FDA to accredit persons in the private sector to review certain premarket applications and notifications. As with the third party pilot program previously conducted by FDA, participation in this third party review program by accredited persons is entirely voluntary. A third party wishing to participate will submit a request for accreditation. Accredited third party reviewers will have the ability to review a manufacturer's 510(k) submission for selected devices. After reviewing a submission, the reviewer will forward a copy of the 510(k) submission, along with the reviewer's documented review and recommendation, to FDA. Third party reviewers should maintain records of their 510(k) reviews and a copy of the 510(k) for a reasonable period of time. This information collection will allow FDA to implement the Accredited Person review program established by FDAMA and improve the efficiency of 510(k) review for low to moderate-risk devices.

Description of Respondents: Businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Item	No. of Respondents	No. of Responses per Respondents	Total Annual Responses	Hours per Respondents	Total Hours
Request for accreditation	40	1	40	24	960
510(k) reviews conducted by accredited 3rd parties	35	4	140	40	5,600
Total hours					6,560

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—Estimated Annual Recordkeeping Burden[1]

Item	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
510(k) reviews	35	4	140	60	8,400

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burdens are explained as follows:

1. Reporting

a. *Requests for accreditation:* Under the agency's third-party review pilot program, the agency received 37 applications for recognition as third party reviewers, of which the agency recognized 7. Under this expanded program, the agency anticipates that it will not see a significant increase in the number of applicants. Therefore, the agency is estimating that it will receive 40 applications. The agency anticipates that it will accredit 35 of the applicants to conduct third-party reviews.

b. *510(k) reviews conducted by accredited third-parties:* In 18 months under the Third Party Review Pilot Program, FDA received only 22 510(k)'s that requested and were eligible for review by third parties. Because the new program is not as limited in time, and is expanded in scope, the agency anticipates that the number of 510(k)'s submitted for third-party review will increase. The agency anticipates that it will receive approximately 140 third party review submissions annually, i.e., approximately 4 annual reviews per each of the estimated 35 accredited reviewers.

2. Recordkeeping

Third party reviewers are required to keep records of their review of each submission. The agency anticipates approximately 140 annual submissions of 510(k)'s for third party review.

Prior to the implementation of the program, FDA will publish in the **Federal Register** a notice of OMB's decision to approve, modify, or disapprove the information collection provisions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: May 19, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13799 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0438]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "User Fee Cover Sheet" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 13, 1998 (63 FR 7420), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0297. The approval expires on April 30, 2001.

Dated: May 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13648 Filed 5–21–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0327]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Petition for Administrative Stay of Action" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 12, 1998 (63 FR 7173 and 7174), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0194. The approval expires on April 30, 2001.

Dated: May 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–13649 Filed 5–21–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0298]

Guidance for Industry on General/Specific Intended Use; Draft; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Guidance for Industry on General/Specific Intended Use." This draft guidance is not final or in effect at this time. The purpose of this draft guidance is to help medical device manufacturers understand the principles used by FDA to determine whether the addition of a specific indication for use to a medical device cleared for marketing with a general indication for use could trigger the need for a premarket approval application (PMA). The draft guidance is intended to help manufacturers answer the following questions: Under what circumstances is a device with a new, specific indication for use likely to be found to be substantially equivalent to a device legally marketed for a general indication for use? Conversely, when does a specific indication for use become a new intended use that requires submission of a PMA to establish the safety and effectiveness of the device?

DATES: Written comments concerning this draft guidance must be submitted by June 22, 1998.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the draft guidance entitled "Guidance for Industry on General/Specific Intended Use" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Daniel G. Schultz, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–5072.

SUPPLEMENTARY INFORMATION:

I. Background

Congress indicated that FDA should provide additional guidance on the approach that the agency takes when evaluating whether a new indication for use, which appears to fall within the scope of the intended use of a legally marketed predicate device, is a new intended use that would require a PMA. This guidance is issued in accordance with new section 513(i)(1)(F) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(i)(1)(F)), which was added by section 206 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115).

II. Significance of Guidance

This draft guidance represents the agency's current thinking on general/specific intended use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive copies of the draft guidance entitled "Guidance for Industry on General/Specific Intended Use" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number 499 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes the draft guidance entitled "Guidance for Industry on General/Specific Intended Use," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, on or before June 22, 1998, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 12, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–13798 Filed 5–21–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0312]

Draft Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a draft guidance entitled, "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997". Elsewhere in this issue of the **Federal Register**, FDA has published criteria to accredit or deny accreditation to applicants who request to become Accredited Persons. To the extent this guidance discusses recommendations and procedures that have not been incorporated into the criteria established in the **Federal Register** notice, this guidance is not final nor is it in effect at this time. This guidance will assist those who are interested in participating in the Third Party Program, either as persons accredited to perform 510(k) reviews (Accredited Persons) or as applicants pursuing clearance of 510(k) submissions consistent with the FDA Modernization Act of 1997 (FDAMA), as well as FDA staff responsible for implementing the program.

DATES: Written comments concerning this guidance must be received by June 22, 1998.

ADDRESSES: Written comments concerning this guidance must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance. If you do not have access to the World Wide Web (WWW), submit written requests for single copies of the guidance document entitled, "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997" on a 3.5" disk, to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

FOR FURTHER INFORMATION CONTACT: John F. Stigi, Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597 or FAX 301–443–8818.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1996, FDA established the Third Party Review Pilot Program, a voluntary pilot program, to assess the feasibility of using third party reviewers to improve the efficiency of the agency's review of 510(k)s for selected low-to-moderate risk devices. Under the pilot program, persons required to submit 510(k)s for the eligible devices were permitted to contract with an FDA Recognized Third Party and submit a 510(k) directly to the third party for review. Persons who did not wish to participate in the pilot continued to submit 510(k)s directly to FDA.

Under FDAMA, this pilot program has been codified and expanded and FDA is required to establish and publish criteria to accredit or deny accreditation to persons who request to perform third party reviews. Those criteria are published elsewhere in this issue of the **Federal Register** in accordance with section 210(b) of FDAMA. This guidance document contains additional information regarding applications for accreditation of third party reviewers, as well as additional information about the agency's plans for implementation of the third party review program. FDA will begin to accept applications from prospective accredited persons beginning July 20, 1998. FDA will review those applications in 60 days and approved Accredited Persons may begin to submit reviews of 510(k)s on November 21, 1998. Because Accredited Persons must participate in training prior to submitting recommendations, applicants who wish to attend the initial training that will be held October 14 through 16, 1998, should submit their applications at least 60 days in advance of that date.

II. Significance of Guidance

This guidance document represents the agency's current thinking on implementation of the third party review program. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a draft Level 1 guidance consistent with GGP's.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may also do so using the WWW. CDRH maintains an entry on the WWW for easy access to information, including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997," device safety alerts, access to **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers addresses), small manufacturers assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

A text-only version of the CDRH home page is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may on or before June 22, 1998, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies must be submitted of any comments sent to the Dockets Management Branch, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13800 Filed 5–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–141]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Information Collection Requirements Contained in the Medicaid Termination of Enrollment Regulation 42 CFR 434.27; *Form No.:* HCFA–R–141, OMB–0938–0572; *Use:* The termination of enrollment contract requirements, as referenced in 42 CFR 434.27 allow States, through contracts with Medicaid Managed Care Organizations (MCOs), to restrict disenrollment from an MCO up to a one year period. However, Medicaid beneficiaries are allowed to disenroll during the period for good cause. *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 8,406,945; *Total Annual Responses:* 8,406,945; *Total Annual Hours:* 1.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 12, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–13658 Filed 5–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–18F5]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.; *Title of Information Collection:* Application for Hospital Insurance and Supporting Regulation 42CFR 406.7; *Form No.:* HCFA–18F5, OMB # 0938–0251; *Use:* The HCFA 18F5 is used to establish entitlement to hospital insurance and supplementary medical insurance for beneficiaries entitled under title XVII of the Social Security Act only. *Frequency:* One time submission; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 50,000; *Total Annual Responses:* 50,000; *Total Annual Hours:* 12,500.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards Attention: John Rudolph Room C2–26–17 7500 Security Boulevard Baltimore, Maryland 21244–1850

Dated: May 14, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–13676 Filed 5–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–102/105]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently

approved collection; *Title of Information Collection:* CLIA Budget Workload Reports and Supporting Regulations in 42 CFR 493.1-.2001; *Form No.:* HCFA–102/105 (OMB# 0938–0599); *Use:* This information will be used by HCFA to determine the amount of Federal reimbursement for compliance surveys. In addition, the HCFA 102/105 is used for program evaluation, budget formulation and budget approval; *Frequency:* Quarterly and Annually; *Affected Public:* State, local or tribal government; *Number of Respondents:* 50; *Total Annual Responses:* 331; *Total Annual Hours:* 4,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 15, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–13673 Filed 5–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–216]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Procedures for Advisory Opinions Concerning Physician Referrals and Supporting Regulations in 42 CFR 411.370 through 411.389; *Form No.:* HCFA–R–216 (OMB# 0938–0714); *Use:* Section 4314 of Public Law 105–33, in establishing section 1877(g)(6) of the Act, requires the Department to provide advisory opinions to the public regarding whether a physician's referrals for certain designated health services are prohibited under the other provisions in section 1877 of the Act. These regulations provide the procedures under which members of the public may request advisory opinions from HCFA. Because all requests for advisory opinions are purely voluntary, respondents will only be required to provide information to us that is relevant to their individual requests; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, Business or other for-profit, and Individuals and Households; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 2,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 14, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–13674 Filed 5–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change of a previously approved collection for which approval has expired.; *Title of Information Collection:* Physician Certifications/Recertification in Skilled Nursing Facilities Manual Instructions and Supporting Regulations 42 CFR 424.20; *Form No.:* HCFA–R–5; *Use:* The Medicare program requires as a condition of participation for Medicare Part A payment for posthospital skilled nursing facility (SNF) services, that a physician must certify and periodically recertify that a beneficiary requires an SNF level of care. The physician certification requirement is intended to ensure that the beneficiary's need for services has been established and then reviewed and updated at appropriate intervals. *Frequency:* On occasion; *Affected Public:* Individuals or households, business or other for-profit, not -for-profit institutions, State, Local or Tribal Government; *Number of*

Respondents: 689,005; *Total Annual Responses:* 2,598,493; *Total Annual Hours:* 365,914.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC. 20503.

Dated: May 15, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–13680 Filed 5–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), Department Health and Human Services (HHS).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Long Term Care Minimum Data Set (LTC MDS)," HHS/HCFA/CMSO System No. 09–70–1516. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See "Effective Dates" section for comment period.

EFFECTIVE DATES: HCFA filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 19, 1998. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days after the publication of this notice or from the date submitted to OMB and the Congress, whichever is later, unless HCFA receives comments which require alterations to this notice.

ADDRESSES: The public should address comments to the HCFA Privacy Act Officer, Division of Freedom of Information and Privacy, Office of Information Services, C2–01–11, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, Monday through Friday from 9 am.—3 pm., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Helene Fredeking, Director, Division of Outcomes and Improvements, Center for Medicaid and State Operations, HCFA, 7500 Security Boulevard, S2–11–07, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–7304.

SUPPLEMENTARY INFORMATION: Sections 1819(b)(3)(A) and 1919(b)(3)(A) of the Social Security Act require LTC facilities participating in the Medicare and Medicaid programs to conduct comprehensive, accurate, standardized, reproducible assessments of each resident's functional capacity. Sections 1819(f) and 1919(f) of the Social Security Act require the Secretary to specify an MDS of core elements and common definitions for use by the facilities, to establish guidelines for use of the data set, and to designate one or more assessment instruments which a state requires facilities to use.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register**, Vol. 57, No. 249, page 61626 on December 28, 1992. A final rule was published, in the **Federal Register**, Vol. 62, No. 246, page 67174—67213, on December 23, 1997. The rule requires facilities certified to participate in Medicare and/or Medicaid to encode and transmit the information contained in the MDS to the state using a format that conforms to standard record layouts and data dictionaries. The state is subsequently required to transmit the data to HCFA using the same standard record layouts and data dictionaries.

This new system of records shall contain the assessment information (MDS records) for each individual residing in LTC facilities that are certified to participate in the Medicare and/or Medicaid programs (including private pay individuals). Each state's resident assessment instrument must contain the assessment instrument designated by HCFA, which includes the MDS and its common definitions, triggers, and utilization guidelines.

The LTC MDS includes standard demographic data for identification such as resident name, Social Security Number, Medicare number, Medicaid number, gender, race/ethnicity, and birth date. The MDS may also contain data elements that describe the resident's health status in the following areas:

Customary Routines
Cognitive Patterns
Communication/Hearing Patterns
Vision Patterns
Mood and Behavior Patterns
Psychosocial Well-being
Physical Functioning and Structural Problems
Continence Status
Disease Diagnoses
Health Conditions
Oral/Nutritional Status
Oral/Dental Status
Skin Condition
Activity Pursuit Patterns
Medications
Special Treatments and Procedures
Discharge Potential and Overall Status
Participation in Assessment

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose which is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act.

Dated: May 19, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

09–70–1516

SYSTEM NAME:

Long Term Care Minimum Data Set (LTC MDS), HHS/HCFA/CMSO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

HCFA contractors and agents at various locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents in all LTC facilities that are Medicare and/or Medicaid certified, including private pay individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual-level demographic and identifying data as well as clinical status data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1102(a), 1819(f), 1919(f), 1819(b)(3)(A), 1919(b)(3)(A), and 1864 of the Social Security Act.

PURPOSE(S):

To aid in the administration of the survey and certification of Medicare/Medicaid LTC facilities and to study the effectiveness and quality of care given in those facilities. This system will also support regulatory, reimbursement, policy, and research functions, and enable regulators to provide long term care facility staff with outcome data for providers' internal quality improvement activities.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify additional circumstances under which HCFA may release information from the LTC MDS system without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. Also, HCFA will require each prospective recipient of such information to agree in writing to certain conditions to ensure the continuing confidentiality and physical safeguards of the information. More specifically, as a condition of each disclosure under these routine uses, HCFA will, as necessary and appropriate:

(a) Determine that no other Federal statute specifically prohibits disclosure of the information;

(b) Determine that the use or disclosure does not violate legal limitations under which the information was provided, collected, or obtained;

(c) Determine that the purpose for which the disclosure is to be made;

(1) Cannot reasonably be accomplished unless the information is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect on or the risk to the privacy of the individual(s) that additional exposure of the record(s) might bring; and

(3) There is a reasonable probability that the purpose of the disclosure will be accomplished;

(d) Require the recipient of the information to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use, or disclosure of the record or any part thereof. The physical safeguards shall provide a level of security that is at least the equivalent to the level of security contemplated in OMB Circular No. A–130 (revised), Appendix III, Security of Federal Automated Information Systems which sets forth guidelines for security plans for automated information systems in Federal agencies.

(2) Remove or destroy the information that allows subject individual(s) to be identified at the earliest time at which removal or destruction can be accomplished, consistent with the purpose of the request;

(3) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed; and

(4) Make no further use or disclosure of the information except:

(i) To prevent or address an emergency directly affecting the health or safety of an individual;

(ii) For use on another project under the same conditions, provided HCFA has authorized the additional use(s) in writing; or

(iii) When required by law;

(e) Secure a written statement or agreement from the prospective recipient of the information whereby the prospective recipient attests to an understanding of, and willingness to abide by, the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstance; and

(f) Determine whether the disclosure constitutes a computer "matching program" as defined in 5 U.S.C. 552a(a)(8). If the disclosure is determined to be a computer "matching program," the instructions regarding preparation and transmission of a matching agreement as stated in 5 U.S.C. 552a(o) must be followed.

Disclosure may be made:

1. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. To the Bureau of Census for use in processing research and statistical data directly related to the administration of Agency programs.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof;

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components; is party to litigation or has an interest to such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective presentation of the governmental party or interest, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health.

5. To a HCFA contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system or for developing, modifying, and/or manipulating automated data processing (ADP) software. Data could also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

6. To an agency of a state government, or established by state law, for purposes of determining, evaluating, and/or assessing overall or aggregate cost, effectiveness, and/or quality of health care services provided in the state; or for the purpose of administration of federal-state health care programs within the state. Data will be released to the state only on those individuals who are either residents in long term care facilities within the state or are legal residents of the state irrespective of the location of the LTC facility wherein they are residents. In effect, only data collected by the state for HCFA may be released for this purpose.

7. To another Federal agency (1) To contribute to the accuracy of HCFA's proper payment of Medicare health benefits, and/or (2) to enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

8. To a HCFA contractor to perform Title XI or Title XVIII (of the Social Security Act) functions. Records from the LTC MDS may be released to a Peer Review Organization (PRO), or other HCFA contractor respectively, for performing medical review functions under these provisions of the law.

9. To a HCFA contractor, including but not limited to, fiscal intermediaries and carriers under Title XVIII of the Social Security Act, to administer some aspect of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, which program is or could be affected by fraud or abuse, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such programs.

10. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States, including any state or local government agency, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such programs.

11. To any entity that makes payment for or oversees administration of health care services, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse against such entity or the program or services administered by such entity, provided:

(i) Such entity enters into an agreement with HCFA to share knowledge and information regarding actual or potential fraudulent or abusive practices or activities regarding the delivery or receipt of health care services, or regarding securing payment or reimbursement for health care services, or any practice or activity that, if directed toward a HCFA-administered program, might reasonably be construed as actually or potentially fraudulent or abusive;

(ii) Such entity does, on a regular basis, or at such times as HCFA may request, fully and freely share such knowledge and information with HCFA, or as directed by HCFA, with HCFA's contractors; and

(iii) HCFA determines that it may reasonably conclude that the knowledge or information it has received or is likely to receive from such entity could lead to preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in the Medicare, Medicaid, or other health benefits program administered by HCFA or funded in whole or in part by Federal funds.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All records are retrieved by Social Security Number or Health Insurance Claim Number or by state-assigned Medicaid number.

SAFEGUARDS:

For computerized records, safeguards established in accordance with Department standards and National Institute of Standards and Technology guidelines (e.g., security codes) will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems (AIS) Guide, Systems Security Policies, and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained with identifiers as long as needed for program research.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Medicaid and State Operations, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

NOTIFICATION PROCEDURE:

To determine whether the individual's record is in the system, the subject individual should write to the system manager and furnish the following information: Name of system; health insurance claim number; and for verification purposes, the subject individual's name (woman's maiden name, if applicable), social security number, address, date of birth, and sex.

RECORD ACCESS PROCEDURES:

For purpose of access, use the same procedures outlined in Notification Procedures above. Individuals in the system should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department regulations 45 CFR 5b.5.)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulations 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

LTC Resident Assessment Instrument which includes the minimum data set and resident assessment protocols.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–13856 Filed 5–21–98; 8:45 am]
BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–11]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following

categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms Barbara Jenkins, Air Force Real Estate Agency, Area–MI, Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; ARMY: Mr. Jeff Holste, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22315; (703) 428–6318; COE: Mr. Bob Swieconek, Army Corps of Engineers, Management & Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Avenue, NW., Washington, DC 20314–1000; (202) 761–1749; INTERIOR: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW., Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll-free numbers).

Dated: May 14, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for May 22, 1998

Suitable/Available Properties

Buildings (by State)

Connecticut

USCG Cutter Redwood Pier
150 Bank Street
New London CT 06320–6002
Landholding Agency: GSA
Property Number: 549810017
Status: Excess
Comment: garage, shed, guard house located on concrete pier, most recent use—storage
GSA Number: 1–U–CT–540

Maryland

Former Physioc Property
NPS Tract 402–29
Jugtown Co: Washington, MD 21713–
Landholding Agency: Interior
Property Number: 619820005
Status: Excess
Comment: 227 sq. ft. stone cabin, off-site use only

Mississippi

Quarters #196
Dancy District, Natchez Tract
Mantee Co: Webster MS 39751–
Landholding Agency: Interior
Property Number: 619820008
Status: Excess
Comment: 1200 sq. ft., needs rehab, off-site use only

New Hampshire

Bldg. 246
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 779820028
Status: Unutilized
Comment: metal frame structure, off-site use only

Bldg. 335
Portsmouth Naval Shipyard
Portsmouth NH 02804–5000
Landholding Agency: Navy
Property Number: 779820029
Status: Unutilized
Comment: 1000 sq. ft., brick, off-site use only

New Mexico

Bldg. 834
Kirtland AFB Co: Bernalillo NM 87117–5000
Landholding Agency: Air Force
Property Number: 189820022
Status: Unutilized
Comment: 2936 sq. ft., presence of lead, most recent use—residence, off-site use only

12 Bldgs.
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 829–833, 836–841, 843
Landholding Agency: Air Force
Property Number: 189820023
Status: Unutilized
Comment: approx. 273 sq. ft., presence of lead, most recent use—residence, off-site use only

9 Bldgs.
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 835, 845, 23009, 23011–23012, 23038, 23042, 23045, 23073
Landholding Agency: Air Force
Property Number: 189820024
Status: Unutilized
Comment: approx. 1482 sq. ft., presence of lead, most recent use—residence, off-site use only

Bldgs. 23301, 23329, 23333
Kirtland AFB Co: Bernalillo NM 87117–5000
Landholding Agency: Air Force
Property Number: 189820025
Status: Unutilized
Comment: approx. 1813 sq. ft., presence of leaad, most recent use—residential, off-site use only

37Bldgs.
Kirtland AFB Co: Bernalillo NM 87117–5000
Location 23040, 23064, 23066–23067, 23070, 23135–23137, 23140, 23142–23143, 23176–23181, 23184, 23300, 23302–23306, 23309, 23320, 23323–23327, 23330, 23332, 2335
Landholding Agency: Air Force
Property Number: 189820026
Status: Unutilized
Comment: approx. 1096 sq. ft., presence of lead, most recent use—residence, off-site use only

9 Bldgs.
Kirtland AFB Co: Bernalillo NM 87117–5000

Location: 23013–23014, 23045, 23065, 23069, 23072, 23134, 23138, 23141
Landholding Agency: Air Force
Property Number: 189820027
Status: Unutilized
Comment: approx. 1299 sq. ft., presence of lead, most recent use—residence, off-site use only

18 Bldgs.
Kirtland AFB Co. Bernalillo NM 87117–5000
Location: 23010, 23015, 23041, 23043, 23046, 23063, 23068, 23071, 23139, 23144, 23182–23183, 23307–23308, 23322, 23328, 23334, 23340
Landholding Agency Air Force
Property Number: 189820028
Status: Unutilized
Comment: approx. 1358 sq. ft., presence of lead, most recent use—residence, off-site use only

Bldgs. 23016, 23017
Kirtland AFB Co: Bernalillo NM 87117–5000
Landholding Agency: Air Force
Property Number: 189820029
Status: Unutilized
Comment: 4019 sq. ft., presence of lead, most recent use—residence, off-site use only

Virginia

Former Mayhew Property
NPS Tract 475–27
Catawba Co. Botetourt VA 24070–
Landholding Agency: Interior
Property Number: 619820004
Status: Excess
Comment: 936 sq. ft. cabin off-site use only

Suitable/Unavailable Properties

Land (by State)

Oklahoma

Land Lake Texoma Co: Bryan OK
Landholding Agency: COE
Property Number: 319820002
Status: Excess
Comment: 8.262 acres, most recent use—undeveloped recreation

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 247
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820007
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 248
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 249
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820009
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3551
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820010
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3624
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 6109
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820012
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7115
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8009
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8020
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219820015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3503, 3712–3713, 3820
Fort Rucker
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219820016
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6608, 20005
Fort Rucker
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219820017
Status: Unutilized
Reason: Extensive deterioration

Alaska

Bldg. 1771
Galena Airport
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 189820001
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 16
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1559
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820002
Status: Unutilized
Reason: Within airport runway clear zone Floodway

Bldg. 4174
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820003
Status: Unutilized
Reason: Floodway

Bldg. 15182
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820004
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway

Bldg. 15183
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820005
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway

Bldg. 15189
Fort Wainwright
Ft. Wainwright Co: North Star AK 99703–6505
Landholding Agency: Army
Property Number: 219820006
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway, Extensive deterioration

Arkansas

Dwelling
Bull Shoals Lake/Dry Run Road
Oakland Co: Marion AR 72661–
Landholding Agency: COE
Property Number: 319820001
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 00907
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820002
Status: Unutilized

Reason: Secured Area, Extensive deterioration
Bldg. 1681
Vanderberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820003
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 01839
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820004
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 06519
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820005
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 06526
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820006
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 11167
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820007
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 11168
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189820008
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 258
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–7010
Landholding Agency: Army
Property Number: 219820019
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 313
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–7010
Landholding Agency: Army
Property Number: 219820020
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 888
Parks Reserve Forces Trng Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219820021
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1104
Parks Reserve Forces Trng Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219820022
Status: Unutilized
Reason: Extensive deterioration
Brandy Creek Residence #608
Whiskeytown Co: Shasta CA 96095–
Landholding Agency: Interior
Property Number: 619820006
Status: Excess
Reason: Extensive deterioration

Colorado

Bldg. T–1543
fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219820023
Status: Unutilized
Reason: Extensive deterioration
Bldg. P–9501
Fort Carson
Ft Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219820024
Status: Unutilized
Reason: Extensive deterioration
Bldg. P–9502
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219820025
Status: Unutilized
Reason: Extensive deterioration
Bldg. P–9503
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219820026
Status: Unutilized
Reason: Extensive deterioration

Florida

Bldg. 744
Eglin AFB Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 189820009
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 3008
Eglin AFB Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 189820010
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 3010
Eglin AFB Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 189820011
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 12709
Eglin AFB Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 189820012
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 08807
Cape Canaveral Air Station Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 189820013
Status: Unutilized
Reason: Secured Area
Bldg. 08809
Cape Canaveral Air Station Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 189820014
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 21911
Cape Canaveral Air Station Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 189820015
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 21914
Cape Canaveral Air Station Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 189820016
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Bldg. 32349
Cape Canaveral Air Station Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 189820017
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Illinois

Bldgs. T–20, T–21, T–23
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040–
Landholding Agency: Army
Property Number: 219820027
Status: Underutilized
Reason: Floodway, Secured Area
Bldg. T–116
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040–
Landholding Agency: Army
Property Number: 219820028
Status: Unutilized
Reason: Floodway, Secured Area
Bldg. S–198
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040–
Landholding Agency: Army
Property Number: 219820029
Status: Unutilized
Reason: Floodway, Secured Area
Bldg. S–311
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040–
Landholding Agency: Army
Property Number: 219820030
Status: Unutilized
Reason: Floodway, Secured Area

Indiana

Bldg. 401A
Newport Chemical Depot
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219820031

Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 704A
Newport Chemical Depot
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219820032
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Kansas

Bldg. 2703
Forbes Field
Topeka KS
Landholding Agency: Air Force
Property Number: 189820018
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. 1395
Fort Knox
Fort Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219820033
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6584
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219820034
Status: Unutilized
Reason: Extensive deterioration

Louisiana

Bldg. 7703
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820035
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7704
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820036
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7705
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820037
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7720
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820038
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7721
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820039
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7723
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820040
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7724
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820041
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 8059
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820042
Status: Unutilized
Reason: Floodway

Bldg. 8240
Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219820043
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. M1–629
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820044
Status: Excess
Reason: Floodway, Secured Area

Bldg. M1–630
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820045
Status: Excess
Reason: Floodway, Secured Area

Bldg. M1–631
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820046
Status: Excess
Reason: Floodway, Secured Area

Bldg. M3–208
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820047
Status: Excess
Reason: Floodway, Secured Area

Bldg. M3–209
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820048
Status: Excess
Reason: Floodway, Secured Area

Bldg. M4–2704
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820049
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1401
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820050
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1412
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820051
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1427
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820052
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. B–1433–053
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820053
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1434
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820054
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1454
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820055
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1455
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820056
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1464
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820057
Status: Excess
Reason: Floodway, Secured Area

Bldg. B–1472
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820058
Status: Excess
Reason: Floodway, Secured Area

Bldg. C–1322
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820059
Status: Excess
Reason: Floodway, Secured Area

Bldg. C–1323
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820060
Status: Excess
Reason: Floodway, Secured Area

Bldg. C–1348
Louisiana AAP

Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820061
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. D–1215
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820062
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. D–1232
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820063
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. D–1252
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820064
Status: Excess
Reason: Floodway, Secured Area

Bldgs. STP–2000, 2001, 2002
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820065
Status: Excess
Reason: Floodway, Secured Area

Bldg. STP–2004
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820066
Status: Excess
Reason: Floodway, Secured Area

Bldg. W–2900
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820067
Status: Excess
Reason: Floodway, Secured Area

4 Bldgs.
Louisiana AAP
W–2901, 2902, 2903, 2904
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820068
Status: Excess
Reason: Floodway, Secured Area

Bldgs. W–2905, 2906
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820069
Status: Excess
Reason: Floodway, Secured Area

Bldg. W–2907
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820070
Status: Excess
Reason: Floodway, Secured Area

Bldgs. X–5080, 5101, 5102
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820071
Status: Excess
Reason: Floodway, Secured Area

Bldg. X–5104
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820072
Status: Excess
Reason: Floodway, Secured Area

Bldg. X–5105
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820073
Status: Excess
Reason: Floodway, Secured Area

Bldgs. X–5107, X–5115
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820074
Status: Excess
Reason: Floodway, Secured Area

Bldg. X–5114
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820075
Status: Excess
Reason: Floodway, Secured Area

Bldg. X–5116
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820076
Status: Excess
Reason: Floodway, Secured Area

Bldg. X–5117
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820077
Status: Excess
Reason: Floodway, Secured Area

Bldg. Y–2604
Louisiana AAP
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219820078
Status: Excess
Reason: Floodway, Secured Area

Maryland

Bldg. 00799
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219820080
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00897
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219820081
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1104A
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219820082
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1104B
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219820083
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01106
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219820084
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01107
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820085
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01162
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820086
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01184
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820087
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01184A
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820088
Status: Unutilized
Reason: Extensive deterioration

Bldg. E1422
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820089
Status: Unutilized
Reason: Extensive deterioration

Bldg. E3236
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820090
Status: Unutilized
Reason: Extensive deterioration

Bldg. E3324
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820091
Status: Unutilized
Reason: Extensive deterioration

Bldg. E3561
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820092
Status: Unutilized
Reason: Extensive deterioration

Bldg. 04701

Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820093
Status: Unutilized
Reason: Extensive deterioration

Bldg. E5238
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820094
Status: Unutilized
Reason: Extensive deterioration

Bldg. E5292
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820095
Status: Unutilized
Reason: Extensive deterioration

Bldg. E5695
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number 219820096
Status: Unutilized
Reason: Extensive deterioration

Massachusetts

Bldg. 13
U.S. Army Soldier Systems Command
Natick Co: Middlesex MA 01760–
Landholding Agency: Army
Property Number 219820079
Status: Unutilized
Reason: Extensive deterioration

Montana

Bldg. 22
Great Falls IAP
Great Falls Co: Cascade MT 59404–5570
Landholding Agency: Army
Property Number 18920019
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 13408
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189820020
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 13415
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189820021
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

New Jersey

Bldg. 604I
Picatinny Arsenal Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219820097
Status: Unutilized
Reason: Extensive deterioration

New Mexico

Bldg. 00235
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219820098
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00880
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219820099
Status: Unutilized
Reason: Extensive deterioration

Bldg. 34252
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219820100
Status: Unutilized
Reason: Extensive deterioration

North Carolina

Storage Bldg.
Great Smoky Mountains Natl. Park
Cherokee Co: Swain NC 28719–
Landholding Agency: Interior
Property Number: 619820007
Status: Unutilized
Reason: Extensive deterioration

Ohio

14 Bldgs.
Area B, Wright-Patterson AFB Co: Montgomery OH 45433–
Location: 6036, 38, 42, 44, 45, 49, 54, 64, 65, 69, 75
Landholding Agency: Air Force
Property Number: 189820030
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 1
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219820101
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

Bldg. 010
Tulsa IAP Base
Tulsa OK 74115–1699
Landholding Agency: Air Force
Property Number: 189820031
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 305
Tulsa IAP Base
Tulsa OK 74115–1699
Landholding Agency: Air Force
Property Number: 189820032
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 310
Tulsa IAP Base
Tulsa OK 74115–1699
Landholding Agency: Air Force
Property Number: 189820033
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

South Carolina

Bldg. 1532
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820102
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1557
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820103
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2500
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820104
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2512
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820105
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2549
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820106
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3530
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820107
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4520
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820108
Status: Unutilized
Reason: Extensive deterioration

Bldg. J5826
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820109
Status: Unutilized
Reason: Extensive deterioration

Bldg. F7901
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820110
Status: Unutilized
Reason: Extensive deterioration

Bldg. 8670
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219820111
Status: Unutilized
Reason: Extensive deterioration

South Dakota

Bldg. 7504
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820034

Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 4001
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820035
Status: Unutilized
Reason: Secured Area

Bldg. 7239
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820036
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 1102
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820037
Status: Unutilized
Reason: Secured Area

Bldg. 88307
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820038
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 88320
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 189820039
Status: Unutilized
Reason: Within 2000 ft of flammable or explosive material, Secured Area

Tennessee

Bldg. 717
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820112
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 816–2
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820113
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 908–2
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820114
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. T–1026
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820115
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. T–1027
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820116
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. T–1039
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820117
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. T–1096
Volunteer AAP
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219820118
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Utah

Bldg. 3102
Deseret Chemical Depot
Tooele UT 84074–
Landholding Agency: Army
Property Number: 219820119
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 5145
Deseret Chemical Depot
Tooele UT 84074–
Landholding Agency: Army
Property Number: 219820120
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8030
Deseret Chemical Depot
Tooele UT 84074–
Landholding Agency: Army
Property Number: 219820121
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Vermont

Bldg. 95
Burlington IAP
S. Burlington Co: Chittenden VT
Landholding Agency: Air Force
Property Number: 189820040
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 220
Burlington IAP
S. Burlington Co: Chittenden VT
Landholding Agency: Air Force
Property Number: 189820041
Status: Unutilized
Reason: Secured Area

Bldg. 381
Burlington IAP
S. Burlington Co: Chittenden VT
Landholding Agency: Air Force
Property Number: 189820042
Status: Unutilized
Reason: Secured Area

Bldg. 379
Burlington IAP
S. Burlington Co: Chittenden VT
Landholding Agency: Air Force
Property Number: 189820043
Status: Unutilized
Reason: Secured Area

Virginia

Bldgs. 201, 215, 216
Fort Story
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219820122
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 406, 412, 418, 419
Fort Story
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219820123
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Story
502, 504, 526, 533, 550, 582
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219820124
Status: Unutilized
Reason: Extensive deterioration

7 Bldgs.
Fort Story
803, 832, 921, 1093, 1096, 1105, 1115
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219820125
Status: Unutilized
Reason: Extensive deterioration

Bldg. 825
Fort Story
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219820126
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–5201
Fort Lee
Ft. Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219820127
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–8406
Fort Lee
Ft. Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219820128
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3504
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 219820129
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 358, 359
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 779820023
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–43
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 779820024

Status: Excess
Reason: Extensive deterioration

Bldg. CAD–102
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 779820025
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–102A
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 779820026
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–127
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 779820027
Status: Excess
Reason: Extensive deterioration

Washington

Bldg. 5232
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219820130
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9568
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219820131
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9650
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219820132
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–275
Fort Lawton
Seattle Co: King WA 98199–
Landholding Agency: Army
Property Number: 219820133
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldgs. S–570, S–571
Fort Lawton
Seattle Co: King WA 98199–
Landholding Agency: Army
Property Number: 219820134
Status: Unutilized
Reason: Secured Area, Extensive deterioration

[FR Doc. 98–13365 Filed 5–21–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Assistant Secretary of Water and Science

Central Utah Project Completion Act

Notice of Availability of the Record of Decision on the Provo River Restoration Project Final Environmental Impact Statement documenting the Department of Interior's approval for the Utah Reclamation Mitigation and Conservation Commission to proceed with the construction of the Proposed Action Alternative.

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of availability of the Provo River Restoration Project Record of Decision.

SUMMARY: On April 1, 1998, Patricia J. Beneke, Assistant Secretary—Water and Science, Department of the Interior, signed the Record of Decision (ROD) which documents the selection of the Proposed Action Alternative (Riverine Habitat Restoration Alternative) as presented in the Provo River Restoration Project Final Environmental Impact Statement (FEIS), MC FES 97–01, filed December 23, 1997. The ROD approves the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) proceeding with construction of the Provo River Restoration Project (PRRP) and authorizes Department of the Interior agencies to assist the Mitigation Commission with this project. The Department of the Interior and the Mitigation Commission served as the Joint Lead Agencies in the preparation of the NEPA compliance documents.

The FEIS for the PRRP considered three action alternatives (including the Proposed Action), as well as the No Action Alternative, for river restoration. The Assistant Secretary determined that the Proposed Action Alternative provides the greatest amount of mitigation and enhancement benefit among all alternatives considered.

Construction of the PRRP will restore a more natural steam channel along about 10 miles of the Provo River between Jordanelle Dam and Deer Creek Reservoir through the Heber Valley in Wasatch County, Utah. The project will fulfill Interior's environmental commitments made in the U.S. Bureau of Reclamation's 1987 Final Supplement to the Final Environmental Impact Statement, Municipal and Industrial System of the Bonneville Unit, Central Utah Project (INT FES 87–8). These commitments are now binding upon the Mitigation Commission. The selected alternative will fulfill the environmental commitments by: acquiring lands in public ownership along the Provo River thereby increasing public access for angling and other low impact recreation, restoring aquatic habitats to increase game fish populations, eliminating fish migration barriers and aquatic habitat impacts currently associated with operating irrigation diversion facilities, and providing public management of newly acquired lands to maximize public recreation benefits.

During preparation of the FEIS, the Mitigation Commission consulted formally on listed species with the U.S. Fish and Wildlife Service (FWS) under section 7 of the Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544, as amended). In a letter dated December 10, 1997, the FWS indicated that the Proposed Action Alternative selected by this ROD is not likely to adversely affect listed or proposed species or designated or proposed critical habitats. Interior and the Mitigation Commission will continue to consult with FWS prior to and during construction to avoid actions that may affect proposed or listed species, or their proposed or designated critical habitat.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below:

Mr. Ralph G. Swanson, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–7317, Telephone: (801) 379–1254.

Dated: April 23, 1998.

Ronald Johnston,

Program Director, Department of the Interior.

[FR Doc. 98–13665 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Action: Notice of Application for a Natural Gas Pipeline Right-of-Way

SUMMARY: Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449:30 U.S.C. 185), as amended by Public Law 93–153, Koch Pipeline Southeast, Inc. has applied to construct, install and maintain a 12-inch pipeline across approximately 2,566.88 feet of the Mississippi Sandhill Crane National Wildlife Refuge in Jackson County, Mississippi and Grand Bay National Wildlife Refuge, Mobile County,

Alabama within the existing corridor described as follows:

Legal Description of Centerline Proposed 50′ Permanent Pipeline Right-of-Way Across Property of United States of America Located in Section 7, T7S, R4W, Jackson County, Mississippi.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,114,194.65 and Y = 343,696.16, said point being the Point of Beginning; Thence, N 53°37′00″ E a distance of 1,681.58 feet to the Point of termination containing 1,681.58 feet or 101.91 rods.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,116,172.98 and Y = 345,153.82, said point being the Point of Beginning; Thence, N 53°37′00″ E a distance of 338.18 feet to the Point of termination containing 338.18 feet or 20.50 rods.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,116,445.24 and Y = 345,354.43, said point being the Point of Beginning; Thence, N 53°37′00″ E a distance of 480.94 feet to the Point of termination containing 480.94 feet or 29.15 rods.

Legal Description of Centerline Proposed 50′ Permanent Pipeline Right-of-Way Across Property of United States of America Located in Section 18, T7S, R4W, Jackson County, Mississippi.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,111,557.16 and Y = 341,753.08, said point being the Point of Beginning; Thence, N 53°37′16″ E a distance of 506.75 feet to the Point of termination containing 506.75 feet or 155.57 rods.

Legal Description of Centerline Proposed 50′ Permanent Pipeline Right-of-Way Across Property of United States of America Located in Sections 4 & 5, T7S, R4W, Jackson County, Mississippi.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,120,987.53 and Y = 348,701.42, said point being the Point of Beginning; Thence, N 53°40′49″ E a distance of 8.67 feet to the Point of termination containing 8.67 feet or 0.52 rods.

Legal Description of Centerline Proposed 50′ Permanent Pipeline Right-of-Way Across Property of United States of America Located in Sections 19 & 30, T7S, R4W, Jackson County, Mississippi.

Commencing at a point having a Mississippi Coordinate System, East Zone coordinated of X = 1,080,724.33 and Y = 363,181.92, said point being the Point of Beginning; Thence, N 27°18′18″ W a distance of 2,566.88 feet to the Point of termination containing 2,566.88 feet or 155.57 rods.

Legal Description of Centerline Proposed 50′ Permanent Pipeline Right-of-Way Across Property of United States of America Located in Sections 4 & 5, T7S, R4W, Mobile County, Alabama.

Commencing at a point having a Alabama Coordinate System, West Zone coordinated of X = 1,685,142.20 and Y = 167,740.37, said point being the Point of Beginning; Thence, N 53°40′49″ E a distance of 1,899.22 feet to a point, Thence, along a curve to the right having a radius of 11,670 feet and achord bearing and distance of 59°31′19″ feet to a point; Thence S 59°59′47″ E a distance of 51.41 feet to a point; Thence S 14°59′47″ E a distance of 467.89 feet to a point; Thence, S 47°01′52″ E a distance of 202.22 feet to a Point of termination containing 4,177.23 feet or 253.16 rods.

The land described above contains 11.18 acres, more or less.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service is correctly considering the merits of approving this application.

DATES: Interested persons desiring to comment on this application should do so on or before June 22, 1998.

ADDRESSES: Comments should be addressed to the Regional Director, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 420, Atlanta, Georgia 30345.

Sam D. Hamilton,

Regional Director,

[FR Doc. 98–13675 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1220–00; GP8–0194]

Closure of Public Lands

AGENCY: Prineville District, Deschutes, Resource Area, Bureau of Land Management, Interior.

ACTION: Notice is hereby given that effective immediately, the Skeleton Fire Area and adjacent lands as legally described below is closed to all motorized vehicle use, except those defined as open roads. The purpose of this closure is to protect wildlife (including critical deer range), vegetation, sensitive soils, watershed resources, areas of high visual quality, and to prevent spread of noxious weeds. Exemptions to this closure will apply to administrative personnel of the Bureau of Land Management. Other exemptions to this closure order may be made on a case by case basis by the authorized officer.

This closure will remain in effect until further notice.

Descriptive Location:

This closure applies to those lands administered by the Bureau of Land Management East of Bend, Oregon, South of Highway 20, and immediately West of the Millican Valley Off-Highway Vehicle Management Area as described in the July 1989 Brothers/LaPine Resource Management Plan (Page 48).

Legal Description

This closure order applies to those lands administered by the Bureau of Land Management within the area of Township 18 south, Range 13 east, Sections 14–36; Township 19 south, Range 13 east, Sections 1–4, 10–14, 24 and 25; Township 18 south, Range 14 east, Sections 30, 31, and 32; Township 19 south, Range 14 east, Sections 3–11, 14–24, 23–27. Seven roads will remain open during the closure period and are described as follows:

—Old Highway 20, Horse Ridge Segment.

—BLM Road 6515 from Old Highway 20 South to Forest Road 2015

—BLM Road 6515–AA from BLM Road 6516, east to Dyer Well.

—Stookey Flat Road, from intersection of Gosney Road and Arnold Market Road in a southeast direction to the intersection with BLM Road 6516.

—Ford Road, a continuation of BLM Road 6516 to the Forest Road 2015.

—Forest Road 2015.

—Forest Road 2015–500 from Forest Road 2015 south to Forest Road 18.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management, Prineville District, P.O. Box 550, Prineville Oregon 97754, telephone 541–416–6700.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR 8341.2 and 43 CFR 8364.1. Violations of this closure order are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Dated: May 12, 1998.

Danny L. Tippy,

Acting District Manager,

[FR Doc. 98–13657 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–6334–00; GP8–0192]

Notice of Emergency Closure of Public Lands: Douglas County, Oregon

AGENCY: Bureau of Land Management, Roseburg District Office, South River Resource Area.

ACTION: Emergency temporary closure of public lands in Douglas County, Oregon.

SUMMARY: Notice is served that the public lands located along Mitchell Creek, approximately 3 miles southwest of Canyonville, Oregon, are closed to all public uses, including vehicle operation, camping, open fires, shooting, hiking, sightseeing, mining, erecting structures and storing personal property, until July 15, 1998. The purpose of this closure is to minimize disturbance to threatened and endangered species, to protect wildlife and fishery resources and habitats, and to protect soil and water resources.

The lands affected by this closure are more specifically described as:

Willamette Principal Meridian, Douglas County, Oregon

T. 31 S., R. 5 W.,
Sec. 6, Lots 4, 5, 6, 7, those portions of Lot 3, SE¼NW¼, W½SW¼, and SE¼ lying west and south of BLM road 30–5–31.0; except those portions of BLM roads 31–5–6.0 and 31–6–2.0.

Containing approximately 560 acres.

Personnel that are exempt from this closure include any Federal, State, or local officer, or member of any organized rescue or fire-fighting force in the performance of an official duty. BLM roads may also be used under terms of existing easements of record. Additional persons authorized by the BLM South River Area Manager, may be allowed but must be approved in advance in writing.

EFFECTIVE DATES: The closure will become effective immediately and will remain in effect until July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Alan R. Wood, Area Manager, South River Resource Area, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470, (541) 440–4930.

SUPPLEMENTARY INFORMATION: Maps showing the above described area are available at the BLM's Roseburg District Office for public review. The public lands closed under this order will be posted with signs at points of access. This closure is consistent with the Roseburg District Record of Decision and Resource Management Plan (June 1995), which allows for the closure of areas where problems occur.

This temporary closure is to prevent further damage to wildlife and fishery habitats and resources, soil and water resources, and disturbance of threatened and endangered species.

This closure authorized under 43 CFR 8364.1. Any person who fails to comply with the provisions of this closure may be subject to, but not limited to, the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment of not to exceed 12 months, as well as the penalties provided under Oregon State law.

Dated: May 13, 1998.

Alan R. Wood,

Area Manager.

[FR Doc. 98–13681 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–96–003; AA–76879, AA–77643, AA–77776, AA–76936, AA–76935, AA–77839]

Management Framework Plans, Etc: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability; proposed amendment to the Southwest and Southcentral Management Framework Plans (MFP) in Southwest and Southcentral Alaska.

SUMMARY: The BLM has amended the Southwest and Southcentral MFPs to allow for the sale of public lands needed for church-group related development and to resolve several land occupancy problems. The following described public lands have been examined through the land use planning process and have been found suitable for disposal pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713. Parcel Two of the following described lands is also classified as suitable for lease and sale under the Recreation and Public Purposes Act, as amended, 43 U.S.C. 969.

Parcel One (AA–76879): Seward Meridian, Alaska, T. 20 N., R. 8 E., Sections 23 and 26, containing approximately 80 acres.
Parcel Two (AA–77643): Seward Meridian, Alaska, T. 15 N., R. 1 W., Lot 53, Section 19, containing approximately 1.42 acres.
Parcel Three (AA–77776): Seward Meridian, Alaska, T. 17 N., R. 2 E., Section 26, Lot 22, containing approximately 0.94 acre.
Parcel Four (AA–76396): Kateel River Meridian, Alaska, T. 27 S., R. 22 E., Section 32, containing approximately 45 acres
Parcel Five (AA–76935): Kateel River Meridian, Alaska, T. 27 S., R. 22 E., Section 32, containing approximately 1 acre.
Parcel Six (AA–77839): Seward Meridian, Alaska, T. 2 N., R. 12 W., Sections 21 and 22, containing approximately .72 acre

The above lands contain approximately 129 acres.

FOR FURTHER INFORMATION CONTACT: Robert P. Rinehart, Anchorage Field Office, Bureau of Land Management, 6881 Abbott Loop Rd., Anchorage, Alaska, 99507–2599, (907) 267–1272.

SUPPLEMENTARY INFORMATION: For a period of 30 days from the date this notice is published in the **Federal Register**, any party that participated in the plan amendment and is adversely affected by the amendment, may protest this action in accordance with 43 CFR 1610.5–5 only as it effects issues submitted for the record during the planning process.

Nick Douglas,

Field Manager.

[FR Doc. 98–13677 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–010–1430–00; GP8–0185]

AGENCY: Lakeview District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The South Steens Subcommittee of the Southeast Oregon Resource Advisory Council will meet at the Burns District BLM Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, on June 25, 1998, at 8 am and proceed to the South Steens allotment for a field trip. They will reconvene on June 26, 1998, at 8 am at the Burns District BLM Office on June 26, 1998. The purpose of this meeting is to gather information on the proposed projects associated with the Catlow Conservation Agreement.

DATES: June 25, 1998, and June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Sonya Hickman, Bureau of Land Management, Lakeview District Office, P.O. Box 151, Lakeview, OR 97630 (Telephone 541–947–2177).

Steve Ellis,

Lakeview District Manager.

[FR Doc. 98–13754 Filed 5–2–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-921-41-5700; WYW102780]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW102780 for lands in Uinta County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16-2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW102780 effective January 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98-13678 Filed 5-21-98; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-921-41-5700; WYW104657]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW104657 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW104657 effective June 1, 1997, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98-13679 Filed 5-21-98; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-1430-00; N-57883]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and Public Purpose Lease/Conveyance.

SUMMARY: The following described public land in T. 20 S., R. 60 E., section 6, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the land for a public park to include facilities for softball, baseball, volleyball, lawn games, roller hockey, lighted tennis courts, small/large, individual and family/group picnic areas, leisure and fitness areas, streets, roads, utilities and maintenance facilities for the park.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,

Section 6: E½NW¼SE¼NW¼, SW¼SE¼NW¼,NW¼NE¼SW¼, W½SW¼NE¼SW¼.

Containing 30 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

3. An easement along the north 30 feet and east 30 feet of the E½ of the NW¼ of the SE¼ of the NW¼ of section 6, T. 20 S., R. 60 E., M.D. M., Clark County, Nevada, together with a spandrel area in the NE¼ corner thereof, concave southwesterly, having a radius of fifteen (15) feet and being tangent to the south line of the north 30 feet of the west line of the east 30 feet.

4. An easement along the east 30 feet of the E½ of the SW¼ of the SE¼ of the NW¼ of section 6, T. 20 S., R. 60 E., M.D. M., Clark County, Nevada.

5. An easement along the east 30 feet of the E½ of the NW¼ of the NW¼ of the SW¼ of section 6, T. 20 S., R. 60 E., M.D. M., Clark County, Nevada.

6. An easement along the south 30 feet of the W½ of the SW¼ of the NW¼ of the SW¼ of section 6, T. 20 S., R. 60 E., M.D. M., Clark County, Nevada.

7. In addition, all road easements identified in the Clark County Master Transportation Plan, until such time as a patent would be issued.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposal under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, 4765 Vegas Drive, Las Vegas, Nevada 89108.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a public park (Lone Mountain). Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the

application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: May 12, 1998.

Mark R. Chatterton,

Assistant District Manager, Non-Renewable Resources, Las Vegas, NV.

[FR Doc. 98–13756 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1610–08]

Notice of Availability of the Proposed Las Vegas Resource Management Plan and Final Environmental Impact Statement

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: The Proposed Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP/FEIS) is available to the public for a 30 day protest period.

The Proposed Plan and FEIS has been developed in accordance with the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976. This plan is a variation of Alternative E which was presented in the Supplement to the Draft Stateline Resource Management Plan released in May 1994 and as modified by public comment. This document contains a summary of the decisions and resulting impacts, an overview of the planning process and planning issues, the Proposed Plan, a summary of written and verbal comments received during public review of the Draft Plan and Supplement, and responses to the substantive issues raised during the review.

The Proposed Plan may be protested by any person who participated in the planning process, and who has an interest which is or may be, adversely affected by the approval of the Proposed Plan. A protest may raise only those issues which were submitted for the record during the planning process (see 43 Code of Federal Regulations 1610.5–2).

All protests must be written and must be postmarked on or before July 14, 1998 and shall contain the following information:

- The name, mailing address, telephone number, and interest of the person filing the protest.
- A statement of the issue or issues being protested.
- A statement of the part or parts of the document being protested.
- A copy of all documents addressing the issue or issues previously submitted during the planning process by the protesting party, or an indication of the date the issue or issues were discussed for the record.
- A concise statement explaining precisely why the Bureau of Land Management, Nevada State Director's decision is wrong.

Upon resolution of any protests, an Approved Plan and Record of Decision will be issued. The approved Plan/Record of Decision will be mailed to all individuals who participated in this planning process and all other interested publics upon their request.

DATES: All written protests must be postmarked no later than June 19, 1998.

ADDRESSES: Protests must be filed with:

Director, Bureau of Land Management, Attn. Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, D.C. 20240.

Copies of the Proposed RMP/FEIS may be obtained from the Las Vegas Field Office. 4765 W. Vegas Drive, Las Vegas, NV 89108.

Public reading copies are available for review at the public libraries of Clark and Nye Counties, all government document repository libraries and at the following BLM locations:

Office of External Affairs, Main Interior Building, Room 5000, 1849 C Street, NW, Washington, DC;

Public Room, Nevada State Office, 1340 Financial Blvd., Reno, NV; and the Las Vegas Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Jeff Steinmetz, RMP Team Leader, at BLM's Las Vegas Field Office listed above or telephone (702) 647–5097.

Dated: May 15, 1998.

Robert V. Abbey,

State Director, Nevada.

[FR Doc. 98–13753 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–956–98–1420–00]

Colorado: Filing of Plats of Survey

May 14, 1998.

The plats of survey of the following described lands will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., May 14, 1998. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The mineral survey No. 20929, Colorado, known as the Village Bell(e) Mine, in T. 11 N., R.78 W., Sixth Principal Meridian, Colorado, was accepted April 20, 1998.

The mineral survey No. 20930, Colorado, known as the They Change The Law As I Go Lode, in T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, was accepted April 1, 1997

These mineral surveys were requested by private parties.

The plat representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines with a partial subdivision of section 3, T. 15 S., R. 87 W., Sixth Principal Meridian, Group 1151, Colorado, was accepted April 23, 1998.

The plat representing the dependent resurvey of a portions of the east and north boundaries and subdivisional lines and the subdivision of section 1, T. 2 N., R. 84 W., Sixth Principal Meridian, Group 1170, Colorado, was accepted March 30, 1998.

The plat representing the dependent resurvey of a portion of the subdivisional lines and Tract No. 40 and the subdivision of section 11, T. 2 N., R. 86 W., Sixth Principal Meridian, Group 1170, Colorado, was accepted March 30, 1998.

These surveys were requested by the Forest Service for administrative purposes.

The plat representing the dependent resurvey of portions of the Eighth Standard Parallel North (south boundary), east and west boundaries, subdivisional lines, and the subdivision of certain sections in T. 33 N., R. 10 W., New Mexico Principal Meridian, Group 1064, Colorado, was accepted April 14, 1998.

The plat representing the dependent resurvey of portions of the Eighth Standard Parallel North (south boundary), east and west boundaries, subdivisional lines, and the subdivision of certain sections in T. 33 N., R. 8 W.,

New Mexico Principal Meridian, Group 1137, Colorado, was accepted April 14, 1998.

The plat representing the dependent resurvey of portions of the Eighth Standard Parallel North (S. Bdy.), subdivisional lines, and the subdivision of certain sections in T. 33 N., R. 9 W., New Mexico Principal Meridian, Group 1138, Colorado, was accepted May 5, 1998.

These surveys were requested by the Bureau of Indian Affairs for administrative purposes.

Field notes only for the remonumentation of certain corners in T. 33 N., R. 7 E., New Mexico Principal Meridian, Group 750, Colorado, was accepted April 6, 1998.

Field notes only for the remonumentation of certain corners in T. 37 N., R. 7 E., New Mexico Principal Meridian, Group 750, Colorado, was accepted April 6, 1998.

The plat representing the entire record of the remonumentation of certain corners in T. 51 N., R. 11 E., New Mexico Principal Meridian, Group 750, Colorado, was accepted April 20, 1998.

The plat representing the entire record of the remonumentation of certain corners in T. 51 N., R. 12 E., New Mexico Principal Meridian, Group 750, Colorado, was accepted April 20, 1998.

The plat representing the entire record of the dependent resurvey in T. 5 N., R. 81 W., Sixth Principal Meridian, Group 1115, Colorado, was accepted April 8, 1998.

The plat representing the dependent resurvey of portions of the subdivisional lines and a portion of the metes-and-bounds survey of certain tract lines, and the survey of the subdivision of sections 15 and 22 in T. 1 N., R. 94 W., Sixth Principal Meridian, Group 1131, Colorado, was accepted April 2, 1998.

The plat representing the dependent resurvey of a portion of the subdivisional lines in T. 43 N., R. 6 E., New Mexico Principal Meridian, Group 1140, Colorado, was accepted April 16, 1998.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, and the subdivision of certain sections in T. 1 N., R. 2 W., Ute Principal Meridian, Group 1142, Colorado, was accepted March 30, 1998.

The plat representing the dependent resurvey of portions of the subdivisional lines and the subdivision of section 35 in T. 12 S., R. 103 W., Sixth Principal Meridian, Group 1146, Colorado, was accepted March 30, 1998.

The plat representing the dependent resurvey of portions of the subdivisional lines and the subdivision of sections 10 and 15 in T. 3 N., R. 102 W., Sixth Principal Meridian, Group 1156, Colorado, was accepted March 30, 1998.

The plat representing the entire record of the corrective dependent resurvey to correct the position of Cor. No. 2, Tract 147, also affecting Tracts 94, 143, and 146 and to identify the public land boundaries along the north and east sides Tracts 130A and 147 in T. 1 S., R. 71 W., Sixth Principal Meridian, Group 1167, Colorado, was accepted April 27, 1998.

The plat (in two sheets) representing the entire record of survey, consisting of the dependent resurvey of a portion of the north boundary (Second Standard Parallel South), a portion of the subdivisional lines, a portion of M.S. No. 15803, Two Bit Lode, and the subdivision of section 2 in T. 11 S., R. 80 W., Sixth Principal Meridian, Group 1191, Colorado, was accepted May 6, 1998.

The plat representing the metes-and-bounds survey of a portion of the west right-of-way of Colorado State Highway No. 131 with ties to certain section corners of section 24 in T. 1 S., R. 84 W., Sixth Principal Meridian, Group 1192, Colorado, was accepted May 6, 1998.

The supplemental plat correcting the erroneous depiction of lot 7 and renumbering the area to lot 15 of section 10 in T. 2 S., R. 85 W., Sixth Principal Meridian, Colorado, was accepted April 30, 1998.

The supplemental plat creating new lots 5 and 6 in section 9, T. 1 S., R. 94 W., Sixth Principal Meridian, Colorado, was accepted April 2, 1998.

These plats were requested by BLM for administrative purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 98–13661 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1910–00–4573]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. May 11, 1998.

The plat representing the dependent resurvey of portions of the Nez Perce Indian Reservation boundary, the East boundary, the subdivisional lines, and of the 1891 meanders of the right bank of the Clearwater River, and the subdivision of section 25, and the survey of lots 15 and 16 in section 25, T. 36 N., R. 5 W., Boise Meridian, Idaho, Group 992, was accepted May 11, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs. All inquiries concerning the surveys of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: May 11, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–13682 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. May 11, 1998.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines and the dependent resurvey of a portion of the subdivisional lines, and the 1910 meanders of the right bank of the South Fork of the Payette River, the subdivision of section 20, and a metes-and-bounds survey in section 20, T. 9 N., R. 4 E., Boise Meridian, Idaho, Group 995, was accepted May 11, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the surveys of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: May 11, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–13683 Filed 5–21–98; 8:45 am]

BILLING CODE 4310–GG–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of

a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: June 10, 1998 (9:00 a.m. to 5:00 p.m.).

Location: Hotel Washington, Washington Room, 15th & Pennsylvania Avenue, N.W., Washington, D.C.

This meeting will focus on creating an initial dialogue on issues related to USAID's results management and reporting system with an emphasis on the needs of various end-users of information and development results.

The meeting is free and open to the public. However, notification by June 18, 1998 through the Advisory Committee Headquarters is required. Persons wishing to attend the meeting must fax their name, organization and phone number to Lisa J. Douglas on (703) 741–0567.

Dated: May 8, 1998.

John Grant,

Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 98–13672 Filed 5–21–98; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ)–1178]

RIN 1121–ZB15

Announcement of the Second Meeting of the National Commission on the Future of DNA Evidence

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of the second meeting of the National Commission on the Future of DNA Evidence.

DATES: June 8, 1998, 8:30 AM to 5:00 PM (Central Standard Time).

ADDRESSES: The Renaissance Oak Brook Hotel, 2100 Spring Road, Oak Brook, IL 60521.

FOR FURTHER INFORMATION CONTACT: Christopher H. Asplen, AUSA, Executive Director (202) 616–8123.

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The purpose of the National Commission on the Future of DNA Evidence is to provide the Attorney General with recommendations on the use of current and future DNA methods, applications and technologies in the operation of the criminal justice system, from the Crime scene to the courtroom. Over the course of its Charter, the Commission will review critical policy issues regarding DNA evidence and provide recommended courses of action to improve its use as a tool of investigation and adjudication in criminal cases.

The Commission will address issues in five specific areas: (1) The use of DNA in post-conviction relief cases, (2) legal concerns including *Daubert* challenges and the scope of discovery in DNA cases, (3) criteria for training and technical assistance for criminal justice professionals involved in the identification, collection and preservation of DNA evidence at the crime scene, (4) essential laboratory capabilities in the face of emerging technologies, and (5) the impact of future technological developments in the use of DNA in the criminal justice system. Each topic will be the focus of the in-depth analysis by separate working groups comprised of prominent professionals who will report back to the Commission.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–13757 Filed 5–21–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,188 and NAFTA–02140]

Badger Paper Mills, Incorporated Peshtigo, WI; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of March 27, 1998, the petitioners requested administrative reconsideration of the Department of Labor's Notices of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance (TA–W–34,188) and NAFTA-Transitional Adjustment Assistance (NAFTA–02140) for workers of the subject firm. The TAA and NAFTA–TAA notices were signed on March 2, 1998 and published in the **Federal Register** on March 23, 1998 (63 FR 13878) and (63 FR 13879), respectively.

The petitioners present evidence that the Department's survey of the subject firm's domestic customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13707 Filed 5–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,372]

Eagle-Picher Plastics Division A/K/A Cambridge Industries Huntington, Indiana; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on July 3, 1996, applicable to workers of Eagle-Picher Plastics Division, located in Huntington, Indiana. The notice was published in the **Federal Register** on August 2, 1996 (61 FR 40454).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm producing reinforced composite engine covers. New information provided by the State agency shows that on July 10, 1997 the subject firm was purchased by Cambridge Industries. Layoffs have continued and the facility is almost closed. Accordingly, some of workers separated from employment at the Huntington plant have had their wages reported under the unemployment insurance (UI) tax account for the Cambridge Industries. Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the Eagle-Picher Plastics Division in the Huntington, Indiana plant adversely affected by increased imports.

The amended notice applicable to TA–W–32,372 is hereby issued as follows:

All workers of Eagle-Picher Plastics Division, also known as Champion Industries (as of July 10, 1997), Huntington, Indiana, who became totally or partially separated from employment on or after May 15, 1995 through July 3, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC. this 8th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13703 Filed 5–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,404, et al.]

Henry I. Siegel Co., Inc., Chic by H.I.S. Division, Saltillo, Tennessee; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 29, 1998, applicable to all workers of Henry I. Siegel Co., Inc., Chic By H.I.S. Division located in Saltillo, Tennessee. The notice will be published soon in the **Federal Register.**

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information shows that worker separations have occurred at the Gleason, Trezevant and South Fulton, Tennessee plants of Henry I. Siegel Co., Inc. The Gleason and Trezevant, Tennessee plants are expected to close in June 1998 and the South Fulton, Tennessee plant to close in November, 1998. The workers are engaged in the production of men's and women's slacks and jeans.

The intent of the Department's certification is to include all workers of Henry I. Siegel Co., Inc., Chic by H.I.S. who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of Henry I. Siegel Co., Inc., Chic by H.I.S. Gleason, Trezevant and South Fulton, Tennessee.

The amended notice applicable to TA–W–34,404 is hereby issued as follows:

All workers of Henry I. Siegel Co., Inc., Chic by H.I.S., Saltillo, Tennessee (TA–W–34,404), Gleason, Tennessee (TA–W–34,404A), Trezevant, Tennessee (TA–W–34,404B) and South Fulton, Tennessee (TA–W–34,404C) who became totally or partially separated from employment on or after March 17, 1997 through April 29, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13706 Filed 5–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC, this 4th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 05/04/98]

TA–W	Subject Firm (petitioners)	Location	Date of Petition	Product(s)
34,497	Imperial Home Decor Group (Comp)	Ashaway, RI	04/21/98	Wallpaper.
34,498	Kunkle Foundry (USWA)	Andrews, IN	04/13/98	Bronze Casting.
34,499	Federal Mogul Corp (Comp)	Mooresville, IN	04/12/98	Transmission Bearings.
34,500	Celotex Corp (Wrks)	Perth Amboy, NJ	04/22/98	Shingles and Rolls of Roofing Materials.
34,501	U.S. Repeating Arms Co (Comp)	Hingham, MA	04/23/98	Firearms.
34,502	Master Casualwear Corp (Wrks)	Ripley, TN	04/17/98	Men's & Boy's Casual Slacks.
34,503	DRS Ahead Technology, Inc (Comp)	Dassel, MN	04/20/98	Magnetic Tape Heads.
34,504	Sharp Microelectronics (Wrks)	Camas, WA	04/20/98	Liquid Crystal Displays.
34,505	Dade Behring, Inc (Comp)	Miami, FL	04/20/98	Hemostasis Products.
34,506	Lyon Fashion, Inc (Comp)	McAlisterville, PA	04/14/98	Junior and Misses Dresses.
34,507	CSI Services, Inc (Comp)	Martinsville, VA	04/15/98	Yarn.
34,508	Cabletron, Inc (Wrks)	Rochester, NH	04/06/98	Circuit Boards.
34,509	Constar, Inc (Wrks)	City of Industry, CA	03/24/98	Plastic Bottles.
34,510	Apache Corp. (Wrks)	Franklin, LA	04/09/98	Crude Oil and Natural Gas.
34,511	Rayovac Corp (IAMAW)	Madison, WI	04/22/98	Heavy Duty Battery Cells.
34,512	Eaton Corp (Wrks)	Salisbury, MD	04/17/98	Circuit Breakers.
34,513	U.S. Timber Co (Wrks)	Craigmont, ID	04/23/98	Timber Boards.
34,514	Nocona Boot Co (Comp)	Nocona, TX	04/24/98	Western Boots, Shoe Boots.
34,515	Justin Boot Co (Wrks)	Carthage, MO	04/25/98	Boots.

APPENDIX—Continued
[Petitions Instituted on 05/04/98]

TA–W	Subject Firm (petitioners)	Location	Date of Petition	Product(s)
34,516	Sharp Garment Co (Wrks)	Aberdeen, MS	04/23/98	Men's Dress Slacks.
34,517	OBryan Bros., Inc (Wrks)	Leon, IA	04/16/98	Women's Lingerie.
34,518	Gateway Sportswear, Inc (Wrks)	Masontown, PA	04/15/98	Ladies' Pants, Skirts and T-Shirts.
34,519	Raytheon E-Sysems, Inc (Wrks)	Richardson, TX	04/23/98	Electronics for Military.
34,520	Lavalle Mills Underwear (Wrks)	Long Island City, NY	04/16/98	Ladies' Sleepwear.
34,521	Runby Laboratories (Wrks)	Glenview, IL	04/24/98	Generic Pharmaceuticals.

[FR Doc. 98–13701 Filed 5–21–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02184 and TA–W–34,248]

Michigan Carton Company, Battle Creek, Michigan; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Michigan Carton Company, Battle Creek, Michigan. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–02184 and TA–W–34,246; Michigan Carton Company, Battle Creek, Michigan (May 13, 1998)

Signed at Washington, D.C. this 15th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13704 Filed 5–21–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 27th day of April, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX
[Petitions instituted on 04/27/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,478	Premier Auto Glass (USWA)	Lancaster, OH	04/17/98	Automobile Glass.
34,479	Nabors Drilling, USA (Wkrs)	Williston, ND	04/14/98	Oil Drilling.
34,480	Pennsylvania Textile Corp (Wkrs)	West Hazleton, PA	04/12/98	Dyed and Finished Fabric.
34,481	Renfro Corporation (Wkrs)	Mt. Airy, NC	04/10/98	Ladies' Athletic and Dress Socks.
34,482	American Cemwood Corp (Co.)	Albany, OR	04/14/98	Fibre Cement Roofing.
34,483	Eagle Moulding Co (Co.)	Dorris, CA	04/14/98	Door and Window Trim.
34,484	Raute Wood, Inc. (Wkrs)	Collierville, TN	04/13/98	Machinery for Plywood & OSB Industry.
34,485	Kaufman Footwear (Wkrs)	Dushore, PA	04/15/98	Sorel Winter Boots.
34,486	Fruit of the Loom (Wkrs)	Bowling Green, KY	04/01/98	Apparel.
34,487	Craig Manufacturing (Co.)	New Castle, VA	04/09/98	Ladies' Dresses, Uniforms, Pant Suits.
34,488	Delhi Gas Pipeline (Wkrs)	Woodward, OK	04/05/98	Natural Gas.
34,489	Procter and Gamble (Co.)	Greenville, SC	04/15/98	Pepto-Bismol Stomach Remedy.
34,490	Metex Corporation (Co.)	Edison, NJ	03/01/98	Seals for Automobile Exhaust Systems.
34,491	Kirby Manufacturing (UNITE)	McClure, PA	04/17/98	Men's Boxer Shorts, Pajamas.
34,492	Moog Automotive (Co.)	Batesville, MS	04/17/98	Drive Shafts.

APPENDIX—Continued

[Petitions instituted on 04/27/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,493	Warwick Dyeing Corp (Wkrs)	West Warwick, RI	04/17/98	Finish Nylon Fabrics.
34,494	UNDC Wilson Sporting Good (Wkrs)	Algood, TN	04/14/98	Warehouse & Distribution-Sport Clothing.
34,495	Winning Moves (Co.)	Columbia, TN	04/17/98	Children's Outerwear.
34,496	Harnischfeger Corp. (USWA)	West Milwaukee, WI	04/08/98	Mining Shovels, Drag-Lines, Excavators.

[FR Doc. 98–13702 Filed 5–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,261; et al]

Texas Instruments, Incorporated, Personal Productivity Products, Mobile Computing Business; Temple, Texas; et al; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on April 24, 1997, applicable to all workers of Texas Instruments, Incorporated, Personal Productivity Products, Mobile Computing Business, Temple, Texas. The notice was published in the **Federal Register** on May 9, 1997 (62 25659).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Findings show the Department inadvertently omitted from the certification, various support function facilities of the subject firm. These facilities provided administration, designing and marketing services for the production of notebook computers at Texas Instruments. Worker separations began December 1996 and continued through May, 1997 as a result of the company selling its' notebook computer business.

The intent of the Department's certification is to include all workers of Texas Instruments, Incorporated, Personal Productivity Products, Mobile Computing Business adversely affected by increased imports of notebook computers.

The amended notice applciable to TA–W–33,261 is hereby issued as follows:

All workers of Texas Instruments, Incorporated, Personal Productivity Products, Mobile Computing Business, Temple, Texas (TA–W–33,261); and at the various locations cited below, who became totally or partially separated from employment on or after February 18, 1996 through April 26, 1999 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TAW–33,261A Dallas Texas
TAW–33,261B Austin, Texas
TAW–33,261C Waltham, Massachusetts
TAW–33,261D Plymouth Meeting, Pennsylvania
TAW–33,261E Schaumburg, Illinois
TAW–33,261F Norcross, Georgia
TAW–33,261G Tipp City, Ohio
TAW–33,261H New York, New York
TAW–33,261I San Jose, California
TAW–33,261J Irwin, Pennsylvania
TAW–33,261K Chesterfield, Missouri
TAW–33,261L Centreville, Virginia.

Signed at Washington D.C. this 9th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–13705 Filed 5–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–17; Exemption Application No. D–10412]

Grant of Individual Exemption for the Metropolitan Life Insurance Company (MetLife)

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of technical correction.

On April 22, 1998, the Department published in the **Federal Register** at 63 FR 19955, a notice granting an individual exemption (the Grant Notice) which would permit, effective April 1, 1997, (1) the purchase or retention by an employee benefit plan (the Plan); and (2) the sale or continuation by MetLife or an affiliate, of a synthetic guaranteed investment contract entered into between the Plan and MetLife under which MetLife guarantees certain amounts.

With respect to the information contained in the Grant Notice, the Department notes that there are several typographical errors in the paragraph captioned EFFECTIVE DATE: which appears in the second column of the Grant Notice on page 19956. As currently drafted, the paragraph states that "If granted, this exemption is effective as of April 1, 1996." Because the operative language of the Grant Notice states that the effective date of the exemption is April 1, 1997, the Department believes the captioned paragraph should be revised accordingly as follows:

EFFECTIVE DATE: This exemption is effective as of April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, D.C., this 18th of May, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–13745 Filed 5–21–98; 8:45 am]

BILLING CODE 4510–29–P

THE NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE

Public Meeting

Establishment of the Medicare Commission included in Chapter 3, Section 4021 of the Balanced Budget Act of 1997 Conference Report. The Medicare Commission is charged with holding public meetings and publicizing the date, time and location in the **Federal Register**.

Note: Previously published in **Federal Register**, Friday, May 15, 1998. Notice of Public Meetings to be held on Monday, June 1, 1998 and Tuesday, June 2, 1998 in Washington, DC.

The National Bipartisan Commission on the Future of Medicare will hold public meetings on June 1 and 2, 1998, at the Adams Building, Library of Congress, Room LA–202, located on the second floor of the Adams Bldg., which is located at the corner of Second Street, SE and Pennsylvania Avenue, SE.

Please check the Commission's web site for additional information: http://Medicare.Commission.Gov.

Monday, June 1, 1998, 1:15 PM–5:00 PM, Tentative Agenda: Modeling Task Force Presentation, Commission Discussion of Benefits, Cost and Eligibility Issues

Tuesday, June 2, 1998, 9:00 AM–11:00 AM, Tentative Agenda: Commission Discussion of Management, Administration and Financing Issues

If you have any questions, please contact the Bipartisan Medicare Commission, ph: 202–252–3380.

Authorized for publication in the **Federal Register** by Julie Hasler, Office Manager, National Bipartisan Medicare Commission.

I hereby authorize publication of the Medicare Commission meetings in the **Federal Register**.

Julie Hasler,

Office Manager, National Bipartisan Medicare Commission.

[FR Doc. 98–13904 Filed 5–21–98; 8:45 am]

BILLING CODE 1132–00–M

NATIONAL COUNCIL ON DISABILITY

Establishment of Advisory Committees

SUMMARY: This notice announces the establishment of NCD's International Watch and Technology Watch.

FOR INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004–1107; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), mquigley@ncd.gov (e-mail).

Agency Mission

The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

International Watch

The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's International Committee on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Technology Watch

NCD's Technology Watch (Tech Watch) is a community-based, cross-disability consumer task force on technology. Tech Watch provides information to NCD on issues relating to emerging legislation on technology and helps monitor compliance with civil rights legislation, such as Section 508 of the Rehabilitation Act of 1973, as amended.

These committees are necessary to provide advice and recommendations to NCD on international disability issues and technology accessibility for people with disabilities.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Signed in Washington, DC, on May 18, 1998.

Ethel D. Briggs,

Executive Director.

[FR Doc. 98–13689 Filed 5–21–98; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Sunshine Act Meeting of National Museum Services Board

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the function of the board. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

TIME/DATE: 10:30 am–12:30 pm—Friday, June 12, 1998.

STATUS: Open.

ADDRESS: The Madison Hotel, Drawing rooms I and II, 15th and M Streets, NW, Washington, DC 20005, (202) 862–1600.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Room 510, Washington, DC 20506, (202) 606–4649.

SUPPLEMENTARY INFORMATION:

The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of Friday, June 12, 1998 will be open to the public. If you need special accommodations due to a disability, please contact; Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

72ND MEETING OF THE NATIONAL MUSEUM SERVICE BOARD, THE MADISON HOTEL, 15TH AND M STREETS, NW, WASHINGTON, DC, 10:30 AM–12:30 PM

Agenda

I. CHAIRMAN'S WELCOME AND APPROVAL OF MINUTES OF THE 71ST NMSB MEETING—JANUARY 27, 1998
II. DIRECTOR'S REPORT
III. LEGISLATIVE/PUBLIC AFFAIRS REPORT
IV. OFFICE OF RESEARCH AND TECHNOLOGY REPORT
V. OFFICE OF MUSEUM SERVICES PROGRAM REPORT
VI. OFFICE OF LIBRARY SERVICES REPORTS
A. STATE PROGRAMS
B. DISCRETIONARY PROGRAMS

Dated: May 15, 1998.

Linda Bell,

Director of Policy, Planning and Budget National Foundation on the Arts and Humanities, Institute of Museum and Library Services.

[FR Doc. 98–13877 Filed 5–20–98; 1:17 pm]

BILLING CODE 7036–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

The National Transportation Safety Board has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by May 27, 1998. A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the National Transportation Safety Board Departmental Clearance Officer, Larry Crabill (202) 314–6224.

Comments and questions about the ICR listed below should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Transportation Safety Board, Office of Management and Budget, Room 10102, 725 17th Street, N.W., Washington, D.C. 20503.

Agency: National Transportation Safety Board.

Title: Evacuation Safety Study: Passenger Questionnaire.

OMB Number: New.

Frequency: Once.

Affected Public: Individuals.

Number of Respondents: 2000.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 667.

Description: The National Transportation Safety Board is currently conducting a study on emergency evacuation from commercial aircraft. The study will examine the effects on emergency evacuations of the following: (1) Evacuation equipment; (2) different cabin configurations; (3) different cabin and outside environments; (4) evacuation procedures and crew/passenger communications; and (5) passenger age, size, and other bio-behavioral factors. Further, the study will compile general statistics on evacuations, including the number of evacuations and the types and number of passenger injuries incurred during evacuations.

Therefore, the National Transportation Safety Board is seeking emergency clearance to obtain data from passengers who have evacuated from commercial aircraft on their observations of the evacuation and their personal experience during the evacuation.

Dated: May 19, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–13752 Filed 5–21–98; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Advanced Reactor Designs; Notice of Meeting

The ACRS Subcommittee on Advanced Reactor Designs will hold a meeting on June 17–18, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 17, 1998—8:30 a.m. until the conclusion of business.

Thursday, June 18, 1998—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Westinghouse AP600 design. Specifically, the Subcommittee will review the inspections, tests, analyses, and acceptance criteria (ITAAC), the AP600 Level 1 PRA, and the NRC staff's evaluation of Chapters 1, 4, 5, 7, 8, 11, 13, and 18 of the AP600 Standard Safety Analysis Report. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Westinghouse Electric Company, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 18, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–13710 Filed 5–21–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Plant Operations; Notice of Meeting

The ACRS Subcommittee on Plant Operations will hold a meeting on June 19, 1998, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, June 19, 1998—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the proposed changes to 10 CFR 50.59 (Changes, Tests and Experiments), status of resolution of issues identified in the March 24, 1998 Staff Requirements Memorandum related to SECY–97–205, "Integration and Evaluation of Results From Recent Lessons-Learned Reviews," and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify one of the cognizant ACRS staff engineers named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineers, Mr. Michael T. Markley (telephone 301/

415–6885) or Mr. Amarjit Singh (telephone 301–415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact one of the above named individuals one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 18, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–13711 Filed 5–21–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 30–01233]

Site Decommissioning Plans Etc: U.S. Army Garrison, Fitzsimons, Aurora Co; Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request for decommissioning the Department of the Army, U.S. Army Garrison, Fitzsimons, Aurora, Colorado, and Opportunity for a Hearing.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Byproduct Material License No. 05–00046–13, issued to the Department of the Army, U.S. Army Garrison, Fitzsimons (Fitzsimons), to authorize decommissioning of its facilities at Aurora, Colorado.

On June 28, 1996, Fitzsimons ceased principal activities permanently at the Aurora facilities. The licensee has conducted limited decommissioning activities at the Aurora facilities in accordance with the conditions discussed in License No. 05–00046–13. On February 2, 1998, Fitzsimons submitted a site decommissioning plan (SDP) to NRC for review that summarized the decommissioning activities that will be undertaken to remediate the Aurora facilities and release them from radiological controls and licensing restrictions. Radioactive contamination at the Fitzsimons Aurora facilities discussed in the SDP consists of pipes, sinks, bench tops, cabinet drawers, flooring, and fume hood components contaminated with byproduct material resulting from licensed operations that occurred from 1956 until 1996.

The NRC will require the licensee to remediate the Aurora facilities to meet NRC's decommissioning criteria , and during decommissioning activities, maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the decommissioning plan, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment. Approval of the SDP will be documented in an amendment to License No. 05–00046–13.

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays; or

2. By mail or telegram addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205 (h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstance establishing that the request for a hearing is timely in accordance with § 2.1205 (d).

In accordance with 10 CFR 2.1205 (f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, U.S. Army Garrison, Fitzsimons, 12101 E. Colfax Avenue, Aurora, Colorado, Attention: MCHG–BC–BC(RPO); and

2. The NRC staff, by delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

For further details with respect to this action, the SDP is available for inspection at the NRC's Region IV offices at 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011–8064.

FOR FURTHER INFORMATION CONTACT: Mr. Danny L. Rice, Division of Nuclear Material Safety, U.S. Nuclear Regulatory Commission Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011–8064. Telephone: (817) 860–8151.

Dated at Rockville, Maryland, this 15th day of May 1998.

For the Nuclear Regulatory Commission.

John W. N. Hickey,

[FR Doc. 98–13712 Filed 5–21–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

Board meeting: June 24, 1998—Las Vegas, Nevada: Department of Energy (DOE) alternative designs for a potential repository that might be developed at Yucca Mountain in Nevada.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board (Board) will hold its summer meeting Wednesday, June 24, 1998, in Las Vegas, Nevada.

The one-day meeting, which is open to the public, will begin at 8:30 a.m. and will focus on efforts being made by the DOE's Office of Civilian Radioactive Waste Management (OCRWM) to develop alternative designs for a proposed repository that might be developed at Yucca Mountain in Nevada. In particular, the Board will hear presentations dealing with enhancements to the OCRWM's base-case repository design, and how, using technologies such as drip shields and ceramic coatings, those enhancements might affect repository performance. The Board also will hear a presentation on the technical basis for OCRWM's choice of specific technical designs to be analyzed in its forthcoming

environmental impact statement for the Yucca Mountain site. A detailed agenda will be available approximately two weeks before the meeting. Call for a copy, or visit the Board's web site at www.nwtrb.gov.

Time has been set aside for the public to comment on the technical issues raised during the meeting. Those wishing to speak are encouraged to sign the "Public Comment Register" at the check-in table. A time limit may have to be set on individual remarks, but written comments of any length may be submitted for the record.

The meeting will be held at the Crowne Plaza Hotel, 4225 South Paradise Road, Las Vegas, Nevada 89109; (tel) 702–369–4400; (fax) 702–369–3770. Reservations for accommodations should be made by June 1, 1998. Please mention that you are attending the Nuclear Waste Technical Review Board meeting to receive the preferred rate.

Transcripts of this meeting will be available via e-mail, on computer disk, or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning July 20, 1998. For further information, contact the Frank Randall, External Affairs, at the Board's offices, at 2300 Clarendon Boulevard, Suite 1300, Arlington, Virginia 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy to manage the disposal of the nation's commercial spent nuclear fuel and defense high-level waste. In the same legislation, Congress directed the Secretary to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential permanent repository for disposing of that waste.

Dated: May 18, 1998.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 98–13693 Filed 5–21–98; 8:45 am]

BILLING CODE 6820–AM–M

THE PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT

The Nineteenth Meeting of the President's Council on Sustainable Development (PCSD) in Washington, DC

SUMMARY: The President's Council on Sustainable Development (PCSD), a Presidential Commission with representation from industry, government, environmental, and Native American organizations, will convene its nineteenth meeting in Washington, D.C. on Thursday, June 4, 1998.

Under its current charter from the Clinton Administration, the Council is (1) continuing to forge consensus on policy, (2) demonstrating implementation, (3) getting the word out about sustainable development, and (4) evaluating progress. The Council will advise the President in four specific areas: domestic implementation of policy options to reduce greenhouse gas emissions, next steps in building the new environmental management system of the 21st century, promoting multi-jurisdictional and community cooperation in metropolitan and rural areas, and policies that foster the United States' leadership role in sustainable development internationally.

At the Council's last meeting in Atlanta, GA on November 20, 1997, the members listened to and questioned invited experts as they presented their views on the possibilities and limitations of new technologies to reduce greenhouse gas emissions. The Council also heard from people in the Atlanta region about ways in which the climate change issues are affecting, and could affect, their lives.

At the June 4th meeting the Council will hear presentations, discuss a wide array of business, and decide on important next steps.

June 4 Public Meeting

9:00 a.m.–12:00 p.m.

- National Town Meetings for a New American Dream. Progress on the goals, vision, audiences, anchor events, and overall planning for this seminal event taking place in Detroit and in communities across America on May 2–5, 1999.
- Benefits and opportunities for community-based greenhouse gas emissions reduction strategies.
- Progress of the Pacific Northwest Regional Council and Metropolitan and Rural Strategies Task Force.

12:00–1:00 p.m.—Lunch

1:00–4:00 p.m.—Public Meeting Continued

- Presentations "The Importance of Incentives for Early Action on Climate Change".
- Priority Climate Technologies and Barriers.
- Environmental Management Task Force's "Proposed Environmental Management Framework".
- Public Comment.

Public comment period: The Council will seek public comment on the Council's activities to implement the Administration's directive. Public comment will be taken during the substantive sessions as time permits, and during the allotted time for public comment identified in the agenda above. Written comments may be submitted before or during the public meeting. All written and oral comments will become part of the public record.

Specifically, the Council is interested in hearing from the public comments in the following areas:

- The Climate Task Force of the President's Council agreed last fall on the important role of technology in addressing climate change, stating that, "To protect the climate cost effectively, technology breakthroughs, technology incentives, and the elimination of barriers for the deployment of existing technologies are needed. Broad-based cooperative programs to stimulate markets and develop and disseminate new and existing technology to industrialized and developing countries, must be a high priority." What in your view is the most important new technology or class of technologies for reducing greenhouse gas emissions? What are the barriers to their adoption?
- The Climate Task Force of the President's Council agreed last fall on the need for incentives for early action stating that, "Greenhouse gases have atmospheric lifetimes ranging from decades to over a century, and both the concentration and the rate of increase of these gases in the atmosphere are important factors in determining the risk of climate change. Therefore, policies to reduce emissions of greenhouse gases and other measures to protect the climate should include incentives for early action." What key issues must be addressed in any system designed to create early incentives to reduce greenhouse gas emissions'?
- The Council's Charter directs the Council to "Get the Word Out About Sustainable Development." In the context of climate change, what strategies should the Council use to share its consensus views on the climate change issue?
- How can community-based strategies be used to address climate change?
- What are the most interesting innovations now underway in environmental management that are advancing or could advance the economic, environmental and social goals of sustainable development?

The Council's previous recommendations to the President may be found in two reports: Sustainable

America: A New Consensus for Prosperity, Opportunity, and a Healthy Environment for the Future (March 1996) and Building on Consensus: A Progress Report on Sustainable America (January 1997). Copies of both reports can be ordered by calling 1–800–363–3732 or downloaded off the Internet at "http://www.whitehouse.gov/PCSD".

Dates/Times: Thursday, June 4, 1998 from 9:00 a.m. to 4:00 p.m.

Place: Ronald Reagan International Trade Center Building, 1300 Pennsylvania Ave., Washington, DC. Enter at main entrance on 14th Street and proceed down stairs or escalator to the open courtyard and follow signs to the event.

Status: Open to the public. Public comments are welcome and may be submitted orally on Thursday June 4 or in writing any time prior to or during the meeting. Please submit written comments prior to the meeting to: PCSD, Public Comments, 730 Jackson Place, NW, Washington, D.C. 20503, or fax to: 202/408–6839, E-mail: "infopcsd@aol.com".

Contact: Paul Flaim, Administrative Assistant, at 202/408–5296.

Sign Language Interpreter: Please notify the contact if you will need a sign language interpreter.

Martin A. Spitzer,

Executive Director, President's Council on Sustainable Development.

[FR Doc. 98–13887 Filed 5–20–98; 2:20 pm]

BILLING CODE 3125–01–P

Railroad Retirement Board

Privacy Act of 1974; System of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purposes of this document are to give notice of 26 non-substantial revisions of existing routine uses in 15 systems of records; to delete one routine use in one system of records; to delete 11 systems of records; and to give notice of several non-substantial changes in other categories for several systems of records.

DATES: The changes are effective as of May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Leroy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 N. Rush St., Chicago, IL 60611–2092, (312) 751–4548.

SUPPLEMENTARY INFORMATION:

Part I: Minor revisions to existing routine uses

The following 26 existing routine uses in the following 15 systems of records are being revised to better express what information is being disclosed and for what purposes, or to change the name of the organization to which the information can be disclosed due to the renaming of the organization, or to limit the conditions under which the disclosure can be made:

RRB–1 "n"
RRB–3 "c"
RRB–5 "k"
RRB–6 "b," "c," "i," and "l"
RRB–7 "e," "h", and "o"
RRB–9 "g"
RRB–12 "a" "a" and "b"
RRB–17 "d"
RRB–19 "b," "c," and "e"
RRB–20 "p'
RRB–21 "c," "d," "j," and "r"
RRB–22 "w"
RRB–34 "b"
RRB–42 "c"
RRB–43 "a"

These revisions do not constitute new or expanded disclosures.

Part II: Deletion of routine uses

We have deleted routine use "b" in System of Records RRB–17 because it is not applicable.

Part III: Deletions of systems of records

The following nine systems of records are being deleted because they no longer meet the definition of "systems of records" under the Privacy Act: RRB–13, RRB–14, RRB–15, RRB–23, RRB–35, RRB–38, RRB–39, RRB–40, and RRB–47.

System of records RRB–24 and RRB–25 are being deleted because they are being consolidated into another, renamed system. These two systems are being consolidated into RRB–26.

Part IV: Changes in other categories

System name: We changed the system name for systems RRB–3, RRB–8, RRB–16, and RRB–26, to better express the content of these systems.

System locations: We revised this category for system RRB–3 and RRB–4 to reflect the current location.

Categories of individuals covered by the system: We revised this category for systems RRB–12, RRB–26, RRB–42, and RRB–43 to better or more comprehensively described the individuals covered by the system. None of these revisions reflect new groups of individuals covered by the system.

Categories of records in the system: We revised this category for systems RRB–1, RRB–3, RRB–7, RRB–8, RRB–11, RRB–26, RRB–42, and RRB–43 to correctly or more comprehensively describe the categories of records in these systems. None of the revisions reflect any new categories of records added to the systems.

Storage: We revised this category for systems RRB–4, RRB–8, RRB–18, RRB–19, RRB–21, RRB–26, RRB–43 to reflect current practice or better express the media use.

Safeguards: We revised this category for systems RRB–3, RRB–4, RRB–10, RRB–11, RRB–17, RRB–26, RRB–43 to reflect current practice or better express safeguard procedures.

Retention and disposal: We revised this category for systems RRB–1, RRB–3, RRB–4, RRB–8, RRB–10, RRB–11, RRB–17, RRB–19, RRB–20, RRB–21, RRB–22, RRB–26, RRB–42, RRB–43, and RRB–44 to bring it into conformity with actual practice and approval records disposal schedules.

System manager(s) and notification procedure: Because of organizational changes, we changed the name of the system manager and/or the official to contact in the following systems: RRB–1, RRB–2, RRB–3, RRB–4, RRB–5, RRB–6, RRB–7, RRB–8, RRB–12, RRB–16, RRB–18, RRB–19, RRB–20, RRB–21, RRB–22, RRB–26, RRB–27, and RRB–29.

Record source categories: We revised this category in systems of records RRB–4, RRB–10, RRB–17, RRB–20, and RRB–26 to better or more comprehensively describe the record sources for information in the system.

Part V: Existing systems covered by this document:

RRB–1 Social Security Benefit Vouchering System
RRB–2 Medical Examiner's Index
RRB–3 Medicare Part B
RRB–4 Microfiche of Estimated Annuity, Total Compensation and Residual Amount File
RRB–5 Master File of Railroad Employee's Creditable Compensation
RRB–6 Unemployment Insurance Record File
RRB–7 Applications for Unemployment Benefits and Placement Service Under the Railroad Unemployment Insurance Act
RRB–8 Railroad Retirement Tax Reconciliation System
RRB–9 Protest and Appeals under the Railroad Unemployment Insurance Act
RRB–10 Legal Opinion Files
RRB–11 Files on Concluded Litigation
RRB–12 Railroad Employees' Registration File
RRB–13 Disclosure of Information Files
RRB–14 Freedom of Information Register
RRB–15 Covered Abandoned Railroads
RRB–16 Social Security Administration Summary Earnings File
RRB–17 Appeal Decisions from Initial Denials for Benefits under the Provisions of the Railroad Examining System

RRB–18 Travel and Miscellaneous Voucher Examining System
RRB–19 Payroll Record System
RRB–20 Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare)
RRB–21 Railroad Unemployment and Sickness Insurance Benefit System
RRB–22 Railroad Retirement Survivor and Pensioner Benefit System
RRB–23 Benefit File of Lump Sum and Residual Awards Under the Railroad Retirement Act
RRB–24 Research Master Record for Lump Sum and Residual Awards Under the Railroad Retirement Act
RRB–25 Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act
RRB–26 Research Master Record for Retired Railroad Employees and Their Dependents
RRB–27 Railroad Retirement Board-Social Security Administration Financial Interchange System
RRB–29 Railroad Employees' Cumulative Gross Earnings Master File
RRB–34 Employee Personnel Management Files
RRB–35 Employee Skills File
RRB–38 Regional Rail Reorganization Act Reimbursement System
RRB–39 Milwaukee Railroad Restructuring Act Benefit System
RRB–40 Regional Rail Reorganization Act Title VII Benefits
RRB–41 Rock Island Railroad Transition and Employee Assistance Act Benefit System
RRB–42 Uncollectible Benefit Overpayment Accounts
RRB–43 Investigation Files
RRB–44 Employee Test Score File
RRB–47 Motor Vehicle Operator Records.

Dated: May 15, 1998.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB—1

SYSTEM NAME:

Social Security Benefit Vouchering System—RRB.

* * * * *

1. The following sections and paragraph in RRB–1 are revised to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number, RRB claim number, type and amount of benefit, suspension and termination information.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RETENTION AND DISPOSAL:

* * * * *

MAGNETIC TAPE:

Tapes are updated at least monthly. For disaster recovery purposes, certain tapes are stored for 12–18 month periods.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–2

SYSTEM NAME:

Medical Examiner's Index.

2. The following sections in RRB–2 are revised to read as follows:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–3

3. The following sections and paragraph in RRB–3 are revised to read as follows:

SYSTEM NAME:

Medicare, Part B (Supplementary Medical Insurance Payment System—Contracted to a United Health Care Insurance) Company.

* * * * *

SYSTEM LOCATION:

United Health Care Insurance Company, One Tower Square, Hartford, Connecticut 06115

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, health insurance claim number, address, date of birth, telephone number, description of illness and treatment pertaining to claim, indication of other health insurance or medical assistance pertinent to claim, (date(s) and place(s) of physician service, description of medical procedures, services or supplies furnished, nature of illness(es), medical charges, name, address and telephone number of physician, Part B entitlement date, Part B deductible status and amount of payment to beneficiary.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

c. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under Title XVIII of the Social Security Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

SAFEGUARDS:

The insurance company is bound by the contract set forth by the Railroad Retirement Board which contains specific instructions regarding its responsibility in claim information handled and released. It is also bound by the same regulations regarding

disclosure and security of information as the Board itself.

* * * * *

RETENTION AND DISPOSAL:

Each insurance company office retains material for 27 months. At the end of 27 months the material is sent to the Federal Records Center. After 2 years the Federal Records Center destroys the material.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–4

SYSTEM NAME:

Microfiche of Estimated Annuity, Total Compensation and Residual Amount File.

4. The following sections in RRB–4 are revised to read as follows:

* * * * *

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

STORAGE:

On-line mainframe system.

* * * * *

SAFEGUARDS:

Only authorized personnel have access to these records. Access is determined by internal computer system security levels.

* * * * *

RETENTION AND DISPOSAL:

A maximum of two sets of MARC records (the current and prior MARC) are maintained on-line with the oldest set deleted when a new MARC is produced.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RECORD SOURCE CATEGORIES:

Information which is secured from the original master records is made available to all authorized headquarters and field service users.

* * * * *

RRB–5

SYSTEM NAME:

Master File of Railroad Employee's Creditable Compensation.

5. The following sections and paragraph in RRB–5 are revised to read as follows:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act of Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Assessment & Training, Chief of Employer Service and Training Center, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–6

SYSTEM NAME:

Unemployment Insurance Record File.

6. The following sections and paragraphs in RRB–6 are revised to read as follows:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

b. Benefit rate, name and address may be referred to the Treasury Department to control for reclamation and return of outstanding benefit payments, to issue benefit payments, reconcile reports of non-delivery, and to insure delivery of payments to the correct address or account of the beneficiary or representative payee.

c. Beneficiary's name, address, payment rate, date and number, plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit payments.

* * * * *

i. The last addresses and employer information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

* * * * *

l. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement

Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Request for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–7

SYSTEM NAME:

Application for Unemployment Benefits and Placement Service Under the Railroad Unemployment Insurance Act.

* * * * *

7. The following sections and paragraphs in RRB–7 are revised to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, account number, age, sex, education, employer, occupation, rate of pay, reason not working and last day worked, personal interview record, results of investigations.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

e. Beneficiary identification, entitlement and benefit rate information may be released to the Treasury Department to control for reclamation and return of outstanding benefit payments, to issue benefit payments, reconcile reports of non-delivery and to insure delivery of payment to the correct address or account of the beneficiary or representative payee.

* * * * *

h. The last addresses and employer information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

* * * * *

o. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–8

8. The following sections in RRB–8 are revised to read as follows:

SYSTEM NAME:

Railroad Retirement Reconciliation System (Employee Representatives).

* * * * *

CATOGORIES OF RECORDS IN THE SYSTEM:

Employee representative's quarterly railroad tax return.

* * * * *

STORAGE

Paper.

* * * * *

RETENTION AND DISPOSAL:

Employee's representatives' quarterly tax returns and tax reporting reconciliation file are retained for 6 years and 3 months after the period covered by the records and then are destroyed by shredding.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record is released, the System Manager may require the individual to provide proof of identity or require the requester of furnish an authorization from the individual to permit release of information.

* * * * *

RRB–9

SYSTEM NAME:

Protest and Appeals Under the Railroad Unemployment Insurance Act.

* * * * *

9. The following paragraph in RRB–9 is revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

g. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RRB–10

SYSTEM NAME:

Legal Opinion Files.

* * * * *

10. The following sections in RRB–10 are revised to read as follows:

SAFEGUARDS:

Stored in areas not accessible to the public in offices locked during non-business hours; access to these files is restricted to attorneys and other authorized Board employees.

RETENTION AND DISPOSAL:

Opinions of precedential interest or otherwise of lasting significance, and correspondence related to these opinions, are retained permanently. Opinions of limited significance beyond the particular case, and correspondence related to these opinions, are retained in the individual's claim folder,if any, established under the Railroad Retirement Act. When no folder exists, these opinions, are destroyed 2 years after the date of the last action taken by the Bureau of Law on the matter.

* * * * *

RECORD SOURCE CATEGORIES:

The subject person's authorized representative, other record systems

maintained by the Railroad Retirement Board, employers.

* * * * *

RRB–11

SYSTEM NAME:

Files on Concluded Litigation.

* * * * *

11. The following sections in RRB–11 are revised to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal briefs, reports on legal or factual issues involving copies of subpoenas which may have been issued, copies of any motions filed, transcripts of any dispositions taken, garnishment process, correspondence received and copies of any correspondence released by the Board pertaining to the case, copies of any court rulings, and copies of the final decision in the case.

* * * * *

SAFEGUARDS:

Stored in areas not accessible to the public in offices locked during non-business hours; access to these files is restricted to attorneys and other authorized Board employees.

RETENTION AND DISPOSAL:

Files relating to cases of precedential interest are retained permanently. Files of cases involving routine matters, other than garnishments, are retained for 5 years after the case is closed, then shredded. Files relating to garnishment of benefits are retained until 2 years after the date garnishment terminates; then destroyed.

* * * * *

RRB–12

SYSTEM NAME:

Railroad Employees' Registration File.

* * * * *

12. The following sections and paragraphs in RRB–12 are revised to read as follows:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who had any employment for a railroad employer after 1936 who were assigned Social Security Numbers beginning with 700 through 728. (Use of the registration form was discontinued January 1, 1981.)

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Records which consist of name, date and place of birth, social security number, sex, and parents' names may be disclosed to the Social Security Administration to verify social security number and date of birth.

b. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–13

SYSTEM NAME:

Disclosure of Information Files.

13. System RRB–13 is removed in its entirety.

RRB–14

SYSTEM NAME:

Freedom of Information Act Register.

14. System RRB–14 is removed in its entirety.

RRB–15

SYSTEM NAME:

Covered Abandoned Railroads.

15. System RRB–15 is removed in its entirety.

RRB–16

16. The following sections in RRB–16 are revised to read as follows:

SYSTEM NAME:

Social Security Administration Master Earnings File.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Assessment and Training, Chief of Employer Service and Training Center, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–17

SYSTEM NAME:

Appeal Decisions from Initial Denials for Benefits under the Provisions of the Railroad Retirement Act.

17. The following sections and paragraph in RRB–17 are revised to read as follows:

ROUTINE USES OF THE RECORDS/CONTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Paragraph "b" is removed in its entirety.

* * * * *

d. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RETRIEVABILITY:

Claim number or social security number or, in many cases, appellant name.

SAFEGUARDS:

Decisions are limited to review by authorized Board personnel.

RETENTION AND DISPOSAL:

The decisions are retained for a period of 2 years and then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Information furnished by the appellant or his/her authorized representative, information developed by the hearings officer relevant to the appeal, and information contained in other record systems maintained by the Railroad Retirement Board.

* * * * *

RRB–18

SYSTEM NAME:

Travel and Miscellaneous Voucher Examining System.

* * * * *

18. The following sections in RRB–18 are revised to read as follows:

STORAGE:

Paper and Microfiche.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–19

SYSTEM NAME:

Payroll Record System.

* * * * *

19. The following sections and paragraphs in RRB–19 are revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

b. Service history including pay, benefits, salary deductions for retirement, and other information necessary may be disclosed to the Office of Personnel Management for use in the computation of civil service annuities and to carry out its Government-wide personnel management functions.

c. Computer payment information may be released to the Department of the Treasury for issuance of salary payments.

* * * * *

e. The last known address and employer information may be released to the Department of Health and Human Services in conjunction with the Parent Locator Service.

* * * * *

STORAGE:

Paper, tape, and microfiche.

* * * * *

RETENTION AND DISPOSAL:

Consolidated pay tapes, first two master tapes, and last two master tapes for each year: Destroyed by erasing 3 years after close of calender year in which prepared. Security record-current check issue tape: Destroyed by erasing when the National Personnel Records Center receives second subsequent document covering same type of document. Paper: Destroyed by shredding after 3 years. Microfiche: Retained until replaced by a new record, usually within 1 year. Obsolete microfiche is destroyed by shredding.

* * * * *

SYSTEMS MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–20

SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare).

* * * * *

20. The following sections and paragraph in RRB–20 are revised to read as follows:

ROUTINE USE OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

p. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or Social Security Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RETENTION AND DISPOSAL:

* * * * *

MICROFILM:

Originals are kept for 3 years, transferred to the Federal Records Center and destroyed 3 years and 3 months after receipt at the center. One copy is kept 3 years then destroyed by shredding. All other copies are destroyed when 6 months old or no longer needed for administrative use, whichever is sooner.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RECORD SOURCE CATEGORIES:

Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration, Health Care Financing Administration, United Health Care Insurance Company, Federal, State, or local agencies, their party premium payers, all other Railroad Retirement Board files, physicians.

* * * * *

RRB–21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System.

* * * * *

21. The following sections and paragraphs in RRB–21 are revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return outstanding benefit payments, to issue benefit payments, respond to reports of non-delivery, and to insure delivery of payments to the correct address or account of the beneficiary or representative payee.

d. Beneficiary identifying information, address, payment rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit payments.

* * * * *

j. The last addresses and employer information may be released to the Department of Health and Human Services in conjunction with the Parent Locator Service.

* * * * *

r. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

STORAGE:

Paper, magnetic and optical media, and microforms.

* * * * *

RETENTION AND DISPOSAL:

Paper—Transferred to the Chicago Federal Records Center 1 year after the end of the benefit year during which the case was closed and then destroyed 6 years and 3 months after the end of the benefit year. In benefit recovery cases, the file is transferred to the Federal Records Center if there has been no recent activity; the file is not destroyed until 6 years and 3 months after recovery has been completed or waived. Magnetic tape—Destroyed 10 years after the end of the benefit year. Microform—Destroyed 10 years after the end of the benefit year. Optical media—Destroyed 10 years after the end of the benefit year.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identify, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–22

SYSTEM NAME:

Railroad Retirement Survivor and Pensioner Benefit System.

* * * * *

22. The following sections and paragraph in RRB–22 are revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RETENTION AND DISPOSAL:

Paper—Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Account receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after the date of issue. Change of address source documents are transferred to the Federal Records Center 6 months after date of completion and are destroyed 4 years and 6 months after receipt at the center. Microforms—Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. Magnetic tape—Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. For disaster recovery purposes certain tapes are stored for 12–18 months. Magnetic disk—Continually updated and permanently retained.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identify, or authorization from the individual to permit release of the information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–23

SYSTEM NAME:

Four Percent Wage History of Railroad Workers.

23. System RRB–23 is removed in its entirety.

RRB–24

SYSTEM NAME:

Research Master Record for Lump Sum and Residential Awards Under the Railroad Retirement Act.

24. System RRB–24 is removed in its entirety.

RRB–25

SYSTEM NAME:

Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act.

25. System RRB–25 is removed in its entirety.

* * * * *

RRB–26

26. The following sections in RRB–26 are revised to read as follows:

SYSTEM NAME:

Payment, Rate and Entitlement History File.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received or are receiving benefits under the Railroad Retirement Act or the Social Security Act. These individuals include retired and disabled railroad employees, their qualified spouses, dependents, and survivors, and recipients of other, non-recurring benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data supporting the benefits and historical data recording the benefits paid to the above categories of individuals under the Railroad Retirement and Social Security Acts.

* * * * *

STORAGE:

Magnetic tape and magnetic disk.

RETRIEVABILITY:

By claim number or beneficiary's Social Security number.

SAFEGUARDS:

Access is limited to authorized personnel only.

RETENTION AND DISPOSAL:

Magnetic tapes are retained for 2 years then written over; magnetic disk files are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Statistical Officer, Bureau of Information Services, Information Management Division, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RECORD SOURCE CATEGORIES:

Transmissions from the following computerized systems: Railroad Retirement Act benefit payment; Social Security benefit payment; disability rating decisions; and primary insurance amount calculations.

* * * * *

RRB–27

SYSTEM NAME:

Railroad Retirement Board—Social Security Administration Financial Interchange System.

* * * *

27. The following section in RRB–27 is revised to read as follows:

SYSTEM MANAGER(S) AND ADDRESS:

Chief Actuary, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092

* * * * *

RRB–29

SYSTEM NAME:

Railroad Employees' Cumulative Gross Earnings Master File.

* * * * *

28. The following section in RRB–29 is revised to read as follows:

SYSTEM MANAGER(S) AND ADDRESS:

Chief Actuary, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

* * * * *

RRB–34

SYSTEM NAME:

Employee Personnel Management Files.

* * * * *

29. The following paragraph in RRB–34 is revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

b. Records may be disclosed in a court proceeding and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

RRB–35

SYSTEM NAME:

Employee Skills File.

30. System RRB–35 is removed in its entirety.

* * * * *

RRB–38

SYSTEM NAME:

Regional Rail Reorganization Act Reimbursement System.

31. System RRB–38 is removed in its entirety.

RRB–39

SYSTEM NAME:

Milwaukee Railroad Restructuring Act Benefit System.

32. System RRB–39 is removed in its entirety.

RRB–40

SYSTEM NAME:

Regional Rail Reorganization Act Title VII Benefits.

33. System RRB–40 is removed in its entirety.

RRB–41

SYSTEM NAME:

Rock Island Railroad Transition and Employee Assistance Act Benefit System.

34. System RRB–41 is removed in its entirety.

* * * * *

RRB–42

SYSTEM NAME:

Uncollectible Benefit Overpayment Accounts.

* * * * *

35. The following sections and paragraph in RRB–42 are revised to read as follows:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were overpaid in the benefits they received from the Railroad Retirement Board and whose overpayment amounts have been determined uncollectible after normal recovery efforts have been made. Benefits overpaid are further delineated in the following five categories.

—Individuals receiving the following types of annuities, payable under the Railroad Retirement Act: Railroad retirement, disability, supplemental, and survivor.

—Individuals receiving unemployment or sickness insurance benefits payable under the Railroad Unemployment Insurance Act.

—Individuals receiving benefits under section 701 of the Regional Rail Reorganization Act of 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, Railroad Retirement claim number, type of benefit previously paid, amount of overpayment determined to be uncollectible, amount of interest and penalties assessed and collected, name and address of debt collection agency or Federal agency to which uncollectible account is referred for collection, date of such referral, amount collected, and name and address of consumer reporting agencies to which debt information is disclosed and date of such referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6), sec. 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1); Pub. L. 97–92, Joint Resolution; Pub. L. 97–365 (Debt Collection Act of 1982); Federal Claims Collection Act (31 U.S.C. 3701 *et. seq.*).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

c. For information related to uncollectible overpayments of benefits paid under section 701 of the Regional Rail Reorganization of 1973, in the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule,

regulation or order issued pursuant thereto; for information related to uncollectible overpayments paid under any other Act administered by the Railroad Retirement Board, in the event this system of records maintained by the Railroad Retirement Board to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, provided that disclosure would be to an agency engaged in functions related to the Railroad Retirement Act, or the Railroad Unemployment Insurance Act or provided that disclosure would be clearly in the furtherance of the interest of the subject individual.

* * * * *

RETENTION AND DISPOSAL:

Records of uncollectible accounts are maintained in an on-line eletronic database, they remain in the database until the debt is recovered, written off, or waived. Most paper document that are not immediately shredded are filed in claim folders that are covered by Privacy Act Systems of Records RRB–21, Railroad Unemployment and Sickness Insurance Benefit System, or RRB–22, Railroad Retirement, Survivor, and Pensioner Benefit System. These paper documents are mostly correspondence. Paper documents that relate to multiple accounts are kept for 6 years in folders established for the purpose.

* * * * *

RRB–43

SYSTEM NAME:

Investigation Files.

* * * * *

36. The following sections and paragraph in RRB–43 are revised to read as follows:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any of the following categories of individuals on whom a complaint is made alleging a violation of law, regulation, or rule pertinent to the administrartion of programs by the RRB, or, with respect to RRB employees, alleging misconduct or conflict of interest in the discharge of their official duties: Current and former employees of the Railroad Retirement Board; contractors; subcontractors; consultants; applicants for, and current and former recipients of, benefits under the programs administered by the Railroad Retirement Board; officials and agents of railroad employers; members of the public who are alleged to have stolen or unlawfully received RRB benefits or salary or assisted in such activity; and others who furnish information, products, or services to the RRB.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, and other documents alleging a violation of law, regulation or rule, or alleging misconduct, or conflict of interest; reports of investigations to resolve allegations with related exhibits, statements, affidavits or records obtained during the investigation; recommendations on actions to be taken; transcripts of, and documentation concerning requests and approval for, consensual telephone monitoring; reports from law enforcement bodies; prior criminal or noncriminal records as they relate to the investigation; reports of actions taken by management personnel regarding misconduct; reports of legal actions resulting from violations referred to the Department of Justice or other law enforcement agencies for prosecution.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed to the Department of Justice or other law enforcement authorities in connection with actual or potential criminal prosecution or civil litigation initiated by the RRB, or in connection with requests by RRB for legal advice.

* * * * *

STORAGE:

Paper and electronic media.

* * * * *

SAFEGUARDS:

General access is restricted to the Inspector General and members of his staff; disclosure with the agency is on a limited need-to-know basis; records are maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Paper files are retained for 10 years before they are destroyed by shredding.

* * * * *

RRB–44

SYSTEM NAME: Employee Test Score File.

* * * * *

37. The following section in RRB–44 is revised to read as follows:

RETENTION AND DISPOSAL

Records are kept for 3 years then destroyed by shredding.

* * * * *

RRB–47

SYSTEM NAME: MOTOR VEHICLE OPERATOR RECORDS.

38. System RRB–47 is removed in its entirety.

[FR Doc. 98–13655 Filed 5–21–98; 8:45 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and, Information Services, Washington, DC 20549.

Extension:

Rule 17f–1(g), SEC File No. 270–30, OMB Control No. 3235–0290

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 17f–1(g) Requirements for reporting and inquiring with respect to missing, lost, counterfeit or stolen securities.

Paragraph (g) of Rule 17f–1 requires that all reporting institutions (i.e., every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank insured by the FDIC) maintain and preserved a number of documents related to their participation in the Lost and Stolen Securities Program ("Program") under Rule 17f–1. The following documents must be kept in an easily accessible place for three years, according to paragraph (g): (a) copies or all reports of theft or loss (Form X–17F–1A) filed with the

Commission's designee; (b) all agreements between reporting institutions regarding registration in the Program or other aspects of Rule 17f–1; and (c) all confirmations or other information received from the Commission or its designee as a result of inquiry.

Reporting institutions utilize these records and reports (a) to report missing, lost, stolen or counterfeit securities to the data base, (b) to confirm inquiry of the data base, and (c) to demonstrate compliance with Rule 17f–1. The Commission and the reporting institutions' examining authorities utilize these records to monitor the incidence of thefts and losses incurred by reporting institutions and to determine compliance with Ruie 17f–1. If such records were not retained by reporting institutions, compliance with Rule 17f–1 could not be monitored effectively.

The Commission estimates that there are 24,518 reporting institutions (respondents) and, on average, each respondent would need to retain 33 records annually, with each retention requiring approximately 1 minute (33 minutes or .55 hours). The total estimated annual burden is 13,484.9 hours (24,518×.55 hours =13,484.9). Assuming an average hourly cost for clerical work of $10, the average total yearly record retention cost for each respondent would be $5.50. Based on these estimates, the total annual cost for the estimated 24,518 reporting institutions would be approximately $134,849.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing on or before July 21, 1998.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: May 14, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13725 Filed 5–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549

Extension:

Rule 15Ba2–1 and Form MSD, SEC File No. 270–88, OMB Control No. 3235–0083

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension on the following:

Rule 15Ba2–1 under the Securities Exchange Act of 1934 provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD.

The staff estimates that approximately 40 respondents will utilize this application procedure annually, with a total burden of 60 hours. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 is 1.5 hours. The average cost per hour is approximately $40. Therefore, the total cost of compliance for the respondents is $2,400.

Providing the information on the application is mandatory in order to register with the Commission as a bank municipal securities dealer. The information contained in the application will not be confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 15, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13726 Filed 5–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23188]

Armada Funds, et al.; Notice of Application

May 15, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants, Armada Funds (the "Fund") and National Asset Management Corporation (the "Adviser"), request an order permitting the implementation, without prior shareholder approval, of new investment advisory agreements (the "New Agreements") between the Fund and the Adviser in connection with a change in control of the Adviser. The order would cover a period beginning on the date the requested order is issued until the date the New Agreements are approved or disapproved by the Fund's shareholders (but in no event later than July 6, 1998) ("Interim Period"). The order also would permit the Adviser to receive all fees earned under the New Agreement during the Interim Period following shareholder approval.

FILING DATES: The application was filed on April 3, 1998 and amended on May 13, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 4, 1998, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a

hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Fund, One Freedom Valley Drive, Oaks, Pennsylvania 19456. Adviser, 101 South Fifth Street, Louisville, Kentucky 40402.

FOR FURTHER INFORMATION CONTACT: Shirley A. Bodden, Paralegal Specialist, at (202) 942–0575, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Fund is a Massachusetts business trust registered under the Act as an open-end management investment company. The Adviser is an investment adviser registered under the Investment Advisers Act of 1940. The Adviser manages three portfolios of the Fund under two investment advisory agreements with the Fund ("Prior Agreements").

2. On March 6, 1998, National City Corporation ("NCC") sold all of the Adviser's outstanding stock to the Adviser's principal management team (the "Transaction"). Applicants state that the Transaction resulted in an assignment of the Prior Agreements. Applicants request an exemption: (i) To permit the implementation, without prior shareholder approval, of the New Agreements; and (ii) to permit the Adviser to receive from the Fund all fees earned under the New Agreements during the Interim Period if, and to the extent, the New Agreements are approved by the Fund's shareholders.[1]

3. On March 6, 1998, the Fund's board of trustees (the "Board"), including a majority of the trustees who are not interested persons of the Fund within the meaning of section 2(a)(19) of the Act ("Independent Trustees"), met in-person and approved the New Agreements. The New Agreements are identical in substance to the Prior Agreements except for their effective and termination dates and certain escrow provisions as described below. Proxy materials to vote on the New Agreements are expected to be mailed to the Fund's shareholders on or about May 18, 1998. The requisite shareholder meetings are expected to take place on or about June 29, 1998.

4. Applicants have entered into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The fees payable to the Adviser under the New Agreements during the Interim Period will be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including interest earned on such paid fees) will be paid to the Adviser only if the Fund's shareholders approve the New Agreements. If the Interim Period has ended and the Fund's shareholders have failed to approve the New Agreements, the Escrow Agent will pay to the Fund the escrow amounts (including any interest earned). Before the release of any escrow amounts, the Independent Trustees will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) of the Act further requires that such written contract provide for automatic termination in the event of its "assignment." Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that, upon completion of the Transaction, control of the Adviser was transferred to the Adviser's principal management team. Accordingly, the Transaction resulted in an assignment of the Prior Agreements and thus their automatic termination.

3. Rule 15a–4 provides in pertinent part, that if an investment advisory contract with an investment company is terminated by an assignment in which the adviser does not directly or indirectly receive a benefit, the adviser may continue to act as such for the company for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (a) The new contract is approved by that company's board of directors (including a majority of directors who are not interested persons of the company); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser or any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. Applicants state that they cannot rely on rule 15a–4 because of the benefits the Adviser will receive from the Transaction.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested relief meets this standard.

5. Applicants submit that the timing of the Transaction arose primarily out of business considerations unrelated to the Fund and did not reasonably present an opportunity to secure prior approval of the New Agreements by the Fund's shareholders. Applicants state that the requested relief would permit the continuity of investment management for the Fund, without interruption, during the period following the issuance of the requested order.

6. Applicants submit that the scope and quality of investment advisory services provided to the Fund during the Interim Period will not be diminished. During the Interim Period, the Adviser will operate under the New Agreements, which will be substantively the same as the Prior Agreements, except for their effective and termination dates and escrow provisions. Applicants are not aware of any material changes in the personnel that will provide investment management services during the Interim Period. Accordingly, the Fund should receive, during the Interim Period, the same investment advisory services, provided in the same manner, as the Fund received before the Transaction.

7. Applicants assert that to deprive the Adviser of fees during the Interim Period would be a harsh result and an unreasonable penalty to attach to the Transaction and would serve no useful purpose. Applicants submit that the fees payable to the Adviser under the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account by the Escrow Agent. Such fees will not be released by the Escrow Agent to the Adviser without notice to the Independent

[1] The Adviser has continued to serve as investment adviser to the Fund since the Transaction in a manner consistent with its fiduciary duty to the Fund even though the Fund's shareholders have not approved the New Agreements. Applicants acknowledge that the Fund may be required to pay, with respect to the period until receipt of the order, no more than the actual out-of-pocket cost to the Adviser for providing advisory services to the Fund.

Trustees and appropriate certifications that the New Agreements have been approved by the Funds' shareholders.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreements will have the same terms and conditions as the Prior Agreements, except for their effective and termination dates and escrow provisions.

2. Fees earned by the Adviser in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such paid fees) will be paid: (a) To the Adviser in accordance with the New Agreements, after the requisite shareholder approval is obtained; or (b) to the Fund portfolio which paid the fees, in the absence of shareholder approval with respect to the Fund portfolio.

3. The Fund will hold a meeting of shareholders to vote on approval of the New Agreements on or before the 120th day following the termination of the Prior Agreements (but in no event later than July 6 1998).

4. The Adviser will bear the costs of preparing and filing the application and the costs relating to the solicitation of shareholder approval of the New Agreement necessitated by the Transaction.

5. The Adviser will take all appropriate steps so that the scope and quality of advisory and other services provided to the Fund during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Trustees, to the scope and quality of services previously provided. In the event of any material change in the personnel providing services pursuant to the New Agreements, the Adviser will apprise and consult with the Board to assure that the Trustees, including a majority of the Independent Trustees, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–13647 Filed 5–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23189; 812–10972]

General American Investors Company, Inc.; Notice of Application

May 15, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Applicant, General American Investors Company, Inc., requests an order to permit it to make periodic distributions of net long-term capital gains in any one taxable year, so long as applicant maintains in effect a distribution policy with respect to its preferred stock calling for periodic dividends in an amount equal to a specified percentage of the liquidation preference of the preferred stock.

FILING DATES: The application was filed on January 16, 1998 and amended on April 29, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 9, 1998, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant: General American Investors Company, Inc., 450 Lexington Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is registered under the Act as an internally-managed closed-end management investment company organized as a Delaware corporation. Applicant's board of directors has authorized it to issue and sell cumulative preferred stock. Applicant's investment objective is long term capital appreciation.

2. Applicant wishes to institute a dividend payment policy with respect to its cumulative preferred stock, and any future preferred stock, to be issued by applicant calling for periodic dividends in an amount equal to a specified percentage of the liquidation preference of applicant's preferred stock ("Distribution Policy"). The specified percentage may be determined at the time the preferred stock is initially issued, pursuant to periodic remarketings or auctions, or otherwise. Under the requested relief, the periodic payments may include long-term capital gains so long as applicant maintains in effect the Distribution Policy.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not in contravention of such rules, regulations, or orders as the SEC may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1 under the Act limits the number of capital gains distributions, as defined in section 851(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the "Code"), that applicant may make with respect to any one taxable year to one, plus a supplemental distribution made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional net long-term capital gains distribution made in whole or in part to avoid the excise tax under section 4982 of the Code.

2. Applicant argues that rule 19b–1 may prevent the normal operation of the Distribution Policy whenever applicant's realized net long-term capital gains in any year exceed the total of the periodic distributions that under rule 19b–1 may include capital gains. In that situation, applicant asserts that rule 19b–1 effectively forces the distributions that under rule 19b–1 may not include these capital gains to be treated as a return of capital to stockholders, even though net long-term capital gains would otherwise be available. Applicant further states that federal tax rules require that current earnings and profits be allocated proportionately among all distributions

made for that year. The net long-term capital gains in excess of the periodic distributions permitted by rule 19b–1 then must either be added to one of the permitted capital gains distributions resulting in the total distributions for the year in excess of the amount required to be paid, added to a permitted distribution of long-term capital gains on the common stock, or retained by applicant (with applicant paying taxes on those amounts). Accordingly, applicant states that the requested relief would permit it to operate the Distribution Policy with respect to the preferred stock without these unintended adverse consequences.

3. Applicant asserts that its requested relief does not give rise to the concerns underlying section 19(b) of the Act and rule 19b–1. One of these concerns was that stockholders might not be able to distinguish between frequent distributions of capital gains and dividends from investment income. Applicant states that in the case of preferred stock there is little chance for investor confusion since all an investor expects to receive is the specified distribution for any particular dividend period, and no more. Moreover, in accordance with rule 19a–1 under the Act, a separate statement showing the sources of the distribution will accompany each periodic dividend, with a statement provided near the end of the last dividend period in a year indicating the sources (*i.e.*, net investment income and short-term capital gains, net long-term capital gains and return of capital) of each distribution that was made during the year. In addition, applicant notes that the amount and sources of distributions received during the year will be included on applicant's IRS Form 1099–DIV report sent to stockholders who received distributions during the year. This information will also be included in applicant's annual report to stockholders.

4. Applicant submits that another concern underlying section 19(b) and rule 19b–1, was that frequent capital gains distributions could facilitate improper fund distribution practices, including the practice of urging an investor to purchase shares on the basis of an upcoming dividend ("selling the dividend"), where the dividend results in an immediate corresponding reduction in net asset value and is in effect a return of the investor's capital. Applicant believes that this concern does not apply to preferred stock which entitles a holder to a specified periodic dividend and no more and, like a debt security, is initially sold at a price based on its liquidation preference plus an amount equal to any accumulated dividends. Applicant also states that this concern does not arise with regard to closed-end investment companies which do not continuously distribute their shares.

5. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, applicant believes that the requested exemption from section 19(b) of the Act and rule 19b–1, meets the standards set forth in section 6(c) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–13646 Filed 5–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39995; File No. SR–PCX–98–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Expansion of the LMM Book Pilot Program

May 15, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 16, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[3] The Commission is published this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1991).

[3] The Exchange had initially submitted the filing prior to April 16, 1998, but that submission did not include a signature page. By letter dated April 14, 1998, the Exchange filed Amendment No. 1 to the filing, which contained signatures for the filing. *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Marie D'Aguanno Ito, Special Counsel, Division of Market Regulation, Commission, dated April 14, 1998.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to remove the current cap on the number of LMMs who may participate in the program.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

On October 11, 1997, the Commission approved an Exchange proposal to adopt a one-year pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public limit order book ("Book") in certain option issues.[5] On September 22, 1997, the Commission approved an Exchange proposal to extend the program for one year, so that it is currently set to expire on October 12, 1998.[6]

Under the pilot program, approved LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services.[7] Currently, both multiply-listed and non-multiply-listed option

[4] On May 1, 1998, PCX submitted Amendment No. 2 to the filing, seeking to withdraw the portion of the filing that proposed removing the limit on the number of option issues that may be included in the LMM program. The PCX represented in the Amendment that such proposal would be submitted in a separate filing. See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, to Marie D'Aguanno Ito, Special Counsel, Division of Market Regulation, Commission, dated April 30, 1998.

[5] See Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1997) (approving File No. SR–PSE–96–09).

[6] See Exchange Act Release No. 39106 (September 22, 1997), 62 FR 31172 (September 30, 1997).

[7] See Exchange Act Release No. 37874 (October 28, 1996), 61 FR 56597 (November 1, 1996) (approving SR–PSE–96–38, establishing a staffing charge for LMMs who participate in the pilot program); see also File No. SR–PCX–98–03 (proposal to modify the LMM Book Pilot staffing charge).

issues are eligible to be traded under the pilot program.[8] Initially, the program was limited by allowing no more than three LMMs to participate in the program and no more than 40 option symbols to be used. But on April 1, 1997, the Commission approved an Exchange proposal to expand the program so that up to nine LMMs may participate and up to 150 option symbols may be used.[9]

The Exchange is now proposing to expand the LMM Book Pilot Program to eliminate the cap on the number of LMMs that may participate in the program. The Exchange notes that the program has been in operation for approximately eighteen months and no significant problems have occurred. The program has been viable and effective, and has resulted in significant cost savings to customers in Book execution charges. The Exchange believes that it has adequate systems and operation capacity to expand the scope of the program beyond its current limits.

The Exchange believes that the proposed change will make the Exchange LMM Program more competitive because it will provide LMMs with the same flexibility currently held by options specialists at other exchanges, and DPMs at the Chicago Board Options Exchange.

Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) [10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–17 and should be submitted by June 12, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–13727 Filed 5–21–98; 8:45 am]

BILLING CODE 8010–01–M

[8] See Exchange Act Release No. 38273 (February 12, 1997), 62 FR 7489 (February 19, 1997) (approving File No. SR–PSE–96–45); *see also* Exchange Act Release No. 39667 (February 13, 1998), 63 FR 9895 (February 26, 1998) (order approving proposal to allow non-multiply-listed option issues to be traded under the program).

[9] See Exchange Act Release No. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997).

[10] 15 U.S.c. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3076]

State of Alabama; Amendment #2

In accordance with a notice from the Federal Emergency Management Agency dated April 29, 1998, the above-numbered Declaration is hereby amended to include Walker County in the State of Alabama as a disaster area due to damages caused by severe storms and tornadoes beginning on April 8, 1998 and continuing through April 20, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Marion, Alabama may be filed until the specified date at the previously designated location. Any counties contiguous to the above-name primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 8, 1998 and for economic injury the termination date is January 11, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–13743 Filed 5–21–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3069]

State of Georgia; Amendment #7

In accordance with notices from the Federal Emergency Management Agency (FEMA) dated May 1, 8, and 11, 1998 and a notification from FEMA dated May 12, 1998, the above-numbered Declaration is hereby amended to include Columbia, Floyd, Lincoln, Peach, ockdale, Towns, and Union Counties in the State of Georgia as a disaster area due to damages caused by severe storms and flooding. This declaration is further amended to establish the incident period for this disaster as beginning on February 14, 1998 and continuing through May 11, 1998, and to extend the deadline for filing applications for physical damages resulting from this disaster to May 22, 1998.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated

location: Elbert and Wilkes Counties in Georgia; McCormick County, South Carolina; Cherokee County, North Carolina; and Cherokee County, Alabama.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for economic injury is December 11, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 13, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–13724 Filed 5–21–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3082]

State of Kentucky; Amendment #1

In accordance with notices from the Federal Emergency Management Agency dated May 10 and 11, 1998, the above-numbered Declaration is hereby amended to include Leslie County in the State of Kentucky as a disaster area due to damages caused by severe storms, tornadoes, and flooding, and to establish the incident period for this disaster as beginning on April 16, 1998 and continuing through May 10, 1998.

All counties contiguous to the above-name primary county have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 28, 1998 and for economic injury the termination date is January 29, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 13, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–13742 Filed 5–21–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3078]

State of Tennessee; Amendment #2

In accordance with notices from the Federal Emergency Management Agency dated May 11 and 12, 1998, the above-numbered Declaration is hereby amended to include Madison, Polk, and Shelby Counties in the State of Tennessee as a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on April 16, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Fayette, Hardeman, and Tipton Counties in Tennessee; DeSoto and Marshall Counties in Mississippi; and Fannin County in Georgia.

Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 19, 1998 and for economic injury the termination date is January 20, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 13, 1998

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–13744 Filed 5–21–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S8 covers the Office of the Inspector General (OIG). Notice is given that Chapter S8, the Office of the Inspector General, is being amended to reflect a realignment of functions and typographical changes. The Office of Operations (OP) (S8J) is being abolished and the functions are being incorporated into the Office of Management Services (OMS) (S8G). Divisional functions are being realigned in both the Office of Investigations (OI) (S8B) and the Office of Audit (OA) (S8C). New divisional structures are being established to achieve the functional realignment. A Deputy Counsel is being established in the Office of the Counsel to the Inspector General (OCIG) (S8H). Typographical changes are also being made in the OCIG (S8H). The revised chapter reads as follows:

Section S8.10 *The Office of the Inspector General—(Organization):*

Delete:

H. The Office of Operations (OP) (S8J).

Section S8.20 *The Office of the Inspector General*—(Functions):

Amend to read as follows:

F. The Office of Management Services (OMS) (S8G) provides staff assistance to the Inspector General (IG) and Deputy Inspector General. OMS formulates and assists the IG with the execution of the OIG budget and confers with the Office of the Commissioner, the Office of Management and Budget and the Congress on budget matters. The office manages and maintains the OIB Allegation Management System (AMS) data base for all allegations reported to the OIG nationwide. OMS conducts management analyses and establishes and coordinates general management policies of the OIG. This office serves as the OIG liaison on personnel management and other administrative and management policies and practices, as well as on equal employment opportunity and civil rights matters. This office is also responsible for the development, design and redesign of major automated systems throughout the OIG. OMS is responsible for and coordinates the OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act; public affairs; interagency activities; OIG reporting requirements and publications; and responses to Congressional inquiries.

Delete in its entirety:

H. The Office of Operations (OP) (S8J).

Section S8B.10 *The Office of Investigations*—(Organization):

Delete:

I. The Washington, D.C. Field Division (WFD) (S8BJ).

K. The Tampa Field Division (TFD) (S8BL).

Reletter:

"J." to "I."
"L." to "J."
"M." to "K."
"N." to "L."

Establish

M. The Philadelphia Field Division (PFD) (S8BQ).

N. The St. Louis Field Division (SLFD) (S8BR).

O. The Denver Field Division (DVFD) (S8BS).

P. The Seattle Field Division (SFD) (S8BT).

Q. The Allegation Management Division (AMD) (S8BU).

Section S8B.20 *The Office of Investigations*—(Functions):

Delete in its entirety:

I. The Washington, D.C. Field Division (WFD) (S8BJ).

K. The Tampa Field Division (TFD) (S8BL).

Reletter:
"J." to "I."
"L." to "J."
"M." to "K."
"N." to "L."

Establish:

M. The Philadelphia Field Division (PFD) S8BQ) is responsible for conducting criminal, civil and administrative investigations of fraud involving Social Security programs and operations within the designated geographic area. Investigative efforts by the division lead to criminal convictions, civil monetary penalties, or administrative sanctions.

N. The St. Louis Field Division (SLFD) (S8BR) is responsible for conducting criminal, civil and administrative investigations of fraud involving Social Security programs and operations within the designated geographic area. Investigative efforts by the division lead to criminal convictions, civil monetary penalties, or administrative sanctions.

O. The Denver Field Division (DVFD) (S8BS) is responsible for conducting criminal, civil and administrative investigations of fraud involving Social Security programs and operations within the designated geographic area. Investigative efforts by the division lead to criminal convictions, civil monetary penalties, or administrative sanctions.

P. The Seattle Field Division (SFD) (S8BT) is responsible for conducting criminal, civil and administrative investigations of fraud involving Social Security programs and operations within the designated geographic area. Investigative efforts by the division lead to criminal convictions, civil monetary penalties, or administrative sanctions.

Q. The Allegation Management Division (AMD) (S8BU) is responsible for managing the SSA Hotline, which plans, conducts, directs, and assists criminal investigations of alleged violations of the Social Security laws. The division reviews OIG files and records in response to the Freedom of Information Act requests.

Section S8C.10 *The Office of Audit*—(Organization):

Delete:

H. The Systems and Financial Audit Division (SFAD) (S8CJ).

Establish:

H. The Systems Audit Division (SAD) (S8CK).

I. The Financial Audit Division (FAD) (S8CL).

Section S8C.20 *The Office of Audit*—(Functions):

D. The Evaluations and Technical Services Division (ETSD) (S8CB).

Amend to read as follows:

4. The division audits and evaluates SSA's efforts to ensure payment accuracy for General Management Audits, Old-Age and Survivors Insurance, Disability Insurance, and Supplemental Security Income programs.

E. The Eastern Program Audit Division (EPAD) (S8CE).

Amend to read as follows:

1. The primary responsibilities include Enumeration and Operations.

Delete in its entirety:

H. The Systems and Financial Audit Division (SFAD) (S8CJ).

Establish:

H. The Systems Audit Division (SAD) (S8CK) plans, conducts, oversees and reports on the results of audits of the Centralized Automated Systems. The division is also responsible for general and application controls in SSA's automated data processing systems and for reviews of the operational efficiency of SSA's data processing operations.

I. The Financial Audit Division (FAD) (S8CL) plans, conducts, oversees and reports on the results of audits of Agency financial statements.

1. The division is responsible for financial management, as defined in the Chief Financial Officers' Act of 1990, the include audits of accounting and financial reporting, financial systems, asset management, information resource management, budget execution and internal controls.

2. The division is also responsible for finance contracts and Disability Determination Services' administrative costs.

Section S8G.00 *The Office of Management Services—(Mission):*

Amend to read as follows:

The Office of Management Services (OMS) (S8G) provides staff assistance to the Inspector General (IG) and Deputy Inspector General. OMS formulates and assists the IG with the execution of the OIG budget and confers with the Office of the Commissioner, the Office of Management and Budget and the Congress on budget matters. The office manages and maintains the OIG Allegation Management System (AMS) data base for all allegations reported to the OIG nationwide. OMS conducts management analyses and establishes and coordinates general management policies of the OIG. This office serves as the OIG liaison on personnel management and other administrative and management policies and practices, as well as on equal employment opportunity and civil rights matters. This office is also responsible for the development, design and redesign of major automated systems throughout the OIG. OMS is responsible for and coordinates the OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act; public affairs; interagency activities; OIG reporting requirements and publications; and responses to Congressional inquiries.

Section S8G.20 *The Office of Management Services*—(Functions):

B. The Deputy Assistant Inspector General for Management Services (S8G).

Delete item 2 in its entirety.

Renumber:

"3." To "2."

Amend item 2 to change the last two words of the first sentence from "OIG Hotline" to "SSA Hotline."

Add:

3. Manages and coordinates the OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act; pubic affairs; interagency activities; OIG reporting requirements and publications; and responses to Congressional inquires.

Section S8H.00 *The Office of the Counsel to the Inspector General*—(Mission):

Amend the second sentence to read as follows:

"The OCIG provides advice on a variety of legal issues concerning relevant regulatory and procedural information and reviews documents and other materials to ensure legal sufficiency and compliance with regulatory requirements."

Section S8H.10 *The Office of the Counsel to the Inspector General*—(Organization):

Reletter:

"B." to "C."

Establish;

B. Deputy Counsel to the Inspector General (S8H).

Section S8H.20 *The Office of the Counsel to the Inspector General*—(Functions):

Reletter:

"B." to "C."

Establish:

B. The Deputy Counsel to the Inspector General assists the Counsel to the Inspector General in carrying out his/her responsibilities. Performs other duties as the Counsel to the Inspector General may prescribe.

C. The Immediate Office of the Counsel to the Inspector General (S8H).

Delete from item 6 "and Freedom of Information."

Delete existing Subchapter S8J, the Office of Operations.

Dated: April 3, 1998.

David C. Williams,

Inspector General for Social Security.

[FR Doc. 98–13651 Filed 5–21–98; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2822]

Determination Under the Arms Export Control Act

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Acting Under Secretary of State for Arms Control and International Security Affairs and Director, U.S. Arms Control and Disarmament Agency has made a determination pursuant to Section 81 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: May 8, 1998.

Eric D. Newsom,

Acting Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 98–13666 Filed 5–21–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice #2823]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee will hold a meeting on June 12, 1998 from 10:00 am to 1:00 pm to obtain public comment on issues to be addressed at the June 29th–July 2, 1998 United Nations Educational, Scientific and Cultural Organization (UNESCO) meeting of governmental experts on the draft Convention on Underwater Cultural Heritage.

The meeting will be held at the Department of Commerce located at 14th and Constitution NW, Washington, DC 20230, Room 5430. Interested members of public are invited to attend, up to the capacity of the room.

For further information, please contact Mr. Robert Blumberg, Office of Oceans Affairs, telephone (202) 647–4971 or Mr. Ashley Roach, Office of the Legal Adviser, telephone (202) 647–1646.

Dated: May 15, 1998.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 98–13643 Filed 5–21–98; 8:45 am]

BILLING CODE 4710–08–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed Collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523. Comments should be sent to the Agency Clearance Officer no later than July 21, 1998.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Power Distributor Monthly & Annual Reports to TVA.

Frequency of Use: Monthly and Annual.

Type of Affected Public: Business or Local Government.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 2,067.

Estimated Total Annual Burden Hours: 3,816.

Estimated Average Burden Hours Per Response: 1.8 hours.

Need For and Use of Information: This information collection supplies TVA with financial and accounting information to help ensure that electric power produced by TVA is sold to consumers at rates which are as low as feasible.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 98–13660 Filed 5–21–98; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collections was published on February 19, 1998 [63 FR 8517–8522].

DATES: Comments must be submitted on or before June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

(1) Title: 49 CFR Part 573, Defect and Noncompliance Reports.

OMB Control Number: 2127–0004.

Type Request: Extension of a currently approved collection.

Form(s): NA.

Affected Public: Business or other for-profit.

Abstract: NHTSA's statute at 49 U.S.C. 30112, and 30116–30121 requires the manufacturers of motor vehicles and motor vehicle equipment to recall and remedy their products that do not comply with applicable safety standards or contain a defect related to motor vehicle safety. The manufacturer must notify the Secretary of Transportation (through NHTSA), owners, purchasers and dealers of its determination, and must remedy the defect or noncompliance. The notification must be furnished within a reasonable time after a determination is made with respect to defect or failure to comply. The manufacturer of each motor vehicle or item of replacement equipment presented for remedy shall make the remedy without charge. If a manufacturer fails to notify owners or purchasers within the period specified, the court may hold it liable under a civil penalty with respect to such failure.

The Secretary may hold hearings in which any interested person may make

oral or written views on questions of whether a manufacturer has reasonably met its obligations to notify and remedy a defect or failure to comply, or the Secretary may place specific actions on the manufacturer to comply. The manufacturer shall furnish the Secretary with a true copy of all notices, bulletins, and other communications to the manufacturer's dealers, owners and purchasers regarding any defect or noncompliance in the manufacturer's vehicle or item of equipment. These statutes shall not create or affect any warranty obligations under State and Federal law. To implement this authority, NHTSA promulgated 49 CFR Part 573, Defect and Noncompliance Reports. This regulation sets out the following requirements: (1) Manufacturers are to include specific information in reports that must be filed with NHTSA within five working days of a determination of defect or noncompliance, pursuant to 49 U.S.C. 30118 and 30119; (2) Manufacturers are to submit quarterly reports to the agency on the progress of recall campaigns; (3) Manufacturers are to furnish copies to the agency of notices, bulletins, and other communications to dealers, owners, or purchasers regarding any defect or noncompliance, and; (4) Manufacturers are to retain records of owners or purchasers of their products that have been involved in a recall campaign.

Estimated Annual Burden: 6,300 hours.

(2) Title: Consumer Complaint/Recall Audit Information.

OMB Control Number: 2127–0008.

Type Request: Extension of a currently approved collection.

Form(s): HS Form 350 and 350C.

Affected Public: Individuals or households.

Abstract: Chapter 301 of Title 49 of the United States Code (formerly the National Traffic and Motor Vehicle Safety Act, as amended (the Act), the Secretary of Transportation is authorized to require manufacturers of motor vehicles and items of motor vehicle equipment to conduct owner notification and remedy, i.e., a recall campaign, when it has been determined that a safety defect exists in the performance, construction, components, or materials in motor vehicles and motor vehicle equipment. To make this determination, the National Highway Traffic Safety Administration (NHTSA) solicits information from vehicle owners which is used to identify and evaluate possible safety-related defects and provide the necessary evidence of the existence of such a defect. Under the Authority of Chapter 301 of Title 49 of the United States Code, the Secretary of Transportation is authorized to require manufacturers of motor vehicle and items of motor vehicle equipment which do not comply with the applicable motor vehicle safety standards or contains a defect that relates to motor vehicle safety to notify each owner that their vehicle contains a safety defect or noncompliance. Also, the manufacturer of each such motor vehicle or item of replacement equipment presented for remedy pursuant to such notification shall cause such defect or noncompliance to be remedied without charge. In the case of a motor vehicle presented for remedy pursuant to such notification, the manufacturer shall cause the vehicle to be remedied by whichever of the following means he elects: (1) By repairing such vehicle; (2) by replacing such motor vehicle without charge; or (3) by refunding the purchase price less depreciation. To ensure these objectives are being met, NHTSA audits recalls conducted by manufacturer. These audits are performed on a randomly selected number of vehicle owners for verification and validation purposes.

Estimated Annual Burden: 36,380 hours.

(3) Title: 49 CFR Part 537—Automotive Fuel Economy Reports.

OMB Control Number: 2127–0019.

Type Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: 49 United States Code (U.S.C.) 32907(a) requires a manufacturer report to the Secretary of Transportation on whether the manufacturer will comply with an applicable average fuel economy standard under 49 U.S.C. 32902 of this title for the model year for which the report is made; the actions the manufacturer has taken or intends to take to comply with the standard; and other information the Secretary requires by regulation. To start this statutory requirement, the agency issued a regulation specifying the required content of the Automotive Fuel Economy Reports.

Estimated Annual Burden: 3,300 hours.

(4) Title: Consolidated Labeling Requirements for Motor Vehicles (Except the VIN).

OMB Control Number: 2127–0512.

Type Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: 49 U.S.C. 3011 authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulation is to consider available relevant motor vehicle safety data, and consult with other agencies as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency consider whether the standard or regulation is "reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed," and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as he deems necessary to carry out this subchapter. Using this authority, the agency issued the following FMVSS and regulations, specifying labeling requirements to aid the agency in achieving many of its safety goals. FMVSS 105, 205, 209, and 567 are the standards the agency issued. Through FMVSS 105, this standard, under section 5.4 requiring labeling, each vehicle shall have a brake fluid warning statement in letters at least one-eighth of an inch high on the master cylinder reservoirs and located so as to be visible by direct view. FMVSS 205 requires manufacturer's distinctive trademark; manufacturer's DOT code number; Mode of glazing (alpha-numerical designation) and Type of glazing (there are currently 13 items of glazing ranging from plastic windows to bullet resistant windshields). In addition to requirements which apply to all glazing, certain specialty items such as standee windows in buses, roof openings and interior partitions made of plastic require that the manufacturer affix a removable label to each item. The label specifies cleaning instructions which will minimize the loss of transparency. Other information may be provided by the manufacturer but is not required. FMVSS 209-Seat belt Assemblies requires safety belts to be labeled with the year of manufacture, the; model and the name or trademark of the manufacturer (S4.5(j). Additionally, replacement safety belts that for specific models of motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions (S4.5(k)). All other replacement belts are required to be accompanied by an installation instruction sheet (S4.1(k)). Seat belt assemblies installed as original equipment in new motor vehicles need not be required to be labeled with position model information. This information is only useful if the assembly is removed with the intention

of using the assembly as a replacement in another vehicle; this is not a common practice. 49 U.S.C. 30111 requires each manufacturer or distributor of motor vehicle to furnish to the dealer or distributor of the vehicle a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR Part 567. The agency's regulations establish form and content requirement for the certification labels.

Estimated Annual Burden: 71,095 hours.

(5) Title: 49 CFR 571.116, Motor Vehicle Brake Fluids.

OMB Control Number: 2127–0521.

Type Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: 49 U.S.C. 309111, 30112 and 30117 of the National Traffic and Motor Vehicle Safety Act of 1966, authorize the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The agency in prescribing a FMVSS is to consider available relevant motor vehicle safety data and to consult with appropriate agencies and obtain safety comments/ suggestions from the responsible counties, States, agencies, safety commissions, public and other safety related authorities. Further the Act mandates that in issuing any FMVSS the agency consider whether the standards will contribute to carry out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as he/she deems necessary to carry out this Act. FMVSS No. 116 Motor Vehicle Brake Fluids, specific performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 specific labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The information on the label of a container of motor vehicle brake fluid or hydraulic system mineral oil is necessary to insure the following: the contents of the container are clearly stated; these fluids are used for their intended purpose only; and the containers are properly disposed of when empty. Improper use or storage of these fluids could have dire consequences for the operations of vehicles or equipment in which they area used. This labeling information is used by motor vehicle owners, operators, and vehicle service facilities to aid in the proper selection of brake fluids and hydraulic system mineral oils for use in motor vehicles and hydraulic equipment, respectively.

Estimated Annual Burden: 7,680 hours.

(6) Title: Drug Offender's License Suspension Certification.

OMB Control Number: 2127–0566.

Type Request: Extension of a currently approved collection.

Affected Public: Local, State or Tribal Government.

Abstract: Section 33 of the Department of Transportation (DOT) and Related Agencies Appropriations Act for FY 1991 amends 23 U.S.C. 104, and requires the withholding of certain Federal-aid highway funds from States that do not enact legislation requiring the revocation or suspension of an individual's driver's license upon conviction for any violation of the Controlled Substances Act or any drug offense. This notice proposes the violation of the Controlled Substances Act or any drug offense. This notice proposes the manner in which States certify that they are not subject to this withholding, and disposition of funds that are withheld.

Estimated Annual Burden: 260 hours.

(7) Title: Voluntary Child Safety Seat Registration Form.

OMB Control Number: 2127–0576.

Type Request: Extension of a currently approved collection.

Affected Public: Individuals or households.

Abstract: Chapter 301 of Title 49 of the United States provides that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify owners and purchasers of the defect or noncompliance and must provide a remedy without charge. Pursuant to 49 CFR Part 577 Defects and noncompliance notification for equipment items, including child safety seats, must be sent by first class mail to the most recent purchaser known to the manufacturer. In the absence of a registration system, man owners of child safety seats are not notified of safety defects and noncompliance, since the manufacturer is not aware of their identities.

Estimated Annual Burden: 26 hours.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on May 13, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–13699 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–98–1472]

Privacy Act of 1974; Notice to Amend System of Records to Include a New Routine Use

AGENCY: United States Coast Guard, DOT.

ACTION: Notice to amend system of records to include a new routine use.

SUMMARY: The Department of Transportation, on behalf of the United States Coast Guard, proposes to alter a system of records subject to the Privacy Act of 1974. The records system is the Military Pay and Personnel System, DOT/CG–623. The system will be altered to include, as a Routine Use, the provision of information to duly recognized Coast Guard auxiliary organizations and personnel whose purpose is to provide morale and welfare information to members or their dependents.

EFFECTIVE DATE: June 29, 1998.

ADDRESS: Interested individuals may comment on this publication by writing to Ms. Vanester M.Williams, Privacy Act Coordinator, U.S. Department of Transportation, Office of the Chief Information Officer, S–80, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments concerning this

proposed altered system should be directed to Commandant (G-WR-3), ATTN: Mr. David M. Swatloski, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. If no comments are received, the proposed change will become effective on the above-mentioned date. If comments are received, the comments will be considered and where adopted, the document will be republished with the change.

SUPPLEMENTARY INFORMATION: DOT systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a) as amended, have been published in the **Federal Register** and are available from the above mentioned address. The specific change to the record system being amended is highlighted in *italics* below in the notice, as amended, which is being published in its entirety.

DOT/CG-623

SECURITY CLASSIFICATION:

Sensitive.

SYSTEM NAME:

Military Pay and Personnel System.

SYSTEM LOCATION:

Department of Transportation (DOT).

a. U.S. Coast Guard (CG): Department of Transportation Computer Center, 400 7th Street, SW., Washington, DC 20590-0001.

b. U.S. Coast Guard Pay and Personnel Center, 444 S.E., Quincy Street, Topeka, KS 66683-3591

c. U.S. Coast Guard: 2100 2nd Street, SW., Washington, DC 20593-0001

d. Decentralized data segments are located at the unit maintaining the individual's pay and personnel record and permanent duty unit.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. All Coast Guard military personnel, active duty and reserve.

b. Retired reserve Coast Guard military personnel waiting for pay at age 60.

c. Active duty National Oceanic and Atmospheric Administration [NOAA] officers.

d. Personnel separated from service in all the preceding categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records are electronic and/or paper, and may include identifying information, such as name[s], date of birth, home residence, mailing address, Social Security number, payroll information, and home telephone number. Records reflect:

a. Work experience, educational level achieved, and specialized education or training obtained in and outside of military service.

b. Military duty assignments, ranks held, pay and allowances, personnel actions such as promotions, demotions, or separations.

c. Enrollment or declination of enrollment in insurance programs.

d. Performance evaluation.

e. The individual's desires for future assignments, training requested, and notations by assignment officers.

f. Information for determinations of waivers and remissions of indebtedness to the U.S. Government.

g. Information for the purpose of validating legal requirements for garnishment of wages.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

Title 37 U.S.C. as implemented in GAO Manual for Guidance of Federal Agencies, Title 2 GAO, Title 6 GAO and Title 14 U.S.C. 92(i).

PURPOSE:

This system, as described in the Summary, will be altered to include, as a Routine Use, the provision of information to duly recognized United States Coast Guard auxiliary organizations and personnel whose purpose is to provide morale and welfare information to members or their dependents.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To the Department of Treasury for the purpose of disbursement of salary, U.S. Savings Bonds, allotments, or travel claim payments.

b. To government agencies to disclose earnings and tax information.

c. To the Department of Defense and Veterans Administration for determinations of benefit eligibility for military members and their dependents.

d. To contractors to manage payment and collection of benefit claims.

e. To the Department of Defense for manpower and readiness planning.

f. To the Comptroller General for the purpose of processing waivers and remissions.

g. To contractors for the purpose of system enhancement, maintenance, and operations.

h. To federal, state, and local agencies for determination of eligibility for benefits connected with the Federal Housing Administration programs.

i. To provide an official of another federal agency information needed in the performance of official duties to reconcile or reconstruct data files in support of functions for which the records were collected and maintained.

j. To an individual's spouse, or person responsible for the care of the individual concerned when the individual to whom the record pertains is mentally incompetent, critically ill or under other legal disability for the purpose of assuring the individual is receiving benefits or compensation they are entitled to receive.

k. To a requesting government agency, organization, or individual the home address and other relevant information on those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while a member of government service.

l. To businesses for the purpose of electronic fund transfers or allotted pay transactions authorized by the individual concerned.

m. To credit agencies and financial institutions for the purpose of processing credit arrangements authorized by the individual concerned.

n. To other government agencies for the purpose of earnings garnishment.

o. To prepare the Officer Register and Reserve Officer Register which is provided to all Coast Guard officers and the Department of Defense.

p. To other federal agencies and collection agencies for the collection of indebtedness and outstanding travel advances to the federal government.

q. The home mailing addresses and telephone numbers of members and their dependent's to duly appointed Family Ombudsman and personnel within the Coast Guard for the purpose of providing entitlement information to members or their dependents.

r. The home mailing addresses and telephone numbers of members and their dependent's to Coast Guard auxiliary organizations officially recognized by the Commandant whose purpose is to provide family support programs which enhance the morale and welfare of active duty Coast Guard members and their dependent's.

See Prefatory Statement of General Routine Uses; items 3 and 5 do not apply.

DISCLOSURE TO CONSUMER AGENCIES: *None.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The storage is on computer disks, magnetic tape microfilm, and paper forms in file folders.

RETRIEVABILITY:

Retrieval from the system is by name or social security number and can be accessed by employees in pay and

personnel offices and other pay and personnel employees located elsewhere who have a need for the record in the performance of their duties.

SAFEGUARDS:

Computers provide privacy and access limitations by requiring a user name and password match. Access to decentralized segments are similarly controlled. Only those personnel with a need to have access to the system are given user names and passwords. The magnetic tape backups have limited access in that users must justify the need and obtain tape numbers and volume identifiers from a central source before they are provided data tapes. Paper record and microfilm records are in limited access areas in locking storage cabinets.

RETENTION AND DISPOSAL:

Leave and Earnings Statements, and pay records are microfilmed and retained on site four years, then archived at the Federal Record Center, and destroyed when 50 years old. The official copy of the personnel record is maintained in the Official Officer Service Records, DOT/CG 626 for active duty officers, the Enlisted Personnel Record System, DOT/CG 629 for active duty enlisted personnel or the Official Coast Guard Reserve Service Record, OST/CG 576 for inactive duty reservists. Duplicate magnetic copies of the pay and personnel record are retained at an off site facility for a useful life of seven years. Paper records for waivers and remissions are retained on site six years three months after the determination and then destroyed. Paper records to determine legal sufficiency for garnishment are retained on site six years three months after the member separates from the service or the garnishment is terminated and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

a. All information on Coast Guard members other than b, c, and d, below:

(1) For active duty members of the Coast Guard: Chief, Office of Personnel, Department of Transportation, U.S. Coast Guard Headquarters, 2100 2nd Street, SW, Washington, DC 20593–0001.

(2) For Coast Guard inactive duty reserve members and retired Coast Guard reservists awaiting pay at age 60: Chief, Office of Readiness and Reserve, Department of Transportation, U.S. Coast Guard Headquarters, 2100 2nd Street, SW, Washington, DC 20593–0001.

b. For Coast Guard Waivers and Remissions: Chief, Personnel Services Division (G–PS), Office of Personnel, U.S. Coast Guard Headquarters, 2100 2nd Street, SW, Washington, DC 20590–0001.

c. For records used to determine legal sufficiency for garnishment of wages and pay records: Commanding Officer (LGL), U.S. Coast Guard Pay and Personnel Center, 444 S.E. Quincy Street, Topeka, KS 66683–3591.

For data added to the decentralized data segment the commanding officer, officer-in-charge of the unit handling the individual's pay and personnel record, or Chief, Administrative Services Division for individuals whose records are handled by Coast Guard Headquarters.

e. For NOAA members: Commissioned Personnel Center, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 12100, Silver Spring, MD 20910–3282.

NOTIFICATION PROCEDURE:

Inquiries should be directed to:

a. For all information on Coast Guard members other than b., c., and d. below: Department of Transportation, U.S. Coast Guard Headquarters (G–SII), 2100 2nd Street, SW, Washington, DC 20593–0001.

b. For records used to determine legal sufficiency for garnishment of wages and pay records: Commanding Officer, U.S. Coast Guard Pay and Personnel Center, 444 S.E. Quincy Street, Topeka, KS 66683–3591.

For data added to the decentralized data segment: The commanding officer or officer-in-charge of the unit handling the individual's pay and personnel record, or Chief, Administrative Services Division for individuals whose records are handled by Coast Guard Headquarters. Addresses for the units handling the individual's pay and personnel record are available from the individual's commanding officer.

d. For all information on NOAA members: Commissioned Personnel Center, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 12100, Silver Spring, MD 20910–3282.

RECORD ACCESS PROCEDURES:

Contact the addressee under notification procedures and specify the exact information you desire. Requests must include the full name and social security number of the individual concerned. Prior written notification of personal visits is required to ensure that the records will be available at the time of visit. Photographic proof of identity will be required prior to release of records. A military identification card, drivers license, or similar document will be considered suitable identification.

CONTESTING RECORD PROCEDURES:

Contact the addressee under notification procedures and specify the exact information or items you are contesting and provide any documentation that justifies your claim. Correspondence contesting records must include the full name and Social Security Number of the individual concerned.

RECORD SOURCE CATEGORIES:

a. The individual's record from the following systems of records:

(1) Official Officer Service Records, DOT/CG 626

(2) Enlisted Personnel Record System, DOT/CG 629

(3) Official Coast Guard Reserve Service Record, DOT/CG 676.

Information is obtained from the individual, Coast Guard personnel officials, National Oceanic and Atmospheric Administration personnel officials, and the Department of Defense.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 18, 1998.

Eugene K. Taylor, Jr.,

Office of the Chief Information Officer, Department of Transportation.

[FR Doc. 98–13700 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Phoenix Sky Harbor International Airport, Phoenix, Arizona

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Phoenix Sky Harbor International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508 as recodified by Title 49 U.S.C. 40117(c)(3)) and Part 158 of the Federal Aviation Regulations (14 CFR, Part 158).

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Neilson A. Bertholf, Jr., Aviation Director, City of Phoenix, 3400 Sky Harbor Blvd., Phoenix, AZ 85034–4420.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Phoenix under section 158.23 of FAR Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor, Standards Section, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, Telephone: (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Phoenix Sky Harbor International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508 as recodified by Title 49 U.S.C. 40117 (c)(3)) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 30, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Phoenix was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 30, 1998.

The following is a brief overview of application No. 98–05–C–00–PHX.

Level of the Proposed PFC: $3.00.

Proposed Charge Effective Date: October 1, 1998.

Proposed Charge Expiration Date: March 1, 2002.

Total Estimated PFC Revenue: $193,445,920.

Brief description of the proposed projects:

Construct Aircraft Rescue Firefighting Facility (ARFF); Reconstruct Runways 8L/26R and 8R/26L in Concrete; Expand Terminal 4 Facilities; Construct New Taxiway from Taxiway G to the South; Reconstruct Taxiway C in Concrete; Upgrade Aircraft Rescue Firefighting Facility #19; Procure New ARFF Vehicle; Reconstruct Terminal 2 Ramp; Construct Midfield, North/South Taxiway T; Upgrade Airfield Guidance Sign System; Reconstruct Taxiway S; Construct Terminal 4 Holding Apron; Upgrade Airfield Security System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: ATCO, Air Taxi/Commercial Operators: CAC, Commuters or Small Certificated Air Carriers with less than 7,500 enplanements each annually: CRAC, Large Certificated Route Air Carriers providing non-scheduled service with less than 7,500 enplanements each annually.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application, in person at the city of Phoenix Aviation Department.

Issued in Hawthorne, California, on May 1, 1998.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 98–13749 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (98–03–C–00–HTS) to Impose and use the revenue from a passenger facility charge (PFC) at Tri-State Airport, Huntington, West Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tri-State Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building, 176 Airport Circle, Beaver, West Virginia 25813–9350.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry G. Salyers, Airport Director of the Tri-State Airport Authority at the following address:

Tri-State Airport Authority, 1449 Airport Road, Unit 1, Box, Huntington, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tri-State Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal Building 176 Airport Circle, Beaver, West Virginia 25813–9350 (Tel. 304–252–6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tri-State Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 10, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Tri-State Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 8, 1998.

The following is a brief overview of the application.

Application number: 98–03–C–00–HTS.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1998.

Proposed charge expiration date: August 1, 2000.

Total estimated PFC revenue: $365,138.

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following proposed AIP project.

—Design Snow Removal Equipment Building
—Acquire Aircraft Deicing Truck
—Acquire 4-Wheel Drive Pick-up With Snow Plow
—Acquire Security Vehicle
—Acquire Self Propelled Passenger Access Lift
—Construct Snow Equipment Building
—Conduct Drainage/Deicing study
—Reseal/Rehabilitate Airline Ramp

—Drainage Rehabilitation

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-Scheduled Part 135 and Part 121 charter operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at:

Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tri-State Airport Authority.

Issued in Jamaica, New York on May 15, 1998.

Thomas Felix,

Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 98–13748 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Amtrak Reform Council; Notice of First Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of First Meeting of the Amtrak Reform Council.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997, the Federal Railroad Administration (FRA) gives notice of the first meeting of the Amtrak Reform Council ("ARC"). The purpose of the meeting is to begin to develop a work plan for the ARC, to establish certain administrative procedures, including a process for selection of a chair, and to begin to review Amtrak's current financial and operational structure.

DATES: The first meeting of the ARC is scheduled for 11:00 a.m. to 2:00 p.m. EST on Tuesday, May 26, 1998. Decisions regarding future meetings will be made at the first meeting and from time to time thereafter.

ADDRESSES: The first meeting of the ARC will be held in Room 283 in the Hall of States at 444 North Capitol Street, NW, Washington, DC. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Persons in need of special arrangements should contact the person whose name is listed below.

FOR FURTHER INFORMATION CONTACT: Arrigo Mongini, Deputy Associate Administrator for Railroad Development, FRA, RDV–2, Mail Stop 20, 400 Seventh Street, SW, Washington, DC 20590 (mailing address only) or by telephone at (202) 632–3286.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (ARAA) as an independent commission to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms. In addition, the ARAA requires: that the ARC monitor cost savings resulting from work rules established under new agreements between Amtrak and its labor unions; that the ARC provide an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that after two years the ARC begin to make findings on whether Amtrak can meet certain financial goals and, if not, to notify the President and the Congress.

The ARAA provides that the ARC consist of eleven members, including the Secretary of Transportation and ten others nominated by the President or Congressional leaders. Each member is to serve a 5 year term.

Issued in Washington, D.C. on May 19, 1998.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 98–13709 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33556[1] et al.]

Railroad Operation, Acquisition, Construction, Etc: Canadian National Railway Co. et al.

AGENCY: Surface Transportation Board.

ACTION: Decision No. 3 in STB Finance Docket No. 32760 (Sub-No. 26) and Decision No. 3 in STB Finance Docket No. 33556; Denial of general waiver.

SUMMARY: The Surface Transportation Board (Board) is denying petitions for reconsideration in these proceedings of the requirement that parties submit copies of all textual materials on diskettes (disks) or compact discs (CDs). Parties may, however, seek individual waivers of the disk filing requirement.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1613. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: On March 26, 1998, Joseph C. Szabo, for and on behalf of the United Transportation Union—Illinois Legislative Board (UTUIL), filed a petition for reconsideration of Decision No. 2 in the STB Finance Docket No. 33556 proceeding served and published in the **Federal Register** on March 13, 1998 (63 FR 12574).[2] On April 20, 1998, UTU Committees[3] filed a petition for reconsideration of Decision No. 1 in the STB Finance Docket No. 32760 (Sub-No. 26) proceeding (formerly Decision No. 12 in STB Finance Docket No. 32760 (Sub-No. 21)), which was served on March 31, 1998, and published in the **Federal Register** on April 3, 1998 (63 FR 16628).[4] The petitions are nearly identical and will be considered together. UTU Committees seek reconsideration of the requirement in these proceedings that all parties submit copies of their textual materials on 3.5 inch IBM-compatible disks or CDs.[5]

[1] These proceedings are not consolidated. A single decision is being issued for administrative convenience only. In addition, this oversight matter was recently assigned the Sub-No. 26 docket number and a new case title.

[2] In that decision the Board announced, *inter alia*, that, pursuant to 49 CFR 1180.4(b), Canadian National Railway Company (CNR), Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated (GTW), Illinois Central Corporation (IC Corp.), Illinois Central Railroad Company (ICR), Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company (collectively, applicants) had notified us of their intent to file an application seeking authority under 49 U.S.C. 11323–25 for the acquisition of control, by CNR, through its indirect wholly owned subsidiary Blackhawk Merger Sub, Inc., of IC Corp., and through it of ICR and its railroad affiliates, and for the resulting common control by CNR of GTW and its railroad affiliates and ICR and its railroad affiliates. The Board found this to be a major transaction as defined in 49 CFR part 1180.

[3] In what is now STB Finance Docket No. 32760 (Sub-No. 26), the petition for reconsideration was filed by UTU–IL, and by United Transportation Union-General Committee of Adjustment (GO–386), United Transportation Union-General Committee of Adjustment (GO–401), and United Transportation Union-General Committee of Adjustment (ALS). We will refer to the petitioners in both proceedings collectively as UTU Committees.

[4] In that decision, the Board instituted a proceeding as part of the 5-year oversight condition that it imposed in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, Finance Docket No. 32760 (*UP/SP Merger*), Decision No. 44 (STB served Aug. 12, 1996), to examine additional remedial conditions to the UP/SP merger as they pertain to rail service in the Houston, Texas/Gulf Coast region.

[5] In Decision No. 2 at 3 and Decision No. 1 at 3, we directed that:

[i]n addition to submitting an original and 25 copies of all paper documents filed with the Board, the parties shall also submit, on diskettes or

Applicants in STB Finance Docket No. 33556 filed a reply opposing the relief sought by UTU Committees.

We stated in Decision No. 2 and Decision No. 1 that the submission of computer data on disks and CDs was needed for the efficient review of filings by the Board and our staff. We found that the disk/CD requirement superseded for these proceedings the otherwise applicable electronic filing requirements in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, STB Ex Parte No. 527 (STB served Oct. 1, 1996 and Nov. 15, 1996), *aff'd sub nom. United Transp. Union—Ill. Legis. Bd.* v. *STB et al.*, 132 F.3d 71 (D.C. Cir. 1998) (Ex Parte No. 527) and codified at 49 CFR 1104.3(a). Those rules require parties to submit computer disks for pleadings of 20 or more pages and for spreadsheets.[6]

UTU Committees contend that mandating that all textual material be filed on disks constitutes material error. They argue that, by superseding the applicable disk rule at 49 CFR 1104.3(a), our disk/CD requirement in STB Finance Docket Nos. 32760 (Sub-No. 26) and 33556 precludes meaningful participation in those cases by railroad employees as well as the general public. They allege that many railway employees do not have access to computers, and they would not be able to provide copies of disks to the many parties likely to participate in the proceeding.[7] They argue, moreover, that the burdens on local labor units will prevent them from actively participating, which, they assert, would be a denial of due process.

UTU Committees also claim that the requirements of Decision No. 2 and Decision No. 1 are inconsistent with the Ex Parte No. 527 procedures because disks will contain more rather than less information than the paper filings, and they are required for all filings, not just lengthy ones. They also contend that there is no waiver provision for the Decision No. 2 and Decision No. 1 disk/CD requirement. UTU Committees ask that we reconsider the mandatory disk requirement and restore application of the section 1104.3 rule.[8]

Finally, UTU Committees argue that the Board may have always intended that there be an absolute disk requirement, and "the 20-page rule may have been merely an interim scheme to promote such a result." It also claims that the real reason for the rule is to inhibit participation by employees and "to curry favor with carriers * * *."

In response to UTU Committee's petition, applicants in STB Finance Docket No. 33556 assert that the effort and expense needed to create a disk is minimal whether the submission is lengthy or less than 20 pages. Further, they assert that where a party does not have access to a word processor, it should file an individual request for a waiver.

Discussion and Conclusions

We will deny the petitions for reconsideration, but we will permit individual parties to seek a waiver of the disk/CD requirement. With this safeguard, we believe that the need to efficiently and expeditiously analyze the anticipated large number of filings outweighs the burden on parties of filing disks.

While the disk/CD requirement in these proceedings broadens the regulation issued in Ex Parte No. 527, we believe that its purpose and its procedures are compatible with the 20-page rule. The Board issued the 20-page rule to assist the agency in its "task of reviewing and analyzing voluminous records." October 1 decision at 2–3. In the context of that rule, "voluminous" referred to the length of the filing. Nevertheless, in situations such as merger proceedings where the *number* of pleadings can also be described as voluminous and where decisions must be issued promptly, we believe that imposing the disk requirement for all paper filings will enable the Board and our staff to efficiently review case filings.[9] The 20-page rule is not an "interim scheme," but the STB Finance Docket No. 33556 merger and the UP/SP Houston/Gulf Coast Oversight by their natures have made us more dependent on electronic media.[10] The use of disk/CDs in STB Finance Docket No. 33556 will help us reach a decision on the merits within the applicable statutory deadlines (*see* 49 U.S.C. 11325), and, in STB Finance Docket No. 32760 (Sub-No. 26), their use will assist us in issuing a decision as soon as possible after the record closes. Utilizing disks is consistent with the practice we have followed in other recent mergers where we "encouraged" or "requested" the filing of disks.[11]

We also believe that submitting a disk does not constitute a hardship, unless the party does not have access to a word processor or there is some other reason why filing would be difficult.[12] In those situations, consistent with Ex Parte No. 527, such parties may seek a waiver of the disk filing requirement.[13] UTU Committees contend that, while under 49 CFR 1110.9, any person may seek a waiver of a rule, the disk/CD requirement in this proceeding is not a "rule" and thus a waiver is not available. We note, however, that, under 49 CFR 1100.3, our rules are to be

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compact discs, copies of all textual materials * * *. Data must be submitted on 3.5 inch IBM-compatible floppy diskettes or compact discs.

Parties were also directed to submit "electronic workpapers, data bases, and spreadsheets" on disks or CDs. We also stated that a copy of each disk or CD should be given to any other party upon request.

[6] Section 1104.3 reads in relevant part:

(a) * * * In addition to the paper copies required to be filed with the Board, 3 copies of:

(1) Textual submissions of 20 or more pages; and

(2) All electronic spreadsheets should be submitted on 3.5 inch, IBM compatible formatted diskettes or QIC–80 tapes. Textual materials must be in WordPerfect 5.1 format, and electronic spreadsheets must be in LOTUS 1–2–3 release 5 or earlier format. One copy of each such computer diskette or tape submitted to the Board should, if possible, be provided to any other party requesting a copy.

[7] We note that, under our Decision No. 2 and Decision No. 1 procedures, electronic copies are provided only upon request of another party, and under 49 CFR 1104.3, the requested disks are only provided to other parties "if possible."

[8] UTU Committees also request that, if the waiver provision is available, that the Board waive the disk/CD requirement and reinstate the 20-page disk rule.

[9] While STB Finance Docket No. 32760 (Sub-No. 26) is not a merger proceeding but a merger oversight case, we still anticipate a large number of filings, and we must issue a decision in as timely manner as possible.

[10] For these reasons, the assertion that the disk requirement was intended to prevent participation by employees or to win the favor of railroads is baseless.

[11] See *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, Finance Docket No. 32760 (STB served Sept. 1, 1995); *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation*, STB Finance Docket No. 33388 (STB served May 30, 1997); and *Burlington Northern Inc. and Burlington Northern Railroad Company—Control and Merger—Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company*, Finance Docket No. 32549 (STB served Aug. 5, 1994).

[12] In STB Finance Docket No. 32760 (Sub-No. 26), UTU Committees claim that not only railroad employees, but "other public parties" would be harmed by requiring disks. They contend that a majority of such parties did not file disks in response to the decision in *Review of Rail Access and Competition Issues*, STB Ex Parte No. 575 (STB served Mar. 20, 1998). We believe that the disk filing requirement is reasonable. No other party has objected to it. Moreover, as discussed *infra*, the ability to file a waiver request should ameliorate any harm.

[13] The Court in Ex Parte No. 527 stated that "UTU complains that the waiver rule denies due process to the union and to rail employees who do not have the necessary computer equipment or expertise to submit a disk * * *. We do not doubt, therefore, that the availability of the waiver provision adequately protects a party for whom compliance with the rule would be burdensome." 132 F.3d at 75.

liberally construed "to secure just, speedy, and inexpensive determination of the issues presented." Accordingly, any person may seek a waiver of the disk/CD requirement in these proceedings. Parties should file the waiver request with the paper version of its filing, and we can rule upon the waiver even after the filing date.[14]

Finally, we are not sure how UTU Committees' argument that disks can contain more information than paper filings relates to the issue of the hardship of filing disks. In any event, in Decisions No. 1 and 2, we required that "copies of all textual materials" are to be submitted on disks. These disks are the electronic version or counterpart of the textual paper filing. The paper copy remains the official record. Thus, for the reasons discussed above, we are denying the petitions for reconsideration.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. UTU Committees' petitions for reconsideration are denied. Parties may individually seek a waiver from the disk/CD requirement.

2. This decision is effective on the service date.

Decided: May 14, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13776 Filed 5–21–98; 8:45 am]

BILLING CODE 4915–00–P

[14] As noted, UTU Committees indicate that, if the waiver provision is available, it seeks to have us waive the disk/CD requirement. We are not sure whether this request is being made on behalf of UTU Committees, local units, or individual railroad employees, or some combination of the above. UTU Committees maintain that in many cases railway employees lack access to computers. In those instances where this is true, there would appear to be valid grounds for a waiver, but each situation is best addressed on its own merits.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 32760 (Sub–No. 26 [1])[2]]

Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company; Control and Merger; Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and the Denver and Rio Grande Western Railroad Company; Houston/Gulf Coast Oversight

AGENCY: Surface Transportation Board.

ACTION: Corrected Decision; Decision No. 1; Notice of Houston/Gulf Coast Oversight Proceeding. Requests for Additional Conditions to the UP/SP Merger for the Houston, Texas/Gulf Coast Area.

SUMMARY: Pursuant to a petition filed February 12, 1998, by the Texas Mexican Railway Company and the Kansas City Southern Railway Company (Tex Mex/KCS) and a request filed March 6, 1998, by the Greater Houston Partnership (GHP), the Board is instituting a proceeding as part of the 5-year oversight condition that it imposed in Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SCPSL Corp., and The Denver and Rio Grande Western Railroad Company, Finance Docket No. 32760 (UP/SP Merger), Decision No. 44 (STB served Aug. 12, 1996), to examine their requests, and others that may be made, for additional remedial conditions to the UP/SP merger as they pertain to rail service in the Houston, Texas/Gulf Coast region. The Board is establishing a procedural schedule (attached) for the submission of evidence, replies, and rebuttal. The Board requests that persons intending to participate in this oversight proceeding notify the agency of that intent. A separate service list will be issued based on the notices of intent to participate that the Board receives.

DATES: The proceeding will commence on June 8, 1998. On that date, all interested parties must file requests for new remedial conditions to the UP/SP merger regarding the Houston/Gulf Coast area, along with all supporting evidence. The Board will publish a notice of acceptance of requests for new conditions in the **Federal Register** by July 8, 1998. Notices of intent to participate in the oversight proceeding are due July 22, 1998. All comments, evidence, and argument opposing the requested new conditions are due August 10, 1998. Rebuttal in support of the requested conditions is due September 8, 1998. The full procedural schedule is set forth at the end of this decision.

ADDRESSES: An original plus 25 copies [3] of all documents, referring to STB Finance Docket No. 32760 (Sub-No. 26), must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Finance Docket No. 32760 (Sub-No. 26), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001.

Electronic Submissions. In addition to an original and 25 copies of all paper documents filed with the Board, the parties shall also submit, on 3.5 inch IBM-compatible diskettes or compact discs, copies all textual materials, electronic workpapers, data bases and spreadsheets used to develop quantitative evidence. Textual material must be in, or convertible by and into, WordPerfect 7.0. Electronic spreadsheets must be in, or convertible by and into, Lotus 1–2–3 97 Edition, Excel Version 7.0, or Quattro Pro Version 7.0.

The data contained on the diskettes or compact discs submitted to the Board may be submitted under seal (to the extent that the corresponding paper copies are submitted under seal), and will be for the exclusive use of Board employees reviewing substantive and/or procedural matters in this proceeding. The flexibility provided by such computer data is necessary for efficient review of these materials by the Board

[1] This decision corrects the decision served March 31, 1998, and published in the **Federal Register** on April 3, 1998 (63 FD 16628) by designating the docket number for this, the Houston/Gulf Coast Oversight proceeding, as Finance Docket No. 32760 (Sub-No. 26), rather than (Sub-No. 21); designating this decision as Decision No. 1; and designating the short name of this proceeding as HOUSTON/GULF COAST OVERSIGHT. All other aspects of the corrected decision remain unchanged, including the procedural schedule.

[2] This decision embraces the proceeding in Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company.

[3] In order for a document to be considered a formal filing, the Board must receive an original plus 25 copies of the document, which must show that it has been properly served. As in the past, documents transmitted by facsimile (FAX) will not be considered formal filings and thus are not acceptable.

and its staff. The electronic submission requirements set forth in this decision supersede, for the purposes of this proceeding, the otherwise applicable electronic submission requirements set forth in our regulations. See 49 CFR 1104.3(a), as amended in Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings, STB Ex Parte No. 527, 61 FR 52710, 711 (Oct. 8, 1996), 61 FR 58490, 58491 (Nov. 15, 1996).[4]

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In UP/SP Merger, Decision No. 44, served August 12, 1996, the Board approved the common control and merger of the rail carriers controlled by Union Pacific Corporation (Union Pacific Railroad Company and Missouri Pacific Railroad Company) and the rail carriers controlled by Southern Pacific Rail Corporation (Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and the Denver and Rio Grande Western Railroad Company) (collectively UP/SP), subject to various conditions. Common control was consummated on September 11, 1996. The Board imposed a 5-year oversight condition to examine whether the conditions imposed on the merger effectively addressed the competitive concerns they were intended to remedy, and retained jurisdiction to impose, as necessary, additional remedial conditions if the Board determined that the conditions already imposed were shown to be insufficient. In its initial oversight proceeding, the Board concluded that, while it was still too early to tell, there was no evidence at the time that the merger, with the conditions that the agency had imposed, had caused any adverse competitive consequences.[5] Nevertheless, the Board indicated that its oversight would be ongoing, and that it would continue vigilant monitoring.[6]

UP/SP has experienced serious service difficulties since the merger, and the Board has issued a series of orders under 49 U.S.C. 11123, effective through August 2, 1998, to mitigate a rail service crisis in the western United States caused, in large measure, by severely congested UP/SP lines in the Houston/Gulf Coast region.[7] In acting to relieve some of the congestion, the Board made substantial temporary changes to the way in which service is provided in and around Houston.[8] The Board found that, although merger implementation issues were involved, a key factor in bringing about the service emergency was the inadequate rail facilities and infrastructure in the region, and, as such, also ordered UP/SP, BNSF, and other involved railroads to submit to the Board their plans to remedy these inadequacies.[9]

Recognizing the limitations on its authority under the emergency service provisions of the law, the Board rejected proposals offered by certain shipper, carrier, and governmental interests in the Service Order No. 1518 proceeding to force UP/SP to transfer some of its lines to other rail carriers and effect a permanent alteration of the competitive situation in the Houston region; it adopted instead only those measures designed to facilitate short-term solutions to the crisis that did not further aggravate congestion in the area or create additional service disruptions. The Board declared, however, that interested persons could present proposals for longer-term solutions to the service situation—including those seeking structural industry changes based on perceived competitive inadequacies—in formal proceedings outside of section 11123, particularly in the UP/SP merger oversight process.[10] Tex Mex/KCS has now requested that we invoke our oversight jurisdiction over the merger for the purpose of considering such proposals, including the transfer to it of various UP/SP lines and yards in Texas.[11] GHP has also requested the Board's intervention to provide for Houston's long-term rail service needs, including the establishment of a neutral switching operation.

That the service emergency in the Houston/Gulf Coast region remains ongoing is well known.[12] Given these circumstances, the Board will invoke its oversight jurisdiction over the UP/SP merger to consider new conditions to the merger of the kind proposed here, and others that may be made. We note that no party as yet has seriously suggested that SP's inadequate infrastructure would not have produced severe service problems in the Houston/Gulf Coast area even if there had been no merger. Nonetheless, the Board believes that, given the gravity of the service situation, it should thoroughly explore anew the legitimacy and viability of longer-term proposals for new conditions to the merger as they pertain to service and competition in that region.

UP/SP and BNSF argue that Tex Mex/KCS' request for conditions that have been previously rejected, without any new evidentiary justification, is insufficient grounds for the Board to begin a new oversight proceeding. We disagree. Our 5-year oversight of the UP/SP merger is not a static process, but a continuing one, so that the Board's prior rejection of Tex Mex/KCS' or any other party's requested conditions—whether in the Board's approval of the merger or in a subsequent oversight proceeding—does not preclude their fresh consideration now. Through our oversight condition, we have retained jurisdiction to monitor the competitive consequences of this merger; to re-examine whether our imposed conditions have effectively addressed the consequences they were intended to remedy; and to impose additional

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[4] A copy of each diskette or compact disc submitted to the Board should be provided to any other party upon request.

[5] Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, Finance Docket No. 32760 (Sub-No. 21), Decision No. 10 (STB served Oct. 27, 1997) (UP/SP Oversight).

[6] UP/SP Oversight, Decision No. 10, at 2–3.

[7] STB Service Order No. 1518, *Joint Petition for Service Order* (Service Order No. 1518) (STB served Oct. 31 and Dec. 4, 1997, and Feb. 17 and 25, 1998).

[8] The Board directed UP/SP to release shippers switched by the Houston Belt & Terminal Railway Company (HB&T) or the Port Terminal Railroad Association (PTRA) from their contracts so that they could immediately route traffic over the Burlington Northern and Santa Fe Railway Company (BNSF) or Tex Mex, in addition to UP/SP. The agency also directed UP/SP to permit BNSF and Tex Mex to modify their operations over UP/SP lines to minimize congestion over UP/SP's "Sunset Line," to move traffic around Houston rather than going through it, and to have full access to UP/SP's Spring, TX dispatching facility as neutral observers. More generally, the Board required UP/SP to cooperate with other railroads and to accept assistance from other railroads able to handle UP/SP traffic.

UP/SP and BNSF recently have agreed to make other changes designed to improve service. In particular, the carriers have agreed to joint ownership of the Sunset Line between Avondale (New Orleans), LA and Houston; joint dispatching in the Houston area; and overhead trackage rights for UP/SP over the BNSF line between Beaumont and Navasota, TX.

[9] Service Order No. 1518, Feb. 17, 1998 decision, at 5–7; Feb. 25, 1998 decision, at 5. The railroads' plans are due May 1, 1998; replies are due June 1.

[10] Service Order No. 1518, Feb. 17, 1998 decision, at 8; see also Feb. 25, 1998 decision, at 4.

[11] The Railroad Commission of Texas (RCT) has previously announced its intent to seek similar relief. See Service Order No. 1518, Feb. 17, 1998 decision, at 8.

[12] In its progress report of March 9, 1998, UP/SP announced that it would take drastic action in 30 days—including the refusal of new business and the transfer of existing business to its competitors—if the steps it has taken to deal with the emergency are not successful. On March 24, 1998, the carrier announced an embargo of a significant portion of its southbound traffic destined for the Laredo, TX gateway to clear a backlog of 5,500 cars waiting to cross into Mexico.

remedial conditions if those previously afforded prove insufficient, including, if necessary, divestiture of certain of the merged carriers' property.

The virtual shutdown of rail service in the Houston/Gulf Coast area that occurred after the UP/SP merger—and which, after many months, has yet to be normalized—is unprecedented. In our judgment, those circumstances alone are sufficient for the Board to commence this proceeding now. Clearly, our 5-year oversight jurisdiction permits us to examine—and, if necessary, re-examine at any time during this period—whether there is any relationship between the market power gained by UP/SP through the merger and the failure of service that has occurred here, and, if so, whether the situation should be addressed through additional remedial conditions. UP/SP Merger, Decision No. 44, at 100.

We caution, however, that we will not impose conditions requiring UP/SP to divest property that would substantially change the configuration and operations of its existing network in the region in the absence of the type of presentation and evidence required for "inconsistent applications" in a merger proceeding; *i.e.*, parties must present probative evidence that discloses "the full effects of their proposals." UP/SP Merger, Decision No. 44, at 157. Divestiture is only available "when no other less intrusive remedy would suffice," and we will impose it only upon sufficient evidentiary justification. *Id.*

The Board will confine this proceeding under its continuing oversight jurisdiction to examining requests for new conditions to the merger relating to rail service in the Houston/Gulf Coast area. As we have noted, the service crisis in this region, and its significant impact on the regional economy, clearly warrant our discrete treatment of these matters now. As a result, the procedures set forth here will be separate from those in the more general oversight proceeding that, pursuant to UP/SP Oversight, Decision No. 10, will begin July 1, 1998.[13]

As set forth in the attached schedule, parties that wish to request new remedial conditions to the UP/SP merger as they pertain to the Houston/Gulf Coast region must file them, along with their supporting evidence, by June 8, 1998.[14] The Board will publish a notice in the **Federal Register** accepting such requests by July 8, 1998. Any person who intends to participate actively in this facet of oversight as a "party of record" (POR) must notify us of this intent by July 22, 1998. In order to be designated a POR, a person must satisfy the filing requirements discussed above in the **ADDRESSES** section. We will then compile and issue a final service list.

Copies of decisions, orders, and notices will be served only on those persons designated as POR, MOC (Members of Congress), and GOV (Governors) on the official service list. Copies of filings must be served on all persons who are designated as POR. We note that Members of the United States Congress and Governors who are designated MOC and GOV are not parties of record and they need not be served with copies of filings; however, those who are designated as a POR must be served with copies of filings. All other interested persons are encouraged to make advance arrangements with the Board's copy contractor, DC News & Data, Inc. (DC News), to receive copies of Board decisions, orders, and notices served in this proceeding. DC News will handle the collection of charges and the mailing and/or faxing of decisions to persons who request this service. The telephone number for DC News is: (202) 289–4357.

A copy of this decision is being served on all persons designated as POR, MOC, or GOV on the service list in Finance Docket No. 32760 (Sub-No. 21). This decision will serve as notice that persons who were parties of record in the previous oversight proceeding (leading to Decision No. 10) will not automatically be placed on the service list as parties of record for this facet of oversight unless they notify us of their intent to participate further.

Finally, while the requested remedial conditions (and those reasonably anticipated from other parties) could, if imposed, result in a transfer of ownership of certain UP/SP rail property or changes in the way that such properties are operated, they appear unlikely to produce the kind of significant operational changes that, under 49 CFR 1105.6(b)(4), require the filing of a preliminary draft environmental assessment (PDEA).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: March 30, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

Procedural Schedule

June 8, 1998
Requests for new remedial conditions (with supporting evidence) filed.

July 8, 1998
Board notice of acceptance of requests for new conditions published in the **Federal Register**.

July 22, 1998
Notice of intent to participate in proceeding due.

August 10, 1998
All comments, evidence, and argument opposing requests for new remedial conditions to the merger due. Comments by U.S. Department of Justice and U.S. Department of Transportation due.

September 8, 1998
Rebuttal evidence and argument in support of requests for new conditions due.

The necessity of briefing, oral argument, and voting conference will be determined after the Board's review of the pleadings.

[FR Doc. 98–13775 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–167 (Sub–No. 1183X)]

Consolidated Rail Corporation; Abandonment Exemption; in Philadelphia County, PA

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.42-mile portion of the Berks Street Industrial Track between milepost 2.98± and milepost 3.40±, in the City of

[13] In Decision No. 10, at 18–19, the Board provided that general oversight would commence July 1 upon the filing by UP/SP and BNSF of their quarterly merger progress reports accompanied by comprehensive summary presentations. We provided that, as part of that proceeding, UP/SP and BNSF must make their 100% traffic tapes available by July 15, 1998; that comments of interested parties concerning oversight issues are due August 14, 1998; and that replies are due September 1, 1998. The general oversight proceeding will continue as planned.

[14] Tex Mex/KCS stated that it would file its supporting evidence 45 days after its petition. Petition at 5. If it does so, it need not file its evidence anew on June 8th, although it may supplement its filing as appropriate. We decline, however, petitioner's request (Petition at 11 n.6) to incorporate by reference its pleadings in Finance Docket Nos. 33507, 33461, 33462, and 33463 (titles omitted). In those proceedings, Tex Mex/KCS has complained that, after the merger, UP/SP (either singly or jointly with BNSF) unlawfully acquired control of HB&T in violation of 49 U.S.C. 11323, and has petitioned that a series of exemptions the carriers filed to restructure HB&T's operations leading to that control should be voided and/or revoked. We will proceed to consider the discrete matters in those cases—including Tex Mex/KCS' petition for consolidation and motion to compel discovery, and UP/SP's motion to dismiss—separately from our consideration in this oversight proceeding of requests by Tex Mex/KCS and others for new remedial conditions to the merger.

Philadelphia, Philadelphia County, PA. The line traverses United States Postal Service Zip Code 19140.

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 21, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 1, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 11, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: John J. Paylor, Associate General Counsel, Consolidated Rail Corporation, 2001 Market Street—16A, Philadelphia, PA 19101–1416.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 27, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Conrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Conrail's filing of a notice of consummation by May 22, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 15, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13774 Filed 5–21–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–468 (Sub-No. 3X)]

Paducah & Louisville Railway, Inc.; Abandonment Exemption; in Muhlenberg County, KY

On May 5, 1998, Paducah & Louisville Railway, Inc. (P&L) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon: (1) 6.70 miles of rail line between milepost J–126.6 at Central City, KY (JK Jct.), and milepost J–133.3 at Greenville, KY; and (2) 6.14 miles of branch line trackage known as the Beech Creek Lead, between Greenville and Pond Creek, KY, in Muhlenberg County, KY. The lines traverse U.S. Postal Service Zip Codes 42330, 42337, 42345 and 42367. The lines include the stations of JK Jct. at milepost J–126.7 and Pond Creek at milepost J–133.1.

The lines do not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 21, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the lines, the lines may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 11, 1998. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–468 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001, and (2) J. Thomas Garrett, 1500 Kentucky Avenue, Paducah, KY 42003. Replies to the P&L petition are due on or before June 11, 1998.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS).

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EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV."

Decided: May 14, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13594 Filed 5–21–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2C, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes.

OMB Number: 1515–0104.

Form Number: N/A.

Abstract: The "Declaration of Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes" is used to provide duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 55.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 27.

Estimated Total Annualized Cost on the Public: N/A.

Dated: May 18, 1998.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 98–13716 Filed 5–21–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Importation Bond Structure

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Importation Bond Structure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2C, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Importation Bond Structure.

OMB Number: 1515–0144.

Form Number: N/A.

Abstract: The bond is used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid; to facilitate the movement of merchandise through Customs; and to provide legal recourse

for the Government for noncompliance with Customs laws and regulations and the laws and regulations of other agencies which are enforced by Customs.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business, Individuals, Institutions.

Estimated Number of Respondents: 590,250.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 147,563.

Estimated Total Annualized Cost on the Public: N/A.

Dated: May 18, 1998.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 98–13717 Filed 5–21–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Declaration by the Person Who Performed the Processing of Goods Abroad

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration by the Person Who Performed the Processing of Goods Abroad. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2C, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration by the Person Who Performed the Processing of Goods Abroad.

OMB Number: 1515–0110.

Form Number: N/A.

Abstract: This declaration, prepared by the foreign processor, submitted by the filer with each entry, provides details on the processing performed abroad and is necessary to assist Customs in determining whether the declared value of the processing is accurate.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,880.

Estimated Total Annualized Cost on the Public: N/A.

Dated: May 18, 1998.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 98–13718 Filed 5–21–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; U.S./Israel Free Trade Agreement

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S./Israel Free Trade Agreement Importation Bond Structure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2C, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting

comments concerning the following information collection:

Title: U.S./Israel Free Trade Agreement.

OMB Number: 1515–0192.

Form Number: N/A.

Abstract: This collection is used to ensure conformance with the provisions of the U.S./Israel Free Trade Agreement for duty free entry status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 34,500.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 7,505.

Estimated Total Annualized Cost on the Public: N/A.

Dated: May 18, 1998.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 98–13719 Filed 5–21–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Public Meetings in New Orleans and Houston on Vessel Entrance and Clearance Procedures

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of public meetings.

SUMMARY: The United States Customs Service will be holding two public meetings regarding a recent policy determination regarding the entrance and clearance requirements for vessels and aircraft servicing offshore operations beyond the territorial waters of the United States. One meeting will be held in New Orleans, Louisiana, and the other will be held in Houston, Texas. This document announces the dates, times and other particulars of the meetings. Questions which one wishes to have addressed at the meetings may be communicated in writing to Customs Headquarters prior to the meetings.

DATES: The meetings will be held at the following dates and times: *For the Houston meeting:* June 15, 1998, from 1:00 p.m. until 4:00 p.m. *For New Orleans meeting:* June 17, 1998, from 1:00 p.m. until 4:00 p.m. *For submitted written comments to be addressed at meetings:* Comments must be received no later than the close of business June 1, 1998.

ADDRESSES: The meetings will be held at the following locations: *For the Houston meeting:* Port of Houston Authority Main Office Bldg., 111 East Loop North, First Floor Training Room, Houston, Texas. *For the New Orleans meeting:* New Orleans Customshouse, 423 Canal Street, Room 223, New Orleans, Louisiana. *Written comments should be submitted to:* Office of Field Operations, Trade Compliance, Attn: William Scopa, U.S. Customs Service, 1300 Pennsylvania Avenue, Washington, D.C. 20229, or faxed to the attention of William Scopa at (202) 927–1356.

FOR FURTHER INFORMATION CONTACT: *Regarding questions about attending the Houston meeting:* please call (281) 985–6700. *Regarding questions about attending the New Orleans meeting:* please call (504) 670–2391. *For information regarding the entrance and clearance requirements: for operational or policy concerns:* contact William Scopa at (202) 927–3112; *for regulatory issues:* contact Larry Burton at (202) 927–1287.

SUPPLEMENTARY INFORMATION:

Background

Recently, there has been concern regarding uniform Customs enforcement of the report of arrival requirements set forth in 19 U.S.C. 1433 for any vessel which has received merchandise while outside of the territorial seas; the formal entry requirements set forth in 19 U.S.C. 1434 for any vessel which has delivered or received merchandise while outside the territorial seas; and the corresponding clearance statute, 46 U.S.C. App. 91. The concern is also applicable, through 19 U.S.C. 1644, to enforcement of the report of arrival requirements, formal entry requirements and clearance requirements for aircraft receiving and delivering merchandise while outside the territorial seas. A policy determination by the Customs Service regarding its interpretation of these statutory requirements has had a substantial impact on both Customs and the trade.

Much of the concern resulted from an interpretation by the Customs Service which exempted vessels and aircraft transporting vessel supplies, bunkers, parts, equipment and crew, out beyond the territorial sea from entrance and clearance requirements. This interpretation applied not only to such transactions involving the delivery or receipt of the mentioned items to fixed-site oil rigs, but to non-fixed vessels as well.

Customs reexamined the pertinent statutes and determined that the exemptions for the delivery or receipt of vessel supplies, bunkers, parts, equipment and crew to non-fixed vessels located beyond the territorial sea cannot be sustained. It became necessary to immediately implement the suspension of this exemption. The pertinent statutes are clear and unambiguous and it would not be proper for Customs to delay their uniform enforcement.

Customs still, however, holds that vessels or aircraft delivering or receiving goods or passengers to or from fixed-site rigs are not subject to entrance and clearance requirements unless unentered foreign goods are involved in the transportation. Such an interpretation is consistent with the Outer Continental Shelf Lands Act.

Customs recognizes the fact that there has been an increase in commerce involving vessels and aircraft supplying necessary goods and services to numerous domestic and foreign commercial operations just beyond our territorial waters, especially in the Gulf of Mexico. Customs is contemplating providing for less burdensome entry and clearance procedures for vessels and aircraft engaged in these types of activities within the boundaries of the law.

Before beginning such procedures, Customs believes it would be beneficial both to the government and to private entities to hold public meetings on this issue to allow all interested parties an opportunity to be heard. The public forums will provide Customs with the opportunity to fully explain the extent of the recent policy determination.

Since the impact of the Customs policy is most heavily felt by ports in the Gulf of Mexico, public meetings will be held at the ports of New Orleans, Louisiana, and Houston, Texas.

At the meetings, personnel from Customs Headquarters will be available to answer questions regarding the applicability of the laws and to discuss the possibility of modifying vessel and aircraft entrance and clearance procedures. Questions relating to the entrance and clearance requirements under the new policy may be sent to Customs prior to the meetings. Such questions should be sent to Customs at the address or fax number set forth at the beginning of this document, and must be received no later than the close of business on June 1, 1998, in order to be addressed at the meetings.

Space at the meetings will be limited. Attendance will be accommodated on a first-come basis.

Dated: May 19, 1998.

Robert S. Trotter,

Assistant Commissioner. Office of Field Operations.

[FR Doc. 98–13715 Filed 5–21–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

United States Mint

Dollar Coin Design Advisory Committee; Notice of Meeting

May 18, 1998.

SUMMARY: The Dollar Coin Design Advisory Committee (DCDAC) will meet Monday and Tuesday June 8–9, 1998. The Committee will recommend to the Secretary of the Treasury a design concept for the obverse ("heads") of the new $1 coin. This meeting will be open to the public; however, due to limited space, seating at the meeting will be on a first-come basis.

Purpose

The purpose of this meeting is for the Committee to consider design concepts for the obverse of the new $1 coin and to determine a single such design concept to recommend to the Secretary of the Treasury. As an element of the agenda, the Committee will entertain presentations from the public the afternoon of Monday, June 8. In addition to public presentations, the Committee will receive an orientation briefing, nominate design concepts, and recommend a single design concept to the Secretary.

Dates, Times and Places of the Dollar Coin Design Advisory Committee Meeting

June 8, 1998, 11:00 a.m. to 5:15 p.m.
Federal Reserve Bank of Philadelphia, Auditorium, 10 Independence Mall (entrance on 7th Street), Philadelphia, PA 19106

June 9, 1998, 8 a.m. to 2:00 p.m.
Federal Reserve Bank of Philadelphia, Auditorium, 10 Independence Mall (entrance on 7th Street), Philadelphia, PA 19106

Members of the public wishing to schedule an oral presentation at the meeting must contact Michael White, in writing by mail, email, or fax, by no later than 12:00 noon Eastern Time on June 1, 1998 (see below). All mail submissions must be received by the established deadline in order to be considered timely. The request must identify the name of the individual who will make the presentation and the organization they represent, and include an outline of the merits, background, and historical significance of the concept that will be advocated. Presentations will be limited to five (5) minutes each, and will generally be reviewed on a first-come basis. Presenters will be notified by no later than June 5, 1998, if they have been selected for presentation. An additional thirty (30) minutes will be set aside during the first day of the meeting for unscheduled presentations.

Members of the public who have not been selected in advance for presentation may sign up on the first day of the meeting on June 8, 1998, between the hours of 11:00 a.m. and 12:00 noon, in the back of the meeting room. Requests for an unscheduled presentation will be reviewed on a first-come basis.

Any member of the public wishing to submit a design concept should do so via the Internet by accessing the Mint's web site (*http://www.usmint.gov*) and e-mailing the Mint by June 1, 1998. Alternatively, if no Internet access is available, design concepts may be submitted in writing to Michael White (see below); mail must be received no later than June 1, 1998 A summary of suggested concepts that comply with the parameters listed below will be compiled and presented to Committee members prior to the meeting.

As stated in the Committee Charter, the Committee will recommend to the Secretary an obverse design concept that comports with the following parameters: (a) The design shall maintain a dignity befitting the Nation's coinage, (b) the design shall have broad appeal to the citizenry of the Nation and shall avoid subjects or symbols that are likely to offend, (c) the design should not include any inscriptions beyond those required by statute, and (d) the design concept shall not depict a living person. In addition, the Secretary has determined that the obverse design should be a representation of one or more women.

FOR FURTHER INFORMATION CONTACT: Michael White, United States Mint, Dollar Coin Design Advisory Committee, 633 3rd Street N.W., Room 715, Washington, DC 20220, Voice: (202) 874–7565 (for additional information only; requests to make a presentation or propose a design concept must be in writing), Fax: (202) 874–4083, Web site: http://www.usmint.gov.

Philip Diehl,

Director, The United States Mint.

[FR Doc. 98–13669 Filed 5–21–98; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–21: OTS No. 15152]

Ben Franklin Bank of Illinois, Arlington Heights, IL; Approval of Conversion Application

Notice is hereby given that on May 14, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Ben Franklin Bank of Illinois, Arlington Heights, Illinois, to covert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: May 18, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–13697 Filed 5–21–98; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–20: OTS No. 15189]

Carnegie Savings Bank, Carnegie, PA; Approval of Conversion Application

Notice is hereby given that on May 14, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Carnegie Savings Bank, Carnegie, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 18, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington.

Corporate Secretary.

[FR Doc. 98–13696 Filed 5–21–98; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–19; OTS Nos. H–2311 and 03606]

Homestead Mutual Holding Company, Ponchatoula, LA; Approval of Conversion Application

Notice is hereby given that on May 14, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Homestead Mutual Holding Company, Ponchatoula, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: May 18, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–13695 Filed 5–21–98; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, "Letters in Gold: Ottoman Calligraphy from the Sakip Sabanci Collection, Istanbul (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about September 10, 1998, to on or about December 13, 1998, and at the Los Angeles County Museum of Art, Los Angeles, California, from on or about February 25, 1999, to on or about May 17, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: May 13, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–13767 Filed 5–21–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, "Manet, Monet, and the Gare Saint-Lazare" (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, DC, from on or about June 14, 1998, to on or about September 20, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: May 18, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–13768 Filed 5–21–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INSTITUTES OF PEACE

Sunshine Act Meeting

AGENCY: United States Institute of Peace.

DATE/TIME: Thursday—June 4, 1998 (4:00 p.m.–9:00 p.m.), Friday—June 5, 1998 (9:00 a.m.–6:00 p.m.), Saturday—June 6, 1998 (9:00 a.m.–12:00 noon).

LOCATION: Airlie Conference Center, Airlie, Virginia.

STATUS: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: June 1998 Board Meeting; Approval of Minutes of the Eighty-Fourth Meeting (March 19, 1998) of the Board of Directors; Chairman's Report; President's Report; Review and Discussion of Individual Grants and Fellowships; Review Essay Finalists and Select Winners; Committee Reports; Plans for Rule of Law; Approve Solicited Grant Topics; Review Indemnification and Insurance; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: May 20, 1998.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 98–13864 Filed 5–20–98; 12:56 pm]

BILLING CODE 6820–AR–M

[1] A copy of this list may be obtained by contacting Ms. Jacqueline Caldwell, Assistant General Counsel, at 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

[1] A copy of this list may be obtained by contacting Ms. Jacqueline Caldwell, Assistant General Counsel, at 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Corrections

Federal Register

Vol. 63, No. 99

Friday, May 22, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 216, and 250

RIN 1010–AC23

Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security

Correction

In rule document 98–13275 appearing on page 27677, in the issue of Wednesday, May 20, 1998, make the following correction:

On page 27677, in the second column, in the **EFFECTIVE DATES:** section, in the third line, "May 12, 1998" should read "June 29, 1998".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

Correction

In notice document 98–12977 beginning on page 27105, in the issue of Friday, May 15, 1998, the subject heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

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Friday
May 22, 1998

Part II

Federal Communications Commission

47 CFR Part 1

Telecommunications Act of 1996, Section 255, Implementation: Access to Telecommunications Services and Equipment, and Customer Premises Equipment by Persons With Disabilities; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 1

[WT Docket No. 96–198; FCC 98–55]

Implementation of Section 255 of the Telecommunications Act of 1996: Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) is an important step in the Commission's effort to increase the accessibility of telecommunications services and equipment to Americans with disabilities. The NPRM proposes a framework for implementing section 255 of the Communications Act of 1934 (Act), which requires telecommunications equipment manufacturers and service providers to ensure that their equipment and services are accessible to persons with disabilities, to the extent it is readily achievable to do so. In addition, if accessibility is not readily achievable, section 255 requires manufacturers and service providers to ensure compatibility with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, to the extent it is readily achievable to do so. The NPRM first explores the Commission's legal authority to establish rules implementing section 255. The NPRM then seeks comment on the interpretation of specific statutory terms that are relevant to the proceeding. Finally, the NPRM seeks comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The actions proposed in the NPRM are needed to ensure that people with disabilities are not left behind in the telecommunications revolution and consequently isolated from contemporary life.

DATES: Comments are due on or before June 30, 1998, and reply comments are due on or before August 14, 1998. Written comments by the public on the proposed information collections are due on or before June 30, 1998. Written comments must be submitted by OMB on the proposed information collections on or before July 21, 1998.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Room 222, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained in the NPRM should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503, or via the internet to fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: John Spencer, Mindy Littell, or Susan Kimmel, 202–418–1310. For additional information concerning the information collections contained in the NPRM, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the NPRM in WT Docket No. 98–198, FCC 98–55, adopted April 2, 1998, and released April 20, 1998. The complete text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036. Alternative formats of the full text of the NPRM are available to persons with disabilities in the following forms: computer diskette, large print, audio cassette, and Braille, by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov, or Ruth Dancey at (202) 418–0305, TTY (202) 418–2970, or at rdancey@fcc.gov. The full text of the NPRM can also be downloaded at http://www.fcc.gov/dtf/section255.html.

All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments will be available for public inspection during regular business hours in the Commission's Reference Center and through ITS, Inc., the Commission's duplicating contractor.

For purposes of this proceeding, the Commission waives those provisions of the rules that require formal comments to be filed on paper, and encourages parties to file comments electronically. Electronically filed comments that conform to the guidelines specified in this summary will be considered part of the record in this proceeding and accorded the same treatment as comments filed on paper pursuant to Commission rules. To file electronic comments in this proceeding, parties may use the electronic filing interface available on the Commission's World Wide Web site at: <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>. Further information on the process of submitting comments electronically is available at that location and at: <http://www.fcc.gov/e-file/>.

Paperwork Reduction Act

The NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collections contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public comments are due on or before June 30, 1998. Written comments must be submitted by OMB on the proposed information collections on or before July 21, 1998. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number:

Title: Implementation of Section 255 of the Telecommunications Act of 1996: Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, Notice of Proposed Rulemaking, WT Docket No. 96–198.

Form No.:

Type of Review: New Collection.

Respondents: Complainants, Telecommunications Equipment Manufacturers, and Telecommunications Service Providers.

Number of Respondents: 1,000 prospective complainants annually will report accessibility problems or file complaints using the Commission's "fast-track" problem resolution method,

and may be asked to provide the Commission with further information later in the process. This should take approximately 2 hours per response, for a total annual burden of about 2,000 hours. There will be no estimated annual cost. Approximately 1,000 equipment manufacturers and service providers annually are expected to be involved in resolving these complaints. It is estimated that these steps will take approximately 6.50 hours per respondent for a total annual burden of 6,500 hours. The estimated annual cost is $720,000. Additionally, 78,830 telecommunications equipment manufacturers and service providers annually are expected to provide a list of contacts for disability access complaints. And it is possible that 78,830 telecommunications equipment manufacturers and service providers will have equipment or services which will receive a seal or other imprimatur from a consumer or industry group that identifies the service or equipment as in compliance with section 255. Satisfying these burdens will likely take slightly more than 1 hour per respondent for a total annual burden of 78,830 hours, and no annual cost.

Total Number of Respondents: 79,830.
Total Annual Burden: 87,330 hours.
Total Annual Cost: $720,000.
Frequency of Response: Occasional.
Needs and Uses: The information filed as part of a complaint, if the proposal made by the Commission in the NPRM is adopted, will be reviewed by the Commission and by the pertinent entity to develop a solution to the problem. The information filed by the consumer after a complaint is resolved, if the proposal made by the Commission in the NPRM is adopted, will be used by the Commission to verify that the complainant is satisfied that either the impediment to accessibility no longer exists or that a practical solution could not be reached. Any demonstrations made by manufacturers and service providers that accessibility was considered in the equipment or service design process will be used by the Commission to evaluate compliance with the intent of section 255. The interim and final reports submitted by these entities will be used by the Commission to track the progress of resolution of complaints. Rebuttals to assertions of resource availability will help determine whether a particular accessibility measure is a readily achievable solution to an accessibility problem. The list of contacts who are responsible for telecommunications access complaints in each company will be used to speed the complaint process and to increase the likelihood of settlement between parties before the complaint reaches the Commission. The seal or imprimatur from a consumer or industry group that identifies a service or equipment as in compliance with section 255 will be used to inform consumers about the accessibility of particular products or services and will serve as an incentive for compliance by manufacturers and service providers.

Synopsis of Notice of Proposed Rulemaking

1. The Commission adopts this NPRM as an important step in opening the telecommunications revolution to the 54 million Americans with disabilities. Section 255 of the of the Communications Act (section 255), as added by the Telecommunications Act of 1996 (1996 Act) [1] mandates that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so.[2] This goal has become increasingly important as the ability to utilize the benefits of telecommunications technology has become more critical to fully participating in American society. Congress gave the Commission two specific responsibilities: (1) to exercise exclusive jurisdiction with respect to any complaint filed under section 255, and (2) to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for accessibility of telecommunications equipment and customer premises equipment (CPE).

2. This proceeding was initiated by Notice of Inquiry (NOI) adopted on September 16, 1996 (61 FR 50465). Additionally, in February 1998, the Access Board issued accessibility guidelines *(Access Board Order)* with respect to equipment (63 FR 5608, February 3, 1998). The NPRM is the next step in establishing a record on which to base the Commission's final rules implementing section 255.

3. The NPRM first explores the Commission's legal authority under section 255, and tentatively concludes that the Commission has authority to establish rules to implement section 255. The NPRM also considers other issues related to Commission jurisdiction, including the relationship between the Commission's authority under section 255 and the guidelines established by the Access Board.

4. The NPRM then seeks comment on the interpretation of specific statutory terms that are used in section 255. Many of the terms are defined elsewhere in the Act, and the Commission seeks comment on its tentative view that it is bound by these definitions in the context of section 255. Other terms have been incorporated from the Americans with Disabilities Act.[3] The Commission seeks comment on how these terms can be made workable in the context of telecommunications services and equipment. In particular, the NPRM addresses certain aspects of the term "readily achievable," contained in section 255. The Commission proposes to adopt the ADA definition, but also proposes to establish specific factors to define "readily achievable" in the telecommunications context.

5. Finally, the NPRM sets forth proposals to implement and enforce the requirement of section 255 that telecommunications offerings must be accessible to the extent readily achievable. The NPRM also contains proposals based on the requirement that, if accessibility is not readily achievable, manufacturers and service providers must ensure compatibility with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, to the extent it is readily achievable to do so. The centerpiece of these proposals is a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions and freeing manufacturers and service providers from the burden of more structured complaint resolution procedures. In cases where fast-track solutions are not possible, however, or where there appears to be an underlying failure to comply with section 255, the Commission would pursue remedies through more conventional processes. In both cases, in assessing whether service providers and equipment manufacturers have met their accessibility obligations under section 255, the Commission would look favorably upon demonstrations by companies that they considered accessibility throughout their development of telecommunications services and equipment.

I. Statutory Authority

6. The NPRM considers the scope of the Commission's rulemaking authority and finds that, in section 255, Congress enacted broad principles that require

[1] Public Law 104–104, 110 Stat. 56 (1996).
[2] 47 U.S.C. 255.
[3] Public Law 101–336, 104 Stat. 327 (1990) (codified at 42 U.S.C. 12101–12213) (ADA).

interpretation and implementation in order to ensure an efficient, orderly, and uniform regime governing access to telecommunications services and equipment. As a result, the Commission tentatively concludes that this regime can best be implemented if it adopts specific guidance concerning the requirements of section 255, which will enable the Commission to carry out its enforcement obligations under the Act effectively and efficiently.

7. Additionally, the Commission finds that the language of section 255 indicates that Congress intended to confer upon the Commission broad substantive authority to implement the requirement that telecommunications equipment and services be accessible, and gives the Commission exclusive authority to enforce that mandate. The Commission views the Access Board's equipment guidelines as a starting point for the implementation of section 255 and stresses the importance of striving to interpret section 255 in a way that ensures that telecommunications services and equipment will be treated consistently. The Commission seeks comment on its tentative conclusion that, while it has discretion regarding use of the Access Board's guidelines in developing its comprehensive implementation scheme, the Commission proposes to accord the guidelines substantial weight in developing regulations and in developing a broader structure for implementation.

8. The Commission determines that if Congress had intended to permit complaints under section 255 only against common carriers, and not manufacturers, the statute would say so explicitly. The Commission seeks comment on whether there is any basis for concluding that damages, pursuant to sections 207 and 208 of the Act or otherwise, are available with respect to entities other than common carriers. In addition, the Commission affirms that section 255 forecloses civil actions for damages brought under section 207. The exclusive jurisdiction established in the statute for Commission consideration of complaints, in combination with the preclusion of private rights of action, does not allow for private litigation. The Commission seeks comment on this conclusion.

II. Statutory Definitions

A. Scope of Statutory Coverage

(1) "Telecommunications" and "Telecommunications Service"

9. Section 255 applies to "manufacturer[s] of telecommunications equipment or customer premises equipment" and "provider[s] of telecommunications service," and section 251(a)(2) applies only to "telecommunications carrier[s'] * * * network features, functions, or capabilities."[4] The Commission tentatively concludes that, to the extent these phrases are broadly grounded in the Act, they require no further definition, and the Commission need only elucidate their application in the context of section 255. To the extent specific terms arise solely in connection with section 255, however, the Commission will consider whether further definition or clarification is appropriate. The Commission notes that the use of the term "telecommunications" in the statute may have the effect of excluding from the coverage of section 255 a number of services that might be desired by consumers. Only those services which are considered to be "telecommunications services" are subject to regulation under Title II of the Act. "Information services," such as voice mail and electronic mail, are excluded from regulation.

10. Many services are considered telecommunications services and, therefore, are clearly subject to the requirements of section 255. The Commission recognizes, however, that there are some important and widely used services which, under the Commission's interpretation, fall outside the scope of section 255 because they are considered information services. Given the broad objectives Congress sought to accomplish by its enactment of section 255, the Commission seeks comment on whether Congress intended section 255 to apply to a broader range of services.

(2) "Provider of Telecommunications Service"

11. Because the Act does not define "provider of telecommunications service," the NPRM proposes some clarifications regarding aspects of this phrase as used in section 255. With respect to section 255, the Commission believes that Congress intended to use the term "provider" broadly, to include entities that supply or furnish telecommunications services, as well as entities that make available such services. The Commission therefore proposes that all entities offering telecommunications services to the public should be separately subject to section 255, without regard to accessibility measures taken by the service provider who originates the offering. For example, the statute does not exclude resellers from the definition of telecommunications service provider. The NPRM seeks comment on this proposal.

12. Additionally, the NPRM proposes to subject a provider of telecommunications service to the requirements established in sections 255(c) and 255(d) only to the extent that it is providing telecommunications services. The Commission seeks comment on whether this proposal is practical if a provider is using the same facilities to offer telecommunications services and services not meeting the statutory definition.

(3) "Manufacturer of Telecommunications Equipment or Customer Premises Equipment"

13. Section 255(b) of the Act provides that "[a] manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by persons with disabilities, if readily achievable."[5]

(a) *Equipment.* 14. The NPRM finds that section 255 does not distinguish between or set out separate accessibility requirements for telecommunications equipment and customer premises equipment (CPE). The Commission tentatively concludes that these terms encompass all equipment used in the provision of telecommunications service, whether collocated with a user or found elsewhere in a telecommunications system. The Commission further tentatively concludes that section 255 applies to all such equipment the same requirement of functional accessibility. In short, to the extent end users must interact with equipment to use telecommunications services, section 255 applies. The NPRM invites comment on this view.

15. The NPRM seeks comment on possible approaches to resolving practical difficulties presented when inaccessibility may be due to multiple elements of a telecommunications system.

16. The Commission next proposes that section 255 apply to multi-use equipment only to the extent the equipment serves a telecommunications function. The NPRM solicits comment on this proposal, and in particular on practical aspects of its application. What, for example, is the obligation of a manufacturer who produces equipment apparently intended for a non-telecommunications application, but that finds use in connection with a

[4] 47 U.S.C. 255, 251(a)(2).

[5] 47 U.S.C. 255(b).

telecommunications service subject to section 255?

17. Regarding software products, the NPRM notes that the definition of telecommunications equipment includes "software integral to such equipment (including upgrades)."[6] Given that the focus of section 255 should be on functionality, the Commission tentatively views software as simply one method of controlling telecommunications functions. The NPRM thus proposes to treat software integral to telecommunications equipment the same as equipment or telecommunications services, and seeks comment on this proposal.

18. On the other hand, the Commission notes that the statutory definition of CPE does not include a corresponding explicit reference to software. Where a CPE manufacturer markets products that include software, the Commission sees no reason to treat the bundled software differently from any other component of the equipment. Where software to be used with CPE is marketed separately from the CPE, however, the Commission believes that the software itself would not be subject to section 255, and that it could not even be considered to fall within the statutory definition of CPE. Further, the Commission believes that software manufacturers would not be directly subject to section 255 for software bundled with the CPE of other manufacturers. The NPRM seeks comment on these issues, and in particular on the practical aspects of applying this distinction.

(b) Manufacturer. 19. The NPRM tentatively concludes that section 255 should be construed to apply to all manufacturers offering equipment for use in the United States, regardless of their location or national affiliation. The Commission seeks comment on this proposal.

20. Regarding the question of how section 255 should apply to manufacturers involved in the production of multiple-source equipment, the NPRM proposes to adopt the "final assembler" approach taken by the Access Board guidelines. The Commission seeks comment on this proposal.

21. The NPRM also tentatively concludes that the term "manufacturer" generally would not include post-manufacturing distribution entities such as wholesalers and retailers. Where the manufacturing and distributing entities are affiliated, however, or where the distributing entities provide customer support services commonly offered by manufacturers of equipment subject to section 255, the Commission tentatively finds that it may be desirable either to treat the distributor as a "manufacturer" or to assign to the final assembler responsibility for the distributor's accessibility efforts. The Commission seeks comment on the types of arrangements between manufacturers and distributors that could present these situations, including private brand arrangements, and seeks comment on effective ways of dealing with them.

(4) "Network Features, Functions, or Capabilities"

22. Section 251(a)(2) of the Act requires that a telecommunications carrier not install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255. The Act does not expressly define "network features, functions, and capabilities," but it does provide examples as part of its definition of "network element."[7] The Commission recently explored this area from the standpoint of interconnection in some detail in the *Local Competition Order* (61 FR 45476, August 29, 1996). The NPRM therefore tentatively concludes that the phrase "network features, functions, or capabilities" does not require further interpretation in this proceeding.

23. The NOI sought comment on the relationship between the duty of carriers under section 251(a)(2) and the duty of equipment manufacturers and service providers under section 255. Based on the limited comments received on this issue, the NPRM tentatively concludes that section 251(a)(2) governs carriers' configuration of their network capabilities. It does not make them guarantors of the decisions of service providers regarding how to assemble services from network capabilities, and it does not impose requirements regarding accessibility characteristics of the underlying components.

24. The Commission invites further comment on these views, on specific situations that might bring section 251(a)(2) into play, and on recommended approaches to address likely problems. The Commission also seeks comment regarding the relationship between the enforcement procedures established by section 252 for interconnection agreements and the Commission's exclusive enforcement authority under section 255. Additionally, the Commission seeks comment regard how responsibility for any guidelines or standards for accessibility and compatibility of equipment or services to be adopted in this proceeding should be apportioned between (1) the underlying manufacturer or provider of a network element; and (2) the carrier that incorporates that element into its network to provide a feature, function, or capability.

B. Nature of Statutory Requirements

25. Other essential terms used in section 255 are not native to the Act, but have their roots in the ADA and other disability law. For these terms, the Commission takes special note of the expertise and recommendations of the Access Board. However, the Commission tentatively concludes that it is bound to interpret section 255 in light of the broader purposes of the 1996 Act and of the Communications Act itself.

(1) "Disability"

26. Section 255(a)(1) of the Act provides that "[t]he term 'disability' has the meaning given to it by section 3(2)(A) of the [ADA]." The ADA defines "disability" as:[8]

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such an impairment; or
- Being regarded as having such an impairment.

The NPRM proposes to follow what the Commission considers to be the mandate of section 255 by using without modification or enhancement the ADA definition of "disability." In order to provide guidance for equipment manufacturers and service providers seeking to increase accessibility of their offerings, however, the NPRM also proposes to use the Access Board's list of categories of common disabilities that should be considered in analyzing equipment and service offerings under section 255. The Commission notes that it does not view the list as either exhaustive or final. The Commission seeks comment on these proposals, and invites suggestions for additional ways of making the definition of "disability" useful to industry and consumers.

(2) "Accessible to and Usable by"

27. Section 255 requires that equipment and telecommunications services be "accessible to and usable by individuals with disabilities, if readily achievable." The Access Board guidelines define "usability" as meaning "that individuals with disabilities have access to the full functionality and documentation for the

[6] 47 U.S.C. 153(45).

[7] 47 U.S.C. 153(29).

[8] 42 U.S.C. 12102(a)(2).

product, including instructions, product information (including accessible feature information), documentation, and technical support functionally equivalent to that provided to individuals without disabilities," and define "accessibility" as compliance with sections 1193.31 through 1193.43 of the Access Board's rules. The Commission proposes to adopt the Access Board's definition of "usability" as part of the Commission's definition of "accessible to and usable by." The Commission tentatively concludes that there is no reason to distinguish the two terms for purposes of section 255, and will use the term "accessibility" in the broad sense to refer to the ability of persons with disabilities to actually use the equipment or service by virtue of its inherent capabilities and functions.

28. The Access Board guidelines define equipment accessibility as including a list of functions. In addition, section 1193.37 of the Access Board's rules calls for a pass-through of "cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format." The Commission believes the Access Board's definition of accessibility and the related Appendix materials in the Access Board's order provide an appropriate basis for evaluating accessibility obligations under section 255, and proposes to adopt them as part of the definition of "accessible to and usable by." The Commission also proposes that such an evaluation should include not only use of the equipment itself, but also support services akin to what is provided to consumers generally to help them use equipment. The NPRM seeks comment on this proposal and on how the Commission might apply the Access Board's mandate that CPE "pass through" accessibility information. Further, the Commission invites comment on criteria that would constitute service accessibility.

29. The NPRM next reiterates the Commission position, as stated in the NOI, that section 255 reaches only those aspects of accessibility to telecommunications over which equipment manufacturers and service providers subject to the Commission's authority have direct control, such as the design of equipment or the manner in which a telecommunications service is delivered to users. The Commission seeks comment on this position. Similarly, if a person with a disability is able to use CPE such as a screen-reading terminal, but finds that a telecommunications service is not usable because the terminal cannot generate a screen display from the data provided through the service, this would also present an issue of inaccessibility, but the cause of the inaccessibility might be the service, or the equipment, or both. The Commission also seeks comment on what accessibility obstacles are encountered by persons with disabilities that are attributable to telecommunications service or equipment characteristics. To the extent that service accessibility is determined by network equipment, including integral software, how should the Commission distinguish between accessibility obstacles attributable to network equipment, and those attributable to service providers?

(3) "Compatible With"

(a) "Peripheral devices or specialized CPE". 30. Where accessibility is not readily achievable, section 255(d) requires that telecommunications offerings be compatible with "existing peripheral devices or specialized [CPE] commonly used by individuals with disabilities to achieve access, if readily achievable."[9] The Access Board defines "peripheral devices" as "[d]evices employed in connection with telecommunications equipment or customer premises equipment to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities." It defines specialized CPE as "[e]quipment, employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, which is commonly used by individuals with disabilities to achieve access." The Board further explains its definitions as follows:

> [T]he term peripheral devices commonly refers to audio amplifiers, ring signal lights, some TTY's, refreshable Braille translators, text-to-speech synthesizers and similar devices. These devices must be connected to a telephone or other customer premises equipment to enable an individual with a disability to originate, route, or terminate telecommunications. Peripheral devices cannot perform these functions on their own. Specialized [CPE] should be considered a subset of [CPE], and . . . manufacturers of specialized [CPE] should make their products accessible to all individuals with disabilities, including the disability represented by their target market, where readily achievable.

31. The NPRM seeks comment on these definitions, but tentatively concludes that it is not necessary to distinguish between peripheral devices and specialized CPE. The NPRM further tentatively concludes that the reference in section 255(d) to equipment and devices "commonly used * * * to achieve access" identifies products with a specific telecommunications functionality. In contrast, devices such as hearing aids, which have a broad application outside the telecommunications context, may be used in conjunction with peripheral equipment or specialized CPE, but are not themselves considered specialized CPE or peripheral devices under the Act. The NPRM seeks comment on this issue.

(b) "Commonly used". 32. The NPRM next considers criteria for determining when equipment subject to section 255 is "commonly used." In light of the specific definitions set out in the Access Board guidelines, the NPRM seeks further comment with regard to when devices and CPE should be considered "commonly used," as described in the statute. The NPRM also seeks comment regarding whether and to what extent the cost of CPE or peripheral devices should be considered in determining whether the CPE or peripheral device may be deemed to be commonly used by persons with disabilities. The Commission's tentative view is that the CPE or peripheral device must be affordable and widely available in order to be considered "commonly used" by persons with disabilities. The Commission also notes that a listing of such "commonly used" components could be a valuable source of information to apprise persons with disabilities of the available technologies, and the Commission seeks comment regarding whether and how a listing could be maintained.

(c) Compatibility. 33. Several commenters note that ensuring compatibility requires coordination among, *e.g.*, manufacturers of specialized customer premises equipment, network equipment and CPE manufacturers, and service providers. The Access Board lists five criteria for determining compatibility, subject to applicability: (1) External access to all information and control mechanisms; (2) connection point for external audio processing devices; (3) compatibility of controls with prosthetics; (4) TTY connectability; and (5) TTY signal compatibility. The NPRM proposes to adopt these five criteria. The Commission recognizes, however, that these criteria might need to be broadened to account for likely technological advances in both telecommunications and accessibility products, either now or in the future, as developments warrant. The NPRM seeks

[9] 47 U.S.C. 255(d).

comment on this proposal, and on these views.

(d) Other matters. 34. Finally, the NPRM requests commenters to address how the definition of "readily achievable" should apply to the obligations of manufacturers and service providers to provide compatibility pursuant to section 255(d). Specifically, the NPRM seeks comment regarding the extent to which the same factors that are used to determine whether accessibility is readily achievable can or should also be used to determine whether compatibility is readily achievable. Commenters are also asked to address how the goal of compatibility can be met without hampering competition or the development of new technologies.

(4) "Readily Achievable"

(a) General. 35. Section 255 requires accessibility to the extent it is 'readily achievable.' Section 255(a)(2) provides that "[t]he term "readily achievable" has the meaning given to it by section 301(9) of [the ADA]," which states: [10]

> The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—
>
> (A) the nature and cost of the action needed under [the ADA];
>
> (B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;
>
> (C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and
>
> (D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

The NPRM tentatively concludes that "readily achievable," as defined by the ADA and incorporated by section 255, simply means "easily accomplishable and able to be carried out without much difficulty or expense." The Commission believes that this broad definition is applicable to telecommunications equipment and services.

36. It is also the Commission's tentative view that the four factors set out with the ADA definition of "readily achievable" should be construed as the ADA describes them: factors to be considered in applying the definition in the ADA setting. Given the differences between architectural barriers and telecommunications barriers, it is the Commission's tentative view that the ADA factors should guide, though not constrain, the development of factors that more meaningfully reflect pertinent issues and considerations relevant to telecommunications equipment and services. The Commission intends that any factors developed in this rulemaking will be applied appropriately to the facts of particular cases, and will not operate so as to inadvertently impede efforts to arrive at reasonable judgments in each case. The Commission seeks comment on these tentative conclusions.

(b) Telecommunications factors. 37. The Commission believes a useful framework for analyzing whether a particular telecommunications accessibility feature is "readily achievable" involves looking at three areas: (1) Is the feature feasible? (2) What would be the expense of providing the feature? (3) Given its expense, is the feature practical? The Commission seeks comment on these proposed factors. The Commission especially seeks comment on the practical implications of various options: their effect on the development and marketing of accessibility features, on the pace of innovation, and on the administrative costs associated with implementation and enforcement measures.

38. A difficult aspect of determining whether a particular accessibility feature is readily achievable involves determining whether it is practical, given the expenses involved. In determining the practicality of providing a particular accessibility feature, the Commission believes it is appropriate to consider the resources available to the provider to meet the expenses associated with accessibility, the potential market for the product or service, the degree to which the provider would recover the incremental cost of the accessibility feature, as well as issues regarding product life cycles. Because the ultimate determination of whether it is readily achievable to make a particular product offering accessible to users with a particular disability may be complex and will depend on the particular circumstances of the case, the nature and extent of section 255 obligations will generally have to be evaluated and refined on a case-by-case basis, as the Commission resolves complaints of non-compliance. The Commission seeks comment on this general approach, as well as on the following specific elements of practicality.

(i) Resources

39. The NPRM examines various ways to consider the resources of firms of varying characteristics, in a manner which would not distort competitive incentives, including the relationship between parent and subsidiary corporations, and tentatively finds most compelling the view that the financial resources of the organization that has legal responsibility for, and control over, a telecommunications product (service or equipment) should be presumed to be available to make that product accessible in compliance with section 255. The NPRM therefore proposes to establish a presumption that the resources reasonably available to achieve accessibility are those of the entity legally responsible for the equipment or service that is subject to the requirements of section 255. The NPRM also proposes, however, that this presumption may be rebutted in a complaint proceeding or other enforcement proceeding in two different respects:

- On the one hand, the assets and revenues of another entity (*e.g.*, parent or affiliate) that is not legally responsible for the equipment or service involved may still be treated as available for purposes of achieving accessibility under section 255, if it is demonstrated that those assets and revenues are generally available to the entity that does have legal responsibility for the equipment or service.
- On the other hand, the general presumption can also be rebutted by a respondent showing that the sub-unit (*e.g.*, corporate division or department) actually responsible for the product or service in question does not have access to the full resources of the corporation or equivalent organization of which it is a part.

40. The Commission tentatively concludes that this presumption may potentially serve as an effective guard against evasive practices. In any event, the NPRM proposes that the Commission will determine what resources are reasonably available on a case-by-case basis in the context of complaint proceedings or other enforcement proceedings, because the variety of organizational forms and other circumstances make development of quantitative standards by the Commission impracticable. The NPRM seeks comment on these proposals.

(ii) Market Considerations

41. The NPRM discusses the scope of the accessibility requirement in terms of how the provision of either conflicting accommodations for different

[10] 42 U.S.C. 12181(9).

disabilities, or accommodations that would address multiple disabilities but would make the offering technically or economically impracticable, should be viewed under the "readily achievable" standard. The NPRM also seeks comment on how to incorporate market considerations into an evaluation of whether particular accessibility features are practicable. Additionally, the NPRM invites comment on how accessibility reductions should be treated.

(iii) Cost Recovery

42. The Commission also believes it is appropriate to consider the extent to which an equipment manufacturer or service provider is likely to recover the costs of increased accessibility. The Commission explains that this is not to say that the equipment manufacturer or service provider must be able to fully recover the incremental cost of the accessibility feature in order for accessibility to be readily achievable. Rather, the Commission merely finds that cost recovery is a factor that a company should weigh in making its determination of what is readily achievable. The NPRM further seeks comment on the extent that service providers and manufacturers should consider affordability of accessible products when making cost recovery assessments.

(iv) Timing

43. Several comments address accessibility obligations over the course of a product life cycle, especially as it relates to improved accessibility technology. The Commission phrases the timing question broadly, by asking how product life cycles should be taken into account in making "readily achievable" determinations. Given that section 255 has been in effect since February 1996, and in light of the Commission's tentative conclusion that timing issues should be considered as an element of "readily achievable," the Commission believes that a general "grace period" for compliance is not warranted. The NPRM, however, seeks comment on this view.

III. Implementation Processes

44. The NPRM next proposes measures that will put section 255 into action, ensuring manufacturers and service providers are in compliance with the requirement that their products must be accessible, to the extent readily achievable, and providing relief for consumers when there are compliance problems. The Commission's proposals rest on two principles: (1) Responsiveness to consumers; and (2) efficient allocation of resources. The NPRM therefore proposes to streamline the process for addressing accessibility issues as much as possible, freeing consumers and industry alike to apply their resources to solving access problems, rather than subjecting them to burdensome procedural requirements. The Commission has made every effort to fashion proposals that will reduce administrative burdens for all who might be involved in the complaint process, and invites suggestions for still further improvements.

45. Thus, the NPRM proposes a two-phase program for dealing with consumer issues arising under section 255. In the first phase, consumer inquiries and complaints will be referred to the manufacturer or service provider concerned, who will have a short period of time to solve the complainant's access problem and informally report to the Commission the results of its efforts. Matters or disputes that remain unresolved may proceed to a second-phase dispute resolution process.

A. Fast-Track Problem-Solving Phase

46. An important part of the Commission's proposal is an informal, "fast-track" process designed to solve access problems quickly and efficiently. If the proposed framework is adopted, this process would function as follows:

- The process would be initiated by the submission of a complaint.
- Upon receipt of a complaint, the Commission would promptly forward the complaint to the manufacturer or service provider (or both) whose offerings are the subject of the complaint, and set a deadline for a report of action taken to resolve the complaint.
- During the period prescribed, or during an extension period granted for good cause, the manufacturer or provider would attempt to solve the complainant's problem regarding the accessibility or compatibility of the provider's service or equipment. During this time, the Commission staff would be available to both the complainant and the respondent to provide information and informal assistance upon request.
- By the end of the fast-track phase, the respondent would be expected to informally report to the Commission the results of its efforts to solve the problem that is the subject of the complaint.
- The Commission would evaluate the respondent's report. The matter would be closed if it appeared that the complainant's access problem had been solved and there was no underlying compliance problem, or if the matter was outside the scope of section 255.
- On the other hand, the matter would proceed to a second phase of dispute resolution processes if the problem remained unsolved and there was a question of whether an accessibility solution was readily achievable, or if it appeared there was an underlying problem regarding the respondent's compliance with its section 255 accessibility obligations.

47. The Commission believes that the proposed fast-track process will frequently permit complainants and respondents to resolve disputes before requiring any use of additional Commission processes. In addition, the burden on all parties is intended to be minimal under the Commission's proposal, and the process encourages the rapid, informal solution of access problems. The Commission seeks comment on the general outline and on the more specific aspects of this fast-track process.

(1) Initial Contact With Commission

48. The NPRM first proposes to encourage any consumer who has not directly contacted the manufacturer or service provider before contacting the Commission to do so, and the Commission will provide contact information for that purpose. Consumers would also be invited to contact the Commission again if the problem is not resolved satisfactorily. The Commission seeks comment on this proposal.

49. Further, because section 255 complaints will involve offerings overseen by various Commission bureaus and offices, and because consumers may be unfamiliar with these organizational differences, the Commission anticipates establishing a central Commission contact point for all section 255 inquiries and complaints. The NPRM seeks comment on measures the Commission should take to ensure that persons with disabilities are made aware of their opportunity to address inquiries and complaints to a central contact point at the Commission.

50. The NPRM proposes that persons with disabilities may submit their complaints by any accessible means, including, for example, letter, Braille, facsimile, electronic mail, internet, TTY, audio cassette, or telephone call. The NPRM also proposes, however, to make available a complaint form, but not to require its use for the initiation of a section 255 complaint. In whatever form a complaint is received, however, the Commission will need to ascertain at least the following information before it can proceed:

- Complainant contact information: Name, mailing address, and preferred

contact method (letter, telephone number, TTY number, facsimile number, or electronic mail address).

• Identification of the equipment or service complained of, and the name (and, if known, the address) of its manufacturer or provider.

• A description of how the equipment or service is inaccessible to persons with a particular disability or combination of disabilities.

The Commission seeks comment on what additional information, if any, would tend to provide a clearer description of the difficulty complained of, without requiring excessive or irrelevant information. In any event, the Commission would retain discretion to request from complainants additional information that would help it to rapidly address the request.

(2) Provider Contact

51. The Commission's fast-track proposal envisions initially referring complaints to the manufacturer or service provider (or both, as appropriate). This will necessitate obtaining a list of contact points for each manufacturer and service provider subject to section 255. The NPRM solicits comment on a range of questions pertinent to the establishment and maintenance of such a list of contacts and on whether to require firms to provide accessibility contact information directly to consumers and, if so, how. The Commission seeks comment on these matters and also on whether the process should include a notification to the complainant that the complaint has been referred and, if so, what information the notification should include.

(3) Solution Period; Report

52. Upon receipt of a complaint, the Commission would promptly forward it to the manufacturer or service provider (or both) whose offerings are the subject of the complaint, and set a deadline for a report of action taken to resolve the complaint. The NPRM seeks comment on appropriate customer service standards for complaint forwarding. The NPRM also seeks comment on whether the Commission should forward complaints as submitted, regardless of format, or whether it should forward "translations" or transcripts of complaints submitted in formats such as Braille.

53. The NPRM next proposes an action report deadline of five business days from the date the complaint is forwarded, as a reasonable balance between providing sufficient time for respondents to study the complaint, gather relevant information, identify possible accessibility solutions, and, most importantly, work with the complainant to solve the access problem if possible, and providing accessibility as soon as practicably possible. The NPRM invites comment on this proposal.

54. The NPRM also proposes that a provider may file an interim report and a request for additional time in situations where a period of five business days (for example) may be enough time for a provider to assess a problem and begin to resolve it, but may not be long enough to complete the resolution. The Commission seeks comment on this proposal and also on how to provide a mechanism for either party (or the Commission) to terminate the fast-track phase and proceed to traditional dispute resolution processes, where it appears the fast-track process is not leading to a mutually satisfactory resolution.

55. By the end of the fast-track process, the manufacturer or service provider is expected to report informally to the Commission regarding whether the complainant has been provided the access sought, and if not, why it has not. To put the circumstances of the particular accessibility complaint in context, it might also be appropriate for the respondent to report generally its procedures for ensuring product accessibility. In order to provide flexibility in this process, the Commission proposes that such reports may be submitted by telephone call, electronic mail, facsimile or hard-copy letter. The Commission seeks comment on this proposal.

56. Finally, to ensure the integrity of the fast-track process by encouraging a sharing of information between complainant and respondent, the NPRM proposes to require that respondents provide copies of their reports to complainants. To avoid formalizing and stifling the process, however, the NPRM also seeks comment not only on this proposal, but on how to satisfy this requirement in the case of telephonic or other oral reports.

(4) Commission Evaluation

57. At the end of the fast-track process, the NPRM proposes that the Commission would consider both (1) the success of the respondent in providing an appropriate access solution, if possible; and (2) whether there appeared to be an underlying compliance problem, regardless of whether the particular complainant had been satisfied. That review would determine whether further action was required, as follows:

• If it appeared that the complainant's access problem had been satisfactorily solved (or that accessibility was not readily achievable) and there was no indication of an underlying problem of compliance with section 255, the matter would be closed by the Commission.

• If it appeared that the complaint did not involve matters subject to section 255, the matter would be closed.

• If it appeared that the complainant's access problem had been satisfactorily resolved but there was an indication of an underlying compliance problem, the Commission would undertake further dispute resolution efforts to determine the nature and magnitude of the problem, and take appropriate action.

• If it appeared that the access problem had otherwise not been satisfactorily resolved, or if the respondent failed to submit a timely resolution report, the Commission would initiate further resolution processes.

58. The NPRM also proposes that the Commission's evaluation of a resolution report not necessarily be limited to the respondent's initial report, but might also include additional information requested from the respondent or the complainant, discussions with accessibility experts from industry, disability groups, or the Access Board, or review of prior or other pending complaints involving the respondent. Further, to the extent a respondent's report asserted that accessibility was not readily achievable, the claim would be evaluated using the same factors that would be used during a phase-two dispute resolution proceeding. The Commission seeks comment on these proposals.

59. The NPRM proposes that the Commission would communicate its determination to both the complainant and the respondent in writing. If the Commission concluded that no further action was warranted because the matter lies outside the scope of section 255, further information may be supplied that would assist the consumer in seeking relief through other possible avenues. If the determination was to proceed to dispute resolution proceedings, pertinent information relating to initiating those processes would be noted. The Commission seeks comment on this aspect of the fast-track proposal.

60. Finally, the NPRM notes that if the Commission's fast-track determination was that the matter should be closed, information would be provided to assist a complainant who disagreed with that determination and wished to pursue the complaint to phase-two dispute resolution. The Commission proposes

not to require any particular method for complainants to communicate their desire to continue to further stages of dispute resolution, but to leave the method to the complainant's discretion, in the same manner as the complaint filing above. The NPRM seeks comment on these proposals.

B. Use of Traditional Dispute Resolution Processes

(1) Informal Dispute Resolution Process

61. For those section 255 complaints that are not resolved under fast-track procedures, the NPRM proposes to resolve most of these complaints pursuant to informal, investigative procedures, which the Commission considers to be more efficient and flexible than formal procedures. To accommodate special circumstances, however, the NPRM also proposes to establish formal adjudicatory procedures, to be employed only where the complainant requests such resolution and the Commission consents. Finally, the Commission also proposes to allow use of alternative dispute resolution procedures in cases in which the Commission and all parties agree that such procedures are appropriate. The NPRM seeks comment on this general procedural framework, and on other specific issues discussed in the full text of the NPRM.

62. The NPRM seeks comment on the Commission's proposal not to impose a standing requirement for complaints under section 255, whether by virtue of being a person with a disability, being a customer of the entity that is the subject of the complaint, or otherwise. The NPRM also proposes not to establish any time limit for the filing of a complaint under section 255. The Commission seeks comment on these proposals, on the relationship of section 415 of the Act to the Commission's complaint authority in section 255, and on the need for regulatory parity between equipment manufacturers and service providers.

63. In order to avoid confusion regarding when a respondent must answer a complaint in the dispute resolution phase, and to provide an efficient transition from the phase-one fast-track process to the phase-two dispute resolution process, the NPRM proposes to specify the due date in the Commission's written notice initiating the dispute resolution phase. Given the likely complexity of many section 255 complaints, the Commission proposes generally to allow 30 days for a respondent to answer a complaint, computed from the date of the written notice. The Commission would, however, retain the discretion to specify a shorter or longer response date based upon the nature of the complaint and the totality of the circumstances. The NPRM also proposes to require that a respondent must serve a copy of the answer on the complainant and on any other entity it implicates in its answer. The NPRM additionally proposes a reply period of 15 calendar days for the person who filed the original pleading to respond to answers, subject to Commission adjustment in specific cases. The NPRM seeks comment on these proposals.

64. In the interest of ensuring that the dispute resolution processes for section 255 are as accessible as possible, the NPRM proposes not to require any particular format for submissions from complainants or respondents. Because telephonic and other non-permanent oral presentations would not provide an appropriate record for decision making, however, the Commission proposes to require that submissions be in a permanent format. The Commission seeks comment on these proposals, and on any other related issues.

65. Commission consideration of section 255 complaints may often involve evaluation of information which may be considered proprietary business data, including a company's resources available to achieve accessibility. The Commission is sensitive to the need to protect the confidentiality of such information, and does not want to discourage its submission where relevant to the decision-making process. The Commission's rules already provide confidentiality for proprietary information in certain cases. (See, e.g., 47 CFR 0.457(d), 0.457(g), 0.459, and 1.731.) The Commission seeks comment on whether, in the particular context of section 255, existing rules and procedures for review of confidentiality requests strike the best balance between reasonable expectations of confidentiality and open decision-making.

(2) Formal Dispute Resolution Process

66. While the Commission anticipates that most complaints not resolved under fast-track procedures will be adjudicated pursuant to the informal procedures previously discussed, the NPRM proposes to reserve the right to apply a more formal, adjudicatory mechanism in which complainants accept the primary burden of pursuing relevant facts, with attendant rights (such as the right of discovery) and obligations. The NPRM is not proposing specific language for section 255 adjudicatory process rules, but proposes to model them on the common carrier formal complaint procedures set out in §§ 1.720 through 1.736 of the Commission's Rules, modified somewhat to take into account the inherent differences between traditional common carrier complaint issues and accessibility issues under section 255, as specified in the full text of the NPRM. The Commission seeks comment on these variations.

67. The NPRM also does not propose to require a filing fee for informal resolution of complaints, or for formal resolution of complaints directed at equipment manufacturers and service providers that are not common carriers. Under the Act, however, the Commission is required to impose a filing fee for formal complaints directed against common carriers, unless it can be demonstrated that waiving the fee would be in the public interest. The NPRM seeks comment on the circumstances under which the Commission should waive or lower this fee, and on other fee-related questions as indicated in the full text of the NPRM.

68. The NPRM finds that section 255 complaints need not be resolved within the five-month deadline established in section 208(b) of the Act. The NPRM finds that, because section 255 establishes Commission authority to prescribe complaint procedures, separate from authority conferred under section 208, any time limits for resolving complaints under section 208 do not apply.

(3) Alternative Dispute Resolution Process

69. The NPRM proposes to make available alternative dispute resolution (ADR) procedures such as arbitration, conciliation, facilitation, mediation, settlement negotiation, and other consensual methods of dispute resolution for resolving section 255 complaints not resolved under the fast-track process. The Commission tentatively concludes that ADR could be an effective tool for dealing with conflicts arising under section 255, while avoiding the expense and the delay of adversarial proceedings. The Commission seeks comment on these views generally, and on related questions as detailed in the full text of the NPRM.

70. Apart from their role in an ADR process, there may be other ways in which neutral parties with special expertise in accessibility matters could help the Commission resolve complaints. Outside experts and committees can perform a valuable consultative function, helping businesses and consumers to develop

accessibility solutions as telecommunications products and services are being developed. The NPRM invites comment on the role that such parties could serve to help speed resolution of complaints.

71. Other groups with accessibility expertise may well develop out of the process by which section 255 is being implemented and as accessibility efforts become more widespread. The Commission might rely on outside experts to gather and evaluate data needed to resolve accessibility questions. The Commission seeks comment on the utility of relying on such experts and on what provisions might be made to accomplish this objective.

(4) Defenses to Complaints

72. In response to an accessibility complaint or an investigation conducted on the Commission's initiative without a prior complaint, the Commission tentatively finds that it seems likely that the most common defenses mounted by a manufacturer or service provider would involve a claim that: (1) The product in question lies beyond the scope of section 255; (2) the product in question is in fact accessible; or (3) accessibility is not readily achievable. The first two defenses are relatively straightforward, but claims of the third kind are likely to present formidable difficulties. The Commission believes it would be useful to set out for comment some tentative views on use of a "readily achievable" defense.

73. To the extent an offering subject to section 255 is not accessible, it is incumbent upon an offeror making a "readily achievable" defense to establish facts to support the claim. In addition to the factors used to determine whether an accessibility action is readily achievable, it is also appropriate to give some weight to evidence that a respondent made good faith efforts to comply with section 255 by taking actions that would tend to increase the accessibility of its product offerings, both generally and with respect to the particular product that is the subject of the complaint. Examples of the sorts of measures that would be credited by the Commission are set out in the Access Board guidelines and in the Appendix to the Access Board Order. The NPRM notes, however, that the Board's guidelines should not be viewed as a "laundry list" of requirements all firms subject to section 255 must adopt. Rather, each firm should consider the guidelines in light of its situation and the degree to which its products have or lack accessibility features, and then adopt those features that will help it provide the accessibility section 255 requires.

74. The Commission seeks comment on these and other accessibility measures that might be suitable for equipment manufacturers. Further, while the Access Board's focus was limited to equipment manufacturers, the measures it describes generally have analogs applicable to service providers. The Commission therefore specifically seeks comment on measures suitable for service providers. In addition, the Commission seeks comment on whether firms subject to section 255 should be required to provide information regarding how consumers can contact them with respect to accessibility issues, and whether such notice should also include information involving how to contact the Commission in case of accessibility problems, and if so, what information should be required and how it should be provided.

C. Penalties for Non-Compliance

75. Section 255, on its face, makes no special provision for penalties for manufacturers or service providers found to violate its requirements. Given the importance of the accessibility mandate, the Commission believes that it should employ the full range of penalties available under the Act in enforcing section 255. The Commission believes that the Act provides for the following sanctions, which the Commission proposes to apply, as appropriate, given the nature and circumstances of a violation:

- Section 503(b) of the Act provides a system of forfeitures for willful or repeated "failure to comply with any of the provisions of [the] Act or of any rule, regulation, or order issued by the Commission under [the] Act * * *."
- At the end of an adjudication, the Commission would usually issue an order setting out its findings and directing prospective corrective measures. It is conceivable these orders might be the result of settlements with respondents, in the nature of consent decrees, if circumstances warrant. In any event, violation of a section 255 order could result in the imposition of a section 503(b) forfeiture.
- Section 312 of the Act provides for the revocation of a station license or construction permit, for the willful or repeated violation of or failure to observe any provision of the Act.
- Section 312 of the Act also provides for the issuance of a cease and desist order directed to a station licensee or construction permit holder, for the willful or repeated violation of or failure to observe any provision of the Act. The Commission believes Sections 4(i) and 208 of the Act provide a basis for such an order with respect to non-licensees.
- Sections 207 and 208 of the Act provide for the award of damages for violations by common carriers and, arguably, others.
- The Commission seeks comment on whether there is a basis for ordering the retrofit of accessibility features into products that were developed without such features, when including them was readily achievable.

The Commission invites comment about these and other possible remedies to enforce section 255 of the Act.

D. Additional Implementation Measures

76. The NPRM notes that other existing Commission processes (and associated forms) may provide efficient vehicles for requirements that may be developed in this proceeding, such as information collection, or for providing notice to firms dealing with the Commission that they may be subject to section 255. The NPRM seeks comment on whether such existing processes might provide additional options for fostering product accessibility. Further, given that sections 207 and 208 of the Act provide an alternate vehicle for submitting complaints that section 255 has been violated, in the case of common carriers, the NPRM seeks comment on whether to modify the existing common carrier complaint rules with respect to section 255 complaints so as to incorporate the kinds of processes the NPRM has proposed for complaints filed under section 255.

77. Finally, the Commission believes there are other measures the Commission itself might take, or might encourage others to take, to foster increased accessibility of telecommunications products. These include:

- Establishment of a clearinghouse for current information regarding telecommunications disabilities issues.
- Publication of information regarding the performance of manufacturers and service providers in providing accessible products, perhaps based on statistics generated through the fast-track and dispute resolution processes.
- Expansion of the information provided on the Internet at the Commission's Disabilities Issues Task Force Web site (http://www.fcc.gov/dtf).
- Efforts by consumer and industry groups to establish ongoing informational and educational programs, product and service certification, standards-setting, and other measures aimed at bridging the gap between disabilities needs and telecommunications solutions.

• Development of peer review processes to complement the proposed implementation measures.

The Commission particularly invites comment regarding the practical aspects of implementing these or other similar implementation measures.

IV. Interim Treatment of Complaints

78. As noted earlier, section 255 became effective upon enactment on February 8, 1996. Until the Commission adopts procedural rules in this proceeding, complaints alleging violations of section 255 may be filed pursuant to Section 1.41 of the Commission's Rules (47 CFR 141) and other general procedural rules (47 CFR 1.45–1.52). Complaints against common carriers may also be filed pursuant to the common carrier complaint rules set out in Part 1, Subpart E of the Commission's Rules (See 47 CFR 1.711, 1.716–1.718, 1.720–1.736).

79. Because the Commission has existing complaint processes in place which enable it to address complaints on a case-by-case basis, the NPRM declines to establish interim rules. Furthermore, the NPRM does not find it necessary to establish specific interim procedures.

80. Although the Commission recognizes that the proposals set forth in the NPRM have no binding effect until formally adopted, they may serve as guidance to parties concerning factors the Commission would likely consider in a complaint proceeding. The Commission urges potential complainants and defendants to take particular note of interpretations of key terminology and the emphasis on accessibility analysis throughout the design process. In addition, the Access Board guidelines and the related Appendix materials may be instructive to affected entities in determining their obligations under section 255 during this interim period.

V. Administrative Matters

A. Ex Parte Presentations

81. The NPRM is a "permit-but-disclose" notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202 , 1.1203, 1.1206(a).

B. Initial Regulatory Flexibility Analysis

82. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared the following Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

(1) Need for, and Objectives of, Proposed Action

83. This rulemaking proceeding was initiated to propose means of implementing and enforcing section 255 of the Act, as added by the Telecommunications Act of 1996. This section is intended to ensure that telecommunications equipment and services will be accessible to persons with disabilities, if such accessibility is readily achievable. If accessibility is not readily achievable, then the telecommunications equipment and services are to be made compatible with specialized customer premises equipment or peripheral devices to the extent that so doing is readily achievable.

84. Given the fundamental role that telecommunications has come to play in today's world, the provisions of section 255 represent the most significant governmental action for people with disabilities since the passage of the Americans with Disabilities Act of 1990. Public Law 101–336, 104 Stat. 327 (1990) (codified at 42 U.S.C. 12102(2)(A), 12181(9)) (ADA). Inability to use telecommunications equipment and services can be life-threatening in emergency situations, can severely limit educational and employment opportunities, and can otherwise interfere with full participation in business, family, social, and other activities. The Commission must do all it can to ensure that people with disabilities are not left behind in the telecommunications revolution and consequently isolated from contemporary life.

85. The Commission sets forth proposals to implement and enforce the requirement of section 255 that telecommunications offerings be accessible to the extent readily achievable. The centerpiece of these is a "fast-track" process designed to resolve many accessibility complaints informally, providing consumers quick solutions and freeing manufacturers and service providers from the burden of more structured complaint resolution procedures. In cases where fast-track solutions are not possible, however, or where there appears to be an underlying noncompliance with section 255, the Commission would pursue remedies through more conventional processes. In both cases, in assessing whether service providers and equipment manufacturers have met their accessibility obligations under section 255, the Commission would look favorably upon demonstrations by companies that they considered accessibility throughout the development of telecommunications products.

(2) Legal Basis

86. The proposed action is authorized under sections 1, 4(i), 10, 201, 202, 207, 208, 255, 303(b), 303(g), 303(j), 303(r) and 403 of the Communications Act, 47 U.S.C. 151, 154(i), 160, 201, 202, 207, 208, 255, 303(b), 303(g), 303(j), 303(r), 403.

(3) Description and Number of Small Entities Involved

87.The NPRM will apply to manufacturers of telecommunications equipment and customer premises equipment (CPE). In addition, telecommunications service providers of many types will be affected, including wireline common carriers and commercial mobile radio service (CMRS) providers. To the extent that software is integral to a telecommunication function, software developers or manufacturers may also be affected.

88. Commenters are requested to provide information regarding how many entities (overall) and how many small entities would be affected by the proposed rules in the NPRM. It should be noted that the resources of the regulated entity are taken into account in the determination of whether accessibility of a given product or service is readily achievable. Thus, there is an inherent consideration of the financial burden on the entity in its obligation to provide accessibility: if not readily achievable, the legal obligation is removed. However, all regulated entities are required to assess whether providing accessibility is readily achievable. Thus, an important issue for RFA purposes is not the absolute cost of providing accessibility, but, rather, the extent to which the cost of performing an assessment as to whether an accessibility feature is readily achievable is unduly burdensome on small entities.

89. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). [11] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." [12] Nationwide, as of 1992, there were approximately 275,801 small organizations. [13] The Commission further describes and estimates the number of small entity licensees and other covered entities that may be affected by the proposed rules, if adopted.

a. *Equipment manufacturers.* 90. The following chart contains estimated numbers of domestic entities that may be affected by this rulemaking. The data from which this chart was developed includes firm counts that reflect product lines not involved in telecommunications, as defined by the 1996 Act, and also includes overlapping firm counts and firms deliberately commingled to avoid disclosing the value of individual firms' equipment shipments for the reporting period.

Product class/ code	Product description	Estimated firm count	Comments
36611	Switching and switchboard equipment.	84	Includes central office switching equipment, PBX equipment, cellular mobile switching equipment.
36613	Carrier line equipment and modems	89	Includes repeaters, multiplex equipment, channel banks, subscriber loop and carrier line equipment, and modems.
36614	Other telephone and telegraph equipment.	215	Includes single line, ISDN, key and public pay telephone sets, cordless handsets, data communications equipment, video conferencing equipment, voice and call message processing equipment, call distributors, facsimile equipment.
36631	Communications systems and equipment.	346	Includes mobile cellular equipment, conventional and trunked system equipment, SONET-standard equipment.
36632	Broadcast, studio, and related electronic equipment.	172	Includes cable equipment possibly used to provide telephone service, such as subscriber equipment.
35715	Personal computers and workstations.	89	Includes personal computers with CPE capabilities.
35716	Portable computers	35	Typically with attached display.
35771	Computer peripheral equipment, not elsewhere classified.	259	Excludes common storage, scanning, and other peripherals itemized in census source document. Intended to include peripherals used for telecommunication function, and specialized CPE used in conjunction with computers. Includes keyboards, manual input devices such as mouses and scanners, voice recognition equipment (88 firms).
36798	Printed circuit assemblies	648	Includes communications printed board assemblies (211 firms) and "other electronics," including office equipment and point of sales (182 firms) that would commonly involve telecommunications functions.
35751	Computer terminals	57	Includes remote batch terminals, displays, etc. For distributed computer systems involved in telecommunications, remote terminals and other components are probably essential to ensuring accessible telecommunications capabilities.
35772	Parts and subassemblies for computer peripherals and input/output equipment.	72	Includes funds transfer devices and point of sale terminals (29 firms).

b. Software. 91. Due to the convergence between telecommunications equipment, telecommunications services and the software used to control and regulate each, software developers and producers may be viewed as regulated entities under section 255. This is particularly true of software that is used to make traditional telecommunications devices operate with CPE designed for specific disabilities. The Commission seeks comment on the impact of its proposed rules on the small businesses within this industrial category.

c. Telecommunications service entities. (i) Introduction. 92. Commenters are requested to provide information regarding how many providers of telecommunications services, existing and potential, will be considered small businesses. The SBA has defined a small business for Radiotelephone Communications (SIC 4812) and Telephone Communications, Except Radiotelephone (SIC 4813), to be small entities when they have fewer than 1,500 employees.

93. The Commission seeks comment as to whether this definition is appropriate in this context. Additionally, the Commission requests each commenter to identify whether it is a small business under this definition. If the commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

94. The United States Bureau of the Census reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, other mobile service carriers, operator service providers, pay telephone providers, personal communications services (PCS) providers, covered specialized mobile

[11] Small Business Act, 15 U.S.C. 632 (1996).
[12] 5 U.S.C. 601(4).
[13] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent local exchange carriers (LECs) because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier (IXC) having more than 1,500 employees would not meet the definition of a small business. The Commission tentatively concludes that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent local exchange carriers.

95. According to the Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (*TRS Worksheet*), there are 3,459 interstate carriers.[14] These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone providers, providers of telephone toll service, providers of telephone exchange service, and resellers.

(ii) Wireline Carriers and Service Providers. 96. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[15] According to the SBA definition, as noted, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees.

97. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. The Commission does not have information regarding the number of carriers that are not independently owned and operated, and thus is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies.

(A) Incumbent Local Exchange Carriers. 98. Neither the Commission nor SBA has developed a definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which the Commission is aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 1,376 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 1,376 small incumbent LECs.

99. Because the small incumbent LECs subject to these rules are either dominant in their field of operations or are not independently owned and operated, they are excluded (consistent with the Commission's prior practice) from the definition of "small entity" and "small business concerns." Accordingly, the Commission's use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, the Commission will consider small incumbent LECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LEC that arguably might be defined by SBA as a "small business concern."

(B) Interexchange Carriers. 100. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide is the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 149 companies reported that they were engaged in the provision of interexchange services. The Commission does not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus the Commission is unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 149 small entity IXCs.

(C) Competitive Access Providers and Competitive Local Exchange Carriers. 101. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs) and competitive local exchange carriers (CLECs). The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs and CLECs nationwide is the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 119 companies reported that they were engaged in the provision of competitive access services. The Commission does not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 119 small CAPs.

(D) Operator Service Providers. 102. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of operator service providers nationwide is the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 27 companies reported that they were engaged in the provision of operator services. The Commission does not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of operator service

[14] Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, Carrier Locator: Interstate Service Providers, Figure 1 (Types of Interstate Service Providers) (Nov. 1997) (*TRS Data*).

[15] U.S. Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1–123 (1995) (1992 Census).

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providers that would qualify as small business concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 27 small operator service providers.

(E) Pay Telephone Providers. 103. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone providers. The closest applicable definition under SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone providers nationwide is the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 533 companies reported that they were engaged in the provision of pay telephone services. The Commission does not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of pay telephone providers that would qualify as small business concerns under SBA definition. Consequently, the Commission estimates that there are fewer than 533 small pay telephone providers.

(F) Resellers (Including Debit Card Providers). 104. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company except radiotelephone (wireless) companies. However, the most reliable source of information regarding the number of resellers nationwide is the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the Commission's most recent data, 345 companies reported that they were engaged in the resale of telephone service. The Commission does not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus the Commission is unable at this time to estimate with greater precision the number of resellers that would qualify as small entities or small incumbent LEC concerns under the SBA definition. Consequently, the Commission estimates that there are fewer than 345 small entity resellers.

(iii) International Service Providers. 105. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC) (13 CFR 120.21). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. The Census report does not provide more precise data. Many of these services do not have specified uses and it is uncertain, at this point in time, if they will ultimately provide telecommunications services.

(A) International Public Fixed Radio (Public and Control Stations). 106. There are 15 licensees in this service. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of international public fixed radio licensees that would constitute a small business under the SBA definition.

(B) Fixed Satellite Transmit/Receive Earth Stations. 107. There are approximately 4,200 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

(C) Fixed Satellite Small Transmit/Receive Earth Stations. 108. There are 4,200 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of fixed satellite transmit/receive earth stations may constitute a small business under the SBA definition.

(D) Fixed Satellite Very Small Aperture Terminal (VSAT) Systems. 109. These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. The Commission has processed 377 applications. The Commission does not request or collect annual revenue information, and thus is unable to estimate of the number of VSAT systems that would constitute a small business under the SBA definition.

(E) Mobile Satellite Earth Stations. 110. There are two licensees. The Commission does not request or collect annual revenue information, and thus is unable to estimate whether either of these licensees would constitute a small business under the SBA definition.

(F) Space Stations (Geostationary). 111. Commission records reveal that there are 37 space station licensees. The Commission does not request or collect annual revenue information, and thus is unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition.

(G) Space Stations (Non-Geostationary). 112. There are six Non-Geostationary Space Station licensees, of which only one system is operational. The Commission does not request or collect annual revenue information, and thus is unable to estimate of the number of non-geostationary space stations that would constitute a small business under the SBA definition.

(iv) Wireless Telecommunications Service Providers. 113. The Commission has not yet developed a definition of small entities with respect to the provision of CMRS services. Therefore, for entities not falling within other established SBA categories (*i.e.*, Radiotelephone Communications or Telephone Communications, Except Radiotelephone), the applicable definition of small entity is the definition under the SBA rules applicable to the "Communications Services, Not Elsewhere Classified" category. This definition provides that a small entity is one with $11.0 million or less in annual receipts (13 CFR 120.21). The Census Bureau estimates indicate that of the 848 firms in the "Communications Services, Not Elsewhere Classified" category, 775 are small businesses. It is not possible to predict which of these would be small entities (in absolute terms or by percentage) or to classify the number of small entities by particular forms of service.

(A) Cellular Radio Telephone Service. 114. The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The size data provided by SBA does not enable the Commission to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees.

115. The Commission therefore has used the 1992 Census of Transportation, Communications, and Utilities,

conducted by the Bureau of the Census, which is the most recent information available. That census shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all 12 of these large firms were cellular telephone companies, all of the remainder were small businesses under the SBA definition. The Commission assumes that, for purposes of its evaluations and conclusions in this IRFA, all of the current cellular licensees are small entities, as that term is defined by SBA. In addition, although there are 1,758 cellular licenses, the Commission does not know the number of cellular licensees, since a cellular licensee may own several licenses.

(B) Broadband Personal Communications Service. 116. The broadband PCS spectrum is divided into six frequency blocks designated A through F. Pursuant to Section 24.720(b) of the Commission's Rules, the Commission has defined "small entity" for Block C and Block F licensees as firms that had average gross revenues of less than $40 million in the three previous calendar years. This regulation defining "small entity" in the context of broadband PCS auctions has been approved by SBA.

117. The Commission has auctioned broadband PCS licenses in all of its spectrum blocks A through F. The Commission does not have sufficient data to determine how many small businesses under the Commission's definition bid successfully for licenses in Blocks A and B. As of now, there are 89 non-defaulting winning bidders that qualify as small entities in the Block C auction and 93 non-defaulting winning bidders that qualify as small entities in the D, E, and F Block auctions. Based on this information, the Commission concludes that the number of broadband PCS licensees that would be affected by the proposals in the NPRM includes the 182 non-defaulting winning bidders that qualify as small entities in the C, D, E, and F Block broadband PCS auctions. Note that the number of successful bidders is not necessarily equivalent to the number of licensees, yet it is the best indicator that is currently available.

(C) Specialized Mobile Radio. 118. Pursuant to Section 90.814(b)(1) of the Commission's Rules, the Commission has defined "small entity" for geographic area 800 MHz and 900 MHz Specialized Mobile Radio (SMR) licenses as firms that had average gross revenues of less than $15 million in the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by SBA.

119. The proposals set forth in the NPRM may apply to SMR providers in the 800 MHz and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service, or how many of these providers have annual revenues of less than $15 million.

120. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities under the Commission's definition in the 900 MHz auction. Based on this information, the Commission concludes that the number of geographic area SMR licensees affected by the proposals set forth in the NPRM includes these 60 small entities.

121. Based on the auctions held for 800 MHz geographic area SMR licenses, there were 10 small entities currently holding 38 of the 524 licenses for the upper 200 channels of this service. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA definition will win these licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz SMR licensees can be made, the Commission assumes, for purposes of its evaluations and conclusions in this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by SBA.

(D) 220 MHz Service.

122. Licensees for 220 MHz services that meet the definition of CMRS may be providers of telecommunications service. The Commission has classified providers of 220 MHz service into Phase I and Phase II licensees. There are approximately 3,800 non-nationwide Phase I licensees and 4 nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has estimated that there are approximately 900 potential Phase II licensees. These licenses were scheduled to be auctioned in May 1998, but the auction has been delayed pending resolution of petitions for reconsideration.

123. At this time, however, there is no basis upon which to estimate definitively the number of 220 MHz service licensees, either current or potential, that are small businesses. To estimate the number of such entities that are small businesses, the Commission applies the definition of a small entity under SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. However, the size data provided by the SBA do not allow the Commission to make a meaningful estimate of the number of 220 MHz providers that are small entities because they combine all radiotelephone companies with 500 or more employees.

124. The Commission therefore uses the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. Data from the Census Bureau's 1992 study indicate that only 12 out of a total 1,178 radiotelephone firms which operated during 1992 had 1,000 or more employees—and these may or may not be small entities, depending on whether they employed more or less than 1,500 employees. But 1,166 radiotelephone firms had fewer than 1,000 employees and, therefore, under the SBA definition, are small entities. However, the Commission does not know how many of these 1,166 firms are likely to be involved in the provision of 220 MHz service.

(E) Mobile Satellite Services (MSS).

125. Mobile Satellite Services or Mobile Satellite Earth Stations are intended to be used while in motion or during halts at unspecified points. These stations operate as part of a network that includes a fixed hub or stations. The stations that are capable of transmitting while a platform is moving are included under Section 20.7(c) of the Commission's Rules as mobile services within the meaning of sections 3(27) and 332 of the Act. Those MSS services are treated as CMRS if they connect to the Public Switched Network (PSN) and also satisfy other criteria of section 332. Facilities provided through a transportable platform that cannot move when the communications service is offered are excluded from 47 CFR 20.7(c).

126. The MSS networks may provide a variety of land, maritime and aeronautical voice and data services. There are eight mobile satellite licensees. At this time, the Commission is unable to make a precise estimate of the number of small businesses that are mobile satellite earth station licensees and could be considered CMRS providers of telecommunications service.

(F) Paging. 127. Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging

and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent Telecommunications Industry Revenue data, 364 carriers reported that they were engaged in the provision of either paging or other mobile services, which are placed together in the data. The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 364 small paging carriers that may be affected by the proposed rules, if adopted. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

(G) Narrowband PCS. 128. The Commission has auctioned nationwide and regional licenses for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition. At present, there have been no auctions held for the MTA and Basic Trading Area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Those auctions, however, have not yet been scheduled. Given that nearly all radiotelephone companies have fewer than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

(H) Air-Ground Radiotelephone Service. 129. The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in Section 22.99 of the Commission's rules. Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

(I) Local Multipoint Distribution Service (LMDS). 130. LMDS licensees may use spectrum for any number of services. It is anticipated that the greatest intensity of use will be for either radio telephone or pay television services. SBA has developed definitions applicable to each of these services, however, because pay television is not a telecommunications service subject to section 255, it is not relevant to this IRFA.

131. The Commission has not developed a definition of small entities applicable to LMDS licensees, which is a new service. In the LMDS Order (62 FR 16514, Apr. 7, 1997) the Commission adopted criteria for defining small businesses for determining bidding credits in the auction, but the Commission believes these criteria are applicable for evaluating the burdens imposed by section 255. The Commission defines a small business as an entity that, together with affiliates and controlling principals, has average gross revenues not exceeding $40 million for the three preceding years. Additionally, small entities are those which together with affiliates and controlling principals, have average gross revenues for the three preceding years of more than $40 million but not more than $75 million.

132. Upon completion of the auction 93 of the 104 bidder qualified as small entities, smaller businesses, or very small businesses. These 93 bidders won 664 of the 864 licenses. The Commission estimates that all of these 93 bidders would qualify as small under the SBA definitions, but the Commission cannot yet determine what percentage would be offering telecommunications services.

(J) Rural Radiotelephone Service. 133. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA's definition.

(K) Wireless Communications Services. 134. This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined small business for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a very small business as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. The Commissin concludes that the number of geographic area WCS licensees affected includes these eight entities.

(L) 39 GHz Band. 135. The Commission has not developed a definition of small entities applicable to 39 GHz band licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the potential number of small businesses interested in the 39 GHz frequency band and is unable at this time to determine the precise number of potential applicants which are small businesses.

136. The size data provided by SBA does not enable the Commission to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees.[16] The Commission therefore has used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. That census shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more

[16] U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, SIC 4812 (radiotelephone communications industry data adopted by the SBA Office of Advocacy).

employees. Therefore, a majority of 39 GHz entities providing radiotelephone services could be small businesses under the SBA definition.

137. However, in the 39 GHz Band NPRM and Order, 61 FR 02452, Jan. 26, 1996, the Commission proposed to define a small business as an entity that, together with affiliates and attributable investors, has average gross revenues for the three preceding years of less than $40 million. The Commission has not yet received approval by the SBA for this definition. The Commission assumes, for purposes of its evaluations, that nearly all of the 39 GHz licensees will be small entities, as that term is defined by the SBA.

(4) Reporting, Recordkeeping, and Other Compliance Requirements

138. As the Commission has noted, the objective of section 255 is for persons with disabilities to have increased access to telecommunications. Both equipment manufacturers and telecommunications service providers are obligated to provide accessibility for persons with any one or more of different disabilities to the extent that it is readily achievable for them to do so. So, in the broadest sense, compliance consists of the on-going, disciplined, and systematic effort to provide the greatest level of accessibility. Much of the NPRM deals with behaviors which demonstrate that such effort and would be looked upon favorably in the event of a filed complaint.

139. The only actual recordkeeping requirement that the Commission proposes is for each covered entity to provide a point of contact for referral of consumer problems. This person would represent the covered entity during the "fast-track problem-solving" phase which would precede the filing of any form of complaint. In the NPRM, the Commission suggests and seeks comment on a one-week period in which the manufacturer or service provider should resolve the customer's problem. Although the Commission wishes to encourage speedy responses, it recognizes that there may be circumstances which call for an extension of the time period. In such instances, the Commission reserves the discretion to grant requests. The Commission seeks comment on whether the one-week time period, and whether the informal means of requesting extensions would be disproportionately burdensome on small businesses.

140. Despite the lack of any formal recordkeeping requirement, in order to respond to "fast-track" inquiries, companies may chose to keep records at their own discretion on the way the company has chosen to implement its own disability initiatives. This self-imposed recordkeeping will enable them to respond in a more timely fashion. Likewise the Commission seeks comment on whether this implicit burden needs to be recognized, and, if so, whether there is a disproportionate impact on small businesses.

141. An additional recordkeeping requirement for which the Commission seeks comment would be to have equipment manufacturers acknowledge their section 255 obligations on the same form used for filing for equipment authorization with the Office of Engineering and Technology. (See 47 CFR 2.901–2.1093.) Similarly, the Commission seeks comment on which of the filings for telecommunications service providers would provide a comparable opportunity to indicate awareness of their own section 255 obligations. Another option, beyond the scope of section 255 and thus requiring a separate rulemaking, might be to design a consolidated form to be used by service providers for reporting all required information to the Commission and including awareness of entities' section 255 obligations as one small part. Although the Commission perceives the section 255 reporting burden to be minimal, as in checking off a box on a form required for other purposes, the Commission requests comment on how such requirements can be modified to reduce the burden on small entities and still meet the objectives of this proceeding.

(5) Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

142. In the Notice of Inquiry, the Commission sought comment on three possible approaches for implementing and enforcing the provisions of section 255: (1) Rely on case-by-case determinations; (2) issue guidelines or a policy statement; or (3) promulgate rules setting forth procedural or performance requirements intended to promote accessibility.[17]

143. The NPRM principally proposes procedural requirements as a practical, common sense means to ensure that consumers with disabilities have access to telecommunications services and equipment.

144. The use of case-by-case determinations exclusively, in lieu of any rules, was considered but tentatively discarded in the NPRM because it was believed that in a rapidly changing market with unpredictable technological breakthroughs, the slow development of case law would not be sufficient to guide covered entities to an understanding of their accessibility obligations.

145. The issuance of guidelines or a policy statement was also considered but tentatively discarded, because of the Commission's view that a greater degree of regulatory and administrative certainty will best serve the interests of both consumers and businesses (including covered entities) that must comply with section 255. Guidelines or a policy statement might serve the purpose of informing case-by-case determinations in complaint proceedings and lending some predictability of outcomes in these proceedings. Moreover, the Commission tentatively decided that, in order for accessibility to be addressed in a pro-active manner, equipment manufacturers and service providers should have clear expressions of the demands section 255 places on their operations before the beginning of the design process. The Commission tentatively concluded, however, that the potential drawbacks of exclusive reliance on case-by-case determinations as a means of implementing section 255 would not be sufficiently diminished by the adoption of guidelines or a policy statement.

146. Also considered and tentatively rejected by the Commission was the option of promulgating specific performance requirements. Such an approach—under which the Commission would attempt to establish an array of specific parameters for features and functions across a broad range of telecommunications services and equipment—was viewed as potentially burdensome to covered entities, as well as being fraught with other potential problems. For example, rapid changes in technology could make Commission performance requirements obsolete in rapid fashion. This would make it necessary for the Commission to frequently revise its performance requirements in order to attempt to keep pace with these technological changes. These frequent revisions would impose burdens on covered entities and potentially cause confusion in the telecommunications marketplace. In addition, the Commission tentatively has decided that the promulgation of rules governing the design process, would impose burdens on covered entities whose resources would be better

[17] Implementation of Section 255 of the Telecommunications Act of 1996: Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96–198, Notice of Inquiry, 11 FCC Rcd 19152, 19163 (para. 7) (1996) (*Notice of Inquiry*).

spent in achieving and improving accessibility.

147. As a result of the Commission's tentative decision to rely primarily on procedural rules, it has taken several steps to minimize burdens on all regulated entities. First, the Commission has sought to provide incentives to industry for early and on-going consideration of accessibility issues. In particular, the Commission will look favorably upon efforts to implement the Access Board's guidelines such as formalizing self-assessment, external outreach, internal management, and user information and support to address accessibility issues. Second, the Commission has attempted to unravel the statutory terminology to give guidance on the interpretation of key language within the telecommunications context. For example, "readily achievable" is explored in great depth to explicate feasibility, expense, and practicality elements. Third, the Commission has intended to fashion efficient, consumer-friendly means of dealing with problems. By instituting a pre-complaint process in a fast-track, problem-solving phase, the Commission is attempting to implement the objectives of the statute in a cooperative, as opposed to adversarial, manner. The Commission welcomes comments on the extent to which the tentative approach it has adopted in the NPRM is likely to further the goals of section 255 without creating an unfair economic impact on small entities.

148. The Commission believes it has reduced burdens wherever possible. For burdens imposed by achieving accessibility, the structure of the statute inherently acknowledges varying degrees of economic impact. The "readily achievable" standard is proportional, not absolute, thereby adjusting the burden of providing accessible features to be commensurate with the resources of the covered entity.

149. For burdens associated with enforcement, the innovation of the "fast-track" problem solving phase is an outgrowth of the desire to find immediate, practical solutions to consumers' problems in obtaining accessible or compatible equipment and services. It is anticipated that the pre-complaint process will significantly reduce the number of complaints, thus minimizing the burden on all covered entities of providing a legal defense. Furthermore, the range of choices for resolving complaints is designed to reduce costs to the opposing parties. Encouraging the use of streamlined informal complaints or alternative dispute resolution processes is primarily to benefit individual plaintiffs who may be persons with disabilities with limited financial resources, but should similarly enable covered entities to defend at lesser cost.

150. To minimize any negative impact, however, the Commission seeks comment on the nature of incentives for small entities, which will redound to their benefit. The Commission will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing significant economic impact on small entities. The Commission seeks comment on significant alternatives interested parties believe it should adopt.

(6) Federal Rules Which Overlap, Duplicate, or Conflict With These Rules

151. Section 255(e) directs the Access Board to develop equipment accessibility guidelines "in conjunction with" the Commission, and to periodically review and update the guidelines. The Commission views these guidelines as a starting point for the implementation of section 255, but because they do not cover telecommunications services, the Commission must necessarily adapt these guidelines in its comprehensive implementation scheme. As such, it is the Commission's tentative view that the proposed rules do not overlap, duplicate, or conflict with the Access Board Final Rule, 36 CFR Part 1193.

VI. Ordering Clauses

152. Accordingly, it is ordered, pursuant to sections 1, 4(i), 8(d), 8(g), 201, 202, 207, 208, 251(a)(2), 255, 303(r), 307, 312, 403 and 503(b) of the Communications Act, 47 U.S.C. 151, 154(i), 158(d), 158(g), 201, 202, 207, 208, 251(a)(2), 255, 303(r), 307, 312, 403, 503(b), that notice is hereby given of the proposed regulatory changes described in the NPRM, and that comment is sought on these proposals.

153. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13806 Filed 5–21–98; 8:45 am]

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Rules and Regulations

Federal Register
Vol. 63, No. 100
Tuesday, May 26, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Docket No. FV98–925–3 IFR]

Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision in Minimum Grade, Container, and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises minimum grade requirements for grapes grown in southeastern California and for grapes imported into the United States. It also revises container and pack requirements currently prescribed for California grapes. This rule allows California grape handlers to market consumer packages of grapes more economically by increasing the range of allowable bunch sizes for a portion of the 1998 season. Master containers of consumer grape packages could be marketed if the grape clusters/bunches in the packages consist of at least 2 berry clusters and the clusters/bunches are not greater than 19 ounces in weight. The increased bunch size range also applies to imported grapes. This action is in the interest of handlers, producers, importers, and consumers.

DATES: Effective June 1, 1998; comments must be received by June 25, 1998 and will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or Anne M. Dec, Team Leader, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 925 (7 CFR Part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including table grapes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule increases the range of allowable sizes of grape bunches that California handlers can pack in certain containers during the period June 1, 1998, through August 15, 1998. Master containers of consumer grape packages can be marketed if the grape clusters/bunches in the packages consist of at least 2 berry clusters and the clusters/bunches are not greater than 19 ounces in weight. The increased bunch size range also applies to imported grapes, but no container specifications apply. The changes in domestic requirements were recommended by the California Desert Grape Administrative Committee (Committee), the agency responsible for local administration of the order.

Under the terms of the order, fresh market shipments of grapes grown in southeastern California are required to be inspected and meet grade, size, maturity, pack, and container requirements. Current requirements include minimum grade and net weight requirements. Grapes must also be packed in authorized containers, and such containers must be marked with the minimum net weight of the grapes contained therein, the variety of the grapes, the name of the shipper, and the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

Section 925.52(a)(2) of the grape order provides authority to limit the handling

of any grade, size, quality, maturity, or pack of grapes for different varieties, or any combination of the foregoing during any period or periods.

Section 925.304(a) of the order's administrative rules and regulations requires grapes to meet the minimum grade requirements of U.S. No. 1 Table, or U.S. No. 1 Institutional, or to meet all the requirements of U.S. No. 1 Institutional, except that a tolerance of 33 percent is provided for off-size bunches. Grapes meeting U.S. No. 1 Institutional requirements are required to be marked "U.S. No. 1 Institutional." Grapes meeting the modified U.S. No. 1 Institutional requirements may be marked "DGAC No. 1 Institutional." The requirements for the U.S. No. 1 Table and U.S. No. 1 Institutional grades are set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.914) (Standards).

Section 925.52(a)(4) of the order provides authority to regulate the size, capacity, weight, dimensions, markings, materials, and pack of containers which may be used in the handling of grapes.

Section 925.304(b)(1) of the order's administrative rules and regulations requires grapes to be packed in new and clean boxes which meet the requirements of sections 1380.14, 1380.19, 1436.37, and 1436.38 of Title 3: California Code of Regulations (CCR). That section also authorizes nine containers that can be used for domestic and export shipments and specifies dimensions for each such container. An additional container, defined in terms of a net weight of 5 kilograms, is authorized for export shipments only. All 10 of the authorized containers may be used for export shipments. Only the first nine can be used for domestic shipments.

Finally, § 925.304(b)(1) authorizes the Committee to approve other containers for experimental or research purposes.

Section 925.304(b)(2) of the order's administrative rules and regulations provides that grapes in any containers weigh at least 20 pounds based on the average net weight of grapes in a representative sample of containers. An exception is provided for grapes packed in experimental containers, or packed in bags or wrapped in plastic or paper. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds. There are no weight requirements specified for experimental containers.

The Committee met on March 24, 1998, and unanimously recommended modifying § 925.304 of the order's administrative rules and regulations to make the following changes:

(1) Revise the minimum grade requirement for the period June 1, 1998, through August 15, 1998, to allow a pilot test for the marketing of grapes which meet all the requirements of U.S. No. 1 Institutional except for the weight of clusters/bunches. The revision allows clusters/bunches as small as a 2 berry cluster and as large as 19 ounces in weight. Grapes meeting these quality requirements are to be marked "DGAC Consumer No. 1 Institutional" but cannot be marked "Institutional Pack."

(2) Authorize an experimental master container, containing individual consumer packages of grapes which weigh 1½ pounds or less, net weight, for use during the pilot test period of June 1, 1998, to August 15, 1998. Grapes meeting the "DGAC Consumer No. 1 Institutional" requirements must be packed in this container and this master container can only be used for packing the "DGAC Consumer No. 1 Institutional" grade.

(3) Update or remove certain obsolete references appearing in the regulation.

Revision in Minimum Grade Requirements

Until 1993, the minimum grade requirement under the order was U.S. No. 1 Table. One requirement of that grade is that grape bunches weigh at least 4 ounces.

In 1991, a new U.S. No. 1 Institutional grade was added to the Standards. This grade—used primarily for sales to restaurants and other food service firms—provides for grape lots which have very small bunches. At the request of the table grape industry, this grade was added to meet market demand for individual consumer sized servings of grapes. The Standards were further revised in 1996 to lower the minimum bunch size to a two berry cluster and specify a separate 4 percent tolerance for off-size bunches.

The minimum grade requirements under the order were changed in 1993 to allow California grape handlers to pack the newly established U.S. No. 1 Institutional grade. Because handlers experienced difficulties in packing this grade, these requirements were further revised in 1994 to provide a tolerance of 33 percent for off-size bunches. This modified U.S. No. 1 Institutional grade is referred to as DGAC No. 1 Institutional.

Currently, during the period April 20 through August 15 each year, California grape handlers can ship grapes meeting at least U.S. No. 1 Table, U.S. No. 1 Institutional, or DGAC No. 1 Institutional.

The requirements of the U.S. No. 1 Institutional are essentially the same as those of the U.S. No. 1 Table grade, with three major exceptions. The first difference relates to bunch size. Under the U.S. No. 1 Table grade, there is a minimum bunch size requirement of 4 ounces and no maximum bunch size. Under the U.S. No. 1 Institutional grade, grapes are to consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. A cluster is two or more berries sharing a common point of attachment.

The second difference is that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional must be legibly marked "Institutional Pack." There are no marking requirements under the U.S. No. 1 Table grade.

The third difference relates to the tolerances for off-size bunches. For grapes grading U.S. No. 1 Table, an 8 percent tolerance is established for all grade requirements, including off-size bunches. The U.S. No. 1 Institutional grade has a separate tolerance of 4 percent for off-size clusters/bunches and an 8 percent tolerance for the remaining grade requirements.

Requirements for the DGAC No. 1 Institutional are the same as for the U.S. No. 1 Institutional, except that the tolerance for off-size bunches is 33 percent. Because grapes meeting these requirements do not meet the U.S. No. 1 Institutional grade requirements, they cannot be marked "Institutional Pack." They may, however, be marked "DGAC No. 1 Institutional."

Recently, there has been interest in packing grapes in individual consumer packages known as "punits" or "clamshells." These containers, used most commonly to pack strawberries, are made of a clear, hard rigid plastic and typically hold a half pound or a pound of fruit. Some retailers prefer these containers because they are of the same net weight, and can be scanned at check-out. This is particularly convenient for retailers that do not have facilities for weighing produce, such as convenience stores and fast food outlets. Some consumers also prefer the convenience of prepackaged individual portions of fruit.

To meet changing market requirements, California grape handlers would like to be able to pack these consumer packages. Current bunch size requirements make it difficult however. Grape bunches normally range in weight from ¼ pound to 3 pounds. Thus, portions of bunches have to be used to fill the new packages to the weights desired by buyers. Handlers have

determined that increasing the range of permissible bunch sizes to allow for clusters/bunches of two berries to 19 ounces will provide handlers the flexibility needed to pack grapes in the desired consumer containers.

This rule revises § 925.304(a) of the order's rules and regulations to allow handlers to ship a new grade of grapes to be known as DGAC Consumer No. 1 Institutional. The name recognizes that such grapes will be packed in consumer packages and that the grapes are not packed to the minimum requirements of the U.S. No. 1 Table grade. Grapes meeting this requirement must meet the requirements of the U.S. No. 1 Institutional grade, except for the cluster/bunch size requirements. Specifically, these modified requirements allow shipments with clusters/bunches ranging from 2 berry clusters to clusters/bunches of grapes up to 19 ounces in weight.

Container Requirements

The Committee recommended that grapes packed in accordance with the new DGAC Consumer No. 1 Institutional requirements be packed in a certain way. These grapes must be packed in individual consumer packages. The consumer packages must then be packed in a master container.

Typically, the individual consumer packages hold either ½ or 1 pound of fruit. To allow for normal shrinkage during handling, handlers generally pack a slightly greater weight than is desired at retail. Section 925.304(b) is revised to provide that DGAC Consumer No. 1 Institutional grade grapes be packed in master containers containing individual consumer packages weighing 1½ pounds or less.

Additionally, these master containers are required to be marked "DGAC Consumer No. 1 Institutional" to accurately reflect their contents. The individual consumer packages do not need to be so marked. Other container marking requirements appearing in the regulation apply to the master containers as well.

The master containers used for these grapes will typically hold 10 consumer packages weighing 1 pound each or 20 packages weighing ½ pound each. Thus, these containers are exempt from the net weight requirements of 18 or 20 pounds specified in § 925.304(b)(2).

Application to Imports

Section 8e of the Act specifies that whenever certain commodities, like grapes, are regulated under a Federal order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Pack and container requirements are not authorized by section 8e. Thus, the revised grade requirements implemented by this rule apply to imported grapes; none of the container or container marking requirements apply, however. If desired, importers may label containers of grapes meeting the modified U.S. No. 1 Institutional requirements as "DGAC Consumer No. 1 Institutional." Specifically, this rule modifies language in § 944.503(a)(1) of the Table Grape Import Regulation 4 for fresh grapes imported into the United States.

Clarification/Removal of Obsolete Language

This rule removes language in the introductory text of § 925.304 by removing a proviso that applies to the 1987 season and is no longer necessary.

This rule makes several other corrections in both the order's administrative rules and regulations and the import regulation. Specifically, the tolerance percentage of "8 percent" is changed to "4 percent" in §§ 925.304(a) of the order's administrative rules and regulations and in 944.503(a)(1) of the import regulation. This corrects those sections to accurately specify the current tolerance for off-size bunches in the U.S. No. 1 Institutional grade. This rule corrects a reference to the Standards from section number "51.913" to section number "51.914" in §§ 925.304(a) of the order and in 944.503(a)(1) of the import regulation; and changes a California Department of Food and Agriculture reference from "California Administrative Code (Title 3)" to "Title 3: California Code of Regulations" in paragraph (a)(1)(ii) of § 944.503 of the import regulation.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 27 handlers of California grapes who are subject to regulation under the order and approximately 80 grape producers in the production area. In addition, there are approximately 127 importers of grapes. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. Ten of the 27 handlers subject to regulation have annual grape sales of at least $5,000,000, excluding receipts from any other sources. In addition, 70 of the 80 producers subject to regulation have annual sales of at least $500,000, and the remaining 10 producers have annual sales less than $500,000, excluding receipts from any other sources. Therefore, a majority of handlers and a minority of producers are classified as small entities. The average importer receives $2.8 million in grape revenue, excluding receipts from other sources. Therefore, we believe that the majority of these importers are small entities.

This rule increases the range of allowable sizes of grape bunches that California handlers can pack in certain containers during the period June 1, 1998, through August 15, 1998. Master containers of consumer grape packages can be marketed if the grape clusters/bunches in the packages consist of at least 2 berry clusters and the clusters/bunches are not greater than 19 ounces in weight. The increased bunch size range also applies to imported grapes, but no container specifications apply. The changes in domestic requirements were recommended by the California Desert Grape Administrative Committee (Committee), the agency responsible for local administration of the order.

Under the terms of the order, fresh market shipments of grapes grown in southeastern California are required to be inspected and meet grade, size, maturity, pack, and container requirements. Current requirements include minimum grade and net weight requirements. Grapes must also be packed in authorized containers, and such containers must be marked with the minimum net weight of the grapes contained therein, the variety of the grapes, the name of the shipper, and the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

Section 925.52(a)(2) of the grape order provides authority to limit the handling

of any grade, size, quality, maturity, or pack of grapes for different varieties, or any combination of the foregoing during any period or periods.

Section 925.304(a) of the order's administrative rules and regulations requires grapes to meet the minimum grade requirements of U.S. No. 1 Table, or U. S. No. 1 Institutional, or to meet all the requirements of U.S. No. 1 Institutional, except that a tolerance of 33 percent is provided for off-size bunches. Grapes meeting U.S. No. 1 Institutional requirements are required to be marked "U.S. No. 1 Institutional." Grapes meeting the modified U.S. No. 1 Institutional requirements may be marked "DGAC No. 1 Institutional." The requirements for the U.S. No. 1 Table and U.S. No. 1 Institutional grades are set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.914) (Standards).

Section 925.52(a)(4) of the order provides authority to regulate the size, capacity, weight, dimensions, markings, materials, and pack of containers which may be used in the handling of grapes.

Section 925.304(b)(1) of the order's administrative rules and regulations requires grapes to be packed in new and clean boxes which meet the requirements of sections 1380.14, 1380.19, 1436.37, and 1436.38 of Title 3: California Code of Regulations (CCR). That section also authorizes nine containers that can be used for domestic and export shipments, and specifies dimensions for each such container. An additional container, defined in terms of a net weight of 5 kilograms, is authorized for export shipments only. All 10 authorized containers may be used for export shipments. Only the first nine can be used for domestic shipments.

Finally, § 925.304(b)(1) authorizes the Committee to approve other containers for experimental or research purposes.

Section 925.304(b)(2) of the order's administrative rules and regulations provides that grapes in any containers weigh at least 20 pounds based on the average net weight of grapes in a representative sample of containers. An exception is provided for grapes packed in experimental containers, or packed in bags or wrapped in plastic or paper. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds.

There are no weight requirements specified for experimental containers.

The Committee met on March 24, 1998, and unanimously recommended modifying § 925.304 of the order's administrative rules and regulations to make the following changes:

(1) Revise the minimum grade requirement for the period June 1, 1998, through August 15, 1998, to allow a pilot test for the marketing of grapes which meet all the requirements of U.S. No. 1 Institutional except for the weight of clusters/bunches. The revision allows clusters/bunches as small as a 2 berry cluster and as large as 19 ounces in weight. Grapes meeting these quality requirements are to be marked "DGAC Consumer No. 1 Institutional" but cannot be marked "Institutional Pack."

(2) Authorize an experimental master container, containing individual consumer packages of grapes which weigh 1½ pounds or less, net weight, for use during the pilot test period of June 1, 1998, to August 15, 1998. Grapes meeting the "DGAC Consumer No. 1 Institutional" requirements must be packed in this container and this master container can only be used for packing the "DGAC Consumer No. 1 Institutional" grade.

Currently, during the period April 20 through August 15 each year, California grape handlers can ship grapes meeting at least U.S. No. 1 Table, U.S. No. 1 Institutional, or DGAC No. 1 Institutional.

The requirements of the U.S. No. 1 Institutional are essentially the same as those of the U.S. No. 1 Table grade, with three major exceptions. The first difference relates to bunch size. Under the U.S. No. 1 Table grade, there is a minimum bunch size requirement of 4 ounces and no maximum bunch size. Under the U.S. No. 1 Institutional grade, grapes are to consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. A cluster is two or more berries sharing a common point of attachment.

The second difference is that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional must be legibly marked "Institutional Pack." There are no marking requirements under the U.S. No. 1 Table grade.

The third difference relates to the tolerances for off-size bunches. For grapes grading U.S. No. 1 Table, an 8 percent tolerance is established for all grade requirements, including off-size bunches. The U.S. No. 1 Institutional grade has a separate tolerance of 4 percent for off-size clusters/bunches and an 8 percent tolerance for the remaining grade requirements.

Requirements for the DGAC No. 1 Institutional are the same as for the U.S. No. 1 Institutional, except that the tolerance for off-size bunches is 33 percent. Because grapes meeting these requirements do not meet the U.S. No. 1 Institutional grade requirements, they cannot be marked "Institutional Pack." They may, however, be marked "DGAC No. 1 Institutional."

Recently, there has been interest in packing grapes in individual consumer packages known as "punits" or "clamshells." These containers, used most commonly to pack strawberries, are made of a clear, hard rigid plastic and typically hold a half pound or a pound of fruit. Some retailers prefer these containers because they are of the same net weight, and can be scanned at check-out. This is particularly convenient for retailers that do not have facilities for weighing produce, such as convenience stores and fast food outlets. Some consumers also prefer the convenience of prepackaged individual portions of fruit.

To meet changing market requirements, California grape handlers would like to be able to pack these consumer packages. Current bunch size requirements make it difficult however. Grape bunches normally range in weight from 1/4 pound to 3 pounds. Thus, portions of bunches have to be used to fill the new packages to the weights desired by buyers. Handlers have determined that increasing the range of permissible bunch sizes to allow for clusters/bunches of two berries to 19 ounces will provide handlers the flexibility needed to pack grapes in the desired consumer containers.

This rule revises § 925.304(a) of the order's rules and regulations to allow handlers to ship a new grade of grapes to be known as DGAC Consumer No. 1 Institutional. The name recognizes that such grapes will be packed in consumer packages and that the grapes are not packed to the minimum requirements of the U.S. No. 1 Table grade. Grapes meeting this requirement must meet the requirements of the U.S. No. 1 Institutional grade, except for the cluster/bunch size requirements. Specifically, these modified requirements allow shipments with clusters/bunches ranging from 2 berry clusters to clusters/bunches of grapes up to 19 ounces in weight.

The Committee recommended that grapes packed in accordance with the new DGAC Consumer No. 1 Institutional requirements be packed in a certain way. These grapes must be packed in individual consumer packages. The consumer packages must then be packed in a master container.

Typically, the individual consumer packages hold either ½ or 1 pound of fruit. To allow for normal shrinkage during handling, handlers generally

pack a slightly greater weight than is desired at retail. Section 925.304(b) is revised to provide that DGAC Consumer No. 1 Institutional grade grapes be packed in master containers containing individual consumer packages weighing 1½ pounds or less.

Additionally, these master containers are required to be marked "DGAC Consumer No. 1 Institutional" to accurately reflect their contents. The individual consumer packages do not need to be so marked. Other container marking requirements appearing in the regulation apply to the master containers as well.

The master containers used for these grapes will typically hold 10 consumer packages weighing 1 pound each or 20 packages weighing ½ pound each. Thus, these containers are exempt from the net weight requirements of 18 or 20 pounds specified in § 925.304(b)(2).

Section 8e of the Act specifies that whenever certain commodities, like grapes, are regulated under a Federal order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Pack and container requirements are not authorized by section 8e. Thus, the revised grade requirements implemented by this rule apply to imported grapes; none of the container or container marking requirements apply, however. If desired, importers may label containers of grapes meeting the modified U.S. No. 1 Institutional requirements as "DGAC Consumer No. 1 Institutional." Specifically, this rule modifies language in § 944.503(a)(1) of the Table Grape Import Regulation 4 for fresh grapes imported into the United States.

This regulation provides handlers and importers more marketing flexibility, is estimated to result in increased shipments of consumer-sized grape packs, and is expected to have positive impact on California grape handlers and importers of grapes. The changes address the marketing and shipping needs of the grape industry, and are in the interest of handlers, producers, importers, and consumers.

During the last several seasons, Mexico has been the largest exporter of grapes to the United States during the June 1 through August 15 period. Chile and Italy have exported small quantities of grapes to the U.S. during this same period. Chile is the dominant exporting country from December through May each year.

During the pilot test period of June 1, 1998, through August 15, 1998, imports are estimated to total 5.5 million lugs from Mexico, 33 thousand lugs from Chile, and approximately 4 thousand lugs from Italy. These estimates are based upon lug weights of 18 pounds.

According to Department inspection officials, minimal quantities of grapes meeting the institutional grades have been imported since the "Institutional Pack" was implemented. Based on historical data, it is estimated that approximately .5 percent to 1 percent of the imported lugs will meet the requirements of either the "U.S. No. 1 Institutional" or the "DGAC No. 1 Institutional" grades. It is further estimated that less than 1 percent of the imported lugs will meet the requirements of the "DGAC Consumer No. 1 Institutional" grade. The majority of imported grapes meet the higher grade requirements of U.S. No. 1 Table, U.S. Fancy Table, or U.S. Extra Fancy Table.

The Committee estimates the 1998 domestic crop will be approximately 8 million lugs. Domestic handlers in southeastern California, regulated under the order, are expected to ship approximately 6.2 million lugs during the test period. It is estimated that approximately .5 percent (31,000 lugs) to 1 percent (62,000 lugs) of the crop will be packed as U.S. No. 1 Institutional or DGAC No. 1 Institutional and that less than 1 percent (62,000 lugs) of the crop will be packed as "DGAC Consumer No. 1 Institutional" during the test period. The estimates for the DGAC Consumer No. 1 Institutional are based upon a lug weight of 10 pounds. The Committee estimated that handlers will receive approximately $0.60 to $1.00 per pound for a total estimated value of $372,000 to $620,000 for this new individual consumer pack. Handlers will receive approximately $0.10 more for the new consumer packages than for bagged grapes. Consumers will benefit by being able to purchase grapes in preferred containers.

The Committee requested that this rule be effective by June 1, 1998. The California grape shipping season is expected to begin shortly, and continue until August 15, 1998. Therefore, an effective date of June 1 will allow handlers and importers approximately 10 weeks to test the market.

At the meeting, the Committee discussed the potential impact of this rule and determined that this action will not require any changes in grape handling practices. Those who choose to pack to this new grade could achieve additional sales which will be a benefit to the grape industry as a whole.

The benefits of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

The Committee discussed alternatives to this revision, including not having a pilot test, but determined that handlers, producers, importers and consumers should benefit from this pilot test.

The Committee also discussed adding a percentage tolerance for off-size bunches of 33 percent similar to the additional percentage tolerance allowed for the DGAC No. 1 Institutional grade, but determined that the 4 percent tolerance, as contained in the Standards, was adequate to facilitate packaging of the "punits" or "clamshells".

This action will not impose any additional reporting or recordkeeping requirements on either small or large grape handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the grape industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the March 24, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 12 members: 8 are handlers and producers, 1 is a producer only, and 2 are handlers only. The twelfth Committee member is the public member. In addition, the embassies of Mexico, Chile, and Italy were notified of the anticipated action. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action revises minimum grade requirements currently in effect for grapes grown in designated

areas of southeastern California and for grapes imported into the United States and offers handlers and importers more marketing flexibility; (2) California grape handlers are aware of this action which was unanimously recommended by the Committee at a public meeting. In addition, the embassies of Mexico, Chile, and Italy were notified of the anticipated action; (3) no changes in packing procedures are required by this rule for either California handlers or importers, and they will need no additional time to comply with the revised requirements; (4) California grape shipments are expected to begin soon, and this rule needs to be in effect by June 1, 1998, so handlers can test market acceptance for the remainder of the season; and (5) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule. For the same reasons, a 30-day comment period is deemed appropriate to provide for comments from interested persons. Further, the end of the 1998 season is August 15.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

List of Subjects

7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 925 and 944 are amended as follows:

1. The authority citation for 7 CFR parts 925 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

2. Section 925.304 is amended by revising the introductory text, paragraph (a) introductory text, paragraph (b)(1)(iii) and the first sentence of paragraph (b)(2) to read as follows:

§ 925.304 California Desert Grape Regulation 6.

During the period April 20 through August 15 each year, no person shall pack or repack any variety of grapes except Emperor, Almeria, Calmeria, and Ribier varieties, on any Saturday, Sunday, Memorial Day, or the observed Independence Day holiday, unless approved in accordance with paragraph (e) of this section, nor handle any variety of grapes except Emperor, Calmeria, Almeria, and Ribier varieties, unless such grapes meet the requirements specified in this section.

(a) Grade, size, and maturity. Except as provided in paragraphs (a)(1) and (a)(2) of this section, such grapes shall meet the minimum grade and size requirements of U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type 7 CFR 51.880 through 51.914), or shall meet all the requirements of U.S. No. 1 Institutional with the exception of the tolerance percentage for bunch size. Such tolerance shall be 33 percent instead of 4 percent as is required to meet U.S. No. 1 Institutional grade. Grapes meeting these quality requirements may be marked "DGAC No. 1 Institutional" but shall not be marked "Institutional Pack." In addition, during the period June 1, 1998, through August 15, 1998, grapes may be handled that meet all the requirements of U.S. No. 1 Institutional, except that clusters/bunches must consist of at least a 2 berry cluster ranging to clusters and/or bunches of grapes not greater than 19 ounces in weight. Such grapes must be marked "DGAC Consumer No. 1 Institutional" and meet the container requirements in paragraph (b)(1)(iii) of this section.

* * * * *

(b) * * *

(1) * * *

(iii) Such other types and sizes of containers as may be approved by the Committee for experimental or research purposes: *Provided,* That for the period June 1, 1998, through August 15, 1998, master containers may be used if they are packed with individual consumer packs of grapes that weigh 1½ pounds or less, net weight, and meet the requirements of the "DGAC Consumer No. 1 Institutional." *Provided further,* That grapes meeting the requirements of "DGAC Consumer No. 1 Institutional" shall be packed only in this container, and this master container shall be marked "DGAC Consumer No. 1 Institutional."

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, or packed in bags or wrapped in plastic or paper, and containers authorized in paragraph (b)(1)(iii) of this section, shall be 20 pounds based on the average net weight of grapes in a representative sample of containers. * * *

* * * * *

PART 944—FRUITS; IMPORT REQUIREMENTS

3. In § 944.503, paragraphs (a)(1) introductory text and (a)(1)(ii) are revised to read as follows:

§ 944.503 Table Grape Import Regulation 4.

(a)(1) Pursuant to section 8e of the Act and Part 944—Fruits, Import Regulations, the importation into the United States of any variety of Vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in 7 CFR 51.884 for U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880 through 51.914), or shall meet all the requirements of U.S. No. 1 Institutional with the exception of the tolerance for bunch size. Such tolerance shall be 33 percent instead of 4 percent as is required to meet U.S. No. 1 Institutional grade. Grapes meeting these quality requirements shall not be marked "Institutional Pack", but may be marked "DGAC No. 1 Institutional." In addition, during the period June 1, 1998, through August 15, 1998, grapes may be imported if they meet all the requirements of U.S. No. 1 Institutional, except that clusters/bunches must consist of at least a 2 berry cluster ranging to clusters and/or bunches of grapes not greater than 19 ounces (0.532 kilograms) in weight. Such grapes may be marked "DGAC Consumer No. 1 Institutional" but shall not be marked "Institutional Pack."

* * * * *

(ii) Grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch (1.5875 centimeters) and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in sections 1463.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of Title 3: California Code of Regulations (CCR).

* * * * *

Dated: May 19, 1998.

Robert C. Keeny,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–13881 Filed 5–22–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–24–AD; Amendment 39–10533; AD 98–11–06]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–300 and –320, and Model ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–300 and –320, and Model ATR72 series airplanes, that requires modification of the engine fuel drainage system. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fuel from overflowing into the engine nacelle, which could result in a fire in the nacelle.

DATES: Effective June 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of June 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–300 and –320, and Model ATR72 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR 13574). That action proposed to require modification of the engine fuel drainage system.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 145 airplanes of U.S. registry will be affected by this AD.

For Model ATR42–300 and –320 series airplanes (106 airplanes), it will take approximately 8 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this modification required by this AD on U.S. operators is estimated to be $50,880, or $480 per airplane.

For Model ATR72 series airplanes (39 airplanes), it will take approximately 15 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,499 per airplane. Based on these figures, the cost impact of this modification required by this AD on U.S. operators is estimated to be $93,561, or $2,399 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–06 Aerospatiale: Amendment 39–10533. Docket 98–NM–24–AD.

Applicability: Model ATR42–300 and –320 series airplanes, on which Aerospatiale Modification 1696 (reference Avions de Transport Regional Service Bulletin ATR42–71–0010) has not been accomplished; and Model ATR72–101, –201, –102, –202, –211, and –212 series airplanes, on which Aerospatiale Modification 3742 (reference Avions de Transport Regional Service Bulletin ATR72–71–1006) has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel from overflowing into the engine nacelle, which could result in a fire in the nacelle, accomplish the following:

(a) Within 24 months after the effective date of this AD, modify the engine fuel drainage system, in accordance with Avions

de Transport Regional Service Bulletin ATR42–71–0010, Revision 4, dated October 23, 1996 (for Model ATR42 series airplanes), or Avions de Transport Regional Service Bulletin ATR72–71–1006, Revision 1, dated October 21, 1996 (for Model ATR72 series airplanes), as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modifications shall be done in accordance with the following Avions de Transport Regional service bulletins, which contain the following list of effective pages:

Service bulletin referenced and date	Page number shown on page	Revision level shown on page	Date shown on page
ATR72–71–1006, Revision 1, October 21, 1996	1, 2	1	October 21, 1996.
	3–15	Original	September 29, 1995.
ATR42–71–0010, Revision 4, October 23, 1996	1, 2, 4, 7	4	October 23, 1996.
	3, 15	1	September 4, 1990.
	5, 8–10, 14	Original	July 3, 1989.
	6, 11–13	2	January 30, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directives 96–109–063 (B) and 96–110–030 (B), both dated June 5, 1996.

(e) This amendment becomes effective on June 30, 1998.

Issued in Renton, Washington, on May 13, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13291 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–331–AD; Amendment 39–10538; AD 98–11–11]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all CASA Model CN–235 series airplanes, that requires modification of the passenger and crew doors and repetitive visual inspections, adjustments, and tests of the passenger and crew door latching and locking systems to ensure correct operation. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent inadvertent opening of a door during flight of the airplane, which could result in rapid decompression of the passenger cabin.

DATES: Effective June 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all CASA Model CN–235 series airplanes was published in the **Federal Register** on March 27, 1998 (63 FR 14861). That action proposed to require modification of the passenger and crew doors and repetitive visual inspections, adjustments, and tests of the passenger and crew door latching and locking systems to ensure correct operation.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Editorial Changes

In the proposed AD, the FAA inadvertently omitted a reference to Annex I, Revision 2, and Annex II, Revision 2, of CASA Communication COM 235–098, Revision 02, dated October 19, 1995. Therefore, the FAA has revised paragraph (a)(2) of the final rule accordingly.

Additionally, the FAA has revised paragraph (a)(2)(ii) of this final rule to include a reference to the CASA COM mentioned previously, which was inadvertently omitted from the proposed AD.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has

determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $480, or $240 per airplane, per inspection cycle.

It will take approximately 60 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $406 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $8,012, or $4,006 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–11 Construcciones Aeronauticas, S.A. (CASA): Amendment 39–10538. Docket 97–NM–331–AD.

Applicability: All Model CN–235 series airplanes, including serial number (S/N) C–011, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent opening of a door during flight, which could result in rapid decompression of the passenger cabin, accomplish the following:

(a) Within 3 months or 300 flight hours after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the passenger and crew doors in accordance with CASA Service Bulletin SB–235–52–54, Revision 1, dated October 24, 1995; and

(2) Perform follow-on actions (i.e., inspections for discrepancies, adjustments, and tests) in accordance with CASA COM 235–098, Revision 02, dated October 19, 1995, including Annex I, Revision 2, and Annex II, Revision 2. If any discrepancy is found, prior to further flight, accomplish the applicable corrective action in accordance with the COM. Thereafter accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Repeat the visual inspection for discrepancies of the passenger door and crew door latching and locking systems, in accordance with paragraph 1. of CASA COM 235–098, Revision 02, dated October 19, 1995, at intervals not to exceed 300 flight hours. If any discrepancy is found, prior to further flight, accomplish the applicable corrective action in accordance with the COM.

(ii) Repeat adjustments and tests of the door latching and locking systems, in accordance with paragraphs 2. and 3. of CASA COM 235–093, Revision 02, dated October 19, 1995; and paragraph V of Annex II of CASA COM 235–098, Revision 02, dated October 19, 1995; at intervals not to exceed 1,200 flight hours. If any discrepancy is found during any adjustment or test, prior to further flight, accomplish the applicable corrective action in accordance with the COM.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with CASA Service Bulletin SB–235–52–54, Revision 1, dated October 24, 1995, and CASA Communication COM 235–098, Revision 02, dated October 19, 1995, including Annex I, Revision 2, and Annex II, Revision 2. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Spanish airworthiness directive 3/95, Revision 1, dated October 1, 1995.

(e) This amendment becomes effective on June 30, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13395 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–330–AD; Amendment 39–10539; AD 98–11–12]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–301, –311, –314, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–301, –311, –314, and –315 series airplanes, that requires installation of additional wiring and new electrical connectors for the lights in the forward end of the passenger overhead compartments. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent severe overheating of the electrical connectors for the lights in the forward end of the passenger overhead compartments, which could result in smoke and fire in the passenger cabin.

DATES: Effective June 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7511; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–301, –311, –314, and –315 series airplanes was published in the **Federal Register** on March 23, 1998 (63 FR 13800). That action proposed to require installation of additional wiring and new electrical connectors for the lights in the forward end of the passenger overhead compartments.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required installation, and that the average labor rate is $60 per work hour. Required parts will cost approximately $122 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $9,620, or $962 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–12 De Havilland, Inc.: Amendment 39–10539. Docket 97–NM–330–AD.

Applicability: Model DHC–8–301, –311, –314, and –315 series airplanes; serial numbers 100, and 202 through 433 inclusive; excluding serial numbers 271 and 408; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe overheating of the electrical connectors for the lights in the forward end of the passenger overhead compartments, which could result in smoke and fire in the passenger cabin, accomplish the following:

(a) Within 400 hours time-in-service after the effective date of this AD, install additional wiring and new electrical connectors for the lights in the forward end of the passenger overhead compartments in accordance with Bombardier Alert Service

Bulletin S.B. A8–33–39, Revision A,' dated October 24, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation shall be done in accordance with Bombardier Alert Service Bulletin S.B. A8–33–39, Revision A,' dated October 24, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–97–17, dated September 26, 1997.

(e) This amendment becomes effective on June 30, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13403 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, and 75

RIN 1219–AB00

Roof Bolts in Metal and Nonmetal and Underground Coal Mines; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects the compliance date to the final rule for roof bolts in metal and nonmetal and underground coal mines published in the **Federal Register** on April 22, 1998.

EFFECTIVE DATE: May 26, 1998.

FOR MORE INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

On April 22, 1998, (63 FR 20026) MSHA published a final rule on roof bolts in metal and nonmetal and underground coal mines. This document corrects an error that appears under **DATES** on page 20026. The mandatory compliance date is corrected to read "June 22, 1999".

Dated: May 19, 1998.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 98–13896 Filed 5–22–98; 8:45 am]

BILLING CODE 4510–43–P

POSTAL SERVICE

39 CFR Part 3

Amendments to Bylaws of the Board of Governors Concerning Establishment of Special Rate of Postage Under the Stamp Out Breast Cancer Act

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Board of Governors of the United States Postal Service has approved an amendment to its bylaws. The amendment reserves to the Governors responsibility to set the special rate of postage for special postage stamps pursuant to 39 U.S.C. § 414.

DATES: Effective: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Koerber, (202) 268–4800.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Postal Service consists of nine Presidentially appointed Governors, and the Postmaster General and Deputy Postmaster General. 39 U.S.C. § 202. The bylaws of the Board list certain matters reserved for action by the Governors alone. 39 CFR § 3.4. At its meeting on April 6, 1998, the Board approved a conforming amendment to this bylaw.

The amendment gives effect to 39 U.S.C. § 414, as enacted by the Stamp Out Breast Cancer Act, Pub. L. No. 105–41, 111 Stat. 1119 (1997). Section 414 provides that the Postal Service make available a special postage stamp offered at a special rate of First-Class Mail postage to enable the public to make contributions to fund breast cancer research. The rate of postage for the special postage stamp is the First-Class Mail single-piece rate, currently 32 cents, plus a markup not to exceed 25 percent of that rate category. Subsection (b)(2) of section 414 vests the Governors of the Postal Service with authority to establish the special rate of postage for the special postage stamp "in accordance with such procedures as the Governors shall by regulation prescribe."

In accordance with section 414, the Board amended § 3.4 of the bylaws to insert a new paragraph (i), reserving to the Governors authority to establish the special rate of postage.

List of Subjects in 39 CFR Part 3

Administrative practice and procedure, Organization and functions (Government agencies), Postal service.

Accordingly, 39 CFR Part 3 is amended as follows:

PART 3—[AMENDED]

1. The authority citation for part 3 is amended to read as follows:

Authority: 39 U.S.C. 202, 203, 205, 401 (2), (10), 402, 414, 1003, 2802–2804, 3013; 5 U.S.C. 552b (g), (j); Inspector General Act, 5 U.S.C. app.

2. Section 3.4 is amended by republishing the introductory text and adding new paragraph (i) at the end of that section to read as follows:

§ 3.4—Matters reserved for decision by the Governors.

The following matters are reserved for decision by the Governors:

* * * * *

(i) Establishment of rates of postage for special postage stamps, 39 U.S.C. § 414.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–13807 Filed 5–22–98; 8:45 am]

BILLING CODE 7710–12–P

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–267; FCC 98–69]

Implementation of the AM Expanded Band Allotment Plan

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In *Implementation of the AM Expanded Band Allotment Plan*, FCC 98–69, the Federal Communications Commission denied two petitions for reconsideration filed by Press Broadcasting, Co. ("Press") and Kovas Communications, Inc. ("Kovas"). The Commission found that the issues raised by Press had been previously considered and rejected, and that the reconsideration filed by Kovas was without merit. The intended effect of this action is to affirm the Commission's previous order and the previously reissued Expanded Band Allotment Plan.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle, Audio Services Division, Mass Media Bureau, (202) 418–2720.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket No. 87–267, adopted on April 14, 1998 and released on April 28, 1998. The full text of the *Implementation of the AM Expanded Band Allotment Plan*, FCC 98–69 is available for inspection and copying during normal business hours in the FCC Public Reference Room, Room 239, 1919 M Street, NW, Washington, D.C. (See MM Docket 87–267). The complete text of this order may also be purchased from the Commission's copy contractor, International Transcription Service (ITS), 1231 20th Street, NW, Washington, D.C., (202) 857–3800 (phone), (202) 857–3805 (facsimile). Synopsis of MO&O: In *Implementation of the AM Expanded Band Allotment Plan*, FCC 97–68, 62 FR 23176, April 29, 1997 ("Order III"), the Commission rescinded the second allotment plan, modified the frequency preclusion and allotment programs, and clarified the harmonic interference standard used in the frequency preclusion program. The Commission also reaffirmed the five-year transition period for dual frequency operations. Press's request for reconsideration sought to have the five year transition period reduced to a six-month period. The Commission noted that the issues raised by Press had been previously considered and rejected, and found Press's request unwarranted. The Commission also denied Kovas's challenge to the second harmonic interference protection standard and the staff's determination that Kovas was ineligible to receive an Expanded Band Allotment. The Commission found that Kovas failed to identify factors warranting reconsideration of the second harmonic standard. It also found that Kovas's analysis of the allotment plan was incorrect and the argument regarding its ineligibility to receive an allotment was without merit.

Procedural Matters

As required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604 ("RFA"), a Final Regulatory Flexibility Analysis ("FRFA") was incorporated into the *Implementation of the AM Expanded Band Allotment Plan*, FCC 97–68. The Petitions for Reconsideration filed in response to *Implementation of the AM Expanded Band Allotment Plan*, FCC 97–68, did not raise questions about FRFA. Based on the determination not to further amend the rules, no further Regulatory Flexibility Analysis is necessary.

List of Subjects in 47 CFR Part 73

Expanded band allotment plan, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13912 Filed 5–22–98; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF DEFENSE

48 CFR Part 252

Solicitation Provisions and Contract Clauses

CFR Correction

In title 48 of the Code of Federal Regulations, chapter 2, parts 201 to 299, revised as of October 1, 1997, on page 440, section 252.223–7004 was inadvertently reserved, the omitted text should read as follows:

252.223–7004 Drug-Free Work Force.

As prescribed in 223.570–4, use the following clause:

Drug-Free Work Force (Sep. 1988)

(a) *Definitions.* (1) *Employee in a sensitive position*, as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) *Illegal drugs*, as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, the efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing—

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally.

Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

[57 FR 32737, July 23, 1992]

BILLING CODE 1505-01-D

VOL 63 ISS 100 MAY 26 1998 UMI

Proposed Rules

Federal Register
Vol. 63, No. 100
Tuesday, May 26, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 735

RIN 0560–AF13

Amendment to Cotton Warehouse Regulations for the Purpose of Defining "Unnecessary Delay"

AGENCY: Farm Service Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Farm Service Agency (FSA) of the United States Department of Agriculture (USDA) gives notice that, as a result of two Federal District Court Orders and the cotton industry's continued encouragement, it is presently contemplating the issuance of a proposed rule that would address the statutory phrase "without unnecessary delay" contained in sections 17 and 21 of the United States Warehouse Act (USWA) (7 U.S.C. 259 and 262). In developing the proposed rule, FSA would consider all distinct options that would satisfy and complement the cotton industry's diverse segments in forging a national weekly minimum cotton flow standard. FSA requests comments and suggestions from the public on the issues and alternatives that would be addressed in developing such a proposal, including, but not limited to those issues specifically mentioned in this notice. Upon receipt and review of all comments timely received in response to this advance notice of proposed rulemaking, FSA will develop a proposed rule regarding the implementation and administration of a national cotton flow standard, which provides yet another opportunity for the public to comment before the USDA would implement a final cotton flow standard.

DATES: Comments should be submitted on or before July 27, 1998 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this advance notice of proposed rulemaking to: Steve Gill, Director, Warehouse and Inventory Division, U.S. Department of Agriculture, Farm Service Agency, Stop 0553, 1400 Independence Avenue, SW, Washington, DC 20250–0553; telephone (202) 720-2121; fax (202) 690–3123; also E-mail comments may be sent to: HELEN__LINDEN@wdc.fsa.usda.gov. Additionally, comments may be sent via the Internet through the National Cotton Flow's (NCF) homepage at: http://www.fsa.usda.gov/ncf.

All written comments received in response to this advance notice will be available for public inspection in Room 5968, South Agriculture Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Steve Mikkelsen, Deputy Director, Warehouse and Inventory Division, U.S. Department of Agriculture, Farm Service Agency, Stop 0553, 1400 Independence Avenue, SW, Washington, DC 20250–0553; telephone (202) 720–2121, fax (202) 690–3123.

Background

Since the early 1960's, the timely delivery of stored cotton has been an issue throughout the cotton industry. While cotton shippers and cotton merchants required timely delivery to meet the demands of the marketplace, warehousemen contended that the delivery demands placed on them by shippers and merchants were unreasonable and exceeded warehouse capabilities. Over the last 30 years, the cotton industry has made two valid attempts to address the cotton flow issue, and in 1969, USDA issued a proposed rule concerning cotton flow for warehouses licensed under the USWA. Comments received in response to that proposed rule discouraged USDA from implementing a cotton flow standard through its regulatory process and, as a result, a final rule was never issued. Continued discussions throughout the various segments of the cotton industry also have failed to bring about an endorsement of a single standard that was acceptable throughout the cotton industry.

During the 1995/96 cotton season, the Coalition for Cotton Flow Standards (CCFS), an organization created by the National Cotton Council (NCC) with the approval of all segments of the cotton industry, instituted a one-year voluntary cotton flow standard. Initially, this standard appeared acceptable to all segments of the cotton industry. The voluntary standard (1) contained weekly minimum flow requirements for warehousemen; (2) levied penalties for nonperformance by either the warehouseman or shipper; and (3) incorporated an arbitration system to settle disputes that arose over cotton flow issues. Approximately 90 percent of all cotton shippers and 52 percent of all cotton warehousemen agreed to comply with this voluntary, one-year standard. However, many warehousemen agreed to abide by the standard only if at least 90 percent of all cotton shippers and warehousemen also agreed to comply.

When shipment delays began to occur during the 1995/96 crop year, rather than exercising the arbitration rights incorporated in the voluntary standard implemented by the CCFS, several cotton shippers filed complaints with FSA. These shippers requested FSA to investigate the cotton flow situation, and suspend the federal license of those warehouses that had not delivered cotton without unnecessary delay pursuant to the USWA.

FSA personnel contacted and made several on-site visits to warehouses about which FSA had received complaints. FSA reached no ultimate conclusion, but the findings suggested that the unacceptable delays experienced by the cotton shippers and merchants may have been due, in part, to the lack of a standard method for requesting services and a lack of uniform definitions for common terms used to request these services throughout the cotton industry. For example, it appears that shippers and warehousemen begin recording time from different starting points, and there may be several days difference between a shipper's "request date" and warehouseman's "confirm date." The lack of a standard method for requesting services and of uniform common terms may have led to an appearance of a longer delivery delay than actually existed.

In addition to filing complaints with FSA, several shippers also filed lawsuits in United States District Court against

two cotton warehousemen, alleging that these warehousemen were delaying cotton deliveries to increase storage earnings. In each of these cases, lack of determination by USDA in the use and meaning of the USWA statutory phrase "without unnecessary delay" was a key issue for the courts. Ultimately, the shippers elected to dismiss their suits after the warehousemen agreed to join them in requesting that the cases be remanded to USDA to determine the definition of the statutory phrase "without unnecessary delay." The Courts agreed and remanded the matter of defining "without unnecessary delay" to USDA.

In June 1997, the Cotton Warehouse Association of America (CWAA) and the American Cotton Service Warehouse Association (ACSWA) reached an unprecedented mutual agreement for a cotton flow standard that would expedite the shipment of U.S. cotton into marketing trade channels and enhance the prices received by producers while reducing the cost of handling cotton. These two associations, along with the American Cotton Shippers Association (ACSA) and textile mill segments, petitioned USDA requesting that FSA facilitate the needs of the entire cotton industry through an expeditious establishment and implementation of a uniform cotton flow standard. These associations recommended to USDA that a weekly minimum flow standard should be as follows:

Except when prevented from doing so by Act of God or force majeure, a mandatory, non-cumulative, weekly minimum standard for bales to be shipped or made ready for scheduled delivery that week would be not less than 4.5% of CCC licensed capacity of a warehouse in effect during the week of shipment.

As a result of these events, USDA has decided to define, through the rulemaking process, the statutory phrase "without unnecessary delay" and establish a weekly minimum cotton flow standard that would be national in scope.

Using the USWA as the Tool for Implementing the Cotton Flow Standard

Section 21 of the USWA (7 U.S.C. 262) mandates that federally licensed warehousemen, "in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made by either the holder * * * or depositor. * * *" In addition, section 17 of the USWA (7 U.S.C. 259) mandates that all non-federally licensed warehousemen who issue electronic warehouse receipts, "in the absence of a lawful excuse, shall, without unnecessary delay, deliver the cotton stored in the warehouse on demand made by the person named in the record in the central filing system as holder of the receipt."

USDA believes that the standard should be based on the USWA rather than the Cotton Storage Agreement (CSA). For the 1997 crop, more than 15.5 million bales of cotton were receipted with electronic warehouse receipts under the USWA through its federally licensed warehouse system and its approved electronic receipt providers that service non-federally licensed warehousemen, shippers, merchants, receipt holders, and other segments of the cotton industry. This represented more than 80 percent of the total 1997 cotton production. In contrast, less than 20 percent of the 1997 cotton production was associated with CCC's Cotton Storage Agreement (CSA) during this period. In addition, a standard based on the CSA would apply only to CCC-owned or loan bales and not to another storage bale, warehouse, or industry segment. Given CSA's applicability to CCC-interest cotton only, USDA perceives that the USWA's influence would embody the bulk of cotton handled and merchandised.

General Provision and Options

FSA is seeking comments from the public regarding a weekly minimum cotton flow standard that would address the statutory phrase "without unnecessary delay." While the public is free to comment on all aspects of this notice, two options for administering the cotton flow standard are being presented in this notice. The two options differ in the level of USDA involvement in ensuring compliance with the standard and in regulating the cotton industry regarding the standard.

FSA is considering the following cotton flow standard that would apply to the statutory phrase "without unnecessary delay." For the purpose of this advance notice of proposed rulemaking, this standard would be applicable to both options:

Cotton Flow Standard

Except when prevented from doing so by force majeure, a mandatory, non-cumulative, weekly minimum shipping standard for bales delivered or staged for a scheduled delivery during that week shall be not less than 4.5% of the licensed or approved storage capacity of a warehouse in effect during the week of shipment, or as determined by the Secretary.

Option I. Under Option I, USDA would establish a cotton flow standard to address the statutory phrase "without unnecessary delay", but would have minimal involvement in administering and ensuring compliance with the established standard. Option I would include provisions for private non-governmental dispute resolution and would define USDA's limited regulatory role in administering the cotton flow standard.

(a) *Cotton Flow Standard.* As stated above.

(b) *Dispute Resolution.* Unresolved claims for noncompliance with the national cotton flow standard would be resolved through arbitration administered by the cotton industry.

(1) *Arbitration.*

(i) Disputes between warehousemen, merchants, receipt holders, and shippers, who are members of the same trade association with an established arbitration system, would resolve their disputes through that association.

(ii) Parties that are members of different trade associations each with established arbitration systems would mutually negotiate about which association's arbitration system would be utilized. No split arbitrations would be allowed, only one association's arbitration system could be used.

(iii) When the parties cannot mutually agree upon, which association's arbitration system to utilize in resolving the dispute, they would enter into a contract a with private arbitrator adhering to the American Arbitration Association's (AAA) Standards and Procedures.

(iv) Private arbitrators following AAA's Standards and Procedures would resolve those disputes between parties belonging to trade associations without an established arbitration system, or who are not members of any trade association, and/or with a party who is a member of a trade association with an established arbitration system when the other party does not agree to use that association's arbitration system.

(v) The noncomplying party would be responsible for all costs and expenses associated with the arbitration.

(c) *USDA's Regulatory Role.*

(1) USDA would not hear complaints or settle unresolved disputes between a shipper and a warehouseman involving a national cotton flow standard violation or associated damages.

(2) No arbitrator's rendered determination or award would affect, obligate, or restrict USDA's authority to administer and regulate the issuance of USWA licenses, USWA receipts, contractual agreements, or the electronic warehouse receipt provider system.

Option II. Under Option II, USDA would establish a cotton flow standard to address the statutory phrase "without

unnecessary delay" and would be involved in the daily administration of the cotton flow standard. Option II includes regulatory definitions and procedures for the timely delivery and acceptance of cotton that are applicable to cotton flow standard compliance determination, dispute resolution, and reporting requirements.

(a) *Definitions and Terms.* The definitions and terms stated in this section are applicable for the purposes of administering the regulation under Option II. The following definitions are proposed. The public is free to comment on these definitions, including their inclusion or exclusion in the regulation:

(1) *Confirmed Shipment Date.* A warehouseman's scheduled delivery date for a specific bale, confirmed in writing or by any other rapid written communication method physically notifying the receipt holder.

(2) *Delivery.* A warehouseman's physical act placing a scheduled bale in some type of conveyance or otherwise making the bale available according to the receipt holder's instructions.

(3) *Force majeure.* Severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military authority, non-availability of transportation facilities, or any other cause beyond the control of the warehouseman or receipt holder, which renders performance impossible.

(4) *Scheduled Bales.* Specific bales that a warehouseman schedules with written confirmation for delivery on a specified date.

(5) *Shipping Order.* A warehouseman's unique document that identifies and confirms each specific bale scheduled for delivery and references a receipt holder's original delivery request.

(6) *Timely Delivery.* An act by which a warehouseman makes available to the receipt holder a scheduled bale on or before the "confirmed shipment date", or within fourteen (14) calendar days after receiving the receipt holder's written delivery request.

(7) *Timely Acceptance.* An act by which a receipt holder takes possession and removes scheduled bales from a warehouse on or before the "confirmed shipment date."

(8) *Unnecessary Delay.* A receipt holder's failure to take "timely acceptance" or a warehouseman's failure to make "timely delivery" of a scheduled bale on or before the "confirmed shipment date" in absence of force majeure. Also, a warehouseman's failure to meet or exceed the weekly minimum cotton flow standard.

(9) *Week.* Seven (7) consecutive calendar days, beginning 12:00 a.m. Saturday morning and ending 11:59 p.m. Friday night, or as determined by the Secretary.

(b) *Cotton Flow Standard.* As stated above.

(c) *Delivery of Cotton from Storage.*

(1) The Secretary expects cotton warehousemen who issue electronic warehouse receipts and/or who are USWA licensed to schedule delivery as close as possible to a receipt holder's requested delivery date for cotton stored in their warehouse.

(2) Warehouseman must schedule delivery of all bales at the request of the receipt holder.

(3) A scheduled bale not delivered during any week would be the first bale delivered the following week. When delivered, this bale would count towards the weekly minimum cotton flow standard during the week delivered.

(4) Each individual bale within a non-segregated lot, that a warehouseman receives, stores, and redelivers under a multiple bale warehouse receipt, such bales would count toward the weekly minimum cotton flow standard upon delivery.

(5) When a warehouseman receives, stores, and redelivers bales as an unbroken non-segregated lot, without receipting them under a multiple bale or as a single warehouse receipt(s), such bales would not count toward the weekly minimum cotton flow standard upon delivery.

(6) In the absence of force majeure, warehousemen that fail to "timely deliver" scheduled bales and receipt holders that fail to "timely accept" scheduled cotton will be deemed as not complying with the weekly minimum cotton flow standard.

(d) *Dispute Resolution.* Unresolved claims for noncompliance with the national cotton flow standard would be first resolved by mediation and finally by arbitration.

(1) *Mediation.* Disputes in which one or more of the affected parties belong to a trade association(s) without an established arbitration system, or who are not members of any trade association, or who are members of separate associations and cannot agree on which association's arbitration system to utilize, would be resolved through the following alternative dispute resolution process:

(i) The parties would, in good faith, attempt to resolve the dispute through a mediation process administered by an independent mediator recommended by AAA and conducted in accordance with current AAA Mediation Rules and Procedures before resorting to binding arbitration.

(ii) The parties would faithfully observe all applicable AAA rules, procedures, and abide by and execute any agreement or determination recommended by the mediator.

(iii) When good faith mediation fails to resolve the dispute, both parties would submit their dispute to binding arbitration administered by an independent arbitrator recommended by AAA.

(2) *Arbitration.*

(i) Disputes between warehousemen, merchants, receipt holders, and shippers, who are members of the same trade association with an established arbitration system, would resolve their disputes through that association.

(ii) The parties would mutually negotiate about which association's arbitration system would be utilized, when the parties are members of different trade associations with established arbitration systems. No split arbitrations would be allowed, only one association's can be used.

(iii) When parties cannot mutually agree, which association's arbitration system to utilize in resolving the dispute, they would enter into a contract with private arbitrators adhering to AAA's standards and procedures.

(iv) Private arbitrators who follow AAA's standards and procedures would resolve those disputes between parties who belong to trade associations without an established arbitration system, or who are not members of any trade association, and/or with a party who is a member of a trade association with an established arbitration system when the other party does not agree to use that association's arbitration system.

(v) In the event a party refuses to submit to arbitration or fails to abide by any determination or award rendered by the arbitrators, the party desiring arbitration or enforcement of the determination or award may notify USDA of the party's unwillingness to resolve a cotton flow standard dispute or comply with an arbitrator's rendered determination or award.

(vi) The noncomplying party would be responsible for all costs and expenses associated with the arbitration and any costs incurred by USDA.

(vii) Any controversy or claim arising from or related to the arbitrator's rendered determination or award may be enforced by any federal or state court having jurisdiction thereof.

(e) *USDA's Regulatory Role.*

(1) USDA would not hear complaints or settle unresolved disputes between a shipper and a warehouseman involving

a national cotton flow standard violation or associated damages.

(2) No arbitrator's rendered determination or award would affect, obligate, or restrict USDA's authority to administer and regulate the issuance of USWA licenses, USWA receipts, contractual agreements, or the electronic warehouse receipt provider system.

(3) Under the authority of the USWA and its regulations, USDA may independently administer all regulatory actions, arbitration proceeding determinations, and rendered awards when such action is necessary for the effective administration of the national cotton flow standard.

(4) USDA will require USWA licensed warehousemen and non-federally licensed warehousemen, receipt holders, and shippers who utilize the electronic warehouse receipt system to:

(i) Meet the weekly minimum cotton flow standard.

(ii) "Timely deliver" and "timely accept" scheduled bales.

(5) USDA would reserve the right to take action against the noncomplying party, including:

(i) Suspension or termination of licenses issued in accordance with the USWA.

(ii) Suspension or termination of access to the electronic receipt provider system.

(f) *Program Operations and Maintenance.* Congress requires USDA to collect sufficient fees for the operation and maintenance of all USWA related operations. USDA is considering funding the cost of administering a national cotton flow standard through an assessment on each bale of cotton.

(1) Warehousemen would collect an assessment on each individually receipted bale and each individual bale represented by a multiple bale receipt that is delivered or redelivered for shipment.

(2) The assessment would be collected along with other warehouseman's tariff charges in the final settlement of each shipping order.

(3) The warehouseman would forward the collected assessments to USDA quarterly.

(g) *Reports and Reporting.* Each week, warehousemen would electronically transmit a report to USDA that would be comprised of warehouse information that the cotton industry considers essential for improving global marketing opportunities, enhancing cotton values, and encouraging timely delivery and acceptance of stored cotton. USDA would collectively merge this information into a "National Cotton Flow Standard Status Report" that USDA would publish electronically on the Internet.

Comments

The information collected in response to this advance notice of proposed rulemaking will be used to determine the cotton industry's overall needs regarding a "National Cotton Flow Standard". Appendix I provides interested parties an opportunity to respond to specific questions on the issue of a national cotton flow standard. Respondents may simply cut out or duplicate the stated issues/questions furnished in Appendix I of this notice. Respondents may submit their comments to the address shown above. Respondents may also access these same issues/questions and submit comments via the Internet through the NCF homepage address at: http://www.fsa.usda.gov/ncf.

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APPENDIX I

National Cotton Flow Standard

Issues/Questions

The Farm Service Agency (FSA) is requesting comments on the following issues:

1. ❑ Agree ❑ Disagree The cotton industry needs a "National Cotton Flow Standard."

2. ❑ Agree ❑ Disagree FSA is the agency to administer a "National Weekly Minimum Cotton Flow Standard" for the cotton industry. If not FSA, I recommend _____.

3. ❑ Agree ❑ Disagree The proposed cotton flow standard of 4.5% of a warehouseman's licensed or approved storage capacity is reasonable. If 4.5% is not reasonable, I recommend _____ percentage.

4. ❑ Agree ❑ Disagree USDA should define and standardize certain terms used within the cotton industry.

5. ❑ Agree ❑ Disagree "Timely delivery" is best defined as the act or process by which the warehouseman presents or makes available scheduled bales to the receipt holder or shipper on or before the "confirmed shipment date", or within the fourteen (14) calendar days following date the warehouseman receives the receipt holder or shippers

written request for delivery or shipment. If 14 days is not reasonable, I would recommend _____ days.

6. ❑ Agree ❑ Disagree An "alternative dispute resolution system" such as arbitration should be used to resolve unsettled claims regarding cotton flow and untimely delivery or acceptance.

7. ❑ Agree ❑ Disagree The resolution system should be binding with no appeal.

8. ❑ Agree ❑ Disagree The resolution system should allow discovery by opposing parties.

9. ❑ Agree ❑ Disagree The entire cost and related expenses of using the dispute resolution system should be paid by the losing party.

10. ❑ Agree ❑ Disagree Rendered determinations and awards that result from the resolution system should be made public record or published, by

_____.

11. ❑ Agree ❑ Disagree Because Congress requires USDA to collect sufficient fees to cover expenses related to USWA operations, USDA is considering requiring warehousemen to collect an assessment on each bale of cotton shipped, which would then be forwarded to USDA. If you disagree, who should fund the cost associated with the national cotton flow standard? _____

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12. ❑ Agree ❑ Disagree There should be a National Cotton Flow Standard Status Report that summarizes the shipping activities of all warehousemen and shippers.

13. ❑ Agree ❑ Disagree USDA should be responsible for a National Cotton Flow Standard Status Report. If not USDA, I would recommend _____.

14. ❑ Agree ❑ Disagree A National Cotton Flow Standard Status Report should be published and made available on the Internet.

15. ❑ Agree ❑ Disagree A National Cotton Flow Standard Status Report should contain only warehouse information that the cotton industry considers essential for overall improvement of cotton values and marketing. If you agree, what information should be published and made available on the report?

_____

_____

_____

_____

_____

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Alternative suggestions, ideas and comments will be considered fully. When providing comments regarding this advance notice of proposed rulemaking, the respondent should provide the FSA with a complete description of the details of the alternative method or issue, along with supporting data.

Signed at Washington, D.C., on May 19, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–13819 Filed 5–22–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No. EH–RM–96–835]

RIN 1901–AA59

Occupational Radiation Protection

AGENCY: Department of Energy.

ACTION: Proposed rule; Notice of Paperwork Reduction Act Submission and comment request.

SUMMARY: On December 23, 1996, the Department of Energy (DOE or Department) published a notice of proposed rulemaking to amend the Department's primary standards for occupational radiation protection during the conduct of DOE activities. This notice advises the public that DOE has submitted for review a Paperwork Reduction Act Submission for the proposed rule to the Office of Management and Budget (OMB) for review and invites interested persons to submit written comments and recommendations to OMB concerning the proposed collection of information.

DATES: Written comments and recommendations for the proposed collections of information must be mailed by June 25, 1998 directly to the OMB desk officer at the address below. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be contacted at telephone number (202) 395–3084.

ADDRESSES: Comments should be addressed to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20503. (Persons submitting comments to OMB also are requested to send a copy to Dr. Joel Rabovsky, U.S. Department of Energy, EH–52, "EH-RM–96–835 Rulemaking," 1000 Independence Avenue, S.W., Washington, D.C. 20585.)

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Department's Paperwork Reduction Act Submission and other information should be directed to Dr. Joel Rabovsky, U.S. Department of Energy, Office of Worker Protection Programs and Hazards Management, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (301) 903–2135.

SUPPLEMENTARY INFORMATION: DOE has submitted a Paperwork Reduction Act Submission for a proposed rule on occupational radiation protection to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995. The proposed rule was published in the **Federal Register** on December 23, 1996 (61 FR 67600). This notice invites interested persons to submit written comments and recommendations to OMB concerning the proposed collections of information described below. Comments should address: (1) whether the proposed collections of information are necessary for the proper performance of the functions of DOE, including whether the information shall have practical utility; (2) the accuracy of the Department's burden estimates, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 1910–xxxx.

Title: Occupational Radiation Protection.

Abstract: Under section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), DOE is authorized to adopt rules governing DOE activities undertaken in the performance of its functions. Part 835 of title 10 CFR establishes radiation protection limits and controls to protect DOE employees, contractor and subcontractor employees, and visiting workers who use DOE facilities from occupational exposure to radiation or radioactive materials. Part 835 contains the following information collection requirements, all of which would be modified by the Department's December 23, 1996, rulemaking proposal:

1. *Radiation Protection Program Submissions.* Part 835 requires contractors performing DOE activities to prepare and submit a radiation protection program (RPP) to DOE for approval, and to submit updates of the RPP to DOE for approval. 10 CFR § 835.101.

2. *Recordkeeping requirements.* Part 835 requires contractors to keep individual monitoring records (§ 835.702); certain workplace monitoring records (§ 835.703); training and other administrative records (§ 835.704); records of release of materials and equipment from radiological areas (§ 835.1101); and records of planned special exposures to radiation (§ 835.204).

3. *Reporting requirements.* Part 835 requires contractors to provide radiation dose reports to monitored individuals and to report other information to individuals upon termination of employment and on other occasions. 10 CFR § 835.801.

Need and Uses: The information that part 835 requires DOE major facilities management contractors to produce, maintain and/or report are necessary to permit the Department to manage and oversee health and safety programs that control worker (i.e., DOE employees, contractor and sub-contractor employees, and visiting workers) exposure to radiation.

Frequency: (1) The initial RPP Submission is a one-time requirement; updates are required on occasion; (2) recordkeeping requirements include planned special exposure records from time to time, as well as individual and workplace monitoring records; (3) reporting of radiation doses to monitored individuals is required annually; other information is reported to individuals upon termination of employment and on other occasions.

Number of Respondents: 50. This number reflects the number of radiation protection programs for part 835 implemented to date.

Estimated Annual Burden: 50,000 hrs. This burden estimate consists of DOE's estimates of the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose information to or for DOE. In developing these burden estimates, DOE has estimated the total cost of complying with the information collection requirements in 10 CFR 835.

Issued in Washington, DC, on May 8, 1998.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 98–13849 Filed 5–22–98; 8:45 am]

BILLING CODE 6450–01–P

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 62, 70, and 71

Health Standards for Occupational Noise Exposure in Coal, Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; Notice of preliminary determination of no significant environmental impact; request for comments; limited reopening of rulemaking record.

SUMMARY: This notice announces the preliminary determination by the Mine Safety and Health Administration (MSHA) that the proposed rule for occupational noise exposure in coal, metal and nonmetal mines will have no significant environmental impact. MSHA is reopening the rulemaking record for the limited purpose of receiving comment on its preliminary determination.

DATES: Submit written comments on or before June 25, 1998.

ADDRESSES: Comments may be transmitted by electronic mail, fax or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address: comments@msha.gov. Comments by fax must be clearly identified as such and sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, 703–235–5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Interested persons are encouraged to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, 703–235–1910.

SUPPLEMENTARY INFORMATION: On December 17, 1996, MSHA published a proposed rule in the **Federal Register** (61 FR 66348) revising its health standards for occupational noise exposure in coal, metal and nonmetal mines. The Agency concluded that the existing rules are inadequate to prevent the occurrence of occupational noise-induced hearing loss among miners (NIHL).

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et. seq.), requires each Federal agency to consider the environmental effects of proposed actions and to prepare an Environmental Impact Statement on major actions significantly affecting the quality of the human environment. MSHA has reviewed the proposed standard in accordance with the requirements of the NEPA, the regulation of the Council on Environmental Quality (40 CFR Part 1500), and the Department of Labor's NEPA procedures (29 CFR Part 11). As a result of this review, MSHA has preliminarily determined that this proposed standard will have no significant environmental impact.

Commenters are encouraged to submit their comments on this determination on or before June 25, 1998.

Dated: May 19, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 98–13895 Filed 5–22–98; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 216, 223, 229, 231, 232, and 238

[FRA Docket No. PCSS–1, Notice No. 4]

RIN 2130–AA95

Passenger Equipment Safety Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Entries in the Docket.

SUMMARY: FRA is issuing this notice to inform all interested parties that written comments and other documents specifically addressing issues related to the Notice of Proposed Rulemaking (NPRM) on Passenger Equipment Safety Standards have recently been placed in the public docket for the rulemaking. These recent entries in the docket are available for public examination.

ADDRESSES: The public docket for the rulemaking is available for examination during regular business hours in FRA's Office of Chief Counsel, Seventh Floor, 1120 Vermont Avenue, N.W., Washington, D.C. Written comments concerning the rulemaking should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Daniel Alpert, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3186); or Thomas Herrmann, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3178).

SUPPLEMENTARY INFORMATION: On September 23, 1997, FRA published an NPRM on Passenger Equipment Safety Standards in the **Federal Register**. See 62 FR 49728. The proposed rule contained requirements concerning equipment design and performance criteria related to passenger and crew survivability in the event of a passenger train accident; the inspection, testing, and maintenance of passenger equipment; and the safe operation of passenger train service. The proposed rule was designed to address the safety of passenger train service in an environment where technology is advancing, and equipment is being designed for operation at higher speeds. The NPRM sought to amend existing regulations concerning special notice for repairs, safety glazing, locomotive safety, safety appliances, and railroad power brakes as applied to passenger equipment.

The NPRM stated that written comments on the rulemaking had to be received on or before November 24, 1997, and that written comments received after that date would be considered by FRA and the Passenger Equipment Safety Standards Working Group to the extent possible without incurring substantial additional expense or delay. The NPRM also stated that the docket would remain open until the proceedings of the Working Group concluded. The Working Group concluded its meetings on January 6, 1998.

Subsequent to the formal close of the comment period, various entries have been made in the docket, many of which have been available for public examination for some time. However, due to the length of time that has passed since the formal close of the comment period and the completion of the Working Group meetings, FRA would like to notify all interested parties of the following recent entries in the docket:

- Minutes of the Passenger Equipment Safety Standards Working Group meeting held on December 15–16, 1997.
- Minutes of the Passenger Equipment Safety Standards Working Group meeting held on January 6, 1998.
- A letter dated April 2, 1998 from William W. Millar, President, American

Public Transit Association, to Jolene M. Molitoris, Administrator, FRA.

• A letter dated April 17, [1998] and attached documents from G. P. Binns, General Manager, Mechanical Standards and Compliance, National Railroad Passenger Corporation, to Grady C. Cothen, Jr., Deputy Associate Administrator for Safety, Federal Railroad Administration.

• Documents dated April 24, 1998 from the National Railroad Passenger Corporation.

The items noted above—and all other information contained in the public docket for the rulemaking—are available for examination during regular business hours in FRA's Office of Chief Counsel, Seventh Floor, 1120 Vermont Avenue, N.W., Washington, D.C.

Issued in Washington, D.C., on May 19, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–13911 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–06–P

Notices

Federal Register
Vol. 63, No. 100
Tuesday, May 26, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: June 4, 1998.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed. Open: 1:30 p.m.

MATTERS TO BE CONSIDERED:

Closed Meeting:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

Open Meeting:

1. Discussion Final Report
2. Review and Accept Minutes of May 12 Open Meeting
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

General Counsel.

[FR Doc. 98–13976 Filed 5–21–98; 12:41 pm]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Manufacturing Extension Partnership (MEP) National Advisory Board, National Institute of Standards and Technology (NIST), will meet to hold a meeting on Thursday, May 28, 1998. The Manufacturing Extension Partnership National Advisory Board is composed of 9 members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was set up under the direction of the Director of the National Institute of Standards and Technology to fill a need for outside input and advice for MEP, a unique program consisting of centers in all 50 states and Puerto Rico which are created by a state, federal and local partnership. The Board works closely with the Manufacturing Extension Partnership to provide input and advice on MEP's programs, plans and policies. The purpose of this meeting is to delve into areas the Board selected at the previous meeting. On May 28, 1998, the agenda for the meeting of the Board will include an MEP overview, program impacts as a result of the federal investment, the importance of center assessments on companies, and the status of system-wide programs and services.

DATES: The meeting will convene on May 28, 1998 at 8:30 p.m. and will adjourn at 4:00 p.m.

ADDRESSES: the meeting will be held in Building 101, Lecture Room A (seating capacity 50, includes 15 participants), at NIST, Gaithersburg, Maryland.

SUPPLEMENTARY INFORMATION: MEP services to smaller manufacturers address the needs of the national market as well as the unique needs of each company. Since MEP is committed to providing this type of individualized service through its centers, the program requires the perspective of locally-based experts to be incorporated into its national plans. The MEP National Advisory Board was set up at the direction of the Director of the National Institute of Standards and Technology to maintain MEP's focus on local and market based needs. The MEP National Advisory Board was approved on October 24, 1996, in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2., to provide advice on MEP programs, plans, and policies; assess soundness of MEP plans and strategies; assess current performance against MEP program plans, and function in an advisory capacity. The Board will meet three times a year and reports to the Director of NIST. This will be the second meeting of the members in 1998.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Assistant to the Director for Policy, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975–5033.

Dated: May 20, 1998.

Robert E. Hebner,

Acting Deputy Director, NIST.

[FR Doc. 98–13882 Filed 5–22–98; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Threat Reduction Advisory Committee (TRAC)

ACTION: Notice of Establishment.

SUMMARY: That Threat Reduction Advisory is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the "Federal Advisory Committee Act," Title 5 U.S.C., Appendix 2.

This advisory committee will provide advice and recommendations to the Secretary of Defense and Deputy Secretary of Defense regarding the Defense Reform Initiative directed formation of the Defense Threat Reduction Agency (DTRA). DTRA will be a consolidation of the Defense Special Weapons Agency, the On-Site Inspection Agency, the Defense Technical Security Agency and selected elements from the Office of the Secretary of Defense. Once this agency is established, the TRAC will advise the Director, DTRA with respect to Technology Security, Counterproliferation, Chemical and Biological Defense, Sustainment of the Nuclear Weapons Stockpile and other matters related to the new agency's mission.

The TRAC will consist of a balanced membership of approximately eighteen noted technical and defense security experts from outside the federal government with varied experience and diverse interests, appointment by the Secretary of Defense.

FOR FURTHER INFORMATION CONTACT: Jennifer Spaeth, (703) 695–4281.

Dated: May 19, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–13805 Filed 5–22–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision on the Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of the Seneca Army Depot Activity, New York

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces its Record of Decision (ROD) on the Final Environmental Impact Statement (FEIS) for the disposal and reuse of the 10,594 acres comprising the Seneca Army Depot Activity (SEDA), in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. The establishment of an enclave as directed by the BRAC Commission would require the Army's retention of 30 acres to be used for storage of hazardous materials and ores.

In the ROD, the Army concludes that the FEIS adequately addresses the impacts of property disposal and documents its decision to transfer the property as encumbered. The ROD concludes that the surplus property will be conveyed subject to restrictions, identified in the FEIS, that relate to the following: historical resources, remedial activities, access easement, wetlands, groundwater use, lead-based paint, asbestos-containing material, easements and rights-of-way, and unexploded ordnance. The Army will impose deed restrictions or other requirements to ensure safety and protection of human health and the environment. The Army has taken all practicable measures to avoid or minimize environmental harm associated with its preferred alternative of encumbered property disposal. The Army will continue to work with individual future owners to avoid, reduce, or compensate for adverse impacts that might occur as a result of disposal. Mitigation measures for reuse activities are identified in the FEIS.

ADDRESSES: A copy of the ROD may be obtained by writing to Ms. Shirley Barnett, U.S. Army Materiel Command, ATTN: AMCSO, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001 or by calling (703) 617–8172. Copies of the Final EIS may be obtained by writing to Mr. Hugh McClellan, Corps of Engineers, Mobile District, ATTN: SAMPD, PO Box 2288, Mobile, Alabama 36628–0001 or by facsimile at (334) 690–2605.

SUPPLEMENTARY INFORMATION: Under the Act, the Secretary of the Army has been delegated the authority to dispose of excess real property and facilities located at a military installation being closed or realigned. The Army is required to comply with the National Environmental Policy Act during the process of property disposal and must prepare appropriate analyses of the impacts of disposal and, indirectly, of reuse of the property on the environment. The ROD and the FEIS satisfy requirements of the law to examine the environmental impacts of disposal and reuse of the Seneca Army Depot Activity.

Dated: May 19, 1998.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 98–13903 Filed 5–22–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Chicago Operations Office; Notice of Solicitation for the Development of Centers of Automotive Technology Excellence Under the Graduate Automotive Technology Education (GATE) Program, Financial Assistance Solicitation Number DE–SC02–98EE50519; Correction

AGENCY: DOE, Chicago Operations Office.

ACTION: Notice of availability of a financial assistance solicitation for cooperative agreement proposals: Correction.

In notice document 98–12680, in the issue of May 13, 1998, beginning on page 26587, make the following corrections:

In the **SUMMARY** Section, the words "accredited graduate engineering programs" is corrected to read, "accredited engineering programs."

In the **DATES** and **ADDRESSES** Section the internet address is corrected to read: http://www.ch.doe.gov/business/ACQ.htm.

FOR FURTHER INFORMATION CONTACT: Dennis L. Wilson, Acquisition and Assistance Group, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439; Telephone No. (630) 252–2413 Fax No. (630) 252–5045, or by e-mail at dennis.wilson@ch.doe.gov

Issued in Chicago, Illinois on May 18, 1998.

John D. Greenwood,

Group Manager, Acquisition and Assistance Group.

[FR Doc. 98–13852 Filed 5–22–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–178–002]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 19, 1998.

Take notice that on May 14, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to be effective May 1, 1998:

Fourth Revised Sheet No. 1
Second Revised Sheet No. 9A
Ninth Revised Sheet No. 19
First Revised Sheet No. 45F

ANR states that this filing is made in compliance with the Commission's Order dated April 29, 1998 in the captioned proceeding.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13830 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–175–002]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 19, 1998.

Take notice that on May 14, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to be effective May 1, 1998:

First Revised Sheet No. 45B
First Revised Sheet No. 45D

ANR states that this filing is made in compliance with the Commission's Order dated April 29, 1998 in the captioned proceeding.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13831 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–218–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 19, 1998.

Take notice that on May 15, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective June 15, 1998.

CIG states that the purpose of this filing is to implement Rate Schedule PAL–1 to create a new, flexible parking and lending service for shippers. Accordingly, this filing includes revised Tariff sheets for the proposed new service.

CIG states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations, All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13829 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–534–000]

Colorado Interstate Gas Company; Notice of Application

May 19, 1998.

Take notice that on May 11, 1998, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP98–534–000 an abbreviated application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain one-inch diameter wellhead fuel lines located in it's Panhandle Field in Potter and Moore Counties, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

CIG states that the purpose of the fuel gas lines is to provide processed fuel gas to seven wellhead compressors and would provide a more efficient operation of these compressors and decrease maintenance requirements. CIG estimates the cost of these facilities to be approximately $75,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13839 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–558–000]

Koch Gateway Pipeline Company; Notice of Application for Abandonment

May 19, 1998.

Take notice that on May 15, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No.

CP98–558–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Section 157.18 of the Commission's Regulations requesting permission and approval to abandon obsolete transportation services formerly provided to Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Koch Gateway (formerly known as United Gas Pipe Line Company) requests authorization to abandon several obsolete transportation agreements under Rate Schedules X–093, X–123, X–126, X–130, X–133, X–134 and X–144 which were certificated in Docket Nos. CP77–589, CP–79–429, CP80–018, CP80–077, CP80–402, CP79–429 and CP81–278, respectively. Koch Gateway states that the individually certificated services are no longer required by Mid Louisiana and have been terminated. Koch Gateway also states that Mid Louisiana concurs with the proposed abandonment and that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Koch Gateway to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13835 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–551–000]

Koch Gateway Pipeline Company; Notice of Application for Abandonment

May 19, 1998.

Take notice that on May 14, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–551–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Section 157.18 of the Commission's Regulations requesting permission and approval to abandon obsolete transportation service formerly provided to ANR Pipeline Company (ANR), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Koch Gateway (formerly known as United Gas Pipe Line Company) requests authorization to abandon the obsolete transportation agreement under Rate Schedule X–106, dated December 20, 1977 which was certificated in Docket No. CP78–205. Koch Gateway states that this individually certificated service is no longer required by ANR and has been terminated. Koch Gateway also states that ANR concurs with the proposed abandonment and that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Koch Gateway to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13836 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–549–000]

Koch Gateway Pipeline Company; Notice of Application to Abandon

May 19, 1998.

Take notice that on May 14, 1998, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, filed under Section 7(b) of the Natural Gas Act, for authority to abandon, a certificated interruptible transportation service for Sugar Bowl Gas Corporation (SBGC). The service is Koch's Rate Schedule X–37 in its FERC Gas Tariff, Original Volume No. 2. Koch states that the SBGC sold its assets in 1983 and no longer needs the service. Koch's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or make any protest with reference to said application should on or before June 9, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural

Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Koch to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13837 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–216–000]

Northwest Pipeline Corporation; Notice of Petition for Declaratory Order

May 19, 1998.

Take notice that on May 8, 1998, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 207(a)(2)), Northwest Pipeline Corporation (Northwest) tendered for filing a petition for a declaratory order.

Northwest requests the Commission to assist Northwest in determining the appropriate final confirmed volume between Northwest and PG&E Gas Transmission-Northwest (GT–NW) at the points of their interconnection. Northwest argues that because currently effective GISB standards do not specifically address pipeline to pipeline communication and confirmation standards, Northwest seeks the Commission's assistance in resolving the dispute between Northwest and GT–NW.

Northwest respectfully requests the Commission to provide guidance concerning how final confirmed volumes should be determined. Northwest submits that for the locked-in period from August 1997 until the implementation of Order No. 587–G, GT–NW should be directed to recognize Northwest's "Evening Confirmation" as the start of gas day confirmation. Implementation of Order No. 587–G, supported by Northwest regarding this issue, will eliminate future confirmation disputes between Northwest and GT–NW.

Northwest argues that because of the significance of this issue, and the fact that timing issues affect pipelines throughout the country, Northwest submits that it is appropriate for the Commission to determine how this issue should be resolved in light of GISB standards, rather than leaving the parties to construe individual operating and balancing agreement terms.

Northwest states that copies of the filing has been served upon all jurisdictional customers and affected state commissioners.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 8, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13828 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–110]

Pacific Gas and Electric Company; Notice of Extension of Comment Due Date

May 19, 1998.

On April 13, 1998, the Federal Energy Regulatory Commission (Commission) issued notice of an application for amendment of the license for the Potter Valley Project (FERC No. 77–110) and of our intent to prepare an Environmental Impact Statement (EIS) (Published 4/17/98, 63 FR 19247), in support of the Commission's decision in this matter. The proposed amendment involves changes in the minimum flow requirements at the project, located on the Eel and East Fork Russian Rivers, in Lake and Mendocino Counties, California.

The notice established June 8, 1998 as the deadline for submitting any comments, protests, or motions to intervene in the proceeding.

Take notice that the deadline for submitting any comments, protests, or motions to intervene in the proceeding is hereby extended to June 15, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13834 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–536–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

May 19, 1998.

Take notice that on May 12, 1998, Texas Eastern Transmission Corporation (Applicant), 5400 Westheimer Court, Houston, Texas, 77056–5310, filed in Docket No. CP98–536–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval to construct a delivery point in Dunklin County, Missouri, so that Applicant may provide natural gas deliveries to Associated Electric Cooperative, Inc. (AECI), for its St. Francis Power Plant, pursuant to Section 7(c) of the Natural Gas Act (NCA), all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Applicant proposes to construct and install two eight-inch tap vales, an eight-inch check valve and related piping on Applicant's existing twenty-four-inch Line No. One in Dunklin County, Missouri. Applicant also proposes to install, or cause to be installed, dual eight-inch meter runs, a single two-inch meter run and associated piping and valves, 350 feet of ten-inch connecting pipe, and electronic gas measurement equipment, (EGM). Applicant asserts that it will be reimbursed 100 per cent by AECI for the costs and expenses that Applicant will incur for the design, material procurement and installation of the tap, meter station, connecting pipe and EGM, including an allowance for federal income taxes.

Applicant states that the transportation service will be rendered pursuant to Applicant's Rate Schedule IT–1. Applicant asserts that its tariff does not prohibit the addition of this facility. Applicant submits that the installation of the delivery point will have no impact on Applicant's peak day or annual deliveries. Applicant further asserts that this proposal will be accomplished without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13838 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–105–008 and RP98–165–003]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

May 19, 1998.

Take notice that on May 14, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with the proposed effective date of May 1,1998:

First Revised First Revised Sheet No. 268

Williams states that this filing is being made in compliance with Commission staff's May 5, 1998 letter to correct the tariff sheet pagination.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any persons desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13832 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1959–000, et al.]

Mississippi Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 19, 1998.

Take notice that the following filings have been made with the Commission:

1. Mississippi Power Company

[Docket No. ER98–1959–000]

Take notice that on May 13, 1998, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing a Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4, Market Based Rate Tariff, with South Mississippi Electric Power Association for the Aleco Fire Tower Road Delivery Point to Singing River Electric Power Association. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Ameren Services Company

[Docket Nos. ER96–677–005 and ER96–679–005]

Take notice that on May 14, 1998, Ameren Services Company (Ameren Services), acting on behalf of Union Electric Company and Central Illinois Public Service Company (Ameren Companies), filed a revised compliance filing in accordance with the Commission's April 14, 1998, letter order accepting Ameren Services' February 2, 1998, Open Access Tariff Compliance Filing but requiring one change to the Tariff, which Ameren Services has made in the filing.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Lowell Cogeneration Company Limited Partnership

[Docket Nos. ER98–372–002 and ER98–394–002]

Take notice that on May 14, 1998, Lowell Cogeneration Company Limited Partnership (Lowell), filed a refund compliance report associated with refund obligations resulting from late filing of service agreements under Lowell's market-based power sales tariff.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. MidAmerican Energy Company

[Docket No. ER98–2410–000]

Take notice that on May 14, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50303 submitted for filing

with the Commission a Service Agreement dated March 30, 1998, with the City of Denver, IA (Denver), entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff), and a Power Sales Agreement dated March 30, 1998, with the City of Denver, IA, entered into pursuant to the Service Agreement and the Tariff.

MidAmerican requests an effective date of April 1, 1998, for this Agreement, and seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Denver, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Sovereign Power, Inc.

[Docket No. ER98–2995–000]

Take notice that on May 14, 1998, Sovereign Power, Inc. (Sovereign), petitioned the Commission for acceptance of Sovereign Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Sovereign intends to engage in wholesale electric power and energy purchases and sales as a marketer. Sovereign is not in the business of generating or transmitting electric power.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER98–2996–000]

Take notice that on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between AES Redondo Beach, L.L.C. (AES Redondo Beach), and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on AES Redondo Beach and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER98–2997–000]

Take that notice on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between AES Alamitos, L.L.C., (AES Alamitos) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on AES Alamitos and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER98–2998–000

Take notice that on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and AES Alamitos, L.L.C. (AES Alamitos), for acceptance by the Commission.

The ISO states that this filing has been served on AES Alamitos, and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–2999–000]

Take notice that on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and AES Redondo Beach, L.L.C. (AES Redondo Beach), for acceptance by the Commission.

The ISO states that this filing has been served on AES Redondo Beach and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER98–3000–000]

Take notice that on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between AES Huntington Beach, L.L.C. (AES Huntington Beach) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on AES Huntington Beach and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas And Electric Company

[Docket No. ER98–3001–000].

Take notice that on May 14, 1998, Louisville Gas and Electric Company (LG&E), filed a Notice of Cancellation canceling Non-Firm Point-to-Point Transmission Service Agreements with Cleveland Electric Illuminating Company (CEI) and Toledo Edison Company (TE) as requested by the customer.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company

[Docket No. ER98–3002–000]

Take notice that on May 14, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing a Consent to Assignment Form assigning all of the rights associated with the following Transmission Service Agreements between Louisville Gas and Electric Company (LG&E) and Southern Energy Trading and Marketing, Inc., to Southern Company Energy Marketing, L.P.: (1) Non-Firm Transmission Service Agreement filed with the Commission in Docket No. ER96–2090–000, (2) Short-Term Point-to-Point Transmission Service Agreement filed with the Commission in Docket No. ER98–1496–000.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–3003–000]

Take notice that on May 14, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and AES Huntington Beach, L.L.C. (AES Huntington Beach), for acceptance by the Commission.

The ISO states that this filing has been served on AES Huntington Beach and the California Public Utilities Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Carolina Power & Light Company

[Docket No. ER98–3004–000]

Take notice that on May 14, 1998, Carolina Power & Light Company (Carolina), tendered for filing an executed Service Agreement between Carolina and Equitable Power Services Company. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1, for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER98–3005–000]

Take notice that on May 14, 1998, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an unexecuted umbrella service agreement with Central Vermont's Power Supply Department for the use of the Highgate Converter and the related facilities.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. K&K Resources, Inc.

[Docket No. ER98–3006–000]

Take notice that on May 14, 1998, K&K Resources, Inc. (K&K), petitioned the Commission for acceptance of K&K Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

K&K intends to engage in wholesale electric power and energy purchases and sales as a marketer. K&K is not in the business of generating or transmitting electric power.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. The Dayton Power and Light Company

[Docket No. ER98–3007–000]

Take notice that on May 14, 1998, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Tennessee Valley Authority as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the this filing were served upon Tennessee Valley Authority and the Public Utilities Commission of Ohio.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ER98–3010–000]

Take notice that on May 14, 1998, Central Maine Power Company (CMP), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an interconnection agreement (the Agreement) with Stratton Energy Associates (SEA). The Agreement provides for interconnection service to SEA at the rates, terms, charges, and conditions set forth therein. CMP is requesting that the Commission provide the requested authorization by June 19, 1998.

Copies of this filing have been served upon the Maine Public Utilities Commission and Stratton Energy Associates.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Kentucky Utilities Company

[Docket No. ER98–3011–000]

Take notice that on May 14, 1998, Kentucky Utilities Company (KU), tendered for filing a service agreement between KU and Allegheny Power Service Corporation for service under Kentucky Utilities Company's (KU) Power Services (PS) Tariff.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13879 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

May 19, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major Relicense.

b. *Project No.:* P–2634–007.

c. *Date Filed:* April 28, 1998.

d. *Applicant:* Great Northern Paper, Inc.

e. *Name of Project:* Storage Project.

f. *Location:* On Ragged Stream, Caucomgomoc Stream, and West Branch and South Branch of the Penobscot River in the Counties of Somerset and Piscataquis, Maine.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Brian Stetson, Manager of Environmental Affairs, Great Northern Paper, Inc., One Katahdin Avenue, Millinocket, ME 04462–1398, (207) 723–2664.

i. *FERC Contact:* William Diehl, P.E. (202) 219–2813.

j. *Comment Date:* 60 days from the date of filing of the application.

k. *Description of Project:* The constructed project consists of four dams and reservoirs on headwaters tributaries of the Penobscot River. The four developments are named Canada Falls Lake, Seboomook Lake, Caucomgomoc Lake, and Ragged Lake. There are no power generating facilities included in the project. The total storage capacity of the four reservoirs is about 9.224 billion cubic feet or about 212,000 acre-feet.

l. With this notice we are initiating consultation with the MAINE STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13833 Filed 5–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; Notice

May 20, 1998.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 27, 1998, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Acting Secretary, Telephone (202) 208–0400. FOR a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro

699th Meeting—May 27, 1998

Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–1651, 018, Swift Creek Power Company, Inc.
Other#S P–1651, 017, Swift Creek Power Company, Inc.

CAH–2.
Docket# P–2459, 060, West Penn Power Company

CAH–3.
Docket# P–8185, 032, Bluestone Energy Design Inc.

CAH–4.
Docket# P–4632, 020, Clifton Power Corporation
Other#s P–4632, 021, Clifton Power Corporation

CAH–5.
Docket# P–10813, 033, City of Summersville, West Virginia

CAH–6.
Docket# P–2696, 004, Niagara Mohawk Power Corporation

Consent Agenda—Electric

CAE–1.
Docket# ER98–2369, 000, Southern California Edison Company

CAE–2.
Docket# ER98–2491, 000, Consolidated Edison Energy, Inc.
Other#s ER97–705, 000, Promark Energy, Inc.
ER97–707, 000, Consolidated Edison Company of New York, Inc.

CAE–3.
Docket# EC96–19, 025, California Power Exchange Corporation
Other#S EC96–19, 026, California Power Exchange Corporation
ER96–1663, 026, California Power Exchange Corporation
ER96–1663, 027, California Power Exchange Corporation

CAE–4.
Docket# EC96–19, 023, California Independent System Operator Corporation
Other#S ER96–1663, 024, California Independent System Operator Corporation

CAE–5.
Docket# ER98–2020, 000, Energy Clearinghouse Corporation

CAE–6.
Docket# ER98–2440, 000, Central Illinois Light Company

CAE–7.
Docket# ER98–2494, 000, ESI Vansycle Partners, L.P.

CAE–8.
Docket# ER98–2382, 000, Montana Power Company
Other#S OA96–199, 002, Montana Power Company
OA97–679, 000, Montana Power Company

CAE–9.
Docket# ER98–2351, 000, Pacific Gas and Electric Company
Other#s ER97–2355, 002, Southern California Edison Company
ER97–2358, 000, Pacific Gas and Electric Company
ER97–2358, 002, Pacific Gas and Electric Company
ER97–2364, 002, San Diego Gas & Electric Company
ER97–4235, 002, San Diego Gas & Electric Company
ER98–497, 002, San Diego Gas & Electric Company

CAE–10.
Docket# ER98–2499, 000, California Independent System Operator Corporation
Other#s ER98–990 et al., 000, California Independent System Operator Corporation

CAE–11.
Docket# ER95–1528, 000, Wisconsin Public Service Corporation
Other#s ER95–1528, 003, Wisconsin PUblic Service Corporation
ER96–1088, 000, Wisconsin Public Service Corporation, WPS Energy Services, Inc. and WPS Power Development, Inc.
ER96–1088, 002, Wisconsin Public Service Corporation, WPS Energy Services, Inc. and WPS Power Development, Inc.
OA96–79, 000, Wisconsin Public Service Corporation

CAE–12.
Docket# ER97–4345, 004, Origen Power Corporation and OGE Energy Resources, Inc.
Other#s ER98–2296, 000, Origen Power Corporation and Oklahoma Gas and Electric Company

CAE–13.
Docket#s ER98–211, 000, California Independent System Operator Corporation
Other#s ER98–210, 002, California Power Exchange Corporation
ER98–210, 003, California Power Exchange Corporation
ER98–210, 004, California Power Exchange Corporation
ER98–211, 002, California Independent System Operator Corporation
ER98–462, 000, Southern California Edison Company
ER98–556, 002, Southern California Edison Company
ER98–556, 003, Southern California Edison Company
ER98–557, 002, Pacific Gas and Electric Company
ER98–557, 003, Pacific Gas and Electric Company
ER98–1729, 001, California Power Exchange Corporation
ER98–1729, 002, California Power Exchange Corporation
ER98–1729, 003, California Power Exchange Corporation

CAE–14.
Docket# OA96–161, 001, Puget Sound Energy, Inc.
Other#s OA96–161, 003, Puget Sound Energy, Inc.
OA97–685, 000, Puget Sound Energy, Inc.

CAE–15.
Docket# EL96–49, 000, Cambridge Electric Light Company
Other#s EL96–49, 002, Cambridge Electric Light Company

CAE–16.
Docket# EC97–12, 000, San Diego Gas & Electric Company and Enova Energy, Inc.
Other#s EC97–12, 001, San Diego Gas & Electric Company and Enova Energy, Inc.
EL97–15, 002, Enova Energy, Inc. and Pacific Enterprises
EL97–21, 001, Southern California Edison Company v. San Diego Gas & Electric Company, Enova Energy, Inc. and Ensource Corporation

CAE–17.
Docket# EC98–27, 000, WPS Resources Corporation and Upper Peninsula Energy Corporation
Other#s ER98–1561, 000, Wisconsin Public Service Corporation and Upper Peninsula Power Company
OA97–523, 000, Upper Peninsula Power Company
OA97–676, 000, Upper Peninsula Power Company

CAE–18.
Docket# ER95–1528, 002, Wisconsin Public Service Corporation
Other#s ER95–1546, 001, WPS Energy Service, Inc.

CAE–19.
Docket# ER98–1522, 001, Cambridge Electric Light Company

CAE–20.
Docket# ER96–2367, 001, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.

CAE–21.
Docket# ER97–678, 002, New England Power Company

Other#s ER97–680, 002, New England Power Company
CAE–22.
Docket# ER96–2466, 001, New York State Electric & Gas Corporation
Other#s ER97–346, 001, Niagara Mohawk Power Corporation
CAE–23.
Docket# ER95–852, 001, Tampa Electric Company
Other#s EL95–67, 000, Florida Power Corporation v. Tampa Electric Company
CAE–24.
Docket# EL97–35, 000, Niagara Mohawk Power Corporation
Other#s QF86–853, 001, Stevens & Thompson Paper Company, Inc.
CAE–25.
Docket# SC97–1, 000, PP&L, Inc. (Formerly Pennsylvania Power & Light Company)
Other#s SC97–1, 001, PP&L, Inc. (Formerly Pennsylvania Power & Light Company
CAE–26.
Docket# EL98–2, 000, Wisconsin Public Power Inc. System v. Wisconsin Public Service Corporation
Other#s EL98–7, 000, Wisconsin Public Service Corporation v. Wisconsin Power & Light Company and Wisconsin Public Power Inc. System
EL98–11, 000, Wisconsin Public Power Inc. System v. Wisconsin Power & Light Company
CAE–27.
Docket# EL98–16,000, Sacramento Municipal Utility District v. Pacific Gas & Electric Company
CAE–28.
Docket# EL98–29,000, Morgan Stanley Capital Group v. Illinois Power Company
CAE–29.
Docket# RM95–9,003, Open Access Same-Time Information System and Standards of Conduct
CAE–30.
Docket# RM98–3,000, Open Access Same-Time Information System
CAE–31.
Docket# EL95–71,000, Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.
CAE–32.
Docket# EL96–53,000, Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.
Other#S ER96–1868,000, Northeast Utilities Service Company

Consent Agenda—Gas and Oil

CAG–1.
Docket# PR98–5,000, LG&E Natural Pipeline Company
Other#S PR98–5,001, LG&E Natural Pipeline Company
CAG–2.
Docket# RP98–188,000, Tennessee Gas Pipeline Company
CAG–3.
Docket# RP98–191,000, Texas-Ohio Pipeline, Inc.
CAG–4.
Docket# RP98–199,000, Discovery Gas Transmission LLC
CAG–5.
Docket# RP98–205,000, Granite State Gas Transmission, INC.
CAG–6.
Docket# RP98–209,000, Columbia Gas Transmission Corporation
CAG–7.
Docket# RP98–212,000, ANR Pipeline Company
Other#S RP98–212,001, ANR Pipeline Company
CAG–8.
Omitted
CAG–9.
Omitted
CAG–10.
Docket# RP97–287,017, El Paso Natural Gas Company
CAG–11.
Docket# RP98–195,000, Southwest Gas Storage Company
CAG–12.
Docket# RP98–201,000, Gulf States Transmission Corporation
CAG–13.
Docket# RP98–202,000, Natural Gas Pipeline Company of America
CAG–14.
Docket# RP98–203,000, Northern Natural Gas Company
Other#S RP98–203,001, Northern Natural Gas Company
CAG–15.
Docket# RP98–207,000, Williams Gas Pipelines Central, Inc.
CAG–16.
Docket# RP98–208,000, Williams Gas Pipelines Central, Inc.
CAG–17.
Docket# RP98–210,000, Questar Pipeline Company
CAG–18.
Docket# RP98–211,000, Panhandle Eastern Pipe Line Company
CAG–19.
Docket# TM98–2–59,000, Northern Natural Gas Company
Other#S TM98–2–59,001, Northern Natural Gas Company
CAG–20.
Docket# PR97–13,001, Tejas Gas Pipeline Company
CAG–21.
Docket# RP97–153,011, Granite State Gas Transmission, Inc.
CAG–22.
Docket# RP97–406,013, CNG Transmission Corporation
CAG–23.
Docket# RP98–16,001, Tennessee Gas Pipeline Company
CAG–24.
Docket# RP98–18,001, Iroquois Gas Transmission System, L.P.
CAG–25.
Docket# RP98–170,000, Texas Gas Transmission Corporation
CAG–26.
Docket# RP98–200,000, KO Transmission Company
CAG–27.
Omitted
CAG–28.
Docket# RP97–342,004, Kern River Gas Transmission Company
CAG–29.
Docket# RP98–190,000, Westgas Interstate, Inc.
CAG–30.
Docket# RP98–197,000, Viking Gas Transmission Company
Other#S RP98–197,001, Viking Gas Transmission Company
CAG–31.
Omitted
CAG–32.
Docket# RP98–158,003, Arkansas Gas Consumers v. Noram Gas Transmission Company
CAG–33.
Docket# RP97–232,003, Amoco Production Company and Amoco Energy Trading Corporation v. Natural Gas Pipeline Company of America
Other#S IN98–1,002 Natural Gas Pipeline Company of America
CAG–34.
Omitted
CAG–35.
Docket# RP94–43,018, ANR Pipeline Company
CAG–36.
Docket# GP91–8,009, Jack J. Grynberg v. Rocky Mountain Natural Gas Company, a Division of K N Energy, Inc.
Other#S GP91–10,009, Rocky Mountain Natural Gas Company, a Division of K N Energy, Inc. v. Jack J. Grynberg
CAG–37.
Docket# RP91–229, 025, Panhandle Eastern Pipe Line Company
Other#s RP92–166, 018, Panhandle Eastern Pipe Line Company
RS92–22, 016, Panhandle Eastern Pipe Line Company
CAG–38.
Docket# RP98–124, 001, Trunkline Gas Company
CAG–39.
Docket# RM91–11, 007, Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284, Etc.
Other#s RM87–34, 073, Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol
CAG–40.
Docket# RP95–175, 007, Mojave Pipeline Company
Other#s RP96–67, 006, Mojave Pipeline Company
CAG–41.
Docket# RP98–39, 003, Northern Natural Gas Company
Other#s GP98–5, 000, Mobil Oil Corporation
GP98–8, 000, OXY USA, Inc.
GP98–12, 000, Amoco Production Company
GP98–14, 000, Anadarko Petroleum Corporation
GP98–20, 000, Union Pacific Resources Corporation
CAG–42.
Docket# RP94–149, 009, PG&E Transmission, Northwest Corporation
Other#s RP94–145, 008, PG&E Transmission, Northwest Corporation
RP95–141, 006, PG&E Transmission, Northwest Corporation
CAG–43.
Docket# CP97–343, 001, Midcoast Interstate Transmission, Inc.
Other#s CP97–343, 000, Midcoast Interstate Transmission, Inc.
CP98–34, 000, Midcoast Interstate Transmission, Inc.

CAG–44.
Docket# CP92–633, 001, Public Service Company of Colorado
CAG–45. Omitted
CAG–46.
Docket# CP98–357, 000, El Paso Natural Gas Company
CAG–47. Omitted
CAG–48.
Docket# CP98–263, 000, Louisiana-Nevada Transit Company
Other#s CP98–264, 000, Arkla, a Division of Noram Energy Corp.
CAG–49.
Docket# CP98–100, 000, Algonquin Gas Transmission Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I.
Pipeline Rate Matters
PR–1.
Reserved
II.
Pipeline Certificate Matters
PC–1.
Docket# RM98–8, 000, Alternative Methods For Regulating Natural Gas Pipeline Facilities and Services on the Outer Continental Shelf
Notice of Inquiry.
PC–2.
Docket# CP96–610, 000, Granite State Gas Transmission, Inc. Application to Construct and Operate LNG Facility in Wells, Maine.

David P. Boergers,
Acting Secretary.
[FR Doc. 98–14001 Filed 5–21–98; 3:12 pm]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6102–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for Epoxy Resins and Non-Nylon Polyamide Resin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Epoxy Resins and Non-nylon Polyamide Production, OMB Control Number 2060–0290, expiration date July 31, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 25, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1681.03.

SUPPLEMENTARY INFORMATION:

Title: NESHAP for Epoxy Resin and Non-nylon Polyamide Resin Production, Subpart W, OMB Control No. 2060–0290; EPA ICR No. 1681.03 expiring 07/31/98. This is a request for extension of a currently approved collection.

Abstract: The ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR part 63, subpart W, regulating hazardous air pollutants from process vents, storage vessels, wastewater systems and equipment leaks. The standards require recordkeeping and reporting to document process information related to the source's ability to comply with the standards. This information is used by the Agency to identify sources subject to the standards and to insure that the maximum achievable control technology is being properly applied. Section 112 of the Clean Air Act, as amended in 1990, requires that EPA establish standards to limit emissions of hazardous air pollutants (HAPs) from stationary sources. The sources subject to these provisions emit the HAPs epichlorohydrin, and in lesser amounts, hydrochloric acid and methanol. In the Administrator's judgment, hazardous air pollutant emissions in this industry cause or contribute to air pollution that may be reasonably expected to endanger public health or welfare. Respondents are owners or operators of new and existing facilities that manufacture polymers and resins from epichlorohydrin. Source categories include basic liquid epoxy resin (BLR) producers and producers of epichlorohydrin-modified non-nylon polyamide resins, also known as wet strength resins (WSR).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 12/02/97 (62 FR 63703); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 156 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of new and existing facilities that manufacture polymers and resins from epichlorohydrin

Estimated Number of Respondents: 13.

Frequency of Response: Semiannually (some quarterly).

Estimated Total Annual Hour Burden: 4525 hours.

Estimated Total Annualized Cost Burden: $9,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1681.03 and OMB Control No. 2060–0290 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 18, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–13854 Filed 5–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400130; FRL–5792–5]

Public Meetings on the Toxics Release Inventory Reporting Form

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings.

SUMMARY: EPA will hold approximately nine public meetings to solicit comments relating to the Toxics Release Inventory (TRI) reporting form, the Form R. The purpose of the meetings is to obtain comments from stakeholders on ways to improve the type of right-to-know information available to communities and to help streamline right-to-know reporting to ease the paperwork burden for businesses affected by the requirements. The first five meetings were held in November 1997 and February and April 1998. This notice announces two upcoming meetings. Additional meeting dates will be announced through future **Federal Register** notices.

DATES: The meetings will take place:

1. Thursday, June 18, 1998, 9 a.m. to 12 p.m., at the Ramada Inn, 70 John Wesley Dobbs Avenue, Atlanta, GA 30303. Participants must register to speak by 5:00 p.m. on Thursday, June 11, 1998.

2. Wednesday, June 24, 1998, 9 a.m. to 12 p.m., at the Holiday Inn City Center, 1215 Wyandotte Street, Kansas City, MO 64105. Participants must register to speak by 5:00 p.m. on Wednesday, June 17, 1998.

ADDRESSES: Each comment must bear the docket control number "OPPTS–400130." All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this action. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Vicki R. Anderson, (Mail Stop 7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–3544; fax number: (202) 401–8142; e-mail: anderson.vicki@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA plans to hold approximately nine public meetings to solicit comments relating to the Toxics Release Inventory (TRI) reporting form, the Form R. The first five meetings took place in November 1997 and February and April 1998. The docket control number for the November meetings is "OPPTS–400117" and the docket control number for the February and April meetings is "OPPTS–400124." Comments presented at these meetings are available for review as described in Unit II. of this document.

The purpose of the meetings is to obtain comments from stakeholders on ways to improve the type of right-to-know information available to communities and to help streamline right-to-know reporting to ease the paperwork burden for businesses affected by the requirements. Topics for comment include the format of the Form R; nomenclature used in the Form R; opportunities for burden reduction in both the Form R and Form A; additional clarification of the elements in the Form R; and EPA's presentation of the data in public information documents. EPA would like to receive comments on these issues from interested parties for changes, modifications, deletions, and/or additions of data elements to the Form R and the Form A. These issues are outlined in greater detail in an issue paper available on the TRI Home Page at http://www.epa.gov/opptintr/tri under the heading "TRI Stakeholder Dialogue" and the subheading "TRI Public Meetings."

The sections of the Form R that EPA would like specific comment on are sections 5, 6, and 8. In section 5, there have been a number of issues raised with regard to the definition of "release," particularly with respect to Class I underground injection wells and Resource Conservation and Recovery Act (RCRA) subtitle C landfills. Several commenters believe that EPA's interpretation of the Emergency Planning and Community Right-To-Know Act (EPCRA) definition of "release" will lead to the misperception that a reported EPCRA section 313 "release" necessarily results in an actual exposure of people or the environment to a toxic chemical. The Agency would like to hear suggestions on ways to collect and disseminate the data that are consistent with the Agency's interpretation of the EPCRA definition of "release" and would address the concerns raised regarding public misperception.

There have also been a number of issues raised with regard to the reporting of toxic chemicals in wastes in section 8 of the Form R. Section 8 collects information on waste managed at the facility whether or not the waste was generated at the reporting facility. Some individuals are concerned about public misperception of the data in section 8 because of the focus on the amount of waste managed at the facility and not the waste generated. EPA would like comments on ways to change section 8 of the Form R, which would continue to allow the user to assess wastes managed by the facility but would minimize the perception that the wastes reported in section 8 were generated by the reporting facility.

Individuals wishing to attend these meetings or participate via conference call must sign-up in advance in order to assure that all participants have an opportunity to speak. Depending on the number of individuals registered, oral presentations or statements will be limited to approximately 5 to 15 minutes. To register, contact Vicki Anderson at (202) 260–3544. For those who cannot travel to the public meeting location, there will be 10 conference call lines available on a first come, first served basis. When registering, give your name, organization, postal (and electronic, if any) mailing address, telephone, and fax number. If there is insufficient interest in any of the meetings, that meeting may be canceled. Individuals registered will be notified in the event a meeting is canceled. The Agency bears no responsibility for attendees' decision to purchase nonrefundable transportation tickets or accommodation reservations.

II. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under docket control number "OPPTS–400130" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPPTS–400130." Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Community right-to-know.

Dated: May 19, 1998.

Thomas D. Tillman,

Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–13897 Filed 5–22–98; 8:45 am]
BILLING CODE 6560–60–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 98–856]

Proposed Third Quarter 1998 Universal Service Contribution Factors

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Common Carrier Bureau announces proposed universal service contribution factors for the third quarter of 1998. If the Commission takes no action regarding these proposed factors within 14 days of publication in the **Federal Register**, the projections shall be deemed approved by the Commission and shall be used to calculate third quarter universal service contributions.

DATES: If the Commission takes no action regarding these proposed factors by June 9, 1998, the proposed third quarter contribution factors will become effective.

ADDRESSES: One original and five copies of all comments responsive to this Public Notice must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Three copies also should be sent to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, NW, 8th Floor, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Frances Downey, Accounting Policy Division, Common Carrier Bureau, (202) 418–7371.

SUPPLEMENTARY INFORMATION:

In this Public Notice, the Accounting Policy Division of the Common Carrier Bureau announces proposed universal service contribution factors for the third quarter of 1998. On May 1, 1998, the Universal Service Administrative Company (USAC), Schools and Libraries Corporation (SLC), and Rural Health Care Corporation (RHCC) submitted the following projections of third quarter 1998 demand and administrative expenses:

MILLIONS OF DOLLARS

Program	Program demand	Administrative expenses	Interest income	Total program costs
Schools and Libraries	690.0	4.4	(0.0)	694.4
Rural Health Care	24.3	1.2	(0.5)	25.0
Subtotal	714.3	5.6	(0.5)	719.4
High Cost	414.1	0.8	(0.7)	414.2
Low Income	125.3	0.4	(1.0)	124.7
Subtotal	539.4	1.2	(1.7)	538.9
Total	1,253.7	6.8	(2.2)	1,258.3

Based on information contained in the Universal Service Worksheets, FCC Form 457, USAC submitted on May 1, 1998, end-user telecommunications revenues for the 1997 calendar year. Funding bases for the third and fourth quarters are determined by subtracting the revenues reported for January through June 1997 (on the September Worksheet) from the 1997 calendar year revenues reported on the March Worksheet. The amounts are as follows:

Total Interstate, Intrastate, and International End-User Telecommunications Revenues from July 1, 1997—December 31, 1997: $93.534 billion.

Total Interstate and International End-User Telecommunications Revenues from July 1, 1997—December 31, 1997: $34.988 billion.

We estimate quarterly revenues by dividing the six-month revenue estimates listed above by two.

Based on the figures submitted by USAC, SLC, and RHCC, the proposed contribution factors for the third quarter of 1998 are as follows:

Contribution factor for the schools and libraries and rural health care support mechanisms:

Total Program Costs/Contribution Base (Interstate, International, and Intrastate)=$0.719 billion/($93.534 billion/2)=0.0154.

Contribution factor for the high cost and low income support mechanisms:

Total Program Costs/Contribution Base (Interstate and International)=$0.539 billion/($34.988 billion/2)=0.0308.

These factors are the proposed third quarter 1998 universal service

contribution factors. If the Commission takes no action regarding these proposed factors within the 14-day period following publication in the **Federal Register**, the projections shall be deemed approved by the Commission and shall be used by USAC to calculate third quarter universal service contributions. We note that in a Public Notice released today, the Common Carrier Bureau seeks comment on its proposal to reduce the 1998 collection amounts for the schools and libraries and rural health care universal service support mechanisms. If the Commission reduces the 1998 collection amounts for these programs, the contribution factor proposed in this Public Notice for the schools and libraries and rural health care support mechanisms will be revised accordingly. While we have not had an opportunity to review fully the statement of Commissioner Furchtgott-Roth, we do take this opportunity to note that the 60-day congressional review period referenced in that statement does not apply to "any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act."

For further information, contact Frances Downey, Accounting Policy Division, Common Carrier Bureau, at (202) 418–7400.

Federal Communications Commission.

Lisa S. Gelb,

Chief, Accounting Policy Division.

[FR Doc. 98–13812 Filed 5–22–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–786]

Waiver To Permit Sharing of Industrial/Land Transportation Channels With Public Safety Users

1. On May 6, 1997, Central and South West Services, Inc. (CSW) filed a Request for Waiver of § 90.179 of the Commission's Rules to permit it to share its 800 MHz Industrial and Land Transportation (I/LT) Category system with Public Safety and Federal Government users on a non-profit, cost shared basis. CSW is the parent company of four electric utilities serving approximately 1.7 million consumers in 800 communities located throughout Texas, Oklahoma, Arkansas and Louisiana. It is licensed for one hundred and twenty-five 800 MHz I/LT channel pairs and operates a trunked land mobile radio system providing communications capabilities over 152,000 square miles. CSW uses its system—which was designed to address peak loading, reliability and control issues attendant to the rapid-wide scale mobilization of personnel and equipment—to dispatch and coordinate inspection, maintenance and emergency response activities.

2. Private Land Mobile Radio Service frequencies in the 800 MHz band are divided into the following five categories: Specialized Mobile Radio, Public Safety, Business, I/LT, and General. CSW requests a waiver in order to share its I/LT system with Public Safety and Federal Government eligibles because section 90.179(a) of the Commission's Rules provides that a licensee may share its radio station only with users that would be eligible for separate authorization to use those frequencies. Public Safety and Federal Government entities are not eligible to be licensed on 800 MHz I/LT Category spectrum.

3. In its Request for Waiver, CSW asserts that many public safety agencies operating within the area covered by its network lack sufficient spectrum or financial resources to construct and operate high quality, comprehensive communications systems. Additionally, CSW contends that these agencies often need to communicate and coordinate with CSW in situations such as power outages. Attached to the request are letters from eight Public Safety eligibles, and from the United States Army's Fort Hood military complex in central Texas, indicating interest in sharing CSW's system. Additionally, on March 5, 1998, CSW was contacted by the Texas Coastal Corridor Initiative about use of the CSW system for drug interdiction across South Texas.

4. Interested parties may file comments on CSW's Request for Waiver on or before June 4, 1998. Parties interested in submitting reply comments must do so on or before June 15, 1998. All comments should reference CSW's Request for Waiver with the designated DA number, and should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554. A copy of each filing should be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800 and Scot Stone, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 2025 M Street, NW, Room 8010–G, (202) 418–0680 or via e-mail to sstone@fcc.gov.

5. The full text of the Request for Waiver, comments, and reply comments are available for inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Room 8010, Washington, DC 20554. Copies also may be obtained from ITS, 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

6. For further information, contact Scot Stone of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418–0680 or via e-mail to sstone@fcc.gov.

Federal Communications Commission.

D'wana Terry,

Chief, Public Safety and Private Wireless Division.

[FR Doc. 98–13810 Filed 5–22–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Approved by Office of Management and Budget

May 18, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995, 44 USC 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Jerry Cowden, Federal Communications Commission, (202) 418–0447.

Federal Communications Commission

OMB Control No.: 3060–0221.

Expiration Date: 4/30/2001.

Title: 90.155 Time in which station must be placed in operation.

Form Number: Not applicable.

Estimated Annual Burden: 55 hours; 1 hour per respondent; 55 respondents.

Description: This information collection is needed to provide flexibility to state and local governments that would normally be unable to meet the requirement of placing their radio station in operation within eight months. The information is used to evaluate if the exception to the

eight month requirement is warranted. If the information were not collected the Commission's information regarding actual loading of frequencies would be inaccurate.

OMB Control No.: 3060–0286.
Expiration Date: 4/30/2001.
Title: 80.302 Notice of discontinuance, reduction, or impairment of service involving a distress watch.
Form Number: Not applicable.
Estimated Annual Burden: 160 hours; 1 hour per respondent; 160 respondents.
Description: This rule is needed to ensure that the U.S. Coast Guard is informed when a coast station discontinues, reduces or impairs a listening watch required to be maintained on a marine safety frequency.

OMB Control No.: 3060–0330.
Expiration Date: 4/30/2001.
Title: Part 62—Applications to Hold Interlocking Directorates.
Form Number: N/A.
Estimated annual burden: 20 hours; 2 hours per response; 10 respondents.
Description: Congress mandated this information collection under 47 USC 212 to be conducted by the FCC to monitor the effect of interlocking directorates on the telecommunications industry and to ensure they will not have any anticompetitive impact.

OMB Control No.: 3060–0361.
Expiration Date: 4/30/2001.
Title: 80.29 Changes during license term.
Form Number: Not applicable.
Estimated annual burden: 250 hours; 1 hour per response; 250 respondents.
Description: The information is used by the FCC to update the coast and ship station license files and data base concerning current name and address of licensees. Information concerning changes in the names of vessels is also used to update the ITU List of Ship Stations.

OMB Control No.: 3060–0807.
Expiration Date: 4/30/2001.
Title: 47 CFR Section 51.803 and Supplemental Procedures for Petitions Pursuant to Section 252(e)(5) of the Communications Act of 1934, as amended.
Form Number: Not applicable.
Estimated annual burden: 2,040 hours; 39.23 hours (average) per response; 52 respondents.
Description: Any interested party seeking preemption of a state commission's jurisdiction based on the state commission's failure to act shall notify the Commission (47 USC 252(e)(5) and 47 CFR Section 51.803). In a Public Notice the Commission set out procedures for filing petitions for preemption pursuant to section 252(e)(5). All the information will be used to ensure that petitioners have complied with their obligations under the Communications Act of 1934, as amended.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.
[FR Doc. 98–13811 Filed 5–22–98; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Petition P3–98]

In Re: The Impact of Modern Technology on the Customs and Practices of the Freight Forwarding Industry—Petition for Rulemaking; Notice of Filing of Petition

Notice is given that a petition for rulemaking or, alternatively, for a declaratory order, has been filed by R.F. International Ltd. ("Petitioner"). Petitioner seeks a rulemaking to address and evaluate the impact of modern technology on the customs and practices of the freight forwarding industry and the regulations governing those customs and practices. Petitioner seeks review of guidelines regarding freight forwarding, freight forwarding fees, and freight forwarder compensation in view of trends in high-technology freight forwarding and seeks guidelines for the provision of "in-plant" forwarding services provided by licensed freight forwarders.

In the event of denial of this petition for rulemaking, Petitioner requests that this petition be treated as a request for a declaratory order to allow Petitioner to act without peril on its own view.

Interested persons are requested to reply to the petition no later than June 25, 1998. Replies shall specify the desired disposition of the petition and to the extent applicable, shall specify the substance of any rule or order supported. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573–0001, shall consist of an original and 15 copies, and shall be served on counsel for Petitioner, Leonard L. Fleisig, Esq. Eckert, Seamans, Cherin and Mellott LLC, 1250 24th Street, N.W., Suite 700, Washington, D.C. 20007.

Copies of the petition are available for examination at the Washington, D.C. Office of the Secretary of the Commission, 800 N. Capitol Street, N.W., Room 1046.

Joseph C. Polking,
Secretary.
[FR Doc. 98–13842 Filed 5–22–98; 8:45 am]
BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).
Times and Dates: 8:15 a.m.–6:15 p.m., June 24, 1998; 8:00 a.m.–4:00 p.m., June 25, 1998.
Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.
Status: Open to the public, limited only by the space available.
Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise a list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) Program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.
Matters to be Discussed: Agenda items include a summary of the meeting on "Evaluating the Role of Vaccines and Infectious Diseases in Autoimmune Disease: Insulin Dependent (Type 1) Diabetes Mellitus'; updates on the National Immunization Program; the Vaccine Injury Compensation Program; the National Vaccine Program; and HIV vaccine. Also on the agenda, a discussion of financial disclosure and voting protocol for ACIP; rotavirus vaccine data on differences in morbidity by socioeconomic group, update on cost benefit data, use of vaccine in premature infants, and rotavirus disease in immunocompromised persons; a review of changes in the draft rabies vaccine recommendation; computer algorithms for ACIP recommendations; hepatitis A vaccine; consolidate resolutions currently included in the VFC Program; harmonizing recommendation on combination vaccines with the American Academy of Pediatrics and the American Academy of Family Physicians; use of lyme disease vaccine; progress towards development of a revised influenza recommendation; and intravenous immunoglobulin products. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: May 19, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13847 Filed 5–22–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions and Delegations of Authority

Part F, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Health Care Financing Administration (HCFA), 49 FR 34247, dated September 6, 1984, is amended to include the following delegation of authority from the Secretary to the Administrator, HCFA, for the Federal Technology Transfer Act of 1986.

• Section F.30., Delegations of Authority is amended by adding the following paragraph:

TT. The authorities vested in the Secretary by the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, the National Technology Transfer and Advancement Act of 1995 and subsequent amendments.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations. In addition, I hereby affirm and ratify any actions taken by the HCFA Administrator or other HCFA officials which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

This delegation is effective immediately.

Dated: May 15, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

[FR Doc. 98–13809 Filed 5–22–98; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Submission for OMB Review; Comment Request; Application for the Pharmacology Research Associate Program

Summary: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute of General Medical Sciences (NIGMS), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 3, 1998, page 10404, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Application for the Pharmacology Research Associate Program. *Type of Information Collection Request:* Revision of a currently approved collection. *Need and Use of Information Collection:* The Pharmacology Research Associate (PRAT) Program will use the applicant and referee information to award opportunities for training and experience in laboratory or clinical investigation to individuals with a Ph.D degree in pharmacology or a related science, M.D., or other professional degree through appointments as PRAT Fellows at the National Institutes of Health or the Food and Drug Administration. The goal of the program is to develop leaders in pharmacological research for key positions in academic, industrial, and Federal research laboratories. *Frequency of Response:* Once a year. *Affected Public:* Individuals or households; businesses or other for-profit.

The annual reporting burden is as follows:

Type and number of respondents	Estimated number of responses per respondent	Estimated total responses	Average burden hours per responses	Estimated total annual burden hours requested
Applicants: 50	1	50	2.00	100
Referees: 150	1	150	0.167	25

Total Number of Respondents: 200.
Total Number of Responses: 200.
Total Hours: 125.

The annualized cost to respondents is estimated at:

Applicants: $5,500.00.
Referees: $1,250.00.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments To OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Sally Lee, NIGMS, NIH, Natcher Building Room 3AS–13, 45 Center

Drive, MSC 6200, Bethesda, MD 20892–6200. Phone (301) 594–2749, facsimile (301) 480–0850, or electronic mail: LeeS@nigms.nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before June 25, 1998.

Dated: May 13, 1998.

Martha Pine,

Executive Officer, NIGMS.

[FR Doc. 98–13910 Filed 5–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Communication Disorders Review Committee.

Date: June 10–11, 1998.

Time: 8 a.m.–5 p.m., June 10, 8 .am.–adjournment, June 11.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Melissa J. Stick, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: May 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13908 Filed 5–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Commitee Name: Services Research Review Committee.

Date: June 9–June 10, 1998.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301, 443–1340.

Committee name: Treatment Assessment Review Committee.

Date: July 9–July 10, 1998.

Time: 8:30 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301, 443–1340.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: May 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13909 Filed 5–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Recombinant DNA Advisory Committee meeting, June 18–19, 1998, National Institutes of Health, Bethesda, Maryland which was published in the **Federal Register** on May 4, 1998 (63 FR 24712).

The entire meeting was scheduled to be open to the public, but now in accordance with sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., the meeting may be closed to the public on June 18 from approximately 2:00 p.m. to approximately 3:15 p.m. and on June 19 from approximately 2:45 p.m. to approximately 4:00 p.m. for the discussion of protocols. These discussions could disclose trade secrets and commercial property such as patentable material and personal information concerning individuals associated with the protocols, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: May 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13907 Filed 5–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Reconsider Procedures for Administration of Funding for National Conservation Priorities Under the Federal Aid in Wildlife Restoration Act and the Federal Aid in Sport Fish Restoration Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service will reconsider procedures for administration of national projects funded from Federal Aid in Wildlife Restoration Act and Federal Aid in Sport Fish Restoration Act administrative funds. The Service intends to publish a full range of options for funding future national conservation priorities in the **Federal Register** for public review and comment. Interested persons should contact the Service to receive a copy of the options.

DATES: The Service intends to publish these options in the **Federal Register** on or about September 1, 1998.

ADDRESSES: Requests to receive copies of the proposed options should be sent to Mr. Tom Taylor, Division of Federal Aid, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 140, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Tom Taylor, Division of Federal Aid, U.S. Fish and Wildlife Service; telephone (703) 358–2156, fax (703) 358–1837.

SUPPLEMENTARY INFORMATION: The Federal Aid in Wildlife Restoration Act (16 U.S.C. 669) and the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777) make funds available to states for qualifying grants on a three-to-one-matching basis. Provisions of both Acts authorize the Secretary to utilize a certain percentage of the funds available for each program for expenses in administering the Federal Aid program. Specifically, the Secretary is authorized to utilize up to 8 percent of funds available under the Wildlife Restoration Act for necessary administration of the program while the Sport Fish Restoration Act allows the Secretary to utilize up to 6 percent of available funds for administrative purposes. The Service has utilized much of this authorized funding by awarding grants for projects that have been identified by states collectively as national priorities.

The Service has identified specific focus areas in soliciting proposals for this year's funding. (63 FR 17882 published April 10, 1998). Grants will be awarded by the Service after reviewing proposals for eligibility and receiving priority rankings by the Grants-in-Aid Committee of the International Association of Fish and Wildlife Agencies, an organization representing state fish and wildlife agencies.

This notice advises the public that the Service will develop a full range of options for funding future national conservation priorities pursuant to the Federal Aid in Wildlife Restoration Act and Federal Aid in Sport Fish Restoration Act. The Service intends to publish these options in the **Federal Register** on or about September 1, 1998, for a 60-day period of public review and comment. Interested persons contacting the Service will be put on a mailing list to receive a copy of the options which will be developed for the aforementioned public review and comment.

Each request should include a complete mailing address to which the proposed options will be sent.

Dated: May 15, 1998.

Jamie Rappaport Clark,

Director.

[FR Doc. 98–13923 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–1990–00]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the finding of no significant impact (FONSI) and proposed decision for the Shirley Mountain Planning Review Travel Management Environmental Assessment (EA), Carbon County, Wyoming, and amendment of the Great Divide Resource Management Plan.

SUMMARY: The Shirley Mountain Planning Review Area contains approximately 69,590 acres of intermingled public, private, and State lands located approximately 40 miles northwest of the town of Medicine Bow, all in Carbon County, Wyoming. The planning review was conducted to determine the impacts to the BLM administered public lands, adjacent non-Federal lands, and associated resource uses resulting from a proposed amendment to the Great Divide Resource Management Plan (RMP). The proposed RMP decision amendment would change the current Off Road Vehicle (ORV) designation in the area from "limited to existing roads and trails" to "limited to designated roads and trails" and includes several requirements and stipulations for implementing the changed decision.

DATES: A 30-day protest period for the proposed planning decision will begin the day following the publication of this notice.

ADDRESSES: Protests must be addressed in writing to the Director (210), Bureau of Land Management, Attention Brenda Williams, 1849 C Street NW, Washington, D.C. 20240. Protests must be postmarked within 30 days following the date that this notice of availability (NOA) of the proposed decision is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Interested parties may direct questions, concerns, or obtain further information by contacting Karla Swanson, Great Divide Resource Area Manager, Sarah Crocker, Project Leader, or John Spehar, Planning and Environmental Coordinator, at the Bureau of Land Management Office, 1300 N. Third Street, Rawlins, Wyoming 82301, or by telephone at 307–328–4200.

SUPPLEMENTARY INFORMATION: The need for an ORV designation change within the planning review area is based upon recommendations made by the ad hoc Shirley Mountain Technical Committee and previously completed studies and activity plans. In 1985, the BLM completed a Habitat Management Plan (HMP) for Shirley Mountain. The HMP recommended that several two-track trails be closed to motorized vehicle travel because they were fragmenting wildlife habitat, were unnecessary for adequate public access to public lands, and had associated erosion problems. In 1994, the Wyoming Game and Fish Department completed a habitat analysis for the Shirley Mountain area identifying habitat problems impacting wildlife populations and potential solutions. The study found that the majority of hiding cover for large game animals was heavily dissected by a system of roads and trails. Security areas for these animals during hunting season were very limited. The study recommended that future BLM management restrict the construction of new roads and that a plan be developed to manage recreational road and trail use and to reduce road and trail proliferation. A change in ORV designation for the Shirley Mountain Planning Review Area will allow the BLM to implement a travel management plan in the future. Included in the decision to change the ORV designation for the review area are requirements and stipulations for implementing the ORV designation decision. These include the development of a travel activity or implementation plan. As provided in 43 Code of Federal Regulations, Part 1610.5–2, any person who participated in the planning review process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may concern only those issues which were raised and submitted for the record during the planning review process and by only the party(ies) who raised the issue(s). All parts of the proposed decision may be protested. Protests must be in writing and must be postmarked within 30 days following the date this notice of availability of the decision record is published in the **Federal Register**. Protests must include (a) the name, mailing address, telephone number, and interest of the person filing the protest; (b) a statement of the issue or issues submitted during the planning process by the protesting party; (c) a statement of the part, or parts, of the proposed decision being protested; (d) a copy of all documents addressing the issue or issues that were submitted during the planning review process by the protesting party or an indication of the date the issue or issues were

discussed for the record; and (e) a concise statement explaining why the State Director's proposed decision is believed to be wrong.

If no protests are received, the proposed decision will become final at the end of the 30-day protest period. If protests are received, the decision will not become final until the protests are resolved.

Dated: May 19, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–13855 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(AK–932–1410–00; AA–65185)

Public Land Order No. 7331; Partial Revocation of Public Land Order No. 725, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects approximately 200 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, for the Lower Summit Lake Recreation Area. The land is no longer needed for the purpose for which it was withdrawn. This action also allows the conveyance of the land to the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State is opened and will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record.

EFFECTIVE DATE: May 26, 1998.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 725, which withdrew National Forest System land for recreational purposes, is hereby revoked insofar as it affects the following described land:

Seward Meridian

Chugach National Forest

T. 7 N., R. 1 W., partly unsurveyed.

All land within ¼ mile of the mean high water line of Lower Summit Lake within:

Sec. 28, W½SW¼;
Sec. 29, E½SE¼;
Sec. 32, N½NE¼, E½SW¼NE¼, and NW¼SW¼NE¼.

The area described contains approximately 200 acres.

2. The State of Alaska applications for selection made under Section 6(a) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1994), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1994), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State is opened and will be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal of record.

Dated: May 14, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–13891 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00, ES–046131, Group 60 Louisiana]

Notice of Filing of Plat of Dependent Resurvey, Suspension Lifted

On Thursday, December 22, 1994, there was published in the **Federal Register**, Volume 59, Number 245, on page 66046, a notice entitled, "Filing of Plat of Dependent Resurvey, Suspended," said notice referenced the suspension of the plat of the dependent resurvey of the west boundary of Township 7 South, Range 9 East, Louisiana Meridian, Louisiana, accepted on May 24, 1993.

The decision of the Bureau of Land Management dismissing the protest of the dependent resurvey, Group 60, Louisiana was affirmed by the Interior Board of Land Appeals in a decision dated March 17, 1998. The plat of survey accepted May 24, 1993, was officially refiled in Eastern States, Springfield, Virginia, at 7:30 a.m., on May 18, 1998.

Copies will be furnished upon request and prepayment of the appropriate fee.

Dated: May 18, 1998.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 98–13893 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–11; WYW 4471–C]

Public Land Order No. 7330; Modification and Partial Revocation of 9 Executive Orders, 17 Secretarial Orders, and 8 Bureau of Land Management Orders; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies 9 Executive orders, 17 Secretarial orders, and 8 Bureau of Land Management Orders to establish a 20-year term as to 15,503.70 acres of public lands withdrawn for Bureau of Land Management public water reserves. These withdrawals are also modified to allow for nonmetalliferous mining location on all but 170 acres of the 15,503.70 acres. This order also partially revokes the above orders insofar as they affect 30,023.80 acres of public lands withdrawn for Bureau of Land Management public water reserves. These lands do not meet the criteria for a public water reserve. This action will open the 30,023.80 acres to surface entry and nonmetalliferous mining. All of the lands have been and will remain open to metalliferous mining location and to mineral leasing.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Jim Paugh, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6306.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Orders dated April 19, 1912, as modified July 24, 1913, March 3, 1933, and November 16, 1933; March 21, 1914; February 19, 1916; August 2, 1916; February 25, 1919; October 27, 1920; March 9, 1927; February 14, 1933; June 15, 1934; March 9, 1927, and the Secretarial Orders dated December 29, 1926; March 15, 1929; January 18, 1930; April 15, 1931; September 23, 1931; April 8, 1932; September 27, 1932; February 15, 1933; June 16, 1933; May 26, 1934; November 19, 1934; March 28, 1935; January 18, 1935; June 21, 1935; June 22, 1935; September 11, 1935, and the BLM Orders of August 12, 1955; September 24, 1957; January 16, 1958; September 23, 1958; August 21, 1959; February 17, 1960; March 27, 1962, and January 25, 1971, creating Public Water Reserves

No(s). 3, 32, 36, 58, 75, 107, 108, 149, and 155, are hereby revoked insofar as they affect the following described lands:

Sixth Principal Meridian

T. 17 N., R. 98 W.,
Sec. 6, SW¼NE¼ and N½SE¼;
Sec. 8, S½NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 20, S½N½ and NW¼SW¼;
Sec. 22, SW¼SW¼;
Sec. 26, S½N½;
Sec. 30, lot 5.
T. 16 N., R. 99 W.,
Sec. 2, lot 4 and W½ of lots 5 and 8;
Sec. 3, E½ of lot 7;
Sec. 6, lots 1, 2, 3, 5, 6, and 7.
T. 17 N., R. 99 W.,
Sec. 32, S½SE¼.
T. 18 N., R. 99 W.,
Sec. 10, lots 2, 3, N½NW¼, S½SE¼, and E½E½ of Tract 37;
Sec. 14, S½NW¼ and E½SW¼;
Sec. 20, E½NE¼, NE¼SW¼, and S½SW¼;
Sec. 26, E½W½;
Sec. 30, lot 6, NE¼NE¼, SW¼NE¼, and SE¼NW¼.
T. 20 N., R. 99 W.,
Sec. 6, E½SE¼SE¼.
T. 21 N., R. 99 W.,
Sec. 28, NW¼SW¼.
T. 23 N., R. 99 W.,
Sec. 19, SE¼SW¼ and SW¼SE¼;
Sec. 20, S½SW¼;
Sec. 29, N½NW¼;
Sec. 30, lots 7, 8, NW¼NE¼, and E½NW¼.
T. 14 N., R. 100 W.,
Sec. 18, SE¼NE¼.
T. 16 N., R. 100 W.,
Sec. 26, S½SW¼.
T. 18 N., R. 100 W.,
Sec. 8, lots 2, 7, 8, 9, and 16;
Sec. 22, lots 2, 7, 8, and 9;
Sec. 26, N½NE¼.
T. 19 N., R. 100 W.,
Sec. 30, NE¼NE¼;
Sec. 32, lots 1, 8, 9, and 16.
T. 20 N., R. 100 W.,
Sec. 30, E½SW¼.
T. 23 N., R. 100 W.,
Sec. 34, N½SW¼ and N½N½SE¼.
T. 27 N., R. 100 W.,
Sec. 3, lot 1 and SW¼NE¼.
T. 28 N., R. 100 W.,
Sec. 22, SW¼SW¼;
Sec. 27, N½NW¼;
Sec. 35, SW¼SW¼ and SW¼SE¼.
T. 19 N., R. 101 W.,
Sec. 2, lot 4, SW¼NW¼, and W½SW¼;
Sec. 14, E½E½;
Sec. 24, S½NE¼, NE¼NW¼, and NE¼SE¼.
T. 20 N., R. 101 W.,
Sec. 28, SW¼NE¼, S½NW¼, N½S½, and SE¼SE¼;
Sec. 30, lots 1, 2, S½NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 34, N½NE¼, NE¼NW¼, and E½SE¼.
T. 22 N., R. 101 W.,
Sec. 22, NW¼NW¼.
T. 15 N., R. 102 W.,
Sec. 5, lot 3.
T. 16 N., R. 102 W.,
Sec. 31, SE¼SW¼ and SW¼SE¼.
T. 18 N., R. 102 W.,
Sec. 12, NE¼SE¼.
T. 19 N., R. 102 W.,
Sec. 6, lot 4.
T. 20 N., R. 102 W.,
Sec. 26, N½N½;
Sec. 28, NE¼NE¼, S½NE¼, N½SE¼, and SE¼SE¼;
Sec. 32, S½N½ and N½S½.
T. 21 N., R. 102 W.,
Sec. 12, SE¼SE¼.
T. 23 N., R. 102 W.,
Sec. 5, W½SW¼.
T. 24 N., R. 102 W.,
Sec. 26, lot 1 and E½SE¼;
Sec. 31, lots 1, 4, and SW¼NE¼;
Sec. 33, NE¼SE¼;
Sec. 34, N½SW¼;
Sec. 35, NE¼NE¼, SW¼NE¼, and NW¼SE¼;
Part of lot 39 (formally part of E½NE¼ of sec. 35);
Part of lot 38 (formally part of NE¼NE¼ of sec. 26).
T. 25 N., R. 102 W.,
Sec. 28, SW¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, NW¼NW¼.
T. 13 N., R. 103 W.,
Sec. 6, lots 10, 11, 12, 13, and SE¼NW¼.
T. 14 N., R. 103 W.,
Sec. 3, lots 5, 9, 11, and SW¼NE¼;
Sec. 10, lot 3, SE¼SW¼, and W½SE¼;
Sec. 15, E½W½;
Sec. 18, lots 5, 8, 9, and SE¼NW¼;
Sec. 22, E½W½;
Sec. 27, NE¼NW¼, S½NW¼, and W½SW¼;
Sec. 34, W½W½.
T. 15 N., R. 103 W.,
Sec. 7, lot 10, N½SE¼, and SE¼SE¼;
Sec. 8, NW¼NE¼, NE¼NW¼, S½NW¼, and NW¼SW¼.
T. 16 N., R. 103 W.,
Sec. 2, lot 8;
Sec. 4, lot 8.
T. 17 N., R. 103 W.,
Sec. 8, SW¼SE¼;
Sec. 18, S½NE¼ and NW¼SE¼;
Sec. 28, SW¼NW¼;
Sec. 30, lot 3, NE¼SW¼, N½SE¼, and SE¼SE¼.
T. 18 N., R. 103 W.,
Sec. 18, lot 4, SE¼SW¼, and S½SE¼.
T. 19 N., R. 103 W.,
Sec. 2, SE¼NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 4, SE¼NE¼ and E½SE¼;
Sec. 10, SE¼NE¼, N½NW¼, S½SW¼, N½SE¼, and SW¼SE¼;
Sec. 18, lot 4, SE¼SW¼, and SE¼.
T. 23 N., R. 103 W.,
Sec. 19, SW¼NE¼.
T. 24 N., R. 103 W.,
Sec. 33, SW¼SW¼.
T. 25 N., R. 103 W.,
Sec. 20, SW¼NE¼, SE¼NW¼, and NW¼SE¼.
T. 12 N., R. 104 W.,
Sec. 12, N½NW¼.
T. 14 N., R. 104 W.,
Sec. 1, N½SE¼;
Sec. 2, lots 10, 11, and 12;
Sec. 4, lot 8;
Sec. 5, lot 6;
Sec. 11, lot 1 and E½NW¼;
Sec. 22, lots 3 and 4;
Sec. 24, lot 6;
Sec. 35, lot 2.
T. 15 N., R. 104 W.,
Sec. 19, lot 8 and N½SE¼;
Sec. 20, N½S½ and SE¼SE¼;
Sec. 21, W½SW¼;
Sec. 23, SE¼SE¼;
Sec. 24, S½S½;
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 28, NW¼NW¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 29, E½NE¼;
Sec. 30, NE¼SW¼;
Sec. 33, NW¼NW¼;
Sec. 34, N½NW¼ and SW¼NW¼.
T. 16 N., R. 104 W.,
Sec. 10, W½NE¼, NW¼SE¼, and SE¼SE¼;
Sec. 24, NE¼NE¼;
Sec. 34, SE¼SE¼.
T. 17 N., R. 104 W.,
Sec. 24, SE¼NE¼, N½SW¼, and SE¼;
Sec. 32, SW¼SW¼.
T. 18 N. R. 104 W.,
Sec. 20, NE¼NE¼.
T. 19 N., R. 104 W.,
Sec. 22, S½SW¼ and SE¼;
Sec. 24, N½NW¼;
Sec. 28, lots 1, 2, 6, 7, 8, 10 to 14, inclusive;
Sec. 30, lot 8, SE¼SW¼, N½SE¼, and SW¼SE¼.
T. 23 N., R. 104 W.,
Sec. 14, N½NW¼.
T. 24 N., R. 104 W.,
Sec. 14, SW¼SW¼.
T. 13 N., R. 105 W.,
Sec. 2, lots 2, 6, 7, SW¼NE¼, and SE¼SW¼;
Sec. 3, lots 6, 7, and S½SW¼;
Sec. 5, lot 13 and W½SE¼;
Sec. 6, lots 3, 4, 9, SW¼NE¼, SE¼NW¼, and W½SE¼;
Sec. 7, W½NE¼, SE¼NE¼, and NW¼SE¼;
Sec. 8, lots 2, 3, and SW¼NW¼;
Sec. 11, NE¼NW¼, S½NW¼, N½SW¼, and NW¼SE¼;
Sec. 12, NW¼NE¼;
Sec. 19, lot 4;
Sec. 21, NE¼NE¼.
T. 14 N., R. 105 W.,
Sec. 2, lot 4, SE¼NW¼; SW¼NW¼, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 3, lot 1;
Sec. 4, lots 5, 6, and NE¼SE¼;
Sec. 6, lot 5, SE¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 7, lot 8;
Sec. 11, W½E½;
Sec. 14, W½NE¼, SE¼NW¼, and NE¼SW¼;
Sec. 17, lots 5 and 6;
Sec. 18, lots 6 and 9;
Sec. 20, lots 4, 5, and NW¼NE¼;
Sec. 23, SW¼NE¼, W½SE¼, and SE¼SE¼;
Sec. 25, lots 1 and 5;
Sec. 26, N½NE¼ and SE¼NE¼;
Sec. 27, W½W½;
Sec. 28, lot 7;

Sec. 31, lot 6;
Sec. 33, lots 2, 3, 10, SW¼NW¼, and W½SW¼;
Sec. 36, lot 10 and E½ of lot 16.
T. 15 N., R. 105 W.,
Sec. 2, lot 4, SW¼NW¼, and NW¼SW¼;
Sec. 10, E½NE¼ and NE¼SE¼;
Sec. 13, lots 1, 2, 4, 6, NW¼NW¼, that part of lot 38 lying in the S½SW¼NW¼, S½NE¼SW¼, and SE¼SW¼;
Sec. 14, N½NE¼ and SE¼NE¼;
Sec. 18, lot 2, S½NE¼, and SE¼NW¼;
Sec. 20, NE¼NE¼;
Sec. 24, lots 1, 2, S½NE¼, SE¼NW¼, SE¼SW¼, and SE¼;
Sec. 27, lots 1, 2, SW¼NW¼, and that part of lot 37 lying in the W½W½SW¼;
Sec. 28, N½NE¼ and SE¼NE¼;
Sec. 33, lot 4;
Sec. 34, lots 1 to 4, inclusive, SW¼NE¼, SE¼NW¼, NE¼SW¼, W½SE¼, that part of lot 37 lying in the W½NE¼NW¼, E½NW¼NW¼, and that part of lot 43 lying in the E½SW¼NW¼, E½NW¼SW¼, and SW¼SW¼.
T. 16 N., R. 105 W.,
Sec. 28, SW¼NE¼, N½NW¼, NE¼SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 29, SE¼SE¼;
Sec. 34, N½NE¼, SE¼NE¼, and NE¼NW¼.
T. 17 N., R. 105 W.,
Sec. 22, SE¼NE¼ and SE¼NW¼.
T. 18 N., R. 105 W.,
Sec. 2, lot 15;
Sec. 4, lots 5, 6, 7, 10, 15, and 16;
Sec. 6, SE¼SE¼.
T. 19 N., R. 105 W.,
Sec. 8, SW¼NW¼;
Sec. 26, SE¼SW¼ and SE¼;
Sec. 30, SE¼NE¼;
Sec. 34, lots 5, 9, and 12.
T. 21 N., R. 105 W.,
Sec. 34, part of lot 1, lot 2, NE¼SE¼, S½SE¼, and part of Tract 37.
T. 12 N., R 106 W.,
Sec. 3, lots 5 and 8;
Sec. 8, lot 1, SE¼NE¼, and NW¼SE¼;
Sec. 9, lot 1, NW¼NE¼, NE¼NW¼, S½NW¼, and NW¼SW¼;
Sec. 17, lot 5;
Sec. 18, lots 8, 10, SE¼SW¼, and SW¼SE¼;
Parts of Tract 52 (secs. 2 and 3) within PWR 149.

T. 13 N., R. 106 W.,

Sec. 35, lots 1, 2, and part of Tract 52.
T. 14 N., R. 106 W.,
Sec. 5, lots 6, 7, and SW¼SE¼;
Sec. 8, lot 4 and NW¼NE¼;
Sec. 10, NE¼NW¼;
Sec. 11, lots 8 and 9;
Sec. 24, lots 10 to 12, inclusive.
T. 18 N., R. 106 W.,
Sec. 12, SE¼SW¼ and S½SE¼;
Sec. 14, N½NE¼, SW¼NE¼, S½NW¼, and W½SW¼;
Sec. 20, N½NE¼, SW¼NE¼, S½NW¼, and NW¼SW¼;
Sec. 22, N½N½.
T. 29 N., R. 106 W.,
Sec. 25, SW¼NW¼ and NW¼SE¼.
T. 12 N., R. 107 W.,
Sec. 13, SE¼SE¼;
Sec. 23, lot 3 and NE¼NE¼;
Sec. 24, N½N½.
T. 13 N., R. 107 W.,
Sec. 2, N½SW¼;
Sec. 3, lots 3, 4, SW¼NE¼, and S½NW¼;
Sec. 19, lot 1, N½NE¼, and NE¼NW¼;
Sec. 20, W½NE¼, SE¼NE¼, and N½NW¼;
Sec. 21, NE¼SW¼ and S½SW¼.
T. 14 N., R. 107 W.,
Sec. 31, lot 2, N½NE¼, SW¼NE¼, and E½NW¼;
Sec. 32, NE¼, N½NW¼, and SE¼NW¼;
Sec. 33, NW¼NW¼, S½NW¼, NE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 34, SW¼SW¼.
T. 29 N., R. 107 W.,
Sec. 14, NE¼SE¼.
T. 31 N., R. 107 W.,
Sec. 14, N½NE¼.
T. 32 N., R. 107 W.,
Sec. 19, lot 6;
Sec. 27, S½SW¼;
Sec. 34, N½NW¼.
T. 33 N., R. 107 W.,
Sec. 29, NE¼SW¼.
T. 31 N., R. 108 W.,
Sec. 4, lot 5 and W½SW¼;
Sec. 5, lots 10, 11, 12, and SE¼SE¼;
Sec. 7, E½SW¼;
Sec. 17, NW¼SW¼, SE¼SW¼, and S½SE¼;
Sec. 18, W½NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 20, N½NE¼;
Sec. 21, N½NW¼.
T. 25 N., R. 109 W.,
Sec. 4, lot 1.
T. 26 N., R. 109 W.,
Sec. 6, SE¼NE¼.
T. 27 N., R. 109 W.,
Sec. 18, SE¼NW¼.
T. 30 N., R. 109 W.,
Sec. 8, lots 1, 5, 6, and 7.
T. 31 N., R. 109 W.,
Sec. 12, lots 5 to 9, inclusive, SE¼SW¼, and NE¼SE¼;
Sec. 15, lots 7 and 8;
Sec. 21, lots 6 and 9;
Sec. 28, lots 1, 3, and NE¼NW¼;
Sec. 33, lots 4 and 7.
T. 32 N., R. 109 W.,
Sec. 20, SE¼SE¼;
Sec. 21, S½SW¼ and SW¼SE¼;
Sec. 28, N½NE¼.
T. 12 N., R. 110 W.,
Sec. 4, lot 5 and NW¼NE¼.
T. 24 N., R. 110 W.,
Sec. 1, SW¼SW¼.
T. 25 N., R. 110 W.,
Sec. 21, SE¼NW¼.
T. 26 N., R. 110 W.,
Sec. 3, SW¼SW¼;
Sec. 34, SW¼SE¼.
T. 27 N., R. 110 W.,
Sec. 17, NW¼NW¼.
T. 29 N., R. 110 W.,
Sec. 3, lot 4, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 4, lots 1 and 2.
T. 30 N., R. 110 W.,
Sec. 11, lots 2, 3, and 4;
Sec. 12, lot 5;
Sec. 14, lots 1, 4, 5, and NW¼NW¼;
Sec. 32, E½NE¼;
Sec. 33, SW¼NW¼, N½SW¼, and SE¼SW¼.
T. 13 N., R. 111 W.,
Sec. 3, lot 8;
Sec. 4, lot 8;
Sec. 5, SE¼NE¼;
Sec. 7, S½SE¼;
Sec. 18, N½NE¼.
T. 14 N., R. 111 W.,
Sec. 21, W½SW¼;
Sec. 32, NW¼NW¼.
T. 15 N., R. 111 W.,
Sec. 28, NW¼SW¼;
Sec. 29, NE¼SE¼.
T. 13 N., R. 112 W.,
Sec. 22, SE¼SW¼;
Sec. 27, N½NW¼.
T. 26 N., R. 112 W.,
Sec. 28, lots 6, 7, and 10.
T. 28 N., R. 113 W.,
Sec. 3, SW¼SW¼.
T. 30 N., R. 113 W.,
Sec. 24, NE¼SE¼.
T. 31 N., R. 113 W.,
Sec. 3, SW¼SW¼.
T. 28 N., R. 114 W.,
Sec. 12, NE¼NE¼.
T. 16 N., R. 115 W.,
Sec. 30.
T. 16 N., R. 116 W.,
Sec. 25;
Sec. 26, SE¼SE¼.
T. 21 N., R. 117 W.,
Sec. 25, SW¼NW¼.
T. 23 N., R. 117 W.,
Sec. 9, S½SW¼;
Sec. 16, Lots 3 and 4.
T. 25 N., R. 118 W.,
Lot 35 of Tract 66;
Lot 30 of Tract 68;
Lot 29 of Tract 69.
T. 21 N., R. 119 W.,
Sec. 11, S½SE¼;
Sec. 14, N½NE¼, SW¼NE¼, and W½SE¼;
Sec. 23, NW¼NE¼.
T. 24 N., R. 120 W.,
Sec. 22, SE¼NE¼;
Sec. 23, W½NW¼.

The areas described aggregate 30,023.80 acres in Fremont, Sublette, Sweetwater, and Uinta Counties.

2. At 10 a.m. on June 25, 1998, the lands in paragraph 1 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. June 25, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The Executive orders, Secretarial orders, and Bureau of Land Management orders listed in paragraph 1 are hereby modified to expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to the Federal Land Policy and Management Act

Section 1714(f) (1994), the Secretary determines that the withdrawals shall be extended insofar as they affect the following described lands:

Sixth Principal Meridian

T. 17 N., R. 95 W.,
Sec. 18, SE¼SE¼;
Sec. 20, NE¼SE¼;
Sec. 28, NE¼NE¼.
T. 17 N., R. 96 W.,
Sec. 20, NW¼NE¼.
T. 18 N., R. 97 W.,
Sec. 24, SW¼NW¼ and NW¼SW¼.
T. 21 N., R. 97 W.,
Sec. 12, NE¼SW¼;
Sec. 34, NW¼NW¼.
T. 22 N., R. 97 W.,
Sec. 18, NE¼NE¼;
Sec. 28, NE¼SW¼.
T. 26 N., R. 97 W.,
Sec. 4, NW¼SE¼.
T. 22 N., R. 98 W.,
Sec. 8, NE¼SW¼;
Sec. 30, NE¼NE¼.
T. 25 N., R. 98 W.,
Sec. 18, Lot 1 and NE¼NW¼.
T. 15 N., R. 99 W.,
Sec. 30, NE¼SW¼.
T. 16 N., R. 99 W.,
Sec. 6, Lot 4.
T. 20 N., R. 99 W.,
Sec. 6, E½SW¼SE¼ and W½SE¼SE¼.
T. 22 N., R. 99 W.,
Sec. 8, NW½SE¼;
Sec. 14, SE¼NW¼.
T. 23 N., R. 99 W.,
Sec. 7, SE¼SE¼;
Sec. 8, NW¼SE¼.
T. 14 N., R. 100 W.,
Sec. 3, S½NW¼ and SW¼SE¼.
T. 16 N., R. 100 W.,
Sec. 14, NE¼SW¼;
Sec. 28, NE¼NW¼.
T. 17 N., R. 100 W.,
Sec. 18, lot 8.
T. 20 N., R. 100 W.,
Sec. 30, lots 5, 6, and N½ of lot 7.
T. 22 N., R. 100 W.,
Sec. 18, lot 6, NE¼NE¼, and SE¼NW¼.
T. 23 N., R. 100 W.,
Sec. 34, SE¼SW¼, S½N½SE¼, and S½SE¼.
T. 24 N., R. 100 W.,
Sec. 29, NW¼NW¼.
T. 25 N., R. 100 W,
Sec. 15, NE¼NE¼.
T. 26 N., R. 100 W.,
Sec. 24, S½SE¼SE¼;
Sec. 25, N½NE¼NE¼.
T. 28 N., R. 100 W.,
Sec. 35, SE¼SW¼.
T. 12 N., R. 101 W.,
Sec. 18, lots 5, 6, and 15;
Sec. 19, lot 8 and W½NE¼.
T. 13 N., R. 101 W.,
Sec. 9, SW¼SW¼.
T. 17 N., R. 101 W.,
Sec. 22, NW¼NW¼.
T. 18 N., R. 101 W.,
Sec. 2, SE¼NE¼ and N½SE¼;
Sec. 18, SE¼NE¼ and W½SE¼.
T. 21 N., R. 101 W.,
Sec. 18, lot 2 and SE¼NW¼.
T. 22 N., R. 101 W.,
Sec. 22, NE¼NW¼.
T. 23 N., R. 101 W.,
Sec. 5, SW¼NW¼.
T. 24 N., R. 101 W.,
Sec. 4, lot 6 and E½ of lot 7;
Sec. 5, NW¼SE¼;
Sec. 29, S½NE¼NE¼ and N½SE¼NE¼.
T. 25 N., R. 101 W.,
Sec. 11, SW¼SW¼NE¼, S½NW¼, NE¼NE¼SW¼, and NW¼NW¼SE¼;
Sec. 22, E½SW¼SW¼ and W½SE¼SW¼;
Sec. 26, S½NE¼ and NE¼SE¼;
Sec. 35, NE¼NE¼.
T. 26 N., R. 101 W.,
Sec. 6, lot 1;
Sec. 31, E½SW¼SE¼ and W½SE¼SE¼.
T. 27 N., R. 101 W.,
Sec. 17, SE¼NE¼SE¼ and NE¼SE¼SE¼.
T. 12 N., R. 102 W.,
Sec. 4, SW¼NW¼;
Sec. 6, SE¼SW¼;
Sec. 8, NW¼NW¼;
Sec. 10, SE¼NE¼;
Sec. 13, lot 1;
Sec. 14, NW¼NE¼;
Sec. 15, SW¼NE¼;
Sec. 18, NE¼NE¼;
Sec. 21, SW¼NW¼;
Sec. 22, lot 8.
T. 13 N., R. 102 W.,
Sec. 11, NW¼SE¼;
Sec. 20, lot 1;
Sec. 28, SW¼NW¼;
Sec. 29, SW¼NW¼, E½SW¼, and W½SE¼;
Sec. 30, lot 5;
Sec. 31, NW¼NE¼;
Sec. 32, NE¼NW¼ and SW¼SE¼;
Sec. 34, NW¼SE¼.
T. 14 N., R. 102 W.,
Sec. 10, NW¼NW¼.
T. 17 N., R. 102 W.,
Sec. 2, lot 2;
Sec. 4, SW¼SE¼.
T. 23 N., R. 102 W.,
Sec. 1, SE¼SW¼;
Sec. 3, lot 3;
Sec. 9, SE¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 10, NE¼NE¼, SE¼NE¼SW¼, NE¼SE¼SW¼, SW¼NW¼SE¼, and NW¼SW¼SE¼;
Sec. 11, NE¼NE¼, SW¼NE¼NW¼, SE¼SW¼NW¼, NW¼NE¼SW¼, NE¼NW¼SW¼, S½SW¼, and SW¼SE¼;
Sec. 14, NW¼NE¼ and N½NW¼;
Sec. 17, SE¼NW¼.
T. 24 N., R. 102 W.,
Sec. 22, NE¼SE¼;
Sec. 26, NE¼SW¼ and SW¼SW¼;
Sec. 35, SE¼NE¼.
T. 25 N., R. 102 W.,
Sec. 11, NW¼SW¼;
Sec. 15, SW¼SW¼ and E½SE¼SW¼.
T. 26 N., R. 102 W.,
Sec. 14, SW¼SW¼.
T. 27 N., R. 102 W.,
Sec. 21, SE¼NE¼SW¼, NE¼SE¼SW¼, SW¼NW¼SE¼, and NW¼SW¼SE¼;
Sec. 27, SW¼NW¼NE¼, NW¼SW¼NE¼, SE¼NE¼NW¼, and NE¼SE¼NW¼.
T. 28 N., R. 102 W.,
Sec. 2, lot 2;
Sec. 17, NE¼NW¼.
T. 29 N., R. 102 W.,
Sec. 23, SE¼SW¼.
T. 12 N., R. 103 W.,
Sec. 2, SW¼NE¼;
Sec. 3, lot 7;
Sec. 4, NW¼NE¼, SE¼NE¼, and S½SE¼;
Sec. 6, lots 8, 9, and 10;
Sec. 8, lot 1, NW¼NE¼, and SE¼NW¼;
Sec. 10, SW¼NE¼;
Sec. 11, SW¼SE¼;
Sec. 12, NW¼NW¼;
Sec. 15, lot 4, NW¼NE¼, and SE¼NW¼;
Sec. 22, lot 8.
T. 13 N., R. 103 W.,
Sec. 5, lot 6;
Sec. 6, lot 14;
Sec. 23, SW¼SE¼;
Sec. 25, lot 2, S½NW¼, and NW¼SE¼;
Sec. 31, lot 12;
Sec. 33, NE¼NE¼;
Sec. 34, NE¼NW¼;
Sec. 36, NW¼SW¼ and SW¼SE¼.
T. 14 N., R. 103 W.,
Sec. 3, lot 6;
Sec. 7, lots 5 and 11;
Sec. 18, SW¼NE¼.
T. 17 N., R. 103 W.,
Sec. 4, lot 3;
Sec. 8, NW¼NW¼.
T. 23 N., R. 103 W.,
Sec. 6, lots 3, 4, SE¼SW¼, and SW¼SE¼;
Sec. 7, lot 3 and SE¼NE¼;
Sec. 8, E½SW¼ and NW¼SE¼;
Sec. 9, N½S½ and SE¼SE¼;
Sec. 10, S½SW¼ and SW¼SE¼;
Sec. 15, NE¼NW¼ and SW¼NW¼;
Sec. 17, NE¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 19, SE¼NW¼;
Sec. 21, NE¼NW¼.
T. 24 N., R. 103 W.,
Sec. 13, NE¼NE¼, W½SW¼NE¼, and E½SE¼NW¼;
Sec. 17, NW¼NE¼;
Sec. 24, NE¼NW¼ and NW¼SE¼;
Sec. 25, SE¼NE¼;
Sec. 26, SE¼NE¼.
T. 25 N., R. 103 W.,
Sec. 18, NE¼NW¼;
Sec. 28, SE¼SW¼NW¼, S½SE¼NW¼, N½NE¼SW¼, and NE¼NW¼SW¼.
T. 29 N., R. 103 W.,
Sec. 28, SW¼NE¼.
T. 30 N., R. 103 W.,
Sec. 29, SW¼SW¼SW¼;
Sec. 30, SE¼SE¼SE¼;
Sec. 31, NE¼NE¼NE¼;
Sec. 32, NW¼NW¼NW¼.
T. 12 N., R. 104 W.,
Sec. 4, SW¼SE¼.
T. 13 N., R. 104 W.,
Sec. 7, NW¼SE¼.
T. 14 N., R. 104 W.,
Sec. 21, lot 2 and NE¼NE¼;
Sec. 24, lot 3;
Sec. 29, NE¼SW¼ and SW¼SW¼;
Sec. 30, SW¼NE¼ and W½SE¼;
Sec. 31, SW¼NE¼.
T. 16 N., R. 104 W.,
Sec. 32, SW¼SW¼.
T. 17 N., R. 104 W.,
Sec. 14, SW¼NW¼;
Sec. 18, lot 5;
Sec. 22, NW¼NW¼.
T. 18 N., R. 104 W.,

Sec. 18, lot 6;
Sec. 20, NE¼NW¼.
T. 23 N., R. 104 W.,
Sec. 1, SE¼SW¼;
Sec. 2, SE¼SW¼;
Sec. 3, SW¼SE¼;
Sec. 4, S½NW¼, SW¼, NW¼SE¼, and S½SE¼;
Sec. 5, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 6, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 8, N½NE¼ and E½SE¼;
Sec. 9, NW¼NE¼, NW¼NW¼, and W½SW¼;
Sec. 10, W½NE¼, SE¼NE¼, and NE¼SW¼;
Sec. 11, SE¼SW¼ and SW¼SE¼;
Sec. 12, SE¼NW¼, NE¼SW¼, and NE¼SE¼;
Sec. 16, NW¼NW¼;
Sec. 17, NE¼NE¼.
T. 24 N., R. 104 W.,
Sec. 2, S½NE¼NE¼ and N½SE¼NE¼;
Sec. 11, NW¼SE¼;
Sec. 12, NE¼SE¼;
Sec. 17, NW¼SW¼;
Sec. 18, NW¼NE¼, SE¼NE¼, NE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 21, NW¼NW¼;
Sec. 22, NW¼NE¼ and SE¼NW¼;
Sec. 23, N½NW¼ and SE¼NW¼;
Sec. 30, SE¼NW¼ and SE¼SW¼;
Sec. 31, lot 4;
Sec. 32, NE¼NW¼.
T. 29 N., R. 104 W.,
Sec. 1, lot 1;
Sec. 26, SW¼SE¼.
T. 12 N., R. 105 W.,
Sec. 3, SW¼NE¼;
Sec. 22, SW¼NE¼.
T. 13 N., R. 105 W.,
Sec. 4, SE¼SE¼;
Sec. 6, lot 10;
Sec. 7, lot 1;
Sec. 9, NE¼NE¼;
Sec. 10, NE¼SE¼;
Sec. 12, NW¼SE¼;
Sec. 15, SE¼SE¼;
Sec. 16, SW¼SE¼;
Sec. 20, lot 4;
Sec. 21, lot 9;
Sec. 24, SW¼SW¼;
Sec. 28, SW¼NE¼.
T. 15 N., R. 105 W.,
Sec. 6, SE¼NW¼;
Sec. 10, NW¼SE¼ and SE¼SE¼;
Sec. 16, NE¼SE¼;
Sec. 18, NE¼NE¼;
Sec. 22, SE¼NW¼.
T. 17 N., R. 105 W.,
Sec. 22, SW¼NE¼.
T. 21 N., R. 105 W.,
Sec. 32, SW¼NE¼SE¼, W½SE¼, and SE¼SE¼.
T. 23 N., R. 105 W.,
Sec. 12, W½E½NE¼SW¼, W½NE¼SW¼, and E½E½NW¼SW¼.
T. 24 N., R. 105 W.,
Sec. 1, W½NE¼SW¼ and E½NW¼SW¼.
T. 30 N., R. 105 W.,
Sec. 2, S½ of lot 2 and N½SW¼NE¼;
Sec. 14, SE¼NW¼.
T. 12 N., R. 106 W.,
Sec. 2, lot 7;
Sec. 3, lot 9;
Sec. 5, NW¼NW¼;
Sec. 8, NE¼SE¼.
T. 13 N., R. 106 W.,
Sec. 12, lot 37-E;
Sec. 22, NW¼NE¼;
Sec. 23, SW¼SE¼;
Sec. 25, NW¼NW¼;
Sec. 26, NE¼SW¼NE¼, N½NW¼SW¼NE¼, and S½SW¼NE¼;
Sec. 35, SW¼NE¼;
Sec. 36, NE¼SW¼.
T. 14 N., R. 106 W.,
Sec. 17, NW¼NE¼ and NW¼SE¼;
Sec. 22, NE¼SW¼;
Sec. 27, N½SE¼;
Sec. 34, SE¼SW¼.
T. 15 N., R. 106 W.,
Sec. 2, lot 3;
Sec. 28, NW¼NE¼ and SW¼SE¼;
Sec. 30, lot 1.
T. 23 N., R. 106 W.,
Sec. 8, NW¼NE¼.
T. 13 N., R. 107 W.,
Sec. 21, NW¼SW¼.
T. 21 N., R. 107 W.,
Sec. 24, SW¼SW¼.
T. 23 N., R. 107 W.,
Sec. 13, SW¼SW¼NE¼, SE¼SE¼NW¼, NE¼NE¼SW¼, and NW¼NW¼SE¼.
T. 27 N., R. 107 W.,
Sec. 14, SW¼NW¼NW¼ and NW¼SW¼NW¼;
Sec. 15, SE¼NE¼NE¼ and NE¼SE¼NE¼.
T. 14 N., R. 109 W.,
ec. 19, SW¼SE¼;
Sec. 30, NW¼NE¼.
T. 24 N., R. 109 W.,
Sec. 9, NW¼NE¼;
Sec. 20, NW¼SW¼.
T. 12 N., R. 110 W.,
Sec. 22, NW¼NE¼.
T. 14 N., R. 110 W.,
Sec. 7, NE¼SE¼;
Sec. 8, SE¼NW¼;
Sec. 9, SE¼SW¼;
Sec. 10, SE¼NW¼;
Sec. 25, SW¼SE¼.
T. 15 N., R. 110 W.,
Sec. 27, SW¼SW¼.
T. 25 N., R. 110 W.,
Sec. 22, NE¼NE¼.
T. 12 N., R. 111 W.,
Sec. 13, N½SE¼;
Sec. 24, NE¼SE¼.
T. 13 N., R. 111 W.,
Sec. 3, lot 7 and SW¼NW¼;
Sec. 5, NW¼SE¼.
T. 14 N., R. 111 W.,
Sec. 3, lot 5 and NE¼SW¼;
Sec. 4, SE¼NE¼;
Sec. 9, NE¼NE¼ and SE¼SW¼;
Sec. 10, NE¼SW¼;
Sec. 11, NW¼NW¼;
Sec. 16, SE¼NW¼ and SW¼SE¼;
Sec. 17, SE¼SW¼;
Sec. 18, NE¼SW¼ and SE¼SE¼;
Sec. 19, SW¼NE¼;
Sec. 20, NE¼NW¼;
Sec. 21, NE¼NE¼ and SW¼NE¼;
Sec. 22, lot 1 and SW¼NE¼;
Sec. 32, NE¼NW¼;
Sec. 34, NW¼SW¼.
T. 15 N., R. 111 W.,
Sec. 14, NW¼NE¼.
T. 12 N., R. 112 W.,
Sec. 17, SE¼NE¼ and NE¼SE¼;
Sec. 20, SE¼NW¼.
T. 13 N., R. 112 W.,
Sec. 17, NE¼SE¼;
Sec. 24, N½SE¼.
T. 14 N., R. 112 W.,
Sec. 35, NW¼NW¼.
T. 12 N., R. 113 W.,
Sec. 13, SE¼NW¼ and SW¼SW¼;
Sec. 21, lot 4;
Sec. 23, NE¼SE¼.
T. 13 N., R. 113 W.,
Sec. 3, lot 7 and SE¼SE¼;
Sec. 19, NW¼NE¼.
T. 14 N., R. 113 W.,
Sec. 26, SW¼SW¼ and SW¼SE¼.
T. 12 N., R. 114 W.,
Sec. 14, NE¼SE¼.
T. 14 N., R. 120 W.,
Sec. 14, E½NW¼.

The areas described aggregate 15,503.70 acres in Fremont, Sublette, Sweetwater, and Uinta Counties.

The lands described shall continue to be segregated from the operation of the public land laws generally.

4. At 10 a.m. on June 25, 1998, the lands described in paragraphs 1 and 3, except those lands described in paragraph 5, shall be opened to nonmetalliferous mineral location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands for nonmetalliferous minerals under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands described in paragraphs 1 and 3 have been and will continue to be open to metalliferous mineral location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

5. The following Public Water Reserves will remain segregated from nonmetalliferous mineral location:

a. The land described below is in an area were water supplies are extremely deficient and there are some occurrences of zeolite deposits. Mineral exploration and development activities would destroy an important water source.

Sixth Principal Meridian

T. 17 N., R. 96 W.,
Sec. 20, NW¼NE¼.

b. The land described below is within a developed public recreation area.

T. 21 N., R. 105 W.,
Sec. 32, W½SE¼, SW¼NE¼SE¼, and SE¼SE¼.

The areas described above aggregate 170 acres in Sweetwater County.

Dated: May 14, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–13863 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 16, 1998. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240 Written comments should be submitted by June 10, 1998.

Beth Savage,

Acting, Keeper of the National Register.

FLORIDA

Leon County

Greene—Lewis House, 535 W. College Ave., Tallahassee, 98000677

Manatee County

Manatee County Courthouse, 1115 Manatee Ave. W, Bradenton, 98000676

GUAM

Guam County

Sanchez, Francisco Q., Elementary School, GU 2, Umatac, 98000678

LOUISIANA

East Feliciana Parish

Carroll House, 9553 Bank St. Ext., Clinton, 98000679

MASSACHUSETTS

Berkshire County

Taconic and West Avenues Historic District, Roughly bounded by Main St., Maple, West, and Taconic Aves., and Castle St., Great Barrington, 98000680

MINNESOTA

Crow Wing County

Bridge No. 5265—Garrison (Iron and Steel Bridges in Minnesota MPS) US–169 near Mille Lacs Lake, Garrison, 98000681

Lake County

Bridge No. 3589—Silver Creek Township (Reinforced-Concrete Highway Bridges in Minnesota MPS) US–61 over Stewart R., Silver Creek Township vicinity, 98000686

Lyon County

Bridge No. 5083—Marshall (Reinforced-Concrete Highway Bridges in Minnesota MPS) MN 19 over Redwood R., Marshall, 98000682

Bridge No. 5151—Marshall (Reinforced-Concrete Highway Bridges in Minnesota MPS) MN 19 over Redwood R., Marshall, 98000683

Mille Lacs County

Bridge No. 3355—Kathio Township (Reinforced-Concrete Highway Bridges in Minnesota MPS) US–169 over Whitefish Cr., Kathio Township vicinity, 98000685

Pine County

Kettle River Bridge (Iron and Steel Bridges in Minnesota MPS) MN 123 over Kettle R., Sandstone, 98000687

Wabasha County

Bridge No. 5827—Zumbro Falls (Iron and Steel Bridges in Minnesota MPS) MN 60 over streambed, Zumbro Falls, 98000684

NEW HAMPSHIRE

Carroll County

Libby Museum, Jct. of 109N and Lang Pond Rd., Wolfeboro, 98000690

NORTH CAROLINA

Perquimans County

Church of the Holy Trinity, 207 S. Church St., Hertford, 98000688

Wake County

Oakforest (Wake County MPS) 9958 Seawell Dr., Wake Forest, 98000689

TEXAS

Anderson County

Anderson County Jail (Palestine, Texas MPS) 704 Avenue A., Palestine, 98000692

Denby Building (Palestine, Texas MPS) 201 W. Crawford St., Palestine, 98000694

Dilley, G.E., Building (Palestine, Texas MPS) 503 W. Main St., Palestine, 98000698

First Presbyterian Church (Palestine, Texas MPS) 406 Avenue A, Palestine, 98000695

Post Office—Palestine (Palestine, Texas MPS) 101 E. Oak St., Palestine, 98000693

Robinson Bank Building (Palestine, Texas MPS) 213 W. Main St., Palestine, 98000691

VIRGINIA

Botetourt County

Anderson House, 5640 Lee Ln., Haymakertown vicinity, 98000696

Washington County

Edmondson Hall, Lindell Rd., 0.25 mi. N of jct. of VA 80 and VA 609, Meadowview vicinity, 98000697

A Request for a Move has been made for the following resource:

NORTH CAROLINA

Dare County

Cape Hatteras Light Station, SE of Buxton off NC 12 in Cape Hatteras National Seashore, Buxton vicinity, 78000266

A Request for Removal has been made for the following resources:

NEW MEXICO

San Miguel County

Elks Lodge Building (Las Vegas, New Mexico MRA) 810 Douglas Ave., Las Vegas, 85000377

TEXAS

Fannin County

Nunn House, 505 W. 5th St. Bonham, 80004117

Harris County

Paul, Allen, House, 2201 Fannin St., Houston, 80004127

[FR Doc. 98–13861 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Receipt of Applications Received for Access to National Park Service Property for the Siting of Mobile Services Antennas

AGENCY: National Park Service, Department of the Interior.

ACTION: Public notice of the receipt of an application for a right-of-way permit for a wireless telecommunications facility and the acceptance of public comment.

SUMMARY: Public Notice is hereby given that the National Park Service has received two applications from Bell Atlantic Mobile for a right-of-way permit to construct, operate and maintain a wireless telecommunications site within Rock Creek Park.

One application is for the Fitzgerald Tennis Center. The proposed facility consists of an antenna incorporated into the existing Tennis Center lights, which would raise the light pole height from the current 50 feet, to 78 feet to 100 feet. Additionally, there is a proposed 12 feet by 30 feet shelter to house associated equipment.

The second application is for the Rock Creek Maintenance Facility. The proposed facility includes installation of a 100 foot monopole. There is a

proposed 12 feet by 30 feet by 30 feet shelter to house associated equipment.

ADDRESSES: Comments concerning this application should be directed to: National Park Service, Superintendent Adrienne Coleman, 3545 Williamsburg Lane, NW., Washington, DC 20008, Phone (202) 282–1063.

Interested parties may review the application at Rock Creek Park Headquarters, 3545 Williamsburg Lane, NW, Washington, DC 20008.

Written comments must be received within 30 days from the date of this notice.

Cynthia Cox,

Assistant Superintendent.

[FR Doc. 98–13851 Filed 5–22–98; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–395]

In the Matter of Certain Eprom, Eeprom, Flash Memory, and Flash Microcontroller Semiconductor Devices, and Products Containing Same; Notice of Commission Decision To Extend Target Date for Completion of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the above-captioned investigation from June 22, 1998 to June 29, 1998, to accommodate a revised briefing schedule.

FOR FURTHER INFORMATION CONTACT: John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094.

SUPPLEMENTARY INFORMATION: This investigation was instituted on March 18, 1997, based on a complaint filed by Atmel Corporation. 62 FR 13706. The respondents named in the investigation are Sanyo Electric Co., Ltd., Winbond Electronics Corporation and Winbond Electronics North America Corporation, and Macronix International Co., Ltd.

Silicon Storage Technology, Inc. was permitted to intervene. At issue are claim 1 of U.S. Letters Patent 4,511,811, claim 1 of U.S. Letters Patent 4,673,829, and claims 1–9 of U.S. Letters Patent 4,451,903.

On May 6, 1998, the Commission determined to review portions of the presiding Administrative Law Judge's final initial determination and requested the parties to brief certain questions to aid the Commission's review. 63 FR 25867. The Commission directed the parties to file their main briefs responding to the Commission's notice of review by May 20, 1998, and their reply briefs by May 28, 1998. On May 18, 1998, a motion of respondent Winbond to extend the filing deadline for main briefs to May 26, 1998, and the filing deadline for reply briefs to June 2, 1998, was granted. The extensions apply to all parties.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51).

Copies of the public version of the Administrative Law Judge's final initial determination and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: May 19, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–13889 Filed 5–22–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Federal Insecticide Fungicide and Rodenticide Act and the Federal Trade Commission Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Accuventure, et. al* Civil Action No. 96–588–JE, was lodged on May 11, 1998 with the United States District Court for the District of Oregon. In its Complaints, the United States asserted claims against four corporations and two individuals under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136. seq. and under Section 5(a) of the Federal Trade Commission Act ("FTCA"), 15 U.S.C. § 45(a). The claims concerned defendants' sale and advertisement of water filtering and purification products that were not registered as pesticides under FIFRA.

The Consent Decree provides for injunctive relief that restricts the defendants' future ability to distribute and advertise water treatment and filtering products. The Consent Decree also requires defendants to pay a civil penalty of $20,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044. Comments should refer to *United States of America* v. *Accuventure et al.*, DOJ Ref. No. 1–1687

The proposed consent decree may be examined at the office of the United States Attorney, Districts of Oregon, District of Oregon, 1000 SW Third Avenue, Suite 600, Portland, OR 97204–2904; the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $8.50 (25 cents per page reproduction cost0 payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–13894 Filed 5–22–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(i), notice is hereby given that a proposed Consent Decree in *United States* v. *William Davis, et al.*, Civ. Action No. 90–0484–T, was lodged in the United States District Court for the District of Rhode Island on May 15, 1998. The proposed Consent Decree resolves the United States' claims against National Starch & Chemical Co. under sections 106 and 107(a) of the Comprehensive Environmental

Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. 9607(a), concerning response actions at the Davis Liquid Waste Superfund Site located in Smithfield, Providence County, Rhode Island (the "Davis Site").

Under the terms of the Consent Decree, National Starch & Chemical Co. is required to pay $2,125,000 in two payments over two years to the United States in partial reimbursement of the United States' past and future costs. In addition, National Starch & Chemical Co. is jointly and severally responsible along with United Technologies Corp. ("UTC") and other previous settlers for the source control portion of the remedy at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *William Davis, et al.*, Civ. Action No. 90–0484–T, DOJ #90–11–2–137B.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of Rhode Island, Westminster Square Building, 10 Dorrance Street, 10th Floor, Providence, Rhode Island 02903; at the Region I Office of the U.S. Environmental Protection Agency, 90 Canal Street, Boston, Massachusetts 02203; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $7.25 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–13826 Filed 5–22–98; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 98–064]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). Information collection is required to ensure proper use of and disposition of rights to inventions made in the course of, and data developed under NASA contracts.

DATES: All comments should be submitted on or before July 27, 1998.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Grant programs, intergovernmental relations.

OMB Number: 2700–0093.

Type of review: Extension.

Need and Uses: Recordkeeping and reporting is required to ensure proper accounting of Federal funds and property provided under grants and cooperative agreements to state and local governments.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 16.

Responses Per Respondent: 6.

Annual Responses: 95.

Hours Per Request: 5 hrs.

Annual Burden Hours: 485.

Frequency of Report: On occasion.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–13225 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 98–063]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). Information collection is required to ensure proper use of and disposition of rights to inventions made in the course of, and data developed under NASA contracts.

DATES: All comments should be submitted on or before July 27, 1998.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Cooperative Agreements with Commercial Firms.

OMB Number: 2700–0092.

Type of review: Extension.

Need and Uses: Recordkeeping and reporting is required to ensure proper accounting of Federal funds and property provided under cooperative agreements with commercial firms.

Affected Public: Business or other for-profit.

Number of Respondents: 107.

Responses Per Respondent: 6.

Annual Responses: 658.

Hours Per Request: Average of 7 hrs per report.

Annual Burden Hours: 4,592.

Frequency of Report: On occasion.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–13226 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–066)]

NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council Task Force on International Space Station Operational Readiness. Some members of the Task Force will be participating via telecon.

DATES: Tuesday, June 16, 1998, 2:00 p.m.–5:00 p.m. Eastern Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW, Room 7W31, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis McSweeney, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4556.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review the results of the Task Force Working Group in International Space Station Test and Verification
—Review the results of the Task Force Working Group on International Space Station Crew Training
—Review of Task Force assessment on early ingress on International Space Station assembly missions 2A and 2A.1
—Review of Task Force assessment on plans of Mir deorbit

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: May 19, 1998.

Mathew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–13858 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–066]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Space Station Utilization Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act. Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Space Station Utilization Advisory Subcommittee.

DATES: Monday, June 22, 1998, 8 a.m. to 5 p.m.; Tuesday, June 23, 1998, 8 a.m. to 5 p.m.; Wednesday, June 24, 1998, 8 a.m. to 5 p.m.; Thursday, June 25, 1998, 8 a.m. to 5 p.m.; Friday, June 26, 1998, 8 a.m. to 11:30 a.m.

ADDRESSES: Founders Inn and Conference Center, 5641 Indian River Road, Virginia Beach, VA.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond M. Reeves, Code US, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2560.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

- Space Station development overview
- ISS utilization capabilities
- Research utilization plans
- Accommodation of human studies
- Communications capabilities
- Attached payload accommodation policy
- International partner utilization plans

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 19, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–13860 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–067]

NASA Advisory Council, Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: Monday, June 15, 1998, 9:00 a.m. to 3:00 p.m. and Tuesday, June 16, 1998, 9:00 a.m. to 12:00 p.m.

ADDRESSES: Lewis Research Center, Administration Building, Room 215, 21000 Brookpark Road, Cleveland, OH, 44135–3191.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Office of Small and Disadvantaged Business Utilization, National Aeronautics and Space Administration, Room 9K70, 300 E Street SW, Washington, DC 20546, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

June 15, 1998

- Call to Order
- Reading of Minutes
- Lewis Small Disadvantaged Business (SDB) Program
- Report of Chair
- Public Comment
- Center Directorate Reports
- Report on NASA FY 98 SDB Accomplishments
- Adjourn

June 16, 1998

- MBRAC Subpanel Reports
- Status of MBRAC Recommendations
- Special Issues
- Action Items
- Adjourn

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 19, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–13859 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–065]

Notice of prospective patent license

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that AVE, Incorporated, of 343 Harrison Street, Denver, Colorado 80206, has applied for an exclusive license to practice the invention disclosed and claimed in U.S. Patent No. 5,661,494 entitled, "High Performance Circular Polarized Microstrip Antenna," NASA Case No. MSC–21982–1, assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Mail Code HA, NASA Johnson Space Center, Houston, Texas 77058, telephone (281) 483–1003.

Dated: May 14, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–13899 Filed 5–22–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used by customers/researchers for ordering reproductions of NARA's motion picture, audio, and video holdings that are housed in the Washington, DC area of the National Archives and Records Administration. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 27, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Item Approval Request List.

OMB number: 3095–0025.

Agency form number: NA Form 14110 and 14110A.

Type of review: Regular.

Affected public: Business or for-profit, nonprofit organizations and institutions, federal, state and local government agencies, and individuals or households.

Estimated number of respondents: 1,550.

Estimated time per response: 15 minutes.

Frequency of response: On occasion (when respondent requests copies of motion picture, audio, and video holdings from NARA).

Estimated total annual burden hours: 388 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.72. The collection is prepared by researchers who cannot visit the appropriate NARA research room or who request copies of records as a result of visiting a research room. NARA offers limited provisions to obtain copies of records by mail and requires requests to be made on prescribed forms for certain bodies of records. NARA uses the Item Approval Request List form to track reproduction requests and to provide information for customers and vendors.

Dated: May 18, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–13886 Filed 5–22–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 25, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Maya Bernstein, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on February 19, 1998 (63 FR 8502). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Statistical Research in Archival Records Containing Personal Information.

OMB number: 3095–0002.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals.

Estimated number of respondents: 1.

Estimated time per response: 7 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 7 hours.

Abstract: The information collection is prescribed by 36 CFR 1256.16 and 36 CFR 1256.4. Respondents are researchers who wish to do biomedical

statistical research in archival records containing highly personal information. NARA needs the information to evaluate requests for access to ensure that the requester meets the criteria in 36 CFR 1256.4 and that the proper safeguards will be made to protect the information.

Dated: May 14, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–13888 Filed 5–22–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Space Planning for the National Archives and Records Administration; Public Meeting

The National Archives and Records Administration announces a meeting on Wednesday, June 3, 1998, from 7 p.m. to 9 p.m. at NARA's regional records services facility at 380 Trapelo Road, in Waltham, Massachusetts. This meeting will be open to the public.

This is one of a series of meetings at which NARA is seeking public input for a study of its space needs for the next 10 years. NARA representatives will explain the reasons for undertaking a space plan, its objectives, and the planning process, and will invite comments and answer questions. In addition to helping NARA with its planning, this meeting is part of a National Performance Review initiative called Conversations With America: My Government Listens. NARA urges everyone interested to attend.

For further information, contact Diane LeBlanc on 781–647–8745. Persons planning to attend the meeting are asked to call 781–647–8745 or send an e-mail to diane.leblanc@waltham.nara.gov. However, notice is not required.

Dated: May 20, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–13902 Filed 5–22–98; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 98–19 ASLBP No. 98–741–03-EA]

John Boshuk, Jr.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

John Boschuk, Jr.

Order Prohibiting Involvement in NRC-Licensed Activities

IA 98–19

In accordance with 10 CFR 202, this Board is established as a result of the petitioner, John Boschuk, Jr., requesting a hearing on April 27, 1998, for an NRC Order issued April 10, 1998. The Order prohibits Mr. Boschuk from engaging in NRC-licensed activities for five years, requires him to inform the NRC of any NRC licensed entity or entities where he is involved and prohibits such involvements, and requires him to provide a copy of the Order to all such NRC-licensed entities.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All correspondence, documents and other materials in this proceeding shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 18th day of May, 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–13883 Filed 5–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 98–20 ASLBP No. 98–742–04–EA]

Lourdes T. Boschuk; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Lourdes T. Boschuk

Order Prohibiting Involvement in NRC-Licensed Activities

IA 98–20

In accordance with 10 CFR 202, this Board is established as a result of the petitioner, Lourdes T. Boschuk, requesting a hearing on April 27, 1998, for an NRC Order issued April 10, 1998. The Order prohibits Ms. Boschuk from engaging in NRC-licensed activities for five years, requires her to inform the NRC of any NRC licensed entity or entities where she is involved and prohibits such involvements, and requires her to provide a copy of the Order to all such NRC-licensed entities.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All correspondence, documents and other materials in this proceeding shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 18th day of May 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–13884 Filed 5–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear Inc. (the licensee) to withdraw its July 16, 1997, application for proposed amendment to Facility Operating License No. DPR–16 for the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

The proposed amendment would have revised the Oyster Creek Security Training and Qualification Plan. .

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in

the **Federal Register** on December 17, 1997 (62 FR 66138). However, by letter dated May 14, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 16, 1997, and the licensee's letter dated May 14, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 19th day of May 1998.

For the Nuclear Regulatory Commission.

Ronald B. Eaton Sr.,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13901 Filed 5–22–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, June 4, 1998, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: May 13, 1998.

Phyllis G. Heuerman,

Acting Chair, Federal Prevailing Rate Advisory Committee.

[FR Doc. 98–13920 Filed 5–22–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23190; File No. 812–10958]

Baron Capital Funds Trust, et al.; Notice of Application

May 18, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940, as amended (the "Act"), granting relief from Sections 9(a), 13(a), 15(a) and 15(b) of the Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Baron Capital Funds Trust and BAMCO, Inc., seek an order pursuant to Section 6(c) of the Act to the extent necessary to permit shares of any current or future series of the Trust designed to fund insurance products ("Insurance Funding Series") and shares of any other investment company or series thereof now or in the future registered under the Act that is designed to fund insurance products and for which the Adviser, or any of its affiliates ("Affiliates"), may in the future serve as investment adviser, administrator, manager, principal underwriter or sponsor (the Insurance Funding Series and each such other investment company being hereinafter referred to, collectively, as the "Funds") to be sold to and held by: (a) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies ("Participating Insurance Companies"), and (b) certain qualified pension or retirement plans outside of the separate account context ("Plans").

APPLICANTS: Baron Capital Funds Trust ("Trust") and BAMCO, Inc. ("Adviser").

FILING DATES: The application was filed on January 12, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on June 12, 1998, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Baron Capital Funds Trust, c/o Linda Martinson, 767 Fifth Avenue, New York, New York 10153; copy to Richard T. Prins, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, 919 Third Avenue, New York, New York 10222.

FOR FURTHER INFORMATION CONTACT: Elisa D. Metzger, Senior Counsel, or Mark C. Amorosi, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, DC 20549, (tel. (202) 942–8090).

Applicants' Representations

1. The Trust is a Delaware business trust and is registered under the Act as an open-end diversified management investment company. The Trust currently is composed of one series, Baron Capital Asset Fund, and is authorized to issue shares in separate series or classes. Additional series may be added in the future.

2. The Adviser is registered under the Investment Advisers Act of 1940 and is the investment adviser for the Trust. The Adviser is a wholly owned subsidiary of Baron Capital Group, Inc. ("BCG").

3. The Funds intend to offer shares to separate accounts established by Participating Insurance Companies to fund variable annuity and variable life insurance contracts ("Contracts"). Shares of each series of any of the Funds, including the Insurance Funding Series, also may be offered directly to Plans outside of the separate account context.

Applicants state that due to changes in the interpretation of the tax law by the Internal Revenue Service, the Funds are afforded an opportunity to increase their asset base through the sale of shares of the Funds to Plans. Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held by the portfolios of the Funds. The Code provides that such contracts shall not be treated as an annuity contract of life insurance contract for any period (and any subsequent period) for which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued Regulations (Treas. Reg. § 1.817–5) which establish diversification requirements for the investment portfolios underlying variable annuity and variable life contracts. The Regulations provide that, in order to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of

which allows shares in an investment company to be held by a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. § 1.817–5(f)(3)(iii)). To the extent permitted by applicable law, the Adviser or any Affiliate may act as investment adviser to Plans that will purchase shares of the Funds.

Applicants' Legal Analysis

1. Applicants seek an order exempting variable life insurance separate accounts of Participating Insurance Companies (and any principal underwriters and depositors of such accounts, and the Applicants) from Sections 9(a), 13(a), 15(a) and 15(b) of the Act, and Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Funds to be offered and sold to, and held by, (1) variable annuity and variable life separate accounts of both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside of the separate account context.

2. In connection with scheduled premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The exemptions granted by Rule 6e–2(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their share "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company." Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an investment management company that also offers its shares to a variable annuity separate account or a flexible premium variable life insurance separate account of the insurer or of any affiliated or unaffiliated insurance company. The use of a common investment management company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred therein as "mixed funding." In addition, the relief granted by Rule 6e–2(b)(15) is not available if shares of the underlying investment management company are offered to variable annuity or variable life insurance separate accounts of unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding."

3. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act. The exemptions granted by Rule 6e–3(T)(b)(15) are available only where all of assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or any affiliated life insurance company offering either scheduled premium variable life insurance contracts of flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Therefore, Rule 6e–3(T)(b)(15) permits mixed funding for flexible premium variable life insurance separate accounts under certain circumstances. The rule, however, does not permit shared funding, because the relief granted by the rule is not available with respect to a flexible premium variable life insurance separate account that owns shares of a management investment company that offers it shares to separate accounts (including flexible premium variable life insurance separate accounts) of unaffiliated life insurance companies.

4. Applicants state that the relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) will not be negatively affected by the purchase of shares of the Funds by Plans. Because the relief under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is available only where shares of the investment company are offered exclusively to separate accounts, however, exemptive relief is necessary if shares of the Funds are also to be sold to Plans.

5. Section 9(a) of the Act provides that a company may not act as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company, such as an officer, director or employee, is subject to a disqualification contained in Sections 9(a)(1) or (2). Rule 6e–2(b)(15)(i) and (ii) and Rule 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitation on mixed and shared funding. These exemptions limit the application of the eligibility restrictions of Section 9(a) to those affiliated individuals or companies that participate directly in the management of the underlying fund.

6. The partial relief granted from Section 9(a) in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) limits, in effect, the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of that section's policy and purposes. Applicants state that those rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply to the provisions of Section 9(a) to individuals in a large insurance company complex, most of whom will have no connection with the investment company funding the separate accounts.

7. Applicants maintain that it is unnecessary to limit the applicability of the rules merely because the Funds may be sold in connection with mixed and shared funding. The Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Accordingly, Applicants state that applying the restrictions of Section 9(a) because of investment by other insurers' separate accounts would not serve any regulatory purpose. Additionally, Applicants submit that the reasons underlying the grant of relief from Section 9(a) will not be affected in any way by the proposed sale of the Funds to Plans.

8. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii), however, provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority, under certain circumstances. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard the voting instructions of contract owners in favor of any change in such company's

investment policies, principal underwriter, or any investment adviser, under certain circumstances.

9. Applicants state that, in adopting Rule 6e–2, the Commission expressly recognized that exemptions from pass-through voting requirements were necessary to assure the solvency of the life insurer and the performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer. Flexible premium variable life insurance contracts and variable annuity contracts are subject to substantially the same state insurance regulatory authority, and therefore, corresponding provisions of Rule 6e–3(T) (which apply to flexible premium insurance contracts and which permit mixed funding) presumably were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e–2. Applicants assert that these considerations are no less important or necessary when an insurance company funds its separate accounts in connection with mixed and shared funding.

10. Applicants further state that where applicable, shares of the Funds sold to Plans will be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control Plans with two exceptions: (a) when the Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more investment managers pursuant to Section 402(a)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, the Plan trustees have exclusive authority and responsibility for voting proxies.

11. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the name fiduciary. The Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Plans in their discretion. Some of the Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants in Plans ("Plan Participants").

12. Where a Plan does not provide Plan Participants with the right to give voting instructions, the Applicants do not see any potential for irreconcilable material conflicts of interest between or among Contract holders and Plan Participants with respect to voting of the respective Fund's shares. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of irreconcilable material conflicts with respect to voting is not present with respect to such Plans since the Plans are not entitled to pass-through voting privileges. Even if a Plan were to hold a controlling interest in a Fund, the Applicants do not believe that such control would disadvantage other investors in such Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, the Applicants submit that investment in the Funds by a Plan will not create any of the voting complications occasioned by mixed funding or shared funding. Unlike mixed or shared funding, Plan Participant voting rights cannot be frustrated by veto rights of insurers of state regulators.

13. Where a Plan provides Plan Participants with the right to give voting instructions, the Applicants see no reason to believe that Plan Participants in Plans generally or those in a particular Plan, either as a single group or in combination with Plan Participants in other Plans, would vote in a manner that would disadvantage Contract holders. The purchase of shares of the Funds by Plans that provide voting rights does not present any complication not otherwise occasioned by mixed or shared funding.

14. Applicants represent that the Funds will inform each shareholder, including each separate account and Plan, of information necessary for the meeting including their respective share ownership in the Fund. A Participating Insurance Company will then solicit voting instructions consistent with the "pass through" voting requirement.

15. Applicants assert that no increased conflict of interest would be present if the requested relief is granted. Applicants maintain that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. For example, when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of other insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. The possibility, however, also exists when a single insurer and its affiliates offer their insurance products in several states, as is currently permitted.

16. Applicants also assert that affiliations do not reduce the potential for differences in state regulatory requirements. In any event, the conditions set forth in the application and described below are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

17. Applicants maintain that affiliation does not eliminate the potential for divergent judgments as to when a Participating Insurance company could disregard Control holder voting instructions. The potential for disagreement is limited by the requirement that disregarding voting instructions be reasonable and based on specified good faith determinations. However, if the Participating Insurance Company's decision to disregard Contract holder voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in that Fund and no charge or penalty will be imposed upon the Contract holders as a result of such withdrawal.

18. Applicants submit that there is no reason why the investment policies of a Fund would or should be materially different from what it would or should be if it funded only variable annuity contracts or only variable life insurance contracts rather than Contracts and Plans. The Funds will not be managed to favor or disfavor any particular insurer or type of Contract. Regardless of the types of Fund shareholders, the Adviser is legally obligated to manage the Funds in accordance with each Fund's investment objectives, policies and restrictions as well as any guidelines established by the relevant Board of Directors or Trustees of the Funds. Applicants assert that the

Adviser does not give consideration to the identity of particular shareholders in a Fund, and, thus, manages the Funds in the same manner as any other mutual fund.

19. Applicants submit that there is no greater potential for material irreconcilable conflicts arising between the interests of participants and contract owners of separate accounts from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

20. Applicants note that while there are differences in the manner in which distributions from variable contracts and Plans are taxed, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and a separate account or Plan is unable to net purchase payments to make the distributions, the separate account and Plan will redeem shares of their Funds at their net asset value. A Plan will make distributions in accordance with the terms of the Plan. A Participating Insurance Company will make distributions in accordance with the terms of the variable contract.

21. Applicants state that the ability of the Funds to sell their shares directly to Plans does not create a "senior security," as such term is defined under Section 18(g) of the Act, with respect to any Contract owner as opposed to a participant under a Plan. Applicants state that regardless of the rights and benefits of participants under the Plans or Contract owners under the Contracts, the Plans and the variable annuity and variable life insurance separate accounts only have rights with respect to their respective shares of the Funds. They can only redeem such shares at their net asset value. No shareholder of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

22. Applicants submit that there are not conflicts between Contract owners of separate accounts and participants under the Plans with respect to the state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, the Plans can make the decision quickly and implement the redemption of their shares from the Funds and reinvest in another funding vehicle without the same regulatory impediments or, or as is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants have concluded that even if there should arise issues where the interests of Contract owners and the interests of Plans are in conflict, the issues can be almost immediately resolved because the Plans can, on their own, redeem the shares out of the Funds.

23. Applicants state that various factors have kept more insurance companies from offering variable annuity contracts and variable life insurance contracts than currently offer such contracts. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments), and the lack of name recognition by the public as investment experts. For example, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the variable contract business on their own. Use of a Fund as a common investment medium for variable contracts would reduce or eliminate these barriers.

24. Applicants maintain that the Participating Insurance Companies will benefit not only from the investment management and administrative expertise of the Adviser and its Affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. It would permit a greater amount of assets available for investment, thereby promoting economies of scale, permitting greater diversification, and making the addition of new portfolios more feasible. Additionally, making the Funds available for mixed and shared funding will encourage more insurance companies to offer variable contracts, and this should result in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges.

Applicants' Conditions

Applicants have consented to the following conditions if the order requested in the application is granted:

1. A majority of the Trustees or Board of Directors (each, a "Board") of the Trust and each Fund will consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona-fide resignation of any trustee or director, then the operation of this condition shall be suspended: (a) for a period 45 days if the vacancy or vacancies may be filed by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any irreconcilable material conflict between and among the interests of the Contract holders of all separate accounts and of Plan Participants and Plans investing in the Funds, and determine what action, if any, should be taken in response to any such conflicts. An irreconcilable material conflict may arise for a variety of reasons, which may include: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are being managed; (e) a difference in voting instructions given by variable annuity and variable life insurance Contract holders; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Contract holders; and (g) if applicable, a decision by a Plan to disregard the voting instructions of Plan Participants.

3. The Adviser (or any other investment adviser of a Fund), any Participating Insurance Company and any Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the issued and outstanding shares of a Fund (such Plans referred to hereafter as "Participating Plans") will be required to report any potential or existing conflicts to the Board of the relevant Fund. The Adviser (or any other investment adviser of a Fund), Participating Insurance Companies and Participating Plans will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by a Participating Insurance Company to inform the Board whenever it has determined to disregard Contract holder voting instructions and, if pass-through voting is applicable, an obligation by a

Participating Plan to inform the Board whenever it has determined to disregard Plan Participant voting instructions. The responsibility to report such information and conflicts to and to assist the Boards will be contractual obligations of all Participating Insurance Companies and Participating Plans investing in the Funds under their agreement governing participation in the Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Contract holders and, if applicable, Plan Participants.

4. If a majority of the Board of a Fund, or a majority of the disinterested trustees or directors, determine that an irreconcilable material conflict exists, the relevant Participating Insurance Companies and Participating Plans, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), will be required to take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict. Such steps could include: (a) withdrawing the assets allocable to some or all of the separate accounts from the Fund and reinvesting such assets in a different investment medium, which may include another series of the Trust or another Fund; (b) submitting the questions of whether such segregation should be implemented to a vote of all affected Contract holders and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity or variable life insurance Contract holders of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract holders the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If an irreconcilable material conflict arises because of a decision by a Participating Insurance Company to disregard Contract holders voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its separate account's investment in such Fund, with no charge or penalty imposed as a result of such withdrawal. If an irreconcilable material conflict arises because of a Participating Plan's decision to disregard Plan Participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Participating Plan may be required, at the election of the Fund, to withdraw its investment in such Fund, with no charge or penalty imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility of taking remedial action in the event of a Board determination of an irreconcilable material conflict and bearing the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Participating Plans under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of Contract holders and Plan Participants, as applicable.

5. For purposes of Condition Four, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will a Fund or the Adviser (or any other investment adviser of the Funds) be required to reestablish a new funding medium for any Contract. No Participating Insurance Company shall be required by Condition Four to set zero copy attached received instructions. Each Participating Plan will vote as required by applicable law and governing plan documents.

8. All reports of potential or existing conflicts received by a Board, and all Board action will regard to determining the existence of a conflict, notifying the Adviser, Participating Insurance Companies and Participating Plans of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. Each Fund will notify all Participating Insurance Companies with respect to such Fund that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund will disclose in its prospectus that: (a) shares of the Fund may be offered to insurance company separate accounts of both annuity and life insurance variable contracts, and to Plans; (b) due to differences of tax treatment and other considerations, the interests of various Contract owners participating in the Fund and the interests of Plans investing in the Fund may conflict; and (c) the Board will monitor such Fund for any material conflicts of interest and determine what action, if any, should be taken.

10. Each Fund will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the person having a voting interest in the shares of the respective Fund), and in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the Act not to require such meetings) or comply with Section 16(c) of the Act (although the Funds are not within the trusts described in Section 16(c) of the Act), as well as with Section 16(a) and, if applicable, Section 16(b) of the Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or Rule 6e–3 under the Act is adopted) to provide exemptive relief from any provision of the Act, or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Funds shall and the Participating Insurance Companies, as appropriate, shall be required to take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, or Rule 6e–3, as adopted, to the extent applicable.

12. No less than annually, the Adviser (or any other investment adviser of a Fund), the Participating Insurance Companies and Participating Plans shall submit to the Boards such reports, materials, or data as such Boards may reasonably request so that the Boards may fully carry out the obligations imposed upon them by the conditions contained in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the applicable Boards. The obligations of the Adviser, Participating Insurance Companies and Participating Plans to provide these reports, materials and data to the Boards, shall be a contractual obligation of the Adviser, all Participating Insurance Companies and Participating Plans under the agreements governing their participation in the Funds.

13. If a Plan or Plan Participant shareholder should become an owner of 10% or more of the issued and outstanding shares of a Fund, such Plan will execute a participation agreement with such Fund including the conditions set forth in the application to the extent applicable. A Plan or Plan Participant shareholder will execute an application containing an acknowledgment of this condition at the

time of its initial purchase of shares of the Fund.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–39996; File No. SR–AMEX–97–30)

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange, Inc. Relating to Professional Hearing Officers, Executive Committee Review of Appeals From Disciplinary Panel Decisions and Indemnification of Persons Serving on Disciplinary Panels and Exchange Officials

May 18, 1998.

I. Introduction

On August 11, 1997, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("ACT") [1] and Rule 19b–4 thereunder,[2] a proposed rule change which amends the Exchange's Constitution and Rules of Procedure applicable to its disciplinary proceedings. A notice of the proposed rule change appeared in the **Federal Register** on March 24, 1998.[3] The Commission received no comment letters concerning this rule change. This order approves the proposed rule change.

The Exchange's Constitution and Rules of Procedure applicable to disciplinary proceedings currently require, among other things, the Exchange to draw members of disciplinary panels exclusively from the ranks of practicing securities industry professionals. These rules also generally require the Chairmen of Disciplinary Panels to be Exchange Officials. The Exchange believes the current system for selecting Disciplinary Panels has worked well for many years, and Panel members have performed an invaluable service to the Exchange on a voluntary basis. Recently, the Exchange has noticed that the complexity of the legal issues confronting its disciplinary panels has increased, thus requiring Article V, Section 1(b) of the Exchange's Constitution and its Rules of Procedure to be modified.

II. Description of the Proposal

i. Professional Hearing Officers

Frequently, Disciplinary Panels face complicated legal questions that must be resolved promptly to ensure the timely resolution of enforcement matters. While the Exchange provides the Panels with an assistant, this staff person has a non-substantive role in enforcement proceedings and, therefore, is unable to fully participate in evaluating important legal, evidentiary and procedural questions. Accordingly, the Exchange has amended its Constitution and Rules to provide for professional hearing officers to serve as chairmen and voting members of Exchange Disciplinary Panels.[4] The remaining members of Disciplinary Panels would continue to be drawn from the ranks of practicing securities industry professionals as currently provided for in the Exchange's Constitution and Rules.[5]

ii. Indemnification of Persons Serving on Disciplinary Panels and Exchange Officials

The indemnification provision of the Exchange's Constitution had not specifically mentioned persons serving on Disciplinary Panels nor Exchange Officials. Although the Exchange believes there are sound arguments for concluding that persons serving on Disciplinary Panels and Exchange Officials already are covered by the Exchange's indemnity provision, the Exchange has, nevertheless, amended the Constitution to make this coverage explicit to help ensure that the Exchange can continue to attract and retain qualified persons to serve in these capacities.[6]

iii. Board Review of Disciplinary Panel Decisions

Prior to this proposal, in all instances, disciplinary appeals were heard by the Executive Committee of the Board pursuant to delegated authority from the Board of Governors as authorized by Article V, Section 1(b) of the Constitution except where a member or member organization is expelled or suspended for a period of one year or more. In such instance, a review by the full Board would have been required. However, the Exchange has amended its Constitution to vest in the Executive Committee the delegated authority to hear *all* appeals (including matters the Board calls for review) regardless of the nature of the respondent or the penalty.[7] This should make the appeal process less cumbersome, while at the same time eliminating a special review privilege (*i.e.*, full Board review) that existed for members and member organizations, but not for their employees. The full Board would retain authority to review disciplinary decisions when such review is deemed appropriate.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act [8] and the rules and regulations promulgated thereunder. Specifically, the Commission believes that approval of the proposed rule change is

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1995).

[3] Securities Exchange Act Release No. 39767 (March 17, 1998), 63 FR 1414 (March 24, 1998).

[4] The Amex expects that the "professional hearing officer will be an individual who is a lawyer who has had litigation experience in the securities area. It is possible that such individual, or his firm, may provide advice or services to the Exchange on matters that do not relate to the investigation or preparation of disciplinary matters." *See* letter from Janice M. Stroughter, Director of Hearings and Special Counsel, Legal & Regulatory Policy, American Stock Exchange, Inc., to Katherine England, Esq., Assistant Director, Market Supervision, SEC, dated February 25, 1998 ("Amendment No. 2").

[5] *CR.* CBOE Rule 2.1 (establishing committees, procedures and duties and powers thereof); NYSE rule 476(b) (outlining the composition of a Hearing Board, the selection pool from which panelists are chosen and length of service); and PCX Rule 11 (procedures for establishing committees in general, membership selection, and delegation of jurisdiction to specific committees).

[6] *Cf.* CBOE Const. art. IX, NYSE Const. art. XII, and PCX Const. art. XVI. According to these provisions, indemnification is granted to members of any committees authorized by their respective Constitutions or Boards.

[7] *Cf.* CBOE Rule 17.10 (review shall be conducted by the Board or a committee of the Board); NYSE Rule 476(f) (review of Hearing Panel's decision conducted by the Board); and PCX Rule 10.8(a) (review may either be conducted by the Board or by a committee appointed by Board).

[8] Pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. In updating its rules to improve its disciplinary process, the Exchange has enhanced efficiency by streamlining a process that should enable the Exchange to expeditiously resolve disciplinary actions. Competition should also improve as members and customers become confident that wrongdoing will be quickly and effectively addressed. If competition increases then capital formation should improve as an increase in business should result in increased profits. 15 U.S.C. 78c(f).

consistent with Section 6(b)(7)[9] of the Act. The proposed rule change provides fair procedures for disciplining its members and associated persons by changing the composition of Disciplinary Panels to allow professional hearing officers to serve as chairmen and voting members on these panels. Providing more responsibility and authority to these professional hearing officers lends credibility to the disciplinary process because all parties involved in the dispute will benefit from their expertise and knowledge of the law as it applies to the securities industry. This expertise and knowledge should result in speedier Panel decisions without sacrificing due process.

The Commission notes, however, that the Exchange's rules do not specifically address the possibility of conflicts of interest between the panelist and parties in the dispute.[10] In response, the Exchange states that its Hearings Department screens panel members for conflicts of interest.[11] Initially, prospective panel members are chosen who do not present apparent conflicts. These prospective panelists are then given the names of the parties, names of lawyers or agents representing the parties, names of any potential witnesses disclosed by the parties, and the nature of the case. Prospective panelists are then asked whether they have any past or present relationships with any of the persons mentioned and whether they are aware of any other conflict presented by any of the persons mentioned or by the nature of the case. The Exchange also forwards the names of prospective panelists to the parties so that the parties can conduct their own conflicts check. In the Commission's view, this procedure should go on a long way in removing any interested persons from the list of prospective panelists before the panel is selected, thereby minimizing the possibility of conflicts.

The Commission agrees that extending the right of indemnification to persons serving on Disciplinary Panels and to Exchange Officials should allow the Exchange to attract and retain qualified persons to serve in these capacities. By eliminating the possibility of litigation and potential judgment as factors in deciding whether to participate on a Panel, the pool of qualified candidates should increase and their decisions will be based on impartial analysis of the evidence and circumstances, not fear of reprisal. Finally, the Commission supports the Exchange vesting in the Executive Committee the authority to hear all appeals. Streamlining the appeals process should result in expedited enforcement action where necessary, which will, in turn, benefit the public.

[9] Section 6(b)(7) requires the Commission to determine that a registered national securities exchange's rules are designed to provide a fair procedure for the disciplining of members and persons associated with members.

[10] *Cf.* CBOE Rule 2.1(c) (no member shall participate in adjudication of a matter in which he is personally interested) and PCX Rule 10.8(b) (review board member required to disclose any circumstances that might preclude him from rendering an objective and impartial determination) and Rule 11.3 (no committee member shall participate in an adjudication of a matter in which he is personally interested).

[11] *See supra* note 4, Amendment No. 2 at p.2.

IV. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 6(b)(7).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–AMEX–97–30) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

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[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39998; File No. SR–CHX–98–06]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 2 and 3 to the Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Registration Requirements

May 18, 1998.

I. Introduction

On February 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposal to amend its rules to clarify the persons required to register with the CHX. On March 18, 1998, the CHX filed Amendment No. 1 to the proposal.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on April 1, 1998.[4] On May 7, 1998, the CHX filed Amendment No. 2 to the proposal.[5] On May 15, 1998, the CHX filed Amendment No. 3 to the proposal.[6] No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

CHX Article VI, "Restriction and Requirements," Rule 2, "Registration and Approval of Member and Member Organization Personnel," governs the registration and approval of member and member organization personnel and other associated persons. The CHX proposes to replace the current text to CHX Article VI, Rule 2 with new text in order to clarify those persons who are required to register with the Exchange. Specifically, new CHX Article VI, Rule 2(a), "Registration," will require all registered persons, as defined in CHX Article VI, Rule 2(b), to register with the CHX.[7] The CHX may waive the registration requirement or permit a short-form registration or notification for an individual who is properly registered with another self-regulatory organization ("SRO").

New CHX Article VI, Rule 2(b), "Definition of Registered Persons," defines "registered persons" as all members and persons associated with a member or member organization who are engaged or will be engaged in the securities business of a member or

[3] *See* Letter from Patricia L. Levy, Senior Vice President and General Counsel, CHX, to Katherine A. England, Division of Market Regulation ("Division"), Commission, dated March 17, 1998 ("Amendment No. 1"). Amendment No. 1 revises CHX Article VI, Rule 2(a) to state that registered persons, as defined in CHX Article VI, Rule 2(b), must register with the CHX.

[4] *See* Securities Exchange Act Release No. 39804 (March 25, 1998), 63 FR 15906.

[5] *See* Letter from Patricia L. Levy, Senior Vice President and General Counsel, CHX, to Yvonne Fraticelli, Attorney, Division, Commission, dated May 6, 1998 ("Amendment No. 2"). Amendment No. 2 revises CHX Article VI, Rule 2(b) to include members in the CHX's definition of registered persons.

[6] *See* Letter from Patricia L. Levy, Senior Vice President and General Counsel, CHX, to Yvonne Fraticelli, Division, Commission, dated May 15, 1998 ("Amendment No. 3"). Amendment No. 3 revises Interpretation and Policy .01 to CHX Article VI, Rule 2, to indicate that amendments to Form U–4 and Form BD regarding any registered person must be filed within 30 days after the registered person learns the facts or circumstances requiring the forms to be revised or, if the revision involves a statutory disqualification, as defined in the Act, within 10 days after the statutory disqualification occurs. The CHX's original proposal did not include the 10-day limit for the filing of amendments involving a statutory disqualification.

[7] *See* Amendment No. 1, *supra* note 3.

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member organization, or the management of such securities business, including those persons whose functions include supervision, solicitation, conduct or business and the training of other persons associated with the member or member organization for any of these functions. CHX Article VI, Rule 2(b) also enumerates, without limitation, specific persons who are within the definition of registered persons, including: (i) Sole proprietors; (ii) officers; (iii) partners; (iv) principal stockholders (as defined in CHX Article II, Rule 4); (v) directors; (vi) branch office managers; (vii) nominees; (viii) representatives (including any persons performing the duties customarily performed by a salesperson or registered representative); (ix) persons whose functions include (a) underwriting, trading or sales of securities; (b) research or investment advice, other than general economic information or advice, with respect to the activities described in the preceding clause (a); and (c) activities other than those specifically mentioned that involve communication, directly or indirectly, with public investors in securities in connection with the activities described in the preceding clauses (a) and (b); and (x) persons listed on Schedule A, B, or C of the member's or member organization's Form BD.[8]

With regard to independent contractors associated with members and member organizations, the CHX notes that it has been the long-standing policy of the Commission to characterize and treat independent contractors whose actions are controlled by a member or member organization as employees for purposes of the Act.[9] This characterization and treatment applies irrespective of whether such persons might be deemed employees in an unrelated statutory context (*e.g.*, for purposes of IRS regulations). Accordingly, an independent contractor, as well as any other person associated with a member or member organization, must register with the CHX if he or she falls within the definition of registered person.

New CHX Article VI, Rule 2(c), "Persons Exempt from Registration," exempts from registration persons associated with a member or member organization (i) whose functions are solely and exclusively ministerial; or (ii) who are not actively engaged in the securities business.[10]

The sole new provision in CHX Article VI, Rule 2(d), "Other Registration Requirements," prohibits members from making application for the registration of any associated person where there is no intent to employ such person in the member's securities business.[11] The CHX's proposal also amends Interpretation and Policy .01 to CHX Article VI, Rule 2 to state that amendments to Form U–4 and Form BD regarding any registered person must be filed within 30 days after the registered person learns the facts or circumstances requiring the forms to be amended or, if the amendment involves a statutory disqualification, as defined in the Act, within 10 days after the statutory disqualification occurs.[12]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[13] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.[14] In addition, the Commission finds that the proposal is consistent with Section 6(c)(3)(B)[15] of the Act, which allows a national securities exchange to require that any person associated with a member, or any class of such persons, register with the exchange in accordance with procedures established by the rules of the exchange.

New CHX Artidle VI, Rule 2(a) will require all registered persons, as defined in CHX Article VI, Rule 2(b), to register with CHX.[16] New CHX Article VI, Rule 2(b) generally defines registered persons as members and persons associated with a member who are engaged or will be engaged in the securities business of a member, or in the management of such business, including the functions of supervision, solicitation, conduct of business or the training of associated persons for any of these functions. New CHX Article VI, Rule 2(b) also enumerates, without limitation, specific persons who are within the definition of registered person. In addition to the persons required to register under the CHS's current rule, new CHX Article VI, Rule 2(b) also will require that the following persons register with the CHX: sole proprietors; principal stockholders (as defined in CHX Article III, Rule 4); persons listed on Schedules A, B, or C of a member's Form BD;[17] and persons engaged on behalf of a member in underwriting, trading, or sales of securities, research or investment advice, or other activities involving communication with the public in connection with underwriting, trading, sales of securities, or research or investment advice.

The Commission believes that new CHX Article VI, Rules 2(a) and 2(b) will clarify the persons who are required to register with the Exchange, thereby facilitating compliance with the CHX's registration requirements and helping to ensure that all persons who are or will be engaged in a member's securities business are registered with the CHX. Because register persons and persons seeking to register are subject to the

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[8] Schedule A of Form BD requests information concerning direct owners and executive officers; Schedule B requests information concerning indirect owners; and Schedule C is used to amend Schedules A and B.

[9] *See* Letter from Douglas Scarff, Director, Division, Commission, to Gordon S. Macklin, President, National Association of Securities Dealers, Inc., dated June 18, 1982 ("1982 Letter"). In its 1982 Letter, the Division noted that the Act requires that a person selling securities be registered with the Commission as a broker-dealer under Section 15(a) unless he or she is an associated person as defined in Section 3(a)(18) of the Act. With regard to securities salespersons designated as independent contractors, the Division stated that unless an independent contractor's activities are subject to control by a broker-dealer within the scope of Section 3(a)(18) of the Act, the salesperson must be registered individually as a broker-dealer. The Division noted that an independent contractor salesperson whose activities are subject to control by a broker-dealer must be registered with an SRO and should be covered by the employer broker-dealer's fidelity bond. Finally, the Division stated that a firm is responsible for ensuring either that an independent contractor is registered as a broker-dealer or assuming the supervisory responsibilities attendant to a relationship with an associated person.

[10] Persons in this category may include, for example, senior officers in a division of a broker-dealer that does not participate in the member's securities business. Telephone conversation between Patricia L. Levy, Senior Vice President and General Counsel, CHX, and Yvonne Fraticelli, Attorney, Division, Commission, on March 13, 1998 ("March 13 Conversation").

[11] The current version of CHX Article VI, Rule 2 contains the other requirements listed in new CHX Article VI, Rule 2(d). In general, these provisions include the requirements that members: (1) terminate their relationship with an associated person for whom the CHX has withdrawn or withheld registration or approval; (2) obtain CHX approval before allowing a person subject to a statutory disqualification to become associated with the member; (3) take reasonable care to determine the existence of a statutory disqualification prior to employing an associated person; and (4) promptly notify the CHX if an associated person becomes subject to a statutory disqualification.

[12] *See* Amendment No. 3, *supra* note 6.

[13] 15 U.S.C. 78f(b)(5)(1998).

[14] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(c)(3)(B).

[16] However, the CHX may waive the registration requirement or permit a short-form registration or notification for an individual who is properly registered with another SRO.

[17] *See* note 8, *supra*.

CHX's jurisdiction,[18] the proposal also will facilitate the CHX's oversight of such persons by ensuring that the CHX has the authority to enforce its rules and the federal securities laws against such persons.

The CHX's proposal also protests investors and the public interest by noting that a person characterized as an independent contractor must register with the CHX if he or she falls within the definition of registered person. This position is consistent with the 1982 Letter,[19] which stated, among other things, that an independent contractor salesperson whose activities are subject to control by a broker-dealer must be registered with a SRO. By providing a clear statement of the CHX's policy regarding the registration of independent contractors, the CHX's proposal should help to ensure that independent contractors who come within the CHX's definition of registered person register with the CHX.

CHX Article VI, Rule 2(c), "Person Exempt from Registration," provides exemptions from registration for associated persons who functions are solely and exclusively clerical or ministerial or who are not actively engaged in the securities business.[20] The Commission notes that the rules of the National Association of Securities Dealers, Inc. ("NASD") also provide these exemptions from registration.[21] Accordingly, the Commission believes that these exemptions from registration are reasonable and raise no new regulatory issues.

New CHX Article VI, Rule 2(d), "Other Registration Requirements," prohibits members from making application for the registration of any associated person when there is no intent to employ such person in the member's securities business. NASD Rule 1031(a) also contains this prohibition. Accordingly, the Commission believes that this provision of the CHX's proposal is reasonable and raises no new regulatory issues.

The Commission believes that it is reasonable for the CHX to amend Interpretation and Policy .01 to indicate that amendments to Forms U–4 and BDA regarding any registered person must be submitted to the CHX within 30 days after the registered person learns the facts or circumstances requiring the forms to be revised, or, if the amendment involves a statutory disqualification, as defined in the Act, within 10 days after the disqualification occurs.[22] The Commission notes that the rules of the NASD contain a similar provision.[23] Accordingly, the Commission believes that the CHX's amendment to Interpretation and Policy .01 is reasonable and raises no new regulatory issues.

The Commission finds good cause for approving Amendment Nos. 2 and 3 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 clarifies new CHX Article VI, Rule 2(b) by indicating that members, as well as associated persons, are registered persons under CHX Article VI, Rule 2(b). This change reflects the inclusion of sole proprietors within CHX Article VI, Rule 1(b)'s enumerated list of registered persons and eliminates an inconsistency that would arise if the CHX defined registered persons to include only persons associated with members and member organizations. Amendment No. 3 strengthens the CHX's proposal by requiring the filing of amendments to Forms U–4 and BD that involve a statutory disqualification within 10 days after the statutory disqualification occurs. Accordingly, the Commission believes that it is consistent with Sections 6 and 19(b) of the Act to approve Amendment Nos. 2 and 3 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 2 and 3, including whether Amendment Nos. 2 and 3 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR–CHX–98–06 and should be submitted by June 16, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–CHX–98–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

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[18] Registered persons submit to the authority of the organizations or states to which they apply for registration on the Form U–4.

[19] *See* 1982 Letter, *supra* note 9.

[20] As noted above, persons in this category may include, for example, for example, senior officers in a division of a broker-dealer that does not participate in the member's securities business. *See* March 13 Conversation, *supra* note 10.

[21] *See* NASD Rule 1060(a)(1) and (2).

[22] *See* Amendment No. 3, *supra* note 6.

[23] See NASD By-Law Article V, Section 2(c).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40001; File No. SR–NASD–97–95]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change By the National Association of Securities Dealers, Inc. Relating to Amendments to the Free-Riding and Withholding Interpretation

May 18, 1998.

I. Introduction

On December 23, 1997,[1] the National Association of Securities Dealers Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 194–b thereunder.[3] Notice of the proposal appeared in the **Federal Register** on February 11, 1998.[4] The Commission received one comment letter regarding the proposal.[5] The

[1] On March 12, 1998, NASD Regulation filed Amendment No. 1 to the proposal. Amendment No. 1 revised Paragraph (b)(9)(A)(ii) to include the shares of a member's parent that are publicly traded on an exchange or Nasdaq in the exemption granted for shares of members traded on an exchange or Nasdaq. Section III of this approval order contains a further discussion of this amendment. In brief, the technical amendment was necessary to reflect the fact that members are often part of a holding company structure wherein the parent of the member is the entity that actually trades on an exchange or Nasdaq. Amendment No. 1 also corrected a drafting error in the original proposal's Paragraph (d) of IM–2110–1 to clarify that both employees and directors may take advantage of an exemption for issuer directed securities programs. Because this amendment is technical the statute does not require that it be published for comment.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240–19b–4.

[4] Securities Exchange Act Release No. 39620 (February 4, 1998), 63 FR 7026 (February 11, 1998).

[5] *See* letter from Sullivan & Cromwell to Jonathan G. Katz, Secretary, SEC, dated March 13, 1998.

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commenter generally supported the proposed rule change with some modifications.[6]

The proposal amends Interpretative Material IM–2110–1 and Rule 2720 to revise certain aspects of the Free-Riding and Withholding Interpretation ("Interpretation"). The purpose of the Interpretation is to protect the integrity of the public offering system by ensuring that members make a bona fide public distribution of "hot issue" securities and do not withhold such securities for their own benefit or use the securities to reward other persons who are in a position to direct future business to the member. Hot issues are defined by the Interpretation as securities of a public offering that trade at a premium in the secondary market whenever such trading commences.

The Interpretation prohibits members from retaining the securities of hot issues in their own accounts and prohibits members from allocating such securities to directors, officers, employees and associated persons of such members and other broker-dealers. It also restricts member sales of hot issue securities to the accounts of specified categories of persons, including, among others, senior officers of banks, insurance companies, registered investment companies, registered investment advisory firms and any other person with such organizations whose activities influence or include the buying and selling of securities. These basic prohibitions and restrictions are also made applicable to sales by members of hot issue securities to accounts in which any such persons may have a beneficial interest and, with some exceptions, to members of the immediate family of those persons restricted by the Interpretation.

In March 1997, the NASD Regulation Board of Directors ("Board"), acting upon recommendation from the National Business Conduct Committee ("NBCC")[7] considered various amendments to the Interpretation. The Board submitted a series of proposed rule amendments to the membership for comment in Notice to Members 97–30.

[6] On April 9, 1998, NASD Regulation filed Amendment No. 2 to the proposal. *See* letter to Katherine A. England, Assistant Director, Division of Market Regulation. Amendment No. 2 responds to the comment letter submitted by Sullivan and Cromwell regarding the proposed rule change. NASD Regulation's response to the comment letter is discussed in detail in Section III of this approval order. Because this amendment is technical the statute does not require that it be published for comment.

[7] The name of this committee has been changed to National Adjudicatory Council. *See* Securities Exchange Act Release No. 39470 (December 19, 1997), 62 FR 67927 (December 30, 1997).

NASD Regulation received 22 comment letters in response to Notice to Members 97–30. As described below, the proposal has been amended in response to these comments.

II. Summary Description of the Proposed Rule Change

A. Exemptive Authority

Previously, there has not been a provision in the Interpretation itself to allow the NBCC, the Board, or NASD Regulation staff to grant exemptive relief. In the past, the NBCC, relying on the NASD By-Law's grant of authority to the Board and its Committees, granted exemptions in certain unique circumstances. NASD Rule 9600 delegates exemptive authority in the Interpretation to the Office of General Counsel. The Interpretation previously provided for exemption relief solely in cases involving sales of issuer-directed securities to non-employee-director restricted persons pursuant to Paragraph (d)(2) of the Interpretation.

As revised, the Interpretation authorizes NASD Regulation staff, upon written request and taking into consideration all relevant factors, to provide an exemption either unconditionally or on specified terms from any or all of the provisions of the Interpretation, consistent with the purposes of the Interpretation, the protection of investors and the public interest. The proposed rule revisions also provide that persons may appeal decisions of NASD Regulation staff to the National Adjudicatory Council.

B. Treatment of Direct and Indirect Owner of Broker-Dealers

In 1994, the Interpretation's definition of "associated person" was amended to exempt certain passive investors in broker-dealers.[8] Among other things, the rule amendments approved in the instant filing address two limitations from the previous amendments. First, the definition of associated person as previously provided in the Interpretation did not include non-natural persons that have an ownership interest in or have contributed capital to a broker-dealer. Secondly, the Interpretation did not affirmatively specify any ownership levels at which a natural person becomes an associated person by reason of his or her ownership interest in a broker-dealer. Rather, the Interpretation only specified when a natural person is not an associated person.

[8] Securities Exchange Act Release No. 35059 (December 7, 1994), 59 FR 64455, 64457 (December 14, 1994).

In Notice to Members 97–30, NASD Regulation proposed creating a new definition of "restricted person." Among other things, commenters advised the NASD that this approach would result in confusion because the term "restricted person" was already used throughout the Interpretation. Commenters also observed that when the proposed restricted persons provisions were read with other sections of the Interpretation, the Interpretation would appear to be so broad as to preclude purchases by any entity that owns 10 percent or more of a broker-dealer or any account in which such entity has a beneficial interest.

Having considered the potential problems with creating a new definition of "restricted person," to clarify the application of the Interpretation to natural and non-natural persons, the Interpretation has been revised by NASD Regulation to create a new Paragraph (b)(9) of IM 2110–1. Paragraph (b)(9)(A) would exempt from the Interpretation's prohibitions purchases by any person who directly or indirectly owns any class of equity securities of, or who has made a contribution of capital to, a member, and whose ownership or capital interest is passive and is less than 10 percent of the equity or capital of a member, as long as such person purchases hot issues from a person other than the member in which it has such passive ownership and such person is not in a position by virtue of its passive ownership interest to direct the allocation of hot issues.

Alternatively, a second exemption embodied in Paragraph (b)(9)(A) would exclude purchases by any person who directly or indirectly owns any class of equity securities of, or who has made a contribution of capital to, a member, and whose ownership or capital interest is passive and is less than 10 percent of the equity or capital of a member, as long as such member's shares, or shares of a parent of such member, are traded on an exchange or Nasdaq.

In response to commenters' concerns that the rule revisions proposed in Notice to Members 97–30 would prohibit sales of hot issues to all entities within many insurance companies that own a broker-dealer, Paragraph (b)(9)(B) of the proposal exempts sales of hot issues to any account established for the benefit of bona fide public customers of a person restricted pursuant to Paragraph (b)(9). This exception expressly notes that such accounts would include, but are not limited to, an insurance company's general or separate accounts.

Finally, Paragraph (b)(9)(C) retains the indirect ownership provisions originally proposed in Notice to Members 97–30. Specifically, it provides that any person with an equity ownership or capital interest in an entity that maintains an investment in a member shall be deemed to have a percentage interest of the entity of the member multiplied by the percentage interest of such person in such entity.

C. Exception to the Public Offering Definition

Heretofore, debt offerings have been included in the Interpretation's definition of "public offering." The proposed rule change would provide an exception from the Interpretation for debt securities other than debt securities convertible into common or preferred stock. This exclusion is based upon the rationale that such offerings do not raise the same issues as equity offerings inasmuch as the price for a particular debt security generally fluctuates based on interest rate movements rather than demand factors. The definition of public offering also would except financing instrument-backed securities that are rated by a nationally recognized statistical rating organization in one of the four highest generic rating categories. Lastly, NASD Regulation has reconsidered its earlier position and, in response to comment letters received regarding Notice to Members 97–30, revised the term public offering so as to exclude secondary offerings by an issuer whose securities are actively traded securities. The modified Interpretation defines actively traded securities to include securities that have a worldwide average daily trading volume value of at least $1 million and are issued by an issuer whose common equity securities have a public float value of at least $150 million.

D. Foreign Mutual Funds

Purchases of shares of investment companies registered under the Investment Company Act of 1940 were previously exempt from the Interpretation based upon the rationale that the interest of any one restricted person in an investment company ordinarily is de minimis and because ownership of investment company shares generally is subject to frequent turnover. The proposed rule revisions would extend this rationale to the purchase of shares of foreign investment companies and thus exempt such shares from the Interpretation, subject to verification procedures designed, among other things, to ensure that the company is listed on a foreign exchange or authorized for sale to the policy by a foreign regulatory authority.

E. Issuer-Directed Share Exemption

In Notice to Members 97–30, NASD Regulation stated that persons have requested that the language of Paragraph (d) of the Interpretation be modified to clarify that the exemption is available to employees of the issuer who are materially supported by a restricted person and both employees and non-employee directors. Based upon the comments received and its own initiative to clarify and streamline the issuer-directed securities provisions more generally, the proposed rule change modifies Paragraph (d) of the Interpretation to permit persons associated with a member and their immediate family members to purchase hot issues. The amendments clarify that the exemptions apply to employees and directors of a parent or subsidiary of the issuer, consistent with NASD Regulation's past practice.

F. Accounts for Qualified Plans Under the Employment Retirement Income Security Act ("ERISA")

The Interpretation has not previously expressly addressed the status of qualified employee benefit plans under ERISA. In direct response to the requests of commenters, the proposed rule change clarifies the status of such accounts. To that end, the proposal incorporates within the Interpretation itself a prior NBCC interpretation governing the matter. As a general rule, NASD Regulation believes qualified ERISA plans should not be deemed an "investment partnership or corporation" and should not be considered a "restricted account" for purposes of the Interpretation. The proposed amendments to the Interpretation provide guidance, however, in determining the factual circumstances wherein a qualified ERISA plan could be deemed restricted.

III. Comments Letters Received and Amendment No. 2 to the Proposal

As noted above, the Commission received one comment letter from Sullivan and Cromwell. Amendment No. 2 to the filing responds to the comment letter and, as discussed below, amends the proposal to address issues raised by the Sullivan and Cromwell letter.

A. Investment Grade Securities

The proposed rule change exempts from the Interpretation debt securities (other than debt securities convertible into common or preferred stock) and financing instrument backed-securities that are rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories. Sullivan and Cromwell recommends that NASD Regulation exempt "investment grade preferred securities," (*i.e.*, preferred equities) from the Interpretation based upon its understanding that prices for such securities are principally based on prevailing interest rates and that many investors view investment grade preferred securities of different issuers as being largely fungible.

NASD Regulation does not agree with Sullivan and Cromwell that "investment grade preferred securities" should be excluded from the Interpretation, because NASD Regulation does not believe that the prices of investment grade preferred securities are based on interest rate movements to the same extent as investment grade debt. NASD Regulation believes that demand-side factors play an important role in the price of many preferred securities. In addition, preferred securities generally differ from investment grade debt in that they are rarely collateralized. Moreover, purchasers of preferred securities often look to the issuer's business and management in determining whether to purchase the security. For these reasons, NASD Regulation believes that "investment grade preferred securities" should not be excluded from the Interpretation. Amendment No. 2 to the filing states, however, that NASD Regulation will evaluate the impact of excluding investment grade debt and investment grade financing-backed securities from the Interpretation and will consider in the future whether preferred equities should also be excluded.

B. Paragraph (b)(9) and Direct/Indirect Owners of Broker-Dealers

In Paragraph (b)(9) of the proposed rule change, NASD Regulation prohibits members from selling hot issues to any person or to a member of the immediate family of such person who owns or has contributed capital to a broker-dealer, other than solely a limited business broker-dealer as defined in Paragraph (c) of the Interpretation, or the account in which any such person has a beneficial interest, with certain exceptions for ownership interest of less than 10%. Importantly, however, Paragraph (b)(9) exempts sales to the account of a restricted person that is established for the benefit of bona fide public customers.

The Sullivan & Cromwell letter makes a number of particularized comments, which are discussed in detail below. The thrust of Sullivan & Cromwell

comments is that Paragraph (b)(9) should be revised to apply only to institutions that are "principally engaged in the broker-dealer business." In responding to the suggestion, NASD Regulation notes that it has rejected this argument many times and continues to believe that such a narrow approach is inconsistent with the scope and intent of the Interpretation. As reiterated in Amendment No. 2 to the filing, NASD Regulation is of the opinion that the proposed revisions by Sullivan and Cromwell would leave open a substantial possibility of reciprocal self-dealing among broker-dealer and owners of broker-dealers.

NASD Regulation notes that the Interpretation protects the integrity of the public offering process by ensuring that members make a bona fide public distribution at the public offering price of hot issue securities and do not withhold such securities for their own benefit or use such securities to reward other persons in the financial services business who are in a position to direct future business to the member. NASD Regulation believes the Interpretation also ensures that members of the securities industry do not take advantage of their inside position in the industry to the detriment of public investors. In light of the foregoing rationales, NASD Regulation believes that persons who own a significant percentage of a broker-dealer, *i.e.*, 10% or more, should be restricted under the Interpretation.

NASD Regulation notes that it has provided an exemption from the interpretation for persons that own 10% or more of a broker-dealer by permitting such persons to purchase hot issues for the benefit of bona fide public customers, or for an ERISA account pursuant to Paragraph (f)(3). NASD Regulation does not believe that permitting such persons to purchase hot issues for proprietary accounts, even if such hot issues directly or indirectly benefit some public shareholder, is consistent with the purposes of the Interpretation.

1. Banks and Industrial Companies with Broker-Dealer Subsidiaries and Affiliates

Sullivan and Cromwell states in its letter that it is concerned that the proposed rule change would affect the public offering market by making hot issues unavailable to many institutional customers, and in particular, banks with broker-dealer subsidiaries and affiliates. Sullivan and Cromwell observes that proposed Paragraph (b)(9) generally would prohibit the sale of hot issues to banks with broker-dealer subsidiaries and affiliates. To the extent that these banks purchase hot issues on a proprietary basis, NASD Regulation believes that the Interpretation should apply. NASD Regulation notes, however, that banks with broker-dealer subsidiaries and affiliates may purchase hot issues on behalf of bona fide public customers, pursuant to the exemption set forth in Paragraph (b)(9).

The proposed rule change also would prohibit industrial companies that own broker-dealers, such as General Electric Company ("GE") and Ford Motor Company ("Ford") from purchasing hot issues for their own account. Here again, NASD Regulation believes that this is the correct result. However, companies such as GE and Ford would be able to purchase hot issues for an account in which they have a beneficial interest, provided that such account is established for the benefit of bona fide public customers.

2. Accounts Established for the Benefit of Bona Fide Public Customers

As stated above, Paragraph (b)(a) of the proposed rule change contains an exemption for sales to the account of any person restricted under this subparagraph that is established for the benefit of bona fide public customer. Specifically, Paragraph (b)(9) states that such accounts would include "insurance company general and separate accounts." NASD Regulation included these examples because it understood that investments from such accounts are passed on directly to policy holders, *i.e.*, bona fide public customers.

The Sullivan and Cromwell letter suggests that the exemption for accounts established for the benefit of bona fide public customers applies solely to life insurance companies. As explained by NASD Regulation, it was not intended that the exemption described in Paragraph (b)(9) apply solely to life insurance companies. NASD Regulation intended that the exemption apply across all industries. Accordingly, Paragraph (b)(9)(B) of the proposed rule change has been amended. The revised language is set forth below. Additions to the provision are italicized. Language to be deleted appears in brackets.

This prohibition shall not apply to sales to the account of any person restricted under this paragraph established for the benefit of bona fide public customers, including [an] insurance company general [or] , separate *and investment* accounts *and bank trust accounts.*

3. Shares of a Member Traded as Part of a Holding Company

As originally proposed, Paragraph (b)(9) of the proposed rule change would exempt any person who owns any class of equity securities of, or who has made a contribution of capital to, a member, and whose ownership or capital interest is passive and is less than 10% of the equity or capital of a member, so long as such member's shares are publicly traded on an exchange or Nasdaq. Sullivan & Cromwell states that this exemption does not properly reflect the fact that many of the largest broker-dealers are subsidiaries of publicly traded holding companies and are not themselves publicly traded. NASD Regulation previously addressed this issue in Amendment No. 1 to the filing. Amendment No. 1 revises paragraph (b)(9)(A)(ii) to include within the exemption shares of a parent of a member firm that are publicly traded on an exchange or Nasdaq.

4. Immediate Family Members

Paragraph (b)(9) applies to "any person, or to a member of the immediate family of such person." Sullivan and Cromwell states that Paragraph (b)(9) would require a member, for example Merrill Lynch, to confirm not only that its customer does not own any Merrill Lynch Parent stock, but also that none of his or her immediate family members owns any such stock. Sullivan and Cromwell also states that Paragraph (b)(9) does not exempt immediate family members who are not materially supported by the restricted person, as does Paragraph (b)(2) of the Interpretation. Sullivan and Cromwell maintains that it would be almost impossible for a broker-dealer owned by a publicly traded holding company to comply with Paragraph (b)(9) since, on its face, it would require the broker-dealer to obtain complete information regarding the securities portfolios of each of its customers' immediate family members. Proposed Paragraph (b)(9), however, is implicated only by persons who own 10% or more of a member. Nevertheless, NASD Regulation believes that the provisions regarding the immediate family members of restricted persons under proposed Paragraph (b)(9) should not be more restrictive than the provisions in Paragraph (b)(2), which pertain to associated persons of a member. NASD Regulation has therefore amended Paragraph (b)(9) so as to exclude immediate family members who are not materially supported by restricted persons. Revised

Paragraph (b)(9) is set forth below. New language is italicized.

Sell any of the securities to any person, or to a member of the immediate family of such person *who is supported directly or indirectly to a material extent by such person,* * * *.

5. Miscellaneous Changes to Paragraph (b)(9)

Pursuant to Amendment No. 2, NASD Regulation also corrected an inadvertent clerical error in Paragraph (b)(9)(C) of the proposed rule change that was identified by the Sullivan and Cromwell comment later. The missing language set forth below was contained in the proposed rule change as published in NASD Notice to Members 97–30, but was omitted from the rule filing. New language is italicized. Revised Paragraph (b)(9)(C) has been amended to read as follows:

For purposes of this paragraph, any person with an equity ownership or capital interest in an entity that maintains an investment in a member shall be deemed to have a percentage interest *in the member equal to the percentage interest* of the entity in the member multiplied by the percentage interest of such person in such entity.

C. Foreign Investment Companies

Paragraphs (f) and (1)(6) of the proposed rule change would exempt foreign investment companies *i.e.*, foreign mutual funds, organized under the laws of the foreign jurisdiction, that have provided to the member a written certification prepared by counsel or an independent certified public accountant, which states that: (1) The fund has 100 or more investors; (2) the fund is listed on a foreign exchange or authorized for sale to the public by a foreign regulatory authority, (3) no more than 5% of the fund assets are to be invested in the hot issue securities being offered, and (4) any person owning more than 5% of the shares of the fund is not a restricted person.

Sullivan and Cromwell states that while it agrees that an exemption should be provided for foreign investment companies, it opposes any requirement that NASD members obtain written certification from an attorney or accountant. Sullivan and Cromwell proposes instead that NASD Regulation exempt foreign investment companies based upon their "status" under foreign regulatory regimes, for example, any fund qualified for sale under the European Union's Directive on Undertakings for Collective Investment in Transferable Securities.

In response to comments received regarding Notice to Members 97–30, and to alleviate the burdens associated with the written certification requirement, NASD Regulation modified proposed Paragraph (1)(6) to permit foreign, and not just U.S., attorneys and accountants to provide written certifications. NASD Regulation continues to believe, however, that written certifications are an appropriate method of determining whether a particular foreign investment company meets the criteria for exemption from the Interpretation and does not agree that this requirement should be eliminated.

Sullivan and Cromwell states in its comment letter that if written certifications are to be required, it recommends two changes. First Sullivan and Cromwell states that foreign investment companies, like registered investment companies, do not investigate the status of their shareholders and thus will be unable to comply with the requirement to certify that "any person owning more than 5% of the shares of the fund is not a person described in Paragraphs (b)(1), (2), (3), or (4) of the Rule."

NASD Regulation considered this issue in proposing the exemption for foreign investment companies but concluded that the concerns of the Interpretation that restricted persons do not indirectly purchase hot issues through foreign investment companies were paramount. Accordingly, if a foreign investment company is owned more than 5% by a person, an attorney or accountant must certify that such person is not a restricted person under the Interpretation. The attorney or accountant providing the written certification required pursuant to paragraph (1)(6) may rely upon information supplied by the foreign investment company and any shareholder that owns more than 5% of the foreign investment company. NASD Regulation is of the opinion that the shareholder is likely to cooperate with any request by the foreign investment company, or its counsel or accountant, regarding the shareholder's status under the Interpretation since the shareholder's cooperation may enhance the foreign investment company's investment opportunities by permitting it to invest in hot issues. As a practical matter, however, the requirement to determine whether a more than 5% shareholder is a restricted person is unlikely to affect many foreign investment companies because, as Sullivan and Cromwell concedes in its comment letter, each foreign investment company must have at least 100 shareholders and, consequently, it is unlikely that the interest of any one person will exceed the 5% threshold.

Second, Sullivan and Cromwell states that, as drafted, Paragraph (1)(6) of the Interpretation would require a member firm to obtain a written certification prior to each hot issue sale to a foreign investment company. Sullivan and Cromwell views this as unduly burdensome and recommends that NASD Regulation revise Paragraph (1)(6) to be consistent with Paragraph (f)(2), which states that "a written representation shall be deemed to be current if it is based upon the status of the account as of a date more than 18 months prior to the date of the transaction." NASD Regulation agrees that members should not be required to obtain a written certification before each transaction and will adopt the same standard in effect for certifications made pursuant to Paragraph (f)(2). Accordingly, the final sentence of Paragraph (f)(2) of the Interpretation shall be amended as set forth below. New language is italicized.

For purposes of this paragraph (f) *and the certification required pursuant to paragraph (1)(6),* a list or written representation shall be deemed to be current if it is based upon the status of the account as of a date not more than 18 months prior to the date of the transaction.

In addition to responding to the Sullivan and Cromwell observations, Amendment No. 2 corrected proposed Paragraph (1)(6)(D) to make the paragraph clearer and more consistent with other parts of the Interpretation. The revised paragraph is set forth below. New language is italicized. Language to be deleted from the paragraph appears in brackets.

Any person owning more than 5% of the share of *the* fund is not a *restricted* person *as* described in paragraph (b)(1), (2), (3), [or] (4) *or (9)* of the [Rule] *interpretation.*

D. Secondary Distributions

The proposed rule change exempts from the Interpretation secondary distributions by an issuer whose securities are actively-traded securities. Sullivan and Cromwell supports the decision to exempt secondary offerings but objects to the provision in the definition of "actively-traded securities" that excludes securities issued by the distribution participant or an affiliate of the distribution participant. NASD Regulation's proposed rule change to exempt secondary offerings was drafted to track the exemption for actively-traded securities set forth in the SEC's Regulation M. In adopting the exemption for secondary distributions, NASD Regulation was focusing on the average daily trading value and public float value provisions of Regulation M exempt securities. NASD Regulation agrees with Sullivan and Cromwell concerning secondary offerings of

members or affiliates of members and proposes revising the definition of "actively-traded securities" to extend the exemption to securities issued by a distribution participant or an affiliate of the distribution participant. Paragraph (1)(7)(A), as amended, is set forth below. Language to be deleted from the paragraph appears in brackets.

Actively-traded securities means securities that have an ADTV value of at least $1 million and are issued by an issuer whose common equity securities have a public float value of at least $150 million[; provided, however, that such securities are not issued by the distribution participant or an affiliate of the distribution participant].

Finally, Sullivan Cromwell notes that Paragraph (l)(1) refers to secondary distributions "by an issuer." Sullivan and Cromwell asks whether secondary distributions by an existing security holder are subject to the Interpretation. If not, Sullivan and Cromwell recommends amending the text of proposed Paragraph (l)(1) to extend the exemption to such distributions. NASD Regulation did not intend to exclude from the exemption secondary offerings by security holders. Accordingly, it has revised Paragraph (l)(1) as set forth below. New language is italicized. Language to be deleted from the paragraph appears in brackets.

The term public offering shall exclude secondary distributions by an issuer *or any security holder of the issuer, of* [whose securities are] actively-traded securities.

IV. Conclusion

The Commission has carefully considered the comments set forth in the Sullivan and Cromwell letter. As discussed in detail above, the NASD Regulation has made a number of technical amendments to the proposal in response to the Sullivan and Cromwell letter, which the Commission believes are consistent with the spirit of the Interpretation. Indeed, the Commission believes the changes to the proposal which were made pursuant to Amendment No. 1 and No. 2 will facilitate the ability of NASD member firms to comply with the Interpretation, because the amendments further clarify the intent of the proposed rule change. For example, in response to the Sullivan and Cromwell letter, the Interpretation was amended to clarify that the exemption in paragraph (b)(9)(B) for sales to the accounts of restricted persons established for the benefit of bona fide public customers was intended to apply across all industries, as opposed to life insurance companies exclusively. Similarly, Amendment No. 1 to the proposal facilitates member firm compliance by amending the paragraph (b)(9)(A)(ii) exemption for shares of a member traded on an exchange or Nasdaq to include an exemption for shares of a member traded as a part of a holding company. This amendment fosters member firm compliance with the Interpretation by recognizing that many of the largest broker-dealers are subsidiaries of publicly traded holding companies and are not themselves publicly traded.

NASD Regulation has determined not to revise the proposal in response to Sullivan and Cromwell's suggestion that paragraph (b)(9) of the Interpretation, which with certain exceptions, prohibits sales of hit issue securities to any person who owns or has contributed capital to a broker-dealer, be revised such that it only applies to institutions engaged "principally in the broker-dealer business." The Commission agrees with NASD Regulation that such an amendment is inconsistent with the scope and intent of the proposal, because the modification would leave open a substantial possibility of self-dealing between broker-dealers and owners of broker-dealers. Accordingly, the Commission believes NASD Regulation has a sound investor protection basis for its decision not to narrow the scope of paragraph (b)(9) of the Interpretation as requested by Sullivan and Cromwell.

The Commission believes the proposed rule change, as amended, is consistent with the provisions of section 15(A)(b)(6) of the Act,[9] which provides in pertinent part that the rules of a national securities association be designed to prevent fraudulent and manipulative acts, promote just and equitable principles of trade and protect investors and the public interest. Specifically, the proposal preserves public confidence in the fairness of the investment banking and securities business by ensuring that members of the investment banking community do not unfairly benefit from public offerings by virtue of their positions as insiders, to the detriment of public investors. Preservation of investor confidence in the fairness of the markets is critical to the continued participation of all classes of securities marked participants. The Commission believes, moreover, that the proposed rule change is consistent with section 15A(b)((9) [10] in that it will alleviate certain inequities caused by the Interpretation, which imposed burdens on competition not necessary or appropriate in furtherance of the purposes of the Act.

In approving this proposal, the Commission notes that it is has considered the proposal's impact on efficiency, competition, and capital formation.[11] The Commission believes the proposal will facilitate the capital raising process by removing restrictions and compliance burdens imposed by the Interpretation with respect to certain transactions where application of the Interpretation does not enhance investor protection or the public interest. For example, the proposal excludes from the definition of public offering secondary offerings by an issuer whose securities are actively traded securities. At the same time, the Interpretation continues to apply to those securities allocations that pose a risk of undercutting the Interpretation's objective of ensuring a bona fide distribution of hot issue securities to the public.

It is therefore ordered, pursuant to Section 19(b)(2) [12] of the Act, that the proposed rule change SR–NASD–97–95 be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13850 Filed 5–22–98; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78o-3.

[10] 15 U.S.C. 78o-3.

[11] 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 1998, subject to the availability of funds. Four states do not participate in the EO 12372 process, therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the addresses section. A copy of this notice also is being furnished to the

respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding on or before June 25, 1998.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Robert McKinley, Region Director, Univ. of Texas at San Antonio, 1222 North Main Street, San Antonio, TX 78212, (210) 458-2450

Mr. Dennis Gruell, State Director, University of Connecticut, 2 Bourn Place, U–94, Storrs, CT 06269-5094, (860) 486–4135

Dr. Elizabeth Gatewood, Region Director, University of Houston, 1100 Louisiana, Suite 500, Houston, TX 77002, (713) 752–8444

Ms. Hazel Kroesser Palmer, State Director, West Virginia Development Office, 950 Kanawha Boulevard, East, Charleston, WV 25301, (304) 558–2960

Mr. Clinton Tymes, State Director, University of Delaware, Suite 005—Purnell Hall, Newark, DE 19711, (302) 831–2747

Ms. Janet Holloway, State Director, University of Kentucky, 225 Business & Economics Bldg., Lexington, KY 40506–0034, (606) 257–7668

Ms. Liz Klimback, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75212, (214) 860–5833

Mr. Craig Bean, Region Director, Texas Tech University, 2579 South Loop 289, Suite 114, Lubbock, TX 79423–1637, (806) 745–3973

Mr. Doug Gurley, State Director, University of Mississippi, Old Chemistry Building, University, MS 38677, (601) 232–5001

Mr. James L. King, State Director, State University of New York, SUNY Plaza, S–523, Albany, NY 12246, (518) 443–5398

Ms. Diane Wirth, Acting State Director, Univ. of Maryland/College Park, 7100 Baltimore Avenue, Suite 401, Baltimore, MD 20740, (301) 403–8163

Ms. Diane Wolverton, State Director, University of Wyoming, P.O. Box 3622, Laramie, WY 82071–3622, (307) 766–3505

Mr. Max Summers, State Director, University of Missouri, Suite 300, University Place, Columbia, MO 65211, (314) 882–0344

Ms. Holly Schick, State Director, Ohio Department of Development, 77 South High Street, Columbus, OH 43226–1001, (614) 466–2711

Mr. Donald L. Kelpinski, State Director, Vermont Technical College, P.O. Box 422, Randolph Center, VT 05060, (802) 728–9101

Ms. Carmen Marti, SBDC Director, Inter American University, Ponce de Leon Avenue, #416, Edificio Union Plaza, Suite 7–A, Hato Rey, PR 00918, (787) 763–6811

Mr. Chester Williams, SBDC Director, University of the Virgin Islands, 8000 Nisky Center, Suite 202, St. Thomas, US V. Islands 00802, (809) 776–3206

Mr. Ronald Manning, State Director, Iowa State University, 137 Lynn Avenue, Ames, IA 50010, (515) 292–6351

FOR FURTHER INFORMATION CONTACT: Johnnie L. Albertson, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Suite 4600, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC subcenters. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate subcenters so that they are as accessible as possible to small businesses;

(b) Open all subcenters at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each subcenter.

Dated: May 18, 1998.

Johnnie L. Albertson,

Associate Administrator, for Small Business Development Centers.

[FR Doc. 98–13844 Filed 5–22–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Heartland States Regional Fairness Board; Public Hearing

The Heartland States Regional Fairness Board Hearing, to be held on June 8, 1998, starting at 10:00 a.m. at the Junior League, 10435 Clayton, Frontenac, Missouri, in space being provided by the Junior League, to receive comments from small businesses concerning regulatory enforcement or compliance taken by Federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman.

FOR FURTHER INFORMATION CONTACT: Gary P. Peele, telephone (312) 353–0880.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 98–13845 Filed 5–22–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Northwestern States Regional Fairness Board; Public Hearing

The Northwestern States Regional Fairness Board Hearing, to be held on June 25, 1998, starting at 1:30 p.m. at the Boise Area Chamber of Commerce, 300 North 6th Street, Boise, Idaho 83702, in space being provided by the Boise Area Chamber of Commerce, to receive comments from small businesses concerning regulatory enforcement or compliance taken by Federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman.

FOR FURTHER INFORMATION CONTACT: Gary P. Peele, telephone (312) 353–0880.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 98–13846 Filed 5–22–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region 1 Advisory Council, located in the geographical area of Augusta, will hold a public meeting at 1:30 p.m. on Monday, June 22, 1998, at the University of Maine at Augusta, 46 University Drive, Jewett Hall, Augusta, Maine, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Roy Perry, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine 04330, telephone 207–622–8242.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 98–13843 Filed 5–22–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice #2824]

Advisory Committee on International Law, Notice of Committee Renewal; Notice of Committee Meeting

I. Renewal of Advisory Committee

The Department of State has renewed the Charter of the Advisory Committee on International Law. This advisory committee will continue to obtain the views and advice of a cross-section of the country's outstanding members of the legal profession on significant issues of international law. The committee's consideration of legal issues in the conduct of our foreign affairs provides a unique contribution to the creation and promotion of U.S. foreign policy. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

The committee consists of former Legal Advisers of the Department of State and not more than twenty individuals appointed by the Legal Adviser of the Department of State. The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with section 10(d) of the FACA, 5 U.S.C. §§ 552b(c) (1) and (4), that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided for publication in the **Federal Register** as far in advance as possible prior to the meeting.

For further information, please call: John R. Crook, Assistant Legal Adviser for United States Affairs, (202) 647–2767.

II. Notice of Meeting

A meeting of the Advisory Committee on International Law will take place on Monday, June 15, 1998 from 9:00 a.m. to approximately 5:00 p.m., as necessary, in Room 140 of the United States Department of State, 2201 C Street, NW., Washington, D.C. The meeting will be chaired by the Legal Adviser of the Department of State, David R. Andrews, and will be open to the public up to the capacity of the meeting room. The meeting will discuss developments involving the International Court of Justice, reform and funding of the United Nations, the proposed convention on enforcement of judgments, recent legal developments involving treaties and other international agreements, and other current topics.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, by Wednesday, June 10, 1998, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647–2727) of their name, Social Security number, date of birth, professional affiliation, address and telephone number in order to arrange admittance. This includes both government and non-government admittance. All attendees must use the "C" Street entrance. One of the following valid IDs will be required for admittance: any U.S. driver's license and photo, a passport, or a U.S. Goverment agency ID.

Dated: May 19, 1998.

John R. Crook,

Assistant Legal Adviser for United Nations Affairs; Executive Director, Advisory Committee of International Law.

[FR Doc. 98–13841 Filed 5–22–98; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF STATE

[Public Notice #2821]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea, Working Group on Bulk Liquids and Gases; Notice of Meetings

The Working Group on Bulk Liquids and Gases (BLG) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 1:00 PM on Monday, June 15, 1998 in Room 6103, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the Third Session of the Subcommittee on Bulk Liquids and Gases of the International Maritime Organization (IMO) which will be held on July 6–10, 1998, at the IMO Headquarters in London.

The agenda items of particular interest:

a. Additional safety measures for tankers.

b. Tanker pump-room safety.

c. Revision of the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78) regulations I/22 to 24 in the light of the probabilistic methodology for oil outflow analysis.

d. Review of Annexes I and II of MARPOL 73/78.

e. Revision of carriage requirements for carbon disulfide in the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

f. Requirements for personal protection involved in transportation of cargoes containing toxic substances in oil tankers.

g. Review of existing ships' safety standards: amendment to SOLAS regulations VII/9 and VII/12.

h. Review of specifications for crude oil washing systems.

i. Revision of chapter 8 of the IBC Code in the light of the revised SOLAS regulation II–2/59.

j. Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments.

In addition, a supplemental meeting, to discuss the possible revision of the environmental hazard evaluation and categorization mechanism of the IBC Code, will be held at 9:30 AM on Monday, June 15, 1998 in Room 1103, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593–0001. The purpose of this meeting will be to discuss the ramifications of going from a five pollution category system to a three pollution category system and, specifically, to determine how this change might affect the chemical shipping industry.

Members of the public may attend both meetings up to the seating capacity of the rooms. Interested persons may seek information by writing: Commander K.S. Cook, U.S. Coast Guard (G–MSO–3), 2100 Second Street, S.W., Washington, DC 20593–0001 or by calling (202) 267–1577.

Dated: May 14, 1998.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 98–13840 Filed 5–22–98; 8:45 am]

BILLING CODE 4710–07–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1504).

TIME AND DATE: 9 a.m. (CDT), May 27, 1998.

PLACE: TVA Allen Fossil Plant Assembly Room, 2574 Plant Road, Memphis, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 8, 1998.

New Business

C—Energy

C1. Delegation of authority to the Senior Vice President, Procurement, or a designated representative, to enter into a uranium procurement contract with Global Nuclear Services and Supply Limited.

B—Purchase Award

B1. Supplement to Contract No. 97BYC–142392–001 with BTG, Inc., for personal computers, software, and related accessories.

E—Real Property Transactions

E1. Grant of a permanent easement to the City of Tupelo, Mississippi, affecting 1.49 acres in Lee County, Mississippi (Tract No. XTPCSC–7H), for the relocation of Brooks Road to accommodate the location of TVA's new Customer Service Center.

E2. Rescission of March 31, 1993, resolution directing payment of $398,217 annually to the City of Knoxville as mitigation payments associated with the purchase of the Knoxville TVA Office complex.

E3. Deed modification of certain deed provisions affecting approximately 0.22 acre of former TVA land on Watts Bar Lake (Tract No. XWBR–142) in Rhea County, Tennessee.

E4. Grant of a permanent easement to the City of Decatur, Alabama, for a waterline easement affecting 1.52 acres of land on Wheeler Lake in Morgan County, Alabama (Tract No. XTWR–107U).

E5. Sale of noncommercial, nonexclusive permanent easements to Hubert Helton and Steve Watson for construction and maintenance of recreational water-use facilities affecting a total of 0.29 acre of Tellico Lake shoreline in Monroe County, Tennessee (Tract Nos. XTELR–201RE and XTELR–202RE).

E6. Abandonment of certain easement rights affecting 0.7 acre of former TVA land on Norris Lake in Claiborne County, Tennessee (Tract No. XNR–468), to allow the property owner to construct a bridge and road to provide access to another section of currently inaccessible property.

Information Items

1. Approval of two 19-year commercial recreation leases at Possum Creek and Sale Creek recreation areas and amendments to the Chickamauga Reservoir Land Management Plan.

2. Approval of a 19-year commercial recreation lease and amendment to the reservoir plan for Agency Creek Recreation Area in Meigs County, Tennessee, and amendment to the Chickamauga Reservoir Land Management Plan.

3. Approval of a grant of easement to Greeneville Light and Power System affecting approximately 0.75 acre of TVA land on Nolichucky Lake in Greene County, Tennessee (Tract No. XTNOR–5SS).

4. Approval of a 19-year commercial recreation lease to Greenlee Campground, R.V. & Marine at Fall Creek Recreation Area on Cherokee Lake in Hamblen County, Tennessee.

5. Approval to file condemnation cases: The affected transmission lines are Oneida-McCreary, McCreary County, Kentucky; Tiptonville Switching Station, Tiptonville, Tennessee; Colbert-Tupelo primary tap to Belmont, Belmont, Mississippi; New Albany-Holly Springs tap to Martintown, Union County, Mississippi; Pickwick Dam-Memphis tap to Moscow, Fayette County, Tennessee; New Albany-Holly Springs tap to Martintown; and an access road to TVA's Martintown, Tennessee, substation site, Union County, Mississippi.

6. Approval to file condemnation cases. The affected transmission lines are Freeport-Miller tap to Mitchell's Corner, DeSoto County, Mississippi and Wolf Creek-Summer Shade tap to West Tompkinsville, Monroe County, Kentucky.

7. Approval of the sale of an easement for municipal governmental purposes to the City of Tupelo, Mississippi, affecting 3.07 acres of TVA's Tupelo Line Crew Headquarters property in Tupelo, Mississippi (Tract No. XTLCH–1E).

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: May 20, 1998.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 98–13951 Filed 5–21–98; 11:36 am]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee: Request for Comments Concerning Review of the World Trade Organization Dispute Settlement Understanding

ACTION: Notice and request for comments.

SUMMARY: The Office of the U.S. Trade Representative (USTR) is soliciting public comments on the United States position in the upcoming review of the Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding, or DSU) under the World Trade Organization (WTO) Agreement. The

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DSU provides the rules for settlement of disputes concerning rights and obligations under the Uruguay Round agreements administered by the WTO. Interested persons are invited to submit their comments by June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Amelia Porges, Senior Counsel for Dispute Settlement, Office of the USTR, (202) 395–7305, or William Kane, Associate General Counsel, Office of the USTR, (202) 395–6800.

SUPPLEMENTARY INFORMATION: The DSU provides a mechanism for the settlement of disputes between the governments which are members of the WTO, concerning rights and obligations under the Uruguay Round agreements. A panel of neutral experts conducts each dispute settlement proceeding and issues a report, which is considered by the Dispute Settlement Body (DSB) in which representatives of all WTO members participate. The DSB must adopt all panel reports within 60 days after they are circulated, unless one of the parties to the dispute notifies the DSB that it will appeal the decision (or the DSB decides by consensus to reject the report). Appeals are heard by the WTO Appellate Body (AB), which also issues a report. The DSB must adopt an appellate body report within 30 days after circulation (unless there is a consensus not to do so).

When it finds a measure is inconsistent with one of the covered agreements, a panel or the AB must recommend that the government concerned bring that measure into conformity with the agreement. At a DSB meeting held within 30 days after the panel or AB report is adopted, that government must state its compliance plans. The "reasonable period" for compliance can be determined by obtaining DSB approval of a time period proposed by that government, or by agreement between the disputing parties, or by binding arbitration. If a government does not comply with the recommendation to bring a measure into conformity with its WTO obligations, it must negotiate with the complaining government(s) on compensation, and the negotiations must start by the end of the "reasonable period". If there is no agreement on compensation by 20 days after the end of the "reasonable period", a complaining government may ask the DSB to authorize it to suspend trade benefits with respect to the non-complying party. By 30 days after the end of the "reasonable period", the DSB must grant such a request to suspend benefits (unless there is consensus otherwise). Such a suspension must be equivalent to the benefits the defending country is impairing by its WTO-inconsistent actions.

A Decision of trade ministers agreed on April 15, 1994, at the conclusion of the Uruguay Round of multilateral trade negotiations, invites the WTO Ministerial Conference to complete a "full review" of WTO dispute settlement rules and procedures within four years after the entry into force of the WTO Agreement and "to take a decision on the occasion of its first meeting after the completion of the review, whether to continue, modify or terminate" those rules and procedures. Under the WTO Agreement, this work may be carried out by the WTO's General Council. Discussions have begun on the organization of the review. A principal objective of the United States in the WTO, including in this review, is to enhance the openness and transparency of WTO meetings, decisions and dispute settlement proceedings.

Detailed information on the WTO and dispute settlement is available on the Internet at http://www.ustr.gov/reports/tpa/1998/iv.pdf; the text of the DSU is available on the Internet at http:www.wto.org/wto/dispute/dsu.htm.

Interested persons are invited to submit their comments on whether the WTO should continue, modify or terminate the DSU; on specific modifications which should be made to WTO dispute settlement rules and procedures; and on specific policies which the United States should pursue in this review. Comments should be filed no later than June 25, 1998. Comments must be in English and provided in 20 copies to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 501, 600 17th Street, Washington, DC 20508. Commenters are requested to submit only non-confidential information and not to submit business confidential information. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, Room 101, Monday through Friday, 10:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb on 202–395–6186.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 98–13880 Filed 5–22–98; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Initiation of Section 302 Investigation and Request for Public Comment: Mexican Practices Affecting High Fructose Corn Syrup (HFCS)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation and request for comments.

SUMMARY: The United States Trade Representative (USTR) has initiated a Section 301 investigation with respect to certain acts, policies and practices of the Government of Mexico that affect access to the Mexican market for High Fructose Corn Syrup (HFCS). The USTR invites written comments from the public on the matters being investigated and the determinations to be made at the end of that investigation.

DATES: This investigation was initiated on May 15, 1998. Written comments from the public are due on or before noon on Friday, June 19, 1998.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: John Melle, Senior Director, North American Affairs, (202) 395–3412 or Audrey Winter, Associate General Counsel, (202) 395–7305.

SUPPLEMENTARY INFORMATION: On April 2, 1998, the Corn Refiners Association, Inc., filed a petition pursuant to section 302(a) of the Trade Act of 1974, as amended, (the Trade Act) (19 U.S.C. 2411) alleging that certain acts, policies and practices of the Government of Mexico affecting HFCS are unreasonable, deny fair and equitable market opportunities for U.S. exporters of HFCS and are actionable under section 301. In particular, the petition alleges the following: In September 1997, with the support and encouragement of the Government of Mexico, representatives of the Mexican sugar industry and the Mexican soft drink bottling industry entered into an agreement to limit the soft drink industry's consumption of HFCS. The purpose and effect of this agreement are to restrict both the volume of HFCS imports from the United States and the manufacture of HFCS by the U.S. companies that have made investments in Mexican production facilities. In exchange for the soft drink industry's limitation of HFCS consumption, the Mexican sugar industry agreed to supply sugar to the soft drink bottlers at discounted, below-market prices. The Government of Mexico is actively

supporting this restraint agreement. The agreement has reduced U.S. exports of HFCS to Mexico and therefore burdened and restricted U.S. commerce.

Section 302(a) of the Trade Act authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as "section 301") in response to the filing of a petition pursuant to section 302(a)(1). Matters actionable under section 301 include, *inter alia*, acts, policies, and practices of a foreign country that are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. An act, policy or practice is unjustifiable if it is in violation of, or inconsistent with the international legal rights of the United States. An act, policy or practice is unreasonable if the act, policy or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair or inequitable. Unreasonable acts, policies or practices include, *inter alia*, denial of fair and equitable market opportunities.

Initiation of Investigation and Consultations

On May 15, 1998, the USTR determined that an investigation should be initiated to determine whether certain acts, policies or practices of the Government of Mexico affecting access to the Mexican market for HFCS are unreasonable and burden or restrict U.S. commerce and are, therefore, actionable under section 301.

Pursuant to section 303(a) of the Trade Act, the USTR has requested consultations with the Government of Mexico concerning the issues under investigation. USTR will seek information and advice from the appropriate representatives provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the petition and any other submissions to USTR in this investigation. In particular, comments are invited regarding (i) the acts, policies and practices of the Government of Mexico that are the subject of this investigation; (ii) the amount of burden or restriction on U.S. commerce caused by these act, policies and practices; (iii) the determinations required under section 304 of the Trade Act; and (iv) appropriate action under section 301 which could be taken in response.

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Friday, June 19, 1998. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

Comments will be placed in a file (Docket 301–118) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. Copies of the public version of the petition and other relevant documents are available for public inspection in the USTR Reading Room. An appointment to review the docket (Docket No. 301–118) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 98–13885 Filed 5–22–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–96–1436]

Filing Procedures for the DOT Docket; Electronic Submission

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice requesting comment.

SUMMARY: The Department of Transportation (DOT) is requesting the public to comment on its plan to revise its document filing requirements to provide for electronic submission of information to its central dockets management system (DMS). Electronic submission would provide more convenience than the current requirement to submit paper, by allowing DOT customers to file documents from their desktop computers. It also would streamline docket processing to accommodate the anticipated increases in volume.

DATES: Comments must be submitted by July 27, 1998.

ADDRESSES: Comments should be addressed to the Central Docket Management Facility, (CDMF) SVC–124.1, PL–401, Docket No. OST–96–1436, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Any person wishing acknowledgment that his/her comments have been received should include a self-addressed stamped postcard. Comments received will be available for public inspection and copying in the CDMF, Room PL–401, from 10 a.m. to 5 p.m. ET Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy W. Walker, Chief Dockets, SVC–124, (202) 366–9329.

SUPPLEMENTARY INFORMATION: DOT consolidated its nine separate docket facilities into a central DMS and is continuing the conversion from a paper-based system to an optical imaging system for more efficient receipt, storage, management, and retrieval of docketed information. In order to complete this phased transition to an electronic docket system, DOT plans to develop an Electronic Submission (ES) enhancement for its DMS that would allow customers to submit documents electronically from their desktops into the Docket. Currently all filings must be submitted as a paper hard copy to the DMS. The paper documents are then processed into the DMS by entering a document database record, scanning the paper, and performing quality assurance (QA) on the document images and data to resolve any errors.

DOT also plans to revise its document filing requirements to provide for ES. ES is not intended to replace the current paper-based submission process since not all filers will have access to computers. DMS will retain the paper-based filing process and continue to accept paper. DOT also is considering a direct dial-in capability for those without Internet access and to provide a backup capability in the event Internet access is temporarily unavailable. All documents that are electronically submitted would be stored in a separate database for ES waiting to be processed by DMS staff. DMS staff would need to perform QA review of ES filings prior to saving the documents into the production DMS.

For the sake of simplicity, the Office of the Secretary is issuing this notice on behalf of all of DOT's constituent

agencies. Ultimately, we envision that ES would be available for all of the constituent DOT agencies; although at this time, not all have fully consolidated into the DMS. To ensure the quality of the product developed, DOT is evaluating its internal needs as well as those of the general public. Substantial changes to the DMS business processes and procedures and to agency filing requirements may be needed.

This notice is intended to inform the public about, and to solicit public comment on, electronic submission and any necessary changes to our filing requirements. It may be downloaded from the DMS Web Site News Page located at http://dms.dot.gov by clicking on the News Link. The questions are intended only to elicit any thoughts and ideas you may have on the ES enhancement to DMS.

User-System Interaction

1. What is your current use of DMS?
2. What capabilities would you like to see in the ES system?
3. Are there any other systems that you use now or are aware of that we should look at in developing ES?
4. What method should DMS use to send/receive information using ES? For example, e-mail, dial-in, Netscape, Internet Explorer, etc.
5. Should the DMS notify you that your document has: (1) arrived; and (2) been accepted?
6. In case the document is rejected, what information should the DMS send back to the submitter? (e.g., time of submission, reason for rejection).
7. Should the DMS provide submitters with an electronic submission form to fill out with information such as organization, docket id, name and address, point of contact, etc.? Filling out such a form could take some time, but could ensure better accuracy. The DMS staff would file the submitter's information as submitted rather than entering it into a record upon receipt, possibly incorrectly.

Document Size and Format

1. How many pages are in the largest documents you have ever submitted?
2. How many documents do you submit on average each day? Each month?
3. What word processing software do you use to prepare your documents? (e.g., Word Perfect (WP), Microsoft Word, etc.)
4. What charts or graphics software does the DMS need to accommodate? (e.g., Power Point, Harvard Graphics, Corel Draw, Freelance.)

Document Date and Time

1. Would you find it useful if you were able to submit documents outside normal business hours?

Security

1. Should the DMS require a unique login id/password to submit a document electronically?
2. Do you have a need to submit comments anonymously?
3. If so, how could the DMS staff contact you in case your submission is incomplete or additional information is needed?
4. Is it important that the DMS validate the identity of the sender of a document?
5. Should ES allow for encryption in order to protect the contents of a document during submission?

General

1. Are there any other special needs that we should consider?
2. Are there any additional capabilities the ES system should have?

Issued in Washington, DC on May 20, 1998.

Neil R. Eisner,

Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 98–13913 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection(ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the above collection of information was published on March 9, 1998, [63 FR 11472].

DATES: Comments must be submitted on or before June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Notice of Proposed Construction or Alteration, Notice of Actual Construction or Alteration, and Project Status Request.

OMB Control Number: 2120–0001.

Type of Request: Extension of a currently approved collection.

Affected Public: Persons or businesses planning to construct or alter a structure that may affect air safety.

Abstract: Federal Regulations (CFR Part 77 of Title 14)require all persons to report proposed or actual construction/alternation of structures affecting air safety in order to promote safety in air commerce and the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

Annual Estimated Burden Hours: 8,820 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, D.C. on May 15,1998.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–13827 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements filed During the Week Ending May 15, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3845.

Date Filed: May 12, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC2 EUR 0165 dated May 8, 1998, r1–14; PTC2 EUR 0166 dated May 8, 1998, r15–21; PTC2 EUR 0167 dated May 8, 1998, r22–26; Expedited Within Europe Resos; Intended Effective date: June 1, 1998.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–13857 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending May 15, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3853.

Date Filed: May 13, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: June 10, 1998.

Description: Application of United Air Lines, Inc. pursuant to 49 U.S.C. Section 41101 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between any point or points in the United States directly and via any intermediate point or points and any point or points in France and beyond France to any point or points in third countries.

Docket Number: OST–98–3854.

Date Filed: May 14, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: June 11, 1998.

Description: Application of Air Transat A.T., Inc. pursuant to 49 U.S.C. Section 40109 and Subpart Q of the Regulations, requests to amend its foreign air carrier permit to include scheduled air transportation of persons, property and mail between a point or points in Canada, on the one hand, and a point or points in the United States, on the other hand. Air Transat also requests authority to operate fifth freedom charter flights from or via a point or points in the United States to a point or points in third countries.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–13898 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc.; Certification Task Force

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given that the first meeting of the RTCA, Inc., Certification Task Force will be held June 11–12, 1998, at the Army & Navy Club, 901 17th Street, NW., Washington, DC, 2006, starting at 8:30 a.m. on June 11. This task force will review the "end-to-end" certification of advanced avionics systems, then, keeping safety as a first priority, develop recommendations for improving the timeliness and reducing the costs of certification.

The meeting agenda will include: (1) Welcome and Introductory Remarks; (2) A Presentation by Task Force Co-chairs Mr. Tony Broderick (former FAA associate administrator and now consultant to Airbus) and Mr. Ed Stimpson (General Aviation Manufacturers Association); (3) Presentations by the leaders of the four task force working groups focusing on the task force objectives, organization, and planned milestones in areas such as demonstrated performance of current systems, human factors considerations, the certification process, and certification services; (4) Open Discussion.

Concurrent working group sessions will take place at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036, commencing at 1:00 p.m. on June 11 and 8:30 a.m. on June 12. A summary plenary session will be held at 11:30 a.m. at RTCA, Inc., on June 12.

Attendance is open to the interested public but limited to space availability. With the approval of the co-chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact RTCA at (202) 833–9339 (phone), (202) 833–9434 (fax), or dclarke@rtca.org (e-mail). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 18, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–13900 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–98–3807]

Notice of Request for Renewal of a Currently Approved Information Collection: Indian Reservation Roads Program Administration Survey

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew its clearance of the currently approved information collection identified below under Supplementary Information. This information collection provides for surveying Indian tribal governments regarding their satisfaction with the FHWA's Indian Reservation Roads Program.

DATES: Comments must be submitted on or before July 27, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Shaw-Whitson, HFL–11, Room 4206, (202) 366–9483, Federal Lands Highway Office, or Mr. Wilbert Baccus, HCC–10, Room 4230, (202) 366–0780, Office of Chief Counsel, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Indian Reservation Roads Program Administration Survey.

OMB Number: 2125–0565.

Background: Title 23, United States Code, Section 204(f) provides the authority for the FHWA and the Bureau of Indian Affairs (BIA) to jointly administer the Indian Reservation Roads (IRR) Program. In accordance with the Government Performance and Results Act, the FHWA is required to establish performance measures consistent with the overall program goals and outcomes. In addition, Executive Order 12862 provides for surveying customers to determine the kind and quality of services they want and the level of satisfaction with existing services. Tribal governments are the IRR program customers.

The information collected is used by the FHWA and the BIA to improve the administration of the IRR program. This survey gathers information from the tribes to assess, (1) their overall levels of understanding of the IRR program; (2) their involvement in the IRR program; and (3) their satisfaction with the IRR program administration and accomplishments. In addition, the survey allows tribes to propose recommendations for improving the operation and administration of the IRR program.

Respondents: 558 Indian tribal governments.

Estimated Average Burden per Response: 0.5 hours.

Estimated Total Annual Burden: 279 hours.

Frequency: Biennial.

Public Comments Invited

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance for a renewal of this information collection.

Electronic Availability

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the **Federal Register**'s WWW site at: http://www.access.gpo.gov/su_docs.

Authority: 23 U.S.C. 141(d); 23 CFR 669.

Issued on: May 13, 1998.

George S. Moore, Jr.,

Associate Administrator for Administration.

[FR Doc. 98–13905 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–98–3808]

Notice of Request for Renewal of a Currently Approved Information Collection: Financial Responsibility, Trucking and Freight Forwarding

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew its clearance of the currently approved information collection identified below under Supplementary, Information. This information collection provides registered motor carriers, property brokers, and freight forwarders a means of meeting financial security documentation requirements.

DATES: Comments must be submitted on or before July 27, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Lee, Office of Motor Carrier Information Analysis, (202) 358–7051, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Financial Responsibility, Trucking and Freight Forwarding.

OMB Number: 2125–0570.

Background: The Secretary of Transportation is authorized to register for-hire motor carriers of regulated commodities under the provisions of 49 U.S.C. 13902, surface freight forwarders under the provisions of 49 U.S.C. 13903, and property brokers under the provisions of 49 U.S.C. 13904. These persons may conduct transportation services only if they are registered pursuant to 49 U.S.C. 13901. The Secretary has delegated authority pertaining to these registrations to the FHWA. Registration remains valid only as long as the transportation entities maintain, on file with the FHWA, evidence of the required levels of insurance coverage pursuant to 49 U.S.C. 13906. Regulations governing financial responsibility requirements are found at 49 CFR 387.

Forms BMC–91, 91x and 82 provide evidence of the required coverage for bodily injury and property damage (BI&PD) liability. Forms BMC–34 and 83 establish compliance with cargo liability requirements. Forms BMC–84 and 85 are filed by brokers to comply with the requirement for a $10,000 surety bond or trust fund agreement. Forms BMC–35, 36, and 85 cancel prior filings. Forms BMC–90 and 32 are endorsements which must be attached to BI&PD and cargo insurance policies, respectively, but are not filed with the FHWA.

Motor carriers can also apply to self-insure BI&PD and/or cargo liability in lieu of filing certificates of insurance or surety bonds with the FHWA. Form BMC–40 is the application used to apply for self-insurance authority.

Respondents: Motor carriers, freight forwarders, and brokers.

Estimated Average Burden per Response: The estimated average burden per response for the BMC–40 is 40 hours. The estimated average burden per response for each of the other forms is 10 minutes per form.

Estimated Total Annual Burden: The estimated total annual burden is 200 hours for the BMC–40 based on 5 filings per year. The estimated total annual burden for all of the other forms is 30,000 hours based on 180,000 filings per year.

Frequency: Certificates of insurance, surety bonds and trust fund agreements are required when the transportation entity first registers with the FHWA and then when such coverages are replaced. Notices of cancellation are required only when such certificates of insurance, surety bonds or trust fund agreements are canceled. Form BMC–40 is generally

filed only once when a carrier seeks approval to self-insure its BI&PD and/or cargo liability.

Public Comments Invited

Interested parties are invited to send comments regarding any aspect of this information collection, including but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance for a renewal of this information collection.

Electronic Availability

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the **Federal Register**'s WWW site at: http://www.access.gpo.gov/su__ docs.

Authority: 23 U.S.C. 315 and 49 CFR 1.48.
Issued on: May 13, 1998.

George S. Moore, Jr.,

Associate Administrator for Administration.

[FR Doc. 98–13906 Filed 5–22–98; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RSGC–7]

Environmental Impact Statement: FRA Regulation of the Use of Locomotive Horns at Highway-Rail Grade Crossings Nationwide

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent.

SUMMARY: FRA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed regulation covering the sounding of locomotive horns at highway-rail grade crossings and to solicit input into the development of the scope of that EIS.

FOR FURTHER INFORMATION CONTACT: Regarding the environmental review contact David Valenstein, Environmental Specialist, Office of Railroad Development, Federal Railroad Administration (RDV 13), 400 Seventh Street, SW (Mail Stop 20), Washington, D.C. 20590, (telephone 202 632–3268). For information regarding the rule making process contact Bruce F. George, Staff Director, Highway Rail Crossing and Trespasser Programs, Office of Safety, FRA, 400 Seventh Street, SW (Mail Stop 25), Washington, D.C. 20590 (telephone 202 632–3312), or Mark H. Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, SW (Mail Stop 10), Washington, D.C. 20590 (telephone 202 632–3171).

SUPPLEMENTARY INFORMATION:

Background 0

The Swift Rail Development Act (Pub. L. 103–440, November 2, 1994) added Section 20153 to title 49, United States Code. That section directs the Secretary of Transportation (delegated to the Federal Railroad Administrator) to prescribe regulations requiring that a locomotive horn be sounded while each train is approaching and entering upon each public highway-rail grade crossing. In addition, 49 U.S.C. 20153 provides FRA the authority to except from this requirement, categories of rail operations or categories of grade crossings that: (1) Are determined not to present significant risk with respect to loss of life or serious personal injury; (2) for which the use of a locomotive horn is impractical; or (3) for which supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

The sounding of locomotive horns at highway-rail grade crossings is recognized by FRA and the railroad industry as contributing to railroad and highway safety. Studies conducted by FRA of circumstances where the sounding of horns had been restricted in eastern Florida (so-called "whistle bans") have indicated an increased incidence of collisions involving trains and highway users where locomotive horns were not sounded. Although the sounding of locomotive horns at highway-rail grade crossings is the normal practice at most of the 162,000 public grade crossings in the U.S., FRA is aware of approximately 2,200 crossings in 200 communities where locomotive horns are not routinely sounded.

In preparing for the rulemaking process required by 49 U.S.C. 20153, FRA established a public docket to enable local officials and citizens to offer their insight into the issues surrounding whistle bans and to comment on how FRA might best implement 49 U.S.C. 20153. FRA also undertook extensive research into locomotive horns and their relationship to grade crossing safety through the Department of Transportation's John A. Volpe National Transportation Systems Center. Some of the comments offered by the public expressed concerns that any regulation requiring the sounding of locomotive horns could create adverse environmental impacts in the form of significantly higher community noise levels in the vicinity of those highway-rail grade crossings where horns are presently not sounded. Based upon a review of these comments, and ongoing research, FRA has concluded that the promulgation of the regulation required by 49 U.S.C. 20153 is a major Federal action as this term is used in section 102(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) As a consequence, FRA is initiating the preparation of an EIS as required under NEPA and the regulations of the President's Council on Environmental Quality implementing NEPA (40 CFR S 1502).

Alternatives

FRA currently plans to analyze two alternatives in this environmental review, the proposed action and the "no-action" alternative. The proposed action is to comply with the statutory mandate and issue a regulation requiring the sounding of locomotive horns at every public highway-rail grade crossing in the U.S., including those where locomotive horns are presently not sounded. Such a rule would effectively preempt any State or local law or regulation to the contrary. The regulation encompassed in the proposed action would also identify a number of measures which the States and communities can undertake to provide improved safety at public highway-rail grade crossings. In such situations regular sounding of railroad horns would then become unnecessary from a safety perspective and could cease. The regulation would also establish a procedure for consideration by FRA of proposals by States, communities or other interested persons for approval of new supplementary safety measures that would permit designation of a quiet zone. The environmental impacts of requiring the sounding of locomotive horns at public highway-rail crossings where the horns are not presently sounded and a consideration of the environmental impacts associated with the implementation of supplementary safety measures would be a part of the proposed action analysis.

The no-action alternative would involve maintenance of the status quo with respect to the sounding of locomotive horns. This would require

alternative amendments to existing legislation.

Areas of Significant Environmental Concern

FRA's review of the current practice of sounding locomotive horns at highway-rail grade crossings and the comments received thus far in the public docket of this rulemaking have identified two primary areas of environmental concern associated with the proposed regulation, noise (and related impacts) and safety.

Scoping and Comments

FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documentation. Comments and suggestions are invited from all interested agencies and the public at large to insure the full range of issues related to the proposed action and all reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in determining whether there are any other reasonable alternatives consistent with the provisions of 49 U.S.C. 20153 and whether there are other areas of environmental concern where there might be the potential for significant impacts, either adverse or favorable, as a result of promulgating the proposed rule.

Due to the national scope of the proposed regulation, FRA does not plan to hold public scoping meetings. Notices soliciting comments have been and will be sent to appropriate Federal, State, and local agencies, private organizations and citizens who have expressed an interest in this rulemaking and made available to the media in areas that have been identified to date as currently subject to whistle bans or where whistle bans have been preempted by FRA order. Persons interested in providing comments on the scope of this environmental document should do so by June 19, 1998. Comments can be sent in writing to Mr. David Valenstein at the address identified above. Comments can also be sent via the Internet at: FRAEIS@fra.dot.gov.

The Remaining Environmental Review Process

Comments received on the scope and methodology to be used in preparation of the EIS will be reviewed by FRA to develop the final scope of the environmental review. A summary of the comments received will be provided to agencies and members of the public expressing an interest in this environmental review. FRA and its consultants will then undertake preparation of a draft EIS which will be made available to the public for comment. This is presently scheduled for the late fall 1998. It is FRA's intention that the comment period for the draft EIS will occur during the comment period associated with the proposed rule so that interested agencies and the public can combine their comments and that the environmental issues can be fully considered as FRA develops the final rule. After reviewing comments on the draft EIS, FRA will prepare a final EIS that addresses these comments and incorporates any additional analyses and material deemed necessary. The final EIS will be made available for public review for not less than 30 days before FRA takes any final action on the proposed rule.

Internet

This notice and all subsequent documents prepared as part of this environmental review will be available in the environmental pages of the FRA Internet website, located at: *http://www.fra.dot.gov*

Issued in Washington, D.C. on: May 19, 1998.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 98–13804 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)-No. 3463

Applicants: Houston Belt and Terminal Railway Company, Mr. J. B. Mathis, General Manager, 501 Crawford, Room 515, Houston, Texas 77002–2192.

Burlington Northern and Santa Fe Railway Company, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

Union Pacific Railroad Company, Mr. Bruce E. Williams, Director Signal Design, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Houston Belt and Terminal Railway Company, Burlington Northern and Santa Fe Railway Company, and Union Pacific Railroad Company, jointly seek approval of the proposed discontinuance and removal of the traffic control system, on the East Main Track, between Control Point 169, milepost 9.6 and Control Point 183, milepost 10.9, on the West Belt Subdivision, in Houston, Texas, including removal of Control Points 175 and 178, and associated signals, power-operated switch machines, and track circuits.

The reasons given for the proposed changes are that the track serves yards and the signal system is no longer required.

BS–AP–No. 3464

Applicants: Southern California Regional Rail Authority, Mr. David Solow, Deputy Executive Director, 700 South Flower Street, Suite 2600, Los Angeles, California 90017–4101.

Santa Clarita Railroad, Mr. James Clark, Manager of Operations, 25135 Anza, Santa Clarita, California 91355.

Union Pacific Railroad Company, Mr. Bruce E. Williams, Director Signal Design, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Southern California Regional Rail Authority, Santa Clarita Railroad, and Union Pacific Railroad Company jointly seek approval of the proposed reduction to the interlocking limits of CP Saugus, milepost 32.4, Saugus, California, Valley Subdivision, consisting of the conversion of the No. 3 power-operated switch to hand operation, conversion of interlocked signal "2WC" to absolute signal "3240," in lieu of an electric lock, removal of signal "2WA," and installation of a new interlocked signal "W," 642 feet west of the 2WA location.

The reason given for the proposed changes is to modify the interlocking to reflect change in operating practices.

BS–AP–No. 3465

Applicant: Long Island Rail Road, Mr. Frederick E. Smith, P.E., Chief Engineer, Hillside Maintenance Complex, 93–59 183 Street, Hollis, New York 11423.

The Long Island Rail Road seeks approval of the proposed temporary discontinuance of Cabin "M" Interlocking, on the Montauk Branch, in Queens County, New York, until June 1999, and govern train movements through the interlocking by issuance of a Clearance Card Form C, Rule 331 of

Long Island Rail Road's "Rules of The Operating Department."

The reason given for the proposed changes is that the location was destroyed by fire and is currently being redesigned. Upon completion of the design work, the signal enclosure will be wired by a third party vendor, with installation, testing, and completion expected during the first half of 1999.

BS–AP–No. 3466

Applicant: Central Michigan Railway Company, Mr. James P. Pitz, Chief Operating Officer, 1410 S. Valley Center Drive, Bay City, Michigan 48706–9998.

The Central Michigan Railway Company seeks approval of the proposed modification of the signal system, on the single main track, near Carrollton, Michigan, on the Saginaw Subdivision, consisting of the relocation of the southbound approach signal from milepost 41.9 to milepost 41.3. The proposed changes are associated with the replacement of the existing pole line with polarized track circuits, and installation of a new signal to govern movements from the Old GT Spur Track to the Saginaw Subdivision Main Track.

The reason given for the proposed changes is the elimination of a pole line for signal control circuits and relocation of the approach signal for improved visibility.

BS–AP–No. 3467

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of the signal system, on all tracks, between milepost CA–520.7 and milepost CA–527.7, near Russell, Kentucky, on the Kanawha and Russell Subdivisions, Huntington Division, consisting of the following:

1. Discontinuance and removal of absolute controlled signals 2L and 2R at West End "RU," milepost CA–524.3;

2. Discontinuance and removal of absolute controlled signals 14RA, 14RB, 16R, 16L, 18L, 20RA, 20RB, 20RC, 20RD, 20L, 22L, 24RA, 24RB, 24RC, and 24L at "RU" Tower, milepost CA–524.3 to CA–524.0; and

3. Discontinuance and removal of absolute controlled signals 50R, 50L, 52R, 52L, and power crossover 51 at East End "RU," milepost CA–523.2.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation and increase operating efficiency.

BS–AP–No. 3468

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, on the single main track, milepost BA–81.44, near Harpers Ferry Interlocking, West Virginia, Cumberland Subdivision, Baltimore Service Lane, consisting of the discontinuance and removal of the interconnected, single wire loop, bridge fire detection system.

The reason given for the proposed changes is the poor reliability of this type of system, along with the advances in communication systems in today's environment, renders this type of system obsolete.

BS–AP–No. 3469

Applicants: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

Norfolk Southern Corporation, Mr. W. C. Johnson, Chief Engineer S&E Engineering, 99 Spring Street, S.W., Atlanta, Georgia 30303.

CSX Transportation, Incorporated (CSXT) and Norfolk Southern Corporation (NS) jointly seek approval of the proposed discontinuance and removal of the power-operated derails, on the NS single main track, at Wilson North Carolina, where two main tracks of CSXT cross at grade the NS single main track, on the CSXT Florence Service Lane, South End Subdivision, milepost A–136.5, and on the NS Piedmont Division, NS District, milepost NS–182.3.

The reason given for the proposed changes is to improve operations and increase efficiency.

BS–AP–No. 3470

Applicant: Burlington Northern and Santa Fe Railway, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Burlington Northern and Santa Fe Railway seeks approval of the proposed modification of the signal system, on Main Track No. 1, at Stockton, California, milepost 1121.8, Northern California Division, consisting of the conversion of power-operated switch No. 73 to hand operation, equipped with an electric lock, and removal of associated signals No.'s 73, 76A, and 76B.

The reason given for the proposed changes is that the power-operated switch is no longer needed for operations and removal would accommodate and simplify the replacement of Stockton Tower.

BS–AP–No. 3471

Applicant: Union Pacific Railroad Company, Mr. P. M. Abaray, Chief Engineer-Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company (UP) seeks approval of the proposed temporary discontinuance of signal system, on the main track between Littleton, milepost 727.1 and South Denver, milepost 733.4, at Denver, Colorado, on the Colorado Springs Subdivision, for the duration of the track and signal construction project, and operate trains by track warrant control. The proposal involves the removal of all signals and remote controlled switches on the UP trackage between Signal 1E at Littleton and Signal 9 at South Denver, execution of the major track construction, installation of two new control points, and restoration of the signal system to service.

The reason given for the proposed changes is to perform major track construction.

Rules, Standards, and Instructions Application (RS&I–AP)–No. 1103

Applicants: Consolidated Rail Corporation, Mr. J. F. Noffsinger, Chief Engineer—C&S Assets, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410.

Connecticut Southern Railroad, Mr. Louis J. Szabo, Assistant General Manager, 191 Park Avenue, East Hartford, Connecticut 06108.

Consolidated Rail Corporation (Conrail) and the Connecticut Southern Railroad jointly seek relief from section 236.566 of the Rules, Standards, and Instructions (49 CFR, Part 236) to the extent that the Connecticut Southern Railroad be permitted to operate non-equipped locomotives, in automatic cab signal territory, between "CP 96", milepost 96.1 and "CP 100.0", milepost 100.0, on the Boston Line, Albany Division of Conrail, near Springfield, Massachusetts, for the following operations:

1. Work trains, wreck trains, and ballast cleaners;

2. Engines moving to and from shops; and

3. Engines used in switching and transfer service, with or without cars, not exceeding 20 mph.

The justification for relief is the acquisition of track by the Connecticut Southern Railroad, and an exemption is

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already authorized for the operation of Guilford Transportation Industries non-equipped locomotives over the exact same trackage.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on May 19, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–13890 Filed 5–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 13, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 25, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1586.

Revenue Procedure Number: Revenue Procedure 98–17.

Type of Review: Extension.

Title: Contributions to Foreign Partnerships Under Section 6038B.

Description: This notice provides simplified reporting for transfers by U.S. persons to foreign partnerships under section 6038B, as amended by the Taxpayer Relief Act of 1997. These reporting requirements can be relied on by transferors not subject to section 6038B to avoid a penalty under section 1494(c).

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 250 hours.

OMB Number: 1545–1591.

Revenue Procedure Number: Revenue Procedure 98–23.

Type of Review: Extension.

Title: Qualified Subchapter S Trust Conversions to Electing Small Business Trusts.

Description: This revenue procedure provides a method for taxpayers to obtain the Secretary's consent to convert a Qualified Subchapter S Trust (QSST) to an Electing Small Business Trust (ESBT) as well as to convert an ESBT to a QSST.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–1595.

Revenue Procedure Number: Revenue Procedure 98–25.

Type of Review: Extension.

Title: Automatic Data Processing.

Description: Revenue Procedure 98–25 specifies the basic requirements that the IRS considers to be essential in cases where a taxpayer's records are maintained within an Automatic Data Processing System (ADP).

If machine—sensible records are lost, stolen, destroyed, or materially inaccurate, the Revenue Procedure requires that a taxpayer promptly notify its District Director and submit a plan to replace the affected records. The District Director will notify the taxpayer of any objection(s) to the taxpayer's plan. Also, the Revenue Procedure provides that a taxpayer who maintains machine-sensible records may request to enter into a Record Retention Limitation Agreement (RRLA) with its District Director. The taxpayer's request must identify and describe those records the taxpayer proposes not to retain and explain why those records will not become material to the administration of any internal revenue law. The District Director will notify the taxpayer whether or not the District Director will enter into an RRLA.

Finally, Revenue Procedure 98–25 provides that the District Director may conduct an evaluation of a taxpayer's machine-sensible records and may initiate testing to establish the authenticity, readability, completeness, and integrity of such records.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 40 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 120,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 98–13824 Filed 5–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 14, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 25, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0007.

Form Number: ATF F 3310.6.
Type of Review: Extension.
Title: Interstate Firearms Shipment Report of Theft/Loss.
Description: This form is part of a voluntary program in which the common carrier and/or shipper report losses or thefts of firearms from interstate shipments. ATF uses this information to ensure that the firearms are entered into the National Crime Information Center, to initiate investigations, and to perfect criminal cases.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,014.
Estimated Burden Hours Per Respondent: 20 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 338 hours.

OMB Number: 1512–0035.
Form Number: ATF F 5000.21.
Type of Review: Extension.
Title: Referral of Information.
Description: Information services organizations by Federal agencies, State governments. ATF asks the Federal agency or State or local regulatory compliance agency to respond as to any action that will be taken and if so the action planned on referrals of potential violations of Federal, State or local law discovered by ATF personnel during investigations. It is also used to evaluate effectiveness of these referrals.
Respondents: Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (as necessary).
Estimated Total Reporting Burden: 500 hours.

OMB Number: 1512–0221.
Form Number: ATF F 5640.1.
Type of Review: Extension.
Title: Offer in Compromise of Liability Incurred Under the Provisions of Title 26 U.S.C. Enforced and Administered by the Bureau of Alcohol, Tobacco and Firearms.
Description: ATF F 5640.1 is used by persons who wish to compromise criminal and/or civil penalties for violations to the Internal Revenue Code. If accepted, the offer in compromise is a settlement between the government and the party in violation in lieu of legal proceedings or prosecution. The form identifies the party making the offer, violations, amount of offer and circumstances concerning the violations.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 40.
Estimated Burden Hours Per Respondent: 2 hours.
Frequency of Response: Other (as necessary).
Estimated Total Reporting Burden: 80 hours.

OMB Number: 1512–0242.
Form Number: ATF F 5400.6.
Type of Review: Extension.
Title: User-Limited (Explosives).
Description: The user-limited permit is useful to the person making a one-time purchase from out-of-state. It is used one time only and is nonrenewable. The explosives distributor makes entries on the form and returns the form to the permittee to prevent reuse of the $2 permit.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,092.
Estimated Burden Hours Per Respondent: 12 minutes.
Frequency of Response: Other (5 years).
Estimated Total Reporting Burden: 22 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 98–13825 Filed 5–22–98; 8:45 am]
BILLING CODE 4810–31–P

Corrections

Federal Register
Vol. 63, No. 100
Tuesday, May 26, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document, Environmental Assessment, and Finding of No Significant Impact

Correction

In notice document 98–13021 beginning on page 27053 in the issue of Friday, May 15, 1998, make the following corrections:

1. On page 27053, under the heading "**SUMMARY**", in the third column, in the third line "Nonprofit" should read "Nonpoint" and in the seventh line "nonprofit" should read "nonpoint".

2. On the same page, under the heading **Introduction**, in the first line "Nonprofit" should read "Nonpoint".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5994–8; Docket No. A–97–05]

Source Category Listing for Section 112(d)(2) Rulemaking Pursuant to Section 112(c)(6) Requirements

Correction

In notice document 98–9557 beginning on page 17838, in the issue of Friday, April 10, 1998, make the following correction:

On pages 17847 and 17848, several typesetting errors occurred in Table 1. The affected entries are corrected below:

TABLE 1.—SUMMARY OF 1990 EMISSION INVENTORY DATA FOR SECTION 112(C)(6) POLLUTANTS (TONS/YR)

Source category	POM			2,3,7,8-TCDD TEQ	Mercury	PCB	HCB	Alkylated lead
	7–PAH	16–PAH	EOM					
Dental Preparation and Use					8.00e – 01			
Public Building and Related Furniture		1.16e+01						
Pulp and Paper—Kraft Recovery Furnaces	3.74e+00	6.49e+02		3.42e – 07	1.90e+00			
Pulp and Paper—Sulfite Recovery Furnaces		6.17e+00						
Scrap or Waste Tire Combustion	2.17e – 05	5.18e – 03		3.00e – 07		1.04e – 03		
Secondary Aluminum Smelting				1.90e – 04				
Secondary Copper Smelting				6.80e – 06				
Secondary Lead Smelting	1.90e – 02	6.99e+01		4.25e – 06	1.13e – 02			
Secondary Mercury Production					7.52e – 01			
Sewage Sludge Incineration	8.67e – 03	1.64e+00		2.65e – 05	1.80e+00	5.12e – 03		
Ship Building and Repair (Surface Coating)		1.44e+01						
Surface Active Agents Manufacturing		7.41e+00						
Textiles (SICs Combined)		9.68e+00						
Tire Manufacturing		7.00e+00					4.35e – 01	
Transportation Equipment Manufacturing (SICs combined)		5.16e+01						
Utility Coal Combustion	2.10e – 01	7.55e+00	3.86e+04	1.10e – 04	5.10e+01		6.80e – 01	
Utility Natural Gas Combustion		6.90e – 01	1.00e+03		1.60e – 03			
Utility Turbines—Diesel Fired					3.00e – 02			
Wildfires and Prescribed Burning	9.64e+02	2.54e+03		9.50e – 05				
Wood Household Furniture Manufacturing		1.13e+01						
Wood Treatment/Wood Preserving		9.04e+01		3.80e – 05				

BILLING CODE 1505–01–D

federal register

Tuesday
May 26, 1998

Part II

Environmental Protection Agency

40 CFR Parts 148, 261, 266, 268, and 271 Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 261, 266, 268, and 271

[EPA–F–98–2P4F–FFFFF; FRL–6010–5]

RIN 2050 AE05

Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule promulgates Land Disposal Restrictions treatment standards for metal-bearing wastes, including toxicity characteristic metal wastes, and hazardous wastes from mineral processing. The set of standards being applied to these wastes is the universal treatment standards. These standards are based upon the performance of the Best Demonstrated Available technologies for treating these, or similar, wastes. This rule also revises the universal treatment standards for twelve metal constituents, which means that listed and characteristic wastes containing one or more of these constituents may have to meet different standards than they currently do.

In a related section regarding wastes and secondary materials from mineral processing, EPA is amending the rules to define which secondary materials from mineral processing are considered to be wastes and potentially subject to Land Disposal Restrictions. The intended effect is to encourage safe recycling of mineral processing secondary materials by reducing regulatory obstacles to recycling, while ensuring that hazardous wastes are properly treated and disposed. EPA also is finalizing decisions on a set of mineral processing issues wastes which courts have been remanded to EPA. These include retaining the Toxicity Characteristic Leaching Procedure as the test for identifying the toxicity characteristic for mineral processing wastes, and readdressing the regulatory status of a number of miscellaneous mineral processing wastes.

This rule also amends the LDR treatment standards for soil contaminated with hazardous waste. The purpose of this revision is to create standards which are more technically and environmentally appropriate to contaminated soils than those which currently apply.

Finally, this rule excludes from the definition of solid waste certain shredded circuit boards in recycling operations, as well as certain materials reused in wood preserving operations.

EFFECTIVE DATES: This final rule is effective on August 24, 1998.

Compliance dates:

—For prohibition on underground injection of certain wastes at 40 CFR 148.18: May 26, 2000;

—For definition of solid waste provisions at 40 CFR 261.2, 261.4(a)(15), and 261.4(b): November 27, 1998;

—For exclusion of recycled wood preserving wastewaters at 40 CFR 261.4(a)(9): May 26, 1998;

—For prohibition on land disposal of wastes from elemental phosphorus processing and on mixed radioactive wastes at 40 CFR 268.34(b): May 26, 2000; and

—For land Disposal Restrictions treatment standards at 40 CFR 268.49 for soil contaminated with previously prohibited wastes: May 26, 1998.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. The docket information number is F–98–2P4F–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the "Supplementary Information" section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C. metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this rulemaking, contact the Waste Treatment Branch (5302W), Office of Solid Waste (OSW), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; phone (703) 308–8434. For information on the issue of treatment standards for metal-bearing wastes, contact Elaine Eby (703) 308–8449 or Anita Cummings at (703) 308–8303. For questions on land disposal restrictions (LDR) treatment standards for mineral processing wastes, radioactive mixed wastes, and grab versus composite sampling methods, contact Anita Cummings at (703) 308–8303. For information on treatment standards for manufactured gas plant wastes, contact Rita Chow at (703) 308–6158. Contact Rhonda Minnick at (703) 308–8771 for information on improvements and corrections to the Land Disposal Restrictions. For information on secondary mineral processing materials and Bevill issues, call Ashley Allen at 703–308–8419 or Stephen Hoffman of the Industrial and Extractive Wastes Branch at (703) 308–8413. For questions on treatment standards for hazardous soil, contact Elizabeth McManus of the Permits and State Programs Division at (703) 308–8657. Contact Stephen Bergman of the Hazardous Waste Identification Division at (703) 308–7262 for questions on the exclusion for wood preserving wastewaters. For information on the capacity analyses, contact Bill Kline at (703) 308–8440 or C. Pan Lee at (703) 308–8478. For questions on the regulatory impact analyses, contact Paul Borst at (703) 308–0481. For other questions, call Sue Slotnick at (703) 308–8462.

SUPPLEMENTARY INFORMATION:

Availability of Rule on the Internet: Please follow these instructions to access the rule: From the World Wide Web (WWW), type http://www.epa.gov/rules and regulations. In addition, several technical background documents contained in the docket supporting this rule will be available on the Internet at http://www.epa.gov/offices and regions/oswer.

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I. Introduction to the Phase IV Rule

In the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), Congress specified that land disposal of hazardous waste is prohibited unless the waste first meets

treatment standards established by EPA or is disposed in units from which there will be no migration of hazardous constituents for as long as the waste remains hazardous. The HSWA amendments require that treatment standards must substantially diminish the toxicity or mobility of hazardous waste, so that short- and long-term threats to human health and the environment are minimized.

Today's Phase IV final rule is the latest in a series of LDR rules that establish treatment standards for wastes identified or listed as hazardous after the date of the 1984 amendments. (See RCRA § 3004(g)(4)). EPA proposed the Phase IV rule in four **Federal Register** notices, and issued three NODAs setting out additional data relevant to this proceeding. In two **Federal Register** notices prior to today's, EPA promulgated various rules proposed in the Phase IV proposals: treatment standards for wood preserving wastes, paperwork reduction, and clarification of treatability variances. Today's final rule promulgates regulations addressing most of the remaining issues discussed in Phase IV proposals and NODAs. The table at the end of this introduction lists references for all the Phase IV Notices, plus others cited frequently in the preamble.

This final Phase IV preamble contains five major, interrelated sections. The first section explains the new land disposal restrictions treatment standards for wastes identified as hazardous because they exhibit the toxicity characteristic for metals (referred to as "TC metal wastes"). The section also revises the universal treatment standards (UTS) for 12 metal constituents in all hazardous wastes. The TC metal wastes will now be required to meet the universal treatment standards as do most other hazardous wastes. The second major preamble section establishes the prohibition on land disposal plus treatment standards for a particular type of newly identified hazardous waste: mineral processing waste that exhibits a characteristic of hazardous waste. The third section addresses additional issues affecting both TC metal wastes and characteristic mineral processing wastes. The fourth section amends the rules defining when secondary materials being recycled are solid wastes. It states that secondary materials from mineral processing which are generated and reclaimed within that industry are not solid wastes unless they are managed in land disposal units before being reclaimed. Such materials are not subject to regulation as hazardous wastes. That part of the preamble also addresses other issues related to mineral processing. The final major preamble section promulgates amended treatment standards for soil that contains hazardous waste or which exhibits a characteristic of hazardous waste.

Today's rule also includes two brief sections on hazardous waste issues unrelated to the major sections. One clarifies that a previously-promulgated exclusion from hazardous waste regulation for recycled shredded circuit boards also applies to whole circuit boards under certain conditions. The other section promulgates an exclusion from RCRA jurisdiction for certain wood preserving wastewaters and spent wood preserving solutions when recycled.

TABLE OF SELECTED LDR FEDERAL REGISTER NOTICES

Common name	Title of rule in FEDERAL REGISTER	Date	Citation
Third Third LDR Final Rule	Land Disposal Restrictions for Third Third Scheduled Wastes; Rule.	June 1, 1990 .....,	55 FR 22520.
Phase II LDR Proposal	Land Disposal Restrictions for Newly Identified and Listed hazardous Waste and hazardous soil; Proposed Rule.	September 14, 1993	58 FR 48092.
Phase III LDR Proposal	Land Disposal Restrictions Phase III: Decharacterized Wastewaters, Carbamate and Organobromine Wastes, and Spent Potliners; Proposed Rule.	March 2, 1995	60 FR 11702.
Phase IV Original Proposal	Land Disposal Restrictions—Phase IV: Issues Associated With Clean Water Act Treatment Equivalency, and Treatment Standards for Wood Preserving Wastes and Toxicity Characteristic Metal Wastes; Proposed Rule.	August 22, 1995	60 FR 43654.
Phase IV First Supplemental Proposal.	Land Disposal Restrictions—Clarification of Bevill Exclusion for Mining Wastes, to the Definition of Solid Waste for Mineral Processing Wastes, Treatment Standards for Characteristic Mineral Processing Wastes, and Associated Issues.	January 25, 1996	61 FR 2338.
HWIR Media Proposal	Requirements for Management of Hazardous Contaminated Media.	April 29, 1996	61 FR 11804.
Phase IV NODA #1	Land Disposal Restrictions Phase IV Proposed Rule—Issues Associated With Clean Water Act Treatment Equivalency, and Treatment Standards for Wood Preserving Wastes and Toxicity Characteristic Metal Wastes; Notice of Data Availability.	May 10, 1996	61 FR 21417.
Phase IV NODA #2	Land Disposal Restrictions—Phase IV: Treatment Standards for Characteristic Metal Wastes; Notice of Data Availability.	March 5, 1997	FR 62 10004.
Phase IV LDR Wood Preserving Final Rule.	Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Waste, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions; Final Rule.	May 12, 1997	62 FR 25998.
Phase IV Second Supplemental Proposal.	Land Disposal Restrictions Phase IV: Second Supplemental Proposal on Treatment Standards for Metal Wastes and Mineral Processing Wastes, Mineral Processing and Bevill Exclusion Issues, and the Use of Hazardous Waste as Fill.	May 12, 1997	62 FR 26041.

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TABLE OF SELECTED LDR FEDERAL REGISTER NOTICES—Continued

Common name	Title of rule in FEDERAL REGISTER	Date	Citation
Phase IV NODA #3	Land Disposal Restrictions Phase IV: Second Supplemental Proposal on Treatment Standards for Metal Wastes and Mineral Processing Wastes, Mineral Processing and Bevill Exclusion Issues, and the Use of Hazardous Waste as Fill; Notice of Data Availability.	November 10, 1997	62 FR 60465.
Treatability Variance Final Rule	Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances.	December 5, 1997	62 FR 64504.

II. Potentially Regulated Entities

Entities potentially regulated by this final rule vary according to the section of the rule. The following table shows the industry categories that may be regulated according to each major section of the rule. The table is not intended to be exhaustive or definitive with respect to every case-specific circumstance. Rather, it is a general guide for readers regarding entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated, and failure to mention them in the table should not be taken as any type of regulatory determination on the part of the Agency.

TABLE OF ENTITIES POTENTIALLY AFFECTED BY THE PHASE IV FINAL RULE

Section of the rule	Category	Examples of entities potentially affected
LDR treatment standards for TC metal hazardous wastes, characteristic mineral processing wastes, and other metal-bearing wastes.	Generators of Toxicity Characteristic (TC) metal hazardous wastes (D004—D011), characteristic mineral processing waste, or any hazardous waste required to meet the LDR treatment standard for antimony, barium, beryllium, cadmium, chromium, lead, nickel, selenium, silver, thallium, vanadium, or zinc.	Facilities in the following industries: primary mineral processing, chemical manufacturers, pharmaceutical producers, paint producers, manufacturers of motor vehicle parts, blast furnaces and steel mills, metal plating and polishing, and aircraft parts and equipment.
	Facilities that treat and/or dispose of TC metal hazardous wastes, characteristic mineral processing wastes, and other metal-bearing hazardous wastes.	Hazardous waste treatment and disposal facilities.
LDR treatment standards for hazardous soil.	Entities managing hazardous soil	Private or public parties remediating sites containing hazardous soil
Mineral Processing Secondary Materials	Facilities that generate, store, and/or recycle secondary materials from primary mineral processing.	Copper smelters, gold refiners, and other primary metals producers that return wastestreams to units for additional recovery
Exclusion for Recycled Wood Preserving Process Wastewaters.	Wood Preserving Facilities	Facilities that generate and reclaim drippage and wastewaters on-site from the wood processing industry.

III. Revised Land Disposal Restrictions (i.e., Universal Treatment Standards) for Metal Constituents in all Hazardous Wastes, Including Toxic Characteristic Metals

Summary

There are two purposes to today's new treatment standards for metal-containing wastes. First, EPA is revising the numerical standards because new data are available on which to base more accurate standards. Second, EPA is including a new set of wastes in the current treatment standard regime, continuing EPA's efforts to apply the same LDR treatment standards when technically and legally possible. (In a subsequent section of this rule, EPA is expanding the treatment standard regime to include yet another set of wastes. These are characteristic mineral processing wastes that are not currently subject to land disposal restrictions.)

The numerical standards that EPA is revising are the universal treatment standards (UTS) for 12 metal constituents. The new UTS will apply to nonwastewater forms of any listed or characteristic hazardous waste that is already required to meet the UTS for those constituents in the waste. The revised UTS are less stringent for 7 constituents, and more stringent for 5. The rule does not affect the UTS for wastewater forms of these wastes, and does not change the UTS for any other constituents, including any of the organics.

The new set of wastes that EPA is bringing into the current LDR regime is the group of 8 wastes known as TC metal wastes—wastes identified as hazardous because they exhibit the toxicity characteristic due to the presence of the metals enumerated in 261.24 (Waste codes D004–D011). These are wastes that exhibit the toxicity characteristic because of high toxic metal content. By today's rule, that key metal must be treated to the UTS for that metal. Furthermore, any underlying hazardous constituents (UHCs) must be treated to UTS levels as well, whether these UHCs are organics or metals. Both wastewater and nonwastewater forms of the TC metal wastes are affected by today's rule, except for arsenic, for which only the wastewater forms are affected.

Hazardous wastes that exhibit both the TC for metals and the predecessor characteristic based on the Extraction Procedure (EP) are presently only required to be treated to reduce metal levels to below the characteristic level. Today's rule, for the most part, will require additional treatment of these metal constituents before land disposal can occur.

The Agency also finds that the treatment standards established in

today's rule are not established below levels at which threats to human health and the environment are minimized. See *Hazardous Waste Treatment Council v. EPA*, 886 F.2d 355, 362 (D.C. Cir. 1990). That case held that the statute can be read to allow either technology-based or risk-based LDR treatment standards, and further held that technology-based standards are permissible so long as they are not established "beyond the point at which there is no 'threat' to human health or the environment." *Id.* at 362. EPA's finding that today's standards are not below a "minimize threat" level is based on the Agency's inability at the present time to establish concentration levels for hazardous constituents which represent levels at which threats to human health and the environment are minimized. As the Agency has explained a number of times, determining these levels on a national basis—which requires determination of relevant exposure pathways and potential receptors for all hazardous constituents in hazardous wastes, with all the attendant uncertainties involved in such a national determination—has not yet proven possible. See, *e.g.*, 55 FR at 6642 (February 26, 1990). Thus, the Agency continues to find that technology-based standards remain the best approach for the national treatment standards since such standards eliminate as much of the inherent uncertainty of hazardous waste land disposal and so fulfill the Congressional intent in promulgating the land disposal restrictions provisions. *Id.* However, the Agency believes that it may be possible to make valid determinations that threats to human health and the environment are minimized on an individualized basis in the context of certain site-specific remediations, and accordingly has provided in this rule a variance from technology-based treatment requirements for contaminated soils generated in certain remediations. See section VII below.

A. History of Metal Treatment Standards

Land disposal of hazardous wastes is largely prohibited by statute, unless the wastes meet the applicable treatment standards established by EPA prior to land disposal. See RCRA sections 3004(d)–(g), (m); (the exception for no-migration units is not relevant to today's rule). Until today's rule, metals that were characteristic because they failed the Toxicity Characteristic Leaching Procedure (TCLP) and also failed the Extraction Procedure (EP)—which preceded the use of the TCLP as a means of identifying whether a waste exhibited a characteristic of hazardous waste—were subject to treatment standards at levels equal to the TC levels (55 FR 22520, June 1, 1990). (Note that wastes that were characteristic according to the TCLP but did not fail the EP were considered, until promulgation of today's rule, to be newly identified wastes, and were not subject to the LDR requirements. Today's rule makes these wastes subject to LDR). However, the TC levels are typically higher than those treatment levels for which threats posed by land disposal of the wastes are minimized. (*Waste Management v. EPA*, 976 F.2d 2, 13–14, 26–27, 32 (D.C. Cir. 1992). Consequently, treatment to levels lower than the characteristic levels normally is required. *Id.*

In an effort to make treatment standards as uniform as possible while adhering to the fundamental requirement that the standards must minimize threats to human health and the environment, EPA developed the UTS. Under the UTS, whenever technically and legally possible, the Agency adopts the same technology-based numerical limit for a hazardous constituent regardless of the type of hazardous waste in which the constituent is present (see 40 CFR 268.40; and 59 FR 47982, September 19, 1994). In the original Phase IV proposal, EPA proposed to apply the metal UTS, as measured by the TCLP (60 FR 43582, August 22, 1995; see 40 CFR 261.24), to all TC metal wastes. The TCLP measures the possibility that a waste may leach toxic metals above a designated concentration level under certain assumed disposal conditions, and so is a measure of the potential mobility of toxic metals in a waste.

Commenters in response to the original proposal took issue with the Agency's use of data previously used to establish metal UTS as a basis for establishing the treatment standards for characteristic metal wastes. The commenters raised three basic issues with regard to the data transfer. First, they said that characteristic metal wastes are extremely variable and the data used to calculate the treatment standards were not representative of the diversity of TC metal wastes. Second, the commenters said that although two treatment technologies—high temperature metals recovery (HTMR) and stabilization—were determined to be Best Demonstrated Available Technology (BDAT), the current metals UTS were based solely on HTMR, a technology not commercially available for many TC metal wastes. Finally, commenters asserted that individual metal UTS values were not uniformly achievable when waste streams with multiple toxic metals were being treated. In light of these concerns, the commenters urged the Agency to obtain additional data that would demonstrate the effectiveness of stabilization on TC metal waste streams and more fully characterize the diversity of treatment of these nonwastewaters. The following commenters provided the Agency with stabilization performance data: Battery Council International, American Foundrymen's Association, Chemical Waste Management, and the Environmental Treatment Council. While extensive, the data unfortunately was based on composite samples and could not be used as the basis for treatment standards (see USEPA, Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/ Quality Control Procedures and Methodology, Office of Solid Waste, October 23, 1991 and 62 FR 26041 for a discussion of grab and composite sampling).

The Agency, however, was convinced that additional data were needed to further assess the treatment of TC metal nonwastewaters. During September 1996, EPA conducted site visits at three hazardous waste treatment facilities and collected additional treatment performance data. One facility was a large commercial TSDF that employed conventional stabilization techniques to treat a wide array of inorganic metal wastes. Another was an on-site treatment facility that focused on the stabilization of inorganic metal slag. A third facility was commercial and focused on stabilization of inorganic materials using non-conventional stabilization techniques. During these site visits, the Agency either gathered performance data from company records or requested the collection of actual treatment performance data through sampling and analysis.

Treatment data were collected for the following types of hazardous waste: mineral processing waste, baghouse dust, battery slag, soils, pot solids, recycling by-products, and sludge. See the memorandum, Final Revised Calculation of Treatment Standards Using Data Obtained From Rollins Environmental's Highway 36 Commercial Waste Treatment Facility and GNB's Frisco, Texas Waste Treatment Facility, March 10, 1997 and the memorandum, Transferability of UTS to Mineral Processing Wastes, January 28, 1997 for a complete description of the waste constituents and concentrations. Most of the wastes contained multiple metals in various concentrations while some had

significant concentrations of typically two metal combinations, including lead and cadmium, barium and lead, and chromium and antimony. In addition, between October 1994 and December 1995, the Agency obtained performance data from one HTMR facility; (other HTMR data became available very late in 1997). The assessment of the new data sets began with the calculation of treatment standards for each of the two data sets representing stabilization and HTMR. The same methodology, sometimes called "C 99," and used in past LDR rulemakings, was used to calculate the treatment levels (see 56 FR 41164, August 18, 1991, and the BDAT Background Document for K061, dated August, 1991). Next, the Agency compared the treatment levels for stabilization verses HTMR. Based on this comparison, the Agency selected the highest level for each metal as the proposed UTS to allow for waste and process variability and detection limit difficulties. This approach is consistent with the legislative goal of providing substantial treatment through standards that are achievable by an array of well-performing, available treatment technologies. See 130 Cong. Rec. S 9184 (Daily ed., July 25, 1984) (statement of Senator Chafee).

As a result, the Agency issued a Second Supplemental Proposal on May 12, 1997 (62 FR 26041). In it, EPA proposed to change the numerical limits for all nonwastewater wastes containing the following metal constituents: antimony, barium, beryllium, cadmium, chromium, lead, nickel, selenium, silver, and thallium. (62 FR at 26047, May 12, 1997). The Agency also reproposed to change the numerical limits for vanadium in P119 and P120 nonwastewaters, and for zinc in K061 nonwastewaters. (62 FR at 26047, May 12, 1997). EPA also proposed these same UTS treatment standards for TC metal wastes identified as hazardous due to concentrations of barium, cadmium, chromium, lead, selenium and silver.

The Agency would like to correct in today's rule a prior error that was discovered in calculating the metals treatment levels using the HTMR treatment data. As previously stated, in the Second Supplemental and in today's preamble, in determining the treatment levels for each metal constituent, the Agency compared the treatment standards calculated with data from HTMR and stabilization. Based on this comparison, the highest level for each metal was chosen as the treatment standard. In reviewing the calculations from the HTMR data set, the Agency discovered an error in the calculations. When applying the methodology presented in USEPA, "Final Best Demonstrated Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology," dated October 23, 1991, it was discovered that the Agency failed to conduct a "Z-score test" to remove any outliers—data that is either so high or so low that it is not considered to be representative of the population from which the data are drawn. EPA uses this statistical method to confirm that certain data do not represent treatment by a well-operated system, or reflect anomalously low levels which are not typically achievable. This error was found to have occurred only in the calculation of the treatment standards based on the performance of HTMR; the treatment standards based on the performance of stabilization were properly calculated. The proposed treatment standards for cadmium, chromium, nickel, and silver were affected. The application of the Z-score outlier test resulted in 2 data points out of 40 being eliminated as outliers for both cadmium and chromium. For nickel, 5 out of 122 data points were identified as outliers.

For silver, 3 out of 114 data points were identified as outliers. Three of the resulting, calculated treatment standards changed slightly and are slightly more stringent than the proposed standards: cadmium from proposed 0.20 to corrected 0.11 mg/L TCLP; chromium from proposed 0.85 to corrected 0.60 mg/L TCLP; and nickel from proposed 13.6 to corrected 11 mg/L TCLP. Silver, on the other hand, changed from the proposed 0.11 mg/L TCLP to a corrected, slightly less stringent 0.14 mg/L TCLP. (Note: In re-calculating this standard, the Agency added an additional 74 data points which were submitted by the INMETCO Company (a high temperature metal reclaimer) in their comments to the May 12 supplemental proposal.) The Agency believes that these re-calculations are not significant because these four revised standards are each still achievable. See Memorandum, "Calculation of Universal Treatment Standard (UTS) for HTMR Residues Using Data Submitted by Horsehead Research Development (HRD) Co., Inc. And INMETCO," December 17, 1997.

B. Applicability of Metal Treatment Standards

As noted earlier, today's rule finalizes LDR treatment standards in two ways. First, it revises the UTS levels for 10 metal constituents in nonwastewater forms of hazardous wastes. The 10 include antimony, barium, beryllium, cadmium, chromium, lead, nickel, selenium, silver, and thallium. These treatment standards will replace the existing UTS values. In addition, EPA is applying UTS for the first time to 8 TC metal wastes: arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. The UTS apply to both wastewater and nonwastewater forms of the wastes (except for TC arsenic wastes, for which the UTS apply to wastewater forms only), and to both organic and metal underlying hazardous constituents in them. No TC metal wastes have had to meet standards for underlying hazardous constituents before today, and wastes exhibiting only the TC and not the EP were not yet prohibited. (Note, some subcategories of mercury and arsenic TC metal wastes have treatment methods requiring use of a specified technology, and are not affected by today's rule.) The Agency is also adjusting the treatment standards for vanadium in P019 and P020 nonwastewaters as well as zinc in K061 nonwastewaters.

The metal treatment standards being promulgated today have broad applicability. They apply to the following metal-containing hazardous wastes: (1) characteristic metal wastes, including both the newly identified wastes that, heretofore, were not prohibited from land disposal; and metal wastes that were identified as hazardous under the predecessor leaching protocol, the Extraction Procedure (EP), which remain hazardous because they also exhibit the TC by the TCLP; (2) mineral processing wastes which exhibit the toxicity characteristic for metal (this is actually a subset of wastes in (1) above); (3) listed hazardous wastes which have metal constituents; (4) underlying hazardous constituents (UHCs) that are metals in any characteristic hazardous waste (including mineral processing waste which exhibit a characteristic) that is disposed in other than a Clean Water Act (CWA) or CWA-equivalent wastewater treatment system (see 40 CFR 268.2(i); 59 FR 47982, September 19, 1994); and (5) radioactive wastes mixed with the wastes mentioned in (1)–(4) above.

C. Development of New Treatment Standards for Hazardous Wastes Containing Metals

1. Measuring Compliance by Grab or Composite Sampling

As explained in the May 12, 1997 Second Supplemental Phase IV proposal, EPA establishes treatment standards using data obtained by grab sampling, not composite sampling, and

likewise assesses compliance with these standards using grab sampling. 62 FR at 26047. This approach was sustained by the D.C. Circuit Court of Appeals in *Chemical Waste Management v. EPA*, 976 F. 2d at 34, and EPA did not and is not reopening the issue in this proceeding. The Agency has now obtained requisite grab sampling data. As a result, the treatment standards promulgated in this rule are all based upon treatment performance that was measured through the use of grab sampling. All compliance likewise will be based on grab sampling.

2. Development of Treatment Standards for Metal Wastes

All of the metals described below are on the UTS list and some are also TC metals. This section discusses development of both the TC and UTS treatment standard levels. The Agency is presenting the metal treatment standards alphabetically by constituent. Depending on the constituent, one or more treatment standards is discussed. For example in the section entitled, "Treatment Standards for Barium Waste," the Agency discusses the promulgation of three treatment standards: (1) 21 mg/L TCLP for nonwastewater forms of D005 waste (based on the UTS); (2) 1.2 mg/L for wastewater forms of D005 waste (also based on the UTS); and (3) a revised UTS of 21 mg/L TCLP for barium nonwastewaters. If a metal constituent is not one of the TC metals, its presence cannot be the basis for determining if a waste exhibits the toxicity characteristic—but it could be an underlying hazardous constituent in the waste, in which case that constituent would need to meet the standard for that metal in today's rule before the waste could be land disposed.

a. Final Universal Treatment Standard for Nonwastewater Forms of Antimony. The Agency proposed in the Second Supplemental (62 FR 26041, May 12, 1997), to change the UTS for nonwastewaters containing antimony from 2.1 mg/L TCLP to 0.07 mg/L TCLP. This proposed change was a result of new data collection efforts conducted by the Agency to gather performance data that was representative of the diversity of metal-containing wastes.

In response, the Agency received several comments. Two commenters supported the proposed change; however the remaining commenters argued against the proposed level for antimony of 0.07 mg/L TCLP for a number of reasons. One commercial waste management facility stated that very few of the waste streams they treat using conventional stabilization techniques, including furnace ash, incinerator ash, scrubber brine sludge, furnace baghouse dust, and stripper rinse waters, would meet the proposed standard. The commenter submitted 48 data points supporting its claim. A third commenter stated that meeting the standard would significantly increase their compliance costs. Another stated that commercial stabilization techniques were not capable of meeting the proposed UTS for antimony. In general, these commenters suggested a higher UTS for antimony in the range of 1.3 mg/L TCLP to 2.98 mg/L TCLP.

In response to the commenters' concerns regarding the difficulty in treating antimony wastes, the Agency has conducted a thorough review of its BDAT data set and has determined that while it represents a diverse collection of waste streams containing metals, the concentration of antimony in the 9 data points used to calculate the proposed standard may not be representative of the most difficult to treat antimony waste. The data used by the Agency to calculate the proposed UTS of 0.07 mg/L TCLP, showed a range of antimony concentrations in the untreated waste of between 0.2440 mg/L TCLP and 16.1 mg/L TCLP. While the Agency, at the time, believed that these data were sufficient to establish a treatment standard, new data submitted by a commercial hazardous waste treatment facility provide a compelling argument to amend this standard. The new data consist of 48 additional data points representing various multiple metal waste streams, including incinerator or furnace ash, scrubber brine sludge, lab pack waste, stripper rinse water and baghouse dust. These wastes have all been treated with conventional stabilization techniques and meet the proposed UTS values for all metal constituents except for antimony. The Agency has reviewed the data, the treatment technology, and the QA/QC information submitted by the commenter and believes that the data should be incorporated into the existing BDAT data set. After doing so, the Agency recalculated the treatment standard for antimony nonwastewaters and is today promulgating a revised standard of 1.15 mg/L TCLP. All data available to the Agency indicate that the revised treatment standard for antimony nonwastewaters can be achieved by either stabilization or HTMR processes and addresses the commenter's concerns.

b. Treatment Standard for Wastewater Forms of Arsenic Waste. The Agency proposed in the original Phase IV proposal (60 FR 43683, August 22, 1995), to change the treatment standard for wastewater forms of toxicity characteristic arsenic (D004) waste from the characteristic level of 5.0 mg/L established in the Third Third rule (55 FR 22520 June 1, 1990) to the previously promulgated UTS for arsenic wastewaters of 1.4 mg/L. The Agency did not propose to change the treatment standard for nonwastewater forms of toxicity characteristic arsenic (D004) waste in that the UTS of 5.0 mg/L TCLP was the same as the TC level. The Agency received no comment on the proposed change to D004 wastewaters. Therefore, the Agency is today promulgating as proposed the UTS standard of 1.4 mg/L for D004 wastewaters.

c. Treatment Standards for Barium Waste. (i) Treatment standards for TC Barium (D005) Waste. In 60 FR 43684 (August 22, 1995), EPA proposed to change the treatment standards for wastewater forms of TC metal barium waste (D005) from the characteristic level of 100 mg/L (established in the Third Third rule, 55 FR 22520, June 1, 1990) to the previously promulgated UTS for barium of 1.2 mg/L. Likewise, EPA proposed for D005 nonwastewaters a change from the characteristic level of 100 mg/L TCLP (55 FR 22520, June 1, 1990) to the previously promulgated UTS of 7.6 mg/L TCLP. In support of these revised treatment standards, the Agency had performed a comprehensive re-evaluation of the available treatment performance data from wastes containing significant concentrations of barium.

For D005 wastewaters, the Agency determined that the existing UTS level for barium (1.2 mg/L) was appropriate, based on the performance of lime conditioning followed by sedimentation and filtration as BDAT. For D005 nonwastewaters, the Agency determined that the existing UTS level of 7.6 mg/L TCLP, based on treatment of barium in K061 (electric arc furnace dust) using HTMR was also appropriate. The Agency believed that these treatment standards could be routinely met by industry. Additionally, the Agency reviewed stabilization data and determined that the treatment standards for barium could be achieved by stabilization for a wide variety of waste matrices. (See Proposed Best Demonstrated Available Technology (BDAT) Background Document for Toxicity Characteristic Metal Wastes D004–D011, July 26, 1995.)

The Agency received no significant comment on the proposed change to the wastewater standard for D005. However, as previously discussed in Section III.A of today's rule, new data collection efforts and new analysis of BDAT data

for nonwastewaters resulted in a reproposal of the barium treatment standard in the Phase IV Second Supplement (62 FR 26047) . In this notice, the Agency proposed to revise the treatment standard for barium nonwastewaters to 21 mg/L TCLP based on stabilization. The Agency received no comments in response to the reproposal. Therefore, the Agency today is promulgating a nonwastewater treatment standard of 21 mg/L TCLP as proposed in 62 FR 26041. In addition, the treatment standard of 1.2 mg/L for wastewater forms of D005 is promulgated as proposed in 60 FR 43654.

(ii) Universal Treatment Standard (UTS) for Barium Nonwastewaters. (Please refer to the discussion above about the development of the treatment standard for D005 for additional information on the development of the barium UTS levels.) The Agency proposed to change the UTS for barium nonwastewaters from 7.6 mg/L to 21 mg/L TCLP (see 62 FR 26041). It was proposed that such a treatment standard would better reflect the diversity of metal-containing waste streams and their treatment.

The Agency received no significant comment in response to the reproposal. Therefore, the Agency is today promulgating a nonwastewater UTS of 21 mg/L TCLP, as proposed.

d. Final Universal Treatment Standard for Nonwastewater Forms of Beryllium Waste. The Agency proposed in the original Phase IV proposal (60 FR 43683, August 22, 1995), to revise the UTS for nonwastewaters containing beryllium from 0.014 mg/L TCLP to 0.04 mg/L TCLP. As previously discussed, new data collection efforts and new analysis of BDAT data resulted in a reproposal of the beryllium treatment standard to 0.02 mg/L TCLP in the Phase IV Second Supplemental (62 FR 26041, May 12, 1997).

The Agency received numerous comments on the proposed revision. One commenter supported the proposed treatment level for beryllium, but stated that current stabilization technologies could achieve lower treatment levels. Several other commenters stated that while the proposed standard for beryllium was consistent with the data considered by the Agency, the stabilization data for beryllium were quite limited and reflected the treatment of wastes having very low beryllium content. Commenters further questioned whether the proposed standard of 0.02 mg/L TCLP could be met by conventional stabilization techniques if higher concentrations of beryllium were treated. Other commenters stated that they could not support the treatment standards because EPA has not demonstrated that existing commercial technologies were capable of achieving the proposed standards or that technologies were otherwise available.

In light of the comments received, the Agency conducted a review of the data set used to calculate the proposed standard. The review indicated that, consistent with the commenter's concerns, the data used by the Agency to calculate the standard were based on wastes containing low concentrations of beryllium (between 0.0050 and 0.5 mg/L TCLP). These concentration levels and the subsequent treatment standard developed from them does not appear to adequately account for the difficulty in treating wastes containing higher concentrations of beryllium. Data generated and submitted by Brush Wellman, Inc., consisting of seven data points, showed characteristic wastes (D008) with concentrations of beryllium ranging from 32 to 95 mg/L TCLP. When treated with conventional stabilization techniques, treatment resulted in beryllium levels ranging from 0.05 mg/L to 0.31 mg/L TCLP. As a result of these data, the proposed UTS for beryllium must be revised to reflect a more difficult-to-treat or high-concentration beryllium waste. Accordingly, the Agency is today promulgating a revised UTS for beryllium nonwastewaters of 1.22 mg/L based on this newly acquired data. All treatment performance data available to the Agency indicates that this revised treatment standard can be met, thereby addressing concerns raised by the commenters to the proposal. It should be noted that the UTS for beryllium wastewaters remains unchanged at 0.82 mg/L.

e. Treatment Standards for Cadmium Wastes. (i) Treatment standards for TC Cadmium (D006) Waste. The Agency proposed to change the treatment standards for wastewater forms of TC cadmium (D006) waste from the characteristic level of 1.0 mg/L (established in the Third Third rule (55 FR 22520. June 1, 1990) to the previously promulgated UTS for cadmium wastewaters of 0.69 mg/L. EPA also proposed to change the treatment standard for D006 nonwastewaters from the characteristic level of 1.0 mg/L TCLP (55 FR 22520 (June 1,1990)) to the previously promulgated UTS for cadmium nonwastewaters of 0.19 mg/L TCLP. In support of these revised treatment standards, the Agency had performed a comprehensive re-evaluation of the available treatment performance data from wastes containing significant concentrations of cadmium.

For D006 wastewaters, the Agency determined that the existing UTS for cadmium (0.69 mg/L) based on a BDAT of lime conditioning followed by sedimentation was appropriate. The treatment standard for nonwastewater forms of D006 wastes was based on a transfer from the UTS for cadmium of 0.19 mg/L TCLP based on the K061–HTMR treatment standard data. The Agency chose to use these data because they represented performance of an HTMR treatment unit. The UTS based on K061–HTMR could be routinely met by industry. Additionally the Agency reviewed stabilization performance data and determined that the UTS for cadmium could be achieved by stabilization for a wide variety of waste matrices. See Proposed Best Demonstrated Available Technology (BDAT) Background Document for Toxicity Characteristic Metal Waste D004–D011 (July 26, 1995).

The Agency received no comments on the proposed change to the wastewater standard for D006. However, for reasons previously discussed in Section III.A of today's preamble, the Agency in the Phase IV Second Supplemental proposed to revise the treatment standard for cadmium nonwastewaters to 0.20 mg/L TCLP based on HTMR.

All comments received in response to the revised standard for cadmium supported the change. However, as discussed earlier in Section III.A of today's preamble, the Agency discovered an error in the calculation of the treatment standard. In applying the LDR methodology for calculating a treatment standard, the Agency failed to conduct a "Z-score" outlier test. With the application of this test, 2 out of the 40 data points were determined to be outliers, resulting in a revised treatment standard for cadmium nonwastewaters of 0.11 mg/L TCLP. (The proposed treatment standard of 0.20 mg/L TCLP was based on all 40 data points.) The Agency has reviewed the comments in light of this amended treatment standard and believes that it can be achieved by both HTMR and stabilization treatment. Data submitted by commenters in support of this rule does clearly indicate that the standard can be achieved. See supporting information contained in docket for this rule. Therefore, the Agency is today promulgating a nonwastewater treatment standard of 0.11 mg/L TCLP for D006. In addition, the treatment standard of 0.69 mg/L for wastewater forms of D006 waste is being promulgated as proposed in 60 FR 43654.

(ii) Universal Treatment Standard (UTS) for Nonwastewaters Containing Cadmium. The reader is referred to the above discussion about the development of the treatment standard for D006 nonwastewaters for additional information of the development of the UTS level for cadmium nonwastewaters. EPA is promulgating an UTS of 0.11 mg/L TCLP for nonwastewaters containing cadmium. No change was proposed for the cadmium wastewater UTS; therefore it remains at 0.69 mg/L.

f. Treatment Standards for Chromium Wastes. (i) Treatment Standards for TC Chromium Wastes (D007). In 60 FR 43654 (August 22, 1995), the Agency proposed to change the treatment standards for wastewater forms of toxicity characteristic chromium (D007) waste from the characteristic level of 5.0 mg/L (established in the Third Third rule (55 FR 22520. June 1, 1990) to the previously promulgated UTS for chromium (total) wastewaters of 2.77 mg/L. EPA also proposed to change the treatment standards for D007 nonwastewaters from the characteristic level of 5.0 mg/L TCLP (55 FR 22520, June 1,1990) (a standard remanded by the D.C. Circuit as insufficiently stringent in *Chemical Waste Management v. EPA*, 976 F. 2d at 32) to the previously promulgated UTS for nonwastewater forms of chromium (total) of 0.86 mg/L TCLP. In support of these revised standards, the Agency had performed a comprehensive re-evaluation of the available treatment performance data from wastes containing significant concentrations of chromium.

For D007 wastewaters, the Agency determined that the existing UTS (2.77 mg/L) based on a BDAT of lime conditioning followed by sedimentation was appropriate. The treatment standard for D007 nonwastewaters was based on a transfer from the UTS for chromium (total) of 0.86 mg/L TCLP based on the K061–HTMR treatment standard data. In addition, the Agency reviewed stabilization performance data and determined that the UTS for chromium (total) could be achieved by stabilization for a wide variety of waste matrices. See Proposed Best Demonstrated Available Technology (BDAT) Background Document for Toxicity Characteristic Wastes D004–D011, July 26, 1995.

The Agency received no comments on the proposed change to the wastewater standard for D007. However, as previously discussed in Section III.A of today's preamble, new data collection efforts and further analysis of BDAT data, resulted in a proposed revision to the treatment standard for nonwastewater containing chromium to 0.85 mg/L TCLP based on a BDAT of stabilization (62 FR 26041).

In response to the reproposal, the Agency received no significant comments. However, as discussed earlier in Section III.A of today's preamble, the Agency discovered an error in the calculation of the treatment standard. In applying the LDR methodology for calculating a treatment standard, the Agency failed to conduct a "Z-score" outlier test. With the application of this test, 2 out of the 40 data points, originally used to calculate the standard, were determined to be outliers, resulting in a revised treatment standard for chromium nonwastewaters of 0.60 mg/L TCLP. The Agency has reviewed the comments in light of this amended standard and believes that it can be achieved by both HTMR and stabilization technologies. Data submitted by commenters in response to this proposal also support this conclusion. See supporting information contained in the docket for this rule. Therefore, the Agency is today promulgating an amended nonwastewater treatment standard of 0.60 mg/L TCLP. In addition, EPA is also promulgating a treatment standard of 2.77 mg/L for wastewater forms of D007 as proposed in 60 FR 43654.

(ii) Universal Treatment Standard (UTS) for Chromium Nonwastewaters. (Please refer to the discussion above about the development of the treatment standard for D007 for additional information on the development of the chromium UTS levels.) The Agency proposed to change the UTS for chromium (total) nonwastewaters to 0.85 mg/L TCLP to better reflect the diversity of metal-containing waste streams and their treatment (see 62 FR 26041). No change was proposed for the chromium wastewater UTS.

The Agency received no significant comments on the reproposal. However, as a result of an error in the calculation of the proposed treatment standard, as previously discussed, the Agency is today promulgating a revised chromium nonwastewater UTS of 0.60 mg/L TCLP. The chromium wastewater UTS remains unchanged at 2.77 mg/L.

g. Final Treatment Standards for Lead Wastes. (i) Treatment standards for TC Lead Wastes (D008). In 60 FR 43654 (August 22, 1995), the Agency proposed to change the treatment standards for wastewater forms of toxicity characteristic lead (D008) waste from the characteristic level of 5.0 mg/L established in the Third Third rule (55 FR 22520, June 1, 1990) to the previously promulgated UTS for lead wastewaters of 0.69 mg/L. EPA also proposed to change the treatment standard for D008 nonwastewaters from the characteristic level of 5.0 mg/L TCLP (55 FR 22520, June 1, 1990) (a standard remanded by the D.C. Circuit as insufficiently stringent in *Chemical Waste Management v. EPA*, 976 F. 2d at 27) to the previously promulgated UTS for lead nonwastewaters of 0.37 mg/L TCLP. In support of these revised treatment standards, the Agency had performed a comprehensive re-evaluation of the available treatment performance data from wastes containing significant concentrations of lead.

For D008 wastewaters, the Agency determined that the existing UTS for lead (0.69 mg/L) based on a BDAT of lime conditioning followed by sedimentation was appropriate. The treatment standard for nonwastewater forms of D008 waste was based on a transfer from the UTS for lead of 0.37 mg/L TCLP, which in turn, was based on K061–HTMR treatment standard data. The Agency believed that the UTS could be routinely met by industry using HTMR. Additionally, the Agency reviewed stabilization performance data and determined that the UTS for lead could also be achieved by stabilization for a wide variety of waste matrices. See Proposed Best Demonstrated Available Technology (BDAT) Background Document for Toxicity Characteristic Metal Wastes D004–D011, July 26, 1995.

The Agency did not receive any comments on the proposed change for D008 wastewaters. However as previously discussed in today's preamble, numerous comments on the proposed nonwastewater treatment standard were submitted. As a result, the Agency in the Phase IV Second Supplemental proposed to change the D008 nonwastewater standard to 0.75 mg/L TCLP based on new BDAT stabilization data (62 FR 26047) collected by the Agency. The Agency felt that these data better reflected the diversity of lead-containing waste streams and their treatment.

Numerous commenters concurred with the Agency's reproposal. However, other commenters, specifically those representing various sectors of the secondary lead industry, argued that EPA's proposed treatment standard for lead was not achievable. In particular, comments from Battery Council International (BCI) and the Association of Battery Recyclers (ABR) argued that new data developed by their association members showed that no facility in the secondary lead industry could meet EPA's proposed treatment standard for lead. Instead, they supported setting a treatment standard of 8.39 mg/L TCLP for D008 nonwastewaters based on

stabilization. The commenters argued that smelter slag has chemical and physical characteristics distinctly different from the wastes used to develop the treatment standard and that because of its physical variability, treatment of secondary smelter slag through stabilization was much less effective than other types of D008 wastes. The commenter further questioned EPA's decision to ignore data submitted by BCI, ABR and others in response to the original Phase IV proposal, stating that these data were much more comprehensive and representative. The commenter stated that these data contained 276 composite data points for lead from secondary smelter slag, with a 99th percentile confidence interval for stabilized slag of 2.97 mg/L TCLP. Another commenter, which uses a chemical fixation process on the generated blast furnace slag, argued that they could only meet a 2.0 mg/L TCLP for lead, based on composite rather than grab sampling.

In response to the commenters' concerns, the Agency would first like to respond to the commenters' statement that data previously submitted to the Agency was ignored. The Agency is careful to review and analyze all data that are submitted in support or response to its rulemakings. In fact, the referenced data were analyzed extensively, but were found to be so seriously lacking in form and quality assurance/quality control prerequisites that it was impossible to use them for BDAT development. (In the docket for this rule see the documents, "Draft—Overview of Five Data Sets Submitted in Response to the Land Disposal Restrictions Phase IV Proposed Rule: Treatment of Metals," November 1996; and correspondence from Michael Petruska, USEPA to David B. Weinberg, Battery Council International Re: Request for Additional Data in Support of the Previous Submitted Data in Response to the Land Disposal Restriction Phase IV," July 22, 1996). Specifically, the data submitted to the Agency were (1) based on composite samples rather than grab samples, the latter being the only type used to develop treatment standards; (2) lacking in any quality assurance/quality control (QA/QC) documentation; and (3) not accompanied with specific treatment information, or any indication that performance of the treatment process was in fact optimized. As such, the Agency was unable to utilize these data.

Other additional data were subsequently submitted by the commenter in response to the "Second Supplemental" and analyzed by the Agency. These data were based on grab sampling, but there were no specifics on the type of stabilization treatment conducted on the waste. The data does indicate that secondary smelter slags can be treated to meet today's treatment standards for all metals except lead and thallium. With respect to lead, approximately 24 out of 83 samples have treated lead values greater than 0.75 mg/L TCLP, but less than the characteristic level of 5.0 mg/L TCLP. No information was provided for the majority of the thallium data sets. Based on these data, the commenter proposed a treatment standard of 8.39 mg/L TCLP for lead nonwastewaters and 0.79 mg/L TCLP for thallium nonwastewaters. However, these data failed to show effective treatment of the thallium and lead constituents. (In the docket for this rule, see memorandum to Nick Vizzone, USEPA from Howard Finkel of ICF, "Calculation of Universal Treatment Standard (UTS) for Stabilized Secondary Lead Slag Using Data Submitted by the Battery Council International and Association of Battery Recyclers," December 5, 1997).

Commenters have failed to provide reliable and convincing data or information to persuade the Agency that stabilization can not meet the proposed treatment standard of 0.75 mg/L TCLP for lead slags. While the physical variability of the slag may indeed affect treatment performance, the Agency is unconvinced that the commenter's data were the result of optimized treatment conditions and, therefore, are not indicative of true treatment difficulties. EPA's own performance data from treatment of D008 battery slags (which were used in part for the calculation of the treatment standard) clearly support the view that slags from secondary battery recyclers can be treated to meet the nonwastewater standard of 0.75 mg/L TCLP. These data indicate that slags with lead concentrations ranging from 5 to 846 mg/L TCLP (a range similar to that associated with the data submitted in response to the May 12 Second Supplemental proposal and which are discussed above) can be treated with stabilization techniques to levels less than 0.01 mg/L to 0.3 mg/L TCLP. Furthermore, data and information available to the Agency suggest that with optimized treatment these standards should be achievable regardless of the waste matrix. (See "Treatment Technology Background Document", January 1991, for a discussion of Waste Characteristics Affecting Performance (WCAPS and other pertinent material). As such, the Agency is unpersuaded by the commenter's arguments and is today promulgating as proposed a treatment standard of 0.75 mg/L TCLP for D008 nonwastewaters and a standard of 0.69 mg/L for D008 wastewaters. The Agency notes that if a particular waste is unique or possesses properties making it unusually difficult to treat by the treatment technologies whose performance was used to develop the treatment standard, the affected party may petition the Agency, on a case-by-case basis, for a treatment variance as provided in 40 CFR 268.44.

(ii) Final Universal Treatment Standard (UTS) for Nonwastewaters Containing Lead. (Please refer to the discussion above about the development of the treatment standard for D008 for additional information on the development of the lead UTS levels.) The Agency proposed to change the UTS for lead nonwastewaters from 0.37 mg/L TCLP to 0.75 mg/L TCLP to better reflect the diversity of metal-containing waste streams and their treatment (see 62 FR 26041). In response to the proposed revision, the Agency did receive a number of comments on the nonwastewater level, discussed above. For reasons also discussed above, the Agency is today promulgating a lead nonwastewater UTS of 0.75 mg/L TCLP as proposed.

(iii) Secondary Smelter Battery Slag—Additional Issue. EPA published a Notice of Data Availability (NODA) on May 10, 1996 (61 FR 21419) that discussed, among other things, an issue regarding application of the LDR standards to slags resulting from the smelting of lead acid batteries. The LDR treatment standard, established in the Third Third Rule in 1990, for lead acid batteries is RLEAD (see 40 CFR 268.40 and 268.42, Table 1), which means recovery of lead. The NODA stated that "[o]nce the batteries are smelted, the LDR requirements have been satisfied, and, therefore, the slag resulting from this smelting need not be treated further. The standards proposed under Phase IV (i.e., compliance with UTS) would not apply to this slag, even if the slag exhibits a characteristic of hazardous waste (i.e., contains lead in amounts greater than 5.0 mg/L)." This position was based on EPA's usual interpretation that "when EPA specifies a treatment method as the treatment standard, residues resulting from the required treatment method are no longer prohibited from land disposal *unless EPA should otherwise specify*." (emphasis added) 55 FR at 22538 (June 1, 1990).

After the publication of the May 10, 1996 NODA, EPA realized that it had, in fact, "otherwise specified" that lead • slags resulting from the smelting of lead

acid batteries would be a separate treatability group in the Third Third rule, and they would indeed require further treatment if the slags exceeded the TC for lead (5.0 mg/L) as generated. See 55 FR at 22568 (June 1, 1990). The Third Third rule states that "The residuals from the recovery process are a new treatability group (i.e., the residues are not lead acid batteries) and, therefore, their status as prohibited or nonprohibited is determined at the point the residues are generated. Such residues would thus only be prohibited and therefore require further treatment if they exhibit a characteristic." This point was clarified both in person and in a letter, dated July 31, 1996, sent to representatives of Battery Council International. The letter explained that the Agency had mischaracterized the status of lead slags in the May 10, 1996 NODA and requested comment on the appropriate treatment standard for these lead slags.

EPA published the Phase IV Second Supplemental Proposed Rule on May 12, 1997, and among other things, used new data from the treatment of lead slags in revising the treatment standards for lead. In response to this issue, one commenter stated that EPA was prohibited under RCRA 3004(m) from requiring further treatment for residuals that resulted from a treatment process that was determined to be BDAT (such as RLEAD). The commenter believes RCRA 3004(m) states that once threats are minimized, EPA cannot require further treatment of the residuals after the specified BDAT treatment has been performed on the waste, or the BDAT numerical level has been achieved. Because the Agency's data on lead slag residuals show concentrations of 283 mg/L TCLP lead are not uncommon, potential threats from treated lead slag (using RLEAD only) are clearly not minimized. In fact, the concentrations of lead in these residuals resulting from RLEAD of lead acid batteries are among the most concentrated TC lead wastes for which the Agency has data. The Agency only is requiring further treatment of slag residuals which exhibit the characteristic for lead (i.e., contain lead in amounts greater than the TC level of 5.0 mg/l). Those residuals, by definition, are still hazardous and potential threats posed by their land disposal have not been minimized.

Another commenter raised the issue of whether there had been adequate notice and comment given regarding the status of lead slag residuals. The Agency believes that adequate notice and opportunity to comment were given in light of the facts recited. We note also that all comments received on the Phase IV second supplemental rule regarding lead slag residuals took issue with the treatment standard for lead and the data used to develop the standard, but did not question that the slags could be required to be treated further. Commenters appeared to clearly understand that slags are covered by the Phase IV rule establishing standards for TC lead wastes.

Therefore, lead slag residuals resulting from the smelting of lead acid batteries are included under today's rulemaking. If such residuals exhibit a lead toxicity characteristic (i.e., have lead levels exceeding 5.0 mg/L) after RLEAD is employed, they would have to be treated again for lead and any other underlying hazardous constituents present in waste until the treatment standards are achieved. For a discussion on the development of these numerical standards being promulgated today; see the discussion in section (i) above.

(iv) Addition of Iron Filings to Stabilize Lead-Containing Wastes. Today, the Agency is codifying the principle that the addition of iron metal, in the form of fines, filings, or dust, for the purpose of ostensibly achieving a treatment standard for lead is "impermissible dilution" under 40 CFR 268.3. The Agency has determined that this waste management practice does not minimize threats posed by land disposal of lead-containing hazardous waste because the practice essentially "blinds" the analytic method but would not in fact prevent lead from leaching under actual disposal conditions. Affected wastes include: toxic characteristic lead wastes (D008), any characteristic waste containing lead as an underlying hazardous constituent, and listed wastes for which lead is regulated.

On March 2, 1995, EPA published the LDR Phase III proposal (60 FR 11702). Among other things EPA proposed that the addition of iron dust to stabilize lead in characteristic hazardous waste constituted impermissible dilution, rather than treatment legitimately meeting the LDR treatment standards (60 FR 11731). In the proposal, the Agency stated that certain industries were adding iron dust or iron fines to some characteristic hazardous waste (nonwastewaters) as an ostensible form of treatment for lead. As an example, the Agency noted that foundries were known to mix iron dust or filings with the D008 sand generated from their spent casting molds, viewing this practice as a form of stabilization. In the proposal, the Agency stated that such stabilization practices were inadequate to minimize threats posed by land disposal of metal-containing hazardous waste, and proposed to clarify that waste management practice as "impermissible dilution" under 40 CFR 268.3.

In response to the proposal, the Agency received numerous comments. Commenters in support of the "impermissible dilution" designation agreed with EPA's discussion in the preamble that no chemical or pozzolanic reaction was possible from iron dust or filings and that standard chemistry showed that metals such as lead were not bound in a non-leachable matrix when using iron dust or filings as a stabilizing agent. One commenter further mentioned many instances where generators have avoided treatment costs by adding iron to their metal and cyanide-bearing waste streams, thus providing the short-term ability to, as the commenter stated, "fool" the test for both amenable cyanide and leachable metals. The commenter pointed out that EPA's adoption of a total cyanide treatment standard had essentially solved the issue of ineffective treatment of cyanide using iron, but the issue of metals treatment still remained. The commenter concluded that the prohibition on the use of iron dust and filings would promote more treatment of toxic metal-bearing wastes.

Other commenters discussed analytical concerns with the TCLP test when used on iron-treated wastes. One commenter stated that the addition of iron to D008 waste sand may mask the presence of lead in two ways: first, iron is more easily oxidized than lead so that under the conditions of the TCLP test, iron may be preferentially leached out into solution, leaving the lead in an insoluble, undetectable state. A second problem with the presence of iron in the TCLP test is spectral interference with the analysis of lead, which could result in positive interference and a raised detection limit for lead.

Numerous commenters representing the foundry industry, however, argued extensively against the "impermissible dilution" designation for iron treatment of characteristic metal wastes. The commenters stated that EPA's position was neither justified nor supported by any technical documentation. The commenters further stated that: (1) iron added to lead bearing waste foundry sand effectively immobilizes the lead and yields a treatment residue that consistently passes the TCLP; (2) TCLP tests, run on foundry sand that was treated with iron and landfilled 8–10 years ago, yielded lead results below the 5 ppm level; (3) analytical results for total iron from landfill samples clearly show the iron has not oxidized after

several years; and (4) iron treatment has long-term stability. The commenters further stated that no evidence either from leaching tests or from real-world experience showed that iron treatment is not a successful long-term treatment for brass foundry sand when the treatment is conducted in an appropriate manner. On March 5, 1997, the Agency addressed the issue and industry arguments in Land Disposal Restriction—Phase IV Treatment Standards for Characteristic Metal Wastes; Notice of Data Availability (NODA) (62 FR 10004). In this NODA, new studies and data were presented on the issue of the treatment adequacy of adding iron to characteristic metal wastes as a method of treatment. As explained in the Phase III proposed rule (60 FR 11702), and again in the NODA of March 5, 1997, the addition of iron seems to temporarily retard the leachability of lead in spent foundry sand, thus allowing the waste to pass the TCLP test, but not to be permanently treated. At the time of the Phase III final rule, EPA decided not to finalize a determination that the practice was a form of impermissible dilution in the Phase III final rule without studying the issue further. See 61 FR 15569, April 8, 1996. In the March 5, 1997 NODA, two studies were noticed that had recently been completed.

One study was developed by Dr. John Drexler of the University of Colorado and the other by Dr. Douglas Kendall of the National Enforcement Investigation Center (NEIC). The results of these studies indicated that the addition of iron filings or iron dust to spent foundry sands (D008) did not constitute adequate treatment of the waste because high concentrations of lead remained available to the environment and indeed have been shown to leach in actual field testing of units receiving the spent foundry wastes. (The reader is referred to 62 FR 10004, March 5, 1997 for a full discussion of the studies).

Specifically, Dr. Drexler's study concluded: (1) the spent foundry wastes placed in Nacodoches Municipal Landfill remained hazardous; (2) the addition of iron filings to spent foundry sand does not cause chemical reduction (i.e., the hazardous lead remains oxidized); (3) the addition of iron filings to the spent foundry sand promoted a physicochemical dilution of the sample during the TCLP by producing significant increases in surface area sorption sites; (4) the addition of iron filings to the waste artificially altered the environmental character of the TCLP test by increasing pH and lowering Eh (redox potential) and DO (dissolved oxygen); and (5) in-vitro testing shows that these "treated" wastes maintain a high bioavailability of lead.

Dr. Kendall's study concluded that the addition of iron is not a permanent way to treat lead-contaminated waste. Specifically, he concluded that: (1) no reaction occurs when metallic iron is mixed with lead-contaminated foundry sand (D008); (2) during the TCLP process, lead begins to leach into the solution and if metallic iron is present, the lead concentration in solution will decrease by an oxidation/reduction reaction to levels below the lead characteristic; (3) only if fresh metallic iron is regularly introduced into the mixture, can soluble lead be kept at low levels; and (4) upon placement of the waste in a landfill and left alone, the iron will oxidize, losing its ability to reduce lead ions.

Peer review of the studies concurred with the findings that the addition of iron filings to spent foundry sand is not treatment of hazardous waste and that the scientific data presented in the studies were based on sound scientific research and support the conclusions made. (See "Peer Review Report, September 3, 1996, submitted by A.T. Kearney, Inc., Dallas, Texas to Rena McClurg, Regional Project Officer, USEPA, Dallas, Texas.)

The Agency received several comments in response to the NODA. One State agency commented that based on the evidence gathered by the EPA, the addition of iron fines as treatment of lead containing wastes appears to be unacceptable under most disposal criteria. Furthermore, it was the commenter's contention that the method in question should be rejected where disposal of wastes so treated may be subjected to acid leaching and chemical oxidation, in particular disposing of wastes in a municipal solid waste landfill. The commenter did note however that data exist to support the contention that the treatment may be acceptable for brass foundries under specified monofill disposal criteria. Another commenter requested clarification as to whether iron-bearing lead waste products, i.e., from the steel bridge blast cleaning and painting industry, would be impacted. The commenter recommended that all waste debris from any lead abatement project be deemed hazardous and treated appropriately regardless of the type of abrasive blast media used.

Two commenters argued that the conclusions drawn from the studies conducted by Drs. Kendall and Drexler were erroneous or misplaced from a regulatory standpoint. In particular the commenters argued, among other things, that given the biased sampling, i.e., sampling of only "hot spots" in the landfill and disregard for SW–846 statistical analysis, EPA should reconsider its view on the treatment of foundry sands with iron filings. (The reader is referred to the "Comment Response Document" for this final rule for a more complete discussion of the comments received on this issue.)

EPA has evaluated all the comments on the subject studies and on the issue of iron filings as a treatment method for lead nonwastewaters. The regulatory issue at hand—and the focus of the studies—is whether or not adding iron metal is adequate treatment for LDR purposes. Several commenters have elected to take issue with points that are not the central focus of the two studies. While a statistical evaluation is used to determine if a waste is hazardous, all parts of the waste must be treated to meet the applicable standards, not just a representative sample. Thus, if results show that "hot spots" remain, this is presumptive evidence that treatment was not effective and there is noncompliance with the LDR treatment requirements. In the preceding determination of whether a waste is hazardous, the Agency guidance in SW–846 provides basic sampling strategies for simple and stratified random sampling of the waste as a whole. However, in application of the land disposal treatment standards, all portions of the waste must meet the applicable treatment standards, i.e., no portion may exceed the regulatory limit. See 40 CFR 268.40. Hence, commenters that focused on the SW–846 sampling issue largely misconstrued the central findings of the studies.

In response to comments pointing to the disposal of a waste in a monofill, while data may suggest that disposal of iron treated waste in this type of controlled environment may be protective in some scenarios, RCRA section 3004(m)(1) requires treatment to substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. This statutory requirement has not been met with iron addition plus placement in a monofill since ultimate placement of the waste in a monofill is not germane to the key issue at hand—is the treatment prior to land placement effective.

With respect to this key issue, the Agency's determination that the addition of elemental iron in the form of fines, filings, etc., constitutes impermissible dilution is predicated on the fact that the adsorption of soluble

lead on to the iron surface is a reversible reaction and once the iron surfaces oxidize (which naturally occurs when the treated waste is exposed to air), the ability of the additive (iron) to scavenge soluble metals is diminished. Therefore, the treatment is not permanent. In addition, adsorption alone is not a reliable method of permanently immobilizing lead which both studies conclude. The authors have also concluded, and the Agency agrees, that the prohibition should apply to any lead-containing waste. As stated by Dr. Kendall in his response to comments, "Lead-contaminated foundry sand is no different from any other waste which fails the TCLP test because of excessive amount of extractable lead. The addition of iron metal (zero valence iron) is not a permanent treatment because iron oxidizes. Since iron addition is not a permanent treatment, it should not be allowed for hazardous wastes which are to be land disposed, regardless of their origin." (See memorandum from Samuel Coleman, USEPA to James R. Berlow, USEPA Re: "Reply to Comments Concerning Prohibition of Land Disposal of Iron Treated Lead Contaminated Wastes". November 17, 1997.)

As indicated above, the addition of iron metal is not a permanent treatment because the iron inevitably oxidizes and loses its adsorptivity for soluble lead ions. After oxidation of the iron surfaces, surface adsorption of lead ions ceases and the lead-bearing waste returns to its original state; all pretext of treatment is lost. Since iron addition is not effective, it cannot be allowed for hazardous lead-containing hazardous wastes that are to be land disposed, regardless of their origin (i.e., all lead-bearing wastes, not just foundry sands).

The Agency concludes that addition of iron metal, in the form of fines, filings, or dust, fails to provide long-term treatment for lead-containing hazardous wastes. EPA is codifying this determination by calling the practice impermissible dilution, and so invalidating it as a means of treating lead in lead-containing hazardous wastes. It can also be simply viewed as a type of treatment that fails to minimize the threats to human health and the environment posed by disposal of lead-containing hazardous wastes, because lead mobility is not substantially reduced when the waste is disposed.

In response to comments whether use of iron-containing abrasives to remove lead-based paint, for example from the steel bridge blast cleaning and painting industry, may be a type of impermissible dilution, the Agency notes that the dilution prohibition does not apply to processes which generate a waste, only to processes that treat a waste which already has been generated. See S. Rep. No. 284, 98th Cong. 2d Sess. 17 (1984). As such, it would not appear that abrasive blasting is impermissible dilution since it is part of the process generating the waste, i.e., the removed paint. If generators added iron filings/dust or discarded, off specification steel shots to lead-based paint waste (similar to the current foundry practices), it is analogous to impermissible dilution and this rule bans such practice. However, addition of iron filing/dust to a hazardous waste (before the hazardous waste determination) is a lot different from using steel pellets/shots, silica-containing products, and other abrasive materials for paint removal.

The Agency has been pursuing several specific efforts to evaluate the environmental hazards caused by disposal of lead-containing wastes, including evaluation of damage case information included in the 1996 Hazardous Waste Characteristic Scoping Study, re-examination of the risk modeling used for the 1995-proposed Hazardous Waste Identification rule, and evaluation of fate and transport in other environmental media from industrial nonhazardous solid waste disposal facilities. Upon completion of these activities, the Agency will be in a better position to decide whether disposal of lead-containing waste is a health and environmental concern warranting listing or whether revising the TC regulatory limit would be more appropriate.

In addition, the Agency notes that a determination that a waste is not hazardous (here because addition of iron during a generating process results in a determination that paint waste does not exhibit a characteristic) may not be a shield against future liability, if the disposal results in environmental damage. Note that under CERCLA, not just generators are liable for any environmental damage caused by the release of hazardous material into the environment. CERCLA liability is independent of any hazardous waste determination that previously may have been made. EPA believes that in light of CERCLA liability and the available environmental contamination data, it would be prudent for generators to examine their waste generation and management practices with an eye toward segregation of lead-based paint waste and iron dust/flakes or steel shots, and potential re-smelting of the lead-bearing residuals.

As a final matter, it has been argued to the Agency that the proposed (and now final) action regarding addition of iron filings is analogous to treatment of fluoride in a process for treating aluminum spent potliner waste (K088) operated by Reynolds Metals Company. See generally Docket P33F–S0069 p. 6 (July 7, 1997) and 62 FR 37694, 37697 (July 14, 1997) (responding to comment and establishing October 8, 1997 as the date prohibition of land disposal of K088 wastes takes effect). The argument goes that in the Reynolds treatment process, reagents are added to the process that only allow the fluoride to meet the LDR treatment standard by blinding the analytical method (the TCLP), but do not result in permanent reduction of fluoride mobility in the treated wastes. See 62 FR at 37695, noting that levels of fluoride in the leachate from actual disposal are well in excess of the levels established in the treatment standard (as measured by the TCLP). Hence, it is asserted, this process must be an example of impermissible dilution.

The Agency disagrees. First, EPA calculated that the process did reduce fluoride mobility on the order of 28%. Docket P33F–S0064. This estimate may in fact understate the extent of treatment. The maximum amount of fluoride detected in actual leachate from the disposed treatment residue is 2228 mg/L. 62 FR 37695. However, untreated potliners leached fluoride at concentrations ranging from 7730–8860 mg/L when exposed to the same type of leaching medium (simulated monofill leaching medium). Docket P33F–S0049 data set J. Thus, EPA finds that the process is resulting in non-dilutive treatment of fluoride. In addition, the reagent used for fluoride treatment serves another legitimate function in the process—as a fluxing agent to prevent agglomeration of material in the rotary kiln. 62 FR at 37695. Dilution which is a necessary part of a treatment process is normally permissible. 51 FR at 40592 (November 7, 1986); 62 FR at 37697. Consequently, EPA does not regard the treatment of fluoride in the Reynolds K088 treatment process to be a form of impermissible dilution.

h. Treatment Standards for Wastewater and Nonwastewater Forms of Mercury Waste. The Agency, in the original Phase IV rule, proposed to change the treatment standard for one subcategory of TC mercury wastewaters (D009—All Others) from the characteristic level of 0.20 mg/L (established in the Third Third rule (55 FR 22520. June 1, 1990) to the previously promulgated UTS for mercury wastewaters (Mercury—All

Others) of 0.15 mg/L. (60 FR 43654, August 22, 1995.) The Agency received no comments on this proposed change. As such, the Agency is promulgating a treatment standard of 0.15 mg/L for wastewater forms of D009—All Others.

The Agency also proposed to revise the treatment standard for TC mercury nonwastewaters (D009—All Others) from the characteristic level of 0.20 mg/L TCLP to 0.025 mg/L TCLP. The nonwastewater UTS for mercury is based on the mercury standard developed from K071 waste treatment data. The only comments received on the achievability of this proposed change were regarding the application of this treatment standard to TC mercury soil. TC soils are subject to specific treatment standards being finalized elsewhere in today's rule. More detail can be found on the mercury soil comments in the Response to Comments Background Document. Therefore, the Agency is promulgating a treatment standard of 0.025 mg/L TCLP for nonwastewater forms of D009—All Others in today's rule.

With respect to the broader issue of mercury treatment, the Agency plans to conduct an intensive review of traditional and innovative technologies over the next year or so. Outreach to various industry, academic, and other groups is also being investigated as to its feasibility. Key information, when available, on this effort can be obtained from the RCRA Hotline, and notices of significant public events will be placed in the **Federal Register** and on EPA's Internet home page.

i. Final Universal Treatment Standard for Nonwastewater Forms of Nickel. The Agency proposed in the Phase IV Second Supplemental to change the UTS for nonwastewaters containing nickel from 5.0 mg/L TCLP to 13.6 mg/L TCLP. This revision to the UTS was based on new performance data obtained by the Agency and presented in that notice. The Agency did not receive any significant comments on this issue. However, as discussed in an earlier section of today's preamble, the Agency discovered an error in the calculation of the treatment standard. In applying the LDR methodology for calculation of a treatment standard, the Agency failed to conduct a "Z-score" outlier test. With the application of this test, 5 out of the 122 data points originally used in the calculation of the standard, were determined to be outliers. This error resulted in a revised treatment standard for nickel nonwastewaters of 11.0 mg/L TCLP. In light of this amended standard, the Agency has reviewed all of the comments and data submittals, and has determined that all the treatment data for nickel is below 11.0 mg/L TCLP. Accordingly, the Agency is today promulgating a final UTS for nickel nonwastewaters of 11.0 mg/L TCLP. No change was proposed for nickel wastewater; therefore, the UTS remains at 3.98 mg/L for these wastes.

j. Final Treatment Standards for Selenium Wastes. (i) Treatment standards for TC Selenium Wastes (D010). The majority of commenters supported the Agency proposal to maintain the 5.7 mg/L TCLP level for D010 nonwastewaters. They strongly agreed with the Agency's reasoning, and urged EPA to adopt the proposed treatment standard.

One commenter, however, maintains that the Agency should establish a "High Selenium Greater Than 200 ppm" subcategory for nonwastewaters, with a corresponding treatment standard of 10 mg/L TCLP. The commenter has cited technical problems in achieving the proposed treatment standard level for highly contaminated selenium wastes. The commenter states that, since 1995, they have consistently experienced problems treating waste streams from glass manufacturing companies with wastes that contain high concentrations of selenium. The commenter provided treatability testing data from a selenium waste stream, containing 80 mg/L TCLP, which showed that 16 different treatment recipes were tested prior to finding one that would treat a selenium waste to below 5.7 mg/L TCLP. The other data, from three different generators of selenium waste, suggest TCLP values of untreated waste of between 465–1064 ppm TCLP, with treated wastes achieving between 2.5 and 45.6 mg/L TCLP.

The Agency has reviewed all the treatment data and, for the most part, waste streams containing selenium exist either in relatively low concentrations (0.1–0.13 mg/L TCLP) or in extremely high concentrations (greater than 450 mg/L TCLP). Because of the highly divergent nature of these wastes and the difficulty in treating selenium with multiple metals at almost any concentration, it seems unreasonable to mandate that one treatment standard could be applicable to both. Calculations of a revised treatment standard, based only on the newly submitted treatment data for the high selenium concentration wastes, would yield a standard of 77.0 mg/L TCLP for selenium nonwastewaters. If a calculation is done after pooling all selenium data (including low concentration selenium data), a standard of 261 mg/L TCLP would result. The Agency is reluctant to establish a treatment standard for selenium nonwastewaters of either 77.0 mg/L or 261 mg/L TCLP on a national level. Earlier data suggest and commenters concur that for the majority of selenium wastes the proposed standard of 5.7 mg/L TCLP for selenium nonwastewaters is appropriate. Furthermore, only three high selenium concentration waste streams that could apparently not be treated to this level. Therefore, there is little reason to pool all treatment data or to engage in bifurcation of the selenium standard.

Accordingly, the Agency is promulgating a treatment standard of 5.7 mg/L TCLP for nonwastewaters containing selenium. The Agency, however, is convinced that the high-level selenium waste streams for which data were submitted to EPA will be unable to be treated to achieve the 5.7 mg/L TCLP standard. Therefore, in a **Federal Register** notice that will be published shortly, the Agency will be requesting comment on a proposal to grant a site-specific treatment variance for Waste Management, Inc. for the treatment of some D010 wastes containing high concentrations of selenium.

The Agency also is promulgating as proposed a wastewater treatment standard of 0.82 mg/L for D010 wastewaters. No comments were received on this issue.

(ii) Universal Treatment Standard (UTS) for Selenium. As noted above, in the May 12, 1997 reproposal of the Phase IV rule, the Agency proposed to change the UTS for selenium nonwastewaters from 0.16 mg/L to 5.7 mg/L TCLP. For the reasons discussed above for D010 nonwastewaters, 5.7 mg/L TCLP is a better reflection of treatability of difficult-to-treat selenium waste streams than 0.16 mg/L TCLP. This is the level being promulgated today for the selenium nonwastewater UTS. (It should be noted that because the UTS is above the TC level for selenium, selenium is not considered an "underlying hazardous constituent" (UHC) in characteristic waste, according to the definition at 268.2(i)). The wastewater UTS for selenium remains unchanged at 0.82 mg/L.

k. Final Treatment Standards for Silver Wastes. (i) Treatment standards for TC Silver Wastes (D011). In today's final rule, EPA is promulgating a nonwastewater treatment standard of 0.14 mg/L TCLP for characteristic silver (D011). For wastewaters, EPA is promulgating a treatment standard of 0.43 mg/L as proposed in the original Phase IV proposal on August 22, 1995 (60 FR 43684). EPA is in the process of determining whether silver should

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remain on the TC list at 40 CFR 261.24(b) Table 1 or whether the current TC level should be altered. If EPA alters the status of silver on that TC list, EPA will revisit the treatment standards for silver.

(ii) Proposals, Comments, and Responses. Until today's notice, the treatment standards for wastewater and nonwastewater forms of D011 have both been 5.0 mg/L TCLP, which is the TC level. In 1995, EPA proposed a treatment standard of 0.43 for wastewaters and 0.30 mg/L for nonwastewater, based on the best treatment data in EPA's possession at that time (60 FR 43684). EPA received comments urging the Agency to refrain from setting a treatment standard lower than the TC level and instead suggesting that EPA remove silver from the TC list altogether due to new information on the low risk of silver to human health.

In a 1996 Notice of Data Availability (NODA), EPA presented the option of retaining the 5.0 mg/L treatment standard for D011 wastes (61 FR 21420, May 10, 1996). Comments were divided in two groups: those which supported the option, and those which stated that EPA had no firm basis for such a decision, given the potential toxicity of silver to aquatic life.

Since receipt of the comments on the NODA, EPA acquired more recent treatment data on TC metals, including silver. Based on these data, EPA learned that D011 nonwastewaters could be successfully treated to a level of 0.11 mg/L using HTMR, and EPA proposed revising the UTS for silver in its Phase IV Second Supplemental proposal. The grab data used to establish this treatment standard was submitted to the Agency by an HTMR facility (62 FR 26041) (Background Documents from Second Supplemental proposal). Commenters on the Second Supplemental reiterated that silver should not be on the TC list. However, the commenters continued, if silver remains on the list for now, EPA should not set a more stringent standard than the current one of 5.0 mg/L, but rather it should choose a risk-based standard. Commenters explained further that little D011 is disposed, because silver is generally recovered from silver wastes.

In response to the reproposal, the Agency received no significant comment on the technical aspects of achieving the proposed treatment standard; however the Agency did receive from International Metals Company (INMETCO) an additional 74 grab data points on the treatment of silver using HTMR. (See memorandum from Howard Finkel, ICF, Inc., to Nick Vizzone, USEPA Re: "Calculation of Universal Treatment Standards (UTS) for HTMR Residues Using Data Submitted by Horsehead Research Development Company, Inc. and INMETCO," December 17, 1997.) The Agency used INMETCO data for the calculation of the proposed treatment standard and determined that this additional data should be included in the data pool. As previously discussed in Section III.A. of today's preamble, the Agency discovered an error in the calculation of the treatment standard. In applying the LDR methodology for calculating a treatment standard, the Agency failed to conduct a "Z-score" outlier test. With the application of this test and the inclusion of the 74 additional data points, 3 out of the 114 data points, were determined to be outliers, resulting in a revised treatment standard for silver nonwastewaters of 0.14 mg/L TCLP. The Agency has reviewed the comments in light of this amended standard and believes that it can be achieved by both HTMR and stabilization technologies. Data submitted by commenters in response to this proposal also support this conclusion. See supporting information contained in the docket for this rule.

The Agency does not have an adequate basis for taking the actions recommended by some commenters, i.e. to remove silver from the TC list, or regulate it at a less stringent level than the proposed technology-based treatment standard. EPA is in the process of determining whether silver should remain on the TC list at 40 CFR 261.24(b) Table 1, or whether the current TC level should be altered. In addition, EPA continues its work on the Hazardous Waste Identification Rule (HWIR) to establish risk-based exit levels for hazardous wastes. The Agency is not yet able to establish a nationally-applicable risk-based level for silver that fulfills the statutory charge of minimizing threats of hazardous waste to human health and the environment.

The process of establishing such a level is technically complex; EPA is currently modeling the ecological and human health effects of exposure to silver through numerous pathways. Several issues remain unresolved concerning human health and environmental risk. EPA is continuing to investigate these issues. The Agency recently acquired studies indicating that silver may be connected to central nervous system and other non-cancer effects in humans. The draft Reference Dose for these effects have not been finalized by the Agency for use in risk assessments. (A Reference Dose is a benchmark level for chronic toxicity that is protective of human health.) In addition to potential adverse human health effects, uncertainties and concerns also remain for potential adverse environmental effects. Although EPA removed the Maximum Contaminant Level (MCL) for silver in drinking water, the Ambient Water Quality Criteria remain in effect due to potential aquatic toxicity. Further areas of uncertainty are how silver speciates after release (i.e. which valence state of silver would be present). The issue could be important since potential toxic effects differ depending on the species of silver present. In short, EPA's work on understanding risks from disposal of silver-containing hazardous wastes is ongoing, and it would be premature to establish a treatment standard based on risk at this time.

In the absence of such "minimize threat" levels for hazardous constituents, the Agency establishes standards based on Best Demonstrated Available Technology (BDAT). (See full explanation in the preamble of the Phase II Final LDR rule at 59 FR 47986, September 19, 1994.) The fact that the UTS for nonwastewater forms of silver is being lowered (made more stringent) from the existing level of 0.30mg/L to 0.14 mg/L is due to new data on what treatment technology achieves. As explained in the summary of this preamble section (Section III: Revised Land Disposal Restrictions for Metal Constituents in All Hazardous Wastes, Including Toxic Characteristic Metals), technology-based standards are the best assurance that threat is minimized, given the uncertainty as to the level at which threats of hazardous waste disposal are minimized.

EPA expects that the new treatment standard for silver wastes will have little, if any impact on the regulated community. As stated by commenters, high-silver wastes are generally recycled due to their economic value and are covered by the special streamlined standards for recyclable materials utilized for precious metal recovery at 40 CFR Part 266.70 Subpart F. Moreover, the Regulatory Impact Analysis for this rule estimated that the new, more stringent UTS levels for metal constituents, including silver, will not increase compliance costs. This is because the current treatment methods already achieve the new standard of 0.14 mg/L in silver nonwastewaters. (Achievability of the UTS for TC silver wastewaters is not an issue; EPA received no comments nor data on its proposal to apply the existing UTS of 0.43 mg/L.)

Thus, the Agency is promulgating the wastewater standard of 0.43 mg/L as proposed and the nonwastewater

standard of 0.14 mg/L. If EPA changes the status of silver on the TC list, EPA will revisit the treatment standards for silver wastes.

(iii) Universal Treatment Standard (UTS) for Silver Nonwastewaters. (Please refer to the discussion above about the development of the treatment standard for characteristic silver for information on the development of the UTS levels.) In today's final rule, EPA is promulgating a nonwastewater UTS of 0.14 mg/L TCLP for silver.

l. Final Universal Treatment Standard for Nonwastewater Forms of Thallium. The Agency proposed in the Second Supplemental Proposed Rule to change the UTS for thallium-containing nonwastewaters from 0.078 mg/L TCLP to 0.20 mg/L. (The original standard was based on composite sampling from an HTMR facility). This proposal was based on new data obtained by the Agency and presented in that notice. Several commenters supported the change. However, two commenters argued that EPA had not demonstrated that existing commercial technologies were capable of achieving the proposed standards or that technologies were otherwise available. The Agency remains unconvinced by the arguments of the commenters and notes that they supplied no treatment data in support of their contentions. Accordingly, the Agency is today promulgating as proposed a revised UTS for nonwastewaters containing thallium of 0.20 mg/L TCLP. No change was proposed for wastewater containing thallium; therefore the UTS remains 1.4 mg/L.

m. Final Treatment Standard for Nonwastewater Forms of Vanadium in P119 and P120 Wastes. The Agency proposed in the Second Supplemental Proposed rule to change the UTS for nonwastewaters containing vanadium in P119 and P120 wastes from 0.23 mg/L TCLP to 1.6 mg/L TCLP. This proposal was based on new data obtained by the Agency and presented in that notice. Commenters were supportive of the change. The treatment standard of 1.6 mg/L TCLP is being promulgated as proposed. No change was proposed for wastewater containing vanadium in P119 and P120 wastes, therefore, the UTS remains 4.3 mg/L. The Agency would like to point out that vanadium is not an "underlying hazardous constituent" in characteristic waste, according to the definition at 268.2(i).

n. Final Treatment Standard for Nonwastewater Forms of Zinc in K061 Waste. The Agency proposed in the Second Supplemental Proposed rule to change the treatment standard for zinc nonwastewaters in K061 waste from 5.3 mg/L to 4.3 mg/L . This proposal was based on new data obtained by the Agency and presented in that notice. One commenter was supportive of the change, while two other commenters were concerned with zinc being identified as an UHC. Still another commenter, a major HTMR facility, submitted data (152 data points) showing 100% compliance with the standard after 6 high statistical outliers were removed. Indeed, the great majority of these data showed zinc at levels an order of magnitude below the promulgated standards. EPA believes these data confirm the achievability of today's standard. Therefore, the Agency is today promulgating a revised nonwastewater treatment standard of 4.3 mg/L TCLP for K061 waste. No change was proposed for wastewater containing zinc in K061; therefore the UTS remains 2.61 mg/L. In response to the comments regarding zinc as an UHC, the Agency would like to point out that zinc is only regulated in K061 waste; it is not defined as an "underlying hazardous constituent" in characteristic waste, according to the definition at 268.(i).

UNIVERSAL TREATMENT STANDARDS FOR TWELVE METAL CONSTITUENTS

[Affecting Nonwastewater TC Metal Wastes and Nonwastewater Metal Constituents in All Wastes]

Waste code	Constituent	TC level (mg/L)	Existing UTS level (mg/L TCLP)	2nd supplemental proposed UTS level (mg/L TCLP)	Final UTS level (mg/L TCLP)
D005	Barium	100	7.6	21.0	21.0
D006	Cadmium	1.0	0.19	0.20	0.11
D007	Chromium	5.0	0.86	0.85	0.60
D008	Lead	5.0	0.37	0.75	0.75
D009- all others	Mercury	0.2	0.025	0.025	0.025
D010	Selenium	1.0	0.16	5.7	5.7
D011	Silver	5.0	0.30	0.11	0.14
	Antimony		2.1	*0.07	1.15
	Beryllium		0.014	*0.02	1.22
	Nickel		5.0	13.6	11.0
	Thallium		0.078	0.20	0.20
	Vanadium**		0.23	1.6	1.6
	Zinc**		5.3	4.3	4.3

* The proposed UTS levels for antimony and beryllium were rounded up to the nearest 0.01 mg/L TCLP.
** Vanadium and zinc are not underlying hazardous constituents.
Note: Treatment standards for TC metal wastewaters have also been revised in today's rule, but are not reflected in this table.

D. Use of TCLP to Evaluate Performance of Treatment Technology for Treating Hazardous Metal Constituents

Commenters did not question the appropriateness of using the TCLP as a means of evaluating the performance of the treatment technology used to treat metal hazardous constituents in hazardous wastes. EPA is addressing the issue *sua sponte* to set out why the recent opinion of the D.C. Circuit in *Columbia Falls Aluminum Co.* v. *EPA* (No. 96–1234, April 3, 1998) does not affect use of the TCLP for this purpose.

Columbia Falls presented an unusual set of facts. EPA had established treatment standards for spent aluminum liners (waste K088), which standards used the TCLP to measure performance of the treatment technology for several hazardous constituents, including arsenic and fluoride. All of the commercial treatment capacity for this waste was provided by a single facility, and all of the treatment residue from this single process was disposed at a single location. Slip op. at p. 6; 62 FR

at 1993 (Jan. 14, 1997). Notwithstanding that the treatment process was able to achieve the treatment standards for arsenic and fluoride as measured by the TCLP (i.e., the treatment residue, when tested with the TCLP, never exceeded the regulatory levels), actual *leachate* from the disposal site contained significantly higher levels of these constituents. *Id.* EPA also had not offered any substantive explanation for continued use of the TCLP to measure performance of the treatment process for these constituents after the extreme disparities in actual performance in the field became known. *Id.* p. 18. Under these circumstances, the court held that it was arbitrary and capricious to continue to use the TCLP because it bore no rational relationship to what was actually occurring. *Id.* p. 19.

None of these circumstances are present here. The TCLP has not been shown here to be underpredictive of performance of treatment technology for key hazardous constituents for any wastes, much less, as in *Columbia Falls*, to be drastically underpredictive (for two constituents) for 100 % of the wastes to which the test applied. Moreover, the wastes affected by the standard in today's rule will not uniformly be going to a single disposal environment where actual leaching of key constituents is shown to be higher than the regulatory level. Rather, the wastes will be decharacterized and so can be disposed in any landfill: municipal, subtitle D or subtitle C. Given the enormous diversity of characteristic wastes and the diversity of likely disposal environments, the TCLP will not pervasively underpredict as was the case with spent potliners. Unlike the situation in *Columbia Falls*, therefore, there is no argument that application of the TCLP to measure treatment performance will fail to minimize threats posed by these wastes' land disposal.[1]

EPA also emphasizes that the LDR treatment standards are technology-based, not risk-based. A key role of the TCLP in the treatment standard is to measure whether the best demonstrated treatment technology has been properly applied to the waste. Thus, unlike the situation when the test is used as a means of identifying whether or not wastes are hazardous, the TCLP is not principally serving a predictive function when it is used as a component of an LDR treatment standard. The test is normally a good measure of evaluating the performance of treatment technology both because it is a widely-available test for metal mobility, and also because it is typically somewhat aggressive (*Edison Electric*, 2 F.3d at 445). Thus, it is a useful tool for measuring whether metal mobility has been substantially reduced in order that threats posed by land disposal be minimized (as required by section 3004 (m)). In the Agency's view, therefore, questions as to the validity of the TCLP as a component of LDR treatment standards are raised only under the extreme circumstances present in *Columbia Falls*, where, for all wastes and all disposal scenarios affected by the standard, large disparities between actual environmental field results and the treatment standard raise significant questions as to whether treatment is minimizing threats. These questions are not present for the metal-containing wastes here.

[1]Nor is there a legitimate argument that the TCLP is impermissibly overpredictive. Indeed, since the TCLP has already been upheld as a means of identifying many of these metal-containing wastes as hazardous, *Edison Electric Inst.* v. *EPA*, 2 F.3d 438, 444–45 (D.C. Cir. 1993), and since the 'minimize threat' requirement in section 3004(m) is a more stringent test, *HWTC III*, 886 F.2d at 363, *a fortiorari* it is reasonable to use the TCLP as part of the process of assuring that threats posed by land disposal of these wastes are minimized.

IV. Application of Land Disposal Restrictions to Characteristic Mineral Processing Wastes

Summary

EPA is today finalizing its proposal to apply the Universal Treatment Standards (UTS), as revised in part today, to the newly identified characteristic mineral processing wastes. In earlier rules and a Report to Congress, EPA has determined which mineral processing wastes are not excluded in the Bevill Amendment and are thus considered "newly identified" wastes subject to RCRA regulations. (See 54 FR 36592, September 1, 1989; 55 FR 2322, January 23, 1990; and Report to Congress on Special Wastes from Mineral Processing, USEPA, July 31, 1990.) The treatment standards being promulgated today are located in the table "Treatment Standards for Hazardous Wastes" at 268.40 in the regulatory language for today's rule. The wastes are identified by characteristic waste code (e.g. D002 corrosive waste, or D008 TC lead waste); there is no separate section in that table for characteristic mineral processing wastes.

A. Proposal, Comments, and Responses

In the original Phase IV, EPA proposed to apply the metal UTS, as measured by the TCLP (60 FR 43582, August 22, 1995) to all TC metal wastes. On January 25, 1996, EPA further proposed to apply the existing UTS to the newly identified mineral processing wastes, i.e., mineral processing wastes that exhibit a characteristic and do not have Bevill status and are not excluded from being a solid wastes due to recycling. The Agency stated in this proposal that existing data showed that these "newly identified" mineral processing wastes were similar to those wastes for which the UTS was achievable, and consequently the UTS fairly reflected the performance of Best Demonstrated Available Technology (BDAT) for these wastes. (See 61 FR 2338 for a complete discussion of the Agency's rationale for extending the UTS to both wastewater and nonwastewater forms of "newly identified" mineral processing wastes.)

Many commenters in response to this proposal took issue with the Agency's conclusions that the existing data demonstrated that the UTS was achievable for the newly identified mineral processing wastes and stated that the record for the rulemaking reflected no such showing. The commenters further argued that to develop representative treatment standards for mineral processing wastes, the Agency must: (1) Collect and analyze a representative mineral processing waste characterization and treatability data set; (2) analyze that data using well-reasoned and documented methods for determining the treatability of the subject wastes; (3) make a determination as to whether the UTS or some other LDR treatment standards are appropriately applied to mineral processing wastes; and (4) provide notice and an opportunity to comment on that determination prior to imposing any LDR treatment standards on such wastes. Several other commenters took issue with the Agency's use of only HTMR data to develop the treatment standards.

As a result of these comments and others received in response to the original Phase IV rule, the Agency decided to further assess the treatment of TC metal wastes and mineral processing wastes. As previously discussed in today's preamble, the Agency collected actual stabilization performance data during three site visits conducted in September 1997. In particular, treatment data were collected for the following primary mineral processing wastes: cadmium sponge residue, cupel and crucibles from fire assay laboratories, slag from fire assay laboratory, soil and debris contaminated with sulfuric acid, blast furnace slag, baghouse dust, lead/bromide residue, and gold ore leach tailings. In addition, treatment data from the following secondary mineral processing wastes

were also collected: lead slag waste, lead-bearing assay laboratory wastes, lead contaminated wastes, cupels, and debris; blast furnace slag, lead recycling by-products, lead contaminated soils, and lead battery recycling slag waste. Many of these wastes were particularly difficult to treat due to high total and leachable levels of metals, extreme Ph, and presence of multiple hazardous metal constituents.

As previously discussed in an earlier section of today's preamble, the Agency assessed two data sets representing performance of stabilization and HTMR for the treatment of metal-containing waste streams. This assessment began with the calculation of treatment standards for each of the two data sets. Next, the Agency compared the treatment levels for stabilization versus HTMR. Based on this comparison, the Agency selected the highest level for each metal as the proposed UTS to allow for process variability and detection limit difficulties. As noted earlier, this approach is consistent with the legislative goal of providing substantial treatment through standards that are achievable by an array of well-performing available treatment technologies.

On May 12, 1997, the Agency issued a Second Supplemental Proposal (62 FR 26041). In it, EPA proposed to change the numerical limits for all nonwastewater wastes containing the following metal constituents: antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, thallium, vanadium, and zinc. EPA also proposed these same UTS treatment standards for TC metal wastes identified as hazardous due to the concentration of barium, cadmium, chromium, lead, selenium, or silver. Based on the data collection efforts, the methodology used to develop these revised standards, and the preponderance of mineral processing treatment data used to calculate the standards, the Agency was convinced that the transferability of the universal treatment standards to mineral processing wastes was well supported.

In response to these revised treatment standards and their application to mineral processing wastes, the Agency received few comments. Several commenters supported the Agency's decision to apply the LDR treatment standards to mineral processing wastes. A limited few, however, continued to argue that EPA's application of the LDR program to mineral processing wastes was not supported by the record. The commenters' position is unsubstantiated, relying entirely upon assertions that the standards are not achievable. No data was submitted to support the commenters' position. Conversely, the data in hand (some of which reflect successful treatment of hard-to-treat mineral processing wastes) show that the treatment standards are achievable using either stabilization or HTMR for mineral processing wastes. As a result, the Agency is today finalizing the applicability of the existing UTS to the newly identified mineral processing wastes.

The reader is referred to an earlier section of today's preamble for a complete discussion of treatment standards for metal wastes being promulgated today.

B. Clarification That Universal Treatment Standards Apply to Ignitable, Corrosive, and Reactive Characteristic Mineral Processing Wastes

As discussed above, the treatment standards promulgated in this rule will apply to all the newly identified characteristic wastes from mineral processing operations. This includes not only the mineral processing wastes exhibiting the toxicity characteristic (TC), but also wastes that exhibit the characteristic of ignitability (D001); corrosivity (D002); or reactivity (D003). (See definitions of these characteristics at 40 CFR 261.20 through 261.23.) The treatment standards found in 40 CFR 268.40 require removal of the characteristic as well as meeting the treatment standards for all underlying hazardous constituents (UHCs) reasonably expected to be present at levels above the UTS. The Agency received no comment on this issue at proposal (see 61 FR 2338, January 25, 1996). Therefore, the Agency has no reason to believe that the UTS are not achievable for mineral processing wastes also exhibiting the characteristic of ignitability, corrosivity and/or reactivity. As such, the Agency is today promulgating the application of UTS to D001, D002, and D003 mineral processing wastes.

C. Use of TCLP to Evaluate Performance of Treatment Technology for Treating Hazardous Metal Constituents in Mineral Processing Wastes

Part of this rulemaking involves consideration of what the appropriate regulatory test is to determine if mineral processing wastes exhibit the toxicity characteristic. The Agency addresses this issue in detail later in this preamble when discussing retention of the TCLP for this purpose. Here, we confirm that the Agency will also continue to use the TCLP as part of the LDR treatment standard for these wastes. Although commenters did not raise this issue, the Agency feels that addressing it is appropriate in light of the D.C. Circuit's recent decision in *Columbia Falls Aluminum Co.* v. *EPA* (No. 96–1234, April 3, 1998).

The critical component in making waste identification determinations (i.e., to determine whether a waste should be regulated) is ascertaining a plausible mismanagement scenario for the waste if unregulated, and finding a predictive model that can reasonably evaluate whether the waste is capable of posing substantial present or potential harm to human health and the environment under those conditions. *Edison Electric Inst.*, 2 F. 3d at 444. This issue simply does not arise in the LDR context since the wastes subject to LDR are regulated hazardous wastes, and the issue of where and how they would have been managed absent Subtitle C regulation is irrelevant.

In the LDR context, all land disposal (except that occurring in no-migration units) is defined as being unprotective (see, e.g. RCRA section 3004(d)(1)), largely due to the "long-term uncertainties associated with land disposal" (*id.*). For this reason, treatment standards reflecting performance of Best Demonstrated Available Technology provide an objective means of removing as much of this inherent "long-term uncertainty" as possible, and so permissibly achieve the ultimate requirement of minimizing threats posed by land disposal of hazardous wastes. *HWTC III*, 886 F. 2d at 362–65; 55 FR at 6642 (Feb. 26, 1990). The principal role of the TCLP in these treatment standards is assuring the performance levels achievable from use of these best treatment technologies, not predicting environmental fate in the disposal environment.

As discussed earlier, the TCLP is historically accepted as being well-suited for evaluating performance of treatment technology for metals given its availability and general aggressiveness for mobilizing metals. Also, we note that since the TCLP serves a different purpose in the LDR treatment standards than it serves for identifying wastes as hazardous, and since it is well-suited for that purpose, there would be no contradiction in using it as part of the LDR standard even if a different test were to be used (presumably in the future) for waste identification.

Nor does the *Columbia Falls* opinion undercut use of the TCLP as a component of treatment standards for mineral processing wastes. As noted earlier with respect to other toxic metal-containing wastes, EPA does not view *Columbia Falls* as requiring a change in

use of the TCLP as part of the LDR treatment standards. The TCLP has not been shown generally to be underpredictive of performance of treatment technology for key hazardous constituents for any wastes, much less, as in *Columbia Falls*, to be drastically underpredictive (for two constituents) for 100% of the wastes to which the test applied. For all mineral processing wastes to which it was applied, the TCLP test has not been shown to be underpredictive either, and so would be part of the mechanism for assuring that treatment minimizes threats posed by land disposal of these wastes. Moreover, it should be noted that mineral processing wastes can be and are treated commercially, and the treatment residues are then disposed along with other wastes in different types of disposal units. See, e.g. the document entitled, "Background Documents Supporting the Phase IV Final Rule: Metal Treatment Standards" in the RCRA Docket (commercial treatment company treating mineral processing wastes along with other metal-containing wastes and disposing of commingled treatment residues). These units certainly can generate mildly acidic leachate. 51 FR at 40594 (Nov. 7, 1986). Given these circumstances, the TCLP is an appropriate part of a standard which minimizes threats posed by land disposal of these wastes.

V. Other LDR Issues That May Affect Both Toxic Characteristic Metal Wastes and Characteristic Mineral Processing Wastes

A. Treatment Standards for Soil Contaminated With TC Metal Wastes or Characteristic Mineral Processing Wastes

1. Summary

EPA has decided that the LDR treatment standards (i.e., UTS) for toxicity characteristic metals (D004–D011) and newly identified mineral processing wastes being promulgated in today's rulemaking will not apply to soils contaminated with these hazardous wastes. Instead, these contaminated soils will be subject to the treatment standards for soil originally proposed in a separate rulemaking entitled the Hazardous Waste Identification Rule for Contaminated Media ("HWIR-Media") (61 FR 11804, April 29, 1996). These treatment standards are being finalized in a separate section of today's rule. However, because of their impacts on TC metal and mineral processing wastes, a brief introductory discussion is warranted at this point.

2. Discussion of Today's Approach

In the Phase IV proposed rule (60 FR 43682, August 22, 1995), the Agency did not specifically exempt soil contaminated with TC metal wastes from the newly proposed LDR standards; thus, the UTS standards for metals would have applied to TC metal soils. In the Phase IV First Supplemental Proposal (61 FR 2338, January 25, 1996), the Agency proposed applying existing universal treatment standards to newly identified mineral processing wastes, i.e., to mineral processing wastes that exhibit a characteristic, do not have Bevill status, and are not excluded from being solid wastes due to recycling. As a consequence, soils contaminated with these newly identified mineral processing wastes would also have been subject to UTS.

In today's rule, the Agency is finalizing alternative treatment standards for contaminated soil reproposed in the HWIR-Media rulemaking. (See the section of this preamble on treatment standards for contaminated soil.) These treatment standards for hazardous contaminated soils are being finalized for all hazardous wastes, including TC metal and newly identified mineral processing wastes.

B. LDR Treatment Standards for Manufactured Gas Plant Waste (MGP)

1. Summary

Today, the Agency is promulgating treatment standards for hazardous MGP wastes and soils, i.e., wastes and contaminated soils that resulted from processing coal to produce gas and that exhibit a characteristic of hazardous waste. Typically these operations were conducted at manufactured gas plants until the 1950s, and wastes remain at those closed MGP sites. MGP wastes are among the mineral processing wastes which the Agency determined in 1989 and 1990 to be subject to RCRA jurisdiction because they are not excluded from RCRA by the Bevill Amendment. See 54 FR 36592 (September 1, 1989). Hence, they are a subset of the newly identified mineral processing wastes covered by the prohibitions and treatment standards promulgated in this rule.

On January 25, 1996, EPA proposed to apply LDR treatment standards to MGP wastes (61 FR 2360). MGP wastes are no longer being produced, since manufactured gas plants are no longer in operation. The Agency notes that the LDRs only apply at closed MGP sites that are excavated and managed in a way that constitutes placement in a land disposal unit (See 61 FR 18805, April 29, 1996.) The LDRs would require that actively managed MGP wastes be treated to eliminate any characteristics and to achieve the UTS for any underlying hazardous constituents prior to land disposal. Today's rule finalizes the UTS for MGP wastes that exhibit the toxicity characteristic. However, for soils contaminated with MGP wastes, EPA is today promulgating treatment standards specifically for hazardous soil. These soil standards, generally, require treatment to achieve 90 percent reduction of hazardous constituent levels, or 10 times the UTS levels. See Section VII of this preamble.

Today's rule does not alter the Agency's 1993 memorandum that interpreted existing rules to say that the ash that results from burning MGP remediation wastes along with coal in utility boilers remains covered by the Bevill amendment and hence is not regulated under Subtitle C rules. (See memorandum, dated April 26, 1993, entitled "Remediation of Historic Manufactured Gas Plant Sites", from Sylvia K. Lowrance, Director of the Office of Solid Waste, to EPA Regional Waste Management Division Directors. The memorandum is located in the RCRA docket for the Phase IV Supplemental Proposal dated January 25, 1996; 61 FR 2338.) Such residuals are considered to be covered by the Bevill amendment because they result primarily from the combustion of coal (assuming, if the MGP remediation wastes that are co-burned are hazardous, the residues are not significantly affected by burning the MGP wastes, within the meaning of 40 CFR section 266.112).

2. Background

Manufactured gas plants were designed to generate gas from coal. The coal tar residuals generated from the process remain at these historic MGP sites. Many of these sites have soils contaminated with these coal tar residuals. The majority of these contaminated soils will come from the cleanup of historic MGP sites. A significant portion of the soil is nonhazardous, but approximately 15 percent of the soils fail the toxicity characteristic leaching procedure test for benzene. These toxicity characteristic (TC) soils also typically contain PAHs, heavy metals, inorganics, volatile aromatics, and phenolics. At certain closed MGP sites, there can be non-soil hazardous wastes, e.g., coal tars in tar holders, which may need to be treated to UTS levels if they are actively managed and land disposed.

3. Public Comments and EPA Responses

Commenters expressed several major concerns about the Phase IV proposal to apply UTS to MGP wastes. First, they urged the Agency to delay implementing the soil standards until the final HWIR-media rule becomes effective. In addition, commenters requested that EPA re-affirm the Agency's 1993 co-burning memorandum for MGP wastes. Finally, commenters urged the Agency to establish specified treatment methods for those MGP wastes that will not be managed according to the Agency's 1993 co-burning memorandum, rather than making the wastes subject to the UTS concentration levels as proposed. One commenter identified several methods of management that could be specified: "recycling technologies including the use of coal tar residuals to manufacture asphalt, bricks, and cement; and combustion technologies that include utility boiler co-burning, incineration and thermal desorption." The commenter stated that specified methods would preserve flexibility for managing MGP site remediations and remove regulatory barriers to expeditious site cleanups.

Regarding the commenter's concern about the coordination of Phase IV standards and the HWIR-media rule, the Agency is finalizing treatment standards for hazardous contaminated soils in a separate section of today's rule. Also, although the Agency did not reopen the issue, the Agency confirms that the 1993 co-burning interpretation remains in effect.

The Agency has studied carefully the comment urging the Agency to specify incorporation of MGP waste into asphalt, bricks, or concrete as a designated method of treatment, which would have the effect of making wastes so treated not subject to meeting numerical treatment standards for hazardous constituents. The recycling of hazardous waste-contaminated soil in asphalt, brick, or cement manufacturing produces products that potentially could be applied or placed on the land. These recycling practices incorporate the contaminated soils into the products, and, thus, are considered to be a "use constituting disposal" (see section 261.2 (c) (1)). The use constituting disposal practice (assuming legitimate recycling is occurring) is regulated per the provisions of 40 CFR sections 266.20 through 266.23. This issue is discussed in more detail in section VII of the preamble.

At this time, the Agency does not have adequate information on asphalt, brick, or cement produced from MGP hazardous waste to determine whether these waste-derived products minimize threats posed by land disposal of MGP wastes. (See also response to USWAG comment #00035 in "Phase IV Response to Comments" in the docket to this rule.) Until the Agency can further study the issue, it is not designating production of these materials from MGP soils as a specified method of treatment. Existing 266.23 (a) continues to apply. And, as noted earlier, for MGP sites in particular, the Bevill exclusion still applies for MGP wastes co-burned in coal-fired utility boilers.

EPA is aware that the regulated community has requested various types of flexibility from LDR treatment standards in managing their site-specific cleanup, remediation, and/or removal activities of these wastes and contaminated soils. With the possible exception of use consituting disposal scenarios, the Agency continues to believe that more complete relief for remediation wastes is needed, particularly with respect to the land disposal restrictions and is best provided by targeted statutory change. Thus, the Agency will continue to participate in discussion of potential legislative solutions on this important issue.

Please refer to the Phase IV response to comments document that is available at the RCRA docket for responses to other issues raised by commenters.

C. Treatment Standards for Debris Contaminated With Phase IV wastes

The Agency is clarifying that debris contaminated with TC metal or characteristic mineral processing wastes can be disposed if it meets the treatment standards established in this rule, but also can be disposed if it meets the standards for debris set out at 40 CFR 268.45.

D. Treatment Standards for Radioactive Mixed Waste

1. Background

Radioactive mixed wastes are wastes which satisfy the definition of radioactive waste subject to the Atomic Energy Act (AEA) 10 CFR Part 61 and also contain waste that is either listed as a hazardous waste in Subpart D of 40 CFR Part 261, or that exhibits any of the hazardous characteristics identified in Subpart C of 40 CFR Part 261. Since the hazardous portions of the mixed waste are subject to RCRA, the land disposal restrictions apply to the mixed waste. Today's rule promulgates revised treatment standards for radioactive wastes that are mixed with metal characteristic wastes and do not currently have a method of treatment (i.e. HLVIT) specified as BDAT.

Treatment standards for radioactive waste mixed with metal-bearing waste were first promulgated in the Third Third rule at 55 FR 22626 (June 1, 1990). That rule established a subcategory of mixed wastes for a specific high level wastestream at the Savannah River site, for which a specified method of treatment is currently required. This method is HLVIT (vitrification of high-level radioactive waste) for radioactive high-level wastes generated during the reprocessing of fuel rods mixed with characteristic metal wastes. This was done because of the human health hazards associated with sampling that would be required if numerical standards were applied. The Third Third rule stated that all the promulgated treatment standards in that rule for RCRA listed and characteristic wastes apply to the RCRA hazardous portion of mixed radioactive (high-level, TRU, and low-level) wastes, unless EPA has specifically established a separate treatability group for a specific category of mixed waste. Thus, that rule required that radioactive waste mixed with metal characteristic waste would have to comply with the LDR treatment standard for the metal characteristic waste, as well as any requirements set forth by the NRC for the radioactive component of the mixed waste.

Because today's rule revises the treatment standards for metal characteristic wastes (i.e., revising certain metal numeric treatment standards, and applying UTS levels to underlying hazardous constituents in the characteristic waste), the treatment standards for radioactive waste mixed with metal characteristic waste that were not specifically subcategorized in the Third Third rule are also affected. Today's rule also revises treatment standards for twelve metal constituents in all wastes, including radioactive mixed wastes. In conclusion, unless specifically noted in Section 268, the treatment standards promulgated today apply to all mixed wastes.

2. Proposal and Issues Discussed by Comments

In addition to revising metal characteristic treatment standards that apply to mixed waste, the Phase IV proposal also discussed mixed radioactive and characteristic metal wastes which have been previously stabilized to meet the LDR requirements, and are now being stored until disposal capacity becomes available. The rule proposed to allow this particular category of stabilized

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characteristic metal mixed wastes to comply with the LDR metal standards that were in effect at the time the waste was stabilized. More simply, they would require no further treatment to comply with the newly promulgated TC metal standards. The proposal stated that mixed radioactive/characteristic metal wastes that are stabilized after the effective date of Phase IV would be subject to the metal treatment standards promulgated in the Phase IV rulemaking.

The majority of commenters agreed with this approach. The Agency believes that requiring facilities to re-treat the wastes could pose significant threats to human health and the environment (worker exposure, environmental releases). Essentially, requiring these wastes to meet the newly promulgated treatment standards could necessitate treaters opening sealed drums of stabilized mixed waste, grinding the stabilized material, and re-treating to comply with the treatment standards for the few constituents for which EPA is lowering the standards. One commenter wanted the exemption to be broadened to include wastes that were treated by methods other than stabilization. Because the exposure concerns of re-treating the previously stabilized waste primarily center around the idea of first grinding up the stabilized material to retreat it and the potential added radiological exposures attendant thereto, the broadening of this exemption without more specific information is not warranted at this point. Of course, if any wastes already meet the applicable treatment standards, for example macroencapsulation, then there is no need to initiate further treatment. It is important to emphasize that the Agency does not want any more handling of this material than is necessary, and we will entertain site-specific treatment variances to ensure that the appropriate balance is struck to ensure minimization of threats.

As noted, the majority of commenters agreed that hazards from added worker radiation exposure associated with re-treatment (i.e., opening drums, grinding already treated masses of mixed waste) would probably offset any gain in protection of human health and the environment resulting from compliance with the new metal treatment standards proposed in Phase IV. It was pointed out by one commenter that this is consistent with the Storage Prohibition (40 CFR 268.50(e)), where wastes that have met the applicable treatment standards are excluded from the storage prohibition. In addition, one commenter stated that these wastes have been treated to meet the LDR standards in place at the time of treatment, and the only reason they have not already been land disposed is that capacity has not been available. The one commenter who disagreed with the proposal stated that neither retreatment nor an exemption from the new standards are reasonable options, but prefers retreatment. The commenter did not provide support, and the Agency is not persuaded that retreatment is environmentally preferable. Thus, the Agency is promulgating the exemption as proposed. In response to comments, EPA is also indicating that the same principle applies with regard to listed wastes stabilized to meet a previous treatment standard, which standard is affected by this rule because the metal UTS have changed. Again, retreating these wastes would likely create new threats, not minimize them.

One DOE facility requested that the Agency clarify whether a waste required to be treated by a specific technology (i.e., HLVIT) would be required to be further treated for any UHCs present in the waste above UTS levels. The Agency is not imposing additional treatment requirements on those wastes for which a method of treatment (HLVIT) is specified.

Four facilities are concerned that uranium mills tailings will not remain exempt under RCRA. These wastes are by-product materials from uranium mining (i.e., waste acids from solvent extractions, barren lixiviants, slimes from solvent extraction and waste solvents generated in the beneficiation process during the extraction of uranium ore) and, therefore, are excluded from the treatment standards being promulgated today for TC metal wastes. With respect to the radioactive mineral processing wastes, RCRA Section 1004 (27) as codified in 40 CFR 261.4(a)(4) states that "...source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2100 *et seq*..." are not solid wastes. Therefore, such excluded materials are not subject to this rule. However, all other wastes not excluded under 40 CFR 261.4 are subject to today's rulemaking (assuming the waste is otherwise subject to today's rule).

Therefore, the Agency is today finalizing as proposed numerical treatment standards for radioactive waste mixed with metal-bearing characteristic waste for which no method of treatment has been established as the treatment standard.

E. Underlying Hazardous Constituents in TC Metal Wastes and Characteristic Mineral Processing Wastes

Summary: As with other characteristic wastes, TC metal wastes (D004—D011) and newly identified mineral processing wastes cannot be land disposed until the characteristic is removed and any underlying hazardous constituents (UHCs) are below universal treatment standards.

1. Background

In 1993, EPA began requiring that, in addition to removing the characteristic in the characteristic wastes, treatment must ensure that UHCs are below their UTS levels. (58 FR 29860; see also 59 FR 47982. See also *Chemical Waste Management* v. *EPA*, 976 F. 2d at 13–14, 16–18 (treatment standards may be lower than the level at which waste is identified as hazardous, and underlying hazardous constituents must be treated to minimize threats posed by land disposal)). UHCs are any constituents in 40 CFR 268.48 that are reasonably expected to be present at levels above the UTS at the point of generation of the characteristic waste. See 40 CFR 268.2(i). EPA's review of the treatment data on TC metal and mineral processing wastes shows that these wastes often contain underlying hazardous constituents, and that UTS are achievable for the UHCs.

2. Discussion of Today's Approach

In the August 22, 1995 Phase IV proposed rule, EPA proposed to apply treatment standards to all TC metal wastes, and on January 25, 1996, EPA further proposed the same for characteristic mineral processing wastes. See 60 FR 43654 and 61 FR 2338. Furthermore, EPA proposed that when the new treatment standards were promulgated, all of those newly identified wastes would have to be treated not only to meet the proposed treatment standards, but also to meet treatment standards for any UHCs reasonably expected to be present (at levels above UTS) in those wastes at the wastes' point of generation. See 60 FR 43654.

One commenter disagreed with the Agency's proposal, stating that the TC metal wastes that also contain organic UHCs would have to be treated by combustion technologies to achieve the organic UTS levels. The Agency disagrees. The organic UTS levels were based on the performance of combustion as well as other removal and destruction technologies. These other removal and destruction technologies can be used to treat organic UHCs to UTS levels in TC

metal wastes. Thus, pretreatment of the waste can be used to achieve the organic UTS levels. In addition, the commenter believed there would be difficulties in stabilizing incinerator ash to meet the finalized UTS levels for the metals. The Agency does not agree. In determining the UTS numbers for each metal, the wastes with the most difficult to treat metal constituents were treated by HTMR and stabilization technologies. The higher value between the two technologies was selected as the treatment standard. Thus, treatment using either HTMR or stabilization is expected to achieve the final metal UTS levels. It should be noted that selenium is not being regarded as a UHC since its treatment standard is above its characteristic level. Thus, a selenium characteristic waste will always be hazardous unless the selenium concentration is below the characteristic level of 1 mg/L TCLP. Fluoride, vanadium, and zinc are other metals not considered UHCs in characteristic wastes because these three metals are not on the Hazardous Constituents Table, 40 CFR 261 Appendix VIII (i.e., they are not "hazardous constituents"). (See Background Document for Phase IV Second Supplemental Proposed Rule.)

VI. Issues Relating to Newly-Identified Mineral Processing Wastes

As explained above, EPA considers mineral processing hazardous wastes to be newly identified or listed for purposes of determining when LDR prohibitions apply, since their status as hazardous wastes was not established until after 1984. Today's rule establishes prohibitions and treatment standards for these wastes, pursuant to RCRA section 3004(g)(4).

However, there are a series of important threshold issues in determining what these prohibitions and treatment standards apply to, generally involving the issues of whether primary mineral processing secondary materials are solid and hazardous wastes. There are three main issues. A fundamental first issue is whether, if a mineral processing secondary material (which would otherwise be a hazardous waste) is recycled within the mineral processing industry sector, it is a solid waste. Of particular importance in assessing applicability of the LDR program, is a second issue: whether there is land placement of the mineral processing secondary material before recycling, or during the recycling process. If the material is a waste, a third issue is relevant: is the waste a beneficiation/extraction waste or one of 20 mineral processing wastes that are excluded from subtitle C regulation under the Bevill exclusion (see RCRA 3001 (b)(3)(A)(ii)).

In this rulemaking, EPA also is addressing certain sub-issues that are related to determining whether a particular mining waste is subject to the Bevill exclusion, including whether a waste is "uniquely associated" with mining, how the introduction of non-exempt, mineral processing feedstocks into a Bevill process may affect the Bevill status of the waste generated from the process, and how the mixture of Bevill wastes with other hazardous wastes affects the Bevill status of the resulting wastes when disposed.

As stated in the January 1996 proposal, EPA is not reopening in any respect the Bevill determinations previously made by the Agency, including the Agency's articulation in 1989 of the functional distinctions between beneficiation and mineral processing. *See* 61 Fed. Reg. 2354. Some commenters misinterpreted EPA's statements in the proposal generally describing the beneficiation/processing distinction as somehow reinterpreting the scope of the Bevill amendment. That discussion was intended, however, merely to restate principles articulated by EPA in 1989 (see 54 Fed. Reg. 36619), not to reopen in any way the distinctions as articulated previously by the Agency. Whether a particular waste is from beneficiation or mineral processing will continue to be determined based on 40 CFR 261.4(b)(7) and criteria articulated by EPA in the 1989 preamble.

The following sections of the preamble discuss these threshold issues.

A. Introduction

In July of 1988, the U.S. Court of Appeals, for the D.C. Circuit in *Environmental Defense Fund* v. *EPA (EDF II)*, 852 F.2d 1316 (D.C. Cir. 1988), *cert. denied*, 489 U.S. 1011(1989), ordered EPA to restrict the scope of the Bevill mining waste exclusion, as it applied to mineral processing wastes, to include only "large volume, low hazard" wastes. In response, the Agency promulgated several rules that delineated the scope of the Bevill exemption for extraction/beneficiation and mineral processing wastes. In these rulemakings, the Agency applied high-volume/low toxicity criteria for determining whether a particular waste was subject to the Bevill exemption. The Agency also described the general characteristics that would distinguish extraction/beneficiation wastes from mineral processing wastes. The rules also evaluated which specific mineral processing wastes were in conformance with these high volume/low toxicity criteria and thus were eligible for the exclusion provided by RCRA 3001(b)(3)(A)(ii) (the "Bevill exclusion").

These rules were promulgated on September 1, 1989 (54 FR 36592) and on January 23, 1990 (55 FR 2322). EPA was required to prepare a *Report to Congress* which further studied mineral processing wastes identified in the 1990 rule to determine their regulatory status under the Bevill exclusion. This report was issued on July 31, 1990 (*Report to Congress on Wastes from Mineral Processing*). EPA fully considered information from, and comments on, the *Report to Congress* in a regulatory determination published on June 13, 1991(56 FR 27300). The list of Bevill exempt activities and wastes is set out at 40 CFR 261.4(b)(7).

Many mineral processing wastes that EPA determined did not fall within the Bevill exclusion as a result of the 1991 rule appear to exhibit the toxicity characteristic due to metal content (D004–D011), and also exhibit corrosivity (D002), and/or reactivity (D003). For purposes of LDR applicability, these wastes are "newly identified" because they were brought into the RCRA Subtitle C system after the date of enactment of the Hazardous and Solid Waste Act Amendments on November 8, 1984. (See 55 FR at 22667 (June 1, 1990). Hence, their land disposal has not been prohibited until today's rule.

The Agency is currently required by a court approved consent decree (*EDF* v. *Browner*, No. 89–0598 (D.D.C.)) to promulgate LDR restrictions for characteristic and listed mineral processing wastes, and metal wastes hazardous under the revised toxicity characteristic, by April 15, 1998. On April 14, 1998, EPA filed an unopposed motion requesting the Court to extend the deadline to April 30, 1998 to establish Land Disposal Restrictions for newly identified mineral processing wastes by April, 1998. The legal obligation to establish prohibitions on land disposal and treatment standards for newly identified mineral processing wastes is established by statute. RCRA section 3004(g)(4).

B. Overview of Today's Rule

1. Issues Related to Which Mineral Processing Secondary Materials are Subject to LDRs

As noted above, a threshold question when considering whether wastes are prohibited from land disposal is whether the mineral processing secondary materials are "solid wastes"

under RCRA. The issue is of importance with respect to land disposal prohibitions for the mineral processing industry because this industry recycles mineral processing secondary materials that exhibit hazardous waste characteristics, and sometimes uses land-based units—piles and impoundments—to store these materials before recycling. Thus, there is an issue as to whether such materials are solid wastes subject to the land disposal prohibition (as well as to the rest of Subtitle C). The Agency issued two proposals (61 FR 2338, January 25, 1996, and 62 FR 26041, May 12, 1997) which discussed potential RCRA jurisdiction over secondary materials from mineral processing that are reclaimed within the industry sector and sought comment on a proposed conditional exclusion from the definition of solid waste.

We now further summarize how today's rule deals with issues raised by whether and when mineral processing secondary materials, when placed in land-based storage units, are subject to the LDR standards and other Subtitle C controls. The rationale for the Agency's decisions are described below.

To be a hazardous waste, a material must first be a solid waste. RCRA section 1004 (5). To be a "solid waste" a material must in some sense be "discarded." RCRA section 1004 (27). A material is not "discarded" if it is "destined for immediate reuse in another phase of the industry's ongoing production process and [has] not yet become part of the waste disposal problem." *American Mining Congress* v. *EPA*, 907 F. 2d 1179, 1186 (D.C. Cir. 1990).

This rule amends the current RCRA rules (existing 40 CFR 261.2(c)(3)) defining which "secondary materials"—sludges, by-products and spent materials—being generated by and reclaimed by mineral processing or beneficiation facilities are solid wastes. The rule does so by creating a conditional exclusion to the regulatory definition of solid waste, so that:

(a) Mineral processing secondary materials may not be stored on the land before they are reclaimed. The rule provides a partial exception to this principle: if the pile is placed on a pad which has been approved as protective by an EPA Region or a State with an authorized program, the pile would not be considered to be storing solid or hazardous waste, and so would be outside RCRA jurisdiction. Thus, if storage is used prior to reentry into a mineral processing reclamation process, to be excluded, all mineral processing secondary materials must be placed in tanks, containers, buildings, or approved piles resting on pads;

(b) Mineral processing secondary materials must be legitimately recycled to recover metal, acid, cyanide, water, or other values;

(c) Mineral processing secondary materials cannot be accumulated speculatively; and

(d) Facilities utilizing this conditional exclusion must submit a one-time notification of their recycling activities to EPA or the authorized State describing: the materials being recycled and the processes into which they are recycled; where storage units are located and their design. Facilities must update the notification if their recycling activities change.

EPA is thus essentially disclaiming authority over mineral processing secondary materials that are reclaimed within the mineral processing or mining/beneficiation industry sector, so long as there is no land-based storage preceding reclamation. Further, potential jurisdiction affects only *storage*. EPA is not asserting authority over any mineral processing production unit, even if the unit is land-based.

2. Issues Related to Whether Materials are Within the Scope of the Bevill Exclusion

a. Use of Non-Bevill Materials as Feedstocks to Operations Whose Waste is Bevill Exempt. Today's rule also allows secondary materials from mineral processing to be co-processed with normal raw materials in beneficiation operations which generate Bevill exempt wastes, without changing the exempt status of the resulting Bevill waste, provided that legitimate recovery of the mineral processing secondary material is occurring, and provided that primary ores and minerals account for at least 50 percent of the feedstock. The Agency voiced concern at proposal that the addition of mineral processing secondary materials into a Bevill exempt extraction/beneficiation process could have the potential to increase the risk of the resulting wastes. The Agency proposed adding a condition—the use of a significantly affected test (similar to the existing test used in the Burning in Industrial Furnaces (BIF) Rule (see 40 CFR 266.112))—as a means of assuring that resultant Bevill wastes were not adversely impacted by co-processing. EPA also considered simply limiting eligibility for Bevill status to situations where Bevill raw materials comprised the sole feedstock to the process.

After considering public comments, the Agency has decided to adopt the general approach proposed in January 1996, with one change. The Agency now does not believe that the use of the "significantly affected" test would appreciably reduce risks posed by the resulting wastes, and the Agency is concerned that it would severely disrupt legitimate recycling practices within beneficiation and mineral processing industries. Even in situations where a constituent may increase due to recycling, the increase may not be environmentally significant, may be balanced by the lowering of other constituents, or may be off-set by having to dispose of the material and utilize additional raw material feedstocks.

b. Uniquely Associated. The Bevill exclusion for the primary metal sector is limited to extraction/beneficiation wastes and 20 mineral processing wastes. Under Section 3001(b)(3)(A)(ii) of RCRA, the Bevill exclusion is available for "solid waste from the extraction, beneficiation and processing of ores and minerals." Under the Agency's longstanding interpretation, a waste must be "uniquely associated" with mining and processing of ores and minerals to be subject to the Bevill exclusion. The Agency currently uses a qualitative approach (see 45 FR 76619 and 54 FR 36623) to determine if a waste is uniquely associated. Because of public interest in how the Agency makes these determinations, the Agency sought comment on alternative approaches for making "uniquely associated" determinations.

The Agency is retaining and clarifying in this rule its use of its qualitative approach. The Agency recognizes that determining whether a particular waste is uniquely associated with extraction, beneficiation, and processing involves an evaluation of the specific facts of each case. While the Agency discussed, in the May 1997 proposal, several options that would establish a bright line for making this determination, the Agency is concerned that any of these tests could potentially be either over- or under-inclusive of the wastes that, in EPA's view, are best viewed as uniquely associated.

In the Agency's view the following qualitative criteria should be used to make such determinations on a case-by-case basis:

(1) Any waste from ancillary operations are not "uniquely associated" because they are not properly viewed as being "from" mining or mineral processing.

(2) In evaluating wastes from non-ancillary operations, one must consider the extent to which the waste originates or derives from processes that serve to remove mineral values from the ground, concentrate or otherwise enhance their characteristics to remove impurities,

and the extent to which the mineral recovery process imparts its chemical characteristics to the waste.

c. Bevill Mixtures. EPA first addressed mixing of hazardous wastes with Bevill wastes in 1989 (see 54 FR 36622–23). That rule provided that mixtures of Bevill wastes and listed wastes would be considered a hazardous waste unless and until the mixture was delisted. A mixture of Bevill waste and non-excluded characteristic hazardous waste, however, would be considered hazardous if it exhibited a characteristic of the non-excluded waste, but not if it exhibited a characteristic imparted to it by the Bevill waste. As explained in the proposal, this Bevill mixture rule was remanded to the Agency in *Solite Corp* v. *EPA*, 952 F.2d 472, 493–94 (D.C. Cir. 1991), and an emergency reinstatement of that rule was vacated on procedural grounds in *Mobil Oil* v. *EPA*, 35 F.3d 579 (D.C. Cir. 1994). Today EPA is reinstating the 1989 Bevill mixture rule. Under this 1989 rule, a mixture of a Bevill-exempt waste and a characteristic hazardous waste (or a waste listed solely because it exhibits a hazardous characteristic) is a hazardous waste if it continues to exhibit the characteristic of the non-excluded waste. Mixtures of Bevill wastes and other listed wastes are hazardous wastes unless and until delisted. In addition, the act of mixing Bevill and and non-Bevill wastes is subject to all normal Subtitle C consequences (i.e., requires a permit if it constitutes treatment, storage of disposal of hazardous wastes). EPA is adopting this approach because it preserves the Bevill exclusion for mixtures that are characteristically hazardous due to Bevill wastes, but nonetheless ensures that the Bevill Amendment is not used to allow Bevill wastes to shield/immunize non-Bevill hazardous wastes from regulatory controls that would otherwise apply to those wastes.

d. Response to Court Remands Dealing with Other Issues Relating to Mineral Processing and to Scope of Bevill Exclusion. (i) Toxicity Characteristic Leaching Procedure (TCLP) The applicability of the TCLP test to mineral processing wastes was challenged in *Edison Electric Institute* v. *EPA*, 2 F.3d 438 (D.C. Cir. 1993). In that case the Court held that the Agency must provide at least some factual support that the mismanagement scenario assumed in developing the TCLP is plausible when applied to mineral processing wastes or, alternatively, that mining wastes are exposed to conditions similar to those simulated by the TCLP, namely "contact with some form of acidic leaching media". 2 F. 3d at 447. EPA prepared a technical background document in support of the January, 1996 proposal, which presented data on this issue. This report concluded that mineral processing wastes had in the past been co-disposed with municipal wastes, and due to the location of mineral processing plants near large urban areas, it was plausible that these wastes could be mismanaged with municipal wastes. EPA also solicited information from the public that would help the Agency evaluate industry comments that the Synthetic Precipitation Leaching Procedure (SPLP) would provide a more accurate measure of how mineral processing wastes behave in the environment. EPA received extremely limited data from the public on this issue.

EPA has concluded, based on the information available to the Agency and review of public comments, that co-disposal of mineral processing wastes with municipal wastes is a plausible mismanagement scenario and that, therefore, application of the TCLP to these wastes continues to be appropriate. Moreover, comments from industry during the rulemaking stated that certain facilities co-manage mineral processing wastes with extraction and beneficiation wastes. Given the well-documented, acidic nature of some extraction and beneficiation wastes, mineral processing wastes disposed of in this manner may be subject to the kinds of low pH conditions that are reflected in the TCLP. For this additional reason, EPA finds that, under the plausible mismanagement standard articulated in *Edison Electric*, application of the TCLP to mineral processing wastes is appropriate in light of the information at the Agency's disposal. While the Agency has received comments seeking to compare the TCLP and the SPLP, the Agency has concluded, for reasons discussed later in this preamble, that this information is not sufficient to support adopting the SPLP as the appropriate test for mineral processing wastes at this time.

The Agency recognizes that the methodology underlying the TCLP may not reflect the variety of conditions under which some types of mineral processing wastes are disposed. As a result, the Agency will undertake, and within three to five years, conclude a review of the appropriateness of using the TCLP and other leaching protocols in this and other contexts.

(ii) Listed Hazardous Wastes. In *American Mining Congress* v. *EPA*, 907 F.2d 1179 (D.C. Cir. 1990), the Court found that the Agency's record regarding the listings of five waste streams (K064, K065, K066, K090, K091) did not adequately address certain issues raised in comments. EPA indicated its intent not to list these five waste streams in the January, 1996 proposal and placed a technical background document in the docket enumerating the reasons for those decisions. Many of these wastes are either no longer generated, or managed in a fashion not warranting listing. EPA did not receive any comments challenging those proposed decisions. Therefore, in this rule, EPA is not listing these five smelting wastes as hazardous wastes. Instead, EPA will rely on the RCRA hazardous waste characteristics to identify those portions of the wastes requiring management as hazardous wastes.

(iii) Titanium Tetrachloride. In 1989, EPA determined that wastes from the production of titanium tetrachloride were mineral processing wastes. DuPont challenged this decision, and the Court remanded EPA's decision for further consideration on grounds that the Agency's decision was unclear (see *Solite Corporation* v. *EPA*, 952 F.2d at 494–95 (D.C. Cir. 1991)). EPA reevaluated data on wastes from the production of titanium tetrachloride, and placed results of this reevaluation in the docket in support of the January 1996 proposal. EPA also has met with representatives of DuPont to discuss their process further. Based on the Agency's reevaluation of this issue, EPA, in this rule, concludes that iron chloride waste acid generated from the chloride-ilmenite process of titanium tetrachloride production should be classified as a mineral processing waste. The Agency has reached this decision because this process significantly affects the physical/chemical structure of the raw feedstock through chlorination and this reaction creates new chemicals (iron chloride and titanium tetrachloride gases). This meets the definition of mineral processing rather than beneficiation.

(iv) Air Pollution Control Dust and Sludges Generated From Lightweight Aggregate Production. Finally, since 1995, the Agency has conducted reviews of air pollution control dust and sludges generated from lightweight aggregate production, and has met with representatives of this industry sector. The Agency also has issued a Report *to Congress* and a regulatory determination on Cement Kiln Dust (CKD) (59 FR at 709, January 6, 1994 and 60 FR at 7366, February 7, 1995). EPA has found that some aggregate kilns and cement kilns use hazardous waste fuels to fire their units. Both types of facilities generate dusts which may be either reintroduced

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into the kiln or blended into the final product. While these dusts rarely exhibit any of the RCRA hazardous waste characteristics, the resultant product could be classified as hazardous waste due to the "derived from" rule if listed hazardous wastes are combusted. The Agency is seeking a way to encourage the legitimate and environmentally sound reuse of dusts, from both cement and lightweight aggregate manufacture. In an effort to develop a consistent regulatory approach, EPA, therefore, has decided to defer any decision on the Bevill status of air pollution control dust and sludges generated from lightweight aggregate production until evaluation of issues related to CKD and lightweight aggregate dust handling, use, and disposal can be completed.

e. Reexamination of Bevill Exempt Wastes. The May 12 proposal sought general comment on whether a reexamination of some Bevill waste is warranted given that additional risk assessment techniques and additional information are available since making the 1986 Bevill regulatory determination (51 FR at 24496, July 3, 1986) on mining and the 1991 Bevill regulatory determination on mineral processing (56 FR 27300, June 13, 1991). EPA presented information from Superfund sites and other sources which indicate that some Bevill wastes continue to cause environmental damage (see environmental damage and risk technical background documents placed in the January 1996, and April, 1997 dockets). The Agency also posed the question of whether some waste streams require additional study or regulatory controls. Today's rule is not making any changes to the status of Bevill exempt extraction and beneficiation wastes or the 20 exempt mineral processing wastes.

C. Analysis of and Response to Public Comments

1. Jurisdiction

a. EPA Authority to Regulate Mineral Processing Secondary Materials Reclaimed Within the Industry. Many industry commenters maintained that EPA lacks jurisdiction over mineral processing secondary materials reclaimed within the industry because such materials cannot be "solid wastes." The argument is straight-forward: a solid waste regulated under RCRA must be a "discarded material," RCRA section 1004 (27), and these materials are not discarded. The comments suggest that, under the case law, (in particular *American Mining Congress* v. *EPA*, 824 F. 2d 1177 (D.C. Cir. 1987) ("*AMC I*")), these materials are part of an on-going production process within the generating industry, and so cannot be "discarded."

EPA disagrees that there is an absolute jurisdictional barrier to regulating any management of mineral processing secondary materials which are reclaimed within the industry. Although the *AMC I* court found that, in some respects EPA's 1985 rules exceeded the statutory grant of authority, subsequent judicial opinions have sharply limited the scope of *AMC I*. The only absolute bar on the Agency's authority to define recycled mineral processing secondary materials as solid wastes is for "materials that are 'destined for *immediate reuse* in another phase of the industry's ongoing production process' and that 'have not yet become part of the waste disposal problem.'" *American Mining Congress* v. *EPA*, 907 F. 2d 1179, 1186 (D.C. Cir. 1990) ("*AMC II*") quoting *AMC I*, 824 F. 2d at 1186.[2]) The case law likewise makes clear that "discarded" is an ambiguous term, within EPA's discretion to interpret, consistent with RCRA's overall goals and purposes. *AMC II*, 907 F.2d at 1179; *American Petroleum Inst.* v. *EPA*, 906 F.2d 726, 741(D.C. Cir. 1990).

Applying this test, today's rule states that any mineral processing secondary materials which are being reclaimed immediately within the mineral processing industry (or within beneficiation) are not a solid waste. However, as explained below, EPA does not view mineral processing secondary materials which have been removed from a production process for storage as being "immediately reused," and so such materials are not automatically excluded from jurisdiction. EPA reiterates that there is a jurisdictional bar against regulating the actual production process (see *Steel Manufacturers Association* v. *EPA*, 27 F.3d 642, 647 (D.C. Cir. 1994); EPA also interprets the holding of *AMC I* to mandate this result), so today's rule does not assert authority over mineral processing production units. However, if production units are also used to dispose of hazardous wastes, those units are subject to RCRA Subtitle C.

With respect to mineral processing secondary materials which are stored before being reclaimed at mineral processing or beneficiation facilities—i.e. that are not being immediately reused—the Agency has established a conditional exclusion from the definition of solid waste, the conditions being designed to assure that management of these materials are not "part of the waste disposal problem." The main condition is that mineral processing secondary materials not be stored on the land (except for storage on approved pads) and not be stored in disposal units.

In considering the question of scope of jurisdiction, it is useful to remember that this rule applies to a continuum of potential recovery practices. At the one end of the continuum, where EPA's authority is most certain, would be the situation where mineral processing company A sends its secondary materials to unrelated mineral processing company B processing a different metal than company A. The case law indicates that EPA retains discretion to classify the material as a solid waste. *API*, 906 F.2d at 741 (transfer of steel industry dust to a metal reclaimer processing exclusively steel industry secondary materials can involve a RCRA solid waste). It should be remembered that EPA views "mineral processing" broadly in this rule to include all primary mineral processing sectors (see, e.g., the Agency's 1996 *Identification and Description of Mineral Processing Sectors and Waste Streams*). This document identified 41 different sectors involved in primary mineral processing. Primary mineral processing involves changing the physical and chemical structure of ores and minerals. For example, mineral processing includes the production of steel and the production of gold. These sectors generate very different types of wastes and recycle them under different conditions. Thus, the *API* principle of no absolute jurisdictional bar applies.

Points further in on the continuum would be if companies A and B process the same metal but are unrelated companies (also potentially within the *API* framework), and where companies A and B are under common ownership but not at the same site. The point on the continuum closest to on-going production is where secondary materials are reclaimed at the generating site, but where the process is non-continuous due to storage of materials. Immediate recovery on-site without storage would then mark the other end of the continuum, and would illustrate when materials are immediately reused within a continuous process, and so

[2]The other cases which have similarly stressed this narrow reading of *AMC I* are *American Petroleum Inst.* v. *EPA*, 906 F. 2d 726, 741 (D.C. Cir. 1990); *Shell Oil* v. *EPA*, 950 F. 2d 741, 755–56 (D.C. Cir. 1991); *Chemical Waste Management* v. *EPA*, 976 F. 2d 2, 14 (D.C. Cir. 1992); *United States* v. *Ilco, Inc.*, 996 F. 2d 1126, 1131 (5th Cir. 1993); and *Owen Electric Steel Co.* v. *Browner*. 37 F. 3d 146, 149–50 (4th Cir. 1994).

absolutely outside Subtitle C jurisdiction.[3]

EPA believes that it has discretion to consider whether any of these situations short of immediate reuse involve solid wastes, this discretion being limited by the second part of the Court's articulated test: is the non-continuous management of the mineral processing secondary materials part of the waste disposal problem. Thus, EPA in today's rule has focused on the storage of these materials. The leading authority for this approach is *AMC II*, where the Court found that secondary materials generated and reclaimed on-site could be classified as solid wastes because they were stored in surface impoundments. 907 F. 2d at 1186. The case involved a single plant which stored its secondary materials —sludges—in an impoundment before reclaiming all of the accumulated sludges in its own smelting process. 50 FR at 40292, 40296 (October 1985). Several comenters argued that *AMC II* involved only specutlative accumulation. This is not the case. The wastes generated in the impoundment were actually recycled 100 percent, not stored with expectation of recycling. 50 FR at 40292, 40296; Brief of Petitioner Amercian Mining Congress in *AMC II* (filed March 30, 1990) pp. 18, 29. The Court nonetheless held that the sludges were discarded, stressing the special sensitivity in RCRA to land-based units such as surface impoundments, and explaining how storage of secondary materials in such units can be part of the waste disposal problem (907 F. 2d at 1186–87). Thus, EPA believes that mineral processing secondary materials stored on the land are discarded.

Land-based storage of mineral processing sludges, spent materials, and by-products can be viewed by EPA as being part of the waste disposal problem. There is no dispute that a considerable amount of mineral processing secondary materials contain hazardous constituents that can threaten human health and the environment (see U.S. EPA, Office of Solid Waste, *Human Health and Environmental Damages from Mining and Mineral Processing Wastes*, 1995, and *Damage Cases and Environmental Releases*, 1997). Land-based units, and impoundments in particular, have certain inherent indicia of discard due to their inability to prevent releases of contained materials. RCRA section 1002(b)(7); *AMC II*, 907 F.2d at 1187; 53 FR at 521, 525 (Jan. 8, 1988). Surface impoundments pose essentially inherent risks of groundwater contamination due to the hydraulic pressure created by the contained liquids. *Chemical Waste Management* v. *EPA*, 919 F. 2d 158, 166 (D.C. Cir. 1992). There are many damage incidents which involve storage of mineral processing wastes in piles and surface impoundments, some of which involve mineral processing secondary materials stored in land-based units before eventual reclamation. These damage incidents confirm that this potential harm is not hypothetical.

It should be noted that there is Agency precedent for the limitation on land based storage as part of within-industry recycling practices. The Agency established the principle of encouraging recycling without allowing land-based storage at 40 CFR 261.4(a)(10). Any wastes from coke by-product production are not solid wastes if recycled to coke ovens conditioned on there being no land disposal from the point of generation to the point of recycling. The Agency also has promulgated a rule where recovered oil generated by any facet of petroleum exploration, production, and retailing is not a solid waste conditioned on no management of these materials in land-based units (see 59 FR 58936, July 28, 1994). The Agency has also proposed to extend this principle to a wider range of oil-bearing secondary materials (see 60 FR 57747, 57753, November 20, 1995). The condition likewise appears in current rules at 40 CFR 261.2(e)(iii) where it qualifies the exclusion for materials returned for reclamation in the process from which they are generated. The application of a no land placement condition in today's rule is, therefore, building on an established policy of encouraging recycling conditioned on no land placement.

Putting this together, the Agency reads the statute as creating an absolute jurisdictional bar in two situations: where mineral processing or beneficiation is occurring, and where reclamation is continuous in the sense that there is no interdiction in time—i.e. materials moving from one step of a recovery process to another without a break in the process, as for storage. As one moves back along the continuum, EPA has discretion to interpret whether secondary materials may be considered discarded. The Agency is exercising that discretion here by putting its focus on whether the reclamation, or more precisely, the storage which precedes reclamation, is part of the waste disposal problem because it involves storage which can be and has been part of that problem.

b. Are There Limits on Jurisdiction? (Response to Public Interest Group Position). In contrast, representatives of public interest groups argued that the Agency's authority was essentially unlimited. They believe that the authority should be extended, at a minimum, to all land-based units because such units are a type of disposal unit. With respect to mineral processing secondary materials that are managed in tanks, containers, or buildings (i.e. in other than land-based units), EPA sees no principle that compels the materials to be designated as solid wastes. As explained above, case law indicates that EPA has discretion to interpret which materials are "discarded" consistent with the overall statutory objective, *API*, 906 F.2d at 742. These objectives include not only assuring safe management of hazardous wastes, but also "encouraging . . . materials recovery, [and] properly conducted recycling and reuse . . . ." RCRA section 1003(a)(6). EPA's construction in today's rule, which rests largely on the distinction between land-based storage and more environmentally protective storage of secondary materials, is consistent with this object by encouraging "properly conducted recycling. . . ." In addition, EPA reads the case law as allowing the Agency to make reasonable distinctions among secondary material handling practices in determining when a particular recycling practice may be considered to be "part of the waste disposal problem." Finally, as EPA explained at proposal, there are potential jurisdictional constraints given that the mineral processing industry exists to recover mineral values from an initial raw material, and some aspects of recovery of mineral values from secondary materials can be like sequential processing of an initial raw material. 61 FR at 2342. Where there is no obvious element of discard present, such as land-based storage, the Agency does not believe that it should exercise its interpretive discretion to assert authority.

With respect to intra-industry reclamation practices involving land-based units, EPA largely is asserting authority. EPA proposed a series of conditions that would have allowed land-based storage units on the idea that there were certain unique necessities within this industry compelling use of such units. 61 FR at 2341. However, as the rulemaking progressed, it became

[3] The Agency indicated in its January 1996 proposal that some lower value mineral processing secondary materials are from ancillary production operations and that those materials were often placed in land-based storage units. 61 FR at 2340. Industry comments challenged this discussion as over broad and misplaced. Upon review, the Agency acknowledges that mineral processing facilities generate a wide range of secondary materials, which also have a wide range of values to the facility owner.

apparent that there are no such production-related necessities. Agency reevaluation of mineral processing secondary material volumes indicated that, in addition to volumes being lower than EPA initially believed, comparison to volumes of other industrial hazardous wastes indicated that these wastes were often higher in volume than mineral processing secondary materials and were being stored off the land. Consequently, the Agency is claiming authority over most land-based storage units.

The Agency is not, however, asserting authority over piles resting on pads determined by a state or EPA to be protective. The reasoning is similar to that for not claiming authority over within-industry secondary materials stored in tanks, containers or buildings. Such materials need not be viewed as "part of the waste disposal problem," and so, given the intra-industry recycling, need not be considered "discarded." The practice also can be viewed as a type of "properly conducted recycling" which should be encouraged. Again, EPA views this determination to be within its interpretive discretion.

EPA also disagrees that it is compelled to assert control over land-based units that are actual production units, i.e. that actually recover product. The Agency is aware of only two land-based units which recover metals: gold heap leach piles and copper dump leach piles. Under prior rulemakings (54 FR 36592 and 55 FR 2322), the Agency has defined these land-based units as extraction/beneficiation activities. The Agency is unaware of any other land based process units which actually recover metals. The Agency believes that regulating such units could pose the possibility of interdicting actual production steps which was the particular focus of the *AMC I* court. EPA notes, however, that storage units which also make secondary materials more suitable for actual recovery, such as equalization basins, can remain within Subtitle C jurisdiction. These units, in the Agency's view, are not the part of the process which actually produces an end product (such as the smelter at a smelting facility). At most, they facilitate eventual recovery. The Agency does not read the case law to say that such storage units are in all cases outside the authority of Subtitle C.

EPA also is not asserting authority over mineral processing secondary materials once they are removed from approved storage for reclamation. Thus, should a mineral processing plant reclaim mineral processing secondary materials after those materials are stored in land-based units (i.e. the materials defined as hazardous wastes in today's rule), they would no longer be solid and hazardous wastes. EPA believes it would be counterproductive to retain the hazardous waste status for mineral processing secondary materials entering reclamation. If the materials remain hazardous wastes, for example, the smelting process itself could be subject to Subtitle C regulation. EPA believes that it retains discretion to classify the removed materials as no longer being solid and hazardous wastes.

The Agency believes it has discretion to adopt this classification notwithstanding the court's decision in *American Petroleum Institute.* v. *EPA,* 906 F.2d 726 (D.C. Cir. 1990). In that case, the Court held that EPA had adopted the so-called indigenous principle, whereby secondary materials stopped being wastes at the point they were utilized as feedstock in a production process related to the one that generated it, without sufficient justification. 906 F.2d at 741–42. However, in that case, EPA had made no attempt to determine which materials were part of the waste disposal problem, and which were not. Here, the Agency is making clear that storage on the land of mineral processing secondary materials is the environmental concern, and that reclaiming mineral processing secondary materials within the industry is ordinarily a form of proper recycling which may permissibly be encouraged. RCRA section 1003(a)(6).

EPA also notes that it is possible that no mineral processing secondary materials will be placed in impoundments or in unapproved piles. Under today's rule, if a facility wishes to use a pile for storage (assuming the pile has not been adjudicated to be protective), the wastes would first have to be treated to meet Land Disposal Restrictions standards, probably rendering them unrecoverable. If an impoundment is utilized, wastes need not be pretreated, but the impoundment would have to meet minimum technology design standards and be dredged annually (RCRA section 3005(j)(11) and 40 CFR section 268.5) and, of course, ultimately obtain a RCRA permit. The Agency anticipates that facilities will use a non land-based form of storage instead.

c. Immediate Reuse.[4] In the May 1997 proposal, EPA suggested a different way of defining absolute jurisdictional limits, namely to say that secondary minerals generated by and "immediately reused" within the mineral processing industry, were not solid wastes. The reference to "immediate" was suggested as a means of interpreting the "immediate reuse in another phase of the industry's ongoing process" standard articulated in the case law. *AMC I,* at 824 F. 2d at 1185. The Agency proposed that secondary materials that were legitimately recycled within 48 hours would be outside RCRA jurisdiction, regardless of whether they were stored between process steps (including storage in land-based units). See 62 FR at 26051.

Industry and public interest groups both opposed the use of the 48-hour time limit included in the January 1996 proposal to define immediate reuse. Industry renewed its categorical objections based on *AMC I,* and noted that many secondary materials are legitimately reclaimed long after they are generated and the time period between generation and reclamation in no way affected their value. For example, commenters stated that the gold industry generates retort slags which contain gold values. Comments stated that these slags are stored off the ground for periods up to six months after which they are reintroduced into their recovery process.[5]

Public interest groups objected to the 48-hour limit on the basis that an absolute waiver of RCRA jurisdiction based on time does not translate to any reduction of environmental risk. Public interest groups also noted that the Court in *AMC II* granted jurisdiction to units holding secondary materials with the propensity to leak, and that the Court's opinion would extend to all land placement, since the continuous placement of materials on piles or other land-based units would result in the same "discard" underlying the Court's opinion.

Although the Agency necessarily accepts that materials immediately reused in another phase of the industry's ongoing production process are beyond EPA's jurisdiction, *AMC I,* 824 F.2d at 1185, the Agency is not adopting in today's rule the proposed 48-hour approach to define immediate reuse. The Agency is defining "immediate reuse" as the continuous recirculation of secondary materials

[4] It should be noted that EPA is not using "reuse" as a term of art in this section of the preamble (i.e. is not using the term as defined in 40 CFR 261.1(a)(5)), but rather is referring to immediate reclamation of materials (i.e. material recovery) at a mineral processing facility. The key concept here is actually "immediate," which EPA is using to interpret the phrase "continuous process" used in the case law.

[5] It should be noted that since no land-based storage is involved, these gold slags are not solid wastes under the final rule in any case (assuming that the recovery is legitimate and that the other conditions in the rule are satisfied).

back into recovery processes without prior storage. The plain reading of the words "continuous," 824 F.2d at 1193, and "immediate" preclude storage. Storage by its very nature means that processes are not continuous; rather, storage means that materials are generated which must be held apart for some period of time prior to reentry into a process. Storage, therefore, breaks the continuous and immediate nature of production and reentry. In addition, land-based storage units have inherent elements of discard. *AMC II*, 907 F. 2d at 1186–87.

The definition of "immediate reuse" in today's rule does not bar storage prior to recycling. Mineral processing industries will be able to store and recycle their mineral processing secondary materials outside RCRA Subtitle C requirements if they do so while meeting the conditions of the exclusion from the definition of solid waste contained in today's rule.

In the May 1997 proposal, the Agency discussed the possibility that some molten metals that spill onto the ground could be classified as materials undergoing immediate reuse (see 62 FR at 26051). The Agency noted that copper reverts (refined copper material) can be spilled in the process of being transferred from one part of the smelting process to another. Such reverts are picked up as soon as they can be safely handled and are placed directly back into the smelting process. The Agency has reviewed smelting processes in other metal sectors and finds that spillage from ladles is common and that these materials are routinely picked up within a short time and placed back into the process. The Agency thus concludes that molten metal spilled onto smelter floors is not a solid waste if it is picked up as practical (given heat and worker safety factors) and is then placed back into the smelting process. Such a material is not a secondary material (i.e. sludge, by-product, or spent material), but rather remains in process. This interpretation parallels existing rules, which say that a spilled commercial chemical product is not a solid waste if it is recycled within a reasonable amount of time (see 40 CFR 261.33 and 55 FR at 22671).

Industry commenters stated that spent smelter brick was similar to reverts since they are often returned back into recovery processes. If such spent bricks are stored before being recycled, they are not being immediately reused (nor are they still in process, since they are spent and physically removed). As noted in the Agency's May 1997 proposal, copper flue dusts, also are stored sometimes and not immediately recycled. Flue dusts not meeting the immediate reuse definition are defined as mineral processing secondary materials (usually a sludge, since these dusts are usually air pollution control residue) and would be eligible for the conditional exclusion to the definition of solid waste.

d. Relation to the Current Regulatory Definition of Solid Waste. (i) Distinctions among Sludges, By-products, and Spent Materials. The existing regulatory definition of solid waste classifies metal recovery operations as a type of reclamation activity, and then states that certain secondary materials being reclaimed are, or are not, solid wastes depending on the type of material being reclaimed. Spent materials being reclaimed are solid wastes, while characteristic sludges and by-products being reclaimed are not solid wastes. See, generally, 40 CFR 261.2(c)(3) and 50 FR at 633–34, 639–41 (January 4, 1985).

As EPA noted at proposal, these distinctions among types of secondary materials being reclaimed are not needed because they are not directly based on environmental distinctions. 61 FR at 2342. In this industry, at least, the distinctions do not relate to which of these materials may be part of the waste disposal problem.[6] The more environmentally meaningful distinction, and the one adopted here, is between land-based storage and storage in tanks, containers, and buildings.

In this rule, the Agency is, therefore, eliminating the regulatory distinctions between by-products, sludges and spent materials from mineral processing when these materials are reclaimed. Thus, under the amended rule, if any secondary material—sludge, by-product, or spent material—is legitimately reclaimed within the mineral processing industry, it is not a solid waste as long as all other conditions to the exclusion to the definition of solid waste are satisfied. EPA believes that this principle not only should encourage properly conducted recycling within the industry, but also fulfills an Agency objective of reducing some of the complexity in the existing regulatory definition of solid waste.[7]

[6] Put another way, the fact that a mineral processing secondary material is a sludge, rather than a spent material or by-product, does not convey any meaningful information as to the types of risks the material might pose if reclaimed.

[7] EPA does note the potential anomaly that non-mineral processing secondary materials, at least for the moment, will be regulated in some cases stringently than those generated and reclaimed within the mineral processing industry. This could come about because non-mineral processing industry sludges and by-products would still not be solid wastes if reclaimed, and so could be stored in land-based units before reclamation without being solid wastes. EPA has chosen, however, to address the broader issues regarding the regulatory definition of solid waste in a different rulemaking effort, which is proceeding on a different schedule from this rule. EPA believes that if may legitimately proceed one step at a time on these issues, and so is not precluded from making needed changes to the regulatory definition that affect only discrete industry segments, in this case, the mineral processing industry.

[8] This example assumes that legitimate recycling is occurring.

[9] The exclusion for return of secondary materials as feedstock was in fact adopted largely in order to exclude certain direct reclamation practices in the mineral processing industry. 50 FR at 639–40.

(ii) Other existing regulatory exclusions. The existing regulatory definition of solid waste also contains a series of exclusions in 40 CFR 261.2(e), two of which could apply to the mineral processing industry. Section 261.2(e)(1)(ii) excludes from the definition of solid waste sludges, by-products and spent materials (i.e. secondary materials) which are "used or reused as effective substitutes for commercial products." An example could be mineral processing acid plant blowdown substituting for commercial acid in another process (either mineral processing or a process in a different industrial category).[8] Commenters from industry questioned whether this provision is affected by the amendments relating to mineral processing secondary materials being reclaimed. The answer is that the provision remains as an independent basis for excluding secondary materials from Subtitle C. EPA did not propose to change it, and the issues involved, in any case, would be broader than the present proceeding since the basis for the exclusion does not rest on the notion of a continued process within an industry, but on comparability of secondary and virgin materials (see 50 FR at 619–20 and 637–41 (Jan. 4, 1985)).

The second existing exclusion, found at 261.2(e)(1)(iii), does overlap with the present rule. The exclusion is for secondary materials "returned [as a substitute for feedstock materials] to the original process from which they are generated, without first being reclaimed or land disposed." An example could be an emission control dust from primary smelting which is returned directly to the smelter for metal recovery without any interim land disposal.

This provision is essentially consistent with, but also subsumed by, today's final rule (with respect to the mineral processing industry). It is subsumed because the activity involved, return as a feedstock to a smelter, is a type of reclamation activity (see 50 FR at 639–40), the subject of this final rule.[9] The existing rule also contains a "no

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land disposal" condition similar to the conditions in this final rule (although today's rule excludes storage in piles in some circumstances, and so is more flexible than the current 261.2(e)(1)(iii) in this respect).

In light of this overlap, EPA is adding language to 261.2(e)(1)(iii) to indicate that there are special provisions relating to reclamation within the mineral processing industry (namely those adopted in today's final rule), and that these provisions define the scope of the exclusion for mineral processing secondary materials generated and reclaimed within the industry, including those which are returned to a mineral processing operation from which they are generated without first being reclaimed.

Today's rule also does not alter the regulatory status of recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, iridium, osmium, rhodium, ruthenium, or any combination of them. 40 CFR 266.70. This rule was established to encourage recycling of precious metals. Commenters from the gold industry questioned whether this provision is affected by the amendments relating to mineral processing secondary materials being reclaimed. The answer is that today's rule redefines which secondary materials generated and reclaimed within the mineral processing industry are wastes, and so could exclude certain materials reclaimed within the precious metal industry which are now defined as solid wastes. However, to the extent any precious metal recovery operations remain subject to regulation after today's rule, the tailored regulatory provisions in 266.70 continue to apply.

e. Otherwise Excluded Mineral Processing Units Which Serve as Disposal Units. As the Agency noted in the original proposal, land-based units in the mineral processing industry not only can be related to a recovery process but also can serve as repositories of conventional wastes. 61 FR at 2340, 2342, 2347. That is, unusable solids settle in surface impoundments or are left in piles and in many cases these units become the ultimate repositories for these wastes. *Id.*

Under current rules, when an operating product storage unit that is a tank also contains a hazardous waste, the waste is not subject to regulation until it exits the unit. 40 CFR section 261.4 (c). An example would be a listed distillation column bottom remaining within the distillation column.

Section 261.4(c) does not apply to hazardous wastes which accumulate in land-based units. Thus, if wastes accumulate in piles or impoundments, if those wastes are hazardous (i.e. are listed or exhibit a characteristic of hazardous waste), and the wastes are not legitimately recycled, then the units are Subtitle C regulated units because they are being used to store or dispose of hazardous waste. The Agency is not altering this long-standing principle in the present rule (particularly given the central statutory finding that land-based units, and especially surface impoundments, "should be the least favored method for managing hazardous wastes'; RCRA section 1002(b)(7)). Consequently, any process impoundment that holds un-recycled hazardous accumulated solids, the impoundment is a regulated unit (i.e. subject to Subtitle C) because it is disposing of a hazardous waste. In addition, the same principle would apply to storage or process piles, which likewise are ineligible for the 261.4(c) exemption.

2. Scope of This Rule

This section of the preamble addresses the issue of which secondary materials come from "mineral processing" operations, and so are potentially within the scope of the conditional exclusion for mineral processing wastes being reclaimed within the mineral processing industry sector or in extraction/beneficiation operations. Newly identified wastes from mineral processing also are subject to the LDR prohibitions and treatment standards adopted today, and so this preamble section also clarifies the applicability of these LDR provisions.

a. Mineral Processing Wastes Covered by This Rule. The Agency's 1989 rule (see 54 FR 36592) applied the high volume/low toxicity criteria to determine which primary mineral processing wastes would retain the Bevill exclusion. This rule also clarified the Bevill status of beneficiation operations. Those mineral processing waste streams not meeting the high volume/low toxicity criteria are no longer Bevill exempt wastes and are subject to regulation under Subtitle C (except 20 mineral processing waste streams noted at 40 CFR 261.4). Non-exempt Bevill mineral processing wastes are "newly identified," and are now subject to the Land Disposal Restrictions, when land disposed. Therefore, only "newly identified" characteristic hazardous mineral processing wastes are potentially eligible for the conditional exclusion from the definition of solid waste.

EPA established in the 1989 rulemaking the factors it would use to determine whether a waste is generated from extraction/beneficiation versus mineral processing (see 54 FR 36592, 36616–20). The Agency has not and is not reopening this standard. However, EPA prepared and noticed a report—*Identification and Description of Mineral Processing Sectors and Waste Streams*—which tentatively applied this existing test on a waste-by-waste basis to wastes from 41 mineral sectors (62 FR at 2354).

There are two principal issues raised by this report: its legal status and its accuracy. First, the Agency has decided that the *Identification and Description of Mineral Processing Sectors and Waste Streams* report should be a guidance document. Thus, the Report is not a rule, and it, therefore, cannot be invoked as a definitive determination as to whether or not a particular waste is to be classified as being from mineral processing or from extraction/beneficiation. In addition, this report should not be viewed as an exclusive list of mineral processing and associated waste streams: other mineral processing waste streams may exist. Mineral processing facilities are obligated to determine the Bevill status of their wastes by utilizing applicable regulatory provisions, as clarified by the criteria articulated in 1989 in the **Federal Register** preamble cited above. Thus, because the document is guidance, no party could rely upon that document as the definitive basis for a regulatory determination.

The Agency has fully evaluated comments suggesting that the report contains factual inaccuracies, and believes that the Report, as now revised after review of public comments, is accurate and should therefore, provide useful guidance to the public. EPA disagrees with comments contenting that the Agency adopted new criteria in reaching the tentative conclusions set out in the Report. This is not the case—the same general approach used in 1989 was applied in the Report, and would have to be applied in making any actual regulatory determination.

One commenter argued that considering these determinations to be advisory would violate EPA's duty under section 3001(b)(3) of RCRA, as construed by the Court in *EDF V. EPA*, 852 F.2d 1316, 1331 (D.C. CIR 1988) to have made final determinations as to which mining wastes are subject to the Bevill exclusion. According to this commenter, reaching one conclusion at headquarters and a potentially different conclusion at EPA regions or States would undermine the intent of the Court's order in *EDF*. This commenter also asserted that such an approach would effectively allow States to

regulate less stringently than EPA, in violation of sections 3006 and 3009 of RCRA.

EPA believes that these comments are erroneous. EPA fulfilled some time ago its obligations under section 3001(b)(3) generally, and under the *EDF* decision in particular, to define the scope of the Bevill exclusion as it applied to mining wastes. See 51 Fed. Reg. 24496 (July 3, 1986); 54 Fed. Reg. 36592 (Sept. 1, 1989); 55 Fed. Reg. 2322 (Jan. 23, 1990); 56 Fed. Reg. 27300 (June 13, 1991). As discussed in those notices and rules, EPA's regulatory determination did not obviate the need to evaluate whether a particular waste was from mineral processing which, unless one of the 20 identified special mineral processing wastes, would not be exempt from Subtitle C under Bevill. Indeed, the Agency has extensively discussed the distinctions between beneficiation and mineral processing precisely to assist industry, EPA and the States in making such case-specific determinations. See 54 Fed. Reg. 36618–36619 (Sept. 1, 1989). Issuance of the Identification document in the record for this rulemaking is simply intended to aid the industry and regulators in making these decisions.

EPA acknowledges that the potential for inconsistent determinations exist; for this reason, EPA headquarters has assisted regional offices and States in making these determinations over the past decade. Section 3001(b)(3) does not, however, require the Agency to use rulemaking to make each and every decision. Those decisions that are very fact-specific may need to be made on a case-by-case basis using general criteria articulated nationally by EPA. It is precisely because of the fact-specific nature of such inquiries that EPA believes adopting the guidance document as "binding" would not be appropriate. Finally, nothing in EPA's approach is inconsistent with the RCRA requirement that authorized State programs be at least equivalent to and no less stringent than the federal program (see RCRA 3006 (b)).

b. Wastewater Treatment Surface Impoundments. EPA indicated at proposal that wastes managed in wastewater treatment surface impoundments would never be eligible for a conditional exclusion from the definition of solid waste. 62 FR at 2348. (A wastewater treatment surface impoundment is one whose ultimate discharge is regulated by the Clean Water Act, and can include zero discharge facilities.) This remains EPA's position, although the issue is no longer directly relevant to the final rule because no impoundments are eligible for exclusion. As the Agency noted at proposal, the essential purpose of these units is waste management rather than production. 62 FR at 2348. See also *AMC II*, where the D.C. Circuit held that wastewater treatment surface impoundments can be classified as waste management units, notwithstanding that all of the entrained solids in the unit were eventually recycled as feedstock at the generating plant. 907 F. 2d at 1186–87.[10]

c. Materials Outside the Scope. This rule limits the use of the conditional exclusion to the definition of solid waste to only those secondary mineral processing materials generated within primary mineral processing. The Agency identified over 40 mineral sectors which potentially generate mineral processing secondary materials subject to this rule. The scope of this rule is therefore quite broad. The Agency did not receive comments opposed to the Agency including them in this rule.

This rule also restricts the use of the conditional exclusion from the definition of solid waste to characteristically hazardous mineral processing materials. Thus, no listed hazardous wastes can qualify for the conditional exclusion.

The National Mining Association (NMA) and the Metals Industry Recycling Coalition submitted comments urging the Agency to broaden the scope of the rule to include metal-bearing wastes generated outside of primary mineral processing as well as allowing the reprocessing of listed hazardous wastes. The Agency is not extending the exclusion contained in this rule because the Agency did not propose addressing wastes generated outside of primary mineral processing, since at the time of proposal the Agency indicated that these wastes would be addressed under a different rulemaking. While metal-bearing wastes generated outside of primary mineral processing, and listed hazardous wastes are not within the scope of this rule, the Agency will continue to assess how best to encourage their legitimate recycling.

Commenters indicated they were unsure how this rule would affect the application of 40 CFR 261.2 to secondary materials generated from outside the mineral processing industry sector. As discussed earlier in the preamble, today's rule does not amend § 261.2 for any secondary materials other than those generated within the mineral processing sector. Thus, when fully implemented, a mineral processing facility can use the conditional exclusion to the definition of solid wastes and can utilize § 261.2 to recycle other wastes.

3. Mineral Processing Secondary Material Volumes and Environmental Damages

a. Volume of Secondary Materials and Large Volume Exemption. In the Agency's May 1997 proposal, land placement of secondary mineral processing materials would be prohibited except for materials exceeding the high volume criteria (45,000 tons per facility waste stream per year for solid wastes and one million tons per facility per waste stream per year for liquids). The May 1997 proposal would have allowed high volume secondary materials to be placed in land-based units if those units meet the integrity standards noted in the January proposal and meet other proposed conditions. In today's rule, the Agency is adopting a no land placement condition for mineral processing secondary materials without any volume exemption.

As noted in the May 1997 proposal (see 62 FR at 26049), the Agency reevaluated the volumes of mineral processing secondary materials as a result of comments submitted by public interest groups which asserted that volumes of these materials were considerably less than EPA originally believed (see *Characterization of Mineral Processing Wastes and Materials*, U.S. EPA, 1998). Based on this reevaluation, the Agency finds that mineral processing wastes are not generated in the high volumes that we previously believed to be the case. EPA found that of the 119 hazardous wastes streams it studied, 117 were generated in volumes lower than the proposed high volume cutoff. Further, comments from public interest groups on the Agency's May 1997 proposal indicate that two remaining waste streams that

[10] Waters in these impoundments are often recycled back into processes for their value as water. Recycling of wastewaters may be currently allowed under the effective substitute clause in the regulatory definition of solid waste (see 40 CFR 261.2(e)(1)(ii)), a provision unaffected by today's amendments. However, EPA reads *AMC II* and its regulations to state that impoundments where some wastewaters are returned to a process as an effective substitute for a commercial product, but which also function as wastewater treatment impoundments, would be regulated units (assuming there are hazardous wastes in the unit). This is because the unit would necessarily be functioning at least partially as a disposal unit (since wastewaters are ultimately discharged). In addition, the product storage regulatory exemption at 40 CFR 261.4(c) does not apply to surface impoundments. Notwithstanding industry comments that recycling of wastewater should be encouraged, the Agency notes the stronger policy in RCRA to assure that surface impoundments managing hazardous waste are managed so as to operate protectively. *AMC II*, 907 F.2d at 1187 and sources there cited.

the Agency had classified as high volume may not in fact meet the high volume cutoff. The Agency reassessed how it estimated the volumes of these waste streams and acknowledges that it used very conservative approaches to estimate these volumes. It is, therefore, possible that none of the 119 waste streams studied meet the high volume cutoff. The Agency proposed using the high volume cutoff as an indicator that land storage may be an economic necessity because when volumes are high, alternatives to land placement are costly and not practical. In fact, the Agency now finds that mineral processing secondary materials are generated at volumes where there is no reason that they cannot be managed in non-land based units (except for solids placed on approved pads).

Industry comments maintained that it is impractical to place mineral processing secondary materials in tanks, containers, and buildings. Based on the storage of similar volumes and types of hazardous wastes generated in other industries, the Agency does not agree. The Agency presented its analyses of volumes in its report entitled, *Characterization of Mineral Processing Wastes and Materials*, 1997. This report noted that listed hazardous wastes, such as spent potliners, and electric arc furnace dusts, are generated at volumes which generally exceed that of mineral processing secondary materials yet are stored in tanks and buildings. Further, this report noted that the volumes generated by other industries that use tanks, containers, and buildings to store hazardous wastes are not substantially different than volumes generated by the mineral processing industry.

b. Reliability of Damage and Environmental Release Reports. Industry commenters to the May 12, 1997 proposal sought to refute or minimize the degree of contamination caused by the land storage of mineral processing secondary materials. Despite these objections, the Agency still finds that land-based storage and management practices of mineral processing secondary materials and wastes can or may create or exacerbate soil and ground water contamination.

The Agency issued two separate reports in 1995 and 1997 (Office of Solid Waste, U.S. EPA, *Human Health and Environmental Damages from Mining and Mineral Processing Wastes* (1995), and Office of Solid Waste, U.S. EPA, *Damage Cases and Environmental Releases* (1997)) which presented information on damage cases and environmental releases of mineral processing and mining wastes. The data tended to fall into two general classes: (1) information that illustrates that environmental damages have occurred, and (2) information that discusses the types and magnitude of mineral processing materials that have been released into the environment. In some cases, a combination of feedstock, in-process materials, secondary materials, and wastes contribute to ground water, surface water, or soil contamination. Also, in some cases, contamination occurred through episodic or continuing mismanagement of hazardous and other solid wastes (e.g., commercial chemical spills). Industry commenters objected to the use of these damage cases contending that they reflect historic practices and not current operations.

The Agency disagrees that storage of mineral processing wastes, and in some cases secondary materials, on the ground, which was reflected in these reports, no longer occurs. After careful reevaluation, the Agency finds that the record and, in particular, these reports, clearly indicate that the storage on the ground of mineral processing wastes and secondary materials continues as a management practice and has caused environmental damage or has the potential to do so. These reports identify cases where mineral processing wastes and secondary materials were eroded by rain, were carried by wind, or, in the case of surface impoundments, migrated to contaminate ground water. The vast majority of newly identified mineral processing wastes are liquids and their placement in impoundments presents actual or potential threats to the environment. The Agency concludes that placement of secondary mineral processing materials in impoundments may contribute to the waste management problem.[11]

EPA is also not impressed by comments stating that most of the damage incidents involved wastes no longer utilized within a process, not secondary materials awaiting reclamation, and therefore are irrelevant to this rule. The damage incidents certainly show that when hazardous mining and mineral processing wastes and mineral processing secondary materials are stored in piles or in surface impoundments, hazardous constituent releases and consequent damage has occurred in this industry. Piles and impoundments do not automatically become safer if the materials stored in them are secondary materials awaiting recycling rather than wastes. Rather, the risk comes from the nature of the storage unit.

The Agency compared the toxic and hazardous properties of newly identified mineral processing wastes with a limited number of RCRA listed hazardous wastes in the 1997 technical background document, *Characterization of Mineral Processing Wastes and Materials*. This report was used to support the May 1997 proposal. In order to easily compare the listed waste leachate concentrations with the leachate concentrations of the newly identified mineral processing wastes, a combined mean and maximum range of chromium, cadmium, and lead concentrations for the seven listed wastes were calculated. The mean leachate concentrations for chromium, cadmium, and lead range from 6.03 mg/l to 273.23 mg/l, <0.01 mg/l to 117.5 mg/l, and 1.47 mg/l to 259.83 mg/l, respectively. Likewise, the maximum leachate concentrations for chromium, cadmium, and lead range from 12 mg/l to 4250 mg/l, <0.01 mg/l to 268 mg/l, and 2.10 mg/l to 1550 mg/l, respectively. The report then compared the ranges in constituent concentrations exhibited by the listed wastes and the newly identified mineral processing wastes. The report states that 15 of the 23 mineral processing wastes exhibit leachate concentrations of chromium, cadmium, and lead at levels that are equal to or greater than those levels exhibited by the seven listed wastes. Therefore, the Agency has concluded that some mineral processing secondary materials exhibit hazardous properties similar to listed hazardous wastes, and have the same or greater potential of leaching metals into the environment when they are improperly placed on the land.

In addition, mineral processing secondary materials often contain metal compounds and other constituents which, due to processing steps, become more mobile in the environment (see 54 FR 36614–36619, September 1, 1989). By the very nature of mineral processing, heavy metals are continuously concentrated and waste streams tend to contain higher metal loadings than those found in raw ore. Since the resultant wastes have higher concentrations of metals, they likewise have a higher potential to leach higher concentrations of metals into the environment if they are not adequately stored. Finally, the record also shows that a wide range of mineral processing secondary materials are released into the environment. Such releases do not necessarily mean that environmental

[11] Of course, those mineral processing facilities that have in fact improved their storage practices for mineral processing secondary materials being reclaimed by using tanks, containers, or buildings instead of impoundments to store secondary materials would be essentially unaffected by this rule, since such units would be excluded from regulations.

damage has occurred; however, the Agency believes it must take appropriate steps to minimize such releases to reduce the potential for damage to occur, just as the Agency does with other hazardous wastes. RCRA is a preventive statute, designed to assure safe management of hazardous waste from cradle to grave to prevent the need for remediating releases. Based on the information noted above, the Agency therefore has finalized in today's rule a "no land placement" condition for the storage of mineral processing secondary materials.

Comments from public interest groups pointed out that a considerable amount of information shows that releases result from fugitive dusts and that control of dusts was not adequately addressed in the proposals. The Agency agrees that the release of fugitive dust should be addressed and believes that placement in tanks, containers or buildings will adequately address this concern. Mineral processing secondary materials stored in tanks or containers must be stored in a manner which effectively manages fugitive emissions. Moreover, as at proposal, if the site-specific pile approval process is utilized, the possibility of harm via an air exposure must be considered, and, if necessary, controlled. See 62 FR at 2372 (proposed 261.4(a)(15)(iv)(A)(3)).

4. Conditions to the Exclusion

In the January 1996 and May 1997 proposals, the Agency sought comment on how to establish a conditional exclusion to the definition of solid waste which would encourage recycling of mineral processing secondary materials and be protective. In today's rule the Agency is establishing a conditional exclusion to the definition of solid waste. The conditions relate to legitimacy of recycling, land placement, speculative accumulation, and notification, and are discussed below.

a. Legitimacy. It goes virtually without saying that only mineral processing secondary materials which are reclaimed legitimately would be excluded under today's rule. This is because sham recycling is simply waste treatment or disposal conducted under the guise of recycling. *See U.S. v. Self,* 2 F. 3d 1071, 1079 (10th Cir. 1993).

The Agency currently uses a qualitative approach for determining whether a material is being legitimately recycled. Factors the Agency considers typically relevant in making such determinations are found at 50 FR 638 (Jan. 4, 1985); 53 FR 522(Jan. 8, 1988); 56 FR 7145, 7185 (Feb. 21. 1991). Use of these factors to assess whether a particular activity is to be viewed as recycling rather than treatment or disposal was emphatically sustained by the Court in *Marine Shale Processors v. EPA*, 81 F. 3d 1371, 1381–83 (5th Cir. 1996) and *United States v. Marine Shale Processors*, 81 F. 3d 1361, 1366(5th Cir. 1996).

The main issue in this rulemaking was whether the Agency should develop quantified criteria for use in assessing legitimacy of reclamation activities within the mineral processing industry. The Agency proposed quantitative criteria including the potential use of an ore grade cut-off, normal operating range, efficiency standard, and an economic test. 62 FR at 2342–44. In addition to metal values, the Agency also solicited comment on legitimate recycling of acid, water, and other values.

The mineral processing industry noted in their comments that their products must meet international quality standards and they would not risk affecting product quality by introducing materials which would adversely affect that quality, and therefore that legitimacy can be assumed in essentially all cases. They also opposed the proposed quantified criteria.

While the Agency agrees that market forces generally may limit the introduction of materials which could adversely affect product quality, mineral processing facilities by their nature process large volumes of materials, EPA is concerned that small volumes of wastes could be placed into processes without contributing mineral values in order to treat or dispose of them. Obviously, this is not recycling, as noted by the Court in *U.S. v. Marine Shale Processors*, 81 F. 3d at 1366. The Agency, therefore, does not agree that there is no need to apply some type of reasonable legitimacy criteria.

Industry commenters also noted that application of quantitative criteria would be burdensome, are not necessary, and could not be effectively implemented. The Agency agrees that implementation of the proposed quantitative tests would have required significant testing of materials (and resultant costs) and that due to uncertainty in evaluating test results, companies may decide not to recycle any materials to protect the Bevill status of their resultant wastes. Application of an ore grade cutoff criteria could restrict the gold industry's ability to recover gold values from secondary materials that contain gold at levels below those found in ore. Such recovery could nevertheless be cost effective. Industry commenters stated that the application of a normal operating range test would be difficult to implement since operating parameters at large mineral processing facilities change often related to differences in feed. There also was little support from industry for the proposed efficiency test because such facilities may be recovering a specific metal at one recovery rate while they are recovering other metals at a different rates. Industry commenters also rejected the proposed use of an economic test because recycling need not be profitable to be legitimate. They specifically pointed out the cases where recycling was economical only relative to disposal, and yet, the company was legitimately reusing the recycled materials.

For these reasons the Agency has declined to adopt any of the proposed quantitative tests. In today's rule, the Agency is not adopting quantitative criteria and will continue to use the qualitative approach for evaluating whether an activity is legitimate recycling. In addition, the Agency believes that legitimate recycling may occur for reasons other than to recover metal values— recovery of acids, cyanide, or water, for example. With no quantitative tests for such recycling, the Agency believes the qualitative criteria best cover the broad array of situations being addressed. Situations most likely to be deemed sham recycling would, thus, be those involving low amounts of recoverable material plus the presence of non-contributing hazardous constituents in the waste (particularly hazardous constituents not otherwise present in the normal feedstock of the process). See generally, 53 FR at 522(January 8, 1988).

b. Design and Construction Standards. In the January 1996 proposal, the Agency assumed that land-based storage of mineral processing secondary materials was a necessity within the mineral processing sector, and proposed three different types of conditional mechanisms whereby these land-based units could be deemed "process units" that would be excluded from Subtitle C jurisdiction. 62 FR at 2345–48. More specifically, these alternative conditions were an environmental performance standard, a design and operating standard, or an ad hoc, site-specific standard developed by an EPA Region or authorized State. The environmental performance standard would have used a ground water protection standard as a determinant of whether a land-based unit was involved in discard. If ground water monitoring determined that there was an exceedance of the MCL (background levels if background exceeded the MCL) at a designated point of compliance,

then the unit would be required to implement unit-specific corrective action. 62 FR at 2345–46.

The Agency also proposed, in lieu of compliance with the ground water standard, design and construction standards. EPA proposed that surface impoundments be constructed with a transmissivity equivalent to a 40 mil geomembrane liner placed on top of 12 inches of a material with a 10–5 hydraulic conductivity. Piles could be constructed on concrete, asphalt, or soil any of which would have to have the equivalent transmissivity of three feet of clay with 10–7 cm/sec hydraulic conductivity. *Id.* at 2346.

The final alternative allowed for an authorized State or EPA Region to make a site-specific determination that the unit can be operated in a manner that is protective. The Agency proposed this option to allow for flexibility because there are a range of site-specific characteristics, such as depth to groundwater and rainfall, which can affect the design of a unit and affect the risks posed by such units. *Id.* at 2347.

EPA finds now, however, that the premise of volumetric necessity was mistaken (see the earlier section of this preamble). As such, the Agency is adopting its traditional jurisdictional demarcation point of not allowing exclusions for land-based storage units. As discussed earlier, land-based storage units are so fraught with indicia of discard—including elements of outright disposal via both air and groundwater exposure pathways (borne out by damage cases as well), plus no longer being part of the actual production operation—that EPA views this demarcation as strongly justified once it is clear that there is no necessity to use such units. The sole exception in the final rule which allows for conditional exclusion for a land-based storage unit is for piles resting on pads which are approved by an authorized State or EPA Region, as discussed in the section below.

c. Units Eligible for Conditional Exclusion and Conditions Attached to Such Units. (i) Tanks, Containers and Buildings. Today's rule states that mineral processing secondary materials reclaimed within the industry can be excluded if they are stored in any of the following: tanks, containers, buildings, or piles resting on pads when such piles are evaluated and approved on a site-specific basis by an authorized State or EPA Region. (As noted in the May 12, 1997 proposal, this is conceptually the same as the rule EPA proposed for the oil-bearing secondary materials generated by and recycled within the petroleum industry. See 62 FR at 26048 (May 12, 1997) and 60 FR 57753 (November 20, 1995)). Tanks, containers, building, and approved pads do not have to meet the design and operating standards for units storing RCRA Subtitle C wastes.

EPA also is adopting certain minimal conditions on these units' design to assure basic unit integrity and so assure that tanks, containers, and buildings do not serve as conduits for massive material release (i.e. disposal units). An acceptable tank must be free standing and not be a surface impoundment, and be manufactured of a material suitable for containment of its contents. An acceptable container must be free standing and be manufactured of a material suitable for containment of its contents. An acceptable building must be a man-made structure and have floors constructed from non-earthen materials, have walls, and have a roof suitable for diverting rainwater away from the foundation. A building may also have doors or removable sections to enable trucks or machines access. The Agency's technical report *Non-RCRA Tanks, Containers, and Buildings*, U.S. EPA, 1998, provides examples of acceptable units for the storage of mineral processing secondary materials.

EPA disagrees with comments from public interest groups stating that nothing short of RCRA Subtitle C standards could assure protectiveness and so demonstrate that these non-land-based storage units were not part of the waste management problem. The plenary conditions urged by the public interest group commenters are indeed those necessary for protective management of hazardous wastes, but the Agency's task here is different. It is to delineate discard from non-discard (i.e. wastes from non-wastes), and, as noted at proposal, not only is this a different test than determining protective waste management conditions, but there are jurisdictional constraints on the types of conditions EPA can impose when considering the situation presented here, i.e., secondary materials generated and reclaimed within a single industry sector. 62 FR at 2342. Thus, the conditions EPA is adopting are designed to assure that these units are not essentially sieves functioning as means of disposal.

The Agency discussed its definition of non-RCRA tanks, containers and buildings in its Technical Background Document (See 62 FR at 26050, *Non-RCRA Tanks Containers, and Buildings*, 1997). *Industry* commenters requested clarification on whether their smelter or refiner buildings would meet the definition of "building" if tanks, containers or buildings were required. As set out in the final rule, a building is a structure with four walls, a roof, and floor constructed of non-earthen materials. Smelter and refinery buildings are quite large and include floor areas which, in part, use earthen materials. As long as mineral processing secondary materials (i.e. those sludges, by-products, and spent materials which would otherwise be identified as hazardous wastes) are stored in those sections of the smelter and refinery building that do have floors constructed of non-earthen materials, these structures would qualify for the exclusion included in today's rule as non-RCRA buildings.

Industry commenters also noted that the Agency made reference to tanks and containers having to meet applicable industry standards for their construction and operation, such as those established by the American Society of Testing Materials (ASTM) or the American Petroleum Institute (API)(See 62 FR at 26050). They pointed out that API standards deal specifically with tanks, while ASTM standards relate more specifically to testing procedures. The commenters argued that units storing mineral processing secondary materials do not need to comply with these standards to be safe. The Agency agrees that the references to applicable industry standards such as ASTM and API were overly broad and has not included them in today's rule. Industry commenters requested clarification on whether tanks and containers needed covers to meet the condition of "no land placement." The Agency expects that the storage of mineral processing secondary materials will prevent uncontrolled fugitive emissions. Tanks and containers do not need covers as long as the materials stored in them are managed to reduce fugitive emissions. The facility operator will therefore need to determine if covers are needed to effectively control fugitive emissions. For example, tanks and containers placed inside buildings may not need covers.

The gold and copper industries stated that their secondary materials would meet legitimacy conditions and that they do not need to store these materials prior to placement back onto gold heap leaches or copper dump leaches. The final rule indicates that process units, as opposed to storage units, are excluded from RCRA Subtitle C. EPA believes that the heap and dump leach units are process units, notwithstanding the fact that they are land-based. This is because dump and heap leach piles simultaneously produce products and waste. The issue is also academic with respect to these units. This is because

the Agency determined that these units are extraction/beneficiation activities in 1986 and reiterated that position in 1989 (see 51 FR 24496 and 54 FR 36592), and their Bevill regulatory status is unchanged by today's rule. Thus, if the heap leach pile becomes a disposal unit because wastes remain there permanently, those wastes presently have Bevill status. The Agency continues to be concerned that there may be environmental risks related to dump and heap leaching, but has determined that this rule is not the appropriate means to address those concerns.

Industry commenters also raised concern that under the "no land placement" option, described in the May 1997 proposal, they would no longer be able to place slags on the ground. This is an incorrect reading of the regulations and the proposals since at 40 CFR 261.4(b)(7), iron and steel, copper, lead, zinc, and elemental phosphorus slags are all classified as Bevill exempt mineral processing wastes and would not be affected by this rule. The management of these slags on the ground can continue as long as they meet other applicable federal and state regulations.

(ii) Solid Mineral Processing Secondary Materials Resting On Pads. As noted, EPA proposed at 61 FR 2346 to allow land-based units which had been approved as protective on a site-specific basis by an authorized State or EPA Region. The Agency is retaining a portion of that proposal in the final rule in order to allow solid mineral processing secondary materials resting on pads to be used for storage of mineral processing secondary materials being reclaimed within the industry. The Agency defines "solid mineral processing secondary materials" as those mineral processing secondary materials containing no free liquids. The provision functions effectively as a variance to allow conditionally excluded storage using pads to occur.

Industry comments pointed out that there are materials which can be placed on concrete or asphalt pads in a manner that provides the equivalent protection of a tank, container, or building. The Agency is aware that in the arid Southwest, the copper industry places materials on pads to dry them prior to their reentry into processes. The Agency agrees with industry comments that a degree of flexibility is needed regarding the storage of solid mineral processing secondary materials in this sector, particularly given the number of such storage units presently used in arid conditions, and (to a lesser degree of importance) given the number of existing piles used by this industry which conceivably could be upgraded to operate protectively and for which a more flexible approach could be warranted.[12]

In today's rule EPA is adopting a provision whereby persons storing only solid mineral processing secondary materials (those mineral processing secondary materials containing no free liquids) on pads prior to legitimate reclamation in a mineral processing process may seek a determination from an authorized State or (if the pile is located in an unauthorized State) EPA Region such that the unit is approved as protective and materials stored in the unit are conditionally excluded from the regulatory definition of solid waste provided that the pad is not serving as a mode of discard.

Minimum design criteria for pads are as follows; (1) Pads must be designed of non-earthen materials which are compatible with the chemical nature of the mineral processing secondary material being stored, (2) Pads must be capable of withstanding physical stresses associated with placement and removal, (3) Pads must have run on/runoff controls, (4) Pads must be operated in a manner which controls fugitive dust, and (5) Owner/operators must conduct inspections and maintenance programs to ensure the integrity of the pads.

The decision-maker would evaluate the application for storage on pads against a general environmental performance standard: whether the pad is located, designed, constructed and operated so as to be protective of human health and the environment and is not used for disposal. A broad benchmark of performance would be that the approved pad must afford the same degree of protectiveness as non-RCRA tanks, containers and buildings eligible for exclusion.

The decision-maker would have to consider potential releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are:

- —The volume and physical and chemical properties of the secondary material, including its potential for migration off the pad;
- —The potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.[13]

Thus, under this regime, a State could approve placement of solid mineral processing secondary materials (those materials containing no free liquids) on a pad where, after consideration of relevant exposure pathways, a determination is made that the mode of storage will not adversely affect human health and the environment, and where the operator has demonstrated compliance with the minimum design and operating criteria. Approval would be more problematic if a pad was located in an area which experiences flooding, or in an area where ground water was close to the surface and used for drinking water purposes.

The Agency is confident that site-specific determinations can be accomplished as part of existing State regulatory programs. The situations eligible for this variance are considerably more circumscribed than at proposal, and the decision criteria consequently more focused, meeting some of the objections in comments from public interest groups on the proposals. Today's rule only allows the placement of mineral processing secondary materials that are physical solids, and the rule also specifies certain minimum conditions such pads must meet to be approved. Further, the rule identifies the factors a State must consider prior to making such determinations. The Agency will review a State's regulatory authorities it intends to use in implementing this determination to assure that an authorized state can effectively implement this element of the rule.

As proposed, EPA is requiring that there be opportunity for public participation in the evaluation and approval process of pads storing solid mineral processing secondary materials. 62 FR at 2366. The Agency believes it is important that those citizens who may be directly affected by these determinations be notified of them and

[12] EPA has not provided for this type of site-specific approval of land-based storage units in other rules providing for conditioned exclusion from the regulatory definition of solid waste. In some cases, this is because management of solids was not at issue (proposed petroleum listing rule and rules on recovered oil), or the industry sector did not use piles for solids management (steel industry coke-byproducts listing rule). As noted in the text above, EPA believes that there are certain factors peculiar to the mineral processing industry that have persuaded EPA to allow for a site-specific authorization process, but this provision should not be considered to be a precedent for any other industry sector.

[13] As proposed, these general decision factors are drawn from the environmental performance standard in the row-revoked 40 CFR 267.10.62 FR at 2347. Commenters noted correctly that Part 267 is no longer codified, so that these requirements should not be placed in regulatory language (or preamble) by means of a cross-reference to the revoked provisions.

participate in the process, and notes further that this requirement is fully consistent with RCRA's strong preference for public participation. See RCRA section 7004(b).

On the other hand, EPA is not adopting any site-specific approval process for storage of mineral processing secondary materials in surface impoundments. The Agency has concluded that storage in impoundments would likely lead to their contributing to the waste management problem. Many damage incidents in this industry involve the use of impoundments (see damage case on phosphorus impoundments in Idaho). Furthermore, the Agency has determined that there are no engineering or economic constraints on requiring liquid mineral processing secondary materials to be placed in tanks.

d. Speculative Accumulation. In this rule, the Agency is establishing a condition that mineral processing secondary materials cannot be accumulated speculatively as defined in 40 CFR 261.1(c)(8). EPA proposed this condition, 61 FR at 2372, and indeed, this condition already applies to every other secondary material being recycled which is excluded from being a solid waste. See, e.g., 261.2 (e). Industry comments noted that the 12-month limit on speculative accumulation was overly restrictive and that many mineral processing secondary materials need to be stored until economic conditions warrant their recycling. The Agency rejects these comments because no data were presented that would indicate that the volumes of materials being generated could not be efficiently recycled within a 12-month period. In the 12 years the speculative accumulation provision has been in effect, the Agency is unaware of other industries suffering economic burdens by complying with the limits placed on speculative accumulation. Nor is EPA aware of any mineral processing facility which has applied, pursuant to the variance provision in 40 CFR 260.30(a) and 260.31(a) (which allow an extension of the 12-month speculative accumulation period), to extend the existing 12-month requirement for currently excluded mineral processing secondary materials (like unlisted sludges and by-products). The Agency infers that the existing 12-month requirement is not imposing any type of significant constraint on this industry.

e. One Time Notification. EPA proposed that mineral processing plants generating mineral processing secondary materials and utilizing the conditional exclusion to the definition of solid waste provide EPA (or an authorized State) with a one-time notification which describes the mineral processing materials to be recycled and the recycling processes being used. (See 61 FR at 2345). The Agency is finalizing this provision in today's rule. It applies to any facility utilizing the conditional exclusion.

Today's rule requires that the one time notification must specify the types and amounts of mineral processing secondary materials to be recycled and the location and type of unit storing mineral processing secondary material. The notice should be submitted to the appropriate EPA regional office or authorized State. An amended notification would not be required unless the facility has significant process changes affecting the generation, location, or recovery of mineral processing secondary materials.

The reason the provision is needed is to assure that the conditioned-exclusion approach in today's rule can be feasibly implemented. To do so, EPA or States must know what secondary materials are being stored, and where storage is occurring, in order to determine whether the other conditions in the rule are being satisfied. As described above, these other conditions are necessary to assure that secondary material storage within the industry does not become part of the waste management problem. In this very real sense, the notification condition is likewise necessary to assure that the storage is not part of the waste management problem, since notification is necessary to successfully implement the other conditions.

Industry comments opposed this condition, not so much on grounds of unreasonable burden, but based on the argument that the Agency lacks legal authority over non-waste activities. Since EPA finds that the notification condition is an integral part of a group of conditions necessary to assure that storage of these hazardous secondary materials does not become part of the waste management problem, EPA has legal authority to adopt it. In addition, the Agency notes that RCRA section 3007(a) provides authority to enter facilities and obtain information needed to assist in the enforcing of provisions of Subtitle C. This provision can reasonably be read to apply to gathering information to determine whether or not a particular hazardous secondary material is a waste. The notification condition obtains this same type of information by regulatory condition. The Agency thus believes that section 3007(a) (implemented here by rule, pursuant to the Agency's general rulemaking authority under RCRA section 2002(a)) likewise provides authority to adopt this condition.

In the January 1996 proposal, the Agency solicited comment on whether a Facility Operating Plan should be required for facilities that generate, store, or process hazardous mineral processing secondary materials. (See 61 FR at 2345) Under this approach, a Facility Operating Plan would include: a spill prevention plan and procedures; types, quantities, and analysis of recycled materials; product specifications; speculative accumulation and storage requirements; closure plan; and record keeping and reporting for off-site shipments. In today's rule, the Agency is not requiring the preparation of such a plan. This requirement is not necessary given the burden of proof under existing 40 CFR section 261.2(f) that a facility must meet to comply with the conditions of legitimacy, containment, and speculative accumulation. The Agency does, however, strongly encourage facilities to develop a plan or at least components of a plan as part of responsible environmental management.

5. Bevill Related Issues

a. Uniquely Associated. Under the Agency's longstanding interpretation of the Act, the Bevill amendment applies to special wastes that are uniquely associated with extraction/beneficiation and certain mineral processing activities. Because the decision whether a particular waste is uniquely associated may determine whether a particular waste is subject to Subtitle C controls, the Agency believed that it was important and useful to receive public input regarding the manner in which EPA and authorized States apply this principle and solicited comment regarding the criterion for determining whether a waste is uniquely associated with mineral operations. The Agency has described non-uniquely associated wastes at 45 FR 76619, November 19, 1980 and 54 FR 36623, September 1, 1989. In the May 1997 proposal, the Agency noted examples of non-uniquely associated wastes, which include spent solvents, pesticide wastes, and discarded commercial chemicals. As stated in the May 1997 proposal, in the Agency's view, these wastes are logically viewed as not being "from" extraction, beneficiation, or mineral processing, and, therefore, are not subject to the Bevill exclusion. (See 62 FR 26054–56, May 12, 1997).

In May 1997, the Agency proposed several alternative approaches to determining whether a waste was uniquely associated. One option to determine if a waste is uniquely

associated was the simple application of the high volume threshold used in the Agency's 1989 rulemaking. Under this option, the volume criterion would obviate the need to consider the uniquely associated principle further.

The Agency based this option on the fact that Congress and the courts have established that only large volume special wastes should be eligible for the Bevill exclusion (62 FR 26041, May 12, 1991; *Environmental Defense Fund* v. *EPA*, 852 F.2d 1316 (D.C. Cir 1988), *cert. denied* 489 U.S. 1011, *Solite Corporation* v. *EPA*, 952 F.2d 473, 494–495 (D.C. Cir 1991)). The Agency reasoned that a large volume criterion is simple to apply and is consistent with the broad parameters of Congressional intent. Further, this approach would help prevent additional toxic constituents from being disposed with Bevill wastes, potentially encouraging recycling, and may result in reduction of cleanup costs.

Industry commenters voiced strong opposition to the use of a volume criterion to determine whether a waste was uniquely associated. Commenters stated that the Bevill exclusion was intended to exempt all mining wastes, regardless of their volume or toxicity. As the regulatory history of EPA's implementation of the Bevill exemption makes clear, however, this is not the case. (see 54 FR 36592, September 1, 1989).

Nonetheless, while the Agency has used volume to make certain Bevill determinations, it has not in the past used the high volume criterion to make uniquely associated determinations. The Agency assessed the impact of applying a high volume criteria in making uniquely associated determinations and found that such an application would make virtually all such wastes non-uniquely associated and subject to Subtitle C controls, regardless of the extent to which the waste was, in fact, associated with mining and mineral processing. EPA does not believe that it would be appropriate to ignore altogether the extent to which a particular waste is associated with mining and mineral processing activities that are subject to the Bevill exclusion, since that exclusion on its face applies to wastes *from* those processes. In addition, the Agency believes that a certain degree of flexibility is needed for making uniquely associated determinations due to the complex and varied mineral operations and site-specific factors that must be considered in making these decisions. In today's rule, the Agency is, therefore, not adopting the use of a volume criterion to determine whether a waste is uniquely associated.

The Agency also proposed an option where a waste would be uniquely associated if it came into direct contact with an ore or mineral or wastes from the extraction, beneficiation, or processing of ores and minerals. Several commenters expressed the view that, while contact can be one useful indicator of whether a waste is uniquely associated with mining, such contact should not be required in all cases. These commenters believed that the test should be whether the conduct of mining and mineral processing necessitates the generation of a particular waste; if so, then the waste should be considered uniquely associated. Other commenters believed that the "contact" principle was potentially overly broad, since it would have the potential to sweep into Bevill wastes that typically would not be considered uniquely associated. As proposed, however, the contact option would consider only contact that occurred as part of a processing operation.

After consideration of public comments, the Agency has concluded that a strict application of the "contact" principle, while appealing because of its simplicity, would not provide the best means of determining whether a waste is uniquely associated with mining or mineral processing. The Agency is concerned that, while contact may be one indicator of when a waste is associated with the mineral recovery process where, for example, the contact with the process imparts chemical characteristics to the waste, EPA agrees with commenters that simple application of the contact principle has the potential to be over-inclusive of wastes that are properly viewed as "uniquely associated." The Agency has not, therefore, adopted that criterion as being determinative of whether a waste is uniquely associated.

The other option in the May 1997 proposal would modify the contact principle to exclude, as non-uniquely associated, wastes that only exhibit the same hazardous characteristic both before and after contact with the Bevill waste, feedstock, or product. This "modified contact" approach may reduce the potential for Bevill wastes to be dumping grounds for non-Bevill hazardous wastes. Under this approach, wastes that are inherently hazardous prior to contact with a Bevill waste, and which retain the same hazardous characteristic after contact, would be subject to Subtitle C regulation when discarded.

Commenters pointed out that the Agency had never before proposed to use the hazardous characteristic to determine whether a waste was uniquely associated, nor had the Agency used this criterion in making uniquely associated determinations since 1980. They also pointed out that the Agency had already studied the hazardous characteristics of uniquely associated wastes but nevertheless stated that these wastes should not be subject to RCRA Subtitle C (51 FR 24496).

Some commenters also contended that the real issue is whether the waste is indigenous to the mining and mineral recovery process—i.e., whether it is necessary to generate the waste in order to conduct the process—and that the hazardousness of a material prior to its use in the process is, therefore, irrelevant.

EPA agrees, in part, with these commenters that the characteristics of a material (i.e., whether it is hazardous) prior to use in mineral recovery processes should not be solely determinative of whether the wastes are "uniquely associated." As a general matter, the closer the nexus between a particular waste and the mineral recovery process, the more likely it is "uniquely associated" within the meaning of Bevill. The Agency recognizes, however, that one fact that might help evaluate the relationship between a particular waste and the mineral recovery process is the extent to which the properties of a particular waste can be attributed to the process itself. Thus, while the Agency does not believe that hazardousness of a material prior to use in the mineral recovery process should be determinative of its Bevill status after use, the extent to which the material has acquired attributes through its involvement in that process is relevant.

Based on consideration of all the public comments, the Agency believes that it is appropriate to evaluate whether a particular waste is uniquely associated with mining and mineral processing as follows. First, any waste from ancillary operations are not "uniquely associated" because they are not properly viewed as being "from" mining or mineral processing. In evaluating wastes from non-ancillary operations, one must consider the extent to which the waste originates or derives from processes that serve to remove mineral values from the ground, concentrate or otherwise enhance their characteristics or remove impurities, and the extent to which the mineral recovery process imparts its chemical characteristics to the waste. Under this test, the greater the extent to which the

waste results from the mineral recovery process itself, and the more the process imparts to the waste its chemical characteristics, the more likely the waste is "uniquely associated."

The Agency believes that this approach provides a reasonable basis to determine whether a waste is "uniquely associated." The Agency believes that these factors touch on the full range of facts that are likely to be relevant in any particular case. As is evident from the criteria summarized above, judgment must be exercised where the question is whether a waste from a non-ancillary operation is uniquely associated. EPA believes that this is appropriate because of the fact-specific nature of this determination and the myriad circumstances that can arise. However, as noted above, the Agency believes that wastes generated from ancillary operations (such as truck maintenance shops at a mine and not from the mining or mineral recovery process itself), are not uniquely associated. Such circumstances would likely present the most readily identifiable cases of non-uniquely associated wastes.

The approach noted above reflects the longstanding principle, based on the clear language in Section 3001 of RCRA, that uniquely associated wastes must result from mining and mineral processes themselves. This approach also is generally consistent with industry's underlying contention that the uniquely associated concept should exempt wastes that are "indigenous" to mining. EPA disagrees, however, with industry's contention that uniquely associated wastes are any wastes that are unavoidably generated by mining operations. For example, arguably, it is unavoidably necessary to conduct maintenance on machinery that supports mining at a site (e.g., used to transport ores and minerals among processes); however, such maintenance is not necessarily part of the mining or mineral recovery process itself. EPA believes that the proper focus should be the extent to which a waste is generated as part of the mining and mineral recovery process, not the extent to which a facility must conduct an activity as part of its operation.

The elements of the "contact" options discussed in the preamble to the proposal, as well as regulatory language contained in the May 1997 proposed rule (see proposed 40 CFR 261.4(b)(7) (stating that exempt extraction and beneficiation wastes must "originate from the extracted ore or mineral")) may affect uniquely associated determinations. While, as discussed above, the Agency believes that sole reliance on a contact principle would be unjustifiably rigid, consideration of the extent to which the mineral recovery imparts to the waste its chemical characteristics provides a useful means of evaluating whether a waste is uniquely associated. The greater the extent to which the waste acquires its chemical characteristics from the process from the processing of an ore or mineral, the more likely that waste would be uniquely associated with the Bevill process. Conversely, the less a particular waste originated from or acquired its characteristics from such processes, the less likely it is uniquely associated.

Some commenters asserted that the Agency's proposal represented a sharp departure from past Agency practice under the uniquely associated principle and would constitute, in effect, a revision of prior Bevill regulatory determinations. Neither contention is correct. While the Agency has articulated here its approach to the uniquely associated principle in more detail than previously, the Agency believes that the approach is fundamentally the same as how the Agency has applied the uniquely associated principle in the past. Second, the Agency is not, through the uniquely associated principle, seeking to revise past regulatory determinations that exempted extraction and beneficiation wastes and certain mineral processing wastes from Subtitle C regulation. The list of exempt extraction/beneficiation processes and mineral processing wastes in section 261.4(b)(7) is not altered by this approach. Even under these existing regulatory provisions, it was necessary to determine in certain cases whether a particular waste stream was, in fact, "from" (i.e., "uniquely associated" with) one of the enumerated Bevill processes. EPA's past regulatory determinations did not, therefore, obviate the need for determining the applicability of Bevill to particular waste streams. In this rule, EPA is simply ensuring that the uniquely associated criteria have the benefit of full public notice and comment; we have not, however, altered the scope of prior regulatory determinations through this process.

Industry commenters nonetheless had concerns about certain applications of the uniquely associated principle articulated in the mineral processing identification document contained in the docket at proposal. In particular, commenters expressed concerns that the document concluded that spent kerosene in copper solvent extraction, crud from electrowinning, crucibles and cupels, and acid cleaning solutions from gold heap leaches are not uniquely associated. All of the wastes just noted are generated as a result of beneficiation. It should be noted that all wastes generated after the commencement of mineral processing are mineral processing wastes. As a result of the Agency's 1989 rule (54 FR 2322), all mineral processing wastes, except those noted in 40 CFR 261.4(b)(7), are subject to RCRA Subtitle C, if they exhibit a hazardous characteristic. Therefore, the effect of the uniquely associated principle is of less import than at beneficiation facilities.

The Agency received numerous comments challenging the Agency's position that these wastes were not uniquely associated. Comments from the copper industry noted that slimes/muds, crud, and spent kerosene generated from copper solvent extraction and electrowinning were uniquely associated because these wastes had been determined by the Agency in 1989 (see 54 FR 36592) to be wastes from extraction and beneficiation. Based on these comments, the Agency has reassessed its prior conclusions regarding these wastes and agrees with the copper industry that slimes/muds, crud, and spent kerosene generated from copper solvent extraction and electrowinning are uniquely associated. 40 CFR 261.4 states that wastes from solvent extraction and electrowinning are extraction/beneficiation wastes and are not subject to regulation under Subtitle C. Applying the approach described above, it is clear that solvent extraction and electrowinning are clearly not ancillary activities since their sole purpose is to concentrate copper values out of pregnant leach solution. The "uniquely associated" nature of these wastes is also supported by the degree to which the wastes originate and derive from the mineral recovery process. Thus, the Agency's view is that these wastes are "uniquely associated" with beneficiation.

Comments received from the gold industry noted that acid wash solutions are generated solely from processes used to concentrate gold values from cyanide leach solutions. Again, the Agency has reassessed its earlier interpretation and now believes that acid wash solutions from gold heap leaching are uniquely associated. The Agency came to this conclusion in light of the non-ancillary nature of the process generating these wastes (carbon columns must be kept "clean" for the gold to be effectively recovered), the extent to which the wastes originate and derive from this mineral recovery process, as well as the fact that the process imparts some

chemical characteristics to the waste (i.e., the ore material that is cleaned from the carbon).

Based on the approach articulated above, the Agency now believes that other wastes are best viewed as non-uniquely associated. For example, the Agency believes that lead anodes used in the electrowinning process are not non-uniquely associated wastes. While lead anodes are used in the mineral recovery process and thus could be viewed as uniquely associated based on this consideration in isolation, a countervailing consideration is that the mineral recovery process imparts virtually no characteristics to these materials. Lead anodes are virtually identical both before and after being used in the process. On balance, the Agency concludes that lead anodes are not uniquely associated with mining and mineral processing.

The Agency also reassessed the status of cupels and crucibles and finds that they remain non-uniquely associated wastes. These wastes are the result of laboratory testing. Cupels and crucibles are also used in other industries (e.g., jewelry companies test the precious metal content of metals using cupels). These wastes are from an ancillary operation, laboratory analyses, and are not generated due to the direct recovery of gold and, therefore, fail to meet the Agency's uniquely associated criteria. It should also be noted that the Agency has consistently found that laboratory wastes are generally non-uniquely associated.

As stated previously, the applications of the "uniquely associated" principle articulated here reflect the Agency's interpretation of the criteria as applied to those particular wastes based on the best current information available to EPA. Like the positions articulated in the Identification Document, these calls represent the Agency's current best evaluation of whether these wastes are "uniquely associated," based on available information. However, the discussion above and in the Identification Document simply provides guidance on these issues, and therefore, the determinations are not legally binding on decisionmakers, the public, or the courts.

Finally, one commenter argued that the uniquely associated principle as discussed by EPA is an impermissible reading of the Act to the extent it would authorize EPA to consider factors other than high volume/low toxicity in making Bevill determinations. The Agency disagrees with this position. The Court in *EDF II* directed the Agency to apply a high volume/low toxicity criteria to determine if a mineral processing waste would retain the Bevill exclusion. The uniquely associated inquiry is somewhat different. The question here is the threshold issue whether a particular waste is "from" extraction, beneficiation or mineral processing in the first place. The Agency does not believe that the decision in *EDF II* spoke to that inquiry. Rather, *EDF II* was concerned solely with the circumstances under which a waste that is "from" these processes qualifies for the Bevill exclusion. Stated another way, a waste is only subject to the Bevill exclusion if it is, in fact, "uniquely associated" with extraction/beneficiation or one of the 20 exempt mineral processing wastes. Thus, the uniquely associated principle does not expand the scope of the Bevill exemption, and the Agency's approach is, therefore, entirely consistent with the decision in *EDF II*.

b. Addition of Mineral Processing Secondary Materials to Units Processing Bevill Raw Materials. The question addressed in this section is: if a Bevill extraction/beneficiation process uses as feedstock a mineral processing secondary material which otherwise would be a hazardous waste, would the resulting wastes still be considered to be from extraction/beneficiation and hence Bevill exempt?

There are two bases for potential environmental concern prompting this question. The narrower issue is that if otherwise-hazardous wastes are used as partial feedstocks, could they change the resulting wastes' character in a manner such that the existing exclusion should no longer apply, or, put another way, is the Bevill exemption being used to shield disposal of non-exempt hazardous wastes? The broader issue is whether the Bevill amendment, which creates an exemption from rules designed to protect the public and the environment from unsafe hazardous waste disposal practices, should be interpreted any more broadly than necessary given that the effect is to exempt more waste from protective controls.

EPA proposed two different answers to these questions. In the January 1996 proposal, the Agency proposed to apply the same "significantly affected" test used in the partially analogous context of a Bevill device which co-processes hazardous waste along with normal raw material feedstock. 61 FR at 2351 and 40 CFR section 266.112. So long as resulting wastes from the extraction/beneficiation process were not "significantly affected" by the addition of hazardous secondary materials, resulting wastes would remain exempt. Id. Significantly affected meant either that the resulting wastes reflecting co-processing were statistically different over the non-waste baseline, or that there was an environmentally significant increase in hazardous constituents over the non-waste baseline. Id.

The May 1997 proposal would have gone further and interpreted the Bevill amendment narrowly (a common rule of construction when construing exceptions to plenary protective regulatory schemes to apply only to situations when extraction/beneficiation raw material feedstocks are utilized) to apply only to situations when extraction/beneficiation raw material feedstocks are utilized (see 62 FR at 26052).

After reviewing the public comments, the Agency has decided not to adopt either of these alternatives. As explained below, EPA ultimately has decided that the likely result of either proposal would be unwarranted disruption to legitimate (and desirable) recovery practices within the industry. Nonetheless, as discussed in the final subsection of this part of the preamble, the Agency retains concerns that the Bevill amendment not be used as a means of shielding disposal of non-Bevill hazardous wastes, and therefore cautions that the Agency intends to scrutinize especially carefully claims of legitimate recycling when hazardous secondary materials are co-processed in extraction/beneficiation operations.

(i) Should the Bevill amendment apply only when virgin materials are processed in extraction/beneficiation operations? In the Agency's May 1997 proposal, EPA sought comment on whether a narrow reading of the Bevill exclusion should be implemented which would limit the availability of the Bevill exemption to wastes generated exclusively from the use of Bevill raw materials, namely ores and minerals. Under this approach only virgin ores used as a feedstock to a beneficiation operation and only concentrates derived from beneficiation and then used as a feedstock to mineral processing would be eligible for the Bevill exclusion. If any alternative materials were used as feedstocks, the resulting waste would not be eligible for the Bevill exclusion. 62 FR at 26052.

In today's rule, the Agency is declining to pursue this option. Industry comments were uniformly opposed. Industry noted that since 1989, the Agency has established a clear use of the 50 percent rule and was well aware that the co-processing of a range of materials was occurring at both extraction/beneficiation and mineral processing facilities when it finalized its

1989 rulemaking (see 54 FR 33620, September 1, 1989). Industry further pointed out that in the 1989 rulemaking the Agency found that 20 mineral processing wastes (see 40 CFR 261.4(b)(7)) would retain their Bevill exempt status even though co-processing was occurring. Industry also noted that the Agency had not presented any data to confirm that the co-processing of virgin and non-virgin materials would actually increase risks to the environment. Public interest groups on the other hand indicated that the proposed option more closely follows the intent of Congress to limit the Bevill exemption to high volume, low toxicity wastes.

The Agency has reviewed the data on co-processing of non-virgin and virgin material and finds that it did evaluate co-processing issues in its 1990 Report to Congress on Wastes from Mineral Processing (EPA Office of Solid Waste, July 31, 1990). This review, as it relates to the 20 mineral processing waste streams that are still exempt, found that co-processing had not significantly changed the hazardous properties of the resultant wastes.

The Agency noted in its proposal that it was unaware of the extent of co-processing at extraction/beneficiation facilities, particularly after 1985. Industry comments noted that background reports to the Agency's 1985 "Report to Congress on Extraction and Beneficiation Wastes" (EPA Office of Solid Waste, December 31, 1985) discussed this co-processing issue. Agency review of these documents indicates that while some references to feedstocks are discussed, the Agency was not aware of the extent of this practice until it began to restudy mining and mineral waste management practices in 1989 and initiated a series of visits to mines and mineral processing facilities in 1991–92.

Industry also submitted comments indicating that implementing this option would have significant adverse impacts on the mining and mineral processing industries. The Agency assessed industry comments and conducted its own economic analysis. The Agency found that implementation of this option may reduce current recycling in the copper and lead sectors, and could cause potentially serious economic disruption to industry. (See EPA's Regulatory Risk Impact Analyses.) Both the gold and copper sectors pointed out that they routinely reintroduce mineral-bearing streams from their processing activities into their beneficiation plants to further recover metal values. Such practices would diminish if this option were implemented, since affected extraction/beneficiation operations would not recycle secondary materials if the result is to lose Bevill status of the resulting wastes. It makes little sense for the Agency to implement a program which may reduce recycling where its knowledge of the environmental benefit of the approach is limited.

(ii) Significantly Affected. Under the Agency's January 1996 proposal, mineral processing secondary materials could be introduced into beneficiation units generating Bevill-exempt wastes (without affecting the wastes' Bevill status) if they were legitimately recycled, secondary materials comprised less than 50% of the total feed to the unit, and the resulting wastes were not "significantly affected" by the recycling practice.

EPA has decided to adopt the proposed approach except the Agency has decided not to adopt the proposed "significantly affected" test in today's final rule. It should be pointed out that small volumes of mineral processing secondary materials likely to be recycled at beneficiation facilities would be processed along with enormous quantities of raw ore. Therefore, the probability that the introduction of such materials would affect the characteristic of the resultant wastes is very low.

Given the likelihood of minimal environmental effect, the Agency must therefore judge whether the benefits of encouraging recycling these materials outweigh the potential additive risks that, however unlikely, could potentially occur in unusual cases. The Agency has decided that, from both an implementation and an overall environmental perspective, not requiring a "significantly affected" evaluation makes sense. While it is possible that adoption of a "significantly affected" test might catch the unusual circumstance where addition of secondary materials substantially changes the characteristics of the resultant wastes, imposing such a requirement could potentially have a chilling effect on the amount of secondary material that the industry recycles. This is because industry would not risk imperilling Bevill status, since a consequence could be RCRA permitting and facility-wide corrective action potentially affecting areas of historic contamination. From an environmental perspective, EPA believes that the benefits of recycling such materials are substantial, and far outweigh the largely marginal benefits that could be associated with requiring a "significantly affected" analysis on a waste stream by waste stream basis.

EPA originally viewed the situation presented here as analogous to when hazardous wastes are co-processed in Bevill units, and so proposed the identical test for resulting residues. 61 FR at 2351. On reflection, there are important distinctions between the two fact patterns. EPA applies the "significantly affected" tests when what are admittedly hazardous wastes are co-processed. The usual case is when a hazardous waste fuel is burned in a Bevill unit (like a cement kiln) which also processes normal raw materials. The hazardous wastes can contribute more and different hazardous constituents not normally found in the raw materials. In the extraction/beneficiation example, however, the mineral processing secondary materials are being used as feedstock precisely because those materials share attributes found in raw materials (i.e., recoverable amounts of metals). Because the rule limits co-processing to mineral processing secondary materials, such materials would typically be similar in nature to the raw materials being processed, making it far less likely that co-processing would significantly alter the attributes of resulting wastes. In addition, unlike the burning in furnaces example noted above, the mineral processing secondary materials being recycled are not hazardous wastes. Although they are secondary materials, the Agency has decided to exclude them from the regulatory definition of solid waste (assuming legitimate recycling) because the activity resembles normal reclamation practices within the industry. Put another way, since the mineral processing secondary materials are from the same industry sector and are being reclaimed within the same industry, they can be viewed as secondary materials which are not wastes. It is, thus, less appropriate to apply a significantly affected test to these non-waste feedstocks.

EPA also was unable to apply the "significantly affected" test in a manner that would focus on those secondary materials that actually could cause significantly increased environmental risks. The proposed test was the Burning in Furnaces (BIF) 2-part test, which would function in a different manner in this rule. Under the BIF rule, the concern was with the use of hazardous wastes from outside industries, and residuals rarely fail the second part of the test, exceeding the hazardous characteristic. Here, we are dealing with materials from within the industry, metal values are reclaimed, and wastes typically exhibit a hazardous characteristic. Since mineral processing

secondary materials often contain other metals in them, the resultant wastes from co-processing may show statistical increases or decreases in the metals content of the resultant wastes. The increases or decreases in metal constituents, however, does not necessarily mean that risk has increased. An increase in one constituent may be offset by a decrease in another constituent or by additional volumes of raw material feedstocks that would be needed to replace the mineral processing secondary materials. The application of the proposed test therefore could not be effectively used to determine if risks would increase if secondary materials are co-processed at beneficiation facilities.

(iii) Conclusion. For these reasons, the Agency has decided to retain as a condition for retaining Bevill status the standard requirement that an extraction/beneficiation unit processes at least 50 percent raw material. 54 FR at 33620 (Sept. 1, 1989); 50 FR at 49190 (Nov. 25, 1985); and 56 FR at 7198 (Feb. 21, 1991) (previous instances where EPA has used this test); 61 FR at 2351 (proposal of that test here). If the 50 percent criterion is met, the resulting waste would still be from extraction/beneficiation and hence exempt. Raw materials can be mineral processing secondary materials and be placed into units generating Bevill-exempt wastes provided that the facility legitimately recycles these materials.

The proviso is important. EPA repeats that the Bevill amendment is not to serve as a means of disposing of non-Bevill hazardous wastes. As explained later in the preamble, if a hazardous waste is mixed with a Bevill waste, the mixing is regulated under RCRA Subtitle C, and the mixed wastes may be Subtitle C hazardous wastes. While the mixture rule does not apply when materials are placed in a beneficiation unit for legitimate recycling, it would apply if a hazardous secondary material is not being recycled legitimately. See *U.S.* v. *Self*, 2 F.3d at 1071, 1079 (10th Cir. 1993)(sham recycling is simply hazardous waste disposal or treatment).

It should also be pointed out that today's rule prohibits the storage on the ground of any characteristically hazardous mineral processing secondary material. Should a beneficiation facility wish to legitimately reclaim such materials, it should be aware that placement of these materials in raw material piles may change the RCRA status of the pile.

c. Bevill Mixture Rule and Disposal. Disposal of waste mixtures is the focus of this section. The Agency promulgated the Bevill mixture rule in 1989 (see 54 FR 36592). That rule was remanded to the Agency in *Solite Corp* v. *EPA*, 952 F.2d 473, 493–94 (D.C. Cir. 1991). EPA reinstated the mixture rule in 1992; however, this reinstatement was found to be procedurally defective in *Mobil Oil* v. *EPA*, 35 F. 3d 579 (D.C. Cir. 1994).

In the January 1996 proposal, the Agency proposed that if any mineral processing hazardous waste, or indeed any hazardous waste, is mixed with and disposed with a Bevill waste, the resulting waste is, under certain circumstances, regulated under RCRA Subtitle C. The Agency further stated that the mixture of Bevill wastes and hazardous wastes would normally be regulated as a form of treatment subject to regulation under Subtitle C. The Agency stated its concern about the potential human health and environmental risks due to increased hazardous constituents resulting from the disposal of mixtures of hazardous waste with Bevill-exempt wastes. The Agency based the proposal on the policy that Bevill wastes not be allowed to serve as an unregulated dumping ground for hazardous wastes. Cf. *Horsehead Resource Development Co.* v. *Browner*, 16 F. 3d at 1258.

The rule being adopted today is a reinstatement of the mixture rule promulgated in 1989. The Agency continues to believe that the approach adopted in 1989 is sound, and properly balances the objectives of the Bevill amendment with those of RCRA as a whole. While commenters criticized EPA on the grounds that the prior mixture rule has twice been struck down by the courts, those decisions did not address the merits of the Bevill mixture rule.

One clarification of statements in the 1996 proposal is in order. The Agency stated that the proposed rule differed from the 1989 Bevill mixture rule in that the earlier rule had exempted mixtures of Bevill wastes and characteristic hazardous wastes from requirements pertaining to treatment. *See* 61 Fed. Reg. 2352. This statement was, however, in error. The Agency stated in the 1989 rulemaking that such mixing would, in fact, constitute treatment of a hazardous waste, and would be subject to the appropriate regulation for treatment storage and disposal of hazardous wastes, including obtaining a permit. 54 Fed. Reg. 36622. Thus, the Agency is not taking a more stringent approach to regulating mixtures than was taken in 1989. As in 1989, moreover, the Agency is not amending in any way the definition of treatment, storage, or disposal of hazardous wastes; nor is the Agency promulgating any specific provisions related to how those definitions apply to mineral processing wastes. The Agency is simply stating that mixtures of Bevill and non-Bevill wastes can, depending upon the particular facts, constitute treatment, storage or disposal under the existing regulatory program.

Industry commenters generally opposed the proposed mixture rule. Several commenters argued that the proposed rule was contrary to the Act because it undermined the protection that the Bevill amendment was intended to provide the industry. These commenters argued that the legislative history indicates Congress intended the Bevill amendment to be read broadly, to incorporate waste products generated in the "real world," and that Congress recognized co-management of wastes practiced by the industry occurred in the "real world." According to these commenters, integrated facilities conducting extraction, beneficiation and processing operations at a single location have historically co-managed wastes from these operations, including certain newly identified mineral processing wastes, and the proposed rule would effectively undermine the protections of the Bevill amendment for these operations. One commenter contended that the mixture rule would subject "high volume/low hazard" waste mixtures from the mining and mineral processing industry to Subtitle C regulation without having conducted the special study and regulatory determination process set forth in section 3001 of RCRA. Since such mixtures of wastes are "high volume/low hazard," these commenters argued that section 3001, as construed by the Court in *EDF v. EPA*, 852 F.2d 1316 (D.C. Cir. 1988), mandates exclusion of those wastes from regulation under Subtitle C.

After careful consideration of these comments, EPA has concluded that they misconstrue the scope of the Bevill amendment, and that the proposed approach to Bevill mixtures is a reasonable one. First, the Agency disagrees with these commenters' interpretation of the Bevill amendment as applying to not only to "special wastes" themselves, but also to any other hazardous waste that may be co-managed with them. Congress simply provided that "solid waste from extraction, beneficiation and processing of ores and minerals" are not subject to Subtitle C. RCRA § 3001(b)(3)(A). Congress did not, as these commenters suggested, apply this exclusion to such wastes "and other hazardous wastes that may be co-managed" with them. Rather, Congress endorsed EPA's conclusion that high volume/low toxicity "special wastes" deserved special treatment

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under the Act by virtue of the difficulties that would be associated with managing these wastes under the Subtitle C program. Moreover, EPA's decade-long effort to demarcate the line between special wastes and non-excluded wastes was premised on the notion that the line between them is of some significance. If any hazardous waste can come within the scope of the Bevill amendment simply by being mixed with Bevill waste, that line becomes blurred, potentially creating a universe of excluded wastes far beyond that envisioned by Congress when it enacted the Bevill amendment.

The Court in *EDF II* indicated that those mineral processing wastes which did not meet the high volume/low toxicity criteria should be fully subject to Subtitle C. The Agency, in today's rule, has taken prudent steps to encourage the legitimate recycling of hazardous secondary materials. If hazardous mineral processing wastes can not be recycled and must be disposed, the Agency finds nothing in *EDF II* which precludes the Agency from treating these hazardous wastes like any other hazardous wastes. It should also be pointed out that today's rule does not affect the disposal of extraction/beneficiation wastes as long as there is no mixing of non-exempt hazardous wastes with them. EPA believes that this rule is consistent with the scope of the Bevill amendment because it maintains the Bevill exclusion for mixtures that are hazardous due solely to any hazardous constituents of the Bevill waste. The fact that these resulting wastes retain their Bevill status does not mean, however, that the act of storing, treating, or disposing of hazardous wastes with Bevill wastes should be exempted from normal Subtitle C controls.

EPA also disagrees with the notion advanced by some commenters that EPA is required by section 3001 to conduct a study to determine whether mixtures of Bevill and other wastes meet the high volume/low toxicity test and thereby merit being covered by the Bevill amendment. EPA reads section 3001 as mandating that EPA study wastes generated by the mining and mineral processing industry for purposes of determining whether particular waste streams are subject to the Bevill amendment. EPA has done so and determined that mineral processing wastes that do not meet the high volume/low toxicity threshold are not subject to Bevill. EPA's orderly decision-making (see 54 FR 36592 and 55 FR 2322), would be undermined if the Agency were then required to revisit these determinations based upon how facilities happen to manage their wastes.

Stated another way, EPA reasonably based its Bevill regulatory determinations on the volumes of each type of mineral processing waste *generated* within the industry; the Agency does not believe it is reasonable to interpret section 3001 as mandating that EPA disregard the volumes in which wastes are generated and instead base its determinations on the vagaries of how those waste streams may be aggregated through industry's disposal practices. Such a result would be counter to EPA's special waste concept, and ignore the fact that mineral processing wastes streams that are not generated above Bevill's high volume/low toxicity threshold would, in fact, be amenable to management under Subtitle C. Thus, the commenter's interpretation would effectively allow the mining and mineral processing industry to "bootstrap" smaller volume wastes into Bevill simply by co-disposing them with Bevill wastes. The Agency and the courts have never interpreted Bevill in such an awkward fashion, and the Agency declines to follow such an approach here.

The Agency does not agree with comments that any change to the Bevill mixture rule would effectively eliminate Bevill for integrated facilities. Today's rule does not change the Bevill status of extraction/beneficiation wastes nor does it alter the Bevill status of 20 mineral processing wastes (see 40 CFR 261.4). Since a large number of "newly identified" mineral processing waste streams become subject to the LDR, the Agency took steps to clarify the status of non-exempt "Bevill" wastes (i.e. mineral processing wastes not within the scope of the Bevill amendment) in this rulemaking. The Identification report, placed in the docket in January 1996, was developed by the Agency to assist companies in determining if wastes were or were not exempt. The Agency sought comment on the draft Identification document and has finalized this report. This report is, however, guidance. Mineral processing companies now have the ability to identify the status of each waste stream and to cease mixing non-exempt hazardous wastes with exempt waste streams.

Regarding commenters' critique of the concerns expressed by EPA in the proposal justifying the proposed mixture rule, the Agency continues to be concerned about the mixture of hazardous wastes with Bevill exempt wastes for treatment, storage or disposal. The Agency has noted earlier that it is not imposing the significantly affected option because the mixture of hazardous secondary materials with feedstocks does not appear to adversely affect risk. This is so because the mixtures are destined for legitimate recovery of metal, acid, water or cyanide, or other values. Mixtures destined for disposal will not have any of their hazardous constituents removed or other values utilized and may contribute to the waste disposal problem. Nor is there the slightest indication in law that normal Subtitle C rules should not apply to disposal of normal Subtitle C hazardous wastes.

Commenters did point out several errors made by EPA in the proposed rule language. Many commenters noted that there was an inconsistency between the preamble of the January proposal and its proposed regulatory language. The proposed regulatory language inadvertently omitted language in the general mixture rule stating that mixture of a solid waste with a hazardous wasted listed solely because it exhibits a characteristic identified in Part 261 subpart C is a hazardous waste "unless the resultant mixture no longer exhibits any characteristic of hazardous waste. . . " 40 C.F.R. 261.3(a)(2)(iii). It was not EPA's intent to propose deleting this language, and it therefore is included in the final rule.

In addition, as pointed out by commenters, the proposed language failed to track the preamble discussion of mixtures of Bevill wastes and characteristic hazardous wastes (as well as wastes that are listed because they exhibit a hazardous characteristic). Under the proposed rule language, mixtures of Bevill wastes and hazardous wastes would be a hazardous waste whenever it exhibited a hazardous waste characteristic, even where that characteristic was imparted to it solely from the Bevill waste. (See proposed section 261.3(i).) As shown by the preamble, this was clearly not EPA's intent, which was to preserve the Bevill exclusion for mixtures that are hazardous solely because of the Bevill component of the mixture. See 61 FR 2352–53.

Conversely, the preamble, although ambiguous in spots on this issue, did say at one point that mixtures of characteristic hazardous waste and Bevill wastes would be considered hazardous waste only if the mixture continued to be hazardous due to characteristics imparted to it by the non-Bevill waste. 61 FR at 2352. If the mixture exhibited a hazardous characteristic due solely to the Bevill waste, the Agency did not intend to designate the mixture as a hazardous waste.

Consistent with that discussion, under today's rule, the Agency has decided that if Subtitle C hazardous waste exhibiting a characteristic is mixed with Bevill-exempt waste exhibiting the same characteristic and the mixture continues to exhibit that common characteristic, then the entire mixture should be considered to be non-exempt hazardous waste. This result is consistent with normal rules on when wastes are hazardous, which state that if a waste exhibits a hazardous waste characteristic, it remains a hazardous waste unless and until it no longer exhibits a characteristic. 40 CFR 261.3(d)(1). In addition, such a principle will make this rule easier to administer (should this situation actually occur), since enforcement officials will not have to parse out which portion of the waste mixture is imparting the characteristic property. Finally, the result is consistent with the overall object of today's rule: not to let Bevill wastes be used as a means of allowing unregulated management of normal Subtitle C hazardous wastes.

Several commenters noted concern that existing exemptions to the Agency's mixture rule, such as that given to totally enclosed treatment facilities and elementary neutralization units, would be eliminated under this rule. The Agency reiterates that this rule does not alter in any way the current Agency mixture rule. The purpose of this rulemaking is to place the mixing of hazardous wastes that may occur at mineral processing plants on the same status as all other hazardous waste management.

(i) Illustrations of how today's rule operates. Although the regulatory parlance for today's rule has always been the "Bevill mixture rule", the greatest practical consequence of the rule is probably on the units where mixing occurs. This is because units (i.e. tanks, impoundments, piles, landfills, etc.) where hazardous wastes are placed will (absent some exemption or exclusion other than that provided by the Bevill amendment) be regulated units, i.e. units subject to Subtitle C standards for treatment, storage, and/or disposal. This point is illustrated by the following examples, which also illustrate the effect of the rule on the resulting mixtures:

Example 1. Facility A generates F 001 listed spent solvents which it mixes with a solid waste that has Bevill exempt-status. The mixing occurs in a landfill.

The landfill is a regulated unit because hazardous waste—F 001—is being disposed in it. (Among other things, this means that the F 001 wastes could not be placed in the landfill until the LDR treatment standard is satisfied.) In addition, all of the wastes with which the F 001 wastes are mixed are hazardous wastes carrying the F 001 waste code by application of the mixture rule.

Example 1a. Same facts as in example 1, except that the waste being mixed is F 003 spent solvent, a waste listed only because it exhibits a characteristic of hazardous waste.

The landfill becomes a regulated unit for the same reason as in example 1. (See *Chemical Waste Management v. EPA*, 976 F.2d at 20 n.4 and 24 n. 10 (placement of waste which is hazardous for any amount of time in a unit subject that unit to Subtitle C regulation); 61 FR at 2352 (same). However, the status of the resulting waste mixture is determined by the principles for characteristic hazardous wastes, illustrated below.

Example 2. Facility B generates a characteristic ignitable solvent which it adds to a surface impoundment containing a Bevill-exempt waste that would exhibit the TC for lead. The resulting mixture exhibits TC for lead but is no longer ignitable.

The surface impoundment is a regulated unit, since it is engaged in treatment (elimination of the ignitability characteristic) and disposal (the placement of the ignitable waste). The remaining wastes in the unit retain their Bevill-exempt status because they do not exhibit the characteristic property of the non-Bevill hazardous waste. Thus, if the waste were to be removed from the impoundment and disposed elsewhere, disposal need not occur in a regulated unit.

Example 3. Facility C generates a characteristic hazardous waste exhibiting TC for lead which it mixes in a tank with Bevill-exempt wastes which also would exhibit the TC for lead. The resulting mixture continues to be TC for lead.

The tank is engaged at least in storage of hazardous waste, and possibly treatment (depending on how the D008 hazardous waste is affected by the mixing). If waste is removed from the tank, it remains subject to Subtitle C because it continues to exhibit the characteristic of the non-exempt hazardous waste.

d. Remining. The Agency clarified in its January 1996 proposal that the removal of historically land placed mineral processing wastes for the purposes of mineral recovery would not constitute disposal for purposes of triggering Subtitle C. Moreover, removal of wastes would not render the historic disposal unit subject to RCRA hazardous waste requirements (see 53 FR at 51444, December 21, 1988). The Agency is today again clarifying that removal of waste from a unit does not constitute disposal for the purposes of triggering Subtitle C regulation.

Commenters noted that the proposed mixture rule would in effect eliminate opportunities for remining. The Agency disagrees. As noted previously, the mixture restrictions in today's rule deals primarily with disposal of mixtures. The mixture rule therefore, will not affect the co-processing of historically disposed mineral processing secondary materials with other feedstocks.

6. Responses to Court Remands

a. Applicability of the Toxicity Characteristic Leaching Procedure (TCLP) to Mineral Processing Wastes. In the January 1996 proposal, the Agency proposed to continue using the TCLP (SW–846 Test Method 1311) as the basis for determining whether mineral processing wastes and manufactured gas plant wastes exhibit the toxicity characteristic (TC) of hazardous wastes, and developed a record supporting this position. When the Agency promulgated the TCLP method for testing whether wastes exhibit the toxicity characteristic, the applicability of the TCLP test to mineral processing wastes was challenged in *Edison Electric Institute* v. *EPA*, 2 F.3d 438 (D.C. Cir. 1993) ("*Edison*"). The Court held that the information in the record at the time was insufficient to show a rational relationship between the TCLP and a likely mismanagement scenario for mineral processing wastes.

Under the Court's holding, the Agency must at least provide some factual support that such a mismanagement scenario is plausible (2 F.3d at 446–47). The Agency is addressing this remand in today's final rule because any applicable land disposal restrictions would have little meaning unless the Agency has a basis for determining whether these mineral processing wastes are hazardous, and, therefore, subject to the restrictions.

Under the Court's ruling in *Edison*, the application of the TCLP test to mineral processing wastes is appropriate if the evidence available to EPA shows that disposal of such wastes in municipal solid waste landfills (MSWLF) is a "plausible" mismanagement scenario (not necessarily requiring that it be typical or common) 2 F.3d at 446. Moreover, it is sufficient if there is "evidence or explanation on the record to justify a conclusion that mineral wastes ever come into contact with any form of acidic leaching medium." *Id.* at 447.

In considering the plausibility of this mismanagement scenario, the Agency has first carefully evaluated those circumstances that industry has argued make such mismanagement implausible. Industry has argued that co-disposal with municipal solid waste is not plausible because the huge volumes in which the wastes are generated could simply not be handled by an MSWLF. EPA has, however, conducted a comprehensive review of such wastes and concluded that many wastestreams are generated at low volumes. (See

Characterization of Mining and Mineral Processing Wastestreams, USEPA, 1998.) Thus, the volumes in which mineral processing wastes are generated do not render disposal in an MSWLF implausible.

Industry comments also indicated that the location of its facilities were remote and not close to municipal landfills. Based on physical location alone, industry suggested that disposal of their wastes in municipal landfills was very unlikely. This contention is not, however, supported by the facts. The Agency evaluated the location of mineral processing facilities and found that a considerable number of them are located east of the Mississippi River and some are located in or near urban areas. (see *Population Studies of Mines and Mineral Processing Sites,* 1998, U.S. EPA.) This report indicates that there is factual information which rebuts the industry's position that the location of mineral processing facilities is routinely so remote so as to make co-disposal with municipal solid waste implausible. Thus, based on the Agency's population study noted above, the Agency concludes that some mineral processing facilities are in fact located in or near urban areas and their location in such urban areas means that it is plausible that their wastes could be disposed of in urban landfills.

Factual information collected by the Agency (made available for public comment) supports the conclusion that mineral processing wastes may plausibly be disposed of with municipal solid wastes. Industry comments contested EPA's factual basis for the landfill disposal cases found in *Applicability of the Toxicity Characteristic Leaching Procedure to Mineral Processing Waste,* U.S. EPA, 1998. Industry commenters contended that the cases presented by the Agency do not reflect current waste management practices (which primarily involve on-site disposal). Industry commenters also argued that the facts of particular cases did not, in fact, support the conclusion that co-disposal had occurred. EPA has reviewed the information and concluded some of these comments had merit, and EPA has deleted from the final document those cases for which there was not sufficient information to be relied upon by the Agency. However, even after a careful sifting of the case studies, there continues to be evidence to support the conclusion that co-disposal of mineral processing wastes with municipal solid waste is plausible. While most mineral processing wastes are generated in large volumes and disposed on-site as industry contends, the Agency has found that some mineral processing wastes are placed in dumpsters, or similar containers, and shipped off-site for commercial disposal.

These cases include, but are not limited to, co-disposal of mineral processing wastes from the refining of alumina, copper, gold, ferrous metals, lead, silver, and zinc. Such wastes have been disposed in MSWLFs in various states throughout the United States. The Agency also found several cases where manufactured gas plant wastes were disposed in MSWLFs. (See *Applicability of the Toxicity Characteristic Leaching Procedure to Mineral Processing Waste,* U.S. EPA, 1998.)

EPA acknowledges that the information obtained by the Agency does not show that the mismanagement scenario is either typical or common, but such a level of proof is not required. *Edison,* 2 F.3d at 446. It is, moreover, not surprising that the practice does not appear to be widespread because, since 1989, disposal of any non-Bevill hazardous mineral processing wastes in a municipal solid waste landfill has been illegal. Nonetheless, since some mineral processing facilities are located near urban areas and generate low volume wastes, and some of these facilities appear to have, in fact, co-disposed of these wastes in this manner, EPA believes it is reasonable to conclude that application of its mismanagement scenario to mineral processing wastes is reasonable; that is, if these wastes were no longer identified as hazardous by means of the TCLP, then the type of improper disposal which occurred in the past could resume.

Industry commenters further contend that an alternative test, the Synthetic Precipitation Leaching Procedure (SPLP), is more appropriate for mineral processing wastes. The National Mining Association (NMA) noted in its comments that the leach solution used in the SPLP test protocol would more accurately reflect the environmental exposure of mineral processing wastes. The SPLP test uses a leach solution which mimics acid rain, while the TCLP uses a leach solution which mimics acids formed in municipal landfills. The TCLP test therefore uses a leach solution which is more acidic that the SPLP test. However, "[n]othing in [RCRA] requires EPA to tailor the TCLP to the conditions to which mineral wastes are typically exposed." *Edison,* 2 F.3d at 443. If that were the case, it would not have been appropriate for EPA to even have adopted a generic mismanagement scenario as the basis for establishing its approach for testing for the hazardous characteristic. This approach has, however, been upheld as a reasonable exercise of the Agency's discretion. *Id.*

Industry commenters supplied data indicating that the TCLP is more aggressive than the SPLP for most metals and especially lead. Certain states supported use of the test under all or limited circumstances. EPA received very limited data comparing the leach tests. Because these data were extremely limited, the Agency still does not have data broadly comparing TCLP results to SPLP results for a range of mineral processing waste streams. Industry-supplied data appear to indicate that the SPLP test generates results which show lower levels of lead than comparable results using the TCLP. Thus, due to the limited amount of data, the Agency is unable to determine if the SPLP would routinely show lower levels of lead, or how the two tests compare when analyzing other metals or whether such lower levels would, in fact, better reflect actual field conditions than would the TCLP. At bottom, the fundamental issue is not whether one test is more conservative than the other. Rather, the issue is whether it is plausible that mineral processing wastes may be disposed of in environments reflected by the conditions mimicked in the TCLP.

Aside from the plausibility of the Agency's mismanagement scenario, application of the TCLP to mineral processing wastes is supported by comments from industry submitted during the rulemaking regarding disposal practices that are taking place or advantageous at integrated mineral processing/beneficiation facilities in the industry. The proposed (and now final) rule regarding mixtures of Bevill wastes with non-Bevill hazardous wastes (including mineral processing hazardous wastes) effectively prohibits such mixing. Some commenters opposed the proposed mixture rule on the grounds that integrated facilities typically co-dispose of hazardous mineral processing wastes (including those exhibiting the TC) with extraction and beneficiation wastes, and desired to continue this practice or to have mixing available as a management option for these mineral processing hazardous wastes. It is well-documented that extraction and beneficiation wastes can often generate highly acidic environments. (See Acid Rock Drainage Prediction, U.S. EPA, 1994) Disposal of mineral processing wastes with such wastes means that the mineral processing wastes would be subject to acidic conditions that, in some cases, may be comparable to the acidic leacheate medium utilized in the TCLP (if not somewhat more aggressive). This

is because water contacting the acidic waste would thereupon become acidic itself (an example being acid mine drainage). EPA's concern is that if the mineral processing wastes are no longer identified as hazardous because a test other than the TCLP is used, then these wastes could be disposed with the acidic extraction/beneficiation wastes and be exposed to metal-mobilizing acidic leaching conditions as water percolates through the mixture. Given the evident economies noted in the public comments in disposing of mineral processing wastes along with extraction/beneficiation wastes, such a scenario is at least plausible. Such a disposal scenario, which industry states is not only plausible, but is typical of some facilities, provides an additional justification for the application of the acidic leachate approach reflected in the TCLP.

EPA recognizes that the TCLP utilizes organic acids, while the disposal scenario discussed above would involve exposure to mineral acids. In part because of this difference, EPA utilized the SPLP in screening low hazard wastes as part of its 1989 Bevill determination. See 54 FR 36592 (Sept 1, 1989). Commenters have pointed to this statement as undercutting any application of TCLP to mineral processing wastes.

EPA made clear in 1989, however, that the TCLP was still the appropriate test for determining whether a particular mineral processing waste is a hazardous waste subject to Subtitle C. Morever, EPA believes that the general statement contained in the 1989 preamble arguably swept too broadly in its conclusions. Notwithstanding that statement, standard chemistry texts establish that certain metals are highly soluble in acidic environments, including inorganic acids. Numerous factors can affect the precise solubility of a particular metal, and it is generally not possible to generalize whether organic or inorganic acids would cause more or less of a particular metal compound to solubilize. Based on generally accepted chemistry principles, however, a highly acidic environment, whether organic or mineral in nature, can be aggressive towards certain metals typically found in mineral processing wastes. Given that acidic leaching media can result when mineral processing wastes are co-disposed with extraction/beneficiation wastes, EPA believes that the acidic leachate procedure utilized in the TCLP can be appropriate for characterizing mineral processing wastes.

EPA also notes a further policy justification in its choice of the TCLP. The final rule seeks to encourage properly conducted recycling of mineral processing secondary materials, and the scheme in the final rule (whereby recovery can occur provided facilities do not utilize land-based storage units) can be implemented at reasonable cost. (See the Regulatory Impact Analysis for the final rule, summarized later in this preamble.) However, the Agency is concerned that if integrated facilities have a lower cost option of simply disposing these mineral processing secondary materials with extraction/beneficiation wastes, facilities will choose this alternative. Thus, not only will the mineral processing wastes be potentially exposed to acidic leaching conditions, but properly conducted metal recovery will be foregone. (See RCRA section 1003 (a) (6) noting the statutory goal to encourage properly conducted recycling of hazardous wastes.)

In addition to questioning the choice of a leaching medium, commenters questioned certain other features of the test, notably a particle size feature which mirrors freeze/thaw cycles, and a dilution/attenuation factor which is premised on human receptors potentially living relatively proximate to the disposal site. These issues are addressed in greater detail in responses to comments and technical background documents. However, the Agency has documented in the record that many mineral processing facilities are located in parts of the country where freeze/thaw cycles which reduce particle size occur, and are also located near populations reflecting the degree of dilution and attenuation used in the model. (See *Population Studies of Mines and Mineral Processing Sites*, 1998, U.S. EPA)

Finally, EPA notes that nothing in the recent decision *Columbia Falls Aluminum Co. v. EPA* (no. 96–1234) (April 3, 1998) is contrary to this determination. *Columbia Falls* does not stand for the proposition that EPA must customize a test for particular wastes to reflect individual or even typical disposal circumstances, a proposition expressly rejected in *Edison*, 2 F. 3d at 445. Rather, *Columbia Falls* approvingly cites *Edison* for the proposition that "the TCLP must bear some rational relationship to mineral wastes in order for the Agency to justify the application of the toxicity test to those wastes.'" *Columbia Falls*, slip op. at 18; see also *Huls America Inc.* v. *Browner*, 83 F. 3d 445, 454 (*Edison* involved an instance "where the record was barren of any rational relationship between the methodology used by the EPA to set regulatory levels and the known behavior of the substance to which this methodology was applied"). EPA has rectified the record deficiencies noted in *Edison*, showing how the TCLP "bears a rational relationship to the reality it purports to represent." *Columbia Falls*, slip op. at 18. Today's action is thus consistent with both *Edison* and *Columbia Falls*.

EPA is making the decision to retain the TCLP as the test for identifying mineral processing wastes effective within 90 days, co-extensive with the LDR prohibition effective date. This effective date can be complied with feasibly within 90 days since the TCLP is already the applicable test for mineral processing wastes (since it was remanded, not vacated, by the *Edison* ruling). Thus, the regulated community does not need six months to come into compliance. See RCRA section 3010(b)(1).

b. Remanded Mineral Processing Wastes. In the January 1996 proposal, the Agency proposed to revoke the current hazardous waste listings for five court-remanded smelting wastes. The Agency also proposed not to re-list them as hazardous stating that these wastes would be regulated as hazardous wastes if they exhibit a characteristic of a hazardous waste.

In 1980, the Agency listed as hazardous eight wastes generated by primary metal smelters (45 FR 33066, 33124, 47832–34, (1980)). The Agency listed the wastes pursuant to 40 CFR 261.11(a)(3) because they contained one or more of the hazardous constituents listed in 40 CFR 261, Appendix VIII. The eight wastes are described as follows:

K064—Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.

K065—Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.

K066—Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.

K067—Electrolytic anode slimes/sludges from primary zinc production.

K068—Cadmium plant leach residue (from oxide) from primary zinc production.

K088—Spent potliners from primary aluminum reduction.

K090—Emission control dust or sludge from ferrochromium-silicon production.

K091—Emission control dust or sludge from ferrochromium production.

In October of 1980, in response to Congressional enactment of the Bevill Exclusion, the Agency suspended its listing of the eight wastes (46 FR 4614–15, 27473 October, 1980). In 1985, EPA proposed a new rule that would relist

six of the eight wastes (50 FR 40292, 40295, October 2, 1985). (The Agency chose not to propose to re-list two of the original eight waste streams (electrolytic anode slimes/sludges, K067, and cadmium plant leach residue, K068, from primary zinc production) because it found that industry was routinely recycling these secondary materials in an environmentally sound manner.) However, the Agency withdrew its 1985 proposal on October 9, 1986 (51 FR 36233).

In *Environmental Defense Fund v. EPA*, 852 F.2d 1316 (D.C. Cir. 1988) EPA was ordered to make a final decision regarding whether to re-list the six metal smelting wastes that it had proposed to list in 1985, and to reduce the scope of the Bevill exemption as it applies to mineral processing wastes. The Agency complied with this order when it re-listed the six wastes.

The American Mining Congress (AMC) challenged these listings. In *American Mining Congress v. EPA*, 907 F.2d 1179 (D.C. Cir., 1990) the Court upheld the Agency's decision to re-list waste K088, spent potliners from primary aluminum reduction, but found that the Agency's record for the five remaining waste streams did not adequately address certain issues raised in comments during the rulemaking. Since the Court did not vacate the listings, they technically remain in effect.

In today's rule, the Agency is revoking the five remanded waste listings. The Agency has found that several of these wastes are still generated and in some cases land disposed, but there is a lack of information demonstrating threats to human health or the environment that would justify a listing at this time. The Agency believe that some wastes, specifically copper acid plant blowdown (K064) and surface impoundment solids at primary lead smelters (K065), are inherently hazardous due to the presence of arsenic and lead, respectively. These wastes can be effectively regulated under RCRA Subtitle C if they exhibit a hazardous characteristic.

The Agency received no comments opposing the proposed rule. To summarize, the Agency is revoking the listing for, and is not re-listing: copper acid plant blowdown (K064); surface impoundment solids at primary lead smelters (K065); acid plant blowdown from primary zinc production (K066); emission control dust and sludge from ferrochromium-silicon production (K090); and emission control dust or sludge from ferrochromium production (K091). However, as explained previously, should these wastes exhibit a characteristic of a hazardous waste, they will be subject to hazardous waste regulations, including the hazardous waste mixture rule.

c. Lightweight Aggregate Mineral Processing Wastes. In the January 1996 proposal, the Agency proposed that air pollution control dust and sludge from the production of lightweight aggregate be classified as a mineral processing waste that is no longer eligible for the Bevill exemption. Lightweight aggregate air pollution control (APC) dust and sludge were among the many mineral processing wastes made conditionally exempt from RCRA Subtitle C requirements under the 1980 Bevill Amendment to RCRA. In 1990, following more detailed study of the generation rates for this waste, the Agency determined that it did not qualify for the Bevill exemption (55 FR 2322, 2340, January 23, 1990). In 1991, the D.C. Circuit directed the Agency to reconsider, after providing notice and soliciting comments, whether these wastes qualify for the Bevill exemption. (*Solite Corporation v. EPA*, 952 F.2d at 500 (D.C. Cir. 1991)).

In the January 1996 proposal, the Agency stated that the wastes from lightweight aggregate production do not meet the high volume criterion for excluded mineral processing wastes. For purposes of EPA's 1989 and 1990 rules concerning Bevill eligibility for mineral processing wastes, high volume is defined as greater than 45,000 metric tons per year per facility, for a solid waste, or 1,000,000 metric tons per year per facility, for a liquid waste, averaged across all facilities generating a particular waste.

To determine whether APC dust and sludge from lightweight aggregate production satisfied the high volume criterion, the Agency analyzed data from its 1989 National Survey of Solid Wastes from Mineral Processing Facilities (SWMPF Survey) and data from public comments submitted by affected companies. The Agency finds that the lightweight aggregate wastes do not meet the high volume criterion.

None of the methods used resulted in a volume estimate that is greater than 45,000 metric tons per year per facility, the high volume criterion for mineral processing wastes. SWMPF survey data, which includes Confidential Business Information (CBI) from two facilities have been included in a separate analysis. The results, which remain confidential, are not substantially different from the results presented previously.

Solite acknowledged in comments that data do not support a determination that lightweight aggregate air pollution control (APC) dust and sludge is generated in volumes that meet the high volume cutoff. However, Solite requested that the Agency delay making a final determination on the Bevill status of its wastes due to other Agency rulemaking activities dealing with cement kiln dusts, which Solite contends would be addressing similar issues to those posed by lightweight aggregate air pollution control (APC) dust and sludge.

The Agency is aware that both cement kiln and aggregate kilns may both burn hazardous wastes fuels and that the dusts from air pollution control devices are often blended into final products. Under existing regulations, if these dusts resulting from burning listed hazardous waste fuels are blended into products that are used on the land, the product would be subject to RCRA's "derived from" rules which would render the product a hazardous waste. Since both cement and light weight aggregate products are usually placed on the land, the potential impacts on their use could be significant. The Agency noted in its 1993 *Report to Congress on Cement Kiln Dust* (CKD) that it did not have evidence that CKD was materially different when generated from kilns burning hazardous wastes as fuel and those which did not. The Agency does not have similar comparable analysis of light weight aggregate dusts and sludges, and can not at this point in time conclude that there is no difference between dusts and sludges from units burning hazardous waste fuels and those that do not. The Agency wants to encourage the sound recycling of these dusts and requires additional time to assess how to ensure that aggregate and cement kiln dusts are managed to ensure protection of human health and the environment. The Agency is currently developing a regulatory program for the safe management of cement kiln dusts and anticipates issuing a proposed rule in 1998. The Agency further anticipates that it will seek comment on how to best manage both wastes in this proposal and will seek information it needs to make a final determination on the status of lightweight aggregate wastes. The Agency is not finalizing its technical background document, *Lightweight Aggregate Production and Air Pollution Control Wastes* (1995), at this time.

d. Mineral Processing Wastes From the Production of Titanium Tetrachloride. (i) Summary. In 1989, following a study of this waste's circumstances of generation, the Agency determined that titanium tetrachloride waste acid did not qualify for the Bevill exemption because it was a mineral

processing waste, not an extraction/beneficiation waste, and did not meet the high volume/low hazard criteria for determining eligibility for the Bevill exemption. (See 54 FR 36592, September 1, 1989.) One producer of titanium tetrachloride, DuPont, requested a determination that waste from its production process be categorized as beneficiation waste on the ground that, unlike processes used by other manufacturers, their process included a beneficiation step which generated the wastes at issue. However, EPA determined that DuPont's waste acids were mineral processing wastes. DuPont challenged this decision, and the Court remanded EPA's decision for further consideration on the grounds that the Agency's explanation for its decision was unclear. *Solite Corporation v. EPA*, 952 F.2d 473,494–95 (D.C. Cir. 1991).

DuPont submitted comments on the January 1996 proposal that contend its processes do not destroy the structure of the mineral as it is placed into its processes. The Agency does not accept this contention, and, as described below, finds that the waste iron chloride acid is a mineral processing.

There are four sequential steps in DuPont's chloride-ilmenite process, the first two of which occur within the same vessel: (1) chlorine gas reacts with iron from the ilmenite ore to form iron chloride gas; (2) chlorine gas reacts with titanium in the ilmenite ore to form titanium tetrachloride gas; (3) the iron chloride is condensed and separated to form a waste iron chloride acid; and finally (4) the titanium tetrachloride is condensed and processed to form titanium oxide pigment, the saleable product. The issue remanded in *Solite* is whether the iron chloride acid waste, which is produced in gaseous form at step (1) but removed from the vessel as a liquid at step (3), is a mineral processing waste that does not qualify for the Bevill exemption, or is a beneficiation waste covered by the Bevill exclusion under 40 CFR 261.4(b)(7).

(ii) Proposal. In the January 1996 proposal, the Agency proposed that iron chloride waste acid from the production of titanium tetrachloride be classified as a mineral processing waste that is not eligible for the Bevill exemption. In the chloride-ilmenite production of titanium tetrachloride, the Agency found that mineral processing began with the chlorination of the iron in the ilmenite ore and the resulting acid is a waste from mineral processing. Specifically, the Agency found that the acid wastes from this process are not physically or chemically similar to the feedstocks entering the operation, which is indicative that mineral processing has occurred.

(iii) Response to Comments. One commenter agreed with EPA's proposed conclusion that Du Pont's process is properly classified as mineral processing because the reaction of ilmenite ore with chlorine gas forms new chemical compounds, namely titanium tetrachloride and ferric or ferrous chloride. The commenter remarked that such a reaction is a chemical processing step that fundamentally alters the make-up of the feedstock ore. The commenter said that EPA correctly drew the analogy between the mineral processing that occurs in the chloride-ilmenite operation and the mineral processing that occurs in other metallurgical operations.

One commenter noted that no beneficiation occurs in the chloride-ilmenite process at all and that the iron chloride waste stream is not eligible for the Bevill exemption. The commenter said that it too produces a waste iron chloride acid in the production of titanium tetrachloride but its waste acid is neutralized in a waste treatment unit. The commenter provided data showing that its treatment of waste iron chloride acid meets all proposed Land Disposal Restrictions (LDR) treatment standards for underlying hazardous characteristics.

DuPont objected to the Agency's proposed classification. DuPont claims that the removal of iron from the ilmenite ore is more appropriately classified as beneficiation. DuPont remarked that the separation of the iron chloride from the titanium ore grains results in a beneficiated ore, similar in nature to commercially available beneficiated ores that EPA has determined are Bevill exempt. The Agency disagrees with this characterization, and concludes that since the ore is chlorinated, that chlorination step changes the physical and chemical structure of ore. The Agency's rationale for this decision is discussed below.

The Agency reiterates its broad standard for making mineral processing determinations described in 54 Fed. Reg. 36592, 36616, September 1, 1989. Specifically, beneficiation operations typically serve to separate and concentrate the mineral values from waste material, remove impurities, or prepare the ore for further refinement. Beneficiation activities do not, however, change the chemical structure of the ore. Mineral processing operations, in contrast, generally follow beneficiation and serve to change the concentrated mineral value into a more useful chemical form and change the chemical composition of the waste. In contrast to beneficiation operations, processing activities often destroy the physical structure of the incoming ore or mineral feedstock such that the materials leaving the operation do not closely resemble those that entered the operation. Typically, beneficiation wastes are earthen in character, whereas mineral processing wastes are derived from melting or other chemical changes.

Today, the Agency again finds that DuPont's chloride-ilmenite operation is mineral processing. In DuPont's process, chlorine gas is reacted with the iron in the ore in the first step to produce a new and significantly different chemical compound than the feedstock ore, namely liquid waste iron chloride acid. The iron is more than simply removed; the solid iron in the ore undergoes a chemical reaction with the chlorine gas to form a new compound that is highly reactive and non-earthen in character, namely iron chloride gas. This reaction is the beginning of a significant change to the physical and chemical structure of the ore. This change is similar to the reaction of chlorine gas with solid titanium to form titanium tetrachloride gas. The Agency finds that the net result of the reaction of chlorine gas with both iron and titanium, which occur in the same vessel, destroys the physical and chemical nature of the ore.

DuPont contends that the formation of iron chloride gas is simply a process to remove an impurity from the ore. DuPont noted in its comments that activities which remove impurities from ores and minerals are classified as beneficiation and all wastes from beneficiation are exempt from regulation under RCRA Subtitle C (see 40 CFR 261.4). DuPont therefore contends that their processes are in fact beneficiation and should not be classified as mineral processing.

As noted earlier, the Agency clarified the definition of beneficiation and mineral processing in its 1989 rulemaking. That rule clearly indicated that beneficiation serves to remove impurities as long as the resultant materials remained earthen in nature and had not undergone a physical/chemical change. The Agency studied the DuPont process numerous times and met with the company several times to assure that the Agency fully understood DuPont process. The Agency concludes that chlorination of the ore causes a significant physical/chemical change to the ore, and therefore the process is more indicative of mineral processing than beneficiation. Further, in the DuPont case, the removal of impurities is taking place simultaneously with

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other reactions generating titanium gases. This reaction alone would classify the process as mineral processing since the ore and titanium gas are clearly physically and chemically dissimilar from that point on in the process. The Agency stated in 1989 that once mineral processing began, all wastes generated after that point would be classified as mineral processing wastes, even those wastes which are similar to those generated in beneficiation.

Thus, all wastes associated with the chloride-ilmenite production of titanium tetrachloride are mineral processing wastes. They are neither high volume nor low toxicity and therefore are not eligible for the Bevill exemption.

VII. LDR Treatment Standards for Soil

This section discusses final regulations establishing land disposal treatment standards specific to contaminated soil. Contaminated soil is subject to the land disposal restrictions, generally, when it contains a listed hazardous waste or when it exhibits a characteristic of hazardous waste. (Throughout this discussion, the specific term "hazardous contaminated soil" refers to soil which contains a listed hazardous waste or exhibits a characteristic of hazardous waste; the more general term "contaminated soil" refers to both hazardous contaminated soil and other soils—such as decharacterized soil—which may be subject to the land disposal restrictions.) Prior to today's rule, contaminated soil subject to LDRs was subject to the same land disposal restriction treatment standards that apply to industrial hazardous waste: soil contaminated by listed hazardous waste was subject to the standards that apply to those listed wastes and soil that exhibited a characteristic of hazardous waste was subject to the same standards that apply to the characteristic waste. Today's final rule establishes a new treatability group—contaminated soils—and establishes land disposal restriction treatment standards specifically tailored to that treatability group. Although EPA believes generators of contaminated soil will typically choose to comply with the new soil treatment standards promulgated today, under today's final rule, they have the option of complying either with the existing treatment standards for industrial hazardous waste (i.e., the universal treatment standards) or the soil treatment standards. This is consistent with the approach the Agency took in promulgating LDR treatment standards for hazardous contaminated debris. 57 FR 37221, August 18, 1992.

EPA first proposed tailored land disposal restriction treatment standards for contaminated soil in September 1993. 59 FR 48122—48131 (September 14, 1993). In the September 1993 proposal, EPA requested comment on three soil treatment standard options. These three options involved various combinations of percent reduction requirements for hazardous constituents (typically ninety percent—90%) and multipliers of the universal treatment standards (typically ten times the UTS—10 x UTS). In response to comment on the September 1993 proposal, EPA deferred a final decision on soil treatment standards to the Agency's broader evaluation of application of RCRA requirements to remediation wastes, the Hazardous Waste Identification Rule for Contaminated Media, or HWIR-Media.

On April 29, 1996, as part of the HWIR-Media proposal, EPA again proposed tailored land disposal restriction treatment standards for contaminated soils. 61 FR at 11804 (April 29, 1996). In the April 29, 1996 proposal, soil-specific treatment standards would have required reduction in concentrations of hazardous constituents by 90% with treatment for any given constituent capped at ten times the universal treatment standard. *Id.* This is commonly referred to as "90% capped at 10 times UTS."

In 1995, 1996 and 1997, EPA proposed new land disposal restriction treatment standards for waste identified as hazardous because of metal content and for mineral processing wastes. 60 FR 43654 (August 22, 1995) for metal wastes; 61 FR 2338 (January 25, 1996) for mineral processing wastes; and, 62 FR 26041 (May 12, 1997) supplemental proposal for both types of waste. In these proposals, soil contaminated with metal or mineral processing waste would have been subject to the new treatment standards for those wastes. This was consistent with the way EPA had historically addressed contaminated soil and, at the time, considered proper given that the proposals to establish soil-specific treatment standards were not yet resolved.

EPA did not reopen the issue of whether LDRs apply to contaminated soil or whether it is appropriate to require that contaminated soil achieve the same LDR treatment standards as the contaminating waste (soil contaminated by listed waste) or the characteristic property (soil that exhibits a characteristic of hazardous waste) in the August 22, 1995, January 25, 1996, or May 12, 1997 proposals. Commenters, nonetheless, strongly opposed application of the new LDR treatment standards for metal and mineral processing wastes to soil contaminated with those materials. At about the same time, EPA decided to go forward with the soil-specific LDR treatment standards proposed in April 1996. Therefore, the Agency is promulgating the land disposal restriction treatment standards tailored to contaminated soils proposed on April 29, 1996 (i.e., 90% capped at 10xUTS) today, with the new LDR treatment standards for metal and mineral processing wastes. The soil-specific treatment standards promulgated today may be applied to any contaminated soil that is restricted from land disposal, including but not limited to soil contaminated by metal and mineral processing wastes.

The land disposal restriction treatment standards for contaminated soil promulgated today differ from the standards proposed on April 29, 1996 in three major ways. First, the Agency proposed that the soil treatment standards would be available only for contaminated soil that was managed under an approved cleanup plan (termed a remediation waste management plan, or RMP). In today's final rule, the Agency is making the soil treatment standards available for all contaminated soil that is restricted from land disposal. Second, the Agency proposed that, for soil contaminated by listed hazardous waste, treatment would be required only for the hazardous constituents that originated from the contaminating listed hazardous waste. When the soil treatment standards are used, today's final rule requires all hazardous contaminated soil, including soil contaminated by listed hazardous waste, to be treated for each underlying hazardous constituent reasonably expected to be present when such constituents are initially found at concentrations greater than ten times the universal treatment standard. Third, in response to comments asserting that the proposed regulations governing the applicability of LDRs to contaminated soils were difficult to understand, the Agency has reformatted these regulations into an easier-to-read table. These changes, as well as other significant issues associated with the soil treatment standards and responses to comments, are discussed below.

Today's promulgation of land disposal restriction treatment standards specific to contaminated soil is largely based on the April 29, 1996 proposal (62 FR at 18804–18818). It also relies on the Agency's first effort to establish soil-specific treatment standards, the LDR Phase II proposal (58 FR 48092, September 14, 1993). Today's action

resolves the portions of the April 29, 1996 and September 14, 1993 proposals that address land disposal restriction treatment standards for contaminated soil. However, other elements of the April 29, 1996 proposal remain open and will be acted on in a future rulemaking. Responses to comments submitted on the soil treatment standards proposals are included in the Soil Treatment Standards Response to Comments Background Document, available in the docket for today's action.

A. Application of Land Disposal Restriction Treatment Standards to Contaminated Soil and Justification for Soil Specific LDRs

Prior to today's rule, soil that contained listed hazardous waste or exhibited a characteristic of hazardous waste were prohibited from land disposal unless they had been treated to meet the treatment standards promulgated for pure industrial hazardous waste. This means the same treatment standards which apply to a pure, industrial hazardous waste were also applied to contaminated soil. 61 FR at 18804 (April 29, 1996) and other sources cited therein. In most cases then, contaminated soils were subject to the treatment standards listed in 40 CFR 268.40, and the associated treatment standards in 40 CFR 268.48(a) table Universal Treatment Standards (UTS).[14]

As EPA has discussed many times, the treatment standards developed for pure, industrial hazardous waste may be unachievable in contaminated soil or may be inappropriate for contaminated soil due to particularities associated with the soil matrix and the remediation context under which most contaminated soil is managed, as discussed below. For that reason, EPA is promulgating today's LDR treatment standards specifically tailored to contaminated soil and to the remedial context.

With respect to the soil matrix, the treatment standards developed for pure hazardous waste (i.e., the universal treatment standards) are generally either technically unachievable or technically or environmentally inappropriate. For metal constituents, the UTS may not be achievable in contaminated soil even using model technologies such as stabilization or high temperature metal recovery. Stabilization technologies are sensitive to soil characteristics such as the presence of oxidizing agents and hydrated salts, the distribution of soil particle size and the concentrations of sulfate and chloride compounds. Various combinations of soil characteristics can impair the effectiveness or rate of reaction in stabilization technologies. For example, insoluble materials, such as materials that will pass through a number 200 mesh sieve, can delay setting and curing during stabilization, or small soil particles can coat larger soil particles weakening bonds between particles and cement or other reagents. High temperature metal recovery technologies may not be appropriate for some contaminated soil given the low concentrations of metals that might be present in the soil. In addition, clay and silt content in some soil matrices may add undesired impurities to the metal concentrates or alloys that are formed during high temperature metal recovery.

Although EPA has data showing that some soils can be treated to the existing universal treatment standards for metals using stabilization [15] and high temperature metals recovery, the Agency continues to believe that tailored soil treatment standards are appropriate for metal contaminated soil to ensure that the wide variety of soils can be effectively treated to meet the treatment standards. In addition, the soil treatment standards will have the added environmental benefit of encouraging greater use of innovative soil treatment technologies such as soil or enhanced soil (acid) washing. See, Proposed BDAT Background Document for Hazardous Soils, August 1993; Technical Resource Document: Solidification/Stabilization and its Application to Waste Materials, EPA/530/R–93/012, June 1993; and, Technology Screening Guide for Treatment of CERCLA Soils and Sludges, EPA 540/2–88/004, September 1988.

For soil contaminated with organic constituents, EPA has noted many times that, notwithstanding the fact that such soils can be treated by combustion to meet the universal treatment standards, it is generally unsuitable or impractical from a technical standpoint to combust large volumes of mildly contaminated soil. See, for example, 55 FR at 8760 and 8761 (March 8, 1990) and 61 FR 18806–18808 (April 29, 1996). In addition, the Agency has documented potential difficulties that may arise from the combustion of soil due to soil/contaminant characteristics that affect incineration performance such as the concentrations of volatile metals, the presence of alkali salts, fine particles of soils such as clays and silts, and the ash fusion point of the contaminating waste. For example, operation of an incinerator at or near the waste ash fusion temperature can cause melting and agglomeration of inorganic salts; the loading of clays and silts in some soils may also result in high loadings of particulate matter in flue gases. Proposed BDAT Background Document for Hazardous Soils, August 1993 and Technology Screening Guide for Treatment of CERCLA Soils and Sludges, EPA 540/2–88/004, September 1988.

With respect to the remedial context, EPA, the states, and the regulated and environmental communities have long recognized that application of the LDR treatment standards developed for pure, industrial hazardous waste to contaminated soil can be counterproductive. See, for example, "Hazardous Waste: Remediation Waste Requirements Can Increase the Time and Cost of Cleanups' U.S. General Accounting Office, GAO/RCED–98–4, October 1997. Application of LDRs developed for pure, industrial hazardous waste to contaminated soil often presents remediation project managers with only two choices: pursue a legal option of capping or treating hazardous contaminated soil in place thereby avoiding a duty to comply with LDRs, or excavate the soil and treat it to the full extent of best demonstrated available technology, usually, for organic constituents, incineration. EPA has found that this situation often creates an incentive to select remedies that minimize application of LDRs (e.g., remedies that involve capping or leaving untreated soil in place) a result obviously not contemplated by Congress in enacting the LDR program.[16] 62 FR at pages 64505–64506 (Dec. 5, 1997) and 61 FR at 18808 (April 29, 1996) and other sources cited therein.

Because of the differences between the remedial context (responding to wastes which have already been released to the environment) and

[14] The exception is when waste contaminating soil is subject to a specified treatment method; in that case, the contaminated soil would also be subject to the specified treatment method.

[15] These soil treatment data have been claimed as confidential business information.

[16] As discussed in the April 29, 1996 proposal, EPA has, in the past, justified the existing treatment standards, in part, because they create an incentive to generate less of the affected waste in the first instance. See, Steel Manufactures Association v. EPA, 27 F.3d 642, 649 (D.C. Cir. 1994). In the remedial context, the waste is already in existence; therefore waste minimization is not an issue. Thus, application of the current LDR treatment standards to remediation waste can have the perverse effect of creating an incentive to avoid "generating" waste by leaving it in the ground. The Agency believes that the goals of remediation are better served by more aggresive remedial approaches, such as excavation and management (including some degree of treatment) of remediation wastes, that generally result in more permanent remedies. Such approaches should, therefore, be encouraged.

regulation of wastes generated by ongoing industrial process (preventing wastes from being released into the environment in the first instance), EPA has rejected the conclusion that treatment standards for soil must be based upon the performance of the "best" demonstrated available treatment technology in the way the Agency has historically interpreted these terms. Instead, the Agency has chosen to develop soil treatment standards that can be achieved using a variety of treatment technologies which achieve substantial reductions in concentration or mobility of hazardous constituents and, because they are generally used to treat contaminated soils in remedial settings, do not present site managers with the type of dilemma described above. As EPA has long maintained, the strong policy considerations that argue for using the traditional BDAT analysis as the basis for LDR treatment standards for hazardous wastes generated by ongoing industrial operations do not apply when evaluating BDAT in the remedial context. In the remedial context, for example, waste minimization is not an issue and the additional increment of treatment necessary to achieve traditional BDAT may yield little if any environmental benefit over other treatment options that adequately protect human health and the environment. 54 FR 41568 (October 19, 1989). Indeed there is a legitimate question as to whether a technology whose use results in foregoing other substantial environmental benefits (such as more aggressive, permanent remedies) can be considered a "best" technology. *Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375, 385–86 at n. 42 (D.C. Cir. 1973); Essex Chemical Corp. v. Ruckelshaus, 486 F. 2d 427, 439 (D.C. Cir. 1973). This issue was discussed fully in the April 29, 1996 proposal and in a number of other EPA documents, see, for example, 54 FR 41568 (October 19, 1989) and 61 FR at 18808 (April 29, 1996) and other sources cited therein.

The soil treatment standards promulgated today will significantly improve management of contaminated soil and remediations that involve contaminated soil. However, the Agency emphasizes that today's rule does not resolve the larger, more fundamental issues associated with application of RCRA Subtitle C to remediation generally. The Agency maintains that additional reform is needed to address, more fundamentally, the application of certain RCRA subtitle C requirements to all remediation wastes, including contaminated soil. The Agency will continue to participate in discussions of potential legislation to promote this additional needed reform. If legislation is not forthcoming, the Agency may reexamine its approach to remediation waste management, including the soil treatment standards.

B. Detailed Analysis of Soil Treatment Standards

All land disposal restriction treatment standards must satisfy the requirements of RCRA section 3004(m) by specifying levels or methods of treatment that "substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from that waste so that short-term and long-term threats to human health and the environment are minimized." As EPA has discussed many times, the RCRA Section 3004(m) requirements may be satisfied by technology-based standards or risk-based standards. This conclusion was upheld in Hazardous Waste Treatment Council v. EPA, 886 F.2d 355, 362–64 (D.C. Cir. 1989), where technology-based LDR treatment standards were upheld as a permissible means of implementing RCRA Section 3004(m) provided they did not require treatment beyond the point at which threats to human health and the environment are minimized. Today's treatment standards for contaminated soils are primarily technology-based; however, a variance from the technology-based standards is allowed when EPA or an authorized state makes a site-specific determination that threats posed by land disposal of any given volume of contaminated soil are minimized at higher concentrations.

1. Technology Basis for Soil Treatment Standards

The land disposal restriction treatment standards for soil require that concentrations of hazardous constituents subject to treatment be reduced by ninety percent (90%) with treatment for any given constituent capped at ten times the universal treatment standard (10 X UTS). In other words, if treatment of a given constituent to meet the 90% reduction standard would reduce constituent concentrations to less than 10 X UTS, treatment to concentrations less than 10 X UTS is not required. This is commonly referred to as "90% capped by 10xUTS."

As first discussed in the September 14, 1993 proposal, the Agency has not used the statistical methods historically used in the land disposal restriction program to establish the soil treatment standards. In the past, the Agency has typically evaluated treatability data to identify the "most difficult to treat" waste and established treatment standards based on a statistical analysis of data from the best demonstrated available treatment technology for that waste. See, for example, 55 FR 26594 and 26605, June 23, 1989. While the existing regulations allow treatment using any technology that will satisfy the treatment standards, the practical impact of that approach is that treatment using the most aggressive treatment technology available (i.e., for organic constituents, destruction of organic constituents based upon the performance of incineration) is often necessary to achieve the treatment standards.

For contaminated soil, the Agency has chosen to establish technology-based soil treatment standards at levels that are achievable using a variety of common remedial technologies which destroy, remove or immobilize substantial amounts of hazardous constituents. 58 FR 48129 (September 14, 1993). The levels chosen—90% reduction capped at 10 X UTS—are within the zone of reasonable levels the Agency could have selected as treatment standards for contaminated soil.

Soil treatability data from EPA's Soil Treatment Database indicate that the soil treatment standards are achievable and that the Agency has selected a reasonable level of performance for the standard. After screening the Database to eliminate data from tests reflecting poorly designed or operated treatment, tests where EPA believes inappropriate technologies were applied (for example, data from "immobilization" of organic constituents), and other inappropriate data, the Agency was left with 2,541 data pairs representing treatment of eighty hazardous constituents including nine BDAT list metals.[17] EPA then analyzed these data to determine if the soil treatment standards could be reliably achieved using demonstrated soil treatment technologies. Based on this analysis, the Agency concluded that the soil treatment standards can be reliably achieved using a variety of available soil treatment technologies. The Agency concluded that the soil treatment standards can be reliably achieved using: biological treatment, chemical extraction, dechlorination, soil washing, stabilization and thermal desorption. Of course, since soil treatment is generally matrix dependent, the exact treatment technology which

[17] A complete discussion of the Agency's method for screening the Soil Treatment Database can be found in the LDR Phase II proposal (58 FR 48129—48131, September 14, 1993) and the Best Demonstrated Available Technology Background Document for Hazardous Soil (August 1993).

might be applied to any given contaminated soil will depend on the specific properties of the soil and the hazardous constituents of concern. Choices about which soil treatment technology to apply should be informed by appropriate use of bench and pilot scale studies and good engineering judgement. EPA acknowledges that the treatment efficiency necessary to achieve the soil treatment standards will depend on, among other things, the initial concentrations of hazardous constituents in any given volume of contaminated soil. Thus, not all soil treatment technologies will be capable of treating every contaminated soil to meet the standards adopted in this rule. However, the Agency finds that the soil treatment standards typically can be achieved by at least one of the demonstrated technologies, even in the case of hard-to-treat hazardous constituents such as dioxins and furans, polychlorinated biphenyls, and polynuclear aromatics.

Furthermore, the Agency has concluded that it is appropriate to express the soil treatment standards as a treatment performance goal capped by specific treatment levels. More specific standards, for example, a single numerical standard for all soil, could be counterproductive—less often achievable—given the varying combinations of hazardous constituents and soil properties that might be encountered in the field. 58 FR 48130 (September 14, 1993). An express objective of this rule is to increase the range of appropriate treatment alternatives available to achieve the LDR treatment standards in soil to increase the likelihood that more remediations will include treatment as a component of the remedy. This objective could be impeded by adopting single numeric values as treatment standards, since that approach would reduce needed flexibility. The resulting soil treatment standards, while still technology-based, thus depart from EPA's past methodology developed for process wastes in that they are not based exclusively on the application of the most aggressive technology to the most difficult to treat waste and are not expressed as a single numeric value.

Like any land disposal restriction treatment standard, the soil treatment standards may be achieved using any treatment method except treatment methods which involve impermissible dilution (e.g., addition of volume without destroying, removing or immobilizing hazardous constituents or transfer of hazardous constituents from soil to another medium such as air). For organic constituents, the soil treatment standards for volatile organic constituents are based on the performance of biotreatment, chemical extraction, dechlorination, thermal desorption or soil vapor extraction. The standards for semivolatile organic constituents are based on the performance of biotreatment, chemical extraction, dechlorination, soil washing, thermal desorption, or soil vapor extraction. The standards for organochlorine pesticides are based on the performance of biotreatment, dechlorination, hydrolysis, or thermal desorption. The standards for phenoxyacetic acid pesticides are based on the performance of dechlorination. The standards for polychlorinated biphenyls are based on the performance of chemical extraction, dechlorination, or thermal desorption. The standards for dioxins and furans are based on the performance of dechlorination or thermal desorption. EPA does not have specific data in the record on treatment of organophosphorous insecticides. Because they are based on a similar chemical structure, these contaminants, however, are likely as difficult to treat as other polar nonhalogenated organic compounds and are expected to respond to treatment in a manner similar to other polar nonhalogenated phenols, phenyl ethers, and cresols. Therefore, EPA believes that organophosphorous insecticides can be treated using the same technologies as would otherwise be used to treat polar nonhalogenated organics, i.e., biotreatment, chemical extraction, or thermal desorption. For all organic constituents the soil treatment standards are also achievable using combustion. EPA notes also that a number of judicial opinions have upheld EPA's extrapolation of achievability results for technology-based treatment standards based on chemical structure and activity similarity, as has been used here. See, e.g., *Chemical Manufacturers Ass'n* v. *EPA*, 870 F. 2d 177, 248 (5th Cir. 1989) and *National Ass'n of Metal Finishers* v. *EPA*, 719 F. 2d 624, 659 (3d Cir. 1983). For metals, the soil treatment standards are based on the performance of stabilization, and for mercury, chemical extraction. Achievability of the soil treatment standards is discussed, in detail, in section VII.B.8 of today's preamble.

a. Measuring Compliance With the Soil Treatment Standards For hazardous constituents which have a treatment standard measured by total waste analysis (i.e. standards for organic constituents and for cyanide), compliance with the 90% reduction standard should generally be measured using total constituent concentrations. For hazardous constituents which have a treatment standard measured based on concentrations in a TCLP extract (i.e., standards for metals and for carbon disulfide, cyclohexanone and methanol), compliance with the 90% reduction standard should generally be measured in leachate using the toxicity characteristic leaching procedure. The exceptions to these rules would be, for example, if soils contaminated with metal constituents were treated using a technology which removed or destroyed, rather than stabilized, metals. In an example like this, compliance with the 90% reduction standards should generally be measured using total constituent concentrations.

EPA takes this opportunity to clarify that when establishing the concentrations of hazardous constituents in any given volume of contaminated soil from which the 90% reduction will be measured, normal soil characterization techniques and procedures for representative sampling should be used. For example, it is not necessary to measure the 90% reduction from the soil sample with the lowest concentrations of hazardous constituents. EPA will publish additional guidance on establishing and validating 90% reduction levels for contaminated soil in the near future.

Today's rule does not change existing policies or guidance on soil sampling or site characterization. Although soil is often characterized using composite sampling, EPA notes that, consistent with the way the Agency measures compliance with other LDR treatment standards, compliance with the soil treatment standards will be measured and enforced using grab samples. This is appropriate because well-designed and well-operated treatment systems should ensure that soil is uniformly treated.

b. Major Comments A number of commenters expressed concern about the achievability of the soil treatment standards and/or the methodology EPA used to develop the soil treatment standards. These concerns are discussed in Section VII.B.8 of today's preamble and in the response to comments document, available in the docket for today's rulemaking.

2. The Soil Treatment Standards Satisfy RCRA Section 3004(m) Requirements

The technology-based "90% capped by 10 X UTS" treatment standard for contaminated soil is sufficiently stringent to satisfy the core requirement of RCRA Section 3004(m) that short-term and long-term threats to human health and the environment posed by

land disposal are minimized. Technology-based standards provide an objective measure of assurance that hazardous wastes are substantially treated before they are land disposed, thus eliminating the "long-term uncertainties associated with land disposal." Eliminating these uncertainties was a chief Congressional objective in prohibiting land disposal of untreated hazardous wastes. Hazardous Waste Treatment Council v. EPA, 886 F.2d at 361–64. In addition, the extent of treatment required, 90 % reduction capped at treatment to concentrations within an order of magnitude of the UTS, "substantially" reduces mobility or total concentrations of hazardous constituents within the meaning of RCRA Section 3004(m)(1).

EPA has made two changes from proposal which strengthen the soil treatment standards to assure that they minimize threats to human health and the environment. First, the Agency has modified its approach to which hazardous constituents will be subject to treatment. In today's rule, when the soil treatment standards are used, EPA requires treatment for all hazardous constituents reasonably expected to be present in contaminated soil when such constituents are initially found at concentrations greater than ten times the universal treatment standard. This treatment is required both for soil contaminated by listed hazardous waste and soil that exhibits (or exhibited) a characteristic of hazardous waste. Constituents subject to treatment are discussed further in Section VII.B.4 of today's preamble.

To further ensure that contaminated soil treated to comply with the soil treatment standards is safely managed, EPA has included additional restrictions on the use of treated contaminated soil in hazardous waste-derived products that are used in a manner constituting disposal (i.e., when such products will be placed on the land). The restrictions on use of treated contaminated soil in hazardous waste-derived products that are used in a manner constituting disposal are discussed in Section VII.B.5 of today's preamble.

Finally, the Agency reiterates that, in the remediation context, in assessing whether threats posed by land disposal have been minimized, one should appropriately consider the risks posed by leaving previously land disposed waste in place as well as the risks posed by land disposal of waste after it is removed and treated. 62 FR at 64506 (December 5, 1997). For example, if a treatment standard for organic constituents based on performance of incineration typically results in already land disposed materials such as contaminated soils being capped in place rather than more aggressively remediated, threats posed by land disposal of the waste ordinarily would not be minimized. Conversely, a treatment standard that results in substantial treatment followed by secure land disposal can be said to minimize threats, taking into account the totality of threats posed (i.e. including those posed if the soil were left in place untreated). *Id.* The soil treatment standards will ordinarily ensure that contaminated soil is appropriately treated within the meaning of RCRA Section 3004(m), considering both the threats posed by new land disposal of treated soil and the threats posed by on-going land disposal of existing contaminated soil (e.g., if the soil were left in place untreated).

EPA recognizes that some people may be concerned that a situation may arise where the soil treatment standards are at levels that are higher than those that EPA or an authorized state believes should be required for soil cleanup under a cleanup program. The Agency acknowledges that this may occur. The soil treatment standards, like other land disposal restriction treatment standards, are based on the performance of specific treatment technologies. As discussed earlier in today's preamble, technology-based standards have been upheld as a permissible means of implementing RCRA Section 3004(m). Most soil cleanup levels are based not on the performance of specific treatment technologies but on an analysis of risk. For this reason, technology-based treatment standards will sometimes over-and sometimes under-estimate the amount of treatment necessary to achieve site-specific, risk-based goals.

The purpose of the land disposal restriction treatment standards is to ensure that prohibited hazardous wastes are properly pre-treated before disposal (i.e., treated so that short- and long-term threats to human health and the environment posed by land disposal are minimized). As discussed above, the Agency believes the soil treatment standards promulgated today fulfill that mandate for soil that contains prohibited listed hazardous waste or exhibits a characteristic of prohibited hazardous waste. However, technology-based treatment standards are not necessarily appropriate surrogates for site-specific risk-based cleanup levels. In a circumstance where the soil treatment standards result in constituent concentrations that are higher than those determined, on a site-specific basis, to be required for soil cleanup, existing remedial programs such as RCRA Corrective Action, CERCLA and state cleanup programs could be applied to ensure that remedies are adequately protective. These programs already ensure protection of human health and the environment when managing most contaminated soils—i.e., soils that are not subject to the LDRs—and other remediation wastes. Furthermore, as discussed later in today's rule, treated contaminated soil would remain subject to regulation under RCRA Subtitle C unless and until EPA or an authorized state made an affirmative decision that the soil did not contain hazardous waste or, in the case of characteristic soil, no longer exhibited a hazardous characteristic.

3. Variance From the Soil Treatment Standards at Risk-Based Levels

EPA has long indicated that its preference would be to establish a complete set of risk-based land disposal treatment standards at levels that minimize short- and long-term threats to human health and the environment. See, for example, 55 FR at 6641 (Feb. 26, 1990). However, the difficulties involved in establishing risk-based standards on a nationwide basis are formidable due in large part to the wide variety of site-specific physical and chemical compositions encountered in the field and the uncertainties involved in evaluating long-term threats posed by land disposal. *Id.*; 60 FR 66380—66081 (Dec. 21, 1995). For these reasons the Agency has chosen to establish land disposal restriction treatment standards based on the performance of specific treatment technologies. Although technology-based treatment standards are permissible, they may not be established at levels more stringent than those necessary to minimize short and long-term threats to human health and the environment. Hazardous Waste Treatment Council, 886 F. 2d at 362 (land disposal restriction treatment standards may not be established, "beyond the point at which there is not a "threat" to human health or the environment").

While using risk-based approaches to determine when threats are minimized on a national basis has proven extremely difficult, these difficulties will diminish when evaluating risks posed by a specific contaminated soil in a particular remediation setting since, during remediation, one typically has detailed site-specific information on constituents of concern, potential human and environmental receptors, and potential routes of exposure. For this reason, EPA is establishing a site-specific variance from the technology-based soil treatment standards, which

can be used when treatment to concentrations of hazardous constituents greater (i.e., higher) than those specified in the soil treatment standards minimizes short- and long-term threats to human health and the environment. In this way, on a case-by-case basis, risk-based LDR treatment standards approved through a variance process could supersede the technology-based soil treatment standards. This approach was first discussed in the September 14, 1993 proposal, where EPA proposed that determinations that contaminated soil did not or no longer contained hazardous waste could supersede LDR treatment standards, if the "contained-in" level also constituted a "minimized threat" level. It was repeated in the April 29, 1996 proposal where the Agency proposed that, in certain circumstances, variances from land disposal restriction treatment standards could be approved in situations where concentrations higher than the treatment standards minimized threats.[18] 58 FR at 48128 (September 14, 1993) and 61 FR at 18811 and 18812 (April 29, 1996).

At this time, EPA is allowing the risk-based variances only for contaminated soils. The Agency believes this limitation is appropriate for a number of reasons. First, contaminated soils are most often generated during agency overseen cleanups, such as CERCLA cleanups, RCRA corrective actions or state overseen cleanups. This type of involvement in cleanups positions EPA and authorized states to appropriately consider site-specific, risk-based issues. Second, during remediation, experts and field personnel typically gather detailed site-specific information on risks posed by specific hazardous constituents or combinations of hazardous constituents, potential direct and indirect exposure routes, risk pathways and human and environmental receptors. Through application of this information, overseeing agencies can eliminate many of the long-term uncertainties associated with land disposal and, therefore, make appropriate risk-based decisions regarding the extent of treatment needed to minimize short- and long-term threats to human health and the environment from any given hazardous constituent or combination of hazardous constituents. EPA and state officials already routinely make these types of decisions when developing site-specific, risk-based cleanup levels and when making decisions about whether any given contaminated medium contains hazardous waste.[19] After experience implementing the site-specific minimize threat variance for contaminated soil, the Agency may consider extending it to other environmental media and remediation wastes.

Some commenters expressed concern that allowing site-specific, risk-based minimize threat determinations would abrogate the Agency's responsibilities under RCRA Section 3004(m). The Agency strongly disagrees. RCRA Section 3004(m) requires EPA to establish "levels or methods of treatment, if any. * * *." In the case of contaminated soil, EPA is establishing those levels today based on the performance of available, appropriate soil treatment technologies. Providing a variance process to modify a level or method of treatment on a case-by-case basis reduces the likelihood that in any particular situation technology-based treatment standards will result in treatment beyond the point at which threats are minimized. The Agency is requiring that minimize threat variance determinations for contaminated soils be evaluated using the existing site-specific variance process set out in 40 CFR 268.44(h). EPA recently added language to this provision to clarify that variances cannot be approved without opportunity for public participation, including notice by appropriate means, opportunity for public comment and adequate explanation of an ultimate determination. 62 FR at 64507 (Dec. 5, 1997).

While not required, EPA anticipates that decisions about site-specific minimize threat decisions variances will often be combined with decisions that soil no longer contains hazardous waste. As discussed later in today's preamble, Agency guidance on "contained-in" determinations is essentially the same as the requirements for site-specific, risk-based minimize threat determinations promulgated today. For that reason, EPA believes it will always be appropriate to combine a contained-in determination with a site-specific, risk-based minimize threat variance. In these cases, EPA encourages program implementors and facility owners/operators to include information about the "contained-in" decision in the public notice of the site-specific minimize threat variance. In cases where a site-specific minimize threat variance is combined with a decision that a soil no longer contains hazardous waste, once treated to comply with the treatment standard imposed by the variance, the soil would no longer have any obligations under RCRA Subtitle C and could be managed—including land disposed—without further control under RCRA Subtitle C. The contained-in policy is discussed in more detail in Section VII.B.8 and Section VII.E of today's preamble.

EPA reminds program implementors that, consistent with the rest of the land disposal restriction program, site-specific determinations that threats are minimized cannot be based on the potential safety of land disposal units, or engineered structures such as liners, caps, slurry walls or any other practice occurring after land disposal. American Petroleum Inst. v. EPA, 906 F.2d 729, 735–36 (D.C. Cir. 1990) (land treatment cannot be considered in determining whether threats posed by land disposal have been minimized because land treatment is a type of land disposal and section 3004(m) requires that threats be minimized before land disposal occurs); see also S. Rep. No. 284, 98th Cong. 1st sess. at 15, stating that engineered barriers cannot be considered in assessing no-migration variances because "[a]rtificial barriers do not provide the assurances necessary to meet the standard." This means that site-specific minimize threat determinations must be based on the inherent threats any given contaminated soil would pose. The Agency recognizes that this will have the effect of precluding site-specific minimize threat variances for remedies that rely, even in part, on capping, containment or other physical or institutional controls. In

[18] In the April 29, 1996 proposal, the Agency proposed to limit variances based on a site-specific minimize threat determination to contaminated soils where all concentrations of hazardous constituents were below a "bright line," that is, below a certain risk level. The Agency also requested comment on extending site-specific minimize threat variances to other contaminated soils. Based on further consideration and consideration of comments, the Agency is persuaded that a site-specific minimize threat variance should be available to all contaminated soils. The Agency believes this is proper because the outcome of a site-specific, risk-based minimize threat variance—alternative, site-specific LDR treatment standards based on risk—will be the same regardless of the initial concentrations of hazardous constituents. In any case, the Agency is not, at this time, taking action on the portion of the April 29, 1996 proposal that would have established a "bright line" to distinguish between higher- and lower-risk media. If, in the future, the Agency takes action to establish a bright line, it will address the relationship of a bright line to site-specific minimize threat variances.

[19] While not forbidden, the Agency believes that site-specific, risk-based minimize threat determinations will rarely be made in the context of an independent or voluntary cleanup action, since, in these types of actions, an overseeing Agency will not, typically, have been involved in the identification exposure pathways and receptors of concern or the calculation of site-specific, risk-based cleanup levels. Of course, generators could apply for a site-specific, risk-based minimize threat variance during an independent or voluntary cleanup and, provided EPA or an authorized state agreed that the proposed alternative treatment standards minimized threats considering appropriate exposure pathways and receptors, a variance could be approved.

addition to being compelled by the statute, the Agency believes this approach is proper, in that it may encourage remedy choices that rely more predominantly on treatment to permanently and significantly reduce the concentrations (or mobility) of hazardous constituents in contaminated soil. The Agency has a strong and longstanding preference for these types of more permanent remedial approaches.

In addition, at a minimum, alternative land disposal restriction treatment standards established through site specific, risk-based minimize threat variances should be within the range of values the Agency generally finds acceptable for risk-based cleanup levels. That is, for carcinogens, alternative treatment standards should ensure constituent concentrations that result in the total excess risk from any medium to an individual exposed over a lifetime generally falling within a range from 10^{-4} to 10^{-6}, using 10^{-6} as a point of departure and with a preference, all things being equal, for achieving the more protective end of the risk range. For non-carcinogenic effects, alternative treatment standards should ensure constituent concentrations that an individual could be exposed to on a daily basis without appreciable risk of deleterious effect during a lifetime; in general, the hazard index should not exceed one (1). Constituent concentrations that achieve these levels should be calculated based on a reasonable maximum exposure scenario—that is, based on an analysis of both the current and reasonably expected future land uses, with exposure parameters chosen based on a reasonable assessment of the maximum exposure that might occur. The Agency believes these represent an appropriate range of minimum values for site-specific, risk-based minimize threat determinations because sites cleaned up to these levels are typically released from regulatory control under the Federal CERCLA program and the RCRA corrective action program. See, for example, the National Contingency Plan (55 FR 8666, March 8, 1990) the 1990 RCRA Corrective Action Subpart S Proposal (55 FR 30798, July 27, 1990), and the 1996 RCRA Corrective Action Subpart S ANPR (61 FR 19432, May 1, 1996). In addition to achieving protection of human health, alternative treatment standards must ensure that environmental receptors are protected and must also ensure that no unacceptable transfer of contamination from one medium to another, for example, from soil to ground water, will occur.[20] Protection of environmental receptors and against cross-media contamination may, in some cases, require more stringent (i.e., lower) alternative treatment standards than would be necessary to protect human health alone. The Agency recognizes that this approach is different from the approach used in developing national risk-based minimize threat levels proposed in the Hazardous Waste Identification Rule (HWIR-Waste). 60 FR 66344 (December 21, 1995). This difference is proper, in that the HWIR-Waste proposal contemplated nationally-applicable risk-based LDR treatment standards and, therefore, had to consider the myriad of potential exposure pathways and receptors which might occur at any given site, nation wide. A site-specific minimize threat determination is informed by actual and reasonable potential exposure pathways and receptors at a specific land disposal location.

Although not expressly limited to land disposal of contaminated soil on-site, EPA anticipates that site-specific minimize threat variances will, most often, be applied to these activities. The basis for developing an alternative land disposal restriction treatment standard during the site-specific minimize threat variance is application of risk information about specific exposure pathways and receptors of concern. To apply such a variance to off-site land disposal, the treatment standard would have to be informed by the exposure pathways and receptors present at the off-site land disposal areas (assuming no physical or engineered structures or other post-land-disposal controls). While such an analysis is allowed, this information is not, to the Agency's knowledge, routinely gathered during site remediation.

Most commenters supported the concept of using a treatment variance to reduce the likelihood that, in any particular case, technology-based soil treatment standards might prompt treatment beyond the point at which threats to human health and the environment are minimized.

One commenter was concerned that establishing a risk-based minimize threat variance without adequate minimum standards would be contrary to law and impossible to oversee. EPA was, in part, persuaded by these comments and has added a requirement that, at a minimum, alternative LDR treatment standards approved through a site-specific minimize threat variance be within the range of acceptable values the Agency typically uses for cleanup decisions, as discussed above. In addition, as discussed above, the Agency has clarified that, unlike some CERCLA or RCRA corrective action remedies, site-specific minimize threat variances may not rely on post-land disposal controls.

4. Constituents Subject to Treatment

For soil contaminated by listed hazardous waste, EPA proposed that treatment would be required for each hazardous constituent originating from the contaminating waste. For soil which exhibits (or exhibited) a characteristic of hazardous waste, EPA proposed that treatment would be required: (1) in the case of TC soil, for the characteristic contaminant; (2) in the case of ignitable, reactive or corrosive soil, for the characteristic property; and, (3) in both cases, for all underlying hazardous constituents. 61 FR at 18809 (April 29, 1996). Under the 1996 proposal, treatment would have been required only when those constituents were initially present at concentrations greater than ten times the universal treatment standard. EPA also requested comment on, among other things, whether, for soil contaminated by listed hazardous waste, treatment should be required for all underlying hazardous constituents present at concentrations above ten times the UTS. Underlying hazardous constituent is defined in 40 CFR 268.2(i) as, "any constituent listed in 40 CFR 268.48 table UTS, except fluoride, sulfides, vanadium, selenium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste, at a concentration above the constituent-specific UTS treatment standards."

Many commenters supported the proposed approach. Some commenters, however, expressed concern that, because contaminated soil often contains numerous hazardous constituents from a variety of sources, limiting treatment of soil contaminated by listed hazardous waste to constituents originating from the contaminating waste might result in soil contaminated with listed waste undergoing less treatment than soil which exhibits (or exhibited) a characteristic of hazardous waste. One commenter also asserted that the proposed approach to constituents subject to treatment was, in the case of soil contaminated by listed hazardous waste, inconsistent with the Chemical Waste opinion. On further consideration, EPA was persuaded that it is prudent to apply the logic of the

[20] Unacceptable cross-media transfer would include, for example, transfer of contaminants from soil to air in excess of applicable air emission standards.

Chemical Waste opinion both to soil contaminated by listed hazardous waste and to soils which exhibit a characteristic of hazardous waste.

As the Agency explained in the 1996 proposal, contaminated soils are potentially contaminated with a wider range of hazardous constituents than most pure hazardous wastes generated by on-going industrial processes—in no small part because contaminated soils generally reflect uncontrolled disposal settings. 58 FR at 48124 (September 14, 1993). Since the Chemical Waste opinion addressed a similar situation (certain characteristic hazardous wastes that might contain a variety of hazardous constituents), the Agency is persuaded that it is prudent to apply the logic of the Chemical Waste opinion to contaminated soil and require treatment of all underlying hazardous constituents. See Chemical Waste Management v. US EPA, 976 F.2d at 16–18 (D.C. Cir 1992). Therefore, when the soil treatment standards are used, today's final rule requires that all contaminated soil subject to the LDRs be treated to achieve the soil treatment standards for each underlying hazardous constituent reasonably expected to be present in the soil when such constituents are initially found at concentrations greater than ten times the universal treatment standard. In addition to treatment of all underlying hazardous constituents as discussed above, as proposed, characteristic soil must also be treated, in the case of TC soil, for the TC constituent and, in the case of ignitable, corrosive, or reactive soil, for the characteristic property.

Although, when the soil treatment standards are used, treatment is now required for each underlying hazardous constituent when such constituents are initially found at concentrations greater than ten times the universal treatment standard, it will not be necessary to monitor soil for the entire list of underlying hazardous constituents. Generators of contaminated soil can reasonably apply knowledge of the likely contaminants present and use that knowledge to select appropriate underlying hazardous constituents, or classes of constituents, for monitoring. This is consistent with the approaches EPA typically takes in remedial programs, where it emphasizes that remediation managers should focus investigations on constituents of concern and with regulations that allow generators to rely on knowledge to determine whether any given solid waste is hazardous. *Cf.* 61 FR at 19444 where EPA encouraged remediation managers to "tailor [facility investigations] to the specific conditions and circumstances at the facility and focus on the units, releases, and exposure pathways of concern."

For nonanalyzable constituents, EPA is promulgating the approach discussed in both the September 14, 1993 and the April 29, 1996 proposals. In situations where contaminated soil contains both analyzable and nonanalyzable organic constituents, treating the analyzable constituents to meet the soil treatment standards is also reasonably expected to provide adequate treatment of the nonanalyzable constituents. In situations where contaminated soil contains only nonanalyzable constituents (i.e., soil contaminated only by nonanalyzable U or P listed wastes), treatment using the specified method for the appropriate U or P listed waste is required. 61 FR at 18810, April 29, 1996. Most commenters supported this approach.

5. Relationship of Soil Treatment Standards to Naturally Occurring Constituents

In the April 29, 1996 proposal EPA requested comment on whether concentrations of naturally occurring constituents should be evaluated when identifying constituents subject to treatment. Commenters who addressed this issue overwhelmingly recommended that, for naturally occurring constituents, EPA cap LDR treatment requirements for soil at natural background concentrations. After considering these comments, EPA was persuaded that treatment to comply with LDRs should not be required if constituent concentrations fall below naturally occurring background concentrations, provided the soil will continue to be managed on site or in an area with similar natural background concentrations. If soil will be sent for land disposal off-site, compliance with LDRs is required, since the Agency believes that natural background concentrations on-site will not automatically correspond to natural background concentrations at a remote land disposal facility.

The Agency notes that, for purposes of this discussion, natural background concentrations are constituent concentrations that are present in soil which has not been influenced by human activities or releases. Since these constituent concentrations are present absent human influence and EPA has determined that soil (like other environmental media) is not, of itself, a waste but may be regulated as hazardous waste under RCRA only when it contains (or contained) waste, EPA is not convinced the Agency would have the authority to require compliance with LDRs when constituent concentrations fall below background concentrations even if it felt compelled to do so. (Of course, such constituents could be regulated as hazardous constituents under state and Federal cleanup authorities, including RCRA corrective action and other authorities.)

Since natural background concentrations may vary across geographic areas, and to ensure that LDRs will only be capped at background where appropriate, EPA will require that individuals who wish to cap LDR treatment at natural background concentrations apply for and receive a treatment variance. EPA will presume that when LDRs would require treatment to concentrations that are less than natural background, such a variance will be appropriate, based on the finding that it is inappropriate, for contaminated soil, to require treatment to concentrations less than natural background concentrations. This issue has been clarified in today's final regulations, see 40 CFR 268.44(h)(4).

6. Restrictions on Use of Treated Hazardous Contaminated Soil in Products Used in a Manner Constituting Disposal

Although, as discussed earlier in today's preamble, EPA believes the soil treatment standards satisfy the requirements of RCRA Section 3004(m), EPA has determined that additional restrictions are necessary for hazardous contaminated soils that are used to produce products which are, subsequently, used in a manner constituting disposal (i.e., used to produce products which are placed in or on the land). Under current regulations, hazardous waste-derived products that are used in a manner constituting disposal must, among other things, comply with the applicable land disposal restriction treatment standards in 40 CFR part 268.40, that is, the Universal Treatment Standards. See 40 CFR 266.23(a). EPA has concluded that hazardous contaminated soil used to produce products which are, subsequently, used in a manner constituting disposal must continue to meet the universal treatment standards. Such products, then, are not eligible for the soil treatment standards promulgated today. EPA has made this decision for several reasons. First, EPA has chosen technology-based treatment standards (such as today's soil treatment standards) as a means of implementing the LDR statutory requirements in order to eliminate as many of the uncertainties associated with land disposal of hazardous waste as possible.

55 FR at 6642 (Feb. 26, 1990). These uncertainties increase sharply when one considers possible dispositions of hazardous waste-derived products used in a manner constituting disposal. These products can be placed virtually anywhere, compounding potential release mechanisms, exposure pathways, and human and environmental receptors. 62 FR at 64506 (Dec. 5, 1997) and 53 FR at 31197–98 (August 17, 1988). For these reasons, the Agency in 1988 determined that these wastes should be treated to reflect the best treatment available, 53 FR at 31197–98, and the Agency believes this reasoning continues to hold with respect to contaminated soils. Second, EPA has determined that the soil treatment standards adopted in today's rule are justified, in many instances, in order to encourage remediation involving treatment over remedies that involve leaving un-treated contaminated soils in place. The Agency is less sure that this is a desirable incentive if the contaminated soils are to be used in a manner constituting disposal, again because of the uncertainties posed by this method of land disposal.

Note that EPA has explained, however, that remediation activities involving replacement of treated soils onto the land is not a type of use constituting disposal, in part, because it is a supervised remediation instead of an unsupervised recycling activity. 62 FR 26063 (May 12, 1997). This interpretation is not affected by today's rulemaking.

7. Availability of Soil Treatment Standards

EPA proposed that soil-specific land disposal restriction treatment standards would be available only for contaminated soils managed under an agency approved, site-specific cleanup plan termed a Remediation Management Plan or "RMP." The Agency also specifically requested comment on whether soil-specific treatment standards should be made available to all contaminated soil. 61 FR at 18813 (April 29, 1996). The majority of commenters who addressed this issue strongly supported extending the soil treatment standards to all contaminated soil. These commenters argued that extending soil-specific LDRs to all contaminated soil would encourage voluntary and independent cleanups, especially at low and medium priority sites where a regulatory agency might not have the resources to provide real-time oversight through a "RMP." After considering these comments, EPA is persuaded that the soil treatment standards should be available for all contaminated soil and has revised the regulations accordingly.

EPA's thinking in proposing to require a site-specific remediation management plan to take advantage of the soil treatment standards was that site-specific oversight, and potentially modification of the treatment standards, would be necessary to ensure that all contaminated soils were appropriately treated. 61 FR at 18807 (April 29, 1996). However, EPA now concludes that the soil treatment standards will ensure adequate treatment of all contaminated soils for two reasons.

First and primarily, the residuals from treatment of hazardous contaminated soil will typically continue to be regulated as hazardous waste and will remain subject to applicable RCRA Subtitle C requirements. 61 FR at 18810 (April 29, 1996). Non-soil residuals, such as wastes generated during application of separation technologies, will be regulated as hazardous wastes if they exhibit a characteristic of hazardous waste or if they derive from treating a soil which contains listed hazardous waste. Therefore, these types of non-soil residuals will typically be subject to the universal treatment standards in 40 CFR 268.40. See 57 FR at 37240 (Aug. 18, 1992) where EPA took the same approach for residues from treating contaminated debris. Soil residuals will also be regulated as hazardous waste unless it is determined that the soil does not contain hazardous waste.[21] For example, application of a thermal desorption technology would likely generate two types of residuals: treated soil (soil residual) and concentrated contaminants removed from the soil and captured in an air pollution control device (non-soil residual). If the contaminated soil contained a listed hazardous waste or exhibited a characteristic of hazardous waste at the time of treatment, both residuals would continue to be subject to RCRA Subtitle C regulations. The non-soil residual would be required to comply with applicable universal treatment standards prior to land disposal; the soil residual would generally require land disposal in a Subtitle C unit unless a "contained-in" determination was made. Therefore, although a remediation management plan is no longer required to take advantage of the soil treatment standards, a site-specific decision is still required before treated contaminated soil can exit the system of RCRA regulations.

Second, as noted earlier, EPA has extended the treatment requirement to all underlying hazardous constituents reasonably expected to be present in contaminated soils when such constituents are found at initial concentrations greater than ten times the universal treatment standard and retained current treatment requirements for hazardous contaminated soils used to produce products that are subsequently used in a manner constituting disposal.

8. Achievability of Contaminated Soil Treatment Standards

The soil treatment standards promulgated today are based primarily on the data for soil treatability found in EPA's Soil Treatment Database (SDB). See, Best Demonstrated Available Treatment Background Document for Hazardous Soils, August 1993 and LDR Phase 2 proposal at 58 FR 48122, Sept. 14, 1993. Data from the soil treatment database are corroborated by more recent performance data for non-combustion treatment of remediation wastes. See Soil Treatability Analysis: Analysis of Treatability Data for Contaminated Soil Treatment Technologies (April 1998, USEPA) and references cited in note 5 below.

The soil treatment data base contains 6,394 pairs of data points (for the same sample, one datum for untreated soil and one datum for treated soil) describing the treatment of hazardous constituents in contaminated soils managed under the RCRA and the Superfund programs. After screening the database to eliminate data from tests reflecting poorly designed or operated treatment, tests where EPA believes inappropriate technologies were applied (for example, data from immobilization of organic constituents) and other inappropriate data, the Agency was left with 2,541 pairs of data points. These data pairs depict treatment of ninety-four hazardous constituents, including eighty-five organic constituents and nine BDAT list metals. The retained 2,541 pairs of data points from the soil treatment database represent the treatment of organic and metal constituents by various technologies including: combustion, biological treatment, chemical/solvent extraction, dechlorination, thermal desorption, air/steam extraction, photolysis, soil washing, stabilization, and vitrification. The soil treatment database includes performance data from bench, pilot, and full scale technologies. A complete discussion of the Agency's method for

[21] The exception would be soil residuals from treatment of soils which were determined no longer to contain a listed hazardous waste or were decharacterized and yet remained subject to LDRs. In this case, since the treatment would be performed on non-hazardous soil, the soil residuals would also be considered non-hazardous.

screening the Soil Treatment Database can be found in the LDR Phase II proposal (58 FR 48129–31, September 14, 1993) and the Best Demonstrated Available Technology Background Document for Hazardous Soil (August 1993).

A number of commenters were concerned that aggregated data, i.e., the 2,541 pairs of data points representing the combined performance of combustion and non-combustion technologies, may mask the performance of non-combustion technologies alone. Commenters urged EPA to disaggregate these performance data to allow for more accurate analysis of non-combustion technology performance. As a result, EPA has disaggregated the combustion and non-combustion treatment data for purposes of analyzing the achievability of today's soil treatment standards. See generally, Soil Data Analysis: Soil Treatability Analysis of Treatability Data for Contaminated Soil Treatment Technologies (April 1998, USEPA) and Additional Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8. of Phase IV Final Rule Preamble (April 1998, USEPA).

After separating out combustion data, the remaining non-combustion soil treatment data base is reduced from 2,541 to 2,143 paired data points. These 2,143 [22] data pairs depict the treatment of 72 organics [23] and nine metals in contaminated by biological treatment, chemical and solvent extraction, dechlorination, thermal desorption, air and steam stripping, hydrolysis, photolysis, soil washing, and stabilization.

As discussed earlier in today's preamble, EPA did not use the traditional BDAT approach to develop the soil treatment standards. Instead, the Agency evaluated data from the 2,143 non-combustion data pairs in the soil treatment database to identify, generally, the level of performance non-combustion soil treatment technologies achieve. In light of our multi-faceted objectives regarding remediation of contaminated soils (discussed earlier in this preamble), this approach and methodology are appropriate. As noted earlier in today's preamble, the numerical values chosen for soil treatment standards—90% reduction capped at ten times the UTS—are within the zone of reasonable values from which the Agency can properly select.

For soil contaminated with organic constituents, the retained 2,143 data pairs from the soil treatment database show generally that soils with moderate levels of contamination are more amenable to treatment by non-combustion technologies than soils with high levels of contamination. However, the data also show that the soil treatment standards promulgated today can be achieved by non-combustion technologies even in cases when soils contain elevated levels of harder-to-treat organic hazardous constituents, such as dioxins and furans, polychlorinated biphenyls (PCBs), and polynuclear aromatics (PNAs). The available data on the performance of non-combustion technologies suggest that some technologies are more effective with certain organics within specific families or chemical functional groups. For example, while many organic treatment technologies were effective in removing volatile organics from the soils, dechlorination is more effective than other non-combustion treatment technologies for treating chlorinated organics. For soil contaminated by metals, the retained 2,143 data points from the soil treatment database show that metals can typically be treated via stabilization to meet the soil treatment standards.

Although, for the reasons discussed earlier in today's preamble, EPA has elected to base the soil treatment standards on the performance of non-combustion technologies, combustion of soil is not prohibited. This is consistent with all other numerical treatment standards, which can likewise be achieved through use of any technology (other than impermissible dilution). It may be that combustion is, in fact, chosen as the remedial treatment technology at certain sites, most likely because of economic considerations (such as in the case of low soil volumes where on-site treatment units are not economically viable). Selection of the best treatment technology for the specific soil type and range of contaminants present at any given remediation site is a site-specific decision assuming, for soils subject to the LDRs, that the selected technology does not involve impermissible dilution and that today's soil treatment standards are met. Further details about the results of EPA's examination of treatment technologies for different groups of contaminants are discussed in the succeeding sections.

a. Comments. Many commenters expressed concern that the retained 2,541 data points from the soil treatment database might not adequately address the many types of soils and contaminated site scenarios that may arise in the field. Among other things, these commenters asserted that: (1) the list of chemical organic constituents for which EPA has data may be too small to extrapolate to other organics in the list of underlying hazardous constituents that must meet treatment standards; (2) for organic constituents, many of the treatment test results examined by EPA involved mostly combustion rather than non-combustion technologies; (3) for soils with multiple hazardous constituents and other complex soil matrices, the soil treatment standards could only be met via incineration; and, (4) EPA should not pool data from bench, pilot, and full scale treatment applications. For the most part, these commenters suggested that EPA either exempt hazardous contaminated soil entirely from a duty to comply with land disposal restriction treatment standards or, if hazardous contaminated soil were to remain subject to LDRs, allow risk-based treatment standards to be developed entirely on a site-by-site basis pursuant to state oversight.

EPA closely considered these comments and carefully re-evaluated the data from the soil treatment database as well as other data from more recent sources. These evaluations are summarized in the background documents for today's final rule. EPA is not, at this time, taking action to categorically exempt large volumes of hazardous remediation waste (including contaminated soil) from RCRA hazardous waste management requirements and, therefore, the issue of achievability of today's soil treatment standards is germane.

Notwithstanding the treatment results described in this section below, which support the achievability of today's soil treatment standards, EPA realizes that national, technology-based treatment standards are sometimes not achievable because of site- and waste-specific characteristics. Thus, EPA has long provided for treatment variances under these circumstances (see 40 CFR 268.44). In addition, because EPA and authorized states are in a position during remediation to make site-specific risk-based minimize threat determinations, the Agency is also adopting in today's rule a new type of variance for contaminated soils. This variance can be granted if, on a case-by-case basis, it is determined that the technology-based treatment standard

[22] One single datum from the vitrification of p,p'DDT was not included since it appears to have resulted from treatment that was not optimally designed or conducted.

[23] Out of 85 organic constituents, only 13 were treated exclusively by combustion. See, however, the discussion later in this preamble with regard to presence of data from incineration and extrapolation of data among organic constituents.

would prompt treatment beyond the point at which threats are minimized.

Fundamentally, EPA agrees with many commenters that today's land disposal treatment standards for contaminated soil may not remove all of the barriers RCRA can impose on efficient and aggressive site remediation. As discussed earlier in today's preamble, the Agency hopes the application of RCRA Subtitle C requirements to remediation of contaminated soils and other wastes will be addressed through legislation. If there is no legislative action, EPA may choose to take additional regulatory action, which may include either a re-examination of the application of LDRs to contaminated soil or other remediation wastes or a re-evaluation of today's soil treatment standards, or both. In the meantime, today's rule represents a significant improvement over the current practice of applying the treatment standards developed for pure industrial hazardous waste to contaminated soil.

b. Analysis of Data from the Soil Treatment Database. The soil treatment standards promulgated today are based EPA's Soil Treatment Database (SDB). See, Best Demonstrated Available Treatment Background Document for Hazardous Soils (August 1993); LDR Phase 2 proposal (58 FR 48122, Sept. 14, 1993); and Soil Treatability Analysis: Analysis of Treatability Data for Contaminated Soil Treatment Technologies (April 1998, USEPA) (hereinafter, this document is referred to as the "Soil Treatability Analysis Report"). General concerns about the soil treatment database (and in particular, concerns about achieving the 10 times UTS or 90% reduction standard) are addressed here. Results of our analysis of the soil treatment database data on treatment performance for various technologies are shown in Table 1 below. Results of additional analysis for various organic and metal contaminant groups are shown in Tables 2–5 below. Further details of the analysis and additional findings are contained in the technical background documents in this docket.

TABLE 1.—SUMMARY OF TREATMENT RESULTS PER TECHNOLOGY IN SOIL DATA BASE[24]

Treatment technology	Total paired data points in the soil data base	Untreated	Treated			
		Data points meeting 10 times UTS standard	Data points meeting 10 times UTS but not 90% reduction standard	Data points meeting 90% reduction but not 10 times UTS standard	Data points meeting both 10 times UTS and 90% reduction standards	Data Points failing both 10 times UTS and 90% reduction standards
Biological Treatment	250	86	176	168	109	15
Chemical Treatment	242	58	226	206	200	10
Dechlorination	154	53	134	100	84	4
Stabilization	269	140	250	239	232	12
Stripping	236	88	206	103	103	30
Washing	35	10	21	14	11	11
Thermal Desorption	957	348	833	759	692	57
Total	2143[25]	773	1846	1589	1431	139

In aggregate, the results on Table 1 indicate that the Agency's selection of standards are within the range of reasonable values for non-combustion technologies to achieve. These data show that 139 (or 6%) paired data points out of 2143 would fail to meet the 10 times UTS or 90% reduction standard. Among possible reasons for these treatment performance deviations are that some soil samples represent cases in which the selected technology was not appropriate for the range of hazardous constituents in an organic chemical admixture. A better selection of treatment technology may include either a more aggressive non-combustion technology or may involve use of two or more technology trains in order to meet the soil treatment standards. It is common practice to employ multiple treatment trains at facilities that have complex chemical mixtures or soil textures at a site. As further explained in succeeding sections of this preamble and in various background documents, EPA believes that the hazardous soil treatment standards promulgated today are within a regime of reasonable treatment levels normally achieved by non-combustion technologies. See, e.g., Soil Treatability Analysis Report and Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA).

(1) Concerns About Presence of Data from Incineration and Extrapolation of Data to Other Constituents. As mentioned earlier, EPA has segregated the available treatment data (2,541 paired data points) so that we can better examine the 2,143 paired data points describing the treatment of hazardous soils by non-combustion technologies. Although 50 organic constituents in the original 2,541 paired data points were treated by combustion (i.e., incineration), only 13 of these 50 organics were treated exclusively by combustion. These 13 hazardous constituents are: 1,2,4-trichloro-benzene; p,p'-DDD; p,p'DDE; 2,4-dichlorophenol; methoxychlor; 2,4,6-trichlorophenol; 2,4,5-trichlorophenol; carbon tetrachloride; chloroform; hexachloroethane; 1,2-dibromo-3-chloro-propane; isodrin; and gamma-BHC. None of the data describing combustion of these 13 constituents or the other 37 organics (for which there are some combustion results) were relied upon in assessing achievability of today's hazardous soil treatment limits.

With respect to commenters' concerns about extrapolating the SDB data to organic and inorganic constituents that will need to be treated, EPA analyzed the various non-combustion technologies and their average treatment efficiencies against various chemical clusters and chemical functional groups of hazardous constituents. See: (1) Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA); (2) Derivation of Treatment Achievability Results of Organic Functional Groups and Types of Compounds (April 1998, USEPA); (3) Soil Treatability Analysis Report (USEPA, 1998); and (4) Additional

[24] For discussion of these treatment data, see Soil Treatability Analysis Report, and Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA).

[25] As noted earlier, EPA examined in detail up to 2,541 pairs of data points in total, and the number of non-combustion data pairs examined is 2,143.

Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8. of the Final Rule Preamble (April 1998, USEPA).

The results are summarized in Tables 2–5 below. These results show that non-combustion technologies can achieve today's soil treatment standards. 93.5% (2,004 of the 2,143 data pairs) of the treatment test results meet the 10 times UTS or 90% reduction standard. Furthermore, non-combustion technologies can meet the soil treatment standards even in cases when soils contain elevated levels of harder-to-treat organic hazardous constituents, such as dioxins and furans, polychlorinated biphenyls (PCBs), and polynuclear aromatics (PNAs). See Appendix D in Soil Treatability Analysis Report.

As noted earlier, available data on the performance of non-combustion technologies treating organics also show that some technologies are more effective with certain organics within specific families or chemical functional groups, e.g., organic treatment technologies removing volatile organics from the soils and dechlorination removing halogenated organics. Treatability tests at certain complex sites corroborate these findings of achievability from the SDB.

Regarding organics, at the Ninth Avenue Dump Site in Indiana, hazardous soils were contaminated with low to moderate concentrations of PNAs, aromatics, chlorinated aliphatics, and phthalates. Untreated constituents showed concentrations that were about the same or up to two orders of magnitude higher than today's soil treatment standards.[26] Among the volatiles were toluene (1,100 ppm), total xylene (2,100 ppm), ethylbenzene (420 ppm), 1,1,1-trichloroethane (120 ppm), trichloroethene (93 ppm), tetrachloroethene (380 ppm), 1,1-dichloroethane (81 ppm), and methylene chloride (800 ppm). The following semivolatile organics-PNAs (and their highest concentration) were phenanthrene (92 ppm) and naphthalene (84 ppm). Bis(2-ethylhexyl) phthalate, a semivolatile phthalate, was reported at 110 ppm. The soil particle distribution of the contaminated soil was not quantified, but the soil was reported as comprised primarily of sand and silt. Biotreatment achieved the following average treatment reduction efficiencies:

- Volatile chlorinated aliphatics—99.9%;
- Ethylbenzene—100%;
- Volatile aromatics—99.9%;
- Semivolatile PNAs—97.4%;
- Bis(2-ethylhexyl)phthalate—93.2%.

Regarding complex metal remediations, the full-scale stabilization study conducted at the Portable Equipment Salvage Company, a transformer and metal salvage operation in Oregon, involved untreated levels of lead up to 880 mg/l (TCLP) and zinc up to 71 mg/l (TCLP). Organics were also present—the highest sample showing 610 mg/l lead (TCLP), 14,000 ppm oil and grease, 41,000 ppm total organic carbon, and 7.1 pH. The facility conducted treatability studies on three soil textures found at the site: (1) sandy loam, (2) loamy sand, and (3) loam. The stabilized sandy loam sample showed a concentration of 0.5 ppm lead, a 99.72% reduction efficiency. The facility also treated two samples of loamy sand, one to 47 mg/l lead (TCLP) (a 93.65% reduction efficiency) and the other to 2.5 mg/l lead (TCLP) (a 99.72% reduction efficiency). The treated loam sample showed 0.10 mg/l lead, a 99.97% reduction.

More information underlying EPA's rationale for extrapolating the available treatment performance data to other organic and inorganic hazardous constituents regulated under the land disposal restrictions can be found in the RCRA Docket for this rule (see Appendix D in Soil Treatability Analysis Report) and memorandum to docket on extrapolation of treatment performance data among different hazardous constituents.

Finally, we note that even though there were treatment data on soils containing cyanide in the larger data base (6,394 paired data points), none of the retained 2,541 or 2,143 paired data points included treatment data on cyanide. However, the current UTS for cyanide is based on the performance of alkaline dechlorination, a non-combustion technology. Cyanides can form complexes with metals and organics and, therefore, technologies capable of removing both organic and metals are also able to remove cyanide from contaminated soils. As a result, it is reasonable to expect that the average treatment performance attained by treating organics in soils will also be achieved for cyanide-bearing contaminated soils. We note that, for example, 90% reduction can be achieved based on the performance efficiency that thermal desorption attained in removing PNA's (with more than five rings) and chlorinated organics from contaminated soil. These constituents are among the hardest chemical species to remove via thermal desorption. For these reasons, the Agency has concluded that today's soil treatment standard for cyanide can be achieved by a non-combustion technology as well.

(2) Technology Scale and Soil Variability Issues. As noted earlier, several commenters objected to EPA's pooling of treatment data from pilot, bench, and full scale processes, and urged EPA to consider only performance data from full-scale field studies characterizing the treatment of soil volumes. EPA prefers, generally, to rely on full scale studies for the purpose of developing and promulgating treatment standards, and this is true with respect to the soil treatment standards as well. However, in this case as well as in many prior LDR treatment standard efforts, EPA's data base includes more than just full scale data upon which EPA can properly rely. Bench and pilot scale technologies can be appropriately considered by EPA (and EPA has historically done so) in setting treatment limits as long as full scale operations of the treatment system under consideration exist or have been demonstrated on wastes/soils. Except for hydrolysis,[27] the technologies in the SDB are demonstrated full scale, and the administrative docket contains bench, pilot, and full scale studies that reflect the Agency's field experiences at contaminated sites.

Furthermore, in this rulemaking, given the variability of hazardous soils (in terms of types, concentrations and numbers of hazardous constituents and soil matrices), plus the special policy considerations associated with remediations, the Agency is adopting treatment standards from the zone of reasonable values that could be permissibly selected based upon the treatment performance data. Thus, the data are not being used so much to establish a precise performance level as to confirm the typical achievability of the promulgated standards, i.e., ten times UTS or 90% reduction.

With respect to the SDB and commenters' concerns about the impact of soil variability on achievability of the soil treatment standards by non-combustion technologies, EPA collected 6,394 pairs of data point describing the treatment of various hazardous soils.

[26] The following constituents were present at levels below the soil treatment standards: fluorene, fluoranthene, pyrene, acenaphthalene, benzo(a)anthracene, chrysene, di-n-butyl phthalate, and diphenylnitrosamine.

[27] Hydrolysis can be of normal occurrence or intentionally induced at hazardous waste sites. EPA does not have full-scale ex-situ demonstration studies on this technology but considers the data in the SDB to be indicative of what levels can be achieved.

The retained 2,143 non-combustion paired data points are reasonably sufficient to adequately describe the treatment of metal, organics, and multiple metal and organic contaminants that are frequently found at different type of sites, including both Superfund and RCRA sites. For instance, the SDB has treatment data on soils with varying textures including top soils, silty/loam soils, and clay soils. For the 14 different soil type groupings analyzed, only 139 out of 2,143 data pairs (about 6.5%) would not meet today's soil treatment standards (see Appendices C and D in Soil Treatability Analysis Report).

With respect to these 6.5% data pairs, several potential reasons exist to explain why 90 % reduction or 10 times UTS level might not have been achieved. First, the treatment study objectives may not primarily have been to test whether these standards could be met. For example, the treatment study may have been designed either to assess the feasibility of using a particular (but not necessarily optimum) technology on a particular contaminated soil, or to meet a prescribed risk-based level under a RCRA or CERCLA site remediation plan.

Second, a treatment technology may have been applied to soils contaminated with multiple hazardous constituents where the technology may have been inappropriate for a subset of those contaminants (and for which data were reported anyway). For example, air stripping is a technology that operates best on volatile organics within a given range of Henry constant values. In contrast, air stripping of semivolatile organics and metals is expected to be much poorer. (In this type of situation, a technology amendment or treatment train may be appropriate, i.e., air stripping may be improved if steam stripping is applied first to enhance the pool of semivolatiles that can respond to the physical separation treatment process.)

Third, these treatment data likely include instances when a treatment technology encountered soil heterogeneities that resulted in undertreatment of portions of the soil. For instance, during the clean up of contaminated debris and soils, detailed sampling protocols are typically developed to ensure that desired treatment constituent concentrations are met because of the deleterious impact of heterogeneous soil strata and the presence of debris on treatment technology performance. Re-processing can often be required to comply with the applicable treatment standards. Another alternative is to optimize specific technology operating parameters that can enhance the ability of the technology to meet the prescribed treatment limits. Optimization can involve: (1) feeding the correct soil/debris particle size fractions to the treatment system, (2) creating more turbulence between soil and gaseous/liquid treatment fluids, (3) using a greater-than-normal amount of chemical agents, (4) operating at the higher end of an operating temperature range, (5) adjusting the pH of the soil, (6) adding adequate pre-/post-treatment steps that address specific contaminants that may be expected to receive sub-optimal treatment, or (7) allowing longer residence time in the treatment unit.

It is not possible to determine precisely how many of these techniques were used in the 139 instances that failed the 90% reduction or 10 times UTS levels. However, EPA expects that not all optimization measures were used since the operators of the treatment technologies did not have as their primary objective the attainment of these particular levels, which are being adopted today as the soil treatment standard. On balance, the weight of evidence and analysis from the SDB are believed to reasonably indicate that today's standards are achievable for soils that may exhibit variability, particularly if optimization techniques or treatment technology trains are fully considered. Of course, should an unusual situation present itself in which these measures are not successful, a treatment variance can be sought under 40 CFR 268.44(h) or under the risk-based variance provisions being adopted in today's rule.

Furthermore, EPA has a number of bench and pilot studies on the treatment of contaminated soils from wood preserving, petroleum refining, and electroplating sites, which contain a wide range of constituents such as polynuclear aromatic, phenolic, chlorinated organics, spent solvents, creosote, and metals. It is reasonable to expect that these treatment results, showing achievability, also lend support to the conclusion that treatment at other RCRA and Superfund sites, containing these types of complex contaminant and soil variability scenarios, can be expected to achieve today's soil treatment standards.[28] See also Chapter 4 in Soil Treatability Analysis Report.

[28] See (1) *Remediation Case Studies: Bioremediation and Vitrification*, July 1997, EPA 542–R–97–008 or PB97–177554; (2) *Remediation Case Studies: Soil Vapor Extraction and Other In Situ Technologies*, July 1997, EPA 542–R–97–009 or NTIS PB97–177562; (3) *Analysis of Selected Enhancements for Soil Vapor Extraction*, September 1997, EPA–542–R–97–007; (4) *Remedial Case Studies: Thermal Desorption, Soil Washing, and In Situ Vitrification*, March 1995, EPA 542–R–95–005 or NTIS PB95–182945; (5) *Remediation Case Studies: Soil Vapor Extraction*, March 1995, EPA 542–4–95–004 or NTIS PB95–182937; and (6) *Remediation case Studies: Bioremediation*, March 1995, EPA 542–R–95–002 or NTIS PB95–182911.

Pooled bench, pilot, and full scale data in the SDB are expected to depict what the various treatment technologies can achieve for other hazardous soils managed under CERCLA and RCRA. As noted earlier, non-combustion technologies will behave better on a given range or class of organic and metal constituents. A given range of soil characteristics that may inhibit treatment performance can be amended to facilitate the treatment of hazardous soils. Available information on other full scale operations of the tested technologies demonstrate that optimization techniques can be used to overcome potential soil interferences and thus attain, generally, treatment design objectives. Hence, it is important to carefully evaluate the characteristics of each site against the expected capabilities of various non-combustion technologies, which are summarized below.

(3) Performance Data for Organic Constituents. EPA's conclusions with respect to achievability of soil treatment standards for organics in hazardous soils are based on the performance of biological treatment, chemical extraction, dechlorination, soil washing, thermal desorption, and soil vapor extraction. Other treatment technologies capable of achieving the treatment limits (such as combustion) are not prohibited except for those that may constitute impermissible dilution. Tables 2 and 3 below provide an overview of the number of data points and the average treatment efficiency ranges that each of the technology categories achieved. Also, each Table below reports the range of test scales as well as the available treatment performance data per major chemical family category/cluster assigned to chemical constituents in the BDAT List. (For the whole list of BDAT constituents and their classification, see Appendix B in the BDAT Background Document for Hazardous Soils, August 1993.) Further details and discussion on the results for major chemical family categories/clusters is contained in the docket.

TABLE 2.—SUMMARY OF NONTHERMAL TREATMENT PERFORMANCE DATA ON GROUPS OF ORGANIC HAZARDOUS CONSTITUENTS [29]

BDAT organic cluster	Biotreatment scale: 0.01 kg to 1,250,000 kg		Chemical extraction scale: 0.0075 kg to 37,000 kg		Dechlorination scale: 0.1 kg to 127,913 kg		Soil washing scale: 0.08–204 kg		Hydrolysis scale: 0.1 kg to 2.75 kg	
	Data points	Average removal efficiency	Data points	Average removal efficiency	Data points	Average removal efficiency	Data points	Average removal efficiency	Data points	Average removal efficiency
Volatiles	48	>99%	9	>99%	13	96.3 to 99.3%	None	None	None	None
Semivolatiles	185	55–98.2% [30]	163	62–98.8%	2	99.8%	13	81.6–97.2%	None	None
Organochlorine	12	16.7—70.2%	None	None	13	>95.2%	None	None	2	67.9–91.7%
Phenoxyacetic Acid Pesticides	None	None	None	None	9	98.6–99.0%	None	None	None	None
Organo Phosphorous insecticides [31]	None	None	None	None	None	None	None	None	None	None
Polychlorinated Biphenyls	None	None	52	71.5%–99.9%	69	68.8–97.1%	1	88.5% [32]	None	None
Dioxins and Furans	None	None	12	40–>97%	48	73.7–>99.8%	7	84.8%	None	None
Total Number of Data Points	245		236		154		21		2	

TABLE 3.—SUMMARY OF THERMAL PERFORMANCE DATA ON GROUPS OF ORGANIC HAZARDOUS CONSTITUENTS [33]

BDAT organic cluster	Thermal desorption [34] scale: 21.6 kg to 3,823,000 kg		Soil vapor extraction scale: 4.5 kg to >1,000 kg	
	Data points	Average removal efficiency	Data points	Average removal efficiency
Volatiles	293	79.2–99.9%	189	44–99.2%
Semivolatiles [35]	614	50–99.4%	47	0–57.2%
Organochlorines	12	88.5–98.8%	None	None
Phenoxyacetic Acid Pesticides	None	None	None	None
Organo Phosphorous insecticides [36]	None	None	None	None
Polychlorinated Biphenyls	1	87.5%	None	None
Dioxins and Furans	37	85.6–97.6%	None	None
Total Number of Data Points	957		236	

As shown on Tables 2 and 3, EPA lacks performance data for the thermal or non-thermal treatment of four organic constituents classified in the BDAT list as organophosphorous insecticides. These four constituents are disulfoton, famphur, methyl parathion, and phorate. However, we can determine achievability for these four organic constituents based upon the transfer of treatment data for other, similarly difficult to treat organics. Because of structural and chemical similarities, these four organophosphorous compounds are expected to behave similarly during treatment to other polar nonhalogenated phenols, phenyl ethers, and cresols. Thus, EPA believes that these four organophosphorus compounds can be treated by the same technologies as other polar nonhalogenated organic compounds, for which EPA has data. Therefore, based on the available data for polar nonhalogenated compounds, EPA concludes that the treatment standards for soils contaminated with these four organophosphorous compounds can be achieved by biodegradation, chemical extraction, and thermal desorption (semivolatiles).

(4) Other Indicia of Achievability for Organic Constituents

EPA also re-analyzed certain portions of the SDB with regard to ability of various technologies to meet today's soil treatment standards by looking more closely at organic treatability groups based on the structural features of the hazardous constituents of concern. The results of this analysis, presented in Table 4 below, corroborate those in Tables 1–3 and EPA's conclusion that the soil treatment standards—ten times UTS or 90% reduction—are within the zone of reasonable values that could have been selected. For further information on the derivation of Table 4, see the background document entitled "Derivation of Treatment Achievability Results for Organic Functional Groups and Types of Compounds."

[29] For a discussion of these treatment data, see the Soil Treatment Achievability Report: Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA); and the Additional Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8. of Phase IV Final Rule Preamble, (April 1998, USEPA). These documents indicate the numbers and types of data pairs that meet the 10 times UTS level, both prior to treatment and after the treatment described in the table.

[30] Cyclical hydrocarbons with more than five rings undergo lower reduction efficiencies.

[31] EPA is transferring the available performance data from the chemical extraction and the biological treatment of (semivolatile) polar nonhalogenated organics in the hazardous solid treatment data base. Thus, the columns are intentionally left blank.

[32] Only one test was performed.

[33] For a discussion of these treatment data, see the Soil Treatment Achievability Report: Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA) and the Additional Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8. of Phase IV Final Rule Preamble, (April 1998, USEPA). These documents indicate the numbers and types of data pairs that meet the 10 times UTS level, both prior to treatment and after the treatment described in the table.

[34] The term thermal desorption, as used in this table, is a general description of various thermal techniques. No conclusion may be drawn about the regulatory status or classification of a particular thermal desorber from the inclusion of treatment data from that device in this column.

[35] The performance of combustion and soil vapor extraction is less effective in treating semivolatile organics that contain aromatic and heterocyclical structures. The same is true for and nonvolatile chlorinated organics.

[36] EPA is transferring the available performance data from the chemical extraction and the biological treatment of (semivolatile) polar nonhalogenated organics in the hazardous soil treatment data base.

TABLE 4.—TREATMENT EFFICIENCY—PERCENT REDUCTION RANGES BY TECHNOLOGY FOR VARIOUS FUNCTIONAL GROUPINGS

[Average percent reduction in brackets; number of data points analyzed in parentheses] [37]

Treatability group	Biological treatment	Chemical extraction	Dechlorination	Thermal desorption [38]	Soil washing	Other technologies [39]
Halogenated Nonpolar Aromatics	52.05–99.97 [76.01] (2)	80.42 [80.42] (1)	99.05–100 [99.53] (2)	29.19–100 [95.31] (29)	66.21–95.6 [85.41] (4)	30.13—49.68 [42.41] (3)
Dioxins, Furans, PCBs, and Precursors	none	14.88–99.97 [90.13] (40)	91.66–99.88 [97.94] (20)	98.9–100 [99.57] (17)	none	none
Halogenated Phenols, Cresols, and Other Polar Aromatics	45.1–95.14 [81.05] (5)	63.83–93.18 [79.46] (3)	none	2.71–99.93 [56.21] (15)	6.25–99.06 [73.71] (6)	96.21 [96.21] (1)
Halogenated Aliphatics	99.87–99.99 [99.91] (3)	86.62–94.81 [91.09] (3)	89.06–100 [97.54] (7)	36.88–100 [96.49] (80)	58.68–99.4 [90.58] (9)	72–99.68 [95.66] (6)
Halogenated Cyclic Aliphatics, Ethers, Esters, and Ketones	9.76–99.77 [60.99] (8)	none	none	none	none	none
Nitrated Aromatics and Aliphatics	none	none	none	none	none	none
Simple Nonpolar Aromatics and Heterocyclics	99.97–100 [100] (10)	77.41–99.92 [90.77] (6)	96.39–100 [98.61] (10)	22.68–100 [94.3] (158)	47.74–99.91 [82.39] (14)	97.7 [97.7] (1)
Polynuclear Aromatic Hydrocarbons	5.13–99.85 [67.15] (75)	51.55–99.98 [95.72] (125)	10.92–97.42 [67.47] (3)	10.14–100 [94.19] (301)	81.83–92.19 [85.74] (3)	95.9–99.55 [97.73] (2)
Other Nonhalogenated Polar Organics	none	75.96–99.82 [98.35] (28)	90.81–99.89 [95.13] (10)	2.6–99.98 [82.04] (36)	51.07–99.97 [88.67] (10)	94.59–99.89 [97.24] (2)

(5) Performance Data for Metal Contaminants

Performance data for metals contaminants are based on the performance of stabilization and chemical extraction (mercury) of soils contaminated with metals. Other metal treatment technologies are not prohibited (except if impermissible dilution were to occur). The results of EPA's analysis of the data on treatment of metals in soils are summarized in Table 5 below.

TABLE 5.—SUMMARY OF PERFORMANCE DATA FOR HAZARDOUS METALS CONSTITUENTS [40]

BDAT metals cluster	Stabilization scale: bench, pilot, and full scale		Chemical extraction scale: pilot		Soil washing scale: bench & pilot	
	Data Points	Average removal efficiency	Data points	Average removal efficiency	Data points	Average removal efficiency
Metals	269	91.1–99.8%	4	97.7% [41]	14	17.9–97.2%
Total	269		4		14	

The results in Table 5 corroborate EPA's conclusion that the soil treatment standards—ten times UTS or 90% reduction—are within the zone of reasonable values that could have been selected. For further information on the derivation of Table 5, see Soil Treatability Analysis Report.

With respect to multiple metal constituents or organometallic constituents in a contaminated soil, we

[37] Table based on data from "*Delivery of Graphs and Data Tables Showing Corrected Treated Concentrations vs. Data Point Number Index for Selected Constituents*," February 19, 1992 (Administrative Record of the proposed LDR Phase 2 rules as F–93–CS2P–S0597). See also (1) Derivation of Treatment Achievability Results for Organic Functional Groups and Types of Compounds, April 1998 (USEPA); (2) Additional Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8. of Phase IV Final Rule Preamble, (April 1998, USEPA); (3) Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA); and (3) Soil Treatability Analysis Report (April 1998, USEPA). These documents indicate the numbers and types of data pairs that meet the 10 times UTS level, both prior to treatment and after the treatment described in the table.

[38] The term thermal desorption, as used in this table, is a general description of various thermal techniques. No conclusion may be drawn about the regulatory status or classification of a particular thermal desorber from the inclusion of treatment data from that device in this column.

[39] These include air stripping, photolysis, and treatment trains.

[40] For a discussion of these treatment data, see the Soil Treatment Achievability Report; Extrapolation of Treatment Performance Data in the Soil Data Base Among Hazardous Constituents in Contaminated Soils (April 1998, USEPA); and the Additional Information on Treatability of Contaminated Soils as Discussed in Section VII.B.8 of Phase IV Final Rule Preamble, (April 1998, USEPA). These documents indicate the numbers and types of data pairs that meet the 10 times UTS level, both prior to treatment and after the treatment described in the table.

[41] Available data are exclusively for the treatment of mercury on soils.

recognize that a situation may call for two or more treatment technology trains to achieve the treatment standards promulgated today (e.g., one treatment for organics and another for metals). This must include proper consideration of the order in which various treatment processes should be applied to the contaminated soil so that treatment effectiveness is optimized. However, if these considerations have been properly made and the required treatment standards are not being met because, for example, of unique soil matrices or difficult to treat sites, then we expect that entities may elect to seek a treatment variance pursuant to 40 CFR 268.44(h) or a risk-based soil treatment variance, which is being adopted in today's rule.

c. Data Submitted by Commenters

At least four commenters submitted treatment data from studies describing the performance of innovative and conventional treatment technologies on hazardous soils. DuPont submitted bench, pilot, and full scale treatment data from various vendors describing the operation of soil washing. DuPont asserts these data supports the viability of soil washing as an innovative technology for hazardous soils.

The Environmental Technology Council (formerly the Hazardous Waste Treatment Council) submitted full, pilot, and bench scale treatment data from various vendors of innovative treatment technologies and provided an extensive review of EPA's soil treatment data base. See document entitled, Evaluation of Proposed BDAT Soil and Process Treatment Technologies—Report to the Hazardous Waste Treatment Council, November 1993 (filed as document number CS2P00060.E in Docket No. F–92–CS2P–FFFFF). Based on the ETC's technical report and the subsequent comments of the ETC to the HWIR-Media rule (see comments from the Environmental Technology Council, filed as comment number MHWP 00088 in Docket No. F–92–CS2P–FFFFF), the ETC believes that today's treatment standards for hazardous soils are achievable using thermal treatment. Although the ETC report stated that EPA may lack full-scale treatment data for several innovative or alternative technologies, the ETC data support EPA's view that the many full scale operations of non-combustion technologies demonstrated in the field were sufficient to support a view that the soil treatment standards were achievable. Further, the ETC pointed to various examples of how various non-combustion treatment technologies can be better optimized. EPA concurs with many of those observations on how non-combustion technologies can be optimized.

Two other commenters submitted data in the Phase 2 rule regarding the performance of non-combustion technologies—USPCI and Sierra Environmental Services. USPCI's performance data describe the treatment of polynuclear organics in soils via chemical oxidation followed by stabilization. These data were determined to be insufficient to support a broad national determination that stabilization of organics can be considered BDAT for organics. However, use of organic stabilization may, in some situations, be a permissible treatment option since the LDRs do not specifically prohibit the use of stabilization or solidification to treat nonwastewaters containing hazardous organic constituents. See Response to Comment Document, Comment from Chemical Waste Management, Inc. (No. PH4P–00048). There are, however, specific circumstances in which stabilization or solidification would be considered impermissible dilution. We expect that, for these types of situations to be properly evaluated, it will be necessary to petition for a treatment variance under 40 CFR 268.44(h) or under the provisions for a risk-based soil treatment variance being adopted in today's rule. The Agency also is currently considering whether, in the near future, to issue guidance on when stabilization or solidification of organic-bearing waste is appropriate and when it may constitute impermissible dilution.

Sierra Environmental Services submitted performance data regarding the treatment of carcinogenic polyaromatic hydrocarbons (cPAH) via bioremediation. These data are based on in-situ treatment of a 7.5 acre lagoon which was divided into two cells. Although the facility remediated 35 volatile, 65 semivolatile organics, PCBs, and pesticides, the facility only submitted data describing the treatment of major PAHs. Based on the performance of the biotreatment process applied to this site, the commenter argued the proposed treatment standards, if promulgated as proposed, would eliminate biotreatment as an alternative at this facility. EPA disagrees. Remediation processes that are applied in-situ do not trigger land disposal restrictions. If the facility were biotreating the lagoon sludges ex-situ, EPA concurs that the facility may be unable to land dispose the treated lagoon sludges. We also note that, under the existing regulations and regulations being adopted today, the commenter may be able to avail itself of a treatment variance, depending on the site-specific circumstances involved.

9. Applicability of Soil Treatment Standards and Readability of Final Regulations

Many commenters asserted that the proposed regulations governing applicability of LDRs to contaminated soil were difficult to understand and apply. EPA was persuaded by these comments and has reformatted the applicability regulations into an easier-to-read table. The Agency recognizes that determining whether or not LDRs apply to any given volume of contaminated soil can be complicated. To further assist program implementors and facility owners/operators, we will review and discuss the principles that govern LDR applicability for contaminated soil in this section of today's preamble.

The following principles informed EPA's decisions concerning application of LDRs to contaminated soils.

First principle: land disposal restrictions only attach to prohibited hazardous waste (or hazardous contaminated soil) when it is (1) generated and (2) placed in a land disposal unit.[42] Therefore, if contaminated soil is not removed from the land (i.e., generated), LDRs cannot apply. Similarly, if contaminated soil is removed from the land (i.e., generated) yet never placed in a land disposal unit, LDRs cannot apply.[43] In other words, LDRs do not apply to contaminated soil *in situ* or force excavation of contaminated soil. If soils are excavated, however, LDRs may apply, as discussed below.

Second principle: once a decision has been made to generate and re-land-dispose contaminated soils, LDRs generally only apply to contaminated soils that contain hazardous waste. The Agency considers soil to contain hazardous waste: (1) when it exhibits a

[42] As discussed earlier in today's final rule, all hazardous wastes that were listed or identified at the time of the 1984 Hazardous and Solid Waste Amendments to RCRA have been prohibited from land disposal. EPA is required to prohibit hazardous wastes listed or identified after 1984 within six months of the wastes' listing or identification. RCRA Section 3004(g)(4). A table in 40 CFR Part 268 Appendix VII. outlines the dates of LDR applicablity for hazardous wastes.

[43] Note that, as discussed later in today's preamble, nothing in today's final rule affects implementation of the existing "area of contamination" policy. Therefore, soil managed within areas of contamination, even if it is "removed from the land" within such an area, would not be considered to be "generated." See the discussion of the area of contamination policy later in today's preamble.

characteristic of hazardous waste; and, (2) when it is contaminated by certain concentrations of constituents from listed hazardous waste. The contained-in policy is discussed in Section VII.E of today's preamble.

Third principle: once LDRs attach (generally, at the point of generation, see principle (1)) to any given hazardous waste or volume of hazardous contaminated soil, the LDR treatment standards continue to apply until they are met. This principle comes from application of the logic of the Chemical Waste opinion. In that opinion, the D.C. Circuit held that land disposal prohibitions attach at the point that a hazardous waste is generated and continue to apply until threats posed by land disposal of the waste are minimized. Chemical Waste Management v. EPA, 976 F.2d at 13, 14 and 24. In illustration of this principle, the court held that (in the case of characteristic hazardous waste) elimination of the property that caused EPA to identify a waste as hazardous in the first instance does not automatically eliminate the duty to achieve compliance with LDRs. As discussed later in this section of today's preamble, EPA has determined that, although the Chemical Waste opinion did not address contaminated soils *per se*, it is prudent to apply the logic of the Chemical Waste opinion to contaminated soils.

Using these principles, EPA created the regulations and table that govern application of LDRs to contaminated soils, as discussed below.

The regulations that address application of LDRs to soil that exhibits a characteristic of hazardous waste are relatively straightforward. Soil that exhibits a characteristic of hazardous waste when it is generated is subject to LDRs and must be treated to meet LDR treatment standards prior to land disposal. EPA's conclusion that soil that exhibits a characteristic of hazardous waste must be treated to meet LDRs prior to land disposal derives from a simple application of the principles above. First, LDRs have the opportunity to attach to contaminated soil at the point of generation (principle (1)) and, second, under the contained-in policy, soil that exhibits a characteristic of hazardous waste must be managed as hazardous waste (principle (2)) and, therefore, must comply with LDRs. Note that, once LDRs have attached to soil that exhibits a characteristic of hazardous waste, LDR treatment standards must be met prior to land disposal of the soil, even if the characteristic is subsequently eliminated (principle (3)).

The remainder of today's regulations on application of LDRs to contaminated soil, which are in table form, apply to soil contaminated with listed hazardous wastes. The table lists four scenarios.

In the first scenario, soil is contaminated with untreated listed hazardous waste that was prohibited from land disposal when first land disposed (e.g., prohibited hazardous waste that was illegally placed or prohibited hazardous waste that was spilled). In this case, LDRs have already attached to the hazardous waste. Therefore, since LDRs have attached to the waste and threats have not yet been minimized (i.e., treatment standards have not been met), under principle (3) LDRs continue to apply to the waste and, automatically, to any contaminated soil.[44] The Agency has concluded that LDRs apply to soils contaminated in this way regardless of whether the soil is determined not to (or no longer to) "contain" hazardous waste either when first generated or at any time in the future. This conclusion comes from application of principle (3): once something is prohibited from land disposal, LDRs continue to apply until threats to human health and the environment posed by land disposal are minimized regardless of whether the material is at some point determined no longer to be "hazardous."

In the next two scenarios, soil is contaminated with hazardous wastes that were not prohibited from land disposal when first land disposed, but, sometime after land disposal, LDRs have gone into effect. In these cases, whether or not LDRs apply to contaminated soil is governed by a determination of whether or not any given volume of contaminated soil "contains" hazardous waste at its point of generation. If any given volume of soil is determined to contain hazardous waste at its point of generation, LDRs attach (principles (1) and (2)) and, therefore, the LDR treatment standards must be met prior to placement of such soil in a land disposal unit (principle (3)). If any given volume of soil is determined not to contain hazardous waste at its point of generation, there is no hazardous waste to which a land disposal prohibition could attach and the soil, thus, would not be prohibited from land disposal (principles (1) and (2)). (It would be the same if a hazardous waste land disposed before the effective date of an applicable land disposal prohibition were delisted when first re-generated. In that case too, there would be no hazardous waste to which a land disposal prohibition could attach and the delisted waste, thus, would not be prohibited from land disposal.) Note that, under principle (3), once LDRs attach to contaminated soil, the treatment standards must be met prior to land disposal even if the soil is, subsequently, determined no longer to contain hazardous waste.

The final scenario requires no elaboration; it simply makes clear that if soil is contaminated by hazardous waste that was never prohibited from land disposal, LDRs do not apply. This is through application, primarily, of principle (2)—LDRs attach only to hazardous wastes or soil that contains hazardous waste.

Note that, because LDRs apply to the waste "contained-in" soil, and not the soil itself (see principle (2)), LDRs do not apply to soil that is at any time completely separated from its contaminating waste (i.e., the soil contains no solid or hazardous waste, it's "just soil"). One might determine that soil contained no solid or hazardous waste, for example, if concentrations of hazardous constituents fall below natural background levels or are at non-detectable levels. Such a determination would terminate all RCRA Subtitle C requirements, including LDRs, since waste would not longer be "contained-in" the soil. See September 15, 1996 letter from Michael Shapiro (EPA) to Peter Wright (Monsanto Company), making this finding; see also, 61 FR 18806 (April 29, 1996) and other sources cited therein.

The following examples illustrate application of LDRs to contaminated soil:

1. Generator A is excavating soil mildly contaminated with wastewater treatment sludge (listed waste F006). The sludge was land disposed before 1980. The soil does not exhibit a characteristic of hazardous waste and has been determined by an authorized state not to contain listed hazardous waste. The soil is not prohibited from land disposal. This is because, for LDR purposes, the point of generation is when the soil is first excavated from the land (principle (1)). Since no prohibited hazardous waste existed before that time (i.e., the contaminating waste was not prohibited) and the soil does not contain listed hazardous waste or exhibit a characteristic of hazardous waste at its point of generation, there is

[44] EPA is assuming that the waste did not meet a treatment standard when it was placed on the soil. Wastes which meet a treatment standard are no longer prohibited from land disposal and, unless it is determined to "contain" hazardous waste at its point of generation and are subsequently land disposed, soils contaminated by these wastes are, likewise, not prohibited from land disposal. See, RCA section 3004(m)(2) (hazardous wastes meeting treatment standards are no longer prohibited from land disposal).

no hazardous waste to which a land disposal prohibition could attach (principle (2)).

2. Generator B is excavating soil contaminated by leaks from a closing hazardous waste surface impoundment. The surface impoundment received listed hazardous wastes K062 (spent pickle liquor) and characteristic hazardous waste D018 (wastes that fail the TCLP test for benzene). The surface impoundment stopped receiving K062 waste in 1987 and D018 waste in 1993. The soil does not exhibit a characteristic of hazardous waste and has been determined by an authorized state not to contain listed hazardous waste. The soil is not prohibited from land disposal. This is because, for LDR purposes, the point of generation is when the soil is first excavated from the land (principle (1)). Since no prohibited hazardous waste existed before that time (i.e., the contaminating wastes were not prohibited) and the soil does not contain listed hazardous waste or exhibit a characteristic of hazardous waste at its point of generation, there is no hazardous waste to which a land disposal prohibition could attach (principle (2)).

3. Generator C is excavating soil contaminated with listed hazardous waste F024. The F024 waste was land disposed after 1991, after it was prohibited from land disposal, and was not first treated to meet applicable land disposal treatment standards (i.e., it was illegally land disposed or accidentally spilled). Since the contaminating waste was prohibited from land disposal and treatment standards were not achieved prior to land disposal, the LDR prohibition continues to apply to any soil contaminated by the waste (principle (3)) regardless of whether the soil "contains" hazardous waste when generated. The soil is prohibited from land disposal and, before land disposal, must be treated to meet applicable technology-based treatment standards or until a site-specific, risk-based minimize threat determination is made through the variance process.

4. Generator D is excavating soil contaminated by an accidental spill of benzyl chloride, which, when discarded, is listed hazardous waste P028 and is prohibited from land disposal. The accidental spill occurred yesterday. The contaminating waste was prohibited from land disposal and, since the treatment standards were not achieved prior to the accidental spill, the prohibition continues to apply to any soil contaminated by the waste (principle (3)). Thus, the soil is prohibited from land disposal and, before land disposal, must be treated to meet applicable technology-based treatment standards or until a site-specific, risk-based minimize threat determination is made through the variance process.

5. Generator E is excavating soil contaminated by listed hazardous waste F004 (generally, spent non-halogenated solvents). The F004 waste was land disposed in 1984, prior to the effective date of an applicable land disposal prohibition; however, on generation the soil contains high concentrations of cresols constituents, so that an authorized state determines it "contains" hazardous waste. The soil is prohibited from land disposal. Although the contaminating waste was not prohibited from land disposal, since the soil contained hazardous waste at the point of generation (and the waste had since become prohibited from land disposal), the land disposal prohibition attaches to the contaminated soil and, before land disposal, the soil must be treated to meet applicable technology-based treatment standards or until a site-specific, risk-based minimize threat determination is made through the variance process (principles (1), (2), and (3)).

EPA acknowledges that the reading of LDR applicability to contaminated soil discussed above creates potential administrative difficulties, since, in many cases, a factual determination will be required as to when hazardous wastes were land disposed in order to determine whether they were prohibited at that time and whether, therefore, the prohibition continues to apply to contaminated soil. The Agency expects that these difficulties will be minimal because, in most cases, contamination will be caused by hazardous wastes placed before the effective date of applicable land disposal prohibitions since land disposal after prohibition would be illegal. The exception is accidental spills of hazardous waste, which the Agency believes are (1) rare, and (2) known, so determining dates of land disposal should not be problematic. This issue was discussed in detail in the HWIR-Media proposal. 61 FR 18805 (April 26, 1996).

As discussed in the April 29, 1996 proposal, the Agency continues to believe that, if information is not available or inconclusive, it is generally reasonable to assume that contaminated soils do not contain untreated hazardous wastes placed after the effective dates of applicable land disposal prohibitions. This is because placement of untreated hazardous waste after applicable LDR effective dates would be a violation of RCRA, subject to significant fines and penalties including criminal sanctions. 61 FR at 18805 (April 29, 1996). Of course, program implementors and facility owners/operators cannot make the determination that information on the types of waste contamination or dates of waste placement is unavailable or inconclusive without first making a good faith effort to uncover such information. By using available site- and waste-specific information such as manifests, LDR records required under 40 CFR 268.7, vouchers, bills of lading, sales and inventory records, storage records, sampling and analysis reports, accident reports, site investigation reports, spill reports, inspection reports and logs, EPA believes that program implementors and facility owners/operators will typically be able to make informed decisions about the types of waste contamination and dates of waste placement. Most commenters supported this approach.

EPA notes that it is not critical for a decision about whether contaminated soil contains listed hazardous waste or exhibits a characteristic of hazardous waste to be made without removing any of the soil (other than the sample volume) from the land. In an area of generally dispersed soil contamination, soil may be consolidated or managed within the area of contamination to facilitate sampling, for example, to ensure that soil samples are representative or to separate soil from non-soil materials. However, care should be taken not to remove hazardous contaminated soils from separate areas of contamination at a facility and place such hazardous contaminated soil into a land disposal unit unless, of course, the soil meets applicable LDR treatment standards. The area of contamination policy is discussed later in this section of today's preamble.

A few commenters expressed concern or confusion over the application of LDRs to soil contaminated by accidental spills of hazardous wastes. The Agency clarifies that accidental spills of hazardous wastes (or products or raw materials) are not considered placement of hazardous waste into a land disposal unit since, in the case of a spill, prohibited waste is not being placed in one of the identified units named in RCRA Section 3004(m).[45] See, 45 FR 76626 (Nov. 19, 1980), issuing clarifying regulations at 40 CFR 264.10(g) to provide that hazardous waste treatment

[45] Although, if such a spill were not cleaned up in a timely way, EPA or an authorized state could determine that the contaminated area should be considered a land disposal unit for purposes of requiring cleanup under RCRA Subtitle C. 55 FR at 20809 (July 27, 1990).

and storage activities undertaken in immediate response to an accidental spill are exempt from the 40 CFR Part 264 and 265 regulations governing treatment and storage and do not require permits and Sept. 29, 1986 memo from J. Winston Porter (EPA Assistant Administrator) to Fred Hansen interpreting the 40 CFR 264.10(g) regulations; also see, 55 FR at 30808–30809 (July 27, 1990) ("a one-time spill of hazardous waste would not be considered a solid waste management unit.") However, contaminated soils generated through remediation of spills of untreated listed prohibited hazardous wastes are, as discussed above, subject to land disposal prohibitions since the LDR prohibition that had attached to the contaminating hazardous waste continues to apply until threats are minimized, and, therefore, any contaminated soil remains subject to LDRs (see principle (3)).

A number of commenters expressed concern that EPA's interpretation of LDR applicability to contaminated soil might preclude application of the existing area of contamination policy. In the area of contamination policy, EPA interprets RCRA to allow certain discrete areas of generally dispersed contamination to be considered a RCRA unit (usually a landfill). 55 FR 8758–8760 (March 8, 1999). This interpretation allows hazardous wastes (and hazardous contaminated soils) to be consolidated, treated *in situ* or left in place within an area of contamination without triggering the RCRA land disposal restrictions or minimum technology requirements—since such activities would not involve "placement into a land disposal unit," which is the statutory trigger for LDR. EPA clarifies that its interpretation of LDR applicability for contaminated soil does not, in any way, affect implementation of the area of contamination policy.

Finally, many commenters expressed concern over EPA's application of the LDR treatment standards to soil that is determined no longer to contain hazardous waste or exhibit a characteristic of hazardous waste. As discussed in detail in the 1996 proposal, at this time EPA has concluded that although the Chemical Waste opinion did not speak to contaminated soil specifically, it is prudent to apply the Chemical Waste logic—that a duty to comply with LDRs attaches to hazardous waste when it is first generated and elimination of the indicia of "hazardousness" does not, necessarily, fulfil the statutory land disposal restriction treatment standard—to contaminated soil. See Chemical Waste Management v. EPA, 976 F.2d at 13–16. Although, as discussed later in today's preamble, EPA believes that contained-in determinations will rarely, if ever, be made at constituent concentrations which do not minimize threats, without codifying the contained-in policy, the Agency cannot make the generic finding that this will be the case at every site. For this reason, EPA is requiring that the standards and procedures promulgated today for site-specific, risk-based minimize threat variances alone be used to make minimize threat determinations. This issue is discussed in section VII.E of today's preamble.

C. Conforming and Supporting Changes

To support the land disposal restriction treatment standards for contaminated soil, the Agency is today promulgating a number of conforming and supporting regulations, as follows.

1. Recordkeeping Requirements

A number of commenters expressed confusion over the recordkeeping and reporting requirements that would apply to contaminated soil. The Agency is today clarifying that contaminated soil subject to the land disposal restrictions must comply with the same recordkeeping and reporting requirements as other wastes subject to the land disposal restrictions. That is, the recordkeeping and reporting requirements of 40 CFR 268.7 will apply.

EPA has clarified this in the final regulations by adding appropriate recordkeeping requirements for contaminated soils to the tables in 40 CFR 268.7(a) and 40 CFR 268.7(b). These rules specify that, for contaminated soil, generators and/or treaters must include the following information with their land disposal restriction paperwork: the constituents subject to treatment as described in 40 CFR 268.49(d) and this statement, "this contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c) or the universal treatment standards." Note that because in some cases contaminated soil will continue to be subject to LDRs even after it has been determined not to or no longer to contain listed hazardous waste (or de-characterized), the statement includes a notification of whether the soil is still considered hazardous. This is consistent with the approach the Agency used when establishing land disposal restriction treatment standards for hazardous contaminated debris.

2. Definition of Soil

The Agency is promulgating the definition of soil from the April 29, 1996 proposal with one change made in response to comments. Soil is defined as, "unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Soil Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume, based on visual inspection." The Agency has added the phrase "by volume, based on visual inspection" in response to comments recommending that EPA explicitly conform the definition of soil with the definition of debris. See 57 FR 37222 (August 18, 1992). This clarification is consistent with the Agency's intent, as discussed in the 1996 proposal, that determinations of whether any material was "soil," "debris," or "waste" to be made in the field. 61 FR 18794 (April 26, 1996).

The definition of soil includes the concept that mixtures of soil and other materials are to be considered soil provided the mixture is made up predominantly of soil and that the other materials are inseparable using simple physical or mechanical means. This approach allows program implementors and facility owners/operators to determine whether any given material is soil, waste, or debris based on the results of simple mechanical removal processes commonly used to separate materials, such as pumping, dredging, or excavation by backhoe, forklift or other device. It avoids requiring chemical analysis for soil properties in order to differentiate precisely between wastes, soil and debris. As discussed in the April 29, 1996 and September 14, 1993 proposals, the Agency believes that attempting to distinguish more precisely between waste, soil or debris using chemical analysis or other tests would be prohibitively difficult to develop and support and cumbersome to administer. *Cf.* 57 FR at 37224, August 18, 1992, where the Agency adopted a similar classification system for hazardous debris. Most commenters supported this approach. Note that any non-soil that is separated from contaminated soil that contains listed hazardous waste or is found to exhibit a characteristic of hazardous waste should be considered hazardous waste and is subject to the applicable universal treatment standard.

EPA also emphasizes that any dilution of a prohibited contaminated soil (or of a prohibited hazardous waste with soil) as a substitute for adequate treatment to achieve compliance with LDR treatment standards or to circumvent the effective date of an LDR prohibition is considered a type of impermissible dilution and is illegal. Therefore, any deliberate mixing of prohibited hazardous waste with soil in order to change its treatment classification (i.e., from waste to contaminated soil) is illegal. Existing regulations concerning impermissible dilution already make this point. See 40 CFR 268.3(a) and (b); see also 57 FR at 37243 (Aug. 18, 1992) (adopting the same principle for contaminated debris). The Agency expects that deliberate mixing of hazardous waste with soil (and vice versa) will be rare because such actions are clearly illegal and would subject generators to substantial fines and penalties, including criminal sanctions. In addition, the resulting mixture (hazardous waste impermissible diluted by soil) would continue to be subject to the LDRs for the original hazardous waste (i.e., generally, the universal treatment standards), so no benefit in terms of reduced treatment requirements would occur. The Agency took a similar approach when promulgating treatment standards specific to hazardous debris. See 57 FR at 37224 (August 18, 1992).

The Agency notes that the normal mixing of contaminated soil from various portions of a site that typically occurs during the course of remedial activities or in the course of normal earthmoving and grading activities is not considered intentional mixing of soil with non-media or prohibited soil with non-prohibited soil and, therefore, is not a type of impermissible dilution.

D. Seeking Treatment Variances Because the National Treatment Standard is Unachievable or Inappropriate

Under existing regulations at 40 CFR 268.44, people may obtain a variance from a land disposal restriction treatment standard when a waste cannot be treated to the specified level or when a treatment standard may be inappropriate for the waste. With respect to contaminated soils, EPA has to this point presumed that a treatment variance would generally be needed because the LDR treatment standards developed for process wastes were either unachievable (generally applied to soil contaminated by metals) or inappropriate (generally applied to soil contaminated by organic constituents). See, for example, 55 FR 8760 (March 8, 1990); 58 FR 48092, 48125 (September 14, 1993); 61 FR 18805–18808, 18810–18812 (April 29, 1996); and, 61 FR 55717 (October 28, 1996). This presumption will no longer apply once today's soil treatment standards take effect. This is because today's standards were developed specifically for contaminated soils and are intended to specifically address the past difficulties associated with applying the treatment standards developed for process waste to contaminated soil.

This is not to say that treatment variances based on the "unachievable" or "inappropriate" prongs of the test are now unavailable for contaminated soils. For example, in some cases it may prove that even though an appropriate technology, suited to the soil matrix and constituents of concern was used, a particular soil cannot be treated to meet the soil treatment standards using a well-designed well-operated application of one of the technologies EPA considered in establishing the soil standards. In these types of cases, under existing regulations, the soil treatment standard would be considered "unachievable" and a treatment variance could be approved. In other cases, under existing regulations, application of the soil treatment standards might be "inappropriate" in that, for example, it would present unacceptable risks to on-site workers.

As noted earlier in today's preamble, alternative LDR treatment standards established through treatment variances must, according to 40 CFR 268.44(m), "minimize threats to human health and the environment posed by land disposal of the waste." In cases where an alternative treatment standard does not meet this requirement, a treatment variance will not be approved even though application of a technology more aggressive than the technologies on which the soil treatment standards are based might then be necessary. For example, in cases where the soil treatment standards cannot be achieved through application of a well-designed, well-operated application of one of the model soil treatment technologies and application of the model technology or other non-combustion technologies will not result in constituent concentrations that minimize threats, a variance would not be approved and combustion would be necessary. This is proper given that the soil treatment standards were not developed using the methodology typically used in the land disposal restriction program (i.e., application of the most aggressive treatment technology to the most difficult to treat waste), but, instead are designed to accommodate a variety of soil treatment technologies that are typically used during remediation. Variances for treatment of contaminated soil will be applied during the remedial context, where, as discussed in Section VII.B.3 of today's preamble, EPA and authorized states will typically have detailed information about the risks posed by specific hazardous constituents, direct and indirect exposure routes, risk pathways and human and environmental receptors. This information can be used to inform decisions about whether threats are minimized.

E. The Contained-In Policy

The contained-in principle is the basis for EPA's longstanding interpretation regarding application of RCRA Subtitle C requirements to mixtures of contaminated media and hazardous wastes. Under the "contained-in" policy, EPA requires that soil (and other environmental media), although not wastes themselves, be managed as if they were hazardous waste if they contain hazardous waste or exhibit a characteristic of hazardous waste. See, for example, 53 FR 31138, 31148 (August 17, 1988) and 57 FR 21450, 21453 (May 20, 1992) (inadvertently citing 40 CFR 261(c)(2) instead of 40 CFR 261.3(d)(2)); see also Chemical Waste Management v. EPA, 869 F.2d 1526, 1539–40 (D.C. Cir. 1989) (upholding the contained-in principle as a reasonable interpretation of EPA regulations). In practice, EPA has applied the contained-in principle to refer to a process where a site-specific determination is made that concentrations of hazardous constituents in any given volume of environmental media are low enough to determine that the media does not "contain" hazardous waste. Typically, these so called "contained-in" determinations do not mean that no hazardous constituents are present in environmental media but simply that the concentrations of hazardous constituents present do not warrant management of the media as hazardous waste.[46] For contaminated soil, the result of "contained-in determinations" is that soil no longer "contains" a

[46] Of course, as noted earlier, EPA or an authorized state could determine, at any time, that any given volume of environmental media did not contain (or no longer contained) any solid or hazardous waste (i.e., it's just media). These types of determinations might be made, for example, if concentrations of hazardous constituents fall below background levels, or are at non-detectable levels. Such a determination would terminate all RCRA Subtitle C requirements, including LDRs. See, September 15, 1995 letter from Michael Shapiro (EPA) to Peter Wright (Monsanto Company), making this finding, and 61 FR 18806 (April 29, 1996).

hazardous waste; however, as discussed above, the result is not automatically that soil no longer must comply with LDRs.

In order to preserve flexibility and because EPA believes legislative action is needed, the Agency has chosen, at this time, not to go forward with the portions of the September 14, 1993 or April 29, 1996 proposals that would have codified the contained-in policy for contaminated soils. The Agency continues to believe that legislation is needed to address application of certain RCRA subtitle C requirements to hazardous remediation waste, including contaminated soil. If legislation is not forthcoming, the Agency may, in the future, re-examine its position on the relationship of the contained-in policy to site-specific minimize threat determinations based on implementation experience and/or may choose to codify the contained-in policy for contaminated soil in a manner similar to that used to codify the contained-in policy for contaminated debris.

1. Current Guidance on Implementation of the Contained-in Policy

EPA has not, to date, issued definitive guidance to establish the concentrations at which contained-in determinations may be made. As noted above, decisions that media do not or no longer contain hazardous waste are typically made on a case-by-case basis considering the risks posed by the contaminated media. The Agency has advised that contained-in determinations be made using conservative, health-based levels derived assuming direct exposure pathways. 61 FR at 18795 (April 29, 1996) and other sources cited therein. A compilation of many of the Agency's statements on the contained-in policy has been placed in the docket for today's rulemaking.

The land disposal restriction treatment standards for contaminated soil promulgated today do not affect implementation of the contained-in policy. They are not considered, and should not be used, as de facto "contained-out" concentrations although, in some cases, it may be appropriate to determine that soil treated to the soil treatment standards no longer contains hazardous waste. Remediation project managers should continue to make contained-in decisions based on site-specific conditions and by considering the risks posed by any given contaminated media.

2. Relationship of the Contained-In Policy to Site-Specific, Risk-Based Minimize Threat Determinations

As discussed above, the D.C. Circuit held in the Chemical Waste opinion that the RCRA Section 3004(m) obligation to minimize threats can continue even after a waste would no longer be identified as "hazardous." Chemical Waste Management v. EPA, 976 F.2d at 13–16. The Agency believes that it is prudent to apply the logic of the Chemical Waste opinion to contaminated soil. Therefore, when the contained-in policy is applied to soil that is already subject to a land disposal prohibition, the Agency is compelled to decide if a determination that soil does not or no longer "contains" hazardous waste is sufficient to determine that threats posed by subsequent land disposal of those soils have been minimized. As discussed earlier in today's preamble, EPA is not, at this time, able to make a generic finding that all contained-in determinations will automatically satisfy this standard. This is largely because, for reasons of needed administrative flexibility and because we believe legislation is needed, EPA has not codified standards for approving contained-in determinations and has not codified procedures for making such determinations. Absent such standards and procedures, the Agency cannot, at this time, make a generic finding that all contained-in determinations will result in constituent concentrations that also minimize threats within the meaning of RCRA Section 3004(m). These decisions, of course, could be made on a site-specific basis, by applying the standards and procedures for site-specific, risk-based minimize threat variances, promulgated today.

The regulations governing site-specific, risk-based minimize threat determinations promulgated today are, essentially, the same as the Agency's guidance for making contained-in determinations. See, for example, 61 FR 18795 (April 29, 1996) and other sources cited therein. That is, decisions should be made by considering the inherent risks posed by any given soil, assuming direct exposure (i.e., no post-land disposal controls) and applying conservative information to calculate risk. Therefore, the Agency expects that, in most cases, a determination that soils do not (or no longer) contain hazardous waste will equate with minimize threat levels and, therefore, encourages program implementors to combine contained-in determinations, as appropriate, with site-specific, risk-based minimize threat variances.

F. Relationship of Soil Treatment Standards to the Final HWIR-Media Rule

In the April 29, 1996 HWIR-Media proposal, EPA proposed to establish a comprehensive alternative management regime for hazardous contaminated media, of which the treatment standards for contaminated soil would have been a small part. The HWIR-Media proposal discussed a number of options for comprehensive management standards for hazardous contaminated media.

Today's action resolves and finalizes the portion of the HWIR-Media proposal that addressed land disposal restriction treatment standards for contaminated soil. See 61 FR 18805–18814, April 29, 1996. Other portions of the proposal are not resolved by this action and will be addressed by EPA in future actions. EPA continues to emphasize that, while the soil-specific LDR treatment standards will improve contaminated soil management and expedite cleanups, the Agency also recognizes that additional reform is needed, especially for management of non-media remediation wastes like remedial sludges. The Agency will continue to participate in discussions on potential legislation to promote this additional needed reform.

VIII. Improvements and Corrections to LDR Regulations

Summary: The regulated community has pointed out several examples of the LDR regulations that were unclear or had typographical errors. These sections are clarified and corrected below.

A. Typographical Error in Section 261.1(c)(10)

A typographical error was found in the cross reference in the note in § 261.1(c)(10). The first Phase IV final rule ("Minirule," 62 FR 25998) said "They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (261.4(a)(13))." The correct cross reference is to "(261.4(a)(14)." This typographical error is corrected in this final rule.

B. Typographical Error in Section 268.4(a)(2)(ii) and (a)(2)(iii)

These paragraphs have referred to § 268.8 for some time. Section 268.8 was where the so called "soft hammer" provisions were once found in the regulations. These provisions expired in 1990, and the provisions have been removed from the regulations; thus there is no need to continue to include references to § 268.8.

C. Clarifying Language Added to Section 268.7

The first item in the paperwork tables requires that the EPA Hazardous Waste and Manifest numbers be placed on the notification forms. Today's changes clarify that the manifest number required to be placed on the notification form is that of the first shipment of waste to the treatment or disposal facility.

The tables of paperwork requirements found at § 268.7(a)(4) and (b)(3) have entries that describe what waste constituents have to be identified on the one-time LDR notification (see item 3 in the generator table at § 268.7(a)(4), and item 2 in the treatment and storage facility table at § 268.7(b)(3)). The language of these items has been changed to avoid confusion about whether wastes managed at facilities subject to the Clean Water Act (CWA), CWA-equivalent facilities, or wastes injected into deepwells subject to the Safe Drinking Water Act (SDWA) are subject to a paperwork requirement (and if so, what requirements). Wastes managed in these facilities are subject to a one-time notification requirement. This notification must be placed in the facility's on site files and must contain the information described in the paperwork tables. Therefore, the parenthetical language that appeared to exclude such facilities from the paperwork requirements has been removed from item 2 in the "Generator" table, and item 3 in the "Treatment Facility" table.

In addition, these items have been further clarified by adding the language "in characteristic wastes" after the clause "and underlying hazardous constituents," to indicate exactly what type of wastes must be considered when determining whether underlying hazardous constituents are present. The title of the paperwork table at § 268.7(b)(3) has been changed to clarify that the requirements apply to storage facilities as well as treatment facilities. A number of certifications were inadvertantly removed from § 268.7(b) through Office of Federal Register drafting errors. Those certifications are reinstated because it was never the intention of the Agency that they were removed.

D. Correction to Section 268.40—Treatment Standards for Hazardous Waste

In the Phase III Final Rule (61 FR 15566), the Agency promulgated a UTS of 12.0 mg/L for 1,4-dioxane wastewaters based on the performance of distillation. At that time, 1,4-dioxane was the only UTS constituent for which EPA had promulgated a nonwastewater standard but not a wastewater standard. However, as part of that rule, the Agency failed to extend the treatment standard to wastewater forms of U108 wastes. Today, the Agency is correcting this oversight in Section 268.40—Treatment Standards for Hazardous Wastes, by replacing the "NA" designation under AU108 -1,4-Dioxane wastewaters@ with "12.0 mg/L." As such the 1,4-Dioxane alternate treatment standard now applies to both wastewater and nonwastewaters forms of U108 waste.

E. Removal of California List Requirements and de minimis Provision From Section 268.42

In the Phase IV rule promulgated on May 12, 1997, EPA removed the California List requirements because they have all been superseded by more specific treatment standards. The California List included liquid wastes containing certain metals, cyanide, polychlorinated biphenyls (PCBs) above specified levels, and liquid and nonliquid halogenated organic compounds (HOCs) above specified levels. These wastes were removed from the Table of Treatment Standards in § 268.40; however, the requirements in § 268.42(a)(1) and (a)(2) were overlooked. These paragraphs are removed by today's rule. And because these paragraphs are being removed, it is necessary to revise the language of § 268.42(a) to remove references to these paragraphs.

The de minimis provision of paragraph § 268.42(a)(3) is also being removed by today's rule. The de minimis provision applied to wastewaters regulated under the Clean Water Act (CWA) mixed with high total organic carbon (TOC) ignitable wastes. In the Phase III final rule, however, wastes discharged under the CWA, or in a facility that is CWA-equivalent, are not subject to the LDRs (61 FR 15660, April 8, 1996). Therefore the *de minimis* provision was redundant and has been removed by today's rule.

F. Typographical Errors and Outdated Cross-References in Section 268.45

There is a typographical error in § 268.45(a). The language has referred to § 261.3(c)(2), a section removed from the regulations on September 30, 1992 (57 FR 49278). It should refer to § 261.3(f)(2). The correction is being made in this final rule.

In paragraphs (3) and (4) in § 268.45(d) there are outdated cross-references to treatment standards that were once found at § 268.42 and § 268.43 (the treatment standards once found in these sections have been consolidated into the "Table of Treatment Standards" at § 268.40). These cross references have been removed from § 268.45(d)(3) and (d)(4).

G. Correction to § 268.48 to Explain That Sulfides are not Regulated as Underlying Hazardous Constituents in Characteristic Wastes

In response to a comment received on the original Phase IV proposal, EPA reviewed the basis for the universal treatment standard for sulfides in the Universal Treatment Standard Table at 40 CFR 268.48. EPA is correcting the table in this rule. Sulfides are regulated only in Waste Code F039 (multi-source leachate), and not as underlying hazardous constituents in characteristic wastes.

H. Cross References in Section 268.50(e)

Erroneous references appeared in this section to §§ 268.41, 268.42, 268.43, and 268.32. They are eliminated in this final rule.

I. Mistakes in Appendices VII and VIII

Table 1 includes entries for F033. There is no hazardous waste with the EPA waste code F033. Therefore, these entries are being removed. The second entry for waste codes F032, the second entry for F034, and the first entry for K088 contained typographical errors that are being revised in today's final rule. In addition, two entries for waste code F035 are being added to the table. Table 2 is amended by revising entry number 9 to change the prohibition date for soil and debris contaminated with K088 wastes.

The title of appendix VIII is revised to clarify that it provides the effective dates for wastes injected into deep wells.

J. Clarification Regarding Point of Generation of Boiler Cleanout Rinses

In the May 12, 1997 final Phase IV rule, EPA included in the preamble an interpretive discussion regarding at what point the Agency considers a waste to be generated when power plant boilers are cleaned out using multiple rinses. 62 FR at 26006. The question is relevant to the issue of whether subtitle C rules apply to such waste, and also, if the waste is to be land disposed, whether LDR prohibitions apply. In essence, the interpretation is that the cleanout of the boiler is to be viewed as a single process, so that if the boiler cleanout liquids are commingled in a single tank system, the hazardousness of the resulting cleanout liquids is to be determined at the end of the cleaning process. *Id.*

Some confusion has arisen regarding whether this interpretation applies to permanent storage tanks, or only to temporary tanks brought on-site to manage the boiler cleanout rinses. The Agency's view is that the interpretation applies to temporary tanks, and also to permanent tanks when such units are used exclusively for the management of boiler cleanout during the boiler cleanout process. (Such tanks could, of course, be engaged in other activities when they are not dedicated to management of boiler cleanout waste during the cleanout process.)

EPA did state in the May 12 notice that "[t]he interpretation * * * does not apply where there are permanent storage units involved." 62 FR at 26007. What the Agency had in mind was a tank already engaged in the permanent storage of hazardous waste. However, so long as a tank is dedicated solely to storage of boiler cleanout rinses during the boiler cleanout process, there is no environmental distinction between whether or not a temporary or permanent tank is used for the purpose. Consequently, the point of generation interpretive principle announced in the May 12 notice applies to both permanent and temporary tanks systems.

IX. Capacity Determination for Phase IV Land Disposal Restrictions

A. Introduction

This section summarizes the results of the capacity analysis for the wastes covered by today's rule. For a detailed discussion of capacity analysis-related data sources, methodology, and response to comments for each group of wastes covered in this rule, see the background document for the capacity analysis and the background document for the comment summary and response for capacity-related issues (i.e., collectively referred to as the Capacity Background Documents).

In general, EPA's capacity analysis focuses on the amount of waste to be restricted from land disposal that is currently managed in land-based units and that will require alternative treatment as a result of the LDRs. The quantity of wastes that are not managed in land-based units (e.g., wastewater managed only in RCRA exempt tanks, with direct discharge to a Publicly Owned Treatment Works (POTW)) is not included in the quantities requiring alternative treatment as a result of the LDRs. Also, wastes that do not require alternative treatment (e.g., those that are currently treated using an appropriate treatment technology) are not included in these quantity estimates.

EPA's decisions on when to establish the effective date of the treatment standards (e.g., by granting a national capacity variance) are based on the availability of alternative treatment or recovery technologies. Consequently, the methodology focuses on deriving estimates of the quantities of waste that will require either commercial treatment or the construction of new on-site treatment as a result of the LDRs. EPA also estimates the quantities of waste that will be treated adequately either on site in existing systems or off site by facilities owned by the same company as the generator (i.e., captive facilities), and attempts to subtract that amount from the overall amount of required capacity.

B. Available Capacity for Surface Disposed Wastes

Available capacity was estimated for four treatment technology categories that are expected to be used for the majority of wastes in today's rule: stabilization (including chemical fixation), vitrification, metal recovery, and thermal treatment. (Numerous other types of treatment also can meet the treatment standards for much of these wastes, although the Agency did not find it necessary to present the estimates of available capacity of these treatments. See the Capacity Background Documents for further information.)

1. Stabilization

EPA estimates that there are at least several million mt/yr of available stabilization capacity, with most of it able to meet the treatment requirements for the TC metal wastes and newly identified mineral processing wastes. Furthermore, the Agency found that currently utilized stabilization capacity can be quickly modified (i.e., in less than 90 days) to meet the new treatment standards by implementing relatively simple changes to formulations. For additional details, see the Capacity Background Documents.

2. Vitrification

EPA has determined that vitrification technology is commercially available for treating limited quantities of Phase IV wastes, such as some arsenic wastes, that are difficult to treat using stabilization and other techniques. EPA estimates that there are approximately 15,000 mt/yr of available vitrification capacity.

3. Metal Recovery

High temperature and other types of metal recovery appears to be the most applicable treatment for certain wastes containing high concentrations of metal constituents. EPA identified and reviewed several metal recovery technologies that are commercially available, and has determined that at least 800,000 mt/yr of metal recovery capacity exists.

EPA recognizes, however, that not all of this capacity will be available for Phase IV wastes. For example, there are technical constraints on the metal recovery systems stemming from metal content limitations of the waste. Nevertheless, the Agency believes that a significant portion of this capacity is amenable to Phase IV wastes. For additional details, see the Capacity Background Documents.

4. Thermal Treatment

EPA estimates that there are approximately 231,000 mt/yr of commercial sludge/solid/soil combustion capacity and 651,000 mt/yr of commercial liquid combustion capacity available for wastes covered by today's rule. Other types of thermal treatment, such as thermal desorption, also are available. For additional details, see the Capacity Background Documents.

C. Required Capacity and Variance Determination for Surface Disposed TC Metal Wastes

EPA estimates that at most, 1.2 million mt/yr of TC metal wastes could require alternative treatment as a result of promulgation of today's rule. This estimate includes both wastes that are newly-identified TC wastes (i.e., wastes that do not fail the EP test, and, consequently, were not part of the Third Third LDR rule) and wastes that fail the EP test (i.e., those wastes that were regulated in the Third Third LDR rule). Although only the newly identified TC wastes are eligible for a national capacity variance, the capacity analysis includes all wastes affected by the rule because estimates for each category are not available, and, furthermore, because all of these wastes need to be assessed to determine the full impact of this rule on the need for a capacity variance. Additionally, the 1.2 million estimated quantity is likely to be an overestimate because most of these wastes are already meeting the new treatment standards. Also, most of these wastes are likely to fail the EP test and, therefore, are no longer eligible for a capacity variance.

The wastes that will require alternative treatment are expected to primarily only require optimization of existing stabilization formulations and systems. Also, sufficient vitrification capacity exists to treat the otherwise difficult-to-treat TC metal wastes, high temperature metal recovery capacity

exists for some of the TC metal wastes, and sufficient and other combustion capacity exists to pre-treat TC metal wastes that contain organic underlying hazardous constituents (UHCs). The Agency has determined that these conclusions also apply to TC metal contaminated debris. In addition, the other debris treatment technologies set out in 268.45 are widely available.

For TC metal contaminated soils, the Agency believes that the treatment standards, ten times UTS or 90% reduction, will not result in any capacity problems for treating metals since most soils are already meeting these standards and, furthermore, there is an excess of stabilization treatment capacity. Additionally, for treating organics to the alternative treatment standards, sufficient treatment capacity exists from use of other technologies (e.g., thermal desorption, soil washing, biotreatment).

To allow facilities time to determine whether their wastes are affected by this rule and identify and locate alternative treatment capacity if necessary, EPA is providing 90 days between the publication of today's rule and the effective date of the treatment standards for the TC metal wastes, including soil and debris, covered by today's rule. For a detailed discussion on data sources, methodology, and comments and responses for these wastes, see the Capacity Background Documents.

D. Required Capacity and Variance Determination for Surface Disposed Mineral Processing Wastes

EPA estimates that the maximum quantity of newly identified mineral processing wastes potentially requiring alternative treatment is approximately 1.9 million mt/yr. Most of these wastes (approximately 1.8 million mt/yr) are already being treated to nonhazardous levels and, therefore, are not expected to require much, if any, additional treatment. The remaining wastes, approximately 71,000 mt/yr, will require treatment to meet the treatment standards. However, adequate on-site and off-site treatment capacity is available for these wastes. The Agency has determined that these conclusions also apply to debris contaminated with mineral processing wastes. In addition, the other debris treatment technologies set out in 268.45 are widely available. For soils contaminated with mineral processing wastes, the Agency believes that the treatment standards, ten times UTS or 90 percent reduction, will not result in any capacity problems. Nevertheless, to allow time for activities such as treatment system modifications or to identify and locate alternative treatment capacity for process wastes, soil, and debris, EPA is providing 90 days between the publication of today's rule and the effective date of the treatment standards for the mineral processing wastes, contaminated soil (including MGP soil; see discussion below), and debris covered by today's rule (one exception is the elemental phosphorus wastes; see discussion below). For a detailed discussion on data sources, methodology, and comments and responses for these wastes, see the Capacity Background Documents.

EPA estimates that up to 1.2 million mt/yr of soil contaminated with "de-Bevilled" wastes may be remediated from historic manufactured gas plant (MGP) sites. In response to the first supplemental proposal, several commenters stated that more than 50 percent of the MGP remediation sites are currently co-burning the wastes in on-site coal-fired utility boilers and requested the Agency to allow co-burning of MGP soils in coal-fired utility boilers and exclude them from RCRA requirements. In today's rulemaking, the Agency is confirming its existing (and not reopened) interpretation that residues from co-burning hazardous MGP soils along with coal are covered by the Bevill amendment (assuming the residues are not significantly affected by such burning, as provided in section 266.112). In addition, as discussed elsewhere in this notice, the Agency is promulgating treatment standards (ten times UTS or 90 percent reduction) for contaminated soils. On-site treatment and existing commercially available treatment technologies can readily achieve—and to a large extent are already achieving—the treatment standards for contaminated MGP soil. Therefore, the Agency does not anticipate any capacity problems. To allow facilities time to determine whether their wastes are affected by this rule, to identify alternative treatment capacity if necessary, and to make contractual arrangements for transportation and other logistics, EPA is providing 90 days between the publication of today's rule and the effective date of the treatment standards for MGP soils.

In the first supplemental proposed rule, the Agency identified the following three waste streams generated from elemental phosphorus production as lacking sufficient commercial treatment capacity: Medusa scrubber blowdown, Anderson filter media rinsate, and furnace building washdown. A major generator of these waste streams, the FMC Corporation's Pocatello, Idaho facility, provided a substantial amount of data to show that these waste streams pose unique treatability problems (e.g., due the presence of naturally occurring radioactive materials (NORM)) and that a two-year national capacity variance is needed to develop and construct treatment capacity. After careful review of the data, EPA discussed in the May 10, 1996 Notice of Data Availability, the possibility of a two-year national capacity variance for these three large volume wastewater streams. In May 1997, EPA proposed the second supplemental Phase IV rule (62 FR 26041) and, in response to this proposal, FMC submitted a comment to EPA with new information identifying three other waste streams (NOSAP slurry, precipitator slurry, and phossy water) at its Pocatello, Idaho facility that FMC believes would be subject to Phase IV LDR requirements. FMC requested that a two-year national capacity variance also be granted for these three new waste streams. Like the original waste streams, the three newly identified streams are generated in the elemental phosphorous production process and contain varying amounts of both NORM and elemental phosphorous. FMC also noted that the AFM Rinsate waste stream, for which FMC originally requested a national capacity variance, has been completely eliminated, and that therefore a national capacity variance would no longer be needed for this waste stream. The Agency made these additional data available for public comment in a November 10, 1997 NODA (62 FR 60465). No adverse comments were received. The Agency has decided to grant a two-year capacity variance for all five FMC wastestreams.

Details of the methodology and estimates of affected facilities and waste quantities for the newly identified mineral processing wastes are provided in the Capacity Background Documents.

E. Phase IV Mineral Processing and TC Metal Wastes Injected Into Underground Injection Control (UIC) Class I Wells

Summary: EPA is granting a two-year capacity variance for UIC wells that inject newly identified mineral processing wastes from titanium dioxide production.

There are approximately 272 Class I injection well facilities nationwide. The Agency identified approximately 46 of those facilities as potentially injecting Phase IV wastes. These injected Phase IV wastes account for less than 15 percent of the total injectate being managed by Class I wells annually. Most of these facilities potentially identified already have approved no-migration

petitions. In assessing the impact of the Phase IV rule to operators of UIC facilities, the Agency found that the only potentially affected wells are those injecting newly identified characteristic mineral processing wastes, since other characteristic wastewaters were already prohibited in 1990 and the period for possible capacity extensions for these wastes has run out. (See UIC background document explaining in detail why the other wastes are unaffected.)

For a facility with an existing approved no-migration determination, the facility operator may have already incorporated the subject waste in the original petitions. Any facility with an approved no-migration determination without the waste already incorporated may submit a modified petition (40 CFR Part 148.20 (f)). However, if an injection well has received a no-migration determination, it can inject a newly prohibited waste only if the waste is similar to wastes included in the initial no-migration petition. The new wastes must behave hydraulically and chemically in a similar manner to those already included in the initial petition demonstration such that they will not interfere with the containment capability of the injection zone and the location of the waste plume will not significantly differ from the initial demonstration (See 40 CFR 148.20 (f) & UIC Program Guidance # 74)). Based on this information, promulgation of the Phase IV LDRs should have little impact on any facilities with approved petitions.

EPA estimates that approximately five million tons of mineral processing wastes are being disposed annually in UIC wells. Of these, approximately three million tons are attributable to titanium dioxide production from two DuPont facilities. This volume is a conservative estimate based on highly complex, non-segregable waste stream mixtures. This total volume would be subject to the LDR treatment standards. Titanium dioxide (TiO_2) production wastes are either generated onsite at facilities with injection wells, or at facilities without injection. For these DuPont facilities, this waste is generated and disposed onsite by injection wells. In order for these facilities to continue injection of this restricted waste, a no-migration petition must be approved to meet the conditions of 40 CFR Part 148.20 of the UIC regulations.

For those facilities disposing restricted Phase IV TiO_2 mineral processing waste, their options may be limited to meeting treatment standards (onsite or offsite), submitting a no-migration petition, transporting their waste to a commercial Class I hazardous disposal well facility, or deactivating (diluting) the waste to make it nonhazardous before injection (see RCRA section 3004 (g) (9), a recent amendment which allows such dilution). All of these options are resource intensive and owners/operators of these facilities will be faced with critical economic and business decisions. These TiO_2 facilities do not have immediate capability to treat their waste onsite. If they were to opt for treatment onsite, it would require substantial time and resources to build a treatment facility or to substantially modify their existing facility. It would take at least two years (and possibly longer) to construct such a treatment system. In evaluating various disposal alternatives, one DuPont facility is currently constructing a treatment works that will integrate a neutralization project based on current production. As an alternative to deep well injection disposal, the long term construction at this facility has been costly and operational start-up will require additional time to work out issues. See DuPont letter of Feb. 5, 1998.

With respect to the options of managing the waste water offsite, severe practical constraints limit the availability of capacity to these DuPont $Ti02$ facilities. A typical volume of $Ti02$ wastewater is 900,000 Gallons (3,750 tons) per day; and peak production volumes are 1 million Gallons (4,167 tons) per day. DuPont letters of Feb. 5 & 20, 1998. At peak production, this would take 200 tanker trucks per day for each affected facility to ship the volume of waste that is currently injected. Additionally, these trucks must be constructed with fiberglass or titanium tanks to be compatible to the low pH-highly corrosive acid waste (Note from ICF to R. E. Smith to RCRA Docket (Feb. 17, 1998)). Indeed, it is not even certain that existing 10, 000 gallon tanker trucks are compatible with this wastestream, due to its weight (the TDS content is so high that a 10, 000 gallon tanker could only be half full) and corrosivity. Dupont letter of Feb. 20, 1998.

Commercial waste management facilities normally cannot feasibly accommodate this daily volume. There are at least ten operating commercial Class I hazardous waste injection facilities nationwide, it is uncertain whether they have the capacity to accept 3 million tons of TiO_2 mineral processing waste annually for disposal because of permitting limitations. These commercial wells also have finite capacity limitations. The Agency studied the operational permit parameters of these commercial facilities and found that individual injection and flow capacity rates (UICWELLS Database) may restrict injection of additional high volumes of waste. Rates are scientifically and mathematically determined to avoid damage to the well and the injection zone. Further study of compatibility requirements for these wells suggest that they have acceptable construction for most wastes disposed but not necessarily for the TiO_2 production waste in its present concentration. Without pretreatment, these waste characteristics would require a more exotic well construction that is composed of fiberglass injection tubing, titanium casing and packer, epoxy and acid resistance compatible cement.

EPA has also looked at commercial wastewater treatment capacity in the vicinity of the two DuPont facilities. For one facility, there are no available commercial waste water treatment plants within 200 miles. For the other facility, there are two treatment plants within 75 miles but neither has the capacity to accept the high volumes of waste generated by either DuPont facility (based on BSR data). Commercial waste water treatment facilities generally handle corrosive toxic metal waste waters by stabilization and neutralization techniques. Treatment plants managing the $Ti02$ production waste waters would have to be specially constructed and equipped not only to be amenable to a high volume of acidic waste but also have the capacity to manage the huge amount of solids that will yield from treatment. Thus, wastewater treatment requires having pre-storage and processing units, adequate chemicals to neutralize the corrosive characteristic of the waste and stabilization technology to immobilize the metals before they are either stored onsite, marketed, or landfilled. While the Agency is satisfied that this treatment technology is applicable to $Ti02$ waste water, there is much reservation whether DuPont's facilities could realistically mobilize 200 tanker trucks per day per facility to safely ship this waste to these treatment facilities even if treatment capacity were readily available at them.

The statute also allows injection of waste waters which no longer exhibit a characteristic into Class I wells without meeting any other LDR treatment standard, and dilution may be used as a means of decharacterizing the waste. RCRA section 3004 (g) (9). However, deactivation of certain characteristic wastes through dilution is not always practical or even feasible. The whole waste stream process may not be amenable to dilution prior to injection

at the wellhead, and the geologic reservoirs into which the wells inject have a finite capacity. Sometimes filling up reservoirs with huge volumes of additional water shortens the life of the well operation because reservoir pressures build up much more quickly and the injection zone becomes "overpressurized." EPA finds that this is the case for the TiO2 wastewater at issue here. Thus, the dilution option cannot be utilized here to find that there is adequate available treatment capacity for these TiO2 wastes.

Capacity analyses usually focus on the demand for alternative capacity once existing on-site capacity and captive off-site capacity have been accounted for. However, capacity also may be unavailable if there is no practical means of utilizing it due to logistical problems. For example, in the Third Third rule, EPA relied on such logistical factors to determine when capacity was realistically available (see 55 FR 22645–22646, June 1, 1990). The Agency noted that injection wells at on-site facilities are directly connected to the plant operations and that in order to realistically arrange for off-site disposition of the waste, the plant managers will need time to make considerable logistical adjustments such as, repiping, retooling, and development of transportation networks at the plant operations. Similarly, for TiO2 waste facilities, the Agency doesn't believe that treatment capacity is available since there is no feasible way for generators to transport their wastes to the treatment facilities at this time, plus all of the other repiping that would be entailed. The Agency believes that it would take at least two years for the TiO2 facilities to alter their operations to ship wastewater to offsite facilities and for off-site facilities to make corresponding changes to their operations to accommodate the large influx of highly corrosive, high volume, dense wastewater (even if off-site facilities were to be willing to accept the waste, which is quite unclear).

Under these circumstances, the Agency finds that there is inadequate treatment, recovery, or disposal capacity presently available for TiO2 injected waste waters currently being injected into Class I hazardous wells, and therefore is granting a two-year national capacity variance for these wastes. The Agency expects that affected generators will utilize this period for applying for no-migration petitions for their existing wells, or to construct on-site wastewater treatment systems.

EPA estimates that there is approximately 2 million tons of other injected Phase IV mineral processing wastes (i.e. from processes other than TiO2 production). One facility with the largest volume of that injected waste has applied for and received an approved no-migration petition thus meeting the conditions of 40 CFR Part 148.20. The rest of these facilities are either applying dilution as a means of decharacterizing their waste (as allowed under Section 3004(g)(9)), or are treating their waste before disposal. Their waste volumes are much less than the TiO2 production waste being injected. Since the volume of wastes is so much less than TiO2, and the wastes are more amenable to conventional management, EPA does not see the same types of difficulties arising, and is therefore not delaying the effective date of the prohibition for these facilities. (See UIC background document).

F. Mixed Radioactive Wastes

Significant uncertainty exists about quantities of mixed radioactive wastes containing wastes that will require treatment as a result of today's rule. Despite this uncertainty, any new commercial capacity that becomes available will be needed for mixed radioactive wastes that were regulated in previous LDR rulemakings and whose variances have already expired. Thus, EPA has determined that sufficient alternative treatment capacity is not available, and therefore is granting a two-year national capacity variance for mixed RCRA/radioactive TC metal wastes that are newly identified (i.e., wastes, soil, or debris identified as hazardous by the TCLP but not the EP), and newly identified characteristic mineral processing wastes including soil and debris.

G. Summary

Table 1 summarizes the capacity variance determination for each category of Phase IV RCRA wastes for which EPA is promulgating LDR treatment standards.

TABLE OF CAPACITY VARIANCES FOR PHASE IV WASTES

[Note: Capacity variances begin from the publication date]

Waste description	Surface-disposed wastes	Deep well-injected wastes
Newly identified wastes from elemental phosphorus processing	Two years	Not applicable.
Newly identified mineral processing wastes from titanium dioxide production	90 days	Two years.
Newly identified TC metal wastes (i.e., wastes identified as hazardous by the TCLP but not the EP), and newly identified characterisitc mineral processing wastes including soil and debris.	90 days	90 days.
Radioactive wastes mixed with newly identified TC metal wastes (i.e., wastes identified as hazardous by the TCLP but not the EP), and mixed with newly identified characteristic mineral processing wastes, including soil and debris.	Two years	Two years.

X. Change to Definition of Solid Waste To Exclude Wood Preserving Wastewaters and Spent Wood Preserving Solutions From RCRA Jurisdiction

Summary: As proposed on May 12, 1997 (FR 62 26055), EPA is today amending the definition of solid waste to exclude wood preserving wastewaters and spent wood preserving solutions from RCRA jurisdiction provided that certain conditions are met, as specified below.

A. Summary of the Proposal

On May 12, 1997 in the Phase IV LDR second supplemental rulemaking, EPA proposed to amend the RCRA regulations to provide an exclusion from the definition of solid waste for certain materials generated and recycled by the wood preserving industry. Specifically, the proposal would exclude certain wood preserving wastewaters and spent wood preserving solutions from classification as solid waste under RCRA. Any wood preserving plant claiming the exclusion for these wastes would need to manage them according to the following criteria: (1) the materials must be recycled and reused on-site in the production process for their original intended purpose; (2) the materials must be managed to prevent release; (3) the plant must assure that the units managing these materials can be visually or otherwise determined to

prevent releases; and (4) drip pads managing these materials must comply with Subpart W drip pad standards regardless of whether the plant has been classified as a conditionally exempt small quantity generator (CESQG) (see 40 CFR 261.5). For a more detailed discussion of these conditions, please consult the relevant sections in the May 12, 1997 proposed rule.

As noted above, the exclusion was to be limited to wood preserving wastewaters and spent wood preserving solutions that are recycled and reused on-site at wood preserving plants in the production process for their original intended purpose. As EPA explained in the proposal, any listed wastewater or spent solution that is not recycled on-site according to the conditions of the exclusion is not excluded from the definition of solid waste. Moreover, the F032, F034 and F035 listings cover wastestreams other than wastewaters and spent solutions. These other listed wastestreams would not be eligible for exclusion even if recycled. This could include materials associated with wastewaters and spent solutions, such as residues that accumulate in a drip pad sump. EPA affirms this scope of the exclusion for the final rule.

It was neither the Agency's intent nor belief that the proposed exclusion would in any way reduce the obligations that wood preserving plants have under 40 CFR Part 264, Subpart W and Part 265, Subpart W, including the requirements for drip pads and the § 264.570(c) and § 265.440(c) requirements under for response to infrequent and incidental drippage in storage yards. The Agency specifically requested comment on whether the proposed exclusion would reduce these requirements. The Agency also sought comment on whether a plant claiming the proposed exclusion should be required to place a notification form to that effect in its files on-site and/or to submit it to either the EPA Regional Administrator or State Director to allow review. Finally, EPA asked for comment concerning the conditions under which the proposed exclusion, once claimed, would no longer apply.

Of course, this exclusion from the definition of solid waste under the federal RCRA statute does not modify any regulatory requirements that are independently imposed under other environmental statutes.

B. Modifications to the Proposal

The Agency received four sets of comments on the proposed exclusion for wood preserving wastewaters and spent wood preserving solutions. While some comments were supportive of the proposal, others were critical of the Agency for, among other things, relinquishing some regulatory oversight of the wood preserving industry. The comments EPA received on the scope of the proposed exclusion and the Agency's response can be found in the docket for this rulemaking. All comments were carefully considered. This section addresses those changes that EPA made to the proposed rule based on comments the Agency received. The next section ("Other Comments") addresses those aspects of the proposal that, though they remain unchanged by today's rule, require further clarification based on the comments received.

1. Notification

EPA received two responses to its request for comment on whether it was necessary for a plant claiming the proposed exclusion to provide notice to the appropriate regulatory agency and, if so, what type of notice that should be. One commenter suggested that the publication of the exclusion and its effective date by EPA in this final rule would serve as sufficient notice, and that notification on a plant specific basis is unnecessary. EPA does not consider publication of the final rule to provide adequate notice on the names and locations of wood preserving plants planning to operate under the conditional exclusion. Moreover, EPA is concerned that this commenter may have assumed that the exclusion would take effect nationwide upon publication. As explained below in the section titled "state authorization," this is not correct. The exclusion will not take effect in any authorized state unless and until the state adopts it.

The other commenter suggested that it is appropriate for wood preserving plants claiming an exclusion for their recycled wastewaters and spent solutions to notify the appropriate state agency. EPA considers notification to the appropriate regulatory agency to be essential to the proper implementation of this provision. To allow EPA and authorized states to verify that the conditions placed upon today's exclusion are properly met, it is important that wood preserving plants inform the appropriate Regional Administrator or State Director that they are claiming the exclusion and will therefore be reporting significantly lower waste generation totals. EPA is therefore revising the proposed exclusion to require a plant owner or operator (prior to operating pursuant to this exclusion) to submit to the appropriate Regional Administrator or State Director a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice.

2. Conditions Under Which the Exclusion Would No Longer Apply

EPA requested comment on conditions that void the exclusion. Specifically, EPA asked whether a spill should result in the loss of the exclusion just for the spilled material, or also for the wastewaters and spent solutions generated after the spill occurred. EPA received two comments on conditions under which the exclusion, once claimed, would no longer apply. One commenter stated that RCRA regulation should be required for all materials that are spilled or otherwise exit the recycling loop. The other commenter suggested that "a simple spill . . . is obviously not related to the normal operation of the drip pad . . ." and should therefore not void the exclusion for wastewaters and spent solutions that are collected and not spilled or released.

EPA agrees with the commenter who took the position that the spilled material itself should be ineligible for the exclusion. The spilled material inherently fails to meet the condition requiring plant operators to manage wastewaters and solutions so as to prevent releases. Although there could potentially be conditions under which a spilled material could still be eligible for the existing exclusions under § 261.4(a)(9)(i) and (ii) following reclamation, such materials are in all cases ineligible for today's new exclusion under § 261.4(a)(9)(iii).

To respond to the second comment, EPA has decided to clarify the effect of a violation of any condition, including the condition prohibiting spills, on wastewaters and spent solutions generated after a violation occurs. EPA has decided that the exclusion should not be available until the plant owner or operator notifies the appropriate regulatory agency, and the agency determines that the problem has been adequately addressed. It is appropriate to impose this requirement even for spills, because the significance of a spill may vary greatly from plant to plant and from incident to incident. EPA hopes

that a reviewing agency would quickly reinstate the exemption after a one-time spill, particularly if small, and would not require specific actions to correct the problem. In contrast, EPA would expect the reviewing agency to require specific actions (such as creation and implementation of a spill prevention plan) for a plant that experienced repeated spills. EPA believes the severity of any violation and the precise actions needed to return the plant to compliance can best be assessed on a case-by-case basis. EPA has added language to the regulation to clarify this issue. It applies to all of the conditions of the exclusion.

C. Other Comments

A number of comments indicated a need for EPA to clarify other aspects of the proposal that the Agency is finalizing today.

1. Oil Borne Facilities

One commenter suggested that the exclusion that EPA is finalizing today applies not only to water borne wood treating plants but also to oil borne wood treating plants. At the time of proposal, EPA intended to create an exclusion only for plants using water borne preservatives. See, for example, the discussion at 63 FR 26057, col. 1. EPA did not evaluate oil borne plants at the time. It is EPA's general understanding that plants which use oil borne preservatives do not recycle wastewaters and spent solutions by using them in the work tank to treat wood. Rather, they reuse these wastewaters in cooling systems, vacuum seals, and other devices. EPA wants to limit today's exclusion to materials that are reused for their original intended purpose—the treatment of wood. EPA has not had time to investigate the jurisdictional and factual issues posed by the use of wastewaters for other, more ancillary purposes. Consequently, EPA is not expanding the exclusion beyond the proposal. It applies only to water borne processes.

2. Application of the Conditions to Units Other Than the Drip Pad

One commenter expressed opposition to "any language that would extend the EPA's RCRA authority to devices that have previously not been regulated under RCRA." In view of this comment, the Agency is prompted to clarify that the conditions for claiming the exclusion must be met with regard to any unit that comes into contact with the recycled wastewaters and spent wood preserving solutions excluded in today's rule.

Thus, sumps or other units that are arguably part of an exempt wastewater treatment unit and that manage wastewaters and spent solutions are subject to these conditions. EPA has already stated that "management to prevent releases would include, but not necessarily be limited to, compliance with [Subpart W] and maintenance of the sumps receiving the wastewaters and spent solutions from the drip pad and retort to prevent leaching into land and groundwater." (62 FR 26057). The Agency must be able to verify that the excluded materials are being managed to prevent release at every step of the recycling process through reclamation to ensure that the basic technical and policy conditions underlying the exclusion are properly met.

3. Relationship of Today's Exclusion to Previous Industry Exclusions

One commenter wanted to assure that today's exclusion would not now regulate units that transmit or store materials that have been excluded according to other, currently existing regulations. EPA does not intend to use today's exclusion to rescind either of the exclusions that the Agency has previously granted the wood preserving industry under §§ 261.4(a)(9)(i) and (ii).

4. Units That May Be Visually or Otherwise Determined to Prevent Release

One commenter expressed concern that the term "units" is an overly broad way to refer to those portions of the system subject to RCRA inspection. EPA will now clarify which "units" are subject to inspection under the conditions of this exclusion. As mentioned above, all units that come into contact with the excluded materials prior to reclamation must necessarily be subject to verification that they are able to contain these materials in a manner that prevents their release to the environment. This includes, but is not necessarily limited to, any drip pad, sump, retort or conduit that comes into contact with the wastewaters and spent solutions prior to reclamation. This also includes any unit that is arguably part of a plant's wastewater treatment system but that comes into contact with the wastewaters or spent solutions prior to reclamation. An inspector must be able to determine (by visual or other means) whether these units are managing the wastewaters and spent solutions in a manner that prevents release. When relying on a visual inspection (as opposed to a leak detection system or other means), it may be necessary for an inspector to require these units be drained or cleaned for the inspector to make an informed determination as to whether the unit is cracked or leaking.

5. CESQG Status

One commenter also requested EPA to prevent wood preserving plants from becoming conditionally exempt small quantity generators (CESQGs) after claiming the exemption. The commenter was concerned that other, non-excluded wastestreams generated at these plants that are covered by the listings would no longer be subject to any hazardous waste regulation. As explained in more detail in the response to comment document, EPA lacks sufficient information about the volumes of these other wastes and the risks they pose to promulgate a rule creating an exception to the long-established CESQG exemption for them.

D. State Authorization

Upon promulgation, this exclusion will immediately go into effect only for plants in those states and territories that are not currently authorized to implement the RCRA program (i.e., Alaska, Iowa, Hawaii, American Samoa, Northern Mariana Islands, Puerto Rico and Virgin Islands). Plants in these states are subject to the provisions of the federal program. Conversely, any plant located in a RCRA authorized state will be unable to claim the exclusion we are finalizing today unless and until that state amends its regulations to include the exclusion. Because EPA allows state programs to be more stringent than the federal program, it is not necessarily guaranteed that all authorized states will elect to adopt this exclusion.

XI. Clarification of the RCRA Exclusion of Shredded Circuit Boards

In the May 12, 1997 final rule on Land Disposal Restrictions, the Environmental Protection Agency (EPA) excluded shredded circuit boards from the definition of solid waste conditioned on containerized storage prior to recovery. To be covered by this exclusion shredded circuit boards must be free of mercury switches, mercury relays, nickel-cadmium batteries or lithium batteries. On a related issue, current Agency policy states that *whole* circuit boards may meet the definition of scrap metal and therefore be exempt from hazardous waste regulation. In a parenthetical statement in the May 12, 1997 rule, the Agency asserted that whole used circuit boards which contain mercury switches, mercury relays, nickel-cadmium batteries, or lithium batteries also do not meet the definition of scrap metal because mercury (being a liquid metal) and batteries are not within the scope of the

definition of scrap metal. The preamble cited 50 FR 614, 624 (1985).

Members of the electronics industry expressed concern to the Agency about the preamble statement regarding the regulatory status of whole used circuit boards which contain mercury switches, mercury relays, nickel-cadmium batteries, or lithium batteries. The electronics industry indicated that its member have developed a sophisticated asset/materials recovery system to collect and transport whole used circuit boards to processing facilities. The industry explained that the boards are sent to processing facilities for evaluation (continued use, reuse or reclamation) where the switches and the types of batteries are generally removed by persons with the appropriate knowledge and tools for removing these materials. Once these materials are removed from the boards, they become a newly generated waste subject to a hazardous waste determination. If they fail a hazardous waste characteristic, they are handled as hazardous waste, otherwise they are managed as a solid waste. Information was also provided regarding the quantity of mercury on these switches and on the physical state in which they are found on the boards. The information indicates that the mercury switches and relays on circuit boards from some typical applications contain between 0.02–0.08 grams of mercury and are encased in metal which is then coated in epoxy prior to attachment to the boards.

In today's final rule, the Agency recognizes that the preamble statement in the May 12, 1997 final rule is overly broad in that it suggested that the scrap metal exemption would not apply to whole used circuit boards containing the kind of minor battery or mercury switch components and that are being sent for continued use, reuse, or recovery. It is not the Agency's current intent to regulate under RCRA circuit boards containing minimal quantities of mercury and batteries that are protectively packaged to minimize dispersion of metal constituents. Once these materials are removed from the boards, they become a newly generated waste subject to a hazardous waste determination. If they meet the criteria to be classified as a hazardous waste, they must be handled as hazardous waste, otherwise they must be managed as a solid waste.

XII. Regulatory Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Executive Order No. 12866 requires agencies to determine whether a regulatory action is "significant." The Order defines a "significant" regulatory action as one that "is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

The Agency estimated the costs of today's final rule to determine if it is a significant regulation as defined by the Executive Order. The analysis considered compliance costs and economic impacts for newly identified wastes affected by this rule, as well as media contaminated with these wastes. In addition, the analysis addresses the cost savings associated with the new soil treatment standards being promulgated in today's rule. Newly identified mineral processing wastes covered under this rule include 118 mineral processing wastes identified as potentially characteristically hazardous. Also covered under this rule are TC metal wastes. Today's final rule also covers treatment standards for contaminated media (i.e., soil and sediment). EPA estimates the total cost of the rule to be a savings of $6 million annually, and concludes that this rule is not economically significant according to the definition in E.O. 12866. However, the Agency does consider this rule to be significant for novel policy reasons. The Office of Management and Budget has reviewed this rule.

Detailed discussions of the methodology used for estimating the costs, economic impacts and the benefits attributable to today's proposed rule for newly identified mineral processing wastes, followed by a presentation of the cost, economic impact and benefit results, may be found in the background documents: (1) "Regulatory Impact Analysis of the Phase IV Land Disposal Restrictions Final Rule for Newly Identified Mineral Processing Wastes," (2)"Regulatory Impact Analysis of the Phase IV Land Disposal Restrictions Final Rule for TC Metal Wastes," and (3) "Regulatory Impact Analysis of the Phase IV Land Disposal Restrictions Final Rule for Contaminated Media," which were placed in the docket for today's final rule.

1. Methodology Section

The Agency estimated the volumes of waste and contaminated media affected by today's rule to determine the national level incremental costs (for both the baseline and post-regulatory scenarios), economic impacts (including first-order measures such as the estimated percentage of compliance cost to industry or firm revenues), and benefits or risk-screens used to document the inherent hazard of materials being evaluated.

2. Results

a. Volume Results. EPA estimates that there are 29 mineral commodity sectors potentially affected by today's rule, including an estimated 136 facilities that generate 118 streams of newly identified mineral processing secondary materials. The estimated volume for these potentially affected newly identified mineral processing secondary materials is 22 million tons. Also, approximately 1.3 million tons of contaminated soil containing coal tar and other wastes from manufactured gas plants are potentially affected by this rule. As discussed below, EPA does not believe that any TC metal process wastes are potentially affected by today's final rule. EPA estimates that approximately 165,000 tons per year of soil and sediment contaminated with TC metals and approximately 90,000 tons per year of previously regulated contaminated soils is impacted by today's rule.

b. Cost Results For the part of today's final rule that prohibits land storage of mineral processing residues (below the high volume threshold) prior to being recycled, EPA estimates these expected case annualized compliance costs to be $10 million. The cost results for this part of today's final rule are a function of two factors: (1) the expense associated with purchasing new storage units or upgrading existing storage units, and (2) the transfer of some mineral processing residues either from recycling to disposal resulting in increased costs or from disposal to recycling resulting in a cost savings.

For TC metal wastes the Agency believes that there will be no incremental costs associated with stabilization of these wastes from the promulgation of these treatment standards.[47] In addition, EPA believes

[47] One possible exception to this are producers of hazardous waste-derived fertilizers. This is

that there will be no incremental treatment costs for the treatment of TC metal wastes that contain organic underlying hazardous constituents. Based on public comment and data collected from commercial hazardous waste treaters and generators, EPA believes that TC metal wastes are often already treated to these universal treatment standard levels when waste handlers treat to the current treatment standards using bona fide treatment reagents (e.g., portland cement).[48] Therefore, no additional treatment reagent or capital equipment associated with stabilization is required with these wastes.

Previously, EPA had estimated costs to the nonferrous foundry industry associated with complying with today's treatment standards. This estimate was modeled on trisodium phosphate with a ph buffer. When this type of treatment reagent is used, incremental quantities are required to achieve the universal treatment standards for cadmium promulgated in today's rule. However, based on contacts with trade associations and vendors of stabilization equipment, EPA believes that portland cement is equal to or less than the cost of trisodium phosphate and is therefore a more appropriate choice for modeling a compliance baseline from which to estimate the costs of the rule. Unlike trisodium phosphate, portland cement currently being used to meet existing treatment standards has been shown to meet the universal treatment standards without additional reagent. Accordingly, EPA believes that no incremental costs (or benefits) for stabilization are attributable to the promulgation of the universal treatment standards for TC metal wastes.

Although according to the American Foundrymen's Society iron filings are used by many nonferrous foundries as a treatment reagent, for the reasons discussed above under Section III (f), EPA does not believe that iron filings are a legitimate and effective form of treatment. Therefore, the costs of switching from iron filings to another form of treatment reagent such as portland cement is more appropriately characterized as a cost of coming into compliance with already existing treatment standards rather than an incremental cost attributable to today's rule. Although EPA does not believe the cost of switching from iron filings to another treatment reagent is attributable to today's final rule, the Agency has estimated these compliance costs and included this information in the background document "Regulatory Impact Analysis of the Phase IV Land Disposal Restrictions Final Rule for TC Metal Wastes," which was placed in the docket for today's final rule. EPA estimates that the annual cost to nonferrous foundries to switch from iron to portland cement to stabilize hazardous foundry sands is $11.7 million. Results from the risk screen for nonferrous foundry sands are discussed below.

For TC metal hazardous wastes that contain organic underlying hazardous constituents, one commenter has suggested that the Phase IV final rule would result in costs resulting from changing from stabilization of these wastes to incineration. EPA has evaluated data from the National Hazardous Waste Constituent Survey to assess both the prevalence and level of organic underlying hazardous constituents in TC metal wastes (solid and sludges). The results indicate that organic underlying hazardous constituents are rarely present in these wastes. Only seven of 181 TC metal hazardous wastes examined contained organic underlying hazardous constituents. Of these seven, only three contained organics above the Univeral Treatment Standard. None of the three waste steams that contained organics above the Univeral Treatment Standard was present in concentrations high enough to warrant incineration. In short, it is unlikely that organic underlying hazardous constituents will be present in TC metal wastes. And if present, incineration is unlikely to be used to treat these wastes. For reasons, EPA believes that the Phase IV final rule will not result in incremental costs for TC metal wastes containing organic underlying hazardous constituents.

The Agency is also promulgating new soil treatment standards in today's final rule. As these standards are less stringent than those currently required for previously regulated soils, an estimate of the cost savings associated with these standards has been prepared. The total incremental savings estimated for the new soil treatment standards is $25 million per year.

For contaminated soils which exhibit a characteristic for TC metals (including soils containing newly identified mineral processing wastes) but do not contain organic underlying hazardous constituents, there is no incremental cost expected from today's rule. These soils are subject to the new treatment standards which are less stringent than current LDR treatment standards for contaminated soils. The one category of TC hazardous metal contaminated soil that is potentially impacted by today's rule is TC hazardous metal contaminated soil which contains organic underlying hazardous constituents. These soils require additional treatment over that received in the baseline to effectively treat the organic constituents of concern. The Agency estimates that this additional requirement will result in a $3 million per year cost for these wastes, occurring mainly at voluntary cleanups and Superfund sites.

Manufactured gas plant contaminated soils (MGP) are a class of contaminated media that has heretofore not been subject to LDR treatment standards. EPA believes that some incremental costs may result from today's final rule to MGP clean ups involving the use of MGP soils in land applied recycling such as hot or cold mix asphalt, brick and concrete. It is possible that some of these soils will not meet the conditional exemption for waste-derived products that are used in a manner constituting disposal. 40 CFR § 266.20(b). For this reason, it is also possible that owner/operators of these sites may select an alternative remedy such as in-situ treatment or co-burning which are not affected by today's rule. On balance, EPA still believes that the promulgation of new treatment standards will encourage remediation of hazardous soils. The estimated annual costs to owner/operators of MGP sites for selecting remedies that are alternatives to asphalt, brick or concrete recycling are $6.2 million.

c. Economic Impact Results. To estimate potential economic impacts resulting from today's final rule, EPA has used first order economic impacts measures such as the estimated compliance cost of the rule as a percentage of sales/revenues, value added (sales less and material cost) and profit or return on capital. EPA has applied these measures to newly identified mineral processing hazardous wastes.

For recycled mineral processing secondary materials, EPA has evaluated the estimated compliance costs as a percentage of value (i.e. sales), value added and profits of the mineral commodities produced in each sector. In addition EPA has compared estimated compliance costs as a percentage of revenues to specific mineral processing firms to provide additional information on potential impacts.

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discussed below under the Regulatory Flexibility section.

[48] December 19, 1996 letter to Anita Cummings, USEPA Office of Solid Waste from Michael G. Fusco, Director of Regulatory Analysis, Rollins Environmental Inc., p.4 of edited draft EPA trip report letter to Rollins Highway 36 facility in Colorado.

Economic impacts from today's rule for mineral processing facilities may or may not be substantial for selected mineral processing sectors depending on the actual storage and management of mineral processing residues prior to being recycled. In the expected case scenario up to 5 of the 29 commodity sectors are expected to incur compliance costs equal to or greater than 1 percent of the economic value of the mineral commodities produced under the Agency's proposed option in today's rule. These sectors include: cadmium, fluorspar and hydrofluoric acid, mercury, selenium and tungsten. The range of percentages in these sectors is between 2 percent (cadmium) and 36 percent (mercury). Because many of these sectors are actually co-processed with other mineral commodity sectors, these impacts may be distributed over the economic value of the other minerals, rather than concentrated solely on the mineral commodity associated with generating the secondary materials. For example, EPA has estimated that today's final rule may affect the cadmium and selenium sectors by imposing incremental costs equal to 18 percent of the value added of those minerals. The value added is equal to the market value of the minerals less the cost of the raw materials (i.e., ore concentrate). Cadmium is a co-product of zinc production and selenium is co-product of copper production; hence, these economic impacts are expected primarily to affect the production of these co-products and the reclamation of their residuals rather than the mineral processing operation as a whole. Because recovery for these co-product residuals is generally less expensive than treatment and disposal, EPA believes that the costs for these residuals will not significantly decrease their recovery although the storage costs could add to the expense.

As stated above, the Agency believes that there are no incremental costs associated with today's final rule for stabilization for handlers of TC metal hazardous wastes. Moreover, the Agency believes that there are no incremental costs associated with TC metal wastes containing organic underlying hazardous constituents may incur costs as described above and corresponding impacts. Accordingly, there is no economic impact for waste handlers managing TC metal wastes.

For TC hazardous foundry sands, EPA also believes that there is no economic impact attributable to today's final rule. As stated above, EPA views the cost associated from switching from iron filings to cement or other treatment reagent are not properly considered attributable to this rulemaking but rather a cost of coming into compliance with existing regulations. Moreover, even if these costs were attributable to this rulemaking, EPA estimates that incremental costs attributable to this switching from iron filings to portland cement are less than one percent of industry revenues and six percent of industry profits and therefore would not create a significant impact to these facilities. More detailed information on this estimate can be found in the regulatory impact analysis placed into today's docket.

As previously stated, EPA does not believe there are incremental costs associated with today's rule for TC hazardous metal contaminated soils except for TC hazardous metal contaminated soils that contain organic underlying hazardous constituents. EPA has evaluated the industries generating these TC metal organometallic soils and has determined that incremental costs from today's final rule do not impose a significant impact.

Similarly, EPA has determined for MGP site clean ups that the economic impact of today's rule is not a significant impact. The estimated percentage of compliance costs to firm sales is less than 1 percent.

d. Individual Risk Estimate Results. The Agency has performed an individual risk analysis to estimate the quantifiable central tendency and high-end hypothetical individual risk for mineral processing secondary materials associated with today's final rule to be above levels of concern for cancer and noncancer risks for specific mineral processing streams in both groundwater and nongroundwater pathways. Results suggest that central tendency and high-end hypothetical individual cancer and non-cancer risks may be decreased below 1×10^{-5} and below a reference dose ratio of 1 in a number of mineral processing facilities. These results are linked primarily with mineral processing liquid secondary materials stored in surface impoundments prior to reuse. The data used to calculate these results are based on the groundwater pathway as well as other potential routes of exposure such as air or surface water. The risk results indicate that the highest individual risks are associated with exposure through groundwater and surface water pathways. These results are also limited to a subset of the mineral processing universe being regulated today where the Agency has collected data from individual mineral processing facilities. EPA also notes that in completing these individual risk results that the entire mass of hazardous constituents available for release in the waste management unit was available for release through each pathway. This could result in overestimation in risks due to double counting of constituent mass. To address this factor, EPA conducted mass balance calculations for all non-groundwater release pathways. These calculations indicate that this potential overestimate would result in negligible bias because only a very small percentage of hazardous constituents in the waste mass is available for release. In addition, EPA did not conduct these mass balance calculations for the groundwater pathway because of limitations in the methodology for which individual groundwater risks were calculated. The Agency believes that the potential bias in risk results for both surface impoundments and waste piles is low.

As stated above the Agency's efforts to evaluate benefits for mineral processing secondary materials were limited to calculations for central tendency and high-end individual risk. However, due to data limitations, the Agency has been unable to evaluate additional more explicit risk-reduction benefits, including populations benefits. In general, the Agency's experience has been that it is unusual to predict high population risks, unless there is an unusually large water well supply impacted by the facility, because ground water contamination generally moves slowly and locally.

Although the regulatory impact analysis completed for today's rule does not address benefits associated with ecological risk reduction and a decrease in natural resource damages, based on a review of available information on damage incidents associated with mining and mineral processing operations[49], the Agency's experience is that, while these types of benefits are extremely difficult to quantify, this rule may produce benefits in the area of ecological risk reduction and reduced natural resource damage.

For TC metals, because the analysis shows that many handlers of TC metal wastes are already meeting the universal treatment standards being promulgated

[49] See Human Health and Environmental Damages from Mining and Mineral Processing Wastes, Technical Background Document Supporting the Supplemental Proposed Rule Applying Phase IV Land disposal Restrictions to Newly Identified Mineral Processing Wastes, U.S. Office of Solid Waste, U.S. Environmental Protection Agency, December 1995; Ecological Risk Assessment Southshore Wetlands for the Kennecott Utah Copper Salt Lake City, Utah. Working Draft March 4, 1996; May 7, 1996 letter from Max H. Dodson, Assistant Regional Administrator for Ecosytem Protection and Remediation, U.S.E.P.A, Region VIII to Michael Sahpiro, Director, Office of Solid Waste, U.S.E.P.A.

in today's rule, EPA does not believe that there are either incremental costs or benefits associated with stabilization of these wastes. However, for TC hazardous nonferrous foundry sands, the Agency has completed a risk screening for groundwater releases of lead and cadmium resulting from the disposal of untreated or poorly treated sands in municipal solid waste landfills. The results of the screen indicate that the probability the lead and cadmium would exceed the action level for lead of 0.015 mg/l or the drinking water standard for cadmium of 0.005 mg/l for untreated foundry sands was approximately 9 percent for lead and 14 percent for cadmium. The risk results also showed that the probability for hazardous foundry sands treated to the universal treatment standard to exceed these standards were approximately 2 percent for lead and 7 percent for cadmium. Because of data limitations, EPA is not able to demonstrate population benefits associated with effective treatment of foundry sands. These risk results do, however, document the intrinsic hazard of the sands and the need for effective treatment of these sands. However, as indicated above, EPA would attribute any public health benefits associated with decreasing lead and cadmium concentrations from foundry sands leachate to coming into compliance with existing regulations rather than promulgation of today's universal treatment standards.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Based on the following discussion, this final rule will not have a significant impact on a substantial number of small entities.

With respect to mineral processing facilities that are small entities, EPA believes that today's final rule will not pose a significant impact to a substantial number of these facilities. EPA identified 22 firms owning 24 mineral processing facilities that are small businesses based on the number of employees in each firm. Under the Agency's proposed option, zero firms out of the 24 identified incurred estimated compliance costs that exceed 1 percent of reported firm revenues.

As discussed above in the cost and economic impact section on TC metal wastes, EPA has determined that treating TC metal wastes will not result in incremental costs to the regulated community. As stated above, data from commercial treaters and generators of TC metal wastes indicate that the wastes are already treated to below UTS levels. Moreover, today's rule will not result in increased costs from incinerating TC metal wastes with organic underlying hazardous constituents. EPA's review of data from commercial hazardous wastes treatment facilities indicates that TC metal wastes with organic underlying hazardous constituents are not prevalent and when present would rarely require incineration.

Finally, after the close of the public comment period, representatives of small business hazardous waste-derived fertilizer producers met with the Agency claiming economic hardship resulting from the Agency's proposed UTS for metal wastes. Under existing 40 CFR § 266.20(b) commercial fertilizers sold for public use must meet treatment standards in order to be placed on the land. Currently all such hazardous waste fertilizers (except for K061–derived fertilizers) are subject to treatment standards for metals at the characteristic level. Based on available information, the Agency has found that out of 10 secondary small business zinc fertilizer producers only two firms in the United States produce a hazardous waste-derived fertilizer, meet the definition of a small business and are subject to this today's rule. Considering a limited range of regulatory responses (such as switching from a hazardous to a non-hazardous source of zinc waste), EPA believes that only one of the two firms could potentially incur a significant economic impact. Because only one firm in this industry is potentially affected by today's rule, EPA does not consider this to be a substantial number of small entitities.

Additionally, there are incremental costs estimated to result from today's rule to facilities undergoing remediation of TC metal contaminated soils and sediments with organic underlying hazardous constituents. EPA estimates that between 34 and 93 small entities would be impacted by these costs. Two firms out of the 93 identified as an upper bound estimate incurred estimated compliance costs that exceed 1 percent of reported firm revenues. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes and local governments would have no compliance costs under this rule. It is expected that states will adopt similar rules, and submit those rules for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. For the same reasons, EPA also has determined that this rule contains no regulatory

requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

D. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. EPA has prepared an Information Collection Request (ICR) document: OSWER ICR No. 1442.15 would amend the existing ICR approved under OMB Control No. 2050–0085. This ICR has not been approved by OMB and the information collection requirements, although they are less stringent than those previously required by the EPA, are not enforceable until OMB approves the ICR. EPA will publish a document in the **Federal Register** when OMB approves the information collection requirements showing the valid OMB control number. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Copies of this ICR may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, D.C. 20460 or by calling (202) 260–2740. Include the ICR number in any request.

The Agency has estimated the average information collection burden of this final Phase IV rule to the private sector and the government. The burden of this final rule to the private sector is approximately 4,880 hours over three years, at a cost of $943,942. The burden to EPA is approximately 787 hours over three years, at a cost of $29,841. The term "burden'means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; process and maintain information and comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments on the Agency's burden reduction, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection of techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, D.C. 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence.

XIII. Environmental Justice

A. Applicability of Executive Order 12898

EPA is committed to address environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agencies goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Potential Effects

Today's rule covers high-metal wastes ("TC metal wastes," hazardous mineral processing wastes, and mineral processing materials). The rule will possibly affect many facilities nationwide, with the potential for impacts to minority or low-income communities. Today's rule is intended to reduce risks to human health and the environment, and to benefit all populations. It is not expected to cause any disproportionate impacts to minority or low income communities versus affluent or non-minority communities.

XIV. State Authority

A. Statutory Authority

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA hazardous waste program within the State. Following authorization, EPA retains enforcement authority under sections 3008 (a)(2), 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)) new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in unauthorized States. Although States are still required to update their hazardous waste programs, EPA is directed to carry out the HSWA requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization.

Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States can, but do not have to, adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent. Less stringent regulations, promulgated under both HSWA and non-HSWA authority, do not go into effect in authorized States until those States adopt them and are authorized to implement them.

B. Effect on State Authorization

Today's rule is promulgated in part pursuant to non-HSWA authority, and in part pursuant to HSWA. The more stringent HSWA portions of this rule will become effective at the same time in all states. The new LDR treatment standards for metal-bearing and mineral processing wastes are being promulgated pursuant to section 3004 (g)(4) and (m), provisions added by HSWA. (Note, however, that the treatment standards, even though they are promulgated pursuant to HSWA, will not apply to mineral processing wastes unless the wastes are currently included in the authorized State's

definition of solid waste.) The application of the TCLP to mineral processing wastes likewise implements a HSWA provision, section 3001(g). These requirements are being added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA, and would take effect in all States, regardless of authorization status. States may apply for final or interim authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble. Table 2 in 40 CFR 271.1(j) is also modified to indicate those provisions of this rule that are self-implementing provisions of HSWA. Note that there are other HSWA provisions that are not more stringent than the current program, such as the revisions to certain of the existing LDR treatment standards. These would not be implemented by EPA in those states authorized for the existing provisions prior to a State being authorized for them. These provisions are further discussed below.

Today's rule contains provisions, both under HSWA and non-HSWA authority, that are less stringent than the current Federal program. First is the non-HSWA provision which would allow mineral processing spent materials being reclaimed within the mineral processing industry sector, or in beneficiation processes, to be excluded from the definition of solid waste. This provision can be adopted at the States' option, although EPA strongly encourages States to adopt this provision. As stated earlier in the preamble, part of the purpose of this rule is to eliminate distinctions among reclaimed spent materials, by-products, and sludges within this industry. This change, in combination with the conditioned exclusion for the reclaimed byproducts and sludges, will result in more control over land-based mineral processing units than exists presently, encourage additional material recovery within the industry, properly control land-based storage of mineral processing industry secondary materials awaiting intra-industry recovery, and also simplify the solid waste regulatory classification scheme. In addition, State adoption of these provisions will provide national consistency.

Similarly, another less stringent non-HSWA provision in this rule excludes from RCRA regulation certain recycled wood preserving wastewaters and spent wood preserving solutions. The exclusion will not be effective in authorized States until they amend their regulations and received authorization. Although the States do not have to adopt these provisions, EPA strongly encourage them to do so, because the exclusion encourages properly conducted material recovery in the wood preserving industry.

Last, the treatment standards for soil contaminated with hazardous waste (and the associated site-specific risk based variance provision for contaminated soils), promulgated under HSWA, are less stringent than the existing treatment standards. Although the authority for these standards is under HSWA, EPA will not implement them in those States that are authorized for the existing standards because they are less stringent. EPA will implement them in those States that are unauthorized for the applicable existing treatment standards. However, EPA strongly encourages States to seek authorization for these standards in order to encourage and speed up cleanups of contaminated sites based on remedies involving treatment of contaminated soils, thus providing more permanent remedial solutions.

Some of today's regulatory amendments are neither more or less stringent than the existing Federal requirements. These are the revisions to the existing UTS numbers. EPA clarified in a December 19, 1994, memorandum (which is in the docket for today's rule) that EPA would not implement the Universal Treatment Standards (promulgated under HSWA authority in the Phase II LDR rule) separately for those States for which the State has received LDR authorization. EPA views changes from the existing limits to be neither more or less stringent since the technology basis of the standards has not changed. Accordingly, EPA will not implement today's amendments to the UTS in those States with authorization for the treatment standards.

Today's rule also clarifies the scrap metal exemption from solid waste as it applies to whole circuit boards. This part of the preamble simply clarifies the Agency's interpretation of the existing rules. If authorized for the scrap metal exemption, States do not need further authorization to interpret their rules in conformity with this interpretation.

C. Authorization Procedures

Because portions of today's rule are promulgated pursuant to HSWA, a State submitting a program modification for those portions may apply to receive interim authorization under RCRA section 3006(g)(2) or final authorization under RCRA section 3006(b), on the basis of requirements that are, respectively, substantially equivalent or equivalent to EPA's. For program modifications for the non-HSWA portions of this rule, States can received final authorization only. The procedures and schedule for final authorization of State program modifications are described in 40 CFR 271.21. It should be noted that all HSWA interim authorizations will expire January 1, 2003. (See 40 CFR 271.24(c) and 57 FR 60132, December 18, 1992.)

Section 271.21(e)(2) requires that States with final authorization modify their programs to reflect Federal program changes and subsequently submit the modification to EPA for approval. The deadline by which the State would have to modify its program to adopt these regulations is specified in section 271.21(e). This deadline can be extended in certain cases (see section 271.21(e)(3)). Once EPA approves the modification, the State requirements become Subtitle C RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being promulgated today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modifications are approved. Of course, States with existing standards could continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts.

D. Streamlined Authorization Procedures

It is EPA's policy to provide as much flexibility as possible to encourage States to become authorized for rules under the hazardous waste program. EPA discussed an expedited authorization approach in the proposed Phase IV LDR rule (60 FR 43688, August 22, 1995), and the supplemental proposal (61 FR 2338, January 25, 1996). EPA also discussed streamlined authorization procedures in a more comprehensive fashion in the proposed HWIR-media rule (61 FR 18780, April 29, 1996). This expedited approach would apply to those minor or routine changes to the existing program that do not expand the scope of the program in significant ways, and was called Category 1. EPA has decided to address this proposed authorization procedure in the upcoming HWIR-Media rule rather than here, so that the expedited authorization approaches can be dealt with in a comprehensive manner.

XV. Submission to Congress and General Accounting Office

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. § 804(2).

XVI. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: The Executive Order 13045 applies to any rule that EPA determines (1) "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks (62FR19885, April 23, 1997), because this is not an economically significant regulatory action as defined by E.O. 12866.

XVII. National Technology Transfer and Advancement Act

Under § 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

EPA is not proposing any new test methods or other technical standards as part of today's final rule. Thus, the Agency has no need to consider the use of voluntary consensus standards in developing this proposed rule.

List of Subjects

40 CFR Part 148

Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 266

Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Penalties, Reporting and recordkeeping requirements.

Dated: April 30, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, Title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for Part 148 continues to read as follows:

Authority: Secs. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*

2. Section 148.18 is amended by redesignating paragraphs (a) through (f) as (c) through (h) respectively, and by adding paragraphs (a) and (b) to read as follows:

§ 148.18 Waste specific prohibitions—newly listed and identified wastes.

(a) Effective August 24, 1998, all newly identified D004–D011 wastes and characteristic mineral processing wastes, except those identified in paragraph (b) of this section, are prohibited from underground injection.

(b) Effective May 26, 2000, characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004–D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subpart A—General

3. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

4. Section 261.2 is amended by revising Table 1 in paragraph (c)(4), paragraph (c)(3) and (e)(1)(iii) to read as follows:

§ 261.2 Definition of solid waste.

* * * * *

(c) * * *

(3) *Reclaimed.* Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed (except as provided under 40 CFR 261.4(a)(15)). Materials noted with a "—" in column 3 of Table 1 are not solid wastes when reclaimed (except as provided under 40 CFR 261.4(a)(15)).

* * * * *

(4) * * *

TABLE 1

	Use constituting disposal (§ 261.2(c)(1))	Energy recovery/ fuel (§ 261.2(c)(2))	Reclamation (§ 261.2(c)(3)) (except as provided in 261.4(a)(15) for mineral processing secondary materials)	Speculative accumulation (§ 261.2(c)(4))
	1	2	3	4
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 40 CFR Part 261.31 or 261.32	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
By-products (listed in 40 CFR 261.31 or 261.32)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
Commercial chemical products listed in 40 CFR 261.33	(*)	(*)	—	—
Scrap metal other than excluded scrap metal (see 261.1(c)(9))	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" and "processed scrap metal" are defined in § 261.1.

* * * * *

(e) * * *

(1) * * *

(iii) In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at § 261.4(a)(15) apply rather than this provision.

* * * * *

5. Section 261.3 is amended by revising paragraphs (a)(2)(i) and (a)(2)(iii) to read as follows:

§ 261.3 Definition of hazardous waste.

(a) * * *

(2) * * *

(i) It exhibits any of the characteristics of hazardous waste identified in subpart C of this part. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under § 261.4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under subpart C is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in table I to § 261.24 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

* * * * *

(iii) It is a mixture of a solid waste and a hazardous waste that is listed in subpart D of this part solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C of this part, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in subpart C of this part, or unless the solid waste is excluded from regulation under § 261.4(b)(7) and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in subpart C of this part for which the hazardous waste listed in subpart D of this part was listed. (However, nonwastewater mixtures are still subject to the requirements of part 268 of this chapter, even if they no longer exhibit a characteristic at the point of land disposal).

* * * * *

6. Section 261.4 is amended by adding paragraphs (a)(9)(iii) and (a)(16) and by revising paragraph (b)(7) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(9) * * *

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs (a)(9)(i) and (a)(9)(ii) of this section, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in part 265, subpart W of this chapter, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the appropriate Regional Administrator or State Director a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the appropriate Regional Administrator or State Director for reinstatement. The Regional Administrator or State Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

* * * * *

(16) Secondary materials (i.e., sludges, by-products, and spent materials as defined in § 261.1) (other than

hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing, provided that:

(i) The secondary material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The secondary material is not accumulated speculatively;

(iii) Except as provided in paragraph (a)(15)(iv) of this section, the secondary material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 40 CFR 260.10), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Regional Administrator or the State Director may make a site-specific determination, after public review and comment, that only solid mineral processing secondary materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing secondary materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: the volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must meet the following minimum standards: be designed of non-earthen material that is compatible with the chemical nature of the mineral processing secondary material, capable of withstanding physical stresses associated with placement and removal, have run on/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Regional Administrator or State Director must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides a notice to the Regional Administrator or State Director, identifying the following information; the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of § 261.4(b)(7), mineral processing secondary materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(b) * * *

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by § 266.112 of this chapter for facilities that burn or process hazardous waste.

(i) For purposes of § 261.4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving and/or chlorination)/ leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of § 261.4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

(A) Slag from primary copper processing;

(B) Slag from primary lead processing;

(C) Red and brown muds from bauxite refining;

(D) Phosphogypsum from phosphoric acid production;

(E) Slag from elemental phosphorus production;

(F) Gasifier ash from coal gasification;

(G) Process wastewater from coal gasification;

(H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

(I) Slag tailings from primary copper processing;

(J) Fluorogypsum from hydrofluoric acid production;

(K) Process wastewater from hydrofluoric acid production;

(L) Air pollution control dust/sludge from iron blast furnaces;

(M) Iron blast furnace slag;

(N) Treated residue from roasting/ leaching of chrome ore;

(O) Process wastewater from primary magnesium processing by the anhydrous process;

(P) Process wastewater from phosphoric acid production;

(Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;

(R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;

(S) Chloride process waste solids from titanium tetrachloride production;

(T) Slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials remains excluded under paragraph (b) of this section if the owner or operator:

(A) Processes at least 50 percent by weight normal beneficiation raw materials; and,

(B) Legitimately reclaims the secondary mineral processing materials.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

7. The authority citation for Part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

8. Section 268.2 is amended by revising paragraph (i) and adding paragraph (k) to read as follows:

§ 268.2 Definitions applicable in this part.

* * * * *

(i) Underlying hazardous constituent means any constituent listed in § 268.48, Table UTS—Universal Treatment Standards, except fluoride, selenium, sulfides, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste at a concentration above the constituent-specific UTS treatment standards.

* * * * *

(k) Soil means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Soil Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection.

9. Section 268.3 is amended by adding paragraph (d) to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

* * * * *

(d) It is a form of impermissible dilution, and therefore prohibited, to add iron filings or other metallic forms of iron to lead-containing hazardous wastes in order to achieve any land disposal restriction treatment standard for lead. Lead-containing wastes include D008 wastes (wastes exhibiting a characteristic due to the presence of lead), all characteristic wastes containing lead as an underlying hazardous constituent, listed wastes containing lead as a regulated constitutent, and hazardous media containing any of the aforementioned lead-containing wastes.

10. Section 268.4 is amended by revising paragraphs (a)(2)(ii) and (a)(2)(iii) to read as follows:

§ 268.4 Treatment surface impoundment exemption.

(a) * * *

(2) * * *

(ii) Removal. The following treatment residues (including any liquid waste) must be removed at least annually; residues which do not meet the treatment standards promulgated under subpart D of this part; residues which do not meet the prohibition levels established under subpart C of this part or imposed by statute (where no treatment standards have been established); residues which are from the treatment of wastes prohibited from land disposal under subpart C of this part (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes which are not delisted under § 260.22 of this chapter. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement.

(iii) Subsequent management. Treatment residues may not be placed in any other surface impoundment for subsequent management.

* * * * *

11. Section 268.7 is amended by revising paragraphs (a)(1), (a)(3)(ii), (a)(7), (b)(1), (b)(2), (b)(5) and (b)(6); by revising the first sentence of the paragraphs (a)(2), (a)(3) introductory text, (a)(4), (a)(5) introductory text, (a)(6), and (b)(3) introductory text; by adding paragraph (a)(2)(i) and three sentences to the end of paragraph (b)(4) introductory text and adding paragraphs (b)(4)(iv), (b)(4)(v), and (e) and adding and reserving paragraph (a)(2)(ii); and by revising entries 1 and 3, designating entry 8 as 9, and adding entry 8 in the table entitled "Generator Paperwork Requirements Table" in paragraph (a)(4), and by revising entries 1 and 2 designating entry 5 as 6, and adding entry 5 in the table entitled "Treatment Facility Paperwork Requirements Table" in paragraph (b)(3)(ii) to read as follows:

§ 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

(a) * * *

(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in § 268.40, § 268.45, or § 268.49. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods of Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, as referenced in § 260.11 of this chapter, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in § 268.40, and are described in detail in § 268.42, Table 1. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of § 268.9 of this part in addition to any applicable requirements in this section.

(2) If the waste or contaminated soil does not meet the treatment standard: With the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. * * *

(i) For contaminated soil, the following certification statement should be included, signed by an authorized representative:

I certify under penalty of law that I personally have examined this contaminated soil and it [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by 268.49(c).

(ii) [Reserved]

(3) If the waste or contaminated soil meets the treatment standard at the original point of generation:

* * * * *

(ii) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in "268.7(a)(3) of the Generator Paperwork Requirements Table in § 268.7(a)(4).

(4) For reporting, tracking, and recordkeeping when exceptions allow certain wastes or contaminated soil that

do not meet the treatment standards to be land disposed: There are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. * * *

* * * * *

GENERATOR PAPERWORK REQUIREMENTS TABLE

Required information	§ 268.7 (a)(2)	§ 268.7 (a)(3)	§ 268.7 (a)(4)	§ 268.7 (a)(9)
1. EPA Hazardous Waste Numbers and Manifest Number of first shipment.				
. . . .	.	.		.
3. The waste is subject to the LDRs. The constituents of concern for F001–F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice	✔			
. . . .	.	.		.
8. For contaminated soil subject to LDRs as provided in 268.49(a), the constituents subject to treatment as described in 268.49(d), and the following statement: This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with' the soil treatment standards as provided by 268.49(c) or the universal treatment standards.	✔			
. . . .	.	.		.

(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 40 CFR 262.34 to meet applicable LDR treatment standards found at § 268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. * * *

* * * * *

(6) If a generator determines that the waste or contaminated soil is restricted based solely on his knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. * * *

(7) If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or is exempted from Subtitle C regulation under 40 CFR 261.2 through 261.6 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified at 40 CFR 261.4(a)(2) or that are CWA-equivalent, or are managed in an underground injection well regulated by the SDWA), he must place a one-time notice describing such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste, in the facility's on-site files.

* * * * *

(b) * * *

(1) For wastes or contaminated soil with treatment standards expressed in the waste extract (TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues, using test method 1311 (the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 as incorporated by reference in § 260.11 of this chapter) to assure that the treatment residues extract meet the applicable treatment standards.

(2) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that they meet the applicable treatment standards.

(3) A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. * * *

* * * * *

(ii) * * *

TREATMENT FACILITY PAPERWORK REQUIREMENTS TABLE

Required information	§ 268.7(b)
1. EPA Hazardous Waste Numbers and Manifest Number of first shipment.	
2. The waste is subject to the LDRs. The constituents of concern for F001–F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	✔
. . . . .	.
5. For contaminated soil subject to LDRs as provided in 268.49(a), the constituents subject to treatment as described in 268.49(d) and the following statement, "this contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit acharacteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c).	✔
. . . . .	.

(4) * * * A certification is also necessary for contaminated soil and it must state:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to

comply with treatment standards specified in 40 CFR 268.49 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

* * * * *

(iv) For characteristic wastes that are subject to the treatment standards in § 268.40 (other than those expressed as a required method of treatment) that are reasonably expected to contain underlying hazardous constituents as defined in § 268.2(i); are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.40 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet universal treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(v) For characteristic wastes that contain underlying hazardous constituents as defined § 268.2(i) that are treated on-site to remove the hazardous characteristic to treat underlying hazardous constituents to levels in § 268.48 Universal Treatment Standards, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.40 to remove the hazardous characteristic and that underlying hazardous constituents, as defined in § 268.2(i) have been treated on-site to meet the § 268.48 Universal Treatment Standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility sending the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this section.

(6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of § 268.20(b) regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, pursuant to paragraph (b)(3) of this section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in paragraph (b)(4) of this section, and a notice which includes the information listed in paragraph (b)(3) of this section (except the manifest number) to the Regional Administrator, or his delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

* * * * *

(e) Generators and treaters who first receive from EPA or an authorized state a determination that a given contaminated soil subject to LDRs as provided in § 268.49(a) no longer contains a listed hazardous waste and generators and treaters who first determine that a contaminated soil subject to LDRs as provided in § 268.49(a) no longer exhibits a characteristic of hazardous waste must:

(1) Prepare a one-time only documentation of these determinations including all supporting information; and,

(2) Maintain that information in the facility files and other records for a minimum of three years.

Subpart C—Prohibitions on Land Disposal

12. Section § 268.34 is revised to read as follows:

§ 268.34 Waste specific prohibitions—toxicity characteristic metal wastes.

(a) Effective August 24, 1998, the following wastes are prohibited from land disposal: the wastes specified in 40 CFR Part 261 as EPA Hazardous Waste numbers D004—D011 that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), and waste, soil, or debris from mineral processing operations that is identified as hazardous by the specifications at 40 CFR Part 261.

(b) Effective May 26, 2000, the following wastes are prohibited from land disposal: newly identified characteristic wastes from elemental phosphorus processing; radioactive wastes mixed with EPA Hazardous wastes D004—D011 that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure); or mixed with newly identified characteristic mineral processing wastes, soil, or debris.

(c) Between May 26, 1998 and May 26, 2000, newly identified characteristic wastes from elemental phosphorus processing, radioactive waste mixed with D004—D011 wastes that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), or mixed with newly identified characteristic mineral processing wastes, soil, or debris may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in § 268.5(h)(2) of this part.

(d) The requirements of paragraphs (a) and (b) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under § 268.44; or

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(e) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents (including underlying hazardous constituents in characteristic wastes) in excess of the applicable Universal Treatment Standard levels of § 268.48 of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

Subpart D—Treatment Standards

13. Section 268.40 is amended by revising paragraph (e), adding paragraph (h), and revising the Table of Treatment Standards to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(e) For characteristic wastes (D001—D043) that are subject to treatment standards in the following table "Treatment Standards for Hazardous Wastes," and are not managed in a wastewater treatment system that is regulated under the Clean Water Act (CWA), that is CWA-equivalent, or that is injected into a Class I nonhazardous

deep injection well, all underlying hazardous constituents (as defined in § 268.2(i)) must meet Universal Treatment Standards, found in § 268.48, Table Universal Treatment Standards, prior to land disposal as defined in § 268.2(c) of this part.

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(h) Prohibited D004–D011 mixed radioactive wastes and mixed radioactive listed wastes containing metal constituents, that were previously treated by stabilization to the treatment standards in effect at that time and then put into storage, do not have to be re-treated to meet treatment standards in this section prior to land disposal.

BILLING CODE 6560–50–P

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TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D001[9]	Ignitable Characteristic Wastes, except for the §261.21(a)(1) High TOC Subcategory.	NA	NA	DEACT and meet §268.48 standards[6]; or RORGS; or CMBST	DEACT and meet §268.48 standards[6]; or RORGS; or CMBST
	High TOC Ignitable Characteristic Liquids Subcategory based on 40 CFR 261.21(a)(1) - Greater than or equal to 10% total organic carbon. (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	RORGS; CMBST; or POLYM
D002[9]	Corrosive Characteristic Wastes.	NA	NA	DEACT and meet §268.48 standards[6]	DEACT and meet §268.48 standards[6]
D002, D004, D005, D006, D007, D008, D009, D010, D011	Radioactive high level wastes generated during the reprocessing of fuel rods. (Note: This subcategory consists of nonwastewaters only.)	Corrosivity (pH)	NA	NA	HLVIT
		Arsenic	7440-38-2	NA	HLVIT
		Barium	7440-39-3	NA	HLVIT
		Cadmium	7440-43-9	NA	HLVIT
		Chromium (Total)	7440-47-3	NA	HLVIT
		Lead	7439-92-1	NA	HLVIT
		Mercury	7439-97-6	NA	HLVIT
		Selenium	7782-49-2	NA	HLVIT
		Silver	7440-22-4	NA	HLVIT
D003[9]	Reactive Sulfides Subcategory based on 261.23(a)(5).	NA	NA	DEACT	DEACT
	Explosives Subcategory based on 261.23(a)(6), (7), and (8).	NA	NA	DEACT and meet §268.48 standards[6]	DEACT and meet §268.48 standards[6]

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
	Unexploded ordnance and other explosive devices which have been the subject of an emergency response.	NA	NA	DEACT	DEACT
	Other Reactives Subcategory based on 261.23(a)(1).	NA	NA	DEACT and meet §268.48 standards[6]	DEACT and meet §268.48 standards[6]
	Water Reactive Subcategory based on 261.23(a)(2), (3), and (4). (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	DEACT and meet §268.48 standards[6]
	Reactive Cyanides Subcategory based on 261.23(a)(5).	Cyanides (Total)[7]	57-12-5	Reserved	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
D004 [8]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for arsenic based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Arsenic	7440-38-2	1.4 and meet §268.48 standards[6]	5.0 mg/l TCLP and meet §268.48 standards[6]
D005 [8]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for barium based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Barium	7440-39-3	1.2 and meet §268.48 standards[6]	21 mg/l TCLP and meet §268.48 standards[6]
D006 [8]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for cadmium based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Cadmium	7440-43-9	0.69 and meet §268.48 standards[6]	0.11 mg/l TCLP and meet §268.48 standards[6]
	Cadmium Containing Batteries Subcategory. (Note: This subcategory consists of nonwastewaters only.)	Cadmium	7440-43-9	NA	RTHRM

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D007 [9]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for chromium based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Chromium (Total)	7440-47-3	2.77 and meet §268.48 standards[6]	0.60 mg/l TCLP and meet §268.48 standards[6]
D008 [9]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for lead based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Lead	7439-92-1	0.69 and meet §268.48 standards[6]	0.75 mg/l TCLP and meet §268.48 standards[6]
	Lead Acid Batteries Subcategory (Note: This standard only applies to lead acid batteries that are identified as RCRA hazardous wastes and that are not excluded elsewhere from regulation under the land disposal restrictions of 40 CFR 268 or exempted under other EPA regulations (see 40 CFR 266.80). This subcategory consists of nonwastewaters only.)	Lead	7439-92-1	NA	RLEAD
	Radioactive Lead Solids Subcategory (Note: these lead solids include, but are not limited to, all forms of lead shielding and other elemental forms of lead. These lead solids do not include treatment residuals such as hydroxide sludges, other wastewater treatment residuals, or incinerator ashes that can undergo conventional pozzolanic stabilization, nor do they include organo-lead materials that can be incinerated and stabilized as ash. This subcategory consists of nonwastewaters only.)	Lead	7439-92-1	NA	MACRO
D009 [9]	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory)	Mercury	7439-97-6	NA	IMERC; OR RMERC

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory)	Mercury	7439-97-6	NA	RMERC
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are residues from RMERC only. (Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.20 mg/l TCLP and meet §268.48 standards[6]
	All other nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are not residues from RMERC. (Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.025 mg/l TCLP and meet §268.48 standards[6]
	All D009 wastewaters.	Mercury	7439-97-6	0.15 and meet §268.48 standards[6]	NA
	Elemental mercury contaminated with radioactive materials. (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	AMLGM
	Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory. (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	IMERC

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D010 [9]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for selenium based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Selenium	7782-49-2	0.82 and meet §268.48 standards[6]	5.7 mg/l TCLP and meet §268.48 standards[6]
D011 [9]	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for silver based on the toxicity characteristic leaching procedure (TCLP) in SW846.	Silver	7440-22-4	0.43 and meet §268.48 standards[6]	0.14 mg/l TCLP and meet §268.48 standards[6]
D012 [9]	Wastes that are TC for Endrin based on the TCLP in SW846 Method 1311.	Endrin	72-20-8	BIODG; or CMBST	0.13 and meet §268.48 standards[6]
		Endrin aldehyde	7421-93-4	BIODG; or CMBST	0.13 and meet §268.48 standards[6]
D013 [9]	Wastes that are TC for Lindane based on the TCLP in SW846 Method 1311.	alpha-BHC	319-84-6	CARBN; or CMBST	0.066 and meet §268.48 standards[6]
		beta-BHC	319-85-7	CARBN; or CMBST	0.066 and meet §268.48 standards[6]
		delta-BHC	319-86-8	CARBN; or CMBST	0.066 and meet §268.48 standards[6]
		gamma-BHC (Lindane)	58-89-9	CARBN; or CMBST	0.066 and meet §268.48 standards[6]

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D014 [9]	Wastes that are TC for Methoxychlor based on the TCLP in SW846 Method 1311.	Methoxychlor	72-43-5	WETOX or CMBST	0.18 and meet §268.48 standards[6]
D015 [9]	Wastes that are TC for Toxaphene based on the TCLP in SW846 Method 1311.	Toxaphene	8001-35-2	BIODG or CMBST	2.6 and meet §268.48 standards[6]
D016 [9]	Wastes that are TC for 2,4-D (2,4-Dichlorophenoxyacetic acid) based on the TCLP in SW846 Method 1311.	2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	CHOXD, BIODG, or CMBST	10 and meet §268.48 standards[6]
D017 [9]	Wastes that are TC for 2,4,5-TP (Silvex) based on the TCLP in SW846 Method 1311.	2,4,5-TP (Silvex)	93-72-1	CHOXD or CMBST	7.9 and meet §268.48 standards[6]
D018 [9]	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311.	Benzene	71-43-2	0.14 and meet §268.48 standards[6]	10 and meet §268.48 standards[6]
D019 [9]	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311.	Carbon tetrachloride	56-23-5	0.057 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D020 [9]	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311.	Chlordane (alpha and gamma isomers)	57-74-9	0.0033 and meet §268.48 standards[6]	0.26 and meet §268.48 standards[6]
D021 [9]	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311.	Chlorobenzene	108-90-7	0.057 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D022 [9]	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311.	Chloroform	67-66-3	0.046 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D023 [9]	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311.	o-Cresol	95-48-7	0.11 and meet §268.48 standards[6]	5.6 and meet §268.48 standards[6]
D024 [9]	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311.	m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77 and meet §268.48 standards[6]	5.6 and meet §268.48 standards[6]
D025 [9]	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311.	p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77 and meet §268.48 standards[6]	5.6 and meet §268.48 standards[6]
D026 [9]	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311.	Cresol-mixed isomers (Cresylic acid)(sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88 and meet §268.48 standards[6]	11.2 and meet §268.48 standards[6]
D027 [9]	Wastes that are TC for p-Dichlorobenzene based on the TCLP in SW846 Method 1311.	p-Dichlorobenzene (1,4-Dichlorobenzene)	106-46-7	0.090 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D028 [9]	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311.	1,2-Dichloroethane	107-06-2	0.21 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D029 [9]	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311.	1,1-Dichloroethylene	75-35-4	0.025 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D030 [9]	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311.	2,4-Dinitrotoluene	121-14-2	0.32 and meet §268.48 standards[6]	140 and meet §268.48 standards[6]
D031 [9]	Wastes that are TC for Heptachlor based on the TCLP in SW846 Method 1311.	Heptachlor	76-44-8	0.0012 and meet §268.48 standards[6]	0.066 and meet §268.48 standards[6]

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Heptachlor epoxide	1024-57-3	0.016 and meet §268.48 standards[6]	0.066 and meet §268.48 standards[6]
D032 [9]	Wastes that are TC for Hexachlorobenzene based on the TCLP in SW846 Method 1311.	Hexachlorobenzene	118-74-1	0.055 and meet §268.48 standards[6]	10 and meet §268.48 standards[6]
D033 [9]	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311.	Hexachlorobutadiene	87-68-3	0.055 and meet §268.48 standards[6]	5.6 and meet §268.48 standards[6]
D034 [9]	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311.	Hexachloroethane	67-72-1	0.055 and meet §268.48 standards[6]	30 and meet §268.48 standards[6]
D035 [9]	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311.	Methyl ethyl ketone	78-93-3	0.28 and meet §268.48 standards[6]	36 and meet §268.48 standards[6]
D036 [9]	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311.	Nitrobenzene	98-95-3	0.068 and meet §268.48 standards[6]	14 and meet §268.48 standards[6]
D037 [9]	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311.	Pentachlorophenol	87-86-5	0.089 and meet §268.48 standards[6]	7.4 and meet §268.48 standards[6]
D038 [9]	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311.	Pyridine	110-86-1	0.014 and meet §268.48 standards[6]	16 and meet §268.48 standards[6]

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
D039 [9]	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311.	Tetrachloroethylene	127-18-4	0.056 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D040 [9]	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311.	Trichloroethylene	79-01-6	0.054 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]
D041 [9]	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,5-Trichlorophenol	95-95-4	0.18 and meet §268.48 standards[6]	7.4 and meet §268.48 standards[6]
D042 [9]	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,6-Trichlorophenol	88-06-2	0.035 and meet §268.48 standards[6]	7.4 and meet §268.48 standards[6]
D043 [9]	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311.	Vinyl chloride	75-01-4	0.27 and meet §268.48 standards[6]	6.0 and meet §268.48 standards[6]

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F001, F002, F003, F004, & F005	F001, F002, F003, F004 and/or F005 solvent wastes that contain any combination of one or more of the following spent solvents: acetone, benzene, n-butyl alcohol, carbon disulfide, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, o-cresol, m-cresol, p-cresol, cyclohexanone, o-dichlorobenzene, 2-ethoxyethanol, ethyl acetate, ethyl benzene, ethyl ether, isobutyl alcohol, methanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, nitrobenzene, 2-nitropropane, pyridine, tetrachloroethylene, toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, trichloroethylene, trichloromonofluoromethane, and/or xylenes [except as specifically noted in other subcategories]. See further details of these listings in § 261.31	Acetone	67-64-1	0.28	160
		Benzene	71-43-2	0.14	10
		n-Butyl alcohol	71-36-3	5.6	2.6
		Carbon disulfide	75-15-0	3.8	NA
		Carbon tetrachloride	56-23-5	0.057	6.0
		Chlorobenzene	108-90-7	0.057	6.0
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
		Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88	11.2
		Cyclohexanone	108-94-1	0.36	NA
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Ethyl acetate	141-78-6	0.34	33
		Ethyl benzene	100-41-4	0.057	10
		Ethyl ether	60-29-7	0.12	160
		Isobutyl alcohol	78-83-1	5.6	170
		Methanol	67-56-1	5.6	NA

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Methylene chloride	75-9-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Methyl isobutyl ketone	108-10-1	0.14	33
		Nitrobenzene	98-95-3	0.068	14
		Pyridine	110-86-1	0.014	16
		Tetrachloroethylene	127-18-4	0.056	6.0
		Toluene	108-88-3	0.080	10
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
		Trichloroethylene	79-01-6	0.054	6.0
		Trichloromonofluoromethane	75-69-4	0.020	30
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
	F003 and/or F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001-5 solvents: carbon disulfide, cyclohexanone, and/or methanol. (formerly 268.41(c))	Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
		Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
		Methanol	67-56-1	5.6	0.75 mg/l TCLP
	F005 solvent waste containing 2-Nitropropane as the only listed F001-5 solvent.	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
	F005 solvent waste containing 2-Ethoxyethanol as the only listed F001-5 solvent.	2-Ethoxyethanol	110-80-5	BIODG; or CMBST	CMBST

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
F007	Spent cyanide plating bath solutions from electroplating operations.	Cadmium	7440-43-9	NA	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.	Cadmium	7440-43-9	NA	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	Cadmium	7440-43-9	NA	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	NA
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	Cadmium	7440-43-9	NA	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process.	Cadmium	7440-43-9	NA	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
F020, F021, F022, F023, F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives, excluding wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (F020); (2) pentachlorophenol, or of intermediates used to produce its derivatives (i.e., F021); (3) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F022); and from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenols, excluding wastes from equipment used only for the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (F023); (2) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F026).	HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
		Pentachlorophenol	87-86-5	0.089	7.4
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in §261.31 or §261.32.).	All F024 wastes	NA	CMBST[11]	CMBST[11]
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
F025	Condensed light ends from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. F025 - Light Ends Subcategory	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,1-Dichloroethylene	75-35-4	0.025	6.0
		Methylene chloride	75-9-2	0.089	30
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
		Vinyl chloride	75-01-4	0.27	6.0

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
	Spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. F025 - Spent Filters/Aids and Desiccants Subcategory	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Hexachlorobenzene	118-74-1	0.055	10
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachloroethane	67-72-1	0.055	30
		Methylene chloride	75-9-2	0.089	30
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
		Vinyl chloride	75-01-4	0.27	6.0
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.).	HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
		Pentachlorophenol	87-86-5	0.089	7.4
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Wastes Nos. F020, F021, F023, F026, and F027.	HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
		Pentachlorophenol	87-86-5	0.089	7.4
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with §261.35 of this chapter or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or penta-chlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		2-4-Dimethyl phenol	105-67-9	0.036	14
		Fluorene	86-73-7	0.059	3.4
		Hexachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Hexachlorodibenzofurans	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Pentachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Pentachlorodibenzofurans	NA	0.000035, or CMBST[11]	0.001, or CMBST[11]
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Tetrachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Tetrachlorodibenzofurans	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluorene	86-73-7	0.059	3.4
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F037	Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in §261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing.	Acenaphthene	83-32-9	0.059	NA
		Anthracene	120-12-7	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	218-01-9	0.059	3.4
		Di-n-butyl phthalate	84-74-2	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air floatation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in §261.31(b)(2) (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological units) and F037, K048, and K051 are not included in this listing.	Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	218-01-9	0.059	3.4
		Di-n-butyl phthalate	84-74-2	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	Acenaphthylene	208-96-8	0.059	3.4
		Acenaphthene	83-32-9	0.059	3.4
		Acetone	67-64-1	0.28	160
		Acetonitrile	75-05-8	5.6	NA
		Acetophenone	98-86-2	0.010	9.7
		2-Acetylaminofluorene	53-96-3	0.059	140
		Acrolein	107-02-8	0.29	NA
		Acrylonitrile	107-13-1	0.24	84
		Aldrin	309-00-2	0.021	0.066
		4-Aminobiphenyl	92-67-1	0.13	NA
		Aniline	62-53-3	0.81	14
		Anthracene	120-12-7	0.059	3.4
		Aramite	140-57-8	0.36	NA
		alpha-BHC	319-84-6	0.00014	0.066
		beta-BHC	319-85-7	0.00014	0.066
		delta-BHC	319-86-8	0.023	0.066
		gamma-BHC	58-89-9	0.0017	0.066
		Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Bromodichloromethane	75-27-4	0.35	15
		Methyl bromide (Bromomethane)	74-83-9	0.11	15
		4-Bromophenyl phenyl ether	101-55-3	0.055	15
		n-Butyl alcohol	71-36-3	5.6	2.6
		Butyl benzyl phthalate	85-68-7	0.017	28
		2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5
		Carbon disulfide	75-15-0	3.8	NA
		Carbon tetrachloride	56-23-5	0.057	6.0
		Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
		p-Chloroaniline	106-47-8	0.46	16
		Chlorobenzene	108-90-7	0.057	6.0
		Chlorobenzilate	510-15-6	0.10	NA
		2-Chloro-1,3-butadiene	126-99-8	0.057	NA
		Chlorodibromomethane	124-48-1	0.057	15
		Chloroethane	75-00-3	0.27	6.0
		bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
		Chloroform	67-66-3	0.046	6.0
		bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
		p-Chloro-m-cresol	59-50-7	0.018	14
		Chloromethane (Methyl chloride)	74-87-3	0.19	30
		2-Chloronaphthalene	91-58-7	0.055	5.6
		2-Chlorophenol	95-57-8	0.044	5.7
		3-Chloropropylene	107-05-1	0.036	30
		Chrysene	218-01-9	0.059	3.4
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
		Cyclohexanone	108-94-1	0.36	NA
		1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
		Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
		Dibromomethane	74-95-3	0.11	15

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
		o,p'-DDD	53-19-0	0.023	0.087
		p,p'-DDD	72-54-8	0.023	0.087
		o,p'-DDE	3424-82-6	0.031	0.087
		p,p'-DDE	72-55-9	0.031	0.087
		o,p'-DDT	789-02-6	0.0039	0.087
		p,p'-DDT	50-29-3	0.0039	0.087
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Dibenz(a,e)pyrene	192-65-4	0.061	NA
		m-Dichlorobenzene	541-73-1	0.036	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		p-Dichlorobenzene	106-46-7	0.090	6.0
		Dichlorodifluoromethane	75-71-8	0.23	7.2
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,1-Dichloroethylene	75-35-4	0.025	6.0
		trans-1,2-Dichloroethylene	156-60-5	0.054	30
		2,4-Dichlorophenol	120-83-2	0.044	14
		2,6-Dichlorophenol	87-65-0	0.044	14
		1,2-Dichloropropane	78-87-5	0.85	18

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TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		Dieldrin	60-57-1	0.017	0.13
		Diethyl phthalate	84-66-2	0.20	28
		2-4-Dimethyl phenol	105-67-9	0.036	14
		Dimethyl phthalate	131-11-3	0.047	28
		Di-n-butyl phthalate	84-74-2	0.057	28
		1,4-Dinitrobenzene	100-25-4	0.32	2.3
		4,6-Dinitro-o-cresol	534-52-1	0.28	160
		2,4-Dinitrophenol	51-28-5	0.12	160
		2,4-Dinitrotoluene	121-14-2	0.32	140
		2,6-Dinitrotoluene	606-20-2	0.55	28
		Di-n-octyl phthalate	117-84-0	0.017	28
		Di-n-propylnitrosamine	621-64-7	0.40	14
		1,4-Dioxane	123-91-1	12.0	170
		Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	NA
		Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	NA
		1,2-Diphenylhydrazine	122-66-7	0.087	NA

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Disulfoton	298-04-4	0.017	6.2
		Endosulfan I	939-98-8	0.023	0.066
		Endosulfan II	33213-6-5	0.029	0.13
		Endosulfan sulfate	1031-07-8	0.029	0.13
		Endrin	72-20-8	0.0028	0.13
		Endrin aldehyde	7421-93-4	0.025	0.13
		Ethyl acetate	141-78-6	0.34	33
		Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360
		Ethyl benzene	100-41-4	0.057	10
		Ethyl ether	60-29-7	0.12	160
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Ethyl methacrylate	97-63-2	0.14	160
		Ethylene oxide	75-21-8	0.12	NA
		Famphur	52-85-7	0.017	15
		Fluoranthene	206-44-0	0.068	3.4
		Fluorene	86-73-7	0.059	3.4
		Heptachlor	76-44-8	0.0012	0.066
		Heptachlor epoxide	1024-57-3	0.016	0.066
		Hexachlorobenzene	118-74-1	0.055	10
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachlorocyclopentadiene	77-47-4	0.057	2.4

		Hexachlorocyclopentadiene	77-47-4	0.057	2.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		Hexachloroethane	67-72-1	0.055	30
		Hexachloropropylene	1888-71-7	0.035	30
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Iodomethane	74-88-4	0.19	65
		Isobutyl alcohol	78-83-1	5.6	170
		Isodrin	465-73-6	0.021	0.066
		Isosafrole	120-58-1	0.081	2.6
		Kepone	143-50-8	0.0011	0.13
		Methacrylonitrile	126-98-7	0.24	84
		Methanol	67-56-1	5.6	NA
		Methapyrilene	91-80-5	0.081	1.5
		Methoxychlor	72-43-5	0.25	0.18
		3-Methylcholanthrene	56-49-5	0.0055	15
		4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Methyl isobutyl ketone	108-10-1	0.14	33

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Methyl methacrylate	80-62-6	0.14	160
		Methyl methansulfonate	66-27-3	0.018	NA
		Methyl parathion	298-00-0	0.014	4.6
		Naphthalene	91-20-3	0.059	5.6
		2-Naphthylamine	91-59-8	0.52	NA
		p-Nitroaniline	100-01-6	0.028	28
		Nitrobenzene	98-95-3	0.068	14
		5-Nitro-o-toluidine	99-55-8	0.32	28
		p-Nitrophenol	100-02-7	0.12	29
		N-Nitrosodiethylamine	55-18-5	0.40	28
		N-Nitrosodimethylamine	62-75-9	0.40	NA
		N-Nitroso-di-n-butylamine	924-16-3	0.40	17
		N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
		N-Nitrosomorpholine	59-89-2	0.40	2.3
		N-Nitrosopiperidine	100-75-4	0.013	35
		N-Nitrosopyrrolidine	930-55-2	0.013	35
		Parathion	56-38-2	0.014	4.6
		Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
		Pentachlorobenzene	608-93-5	0.055	10

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
		Pentachloronitrobenzene	82-68-8	0.055	4.8
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenacetin	62-44-2	0.081	16
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Phorate	298-02-2	0.021	4.6
		Phthalic anhydride	85-44-9	0.055	NA
		Pronamide	23950-58-5	0.093	1.5
		Pyrene	129-00-0	0.067	8.2
		Pyridine	110-86-1	0.014	16
		Safrole	94-59-7	0.081	22
		Silvex (2,4,5-TP)	93-72-1	0.72	7.9
		2,4,5-T	93-76-5	0.72	7.9
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
		1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
		Toluene	108-88-3	0.080	10
		Toxaphene	8001-35-2	0.0095	2.6
		Bromoform (Tribromomethane)	75-25-2	0.63	15
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
		Trichloromonofluoromethane	75-69-4	0.020	30
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		1,2,3-Trichloropropane	96-18-4	0.85	30
		1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
		tris(2,3-Dibromopropyl) phosphate	126-72-7	0.11	NA
		Vinyl chloride	75-01-4	0.27	6.0

Vinyl chloride	75-01-4	0.27	6.0

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	NA
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	NA
		Fluoride	16964-48-8	35	NA
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
		Sulfide	8496-25-8	14	NA
		Thallium	7440-28-0	1.4	NA
		Vanadium	7440-62-2	4.3	NA

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	Naphthalene	91-20-3	0.059	5.6
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K005	Wastewater treatment sludge from the production of chrome green pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous).	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
	Wastewater treatment sludge from the production of chrome oxide green pigments (hydrated).	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	NA

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K007	Wastewater treatment sludge from the production of iron blue pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
K008	Oven residue from the production of chrome oxide green pigments.	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	Chloroform	67-66-3	0.046	6.0
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	Chloroform	67-66-3	0.046	6.0
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	Acetonitrile	75-05-8	5.6	38
		Acrylonitrile	107-13-1	0.24	84
		Acrylamide	79-06-1	19	23
		Benzene	71-43-2	0.14	10
		Cyanide (Total)	57-12-5	1.2	590
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	Acetonitrile	75-05-8	5.6	38
		Acrylonitrile	107-13-1	0.24	84
		Acrylamide	79-06-1	19	23
		Benzene	71-43-2	0.14	10
		Cyanide (Total)	57-12-5	1.2	590
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	Acetonitrile	75-05-8	5.6	38
		Acrylonitrile	107-13-1	0.24	84
		Acrylamide	79-06-1	19	23

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzene	71-43-2	0.14	10
		Cyanide (Total)	57-12-5	1.2	590
K015	Still bottoms from the distillation of benzyl chloride.	Anthracene	120-12-7	0.059	3.4
		Benzal chloride	98-87-3	0.055	6.0
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Phenanthrene	85-01-8	0.059	5.6
		Toluene	108-88-3	0.080	10
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	Hexachlorobenzene	118-74-1	0.055	10
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachlorocyclopentadiene	77-47-4	0.057	2.4
		Hexachloroethane	67-72-1	0.055	30
		Tetrachloroethylene	127-18-4	0.056	6.0
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		1,2,3-Trichloropropane	96-18-4	0.85	30
K018	Heavy ends from the fractionation column in ethyl chloride production.	Chloroethane	75-00-3	0.27	6.0

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Chloromethane	74-87-3	0.19	NA
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		Hexachlorobenzene	118-74-1	0.055	10
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachloroethane	67-72-1	0.055	30
		Pentachloroethane	76-01-7	NA	6.0
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		p-Dichlorobenzene	106-46-7	0.090	NA
		1,2-Dichloroethane	107-06-2	0.21	6.0
		Fluorene	86-73-7	0.059	NA
		Hexachloroethane	67-72-1	0.055	30
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	NA
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
		1,1,1-Trichloroethane	71-55-6	0.054	6.0

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	1,2-Dichloroethane	107-06-2	0.21	6.0
		1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
K021	Aqueous spent antimony catalyst waste from fluoromethanes production.	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	Toluene	108-88-3	0.080	10
		Acetophenone	96-86-2	0.010	9.7
		Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
		Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
		Phenol	108-95-2	0.039	6.2
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	NA	NA	LLEXT fb SSTRP fb CARBN; or CMBST	CMBST
K026	Stripping still tails from the production of methyl ethyl pyridines.	NA	NA	CMBST	CMBST
K027	Centrifuge and distillation residues from toluene diisocyanate production.	NA	NA	CARBN; or CMBST	CMBST
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	1,1-Dichloroethane	75-34-3	0.059	6.0
		trans-1,2-Dichloroethylene	156-60-5	0.054	30
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachloroethane	67-72-1	0.055	30
		Pentachloroethane	76-01-7	NA	6.0
		1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Cadmium	7440-43-9	0.69	NA
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	Chloroform	67-66-3	0.046	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,1-Dichloroethylene	75-35-4	0.025	6.0
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		Vinyl chloride	75-01-4	0.27	6.0
K030	Column bodies or heavy ends from the combined production of trichloroethylene and perchloroethylene.	o-Dichlorobenzene	95-50-1	0.088	NA
		p-Dichlorobenzene	106-46-7	0.090	NA
		Hexachlorobutadiene	87-68-3	0.055	5.6
		Hexachloroethane	67-72-1	0.055	30
		Hexachloropropylene	1888-71-7	NA	30
		Pentachlorobenzene	608-93-5	NA	10
		Pentachloroethane	76-01-7	NA	6.0
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
K031	By-product salts generated in the production of MSMA and cacodylic acid.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
K032	Wastewater treatment sludge from the production of chlordane.	Hexachlorocyclopentadiene	77-47-4	0.057	2.4
		Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
		Heptachlor	76-44-8	0.0012	0.066
		Heptachlor epoxide	1024-57-3	0.016	0.066

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	Hexachlorocyclopentadiene	77-47-4	0.057	2.4
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	Hexachlorocyclopentadiene	77-47-4	0.057	2.4
K035	Wastewater treatment sludges generated in the production of creosote.	Acenaphthene	83-32-9	NA	3.4
		Anthracene	120-12-7	NA	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
		Dibenz(a,h)anthracene	53-70-3	NA	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Fluorene	86-73-7	NA	3.4
		Indeno(1,2,3-cd)pyrene	193-39-5	NA	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Pyrene	129-00-0	0.067	8.2
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	Disulfoton	298-04-4	0.017	6.2
K037	Wastewater treatment sludges from the production of disulfoton.	Disulfoton	298-04-4	0.017	6.2
		Toluene	108-88-3	0.080	10
K038	Wastewater from the washing and stripping of phorate production.	Phorate	298-02-2	0.021	4.6
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.	NA	NA	CARBN; or CMBST	CMBST
K040	Wastewater treatment sludge from the production of phorate.	Phorate	298-02-2	0.021	4.6
K041	Wastewater treatment sludge from the production of toxaphene.	Toxaphene	8001-35-2	0.0095	2.6
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.	o-Dichlorobenzene	95-50-1	0.088	6.0
		p-Dichlorobenzene	106-46-7	0.090	6.0
		Pentachlorobenzene	608-93-5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
K043	2,6-Dichlorophenol waste from the production of 2,4-D.	2,4-Dichlorophenol	120-83-2	0.044	14
		2,6-Dichlorophenol	187-65-0	0.044	14
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Pentachlorophenol	87-86-5	0.089	7.4
		Tetrachloroethylene	127-18-4	0.056	6.0
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans).	NA	0.000063	0.001
K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	NA	NA	DEACT	DEACT
K045	Spent carbon from the treatment of wastewater containing explosives.	NA	NA	DEACT	DEACT
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.	Lead	7439-92-1	0.69	0.75 mg/l TCLP
K047	Pink/red water form TNT operations	NA	NA	DEACT	DEACT
K048	Dissolved air flotation (DAF) float from the petroleum refining industry.	Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	218-01-9	0.059	3.4
		Di-n-butyl phthalate	84-74-2	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-33	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP
K049	Slop oil emulsion solids from the petroleum refining industry.	Anthracene	120-12-7	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Carbon disulfide	75-15-0	3.8	NA

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Chrysene	2218-01-9	0.059	3.4
		2,4-Dimethylphenol	105-67-9	0.036	NA
		Ethylbenzene	100-41-4	0.057	10
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Cyanides (Total)[7]	57-12-5	1.2	590
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.	Benzo(a)pyrene	50-32-8	0.061	3.4
		Phenol	108-95-2	0.039	6.2
		Cyanides (Total)[7]	57-12-5	1.2	590
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K051	API separator sludge from the petroleum refining industry.	Acenaphthene	83-32-9	0.059	NA
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	2218-01-9	0.059	3.4
		Di-n-butyl phthalate	105-67-9	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.08	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Cyanides (Total)[7]	57-12-5	1.2	590
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K052	Tank bottoms (leaded) from the petroleum refining industry.	Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
		2,4-Dimethylphenol	105-67-9	0.036	NA
		Ethylbenzene	100-41-4	0.057	10
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Toluene	108-88-3	0.08	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/l TCLP
K060	Ammonia still lime sludge from coking operations.	Benzene	71-43-2	0.14	10

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Cyanides (Total)[7]	57-12-5	1.2	590
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.	Antimony	7440-36-0	NA	1.15 mg/l TCLP
		Arsenic	7440-38-2	NA	5.0 mg/l TCLP
		Barium	7440-39-3	NA	21 mg/l TCLP
		Beryllium	7440-41-7	NA	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	NA	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Selenium	7782-49-2	NA	5.7 mg/l TCLP
		Silver	7440-22-4	NA	0.14 mg/l TCLP
		Thallium	7440-28-0	NA	0.20 mg/l TCLP
		Zinc	7440-66-6	NA	4.3 mg/l TCLP
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	NA

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K069	Emission control dust/sludge from secondary lead smelting. - Calcium Sulfate (Low Lead) Subcategory	Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
	Emission control dust/sludge from secondary lead smelting. - Non-Calcium Sulfate (High Lead) Subcategory	NA	NA	NA	RLEAD
K071	K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used) nonwastewaters that are residues from RMERC.	Mercury	7439-97-6	NA	0.20 mg/l TCLP
	K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.) nonwastewaters that are not residues from RMERC.	Mercury	7439-97-6	NA	0.025 mg/l TCLP
	All K071 wastewaters.	Mercury	7439-97-6	0.15	NA
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production.	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Hexachloroethane	67-72-1	0.055	30
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
K083	Distillation bottoms from aniline production.	Aniline	62-53-3	0.81	14
		Benzene	71-43-2	0.14	10
		Cyclohexanone	108-94-1	0.36	NA
		Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
		Nitrobenzene	98-95-3	0.068	14
		Phenol	108-95-2	0.039	6.2
		Nickel	7440-02-0	3.98	11 mg/l TCLP
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
K085	Distillation or fractionation column bottoms from the production of chlorobenzenes.	Benzene	71-43-2	0.14	10
		Chlorobenzene	108-90-7	0.057	6.0
		m-Dichlorobenzene	541-73-1	0.036	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		p-Dichlorobenzene	106-46-7	0.090	6.0
		Hexachlorobenzene	118-74-1	0.055	10
		Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
		Pentachlorobenzene	608-93-5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		1,2,4-Trichlorobenzene	120-82-1	0.055	19

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.	Acetone	67-64-1	0.28	160
		Acetophenone	96-86-2	0.010	9.7
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		n-Butyl alcohol	71-36-3	5.6	2.6
		Butylbenzyl phthalate	85-68-7	0.017	28
		Cyclohexanone	108-94-1	0.36	NA
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Diethyl phthalate	84-66-2	0.20	28
		Dimethyl phthalate	131-11-3	0.047	28
		Di-n-butyl phthalate	84-74-2	0.057	28
		Di-n-octyl phthalate	117-84-0	0.017	28
		Ethyl acetate	141-78-6	0.34	33
		Ethylbenzene	100-41-4	0.057	10
		Methanol	67-56-1	5.6	NA
		Methyl ethyl ketone	78-93-3	0.28	36
		Methyl isobutyl ketone	108-10-1	0.14	33
		Methylene chloride	75-09-2	0.089	30
		Naphthalene	91-20-3	0.059	5.6
		Nitrobenzene	98-95-3	0.068	14
		Toluene	108-88-3	0.080	10
		1,1,1-Trichloroethane	71-55-6	0.054	6.0

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Trichloroethylene	79-01-6	0.054	6.0
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K087	Decanter tank tar sludge from coking operations.	Acenaphthylene	208-96-8	0.059	3.4
		Benzene	71-43-2	0.14	10
		Chrysene	218-01-9	0.059	3.4
		Fluoranthene	206-44-0	0.068	3.4
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno(1,2,3,-c,d)pyrene	193-39-5	0.0055	3.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
		Cyanide (Total)[7]	57-12-5	1.2	590

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Cyanide (Amenable)[7]	57-12-5	0.86	30
		Fluoride	16984-48-8	35	48 mg/l TCLP
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
K095	Distillation bottoms from the production of 1,1,1-trichloroethane.	Hexachloroethane	67-72-1	0.055	30
		Pentachloroethane	76-01-7	0.055	6.0
		1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	m-Dichlorobenzene	541-73-1	0.036	6.0
		Pentachloroethane	76-01-7	0.055	6.0
		1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		Trichloroethylene	79-01-6	0.054	6.0
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.	Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
		Heptachlor	76-44-8	0.0012	0.066
		Heptachlor epoxide	1024-57-3	0.016	0.066
		Hexachlorocyclopentadiene	77-47-4	0.057	2.4
K098	Untreated process wastewater from the production of toxaphene.	Toxaphene	8001-35-2	0.0095	2.6
K099	Untreated wastewater from the production of 2,4-D.	2,4-Dichlorophenoxyacetic acid	94-75-7	0.72	10
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.	Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	o-Nitroaniline	88-74-4	0.27	14
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Cadmium	7440-43-9	0.69	NA
		Lead	7439-92-1	0.69	NA
		Mercury	7439-97-6	0.15	NA
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	o-Nitrophenol	88-75-5	0.028	13
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Cadmium	7440-43-9	0.69	NA
		Lead	7439-92-1	0.69	NA
		Mercury	7439-97-6	0.15	NA
K103	Process residues from aniline extraction from the production of aniline.	Aniline	62-53-3	0.81	14
		Benzene	71-43-2	0.14	10
		2,4-Dinitrophenol	51-28-5	0.12	160
		Nitrobenzene	98-95-3	0.068	14
		Phenol	108-95-2	0.039	6.2

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K104	Combined wastewater streams generated from nitrobenzene/ aniline production.	Aniline	62-53-3	0.81	14
		Benzene	71-43-2	0.14	10
		2,4-Dinitrophenol	51-28-5	0.12	160
		Nitrobenzene	98-95-3	0.068	14
		Phenol	108-95-2	0.039	6.2
		Cyanides (Total)[7]	57-12-5	1.2	590
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.	Benzene	71-43-2	0.14	10
		Chlorobenzene	108-90-7	0.057	6.0
		2-Chlorophenol	95-57-8	0.044	5.7
		o-Dichlorobenzene	95-50-1	0.088	6.0
		p-Dichlorobenzene	106-46-7	0.090	6.0
		Phenol	108-95-2	0.039	6.2
		2,4,5-Trichlorophenol	95-95-4	0.18	7.4
		2,4,6-Trichlorophenol	88-06-2	0.035	7.4
K106	K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC
	K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain less than 260 mg/kg total mercury that are residues from RMERC.	Mercury	7439-97-6	NA	0.20 mg/l TCLP
	Other K106 nonwastewaters that contain less than 260 mg/kg total mercury and are not residues from RMERC.	Mercury	7439-97-6	NA	0.025 mg/l TCLP

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
	All K106 wastewaters.	Mercury	7439-97-6	0.15	NA
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene	2,4-Dinitrotoluene	121-1-2	0.32	140
		2,6-Dinitrotoluene	606-20-2	0.55	28
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; OR CMBST	CMBST
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotolune.	NA	NA	CARBN; or CMBST	CMBST
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	Nickel	7440-02-0	3.98	11 mg/l TCLP
		NA	NA	CARBN; or CMBST	CMBST

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.	NA	NA	CARBN; or CMBST	CMBST
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74-83-9	0.11	15
		Chloroform	67-66-3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
K118	Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74-83-9	0.11	15
		Chloroform	67-66-3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
K123	Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K131	Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide.	Methyl bromide (Bromomethane)	74-83-9	0.11	15

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K132	Spent absorbent and wastewater separator solids from the production of methyl bromide.	Methyl bromide (Bromomethane)	74-83-9	0.11	15
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74-83-9	0.11	15
		Chloroform	67-66-3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
K140	Floor sweepings, off-specification product, and spent filter media from the production of 2,4,6-tribromophenol.	2,4,6-Tribromophenol	118-79-6	0.035	7.4
K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludge from coking operations).	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-2-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
K142	Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
K143	Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)flouranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
K144	Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recovery of coke by-products produced from coal.	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
K145	Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Naphthalene	91-20-3	0.059	5.6
K147	Tar storage tank residues from coal tar refining.	Benzene	71-43-2	0.14	10
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K148	Residues from coal tar distillation, including, but not limited to, still bottoms.	Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillations of benzyl chloride.)	Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		p-Dichlorobenzene	106-46-7	0.090	6.0
		Hexachlorobenzene	118-74-1	0.055	10
		Pentachlorobenzene	608-93-5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		Toluene	108-88-3	0.080	10
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		p-Dichlorobenzene	106-46-7	0.090	6.0

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Hexachlorobenzene	118-74-1	0.055	10
		Pentachlorobenzene	608-93-5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
		Tetrachloroethylene	127-18-4	0.056	6.0
		1,2,4-Trichlorobenzene	120-82-1	0.055	19
K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	Benzene	71-43-2	0.14	10
		Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Hexachlorobenzene	118-74-1	0.055	10
		Pentachlorobenzene	608-93-5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
		Tetrachloroethylene	127-18-4	0.056	6.0
		Toluene	108-88-3	0.080	10
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. [10]	Acetonitrile	75-05-8	5.6	38
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
		Toluene	108-88-3	0.080	10
		Triethylamine	121-44-8	0.081	1.5
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. [19]	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine	95-54-5	0.056	5.6
		Pyridine	110-86-1	0.014	16
		Triethylamine	121-44-8	0.081	1.5
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. [10]	Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
		Phenol	108-95-2	0.039	6.2
K159	Organics from the treatment of thiocarbamate wastes. [10]	Benzene	71-43-2	0.14	10
		Butylate	2008-41-5	0.042	1.4
		EPTC (Eptam)	759-94-4	0.042	1.4
		Molinate	2212-67-1	0.042	1.4
		Pebulate	1114-71-2	0.042	1.4
		Vernolate	1929-77-7	0.042	1.4

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts. [10]	Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
		Dithiocarbamates (total)	NA	0.028	28
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
		Selenium	7782-49-2	0.82	5.7 mg/l TCLP
P001	Warfarin, & salts, when present at concentrations greater than 0.3%	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P002	1-Acetyl-2-thiourea	1-Acetyl-2-thiourea	591-08-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P003	Acrolein	Acrolein	107-02-8	0.29	CMBST
P004	Aldrin	Aldrin	309-00-2	0.021	0.066
P005	Allyl alcohol	Allyl alcohol	107-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P006	Aluminum phosphide	Aluminum phosphide	20859-73-8	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P007	5-Aminomethyl 3-isoxazolol	5-Aminomethyl 3-isoxazolol	2763-96-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P008	4-Aminopyridine	4-Aminopyridine	504-24-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P009	Ammonium picrate	Ammonium picrate	131-74-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P010	Arsenic acid	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P011	Arsenic pentoxide	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
P012	Arsenic trioxide	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
P013	Barium cyanide	Barium	7440-39-3	NA	21 mg/l TCLP
		Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P014	Thiophenol (Benzene thiol)	Thiophenol (Benzene thiol)	108-98-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P015	Beryllium dust	Beryllium	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM
P016	Dichloromethyl ether (Bis(chloromethyl)ether)	Dichloromethyl ether	542-88-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P017	Bromoacetone	Bromoacetone	598-31-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P018	Brucine	Brucine	357-57-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P020	2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5
P021	Calcium cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P022	Carbon disulfide	Carbon disulfide	75-15-0	3.8	CMBST
		Carbon disulfide; alternate[6] standard for nonwastewaters only	75-15-0	NA	4.8 mg/l TCLP
P023	Chloroacetaldehyde	Chloroacetaldehyde	107-20-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P024	p-Chloroaniline	p-Chloroaniline	106-47-8	0.46	16

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P026	1-(o-Chlorophenyl)thiourea	1-(o-Chlorophenyl)thiourea	5344-82-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P027	3-Chloropropionitrile	3-Chloropropionitrile	542-76-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P028	Benzyl chloride	Benzyl chloride	100-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P029	Copper cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P030	Cyanides (soluble salts and complexes)	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P031	Cyanogen	Cyanogen	460-19-5	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P033	Cyanogen chloride	Cyanogen chloride	506-77-4	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P034	2-Cyclohexyl-4,6-dinitrophenol	2-Cyclohexyl-4,6-dinitrophenol	131-89-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P036	Dichlorophenylarsine	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
P037	Dieldrin	Dieldrin	60-57-1	0.017	0.13
P038	Diethylarsine	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
P039	Disulfoton	Disulfoton	298-04-4	0.017	6.2
P040	0,0-Diethyl O-pyrazinyl phosphorothioate	0,0-Diethyl O-pyrazinyl phosphorothioate	297-97-2	CARBN; or CMBST	CMBST
P041	Diethyl-p-nitrophenyl phosphate	Diethyl-p-nitrophenyl phosphate	311-45-5	CARBN; or CMBST	CMBST

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P042	Epinephrine	Epinephrine	51-43-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P043	Diisopropylfluorophosphate (DFP)	Diisopropylfluorophosphate (DFP)	55-91-4	CARBN; or CMBST	CMBST
P044	Dimethoate	Dimethoate	60-51-5	CARBN; or CMBST	CMBST
P045	Thiofanox	Thiofanox	39196-18-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P046	alpha, alpha-Dimethylphenethylamine	alpha, alpha-Dimethylphenethylamine	122-09-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P047	4,6-Dinitro-o-cresol	4,6-Dinitro-o-cresol	543-52-1	0.28	160
	4,6-Dinitro-o-cresol salts	NA	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P048	2,4-Dinitrophenol	2,4-Dinitrophenol	51-28-5	0.12	160
P049	Dithiobiuret	Dithiobiuret	541-53-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P050	Endosulfan	Endosulfan I	939-98-8	0.023	0.066
		Endosulfan II	33213-6-5	0.029	0.13
		Endosulfan sulfate	1031-07-8	0.029	0.13
P051	Endrin	Endrin	72-20-8	0.0028	0.13
		Endrin aldehyde	7421-93-4	0.025	0.13
P054	Aziridine	Aziridine	151-56-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P056	Fluorine	Fluoride (measured in wastewaters only)	16964-48-8	35	ADGAS fb NEUTR

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P057	Fluoroacetamide	Fluoroacetamide	640-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P058	Fluoroacetic acid, sodium salt	Fluoroacetic acid, sodium salt	62-74-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P059	Heptachlor	Heptachlor	76-44-8	0.0012	0.066
		Heptachlor epoxide	1024-57-3	0.016	0.066
P060	Isodrin	Isodrin	465-73-6	0.021	0.066
P062	Hexaethyl tetraphosphate	Hexaethyl tetraphosphate	757-58-4	CARBN; or CMBST	CMBST
P063	Hydrogen cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P064	Isocyanic acid, ethyl ester	Isocyanic acid, ethyl ester	624-83-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P065	Mercury fulminate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439-97-6	NA	IMERC
	Mercury fulminate nonwastewaters that are either incinerator residues or are residues from RMERC; and contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC
	Mercury fulminate nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.20 mg/l TCLP
	Mercury fulminate nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.025 mg/l TCLP
	All mercury fulminate wastewaters.	Mercury	7439-97-6	0.15	NA

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P066	Methomyl	Methomyl	16752-77-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P067	2-Methyl-aziridine	2-Methyl-aziridine	75-55-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P068	Methyl hydrazine	Methyl hydrazine	60-34-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P069	2-Methyllactonitrile	2-Methyllactonitrile	75-86-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P070	Aldicarb	Aldicarb	116-06-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P071	Methyl parathion	Methyl parathion	298-00-0	0.014	4.6
P072	1-Naphthyl-2-thiourea	1-Naphthyl-2-thiourea	86-88-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P073	Nickel carbonyl	Nickel	7440-02-0	3.98	11 mg/l TCLP
P074	Nickel cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Nickel	7440-02-0	3.98	11 mg/l TCLP
P075	Nicotine and salts	Nicotine and salts	54-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P076	Nitric oxide	Nitric oxide	10102-43-9	ADGAS	ADGAS
P077	p-Nitroaniline	p-Nitroaniline	100-01-6	0.028	28
P078	Nitrogen dioxide	Nitrogen dioxide	10102-44-0	ADGAS	ADGAS

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P081	Nitroglycerin	Nitroglycerin	55-63-0	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P082	N-Nitrosodimethylamine	N-Nitrosodimethylamine	62-75-9	0.40	2.3
P084	N-Nitrosomethylvinylamine	N-Nitrosomethylvinylamine	4549-40-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P085	Octamethylpyrophosphoramide	Octamethylpyrophosphoramide	152-16-9	CARBN; or CMBST	CMBST
P087	Osmium tetroxide	Osmium tetroxide	20816-12-0	RMETL; or RTHRM	RMETL; or RTHRM
P088	Endothall	Endothall	145-73-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P089	Parathion	Parathion	56-38-2	0.014	4.6
P092	Phenyl mercuric acetate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439-97-6	NA	IMERC; or RMERC
	Phenyl mercuric acetate nonwastewaters that are either incinerator residues or are residues from RMERC; and still contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC
	Phenyl mercuric acetate nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.20 mg/l TCLP
	Phenyl mercuric acetate nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.	Mercury	7439-97-6	NA	0.025 mg/l TCLP
	All phenyl mercuric acetate wastewaters.	Mercury	7439-97-6	0.15	NA

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P093	Phenylthiourea	Phenylthiourea	103-85-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P094	Phorate	Phorate	298-02-2	0.021	4.6
P095	Phosgene	Phosgene	75-44-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P096	Phosphine	Phosphine	7803-51-2	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P097	Famphur	Famphur	52-85-7	0.017	15
P098	Potassium cyanide.	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P099	Potassium silver cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
P101	Ethyl cyanide (Propanenitrile)	Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360
P102	Propargyl alcohol	Propargyl alcohol	107-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P103	Selenourea	Selenium	7782-49-2	0.82	5.7 mg/l TCLP
P104	Silver cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
		Silver	7440-22-4	0.43	0.14 mg/l TCLP
P105	Sodium azide	Sodium azide	26628-22-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P106	Sodium cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30
P108	Strychnine and salts	Strychnine and salts	57-24-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P109	Tetraethyldithiopyrophosphate	Tetraethyldithiopyrophosphate	3689-24-5	CARBN; or CMBST	CMBST
P110	Tetraethyl lead	Lead	7439-92-1	0.69	0.75 mg/l TCLP
P111	Tetraethylpyrophosphate	Tetraethylpyrophosphate	107-49-3	CARBN; or CMBST	CMBST
P112	Tetranitromethane	Tetranitromethane	509-14-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P113	Thallic oxide	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
P114	Thallium selenite	Selenium	7782-49-2	0.82	5.7 mg/l TCLP
P115	Thallium (I) sulfate	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
P116	Thiosemicarbazide	Thiosemicarbazide	79-19-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P118	Trichloromethanethiol	Trichloromethanethiol	75-70-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P119	Ammonium vanadate	Vanadium (measured in wastewaters only)	7440-62-2	4.3	STABL
P120	Vanadium pentoxide	Vanadium (measured in wastewaters only)	7440-62-2	4.3	STABL
P121	Zinc cyanide	Cyanides (Total)[7]	57-12-5	1.2	590
		Cyanides (Amenable)[7]	57-12-5	0.86	30

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P122	Zinc phosphide Zn_3P_2, when present at concentrations greater than 10%	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P123	Toxaphene	Toxaphene	8001-35-2	0.0095	2.6
P127	Carbofuran [10]	Carbofuran	1563-66-2	0.006	0.14
P128	Mexacarbate [10]	Mexacarbate	315-18-4	0.056	1.4
P185	Tirpate [10]	Tirpate	26419-73-8	0.056	0.28
P188	Physostigmine salicylate [10]	Physostigmine salicylate	57-64-7	0.056	1.4
P189	Carbosulfan [10]	Carbosulfan	55285-14-8	0.028	1.4
P190	Metolcarb [10]	Metolcarb	1129-41-5	0.056	1.4
P191	Dimetilan [10]	Dimetilan	644-64-4	0.056	1.4
P192	Isolan [10]	Isolan	119-38-0	0.056	1.4
P194	Oxamyl [10]	Oxamyl	23135-22-0	0.056	0.28
P196	Manganese dimethyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
P197	Formparanate [10]	Formparanate	17702-57-7	0.056	1.4
P198	Formetanate hydrochloride [10]	Formetanate hydrochloride	23422-53-9	0.056	1.4
P199	Methiocarb [10]	Methiocarb	2032-65-7	0.056	1.4
P201	Promecarb [10]	Promecarb	2631-37-0	0.056	1.4
P202	m-Cumenyl methylcarbamate [10]	m-Cumenyl methylcarbamate	64-00-6	0.056	1.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
P203	Aldicarb sulfone [10]	Aldicarb sulfone	1646-88-4	0.056	0.28
P204	Physostigmine [10]	Physostigmine	57-47-6	0.056	1.4
P205	Ziram [10]	Dithiocarbamates (total)	NA	0.028	28
U001	Acetaldehyde	Acetaldehyde	75-07-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U002	Acetone	Acetone	67-64-1	0.28	160
U003	Acetonitrile	Acetonitrile	75-05-8	5.6	CMBST
		Acetonitrile; alternate[6] standard for nonwastewaters only	75-06-8	NA	38
U004	Acetophenone	Acetophenone	98-86-2	0.010	9.7
U005	2-Acetylaminofluorene	2-Acetylaminofluorene	53-96-3	0.059	140
U006	Acetyl chloride	Acetyl Chloride	75-36-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U007	Acrylamide	Acrylamide	79-06-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U008	Acrylic acid	Acrylic acid	79-10-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U009	Acrylonitrile	Acrylonitrile	107-13-1	0.24	84
U010	Mitomycin C	Mitomycin C	50-07-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U011	Amitrole	Amitrole	61-82-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U012	Aniline	Aniline	62-53-3	0.81	14

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TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U014	Auramine	Auramine	492-80-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U015	Azaserine	Azaserine	115-02-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U016	Benz(c)acridine	Benz(c)acridine	225-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U017	Benzal chloride	Benzal chloride	98-87-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U018	Benz(a)anthracene	Benz(a)anthracene	56-55-3	0.059	3.4
U019	Benzene	Benzene	71-43-2	0.14	10
U020	Benzenesulfonyl chloride	Benzenesulfonyl chloride	98-09-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U021	Benzidine	Benzidine	92-87-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U022	Benzo(a)pyrene	Benzo(a)pyrene	50-32-8	0.061	3.4
U023	Benzotrichloride	Benzotrichloride	98-07-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U024	bis(2-Chloroethoxy)methane	bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
U025	bis(2-Chloroethyl)ether	bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
U026	Chlornaphazine	Chlornaphazine	494-03-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U027	bis(2-Chloroisopropyl)ether	bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
U028	bis(2-Ethylhexyl) phthalate	bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U029	Methyl bromide (Bromomethane)	Methyl bromide (Bromomethane)	74-83-9	0.11	15
U030	4-Bromophenyl phenyl ether	4-Bromophenyl phenyl ether	101-55-3	0.055	15
U031	n-Butyl alcohol	n-Butyl alcohol	71-36-3	5.6	2.6
U032	Calcium chromate	Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
U033	Carbon oxyfluoride	Carbon oxyfluoride	353-50-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U034	Trichloroacetaldehyde (Chloral)	Trichloroacetaldehyde (Chloral)	75-87-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U035	Chlorambucil	Chlorambucil	305-03-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U036	Chlordane	Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
U037	Chlorobenzene	Chlorobenzene	108-90-7	0.057	6.0
U038	Chlorobenzilate	Chlorobenzilate	510-15-6	0.10	CMBST
U039	p-Chloro-m-cresol	p-Chloro-m-cresol	59-50-7	0.018	14
U041	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U042	2-Chloroethyl vinyl ether	2-Chloroethyl vinyl ether	110-75-8	0.062	CMBST
U043	Vinyl chloride	Vinyl chloride	75-01-4	0.27	6.0
U044	Chloroform	Chloroform	67-66-3	0.046	6.0
U045	Chloromethane (Methyl chloride)	Chloromethane (Methyl chloride)	74-87-3	0.19	30
U046	Chloromethyl methyl ether	Chloromethyl methyl ether	107-30-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U047	2-Chloronaphthalene	2-Chloronaphthalene	91-58-7	0.055	5.6
U048	2-Chlorophenol	2-Chlorophenol	95-57-8	0.044	5.7
U049	4-Chloro-o-toluidine hydrochloride	4-Chloro-o-toluidine hydrochloride	3165-93-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U050	Chrysene	Chrysene	218-01-9	0.059	3.4
U051	Creosote	Naphthalene	91-20-3	0.059	5.6
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
U052	Cresols (Cresylic acid)	o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
		Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88	11.2

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT[†]		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U053	Crotonaldehyde	Crotonaldehyde	4170-30-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U055	Cumene	Cumene	98-82-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U056	Cyclohexane	Cyclohexane	110-82-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U057	Cyclohexanone	Cyclohexanone	108-94-1	0.36	CMBST
		Cyclohexanone; alternate[6] standard for nonwastewaters only	108-94-1	NA	0.75 mg/l TCLP
U058	Cyclophosphamide	Cyclophosphamide	50-18-0	CARBN; or CMBST	CMBST
U059	Daunomycin	Daunomycin	20830-81-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U060	DDD	o,p'-DDD	53-19-0	0.023	0.087
		p,p'-DDD	72-54-8	0.023	0.087
U061	DDT	o-p'-DDT	789-02-6	0.0039	0.087
		p,p'-DDT	50-29-3	0.0039	0.087
		o,p'-DDD	53-19-0	0.023	0.087
		p,p'-DDD	72-54-8	0.023	0.087
		o,p'-DDE	3424-82-6	0.031	0.087
		p,p'-DDE	72-55-9	0.031	0.087
U062	Diallate	Diallate	2303-16-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U063	Dibenz(a,h)anthracene	Dibenz(a,h)anthracene	53-70-3	0.055	8.2

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U064	Dibenz(a,i)pyrene	Dibenz(a,i)pyrene	189-55-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U066	1,2-Dibromo-3-chloropropane	1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
U067	Ethylene dibromide (1,2-Dibromoethane)	Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
U068	Dibromomethane	Dibromomethane	74-95-3	0.11	15
U069	Di-n-butyl phthalate	Di-n-butyl phthalate	84-74-2	0.057	28
U070	o-Dichlorobenzene	o-Dichlorobenzene	95-50-1	0.088	6.0
U071	m-Dichlorobenzene	m-Dichlorobenzene	541-73-1	0.036	6.0
U072	p-Dichlorobenzene	p-Dichlorobenzene	106-46-7	0.090	6.0
U073	3,3'-Dichlorobenzidine	3,3'-Dichlorobenzidine	91-94-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U074	1,4-Dichloro-2-butene	cis-1,4-Dichloro-2-butene	1476-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		trans-1,4-Dichloro-2-butene	764-41-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U075	Dichlorodifluoromethane	Dichlorodifluoromethane	75-71-8	0.23	7.2
U076	1,1-Dichloroethane	1,1-Dichloroethane	75-34-3	0.059	6.0
U077	1,2-Dichloroethane	1,2-Dichloroethane	107-06-2	0.21	6.0
U078	1,1-Dichloroethylene	1,1-Dichloroethylene	75-35-4	0.025	6.0
U079	1,2-Dichloroethylene	trans-1,2-Dichloroethylene	156-60-5	0.054	30
U080	Methylene chloride	Methylene chloride	75-09-2	0.089	30
U081	2,4-Dichlorophenol	2,4-Dichlorophenol	120-83-2	0.044	14

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U082	2,6-Dichlorophenol	2,6-Dichlorophenol	87-65-0	0.044	14
U083	1,2-Dichloropropane	1,2-Dichloropropane	78-87-5	0.85	18
U084	1,3-Dichloropropylene	cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
U085	1,2:3,4-Diepoxybutane	1,2:3,4-Diepoxybutane	1464-53-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U086	N,N'-Diethylhydrazine	N,N'-Diethylhydrazine	1615-80-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U087	O,O-Diethyl S-methyldithiophosphate	O,O-Diethyl S-methyldithiophosphate	3288-58-2	CARBN; or CMBST	CMBST
U088	Diethyl phthalate	Diethyl phthalate	84-66-2	0.20	28
U089	Diethyl stilbestrol	Diethyl stilbestrol	56-53-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U090	Dihydrosafrole	Dihydrosafrole	94-58-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U091	3,3'-Dimethoxybenzidine	3,3'-Dimethoxybenzidine	119-90-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U092	Dimethylamine	Dimethylamine	124-40-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U093	p-Dimethylaminoazobenzene	p-Dimethylaminoazobenzene	60-11-7	0.13	CMBST
U094	7,12-Dimethylbenz(a)anthracene	7,12-Dimethylbenz(a)anthracene	57-97-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U095	3,3'-Dimethylbenzidine	3,3'-Dimethylbenzidine	119-93-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U096	alpha, alpha-Dimethyl benzyl hydroperoxide	alpha, alpha-Dimethyl benzyl hydroperoxide	80-15-9	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U097	Dimethylcarbamoyl chloride	Dimethylcarbamoyl chloride	79-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U098	1,1-Dimethylhydrazine	1,1-Dimethylhydrazine	57-14-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U099	1,2-Dimethylhydrazine	1,2-Dimethylhydrazine	540-73-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U101	2,4-Dimethylphenol	2,4-Dimethylphenol	105-67-9	0.036	14
U102	Dimethyl phthalate	Dimethyl phthalate	131-11-3	0.047	28
U103	Dimethyl sulfate	Dimethyl sulfate	77-78-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U105	2,4-Dinitrotoluene	2,4-Dinitrotoluene	121-14-2	0.32	140
U106	2,6-Dinitrotoluene	2,6-Dinitrotoluene	606-20-2	0.55	28
U107	Di-n-octyl phthalate	Di-n-octyl phthalate	117-84-0	0.017	28
U108	1,4-Dioxane	1,4-Dioxane	123-91-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		1,4-Dioxane; alternate[6]	123-91-1	12.0	170
U109	1,2-Diphenylhydrazine	1,2-Diphenylhydrazine	122-66-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
		1,2-Diphenylhydrazine; alternate[6] standard for wastewaters only	122-66-7	0.087	NA
U110	Dipropylamine	Dipropylamine	142-84-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U111	Di-n-propylnitrosamine	Di-n-propylnitrosamine	621-64-7	0.40	14
U112	Ethyl acetate	Ethyl acetate	141-78-6	0.34	33
U113	Ethyl acrylate	Ethyl acrylate	140-88-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U114	Ethylenebisdithiocarbamic acid salts and esters	Ethylenebisdithiocarbamic acid	111-54-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U115	Ethylene oxide	Ethylene oxide	75-21-8	(WETOX or CHOXD) fb CARBN; or CMBST	CHOXD; or CMBST
		Ethylene oxide; alternate[6] standard for wastewaters only	75-21-8	0.12	NA
U116	Ethylene thiourea	Ethylene thiourea	96-45-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U117	Ethyl ether	Ethyl ether	60-29-7	0.12	160
U118	Ethyl methacrylate	Ethyl methacrylate	97-63-2	0.14	160
U119	Ethyl methane sulfonate	Ethyl methane sulfonate	62-50-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U120	Fluoranthene	Fluoranthene	206-44-0	0.068	3.4
U121	Trichloromonofluoromethane	Trichloromonofluoromethane	75-69-4	0.020	30
U122	Formaldehyde	Formaldehyde	50-00-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U123	Formic acid	Formic acid	64-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U124	Furan	Furan	110-00-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U125	Furfural	Furfural	98-01-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U126	Glycidylaldehyde	Glycidylaldehyde	765-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U127	Hexachlorobenzene	Hexachlorobenzene	118-74-1	0.055	10
U128	Hexachlorobutadiene	Hexachlorobutadiene	87-68-3	0.055	5.6
U129	Lindane	alpha-BHC	319-84-6	0.00014	0.066
		beta-BHC	319-85-7	0.00014	0.066
		delta-BHC	319-86-8	0.023	0.066
		gamma-BHC (Lindane)	58-89-9	0.0017	0.066
U130	Hexachlorocyclopentadiene	Hexachlorocyclopentadiene	77-47-4	0.057	2.4
U131	Hexachloroethane	Hexachloroethane	67-72-1	0.055	30
U132	Hexachlorophene	Hexachlorophene	70-30-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U133	Hydrazine	Hydrazine	302-01-2	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U134	Hydrogen fluoride	Fluoride (measured in wastewaters only)	16964-48-8	35	ADGAS fb NEUTR; or NEUTR
U135	Hydrogen Sulfide	Hydrogen Sulfide	7783-06-4	CHOXD; CHRED, or CMBST	CHOXD; CHRED; or CMBST.

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U136	Cacodylic acid	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
U137	Indeno(1,2,3-c,d)pyrene	Indeno(1,2,3-c,d)pyrene	193-39-5	0.0055	3.4
U138	Iodomethane	Iodomethane	74-88-4	0.19	65
U140	Isobutyl alcohol	Isobutyl alcohol	78-83-1	5.6	170
U141	Isosafrole	Isosafrole	120-58-1	0.081	2.6
U142	Kepone	Kepone	143-50-8	0.0011	0.13
U143	Lasiocarpine	Lasiocarpine	303-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U144	Lead acetate	Lead	7439-92-1	0.69	0.75 mg/l TCLP
U145	Lead phosphate	Lead	7439-92-1	0.69	0.75 mg/l TCLP
U146	Lead subacetate	Lead	7439-92-1	0.69	0.75 mg/l TCLP
U147	Maleic anhydride	Maleic anhydride	108-31-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U148	Maleic hydrazide	Maleic hydrazide	123-33-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U149	Malononitrile	Malononitrile	109-77-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U150	Melphalan	Melphalan	148-82-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U151	U151 (mercury) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439-97-6	NA	RMERC
	U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are residues from RMERC only.	Mercury	7439-97-6	NA	0.20 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
	U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are not residues from RMERC.	Mercury	7439-97-6	NA	0.025 mg/l TCLP
	All U151 (mercury) wastewaters.	Mercury	7439-97-6	0.15	NA
	Elemental Mercury Contaminated with Radioactive Materials	Mercury	7439-97-6	NA	AMLGM
U152	Methacrylonitrile	Methacrylonitrile	126-98-7	0.24	84
U153	Methanethiol	Methanethiol	74-93-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U154	Methanol	Methanol	67-56-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Methanol; alternate[6] set of standards for both wastewaters and nonwastewaters	67-56-1	5.6	0.75 mg/l TCLP
U155	Methapyrilene	Methapyrilene	91-80-5	0.081	1.5
U156	Methyl chlorocarbonate	Methyl chlorocarbonate	79-22-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U157	3-Methylcholanthrene	3-Methylcholanthrene	56-49-5	0.0055	15
U158	4,4'-Methylene bis(2-chloroaniline)	4,4'-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
U159	Methyl ethyl ketone	Methyl ethyl ketone	78-93-3	0.28	36
U160	Methyl ethyl ketone peroxide	Methyl ethyl ketone peroxide	1338-23-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U161	Methyl isobutyl ketone	Methyl isobutyl ketone	108-10-1	0.14	33
U162	Methyl methacrylate	Methyl methacrylate	80-62-6	0.14	160

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U163	N-Methyl N'-nitro N-nitrosoguanidine	N-Methyl N'-nitro N-nitrosoguanidine	70-25-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U164	Methylthiouracil	Methylthiouracil	56-04-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U165	Naphthalene	Naphthalene	91-20-3	0.059	5.6
U166	1,4-Naphthoquinone	1,4-Naphthoquinone	130-15-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U167	1-Naphthylamine	1-Naphthylamine	134-32-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U168	2-Naphthylamine	2-Naphthylamine	91-59-8	0.52	CMBST
U169	Nitrobenzene	Nitrobenzene	98-95-3	0.068	14
U170	p-Nitrophenol	p-Nitrophenol	100-02-7	0.12	29
U171	2-Nitropropane	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U172	N-Nitrosodi-n-butylamine	N-Nitrosodi-n-butylamine	924-16-3	0.40	17
U173	N-Nitrosodiethanolamine	N-Nitrosodiethanolamine	1116-54-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U174	N-Nitrosodiethylamine	N-Nitrosodiethylamine	55-18-5	0.40	28
U176	N-Nitroso-N-ethylurea	N-Nitroso-N-ethylurea	759-73-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U177	N-Nitroso-N-methylurea	N-Nitroso-N-methylurea	684-93-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U178	N-Nitroso-N-methylurethane	N-Nitroso-N-methylurethane	615-53-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U179	N-Nitrosopiperidine	N-Nitrosopiperidine	100-75-4	0.013	35

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U180	N-Nitrosopyrrolidine	N-Nitrosopyrrolidine	930-55-2	0.013	35
U181	5-Nitro-o-toluidine	5-Nitro-o-toluidine	99-55-8	0.32	28
U182	Paraldehyde	Paraldehyde	123-63-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U183	Pentachlorobenzene	Pentachlorobenzene	608-93-5	0.055	10
U184	Pentachloroethane	Pentachloroethane	76-01-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Pentachloroethane; alternate[6] standards for both wastewaters and nonwastewaters	76-01-7	0.055	6.0
U185	Pentachloronitrobenzene	Pentachloronitrobenzene	82-68-8	0.055	4.8
U186	1,3-Pentadiene	1,3-Pentadiene	504-60-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U187	Phenacetin	Phenacetin	62-44-2	0.081	16
U188	Phenol	Phenol	108-95-2	0.039	6.2
U189	Phosphorus sulfide	Phosphorus sulfide	1314-80-3	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
U190	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
U191	2-Picoline	2-Picoline	109-06-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable					
WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U192	Pronamide	Pronamide	23950-58-5	0.093	1.5
U193	1,3-Propane sultone	1,3-Propane sultone	1120-71-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U194	n-Propylamine	n-Propylamine	107-10-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U196	Pyridine	Pyridine	110-86-1	0.014	16
U197	p-Benzoquinone	p-Benzoquinone	106-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U200	Reserpine	Reserpine	50-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U201	Resorcinol	Resorcinol	108-46-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U202	Saccharin and salts	Saccharin	81-07-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U203	Safrole	Safrole	94-59-7	0.081	22
U204	Selenium dioxide	Selenium	7782-49-2	0.82	5.7 mg/l TCLP
U205	Selenium sulfide	Selenium	7782-49-2	0.82	5.7 mg/l TCLP
U206	Streptozotocin	Streptozotocin	18883-66-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U207	1,2,4,5-Tetrachlorobenzene	1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
U208	1,1,1,2-Tetrachloroethane	1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
U209	1,1,2,2-Tetrachloroethane	1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
U210	Tetrachloroethylene	Tetrachloroethylene	127-18-4	0.056	6.0
U211	Carbon tetrachloride	Carbon tetrachloride	56-23-5	0.057	6.0

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U213	Tetrahydrofuran	Tetrahydrofuran	109-99-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U214	Thallium (I) acetate	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
U215	Thallium (I) carbonate	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
U216	Thallium (I) chloride	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
U217	Thallium (I) nitrate	Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
U218	Thioacetamide	Thioacetamide	62-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U219	Thiourea	Thiourea	62-56-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U220	Toluene	Toluene	108-88-3	0.080	10
U221	Toluenediamine	Toluenediamine	25376-45-8	CARBN; or CMBST	CMBST
U222	o-Toluidine hydrochloride	o-Toluidine hydrochloride	636-21-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U223	Toluene diisocyanate	Toluene diisocyanate	26471-62-5	CARBN; or CMBST	CMBST
U225	Bromoform (Tribromomethane)	Bromoform (Tribromomethane)	75-25-2	0.63	15
U226	1,1,1-Trichloroethane	1,1,1-Trichloroethane	71-55-6	0.054	6.0
U227	1,1,2-Trichloroethane	1,1,2-Trichloroethane	79-00-5	0.054	6.0
U228	Trichloroethylene	Trichloroethylene	79-01-6	0.054	6.0

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WASTE CODE	WASTE DESCRIPTION AND TREATMENT/REGULATORY SUBCATEGORY[1]	REGULATED HAZARDOUS CONSTITUENT		WASTEWATERS	NONWASTEWATERS
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U234	1,3,5-Trinitrobenzene	1,3,5-Trinitrobenzene	99-35-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U235	tris-(2,3-Dibromopropyl)-phosphate	tris-(2,3-Dibromopropyl)-phosphate	126-72-7	0.11	0.10
U236	Trypan Blue	Trypan Blue	72-57-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U237	Uracil mustard	Uracil mustard	66-75-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U238	Urethane (Ethyl carbamate)	Urethane (Ethyl carbamate)	51-79-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U239	Xylenes	Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
U240	2,4-D (2,4-Dichlorophenoxyacetic acid)	2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
	2,4-D (2,4-Dichlorophenoxyacetic acid) salts and esters		NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U243	Hexachloropropylene	Hexachloropropylene	1888-71-7	0.035	30
U244	Thiram	Thiram	137-26-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U246	Cyanogen bromide	Cyanogen bromide	506-68-3	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
U247	Methoxychlor	Methoxychlor	72-43-5	0.25	0.18
U248	Warfarin, & salts, when present at concentrations of 0.3% or less	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U249	Zinc phosphide, Zn_3P_2, when present at concentrations of 10% or less	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U271	Benomyl [10]	Benomyl	17804-35-2	0.056	1.4
U278	Bendiocarb [10]	Bendiocarb	22781-23-3	0.056	1.4
U279	Carbaryl [10]	Carbaryl	63-25-2	0.006	0.14
U280	Barban [10]	Barban	101-27-9	0.056	1.4
U328	o-Toluidine	o-Toluidine	95-53-4	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN.	CMBST
U353	p-Toluidine	p-Toluidine	106-49-0	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U359	2-Ethoxyethanol	2-Ethoxyethanol	110-80-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U364	Bendiocarb phenol [10]	Bendiocarb phenol	22961-82-6	0.056	1.4
U367	Carbofuran phenol [10]	Carbofuran phenol	1563-38-8	0.056	1.4
U372	Carbendazim [10]	Carbendazim	10605-21-7	0.056	1.4
U373	Propham [10]	Propham	122-42-9	0.056	1.4
U387	Prosulfocarb [10]	Prosulfocarb	52888-80-9	0.042	1.4
U389	Triallate [10]	Triallate	2303-17-5	0.042	1.4
U394	A2213 [10]	A2213	30558-43-1	0.042	1.4

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		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or Technology Code[4]
U395	Diethylene glycol, dicarbamate [10]	Diethylene glycol, dicarbamate	5952-26-1	0.056	1.4
U404	Triethylamine [10]	Triethylamine	101-44-8	0.081	1.5
U408	2,4,6-Tribromophenol	2,4,6-Tribromophenol	111-79-6	0.035	7.4
U409	Thiophanate-methyl [10]	Thiophanate-methyl	23564-05-8	0.056	1.4
U410	Thiodicarb [10]	Thiodicarb	59669-26-0	0.019	1.4
U411	Propoxur [10]	Propoxur	114-26-1	0.056	1.4

Footnotes to Treatment Standard Table 268.40

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264 Subpart O or Part 265 Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

[6] Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

[7] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[8] These wastes, when rendered nonhazardous and then subsequently managed in CWA, or CWA-equivalent systems, are not subject to treatment standards. (See § 268.1(c) (3) and (4)).

[9] These wastes, when rendered nonhazardous and then subsequently injected in a Class I SDWA well, are not subject to treatment standards. (See § 148.1(d)).

[10] Between August 26, 1996, and August 26, 1997, the treatment standard for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at § 268.42 Table 1 of this Part, for nonwastewaters; and, biodegradation as definded by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at § 268.42 Table 1 of this Part, for wastewaters.

[11] For these wastes, the definition of CMBST is limited to: (1) combustion units operating under 40 CFR 266, (2) combustion units permitted under 40 CFR Part 264, Subpart O, or (3) combustion units operating under 40 CFR 265, Subpart O, which have obtained a determination of equivalent treatment under 268.42 (b).

14. Section 268.42 is amended by revising the introductory text of paragraph (a) and removing paragraphs (a)(1), (a)(2), and (a)(3) to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

(a) The following wastes in the table in § 268.40 "Treatment Standards for Hazardous Wastes," for which standards are expressed as a treatment method rather than a concentration level, must be treated using the technology or technologies specified in the table entitled "Technology Codes and Description of Technology-Based Standards" in this section.

* * * * *

15. Section 268.44 is amended by redesignating paragraph (h)(3) as (h)(5), and adding new paragraphs (h) (3) and (4) to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(h) * * *

(3) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below (i.e., lower than) the concentrations necessary to minimize short- and long-term threats to human health and the environment. Treatment variances approved under this paragraph must:

(i) At a minimum, impose alternative land disposal restriction treatment standards that, using a reasonable maximum exposure scenario:

(A) For carcinogens, achieve constituent concentrations that result in the total excess risk to an individual exposed over a lifetime generally falling within a range from 10^{-4} to 10^{-6}; and

(B) For constituents with non-carcinogenic effects, achieve constituent concentrations that an individual could be exposed to on a daily basis without appreciable risk of deleterious effect during a lifetime.

(ii) Not consider post-land-disposal controls.

(4) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below (i.e., lower than) natural background concentrations at the site where the contaminated soil will land disposed.

* * * * *

16. Section 268.45 is amended by revising the introductory text of paragraph (a), and paragraphs (d)(3) and (d)(4) to read as follows:

§ 268.45 Treatment standards for hazardous debris.

(a) Treatment standards. Hazardous debris must be treated prior to land disposal as follows unless EPA determines under § 261.3(f)(2) of this chapter that the debris is no longer contaminated with hazardous waste or the debris is treated to the waste-specific treatment standard provided in this subpart for the waste contaminating the debris:

* * * * *

(d) * * *

(3) Cyanide-reactive debris. Residue from the treatment of debris that is reactive because of cyanide must meet the treatment standards for D003 in "Treatment Standards for Hazardous Wastes" at § 268.40.

(4) Ignitable nonwastewater residue. Ignitable nonwastewater residue containing equal to or greater than 10% total organic carbon is subject to the technology specified in the treatment standard for D001: Ignitable Liquids.

* * * * *

17. Section 268.48 is amended by revising the table Universal Treatment Standards to read as follows:

§ 268.48 Universal treatment standards.

(a) * * *

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Organic Constituents			
A2213 [6]	30558-43-1	0.042	1.4
Acenaphthylene	208-96-8	0.059	3.4
Acenaphthene	83-32-9	0.059	3.4
Acetone	67-64-1	0.28	160
Acetonitrile	75-05-8	5.6	38
Acetophenone	96-86-2	0.010	9.7
2-Acetylaminofluorene	53-96-3	0.059	140
Acrolein	107-02-8	0.29	NA
Acrylamide	79-06-1	19	23
Acrylonitrile	107-13-1	0.24	84
Aldicarb sulfone [6]	1646-88-4	0.056	0.28
Aldrin	309-00-2	0.021	0.066
4-Aminobiphenyl	92-67-1	0.13	NA
Aniline	62-53-3	0.81	14
Anthracene	120-12-7	0.059	3.4
Aramite	140-57-8	0.36	NA
alpha-BHC	319-84-6	0.00014	0.066
beta-BHC	319-85-7	0.00014	0.066
delta-BHC	319-86-8	0.023	0.066
gamma-BHC	58-89-9	0.0017	0.066
Barban [6]	101-27-9	0.056	1.4
Bendiocarb [6]	22781-23-3	0.056	1.4
Bendiocarb phenol [6]	22961-82-6	0.056	1.4

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Benomyl [6]	17804-35-2	0.056	1.4
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzal chloride	98-87-3	0.055	6.0
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Bromomethane/Methyl bromide	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
Butylate [6]	2008-41-5	0.042	1.4
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol/Dinoseb	88-85-7	0.066	2.5
Carbaryl [6]	63-25-2	0.006	0.14
Carbenzadim [6]	10605-21-7	0.056	1.4
Carbofuran [6]	1563-66-2	0.006	0.14
Carbofuran phenol [6]	1563-38-8	0.056	1.4
Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
Carbon tetrachloride	56-23-5	0.057	6.0
Carbosulfan [6]	55285-14-8	0.028	1.4
Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
p-Chloroaniline	106-47-8	0.46	16

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UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
p-Chloro-m-cresol	59-50-7	0.018	14
2-Chloroethyl vinyl ether	110-75-8	0.062	NA
Chloromethane/Methyl chloride	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chlorophenol	95-57-8	0.044	5.7
3-Chloropropylene	107-05-1	0.036	30
Chrysene	218-01-9	0.059	3.4
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
m-Cumenyl methylcarbamate [6]	64-00-6	0.056	1.4
Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
o,p'-DDD	53-19-0	0.023	0.087
p,p'-DDD	72-54-8	0.023	0.087
o,p'-DDE	3424-82-6	0.031	0.087
p,p'-DDE	72-55-9	0.031	0.087

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
o,p'-DDT	789-02-6	0.0039	0.087
p,p'-DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Dibenz(a,e)pyrene	192-65-4	0.061	NA
1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
1,2-Dibromoethane/Ethylene dibromide	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15
m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	87-65-0	0.044	14
2,4-Dichlorophenoxyacetic acid/2,4-D	94-75-7	0.72	10
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
Diethylene glycol, dicarbamate [6]	5952-26-1	0.056	1.4
Diethyl phthalate	84-66-2	0.20	28
p-Dimethylaminoazobenzene	60-11-7	0.13	NA

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UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
2-4-Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Dimetilan [6]	644-64-4	0.056	1.4
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160
2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
1,2-Diphenylhydrazine	122-66-7	0.087	NA
Disulfoton	298-04-4	0.017	6.2
Dithiocarbamates (total) [6]	NA	0.028	28
Endosulfan I	959-98-8	0.023	0.066
Endosulfan II	33213-65-9	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
EPTC [6]	759-94-4	0.042	1.4
Ethyl acetate	141-78-6	0.34	33

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UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Ethyl benzene	100-41-4	0.057	10
Ethyl cyanide/Propanenitrile	107-12-0	0.24	360
Ethyl ether	60-29-7	0.12	160
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Ethyl methacrylate	97-63-2	0.14	160
Ethylene oxide	75-21-8	0.12	NA
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4
Formetanate hydrochloride [6]	23422-53-9	0.056	1.4
Formparanate [6]	17702-57-7	0.056	1.4
Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	0.035	30
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isolan [6]	119-38-0	0.056	1.4

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-0	0.0011	0.13
Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	0.75 mg/l TCLP
Methapyrilene	91-80-5	0.081	1.5
Methiocarb [6]	2032-65-7	0.056	1.4
Methomyl [6]	16752-77-5	0.028	0.14
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methansulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
Metolcarb [6]	1129-41-5	0.056	1.4
Mexacarbate [6]	315-18-4	0.056	1.4
Molinate [6]	2212-67-1	0.042	1.4
Naphthalene	91-20-3	0.059	5.6
2-Naphthylamine	91-59-8	0.52	NA
o-Nitroaniline	88-74-4	0.27	14
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
o-Nitrophenol	88-75-5	0.028	13
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	2.3
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
Oxamyl [6]	23135-22-0	0.056	0.28
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
Pebulate [6]	1114-71-2	0.042	1.4
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
Pentachloroethane	76-01-7	0.055	6.0
Pentachloronitrobenzene	82-68-8	0.055	4.8
Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
o-Phenylenediamine [6]	95-54-5	0.056	5.6
Phorate	298-02-2	0.021	4.6
Phthalic acid	100-21-0	0.055	28

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Phthalic anhydride	85-44-9	0.055	28
Physostigmine [6]	57-47-6	0.056	1.4
Physostigmine salicylate [6]	57-64-7	0.056	1.4
Promecarb [6]	2631-37-0	0.056	1.4
Pronamide	23950-58-5	0.093	1.5
Propham [6]	122-42-9	0.056	1.4
Propoxur [6]	114-26-1	0.056	1.4
Prosulfocarb [6]	52888-80-9	0.042	1.4
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex/2,4,5-TP	93-72-1	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Thiodicarb [6]	59669-26-0	0.019	1.4
Thiophanate-methyl [6]	23564-05-8	0.056	1.4
Tirpate [6]	26419-73-8	0.056	0.28
Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
Triallate [6]	2303-17-5	0.042	1.4

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Tribromomethane/Bromoform	75-25-2	0.63	15
2,4,6-Tribromophenol	118-79-6	0.035	7.4
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichloromonofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,4,5-Trichlorophenoxyacetic acid/2,4,5-T	93-76-5	0.72	7.9
1,2,3-Trichloropropane	96-18-4	0.85	30
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
Triethylamine [6]	101-44-8	0.081	1.5
tris-(2,3-Dibromopropyl) phosphate	126-72-7	0.11	0.10
Vernolate [6]	1929-77-7	0.042	1.4
Vinyl chloride	75-01-4	0.27	6.0
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Inorganic Constituents			
Antimony	7440-36-0	1.9	1.15 mg/l TCLP
Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
Barium	7440-39-3	1.2	21 mg/l TCLP
Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
Cyanides (Total)[4]	57-12-5	1.2	590

UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable			
REGULATED CONSTITUENT Common Name	CAS[1] Number	Wastewater Standard	Nonwastewater Standard
		Concentration in mg/l[2]	Concentration in mg/kg[3] unless noted as "mg/l TCLP"
Cyanides (Amenable)[4]	57-12-5	0.86	30
Fluoride[5]	16984-48-8	35	NA
Lead	7439-92-1	0.69	0.75 mg/l TCLP
Mercury - Nonwastewater from Retort	7439-97-6	NA	0.20 mg/l TCLP
Mercury - All Others	7439-97-6	0.15	0.025 mg/lTCLP
Nickel	7440-02-0	3.98	11 mg/l TCLP
Selenium[7]	7782-49-2	0.82	5.7 mg/l TCLP
Silver	7440-22-4	0.43	0.14 mg/l TCLP
Sulfide[5]	18496-25-8	14	NA
Thallium	7440-28-0	1.4	0.20 mg/l TCLP
Vanadium[5]	7440-62-2	4.3	1.6 mg/l TCLP
Zinc[5]	7440-66-6	2.61	4.3 mg/l TCLP

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FOOTNOTES TO TABLE UTS

1 CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number is given for the parent compound only.44

2 Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

3 Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O or 40 CFR part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

4 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

5 These constituents are not "underlying hazardous constituents" in characteristic wastes, according to the definition at §268.2(i).

6 Between August 26, 1996, and August 26, 1997, these constituents are not "underlying hazardous constituents" as defined at §268.2(i) of this part.

7 This constituent is not an underlying hazardous constituent as defined at §268.2(i) of this part because its UTS level is greater than its TC level, thus a treated selenium waste would always be characteristically hazardous, unless it is treated to below its characteristic level.

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18. Subpart D is amended by adding § 268.49 to read as follows:

§ 268.49 Alternative LDR treatment standards for contaminated soil.

(a) Applicability. You must comply with LDRs prior to placing soil that exhibits a characteristic of hazardous waste, or exhibited a characteristic of hazardous waste at the time it was generated, into a land disposal unit. The following chart describes whether you must comply with LDRs prior to placing soil contaminated by listed hazardous waste into a land disposal unit:

If LDRs	And if LDRs	And if	Then you
Applied to the listed waste when it contaminated the soil*.	Apply to the listed waste now		Must comply with LDRs
Didn't apply to the listed waste when it contaminated the soil*.	Apply to the listed waste now	The soil is determined to contain the listed waste when the soil is first generated.	Must comply with LDRs.
Didn't apply to the listed waste when it contaminated the soil*.	Apply to the listed waste now	The soil is determined not to contain the listed waste when the soil is first generated.	Needn't comply with LDRs.
Didn't apply to the listed waste when it contaminated the soil*.	Don't apply to the listed waste now		Needn't comply with LDRs.

* For dates of LDR applicability, see 40 CFR Part 268 Appendix VII. To determine the date any given listed hazardous waste contaminated any given volume of soil, use the last date any given listed hazardous waste was placed into any given land disposal unit or, in the case of an accidental spill, the date of the spill.

(b) Prior to land disposal, contaminated soil identified by paragraph (a) of this section as needing to comply with LDRs must be treated according to the applicable treatment standards specified in paragraph (c) of this section or according to the Universal Treatment Standards specified in 40 CFR 268.48 applicable to the contaminating listed hazardous waste and/or the applicable characteristic of hazardous waste if the soil is characteristic. The treatment standards specified in paragraph (c) of this section and the Universal Treatment Standards may be modified through a treatment variance approved in accordance with 40 CFR 268.44.

(c) Treatment standards for contaminated soils. Prior to land disposal, contaminated soil identified by paragraph (a) of this section as needing to comply with LDRs must be treated according to all the standards specified in this paragraph or according to the Universal Treatment Standards specified in 40 CFR 268.48.

(1) All soils. Prior to land disposal, all constituents subject to treatment must be treated as follows:

(A) For non-metals, treatment must achieve 90 percent reduction in total constituent concentrations, except as provided by paragraph (c)(1)(C) of this section.

(B) For metals, treatment must achieve 90 percent reduction in constituent concentrations as measured in leachate from the treated media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by paragraph (c)(1)(C) of this section.

(C) When treatment of any constituent subject to treatment to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the universal treatment standard is not required. Universal Treatment Standards are identified in 40 CFR 268.48 Table UTS.

(2) Soils that exhibit the characteristic of ignitability, corrosivity or reactivity. In addition to the treatment required by paragraph (c)(1) of this section, prior to land disposal, soils that exhibit the characteristic of ignitability, corrosivity, or reactivity must be treated to eliminate these characteristics.

(3) Soils that contain nonanalyzable constituents. In addition to the treatment requirements of paragraphs (c)(1) and (2) of this section, prior to land disposal, the following treatment is required for soils that contain nonanalyzable constituents:

(A) For soil that also contains analyzable constituents, treatment of those analyzable constituents to the levels specified in paragraphs (c)(1) and (2) of this section; or,

(B) For soil that contains only nonanalyzable constituents, treatment by the method specified in § 268.42 for the waste contained in the soil.

(d) Constituents subject to treatment. When applying the soil treatment standards in paragraph (c) of this section, constituents subject to treatment are any constituents listed in 40 CFR 268.48, Table UTS—Universal Treatment Standards that are reasonably expected to be present in any given volume of contaminated soil, except fluoride, selenium, sulfides, vanadium and zinc, and are present at concentrations greater than ten times the universal treatment standard.

(e) Management of treatment residuals. Treatment residuals from treating contaminated soil identified by paragraph (a) of this section as needing to comply with LDRs must be managed as follows:

(1) Soil residuals are subject to the treatment standards of this section;

(2) Non-soil residuals are subject to:

(A) For soils contaminated by listed hazardous waste, the RCRA Subtitle C standards applicable to the listed hazardous waste; and

(B) For soils that exhibit a characteristic of hazardous waste, if the non-soil residual also exhibits a characteristic of hazardous waste, the treatment standards applicable to the characteristic hazardous waste.

19. Table 1 in Appendix VII to Part 268 is amended by removing the entries for waste code F033; revising the second entry for waste code F032, the second entry for F034, and the first entry for K088; revising the entries for D003-D011 and two entries for waste code F035; and, Table 2 is amended by revising entry number 9 and adding entries 12 and 13 to read as follows:

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TABLE 1.—EFFECTIVE DATES OF SURFACE DISPOSED WASTES
[(Non-soil and Debris) Regulated in the LDRS[A]—Comprehensive List]

Waste code	Waste category	Effective date
•	•	•
D003	Newly identified surface-disposed elemental phosphorus processing wastes	May 26, 2000.
D004	Newly identified D004 and mineral processing wastes	August 24, 1998.
D004	Mixed radioactive/newly identified D004 or mineral processing wastes	May 26, 2000.
D005	Newly identified D005 and mineral processing wastes	August 24, 1998.
D005	Mixed radioactive/newly identified D005 or mineral processing wastes	May 26, 2000.
D006	Newly identified D006 and mineral processing wastes	August 24, 1998.
D006	Mixed radioactive/newly identified D006 or mineral processing wastes	May 26, 2000.
D007	Newly identified D007 and mineral processing wastes	August 24, 1998.
D007	Mixed radioactive/newly identified D007or mineral processing wastes	May 26, 2000.
D008	Newly identified D008 and mineral processing waste	August 24, 1998.
D008	Mixed radioactive/newly identified D008 or mineral processing wastes	May 26, 2000.
D009	Newly identified D009 and mineral processing waste	August 24, 1998.
D009	Mixed radioactive/newly identified D009or mineral processing wastes	May 26, 2000.
D010	Newly identified D010 and mineral processing wastes	August 24, 1998.
D010	Mixed radioactive/newly identified D010 ormineral processing wastes	May 26, 2000.
D011	Newly identified D011 and mineral processing wastes	August 24, 1998.
D011	Mixed radioactive/newly identified D011or mineral processing wastes	May 26, 2000.
•	•	•
F032	All others	August 12, 1997.
•	•	•
F034	All others	August 12, 1997.
F035	Mixed with radioactive wastes	May 12, 1999.
F035	All others	August 12, 1997.
•	•	•
K088	All others	October 8, 1997.
•	•	•

* * * * *

TABLE 2.—SUMMARY OF EFFECTIVE DATES OF LAND DISPOSAL RESTRICTIONS FOR CONTAMINATED SOIL AND DEBRIS (CSD)

Restricted hazardous waste in CSD	Effective date
•	•
9. Soil and debris contaminated with K088 wastes	October 8, 1997.
•	•
12. Soil and debris contaminated with newly identified D004–D011 toxicity characteristic wastes and mineral processing wastes.	August 24, 1998.
13. Soil and debris contaminated with mixed radioactive newly identified D004–D011 characteristic wastes and mineral processing wastes.	May 26, 2000.

20. Appendix VIII to Part 268 is amended by revising the title and adding in alpha numeric order the entry "NA" to read as follows:

Appendix VIII to Part 268—LDR Effective Dates of Injected Prohibited Hazardous Wastes

NATIONAL CAPACITY LDR VARIANCES FOR UIC WASTES

Waste code	Waste category	Effective date
•	•	•
NA	Newly identified mineral processing wastes from titanium dioxide production and mixed radioactive/ newly identified D004–D011 characteristic wastes and mineral processing wastes.	May 26, 2000.
•	•	•

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

21. The authority citation for Part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) and 6926.

Subpart A—Requirements for Final Authorization

22. Section 271.1(j) is amended by adding the following entries to Table 1 in chronological order by date of publication in the **Federal Register**, and by adding the following entries to Table 2 in chronological order by effective date in the **Federal Register**, to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
.	.	.	.
May 26, 1998	Land Disposal Restrictions Phase IV Final Rule	[Insert FR page numbers]	August 24, 1998.
.	.	.	.

* * * * *

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
.	.	.	.
August 24, 1998	Prohibition on land disposal of newly identified wastes including TC metal wastes and characteristic mineral processing wastes; treatment standards for contaminated soil.	3004(m)	Date of publication and FR page cite.
May 26, 2000	Prohibition on land disposal of newly identified wastes from elemental phosphorus processing and mixed radioactive and newly identified TC metal/mineral processing wastes (including soil and debris). Prohibition on underground injection of newly identified mineral processing wastes from titanium dioxide production	3004(m)	Date of publication and FR page cite.
.	.	.	.

* * * * *

[FR Doc. 98–12575 Filed 5–22–98; 8:45 am]
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Part III

Department of Education

Regional Resource and Federal Center Program; Notice

DEPARTMENT OF EDUCATION

Regional Resource and Federal Center Programs

AGENCY: Department of Education.

ACTION: Notice of waiver and additional activities.

SUMMARY: The Secretary waives the requirements in EDGAR at 34 CFR 75.261 as applied to the currently-funded Regional Resource Centers to require the Centers to carry out certain additional activities. Section 75.261 sets forth the conditions for extending a project period, including the general prohibition against extending projects that involve the obligation of additional Federal funds. The Secretary will issue continuation awards to the Regional Resource Center Programs in order to ensure the most efficient use of Federal funds.

EFFECTIVE DATE: This waiver takes effect on June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Debra Sturdivant, Telephone: (202) 205–8038, or Marie Roane, Telephone: (202) 205–8451. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 A.M. and 8:00 P.M. Eastern Standard Time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On December 10, 1992 (57 FR 58474), the Department issued a Notice Inviting Applications for New Awards under the Regional Resource Center Program for Fiscal Year 1992. In this notice the Department announced that it would make six awards of up to 60 months under 34 CFR 75.105(c)(3) and the Individuals with Disabilities Education Act (IDEA), which directed the Secretary to support the establishment of Regional Centers that provide consultation, technical assistance and training to State educational agencies and, through those State educational agencies, to local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services.

The grant period for the six centers ends May 31, 1998. In order to carry out activities relating to implementation of the IDEA Amendments of 1997 as stated by the Senate Appropriations Committee in its report accompanying the Department's fiscal year 1998 appropriations act, it is necessary to issue continuation awards to the existing grantees. Specifically, the Senate report states that the Secretary should provide training and disseminate information to State and local administrators, teachers, related services personnel, parents of children with disabilities, and other appropriate parties on the implementation of the 1997 amendments.

The Department is utilizing a number of strategies to carry out this directive. Because the Regional Resource Centers (RRCs) have a primary role in assisting States in implementing the IDEA Amendments of 1997, these organizations are well-positioned to play a key part in this training and information effort. In particular, the Secretary plans for the RRCs to conduct a series of regional institutes for educational excellence. The purposes of the regional institutes are:

(1) To ensure that State education agency personnel, local school personnel and parents receive high-quality, accurate training on the IDEA Amendments of 1997 in order to improve results for students with disabilities through improved teaching and learning;

(2) To build field support as part of the implementation of the IDEA Amendments of 1997 that is community-based and grounded in the context of improving schooling and results for children; and

(3) To ensure the involvement of State education agencies, local school personnel, parents, Office of Special Education and Rehabilitative Services (OSERS)—supported technical assistance and dissemination services, State technical assistance providers, and topical research centers in the development of strategies and models to implement the IDEA Amendments of 1997.

Because the regional institutes would be held during the summer of 1998, the project period for the current Regional Resource Centers must be extended to enable the RRCs to both plan and conduct the institutes. The Secretary believes that it is essential that the RRCs conduct the institutes given the RRCs technical assistance expertise and experience in carrying out similar activities.

Based on the foregoing, the Secretary believes that it makes the most programmatic sense and is the most efficient use of Federal funds to issue continuation awards. However, to do so, the Department must waive the requirements in EDGAR at 34 CFR 75.261 as well as provide for the new activities stated in this notice. That provision includes a prohibition against project period extensions that involve the obligation of additional Federal funds.

Reasons

There is an immediate need to provide training and information to the populations that will be targeted by the regional institutes. Waiting until after a new RRC competition to hold the institutes would severely hinder the Department's efforts to address the critical needs that are now present in the regions. The current RRCs have already conducted extensive training and information activities related to State implementation of the Amendments and are best suited to conduct the regional institutes.

Therefore, the Department will issue continuation awards to the current grantees for four (4) months.

Public Comment

On March 26, 1998, the Secretary published a notice of proposed waiver for the current RRCs in the **Federal Register** (63 FR 14790). In the notice of proposed waiver the Secretary invited public comments. The Secretary did not receive any comments.

Waiver

The Secretary waives the application of 34 CFR 75.261 to the RRCs authorized under Part C of the Individuals with Disabilities Education Act. Thus, the Department will issue four (4) month continuation awards to the current grantees consistent with the standards for continuation in 34 CFR 75.253.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Dated: May 19, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Number 84.028, Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities)

[FR Doc. 98–13808 Filed 5–22–98; 8:45 am]

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Part IV

Federal Emergency Management Agency

Compendium of Flood Map Changes; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Compendium of Flood Map Changes

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This Notice provides listings of changes made to National Flood Insurance Program (NFIP) maps produced by FEMA effective during the last 6 months of 1997.

DATES: The listings include changes to NFIP maps that became effective July 1, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Director, Technical Services Division, Mitigation Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202)646-2756.

SUPPLEMENTARY INFORMATION: In accordance with Section 1360(i) of the National Flood Insurance Reform Act of 1994, this Notice is provided to inform interested parties of changes made by FEMA to NFIP maps. The two listings provided show communities affected by map changes made by letter and communities affected by physical map changes. For each Letter of Map Change, the first listing provides the map panel(s) affected, effective (determination) date of the change, case number, and determination type. For each physical map change, the Map Revision listing provides the map panel(s) affected and the effective date of the change. The listing also identifies: (1) those panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate the Letters of Map Change issued before the effective date; and (2) those panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community. Future notices of changes to NFIP maps will be published approximately every 6 months.

Dated: April 30, 1998

Michael J. Armstrong,

Associate Director for Mitigation.

Two listings are provided below. The first listing includes all Letters of Map Change issued by FEMA from July 1 through December 31, 1997. The following types of letters are included in the listing:

Type	Description
01	Letter of Map Revision Based on Fill (218-65)
02	Letter of Map Amendment (218-70)
05	Letter of Map Revision With Base Flood Elevation Changes
06	Letter of Map Revision Without Base Flood Elevation Changes
08	Denial
12	Floodway Revision
17	Letter of Map Revision-inadvertent inclusion in floodway (218-65)
18	Letter of Map Revision-inadvertent inclusion in V zone (218-65)
19	Letter of Map Change Revalidation.

The second listing includes map panels that FEMA physically revised and republished from July 1 through December 31, 1997. For those map panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate Letters of Map Change issued before the effective date, two asterisks(**) are shown to the right of the map panel number. For those map panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community, three asterisks(***) are shown to the right of the map panel number.

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	BERLIN, TOWN OF	0900220010D	19-DEC-97	97-01-282A	01
01	CT	BETHEL, TOWN OF	0900010010B	18-DEC-97		02
01	CT	BRANFORD, TOWN OF	0900730005C	25-AUG-97		02
01	CT	BRANFORD, TOWN OF	0900730003D	08-SEP-97		02
01	CT	CANTON, TOWN OF	0901350001C	03-DEC-97	98-01-054A	02
01	CT	CLINTON, TOWN OF	0900610006E	18-SEP-97	97-01-238A	01
01	CT	CLINTON, TOWN OF	0900610004C	25-SEP-97	97-01-276A	02
01	CT	DARIEN, TOWN OF	0900050001D	11-DEC-97	95-01-081P	05
01	CT	DARIEN, TOWN OF	0900050004D	06-NOV-97	98-01-014A	02
01	CT	EAST HAVEN, TOWN OF	0900760005C	15-SEP-97		02
01	CT	ELLINGTON, TOWN OF	0901580005C	07-NOV-97		02
01	CT	FAIRFIELD, TOWN OF	0900070005B	02-JUL-97		02
01	CT	FAIRFIELD, TOWN OF	0900070010B	06-NOV-97		02
01	CT	FAIRFIELD, TOWN OF		08-AUG-97	97-01-198P	08
01	CT	FARMINGTON, TOWN OF	0900290005C	17-OCT-97		02
01	CT	FARMINGTON, TOWN OF	0900290005C	12-SEP-97	97-01-232A	01
01	CT	GREENWICH, TOWN OF	0900080009B	25-JUL-97		02
01	CT	GUILFORD, TOWN OF	0900770010B	15-SEP-97		02
01	CT	GUILFORD, TOWN OF	0900770010B	22-AUG-97	97-01-166A	02
01	CT	GUILFORD, TOWN OF	0900770010B	12-NOV-97	97-01-306A	02
01	CT	HAMDEN, TOWN OF	0900780005B	26-NOV-97	98-01-042A	02
01	CT	LEDYARD, TOWN OF	0901570015B	30-OCT-97		02
01	CT	MADISON, TOWN OF	0900790011C	26-NOV-97	97-01-322A	02
01	CT	MADISON, TOWN OF	0900790012D	24-DEC-97	98-01-090A	02
01	CT	MILFORD, CITY OF	0900820002D	06-OCT-97		02
01	CT	MILFORD, CITY OF	0900820006G	17-DEC-97	97-01-332A	02
01	CT	MILFORD, CITY OF	0900820005E	05-DEC-97	97-01-350A	02
01	CT	NEW BRITAIN, CITY OF	0900320002B	19-SEP-97		02
01	CT	NEW CANAAN, TOWN OF	0900100002B	01-OCT-97	96-01-071P	05
01	CT	NEW HAVEN, CITY OF	0900840004C	31-OCT-97	96-01-047P	05
01	CT	NEW HAVEN, CITY OF	0900840005D	31-OCT-97	96-01-047P	05
01	CT	NEW HAVEN, CITY OF	0900840004C	22-AUG-97	97-01-224A	02
01	CT	NEW HAVEN, CITY OF	0900840005D	22-AUG-97	97-01-224A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	NEW LONDON, CITY OF	0901000002D	25-SEP-97		02
01	CT	NEWINGTON, TOWN OF	0900330005B	27-OCT-97	97-01-352A	02
01	CT	NORWALK, CITY OF	0900120007C	08-JUL-97	96-01-033P	05
01	CT	PLAINFIELD, TOWN OF	0901160005B	01-DEC-97	98-01-010A	02
01	CT	PLYMOUTH, TOWN OF	0901380002B	13-OCT-97	97-01-178A	02
01	CT	SOMERS, TOWN OF	0901120003B	27-OCT-97	97-01-294A	02
01	CT	SOUTH WINDSOR, TOWN OF	0900360005C	08-DEC-97		02
01	CT	STAMFORD, CITY OF	0900150006C	11-DEC-97	97-01-055P	05
01	CT	STONINGTON, TOWN OF	0901060016F	06-NOV-97		02
01	CT	STONINGTON, TOWN OF	0901060010C	07-NOV-97		02
01	CT	STRATFORD, TOWN OF	0900160003D	24-JUL-97		02
01	CT	STRATFORD, TOWN OF	0900160002C	25-JUL-97		02
01	CT	WATERTOWN, TOWN OF	0900580006B	15-DEC-97	97-01-019P	05
01	CT	WESTBROOK, CITY OF	0900700005E	08-OCT-97		02
01	CT	WESTPORT, TOWN OF		22-SEP-97		02
01	CT	WESTPORT, TOWN OF	0900190004B	27-OCT-97	97-01-208A	02
01	CT	WOODBURY, TOWN OF	0901330002B	18-SEP-97		02
01	MA	AMESBURY, TOWN OF	2500750003D	29-JUL-97		02
01	MA	BILLERICA, TOWN OF		07-NOV-97		02
01	MA	BILLERICA, TOWN OF	2501830005C	10-NOV-97		02
01	MA	BOLTON, TOWN OF	2502960005B	01-DEC-97		02
01	MA	BOURNE, TOWN OF	2552100005D	31-JUL-97		02
01	MA	BOURNE, TOWN OF	2552100005D	22-SEP-97		02
01	MA	BOXFORD, TOWN OF	2500780012C	10-DEC-97		02
01	MA	BRAINTREE, TOWN OF	2502330004C	31-OCT-97		02
01	MA	CLINTON, TOWN OF	2503000002B	15-SEP-97		02
01	MA	CONCORD, TOWN OF	2501890005B	04-AUG-97	97-01-122A	02
01	MA	DARTMOUTH, TOWN OF	2500510005B	23-JUL-97		02
01	MA	DUXBURY, TOWN OF	2502630005B	29-JUL-97		02
01	MA	EASTHAM, TOWN OF	2500060002D	10-NOV-97		02
01	MA	EASTON, TOWN OF	2500530005C	02-JUL-97		02
01	MA	FOXBOROUGH, TOWN OF	2502390001B	01-OCT-97		02
01	MA	FRAMINGHAM, TOWN OF	2501930006B	21-AUG-97		02
01	MA	FRAMINGHAM, TOWN OF	2501930008C	07-NOV-97		02
01	MA	GRANBY, TOWN OF	2501620010B	08-DEC-97	98-01-012A	02
01	MA	GROTON, TOWN OF	2501940005B	04-AUG-97	97-01-252A	02
01	MA	HUDSON, TOWN OF		06-NOV-97		02
01	MA	HULL, TOWN OF	2502690001C	07-NOV-97		02
01	MA	LOWELL, CITY OF	2502010003D	11-SEP-97	97-01-284A	02
01	MA	LYNNFIELD, TOWN OF	2500890005C	03-OCT-97		02
01	MA	MARBLEHEAD, TOWN OF	2500910003B	24-JUL-97	97-01-222A	01
01	MA	MASHPEE, TOWN OF	2500090008F	07-NOV-97		02
01	MA	MEDFIELD, TOWN OF	2502420005B	31-OCT-97		02
01	MA	MIDDLEBOROUGH, TOWN OF	2502750030B	23-SEP-97	97-01-148A	02
01	MA	NORTH ATTLEBOROUGH, TOWN OF	2500590010B	02-OCT-97		02
01	MA	NORTON, TOWN OF	2500600004C	22-SEP-97		02
01	MA	NORTON, TOWN OF	2500600006C	07-NOV-97		02
01	MA	QUINCY, CITY OF	2552190012C	07-JUL-97		02
01	MA	QUINCY, CITY OF	2552190012C	10-DEC-97	97-01-354A	02
01	MA	ROCKLAND, TOWN OF	2502810001B	25-AUG-97		02
01	MA	SEEKONK, TOWN OF	2500630010A	13-OCT-97	97-01-318A	02
01	MA	SHELBURNE, TOWN OF		16-OCT-97		02
01	MA	SHREWSBURY, TOWN OF	2503320005B	22-AUG-97		02
01	MA	SOUTHBRIDGE, TOWN OF	2503340000	28-JUL-97		02
01	MA	SOUTHWICK, TOWN OF	2501490010B	18-AUG-97		02
01	MA	STOUGHTON, TOWN OF	2502530001B	02-OCT-97		02
01	MA	SWANSEA, TOWN OF	2552210007C	27-OCT-97		02
01	MA	TAUNTON, CITY OF	2500660004C	23-SEP-97	97-01-256A	01
01	MA	TEWKSBURY, TOWN OF	2502180005B	25-JUL-97		02
01	MA	TEWKSBURY, TOWN OF	2502180006B	14-NOV-97		02
01	MA	WALTHAM, CITY OF	2502220003D	01-OCT-97		02
01	MA	WATERTOWN, TOWN OF	2502230001B	22-SEP-97		02
01	MA	WATERTOWN, TOWN OF	2502230002B	22-SEP-97		02
01	MA	WEST BRIDGEWATER, TOWN OF	2502840005B	31-OCT-97		02
01	MA	WESTWOOD, TOWN OF	2552250005C	06-AUG-97		02
01	MA	WILMINGTON, TOWN OF	2502270003B	02-JUL-97		02
01	MA	WILMINGTON, TOWN OF		09-SEP-97		02
01	MA	WILMINGTON, TOWN OF	2502270004B	23-OCT-97		02
01	MA	YARMOUTH, TOWN OF	2500150006D	29-JUL-97		02
01	ME	ALFRED, TOWN OF	2301910010B	29-JUL-97		02
01	ME	BELFAST, CITY OF	2301290008B	04-NOV-97	97-01-047P	05
01	ME	BELGRADE, TOWN OF	2302320005B	15-OCT-97		02
01	ME	BELGRADE, TOWN OF	2302320010B	07-NOV-97		02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	ME	BERWICK, TOWN OF	2301440006B	27-AUG-97	97-01-270A	02
01	ME	BOOTHBAY, TOWN OF	2302120013B	17-NOV-97	97-01-336A	18
01	ME	BRISTOL, TOWN OF	2302150010B	14-NOV-97		02
01	ME	BRISTOL, TOWN OF	2302150015B	12-DEC-97	97-01-334A	18
01	ME	BRUNWICK, TOWN OF	2300420015B	06-AUG-97		02
01	ME	CARRABASSETT VALLEY, TOWN OF	2300560015C	31-OCT-97		02
01	ME	CASTINE, TOWN OF	2302770010B	13-OCT-97	97-01-316A	02
01	ME	DURHAM, TOWN OF	2300020015B	22-DEC-97	97-01-340A	02
01	ME	ELIOT, TOWN OF	2301490010B	01-OCT-97		02
01	ME	ELLSWORTH, CITY OF	2300660020B	27-AUG-97	97-01-114P	06
01	ME	FORT FAIRFIELD, TOWN OF	2300180030B	18-NOV-97	95-01-027P	05
01	ME	GOULDSBORO,TOWN OF	2302830010B	18-SEP-97	97-01-274A	01
01	ME	GOULDSBORO,TOWN OF	2302830010B	10-NOV-97	97-01-356A	18
01	ME	GRAY, TOWN OF	2300480015A	24-JUL-97	97-01-164A	02
01	ME	GRAY, TOWN OF	2300480015A	08-JUL-97	97-01-228A	02
01	ME	GRAY, TOWN OF	2300480010A	31-DEC-97	97-01-342A	02
01	ME	HARPSWELL, TOWN OF	2301690006B	08-JUL-97	97-01-138A	01
01	ME	HARPSWELL, TOWN OF	2301690014C	17-DEC-97	98-01-005P	06
01	ME	JONESPORT, TOWN OF	2301380020D	22-DEC-97	97-01-278A	02
01	ME	KENNEBUNK, TOWN OF	2301510011B	02-JUL-97	97-01-126A	02
01	ME	KENNEBUNK, TOWN OF	2301510015C	12-NOV-97	98-01-030A	02
01	ME	LISBON, TOWN OF	2300050015B	07-NOV-97		02
01	ME	LISBON, TOWN OF	2300050002B	10-DEC-97	97-01-328A	02
01	ME	LITCHFIELD, TOWN OF	2302380010B	08-SEP-97		02
01	ME	LOVELL, TOWN OF	2303360015B	22-SEP-97		02
01	ME	LOVELL, TOWN OF	2303360005B	10-DEC-97	98-01-044A	02
01	ME	MARIAVILLE, TOWN OF	230286	31-DEC-97	98-01-074A	02
01	ME	MATTAWAMAKEAG, TOWN OF	2301740010A	24-JUL-97	97-01-206A	01
01	ME	NEW LIMERICK, TOWN OF	230432 A	08-SEP-97		02
01	ME	NEWFIELD, TOWN OF	2301960011B	31-OCT-97		02
01	ME	NORRIDGEWOCK, TOWN OF	2301780002C	22-DEC-97	98-01-004A	02
01	ME	PORTLAND, CITY OF	2300510007B	20-NOV-97		02
01	ME	PORTLAND, CITY OF	2300510002B	07-JUL-97	97-01-033P	05
01	ME	PORTLAND, CITY OF	2300510007B	07-JUL-97	97-01-033P	05
01	ME	RANGELEY, TOWN OF	230352 A	07-NOV-97		02
01	ME	RANGELEY, TOWN OF	230352 A	29-SEP-97	97-01-236A	02
01	ME	RAYMOND, TOWN OF	2302050020B	18-SEP-97		02
01	ME	ROME, TOWN OF	2302460005B	17-NOV-97		02
01	ME	ROME, TOWN OF	2302460010B	18-DEC-97		02
01	ME	ROME, TOWN OF	2302460010B	23-DEC-97		02
01	ME	ROME, TOWN OF	2302460010B	24-DEC-97		02
01	ME	SANFORD, TOWN OF	2301560017E	29-SEP-97		02
01	ME	SANFORD, TOWN OF	2301560017E	10-JUL-97	97-01-054A	02
01	ME	SCARBOROUGH, TOWN OF	2300520021D	31-JUL-97		02
01	ME	SOUTH BRISTOL, TOWN OF	2302200010B	14-NOV-97		02
01	ME	SOUTHPORT, TOWN OF	2302210003B	09-SEP-97		02
01	ME	SULLIVAN, TOWN OF	230295 A	22-DEC-97	98-01-052A	01
01	ME	TURNER, TOWN OF		31-OCT-97		02
01	ME	WATERBORO, TOWN OF		09-OCT-97		02
01	ME	WELLS, TOWN OF	2301580007C	26-AUG-97	97-01-258A	02
01	ME	WINDHAM, TOWN OF	2301890015B	02-OCT-97		02
01	ME	WINDHAM, TOWN OF	2301890015B	30-JUL-97	97-01-246A	02
01	NH	AMHERST, TOWN OF	3300810005B	23-OCT-97		02
01	NH	BEDFORD, TOWN OF	3300830005C	30-JUL-97	97-01-162A	02
01	NH	BRIDGEWATER, TOWN OF	3300460010C	05-DEC-97	96-01-055P	05
01	NH	CONWAY, TOWN OF	3300110015B	11-AUG-97		02
01	NH	CONWAY, TOWN OF	3300110010B	06-NOV-97		02
01	NH	CORNISH, TOWN OF	3301550010B	10-DEC-97	97-01-346A	02
01	NH	DEERFIELD, TOWN OF	330127 B	31-JUL-97		02
01	NH	EPPING, TOWN OF	3301290005B	22-DEC-97	97-01-338A	02
01	NH	FREMONT, TOWN OF	3301310005C	23-OCT-97	97-01-242A	02
01	NH	LEBANON, CITY OF	3300610005C	07-JUL-97	97-01-134A	01
01	NH	LEBANON, CITY OF	3300610005C	23-SEP-97	97-01-254A	01
01	NH	NASHUA, CITY OF	3300970005B	05-DEC-97	97-01-314A	02
01	NH	OSSIPEE, TOWN OF	3300160030B	08-JUL-97		02
01	NH	STRAFFORD, TOWN OF	330196 B	22-SEP-97		02
01	NH	WAKEFIELD, TOWN OF	3300190005A	02-JUL-97		02
01	RI	BARRINGTON, TOWN OF	44001C0007F	24-JUL-97		02
01	RI	BARRINGTON, TOWN OF	44001C0007F	25-JUL-97	97-01-248A	02
01	RI	COVENTRY, TOWN OF	4400040015A	07-NOV-97		02
01	RI	CRANSTON, CITY OF	4453960005B	19-SEP-97		02
01	RI	CRANSTON, CITY OF	4453960005B	21-AUG-97	97-01-244A	02
01	RI	EAST GREENWICH, TOWN OF	4453970005B	01-OCT-97		02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	RI	NARRAGANSETT, TOWN OF	4454020009D	31-DEC-97	98-01-034A	02
01	RI	NORTH KINGSTOWN, TOWN OF	4454040002C	06-NOV-97		02
01	RI	PORTSMOUTH, TOWN OF	4454050004D	11-AUG-97		02
01	RI	WARREN, TOWN OF	44001C0008F	16-JUL-97	97-01-202A	01
01	RI	WESTERLY, CITY OF	4454100015D	25-JUL-97		02
01	VT	DUMMERSTON, TOWN OF	5001280010B	22-AUG-97	97-01-200A	02
01	VT	ESSEX JCT., VILLAGE OF	5000350000	19-NOV-97		02
01	VT	JAMAICA, TOWN OF	5001310008C	25-JUL-97		02
01	VT	MONTPELIER, CITY OF	5055180002A	08-JUL-97	97-01-124A	02
01	VT	MONTPELIER, CITY OF	5055180002A	22-AUG-97	97-01-266A	02
01	VT	RUTLAND, CITY OF	5001010001C	02-JUL-97	97-01-212A	02
01	VT	UNDERHILL, TOWN OF	5000420016B	19-NOV-97		02
01	VT	WALLINGFORD, TOWN OF	5001030010B	18-AUG-97		02
02	NJ	BLOOMFIELD, TOWN OF	3401780001B	23-OCT-97	97-02-362A	02
02	NJ	BLOOMFIELD, TOWN OF	3401780001B	10-DEC-97	98-02-108A	02
02	NJ	BRIDGEWATER, TOWNSHIP OF	3404320010C	05-DEC-97	98-02-070A	02
02	NJ	CARNEYS POINT, TOWNSHIP OF	3404240005B	31-DEC-97	98-02-048A	02
02	NJ	CHATHAM, BOROUGH OF	340338 A	15-DEC-97	97-02-342A	02
02	NJ	COLTS NECK, TOWNSHIP OF	3402910005C	07-NOV-97	95-02-113P	05
02	NJ	COLTS NECK, TOWNSHIP OF	3402910006C	07-NOV-97	95-02-113P	05
02	NJ	EAST HANOVER, CITY OF	3403410005C	08-SEP-97	97-02-262A	02
02	NJ	EDISON, TOWNSHIP OF	3402610002C	04-SEP-97	97-02-248A	01
02	NJ	EWING, TOWNSHIP OF	3452940002B	13-DEC-97	97-02-264P	06
02	NJ	FAIR LAWN, BOROUGH OF	34003C0167F	12-DEC-97	97-02-386A	02
02	NJ	FREEHOLD, TOWNSHIP OF	3402970004B	07-NOV-97	95-02-111P	05
02	NJ	FREEHOLD, TOWNSHIP OF	3402970012B	07-NOV-97	95-02-111P	05
02	NJ	GREENWICH, TOWNSHIP OF	3402040004C	03-DEC-97	98-02-028A	02
01	NJ	GREENWICH, TOWNSHIP OF	3402040004C	17-DEC-97	98-02-160A	02
02	NJ	HILLSBOROUGH, TOWNSHIP OF	3404360005B	12-SEP-97	97-02-246A	02
02	NJ	HOWELL, TOWNSHIP OF	34030100020B	04-SEP-97	97-02-240A	01
02	NJ	JERSEY CITY, CITY OF	3402230003B	10-NOV-97	97-02-390A	02
02	NJ	KNOWLTON, TOWNSHIP OF	3404880018B	29-SEP-97	97-02-282A	02
02	NJ	LACEY, TOWNSHIP OF	340376 A	12-NOV-97	97-02-378A	02
02	NJ	LINDEN, CITY OF	3404670002B	10-DEC-97	97-02-278A	02
02	NJ	LOGAN, TOWNSHIP OF	3402060006C	12-SEP-97	97-02-314A	02
02	NJ	MANASQUAN, BOROUGH OF	3453030001C	04-AUG-97	97-02-258A	02
02	NJ	MANASQUAN, BOROUGH OF	3453030001C	15-DEC-97	98-02-130A	02
02	NJ	MIDDLE, TOWNSHIP OF	340154 C	31-DEC-97	98-02-126A	02
02	NJ	MONMOUTH BEACH, BOROUGH OF	3403150001D	18-JUL-97	97-02-198A	02
02	NJ	MONMOUTH BEACH, BOROUGH OF	3403150001D	23-SEP-97	97-02-238A	01
02	NJ	MONROE, TOWNSHIP OF	3402690003B	12-NOV-97	97-02-308A	02
02	NJ	NEPTUNE, TOWNSHIP OF	3403170003C	23-SEP-97	97-02-350A	02
02	NJ	NORWOOD, BOROUGH OF	34003C0114F	21-JUL-97	97-02-186A	01
02	NJ	OCEAN, TOWNSHIP OF	3403190005D	12-DEC-97	98-02-114A	02
02	NJ	PATERSON, CITY OF	3404040001A	17-DEC-97	98-02-120A	02
02	NJ	PENNSVILLE, TOWNSHIP OF	3405120005B	27-AUG-97	97-02-300A	02
01	NJ	PENNSVILLE, TOWNSHIP OF	3405120001B	23-SEP-97	97-02-340A	02
02	NJ	PEQUANNOCK, VILLAGE OF	3453110001C	12-DEC-97	97-02-404A	02
02	NJ	ROCKAWAY, TOWNSHIP OF	3403600012B	29-NOV-97	97-02-029P	06
02	NJ	ROXBURY, TOWNSHIP OF	3403620006B	18-SEP-97	97-02-220A	01
02	NJ	SAYREVILLE, BOROUGHS OF	3402760004C	30-JUL-97	97-02-212A	02
02	NJ	SAYREVILLE, BOROUGHS OF	3402760004C	25-AUG-97	97-02-302A	02
02	NJ	SAYREVILLE, BOROUGHS OF	3402760004C	22-DEC-97	97-02-394A	02
02	NJ	SOUTH RIVER, BOROUGH OF	3402800005C	03-DEC-97	98-02-064A	02
02	NJ	UPPER, TOWNSHIP OF	3401590014C	07-AUG-97	97-02-266A	02
02	NJ	VERNON, TOWNSHIP OF	3405610035A	10-DEC-97	97-02-360A	02
02	NJ	WALL, TOWNSHIP OF	3403330004A	26-NOV-97	97-02-268A	02
02	NJ	WASHINGTON, TOWNSHIP OF	3404960002B	19-AUG-97	97-02-216A	01
02	NJ	WOODCLIFF LAKE, BOROUGH OF	34003C0093F	10-DEC-97	98-02-074A	02
02	NY	AMHERST, TOWN OF	3602260009E	03-SEP-97	97-02-288A	02
02	NY	ASHAROKEN, VILLAGE OF	3653330002C	09-OCT-97	97-02-406A	02
01	NY	BARRE, TOWN OF	3612530001B	13-OCT-97	97-02-250A	02
02	NY	BERNE,TOWN OF	360003 B	26-NOV-97	98-02-002A	02
02	NY	BUFFALO, CITY OF	36023000108	18-NOV-97	98-02-076A	02
02	NY	BUFFALO, CITY OF	36023000108	26-NOV-97	98-02-080A	02
02	NY	BUFFALO, CITY OF	3602300010B	08-DEC-97	98-02-082A	02
02	NY	BUFFALO, CITY OF	3602300010B	24-NOV-97	98-02-084A	02
02	NY	BUFFALO, CITY OF	3602300010B	24-NOV-97	98-02-086A	02
02	NY	BUFFALO, CITY OF	3602300010B	24-NOV-97	98-02-088A	02
02	NY	CAMBRIDGE, VILLAGE OF	3608830001C	06-NOV-97	97-02-366A	02
02	NY	CANASTOTA , VILLAGE OF	3603930001E	12-SEP-97	97-02-244A	02
02	NY	CASSADAGA, VILLAGE OF	3610530001B	23-SEP-97	97-02-290A	02
02	NY	CHESTER, TOWN OF	36087000108	24-JUL-97	97-02-202A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
02	NY	CHESTER, TOWN OF	36087000005B	17-OCT-97	97-02-358A	02
02	NY	CICERO, TOWN OF	3605720006D	27-AUG-97	97-02-224A	01
02	NY	CICERO, TOWN OF	3605720008D	27-AUG-97	97-02-224A	01
02	NY	CICERO, TOWN OF	3605720004D	27-OCT-97	97-02-356A	02
02	NY	CLARENCE, TOWN OF	3602320005C	23-SEP-97	97-02-230A	02
02	NY	CLARENCE, TOWN OF	3602320013C	21-AUG-97	97-02-232A	02
02	NY	CLARENCE, TOWN OF	3602320005C	18-SEP-97	97-02-364A	02
02	NY	CLARENCE, TOWN OF	3602320013C	14-NOV-97	97-02-402A	02
02	NY	CLARENCE, TOWN OF	3602320011C	24-NOV-97	98-02-034A	02
02	NY	CLARENCE, TOWN OF	3602320005C	05-DEC-97	98-02-060A	02
02	NY	CLARENCE, TOWN OF	3602320005C	31-DEC-97	98-02-202A	02
02	NY	CLARKSTOWN, TOWN OF	3606790007D	08-OCT-97	97-02-384A	02
02	NY	CLIFTON PARK, TOWN OF	36091C0561E	18-NOV-97	98-02-100A	02
02	NY	COPAKE, TOWN OF	360174 B	22-DEC-97	97-02-280A	02
02	NY	CORTLAND, CITY OF	3601780001C	24-DEC-97	98-02-090A	02
02	NY	ELMIRA, CITY OF	3601500005C	16-OCT-97	97-02-322A	01
02	NY	GREECE, TOWN OF	3604170004E	13-AUG-97	97-02-001P	05
02	NY	GREECE, TOWN OF	3604170006E	13-AUG-97	97-02-001P	05
02	NY	GREECE, TOWN OF	3604170004E	15-SEP-97	97-02-286A	01
02	NY	GREECE, TOWN OF	3604170004E	18-SEP-97	97-02-312A	02
02	NY	GREECE, TOWN OF	3604170006E	03-DEC-97	97-02-346A	02
02	NY	GREENWICH,TOWN OF	3612330015C	22-DEC-97	98-02-014A	02
02	NY	HEBRON, TOWN OF	361443 B	23-SEP-97	97-02-226A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0238F	10-DEC-97	98-02-046A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0214G	22-DEC-97	98-02-098A	02
02	NY	HENRIETTE, TOWN OF	3604190005D	03-OCT-97	97-02-334A	02
02	NY	HORNELL, CITY OF	3607760001B	12-SEP-97	96-02-029P	05
02	NY	HORNELL, CITY OF	3607770010B	12-SEP-97	96-02-029P	05
02	NY	HORNELL, CITY OF	3614770001A	12-SEP-97	96-02-029P	05
02	NY	HORNELLSVILLE, TOWN OF		12-SEP-97	96-02-029P	05
02	NY	JOHNSTOWN, CITY OF	3602760002B	31-DEC-97	98-02-170A	02
02	NY	LANCASTER, VILLAGE OF	3602480001C	14-NOV-97	97-02-388A	02
02	NY	LOCKPORT, TOWN OF	3610130028C	29-AUG-97	97-02-254A	02
02	NY	LONG BEACH, CITY OF	36059C0308F	08-DEC-97	98-02-102A	02
02	NY	LYSANDER, TOWN OF	3605830015B	24-DEC-97	97-02-348A	02
02	NY	MAMARONECK, VILLAGE OF	3609160002D	08-SEP-97	97-02-294A	02
02	NY	MANLIUS, TOWN OF	3605840010D	05-DEC-97	97-02-284A	01
02	NY	MANLIUS, TOWN OF	3605840020D	09-OCT-97	97-02-298A	02
02	NY	MOUNT KISCO, VILLAGE OF	3609180002B	05-AUG-97	96-02-045P	05
02	NY	NEW CASTLE, TOWN OF	3609210010B	05-AUG-97	96-02-041P	05
02	NY	NEW YORK, CITY OF	3604970128D	07-AUG-97	97-02-190A	02
02	NY	NEW YORK, CITY OF	3604970125D	13-AUG-97	97-02-222A	02
02	NY	NEW YORK, CITY OF	3604970104C	16-SEP-97	97-02-252A	02
02	NY	NEW YORK, CITY OF	3604970127C	29-SEP-97	97-02-316A	02
02	NY	NEW YORK, CITY OF	3604970082C	25-SEP-97	97-02-318A	02
02	NY	NEW YORK, CITY OF	3604970125D	09-OCT-97	97-02-324A	02
02	NY	NEW YORK, CITY OF	3604970082C	03-OCT-97	97-02-354A	02
02	NY	NEW YORK, CITY OF	3604970125D	12-NOV-97	97-02-392A	02
02	NY	NEW YORK, CITY OF	3604970092C	26-NOV-97	98-02-038A	02
02	NY	NEW YORK, CITY OF	3604970125D	26-NOV-97	98-02-040A	02
02	NY	NEW YORK, CITY OF	3604970092C	10-NOV-97	98-02-044A	02
02	NY	NEW YORK, CITY OF	3604970023B	31-DEC-97	98-02-204A	02
02	NY	NORTH GREENBUSH,TOWN OF	3611640002A	04-NOV-97	97-02-326A	02
02	NY	NORTH GREENBUSH,TOWN OF	3611640002A	23-SEP-97	97-02-328A	02
02	NY	NORTH GREENBUSH,TOWN OF	3611640002A	06-NOV-97	97-02-412A	02
02	NY	NORTH GREENBUSH,TOWN OF	3611640002A	22-DEC-97	98-02-174A	02
02	NY	NORTH HAVEN, VILLAGE OF	3608000001D	01-DEC-97	98-02-134A	02
02	NY	NORTH HORNELL, VILLAGE OF		12-SEP-97	96-02-029P	05
02	NY	OSSINING, VILLAGE OF	3610210001B	29-SEP-97	97-02-310A	02
02	NY	OYSTER BAY, TOWN OF	36059C0264F	04-NOV-97	98-02-020A	02
02	NY	OYSTER BAY, TOWN OF	36059C0264F	17-DEC-97	98-02-158A	02
02	NY	PERINTON, TOWN OF	3604280005D	08-DEC-97	98-02-018A	02
02	NY	PERU,TOWN OF	3613840010A	07-JUL-97	97-02-176A	02
02	NY	PIERCEFIELD, TOWN OF	361426 A	03-DEC-97	97-02-376A	02
02	NY	PLATTSBURGH, TOWN OF	3601690010B	03-DEC-97	98-02-178A	17
02	NY	POUGHKEEPSIE, TOWN OF	3611420015B	15-OCT-97	97-02-260A	02
02	NY	ROTTERDAM, TOWN OF	3607400007B	18-SEP-97	97-02-134P	05
02	NY	SPECULATOR, VILLAGE OF	3615270020B	13-OCT-97	97-02-352A	02
02	NY	TORREY, TOWN OF	3609660005B	26-NOV-97	97-02-228A	02
02	NY	WEBSTER, TOWN OF	3604360005C	12-NOV-97	97-02-270A	02
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000193C	23-SEP-97	97-02-196A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000120B	15-AUG-97	97-02-208A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000112C	16-SEP-97	97-02-292A	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000120B	29-OCT-97	97-02-306A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000244D	24-DEC-97	97-02-330A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000302D	24-DEC-97	97-02-330A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000177D	17-OCT-97	97-02-338A	01
02	PR	PUERTO RICO, COMMONWEALTH OF	7200000047D	15-OCT-97	97-02-382A	02
03	DE	DOVER, CITY OF	1000060005C	16-JUL-97	97-03-778A	01
03	DE	KENT COUNTY *	1000010125B	11-JUL-97	97-03-922A	02
03	DE	KENT COUNTY *	1000010175B	10-DEC-97	98-03-134A	02
03	DE	NEW CASTLE COUNTY *	10003C0040F	02-OCT-97	97-03-073P	05
03	DE	NEW CASTLE COUNTY *	10003C0230F	01-AUG-97	97-03-1004A	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	23-SEP-97	97-03-1096A	02
03	DE	NEW CASTLE COUNTY *	10003C0165F	17-OCT-97	97-03-1224A	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	13-AUG-97	97-03-586A	02
03	DE	NEW CASTLE COUNTY *	10003C0066F	22-JUL-97	97-03-766A	02
03	DE	NEW CASTLE COUNTY *	10003C0151F	07-OCT-97	R3-218-70-O	02
03	DE	SUSSEX COUNTY*	10005C0250F	17-JUL-97	97-03-916A	02
03	DE	SUSSEX COUNTY*	10005C0250F	19-NOV-97	98-03-022A	02
03	DE	SUSSEX COUNTY*	10005C0475F	04-NOV-97	98-03-094A	02
03	DE	SUSSEX COUNTY*	10005C0635F	14-NOV-97	98-03-100A	02
03	DE	SUSSEX COUNTY*	10005C0475F	22-DEC-97	98-03-170A	02
03	DE	SUSSEX COUNTY*	10005C0100F	20-OCT-97	R3-218-70-R	02
03	MD	ANNE ARUNDEL COUNTY *	2400080009C	08-JUL-97	97-03-638A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080044D	07-JUL-97	97-03-734A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080014C	23-SEP-97	97-03-738A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080055C	08-SEP-97	97-03-788A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080043C	21-AUG-97	97-03-830A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080051C	31-OCT-97	98-03-004A	02
03	MD	BALTIMORE COUNTY*	2400100445C	19-AUG-97	97-03-1000A	02
03	MD	BALTIMORE COUNTY*	2400100245E	18-NOV-97	97-03-1116A	02
03	MD	BALTIMORE COUNTY*	2400100380B	14-OCT-97	97-03-1186A	02
03	MD	BALTIMORE COUNTY*	2400100390B	08-AUG-97	97-03-650A	02
03	MD	BALTIMORE COUNTY*	2400100265B	21-AUG-97	97-03-808A	02
03	MD	BALTIMORE COUNTY*	2400100265B	21-AUG-97	97-03-810A	02
03	MD	BALTIMORE COUNTY*	2400100265B	04-SEP-97	97-03-814A	02
03	MD	BALTIMORE COUNTY*	2400100265B	21-AUG-97	97-03-860A	02
03	MD	BALTIMORE COUNTY*	2400100510B	28-AUG-97	97-03-878A	02
03	MD	BALTIMORE COUNTY*	2400100380B	10-NOV-97	98-03-068A	02
03	MD	BEL AIR, TOWN OF	2400420001B	22-SEP-97	97-03-117P	06
03	MD	BEL AIR, TOWN OF	2400420002B	14-JUL-97	97-03-478P	06
03	MD	CECIL COUNTY*	2400190028A	04-NOV-97	97-03-1064A	02
03	MD	CECIL COUNTY*	2400190028A	03-OCT-97	97-03-1066A	02
03	MD	CECIL COUNTY*	2400190028A	28-JUL-97	97-03-398A	02
03	MD	DORCHESTER COUNTY *	2400260175B	09-OCT-97	97-03-1156A	02
03	MD	DORCHESTER COUNTY *	2400260150B	22-DEC-97	98-03-102A	02
03	MD	GARRETT COUNTY *	2400340100B	27-OCT-97	97-03-1250A	02
03	MD	GARRETT COUNTY *	2400340100B	03-DEC-97	98-03-110A	02
03	MD	KENT COUNTY *	2400450125B	11-AUG-97	97-03-924A	02
03	MD	LAUREL, CITY OF	2400530001D	26-NOV-97	95-03-434P	05
03	MD	OAKLAND, TOWN OF	2400390001C	22-SEP-97	97-03-037P	06
03	MD	PRINCE GEORGES COUNTY *	2452080010C	26-NOV-97	95-03-434P	05
03	MD	PRINCE GEORGES COUNTY *	2452080065D	24-SEP-97	97-03-1076A	02
03	MD	PRINCE GEORGES COUNTY *	2452080085C	24-JUL-97	97-03-752A	02
03	MD	QUEEN ANNES COUNTY	2400540039C	07-OCT-97	97-03-1176A	02
03	MD	QUEEN ANNES COUNTY	2400540054B	02-JUL-97	97-03-688A	02
03	MD	QUEEN ANNES COUNTY	2400540045B	13-AUG-97	97-03-702A	02
03	MD	QUEEN ANNES COUNTY	2400540052B	18-AUG-97	97-03-806A	02
03	MD	QUEEN ANNES COUNTY	2400540006B	21-OCT-97	97-03-996A	02
03	MD	ST. MARYS COUNTY*	2400640038B	17-OCT-97	97-03-438A	02
03	MD	TALBOT COUNTY *	2400660035A	23-OCT-97	97-03-728A	02
03	MD	WASHINGTON COUNTY *		28-JUL-97	97-03-882A	02
03	PA	ABINGTON, TOWNSHIP OF	42091C0294E	01-AUG-97	97-03-762A	02
03	PA	ABINGTON, TOWNSHIP OF	42091C0382E	01-AUG-97	97-03-762A	02
03	PA	ABINGTON, TOWNSHIP OF	42091C0382E	29-JUL-97	97-03-984A	02
03	PA	ALLENTOWN, CITY OF	4205850005B	30-JUL-97	97-03-594A	02
03	PA	ARMSTRONG, TOWNSHIP OF	4217080010A	08-SEP-97	97-03-1092A	02
03	PA	ATHENS, TOWNSHIP OF	4209760010B	30-JUL-97	97-03-522A	02
03	PA	BALDWIN, BOROUGH OF	42003C0362E	17-OCT-97	97-03-942A	02
03	PA	BEECH CREEK, BOROUGH OF	4203200001B	24-DEC-97	97-03-1204A	02
03	PA	BENSALEM TOWNSHIP OF	4201810005D	30-SEP-97	97-03-880A	02
03	PA	BRISTOL, TOWNSHIP OF	4209840010D	29-SEP-97	97-03-1114A	02
03	PA	BRISTOL, TOWNSHIP OF	4209840005C	21-OCT-97	97-03-1194A	02
03	PA	BRISTOL, TOWNSHIP OF	4209840005C	05-AUG-97	97-03-786A	02
03	PA	BROOKFIELD, TOWNSHIP OF	421171 B	21-AUG-97	97-03-812A	02

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03	PA	CARROLL, TOWNSHIP OF		11-DEC-97	98-03-009P	06
03	PA	CASTANEA TOWNSHIP OF	4203220001B	29-AUG-97	97-03-684A	01
03	PA	CHALFONT, BOROUGHS OF	4201840001B	24-NOV-97	96-03-057P	05
03	PA	CHELTENHAM, TOWNSHIP OF	42091C0403E	22-JUL-97	96-03-065P	05
03	PA	CHELTENHAM, TOWNSHIP OF	42091C0382E	23-DEC-97	R3-218-70-R	02
03	PA	CONEMAUGH, TOWNSHIP OF	4220470015A	24-JUL-97	97-03-666A	02
03	PA	CONEMAUGH, TOWNSHIP OF	4220470010A	13-AUG-97	97-03-712A	02
03	PA	EARL, TOWNSHIP OF	4201320001C	27-OCT-97	97-03-1068A	02
03	PA	EAST ALLEN, TOWNSHIP OF	4209810005A	02-JUL-97	97-03-670A	02
03	PA	EAST GOSHEN, TOWNSHIP OF	42029C0218D	31-OCT-97	97-03-1216A	02
03	PA	ELDER, TOWNSHIP OF	4225920005A	20-AUG-97	R3-218-70-R	02
03	PA	EULALIA, TOWNSHIP OF	4219760020B	21-AUG-97	97-03-760A	02
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	14-JUL-97	97-03-041P	06
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	23-OCT-97	97-03-101P	05
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	03-DEC-97	97-03-1158A	02
03	PA	FRANKLIN, TOWNSHIP OF	4222200010D	18-DEC-97	98-03-184A	02
03	PA	HAMILTON, TOWNSHIP OF		29-AUG-97	R3-218-70-R	02
03	PA	HARMONY, BOROUGH OF	4202170001B	26-NOV-97	98-03-144A	02
03	PA	HIGHSPIRE, BOROUGH OF	4203810001B	22-DEC-97	98-03-178A	02
03	PA	HORSHAM, TOWNSHIP OF	42091C0292E	26-NOV-97	97-03-1234A	02
03	PA	LEHIGH, TOWNSHIP OF	4219310010A	19-AUG-97	97-03-866A	02
03	PA	LOCK HAVEN, CITY OF	4203280001A	10-JUL-97	97-03-756A	02
03	PA	LOWER GWYNEDD, TOWNSHIP OF	42091C0286E	17-NOV-97	R3-218-70-R	02
03	PA	LOWER MERION, TOWNSHIP OF	42091C0432E	09-OCT-97	97-03-1078P	06
03	PA	LOWER NAZERETH, TOWNSHIP OF	4222530005B	23-SEP-97	97-03-1082A	02
03	PA	LOWER SOUTHAMPTON, TOWNSHIP OF	4201920005D	08-DEC-97	97-03-1050A	02
03	PA	LYNN, TOWNSHIP OF	4218120015A	17-DEC-97	97-03-1214A	02
03	PA	MATAMORAS, BOROUGH OF	4207580005A	06-NOV-97	98-03-084A	02
03	PA	MCCANDLESS, TOWNSHIP OF	42003C0192E	01-OCT-97	97-03-1196A	02
03	PA	MILLERSBURG, BOROUGH OF	4203890005B	16-JUL-97	97-03-480A	02
03	PA	NETHER PROVIDENCE, TOWNSHIP OF	42045C0044D	13-AUG-97	97-03-095P	06
03	PA	NEW FREEDOM, BOROUGH OF	4209320001B	02-DEC-97	97-03-1262A	02
03	PA	NEW FREEDOM, BOROUGH OF	4209320001B	16-JUL-97	97-03-740A	02
03	PA	NEW FREEDOM, BOROUGH OF	4209320001B	16-JUL-97	97-03-742A	02
03	PA	NEWBERRY, TOWNSHIP OF	4222260020B	03-DEC-97	97-03-1144A	02
03	PA	OLEY, TOWNSHIP OF	4209650010B	07-JUL-97	97-03-708A	02
03	PA	PETERS, TOWNSHIP OF	4221520005A	31-OCT-97	98-03-032A	02
03	PA	PHILADELPHIA, CITY OF	4207570183F	07-OCT-97	97-03-1042A	02
03	PA	PHILADELPHIA, CITY OF	4207570184F	11-AUG-97	97-03-426A	02
03	PA	PHILADELPHIA, CITY OF	4207570188F	09-JUL-97	97-03-630A	02
03	PA	PHILADELPHIA, CITY OF	4207570113F	29-SEP-97	97-03-704A	17
03	PA	PHILADELPHIA, CITY OF	4207570169F	27-OCT-97	97-03-928A	02
03	PA	PLYMOUTH, TOWNSHIP OF	4209550001B	13-AUG-97	97-03-039P	05
03	PA	RICHLAND, TOWNSHIP OF	4210950010B	23-SEP-97	97-03-930A	02
03	PA	ROSE, TOWNSHIP OF*	421734 B	08-SEP-97	97-03-1036A	02
03	PA	ROSS, TOWNSHIP OF	42003C0211E	14-NOV-97	97-03-1218A	02
03	PA	SANDY, TOWNSHIP OF	4211●10005B	05-SEP-97	97-03-912A	02
03	PA	SMITHFIELD, TOWNSHIP OF	421104 A	13-OCT-97	97-03-1230A	02
03	PA	SOMERSET, BOROUGH OF	4208030001C	30-SEP-97	R3-218-70-O	02
03	PA	THORNBURY, TOWNSHIP OF	42045C0039D	23-SEP-97	97-03-472A	02
03	PA	TOWAMENCIN, TOWNSHIP OF	42091C0251E	06-AUG-97	97-03-952A	02
03	PA	TRAINER, BOROUGH OF	42045C0068D	10-SEP-97	97-03-966A	02
03	PA	UNITY, TOWNSHIP OF	4209640020C	27-AUG-97	97-03-718A	02
03	PA	UPPER ALLEN, TOWNSHIP OF	4203720010C	05-DEC-97	98-03-140A	02
03	PA	UPPER DUBLIN, TOWNSHIP OF	42091C0293E	26-NOV-97	97-03-792A	02
03	PA	UPPER MERION, TOWNSHIP OF	42091C0334E	03-JUL-97	97-03-053P	06
03	PA	UPPER MERION, TOWNSHIP OF	42091C0353E	03-JUL-97	97-03-053P	06
03	PA	UPPER NAZARETH, TOWNSHIP OF	4219340005A	15-DEC-97	97-03-1084A	02
03	PA	UPPER UWCHLAN, TWP OF	42029C0180D	31-DEC-97	97-03-1090A	02
03	PA	UWCHLAN, TOWNSHIP OF	42029C0187D	27-AUG-97	97-03-998A	02
03	PA	VERNON, TOWNSHIP OF	4215750004B	22-AUG-97	97-03-386A	01
03	PA	WEST GOSHEN, TOWNSHIP OF	42029C0354D	01-DEC-97	97-03-123P	06
03	PA	WEST GOSHEN, TOWNSHIP OF	42029C0354D	23-OCT-97	98-03-052A	02
03	PA	WEST PIKELAND, TOWNSHIP OF	42029C0182D	03-OCT-97	97-03-876A	02
03	PA	WEST WHITELAND, TOWNSHIP OF	42029C0192D	21-OCT-97	97-03-956A	02
03	PA	WESTFALL, TOWNSHIP OF	4219700010B	08-AUG-97	97-03-604A	02
03	PA	WESTTOWN, TOWNSHIP OF	42029C0362D	01-DEC-97	97-03-137P	06
03	PA	WESTTOWN, TOWNSHIP OF	42029C0354D	22-DEC-97	98-03-180A	02
03	PA	WHITPAIN, TOWNSHIP OF	42091C0262E	05-SEP-97	97-03-119P	06
03	VA	ALEXANDRIA, CITY OF	5155190005D	10-SEP-97	97-03-1126A	02
03	VA	ALEXANDRIA, CITY OF	5155190005D	07-OCT-97	97-03-1232A	02
03	VA	ALEXANDRIA, CITY OF	5155190005D	10-OCT-97	98-03-96000P	05
03	VA	AUGUSTA COUNTY *	5100130175B	31-DEC-97	98-03-120A	02

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03	VA	BEDFORD COUNTY *	5100160100A	04-NOV-97	97-03-982A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	21-OCT-97	97-03-1188A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	12-NOV-97	97-03-1190A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	15-OCT-97	97-03-1238A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	16-JUL-97	97-03-696A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	08-AUG-97	97-03-950A	01
03	VA	CHESTERFIELD COUNTY *	5100350024B	22-DEC-97	98-03-046A	02
03	VA	CHRISTIANSBURG, TOWN OF	5101010005B	12-DEC-97	98-03-150A	02
03	VA	CRAIGSVILLE, TOWN OF	5100140001C	06-NOV-97	98-03-034A	02
03	VA	CULPEPER COUNTY*	5100410004B	03-SEP-97	96-03-123P	05
03	VA	FAIRFAX COUNTY *	5155250050D	12-SEP-97	97-03-1010A	02
03	VA	FAIRFAX COUNTY *	5155250075D	21-AUG-97	97-03-1030A	02
03	VA	FAIRFAX COUNTY *	5155250100D	18-AUG-97	97-03-1032A	02
03	VA	FAIRFAX COUNTY *	5155250025D	17-OCT-97	97-03-1044A	02
03	VA	FAIRFAX COUNTY *	5155250083D	29-AUG-97	97-03-1058A	02
03	VA	FAIRFAX COUNTY *	5155250150D	29-AUG-97	97-03-1060A	02
03	VA	FAIRFAX COUNTY *	5155250100D	03-SEP-97	97-03-1062A	02
03	VA	FAIRFAX COUNTY *	5155250100D	03-SEP-97	97-03-1102A	02
03	VA	FAIRFAX COUNTY *	5155250050D	12-SEP-97	97-03-1110A	02
03	VA	FAIRFAX COUNTY *	5155250100D	10-SEP-97	97-03-1112A	02
03	VA	FAIRFAX COUNTY *	5155250125D	10-SEP-97	97-03-1122A	02
03	VA	FAIRFAX COUNTY *	5155250075D	12-SEP-97	97-03-1130A	02
03	VA	FAIRFAX COUNTY *	5155250083D	12-SEP-97	97-03-1140A	02
03	VA	FAIRFAX COUNTY *	5155250083D	23-SEP-97	97-03-1142A	02
03	VA	FAIRFAX COUNTY *	5155250075D	23-OCT-97	97-03-1228A	02
03	VA	FAIRFAX COUNTY *	5155250075D	21-OCT-97	97-03-1260A	02
03	VA	FAIRFAX COUNTY *	5155250100D	07-JUL-97	97-03-520A	02
03	VA	FAIRFAX COUNTY *	5155250025D	04-SEP-97	97-03-644A	01
03	VA	FAIRFAX COUNTY *	5155250075D	04-SEP-97	97-03-720A	02
03	VA	FAIRFAX COUNTY *	5155250025D	21-JUL-97	97-03-724A	02
03	VA	FAIRFAX COUNTY *	5155250050D	08-JUL-97	97-03-818A	02
03	VA	FAIRFAX COUNTY *	5155250050D	07-JUL-97	97-03-822A	02
03	VA	FAIRFAX COUNTY *	5155250050D	27-AUG-97	97-03-826A	02
03	VA	FAIRFAX COUNTY *	5155250083D	28-JUL-97	97-03-832A	02
03	VA	FAIRFAX COUNTY *	5155250050D	13-AUG-97	97-03-844A	02
03	VA	FAIRFAX COUNTY *	5155250100D	28-JUL-97	97-03-874A	02
03	VA	FAIRFAX COUNTY *	5155250100D	01-AUG-97	97-03-914A	02
03	VA	FAIRFAX COUNTY *	5155250083D	24-JUL-97	97-03-918A	02
03	VA	FAIRFAX COUNTY *	5155250075D	22-OCT-97	97-03-926A	02
03	VA	FAIRFAX COUNTY *	5155250075D	11-AUG-97	97-03-962A	02
03	VA	FAIRFAX COUNTY *	5155250025D	29-JUL-97	97-03-972A	02
03	VA	FAIRFAX COUNTY *	5155250125D	09-SEP-97	97-03-978A	02
03	VA	FAIRFAX COUNTY *	5155250075D	26-AUG-97	97-03-980A	02
03	VA	FAIRFAX COUNTY *	5155250025D	13-OCT-97	98-03-018A	02
03	VA	FAIRFAX COUNTY *	5155250125D	13-OCT-97	98-03-020A	02
03	VA	FAIRFAX COUNTY *	5155250117D	22-DEC-97	98-03-026A	02
03	VA	FAIRFAX COUNTY *	5155250075D	21-OCT-97	98-03-044A	02
03	VA	FAIRFAX COUNTY *	5155250089D	27-OCT-97	98-03-056A	02
03	VA	FAIRFAX COUNTY *	5155250150D	27-OCT-97	98-03-058A	02
03	VA	FAIRFAX COUNTY *	5155250050D	24-NOV-97	98-03-126A	02
03	VA	FAIRFAX COUNTY *	5155250025D	04-NOV-97	98-03-128A	02
03	VA	FAIRFAX COUNTY *	5155250150D	12-NOV-97	98-03-130A	02
03	VA	FAIRFAX COUNTY *	5155250025D	04-NOV-97	98-03-138A	02
03	VA	FAIRFAX COUNTY *	5155250100D	29-DEC-97	98-03-160A	02
03	VA	FAIRFAX COUNTY *	5155250100D	22-DEC-97	98-03-174A	02
03	VA	FAIRFAX COUNTY *	5155250083D	31-DEC-97	98-03-240A	02
03	VA	FAIRFAX COUNTY *	5155250075D	29-DEC-97	98-03-242A	02
03	VA	FAIRFAX COUNTY *	5155250075D	29-DEC-97	98-03-246A	02
03	VA	FAIRFAX, CITY OF	5155240005B	16-DEC-97	98-03-276A	02
03	VA	FRANKLIN COUNTY *	5100610250A	30-SEP-97	97-03-910A	02
03	VA	FRANKLIN COUNTY *	5100610215A	18-JUL-97	R3-218-70-R	02
03	VA	FRONT ROYAL, TOWN OF	5101670002B	25-JUL-97	97-03-976A	02
03	VA	FRONT ROYAL, TOWN OF	5101670003B	25-JUL-97	97-03-976A	02
03	VA	HANOVER COUNTY *	5102370320A	17-NOV-97	97-03-1222A	02
03	VA	HARRISONBURG, CITY OF	5100760005B	05-AUG-97	97-03-017P	05
03	VA	HENRICO COUNTY *	5100770025B	09-OCT-97	97-03-1046A	02
03	VA	HENRICO COUNTY *	5100770050B	08-DEC-97	97-03-1074A	02
03	VA	HENRICO COUNTY *	5100770025B	22-OCT-97	97-03-1174A	01
03	VA	HENRICO COUNTY *	5100770050B	22-AUG-97	97-03-342A	02
03	VA	HENRICO COUNTY *	5100770025B	12-NOV-97	98-03-082A	02
03	VA	HENRICO COUNTY *	5100770025B	31-DEC-97	98-03-200A	02
03	VA	LOUDOUN COUNTY *	5100900225C	22-OCT-97	96-03-097P	06
03	VA	LOUDOUN COUNTY *	5100900110C	18-SEP-97	97-03-1026A	02

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03	VA	LOUDOUN COUNTY *	5100900110C	17-OCT-97	97-03-1136A	02
03	VA	LOUDOUN COUNTY *	5100900225C	10-JUL-97	97-03-546A	02
03	VA	LOUDOUN COUNTY *	5100900105C	14-NOV-97	97-03-732A	02
03	VA	LOUDOUN COUNTY *	5100900110C	10-JUL-97	97-13	02
03	VA	LOUDOUN COUNTY *	5100900115C	29-DEC-97	98-03-182A	02
03	VA	MIDDLESEX COUNTY *	5100980060B	21-OCT-97	97-03-1210A	02
03	VA	MONTGOMERY COUNTY *	5100990025A	31-OCT-97	97-03-1162A	17
03	VA	NORTHAMPTON COUNTY *	5101050015C	29-AUG-97	97-03-530A	02
03	VA	NORTHUMBERLAND COUNTY *	5101070017C	30-JUL-97	97-03-824A	02
03	VA	OCCOQUAN, TOWN OF	51153C0217D	06-NOV-97	97-03-1072A	02
03	VA	ORANGE COUNTY *	5102030020B	03-SEP-97	96-03-123P	05
03	VA	PORTSMOUTH, CITY OF	5155290040B	25-AUG-97	97-03-1002A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0088D	17-OCT-97	97-03-1056A	02
03	VA	PRINCE WILLIAM COUNTY *		30-DEC-97	97-03-1182A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0194D	30-DEC-97	98-03-002A	02
03	VA	PULASKI COUNTY *	5101250175B	31-DEC-97	97-03-1154A	02
03	VA	PULASKI, TOWN OF	5101260005E	09-OCT-97	97-03-1016A	02
03	VA	ROCKBRIDGE COUNTY *	5102050075A	23-OCT-97	97-03-1164A	02
03	VA	SPOTSYLVANIA COUNTY*	5103080007B	24-JUL-97	97-03-902A	02
03	VA	STAFFORD COUNTY *	5101540135D	22-DEC-97	97-03-1086A	01
03	VA	STAFFORD COUNTY *	5101540135D	15-JUL-97	97-03-800A	02
03	VA	STAFFORD COUNTY *	5101540135D	22-DEC-97	98-03-070A	01
03	VA	STAUNTON, CITY OF	5101550003C	30-JUL-97	97-03-886A	02
03	VA	VINTON, TOWN OF	51161C0046D	22-DEC-97	98-03-158A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310046E	27-AUG-97	97-03-1024A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310005E	24-SEP-97	97-03-1106A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310013E	24-SEP-97	97-03-1106A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	21-OCT-97	97-03-1118A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	10-SEP-97	97-03-1120A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310051E	07-OCT-97	97-03-1170A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	14-NOV-97	97-03-1198A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310050E	26-NOV-97	97-03-1200A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310051E	26-NOV-97	97-03-1200A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310042E	21-OCT-97	97-03-1244A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310005E	02-JUL-97	97-03-614A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310013E	02-JUL-97	97-03-614A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310042E	10-SEP-97	97-03-894A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310071E	14-AUG-97	97-03-948A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310051E	12-SEP-97	97-03-990A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	27-AUG-97	97-03-992A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310024E	27-OCT-97	98-03-024A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	31-DEC-97	98-03-030A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	24-NOV-97	98-03-072A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310079E	12-NOV-97	98-03-074A	02
03	WV	CABELL COUNTY*	5400160061A	15-JUL-97	97-03-782A	02
03	WV	CABELL COUNTY*	5400160080A	23-SEP-97	97-03-884A	02
03	WV	CABELL COUNTY*	5400160029A	07-OCT-97	97-03-988A	02
03	WV	CABELL COUNTY*	5400160066A	12-DEC-97	98-03-108A	02
03	WV	FAYETTE COUNTY*	5400260075B	29-AUG-97	97-03-1006A	01
03	WV	LOGAN COUNTY *	5455360098B	04-NOV-97	97-03-888A	02
03	WV	MORGANTOWN, CITY OF	5401410001D	14-AUG-97	97-03-194A	02
03	WV	MULLENS, CITY OF	5402180001B	27-AUG-97	97-03-974A	02
03	WV	PRESTON COUNTY*	540160 A	01-AUG-97	97-03-296A	01
03	WV	PRESTON COUNTY*	540160 A	28-AUG-97	97-03-908A	02
03	WV	RANDOLPH COUNTY *	5401750185A	27-OCT-97	97-03-1098A	02
03	WV	UPSHUR COUNTY*	5401980001B	08-DEC-97	98-03-076A	02
03	WV	WILLIAMSON, CITY OF	5401380001D	25-SEP-97	97-03-1132A	02
03	WV	WINFIELD, TOWN OF	5402710001B	02-JUL-97	97-03-648A	02
03	WV	WOOD COUNTY *	5402130008A	25-JUL-97	97-03-754A	02
04	AL	ALABASTER, CITY OF	0101920001B	11-JUL-97	97-04-1496A	01
04	AL	ALABASTER, CITY OF	0101920001B	23-JUL-97	97-04-1868A	01
04	AL	ANNISTON, CITY OF	0100200002C	22-SEP-97	R4-974-227	02
04	AL	CHEROKEE COUNTY*	0102340175B	17-DEC-97	R4-981-224	02
04	AL	CULLMAN COUNTY *	0102470100B	11-SEP-97	R4-972-221	02
04	AL	DOTHAN, CITY OF	0101040023D	08-DEC-97	R4-981-121	02
04	AL	HOOVER, CITY OF	0101230007B	29-JUL-97	R4-971-253	02
04	AL	HOOVER, CITY OF	0101230008B	29-JUL-97	R4-971-253	02
04	AL	HUEYTOWN, CITY OF	0103370007A	08-DEC-97	R4-981-113	02
04	AL	HUNTSVILLE, CITY OF	0101530040C	15-OCT-97	R4-964-306A	01
04	AL	HUNTSVILLE, CITY OF	0101530025C	20-AUG-97	R4-973-190	02
04	AL	HUNTSVILLE, CITY OF	0101530040C	14-JUL-97	R4-973-193	02
04	AL	HUNTSVILLE, CITY OF	0101530050C	17-DEC-97	R4-981-151	02
04	AL	JEFFERSON COUNTY *	0102170493B	14-OCT-97	97-04-1560A	01

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04	AL	JEFFERSON COUNTY *	0102170494B	16-JUL-97	97-04-1668A	01
04	AL	JEFFERSON COUNTY *	0102170183B	12-DEC-97	98-04-146A	01
04	AL	JEFFERSON COUNTY *	0102170511B	12-AUG-97	R4-964-237	02
04	AL	JEFFERSON COUNTY *	0102170629B	22-JUL-97	R4-973-178	02
04	AL	JEFFERSON COUNTY *	0102170511B	12-NOV-97	R4-981-109	08
04	AL	LAUDERDALE COUNTY *	0103230065B	23-DEC-97	R4-971-216	02
04	AL	LOWNDES COUNTY *	0102720065B	14-OCT-97	R4-972-100	02
04	AL	MADISON, CITY OF	0103080002A	04-SEP-97	97-04-1818A	01
04	AL	MOBILE COUNTY*	0150080408F	08-AUG-97	97-04-1926A	02
04	AL	MOBILE COUNTY*	0150080404F	24-SEP-97	R4-973-043	02
04	AL	MOBILE COUNTY*	0150080275F	23-DEC-97	R4-981-054	02
04	AL	MOBILE, CITY OF	0150070010E	18-DEC-97	R4-981-045	02
04	AL	MONTGOMERY COUNTY *	01101C0200F	07-AUG-97	R4-973-267	02
04	AL	MONTGOMERY COUNTY *	01101C0070F	24-SEP-97	R4-974-169	02
04	AL	MONTGOMERY, CITY OF	01101C0060F	13-AUG-97	97-04-1140A	01
04	AL	MONTGOMERY, CITY OF	01101C0060F	01-JUL-97	97-04-1686A	01
04	AL	MONTGOMERY, CITY OF	01101C0065F	24-JUL-97	97-04-1806A	02
04	AL	MONTGOMERY, CITY OF	01101C0060F	08-DEC-97	R4-902-059A	02
04	AL	MONTGOMERY, CITY OF	01101C0070F	25-JUL-97	R4-974-005	02
04	AL	MONTGOMERY, CITY OF	01101C0070F	23-DEC-97	R4-974-221	02
04	AL	NORTHPORT, CITY OF	0102020005D	29-AUG-97	R4-974-121	02
04	AL	PELHAM, TOWN OF	0101930001B	12-AUG-97	R4-964-357A	01
04	AL	PELHAM, TOWN OF	0101930002B	08-DEC-97	R4-964-400	02
04	AL	PELL CITY, CITY OF	0101890020B	20-AUG-97	R4-973-147	02
04	AL	SHELBY COUNTY*	0101910195B	03-DEC-97	R4-981-029	02
04	AL	WILSONVILLE, TOWN OF	0104040001B	26-NOV-97	R4-974-088	02
04	AL	WINSTON COUNTY *	0103040009B	04-NOV-97	R4-974-173	02
04	FL	ALACHUA COUNTY*	1200010350B	14-JUL-97	R4-973-159	02
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0140E	27-AUG-97	R4-974-106	02
04	FL	ALTAMONTE SPRINGS, CITY OF	12117C0140E	23-DEC-97	R4-981-155	02
04	FL	APOPKA, CITY OF	1201800005C	16-DEC-97	R4-981-185	02
04	FL	ATLANTIC BEACH, CITY OF	1200750001D	23-SEP-97	97-04-1426A	02
04	FL	BAY COUNTY*	1200040335D	08-OCT-97	97-04-271P	06
04	FL	BOCA RATON, CITY OF	1201950004C	24-JUL-97	R4-973-273	02
04	FL	BOCA RATON, CITY OF	1201950004C	20-AUG-97	R4-974-064	02
04	FL	BOCA RATON, CITY OF	1201950004C	20-AUG-97	R4-974-097	02
04	FL	BREVARD COUNTY *	12009C0435E	25-SEP-97	97-04-1142A	01
04	FL	BREVARD COUNTY *	12009C0275E	15-JUL-97	97-04-1578A	01
04	FL	BREVARD COUNTY *	12009C0430E	19-AUG-97	97-04-1776A	01
04	FL	BREVARD COUNTY *	12009C0295E	21-AUG-97	97-04-1790A	01
04	FL	BREVARD COUNTY *	12009C0430E	27-OCT-97	97-04-1832A	01
04	FL	BREVARD COUNTY *	12009C0275E	23-SEP-97	97-04-1968A	01
04	FL	BREVARD COUNTY *	12009C0260E	04-SEP-97	97-04-1972A	01
04	FL	BREVARD COUNTY *	12009C0595E	29-SEP-97	97-04-1996A	01
04	FL	BREVARD COUNTY *	12009C0435E	21-OCT-97	97-04-2048A	01
04	FL	BREVARD COUNTY *	12009C0430E	13-OCT-97	97-04-2134A	01
04	FL	BREVARD COUNTY *	12009C0441E	17-OCT-97	97-04-2228A	01
04	FL	BREVARD COUNTY *	12009C0435E	15-JUL-97	97-04-304A	01
04	FL	BREVARD COUNTY *	12009C0441E	15-JUL-97	97-04-304A	01
04	FL	BREVARD COUNTY *	12009C0260E	20-NOV-97	98-04-016A	01
04	FL	BREVARD COUNTY *	12009C0441F	17-DEC-97	98-04-302A	01
04	FL	BREVARD COUNTY *	12009C0441F	23-DEC-97	98-04-344A	01
04	FL	BREVARD COUNTY *	12009C0619E	15-JUL-97	R4-973-128	02
04	FL	BREVARD COUNTY *	12009C0430E	11-SEP-97	R4-974-007	02
04	FL	BREVARD COUNTY *	12009C0439E	11-SEP-97	R4-974-074	02
04	FL	BREVARD COUNTY *	12009C0190F	17-NOV-97	R4-974-105	02
04	FL	BREVARD COUNTY *	12009C0260E	15-OCT-97	R4-974-182	02
04	FL	BREVARD COUNTY *	12009C0615E	23-DEC-97	R4-981-038	02
04	FL	BREVARD COUNTY *	12009C0435E	03-DEC-97	R4-981-112	02
04	FL	BREVARD COUNTY *	12009C0430E	23-DEC-97	R4-981-116	02
04	FL	BROWARD COUNTY*	12011C0190F	05-AUG-97	97-04-1550A	01
04	FL	BROWARD COUNTY*	12011C0190F	24-NOV-97	98-04-020A	01
04	FL	BROWARD COUNTY*	12011C0208F	24-JUL-97	R4-973-028	02
04	FL	CAPE CORAL, CITY OF	1250950030C	07-OCT-97	97-04-1130A	01
04	FL	CAPE CORAL, CITY OF	1250950020C	29-AUG-97	97-04-1150A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	07-JUL-97	97-04-1540A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	24-JUL-97	97-04-1632A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	23-JUL-97	97-04-1706A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	21-JUL-97	97-04-1708A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	21-JUL-97	97-04-1708A	01
04	FL	CAPE CORAL, CITY OF	1250950020C	25-AUG-97	97-04-1918A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	25-AUG-97	97-04-1918A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	28-AUG-97	97-04-2024A	01

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04	FL	CAPE CORAL, CITY OF	1250950020C	23-SEP-97	97-04-2040A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	23-SEP-97	97-04-2042A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	03-OCT-97	97-04-2238A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	16-OCT-97	98-04-054A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	05-DEC-97	98-04-284A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	05-DEC-97	98-04-284A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	05-DEC-97	98-04-284A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	22-DEC-97	98-04-348A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	31-DEC-97	98-04-356A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	05-DEC-97	98-04-406A	02
04	FL	CASSELBERRY, CITY OF	12117C0140E	18-DEC-97	R4-981-225	02
04	FL	CHARLOTTE COUNTY *	1200610104E	13-NOV-97	97-04-273P	05
04	FL	CINCO BAYOU, TOWN OF	1205960001A	25-JUL-97	R4-973-214	02
04	FL	CITRUS COUNTY *	1200630270B	02-JUL-97	R4-973-166	02
04	FL	CITRUS COUNTY *	1200630260B	02-JUL-97	R4-973-167	02
04	FL	CITRUS COUNTY *	1200630270B	03-JUL-97	R4-973-169	02
04	FL	CITRUS COUNTY *	1200630260B	05-NOV-97	R4-973-275	02
04	FL	CITRUS COUNTY *	1200630175B	24-JUL-97	R4-973-280	02
04	FL	CITRUS COUNTY *	1200630175B	18-SEP-97	R4-974-203	02
04	FL	CITRUS COUNTY *	1200630175B	22-SEP-97	R4-974-232	02
04	FL	CITRUS COUNTY *	1200630175B	24-OCT-97	R4-974-264	02
04	FL	CITRUS COUNTY *	1200630175B	24-OCT-97	R4-974-265	02
04	FL	CITRUS COUNTY *	1200630260B	26-NOV-97	R4-981-055	02
04	FL	CITRUS COUNTY *	1200630260B	18-DEC-97	R4-981-141	02
04	FL	CITRUS COUNTY *	1200630260B	18-DEC-97	R4-981-142	02
04	FL	CITRUS COUNTY *	1200630260B	18-DEC-97	R4-981-143	02
04	FL	CITRUS COUNTY *	1200630260B	16-DEC-97	R4-981-179	02
04	FL	CITRUS COUNTY *	1200630260B	16-DEC-97	R4-981-180	02
04	FL	CLAY COUNTY *	1200640065D	18-SEP-97	97-04-1160A	02
04	FL	CLAY COUNTY *	1200640065D	07-JUL-97	97-04-1710A	01
04	FL	CLAY COUNTY *	1200640155D	15-AUG-97	97-04-1772A	02
04	FL	CLAY COUNTY *	1200640155D	02-DEC-97	97-04-2160A	01
04	FL	CLAY COUNTY *	1200640350D	07-AUG-97	R4-973-170	02
04	FL	CLAY COUNTY *	1200640135D	12-AUG-97	R4-974-047	02
04	FL	CLAY COUNTY *	1200640155D	11-SEP-97	R4-974-157	02
04	FL	CLEARWATER, CITY OF	1250960010D	10-DEC-97	98-04-116A	01
04	FL	CLERMONT, CITY OF	1201330001B	12-NOV-97	R4-981-059	02
04	FL	COCONUT CREEK, CITY OF	12011C0115F	30-SEP-97	97-04-1454A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	21-AUG-97	97-04-1588A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	18-AUG-97	97-04-1626A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	08-AUG-97	97-04-1940A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	03-DEC-97	97-04-1962A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	26-NOV-97	98-04-052A	01
04	FL	COLLIER COUNTY *	1200670394D	29-AUG-97	97-04-1116A	01
04	FL	COLLIER COUNTY *	1200670394D	30-SEP-97	97-04-1434A	01
04	FL	COLLIER COUNTY *	1200670394D	01-JUL-97	97-04-1640A	02
04	FL	COLLIER COUNTY *	1200670605E	04-SEP-97	97-04-2066A	01
04	FL	COLLIER COUNTY *	1200670605E	21-OCT-97	97-04-2286A	01
04	FL	COLLIER COUNTY *	1200670605E	23-OCT-97	98-04-018A	01
04	FL	COLLIER COUNTY *	1200670605E	04-NOV-97	98-04-074A	01
04	FL	COLLIER COUNTY *	1200670605E	17-DEC-97	98-04-252A	01
04	FL	COLLIER COUNTY *	1200670605E	10-DEC-97	98-04-272A	01
04	FL	COLLIER COUNTY *	1200670193D	24-SEP-97	R4-974-238	02
04	FL	CORAL SPRINGS, CITY OF	12011C0105F	01-OCT-97	97-04-2180A	01
04	FL	CORAL SPRINGS, CITY OF	12011C0115F	08-DEC-97	R4-981-084	02
04	FL	DADE COUNTY*	12025C0255J	04-SEP-97	97-04-1104A	01
04	FL	DADE COUNTY*	12025C0075J	29-SEP-97	97-04-1154A	01
04	FL	DADE COUNTY*	12025C0075J	07-JUL-97	97-04-1456A	01
04	FL	DADE COUNTY*	12025C0080J	23-JUL-97	97-04-1522A	01
04	FL	DADE COUNTY*	12025C0357J	07-JUL-97	97-04-1580A	01
04	FL	DADE COUNTY*	12025C0265J	16-JUL-97	97-04-1610A	01
04	FL	DADE COUNTY*	12025C0265J	30-JUL-97	97-04-1700A	01
04	FL	DADE COUNTY*	12025C0265J	27-AUG-97	97-04-1746A	01
04	FL	DADE COUNTY*	12025C0265J	22-AUG-97	97-04-1804A	01
04	FL	DADE COUNTY*	12025C0265J	10-SEP-97	97-04-1816A	01
04	FL	DADE COUNTY*	12025C0255J	27-AUG-97	97-04-1850A	01
04	FL	DADE COUNTY*	12025C0165J	17-OCT-97	97-04-1856A	01
04	FL	DADE COUNTY*	12025C0265J	08-AUG-97	97-04-1860A	01
04	FL	DADE COUNTY*	12025C0265J	14-OCT-97	97-04-1934A	01
04	FL	DADE COUNTY*	12025C0265J	25-SEP-97	97-04-1944A	01
04	FL	DADE COUNTY*	12025C0265J	07-OCT-97	97-04-2012A	01
04	FL	DADE COUNTY*	12025C0075J	17-OCT-97	97-04-2036A	01
04	FL	DADE COUNTY*	12025C0265J	02-OCT-97	97-04-2078A	01

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Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	DADE COUNTY*	12025C0255J	31-OCT-97	97-04-2192A	01
04	FL	DADE COUNTY*	12025C0265J	10-DEC-97	97-04-2216A	01
04	FL	DADE COUNTY*	12025C0080J	06-NOV-97	97-04-2218A	01
04	FL	DADE COUNTY*	12025C0255J	17-NOV-97	97-04-2230A	01
04	FL	DADE COUNTY*	12025C0165J	24-DEC-97	97-04-2276A	01
04	FL	DADE COUNTY*	12025C0255J	29-OCT-97	97-04-2294A	02
04	FL	DADE COUNTY*	12025C0081J	25-DEC-97	97-04-241P	06
04	FL	DADE COUNTY*	12025C0080J	31-OCT-97	98-04-010A	01
04	FL	DADE COUNTY*	12025C0265J	01-DEC-97	98-04-202A	01
04	FL	DADE COUNTY*	12025C0265J	01-DEC-97	98-04-228A	01
04	FL	DADE COUNTY*	12025C0170J	12-AUG-97	R4-894-035A	02
04	FL	DADE COUNTY*	12025C0165J	20-AUG-97	R4-974-061	02
04	FL	DADE COUNTY*	12025C0267J	24-SEP-97	R4-974-096	02
04	FL	DADE COUNTY*	12025C0081J	24-SEP-97	R4-974-130	02
04	FL	DADE COUNTY*	12025C0093J	24-SEP-97	R4-974-240	02
04	FL	DADE COUNTY*	12025C0260J	05-NOV-97	R4-981-016	02
04	FL	DADE COUNTY*	12025C0267J	12-NOV-97	R4-981-036	08
04	FL	DADE COUNTY*	12025C0267J	12-NOV-97	R4-981-058	02
04	FL	DADE COUNTY*	12025C0266J	12-NOV-97	R4-981-068	02
04	FL	DANIA, CITY OF	12011C0306F	13-AUG-97	97-04-1894A	01
04	FL	DANIA, CITY OF	12011C0306F	12-SEP-97	97-04-2104A	01
04	FL	DANIA, CITY OF	12011C0306F	01-OCT-97	97-04-2178A	01
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	15-OCT-97	97-04-1576A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0120F	15-OCT-97	97-04-1576A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	11-DEC-97	97-04-2266A	01
04	FL	DESOTO COUNTY*	12027C0045B	23-DEC-97	R4-981-013	02
04	FL	DUNDEE, TOWN OF	1204090001B	08-DEC-97	R4-981-132	02
04	FL	ESCAMBIA COUNTY*	1200800245B	12-SEP-97	97-04-1464A	01
04	FL	ESCAMBIA COUNTY*	1200800245B	22-AUG-97	97-04-1630A	01
04	FL	FERNANDINA BEACH, CITY OF	1201720005E	01-AUG-97	97-04-1534A	01
04	FL	GULF COUNTY *	1200980175D	21-JUL-97	R4-973-119	02
04	FL	GULF COUNTY *	1200980175D	12-NOV-97	R4-981-032	02
04	FL	HERNANDO COUNTY *	1201100140B	08-SEP-97	97-04-834A	01
04	FL	HERNANDO COUNTY *	1201100300B	11-AUG-97	R4-973-204	02
04	FL	HERNANDO COUNTY *	1201100280B	11-AUG-97	R4-973-272	02
04	FL	HERNANDO COUNTY *	1201100280B	11-SEP-97	R4-974-023	02
04	FL	HERNANDO COUNTY *	1201100150B	04-NOV-97	R4-974-034	08
04	FL	HIALEAH GARDENS, CITY OF	1201100300B	04-NOV-97	R4-974-243	02
04	FL	HIALEAH, CITY OF	12025C0075J	06-NOV-97	97-04-2264A	01
04	FL	HIALEAH, CITY OF	12025C0075J	13-OCT-97	97-04-1846A	01
04	FL	HIALEAH, CITY OF	12025C0075J	27-AUG-97	97-04-1896A	01
04	FL	HIALEAH, CITY OF	12025C0075J	05-DEC-97	98-04-050A	01
04	FL	HIALEAH, CITY OF	12025C0075J	12-DEC-97	98-04-226A	01
04	FL	HIGHLANDS COUNTY *	1201110075B	13-NOV-97	97-04-251P	06
04	FL	HIGHLANDS COUNTY *	1201110100B	05-DEC-97	98-04-224A	01
04	FL	HIGHLANDS COUNTY *	1201110075B	20-AUG-97	R4-974-073	02
04	FL	HIGHLANDS COUNTY *	1201110150B	15-OCT-97	R4-981-017	02
04	FL	HILLSBOROUGH COUNTY*	1201120389D	11-AUG-97	97-04-1000A	02
04	FL	HILLSBOROUGH COUNTY*	1201120395E	29-AUG-97	97-04-1110A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	17-DEC-97	97-04-1112A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	17-OCT-97	97-04-1134A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	04-SEP-97	97-04-1162A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	10-SEP-97	97-04-1178A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	26-SEP-97	97-04-1198A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	23-JUL-97	97-04-1392A	01
04	FL	HILLSBOROUGH COUNTY*	1201120502B	07-JUL-97	97-04-1490A	01
04	FL	HILLSBOROUGH COUNTY*	1201120389D	22-AUG-97	97-04-1552A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	08-JUL-97	97-04-1592A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	08-JUL-97	97-04-1594A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	08-JUL-97	97-04-1596A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	17-JUL-97	97-04-1614A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	24-JUL-97	97-04-1628A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	16-JUL-97	97-04-1644A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	10-JUL-97	97-04-1696A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	17-JUL-97	97-04-1698A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	05-AUG-97	97-04-1730A	01
04	FL	HILLSBOROUGH COUNTY*	1201120090E	28-JUL-97	97-04-1764A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	14-AUG-97	97-04-1810A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	07-OCT-97	97-04-1840A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	14-AUG-97	97-04-1842A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	13-AUG-97	97-04-1864A	01
04	FL	HILLSBOROUGH COUNTY*	1201120494C	11-AUG-97	97-04-1884A	01
04	FL	HILLSBOROUGH COUNTY*	1201120415C	29-AUG-97	97-04-1892A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	HILLSBOROUGH COUNTY*	1201120395E	25-AUG-97	97-04-1938A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	10-SEP-97	97-04-1974A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	10-SEP-97	97-04-1978A	01
04	FL	HILLSBOROUGH COUNTY*	1201120167C	16-SEP-97	97-04-2096A	01
04	FL	HILLSBOROUGH COUNTY*	1201120520C	09-OCT-97	97-04-2144A	02
04	FL	HILLSBOROUGH COUNTY*	1201120387E	07-OCT-97	97-04-2184A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	07-OCT-97	97-04-2186A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	15-OCT-97	97-04-2232A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	13-OCT-97	97-04-2254A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	15-OCT-97	97-04-2256A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	15-OCT-97	97-04-2258A	01
04	FL	HILLSBOROUGH COUNTY*	1201120389D	23-OCT-97	97-04-2260A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	17-OCT-97	97-04-2274A	01
04	FL	HILLSBOROUGH COUNTY*	1201120425C	27-OCT-97	97-04-770A	01
04	FL	HILLSBOROUGH COUNTY*	1201120415C	23-OCT-97	98-04-006A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	31-OCT-97	98-04-034A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	12-NOV-97	98-04-084A	01
04	FL	HILLSBOROUGH COUNTY*	1201120494C	17-NOV-97	98-04-148A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	20-NOV-97	98-04-152A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	12-NOV-97	98-04-162A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	26-NOV-97	98-04-174A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	26-NOV-97	98-04-176A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	26-NOV-97	98-04-206A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	12-DEC-97	98-04-214A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	10-DEC-97	98-04-242A	01
04	FL	HILLSBOROUGH COUNTY*	1201120507C	10-DEC-97	98-04-242A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	10-DEC-97	98-04-244A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	17-DEC-97	98-04-296A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	22-DEC-97	98-04-306A	01
04	FL	HILLSBOROUGH COUNTY*	1201120180F	31-DEC-97	98-04-310A	01
04	FL	HILLSBOROUGH COUNTY*	1201120389D	22-DEC-97	98-04-340A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	31-DEC-97	98-04-394A	01
04	FL	HILLSBOROUGH COUNTY*	1201120210E	20-AUG-97	R4-881-011A	01
04	FL	HILLSBOROUGH COUNTY*	1201120180F	24-SEP-97	R4-922-145A	02
04	FL	HILLSBOROUGH COUNTY*	1201120385E	10-JUL-97	R4-973-123	02
04	FL	HILLSBOROUGH COUNTY*	1201120395E	10-JUL-97	R4-973-129	02
04	FL	HILLSBOROUGH COUNTY*	1201120387E	14-OCT-97	R4-973-219	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	22-JUL-97	R4-973-238	02
04	FL	HILLSBOROUGH COUNTY*	1201120040D	07-AUG-97	R4-974-031	02
04	FL	HILLSBOROUGH COUNTY*	1201120204D	27-AUG-97	R4-974-059	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	23-DEC-97	R4-974-068	02
04	FL	HILLSBOROUGH COUNTY*	1201120090E	08-SEP-97	R4-974-119	02
04	FL	HILLSBOROUGH COUNTY*	1201120236C	08-SEP-97	R4-974-151	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	01-OCT-97	R4-974-177	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	03-NOV-97	R4-974-201	02
04	FL	HILLSBOROUGH COUNTY*	1201120065D	03-DEC-97	R4-974-210	02
04	FL	HILLSBOROUGH COUNTY*	1201120385E	18-SEP-97	R4-974-213	02
04	FL	HILLSBOROUGH COUNTY*	1201120205D	23-DEC-97	R4-981-049	02
04	FL	HILLSBOROUGH COUNTY*	1201120385E	03-DEC-97	R4-981-088	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	16-DEC-97	R4-981-177	02
04	FL	INDIAN RIVER COUNTY *	12061C0168E	10-JUL-97	97-04-1740A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	12-NOV-97	98-04-112A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	26-NOV-97	98-04-262A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	17-DEC-97	98-04-292A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	19-DEC-97	98-04-326A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	05-DEC-97	98-04-432A	01
04	FL	INDIAN RIVER COUNTY *	12061C0155E	09-JUL-97	R4-973-113	02
04	FL	INDIAN ROCKS BEACH, CITY OF	1251170002B	11-SEP-97	R4-974-172	02
04	FL	INVERNESS, CITY OF	1203480002B	18-SEP-97	R4-974-187	02
04	FL	INVERNESS, CITY OF	1203480001B	16-DEC-97	R4-981-188	02
04	FL	INVERNESS, CITY OF	1203480001B	16-DEC-97	R4-981-198	02
04	FL	JACKSONVILLE, CITY OF	1200770243E	27-AUG-97	96-04-389A	02
04	FL	JACKSONVILLE, CITY OF	1200770228E	18-SEP-97	97-04-1520A	01
04	FL	JACKSONVILLE, CITY OF	1200770236E	18-SEP-97	97-04-1520A	01
04	FL	JACKSONVILLE, CITY OF	1200770216E	29-OCT-97	97-04-1676A	01
04	FL	JACKSONVILLE, CITY OF	1200770243E	24-JUL-97	97-04-1714A	01
04	FL	JACKSONVILLE, CITY OF	1200770150E	04-NOV-97	97-04-1726A	02
04	FL	JACKSONVILLE, CITY OF	1200770227E	12-DEC-97	97-04-1912A	01
04	FL	JACKSONVILLE, CITY OF	1200770229E	12-DEC-97	97-04-1912A	01
04	FL	JACKSONVILLE, CITY OF	1200770150E	01-JUL-97	97-04-221P	05
04	FL	JACKSONVILLE, CITY OF	1200770212E	27-OCT-97	97-04-2298A	02
04	FL	JACKSONVILLE, CITY OF	1200770241E	25-JUL-97	R4-974-001	02
04	FL	JACKSONVILLE, CITY OF	1200770241E	20-AUG-97	R4-974-069	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	JACKSONVILLE, CITY OF	1200770241E	02-OCT-97	R4-974-244	02
04	FL	JACKSONVILLE, CITY OF	1200770241E	16-DEC-97	R4-981-176	02
04	FL	LAKE COUNTY *	1204210425B	27-AUG-97	97-04-1748A	02
04	FL	LAKE COUNTY *	1204210325B	17-OCT-97	97-04-2162A	02
04	FL	LAKE COUNTY *	1204210150B	18-JUL-97	97-04-596A	02
04	FL	LAKE COUNTY *	1204210375B	15-JUL-97	R4-972-024	02
04	FL	LAKE COUNTY *	1204210200B	26-SEP-97	R4-972-227	02
04	FL	LAKE COUNTY *	1204210200B	26-SEP-97	R4-972-228	02
04	FL	LAKE COUNTY *	1204210200B	26-SEP-97	R4-972-229	02
04	FL	LAKE COUNTY *	1204210200B	26-SEP-97	R4-973-090	02
04	FL	LAKE COUNTY *	1204210125B	02-JUL-97	R4-973-155	02
04	FL	LAKE COUNTY *	1204210200B	11-SEP-97	R4-973-198	02
04	FL	LAKE COUNTY *	1204210300B	04-NOV-97	R4-973-232	02
04	FL	LAKE COUNTY *	1204210375B	11-SEP-97	R4-973-249	02
04	FL	LAKE COUNTY *	1204210125B	07-AUG-97	R4-974-010	02
04	FL	LAKE COUNTY *	1204210100B	10-SEP-97	R4-974-020	02
04	FL	LAKE COUNTY *	1204210200B	11-SEP-97	R4-974-063	02
04	FL	LAKE COUNTY *	1204210150B	29-AUG-97	R4-974-118	02
04	FL	LAKE COUNTY *	1204210225B	29-AUG-97	R4-974-122	02
04	FL	LAKE COUNTY *	1204210200B	26-SEP-97	R4-974-159	02
04	FL	LAKE COUNTY *	1204210125B	26-NOV-97	R4-974-191	02
04	FL	LAKE COUNTY *	1204210225B	16-DEC-97	R4-981-158	02
04	FL	LAKE COUNTY *	1204210250B	23-DEC-97	R4-981-239	02
04	FL	LAKE MARY, CITY OF	12117C0040E	21-AUG-97	97-04-1796A	01
04	FL	LAKE MARY, CITY OF	12117C0135E	18-SEP-97	97-04-1820A	02
04	FL	LAKELAND, CITY OF	1202670010B	03-NOV-97	R4-974-076	02
04	FL	LAUDERHILL, CITY OF	12011C0204F	06-NOV-97	97-04-2148A	02
04	FL	LAUDERHILL, CITY OF	12011C0205F	06-NOV-97	97-04-2148A	02
04	FL	LAUDERHILL, CITY OF	12011C0205F	11-DEC-97	98-04-124A	02
04	FL	LEE COUNTY*	1251240455B	14-JUL-97	97-04-1462A	01
04	FL	LEE COUNTY*	1251240510C	23-SEP-97	97-04-1616A	01
04	FL	LEE COUNTY*	1251240510C	22-JUL-97	97-04-1770A	01
04	FL	LEE COUNTY*	1251240510C	25-SEP-97	97-04-1970A	01
04	FL	LEE COUNTY*	1251240165B	23-SEP-97	97-04-2028A	01
04	FL	LEE COUNTY*	1251240225C	23-SEP-97	97-04-2030A	01
04	FL	LEE COUNTY*	1251240510C	29-SEP-97	97-04-2038A	01
04	FL	LEE COUNTY*	1251240510C	18-NOV-97	98-04-144A	01
04	FL	LEESBURG, CITY OF	1201360002B	25-JUL-97	R4-973-247	02
04	FL	LEON COUNTY *	1201430070A	10-SEP-97	R4-974-085	02
04	FL	LEVY COUNTY *	1201450625D	17-NOV-97	R4-981-003	02
04	FL	LIGHTHOUSE POINT, CITY OF	12011C0117G	17-DEC-97	R4-961-175A	02
04	FL	MAITLAND, CITY OF	1201840005B	10-SEP-97	97-04-1182A	02
04	FL	MANATEE COUNTY *	1201530365C	17-OCT-97	97-04-1132A	17
04	FL	MARGATE, CITY OF	12011C0115F	10-JUL-97	97-04-1656A	01
04	FL	MARGATE, CITY OF	12011C0115F	07-OCT-97	97-04-1890A	02
04	FL	MARGATE, CITY OF	12011C0115F	29-OCT-97	97-04-2300A	02
04	FL	MARGATE, CITY OF	12011C0115F	02-OCT-97	R4-974-120	02
04	FL	MARION COUNTY *	1201600640B	01-AUG-97	97-04-1792A	01
04	FL	MARION COUNTY *	1201600650B	01-AUG-97	97-04-1792A	01
04	FL	MARION COUNTY *	1201600300B	03-NOV-97	R4-974-176	02
04	FL	MARION COUNTY *	1201600720B	24-OCT-97	R4-974-277	02
04	FL	MARION COUNTY *	1201600125B	23-DEC-97	R4-981-001	02
04	FL	MARTIN COUNTY *	1201610038C	12-NOV-97	R4-981-067	02
04	FL	MEDLEY, TOWN OF	12025C0075J	22-SEP-97	R4-973-200	02
04	FL	MELBOURNE, CITY OF	12009C0441E	21-AUG-97	97-04-1874A	01
04	FL	MIAMI, CITY OF	12025C0187J	16-OCT-97	R4-974-226	08
04	FL	MIRAMAR, CITY OF	12011C0295F	25-AUG-97	97-04-1954A	01
04	FL	MIRAMAR, CITY OF	12011C0315F	31-OCT-97	97-04-1976A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	24-SEP-97	97-04-2118A	01
04	FL	MIRAMAR, CITY OF	12011C0315F	24-DEC-97	98-04-332A	01
04	FL	MONROE COUNTY*	12087C1131G	20-AUG-97	R4-974-094	02
04	FL	OKALOOSA COUNTY *		14-JUL-97	97-04-1624A	02
04	FL	OKALOOSA COUNTY *	1201730210E	15-OCT-97	97-04-1992A	01
04	FL	OKALOOSA COUNTY *	1201730205E	08-DEC-97	R4-941-067A	01
04	FL	OKALOOSA COUNTY *	1201730210E	03-NOV-97	R4-962-018A	01
04	FL	OKALOOSA COUNTY *	1201730210E	03-JUL-97	R4-973-121	02
04	FL	OKALOOSA COUNTY *	1201730210E	12-AUG-97	R4-973-158	02
04	FL	OKALOOSA COUNTY *	1201730210E	02-OCT-97	R4-974-246	02
04	FL	OKALOOSA COUNTY *	1201730210E	03-NOV-97	R4-981-002	02
04	FL	OKALOOSA COUNTY *	1201730210E	26-NOV-97	R4-981-050	02
04	FL	OKALOOSA COUNTY *	1201730210E	26-NOV-97	R4-981-061	02
04	FL	OKALOOSA COUNTY *	1201730210E	08-DEC-97	R4-981-114	02
04	FL	OKEECHOBEE COUNTY *	1201770230B	01-AUG-97	97-04-1054A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	OKEECHOBEE COUNTY *	12017702458	24-DEC-97	97-04-1848A	01
04	FL	OKEECHOBEE COUNTY *	1201770230B	24-DEC-97	97-04-1990A	01
04	FL	OLDSMAR, CITY OF	1202500003B	25-JUL-97	97-04-1612A	01
04	FL	OLDSMAR, CITY OF	1202500004B	25-JUL-97	97-04-1612A	01
04	FL	OLDSMAR, CITY OF	1202500003B	22-JUL-97	97-04-1646A	01
04	FL	OLDSMAR, CITY OF	1202500003B	28-AUG-97	97-04-1862A	01
04	FL	OLDSMAR, CITY OF	1202500004B	28-AUG-97	97-04-1862A	01
04	FL	OLDSMAR, CITY OF	1202500003B	10-OCT-97	97-04-2150A	01
04	FL	OLDSMAR, CITY OF	1202500004B	10-OCT-97	97-04-2150A	01
04	FL	OLDSMAR, CITY OF	1202500003B	12-NOV-97	98-04-186A	01
04	FL	OLDSMAR, CITY OF	1202500004B	12-NOV-97	98-04-186A	01
04	FL	ORANGE COUNTY *	1201790375D	17-JUL-97	96-04-321P	05
04	FL	ORANGE COUNTY *	1201790525B	17-JUL-97	96-04-321P	05
04	FL	ORANGE COUNTY *	1201790250D	11-AUG-97	97-04-045P	06
04	FL	ORANGE COUNTY *	1201790425C	11-AUG-97	97-04-045P	06
04	FL	ORANGE COUNTY *	1201790250D	03-OCT-97	97-04-1016A	01
04	FL	ORANGE COUNTY *	1201790200D	10-DEC-97	97-04-1158A	02
04	FL	ORANGE COUNTY *	1201790225C	29-SEP-97	97-04-1168A	01
04	FL	ORANGE COUNTY *	1201790250D	29-SEP-97	97-04-1168A	01
04	FL	ORANGE COUNTY *	1201790250D	29-SEP-97	97-04-1406A	01
04	FL	ORANGE COUNTY *	1201790175C	10-JUL-97	97-04-1408A	01
04	FL	ORANGE COUNTY *	1201790250D	30-JUL-97	97-04-1450A	01
04	FL	ORANGE COUNTY *	1201790200D	16-JUL-97	97-04-1458A	01
04	FL	ORANGE COUNTY *	1201790225C	15-AUG-97	97-04-1518A	01
04	FL	ORANGE COUNTY *	1201790250D	26-SEP-97	97-04-1582A	01
04	FL	ORANGE COUNTY *	1201790375D	07-JUL-97	97-04-1620A	02
04	FL	ORANGE COUNTY *	1201790250D	17-DEC-97	97-04-1876A	01
04	FL	ORANGE COUNTY *	1201790250D	13-AUG-97	97-04-1902A	01
04	FL	ORANGE COUNTY *	1201790400C	21-OCT-97	97-04-2114A	01
04	FL	ORANGE COUNTY *	1201790250D	13-OCT-97	97-04-2158A	01
04	FL	ORANGE COUNTY *	1201790200D	17-OCT-97	97-04-2170A	02
04	FL	ORANGE COUNTY *	1201790250D	19-DEC-97	97-04-2242A	01
04	FL	ORANGE COUNTY *	1201790250D	17-OCT-97	97-04-2262A	01
04	FL	ORANGE COUNTY *	1201790250D	19-SEP-97	97-04-231P	05
04	FL	ORANGE COUNTY *	1201790250D	14-NOV-97	98-04-068A	02
04	FL	ORANGE COUNTY *	1201790225C	22-DEC-97	98-04-314A	01
04	FL	ORANGE COUNTY *	1201790250D	22-DEC-97	98-04-314A	01
04	FL	ORANGE COUNTY *	1201790250D	31-DEC-97	98-04-318A	01
04	FL	ORANGE COUNTY *	1201790025B	26-NOV-97	R4-972-224	02
04	FL	ORANGE COUNTY *	1201790225C	02-JUL-97	R4-973-148	02
04	FL	ORANGE COUNTY *	1201790175C	02-JUL-97	R4-973-160	02
04	FL	ORANGE COUNTY *	1201790375D	02-JUL-97	R4-973-180	02
04	FL	ORANGE COUNTY *	1201790375D	22-JUL-97	R4-973-226	02
04	FL	ORANGE COUNTY *	1201790225C	07-AUG-97	R4-973-242	02
04	FL	ORANGE COUNTY *	1201790225C	12-AUG-97	R4-973-259	02
04	FL	ORANGE COUNTY *	1201790150B	24-SEP-97	R4-974-060	02
04	FL	ORANGE COUNTY *	1201790250D	10-SEP-97	R4-974-075	02
04	FL	ORANGE COUNTY *	1201790175C	10-SEP-97	R4-974-077	02
04	FL	ORANGE COUNTY *	1201790375D	20-AUG-97	R4-974-091	02
04	FL	ORANGE COUNTY *	1201790225C	30-OCT-97	R4-974-161	02
04	FL	ORANGE COUNTY *	1201790400C	18-SEP-97	R4-974-188	02
04	FL	ORANGE COUNTY *	1201790200D	08-SEP-97	R4-974-211	02
04	FL	ORANGE COUNTY *	1201790200D	24-SEP-97	R4-974-236	02
04	FL	ORANGE COUNTY *	1201790175C	03-DEC-97	R4-974-260	02
04	FL	ORANGE COUNTY *	1201790225C	03-DEC-97	R4-981-075	02
04	FL	ORANGE COUNTY *	1201790225C	08-DEC-97	R4-981-118	02
04	FL	ORANGE COUNTY *	1201790375D	08-DEC-97	R4-981-124	02
04	FL	ORANGE COUNTY *	1201790375D	16-DEC-97	R4-981-149	02
04	FL	ORANGE COUNTY *	1201790225C	23-DEC-97	R4-981-172	02
04	FL	ORANGE COUNTY *	1201790250D	23-DEC-97	R4-981-201	02
04	FL	ORLANDO, CITY OF	1201860010D	16-OCT-97	97-04-099P	06
04	FL	ORLANDO, CITY OF	1201860010D	31-JUL-97	97-04-1106A	01
04	FL	ORLANDO, CITY OF	1201860010D	31-JUL-97	97-04-1108A	01
04	FL	ORLANDO, CITY OF	1201860010D	21-OCT-97	98-04-058A	01
04	FL	ORLANDO, CITY OF	1201860015D	26-NOV-97	98-04-064A	02
04	FL	ORLANDO, CITY OF	1201860015D	17-NOV-97	R4-973-268	02
04	FL	ORLANDO, CITY OF	1201860015D	18-SEP-97	R4-974-219	02
04	FL	ORMOND BEACH, CITY OF	1251360008D	10-DEC-97	98-04-118A	01
04	FL	OSCEOLA COUNTY *	1201890075C	06-NOV-97	97-04-1680A	01
04	FL	OSCEOLA COUNTY *	1201890025C	13-AUG-97	97-04-1802A	01
04	FL	OSCEOLA COUNTY *	1201890020C	31-OCT-97	97-04-2070A	01
04	FL	OSCEOLA COUNTY *	1201890040B	31-OCT-97	97-04-2070A	01
04	FL	OVIEDO, CITY OF	12117C0170E	06-NOV-97	97-04-2154A	01

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Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	PALM BEACH COUNTY *	1201920208B	10-SEP-97	97-04-1102A	01
04	FL	PALM BEACH COUNTY *	1201920105B	30-JUL-97	97-04-1854A	01
04	FL	PALM BEACH COUNTY *	1201920240B	31-OCT-97	97-04-2168A	02
04	FL	PALM BEACH COUNTY *	1201920245B	31-OCT-97	97-04-2168A	02
04	FL	PALM BEACH COUNTY *	1201920155B	12-NOV-97	98-04-110A	01
04	FL	PALM BEACH GARDENS, CITY OF	1202210002B	30-OCT-97	R4-974-269	02
04	FL	PANAMA CITY BEACH, CITY OF	1200130005C	24-SEP-97	R4-974-037	02
04	FL	PANAMA CITY BEACH, CITY OF	1200130005C	23-DEC-97	R4-981-156	02
04	FL	PANAMA CITY, CITY OF	1200120005D	08-OCT-97	97-04-271P	06
04	FL	PASCO COUNTY *	1202300370D	08-SEP-97	97-04-1166A	01
04	FL	PASCO COUNTY *	1202300370D	01-OCT-97	97-04-1174A	01
04	FL	PASCO COUNTY *	1202300360D	10-SEP-97	97-04-1176A	01
04	FL	PASCO COUNTY *	1202300370D	19-AUG-97	97-04-1280A	01
04	FL	PASCO COUNTY *	1202300450E	30-JUL-97	97-04-1344A	01
04	FL	PASCO COUNTY *	1202300410E	10-JUL-97	97-04-1492A	01
04	FL	PASCO COUNTY *	1202300425E	11-AUG-97	97-04-1548A	01
04	FL	PASCO COUNTY *	1202300425E	15-AUG-97	97-04-1572A	01
04	FL	PASCO COUNTY *	1202300362D	07-JUL-97	97-04-1622A	02
04	FL	PASCO COUNTY *	1202300185D	16-JUL-97	97-04-1636A	02
04	FL	PASCO COUNTY *	1202300360D	30-JUL-97	97-04-1648A	02
04	FL	PASCO COUNTY *	1202300195D	06-NOV-97	97-04-1758A	02
04	FL	PASCO COUNTY *	1202300360D	01-AUG-97	97-04-1798A	01
04	FL	PASCO COUNTY *	1202300195D	06-NOV-97	97-04-1800A	02
04	FL	PASCO COUNTY *	1202300352C	24-JUL-97	97-04-1824A	02
04	FL	PASCO COUNTY *	1202300360D	16-SEP-97	97-04-1834A	01
04	FL	PASCO COUNTY *	1202300450E	10-SEP-97	97-04-1936A	01
04	FL	PASCO COUNTY *	1202300185D	16-SEP-97	97-04-1964A	02
04	FL	PASCO COUNTY *	1202300360D	07-OCT-97	97-04-1966A	02
04	FL	PASCO COUNTY *	1202300360D	29-SEP-97	97-04-2008A	02
04	FL	PASCO COUNTY *	1202300020C	24-SEP-97	97-04-2022A	01
04	FL	PASCO COUNTY *	1202300425E	09-OCT-97	97-04-2090A	01
04	FL	PASCO COUNTY *	1202300370D	03-OCT-97	97-04-2128A	01
04	FL	PASCO COUNTY *	1202300370D	18-NOV-97	98-04-042A	02
04	FL	PASCO COUNTY *	1202300360D	23-OCT-97	98-04-062A	01
04	FL	PASCO COUNTY *	1202300370D	05-DEC-97	98-04-158A	01
04	FL	PASCO COUNTY *	1202300352C	12-NOV-97	98-04-188A	01
04	FL	PASCO COUNTY *	1202300425E	20-AUG-97	R4-922-116A	01
04	FL	PASCO COUNTY *	1202300400D	02-OCT-97	R4-973-047	02
04	FL	PASCO COUNTY *	1202300189C	03-JUL-97	R4-973-068	02
04	FL	PASCO COUNTY *	1202300354D	03-JUL-97	R4-973-099	02
04	FL	PASCO COUNTY *	1202300360D	03-JUL-97	R4-973-099	02
04	FL	PASCO COUNTY *	1202300195D	14-JUL-97	R4-973-146	02
04	FL	PASCO COUNTY *	1202300195D	11-AUG-97	R4-973-174	02
04	FL	PASCO COUNTY *	1202300189C	07-AUG-97	R4-973-231	02
04	FL	PASCO COUNTY *	1202300205D	11-AUG-97	R4-973-240	02
04	FL	PASCO COUNTY *	1202300195D	10-SEP-97	R4-974-026	02
04	FL	PASCO COUNTY *	1202300195D	10-SEP-97	R4-974-042	02
04	FL	PASCO COUNTY *	1202300185D	20-AUG-97	R4-974-067	02
04	FL	PASCO COUNTY *	1202300362D	10-SEP-97	R4-974-083	02
04	FL	PASCO COUNTY *	1202300050C	17-DEC-97	R4-974-110	02
04	FL	PASCO COUNTY *	1202300425E	01-OCT-97	R4-974-155	02
04	FL	PASCO COUNTY *	1202300185D	11-SEP-97	R4-974-160	02
04	FL	PASCO COUNTY *	1202300345C	18-SEP-97	R4-974-212	02
04	FL	PASCO COUNTY *	1202300425E	04-NOV-97	R4-974-247	02
04	FL	PASCO COUNTY *	1202300275D	29-OCT-97	R4-974-250	02
04	FL	PASCO COUNTY *	1202300425E	04-NOV-97	R4-974-266	02
04	FL	PASCO COUNTY *	1202300455D	10-NOV-97	R4-981-074	02
04	FL	PASCO COUNTY *	1202300205D	23-DEC-97	R4-981-077	02
04	FL	PASCO COUNTY *	1202300362D	16-DEC-97	R4-981-181	02
04	FL	PASCO COUNTY *	1202300185D	17-DEC-97	R4-981-197	02
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	05-AUG-97	97-04-1226A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	07-AUG-97	97-04-1666A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	10-NOV-97	97-04-2052A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	26-NOV-97	98-04-136A	02
04	FL	PEMBROKE PINES, CITY OF	12011C0285F	10-DEC-97	98-04-246A	01
04	FL	PINELLAS COUNTY *	1251390077C	01-AUG-97	97-04-1094A	01
04	FL	PINELLAS COUNTY *	1251390037C	25-SEP-97	97-04-1138A	01
04	FL	PINELLAS COUNTY *	1251390039C	25-SEP-97	97-04-1138A	01
04	FL	PINELLAS COUNTY *	1251390043C	25-SEP-97	97-04-1138A	01
04	FL	PINELLAS COUNTY *	1251390044C	25-SEP-97	97-04-1138A	01
04	FL	PINELLAS COUNTY *	1251390039C	21-OCT-97	97-04-1424A	01
04	FL	PINELLAS COUNTY *	1251390077C	21-OCT-97	97-04-1424A	01
04	FL	PINELLAS COUNTY *	1251390019C	08-JUL-97	97-04-1528A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	PINELLAS COUNTY *	1251390079C	04-SEP-97	97-04-1728A	01
04	FL	PINELLAS COUNTY *	1251390081C	28-JUL-97	97-04-1742A	01
04	FL	PINELLAS COUNTY *	1251390081C	11-SEP-97	97-04-1744A	01
04	FL	PINELLAS COUNTY *	1251390079C	01-AUG-97	97-04-1788A	01
04	FL	PINELLAS COUNTY *	1202590003B	16-SEP-97	97-04-2010A	01
04	FL	PINELLAS COUNTY *	1251390081C	31-OCT-97	97-04-2020A	01
04	FL	PINELLAS COUNTY *	1251390081C	29-OCT-97	97-04-2194A	01
04	FL	PINELLAS COUNTY *	1251390081C	26-NOV-97	98-04-044A	01
04	FL	PINELLAS COUNTY *	1251390203C	17-DEC-97	98-04-060A	02
04	FL	PINELLAS COUNTY *	1251390079C	12-NOV-97	98-04-080A	01
04	FL	PINELLAS COUNTY *	1251390079C	12-DEC-97	98-04-104A	01
04	FL	PINELLAS COUNTY *	1251390039C	05-DEC-97	98-04-276A	01
04	FL	PINELLAS COUNTY *	1251390079C	12-DEC-97	98-04-300A	01
04	FL	PINELLAS COUNTY *	1251390039C	11-SEP-97	R4-974-012	02
04	FL	PINELLAS COUNTY *	1251390039C	14-AUG-97	R4-974-016	02
04	FL	PINELLAS COUNTY *	1251390039C	16-OCT-97	R4-974-016A	02
04	FL	PINELLAS COUNTY *	1251390039C	03-NOV-97	R4-974-174	02
04	FL	POLK COUNTY*	1202610320B	31-JUL-97	96-04-271P	06
04	FL	POLK COUNTY*	1202610525B	15-AUG-97	96-04-369P	06
04	FL	POLK COUNTY*	1202610480D	12-SEP-97	97-04-1030A	01
04	FL	POLK COUNTY*	1202610125B	09-OCT-97	97-04-1380A	02
04	FL	POLK COUNTY*	1202610250B	09-OCT-97	97-04-1380A	02
04	FL	POLK COUNTY*	1202610500D	25-SEP-97	97-04-351P	06
04	FL	POLK COUNTY*	1202610375D	24-DEC-97	98-04-196A	01
04	FL	POLK COUNTY*	1202610250B	10-SEP-97	R4-973-191	02
04	FL	POLK COUNTY*	1202610525B	11-AUG-97	R4-973-274	02
04	FL	POLK COUNTY*	1202610475D	04-NOV-97	R4-974-271	02
04	FL	POLK COUNTY*	1202610350B	24-OCT-97	R4-981-005	02
04	FL	POLK COUNTY*	1202610350B	30-OCT-97	R4-981-022	02
04	FL	POMPANO BEACH, CITY OF	12011C0120F	29-JUL-97	97-04-1794A	01
04	FL	POMPANO BEACH, CITY OF	12011C0120F	12-SEP-97	97-04-1958A	01
04	FL	POMPANO BEACH, CITY OF	12011C0206F	07-OCT-97	97-04-2074A	02
04	FL	POMPANO BEACH, CITY OF	12011C0120F	14-OCT-97	97-04-2140A	01
04	FL	POMPANO BEACH, CITY OF	12011C0120F	16-DEC-97	98-04-448A	01
04	FL	POMPANO BEACH, CITY OF	12011C0206F	08-DEC-97	R4-981-107	02
04	FL	PORT ORANGE, CITY OF	1203130010C	16-SEP-97	97-04-1056A	01
04	FL	PORT ORANGE, CITY OF	1203130005C	19-AUG-97	97-04-1780A	01
04	FL	PORT ORANGE, CITY OF	1203130005C	24-DEC-97	98-04-216A	01
04	FL	ROCKLEDGE, CITY OF	12009C0365E	08-JUL-97	97-04-976A	01
04	FL	SARASOTA COUNTY *	1251440143E	24-JUL-97	97-04-049P	08
04	FL	SARASOTA COUNTY *	1251440152D	30-JUL-97	97-04-1480A	01
04	FL	SARASOTA COUNTY *	1251440151D	12-DEC-97	98-04-434A	02
04	FL	SARASOTA COUNTY *	1251440170D	10-SEP-97	R4-973-102	02
04	FL	SARASOTA COUNTY *	1251440341E	22-JUL-97	R4-973-248	02
04	FL	SARASOTA COUNTY *	1251440141D	29-AUG-97	R4-974-062	02
04	FL	SARASOTA, CITY OF	1251500009B	22-JUL-97	R4-973-220	02
04	FL	SEMINOLE COUNTY*	12117C0145E	09-OCT-97	97-04-1782A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	26-NOV-97	97-04-2130A	01
04	FL	SEMINOLE COUNTY*	12117C0065E	15-JUL-97	97-04-253P	06
04	FL	SEMINOLE COUNTY*	12117C0145E	26-NOV-97	98-04-194A	02
04	FL	SEMINOLE COUNTY*	12117C0110E	12-AUG-97	R4-944-204A	01
04	FL	SEMINOLE COUNTY*	12117C0145E	10-SEP-97	R4-961-287	02
04	FL	SEMINOLE COUNTY*	12117C0145E	20-AUG-97	R4-963-236A	01
04	FL	SEMINOLE COUNTY*	12117C0120E	19-AUG-97	R4-971-193	02
04	FL	SEMINOLE COUNTY*	12117C0145E	03-NOV-97	R4-972-111	02
04	FL	SEMINOLE COUNTY*	12117C0145E	26-NOV-97	R4-972-193	02
04	FL	SEMINOLE COUNTY*	12117C0140E	11-AUG-97	R4-973-164	02
04	FL	SEMINOLE COUNTY*	12117C0120E	02-JUL-97	R4-973-165	02
04	FL	SEMINOLE COUNTY*	12117C0040E	30-OCT-97	R4-973-239	02
04	FL	SEMINOLE COUNTY*	12117C0115E	22-JUL-97	R4-973-241	02
04	FL	SEMINOLE COUNTY*	12117C0065E	20-AUG-97	R4-974-086	02
04	FL	ST. CLOUD, CITY OF	1201910005D	03-OCT-97	97-04-2156A	01
04	FL	ST. CLOUD, CITY OF	1201910005D	31-DEC-97	97-04-331A	01
04	FL	ST. JOHNS COUNTY *	1251470095D	11-SEP-97	97-04-1418A	01
04	FL	ST. JOHNS COUNTY *	1251470016D	10-DEC-97	97-04-2142A	02
04	FL	ST. JOHNS COUNTY *	1251470095D	07-NOV-97	97-04-2272A	01
04	FL	ST. JOHNS COUNTY *	1251470095D	12-DEC-97	98-04-402A	01
04	FL	ST. JOHNS COUNTY *	1251470020D	07-AUG-97	R4-974-030	02
04	FL	ST. LUCIE COUNTY *	12111C0281G	18-AUG-97	R4-943-113	01
04	FL	ST. LUCIE COUNTY *	12111C0280F	07-AUG-97	R4-973-260	02
04	FL	STARKE, CITY OF	12007C0175D	14-AUG-97	R4-964-207	02
04	FL	SUMTER COUNTY *	1202960075B	21-AUG-97	97-04-1732A	02
04	FL	SUMTER COUNTY *	1202960250B	17-DEC-97	R4-981-100	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	SUMTER COUNTY *	1202960100B	16-DEC-97	R4-981-175	02
04	FL	TALLAHASSEE, CITY OF	12073C0281D	22-DEC-97	97-04-1466A	02
04	FL	TALLAHASSEE, CITY OF	1201440020C	01-OCT-97	R4-974-114	02
04	FL	TAMARAC, CITY OF	12011C0095F	09-JUL-97	97-04-1712A	01
04	FL	TAMARAC, CITY OF	12011C0205F	09-JUL-97	97-04-1712A	01
04	FL	TAMARAC, CITY OF	12011C0205F	10-SEP-97	97-04-1980A	01
04	FL	TAMARAC, CITY OF	12011C0185F	29-SEP-97	97-04-2056A	02
04	FL	TAMARAC, CITY OF	12011C0185F	26-NOV-97	97-04-2058A	02
04	FL	TAMARAC, CITY OF	12011C0185F	26-NOV-97	97-04-2060A	02
04	FL	TAMARAC, CITY OF	12011C0205F	17-DEC-97	98-04-330A	01
04	FL	TAVARES, CITY OF	1201380002B	08-DEC-97	R4-981-110	02
04	FL	TEMPLE TERRACE, CITY OF	1201150005E	12-NOV-97	R4-981-096	02
04	FL	TITUSVILLE, CITY OF	12009C0180E	15-AUG-97	97-04-1904A	01
04	FL	TITUSVILLE, CITY OF	12009C0190F	02-JUL-97	R4-973-154	02
04	FL	TITUSVILLE, CITY OF	12009C0180E	08-DEC-97	R4-981-137	02
04	FL	VOLUSIA COUNTY*	1251550038F	29-AUG-97	97-04-1914A	01
04	FL	VOLUSIA COUNTY*	1251550408E	29-OCT-97	97-04-2200A	01
04	FL	VOLUSIA COUNTY*	1251550605E	16-JUL-97	97-04-884A	01
04	FL	VOLUSIA COUNTY*	1251550017F	17-DEC-97	R4-971-071	08
04	FL	VOLUSIA COUNTY*	1251550275E	03-NOV-97	R4-974-099	02
04	FL	VOLUSIA COUNTY*	1251550500E	23-DEC-97	R4-981-162	02
04	FL	WAKULLA COUNTY *	1203150225B	04-NOV-97	97-04-1836A	02
04	FL	WAKULLA COUNTY *	1203150225B	12-SEP-97	97-04-1878A	02
04	FL	WINTER SPRINGS, CITY OF	12117C0135E	24-JUL-97	97-04-1694A	01
04	FL	WINTER SPRINGS, CITY OF	12117C0165E	31-OCT-97	97-04-2082A	01
04	FL	WINTER SPRINGS, CITY OF	12117C0145E	23-DEC-97	R4-981-147	02
04	GA	ALBANY, CITY OF	1300750010C	31-OCT-97	98-04-026A	02
04	GA	ATLANTA, CITY OF	1351570016C	10-JUL-97	R4-864-014A	02
04	GA	ATLANTA, CITY OF	1351570016C	11-SEP-97	R4-972-199	02
04	GA	ATLANTA, CITY OF	1351570016C	08-DEC-97	R4-973-111	02
04	GA	ATLANTA, CITY OF	1351570017C	11-SEP-97	R4-974-107	02
04	GA	ATLANTA, CITY OF	1351570016C	18-DEC-97	R4-974-268	02
04	GA	ATLANTA, CITY OF	1351570016C	23-DEC-97	R4-981-086	02
04	GA	ATLANTA, CITY OF	1351570023C	12-NOV-97	R4-981-091	02
04	GA	BALDWIN COUNTY*	1300050075B	26-SEP-97	R4-974-132	02
04	GA	BALDWIN COUNTY*	1300050075B	23-DEC-97	R4-981-117	02
04	GA	BARROW COUNTY*	1304970075A	18-NOV-97	97-04-2252A	02
04	GA	CHEROKEE COUNTY*	13057C0310C	12-NOV-97	R4-981-039	02
04	GA	CHICKAMAUGA, CITY OF	1301810001C	15-SEP-97	97-04-2016A	01
04	GA	CLAYTON COUNTY*	1300410015D	11-AUG-97	R4-973-058	02
04	GA	CLAYTON COUNTY*	1300410015D	14-JUL-97	R4-973-192	02
04	GA	COBB COUNTY*	13067C0025F	25-SEP-97	97-04-2054A	02
04	GA	COBB COUNTY*	13067C0035F	27-OCT-97	97-04-2208A	02
04	GA	COBB COUNTY*	13067C0085F	29-AUG-97	R4-954-165	02
04	GA	COBB COUNTY*	13067C0075F	02-OCT-97	R4-964-426	02
04	GA	COBB COUNTY*	13067C0040F	12-AUG-97	R4-971-056	02
04	GA	COBB COUNTY*	13067C0060F	23-DEC-97	R4-972-032	02
04	GA	COBB COUNTY*	13067C0035F	11-AUG-97	R4-972-190	02
04	GA	COBB COUNTY*	13067C0015F	01-OCT-97	R4-973-084	02
04	GA	COBB COUNTY*	13067C0070F	11-AUG-97	R4-973-205	02
04	GA	COBB COUNTY*	13067C0015F	14-AUG-97	R4-973-211	02
04	GA	COBB COUNTY*	13067C0075F	11-AUG-97	R4-973-215	02
04	GA	COBB COUNTY*	13067C0035F	24-OCT-97	R4-974-019	02
04	GA	COBB COUNTY*	13067C0055F	07-AUG-97	R4-974-021	02
04	GA	COBB COUNTY*	13067C0035F	24-SEP-97	R4-974-025	02
04	GA	COBB COUNTY*	13067C0035F	16-OCT-97	R4-974-081	02
04	GA	COBB COUNTY*	13067C0055F	02-OCT-97	R4-974-123	02
04	GA	COBB COUNTY*	13067C0055F	24-SEP-97	R4-974-167	02
04	GA	COBB COUNTY*	13067C0035F	24-SEP-97	R4-974-230	02
04	GA	COBB COUNTY*	13067C0035F	24-SEP-97	R4-974-235	02
04	GA	COBB COUNTY*	13067C0035F	03-NOV-97	R4-974-282	02
04	GA	COBB COUNTY*	13067C0035F	24-OCT-97	R4-981-004	02
04	GA	COBB COUNTY*	13067C0070F	30-OCT-97	R4-981-019	02
04	GA	COBB COUNTY*	13067C0015F	03-DEC-97	R4-981-028	02
04	GA	COBB COUNTY*	13067C0035F	03-DEC-97	R4-981-083	02
04	GA	COBB COUNTY*	13067C0040F	17-NOV-97	R4-981-093	02
04	GA	COBB COUNTY*	13067C0070F	23-DEC-97	R4-981-153	02
04	GA	COLUMBUS, CITY OF	1351580045D	18-SEP-97	97-04-1070A	01
04	GA	COLUMBUS, CITY OF	1351580050D	24-OCT-97	R4-974-276	02
04	GA	COWETA COUNTY *	1302980135A	16-DEC-97	R4-981-154	02
04	GA	CUMMING, CITY OF	13117C0115C	11-AUG-97	R4-973-059	02
04	GA	DALTON, CITY OF	1301940005C	16-DEC-97	R4-981-018	02
04	GA	DECATUR, CITY OF	1351590001B	03-JUL-97	R4-973-063	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	GA	DEKALB COUNTY *	1300650009C	24-OCT-97	R4-971-281	02
04	GA	DEKALB COUNTY *	1300650003E	12-AUG-97	R4-974-018	02
04	GA	DEKALB COUNTY *	1300650009C	08-SEP-97	R4-974-117	02
04	GA	DEKALB COUNTY *	1300650003E	18-SEP-97	R4-974-254	02
04	GA	DORAVILLE, CITY OF	1300690001C	05-NOV-97	R4-981-035	02
04	GA	DULUTH, CITY OF	1300980003B	24-SEP-97	R4-973-089	02
04	GA	FAIRBURN, CITY OF	1303140005B	22-JUL-97	R4-973-210	02
04	GA	FAYETTE COUNTY *	13113C0125D	18-SEP-97	R4-974-214	02
04	GA	FAYETTEVILLE, CITY OF	13113C0085D	26-NOV-97	R4-973-098	02
04	GA	FLOYD COUNTY*	1300790160A	31-DEC-97	98-04-170A	01
04	GA	FLOYD COUNTY*	1300790160A	23-DEC-97	R4-973-107	08
04	GA	FORSYTH COUNTY *	13117C0090C	17-NOV-97	R4-971-096	02
04	GA	FORSYTH COUNTY *	13117C0160C	01-OCT-97	R4-972-196	02
04	GA	FORSYTH COUNTY *	13117C0125C	07-AUG-97	R4-973-270	02
04	GA	FORSYTH COUNTY *	13117C0125C	26-NOV-97	R4-974-248	02
04	GA	FORSYTH COUNTY *	13117C0090C	12-NOV-97	R4-981-047	02
04	GA	FORSYTH COUNTY *	13117C0115C	03-DEC-97	R4-981-094	02
04	GA	FORSYTH COUNTY *	13117C0115C	23-DEC-97	R4-981-119	02
04	GA	FULTON COUNTY *	1351600055C	08-SEP-97	97-04-1674A	01
04	GA	FULTON COUNTY *	1351600060B	23-DEC-97	R4-971-219	02
04	GA	FULTON COUNTY *	1351600055C	22-JUL-97	R4-973-256	02
04	GA	FULTON COUNTY *	1351600055C	20-AUG-97	R4-974-051	02
04	GA	FULTON COUNTY *	1351600055C	27-AUG-97	R4-974-103	02
04	GA	FULTON COUNTY *	1351600055C	27-AUG-97	R4-974-109	02
04	GA	FULTON COUNTY *	1351600055C	08-SEP-97	R4-974-131	02
04	GA	GLYNN COUNTY *	1300920140D	11-DEC-97	96-04-387P	05
04	GA	GWINNETT COUNTY *	1303220070C	26-OCT-97	96-04-211P	05
04	GA	GWINNETT COUNTY *	1303220070C	25-OCT-97	96-04-213P	05
04	GA	GWINNETT COUNTY *	1303280003A	25-OCT-97	96-04-213P	05
04	GA	GWINNETT COUNTY *	1303220285C	23-JUL-97	96-04-217P	05
04	GA	GWINNETT COUNTY *	1303220055C	17-NOV-97	97-04-1312A	01
04	GA	GWINNETT COUNTY *	1303220185C	10-JUL-97	R4-972-081	02
04	GA	GWINNETT COUNTY *	1303220305C	14-JUL-97	R4-973-194	02
04	GA	GWINNETT COUNTY *	1303220195C	21-JUL-97	R4-974-056	02
04	GA	GWINNETT COUNTY *	1303220190C	11-SEP-97	R4-974-058	02
04	GA	GWINNETT COUNTY *	1303220085C	03-NOV-97	R4-974-163	02
04	GA	GWINNETT COUNTY *	1303220280C	16-OCT-97	R4-974-190	02
04	GA	GWINNETT COUNTY *	1303220070C	02-OCT-97	R4-974-205	02
04	GA	GWINNETT COUNTY *	1303220190C	18-DEC-97	R4-981-115	02
04	GA	GWINNETT COUNTY *	1303220280C	16-DEC-97	R4-981-195	02
04	GA	HALL COUNTY *	1304660150B	11-SEP-97	R4-974-065	02
04	GA	HARRIS COUNTY*	1303380150A	22-DEC-97	98-04-094A	02
04	GA	HARRIS COUNTY*	1303380150A	25-JUL-97	R4-973-250	02
04	GA	HARRIS COUNTY*	1303380150A	04-NOV-97	R4-981-102	02
04	GA	HINESVILLE,CITY OF	1301230175A	01-DEC-97	97-04-001P	05
04	GA	LAKE CITY, CITY OF	130044 B	26-NOV-97	R4-981-043	02
04	GA	LAKE CITY, CITY OF	130044 B	03-DEC-97	R4-981-044	02
04	GA	LIBERTY COUNTY *	1301230175A	01-DEC-97	97-04-001P	05
04	GA	LUMPKIN COUNTY	1303540145A	03-DEC-97	R4-974-242	02
04	GA	MACON, CITY OF	1300110025D	03-JUL-97	R4-973-078	02
04	GA	MACON, CITY OF	1300110025D	11-SEP-97	R4-974-104	02
04	GA	MCINTOSH COUNTY *	1301300190B	16-DEC-97	R4-981-178	02
04	GA	MURRAY COUNTY*	1303660175B	26-SEP-97	R4-974-140	02
04	GA	NORCROSS, CITY OF	1301010001B	02-JUL-97	R4-973-149	02
04	GA	PEACHTREE CITY, CITY OF	13113C0060D	12-NOV-97	R4-981-033	02
04	GA	RICHMOND COUNTY*	1301580060B	23-JUL-97	97-04-245P	06
04	GA	RICHMOND COUNTY*	1301580070B	23-JUL-97	97-04-245P	06
04	GA	RICHMOND COUNTY*	1301580060B	18-SEP-97	R4-974-195	02
04	GA	RICHMOND COUNTY*	1301580135B	24-OCT-97	R4-974-272	02
04	GA	ROCKDALE COUNTY *	1303840040A	23-DEC-97	R4-981-231	02
04	GA	ROME, CITY OF	1300810010C	15-JUL-97	R4-973-108	02
04	GA	ROSWELL, CITY OF	1300880010D	07-AUG-97	R4-973-011	02
04	GA	SMYRNA, CITY OF	13067C0075F	11-SEP-97	R4-972-116	02
04	GA	SMYRNA, CITY OF	13067C0075F	25-JUL-97	R4-973-225	02
04	GA	THOMAS COUNTY *	1304010090B	08-OCT-97	97-04-327P	06
04	GA	TYRONE, TOWN OF	13113C0040D	03-JUL-97	R4-973-179	02
04	GA	WALTON COUNTY *	13297C0070B	29-AUG-97	97-04-129P	06
04	GA	WALTON COUNTY *	13297C0045C	02-SEP-97	R4-973-234	02
04	GA	WALTON COUNTY *	13297C0100B	26-SEP-97	R4-974-165	02
04	GA	WEST POINT, CITY OF	1301780001B	31-DEC-97	98-04-396A	01
04	GA	WOODSTOCK, CITY OF	13057C0330B	01-OCT-97	R4-974-142	02
04	KY	BARBOURVILLE, CITY OF	2101320002D	30-JUL-97	97-04-1838A	01
04	KY	BARBOURVILLE, CITY OF	2101320002D	13-OCT-97	97-04-1986A	01

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Region	State	Community	Map panel	Determination date	Case No.	Type
04	KY	BOWLING GREEN, CITY OF	21227C0160D	14-OCT-97	96-04-944P	05
04	KY	BULLITT COUNTY*	210273 B	01-OCT-97	R4-971-041	02
04	KY	CALLOWAY COUNTY *	2103130005A	15-OCT-97	97-04-2296A	02
04	KY	DAVIESS COUNTY *	21059C0260C	26-NOV-97	97-04-1128A	02
04	KY	DAVIESS COUNTY *	21059C0280C	01-AUG-97	97-04-1448A	01
04	KY	DAVIESS COUNTY *	21059C0095C	17-NOV-97	R4-974-135	02
04	KY	FLOYD COUNTY *	2100690050C	21-OCT-97	97-04-2132A	01
04	KY	FRANKFORT, CITY OF	2100750002B	09-SEP-97	97-04-161P	06
04	KY	FRANKFORT, CITY OF	2100750005B	09-SEP-97	97-04-161P	06
04	KY	HENDERSON COUNTY*	2102860125B	28-JUL-97	97-04-1784A	02
04	KY	HENDERSON COUNTY*	2102860075B	30-JUL-97	97-04-528A	02
04	KY	JEFFERSON COUNTY*	21111C0020D	08-SEP-97	97-04-1488A	02
04	KY	JEFFERSON COUNTY*	21111C0165D	28-JUL-97	97-04-1546A	01
04	KY	JEFFERSON COUNTY*	21111C0085D	11-SEP-97	R4-972-085	02
04	KY	JEFFERSON COUNTY*	21111C0095D	03-NOV-97	R4-972-214	02
04	KY	JEFFERSON COUNTY*	21111C0080D	15-JUL-97	R4-972-252	02
04	KY	JEFFERSON COUNTY*	21111C0095D	22-JUL-97	R4-973-201	02
04	KY	JEFFERSON COUNTY*	21111C0085D	11-AUG-97	R4-973-212	02
04	KY	JEFFERSON COUNTY*	21111C0020D	08-SEP-97	R4-973-217	02
04	KY	JEFFERSON COUNTY*	21111C0095D	11-SEP-97	R4-974-039	02
04	KY	JEFFERSON COUNTY*	21111C0120D	26-SEP-97	R4-974-090	02
04	KY	JEFFERSON COUNTY*	21111C0020D	08-SEP-97	R4-974-112	02
04	KY	JEFFERSON COUNTY*	21111C0095D	26-SEP-97	R4-974-137	02
04	KY	JEFFERSON COUNTY*	21111C0095D	26-SEP-97	R4-974-144	02
04	KY	JEFFERSON COUNTY*	21111C0190D	26-SEP-97	R4-974-156	02
04	KY	JEFFERSON COUNTY*	21111C0190D	26-SEP-97	R4-974-180	02
04	KY	JEFFERSON COUNTY*	21111C0255D	30-OCT-97	R4-974-209	08
04	KY	JEFFERSON COUNTY*	21111C0170D	30-OCT-97	R4-981-007	02
04	KY	JEFFERSON COUNTY*	21111C0135D	10-NOV-97	R4-981-069	08
04	KY	JEFFERSON COUNTY*	21111C0160D	03-DEC-97	R4-981-090	02
04	KY	JEFFERSON COUNTY*	21111C0095D	26-NOV-97	R4-981-103	02
04	KY	KNOX COUNTY *	2101310145B	17-DEC-97	98-04-076A	01
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT	2100670070C	08-DEC-97	R4-971-126	02
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT	2100670060C	20-AUG-97	R4-974-070	02
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT	2100670060C	08-DEC-97	R4-981-081	02
04	KY	LOUISVILLE, CITY OF	21111C0160D	12-NOV-97	98-04-038A	01
04	KY	LOUISVILLE, CITY OF	21111C0160D	23-DEC-97	R4-981-106	02
04	KY	MCCRACKEN COUNTY *	2101510020B	10-NOV-97	R4-972-016	02
04	KY	NICHOLASVILLE, CITY OF	2101260005B	30-OCT-97	R4-974-249	02
04	KY	OWENSBORO, CITY OF	21059C0260C	26-NOV-97	97-04-1128A	02
04	KY	OWENSBORO, CITY OF	21059C0260C	17-NOV-97	97-04-1822A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	12-NOV-97	98-04-032A	01
04	KY	OWENSBORO, CITY OF	21059C0260C	07-AUG-97	R4-974-032	02
04	KY	OWENSBORO, CITY OF	21059C0280C	20-AUG-97	R4-974-066	02
04	KY	OWENSBORO, CITY OF	21059C0260C	08-SEP-97	R4-974-138	02
04	KY	OWENSBORO, CITY OF	21059C0280C	08-SEP-97	R4-974-139	02
04	KY	OWENSBORO, CITY OF	21059C0280C	24-SEP-97	R4-974-171	02
04	KY	OWENSBORO, CITY OF	21059C0280C	18-SEP-97	R4-974-193	02
04	KY	OWENSBORO, CITY OF	21059C0260C	08-DEC-97	R4-981-134	02
04	KY	SHIVELY, CITY OF	21111C0135D	24-SEP-97	R4-973-282	02
04	KY	STANTON, CITY OF	2101960001B	18-DEC-97	R4-973-077	02
04	KY	WINCHESTER, CITY OF	2100560002B	15-JUL-97	R4-973-085	02
04	MS	BRANDON, CITY OF	2801430001C	17-OCT-97	97-04-2076A	01
04	MS	BRANDON, CITY OF	2801430001C	17-OCT-97	97-04-2116A	01
04	MS	COLUMBUS, CITY OF	2801080005H	10-JUL-97	97-04-1688A	01
04	MS	COLUMBUS, CITY OF	2801930065E	10-JUL-97	97-04-1688A	01
04	MS	COLUMBUS, CITY OF	2801080005H	10-JUL-97	97-04-1690A	01
04	MS	COLUMBUS, CITY OF	2801080005H	10-JUL-97	97-04-1692A	01
04	MS	COLUMBUS, CITY OF	2801080005H	25-JUL-97	R4-973-227	02
04	MS	COLUMBUS, CITY OF	2801080005H	08-DEC-97	R4-974-270	02
04	MS	DESOTO COUNTY *	2302830010B	04-SEP-97	97-04-922A	01
04	MS	DESOTO COUNTY *	28033C0150E	12-AUG-97	R4-974-036	02
04	MS	HATTIESBURG, CITY OF	28035C0040C	08-SEP-97	R4-974-148	02
04	MS	HORN LAKE, CITY OF		19-AUG-97	97-04-1246A	01
04	MS	HORN LAKE, CITY OF	28033C0040E	10-DEC-97	98-04-286A	02
04	MS	HORN LAKE, CITY OF	28033C0040E	15-JUL-97	R4-972-008	02
04	MS	JACKSON COUNTY*	2852560205D	29-OCT-97	97-04-2088A	01
04	MS	JACKSON COUNTY*	2852560190E	10-NOV-97	R4-964-054	02
04	MS	JACKSON, CITY OF	2800720020F	10-JUL-97	97-04-1202A	02
04	MS	JACKSON, CITY OF	2800720030F	22-DEC-97	97-04-2288A	02
04	MS	JACKSON, CITY OF	2800720030F	25-JUL-97	R4-974-041	02
04	MS	PEARL, CITY OF	2801450005C	09-OCT-97	97-04-2212A	02
04	MS	QUITMAN COUNTY *	2802070125B	26-SEP-97	R4-971-172	02

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04	MS	RANKIN COUNTY *	2801420070C	23-SEP-97	97-04-1960A	01
04	MS	RANKIN COUNTY *	2801420080C	02-DEC-97	97-04-2120A	01
04	MS	RANKIN COUNTY *	2801420080C	04-NOV-97	98-04-184A	01
04	MS	RANKIN COUNTY *	2801420155B	26-NOV-97	98-04-288A	02
04	MS	RICHLAND, CITY OF	2802990003C	01-OCT-97	R4-974-257	08
04	MS	RIDGELAND, CITY OF	28089C0320D	29-OCT-97	96-04-057P	05
04	MS	SHARKEY COUNTY*	2801520075B	23-DEC-97	R4-973-264	02
04	MS	SOUTHHAVEN, CITY OF	28033C0043E	17-DEC-97	R4-981-218	02
04	MS	TALLAHATCHIE COUNTY *	2802060075B	23-DEC-97	R4-981-065	02
04	MS	WINSTON COUNTY *	2803080175B	12-NOV-97	98-04-100A	01
04	MS	WINSTON COUNTY *	2803080200B	12-NOV-97	98-04-100A	01
04	NC	BOILING SPRING LAKES, CITY OF	3704530020B	12-NOV-97	R4-981-041	02
04	NC	BRUNSWICK COUNTY*	3702950310E	25-SEP-97	97-04-1722A	02
04	NC	BUNCOMBE COUNTY *	37021C0205C	23-DEC-97	R4-981-171	02
04	NC	CARY, TOWN OF	37183C0501F	10-NOV-97	R4-971-213	02
04	NC	CATAWBA COUNTY *	3700500325B	10-SEP-97	R4-972-195	02
04	NC	CATAWBA COUNTY *	3700500350B	10-SEP-97	R4-973-050	02
04	NC	CATAWBA COUNTY *	3700500325B	03-JUL-97	R4-973-097	02
04	NC	CATAWBA COUNTY *	3700500325B	10-SEP-97	R4-973-118	02
04	NC	CATAWBA COUNTY *	3700500350B	03-JUL-97	R4-973-132	02
04	NC	CATAWBA COUNTY *	3700500325B	03-JUL-97	R4-973-157	02
04	NC	CATAWBA COUNTY *	3700500350B	10-SEP-97	R4-974-015	02
04	NC	CATAWBA COUNTY *	3700500350B	10-SEP-97	R4-974-040	02
04	NC	CATAWBA COUNTY *	3700500325B	23-DEC-97	R4-974-043	02
04	NC	CATAWBA COUNTY *	3700500350B	10-SEP-97	R4-974-055	02
04	NC	CATAWBA COUNTY *	3700500325B	26-SEP-97	R4-974-145	02
04	NC	CATAWBA COUNTY *	3700500350B	26-SEP-97	R4-974-217	02
04	NC	CATAWBA COUNTY *	3700500350B	26-SEP-97	R4-974-218	02
04	NC	CATAWBA COUNTY *	3700500350B	26-NOV-97	R4-981-076	02
04	NC	CATAWBA COUNTY *	3700500350B	23-DEC-97	R4-981-101	02
04	NC	CATAWBA COUNTY *	3700500200B	23-DEC-97	R4-981-139	02
04	NC	CATAWBA COUNTY *	3700500325B	23-DEC-97	R4-981-189	02
04	NC	CATAWBA COUNTY *	3700500350B	23-DEC-97	R4-981-215	02
04	NC	CATAWBA COUNTY *	3700500030B	23-DEC-97	R4-981-217	02
04	NC	CHAPEL HILL, TOWN OF	3701800001E	15-AUG-97	97-04-1302A	01
04	NC	CHAPEL HILL, TOWN OF	3701800002E	02-JUL-97	R4-973-171	02
04	NC	CHARLOTTE, CITY OF	3701590019B	22-JUL-97	R4-973-269	02
04	NC	CHARLOTTE, CITY OF	3701590020B	16-DEC-97	R4-981-169	02
04	NC	CHARLOTTE, CITY OF	3701590031B	16-DEC-97	R4-981-170	02
04	NC	CRAVEN COUNTY*	3700720330B	22-JUL-97	R4-973-255	02
04	NC	CUMBERLAND COUNTY *	3700760240B	22-JUL-97	R4-973-207	02
04	NC	DARE COUNTY*	3753480351D	21-AUG-97	97-04-141P	05
04	NC	DARE COUNTY*	3753480353D	21-AUG-97	97-04-141P	05
04	NC	DAVIDSON COUNTY *	3703070150B	26-SEP-97	R4-972-041	02
04	NC	DAVIDSON COUNTY *	3703070150B	03-NOV-97	R4-974-185	02
04	NC	DAVIDSON COUNTY *	3703070150B	03-DEC-97	R4-981-056	02
04	NC	DAVIDSON COUNTY *	3703070150B	03-DEC-97	R4-981-060	02
04	NC	DAVIDSON COUNTY *	3703070150B	23-DEC-97	R4-981-194	02
04	NC	DAVIDSON COUNTY *	3703070150B	23-DEC-97	R4-981-214	02
04	NC	DUPLIN COUNTY *	3700830175B	30-JUL-97	97-04-1472A	02
04	NC	DUPLIN COUNTY *	3700830275B	15-JUL-97	R4-971-133	02
04	NC	DUPLIN COUNTY *	3700830275B	23-DEC-97	R4-981-186	02
04	NC	DURHAM COUNTY *	37063C0066G	24-OCT-97	R4-971-105	08
04	NC	DURHAM COUNTY *	37063C0183G	25-JUL-97	R4-973-254	02
04	NC	DURHAM, CITY OF	37063C0162G	17-OCT-97	97-04-1172A	01
04	NC	DURHAM, CITY OF	37063C0167G	03-DEC-97	98-04-234A	01
04	NC	DURHAM, CITY OF	37063C0183G	24-JUL-97	R4-973-243	02
04	NC	DURHAM, CITY OF	37063C0183G	24-JUL-97	R4-974-009	02
04	NC	FAYETTEVILLE, CITY OF	3700770002C	09-JUL-97	R4-964-423	02
04	NC	FAYETTEVILLE, CITY OF	3700770013E	02-OCT-97	R4-973-045	02
04	NC	FORSYTH COUNTY *	3753490100C	15-AUG-97	97-04-1752A	01
04	NC	FORSYTH COUNTY *	3753490090C	11-AUG-97	R4-972-054	02
04	NC	GASTONIA, CITY OF	3700990215B	23-JUL-97	97-04-285P	06
04	NC	GASTONIA, CITY OF	3701000010D	23-JUL-97	97-04-285P	06
04	NC	GREENSBORO, CITY OF	3753510016C	03-DEC-97	98-04-180A	01
04	NC	GREENVILLE, CITY OF	3701910005B	23-DEC-97	R4-981-078	02
04	NC	GUILFORD COUNTY *	3701110177C	26-NOV-97	97-04-1942A	01
04	NC	HERTFORD COUNTY	3701300002A	12-NOV-97	R4-974-116	08
04	NC	HICKORY, CITY OF	3700540010B	26-SEP-97	R4-973-277	02
04	NC	IREDELL COUNTY *	3703130200B	11-AUG-97	R4-973-278	02
04	NC	KITTY HAWK, TOWN OF	3704390001D	04-NOV-97	97-04-2290A	02
04	NC	LENOIR, CITY OF	37027C0077D	16-DEC-97	R4-981-168	02
04	NC	LONG BEACH, TOWN OF	3753540003D	25-JUL-97	R4-973-233	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	LONG BEACH, TOWN OF	3753540003D	12-AUG-97	R4-974-054	02
04	NC	LOUISBURG, CITY	3700980001C	12-AUG-97	R4-974-057	02
04	NC	LOUISBURG, CITY	3700980001C	17-NOV-97	R4-974-057A	02
04	NC	MECKLENBURG COUNTY *	3701580190B	08-AUG-97	97-04-1736A	01
04	NC	MECKLENBURG COUNTY *	3701580175C	05-AUG-97	97-04-1852A	01
04	NC	MECKLENBURG COUNTY *	3701580055B	12-DEC-97	97-04-2188A	01
04	NC	MECKLENBURG COUNTY *	3701580050B	07-AUG-97	R4-974-046	02
04	NC	MECKLENBURG COUNTY *	3701580185B	29-OCT-97	R4-981-024	02
04	NC	MONTGOMERY COUNTY	3703360025B	03-DEC-97	R4-981-011	02
04	NC	NASH COUNTY *	3702780150B	30-JUL-97	97-04-988A	02
04	NC	NEW HANOVER COUNTY*	3701680090E	10-DEC-97	97-04-1910A	01
04	NC	NEW HANOVER COUNTY*	3701680091E	23-SEP-97	97-04-2110A	02
04	NC	NEW HANOVER COUNTY*	3701680085E	02-JUL-97	R4-973-152	02
04	NC	NEW HANOVER COUNTY*	3701680045E	11-SEP-97	R4-974-125	02
04	NC	NEW HANOVER COUNTY*	3701680045E	24-SEP-97	R4-974-231	02
04	NC	NEW HANOVER COUNTY*	3701680045E	12-NOV-97	R4-981-057	02
04	NC	NEW HANOVER COUNTY*	3701680045E	10-NOV-97	R4-981-072	02
04	NC	ORANGE COUNTY *	3703420330B	27-AUG-97	R4-974-115	02
04	NC	ORANGE COUNTY *	3703420330B	02-OCT-97	R4-974-241	02
04	NC	PAMLICO COUNTY	3701810405B	18-SEP-97	R4-974-192	02
04	NC	PENDER COUNTY*	3703440411B	10-SEP-97	97-04-1180A	02
04	NC	PENDER COUNTY*	3703440393B	02-JUL-97	97-04-1586A	02
04	NC	PENDER COUNTY*	3703440394B	10-DEC-97	98-04-282A	02
04	NC	PENDER COUNTY*	3703440315B	31-DEC-97	98-04-408A	02
04	NC	PENDER COUNTY*	3703440527C	24-SEP-97	R4-973-142	02
04	NC	PITT COUNTY *	3703720145B	11-SEP-97	R4-974-013	02
04	NC	PITT COUNTY *	3703720260C	20-AUG-97	R4-974-084	02
04	NC	PITT COUNTY *	3703720150B	26-SEP-97	R4-974-184	02
04	NC	PITT COUNTY *	3703720410C	03-DEC-97	R4-981-026	02
04	NC	RALEIGH, CITY OF	37183C0342E	30-JUL-97	97-04-1328A	01
04	NC	RALEIGH, CITY OF	37183C0328E	08-OCT-97	98-04-96000P	05
04	NC	RALEIGH, CITY OF	37183C0341E	12-AUG-97	R4-972-202	02
04	NC	RALEIGH, CITY OF	37183C0170E	20-AUG-97	R4-974-102	02
04	NC	RALEIGH, CITY OF	37183C0334E	24-OCT-97	R4-974-258	08
04	NC	ROCKY MOUNT, CITY OF	3700920004C	12-NOV-97	R4-972-107	02
04	NC	ROCKY MOUNT, CITY OF	3700920005C	29-OCT-97	R4-981-023	02
04	NC	ROWAN COUNTY *	3703510180B	18-SEP-97	R4-974-196	02
04	NC	SOUTHERN SHORES, TOWN OF	3704300002C	12-SEP-97	97-04-1982A	02
04	NC	SOUTHPORT, CITY OF	3700280004C	10-NOV-97	R4-981-071	02
04	NC	SURRY COUNTY *	3703640065C	26-NOV-97	97-04-1432A	01
04	NC	TRENT WOODS, TOWNSHIP OF	3704340001A	08-SEP-97	R4-974-129	02
04	NC	TRENT WOODS, TOWNSHIP OF	3704340001A	30-OCT-97	R4-981-020	02
04	NC	UNION COUNTY *	37179C0080C	23-SEP-97	97-04-1618A	17
04	NC	VALDESE, TOWN OF	3702980002A	07-AUG-97	R4-973-112	02
04	NC	WASHINGTON COUNTY*	3702470060B	08-DEC-97	R4-981-105	02
04	NC	WASHINGTON, CITY OF	3700170003C	08-DEC-97	98-04-088A	01
04	NC	WATAUGA COUNTY *	37189C0181E	15-JUL-97	R4-973-105	02
04	NC	WATAUGA COUNTY *	37189C0114E	25-JUL-97	R4-973-263	02
04	NC	WATAUGA COUNTY *	37189C0159E	05-NOV-97	R4-981-027	02
04	NC	WAYNE COUNTY*	3702540055C	25-JUL-97	R4-973-246	02
04	NC	WAYNE COUNTY*	3702540100C	18-SEP-97	R4-974-189	02
04	NC	WILKESBORO, TOWN OF	3702590005D	22-SEP-97	R4-974-222	02
04	NC	WILSON, CITY OF	3702700005B	30-OCT-97	R4-974-255	02
04	NC	WINSTON-SALEM, CITY OF	3753600030F	02-JUL-97	R4-973-150	02
04	NC	WINSTON-SALEM, CITY OF	3753600055F	10-NOV-97	R4-981-073	02
04	SC	BERKELEY COUNTY *	4500290290C	26-SEP-97	R4-962-256A	02
04	SC	BERKELEY COUNTY *	4500290355C	20-AUG-97	R4-972-218	02
04	SC	BERKELEY COUNTY *	4500290290C	11-SEP-97	R4-973-057	02
04	SC	BERKELEY COUNTY *	4500290290C	03-JUL-97	R4-973-125	02
04	SC	BERKELEY COUNTY *	4500290290C	03-JUL-97	R4-973-135	02
04	SC	BERKELEY COUNTY *	4500290290C	03-JUL-97	R4-973-151	02
04	SC	BERKELEY COUNTY *	4500290290C	12-AUG-97	R4-973-173	02
04	SC	BERKELEY COUNTY *	4500290290C	23-DEC-97	R4-973-236	02
04	SC	BERKELEY COUNTY *	4500290290C	11-SEP-97	R4-974-072	02
04	SC	BERKELEY COUNTY *	4500290290C	08-SEP-97	R4-974-113	02
04	SC	BERKELEY COUNTY *	4500290290C	23-DEC-97	R4-981-150	02
04	SC	CLEMSON, CITY OF	4502380002C	25-JUL-97	R4-972-248	02
04	SC	CLEMSON, CITY OF	4502380002C	17-NOV-97	R4-981-120	08
04	SC	COLUMBIA, CITY OF	45079C0113G	30-OCT-97	R4-981-021	08
04	SC	DORCHESTER COUNTY *	4500680245C	10-NOV-97	R4-964-303	02
04	SC	DORCHESTER COUNTY *	4500680245C	25-JUL-97	R4-972-260	02
04	SC	FLORENCE COUNTY *	4500760085B	23-SEP-97	R4-972-177	02
04	SC	FLORENCE COUNTY *	4500760085B	22-SEP-97	R4-974-224	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	SC	FLORENCE COUNTY *	4500760085B	23-DEC-97	R4-981-245	02
04	SC	GREENVILLE COUNTY *	4500890145B	21-NOV-97	98-04-009P	06
04	SC	HORRY COUNTY *	45051C0230E	29-JUL-97	96-04-363P	05
04	SC	HORRY COUNTY *	45051C0304F	28-JUL-97	97-04-1808A	02
04	SC	HORRY COUNTY *	45051C0265E	15-OCT-97	97-04-201P	05
04	SC	HORRY COUNTY *	45051C0366F	01-OCT-97	97-04-2164A	02
04	SC	HORRY COUNTY *	45051C0375E	01-OCT-97	97-04-2164A	02
04	SC	HORRY COUNTY *	45051C0366F	22-AUG-97	97-04-293A	02
04	SC	HORRY COUNTY *	45051C0375E	22-AUG-97	97-04-293A	02
04	SC	HORRY COUNTY *	45051C0366F	31-DEC-97	98-04-360A	02
04	SC	IRMO, TOWN OF	45063C0127F	04-NOV-97	R4-981-008	02
04	SC	LEXINGTON COUNTY *	45063C0129F	03-OCT-97	97-04-1100A	01
04	SC	LEXINGTON COUNTY *	45063C0141F	25-SEP-97	97-04-1762A	01
04	SC	LEXINGTON COUNTY *	45063C0250F	12-AUG-97	R4-973-265	02
04	SC	LEXINGTON COUNTY *	45063C0133F	24-SEP-97	R4-974-089	02
04	SC	LEXINGTON COUNTY *	45063C0142F	27-AUG-97	R4-974-111	02
04	SC	LEXINGTON COUNTY *	45063C0133F	08-DEC-97	R4-974-147	02
04	SC	LEXINGTON COUNTY *	45063C0375F	01-OCT-97	R4-974-175	02
04	SC	LEXINGTON COUNTY *	45063C0137F	24-SEP-97	R4-974-239	02
04	SC	MOUNT PLEASANT, CITY OF	4554170002E	03-JUL-97	R4-973-168	02
04	SC	NEWBERRY COUNTY*	4502240225B	15-JUL-97	R4-963-138A	02
04	SC	NEWBERRY COUNTY*	4502240225B	01-OCT-97	R4-974-101	02
04	SC	NEWBERRY COUNTY*	4502240225B	26-NOV-97	R4-981-079	02
04	SC	NEWBERRY COUNTY*	4502240225B	08-DEC-97	R4-981-159	02
04	SC	NEWBERRY COUNTY*	4502240225B	23-DEC-97	R4-981-202	02
04	SC	OCONEE COUNTY *	4501570009B	15-JUL-97	R4-972-141	02
04	SC	RICHLAND COUNTY*	45079C0040H	26-AUG-97	97-04-1886A	02
04	SC	RICHLAND COUNTY*	45079C0025G	15-OCT-97	R4-972-250	08
04	SC	RICHLAND COUNTY*	45079C0111G	14-JUL-97	R4-973-049	02
04	SC	RICHLAND COUNTY*	45079C0025G	08-SEP-97	R4-974-052	02
04	SC	RICHLAND COUNTY*	45079C0025G	05-NOV-97	R4-974-253	08
04	SC	RICHLAND COUNTY*	45079C0080J	18-DEC-97	R4-981-040	02
04	SC	SUMMERVILLE, TOWN OF	4500680245C	12-SEP-97	97-04-1812A	01
04	SC	SUMMERVILLE, TOWN OF	4500730005D	12-SEP-97	97-04-1812A	01
04	SC	SUMMERVILLE, TOWN OF	4500680245C	03-DEC-97	98-04-007A	17
04	SC	SUMMERVILLE, TOWN OF	4500730005D	03-DEC-97	98-04-007A	17
04	SC	SUMTER, CITY OF	4501820180B	09-DEC-97	97-04-297P	05
04	SC	YORK COUNTY *	4501930200C	03-DEC-97	R4-981-034	02
04	SC	YORK COUNTY *	4501930125C	23-DEC-97	R4-981-070	02
04	SC	YORK COUNTY *	4501930119C	08-DEC-97	R4-981-122	02
04	TN	BEDFORD COUNTY		27-OCT-97	97-04-2032A	01
04	TN	BEDFORD COUNTY	4700080028C	27-OCT-97	97-04-2080A	01
04	TN	BRENTWOOD, CITY OF	4702050005C	22-JUL-97	R4-973-262	02
04	TN	BRENTWOOD, CITY OF	4702050005C	24-SEP-97	R4-974-166	02
04	TN	BRISTOL, CITY OF	4701820003B	07-OCT-97	97-04-2100A	02
04	TN	BRISTOL, CITY OF	4701820005B	27-AUG-97	R4-974-128	02
04	TN	BRISTOL, CITY OF	4701820003B	30-OCT-97	R4-981-012	02
04	TN	CHARLESTON, CITY OF	4700140001B	12-SEP-97	97-04-1750A	01
04	TN	CHATTANOOGA, CITY OF	4700720009A	06-NOV-97	97-04-1118A	01
04	TN	CHATTANOOGA, CITY OF	4700720027B	27-OCT-97	97-04-1844A	01
04	TN	CHATTANOOGA, CITY OF	4700720006B	26-NOV-97	97-04-2202A	01
04	TN	CHATTANOOGA, CITY OF	4700720029D	17-NOV-97	R4-981-006	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	07-AUG-97	R4-974-035	02
04	TN	CLARKSVILLE, CITY OF	4701370006C	23-DEC-97	R4-974-229	02
04	TN	COLLIERVILLE, CITY OF	47157C0245E	23-OCT-97	97-04-1122A	01
04	TN	EAST RIDGE, CITY OF	4754240010D	07-AUG-97	97-04-1704A	02
04	TN	FARRAGUT, TOWN OF	4703870015A	21-AUG-97	97-04-966A	02
04	TN	FARRAGUT, TOWN OF	4703870015A	16-DEC-97	R4-981-167	02
04	TN	FRANKLIN, CITY OF	4702060007D	24-JUL-97	R4-974-011	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	17-DEC-97	97-04-1114A	01
04	TN	GERMANTOWN, CITY OF	47157C0235E	17-OCT-97	97-04-1196A	01
04	TN	GERMANTOWN, CITY OF	47157C0235E	04-SEP-97	97-04-1374A	01
04	TN	GERMANTOWN, CITY OF	47157C0235E	27-OCT-97	97-04-2084A	01
04	TN	GERMANTOWN, CITY OF	47157C0235E	29-JUL-97	97-04-632A	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	21-JUL-97	R4-932-131A	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	15-JUL-97	R4-973-196	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	06-AUG-97	R4-973-224	02
04	TN	HENDERSONVILLE, CITY OF	4701860008C	11-AUG-97	R4-973-213	02
04	TN	HENRY COUNTY	4702280125B	04-NOV-97	R4-973-251	02
04	TN	HENRY COUNTY	4702280125B	04-NOV-97	R4-974-263	02
04	TN	KINGSPORT, CITY OF	4701840020C	14-OCT-97	R4-974-079	02
04	TN	KNOX COUNTY *	4754330180B	26-SEP-97	97-04-2236A	01
04	TN	KNOX COUNTY *	4754330040B	15-JUL-97	R4-972-166	02

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04	TN	KNOX COUNTY *	4754330180B	26-SEP-97	R4-973-069	02
04	TN	KNOX COUNTY *	4754330180B	26-SEP-97	R4-973-070	02
04	TN	KNOX COUNTY *	4754330045B	25-JUL-97	R4-973-223	02
04	TN	KNOX COUNTY *	4754330120B	24-OCT-97	R4-974-267	02
04	TN	MAURY COUNTY*	4701230095B	05-NOV-97	R4-974-164	08
04	TN	MCMINN COUNTY*		13-AUG-97	97-04-1760A	02
04	TN	MEMPHIS, CITY OF	47157C0220E	03-DEC-97	97-04-1956A	02
04	TN	MEMPHIS, CITY OF	47157C0095E	24-JUL-97	R4-973-276	02
04	TN	MONTGOMERY COUNTY *	4701360050B	28-JUL-97	97-04-1642A	02
04	TN	MONTGOMERY COUNTY *	4701360050B	02-JUL-97	R4-973-181	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-182	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-183	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-184	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-185	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-186	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-187	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-188	02
04	TN	MONTGOMERY COUNTY *	4701360050B	15-JUL-97	R4-973-189	02
04	TN	MONTGOMERY COUNTY *	4701360050B	03-DEC-97	R4-981-085	02
04	TN	MT. JULIET, CITY OF	4702900065B	10-DEC-97	98-04-138A	02
04	TN	MURFREESBORO, CITY OF	4701650100B	07-OCT-97	97-04-1184A	02
04	TN	MURFREESBORO, CITY OF	4701680010C	22-AUG-97	97-04-1484A	01
04	TN	MURFREESBORO, CITY OF	4701680005C	22-OCT-97	97-04-1654A	01
04	TN	MURFREESBORO, CITY OF	4701680005C	04-SEP-97	97-04-1682A	01
04	TN	MURFREESBORO, CITY OF	4701680005C	21-AUG-97	97-04-1684A	01
04	TN	MURFREESBORO, CITY OF	4701680010C	04-SEP-97	97-04-2034A	01
04	TN	MURFREESBORO, CITY OF	4701680010C	24-SEP-97	R4-974-183	02
04	TN	MURFREESBORO, CITY OF	4701680005C	08-DEC-97	R4-981-127	08
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400177B	03-OCT-97	97-04-1924A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400177B	12-NOV-97	97-04-2270A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400137B	12-NOV-97	R4-981-037	02
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400179B	08-DEC-97	R4-981-089	02
04	TN	NEW JOHNSONVILLE, CITY OF	4702660005C	09-JUL-97	R4-972-236	02
04	TN	RHEA COUNTY	4701510075B	11-SEP-97	R4-974-154	02
04	TN	RIPLEY, TOWN OF	4701000004C	15-AUG-97	97-04-1650A	01
04	TN	RIPLEY, TOWN OF	4701000004C	27-AUG-97	R4-974-017	02
04	TN	ROANE COUNTY *	4702670030B	22-SEP-97	R4-974-071	02
04	TN	ROCKWOOD, CITY OF	475443 A	09-JUL-97	R4-973-145	02
04	TN	RUTHERFORD COUNTY *	4701650100B	22-AUG-97	97-04-1482A	01
04	TN	RUTHERFORD COUNTY *	4701650065B	22-JUL-97	R4-973-162	02
04	TN	SHELBY COUNTY *	47157C0290E	29-AUG-97	97-04-1190A	01
04	TN	SHELBY COUNTY *	47157C0240E	01-AUG-97	97-04-1608A	01
04	TN	SHELBY COUNTY *	47157C0235E	12-NOV-97	98-04-002A	01
04	TN	SHELBY COUNTY *	47157C0285E	08-SEP-97	R4-974-149	02
04	TN	SHELBY COUNTY *	47157C0235E	18-SEP-97	R4-974-197	02
04	TN	SMYRNA, TOWN OF	4701690003D	07-AUG-97	97-04-1662A	01
04	TN	SMYRNA, TOWN OF	4701690003D	16-DEC-97	R4-981-157	02
04	TN	SPRING CITY, TOWN OF	4754480001B	05-NOV-97	R4-974-095	02
04	TN	UNICOI COUNTY *	4702380020B	12-NOV-97	R4-981-031	08
04	TN	WAVERLY, CITY OF	4700950005B	29-AUG-97	97-04-1634A	01
04	TN	WILLIAMSON COUNTY *	4702040020C	29-AUG-97	R4-973-153	02
04	TN	WILLIAMSON COUNTY *	4702040015C	12-AUG-97	R4-974-014	02
05	IL	ADDISON, VILLAGE OF	1701980004C	30-JUL-97	97-05-3640A	02
05	IL	ADDISON, VILLAGE OF	1701980004C	02-JUL-97	97-05-3788A	02
05	IL	ADDISON, VILLAGE OF	1701980007C	12-NOV-97	98-05-002A	01
05	IL	AURORA, CITY OF	1708960055B	09-JUL-97	97-05-153P	05
05	IL	AURORA, CITY OF	1703200015D	02-JUL-97	97-05-3752A	02
05	IL	AURORA, CITY OF	1703200015D	23-SEP-97	97-05-4784A	02
05	IL	AURORA, CITY OF	1703200020E	18-NOV-97	98-05-424A	02
05	IL	BEACH PARK, VILLAGE OF	1710220004C	18-JUL-97	97-05-3426A	02
05	IL	BELLEVILLE, CITY OF	1706180010B	24-JUL-97	97-05-3554A	01
05	IL	BELLWOOD, VILLAGE OF	1700610001B	08-JUL-97	97-05-3708A	02
05	IL	BELLWOOD, VILLAGE OF	1700610001B	23-OCT-97	97-05-5358A	02
05	IL	BELLWOOD, VILLAGE OF	1700610001B	10-NOV-97	97-05-5576A	02
05	IL	BENSENVILLE, VILLAGE OF	1702000003C	27-AUG-97	97-05-019P	05
05	IL	BENSENVILLE, VILLAGE OF	1702000003C	19-AUG-97	97-05-107P	05
05	IL	BLOOMINGTON, CITY OF	1704900005C	07-OCT-97	97-05-3862A	02
05	IL	BLOOMINGTON, CITY OF	1704900010C	20-NOV-97	97-05-4544A	17
05	IL	BLOOMINGTON, CITY OF	1704900005C	12-NOV-97	97-05-5594A	01
05	IL	BLOOMINGTON, CITY OF	1704900005C	17-DEC-97	98-05-078A	01
05	IL	BOLINGBROOK, VILLAGE OF	17197C0034E	26-NOV-97	97-05-5266A	01
05	IL	BRADLEY, VILLAGE OF	1703380001B	06-NOV-97	97-05-5318A	02
05	IL	CARMI, CITY OF	1706810005B	14-NOV-97	97-05-4122A	02

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05	IL	CAROL STREAM, VILLAGE OF	1702020005C	12-SEP-97	97-05-3894A	02
05	IL	CARTERVILLE, CITY OF	170716 B	09-OCT-97	97-05-4624A	02
05	IL	CHAMPAIGN COUNTY *	1708940025B	26-NOV-97	97-05-4102A	02
05	IL	CHAMPAIGN COUNTY *	1708940125B	28-AUG-97	97-05-4222A	02
05	IL	CHAMPAIGN COUNTY *	1708940175B	03-DEC-97	97-05-4282A	02
05	IL	CHAMPAIGN COUNTY *	1708940205B	26-NOV-97	98-05-460A	02
05	IL	CLINTON, CITY OF	17039C0190D	14-NOV-97	98-05-306A	02
05	IL	COOK COUNTY *	1700540225B	30-JUL-97	97-05-2976A	02
05	IL	COOK COUNTY *	1700540200B	08-SEP-97	97-05-3842A	02
05	IL	COOK COUNTY *	1700540070B	20-AUG-97	97-05-4146A	02
05	IL	COOK COUNTY *	1700540070B	31-OCT-97	97-05-4480A	01
05	IL	COOK COUNTY *	1700540190B	19-DEC-97	97-05-4634A	01
05	IL	COOK COUNTY *	1700540035B	23-OCT-97	97-05-4658A	02
05	IL	COOK COUNTY *	1700540190B	10-DEC-97	97-05-5462A	01
05	IL	COOK COUNTY *	1700540190B	18-NOV-97	97-05-5558A	02
05	IL	DARIEN, CITY OF	1707500001A	26-NOV-97	96-05-279P	05
05	IL	DARIEN, CITY OF	1707500003A	26-NOV-97	96-05-279P	05
05	IL	DARIEN, CITY OF	1707500001A	03-OCT-97	97-05-053P	05
05	IL	DARIEN, CITY OF	1707500001A	08-SEP-97	97-05-3366A	02
05	IL	DARIEN, CITY OF	1707500003A	03-OCT-97	97-05-4626A	02
05	IL	DE KALB COUNTY *	170808 B	02-JUL-97	97-05-2814A	02
05	IL	DE KALB COUNTY *	170808 B	07-JUL-97	97-05-3484A	02
05	IL	DE KALB COUNTY *	170808 B	20-NOV-97	97-05-5524A	02
05	IL	DE KALB, CITY OF	170808 B	16-SEP-97	97-05-3020A	01
05	IL	DES PLAINES, CITY OF	1700810005C	18-NOV-97	97-05-5284A	02
05	IL	DOUGLAS COUNTY*	1701940025B	02-DEC-97	97-05-5328A	01
05	IL	DOUGLAS COUNTY*	1701940100B	31-DEC-97	98-05-472A	02
05	IL	DUPAGE COUNTY*	1701970060B	03-OCT-97	97-05-053P	05
05	IL	DUPAGE COUNTY*	1701970060B	02-JUL-97	97-05-3282A	02
05	IL	DUPAGE COUNTY*	1701970060B	18-SEP-97	97-05-331P	06
05	IL	DUPAGE COUNTY*	1701970055B	14-NOV-97	97-05-3526A	02
05	IL	DUPAGE COUNTY*	1701970060B	05-AUG-97	97-05-4038A	02
05	IL	DUPAGE COUNTY*	1701970055B	06-NOV-97	97-05-4466A	02
05	IL	DUPAGE COUNTY*	1701970040B	16-SEP-97	97-05-4844A	02
05	IL	DUPAGE COUNTY*	1701970045B	31-DEC-97	97-05-5464A	02
05	IL	DUPAGE COUNTY*	1701970055B	26-NOV-97	97-05-988A	02
05	IL	DUPAGE COUNTY*	1701970060B	22-DEC-97	98-05-470A	01
05	IL	DUPAGE COUNTY*	1701970055B	18-NOV-97	98-05-594A	02
05	IL	ELGIN, CITY OF	1700870003C	29-OCT-97	96-05-301P	05
05	IL	ELK GROVE VILLAGE, VILLAGE OF	1700880010C	20-AUG-97	96-05-089P	05
05	IL	ELMHURST, CITY OF	1702050003C	17-JUL-97	97-05-3684A	02
05	IL	FOX LAKE, VILLAGE OF	1703620005E	08-AUG-97	97-05-4196A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	17-NOV-97	97-05-4980A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015F	21-OCT-97	98-05-138A	02
05	IL	FOX RIVER VALLEY GARDENS, VILLAGE OF	1704780001B	01-AUG-97	97-05-2970A	01
05	IL	FRANKLIN COUNTY*	1708990005B	27-AUG-97	97-05-4518A	02
05	IL	GERMANTOWN, VILLAGE OF	170044 B	30-JUL-97	97-05-4232A	02
05	IL	GLENVIEW, VILLAGE OF	1700540045B	31-OCT-97	97-05-5590A	01
05	IL	GLENVIEW, VILLAGE OF	1700540050B	31-OCT-97	97-05-5590A	01
05	IL	GRANITE CITY, CITY OF	1704430002A	29-OCT-97	98-05-150A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0131F	18-NOV-97	97-05-313P	06
05	IL	HANOVER PARK, VILLAGE OF	1700990005B	30-SEP-97	97-05-3508A	02
05	IL	HIGHLAND, CITY OF	1704450001B	30-JUL-97	97-05-3688A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070007C	02-JUL-97	97-05-2634A	17
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070001B	09-JUL-97	97-05-3218A	01
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070001B	09-JUL-97	97-05-3908A	01
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070007C	10-SEP-97	97-05-4448A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070008B	18-NOV-97	97-05-4730A	02
05	IL	HOMEWOOD, VILLAGE OF	170109 C	30-JUL-97	97-05-3336A	02
05	IL	HOMEWOOD, VILLAGE OF	170109 C	10-DEC-97	97-05-4502A	02
05	IL	HOMEWOOD, VILLAGE OF	170109 C	01-OCT-97	97-05-4968A	02
05	IL	HUNTLEY, VILLAGE OF	1704800002C	22-DEC-97	98-05-272A	02
05	IL	JOLIET, CITY OF	17197C0134E	01-JUL-97	96-05-085P	05
05	IL	JOLIET, CITY OF	17197C0143E	19-AUG-97	97-05-2414A	02
05	IL	JOLIET, CITY OF	17197C0141E	13-AUG-97	97-05-4340A	01
05	IL	JOLIET, CITY OF	17197C0130E	22-DEC-97	98-05-006A	01
05	IL	KANE COUNTY *	1708960044B	17-JUL-97	97-05-067P	05
05	IL	KANE COUNTY *	1708960061B	26-AUG-97	97-05-4698A	02
05	IL	KANE COUNTY *	1708960044B	15-OCT-97	97-05-4814A	01
05	IL	KANKAKEE COUNTY *	1703360070A	01-OCT-97	97-05-4584A	02
05	IL	KANKAKEE, CITY OF	1703390005C	14-OCT-97	97-05-4226A	02
05	IL	KENDALL COUNTY *	1703410020C	13-AUG-97	97-05-3316A	02
05	IL	KENDALL COUNTY *	1703410020C	13-AUG-97	97-05-3566A	17

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05	IL	KENDALL COUNTY *	1703410015C	18-NOV-97	97-05-4318A	02
05	IL	KENDALL COUNTY *	1703410125C	27-AUG-97	97-05-4834A	02
05	IL	KENDALL COUNTY *	1703410055C	17-DEC-97	98-05-354A	17
05	IL	KILDEER, VILLAGE OF	17097C0241F	14-NOV-97	97-05-4668A	02
05	IL	LAKE BARRINGTON, VILLAGE OF	17097C0216F	12-DEC-97	98-05-296A	02
05	IL	LAKE COUNTY *		17-DEC-97	96-05-131P	05
05	IL	LAKE COUNTY *	1703570140B	02-JUL-97	97-05-2958A	02
05	IL	LAKE COUNTY *	1703570110B	30-JUL-97	97-05-3168A	02
05	IL	LAKE COUNTY *	1703570110B	13-AUG-97	97-05-3506A	02
05	IL	LAKE COUNTY *	1703570150B	24-JUL-97	97-05-4016A	02
05	IL	LAKE COUNTY *	1703570150B	04-SEP-97	97-05-4246A	02
05	IL	LAKE COUNTY *	1703570125B	19-AUG-97	97-05-4298A	02
05	IL	LAKE COUNTY *	17097C0259F	01-OCT-97	97-05-4312A	01
05	IL	LAKE COUNTY *		08-SEP-97	97-05-4700A	02
05	IL	LAKE VILLA, VILLAGE OF	17097C0039F	23-OCT-97	98-05-010A	02
05	IL	LAKEMOOR, VILLAGE OF	1709150001B	10-DEC-97	98-05-546A	02
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0162F	12-NOV-97	97-05-5518A	02
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0162F	24-DEC-97	97-05-5522A	01
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0258F	04-NOV-97	98-05-224A	01
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0266F	04-NOV-97	98-05-224A	01
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0258F	10-DEC-97	98-05-352A	01
05	IL	LISLE, VILLAGE OF	1702110005B	18-JUL-97	97-05-115P	05
05	IL	LISLE, VILLAGE OF	1702110005B	03-SEP-97	97-05-4402A	02
05	IL	LIVINGSTON COUNTY*	1709290004A	22-DEC-97	97-05-2986A	02
05	IL	LYNWOOD, VILLAGE OF	5504760065B	24-JUL-97	97-05-2484A	01
05	IL	LYNWOOD, VILLAGE OF	1701190005C	26-NOV-97	98-05-654A	01
05	IL	LYNWOOD, VILLAGE OF	1701190005C	05-DEC-97	98-05-718A	02
05	IL	MADISON COUNTY *	1704360105B	17-DEC-97	97-05-5074A	02
05	IL	MASON COUNTY *	1704630075B	07-AUG-97	97-05-4156A	02
05	IL	MATTOON, CITY OF	1700530005B	01-OCT-97	97-05-5076A	02
05	IL	MCHENRY COUNTY*	1707320115B	27-AUG-97	97-05-2054A	02
05	IL	MCHENRY COUNTY*	1707320115B	24-JUL-97	97-05-2844A	02
05	IL	MCHENRY COUNTY*	1707320230B	24-JUL-97	97-05-2844A	02
05	IL	MCHENRY COUNTY*	1707320220B	21-AUG-97	97-05-3272A	02
05	IL	MCHENRY COUNTY*	1707320115B	08-AUG-97	97-05-4110A	02
05	IL	MCHENRY COUNTY*	1707320355B	28-JUL-97	97-05-4280A	02
05	IL	MCHENRY COUNTY*	1707320310C	10-SEP-97	97-05-4796A	01
05	IL	MCHENRY, CITY OF	1704830003D	02-JUL-97	97-05-3710A	02
05	IL	MCLEAN COUNTY *	1709310100B	04-SEP-97	97-05-2704A	01
05	IL	MILAN, VILLAGE OF	1705900001D	02-OCT-97	97-05-5300A	02
05	IL	MINOOKA, VILLAGE OF	17197C0255E	16-SEP-97	97-05-4846A	02
05	IL	MONMOUTH, CITY OF	170676 B	12-SEP-97	97-05-3544A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	1701290010B	22-DEC-97	97-05-3176A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	1701290010B	17-NOV-97	98-05-540A	02
05	IL	MOUNT VERNON, CITY OF	1703080008B	17-OCT-97	97-05-4166A	02
05	IL	MUNDELEIN, VILLAGE OF	17097C0163F	17-DEC-97	96-05-131P	05
05	IL	MUNDELEIN, VILLAGE OF	17097C0232F	17-DEC-97	96-05-131P	05
05	IL	MUNDELEIN, VILLAGE OF	17097C0251F	17-DEC-97	96-05-131P	05
05	IL	NAPERVILLE, CITY OF	1702130011C	16-DEC-97	95-05-153P	05
05	IL	NAPERVILLE, CITY OF	1702130012C	16-DEC-97	95-05-153P	05
05	IL	NAPERVILLE, CITY OF	1702130015C	16-DEC-97	95-05-153P	05
05	IL	NAPERVILLE, CITY OF	1702130016C	16-DEC-97	95-05-153P	05
05	IL	NAPERVILLE, CITY OF	17197C0030E	27-AUG-97	97-05-193P	05
05	IL	NAPERVILLE, CITY OF	1702130021C	04-OCT-97	97-05-255P	06
05	IL	NAPERVILLE, CITY OF	1702130012C	29-AUG-97	97-05-2716A	02
05	IL	NAPERVILLE, CITY OF	1702130012C	26-NOV-97	97-05-4642A	01
05	IL	NAPERVILLE, CITY OF	1702130021C	13-OCT-97	97-05-5184A	02
05	IL	NASHVILLE, CITY OF	170678 B	03-DEC-97	97-05-4006A	02
05	IL	NORTH UTICA, VILLAGE OF	1708220001C	26-NOV-97	98-05-182A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320010D	12-NOV-97	97-05-5422A	01
05	IL	OAK FOREST, CITY OF	1701360005C	12-NOV-97	98-05-102A	02
05	IL	OAK LAWN, VILLAGE OF	1701370004C	16-JUL-97	97-05-2622A	01
05	IL	OAK LAWN, VILLAGE OF	1701370004C	28-JUL-97	97-05-3986A	02
05	IL	OAK LAWN, VILLAGE OF	1701370001C	30-JUL-97	97-05-4050A	02
05	IL	OAK LAWN, VILLAGE OF	1701370001C	13-AUG-97	97-05-4228A	02
05	IL	OAK LAWN, VILLAGE OF	1701370001C	15-OCT-97	97-05-5466A	02
05	IL	OAK LAWN, VILLAGE OF	1701370004C	12-DEC-97	98-05-170A	01
05	IL	OGLE COUNTY*	1705250240A	14-JUL-97	97-05-4124A	17
05	IL	ORLAND HILLS, VILLAGE OF	1701720001B	04-SEP-97	97-05-4836A	02
05	IL	ORLAND HILLS, VILLAGE OF	1701720001B	31-DEC-97	98-05-908A	02
05	IL	ORLAND PARK, VILLAGE OF	1701400003D	03-SEP-97	95-05-089P	06
05	IL	ORLAND PARK, VILLAGE OF	1701400005D	29-DEC-97	98-05-384A	02
05	IL	ORLAND PARK, VILLAGE OF	1701400006D	29-DEC-97	98-05-384A	02

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05	IL	PALATINE, VILLAGE OF	17517000058	30-SEP-97	97-05-4408A	02
05	IL	PALATINE, VILLAGE OF	17517000058	31-DEC-97	97-05-5628A	02
05	IL	PALOS HILLS, CITY OF	1701430001C	04-NOV-97	97-05-5602A	02
05	IL	PALOS HILLS, CITY OF	1701430003C	24-DEC-97	98-05-084A	02
05	IL	PEORIA, CITY OF	1705360015B	24-JUL-97	97-05-4056A	02
05	IL	PEORIA, CITY OF	1705360015B	21-OCT-97	97-05-4868A	01
05	IL	PEORIA, CITY OF	1705360020B	12-NOV-97	98-05-360A	02
05	IL	PEORIA, CITY OF	1705360015B	22-DEC-97	98-05-656A	01
05	IL	PLAINFIELD, VILLAGE OF	17197C0127E	10-JUL-97	97-05-3548A	02
05	IL	PLAINFIELD, VILLAGE OF	17197C0127E	12-AUG-97	97-05-3726A	02
05	IL	QUINCY, CITY OF	1700030020B	23-SEP-97	97-05-3384A	02
05	IL	RIVERWOODS, VILLAGE OF	17097C0267F	10-NOV-97	97-05-4492A	02
05	IL	ROCK ISLAND COUNTY*	1705820200C	23-DEC-97	98-05-970A	02
05	IL	ROMEOVILLE, VILLAGE OF	17197C0135E	08-JUL-97	96-05-2618P	05
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065E	05-DEC-97	97-05-1940A	01
05	IL	ROSELLE, VILLAGE OF	1702160004B	17-JUL-97	96-05-179P	05
05	IL	ROSELLE, VILLAGE OF	1702160002B	07-AUG-97	97-05-2940A	17
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0126F	24-SEP-97	97-05-5058A	02
05	IL	ROUND LAKE, VILLAGE OF	17097C0127F	23-DEC-97	97-05-5550A	02
05	IL	SANGAMON COUNTY *	1709120275C	22-SEP-97	97-05-4768A	02
05	IL	SANGAMON COUNTY *	1709120235C	06-NOV-97	97-05-4886A	02
05	IL	SANGAMON COUNTY *	1709120240C	12-DEC-97	98-05-576A	02
05	IL	SCHILLER PARK, VILLAGE OF	1701590005B	06-NOV-97	97-05-5348A	17
05	IL	SENECA, VILLAGE OF	1704070001D	08-SEP-97	97-05-4316A	02
05	IL	ST. CLAIR COUNTY *	1706160075A	21-AUG-97	97-05-3154A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	27-AUG-97	97-05-3732A	02
05	IL	ST. CLAIR COUNTY *	1706160075A	23-SEP-97	97-05-4256A	02
05	IL	ST. CLAIR COUNTY *	1706160040A	31-OCT-97	97-05-5250A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	06-NOV-97	98-05-110A	02
05	IL	TUSCOLA, CITY OF	1701940025B	15-SEP-97	96-05-172P	06
05	IL	TUSCOLA, CITY OF	1701950005C	10-DEC-97	98-05-436A	02
05	IL	UNION COUNTY*	1706560075B	26-NOV-97	98-05-054A	02
05	IL	VERMILION COUNTY	1709350007B	31-OCT-97	98-05-312A	02
05	IL	VILLA GROVE, CITY OF	1701960001B	29-AUG-97	97-05-3436A	02
05	IL	WATSEKA, CITY OF	17075C0120D	01-AUG-97	97-05-4028A	01
05	IL	WATSEKA, CITY OF	17075C0120D	12-NOV-97	98-05-266A	02
05	IL	WAUCONDA, VILLAGE OF	1703960002B	09-JUL-97	97-05-291P	06
05	IL	WAUCONDA, VILLAGE OF	17097C0119F	06-NOV-97	97-05-4772A	01
05	IL	WAUKEGAN, CITY OF	17097C0086F	10-SEP-97	97-05-4414A	02
05	IL	WESTCHESTER, VILLAGE OF	17017000018	27-OCT-97	97-05-5564A	02
05	IL	WESTERN SPRINGS, VILLAGE OF	1701710001C	28-AUG-97	97-05-4288A	17
05	IL	WESTMONT, VILLAGE OF	1702200001B	15-AUG-97	97-05-4580A	02
05	IL	WILL COUNTY *	17197C0139E	17-DEC-97	97-05-211P	05
05	IL	WILL COUNTY *	17197C0030E	08-JUL-97	97-05-2534A	01
05	IL	WILL COUNTY *		08-AUG-97	97-05-3588A	02
05	IL	WILL COUNTY *	17197C0030E	01-OCT-97	97-05-3810A	02
05	IL	WILL COUNTY *	17197C0385E	13-AUG-97	97-05-3956A	02
05	IL	WILL COUNTY *	17197C0030E	13-AUG-97	97-05-3994A	02
05	IL	WILL COUNTY *	17197C0395E	27-AUG-97	97-05-4062A	02
05	IL	WILL COUNTY *	17197C0218E	29-AUG-97	97-05-4424A	02
05	IL	WILL COUNTY *	17197C0130E	03-SEP-97	97-05-4482A	01
05	IL	WILL COUNTY *	17197C0475E	13-OCT-97	97-05-4816A	02
05	IL	WILL COUNTY *	17197C0033E	05-DEC-97	97-05-5294A	02
05	IL	WILL COUNTY *	17197C0030E	15-OCT-97	97-05-5306A	02
05	IL	WILL COUNTY *	17197C0195E	14-NOV-97	97-05-5566A	02
05	IL	WILL COUNTY *	17197C0090E	08-DEC-97	98-05-198A	01
05	IL	WILLOWBROOK, VILLAGE OF	1702220002C	30-OCT-97	97-05-3814A	01
05	IL	WILMINGTON, CITY OF	17197C0417E	08-DEC-97	98-05-378A	02
05	IL	WINNEBAGO COUNTY *	1707200090B	14-NOV-97	97-05-287P	05
05	IL	WINNEBAGO COUNTY *	1707200035B	22-JUL-97	97-05-3540A	02
05	IL	WINNEBAGO COUNTY *	1707200010B	29-AUG-97	97-05-4090A	02
05	IL	WINNEBAGO COUNTY *	1707200010B	03-SEP-97	97-05-4702A	02
05	IL	WINNEBAGO COUNTY *	1707200015B	03-DEC-97	98-05-340A	02
05	IL	WINNETKA, VILLAGE OF	1701760003B	23-OCT-97	97-05-4640A	01
05	IN	ALLEN COUNTY *	18003C0430D	10-DEC-97	97-05-315P	05
05	IN	ALLEN COUNTY *	18003C0170D	25-AUG-97	97-05-3662A	02
05	IN	ALLEN COUNTY *	18003C0195D	31-JUL-97	97-05-4262A	02
05	IN	ALLEN COUNTY *	18003C0235D	30-JUL-97	97-05-4390A	02
05	IN	ALLEN COUNTY *	18003C0305D	04-SEP-97	97-05-4616A	02
05	IN	ALLEN COUNTY *	18003C0165E	25-SEP-97	97-05-4736A	02
05	IN	ALLEN COUNTY *	18003C0270E	01-OCT-97	97-05-4860A	02
05	IN	ALLEN COUNTY *	18003C0155D	07-OCT-97	97-05-4922A	01
05	IN	ALLEN COUNTY *	18003C0165E	12-DEC-97	97-05-4940A	17

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	ALLEN COUNTY *	18003C0430D	07-OCT-97	97-05-5166A	01
05	IN	BARTHOLOMEW COUNTY *	1800060075B	07-JUL-97	97-05-4048A	02
05	IN	BARTHOLOMEW COUNTY *	1800060150B	27-AUG-97	97-05-4308A	02
05	IN	BARTHOLOMEW COUNTY *	1800060075B	27-AUG-97	97-05-4694A	02
05	IN	BENTON COUNTY*	1804770004A	18-SEP-97	97-05-4586A	02
05	IN	BOONE COUNTY *	1800110095B	10-JUL-97	97-05-2228A	01
05	IN	BOONE COUNTY *	1800110095B	07-OCT-97	97-05-4522A	02
05	IN	BROWN COUNTY*	1851740085B	10-DEC-97	97-05-3002A	17
05	IN	CARMEL, CITY OF	1800810013C	12-SEP-97	97-05-4500A	02
05	IN	CARMEL, CITY OF	1800810008C	08-AUG-97	97-05-4578A	02
05	IN	CARMEL, CITY OF	1800810013C	26-NOV-97	97-05-4594A	17
05	IN	CARMEL, CITY OF	1800810009C	17-DEC-97	97-05-5434A	01
05	IN	CLARK COUNTY *	1804260175C	18-JUL-97	97-05-2846A	02
05	IN	CLARK COUNTY *	1804260175C	09-JUL-97	97-05-3720A	02
05	IN	CLARK COUNTY *	1804260175C	30-JUL-97	97-05-4358A	02
05	IN	CLARK COUNTY *	1804260175C	27-AUG-97	97-05-4608A	02
05	IN	CLARK COUNTY *	1804260175C	03-OCT-97	97-05-5292A	02
05	IN	CLARK COUNTY *	1804260175C	18-NOV-97	98-05-070A	02
05	IN	COLUMBUS, CITY OF	1800070020D	07-JUL-97	97-05-3280A	02
05	IN	COLUMBUS, CITY OF	1800070015D	13-AUG-97	97-05-4234A	01
05	IN	COLUMBUS, CITY OF	1800070020D	10-SEP-97	97-05-4866A	02
05	IN	COLUMBUS, CITY OF	1800070020D	17-NOV-97	98-05-314A	01
05	IN	DELAWARE COUNTY*	1800510075C	15-OCT-97	97-05-4750A	02
05	IN	DELAWARE COUNTY*	1800510075C	10-DEC-97	97-05-5412A	02
05	IN	ELKHART COUNTY *	1800560100A	08-JUL-97	97-05-3712A	02
05	IN	ELKHART COUNTY *	1800560010B	08-JUL-97	97-05-3750A	02
05	IN	ELKHART COUNTY *	1800560005A	27-OCT-97	97-05-4896A	02
05	IN	ELLETSVILLE, TOWN OF	180170 C	26-NOV-97	97-05-5626A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	29-JUL-97	97-05-4532A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	12-SEP-97	97-05-4566A	01
05	IN	EVANSVILLE, CITY OF	1802570005B	07-AUG-97	97-05-4602A	02
05	IN	EVANSVILLE, CITY OF	1802570004B	27-AUG-97	97-05-4856A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	07-OCT-97	97-05-5416A	02
05	IN	FAIRMOUNT, TOWN OF	180074 B	04-NOV-97	98-05-232A	02
05	IN	FLOYD COUNTY *	1804320040B	08-JUL-97	97-05-3406A	02
05	IN	FLOYD COUNTY *	1804320025B	17-OCT-97	97-05-5046A	02
05	IN	FORT WAYNE, CITY OF	18003C0290D	23-SEP-97	97-05-2558A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	17-SEP-97	97-05-3746A	02
05	IN	FORT WAYNE, CITY OF	18003C0165E	18-JUL-97	97-05-3796A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	30-JUL-97	97-05-4118A	02
05	IN	FORT WAYNE, CITY OF	18003C0285E	12-SEP-97	97-05-4494A	02
05	IN	FORT WAYNE, CITY OF	18003C0290D	08-SEP-97	97-05-4496A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	30-SEP-97	97-05-5084A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	14-NOV-97	97-05-5332A	17
05	IN	FORT WAYNE, CITY OF	18003C0285E	07-OCT-97	97-05-5360A	02
05	IN	FORT WAYNE, CITY OF	18003C0285E	07-OCT-97	97-05-5378A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	31-OCT-97	97-05-5414A	02
05	IN	FORT WAYNE, CITY OF	18003C0290D	14-NOV-97	98-05-076A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	06-NOV-97	98-05-214A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	26-NOV-97	98-05-216A	02
05	IN	FORT WAYNE, CITY OF	18003C0165E	31-DEC-97	98-05-342A	17
05	IN	FRANKLIN, CITY OF	1801110100C	17-OCT-97	97-05-5578A	01
05	IN	GREENFIELD, CITY OF	1800840006C	17-JUL-97	97-05-1800A	01
05	IN	GREENFIELD, CITY OF	1800840006C	02-JUL-97	97-05-2606A	17
05	IN	GREENWOOD, CITY OF	1801150004B	29-JUL-97	97-05-4108A	02
05	IN	HANCOCK COUNTY *	1804190100B	22-JUL-97	97-05-1334A	01
05	IN	HANCOCK COUNTY *	1804190050B	08-JUL-97	97-05-2682A	02
05	IN	HENDRICKS COUNTY *	1804150100B	17-AUG-97	97-05-011P	05
05	IN	HENDRICKS COUNTY *	1804150100B	10-NOV-97	97-05-3306A	02
05	IN	HENDRICKS COUNTY *	1804150100B	27-AUG-97	97-05-4334A	01
05	IN	HENDRICKS COUNTY *	1804150100B	08-SEP-97	97-05-4392A	02
05	IN	HENDRICKS COUNTY *	1804150100B	04-SEP-97	97-05-4718A	02
05	IN	HENDRICKS COUNTY *	1804150100B	17-OCT-97	97-05-4962A	01
05	IN	HENDRICKS COUNTY *	1804150100B	24-DEC-97	97-05-5156A	17
05	IN	HENDRICKS COUNTY *	1804150100B	21-OCT-97	97-05-5296A	01
05	IN	HOWARD COUNTY *	1804140025B	03-DEC-97	98-05-304A	02
05	IN	INDIANAPOLIS, CITY OF	1801590065D	25-JUL-97	97-05-2524A	01
05	IN	INDIANAPOLIS, CITY OF	1801590095D	08-DEC-97	97-05-261P	06
05	IN	INDIANAPOLIS, CITY OF	1801590055D	18-SEP-97	97-05-2706A	01
05	IN	INDIANAPOLIS, CITY OF	1801590020D	08-JUL-97	97-05-2916A	01
05	IN	INDIANAPOLIS, CITY OF	1801590060D	04-SEP-97	97-05-3044A	01
05	IN	INDIANAPOLIS, CITY OF	1801590060D	30-JUL-97	97-05-3400A	02
05	IN	INDIANAPOLIS, CITY OF	1801590080D	03-NOV-97	97-05-3560P	06

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Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	INDIANAPOLIS, CITY OF	1801590095D	25-SEP-97	97-05-3670A	17
05	IN	INDIANAPOLIS, CITY OF	1801590015D	04-NOV-97	97-05-3700A	02
05	IN	INDIANAPOLIS, CITY OF	1801590075D	04-SEP-97	97-05-3756A	01
05	IN	INDIANAPOLIS, CITY OF	1801590045D	29-OCT-97	97-05-3790A	02
05	IN	INDIANAPOLIS, CITY OF	1801590020D	29-JUL-97	97-05-3830A	01
05	IN	INDIANAPOLIS, CITY OF	1801590100D	23-SEP-97	97-05-3902A	17
05	IN	INDIANAPOLIS, CITY OF	1801590015D	18-JUL-97	97-05-4092A	01
05	IN	INDIANAPOLIS, CITY OF	1801590015D	09-OCT-97	97-05-4116A	02
05	IN	INDIANAPOLIS, CITY OF	1801590020D	03-OCT-97	97-05-4214A	02
05	IN	INDIANAPOLIS, CITY OF	1801590020D	13-AUG-97	97-05-4224A	02
05	IN	INDIANAPOLIS, CITY OF		18-SEP-97	97-05-4368A	02
05	IN	INDIANAPOLIS, CITY OF	1801590090D	04-SEP-97	97-05-4632A	01
05	IN	INDIANAPOLIS, CITY OF	1801590055D	29-OCT-97	97-05-4696A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	10-SEP-97	97-05-4792A	02
05	IN	INDIANAPOLIS, CITY OF	1801590010D	08-SEP-97	97-05-4850A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	10-NOV-97	97-05-4916A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	06-NOV-97	97-05-5032A	01
05	IN	INDIANAPOLIS, CITY OF	1801590070D	13-OCT-97	97-05-5072A	02
05	IN	INDIANAPOLIS, CITY OF	1801590035D	27-OCT-97	97-05-5280A	01
05	IN	INDIANAPOLIS, CITY OF	1801590095D	08-DEC-97	97-05-5298A	02
05	IN	INDIANAPOLIS, CITY OF	1801590075D	30-SEP-97	97-05-5302A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	09-OCT-97	97-05-5486A	02
05	IN	INDIANAPOLIS, CITY OF	1801590035D	05-DEC-97	97-05-5494A	01
05	IN	INDIANAPOLIS, CITY OF	1801590075D	31-OCT-97	97-05-5586A	01
05	IN	INDIANAPOLIS, CITY OF	1801590045D	26-NOV-97	97-05-5592A	01
05	IN	INDIANAPOLIS, CITY OF	1801590090D	01-JUL-97	97-05-774A	01
05	IN	INDIANAPOLIS, CITY OF	1801590095D	29-OCT-97	98-05-154A	02
05	IN	JEFFERSONVILLE, CITY OF	1800270005D	24-JUL-97	97-05-3348A	02
05	IN	JOHNSON COUNTY *	1801110012C	26-NOV-97	97-05-4900A	01
05	IN	JOHNSON COUNTY *	1801110012C	17-NOV-97	97-05-5274A	01
05	IN	JOHNSON COUNTY *	1801110012C	31-OCT-97	98-05-112A	02
05	IN	KOKOMO, CITY OF	1800930008B	22-OCT-97	97-05-329P	05
05	IN	KOKOMO, CITY OF	1804140033B	22-OCT-97	97-05-329P	05
05	IN	KOSCIUSKO COUNTY*	18085C0125C	10-JUL-97	97-05-4058A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	24-JUL-97	97-05-4198A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	29-JUL-97	97-05-4484A	02
05	IN	KOSCIUSKO COUNTY*	18085C0100C	07-AUG-97	97-05-4570A	02
05	IN	KOSCIUSKO COUNTY*	18085C0080C	25-SEP-97	97-05-4858A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	23-OCT-97	97-05-5044A	02
05	IN	KOSCIUSKO COUNTY*	18085C0045C	23-SEP-97	97-05-5078A	02
05	IN	KOSCIUSKO COUNTY*	18085C0040C	12-DEC-97	97-05-5170A	01
05	IN	KOSCIUSKO COUNTY*	18085C0100C	12-DEC-97	97-05-5402A	02
05	IN	KOSCIUSKO COUNTY*	18085C0060C	12-NOV-97	98-05-080A	02
05	IN	KOSCIUSKO COUNTY*	18085C0025C	08-DEC-97	98-05-176A	02
05	IN	KOSCIUSKO COUNTY*	18085C0080C	12-NOV-97	98-05-178A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	12-NOV-97	98-05-180A	02
05	IN	KOSCIUSKO COUNTY*	18085C0100C	23-OCT-97	98-05-242A	02
05	IN	KOSCIUSKO COUNTY*	18085C0100C	12-NOV-97	98-05-302A	02
05	IN	KOSCIUSKO COUNTY*	18085C0080C	14-NOV-97	98-05-370A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	18-NOV-97	98-05-380A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	08-DEC-97	98-05-454A	02
05	IN	KOSCIUSKO COUNTY*	18085C0125C	31-DEC-97	98-05-552A	02
05	IN	KOSCIUSKO COUNTY*	18085C0125C	12-DEC-97	98-05-722A	02
05	IN	LAGRANGE COUNTY	1801250004B	21-AUG-97	97-05-4380A	02
05	IN	LAGRANGE COUNTY	1801250004B	07-OCT-97	97-05-4460A	01
05	IN	LAGRANGE COUNTY	1250950040C	03-DEC-97	98-05-560A	02
05	IN	LAGRANGE COUNTY	1801250003B	03-DEC-97	98-05-560A	02
05	IN	LAKE COUNTY *	1801260135B	17-NOV-97	97-05-5062A	02
05	IN	LEBANON, CITY OF	1800130002D	29-AUG-97	97-05-4174A	02
05	IN	LEBANON, CITY OF	1800130001D	22-DEC-97	97-05-4456A	02
05	IN	LEBANON, CITY OF	1800130001D	21-OCT-97	97-05-4708A	01
05	IN	LEBANON, CITY OF	1800130001D	29-SEP-97	97-05-4734A	02
05	IN	MISHAWAKA, CITY OF	1802270010B	31-OCT-97	97-05-4662A	02
05	IN	MONROE COUNTY*	1804440001B	21-OCT-97	97-05-5460A	02
05	IN	MONROE COUNTY*	1804440001B	10-DEC-97	98-05-212A	02
05	IN	MONROEVILLE, TOWN OF	18003C0455D	24-DEC-97	97-05-4510A	02
05	IN	MONTGOMERY COUNTY *	1804450006A	15-AUG-97	97-05-4064A	02
05	IN	MUNSTER, TOWN OF	1801390002B	30-JUL-97	97-05-2542A	02
05	IN	MUNSTER, TOWN OF	1801390002B	17-DEC-97	98-05-506A	02
05	IN	NAPPANEE, CITY OF	1800590001A	10-JUL-97	97-05-3672A	02
05	IN	NEW ALBANY, CITY OF	1800620005C	12-SEP-97	97-05-4162A	17
05	IN	NEWBURGH, TOWN OF	1802760001B	23-SEP-97	97-05-5154A	02
05	IN	NOBLE COUNTY *	1801830075B	19-AUG-97	97-05-4454A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	NOBLESVILLE, CITY OF	1800820030E	08-JUL-97	97-05-2710A	01
05	IN	NOBLESVILLE, CITY OF	1800820025E	05-SEP-97	97-05-4372A	01
05	IN	NOBLESVILLE, CITY OF	1800820025E	10-DEC-97	97-05-5162A	02
05	IN	NOBLESVILLE, CITY OF	1800820015E	20-NOV-97	97-05-5164A	02
05	IN	NOBLESVILLE, CITY OF	1800820005E	26-NOV-97	97-05-5424A	02
05	IN	NOBLESVILLE, CITY OF	1800820005E	08-DEC-97	98-05-588A	02
05	IN	NORTH WEBSTER, TOWN OF	18085C0045C	12-NOV-97	98-05-174A	02
05	IN	ORLAND, TOWN OF	180250 A	15-OCT-97	97-05-5400A	02
05	IN	PLAINFIELD, TOWN OF	1804150100B	08-DEC-97	97-05-4966A	01
05	IN	PORTER COUNTY *	1804250070B	31-OCT-97	97-05-2142A	17
05	IN	PORTER COUNTY *	1804250060B	03-SEP-97	97-05-3356A	02
05	IN	PORTER, TOWN OF	1802080004B	11-AUG-97	97-05-2944A	02
05	IN	PRINCES LAKE, TOWN OF	1801170001B	22-SEP-97	97-05-4766A	02
05	IN	ROCKPORT, CITY OF	1802390001B	20-OCT-97	97-05-5064A	02
05	IN	ROCKPORT, CITY OF	1802390001B	29-OCT-97	97-05-5066A	02
05	IN	RUSH COUNTY *	1804210025B	19-AUG-97	97-05-1712A	17
05	IN	SCHERERVILLE, TOWN OF	1801420005B	28-AUG-97	97-05-4352A	02
05	IN	SCHERERVILLE, TOWN OF	1801420005B	10-NOV-97	97-05-4550A	01
05	IN	SELLERSBURG, TOWN OF	1800280001B	07-JUL-97	97-05-3744A	02
05	IN	SELLERSBURG, TOWN OF	1800280001B	27-OCT-97	98-05-308A	02
05	IN	SEYMOUR, CITY OF	1800990004C	11-AUG-97	97-05-3786A	02
05	IN	SEYMOUR, CITY OF	1800990004C	10-JUL-97	97-05-3996A	02
05	IN	SEYMOUR, CITY OF	1800990004C	15-AUG-97	97-05-4098A	01
05	IN	SEYMOUR, CITY OF	1800990004C	28-JUL-97	97-05-4190A	02
05	IN	SEYMOUR, CITY OF	1800990004C	28-JUL-97	97-05-4204A	02
05	IN	SEYMOUR, CITY OF	1800990004C	05-AUG-97	97-05-4326A	01
05	IN	SEYMOUR, CITY OF	1800990004C	24-DEC-97	97-05-5070A	02
05	IN	SHELBY COUNTY *	1802350055B	26-NOV-97	97-05-4458A	02
05	IN	SOUTH BEND, CITY OF	1802310006C	21-OCT-97	97-05-2304P	05
05	IN	SOUTH BEND, CITY OF	1802310006C	06-NOV-97	97-05-3968A	17
05	IN	SPENCER COUNTY *	1802370150A	24-NOV-97	97-05-4666A	02
05	IN	SPENCER COUNTY *	1802370100A	14-OCT-97	97-05-5232A	02
05	IN	STEUBEN COUNTY*	1802430075B	08-SEP-97	97-05-4172A	02
05	IN	STEUBEN COUNTY*	1802430025B	12-NOV-97	97-05-4304A	02
05	IN	STEUBEN COUNTY*	1802430100B	21-AUG-97	97-05-4628A	02
05	IN	STEUBEN COUNTY*	1802430025B	19-AUG-97	97-05-4638A	02
05	IN	STEUBEN COUNTY*	1802430100B	08-SEP-97	97-05-4688A	02
05	IN	STEUBEN COUNTY*	1802430100B	04-SEP-97	97-05-4690A	02
05	IN	STEUBEN COUNTY*	1802430050B	12-SEP-97	97-05-4954A	02
05	IN	STEUBEN COUNTY*	1802430025B	29-OCT-97	97-05-4978A	02
05	IN	STEUBEN COUNTY*	1802430025B	27-OCT-97	97-05-5408A	02
05	IN	STEUBEN COUNTY*	1802430025B	12-NOV-97	97-05-5526A	02
05	IN	STEUBEN COUNTY*	1802430025B	31-DEC-97	98-05-1210A	02
05	IN	STEUBEN COUNTY*	1802430025B	12-NOV-97	98-05-190A	02
05	IN	SWITZERLAND COUNTY *	1802510100B	08-SEP-97	97-05-3494A	01
05	IN	TELL CITY, CITY OF	180197 B	08-SEP-97	97-05-4946A	02
05	IN	TIPPECANOE COUNTY *	1804280050B	14-AUG-97	97-05-4472A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	05-SEP-97	97-05-183P	06
05	IN	VANDERBURGH COUNTY *	1802560055C	07-JUL-97	97-05-2334A	02
05	IN	VANDERBURGH COUNTY *	1802560050B	14-AUG-97	97-05-2456A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	30-SEP-97	97-05-3500A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	24-JUL-97	97-05-4080A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	10-JUL-97	97-05-4082A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	18-JUL-97	97-05-4200A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	24-JUL-97	97-05-4350A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	31-JUL-97	97-05-4468A	01
05	IN	VANDERBURGH COUNTY *	1802560075C	07-AUG-97	97-05-4600A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	03-SEP-97	97-05-4636A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	10-SEP-97	97-05-4764A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	27-AUG-97	97-05-4854A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	03-SEP-97	97-05-4958A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	10-SEP-97	97-05-5052A	01
05	IN	VANDERBURGH COUNTY *	1802560015C	07-OCT-97	97-05-5268A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	07-OCT-97	97-05-5544A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	07-OCT-97	97-05-5552A	02
05	IN	VANDERBURGH COUNTY *	1802560100B	20-OCT-97	98-05-016A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	21-OCT-97	98-05-062A	02
05	IN	VANDERBURGH COUNTY *	1802560100B	21-OCT-97	98-05-122A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	27-OCT-97	98-05-200A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	04-NOV-97	98-05-446A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	24-NOV-97	98-05-520A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	20-NOV-97	98-05-528A	02
05	IN	VIGO COUNTY *	1802630135B	29-OCT-97	97-05-2648A	02

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05	IN	WARRICK COUNTY *	1804180125B	12-SEP-97	97-05-4762A	02
05	IN	WARRICK COUNTY *	1804180200B	25-SEP-97	97-05-5248A	02
05	IN	WARRICK COUNTY *	1804180175B	22-DEC-97	97-05-5352A	02
05	IN	WARSAW, CITY OF	18085C0067C	22-JUL-97	97-05-3798A	02
05	IN	WELLS COUNTY *	1802880075C	14-NOV-97	97-05-4992A	02
05	IN	WEST LAFAYETTE, CITY OF	1802540002C	09-JUL-97	97-05-3818A	02
05	IN	WESTFIELD, TOWN OF	1800830011C	01-AUG-97	97-05-3600A	01
05	IN	WESTFIELD, TOWN OF	1800830011C	25-AUG-97	97-05-4960A	02
05	IN	WESTFIELD, TOWN OF	1800830011C	31-OCT-97	98-05-040A	01
05	IN	WESTFIELD, TOWN OF	1800830015C	31-DEC-97	98-05-292A	01
05	IN	WHITE COUNTY *	1804470005C	29-AUG-97	97-05-4194A	02
05	IN	WHITE COUNTY *	1804470005C	12-NOV-97	98-05-246A	02
05	IN	WHITE COUNTY *	1804470002C	22-DEC-97	98-05-260A	02
05	IN	WHITELAND, TOWN OF	1801180001A	08-SEP-97	97-05-2518A	01
05	IN	WHITLEY COUNTY*	1802980001B	07-JUL-97	97-05-3360A	02
05	IN	WHITLEY COUNTY*	1802980002B	18-SEP-97	97-05-3696A	02
05	IN	WHITLEY COUNTY*	1802980002B	23-SEP-97	97-05-3698A	02
05	IN	WHITLEY COUNTY*	1802980002B	01-DEC-97	97-05-4974A	02
05	IN	WHITLEY COUNTY*	1802980002B	05-DEC-97	97-05-5262A	02
05	IN	WHITLEY COUNTY*	1802980001B	17-NOV-97	97-05-5478A	02
05	IN	WHITLEY COUNTY*	1802980002B	10-DEC-97	98-05-104A	02
05	IN	WINONA LAKE, TOWN OF	18085C0086C	29-AUG-97	97-05-2388A	02
05	MI	ALBEE, TOWNSHIP OF	26145C0245D	14-NOV-97	97-05-3230A	02
05	MI	ALGOMA, TOWNSHIP OF	2607380010A	13-OCT-97	97-05-4672A	02
05	MI	ALGONAC, CITY OF	2601910001C	24-JUL-97	97-05-4266A	01
05	MI	ANN ARBOR, CITY OF	2602130005D	12-NOV-97	97-05-5568A	02
05	MI	BALDWIN, TOWNSHIP OF	2600990016D	22-SEP-97	97-05-4574A	02
05	MI	BANGOR, TOWNSHIP OF	26017C0140D	24-SEP-97	97-05-3320A	01
05	MI	BANGOR, TOWNSHIP OF	26017C0140D	31-DEC-97	98-05-162A	02
05	MI	BANKS, TOWNSHIP OF	2606430001B	29-OCT-97	97-05-4154A	02
05	MI	BARAGA, VILLAGE OF	2605510001B	24-JUL-97	97-05-2794A	02
05	MI	BATTLE CREEK, CITY OF	2600510012B	26-AUG-97	97-05-4406A	02
05	MI	BATTLE CREEK, CITY OF	2600510012B	12-NOV-97	98-05-142A	02
05	MI	BAY CITY, CITY OF	26017C0175D	12-SEP-97	97-05-4412A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	02-JUL-97	97-05-3738A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	03-DEC-97	98-05-238A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420008B	24-JUL-97	97-05-3486A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420008B	17-OCT-97	97-05-5362A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420006B	10-NOV-97	98-05-060A	17
05	MI	BENONA, TOWNSHIP OF	260481 A	10-JUL-97	97-05-4042A	02
05	MI	BLOOMFIELD, TOWNSHIP OF	2601690004C	24-JUL-97	97-05-4202A	02
05	MI	BOYNE CITY, CITY OF	2600560003B	22-SEP-97	97-05-4872A	01
05	MI	BROWNSTOWN, CHARTERED TOWNSHIP OF	2602180010B	06-NOV-97	97-05-5452A	02
05	MI	BRUCE, TOWNSHIP OF	2608840025A	14-JUL-97	97-05-3936A	02
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0085D	18-NOV-97	98-05-124A	02
05	MI	BURTON, CITY OF	2602870005B	18-SEP-97	97-05-3520A	02
05	MI	CADILLAC, CITY OF	2602470002B	10-DEC-97	98-05-518A	02
05	MI	CALEDONIA, TOWNSHIP OF	2606930005B	06-NOV-97	97-05-4490A	02
05	MI	CANNON, TOWNSHIP OF	2607340025A	20-NOV-97	97-05-3664A	02
05	MI	CANTON, TOWNSHIP OF	2602190006B	19-NOV-97	96-05-185P	05
05	MI	CANTON, TOWNSHIP OF	2602190009B	19-NOV-97	96-05-185P	05
05	MI	CANTON, TOWNSHIP OF	2602190008B	05-AUG-97	97-05-113P	05
05	MI	CANTON, TOWNSHIP OF	2602190011B	05-AUG-97	97-05-113P	05
05	MI	CANTON, TOWNSHIP OF	2602190003B	25-SEP-97	97-05-1850A	17
05	MI	CARROLLTON, TOWNSHIP OF	2601870001B	10-SEP-97	97-05-4410A	02
05	MI	CASCADE CHARTER, TOWNSHIP OF	2608140025A	12-DEC-97	98-05-694A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	21-DEC-97	97-05-187P	05
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	18-SEP-97	97-05-4244A	02
05	MI	CHINA, TOWNSHIP OF	2602030015B	08-SEP-97	97-05-3074A	02
05	MI	CLARK, TOWNSHIP OF	2607590025B	10-NOV-97	97-05-4802A	02
05	MI	CLAY, TOWNSHIP OF	2601940003B	03-OCT-97	97-05-5188A	01
05	MI	CLAY, TOWNSHIP OF	2601940003B	10-DEC-97	98-05-928A	01
05	MI	CLEVELAND, TOWNSHIP OF	2603029999A	30-JUL-97	97-05-4208A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	28-JUL-97	97-05-2902A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	21-AUG-97	97-05-3210A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	25-AUG-97	97-05-3412A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	21-AUG-97	97-05-4054A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	15-AUG-97	97-05-4598A	02
05	MI	CLINTON, TOWNSHIP OF	2601210005D	03-SEP-97	97-05-5030A	17
05	MI	CLINTON, TOWNSHIP OF	2601210010D	12-DEC-97	97-05-5622A	02
05	MI	CLINTON, TOWNSHIP OF	2601210010D	17-DEC-97	98-05-466A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	30-JUL-97	97-05-1934A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	26-AUG-97	97-05-4292A	02

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05	MI	COMMERCE, TOWNSHIP OF	2604730005B	18-AUG-97	97-05-4356A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730010B	04-NOV-97	98-05-414A	02
05	MI	DEARBORN HEIGHTS, CITY OF	2602210007C	31-OCT-97	97-05-3628A	02
05	MI	DELTA, CHARTER TOWNSHIP OF	2600660005C	15-JUL-97	97-05-3730A	02
05	MI	EAST CHINA, TOWNSHIP OF	2601970005B	12-DEC-97	97-05-2510A	02
05	MI	EAST CHINA, TOWNSHIP OF	2601970005B	12-SEP-97	97-05-4818A	02
05	MI	EAST CHINA, TOWNSHIP OF	2601970005B	25-SEP-97	97-05-4918A	02
05	MI	EAST TAWAS, CITY OF	2601000001C	18-JUL-97	97-05-3314A	02
05	MI	ELBA, TOWNSHIP OF	2607760001A	30-JUL-97	97-05-3816A	02
05	MI	ELBA, TOWNSHIP OF	2607760001A	22-DEC-97	98-05-1010A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	01-AUG-97	97-05-4426A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	12-AUG-97	97-05-4446A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	04-NOV-97	97-05-4878A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	08-DEC-97	98-05-680A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720005B	11-SEP-97	97-05-4046A	02
05	MI	FENTON, CITY OF	2600750002A	13-AUG-97	97-05-3800A	02
05	MI	FLINT, CITY OF	2600760015C	29-AUG-97	97-05-3084A	02
05	MI	FLINT, TOWNSHIP OF	2603950005B	18-JUL-97	97-05-2994A	02
05	MI	FLINT, TOWNSHIP OF	2603950005B	25-SEP-97	97-05-4794A	02
05	MI	FOWLERVILLE,VILLAGE OF	2604390001A	24-DEC-97	98-05-678A	02
05	MI	FRANKENLUST, TOWNSHIP OF	26017C0200D	26-NOV-97	97-05-5610A	02
05	MI	FRASER, CITY OF	2601220001B	06-NOV-97	97-05-3464A	01
05	MI	FRASER, CITY OF	2601220001B	13-AUG-97	97-05-3604A	01
05	MI	FRASER, CITY OF	2601220001B	03-DEC-97	97-05-4990A	02
05	MI	FRENCHTOWN, TOWNSHIP OF	2601460004B	30-DEC-97	98-05-1272A	02
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890005B	30-JUL-97	97-05-3310A	01
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890005B	08-JUL-97	97-05-3802A	02
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890005B	14-NOV-97	98-05-188A	02
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890005B	03-DEC-97	98-05-358A	01
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890007B	03-DEC-97	98-05-358A	01
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890005B	12-DEC-97	98-05-734A	02
05	MI	GLADSTONE, CITY OF	2602670001B	21-OCT-97	98-05-068A	02
05	MI	GRAND RAPIDS, CITY OF	2601060025C	07-AUG-97	97-05-4158A	17
05	MI	GRAND RAPIDS, CITY OF	2601060025C	07-AUG-97	97-05-4508A	02
05	MI	GRAND RAPIDS, CITY OF	2601060025C	10-NOV-97	97-05-4984A	02
05	MI	GRANDVILLE, CITY OF	2602710001B	10-JUL-97	97-05-3292A	17
05	MI	GRANDVILLE, CITY OF	2602710001B	10-JUL-97	97-05-3294A	17
05	MI	GRANDVILLE, CITY OF	2602710002B	16-JUL-97	97-05-3574A	02
05	MI	GREEN OAK, TOWNSHIP OF	2604400015B	27-AUG-97	97-05-3434A	02
05	MI	GREEN OAK, TOWNSHIP OF	2604400005B	31-DEC-97	98-05-810A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	29-AUG-97	97-05-4912A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	25-SEP-97	97-05-4914A	02
05	MI	GROSSE ILE, TOWNSHIP OF	2602270010B	01-JUL-97	97-05-2876A	02
05	MI	HAMBURG, TOWNSHIP OF	2601180010C	15-OCT-97	97-05-5242A	02
05	MI	HAMPTON, TOWNSHIP OF	26017C0180D	24-DEC-97	98-05-156A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	25-JUL-97	97-05-3780A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	25-JUL-97	97-05-4278A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	26-NOV-97	97-05-5436A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	09-DEC-97	98-05-514A	02
05	MI	HAYNES, TOWNSHIP OF	260274 A	20-NOV-97	97-05-3598A	02
05	MI	IDA, TOWNSHIP OF	2601470015B	22-JUL-97	97-05-3644A	02
05	MI	IDA, TOWNSHIP OF	2601470015B	22-AUG-97	97-05-3718A	02
05	MI	IDA, TOWNSHIP OF	2601470005B	13-AUG-97	97-05-3722A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750006B	15-JUL-97	97-05-4040A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750006B	17-DEC-97	98-05-768A	02
05	MI	IRA, TOWNSHIP OF	2601990005B	07-OCT-97	97-05-4360A	02
05	MI	JOHNSTOWN, TOWNSHIP OF	260355 A	01-AUG-97	97-05-3302A	02
05	MI	JOHNSTOWN, TOWNSHIP OF	260355 A	28-JUL-97	97-05-3414A	02
05	MI	JOHNSTOWN, TOWNSHIP OF	260355 A	05-AUG-97	97-05-4240A	02
05	MI	JOHNSTOWN, TOWNSHIP OF	260355 A	23-SEP-97	97-05-4832A	02
05	MI	KAWKAWLIN, TOWNSHIP OF	26017C0110D	10-DEC-97	97-05-5346A	02
05	MI	KAWKAWLIN, TOWNSHIP OF	26017C0110D	08-DEC-97	98-05-092A	02
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	08-DEC-97	98-05-276A	02
05	MI	L'ANSE, VILLAGE OF	260552 A	23-SEP-97	97-05-4270A	02
05	MI	LAKE, TOWNSHIP OF	260030 A	02-JUL-97	97-05-1264A	02
05	MI	LAKE, TOWNSHIP OF	260030 A	19-AUG-97	97-05-2900A	02
05	MI	LAKE, TOWNSHIP OF	260030 A	10-DEC-97	98-05-548A	02
05	MI	LAKETOWN, TOWNSHIP OF	2602530005A	19-AUG-97	97-05-4680A	02
05	MI	LAKETOWN, TOWNSHIP OF	2602530005A	15-AUG-97	97-05-4682A	02
05	MI	LAKETOWN, TOWNSHIP OF	2602530005A	12-SEP-97	97-05-5026A	02
05	MI	LAKETOWN, TOWNSHIP OF	2602530005A	13-OCT-97	97-05-5572A	02
05	MI	MACOMB, TOWNSHIP OF	26044500208	29-JUL-97	97-05-3844A	02
05	MI	MACOMB, TOWNSHIP OF	26044500208	13-OCT-97	97-05-4670A	02

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05	MI	MACOMB, TOWNSHIP OF	2604450020B	05-NOV-97	98-05-486A	02
05	MI	MARQUETTE, CITY OF	2607160025B	27-OCT-97	97-05-3398A	02
05	MI	MENOMINEE, CITY OF	2601380005B	31-DEC-97	97-05-5048A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020030B	15-AUG-97	97-05-3618A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020030B	16-SEP-97	97-05-4302A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020030B	23-SEP-97	97-05-5008A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	07-AUG-97	97-05-2620A	01
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	18-AUG-97	97-05-337P	05
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	09-JUL-97	97-05-3776A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	07-AUG-97	97-05-4068A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	23-SEP-97	97-05-4160A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	26-NOV-97	98-05-270A	02
05	MI	MIDLAND, CITY OF	2601400007D	07-JUL-97	97-05-3476A	02
05	MI	MIDLAND, CITY OF	2601400005D	17-JUL-97	97-05-3960A	02
05	MI	MIDLAND, CITY OF	2601400008D	15-OCT-97	97-05-4848A	02
05	MI	MIDLAND, CITY OF	2601400007D	17-OCT-97	97-05-5426A	02
05	MI	MONROE, TOWNSHIP OF	2601540001A	03-OCT-97	97-05-4710A	01
05	MI	MONROE, TOWNSHIP OF	2601540001A	26-NOV-97	97-05-5290A	02
05	MI	MONTAGUE, CITY OF	2601600001B	22-DEC-97	97-05-5168A	01
05	MI	MOUNT PLEASANT, CITY OF	2601040001B	15-AUG-97	97-05-3930A	02
05	MI	NILES, TOWNSHIP OF	260041 B	13-AUG-97	97-05-3882A	02
05	MI	NOTTAWA, TOWNSHIP OF	2605140015B	24-JUL-97	97-05-4182A	02
05	MI	NOVI, CITY OF	2601750008C	16-JUL-97	97-05-3650A	02
05	MI	NOVI, CITY OF	2601750008C	27-OCT-97	97-05-4944A	02
05	MI	NOVI, CITY OF	2601750007C	23-OCT-97	97-05-5160A	01
05	MI	NOVI, CITY OF	2601750008C	17-NOV-97	97-05-5180A	02
05	MI	NOVI, CITY OF	2601750008C	17-NOV-97	97-05-5182A	01
05	MI	NOVI, CITY OF	2601750008C	12-SEP-97	97-05-5208A	02
05	MI	NOVI, CITY OF	2601750008C	12-DEC-97	97-05-5604A	02
05	MI	NOVI, CITY OF	2601750008C	17-DEC-97	98-05-620A	17
05	MI	ORCHARD LAKE VILLAGE, CITY OF	2604770005A	01-OCT-97	97-05-5212A	02
05	MI	OSCODA, TOWNSHIP OF	2601010025C	17-OCT-97	97-05-3794A	02
05	MI	PENNFIELD, TOWNSHIP OF	2605640005A	15-OCT-97	97-05-3518A	02
05	MI	PORTAGE, CITY OF	2605770001A	05-SEP-97	97-05-4366A	17
05	MI	PUTNAM, TOWNSHIP OF	2604420020C	27-AUG-97	97-05-4524A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	22-JUL-97	97-05-3716A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	10-SEP-97	97-05-4488A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	16-SEP-97	97-05-4622A	02
05	MI	ROYALTON, TOWNSHIP OF	2600430001B	12-NOV-97	97-05-4806A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	23-OCT-97	97-05-2128A	02
05	MI	SAULT SAINTE MARIE, CITY OF	2600590003B	04-SEP-97	97-05-269P	06
05	MI	SAULT SAINTE MARIE, CITY OF	2600590006B	04-SEP-97	97-05-269P	06
05	MI	SCIO, TOWNSHIP OF	2605370025A	29-OCT-97	97-05-4548A	02
05	MI	SCIO, TOWNSHIP OF	2605370025A	10-DEC-97	98-05-780A	02
05	MI	SHELBY, TOWNSHIP OF	2601260010B	08-AUG-97	97-05-2564A	02
05	MI	SHELBY, TOWNSHIP OF	2601260020B	03-DEC-97	97-05-5258A	02
05	MI	SHERMAN, TOWNSHIP OF	2608220025A	27-AUG-97	97-05-4512A	02
05	MI	SPARTA, TOWNSHIP OF	2607410005A	05-DEC-97	97-05-5454A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	29-JUL-97	97-05-4148A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	25-AUG-97	97-05-4572A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	02-OCT-97	97-05-4576A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	25-AUG-97	97-05-4604A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	11-SEP-97	97-05-4606A	02
05	MI	ST. CLAIR SHORES CITY OF	2601270005B	31-DEC-97	98-05-1048A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1050A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1052A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1056A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1060A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1062A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1226A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-1228A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	05-DEC-97	98-05-206A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	17-DEC-97	98-05-236A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	05-DEC-97	98-05-362A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	26-NOV-97	98-05-364A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	10-DEC-97	98-05-538A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	17-DEC-97	98-05-712A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	17-DEC-97	98-05-716A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	22-DEC-97	98-05-844A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	31-DEC-97	98-05-972A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280010E	10-JUL-97	97-05-2212A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280020E	07-AUG-97	97-05-3608A	01
05	MI	STERLING HEIGHTS, CITY OF	2601280010E	27-OCT-97	97-05-5404A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	05-DEC-97	98-05-064A	02
05	MI	TAYLOR, CITY OF	2607280001B	09-JUL-97	97-05-3270A	02
05	MI	TAYLOR, CITY OF	2607280004A	23-SEP-97	97-05-3838A	02
05	MI	TAYLOR, CITY OF	2607280001B	10-JUL-97	97-05-3854A	17
05	MI	TAYLOR, CITY OF	2607280004A	16-SEP-97	97-05-4596A	02
05	MI	THOMAS, TOWNSHIP OF	2606030020A	30-JUL-97	97-05-4140A	02
05	MI	THOMAS, TOWNSHIP OF	2606030020A	26-AUG-97	97-05-4142A	02
05	MI	THOMAS, TOWNSHIP OF	2606030020A	23-SEP-97	97-05-4170A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0125D	10-NOV-97	97-05-5322A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0070D	06-NOV-97	97-05-5474A	02
05	MI	TROY, CITY OF	2601800002D	28-OCT-97	97-05-1626P	06
05	MI	TROY, CITY OF	2601800001E	26-AUG-97	97-05-239P	06
05	MI	TROY, CITY OF	2601800004E	08-JUL-97	97-05-3782A	17
05	MI	TROY, CITY OF	2601800006E	09-JUL-97	97-05-3864A	02
05	MI	TROY, CITY OF	2601800006E	10-JUL-97	97-05-392A	01
05	MI	TROY, CITY OF	2601800004E	13-AUG-97	97-05-4394A	02
05	MI	TROY, CITY OF	2601800004E	12-SEP-97	97-05-4646A	02
05	MI	TROY, CITY OF	2601800004E	07-OCT-97	97-05-5214A	02
05	MI	TROY, CITY OF	2601800002D	22-SEP-97	97-05-5336A	02
05	MI	TROY, CITY OF	2601800002D	10-NOV-97	97-05-5350A	17
05	MI	TROY, CITY OF	2601800002D	26-NOV-97	98-05-274A	17
05	MI	TROY, CITY OF	2601800002D	03-DEC-97	98-05-376A	17
05	MI	TROY, CITY OF	2601800004E	26-NOV-97	98-05-440A	02
05	MI	WARREN, CITY OF	2601290010C	13-OCT-97	97-05-5272A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	28-JUL-97	97-05-4088A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	31-JUL-97	97-05-4260A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	31-DEC-97	97-05-4824A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	07-OCT-97	97-05-5036A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790005B	21-AUG-97	97-05-2384A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790010B	04-SEP-97	97-05-3918A	02
05	MI	WHITE LAKE, TOWNSHIP OF	2604790010B	11-AUG-97	97-05-4044A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	04-SEP-97	97-05-4376A	02
05	MI	WILLIAMSTON, CITY OF	2600940001B	15-AUG-97	97-05-806A	02
05	MI	WOODHAVEN, CITY OF	2607300005A	31-OCT-97	97-05-4126A	02
05	MI	ZILWAUKEE, CITY OF	2602850005C	10-SEP-97	97-05-2188A	02
05	MN	AITKIN COUNTY *	2706280325C	24-JUL-97	97-05-3850A	02
05	MN	AITKIN COUNTY *	2706280120C	17-OCT-97	97-05-4286A	17
05	MN	AITKIN COUNTY *	2706280325C	24-DEC-97	97-05-5560A	02
05	MN	ANDOVER, CITY OF	2706890015B	25-AUG-97	97-05-4648A	02
05	MN	BLAINE, CITY OF	2700070005C	11-AUG-97	97-05-4136A	02
05	MN	BLAINE, CITY OF	2700070005C	20-AUG-97	97-05-4290A	02
05	MN	BLAINE, CITY OF	2700070005C	08-SEP-97	97-05-4564A	02
05	MN	BLAINE, CITY OF	2700070005C	01-OCT-97	97-05-5234A	02
05	MN	BLAINE, CITY OF	2700070005C	06-NOV-97	98-05-158A	02
05	MN	BLAINE, CITY OF	2700070005C	10-DEC-97	98-05-630A	02
05	MN	BLUE EARTH COUNTY *	2752310150D	04-SEP-97	97-05-4320A	02
05	MN	BROOKLYN PARK, CITY OF	2701520001C	20-NOV-97	98-05-750A	02
05	MN	BROOKLYN PARK, CITY OF	2701520001C	15-DEC-97	98-05-920A	02
05	MN	BROWNSVILLE, CITY OF	2701910005C	23-OCT-97	97-05-4650A	01
05	MN	CENTERVILLE, CITY OF	2700080001B	18-NOV-97	98-05-116A	02
05	MN	CHAMPLIN, CITY OF	2701530001A	15-AUG-97	97-05-4422A	02
05	MN	CHISAGO COUNTY *	2706820175C	29-AUG-97	97-05-4956A	02
05	MN	COLD SPRING, CITY OF	2704440001C	24-JUL-97	97-05-1448A	01
05	MN	COOK COUNTY *	2701690003B	13-OCT-97	97-05-2838A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	26-AUG-97	97-05-3342P	05
05	MN	COON RAPIDS,CITY OF	2700110001A	16-JUL-97	97-05-4060A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	06-NOV-97	98-05-148A	01
05	MN	COON RAPIDS,CITY OF	2700110001A	10-DEC-97	98-05-250A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	24-NOV-97	98-05-252A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	05-DEC-97	98-05-416A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	22-DEC-97	98-05-770A	02
05	MN	CRYSTAL, CITY OF	2701560004C	27-AUG-97	97-05-4430A	02
05	MN	EAST BETHEL, CITY OF	2700120005A	16-OCT-97	97-05-5014A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	16-SEP-97	97-05-4840A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	21-OCT-97	97-05-4842A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	13-OCT-97	97-05-5148A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	13-OCT-97	97-05-5150A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	24-DEC-97	97-05-3966A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	27-OCT-97	97-05-4104A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	12-DEC-97	97-05-4254A	01
05	MN	HAM LAKE, CITY OF	2706740010B	08-AUG-97	97-05-3014A	02
05	MN	HAM LAKE, CITY OF	2706740010B	22-AUG-97	97-05-3594A	02
05	MN	HAM LAKE, CITY OF	2706740005B	15-AUG-97	97-05-3898A	02

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05	MN	HAM LAKE, CITY OF	2706740005B	16-SEP-97	97-05-3984A	02
05	MN	HAM LAKE, CITY OF	2706740010B	01-OCT-97	97-05-4034A	02
05	MN	HAM LAKE, CITY OF	2706740005B	05-AUG-97	97-05-4310A	02
05	MN	HAM LAKE, CITY OF	2706740010B	10-SEP-97	97-05-4554A	02
05	MN	HAM LAKE, CITY OF	2706740005B	01-OCT-97	97-05-5222A	02
05	MN	HAM LAKE, CITY OF	2706740010B	01-OCT-97	97-05-5224A	02
05	MN	HAM LAKE, CITY OF	2706740005B	16-DEC-97	98-05-1014A	02
05	MN	HAM LAKE, CITY OF	2706740010B	20-OCT-97	98-05-146A	02
05	MN	HUGO, CITY OF	2705040010C	31-JUL-97	97-05-3634A	02
05	MN	ISANTI COUNTY *	2701970035A	29-OCT-97	97-05-5368A	02
05	MN	ISANTI COUNTY *	2701970080A	22-DEC-97	97-05-5472A	02
05	MN	KOOCHICHING COUNTY *	2702330006B	28-JUL-97	97-05-3952A	02
05	MN	LAKEVILLE, CITY OF	2701070005B	07-JUL-97	97-05-1390A	02
05	MN	LINO LAKES, CITY OF	2700150010B	03-SEP-97	96-05-327P	06
05	MN	LINO LAKES, CITY OF	2700150010B	30-JUL-97	97-05-3630A	02
05	MN	LINO LAKES, CITY OF	2700150010B	30-JUL-97	97-05-3804A	02
05	MN	LINO LAKES, CITY OF	2700150010B	06-NOV-97	97-05-4758A	01
05	MN	LINO LAKES, CITY OF	2700150010B	26-NOV-97	97-05-5382A	02
05	MN	MINNETRISTA, CITY OF	270175 B	24-JUL-97	97-05-3474A	02
05	MN	MORRISON COUNTY *	2706170200B	21-AUG-97	97-05-4560A	02
05	MN	MOUND, CITY OF	2701760005B	24-JUL-97	97-05-3668A	02
05	MN	MURRAY COUNTY *	2706450090A	29-SEP-97	97-05-3840A	02
05	MN	PINE COUNTY *	2707040400B	08-JUL-97	97-05-2280A	02
05	MN	PINE COUNTY *	2707040340B	25-SEP-97	97-05-4300A	02
05	MN	POLK COUNTY *	2705030175B	11-DEC-97	98-05-622A	01
05	MN	PRIOR LAKE, CITY OF	2704320004C	31-DEC-97	98-05-782A	02
05	MN	RICE COUNTY *	2706460025C	29-AUG-97	97-05-3458A	02
05	MN	RICE COUNTY *	2706460025C	19-AUG-97	97-05-4382A	02
05	MN	RICE COUNTY *	2706460025C	23-SEP-97	97-05-4498A	02
05	MN	RICE COUNTY *	2706460025C	25-AUG-97	97-05-4540A	02
05	MN	ROCHESTER, CITY OF	27109C0163D	08-JUL-97	97-05-3612A	02
05	MN	ROCHESTER, CITY OF	27109C0164D	31-DEC-97	98-05-474A	01
05	MN	SAVAGE, CITY OF	2704330003C	10-SEP-97	97-05-3774A	02
05	MN	SCOTT COUNTY*	2704280020C	07-OCT-97	97-05-4788A	02
05	MN	SHAKOPEE, CITY OF	2704340002C	23-OCT-97	97-05-229P	05
05	MN	SHERBURNE COUNTY *	2704350095C	27-AUG-97	97-05-3900A	02
05	MN	SHOREVIEW, CITY OF	2703840001B	15-AUG-97	97-05-3834A	01
05	MN	SHOREVIEW, CITY OF	2703840001B	04-NOV-97	97-05-4756A	01
05	MN	SHOREVIEW, CITY OF	2703840001B	17-DEC-97	97-05-5338A	01
05	MN	ST. LOUIS COUNTY *	2704160575C	18-JUL-97	97-05-3364A	02
05	MN	ST. LOUIS COUNTY *	2704161600C	17-DEC-97	97-05-5354A	02
05	MN	ST. LOUIS PARK, CITY OF	2701840005B	10-NOV-97	97-05-3944A	02
05	MN	ST. LOUIS PARK, CITY OF	2701840005B	03-DEC-97	97-05-5320A	02
05	MN	WASECA COUNTY *	270647 B	02-JUL-97	97-05-2930A	02
05	MN	WASECA COUNTY *	270647 B	02-JUL-97	97-05-3714A	02
05	MN	WASHINGTON COUNTY *	2704990025B	24-JUL-97	97-05-4066A	02
05	MN	WASHINGTON COUNTY *	2704990125B	25-SEP-97	97-05-4952A	02
05	MN	WASHINGTON COUNTY *	2704990125B	01-OCT-97	97-05-5018A	02
05	MN	WASHINGTON COUNTY *	2704990125B	01-OCT-97	97-05-5020A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	16-OCT-97	97-05-5228A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	16-OCT-97	97-05-5388A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	12-NOV-97	97-05-5390A	02
05	MN	WORTHINGTON, CITY OF	2703210002B	04-AUG-97	97-05-3190A	01
05	MN	WORTHINGTON, CITY OF	2703210002B	23-SEP-97	97-05-4746A	02
05	OH	AKRON, CITY OF	3905230006B	31-OCT-97	97-05-5304A	02
05	OH	ALLEN COUNTY *	3907580105B	03-DEC-97	98-05-284A	02
05	OH	ARCANUM, VILLAGE OF	3906840001B	03-DEC-97	97-05-4272A	17
05	OH	ASHTABULA, CITY OF	3900110005B	20-NOV-97	96-05-221P	05
05	OH	AUGLAIZE COUNTY *	39011C0090C	15-AUG-97	97-05-4218A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	15-AUG-97	97-05-4220A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	10-NOV-97	97-05-4770A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	21-OCT-97	97-05-4810A	02
05	OH	AURORA, CITY OF	3904540001B	02-JUL-97	97-05-2156A	01
05	OH	AVON LAKE, CITY OF	3906020002B	04-SEP-97	97-05-4462A	02
05	OH	AVON, CITY OF	3903480005C	20-AUG-97	97-05-247P	05
05	OH	AVON, CITY OF	3903480005C	11-DEC-97	97-05-301P	06
05	OH	AVON, CITY OF	3903480005C	23-OCT-97	97-05-5080A	02
05	OH	AVON, CITY OF	3903480005C	10-DEC-97	98-05-614A	01
05	OH	BEACHWOOD, CITY OF	3900940001A	30-OCT-97	96-05-217P	06
05	OH	BELLAIRE, CITY OF	3900250001B	30-DEC-97	98-05-930A	01
05	OH	BELLEVUE, CITY OF	3904870005B	10-JUL-97	97-05-3768A	02
05	OH	BOSTON HEIGHTS, VILLAGE OF	3907490001A	15-OCT-97	97-05-4724A	02
05	OH	BUTLER COUNTY *	3900370070B	14-NOV-97	98-05-320A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	CHESAPEAKE, VILLAGE OF	3903250180B	31-DEC-97	97-05-5514A	02
05	OH	CHESAPEAKE, VILLAGE OF	3906080001B	31-DEC-97	97-05-5514A	02
05	OH	CINCINNATI, CITY OF	3902100027B	12-SEP-97	97-05-5040A	02
05	OH	COLUMBUS, CITY OF	39049C0180G	03-JUL-97	96-05-385P	05
05	OH	COLUMBUS, CITY OF	39049C0120G	18-OCT-97	97-05-087P	05
05	OH	COLUMBUS, CITY OF	39049C0245G	05-AUG-97	97-05-173P	05
05	OH	COLUMBUS, CITY OF	39049C0180G	28-AUG-97	97-05-203P	05
05	OH	COLUMBUS, CITY OF	39049C0180G	14-JUL-97	97-05-3460A	01
05	OH	COLUMBUS, CITY OF	39049C0290G	15-AUG-97	97-05-3754A	02
05	OH	COLUMBUS, CITY OF	39049C0290G	18-JUL-97	97-05-4004A	01
05	OH	COLUMBUS, CITY OF	39049C0120G	01-DEC-97	98-05-008A	01
05	OH	COLUMBUS, CITY OF	39049C0120G	31-DEC-97	98-05-878A	01
05	OH	DELAWARE COUNTY *	3901460105B	20-NOV-97	97-05-4324A	01
05	OH	DUBLIN, CITY OF	39049C0019G	25-SEP-97	97-05-4996A	01
05	OH	DUBLIN, CITY OF	39049C0019G	03-OCT-97	97-05-5000A	01
05	OH	DUBLIN, CITY OF	39049C0019G	29-OCT-97	98-05-018A	01
05	OH	FAIRBORN, CITY OF	3901950005B	29-OCT-97	95-05-285P	05
05	OH	FAIRFIELD COUNTY *	3901580105D	23-OCT-97	97-05-5356A	02
05	OH	FINDLAY, CITY	3902440005C	30-JUL-97	97-05-3694A	02
05	OH	FINDLAY, CITY	3902440004B	05-AUG-97	97-05-3872A	02
05	OH	FINDLAY, CITY	3902440005C	10-JUL-97	97-05-3962A	02
05	OH	FRANKLIN COUNTY*	39049C0000	16-JUL-97	97-05-2662A	02
05	OH	FRANKLIN COUNTY*	39049C0290G	16-JUL-97	97-05-2662A	02
05	OH	FRANKLIN COUNTY*	39049C0376H	16-JUL-97	97-05-2662A	02
05	OH	FRANKLIN COUNTY*	39049C0377H	16-JUL-97	97-05-2662A	02
05	OH	FRANKLIN COUNTY*	39049C0385H	16-JUL-97	97-05-2662A	02
05	OH	FRANKLIN COUNTY*	39049C0385H	16-OCT-97	97-05-4752A	02
05	OH	FRANKLIN COUNTY*	39049C0227G	12-SEP-97	97-05-5218A	02
05	OH	FRANKLIN COUNTY*	39049C0195G	06-NOV-97	98-05-228A	17
05	OH	FRANKLIN COUNTY*	39049C0120G	26-NOV-97	98-05-420A	02
05	OH	GARFIELD HEIGHTS, CITY OF	3901090001B	24-JUL-97	97-05-3578A	02
05	OH	GREENE COUNTY *	39019300010B	29-OCT-97	95-05-285P	05
05	OH	GROVE CITY, CITY OF	39049C0239G	22-JUL-97	97-05-3416A	02
05	OH	GROVEPORT, VIILLAGE OF	39049C0357G	04-NOV-97	97-05-5198A	01
05	OH	HAMILTON COUNTY *	3902040040C	11-AUG-97	97-05-2444A	17
05	OH	HAMILTON COUNTY *	3902040055B	24-NOV-97	97-05-4998A	01
05	OH	HAMILTON COUNTY *	3902040040C	12-NOV-97	98-05-088A	02
05	OH	HANCOCK COUNTY *	39076700908	02-JUL-97	97-05-2440A	02
05	OH	HARRISON, CITY OF	3902200005C	11-SEP-97	97-05-4476A	02
05	OH	HURON COUNTY*	3907700004B	18-SEP-97	97-05-4644A	02
05	OH	JACKSON, CITY OF	3902920005D	31-DEC-97	97-05-3308A	02
05	OH	KENT, CITY OF	3904560001B	23-SEP-97	97-05-2840A	02
05	OH	KETTERING, CITY OF	39041200208	08-AUG-97	97-05-3466A	02
05	OH	KIRTLAND, CITY OF	3906160004A	13-OCT-97	97-05-4986A	02
05	OH	KNOX COUNTY *	3903060100C	12-NOV-97	97-05-4400A	02
05	OH	LANCASTER, CITY OF	3901610005D	13-AUG-97	97-05-4252A	02
05	OH	LAWRENCE COUNTY *	3903250185B	22-DEC-97	97-05-4344A	01
05	OH	LAWRENCE COUNTY *	3903250180B	31-DEC-97	97-05-5514A	02
05	OH	LAWRENCE COUNTY *	3906080001B	31-DEC-97	97-05-5514A	02
05	OH	LICKING COUNTY *	3903280175B	30-JUL-97	97-05-3328A	02
05	OH	LOGAN COUNTY *	3907720025C	30-JUL-97	97-05-3874A	02
05	OH	LOGAN COUNTY *	3907720025C	10-OCT-97	97-05-4398A	02
05	OH	LOGAN COUNTY *	3907720025C	27-AUG-97	97-05-4530A	02
05	OH	LORAIN COUNTY*	3903460085B	22-DEC-97	98-05-254A	02
05	OH	LUCAS COUNTY*	3903590050B	29-OCT-97	97-05-3050P	05
05	OH	LUCAS COUNTY*	3903590050B	16-OCT-97	97-05-5270A	01
05	OH	LUCAS COUNTY*	3903590050B	10-OCT-97	97-05-5618A	02
05	OH	LUCAS COUNTY*	3903590050B	24-NOV-97	98-05-086A	02
05	OH	MAHONING COUNTY *	3903670050B	15-OCT-97	97-05-4536A	02
05	OH	MARION COUNTY*	39101C0150C	07-JUL-97	97-05-1514A	02
05	OH	MARION COUNTY*	39101C0125C	07-JUL-97	97-05-2594A	02
05	OH	MASON, CITY OF	3905590005C	17-DEC-97	97-05-341P	05
05	OH	MASON, CITY OF	3907570065C	17-DEC-97	97-05-341P	05
05	OH	MERCER COUNTY *	3903920100B	29-AUG-97	97-05-4542A	02
05	OH	MERCER COUNTY *	3903920075B	14-NOV-97	98-05-094A	02
05	OH	MERCER COUNTY *	3903920100B	03-DEC-97	98-05-372A	02
05	OH	MIAMI COUNTY *	3903980075B	10-SEP-97	97-05-3528A	02
05	OH	MIAMI COUNTY *	3903980075B	21-AUG-97	97-05-3658A	02
05	OH	MIAMI COUNTY *	3903980055B	17-DEC-97	97-05-4924A	02
05	OH	MIAMI COUNTY *	3903980015B	15-DEC-97	98-05-572A	02
05	OH	MONTGOMERY COUNTY *	3907750035C	04-SEP-97	97-05-3860A	02
05	OH	MUSKINGUM COUNTY*	3904250105D	28-OCT-97	97-05-4884A	02
05	OH	NEWTOWN, VILLAGE OF	3902300005C	26-SEP-97	97-05-4862A	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	NORTH CANTON, CITY OF	3905210004B	22-JUL-97	97-05-4258A	02
05	OH	NORTH COLLEGE HILL, CITY OF	3902320001B	18-JUL-97	97-05-2942A	01
05	OH	NORTH OLMSTED, CITY OF	3901200002C	03-DEC-97	96-05-343P	05
05	OH	NORTH OLMSTED, CITY OF	3901200002C	24-DEC-97	98-05-077P	05
05	OH	NORTH RIDGEVILLE, CITY OF	3903520005C	03-OCT-97	97-05-4192A	02
05	OH	NORTH RIDGEVILLE, CITY OF	3903520005C	10-DEC-97	98-05-258A	02
05	OH	OTTAWA COUNTY *	3904320025A	15-OCT-97	97-05-3652A	01
05	OH	PATASKALA, VILLAGE OF	3903360001A	10-JUL-97	97-05-3482A	02
05	OH	PAULDING COUNTY *	3907770065D	30-JUL-97	97-05-3070A	02
05	OH	PAULDING COUNTY *	3907770065D	03-DEC-97	98-05-502A	02
05	OH	PIKE COUNTY*	39131C0045B	29-AUG-97	97-05-245P	06
05	OH	PIKE COUNTY*	39131C0045B	21-OCT-97	97-05-347P	05
05	OH	PORTAGE COUNTY*	390453 C	07-JUL-97	97-05-3880A	02
05	OH	PUTNAM COUNTY *	3904650040B	12-DEC-97	98-05-106A	02
05	OH	REYNOLDSBURG, CITY OF	39049C0283G	18-JUL-97	97-05-3950A	02
05	OH	REYNOLDSBURG, CITY OF	39049C0283G	23-SEP-97	97-05-5186A	02
05	OH	RICHLAND COUNTY*	3904760175B	11-AUG-97	97-05-3748A	02
05	OH	RICHLAND COUNTY*	3904760200B	27-AUG-97	97-05-4798A	02
05	OH	RICHLAND COUNTY*	3904760060B	26-NOV-97	98-05-222A	02
05	OH	RICHMOND HEIGHTS, CITY OF	3901260005B	04-NOV-97	97-05-4444A	02
05	OH	ROCKY RIVER, CITY OF	3953720003B	28-JUL-97	97-05-1720A	02
05	OH	ROSSFORD, CITY OF	3905890001B	15-JUL-97	97-05-4186A	02
05	OH	SHAKER HEIGHTS, CITY OF	3901290003C	11-AUG-97	97-05-3812A	02
05	OH	SHARONVILLE,CITY OF	3902360001C	08-SEP-97	97-05-4678A	02
05	OH	SHELBY COUNTY *	3905030055C	24-JUL-97	97-05-3916A	02
05	OH	SHELBY COUNTY *	3905030060C	08-SEP-97	97-05-4790A	02
05	OH	SHELBY COUNTY *	3905030060C	01-OCT-97	97-05-5238A	02
05	OH	STARK COUNTY*	3907800085B	13-AUG-97	97-05-4138A	02
05	OH	STARK COUNTY*	3907800115B	17-NOV-97	97-05-5554A	02
05	OH	STOW, CITY OF	3905320005B	14-OCT-97	97-05-227P	05
05	OH	STRONGSVILLE, CITY OF	3901320005B	08-DEC-97	97-05-4250A	02
05	OH	SUMMIT COUNTY *	3907810015B	30-JUL-97	97-05-2130A	02
05	OH	TOLEDO, CITY OF	3953730005A	15-AUG-97	97-05-3824A	02
05	OH	TOLEDO, CITY OF	3953730005A	30-JUL-97	97-05-3948A	02
05	OH	TOLEDO, CITY OF	3953730005A	23-SEP-97	97-05-4782A	02
05	OH	TOLEDO, CITY OF	3953730005A	24-NOV-97	97-05-5448A	02
05	OH	TOLEDO, CITY OF	3953730005A	18-NOV-97	98-05-096A	02
05	OH	TOLEDO, CITY OF	3953730005A	22-DEC-97	98-05-746A	02
05	OH	TROY, CITY OF	3904020005B	24-JUL-97	97-05-2286A	02
05	OH	TUSCARAWAS COUNTY*	3907820070B	14-JUL-97	97-05-720A	02
05	OH	VAN WERT COUNTY*	3907840002B	13-OCT-97	97-05-5004A	02
05	OH	WARREN COUNTY*	3907570085C	28-AUG-97	97-05-3076A	02
05	OH	WASHINGTON COUNTY *	3905660025B	11-AUG-97	97-05-3170A	02
05	OH	WASHINGTON COUNTY *	3905660125B	08-DEC-97	98-05-488A	02
05	OH	WAVERLY, CITY OF	39131C0045B	29-AUG-97	97-05-245P	06
05	OH	WAVERLY, CITY OF	39131C0045B	21-OCT-97	97-05-347P	05
05	OH	WOOD COUNTY *	3908090025C	03-OCT-97	97-05-2688A	02
05	OH	WOOD COUNTY *	3908090037C	02-JUL-97	97-05-3660A	02
05	OH	WOOD COUNTY *	3908090050C	22-DEC-97	97-05-4552A	02
05	OH	WYANDOT COUNTY*	3907870075C	25-AUG-97	97-05-3806A	02
05	WI	BARRON COUNTY *	5505680225C	09-DEC-97	97-05-223P	05
05	WI	BIRCHWOOD, VILLAGE OF	550574 B	22-JUL-97	97-05-4000A	02
05	WI	BRILLION, CITY OF	5500360001C	26-NOV-97	98-05-432A	02
05	WI	BROWN COUNTY *	5500200150B	02-JUL-97	97-05-2702A	17
05	WI	CALUMET COUNTY *	5500350140B	04-AUG-97	97-05-3536A	02
05	WI	COLUMBIA COUNTY *	5505810200C	07-OCT-97	97-05-2938A	02
05	WI	COLUMBIA COUNTY *	5505810200C	23-SEP-97	97-05-3236A	02
05	WI	COLUMBIA COUNTY *	5505810200C	07-OCT-97	97-05-3244A	02
05	WI	DANE COUNTY*	5500770275C	02-DEC-97	97-05-225P	05
05	WI	DANE COUNTY*	5500770150C	30-JUL-97	97-05-3704A	02
05	WI	DOOR COUNTY *	5501090045A	26-NOV-97	98-05-478A	02
05	WI	DOOR COUNTY *	5501090105A	31-DEC-97	98-05-636A	02
05	WI	DOUGLAS COUNTY *	5505380450B	21-AUG-97	97-05-3972A	02
05	WI	DUNN COUNTY *	5501180100A	24-JUL-97	97-05-3954A	02
05	WI	FERRYVILLE, VILLAGE OF	555553 A	07-OCT-97	97-05-5520A	02
05	WI	FOND DU LAC COUNTY *	5501310060B	21-OCT-97	97-05-3156A	01
05	WI	FOND DU LAC COUNTY *	5501310060B	21-AUG-97	97-05-4546A	02
05	WI	FOND DU LAC COUNTY *	5501310115B	03-OCT-97	97-05-5144A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	17-OCT-97	97-05-4742A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	14-NOV-97	97-05-5152A	02
05	WI	FREEMONT, VILLAGE OF	5504960001C	07-JUL-97	97-05-2890A	01
05	WI	GERMANTOWN, VILLAGE OF	5504720011B	10-SEP-97	95-05-323P	05
05	WI	GERMANTOWN, VILLAGE OF	5504720008B	16-DEC-97	97-05-151P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	GERMANTOWN, VILLAGE OF	5504720011B	31-OCT-97	97-05-363P	05
05	WI	GREEN BAY, CITY OF	5500220005E	29-OCT-97	97-05-4888A	02
05	WI	GREEN BAY, CITY OF	5500220020E	31-DEC-97	98-05-030A	01
05	WI	GREEN COUNTY *	5501570010B	10-NOV-97	97-05-5504A	02
05	WI	GREEN COUNTY *	5501640001B	10-NOV-97	97-05-5504A	02
05	WI	GREEN LAKE COUNTY *	5501650004A	04-SEP-97	97-05-4506A	02
05	WI	HORTONVILLE, VILLAGE OF	5505290002A	29-DEC-97	98-05-758A	02
05	WI	HOWARD, VILLAGE OF	5500230005B	16-SEP-97	97-05-4744A	02
05	WI	HOWARD, VILLAGE OF	5500230005B	13-OCT-97	97-05-5034A	02
05	WI	IRON COUNTY*	5501820008B	17-OCT-97	97-05-4820A	02
05	WI	IRON COUNTY*	5501820008B	17-OCT-97	97-05-4908A	02
05	WI	JEFFERSON COUNTY *	5501910050B	13-AUG-97	97-05-3648A	02
05	WI	JEFFERSON COUNTY *	5501910250B	03-DEC-97	98-05-218A	02
05	WI	LA CROSSE COUNTY *	5502170160A	30-JUL-97	97-05-2772A	02
05	WI	LA CROSSE COUNTY *	5502170170A	25-AUG-97	97-05-4486A	02
05	WI	LA CROSSE COUNTY *	5502170120A	10-DEC-97	98-05-490A	02
05	WI	LA CROSSE COUNTY *	5502170120A	31-DEC-97	98-05-952A	02
05	WI	MADISON, CITY OF	5500830010D	02-DEC-97	97-05-225P	05
05	WI	MADISON, CITY OF	5500830019D	12-DEC-97	98-05-028A	01
05	WI	MARATHON COUNTY *	5502450525B	15-OCT-97	97-05-3290A	02
05	WI	MARATHON COUNTY *	5502450200B	29-OCT-97	97-05-3990A	02
05	WI	MARATHON COUNTY *	5502450225B	12-SEP-97	97-05-4370A	02
05	WI	MARATHON COUNTY *	5502450375B	31-OCT-97	97-05-5584A	01
05	WI	MARATHON COUNTY *	5502450375B	26-NOV-97	98-05-168A	01
05	WI	MARATHON COUNTY *	5502450525B	17-NOV-97	98-05-336A	02
05	WI	MARATHON COUNTY *	5502450425B	26-NOV-97	98-05-544A	02
05	WI	MARINETTE COUNTY *	5502450375B	15-DEC-97	98-05-720A	02
05	WI	MARINETTE COUNTY *	5502590725B	15-OCT-97	97-05-3092A	02
05	WI	MARINETTE COUNTY *	5502590625B	19-AUG-97	97-05-3144A	02
05	WI	MARINETTE COUNTY *	5502590755B	07-JUL-97	97-05-3876A	02
05	WI	MARINETTE COUNTY *	5502590755B	03-OCT-97	97-05-4464A	02
05	WI	MARINETTE COUNTY *	5502590755B	31-OCT-97	97-05-5428A	02
05	WI	MARQUETTE COUNTY*	5502590575B	22-JUL-97	97-05-996A	02
05	WI	MENASHA, CITY OF	5506010025B	26-NOV-97	98-05-610A	02
05	WI	MENASHA, CITY OF	5505100005C	08-SEP-97	97-05-4612A	02
05	WI	MENASHA, CITY OF	5505100005C	03-DEC-97	98-05-368A	02
05	WI	MENASHA, CITY OF	5505370050C	26-NOV-97	98-05-458A	02
05	WI	MENASHA, CITY OF	5505100005C	24-NOV-97	98-05-464A	02
05	WI	MENASHA, CITY OF	5505100005C	26-NOV-97	98-05-550A	02
05	WI	MENASHA, CITY OF	5505100005C	26-NOV-97	98-05-580A	02
05	WI	MENASHA, CITY OF	5505100005C	26-NOV-97	98-05-582A	02
05	WI	MEQUON, CITY OF	55089C0090D	07-OCT-97	97-05-4728A	02
05	WI	MEQUON, CITY OF	55089C0090D	31-OCT-97	97-05-5442A	02
05	WI	MONROE COUNTY *	55057101358	23-SEP-97	97-05-4892A	17
05	WI	MUSKEGO, CITY OF	5504860004B	03-DEC-97	95-05-191P	05
05	WI	MUSKEGO, CITY OF	5504860002B	08-AUG-97	97-05-4404A	02
05	WI	NEW HOLSTEIN, CITY OF	5500390001B	16-DEC-97	97-05-3576P	05
05	WI	NEW LONDON, CITY OF	5503080001A	06-NOV-97	97-05-4686A	01
05	WI	OCONTO, CITY OF	5502970001B	13-OCT-97	97-05-4722A	02
05	WI	OCONTO, CITY OF	5502970001B	22-DEC-97	98-05-974A	02
05	WI	OSHKOSH, CITY OF	5505110020D	02-DEC-97	97-05-5528A	02
05	WI	OUTAGAMIE COUNTY *	55030201508	30-JUL-97	97-05-2670A	02
05	WI	OUTAGAMIE COUNTY *	5503020083C	07-JUL-97	97-05-3958A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	12-SEP-97	97-05-4206A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	27-OCT-97	97-05-5598A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	29-DEC-97	98-05-346A	02
05	WI	OZAUKEE COUNTY *	5503020050B	15-DEC-97	98-05-764A	02
05	WI	PLEASANT PRAIRIE, VILLAGE OF	55089C0070D	16-JUL-97	97-05-2984A	02
05	WI	RACINE COUNTY *	5506130010B	03-OCT-97	97-05-5324A	02
05	WI	RACINE COUNTY *	5503470080B	15-AUG-97	97-05-3616A	02
05	WI	RACINE COUNTY *	5503470010B	27-AUG-97	97-05-3870A	02
05	WI	RACINE COUNTY *	5503470010B	30-JUL-97	97-05-4014A	02
05	WI	RACINE COUNTY *	5503470010B	19-AUG-97	97-05-4438A	01
05	WI	RACINE COUNTY *	5503470010B	26-NOV-97	97-05-5204A	01
05	WI	RACINE COUNTY *	5503470045B	08-DEC-97	98-05-334A	02
05	WI	RACINE COUNTY *	5503470010B	31-DEC-97	98-05-796A	02
05	WI	RICHLAND COUNTY*	5503560225B	18-SEP-97	97-05-3456A	02
05	WI	SAUK COUNTY *	5503910215B	04-SEP-97	97-05-5010A	02
05	WI	SAUK COUNTY *	5503910250B	12-NOV-97	98-05-452A	02
05	WI	SAUK COUNTY *	5503910210B	17-DEC-97	98-05-938A	02
05	WI	SCHOFIELD, CITY OF	5555790001C	16-JUL-97	97-05-4112A	02
05	WI	SHAWANO COUNTY *	5504120150B	02-JUL-97	97-05-3706A	02
05	WI	SHAWANO COUNTY *	5504120150B	07-AUG-97	97-05-4364A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	SHELL LAKE, CITY OF	5504690001D	24-DEC-97	98-05-862A	02
05	WI	THERESA, VILLAGE OF	5501060001B	04-SEP-97	97-05-4504A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	15-AUG-97	97-05-3740A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	04-SEP-97	97-05-4418A	02
05	WI	VERNON COUNTY *	5504500025B	06-NOV-97	98-05-160A	02
05	WI	WALPACA COUNTY*	5504920135A	13-OCT-97	97-05-4664A	02
05	WI	WALPACA COUNTY*	5504920155A	25-AUG-97	97-05-4812A	02
05	WI	WALPACA COUNTY*	5504920155A	24-DEC-97	98-05-1012A	02
05	WI	WALPACA COUNTY*	5504920155A	18-NOV-97	98-05-482A	02
05	WI	WALWORTH COUNTY *	5504620020B	29-AUG-97	97-05-3432A	02
05	WI	WALWORTH COUNTY *	5504620085B	21-OCT-97	97-05-5536A	02
05	WI	WASHINGTON COUNTY *	5504710055B	31-DEC-97	97-05-5042A	02
05	WI	WASHINGTON COUNTY *	5504710060B	15-OCT-97	97-05-5398A	02
05	WI	WAUKESHA COUNTY*	5504760040C	12-SEP-97	97-05-3394A	02
05	WI	WAUKESHA COUNTY*	5504760010B	16-JUL-97	97-05-3656A	02
05	WI	WAUKESHA COUNTY*	5504760030B	12-SEP-97	97-05-4296A	02
05	WI	WAUKESHA COUNTY*	5504760080C	15-OCT-97	97-05-5450A	02
05	WI	WAUKESHA COUNTY*	5504760010B	24-NOV-97	98-05-426A	02
05	WI	WAUPUN, CITY OF	5501080001E	23-SEP-97	97-05-3932A	02
05	WI	WAUPUN, CITY OF	5501080001E	04-SEP-97	97-05-4582A	02
05	WI	WAUSHARA COUNTY*	5505400125B	28-JUL-97	97-05-3538A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	22-JUL-97	97-05-3564A	01
05	WI	WINNEBAGO COUNTY *	5505370050C	31-OCT-97	97-05-4332A	01
05	WI	WINNEBAGO COUNTY *	5505370050C	07-OCT-97	97-05-4388A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	28-AUG-97	97-05-4428A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	31-OCT-97	97-05-4864A	01
05	WI	WINNEBAGO COUNTY *	5505370075C	18-NOV-97	97-05-5246A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	31-DEC-97	98-05-1022A	02
06	AR	BATESVILLE, CITY OF	0500910005B	25-JUL-97	97-06-604P	06
06	AR	BENTON COUNTY	05007C0035E	24-OCT-97	97-06-1354A	02
06	AR	BENTON COUNTY	05007C0125E	14-AUG-97	97-06-718A	02
06	AR	BENTON COUNTY	05007C0200E	15-SEP-97	97-06-809A	02
06	AR	BENTONVILLE, CITY OF	05007C0045E	07-NOV-97	97-06-1356A	02
06	AR	BENTONVILLE, CITY OF	05007C0065E	13-AUG-97	97-06-864A	02
06	AR	CAMDEN, CITY OF	0501630004A	10-DEC-97	97-06-1137A	02
06	AR	CAMDEN, CITY OF	0501630002A	02-JUL-97	97-06-543A	02
06	AR	CLEBURNE COUNTY	0504240125C	22-AUG-97	97-06-747A	02
06	AR	CLEBURNE COUNTY	0504240025C	07-NOV-97	97-06-986A	02
06	AR	CLEBURNE COUNTY	0504240125C	31-DEC-97	98-06-247A	02
06	AR	CONWAY, CITY OF	05045C0130F	29-JUL-97	97-06-334A	01
06	AR	CONWAY, CITY OF	05045C0140E	22-SEP-97	97-06-699A	02
06	AR	CRAIGHEAD COUNTY	05031C0153C	20-AUG-97	97-06-985A	02
06	AR	CRAIGHEAD COUNTY	05031C0165C	20-AUG-97	97-06-985A	02
06	AR	HOT SPRINGS, CITY OF	05051C0156C	08-AUG-97	97-06-400A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	14-OCT-97	97-06-1303A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	31-JUL-97	97-06-210P	08
06	AR	JACKSONVILLE, CITY OF	0501800010E	23-SEP-97	97-06-549A	01
06	AR	JACKSONVILLE, CITY OF	0501800010E	14-AUG-97	97-06-996A	02
06	AR	JONESBORO, CITY OF	05031C0131C	30-OCT-97	97-06-1290A	01
06	AR	JONESBORO, CITY OF	05031C0044C	23-DEC-97	98-06-124A	02
06	AR	LITTLE ROCK, CITY OF	0501810006E	27-AUG-97	97-06-1022A	02
06	AR	LITTLE ROCK, CITY OF	0501790381C	20-NOV-97	97-06-1331A	01
06	AR	LITTLE ROCK, CITY OF	0501810020E	23-OCT-97	97-06-1358A	02
06	AR	LITTLE ROCK, CITY OF	0501810006E	02-JUL-97	97-06-779A	02
06	AR	LITTLE ROCK, CITY OF	0501810005E	23-DEC-97	98-06-220A	01
06	AR	LONOKE COUNTY	0504480060B	09-OCT-97	97-06-659A	01
06	AR	LONOKE COUNTY	0504480250B	15-AUG-97	97-06-888A	02
06	AR	MCGEHEE, CITY OF	0500680005C	17-SEP-97	97-06-1152A	02
06	AR	MCGEHEE, CITY OF	0500680005C	23-SEP-97	97-06-909A	02
06	AR	MENA, CITY OF	050177B	25-NOV-97	97-06-1205A	02
06	AR	MONTICELLO, CITY OF	0500740005A	10-NOV-97	98-06-100A	02
06	AR	MORRILTON, CITY OF	0500440005B	03-JUL-97	97-06-453A	01
06	AR	PARAGOULD, CITY OF	0500850010D	10-NOV-97	97-06-1288A	02
06	AR	PINE BLUFF, CITY OF	0501090005B	14-AUG-97	97-06-381A	02
06	AR	PRAIRIE COUNTY	0504590175B	18-NOV-97	98-06-026A	02
06	AR	PULASKI COUNTY	0501790302C	03-OCT-97	97-06-1081A	02
06	AR	PULASKI COUNTY	0501800010E	31-JUL-97	97-06-210P	08
06	AR	ROGERS, CITY OF	05007C0155G	24-OCT-97	97-06-1282A	02
06	AR	ROGERS, CITY OF	05007C0155G	28-OCT-97	R6-98-10-000	02
06	AR	SEBASTIAN COUNTY	050462B	28-AUG-97	97-06-1052A	02
06	AR	SPRINGDALE, CITY OF	05143C0017C	11-DEC-97	97-06-1197P	05
06	AR	SPRINGDALE, CITY OF	05143C0036C	11-DEC-97	97-06-1197P	05
06	AR	SPRINGDALE, CITY OF	05143C0016C	02-JUL-97	97-06-393A	01

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Region	State	Community	Map panel	Determination date	Case No.	Type
06	AR	STUTTGART, CITY OF	050002B	19-SEP-97	97-06-1085A	02
06	AR	STUTTGART, CITY OF	050002B	17-OCT-97	97-06-1322A	02
06	AR	STUTTGART, CITY OF	050002B	25-JUL-97	97-06-834A	02
06	AR	STUTTGART, CITY OF	050002B	30-DEC-97	98-06-381A	02
06	AR	UNION COUNTY	0502050006B	15-AUG-97	97-06-1033A	02
06	AR	UNION COUNTY	0502050006B	30-DEC-97	98-06-343A	02
06	AR	VAN BUREN, CITY OF	05033C0170F	02-JUL-97	97-06-587A	01
06	AR	WEST FORK, TOWN OF	05143C0170C	07-NOV-97	97-06-1035A	02
06	AR	YELL COUNTY	0504690004A	03-OCT-97	97-06-1360A	02
06	LA	ALEXANDRIA, CITY OF	2201460010F	04-SEP-97	97-06-1177V	19
06	LA	ALEXANDRIA, CITY OF	2201460015F	04-SEP-97	97-06-1177V	19
06	LA	ALEXANDRIA, CITY OF	2201460015F	29-OCT-97	98-06-015A	01
06	LA	ALEXANDRIA, CITY OF	2201460015F	24-NOV-97	R6-97-11-062	02
06	LA	ASCENSION PARISH	2200130040B	19-SEP-97	97-06-1121A	02
06	LA	ASCENSION PARISH	2200130045C	10-SEP-97	97-06-1153A	02
06	LA	ASCENSION PARISH	2200130120C	02-DEC-97	97-06-1263A	01
06	LA	ASCENSION PARISH	2200130045C	29-OCT-97	97-06-1381A	02
06	LA	ASCENSION PARISH	2200130040B	24-JUL-97	97-06-277A	01
06	LA	ASCENSION PARISH	2200130065C	16-SEP-97	97-06-579A	02
06	LA	ASCENSION PARISH	2200130035C	06-AUG-97	97-06-671A	02
06	LA	ASCENSION PARISH	2200130040B	21-NOV-97	98-06-023A	01
06	LA	ASCENSION PARISH	2200130035C	21-NOV-97	98-06-054A	02
06	LA	ASCENSION PARISH	2200130035C	14-NOV-97	98-06-150A	02
06	LA	ASCENSION PARISH	2200130040B	10-DEC-97	98-06-281A	02
06	LA	ASCENSION PARISH	2200130040B	16-DEC-97	98-06-370A	01
06	LA	BAKER, CITY OF	2251930005D	24-SEP-97	97-06-1048A	02
06	LA	BOSSIER CITY, CITY OF	2200330010C	22-SEP-97	97-06-1186A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	26-SEP-97	97-06-1203A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	06-AUG-97	97-06-875A	02
06	LA	BOSSIER PARISH	2200310315B	21-OCT-97	97-06-1349A	02
06	LA	BOSSIER PARISH	2200310475B	21-OCT-97	97-06-1350A	02
06	LA	BOSSIER PARISH	2200310315B	10-JUL-97	97-06-703A	02
06	LA	BOSSIER PARISH	2200310285B	14-JUL-97	97-06-704A	02
06	LA	BOSSIER PARISH	2200310285B	02-OCT-97	97-06-737A	02
06	LA	BOSSIER PARISH	2200310285B	22-AUG-97	97-06-839A	02
06	LA	BOSSIER PARISH	2200310285B	06-AUG-97	97-06-877A	02
06	LA	BOSSIER PARISH	2200310285B	08-AUG-97	97-06-906A	02
06	LA	BOSSIER PARISH	2200310285B	20-AUG-97	97-06-972A	02
06	LA	BOSSIER PARISH	2200310305B	24-OCT-97	98-06-013A	02
06	LA	BOSSIER PARISH	2200310285B	31-OCT-97	98-06-072A	02
06	LA	BOSSIER PARISH	2200310390B	07-NOV-97	98-06-093A	01
06	LA	BOSSIER PARISH	2200310475B	14-NOV-97	98-06-155A	02
06	LA	BOSSIER PARISH	2200310285B	09-DEC-97	98-06-243A	02
06	LA	BOSSIER PARISH	2200310315B	11-DEC-97	98-06-257A	02
06	LA	BOSSIER PARISH	2200310285B	17-DEC-97	98-06-320A	02
06	LA	CADDO PARISH	2203610210C	20-OCT-97	97-06-091P	05
06	LA	CADDO PARISH	2203610220C	20-OCT-97	97-06-091P	05
06	LA	CADDO PARISH	2203610170C	14-OCT-97	97-06-1302A	02
06	LA	CADDO PARISH	2203610175C	23-OCT-97	97-06-1347A	02
06	LA	CADDO PARISH	2203610175C	20-AUG-97	97-06-970A	02
06	LA	CALCASIEU PARISH	2200370225C	02-SEP-97	97-06-1044A	02
06	LA	CALCASIEU PARISH	2200370225C	02-OCT-97	97-06-1233A	02
06	LA	CALCASIEU PARISH	2200370400C	13-NOV-97	97-06-1364A	02
06	LA	CALCASIEU PARISH	2200370250C	20-AUG-97	97-06-957A	02
06	LA	CALCASIEU PARISH	2200370350B	24-OCT-97	98-06-027A	02
06	LA	DENHAM SPRINGS, CITY OF	2201160005B	01-DEC-97	98-06-182A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	02-OCT-97	97-06-1246A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	09-OCT-97	97-06-1275A	02
06	LA	EAST BATON ROUGE PARISH	2200580100D	17-OCT-97	97-06-1332A	01
06	LA	EAST BATON ROUGE PARISH	2200580085D	06-AUG-97	97-06-651A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	06-AUG-97	97-06-821A	02
06	LA	EAST BATON ROUGE PARISH	2200580085D	12-AUG-97	97-06-920A	02
06	LA	EAST BATON ROUGE PARISH	2200580125C	07-NOV-97	98-06-068A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	26-NOV-97	98-06-198A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	27-AUG-97	R6-97-08-060	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	19-DEC-97	R6-97-12-061	02
06	LA	EVANGELINE PARISH	2200640007B	19-SEP-97	97-06-1223A	01
06	LA	EVANGELINE PARISH	2200640007B	22-AUG-97	97-06-927A	01
06	LA	HAMMOND, CITY OF	2202080001C	25-JUL-97	97-06-648A	02
06	LA	IBERIA PARISH	2200780150C	07-NOV-97	97-06-1182A	02
06	LA	JEFFERSON DAVIS PARISH	2200950020B	15-OCT-97	97-06-1328A	02
06	LA	JEFFERSON PARISH	22051C0135E	25-SEP-97	97-06-1064A	02
06	LA	JEFFERSON PARISH	22051C0040E	24-JUL-97	97-06-697A	02

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06	LA	KINDER, TOWN OF	220010C	15-OCT-97	97-06-735A	02
06	LA	LAFAYETTE PARISH	22055C0075G	05-SEP-97	97-06-1083A	02
06	LA	LAFAYETTE PARISH	22055C0060G	31-OCT-97	97-06-1143A	02
06	LA	LAFAYETTE PARISH	22055C0065G	03-OCT-97	97-06-1196A	02
06	LA	LAFAYETTE PARISH	22055C0065G	25-JUL-97	97-06-663A	02
06	LA	LAFAYETTE PARISH	22055C0010G	13-AUG-97	97-06-836A	02
06	LA	LAFAYETTE PARISH	22055C0040G	22-AUG-97	97-06-989A	02
06	LA	LAFAYETTE PARISH	22055C0070G	05-DEC-97	98-06-024A	01
06	LA	LAFAYETTE PARISH	22055C0010G	05-DEC-97	98-06-144A	01
06	LA	LAFAYETTE PARISH	22055C0020G	16-DEC-97	98-06-192A	02
06	LA	LAFAYETTE PARISH	22055C0060G	21-NOV-97	98-06-279A	02
06	LA	LAFAYETTE PARISH	22055C0040G	03-NOV-97	R6-98-10-141	02
06	LA	LAFAYETTE PARISH	22055C0040G	03-NOV-97	R6-98-10-141	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	05-SEP-97	97-06-1010A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	15-SEP-97	97-06-1040A	02
06	LA	LAFAYETTE, CITY OF	22055C0030G	10-SEP-97	97-06-1113A	01
06	LA	LAFAYETTE, CITY OF	22055C0045G	24-SEP-97	97-06-1144A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	07-NOV-97	97-06-1334A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	18-AUG-97	97-06-881A	02
06	LA	LAFAYETTE, CITY OF	22055C0065G	24-SEP-97	97-06-887A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	02-DEC-97	98-06-211A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	05-DEC-97	98-06-219A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	17-DEC-97	98-06-323A	02
06	LA	LAFOURCHE PARISH	2252020275C	10-DEC-97	98-06-297A	02
06	LA	LAKE CHARLES, CITY OF	2200400010E	07-OCT-97	97-06-1181A	01
06	LA	LAKE CHARLES, CITY OF	2200400005E	04-JUL-97	97-06-833V	19
06	LA	LAKE CHARLES, CITY OF	2200400010E	04-JUL-97	97-06-833V	19
06	LA	LIVINGSTON PARISH	2201130100B	08-AUG-97	97-06-1042A	02
06	LA	LIVINGSTON PARISH	2201130100B	15-SEP-97	97-06-1124A	02
06	LA	LIVINGSTON PARISH	2201130100B	16-SEP-97	97-06-1139A	02
06	LA	LIVINGSTON PARISH	2201130025B	26-SEP-97	97-06-1204A	02
06	LA	LIVINGSTON PARISH	2201130100B	22-SEP-97	97-06-1293A	02
06	LA	LIVINGSTON PARISH	2201130100B	23-OCT-97	97-06-556P	06
06	LA	LIVINGSTON PARISH	2201130100B	14-JUL-97	97-06-646A	02
06	LA	LIVINGSTON PARISH	2201130025B	10-JUL-97	97-06-693A	02
06	LA	LIVINGSTON PARISH	2201130025B	10-JUL-97	97-06-708A	02
06	LA	LIVINGSTON PARISH	2201130100B	10-JUL-97	97-06-738A	02
06	LA	LIVINGSTON PARISH	2201130100B	01-AUG-97	97-06-899A	02
06	LA	LIVINGSTON PARISH	2201130025B	27-AUG-97	97-06-918A	02
06	LA	LIVINGSTON PARISH	2201130025B	07-NOV-97	97-06-945A	02
06	LA	LIVINGSTON PARISH	2201130025B	15-OCT-97	97-06-951A	02
06	LA	LIVINGSTON PARISH	2201130025B	05-SEP-97	97-06-953A	02
06	LA	LIVINGSTON PARISH	2201130100B	21-NOV-97	98-06-037A	02
06	LA	LIVINGSTON PARISH	2201130025B	13-NOV-97	98-06-127A	02
06	LA	LIVINGSTON PARISH	2201130025B	05-DEC-97	98-06-157A	02
06	LA	LIVINGSTON PARISH	2201130100B	21-NOV-97	98-06-176A	02
06	LA	LIVINGSTON PARISH	2201130100B	21-NOV-97	98-06-187A	02
06	LA	LIVINGSTON PARISH	2201130100B	11-DEC-97	98-06-336A	01
06	LA	MANY, TOWN OF	22065C0215C	08-AUG-97	97-06-586A	02
06	LA	NATCHITOCHES PARISH	2201290125B	19-SEP-97	97-06-1147A	02
06	LA	NATCHITOCHES PARISH	2201290125B	24-OCT-97	98-06-066A	02
06	LA	OUACHITA PARISH	22073C0050E	31-OCT-97	98-06-010A	01
06	LA	OUACHITA PARISH	22073C0065E	31-DEC-97	98-06-376A	02
06	LA	PEARL RIVER, TOWN OF	2202030001B	10-JUL-97	97-06-531A	02
06	LA	PINEVILLE, CITY OF	2201510005B	17-NOV-97	97-06-813P	05
06	LA	RAPIDES PARISH	2201450250C	03-SEP-97	97-06-1013A	02
06	LA	RAPIDES PARISH	2201450250C	05-SEP-97	97-06-1067A	02
06	LA	RAPIDES PARISH	2201450130C	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450135C	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450235D	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450250C	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450275C	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450350C	04-SEP-97	97-06-1176V	19
06	LA	RAPIDES PARISH	2201450155B	13-AUG-97	97-06-748A	02
06	LA	RAPIDES PARISH	2201450145D	17-NOV-97	97-06-813P	05
06	LA	RAPIDES PARISH	2201450125B	20-AUG-97	97-06-818A	02
06	LA	SABINE PARISH	22085C0205C	06-AUG-97	97-06-574A	02
06	LA	SHREVEPORT, CITY OF	2200360004D	20-OCT-97	97-06-091P	05
06	LA	SHREVEPORT, CITY OF	2200360005D	20-OCT-97	97-06-091P	05
06	LA	SHREVEPORT, CITY OF	2200360008C	20-OCT-97	97-06-091P	05
06	LA	SHREVEPORT, CITY OF	2200360013D	20-OCT-97	97-06-091P	05
06	LA	SHREVEPORT, CITY OF	2200360034E	29-AUG-97	97-06-1036A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	05-SEP-97	97-06-1063A	02

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06	LA	SHREVEPORT, CITY OF	2200360033E	15-SEP-97	97-06-1080A	02
06	LA	SHREVEPORT, CITY OF	2200360025C	24-OCT-97	97-06-1096A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	16-SEP-97	97-06-1136A	01
06	LA	SHREVEPORT, CITY OF	2200360033E	14-OCT-97	97-06-1180A	01
06	LA	SHREVEPORT, CITY OF	2200360030E	02-OCT-97	97-06-1227A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	14-OCT-97	97-06-1299A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	17-OCT-97	97-06-1323A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	29-OCT-97	97-06-1373A	02
06	LA	SHREVEPORT, CITY OF	2200360010D	08-JUL-97	97-06-420A	02
06	LA	SHREVEPORT, CITY OF	2200360018C	18-JUL-97	97-06-554A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	08-JUL-97	97-06-597A	01
06	LA	SHREVEPORT, CITY OF	2200360034E	20-AUG-97	97-06-677A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	05-NOV-97	97-06-783A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	25-JUL-97	97-06-841A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	29-AUG-97	97-06-919A	02
06	LA	SHREVEPORT, CITY OF	2200360030E	20-AUG-97	97-06-973A	02
06	LA	SHREVEPORT, CITY OF	2200360013D	20-AUG-97	97-06-981A	02
06	LA	SHREVEPORT, CITY OF	2200360008C	17-SEP-97	97-06-988A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	29-OCT-97	98-06-014A	02
06	LA	SHREVEPORT, CITY OF	2200360029E	10-DEC-97	98-06-062A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	21-NOV-97	98-06-186A	02
06	LA	SHREVEPORT, CITY OF	2200360034E	02-DEC-97	98-06-200A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	26-AUG-97	R6-96-08-079	01
06	LA	SHREVEPORT, CITY OF	2200360030E	12-AUG-97	R6-97-08-025	02
06	LA	SHREVEPORT, CITY OF	2200360028E	17-SEP-97	R6-97-09-051	02
06	LA	SHREVEPORT, CITY OF	2200360029E	29-SEP-97	R6-97-09-101	02
06	LA	SHREVEPORT, CITY OF	2200360033E	25-NOV-97	R6-97-11-091	02
06	LA	ST. MARTIN PARISH	2200360028E	31-OCT-97	R6-98-10-140	02
06	LA	ST. TAMMANY PARISH	2201780225B	21-OCT-97	97-06-1217A	02
06	LA	ST. TAMMANY PARISH	2252050360C	02-OCT-97	97-06-1244A	02
06	LA	ST. TAMMANY PARISH	2252050440C	15-OCT-97	97-06-1312A	02
06	LA	ST. TAMMANY PARISH	2252050360C	29-AUG-97	97-06-922A	02
06	LA	ST. TAMMANY PARISH	2252050300C	27-AUG-97	97-06-931A	02
06	LA	ST. TAMMANY PARISH	2252050245C	19-NOV-97	98-06-031A	02
06	LA	ST. TAMMANY PARISH	2252050300C	10-NOV-97	98-06-097A	02
06	LA	SULPHUR, CITY OF	2252050440C	10-NOV-97	98-06-128A	01
06	LA	TANGIPAHOA PARISH	2200410001B	05-DEC-97	98-06-098A	02
06	LA	TANGIPAHOA PARISH	2202060175D	02-JUL-97	97-06-551A	02
06	LA	TANGIPAHOA PARISH	2202060175D	10-JUL-97	97-06-667A	02
06	LA	VERNON PARISH	2202060175D	17-JUL-97	97-06-769A	02
06	NM	ALBUQUERQUE, CITY OF	2202280006B	01-AUG-97	97-06-668A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0327D	25-SEP-97	97-06-1026P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0328D	25-SEP-97	97-06-1026P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0329D	25-SEP-97	97-06-1026P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0341D	10-SEP-97	97-06-1031A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0326D	05-SEP-97	97-06-1046P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0336D	24-OCT-97	97-06-1054P	06
06	NM	ALBUQUERQUE, CITY OF	35001C0327D	10-SEP-97	97-06-1071P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0356D	15-SEP-97	97-06-1075P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0357D	15-SEP-97	97-06-1075P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0118D	10-SEP-97	97-06-1111A	01
06	NM	ALBUQUERQUE, CITY OF	35001C0328D	03-OCT-97	97-06-1175P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0329D	03-OCT-97	97-06-1175P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0137D	24-NOV-97	97-06-139P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0336D	26-AUG-97	97-06-250P	06
06	NM	ALBUQUERQUE, CITY OF	35001C0367D	02-JUL-97	97-06-344A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0137D	01-AUG-97	97-06-347P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0141D	01-AUG-97	97-06-347P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0351D	01-JUL-97	97-06-670P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0358D	16-JUL-97	97-06-776P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0359D	16-JUL-97	97-06-776P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0367D	16-JUL-97	97-06-776P	05
06	NM	BERNALILLO COUNTY	35001C0329D	30-DEC-97	98-06-273A	01
06	NM	BERNALILLO COUNTY	35001C0142D	16-SEP-97	96-06-517P	06
06	NM	BERNALILLO COUNTY	35001C0326D	05-SEP-97	97-06-1046P	05
06	NM	BERNALILLO COUNTY	35001C0328D	03-OCT-97	97-06-1175P	06
06	NM	BERNALILLO COUNTY	35001C0117D	24-JUL-97	97-06-346A	01
06	NM	BERNALILLO COUNTY	35001C0337D	18-JUL-97	97-06-822A	02
06	NM	BERNALILLO COUNTY	35001C0153D	20-AUG-97	97-06-958A	02
06	NM	BERNALILLO COUNTY	35001C0329D	31-OCT-97	98-06-038P	05
06	NM	BERNALILLO COUNTY	35001C0343D	15-DEC-97	98-06-114A	02
06	NM	BERNALILLO COUNTY	35001C0333D	17-DEC-97	98-06-231A	02
06	NM	BERNALILLO COUNTY	35001C0333D	23-DEC-97	98-06-256A	02

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06	NM	BERNALILLO COUNTY	35001C0133D	22-DEC-97	98-06-275P	05
06	NM	BERNALILLO COUNTY	35001C0134D	22-DEC-97	98-06-275P	05
06	NM	BERNALILLO, TOWN OF	35043C0908C	22-DEC-97	98-06-314A	02
06	NM	ESPANOLA, CITY OF	3500491280C	01-AUG-97	97-06-387A	02
06	NM	LAS CRUCES, CITY OF	35013C0631E	15-SEP-97	97-06-1130A	01
06	NM	LAS CRUCES, CITY OF	35013C0631E	23-OCT-97	97-06-1355A	02
06	NM	LAS CRUCES, CITY OF	35013C0631E	22-AUG-97	97-06-854A	01
06	NM	LOS RANCHOS, VILLAGE OF	35001C0117D	05-NOV-97	98-06-063A	02
06	NM	OTERO COUNTY	3500440016B	10-DEC-97	98-06-245A	02
06	NM	RATON, CITY OF	350008B	10-SEP-97	97-06-428A	01
06	NM	ROSWELL, CITY OF	3500060006B	23-OCT-97	97-06-1061A	02
06	NM	SANTA FE COUNTY	3500690525B	24-JUL-97	97-06-227P	06
06	NM	SANTA FE COUNTY	3500690175B	24-JUL-97	97-06-696A	02
06	NM	SANTA FE, CITY OF	3500700011B	27-AUG-97	97-06-830A	02
06	OK	BARTLESVILLE, CITY OF	4002200016D	02-OCT-97	97-06-1237A	01
06	OK	BIXBY, TOWN OF	4002070010B	24-JUL-97	97-06-816A	02
06	OK	BIXBY, TOWN OF	4002070005B	22-AUG-97	97-06-923A	01
06	OK	BLACKWELL, CITY OF	4000780002C	30-DEC-97	98-06-371A	02
06	OK	BLAINE COUNTY	4000110125A	24-OCT-97	98-06-087A	02
06	OK	BROKEN ARROW, CITY OF	4002360007D	10-JUL-97	97-06-702A	02
06	OK	BROKEN ARROW, CITY OF	4002360004D	10-DEC-97	98-06-263A	02
06	OK	CHEROKEE COUNTY	40021C0040C	08-JUL-97	97-06-569A	02
06	OK	CHEROKEE COUNTY	40021C0040C	10-NOV-97	98-06-091A	02
06	OK	CHICKASHA, CITY OF	4002340002D	15-JUL-97	97-06-570A	01
06	OK	CHOCTAW, CITY OF	4003570005B	24-OCT-97	97-06-1268A	02
06	OK	CLEVELAND COUNTY	40027C0095F	02-SEP-97	97-06-1086A	02
06	OK	CLEVELAND COUNTY	40027C0080F	11-DEC-97	98-06-291A	02
06	OK	COWETA, CITY OF	4002160001A	10-NOV-97	98-06-101A	02
06	OK	CRAIG COUNTY	4005400150A	20-AUG-97	97-06-948A	02
06	OK	CREEK COUNTY	4004900008B	24-JUL-97	97-06-701A	02
06	OK	CREEK COUNTY	4004900002B	01-AUG-97	97-06-824A	02
06	OK	DEL CITY, CITY OF	4002330002D	08-AUG-97	97-06-912A	02
06	OK	DELAWARE COUNTY	4005020001B	17-SEP-97	97-06-1187A	02
06	OK	DELAWARE COUNTY	4005020001B	15-AUG-97	97-06-610A	02
06	OK	DELAWARE COUNTY	4005020002B	18-JUL-97	97-06-642A	02
06	OK	DELAWARE COUNTY	4005020001B	14-AUG-97	97-06-932A	02
06	OK	DELAWARE COUNTY	4005020003B	19-DEC-97	98-06-349A	02
06	OK	DELAWARE COUNTY	4005020003B	19-DEC-97	98-06-353A	02
06	OK	EDMOND, CITY OF	4002520020B	13-AUG-97	97-06-068P	06
06	OK	EDMOND, CITY OF	4002520010B	30-OCT-97	97-06-1260A	02
06	OK	EDMOND, CITY OF	4002520025D	30-OCT-97	97-06-1260A	02
06	OK	EDMOND, CITY OF	4002520020B	02-DEC-97	97-06-811P	05
06	OK	ENID, CITY OF	40047C0115C	20-NOV-97	97-06-1351A	01
06	OK	GLENPOOL, TOWN OF	4002080001D	06-AUG-97	97-06-265P	05
06	OK	JENKS, CITY OF	4004620165B	30-OCT-97	97-06-1238A	01
06	OK	JENKS, CITY OF	4004620190C	30-OCT-97	97-06-1238A	01
06	OK	JENKS, CITY OF	4002090002B	07-NOV-97	98-06-095A	02
06	OK	LAWTON, CITY OF	40031C0258C	10-SEP-97	97-06-1093A	01
06	OK	LAWTON, CITY OF	40031C0252C	14-NOV-97	97-06-1104P	05
06	OK	LAWTON, CITY OF	40031C0256C	14-NOV-97	97-06-1104P	05
06	OK	LAWTON, CITY OF	40031C0253D	24-OCT-97	97-06-1376A	02
06	OK	LAWTON, CITY OF	40031C0232C	10-DEC-97	98-06-238A	02
06	OK	LAWTON, CITY OF	40031C0251C	10-DEC-97	98-06-253A	02
06	OK	MAYES COUNTY	4004580006B	10-DEC-97	98-06-302A	02
06	OK	MOORE, CITY OF	40027C0039F	11-SEP-97	97-06-1162A	01
06	OK	MOORE, CITY OF	40027C0037F	03-OCT-97	97-06-1252A	02
06	OK	MOORE, CITY OF	40027C0037F	01-AUG-97	97-06-879A	02
06	OK	MOORE, CITY OF	40027C0037F	10-NOV-97	98-06-102A	02
06	OK	MOORE, CITY OF	40027C0037F	27-AUG-97	R6-97-08-088	02
06	OK	MOORE, CITY OF	40027C0037F	03-NOV-97	R6-97-11-001	02
06	OK	MUSKOGEE COUNTY	40101C0100D	23-SEP-97	97-06-1142A	02
06	OK	NICOMA PARK, TOWN OF	4004240005A	02-OCT-97	97-06-1251A	02
06	OK	NORMAN,CITY OF	40027C0095F	15-SEP-97	97-06-1151A	02
06	OK	NORMAN,CITY OF	40027C0095F	15-SEP-97	97-06-1161A	02
06	OK	NORMAN,CITY OF	40027C0105F	15-OCT-97	97-06-1258A	02
06	OK	NORMAN,CITY OF	40027C0095F	14-OCT-97	97-06-1314A	02
06	OK	NORMAN,CITY OF	40027C0115F	02-JUL-97	97-06-599A	02
06	OK	NORMAN,CITY OF	40027C0080F	24-JUL-97	97-06-787A	01
06	OK	NORMAN,CITY OF	40027C0095F	20-AUG-97	97-06-820A	01
06	OK	NORMAN,CITY OF	40027C0095F	17-OCT-97	98-06-017A	02
06	OK	NORMAN,CITY OF	40027C0080F	05-DEC-97	98-06-080A	02
06	OK	NORMAN,CITY OF	40027C0095F	10-DEC-97	98-06-252A	02
06	OK	NORMAN,CITY OF	40027C0095F	23-DEC-97	98-06-344A	02

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06	OK	NORMAN,CITY OF	40027C0090F	19-DEC-97	98-06-356A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780110C	22-AUG-97	97-06-1038A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780175F	17-SEP-97	97-06-1050A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780205D	14-AUG-97	97-06-1087A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	10-SEP-97	97-06-1095A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780200D	10-SEP-97	97-06-1100A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780235C	02-DEC-97	97-06-1146A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780110C	15-SEP-97	97-06-1150A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	23-SEP-97	97-06-1164A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	29-AUG-97	97-06-1200A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	15-OCT-97	97-06-1265A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780265D	17-OCT-97	97-06-1321A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	24-OCT-97	97-06-1352A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	15-OCT-97	97-06-1368A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	28-OCT-97	97-06-1369A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	12-AUG-97	97-06-404A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	12-AUG-97	97-06-404A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	17-JUL-97	97-06-536A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780265D	08-AUG-97	97-06-563A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780230C	08-AUG-97	97-06-585A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	08-JUL-97	97-06-634A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	08-JUL-97	97-06-716A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780190F	14-JUL-97	97-06-741A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	17-JUL-97	97-06-766A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	17-JUL-97	97-06-767A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	01-AUG-97	97-06-775P	05
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	27-AUG-97	97-06-900A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780115C	08-AUG-97	97-06-910A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780190F	15-AUG-97	97-06-963A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780110C	20-AUG-97	97-06-974A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780205D	31-OCT-97	98-06-018A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	21-NOV-97	98-06-173A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	21-NOV-97	98-06-174A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780255C	10-DEC-97	98-06-290A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	22-DEC-97	98-06-358A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780175F	22-DEC-97	98-06-359A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780165D	30-DEC-97	98-06-442A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780175F	31-DEC-97	98-06-467A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	24-JUL-97	R6-97-07-096	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	12-AUG-97	R6-97-08-035	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	08-OCT-97	R6-97-10-024	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	07-NOV-97	R6-97-11-000	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	07-NOV-97	R6-97-11-000	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	26-NOV-97	R6-97-11-099	02
06	OK	OKLAHOMA COUNTY	4004660245B	12-AUG-97	97-06-564A	02
06	OK	OKLAHOMA COUNTY	4004660055B	10-DEC-97	98-06-212A	02
06	OK	OWASSO, CITY OF	4002100002D	02-JUL-97	97-06-601A	02
06	OK	PAYNE COUNTY	4004930120D	09-OCT-97	97-06-1118A	02
06	OK	PONCA CITY, CITY OF	4000800005C	05-DEC-97	98-06-218A	02
06	OK	PONCA CITY, CITY OF	4000800010C	05-DEC-97	98-06-218A	02
06	OK	POTTAWATOMIE COUNTY	40125C0085D	18-SEP-97	97-06-1149A	02
06	OK	PRYOR CREEK,CITY OF	4001170002B	17-NOV-97	97-06-1007A	02
06	OK	ROGERS COUNTY	4053790105B	19-SEP-97	97-06-1216A	02
06	OK	ROGERS COUNTY	4053790105B	02-OCT-97	97-06-1277A	02
06	OK	ROGERS COUNTY	4053790100B	18-JUL-97	97-06-742A	02
06	OK	ROGERS COUNTY	4053790025B	14-AUG-97	97-06-928A	02
06	OK	ROGERS COUNTY	4053790075B	02-DEC-97	98-06-191A	02
06	OK	SALLISAW, CITY OF	40135C0165E	07-NOV-97	97-06-1065A	01
06	OK	SAPULPA, CITY OF	4000530005B	01-AUG-97	97-06-658A	02
06	OK	SHAWNEE, CITY OF	40125C0103D	10-JUL-97	97-06-692A	02
06	OK	SHAWNEE, CITY OF	40125C0125D	13-NOV-97	98-06-140A	02
06	OK	SHAWNEE, CITY OF	40125C0101D	10-DEC-97	98-06-288A	02
06	OK	SLAUGHTERVILLE, TOWN OF	40027C0165F	24-OCT-97	97-06-1359A	02
06	OK	STILLWATER, CITY OF	4053800003D	14-OCT-97	97-06-1117A	02
06	OK	STILLWATER, CITY OF	4053800004D	15-OCT-97	97-06-1156A	02
06	OK	STILLWATER, CITY OF	4053800005D	14-OCT-97	97-06-1325A	02
06	OK	TULSA COUNTY	4004620085B	23-OCT-97	97-06-1362A	02
06	OK	TULSA COUNTY	4004620165B	14-NOV-97	97-06-1366A	02
06	OK	TULSA, CITY OF	4053810010E	09-DEC-97	97-06-1129P	05
06	OK	TULSA, CITY OF	4053810030F	09-DEC-97	97-06-1129P	05
06	OK	TULSA, CITY OF	4053810035F	09-DEC-97	97-06-1129P	05
06	OK	TULSA, CITY OF	4053810065G	18-SEP-97	97-06-1135A	02
06	OK	TULSA, CITY OF	4053810060F	23-OCT-97	97-06-1287A	02

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06	OK	TULSA, CITY OF	4053810070G	09-OCT-97	97-06-1300A	02
06	OK	TULSA, CITY OF	4053810070G	23-DEC-97	97-06-1340P	06
06	OK	TULSA, CITY OF	4053810040F	24-JUL-97	97-06-831A	02
06	OK	TULSA, CITY OF	4053810045F	13-AUG-97	97-06-838A	02
06	OK	TULSA, CITY OF	4053810065G	14-AUG-97	97-06-930A	02
06	OK	TULSA, CITY OF	4053810090F	02-DEC-97	98-06-208A	02
06	OK	TULSA, CITY OF	4053810095E	02-DEC-97	98-06-208A	02
06	OK	TULSA, CITY OF	4053810095E	12-DEC-97	98-06-287A	02
06	OK	TULSA, CITY OF	4053810070G	11-DEC-97	98-06-300A	02
06	OK	TULSA, CITY OF	4053810085G	30-DEC-97	98-06-309A	02
06	OK	TULSA, CITY OF	4053810090F	30-DEC-97	98-06-309A	02
06	OK	TULSA, CITY OF	4053810055E	30-DEC-97	98-06-378A	02
06	OK	TULSA, CITY OF	4053810070G	02-OCT-97	R6-97-09-151	02
06	OK	TULSA, CITY OF	4053810070G	10-OCT-97	R6-97-10-044	02
06	OK	WAGONER COUNTY	4002150033B	10-JUL-97	97-06-673A	02
06	OK	WAGONER COUNTY	4002150029B	30-OCT-97	98-06-057A	02
06	OK	WAGONER, CITY OF	4002190005C	21-NOV-97	97-06-1335A	02
06	OK	WOODS COUNTY	4004810200A	03-JUL-97	97-06-804A	02
06	OK	YUKON, CITY OF	4000280005B	02-SEP-97	97-06-1037A	02
06	OK	YUKON, CITY OF	4000280005B	03-JUL-97	97-06-568A	02
06	TX	ABILENE, CITY OF	4854500020D	09-OCT-97	97-06-1284A	02
06	TX	ABILENE, CITY OF	4854500035D	16-OCT-97	97-06-1298A	01
06	TX	ALICE, CITY OF	4803940005C	17-DEC-97	98-06-317P	06
06	TX	ALLEN, CITY OF	48085C0430G	23-JUL-97	97-06-255P	05
06	TX	ARGYLE, CITY OF	48121C0365E	24-JUL-97	97-06-908V	19
06	TX	ARLINGTON, CITY OF	48439C0440H	08-AUG-97	97-06-1001V	19
06	TX	ARLINGTON, CITY OF	48439C0441H	08-AUG-97	97-06-1001V	19
06	TX	ARLINGTON, CITY OF	48439C0462H	08-AUG-97	97-06-1001V	19
06	TX	ARLINGTON, CITY OF	48439C0444H	05-SEP-97	97-06-1099A	02
06	TX	ARLINGTON, CITY OF	48439C0429H	26-SEP-97	97-06-1297A	02
06	TX	ARLINGTON, CITY OF	48439C0463H	20-AUG-97	97-06-688A	02
06	TX	ARLINGTON, CITY OF	48439C0437H	05-NOV-97	97-06-732A	02
06	TX	ARLINGTON, CITY OF	48439C0441H	05-NOV-97	97-06-732A	02
06	TX	ARLINGTON, CITY OF	48439C0443H	17-SEP-97	97-06-808A	02
06	TX	ARLINGTON, CITY OF	48439C0430H	14-OCT-97	97-06-929A	02
06	TX	ARLINGTON, CITY OF	48439C0429H	19-SEP-97	97-06-949A	02
06	TX	ARLINGTON, CITY OF	48439C0336H	05-DEC-97	98-06-132A	02
06	TX	ARLINGTON, CITY OF	48439C0336H	18-DEC-97	98-06-226A	02
06	TX	AUBREY, CITY OF	48121C0265E	24-JUL-97	97-06-908V	19
06	TX	AUSTIN, CITY OF	48453C0205E	27-AUG-97	97-06-1019A	02
06	TX	AUSTIN, CITY OF	48453C0205E	02-OCT-97	97-06-1261A	02
06	TX	AUSTIN, CITY OF	48453C0255F	24-OCT-97	97-06-1266A	02
06	TX	AUSTIN, CITY OF	48453C0175E	17-OCT-97	97-06-1270A	02
06	TX	AUSTIN, CITY OF	48453C0165E	16-OCT-97	97-06-1295A	02
06	TX	AUSTIN, CITY OF	48453C0255F	24-OCT-97	97-06-1361A	02
06	TX	AUSTIN, CITY OF	48453C0160E	14-AUG-97	97-06-848A	02
06	TX	AUSTIN, CITY OF	48453C0205E	08-AUG-97	97-06-942A	02
06	TX	AUSTIN, CITY OF	48453C0195E	24-OCT-97	98-06-039A	02
06	TX	AUSTIN, CITY OF	48453C0195E	23-DEC-97	98-06-161A	02
06	TX	AUSTIN, CITY OF	48453C0255F	05-DEC-97	98-06-241A	02
06	TX	AUSTIN, CITY OF	48453C0245E	09-DEC-97	98-06-254A	02
06	TX	AUSTIN, CITY OF	48453C0205E	17-DEC-97	98-06-352A	02
06	TX	AZLE, CITY OF	48439C0118H	08-AUG-97	97-06-1001V	19
06	TX	AZLE, CITY OF	48439C0119H	08-AUG-97	97-06-1001V	19
06	TX	BANDERA COUNTY	4800200265A	02-JUL-97	97-06-641A	02
06	TX	BARTONVILLE, TOWN OF	48121C0510E	24-JUL-97	97-06-908V	19
06	TX	BEDFORD, CITY OF	48439C0307H	08-AUG-97	97-06-1001V	19
06	TX	BEDFORD, CITY OF	48439C0308H	08-AUG-97	97-06-1001V	19
06	TX	BEDFORD, CITY OF	48439C0309H	08-AUG-97	97-06-1001V	19
06	TX	BEDFORD, CITY OF	48439C0330H	08-AUG-97	97-06-1001V	19
06	TX	BELLAIRE, CITY OF	48201C0855J	25-NOV-97	97-06-1045A	02
06	TX	BELLAIRE, CITY OF	48201C0855J	17-SEP-97	R6-97-09-040	02
06	TX	BENBROOK, CITY OF	48439C0380H	08-AUG-97	97-06-1001V	19
06	TX	BENBROOK, CITY OF	48439C0395H	08-AUG-97	97-06-1001V	19
06	TX	BENBROOK, CITY OF	48439C0380H	01-JUL-97	97-06-392P	05
06	TX	BENBROOK, CITY OF	48439C0390H	10-NOV-97	98-06-016A	02
06	TX	BEXAR COUNTY	48029C0243E	13-AUG-97	97-06-1014A	02
06	TX	BEXAR COUNTY	48029C0140E	09-OCT-97	97-06-1292A	02
06	TX	BEXAR COUNTY	48029C0416E	14-OCT-97	97-06-1304A	02
06	TX	BEXAR COUNTY	48029C0115E	11-DEC-97	97-06-500P	06
06	TX	BEXAR COUNTY	48029C0115E	19-SEP-97	97-06-520P	06
06	TX	BEXAR COUNTY	48029C0240E	14-JUL-97	97-06-684A	02
06	TX	BEXAR COUNTY	48029C0477E	08-JUL-97	97-06-794P	06

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06	TX	BEXAR COUNTY	48029C0120E	15-AUG-97	97-06-856P	06
06	TX	BEXAR COUNTY	48029C0385E	17-SEP-97	97-06-998A	02
06	TX	BEXAR COUNTY	48029C0416E	14-OCT-97	98-06-012A	02
06	TX	BEXAR COUNTY	48029C0457E	25-NOV-97	98-06-196A	02
06	TX	BEXAR COUNTY	48029C0385E	13-NOV-97	98-06-216A	02
06	TX	BONHAM WATER AUTHORITY	4815820005B	13-AUG-97	97-06-689A	02
06	TX	BRYAN, CITY OF	48041C0141C	24-OCT-97	97-06-1220A	02
06	TX	BURLESON, CITY OF	48251C0037G	08-DEC-97	97-06-1073P	05
06	TX	BURLESON, CITY OF	48251C0039F	08-DEC-97	97-06-1073P	05
06	TX	BURLESON, CITY OF	48251C0050G	08-DEC-97	97-06-1073P	05
06	TX	BURLESON, CITY OF	48439C0540H	08-AUG-97	97-06-414A	02
06	TX	BURLESON, CITY OF	48251C0033G	16-OCT-97	97-06-441P	05
06	TX	BURLESON, CITY OF	48251C0041G	16-OCT-97	97-06-441P	05
06	TX	BURLESON, CITY OF	48251C0033G	05-SEP-97	97-06-982A	02
06	TX	BURNET COUNTY	48053C0120C	24-JUL-97	97-06-510A	02
06	TX	CARROLLTON, CITY OF	4801670015F	05-DEC-97	97-06-1134A	02
06	TX	CARROLLTON, CITY OF	4801670005G	17-SEP-97	97-06-1172A	02
06	TX	CARROLLTON, CITY OF	4801670015F	29-OCT-97	97-06-1226P	05
06	TX	CARROLLTON, CITY OF	4801670005G	02-JUL-97	97-06-509P	05
06	TX	CARROLLTON, CITY OF	4801670005G	17-SEP-97	97-06-524A	02
06	TX	CARROLLTON, CITY OF	4801670005G	12-AUG-97	97-06-680A	02
06	TX	CARROLLTON, CITY OF	4801670015F	16-SEP-97	97-06-736A	02
06	TX	CARROLLTON, CITY OF	4801670005G	06-AUG-97	97-06-823A	02
06	TX	CARROLLTON, CITY OF	4801670005G	02-OCT-97	97-06-966A	02
06	TX	CARROLLTON, CITY OF	4801670005G	17-DEC-97	98-06-075A	01
06	TX	CARROLLTON, CITY OF	4801670015F	17-DEC-97	98-06-075A	01
06	TX	CARROLLTON, CITY OF	4801670005G	05-DEC-97	98-06-215P	06
06	TX	CARROLLTON, CITY OF	4801670005G	02-DEC-97	98-06-315A	02
06	TX	CASTLE HILLS, CITY OF	48029C0268E	02-DEC-97	97-06-1316P	05
06	TX	CASTLE HILLS, CITY OF	48029C0269E	02-DEC-97	97-06-1316P	05
06	TX	CEDAR PARK, CITY OF	48491C0218C	18-AUG-97	97-06-339P	05
06	TX	CELINA, CITY OF	48085C0025G	14-AUG-97	97-06-472P	06
06	TX	CELINA, CITY OF	48085C0110G	14-AUG-97	97-06-472P	06
06	TX	COLLEYVILLE, TOWN OF	48439C0195H	08-AUG-97	97-06-1001V	19
06	TX	COLLEYVILLE, TOWN OF	48439C0215H	08-AUG-97	97-06-1001V	19
06	TX	COLLEYVILLE, TOWN OF	48439C0307H	08-AUG-97	97-06-1001V	19
06	TX	COLLEYVILLE, TOWN OF	48439C0330H	08-AUG-97	97-06-1001V	19
06	TX	COLLEYVILLE, TOWN OF	48439C0215H	02-OCT-97	97-06-639A	02
06	TX	COLLIN COUNTY	48085C0025G	14-AUG-97	97-06-472P	06
06	TX	COLLIN COUNTY	48085C0110G	14-AUG-97	97-06-472P	06
06	TX	COLUMBUS, CITY OF	48089C0145C	30-DEC-97	98-06-071A	02
06	TX	COMAL COUNTY	4854630085C	10-JUL-97	97-06-484A	01
06	TX	CONROE, CITY OF	48339C0379F	24-OCT-97	97-06-1365A	01
06	TX	CONROE, CITY OF	48339C0205F	15-SEP-97	97-06-241V	19
06	TX	CONROE, CITY OF	48339C0359F	15-SEP-97	97-06-241V	19
06	TX	CONROE, CITY OF	48339C0386F	15-SEP-97	97-06-241V	19
06	TX	CONROE, CITY OF	48339C0387F	15-SEP-97	97-06-241V	19
06	TX	CONROE, CITY OF	48339C0359F	06-AUG-97	97-06-561A	02
06	TX	CONROE, CITY OF	48339C0379F	04-SEP-97	97-06-980A	01
06	TX	CONROE, CITY OF	48339C0359F	22-AUG-97	97-06-992A	02
06	TX	CONROE, CITY OF	48339C0359F	10-DEC-97	98-06-190A	02
06	TX	COPPELL, CITY OF	4801700010E	23-JUL-97	97-06-503P	05
06	TX	COPPELL, CITY OF	4801700010E	31-OCT-97	98-06-034A	01
06	TX	CORINTH, TOWN OF	48121C0389E	10-OCT-97	97-06-584P	06
06	TX	CORINTH, TOWN OF	48121C0393E	24-JUL-97	97-06-908V	19
06	TX	CORSICANA, CITY OF	4804980005A	17-OCT-97	97-06-1228A	02
06	TX	DALLAS COUNTY	4801650335B	29-AUG-97	97-06-805A	02
06	TX	DALLAS, CITY OF	4801710085D	14-OCT-97	97-06-1119A	01
06	TX	DALLAS, CITY OF	4801710090D	07-OCT-97	97-06-1283A	01
06	TX	DALLAS, CITY OF	4801710055C	08-JUL-97	97-06-493A	02
06	TX	DALLAS, CITY OF	4801710050D	10-JUL-97	97-06-621A	02
06	TX	DALLAS, CITY OF	4801710185D	19-NOV-97	97-06-623A	02
06	TX	DALLAS, CITY OF	4801710090D	21-JUL-97	97-06-640A	02
06	TX	DALLAS, CITY OF	4801710030D	12-AUG-97	97-06-717A	01
06	TX	DALLAS, CITY OF	4801710085D	24-OCT-97	97-06-750A	01
06	TX	DALLAS, CITY OF	4801710065C	12-AUG-97	97-06-761A	02
06	TX	DALLAS, CITY OF	4801710100D	12-AUG-97	97-06-761A	02
06	TX	DALLAS, CITY OF	4801710205D	15-SEP-97	97-06-789A	02
06	TX	DALLAS, CITY OF	4801710060D	24-JUL-97	97-06-799A	01
06	TX	DALLAS, CITY OF	4801710055C	29-AUG-97	97-06-807A	02
06	TX	DALLAS, CITY OF	4801710030D	30-DEC-97	98-06-380A	02
06	TX	DENTON COUNTY	48121C0540E	07-NOV-97	97-06-965A	02
06	TX	DENTON COUNTY	48121C0500E	21-NOV-97	R6-97-11-079	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	DENTON, CITY OF	48121C0355E	24-JUL-97	97-06-908V	19
06	TX	DENTON, CITY OF	48121C0360E	24-JUL-97	97-06-908V	19
06	TX	DENTON, CITY OF	48121C0380E	24-JUL-97	97-06-908V	19
06	TX	DENTON, CITY OF	48121C0386E	24-JUL-97	97-06-908V	19
06	TX	DENTON, CITY OF	48121C0388E	24-JUL-97	97-06-908V	19
06	TX	DENTON, CITY OF	48121C0380E	15-SEP-97	R6-97-09-000	02
06	TX	DESOTO, CITY OF	4801720020C	02-OCT-97	97-06-1240A	02
06	TX	DESOTO, CITY OF	4801720020C	28-OCT-97	97-06-1274A	02
06	TX	DESOTO, CITY OF	4801720020C	21-OCT-97	97-06-1344A	02
06	TX	DESOTO, CITY OF	4801720020C	11-SEP-97	97-06-337P	05
06	TX	DOUBLE OAK, TOWN OF	48121C0540E	24-JUL-97	97-06-908V	19
06	TX	EL PASO, CITY OF	4802140022E	14-AUG-97	97-06-1002A	02
06	TX	EL PASO, CITY OF	4802140048B	24-OCT-97	97-06-1025A	01
06	TX	EL PASO, CITY OF	4802140021D	17-JUL-97	97-06-865A	01
06	TX	EL PASO, CITY OF	4802140021D	15-DEC-97	98-06-045A	01
06	TX	EL PASO, CITY OF	4802140021D	10-NOV-97	98-06-113A	02
06	TX	EL PASO, CITY OF	4802140021D	01-JUL-97	R6-97-07-013	01
06	TX	EL PASO, CITY OF	4802140021D	14-OCT-97	R6-97-10-000	01
06	TX	ENNIS, CITY OF	4802070005B	20-AUG-97	97-06-826P	06
06	TX	EULESS, CITY OF	48439C0330H	08-AUG-97	97-06-1001V	19
06	TX	EULESS, CITY OF	48439C0330H	25-JUL-97	97-06-739A	02
06	TX	FARMERS BRANCH, CITY OF	4801740005C	11-SEP-97	97-06-1000A	01
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	22-AUG-97	97-06-1003A	01
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	24-SEP-97	97-06-1070A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0520E	10-SEP-97	97-06-1088P	06
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	10-SEP-97	97-06-1106A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	07-NOV-97	97-06-1383A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0520E	18-JUL-97	97-06-908V	19
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	18-JUL-97	97-06-908V	19
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	18-JUL-97	97-06-908V	19
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	07-NOV-97	98-06-073A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	21-NOV-97	98-06-079A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	07-NOV-97	98-06-096A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	12-DEC-97	98-06-248A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	10-DEC-97	98-06-280A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	31-DEC-97	98-06-386A	02
06	TX	FOREST HILL, CITY OF	48439C0420H	08-AUG-97	97-06-1001V	19
06	TX	FORNEY, CITY OF	480410B	01-AUG-97	97-06-365A	01
06	TX	FORT BEND COUNTY L.I.D. 12	48157C0255J	16-OCT-97	97-06-1343P	06
06	TX	FORT BEND COUNTY L.I.D. 17	48157C0235J	22-DEC-97	97-06-873A	01
06	TX	FORT WORTH, CITY OF	48439C0169H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0170H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0245H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0265H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0280H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0282H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0290H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0314H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0380H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0381H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0385H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0395H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0405H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0427H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0510H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0545H	08-AUG-97	97-06-1001V	19
06	TX	FORT WORTH, CITY OF	48439C0245H	24-SEP-97	97-06-1127A	02
06	TX	FORT WORTH, CITY OF	48439C0530H	21-OCT-97	97-06-1279A	02
06	TX	FORT WORTH, CITY OF	48439C0535H	15-OCT-97	97-06-1317A	02
06	TX	FORT WORTH, CITY OF	48439C0270H	06-AUG-97	97-06-151P	06
06	TX	FORT WORTH, CITY OF	48439C0285H	24-JUL-97	97-06-272P	06
06	TX	FORT WORTH, CITY OF	48439C0380H	01-JUL-97	97-06-392P	05
06	TX	FORT WORTH, CITY OF	48439C0290H	15-AUG-97	97-06-488A	02
06	TX	FORT WORTH, CITY OF	48439C0535H	11-SEP-97	97-06-682A	02
06	TX	FORT WORTH, CITY OF	48439C0285H	27-AUG-97	97-06-802A	01
06	TX	FORT WORTH, CITY OF	48439C0395H	20-AUG-97	97-06-894A	02
06	TX	FORT WORTH, CITY OF	48439C0405H	08-AUG-97	97-06-895A	01
06	TX	FORT WORTH, CITY OF	48439C0295H	14-NOV-97	98-06-008A	01
06	TX	FORT WORTH, CITY OF	48439C0395H	14-NOV-97	98-06-086A	02
06	TX	FORT WORTH, CITY OF	48439C0395H	30-DEC-97	98-06-112A	02
06	TX	FRISCO, CITY OF	48085C0270G	14-JUL-97	97-06-757A	01
06	TX	FRISCO, CITY OF	48085C0410G	25-SEP-97	97-06-812P	05
06	TX	FRISCO, CITY OF	48085C0265G	03-SEP-97	97-06-863P	05

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06	TX	GAINESVILLE, CITY OF	4801540005B	04-SEP-97	97-06-1077A	02
06	TX	GARLAND, CITY OF	4854710020D	26-SEP-97	97-06-1208A	02
06	TX	GARLAND, CITY OF	4854710015D	26-SEP-97	97-06-1209A	02
06	TX	GARLAND, CITY OF	4854710020D	14-OCT-97	97-06-1219A	02
06	TX	GARLAND, CITY OF	4854710005E	14-NOV-97	97-06-1385P	05
06	TX	GARLAND, CITY OF	4854710015D	25-JUL-97	97-06-801A	02
06	TX	GARLAND, CITY OF	4854710015D	21-NOV-97	97-06-851A	01
06	TX	GARLAND, CITY OF	4854710020D	10-NOV-97	98-06-111A	02
06	TX	GARLAND, CITY OF	4854710020D	25-NOV-97	98-06-204A	02
06	TX	GARLAND, CITY OF	4854710005E	30-DEC-97	98-06-348A	02
06	TX	GILLESPIE COUNTY	4806960010B	31-OCT-97	98-06-021A	02
06	TX	GILLESPIE COUNTY	4806960011B	31-OCT-97	98-06-021A	02
06	TX	GILMER, CITY OF	480625B	24-OCT-97	97-06-1250A	02
06	TX	GRAND PRAIRIE, CITY OF	4854720010F	11-SEP-97	97-06-1128A	02
06	TX	GRAND PRAIRIE, CITY OF	4854720010F	12-DEC-97	97-06-1306P	05
06	TX	GRAND PRAIRIE, CITY OF	4854720005D	05-NOV-97	97-06-983A	01
06	TX	GRAND PRAIRIE, CITY OF	4854720010F	30-DEC-97	98-06-335P	05
06	TX	GRAPEVINE, CITY OF	48439C0205H	08-AUG-97	97-06-1001V	19
06	TX	GRAPEVINE, CITY OF	48439C0215H	08-AUG-97	97-06-1001V	19
06	TX	GRAPEVINE, CITY OF	48439C0215H	01-AUG-97	97-06-872A	02
06	TX	GRAYSON COUNTY	48181C0215D	02-DEC-97	98-06-077P	06
06	TX	GUADALUPE COUNTY	4802660150C	25-JUL-97	97-06-685A	02
06	TX	GUN BARREL, CITY OF	48213C0030C	02-OCT-97	97-06-1218A	02
06	TX	GUN BARREL, CITY OF	48213C0030C	07-NOV-97	98-06-081A	02
06	TX	GUNTER, TOWN OF	48181C0280D	16-JUL-97	96-06-479P	06
06	TX	HALTOM CITY, CITY OF	48439C0282H	08-AUG-97	97-06-1001V	19
06	TX	HALTOM CITY, CITY OF	48439C0295H	08-AUG-97	97-06-1001V	19
06	TX	HALTOM CITY, CITY OF	48439C0311H	08-AUG-97	97-06-1001V	19
06	TX	HALTOM CITY, CITY OF	48439C0282H	15-AUG-97	97-06-712A	01
06	TX	HALTOM CITY, CITY OF	48439C0285H	08-JUL-97	97-06-722P	05
06	TX	HALTOM CITY, CITY OF	48439C0295H	08-JUL-97	97-06-722P	05
06	TX	HARKER HEIGHTS, CITY OF	4800290001B	25-JUL-97	97-06-691A	02
06	TX	HARKER HEIGHTS, CITY OF	4800290001B	01-AUG-97	97-06-727A	02
06	TX	HARRIS COUNTY	48201C0710J	09-OCT-97	97-06-041P	05
06	TX	HARRIS COUNTY	48201C0720J	09-OCT-97	97-06-041P	05
06	TX	HARRIS COUNTY	48201C0740J	09-OCT-97	97-06-041P	05
06	TX	HARRIS COUNTY	48201C0430J	09-OCT-97	97-06-1012A	01
06	TX	HARRIS COUNTY	48201C0320J	15-SEP-97	97-06-1020A	02
06	TX	HARRIS COUNTY	48201C0245J	18-SEP-97	97-06-1023A	01
06	TX	HARRIS COUNTY	48201C0610J	08-AUG-97	97-06-1029A	01
06	TX	HARRIS COUNTY	48201C0440J	15-AUG-97	97-06-1057A	02
06	TX	HARRIS COUNTY	48201C0630J	02-OCT-97	97-06-1078A	02
06	TX	HARRIS COUNTY	48201C0615J	26-SEP-97	97-06-1140A	02
06	TX	HARRIS COUNTY	48201C0445J	24-SEP-97	97-06-1221A	02
06	TX	HARRIS COUNTY	48201C0315J	02-OCT-97	97-06-1232A	02
06	TX	HARRIS COUNTY	48201C0320J	03-OCT-97	97-06-1289A	01
06	TX	HARRIS COUNTY	48201C0235J	15-OCT-97	97-06-1319A	01
06	TX	HARRIS COUNTY	48201C0470J	19-SEP-97	97-06-273P	05
06	TX	HARRIS COUNTY	48201C0805J	08-JUL-97	97-06-388A	02
06	TX	HARRIS COUNTY	48201C0315J	15-AUG-97	97-06-514A	02
06	TX	HARRIS COUNTY	48201C0305J	02-SEP-97	97-06-612A	02
06	TX	HARRIS COUNTY	48201C0315J	02-SEP-97	97-06-612A	02
06	TX	HARRIS COUNTY	48201C0530J	17-SEP-97	97-06-656A	02
06	TX	HARRIS COUNTY	48201C0630J	01-AUG-97	97-06-660A	02
06	TX	HARRIS COUNTY	48201C0315J	14-JUL-97	97-06-734A	02
06	TX	HARRIS COUNTY	48201C0445J	15-JUL-97	97-06-758A	02
06	TX	HARRIS COUNTY	48201C0260J	10-JUL-97	97-06-793A	02
06	TX	HARRIS COUNTY	48201C0320J	01-AUG-97	97-06-835A	01
06	TX	HARRIS COUNTY	48201C0315J	01-AUG-97	97-06-845A	02
06	TX	HARRIS COUNTY	48201C0765J	15-AUG-97	97-06-850A	02
06	TX	HARRIS COUNTY	48201C0245J	15-AUG-97	97-06-882A	02
06	TX	HARRIS COUNTY	48201C0235J	25-SEP-97	97-06-937A	02
06	TX	HARRIS COUNTY	48201C0445J	11-SEP-97	97-06-959A	01
06	TX	HARRIS COUNTY	48201C0720J	04-AUG-97	97-06-997A	08
06	TX	HARRIS COUNTY	48201C0245J	13-NOV-97	98-06-048A	01
06	TX	HARRIS COUNTY	48201C0435J	13-NOV-97	98-06-048A	01
06	TX	HARRIS COUNTY	48201C0245J	07-NOV-97	98-06-070A	01
06	TX	HARRIS COUNTY	48201C0265J	07-NOV-97	98-06-070A	01
06	TX	HARRIS COUNTY	48201C0735J	13-NOV-97	98-06-138A	02
06	TX	HARRIS COUNTY	48201C0735J	05-DEC-97	98-06-221A	02
06	TX	HARRIS COUNTY	48201C0435J	30-DEC-97	98-06-374A	01
06	TX	HARRIS COUNTY	48201C0635J	24-JUL-97	R6-97-07-088	02
06	TX	HARRIS COUNTY	48201C0455J	21-NOV-97	R6-97-11-079	02

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06	TX	HAYS COUNTY	48032102508	25-JUL-97	97-06-756A	02
06	TX	HENDERSON COUNTY	48213C0175C	27-AUG-97	97-06-1017A	02
06	TX	HENDERSON COUNTY	48213C0030C	05-SEP-97	97-06-1060A	02
06	TX	HENDERSON COUNTY	48213C0075C	05-SEP-97	97-06-1060A	02
06	TX	HENDERSON COUNTY	48213C0030C	15-SEP-97	97-06-1116A	02
06	TX	HENDERSON COUNTY	48213C0030C	07-OCT-97	97-06-1294A	02
06	TX	HENDERSON COUNTY	48213C0175C	10-JUL-97	97-06-700A	02
06	TX	HENDERSON COUNTY	48213C0045C	10-DEC-97	98-06-289A	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0529E	24-JUL-97	97-06-908V	19
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0531E	24-JUL-97	97-06-908V	19
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533E	24-JUL-97	97-06-908V	19
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533E	24-JUL-97	R6-97-02-297	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533E	16-JUL-97	R6-97-07-075	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533E	28-AUG-97	R6-97-08-083	02
06	TX	HOOD COUNTY	4803560145B	02-OCT-97	97-06-1247A	02
06	TX	HOOD COUNTY	4803560145B	24-JUL-97	97-06-744A	02
06	TX	HOOD COUNTY	4803560140B	14-NOV-97	98-06-141A	02
06	TX	HOUSTON, CITY OF	48201C0665J	09-OCT-97	97-06-1079A	02
06	TX	HOUSTON, CITY OF	48201C0695J	10-SEP-97	97-06-1098A	02
06	TX	HOUSTON, CITY OF	48201C0715J	09-OCT-97	97-06-1122A	02
06	TX	HOUSTON, CITY OF	48201C0840J	07-OCT-97	97-06-1280A	02
06	TX	HOUSTON, CITY OF	48201C0830J	17-OCT-97	97-06-1333A	02
06	TX	HOUSTON, CITY OF	48201C0830J	12-AUG-97	97-06-583A	01
06	TX	HOUSTON, CITY OF	48201C0845J	15-JUL-97	97-06-598A	02
06	TX	HOUSTON, CITY OF	48201C0310J	15-JUL-97	97-06-706A	02
06	TX	HOUSTON, CITY OF	48201C0695J	17-JUL-97	97-06-752A	02
06	TX	HOUSTON, CITY OF	48201C1005J	20-AUG-97	97-06-975A	01
06	TX	HOUSTON, CITY OF	48201C0840J	10-NOV-97	98-06-110A	02
06	TX	HOUSTON, CITY OF	48201C0835J	30-DEC-97	98-06-146A	01
06	TX	HOUSTON, CITY OF	48201C0880J	18-DEC-97	98-06-152A	02
06	TX	HOUSTON, CITY OF	48201C0830J	11-DEC-97	R6-97-12-045	02
06	TX	HURST, CITY OF	48439C0195H	08-AUG-97	97-06-1001V	19
06	TX	HURST, CITY OF	48439C0308H	08-AUG-97	97-06-1001V	19
06	TX	HURST, CITY OF	48439C0312H	08-AUG-97	97-06-1001V	19
06	TX	HURST, CITY OF	48439C0316H	08-AUG-97	97-06-1001V	19
06	TX	HURST, CITY OF	48439C0306H	05-SEP-97	97-06-1089P	05
06	TX	IRVING, CITY OF	4801800035C	21-OCT-97	97-06-687A	02
06	TX	IRVING, CITY OF	4801800045D	06-AUG-97	97-06-710A	02
06	TX	IRVING, CITY OF	4801800035C	06-AUG-97	97-06-876A	02
06	TX	IRVING, CITY OF	4801800045D	14-AUG-97	97-06-941P	06
06	TX	IRVING, CITY OF	4801800050C	10-DEC-97	98-06-299A	02
06	TX	IRVING, CITY OF	4801800035C	08-OCT-97	R6-97-10-009	02
06	TX	IRVING, CITY OF	4801800045D	26-NOV-97	R6-97-11-091	01
06	TX	IRVING, CITY OF	4801800045D	10-DEC-97	R6-97-12-021	02
06	TX	JOHNSON COUNTY	48251C0037G	08-DEC-97	97-06-1073P	05
06	TX	JOHNSON COUNTY	48251C0039F	08-DEC-97	97-06-1073P	05
06	TX	JOHNSON COUNTY	48251C0050G	08-DEC-97	97-06-1073P	05
06	TX	JOHNSON COUNTY	48251C0033G	16-OCT-97	97-06-441P	05
06	TX	JOHNSON COUNTY	48251C0041G	16-OCT-97	97-06-441P	05
06	TX	JOHNSON COUNTY	48251C0050G	17-DEC-97	98-06-004A	02
06	TX	JUSTIN, CITY OF	48121C0485E	24-JUL-97	97-06-908V	19
06	TX	KELLER, CITY OF	48439C0170H	01-AUG-97	97-06-1001V	19
06	TX	KELLER, CITY OF	48439C0188H	01-AUG-97	97-06-1001V	19
06	TX	KELLER, CITY OF	48439C0190H	01-AUG-97	97-06-1001V	19
06	TX	KENNEDALE, CITY OF	48439C0439H	08-AUG-97	97-06-1001V	19
06	TX	KERR COUNTY	4804190275B	28-AUG-97	97-06-1051A	02
06	TX	KILLEEN, CITY OF	4800310002B	14-NOV-97	97-06-1056A	02
06	TX	KILLEEN, CITY OF	4800310003C	25-JUL-97	97-06-627A	01
06	TX	KILLEEN, CITY OF	4800310003C	01-AUG-97	97-06-628A	02
06	TX	KILLEEN, CITY OF	4800310002B	25-JUL-97	97-06-629A	02
06	TX	KILLEEN, CITY OF	4800310003C	08-AUG-97	97-06-921A	02
06	TX	LAGO VISTA, CITY OF	48453C0360E	07-NOV-97	97-06-1372A	02
06	TX	LAKE DALLAS, CITY OF	48121C0393E	24-JUL-97	97-06-908V	19
06	TX	LAKE DALLAS, CITY OF	48121C0532E	24-JUL-97	97-06-908V	19
06	TX	LAKE WORTH, CITY OF	48439C0270H	06-AUG-97	97-06-151P	06
06	TX	LAKEWAY, CITY OF	48453C0325E	22-DEC-97	98-06-325A	02
06	TX	LEANDER, CITY OF	48491C0218C	03-SEP-97	97-06-288P	05
06	TX	LEON VALLEY, CITY OF	48029C0263E	02-DEC-97	97-06-1169A	02
06	TX	LEWISVILLE, CITY OF	48121C0545E	05-SEP-97	97-06-1058A	02
06	TX	LEWISVILLE, CITY OF	48121C0545E	14-OCT-97	97-06-1184A	01
06	TX	LEWISVILLE, CITY OF	48121C0533E	29-AUG-97	97-06-1201A	02
06	TX	LEWISVILLE, CITY OF	48121C0545E	23-OCT-97	97-06-1353A	01
06	TX	LEWISVILLE, CITY OF	48121C0565E	17-OCT-97	97-06-1375A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	LEWISVILLE, CITY OF	48121C0565E	06-AUG-97	97-06-773A	01
06	TX	LEWISVILLE, CITY OF	48121C0545E	01-AUG-97	97-06-901A	01
06	TX	LEWISVILLE, CITY OF	48121C0533E	24-JUL-97	97-06-908V	19
06	TX	LEWISVILLE, CITY OF	48121C0534E	24-JUL-97	97-06-908V	19
06	TX	LEWISVILLE, CITY OF	48121C0545E	24-JUL-97	97-06-908V	19
06	TX	LEWISVILLE, CITY OF	48121C0565E	24-JUL-97	97-06-908V	19
06	TX	LEWISVILLE, CITY OF	48121C0533E	21-NOV-97	98-06-116A	02
06	TX	LEWISVILLE, CITY OF	48121C0545E	30-DEC-97	98-06-328A	01
06	TX	LITTLE ELM, TOWN OF	48121C0420E	24-JUL-97	97-06-908V	19
06	TX	LITTLE ELM, TOWN OF	48121C0420E	24-JUL-97	R6-97-07-102	02
06	TX	LLANO COUNTY	4812340285B	02-SEP-97	97-06-991A	02
06	TX	LUBBOCK COUNTY	4809150004A	03-OCT-97	97-06-1307A	02
06	TX	LUBBOCK COUNTY	4809150010A	20-NOV-97	98-06-035A	02
06	TX	LUBBOCK, CITY OF	4804520025C	17-SEP-97	97-06-1138A	02
06	TX	LUBBOCK, CITY OF	4804520045C	28-OCT-97	97-06-1345A	02
06	TX	LUBBOCK, CITY OF	4804520050B	25-JUL-97	97-06-605A	01
06	TX	LUBBOCK, CITY OF	4804520050B	15-JUL-97	97-06-709A	01
06	TX	LUBBOCK, CITY OF	4804520045C	15-AUG-97	97-06-956A	02
06	TX	LUBBOCK, CITY OF	4804520025C	22-AUG-97	97-06-994A	02
06	TX	LUBBOCK, CITY OF	4804520045C	05-DEC-97	98-06-046A	02
06	TX	LUBBOCK, CITY OF	4804520045C	02-DEC-97	98-06-236A	02
06	TX	LUBBOCK, CITY OF	4804520045C	17-DEC-97	98-06-329A	02
06	TX	LUFKIN,CITY OF	4800090010C	04-SEP-97	97-06-884A	02
06	TX	LYTLE, CITY OF	4806920001B	17-DEC-97	98-06-195A	02
06	TX	MANSFIELD, CITY OF	48439C0560H	08-AUG-97	97-06-1001V	19
06	TX	MANSFIELD, CITY OF	48439C0580H	08-AUG-97	97-06-1001V	19
06	TX	MANSFIELD, CITY OF	48439C0580H	05-DEC-97	97-06-1178A	01
06	TX	MANSFIELD, CITY OF	48439C0560H	28-AUG-97	97-06-538A	02
06	TX	MANSFIELD, CITY OF	48439C0580H	10-DEC-97	98-06-242A	02
06	TX	MCKINNEY, CITY OF	48085C0295G	23-DEC-97	97-06-871P	06
06	TX	MCLENNAN COUNTY	4804560140B	18-JUL-97	97-06-351P	06
06	TX	MIDLAND, CITY OF	48329C0019D	29-OCT-97	97-06-1062A	01
06	TX	MIDLAND, CITY OF	48329C0082C	18-SEP-97	97-06-1141A	02
06	TX	MIDLAND, CITY OF	48329C0101D	23-SEP-97	97-06-1163A	02
06	TX	MIDLAND, CITY OF	48329C0101D	02-OCT-97	97-06-1189A	02
06	TX	MIDLAND, CITY OF	48329C0082C	26-SEP-97	97-06-1199A	02
06	TX	MIDLAND, CITY OF	48329C0038C	03-OCT-97	97-06-1236A	01
06	TX	MIDLAND, CITY OF	48329C0082C	24-JUL-97	97-06-594A	01
06	TX	MIDLAND, CITY OF	48329C0101D	08-AUG-97	97-06-790A	02
06	TX	MIDLAND, CITY OF	48329C0019D	08-AUG-97	97-06-878A	01
06	TX	MIDLAND, CITY OF	48329C0101D	08-AUG-97	97-06-898A	02
06	TX	MIDLAND, CITY OF	48329C0101D	29-OCT-97	98-06-028A	02
06	TX	MIDLAND, CITY OF	48329C0038C	29-OCT-97	98-06-032A	02
06	TX	MIDLAND, CITY OF	48329C0101D	21-NOV-97	98-06-172A	02
06	TX	MIDLAND, CITY OF	48329C0019D	30-DEC-97	98-06-351A	01
06	TX	MIDLAND, CITY OF	48329C0082C	30-DEC-97	98-06-377A	02
06	TX	MISSION, CITY OF	4803340400C	17-JUL-97	97-06-324A	01
06	TX	MISSOURI CITY, CITY OF	48157C0270J	24-OCT-97	98-06-120A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	15-AUG-97	97-06-1011A	01
06	TX	MONTGOMERY COUNTY	48339C0195F	10-SEP-97	97-06-1110A	02
06	TX	MONTGOMERY COUNTY	48339C0195F	05-NOV-97	97-06-1254A	01
06	TX	MONTGOMERY COUNTY	48339C0660F	19-NOV-97	97-06-1363A	02
06	TX	MONTGOMERY COUNTY	48339C0537F	26-SEP-97	97-06-183P	05
06	TX	MONTGOMERY COUNTY	48339C0539F	26-SEP-97	97-06-183P	05
06	TX	MONTGOMERY COUNTY	48339C0195F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0205F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0210F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0215F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0220F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0355F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0360F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0370F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0386F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0389F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0395F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0478F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0480F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0495F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0505F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0510F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0515F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0520F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0530F	15-SEP-97	97-06-241V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	MONTGOMERY COUNTY	48339C0535F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0539F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0540F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0543F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0545F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0570F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0680F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0685F	15-SEP-97	97-06-241V	19
06	TX	MONTGOMERY COUNTY	48339C0215F	20-AUG-97	97-06-828A	01
06	TX	MONTGOMERY COUNTY	48339C0215F	27-AUG-97	97-06-889A	02
06	TX	MONTGOMERY COUNTY	48339C0510F	19-NOV-97	98-06-053A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	18-NOV-97	98-06-056A	01
06	TX	MONTGOMERY COUNTY	48339C0220F	25-NOV-97	98-06-160A	02
06	TX	MONTGOMERY COUNTY	48339C0215F	05-DEC-97	98-06-234A	02
06	TX	MONTGOMERY COUNTY	48339C0000	12-AUG-97	R6-97-08-033	02
06	TX	MURPHY, CITY OF	48085C0465G	31-OCT-97	97-06-578A	02
06	TX	NACOGDOCHES COUNTY	4809470012B	25-NOV-97	98-06-067A	02
06	TX	NAVARRO COUNTY	4809500001A	15-JUL-97	97-06-609P	06
06	TX	NAVARRO COUNTY	4809500005A	15-JUL-97	97-06-609P	06
06	TX	NAVARRO COUNTY	4809500009A	15-JUL-97	97-06-609P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0189H	08-AUG-97	97-06-1001V	19
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0190H	08-AUG-97	97-06-1001V	19
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0284H	08-AUG-97	97-06-1001V	19
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0301H	08-AUG-97	97-06-1001V	19
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0303H	08-AUG-97	97-06-1001V	19
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0189H	29-SEP-97	97-06-1195P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0195H	29-SEP-97	97-06-1195P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0189H	30-JUL-97	97-06-547P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0188H	01-AUG-97	97-06-846A	02
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0301H	01-AUG-97	97-06-846A	02
06	TX	OAK RIDGE NORTH, CITY OF	48339C0537F	26-SEP-97	97-06-183P	05
06	TX	OAK RIDGE NORTH, CITY OF	48339C0539F	26-SEP-97	97-06-183P	05
06	TX	OAK RIDGE NORTH, CITY OF	48339C0537F	15-SEP-97	97-06-241V	19
06	TX	OAK RIDGE NORTH, CITY OF	48339C0539F	15-SEP-97	97-06-241V	19
06	TX	ODESSA, CITY OF	48135C0135C	02-JUL-97	97-06-638A	02
06	TX	PALO PINTO COUNTY	4805160025A	24-OCT-97	97-06-655A	02
06	TX	PANORAMA VILLAGE, CITY OF	48339C0238F	15-SEP-97	97-06-241V	19
06	TX	PANORAMA VILLAGE, CITY OF	48339C0238F	10-OCT-97	R6-97-10-033	02
06	TX	PFLUGERVILLE, CITY OF	48453C0115E	20-AUG-97	97-06-964A	02
06	TX	PLANO, CITY OF	48085C0440G	03-SEP-97	96-06-246P	05
06	TX	PLANO, CITY OF	48085C0440G	28-AUG-97	97-06-1055A	02
06	TX	PLANO, CITY OF	48085C0410G	09-SEP-97	97-06-1103P	06
06	TX	PLANO, CITY OF	48085C0440G	07-NOV-97	97-06-1286A	01
06	TX	PLANO, CITY OF	48085C0440G	17-DEC-97	97-06-1311A	02
06	TX	PLANO, CITY OF	48085C0420G	05-NOV-97	97-06-1346A	02
06	TX	PLANO, CITY OF	48085C0420G	19-SEP-97	97-06-456P	05
06	TX	PLANO, CITY OF	48085C0440G	17-SEP-97	97-06-548A	02
06	TX	PLANO, CITY OF	48085C0415G	14-NOV-97	97-06-555P	05
06	TX	PLANO, CITY OF	48085C0445G	02-JUL-97	97-06-686A	02
06	TX	PLANO, CITY OF	48085C0410G	02-JUL-97	97-06-695A	02
06	TX	PLANO, CITY OF	48085C0420G	05-SEP-97	97-06-784A	02
06	TX	PLANO, CITY OF	48085C0445G	08-SEP-97	97-06-797A	02
06	TX	PLANO, CITY OF	48085C0430G	18-AUG-97	97-06-960A	02
06	TX	PLANO, CITY OF	48085C0445G	20-NOV-97	98-06-083P	06
06	TX	PLANO, CITY OF	48085C0445G	16-DEC-97	98-06-304A	02
06	TX	PLANO, CITY OF	48085C0445G	11-DEC-97	R6-97-12-044	02
06	TX	RANDALL COUNTY	48053201158	07-OCT-97	97-06-1183A	02
06	TX	RANDALL COUNTY	48053201808	07-OCT-97	97-06-1183A	02
06	TX	RICHARDSON, CITY OF	4801840005C	03-SEP-97	96-06-246P	05
06	TX	RICHARDSON, CITY OF	4801840015C	10-JUL-97	97-06-494A	02
06	TX	RICHARDSON, CITY OF	4801840015C	18-JUL-97	97-06-615A	01
06	TX	RICHARDSON, CITY OF	4801840015C	14-NOV-97	98-06-153A	01
06	TX	RICHLAND HILLS, CITY OF	48439C0311H	08-AUG-97	97-06-1001V	19
06	TX	ROANOKE, CITY OF	48121C0515E	24-JUL-97	97-06-908V	19
06	TX	ROUND ROCK, CITY OF	48491C0330D	08-OCT-97	97-06-1378A	02
06	TX	ROUND ROCK, CITY OF	48491C0335C	01-AUG-97	97-06-412A	01
06	TX	ROUND ROCK, CITY OF	48491C0330D	08-AUG-97	97-06-849A	02
06	TX	ROUND ROCK, CITY OF	48491C0330D	07-AUG-97	97-06-869A	02
06	TX	ROWLETT, CITY OF	4801850005C	03-OCT-97	97-06-1230A	01
06	TX	ROWLETT, CITY OF	4801850005C	17-DEC-97	98-06-342A	02
06	TX	ROWLETT, CITY OF	4801850005C	30-DEC-97	98-06-372A	02
06	TX	SAN ANGELO, CITY OF	4806230010D	15-SEP-97	97-06-745A	02
06	TX	SAN ANTONIO, CITY OF	48029C0259E	16-SEP-97	97-06-1018A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	SAN ANTONIO, CITY OF	48029C0140E	23-SEP-97	97-06-1198A	02
06	TX	SAN ANTONIO, CITY OF	48029C0434E	26-SEP-97	97-06-1243A	02
06	TX	SAN ANTONIO, CITY OF	48029C0292E	23-OCT-97	97-06-1291A	02
06	TX	SAN ANTONIO, CITY OF	48029C0257E	23-DEC-97	97-06-1308A	02
06	TX	SAN ANTONIO, CITY OF	48029C0268E	02-DEC-97	97-06-1316P	05
06	TX	SAN ANTONIO, CITY OF	48029C0269E	02-DEC-97	97-06-1316P	05
06	TX	SAN ANTONIO, CITY OF	48029C0244E	23-OCT-97	97-06-1326A	02
06	TX	SAN ANTONIO, CITY OF	48029C0417E	23-OCT-97	97-06-1371A	02
06	TX	SAN ANTONIO, CITY OF	48029C0289E	24-NOV-97	97-06-279P	05
06	TX	SAN ANTONIO, CITY OF	48029C0293E	24-NOV-97	97-06-279P	05
06	TX	SAN ANTONIO, CITY OF	48029C0477E	12-AUG-97	97-06-366A	02
06	TX	SAN ANTONIO, CITY OF	48029C0281E	01-JUL-97	97-06-546P	06
06	TX	SAN ANTONIO, CITY OF	48029C0283E	01-JUL-97	97-06-546P	06
06	TX	SAN ANTONIO, CITY OF	48029C0259E	02-JUL-97	97-06-567P	06
06	TX	SAN ANTONIO, CITY OF	48029C0276E	05-SEP-97	97-06-707A	02
06	TX	SAN ANTONIO, CITY OF	48029C0257E	24-JUL-97	97-06-726P	06
06	TX	SAN ANTONIO, CITY OF	48029C0259E	15-JUL-97	97-06-733A	02
06	TX	SAN ANTONIO, CITY OF	48029C0140E	23-SEP-97	97-06-798A	02
06	TX	SAN ANTONIO, CITY OF	48029C0452E	17-OCT-97	97-06-825A	02
06	TX	SAN ANTONIO, CITY OF	48029C0263E	27-AUG-97	97-06-885A	02
06	TX	SAN ANTONIO, CITY OF	48029C0281E	01-AUG-97	97-06-946P	06
06	TX	SAN ANTONIO, CITY OF	48029C0283E	01-AUG-97	97-06-946P	06
06	TX	SAN ANTONIO, CITY OF	48029C0291E	25-SEP-97	97-06-995A	02
06	TX	SAN ANTONIO, CITY OF	48029C0243E	24-OCT-97	98-06-040A	02
06	TX	SAN ANTONIO, CITY OF	48029C0276E	10-NOV-97	98-06-106A	02
06	TX	SAN ANTONIO, CITY OF	48029C0283E	07-NOV-97	98-06-123A	02
06	TX	SAN ANTONIO, CITY OF	48029C0452E	10-DEC-97	98-06-249A	02
06	TX	SAN ANTONIO, CITY OF	48029C0244E	23-DEC-97	98-06-362A	02
06	TX	SAN ANTONIO, CITY OF	48029C0244E	23-DEC-97	98-06-364A	02
06	TX	SAN ANTONIO, CITY OF	48029C0259E	25-NOV-97	R6-97-11-038	02
06	TX	SCHERTZ, CITY OF	4802690015D	06-AUG-97	97-06-292A	02
06	TX	SCHERTZ, CITY OF	4802690005C	04-AUG-97	97-06-915P	06
06	TX	SHERMAN, CITY OF	48181C0145E	17-OCT-97	97-06-1273A	02
06	TX	SHOREACRES, CITY OF	48201C1085J	15-JUL-97	97-06-622A	02
06	TX	SMITH COUNTY	4811850250B	15-OCT-97	97-06-1309A	02
06	TX	SMITH COUNTY	4811850340B	15-OCT-97	97-06-1309A	02
06	TX	SMITH COUNTY	4811850250B	24-OCT-97	97-06-1329A	02
06	TX	SMITH COUNTY	4811850300B	25-JUL-97	97-06-375A	01
06	TX	SMITH COUNTY	4811850300B	25-JUL-97	97-06-770A	01
06	TX	SOUTH LAKE, CITY OF	48439C0195H	08-AUG-97	97-06-1001V	19
06	TX	SOUTH LAKE, CITY OF	48439C0195H	15-SEP-97	97-06-731A	02
06	TX	SPLENDORA, CITY OF	48339C0583F	15-SEP-97	97-06-241V	19
06	TX	STAFFORD, CITY OF	48157C0255J	07-OCT-97	97-06-1272A	01
06	TX	STAFFORD, CITY OF	48157C0255J	10-DEC-97	98-06-265A	01
06	TX	STAGECOACH, CITY OF	48339C0489F	15-SEP-97	97-06-241V	19
06	TX	SUGAR LAND, CITY OF	48157C0255J	02-OCT-97	97-06-1069A	02
06	TX	TARRANT COUNTY	48439C0110H	08-AUG-97	97-06-1001V	19
06	TX	TARRANT COUNTY	48439C0140H	08-AUG-97	97-06-1001V	19
06	TX	TARRANT COUNTY	48439C0232H	08-AUG-97	97-06-1001V	19
06	TX	TARRANT COUNTY	48439C0235H	08-AUG-97	97-06-1001V	19
06	TX	TAYLOR COUNTY	4810140008B	31-OCT-97	R6-98-10-000	02
06	TX	TAYLOR LAKE VILLAGE, CITY OF	48201C1080J	23-OCT-97	97-06-1173A	02
06	TX	TEXARKANA, CITY OF	4800600005B	21-JUL-97	97-06-759A	06
06	TX	THE COLONY, CITY OF	48121C0559E	24-JUL-97	97-06-908V	19
06	TX	THE COLONY, CITY OF	48121C0576E	24-JUL-97	97-06-908V	19
06	TX	THE COLONY, CITY OF	48121C0578E	24-JUL-97	97-06-908V	19
06	TX	TOOL, CITY OF	48213C0040C	07-OCT-97	97-06-1377A	02
06	TX	TOOL, CITY OF	48213C0040C	15-SEP-97	97-06-502A	02
06	TX	TRAVIS COUNTY	48453C0290E	03-OCT-97	97-06-1092A	02
06	TX	TRAVIS COUNTY	48453C0215F	17-SEP-97	97-06-1165A	02
06	TX	TRAVIS COUNTY	48453C0335E	12-DEC-97	97-06-1171A	01
06	TX	TRAVIS COUNTY	48453C0215F	17-SEP-97	97-06-1215A	02
06	TX	TRAVIS COUNTY	48453C0260E	07-NOV-97	98-06-078A	02
06	TX	TROPHY CLUB, TOWN OF	48121C0660E	24-JUL-97	97-06-908V	19
06	TX	TYLER, CITY OF	48057100158	31-OCT-97	98-06-042A	02
06	TX	VICTORIA, CITY OF	4806380005F	15-AUG-97	97-06-943A	01
06	TX	VICTORIA, CITY OF	4806380005F	31-OCT-97	98-06-041A	02
06	TX	VICTORIA, CITY OF	4806380005F	11-DEC-97	98-06-278A	01
06	TX	WATAUGA, TOWN OF	48439C0282H	08-AUG-97	97-06-1001V	19
06	TX	WATAUGA, TOWN OF	48439C0301H	08-AUG-97	97-06-1001V	19
06	TX	WATAUGA, TOWN OF	48439C0282H	05-DEC-97	97-06-302P	05
06	TX	WICHITA COUNTY	4811890090B	31-OCT-97	97-06-1225P	06
06	TX	WICHITA COUNTY	4811890155B	31-OCT-97	97-06-1225P	06

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06	TX	WILLIAMSON COUNTY	48491C0306C	05-SEP-97	97-06-1082A	02
06	TX	WILLIAMSON COUNTY	48491C0308D	05-SEP-97	97-06-1082A	02
06	TX	WILLIAMSON COUNTY	48491C0325D	25-JUL-97	97-06-533A	02
06	TX	WILLIAMSON COUNTY	48491C0325D	10-NOV-97	98-06-090A	02
06	TX	WILLIAMSON COUNTY	48491C0325D	18-DEC-97	98-06-149A	02
06	TX	WILLIAMSON COUNTY	48491C0308D	20-NOV-97	98-06-168A	02
06	TX	WOLFFORTH, TOWN OF	4819150007A	11-DEC-97	98-06-250P	06
07	IA	BLACK HAWK COUNTY	1905350095B	14-AUG-97	97-07-496A	02
07	IA	BLACK HAWK COUNTY	1905350095B	08-SEP-97	97-07-591A	02
07	IA	BLACK HAWK COUNTY	1905350045B	23-DEC-97	98-07-170A	02
07	IA	CEDAR COUNTY	190050B	26-SEP-97	97-07-596A	02
07	IA	CEDAR FALLS, CITY OF	1900170002B	22-SEP-97	97-07-588A	02
07	IA	CEDAR RAPIDS, CITY OF	1901870030B	19-DEC-97	97-07-616A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	15-OCT-97	97-07-608A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	28-OCT-97	97-07-612A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	07-NOV-97	98-07-032A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	14-NOV-97	98-07-088A	02
07	IA	CLIVE, CITY OF	1904880005C	02-JUL-97	97-07-422A	02
07	IA	CLIVE, CITY OF	1904880005C	01-AUG-97	97-07-464A	02
07	IA	CLIVE, CITY OF	1904880005C	18-AUG-97	97-07-497A	02
07	IA	CLIVE, CITY OF	1904880005C	17-SEP-97	97-07-575A	02
07	IA	CLIVE, CITY OF	1904880005C	25-NOV-97	97-07-593A	01
07	IA	CLIVE, CITY OF	1904880005C	14-OCT-97	97-07-657A	02
07	IA	CLIVE, CITY OF	1904880005C	26-NOV-97	98-07-086A	02
07	IA	COUNCIL BLUFFS, CITY OF	1902350005C	26-SEP-97	97-07-545A	02
07	IA	DAVENPORT, CITY OF	1902420005B	08-AUG-97	97-07-502A	02
07	IA	DAVENPORT, CITY OF	1902420003A	21-NOV-97	98-07-074A	02
07	IA	DES MOINES, CITY OF	1909010115C	08-SEP-97	97-07-368P	06
07	IA	DES MOINES, CITY OF	1902270009E	29-AUG-97	97-07-542A	02
07	IA	EMMETT COUNTY	1908650125B	13-AUG-97	97-07-481A	02
07	IA	EMMETT COUNTY	1908650125B	14-OCT-97	97-07-636A	02
07	IA	FOREST CITY, CITY OF	1902830005C	10-JUL-97	97-07-407A	02
07	IA	FOREST CITY, CITY OF	1902830005C	10-JUL-97	97-07-447A	02
07	IA	FOREST CITY, CITY OF	1902830005C	02-DEC-97	98-07-052A	02
07	IA	FREDERICKSBURG, CITY OF	190066B	20-OCT-97	97-07-576A	02
07	IA	FREDERICKSBURG, CITY OF	190066B	18-DEC-97	98-07-142A	02
07	IA	GUTTENBERG, CITY OF	1900770002D	24-JUL-97	97-07-444A	01
07	IA	HARPERS FERRY, CITY OF	190316A	22-AUG-97	97-07-531A	02
07	IA	IOWA CITY, CITY OF	1901710005C	15-SEP-97	97-07-568A	01
07	IA	IOWA CITY, CITY OF	1901710010C	02-DEC-97	98-07-079A	01
07	IA	MARSHALLTOWN, CITY OF	1902000001B	08-AUG-97	97-07-469A	02
07	IA	MARSHALLTOWN, CITY OF	1902000001B	28-AUG-97	97-07-513A	02
07	IA	MARSHALLTOWN, CITY OF	1902000001B	22-AUG-97	97-07-522A	02
07	IA	MISSOURI VALLEY, CITY OF	1901470001B	29-AUG-97	97-07-541A	01
07	IA	NEW HAMPTON, CITY OF	190069C	11-DEC-97	98-07-105A	02
07	IA	POLK COUNTY	1909010115C	08-SEP-97	97-07-368P	06
07	IA	RED OAK, CITY OF	1902100002C	10-JUL-97	97-07-388A	02
07	IA	SPENCER, CITY OF	1900710005B	22-AUG-97	97-07-430P	06
07	IA	SPENCER, CITY OF	1900710005B	05-SEP-97	97-07-555A	02
07	IA	SPENCER, CITY OF	1900710005B	05-SEP-97	97-07-566A	02
07	IA	SPENCER, CITY OF	1900710005B	15-SEP-97	97-07-580A	02
07	IA	SWISHER, CITY OF	190810	26-NOV-97	98-07-037A	02
07	IA	WATERLOO, CITY OF	1900250015E	08-JUL-97	97-07-291A	02
07	IA	WATERLOO, CITY OF	1900250015E	28-AUG-97	97-07-474A	02
07	IA	WATERLOO, CITY OF	1900250015E	27-AUG-97	97-07-475A	02
07	IA	WATERLOO, CITY OF	1900250015E	30-OCT-97	98-07-001A	02
07	KS	BARTON COUNTY	2000160505C	10-NOV-97	98-07-024A	02
07	KS	BEL AIRE, CITY OF	2008640005B	17-JUL-97	97-07-425A	02
07	KS	BELLE PLAINE, CITY OF	20191C0120B	30-DEC-97	98-07-158A	02
07	KS	DERBY, CITY OF	2003230002C	15-JUL-97	97-07-340A	02
07	KS	DESOTO, CITY OF	20091C0015D	07-OCT-97	97-07-623A	02
07	KS	DICKINSON COUNTY	20041C0070C	05-NOV-97	98-07-026A	02
07	KS	DOUGLAS COUNTY	2000870045B	21-OCT-97	97-07-610A	02
07	KS	ELLIS COUNTY	2000940180B	22-AUG-97	97-07-501A	01
07	KS	FORT SCOTT, CITY OF	2000230005B	28-OCT-97	97-07-652A	02
07	KS	FRANKLIN COUNTY	2005650025B	07-NOV-97	98-07-042A	02
07	KS	HARVEY COUNTY	2005850050B	10-JUL-97	97-07-435A	02
07	KS	HARVEY COUNTY	2005850125C	26-SEP-97	97-07-436A	01
07	KS	HOLCOMB, CITY OF	2008680001B	18-SEP-97	97-07-631V	19
07	KS	INDEPENDENCE, CITY OF	2002330001C	07-NOV-97	98-07-046A	02
07	KS	KANSAS CITY, CITY OF	2003630005B	19-SEP-97	97-07-579A	01
07	KS	KANSAS CITY, CITY OF	2003630010A	19-SEP-97	97-07-579A	01
07	KS	LAWRENCE, CITY OF	2000900010A	05-SEP-97	97-07-549A	01

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07	KS	LEAWOOD, CITY OF	20091C0085D	18-JUL-97	97-07-277A	01
07	KS	LEAWOOD, CITY OF	20091C0082E	07-NOV-97	97-07-632A	02
07	KS	LENEXA, CITY OF	20091C0077D	20-AUG-97	97-07-515A	02
07	KS	MCPHERSON COUNTY	2002140200B	18-SEP-97	97-07-546A	02
07	KS	MCPHERSON, CITY OF	2002170015D	14-AUG-97	97-07-506A	02
07	KS	MCPHERSON, CITY OF	2002170005D	29-OCT-97	97-07-658A	02
07	KS	MCPHERSON, CITY OF	2002170005D	30-DEC-97	98-07-161A	02
07	KS	MIAMI COUNTY	200220A	12-AUG-97	97-07-493A	02
07	KS	MIAMI COUNTY	200220A	22-AUG-97	97-07-523A	02
07	KS	MULVANE, CITY OF	2003260005D	24-JUL-97	97-07-290P	06
07	KS	NEWTON, CITY OF	2001330005C	23-DEC-97	98-07-139A	01
07	KS	NICKERSON, CITY OF	20155C0090D	10-DEC-97	98-07-101A	02
07	KS	NICKERSON, CITY OF	20155C0090D	11-DEC-97	98-07-114A	02
07	KS	OLATHE, CITY OF	20091C0090D	06-AUG-97	97-07-461A	01
07	KS	OVERLAND PARK, CITY OF	20091C0079E	25-SEP-97	97-07-390P	05
07	KS	OVERLAND PARK, CITY OF	20091C0085E	25-SEP-97	97-07-390P	05
07	KS	OVERLAND PARK, CITY OF	20091C0079E	18-JUL-97	97-07-471V	19
07	KS	OVERLAND PARK, CITY OF	20091C0082E	05-DEC-97	97-07-613P	06
07	KS	PARK CITY, CITY OF	2009630001A	15-JUL-97	97-07-414A	02
07	KS	RENO COUNTY	20155C0315D	10-DEC-97	98-07-102A	02
07	KS	RILEY COUNTY	2002980150B	01-AUG-97	97-07-468A	02
07	KS	RILEY COUNTY	2002980080B	15-DEC-97	98-07-130A	02
07	KS	SALINA, CITY OF	2003190015B	01-AUG-97	97-07-343A	02
07	KS	SALINA, CITY OF	2003190005B	01-AUG-97	97-07-383A	01
07	KS	SALINA, CITY OF	2003160060B	10-JUL-97	97-07-403A	02
07	KS	SALINA, CITY OF	2003190015B	10-JUL-97	97-07-403A	02
07	KS	SALINA, CITY OF	2003190015B	17-JUL-97	97-07-426A	02
07	KS	SALINA, CITY OF	2003190005B	10-JUL-97	97-07-431A	02
07	KS	SALINA, CITY OF	2003190015B	10-JUL-97	97-07-452A	02
07	KS	SALINA, CITY OF	2003190015B	25-JUL-97	97-07-485A	02
07	KS	SALINA, CITY OF	2003190015B	13-AUG-97	97-07-495A	02
07	KS	SALINA, CITY OF	2003190015B	01-AUG-97	97-07-498A	02
07	KS	SALINA, CITY OF	2003190005B	08-AUG-97	97-07-504A	02
07	KS	SALINA, CITY OF	2003190015B	14-AUG-97	97-07-514A	02
07	KS	SALINA, CITY OF	2003190015B	22-AUG-97	97-07-525A	02
07	KS	SALINA, CITY OF	2003190015B	22-AUG-97	97-07-536A	02
07	KS	SALINA, CITY OF	2003190015B	05-SEP-97	97-07-556A	02
07	KS	SALINA, CITY OF	2003190015B	17-SEP-97	97-07-583A	02
07	KS	SALINA, CITY OF	2003190005B	19-SEP-97	97-07-585A	02
07	KS	SALINA, CITY OF	2003190015B	19-SEP-97	97-07-589A	02
07	KS	SALINA, CITY OF	2003190015B	18-SEP-97	97-07-602A	02
07	KS	SALINA, CITY OF	2003190015B	17-SEP-97	97-07-604A	02
07	KS	SALINA, CITY OF	2003190015B	25-SEP-97	97-07-611A	02
07	KS	SALINA, CITY OF	2003190015B	19-SEP-97	97-07-615A	02
07	KS	SALINA, CITY OF	2003160060B	09-OCT-97	97-07-629A	02
07	KS	SALINA, CITY OF	2003190015B	09-OCT-97	97-07-629A	02
07	KS	SALINA, CITY OF	2003190015B	16-OCT-97	97-07-638A	02
07	KS	SALINA, CITY OF	2003190015B	29-OCT-97	98-07-007A	02
07	KS	SALINA, CITY OF	2003190005B	21-NOV-97	98-07-017P	06
07	KS	SALINA, CITY OF	2003190015B	21-NOV-97	98-07-017P	06
07	KS	SALINA, CITY OF	2003190015B	05-NOV-97	98-07-019A	02
07	KS	SALINA, CITY OF	2003190005B	30-DEC-97	98-07-039A	02
07	KS	SALINA, CITY OF	2003190015B	07-NOV-97	98-07-043A	02
07	KS	SALINA, CITY OF	2003190015B	07-NOV-97	98-07-048A	02
07	KS	SALINA, CITY OF	2003190015B	19-NOV-97	98-07-064A	02
07	KS	SALINA, CITY OF	2003190005B	13-NOV-97	98-07-081A	02
07	KS	SALINA, CITY OF	2003190015B	05-DEC-97	98-07-095A	02
07	KS	SALINA, CITY OF	2003190015B	11-DEC-97	98-07-104A	02
07	KS	SALINA, CITY OF	2003190015B	11-DEC-97	98-07-106A	02
07	KS	SALINA, CITY OF	2003190015B	18-DEC-97	98-07-135A	02
07	KS	SALINA, CITY OF	2003190015B	18-DEC-97	98-07-143A	02
07	KS	SALINA, CITY OF	2003190015B	18-DEC-97	98-07-148A	02
07	KS	SALINA, CITY OF	2003190015B	22-DEC-97	98-07-160A	02
07	KS	SALINE COUNTY	2003160060B	25-JUL-97	97-07-423A	01
07	KS	SALINE COUNTY	2003160100B	23-SEP-97	97-07-592A	02
07	KS	SALINE COUNTY	2003160060B	30-DEC-97	98-07-036A	02
07	KS	SALINE COUNTY	2003160070B	15-DEC-97	98-07-085A	02
07	KS	SEDGWICK COUNTY	2003210200A	21-AUG-97	2412	02
07	KS	SEDGWICK COUNTY	2003210300A	24-JUL-97	97-07-290P	06
07	KS	SEDGWICK COUNTY	2003210225A	20-AUG-97	97-07-298P	06
07	KS	SEDGWICK COUNTY	2003210100A	25-JUL-97	97-07-362A	02
07	KS	SEDGWICK COUNTY	2003210300A	10-JUL-97	97-07-381A	01
07	KS	SEDGWICK COUNTY	2003210300A	15-JUL-97	97-07-405A	02

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07	KS	SEDGWICK COUNTY	2003210150A	15-JUL-97	97-07-412A	02
07	KS	SEDGWICK COUNTY	2003210225A	15-JUL-97	97-07-448A	02
07	KS	SEDGWICK COUNTY	2003210200A	01-AUG-97	97-07-456A	01
07	KS	SEDGWICK COUNTY	2003210300A	22-AUG-97	97-07-528A	01
07	KS	SEDGWICK COUNTY	2003210050A	28-AUG-97	97-07-535A	02
07	KS	SEDGWICK COUNTY	2003210250A	28-AUG-97	97-07-538A	02
07	KS	SEDGWICK COUNTY	2003210300A	02-OCT-97	97-07-617A	02
07	KS	SEDGWICK COUNTY	2003210075A	16-OCT-97	97-07-634A	02
07	KS	SEDGWICK COUNTY	2003210125A	17-OCT-97	97-07-643A	02
07	KS	SEDGWICK COUNTY	2003210225A	11-DEC-97	98-07-112A	01
07	KS	SEDGWICK COUNTY	2003210050A	11-DEC-97	98-07-113A	02
07	KS	SEDGWICK COUNTY	2003210125A	15-DEC-97	98-07-129A	02
07	KS	SEDGWICK, CITY OF	2001340001D	12-DEC-97	98-07-050A	02
07	KS	SHAWNEE COUNTY	2003310050C	06-AUG-97	97-07-473A	02
07	KS	SHAWNEE COUNTY	2003310110C	12-DEC-97	98-07-078A	02
07	KS	SOLOMON, CITY OF	20041C0061C	30-OCT-97	98-07-013A	02
07	KS	SUMNER COUNTY	20191C0300B	14-AUG-97	97-07-484A	02
07	KS	TOPEKA, CITY OF	2051870018C	24-OCT-97	97-07-645A	02
07	KS	WICHITA, CITY OF	2003280015B	01-AUG-97	97-07-406A	01
07	KS	WICHITA, CITY OF	2003280010B	08-JUL-97	97-07-413A	02
07	KS	WICHITA, CITY OF	2003280035B	01-AUG-97	97-07-460A	02
07	KS	WICHITA, CITY OF	2003280030B	01-AUG-97	97-07-466A	02
07	KS	WICHITA, CITY OF	2003280020B	29-AUG-97	97-07-467A	02
07	KS	WICHITA, CITY OF	2003280010B	08-AUG-97	97-07-489A	02
07	KS	WICHITA, CITY OF	2003280005B	22-AUG-97	97-07-516A	01
07	KS	WICHITA, CITY OF	2003280035B	28-AUG-97	97-07-537A	02
07	KS	WICHITA, CITY OF	2003280030B	28-AUG-97	97-07-539A	02
07	KS	WICHITA, CITY OF	2003280020B	29-AUG-97	97-07-543A	02
07	KS	WICHITA, CITY OF	2003280010B	17-SEP-97	97-07-570A	02
07	KS	WICHITA, CITY OF	2003280015B	03-OCT-97	97-07-582P	06
07	KS	WICHITA, CITY OF	2003280020B	19-SEP-97	97-07-584A	02
07	KS	WICHITA, CITY OF	2003280010B	03-OCT-97	97-07-619A	02
07	KS	WICHITA, CITY OF	2003280030B	14-OCT-97	97-07-620A	02
07	KS	WICHITA, CITY OF	2003280035B	07-OCT-97	97-07-635A	02
07	KS	WICHITA, CITY OF	2003280005B	17-OCT-97	97-07-644A	02
07	KS	WICHITA, CITY OF	2003280005B	17-OCT-97	97-07-646A	02
07	KS	WICHITA, CITY OF	2003280035B	30-OCT-97	98-07-005A	02
07	KS	WICHITA, CITY OF	2003280025B	30-OCT-97	98-07-006A	02
07	KS	WICHITA, CITY OF	2003280035B	30-OCT-97	98-07-006A	02
07	KS	WICHITA, CITY OF	2003280030B	07-NOV-97	98-07-049A	02
07	KS	WICHITA, CITY OF	2003280035B	14-NOV-97	98-07-062A	02
07	KS	WICHITA, CITY OF	2003280035B	10-DEC-97	98-07-093A	01
07	KS	WICHITA, CITY OF	2003280020B	11-DEC-97	98-07-103A	02
07	KS	WICHITA, CITY OF	2003280030B	17-DEC-97	98-07-145A	01
07	KS	WICHITA, CITY OF	2003280010B	23-DEC-97	98-07-164A	02
07	MO	ARCADIA, CITY OF	290168B	08-AUG-97	97-07-117A	02
07	MO	ARNOLD, CITY OF	2901880001C	25-NOV-97	98-07-003A	01
07	MO	ARNOLD, CITY OF	2901880004C	16-DEC-97	98-07-011P	06
07	MO	BONNE TERRE, CITY OF	290321B	10-DEC-97	98-07-028A	02
07	MO	BRIDGETON, CITY OF	29189C0039H	13-AUG-97	97-07-421A	01
07	MO	BRIDGETON, CITY OF	29189C0043H	13-AUG-97	97-07-421A	01
07	MO	BRIDGETON, CITY OF	29189C0043H	09-OCT-97	97-07-574A	01
07	MO	BRIDGETON, CITY OF	29189C0039H	17-OCT-97	97-07-649A	01
07	MO	BRIDGETON, CITY OF	29189C0043H	17-OCT-97	97-07-649A	01
07	MO	CAPE GIRARDEAU COUNTY	2907900110B	23-DEC-97	98-07-165A	02
07	MO	CAPE GIRARDEAU, CITY OF	2904580007B	23-DEC-97	98-07-154A	02
07	MO	CAPE GIRARDEAU, CITY OF	2904580007B	22-DEC-97	98-07-155A	01
07	MO	CARROLLTON, TOWN OF	2900580005B	01-AUG-97	97-07-441A	02
07	MO	CARROLLTON, TOWN OF	2900580005B	21-NOV-97	98-07-069A	02
07	MO	CARTER COUNTY	2900600100A	05-NOV-97	98-07-076A	02
07	MO	CASS COUNTY	2907830075B	01-AUG-97	97-07-472A	02
07	MO	CASS COUNTY	2907830025C	21-OCT-97	97-07-533A	02
07	MO	CASS COUNTY	2907830175B	07-NOV-97	97-07-625A	02
07	MO	CASS COUNTY	2907830075B	07-OCT-97	97-07-628A	02
07	MO	CASS COUNTY	2907830050C	17-OCT-97	97-07-647A	02
07	MO	CASS COUNTY	2907830050C	11-DEC-97	97-07-651A	02
07	MO	CHESTERFIELD, CITY OF	29189C0120H	10-SEP-97	96-07-256P	05
07	MO	CHESTERFIELD, CITY OF	29189C0140H	10-SEP-97	96-07-256P	05
07	MO	CHESTERFIELD, CITY OF	29189C0120H	08-OCT-97	97-07-300A	01
07	MO	CHESTERFIELD, CITY OF	29189C0138H	08-OCT-97	97-07-300A	01
07	MO	CHESTERFIELD, CITY OF	29189C0161H	10-JUL-97	97-07-429A	02
07	MO	CHESTERFIELD, CITY OF	29189C0145H	26-SEP-97	97-07-597A	02
07	MO	CHESTERFIELD, CITY OF	29189C0120H	23-DEC-97	98-07-128A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
07	MO	CHESTERFIELD, CITY OF	29189C0138H	23-DEC-97	98-07-128A	01
07	MO	CLINTON COUNTY	2907930075B	05-DEC-97	98-07-063A	02
07	MO	COLE COUNTY	2901070175B	01-AUG-97	97-07-377A	02
07	MO	COTTLEVILLE, CITY OF	29183C0244E	22-SEP-97	97-07-532A	02
07	MO	CREVE COEUR, CITY OF	29189C0163H	14-OCT-97	97-07-392A	02
07	MO	DARDENNE PRAIRIE, TOWN OF	29183C0430E	10-NOV-97	97-07-627A	01
07	MO	EUREKA, CITY OF	29189C0244H	08-AUG-97	97-07-465A	02
07	MO	FENTON, CITY OF	29189C0289H	26-SEP-97	97-07-601A	01
07	MO	FENTON, CITY OF	29189C0289H	05-DEC-97	98-07-090A	01
07	MO	FLORISSANT, CITY OF	29189C0062H	16-DEC-97	97-07-521A	02
07	MO	FLORISSANT, CITY OF	29189C0062H	17-OCT-97	97-07-577A	02
07	MO	FRANKLIN COUNTY	2904930160B	25-SEP-97	97-07-567A	02
07	MO	FREDERICKTOWN, CITY OF	2902210005B	15-JUL-97	97-07-325A	01
07	MO	GASCONADE COUNTY	2908010200B	08-AUG-97	97-07-404A	02
07	MO	GREENE COUNTY	2907820125B	08-JUL-97	97-07-385P	06
07	MO	GREENE COUNTY	2907820125B	11-DEC-97	98-07-110A	02
07	MO	HERMANN, CITY OF	290141B	25-SEP-97	97-07-609A	02
07	MO	INDEPENDENCE,CITY OF	2901720020D	17-JUL-97	97-07-373A	02
07	MO	JEFFERSON COUNTY	2908060085C	24-JUL-97	97-07-470A	02
07	MO	JEFFERSON COUNTY	2908080085C	26-SEP-97	97-07-594A	01
07	MO	KANSAS CITY, CITY OF	2901730045B	22-JUL-97	96-07-225P	06
07	MO	KANSAS CITY, CITY OF	2901730100C	20-AUG-97	97-07-389P	05
07	MO	LEE'S SUMMIT, CITY OF	2901740005C	10-JUL-97	97-07-276A	01
07	MO	O'FALLON, CITY OF	29183C0239E	01-AUG-97	97-07-450A	01
07	MO	O'FALLON, CITY OF	29183C0430E	15-SEP-97	97-07-559A	01
07	MO	O'FALLON, CITY OF	29183C0240E	10-SEP-97	97-07-573A	02
07	MO	O'FALLON, CITY OF	29183C0239E	02-OCT-97	97-07-621A	02
07	MO	O'FALLON, CITY OF	29183C0239E	07-NOV-97	98-07-044A	02
07	MO	PACIFIC, CITY OF	2901340001C	23-SEP-97	97-07-590A	02
07	MO	RALLS COUNTY	2903020003B	02-DEC-97	98-07-084A	02
07	MO	SPRINGFIELD, CITY OF	2901490006B	15-AUG-97	97-07-453A	02
07	MO	SPRINGFIELD, CITY OF	2901490011B	08-AUG-97	97-07-503A	02
07	MO	SPRINGFIELD, CITY OF	2901490011B	21-NOV-97	97-07-605A	02
07	MO	ST. ANN, CITY OF	29189C0157H	26-SEP-97	97-07-599A	02
07	MO	ST. CHARLES COUNTY	29183C0215E	14-JUL-97	97-07-408A	02
07	MO	ST. CHARLES COUNTY	29183C0263E	26-NOV-97	97-07-526A	01
07	MO	ST. CHARLES, CITY OF	29183C0286E	10-NOV-97	97-07-639A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	25-NOV-97	97-07-655A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	02-DEC-97	98-07-141A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	23-DEC-97	98-07-163A	02
07	MO	ST. LOUIS COUNTY	29189C0278H	15-DEC-97	97-07-113P	06
07	MO	ST. LOUIS COUNTY	29189C0267H	18-AUG-97	97-07-458A	01
07	MO	ST. LOUIS COUNTY	29189C0267H	20-AUG-97	97-07-519A	01
07	MO	ST. LOUIS COUNTY	29189C0320H	20-AUG-97	97-07-520A	02
07	MO	ST. LOUIS COUNTY	29189C0405H	02-DEC-97	97-07-648A	01
07	MO	ST. LOUIS COUNTY	29189C0293H	24-OCT-97	97-07-656A	02
07	MO	ST. LOUIS COUNTY	29189C0267H	30-OCT-97	98-07-008A	01
07	MO	ST. LOUIS COUNTY	29189C0405H	21-NOV-97	98-07-010A	02
07	MO	ST. LOUIS COUNTY	29189C0267H	29-OCT-97	98-07-018A	01
07	MO	ST. PETERS, CITY OF	29183C0264E	10-JUL-97	97-07-337A	02
07	MO	ST. PETERS, CITY OF	29183C0242E	22-AUG-97	97-07-463A	01
07	MO	ST. PETERS, CITY OF	29183C0242E	01-AUG-97	97-07-482A	02
07	MO	ST. PETERS, CITY OF	29183C0264E	12-AUG-97	97-07-492A	02
07	MO	ST. PETERS, CITY OF	29183C0242E	20-AUG-97	97-07-524A	01
07	MO	ST. PETERS, CITY OF	29183C0264E	05-SEP-97	97-07-552A	02
07	MO	ST. PETERS, CITY OF	29183C0244E	15-OCT-97	97-07-641A	01
07	MO	STODDARD COUNTY	2908450200B	20-AUG-97	97-07-380A	02
07	MO	STODDARD COUNTY	2908450175B	18-NOV-97	98-07-056A	01
07	MO	SUNSET HILLS, CITY OF	29189C0293H	21-NOV-97	98-07-073A	02
07	MO	TRENTON, CITY OF	2901500075B	21-NOV-97	97-07-661A	01
07	MO	TRENTON, CITY OF	2901530003B	21-NOV-97	97-07-661A	01
07	MO	UNIVERSITY CITY, CITY OF	29189C0191H	17-SEP-97	97-07-540A	02
07	MO	UNIVERSITY CITY, CITY OF	29189C0187H	17-SEP-97	97-07-578A	01
07	MO	VALLEY PARK, CITY OF	29189C0278H	15-DEC-97	97-07-113P	06
07	MO	WARREN COUNTY	2904430125B	01-AUG-97	97-07-352A	02
07	MO	WEBB CITY, CITY OF	2901870001B	10-NOV-97	97-07-551A	01
07	MO	WELDON SPRING, CITY OF	29183C0435E	24-OCT-97	97-07-630A	01
07	MO	WILDWOOD, CITY OF	29189C0120H	10-SEP-97	96-07-256P	05
07	MO	WILDWOOD, CITY OF	29189C0140H	10-SEP-97	96-07-256P	05
07	NE	BELLEVUE, CITY OF	31153C0065F	10-SEP-97	97-07-427A	02
07	NE	CEDAR CREEK, VILLAGE OF	3100300005A	02-OCT-97	97-07-614A	02
07	NE	CUMING COUNTY	3104270004B	20-NOV-97	98-07-066A	02
07	NE	DOUGLAS COUNTY	3100730125B	17-OCT-97	97-07-490A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
07	NE	DOUGLAS COUNTY	3100730125B	15-OCT-97	97-07-544A	01
07	NE	GRAND ISLAND, CITY OF	3101030020B	17-JUL-97	97-07-424A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	25-JUL-97	97-07-437A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	24-JUL-97	97-07-438A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	06-AUG-97	97-07-477A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	06-AUG-97	97-07-478A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	13-AUG-97	97-07-494A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	15-AUG-97	97-07-506A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	26-SEP-97	97-07-595A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	26-SEP-97	97-07-598A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	15-OCT-97	97-07-633A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	30-OCT-97	98-07-009A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	30-OCT-97	98-07-014A	02
07	NE	GRAND ISLAND, CITY OF	3101000100C	30-OCT-97	98-07-015A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	07-NOV-97	98-07-022A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	07-NOV-97	98-07-023A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	07-NOV-97	98-07-030A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	07-NOV-97	98-07-031A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	05-DEC-97	98-07-094A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	05-DEC-97	98-07-098A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	11-DEC-97	98-07-119A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	11-DEC-97	98-07-120A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	11-DEC-97	98-07-126A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	16-DEC-97	98-07-133A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	18-DEC-97	98-07-146A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	23-DEC-97	98-07-157A	02
07	NE	HALL COUNTY	3101000100C	08-AUG-97	97-07-476A	02
07	NE	HALL COUNTY	3101000050C	14-OCT-97	97-07-637A	02
07	NE	HALL COUNTY	3101000100C	26-NOV-97	98-07-083A	02
07	NE	HALL COUNTY	3101000100C	12-DEC-97	98-07-127A	02
07	NE	HALL COUNTY	3101000100C	17-DEC-97	98-07-147A	02
07	NE	HASTINGS, CITY OF	3100010010B	05-DEC-97	98-07-089A	02
07	NE	LINCOLN, CITY OF	3152730005C	07-OCT-97	97-07-345A	01
07	NE	LINCOLN, CITY OF	3152730025D	25-JUL-97	97-07-518A	01
07	NE	LINCOLN, CITY OF	3152730040C	30-OCT-97	98-07-012A	02
07	NE	MERRICK COUNTY	3104570175A	15-JUL-97	97-07-416A	02
07	NE	MERRICK COUNTY	3104570175A	05-SEP-97	97-07-550A	02
07	NE	OMAHA, CITY OF	3152740025F	29-AUG-97	97-07-488A	02
07	NE	OMAHA, CITY OF	3152740025F	14-OCT-97	97-07-569A	01
07	NE	OMAHA, CITY OF	3152740025F	02-DEC-97	97-07-571A	02
07	NE	OMAHA, CITY OF	3152740045G	18-SEP-97	97-07-577V	19
07	NE	OMAHA, CITY OF	3152740025F	23-OCT-97	97-07-660A	02
07	NE	OMAHA, CITY OF	3152740045G	13-NOV-97	98-07-029A	02
07	NE	OMAHA, CITY OF	3152740045G	17-DEC-97	98-07-097A	01
07	NE	OMAHA, CITY OF	3152740045G	11-DEC-97	98-07-111A	01
07	NE	OMAHA, CITY OF	3152740045G	17-DEC-97	98-07-144A	01
07	NE	PAPILLION, CITY OF	31153C0065F	24-SEP-97	97-07-459A	01
07	NE	PAPILLION, CITY OF	31153C0065F	22-AUG-97	97-07-527A	01
07	NE	PIERCE COUNTY	3104660150B	02-JUL-97	97-07-396A	02
07	NE	PLATTSMOUTH, CITY OF	3100330001B	20-AUG-97	97-07-409A	02
07	NE	SCHUYLER, CITY OF	3100460010B	02-DEC-97	97-07-650A	02
07	NE	SCOTTS BLUFF COUNTY	3104730200A	29-OCT-97	98-07-004A	02
07	NE	SCOTTSBLUFF, CITY OF	3102060010C	15-SEP-97	97-07-572A	02
07	NE	SYRACUSE, CITY OF	310166B	02-DEC-97	98-07-053A	01
07	NE	WEEPING WATER, CITY OF	3100360001B	16-OCT-97	97-07-553A	02
07	NE	YORK, CITY OF	3102370010B	16-SEP-97	97-07-499A	01
08	CO	ADAMS COUNTY	08001C0340G	31-DEC-97	98-08-004A	01
08	CO	ADAMS COUNTY	08001C0415G	09-DEC-97	98-08-036P	06
08	CO	ADAMS COUNTY	08001C0680G	09-DEC-97	98-08-036P	06
08	CO	ARAPAHOE COUNTY	08005C0480J	03-NOV-97	97-08-360P	05
08	CO	ARAPAHOE COUNTY	08005C0485J	03-NOV-97	97-08-360P	05
08	CO	ARAPAHOE COUNTY	08005C0280J	25-NOV-97	97-08-367A	01
08	CO	ARAPAHOE COUNTY	08005C0285J	25-NOV-97	97-08-367A	01
08	CO	ARAPAHOE COUNTY	08005C0455J	23-DEC-97	97-08-383A	02
08	CO	ARAPAHOE COUNTY	08005C0230J	09-DEC-97	98-08-036P	06
08	CO	ARAPAHOE COUNTY	08005C0235J	09-DEC-97	98-08-036P	06
08	CO	ARVADA, CITY OF	0850720002B	09-OCT-97	97-08-364A	02
08	CO	ARVADA, CITY OF	0850720006B	20-NOV-97	97-08-418A	02
08	CO	AURORA, CITY OF	0800020040E	01-JUL-97	97-08-265A	02
08	CO	AURORA, CITY OF	0800020230E	09-DEC-97	98-08-036P	06
08	CO	BOULDER COUNTY	08013C0390F	24-SEP-97	97-08-311A	02
08	CO	BOULDER, CITY OF	08013C0415F	19-SEP-97	97-08-378A	01
08	CO	BROOMFIELD, CITY OF	0850730220D	05-SEP-97	97-08-119P	05

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Region	State	Community	Map panel	Determination date	Case No.	Type
08	CO	COLORADO SPRINGS, CITY OF	08041C0503F	20-AUG-97	97-08-251P	05
08	CO	COLORADO SPRINGS, CITY OF	08041C0513F	09-OCT-97	97-08-285P	05
08	CO	COLORADO SPRINGS, CITY OF	08041C0736F	30-OCT-97	97-08-331A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460019D	31-JUL-97	97-08-304A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460019D	07-NOV-97	98-08-014A	02
08	CO	DOUGLAS COUNTY	0800490070E	27-AUG-97	97-08-255P	05
08	CO	DOUGLAS COUNTY	0800490430C	16-OCT-97	97-08-387A	02
08	CO	EAGLE COUNTY	0800510240C	10-JUL-97	97-08-299A	02
08	CO	EL PASO COUNTY	08041C0951F	02-SEP-97	97-08-335A	02
08	CO	EL PASO COUNTY	08041C0545F	02-OCT-97	97-08-382A	02
08	CO	EL PASO COUNTY	08041C0575F	10-DEC-97	98-08-049A	02
08	CO	ESTES PARK,TOWN OF	0801930001B	30-OCT-97	97-08-402A	02
08	CO	FREMONT COUNTY	0800670345B	19-DEC-97	97-08-405A	02
08	CO	GOLDEN, CITY OF	0800900003A	17-OCT-97	97-08-412A	01
08	CO	GOLDEN, CITY OF	0800900003A	15-DEC-97	98-08-053A	01
08	CO	GREENWOOD VILLAGE, CITY OF	08005C0460J	05-NOV-97	97-08-415P	05
08	CO	GUNNISON COUNTY	0800780755B	30-OCT-97	97-08-391A	02
08	CO	JEFFERSON COUNTY	0800870360B	04-AUG-97	97-08-312A	08
08	CO	JEFFERSON COUNTY	0800870360B	07-NOV-97	98-08-005A	02
08	CO	JEFFERSON COUNTY	0800870170B	17-DEC-97	98-08-060A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	08-AUG-97	97-08-322A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	17-SEP-97	97-08-375A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	16-OCT-97	97-08-408A	02
08	CO	LARIMER COUNTY	0801010244B	08-SEP-97	97-08-150P	05
08	CO	LONGMONT, CITY OF	08013C0269F	24-SEP-97	97-08-260P	05
08	CO	LONGMONT, CITY OF	08013C0288F	03-SEP-97	97-08-279A	02
08	CO	LOVELAND, CITY OF	0801010244B	08-SEP-97	97-08-150P	05
08	CO	LOVELAND, CITY OF	0801030010C	08-SEP-97	97-08-150P	05
08	CO	MANITOU SPRINGS, CITY OF	08041C0706F	09-DEC-97	97-08-409A	01
08	CO	MORGAN COUNTY	0801290175C	11-DEC-97	98-08-046A	02
08	CO	SEVERANCE, TOWN OF	0802660475C	08-JUL-97	97-08-283A	01
08	CO	SEVERANCE, TOWN OF	0802660475C	09-SEP-97	97-08-366A	01
08	CO	WELD COUNTY	0802660605D	08-AUG-97	97-08-306A	01
08	CO	WELLINGTON, TOWN OF	0801040001C	14-AUG-97	97-08-329A	02
08	CO	WESTMINSTER, CITY OF	0800080001B	05-SEP-97	97-08-119P	05
08	CO	WESTMINSTER, CITY OF	0800080004B	05-SEP-97	97-08-119P	05
08	CO	WHEAT RIDGE, CITY OF	0850790005C	05-NOV-97	97-08-419A	01
08	MT	CARBON COUNTY	3001390115B	24-JUL-97	97-08-293A	02
08	MT	CASCADE COUNTY	3000080437B	17-NOV-97	98-08-002A	02
08	MT	FLATHEAD COUNTY	3000231840E	15-AUG-97	97-08-286A	01
08	MT	FLATHEAD COUNTY	3000231810D	22-DEC-97	98-08-072A	02
08	MT	GALLATIN COUNTY	3000270190B	02-OCT-97	97-08-371A	02
08	MT	GRANITE COUNTY	3001410175A	23-SEP-97	97-08-256A	02
08	MT	GRANITE COUNTY	3001410200A	23-SEP-97	97-08-256A	02
08	MT	LEWIS AND CLARK COUNTY	3000381527B	17-OCT-97	97-08-410A	02
08	MT	LINCOLN COUNTY	3001570755B	21-AUG-97	97-08-289A	02
08	MT	LINCOLN COUNTY	3001570580B	04-AUG-97	97-08-300A	02
08	MT	LINCOLN COUNTY	3001570585B	04-AUG-97	97-08-300A	02
08	MT	LINCOLN COUNTY	3001570650B	14-AUG-97	97-08-308A	02
08	MT	LINCOLN COUNTY	3001570650B	06-AUG-97	97-08-316A	02
08	MT	LINCOLN COUNTY	3001570755B	17-NOV-97	98-08-025A	02
08	MT	MINERAL COUNTY	3001590009B	30-DEC-97	98-08-037A	02
08	MT	MISSOULA COUNTY	30063C1470D	05-NOV-97	97-08-355A	02
08	MT	MISSOULA COUNTY	30063C1505D	14-OCT-97	97-08-376A	02
08	MT	PARK COUNTY	3001600011B	09-OCT-97	97-08-395A	02
08	MT	POWELL COUNTY	3000591525B	15-SEP-97	97-08-337A	02
08	ND	BISMARCK, CITY OF	3801490020A	29-JUL-97	97-08-225P	05
08	ND	BISMARCK, CITY OF	3801490030A	29-JUL-97	97-08-225P	05
08	ND	BISMARCK, CITY OF	3801490020A	24-JUL-97	97-08-297A	02
08	ND	BISMARCK, CITY OF	3801490020A	05-NOV-97	97-08-301A	02
08	ND	BISMARCK, CITY OF	3801490025A	01-OCT-97	97-08-358A	01
08	ND	BISMARCK, CITY OF	3801490025A	02-OCT-97	97-08-380A	01
08	ND	BISMARCK, CITY OF	3801490025A	23-OCT-97	97-08-388A	01
08	ND	BISMARCK, CITY OF	3801490025A	23-OCT-97	97-08-389A	01
08	ND	BISMARCK, CITY OF	3801490015A	02-DEC-97	98-08-003A	01
08	ND	BISMARCK, CITY OF	3801490015A	05-DEC-97	98-08-082A	01
08	ND	BURLEIGH COUNTY	3800170960A	09-OCT-97	97-08-369A	02
08	ND	CENTER,TOWNSHIP OF	3806480005B	13-NOV-97	98-08-030A	02
08	ND	FARGO, CITY OF	3853640020E	09-DEC-97	98-08-033A	02
08	ND	GRAFTON, CITY OF	3801370003C	28-OCT-97	97-08-423A	02
08	ND	GRAND FORKS COUNTY	3800330008B	05-NOV-97	98-08-006A	01
08	ND	GRAND FORKS COUNTY	3800330004B	19-DEC-97	98-08-062A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	25-AUG-97	97-08-327A	02

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Region	State	Community	Map panel	Determination date	Case No.	Type
08	ND	GRAND FORKS, CITY OF	3853650010D	05-SEP-97	97-08-361A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	01-OCT-97	97-08-398A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	01-OCT-97	97-08-399A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	23-DEC-97	98-08-078A	02
08	ND	MINOT, CITY OF	3853670014B	09-SEP-97	97-08-352A	02
08	ND	WARD COUNTY	3853700470B	25-AUG-97	97-08-336A	02
08	SD	ABERDEEN, CITY OF	46013C0245C	24-JUL-97	97-08-280A	02
08	SD	CUSTER COUNTY	4600180065B	01-AUG-97	97-08-258A	02
08	SD	CUSTER COUNTY	4600180085B	25-NOV-97	97-08-420A	02
08	SD	LINCOLN COUNTY	4602770002B	17-NOV-97	97-08-385A	02
08	SD	PENNINGTON COUNTY	4600640717B	27-AUG-97	97-08-332A	02
08	SD	PENNINGTON COUNTY	4600641100B	13-NOV-97	97-08-350A	02
08	SD	RAPID CITY, CITY OF	4654200012F	01-JUL-97	97-08-291A	02
08	SD	RAPID CITY, CITY OF	4654200003F	01-OCT-97	97-08-377A	02
08	SD	YANKTON, CITY OF	4600930003C	19-NOV-97	98-08-023A	02
08	SD	YANKTON, CITY OF	4600930001C	16-DEC-97	98-08-031A	01
08	UT	CACHE COUNTY	4900120008B	26-NOV-97	97-08-373A	02
08	UT	DAVIS COUNTY	4900380070B	03-NOV-97	97-08-186P	06
08	UT	DAVIS COUNTY	4900380160B	03-NOV-97	97-08-186P	06
08	UT	DRAPER, CITY OF	4902440003B	06-NOV-97	96-08-114P	05
08	UT	DRAPER, CITY OF	4902440004B	06-NOV-97	96-08-114P	05
08	UT	HYRUM, CITY OF	4900170005B	06-AUG-97	97-08-294A	02
08	UT	LINDON, CITY OF	4902100005C	30-DEC-97	98-08-051A	02
08	UT	MURRAY, CITY OF	4901030001C	11-AUG-97	97-08-163A	01
08	UT	PARK CITY, CITY OF	4901390005B	01-JUL-97	97-08-296A	02
08	UT	SALT LAKE CITY, CITY OF	4901050027A	18-DEC-97	98-08-029A	01
08	UT	SALT LAKE COUNTY	4901020500B	17-DEC-97	98-08-040P	05
08	UT	SOUTH JORDAN, CITY OF	4901070009C	18-JUL-97	97-08-292A	02
08	UT	SOUTH JORDAN, CITY OF	4901070009C	24-JUL-97	97-08-295A	02
08	UT	SOUTH JORDAN, CITY OF	4901070008C	09-SEP-97	97-08-334A	01
08	UT	SOUTH JORDAN, CITY OF	4901070009C	11-SEP-97	97-08-353A	02
08	UT	UINTAH COUNTY	4901470014C	19-NOV-97	98-08-034A	02
08	UT	UTAH COUNTY	4955170375A	08-AUG-97	97-08-212A	02
08	WY	CASPER, CITY OF	5600370015C	24-JUL-97	97-08-269A	02
08	WY	CHEYENNE, CITY OF	5600300010E	24-SEP-97	97-08-330A	01
08	WY	RANCHESTER, TOWN OF	5600460001B	19-NOV-97	97-08-365A	02
08	WY	SHERIDAN COUNTY	5600470020B	14-AUG-97	97-08-307A	02
08	WY	UINTA COUNTY	56005301508	13-NOV-97	98-08-019A	02
09	AZ	AVONDALE, CITY OF	04013C2080G	05-AUG-97	97-09-246P	05
09	AZ	AVONDALE, CITY OF	04013C2085E	05-AUG-97	97-09-246P	05
09	AZ	AVONDALE, CITY OF	04013C2090F	05-AUG-97	97-09-246P	05
09	AZ	BUCKEYE, TOWN OF	04013C1550F	18-NOV-97	97-09-404P	06
09	AZ	BUCKEYE, TOWN OF	04013C2025F	18-NOV-97	97-09-404P	06
09	AZ	BULLHEAD CITY, CITY OF	0401250015E	02-SEP-97	96-09-1190P	06
09	AZ	BULLHEAD CITY, CITY OF	0401250015E	18-JUL-97	97-09-944A	02
09	AZ	CAVE CREEK, TOWN OF	04013C0802F	05-AUG-97	97-09-706P	05
09	AZ	CAVE CREEK, TOWN OF	04013C0805F	05-AUG-97	97-09-706P	05
09	AZ	CAVE CREEK, TOWN OF	04013C0815G	05-AUG-97	97-09-706P	05
09	AZ	CAVE CREEK, TOWN OF	04013C0805F	20-OCT-97	97-09-865P	05
09	AZ	CHANDLER, CITY OF	04013C2670F	24-JUL-97	97-09-673A	01
09	AZ	CHANDLER, CITY OF	04013C2630E	03-OCT-97	97-09-924A	01
09	AZ	CHANDLER, CITY OF	04013C2630E	05-AUG-97	97-09-927A	01
09	AZ	COCHISE COUNTY	0400121253D	03-DEC-97	98-09-133A	02
09	AZ	COCONINO COUNTY	0400193552C	25-AUG-97	97-09-1008A	02
09	AZ	DOUGLAS, CITY OF	0400150001B	05-SEP-97	97-09-1038A	02
09	AZ	EL MIRAGE, CITY OF	04013C1165G	20-OCT-97	97-09-1114P	05
09	AZ	EL MIRAGE, CITY OF	04013C1605G	20-OCT-97	97-09-1114P	05
09	AZ	EL MIRAGE, CITY OF	04013C1165G	05-AUG-97	97-09-246P	05
09	AZ	EL MIRAGE, CITY OF	04013C1170F	05-AUG-97	97-09-246P	05
09	AZ	EL MIRAGE, CITY OF	04013C1605G	05-AUG-97	97-09-246P	05
09	AZ	EL MIRAGE, CITY OF	04013C1610G	05-AUG-97	97-09-246P	05
09	AZ	EL MIRAGE, CITY OF	04013C1615H	05-AUG-97	97-09-246P	05
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1270D	21-OCT-97	97-09-534P	06
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1300E	21-OCT-97	97-09-534P	06
09	AZ	FOUNTAIN HILLS, TOWN OF	04013C1750E	21-OCT-97	97-09-534P	06
09	AZ	GILBERT, TOWN OF	04013C2660E	03-OCT-97	97-09-1133A	01
09	AZ	GILBERT, TOWN OF	04013C2655E	12-AUG-97	97-09-878A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	05-AUG-97	97-09-923A	01
09	AZ	GILBERT, TOWN OF	04013C2680F	26-SEP-97	97-09-937A	02
09	AZ	GILBERT, TOWN OF	04013C2685F	26-SEP-97	97-09-937A	02
09	AZ	GILBERT, TOWN OF	04013C2655E	30-OCT-97	98-09-005A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	31-OCT-97	98-09-012A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	09-DEC-97	98-09-152A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
09	AZ	GLENDALE, CITY OF	04013C1615H	05-AUG-97	97-09-246P	05
09	AZ	GLENDALE, CITY OF	04013C1620F	05-AUG-97	97-09-246P	05
09	AZ	GLENDALE, CITY OF	04013C1640D	17-SEP-97	97-09-579A	01
09	AZ	GLENDALE, CITY OF	04013C1190F	12-AUG-97	97-09-922A	01
09	AZ	GLOBE, CITY OF	0400290002B	17-DEC-97	98-09-127A	02
09	AZ	GOODYEAR, CITY OF	04013C2090F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1165G	20-OCT-97	97-09-1114P	05
09	AZ	MARICOPA COUNTY	04013C1605G	20-OCT-97	97-09-1114P	05
09	AZ	MARICOPA COUNTY	04013C0735F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C0745F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1160F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1165G	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1170F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1605G	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1610G	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1615H	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1620F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C2080G	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C2085E	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C2090F	05-AUG-97	97-09-246P	05
09	AZ	MARICOPA COUNTY	04013C1550F	18-NOV-97	97-09-404P	06
09	AZ	MARICOPA COUNTY	04013C2025F	18-NOV-97	97-09-404P	06
09	AZ	MARICOPA COUNTY	04013C1270D	21-OCT-97	97-09-534P	06
09	AZ	MARICOPA COUNTY	04013C1300E	21-OCT-97	97-09-534P	06
09	AZ	MARICOPA COUNTY	04013C1750E	21-OCT-97	97-09-534P	06
09	AZ	MARICOPA COUNTY	04013C0414E	05-AUG-97	97-09-706P	05
09	AZ	MARICOPA COUNTY	04013C0415E	05-AUG-97	97-09-706P	05
09	AZ	MARICOPA COUNTY	04013C0805F	05-AUG-97	97-09-706P	05
09	AZ	MARICOPA COUNTY	04013C0815G	05-AUG-97	97-09-706P	05
09	AZ	MARICOPA COUNTY	04013C1300E	24-JUL-97	97-09-880A	02
09	AZ	MARICOPA COUNTY	04013C2160D	20-OCT-97	97-09-965P	05
09	AZ	MARICOPA COUNTY	04013C2165F	20-OCT-97	97-09-965P	05
09	AZ	MARICOPA COUNTY	04013C2170E	20-OCT-97	97-09-965P	05
09	AZ	MESA, CITY OF	04013C2195E	14-AUG-97	97-09-1044A	01
09	AZ	MESA, CITY OF	04013C2195E	26-SEP-97	97-09-1124A	01
09	AZ	MESA, CITY OF	04013C2195E	23-OCT-97	97-09-1207A	01
09	AZ	MESA, CITY OF	04013C2195E	01-JUL-97	97-09-862A	01
09	AZ	MESA, CITY OF	04013C2195E	10-JUL-97	97-09-875A	01
09	AZ	MESA, CITY OF	04013C2195E	01-AUG-97	97-09-930A	01
09	AZ	MESA, CITY OF	04013C2205E	30-OCT-97	98-09-038A	02
09	AZ	MESA, CITY OF	04013C2195E	02-DEC-97	98-09-134A	02
09	AZ	MESA, CITY OF	04013C2195E	19-DEC-97	98-09-162A	01
09	AZ	MOHAVE COUNTY	0400582270D	02-SEP-97	96-09-1190P	06
09	AZ	MOHAVE COUNTY	0400582165C	16-DEC-97	97-09-1167A	01
09	AZ	MOHAVE COUNTY	0400582350C	31-DEC-97	98-09-124A	01
09	AZ	PEORIA, CITY OF	04013C0735F	05-AUG-97	97-09-246P	05
09	AZ	PEORIA, CITY OF	04013C0745F	05-AUG-97	97-09-246P	05
09	AZ	PEORIA, CITY OF	04013C1160F	05-AUG-97	97-09-246P	05
09	AZ	PEORIA, CITY OF	04013C1610G	05-AUG-97	97-09-246P	05
09	AZ	PEORIA, CITY OF	04013C1620F	05-AUG-97	97-09-246P	05
09	AZ	PHOENIX, CITY OF	04013C2155E	28-AUG-97	97-09-1029A	01
09	AZ	PHOENIX, CITY OF	04013C2145F	05-SEP-97	97-09-1051A	01
09	AZ	PHOENIX, CITY OF	04013C2130E	04-SEP-97	97-09-1053A	02
09	AZ	PHOENIX, CITY OF	04013C1620F	17-OCT-97	97-09-1089A	01
09	AZ	PHOENIX, CITY OF	04013C1655H	24-OCT-97	97-09-1199A	02
09	AZ	PHOENIX, CITY OF	04013C1615H	05-AUG-97	97-09-246P	05
09	AZ	PHOENIX, CITY OF	04013C1620F	05-AUG-97	97-09-246P	05
09	AZ	PHOENIX, CITY OF	04013C2080G	05-AUG-97	97-09-246P	05
09	AZ	PHOENIX, CITY OF	04013C2155E	03-JUL-97	97-09-559P	06
09	AZ	PHOENIX, CITY OF	04013C1670E	07-AUG-97	97-09-616P	05
09	AZ	PHOENIX, CITY OF	04013C0795F	05-AUG-97	97-09-706P	05
09	AZ	PHOENIX, CITY OF	04013C0815G	05-AUG-97	97-09-706P	05
09	AZ	PHOENIX, CITY OF	04013C1210F	05-AUG-97	97-09-706P	05
09	AZ	PHOENIX, CITY OF	04013C1670E	07-AUG-97	97-09-830P	05
09	AZ	PHOENIX, CITY OF	04013C1670E	07-AUG-97	97-09-831P	05
09	AZ	PHOENIX, CITY OF	04013C1670E	31-DEC-97	98-09-125A	01
09	AZ	PHOENIX, CITY OF	04013C1655H	22-DEC-97	98-09-246A	02
09	AZ	PIMA COUNTY	0400731645D	21-AUG-97	97-09-1004A	02
09	AZ	PIMA COUNTY	0400731040E	20-AUG-97	97-09-1041V	19
09	AZ	PIMA COUNTY	0400731610E	25-NOV-97	97-09-826P	06
09	AZ	PIMA COUNTY	0400731620D	28-JUL-97	97-09-850A	02
09	AZ	PIMA COUNTY	0400731620D	12-AUG-97	97-09-945A	02
09	AZ	PIMA COUNTY	0400731615C	20-AUG-97	97-09-979A	02

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09	AZ	PIMA COUNTY	0400731665D	11-AUG-97	97-09-993A	02
09	AZ	PIMA COUNTY	0400731665D	04-DEC-97	98-09-148A	02
09	AZ	PIMA COUNTY	0400731610E	11-DEC-97	98-09-262P	06
09	AZ	PIMA COUNTY	0400731635C	30-DEC-97	98-09-265A	02
09	AZ	SCOTTSDALE, CITY OF	04013C1705E	04-AUG-97	97-09-1018P	06
09	AZ	SCOTTSDALE, CITY OF	04013C1235E	17-OCT-97	97-09-1156A	02
09	AZ	SCOTTSDALE, CITY OF	04013C2155E	30-OCT-97	97-09-1214A	02
09	AZ	SCOTTSDALE, CITY OF	04013C1710D	24-JUL-97	97-09-901A	02
09	AZ	SCOTTSDALE, CITY OF	04013C0820E	14-NOV-97	98-09-052A	02
09	AZ	SCOTTSDALE, CITY OF	04013C1705E	16-DEC-97	98-09-115A	01
09	AZ	SCOTTSDALE, CITY OF	04013C1235E	23-DEC-97	98-09-142A	02
09	AZ	SIERRA VISTA, CITY OF	0400170005C	22-AUG-97	97-09-1014A	02
09	AZ	SIERRA VISTA, CITY OF	0400170005C	05-NOV-97	97-09-1186A	02
09	AZ	SURPRISE, TOWN OF	04013C1165G	20-OCT-97	97-09-1114P	05
09	AZ	SURPRISE, TOWN OF	04013C1605G	20-OCT-97	97-09-1114P	05
09	AZ	SURPRISE, TOWN OF	04013C1165G	05-AUG-97	97-09-246P	05
09	AZ	SURPRISE, TOWN OF	04013C1170F	05-AUG-97	97-09-246P	05
09	AZ	TEMPE, CITY OF	04013C2165F	05-SEP-97	97-09-1057A	01
09	AZ	TEMPE, CITY OF	04013C2160D	20-OCT-97	97-09-965P	05
09	AZ	TEMPE, CITY OF	04013C2165F	20-OCT-97	97-09-965P	05
09	AZ	TEMPE, CITY OF	04013C2170E	20-OCT-97	97-09-965P	05
09	AZ	TUCSON, CITY OF	0400760050F	14-AUG-97	97-09-1019A	02
09	AZ	TUCSON, CITY OF	0400760025H	25-AUG-97	97-09-1026A	02
09	AZ	TUCSON, CITY OF	0400760050F	17-NOV-97	97-09-1066A	02
09	AZ	TUCSON, CITY OF	0400760065F	21-AUG-97	97-09-1067P	06
09	AZ	TUCSON, CITY OF	0400760025H	16-SEP-97	97-09-1086A	02
09	AZ	TUCSON, CITY OF	0400760030H	01-OCT-97	97-09-1111P	05
09	AZ	TUCSON, CITY OF	0400760045G	03-OCT-97	97-09-1170A	02
09	AZ	TUCSON, CITY OF	0400760030H	18-JUL-97	97-09-717A	01
09	AZ	TUCSON, CITY OF	0400760025H	10-JUL-97	97-09-740A	02
09	AZ	TUCSON, CITY OF	0400760025H	01-AUG-97	97-09-882P	05
09	AZ	TUCSON, CITY OF	0400760070F	21-JUL-97	97-09-920P	06
09	AZ	TUCSON, CITY OF	0400760030H	12-AUG-97	97-09-948A	01
09	AZ	TUCSON, CITY OF	0400760025H	17-SEP-97	97-09-985A	02
09	AZ	TUCSON, CITY OF	0400760025H	05-SEP-97	97-09-991A	02
09	AZ	TUCSON, CITY OF	0400760015H	14-OCT-97	97-09-995V	19
09	AZ	TUCSON, CITY OF	0400760020J	14-OCT-97	97-09-995V	19
09	AZ	TUCSON, CITY OF	0400760030H	02-DEC-97	98-09-132A	02
09	AZ	WICKENBURG, TOWN OF	04013C0235E	26-SEP-97	97-09-1081P	05
09	AZ	WICKENBURG, TOWN OF	04013C0235E	01-OCT-97	97-09-142P	05
09	AZ	WICKENBURG, TOWN OF	04013C0255F	01-OCT-97	97-09-142P	05
09	AZ	YAVAPAI COUNTY	0400930870B	11-DEC-97	97-09-1121A	02
09	AZ	YAVAPAI COUNTY	0400931065C	11-DEC-97	98-09-085A	02
09	AZ	YAVAPAI COUNTY	0400931020D	20-DEC-97	98-09-166V	19
09	AZ	YOUNGTOWN, TOWN OF	04013C1610G	05-AUG-97	97-09-246P	05
09	CA	ALBANY, CITY OF	0600030002A	17-OCT-97	97-09-1134A	02
09	CA	ALBANY, CITY OF	0600030002A	01-JUL-97	97-09-741A	01
09	CA	ALBANY, CITY OF	0600030002A	11-DEC-97	98-09-190A	01
09	CA	AMADOR COUNTY	0600150035D	18-JUL-97	97-09-1000V	19
09	CA	ANTIOCH, CITY OF	0600260001C	05-SEP-97	97-09-1023A	02
09	CA	ANTIOCH, CITY OF	0600260002D	17-DEC-97	97-09-350P	05
09	CA	APPLE VALLEY, CITY OF	06071C5820F	11-DEC-97	97-09-1204A	02
09	CA	BURLINGAME, CITY OF	0650190002C	05-NOV-97	98-09-018A	02
09	CA	BUTTE COUNTY	0600170210B	05-NOV-97	98-09-016A	02
09	CA	CHULA VISTA, CITY OF	06073C1912F	27-OCT-97	97-09-777V	19
09	CA	CHULA VISTA, CITY OF	06073C1913F	27-OCT-97	97-09-777V	19
09	CA	CHULA VISTA, CITY OF	06073C1914F	27-OCT-97	97-09-777V	19
09	CA	CHULA VISTA, CITY OF	06073C2151F	27-OCT-97	97-09-777V	19
09	CA	CLOVIS, CITY OF	0600440005E	23-DEC-97	98-09-251A	02
09	CA	CONCORD, CITY OF	0650220006B	08-SEP-97	97-09-1128A	02
09	CA	CONCORD, CITY OF	0650220007B	03-OCT-97	97-09-1131A	02
09	CA	CONCORD, CITY OF	0650220007B	21-AUG-97	97-09-760A	02
09	CA	CONCORD, CITY OF	0650220009B	26-NOV-97	98-09-118A	02
09	CA	CONTRA COSTA COUNTY	0600250230B	23-OCT-97	97-09-1189A	02
09	CA	CONTRA COSTA COUNTY	0600250295C	30-OCT-97	97-09-852A	02
09	CA	CORONA, CITY OF	0602500005F	12-AUG-97	97-09-997A	02
09	CA	CORONADO, CITY OF	06073C1894F	11-DEC-97	98-09-254P	06
09	CA	CORONADO, CITY OF	06073C2132F	11-DEC-97	98-09-254P	06
09	CA	COTATI, CITY OF	0603770001D	24-JUL-97	97-09-891A	01
09	CA	DAVIS, CITY OF	0604230575B	07-NOV-97	98-09-004A	01
09	CA	DEL MAR, CITY OF	06073C1307F	18-DEC-97	98-09-196A	02
09	CA	DEL NORTE COUNTY	0650250100C	31-DEC-97	98-09-264A	02
09	CA	DINUBA, CITY OF	0650660280B	10-OCT-97	97-09-1152A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	DINUBA, CITY OF	0650660280B	24-JUL-97	97-09-903A	01
09	CA	DINUBA, CITY OF	0650660280B	19-DEC-97	98-09-183A	01
09	CA	DUBLIN, CITY OF	0607050001B	18-SEP-97	97-09-1163V	19
09	CA	DUBLIN, CITY OF	0607050001B	30-DEC-97	98-09-117A	02
09	CA	ENCINITAS, CITY OF	06073C1061F	10-NOV-97	97-09-1093P	05
09	CA	ENCINITAS, CITY OF	06073C1063F	10-NOV-97	97-09-1093P	05
09	CA	ESCONDIDO, CITY OF	06073C1061F	19-NOV-97	98-09-011A	02
09	CA	ETNA, CITY OF	06073C1083F	10-JUL-97	97-09-894A	02
09	CA	FAIRFIELD, CITY OF	0603640001B	03-OCT-97	97-09-859A	02
09	CA	FORTUNA, CITY OF	0603700005C	10-JUL-97	97-09-789A	02
09	CA	FORTUNA, CITY OF	0600630001B	10-SEP-97	97-09-864A	02
09	CA	FREMONT,CITY OF	0600630001B	27-AUG-97	97-09-975A	02
09	CA	FRESNO COUNTY	0650280004B	03-OCT-97	97-09-1106A	01
09	CA	FRESNO COUNTY	0650290885C	17-SEP-97	97-09-1087A	01
09	CA	FRESNO COUNTY	0650291410B	16-SEP-97	97-09-1090A	02
09	CA	FRESNO COUNTY	0650290905C	07-NOV-97	98-09-040A	01
09	CA	GARDEN GROVE, CITY OF	0650291185B	02-DEC-97	98-09-131A	02
09	CA	HAYWARD, CITY OF	06059C0020F	08-JUL-97	97-09-603A	02
09	CA	HEMET, CITY OF	0650330011D	08-AUG-97	97-09-710A	02
09	CA	HEMET, CITY OF	0602530005D	26-SEP-97	97-09-1025A	01
09	CA	HEMET, CITY OF	0602530005D	20-AUG-97	97-09-1039V	19
09	CA	HEMET, CITY OF	0602530005D	05-SEP-97	97-09-1065A	01
09	CA	HEMET, CITY OF	0602530005D	25-SEP-97	97-09-1147A	01
09	CA	HEMET, CITY OF	0602530005C	15-JUL-97	97-09-872A	01
09	CA	HEMET, CITY OF	0602530005C	24-JUL-97	97-09-896A	02
09	CA	HUMBOLDT COUNTY	0602530005D	07-NOV-97	98-09-122A	01
09	CA	HUMBOLDT COUNTY	0600600615C	23-OCT-97	97-09-1184A	02
09	CA	HUMBOLDT COUNTY	0600600615C	25-AUG-97	97-09-917A	02
09	CA	HUNTINGTON BEACH, CITY OF	0600600615C	30-OCT-97	98-09-088A	02
09	CA	HUNTINGTON BEACH, CITY OF	06059C0035F	14-JUL-97	97-09-477A	02
09	CA	INYO COUNTY	06059C0045F	14-JUL-97	97-09-658A	01
09	CA	INYO COUNTY	0600730375B	04-DEC-97	97-09-1028P	06
09	CA	IRVINE, CITY OF	0600730400B	04-DEC-97	97-09-1028P	06
09	CA	JACKSON, CITY OF	06059C0049G	04-AUG-97	97-09-840P	06
09	CA	JACKSON, CITY OF	0604480001D	18-JUL-97	97-09-1001V	19
09	CA	KERN COUNTY	0604480001D	07-OCT-97	97-09-1155A	02
09	CA	KERN COUNTY	0600751580C	31-OCT-97	97-09-1055P	05
09	CA	KERN COUNTY	0600751590C	31-OCT-97	97-09-1055P	05
09	CA	LANCASTER, CITY OF	0600751300C	25-SEP-97	97-09-986A	01
09	CA	LEMOORE,CITY OF	0606720010B	25-SEP-97	97-09-1139A	02
09	CA	LIVERMORE, CITY OF	0600860050B	18-SEP-97	97-09-834A	01
09	CA	LIVERMORE, CITY OF	0600080010B	18-SEP-97	97-09-1162V	19
09	CA	LIVERMORE, CITY OF	0600080010A	14-AUG-97	97-09-542P	05
09	CA	LOS ANGELES COUNTY	0600080010A	04-AUG-97	97-09-926P	05
09	CA	LOS ANGELES COUNTY	0650430757B	08-AUG-97	97-09-1002A	02
09	CA	LOS ANGELES COUNTY	0650430756B	08-SEP-97	97-09-1068A	02
09	CA	LOS ANGELES COUNTY	0650430125B	01-OCT-97	97-09-1195A	02
09	CA	LOS ANGELES COUNTY	0650430345B	18-AUG-97	97-09-783P	06
09	CA	LOS ANGELES, CITY OF	0650430460B	06-NOV-97	98-09-023P	06
09	CA	LOS ANGELES, CITY OF	0601370071C	26-SEP-97	97-09-1123A	02
09	CA	LOS ANGELES, CITY OF	0601370109D	30-OCT-97	97-09-1132A	02
09	CA	LOS GATOS, TOWN OF	0601370017C	28-JUL-97	97-09-913A	02
09	CA	MADERA COUNTY	0603430003A	21-AUG-97	97-09-954A	02
09	CA	MADERA COUNTY	0601700575B	21-AUG-97	97-09-1007A	01
09	CA	MADERA COUNTY	0601700250C	04-SEP-97	97-09-1117V	19
09	CA	MADERA COUNTY	0601700750B	30-OCT-97	97-09-1215A	01
09	CA	MADERA COUNTY	0601700620B	25-JUL-97	97-09-973A	01
09	CA	MADERA COUNTY	0601700605B	17-DEC-97	98-09-210A	02
09	CA	MARIN COUNTY	0601700250C	30-DEC-97	98-09-272A	02
09	CA	MARINA, CITY OF	0601730268B	10-DEC-97	98-09-164A	02
09	CA	MERCED COUNTY	0607270005B	05-NOV-97	97-09-1021A	02
09	CA	MERCED COUNTY	06047C0410E	21-AUG-97	97-09-1003A	01
09	CA	MERCED COUNTY	06047C0465E	03-OCT-97	97-09-1092A	01
09	CA	MERCED COUNTY	06047C0465E	19-NOV-97	98-09-090A	01
09	CA	MERCED, CITY OF	06047C0465E	13-NOV-97	98-09-100A	01
09	CA	MERCED, CITY OF	06047C0430E	03-OCT-97	97-09-1122A	01
09	CA	MILL VALLEY, CITY OF	06047C0430E	10-DEC-97	98-09-113A	01
09	CA	MILPITAS, CITY OF	0601770005B	08-AUG-97	97-09-949A	01
09	CA	MILPITAS, CITY OF	0603440001F	10-JUL-97	97-09-160P	06
09	CA	MILPITAS, CITY OF	0603440003F	10-JUL-97	97-09-160P	06
09	CA	MISSION VIEJO, CIY OF	0603440001F	10-JUL-97	97-09-909A	01
09	CA	MONTEREY COUNTY	06059C0058F	11-DEC-97	98-09-186A	02
09	CA		0601950215D	07-OCT-97	97-09-1037A	02

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09	CA	MONTEREY COUNTY	0601950215D	30-SEP-97	97-09-1094A	02
09	CA	MONTEREY COUNTY	0601950375D	22-SEP-97	97-09-1107A	02
09	CA	MORENO VALLEY, CITY OF	0650740030B	08-AUG-97	97-09-972A	02
09	CA	MORRO BAY, CITY OF	0603070005C	02-DEC-97	97-09-1165A	01
09	CA	MORRO BAY, CITY OF	0603070005C	15-JUL-97	97-09-855A	02
09	CA	MOUNTAIN VIEW, CITY OF	0603470003D	27-AUG-97	97-09-893A	02
09	CA	MOUNTAIN VIEW, CITY OF	0603470003D	14-AUG-97	97-09-976A	02
09	CA	MURRIETA, CITY OF	0607512730A	11-SEP-97	97-09-621P	05
09	CA	MURRIETA, CITY OF	0607512740A	11-SEP-97	97-09-621P	05
09	CA	NAPA COUNTY	0602050275A	08-AUG-97	97-09-728A	02
09	CA	NAPA, CITY OF	0602070010C	26-SEP-97	97-09-1048A	01
09	CA	NAPA, CITY OF	0602070005C	21-AUG-97	97-09-1054A	02
09	CA	NAPA, CITY OF	0602070005C	03-OCT-97	97-09-1142A	02
09	CA	NAPA, CITY OF	0602070005C	10-OCT-97	97-09-1169A	02
09	CA	NAPA, CITY OF	0602070005C	30-OCT-97	97-09-1205A	02
09	CA	NAPA, CITY OF	0602070005C	16-OCT-97	97-09-1209A	02
09	CA	NAPA, CITY OF	0602070010C	12-AUG-97	97-09-968A	02
09	CA	NAPA, CITY OF	0602070005C	12-AUG-97	97-09-969A	02
09	CA	NAPA, CITY OF	0602070005C	12-AUG-97	97-09-970A	02
09	CA	NAPA, CITY OF	0602070005C	15-AUG-97	97-09-982A	02
09	CA	NAPA, CITY OF	0602070010C	30-OCT-97	98-09-041A	02
09	CA	NAPA, CITY OF	0602070005C	30-OCT-97	98-09-073A	02
09	CA	NAPA, CITY OF	0602070005C	26-NOV-97	98-09-120A	02
09	CA	NAPA, CITY OF	0602070005C	02-DEC-97	98-09-126A	02
09	CA	NATIONAL CITY, CITY OF	06073C1911F	27-OCT-97	97-09-777V	19
09	CA	NATIONAL CITY, CITY OF	06073C1912F	27-OCT-97	97-09-777V	19
09	CA	NATIONAL CITY, CITY OF	06073C1913F	27-OCT-97	97-09-777V	19
09	CA	NATIONAL CITY, CITY OF	06073C1914F	27-OCT-97	97-09-777V	19
09	CA	NEWARK, CITY OF	0600090005E	15-DEC-97	98-09-089A	01
09	CA	NEWPORT BEACH, CITY OF	06059C0055E	05-NOV-97	97-09-1174A	02
09	CA	OCEANSIDE, CITY OF	06073C0752F	01-JUL-97	97-09-857A	02
09	CA	OCEANSIDE, CITY OF	06073C0752F	01-AUG-97	97-09-887A	01
09	CA	OCEANSIDE, CITY OF	06073C0752F	19-DEC-97	98-09-091A	01
09	CA	OCEANSIDE, CITY OF	06073C0751F	17-DEC-97	98-09-130A	01
09	CA	ONTARIO, CITY OF	06071C8608F	20-NOV-97	97-09-731P	05
09	CA	ORANGE, CITY OF	06059C0021F	01-AUG-97	97-09-1036V	19
09	CA	PERRIS, CITY OF	0602580010D	21-AUG-97	97-09-941A	01
09	CA	PETALUMA, CITY OF	0603790001C	23-OCT-97	97-09-1196A	01
09	CA	PETALUMA, CITY OF	0603790001C	06-AUG-97	97-09-797A	01
09	CA	PETALUMA, CITY OF	0603790002C	06-NOV-97	97-09-832P	05
09	CA	PLACER COUNTY	0602390475E	23-DEC-97	97-09-1201A	02
09	CA	PLEASANTON, CITY OF	0600120001D	14-AUG-97	97-09-1061A	02
09	CA	PLEASANTON, CITY OF	0600120001E	01-OCT-97	97-09-1164V	19
09	CA	PLEASANTON, CITY OF	0600120004D	17-OCT-97	97-09-1182A	01
09	CA	PLEASANTON, CITY OF	0600120003D	14-OCT-97	97-09-1203A	02
09	CA	PLEASANTON, CITY OF	0600120003D	14-AUG-97	97-09-974A	02
09	CA	PLEASANTON, CITY OF	0600120001E	02-DEC-97	98-09-215A	01
09	CA	PLUMAS COUNTY	060244B	21-AUG-97	97-09-767A	02
09	CA	PLUMAS COUNTY	060244B	13-NOV-97	98-09-083A	02
09	CA	POWAY, CITY OF	06073C1358F	26-SEP-97	96-09-1068P	05
09	CA	POWAY, CITY OF	06073C1354F	11-JUL-97	97-09-766P	05
09	CA	POWAY, CITY OF	06073C1358F	11-JUL-97	97-09-766P	05
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	01-AUG-97	97-09-892A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C8629F	07-NOV-97	98-09-138A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C8630F	24-DEC-97	98-09-245A	02
09	CA	REDDING, CITY OF	0603600005C	29-OCT-97	97-09-1103A	01
09	CA	REDDING, CITY OF	0603600010C	29-OCT-97	97-09-1103A	01
09	CA	REDDING, CITY OF	0603600025C	26-SEP-97	97-09-1126A	02
09	CA	REDDING, CITY OF	0603600005C	15-DEC-97	97-09-813P	05
09	CA	REDDING, CITY OF	0603600010C	15-DEC-97	97-09-813P	05
09	CA	REDLANDS, CITY OF	06071C8717F	04-DEC-97	97-09-1022A	02
09	CA	REDONDO BEACH, CITY OF	0601500001B	25-AUG-97	97-09-987A	01
09	CA	REDONDO BEACH, CITY OF	0601500002B	15-DEC-97	98-09-097P	05
09	CA	RICHMOND, CITY OF	0600350020B	14-JUL-97	97-09-837A	01
09	CA	RIVERSIDE COUNTY	0602452085C	31-OCT-97	97-09-1175A	01
09	CA	RIVERSIDE COUNTY	0602452095B	31-OCT-97	97-09-1175A	01
09	CA	RIVERSIDE COUNTY	0602452095B	15-JUL-97	97-09-823A	01
09	CA	RIVERSIDE COUNTY	0602451625C	18-JUL-97	97-09-918P	05
09	CA	RIVERSIDE COUNTY	0602451385A	17-NOV-97	98-09-103A	02
09	CA	RIVERSIDE COUNTY	0602451625C	23-DEC-97	98-09-275A	02
09	CA	RIVERSIDE, CITY OF	0602600030B	14-OCT-97	97-09-1161A	02
09	CA	RIVERSIDE, CITY OF	0602600020B	24-JUL-97	97-09-749P	06
09	CA	RIVERSIDE, CITY OF	0602600020B	12-AUG-97	97-09-956A	02

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09	CA	ROSEVILLE, CITY OF	0602430019D	05-SEP-97	97-09-709A	01
09	CA	ROSEVILLE, CITY OF	0602430001D	20-OCT-97	97-09-900P	05
09	CA	ROSEVILLE, CITY OF	0602430018D	14-NOV-97	98-09-143P	06
09	CA	SACRAMENTO COUNTY	0602620340C	05-SEP-97	97-09-1010A	01
09	CA	SACRAMENTO COUNTY	0602620185E	04-DEC-97	97-09-1050A	01
09	CA	SACRAMENTO COUNTY	0602620295C	14-AUG-97	97-09-333P	05
09	CA	SACRAMENTO COUNTY	0602620410C	14-AUG-97	97-09-333P	05
09	CA	SACRAMENTO COUNTY	0602620420C	14-AUG-97	97-09-333P	05
09	CA	SACRAMENTO COUNTY	0602620475D	15-JUL-97	97-09-791A	02
09	CA	SACRAMENTO COUNTY	0602620340C	10-JUL-97	97-09-902A	01
09	CA	SACRAMENTO COUNTY	0602620055D	30-OCT-97	98-09-003A	02
09	CA	SACRAMENTO COUNTY	0602620090D	31-OCT-97	98-09-008A	02
09	CA	SACRAMENTO COUNTY	0602620115D	13-NOV-97	98-09-050A	02
09	CA	SACRAMENTO COUNTY	0602620095D	09-DEC-97	98-09-159A	02
09	CA	SACRAMENTO COUNTY	0602620085D	10-DEC-97	98-09-182A	02
09	CA	SACRAMENTO COUNTY	0602620090D	17-DEC-97	98-09-220A	02
09	CA	SACRAMENTO COUNTY	0602620115D	17-DEC-97	98-09-227A	02
09	CA	SACRAMENTO COUNTY	0602620330C	23-DEC-97	98-09-247A	02
09	CA	SACRAMENTO, CITY OF	0602660005E	02-OCT-97	97-09-1223P	06
09	CA	SAN ANSELMO, TOWN OF	0601800001B	23-OCT-97	97-09-1197A	01
09	CA	SAN BERNARDINO COUNTY	06071C8755F	17-SEP-97	97-09-1046A	02
09	CA	SAN BERNARDINO COUNTY	06071C7135F	14-JUL-97	97-09-860A	02
09	CA	SAN BERNARDINO COUNTY	06071C5150F	17-NOV-97	97-09-953A	02
09	CA	SAN BERNARDINO COUNTY	06071C9330F	08-AUG-97	97-09-959P	05
09	CA	SAN BERNARDINO, CITY OF	06071C7940F	24-NOV-97	97-09-1017P	06
09	CA	SAN BERNARDINO, CITY OF	06071C7945F	24-NOV-97	97-09-1017P	06
09	CA	SAN BERNARDINO, CITY OF	06071C7940F	15-JUL-97	97-09-957A	02
09	CA	SAN CARLOS, CITY OF	0603270002C	12-NOV-97	97-09-942P	05
09	CA	SAN DIEGO COUNTY	06073C1061F	10-NOV-97	97-09-1093P	05
09	CA	SAN DIEGO COUNTY	06073C1063F	10-NOV-97	97-09-1093P	05
09	CA	SAN DIEGO COUNTY	06073C1662F	17-SEP-97	97-09-1136A	01
09	CA	SAN DIEGO COUNTY	0602841662C	07-JUL-97	97-09-528A	01
09	CA	SAN DIEGO COUNTY	06073C1907F	25-SEP-97	97-09-648P	06
09	CA	SAN DIEGO COUNTY	06073C0787F	22-OCT-97	97-09-649P	05
09	CA	SAN DIEGO COUNTY	06073C0789F	22-OCT-97	97-09-649P	05
09	CA	SAN DIEGO COUNTY	06073C0787F	30-OCT-97	97-09-907P	05
09	CA	SAN DIEGO COUNTY	06073C1660F	19-DEC-97	98-09-086A	01
09	CA	SAN DIEGO, CITY OF	06073C1602F	19-DEC-97	97-09-1042P	06
09	CA	SAN DIEGO, CITY OF	06073C1613F	22-SEP-97	97-09-1096A	02
09	CA	SAN DIEGO, CITY OF	06073C1876F	17-OCT-97	97-09-1166A	02
09	CA	SAN JOSE, CITY OF	0603490009F	25-AUG-97	97-09-1058A	02
09	CA	SAN JOSE, CITY OF	0603490020E	21-AUG-97	97-09-1060A	02
09	CA	SAN JOSE, CITY OF	0603490009F	21-AUG-97	97-09-1074A	02
09	CA	SAN JOSE, CITY OF	0603490015E	04-DEC-97	97-09-1082P	05
09	CA	SAN JOSE, CITY OF	0603490020E	04-DEC-97	97-09-1082P	05
09	CA	SAN JOSE, CITY OF	0603490037D	26-SEP-97	97-09-1150A	02
09	CA	SAN JOSE, CITY OF	0603490006F	10-JUL-97	97-09-160P	06
09	CA	SAN JOSE, CITY OF	0603490008F	10-JUL-97	97-09-160P	06
09	CA	SAN JOSE, CITY OF	0603490009F	10-JUL-97	97-09-160P	06
09	CA	SAN JOSE, CITY OF	0603490013E	10-JUL-97	97-09-160P	06
09	CA	SAN JOSE, CITY OF	0603490020E	13-NOV-97	98-09-081A	02
09	CA	SAN JOSE, CITY OF	0603490020E	18-NOV-97	98-09-111A	02
09	CA	SAN JOSE, CITY OF	0603490037D	26-NOV-97	98-09-119A	02
09	CA	SAN JOSE, CITY OF	0603490037D	26-NOV-97	98-09-123A	02
09	CA	SAN JOSE, CITY OF	0603490020E	16-DEC-97	98-09-207A	02
09	CA	SAN JOSE, CITY OF	0603490009F	16-DEC-97	98-09-208A	02
09	CA	SAN JUAN CAPISTRANO, CITY OF	06059C0075F	11-SEP-97	97-09-1070A	01
09	CA	SAN LEANDRO, CITY OF	0600130003B	26-SEP-97	97-09-1113A	01
09	CA	SAN LUIS OBISPO COUNTY	0603040750C	10-OCT-97	97-09-1154A	02
09	CA	SAN LUIS OBISPO COUNTY	0603040188C	08-SEP-97	97-09-761A	02
09	CA	SAN LUIS OBISPO COUNTY	0603040338C	17-DEC-97	98-09-209A	02
09	CA	SAN LUIS OBISPO, CITY OF	0603100005C	04-DEC-97	98-09-078A	02
09	CA	SAN MARCOS, CITY OF	0602960005E	30-OCT-97	97-09-1200A	02
09	CA	SAN MARCOS, CITY OF	06073C0793F	15-SEP-97	97-09-980P	06
09	CA	SAN MARCOS, CITY OF	06073C0791F	07-NOV-97	98-09-033A	02
09	CA	SAN MARCOS, CITY OF	06073C0793F	15-DEC-97	98-09-201A	01
09	CA	SAN RAFAEL, CITY OF	0650580020B	30-OCT-97	97-09-1158A	01
09	CA	SAN RAFAEL, CITY OF	0650580020B	11-JUL-97	97-09-905A	02
09	CA	SAN RAFAEL, CITY OF	0650580015B	24-JUL-97	97-09-940A	02
09	CA	SAN RAFAEL, CITY OF	0650580020B	05-DEC-97	98-09-110A	02
09	CA	SANTA BARBARA COUNTY	0603310755D	15-SEP-97	97-09-1080P	05
09	CA	SANTA BARBARA COUNTY	0603310730C	30-OCT-97	97-09-1210A	02
09	CA	SANTA BARBARA COUNTY	0603310730C	09-DEC-97	98-09-082A	02

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09	CA	SANTA BARBARA, CITY OF	0603350004D	17-DEC-97	98-09-244A	02
09	CA	SANTA CLARA COUNTY	0603370090E	04-DEC-97	97-09-1082P	05
09	CA	SANTA CLARA COUNTY	0603370255E	04-DEC-97	97-09-1082P	05
09	CA	SANTA CLARA COUNTY	0603370070F	10-JUL-97	97-09-160P	06
09	CA	SANTA CLARA COUNTY	0603370220D	24-JUL-97	97-09-781A	02
09	CA	SANTA CLARA COUNTY	0603370205D	15-JUL-97	97-09-858A	02
09	CA	SANTA CLARA COUNTY	0603370210D	17-DEC-97	98-09-221A	02
09	CA	SANTA CLARA, CITY OF	0603500005C	05-AUG-97	97-09-1009A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	05-AUG-97	97-09-1020A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	05-AUG-97	97-09-1035A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	23-OCT-97	97-09-1206A	02
09	CA	SANTA CLARA, CITY OF	0603500005C	15-JUL-97	97-09-925A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	13-NOV-97	98-09-077A	02
09	CA	SANTA CLARA, CITY OF	0603500001C	23-DEC-97	98-09-250A	02
09	CA	SANTA CLARITA, CITY OF	0607290365C	13-NOV-97	97-09-1032A	02
09	CA	SANTA CLARITA, CITY OF	0607290365C	14-AUG-97	97-09-874P	06
09	CA	SANTA CRUZ COUNTY	0603530355B	17-DEC-97	98-09-224A	02
09	CA	SANTEE, CITY OF	06073C1653F	15-JUL-97	97-09-747A	02
09	CA	SARATOGA, CITY OF	0603510002C	04-JUL-97	97-09-912V	19
09	CA	SARATOGA, CITY OF	0603510004C	04-JUL-97	97-09-912V	19
09	CA	SIMI VALLEY, CITY OF	0604210002B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210004B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210006B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210007B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210008B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210009B	04-SEP-97	97-09-1118V	19
09	CA	SIMI VALLEY, CITY OF	0604210008B	10-OCT-97	97-09-1137A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	14-OCT-97	97-09-1140A	02
09	CA	SIMI VALLEY, CITY OF	0604210002B	03-OCT-97	97-09-1168A	02
09	CA	SIMI VALLEY, CITY OF	0604210008A	10-NOV-97	97-09-921A	01
09	CA	SIMI VALLEY, CITY OF	0604210002B	05-NOV-97	97-09-952A	02
09	CA	SIMI VALLEY, CITY OF	0604210009B	19-NOV-97	97-09-963A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	03-OCT-97	97-09-967A	01
09	CA	SIMI VALLEY, CITY OF	0604210009A	19-AUG-97	97-09-971A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	19-NOV-97	98-09-006A	02
09	CA	SIMI VALLEY, CITY OF	0604210007B	19-NOV-97	98-09-046A	02
09	CA	SONOMA COUNTY	0603750690B	17-OCT-97	97-09-1045A	02
09	CA	SONOMA COUNTY	0603750515B	10-SEP-97	97-09-1073A	02
09	CA	SONOMA COUNTY	0603750515B	18-AUG-97	97-09-984A	02
09	CA	SONOMA COUNTY	0603750635B	19-NOV-97	98-09-093A	02
09	CA	STANISLAUS COUNTY	0603840470C	17-SEP-97	97-09-943A	01
09	CA	STANISLAUS COUNTY	0603840340A	13-NOV-97	98-09-096A	02
09	CA	TEHAMA COUNTY	0650640290D	15-JUL-97	97-09-854A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	24-JUL-97	97-09-853A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	10-JUL-97	97-09-856A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	26-SEP-97	97-09-992A	02
09	CA	TORRANCE, CITY OF	0601650004B	15-DEC-97	98-09-097P	05
09	CA	TORRANCE, CITY OF	0601650005B	15-DEC-97	98-09-097P	05
09	CA	TRINITY COUNTY	06105C0520B	17-DEC-97	98-09-257A	02
09	CA	TULARE COUNTY	0650660280B	30-OCT-97	97-09-1213A	01
09	CA	TULARE COUNTY	0650660650B	05-AUG-97	97-09-990A	02
09	CA	UKIAH, CITY OF	0601860001E	27-AUG-97	97-09-1034A	02
09	CA	UKIAH, CITY OF	0601860001E	11-AUG-97	97-09-935A	02
09	CA	UNION CITY, CITY OF	0600140010B	14-NOV-97	98-09-102A	01
09	CA	UNION CITY, CITY OF	0600140010B	02-DEC-97	98-09-136A	02
09	CA	VACAVILLE, CITY OF	0603730012C	15-JUL-97	97-09-870A	02
09	CA	VACAVILLE, CITY OF	0603730014C	06-AUG-97	97-09-936A	02
09	CA	VACAVILLE, CITY OF	0603730012C	16-DEC-97	98-09-177A	02
09	CA	VALLEJO, CITY OF	0603740005C	14-JUL-97	97-09-743A	01
09	CA	VALLEJO, CITY OF	0603740005C	10-JUL-97	97-09-804A	01
09	CA	VALLEJO, CITY OF	0603740010C	08-SEP-97	97-09-808A	02
09	CA	VISALIA, CITY OF	0604090005C	14-OCT-97	97-09-1208A	02
09	CA	VISTA, CITY OF	06073C0786F	22-OCT-97	97-09-649P	05
09	CA	VISTA, CITY OF	06073C0787F	22-OCT-97	97-09-649P	05
09	CA	VISTA, CITY OF	06073C0788F	22-OCT-97	97-09-649P	05
09	CA	VISTA, CITY OF	06073C0789F	22-OCT-97	97-09-649P	05
09	CA	VISTA, CITY OF	06073C0786F	30-OCT-97	97-09-907P	05
09	CA	VISTA, CITY OF	06073C0787F	30-OCT-97	97-09-907P	05
09	CA	VISTA, CITY OF	06073C0759F	29-DEC-97	98-09-095A	01
09	CA	YOLO COUNTY	0604230575B	24-OCT-97	97-09-1202A	02
09	CA	YOLO COUNTY	0604230575B	26-NOV-97	98-09-092A	01
09	CA	YUCAIPA, CITY OF	06071C8745F	11-DEC-97	98-09-176A	02
09	GU	GUAM, TERRITORY OF	6600010041B	08-AUG-97	97-09-919P	05

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09	HI	MAUI COUNTY	1500030265C	14-NOV-97	97-09-1059A	02
09	HI	MAUI COUNTY	1500030160B	22-OCT-97	97-09-454P	05
09	HI	MAUI COUNTY	1500030330B	18-JUL-97	97-09-773P	06
09	NV	CARSON CITY, CITY OF	3200010130D	19-DEC-97	98-09-233A	02
09	NV	CLARK COUNTY	32003C2525D	10-OCT-97	97-09-1145C	02
09	NV	CLARK COUNTY	32003C2525D	03-OCT-97	97-09-1183A	02
09	NV	CLARK COUNTY	32003C2525D	30-OCT-97	97-09-1224A	02
09	NV	CLARK COUNTY	32003C2567D	27-OCT-97	97-09-178P	05
09	NV	CLARK COUNTY	32003C2590D	04-AUG-97	97-09-889P	06
09	NV	DOUGLAS COUNTY	32005C0095E	25-NOV-97	98-09-029P	06
09	NV	DOUGLAS COUNTY	32005C0085E	06-NOV-97	98-09-036P	05
09	NV	DOUGLAS COUNTY	32005C0105E	06-NOV-97	98-09-036P	05
09	NV	DOUGLAS COUNTY	32005C0105E	03-DEC-97	98-09-139A	01
09	NV	DOUGLAS COUNTY	32005C0005D	15-DEC-97	98-09-212A	02
09	NV	ELKO, CITY OF	3200100004C	18-NOV-97	98-09-031A	01
09	NV	HENDERSON, CITY OF	32003C2615D	19-AUG-97	98-09-1085P	06
09	NV	HENDERSON, CITY OF	32003C2610D	26-NOV-97	97-09-1075P	06
09	NV	HENDERSON, CITY OF	32003C2615D	17-SEP-97	97-09-1101A	01
09	NV	HENDERSON, CITY OF	32003C2590D	23-DEC-97	97-09-1112P	06
09	NV	HENDERSON, CITY OF	32003C2595D	23-DEC-97	97-09-1112P	06
09	NV	HENDERSON, CITY OF	32003C2615D	17-SEP-97	97-09-1127A	02
09	NV	HENDERSON, CITY OF	32003C2615D	26-SEP-97	97-09-1179A	01
09	NV	HENDERSON, CITY OF	32003C2590D	23-DEC-97	97-09-294P	06
09	NV	HENDERSON, CITY OF	32003C2615D	14-AUG-97	97-09-873A	02
09	NV	HENDERSON, CITY OF	32003C2620D	19-NOV-97	98-09-039A	01
09	NV	LAS VEGAS, CITY OF	32003C2187D	10-SEP-97	97-09-1135A	01
09	NV	NORTH LAS VEGAS, CITY OF	32003C2176D	20-NOV-97	97-09-1181P	05
09	NV	RENO, CITY OF	32031C3178E	15-DEC-97	97-09-1129P	06
09	NV	RENO, CITY OF	32031C3186E	15-DEC-97	97-09-1129P	06
09	NV	RENO, CITY OF	32031C2989E	05-AUG-97	97-09-929A	02
09	NV	RENO, CITY OF	32031C2989E	18-NOV-97	98-09-048A	02
09	NV	SPARKS, CITY OF	32031C3005E	05-NOV-97	97-09-691P	05
09	NV	SPARKS, CITY OF	32031C3010E	05-NOV-97	97-09-691P	05
09	NV	WASHOE COUNTY	32031C3170E	05-SEP-97	97-09-1043A	02
09	NV	WASHOE COUNTY	32031C3178E	15-DEC-97	97-09-1129P	06
09	NV	WASHOE COUNTY	32031C3186E	15-DEC-97	97-09-1129P	06
09	NV	WASHOE COUNTY	32031C3187E	15-DEC-97	97-09-1129P	06
10	AK	ANCHORAGE, MUNICIPALITY OF	02000502308	05-AUG-97	97-10-295A	02
10	AK	BETHEL, CITY OF	0201040012B	01-AUG-97	97-10-286A	02
10	AK	FAIRBANKS-NORTH STAR BOROUGH	0250090212H	31-DEC-97	98-10-088A	02
10	AK	JUNEAU, CITY AND BOROUGH OF	0200090700B	08-SEP-97	97-10-303A	02
10	AK	JUNEAU, CITY AND BOROUGH OF	0200090725B	08-SEP-97	97-10-303A	02
10	AK	KETCHIKAN GATEWAY BOROUGH	0200030001B	07-NOV-97	97-10-294A	02
10	AK	MATANUSKA-SUSITNA, BOROUGH OF	0200215100C	01-JUL-97	97-10-207A	02
10	ID	ADA COUNTY	1600010258C	08-AUG-97	97-10-260A	01
10	ID	ADA COUNTY	1600010258C	27-AUG-97	97-10-319A	02
10	ID	ADA COUNTY	1600010143C	10-DEC-97	97-10-334A	01
10	ID	BANCROFT, CITY OF	1600400001A	07-NOV-97	98-10-022A	02
10	ID	BINGHAM COUNTY	1600180430B	10-JUL-97	95-10-042P	05
10	ID	BINGHAM COUNTY	1600180435B	10-JUL-97	95-10-042P	05
10	ID	BINGHAM COUNTY	1600180440B	10-JUL-97	95-10-042P	05
10	ID	BINGHAM COUNTY	1600180290B	10-SEP-97	97-10-307A	02
10	ID	BLACKFOOT, CITY OF	1600190002B	10-JUL-97	95-10-042P	05
10	ID	BONNER COUNTY	1602060400C	26-SEP-97	97-10-355A	02
10	ID	CANYON COUNTY	1602080333C	26-AUG-97	97-10-261P	05
10	ID	CANYON COUNTY	1602080334C	26-AUG-97	97-10-261P	05
10	ID	CANYON COUNTY	1602080342C	26-AUG-97	97-10-261P	05
10	ID	CANYON COUNTY	1602080156C	14-OCT-97	97-10-278A	02
10	ID	EAGLE, CITY OF	1600010165C	17-SEP-97	97-10-352A	01
10	ID	EAGLE, CITY OF	1600010165C	07-NOV-97	98-10-026A	02
10	ID	GARDEN CITY, CITY OF	1600040001F	08-AUG-97	97-10-284A	02
10	ID	HEYBURN, CITY OF	160201B	14-AUG-97	97-10-246A	02
10	ID	KETCHUM, CITY OF	1600230461C	03-DEC-97	98-10-049A	02
10	ID	KOOTENAI COUNTY	1600760100D	21-AUG-97	97-10-305A	02
10	ID	KOOTENAI COUNTY	1600760125C	28-AUG-97	97-10-328A	02
10	ID	KOOTENAI COUNTY	1600760170D	10-DEC-97	98-10-054A	02
10	ID	MERIDIAN, CITY OF	1601800002A	01-AUG-97	97-10-292A	02
10	ID	MERIDIAN, CITY OF	1601800001A	03-OCT-97	97-10-326A	02
10	ID	MERIDIAN, CITY OF	1601800001A	31-OCT-97	98-10-002A	02
10	ID	MERIDIAN, CITY OF	1601800001A	05-NOV-97	98-10-009A	02
10	ID	MIDDLETON, CITY OF	1600370001E	24-JUL-97	97-10-273A	01
10	ID	MIDDLETON, CITY OF	1600370001E	05-SEP-97	97-10-330A	01
10	ID	MIDDLETON, CITY OF	1600370001E	14-OCT-97	97-10-376A	01

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10	ID	MINIDOKA COUNTY	160201B	07-NOV-97	97-10-385A	01
10	ID	MINIDOKA COUNTY	160201B	05-DEC-97	98-10-077A	01
10	ID	NAMPA, CITY OF	1600380002C	24-OCT-97	97-10-177P	05
10	ID	NAMPA, CITY OF	1602080333C	26-AUG-97	97-10-261P	05
10	ID	NAMPA, CITY OF	1602080334C	26-AUG-97	97-10-261P	05
10	ID	NAMPA, CITY OF	1602080342C	26-AUG-97	97-10-261P	05
10	ID	VALLEY COUNTY	1602200325A	14-NOV-97	97-10-382A	02
10	ID	WASHINGTON COUNTY	1602210200B	30-OCT-97	97-10-387A	02
10	OR	ALBANY, CITY OF	4100080050C	30-OCT-97	97-10-353A	02
10	OR	ATHENA, CITY OF	4102060001C	02-JUL-97	97-R10-038	02
10	OR	BANDON, CITY OF	4100430002B	05-SEP-97	97-10-085P	05
10	OR	BEAVERTON,CITY OF	4102400003C	07-NOV-97	98-10-023A	02
10	OR	BENTON COUNTY	4100080050C	15-JUL-97	97-10-276A	02
10	OR	BENTON COUNTY	4100080050C	03-DEC-97	98-10-045A	02
10	OR	BENTON COUNTY	4100080050C	03-DEC-97	98-10-046A	02
10	OR	DALLAS, CITY OF	41053C0107D	10-DEC-97	98-10-052A	01
10	OR	DOUGLAS COUNTY	4100590505A	10-JUL-97	97-10-187A	02
10	OR	DOUGLAS COUNTY	4100590730A	15-JUL-97	97-10-263A	02
10	OR	DOUGLAS COUNTY	4100590940A	22-DEC-97	98-10-048A	02
10	OR	EUGENE, CITY OF	4101220006B	10-JUL-97	97-10-259A	02
10	OR	EUGENE, CITY OF	4155910355C	08-SEP-97	97-10-290A	02
10	OR	EUGENE, CITY OF	4155910355C	14-AUG-97	97-10-301A	02
10	OR	EUGENE, CITY OF	4155910355C	25-SEP-97	97-10-357A	02
10	OR	EUGENE, CITY OF	4101220006B	15-DEC-97	98-10-071A	02
10	OR	EUGENE, CITY OF	4101220002B	15-DEC-97	98-10-078A	01
10	OR	EUGENE, CITY OF	4155910355C	22-DEC-97	98-10-079A	02
10	OR	EUGENE, CITY OF	4101220002B	30-DEC-97	98-10-106A	01
10	OR	FAIRVIEW, CITY OF	4101800001D	25-AUG-97	97-10-279A	01
10	OR	FLORENCE, CITY OF	4155910505D	30-OCT-97	97-10-282A	02
10	OR	GRANTS PASS, CITY OF	4101080003C	24-OCT-97	97-10-389A	02
10	OR	JACKSON COUNTY	4155890395B	10-JUL-97	97-10-243A	02
10	OR	JACKSON COUNTY	4155890414B	15-DEC-97	97-10-293A	02
10	OR	JACKSON COUNTY	4155890227B	03-DEC-97	98-10-047A	02
10	OR	KEIZER, CITY OF	4102880005B	03-OCT-97	97-10-368A	02
10	OR	KEIZER, CITY OF	4102880005B	10-OCT-97	97-10-372A	02
10	OR	KLAMATH COUNTY	4101091050B	10-JUL-97	97-10-245A	02
10	OR	KLAMATH COUNTY	4101090870B	24-JUL-97	97-10-268A	02
10	OR	LAKE OSWEGO, CITY OF	4100180003C	10-DEC-97	98-10-065A	02
10	OR	LAKE OSWEGO, CITY OF	4100180003C	30-DEC-97	98-10-091A	02
10	OR	LANE COUNTY	4155910405C	29-AUG-97	97-10-232P	05
10	OR	LANE COUNTY	4155910355C	10-JUL-97	97-10-254A	02
10	OR	LANE COUNTY	4155910355C	01-AUG-97	97-10-271A	01
10	OR	LANE COUNTY	4155910355C	25-AUG-97	97-10-311A	02
10	OR	LANE COUNTY	4155910355C	05-SEP-97	97-10-322A	02
10	OR	LANE COUNTY	4155910880D	08-AUG-97	97-10-324A	02
10	OR	LANE COUNTY	4155910885D	08-AUG-97	97-10-324A	02
10	OR	LANE COUNTY	4155910355C	05-SEP-97	97-10-346A	02
10	OR	LANE COUNTY	4155910355C	17-OCT-97	97-10-381A	02
10	OR	LANE COUNTY	4155910370C	17-OCT-97	97-10-394P	06
10	OR	LANE COUNTY	4155910000	30-SEP-97	97-R10-048	02
10	OR	LANE COUNTY	4155910100C	05-NOV-97	98-10-013A	02
10	OR	LANE COUNTY	4155910355C	07-NOV-97	98-10-014A	02
10	OR	LANE COUNTY	4155910390D	03-DEC-97	98-10-042A	02
10	OR	LANE COUNTY	4155910355C	03-DEC-97	98-10-063A	02
10	OR	LANE COUNTY	4155910355C	03-DEC-97	98-10-064A	02
10	OR	LANE COUNTY	4155910350C	30-DEC-97	98-10-094A	02
10	OR	LINCOLN CITY, CITY OF	4101300001B	17-SEP-97	97-10-308A	02
10	OR	LINCOLN CITY, CITY OF	4101300001B	10-SEP-97	97-10-354A	02
10	OR	LINCOLN CITY, CITY OF	4101300001B	26-SEP-97	97-10-361A	02
10	OR	LINCOLN COUNTY	4101290075B	10-DEC-97	98-10-036P	05
10	OR	LINCOLN COUNTY	4101290250B	05-DEC-97	98-10-061A	02
10	OR	LINN COUNTY	4101360185B	26-SEP-97	97-10-360A	02
10	OR	MULTNOMAH COUNTY	4101790215B	03-OCT-97	97-10-367A	02
10	OR	MULTNOMAH COUNTY	4101790215B	05-NOV-97	98-10-004A	02
10	OR	MULTNOMAH COUNTY	4101790382B	29-OCT-97	98-10-018A	02
10	OR	PORTLAND, CITY OF	4101790382B	01-JUL-97	97-10-251A	02
10	OR	PORTLAND, CITY OF	4101830046C	26-SEP-97	97-10-333A	02
10	OR	PORTLAND, CITY OF	4101830047D	17-NOV-97	97-10-378A	02
10	OR	SCAPPOOSE, CITY OF	41009C0444C	10-DEC-97	98-10-062A	02
10	OR	SHERIDAN, CITY OF	4102570002C	05-NOV-97	97-10-219A	01
10	OR	UMATILLA COUNTY	4102040550B	17-SEP-97	97-10-325A	02
10	OR	WASHINGTON COUNTY	4102380475B	08-JUL-97	97-R10-039	02
10	OR	WASHINGTON COUNTY	4102380500B	15-DEC-97	98-10-070A	02

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10	OR	WEST LINN, CITY OF	4100240001B	14-AUG-97	97-10-298A	02
10	OR	WEST LINN, CITY OF	4100240001B	05-NOV-97	98-10-006A	02
10	OR	WOODBURN, CITY OF	4101720001B	03-OCT-97	97-10-358A	02
10	OR	YAMHILL COUNTY	4102490135C	10-OCT-97	97-10-364A	02
10	WA	BENTON COUNTY	5302370440B	05-SEP-97	97-10-332A	02
10	WA	BURIEN, CITY OF	53033C0955F	17-NOV-97	97-10-384A	02
10	WA	BURLINGTON, CITY OF	5301530001B	03-OCT-97	97-10-227A	02
10	WA	CAMAS, CITY OF	5300260002B	05-NOV-97	97-10-383A	02
10	WA	CLARK COUNTY	5300240037C	27-AUG-97	97-10-321A	02
10	WA	ELLENSBURG, CITY OF	5302340002C	01-AUG-97	97-10-152A	01
10	WA	FERNDALE, TOWN OF	5302010005B	08-JUL-97	97-10-258A	02
10	WA	GRAYS HARBOR COUNTY	5300570000	28-AUG-97	97-10-044	02
10	WA	GRAYS HARBOR COUNTY	5300570325B	27-AUG-97	97-10-320A	02
10	WA	GRAYS HARBOR COUNTY	5300570290B	22-DEC-97	98-10-067A	02
10	WA	GRAYS HARBOR COUNTY	5300570325B	15-DEC-97	98-10-068A	02
10	WA	ISLAND COUNTY	53029C0310D	01-AUG-97	97-10-266A	02
10	WA	ISSAQUAH, CITY OF	53033C0694F	30-OCT-97	98-10-008A	02
10	WA	KING COUNTY	53033C0680F	10-JUL-97	97-10-257A	02
10	WA	KING COUNTY	53033C0685F	10-JUL-97	97-10-257A	02
10	WA	KING COUNTY	53033C1515F	10-JUL-97	97-10-264A	02
10	WA	KING COUNTY	53033C1020F	21-AUG-97	97-10-309A	02
10	WA	KING COUNTY	53033C0709G	05-SEP-97	97-10-310A	02
10	WA	KING COUNTY	53033C0418F	07-OCT-97	97-10-365A	02
10	WA	KING COUNTY	53033C0615F	03-DEC-97	97-10-391A	02
10	WA	KING COUNTY	53033C0925F	10-DEC-97	98-10-032A	02
10	WA	KING COUNTY	53033C0000	03-DEC-97	98-R10-002	02
10	WA	KITSAP COUNTY	5300920305B	17-SEP-97	97-10-288A	02
10	WA	KITSAP COUNTY	5300920310B	14-AUG-97	97-10-304A	02
10	WA	KITSAP COUNTY	5300920205B	14-OCT-97	97-10-327A	02
10	WA	KITSAP COUNTY	5300920310B	07-NOV-97	98-10-016A	02
10	WA	KITTITAS COUNTY	5300950125B	30-OCT-97	98-10-017A	02
10	WA	MASON COUNTY	5301150190C	10-OCT-97	97-10-234A	02
10	WA	MASON COUNTY	5301150200C	10-OCT-97	97-10-234A	02
10	WA	MASON COUNTY	5301150150C	03-OCT-97	97-10-340A	02
10	WA	MASON COUNTY	5301150275C	17-JUL-97	97-R10-040	02
10	WA	MOUNT VERNON, CITY OF	5301580001B	10-JUL-97	97-10-262A	01
10	WA	OKANOGAN COUNTY	5301170350B	03-OCT-97	97-10-256A	02
10	WA	OLYMPIA, CITY OF	5301910006B	05-DEC-97	98-10-041A	02
10	WA	ORTING, TOWN OF	5301430001B	10-OCT-97	97-10-244A	01
10	WA	PIERCE COUNTY	5301380600C	08-AUG-97	97-10-252A	02
10	WA	PIERCE COUNTY	5301380363C	22-DEC-97	97-10-373A	02
10	WA	PIERCE COUNTY	5301380350D	14-NOV-97	97-10-388A	02
10	WA	PIERCE COUNTY	5301380000	29-SEP-97	97-R10-047	02
10	WA	PIERCE COUNTY	5301380000	02-DEC-97	98-R10-001	02
10	WA	PUYALLUP, CITY OF	5301440005B	14-OCT-97	97-10-296A	02
10	WA	PUYALLUP, CITY OF	5301440005B	05-SEP-97	97-10-344A	02
10	WA	SKAGIT COUNTY	5301510225C	24-JUL-97	97-10-269A	02
10	WA	SKAGIT COUNTY	5301510050C	12-AUG-97	97-10-289A	02
10	WA	SKAGIT COUNTY	5301510235D	17-SEP-97	97-10-359A	02
10	WA	SKAGIT COUNTY	5301510235D	13-NOV-97	98-10-033A	02
10	WA	SKAMANIA COUNTY	5301600400B	22-SEP-97	97-10-221A	02
10	WA	SNOHOMISH COUNTY	5355340460C	10-OCT-97	97-10-369A	02
10	WA	SNOHOMISH COUNTY	5355340060B	05-DEC-97	98-10-001A	02
10	WA	SPOKANE COUNTY	5301740294C	06-AUG-97	97-10-287A	02
10	WA	SPOKANE COUNTY	5301740294C	07-NOV-97	98-10-024A	02
10	WA	THURSTON COUNTY	5301880350C	25-JUL-97	97-R10-041	02
10	WA	TONASKET, TOWN OF	5301230001B	23-OCT-97	97-10-274A	02
10	WA	UNION GAP, CITY OF	5302290002B	08-JUL-97	97-10-283A	02
10	WA	WAHKIAKUM COUNTY	5301930065B	10-JUL-97	97-10-220A	02
10	WA	WAHKIAKUM COUNTY	5301930040B	01-JUL-97	97-10-248A	02
10	WA	WHATCOM COUNTY	530198B	22-DEC-97	98-10-072A	02
10	WA	YAKIMA COUNTY	5302171028B	10-JUL-97	97-10-275A	02
10	WA	YAKIMA COUNTY	5302170715B	05-SEP-97	97-10-347A	02

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01	CT	CROMWELL, TOWN OF	0901230000	17-SEP-97
01	CT	CROMWELL, TOWN OF	0901230005E	17-SEP-97
01	CT	CROMWELL, TOWN OF	0901230010E	17-SEP-97
01	CT	EAST HAVEN, TOWN OF	0900760000	19-NOV-97
01	CT	EAST HAVEN, TOWN OF	0900760010D	19-NOV-97
01	CT	TRUMBULL, TOWN OF	0900170000	19-DEC-97

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01	CT	TRUMBULL, TOWN OF	0900170006C	19-DEC-97
01	CT	TRUMBULL, TOWN OF	0900170010C	19-DEC-97
01	CT	WESTON, TOWN OF	0900180000	19-DEC-97
01	CT	WESTON, TOWN OF	0900180001C	19-DEC-97
01	CT	WESTON, TOWN OF	0900180002C**	19-DEC-97
01	CT	WESTON, TOWN OF	0900180003C	19-DEC-97
01	CT	WESTON, TOWN OF	0900180004C	19-DEC-97
01	CT	WESTON, TOWN OF	0900180005C	19-DEC-97
01	CT	WESTON, TOWN OF	0900180006C	19-DEC-97
01	MA	EDGARTOWN, TOWN OF	2500690000	16-JUL-97
01	MA	EDGARTOWN, TOWN OF	2500690003F	16-JUL-97
01	MA	EDGARTOWN, TOWN OF	2500690004F	16-JUL-97
01	MA	EDGARTOWN, TOWN OF	2500690005F	16-JUL-97
01	MA	EDGARTOWN, TOWN OF	2500690006F	16-JUL-97
01	ME	BOWDOINHAM,TOWN OF	2301190000	19-NOV-97
01	ME	BOWDOINHAM,TOWN OF	2301190005C	19-NOV-97
01	ME	BOWDOINHAM,TOWN OF	2301190010C	19-NOV-97
01	ME	BOWDOINHAM,TOWN OF	2301190015C	19-NOV-97
01	ME	BOWDOINHAM,TOWN OF	2301190020C	19-NOV-97
01	ME	CUTLER, TOWN OF	2303100000	19-AUG-97
01	ME	CUTLER, TOWN OF	2303100015C	19-AUG-97
01	ME	PERRY, TOWN OF	2303190000	19-AUG-97
01	ME	PERRY, TOWN OF	2303190010C	19-AUG-97
01	NH	KEENE, CITY OF	3300230000	17-SEP-97
01	NH	KEENE, CITY OF	3300230001C	17-SEP-97
01	NH	KEENE, CITY OF	3300230002C	17-SEP-97
01	NH	KEENE, CITY OF	3300230003C	17-SEP-97
01	NH	KEENE, CITY OF	3300230005C	17-SEP-97
01	NH	KEENE, CITY OF	3300230006C	17-SEP-97
01	NH	KEENE, CITY OF	3300230007C	17-SEP-97
01	NH	KEENE, CITY OF	3300230008C**	17-SEP-97
01	NH	KEENE, CITY OF	3300230009C	17-SEP-97
01	NH	TILTON, TOWN OF	3300090005C	19-AUG-97
01	VT	DUXBURY, TOWN OF	5001100000	19-NOV-97
01	VT	DUXBURY, TOWN OF	5001100004C	19-NOV-97
01	VT	DUXBURY, TOWN OF	5001100008C	19-NOV-97
01	VT	DUXBURY, TOWN OF	5001100009C	19-NOV-97
02	NJ	MENDHAM, TOWNSHIP OF	3405110000	02-OCT-97
02	NJ	MENDHAM, TOWNSHIP OF	3405110003C	02-OCT-97
02	NJ	PLAINFIELD, CITY OF	3453120000	16-JUL-97
02	NJ	PLAINFIELD, CITY OF	3453120001D	16-JUL-97
02	NJ	ROSELLE PARK, BOROUGH OF	3404730001C	05-NOV-97
02	NY	BAXTER ESTATES, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	BAYVILLE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	BELLEROSE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	BROOKVILLE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	BRUTUS, TOWN OF	3601040000	16-JUL-97
02	NY	BRUTUS, TOWN OF	3601040005D	16-JUL-97
02	NY	BRUTUS, TOWN OF	3601040010D	16-JUL-97
02	NY	CEDARHURST, VILLAGE OF	36059C0000	16-JUL-97
02	NY	CEDARHURST, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	CENTRE ISLAND, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	COVE NECK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	EAST HILLS, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	EAST ROCKAWAY, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	EAST WILLISTON, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	FARMINGDALE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	FLORAL PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	FLOWER HILL, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	FORT ANN, TOWN OF	3612310000	05-NOV-97
02	NY	FORT ANN, TOWN OF	3612310025B	05-NOV-97
02	NY	FORT ANN, TOWN OF	3612310050B	05-NOV-97
02	NY	FREEPORT, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	GARDEN CITY, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560000	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560015C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560019C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560020C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560021C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560022C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560023C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560024C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560026C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560028C	16-JUL-97

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02	NY	GARDINER, TOWN OF	3608560035C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560040C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560041C	16-JUL-97
02	NY	GARDINER, TOWN OF	3608560043C	16-JUL-97
02	NY	GLEN COVE, CITY OF	36059C0000 **	16-JUL-97
02	NY	GREAT NECK ESTATES, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	GREAT NECK PLAZA, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	GREAT NECK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	HEMPSTEAD, TOWN OF	36059C0000	16-JUL-97
02	NY	HEMPSTEAD, TOWN OF	36059C0214G**	16-JUL-97
02	NY	HEMPSTEAD, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	HEWLETT BAY PARK, VILLAGE OF	36059C0000	16-JUL-97
02	NY	HEWLETT BAY PARK, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	HEWLETT HARBOR, VILLAGE OF	36059C0000	16-JUL-97
02	NY	HEWLETT HARBOR, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	HEWLETT NECK, VILLAGE OF	36059C0000	16-JUL-97
02	NY	HEWLETT NECK, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	HUME, TOWN OF	3610070000	02-OCT-97
02	NY	HUME, TOWN OF	3610070025B	02-OCT-97
02	NY	HUME, TOWN OF	3610070026B	02-OCT-97
02	NY	ISLAND PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	KENSINGTON, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	KINGS POINT, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	LAKE SUCCESS, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	LATTINGTOWN, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	LAUREL HOLLOW, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	LAWRENCE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	LONG BEACH, CITY OF	36059C0000 **	16-JUL-97
02	NY	LYN BROOK, VILLAGE OF	36059C0000	16-JUL-97
02	NY	LYN BROOK, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	MALVERNE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MANORHAVEN, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MASSAPEQUA PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MATINECOCK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MILL NECK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MINEDA, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MUNSEY PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	MUTTONTOWN, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	NEW HYDE PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	NORTH HEMPSTEAD, TOWN OF	36059C0000 **	16-JUL-97
02	NY	NORTH HILLS, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	OLD BROOKVILLE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	OLD WESTBURY, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	OYSTER BAY COVE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	OYSTER BAY, TOWN OF	36059C0000 **	16-JUL-97
02	NY	PLANDOME HEIGHTS, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	PLANDOME MANOR, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	PLANDOME, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	PORT WASHINGTON NORTH, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	ROCKVILLE CENTRE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	ROSLYN ESTATES, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	ROSLYN HARBOR, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	ROSLYN, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	RUSSELL GARDENS, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	SADDLE ROCK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	SANDS POINT, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	SEA CLIFF, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	SOUTH FLORAL PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	STEWART MANOR, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	THOMASTON, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	UPPER BROOKVILLE, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	VALLEY STREAM, VILLAGE OF	36059C0000	16-JUL-97
02	NY	VALLEY STREAM, VILLAGE OF	36059C0214G**	16-JUL-97
02	NY	WESTBURY, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	WILLISTON PARK, VILLAGE OF	36059C0000 **	16-JUL-97
02	NY	WOODSBURGH, VILLAGE OF	36059C0000	16-JUL-97
02	NY	WOODSBURGH, VILLAGE OF	36059C0214G**	16-JUL-97
03	MD	FREDERICK COUNTY *	2400270000	19-DEC-97
03	MD	FREDERICK COUNTY *	2400270105B	19-DEC-97
03	MD	FREDERICK COUNTY *	2400270115B	19-DEC-97
03	PA	ALBANY, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	ALBANY, TOWNSHIP OF	42011C0040E	05-DEC-97
03	PA	ALBANY, TOWNSHIP OF	42011C0154E**	05-DEC-97
03	PA	ALBANY, TOWNSHIP OF	42011C0155E**	05-DEC-97

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03	PA	ALBANY, TOWNSHIP OF	42011C0185E**	05-DEC-97
03	PA	ALEPPO, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0015D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0020D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0038D	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0039D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0077D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0081D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0082D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0083D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0084D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0092D	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0101D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0102D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0105D**	05-AUG-97
03	PA	ALLEGHENY, TOWNSHIP OF	42129C0115D	05-AUG-97
03	PA	ALSACE, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0367E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0369E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0386E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0390E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0395E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0507E	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0526E**	05-DEC-97
03	PA	ALSACE, TOWNSHIP OF	42011C0527E**	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0533E**	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0535E**	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0541E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0542E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0543E	05-DEC-97
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03	PA	AMITY, TOWNSHIP OF	42011C0555E**	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0561E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0562E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0563E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0564E	05-DEC-97
03	PA	AMITY, TOWNSHIP OF	42011C0676E	05-DEC-97
03	PA	ARNOLD, CITY OF	42129C0000	05-AUG-97
03	PA	ARNOLD, CITY OF	42129C0059D**	05-AUG-97
03	PA	ARONA, BOROUGH OF	42129C0000	05-AUG-97
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03	PA	ASPINWALL, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	AVALON, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	AVONMORE, BOROUGH OF	42129C0000	05-AUG-97
03	PA	AVONMORE, BOROUGH OF	42129C0136D	05-AUG-97
03	PA	AVONMORE, BOROUGH OF	42129C0137D	05-AUG-97
03	PA	AVONMORE, BOROUGH OF	42129C0138D**	05-AUG-97
03	PA	AVONMORE, BOROUGH OF	42129C0139D	05-AUG-97
03	PA	BALDWIN, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BALDWIN,TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	BALLY, BOROUGH OF	42011C0000	05-DEC-97
03	PA	BALLY, BOROUGH OF	42011C0437E**	05-DEC-97
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03	PA	BALLY, BOROUGH OF	42011C0439E**	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0000	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0419E	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0438E	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0556E	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0557E**	05-DEC-97
03	PA	BECHTELSVILLE, BOROUGH OF	42011C0576E**	05-DEC-97
03	PA	BELL ACRES, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0105D	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0108D	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0115D	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0120D	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0136D**	05-AUG-97
03	PA	BELL, TOWNSHIP OF	42129C0138D	05-AUG-97
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03	PA	BELLEVUE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BEN AVON HEIGHTS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BEN AVON, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BENTON, BOROUGH OF	4215430001B	19-AUG-97
03	PA	BERN, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	BERN, TOWNSHIP OF	42011C0335E	05-DEC-97
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03	PA	BERN, TOWNSHIP OF	42011C0501E	05-DEC-97
03	PA	BERN, TOWNSHIP OF	42011C0502E	05-DEC-97
03	PA	BERNVILLE, BOROUGH OF	42011C0000	05-DEC-97
03	PA	BERNVILLE, BOROUGH OF	42011C0330E**	05-DEC-97
03	PA	BERNVILLE, BOROUGH OF	42011C0340E**	05-DEC-97
03	PA	BETHEL PARK, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BETHEL, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	BETHEL, TOWNSHIP OF	42011C0115E**	05-DEC-97
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03	PA	BETHEL, TOWNSHIP OF	42011C0280E	05-DEC-97
03	PA	BETHEL, TOWNSHIP OF	42011C0285E	05-DEC-97
03	PA	BETHEL, TOWNSHIP OF	42011C0295E	05-DEC-97
03	PA	BETHEL, TOWNSHIP OF	42011C0305E	05-DEC-97
03	PA	BIRDSBORO BOROUGH OF	42011C0000	05-DEC-97
03	PA	BIRDSBORO BOROUGH OF	42011C0539E	05-DEC-97
03	PA	BIRDSBORO BOROUGH OF	42011C0543E	05-DEC-97
03	PA	BLAWNOX, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BOLIVAR, BOROUGH OF	42129C0000	05-AUG-97
03	PA	BOLIVAR, BOROUGH OF	42129C0295D**	05-AUG-97
03	PA	BOYERTOWN, BOROUGH OF	42011C0000 **	05-DEC-97
03	PA	BRACKENRIDGE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BRADDOCK HILLS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BRADDOCK, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BRADFORD WOODS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0493E	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0494E**	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0513E**	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0607E**	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0610E**	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0626E	05-DEC-97
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03	PA	BRECKNOCK, TOWNSHIP OF	42011C0628E**	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0629E	05-DEC-97
03	PA	BRECKNOCK, TOWNSHIP OF	42011C0631E**	05-DEC-97
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03	PA	BRENTWOOD, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	BRIDGEVILLE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0629E**	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0635E**	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0641E**	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0642E	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0644E	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0663E	05-DEC-97
03	PA	CAERNARVON, TOWNSHIP OF	42011C0665E	05-DEC-97
03	PA	CARNEGIE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CASTLE SHANNON, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CENTERPORT, BOROUGH OF	42011C0000	05-DEC-97
03	PA	CENTERPORT, BOROUGH OF	42011C0332E	05-DEC-97
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03	PA	CENTRE, TOWNSHIP OF	42011C0144E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0145E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0163E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0330E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0332E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0335E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0345E	05-DEC-97

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03	PA	CENTRE, TOWNSHIP OF	42011C0352E	05-DEC-97
03	PA	CENTRE, TOWNSHIP OF	42011C0353E	05-DEC-97
03	PA	CHALFANT, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CHESWICK, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CHURCHILL, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	CLAIRTON, CITY OF	42003C0000	05-AUG-97
03	PA	CLAIRTON, CITY OF	42003C0484F**	05-AUG-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0419E**	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0420E**	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0556E	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0557E	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0558E	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0559E	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0576E	05-DEC-97
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0578E**	05-DEC-97
03	PA	COLLIER, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0660D	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0670D	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0680D**	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0685D**	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0686D**	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0690D**	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0695D**	05-AUG-97
03	PA	COOK, TOWNSHIP OF	42129C0715D**	05-AUG-97
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03	PA	CORAOPOLIS, BOROUGH OF	42003C0000 **	05-AUG-97
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03	PA	CUMRU, TOWNSHIP OF	42011C0494E	05-DEC-97
03	PA	CUMRU, TOWNSHIP OF	42011C0504E	05-DEC-97
03	PA	CUMRU, TOWNSHIP OF	42011C0508E	05-DEC-97
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03	PA	CUMRU, TOWNSHIP OF	42011C0519E**	05-DEC-97
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03	PA	DERRY, TOWNSHIP OF	42129C0000	05-AUG-97
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03	PA	DERRY, TOWNSHIP OF	42129C0240D	05-AUG-97
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03	PA	DERRY, TOWNSHIP OF	42129C0461D**	05-AUG-97
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03	PA	DERRY, TOWNSHIP OF	42129C0470D**	05-AUG-97
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03	PA	DISTRICT, TOWNSHIP OF	42011C0420E	05-DEC-97
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03	PA	DONEGAL, TOWNSHIP OF	42129C0690D	05-AUG-97
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03	PA	DONEGAL, TOWNSHIP OF	42129C0636D	05-AUG-97
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03	PA	DORMONT, BOROUGH OF	42003C0000 **	05-AUG-97
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03	PA	DOUGLASS, TOWNSHIP OF	42011C0677E	05-DEC-97
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03	PA	EXETER, TOWNSHIP OF	42011C0529E**	05-DEC-97
03	PA	EXETER, TOWNSHIP OF	42011C0533E	05-DEC-97
03	PA	EXETER, TOWNSHIP OF	42011C0535E	05-DEC-97
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03	PA	EXETER, TOWNSHIP OF	42011C0539E	05-DEC-97
03	PA	EXETER, TOWNSHIP OF	42011C0541E	05-DEC-97
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03	PA	FAIRFIELD, TOWNSHIP OF	42129C0313D**	05-AUG-97
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03	PA	HEMPFIELD, TOWNSHIP OF	42129C0628D	05-AUG-97
03	PA	HEMPFIELD, TOWNSHIP OF	42129C0629D	05-AUG-97
03	PA	HEMPFIELD, TOWNSHIP OF	42129C0635D	05-AUG-97
03	PA	HEMPFIELD, TOWNSHIP OF	42129C0645D**	05-AUG-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0409E	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0417E	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0426E	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0427E	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0428E**	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0429E**	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0433E**	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0437E**	05-DEC-97
03	PA	HEREFORD, TOWNSHIP OF	42011C0441E	05-DEC-97
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03	PA	HUNKER, BOROUGH OF	42129C0000	05-AUG-97
03	PA	HUNKER, BOROUGH OF	42129C0628D**	05-AUG-97
03	PA	HYDE PARK, BOROUGH OF	42129C0000	05-AUG-97
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03	PA	HYDE PARK, BOROUGH OF	42129C0039D	05-AUG-97
03	PA	INDIANA, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	INGRAM, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	IRWIN, BOROUGH OF	42129C0000	05-AUG-97
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03	PA	JEANNETTE, CITY OF	42129C0000	05-AUG-97
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03	PA	JEANNETTE, CITY OF	42129C0415D**	05-AUG-97
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03	PA	KENHORST, BOROUGH OF	42011C0000	05-DEC-97
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03	PA	KILBUCK, TOWNSHIP OF	42003C0000 **	05-AUG-97

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03	PA	LATROBE, BOROUGH OF	42129C0442D**	05-AUG-97
03	PA	LATROBE, BOROUGH OF	42129C0445D	05-AUG-97
03	PA	LATROBE, BOROUGH OF	42129C0461D**	05-AUG-97
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03	PA	LAURELDALE, BOROUGH OF	42011C0369E**	05-DEC-97
03	PA	LEESPORT, BOROUGH OF	42011C0000	05-DEC-97
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03	PA	LEESPORT, BOROUGH OF	42011C0354E	05-DEC-97
03	PA	LEESPORT, BOROUGH OF	42011C0361E**	05-DEC-97
03	PA	LEESPORT, BOROUGH OF	42011C0362E**	05-DEC-97
03	PA	LEET, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	LEETSDALE, BOROUGH OF	42003C0000 **	05-AUG-97
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03	PA	LENHARTSVILLE, BOROUGH OF	42011C0160E**	05-DEC-97
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03	PA	LIGONIER, TOWNSHIP OF	42129C0000	05-AUG-97
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03	PA	MAIDENCREEK, TOWNSHIP OF	42011C0359E	05-DEC-97
03	PA	MAIDENCREEK, TOWNSHIP OF	42011C0360E	05-DEC-97
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03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0169D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0188D**	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0357D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0360D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0370D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0377D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0378D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0379D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0381D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0383D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0390D	05-AUG-97
03	PA	NORTH HUNTINGDON, TOWNSHIP OF	42129C0395D**	05-AUG-97
03	PA	NORTH IRWIN, BOROUGH OF	42129C0000	05-AUG-97
03	PA	NORTH IRWIN, BOROUGH OF	42129C0379D	05-AUG-97
03	PA	NORTH VERSAILLES, TOWNSHIP OF	42003C0000	05-AUG-97
03	PA	NORTH VERSAILLES, TOWNSHIP OF	42003C0394F**	05-AUG-97
03	PA	O'HARA, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	OAKDALE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	OAKMONT, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	OHIO, TOWNSHIP OF	42003C0000	05-AUG-97
03	PA	OHIO, TOWNSHIP OF	42011C0320E**	05-DEC-97
03	PA	OKLAHOMA, BOROUGH OF	42129C0000	05-AUG-97
03	PA	OKLAHOMA, BOROUGH OF	42129C0105D	05-AUG-97
03	PA	OLEY, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0390E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0395E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0411E**	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0413E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0527E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0533E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0535E	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0551E**	05-DEC-97
03	PA	OLEY, TOWNSHIP OF	42011C0555E	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0351E**	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0352E**	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0353E	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0354E	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0358E**	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0362E	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0366E	05-DEC-97
03	PA	ONTELAUNEE, TOWNSHIP OF	42011C0367E**	05-DEC-97
03	PA	OSBORNE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	PENN HILLS, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	PENN, BOROUGH OF	42129C0000	05-AUG-97
03	PA	PENN, BOROUGH OF	42129C0384D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	PENN, TOWNSHIP OF	42011C0330E	05-DEC-97
03	PA	PENN, TOWNSHIP OF	42011C0340E	05-DEC-97
03	PA	PENN, TOWNSHIP OF	42011C0345E	05-DEC-97
03	PA	PENN, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0186D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0187D**	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0188D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0189D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0193D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0194D**	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0213D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0214D**	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0376D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0377D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0381D**	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0382D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0383D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0384D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0401D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0402D	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0403D**	05-AUG-97
03	PA	PENN, TOWNSHIP OF	42129C0404D	05-AUG-97
03	PA	PENNSBURY VILLAGE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	PERRY, TOWNSHIP OF	42011C0000	05-DEC-97

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03	PA	PERRY, TOWNSHIP OF	42011C0144E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0161E**	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0162E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0163E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0164E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0170E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0351E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0352E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0353E	05-DEC-97
03	PA	PERRY, TOWNSHIP OF	42011C0360E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0395E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0411E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0412E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0413E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0414E**	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0419E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0420E	05-DEC-97
03	PA	PIKE, TOWNSHIP OF	42011C0556E**	05-DEC-97
03	PA	PINE, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	PITCAIRN, BOROUGH OF	42003C0000	05-AUG-97
03	PA	PITCAIRN, BOROUGH OF	42003C0394F**	05-AUG-97
03	PA	PITTSBURGH, CITY OF	42003C0000 **	05-AUG-97
03	PA	PLEASANT HILLS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	PLUM, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	PORT VUE, BOROUGH OF	42003C0000	05-AUG-97
03	PA	PORT VUE, BOROUGH OF	42003C0484F**	05-AUG-97
03	PA	RANKIN, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	READING, CITY OF	42011C0000	05-DEC-97
03	PA	READING, CITY OF	42011C0502E	05-DEC-97
03	PA	READING, CITY OF	42011C0504E	05-DEC-97
03	PA	READING, CITY OF	42011C0506E	05-DEC-97
03	PA	READING, CITY OF	42011C0507E	05-DEC-97
03	PA	READING, CITY OF	42011C0508E	05-DEC-97
03	PA	READING, CITY OF	42011C0509E**	05-DEC-97
03	PA	READING, CITY OF	42011C0512E**	05-DEC-97
03	PA	READING, CITY OF	42011C0516E	05-DEC-97
03	PA	RESERVE, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	RICHLAND, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0170E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0190E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0195E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0360E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0378E**	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0379E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0380E**	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0382E**	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0383E	05-DEC-97
03	PA	RICHMOND, TOWNSHIP OF	42011C0384E**	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0517E	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0518E	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0519E	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0536E	05-DEC-97
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03	PA	ROBESON, TOWNSHIP OF	42011C0543E	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0627E**	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0631E	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0635E**	05-DEC-97
03	PA	ROBESON, TOWNSHIP OF	42011C0651E	05-DEC-97
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03	PA	ROBESON, TOWNSHIP OF	42011C0660E**	05-DEC-97
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03	PA	ROBESONIA, BOROUGH OF	42011C0000	05-DEC-97
03	PA	ROBESONIA, BOROUGH OF	42011C0457E	05-DEC-97
03	PA	ROBESONIA, BOROUGH OF	42011C0459E	05-DEC-97
03	PA	ROBINSON, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0382E**	05-DEC-97
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03	PA	ROCKLAND, TOWNSHIP OF	42011C0401E	05-DEC-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0402E	05-DEC-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0403E**	05-DEC-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0411E	05-DEC-97
03	PA	ROCKLAND, TOWNSHIP OF	42011C0412E	05-DEC-97
03	PA	ROSS, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	ROSSLYN FARMS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0569D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0578D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0579D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0581D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0582D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0583D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0584D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0586D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0587D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0588D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0589D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0592D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0593D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0594D**	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0611D	05-AUG-97
03	PA	ROSTRAVER, TOWNSHIP OF	42129C0613D	05-AUG-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0367E	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0378E**	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0379E**	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0383E	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0384E**	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0386E	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0390E**	05-DEC-97
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0395E**	05-DEC-97
03	PA	SALEM, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0203D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0205D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0210D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0211D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0212D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0213D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0214D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0220D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0230D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0240D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0245D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0402D**	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0410D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0430D	05-AUG-97
03	PA	SALEM, TOWNSHIP OF	42129C0435D	05-AUG-97
03	PA	SCOTT, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	SCOTTDALE, BOROUGH OF	42129C0000	05-AUG-97
03	PA	SCOTTDALE, BOROUGH OF	42129C0780D	05-AUG-97
03	PA	SEWARD, BOROUGH OF	42129C0000	05-AUG-97
03	PA	SEWARD, BOROUGH OF	42129C0317D	05-AUG-97
03	PA	SEWICKLEY HEIGHTS, BOROUGH	42003C0000 **	05-AUG-97
03	PA	SEWICKLEY HILLS, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	SEWICKLEY, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0370D**	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0390D**	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0395D**	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0581D	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0582D**	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0605D	05-AUG-97
03	PA	SEWICKLEY, TOWNSHIP OF	42129C0610D	05-AUG-97
03	PA	SHALER, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	SHARPSBURG, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	SHILLINGTON, BOROUGH OF	42011C0000	05-DEC-97
03	PA	SHILLINGTON, BOROUGH OF	42011C0503E	05-DEC-97
03	PA	SHILLINGTON, BOROUGH OF	42011C0504E**	05-DEC-97
03	PA	SHILLINGTON, BOROUGH OF	42011C0511E	05-DEC-97
03	PA	SHILLINGTON, BOROUGH OF	42011C0512E	05-DEC-97

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03	PA	SHOEMAKERSVILLE, BOROUGH OF	42011C0164E**	05-DEC-97
03	PA	SHOEMAKERSVILLE, BOROUGH OF	42011C0351E	05-DEC-97
03	PA	SHOEMAKERSVILLE, BOROUGH OF	42011C0352E	05-DEC-97
03	PA	SINKING SPRING, BOROUGH OF	42011C0000	05-DEC-97
03	PA	SINKING SPRING, BOROUGH OF	42011C0483E	05-DEC-97
03	PA	SINKING SPRING, BOROUGH OF	42011C0484E	05-DEC-97
03	PA	SMITHTON, BOROUGH OF	42129C0000	05-AUG-97
03	PA	SMITHTON, BOROUGH OF	42129C0613D	05-AUG-97
03	PA	SOUTH FAYETTE, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	SOUTH GREENSBURG, BOROUGH OF	42129C0000	05-AUG-97
03	PA	SOUTH GREENSBURG, BOROUGH OF	42129C0416D	05-AUG-97
03	PA	SOUTH GREENSBURG, BOROUGH OF	42129C0418D**	05-AUG-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0459E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0478E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0479E	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0480E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0483E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0487E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0490E**	05-DEC-97
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0491E**	05-DEC-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0370D	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0582D	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0584D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0592D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0605D	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0610D	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0611D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0613D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0615D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0620D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0628D	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0755D**	05-AUG-97
03	PA	SOUTH HUNTINGDON, TOWNSHIP OF	42129C0760D**	05-AUG-97
03	PA	SOUTH PARK, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	SOUTH VERSAILLES, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	SOUTHWEST GREENSBURG, BORO OF	42129C0000	05-AUG-97
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03	PA	SPRING, TOWNSHIP OF	42011C0000	05-DEC-97
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03	PA	SPRING, TOWNSHIP OF	42011C0483E	05-DEC-97
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03	PA	SPRING, TOWNSHIP OF	42011C0487E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0490E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0491E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0492E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0493E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0494E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0501E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0502E	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0503E**	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0511E**	05-DEC-97
03	PA	SPRING, TOWNSHIP OF	42011C0610E**	05-DEC-97
03	PA	SPRINGDALE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	SPRINGDALE, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0313D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0314D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0316D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0317D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0318D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0319D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0336D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0338D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0501D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0502D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0503D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0504D	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0506D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0507D**	05-AUG-97
03	PA	ST. CLAIR, TOWNSHIP OF	42129C0508D**	05-AUG-97

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03	PA	ST. LAWRENCE, BOROUGH OF	42011C0000	05-DEC-97
03	PA	ST. LAWRENCE, BOROUGH OF	42011C0509E	05-DEC-97
03	PA	ST. LAWRENCE, BOROUGH OF	42011C0528E	05-DEC-97
03	PA	STOWE, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	STRAUSSTOWN, BOROUGH OF	42011C0000	05-DEC-97
03	PA	STRAUSSTOWN, BOROUGH OF	42011C0305E	05-DEC-97
03	PA	STRAUSSTOWN, BOROUGH OF	42011C0310E	05-DEC-97
03	PA	SUTERSVILLE, BOROUGH OF	42129C0000	05-AUG-97
03	PA	SUTERSVILLE, BOROUGH OF	42129C0581D	05-AUG-97
03	PA	SWISSVALE, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	TARENTUM, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	TEMPLE, BOROUGH OF	42011C0000	05-DEC-97
03	PA	TEMPLE, BOROUGH OF	42011C0366E**	05-DEC-97
03	PA	TEMPLE, BOROUGH OF	42011C0368E**	05-DEC-97
03	PA	THORNBURG, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	TILDEN, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0130E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0133E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0134E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0140E**	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0144E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0145E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0153E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0161E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0163E	05-DEC-97
03	PA	TILDEN, TOWNSHIP OF	42011C0335E**	05-DEC-97
03	PA	TOPTON, BOROUGH OF	42011C0000	05-DEC-97
03	PA	TOPTON, BOROUGH OF	42011C0214E	05-DEC-97
03	PA	TOPTON, BOROUGH OF	42011C0402E	05-DEC-97
03	PA	TRAFFORD, BOROUGH OF	42129C0000	05-AUG-97
03	PA	TRAFFORD, BOROUGH OF	42129C0169D	05-AUG-97
03	PA	TRAFFORD, BOROUGH OF	42129C0188D	05-AUG-97
03	PA	TRAFFORD, BOROUGH OF	42129C0357D	05-AUG-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0000	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0280E	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0285E**	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0290E**	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0305E	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0315E	05-DEC-97
03	PA	TULPEHOCKEN, TOWHSHIP OF	42011C0320E**	05-DEC-97
03	PA	TURTLE CREEK, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	UNION, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0543E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0544E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0563E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0652E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0653E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0654E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0660E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0665E**	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0676E	05-DEC-97
03	PA	UNION, TOWNSHIP OF	42011C0677E	05-DEC-97
03	PA	UNITY, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0245D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0418D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0419D**	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0430D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0434D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0435D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0440D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0442D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0445D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0461D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0463D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0465D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0470D**	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0635D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0655D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0660D	05-AUG-97
03	PA	UNITY, TOWNSHIP OF	42129C0680D**	05-AUG-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0120E	05-DEC-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0130E	05-DEC-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0140E	05-DEC-97

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03	PA	UPPER BERN, TOWNSHIP OF	42011C0145E	05-DEC-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0330E	05-DEC-97
03	PA	UPPER BERN, TOWNSHIP OF	42011C0335E**	05-DEC-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0079D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0083D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0084D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0086D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0087D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0089D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0091D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0092D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0093D	05-AUG-97
03	PA	UPPER BURRELL, TOWNSHIP OF	42129C0115D	05-AUG-97
03	PA	UPPER ST. CLAIR, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0115E	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0120E	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0140E	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0305E	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0310E	05-DEC-97
03	PA	UPPER TULPEHOCKEN, TOWNSHIP OF	42011C0330E	05-DEC-97
03	PA	VANDERGRIFT, BOROUGH OF	42129C0000	05-AUG-97
03	PA	VANDERGRIFT, BOROUGH OF	42129C0101D	05-AUG-97
03	PA	VANDERGRIFT, BOROUGH OF	42129C0102D	05-AUG-97
03	PA	VANDERGRIFT, BOROUGH OF	42129C0105D**	05-AUG-97
03	PA	VANDERGRIFT, BOROUGH OF	42129C0106D	05-AUG-97
03	PA	VERONA, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	VERSAILLES, BOROUGHS OF	42003C0000 **	05-AUG-97
03	PA	WALL, BOROUGHS OF	42003C0000	05-AUG-97
03	PA	WALL, BOROUGHS OF	42003C0394F**	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0417E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0419E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0420E**	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0436E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0437E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0438E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0439E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0441E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0557E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42011C0576E	05-DEC-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0000	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0092D**	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0093D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0105D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0115D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0120D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0181D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0182D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0203D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0205D	05-AUG-97
03	PA	WASHINGTON, TOWNSHIP OF	42129C0210D	05-AUG-97
03	PA	WERNERSVILLE, BOROUGH OF	42011C0000	05-DEC-97
03	PA	WERNERSVILLE, BOROUGH OF	42011C0478E	05-DEC-97
03	PA	WERNERSVILLE, BOROUGH OF	42011C0479E**	05-DEC-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280000	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280001B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280002B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280003B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280004B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280006B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280007B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280008B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280009B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280010B	19-AUG-97
03	PA	WEST BRUNSWICK, TOWNSHIP OF	4220280011B	19-AUG-97
03	PA	WEST DEER, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	WEST ELIZABETH, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WEST HOMESTEAD, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WEST LAWN, BOROUGH OF	42011C0000	05-DEC-97
03	PA	WEST LAWN, BOROUGH OF	42011C0484E**	05-DEC-97
03	PA	WEST LAWN, BOROUGH OF	42011C0503E**	05-DEC-97
03	PA	WEST LEECHBURG, BOROUGH OF	42129C0000	05-AUG-97

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03	PA	WEST LEECHBURG, BOROUGH OF	42129C0038D	05-AUG-97
03	PA	WEST LEECHBURG, BOROUGH OF	42129C0101D	05-AUG-97
03	PA	WEST MIFFLIN, BOROUGH OF	42003C0000	05-AUG-97
03	PA	WEST MIFFLIN, BOROUGH OF	42003C0484F**	05-AUG-97
03	PA	WEST NEWTON, BOBOUGH OF	42129C0000	05-AUG-97
03	PA	WEST NEWTON, BOROUGH OF	42129C0582D	05-AUG-97
03	PA	WEST NEWTON, BOROUGH OF	42129C0583D	05-AUG-97
03	PA	WEST NEWTON, BOROUGH OF	42129C0584D	05-AUG-97
03	PA	WEST READING, BOROUGH OF	42011C0000	05-DEC-97
03	PA	WEST READING, BOROUGH OF	42011C0504E**	05-DEC-97
03	PA	WEST VIEW, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WHITAKER, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WHITE OAK, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WHITEHALL, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WILKINS, TOWNSHIP OF	42003C0000 **	05-AUG-97
03	PA	WILKINSBURG, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WILMERDING, BOROUGH OF	42003C0000 **	05-AUG-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0000	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0134E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0135E**	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0153E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0154E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0155E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0160E**	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0161E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0162E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0163E	05-DEC-97
03	PA	WINDSOR, TOWNSHIP OF	42011C0170E	05-DEC-97
03	PA	WOMELSDORF,BOROUGH OF	42011C0000	05-DEC-97
03	PA	WOMELSDORF,BOROUGH OF	42011C0452E	05-DEC-97
03	PA	WOMELSDORF,BOROUGH OF	42011C0460E**	05-DEC-97
03	PA	WOODWARD, TOWNSHIP OF	42033700010C	17-SEP-97
03	PA	WYOMISSING HILLS, BOROUGH OF	42011C0000	05-DEC-97
03	PA	WYOMISSING HILLS, BOROUGH OF	42011C0503E**	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0000	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0501E	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0502E	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0503E	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0504E	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0511E	05-DEC-97
03	PA	WYOMISSING, BOROUGH OF	42011C0512E	05-DEC-97
03	PA	YOUNGSTOWN, BOROUGH OF	42129C0000	05-AUG-97
03	PA	YOUNGSTOWN, BOROUGH OF	42129C0461D**	05-AUG-97
03	PA	YOUNGSTOWN, BOROUGH OF	42129C0463D**	05-AUG-97
03	PA	YOUNGWOOD, BOROUGH OF	42129C0000	05-AUG-97
03	PA	YOUNGWOOD, BOROUGH OF	42129C0414D	05-AUG-97
03	PA	YOUNGWOOD, BOROUGH OF	42129C0626D**	05-AUG-97
03	PA	YOUNGWOOD, BOROUGH OF	42129C0627D**	05-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0000	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0036E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0037E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0039E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0043E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0077E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0078E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0079E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0083E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0084E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0086E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0087E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0090E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0091E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0092E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0093E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0094E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0103E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0111E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0112E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0113E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0114E	19-AUG-97
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03	VA	BUCHANAN COUNTY*	51027C0152E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0156E	19-AUG-97

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03	VA	BUCHANAN COUNTY*	51027C0158E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0159E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0162E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0164E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0166E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0167E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0176E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0178E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0180E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0181E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0182E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0184E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0186E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0187E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0188E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0189E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0191E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0192E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0201E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0202E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0203E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0210E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0211E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0212E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0213E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0214E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0218E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0276E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0277E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0278E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0279E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0281E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0282E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0283E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0284E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0292E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0301E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0302E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0303E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0304E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0306E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0307E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0308E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0309E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0312E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0317E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0320E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0326E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0327E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0328E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0329E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0331E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0332E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0337E**	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0341E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0351E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0406E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0407E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0408E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0409E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0428E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0429E	19-AUG-97
03	VA	BUCHANAN COUNTY*	51027C0433E	19-AUG-97
03	VA	CHARLOTTE COUNTY *	5103330000 ***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330001B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330002B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330003B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330004B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330005B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330006B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330007B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103330008B***	01-NOV-97
03	VA	CHARLOTTE COUNTY *	5103339999 ***	01-NOV-97

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03	VA	CHILHOWIE, TOWN OF	5101850001C	05-NOV-97
03	VA	GRUNDY, TOWN OF	51027C0000	19-AUG-97
03	VA	GRUNDY, TOWN OF	51027C0167E	19-AUG-97
03	VA	GRUNDY, TOWN OF	51027C0186E	19-AUG-97
03	VA	GRUNDY, TOWN OF	51027C0187E	19-AUG-97
03	VA	GRUNDY, TOWN OF	51027C0188E	19-AUG-97
03	VA	GRUNDY, TOWN OF	51027C0189E	19-AUG-97
03	VA	LOUISA COUNTY *	51109C0000	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0025B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0050B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0100B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0125B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0150B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0175B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0200B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0250B**	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0275B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0300B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0325B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0350B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0375B	05-NOV-97
03	VA	LOUISA COUNTY *	51109C0400B	05-NOV-97
03	VA	LOUISA, TOWN OF	51109C0000	05-NOV-97
03	VA	LOUISA, TOWN OF	51109C0125B	05-NOV-97
03	VA	LOUISA, TOWN OF	51109C0150B	05-NOV-97
03	VA	MINERAL, TOWN OF	51109C0000	05-NOV-97
03	VA	MINERAL, TOWN OF	51109C0150B	05-NOV-97
03	VA	MINERAL, TOWN OF	51109C0300B	05-NOV-97
03	VA	PULASKI COUNTY *	5101250000	19-DEC-97
03	VA	PULASKI COUNTY *	5101250100B	19-DEC-97
03	VA	PULASKI COUNTY *	5101250145B**	19-DEC-97
03	VA	PULASKI COUNTY *	5101250150B	19-DEC-97
03	VA	PULASKI COUNTY *	5101250175B	19-DEC-97
03	VA	PULASKI COUNTY *	5101250200B	19-DEC-97
03	VA	PULASKI COUNTY *	5101250250B	19-DEC-97
03	VA	PULASKI, TOWN OF	5101260005F**	19-DEC-97
03	VA	SMYTH COUNTY *	5101840000	05-NOV-97
03	VA	SMYTH COUNTY *	5101840210B**	05-NOV-97
03	VA	SMYTH COUNTY *	5101840215B	05-NOV-97
03	VA	SMYTH COUNTY *	5101840220B	05-NOV-97
03	WV	MARTINSBURG, CITY OF	5400060000	16-JUL-97
04	FL	BREVARD COUNTY *	12009C0000	19-NOV-97
04	FL	BREVARD COUNTY *	12009C0441F**	19-NOV-97
04	FL	BREVARD COUNTY *	12009C0442F**	19-NOV-97
04	FL	BROWARD COUNTY*	12011C0000	02-OCT-97
04	FL	BROWARD COUNTY*	12011C0117G	02-OCT-97
04	FL	BROWARD COUNTY*	12011C0119G	02-OCT-97
04	FL	BROWARD COUNTY*	12011C0207G	02-OCT-97
04	FL	CAPE CANAVERAL PORT AUTHORITY	12009C0000 **	19-NOV-97
04	FL	CAPE CANAVERAL, CITY OF	12009C0000 **	19-NOV-97
04	FL	COCOA BEACH, CITY OF	12009C0000 **	19-NOV-97
04	FL	COCOA, CITY OF	12009C0000 **	19-NOV-97
04	FL	COCONUT CREEK, CITY OF	12011C0000 **	02-OCT-97
04	FL	COOPER CITY, CITY OF	12011C0000 **	02-OCT-97
04	FL	CORAL SPRINGS, CITY OF	12011C0000 **	02-OCT-97
04	FL	DANIA, CITY OF	12011C0000 **	02-OCT-97
04	FL	DAVIE, CITY OF	12011C0000 **	02-OCT-97
04	FL	DEERFIELD BEACH, CITY OF	12011C0000	02-OCT-97
04	FL	DEERFIELD BEACH, CITY OF	12011C0109G	02-OCT-97
04	FL	DEERFIELD BEACH, CITY OF	12011C0117G	02-OCT-97
04	FL	DEERFIELD BEACH, CITY OF	1251010109G	02-OCT-97
04	FL	FORT LAUDERDALE, CITY OF	12011C0000	02-OCT-97
04	FL	FORT LAUDERDALE, CITY OF	12011C0207G**	02-OCT-97
04	FL	HACIENDA, VILLAGE OF	12011C0000 **	02-OCT-97
04	FL	HALLANDALE, CITY OF	12011C0000 **	02-OCT-97
04	FL	HILLSBORO BEACH, TOWN OF	12011C0000	02-OCT-97
04	FL	HILLSBORO BEACH, TOWN OF	12011C0109G	02-OCT-97
04	FL	HILLSBORO BEACH, TOWN OF	12011C0117G	02-OCT-97
04	FL	HILLSBORO BEACH, TOWN OF	12011C0119G	02-OCT-97
04	FL	HOLLYWOOD, CITY OF	12011C0000 **	02-OCT-97
04	FL	INDIALANTIC, TOWN OF	12009C0000 **	19-NOV-97
04	FL	INDIAN HARBOR BEACH, CITY OF	12009C0000 **	19-NOV-97
04	FL	LAUDERDALE BY THE SEA, CITY OF	12011C0000	02-OCT-97
04	FL	LAUDERDALE BY THE SEA, CITY OF	12011C0207G**	02-OCT-97

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04	FL	LAUDERDALE LAKES, CITY OF	12011C0000 **	02-OCT-97
04	FL	LAUDERHILL, CITY OF	12011C0000 **	02-OCT-97
04	FL	LAZY LAKE, VILLAGE OF	12011C0000 **	02-OCT-97
04	FL	LEON COUNTY *	12073C0000	19-NOV-97
04	FL	LEON COUNTY *	12073C0020D	19-NOV-97
04	FL	LEON COUNTY *	12073C0050D	19-NOV-97
04	FL	LEON COUNTY *	12073C0075D	19-NOV-97
04	FL	LEON COUNTY *	12073C0095D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0105D	19-NOV-97
04	FL	LEON COUNTY *	12073C0110D	19-NOV-97
04	FL	LEON COUNTY *	12073C0115D	19-NOV-97
04	FL	LEON COUNTY *	12073C0119D	19-NOV-97
04	FL	LEON COUNTY *	12073C0120D	19-NOV-97
04	FL	LEON COUNTY *	12073C0136D	19-NOV-97
04	FL	LEON COUNTY *	12073C0138D	19-NOV-97
04	FL	LEON COUNTY *	12073C0140D	19-NOV-97
04	FL	LEON COUNTY *	12073C0145D	19-NOV-97
04	FL	LEON COUNTY *	12073C0150D	19-NOV-97
04	FL	LEON COUNTY *	12073C0175D	19-NOV-97
04	FL	LEON COUNTY *	12073C0200D	19-NOV-97
04	FL	LEON COUNTY *	12073C0225D	19-NOV-97
04	FL	LEON COUNTY *	12073C0250D	19-NOV-97
04	FL	LEON COUNTY *	12073C0260D	19-NOV-97
04	FL	LEON COUNTY *	12073C0270D	19-NOV-97
04	FL	LEON COUNTY *	12073C0275D	19-NOV-97
04	FL	LEON COUNTY *	12073C0276D	19-NOV-97
04	FL	LEON COUNTY *	12073C0277D	19-NOV-97
04	FL	LEON COUNTY *	12073C0278D	19-NOV-97
04	FL	LEON COUNTY *	12073C0279D	19-NOV-97
04	FL	LEON COUNTY *	12073C0281D	19-NOV-97
04	FL	LEON COUNTY *	12073C0282D	19-NOV-97
04	FL	LEON COUNTY *	12073C0283D	19-NOV-97
04	FL	LEON COUNTY *	12073C0284D	19-NOV-97
04	FL	LEON COUNTY *	12073C0286D	19-NOV-97
04	FL	LEON COUNTY *	12073C0287D	19-NOV-97
04	FL	LEON COUNTY *	12073C0288D	19-NOV-97
04	FL	LEON COUNTY *	12073C0289D	19-NOV-97
04	FL	LEON COUNTY *	12073C0291D	19-NOV-97
04	FL	LEON COUNTY *	12073C0292D	19-NOV-97
04	FL	LEON COUNTY *	12073C0295D	19-NOV-97
04	FL	LEON COUNTY *	12073C0301D	19-NOV-97
04	FL	LEON COUNTY *	12073C0303D	19-NOV-97
04	FL	LEON COUNTY *	12073C0305D	19-NOV-97
04	FL	LEON COUNTY *	12073C0310D	19-NOV-97
04	FL	LEON COUNTY *	12073C0315D	19-NOV-97
04	FL	LEON COUNTY *	12073C0320D	19-NOV-97
04	FL	LEON COUNTY *	12073C0350D	19-NOV-97
04	FL	LEON COUNTY *	12073C0375D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0400D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0425D	19-NOV-97
04	FL	LEON COUNTY *	12073C0430D	19-NOV-97
04	FL	LEON COUNTY *	12073C0431D	19-NOV-97
04	FL	LEON COUNTY *	12073C0435D	19-NOV-97
04	FL	LEON COUNTY *	12073C0440D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0445D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0455D	19-NOV-97
04	FL	LEON COUNTY *	12073C0460D	19-NOV-97
04	FL	LEON COUNTY *	12073C0465D**	19-NOV-97
04	FL	LEON COUNTY *	12073C0470D	19-NOV-97
04	FL	LEON COUNTY *	12073C0500D	19-NOV-97
04	FL	LIGHTHOUSE POINT, CITY OF	12011C0000	02-OCT-97
04	FL	LIGHTHOUSE POINT, CITY OF	12011C0117G**	02-OCT-97
04	FL	LIGHTHOUSE POINT, CITY OF	12011C0119G**	02-OCT-97
04	FL	MALABAR, TOWN OF	12009C0000 **	19-NOV-97
04	FL	MARGATE, CITY OF	12011C0000 **	02-OCT-97
04	FL	MELBOURNE BEACH, TOWN OF	12009C0000 **	19-NOV-97
04	FL	MELBOURNE VILLAGE, TOWN OF	12009C0000 **	19-NOV-97
04	FL	MELBOURNE, CITY OF	12009C0000	19-NOV-97
04	FL	MELBOURNE, CITY OF	12009C0441F	19-NOV-97
04	FL	MELBOURNE, CITY OF	12009C0442F.	19-NOV-97
04	FL	MIRAMAR, CITY OF	12011C0000 **	02-OCT-97
04	FL	NORTH LAUDERDALE, CITY OF	12011C0000 **	02-OCT-97
04	FL	OAKLAND PARK, CITY OF	12011C0000	02-OCT-97
04	FL	OAKLAND PARK, CITY OF	12011C0207G**	02-OCT-97

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Region	State	Community	Panel	Panel date
04	FL	PALM BAY, CITY OF	12009C0000 **	19-NOV-97
04	FL	PALM SHORES, TOWN OF	12009C0000	19-NOV-97
04	FL	PALM SHORES, TOWN OF	12009C0441F**	19-NOV-97
04	FL	PALM SHORES, TOWN OF	12009C0442F**	19-NOV-97
04	FL	PARKLAND, CITY OF	12011C0000 **	02-OCT-97
04	FL	PEMBROKE PARK, TOWN OF	12011C0000 **	02-OCT-97
04	FL	PEMBROKE PINES, CITY OF	12011C0000 **	02-OCT-97
04	FL	PLANTATION, CITY OF	12011C0000 **	02-OCT-97
04	FL	POMPANO BEACH, CITY OF	12011C0000	02-OCT-97
04	FL	POMPANO BEACH, CITY OF	12011C0119G	02-OCT-97
04	FL	POMPANO BEACH, CITY OF	12011C0207G	02-OCT-97
04	FL	ROCKLEDGE, CITY OF	12009C0000 **	19-NOV-97
04	FL	SATELLITE BEACH, CITY OF	12009C0000 **	19-NOV-97
04	FL	SEA RANCH LAKES, VILLAGE OF	12011C0000	02-OCT-97
04	FL	SEA RANCH LAKES, VILLAGE OF	12011C0207G	02-OCT-97
04	FL	SUNRISE GOLF VILLAGE, CITY OF	12011C0000 **	02-OCT-97
04	FL	SUNRISE, CITY OF	12011C0000 **	02-OCT-97
04	FL	TALLAHASSEE, CITY OF	12073C0000	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0110D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0115D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0119D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0120D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0136D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0138D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0140D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0145D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0150D**	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0270D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0276D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0277D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0278D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0279D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0281D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0282D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0283D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0284D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0286D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0287D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0288D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0289D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0291D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0292D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0295D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0301D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0303D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0305D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0310D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0315D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0320D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0455D	19-NOV-97
04	FL	TALLAHASSEE, CITY OF	12073C0460D	19-NOV-97
04	FL	TAMARAC, CITY OF	12011C0000 **	02-OCT-97
04	FL	TITUSVILLE, CITY OF	12009C0000 **	19-NOV-97
04	FL	WALTON COUNTY *	1203170000	19-AUG-97
04	FL	WALTON COUNTY *	1203170330E	19-AUG-97
04	FL	WALTON COUNTY *	1203170335E	19-AUG-97
04	FL	WALTON COUNTY *	1203170365E	19-AUG-97
04	FL	WALTON COUNTY *	1203170370E	19-AUG-97
04	FL	WEST MELBOURNE, CITY OF	12009C0000 **	19-NOV-97
04	FL	WILTON MANORS, CITY OF	12011C0000 **	02-OCT-97
04	GA	COLQUITT COUNTY*	1300580000	16-JUL-97
04	GA	COLQUITT COUNTY*	1300580125C	16-JUL-97
04	GA	COLQUITT COUNTY*	1300580200C	16-JUL-97
04	GA	MOULTRIE, CITY OF	1301990000	16-JUL-97
04	GA	MOULTRIE, CITY OF	1301990001B	16-JUL-97
04	GA	MOULTRIE, CITY OF	1301990002B	16-JUL-97
04	GA	MOULTRIE, CITY OF	1301990004B	16-JUL-97
04	GA	MOULTRIE, CITY OF	1301990008B	16-JUL-97
04	GA	TALBOT COUNTY *	1303960000	19-AUG-97
04	GA	TALBOT COUNTY *	1303960050B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960075B**	19-AUG-97
04	GA	TALBOT COUNTY *	1303960100B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960125B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960150B	19-AUG-97

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04	GA	TALBOT COUNTY *	1303960175B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960200B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960225B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960250B**	19-AUG-97
04	GA	TALBOT COUNTY *	1303960275B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960300B	19-AUG-97
04	GA	TALBOT COUNTY *	1303960325B	19-AUG-97
04	KY	BRACKEN COUNTY	2100210000	01-NOV-97
04	KY	BRACKEN COUNTY	2100210001B***	01-NOV-97
04	KY	BRACKEN COUNTY	2100210002B***	01-NOV-97
04	KY	BRACKEN COUNTY	2100210003B***	01-NOV-97
04	KY	BRACKEN COUNTY	2100210004B***	01-NOV-97
04	KY	BRACKEN COUNTY	2100210005B***	01-NOV-97
04	KY	BRACKEN COUNTY	2100219999 ***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770001B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770002B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770003B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770004B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770005B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770006B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770007B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770008B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770009B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770010B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770011B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102770012B***	01-NOV-97
04	KY	CHRISTIAN COUNTY	2102779999 ***	01-NOV-97
04	KY	MASON COUNTY *	210259 B***	01-NOV-97
04	KY	MASON COUNTY *	2102599999 ***	01-NOV-97
04	NC	APEX, TOWN OF	37183C0000 **	19-DEC-97
04	NC	CARY, TOWN OF	37183C0000 **	19-DEC-97
04	NC	CRAVEN COUNTY*	3700720000	05-DEC-97
04	NC	CRAVEN COUNTY*	3700720075C	05-DEC-97
04	NC	CRAVEN COUNTY*	3700720100C	05-DEC-97
04	NC	FUQUAY-VARINA, TOWN OF	37183C0000 **	19-DEC-97
04	NC	GARNER, TOWN OF	37183C0000	19-DEC-97
04	NC	GARNER, TOWN OF	37183C0570F**	19-DEC-97
04	NC	HOLLY SPRINGS, TOWN OF	37183C0000 **	19-DEC-97
04	NC	KNIGHTDALE, TOWN OF	37183C0000	19-DEC-97
04	NC	KNIGHTDALE, TOWN OF	37183C0370F	19-DEC-97
04	NC	KNIGHTDALE, TOWN OF	37183C0560F	19-DEC-97
04	NC	KNIGHTDALE, TOWN OF	37183C0580F	19-DEC-97
04	NC	MORRISVILLE, TOWN OF	37183C0000 **	19-DEC-97
04	NC	RALEIGH, CITY OF	37183C0000	19-DEC-97
04	NC	RALEIGH, CITY OF	37183C0370F	19-DEC-97
04	NC	RALEIGH, CITY OF	37183C0560F	19-DEC-97
04	NC	RALEIGH, CITY OF	37183C0570F	19-DEC-97
04	NC	ROLESVILLE, TOWN OF	37183C0000 **	19-DEC-97
04	NC	WAKE COUNTY *	37183C0000	19-DEC-97
04	NC	WAKE COUNTY *	37183C0370F	19-DEC-97
04	NC	WAKE COUNTY *	37183C0560F	19-DEC-97
04	NC	WAKE COUNTY *	37183C0570F	19-DEC-97
04	NC	WAKE COUNTY *	37183C0580F	19-DEC-97
04	NC	WAKE COUNTY *	37183C0590F	19-DEC-97
04	NC	WAKE FOREST, TOWN OF	37183C0000 **	19-DEC-97
04	NC	WENDELL, TOWN OF	37183C0000 **	19-DEC-97
04	NC	ZEBULON, TOWN OF	37183C0000 **	19-DEC-97
05	IL	ANTIOCH, VILLAGE OF	17097C0000	03-SEP-97
05	IL	ANTIOCH, VILLAGE OF	17097C0010F	03-SEP-97
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05	IL	ANTIOCH, VILLAGE OF	17097C0027F	03-SEP-97
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05	IL	ANTIOCH, VILLAGE OF	17097C0029F	03-SEP-97
05	IL	ANTIOCH, VILLAGE OF	17097C0032F**	03-SEP-97
05	IL	ANTIOCH, VILLAGE OF	17097C0034F	03-SEP-97
05	IL	ANTIOCH, VILLAGE OF	17097C0035F**	03-SEP-97
05	IL	BANNOCKBURN, VILLAGE OF	17097C0000	03-SEP-97
05	IL	BANNOCKBURN, VILLAGE OF	17097C0259F	03-SEP-97
05	IL	BANNOCKBURN, VILLAGE OF	17097C0267F	03-SEP-97
05	IL	BANNOCKBURN, VILLAGE OF	17097C0278F	03-SEP-97
05	IL	BANNOCKBURN, VILLAGE OF	17097C0286F	03-SEP-97
05	IL	BARRINGTON, VILLAGE OF	17097C0000	03-SEP-97
05	IL	BARRINGTON, VILLAGE OF	17097C0216F	03-SEP-97
05	IL	BARRINGTON, VILLAGE OF	17097C0217F**	03-SEP-97

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05	IL	BARRINGTON, VILLAGE OF	17097C0238F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0000	03-SEP-97
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05	IL	BEACH PARK, VILLAGE OF	17097C0067F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0069F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0078F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0079F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0085F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0086F**	03-SEP-97
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05	IL	BEACH PARK, VILLAGE OF	17097C0088F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0089F**	03-SEP-97
05	IL	BEACH PARK, VILLAGE OF	17097C0095F**	03-SEP-97
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0253F	03-SEP-97
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05	IL	DEERFIELD, VILLAGE OF	17097C0000	03-SEP-97
05	IL	DEERFIELD, VILLAGE OF	17097C0267F**	03-SEP-97
05	IL	DEERFIELD, VILLAGE OF	17097C0278F	03-SEP-97
05	IL	DEERFIELD, VILLAGE OF	17097C0286F	03-SEP-97
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05	IL	GRAYSLAKE, VILLAGE OF	17097C0133F	03-SEP-97
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05	IL	LAKE ZURICH, VILLAGE OF	17097C0229F	03-SEP-97
05	IL	LAKE ZURICH, VILLAGE OF	17097C0233F**	03-SEP-97
05	IL	LAKE ZURICH, VILLAGE OF	17097C0236F**	03-SEP-97
05	IL	LAKE ZURICH, VILLAGE OF	17097C0237F	03-SEP-97
05	IL	LAKE ZURICH, VILLAGE OF	17097C0241F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0134F**	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0142F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0161F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0162F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0163F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0164F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0166F**	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0168F	03-SEP-97
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0252F	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0254F	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0258F	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0259F	03-SEP-97

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05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0262F	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0266F	03-SEP-97
05	IL	LINCOLNSHIRE, VILLAGE OF	17097C0267F**	03-SEP-97
05	IL	LINDENHURST, VILLAGE OF	17097C0000	03-SEP-97
05	IL	LINDENHURST, VILLAGE OF	17097C0041F	03-SEP-97
05	IL	LINDENHURST, VILLAGE OF	17097C0042F	03-SEP-97
05	IL	LINDENHURST, VILLAGE OF	17097C0044F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0144F**	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0231F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0232F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0233F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0241F**	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0242F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0253F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0254F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0261F	03-SEP-97
05	IL	LONG GROVE, VILLAGE OF	17097C0263F	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0000	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0164F	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0168F	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0169F**	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0252F	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0256F	03-SEP-97
05	IL	METTAWA, VILLAGE OF	17097C0257F	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0000	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0139F**	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0142F**	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0143F	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0144F	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0161F**	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0163F	03-SEP-97
05	IL	MUNDELEIN, VILLAGE OF	17097C0232F**	03-SEP-97
06	IL	MUNDELEIN, VILLAGE OF	17097C0251F	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0000	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0207F	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0208F**	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0209F	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0217F**	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0226F	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0228F	03-SEP-97
05	IL	NORTH BARRINGTON, VILLAGE OF	17097C0236F**	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0000	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0159F	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0167F**	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0180F	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0186F	03-SEP-97
05	IL	NORTH CHICAGO, CITY OF	17097C0190F**	03-SEP-97
05	IL	OLD MILL CREEK, VILLAGE OF	17097C0000 **	03-SEP-97
05	IL	OLD MILL CREEK, VILLAGE OF	17097C0055F**	03-SEP-97
05	IL	OLD MILL CREEK, VILLAGE OF	17097C0061F**	03-SEP-97
05	IL	OLD MILL CREEK, VILLAGE OF	17097C0062F**	03-SEP-97
05	IL	PARK CITY, CITY OF	17097C0000	03-SEP-97
05	IL	PARK CITY, CITY OF	17097C0156F**	03-SEP-97
05	IL	PARK CITY, CITY OF	17097C0157F	03-SEP-97
05	IL	PARK CITY, CITY OF	17097C0159F	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0000	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0259F	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0266F	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0267F	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0270F**	03-SEP-97
05	IL	RIVERWOODS, VILLAGE OF	17097C0286F	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0000	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0038F**	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0039F**	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0043F**	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0126F	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127F	03-SEP-97
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0131F	03-SEP-97
05	IL	ROUND LAKE HEIGHTS, VILLAGE OF	17097C0000	03-SEP-97
05	IL	ROUND LAKE HEIGHTS, VILLAGE OF	17097C0038F	03-SEP-97
05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0000	03-SEP-97
05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0127F	03-SEP-97
05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0129F	03-SEP-97

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05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0137F	03-SEP-97
05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0141F	03-SEP-97
05	IL	ROUND LAKE PARK, VILLAGE OF	17097C0142F	03-SEP-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0110G**	05-DEC-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0126F	03-SEP-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0127F**	03-SEP-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0128F**	03-SEP-97
05	IL	ROUND LAKE, VILLAGE OF	17097C0129F**	03-SEP-97
05	IL	THIRD LAKE, VILLAGE OF	17097C0000	03-SEP-97
05	IL	THIRD LAKE, VILLAGE OF	17097C0044F**	03-SEP-97
05	IL	THIRD LAKE, VILLAGE OF	17097C0132F	03-SEP-97
05	IL	THIRD LAKE, VILLAGE OF	17097C0155F**	03-SEP-97
05	IL	TOWER LAKES, VILLAGE OF	17097C0000	03-SEP-97
05	IL	TOWER LAKES, VILLAGE OF	17097C0206F	03-SEP-97
05	IL	TOWER LAKES, VILLAGE OF	17097C0207F	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0000	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0163F	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0164F**	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0251F	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0252F	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0253F**	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0254F**	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0256F	03-SEP-97
05	IL	VERNON HILLS, VILLAGE OF	17097C0258F**	03-SEP-97
05	IL	VOLO, VILLAGE OF	17097C0000	03-SEP-97
05	IL	VOLO, VILLAGE OF	17097C0105G**	05-DEC-97
05	IL	VOLO, VILLAGE OF	17097C0110G	05-DEC-97
05	IL	VOLO, VILLAGE OF	17097C0112F**	03-SEP-97
05	IL	VOLO, VILLAGE OF	17097C0116F**	03-SEP-97
05	IL	VOLO, VILLAGE OF	17097C0117F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0000	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0055F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0056F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0057F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0058F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0059F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0062F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0064F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0066F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0067F	03-SEP-97
05	IL	WADSWORTH, VILLAGE OF	17097C0068F	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0000	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0116F	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0117F**	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0118F	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0119F	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0140F	03-SEP-97
05	IL	WAUCONDA, VILLAGE OF	17097C0207F**	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0000	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0066F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0067F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0068F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0069F**	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0086F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0087F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0088F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0089F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0095F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0154F**	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0156F**	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0157F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0158F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0159F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0166F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0177F	03-SEP-97
05	IL	WAUKEGAN, CITY OF	17097C0180F**	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0000	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0076F	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0077F	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0078F	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0079F**	03-SEP-97
05	IL	WINTHROP HARBOR, VILLAGE OF	17097C0081F	03-SEP-97

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05	IL	WOOD DALE, CITY OF	1702240001D	19-AUG-97
05	IL	WOOD DALE, CITY OF	1702240002D	19-AUG-97
05	IL	ZION, CITY OF	17097C0000	03-SEP-97
05	IL	ZION, CITY OF	17097C0057F**	03-SEP-97
05	IL	ZION, CITY OF	17097C0059F**	03-SEP-97
05	IL	ZION, CITY OF	17097C0076F**	03-SEP-97
06	IL	ZION, CITY OF	17097C0077F**	03-SEP-97
05	IL	ZION, CITY OF	17097C0078F	03-SEP-97
05	IL	ZION, CITY OF	17097C0079F	03-SEP-97
05	IL	ZION, CITY OF	17097C0081F	03-SEP-97
05	IL	ZION, CITY OF	17097C0085F**	03-SEP-97
05	IL	ZION, CITY OF	17097C0086F**	03-SEP-97
05	IL	ZION, CITY OF	17097C0087F**	03-SEP-97
05	IN	DYER, TOWN OF	1801290000	02-OCT-97
05	IN	DYER, TOWN OF	1801290001D**	02-OCT-97
05	IN	DYER, TOWN OF	1801290002D**	02-OCT-97
05	IN	LA FONTAINE, TOWN OF	18169C0000	19-NOV-97
05	IN	LA FONTAINE, TOWN OF	18169C0139D**	19-NOV-97
05	IN	LA FONTAINE, TOWN OF	18169C0150D**	19-NOV-97
05	IN	LAGRO,TOWN OF	18169C0000	19-NOV-97
05	IN	LAGRO,TOWN OF	18169C0090D	19-NOV-97
05	IN	NORTH MANCHESTER, TOWN OF	18169C0000	19-NOV-97
05	IN	NORTH MANCHESTER, TOWN OF	18169C0010D**	19-NOV-97
05	IN	NORTH MANCHESTER, TOWN OF	18169C0030D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0000	19-NOV-97
05	IN	WABASH COUNTY*	18169C0010D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0020D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0025D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0030D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0050D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0065D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0070D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0075D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0090D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0095D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0100D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0105D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0110D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0125D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0130D	19-NOV-97
05	IN	WABASH COUNTY*	18169C0139D**	19-NOV-97
05	IN	WABASH COUNTY*	18169C0150D**	19-NOV-97
05	IN	WABASH, CITY OF	18169C0000	19-NOV-97
05	IN	WABASH, CITY OF	18169C0070D	19-NOV-97
05	IN	WABASH, CITY OF	18169C0110D**	19-NOV-97
05	MI	ALBEE, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0240D	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0245D	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0250D	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0295D	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0300D	16-OCT-97
05	MI	ALBEE, TOWNSHIP OF	26145C0305D**	16-OCT-97
05	MI	BIRCH RUN, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	BIRCH RUN, TOWNSHIP OF	26145C0255D**	16-OCT-97
05	MI	BIRCH RUN, TOWNSHIP OF	26145C0310D**	16-OCT-97
05	MI	BIRCH RUN, VILLAGE OF	26145C0000 **	16-OCT-97
05	MI	BLUMFIELD, TOWNSHIP OF	26145C0000 **	16-OCT-97
05	MI	BLUMFIELD, TOWNSHIP OF	26145C0090D**	16-OCT-97
05	MI	BRADY, TOWNSHIP OF	26145C0000 **	16-OCT-97
05	MI	BRADY, TOWNSHIP OF	26145C0275D**	16-OCT-97
05	MI	BRADY, TOWNSHIP OF	26145C0280D**	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0220D	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0225D	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0230D	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0275D	16-OCT-97
05	MI	BRANT, TOWNSHIP OF	26145C0280D	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0140D	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0195D	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0200D	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0250D	16-OCT-97
05	MI	BRIDGEPORT, CHARTER TOWNSHIP OF	26145C0255D**	16-OCT-97

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05	MI	BUENA VISTA, TOWNSHIP OF	26145C0045D	16-OCT-97
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0085D	16-OCT-97
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0090D	16-OCT-97
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0140D**	16-OCT-97
05	MI	CARROLLTON, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	CARROLLTON, TOWNSHIP OF	26145C0080D	16-OCT-97
05	MI	CARROLLTON, TOWNSHIP OF	26145C0085D	16-OCT-97
05	MI	CHAPIN, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	CHAPIN, TOWNSHIP OF	26145C0275D**	16-OCT-97
05	MI	CHESANING, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	CHESANING, TOWNSHIP OF	26145C0290D**	16-OCT-97
05	MI	CHESANING, TOWNSHIP OF	26145C0295D**	16-OCT-97
05	MI	CHESANING, TOWNSHIP OF	26145C0345D**	16-OCT-97
05	MI	CHESANING, VILLAGE OF	26145C0000	16-OCT-97
05	MI	CHESANING, VILLAGE OF	26145C0290D**	16-OCT-97
05	MI	CHESANING, VILLAGE OF	26145C0345D**	16-OCT-97
05	MI	FRANKENMUTH, CITY OF	26145C0000	16-OCT-97
05	MI	FRANKENMUTH, CITY OF	26145C0205D**	16-OCT-97
05	MI	FRANKENMUTH, CITY OF	26145C0210D	16-OCT-97
05	MI	FRANKENMUTH, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	FRANKENMUTH, TOWNSHIP OF	26145C0200D	16-OCT-97
05	MI	FRANKENMUTH, TOWNSHIP OF	26145C0205D**	16-OCT-97
05	MI	FRANKENMUTH, TOWNSHIP OF	26145C0210D	16-OCT-97
05	MI	FRANKENMUTH, TOWNSHIP OF	26145C0255D	16-OCT-97
05	MI	FREMONT, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	FREMONT, TOWNSHIP OF	26145C0175D	16-OCT-97
05	MI	FREMONT, TOWNSHIP OF	26145C0220D	16-OCT-97
05	MI	FREMONT, TOWNSHIP OF	26145C0225D	16-OCT-97
05	MI	FREMONT, TOWNSHIP OF	26145C0230D	16-OCT-97
05	MI	HAZELTON, TOWNSHIP OF	2609250000	05-NOV-97
05	MI	HAZELTON, TOWNSHIP OF	2609250004A	05-NOV-97
05	MI	HAZELTON, TOWNSHIP OF	2609250005A	05-NOV-97
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05	MI	HAZELTON, TOWNSHIP OF	2609250013A	05-NOV-97
05	MI	HAZELTON, TOWNSHIP OF	2609250014A	05-NOV-97
05	MI	HAZELTON, TOWNSHIP OF	2609250018A	05-NOV-97
05	MI	HAZELTON, TOWNSHIP OF	2609250019A	05-NOV-97
05	MI	JAMES, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0125D	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0130D	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0135D**	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0180D	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0185D	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0190D**	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0235D	16-OCT-97
05	MI	JAMES, TOWNSHIP OF	26145C0240D**	16-OCT-97
05	MI	JONESFIELD, TOWNSHIP OF	26145C0000 **	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0035D**	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0040D	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0075D**	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	16-OCT-97
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0085D	16-OCT-97
05	MI	LAKEFIELD, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	LAKEFIELD, TOWNSHIP OF	26145C0220D**	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0295D	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0300D	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0305D	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0355D	16-OCT-97
05	MI	MAPLE GROVE, TOWNSHIP OF	26145C0360D	16-OCT-97
05	MI	MARION, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	MARION, TOWNSHIP OF	26145C0220D**	16-OCT-97
05	MI	MARION, TOWNSHIP OF	26145C0275D**	16-OCT-97
05	MI	MERRILL, VILLAGE OF	26145C0000 **	16-OCT-97
05	MI	MEYER, TOWNSHIP OF	2604580000	19-AUG-97
05	MI	MEYER, TOWNSHIP OF	2604580025A	19-AUG-97
05	MI	MEYER, TOWNSHIP OF	2604580050A	19-AUG-97
05	MI	NEW LOTHROP, VILLAGE OF	2609240001A	05-NOV-97
05	MI	OAKLEY, VILLAGE OF	26145C0000 **	16-OCT-97
05	MI	RICHLAND, TOWNSHIP OF	26145C0000	16-OCT-97

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05	MI	RICHLAND, TOWNSHIP OF	26145C0065D**	16-OCT-97
05	MI	SAGINAW, CITY OF	26145C0000	16-OCT-97
05	MI	SAGINAW, CITY OF	26145C0080D	16-OCT-97
05	MI	SAGINAW, CITY OF	26145C0085D**	16-OCT-97
05	MI	SAGINAW, CITY OF	26145C0135D	16-OCT-97
05	MI	SAGINAW, CITY OF	26145C0140D	16-OCT-97
05	MI	SAGINAW, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	SAGINAW, TOWNSHIP OF	26145C0070D	16-OCT-97
05	MI	SAGINAW, TOWNSHIP OF	26145C0075D	16-OCT-97
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	16-OCT-97
05	MI	SAGINAW, TOWNSHIP OF	26145C0135D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0135D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0140D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0185D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0190D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0195D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0240D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0245D	16-OCT-97
05	MI	SPAULDING, TOWNSHIP OF	26145C0250D	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0230D	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0235D	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0240D	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0290D	16-OCT-97
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0295D	16-OCT-97
05	MI	ST. CHARLES, VILLAGE OF	26145C0000	16-OCT-97
05	MI	ST. CHARLES, VILLAGE OF	26145C0175D	16-OCT-97
05	MI	ST. CHARLES, VILLAGE OF	26145C0230D	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0125D	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0175D	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0180D	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0230D	16-OCT-97
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0235D	16-OCT-97
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0250D	16-OCT-97
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0255D	16-OCT-97
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0305D	16-OCT-97
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0310D	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0065D	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0070D**	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0075D	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0125D	16-OCT-97
05	MI	THOMAS, TOWNSHIP OF	26145C0130D	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0000	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0020D**	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0025D	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0065D**	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0070D**	16-OCT-97
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0075D**	16-OCT-97
05	MI	ZILWAUKEE, CITY OF	26145C0000	16-OCT-97
05	MI	ZILWAUKEE, CITY OF	26145C0085D	16-OCT-97
05	MI	ZILWAUKEE, TOWNSHIP OF	26145C0000	16-OCT-97
05	MI	ZILWAUKEE, TOWNSHIP OF	26145C0040D	16-OCT-97
05	MN	PRIOR LAKE, CITY OF	2704320000	19-NOV-97
05	MN	PRIOR LAKE, CITY OF	2704320002C	19-NOV-97
05	MN	PRIOR LAKE, CITY OF	2704320003C	19-NOV-97
05	MN	PRIOR LAKE, CITY OF	2704320004C	19-NOV-97
05	MN	WINONA, CITY OF	2752500000	19-AUG-97
05	MN	WINONA, CITY OF	2752500001D**	19-AUG-97
05	MN	WINONA, CITY OF	2752500002D	19-AUG-97
05	MN	WINONA, CITY OF	2752500003D	19-AUG-97
05	MN	WINONA, CITY OF	2752500004D	19-AUG-97
05	MN	WINONA, CITY OF	2752500005D	19-AUG-97
05	MN	WINONA, CITY OF	2752500006D	19-AUG-97
05	OH	BEXLEY, CITY OF	39049C0000 **	16-JUL-97
05	OH	BRICE, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	CANAL WINCHESTER, VILLAGE OF	39049C0000	16-JUL-97
05	OH	CANAL WINCHESTER, VILLAGE OF	39049C0377H	16-JUL-97
05	OH	CANAL WINCHESTER, VILLAGE OF	39049C0385H	16-JUL-97
05	OH	COLUMBUS, CITY OF	39049C0000	16-JUL-97
05	OH	COLUMBUS, CITY OF	39049C0377H	16-JUL-97

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05	OH	COLUMBUS, CITY OF	39049C0385H	16-JUL-97
05	OH	DARBYDALE, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	DUBLIN, CITY OF	39049C0000 **	16-JUL-97
05	OH	FRANKLIN COUNTY*	39049C0000	16-JUL-97
05	OH	FRANKLIN COUNTY*	39049C0376H	16-JUL-97
05	OH	FRANKLIN COUNTY*	39049C0377H	16-JUL-97
05	OH	FRANKLIN COUNTY*	39049C0385H	16-JUL-97
05	OH	GAHANNA, CITY OF	39049C0000 **	16-JUL-97
05	OH	GRANDVIEW HEIGHTS, CITY OF	39049C0000 **	16-JUL-97
05	OH	GROVE CITY, CITY OF	39049C0000 **	16-JUL-97
05	OH	GROVEPORT, VIILLAGE OF	39049C0000	16-JUL-97
05	OH	GROVEPORT, VIILLAGE OF	39049C0376H**	16-JUL-97
05	OH	HARRISBURG, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	HILLIARD, CITY OF	39049C0000 **	16-JUL-97
05	OH	LOCKBOURNE, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	MARBLE CLIFF, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	MINERVA PARK, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	NEW ALBANY, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	NEW ROME, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	OBETZ, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	PICKERINGTON, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	REYNOLDSBURG, CITY OF	39049C0000 **	16-JUL-97
05	OH	RIVERLEA, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	UPPER ARLINGTON, CITY OF	39049C0000 **	16-JUL-97
05	OH	URBANCREST, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	VALLEYVIEW, VILLAGE OF	39049C0000 **	16-JUL-97
05	OH	WESTERVILLE, CITY OF	39049C0000 **	16-JUL-97
05	OH	WHITEHALL, CITY OF	39049C0000 **	16-JUL-97
05	OH	WORTHINGTON, CITY OF	39049C0000 **	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750000	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750001C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750002C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750003C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750004C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750005C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750006C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750007C	16-JUL-97
05	WI	WEST BEND, CITY OF	5504750008C	16-JUL-97
06	AR	ALTUS, CITY OF	05047C0000	17-JUL-97
06	AR	ALTUS, CITY OF	05047C0335C	17-JUL-97
06	AR	ALTUS, CITY OF	05047C0350C	17-JUL-97
06	AR	BRANCH, CITY OF	05047C0000	17-JUL-97
06	AR	BRANCH, CITY OF	05047C0412C	17-JUL-97
06	AR	CALHOUN COUNTY	0504210000	19-DEC-97
06	AR	CALHOUN COUNTY	0504210050A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210060A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210070A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210080A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210125A	19-DEC-97
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06	AR	CALHOUN COUNTY	0504210200A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210225A	19-DEC-97
06	AR	CALHOUN COUNTY	0504210250A	19-DEC-97
06	AR	CHARLESTON, CITY OF	05047C0000	17-JUL-97
06	AR	CHARLESTON, CITY OF	05047C0395C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0000	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0150C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0240C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0330C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0335C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0350C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0375C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0395C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0412C	17-JUL-97
06	AR	FRANKLIN COUNTY*	05047C0450C	17-JUL-97
06	AR	OZARK, CITY OF	05047C0000	17-JUL-97
06	AR	OZARK, CITY OF	05047C0240C	17-JUL-97
06	AR	OZARK, CITY OF	05047C0330C	17-JUL-97
06	AR	OZARK, CITY OF	05047C0335C	17-JUL-97
06	AR	WIEDERKEHR VILLAGE, CITY OF	05047C0000	17-JUL-97
06	AR	WIEDERKEHR VILLAGE, CITY OF	05047C0335C	17-JUL-97
06	AR	WIEDERKEHR VILLAGE, CITY OF	05047C0375C	17-JUL-97
06	LA	ALEXANDRIA, CITY OF	2201460000	03-SEP-97

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06	LA	ALEXANDRIA, CITY OF	2201460005F	03-SEP-97
06	LA	ALEXANDRIA, CITY OF	2201460010F	03-SEP-97
06	LA	ALEXANDRIA, CITY OF	2201460015F	03-SEP-97
06	LA	ASSUMPTION PARISH*	2200170000	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170100C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170125C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170150C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170200C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170225C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170250C	05-NOV-97
06	LA	ASSUMPTION PARISH*	2200170275C	05-NOV-97
06	LA	LAKE CHARLES, CITY OF	2200400000	03-JUL-97
06	LA	LAKE CHARLES, CITY OF	2200400005E	03-JUL-97
06	LA	LAKE CHARLES, CITY OF	2200400010E	03-JUL-97
06	LA	RAPIDES PARISH*	2201450000	03-SEP-97
06	LA	RAPIDES PARISH*	2201450045C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450130C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450135C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450140D	03-SEP-97
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06	LA	RAPIDES PARISH*	2201450200C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450235D	03-SEP-97
06	LA	RAPIDES PARISH*	2201450250C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450255C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450275C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450325C	03-SEP-97
06	LA	RAPIDES PARISH*	2201450350C	03-SEP-97
06	LA	ST. MARTIN PARISH *	2201780000	19-DEC-97
06	LA	ST. MARTIN PARISH *	2201780450C	19-DEC-97
06	LA	ST. MARTIN PARISH *	2201780475C	19-DEC-97
06	LA	ST. MARTIN PARISH *	2201780500C	19-DEC-97
06	LA	ST. MARTIN PARISH *	2201780550C	19-DEC-97
06	NM	CHAMA, VILLAGE OF	3500500005B	05-AUG-97
06	NM	RIO ARRIBA COUNTY*	3500490000	05-AUG-97
06	NM	RIO ARRIBA COUNTY*	3500490095C	05-AUG-97
06	NM	RIO ARRIBA COUNTY*	3500490100C**	05-AUG-97
06	NM	RIO ARRIBA COUNTY*	3500490260C	05-AUG-97
06	NM	RIO ARRIBA COUNTY*	3500490275C**	05-AUG-97
06	NM	SILVER CITY, TOWN OF	3500220000	17-JUL-97
06	NM	SILVER CITY, TOWN OF	3500220002C	17-JUL-97
06	OK	CHELSEA, CITY OF	4001870001C	19-DEC-97
06	OK	DAVIDSON, TOWN OF	4002040001A	05-AUG-97
06	OK	MADILL, CITY OF	4001140001C	30-SEP-97
06	OK	MARSHALL COUNTY	4005110000	30-SEP-97
06	OK	MARSHALL COUNTY	4005110020B	30-SEP-97
06	OK	MARSHALL COUNTY	4005110025B	30-SEP-97
06	OK	MIAMI, CITY OF	4001570000	03-SEP-97
06	OK	MIAMI, CITY OF	4001570003E	03-SEP-97
06	OK	OTTAWA COUNTY *	4001540000	19-DEC-97
06	OK	OTTAWA COUNTY *	4001540087C	19-DEC-97
06	OK	OTTAWA COUNTY *	4001540091C	19-DEC-97
06	OK	PIEDMONT, CITY OF	4000270000	05-NOV-97
06	OK	PIEDMONT, CITY OF	4000270025C	05-NOV-97
06	OK	ROGERS COUNTY*	4053790000	19-DEC-97
06	OK	ROGERS COUNTY*	4053790035C	19-DEC-97
06	OK	ROGERS COUNTY*	4053790045C	19-DEC-97
06	OK	ROGERS COUNTY*	4053790050C**	19-DEC-97
06	OK	ROGERS COUNTY*	4053790105C	19-DEC-97
06	OK	ROGERS COUNTY*	4053790110C	19-DEC-97
06	OK	WYANDOTTE, TOWN OF	4001610001D	19-DEC-97
06	TX	ALLEN, CITY OF	48085C0000	19-DEC-97
06	TX	ALTOGA, CITY OF	48085C0000	19-DEC-97
06	TX	ANNA, CITY OF	48085C0000	19-DEC-97
06	TX	ANNA, CITY OF	48085C0000	19-DEC-97
06	TX	BLUE RIDGE, TOWN OF	48085C0000	19-DEC-97
06	TX	BRANCH, CITY OF	48085C0000	19-DEC-97
06	TX	CELINA, CITY OF	48085C0000	19-DEC-97
06	TX	COLLIN COUNTY*	48085C0000	19-DEC-97
06	TX	COLLIN COUNTY*	48085C0465H	19-DEC-97
06	TX	COLLIN COUNTY*	48085C0580H	19-DEC-97
06	TX	EASTLAND,CITY OF	4802040005C	05-AUG-97
06	TX	FAIRVIEW, TOWN OF	48085C0000	19-DEC-97
06	TX	FARMERSVILLE, CITY OF	48085C0000	19-DEC-97
06	TX	FARMERSVILLE, CITY OF - USE CID # 481627	48085C0000	19-DEC-97

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06	TX	FRISCO, CITY OF	48085C0000	19-DEC-97
06	TX	GARLAND, CITY OF	48085C0000	19-DEC-97
06	TX	JOSEPHINE, CITY OF	48085C0000	19-DEC-97
06	TX	JUNCTION, CITY OF	4804210005D	05-NOV-97
06	TX	LAVON, TOWN OF	48085C0000	19-DEC-97
06	TX	LOWRY CROSSING, CITY OF	48085C0000	19-DEC-97
06	TX	LUCAS, CITY OF	48085C0000	19-DEC-97
06	TX	LUCAS, CITY OF	48085C0465H	19-DEC-97
06	TX	MARSHALL, CITY OF	4803190000	05-AUG-97
06	TX	MARSHALL, CITY OF	4803190005C	05-AUG-97
06	TX	MCKINNEY, CITY OF	48085C0000	19-DEC-97
06	TX	MELISSA, CITY OF	48085C0000	19-DEC-97
06	TX	MURPHY, CITY OF	48085C0000	19-DEC-97
06	TX	MURPHY, CITY OF	48085C0465H	19-DEC-97
06	TX	MURPHY, CITY OF	48085C0580H	19-DEC-97
06	TX	NEVADA, CITY OF	48085C0000	19-DEC-97
06	TX	NEW HOPE, CITY OF	48085C0000	19-DEC-97
06	TX	PARKER, CITY OF	48085C0000	19-DEC-97
06	TX	PARKER, CITY OF	48085C0465H	19-DEC-97
06	TX	PLANO, CITY OF	48085C0000	19-DEC-97
06	TX	PLANO, CITY OF	48085C0465H	19-DEC-97
06	TX	PRINCETON, CITY OF	48085C0000	19-DEC-97
06	TX	PROSPER, TOWN OF	48085C0000	19-DEC-97
06	TX	RENNER, CITY OF	48085C0000	19-DEC-97
06	TX	RICHARDSON, CITY OF	48085C0000	19-DEC-97
06	TX	ROYSE CITY, CITY OF	48085C0000	19-DEC-97
06	TX	ST. PAUL, TOWN OF	48085C0000	19-DEC-97
06	TX	ST. PAUL, TOWN OF	48085C0465H	19-DEC-97
06	TX	WALNUT GROVE, CITY OF	48085C0000	19-DEC-97
06	TX	WESTMINSTER, TOWN OF	48085C0000	19-DEC-97
06	TX	WESTON, TOWN OF	48085C0000	19-DEC-97
06	TX	WYLIE, CITY OF	48085C0000	19-DEC-97
06	TX	WYLIE, CITY OF	48085C0465H	19-DEC-97
06	TX	WYLIE, CITY OF	48085C0580H	19-DEC-97
07	IA	FENTON, TOWN OF	190437 A***	01-JUL-97
07	IA	FENTON, TOWN OF	1904379999A	01-JUL-97
07	IA	FLOYD COUNTY*	190127 B***	01-DEC-97
07	IA	FLOYD COUNTY*	1901279999	01-DEC-97
07	IA	HARPERS FERRY, CITY OF	190316 A	01-JUL-97
07	IA	HARPERS FERRY, CITY OF	1903169999A	01-JUL-97
07	IA	MASONVILLE, CITY OF	190365 B***	01-JUL-97
07	IA	MASONVILLE, CITY OF	19036599999B	01-JUL-97
07	IA	ROCK FALLS, CITY OF	190351 B***	01-JUL-97
07	IA	ROCK FALLS, CITY OF	1903519999B	01-JUL-97
07	IA	SHELLSBURG, CITY OF	1903190001A	17-SEP-97
07	IA	VAN BUREN COUNTY	1902650000	02-OCT-97
07	IA	VAN BUREN COUNTY	1902650025A	02-OCT-97
07	IA	VAN BUREN COUNTY	1902650075A	02-OCT-97
07	IA	VAN BUREN COUNTY	1902650100A	02-OCT-97
07	IA	VAN BUREN COUNTY	1902650125A	02-OCT-97
07	IA	VAN BUREN COUNTY	1902650150A	02-OCT-97
07	KS	COUNTRYSIDE, CITY OF	20091C0000	17-JUL-97
07	KS	DESOTO, CITY OF	20091C0000	17-JUL-97
07	KS	EDGERTON, CITY OF	20091C0000	17-JUL-97
07	KS	FAIRWAY, CITY OF	20091C0000	17-JUL-97
07	KS	FINNEY COUNTY	2000990000	03-SEP-97
07	KS	FINNEY COUNTY	2000990025B	03-SEP-97
07	KS	FINNEY COUNTY	2000990050B	03-SEP-97
07	KS	FINNEY COUNTY	2000990075B	03-SEP-97
07	KS	FINNEY COUNTY	2000990100B	03-SEP-97
07	KS	FINNEY COUNTY	2000990125B	03-SEP-97
07	KS	FINNEY COUNTY	2000990150B	03-SEP-97
07	KS	FINNEY COUNTY	2000990175B	03-SEP-97
07	KS	FINNEY COUNTY	2000990200B	03-SEP-97
07	KS	FINNEY COUNTY	2000990225B	03-SEP-97
07	KS	FINNEY COUNTY	2000990250B	03-SEP-97
07	KS	FINNEY COUNTY	2000990275B	03-SEP-97
07	KS	FINNEY COUNTY	2000990300B	03-SEP-97
07	KS	FINNEY COUNTY	2000990325B	03-SEP-97
07	KS	GARDEN CITY, CITY OF	2051860005D	03-SEP-97
07	KS	GARDNER, CITY OF	20091C0000	17-JUL-97
07	KS	HOLCOMB, CITY OF	20086800001B	17-SEP-97
07	KS	JOHNSON COUNTY *	20091C0000	17-JUL-97
07	KS	JOHNSON COUNTY *	20091C0079E	17-JUL-97

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07	KS	KENNETH, CITY OF	20091C0000	17-JUL-97
07	KS	LAKE QUIVIRA, CITY OF	20091C0000	17-JUL-97
07	KS	LEAWOOD, CITY OF	20091C0000	17-JUL-97
07	KS	LEAWOOD, CITY OF	20091C0085E	17-JUL-97
07	KS	LENEXA, CITY OF	20091C0000	17-JUL-97
07	KS	LENEXA, CITY OF	20091C0079E	17-JUL-97
07	KS	LINDSBORG, CITY OF	2002150001C	19-DEC-97
07	KS	MERRIAM, CITY OF	20091C0000	17-JUL-97
07	KS	MISSION HILLS, CITY OF	20091C0000	17-JUL-97
07	KS	MISSION WOODS, CITY OF	20091C0000	17-JUL-97
07	KS	MISSION, CITY OF	20091C0000	17-JUL-97
07	KS	OLATHE, CITY OF	20091C0000	17-JUL-97
07	KS	OLATHE, CITY OF	20091C0079E	17-JUL-97
07	KS	OVERLAND PARK, CITY OF	20091C0000	17-JUL-97
07	KS	OVERLAND PARK, CITY OF	20091C0079E	17-JUL-97
07	KS	OVERLAND PARK, CITY OF	20091C0085E	17-JUL-97
07	KS	PRAIRIE VILLAGE, CITY OF	20091C0000	17-JUL-97
07	KS	RICE COUNTY*	2002900000	03-SEP-97
07	KS	RICE COUNTY*	2002900005C	03-SEP-97
07	KS	RICE COUNTY*	2002900008C	03-SEP-97
07	KS	ROELAND PARK, CITY OF	20091C0000	17-JUL-97
07	KS	SHAWNEE, CITY OF	20091C0000	17-JUL-97
07	KS	SPRING HILL, CITY OF	20091C0000	17-JUL-97
07	KS	STERLING, CITY OF	2002970001C	03-SEP-97
07	KS	WESTWOOD HILLS, CITY OF	20091C0000	17-JUL-97
07	KS	WESTWOOD, CITY OF	20091C0000	17-JUL-97
07	MO	BULL CREEK, VILLAGE OF	2909160001A	30-SEP-97
07	MO	LAMAR, CITY OF	2900250001C	19-DEC-97
07	NE	BAYARD, CITY OF	3103470001B	03-SEP-97
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07	NE	HOWARD COUNTY *	3104460100A	30-SEP-97
07	NE	HOWARD COUNTY *	3104460110A	30-SEP-97
07	NE	HOWARD COUNTY *	3104460150A	30-SEP-97
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08	CO	LARIMER COUNTY *	0801010000	17-JUL-97
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08	MT	DENTON, TOWN OF	3000200001B	17-SEP-97
08	MT	FORSYTH, CITY OF	300070 B	01-SEP-97
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09	AZ	PIMA COUNTY *	0400731015E	19-AUG-97
09	AZ	PIMA COUNTY *	0400731020E	19-AUG-97
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09	AZ	PIMA COUNTY *	0400731605E	19-AUG-97
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09	AZ	PIMA COUNTY *	0400731615C	19-AUG-97
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09	AZ	PIMA COUNTY *	0400733885C	19-AUG-97
09	AZ	PIMA COUNTY *	0400733895C	19-AUG-97
09	AZ	PIMA COUNTY *	0400733905C	19-AUG-97
09	AZ	PIMA COUNTY *	0400733915C	19-AUG-97
09	AZ	PIMA COUNTY *	0400734310C	19-AUG-97

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09	AZ	SAFFORD, CITY OF	0401240005A	03-JUL-97
09	AZ	SANTA CRUZ COUNTY*	0400900010B	19-AUG-97
09	AZ	TUCSON, CITY OF	0400760000	05-AUG-97
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09	AZ	YAVAPAI COUNTY *	0400930615C	19-DEC-97
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09	AZ	YAVAPAI COUNTY *	0400930825C	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400930865D	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400931020D	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400931045C	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400931065D	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400931085E	19-DEC-97
09	AZ	YAVAPAI COUNTY *	0400931095E	19-DEC-97
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09	CA	ALAMEDA COUNTY*	0600010115C	17-SEP-97
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09	CA	ALAMEDA COUNTY*	0600010205C	17-SEP-97
09	CA	ALAMEDA COUNTY*	0600010210C	17-SEP-97
09	CA	AMADOR COUNTY *	060015 D	17-JUL-97
09	CA	ARCATA, CITY OF	0600610000	05-NOV-97
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09	CA	ARCATA, CITY OF	0600610004E	05-NOV-97
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09	CA	GROVER BEACH, CITY OF	0603060001C	05-NOV-97
09	CA	HEMET, CITY OF	0602530005D	19-AUG-97
09	CA	JACKSON, CITY OF	0604480001D	17-JUL-97
09	CA	LIVERMORE, CITY OF	0600080000	17-SEP-97
09	CA	LIVERMORE, CITY OF	0600080005B	17-SEP-97
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09	CA	ORINDA, CITY OF	0607220000	17-JUL-97
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09	CA	ORINDA, CITY OF	0607220010B	17-JUL-97
09	CA	PISMO BEACH, CITY OF	0603090000	05-NOV-97
09	CA	PISMO BEACH, CITY OF	0603090002B	05-NOV-97
09	CA	PLEASANTON, CITY OF	0600120000	30-SEP-97
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09	CA	PLEASANTON, CITY OF	0600120002D	30-SEP-97
09	CA	SANTA PAULA, CITY OF	0604200000	03-SEP-97
09	CA	SANTA PAULA, CITY OF	0604200001D	03-SEP-97
09	CA	SANTA PAULA, CITY OF	0604200003D	03-SEP-97
09	CA	SARATOGA, CITY OF	0603510000	03-JUL-97
09	CA	SARATOGA, CITY OF	0603510002C	03-JUL-97
09	CA	SARATOGA, CITY OF	0603510004C	03-JUL-97
09	CA	SIMI VALLEY, CITY OF	0604210000	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210002B	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210004B	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210006B	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210007B	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210008B	03-SEP-97
09	CA	SIMI VALLEY, CITY OF	0604210009B	03-SEP-97
09	CA	SUNNYVALE, CITY OF	0603520000	19-DEC-97
09	CA	SUNNYVALE, CITY OF	0603520001D	19-DEC-97
09	CA	SUNNYVALE, CITY OF	0603520002D	19-DEC-97
09	CA	VENTURA COUNTY *	0604130000	03-SEP-97
09	CA	VENTURA COUNTY *	0604130590C	03-SEP-97
09	CA	VENTURA COUNTY *	0604130595C	03-SEP-97
09	CA	VENTURA COUNTY *	0604130755C	03-SEP-97
09	CA	VENTURA COUNTY *	0604130760C	03-SEP-97
09	HI	MAUI COUNTY *	1500030000	17-SEP-97
09	HI	MAUI COUNTY *	1500030151C	03-SEP-97
09	HI	MAUI COUNTY *	1500030153C	17-SEP-97

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10	ID	OAKLEY, CITY OF	1600450001C***	01-AUG-97
10	ID	OAKLEY, CITY OF	1600459999	01-AUG-97
10	ID	RIGGINS, CITY OF	1601890001A	19-DEC-97

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BILLING CODE 6718–04–F

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Tuesday
May 26, 1998

Part V

Environmental Protection Agency

40 CFR Part 136
Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–6100–5]

RIN 2040–AD07

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would amend the guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act by adding Method 1631: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence. EPA Method 1631 was developed in order to measure mercury reliably at the low levels associated with ambient water quality criteria (WQC). EPA has promulgated WQC for mercury at 12 parts-per-trillion (ppt) in the National Toxics Rule, and published guidance criteria for mercury at 1.8 ppt in the Water Quality Guidance for the Great Lakes System. EPA Method 1631 would need to be used in conjunction with clean sampling and laboratory techniques to preclude contamination at the low ppt levels necessary for mercury determinations. EPA has developed guidance documents on sampling and clean rooms for trace metals, including mercury.

DATES: Comments on this proposal must be submitted on or before July 27, 1998.

ADDRESSES: Send written comments on the proposed rule to "Method 1631" Comment Clerk (Docket # W–98–15); Water Docket (4101); Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit an original and three copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

Data availability: A copy of the supporting documents cited in this proposal is available for review at EPA's Water Docket; 401 M Street, SW, East Tower Basement, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment. An electronic version of Method 1631 is available via the Internet on EPA's Internet home page at http://www.epa.gov/OST.

FOR FURTHER INFORMATION CONTACT: Maria Gomez-Taylor, Ph.D., Engineering and Analysis Division (4303), USEPA Office of Science and Technology, 401 M Street, SW, Washington, DC 20460; or call (202) 260–1639.

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act. In doing so, the NPDES permitting authority, including authorized States, Territories, and Tribes, make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has "approved" standardized testing procedures (i.e., promulgated through rulemaking) for a given pollutant, the NPDES permit must include one of the approved testing procedures or an approved alternate test procedure. Therefore, entities with NPDES permits could be affected by the standardization of testing procedures in this rulemaking. These entities may be affected because NPDES permits may incorporate one of the standardized testing procedures in today's rulemaking. In addition, when a State, Territory, or authorized Tribe provides certification of federal licenses under Clean Water Act section 401, States, Territories and Tribes are directed to use the standardized testing procedures. Categories and entities that may ultimately be affected include:

Category	Examples of potentially affected entities
State and Territorial Governments and Indian Tribes	States, Territories, and Tribes authorized to administer the NPDES permitting program; States, Territories, and Tribes providing certification under Clean Water Act section 401; Governmental NPDES permittees.
Industry	Industrial NPDES permittees.
Municipalities	Publicly-owned treatment works with NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Authority

Today's proposal is pursuant to the authority of sections 301, 304(h), and 501(a) of the Clean Water Act (CWA), 33 U.S.C. 1314(h), 1361(a) (the "Act"). Section 301 of the Act prohibits the discharge of any pollutant into navigable waters unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit, issued under section 402 of the Act. Section 304(h) of the Act requires the Administrator of the EPA to "promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act." Section 501(a) of the Act authorizes the Administrator to "prescribe such regulations as are necessary to carry out his function under this Act." EPA publishes CWA analytical method regulations at 40 CFR part 136. The Administrator also has made these test procedures applicable to monitoring and reporting of NPDES permits (40 CFR part 122, § 122.21, 122.41, 122.44, and 123.25), and implementation of the pretreatment standards issued under section 307 of the Act (40 CFR part 403, § 403.10 and 402.12).

II. Background

A. Mercury

Mercury is a toxic pollutant pursuant to section 307(a)(1) of CWA (see the list of toxic pollutants at 40 CFR 401.15) and is a priority pollutant as derived from the toxic pollutant list (see 40 CFR 423, Appendix A). Available EPA approved methods for mercury

determine inorganic and organic forms of mercury as "total mercury."

B. Methods for Determination of Mercury

Methods currently approved at 40 CFR part 136 measure mercury by purging mercury vapor from a water sample into a specially designed chamber placed in the light beam of an atomic absorption spectrophotometer. In contrast, EPA Method 1631 measures mercury by purging mercury vapor from a water sample onto a gold trap and thermally desorbing the mercury from the trap into an atomic fluorescence spectrometer. Purging the mercury onto the gold trap concentrates the mercury and allows water vapor from the sample to be vented, and use of atomic fluorescence provides an increased response compared to atomic absorption. As a result, EPA Method 1631 is approximately 200 times more sensitive than currently approved methods for determination of mercury.

C. Need for Improved Method for Mercury

The most sensitive currently approved methods for mercury are capable of achieving a quantitation level of 200 ng/L (parts-per-trillion; ppt). These methods are not sensitive enough to measure mercury at levels called for under the National Toxics Rule (40 CFR 131.36) and the Water Quality Guidance for the Great Lakes System (60 FR 15366)—12 ppt and 1.8 ppt, respectively.

III. Summary of Proposed Rule

A. Introduction

This proposed rule would make available at 40 CFR part 136 an additional test procedure for measurement of mercury. This rulemaking does not propose to repeal any of the currently approved methods that test for mercury. For an NPDES permit, the permitting authority should decide the appropriate method based on the circumstances of the particular effluent measured. Use of EPA Method 1631 may be specified by the permitting authority when a permit is modified or reissued. If the permitting authority does not specify the method to be used, a discharger would be able to use EPA Method 1631 or any of the currently approved methods for determination of mercury, provided that the method chosen meets the requirements specified in the permit.

B. Summary of Proposed Method 1631

EPA Method 1631 has four procedural components: sample pretreatment; purge and trap; desorption; and detection by atomic fluorescence. In the sample pretreatment step, bromine monochloride (BrCl) is added to the sample to oxidize all forms of mercury to Hg(II). After oxidation, the sample is sequentially prereduced with $NH_2OH{\bullet}HCl$ to destroy free halogens, then reduced with $SnCl_2$ to convert Hg(II) to volatile Hg(0). The Hg(0) is purged from the aqueous solution with nitrogen onto a gold-coated sand trap. The trapped mercury is thermally desorbed from the gold trap into a flowing gas stream into the cell of a cold-vapor atomic fluorescence spectrometer. Quality is assured through calibration and testing of the oxidation, purging, and detection systems.

C. Sample Contamination

Trace levels of metals are ubiquitous in the environment. Therefore, the determination of trace metals at the levels of interest for water quality criteria necessitates the use of clean sample handling techniques to preclude false positives arising from sample collection, handling, or analysis. EPA has released several guidance documents that are designed to ensure that metals data accurately reflect actual environmental levels. The guidance documents include: Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels; Guidance on Establishing Trace Metals Clean Rooms in Existing Facilities; and Guidance on Documentation and Evaluation of Trace Metals Data Collected for Clean Water Act Compliance Monitoring. The most serious problem faced by laboratories conducting metals analyses at these very low levels is the potential for sample contamination during sample collection and handling. Mercury is particularly difficult to collect due to its ubiquity in the environment. For example, commonly used polyethylene sample containers are unacceptable for sample storage because atmospheric mercury would be expected to diffuse through the walls of the container, causing sample contamination. EPA's Method 1669 (Sampling Method) details the rigorous sample handling and quality control (QC) procedures necessary to produce reliable data for mercury at the levels of interest for water quality criteria.

D. Quality Control

The quality control (QC) in EPA Method 1631 is more extensive than the QC in currently approved methods for mercury. EPA Method 1631 contains all of the standardized QC tests proposed in EPA's streamlining initiative (62 FR 14976) and used in the 40 CFR 136 Appendix A methods. An initial demonstration of laboratory capability is required and consists of: (1) a method detection limit (MDL) study to demonstrate that the laboratory is able to achieve the MDL and minimum level of quantification (ML) specified in Method 1631; and (2) an initial precision and recovery (IPR) test, consisting of the analysis of four reagent water samples spiked with mercury, to demonstrate the laboratory's ability to generate acceptable precision and recovery.

Ongoing QC would consist of the following tests that would need to accompany each analytical batch (i.e., a set of 20 samples or less pretreated at the same time):

- Verification of calibration of the purge and trap and atomic fluorescence systems, to verify that instrument response has not deviated significantly from that obtained during calibration.
- Analysis of a matrix spike (MS) and matrix spike duplicate (MSD) to demonstrate method accuracy and precision and to monitor matrix interferences.
- Analysis of reagent and bubbler blanks to demonstrate freedom from contamination.
- Analysis of a laboratory control sample and ongoing precision and recovery (OPR) samples to demonstrate that the method remains under control.

EPA Method 1631 contains QC acceptance criteria for all QC tests. Compliance with these criteria would allow a data user to evaluate the quality of the results. These QC acceptance criteria would increase the reliability of results and provides a means for laboratories and data users to monitor analytical performance, thereby providing a basis for sound, defensible data.

E. Performance Based Measurement System

On October 7, 1997, EPA published a Notice of the Agency's intent to implement a Performance Based Measurement System (PBMS) in all of its programs to the extent feasible (62 FR 52098). The Agency is currently determining the specific steps necessary to implement PBMS in its programs and preparing an implementation plan. Because final decisions have not yet been made concerning the implementation of PBMS in water programs, today's proposed method does not include full provisions for PBMS.

However, consistent with the Streamlining Initiative proposed on March 28, 1997 (62 FR 14976), EPA Method 1631, as proposed, would

employ a performance-based approach to the sample preparation and trapping systems. Analysts would be allowed to modify the sample preparation and trapping aspects of the method provided all the performance criteria are met. The method also allows the use of alternate reagents and hardware provided that equivalent or superior performance is demonstrated and all QC acceptance criteria are met.

Demonstrating equivalency involves two sets of tests, one set with reference standards and the other with the sample matrix. The equivalency procedures include performance of the IPR test using reference standards to demonstrate that the results produced with the modified procedure would meet or exceed the QC acceptance criteria in EPA Method 1631. In addition, if the detection limit may be affected by a modification, performance of an MDL study would be required to demonstrate that the modified procedure could achieve an MDL less than or equal to the MDL in EPA Method 1631 or, for those instances in which the regulatory compliance level is greater than the ML in the method, one-third the regulatory compliance level. (For a discussion of these levels, see EPA Method 1631 or the Streamlining Initiative proposed in March of 1997 (62 FR 14976).

Once EPA has made its final determinations regarding implementation of PBMS in programs under the Clean Water Act, EPA Method 1631 would be amended to incorporate specific provisions of PBMS. We anticipate that such changes will be included in the final version of the method. Commenters are encouraged to address PBMS implementation for this method and are specifically requested to comment on the performance characteristics of EPA Method 1631 to assist EPA in developing practical method performance and related criteria for PBMS implementation.

IV. Development and Validation of Method 1631

EPA Method 1631 is based on techniques published in the literature and widely used throughout the marine chemistry community. EPA validated the method during development in multiple single-laboratory studies and in an interlaboratory (round-robin) method validation study.

A. Background

In response to the need for measuring of trace metals at ambient water quality criteria levels set forth in the National Toxics Rule, EPA convened a panel of trace metals experts in Boston in November, 1993. The purpose of the meeting was to obtain information on modern laboratory techniques for the analysis of trace metals. This panel consisted of mostly marine chemists who had been making trace metals measurements in the marine environment for more than 10 years. The panel concluded that the technique of oxidation, purge and trap, desorption, and atomic fluorescence would provide reliable results for measurements of mercury at low ppt levels.

B. Initial Method Development

Initial method development was carried out under contract in a marine chemistry laboratory recognized for expertise in measurements of mercury at ultra-trace levels. EPA received an initial draft of the method in late 1994. EPA revised the initial draft into EPA's Environmental Monitoring Management Council (EMMC) format in early 1995 and added the standardized quality control (QC) used in the 40 CFR 136, Appendix A methods. Initial QC acceptance criteria were developed from data provided by the Agency contractor responsible for initial method development.

C. Multiple Single-Laboratory Validation Studies

In 1996, EPA conducted studies in four laboratories to further assess method performance and to better define the method detection limit (MDL) and QC acceptance criteria. Each laboratory performed an MDL study and an initial precision and recovery test. EPA revised the draft method based on results and comments received from these studies. Based on these data, EPA selected an MDL of 0.2 ng/L (0.2 ppt) for EPA Method 1631. This was the highest of the MDLs achieved by any of the laboratories. The highest MDL was selected because this MDL was well below the 1.8 ppt ambient water quality criterion required by the Great Lakes Initiative. EPA established a minimum level of quantitation of 0.5 ng/L and revised the QC acceptance criteria for EPA Method 1631 based on data from the four laboratories in the validation study. Details of the studies are given in a study plan and a report of the studies is included in the docket for today's proposed rule.

D. Interlaboratory Validation Study

In mid-1997, EPA developed a study plan to conduct an interlaboratory validation of EPA Method 1631. The interlaboratory validation study was conducted in late 1997. The following matrices, forms, and levels were studied: total mercury in reagent water at four levels; total and dissolved mercury in effluent at one level; dissolved mercury in freshwater at four levels, and total and dissolved mercury in seawater at one level. In addition, each laboratory performed an MDL study to demonstrate that the MDL of 0.2 ppt could be achieved. All the laboratories participating in the study achieved an MDL below 0.2 ppt. Therefore, EPA believes this MDL is reasonable. The study plan and a report of the study are contained in the Docket. Results and comments from the study were used to evaluate the QC acceptance criteria and revise other details of EPA Method 1631 into the version being proposed today. The performance characteristics of the method are summarized in Tables 1–3. EPA invites comment and additional data on the performance characteristics of this method.

V. Status of Currently Approved Methods

This action proposes to make EPA Method 1631 available for determination of mercury in aqueous samples ranging from seawater to sewage effluent. Currently approved methods for determination of mercury, EPA Methods 245.1 and 245.2, Standard Method 3112B, ASTM Method D3223–91, USGS Method I–3462–85, and AOAC-International Method 977.22, would not be withdrawn or otherwise affected by this regulation. EPA specifically invites comment on this aspect of the proposal, including the possible consequences and solutions if EPA were to withdraw such methods.

VI. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel

legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The proposed rule would impose no enforceable duty on any State, local or Tribal governments or the private sector. This rule proposes alternative analytical test procedures which would merely standardize the procedures when testing is otherwise required by a regulatory agency. Therefore, the proposed rule is not subject to the requirements of sections 202, 203, and 205 of the UMRA. EPA invites comment on its conclusions regarding whether alternate test procedures constitute a federal mandate.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), EPA generally is required to conduct a regulatory flexibility analysis describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulation approves an additional test procedure (analytical method) for the measurement of mercury. This rule makes available an alternative testing procedure for use in compliance monitoring and data gathering but does not require its use.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must submit an information collection request covering information collection requirements in proposed rules to the Director of the Office of Management and Budget (OMB) for review and approval. This proposed rule contains no information collection requirements. Therefore, an information collection request will not be submitted to OMB.

E. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable standards are not used by EPA, the NTTAA requires the Agency to provide Congress, through the Office of Management and Budget (OMB), an explanation for the reasons for not using such standards.

Proposal of EPA Method 1631 is the result of a need to determine mercury at the low levels associated with water quality criteria for mercury in the National Toxics Rule (40 CFR 131.36) and in the Water Quality Guidance for the Great Lakes System (60 FR 15366). These documents specify concentrations for mercury in the low part-per-trillion range and the currently approved methods are not sensitive enough to measure mercury at these levels. EPA's search of the technical literature revealed that there are no consensus standards for determination of mercury capable of measuring this pollutant at these low levels. EPA invites public comments on the Agency's proposal as well as on any other existing, potentially applicable voluntary consensus standards that the Agency should consider for the determination of mercury at low ppt levels.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that (1) is likely to be "economically significant" as defined under Executive Order 12866, and (2) concerns environmental health or safety risk that the Agency has reason to believe may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks" because this is not an "economically significant" regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

VII. Request for Comments

EPA requests public comments and information on this proposed rule. Specifically, EPA invites comment on the appropriateness of Method 1631 for the measurement of mercury at low ppt levels, the utility of EPA Method 1631 for NPDES compliance monitoring, the MDL and QC acceptance criteria specified in Method 1631, and EPA's proposed decision not to withdraw other, existing, approved methods for determination of mercury.

List of Subjects in 40 CFR Part 136

Environmental protection, Analytical methods, Monitoring, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: May 15, 1998.

Carol M. Browner,

Administrator.

In consideration of the preceding, USEPA proposes to amend title 40, chapter I of the Code of Federal Regulations part 136 as follows:

PART 136—[AMENDED]

1. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), 33 U.S.C. 1314 and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 92–217; Stat. 7, Pub. L. 100–4 (The "Act").

2. In § 136.3, paragraph (a), Table IB.—List of Approved Inorganic Test Procedures, is amended by revising entry 35 to read as follows:

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter, units and method	Reference (method number or page)				
	EPA [1,35]	Standard methods 18th Ed.	ASTM	USGS [2]	Other
. . .	.	.	.		.
35. Mercury—Total,[4]					
Cold vapor, manual, or (or µg/L)	245.1	3112–B	D3223–91	I3462–85	[3]977.22
Automated (µg/L)	245.2				.....
Oxidation, purge and trap, and atomic fluorescence (ng/L)	1631				.....
. . .	.	.	.		.

Table IB Notes:

[1] "Methods for Chemical Analysis of Water and Wastes", Environmental Protection Agency, Environmental Monitoring Systems Laboratory-Cincinnati (EMSL–CI), EPA–600/4–79–020, Revised March 1983 and 1979 where applicable.

[2] Fishman, M.J., et al, "Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments," U.S. Department of the Interior, Techniques of Water—Resource Investigations of the U.S. Geological Survey, Denver, CO, Revised 1989, unless otherwise stated.

[3] Official Methods of Analysis of the Association of Official Analytical Chemists," methods manual, 15th ed. (1990).

[4] For the determination of total metals the sample is not filtered before processing. A digestion procedure is required to solubilize suspended material and to destroy possible organic-metal complexes. Two digestion procedures are given in "Methods for Chemical Analysis of Water and Wastes, 1979 and 1983". One (section 4.1.3), is a vigorous digestion using nitric acid. A less vigorous digestion using nitric and hydrochloric acids (section 4.1.4) is preferred; however, the analyst should be cautioned that this mild digestion may not suffice for all sample types. Particularly, if a colorimetric procedure is to be employed, it is necessary to ensure that all organo-metallic bonds be broken so that the metal is in a reactive state. In those situations, the vigorous digestion is to be preferred making certain that at no time does the sample go to dryness. Samples containing large amounts of organic materials may also benefit by this vigorous digestion, however, vigorous digestion with concentrated nitric acid will convert antimony and tin to insoluble oxides and render them unavailable for analysis. Use of ICP/AES as well as determinations for certain elements such as antimony, arsenic, the noble metals, mercury, selenium, silver, tin, and titanium require a modified sample digestion procedure and in all cases the method write-up should be consulted for specific instructions and/or cautions.

NOTE TO TABLE IB NOTE 4: If the digestion procedure for direct aspiration AA included in one of the other approved references is different than the above, the EPA procedure must be used.

Dissolved metals are defined as those constituents which will pass through a 0.45 micron membrane filter. Following filtration of the sample, the referenced procedure for total metals must be followed. Sample digestion of the filtrate for dissolved metals (or digestion of the original sample solution for total metals) may be omitted for AA (direct aspiration or graphite furnace) and ICP analyses, provided the sample solution to be analyzed meets the following criteria:

a. has a low COD (<20)
b. is visibly transparent with a turbidity measurement of 1 NTU or less
c. is colorless with no perceptible odor, and
d. is of one liquid phase and free of particulate or suspended matter following acidification.

. . . . . .

[35] Precision and recovery statements for the atomic absorption direct aspiration and graphite furnace methods, and for the spectrophotometric SDDC method for arsenic are provided in Appendix D of this part titled, "Precision and Recovery Statements for Methods for Measuring Metals".

* * * * * * *

3. In part 136, appendix A is amended by adding EPA Method 1631 to read as follows:

Appendix A to Part 136—Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater

* * * * *

Method 1631 Mercury in Water by Oxidation, Purge and Trap, and CVAFS

1.0 Scope and Application

1.1 This Method is for determination of mercury (Hg) in filtered and unfiltered water by oxidation, purge and trap, desorption, and cold-vapor atomic fluorescence spectrometry (CVAFS). This Method is for use in EPA's data gathering and monitoring programs associated with the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Safe Drinking Water Act. The Method is based on a contractor-developed method (Reference 1) and on peer-reviewed, published procedures for the determination of mercury in aqueous samples, ranging from sea water to sewage effluent (References 2–5).

1.2 This Method is accompanied by Method 1669: Sampling Ambient Water for Determination of Trace Metals at EPA Water Quality Criteria Levels (Sampling Method). The Sampling Method guidance document is recommended to preclude contamination during the sampling process.

1.3 This Method is for determination of Hg in the range of 0.5–100 ng/L and may be extended to higher levels by selection of a smaller sample size.

1.4 The ease of contaminating ambient water samples with mercury and interfering substances cannot be overemphasized. This Method includes suggestions for improvements in facilities and analytical techniques that should minimize contamination and maximize the ability of the laboratory to make reliable trace metals

determinations. Section 4.0 gives these suggestions.

1.5 The detection limit and minimum level of quantitation in this Method usually are dependent on the level of interferences rather than instrumental limitations. The method detection limit (MDL; 40 CFR 136, Appendix B) for Hg has been determined to be 0.2 ng/L when no interferences are present. The minimum level (ML) has been established as 0.5 ng/L. An MDL as low as 0.05 ng/L can be achieved for low Hg samples by using a larger sample volume, a lower BrCl level (0.2%), and extra caution in sample handling.

1.6 Clean and ultraclean—The terms "clean" and "ultraclean" have been applied to the techniques needed to reduce or eliminate contamination in trace metals determinations. These terms are not used in this Method because they lack an exact definition. However, the information provided in this Method is consistent with the summary guidance on clean and ultraclean techniques (References 6–7).

1.7 This Method follows the EPA Environmental Methods Management Council's "Guidelines and Format for Methods to Be Proposed at 40 CFR, Part 136 or Part 141."

1.8 This Method is "performance based." The analyst is permitted to modify the Method to overcome interferences or lower the cost of measurements if all performance criteria are met. Section 9.1.2 gives the requirements for establishing method equivalency.

1.9 Any modification of this Method, beyond those expressly permitted, shall be considered a major modification subject to application and approval of alternate test procedures under 40 CFR 136.4 and 136.5.

1.10 This Method should be used only by analysts who are experienced in the use of CVAFS techniques and who are trained thoroughly in the sample handling and instrumental techniques described in this Method. Each analyst who uses this Method must demonstrate the ability to generate acceptable results using the procedure in Section 9.2.

1.11 This Method is accompanied by a data verification and validation guidance document, Guidance on the Documentation and Evaluation of Trace Metals Data Collected for CWA Compliance Monitoring (Reference 8).

2.0 Summary of Method

2.1 A 100- to 2000-mL sample is collected directly into a specially cleaned, pretested, fluoropolymer bottle using sample handling techniques specially designed for collection of mercury at trace levels (Reference 9).

2.2 For dissolved Hg, the sample is filtered through a 0.45-μm capsule filter.

2.3 The sample is preserved by adding either 5 mL/L of pretested 12N HCl or 5mL/L BrCl solution. If a sample will also be used for the determination of methyl mercury, it should be preserved with 5 mL/L HCl solution only.

2.4 Prior to analysis, a 100-mL sample aliquot is placed in a specially designed purge vessel, and 0.2N BrCl solution is added to oxidize all Hg compounds to Hg(II).

2.5 After oxidation, the sample is sequentially prereduced with NH_2OH. HCl to destroy the free halogens, and then reduced with $SnCl_2$ to convert Hg(II) to volatile Hg(0).

2.6 The Hg(0) is separated from solution by purging with nitrogen onto a gold-coated sand trap (Figure 1).

2.7 The trapped Hg is thermally desorbed from the gold trap into an inert gas stream that carries the released Hg(0) into the cell of a cold-vapor atomic fluorescence spectrometer (CVAFS) for detection (Figure 2).

2.8 Quality is ensured through calibration and testing of the oxidation, purging, and detection systems.

3.0 Definitions

3.1 Total mercury—all BrCl-oxidizable mercury forms and species found in an unfiltered aqueous solution. This includes, but is not limited to, Hg(II), Hg(0), strongly organo-complexed Hg(II) compounds, adsorbed particulate Hg, and several tested covalently bound organo-mercurials (e.g., CH_3HgCl, $(CH_3)_2Hg$, and $C_6H_5HgOOCCH_3$). The recovery of Hg bound within microbial cells may require the additional step of UV photo-oxidation. In this Method, total mercury and total recoverable mercury are synonymous.

3.2 Dissolved mercury—All BrCl-oxidizable mercury forms and species found in the filtrate of an aqueous solution that has been filtered through a 0.45 micron filter.

3.3 Apparatus—Throughout this Method, the sample containers, sampling devices, instrumentation, and all other materials and devices used in sample collection, sample processing, and sample analysis that come in contact with the sample and therefore require careful cleaning will be referred to collectively as the Apparatus.

3.4 Definitions of other terms used in this Method are given in the glossary at the end of the Method.

4.0 Contamination and Interferences

4.1 Preventing ambient water samples from becoming contaminated during the sampling and analysis process constitutes one of the greatest difficulties encountered in trace metals determinations. Over the last two decades, marine chemists have come to recognize that much of the historical data on the concentrations of dissolved trace metals in seawater are erroneously high because the concentrations reflect contamination from sampling and analysis rather than ambient levels. Therefore, it is imperative that extreme care be taken to avoid contamination when collecting and analyzing ambient water samples for trace metals.

4.2 Samples may become contaminated by numerous routes. Potential sources of trace metals contamination during sampling include: metallic or metal-containing labware (e.g., talc gloves that contain high levels of zinc), containers, sampling equipment, reagents, and reagent water; improperly cleaned and stored equipment, labware, and reagents; and atmospheric inputs such as dirt and dust. Even human contact can be a source of trace metals contamination. For example, it has been demonstrated that dental work (e.g., mercury amalgam fillings) in the mouths of laboratory personnel can contaminate samples that are directly exposed to exhalation (Reference 5).

4.3 Contamination Control.

4.3.1 Philosophy—The philosophy behind contamination control is to ensure that any object or substance that contacts the sample is metal free and free from any material that may contain mercury.

4.3.1.1 The integrity of the results produced cannot be compromised by contamination of samples. This Method and the Sampling Method give requirements and suggestions for control of sample contamination.

4.3.1.2 Substances in a sample cannot be allowed to contaminate the laboratory work area or instrumentation used for trace metals measurements. This Method gives requirements and suggestions for protecting the laboratory.

4.3.1.3 Although contamination control is essential, personnel health and safety remain the highest priority. The Sampling Method and Section 5 of this Method give suggestions and requirements for personnel safety.

4.3.2 Avoiding contamination—The best way to control contamination is to completely avoid exposure of the sample to contamination in the first place. Avoiding exposure means performing operations in an area known to be free from contamination. Two of the most important factors in avoiding/reducing sample contamination are (1) an awareness of potential sources of contamination and (2) strict attention to work being done. Therefore, it is imperative that the procedures described in this Method be carried out by well-trained, experienced personnel.

4.3.3 Use a clean environment—The ideal environment for processing samples is a class-100 clean room. If a clean room is not available, all sample preparation should be performed in a class-100 clean bench or a nonmetal glove box fed by mercury- and particle-free air or nitrogen. Digestions should be performed in a nonmetal fume hood situated, ideally, in the clean room.

4.3.4 Minimize exposure—The Apparatus that will contact samples, blanks, or standard solutions should be opened or exposed only in a clean room, clean bench, or glove box so that exposure to an uncontrolled atmosphere is minimized. When not being used, the Apparatus should be covered with clean plastic wrap, stored in the clean bench or in a plastic box or glove box, or bagged in clean zip-type bags. Minimizing the time between cleaning and use will also minimize contamination.

4.3.5 Clean work surfaces Before a given batch of samples is processed, all work surfaces in the hood, clean bench, or glove box in which the samples will be processed should be cleaned by wiping with a lint-free cloth or wipe soaked with reagent water.

4.3.6 Wear gloves—Sampling personnel must wear clean, nontalc gloves during all operations involving handling of the Apparatus, samples, and blanks. Only clean gloves may touch the Apparatus. If another object or substance is touched, the glove(s) must be changed before again handling the Apparatus. If it is even suspected that gloves have become contaminated, work must be

halted, the contaminated gloves removed, and a new pair of clean gloves put on. Wearing multiple layers of clean gloves will allow the old pair to be quickly stripped with minimal disruption to the work activity.

4.3.7 Use metal-free Apparatus—All Apparatus used for determination of mercury at ambient water quality criteria levels must be nonmetallic, free of material that may contain metals, or both.

4.3.7.1 Construction materials—Only fluoropolymer or borosilicate glass (if Hg is the only target analyte) containers should be used for samples that will be analyzed for mercury because mercury vapors can diffuse in or out of other materials, resulting in results that are biased low or high. All materials, regardless of construction, that will directly or indirectly contact the sample must be cleaned using the procedures in this Method and must be known to be clean and mercury free before proceeding.

4.3.7.2 Serialization—It is recommended that serial numbers be indelibly marked or etched on each piece of Apparatus so that contamination can be traced, and logbooks should be maintained to track the sample from the container through the labware to introduction into the instrument. It may be useful to dedicate separate sets of labware to different sample types; e.g., receiving waters vs. effluents. However, the Apparatus used for processing blanks and standards must be mixed with the Apparatus used to process samples so that contamination of all labware can be detected.

4.3.7.3 The laboratory or cleaning facility is responsible for cleaning the Apparatus used by the sampling team. If there are any indications that the Apparatus is not clean when received by the sampling team (e.g., ripped storage bags), an assessment of the likelihood of contamination must be made. Sampling must not proceed if it is possible that the Apparatus is contaminated. If the Apparatus is contaminated, it must be returned to the laboratory or cleaning facility for proper cleaning before any sampling activity resumes.

4.3.8 Avoid sources of contamination—Avoid contamination by being aware of potential sources and routes of contamination.

4.3.8.1 Contamination by carryover—Contamination may occur when a sample containing a low concentration of mercury is processed immediately after a sample containing a relatively high concentration of mercury. When an unusually concentrated sample is encountered, a bubbler blank should be analyzed immediately following the sample to check for carryover. Samples known or suspected to contain the lowest concentration of mercury should be analyzed first followed by samples containing higher levels.

4.3.8.2 Contamination by samples—Significant laboratory or instrument contamination may result when untreated effluents, in-process waters, landfill leachates, and other samples containing high concentrations of mercury are processed and analyzed. This Method is not intended for application to these samples, and samples containing high concentrations should not be permitted into the clean room or laboratory dedicated for processing trace metals samples.

4.3.8.3 Contamination by indirect contact—Apparatus that may not directly come in contact with the samples may still be a source of contamination. For example, clean tubing placed in a dirty plastic bag may pick up contamination from the bag and subsequently transfer the contamination to the sample. Therefore, it is imperative that every piece of the Apparatus that is directly or indirectly used in the collection, processing, and analysis of ambient water samples be thoroughly cleaned (see Section 6.1.2).

4.3.8.4 Contamination by airborne particulate matter—Less obvious substances capable of contaminating samples include airborne particles. Samples may be contaminated by airborne dust, dirt, particles, or vapors from unfiltered air supplies; nearby corroded or rusted pipes, wires, or other fixtures; or metal-containing paint. Whenever possible, sample processing and analysis should occur as far as possible from sources of airborne contamination.

4.4 Interferences.

4.4.1 Due to the BrCl oxidation step, there are no observed interferences in the determination of Hg by this Method.

4.4.2 The potential exists for destruction of the gold traps if free halogens are purged onto them, or if they are overheated (>500 °C). When the instructions in this Method are followed accurately, neither of these outcomes is likely.

4.4.3 Water vapor may collect in the gold traps and subsequently condense in the fluorescence cell upon desorption, giving a false peak due to scattering of the excitation radiation. Condensation can be avoided by predrying the gold trap, and by discarding those traps that tend to absorb large quantities of water vapor.

4.4.4 The fluorescent intensity is strongly dependent upon the presence of molecular species in the carrier gas that can cause "quenching" of the excited atoms. The dual amalgamation technique eliminates quenching due to trace gases, but it remains the analyst's responsibility to ensure high purity inert carrier gas and a leak-free analytical train.

5.0 Safety

5.1 The toxicity or carcinogenicity of each chemical used in this Method has not been precisely determined; however, each compound should be treated as a potential health hazard. Exposure to these compounds should be reduced to the lowest possible level.

5.1.1 Chronic mercury exposure may cause kidney damage, muscle tremors, spasms, personality changes, depression, irritability and nervousness. Organo-mercurials may cause permanent brain damage. Because of the toxicological and physical properties of Hg, pure standards should be handled only by highly trained personnel thoroughly familiar with handling and cautionary procedures and the associated risks.

5.1.2 It is recommended that the laboratory purchase a dilute standard solution of the Hg in this Method. If primary solutions are prepared, they shall be prepared in a hood, and a NIOSH/MESA-approved toxic gas respirator shall be worn when high concentrations are handled.

5.2 This Method does not address all safety issues associated with its use. The laboratory is responsible for maintaining a current awareness file of OSHA regulations for the safe handling of the chemicals specified in this Method. OSHA rules require that a reference file of material safety data sheets (MSDSs) must be made available to all personnel involved in these analyses (29 CFR 1917.28, Appendix E). It is also suggested that the laboratory perform personal hygiene monitoring of each analyst who uses this Method and that the results of this monitoring be made available to the analyst. Additional information on laboratory safety can be found in References 10–13. The references and bibliography at the end of Reference 13 are particularly comprehensive in dealing with the general subject of laboratory safety.

5.3 Samples suspected to contain high concentrations of Hg are handled using essentially the same techniques employed in handling radioactive or infectious materials. Well-ventilated, controlled access laboratories are required. Assistance in evaluating the health hazards of particular laboratory conditions may be obtained from certain consulting laboratories and from State Departments of Health or Labor, many of which have an industrial health service. Each laboratory must develop a strict safety program for handling Hg.

5.3.1 Facility—When samples known or suspected of containing high concentrations of mercury are handled, all operations (including removal of samples from sample containers, weighing, transferring, and mixing) should be performed in a glove box demonstrated to be leaktight or in a fume hood demonstrated to have adequate airflow. Gross losses to the laboratory ventilation system must not be allowed. Handling of the dilute solutions normally used in analytical and animal work presents no inhalation hazards except in an accident.

5.3.2 Protective equipment—Disposable plastic gloves, apron or lab coat, safety glasses or mask, and a glove box or fume hood adequate for radioactive work should be used. During analytical operations that may give rise to aerosols or dusts, personnel should wear respirators equipped with activated carbon filters.

5.3.3 Training—Workers must be trained in the proper method of removing contaminated gloves and clothing without contacting the exterior surfaces.

5.3.4 Personal hygiene—Hands and forearms should be washed thoroughly after each manipulation and before breaks (coffee, lunch, and shift).

5.3.5 Confinement—Isolated work areas posted with signs, segregated glassware and tools, and plastic absorbent paper on bench tops will aid in confining contamination.

5.3.6 Effluent vapors—The effluent from the CVAFS should pass through either a column of activated charcoal or a trap containing gold or sulfur to amalgamate or react mercury vapors.

5.3.7 Waste handling—Good technique includes minimizing contaminated waste.

Plastic bag liners should be used in waste cans. Janitors and other personnel must be trained in the safe handling of waste.

5.3.8 Decontamination.

5.3.8.1 Decontamination of personnel—Use any mild soap with plenty of scrubbing action.

5.3.8.2 Glassware, tools, and surfaces—Sulfur powder will react with mercury to produce mercuric sulfide, thereby eliminating the possible volatilization of Hg. Satisfactory cleaning may be accomplished by dusting a surface lightly with sulfur powder, then washing with any detergent and water.

5.3.9 Laundry—Clothing known to be contaminated should be collected in plastic bags. Persons who convey the bags and launder the clothing should be advised of the hazard and trained in proper handling. If the launderer knows of the potential problem, the clothing may be put into a washer without contact. The washer should be run through a cycle before being used again for other clothing.

5.3.10 Wipe tests—A useful method of determining cleanliness of work surfaces and tools is to wipe the surface with a piece of filter paper. Extraction and analysis by this Method can achieve a limit of detection of less than 1 ng per wipe. Less than 0.1 µg per wipe indicates acceptable cleanliness; anything higher warrants further cleaning. More than 10 µg on a wipe constitutes an acute hazard and requires prompt cleaning before further use of the equipment or work space, and indicates that unacceptable work practices have been employed.

6.0 Apparatus and Materials

Disclaimer: The mention of trade names or commercial products in this Method is for illustrative purposes only and does not constitute endorsement or recommendation for use by the Environmental Protection Agency. Equivalent performance may be achievable using apparatus, materials, or cleaning procedures other than those suggested here. The laboratory is responsible for demonstrating equivalent performance.

6.1 Sampling equipment.

6.1.1 Sample collection bottles-Fluoropolymer or borosilicate glass, 125-to 1000-mL, with fluoropolymer or fluoropolymer-lined cap.

6.1.2 Cleaning.

6.1.2.1 New bottles are cleaned by heating to 65–75 °C in 4 N HCl for at least 48 h. The bottles are cooled, rinsed three times with reagent water, and filled with reagent water containing 1% HCl. These bottles are capped and placed in a clean oven at 60–70 °C overnight. After cooling, they are rinsed three more times with reagent water, filled with reagent water containing 0.4% (v/v) HCl, and placed in a mercury-free class-100 clean bench until dry. The bottles are tightly capped (with a wrench), double-bagged in new polyethylene zip-type bags until needed, and stored in wooden or plastic boxes until use.

6.1.2.2 Used bottles known not to have contained mercury at high levels are cleaned as above, except for only 6–12 h in hot 4 N HCl.

6.1.2.3 Bottle blanks should be analyzed as described in Section 9.4.4.1 to verify the effectiveness of the cleaning procedures.

6.1.3 Filtration Apparatus.

6.1.3.1 Filter—0.45-µm, 15-mm diameter capsule filter (Gelman Supor 12175, or equivalent).

6.1.3.2 Peristaltic pump—115-V a.c., 12-V d.c., internal battery, variable-speed, single-head (Cole-Parmer, portable, "Masterflex L/S," Catalog No. H–07570–10 drive with Quick Load pump head, Catalog No. H–07021–24, or equivalent).

6.1.3.3 Tubing—styrene/ethylene/butylene/silicone (SEBS) resin for use with peristaltic pump, approx ⅜-in ID by approximately 3 ft (Cole-Parmer size 18, Catalog No. G–06464–18, or approximately ¼-in OD, Cole-Parmer size 17, Catalog No. G–06464–17, or equivalent). Tubing is cleaned by soaking in 5–10% HCl solution for 8–24 h, rinsing with reagent water in a clean bench in a clean room, and drying in the clean bench by purging with metal-free air or nitrogen. After drying, the tubing is double-bagged in clear polyethylene bags, serialized with a unique number, and stored until use.

6.2 Equipment for bottle and glassware cleaning.

6.2.1 Vat, 100–200 L, high-density polyethylene (HDPE), half filled with 4 N HCl in reagent water.

6.2.2 Panel immersion heater, 500–W, all-fluoropolymer coated, 120 vac (Cole-Parmer H–03053–04, or equivalent).

Warning: Read instructions carefully!! The heater will maintain steady state, without temperature feedback control, of 60–75 °C in a vat of the size described. However, the equilibrium temperature will be higher (up to boiling) in a smaller vat. Also, the heater plate MUST be maintained in a vertical position, completely submerged and away from the vat walls to avoid melting the vat or burning out!

6.2.3 Laboratory sink—in class-100 clean area, with high-flow reagent water (Section 7.1) for rinsing.

6.2.4 Clean bench—class-100, for drying rinsed bottles.

6.2.5 Oven—stainless steel, in class-100 clean area, capable of maintaining ± 5°C in the 60–70°C temperature range.

6.3 Cold vapor atomic fluorescence spectrometer (CVAFS): The CVAFS system used may either be purchased from a supplier, or built in the laboratory from commercially available components.

6.3.1 Commercially available CVAFS—Tekran (Toronto, ON) Model 2500 CVAFS, or Brooks-Rand (Seattle, WA) Model III CVAFS, or equivalent.

6.3.2 Custom-built CVAFS (Reference 14). Figure 2 shows the schematic diagram. The system consists of the following:

6.3.2.1 Low-pressure 4–W mercury vapor lamp.

6.3.2.2 Far UV quartz flow-through fluorescence cell—12 mm × 12 mm × 45 mm, with a 10-mm path length (NSG Cells, or equivalent).

6.3.2.3 UV-visible photomultiplier (PMT)—sensitive to <230 nm. This PMT is isolated from outside light with a 253.7-nm interference filter (Oriel Corp., Stamford, CT, or equivalent).

6.3.2.4 Photometer and PMT power supply (Oriel Corp. or equivalent), to convert PMT output (nanoamp) to millivolts.

6.3.2.5 Black anodized aluminum optical block—holds fluorescence cell, PMT, and light source at perpendicular angles, and provides collimation of incident and fluorescent beams (Frontier Geosciences Inc., Seattle, WA, or equivalent).

6.3.2.6 Flowmeter—with needle valve capable of reproducibly keeping the carrier gas flow rate at 30 mL/min.

6.4 Hg purging system—Figure 2 shows the schematic diagram for the purging system. The system consists of the following:

6.4.1 Flow meter/needle valve—capable of controlling and measuring gas flow rate to the purge vessel at 350 ± 50 mL/min.

6.4.2 Fluoropolymer fittings—connections between components and columns are made using 6.4-mm OD fluoropolymer tubing and fluoropolymer friction-fit or threaded tubing connectors. Connections between components requiring mobility are made with 3.2-mm OD fluoropolymer tubing because of its greater flexibility.

6.4.3 Acid fume pretrap—10-cm long × 0.9-cm ID fluoropolymer tube containing 2–3 g of reagent grade, nonindicating, 8–14 mesh soda lime chunks, packed between wads of silanized glass wool. This trap is cleaned of Hg by placing on the output of a clean cold vapor generator (bubbler) and purging for 1 h with N_2 at 350 mL/min.

6.4.4 Cold vapor generator (bubbler)—200-mL borosilicate glass (15 cm high × 5.0 cm diameter) with standard taper 24/40 neck, fitted with a sparging stopper having a coarse glass frit that extends to within 0.2 cm of the bubbler bottom (Frontier Geosciences, Inc. or equivalent).

6.5 The dual-trap Hg(0) preconcentrating system.

6.5.1 Figure 2 shows the dual-trap amalgamation system (Reference 5).

6.5.2 Gold-coated sand traps—10-cm long × 6.5-mm OD × 4-mm ID quartz tubing. The tube is filled with 3.4 cm of gold-coated 45/60 mesh quartz sand (Frontier Geosciences Inc., Seattle, WA, or equivalent). The ends are plugged with quartz wool.

6.5.2.1 Traps are fitted with 6.5-mm ID fluoropolymer friction-fit sleeves for making connection to the system. When traps are not in use, fluoropolymer end plugs are inserted in trap ends to eliminate contamination.

6.5.2.2 At least six traps are needed for efficient operation, one as the "analytical" trap, and the others to sequentially collect samples.

6.5.3 Heating of gold-coated sand traps—To desorb Hg collected on a trap, heat for 3.0 min to 450–500 °C (a barely visible red glow when the room is darkened) with a coil consisting of 75 cm of 24-gauge Nichrome wire at a potential of 10–14 vac. Potential is applied and finely adjusted with an autotransformer.

6.5.4 Timers—The heating interval is controlled by a timer-activated 120-V outlet (Gralab, or equivalent), into which the heating coil autotransformer is plugged. Two timers are required, one each for the "sample" trap and the "analytical" trap.

6.5.5 Air blowers—After heating, traps are cooled by blowing air from a small

squirrel-cage blower positioned immediately above the trap. Two blowers are required, one each for the "sample" trap and the "analytical" trap.

6.6 Recorder—Any multi-range millivolt chart recorder or integrator with a range compatible with the CVAFS is acceptable. By using a two pen recorder with pen sensitivity offset by a factor of 10, the dynamic range of the system is extended to 10^3.

6.7 Pipettors—All-plastic pneumatic fixed-volume and variable pipettors in the range of 10 µL to 5.0 mL.

6.8 Analytical balance capable of weighing to the nearest 0.01 g.

7.0 Reagents and Standards

7.1 Reagent water—18-MΩ minimum, ultrapure deionized water starting from a prepurified (distilled, reverse osmosis, etc.) source. Water should be monitored for Hg, especially after ion exchange beds are changed.

7.2 Air—It is very important that the laboratory air be low in both particulate and gaseous mercury. Ideally, mercury work should be conducted in a new laboratory with mercury-free paint on the walls. Outside air, which is very low in Hg, should be brought directly into the class-100 clean bench air intake. If this is not possible, air coming into the clean bench can be cleaned for mercury by placing a gold-coated cloth prefilter over the intake.

7.2.1 Gold-coated cloth filter: Soak 2 m^2 of cotton gauze in 500 mL of 2% gold chloride solution at pH 7. In a hood, add 100 mL of 30% $NH_2OH{\bullet}HCl$ solution, and homogenize into the cloth with gloved hands. The material will turn black as colloidal gold is precipitated. Allow the mixture to set for several hours, then rinse with copious amounts of deionized water. Squeeze-dry the rinsed cloth, and spread flat on newspapers to air-dry. When dry, fold and place over the intake prefilter of the laminar flow hood.

Caution: Great care should be taken to avoid contaminating the laboratory with gold dust. This could cause interferences with the analysis if gold becomes incorporated into the samples or equipment. The gilding procedure should be done in a remote laboratory if at all possible.

7.3 Hydrochloric acid—trace-metal purified reagent-grade HCl containing less than 5 pg/mL Hg. The HCl should be preanalyzed for Hg before use.

7.4 Hydroxylamine hydrochloride—Dissolve 300 g of $NH_2OH{\bullet}HCl$ in reagent water and bring to 1.0 L. This solution may be purified by the addition of 1.0 mL of $SnCl_2$ solution and purging overnight at 500 mL/min with Hg-free N_2.

7.5 Stannous chloride—Bring 200 g of $SnCl_2{\bullet}2H_2O$ and 100 mL concentrated HCl to 1.0 L with reagent water. Purge overnight with mercury-free N_2 at 500 mL/min to remove all traces of Hg. Store tightly capped.

7.6 Bromine monochloride (BrCl)—In a fume hood, dissolve 27 g of reagent grade KBr in 2.5 L of low-Hg HCl. Place a clean magnetic stir bar in the bottle and stir for approximately 1 h in the fume hood. Slowly add 38 g reagent grade $KBrO_3$ to the acid while stirring. When all of the $KBrO_3$ has been added, the solution color should change from yellow to red to orange. Loosely cap the bottle, and allow to stir another hour before tightening the lid.

Warning: This process generates copious quantities of free halogens (Cl_2, Br_2, BrCl), which are released from the bottle. Add the $KBrO_3$ slowly in a fume hood!

7.7 Stock mercury standard—NIST-certified 10,000-ppm aqueous Hg solution (NIST–3133). This solution is stable at least until the NIST expiration date.

7.8 Secondary Hg standard—Add approx 0.5 L of reagent water and 5 mL of BrCl solution (Section 7.6) to a 1.00-L class A volumetric flask. Add 0.100 mL of the stock mercury standard (Section 7.7) to the flask and dilute to 1.00 L with reagent water. This solution contains 1.00 "µg/mL (1.00 ppm) Hg. Transfer the solution to a fluoropolymer bottle and cap tightly. This solution is considered stable until the NIST expiration date.

7.9 Working Hg standard—Dilute 1.00 mL of the secondary Hg standard (Section 7.8) to 100 mL in a class A volumetric flask with reagent water containing 0.5% by volume BrCl solution (Section 7.6). This solution contains 10.0 ng/mL and should be replaced monthly.

7.10 IPR and OPR solutions—Using the working Hg standard (Section 7.9), prepare IPR and OPR solutions at a concentration of 5 ng/L Hg in reagent water.

7.11 Nitrogen—Grade 4.5 (standard laboratory grade) nitrogen that has been further purified by the removal of Hg using a gold-coated sand trap.

7.12 Argon—Grade 5.0 (ultra high-purity, GC grade) that has been further purified by the removal of Hg using a gold-coated sand trap.

8.0 Sample Collection, Preservation, and Storage

8.1 Before samples are collected, consideration should be given to the type of data required, (i.e., dissolved or total), so that appropriate preservation and pretreatment steps can be taken. The pH of all aqueous samples must be tested immediately before aliquotting for processing or direct analysis to ensure the sample has been properly preserved.

8.2 Samples are collected into rigorously cleaned fluoropolymer bottles with fluoropolymer or fluoropolymer-lined caps. Borosilicate glass bottles may be used if Hg is the only target analyte. It is critical that the bottles have tightly sealing caps to avoid diffusion of atmospheric Hg through the threads (Reference 4). Polyethylene sample bottles must not be used (Reference 14).

8.3 Collect samples using guidance provided in the Sampling Method (Reference 9). Procedures in the Sampling Method are based on rigorous protocols for collection of samples for mercury (References 4 and 14).

Note: Discrete samplers have been found to contaminate samples with Hg at the ng/L level. Therefore, great care should be exercised if this type of sampler is used to collect samples. It may be necessary for the sampling team to use other means of sample collection if samples are found to be contaminated using the discrete sampler.

8.4 Sample filtration—For dissolved Hg, samples and field blanks are filtered through a 0.45 µm capsule filter (Section 6.1.3.1). The Sampling Method gives the filtering procedures.

8.5 Preservation—Samples are preserved by adding either 5mL/L of pretested 12N HCl or 5 mL/L BrCl solution. If a sample will also be used for the determination of methyl mercury, it should be preserved with 5 mL/L HCl solution only. Acid- and BrCl-preserved samples are stable for a minimum of 6 months.

8.5.1 Samples may be shipped to the laboratory unpreserved if they are (1) collected in fluoropolymer bottles, (2) filled to the top with no head space, (3) capped tightly, and (4) maintained at 0–4°C from the time of collection until preservation. The samples must be acid-preserved within 48 h after sampling.

8.5.2 Samples that are acid-preserved may lose Hg to coagulated organic materials in the water or condensed on the walls (Reference 15). The best approach is to add BrCl directly to the sample bottle at least 24 hours before analysis. If other Hg species are to be analyzed, these aliquot must be removed prior to the addition of BrCl. If BrCl cannot be added directly to the sample bottle, the bottle must be shaken vigorously prior to sub-sampling.

8.5.3 Handling of the samples in the laboratory should be undertaken in a mercury-free clean bench, after rinsing the outside of the bottles with reagent water and drying in the clean air hood.

Note: Due to the potential for contamination, it is recommended that filtration and preservation of samples be performed in the clean room in the laboratory. However, if circumstances in the field prevent overnight shipment of samples, samples should be filtered and preserved in a designated clean area in the field in accordance with the procedures given in Sampling Method 1669 (Reference 9).

8.6 Storage—Sample bottles should be stored in clean (new) polyethylene bags until sample analysis. Refrigeration at 0—4°C is not necessary once samples are preserved. If properly preserved, samples can be held up to 6 months before analysis.

9.0 Quality Control

9.1 Each laboratory that uses this Method is required to operate a formal quality assurance program (Reference 16). The minimum requirements of this program consist of an initial demonstration of laboratory capability, ongoing analysis of standards and blanks as a test of continued performance, and the analysis of matrix spikes (MS) and matrix spike duplicates (M.SD) to assess accuracy and precision. Laboratory performance is compared to established performance criteria to determine that the results of analyses meet the performance characteristics of the Method.

9.1.1 The analyst shall make an initial demonstration of the ability to generate acceptable accuracy and precision with this Method. This ability is established as described in Section 9.2.

9.1.2 In recognition of advances that are occurring in analytical technology, the

analyst is permitted certain options to improve results or lower the cost of measurements. These options include automation of the dual-amalgamation system, single-trap amalgamation (Reference 17), direct electronic data acquisition, calibration using gas-phase elemental Hg standards, changes in the bubbler design (including substitution of a flow-injection system), or changes in the detector (i.e., CVAAS) when less sensitivity is acceptable or desired. Changes in the principle of the determinative technique, such as the use of colorimetry, are not allowed. If an analytical technique other than the CVAFS technique specified in this Method is used, that technique must have a specificity for mercury equal to or better than the specificity of the technique in this Method.

9.1.2.1 Each time this Method is modified, the analyst is required to repeat the procedure in Section 9.2. If the change will affect the detection limit of the Method, the laboratory is required to demonstrate that the MDL (40 CFR Part 136, Appendix B) is lower than one-third the regulatory compliance level or lower than the MDL of this Method, whichever is higher. If the change will affect calibration, the analyst must recalibrate the instrument according to Section 10.

9.1.2.2 The laboratory is required to maintain records of modifications made to this Method. These records include the following, at a minimum:

9.1.2.2.1 The names, titles, addresses, and telephone numbers of the analyst(s) who performed the analyses and modification, and the quality control officer who witnessed and will verify the analyses and modification.

9.1.2.2.2 A narrative stating the reason(s) for the modification(s).

9.1.2.2.3 Results from all quality control (QC) tests comparing the modified method to this Method, including the following:

(a) Calibration (Section 10).

(b) Initial precision and recovery (Section 9.2).

(c) Analysis of blanks (Section 9.4).

(d) Matrix spike/matrix spike duplicate analysis (Section 9.3).

(e) Ongoing precision and recovery (Section 9.5).

(f) Quality control sample (Section 9.6).

(g) Method detection limit (Section 9.2.1).

9.1.2.2.4 Data that will allow an independent reviewer to validate each determination by tracking the instrument output to the final result. These data are to include the following:

(a) Sample numbers and other identifiers.

(b) Processing dates.

(c) Analysis dates.

(d) Analysis sequence/run chronology.

(e) Sample weight or volume.

(f) Copies of logbooks, chart recorder, or other raw data output.

(g) Calculations linking raw data to the results reported.

9.1.3 Analyses of MS and MSD samples are required to demonstrate the accuracy and precision and to monitor matrix interferences. Section 9.3 describes the procedure and QC criteria for spiking.

9.1.4 Analyses of blanks are required to demonstrate acceptable levels of contamination. Section 9.4 describes the procedures and criteria for analyzing blanks.

9.1.5 The laboratory shall, on an ongoing basis, demonstrate through analysis of the ongoing precision and recovery (OPR) sample and the quality control sample (QCS) that the system is in control. Sections 9.5 and 9.6 describe these procedures, respectively.

9.1.6 The laboratory shall maintain records to define the quality of the data that are generated. Sections 9.3.7 and 9.5.3 describe the development of accuracy statements.

9.1.7 The determination of Hg in water is controlled by an analytical batch. An analytical batch is a set of samples oxidized with the same batch of reagents, and analyzed during the same 12-hour shift. A batch may be from 1 to as many as 20 samples. Each batch must be accompanied by at least three bubbler blanks (Section 9.4), an OPR sample, and a QCS. In addition, there must be one MS and one MSD sample for every 10 samples (a frequency of 10%).

9.2 Initial demonstration of laboratory capability.

9.2.1 Method detection limit—To establish the ability to detect Hg, the analyst shall determine the MDL determined according to the procedure at 40 CFR 136, Appendix B using the apparatus, reagents, and standards that will be used in the practice of this Method. The laboratory must produce an MDL that is less than or equal to the MDL listed in Section 1.5 or one-third the regulatory compliance limit, whichever is greater. The MDL should be determined when a new operator begins work or whenever, in the judgment of the laboratory, a change in instrument hardware or operating conditions would dictate that the MDL be redetermined.

9.2.2 Initial precision and recovery (IPR)'To establish the ability to generate acceptable precision and recovery, the analyst shall perform the following operations:

9.2.2.1 Analyze four replicates of the IPR solution (5 ng/L, Section 7.10) according to the procedure beginning in Section 11.

9.2.2.2 Using the results of the set of four analyses, compute the average percent recovery (X), and the standard deviation of the percent recovery (s) for Hg.

9.2.2.3 Compare s and X with the corresponding limits for initial precision and recovery in Table 2. If s and X meet the acceptance criteria, system performance is acceptable and analysis of samples may begin. If, however, s exceeds the precision limit or X falls outside the acceptance range, system performance is unacceptable. Correct the problem and repeat the test (Section 9.2.2.1).

9.3 Matrix spike (MS) and matrix spike duplicate (MSD)—To assess the performance of the Method on a given sample matrix, the laboratory must spike, in duplicate, a minimum of 10% (1 sample in 10) from a given sampling site or, if for compliance monitoring, from a given discharge. Therefore, an analytical batch of 20 samples would require two pairs of MS/MSD samples (four spiked samples total).

9.3.1 The concentration of the spike in the sample shall be determined as follows:

9.3.1.1 If, as in compliance monitoring, the concentration of Hg in the sample is being checked against a regulatory compliance limit, the spiking level shall be at that limit or at 1–5 times the background concentration of the sample (as determined in Section 9.3.2), whichever is greater.

9.3.1.2 If the concentration of Hg in a sample is not being checked against a limit, the spike shall be at 1–5 times the background concentration or at 1–5 times the ML in Table 2, whichever is greater.

9.3.2 To determine the background concentration (B), analyze one sample aliquot from each set of 10 samples from each site or discharge according to the procedure in Section 11. If the expected background concentration is known from previous experience or other knowledge, the spiking level may be established a priori.

9.3.2.1 If necessary, prepare a standard solution to produce an appropriate level in the sample (Section 9.3.1).

9.3.2.2 Spike two additional sample aliquots with the spiking solution and analyze these aliquots as described in Section 11.1.2 to determine the concentration after spiking (A).

9.3.3 Calculate the percent recovery (R) in each aliquot using the following equation:

$$\%R = 100\frac{(A - B)}{T}$$

Where:

A = Measured concentration of analyte after spiking

B = Measured concentration of analyte before spiking

T = True concentration of the spiking

9.3.4 Compare percent recovery (R) with the QC acceptance criteria in Table 2.

9.3.4.1 If results of the MS/MSD are similar and fail the acceptance criteria, and recovery for the OPR standard (Section 9.5) for the analytical batch is within the acceptance criteria in Table 2, an interference is present and the results may not be reported for regulatory compliance purposes. If the interference can be attributed to sampling, the site or discharge should be resampled. If the interference can be attributed to a method deficiency, the analyst must modify the method, repeat the test required in Section 9.1.2, and repeat analysis of the sample and MS/MSD. However, when Method 1631 was written, there were no known interferences in the determination of Hg using this Method. If such a result is observed, the laboratory should investigate it thoroughly.

9.3.4.2 If the results of both the spike and the OPR test fall outside the acceptance criteria, the analytical system is judged to be not in control. The laboratory must identify and correct the problem and reanalyze the sample batch.

9.3.5 Relative percent difference between duplicates'Compute the relative percent difference (RPD) between the MS and MSD results according to the following equation using the concentrations found in the MS and MSD. Do not use the recoveries calculated in Section 9.3.3 for this calculation because the RPD is inflated when the background concentration is near the spike concentration.

$$RPD = 200 \times \frac{(|D1 - D2|)}{(D1 + D2)}$$

Where:

D1 = concentration of Hg in the MS sample
D2 = concentration of Hg in the MSD sample

9.3.6 The RPD for the MS/MSD pair must not exceed the acceptance criterion in Table 2. If the criterion is not met, the system is judged to be out of control. The problem must be identified and corrected immediately, and the analytical batch reanalyzed.

9.3.7 As part of the QC program for the laboratory, method precision and accuracy for samples should be assessed and records maintained. After analyzing five samples in which the recovery passes the test in Section 9.3.4, compute the average percent recovery (R_a) and the standard deviation of the percent recovery (s_r). Express the accuracy assessment as a percent recovery interval from $R_a - 2s_r$ to $R_a + 2s_r$. For example, if R_a = 90% and s_r = 10% for five analyses, the accuracy interval is expressed as 70—110%. Update the accuracy assessment regularly (e.g., after every five to ten new accuracy measurements).

9.4 Blanks—Blanks are critical to the reliable determination of Hg at low levels. The sections below give the minimum requirements for analysis of blanks. However, it is suggested that additional blanks be analyzed as necessary to pinpoint sources of contamination in, and external to, the laboratory.

9.4.1 Bubbler blanks—Bubbler blanks are analyzed to demonstrate freedom from system contamination. At least three bubbler blanks must be run per analytical batch. One bubbler blank must be analyzed following each OPR. The mean bubbler blank for an analytical batch, if within acceptance criteria, is subtracted from all raw data for that batch prior to the calculation of results.

9.4.1.1 Immediately after analyzing a sample for Hg, place a clean gold trap on the bubbler, purge and analyze the sample a second time using the procedure in Section 11, and determine the amount of Hg remaining in the system.

9.4.1.2 If the bubbler blank is found to contain more than 50 pg Hg, the system is out of control. The problem must be investigated and remedied, and the samples run on that bubbler must be reanalyzed. If the blanks from other bubblers contain less than 50 pg Hg, the data associated with those bubblers remain valid.

9.4.1.3 The mean result for all bubbler blanks (from bubblers passing the specification in Section 9.4.1.2) in an analytical batch (at least three bubbler blanks) is calculated at the end of the batch. The mean result must be <25 pg with a standard deviation of <10 pg for the batch to be considered valid. If the mean is <25 pg, the average peak measurement value is subtracted from all raw data before results are calculated.

9.4.1.4 If Hg in the bubbler blank exceeds the acceptance criteria in Section 9.4.1.3, the system is out of control, and the problem must be resolved and the samples reanalyzed. Usually, the bubbler blank is too high for one of the following reasons:

(a) Bubblers need rigorous cleaning;
(b) Soda-lime is contaminated; or
(c) Carrier gas is contaminated.

9.4.2 Reagent blanks—The Hg concentration in reagent blanks must be determined on solutions of reagents by adding these reagents to previously purged reagent water in the bubbler.

9.4.2.1 Reagent blanks are required when the batch of reagents (bromine monochloride plus hydroxylamine hydrochloride) are prepared, with verification in triplicate each month until a new batch of reagents is needed.

9.4.2.2 Add aliquots of BrCl (0.5 mL), NH_2OH (0.2 mL) and $SnCl_2$ (0.5 mL) to previously purged reagent water in the bubbler.

9.4.2.3 The presence of more than 25 pg of Hg indicates a problem with the reagent solution. The purging of certain reagent solutions, such as $SnCl_2$ or NH_2OH with mercury-free nitrogen or argon can reduce Hg to acceptable levels. Because BrCl cannot be purified, a new batch should be made from different reagents and should be tested for Hg levels if the level of Hg in the BrCl solution is too high.

9.4.3 Field blanks.

9.4.3.1 Analyze the field blank(s) shipped with each set of samples (samples collected from the same site at the same time, to a maximum of 10 samples). Analyze the blank immediately before analyzing the samples in the batch.

9.4.3.2 If Hg or any potentially interfering substance is found in the field blank at a concentration equal to or greater than the ML (Table 2), or greater than one-fifth the level in the associated sample, whichever is greater, results for associated samples may be the result of contamination and may not be reported for regulatory compliance purposes.

9.4.3.3 Alternatively, if a sufficient number of field blanks (three minimum) are analyzed to characterize the nature of the field blank, the average concentration plus two standard deviations must be less than the regulatory compliance limit or less than one-half the level in the associated sample, whichever is greater.

9.4.3.4 If contamination of the field blanks and associated samples is known or suspected, the laboratory should communicate this to the sampling team so that the source of contamination can be identified and corrective measures taken before the next sampling event.

9.4.4 Equipment blanks—Before any sampling equipment is used at a given site, the laboratory or cleaning facility is required to generate equipment blanks to demonstrate that the sampling equipment is free from contamination. Two types of equipment blanks are required: bottle blanks and sampler check blanks.

9.4.4.1 Bottle blanks—After undergoing the cleaning procedures in this Method, bottles should be subjected to conditions of use to verify the effectiveness of the cleaning procedures. A representative set of sample bottles should be filled with reagent water acidified to pH <2 and allowed to stand for a minimum of 24 h. Ideally, the time that the bottles are allowed to stand should be as close as possible to the actual time that the sample will be in contact with the bottle. After standing, the water should be analyzed for any signs of contamination. If a bottle shows contamination at or above the level specified for the field blank (Section 9.4.3), the problem must be identified, the cleaning procedures corrected or cleaning solutions changed, and all affected bottles recleaned.

9.4.4.2 Sampler check blanks—Sampler check blanks are generated in the laboratory or at the equipment cleaning facility by processing reagent water through the sampling devices using the same procedures that are used in the field (see Sampling Method). Therefore, the "clean hands/dirty hands" technique used during field sampling should be followed when preparing sampler check blanks at the laboratory or cleaning facility.

9.4.4.2.1 Sampler check blanks are generated by filling a large carboy or other container with reagent water (Section 7.1) and processing the reagent water through the equipment using the same procedures that are used in the field (see Sampling Method, Reference 9). For example, manual grab sampler check blanks are collected by directly submerging a sample bottle into the water, filling the bottle, and capping. Subsurface sampler check blanks are collected by immersing a submersible pump or intake tubing into the water and pumping water into a sample container.

9.4.4.2.2 The sampler check blank must be analyzed using the procedures in this Method. If mercury or any potentially interfering substance is detected in the blank at or above the level specified for the field blank (Section 9.4.3), the source of contamination or interference must be identified, and the problem corrected. The equipment must be demonstrated to be free from mercury and interferences before the equipment may be used in the field.

9.4.4.2.3 Sampler check blanks must be run on all equipment that will be used in the field. If, for example, samples are to be collected using both a grab sampling device and a subsurface sampling device, a sampler check blank must be run on both pieces of equipment.

9.5 Ongoing precision and recovery (OPR)—To demonstrate that the analytical system is within the performance criteria of this Method and that acceptable precision and accuracy is being maintained within each analytical batch, the analyst shall perform the following operations:

9.5.1 Analyze the OPR solution (5 ng/L, Section 7.10) followed by a bubbler blank prior to the analysis of each analytical batch according to the procedure beginning in Section 11. An OPR also must be analyzed at the end of an analytical run or at the end of each 12-hour shift. Subtract the peak height (or peak area) of the bubbler blank from the peak height (or area) of the OPR and calculate the concentration for the blank-subtracted OPR.

9.5.2 Compare the concentration recovery with the limits for ongoing precision and recovery in Table 2. If the recovery is in the range specified, the analytical system is control and analysis of samples and blanks may proceed. If, however, the concentration is not in the specified range, the analytical

process is not in control. Correct the problem and repeat the ongoing precision and recovery test. All reported results must be associated with an OPR that meets the Table 2 performance criteria at the beginning and end of each batch.

9.5.3 The laboratory should add results that pass the specification in Section 9.5.2 to IPR and previous OPR data and update QC charts to form a graphic representation of continued laboratory performance. The laboratory should also develop a statement of laboratory data quality by calculating the average percent recovery (R_s) and the standard deviation of the percent recovery (s_r). Express the accuracy as a recovery interval from R_s—$2s_r$ to R_s + $2s_r$. For example, if R_s = 95% and s_r = 5%, the accuracy is 85–105%.

9.6 Quality control sample (QCS)—The laboratory must obtain a QCS from a source different from the Hg used to produce the standards used routinely in this Method (Sections 7.7–7.10). The QCS should be analyzed as an independent check of system performance

9.7 Depending on specific program requirements, the laboratory may be required to analyze field duplicates and field spikes collected to assess the precision and accuracy of the sampling, sample transportation, and storage techniques. The relative percent difference (RPD) between field duplicates should be less than 20%. If the RPD of the field duplicates exceeds 20%, the laboratory should communicate this to the sampling team so that the source of error can be identified and corrective measures taken before the next sampling event.

10.0 Calibration and Standardization

10.1 Establish the operating conditions necessary to purge Hg from the bubbler and to desorb Hg from the traps in a sharp peak. Further details for operation of the purge and trap and desorption and analysis systems is given in Sections 11.3 and 11.4, respectively. The entire system is calibrated using standards traceable to NIST standard reference material, as follows:

10.1.1 Calibration.

10.1.1.1 The calibration must contain five or more non-zero points and the results of analysis of two bubbler blanks. The lowest calibration point must be at the Minimum Level (ML).

10.1.1.2 Standards are analyzed by the addition of aliquots of the Hg working standard (Section 7.9) directly into the bubblers. Add a 50 µL aliquot of the working standard and 0.5 mL $SnCl_2$ to the bubbler. Swirl to produce a standard of 0.5 ng/L. Purge under the optimum operating conditions (Section 10.1). Sequentially follow with aliquots of 0.1, 0.5, 2.5, and 10 mL of the working standard plus 0.5 mL $SnCl_2$ to produce standards of 1, 5, 25, and 100 ng/L.

10.1.1.3 For each point, subtract the mean peak height or area of the bubbler blanks for the analytical batch from the peak height or area for the standard. Calculate the calibration factor (CF_x) for Hg in each of the five standards using the mean bubbler-blank-subtracted peak height or area and the following equation:

$$CF_X = \frac{(A_X) - (A_{BB})}{(C_X)}$$

Where:

A_X=peak height or area for Hg in standard

A_{BB}peak height or area for Hg in bubbler blank)

C_X=concentration of standard analyzed (ng/L)

10.1.1.4 Calculate the mean calibration factor (CF_m), the standard deviation of the calibration factor (SD), and the relative standard deviation (RSD) of the calibration factor, where RSD = 100 x SD/CF_m.

10.1.1.5 If RSD ≤ 15%, calculate the recovery for the lowest standard (0.5 ng/L) using CF_m. If the RSD ≤ 15% and the recovery of the lowest standard is in the range of 75–125%, the calibration is acceptable and CF_m may be used to calculate the concentration of Hg in samples. If RSD > 15% or if the recovery of the lowest standard is not in the range of 75–125%, recalibrate the analytical system and repeat the test.

10.2 Ongoing precision and recovery—Perform the ongoing precision and recovery test (Section 9.5) to verify calibration prior to and after analysis of samples in each analytical batch.

11.0 Procedure

Note: The following procedures for analysis of samples are provided as guidelines. Laboratories may find it necessary to optimize the procedures, such as drying time or potential applied to the Nichrome wires, for the laboratory's specific instrumental set-up.

11.1 Sample Preparation.

11.1.1 Pour a 100-mL aliquot from a thoroughly shaken, acidified sample, into a 125-mL fluoropolymer bottle. If BrCl was not added as a preservative (Section 8.5), add the amount of BrCl solution (Section 7.6) given below, cap the bottle, and digest at room temperature for a 12 h minimum.

11.1.1.1 For clear water and filtered samples, add 0.5 mL of BrCl; for brown water and turbid samples, add 1.0 mL of BrCl. If the yellow color disappears because of consumption by organic matter or sulfides, more BrCl should be added until a permanent (12-h) yellow color is obtained.

11.1.1.2 Some highly organic matrices, such as sewage effluent, will require high levels of BrCl (i.e., 5 mL/100 mL of sample), and longer oxidation times, or elevated temperatures (i.e.; place sealed bottles in oven at 50°C for 6 h). The oxidation always must be continued until a permanent yellow color remains.

11.1.2 Matrix spikes and matrix spike duplicates—For every 10 or fewer samples, pour two additional 100-mL aliquots from a randomly selected sample, spike at the level specified in Section 9.3, and process in the same manner as the samples. There should be 2 MS/MSD pairs for each analytical batch of 20 samples.

11.2 Hg reduction and purging—Place 100 mL of reagent water in each bubbler, add 1.0 mL of $SnCl_2$, and purge with Hg-free N_2 for 20 min at 300-400 mL/min (Figure 1).

11.2.1 Connect a gold sand trap to the output of the soda lime pretrap, and purge the water another 20 min to obtain a bubbler blank.

11.2.2 Add 0.2 mL of 30% N H2OH to the BrCl-oxidized sample in the 125-mL fluoropolymer bottle. Cap the bottle and swirl the sample. The yellow color will disappear, indicating the destruction of the BrCl. Allow the sample to react for 5 min with periodic swirling to be sure that no traces of halogens remain.

Note: Purging of free halogens onto the gold trap will result in damage to the trap and low or irreproducible results.

11.2.3 After discarding the water from the standards, connect a fresh trap to the bubbler, pour the reduced sample into the bubbler, add 0.5 mL of 20% $SnCl_2$ solution, and purge the sample onto a gold sand trap with N_2 for 20 min.

11.2.4 When analyzing Hg samples, the recovery is quantitative, and organic interferents are destroyed. Thus, standards, bubbler blanks, and small amounts of high-level samples may be run directly in the water of previously purged samples. After very high samples, a small degree of carryover (<0.01%) may occur. Bubblers that contain such samples should be blanked prior to proceeding with low level samples.

11.3 Desorption of Hg from the gold trap.

11.3.1 Remove the (sample) trap from the bubbler, place the Nichrome wire coil around the trap and connect the trap into the analyzer train between the incoming Hg-free argon and the second gold-coated (analytical) sand trap (Figure 2).

11.3.2 Pass argon through the sample and analytical traps at a flow rate of approximately 30 mL/min for approximately 2 min to drive off condensed water vapor.

11.3.3 Apply power to the coil around the sample trap for 3 minutes to thermally desorb the Hg (as Hg(0)) from the sample trap onto the analytical trap.

11.3.4 After the 3-min desorption time, turn off the power to the Nichrome coil, and cool the sample trap using the cooling fan.

11.3.5 Turn on the chart recorder or other data acquisition device to start data collection, and apply power to the Nichrome wire coil around the analytical trap. Heat the analytical trap for 3 min (1 min beyond the point at which the peak returns to baseline).

11.3.6 Stop data collection, turn off the power to the Nichrome coil, and cool the analytical trap to room temperature using the cooling fan.

11.3.7 Place the next sample trap in line and proceed with analysis of the next sample.

Note: Do not heat a sample trap while the analytical trap is still warm; otherwise, the analyte may be lost by passing through the analytical trap.

11.4 Peaks generated using this technique should be very sharp and almost symmetrical. Mercury elutes at approximately 1 minute and has a width at half-height of about 5 seconds.

11.4.1 Broad or asymmetrical peaks indicate a problem with the desorption train, such as improper gas flow rate, water vapor on the trap(s), or an analytical trap damaged by chemical fumes or overheating.

11.4.2 Damage to an analytical trap is also indicated by a sharp peak, followed by a small, broad peak.

11.4.3 If the analytical trap has been damaged, the trap and the fluoropolymer tubing downstream from it should be discarded because of the possibility of gold migration onto downstream surfaces.

11.4.4 Gold-coated sand traps should be tracked by unique identifiers so that any trap producing poor results can be quickly recognized and discarded.

12.0 Data Analysis and Calculations

12.1 Calculate the mean peak height or area for bubbler blanks, "BB" (n = at least 3).

12.2 Calculate the concentration of Hg in ng/L (parts-per-trillion; ppt) in each sample according to the following equation:

$$[Hg](ng/L) = \frac{A_s - A_{BB}}{CF_m \times V_s}$$

where:

A_s = peak height (or area) for Hg in sample

A_{BB} = peak height (or area) for Hg in bubbler blank

CF_m = mean calibration factor (Section 10.1.1.5)

V_s = sample volume in liters

12.3 Calculate the concentration of Hg in the reagent blank (C_{RB}), in ng/L, using the equation in Section 12.2 and substituting the peak height or area resulting from the reagent blank for A_s. If the Hg in the reagent blank is attributable to Hg in the BrCl, correct the concentration of Hg in the reagent blank by the volume of BrCl used for the particular sample (Section 11.1.1.2) using the following equation:

$$C_{RB} = \frac{V_{BS}}{V_{VBRB}}$$

where:

V_{BS} = volume of BrCl solution used in sample (Section 11.1.1.2)

V_{BRB} = volume of BrCl solution used in reagent blank (Section 9.4.2.2)

12.4 Reporting

12.4.1 Report results for Hg at or above the ML, in ng/L, to three significant figures. Report results for Hg in samples below the ML as <0.5 ng/L, or as required by the regulatory authority or in the permit. Report results for Hg in reagent blanks at or above the ML, in ng/L, to three significant figures. Report results for Hg in reagent blanks below the ML but at or above the MDL to two significant figures. Report results for Hg not detected in reagent blanks as > 0.2 ng/L, or as required by the regulatory authority or in the permit.

12.4.2 Report results for Hg in samples and reagent blanks separately, unless otherwise requested or required by a regulatory authority or in a permit. If blank correction is requested or required, subtract the concentration of Hg in the reagent blank from the concentration of Hg in the sample to obtain the net sample Hg concentration.

12.4.3 If the laboratory achieved an MDL lower than 0.2 ng/L (Section 1.5), a new ML may be calculated by multiplying the laboratory-determined MDL by 3.18 and rounding the result to the number nearest to (1, 2, or 5) × 10^n, where n is an integer. Results below these levels should be reported as above using the lower MDL and ML.

13.0 Method Performance

13.1 This method was tested in 12 laboratories using reagent water, freshwater, marine water and effluent (Reference 18). The quality control acceptance criteria listed in Table 2 were verified by data gathered in the interlaboratory study, and the method detection limit (MDL) given in Section 1.5 was verified in all 12 laboratories. In addition, the techniques in this Method have been intercompared with other techniques for low-level mercury determination in water in a variety of studies, including ICES–5 (Reference 19) and the International Mercury Speciation Intercomparison Exercise (Reference 20).

13.2 Precision and recovery data for reagent water, freshwater, marine water, and secondary effluent are given in Table 3.

14.0 Pollution Prevention

14.1 Pollution prevention encompasses any technique that reduces or eliminates the quantity or toxicity of waste at the point of generation. Many opportunities for pollution prevention exist in laboratory operation. EPA has established a preferred hierarchy of environmental management techniques that places pollution prevention as the management option of first choice. Whenever feasible, laboratory personnel should use pollution prevention techniques to address their waste generation. When wastes cannot be reduced feasibly at the source, the Agency recommends recycling as the next best option. The acids used in this Method should be reused as practicable by purifying by electrochemical techniques. The only other chemicals used in this Method are the neat materials used in preparing standards. These standards are used in extremely small amounts and pose little threat to the environment when managed properly. Standards should be prepared in volumes consistent with laboratory use to minimize the disposal of excess volumes of expired standards.

14.2 For information about pollution prevention that may be applied to laboratories and research institutions, consult *Less is Better: Laboratory Chemical Management for Waste Reduction*, available from the American Chemical Society's Department of Governmental Relations and Science Policy, 1155 16th Street NW, Washington DC 20036, 202/872–4477.

15.0 Waste Management

15.1 The laboratory is responsible for complying with all Federal, State, and local regulations governing waste management, particularly hazardous waste identification rules and land disposal restrictions, and for protecting the air, water, and land by minimizing and controlling all releases from fume hoods and bench operations. Compliance with all sewage discharge permits and regulations is also required.

15.2 Acids, samples at pH <2, and BrCl solutions must be neutralized before being disposed of, or must be handled as hazardous waste.

15.3 For further information on waste management, consult *Less is Better: Laboratory Chemical Management for Waste Reduction*, both available from the American Chemical Society's Department of Government Relations and Science Policy, 1155 16th Street NW, Washington, DC 20036.

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17.0 Glossary

The definitions and purposes below are specific to this Method, but have been conformed to common usage as much as possible.

17.1 *Ambient Water*—Waters in the natural environment (e.g., rivers, lakes, streams, and other receiving waters), as opposed to effluent discharges.

17.2 *Analytical Batch*—A batch of up to 20 samples that are oxidized with the same batch of reagents and analyzed during the same 12-hour shift. Each analytical batch must also include at least three bubbler blanks, an OPR, and a QCS. In addition, MS/MSD samples must be prepared at a frequency of 10% per analytical batch (one MS/MSD for every 10 samples).

17.3 *Bubbler Blank*—Analyzed to demonstrate freedom from system contamination. Immediately after analyzing a sample, water in the bubbler is purged and analyzed using the same procedure as for the samples to determine Hg. The blank is somewhat different between days, and a minimum of three bubbler blanks must be analyzed per analytical batch. The average of the results for the three bubbler blanks is subtracted from the result of analysis of each sample to produce a final result.

17.4 *Intercomparison Study*—An exercise in which samples are prepared and split by a reference laboratory, then analyzed by one or more testing laboratories and the reference laboratory. The intercomparison, with a reputable laboratory as the reference laboratory, serves as the best test of the precision and accuracy of the analyses at natural environmental levels.

17.5 *Matrix Spike (MS) and Matrix Spike Duplicate (MSD)*—Aliquots of an environmental sample to which known quantities of the analyte(s) of interest is added in the laboratory. The MS and MSD are analyzed exactly like a sample. Their purpose is to quantify the bias and precision caused by the sample matrix. The background concentrations of the analytes in the sample matrix must be determined in a separate aliquot and the measured values in the MS and MSD corrected for these background concentrations.

17.6 *May*—This action, activity, or procedural step is allowed but not required.

17.7 *May not*—This action, activity, or procedural step is prohibited.

17.8 *Minimum Level (ML)*—The lowest level at which the entire analytical system must give a recognizable signal and acceptable calibration point for the analyte. It is equivalent to the concentration of the lowest calibration standard, assuming that all method-specified sample weights, volumes, and cleanup procedures have been employed. The ML is calculated by multiplying the MDL by 3.18 and rounding the result to the number nearest to (1, 2, or 5) – 10^n, where n is an integer.

17.9 *Must*—This action, activity, or procedural step is required.

17.10 *Quality Control Sample (QCS)*—A sample containing Hg at known concentrations. The QCS is obtained from a source external to the laboratory, or is prepared from a source of standards different from the source of calibration standards. It is used as an independent check of instrument calibration.

17.11 *Reagent Water*—Prepared from 18 MΩ ultrapure deionized water starting from a prepurified source. Reagent water is used to wash bottles, as trip and field blanks, and in the preparation of standards and reagents.

17.12 *Regulatory Compliance Limit*—A limit on the concentration or amount of a pollutant or contaminant specified in a nationwide standard, in a permit, or otherwise established by a regulatory authority.

17.13 *Shall*—This action, activity, or procedure is required.

17.14 *Should*—This action, activity, or procedure is suggested, but not required.

17.15 *Stock Solution*—A solution containing an analyte that is prepared from a reference material traceable to EPA, NIST, or a source that will attest to the purity and authenticity of the reference material.

17.16 *Ultraclean Handling*—A series of established procedures designed to ensure that samples are not contaminated during sample collection, storage, or analysis.

18.0 *Tables and Figures*

TABLE 1.—LOWEST AMBIENT WATER QUALITY CRITERION FOR MERCURY AND THE METHOD DETECTION LIMIT AND MINIMUM LEVEL OF QUANTITATION FOR EPA METHOD 1631

Metal	Lowest ambient water quality criterion [1]	Method detection limit (MDL) and minimum level (ML)	
		MDL[2]	ML[3]
Mercury (Hg)	1.8 ng/L	0.2 ng/L	0.5 ng/L

[1] Lowest water quality criterion for the Great Lakes System (60 FR 15366, March 23, 1995). The lowest Nationwide criterion is 12 ng/L (40 CFR 131.36).
[2] Method detection limit (40 CFR 136, Appendix B).
[3] Minimum level of quantitation (see Glossary).

TABLE 2.—QUALITY CONTROL ACCEPTANCE CRITERIA FOR PERFORMANCE TESTS IN EPA METHOD 1631

Acceptance criteria	Section	Limit (%)
Initial precision and recovery (IPR)	9.2.2	
Precision (s)	9.2.2.3	21
Recovery (X)	9.2.2.3	79–121
Ongoing precision and recovery (OPR)	9.5.2	77–123
Matrix spike/matrix spike duplicate (MS/MSD)	9.3	
Recovery	9.3.4	75–125
Relative percent difference (RPD)	9.3.5	24

TABLE 3.—PRECISION AND RECOVERY FOR REAGENT WATER, FRESH WATER, MARINE WATER, AND EFFLUENT WATER USING METHOD 1631

Matrix	*Mean recovery (%)	*Precision (% RSD)
Reagent water	98.0	5.6
Fresh water (filtered)	90.4	8.3
Marine water (filtered)	92.3	4.7
Marine water (unfiltered)	88.9	5.0
Secondary effluent (filtered)	90.7	3.0
Secondary effluent (unfiltered)	92.8	4.5

*Mean percent recoveries and RSDs are based on expected Hg concentrations.

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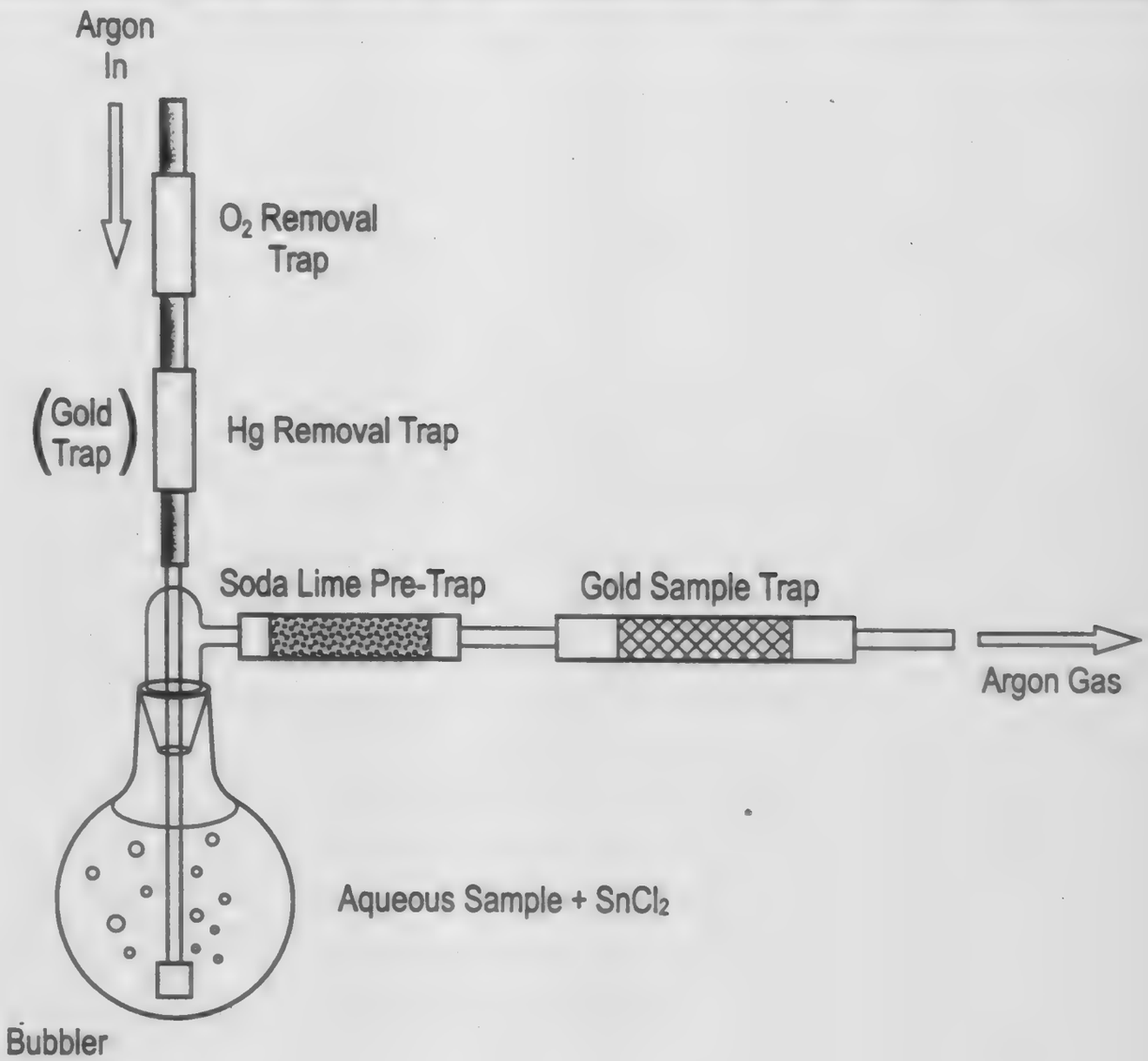


Figure 1. Schematic Diagram of Bubbler Setup

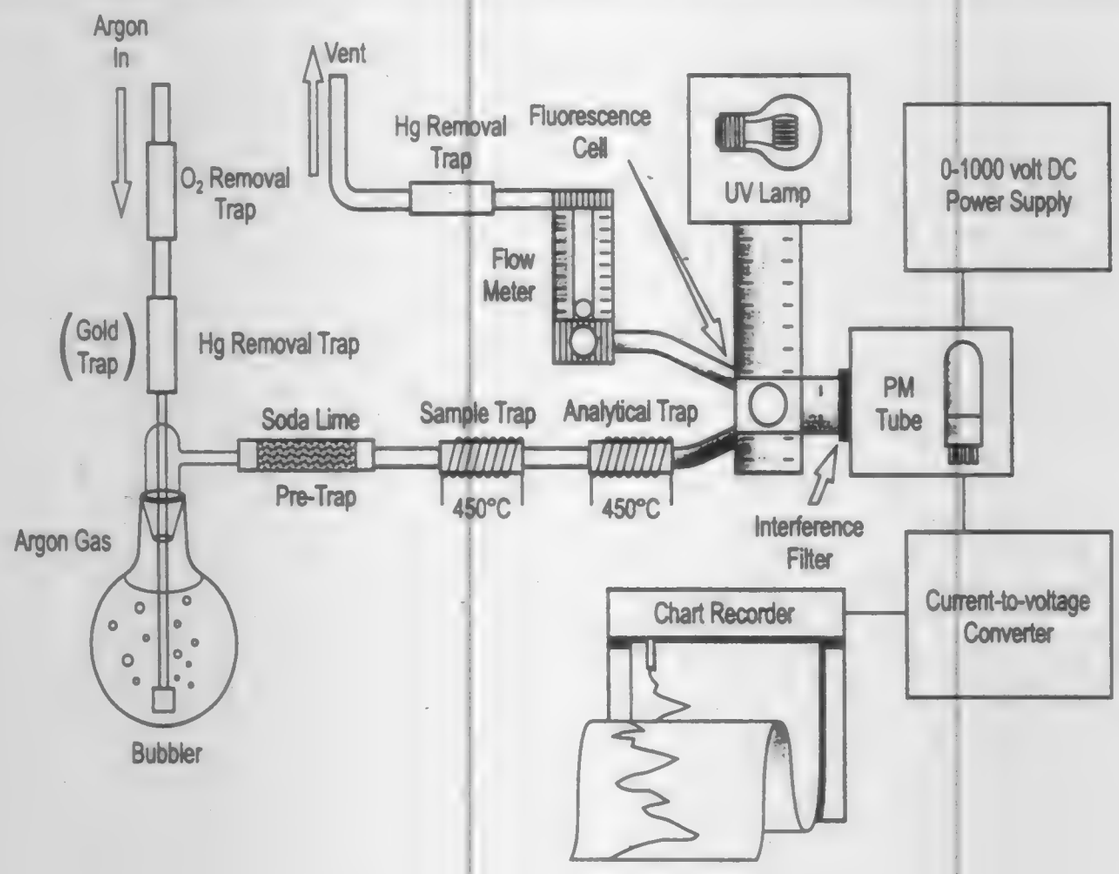


Figure 2. Schematic Diagram of the Cold Vapor Atomic Fluorescence Spectrometer (CVAFS) System

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Presidential Documents

Title 3—

The President

Proclamation 7098 of May 21, 1998

National Maritime Day, 1998

By the President of the United States of America

A Proclamation

The United States is and has always been a maritime Nation. Our history is tied to the sea—from the Santa Maria to the Mayflower, from clipper ships to ocean liners, from the Liberty Ships of World War II to the huge, efficient containerships of the 1990s—and our development as a Nation has paralleled the growth of our waterborne commerce.

As we look forward to the challenges of the 21st century, we continue to rely on our Nation's maritime industry and the U.S. Merchant Marine to keep America competitive in an increasingly global economy. Ships and barges carry more than one billion tons of commercial cargo annually between ports within our Nation. Internationally, more than 95 percent of our imports and exports by weight are transported on water—a total of more than one billion metric tons of cargo each year.

We also depend on America's maritime industry and Merchant Marine to fill a crucial role in protecting our national interests and the security of our allies. Throughout our history, in times of conflict or crisis, the owners, operators, and crews of U.S.-flag commercial vessels have provided vital sealift capability in support of our Armed Forces, advancing defense, peacekeeping, and humanitarian missions across the globe.

Our maritime industry has made many important contributions to the economic strength and defense capability of our Nation, and my Administration has worked with the Congress to implement new approaches to ensure the industry's continued viability. Our National Shipbuilding Initiatives are helping to improve the competitiveness of America's maritime industry by seeking to eliminate foreign subsidies, assisting the industry's international marketing efforts, eliminating unnecessary government regulations, and enhancing private sector financing of shipbuilding through Federal loan guarantees. Under the Maritime Security Program, the Federal Government contracts with owners and operators of U.S.-flag vessels to supplement our military sealift capability and gains access to a fleet of modern commercial ships and the sophisticated intermodal transportation system that supports it. Together, these programs protect our Nation's economic interests and our national security by ensuring that U.S.-flag vessels will always sail in the sea lanes of the world.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by a joint resolution approved May 20, 1933, has designated May 22 as "National Maritime Day" and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 22, 1998, as National Maritime Day. I urge all Americans to observe this day with appropriate programs, ceremonies, and activities and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

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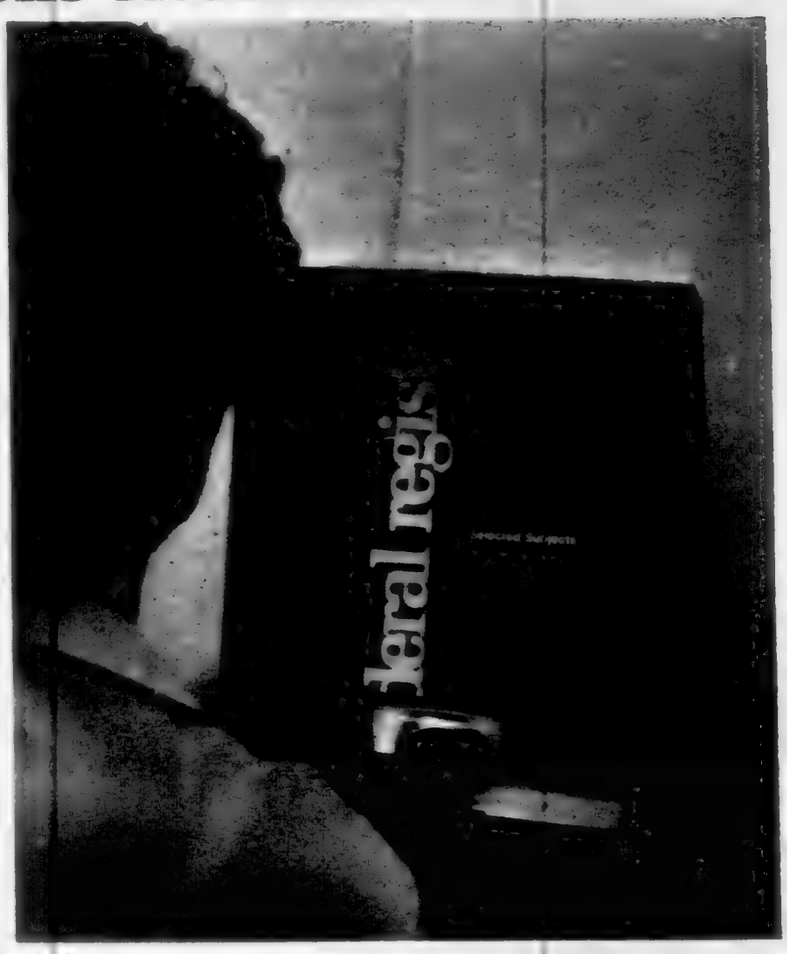
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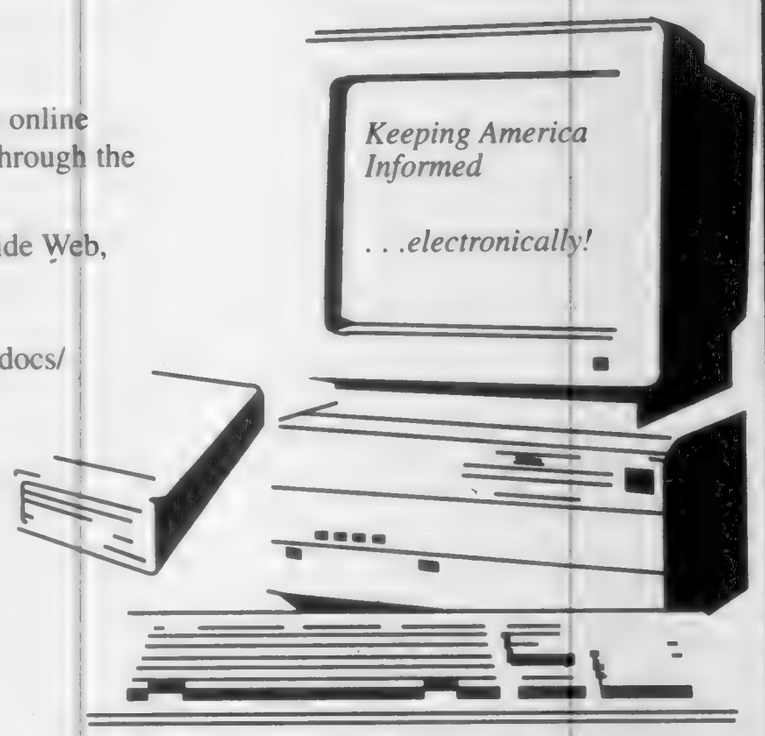
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The President

Proclamation 7099 of May 22, 1998

Prayer For Peace, Memorial Day, 1998

By the President of the United States of America

A Proclamation

Today Americans live in a time of great hope. Our Nation is free, prosperous, and at peace. While very real dangers and problems still exist in the world, the Cold War is over, democracy is sweeping the globe, and old adversaries are forming new partnerships.

But the blessings we enjoy today are not the happy accidents of history; they are the culmination of promises kept by generations of young Americans and paid for by their courage and sacrifice. The promise of freedom articulated in our Declaration of Independence was made real by a ragtag army of brave Americans who were prepared to die for their convictions. The promise of unity was kept during the Civil War by thousands of Americans, black and white, who were willing to fight to preserve our Union. The promise of democracy was kept by the hundreds of thousands of Americans who fought and died in World War I, World War II, Korea, Vietnam, and the Persian Gulf. On home soil and in foreign lands, lost at sea or brought down from the skies, our young men and women in uniform have given their lives to keep their promise to America: to defend our freedom, to preserve our values, and to advance the ideals of democracy.

On this Memorial Day, we, too, have promises to keep. We remember and honor all those gallant Americans who, in the eloquent words of President Lincoln, "gave the last full measure of devotion" for the well-being of our Nation and their fellow citizens. We express our profound sympathy and gratitude to the families who have lost their sons and daughters in service to America. We promise to keep faith with all those who have died for our country by remaining vigilant in our defense of freedom and democracy. And we promise always to work for permanent peace in the world so that a new generation of Americans will never have to know the horrors of war.

In respect and recognition of the courageous men and women to whom we pay tribute, the Congress, by joint resolution approved on May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the American people might unite in prayer.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Memorial Day, May 25, 1998, as a day of prayer for permanent peace, and I designate the hour beginning at 3:00 p.m. EDT of that day as a time to join in prayer. I urge the press, radio, television, and all other information media to take part in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff during this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 98–14165
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AI05

Federal Employees Health Benefits Program: Removal of Minimum Salary Requirement

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove an obsolete provision that prohibits an employee whose annual salary is $350 or less from enrolling in the Federal Employees Health Benefits (FEHB) Program.

EFFECTIVE DATE: June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Lease, 202–606–0004.

SUPPLEMENTARY INFORMATION: On January 6, 1998, OPM published a proposed rule in the **Federal Register** (63 FR 446) to remove an obsolete provision that prohibits an employee earning $350 or less per year from enrolling in the FEHB Program. This provision was based on the fact that, until they were amended in 1982, FEHB regulations required that employee contributions to premiums could only be made by salary withholding while an employee was in a pay status. ($350 is the amount which, when the Program began in 1960, was sufficient to cover the appropriate employee contributions for the least costly FEHB plan.) As amended in August 1982, however, the regulations now require enrollee contributions, by direct payment if necessary, for all periods during which coverage continues, even periods during which an employee does not receive pay (such as a leave without pay situation).

We also proposed to amend the reference in the definition of *letter of credit* under § 890.101 to conform to a recent reference change in Chapter 16 of title 48, Code of Federal Regulations (FEHBAR).

We received no comments.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal employees.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended, § 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251.

2. In § 890.101, paragraph (a), the definition of *Letter of Credit* is revised to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

Letter of credit is defined in 48 CFR 1602.170–10.

* * * * *

§ 890.102 [Amended]

3. In § 890.102, paragraph (c)(4) is removed and paragraphs (c)(5), (c)(6), (c)(7), and (c)(8) are redesignated as paragraphs (c)(4), (c)(5), (c)(6), and (c)(7) respectively.

4. In § 890.303, paragraph (b) is revised to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(b) *Change of enrolled employees to certain excluded positions.* Employees and annuitants enrolled under this part who move, without a break in service or after a separation of 3 days or less, to an employment in which they are excluded by § 890.102(c), continue to be enrolled unless excluded by paragraphs (c) (4), (5), (6), or (7) of § 890.102.

* * * * *

[FR Doc. 98–13922 Filed 5–26–98; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–12]

Amendment to Class E Airspace; Knoxville, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Knoxville Municipal Airport, Knoxville, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 15 and RWY 33 Standard Instrument Approach Procedures (SIAPs) to serve Knoxville Municipal Airport. Additional controlled airspace extending upward form 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 15 and GPS RWY 33 SIAPs in controlled airspace. The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 15 and GPS RWY 33 SIAPs and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, August 13, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–12, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 15 and GPS RWY 33 SIAPs to serve the Knoxville Municipal Airport, Knoxville, IA. The amendment to Class E airspace at Knoxville, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward form 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–112." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant to preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Knoxville, IA [Revised]

Knoxville Municipal Airport, IA
(Lat. 41°17'56" N., long. 93°06'50" W.)
Knoxville NDB
(Lat. 41°17'45" N., long. 93°06'51" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Knoxville Municipal airport and within 2.6 miles each side of the 145° bearing from the Knoxville NDB extending from the 6.8-mile radius to 7 miles southeast of the airport and with 2.6 miles each side of the 340° bearing from the Knoxville NDB extending from the 6.8-mile radius to 7 miles northwest of the airport, exclusion that

airspace within the Knoxville, IA, Class E airspace area.

* * * * *

Issued in Kansas City, MO, on March 31, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–13995 Filed 5–26–98; 8:45 am]

BILLING CODE 13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 88G–0288]

Direct Food Substances Affirmed As Generally Recognized as Safe; Sheanut Oil

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to affirm that the use of sheanut oil as a direct human food ingredient is generally recognized as safe (GRAS). This action is in response to a petition filed by Fuji Oil Co., Ltd.

DATES: The regulation is effective May 27, 1998.

FOR FURTHER INFORMATION CONTACT: William J. Trotter, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3088.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the procedures described in § 170.35 (21 CFR 170.35), Fuji Oil Co., Ltd., 6–1, Hachiman-Cho, Minami-Ku, Osaka 542, Japan, submitted a petition (GRASP 8G0343) requesting that sheanut oil be affirmed as GRAS for use as a direct food ingredient.

FDA published a notice of filing of this petition in the **Federal Register** of September 30, 1988 (53 FR 38347), and gave interested parties an opportunity to submit comments to the agency. FDA received three comments in response to that notice. These comments are discussed in section VIII of this document.

II. Standards for GRAS Affirmation

Under § 170.30 (21 CFR 170.30), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances. The basis of such views may be either: (1) Scientific procedures, or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food (§ 170.30(a)). General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence as is required to obtain approval of a food additive and ordinarily is to be based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive, but ordinarily is to be based upon generally available data and information concerning the pre-1958 history of use of the food ingredient (§ 170.30(c)(1)). In evaluating this petition, the agency reviewed information and data on the history of sheanut oil use and on published and unpublished safety studies for sheanut oil.

III. Identity and Specification

Sheanut oil is produced from sheanuts derived from the Shea tree *Butyrospermum parkii* and is composed mainly of triglycerides containing an oleic acid moiety at the 2-position and saturated fatty acids, usually stearic or palmitic acids, at the 1- and 3-positions. It meets the following specifications, which are consistent with those for other food-grade oils as described in the Food Chemicals Codex (Ref. 1):

1. Saponification value—185 to 195,
2. Iodine value—28 to 43,
3. Unsaponifiable matter—not to exceed 1.5 percent,
4. Free fatty acids—less than 0.1 percent (as oleic acid),
5. Peroxide value—less than 10 milliequivalents/equivalent (meq/eq),
6. Heavy metals—less than 0.1 part per million (ppm) each of lead and copper.

The petitioner adequately referenced methods of analyses for these specifications.

IV. Manufacturing Process

Sheanut oil is refined by various processes, which may involve different sequences of manufacturing steps and solvents that are in common use in the fat and oil industry. The crude oil must be refined to remove excessive unsaponifiable material. Standard refining techniques, e.g., decolorization by passage through bleaching clay and steam distillation to remove odoriferous impurities, are employed to purify further the oil.

V. Proposed Use in Food

The intended use for sheanut oil is as a component of a mixture of oils used as cocoa butter substitutes. The agency has calculated a mean estimated daily intake (EDI) of 2.2 gram/person/day (g/p/d) for sheanut oil in confections and candies (2+ year olds). The EDI for consumers at the 90th percentile level is 4.4 g/p/d. The EDI for children from 2 to 5 years old is 1.8 g/p/d at the mean and 4.3 g/p/d at the 90th percentile level.

VI. Common Use in Food Before 1958

The petitioner provided several published articles that document that sheanut oil has a history of common use in food prior to 1958. Sheanut oil has been used in Africa for food purposes since the 1800's (Ref. 2). It has also been used in Europe as a cooking oil and as a cocoa butter substitute, as well as for making margarine (Ref. 3 through 7). In addition, in a comment submitted in support of the petition, Loders Croklaan, Inc.,[1] of Berwyn, PA, presented information that documents use of sheanut oil in England for more than 50 years; among the uses of sheanut oil documented in this comment were as a pastry fat, a cooking oil, a cocoa butter substitute, and for making margarine. The comment provided copies of formulations from England that showed that some cooking fats in 1948 contained between 5 and 7 percent sheanut oil and that a pastry margarine known as "flex," marketed between 1954 and 1958, contained between 80 and 91 percent sheanut oil.[2]

VII. Safety Information

The evidence documenting common use of sheanut oil in food reflects no known adverse effects. The absence of documented adverse effects from food use of sheanut oil is corroborated by several animal feeding studies, by information regarding the components of sheanut oil, and its similarity in

[1] In a comment submitted to the agency, Loders Croklaan, Inc., also requested that all safety data and other information concerning sheanut oil contained in its Food Master File (FMF) No. 253 be incorporated into Fuji's petition. Consequently, the information contained in FMF No. 253 was made available for public display under the same docket no. 88G–0288 with the Fuji petition.

[2] In addition, in its comment Loders Croklaan, Inc., quoted official United Kingdom statistics for sheanuts imported into the United Kingdom as averaging 6,000 metric tons per year between 1948 and 1957.

composition to other GRAS fats and oils.

Specifically, sheanut oil is composed principally of triglycerides containing oleic acid in the 2-position and the saturated fatty acids, usually stearic and palmitic acids, in the 1- and 3-positions. The components of these triglycerides, glycerol, and oleic, stearic, and palmitic acids, as well as other fatty acids found as minor components, are naturally found as part of lipids and lipoproteins of both plants and animals; they are also the same fatty acids and glycerol components found in a broad range of edible fats and oils that are GRAS. The synthesis and metabolism of these substances are well understood and are documented in biochemistry textbooks (for example, Ref. 8).

In addition, the agency has determined that sheanut oil has an overall composition that conforms to that of other edible oils in terms of its total glyceride content, fractions of tri-, di- and monoglycerides, and unsaponifiable matter (Ref. 9). Thus, sheanut oil is similar in chemical composition to commonly used GRAS fats and oils, such as cocoa butter, cottonseed oil, soybean oil, corn oil, and palm oil.

Further, the agency evaluated four corroborative animal studies on the safety of sheanut oil. Three of these studies, which are published (Ref. 10 through 12), establish that sheanut oil has absorbability comparable to that as the other tested GRAS oils and fats. These studies also establish that the growth rates for the subject animals were comparable to those for animals fed other GRAS oils and fats. The fourth study, which is unpublished, is a 104-week toxicity/carcinogenicity study of sheanut oil and other oils in rats. The results of this 104-week study demonstrate that there is no carcinogenic potential for sheanut oil (Ref. 13).

VIII. Response to Comments

In response to the published notice, FDA received three comments from the law offices of Freeman, Wasserman & Schneider on behalf of Loders Croklaan, Inc., of Berwyn, PA.

As discussed previously, the first comment requested that FDA incorporate the safety data and other information on sheanut oil submitted by Loders Croklaan, Inc., and contained in FMF No. 253. The comment asserted that, in addition to the fact that sheanut oil has been used as part of the human diet for a considerable period of time prior to 1958 in countries outside the United States, the safety data also establish that sheanut oil is safe for human consumption.

The second comment, also submitted in support of the petition, was intended to: (1) Provide independent documentation of the history of use of sheanut oil in food prior to 1958 (discussed in section VI of this document), (2) provide safety data for sheanut oil (discussed in section VII of this document), and (3) suggest modifications to the proposed specifications of sheanut oil. These suggested modifications are consistent with the fact that sheanut oil can be made by different processes that involve various sequences of processing steps and various solvents. The comment asserted that certain changes, discussed as follows, should be made to the specifications proposed by the petitioner.

First, the comment stated that the refined oil produced by Loders Croklaan, Inc.'s process, which has an iodine value typically between 33 and 43, allows for a greater percentage of 2-oleoyl-1,3-distearin (SOS). The comment pointed out that an oil composed entirely of SOS would have an iodine value of 25 and, therefore, recommended a specification for an iodine value between 25 and 43. Second, the comment stated that, if a specification for residual solvent is included, it should reflect the possible varieties of recrystallizing and precipitating solvents typically used in the fat and oil industry, instead of specifications for hexane and ethanol only, which the petitioner uses in its process. Third, the comment stated that the proposed specifications for specific gravity and refractive index reflect only the petitioner's oil product and that if these specifications are to be included in a regulation, the comment suggested that broader ranges be used to reflect industry-wide standards rather than the petitioner's specific product.

The agency agrees that sheanut oil may be refined using a variety of solvents and procedures commonly used in the fats and oils industry. The agency believes that sheanut oil produced by standard processing of sheanuts, including further refining to remove excessive unsaponifiable material, should be the food ingredient to be affirmed as GRAS and that the specifications for sheanut oil should encompass all of the typical sheanut oils produced under good manufacturing practices.

The agency agrees with the comment that the range given for iodine value should be modified. However, the agency has calculated a theoretical iodine value for pure SOS of 28.6 and, therefore, believes that a specification range of 28 to 43 would encompass all likely refined sheanut oils (Ref. 14). With regard to residual solvents, the agency agrees with the comment that the specifications for solvents should not be limited to those used by the petitioner (Ref. 14). The agency notes that solvents other than those used by the petitioner are used in the fats and oils industry, and further notes that any residual solvent that becomes or may reasonably be expected to become a functional component of sheanut oil must be GRAS or a food additive approved for use in the manufacture of food fats and oils. Therefore, the agency believes that no specification for solvents is necessary. Similarly, the agency does not believe that specifications for specific gravity and refractive index are necessary in a regulation in order to ensure a safe product; this would be consistent with specifications for other food-grade oils as described in the Food Chemicals Codex (Ref. 1).

The third comment was a reiteration of Loders Croklaan, Inc.'s position regarding specifications for sheanut oil, which have been discussed previously, together with the agency's response.

IX. Conclusions

The petitioner has provided evidence that demonstrates that sheanut oil was in common use in food prior to 1958; this information is published and is corroborated by other information from separate published sources, including information submitted in a comment. There are no reports of adverse effects from such food use of sheanut oil. As provided for under § 170.30(a)(2), FDA has determined that this information provides an adequate basis upon which to conclude that the use of sheanut oil is GRAS among experts qualified by scientific training and experience to evaluate the safety of substances used in food.

This evidence of common use in food prior to 1958 without any reported adverse effects is further corroborated by information regarding the components of sheanut oil, the similarity of sheanut oil to other oils that are GRAS, and the results of four animal feeding studies, three of which are published. Therefore, the agency is affirming the use of sheanut oil as GRAS in accordance with 21 CFR 184.1(b)(3) in the following food categories at levels not to exceed current good manufacturing practice, except that the ingredient may not be used in a standardized food unless permitted by the standard of identity: Confections and frostings as defined in § 170.3(n)(9)

(21 CFR 170.3(n)(9)), coatings of soft candy as defined in § 170.3(n)(38), and sweet sauces and toppings as defined in § 170.3(n)(43).

X. Environmental Effects

The agency has determined under 21 CFR 25.32(f) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is "economically significant" if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. A regulation is considered "significant" under Executive Order 12866 if it raises novel legal or policy issues. The agency finds that this rule is neither an economically significant nor a significant regulatory action as defined by Executive Order 12866. In addition, it has been determined that this final rule is not a major rule for the purpose of congressional review.

The primary benefit of this action is to remove uncertainty about the regulatory status of the petitioned substance. No compliance costs are associated with this final rule because no new activity is required, and no current or future activity is prohibited by this rule.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize the economic impact of their regulations on small businesses and other small entities. No compliance costs are associated with this final rule because no new activity is required, and no current or future activity is prohibited. Therefore, this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, under the Regulatory Flexibility Act, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

XII. Effective Date

This rule recognizes an exemption from the food additive definition in the Federal Food, Drug, and Cosmetic Act, and from the approval requirements applicable to food additives. Thus, no delay in the effective date is required by the Administrative Procedure Act (5 U.S.C. 553(d)). Therefore, the rule will be effective immediately (5 U.S.C. 553(d)(1)).

XIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. *Food Chemicals Codex*, National Research Council, National Academy Press, Washington, DC, 4th ed., 1996.
2. "Shea," *The Oxford English Dictionary*, The Clarendon Press, Oxford, p. 648, 1933.
3. Hefter, G., *Technologie der Fette und Ole*, Julius Springer, Berlin, pp. 688–693, 1908.
4. Jamieson, G. S., *Vegetable Fats and Oils*, Reinhold Publishing Corp., New York, p. 63, 1943.
5. Schwitzer, M. K., *Margarine and Other Food Fats*, Leonard Hill [Books], Ltd., London, p. 40, 1956.
6. Commonwealth Economic Committee, *Vegetables Oils and Oilseeds*, Royal Stationary Office, London, pp. 130–131, 1952.
7. Anderson, J. A. C., and P. N. Williams, *Margarine*, Pergamon Press, Oxford, 2d revised ed., p. 34, 1965.
8. Lehninger, A. L., *Principles of Biochemistry*, Worth Publishers, Inc., New York, NY, 1982.
9. Memorandum from M. DiNovi, FDA to L. Lin, FDA, January 9, 1989.
10. Thomasson, H. J., "The Biological Value of Oils and Fats: I. Growth and Food Intake on Feeding with Natural Oils and Fats," *Journal of Nutrition 56*, pp. 455–468, 1955.
11. Thomasson, H. J., "The Biological Value of Oils and Fats: IV. The Rate of Intestinal Absorption," *Journal of Nutrition 59*, pp. 343–352, 1956.
12. Sawadogo, K. A., and J. A. Bezard, "Triglyceride Structure of Adipose Tissue of Rats Fed a Diet Based on Shea Butter," *Oleagineux 37*, pp. 247–253, 1982.
13. Memorandum of C. Johnson, FDA to K. Ekelman, FDA, May 18, 1995.
14. Memorandum of M. DiNovi, FDA to L. Lin, FDA, February 21, 1989.

List of Subjects in 21 CFR Part 184

Food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

2. Section 184.1702 is added to read as follows:

§ 184.1702 Sheanut oil.

(a) Sheanut oil is produced from sheanuts derived from the Shea tree *Butyrospermum parkii* and is composed principally of triglycerides containing an oleic acid moiety at the 2-position and saturated fatty acids, usually stearic or palmitic acids, at the 1- and 3-positions.

(b) The ingredient meets the following specifications when tested using any appropriate validated methodology:

(1) Saponification value of 185 to 195,

(2) Iodine value of 28 to 43,

(3) Unsaponifiable matter not to exceed 1.5 percent,

(4) Free fatty acids not more than 0.1 percent as oleic acid,

(5) Peroxide value not more than 10 milliequivalents/equivalent (meq/eq),

(6) Lead not more than 0.1 part per million (ppm),

(7) Copper not more than 0.1 ppm.

(c) In accordance with § 184.1(b)(3), the ingredient is used in the following food categories at levels not to exceed current good manufacturing practice, except that the ingredient may not be used in a standardized food unless permitted by the standard of identity: Confections and frostings as defined in § 170.3(n)(9) of this chapter, coatings of soft candy as defined in § 170.3(n)(38) of this chapter, and sweet sauces and toppings as defined in § 170.3(n)(43) of this chapter.

Dated: May 13, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–13917 Filed 5–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotics Traffickers: Additional Designations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Amendment of final rule.

SUMMARY: The Treasury Department is adding to Appendices A and B to 31 CFR chapter V the names of 6 individuals and 21 entities that have been determined to play a significant role in international narcotics trafficking centered in Colombia or have been determined to be owned or controlled by, or to act for or on behalf of, other specially designated narcotics traffickers.

EFFECTIVE DATE: May 26, 1998.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Background

Appendices A and B to 31 CFR chapter V contain the names of blocked persons, specially designated nationals, specially designated terrorists, and specially designated narcotics traffickers designated pursuant to the various economic sanctions programs administered by the Office of Foreign Assets Control ("OFAC") (62 FR 34934, June 27, 1997). Pursuant to Executive Order 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") and § 536.312 of the Narcotics Trafficking Sanctions Regulations, 31 CFR Part 536 (the "Regulations"), the following 6 individuals and 21 entities are added to the Appendices as persons who have been determined to play a significant role in international narcotics trafficking centered in Colombia or who have been determined to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs"). Any property subject to the jurisdiction of the United States in which an SDNT has an interest is blocked, and U.S. persons are prohibited from engaging in any transaction or in dealing in any property in which an SDNT has an interest.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

For the reasons set forth in the preamble, and under the authority of 3 U.S.C. 301; 50 U.S.C. 1601–1641; 50 U.S.C. 1701–1706; E.O. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415, appendices A and B to chapter V of 31 CFR are amended as set forth below:

1. Appendices A and B to chapter V of 31 CFR are amended by adding the following names inserted in alphabetical order (1) in Appendix A, section I, and (2) under the heading "Colombia" in Appendix B:

AGRICOLA SONGO LTDA., Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 890115794–3 (Colombia) [SDNT]

ARANA MARIA, Jairo Abraham, Calle 74 No. 53–30, Barranquilla, Colombia; c/o DESARROLLOS URBANOS "DESARROLLAR" LTDA., Barranquilla, Colombia; c/o EDIFICACIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o GRAN COMPAÑIA DE HOTELES LTDA., Barranquilla, Colombia; c/o HOTELES E INMUEBLES DE COLOMBIA LTDA., Barranquilla, Colombia; c/o INMOBILIARIA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INMOBILIARIA HOTELERA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INVERSIONES HOTELERAS DEL LITORAL LTDA., Barranquilla, Colombia; c/o INVERSIONES PRADO TRADE CENTER LTDA., Barranquilla, Colombia; c/o NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., Barranquilla, Colombia; c/o SURAMERICANA DE HOTELES LTDA., Barranquilla, Colombia; DOB 8 February 1953; alt. DOB 2 May 1946; alt. DOB 21 May 1946; Passport Z4966601 (Colombia); Passport K1030420 (Colombia); Cedula No. 7450538 (Colombia) (individual) [SDNT]

CLINICA ESPECIALIZADA DEL VALLE S.A., (a.k.a. C.E.V. S.A.), Calle 10 No. 44A–26, Cali, Colombia; Apartado Aereo 32412, Cali, Colombia; Carrera 46 No. 9C–85, Cali, Colombia; Carrera 40 No. 6–50, Of. 1501, Cali, Colombia; NIT # 800134099–6 (Colombia) [SDNT]

CONSTRUCTORA CENTRAL DEL VALLE LTDA., (a.k.a. C.C.V. LTDA.), Calle 10 No. 44A–26, Cali, Colombia; NIT # 800144098–1 (Colombia) [SDNT]

DESARROLLOS URBANOS "DESARROLLAR" LTDA., (a.k.a. DESARROLLAR LTDA.), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 890108104–2 (Colombia) [SDNT]

EDIFICACIONES DEL CARIBE LTDA., (a.k.a. EDIFICAR), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 890108103–5 (Colombia) [SDNT]

ESTRADA RAMIREZ, Jose Arnoldo, Calle 39 No. 1H–31, Cali, Colombia; Carrera 1H No. 39–56, Cali, Colombia; c/o CLINICA ESPECIALIZADA DEL VALLE S.A., Cali, Colombia; c/o CONSTRUCTORA CENTRAL DEL VALLE LTDA., Cali, Colombia; c/o HIELO CRISTAL Y REFRIGERACION LTDA., Cali, Colombia; c/o INVERSIONES JAER LTDA., Cali, Colombia; c/o INVERSIONES SAN JOSE LTDA., Cali, Colombia; c/o MARIN ESTRADA Y CIA S. EN C.S., Cali, Colombia; c/o PARQUE INDUSTRIAL LAS DELICIAS LTDA., Cali, Colombia; DOB 14 July 1947; Cedula No. 16200018 (Colombia) (individual) [SDNT]

GRAN COMPAÑIA DE HOTELES LTDA., (a.k.a. GRANCO), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800011606–2 (Colombia) [SDNT]

HIELO CRISTAL Y REFRIGERACION LTDA., (a.k.a. CUATRO FRIO), Carrera 8 No. 32–16, Cali, Colombia; Carrera 44A No. 9C–85, Bogota, Colombia; NIT # 890303017–5 (Colombia) [SDNT]

HOTELES E INMUEBLES DE COLOMBIA LTDA., (a.k.a. HOTINCOL), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800013139–3 (Colombia) [SDNT]

INMOBILIARIA DEL CARIBE LTDA., Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 890108105–1 (Colombia) [SDNT]

INMOBILIARIA HOTELERA DEL CARIBE LTDA., (a.k.a. INHOCAR), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800012713–7 (Colombia) [SDNT]

INVERSIONES HOTELERAS DEL LITORAL LTDA., (a.k.a. INHOTEL), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800011604–8 (Colombia) [SDNT]

INVERSIONES JAER LTDA., Carrera 7 No. 34–341 Bodega 7, Cali, Colombia; Apartado Aereo 10454, Cali, Colombia; Calle 6A Norte No. 2N–36 of. 436, Cali, Colombia; Carrera 1H No. 39–42, Cali, Colombia; NIT # 890332242–1 (Colombia) [SDNT]

INVERSIONES PRADO TRADE CENTER LTDA., (a.k.a. IPRACARIBE), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800236713–9 (Colombia) [SDNT]

INVERSIONES SAN JOSE LTDA., Carrera 7 No. 34–341, Cali Colombia; Apartado Aereo 10454, Cali, Colombia; Calle 44 No. 1E–135, Cali, Colombia; Calle 44 No. 1E–155, Cali, Colombia; NIT # 800079682–5 (Colombia) [SDNT]

MARIN ESTRADA Y CIA. S. EN C.S., Carrera 8 No. 32–16, Cali, Colombia; Apartado Aereo 1175, Cali, Colombia; Calle 44 No. 1E–155, Cali, Colombia; Calle 45 No. 1E–86, Cali, Colombia; NIT # 800083114–9 (Colombia) [SDNT]

NASSER ARANA, Carlos Alberto, Calle 74 No. 53–30, Barranquilla, Colombia; c/o AGRICOLA SONGO LTDA., Barranquilla, Colombia; c/o DESARROLLOS URBANOS "DESARROLLAR" LTDA., Barranquilla, Colombia; c/o EDIFICACIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o GRAN COMPAÑIA DE HOTELES LTDA., Barranquilla, Colombia; c/o HOTELES E INMUEBLES DE COLOMBIA LTDA., Barranquilla, Colombia; c/o INMOBILIARIA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INMOBILIARIA HOTELERA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INVERSIONES HOTELERAS DEL LITORAL LTDA., Barranquilla, Colombia; c/o INVERSIONES PRADO TRADE CENTER LTDA., Barranquilla, Colombia; c/o NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA. Y CIA. S.C.A., Barranquilla, Colombia; c/o PROMOTORA HOTEL BARRANQUILLA LTDA., Barranquilla, Colombia; c/o SURAMERICANA DE HOTELES LTDA., Barranquilla, Colombia; DOB 21 November 1964; Passport T707770 (Colombia); Passport PE008808 (Colombia); Cedula No. 8745045 (Colombia) (individual) [SDNT]

NASSER ARANA, Claudia Patricia, (a.k.a. Claudia Patricia NASSER de HASBUN; a.k.a. Claudia Patricia NASSER de HAZBUN), Calle 74 No. 53–30, Barranquilla, Colombia; c/o AGRICOLA SONGO LTDA., Barranquilla, Colombia; c/o DESARROLLOS URBANOS "DESARROLLAR" LTDA., Barranquilla, Colombia; c/o EDIFICACIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o GRAN COMPAÑIA DE HOTELES LTDA., Barranquilla, Colombia; c/o HOTELES E INMUEBLES DE COLOMBIA LTDA., Barranquilla, Colombia; c/o INMOBILIARIA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INMOBILIARIA HOTELERA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INVERSIONES HOTELERAS DEL LITORAL LTDA., Barranquilla, Colombia; c/o INVERSIONES PRADO TRADE CENTER LTDA., Barranquilla, Colombia; c/o NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA. Y CIA. S.C.A., Barranquilla, Colombia; c/o PROMOTORA HOTEL BARRANQUILLA LTDA., Barranquilla, Colombia; c/o SURAMERICANA DE HOTELES LTDA., Barranquilla, Colombia; DOB 23 January 1966; alt. DOB 23 January 1963; Passport AC751227 (Colombia); Cedula No. 32665137 (Colombia) (individual) [SDNT]

NASSER ARANA, Jorge, Calle 74 No. 53–30, Barranquilla, Colombia; c/o AGRICOLA SONGO LTDA., Barranquilla, Colombia; c/o DESARROLLOS URBANOS "DESARROLLAR" LTDA., Barranquilla, Colombia; c/o EDIFICACIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o GRAN COMPAÑIA DE HOTELES LTDA., Barranquilla, Colombia; c/o HOTELES E INMUEBLES DE COLOMBIA LTDA., Barranquilla, Colombia; c/o INMOBILIARIA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INMOBILIARIA HOTELERA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INVERSIONES HOTELERAS DEL LITORAL LTDA., Barranquilla, Colombia; c/o INVERSIONES PRADO TRADE CENTER LTDA., Barranquilla, Colombia; c/o NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA. Y CIA. S.C.A., Barranquilla, Colombia; c/o PROMOTORA HOTEL BARRANQUILLA LTDA., Barranquilla, Colombia; c/o SURAMERICANA DE HOTELES LTDA., Barranquilla, Colombia; DOB 6 November 1966; Passport T705915 (Colombia); Passport AC143719 (Colombia); Cedula No. 72139939 (Colombia) (individual) [SDNT]

NASSER DAVID, Julio Cesar, (a.k.a. "Jaime Perez Peña"), Calle 74 No. 53–30, Barranquilla, Colombia; Carrera 38B No. 76–40, Barranquilla, Colombia; c/o AGRICOLA SONGO LTDA., Barranquilla, Colombia; c/o DESARROLLOS URBANOS "DESARROLLAR" LTDA., Barranquilla, Colombia; c/o EDIFICACIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o GRAN COMPAÑIA DE HOTELES LTDA., Barranquilla, Colombia; c/o HOTELES E INMUEBLES DE COLOMBIA LTDA., Barranquilla, Colombia; c/o INMOBILIARIA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INMOBILIARIA HOTELERA DEL CARIBE LTDA., Barranquilla, Colombia; c/o INVERSIONES HOTELERAS DEL LITORAL LTDA., Barranquilla, Colombia; c/o INVERSIONES PRADO TRADE CENTER LTDA., Barranquilla, Colombia; c/o NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA., Barranquilla, Colombia; c/o PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA. Y CIA. S.C.A., Barranquilla, Colombia; c/o PROMOTORA HOTEL BARRANQUILLA LTDA., Barranquilla, Colombia; c/o SURAMERICANA DE HOTELES LTDA., Barranquilla, Colombia; DOB 1 November 1940; alt. DOB 1 October 1940; Passport H130865 (Colombia); Cedula No. 3710619 (Colombia) (individual) [SDNT]

NEGOCIOS Y PROPIEDADES DEL CARIBE LTDA., (f.k.a. NEGOCIAR LTDA.), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 890108102–8 (Colombia) [SDNT]
PARQUE INDUSTRIAL LAS DELICIAS LTDA., Carrera 7 No. 34–341, Cali, Colombia; Carrera 7 No. 34–341 L–6, Cali, Colombia [SDNT]
PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA., Calle 74 No. 53–30, Barranquilla, Colombia; Calle 78 No. 53–70 Centro Comercial Villa Country, Barranquilla, Colombia; Carrera 54 No. 72–80 Ejecutivo I, Barranquilla, Colombia; Carrera 54 No. 72–147, Barranquilla, Colombia; Carrera 55 No. 72–109 Piso 1, Barranquilla, Colombia; Carrera 56 No. 70–60, Barranquilla, Colombia; Carrera 57 No. 79–149, Barranquilla, Colombia; NIT # 890108115–3 (Colombia) [SDNT]
PROMOCIONES Y CONSTRUCCIONES DEL CARIBE LTDA. Y CIA. S.C.A., (a.k.a. PROMOCON), Calle 74 No. 53–30, Barranquilla, Colombia; Calle 78 No. 53–70 Centro Comercial Villa Country, Barranquilla, Colombia; Carrera 54 No. 72–80 L–21 Ejecutivo I, Barranquilla, Colombia; Carrera 54 No. 72–147 L–115, Barranquilla, Colombia; Carrera 55 No. 80–192, Barranquilla, Colombia; Carrera 55 No. 80–192 Ap. 6, Barranquilla, Colombia; Apartado Aereo 50183, Barranquilla, Colombia; Apartado Aereo 51110, Barranquilla, Colombia; NIT # 890108148–6 (Colombia) [SDNT]
PROMOTORA HOTEL BARRANQUILLA LTDA., Calle 74 No. 53–30, Barranquilla, Colombia; Apartado Aereo 51110, Barranquilla, Colombia; NIT # 890111684–3 (Colombia) [SDNT]
SURAMERICANA DE HOTELES LTDA., (a.k.a. SURATEL), Calle 74 No. 53–30, Barranquilla, Colombia; NIT # 800011603–0 (Colombia) [SDNT]

Dated: May 11, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 21, 1998.

James E. Johnson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–14176 Filed 5–26–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–005–ROP FRL–6101–9]

Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is determining, pursuant to its federal planning authority in Clean Air Act (CAA) section 110(c), that the Phoenix, Arizona ozone nonattainment area has in place sufficient control measures to meet the 15 percent rate of progress (ROP) requirement in Clean Air Act (CAA) section 182(b)(2). EPA is also approving, under CAA sections 110(k) and 182(a)(1), the 1990 base year emissions inventory for the Phoenix metropolitan area that was submitted to EPA by the State of Arizona on April 1, 1993.

EFFECTIVE DATE: June 26, 1998.

ADDRESSES: Copies of the documents relevant to this action, including the technical support document (TSD), are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. Phone: (415) 744–1248.

Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

Copies of this notice and the TSD are also available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. Phone: (415) 744–1248. Email: wicher.frances@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

The Phoenix metropolitan area was originally classified as a moderate ozone nonattainment area on November 6, 1991.[1] Section 182(b) of the Clean Air Act (CAA or Act) requires that each state in which all or part of a moderate ozone nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in sections 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. Section 182(b)(1)(A) of the CAA also requires states with moderate and above ozone nonattainment areas to develop plans to reduce volatile organic compounds (VOC) emissions by 15 percent, net of growth, from the 1990 baseline. The 15 percent rate of progress (ROP) plans were to be submitted by November 15, 1993, and the reductions were required to be achieved by November 15, 1996.

Although the November 15, 1996 deadline has now passed, the 15 percent ROP requirement remains. Once a statutory deadline has passed and has not been replaced by a later one, the deadline then becomes "as soon as possible." *Delaney* v. *EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable." See the proposed rule for this final action at 63 FR 3687 (January 26, 1998).[2] This requirement is discussed further in section II below.

B. Phoenix's 15 Percent Plan

The State of Arizona submitted its initial 15 percent rate of progress plan for the metropolitan Phoenix area on November 15, 1993 and supplemented it on April 8, 1994. On April 13, 1994 EPA found the initial plan incomplete because it failed to include, in fully adopted and enforceable form, all of the measures relied upon in the 15 percent demonstration. This incompleteness finding started the 18-month sanction "clock" in CAA section 179 and the two-year clock under section 110(c) for EPA to promulgate a federal implementation plan (FIP) covering the 15 percent ROP requirement. Subsequently, in November 1994 and April 1995, Arizona submitted an attainment plan for the Phoenix area which updated the 15 percent ROP demonstrations.

On May 12, 1995, EPA found the revised 15 percent plan and the attainment plan complete, turning off the sanctions clock; however, under section 110(c), the FIP clock continues until EPA approves the 15 percent plan. Since 1995, EPA has acted to approve many of the control measures relied upon in this plan but has not yet acted on the overall 15 percent plan.

The 15 percent ROP demonstration in the State's plan relied primarily on improvements to the State's vehicle emissions inspection and maintenance (I/M) program. Not all the emission reductions attributed to the program have been realized because of technical problems with implementing certain parts of the I/M program. In part to replace these lost emission reductions

[1] The Phoenix metropolitan area was recently reclassified from moderate to serious for ozone. 62 FR 60001 (November 6, 1997). Today's action relates to the moderate area CAA requirements for a 1990 base year inventory and a 15 percent ROP demonstration. The reclassification does not affect the area's continuing obligation to meet these requirements.

[2] The reader should consult this proposed rule for a more detailed discussion of the CAA requirements applicable to today's final action, the State's 15 percent ROP plans and EPA's evaluation of them, and EPA's proposed 15 percent demonstration.

and in part to ensure continued progress toward attainment of the ozone standard in the Phoenix area, the State opted into EPA's federal reformulated gasoline (RFG) program in 1997 (60 FR 30260 (June 3, 1997)) and EPA recently approved the State's own, more stringent Cleaner Burning Gasoline (CBG) program which is intended to replace the federal program. 63 FR 6653 (February 10, 1998).

C. EPA's 15 Percent ROP Plan

In August 1996, EPA was sued by the American Lung Association of Arizona and others, *American Lung Association of Arizona, Inc. et al.* v. *Browner*, No. CIV 96–1856 PHX ROS (D. Ariz.) to enforce EPA's obligation under CAA section 110(c) to promulgate a federal plan for the 15 percent ROP requirement. On July 8, 1997 a consent decree was filed in the case establishing a schedule of January 20, 1998 for proposing and May 18, 1998 for promulgating a 15 percent ROP plan. EPA's obligation to promulgate a federal plan is relieved to the extent that it has approved State measures.

The State's 15 percent plan as revised and submitted in 1993 through 1995 does not reflect the changes to the control strategy necessitated by the problems with the enhanced I/M program and the implementation of the federal RFG program, nor does it include the recalculation of the target emission level that EPA guidance requires if post-1996 emissions reductions (such as those from the RFG program) are to be credited to the 15 percent plan. As a result, EPA has not received a complete state submittal containing a revised 15 percent ROP demonstration that it could act on without additional analysis, public hearing and adoption by the State. Thus, EPA is complying with the *ALAA* consent decree today by promulgating, pursuant to its CAA section 110(c) FIP authority, a federal 15 percent ROP plan for the Phoenix area.

D. Proposed Action

On January 26, 1998 (63 FR 3687), EPA proposed to determine that the Phoenix area will have sufficient controls in place by no later than April 1, 1999 to meet the 15 percent rate of progress requirement and that this date is the most expeditious date practicable for achieving the 15 percent target, based on the set of controls EPA has proposed for crediting in the 15 percent demonstration and the unavailability of any other practicable controls that could advance the date. The technical basis for this determination and the list of control measures that provide the required 15 percent VOC reduction are summarized in the proposal and are fully documented in the technical support document (TSD) that accompanies this rulemaking.

EPA also proposed to approve the 1990 base year emissions inventory for the Phoenix metropolitan area that was submitted to EPA by the State of Arizona on April 1, 1993. EPA's review of this inventory is also summarized in the proposal and fully documented in the TSD.

II. Public Comment and EPA Responses

EPA received only one set of comments on its proposed determination that the Phoenix, Arizona ozone nonattainment area has in place sufficient control measures to meet the 15 percent ROP requirement in CAA section 182(b)(2). These comments were submitted by the Arizona Center for Law in the Public Interest (ACLPI) on behalf of the plaintiffs in *ALAA*.

EPA has responded to most significant comments below and has provided full responses to all comments in the TSD that accompanies this rulemaking.

Comment: ACLPI claims that EPA's proposal is flawed because it does not propose FIP measures as an alternative to approving a State 15 percent plan, and without such an alternative proposal, EPA's decision making process here will be inherently biased, unfair and violative of the Administrative Procedures Act. ACLPI states that the only way to negate this bias and prejudgment is for EPA to immediately propose a FIP, so that it has an alternative to approval of the State's demonstration.

Response: This comment, as well as others discussed below, reflects a basic misapprehension of the nature of EPA's January 26, 1998 proposal. Contrary to ACLPI's claims, EPA did not propose to approve or otherwise act on Arizona's 15 percent SIP. Rather, the Agency proposed a 15 percent ROP FIP under its federal planning authority in CAA section 110(c).[3]

Nowhere in the proposal did EPA state or otherwise indicate that it was proposing to approve the State's 15 percent plan. In fact, in the section discussing its FIP obligation under *ALAA*, EPA concluded that it did "not have in front of it a complete state submittal containing a revised 15 percent ROP demonstration that it could act on without additional analysis, public hearing and adoption *by the State*." Emphasis added. 63 FR 3688. In the conclusion section of the proposal, EPA stated that it was acting pursuant to its CAA section 110(c) authority in proposing a determination that the Phoenix metropolitan area has in place sufficient control measures to meet the 15 percent ROP requirement. See 63 FR 3692. CAA section 110(c) provides EPA's authority to promulgate FIPs. In contrast, EPA's SIP approval authority resides in section 110(k).

The proposed FIP consists of a *federal* demonstration that already-approved State and federal control measures, combined with already-proposed federal measures, are sufficient to provide for a 15 percent ROP in the Phoenix area as required by CAA section 182(b)(1)(A)(i) and that there are no other measures which would meaningfully advance the date by which the 15 percent ROP will be met. See 63 FR 3692. As a consequence of this finding, EPA did not, and was not required to, propose any additional federal measures.

EPA notes that this is not the first time it has promulgated an Arizona FIP that consists only of a demonstration that existing State and federal measures were adequate. In 1991, EPA promulgated attainment and maintenance demonstrations for the Pima County (Tucson), Arizona carbon monoxide (CO) nonattainment area that consisted solely of a demonstration that existing approved State and federal measures were adequate for expeditious attainment and long-term maintenance of the CO standard in the area and that no additional federal measures were necessary. See 56 FR 5458, 5470 (February 11, 1991).

Comment: ACLPI asserts that if EPA found that the State has not submitted a complete 15 percent ROP demonstration, it should have disapproved it on that basis instead of proceeding to supply its own data and analysis to produce a showing on the State's behalf, an approach which conflicts with the Act. ACLPI states that EPA's statutory duty is to approve or disapprove what the state submits and that EPA cannot write a plan and pretend it is the State's. Finally, ACLPI states that Arizona has had more than ample time to submit its 15 percent plan and if the State's demonstration is inadequate, then EPA must disapprove it and adopt a FIP.

Response: As discussed above, EPA proposed a 15 percent ROP demonstration under its federal planning authority in CAA section 110(c) and did not propose any action on Arizona's 15 percent SIP. When

[3] EPA did at the same time propose to approve under CAA section 110(k) the State's 1990 Base Year Emission Inventory. This inventory was required by CAA section 182(a)(1) and was submitted separately from the 15 percent plan. See 63 FR 3688.

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acting in place of the State pursuant to a FIP under section 110(c), EPA "stands in the shoes of the defaulting State, and all the rights and duties that would otherwise fall to the State accrue instead to EPA." *Central Arizona Water Conservation District* v. *EPA*, 990 F.2d 1531, 1541 (9th Cir. 1993). Thus, in preparing this FIP demonstration, it is EPA's responsibility to supply its own data and analyses of that data and to produce the required showing that would otherwise be the responsibility of the State. Thus, the approach EPA took in this rulemaking is fully consistent with the Act.

EPA did base its proposed determination in part on a reanalysis of the State's plan. This approach is reasonable given that the State had already prepared an extensive and competent technical evaluation of emission sources in the Phoenix area and the effect of controls on reducing emissions from those sources. In preparing its own demonstration, EPA did modify some of the information in the State's plan to reflect the actual implementation status of the State's I/M program and the implementation of new federal and state controls. However, a federal plan based on technical information contained in a State plan does not constitute or imply approval of that State plan.

Since no action was proposed in regard to the State's 15 percent ROP plan, comments relating to the appropriate disposition of that plan are not relevant to this rulemaking. EPA notes that it is not required in this instance to disapprove the State plan prior to promulgating a replacement FIP under CAA section 110(c).

EPA acknowledges that it is required by the Act to take action on submitted SIPs. However, at this time inaction on the State's 15 percent plan in no way affects EPA's promulgation of this FIP.

Comment: ACLPI comments that EPA is extending until April 1, 1999 the time for achieving the 15 percent reduction that was supposed to have been achieved by November 15, 1996 and has justified this lengthy extension by adopting several policies that ACLPI asserts are not consistent with applicable case law or the Clean Air Act.

First, ACLPI states that although it agrees with EPA that *Delaney* v. *EPA*, 898 F.2d 687, 691 (9th Cir. 1990) supplies the relevant test for compliance once a statutory deadline has passed, it disagrees with the Agency's interpretation that under the *Delaney* case, the appropriate standard is "as soon as practicable." ACLPI notes that the actual phrase used by the *Delaney* court was "as soon as *possible*," using every available control measure and asserts that the difference between "practicable" and "possible" is not merely semantic. According to ACLPI, "practicability," as used in the Act, allows for consideration of various economic and social factors in determining the required speed of progress. ACLPI believes that to say that the pace for compliance after the Clean Air Act deadline has passed is still as soon as "practicable" is to read the deadline out of the statute which is why the *Delaney* court allegedly set a much more stringent test—compliance as soon as possible—for areas that miss a statutory deadline.

Response: In *Delaney*, the Ninth Circuit interpreted the Clean Air Act requirement for EPA to develop a CO federal implementation attainment plan for two Arizona areas after the passage of the then applicable statutory attainment date of December 31, 1987. The Court concluded that after the passage of that date, "the national ambient air quality standards must be attained as soon as possible with every available measure * * *." 898 F.2d at 691. The *Delaney* Court arrived at this test by relying on a statement in an EPA guidance document providing that if a state plan's "control measures are not adequate to demonstrate attainment by 1987, additional measures which can be implemented after 1987 must be identified and adopted and attainment must be demonstrated by the earliest possible date * * *. 46 Fed. Reg. 7186 (January 22, 1981)."[4] In another part of the opinion concerning reasonably available control measures, the Court noted another EPA guidance document specifying that a control measure would be deemed not reasonably available if it would not advance attainment, would cause substantial widespread and long-term adverse impact, or would take too long to implement. 898 F.2d at 692.

EPA believes that the appropriate interpretation of *Delaney's* "as soon as possible" test is informed by the Court's acknowledgment of certain limitations on the speed of compliance as expressed in its citation of the guidance related to the scope of reasonably available measures. Therefore, consistently since the Ninth Circuit's opinion, EPA has framed the "as soon as possible" *Delaney* test, in the post-statutory attainment deadline context, to mean "'as expeditiously as practicable,' by a fixed date," and has stated that "[t]he statute does not require measures that are absurd, unenforceable, or impracticable." 55 FR 36458, 36505 (Sept. 5, 1990).[5] In addition to applying this interpretation of the *Delaney* test to attainment plans after the passage of the statutory attainment deadline, the Agency has also consistently applied it in its actions on plans that address the 15 percent requirement following the November 15, 1996 statutory deadline for these plans. See, e.g., 62 FR 31343, 31345–31346 (June 9, 1997) approving the 15 percent ROP SIP for Philadelphia; 62 FR 33999, 34000–34001 (June 24, 1997) approving the 15 percent ROP SIP for the northern Virginia.

Moreover, EPA notes that one court, while finding *Delaney* not precisely on point for its purpose of fashioning a remedy in a citizen's enforcement action, nevertheless made some instructive observations on the relationship between the two standards. The Court noted that:

> although the *Delaney* opinion utilized the 'as soon as possible' standard employed by EPA guidelines, it did not do so out of rejection of the 'practicable' standard or out of concern that the two standards differed. Rather it simply had no occasion to compare them. Indeed the *Delaney* court appeared to blur them when it criticized Arizona for rejecting measures without demonstrating that such measures were 'impracticable' or unreasonable.

Citizens for a Better Environment v. *Deukmejian*, 746 F. Supp. 976, 985 (N.D. Cal. 1990). The Court went on to observe that:

> [a]s a practical matter, however, no Court will use its equitable powers to impose remedies that are irrational, albeit "possible." Thus as long as time is considered paramount, and the term "practical" is strictly construed in keeping with the purposes of the Act, the "as expeditiously as practicable" standard should yield no less results than an "as soon as possible" standard.

The Court concluded that "when properly interpreted, there is no practical difference between the two standards." *Id.* EPA agrees with this assessment.

Furthermore, while EPA believes that it is consistent with the *Delaney* test to take into account socioeconomic factors as described above, the issue is effectively moot with regard to this

[4] Following the *Delaney* opinion, EPA revoked certain portions of this guidance document in order to clarify that the Agency did not intend to require post-1987 plans to include every conceivable control measure. 55 FR 38326 (September 18, 1990).

[5] In its proposal of an attainment CO FIP for Arizona, EPA restated its interpretation of the *Delaney* test as requiring "a demonstration of attainment as expeditiously as practicable utilizing all measures available to the federal government that are capable of advancing the attainment date, short of those producing absurd results, such as severe socioeconomic disruptions." 55 FR 41204, 41210 (October 10, 1990).

rulemaking. In proposing, for the purposes of its 15 percent demonstration, that "as soon as practicable" is April 1, 1999, the Agency did not consider any economic or social factors. Rather the factors EPA considered were the Agency's authority and resources to implement a measure, whether the measure provided a significant emission reduction, and whether the measure could be implemented soon enough to meaningfully advance the date by which the 15 percent reduction could be demonstrated. The Agency believes, as discussed above and in response to an additional comment below, that the consideration of these factors is entirely appropriate and consistent with both the Clean Air Act and the *Delaney* opinion.

Comment: ACLPI comments that in its proposed action, EPA asserted that the 15 percent ROP need not be achieved until April 1, 1999 because (a) that is the soonest such reductions will be achieved under the State's adopted programs and various adopted and proposed EPA programs and (b) no other measures are available that would reduce VOC emissions by more than 0.5 percent or advance achievement of the 15 percent ROP by three or more months. ACLPI asserts that there is nothing in the Clean Air Act or *Delaney* that allows de minimis exemptions for percent reductions or months of delay.

Response: The inherent authority of administrative agencies to exempt de minimis situations from a statutory requirement has been upheld in contexts where an agency is invoking a de minimis exemption as "a tool to be used in implementing the legislative design when "the burdens of regulation yield a gain of trivial or no value." *Alabama Power Co.* v. *Costle*, 636 F.2d 323, 360–61 (D.C. Cir. 1979).

In this rulemaking, EPA has invoked this de minimis doctrine for gauging when the promulgation of a new control would or would not contribute to meeting the statutory requirement for a 15 percent ROP in the Phoenix area as soon as is practicable. EPA has interpreted the "as soon as practicable" test to require a showing that the applicable implementation plan contains all VOC control measures that are practicable for the area and that meaningfully accelerate the date by which the 15 percent level is achieved. Measures that provide only an insignificant additional amount of reductions or could not be implemented soon enough to meaningfully advance the date by which the 15 percent is demonstrated are not required to be implemented. See *Memorandum*, John S. Seitz, Director of the Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel to Regional Air Division Directors; "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test;" February 12, 1997.

For determining whether additional measures were necessary for this demonstration, EPA proposed to define "significant emission reduction" to be equal to or more than one-half of one percent (0.5 percent) of the total emission reductions needed to meet the 15 percent ROP requirement in 1999 for the Phoenix nonattainment area, the equivalent of 0.5 metric tons per day (mtpd). Thus any measures that would result in less than a 0.5 mtpd reduction by April 1, 1999 were considered to yield de minimis reductions and were rejected from further review.

In the context of this rulemaking where the 15 percent ROP will be achieved within one year, 0.5 mtpd is truly de minimis, representing *one two-hundredths* of the emission reductions needed to show the 15 percent ROP. In terms of control requirements, more than 200 of these "de minimis" measures would be needed to demonstrate 15 percent ROP in Phoenix. The federal imposition of a measure or group of measures with so little impact on the ROP demonstration would be nonsensical. Thus a regulation imposing one of these de minimis measures would indeed yield "a gain of trivial or no value." As such, a de minimis exemption is an entirely "appropriate tool to be used in implementing the legislative design" of the CAA's rate of progress and general FIP requirements. *Alabama Power* at 360.

EPA proposed to define "meaningfully accelerate the date by which the 15 percent is demonstrated" as three or more months. EPA has projected that the 15 percent ROP will be demonstrated in the Phoenix area by April 1, 1999. Therefore, if a measure could advance that demonstration date to on or before January 1, 1999, then EPA would consider that the measure meaningfully accelerated the 15 percent ROP. In the proposal, EPA explained its selection of three months as a balance between the environmental benefit of advancing the date and the potential to trivialize the "as soon as practicable" demonstration. 63 FR 3687, 3691.

The 15 percent ROP progress requirement is part of the Act's overall scheme for ozone attainment. In Phoenix, ozone exceedances occur during the hot-weather months of May through October. EPA's proposed three month "de minimis" period (January 1 to April 1) falls well before the beginning of this season and as a result the ozone benefit of additional controls during this period would be at best, exceedingly small. Thus, the federal implementation of a measure or measures whose sole effect would be to advance by less than 3 months from the April 1, 1999 date on which the 15 percent ROP is met, would clearly yield "a gain of trivial or no value."

EPA does not agree that *Delaney* bars the use of de minimis exemptions. As discussed previously, the *Delaney* court itself recognized limits on its conclusion that once a statutory deadline has passed the new deadline becomes "as soon as possible with all available measures." These limits include not requiring measures that would not advance attainment, would cause substantial widespread and long-term adverse impact, or would take too long to implement. These limits clearly indicate that the *Delaney* court did not expect EPA to impose controls that yield no benefit or a benefit that is outweighed by the implementation burden. Thus, EPA's use of de minimis exemptions is consistent with *Delaney*.

Comment: ACLPI notes that EPA predicts that the State will meet the 15 percent reduction target by April 1, 1999 with just 0.3 tons per day to spare and argues that this is not a credible demonstration given the size of the inventory and the many uncertainties in EPA's emission reduction predictions. ACLPI asserts that the record here shows that emission reductions expected from control measures do not always materialize.

Response: The statutory requirement for 15 percent ROP demonstrations is met when the plan demonstrates that it achieves "at least a 15 percent" reduction. See section 182(b)(1)(A)(i). Neither the Act nor EPA guidance requires 15 percent ROP demonstrations to include a margin of safety; therefore, reductions greater than the exact amount needed to demonstrate the 15 percent ROP are not required. As a result, the amount of excess emissions in the 15 percent demonstration is immaterial.

Both the base year inventory used to calculate the 15 percent target emission level and the projected emission inventories and emission reduction calculations were prepared using generally-accepted methodologies consistent with Agency guidance. See the TSD for this rulemaking. As such, they provide a credible and appropriate basis for the 15 percent demonstration and additional adjustments to account for uncertainties are not warranted or required. EPA notes that it already factored into its 15 percent ROP

demonstration available information on the implementation status of the control measures.

Because ACLPI neither explains how the size of the inventory relates to the credibility of the demonstration nor provides specifics on the "many uncertainties in EPA's emission reduction predictions" or instances where the emission reductions may not materialize, EPA is not able to further respond to this comment.

Comment: ACLPI comments that EPA proposed to credit 4.4 tons per day in emission reductions from three federal rulemakings that are still at the proposal stage and asserts that such an approach violates the Act and EPA policy. ACLPI supports that assertion by stating that under section 182(b)(1)(c) of the Act, credit can be claimed only for rules "promulgated" by EPA and that EPA policy and the Act also forbid the granting of emission reduction credit for measures that have not been legally adopted. ACLPI further argues that there is no assurance whatsoever that the proposed rules will be adopted in a form and on a schedule that will assure the projected emission reductions and without the credit claimed for these measures, the ROP plan does not demonstrate the required 15 percent reduction and therefore is legally deficient.

Response: Consistent with the Clean Air Act, its policies and its actions on other 15 percent plans, EPA is crediting three proposed national rules in this 15 percent demonstration: consumer products, autobody refinishing and architectural and industrial maintenance coatings. As noted in the proposal, each of these rules are required under CAA section 183(e) and the Agency had recently been sued to enforce the requirement to promulgate these rules. Since the proposal the Agency has agreed to a schedule for their promulgation by August 15, 1998. See lodged consent decree in *Sierra Club* v. *Browner,* CIV No. 97–984 PLF (D.D.C.).

CAA section 182(b)(1)(A) requires states to submit their 15 percent SIP revisions by November, 1993. Section 182(b)(1)(C) provides the following general rule for creditability of emissions reductions towards the 15 percent requirement: "emissions reductions are creditable toward the 15 percent required * * * to the extent they have actually occurred, as of [November, 1996], from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under Title V." CAA section 182(b)(1)(D) further states that certain emissions reductions are not creditable, including reductions from certain control measures required prior to the 1990 Amendments.

These creditability provisions are ambiguous. Read literally, they provide that, although the 15 percent SIPs are required to be submitted by November 1993, emissions reductions are creditable as part of those SIPs only if "they have actually occurred, as of [November 1996]". This literal reading renders the provision internally inconsistent. Accordingly, EPA believes that the provision should be interpreted to provide, in effect, that emissions reductions are creditable "to the extent they will have actually occurred, as of [November, 1996], from the implementation of [the specified measures]" (the term "will" is added). This interpretation renders the provision internally consistent.

CAA section 182(b)(1)(C) explicitly includes as creditable reductions those resulting from "rules promulgated by the Administrator." This provision does not state the date by which those measures must be promulgated, i.e., does not indicate whether the measures must be promulgated by the time the 15 percent SIPs were due (November, 1993), or whether the measures may be promulgated after this due date.

Because the statute is silent on this point, EPA has discretion to develop a reasonable interpretation under *Chevron U.S.A. Inc.* v. *NRDC,* 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). EPA believes it reasonable in the first instance to interpret CAA section 182(b)(1)(C) to allow areas to credit reductions from federal measures as long as those reductions are expected to occur by November, 1996, the date for achieving the 15 percent ROP, even if the federal measures are not promulgated by the November, 1993 due date for the 15 percent SIPs.

EPA's interpretation is consistent with the Congressionally-mandated schedule for promulgating regulations for consumer and commercial products, under section 182(e) of the Act. This provision requires EPA to promulgate regulations controlling emissions from consumer and commercial products that generate emissions in nonattainment areas. Under the statutory schedule, by November, 1993—the same date that the States were required to submit the 15 percent SIPs—EPA was to issue a report and establish a rulemaking schedule for consumer and commercial products. Further, EPA was to promulgate regulations for the first set of consumer and commercial products by November, 1995. It is reasonable to conclude that Congress anticipated that reductions from these measures would be creditable as part of the 15 percent SIPs, as long as those reductions were to occur by November, 1996.

EPA has also established specific policies interpreting the Act that allow crediting of these proposed national measures in 15 percent plans. See *Memorandum,* John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coating Rule and the Autobody Refinishing Rule;" November 29, 1994; *Memorandum,* John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule;" March 22, 1995; *Memorandum,* John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Regulatory Schedule for Consumer and Commercial Products under Section 182(e) of the Clean Air Act;" June 22, 1995; and *Memorandum,* John S. Seitz, Director of the Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel to Regional Air Division Directors; "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test;" February 12, 1997.

While this analysis focuses on SIPs, it applies equally to FIPs. As noted before, EPA "stands in the shoes of the State" when promulgating a FIP and all the rights and duties available to a state under the Act become available to EPA in a FIP.

The above analysis also describes statutory provisions that include specific dates for 15 percent SIP submittals (November 15, 1993) and implementation (November 15, 1996). While these dates have expired and new dates for submittal (in this case, promulgation) and implementation have been developed, EPA does not believe that the expiration of the statutory dates, and the development of new ones, invalidates the conclusion that reductions from federal measures promulgated after the date the 15 percent plan is submitted (or promulgated) can be counted toward the ROP demonstration.

Because it has agreed to a schedule in a proposed consent decree to promulgate these national rules by August 15, 1998, EPA intends to promulgate the rules within 3 months of this FIP promulgation and well before the April 1, 1999 15 percent ROP demonstration date. As a result, crediting reductions from these federal measures is also sensible from an

administrative standpoint. If it did not credit these national measures, EPA would need to promulgate compensating rules, applicable only to Phoenix, to replace their 4.4 mtpd benefit. EPA has already shown that there are no other measures available that would meaningfully advance the April 1999 date by which the 15 percent ROP is demonstrated in the Phoenix area, thus any additional measures would not result in reductions any sooner than the proposed national rules. Nor would these potential Phoenix-only measures result in any greater reductions creditable to the 15 percent plan since they would simply substitute for the reductions from the national rules.[6] Thus, if it did not credit the national measures, EPA would simply be engaging in a wasteful rulemaking exercise to promulgate measures in May, 1998 that it could almost immediately withdraw when the national rules are promulgated in August, 1998.[7]

The fact that EPA cannot determine precisely the amount of credit available for the proposed national measures does not preclude granting them credit. The credit can be granted as long as EPA is able to develop reasonable estimates of the amount of VOC reductions from the measures EPA expects to promulgate. EPA believes that it is able to develop reasonable estimates, particularly because it has already proposed and taken comment on the measures at issue, and is expecting to promulgate final rules in little less than 3 months. Moreover, the use of estimated emissions and emission reductions rather than actual measurements is a common and necessary practice in attainment and reasonable further progress demonstrations because actual measurements, even for promulgated measures, are seldom available. For example, EPA's document to estimate emissions, "Compilation of Air Pollutant Emission Factors", January 1995, AP–42), provide emission factors used to estimate emissions from various sources and source processes. AP–42 emission factors have been used, and continue to be used, by states and EPA to determine base year emission inventory figures for sources and to estimate emissions from sources where such information is needed.

This rulemaking is based on the best information currently available to the Agency on the projected reductions from these proposed national rules. If these projected reductions turn out to be greater than the amount it determines to be appropriate after promulgation of the final rules, then EPA will take appropriate action to revise this 15 percent demonstration.

Comment: ACLPI argues that contrary to EPA's assertion there are a number of additional control measures that are currently available to advance the time for achieving the 15 percent ROP including the use of California's diesel fuel standards ("CARB diesel") and additional controls on consumer products, both of which are identified in the *Report of the Arizona Governor's Air Quality Strategies Task Force* (1998) ("1998 Task Force Report") as are a number of other measures.

Response: ACLPI is correct that the 1998 Task Force Report shows that adoption of the CARB diesel fuel standards would reduce Phoenix VOC emissions by 7.1 mtpd in 1999. The report, however, also states that implementation of this measure would require at least two years and thus could not occur prior to mid-2000, more than a year after the April 1, 1999 demonstration date for the 15 percent ROP. The State's consultant concluded that the two-year implementation schedule was the minimum necessary after reviewing the refining capacity available to produce CARB diesel fuel for the Phoenix market. See 1998 Task Force Report, p. 77. Since EPA has no grounds to dispute the consultant's conclusions (which were endorsed by the Task Force) regarding the minimum implementation schedule for CARB diesel, it finds the measure would not advance the date by which the 15 percent ROP would be met.

The Task Force recommended adoption of California's phase I and phase II consumer product standards. These standards are more stringent than EPA's proposed national standards for 13 product categories not currently regulated in Phoenix: single phase aerosol air fresheners, engine degreasers, solid or paste forms of furniture maintenance products, non-aerosol forms of glass cleaners, hairsprays, aerosol insect repellants, nail polish removers, automotive brake cleaners, aerosol dust aids, fabric protectants, crawling bug insecticides, and personal fragrance products.

Except for hairsprays, California's more stringent limits are already in place. The compliance date for the final VOC limit for hairsprays is June 1, 1999, two months after the April 1, 1999 demonstration date for 15 percent ROP in Phoenix. The majority of the emission reductions (or approximately 0.9 metric tons per day) that would result from implementing CARB's consumer products rule in Phoenix come from the final hairspray standard. The balance of the tighter CARB limits produce only a 0.23 mtpd reduction, which EPA finds to be de minimis.

The 1998 Governor's Task Force evaluated and recommended controls for not only VOC but also nitrogen oxides, carbon monoxide, particulate matter and regional haze. These controls range from I/M program improvements to improved compliance with the area's fugitive dust rules and include numerous study proposals (e.g., Transit Task Force). Since ACLPI was not specific about what additional control measures EPA should evaluate for this plan, it is not possible for EPA to respond in more detail to this comment.

III. Conclusion

Pursuant to its federal planning authority under CAA section 110(c) and for the reasons discussed above, EPA is determining that the Phoenix metropolitan area has in place or will have in place sufficient control measures to meet the 15 percent ROP requirement for VOCs in CAA section 182(b)(1)(A) as soon as practicable.

EPA is also approving the State's 1990 base year inventory for the Phoenix area under CAA sections 110(k)(2) and 182(a)(1).

Under 40 CFR 93.118(e), this final action establishes a VOC conformity budget of 76.7 metric tons per average summer day based on the inventory methodology and mobile source emissions model used for this 15 percent ROP demonstration. This conformity budget is in addition to, and not in lieu of, the conformity budget established in the *MAG 1993 Ozone Plan for the Maricopa County Area, Modeling Attainment Demonstration* (October 1994).

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this action from E.O. 12866 review.

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[6] The statutory requirement EPA is fulfilling here is to demonstrate a fixed emission reduction of 15 percent from 1990 base year levels. Emission reductions in excess of this fixed amount are unnecessary. Since EPA has already concluded that the proposed national measures combined with other adopted state and federal measures will result in the required 15 percent ROP as soon as practicable, additional Phoenix-only federal measures are not necessary.

[7] In its rulemakings, EPA strives to take the least intrusive and most sensible regulatory approach that achieves the statutory requirements. In this situation, it made no regulatory sense to ignore these pending national measures (which have already been proposed and have near-term date for promulgation) that will apply automatically to Phoenix in favor of promulgating wholly new Phoenix-specific measures.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. Section 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action simply presents the analysis of the emission impacts on the Phoenix metropolitan area of already adopted or proposed State and federal rules. This action neither promulgates additional measures nor requires Arizona or its local jurisdictions to adopt or implement additional measures beyond those that they currently have adopted and implemented or have been proposed or implemented at the federal level. As such, it does not regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates "any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more" in any one year. A "Federal mandate" is defined, under section 101 of UMRA, as a provision that "would impose an enforceable duty" upon the private sector or State, local, or tribal governments", with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA "establish[es] any regulatory requirements that might significantly or uniquely affect small governments." Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's "regulatory proposals" that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates "any rule for which a written statement is required under [UMRA section] 202", EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

As explained above, sections 202, 203, 204, and 205 of UMRA do not apply to today's action because it does not impose an enforceable duty on or otherwise affect any entity. Therefore, EPA is not required, and has not taken, any actions under UMRA.

D. E.O. 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885 (April 23, 1997)), applies to any rule that EPA determines (1) "economically significant" as defined under E.O. 12866 and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's final action promulgating a demonstration that the Phoenix area meets the 15 percent VOC ROP requirement in CAA section 182(b)(1)(A)(i) is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O and because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

E. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 27, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: May 18, 1998.

Carol M. Browner,

Administrator.

Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.123 is amended by adding paragraph (g) to read as follows:

§ 52.123 Approval status.

* * * * *

(g) Pursuant to the federal planning authority in section 110(c) of the Clean Air Act, the Administrator finds that the applicable implementation plan for the Maricopa County ozone nonattainment area demonstrates the 15 percent VOC rate of progress required under section 182(b)(1)(A)(i).

[FR Doc. 98–13984 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FI–071–9810a; FRL–6015–4]

Approval and Promulgation of Implementation Plans; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the State of Florida's State Implementation Plan (SIP) submitted to EPA on December 10, 1996, through the Florida Department of Environmental Protection. The amendment adds perchloroethylene to the list of chemicals excluded from the definition of volatile organic compounds (VOC). The amendment also corrects vague language in various definitions. The revision moves conditions relating to the Small Business Assistance Program (SBAP) from Chapter 62–202 to Rule 62–210.220.

DATES: This final rule is effective July 27, 1998 unless adverse or critical comments are received by June 26, 1998. If the final rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Karla L. McCorkle at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL–071–9810. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303

Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400

FOR FURTHER INFORMATION CONTACT: Karla L. McCorkle at 404/562–9043.

SUPPLEMENTARY INFORMATION: On December 10, 1996, the State of Florida through the Florida Department of Environmental Protection submitted a revision to the Florida SIP. The revision adds perchloroethylene to the list of chemicals excluded from the definition of VOC. This amendment also corrects vague language in the definitions of "Acid Mist," "Commence Construction," "Gas/Gas Method," and "Liquid/Gas Method," as directed by Florida's Joint Administrative Committee. The revision moves provisions relating to the SBAP from Chapter 62–202 to Rule 62–210.220. The definition "Small Business Stationary Source" is amended for clarification.

The specific rule revisions from the December 10, 1996, submittal that are being approved in this action are discussed below:

Exclusion of Perchloroethylene to VOC Definition

Rule 62–210.200—The amendment adds "perchloroethylene" to the list of chemicals excluded from the definition of "Volatile Organic Compounds." This revision makes the definition of VOC in the Florida SIP consistent with the EPA definition.

Definitions

Rule 62–210.200—Throughout this section, the following definitions have been amended to correct vague language: "Acid Mist," "Commence Construction," "Gas/Gas Method," and "Liquid/Gas Method." In definition (1), "Acid Mist," a reference to Rule 62–204.800 is added. In definition (77), "Commence Construction," a completion time is clarified. In definition (137), "Gas/Gas Method," references to the prescribed methods in Rule 62–297.450 (2)(a) and Rule 62–297.450 (2)(c) are added. In definition (167), "Liquid/Gas Method," references to the prescribed methods in Rule 62–297.450 (2)(b) and Rule 62–297.450 (2)(d) are added.

Small Business Assistance Program

Rule 62–210.220—Provisions relating to the SBAP in the Division of Air Resources Management are moved from Chapter 62–202 to Rule 62–210.220.

Rule 62–210.200—The definition "Small Business Stationary Source," is amended to make it clear that facilities may be classified as small business stationary sources either by definition or by petition pursuant to the rule.

Final Action

EPA is approving the aforementioned changes to the SIP. The Agency has reviewed this request for revision of the Federally approved SIP for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 27, 1998 without further notice unless the Agency receives relevant adverse comments by June 26, 1998.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 27, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 27, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks. Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that is (1) likely to be "economically significant" as defined under Executive Order 12866, and (2) the Agency has reason to believe that the environmental health or safety risk addressed by the rule may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks" because this is not an "economically significant" regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 10, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart K—Florida

2. Section 52.520, is amended by revising paragraph (c)(87) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(87) Revisions to the Florida State Implementation Plan submitted by the Department of Environmental Protection on December 10, 1996.

(i) Incorporation by reference. Section 62–210.200(1), (29)(g), (77)(a), (b), (137), (145)(a)29., (167), (259)(a)3–5 and (b), (309)(y), and 62–210.220 of the Florida SIP effective October 15, 1996.

(ii) Other material. None.

* * * * *

[FR Doc. 98–13989 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6014–5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection; Washoe County District Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Nevada Division of Environmental Protection (NDEP) and the Washoe County District Health Department (WCDHD) in Nevada. EPA is also approving WCDHD's program for receiving delegation of unchanged NESHAPs applicable to sources not subject to Title V of the 1990 Clean Air Act Amendments. The preamble outlines the process that NDEP and WCDHD will

use to receive delegation of any future NESHAP, and identifies the NESHAP categories to be delegated by today's action. EPA has reviewed each agency's request for delegation and has found that these requests satisfy all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting NDEP and WCDHD the authority to implement and enforce the unchanged NESHAP categories listed in this rule.

DATES: This rule is effective on July 27, 1998 unless EPA receives relevant adverse comments by June 26, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the requests for delegation and other supporting documentation are available for public inspection (docket number A–96–25) at the following location: U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards set out in 40 CFR part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, subpart E (hereinafter referred to as "subpart E"), establishing procedures for EPA's approval of state rules or programs under section 112(l) (see 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR part 63, subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

On December 12, 1995, EPA approved the Nevada Division of Environmental Protection's (NDEP's) program for accepting delegation of section 112 standards that are unchanged from Federal standards as promulgated (see 60 FR 63631). The approved program reflects an adequate demonstration by NDEP of general resources and authorities to implement and enforce section 112 standards. However, formal delegation for an individual standard does not occur until NDEP obtains the necessary regulatory authority to implement and enforce that particular standard, and EPA approves NDEP's formal delegation request for that standard.

On January 5, 1995, EPA approved the Washoe County District Health Department's (WCDHD's) program for accepting delegation of section 112 standards (see 60 FR 1741). This approval extended only to sources that are subject to the CAA Title V operating permit program. WCDHD subsequently requested approval for its program to receive delegation of unchanged section 112 standards applicable to non-Title V sources (see letter from Brian L. Jennison, Director, Air Quality Management Division, WCDHD to Felicia Marcus, Regional Administrator, U.S. EPA Region IX, dated December 12, 1997). Therefore, today's action includes approval under section 112(l) of WCDHD's program for accepting delegation of section 112 standards applicable to non-Title V sources. The approved programs reflect an adequate demonstration by WCDHD of general resources and authorities to implement and enforce section 112 standards. However, formal delegation for an individual standard does not occur until WCDHD obtains the necessary regulatory authority to implement and enforce that particular standard, and EPA approves WCHDH's formal delegation request for that standard.

Both NDEP and WCDHD informed EPA that they intend to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into their respective state and local codes of regulation by reference to the Federal regulations; NDEP will be incorporating the section 112 standards into the Nevada Administrative Code, and WCDHD will be incorporating the standards into the WCDHD District Board of Health Regulations Governing Air Quality Management. The details of these delegation mechanisms are set forth in Memorandums of Agreement (MOAs) between each agency and EPA, and are available for public inspection at the U.S. EPA Region IX office (docket No. A–96–25).

On January 30, 1998, NDEP requested delegation for several individual section 112 standards that have been incoporated by reference into the Nevada Administrative Code. On December 3, 1997, WCDHD requested delegation for section 112 standards that have been incorporated by reference into the WCDHD District Board of Health Regulations. The standards that are being delegated by today's action are listed in a table at the end of this rule.

II. EPA Action

A. Delegation for Specific Standards

After reviewing NDEP's and WCDHD's requests for delegation of various national emissions standards for hazardous air pollutants (NESHAPs), EPA has determined that these requests meet all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91. Accordingly, NDEP and WCDHD are granted the authority to implement and enforce the requested NESHAPs. These delegations will be effective on July 27, 1998. A table of the NESHAP categories that will be delegated to each agency is shown at the end of this rule. Although NDEP and WCDHD will have primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. In addition, EPA does not delegate any authorities that require implementation through rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112.

After a state or local agency has been delegated the authority to implement and enforce a NESHAP, the delegated agency becomes the primary point of contact with respect to that NESHAP. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA Region IX waives the requirement that notifications and reports for delegated standards be submitted to EPA as well as to NDEP or WCDHD.

In its December 3, 1997 request, WCDHD included a request for delegation of the regulations implementing CAA sections 112(g) and 112(j), codified at 40 CFR part 63, subpart B. These requirements apply to major sources only, and need not be

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delegated under the section 112(l) approval process. When promulgating the regulations implementing section 112(g), EPA stated its view that "the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g)" (see 61 FR 68397). Similarly, when promulgating the regulations implementing section 112(j), EPA stated its belief that "section 112(l) approvals do not have a great deal of overlap with the section 112(j) provision, because section 112(j) is designed to use the title V permit process as the primary vehicle for establishing requirements" (see 59 FR 26447). Therefore, state or local agencies implementing the requirements under sections 112(g) and 112(j) do not need approval under section 112(l). As a result, EPA is not taking action to delegate 40 CFR part 63, subpart B to WCDHD.

B. Delegation Mechanism for Future Standards

Today's document takes action to approve WCDHD's program for receiving delegation of unchanged section 112 standards applicable to non-Title V sources, and serves to notify the public of the details of NDEP's and WCDHD's procedure for receiving delegation of future NESHAP. As set forth in the MOAs, NDEP and WCDHD intend to incorporate by reference, into their respective state and local codes of regulation, each newly promulgated NESHAP for which they intend to seek delegation. The agencies will then submit a letter to EPA Region IX, along with proof of regulatory authority, requesting delegation for each individual NESHAP. Region IX will respond in writing that delegation is either granted or denied. If a request is approved, the delegation of authorities will be considered effective upon the date of the response letter from Region IX. Periodically, EPA will publish in the **Federal Register** a listing of the standards that have been delegated. Although EPA reserves its right, pursuant to 40 CFR 63.96, to review the appropriateness of any future delegation request, EPA will not institute any additional comment periods on these future delegation actions. Any parties interested in commenting on this procedure for delegating future unchanged NESHAPs should do so at this time.

C. Opportunity for Public Comment

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective July 27, 1998 without further notice unless the Agency receives relevant adverse comments by June 26, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 27, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegations of authority to implement and enforce unchanged Federal standards under section 112(l) of the Clean Air Act do not create any new requirements but simply transfer primary implementation authorities to the State. Therefore, because this action does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

B. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the delegation action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

C. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

D. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 27, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

E. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action

from review under Executive Order 12866.

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks. Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that is (1) likely to be "economically significant" as defined under Executive Order 12866, and (2) the Agency has reason to believe that the environmental health or safety risk addressed by the rule may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks" because this is not an "economically significant" regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 4, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding and reserving paragraphs (a)(6) through (a)(27), and adding paragraph (a)(28) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(6)–(27) (Reserved)

(28) Nevada.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Nevada. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—NEVADA

Subpart	Description	NDEP [1]	WCDHD [2]	CCHD [3]
A	General Provisions	X	X	
M	Perchloroethylene Dry Cleaning	X	X	
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	X	X	
O	Ethylene Oxide Sterilization Facilities	.....	X	
Q	Industrial Process Cooling Towers	X		
R	Gasoline Distribution Facilities	.....	X	
T	Halogenated Solvent Cleaning	X	X	
JJ	Wood Furniture Manufacturing Operations	X		
KK	Printing and Publishing Industry	X	X	
OO	Tanks—Level 1	X		
PP	Containers	X		
QQ	Surface Impoundments	X		
RR	Individual Drain Systems	X		
VV	Oil-Water Separators and Organic-Water Separators	X		

[1] Nevada Department of Environmental Protection.
[2] Washoe County District Health Department.
[3] Clark County Health Department.

(ii) [Reserved]

[FR Doc. 98–13986 Filed 5–26–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–30114; FRL–5775–4]

Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The change in fees reflects a 2.45 percent increase in locality pay for civilian Federal General Schedule (GS) employees working in the Washington, DC/Baltimore, MD metropolitan area in 1998.

EFFECTIVE DATE: June 26, 1998.

FOR FURTHER INFORMATION CONTACT: For information concerning this rule: By mail: Ed Setren, Immediate Office, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 101E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305–5927, e-mail: setren.edward@epamail.epa.gov. For further information concerning tolerance petitions and individual fees contact: Sonya Brooks at the same address, telephone (703) 308–6428, e-mail: brooks.sonya@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is charged with administration of section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA). Section 408 authorizes the Agency to establish tolerance levels and exemptions from the requirements for tolerances for food commodities. Section 408(o) requires that the Agency collect fees as will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products, i.e., that the tolerance process be as self-supporting as possible.

The current fee schedule for tolerance petitions (40 CFR 180.33) was published in the **Federal Register** on May 9, 1997 (62 FR 25524) (FRL–5714–1) and

became effective on June 9, 1997. At that time the fees were increased 3.33 percent in accordance with a provision in the regulation that provides for automatic annual adjustments to the fees based on annual percentage changes in Federal salaries. The specific language in the regulation is contained in paragraph (o) of § 180.33 and reads in part as follows:

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale... When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the **Federal Register** as a final rule to become effective thirty days or more after publication, as specified in the rule.

The Federal Employees Pay Comparability Act of 1990 (FEPCA) initiated locality-based comparability pay, known as "locality pay". The intent of the legislation is to make Federal pay more responsive to local labor market conditions by adjusting General Schedule salaries on the basis of a comparison with non-Federal rates on a geographic, locality basis.

The processing and review of tolerance petitions is conducted by EPA employees working in the Washington, DC/Baltimore, MD pay area. The pay raise in 1998 for Federal General Schedule employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 2.45 percent; therefore, the tolerance petition fees are being increased 2.45 percent. The entire fee schedule, § 180.33, is presented for the reader's convenience. (All fees have been rounded to the nearest $25.00.)

This action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). Nor does it require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). Since this action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.).

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 1998.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 amended as follows:

PART 180–[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.33 is revised to read as follows:

§ 180.33 Fees.

(a) Each petition or request for the establishment of a new tolerance or a tolerance higher than already established, shall be accompanied by a fee of $65,600, plus $1,650 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested, except as provided in paragraphs (b), (d), and (h) of this section.

(b) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a fee of $15,000 plus $1,000 for each raw agricultural commodity on which a tolerance is requested.

(c) Each petition or request for an exemption from the requirement of a tolerance or repeal of an exemption shall be accompanied by a fee of $12,100.

(d) Each petition or request for a temporary tolerance or a temporary exemption from the requirement of a tolerance shall be accompanied by a fee of $26,200 except as provided in paragraph (e) of this section. A petition or request to renew or extend such temporary tolerance or temporary exemption shall be accompanied by a fee of $3,725.

(e) A petition or request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level or a higher numerical level shall be accompanied by a fee of $13,050 plus $1,000 for each raw agricultural commodity on which the temporary tolerance is sought.

(f) Each petition or request for repeal of a tolerance shall be accompanied by a fee of $8,200. Such fee is not required when, in connection with the change sought under this paragraph, a petition or request is filed for the establishment of new tolerances to take the place of those sought to be repealed and a fee is paid as required by paragraph (a) of this section.

(g) If a petition or a request is not accepted for processing because it is technically incomplete, the fee, less $1,650 for handling and initial review, shall be returned. If a petition is withdrawn by the petitioner after initial processing, but before significant Agency scientific review has begun, the fee, less $1,650 for handling and initial review, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time.

(h) Each petition or request for a crop group tolerance, regardless of the number of raw agricultural commodities involved, shall be accompanied by a fee equal to the fee required by the analogous category for a single tolerance that is not a crop group tolerance, i.e., paragraphs (a) through (f) of this section, without a charge for each commodity where that would otherwise apply.

(i) Objections under section 408(d)(5) of the Act shall be accompanied by a filing fee of $3,275.

(j)(1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $32,750 to cover the costs of the advisory committee. Further advance deposits of $32,750 each shall be made upon request of the Administrator when necessary to

prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(k) The person who files a petition for judicial review of an order under section 408(d)(5) or (e) of the Act shall pay the costs of preparing the record on which the order is based unless the person has no financial interest in the petition for judicial review.

(l) No fee under this section will be imposed on the Inter-Regional Research Project Number 4 (IR-4 Program).

(m) The Administrator may waive or refund part or all of any fee imposed by this section if the Administrator determines in his or her sole discretion that such a waiver or refund will promote the public interest or that payment of the fee would work an unreasonable hardship on the person on whom the fee is imposed. A request for waiver or refund of a fee shall be submitted in writing to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (7505C), Washington, DC 20460. A fee of $1,650 shall accompany every request for a waiver or refund, except that the fee under this sentence shall not be imposed on any person who has no financial interest in any action requested by such person under paragraphs (a) through (k) of this section. The fee for requesting a waiver or refund shall be refunded if the request is granted.

(n) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All deposits and fees shall be forwarded to the Environmental Protection Agency, Headquarters Accounting Operations Branch, Office of Pesticide Programs (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. The payments should be specifically labeled "Tolerance Petition Fees" and should be accompanied only by a copy of the letter or petition requesting the tolerance. The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division, (7504C) Washington, DC 20460. A petition will not be accepted for processing until the required fees have been submitted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial. A request for waiver or refund will not be accepted after scientific review has begun on a petition.

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. In addition, processing costs and fees will periodically be reviewed and changes will be made to the schedule as necessary. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the **Federal Register** as a Final Rule to become effective 30 days or more after publication, as specified in the rule. When changes are made based on periodic reviews, the changes will be subject to public comment.

[FR Doc. 98–13994 Filed 5–26–98; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 360

[Docket No. MARAD–1998–3865]

RIN 2133—AB34 (FINAL)

Transfer of Marine Equipment to Ship Operators and Shipyards; Removal of Obsolete Regulations

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is removing as obsolete its regulations relating to the transfer of marine equipment to ship operators and shipyards.

EFFECTIVE DATE: May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Eugene Magee, Chief, Division of Reserve Fleet, Maritime Administration, 400 Seventh St, S.W., Room 2112, Tel. (202) 366–5752.

SUPPLEMENTARY INFORMATION: 46 CFR part 360 prescribes regulations for the transfer by MARAD of marine equipment on board vessels in the National Defense Reserve Fleet (NDRF) to operators of U.S.-flag merchant ships and to shipyards for the construction or repair of U.S.-flag merchant ships, on the basis of replacement at the earliest possible date.

The provisions contained in 46 CFR part 360 have been in effect over 25 years, and MARAD has found that such marine equipment on board NDRF vessels, which average 42 years in age, is now commercially obsolete and cannot be used by current U.S.-flag merchant ships. However, such equipment may be needed to support inactive ships in MARAD's Ready Reserve Force Fleet or other retention ships in the NDRF and therefore should be retained.

Accordingly, the subject transfer regulation serves no useful purpose, and MARAD is hereby removing 46 CFR Part 360 as obsolete in this final rule.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of Executive Order 12866. Also, it is not a major rule under Pub. L. 104–121, 5 U.S.C. 804, or a significant rule under the Department's Regulatory Policies and Procedures. Accordingly, it has not been reviewed by the Office of Management and Budget.

MARAD has determined that this rulemaking presents no substantive issue which it could reasonably expect to produce meaningful public comment since it is merely removing obsolete regulations. Accordingly, MARAD has determined that the notice and public comment procedure otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(c), is unnecessary and good cause exists, pursuant to 5 U.S.C. 553(d)(3), to make the changes effective upon publication.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. 46 CFR Part 360 is being removed as obsolete, as it currently serves no useful purpose.

Environmental Assessment

The Maritime Administration has considered the environmental impact on this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 320,

pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

List of Subjects in 46 CFR Part 360

Government property, Maritime carriers.

PART 360—[REMOVED]

Accordingly, under the authority of 46 App. U.S.C. 1114(b), 46 CFR part 360 is hereby removed in its entirety.

Dated: May 20, 1998.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 98–13878 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–3837, Notice 1]

RIN 2127–AH07

Federal Motor Vehicle Safety Standards; Metric Conversion of Tire Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This document revises selected Federal Motor Vehicle Safety Standards (FMVSS) on tires by converting English measurements specified in those standards to metric measurements. This is one of several rulemaking actions that NHTSA is undertaking to implement the Federal policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. The conversions are not intended to make any changes in the stringency of the affected FMVSS. A companion final rule published in today's **Federal Register** converts, from English measurements to metric measurements, selected FMVSSs that do not relate to tires.

This document also includes a technical amendment to the standard on tire selection and rims for motor vehicles other than passenger cars so that tire information provided on labels may use abbreviations for units of weight (mass) measurement.

DATE: This final rule is effective May 27, 2003. Optional early compliance with the changes made in this final rule is permitted beginning May 27, 1998.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Mr. Cavey's telephone number is: (202) 366–5271.

SUPPLEMENTARY INFORMATION:

I. Background Information

Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418), makes it United States (U.S.) policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. Executive Order 12770 directs Federal agencies to comply with the Act by adopting a conversion schedule for their programs by September 30, 1992. In a **Federal Register** document of April 21, 1992 (57 FR 14619), the National Highway Traffic Safety Administration (NHTSA) published its plan to use the metric system in NHTSA programs, and included an implementation schedule to convert the Federal Motor Vehicle Safety Standards (FMVSSs) to metric measurements.

In a final rule published on March 15, 1995 (60 FR 13639), NHTSA completed the first phase of metrication, converting English measurements in the following FMVSSs to the metric system: Standard No. 102, *Transmission shift lever sequence, starter interlock, and transmission braking effect*; Standard No. 103, *Windshield defrosting and defogging systems*; Standard No. 104, *Windshield wiping and washing systems*; Standard No. 107, *Reflecting surfaces*; Standard No. 110, *Tire selection and rims*; Standard No. 112, *Headlamp concealment devices*; Standard No. 114, *Theft protection*; Standard No. 115, *Vehicle identification number—basic requirements*; Standard No. 120, *Tire selection and rims for motor vehicles other than passenger cars*; Standard No. 124, *Accelerator control systems*; Standard No. 126, *Truck-camper loading*; Standard No. 205, *Glazing materials*; Standard No. 206, *Door locks and door retention components*; Standard No. 207, *Seating systems*; Standard No. 212, *Windshield mounting*, and Standard No. 216, *Roof crush resistance*.

In the March 14, 1995 final rule, NHTSA established the following principles for converting English system measurements to the metric system:

(1) Equivalent conversions are generally favored, not exact ones;

(2) The term "mass" is favored over the term "weight," except when "weight" is used as part of a defined term;

(3) Force measurements are converted by specifying in the regulatory language the steps for making the conversion; and

(4) Dual measurements (i.e., both English and metric measurements) are used in a standard when it seems likely that it will be read by persons not fully accustomed to using the metric system. NHTSA stated its intent to follow these principles in future metrication rulemakings.

II. Notice of Proposed Rulemaking for Second Phase

On April 21, 1997, NHTSA began its second phase of metricating the FMVSSs by publishing a notice of proposed rulemaking to convert English measurements in the following Federal Motor Vehicle Safety Standards to the metric system: Standard No. 101, *Controls and displays*; Standard No. 109, *New pneumatic tires*; Standard No. 111, *Rearview mirrors*; Standard No. 116, *Motor vehicle brake fluids*; Standard No. 117, *Retreaded pneumatic tires*; Standard No. 119, *New pneumatic tires for vehicles other than passenger cars*; Standard No. 123, *Motorcycle controls and displays*; Standard No. 201, *Occupant protection in interior impact*; Standard No. 202, *Head restraints*; Standard No. 203, *Impact protection for the driver from the steering control system*; Standard No. 204, *Steering control rearward displacement*; Standard No. 209, *Seat belt assemblies*; Standard No. 210, *Seat belt assembly anchorages*; Standard No. 219, *Windshield zone intrusion*; Standard No. 220, *School bus rollover protection*; Standard No. 222, *School bus passenger seating and crash protection*; Standard No. 301, *Fuel system integrity*; and Standard No. 302, *Flammability of interior materials*.

The agency raised issues concerning the following proposed conversions: [1]

Exact Versus Equivalent Conversions—In the NPRM, NHTSA stated that although it generally favors the use of equivalent conversions, it will not use equivalent conversions where there is a specific safety need or other reason to make an exact conversion. For

[1] The issues relating to the other standards addressed in the NPRM are discussed in today's companion notice.

certain proposed conversions (i.e., ones involving requirements that specify the height of lettering, the minimum depth to which the lettering must be impressed, or the maximum height to which it must be embossed), NHTSA proposed exact conversions to minimize the possibility of manufacturers having to change molds and materials. NHTSA also proposed exact conversions for measurements in several non-tire standards to avoid a possibility that the standard would become more stringent after the conversion.

Dual Measurements—The agency stated its belief that converting some tables so that they contain only metric measurements may not be very informative to American tire manufacturers and retreaders and mirror manufacturers, many of whom may be more familiar with English measurements. Accordingly, in the case of the mirror and tire standards, NHTSA proposed that the tables and regulatory text provide both the English and metric systems of measurement. Specifically, for Standard No. 117, *Retreaded pneumatic tires*, NHTSA proposed to include both p.s.i. and kPa measurements in Table I—"Plies". For Standard No. 119, *New pneumatic tires for vehicles other than passenger cars*, NHTSA proposed to provide both English and metric measurements in Table I—"Strength Test Plunger Diameter", Table II—"Minimum Static Breaking Energy", and Table III—"Endurance Test Schedule".

NHTSA sought public comment on the proposal to use dual measurements for the specified tables and on the period of time after which use of the English units of measurements should be phased out.

Leadtime—NHTSA proposed that, if made final, the changes proposed in the NPRM take effect one year after the publication of the final rule, with manufacturers given the option to comply immediately with the new measurements. NHTSA stated its belief that one year is enough lead time for industry to make any necessary changes. In the past, NHTSA has consistently stated that it is not the agency's intent to impose unnecessary costs to manufacturers as a result of the metrication process. NHTSA stated it was aware that if some of the proposed changes in the tire standards were made final, tire mold manufacturers would have to change molds to accommodate the new metric/English measurements. Changing tire molds to accommodate labeling with metric measurements where the metric measurements are not specified may result in manufacturers incurring significant costs unless sufficient leadtime is given so that changes could be made when molds are changed.

NHTSA specifically sought comment on the amount of lead time that tire manufacturers should be given so that they could meet any changes that may result if the amendments proposed in NPRM are made final. NHTSA asked whether one year is enough lead time to permit tire manufacturers to purchase new molds that would meet the metricated standard.

III. Public Comments and NHTSA's Response

In response to the NPRM, NHTSA received comments from 17 commenters. Several commenters addressed only proposed metric conversions in the tire standards: Japan Automobile Tire Manufacturers' Association, Goodyear, Rubber Manufacturers' Assn., Toyota, and the European Tyre and Rim Technical Organization. The following comments were offered on Standard No. 109, *New pneumatic tires*; Standard No. 117, *Retreaded pneumatic tires*; and Standard No. 119, *New pneumatic tires for vehicles other than passenger cars*.

Most of the suggestions of commenters for changes to the three tire standards were to correct typographical errors or to make the conversions more consistent with established tire industry, European or other international standards. Many of the commenters made identical suggestions for changes. NHTSA has reviewed each suggested change and determined whether the change, if adopted, would have a substantive effect on the tire standard. The final rule incorporates the suggested changes, except as noted below.

The Rubber Manufacturers Association (RMA), in a June 19, 1997 submission, made detailed comments on proposed changes to Standards 109, 117, and 119. NHTSA has made almost all of RMA's suggested changes. However, the agency is not making RMA's suggested changes for Standard No. 119's S6.5(d) and S6.5(e). S6.5 specifies information that must be marked on tire sidewalls. That information includes the maximum load rating and corresponding inflation pressure of the tire (S6.5(d)) and the speed restriction of the tire, if 55 miles per hour or less (S6.5(e)). RMA's recommendation would make it optional, not mandatory, that the S6.5(d) and (e) information on tires be marked in metric and English system units. RMA's reason for its recommendation is that virtually every mold for tires regulated by Standard No. 119 would have to be restamped and there is "no justification for that kind of expense," even if spread out over several years.

In a submission dated August 28, 1997, RMA stated that its members estimate a cost to the industry of $18.2 million dollars to make changes to tire molds, if the one year implementation date proposed in the NPRM is adopted. The $18.2 million figure was calculated by adding the estimates provided by Goodyear, Michelin and Bridgestone-Firestone (a total of $15 million) and those provided by Dunlop, Continental, and Cooper (a total of $3.2 million).

Goodyear Tire and Rubber Company also asked that NHTSA not require metric markings for Standard No. 119. Goodyear stated that adding metric markings would mean that it would have to "virtually have to restamp every mold that currently exists for tires covered" by Standard No. 119. Goodyear stated that the restamping would be a major expense and not consistent with NHTSA's desire not to unduly burden tire manufactures.

NHTSA is not adopting RMA and Goodyear's request not to metricate Standard No. 119. NHTSA has undertaken this rulemaking to implement the Federal policy that the metric system of measurement is the preferred system of weights and measurements for United States trade and commerce. The metrication policy applies to all Federal Motor Vehicle Safety Standards, including Standard No. 119.

NHTSA notes that neither RMA nor Goodyear provided information on a leadtime for implementing the metrication of Standard No. 119 that would minimize the compliance burden on the tire industry. Therefore, in order to lessen the burden on tire manufacturers, NHTSA will not make the final rule effective in one year, as proposed in the NPRM, but will delay the effective date of the metricated tire standards for five years. Optional immediate compliance is also provided. NHTSA believes that during the course of five years, tire manufacturers will have the opportunity to replace molds as they become outmoded or worn out with new molds that incorporate both metric and English measurements.

IV. Technical Amendment to Standard No. 120

In the NPRM, NHTSA did not propose changes to Standard No. 120, *Tire selection and rims for motor vehicles other than passenger cars*. Nevertheless, Rover Group Ltd. suggested that the sample label titled "TRUCK EXAMPLE—SUITABLE TIRE-RIM

CHOICE" (following S5.3.2 of Standard No. 120) be amended to permit lower case letters for KG, the abbreviation for kilogram.

Land Rover's comment indicates that it believes "kilograms" used in the label may be abbreviated as "kg". At present, the label example specifies that units of weight be spelled out, i.e., "kilogram" or "pound". However, NHTSA has reexamined the label example and determined that consumers will not be confused by the abbreviations "kg" and "lbs" in lieu, respectively, of "kilograms" and "pounds." Thus, NHTSA in this final rule is also amending the label example that follows S5.3.2 of Standard No. 120 to permit abbreviations for kilograms and pounds.

However, NHTSA is not specifying that the abbreviation "kg" be in lower case letters because S5.3 *Label information* specifies that all information provided be "lettered in block capitals and numerals." NHTSA does not agree with Land Rover that persons seeing an upper case "KG" on the label will likely mistake this abbreviation for "Kelvin Giga" (which means Kelvin temperature of Celsius +273° times 10 to the ninth power) instead of the more common "kilogram."

V. Regulatory Impacts

A . Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E. O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under DOT's regulatory policies and procedures.

In converting the Federal Motor Vehicle Safety Standards from the English to the metric measurement system, the agency has made conversions in a way that does not substantively change the safety performance required of motor vehicle and motor vehicle equipment. As a result of this rule, manufacturers now providing consumer information (e.g., labeling) may incur minimal additional costs since they will have to add metric units to the information on their tires. In order to ensure that tire manufacturers can make the timing of their addition of the metrics unit information coincide with the timing of the replacement of their tire molds as they wear out and naturally reach the end of their useful life, the agency is providing five years of leadtime. The impacts of this action will be so minor that preparation of a full regulatory evaluation for this proposed rule is not warranted.

B. Regulatory Flexibility Act

The agency has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. As noted above, converting from the English system to the metric system will not require a change in the performance of any tire. While tire molds may have to be changed to accommodate dual metric/English labeling on tires, tire manufacturers can schedule the change so that it coincides with the normal retirement of tire molds as they wear out.

NHTSA does not know of any U.S. small businesses that manufacture tires. The U.S. Small Business Administration (SBA)'s small business size standard for a tire manufacturer is at 13 CFR 121.601 *Standard Industrial Classification Codes and size standards.* The Standard Industrial Classification Code (SIC) for manufacturers of tires and inner tubes is 3011. For SIC 3011, the SBA has established a size standard of 1,000 employees or fewer.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rulemaking action and determined that, as a final rule, it will not have a significant impact on the quality of the human environment.

D. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Civil Justice Reform

This proposed rule will not have a retroactive effect. Under 49 U.S.C. section 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. section 30106 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the Federal Motor Vehicle Safety Standards (49 CFR Part 571), are amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.109 is amended by revising in S4.2.1, paragraph (d); revising S4.2.2.3.1; revising S4.2.2.3.2; revising the first sentence of S4.3 *Labeling Requirements* introductory paragraph; revising the first sentence of S4.3.5; revising S5.2.2.1; revising S5.3.2.1; revising S5.3.2.3; revising S5.4.1.2; revising S5.4.2.1; revising S5.4.2.2; revising S5.4.2.3; revising S5.5.2; revising S5.5.3; and revising S5.5.4 to read as follows:

§ 571.109 Standard No. 109, New pneumatic tires.

* * * * *

S4.2.1. *General.* Each tire shall conform to each of the following:

* * * * *

(d) It shall incorporate a tread wear indicator that will provide a visual indication that the tire has worn to a tread depth of 1.6 mm (1/16 inch).

* * * * *

S4.2.2.3.1 When a tubeless tire that has a maximum inflation pressure other than 420 kPa (60 psi) is tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall be not less than:

(a) 6,670 N (1,500 pounds) for tires with a designated section width of less than 160 mm (6 inches);

(b) 8,890 N (2,000 pounds) for tires with a designated section width of 160 mm (6 inches) or more but less than 205 mm (8 inches);

(c) 11,120 N (2,500 pounds) for tires with a designated section width of 205 mm (8 inches) or more, using the section width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a), or in one of the publications described in S4.4.1(b) for the applicable tire size designation and type.

S4.2.2.3.2 When a tire that has a maximum inflation pressure of 420 kPa

(60 psi) is tested in accordance with S5.2, the applied force required to unseat the bead at the point of contact shall be not less than:

(a) 6,670 N (1,500 pounds) for tires with a maximum load rating of less than 399 kg (880 pounds);

(b) 8,890 N (2,000 pounds) for tires with a maximum load rating of 399 kg (880 pounds) or more but less than 635 kg (1,400 pounds);

(c) 11,120 N (2,500 pounds) for tires with a maximum load rating of 635 kg (1,400 pounds) or more, using the maximum load rating marked on the sidewall of the tire.

* * * * *

S4.3 *Labeling Requirements.* Except as provided in S4.3.1 and S4.3.2, each tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 2 mm (0.078 inches) high, the information shown in paragraphs S4.3 (a) and (g). * * *

* * * * *

S4.3.5 If the maximum inflation pressure of a tire is 420 kPa (60 psi), the tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 12.7 mm (½ inch), the words "Inflate to 420 kPa (60 psi)". * * *

* * * * *

S5.2.2.1 Apply a load through the block to the tire's outer sidewall at the distance specified in Figure 1 for the applicable wheel size at a rate of 50 mm (2 inches) per minute, with the load arm substantially parallel to the tire and rim assembly at the time of engagement.

* * * * *

S5.3.2.1 Force a 19 mm (¾ inch) diameter cylindrical steel plunger with a hemispherical end perpendicularly into the tread rib as near to the centerline as possible, avoiding penetration into the tread groove, at the rate of 50 mm (2 inches) per minute.

* * * * *

S5.3.2.3 Compute the breaking energy for each test point by means of one of the two following formulas:

$W=[(F\times P)/2]\times 10^{\times 3}$ (joules)

Where

W=Energy, in joules;

F=Force, Newtons; and

P=Penetration, mm; or

$W=[(F\times P)/2]$

Where

W=Energy, inch-pounds;

F=Force, pounds; and

P=Penetration, inches.

* * * * *

S5.4.1.2 Condition the tire assembly to 38°±3° C (100°±5° F) for at least three hours.

* * * * *

S5.4.2.1 Mount the tire and wheel assembly on a test axle and press it against a flat-faced steel test wheel 1708 mm (67.23 inches) in diameter and at least as wide as the section width of the tire to be tested or an approved equivalent test wheel, with the applicable test load specified in the table in S5.4.2.3 for the tire's size designation, type and maximum permissible inflation pressure.

S5.4.2.2 During the test, the air surrounding the test area shall be 38°±3° C (100°±5° F).

S5.4.2.3 Conduct the test at 80 kilometers per hour (km/h)(50 miles per hour) in accordance with the following schedule without pressure adjustment or other interruptions:

The loads for the following periods are the specified percentage of the maximum load rating marked on the tire sidewall:

	Percent
4 hours	85
6 hours	90
24 hours	100

* * * * *

S5.5.2 Break in the tire by running it for 2 hours at 80 km/h (50 mph).

S5.5.3 Allow to cool to 38°±3° C (100°±5° F) and readjust the inflation pressure to the applicable pressure specified in Table II.

S5.5.4 Without readjusting inflation pressure, test at 121 km/h (75 mph) for 30 minutes, 129 km/h (80 mph) for 30 minutes, and 137 km/h (85 mph) for 30 minutes.

* * * * *

3. In § 571.109, Figure 1—"Bead Unseating Fixture—Dimensions in Inches", the Table titled "Figures for Standard No. 109", Figure 2—"Diagram of Beat Unseating Block Dimensions in Inches", and Figure 2A—"Diagram of Bead Unseating Block—Dimensions in Inches" after S6, and preceding Appendix A, are revised to read as follows:

BILLING CODE 4910–59–P

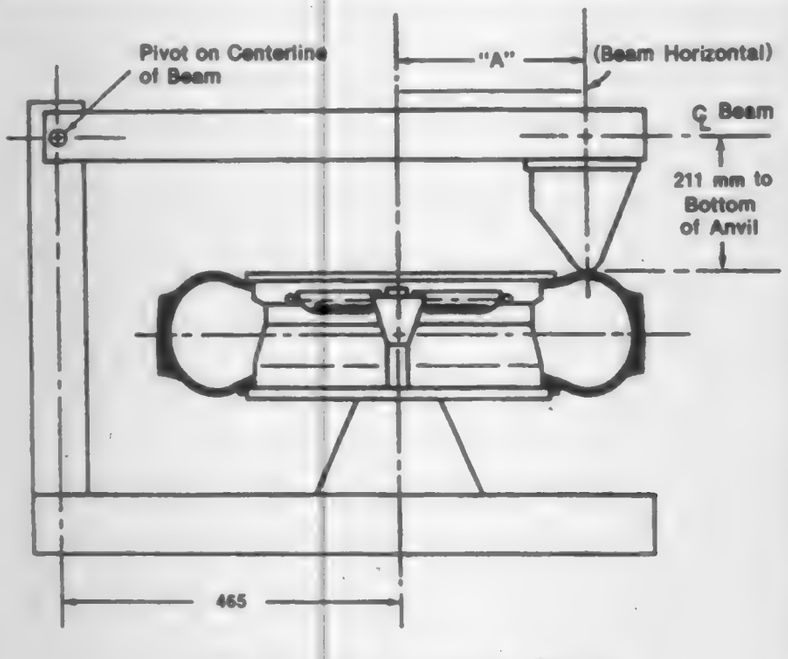


Figure 1.—Bead Unseating Fixture
All Dimensions in Millimeters (mm)

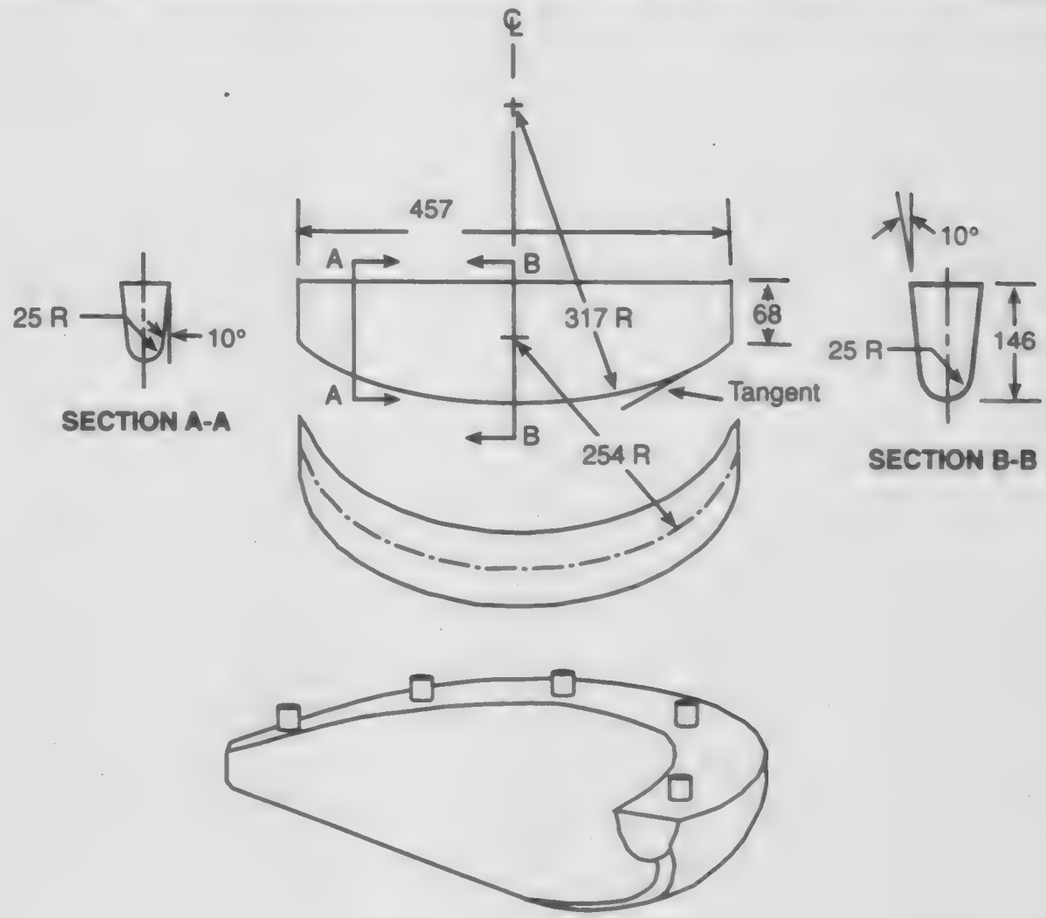
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FIGURES FOR STANDARD 109

Wheel sizes	Dimension "A" for tires with maximum inflation pressure			
	Other than 60 psi	Other than 420 kPa	60 psi	420 kPa
19	13.00 in	330	12.00 in	305
18	12.50 in	318	11.40 in	290
17	12.00 in	305	10.60 in	269
16	11.50 in	292	9.90 in	251
15	11.00 in	279	9.40 in	239
14	10.50 in	267	8.90 in	226
13	10.00 in	254	8.40 in	213
12	9.50 in	241		
11	9.00 in	229		
10	8.50 in	216		
320	8.50 in	216		
340	9.00 in	229		
345	9.25 in	235		
365	9.75 in	248		
370	10.00 in	254		
390	11.00 in	279		
415	11.50 in	292		
400[1]	10.25 in	260		
425[1]	10.75 in	273		
450[1]	11.25 in	286		
475[1]	11.75 in	298		
500[1]	12.25 in	311		

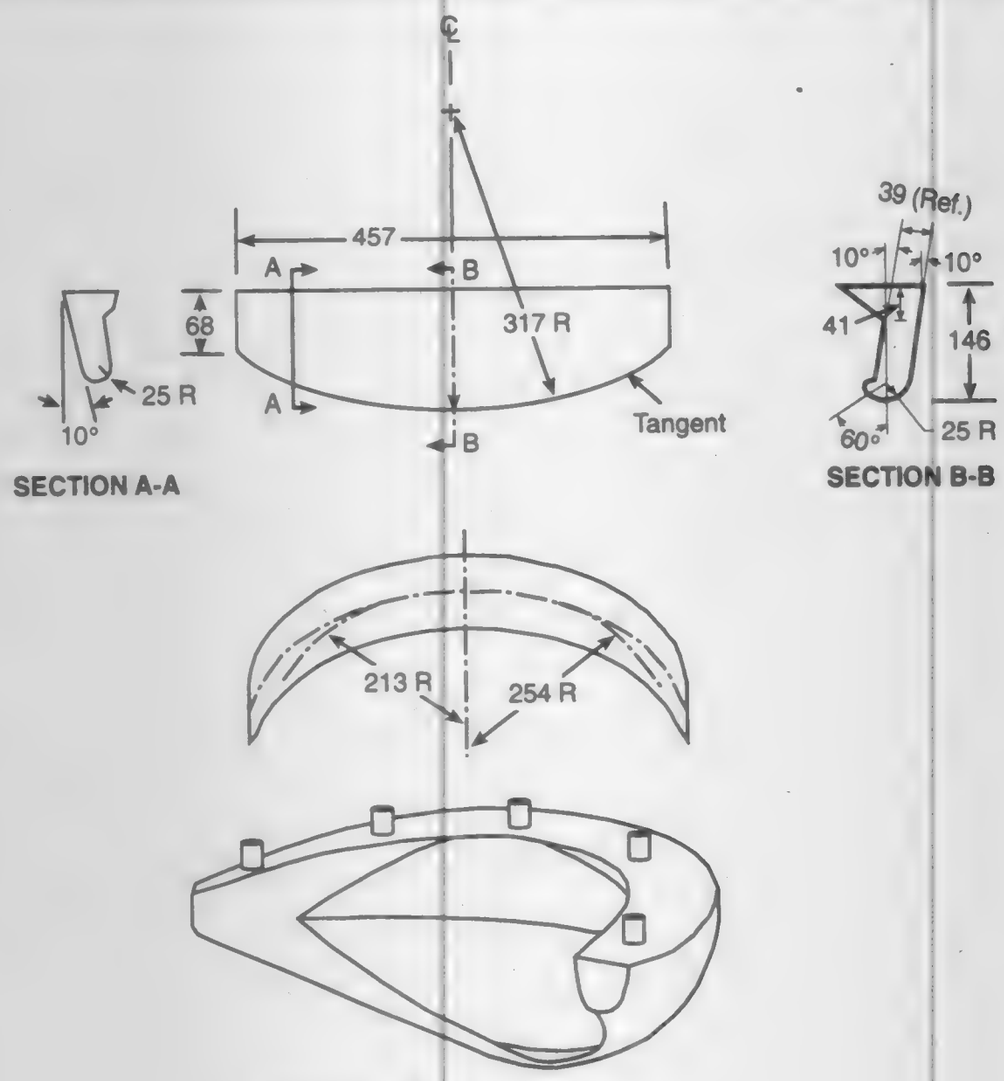
[1] For CT Tires only.

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MATERIAL: Cast Aluminum 355
T-6 Condition
Finish-1.3 Micrometer (um)

Figure 2. DIAGRAM OF BEAD UNSEATING BLOCK
All dimensions in millimeters (mm)



MATERIAL: Cast Aluminum 355
T-6 Condition
Finish-1.3 Micrometer (um)

Figure 2A. DIAGRAM OF BEAD UNSEATING BLOCK
All dimensions in millimeters (mm)

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4. In § 571.109, in Appendix A, Table 1–A—"For Bias Ply Tires with Designated Section Width of 6 Inches and Above", Table 1–B "For Bias Ply Tires with Designated Section Width Below 6 Inches", Table 1–C "For Radial Ply Tires", Table 1–D "For Tires with 60 lb/in² Maximum Permissible Inflation Pressure and Maximum Load Rating Below 880 Lb. And Above", and Table 1–E "For Tires With 60 lb/in² Maximum Permissible Inflation Pressure and Maximum Load Rating Below 880 Lb" are revised to read as follows:

Appendix A—Federal Motor Vehicle Safety Standard No. 109

TABLE I–A.—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH OF 152 MM (6 INCHES) AND ABOVE

Cord material	32 psi	36 psi	40 psi	240 kPa	280 kPa	300 kPa	340 kPa
Rayon:							
(in-lbs)	1,650	2,574	3,300	1,650	3,300	1,650	3,300
(joules)	186	291	373	186	373	186	373
Nylon or polyester:							
(in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600	5,200
(joules)	294	441	588	294	588	294	588

TABLE I–B.—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH BELOW 152 MM (6 INCHES)

Cord material	32 psi	36 psi	40 psi	240 kPa	280 kPa	300 kPa	340 kPA
Rayon:							
(in-lbs)	1,000	1,875	2,500	1,000	2,500	1,000	2,500
(joules)	113	212	282	113	282	113	282
Nylon or polyester:							
(in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950	3,900
(joules)	220	330	441	220	441	220	441

TABLE I–C.—FOR RADIAL PLY TIRES

Size designation	Maximum permissible inflation											
	Tires other than CT tires								CT tires			
	psi			kPa					kPa			
	32	36	40	240	280	300	340	350	290	330	350	390
Below 160 mm:												
(in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950	3,900	1,950	1,950	3,900	1,950	3,900
(joules)	220	330	441	220	441	220	441	220	220	441	220	441
160 mm or above:												
(in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600	5,200	2,600	2,600	5,200	2,600	5,200
(joules)	294	441	588	294	588	294	588	294	294	588	294	588

TABLE I–D.—FOR TIRES WITH 420 KPA (60 PSI) MAXIMUM PERMISSIBLE INFLATION PRESSURE AND MAXIMUM LOAD RATING 399 KG (880 LB) AND ABOVE

Cord material	Inch-pounds joules (J)
Rayon	1,650 inch pounds 186 joules (J).
Nylon or Polyester	2,600 inch pounds 294 joules (J).

TABLE I–E.—FOR TIRES WITH 420 KPA (60 PSI) MAXIMUM PERMISSIBLE INFLATION PRESSURE AND MAXIMUM LOAD RATING BELOW 399 KG (880 LB)

Cord material	Inch-pounds joules (J)
Rayon	1,000 inch pounds 113 joules (J).
Nylon or Polyester	1,950 inch pounds 220 joules (J).

5. Section 571.117 is amended by revising S6.3 to read as follows:

§ 571.117 Standard No. 117, Retreaded pneumatic tires.

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S6.3 Each retreaded tire shall bear permanent labeling through molding, branding, or other method that will produce a permanent label, or through the retention of the original casing labeling, in at least one location on the tire sidewall, in letters and numbers not less than 2 mm (0.078 inch) high, consisting of the following information:

* * * * *

6. In § 571.117, Table I—"Plies" is revised to read as follows:

TABLE I.—PLIES

Tire Size	2ply–4ply (4 ply rating)				4 ply (6 ply rating)				4 ply (8 ply rating)			
	Maximum load		Maximum Inflation Pressure		Maximum load		Maximum Inflation Pressure		Maximum load		Maximum Inflation Pressure	
	lb	kg	psi	kPa	lb	kg	psi	kPa	lb	kg	psi	kPa
6.00–13	1010	458	32	220	1080	499	36	250	1140	517	40	275
6.50–13	1150	552	32	220	1230	558	36	250	1300	590	40	275
7.00–13	1270	576	32	220	1360	617	36	250	1440	653	40	275
6.45–14	1120	508	32	220	1200	544	36	250	1270	576	40	275
6.95–14	1230	558	32	220	1310	594	36	250	1390	630	40	275
7.35–14	1360	617	32	220	1450	658	36	250	1540	698	40	275
7.75–14	1500	680	32	220	1600	726	36	250	1690	767	40	275
8.25–14	1620	735	32	220	1730	785	36	250	1830	830	40	275
8.55–14	1770	803	32	220	1890	857	36	250	2000	907	40	275
8.85–14	1860	844	32	220	1990	903	36	250	2100	953	40	275
5.60–15	0970	440	32	220	1040	472	36	250	1105	501	40	275
5.90–15	1050	476	32	220	1130	513	36	250	1200	544	40	275
6.85–15	1230	558	32	220	1320	599	36	250	1390	630	40	275
7.35–15	1390	630	32	220	1480	671	36	250	1570	712	40	275
7.75–15	1490	676	32	220	1590	721	36	250	1690	767	40	275
8.15–15	1610	730	32	220	1720	780	36	250	1820	826	40	275
8.25–15	1620	735	32	220	1730	785	36	250	1830	830	40	275
8.45–15	1740	789	32	220	1860	844	36	250	1970	894	40	275
8.55–15	1770	803	32	220	1890	857	36	250	2000	907	40	275
8.85–15	1860	844	32	220	1980	898	36	250	2100	953	40	275
9.00–15	1900	862	32	220	2030	721	36	250	2150	975	40	275
9.15–15	1970	894	32	220	2100	953	36	250	2230	1012	40	275
8.90–15	2210	1002	32	220	2360	1070	36	250	2500	1134	40	275
A70–13	1060	481	32	220	1130	513	36	250	1200	544	40	275
D70–13	1320	599	32	220	1410	640	36	250	1490	676	40	275
D70–14	1320	599	32	220	1410	640	36	250	1490	676	40	275
E70–14	1400	635	32	220	1490	676	36	250	1580	717	40	275
F70–14	1500	680	32	220	1610	730	36	250	1700	771	40	275
G70–14	1620	735	32	220	1730	785	36	250	1830	830	40	275
H70–14	177	803	32	220	1890	857	36	250	2010	912	40	275
J70–14	1860	844	32	220	1980	898	36	250	2100	953	40	275
L70–14	1970	894	32	220	2180	989	36	250	2230	1012	40	275
C70–15	1230	558	32	220	1320	599	36	250	1390	630	40	275
D70–15	1320	599	32	220	1410	640	36	250	1490	676	40	275
E70–15	1400	635	32	220	1490	676	36	250	1580	717	40	275
F70–15	1500	680	32	220	1610	730	36	250	1700	771	40	275
G70–15	1620	735	32	220	1730	785	36	250	1830	830	40	275
H70–15	1770	803	32	220	1890	857	36	250	2010	912	40	275
J70–15	1860	844	32	220	1980	898	36	250	2100	953	40	275
K70–15	1900	862	32	220	2030	721	36	250	2150	975	40	275
L70–15	1970	894	32	220	2100	953	36	250	2230	1012	40	275
165–13	1050	476	32	220	1130	513	36	250	1200	544	40	275
175–13	1150	552	32	220	1240	562	36	250	1350	612	40	275
185–13	1270	576	32	220	1390	630	36	250	1510	685	40	275
155R13	950	431	32	220	1015	460	36	250	1075	488	40	275
155R14	1010	458	32	220	1080	499	36	250	1140	517	40	275
155R14	1015	460	32	220	1085	492	36	250	1150	552	40	275
165R13	1010	458	32	220	1080	499	36	250	1140	517	40	275
165R14	1120	508	32	220	1200	544	36	250	1370	621	40	275
165R15	1130	513	32	220	1200	544	36	250	1270	576	40	275
175R14	1230	558	32	220	1310	594	36	250	1390	630	40	275
185R14	1360	617	32	220	1450	658	36	250	1540	698	40	275
185/70R13	1090	494	32	220	1140	517	36	250	1190	540	40	275
145–14 [1]	865	392	32	220	905	411	36	250	935	424	40	275
145–15	895	406	32	220	940	426	36	250	975	442	40	275
195–15	1550	703	32	220	1680	762	36	250	1820	826	40	275
205–15	1770	803	32	220	1840	835	36	250	2000	907	40	275

[1] Dash Radial—Not an "R" Radial.

7. Section 571.119 is amended by revising S6.3; revising S6.4; revising in S6.5, the introductory paragraph and paragraphs (d) and (e); revising S7.1.2; revising in S7.2, paragraph (c); revising in S7.3, paragraphs (c), (e), and (f); and revising in S7.4, paragraph (c) to read as follows:

§ 571.119 Standard No. 119, New pneumatic tires for vehicles other than passenger cars.

* * * * *

S6.3 *High speed performance.* When tested in accordance with the procedures of S7.3, a tire shall meet the requirements set forth in S6.1.1 and S6.1.2(a) and (b). However, this requirement applies only to motorcycle tires and to non-speed-restricted tires of nominal rim diameter code 14.5 or less marked load range A, B, C, or D.

S6.4 *Treadwear indicators.* Except as specified in this paragraph, each tire shall have at least six treadwear indicators spaced approximately equally around the circumference of the tire that enable a person inspecting the tire to determine visually whether the tire has worn to a tread depth of 1.6 mm (one-sixteenth of an inch). Tires with a rim diameter code of 12 or smaller shall have at least three such treadwear indicators. Motorcycle tires shall have at least three such indicators which permit visual determination that the tire has worn to a tread depth of 0.8 mm (one-thirty-second of an inch).

S6.5 *Tire markings.* Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less that 0.4 mm (0.015 inch), except that the marking depth shall be not less than 0.25mm (0.010 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires.

* * * * *

(d) The maximum load rating and corresponding inflation pressure of the tire, shown as follows:

(Mark on tires rated for single and dual load): Max load single ____kg (____lb) at ____kPa (____psi) cold. Max load dual ____kg (____lb) at ____kPa (____psi) cold.

(Mark on tires rated only for single load): Max load ____kg (____lb) at ____kPa (____psi) cold.

(e) The speed restriction of the tire, if 88 km/h (55 mph) or less, shown as follows:

Max speed ____km/h (____mph).

* * * * *

S7.1.2 The tire must be capable of meeting the requirements of S7.2 and S7.4 when conditioned to a temperature of 35° C (95° F) for 3 hours before the test is conducted, and with an ambient temperature maintained at 35° C (95° F) during all phases of testing. The tire must be capable of meeting the requirements of S7.3 when conditioned at a temperature of 21° C (70° F) for 3 hours before the test is conducted.

S7.2 *Endurance.*

* * * * *

(c) Mount the tire-rim assembly on an axle and press it against a flat-faced steel test wheel that is 1708 mm (67.23 inches) in diameter and at least as wide as the tread of the tire.

* * * * *

S7.3 *Strength.*

* * * * *

(c) Force a cylindrical steel plunger, with a hemispherical end and of the diameter specified in Table I for the tire size, perpendicularly into a raised tread element as near as possible to the centerline of the tread, at a rate of 50 mm (2 inches) per minute, until the tire breaks or the plunger is stopped by the rim.

* * * * *

(e) Repeat the plunger application at 72° intervals around the circumference of the tire, until five measurements are made. However, in the case of tires of 12 inch rim diameter code or smaller, repeat the plunger application at 120° intervals around the circumference of the tire, until three measurements are made.

(f) Compute the breaking energy for each test point by one of the two following formulas:

(1) $W = [(F \times P)/2] \times 10^{-3}$ (joules)

Where:

W = Breaking energy (in joules) (kJ)
F = Force in newtons (N) and
P = Penetration in millimeters (mm), or;

(2) $W = (FP/2)$

Where:

W = Breaking energy in inch-pounds,
F = Force in pounds,
P = Penetration in inches.

* * * * *

S7.4 *High speed performance.*

* * * * *

(c) Remove the load, allow the tire to cool to 35° C (95° F), and then adjust the pressure to that marked on the tire for single tire use.

* * * * *

8. In § 571.119, Table I—"Strength Test Plunger Diameter", Table II—"Minimum Static Breaking Energy (Inch-Pounds)", and Table III—"Endurance Test Schedule" that follow paragraph (e) of S7.4 is revised to read as follows:

TABLE I.—STRENGTH TEST PLUNGER DIAMETER

	Plunger diameter	
	(mm)	(inches)
Tire type:		
Light truck	19.05	3/4
Motorcycle		5/16
Tires for 12 rim diameter code or smaller rims except motorcycle	19.05	3/4
Tires other than the above types:		
Tubeless:		
17.5 diameter code or smaller rims	19.05	3/4
Larger than 17.5 rim diameter code rims:		
Load range F or less	31.75	1 1/4
Load range over F	38.10	1 1/2

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TABLE I.—STRENGTH TEST PLUNGER DIAMETER—Continued

	Plunger diameter (mm)	Plunger diameter (inches)
Tube type:		
Load range F or less	31.75	1¼
Load range over F	38.10	1½

TABLE II.—MINIMUM STATIC BREAKING ENERGY (JOULES (J)* AND INCH-POUNDS (INCH-LBS))

Load range			All 12 rim diameter code or smaller rim size		Light truck 17.5 rim diameter code or smaller rim tubeless		Tube type		Tubeless		Tube type		Tubeless	
Tire characteristic	Motorcycle													
Plunger diameter (mm and inches)	7.94 J	5/16" inch-lbs	19.05 J	¾" inch-lbs	19.05 J	¾" inch-lbs	31.75 J	1¼" inch-lbs	J	inch-lbs	38.10 J	1½" inch-lbs	J	inch-lbs
A	16	150	67	600	225	2,000	.....	.....	.....	.....	.....	.....	.....	.....
B	33	300	135	1,200	293	2,600	.....	.....	.....	.....	.....	.....	.....	.....
C	45	400	203	1,800	361	3,200	768	6,800	576	5,100	.....	.....	.....	.....
D	.....	.....	271	2,400	514	4,550	892	7,900	734	6,500	.....	.....	.....	.....
E	.....	.....	338	3,000	576	5,100	1,412	12,500	971	8,600	.....	.....	.....	.....
F	.....	.....	406	3,600	644	5,700	1,785	15,800	1,412	12,500	.....	.....	.....	.....
G	.....	.....	.....	.....	711	6,300	.....	.....	.....	.....	2,282	20,200	1,694	15,000
H	.....	.....	.....	.....	768	6,800	.....	.....	.....	.....	2,598	23,000	2,090	18,500
J	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2,824	25,000	2,203	19,500
L	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,050	27,000	.....	.....
M	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,220	28,500	.....	.....
N	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,389	30,000	.....	.....

NOTE: For rayon cord tires, applicable energy values are 60 percent of those in table.
*J measurements are rounded down to the nearest whole number.

TABLE III.—ENDURANCE TEST SCHEDULE

Description	Load range	Test wheel speed (r/m)	Test load: Percent of maximum load rating			Total best revolutions (thousands)
			I—7 hours	II—16 hours	III—24 hours	
Speed restricted service:						
88 km/h (55 mph)	All	125	66	84	101	352.0
80 km/h (50 mph)	C, D	150	75	97	114	432.0
	E, F, G, H, J, L	100	66	84	101	282.5
56 km/h (35 mph)	All	75	66	84	101	211.0
Motorcycle	All	250	[1] 100	[2] 108	117	510.0
All other	A, B, C, D	250	75	[2] 97	114	.....
	E	200	70	88	106	546.0
	F	200	66	84	101	564.0
	G	175	66	84	101	493.5
	H, J, L, N	150	66	84	101	423.5

[1] 4 hr., for tire sizes subject to high speed requirements (S6.3).
[2] 6 hr., for tire sizes subject to high speed requirements (S6.3).

§ 571.120 [Amended]

9. Section 571.120 is amended by revising "TRUCK EXAMPLE—SUITABLE TIRE-RIM CHOICE" at the end of S5.3.2, and before S5.3.3, to read as follows:

S5.3.2. Rims.

* * * * * *

TRUCK EXAMPLE—SUITABLE TIRE–RIM CHOICE
GVWR: 7,840 KG (17,289 LB)
GAWR: FRONT—2,850 KG (6,280 LB) WITH 7.50–20(D) TIRES, 20 X 6.00 RIMS AT 520 KPA (75 PSI) COLD SINGLE
GAWR: REAR—4,990 KG (11,000 LB) WITH 7.50–20(D) TIRES, 20 X 6.00 RIMS, AT 450 KPA (65 PSI) COLD DUAL
GVWR: 13,280 KG (29,279 LB)
GAWR: FRONT—4,826 KG (10,640 LB) WITH 10.00–20(F) TIRES, 20 X 7.50 RIMS, AT 620 KPA (90 PSI) COLD SINGLE
GAWR: REAR—8,454 KG (18,639 LB) WITH 10.00–20(F) TIRES, 20 X 2.70 RIMS, AT 550 KPA (80 PSI) COLD DUAL

* * * * * *

Issued: May 13, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–13432 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–3836]

RIN 2127–AG55

Federal Motor Vehicle Safety Standards; Metric Conversion

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises selected Federal Motor Vehicle Safety Standards (FMVSS) by converting English measurements specified in those standards to metric measurements. This is one of several rulemaking actions that NHTSA is undertaking to implement the Federal policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. The conversions are not intended to make any changes in the stringency of the affected FMVSS. A companion final rule published in today's **Federal Register** converts English measurements in selected safety standards on tires to metric measurements.

DATES: This final rule is effective May 27, 1999. Optional early compliance with the changes made in this final rule is permitted beginning May 27, 1998.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Mr. Cavey's telephone number is: (202) 366–5271.

SUPPLEMENTARY INFORMATION:

I. Background Information

Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418), makes it United States (U.S.) policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. Executive Order 12770 directs Federal agencies to comply with the Act by adopting a conversion schedule for their programs by September 30, 1992. In a **Federal Register** document of April 21, 1992 (57 FR 14619), the National Highway Traffic Safety Administration (NHTSA) published its plan to use the metric system in NHTSA programs, and included an implementation schedule to convert the Federal Motor Vehicle Safety Standards (FMVSSs) to metric measurements.

In a final rule published on March 14, 1995 (60 FR 13639), NHTSA completed the first phase of metrication, converting English measurements in the following FMVSSs to the metric system: Standard No. 102, *Transmission shift lever sequence, starter interlock, and transmission braking effect;* Standard No. 103, *Windshield defrosting and defogging systems;* Standard No. 104, *Windshield wiping and washing systems;* Standard No. 107, *Reflecting surfaces;* Standard No. 110, *Tire selection and rims;* Standard No. 112, *Headlamp concealment devices;* Standard No. 114, *Theft protection;* Standard No. 115, *Vehicle identification number—basic requirements;* Standard No. 120, *Tire selection and rims for motor vehicles other than passenger cars;* Standard No. 124, *Accelerator control systems;* Standard No. 126, *Truck-camper loading;* Standard No. 205, *Glazing materials;* Standard No. 206, *Door locks and door retention components;* Standard No. 207, *Seating systems;* Standard No. 212, *Windshield mounting,* and Standard No. 216, *Roof crush resistance.*

In the March 14, 1995 final rule, NHTSA established the following principles for converting English system measurements to the metric system:

(1) Equivalent conversions are generally favored, not exact ones;

(2) The term "mass" is favored over the term "weight," except when "weight" is used as part of a defined term;

(3) Force measurements are converted by specifying in the regulatory language the steps for making the conversion; and

(4) Dual measurements (i.e., both English and metric measurements) are used in a standard when it seems likely that it will be read by persons not fully accustomed to using the metric system. NHTSA stated its intent to follow these principles in future metrication rulemakings.

II. Notice of Proposed Rulemaking for Second Phase

On April 21, 1997, NHTSA began its second phase of metricating the FMVSSs by publishing a notice of proposed rulemaking to convert English measurements in the following Federal Motor Vehicle Safety Standards to the metric system: Standard No. 101, *Controls and displays;* Standard No. 109, *New pneumatic tires;* Standard No. 111, *Rearview mirrors;* Standard No. 116, *Motor vehicle brake fluids;* Standard No. 117, *Retreaded pneumatic tires;* Standard No. 119, *New pneumatic tires for vehicles other than passenger cars;* Standard No. 123, *Motorcycle controls and displays;* Standard No. 201, *Occupant protection in interior impact;* Standard No. 202, *Head restraints;* Standard No. 203, *Impact protection for the driver from the steering control system;* Standard No. 204, *Steering control rearward displacement;* Standard No. 209, *Seat belt assemblies;* Standard No. 210, *Seat belt assembly anchorages;* Standard No. 219, *Windshield zone intrusion;* Standard No. 220, *School bus rollover protection;* Standard No. 222, *School bus passenger seating and crash protection;* Standard No. 301, *Fuel system integrity;* and Standard No. 302, *Flammability of interior materials.*

The agency raised issues concerning the following proposed conversions: [1]

A. Exact Versus Equivalent Conversions—In the NPRM, NHTSA stated that although it generally favors the use of equivalent conversions, it will not use equivalent conversions where there is a specific safety need or other reason to make an exact conversion. For certain proposed conversions (i.e., ones involving requirements that specify the height of lettering, the minimum depth to which the lettering must be impressed, or the maximum height to which it must be embossed), NHTSA proposed exact conversions, to minimize the possibility of manufacturers' having to change molds and materials.

NHTSA also noted that it proposed in the following instances to make exact conversions to avoid a possibility that the standard would become more stringent as a result of the conversion: (1) In making any conversions of gross vehicle weight ratings (GVWRs); and (2) in the specifications for the loading of test vehicles in Standard No. 219, *Windshield zone intrusion,* and Standard No. 301, *Fuel system integrity.* Certain tested vehicles must be loaded to their unloaded vehicle weight plus 300 pounds. In the NPRM, the agency proposed to convert 300 pounds to 136 kilograms, the equivalent conversion. NHTSA proposed conversion to 136 kilograms, instead of 140 kilograms, because a slight increase in the load required for Standards Nos. 219 and 301 testing (resulting from a conversion to 140 kilograms) might result in manufacturers having to conduct a separate crash test for Standard No. 219 and Standard No. 301 certification.

B. "Mass" vs. "Weight"—NHTSA stated that in instances in which the safety standards use "weight" to mean "mass" in describing compliance testing conditions and procedures, or in other instances in which the standards are primarily directed to engineers or other technically trained persons, NHTSA will substitute "mass" for "weight" in the regulatory text. However, when "weight" is part of a term defined at 49 CFR 571.3, such as "curb weight,"

[1] The issues relating to the other standards addressed in the NPRM are discussed in today's companion notice.

"gross axle weight rating," or "unloaded vehicle weight," NHTSA stated it will not make any change.

C. Force Measurements—In making the metric conversion of the force measurements in Standard Nos. 220 and 222, NHTSA proposed to specify the steps of the conversion in the regulatory language, to minimize the chance of the wrong metric system conversion being made. For Standard No. 220, NHTSA proposed to amend the force measurement language (in S4) to provide that the roof of the vehicle's body structure shall be subjected to a force in Newtons equal to 1.5 times the unloaded vehicle weight, measured in kilograms and multiplied by 9.8 m/s^2. For Standard No. 222, NHTSA proposed to amend the force measurement language (in S5.1.5) to provide that the seat cushion shall not separate from the seat at any attachment point when subjected to an upward force in Newtons of 5 times the mass of the seat cushion in kilograms and multiplied by 9.8 m/s^2.

D. Dual Measurements—The agency stated its belief that converting some tables so that they contain only metric measurements would not be very informative to American mirror manufacturers or to American tire manufacturers and retreaders, many of whom may be more familiar with English measurements. Therefore, in the case of the mirror and tire standards, NHTSA proposed that the tables and regulatory text provide both the English and metric systems of measurement. Specifically, in Standard No. 111, *Rearview mirrors*, NHTSA proposed to provide both English and metric measurements for radii of curvature specified in Table I—"Conversion Table from Spherometer Dial Reading to Radius of Curvature." Proposed changes to the tire standards are discussed in the companion notice published in this **Federal Register** issue.

NHTSA sought public comment on the proposal to use dual measurements for the specified tables and on the period of time after which the English units of measurements should be phased out.

E. Leadtime—NHTSA proposed that, if made final, the changes proposed in the NPRM take effect one year after the publication of the final rule, with manufacturers given the option to comply immediately with the amended language.

F. Other Changes—NHTSA also proposed to correct typographical and or other nonsubstantive errors in Standard No. 207, *Seating systems*, and Standard No. 210, *Seat belt assembly anchorage*, and to remove outdated language in Standard No. 204, *Steering control rearward displacement*, and Standard No. 210, *Seat belt assembly anchorages*.

III. Public Comments and NHTSA's Response

In response to the NPRM, NHTSA received comments from eighteen commenters. The following commenters addressed only proposed metric conversions in the tire standards: Japan Automobile Tire Manufacturers Association; Goodyear; Rubber Manufacturers Association; Toyota; and the European Tyre and Rim Technical Organization. Comments on the tire standards are addressed in today's **Federal Register** notice on tire metrication.

The American Society for Testing and Materials (ASTM) sent NHTSA a copy of its 1996 version of ASTM G23 "Practice for operating light-exposure apparatus (carbon-arc type) with and without water for exposure of nonmetallic materials" as an example of how it was converting its recommended practices to the metric system. ASTM stated that the 1996 version has many improvements over the 1981 version.

Other commenters either addressed the principles used in making conversions, or suggested changes to specific proposed conversions. The following issues were addressed by commenters, and are followed by NHTSA's response:

Exact vs. equivalent measurements—Mr. Bruce Barrow of the Defense Information Systems Agency, on behalf of the Interagency Council on Metric Policy, cautioned NHTSA to "avoid implying much more precision than is warranted." As an example of what it believed to be excess precision, the Council cited the conversion of 10,000 lbs. to 4536 kilograms for gross vehicle weight ratings (GVWRs), recommending instead that the conversion be made to 4500 kg. On the other hand, Thomas Built and Volkswagen recommended that in converting the GVWR of 10,000 lbs, the exact conversion (4536 kg) be used, not the equivalent conversion (4500 kg).

NHTSA has resolved the issue of GVWR conversions in the first round of metrication (see final rule of March 14, 1995; 60 FR 13639) and will not readdress that issue. NHTSA decided to use exact conversions for GVWR measurements because, in some industries such as school bus manufacturing, 36 kilograms (approximately 80 pounds) makes a difference in determining whether a particular school bus must meet the school bus standards for vehicles over 10,000 lbs. GVWR or vehicles under 10,000 lbs.

The California Department of Transportation (CDOT) asked that NHTSA not change references to GVWR until all truck size and weight regulations are converted to the metric system. CDOT's request is consistent with NHTSA's stated approach of not changing "weight" to "mass" when "weight" is part of a term defined at 49 CFR 571.3 such as "gross vehicle weight rating" or "curb weight." Mr. Gary Vigen wrote that he favored equivalent conversions, rather than exact conversions. Mr. Vigen did not give a reason for his position.

"Mass" vs. "Weight"—The Interagency Council on Metric Policy commented that NHTSA should not consider redefining established terms such as "gross vehicle weight." As previously noted, NHTSA agrees with this comment. The Council also recommended that because of confusion regarding the use of the word "weight" vs. "mass", that each standard include in its preface the statement: "In this document the word 'weight' is used as a synonym for 'mass.'" Because adopting this recommendation may make substantive changes in affected standards, NHTSA is not making the suggested change in this final rule. However, in its future metrication efforts, NHTSA will consider including the Council's recommended statement for specific safety standards.

Professor E. A. Mechtly of the University of Illinois, Urbana, commented generally that the NPRM's use of "pound" and "weight" required correction. However, since he did not specify where the terms should be corrected, NHTSA is not making any changes in response to Professor Mechtly's comments on this issue.

Force measurements—The Interagency Council on Metric Policy recommended that in converting force measurements, the seat cushion or unloaded vehicle weight, measured in kilograms, be multiplied by 10 m/s^2 rather than 9.8 m/s^2. NHTSA is not adopting this comment because, in Standard No. 220, *School bus rollover protection*, and Standard No. 222, *School bus passenger seating and crash protection*, where force measurements are used, using a factor of 10 may have the effect of making the Standards slightly more stringent than under the English measurement system. However, NHTSA notes that use of 9.8 in the Standards would not preclude a manufacturer from using a factor of 10 when conducting its compliance testing with a safety standard.

Dual Measurements—Mr. Gary Vigen wrote that he did not favor dual unit tables because "(i)n the long run, there is less chance for error when only one set of units is used." The Interagency Council on Metric Policy recommended that dual measurements be avoided as much as possible. Land Rover questioned the necessity for dual English and metric measurements when "information is intended to be used by people in the manufacturing industry."

NHTSA agrees with the commenters that ideally, dual measurements need not be used. However, as stated in the NPRM, NHTSA believes that converting some tables so that they contain only metric measurements may not be very informative for American mirror manufacturers or for American tire manufacturers or retreaders, who may be more familiar with the English system. NHTSA received no comment addressing whether mirror manufacturers are familiar with the metric system and therefore do not need dual measurements. NHTSA is adopting the proposal in the NPRM for using dual measurements in Standard No. 111, *Rearview mirrors*. Dual measurements for the tire standards are addressed in today's companion final rule on metricating the tire standards.

Other Changes—Many commenters, including Ford, General Motors, Land Rover, Mitsubishi, Volkswagen, and Transport Canada commented on specific proposed changes to the safety standards. Many of the comments noted typographical errors, or provided the correct abbreviation for a metric measurement. NHTSA is adopting all of these technical comments. In particular, General Motors noted that NHTSA did not propose to convert to metric measurements, Figure 1 to Standard No. 219, *Windshield zone intrusion*. The oversight has been corrected in the final rule.

Land Rover also stated that in part 583, *Automobile Parts Content Labeling*, the "example provided * * * does not comply with the labeling typeface requirements (block capitals) in the regulation/standard." NHTSA does not believe that the "PARTS CONTENT INFORMATION" example provided for part 583 requires correction from the existing lower case to upper case because the specified information is correct. NHTSA is therefore not adopting Land Rover's suggestion.

NHTSA is not adopting Professor Mechtly's suggested changes to Standard No. 126, *Truck-camper loading*, because that standard was not proposed to be amended in the April 1997 notice of proposed rulemaking. NHTSA is also not adopting Professor Mechtly's recommended language for Standard No. 220, *Schoolbus rollover protection*, because it believes that adopting the language might result in a substantive change to the standard.

Ford noted that, in Standard No. 111, *Rearview mirrors*, NHTSA did not propose to convert Figure 3. NHTSA notes that Figure 3 "Camera Locations for School Bus Field-of-View Test" is already described in both metric and English system measurements.

Standard No. 201—In the notice of proposed rulemaking, NHTSA proposed metricating Standard No. 201, *Occupant Protection in Interior Impacts*. However, on April 8, 1997 (62 FR 16718), NHTSA published a final rule metricating Standard No. 201. Since Standard No. 201 has already been metricated, this final rule will not make changes to Standard No. 201.

Leadtime—In the NPRM, NHTSA proposed that, if made final, the changes in the NPRM take effect one year after the final rule is published in the **Federal Register**. NHTSA received no comments relating to the leadtime that should be provided for changes to standards for products other than tires. Thus, for the non-tire FMVSSs, the changes in this final rule will take effect one year after the publication of this final rule. Today's companion **Federal Register** notice addressing metric conversions in the tire standards addresses leadtime for the tire standards.

IV. Regulatory Impacts

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E. O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under DOT's regulatory policies and procedures.

In converting the Federal Motor Vehicle Safety Standards from the English to the metric measurement system, the agency has made conversions in a way that does not substantively change the performance requirements of the FMVSS's. As a result of this rule, manufacturers now providing consumer information (e.g., labeling) may incur minimal additional costs since they would have to change their information to add the metric units. However, the agency believes additional costs would be minuscule, since manufacturers currently label and provide consumer information in English units. The impacts of this action are so minor that a full regulatory evaluation for this proposed rule has not been prepared.

B. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that converting the FMVSS from the English system to the metric system will not substantively change the performance requirements of any of the Federal Motor Vehicle Safety Standards. Manufacturers that qualify as small businesses that have not been labeling their products in metric units or provide consumer information in metric units will incur some costs to include metric information on their labeling. However, the agency believes such costs will be minimal, given these manufacturers are currently labeling and providing the consumer information in English units.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rulemaking action and determined that, as a final rule, it will not have a significant impact on the quality of the human environment.

D. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have a retroactive effect. Under 49 U.S.C. section 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. section 30106 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

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List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the Federal Motor Vehicle Safety Standards (49 CFR part 571), are amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.101 is amended by revising S5(a) and revising S5.3.5 to read as follows:

§ 571.101 Standard No. 101, Controls and displays.

* * * * *

S5. *Requirements.* (a) Except as provided in paragraph (b) of this section, each passenger car, multipurpose passenger vehicle, truck and bus manufactured with any control listed in S5.1 or in column 1 of Table 1, and each passenger car, multipurpose passenger vehicle and truck or bus less than 4,536 kg GVWR with any display listed in S5.1 or in column 1 of Table 2 shall meet the requirements of this standard for the location, identification, and illumination of such control or display.

* * * * *

S5.3.5 Any source of illumination within the passenger compartment which is forward of a transverse vertical plane 110 mm rearward of the manikin "H" point with the driver's seat in its rearmost driving position, which is not used for the controls and displays regulated by this standard, which is not a telltale, and which is capable of being illuminated while the vehicle is in motion, shall have either (1) light intensity which is manually or automatically adjustable to provide at least two levels of brightness, (2) a single intensity that is barely discernible to a driver who has adapted to dark ambient roadway conditions, or (3) a means of being turned off. This requirement does not apply to buses that are normally operated with the passenger compartment illuminated.

* * * * *

3. Section 571.101 is amended by revising Table 1 and Table 2 that follow S6 to read as follows:

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Table 1
Identification and Illustration of Controls

Column 1	Column 2	Column 3	Column 4
Hand Operated Controls	*Identifying Words or Abbreviation*	*Identifying Symbol*	*Illumination*
MASTER LIGHTING SWITCH	Lights	 [5]	———
HEADLAMPS AND TAIL LAMPS	(Manufacturer Option) [2]	(Manufacturer Option) [2]	———
HORN	Horn		———
TURN SIGNAL	———	 [3] [5]	———
HAZARD WARNING SIGNAL	Hazard	 [5]	Yes
WINDSHIELD WIPING SYSTEM	Wiper or Wipe		Yes
WINDSHIELD WASHING SYSTEM	Washer or Wipe		Yes
WINDSHIELD WASHING AND WIPING COMBINED	Wash-Wipe or Washer-Wiper		Yes
HEATING AND OR AIR CONDITIONING FAN	Fan		Yes
WINDSHIELD DEFROSTING AND DEFOGGING SYSTEM	Defrost, Defrog or Def.		Yes
REAR WINDOW DEFROSTING AND DEFOGGING SYSTEM	Rear Defrost, Rear Defog. Rear Def., or R-Def.		Yes
IDENTIFICATION, SIDE MARKER AND OR CLEARANCE LAMPS	Marker Lamps or MK Lps		Yes
MANUAL CHOKE	Choke	———	———
ENGINE START	Engine Start[1]	———	———
ENGINE STOP	Engine Stop[1]	———	Yes
HAND THROTTLE	Throttle	———	———
AUTOMATIC VEHICLE SPEED	(Manufacturer Option)	———	Yes
HEATING AND AIR CONDITIONING SYSTEM	(Manufacturer Option)	(Manufacturer Option)	Yes

[1] Use when engine control is separate from the key locking system.

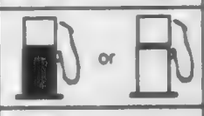
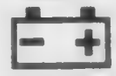
[2] Separate idenfication not required if controlled by master lighting switch.

[3] The pair of arrows is a single symbol. When the controls for left and right turn operate independently, however, the two arrows may be considered separate symbols and be spaced accordingly.

[4] Identification not required for vehicles when a GVWR greater then 10,000 lbs., or or narrow ring-type controls.

[5] Framed areas may be filed.

Table 2
Identification and Illustration of Displays

Column 1	Column 2	Column 3	Column 4	Column 5
Display	*Telltale Color*	*Identifying Words or Abbreviation*	*Identifying Symbol*	*Illumination*
TURN SIGNAL Telltale	Green	Also see FMVSS 108	 [1] [6]	—
HAZARD WARNING Telltale		Also see FMVSS 108	 [2] [6]	—
SEAT BELT Telltale	— [7]	Fasten Belts or Fasten Seat Belts Also see FMVSS 208		—
FUEL LEVEL Telltale		Fuel		—
Gauge	—			Yes
OIL PRESSURE Telltale		Oil		—
Gauge	—			Yes
COOLANT TEMPERATURE Telltale		Temp		—
Gauge	—			Yes
ELECTRICAL CHARGE Telltale		Volts, Charge or Amp		—
Gauge	—			Yes
HIGHBEAM Telltale	Blue or Green [4]	Also see FMVSS 108	 [6]	—
Brake System [8]	Red [4]	Brake, Also see FMVSS 105 and 135	—	—
MALFUNCTION IN Anti-Lock or	Yellow	Antilock, Anti-lock, or ABS. Also see FMVSS 105 and 135	—	—
VARIABLE BRAKE PROPORTIONING SYSTEM[8]	Yellow	Brake Propositioning, Also see FMVSS 135	—	—
PARKING BRAKE APPLIED[8]	Red [4]	Park or Parking Brake, Also see FMVSS 105 and 135	—	—
MALFUNCTION IN Anti-Lock or	Yellow	ABS, or Antilock; Trailer ABS, or Trailer Antilock, Also see FMVSS 121	—	—
BRAKE AIR PRESSURE Position Telltale		Brake Air, Also see FMVSS 121	—	—
SPEEDOMETER	—	MPH km/h [5]	—	Yes
ODOMETER	—	— [3]	—	—
AUTOMATIC GEAR POSITION	—	Also see FMVSS 102	—	Yes

[1] The pair of arrows is a single symbol. When the indicator for left and right turn operate independently, however, the two arrows will be considered separate symbols and may be spaced accordingly.

[2] Not required when arrows of turn signal tell-tales that otherwise operate independently flash simultaneously as hazard warning tell-tale.

[3] If the odometer indicates kilometers, then "KILOMETERS" or "km" shall appear, otherwise, no identification is required.

[4] Red can be red-orange. Blue can be blue-green.

[5] If the speedometer is graduated in miles per hour and in kilometers per hour, the identifying words or abbreviations shall be "MPH and km/h" in any combination of upper or lower case letters.

[6] Framed areas may be filled.

[7] The color of the telltale required by S4.5.3.3 of Standard No 208 is red; the color of the telltale required by S7.3 of Standard No. 208 is not specified.

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4. Section 571.111 is amended by revising S5.1.1; revising S5.1.2; revising S5.2.1; revising S5.4.2; revising S5.4.3; revising S6; revising S6.1; revising S7; revising S7.1; revising S8; revising S8.1; revising S9.2; revising S9.3; revising S10.1; revising S12.2; revising S12.3; revising S12.4; and revising S13.2 to read as follows:

§ 571.111 Standard No. 111, Rearview mirrors.

* * * * *

S5.1.1 *Field of view.* Except as provided in S5.3, the mirror shall provide a field of view with an included horizontal angle measured from the projected eye point of at least 20 degrees, and sufficient vertical angle to provide a view of a level road surface extending to the horizon beginning at a point not greater than 60 m to the rear of the vehicle when the vehicle is occupied by the driver and four passengers or the designated occupant capacity, if less, based on an average occupant weight of 68 kg. The line of sight may be partially obscured by seated occupants or by head restraints. The location of the driver's eye reference points shall be those established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile male driver.

S5.1.2 *Mounting.* The mirror mounting shall provide a stable support for the mirror, and shall provide for mirror adjustment by tilting in both the horizontal and vertical directions. If the mirror is in the head impact area, the mounting shall deflect, collapse or break away without leaving sharp edges when the reflective surface of the mirror is subjected to a force of 400 N in any forward direction that is not more than 45° from the forward longitudinal direction.

S5.2.1 *Field of view.* Each passenger car shall have an outside mirror of unit magnification. The mirror shall provide the driver a view of a level road surface extending to the horizon from a line, perpendicular to a longitudinal plane tangent to the driver's side of the vehicle at the widest point, extending 2.4 m out from the tangent plane 10.7 m behind the driver's eyes, with the seat in the rearmost position. The line of sight may be partially obscured by rear body or fender contours. The location of the driver's eye reference points shall be those established in Motor Vehicle Safety Standard No. 104 (§ 571.104) or a nominal location appropriate for any 95th percentile male driver.

* * * * *

S5.4.2 Each convex mirror shall have permanently and indelibly marked at the lower edge of the mirror's reflective surface, in letters not less than 4.8 mm nor more than 6.4 mm high the words "Objects in Mirror Are Closer Than They Appear."

S5.4.3 The average radius of curvature of each such mirror, as determined by using the procedure in S12., shall be not less than 889 mm and not more than 1,651 mm.

S6. *Requirements for multipurpose passenger vehicles, trucks, and buses, other than school buses, with GVWR of 4,536 kg or less.*

S6.1 Each multipurpose passenger vehicle, truck and bus, other than a school bus, with a GVWR of 4,536 kg or less shall have either—

(a) Mirrors that conform to the requirements of S5.; or

(b) Outside mirrors of unit magnification, each with not less than 126 cm^2 of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle, and adjustable in both the horizontal and vertical directions to view the rearward scene.

S7. *Requirements for multipurpose passenger vehicles and trucks with a GVWR of more than 4,536 kg and less than 11,340 kg and buses, other than school buses, with a GVWR of more than 4,536 kg.*

S7.1 Each multipurpose passenger vehicle and truck with a GVWR of more than 4,536 kg and less than 11,340 kg and each bus, other than a school bus, with a GVWR of more than 4,536 kg shall have outside mirrors of unit magnification, each with not less than 323 cm^2 of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable both in the horizontal and vertical directions to view the rearward scene.

S8. *Requirements for multipurpose passenger vehicles and trucks with a GVWR of 11,340 kg or more.*

S8.1 Each multipurpose passenger vehicle and truck with a GVWR of 11,340 kg or more shall have outside mirrors of unit magnification, each with not less than 323 cm^2 of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable both in the horizontal and vertical directions to view the rearward scene.

* * * * *

S9.2 System A shall be located with stable supports so that the portion of the system on the bus's left side, and the portion on its right side, each:

(a) Includes at least one mirror of unit magnification with not less than 323 cm^2 of reflective surface; and

(b) Includes one or more mirrors which together provide, at the driver's eye location, a view of:

(1) For the mirror system on the right side of the bus, the entire top surface of cylinder N in Figure 2, and of that area of the ground which extends rearward from the mirror surface not less than 61 meters.

(2) For the mirror system on the left side of the bus, the entire top surface of cylinder M in Figure 2, and of that area of the ground which extends rearward from the mirror surface not less than 61 meters.

S9.3(a) For each of the cylinders A though P whose entire top surface is not directly visible from the driver's eye location, System B shall provide, at that location:

(1) A view of the entire top surface of that cylinder.

(2) A view of the ground that overlaps with the view of the ground provided by System A.

(b) Each mirror installed in compliance with S9.3(a) shall meet the following requirements:

(1) Each mirror shall have a projected area of at least 258 cm^2, as measured on a plane at a right angle to the mirror's axis.

(2) Each mirror shall be located such that the distance from the center point of the eye location of a 25th percentile adult female seated in the driver's seat to the center of the mirror shall be at least 95 cm^2.

(3) Each mirror shall have no discontinuities in the slope of the surface of the mirror.

(4) Each mirror shall be installed with a stable support.

(c) Each school bus which has a mirror installed in compliance with S9.3(a) that has an average radius of curvature of less than 889 mm, as determined under S12, shall have a label visible to the seated driver. The label shall be printed in a type face and color that are clear and conspicuous. The label shall state the following:

"USE CROSS VIEW MIRRORS TO VIEW PEDESTRIANS WHILE BUS IS STOPPED. DO NOT USE THESE MIRRORS TO VIEW TRAFFIC WHILE BUS IS MOVING. IMAGES IN SUCH MIRRORS DO NOT ACCURATELY SHOW ANOTHER VEHICLE'S LOCATION."

* * * * *

S10.1 Each motorcycle shall have either a mirror of unit magnification

with not less than 8065 mm² of reflective surface, or a convex mirror with not less than 6450 mm² of reflective surface and an average radius of curvature not less than 508 mm and not greater than 1524 mm, installed with a stable support, and mounted so that the horizontal center of the reflective surface is at least 279 mm outward of the longitudinal centerline of the motorcycle. The mirror shall be adjustable by tilting in both the horizontal and vertical directions.

* * * * *

S12.2 The 3-point linear spherometer has two outer fixed legs 38 mm apart and one inner movable leg at the midpoint. The spherometer has a dial indicator with a scale that can be read accurately to .0025 mm, with the zero reading being a flat surface.

S12.3 The 10 test positions on the image display consist of two positions at right angles to each other at each of five locations as shown in Figure 1. The locations are at the center of the mirror, at the left and right ends of a horizontal line that bisects the mirror and at the top and bottom ends of a vertical line that bisects the mirror. None of the readings are within a 6.4 mm border on the edge of the image display.

S12.4 At each position, the spherometer is held perpendicular to the convex mirror-surface and a record is made of the reading on the dial indicator to the nearest .0025 mm.

* * * * *

S13.2 The cylinders are 0.3048 m high and 0.3048 m in diameter, except for cylinder P which is 0.9144 m high and 0.3048 m in diameter.

* * * * *

5. In § 571.111, Table I—"Conversion Table from Spherometer Dial Reading to Radius of Curvature", following Figure 1 in S12.8, would be revised to read as follows:

TABLE I.—CONVERSION TABLE FROM SPHEROMETER DIAL READING TO RADIUS OF CURVATURE

Dial reading	Radius of curvature (inches)	Radius of curvature (mm)
.00330	85.2	2164.1
.00350	80.4	2042.2.
.00374	75.2	1910.1
.00402	70.0	1778.0
.00416	67.6	1717.0
.00432	65.1	1653.5
.00450	62.5	1587.5
.00468	60.1	1526.5
.00476	59.1	1501.1
.00484	58.1	1475.7
.00492	57.2	1452.9
.00502	56.0	1422.4
.00512	54.9	1394.5
.00522	53.8	1369.1
.00536	55.5	1333.5
.00544	51.7	1313.2
.00554	50.8	1290.3
.00566	49.7	1262.4
.00580	48.5	1231.9
.00592	47.5	1206.5
.00606	46.4	1178.6
.00622	45.2	1148.1
.00636	44.2	1122.7
.00654	43.0	1092.2
.00668	42.1	1069.3
.00686	41.0	1041.1
.00694	40.5	1028.7
.00720	39.1	993.1
.00740	38.0	965.2
.00760	37.0	939.8
.00780	36.1	916.9
.00802	35.1	891.5
.00922	34.2	868.7
.00850	33.1	840.7
.00878	32.0	812.8
.00906	31.0	787.4
.00922	30.5	774.7
.00938	30.0	762.0
.00960	29.3	744.2
.00980	28.7	728.9
.01004	28.0	711.2
.01022	27.5	698.5
.01042	27.0	685.8
.01060	26.5	673.1
.01080	26.0	660.4
.01110	25.3	642.6
.01130	24.9	632.5
.01170	24.0	609.6
.01200	23.4	594.4
.01240	22.7	576.6
.01280	22.0	558.8
.01310	21.5	546.1
.01360	20.7	525.8
.01400	20.1	510.5
.01430	19.1	500.4
.01460	19.0	482.6
.01540	18.3	464.8
.01570	17.9	454.7
.01610	17.5	444.5
.01650	17.1	434.3
.01700	16.6	421.6
.01750	16.1	408.9
.01800	15.6	396.2
.01860	15.1	383.5
.01910	14.7	373.4
.01980	14.2	360.7
.02040	13.8	350.5
.02100	13.4	340.4
.02160	13.0	330.2
.02250	12.5	317.5
.02340	12.0	304.8
.02450	11.5	292.1
.02560	11.2	279.4
.02680	10.5	266.7
.02810	10.0	254.0
.02960	9.5	241.3
.03130	9.0	228.6
.03310	8.5	215.9

6. In § 571.111, Figure 2 "Location of Test Cylinders for School Bus Field-of-View Test", after S13.3(g), is revised to read as follows:

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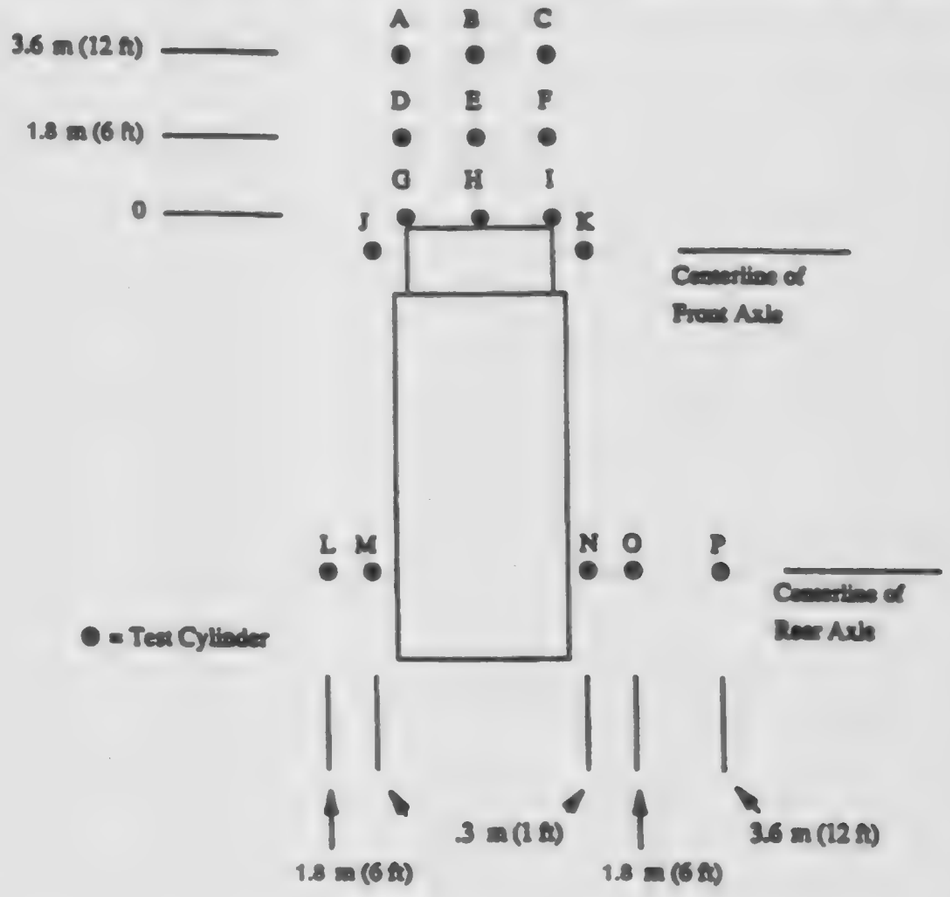


Figure 2.—Location of Test Cylinders for School Bus Field-of-View Test
All Dimensions in Meters (m)

BILLING CODE 4910–59–C

7. Section 571.116 is amended by revising S5.1.3; revising S5.2.1; revising in S5.2.2.2, the introductory paragraph and paragraph (g)(4); revising in S5.2.2.3, the introductory paragraph, paragraph (d) and paragraph (e)(4); revising S6.3; revising in S6.6.6, paragraph (a); revising S6.8.3; revising in S6.10.3, paragraph (a); revising S6.11.1; revising S6.11.6; revising, in S6.13.2, paragraph (b); revising in S6.13.3, paragraph (b), revising in S6.13.4, paragraph (c)(1); revising S7.4.2; and revising in S7.5.1, paragraph (b), to read as follows:

§ 571.116 Standard No. 116, Motor vehicle brake fluids.

* * * * *

S5.1.3. *Kinematic viscosities.* When brake fluid is tested according to S6.3, the kinematic viscosities in square millimeters per second at stated temperatures shall be neither less than 1.5 mm^2/s at 100° C. (212° F.) nor more than the following maximum value for the grade indicated:

(a) DOT 3: 1,500 mm^2/s at minus 40° C. (minus 40° F.).

(b) DOT 4: 1,800 mm^2/s at minus 40° C. (minus 40° F.).

(c) DOT 5: 900 mm^2/s at minus 40° C. (minus 40° F.).

* * * * *

S5.2.1 *Container sealing.* Each brake fluid or hydraulic system mineral oil container with a capacity of 177 mL or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

* * * * *

S5.2.2.2 Each packager of brake fluid shall furnish the information specified in paragraphs (a) through (g) of this S5.2.2.2 by clearly marking it on each brake fluid container or on a label (labels) permanently affixed to the container, in any location except a removable part such as a lid. After being subjected to the operations and conditions specified in S6.14, the information required by this section shall be legible to an observer having corrected visual acuity of 20/40 (Snellen ratio) at a distance of 305 mm, and any label affixed to the container in compliance with this section shall not be removable without its being destroyed or defaced.

* * * * *

(g) * * *

(4) *CAUTION:* DO NOT REFILL CONTAINER, AND DO NOT USE FOR OTHER LIQUIDS. (Not required for containers with a capacity in excess of 19 L.)

S5.2.2.3 Each packager of hydraulic system mineral oil shall furnish the information specified in paragraphs (a) through (e) of this S5.2.2.3 by clearly marking it on each brake fluid container or on a label (labels) permanently affixed to the container, in any location except a removable part such as a lid. After being subjected to the operations and conditions specified in S6.14, the information required by this section shall be legible to an observer having corrected visual acuity of 20/40 (Snellen ratio) at a distance of 305 mm and any label affixed to the container in compliance with this section shall not be removable without its being destroyed or defaced.

* * * * *

(d) Designation of the contents as "HYDRAULIC SYSTEM MINERAL OIL" in capital letters at least 3 mm high.

(e) The following safety warnings in capital and lowercase letters as indicated:

* * * * *

(4) *CAUTION:* STORE HYDRAULIC SYSTEM MINERAL OIL ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED. DO NOT REFILL CONTAINER OR USE OTHER LIQUIDS. (The last sentence is not required for containers with a capacity in excess of 19 L.)

* * * * *

S6.3 *Kinematic viscosity.* Determine the kinematic viscosity of a brake fluid in mm^2s by the following procedure. Run duplicate samples at each of the specified temperatures, making two timed runs on each sample.

* * * * *

S6.6.6 *Calculation*

(a) Measure the area of each type of test strip to the nearest square centimeter. Divide the average change in mass for each type by the area of that type.

* * * * *

S6.8.3 *Procedure.* Obtain the tare weight of each of the four covered petri dishes to the nearest 0.01 gram. Place 25±1 ml. of brake fluid in each dish, replace proper covers and reweigh. Determine the weight of each brake fluid test specimen by the difference. Place the four dishes, each inside its inverted cover, in the oven at 100°±2° C. (212°±4° F.) for 46±2 hours. (Note: Do not simultaneously heat more than one fluid in the same oven.) Remove the dishes from the oven, allow to cool to 23°±5° C. (73.4°±9° F.), and weigh. Return to the oven for an additional 24±2 hours. If at the end of 72±4 hours the average loss by evaporation is less than 60 percent, discontinue the evaporation procedure and proceed with examination of the residue. Otherwise, continue this procedure either until equilibrium is reached as evidenced by an incremental mass loss of less than 0.25 gram in 24 hours on all individual dishes or for a maximum of 7 days. During the heating and weighing operation, if it is necessary to remove the dishes from the oven for a period of longer than 1 hour, the dishes shall be stored in a desiccator as soon as cooled to room temperature. Calculate the percentage of fluid evaporated from each dish. Examine the residue in the dishes at the end of 1 hour at 23°±5° C. (73.4°±9° F.). Rub any sediment with the fingertip to determine grittiness or abrasiveness. Combine the residues from all four dishes in a 118 mL (4-ounce) oil-sample bottle and store vertically in a cold chamber at minus 5°±1° C. (23°±5° F.) for 60±10 minutes. Quickly remove the bottle and place in the horizontal position. The residue must flow at least 5 mm (0.2 inch) along the tube within 5 seconds.

* * * * *

S6.10.3 *Procedure*

(a) *At low temperature.*

Mix 50±0.5 mL of brake fluid with 50±0.5 mL of SAE RM–66–04 Compatibility Fluid. Pour this mixture into a centrifuge tube and stopper with a clean dry cork. Place tube in the cold chamber maintained at minus 40°±2° C. (minus 40°±4° F). After 24±2 hours, remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol (isopropanol when testing DOT 5 fluids) or acetone. Examine the test specimen for evidence of slugging, sedimentation, or crystallization. Test fluids, except DOT 5 SBBF, shall be examined for stratification.

* * * * *

S6.11.1 *Summary of procedure.*

Brake fluids, except DOT 5 SBBF, are activated with a mixture of approximately 0.2 percent benzoyl peroxide and 5 percent water. DOT 5 SBBF is humidified in accordance with S6.2 eliminating determination of the ERBP, and then approximately 0.2 percent benzoyl peroxide is added. A corrosion test strip assembly consisting of cast iron and an aluminum strip separated by tinfoil squares at each end is then rested on a piece of SBR WC cup positioned so that the test strip is half immersed in the fluid and oven aged at 70° C. (158° F.) for 168 hours. At the end of this period, the metal strips are examined for pitting, etching, and loss of mass.

* * * * *

S6.11.6 *Calculation.* Determine corrosion loss by dividing the change in mass of each metal strip by the total surface area of each strip measured in square millimeters (mm^2), to the nearest square millimeter (mm^2). Average the results for the two strips of each type of metal, rounding to the nearest 0.05 mg. per 100 square millimeter (mm^2). If only one of the duplicates fails for any reason, run a second set of duplicate samples. Both repeat samples shall meet all requirements of S5.1.11.

* * * * *

S6.13.2 *Apparatus and equipment.*

* * * * *

(b) *Braking pressure actuation mechanism.* An actuating mechanism for applying a force to the master cylinder pushrod without side thrust. The amount of force applied by the actuating mechanism shall be adjustable and capable of applying sufficient thrust to the master cylinder to create a pressure of at least 6895 kPa (1,000 p.s.i.) in the simulated brake system. A hydraulic gage or pressure recorder, having a range of at least 0 to 6895 kPa (0 to 1,000 p.s.i), shall be installed between the master cylinder and the brake assemblies and shall be provided with a shutoff valve and with a bleeding valve for removing air from the connecting tubing. The actuating mechanism shall be designed to permit adjustable stroking rates of approximately 1,000 strokes per hour. Use a mechanical or electrical counter to record the total number of strokes.

* * * * *

S6.13.3 *Materials.*

* * * * *

(b) *Steel tubing.* Double wall steel tubing meeting SAE specification J527. A complete replacement of tubing is essential when visual inspection indicates any corrosion or deposits on inner surface of tubing. Tubing from master cylinder to one wheel cylinder shall be replaced for each test (minimum length .9 m.) Uniformity in tubing size is required between master cylinder and wheel cylinder. The standard master cylinder has two outlets for tubing, both of which must be used.

* * * * *

S6.13.4 *Preparation of test apparatus.*

* * * * *

(c) *Assembly and adjustment of test apparatus.*

(1) When using a shoe and drum type apparatus, adjust the brake shoe toe clearances to 1.0±0.1 mm (0.040±0.004 inch). Fill the system with brake fluid, bleeding all wheel cylinders and the pressure gage to remove entrapped air. Operate the actuator manually to apply a pressure greater than the required operating pressure and inspect the system for leaks. Adjust the actuator and/or pressure relief valve to obtain a pressure of 6895 kPa±345 kPa (1,000±50 p.s.i.). A smooth pressure stroke pattern is required when using a shoe and drum type apparatus. The pressure is relatively low during the first part of the stroke and then builds up smoothly to the maximum stroking pressure at the end of the stroke, to permit the primary cup to pass the compensating hole at a relatively low pressure. Using stroking fixtures, adjust the actuator and/or pressure relief valve to obtain a pressure of 6895 kPa±345 kPa (1,000±50 p.s.i.).

* * * * *

S7.4.2 *Procedure.* Make hardness measurements at 23°±2° C. (73.4°±4°F.). Equilibrate the tester and anvils at this temperature prior to use. Center brake cups lip side down on an anvil of appropriate hardness. Following the manufacturer's operating instructions for the hardness tester, make one measurement at each of four points 6 mm from the center of the cup and spaced 90° apart. Average the four values, and round off to the nearest IRHD.

* * * * *

S7.5.1 *Apparatus.*

* * * * *

(b) *Centrifuge.* A centrifuge capable of whirling two or more filled centrifuge tubes at a speed which can be controlled to give a relative centrifugal force (r.c.f.) between 600 and 700 at the tip of the tubes. The revolving head, trunnion rings, and trunnion cups, including the rubber cushion, shall withstand the maximum centrifugal force capable of being delivered by the power source. The trunnion cups and cushions shall firmly support the tubes when the centrifuge is in motion. Calculate the speed of the rotating head using this equation:

$$r.p.m. = 265[\sqrt{25.4 \times r.c.f./d}]$$

Where:

r.c.f. = Relative centrifugal force, and

d = Diameter of swing, in millimeters, measured between tips of opposing tubes when in rotating position.

Table VI shows the relationship between diameter, swing, relative centrifugal force (r.c.f.), and revolutions per minute.

TABLE VI.—ROTATION SPEEDS FOR CENTRIFUGES OF VARIOUS DIAMETERS

Diameter of swing in millimeters [a]	r.p.m. at 600 r.c.f	r.p.m. at 700 r.c.f.
483	1490	1610
508	1450	1570
533	1420	1530
559	1390	1500

[a] Measured in millimeters between tips of opposite tubes when in rotating position.

* * * * *

8. Section 571.123 would be amended by revising S5.2.3 to read as follows:

§ 571.123 Standard No. 123, Motorcycle controls and displays.

* * * * *

S5.2.3 *Control and display identification.* If an item of equipment in Table 3, Column 1, is provided, the item and its operational function shall be identified by:

(a) A symbol substantially in the form shown in Column 3; or

(b) Wording shown in both Column 2 and Column 4; or

(c) A symbol substantially in the form shown in Column 3 and wording shown in both Column 2 and Column 4.

(d) The abbreviations "M.P.H.", "km/h", "r/min", "Hi", "Lo", "L", "R", and "Res" appearing in Column 2 and Column 4 may be spelled in full. Symbols and words may be provided for equipment items where none are shown in Column 2, Column 3, and Column 4. Any identification provided shall be placed on or adjacent to the control or display position, and shall appear upright to the operator.

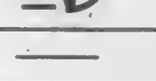
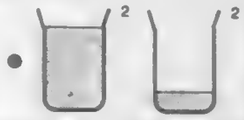
* * * * *

9. In § 571.123, Table 3 "Motorcycle Control and Display Identification Requirements" that follows S5.2.5 and Tables 1 and 2 would be revised to read as follows:

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Table 3
Motorcycle Control and Display Identification Requirements

No.	Column 1	Column 2	Column 3	Column 4
	EQUIPMENT	*Control and Display Identification Word*	*Control and Display Identification Symbol*	*Identification at Appropriate Position of Control and Display*
1	IGNITION	Ignition	—	Off
2	SUPPLEMENTAL ENGINE STOP (OFF, RUN)	Engine Stop		Off, Run
3	MANUAL CHOKE OR MIXTURE ENRICHMENT	Choke or Enricher		—
4	ELECTRIC STARTER	—		Start [1]
5	HEADLAMP UPPER-LOWER BEAM CONTROL	Lights		Hi, Lo
6	HORN	Horn		
7	TURN SIGNAL	Turn		L, R
8	SPEEDOMETER	km/h [5] mph	—	km/h [5] mph [4]
9	NEUTRAL INDICATOR	Neutral	N	Yes
10	UPPER BEAM INDICATOR	High Beam		—
11	TACHOMETER	R.P.M. or r/min.	—	—
12	FUEL TANK SHUTOFF VALVE (OFF, ON, RES.)	Fuel		Off, On, Res.

[1] Required only if electric starter is separate from ignition switch.

[2] Framed areas may be filed..

[3] The pair of arrows is a single symbol. When the indicators for left and right turn operate independently, however, the two arrows will be considered separate symbols and may be spaced accordingly.

[4] M.P.H. increase in a clockwise direction. Major graduations and numerals appear at 10 mph intervals, minor graduations at the 5 mph intervals. (37 F.R. 17474–August 29, 1972. Effective: 9/1/74.

[5] If the speedometer is graduated in miles per hour (MPH) and in kilometers per hour (km/h), the identifying words or abbreviation shall be MPH and km/h in any combination of upper or lower case letters.

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10. Section 571.202 is amended by revising S2; revising S4.2; revising S4.3; revising in S5.1, paragraph (c), and revising S5.2 to read as follows:

§ 571.202 Standard No. 202, Head restraints.

* * * * *

S2. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg or less.

* * * * *

S4.2 Each truck, multipurpose passenger vehicle and bus with a GVWR of 4,536 kg or less, shall comply with S4.3.

S4.3 *Performance levels.* Except for school buses, a head restraint that conforms to either (a) or (b) shall be provided at each outboard front designated seating position. For school buses, a head restraint that conforms to either (a) or (b) shall be provided for the driver's seating position.

(a) It shall, when tested in accordance with S5.1, during a forward acceleration of at least 78 m/s^2 on the seat supporting structure, limit rearward angular displacement of the head reference line to 45° from the torso reference line; or

(b) It shall, when adjusted to its fully extended design position, conform to each of the following—

(1) When measured parallel to torso line, the top of the head restraint shall not be less than 700 mm above the seating reference point;

(2) When measured either 64 mm below the top of the head restraint or 635 mm above the seating reference point, the lateral width of the head restraint shall be not less than—

(i) 254 mm for use with bench-type seats; and

(ii) 171 mm for use with individual seats:

(3) When tested in accordance with S5.2, the rearmost portion of the head form shall not be displaced to more than 102 mm perpendicularly rearward of the displaced extended torso reference line during the application of the load specified in S5.2(c); and

(4) When tested in accordance with S5.2, the head restraint shall withstand an increasing load until one of the following occurs:

(i) Failure of the seat or seat back; or

(ii) Application of a load of 890 N.

* * * * *

(c) During forward acceleration applied to the structure supporting the seat as described in this paragraph, measure the maximum rearward angular displacement between the dummy torso reference line and head reference line. When graphically depicted, the magnitude of the acceleration curve shall not be less than that of a half-sine wave having the amplitude of 78 m/s^2 and a duration of 80 milliseconds and not more than that of a half-sine wave curve having an amplitude of 94 m/s^2 and a duration of 96 milliseconds.

S5.2 Compliance with S4.3(b) shall be demonstrated in accordance with the following with the head restraint in its fully extended design position:

(a) Place a test device, having the back plan dimensions and torso line (centerline of the head room probe in full back position), of the three dimensional SAE J826 manikin, at the manufacturer's recommended design seated position.

(b) Establish the displaced torso reference line by applying a rearward moment of 373 Nm moment about the seating reference point to the seat back through the test device back pan located in (a).

(c) After removing the back pan, using a 165 mm diameter spherical head form or cylindrical head form having a 165 mm diameter in plan view and a 152 mm height in profile view, apply, perpendicular to the displaced torso reference line, a rearward initial load 64 mm below the top of the head restraint that will produce a 373 Nm moment about the seating reference point.

(d) Gradually increase this initial load to 890 N or until the seat or seat back fails, whichever occurs first.

11. Section 571.203 is amended by revising S2; revising S4; and revising S5.1 to read as follows:

§ 571.203 Standard No. 203, Impact protection for the driver from the steering control system.

* * * * *

S2. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating of 4,536 kg or less. However, it does not apply to vehicles that conform to the frontal barrier crash requirements (S5.1) of Standard No. 208 (49 CFR 571.208) by means of other than seat belt assemblies. It also does not apply to walk-in vans.

* * * * *

S4. *Requirements.* Each passenger car and each multipurpose passenger vehicle, truck and bus with a gross vehicle weight rating of 4,536 kg or less manufactured on or after September 1, 1981 shall meet the requirements of S5.1 and S5.2.

S5. *Impact protection requirements.*

S5.1 Except as provided in this paragraph, the steering control system of any vehicle to which this standard applies shall be impacted in accordance with S5.1(a). However, the steering control system of any such vehicle manufactured on or before August 31, 1996, may be impacted in accordance with S5.1(b).

(a) When the steering control system is impacted by a body block in accordance with SAE Recommended Practice J944 JUN80 *Steering Control System—Passenger Car—Laboratory Test Procedure,* at a relative velocity of 24.1 km/h, the impact force developed on the chest of the body block transmitted to the steering control system shall not exceed 11,110 N, except for intervals whose cumulative duration is not more than 3 milliseconds.

(b) When the steering control system is impacted in accordance with Society of Automotive Engineers Recommended Practice J944, "Steering Wheel Assembly Laboratory Test Procedure," December 1965, or an approved equivalent, at a relative velocity of 24 km/h, the impact force developed on the chest of the body block transmitted to the steering control system shall not exceed 11,120 N, except for intervals whose cumulative duration is not more than 3 milliseconds.

* * * * *

12. Section 571.204 is amended by revising S4.2 to read as follows:

§ 571.204 Standard No. 204, Steering control rearward displacement.

* * * * *

S4.2 *Vehicles manufactured on or after September 1, 1991.* When a passenger car or a truck, bus or multipurpose passenger vehicle with a gross vehicle weight rating of 4,536 kg or less and an unloaded vehicle weight of 2,495 kg or less is tested under the conditions of S5 in a 48.3 km/h perpendicular impact into a fixed collision barrier, the upper end of the steering column and shaft in the vehicle shall not be displaced more than 127 mm in a horizontal rearward direction parallel to the longitudinal axis of the vehicle. The amount of displacement shall be measured relative to an undisturbed point on the vehicle and shall represent the maximum dynamic movement of the upper end of the steering column and shaft during the crash test.

* * * * *

13. Section 571.207 is amended by revising S5.1.2 to read as follows:

§ 571.207 Standard No. 207, Seating systems.

* * * * *

S5.1.2 If the seat back and the seat bench are attached to the vehicle by different attachments, attach to each

component a fixture capable of transmitting a force to that component. Apply forces, in newtons, equal to 20 times the mass of the seat back in kilograms multiplied by 9.8 m/s² horizontally through the center of gravity of the seat back, as shown in Figure 2 and apply forces, in newtons, equal to 20 times the mass of the seat bench in kilograms multiplied by 9.8 m/s² horizontally through the center of gravity of the seat bench, as shown in Figure 3.

* * * * *

14. Section 571.209 is amended by revising in S4.1, paragraphs (f) and (g)(3); revising in S4.2, paragraphs (a), (b) and (c); revising in S4.3, paragraphs (c), (d), (e), (g), (h), (i), and (j); revising S4.4; revising in S5.1, paragraphs (a), (b), (c), (d), (e), and (f); revising in S5.2, paragraph (a) except for the NOTE, and paragraphs (c), (d), (e), (f), (g), (h), (i), (j), and (k); and revising in S5.3, paragraphs (a), (b), and (c) to read as follows:

§ 571.209 Standard No. 209, Seat belt assemblies.

* * * * *

S4.1 (a) * * *

(f) *Attachment hardware.* A seat belt assembly shall include all hardware necessary for installation in a motor vehicle in accordance with Society of Automotive Engineers Recommended Practice J800c, "Motor Vehicle Seat Belt Installation," November 1973. However, seat belt assemblies designed for installation in motor vehicles equipped with seat belt assembly anchorages that do not require anchorage nuts, plates, or washers, need not have such hardware, but shall have 7/16–20 UNF–2A or 1/2–13UNC–2A attachment bolts or equivalent metric hardware. The hardware shall be designed to prevent attachment bolts and other parts from becoming disengaged from the vehicle while in service. Reinforcing plates or washers furnished for universal floor, installations shall be of steel, free from burrs and sharp edges on the peripheral edges adjacent to the vehicle, at least 1.5 mm in thickness and at least 2580 mm² in projected area. The distance between any edge of the plate and the edge of the bolt hole shall be at least 15 mm. Any corner shall be rounded to a radius of not less than 6 mm or cut so that no corner angle is less than 135° and no side is less than 6 mm in length.

(g) *Adjustment.* * * *

(3) The adult occupants referred to in S4.1(g)(1) shall have the following measurements:

	5th percentile adult female	95th percentile adult male
Weight	46.3 kg	97.5 kg.
Erect sitting height.	785 mm	965 mm.
Hip breadth (sitting).	325 mm	419 mm.
Hip circumference (sitting).	925 mm	1199 mm.
Waist circumference (sitting).	599 mm	1080 mm.
Chest depth	190 mm	267 mm.
Chest circumference:		
Nipple	775 mm	1130 mm.
Upper	757 mm	1130 mm.
Lower	676 mm	1130 mm.

* * * * *

S4.2 *Requirements for webbing.*

(a) *Width.* The width of the webbing in a seat belt assembly shall be not less than 46 mm, except for portions that do not touch a 95th percentile adult male with the seat in any adjustment position and the seat back in the manufacturer's nominal design riding position when measured under the conditions prescribed in S5.1(a).

(b) *Breaking strength.* The webbing in a seat belt assembly shall have not less than the following breaking strength when tested by the procedures specified in S5.1(b): Type 1 seat belt assembly—26.7 kN; Type 2 seat belt assembly—22.2 kN for webbing pelvic restraint and 17.8 kN for webbing in upper torso restraint.

(c) *Elongation.* Except as provided in S4.5, the webbing in a seat belt assembly shall not extend to more than the following elongation when subjected to the specified forces in accordance with the procedure specified in S5.1(c): Type 1 seat belt assembly—20 percent at 11,120 N; Type 2 seat belt assembly 30 percent at 11,120 N for webbing in pelvic restraint and 40 percent at 11,120 N for webbing in upper torso restraint.

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(c) *Attachment hardware.* (1) Eye bolts, shoulder bolts, or other bolt used to secure the pelvic restraint of seat belt assembly to a motor vehicle shall withstand a force of 40,034 N when tested by the procedure specified in S5.2(c)(1), except that attachment bolts of a seat belt assembly designed for installation in specific models of motor vehicles in which the ends of two or more seat belt assemblies cannot be attached to the vehicle by a single bolt shall have breaking strength of not less than 22,241 N.

(2) Other attachment hardware designed to receive the ends of two seat belt assemblies shall withstand a tensile force of at least 26,689 N without fracture of a section when tested by the procedure specified in S5.2(c)(2).

(3) A seat belt assembly having single attachment hooks of the quick-disconnect type for connecting webbing to an eye bolt shall be provided with a retaining latch or keeper which shall not move more than 2 mm in either the vertical or horizontal direction when tested by the procedure specified in S5.2(c)(3).

(d) *Buckle release.* (1) The buckle of a Type 1 or Type 2 seat belt assembly shall release when a force of not more than 133 N is applied.

(2) A buckle designed for pushbutton application of buckle release force shall have a minimum area of 452 mm² with a minimum linear dimension of 10 mm for applying the release force, or a buckle designed for lever application of buckle release force shall permit the insertion of a cylinder 10 mm in diameter and 38 mm in length to at least the midpoint of the cylinder along the cylinder's entire length in the actuation portion of the buckle release. A buckle having other design for release shall have adequate access for two or more fingers to actuate release.

(3) The buckle of a Type 1 or Type 2 seat belt assembly shall not release under a compressive force of 1779 N applied as prescribed in paragraph S5.2(d)(3). The buckle shall be operable and shall meet the applicable requirement of paragraph S4.4 after the compressive force has been removed.

(e) *Adjustment force.* The force required to decrease the size of a seat belt assembly shall not exceed 49 N when measured by the procedure specified in S5.2(e).

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(g) *Buckle latch.* The buckle latch of a seat belt assembly when tested by the procedure specified in S5.2(g) shall not fail, nor gall or wear to an extent that normal latching and unlatching is impaired, and a metal-to-metal buckle shall separate when in any position of partial engagement by a force of not more than 22 N.

(h) *Nonlocking retractor.* The webbing of a seat belt assembly shall extend from a nonlocking retractor within 6 mm of maximum length when a tension is applied as prescribed in S5.2(h). A nonlocking retractor on upper torso restraint shall be attached to the nonadjustable end of the assembly, the reel of the retractor shall be easily visible to an occupant while wearing the assembly, and the maximum retraction force shall not exceed 5 N in any strap or webbing that contacts the shoulder when measured by the procedure

specified in S5.2(h), unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* The webbing of a seat belt assembly equipped with an automatic locking retractor, when tested by the procedure specified in S5.2(i), shall not move more than 25 mm between locking positions of the retractor, and shall be retracted with a force under zero acceleration of not less than 3 N when attached to pelvic restraint, and not less that 2 N nor more than 5 N in any strap or webbing that contacts the shoulders of an occupant when the retractor is attached to upper torso restraint. An automatic locking retractor attached to upper torso restraint shall not increase the restraint on the occupant of the seat belt assembly during use in a vehicle traveling over rough roads as prescribed in S5.2(i).

(j) *Emergency-locking retractor.* An emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)—

(1) Shall lock before the webbing extends 25 mm when the retractor is subjected to an acceleration of 7 m/s^2;

(2) Shall not lock, if the retractor is sensitive to webbing withdrawal, before the webbing extends 51 mm when the retractor is subjected to an acceleration of 3 m/s^2 or less;

(3) Shall not lock, if the retractor is sensitive to vehicle acceleration, when the retractor is rotated in any direction to any angle of 15° or less from its orientation in the vehicle;

(4) Shall exert a retractive force of at least 3 N under zero acceleration when attached only to the pelvic restraint;

(5) Shall exert a retractive force of not less than 1 N and not more than 5 N under zero acceleration when attached only to an upper torso restraint;

(6) Shall exert a retractive force of not less than 1 N and not more than 7 N under zero acceleration when attached to a strap or webbing that restrains both the upper torso and the pelvis.

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S4.4 *Requirements for assembly performance.*

(a) *Type I seat belt assembly.* Except as provided in S4.5, the complete seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedures specified in S5.3(a):

(1) The assembly loop shall withstand a force of not less than 22,241 N; that is, each structural component of the assembly shall withstand a force of not less than 1,120 N.

(2) The assembly loop shall extend not more than 7 inches or 178 mm when subjected to a force of 22,241 N; that is, the length of the assembly between anchorages shall not increase more than 356 mm.

(3) Any webbing cut by the hardware during test shall have a breaking strength at the cut of not less than 18,683 N.

(4) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

(b) *Type 2 seat belt assembly.* Except as provided in S4.5, the components of a Type 2 seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedure specified in S5.3(b):

(1) The structural components in the pelvic restraint shall withstand a force of not less than 11,120 N.

(2) The structural components in the upper torso restraint shall withstand a force of not less than 6,672 N.

(3) The structural components in the assembly that are common to pelvic and upper torso restraints shall withstand a force of not less than 13,345 N.

(4) The length of the pelvic restraint between anchorages shall not increase more than 508 mm when subjected to a force of 11,120 N.

(5) The length of the upper torso restraint between anchorages shall not increase more than 508 mm when subjected to a force of 6,672 N.

(6) Any webbing cut by the hardware during test shall have a breaking strength of not less than 15,569 N at a cut in webbing of the pelvic restraint, or not less than 12,455 N at a cut in webbing of the upper torso restraint.

(7) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

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S5. *Demonstration procedures.*

S5.1 *Webbing*—(a) *Width.* The width of webbing from three seat belt assemblies shall be measured after conditioning for at least 24 hours in an atmosphere having relative humidity between 48 and 67 percent and a temperature of 23° ±2°C. The tension during measurement of width shall be not more than 22 N on webbing from a Type 1 seat belt assembly, and 9786 N ± 450 N on webbing from a Type 2 seat belt assembly. The width of webbing from a Type 2 seat belt assembly may be measured during the breaking strength test described in paragraph (b) of this section.

(b) *Breaking strength.* Webbing from three seat belt assemblies shall be conditioned in accordance with paragraph (a) of this section and tested for breaking strength in a testing machine of capacity verified to have an error of not more than one percent in the range of the breaking strength of the webbing in accordance with American Society for Testing and Materials E4–79 "Standard Methods of Load Verification of Testing Machines." The machine shall be equipped with split drum grips illustrated in Figure 1, having a diameter between 51 and 102 mm. The rate of grip separation shall be between 51 and 102 mm per minute. The distance between the centers of the grips at the start of the test shall be between 102 and 254 mm. After placing the specimen in the grips, the webbing shall be stretched continuously at a uniform rate to failure. Each value shall be not less than the applicable breaking strength requirement in S4.2(b), but the median value shall be used for determining the retention of breaking strength in paragraphs (d), (e) and (f) of this section.

(c) *Elongation.* Elongation shall be measured during the breaking strength test described in paragraph (b) of this section by the following procedure: A preload between 196 N and 245 N shall be placed on the webbing mounted in the grips of the testing machine and the needle points of an extensometer, in which the points remain parallel during test, are inserted in the center of the specimen. Initially the points shall be set at a known distance apart between 102 and 203 mm. When the force on the webbing reaches the value specified in S4.2(c), the increase in separation of the points of the extensometer shall be measured and the percent elongation shall be calculated to the nearest 0.5 percent. Each value shall be not more than the appropriate elongation requirement in S4.2(c).

(d) *Resistance to abrasion.* The webbing from three seat belt assemblies shall be tested for resistance to abrasion by rubbing over the hexagon bar prescribed in Figure 2 in the following manner: The webbing shall be mounted in the apparatus shown schematically in Figure 2. One end of the webbing (A) shall be attached to a mass (B) of 2.35 kg ± .05 kg, except that a mass of 1.5 kg ± .05 kg shall be used for webbing in pelvic and upper torso restraints of a belt assembly used in a child restraint system. The webbing shall be passed over the two new abrading edges of the hexagon bar (C) and the other end attached to an oscillating drum (D) which has a stroke of 330 mm. Suitable guides shall be used to prevent

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movement of the webbing along the axis of hexagonal bar C. Drum D shall be oscillated for 5,000 strokes or 2,500 cycles at a rate of 60 ± 2 strokes per minute or 30 ± 1 cycles per minute. The abraded webbing shall be conditioned as prescribed in paragraph (a) of this section and tested for breaking strength by the procedure described in paragraph (b) of this section. The median values for the breaking strengths determined on abraded and unabraded specimens shall be used to calculate the percentage of breaking strength retained.

(e) *Resistance to light.* Webbing at least 508 mm in length from three seat belt assemblies shall be suspended vertically on the inside of the specimen track in a Type E carbon-arc light exposure apparatus described in Standard Practice for Generating Light-Exposure Apparatus (Carbon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials, ASTM Designation: G23 81, published by the American Society for Testing and Materials, except that the filter used for 100 percent polyester yarns shall be chemically strengthened soda-lime glass with a transmittance of less than 5 percent for wave lengths equal to or less than 305 nanometers and 90 percent or greater transmittance for wave lengths of 375 to 800 nanometers. The apparatus shall be operated without water spray at an air temperature of 60° ± 2° Celsius (°C) measured at a point 25 ± 5 mm outside the specimen rack and midway in height. The temperature sensing element shall be shielded from radiation. The specimens shall be exposed to light from the carbon-arc for 100 hours and then conditioned as prescribed in paragraph (a) of this section. The colorfastness of the exposed and conditioned specimens shall be determined on the Geometric Gray Scale issued by the American Association of Textile Chemists and Colorists. The breaking strength of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

(f) *Resistance to micro-organisms.* Webbing at least 508 millimeters (mm) in length from three seat belt assemblies shall first be preconditioned in accordance with Appendix A(1) and (2) of American Association of Textile Chemists and Colorists Test Method 381, "Fungicides Evaluation on Textiles; Mildew and Rot Resistance of Textiles," and then subjected to Test I, "Soil Burial Test" of that test method. After soil-burial for a period of 2 weeks, the specimen shall be washed in water, dried and conditioned as prescribed in paragraph (a) of this section. The breaking strengths of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

Note: This test shall not be required on webbing made from material which is inherently resistant to micro-organisms.

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S5.2 *Hardware.*

(a) *Corrosion resistance.* Three seat belt assemblies shall be tested in accordance with American Society for Testing and Materials B11773, "Standard Method of Salt Spray (Fog) Testing." Any surface coating or material not intended for permanent retention on the metal parts during service life shall be removed prior to preparation of the test specimens for testing. The period of test shall be 50 hours for all attachment hardware at or near the floor, consisting of two periods of 24 hours exposure to salt spray followed by 1 hour drying and 25 hours for all other hardware, consisting of one period of 24 hours exposure to salt spray followed by 1 hour drying. In the salt spray test chamber, the parts from the three assemblies shall be oriented differently, selecting those orientations most likely to develop corrosion on the larger areas. At the end of test, the seat belt assembly shall be washed thoroughly with water to remove the salt. After drying for at least 24 hours under standard laboratory conditions specified in S5.1(a) attachment hardware shall be examined for ferrous corrosion on significant surfaces, that is, all surfaces that can be contacted by a sphere 19 mm in diameter, and other hardware shall be examined for ferrous and nonferrous corrosion which may be transferred, either directly or by means of the webbing, to a person or his clothing during use of a seat belt assembly incorporating the hardware.

* * * * *

(c) *Attachment hardware.* (1) Attachment bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall be tested in a manner similar to that shown in Figure 3. The load shall be applied at an angle of 45° to the axis of the bolt through attachment hardware from the seat belt assembly, or through a special fixture which simulates the loading applied by the attachment hardware. The attachment hardware or simulated fixture shall be fastened by the bolt to the anchorage shown in Figure 3, which has a standard 7/16–20UNF–2B or 1/2-UNF–2B or metric equivalent threaded hole in a hardened steel plate at least 10 mm in thickness. The bolt shall be installed with two full threads exposed from the fully seated position. The appropriate force required by S4.3(c) shall be applied. A bolt from each of three seat belt assemblies shall be tested.

(2) Attachment hardware, other than bolts, designed to receive the ends of two seat belt assemblies shall be subjected to a tensile force of 26,689 N in a manner simulating use. The hardware shall be examined for fracture after the force is released. Attachment hardware from three seat belt assemblies shall be tested.

(3) Single attachment hook for connecting webbing to any eye bolt shall be tested in the following manner: The hook shall be held rigidly so that the retainer latch or keeper, with cotter pin or other locking device in place, is in a horizontal position as shown in Figure 4. A force of 667 N ± 9 N shall be applied vertically as near as possible to the free end of the retainer latch, and the movement of the latch by this force at the point of application shall be measured. The vertical force shall be released, and a force of 667 N ± 9 N shall be applied horizontally as near as possible to the free end of the retainer latch. The movement of the latch by this force at the point of load application shall be measured. Alternatively, the hook may be held in other positions, provided the forces are applied and the movements of the latch are measured at the points indicated in Figure 4. A single attachment hook from each of three seat belt assemblies shall be tested.

(d) *Buckle release.* (1) Three seat belt assemblies shall be tested to determine compliance with the maximum buckle release force requirements, following the assembly test in S5.3. After subjection to the force applicable for the assembly being tested, the force shall be reduced and maintained at 667 N on the assembly loop of a Type 1 seat belt assembly, 334 N the components of a Type 2 seat belt assembly. The buckle release force shall be measured by applying a force on the buckle in a manner and direction typical of those which would be employed by a seat belt occupant. For push button-release buckles, the force shall be applied at least 3 mm from the edge of the push button access opening of the buckle in a direction that produces maximum releasing effect. For lever-release buckles, the force shall be applied on the centerline of the buckle lever or

finger tab in a direction that produces maximum releasing effect.

(2) The area for application of release force on pushbutton actuated buckle shall be measured to the nearest 30 mm^2. The cylinder specified in S4.3(d) shall be inserted in the actuation portion of a lever released buckle for determination of compliance with the requirement. A buckle with other release actuation shall be examined for access of release by fingers.

(3) The buckle of a Type 1 or Type 2 seat belt assembly shall be subjected to a compressive force of 1779 N applied anywhere on a test line that is coincident with the center line of the belt extended through the buckle or on any line that extends over the center of the release mechanism and intersects the extended centerline of the belt at an angle of 60°. The load shall be applied by using a curved cylindrical bar having a cross section diameter of 19 mm and a radius of curvature of 152 mm, placed with its longitudinal center line along the test line and its center directly above the point or the buckle to which the load will be applied. The buckle shall be latched, and a tensile force of 334 N shall be applied to the connected webbing during the application of the compressive force. Buckles from three seat belt assemblies shall be tested to determine compliance with paragraph S4.3(d)(3).

(e) *Adjustment Force.* Three seat belt assemblies shall be tested for adjustment force on the webbing at the buckle, or other manual adjusting device normally used to adjust the size of the assembly. With no load on the anchor end, the webbing shall be drawn through the adjusting device at a rate of 508 mm ±5 mm per minute and the maximum force shall be measured to the nearest 1 N after the first 25 mm of webbing movement. The webbing shall be precycled 10 times prior to measurement.

(f) *Tilt-lock adjustment.* This test shall be made on buckles or other manual adjusting devices having tilt-lock adjustment normally used to adjust the size of the assembly. Three buckles or devices shall be tested. The base of the adjustment mechanism and the anchor end of the webbing shall be oriented in planes normal to each other. The webbing shall be drawn through the adjustment mechanism in a direction to increase belt length at a rate of 508 mm ±50 mm per minute while the plane of the base is slowly rotated in a direction to lock the webbing. Rotation shall be stopped when the webbing locks, but the pull on the webbing shall be continued until there is a resistance of at least 89 N. The locking angle between the anchor end of the webbing and the base of the adjustment mechanism shall be measured to the nearest degree. The webbing shall be precycled 10 times prior to measurement.

(g) *Buckle latch.* The buckles from three seat belt assemblies shall be opened fully and closed at least 10 times. Then the buckles shall be clamped or firmly held against a flat surface so as to permit normal movement of buckle part, but with the metal mating plate (metal-to-metal buckles) or of webbing end (metal-to-webbing buckles) withdrawn from the buckle. The release mechanism shall be moved 200 times through the maximum possible travel against its stop with a force of 133 N ±13 N at a rate not to exceed 30 cycles per minute. The buckle shall be examined to determine compliance with the performance requirements of S4.3(g). A metal-to-metal buckle shall be examined to determine whether partial engagement is possible by means of any technique representative of actual use. If partial engagement is possible, the maximum force of separation when in such partial engagement shall be determined.

(h) *Nonlocking retractor.* After the retractor is cycled 10 times by full extension and retraction of the webbing, the retractor and webbing shall be suspended vertically and a force of 18 N shall be applied to extend the webbing from the retractor. The force shall be reduced to 13 N when attached to a pelvic restraint, or to 5 N per strap or webbing that contacts the shoulder of an occupant when retractor is attached to an upper torso restraint. The residual extension of the webbing shall be measured by manual rotation of the retractor drum or by disengaging the retraction mechanism. Measurements shall be made on three retractors. The location of the retractor attached to upper torso restraint shall be examined for visibility of reel during use of seat belt assembly in a vehicle.

Note: This test shall not be required on a nonlocking retractor attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* Three retractors shall be tested in a manner to permit the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor. While the webbing is being retracted, the average force or retraction within plus or minus 51 mm of 75 percent extension (25 percent retraction) shall be determined and the webbing movement between adjacent locking segments shall be measured in the same region of extension. A seat belt assembly with automatic locking retractor in upper torso restraint shall be tested in a vehicle in a manner prescribed by the installation and usage instructions. The retraction force on the occupant of the seat belt assembly shall be determined before and after traveling for 10 minutes at a speed of 24 kilometers per hour (km/h) or more over a rough road (e.g., Belgian block road) where the occupant is subjected to displacement with respect to the vehicle in both horizontal and vertical directions. Measurements shall be made with the vehicle stopped and the occupant in the normal seated position.

(j) *Emergency-locking retractor.* A retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within plus or minus 51 mm of 75 percent extension shall be determined. A retractor that is sensitive to webbing withdrawal shall be subjected to an acceleration of $3 m/s^2$ within a period of 50 milliseconds (ms) while the webbing is at 75 percent extension, to determine compliance with S4.3(j)(2). The retractor shall be subjected to an acceleration of $7 m/s^2$ within a period of 50 milliseconds (ms), while the webbing is at 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing retraction while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane. For a retractor sensitive to vehicle acceleration, the retractor shall be:

(1) Accelerated in the horizontal plane in two directions normal to each other, while the retractor drum's central axis is oriented at the angle at which it is installed in the vehicle; and,

(2) Accelerated in three directions normal to each other while the retractor drum's central axis is oriented at angles of 45°, 90°, 135°, and 180° from the angle at which it is installed in the vehicle, unless the retractor locks by gravitational force when tilted in any direction to any angle greater than 45° from the angle at which it is installed in the vehicle.

(k) *Performance of retractor.* After completion of the corrosion-resistance test described in paragraph (a) of this section, the webbing shall be fully extended and allowed to dry for at least 24 hours under standard laboratory conditions specified in S5.1(a). The retractor shall be examined for ferrous and nonferrous corrosion which may be transferred, either directly or by means of the webbing, to a person or his clothing during use of a seat belt assembly incorporating the retractor, and for ferrous corrosion on significant surfaces if the retractor is part of the attachment hardware. The webbing shall be withdrawn manually and allowed to retract for 25 cycles. The retractor shall be mounted in an apparatus capable of extending the webbing fully, applying a force of 89 N at full extension, and allowing the webbing to retract freely and completely. The webbing shall be withdrawn from the retractor and allowed to retract repeatedly in this apparatus until 2,500 cycles are completed. The retractor and webbing shall then be subjected to the temperature resistance test prescribed in paragraph (b) of this section. The retractor shall be subjected to 2,500 additional cycles of webbing withdrawal and retraction. Then, the retractor and webbing shall be subjected to dust in a chamber similar to one illustrated in Figure 8 containing about 0.9 kg of coarse grade dust conforming to the specification given in Society of Automotive Engineering Recommended Practice J726, "Air Cleaner Test Code" Sept. 1979. The dust shall be agitated every 20 minutes for 5 seconds by compressed air, free of oil and moisture, at a gage pressure of 550 ±55 kPa entering through an orifice 1.5 ± 0.1 mm in diameter. The webbing shall be extended to the top of the chamber and kept extended at all times except that the webbing shall be subjected to 10 cycles of complete retraction and extension within 1 to 2 minutes after each agitation of the dust. At the end of 5 hours, the assembly shall be removed from the chamber. The webbing shall be fully withdrawn from the retractor manually and allowed to retract completely for 25 cycles. An automatic-locking retractor or a nonlocking retractor attached to pelvic restraint shall be subjected to 5,000 additional cycles of webbing withdrawal and retraction. An emergency locking retractor or a nonlocking retractor attached to upper torso restraint shall be subjected to 45,000 additional cycles of webbing withdrawal and retraction between 50 and 100 per cent extension. The locking mechanism of an emergency locking retractor shall be actuated at least 10,000 times within 50 to 100 percent extension of webbing during the 50,000 cycles. At the end of test, compliance of the retractors with applicable requirements in S4.3 (h), (i), and (j) shall be determined. Three retractors shall be tested for performance.

S5.3 *Assembly performance—(a) Type 1 seat belt assembly.* Three complete seat belt assemblies, including webbing, straps, buckles, adjustment and attachment hardware, and retractors, arranged in the form of a loop as shown in Figure 5, shall be tested in the following manner:

(1) The testing machine shall conform to the requirements specified in S5.1(b). A double-roller block shall be attached to one head of the testing machine. This block shall consist of two rollers 102 mm in diameter and sufficiently long so that no part of the seat belt assembly touches parts of the block other than the rollers during test. The rollers shall be mounted on antifriction bearings and spaced 305 mm between centers, and shall have sufficient capacity so that there is no brinelling, bending or other distortion of parts which may affect the results. An anchorage bar shall be fastened to the other head of the testing machine.

(2) The attachment hardware furnished with the seat belt assembly shall be attached to the anchorage bar. The anchor points shall be spaced so that the webbing is parallel in the two sides of the loop. The attaching bolts shall be parallel to, or at an angle of 45° or 90° to the webbing, whichever results in an angle nearest to 90° between webbing and attachment hardware except that eye bolts shall be vertical, and attaching bolts or nonthreaded anchorages of a seat belt assembly designed for use in specific models of motor vehicles shall be installed to produce the maximum angle in use indicated by the installation instructions, utilizing special fixtures if necessary to simulate installation in the motor vehicle. Rigid adapters between anchorage bar and attachment hardware shall be used if necessary to locate and orient the adjustment hardware. The adapters shall have a flat support face perpendicular to the threaded hole for the attaching bolt and adequate in area to provide full support for the base of the attachment hardware connected to the webbing. If necessary, a washer shall be used under a swivel plate or other attachment hardware to prevent the webbing from being damaged as the attaching bolt is tightened.

(3) The length of the assembly loop from attaching bolt to attaching bolt shall be adjusted to about 1295 mm, or as near thereto as possible. A force of 245 N shall be applied to the loop to remove any slack in webbing at hardware. The force shall be removed and the heads of the testing machine shall be adjusted for an assembly loop between 1220 and 1270 mm in length. The length of the assembly loop shall then be adjusted by applying a force between 89 and 98 N to the free end of the webbing at the buckle, or by the retraction force of an automatic-locking or emergency-locking retractor. A seat belt assembly that cannot be adjusted to this length shall be adjusted as closely as possible. An automatic-locking or emergency locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in excess of the retractive force in order to keep the retractor locked. The buckle shall be in a location so that it does not touch the rollers during test, but to facilitate making the buckle release test in S5.2(d) the buckle should be between the rollers or near a roller in one leg.

(4) The heads of the testing machine shall be separated at a rate between 51 and 102 mm per minute until a force of 22,241 ± 222 N is applied to the assembly loop. The extension of the loop shall be determined from measurements of head separation before and after the force is applied. The force shall be decreased to 667 ± 45 N and the buckle release force measured as prescribed in S5.2(d).

(5) After the buckle is released, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width, the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly shall be used with the webbing repositioned in the hardware. A tensile force of 11,120 ± 111 N shall be applied to the components or a force of 22,241 ± 222 N shall be applied to the assembly loop. After the force is removed, the breaking strength of the cut webbing shall be determined as prescribed above.

(6) If a Type 1 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor, the webbing and retractor shall be subjected to a tensile force of 11,120 ± 111 N with the webbing fully extended from the retractor.

(7) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(b) *Type 2 seat belt assembly.* Components of three seat belt assemblies shall be tested in the following manner:

(1) The pelvic restraint between anchorages shall be adjusted to a length between 1220 and 1270 mm, or as near this length as possible if the design of the pelvic restraint does not permit its adjustment to this length. An automatic-locking or emergency-locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in excess of the retractive force in order to keep the retractor locked. The attachment hardware shall be oriented to the webbing as specified in paragraph (a)(2) of this section and illustrated in Figure 5. A tensile force 11,120 ± 111 N shall be applied on the components in any convenient manner and the extension between anchorages under this force shall be measured. The force shall be reduced to 334 ± 22 N and the buckle release force measured as prescribed in S5.2(d).

(2) The components of the upper torso restraint shall be subjected to a tensile force of 6,672 ± 67 N following the procedure prescribed above for testing pelvic restraint and the extension between anchorages under this force shall be measured. If the testing apparatus permits, the pelvic and upper torso restraints may be tested simultaneously. The force shall be reduced to 334 ± 22 N and the buckle release force measured as prescribed in S5.2(d).

(3) Any component of the seat belt assembly common to both pelvic and upper torso restraint shall be subjected to a tensile force of 13,344 ± 134 N.

(4) After the buckle is released in tests of pelvic and upper torso restraints, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width, the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly shall be used with the webbing repositioned in the hardware. The force applied shall be 11,120 ± 111 N for components of pelvic restraint, and 6,672 ± 67 N for components of upper torso restraint. After the force is removed, the breaking strength of the cut webbing shall be determined as prescribed above.

(5) If a Type 2 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor the webbing and retractor shall be subjected to a tensile force of 11,120 ± 111 N with the webbing fully extended from the retractor, or to a tensile force of 6,672 ± 67 N with the webbing fully extended from the retractor if the design of the assembly permits only upper torso restraint forces on the retractor.

(6) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(c) *Resistance to buckle abrasion.* Seat belt assemblies shall be tested for resistance to abrasion by each buckle or manual adjusting device normally used to adjust the size of the assembly. The webbing of the assembly to be used in this test shall be exposed for 4 hours to an atmosphere having relative humidity of 65 per cent and temperature of 18° C. The webbing shall be pulled back and forth through the buckle or manual adjusting device as shown schematically in Figure 7. The anchor end of the webbing (A) shall be attached to a mass (B) of 1.4 kg. The webbing shall pass through the buckle (C), and the other end (D) shall be attached to a reciprocating device so that the webbing forms an angle of 8° with the hinge stop (E). The reciprocating device shall be operated for 2,500 cycles at a rate of 18 cycles per minute with a stroke length of 203 mm. The abraded webbing shall be tested for breaking strength by the procedure described in paragraph S5.1(b).

* * * * *

15. Section 571.210 is amended by revising in S4.2.1 the introductory paragraph; revising S4.2.2; revising S4.2.4; revising S4.3.1.1; revising S4.3.1.4; removing S4.3.1.5; revising S5.1; revising S5.2; and revising in S6, the introductory sentence, to read as follows:

§ 571.210 Standard No. 210, Seat belt assembly anchorages.

* * * * *

S4.2.1 Except as provided in S4.2.5, and except for side-facing seats, the anchorages, attachment hardware, and attachment bolts for any of the following seat belt assemblies shall withstand a 22,241 N force when tested in accordance with S5.1 of this standard:

* * * * *

S4.2.2 Except as provided in S4.2.5, the anchorages, attachment hardware, and attachment bolts for all Type 2 and automatic seat belt assemblies that are installed to comply with Standard No. 208 (49 CFR 571.208) shall withstand 13,345 N forces when tested in accordance with S5.2.

* * * * *

S4.2.4 Anchorages, attachment hardware, and attachment bolts shall be tested by simultaneously loading them in accordance with the applicable procedures set forth in S5 of this standard if the anchorages are either:

(a) For designated seating positions that are common to the same occupant seat and that face in the same direction, or

(b) For laterally adjacent designated seating positions that are not common to the same occupant seat, but that face in the same direction, if the vertical centerline of the bolt hole for at least one of the anchorages for one of those designated seating positions is within 305 mm of the vertical center line of the bolt hole for an anchorage for one of the adjacent seating positions.

* * * * *

S4.3.1.1 In an installation in which the seat belt does not bear upon the seat frame:

(a) If the seat is a nonadjustable seat, then a line from the seating reference point to the nearest contact point of the belt with the anchorage shall extend forward from the anchorage at an angle with the horizontal of not less than 30 degrees and not more than 75 degrees.

(b) If the seat is an adjustable seat, then a line from a point 64 mm forward of and 10 mm above the seating reference point to the nearest contact point of the belt with the anchorage shall extend forward from the anchorage at an angle with the horizontal of not less than 30 degrees and not more than 75 degrees.

* * * * *

S4.3.1.4 Anchorages for an individual seat belt assembly shall be located at least 165 mm apart laterally, measured between the vertical center line of the bolt holes or, for designs using other means of attachment to the vehicle structure, between the centroid of such means.

S4.3.1.5 [Reserved]

* * * * *

S5.1 *Seats with Type 1 or Type 2 seat belt anchorages.* With the seat in its rearmost position, apply a force of 22,241 N in the direction in which the seat faces to a pelvic body block as described in Figure 2A, in a plane parallel to the longitudinal centerline of the vehicle, with an initial force application angle of not less than 5 degrees or more than 15 degrees above the horizontal. Apply the force at the onset rate of not more than 222,411 N

per second. Attain the 22,241 N force in not more than 30 seconds and maintain it for 10 seconds. At the manufacturer's option, the pelvic body block described in Figure 2B may be substituted for the pelvic body block described in Figure 2A to apply the specified force to the center set(s) of anchorages for any group of three or more sets of anchorages that are simultaneously loaded in accordance with S4.2.4 of this standard.

S5.2 *Seats with Type 2 or automatic seat belt anchorages.* With the seat in its rearmost position, apply forces of 13,345 N in the direction in which the seat faces simultaneously to a pelvic body block, as described in Figure 2A, and an upper torso body block, as described in Figure 3, in a plane parallel to the longitudinal centerline of the vehicle, with an initial force application angle of not less than 5 degrees nor more than 15 degrees above the horizontal. Apply the forces at the onset rate of not more than 133,447 N per second. Attain the 13,345 N force in not more than 30 seconds and maintain it for 10 seconds. At the manufacturer's option, the pelvic body block described in Figure 2B may be substituted for the pelvic body block described in Figure 2A to apply the specified force to the center set(s) of anchorages for any group of three or more sets of anchorages that are simultaneously loaded in accordance with S4.2.4 of this standard.

* * * * *

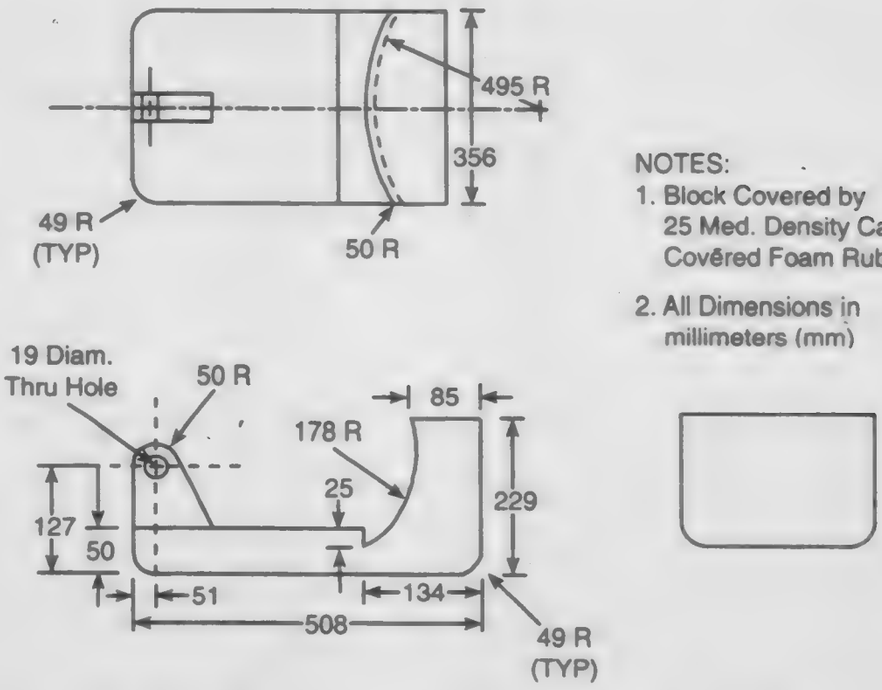
S6. *Owner's Manual Information.* The owner's manual in each vehicle with a gross vehicle weight rating of 4,536 kg or less manufactured after September 1, 1987 shall include:

* * * * *

16. In § 571.210, Figure 2 "Body Block for Lap Belt Anchorage" would be removed. Figure 2A "Body Block for Lap Belt Anchorage," Figure 2B "Optional Body Block for Center Seating Positions," and Figure 3 "Body Block for Combination Shoulder and Lap Belt Anchorage" after S5.2, and preceding S6, would be revised to read as follows:

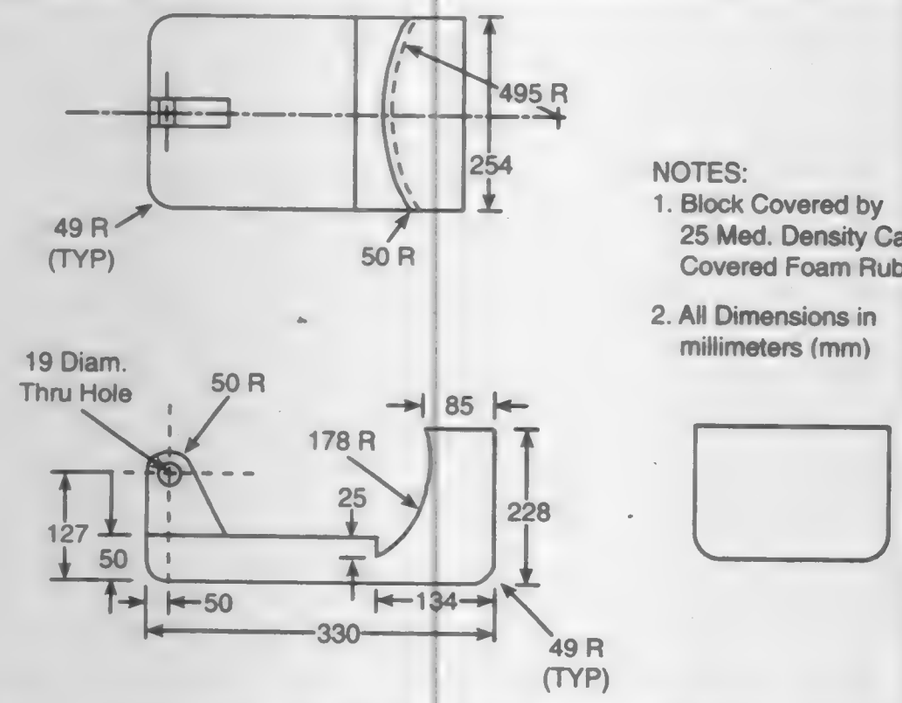
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NOTES:
1. Block Covered by 25 Med. Density Canvas Covered Foam Rubber
2. All Dimensions in millimeters (mm)

Figure 2A.—BODY BLOCK FOR LAP BELT ANCHORAGE



NOTES:
1. Block Covered by 25 Med. Density Canvas Covered Foam Rubber
2. All Dimensions in millimeters (mm)

Figure 2B.—OPTIONAL BODY BLOCK FOR CENTER SEATING POSITIONS

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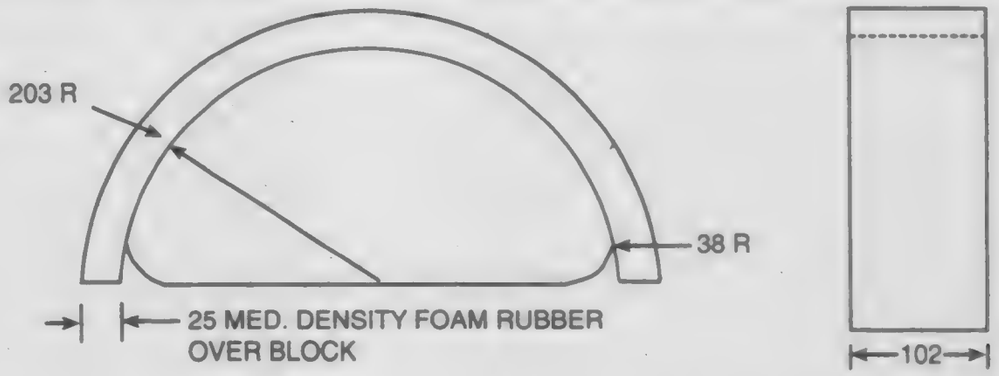


Figure 3.—BODY BLOCK FOR COMBINATION SHOULDER AND LAP BELT ANCHORAGE
All dimensions in millimeters (mm)

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17. Section 571.219 is amended by revising S3; revising S5; revising S6.1; revising S6.2; and revising in S7.7, paragraph (b) to read as follows:

§ 571.219 Standard No. 219, Windshield zone intrusion.

* * * * *

S3. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses of 4,536 kilograms or less gross vehicle weight rating. However, it does not apply to forward control vehicles, walk-in van-type vehicles, or to open-body-type vehicles with fold-down or removable windshields.

* * * * *

S5. *Requirement.* When the vehicle travelling longitudinally forward at any speed up to and including 48 km/h impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, under the conditions of S7, no part of the vehicle outside the occupant compartment, except windshield molding and other components designed to be normally in contact with the windshield, shall penetrate the protected zone template, affixed according to S6, to a depth of more than 6 mm, and no such part of a vehicle shall penetrate the inner surface of that portion of the windshield, within the DLO, below the protected zone defined in S6.

S6. *Protected zone template.*

S6.1 The lower edge of the protected zone is determined by the following procedure (See Figure 1).

(a) Place a 165 mm diameter rigid sphere, with a mass of 6.8 kg in a position such that it simultaneously contacts the inner surface of the windshield glazing and the surface of the instrument panel, including padding. If any accessories or equipment such as the steering control system obstruct positioning of the sphere, remove them for the purposes of this procedure.

(b) Draw the locus of points on the inner surface of the windshield contactable by the sphere across the width of the instrument panel. From the outermost contactable points, extend the locus line horizontally to the edges of the glazing material.

(c) Draw a line on the inner surface of the windshield below and 13 mm distant from the locus line.

(d) The lower edge of the protected zone is the longitudinal projection onto the outer surface of the windshield of the line determined in S6.1(c).

S6.2 The protected zone is the space enclosed by the following surfaces, as shown in Figure 1:

(a) The outer surface of the windshield in its precrash configuration.

(b) The locus of points 76 mm outward along perpendiculars drawn to each point on the outer surface of the windshield.

(c) The locus of lines forming a 45° angle with the outer surface of the windshield at each point along the top and side edges of the outer surface of the windshield and the lower edge of the protected zone determined in S6.1, in the plane perpendicular to the edge at that point.

* * * * *

(b) Except as specified in S7.6, a multipurpose passenger vehicle, truck or bus is loaded to its unloaded vehicle weight, plus 136 kg or its rated cargo and luggage capacity, whichever is less, secured to the vehicle, plus a 50th-percentile test dummy as specified in part 572 of this chapter at each front outboard designated seating postion and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position. The load is distributed so that the mass on each axle as measured at the tire-ground interface is in proportion to its GAWR. If the mass on any axle when the vehicle is loaded to its unloaded vehicle weight plus dummy mass exceeds the axle's proportional share of the test mass, the remaining mass is placed so that the mass on that axle remains the same. For the purposes of this section, unloaded vehicle weight does not include the mass of work-performing accessories. Vehicles are tested to a maximum unloaded vehicle weight of 2,495 kg.

* * * * *

18. Section 571.219 is amended by revising Figure 1 that follows S7.7 to read as follows:

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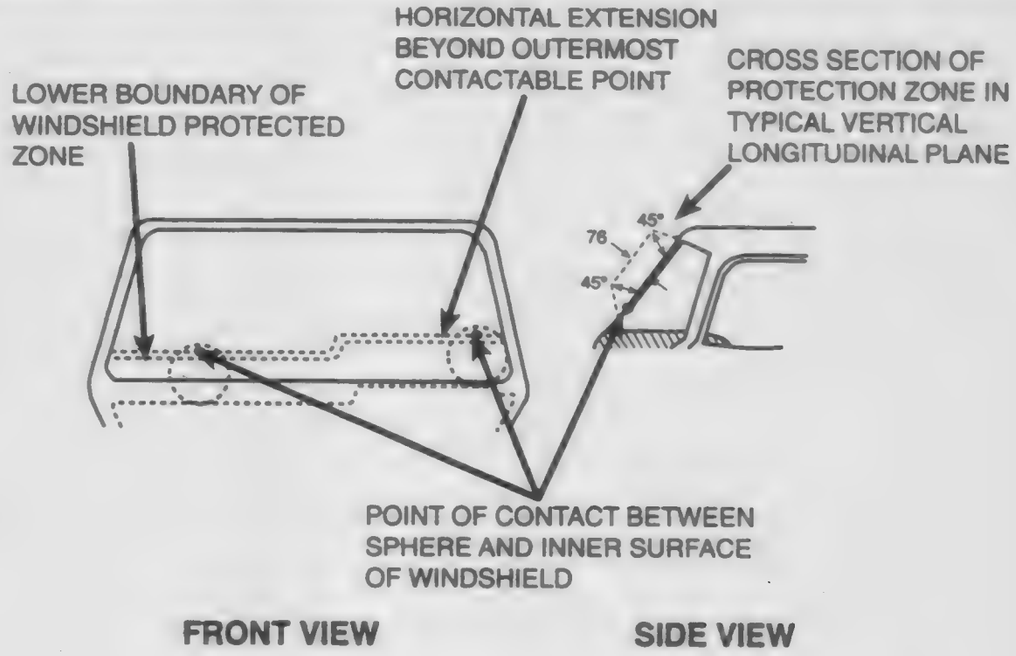


Figure 1.—WINDSHIELD PROTECTION ZONE
All dimensions in millimeters (mm)

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19. Section 571.220 is amended by revising S4; revising S5.2; revising S5.4; revising S5.5; and revising S6.1 to read as follows:

§ 571.220 Standard No. 220, School bus rollover protection.

* * * * *

S4. *Requirements.* When a force in Newtons equal to 1½ times the unloaded vehicle weight in kilograms multiplied by 9.8 m/sec² is applied to the roof of the vehicle's body structure through a force application plate as specified in S5, Test procedures—

(a) The downward vertical movement at any point on the application plate shall not exceed 130 mm and

(b) Each emergency exit of the vehicle provided in accordance with Standard No. 217 (§ 571.217) shall be capable of opening as specified in that standard during the full application of the force and after release of the force, except that an emergency exit located in the roof of the vehicle is not required to be capable of being opened during the application of the force. A particular vehicle (i.e., test specimen) need not meet the emergency exit opening requirement after release of force if it is subjected to the emergency exit opening requirements during the full application of the force.

* * * * *

S5.2 Use a flat, rigid, rectangular force application plate that is measured with respect to the vehicle roof longitudinal and lateral centerlines,

(a) In the case of a vehicle with a GVWR of more than 4,536 kg, 305 mm shorter than the vehicle roof and 914 mm wide; and

(b) In the case of a vehicle with a GVWR of 4,536 kg or less, 127 mm longer and 127 mm wider than the vehicle roof. For purposes of these measurements, the vehicle roof is that structure, seen in the top projected view, that coincides with the passenger and driver compartment of the vehicle.

* * * * *

S5.4 Apply an evenly-distributed vertical force in the downward direction to the force application plate at any rate not more than 13 mm per second, until a force of 2,224 N has been applied.

S5.5 Apply additional vertical force in the downward direction to the force application plate at a rate of not more than 13 mm per second until the force specified in S4. has been applied, and maintain this application of force.

* * * * *

S6.1 *Temperature.* The ambient temperature is any level between 0° C and 32° C.

* * * * *

20. Section 571.222 is amended by revising in S4, the definition of "contactable surface"; revising S4.1; revising in S5., paragraphs (a) and (b); revising S5.1.2; revising S5.1.3; revising S5.1.3.1; revising S5.1.3.2; revising S5.1.3.3; revising S5.1.3.4; revising S5.1.4; revising S5.1.4.1; revising S5.1.4.2; revising S5.1.5; revising S5.2; revising S5.2.1; revising S5.2.3; revising S5.3.1.1; revising S5.3.1.2; revising S5.3.1.3; revising S5.3.2.1; revising S5.3.2.2; revising S6.3; revising S6.5; revising S6.5.1; revising S6.6; and revising S6.7 to read as follows:

S571.222 Standard No. 222, School bus passenger seating and crash protection.

* * * * *

S4. *Definitions. Contactable surface* means any surface within the zone specified in S5.3.1.1 that is contactable from any direction by the test device described in S6.6, except any surface on the front of a seat back or restraining barrier 76 mm or more below the top of the seat back or restraining barrier.

* * * * *

S4.1 The number of seating positions considered to be in a bench seat is expressed by the symbol W, and calculated as the bench width in millimeters divided by 381 and rounded to the nearest whole number.

S5. *Requirements.* (a) Each vehicle with a gross vehicle weight rating of more than 4,536 kg shall be capable of meeting any of the requirements set forth under this heading when tested under the conditions of S6. However, a particular school bus passenger seat (i.e., test specimen) in that weight class need not meet further requirements after having met S5.1.2 and S5.1.5, or having been subjected to either S5.1.3, S5.1.4, or S5.3.

(b) Each vehicle with a gross vehicle weight rating of 4,536 kg or less shall be capable of meeting the following requirements at all seating positions other than the driver's seat:

(1)(A) In the case of vehicles manufactured before September 1, 1991, the requirements of §§ 571.208, 571.209, and 571.210 as they apply to multipurpose passenger vehicles; or

(B) In the case of vehicles manufactured on or after September 1, 1991, the requirements of S4.4.3.3 of § 571.208 and the requirements of §§ 571.209 and 571.210 as they apply to school buses with a gross vehicle weight rating of 4,536 kg or less; and

(2) The requirements of S5.1.2, S5.1.3, S5.1.4, S5.1.5, S5.3, and S5.4 of this standard. However, the requirements of §§ 571.208 and 571.210 shall be met at W seating positions in a bench seat using a body block as specified in Figure 2 of this standard, and a particular school bus passenger seat (i.e., a test specimen) in that weight class need not meet further requirements after having met S5.1.2 and S5.1.5, or after having been subjected to either S5.1.3, S5.1.4, or S5.3 of this standard or § 571.210.

* * * * *

S5.1.2 *Seat back height and surface area.* Each school bus passenger seat shall be equipped with a seat back that, in the front projected view, has a front surface area above the horizontal plane that passes through the seating reference point, and below the horizontal plane 508 mm above the seating reference point, of not less than 90 percent of the seat bench width in millimeters multiplied by 508.

S5.1.3 *Seat performance forward.* When a school bus passenger seat that has another seat behind it is subjected to the application of force as specified in S5.1.3.1 and S5.1.3.2, and subsequently, the application of additional force to the seat back as specified in S5.1.3.3 and S5.1.3.4:

(a) The seat back force/deflection curve shall fall within the zone specified in Figure 1;

(b) Seat back deflection shall not exceed 356 mm; (for determination of (a) and (b) the force/deflection curve describes only the force applied through the upper loading bar, and only the forward travel of the pivot attachment point of the upper loading bar, measured from the point at which the initial application of 44 N of force is attained.)

(c) The seat shall not deflect by an amount such that any part of the seat moves to within 102 mm of any part of another school bus passenger seat or restraining barrier in its originally installed position;

(d) The seat shall not separate from the vehicle at any attachment point; and

(e) Seat components shall not separate at any attachment point.

S5.1.3.1 Position the loading bar specified in S6.5 so that it is laterally centered behind the seat back with the bar's longitudinal axis in a transverse plane of the vehicle and in any horizontal plane between 102 mm above and 102 mm below the seating reference point of the school bus passenger seat behind the test specimen.

S5.1.3.2 Apply a force of 3,114W newtons horizontally in the forward direction through the loading bar at the pivot attachment point. Reach the specified load in not less than 5 nor more than 30 seconds.

S5.1.3.3 No sooner than 1.0 second after attaining the required force, reduce

that force to 1,557W newtons and, while maintaining the pivot point position of the first loading bar at the position where the 1,557W newtons is attained, position a second loading bar described in S6.5 so that it is laterally centered behind the seat back with the bar's longitudinal axis in a transverse plane of the vehicle and in the horizontal plane 406 mm above the seating reference point of the school bus passenger seat behind the test specimen, and move the bar forward against the seat back until a force of 44 N has been applied.

S5.1.3.4 Apply additional force horizontally in the forward direction through the upper bar until 452W joules of energy have been absorbed in deflecting the seat back (or restraining barrier). Apply the additional load in not less than 5 seconds nor more than 30 seconds. Maintain the pivot attachment point in the maximum forward travel position for not less than 5 seconds nor more than 10 seconds and release the load in not less than 5 nor more than 30 seconds. (For the determination of S5.1.3.4 the force/deflection curve describes only the force applied through the upper loading bar, and the forward and rearward travel distance of the upper loading bar pivot attachment point measured from the position at which the initial application of 44 N of force is attained.)

S5.1.4 *Seat performance rearward.* When a school bus passenger seat that has another seat behind it is subjected to the application of force as specified in S5.1.4.1 and S5.1.4.2:

(a) Seat back force shall not exceed 9,786 N;

(b) Seat back deflection shall not exceed 254 mm; (for determination of (a) and (b) the force/deflection curve describes only the force applied through the loading bar, and only the rearward travel of the pivot attachment point of the loading bar, measured from the point at which the initial application of 222 N is attained.

(c) The seat shall not deflect by an amount such that any part of the seat moves to within 102 mm of any part of another passenger seat in its originally installed position;

(d) The seat shall not separate from the vehicle at any attachment point; and

(e) Seat components shall not separate at any attachment point.

S5.1.4.1 Position the loading bar described in S6.5 so that it is laterally centered forward of the seat back with the bar's longitudinal axis in a transverse plane of the vehicle and in the horizontal plane 343 mm above the seating reference point of the test specimen, and move the loading bar rearward against the seat back until a force of 222 N has been applied.

S5.1.4.2 Apply additional force horizontally rearward through the loading bar until 316W joules (J) of energy has been absorbed in deflecting the seat back. Apply the additional load in not less than 5 seconds nor more than 30 seconds. Maintain the pivot attachment point in the maximum rearward travel position for not less than 5 seconds nor more than 10 seconds and release the load in not less than 5 seconds nor more than 30 seconds. (For determination of S5.1.4.2 the force deflection curve describes the force applied through the loading bar and the rearward and forward travel distance of the loading bar pivot attachment point measured from the position at which the initial application of 222 N of force is attained.)

S5.1.5 *Seat cushion retention.* In the case of school bus passenger seats equipped with seat cushions, with all manual attachment devices between the seat and the seat cushion in the manufacturer's designated position for attachment, the seat cushion shall not separate from the seat at any attachment point when subjected to an upward force in newtons of 5 times the mass of the seat cushion in kilograms and multiplied by 9.8 m/s^2, applied in any period of not less than 1 nor more than 5 seconds, and maintained for 5 seconds.

S5.2 *Restraining barrier requirements.* Each vehicle shall be equipped with a restraining barrier forward of any designated seating position that does not have the rear surface of another school bus passenger seat within 610 mm of its seating reference point, measured along a horizontal longitudinal line through the seating reference point in the forward direction.

S5.2.1 *Barrier-seat separation.* The horizontal distance between the restraining barrier's rear surface and the seating reference point of the seat in front of which the barrier is required shall not be more than 610 mm measured along a horizontal longitudinal line through the seating reference point in the forward direction.

* * * * *

S5.2.3 *Barrier performance forward.* When force is applied to the restraining barrier in the same manner as specified in S5.1.3.1 through S5.1.3.4 for seating performance tests:

(a) The restraining barrier force/deflection curve shall fall within the zone specified in Figure 1;

(b) Restraining barrier deflection shall not exceed 356 mm; (for computation of (a) and (b) the force/deflection curve describes only the force applied through the upper loading bar, and only the forward travel of the pivot attachment point of the loading bar, measured from the point at which the initial application of 44 N of force is attained.)

(c) Restraining barrier deflection shall not interfere with normal door operation;

(d) The restraining barrier shall not separate from the vehicle at any attachment point; and

(e) Restraining barrier components shall not separate at any attachment point.

* * * * *

S5.3.1.1 The head protection zones in each vehicle are the spaces in front of each school bus passenger seat which are not occupied by bus sidewall, window, or door structure and which, in relation to that seat and its seating reference point, are enclosed by the following planes;

(a) Horizontal planes 305 mm and 1016 mm above the seating reference point;

(b) A vertical longitudinal plane tangent to the inboard (aisle side) edge of the seat; and

(c) A vertical longitudinal plane 83 mm inboard of the outboard edge of the seat;

(d) Vertical transverse planes through and 762 mm forward of the reference point.

S5.3.1.2 *Head form impact requirement.* When any contactable surface of the vehicle within the zones specified in S5.3.1.1 is impacted from any direction at 6.7 m/s by the head form described in S6.6, the axial acceleration at the center of gravity of the head form shall be such that the expression

$$\left[\frac{1}{t1-t2}\int_{t1}^{t2} a\,dt\right]^{2.5}(t1-t2)$$

shall not exceed 1,000 where "a" is the axial acceleration expressed as a multiple of "g" (the acceleration due to gravity), and "t_1" and "t_2" are any two points in time during the impact.

S5.3.1.3 *Head form force distribution.* When any contactable surface of the vehicle within the zones specified in S5.3.1.1 is impacted from any direction at 6.7 m/s by the head form described in S6.6, the energy necessary to deflect the impacted material shall be not less than 4.5 joules before the force level on the head form exceeds 667 N. When any contactable surface within such zones is impacted by the head form from any direction at 1.5 m/s the contact area on the head

form surface shall be not less than 1,935 mm².

* * * * *

S5.3.2.1 The leg protection zones of each vehicle are those parts of the school bus passenger seat backs and restraining barriers bounded by horizontal planes 305 mm above and 102 mm below the seating reference point of the school bus passenger seat immediately behind the seat back or restraining barrier.

S5.3.2.2 When any point on the rear surface of that part of a seat back or restraining barrier within any zone specified in S5.3.2.1 is impacted from any direction at 4.9 m/s by the knee form specified in S6.7, the resisting force of the impacted material shall not exceed 2,669 N and the contact area on the knee form surface shall not be less than 1,935 mm².

* * * * *

S6.3 *Temperature.* The ambient temperature is any level between 0 degrees C and 32 degrees C.

* * * * *

S6.5 *Loading bar.* The loading bar is a rigid cylinder with an outside diameter of 152 mm that has hemispherical ends with radii of 76 mm and with a surface roughness that does not exceed 1.6 μm, root mean square. The length of the loading bar is 102 mm less than the width of the seat back in each test. The stroking mechanism applies force through a pivot attachment at the center point of the loading bar which allows the loading bar to rotate in a horizontal plane 30 degrees in either direction from the transverse position.

S6.5.1 A vertical or lateral force of 17,792 N applied externally through the pivot attachment point of the loading bar at any position reached during a test specified in this standard shall not deflect that point more than 25 mm.

S6.6 *Head form.* The head form for the measurement of acceleration is a rigid surface comprised of two hemispherical shapes, with total equivalent mass of 5.2 kg. The first of the two hemispherical shapes has a diameter of 166 mm. The second of the two hemispherical shapes has a 50 mm diameter and is centered as shown in Figure 3 to protrude from the outer surface of the first hemispherical shape. The surface roughness of the hemispherical shapes does not exceed 1.6 μm, root mean square.

* * * * *

S6.7 *Knee form.* The knee form for measurement of force is a rigid 76 millimeter-diameter cylinder, with an equivalent weight of 44 N that has one hemispherical end with a 38 mm radius forming a contact surface of the knee form. The hemispherical surface roughness does not exceed 1.6 μm, root mean square.

* * * * *

21. In § 571.222, Figure 1, "Force/Deflection Zone", Figure 2, "Body Block for Lap Belt", and Figure 3 after S6.8 are revised to read as follows:

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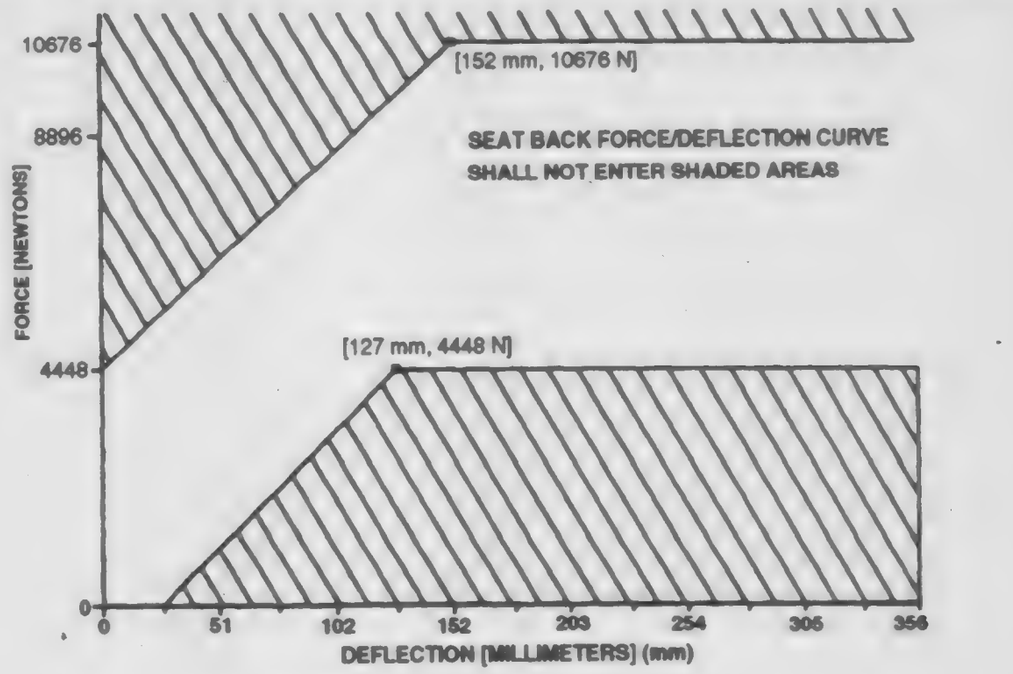


Figure 1.—Force/Deflection Zone

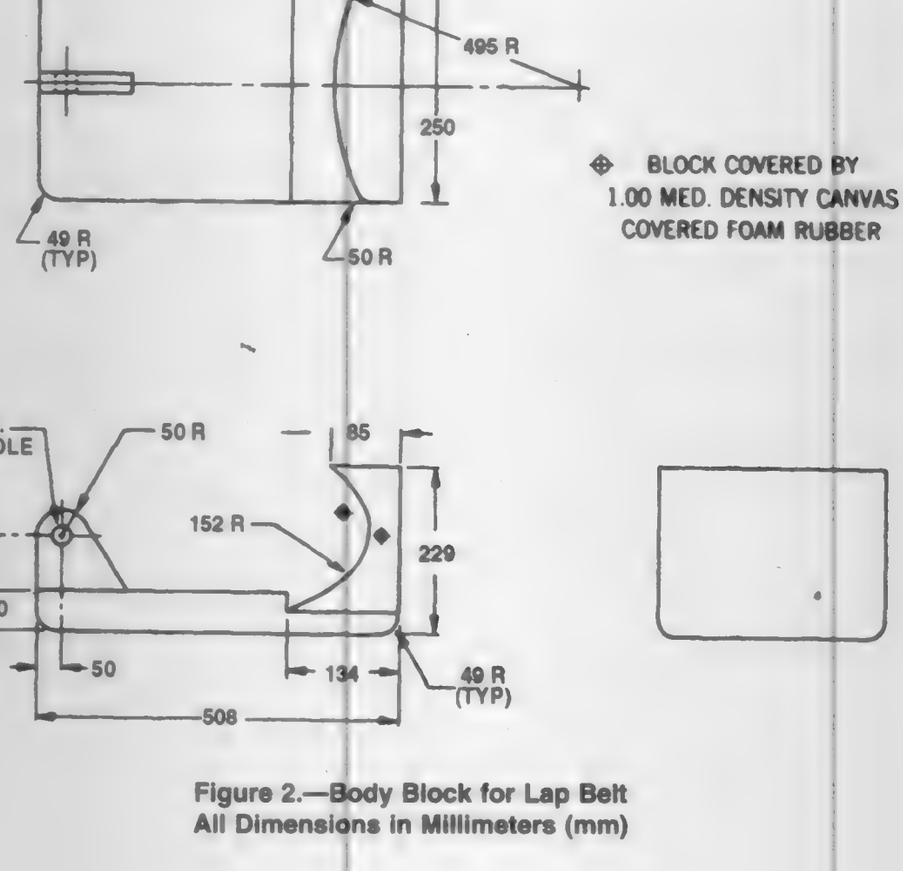


Figure 2.—Body Block for Lap Belt
All Dimensions in Millimeters (mm)

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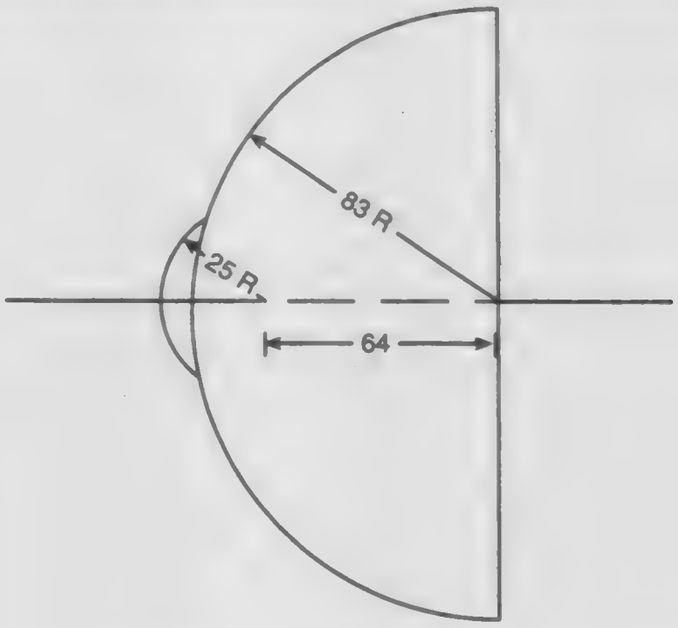


Figure 3
All dimensions in millimeters (mm)

BILLING CODE 4910–59–C

22. Section 571.301 is amended by revising S3; revising S5.5; revising S5.6; revising S6; revising S6.1; revising S6.2; revising S6.3; revising S6.5; revising S6.6; revising S7.1.6; revising S7.3; revising S7.5.1; revising S7.5.2; revising S7.5.4; and revising S7.5.5 to read as follows:

S571.301 Standard No. 301, Fuel system integrity.

* * * * *

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses that have a GVWR of 4,536 kg or less and use fuel with a boiling point above 0° C, and to school buses that have a GVWR greater than 4,536 kg and use fuel with a boiling point above 0° C.

* * * * *

S5.5 *Fuel spillage; Barrier crash.* Fuel spillage in any fixed or moving barrier crash test shall not exceed 28 g from impact until motion of the vehicle has ceased, and shall not exceed a total of 142 g in the 5-minute period following cessation of motion. For the subsequent 25-minute period, fuel spillage during any 1 minute interval shall not exceed 28 g.

S5.6 *Fuel spillage; rollover.* Fuel spillage in any rollover test, from the onset of rotational motion, shall not exceed a total of 142 g for the first 5 minutes of testing at each successive 90° increment. For the remaining test period, at each increment of 90° fuel spillage during any 1 minute interval shall not exceed 28 g.

* * * * *

S6. *Test requirements.* Each vehicle with a GVWR of 4,536 kg or less shall be capable of meeting the requirements of any applicable barrier crash test followed by a static rollover, without alteration of the vehicle during the test sequence. A particular vehicle need not meet further requirements after having been subjected to a single barrier crash test and a static rollover test.

S6.1 *Frontal barrier crash.* When the vehicle travelling longitudinally forward at any speed up to and including 48 km/h impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30° in either direction from the perpendicular to the line of travel of the vehicle, with 50th-percentile test dummies as specified in part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208, under the applicable conditions of S7., fuel spillage shall not exceed the limits of S5.5.

S6.2 *Rear moving barrier crash.* When the vehicle is impacted from the rear by a barrier moving at 48 km/h, with test dummies as specified in part 572 of this chapter at each front outboard designated seating position, under the applicable conditions of S7., fuel spillage shall not exceed the limits of S5.5.

S6.3 *Lateral moving barrier crash.* When the vehicle is impacted laterally on either side by a barrier moving at 32 km/h with 50th-percentile test dummies as specified in part 572 of this chapter at positions required for testing to Standard No. 208, under the applicable conditions of S7., fuel spillage shall not exceed the limits of S5.5.

* * * * *

S6.5 *Moving contoured barrier crash.* When the moving contoured barrier assembly traveling longitudinally forward at any speed up to and including 48 km/h impacts the test vehicle (school bus with a GVWR exceeding 4,536 kg) at any point and angle, under the applicable conditions of S7.1 and S7.5, fuel spillage shall not exceed the limits of S5.5.

S6.6 *Anti-siphoning test for alcohol fuel vehicles.* Each vehicle shall have means that prevent any hose made of vinyl plastic or rubber, with a length of not less than 1200 millimeters (mm) and an outside diameter of not less than 5.2 mm, from contacting the level surface of the liquid fuel in the vehicle's fuel tank or fuel system, when the hose is

inserted into the filler neck attached to the fuel tank with the fuel tank filled to any level from 90 to 95 percent of capacity.

* * * * *

S7.1.6 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) Except as specified in S7.1.1, a passenger car is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus the necessary test dummies as specified in S6., restrained only by means that are installed in the vehicle for protection at its seating position.

(b) Except as specified in S7.1.1, a multipurpose passenger vehicle, truck, or bus with a GVWR of 4,536 kg or less is loaded to its unloaded vehicle weight, plus the necessary test dummies, as specified in S6., plus 136 kg or its rated cargo and luggage capacity weight, whichever is less, secured to the vehicle and distributed so that the weight on each axle as measured at the tire-ground interface is proportional to its GAWR. If the weight on any axle, when the vehicle is loaded to unloaded vehicle weight plus dummy weight, exceeds the axle's proportional share of the test weight, the remaining weight shall be placed so that the weight on that axle remains the same. Each dummy shall be restrained only by means that are installed in the vehicle for protection at its seating position.

(c) Except as specified in S7.1.1, a school bus with a GVWR greater than 4,536 kg is loaded to its unloaded vehicle weight, plus 54 kg of unsecured mass at each designated seating position.

* * * * *

S7.3 *Rear moving barrier test conditions.* The rear moving barrier test conditions are those specified in S8.2 of Standard No. 208, 49 CFR 571.208, except for the positioning of the barrier and the vehicle. The barrier and test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling at 48 km/h with its face perpendicular to the longitudinal centerline of the vehicle; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface coincides with the longitudinal centerline of the vehicle.

* * * * *

S7.5.1 The moving barrier, which is mounted on a carriage as specified in Figure 1, is of rigid construction, symmetrical about a vertical longitudinal plane. The contoured impact surface, which is 629 mm high and 1,981 mm wide, conforms to the dimensions shown in Figure 2, and is attached to the carriage as shown in that figure. The ground clearance to the lower edge of the impact surface is 133 mm ± 13 mm. The wheelbase is 3,048 mm ± 50 mm.

S7.5.2 The moving contoured barrier, including the impact surface, supporting structure, and carriage, has a mass of 1,814 kg ± 23 kg with the mass distributed so that 408 kg ± 11 kg is at each rear wheel and 499 kg ± 11 kg is at each front wheel. The center of gravity is located 1,372 mm ± 38 mm rearward of the front wheel axis, in the vertical longitudinal plane of symmetry, 401 mm above the ground. The moment of inertia about the center of gravity is:

$I_x = 367\ kgm^2 \pm 18.4\ kgm^2$

$I_z = 4{,}711\ kgm^2 \pm 236\ kgm^2$

* * * * *

S7.5.4 The moving barrier assembly is equipped with G78–15 pneumatic tires with a tread width of 152 mm ± 25 mm, inflated to 165 kPa.

S7.5.5 The concrete surface upon which the vehicle is tested is level, rigid, and of uniform construction, with a skid number of 75 when measured in accordance with American Society of Testing and Materials Method E: 274–65T at 64 km/h, omitting water delivery as specified in paragraph 7.1 of that method.

* * * * *

23. Section 571.302 is amended by revising S4.2; revising the text of S4.2.2; revising S4.3; revising S5.1; revising S5.1.1; revising S5.1.2; revising S5.1.3; revising S5.1.4; revising S5.2.1; revising S5.2.3; and revising S5.3 to read as follows:

§ 571.302 Flammability of interior materials.

* * * * *

S4.2 Any portion of a single or composite material which is within 13 mm of the occupant compartment air space shall meet the requirements of S4.3.

* * * * *

S4.2.2 Any material that adheres to other materials at every point of contact shall meet the requirements of S4.3 when tested as a composite with the other material(s).

* * * * *

Material A has a non-adhering interface with material B and is tested separately. Part of material B is within 13 mm of the occupant compartment air space, and materials B and C adhere at every point of contact; therefore, B and C are tested as a composite. The cut is in material C as shown, to make a specimen 13 mm thick.

S4.3(a) When tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 102 mm per minute. The requirement concerning transmission of a flame front shall not apply to a surface created by cutting a test specimen for purposes of testing pursuant to S5.

(b) If a material stops burning before it has burned for 60 seconds from the start of timing, and has not burned more than 51 mm from the point where the timing was started, it shall be considered to meet the burn-rate requirement of S4.3(a).

S5.1 *Conditions.*

S5.1.1 The test is conducted in a metal cabinet for protecting the test specimens from drafts. The interior of the cabinet is 381 mm long, 203 mm deep, and 356 mm high. It has a glass observation window in the front, a closable opening to permit insertion of the specimen holder, and a hole to accommodate tubing for a gas burner. For ventilation, it has a 13 mm clearance space around the top of the cabinet, ten holes in the base of the cabinet, each hole 19 mm in diameter and legs to elevate the bottom of the cabinet by 10 mm, all located as shown in Figure 1.

S5.1.2 Prior to testing, each specimen is conditioned for 24 hours at a temperature of 21° C, and a relative humidity of 50 percent, and the test is conducted under those ambient conditions.

S5.1.3 The test specimen is inserted between two matching U-shaped frames of metal stock 25 mm wide and 10 mm high. The interior dimensions of the U-shaped frames are 51 mm wide by 330 mm long. A specimen that softens and bends at the flaming end so as to cause erratic burning is kept horizontal by supports consisting of thin, heat-resistant wires, spanning the width of the U-shaped frame under the specimen at 25 mm intervals. A device that may be used for supporting this type of material is an additional U-shaped frame, wider than the U-shaped frame containing the specimen, spanned by 10-mil wires of heat-resistant composition at 25 mm intervals, inserted over the bottom U-shaped frame.

S5.1.4 A bunsen burner with a tube of 10 mm inside diameter is used. The gas adjusting valve is set to provide a flame, with the tube vertical, of 38 mm in height. The air inlet to the burner is closed.

* * * * *

S5.2.1 Each specimen of material to be tested shall be a rectangle 102 mm wide by 356 mm long, wherever possible. The thickness of the specimen is that of the single or composite material used in the vehicle, except that if the material's thickness exceeds 13 mm, the specimen is cut down to that thickness measured from the surface of the specimen closest to the occupant compartment air space. Where it is not possible to obtain a flat specimen because of surface curvature, the specimen is cut to not more than 13 mm in thickness at any point. The maximum available length or width of a specimen is used where either dimension is less than 356 mm or 102 mm, respectively, unless surrogate testing is required under S4.1.1.

* * * * *

S5.2.3 Material with a napped or tufted surface is placed on a flat surface and combed twice against the nap with a comb having seven to eight smooth, rounded teeth per 25 mm.

S5.3 *Procedure.*

(a) Mount the specimen so that both sides and one end are held by the U-shaped frame, and one end is even with the open end of the frame. Where the maximum available width of a specimen is not more than 51 mm, so that the sides of the specimen cannot be held in the U-shaped frame, place the specimen in position on wire supports as described in S5.1.3, with one end held by the closed end of the U-shaped frame.

(b) Place the mounted specimen in a horizontal position, in the center of the cabinet.

(c) With the flame adjusted according to S5.1.4, position the bunsen burner and specimen so that the center of the burner tip is 19 mm below the center of the bottom edge of the open end of the specimen.

(d) Expose the specimen to the flame for 15 seconds.

(e) Begin timing (without reference to the period of application of the burner flame) when the flame from the burning specimen reaches a point 38 mm from the open end of the specimen.

(f) Measure the time that it takes the flame to progress to a point 38 mm from the clamped end of the specimen. If the flame does not reach the specified end point, time its progress to the point where flaming stops.

(g) Calculate the burn rate from the formula:

$$B = 60 \times (D/T)$$

Where:

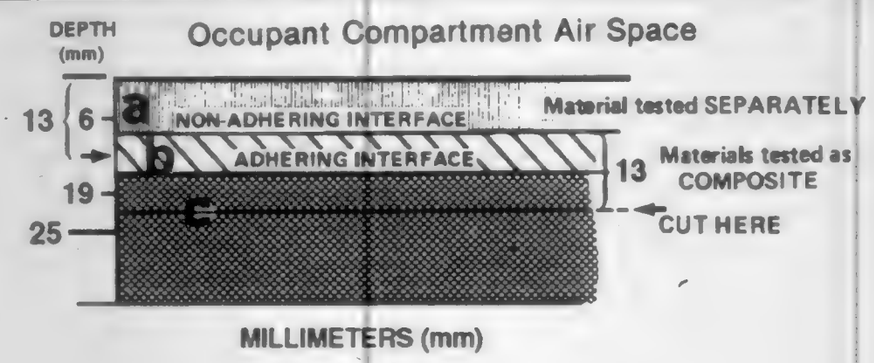
B = Burn rate in millimeters per minute

D = Length the flame travels in millimeters, and

T = Time in seconds for the flame to travel D millimeters.

24. In § 571.302, the Figure named "Illustrative Example—Occupant Compartment Air Space" at S4.2.2 after the first sentence, and Figure 1, after S5.1.1 are revised to read as follows:

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Occupant Compartment Air Space
All Dimensions in Millimeters (mm)

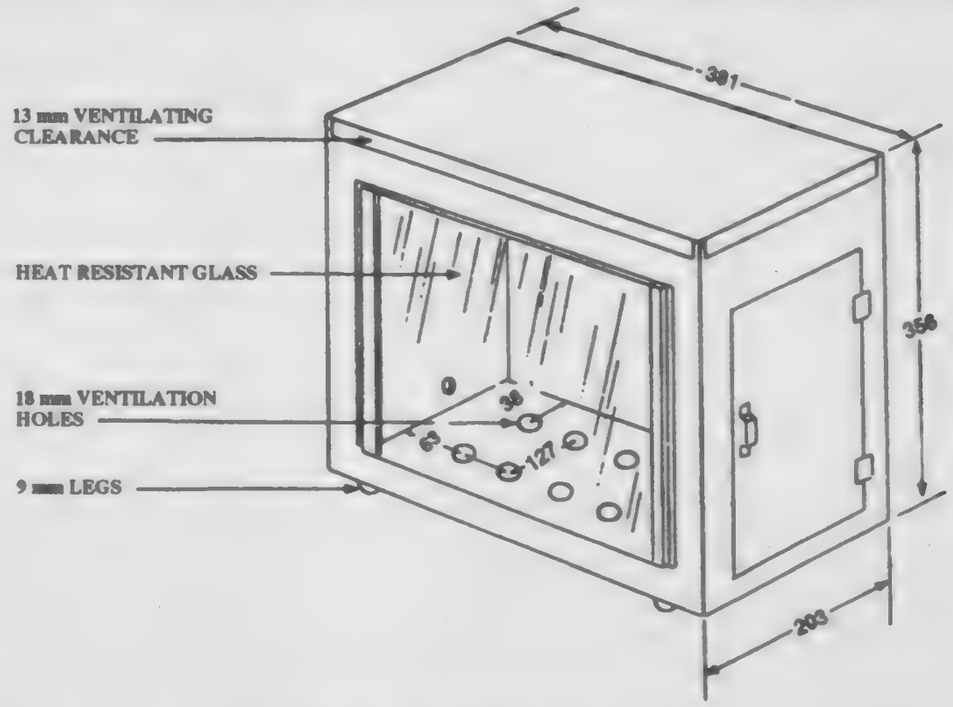


Figure 1
All Dimensions in Millimeters (mm)

Issued: May 13, 1998.
Ricardo Martinez,
Administrator.
[FR Doc. 98–13431 Filed 5–26–98; 8:45 am]
BILLING CODE 4910–60–C

VOL 63 ISS 101 MAY 27 1998 UMI

Proposed Rules

Federal Register
Vol. 63, No. 101
Wednesday, May 27, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–119449–97]

RIN 1545–AV75

Qualified Zone Academy Bonds; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 7805(f) providing guidance to holders and issuers of qualified zone academy bonds.

DATES: The public hearing originally scheduled for Wednesday, May 27, 1998, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 7805(f) of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Wednesday, January 7, 1998 (63 FR 707), announced that the public hearing on proposed regulations under section 7805(f) of the Internal Revenue Code would be held on Wednesday, May 27, 1998, beginning at 10:00 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington DC. The public hearing scheduled for Wednesday, May 27, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel, (Corporate).

[FR Doc. 98–13925 Filed 5–26–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 013–0073; FRL–6102–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP). This revision concerns the general provisions and definitions that are applicable to all regulations in the Bay Area Air Quality Management District.

The intended effect of proposing a limited approval and limited disapproval of this rule is to clarify the general provisions and definitions that apply to the regulation of emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_X), and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority. While strengthening the SIP, this revision contains a public nuisance provision and references to a Manual of Procedures that are inappropriate for incorporation into the SIP. The limited disapproval portion of this proposed rulemaking will exclude elements that are not required by the Act.

DATES: Comments must be received on or before June 26, 1998.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule are available for public inspection at EPA's Region IX office during normal business hours and at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for approval into the California SIP is Bay Area Air Quality Management District, BAAQMD, Regulation 1, General Provisions and Definitions. This rule was submitted by the California Air Resources Board to EPA on May 13, 1991.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the San Francisco Bay Area. 43 FR 8964. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the Bay Area Air Quality Management District's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

On November 12, 1993, BAAQMD submitted a request for redesignation to attainment of the ozone standard. Subsequently, EPA evaluated and approved BAAQMD's request and the San Francisco Bay Area was reclassified as an attainment area.[1] 40 CFR 81.305.

This document addresses EPA's proposed action for BAAQMD Regulation 1, General Provisions and Definitions. The BAAQMD adopted this

[1] The San Francisco Bay Area was redesignated to attainment. See 60 FR 98 (May 22, 1995). The EPA proposed to redesignate the San Francisco Bay Area back to nonattainment for ozone based on a number of violations of the National Ambient Air Quality Standards (NAAQS) on December 19, 1997. See 62 FR 66578.

rule on December 19, 1990. This submitted rule was found to be complete on July 10, 1991, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V;[2] and is being proposed for limited approval and limited disapproval.

BAAQMD Regulation 1 clarifies the definitions and general provisions that apply to the regulation of emissions of VOCs, NO_X, and other pollutants. These pollutants contribute to the production of ground level ozone and smog. BAAQMD Regulation 1 was originally adopted as part of BAAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and has been revised in response to EPA's SIP-Call. The following is EPA's evaluation and proposed action for BAAQMD Regulation 1.

III. EPA Evaluation and Proposed Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

In addition, this rule was evaluated against the SIP enforceability guidelines found in "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations—Clarification to appendix D of November 24, 1987 **Federal Register**" (EPA's 'Blue Book') and the EPA Region IX—California Air Resources Board document entitled "Guidance Document for Correcting VOC Rule Deficiencies" (April, 1991), and against other EPA policies. In general, these guidance documents have been set forth to ensure that VOC and other rules are fully enforceable and strengthen or maintain the SIP.

EPA previously approved various portions of BAAQMD Regulation 1, General Provisions and Definitions, into the SIP on September 2, 1981, July 6, 1982, and November 10, 1982. These portions were originally adopted by BAAQMD on September 5, 1979, May 21, 1980, December 17, 1980, and March 17, 1982. EPA has evaluated BAAQMD Regulation 1, submitted May 13, 1991, and compared it to the rule currently incorporated in the SIP. BAAQMD's submitted Regulation 1 includes the following significant changes from the SIP:

- The scope of the exemption in section 110.5 has been narrowed to prohibit the disposal of waste propellants, explosives, or pyrotechnics by manufacturing facilities in open outdoor fires, and
- Definitions for volatile organic compound and reduced sulfur compounds have been added in sections 236 and 237.

Although these changes will strengthen the SIP, this rule also contains elements that are not appropriate for incorporation into the SIP. Regulation 1 includes provisions in sections 600–604, which have been approved into the SIP, and section 605, which is a new portion of the rule, that reference the BAAQMD's Manual of Procedures (MOP). The MOP sets policy and procedures for permitting, CEQA review, sample and source testing, emission monitoring, and mobile source emission credits. Because the MOP contains policies which are regularly and often revised by the BAAQMD and because those policies are not always submitted to EPA for approval, the references to the MOP potentially provide for director's discretion which may alter the stringency of the federally approved SIP. While EPA previously approved some MOP references, we should not repeat or aggravate that error by approving sections 600–605 at this time.

Regulation 1, section 301 of the May 13, 1991 submittal contains a new provision that has not been previously incorporated into the SIP which prohibits sources from discharging quantities of air contaminants that cause a nuisance. EPA believes that nuisance provisions are inappropriate for inclusion in the SIP because they are not in any way required by the Act and do not specifically control criteria air pollutants. Nuisance provisions generally deal with complaints relating to odor or dust, problems which are appropriate for local air quality management district response. For these reasons, EPA believes it is inappropriate to incorporate nuisance provisions into the federally enforceable SIP. The removal of section 301 of Regulation 1 from the BAAQMD SIP submittal will have no effect on BAAQMD's ability to enforce its nuisance provision.

Because the elements described above are inappropriate for inclusion in the SIP, EPA cannot grant full approval of this rule under section 110(k)(3). Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of BAAQMD's submitted Regulation 1 under sections 110(k)(3) and 301(a) of the CAA.

It should be noted that the rule covered by this proposed rulemaking has been adopted by the BAAQMD and is currently in effect in the BAAQMD. EPA's final limited disapproval action will not prevent the BAAQMD or EPA from enforcing this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its action concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S.

[2] EPA adopted completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks. Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that is (1) likely to be "economically significant" as defined under Executive Order 12866, and (2) the Agency has reason to believe that the environmental health or safety risk addressed by the rule may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks" because this is not an "economically significant" regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 12, 1998.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 98–13992 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–071–9810b; FRL–6015–5]

Approval and Promulgation of Implementation Plans; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the Florida Department of Environmental Protection. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by June 26, 1998.

ADDRESSES: Written comments on this action should be addressed to Karla L. McCorkle at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL–071. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Karla L. McCorkle at 404/562–9043 (E-mail: mccorkle.karla@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: May 10, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–13988 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6014–6]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection; Washoe County District Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act (CAA), the Nevada Division of Environmental Protection (NDEP) and the Washoe County District Health Department (WCDHD) requested delegation of specific national emission standards for hazardous air pollutants (NESHAPs). WCDHD also requested approval for its program for receiving delegation of unchanged NESHAPs applicable to sources not subject to Title V of the CAA. In the Rules section of this **Federal Register**, EPA is granting NDEP and WCDHD the authority to implement and enforce specified NESHAPs, and is

approving WCDHD's general program for receiving delegation of unchanged NESHAPs. The direct final rule also explains the procedure for future delegation of NESHAPs to NDEP and WCDHD. EPA is taking direct final action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this document, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments on this proposed rule must be received in writing by June 26, 1998.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the submitted requests are available for public inspection at EPA's Region IX office during normal business hours (docket number A–96–25).

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns delegation of unchanged NESHAPs to the Nevada Division of Environmental Protection and the Washoe County District Health Department. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 4, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–13987 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6102–3]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Novaco Industries Superfund site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Novaco Industries Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the Michigan Department of Environmental Quality (MDEQ) have determined that the Site no longer poses a significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before June 26, 1998.

ADDRESSES: Comments may be mailed to: Russell D. Hart, U.S. EPA Region 5, Superfund Division, 77 West Jackson Boulevard, Mail Stop: SR–6J, Chicago, Illinois 60604. Comprehensive information on this Site is available through the administrative record which is available for viewing at the following locations:

U.S. EPA Records Center—Seventh Floor, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Bedford Township Hall and Monroe County Library—Bedford Branch, Bedford, Michigan.

FOR FURTHER INFORMATION CONTACT: Russell D. Hart, U.S. EPA Region 5, Superfund Division, SR–6J Chicago, Illinois 60604, (312) 886–4844.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
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I. Introduction

EPA Region 5 announces its intent to delete the Novaco Industries Site location in Temperance, Michigan from the NPL, Appendix B of the NCP, 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Novaco Industries Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, the selected remedy is protective of human health and the environment. The five year groundwater monitoring program required by the 1991 Record of Decision (ROD) Amendment has indicated that no hazardous substances or contaminants remain on site above

levels that allow for unlimited use or exposure. Therefore no five year review of this remedy is required. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 5 issued a ROD in 1986 which called for groundwater extraction, on-site treatment of chromium contaminated groundwater, and discharge to Indian Creek; (2) EPA Region 5 amended the ROD in 1991 by requiring only additional monitoring well installation and a five year monitoring program to verify that no unacceptable levels of contaminants from the site remain in the groundwater; (3) based on the findings of that five year monitoring program the EPA Region 5 determined that no further response is appropriate for this site since during the monitoring program no exceedances occurred of either hexavalent chromium or total chromium drinking water Maximum Contaminant Limit (MCL) of 50 ug/l as established by the Safe Drinking Water Act; (4) MDEQ concurrence concerning Novaco Industries Site deletion was sought and obtained; (5) a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (6) all relevant documents, including a tabulation summary of all 1993–1997 sampling results have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the document.

Public notices and copies of the Responsiveness summary will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rational for the proposal to delete this Site from the NPL.

A. Site Background

The Novaco Industries site is located at 9411 Summerfield Road, at the intersection of Summerfield and Piehl in Temperance, Michigan. The site lies approximately 50 miles south of Detroit and 5 miles north of Toledo. The facility occupies a 2.6 acre parcel. The Novaco study area consists of Novaco Industries, the Veterans of Foreign Wars (VFW) Post #9656, and nearby residences having water supply wells screened within the sand/gravel aquifer or limestone aquifer which could be affected by the Novaco site.

B. History

The Novaco Industries site formerly performed tool and die manufacturing and repair. Approximately 85 residences and businesses are located within a half-mile of the site. Around 1979, a buried tank of chromic acid, used for plating purposes, developed a leak and an unknown quantity of acid leaked into the surrounding soils. By the early 1980s, chromium was detected at concentrations above both federal and state drinking water standards, in three water supply wells at Novaco Industries, the nearby VFW Post, and the Moyer's residence and one observation well. Novaco replaced the three water supply wells and extracted and treated contaminated groundwater in 1979. Following winter shutdown of the groundwater purge and treat system, Novaco never resumed its operation and declared bankruptcy.

The Novaco site was subsequently placed on the NPL in September 1983. While Novaco's short-term remedial operation did succeed in removing substantial amounts of contamination (approximately 400 pounds of hexavalent chromium), the remaining contamination continued to migrate. The Remedial Investigation (RI), performed by the EPA, identified a small area of contaminated groundwater with concentrations of chromium that exceeded relevant cleanup criteria. Based on these studies the EPA issued a Record of Decision (ROD) on June 27, 1986, which required the installation of a groundwater purge and on-site treatment system to remove the remaining contamination.

Design investigations conducted during spring 1988, determined that the previously defined nature and extent of groundwater contamination no longer held true at Novaco. Additional investigations were performed in the spring of 1989. Based on those studies, which indicated the concentrations of chromium contamination no longer exceeded relevant cleanup criteria, the EPA proposed to amend the existing ROD to a "no action ROD" with groundwater monitoring for five years and if the chromium concentrations remained below the cleanup criteria no further action would be warranted. The state concurred with this amended ROD. The EPA issued the amended ROD in September 1991. The groundwater monitoring network established during the RI was further developed and sampling for the five year program began in February 1993. During the first year samples were collected quarterly. Since the results of that sampling indicated all samples were below the detection limits stated in the quality assurance project plan the frequency of sampling was reduced to semi-annually. The five year program has been completed and indicated there are no chromium concentrations above relevant cleanup criteria. Therefore no further remedial action is needed.

EPA periodically sent summaries of analytical results to concerned residents.

EPA's ARCS contractor has completed the task of dismantling the groundwater monitoring network in accordance with procedures established by the Michigan Department of Environmental Quality. This work was accomplished in December 1997, and was in part overseen in the field by MDEQ representatives.

C. Characterization of Risk

Confirmational monitoring of groundwater conducted from 1993–1997 demonstrated that no significant risk to public health or the environment is posed by residual materials remaining at the Site. EPA and MDEQ believe that conditions at the site do not now pose unacceptable risks to human health or the environment.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "all appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate."

EPA, with the concurrence of MDEQ, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: May 14, 1998.

David Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–13853 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Stone Mountain Fairy Shrimp as Endangered and Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Stone Mountain fairy shrimp (*Branchinella lithaca*) under the Endangered Species Act, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted. The Service will continue to monitor the status of this species and its habitat.

DATES: The finding announced in this document was made on May 11, 1998.

ADDRESSES: Questions, comments, or information concerning this petition should be sent to the U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Milio (904/232–2580, ext. 112) (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to list, delist, or reclassify a species that contains substantial scientific and commercial information, the Service make a finding within 12 months of receipt of the petition on whether the petitioned action is (a) not warranted; (b) warranted; or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

The processing of this petition conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475), and extended on October 23, 1997, for fiscal year 1998 (62 FR 55268). Administrative findings for listing petitions that are not assigned to tier 1 (emergency listing actions) are processed as a tier 3 priority. The processing of this petition falls under tier 3. At this time, the Southeast Region has no pending tier 1 actions and has completed its pending tier 2 actions (resolving the status of outstanding proposed listings).

On March 31, 1995, the Service received a petition from Mr. Larry Winslett, President of the "Friends of Georgia," Lithonia, Georgia. The petition, dated March 29, 1995, requested the Service to emergency list the Stone Mountain fairy shrimp, *Branchinella lithaca*, as endangered and designate critical habitat. The petitioner believed that previous and ongoing impacts to vernal (temporary) pool habitat at Stone Mountain, the shrimp's only known location, and potential physical and chemical effects from a then impending renovation project at the mountain's summit, threatened the survival of the species. The Service, in the 90-day finding, determined that the petition presented substantial information indicating that listing the species may be warranted. The finding concluded that an emergency listing action was not appropriate, and noted the Service would consider critical habitat designation if it found at 12 months that listing was warranted. A notice announcing the 90-day finding and initiation of a status review of the species was published in the **Federal Register** on July 22, 1997 (62 FR 39210).

The Service has reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with species experts and other researchers familiar with vernal pool habitats. On the basis of the best scientific and commercial information available, the Service finds the petition is not warranted at this time. The status review documented habitat modifications such as disturbance of vernal pool sediments and physical debris entering pools at and near the mountain summit from recreational and construction activities, and facility operations. Solid wastes and liquid discharges may also directly impact the fairy shrimp. These modifications did not appear to occur at all pools or to an equal extent at affected pools. Due to this variability, lack of current and historic information on specific distribution and abundance of *B. lithaca*, and lack of historic data on the habitat, the Service is not able to confirm that these modifications, as well as other manmade or natural factors, threaten the continued existence of the Stone Mountain fairy shrimp.

The status review also did not reveal any threats to the species from disease or predation, or overutilization for commercial, recreational, scientific, or educational purposes. The Service does not believe that existing regulatory mechanisms are inadequate. Because of likely habitat overlap between the Stone Mountain fairy shrimp and two federally-listed plants, the black-spored quillwort (*Isoetes melanospora*) and little amphianthus (*Amphianthus pusillus*) at Stone Mountain, the Federal and State regulations that protect and conserve those plants and their vernal pools are also benefitting *B. lithaca*. In addition, special legislation passed in 1997 by the Georgia General Assembly promotes the continuation of protection and conservation for the designated natural district at State-owned Stone Mountain Park, as outlined in its current Master Plan (Alice Richards, Stone Mountain Memorial Association, *in litt.* 1998). Since Stone Mountain and its vernal pools all occur within the park's natural district, the Service believes that this legislation provides further protection for the Stone Mountain fairy shrimp and its habitat.

Casual surveys to locate *B. lithica* at Stone Mountain earlier this decade were unsuccessful. The last documented collection of the species was in 1951. At the 90-day finding the Service felt that a regular survey involving collection of water and sediment samples at various sites was needed to accurately determine the species' status. This survey was conducted in 1997 and also failed to find evidence of the species' continued existence at Stone Mountain, which may mean the species is extinct. Despite this latest failure (A. Richards, *in litt.* 1997, pers. comm. 1998, Denton Belk, The World Conservation Union, *in litt.* 1998), the erratic occurrence of some anostracans (Donald 1983) led Belk (*in litt.* 1998) to believe the species may still exist at Stone Mountain. There is also some potential that the species may exist at locations other than Stone Mountain (L. Winslett, Friends of Georgia, *in litt.* 1996). Within the Georgia Piedmont physiographic area there are other rock outcrops whose

invertebrate fauna has been little studied (J. Spooner, University of South Carolina, *in litt.* 1997), although quarrying and other human activities have destroyed or modified a number of these sites (L. Winslett, Friends of Georgia, *in litt.* 1996). The Service supports continued monitoring and protection of all temporary pools on Stone Mountain, and encourages systematic surveys of vernal pools at other rock outcrops, particularly those where the two federally-listed plants, black-spored quillwort and little amphianthus, are known to occur. The Stone Mountain Memorial Association (SMMA), manager of the natural district and all vernal pools within Stone Mountain Park, has fenced some habitat in response to a recovery plan recommendation for the listed plants (U.S. Fish and Wildlife Service 1993). The Friends of Georgia, Inc., with technical assistance from the Service, has prepared a conservation agreement that it hopes to finalize this year with the SMMA. The agreement stresses continued surveying for *B. lithaca;* additional site specific protection, conservation, and recovery actions; and public education.

The Service will continue to seek new information on the biology, ecology, distribution, and habitat of the Stone Mountain fairy shrimp, as well as threats to its continued survival. If additional data become available in the future to indicate that the species is extant, the Service will reassess the need for listing, including the need to emergency list.

References Cited

Donald, D.B. 1983. Erratic occurrence of anostracans in a temporary pond: colonization and extinction or adaptation to variations in annual weather? Can. J. Zool. 61:1492–1498.

U.S. Fish and Wildlife Service. 1993. Recovery plan for three granite outcrop plant species. Jackson, Mississippi. 41 pp.

Author

The primary author of this document is Mr. John F. Milio, Jacksonville Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: May 11, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–13969 Filed 5–26–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 101
Wednesday, May 27, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Conservation Reservation Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Solicitation of proposals for the Conservation Reserve Enhancement Program.

SUMMARY: The Commodity Credit Corporation (CCC) is publishing this notice to invite State governments to propose Conservation Reserve Enhancement Program (CREP) projects under the general Conservation Reserve Program, which is governed by regulations under 7 CFR Part 1410. CREP is an opportunity for the joining of resources of the Federal and State governments to address critical environmental issues such as soil erosion, water quality degradation and wildlife habitat loss associated with agricultural activities. This action is also part of the National Performance Review Initiative to deliver better service and foster partnership and community solutions.

ADDRESSES: Submission of CREP proposals by a State should be addressed to the Secretary of Agriculture, Attention: Deputy Administrator for Farm Programs, Farm Service Agency, STOP 0510, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0510.

FOR FURTHER INFORMATION CONTACT: Caroline Roe, Environmental Program Specialist, Environmental Activities Branch, Farm Service Agency, Room 4715 South Agriculture Building, 1400 Independence Avenue, SW, Washington, D.C. 20250–0510, telephone (202) 720–6221, email at caroline_roe@wdc.fsa.usda.gov or contact the Conservation Program Specialist in the State Farm Service Agency (FSA) office.

SUPPLEMENTARY INFORMATION: The Conservation Reserve Program (CRP) is authorized by Title XII of the Food Security Act of 1985, as amended. The purpose of the CRP is to assist farmers and ranchers in conserving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities and marginal pastureland to a long-term resource-conserving cover. CRP participants enroll in contracts for periods of 10- to 15-years in exchange for annual rental payments and cost-share assistance for installing those long-term resource-conserving practices. Up to 36.4 million acres are authorized to be enrolled in the CRP at any one time.

CCC enrolls land through periodic general signups in which CCC entertains offers from applicants seeking enrollment in the program. CCC evaluates the costs and benefits associated with each offer, its program goals, and any other related issues and accepts only those offers that provide the most cost-effective environmental benefits.

CCC also uses a continuous signup for certain highly valued environmental practices such as filter strips, riparian buffers, and grass waterways. Because of the significant environmental benefits to be obtained from the enrollment of these areas, CCC permits the enrollment of these acreages at any time at certain prescribed rental rates.

The "Conservation Reserve Enhancement Program" (CREP) is the name given to special joint undertakings between States and the Federal government using CRP contracts and payments to encourage enrollments and practices that may address particularly pressing environmental needs. CRP rules in 7 CFR Part 1410.50(b) provide explicitly for such agreements to further "specific conservation and environmental objectives of that State and the nation." Some States have already submitted CREP proposals and CCC hereby further invites other interested States to do the same.

CREP creates an opportunity where the resources of a State government and CRP can be targeted in a coordinated manner to cost-effectively address specific conservation and environmental objectives of that State and the nation in order to improve water quality, erosion control, and wildlife habitat, including endangered species habitat, in specific geographic areas that have been adversely impacted by agricultural activities.

In order for a State's proposal to be considered for CREP, it should be directly related to mitigation of adverse agriculture-related environmental impacts and should document why program objectives cannot be met through other existing programs, in particular the general or continuous sign-ups under the CRP or other Department of Agriculture conservation programs.

Any proposed obligations beyond the term of any CRP contract, such as through long term agreements and/or permanent easements, would be between State government and the participant.

CCC encourages State governments to work closely with all interested groups within the State when developing options for obligations beyond the term of the CRP contract. It is CCC's experience that successful CREP agreements are the result of State governments, in preparing CREP proposals, working closely with all interested local parties including, but not limited to, farm, commodity, conservation, environmental, and landowner groups. Working with all interested local parties ensures the broad range of support needed for a successful CREP.

To ensure proper Federal/State cooperation, each proposal should specify the level of non-federal funding needed to fulfill objectives of the proposal. Normally, USDA expects that non-federal funding would be equal to at least 20 percent of the overall program-related costs of the CREP project. Examples of non-federal funding include, but are not limited to: funding of contract extensions or easements, cost-share assistance for conservation practices, and program monitoring costs. The CREP is anticipated to be initially limited to a maximum of 100,000 acres for each State, with possible expansion after the initial 100,000 acres are enrolled.

Submissions by a State should provide for a complete understanding of the proposal. To ensure consistency, each proposal should include: (1) an abstract; (2) a discussion of existing conditions; (3) an analysis of

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agriculture-related adverse impacts; (4) project objectives; (5) project description; (6) proposals for the monitoring program; (7) a discussion of public support and ongoing public information that will accompany the project; (8) an analysis of the cost-effectiveness of the project; and (9) any additional documentation to ensure compliance with any other laws, including environmental laws. A description of each of these criteria follows.

Abstract

A single page summary of the project should be provided to include: project name; description of the project area; summary of existing conditions and agricultural impacts to be addressed; brief description of the project; total area of the project (including a list of the counties in which the project is located); and estimated cost of the project.

Existing Conditions

A synopsis of relevant existing conditions should be provided to include: a brief description of the importance to the community of the resource to be protected; a detailed map outlining the geographic area of the project; a description of the various human activities and land uses within the project boundary (including a summary of such information within each watershed); a summary of agricultural activities within the project boundary/watershed; and a brief description of relevant environmental factors (precipitation, soils, geology, vegetation patterns, wildlife, Federally listed endangered and threatened species, air quality, and water resources).

Analysis of Agriculture-Related Environmental Impacts

An analysis of agriculture-related environmental impacts to be addressed by the project should be provided to include: magnitude of agricultural impacts on the environment; past and projected trends in agricultural impacts, including any scientific data that demonstrates such trends; nature of any public health-related agricultural impacts; and past and ongoing efforts to address agricultural impacts through other Federal and State conservation programs, such as the CRP.

Project Objectives

A list of project objectives should be provided to include specific and measurable objectives in addition to any general objectives.

Project Description

The description of the project should include the following: summary of the project; conservation practices to be adopted; number of acres proposed to be included in the project; length of time for project implementation; analysis of both Federal and non-Federal costs (including a justification for special incentive payments to be made); and an analysis of the likelihood that project objectives will be achieved. The project description should also address such process and interagency coordination questions as: how applicant eligibility determinations will be made; which agency will provide technical assistance; how the application process will be coordinated among agencies; and how contract oversight will be conducted.

Monitoring Program

A comprehensive monitoring and evaluation plan should be provided to include: specific targets to be met in the accomplishment of project objectives; a description of the methods for collecting data to measure accomplishment of specific targets; the process for refinement of the project, if monitoring indicates that project objectives are not being met; and the identification of funding for the monitoring program. The proposal should identify the nature and funding sources for the preparation of annual reports to record and summarize the conclusions developed in the monitoring program.

Education, Outreach, and Public Support

A program for public participation should be presented that indicates: the level of public support for the proposal, among producers, conservation groups and other interested organizations, at the time the proposal is submitted; an analysis of the number of producers expected to enroll in the program; and the measures that will be taken for continued public involvement and education over the duration of the project.

Cost-Effectiveness Analysis

Proposals should include a cost-effectiveness analysis which compares the cost and likelihood of accomplishing project goals under the CREP proposal versus other State and Federal programs, such as the general and continuous signups under CRP.

Compliance With Other Laws

The application should include adequate information and documentation to demonstrate compliance with any applicable laws.

Each proposal should be developed in conjunction with the State FSA office and the USDA-established "State Technical Committee." Following submittal to the Secretary of Agriculture, each proposal will be reviewed by an interagency team for consistency with overall program goals, magnitude of environmental benefits, likelihood that project benefits will be achieved and cost-effectiveness. The team is expected to make a recommendation for action to the Deputy Administrator within 60 days of receipt of a completed proposal. Further negotiation and discussion will follow as needed to implement the joint effort of the CCC and the State. To effectuate the joint agreement, a draft Memorandum of Agreement should be developed by the State based on discussions regarding the proposal. No agreement will be final until signed by authorized representatives of CCC and the State.

Signed at Washington, DC, on May 21, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation

[FR Doc. 98–13980 Filed 5–21–98; 2:10 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–010N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809, and seeks comments on standards currently under consideration and recommendations for new standards. It also lists other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice covers the time periods from June 1, 1997, to May 31, 1998, and May 31, 1998, to June 1, 1999.

ADDRESSES: Submit written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton

Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United States Manager for Codex Alimentarius, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700; (202) 205–7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Appendix 1* to this notice.)

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreements on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the Office of U.S. Codex Alimentarius, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS), and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS will publish this notice in the **Federal Register** annually, setting forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and
2. For each sanitary or phytosanitary standard specified:
   a. A description of the consideration or planned consideration of the standard;
   b. Whether the United States is participating or plans to participate in the consideration of the standard;
   c. The agenda for United States participation, if any; and
   d. The agency responsible for representing the United States with respect to the standard.

TO OBTAIN COPIES OF THOSE STANDARDS LISTED IN THIS NOTICE THAT ARE UNDER CONSIDERATION BY CODEX, PLEASE CONTACT THE CODEX DELEGATE OR THE OFFICE OF U.S. CODEX ALIMENTARIUS. This notice also solicits public comment on those standards that are under consideration and on recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States' delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States' delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States' delegation activities to interested parties. This information will include the current status of each agenda item, the United States Government's position or preliminary position on the agenda items, and the time and place of planning meetings and debriefing meetings following Codex committee sessions. Please notify the appropriate U.S. delegate or the Office of U.S. Codex Alimentarius, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, if you would like to receive information about specific committees.

The information provided below describes the status of Codex standard-setting activities by the Codex Committees for the two year period from June 1, 1997 to June 1, 1999. In addition, the following information is included with this **Federal Register** notice:

Appendix 1. List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).
Appendix 2. Timetable of Codex Sessions (June 1997 through June 1999)
Appendix 3. Definitions for the Purpose of Codex Alimentarius
Appendix 4.
(A) Uniform Procedure for the Elaboration of Codex Standards and Related Texts
(B) Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts
Appendix 5. Nature of Codex Standards
Appendix 6. Lists of Standards and Related Texts Adopted by the 22nd Session of the Codex Alimentarius Commission, June 1997

F. Edward Scarbrough,
United States Manager for Codex Alimentarius.

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission will hold its Twenty-third Session June 28–July 3, 1999 in Rome, Italy. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet in June

1998 and June 1999. It is composed of the chairperson, vice-chairpersons and six members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, North America, and South-West Pacific. At its session in June 1998, it will consider the following items:

- Budgetary and financial matters;
- Review of Codex Subsidiary Bodies;
- Consideration of the Draft Medium-Term Plan for 1998 to 2000;
- Implementation of the Commission's Programme of Work:
- Implementation of decisions taken by the 22nd Session of the Commission
- Consideration of new work proposals
- Consideration of Proposed Draft Standards and Related Texts at Step 5
- Matters arising from Codex Committees
- Report on Matters Relating to the Implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures and the Agreement on Technical Barriers to Trade (TBT)

Responsible Agency: USDA/FSIS.
U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on a food.

An MRLVD is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI)*, or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

* Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

The next meeting of the Codex Committee on Residues of Veterinary Drugs in Foods will take place September 14–17, 1998, in Washington, DC. The following matters will be considered:

To be considered at Step 7:

Abamectin
Azaperone
Cetiofur
Chlorotetracycline/Oxtetracycline/Tetracycline
Cypermethrin
α=Cypermethrin
Dexamethasone
Diclazuril
Dihydrostreptomycin/Streptomycin
Febantel/Febendazole/Oxyfendazole
Gentamicin
Neomycin
Spectinomycin
Thiamphenicol
Tilmicosin

To be considered at Step 4:

- Clenbuterol.

New work:

- Porcine Somatotropin (PST).
- Draft Code of Practice on Good Animal Feeding.

In addition, the following matters will be discussed:

- Guidelines on Residues at Injection Sites;
- Methods of Analysis and Sampling; Review of Performance-based Criteria and Identification of Routine Methods;
- Risk Analysis in Codex and the Committee on Residues of Veterinary Drugs in Foods;
- Amendments to the Guidelines for the Establishment of a Regulatory Programme for Control of Veterinary Drug Residues in Foods—Residues of Veterinary Drugs in Milk and Milk Products;
- Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products; and
- Maximum Residue Limits for Certain Veterinary Drugs in Foods (Priority List); and
- Data Requirements for the Establishment of Maximum Residue Limits for Veterinary Drugs for Minor Species.

Responsible Agency: HHS/FDA USDA/FSIS.
U.S. Participation: Yes.

Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed. The 30th Session of the CCFAC met March 9–13, 1998, in the Hague, The Netherlands. The 31st Session of the CCFAC is tentatively scheduled for March 22–26, 1999, in the Hague, The Netherlands. The following matters contained in ALINORMS 99/12 and 97/12A are under consideration by the CCFAC:

Food Additives

- Proposed Draft General Standard for Food Additives: Annex A (Guidelines for the Estimation of Appropriate Levels of Use of Food Additives) to be revised for consideration at Step 3; additives with specified conditions for use in specific food categories or foodstuffs (forwarded to Executive Committee at Step 5); (see Table 1, below).
- Specifications for the following food additives are recommended by the CCFAC for adoption by the Twenty-third Session of the Codex Commission: agar, alginic acid, ammonium alginate, calcium alginate, carbon dioxide, diacetyltartaric and fatty acid esters of glycerol, ethyl hydroxyethyl cellulose, gellan gum, hydrogenated poly-1-decene, isoamyl acetate, malitol syrup, microcrystalline wax, mixed carotenoids, modified starches, potassium alginate, potassium propionate, propylene glycol, propylene glycol alginate, propylene glycol esters of fatty acids, salatrim, sodium alginate, sucroglycerides, sulfur dioxide, and *tertiary*-butylhydroquinone.
- Specifications for the following flavouring agents are recommended by the CCFAC for adoption by the Twenty-third Session of the Codex Commission (numbers in parentheses are the Joint FAO/WHO Expert Committee on Food Additives (JECFA) flavour identification numbers): allyl cyclohexane propionate (13), ethyl octanoate (33), ethyl nonanoate (34), isoamyl acetate (43), isoamyl butyrate (45), isoamyl isobutyrate (49), isoamyl isovalerate (50), citronellyl formate (53), geranyl formate (54), neryl formate (55), rhodinyl formate (56), citronellyl acetate (57), neryl acetate (59), rhodinyl acetate (60), citronellyl propionate (61), geranyl propionate (62), cis-3,7-dimethyl-2,6-octadien-1-yl propionate (63), citronellyl butyrate (65), geranyl butyrate (66), neryl butyrate (67), rhodinyl butyrate (68), citronellyl isobutyrate (71), neryl isobutyrate (73), neryl isovalerate (76), formic acid (79), acetaldehyde (80), acetic acid (81), propyl alcohol (82), propionaldehyde

(83), propionic acid (84), butyl alcohol (85), butyraldehyde (86), butyric acid (87), amyl alcohol (88), valeraldehyde (89), valeric acid (90), hexyl alcohol (91), hexanal (92), hexanoic acid (93), heptyl alcohol (94), heptanal (95), heptanoic acid (96), 1-octanol (97), octanal (98), octanoic acid (99), nonyl alcohol (100), nonanal (101), nonanoic acid (102), 1-decanol (103), decanal (104), decanoic acid (105), undecyl alcohol (106), undecanal (107), undecanoic acid (108), lauryl alcohol (109), lauric aldehyde (110), lauric acid (111), myristaldehyde (112), myristic acid (113), 1-hexadecanol (114), palmitic acid (115), stearic acid (116), propyl formate (117), butyl formate (118), n-amyl formate (119), hexyl formate (120), octyl formate (122), cis-3-hexenyl formate (123), methyl acetate (125), propyl acetate (126), butyl acetate (127), hexyl acetate (128), heptyl acetate (129), octyl acetate (130), nonyl acetate (131), decyl acetate (132), lauryl acetate (133), cis-3-hexynl acetate (134), trans-3-heptynl acetate (135), 10-undecen-1-yl acetate (136), isobutyl acetate (137), 2-methylbutyl acetate (138), methyl propionate (141), propyl propionate (142), butyl propionate (143), hexyl propionate (144), octyl propionate (145), decyl propionate (146), cis-3 & trans-2-hexenyl propionate (147), isobutyl propionate (148), methyl butyrate (149), propyl butyrate (150), butyl butyrate (151), n-amyl butyrate (152), hexyl butyrate (153), cis-3-hexenyl butyrate (157), isobutyl butyrate (158), methyl valerate (159), butyl valerate (160) propyl hexanoate (161), butyl hexanoate (162), n-amyl hexanoate (163), hexyl hexanoate (164), isobutyl hexanoate (166), methyl heptanoate (167), n-amyl heptanoate (170), methyl octanoate (173), n-amyl octanoate (174), hexyl octanoate (175), methyl nonanoate (179), methyl laurate (180), butyl laurate (180), butyl laurate (181), methyl myristate (183), methyl isobutyrate (185), ethyl isobutyrate (186), propyl isobutyrate (187), butyl isobutyrate (188), hexyl isobutyrate (189), heptyl isobutyrate (190), trans-3-heptenyl 2-methyl propanoate (191), octyl isobutyrate (192), dodecyl isobutyrate (193), isobutyl isobutyrate (194), methyl isovalerate (195), ethyl isovalerate (196), propyl isovalerate (197), butyl isovalerate (198), hexyl 3-methylbutanoate (199), octyl isovalerate (200), nonyl isovalerate (201), 3-hexynl 3-methylbutanoate (202), 2-methylpropyl 3-methylbutyrate (203), methyl 2-methylbutyrate (205), ethyl 2-methylbutyrate (206), n-butyl 2-methylbutyrate (207), hexyl 2-methylbutanoate (208), octyl 2-methylbutyrate (209), 2-methylbutyl 2-methylbutyrate (212), ethyl 2-methyl pentanoate (214), methyl 4-methylvalerate (216), trans-anethole (217), and citric acid (218).

• Specifications for the following food additive is recommended by the CCFAC for adoption by the Twenty-third Session of the Codex Commission after changes considered editorial have been made: sodium propionate.

• Specifications for the following flavouring agents are recommended by the CCFAC for adoption by the Twenty-third Session of the Codex Commission after changes considered editorial have been made: geranyl acetate (58) and isobutyl formate (124).

Contaminants

• Methodology and Principles for Exposure Assessment in the Codex General Standard for Contaminants and Toxins in Food (paper to be revised for consideration at 31st CCFAC);

• Draft Maximum Levels and Sampling Plan for Aflatoxins in Raw Peanuts for Further Processing (forwarded to Codex Commission at Step 8);

• Draft Maximum Level for Aflatoxin M1 in milk (forwarded to Codex Commission at Step 8);

• Position Paper on Ochratoxin A (paper to be revised for consideration at 31st CCFAC);

• Position Paper on Patulin (paper to be revised for consideration at 31st CCFAC, and maximum level in apple juice and the apple juice ingredient in ready made soft drinks to be circulated for comment at Step 3);

• Position Paper on zearalenone to be circulated for comment and consideration at the 31st CCFAC;

• Draft Code of Practice for source directed measures to reduce contamination of foodstuffs (paper to be revised for consideration at 31st CCFAC);

• Draft Maximum Levels for Lead (revised levels to be circulated for comment and consideration at 31st CCFAC);

• Discussion Paper on Cadmium (paper to be revised and circulated for comment and consideration at 31st CCFAC);

• Position Paper on Arsenic (paper to be revised and circulated for comment and consideration at 31st CCFAC);

• Position Paper on Tin (draft maximum levels to be circulated for comment at Step 3 for further consideration at the 31st CCFAC).

The 30th CCFAC agreed to establish an ad hoc working group for contaminants to be chaired by Denmark. This ad hoc working group will meet prior to the plenary session of the 31st CCFAC.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Food Additives

For the purposes of Codex, a food additive means any substance not normally consumed as a food by itself and not normally used as a typical ingredient in the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities.

The General Standard for Food Additives (GSFA) will set forth maximum levels of use of food additives in various foods and food categories. The maximum levels will be based on the food additive provisions of previously established Codex commodity standards, as well as on the use of the additives in non-standardized foods.

Only those food additives for which an acceptable daily intake (ADI) has been established by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) are included in the general Standard for Food Additives (GSFA) at this time. All of the additives that are currently under consideration for inclusion in the draft GFSA are listed in Table 1 below. Provisions for the use of these additives are at Step 5 (See ALINORM 99/12).

Table 1

Acesulfame Potassium
Adipic Acid
Agar
Alitame
Allura Red AC
Alpha-Amylase & Glucoamylase (Aspergillus oryzae var.)
Alpha-Amylase (Aspergillus oryzae var.)
Alpha-Tocopherol
Aluminum Ammonium Sulphate
Amaranth
Ammonium Adipate
Ammonium Polyphosphates
Annatto Extracts (includes Bixin and Norbixin)
Anoxomer
Ascorbyl Palmitate
Ascorbyl Stearate
Aspartame

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Azodicarbonamide
Azorubine
Beeswax, White and Yellow
Benzoic Acid
Benzoyl Peroxide
Beta-Apo-8'-Carotenic Acid, Methyl or Ethyl Ester
Beta-Apo-8'-Carotenal
Beta-Carotene (Synthetic)
Bone Phosphate
Brilliant Black PN
Brilliant Blue FCF
Brown HT
Butan-1,3-Diol
Butylated Hydroxyanisole (BHA)
Butylated Hydroxytoluene (BHT)
Calcium Benzoate
Calcium Dihydrogen Diphosphate
Calcium Disodium Ethylene Diamine Tetra Acetate
Calcium Ferrocyanide
Calcium Formate
Calcium Hydrogen Sulphite
Calcium Polyphosphates
Calcium Sorbate
Calcium Stearoyl Lactylate
Calcium Sulphite
Calcium Tartrate
Candellia Wax
Canthaxanthin
Caramel Colour, Class III—Ammonia Process
Caramel Colour, Class IV—Ammonia Sulphite Process
Carmines (including aluminum & calcium lakes of carminic acid)
Carnauba Wax
Carotenes, Natural Extracts (Vegetable)
Castor Oil
Chlorine
Chlorine Dioxide
Chlorophyllin Copper Complex, Sodium and Potassium Salts
Chlorophylls, Copper Complex
Choleic Acid
Curcumin
Cyclamic Acid (and Sodium, Potassium and Calcium Salts)
Cyclodextrin, Beta
Diacetyltartaric and Fatty Acid Esters of Glycerol
Diammonium Orthophosphate
Dicalcium Diphosphate
Dicalcium Orthophosphate
Dilauryl Thiodipropionate
Dimagnesium Diphosphate
Dimagnesium Orthophosphate
Dimethyl Dicarbonate
Dioctyl Sodium Sulfosuccinate
Diphenyl
Dipotassium Diphosphate
Dipotassium Orthophosphate
Dipotassium Tartrate
Disodium Diphosphate
Disodium Ethylene Diamine Tetra Acetate
Disodium Orthophosphate
Disodium Tartrate
Erythrosine
Ethyl Maltol
Ferric Ammonium Citrate
Ferrous Gluconate
Ferrous Lactate
Formic Acid
Glycerol Ester of Wood Rosin
Grape Skin Extract
Guiaiac Resin
Hexamethylene Tetramine
Hexane
Indigotine
Iron Carbonate
Iron Oxide, Black
Iron Oxide, Red
Iron Oxide, Yellow
Isoascorbic Acid (Erythorbic Acid)
Isomalitol
Isopropyl Citrates
Lysozyme Hydrochloride
Maltol
Methyl Ethyl Ether of Cellulose
Methyl p-Hydroxybenzoate
Microcrystalline Wax
Mineral Oil
Mineral Oil (High Viscosity)
Mineral Oil (Medium & Low Viscosity, Class I)
Mineral Oil (Medium & Low Viscosity, Classes II & III)
Mixed Tocopherals Concentrate
Monoammonium Orthophosphate
Monocalcium Orthophosphate
Monomagnesium Orthophosphate
Monopotassium Orthophosphate
Monopotassium Tartrate
Monosodium Orthophosphate
Monosodium Tartrate
Nisin
Nitrous Oxide
Ortho-Phenylphenols
Orthophosphoric Acid
Oxystearin
Pentapotassium Triphosphate
Pentapotassium Triphosphate
Pentasodium Triphosphate
Pimaricin (Natamycin)
Polydimethylsiloxane
Polyethylene Glycol
Polyglycerol Esters of Fatty Acids
Polyglycerol Esters of Interesterified Ricinoleic Acid
Polyoxyethylene (20) Sorbitan Monolaurate
Polyoxyethylene (20) Sorbitan Monooleate
Polyoxyethylene (20) Sorbitan Monopalmitate
Polyoxyethylene (20) Sorbitan Monostearate
Polyoxyethylene (20) Sorbitan Tristearate
Polyoxyethylene (40) Stearate
Polyoxyethylene (8) Stearate
Polyvinylpyrrolidone
Ponceau 4R
Potassium Adipate
Potassium Benzoate
Potassium Ferrocyanide
Potassium Metabisulphite
Potassium Nitrate
Potassium Nitrite
Potassium Polyphosphate
Potassium Silicate
Potassium Sodium Tartrate
Potassium Sorbate
Potassium Sulphite
Processed Eucheuma Seaweed
Propyl p-Hydroxybenzoate
Propylene Glycol Alginate
Propylene Glycol Esters of Fatty Acids
Protease (Aspergillus oryzae var.)
Quillaia Extract
Quinoline Yellow
Red 2G
Riboflavin
Riboflavin 5'-Phosphate
Saccharin
Saffron
Salts of Fatty Acids (with Base Ammonium, Calcium and Potassium Sodium)
Salts of Myristic, Palmitic and Stearic Acid (Calcium, Potassium and Sodium)
Shellac
Sodium Adipate
Sodium Aluminum Phosphate-Acidic
Sodium Aluminum Phosphate-Basic
Sodium Benzoate
Sodium Calcium Polyphosphate
Sodium Diacetate
Sodium Ethyl p-Hydroxybenzoate
Sodium Ferrocyanide
Sodium Formate
Sodium Hydrogen Sulphite
Sodium Isoascorbic Acid
Sodium Metabisulphite
Sodium Methyl p-Hydroxybenzoate
Sodium Sorbate
Sodium Stearoyl Lactylate
Sodium Sulphite
Sodium Thiosulphate
Sorbic Acid
Sorbitan Monolaurate
Sorbitan Monooleate
Sorbitan Monopalmitate
Sorbitan Monostearate
Sorbitan Trioleate
Sorbitan Tristearate
Stannous Chloride
Stearoyl-2-Lactylates
Stearyl Citrate
Stearyl Tartrate
Sucralose
Sucroglycerides
Sucrose Acetate Isobutyrate
Sucrose Esters of Fatty Acids
Sulphur Dioxide
Sunset Yellow FCF
Synthetic Delta-Tocopherol
Synthetic Gamma-Tocopherol
Tannic Acid (Tannins, Food Grade)
Tartaric Acid (L(+)−)
Tartrazine
Tertiary Butylhydroquinone (TBHQ)
Tetrapotassium Diphosphate
Tetrasodium Diphosphate
Thermally Oxidized Soya Bean Oil with Mono- and Di-Glycerides of Fatty

Acids (TOSOM)
Thiodipropionic Acid
Tricalcium Orthophosphate
Triethyl Citrate Triglycerine Lipase
Trimagnesium Orthophosphate
Tripotassium Orthophosphate
Trisodium Diphosphate
Trisodium Orthophosphate

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or in groups of food. A Codex Maximum Limit for Pesticide Residues (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices, and

(b) toxicological assessment of the pesticide and its residue.

MRLs recommended for advancement to step 5 by the 30th CCPR will be considered by the Executive Committee at its Forty-Fifth Session in June 1998 and those to Steps 5/8 and 8 by the 23rd Session of the Codex Alimentarius Commission in July 1999 (see table below). The Commission also will consider the Draft Revised Recommended Methods of Sampling for Determination of Pesticide Residues for Compliance with MRLs at Step 8.

* Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Codex committee	Standard	Status of consideration	US participation/ agenda	Responsible agency
Pesticide Residues (considered at the 30th CCPR) (Annex II to ALINORMS 99/24).	Acephate	MRLs under consideration at Step 5/8	YES	EPA/ARS
	Aldicarb	MRLs at Step 5	YES	EPA/ARS
	Bifenthrin	MRLs under consideration at Step 8	YES	EPA/ARS
	Chlormequat	MRLs under consideration at Step 5	YES	EPA/ARS
	Chlorothalonil	CXL deletions	YES	EPA/ARS
	Chlorpyrifos	MRLs under consideration at Step 8 and CXL deletion.	YES	EPA/ARS
	DDT	EMRL under consideration at Step 5	YES	EPA/ARS
	Diazinon	MRLs under consideration at Steps 5 and 5/8	YES	EPA/ARS
	Diquat	MRLs under consideration at Step 8 and CXL deletions.	YES	EPA/ARS
	Dithiocabamates	MRLs under consideration at Step 5	YES	EPA/ARS
	Fenarimol	MRLs under consideration at Steps 5/2 and 8	YES	EPA/ARS
	Flumethrin	MRLs under consideration at Step 5/8	YES	EPA/ARS
	Haloxyfop	MRLs under consideration at Step 5	YES	EPA/ARS
	Methamidophos	MRLs under consideration at Steps 5 and 5/8	YES	EPA/ARS
	Methidathion	MRLs under consideration at Step 8 and CXL deletion.	YES	EPA/ARS
	Parathion-methyl	MRLs under consideration at Step 8 and CXL deletion.	YES	EPA/ARS
	Phenothrin	CXL deletion	YES	EPA/ARS
	Phorate	MRLs under consideration at Step 8	YES	EPA/ARS
	Proxpoxur	MRLs under consideration at Step 5/8 and CXL deletions.	YES	EPA/ARS
	Tefufenozide	MRLs under consideration at Steps 5 and 5/8	YES	EPA/ARS
	Teflubenzuron	MRLs under consideration at Step 5/8	YES	EPA/ARS

Codex Committee on Methods of Analysis and sampling

The Codex Committee on Methods of Analysis and Sampling:

(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;

(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;

(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;

(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of

microbiological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;

(e) Elaborates sampling plans and procedures, as may be required;

(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and

(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The following matters will be considered by the Committee at its next meeting in Budapest, Hungary on November 23–27, 1998:

- Proposed Draft Codex General Guidelines on Sampling;
- Criteria for Evaluating Acceptable Methods of Analysis for Codex purposes;
- Harmonization of Test Results Corrected for Recovery Factors;
- Report of Inter-Agency Meeting on "limits" Provisions in Codex Standards;
- Endorsement of Methods of Analysis for Codex; and
- Measurement Uncertainty.

New work approved by the 22nd Session of the Codex Alimentarius Commission:

- Intra-Laboratory Method Validation.

Responsible Agency: HHS/FDA USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Certification and Inspection Systems is charged with developing principles and guidelines for food import and export inspection and certification systems. Additionally, the Committee develops principles and guidelines for the application of measures by competent authorities to provide assurance that foods comply with essential requirements. This encompasses work on equivalence of inspection systems, guidelines on food import control systems and food product certification and information exchange. The development of guidelines for the appropriate utilization of quality assurance systems to ensure that foodstuffs conform to requirements and to facilitate trade are also included in the Committee's terms of reference. Current work activities of the Committee are the following:

Draft guidelines to be considered at Step 5 by the Executive Committee at its Forty-fifth Session in July, 1998:

- Draft Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems

Continuing matters to be discussed at the Seventh Session of the Committee:

- Discussion Paper on Issues Relating to the Judgement of Equivalence; and
- Discussion Paper on the Development of Guidelines for the Utilization and Promotion of Quality Assurance Systems.

New work to be proposed to the Executive Committee:

- Development of Guidelines or a similar document on Food Import Control Systems;
- Development of Guidelines and Criteria for a Generic Official Certificate Format and Rules Relating to the Production and Issue of Certificates; and
- Discussion Paper on Guidelines for the Establishment of a Database on Importing Country Legislation.

Responsible Agency: HHS/FDA. USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on General Principles

The Codex Committee on General Principles deals with rules and procedures referred to it by the Codex Alimentarius Commission. None of the following recommendations for changing the rules of procedure for Codex are in the Step Procedure. The following items will be considered at the next meeting of the Codex Committee on General Principles, which will take place in Paris, France, on September 7–11, 1998:

- Risk Analysis;
- Definitions related to Risk Management
- Working Priniciples for Risk Analysis
- Food Safety Objectives
- Measures Intended to Facilitate Consensus;
- Review of the General Principles of Codex;
- Consideration of special treatment of developing countries
- Revision of the Acceptance Procedure
- Review of the Status and Objectives of Codex Texts;
- Review of the Statements of Principle on the Role of Science and the Extent to Which Other Factors are Taken into Account—Application in the Case of BST and PST;
- Revision of the Procedural Manual;
- Procedures concerning the participation of INGOs
- Other aspects
- Review of the Code of Ethics for International Trade in Foods.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling problems assigned by the Codex Alimentarius Commission. The following draft guidelines and standards were considered by the Committee at its May 1998 meeting.

The Committee is continuing work on:

- Proposed Draft Amendment to the Labelling Section of the Standard for Quick Frozen Fish Sticks (Fish Fingers), Fish Portions and Fish Fillets, Breaded or in Batter at Step 7;
- Draft Guidelines for Labelling Foods that can cause Hypersensitivity at Step 7;
- Draft Guidelines for Organically Produced Foods at Step 7;
- Proposed Draft Amendment to the General Labelling Standard (Biotechnology) at Step 4;
- Proposed Draft Recommendations for the Use of Health Claims at Step 4.

New work:

- Review of General Guidelines for Nutrition Labelling;
- Definition of the Claim "Vegetarian;"
- "Sports Drinks" and "Energy Drinks"

Responsible Agency: HHS/FDA. USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene drafts basic provisions on food hygiene for all foods. The term "hygiene" also includes, where applicable, microbiological specifications for food and associated methodology. The following Code of Hygienic Practice will be considered by the Codex Alimentarius Commission at its 23rd Session in June 1999:

- Draft Code of Practice for Refrigerated Packaged Foods with Extended Shelf-Life.

The following Guidelines and Codes of Hygienic Practice will be discussed at the Committee's next meeting in Washington, DC on October 26–30, 1998:

To be considered at Step 7:

- Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Assessment; and
- Proposed Draft Code of Hygienic Practice for Packaged (Bottled) Drinking Waters (Other than Natural Mineral Water).

To be considered at Step 4 of the Accelerated Procedure:

• Proposed Draft Amendment to the General Principles of Food Hygiene (on the need for sufficient rinsing after chemical disinfection).

To be considered at Step 4:

• Proposed Draft Code of Hygienic Practice for the Transport of Foodstuffs in Bulk and Semi-Packaged Foodstuffs;

• Proposed Draft Recommendations for the control of *Listeria monocytogenes* in Foods in International Trade;

• Proposed Draft Code of Practice on Good Animal Feeding;

• Implications for the Broader Applications of the HACCP System;

• Broader Implications on the Application of Microbiological Risk Evaluation in International Foods and Feed Trade;

• Development of Risk-Based Guidance for the Use of HACCP-like Systems in Small Businesses, with Special References to Developing Countries; and

• Recommendations for the Management of Microbiological Hazards for Foods in International Trade.

Other committee work:

• Code of Hygienic Practice for Milk and Milk Products;

• Discussion paper on the Hygienic Recycling of Processing Water in Food Plants;

• Discussion paper on the Proposed Draft Code of Hygienic Practice for Primary Production, Harvesting and Packaging of Fresh Produce;

• Discussion paper on the Proposed Draft of Hygienic Practice for Pre-cut Fruits and Vegetables;

• Discussion paper on the Proposed Draft Annex on "Cleaning and Disinfection" to the Recommended International Code of Practice—General Principles of Food Hygiene;

• Comments and Information on Prioritization of the Revision of Codes of Hygienic Practice;

• Application of Risk Analysis Principles in Codex: Microbiological Hazards; and

• Revision of the Standard Wording for Food Hygiene Provisions, Section K of the Procedural Manual.

Responsible Agency: DOC/NMFS, HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating world-wide standards and codes of practice for fresh fruits and vegetables. The following draft standards will be considered by the Codex Alimentarius Commission at its 23rd Session in June 1999. The draft standards listed below are contained in ALINORM 99/35.

To be considered at Step 8:

• Draft Standard for Chayote;

• Draft Standard for Lime;

• Draft Standard for Pummelo; and

• Draft Standard for Guava.

To be considered for adoption at Step 5/8 of the accelerated procedure:

• Draft Standard for Mexican Limes: and

• Draft Standard for Ginger.

To be considered at Step 5 by the Codex Executive Committee at its June 1998 meeting:

• Draft Revised Standard for Pineapple;

• Draft Standard for Asparagus;

• Draft Standard for Grapefruit;

• Draft Standard for Longan;

The committee is continuing work on:

• Draft Standard for Oranges, including guide for use in scoring freezing injury; and

• Draft Code of Practice for the Quality Inspection and Certification of Fresh Fruits and Vegetables.

Proposals to be forwarded to the Executive Committee for new work include Tiquisque (lilac and white), Yucca, Uchuva, Yellow Pitahaya and Papaya.

Responsible Agency: USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts provisions on nutritional aspects for all foods and develops guidelines, general principles, and standards for foods for special dietary uses. The following draft standards and guidelines will be considered at the Committee's next meeting, September 21–25, 1998, in Berlin, Germany. The reference document for the following matters is ALINORM 97–26 and other documents as specifically noted.

To be considered at Step 7:

• Proposed Draft Revised Standards for Gluten-Free Foods; and

• Draft Table of Conditions for Nutrient Contents (Part B).

To be considered at Step 5:

• Proposed Draft Amendment to the Standard for Infant Formula (Vitamin B^{12} content)

To be considered at Step 4:

• Proposal Draft Guidelines for Vitamin and Mineral Supplements;

• Proposed Draft Revised Standard for Infant Formula (CL 1997/13–NFSDU); and

• Proposed Draft Revised Standards for Processed Cereal-Based Foods for Infants and Young Children.

The committee is continuing work on:

• Proposed Definitions for Vitamins and Minerals as Nutrient Reference Values for Labeling;

• Proposed Levels of Vitamins and Minerals in Foods for Special Medical Purposes (CL 1997/11–NFSDU);

• Dietary Modelling (CL 1997/12–NFSDU); and

• Nutrient Reference Values for Labelling Purposes (CL 1997/12–NFSDU).

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh and frozen fish, crustaceans and mollusks. The following draft guidelines and codes of practice will be considered at the next meeting of the Committee, scheduled for June 8–12, 1998, in Bergen, Norway.

To be considered at Step 7:

• Proposed Draft Standard for Dried Salted Anchovies

• Proposed Draft Standard for Crackers from Marine and Freshwater Fish, Crustacean and Molluscan Shellfish

Guidelines to be considered at Step 7:

• Proposed Draft Guidelines for the Sensory Evaluation of Fish and Shellfish including a Proposed Draft Section on Training of Assessors at Step 3

Codes to be considered at Step 3:

• Proposed Draft Code of Practice for Fish and Fishery Products (Fresh Fish, Frozen Fish, Minced Fish, Canned Fish, Surimi, Salted Fish and Smoked Fish)

In addition, the Committee is working on the following proposed draft codes: (1) Products of Aquaculture; (2) Frozen Shrimps and Prawns; and (3) Molluscan Shellfish.

New work to be elaborated:

• Standard for Molluscan Shellfish

• Standard for Smoked Fish

• Standard for Salted Atlantic Herring

Responsible Agency: HHS/FDA USDC/NOAA/NMFS.

U.S. Participation: Yes.

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following revised standards and draft revised codes of principles were considered at the last meeting of the committee, May 18–22, 1998.

Considered at Step 7:
- Draft Revised Standard for Butter;
- Draft Revised Standard for Milkfat Products;
- Draft Revised Standard for Evaporated Milks;
- Draft Revised Standard for Sweetened Condensed Milk;
- Draft Revised Standard for Milk and Cream Powders;
- Draft Revised Standard for Cheese;
- Draft Revised Standard for Whey Cheese;
- Draft Revised Standard for Cheeses in Brine;
- Draft Code of Principles Concerning Milk and Milk Products (General Standard for the Labelling of Milk and Milk Products);
- Draft Standard for Unripened Cheese, including Fresh Cheese.

Considered at Step 4:
- Proposed Draft Revised Standard for Processed Cheese;
- Proposed Draft Revised Standard for Cream;
- Proposed Draft Revised Individual Standards for Cheese;
- Proposed Draft Revised Standard for Fermented Milk Products;
- Proposed Draft Standard for Dairy Spread; and
- Proposed Draft Standard for Mozzarella.

Other work:
- Model Export Certificate by the CCFICS;
- Nutrition and Quality Descriptors for Milk Products; and
- Heat Treatment Definitions.

New work:
- Proposal for new standard for "Parmesan"

Responsible Agency: USDA/AMS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin. The reference document is ALINORM 97/17. The Fifteenth Session of the Committee recommended the following be adopted by the Commission in June 1997:
- Draft Standard for Named Animal Fats at Step 8;
- Draft Standard for Edible Fats and Oils Not Covered by Individual Standards at Step 8;
- Draft Revised Code of Practice for the Storage and Transport of Fats and Oils in Bulk at Step 8;

The 22nd Session of the Commission noted that there was controversy on the proposed peroxide value and provisions for additives in the Draft Standards and decided to return them to Step 6 for government comments and further consideration by the Committee. At the Commission meeting several delegates objected to adopting the Draft Revised Code of Practice because of a number of unaddressed issues. In addition, it noted that Thermal Heating Fluids were not generally allowed and this represented a serious problem to many exporting countries. The Commission decided to discontinue work on the revision and revoke the current Standard for Specified Vegetable Fat products and Specified Animal and Vegetable Fat products. The Commission agreed to discontinue work on converting the European Regional Standard for mayonnaise into a world-wide standard.

In addition to the two Draft Standards and the Draft Revised Code listed above, the Sixteenth Session of the Committee, tentatively scheduled for Spring 1999, will consider the following at Step 7:
- Draft Standard for Named Vegetable Oils; and
- Draft Standard for Olive Oils and Olive-Pomace Oils.

The Committee will also consider the Draft Standard for Fat Spreads and Blended Fat Spreads at Step 4.

Responsible Agency: HHS/FDA, USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate held 15 sessions. The last meeting, at which the original program of work was completed, was held in 1982. The Committee elaborated world-wide standards for cocoa products and chocolate.

The Commission in 1991 decided to embark on a program of work to update and revise all of the standards.

The revisions were to include updating of the sections on food hygiene and food labeling and removal from the standards of all non-essential details. The standards, when updated and revised, should contain only those provisions that are necessary to protect consumer health and prevent fraud.

Provisions of an advisory nature reflecting quality factors and criteria typically used in trade to define or describe the quality of the product are to be removed from the standard. These guidance provisions are intended to assist users of the Codex standard when making international purchases and are, therefore, not subject to formal acceptance by users of the standard.

The 21st Session of the Commission endorsed the recommendation of the forty-second session of the Executive Committee to initiate the revision of the Cocoa Products and Chocolate Standards.

The Swiss Secretariat prepared updated versions of the Standards and requested government comments in CL 1995/28 CPC. The technical contents of the standards were not amended and comments were requested from governments on amendments.

The amended standards for chocolate and chocolate products were considered at Step 4 by the Sixteenth Session of the Committee, October 1996. The Committee returned the Proposed Draft Revised Standard for Chocolate and Chocolate Products to Step 3 for further consideration.

Proposed Draft Revised Standards for Cocoa Butter, Cocoa (Cacao) Nib, Cocoa (Cacao) Mass, Cocoa Press Cake and Cocoa Dust (Cocoa Fines) for use in the manufacture of Cocoa and Chocolate products, and for Cocoa Powders (Cacaos) and Dry Cocoa-Sugar Mixture will be considered at the Seventeenth Session of the Committee scheduled for the Fall of 1998.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Processed fruits and vegetables

The United States-hosted Codex Committee on Processed Fruits and Vegetables (CCPFV) elaborated 37 standards for various types of processed fruits and vegetables, including many canned products (except juices), some dried products and other related products. The CCPFV held 18 sessions from 1964 through 1986 and then adjourned sine die. The CCPFV reconvened for its 19th session in March 1998 in order to consider, at Step 4, proposed draft revisions of the 37 existing Codex standards for processed fruits and vegetables. These proposed draft revisions were prepared and distributed in a circular letter in January 1997 in an effort to simplify the standards and thereby increase the likelihood of their use and acceptance by national governments.

During the 19th session, the Committee agreed in general with the principle of simplifying standards and, when practical, covering like products under a single standard. Due to time constraints, the meeting focused its discussions on a limited number of standards. The Committee also noted the status of the other standards and agreed on steps to consolidate certain standards and on recommendations for future work.

As a result of the 19th session, the status of work covered by the CCPFV is as follows:

- Draft Standard for Canned Bamboo Shoots at Step 7;
- Proposed Draft Revised Standard for Canned Applesauce at Step 5; and
- Proposed Draft Revised Standard for Canned Pears at Step 5.
- Proposed Draft Standards at Step 3:
- Canned Stone Fruits (*new work*);
- Canned Citrus Fruits;
- Canned Berry Fruits;
- Canned Mangoes;
- Canned Pineapple;
- Canned Fruit Cocktail;
- Canned Tropical Fruit Salad;
- Canned Chestnuts and Chestnut Puree;
- Canned Vegetables (*new work*)*;
- Canned Tomatoes;
- Canned Mushrooms;
- Jams, Jellies and Marmalades (*new work*);
- Mango Chutney**;
- Pickled Cucumbers (Cucumber Pickles);
- Table Olives;
- Processed Tomato Concentrates;
- Dried Apricots;
- Dates;
- Raisins;
- Grated Desiccated Coconut;
- Unshelled Pistachio Nuts;
- Dried Edible Fungi;
- Edible Fungi and Fungus Products;
- Soy Sauce (*new work*);
- Proposed Draft Guidelines for Packing Media in Canned Fruits (*new work*); and
- Proposed Draft Guidelines for Packing Media in Canned Vegetables (*new work*).

* The following products will be considered for inclusion into the proposed draft standards for canned vegetables: canned green beans and wax beans, canned sweet corn, canned asparagus, canned green peas, canned mature processed peas, canned carrots, canned palmito and possible canned tomatoes and canned mushrooms.

** In the future, mango chutney may be included in a general Codex standard for chutney.

There will be two additional standards forthcoming from the Codex Coordinating Committee for Asia, namely, the Proposed Draft Standard for Pickles and the Proposed Draft Standard for Kimchi. The Committee agreed to keep the Codex European Regional Standard for Vinegar, a regional standard, rather than consider it for worldwide status. The Committee also recommended that the European regional standard be referred to the Codex Coordinating Committee for Europe for updating into the current Codex format. In addition, the CCPFV agreed to recommend that any future work on converting the Codex European Regional Standard for Fresh Fungus Chanterelle into a worldwide standard be transferred to the Codex Committee for Fresh Fruits and Vegetables. The Committee also acknowledges that cherries may be considered for inclusion in the proposed draft standard for canned stone fruits and artichokes and potatoes may be considered for inclusion in the proposed draft standard for canned vegetables.

New work for the CCPFV is subject to approval by the Executive Committee at its next meeting.

The next session of the CCPFV is tentatively scheduled for March 20–24, 2000. The exact location and dates are to be decided between the U.S. and Codex Secretariat.

Responsible Agency: HHS/FDA USDA/AMS.

U.S. Participation: Yes.

Certain Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned sine die. The following Committees fall into this category:

- *Cereals, Pulses and Legumes**

Responsible Agency: HHS/FDA, USDA/GIPSA

U.S. Participation: Yes

- *Meat Hygiene**

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

- *Processed Meat and Poultry Products**

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

- *Sugars*

Responsible Agency: HHS/FDA

U.S. Participation: Yes

- *Soups and Broths**

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

- *Vegetable Proteins**

Responsible Agency: HHS/FDA, USDA/ARS

U.S. Participation: Yes

*There is no planned activity for these Committees in the next year.

A brief report on activities of the Codex Committees on Edible Ices, Soups and Broths, and Sugars follows:

Codex Committee on Edible Ices

The Committee on Edible Ices was responsible for elaborating standards for all types of edible ices, including mixes and powders used for their manufacture. The 43rd Session of the Executive Committee in June 1996 recommended that the Codex Standard for Edible Ices and Edible Ice Mixes be revoked. It was reported that there was no need for the standard as there was not a significant international trade. The Executive Committee further recommended that the Codex Committee on Edible Ices be abolished. The 22nd Session of the Codex Alimentarius Commission decided in June 1997 to revoke the standard and abolish the committee.

Codex Committee on Soups and Broths

The Codex Committee on Soups and Broths elaborated worldwide standards for soups, broths, bouillons and consommes. The committee adjourned *sine die*. The main tasks of the Committee were completed. However, at its June 1997 meeting, the Codex Alimentarius Commission requested that the Committee commence work revising the Standard for Bouillons and Consommes.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Sugars

The Codex Committee on Sugars elaborated standards for all types of sugars and sugar products. The Committee was adjourned *sine die*, but has been asked to revise the standards for Sugar and Honey. The Codex Alimentarius Commission at its 22nd Session returned the Draft Revised Standards for Sugar and Honey, which had been submitted for consideration at Step 8, to the Committee for a new round of comments.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Joint U.N.E.C.E. Codex Alimentarius Groups of Experts

Two groups of experts dealt with specific commodities much as the Codex Commodity Committees do. The Joint Groups of Experts have completed their main tasks and have adjourned. They could be called to meet again if the Codex Alimentarius Commission so decides. These Groups are:

- Standardization of Quick Frozen Foods; and
- Standardization of Fruit Juices.

There are no standards from either group being considered by the Twenty-third session of the Commission in June, 1999.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee for Natural Mineral Waters

The Codex Committee for Natural Mineral Waters (CCNMW) is responsible for elaborating standards for natural mineral waters. The Codex Alimentarius Commission at its 22nd meeting approved the development of a standard for bottled/packaged water other than natural mineral waters. The United States prepared the initial proposed draft standard. The Committee will meet to discuss the draft in November 1998.

Responsible Agency: HHS/FDA.
U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 25 subsidiary bodies. Included in these subsidiary bodies are several coordinating committees.

There are currently five Regional Coordinating Committees:

—Coordinating Committee for Africa
—Coordinating Committee for Asia
—Coordinating Committee for Europe
—Coordinating Committee for Latin America and the Caribbean
—Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings.

Each regional committee:

—Defines the problems and needs of the region concerning food standards and food control;
—Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
—Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and
—Exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South-West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the regions. The Fifth Session of the Committee is to be held October 6–9, 1998, in the United States. It will address the following matters of interest to the Commission:

- Report on Activities Related to Risk Analysis in Codex and Other Bodies;
- Review and Promotion of Acceptances of Codex Standards and Codex Maximum Residue Limits for Pesticides by Countries in the Region;
- Information and Reports on Food Safety, Food Control and Food Standards Issues in the Region;
- Promotion of Codex Activities in the Region; and
- Consumer Participation in Codex Work and Related Matters.

Agency Responsible: USDA/FSIS.
U.S. Participation: Yes.

Appendix 1—U.S. Codex Alimentarius Officials

Codex Committee Chairpersons

Mr. Steven N. Tanner, Director, Technical Services Division, Grain Inspection, Packers & Stockyards, Administration, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394, Phone #: (816) 891–0401, Fax #: (816) 891–0478—Cereals, Pulses and Legumes (adjourned Sine Die)

Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700, Phone #≤(202) 720–2644, Fax # (202) 690–2980—Food Hygiene

Mr. David L. Priester, International Standards Coordinator, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2069, South Agriculture Building, Washington, DC 20090–6456, Phone #: (202) 720–2184, Fax #: (202) 720–0016—Processed Fruits and Vegetables

Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration 7500 Standish Place (HFV–1), Rockville, MD 20855, Phone #: (301) 594–1740, Fax #: (301) 594–1830—Residues of Veterinary Drugs in Foods

LISTING OF U.S. DELEGATES AND ALTERNATE DELEGATES

[Worldwide General Subject Codex Committees]

Codex Committee on Residues of Veterinary Drugs in Foods (Host Government—United States)	
U.S. Delegate	Dr. Robert C. Livingston, Director, Office of New Animal, Drug Evaluation, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, Phone #: (301) 594–1620 Fax #: (301) 594–2297.
Alternate Delegate	Dr. Pat Basu, Director, Chemistry and Toxicology Division, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 6912 Franklin Court, 1099 14th Street, NW, Washington, DC 20250–3700, Phone #: (202) 501–7319, Fax: (202) 501–7639.
Codex Committee on Food Additives and Contaminants (Host Government—The Netherlands)	
U.S. Delegate	Dr. Alan Rulis, Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, (HFS–200), Washington, DC 20204, Phone #: (202) 418–3100, Fax #: (202) 418–3131.
Alternate Delegate	Dr. Terry C. Troxell, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration 200 C Street, SW, (HFS–456), Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422.

LISTING OF U.S. DELEGATES AND ALTERNATE DELEGATES—Continued

[Worldwide General Subject Codex Committees]

Codex Committee on Pesticide Residues (Host Government—The Netherlands)	
U.S. Delegate	Mr. Fred Ives, Health Effects Division (7509C), Office of Pesticide Programs, U.S. Environmental Protection Agency 401 M Street, SW, Washington, DC 20460, Phone #: (703) 305–6378, Fax #: (703) 305–5147, E-mail: ives.fred@epamail.epa.gov.
Alternate Delegate	Dr. Richard Parry, Jr., Assistant Administrator, Cooperative Interactions, Agricultural Research Service, U.S. Department of Agriculture, Room 358–A, Jamie L. Whitten Federal Bldg., Washington, DC 20250–3700, Phone #: (202) 720–3973 Fax #: (202) 720–5427.
Codex Committee on Methods of Analysis and Sampling (Host Government—Hungary)	
U.S. Delegate	Dr. William Horwitz, Scientific Advisor, Center for Food Safety and Applied, Nutrition (HFS–500), Food and Drug Administration, Room 3832, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4346, Fax #: (202) 401–7740.
Alternate Delegate	Mr. William Franks, Director, Science and Technology Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3507, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–5231, Fax #: (202) 720–6496.
Codex Committee on Food Import and Export Certification and Inspection Systems (Host Government—Australia)	
Delegate	VACANT.
Alternate Delegate	Mr. Mark Manis, Director, International Policy Development Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4434, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–6400, Fax #: (202) 720–7990.
Codex Committee on General Principles (Host Government—France)	
Delegate	Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.
Codex Committee on Food Labelling (Host Government—Canada)	
Delegate	Ms. Elizabeth J. Campbell, Acting Director, Office of Food Labeling, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C Street, SW, Room 1832, Washington, DC 20204, Phone #: (202) 205–4561, Fax #: (202) 205–4594.
Alternate Delegate	Dr. Robert Post, Director, Labeling & Compounds Review Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 602, Cotton Annex, Washington, DC 20250–3700, Phone #: (202) 205–0279, Fax #: (202) 205–3625.
CODEX COMMITTEE ON FOOD HYGIENE (Host Government—United States)	
Acting Delegate	Mr. E. Spencer Garrett, Director, National Seafood Inspection Laboratory, National Marine Fisheries, 705 Convent Street, Pascagoulla, MS 39568–1207, Phone #: (601) 769–8964, Fax #: (601) 762–7144.
Alternate Delegate	VACANT.
Codex Committee on Nutrition and Foods for Special Dietary Uses (Host Government—Germany)	
Delegate	Dr. Elizabeth Yetley, Director, Office of Special Nutritionals, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–450), Washington, DC 20204, Phone #: (202) 205–4168, Fax #: (202) 205–5295.
Alternate Delegate	Dr. Robert J. Moore, Senior Regulatory Scientist, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–456), Washington, DC 20204, Phone #: (202) 205–4605, Fax #: (202) 260–8957.

LISTING OF U.S. DELEGATES AND ALTERNATE DELEGATES—Continued

[Worldwide General Subject Codex Committees]

Codex Committee on Fresh Fruits And Vegetables (Host Government—Mexico)	
Delegate	Mr. David L. Priester, International Standards Coordinator, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2069, South Agriculture Building, Washington, DC 20090–6456, Phone #: (202) 720–2184, Fax #: (202) 720–0016.
Alternate Delegate	Mr. Larry B. Lace, Branch Chief, Fresh Products Branch, Fruits and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20090–6456, Phone #: (202) 720–5870, Fax #: (202) 720–0393.
Codex Committee on Fish and Fishery Products (Host Government—Norway)	
Delegate	Mr. Philip C. Spiller, Director, Office of Seafood (HFS–400) VERB, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3133, Fax #: (202) 418–3198.
Alternate Delegate	Mr. Samuel W. McKeen, Director, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, NMFS, 1335 East-West Highway, Room 6490, Silver Spring, MD 20910, Phone #: (301) 713–2351, Fax #: (301) 713–1081.
Codex Committee on Milk and Milk Products (Host Government—New Zealand)	
Delegate	Mr. Duane Spomer, Chief, Dairy Standardization Branch, U.S. Department of Agriculture, Agricultural Marketing Service, Room 2750, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–0230, Phone #: (202) 720–9382, Fax #: (202) 720–2643.
Alternate Delegate	Mr. John C. Mowbray, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–306), Washington, DC 20204, Phone #: (202) 205–1731, Fax #: (202) 205–4422.
Codex Committee on Fats and Oils (Host Government—United Kingdom)	
Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Room 5823 (HFS–585), Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Alternate Delegate	Dr. Dwayne Buxton, National Program Leader for Oilseeds and Bioscience, Agricultural Research Service, Room 212, Building 005, BARC West, Beltsville, MD 20705, Phone #: (301) 504–5321, Fax #: (301) 504–5467.
Codex Committee on Processed Fruits and Vegetables (Host Government—United States)	
Delegate	Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agriculture Marketing Service, U.S. Department of Agriculture, Room 0717, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20090–0247, Phone #: (202) 720–5021, Fax #: (202) 690–1527.
Alternate Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Room 5823 (HFS–585), Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Codex Committee on Cocoa Products and Chocolate (Host Government—Switzerland)	
U.S. Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Room 5823 (HFS–585), Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Alternate Delegate	Dr. Michelle Smith, Food Technologist, Office of Food Labeling, Center for Food Safety and Applied Nutrition (HFS–158), 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5099, Fax #: (202) 205–4594.

LISTING OF U.S. DELEGATES AND ALTERNATE DELEGATES—Continued

[Worldwide General Subject Codex Committees]

Codex Committee on Natural Mineral Waters
(Host Government—Switzerland)

Delegate	Dr. Terry C. Troxell, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–305), Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422.
Alternate Delegate	Ms. Shellee Davis, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–306), Washington, DC 20204, Phone #: (202) 205–4681, Fax #: (202) 205–4422.

Codex Committee On Sugars
(Host Government—United Kingdom)

Delegate	VACANT.
Alternate Delegate	Dennis M. Keefe, Office of Premarket Approval Center for Food Safety and Applied Nutrition, Food and Drug Administration 200 C Street, SW (HFS–206), Washington, DC 20204, Phone #: (202) 418–3113, Fax #: (202) 418–3131.

Codex Committee on Cereals, Pulses And Legumes [1]
(Host Government—United States)

Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Alternate Delegate	Mr. David Shipman, Deputy Administrator, Grain Inspection Packers and Stockyards Administration, U.S. Department of Agriculture, Room 1092, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3601, Phone #: (202) 720–9170, Fax #: (202) 720–1015.

Codex Committee on Soups and broths [1]
(Host Government—Switzerland)

Delegate	Mr. Charles Edwards, Director, Labeling, Products and Technology Standards Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 405, Cotton Annex, 300 C Street, SW, Washington, DC 20250–3700, Phone #: (202) 205–0675, Fax #: (202) 205–0080.
Alternate Delegate	Dr. Robert Post, Director, Labeling and Compounds Review Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 602, Cotton Annex, 300 C Street, SW, Washington, DC 20250–3700, Phone #: (202) 205–0279, Fax #: (202) 205–3625.

Codedx Committee on Vegetable proteins [1]
(Host Government—Canada)

U.S. Delegate	Dr. Wilda H. Martinez, Associate Deputy Administrator, Aqua Products and Human Nutrition, Sciences, U.S. Department of Agriculture, Agricultural Research Service, Room 107, B–005, Beltsville, MD 20705, Phone #: (301) 504–6275, Fax #: (301) 504–6699.
Alternate Delegate	Ms. Elizabeth J. Campbell, Acting Director, Office of Food Labeling, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–150), Washington, DC 20204, Phone #: (202) 205–4561, Fax #: (202) 205–4594,

Codex Committee on Meat Hygiene [1]
(Host Government—New Zealand)

Delegate	Dr. John Prucha, Assistant Deputy Administrator, International and Domestic Policy, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4866, South Agriculture Building, Washington, DC 20250–3700, Phone #: (202) 720–3473, Fax #: (202) 690–3856.
Alternate Delegate	Vacant.

Codex Committee on Processed Meat and Poultry Products [1]
(Host Government—Denmark)

U.S. Delegate	Mr. Daniel Engeljohn, Branch Chief, Standards Development Branch, Inspection Systems Development Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 405, Cotton Annex, 300 C Street, SW, Washington, DC 20250–3700, Phone #: (202) 205–0210, Fax #: (202) 205–0080.

LISTING OF U.S. DELEGATES AND ALTERNATE DELEGATES—Continued

[Worldwide General Subject Codex Committees]

Alternate Delegate	Mr. Charles Edwards, Director, Labeling, Products and Technology Standards Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 405, Cotton Annex, 300 C Street, SW, Washington, DC 20250–3700, Phone #: (202) 205–0675, Fax #: (202) 205–0080.
Joint U.N.E.C.E. Codex Alimentarius Groups of Experts Joint ECE/Codex Alimentarius Group of Experts on Standardization of Quick Frozen Foods [1]	
U.S. Delegate	Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20090–0247, Phone #: (202) 720–5021, Fax #: (202) 690–1527.
1Alternate Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Joint ECE/Codex Alimentarius Group of Experts on Standardization of Fruit Juices [1]	
U.S. Delegate	Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739.
Alternate Delegate	Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, Agriculture South Building, 1400 Independence Avenue, SW, Washington, DC 20090–0247, Phone #: (202) 720–5021, Fax #: (202) 690–1527.
Subsidiary Bodies of the Codex Alimentarius	
There are five regional coordinating committees: Coordinating Committee for Africa Coordinating Committee for Asia Coordinating Committee for Europe Coordinating Committee for Latin America and the Caribbean, and Coordinating Committee for North America and the South-West Pacific	
Contact	Mr. Patrick Clerkin, Director, U.S. Codex Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 205–7760, Fax #: (202) 720–3157.

[1] Adjourned sine die. The main tasks of these Committees are completed. However, the committees may be called to meet again if required.

Appendix 2—Timetable of Codex Sessions

(June 1997 Through June 1999)

1997:			
CX 702–44	Executive Committee of the Codex Alimentarius Commission (44th Session)	19–20 June	Geneva.
CX 701–22	CODEX ALIMENTARIUS COMMISSION (44th Session)	23–28 June	Geneva.
CX 731–7	Codex Committee on Fresh Fruits and Vegetables (7th Session)	8–12 September	Mexico City.
CX 712–30	Codex Committee on Food Hygiene (30th Session)	20–24 October	Washington, DC.
CX 727–11	Codex Regional Coordinating Committee for Asia (11th Session)	16–19 December	Chiang Rai.
1998:			
CX 733–6	Codex Committee on Food Import and Export Certification and Inspection (6th Session).	23–27 February	Melbourne.
CX 711–30	Codex Committee on Food Additives and Contaminants (30th Session)	9–13 March	The Hague.
CX 713–20	Codex Committee on Processed Fruits and Vegetables (19th Session)	16–20 March	Washington, DC.
CX 718–30	Codex Committee on Pesticide Residues (30th Session)	20–25 April	The Hague.
CX 719–21	Codex Regional Coordinating Committee for Europe (21st Session)	5–8 May	Madrid.
CX 703–3	Codex Committee on Milk and Milk Products (3rd Session)	18–22 May	Montevideo.
CX 714–26	Codex Committee on Food Labelling (26th Session)	25–29 May	Ottawa.
CX 702–45	Executive Committee of the Codex Alimentarius Commission (45th Session)	3–5 June	Rome.
CX 722–23	Codex Committee on Fish and Fishery Products (23rd Session)	8–12 June	Bergen.
CX 716–13	Codex Committee on General Principals (13th Session)	7–11 September	Paris.
CX 730–11	Codex Committee on Residues of Veterinary Drugs in Foods (11th Session)	14–17 September	Washington, DC.
CX 720–21	Codex Committee on Nutrition and Foods for Special Dietary Uses (21st Session).	21–25 September	Berlin.
CX 732–5	Codex Regional Coordinating Committee for North America and the South-West Pacific (5th Session).	6–9 October	TBA.

CX 712–31	Codex Committee on Food Hygiene (31st Session)	26–30 October	Washington, DC.
CX 707–13	Codex Regional Coordinating Committee for Africa (13th Session)	3–6 November	Harare.
CX 708–17	Codex Committee on Cocoa Products and Chocolate (17th Session)	16–18 November	Switzerland.
CX 719–6	Codex Committee on Natural Mineral Waters (6th Session)	19–21 November	Switzerland.
CX 715–22	Codex Committee on Methods of Analysis and Sampling (22nd Session)	23–27 November	Budapest.
CX 725–11	Codex Regional Coordinating Committee for Latin America and the Caribbean (11th Session).	8–11 December	Montevideo.
1999:			
CX 733–7	Codex Committee on Food Import and Export Certification and Inspection (7th Session).	22–26 February	TBA.
CX 731–8	Codex Committee on Fresh Fruits and Vegetables (8th Session)	1–5 March	Mexico City.
CX 709–16	Codex Committee on Fats and Oils (16th Session)	8–12 March	London.
CX 711–31	Codex Committee on Food Additives and Contaminants (31st Session)	22–26 March	The Hague.
CX 718–31	Codex Committee on Pesticide Residues (31st Session)	12–17 April	The Hague.
CX 714–27	Codex Committee on Food Labelling (27th Session)	19–23 April	Ottawa.
CX 716–13	Codex Committee on General Principles (14th Session)	26–30 April	Paris.
CX 702–46	Executive Committee of the Codex Alimentarius Commission (46th Session)	24–25 June	Rome.
CX 701–23	Codex Alimentarius Commission (23rd Session)	28 June–3 July	Rome.

Appendix 3—Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before or after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner which leaves a residue which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) toxological assessment of the pesticide and its residue, and

(b) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD)is the official recommended or authorized usage including withdrawal

periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Appendix 4

Part 1—Uniform Procedure for the Elaboration of Codex, Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies," to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5 [1]

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Appendix 4

Part 2—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies", shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Appendix 5—Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

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[1] Without prejudice to any decision that may be taken by the Commission at Step 5, the proposed draft standard may be sent by the Secretariat for government comment prior to its consideration at Step 5, when, in the opinion of the subsidiary body or other body concerned, the time between the relevant session of the Commission and the subsequent session of the subsidiary or other body concerned requires such actions in order to advance the work.

FORMAT FOR CODEX COMMODITY STANDARDS INCLUDING STANDARDS ELABORATED UNDER THE CODE OF PRINCIPLES CONCERNING MILK AND MILK PRODUCTS

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definitions are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors which are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on pages 93 to 96 of the Codex Procedural Manual and may take the following form:

"The following provisions in respect of food additives and their specifications as contained in section * * * of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.:

"*Name of additive, maximum level* (in percentage or mg/kg)."

Contaminants

(a) *Pesticide Residues*: This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants*: In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

"The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.:

"*Name of contaminant, maximum level* (in percentage or mg/kg)."

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given on pages 96 to 98 of the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

"The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene."

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, e.g. where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given on pages 91 to 93 of the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

"The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling."

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given on pages 99 to 102 of the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternative and included in this section either specifically or by reference. The following statement should also appear:

"The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling."

[FR Doc. 98–13981 Filed 5–26–98; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

AGENCY: Foreign Agricultural Service.

ACTION: Notice of determination of termination of existence of price conditions necessary for imposition of temporary duty on frozen concentrated orange juice from Mexico.

SUMMARY: Pursuant to Section 309(a) of the North American Free Trade Agreement Implementation Act of 1993 ("NAFTA Implementation Act"), this is a notification that for 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price.

FOR FURTHER INFORMATION CONTACT: Joseph Somers, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–3423.

SUPPLEMENTARY INFORMATION: The NAFTA Implementation Act authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under Section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive business days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term "daily price" means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the "Exchange"), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term "business day" means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange.

The term "trigger price" means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price. Whenever the price conditions are determined to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the **Federal Register** of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term "entered" means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period May 5–11, 1998, the daily price for frozen concentrated orange juice has exceeded the trigger price.

Issued at Washington, D.C. the 19th day of May 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 98–14006 Filed 5–26–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection: comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations for Multi-Family Housing.

DATES: Comments on this notice must be received by July 27, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mary Fox, Senior Loan Specialist, Multi-Family Housing Processing Division, RHS, United States Department of Agriculture, Stop 0782, 1400 Independence Ave., SW, Washington, DC 20250–0782, Telephone (202) 720–1606.

SUPPLEMENTARY INFORMATION:

Title: Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations.

OMB Number: 0575–0045.

Expiration Date of Approval: July 31, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under Section 514, 515, 516, and 521 of Title V of the Housing Act of 1949, as amended, to make initial and subsequent loans and grants to provide housing and related facilities for domestic farm labor. A loan only can be made to a farmowner, family farm partnership, family farm corporation, or an association of farmers whose farming operations demonstrate a need for farm labor housing and that is engaged in agricultural or aquacultural farming operations and which will own the housing and operate it on a nonprofit basis. A loan and/or grant can be made to public, private nonprofit organizations for domestic farm labor in areas where need exists. In some cases, rental assistance may be provided to eligible tenants.

RHS has the responsibility of assuring the public that funds for LH projects are financed to build, buy, improve or repair farm labor housing and related facilities. The facilities financed are to have decent, safe and sanitary living conditions and are managed and operated as mandated by Congress. 7 CFR part 1944, subpart D was issued to set forth the policies and procedures and delegation of authority for making initial and subsequent insured loans under Section 514 and grants under Section 516 to provide housing and related facilities for domestic farm labor and to assure that applicable laws and authorities are carried out as intended.

With the provisions of this regulation, RHS will be able to provide the financial assistance and necessary guidance to applicants in the development of their project proposals. It provides the Agency the capacity to meaningfully evaluate the feasibility of the proposed projects. RHS will be able to assure Congress and the general public that all LH projects will be operated for purposes that are intended, and for the benefit of those they are mandated to serve.

The required information is collected on a project-by-project basis and is done so in accordance with the amended Housing Act of 1949, so that RHS can provide guidance and be assured of compliance with terms and conditions of loan, grant, and or subsidy agreements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 hours per response.

Respondents: Farms, Not-for-profit Institutions, and State, Local or Tribal Government.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 7.5.

Estimated Total Annual Burden on Respondents: 8,610 hours.

Copies of this information collection can be obtained from Michele Brooks, Regulations and Paperwork Management Branch, Support Services Division, at (202) 692–0036.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Michele Brooks, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0743, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 14, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 98–14008 Filed 5–26–98; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Secretary's 2000 Census Advisory Committee

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463, as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a meeting of the Commerce Secretary's 2000 Census Advisory Committee. The meeting will convene on June 11–12, 1998, in the Francis Amasa Walker Conference Center, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746. The Committee will continue to review and discuss Dress Rehearsal operations and procedures as well as Census 2000,including plans for data products. The Committee also will discuss the results of the June 3 Joint Advisory Committee Meeting on the tabulation of racial data from Census 2000.

DATES: On Thursday, June 11, 1998, the meeting will begin at 8:45 a.m. and adjourn for the day at 4:30 p.m. On Friday, June 12, 1998, the meeting will begin at 8:45 a.m. and adjourn at 4:15 p.m.

ADDRESSES: The meeting will take place in the Francis Amasa Walker Conference Center, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Anyone wishing additional information about this meeting, or who wishes to submit written statements or questions, may contact Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 3039, Federal Building 3, Washington, DC 20233, telephone 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The Committee is composed of a Chair, Vice-Chair, and up to thirty-five member organizations, all appointed by the Secretary of Commerce. The Committee will consider the goals of Census 2000 and user needs for information provided by that census. The Committee will provide an outside user community perspective about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Committee shall consider all aspects of the conduct of the Census 2000 of Population and Housing and shall make recommendations for improving that census.

A brief period will be set aside on Friday afternoon for public comment and questions. However, individuals with extensive questions or statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Maney at 301–457–2308, TDD 301–457–2540.

Dated: May 19, 1998.

Robert J. Shapiro,

Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 98–14004 Filed 5–26–98; 8:45 am]

BILLING CODE 4510–07–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Board of Overseers

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on Monday, June 8, 1998, from 8:30 a.m. to 4 p.m. The Board of Overseers consists of ten members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meeting on June 8, 1998, will be for the Board of Overseers to discuss and review information received from the National Institute of Standards and Technology with the members of the Judges Panel of the Malcolm Baldrige National Quality Award. The Agenda will include reviewing the roles and responsibilities of Judges and Overseers; Award marketing efforts; discussion of proposed program changes to include two award/category cap; health care and education awards including fund raising and 1999 criteria; and 1998 Award criteria changes and future criteria evolution.

DATE: The meeting will convene June 8, 1998 at 8:30 a.m., and adjourn at 4 p.m. on June 8, 1998.

ADDRESS: The meeting will be held at the National Institute of Standards and Technology, Administration Building Conference Room (seating capacity 36, includes 24 participants), Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

Dated: May 19, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13942 Filed 5–26–98; 8:45 am]

BILLING CODE 3510–30–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Tuesday, June 9, 1998. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review final judging interaction, survey of applicants and judging process improvement discussions, and to begin the review process of the 1998 Award applicants to be recommended as Award winners. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene June 9, 1998, at 8:30 a.m. and adjourn at 3:00 p.m. on June 9, 1998. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Conference Room, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 19, 1998, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: May 19, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–13946 Filed 5–26–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980324076–8076–01; I.D. 031798B]

RIN 0648–ZA38

Halibut and Sablefish Fisheries Quota-Share Loan Program; Final Program Notice and Announcement of Availability of Federal Assistance

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announcement of availability of Federal assistance.

SUMMARY: NMFS announces the availability of long-term loans for financing or refinancing the purchase cost of quota share (QS) in the halibut and sablefish fisheries off Alaska. Only entry-level fishermen or fishermen who fish from small vessels are eligible for these loans.

DATES: NMFS will accept applications only during an application open season. The application open season will begin on June 10, 1998 and will end on June 24, 1998. All loan funds available for FY 1998 must be committed before September 30, 1998.

ADDRESSES: Applicants should send loan applications to the Northwest Financial Services Branch, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 7600 Sand Point Way, NE (BIN C15700), Building No. 1, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Kimberly Berryhill at (206) 526–6122 (voice) or (206) 526–6306 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Sustainable Fisheries Act (SFA) (P.L. 104–297) amended section 1104A(a)(7) of Title XI of the Merchant Marine Act (46 U.S.C. App. 1274) and section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) to authorize financing and refinancing the cost of entry-level fishermen and fishermen who fish from small boats purchasing individual fishing quota (IFQ).

Although the SFA indicates that loans are available for purchasing IFQ, the basic fishing permit for the halibut and sablefish fisheries is termed "QS" rather than "IFQ." In these fisheries, IFQ is an annual allocation of the pounds of fish that each QS holder may harvest. Consequently, NMFS interprets the SFA to allow loans for the cost of purchasing basic fishing permits rather than annual harvest allocations under those permits. These loans will finance the purchase of halibut and sablefish QS rather than IFQ.

Title XI of the Merchant Marine Act, 1936, is the credit authority under which NMFS will make these loans. This authority is subject to the Federal Credit Reform Act of 1990 (FRCA) (2 U.S.C. 661). This Act requires estimated net loan losses (FCRA cost) to be appropriated in cash at the time Congress authorizes annual loan ceilings.

FY 1998 appropriations for the U.S. Department of Commerce included a $100,000 advance to fund the FCRA cost of this loan program during its first year (from October 1, 1997, through September 30, 1998).

The amount of annual FCRA credit authority available is a ratio of the FCRA cost rate and the FCRA cost appropriated. NMFS preliminarily estimates the FCRA cost rate of these loans to be 2 percent. Consequently, the $100,000 appropriated for this loan program's FY 1998 FCRA cost will preliminarily support a $5,000,000 credit authority ($5,000,000 times 0.2 equals $100,000).

The FY 1998 credit authority may not support more than 20 to 35 loans. FY 1998 loan demand will most likely exceed supply. NMFS will, to the maximum extent possible, process loan applications (up to the maximum FY 1998 credit authority available) in the order in which applicants submit them during an application open season. For the specific dates upon which the application open season begins and ends, see the DATES heading at the beginning of this document. All applications must be submitted by first-class U.S. mail. No other form of application submission is acceptable. To reduce the open-season paperwork burden, applicants need complete only a small portion (Section A) of the

application form at the time of open season application.

These loans will, until further notice, continue to be available in any year for which adequate FCRA credit authority exists.

SFA amendments to section 303(d)(4) and section 304(d)(2) of the Magnuson-Stevens Act authorize the FCRA cost of IFQ lending to be funded by up to 25 percent of the IFQ and Community Development Quota (CDQ) fee revenue from the IFQ fishery involved. Presumably, a portion of halibut and sablefish fees from this revenue source will, in the future, fund the annual FCRA cost of these loans for purchasing halibut and sablefish QS.

B. Catalog of Federal Domestic Assistance

The program of which halibut and sablefish QS loans are a part is listed in the "Catalog of Federal Domestic Assistance" under number 11.415, Fisheries Obligation Guarantee Program.

II. Definitions

Applicant means either an entry-level fisherman who applies for a loan or a fisherman who fishes from a small vessel who applies for a loan.

Application means an application for a loan from an applicant.

Application form means NOAA Form 88–1 (bearing OMB approval No. 0648–0082 and expiring on September 30, 1998).

Base year means the year in which an applicant applies for a loan.

Entry-level fisherman means a fisherman who:

(1) Does not own any QS;

(2) Applies for a loan to purchase QS that involves an IFQ total not greater than 8,000 lb (3,628.7 kg) during the base year; and

(3) Will be a crew member aboard the vessel that harvests the IFQ for the loan QS.

Fisherman who fishes from a small vessel means a fisherman:

(1) Who applies for a loan to purchase halibut or sablefish QS previously assigned under § 676.20(c)(2), sablefish QS previously assigned under § 676.20(c)(3), halibut QS previously assigned under § 676.20(c)(4), and/or halibut QS previously assigned under § 676.20(c)(5);

(2) Whose aggregate ownership of QS (including the loan QS) will involve an IFQ not greater than 50,000 lb (22,679.6 kg) during the base year;

(3) Who will be a crew member aboard the vessel that harvests the IFQ for the aggregate QS such fisherman owns (including the loan QS) at the time the loan QS transfers to such fisherman;

(4) Who has, for at least a total of 150 days at any point in the past, been a crewman aboard any vessel in any U.S. commercial fishery; and

(5) Who does not own, in whole or in part, any vessel of the type involved in the previous assignment of halibut or sablefish QS under § 676.20(c)(1) or (c)(2).

Halibut/sablefish means halibut, sablefish, or halibut and sablefish from the QS fishery off Alaska for halibut and/or the QS fishery off Alaska for sablefish.

IFQ means the annual catch limit of halibut/sablefish that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the total allowable catch of halibut/sablefish.

Loan means a program loan for financing or refinancing the cost of purchasing halibut/sablefish QS.

Loan QS means the QS purchased with the proceeds of a loan.

NMFS means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce.

Notice date means the date this document is published in the Federal Register.

NWFSB means the Northwest Financial Services Branch (F/SF23), National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 7600 Sand Point Way, NE (BIN C15700), Building No. 1, Seattle, WA 98115.

Open season means the period beginning and ending on the dates specified under the DATES heading at the beginning of this document.

Program means the halibut/sablefish loan program described in this document.

QS means a halibut/sablefish permit, the face amount of which is used as a basis for the annual calculation of a person's IFQ.

RAM Program means the Restricted Access Management activities in the Alaska Regional Office of the National Marine Fisheries Service.

§ 676.20(c) means § 676.20(c) of Title 50, Code of Federal Regulations (as revised as of October 1, 1995).

Title XI means Title XI of the Merchant Marine Act, 1936 (the statutory credit authority under which lending the purchase cost of IFQ is but one of the eligible fisheries loan purposes).

III. Eligible Applicants

Any entry-level fisherman or fisherman who fishes from a small vessel and is a U.S. citizen is eligible to apply for a loan.

IV. Loan Purpose

(1) *General.* The loan purpose is financing or refinancing the cost of purchasing QS.

(2) *Fishermen who fish from small vessels.* The loan QS must be: halibut or sablefish QS previously assigned under § 676.20(c)(2), sablefish QS previously assigned under § 676.20(c)(3), halibut QS previously assigned under § 676.20(c)(4), and/or halibut QS previously assigned under § 676.20(c)(5). Applicants must be eligible to receive (hold) the loan QS. The amount of QS any applicant will own at the time the loan QS transfers to the applicant may not have involved an aggregate IFQ greater than 50,000 lb (22,679.6 kg) during the base year. The IFQ for such QS during any year other than the base year is irrelevant.

If, for example, an applicant who owns QS that involved a 20,000–lb (9,071.8–kg) IFQ during the base year wants a loan to finance the purchase of additional QS, the loan QS may not have involved more than an additional 30,000–lb (13,607.8–kg) IFQ during the base year.

Applicants may not own, in whole or in part, any vessel of the type involved in the previous assignment of halibut or sablefish QS under § 676.20(c)(1) or (c)(2).

Although CFR part 676 is not the CFR part that presently regulates halibut/sablefish, § 676.20(c) is the section that the Sustainable Fisheries Act requires NMFS to use for the matters involved in this notice. NWFSB can provide applicants copies of § 676.20(c) and explain how this section controls the loan QS.

Each applicant must be a crewman aboard the vessel that will harvest the total IFQ for all QS that the applicant owns at the time the loan QS transfers to applicant.

(3) *Entry-level fishermen.* The loan QS may be of any type for which the RAM Program will issue a Quota Share Certificate in the purchaser's name. The loan QS may not have involved an IFQ greater than 8,000 lb (3,628.7 kg) during the base year. The IFQ for such QS during any year other than the base year is irrelevant.

(4) *Applicants' indirect QS or vessel ownership interests.* NMFS will count against the poundage ceilings in paragraphs IV(2) and (3) of this notice whatever portion of QS interests (and the base-year IFQ for them) applicants indirectly own by virtue of owning corporations, partnerships, or other forms of business organizations that directly own QS. For example, if an

applicant owns one-third of the stock in a corporation that owns QS with a base-year IFQ of 30,000–lb (13,607.8–kg), NMFS will, for the purposes of the ceilings, regard the applicant as also owning QS with a base-year IFQ of 10,000 lb (4,535.9 kg).

NMFS will also, for the purpose of the vessel ownership restriction in paragraph IV(2) of this notice, consider that applicants indirectly have an ownership interest in vessels which are owned by corporations, partnerships, or other forms of business organization in which applicants own any corporate shares, partnership interests, or other interests. For example, if an applicant owns one share of stock in a corporation that owns a vessel of the type involved in the previous assignment of halibut or sablefish QS under § 676.20(c)(1) or (c)(2), NMFS will consider the applicant to partly own such a vessel. Such an applicant will not be eligible for a loan.

(5) *Refinancing.* Applicants may refinance with the proceeds of loans any existing debts which previously financed the purchase cost of QS, provided that the QS purchases would themselves have been eligible for program financing if the program had been available at the time of QS purchase. In the instance of refinancing only, NMFS will consider loans in amounts up to 80 percent of QS' current market value (rather than original purchase cost), provided that loans will, in no event, be for an amount greater than the amount required to fully repay the QS debt being refinanced.

V. Loan Terms and Conditions

(1) *Down payment.* Applicants financing (rather than refinancing) QS purchase cost must fund 20 percent of the purchase cost from funds other than loan proceeds. If the current market value of QS whose purchase cost is being refinanced (rather than financed) is higher than its original purchase price, applicants may need less, or no, down payment.

(2) *Loan amount.* The amount of a loan that finances (rather than refinances) QS purchase cost may not exceed 80 percent of QS purchase cost. Loan amounts may, however, exceed 80 percent if the current market value of QS whose purchase cost is being refinanced (rather than financed) is higher than its original purchase price.

(3) *Interest rate.* Each loan's annual interest rate will be 2 percent higher than the U.S. Treasury's cost of borrowing public funds of an equivalent maturity. For example, the annual loan interest rate would, on February 20, 1998, have been approximately 7.9 percent for a 20-year maturity. Interest is simple interest.

(4) *Maturity.* Loan maturity may not exceed 25 years, but may be shorter depending on credit and other considerations.

(5) *Repayment.* Repayment will generally be by equal quarterly installments of principal and interest.

(6) *Security.* The loan QS will, in every case, secure the loan. NMFS will require all parties with significant ownership interests in corporate or partnership applicants to personally guarantee loan repayment. Some credit risks may require additional security.

VI. Application

(1) *Open Season.* NMFS will accept for processing only those applications submitted during the open season. NMFS will not accept applications submitted before or after the open season.

(2) *Method of submission.* NMFS will accept only those applications submitted by first-class U.S. mail. NMFS will not accept applications submitted by any other method (including, but not limited to: any form of U.S. mail other than first class mail, any other delivery service, personal delivery, delivery by facsimile, etc.).

(3) *Submission address.* NMFS will accept only those applications addressed directly to NWFSB at the mailing address listed both under the ADDRESSES heading of this document and in this document's definition of the term "NWFSB".

(4) *Date of submission.* The date of each application's submission will be the date on which the U.S. Postal Service postmarks the envelope containing the application. The sole exception will be applications that NWFSB first receives later than five business days after the last day of the open season (even though applicants might have submitted such applications before the end of the open season). Applications subject to this exception will have the same submission date as the last day of the open season.

(5) *Processing Priority.* All applications submitted on each day of the open season will have a processing priority higher than all applications submitted on every later day in the open season. Relative processing priority among applications submitted on the same date will be decided by random selection from among all applications submitted on that date. The sole exception will be applications that NWFSB first receives later than five business days after the last day of the open season (even though applicants might have submitted such applications before the end of the open season). Applications subject to this exception will have the lowest priority of all applications received on the last day of the open season, and the date and time at which NWFSB actually first receives them will determine their relative priority.

Processing priority does not mean that applications will be approved. It merely means that NWFSB will process applications in the order of their assigned processing priority.

(6) *Application form.* All applicants must use the application form. NMFS will not accept any other form of application. Open-season applicants need complete only Section A of the application form. After the open season, NWFSB will contact each applicant whose processing priority makes the applicant's application eligible for processing as a

FY 1998 loan and begin a standard due-diligence credit investigation. The application form is available from NWFSB. NWFSB will send only Section A of the application form to parties requesting the application form for the purpose of submitting an open-season application. NWFSB can, upon request, do this by facsimile. On the notice date, NWFSB will immediately do so for all parties who have previously expressed an interest in applying for a loan.

(7) *Notification of processing priority.* NWFSB will, within 7 working days after the last day of the open season, enumerate the processing priority of all open-season applications that NWFSB received. NWFSB will immediately thereafter notify each open-season applicant of its processing priority and the relative likelihood of its application being processed as a FY 1998 loan. NWFSB will then accomplish a due-diligence credit investigation for each application whose processing priority (and other factors) makes it eligible for processing as a FY 1998 loan.

(8) *Application fee.* The application fee is 0.5 percent of the loan amount for which a successful open-season applicant applies. Application fees will be due only for those open-season applications that NWFSB actually accepts for processing as FY 1998 loans. No application fee is due for any open-season application that NWFSB does not accept for processing as a FY 1998 loan. Although the application fee is due at the time of application, it is not payable until NMFS requests its payment. NMFS will not request application fee payment until after it has accepted an application for processing as a FY 1998 loan and an application review and/or interview with the applicant and other necessary

parties prospectively indicates the applicant's compliance with basic loan eligibility and credit criteria. Half the application fee is fully earned at the time NMFS requests its payment. NMFS will not return this half regardless of subsequent application disposition. The other half is fully earned only when NMFS issues an approval in principal letter approving an application. Once it has issued an approval in principle letter, NMFS will not return the second half of the application fee.

(9) *Transfer eligibility certificate.* Transfer eligibility certificates certify that parties are eligible to receive (hold) QS. The RAM Program issues these certificates to prospective QS purchasers. If, at the time of application, an applicant does not already have a transfer eligibility certificate, NWFSB will advise the applicant how to apply for one. If applicants cannot get transfer eligibility certificates for the QS they prospectively intend to purchase, pursuing the loan application process further is pointless. Applicants who do not obtain appropriate transfer eligibility certificates promptly enough may lose their processing priority to applicants who do.

VII. Loan Processing

NMFS will, to the maximum extent possible, process loan applications in the order of their submission during the open season. If, however, applicants cannot, in NWFSB's discretion, reasonably promptly comply with application processing requirements, they may lose their processing priority to applicants who can. NWFSB will, from time to time, specify compliance time requirements that are responsive to the administrative need to have all credit authority fully obligated before the end of FY 1998. Applicants must comply or lose their application priority to other applicants who will.

NWFSB will conduct a standard due-diligence credit investigation. This should be a relatively simple and quick process. Once NMFS has made a due-diligence credit decision, loan approval requires certain internal clearances that will add some time to processing, but NMFS will try to accelerate processing as much as possible. Upon formal loan approval, NMFS will issue an approval in principle letter for the applicant's acceptance.

VIII. Loan Closing

NMFS will establish all loan terms and conditions, prepare all closing documents, close all loans, and record all security interests. NMFS should generally have no need for applicants to hire attorneys for any loan purpose, but applicants may do so if they wish. Generally, the only closing costs to applicants will be the cost of doing title/lien searches on, or recording security interests in, loan QS. NWFSB may need to do title/lien searches, and record security interests, in several different jurisdictions.

IX. Title XI and 50 CFR Part 253

The general rules implementing Title XI are 50 CFR part 253, subpart B. Loans will be subject to so much of the other provisions of Title XI and of its implementing rules as can reasonably be applied to loans involving the purchase under this notice of QS (rather than the purchase of fishing vessels, fisheries shoreside facilities, or aquacultural facilities).

X. Administrative Requirements

(1) In accordance with the provisions of the Debt Collection Improvement Act of 1996, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan guarantee if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury.

(2) Applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(3) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(4) Applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

i. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

ii. *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

Classification

Neither the Administrative Procedure Act nor any other law requires prior notice and opportunity for public comment about this notice (which concerns loans). Consequently, the Regulatory Flexibility Act does not require a regulatory flexibility analysis.

This notice is not significant for purposes of E.O. 12866.

This document contains a collection-of-information requirement subject to the Paperwork Reduction Act. OMB has, under control number 0648–0012, approved the collection of this information.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Dated: May 20, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13979 Filed 5–26–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. 980415097–8097–01]

RIN 0648–ZA40

Regional Nonindigenous Species Research and Outreach and Improved Methods for Ballast Water Treatment and Management: Request for Proposals for 1998

AGENCIES: National Sea Grant College Program, National Oceanic and Atmospheric Administration, Department of Commerce and Fish and Wildlife Service, Department of Interior.

ACTION: Notice of request for proposals.

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SUMMARY: The purpose of this notice is to advise the public that the National Sea Grant College Program (Sea Grant) and the U.S. Fish and Wildlife Service (USFWS) are entertaining proposals to participate in innovative research, outreach, and demonstration projects that address the problems of nonindigenous species in U.S. coastal waters. Sea Grant will support regional projects to prevent and/or control nonindigenous species invasions in the marine environment. Sea Grant and the Service will support demonstration projects to improve ballast water treatment and management in U.S. marine waters in general (Service), and in Chesapeake Bay in particular (Sea Grant).

DATES: Proposals must be received by 4:00 p.m. EDT on July 8, 1998.

ADDRESSES: Proposals should be addressed to: National Sea Grant College Program, R/SG, Attn: Nonindigenous Species Competition, Room 11877, NOAA, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Leon M. Cammen, Nonindigenous Species Coordinator, or Mary Robinson, Secretary, National Sea Grant Office, 301–713–2435; facsimile 301–713–0799; or Robert A. Peoples, U.S. Fish and Wildlife Service, 703–358–2025; facsimile 703–358–2044.

SUPPLEMENTARY INFORMATION:

I. Program Authority

Authority: 16 U.S.C. 4701 *et seq.*; 33 U.S.C. 1121 *et seq.*

Catalog of Federal Assistance Numbers: 11.417, Sea Grant Support; 15.FFA, Fish and Wildlife Management Assistance.

II. Program Description

Background

Nonindigenous species introductions are increasing in frequency and causing substantial damage to the Nation's environment and economy. Although the most prominent of these has been the zebra mussel, many other nonindigenous species have been introduced and have truly become a nationwide problem that threatens many aquatic ecosystems. While some intentional introductions may have had beneficial effects, there are many other nonindigenous species already present in U.S. waters, or with the potential to invade, that may cause significant damage to coastal resources and the economies that depend upon them. In response, the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 *et seq.*) established a framework for the Nation to address the problems of aquatic nuisance species invasions of coastal and Great Lakes ecosystems.

Although problems such as the zebra mussel and the sea lamprey within the Great Lakes have received the most attention, invasions of nonindigenous species in coastal marine environments are an increasing and serious threat. The National invasive Species Act of 1996 (Pub. L. 104–332, 110 Stat. 4073) recognized this by calling for Federal funding to support aquatic nuisance species prevention and control in five regions of the U.S. coast: Chesapeake Bay, the Gulf of Mexico, the Pacific coast, the Atlantic coast, and the San Francisco Bay—Delta estuary.

In addition, the Act recognized the serious threat posed by ballast water discharge in causing new invasions and called for ballast water management demonstration programs. A 1996 National Research Council study of the ballast water problem, "Stemming the Tide," concluded that with the growth of global shipping, and the changes in modern shipping practices, introductions of nonindigenous species through ballast water discharge were likely to remain a serious problem. The study called for the development of improved technology for the management of ballast water to eliminate this threat to the Nation's ecosystems. A demonstration project is currently underway in the Great Lakes testing filtration of ballast water as method of reducing introductions, but it is acknowledged that there is unlikely to be a single solution that is acceptable for all modes of shipping operations and classes of vessels.

Funding Availability and Priorities

The National Sea Grant College Program encourages proposals that address one of the following two program areas:

(1) Regional Research and Outreach to Prevent and Control Nonindigenous Species Invasions in Marine Environments

Projects should provide an "end-to-end" approach that integrates the research with the outreach necessary to ensure that the results will be applied to address the problem in that region. Projects must be targeted toward one (or more) of the following regions: Chesapeake Bay, the Gulf of Mexico, the Pacific coast, the Atlantic coast, and the San Francisco Bay-Delta estuary. Possible topics include (but are not limited to): identification of vectors of introduction, development of cost-effective, realistic methods of prevention; development of selective, effective controls that minimize adverse ecological/environmental impacts—engineering (redesigning water intakes, etc.), physical (scraping, filtering, etc.), chemical (biocides, antifoulants, etc.), biological (parasites, predators, etc.), and/or physicochemical (heat, salinity, pH, etc.); and identification of mechanisms for further dispersal of individual established species that will lead to the development of safeguards and protocols to prevent and/or slow the spread of nonindigenous species to uninfested areas.

A total of $420,000 is available for this activity in FY1998; an additional $425,000 will be made available in FY1999 if appropriated. Proposals may be submitted for one or two years of activity; the second year of funding is contingent upon availability of funds and submission of an annual report showing satisfactory progress. Project activities should include identified milestones for each project year. Proposals may request up to $140,000 per year and must include additional matching funds equivalent to 33% of the Federal funds requested; for example, a proposal requesting a total of $270,000 for two years would have to include at least an additional $90,000 in matching funds. The total dollar amount of indirect costs proposed in an application under this program area must not exceed the indirect cost rate negotiated and approved by the cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less. It is anticipated that from three to five projects will be supported; no more than one project will be funded in each region.

(2) Chesapeake Bay Ballast Water Management

Research to develop workable and effective methods to eliminate ballast water discharge as a source of nonindigenous species introductions without imposing undue hardships on the shipping industry. Possible approaches include (but are not limited to) development and/or demonstration of technologies for treatment or management of ballast water on-board ship or for on-shore management. Projects that include on-vessel or on-shore demonstrations of feasibility will be given priority. Projects must be clearly targeted toward addressing ballast water management in Chesapeake Bay, but investigators located outside the Chesapeake Bay region may participate if all demonstrations are carried out on Chesapeake Bay.

A total of $500,000 is available for this activity in FY1998. Proposals are limited to one year of funding, but activities may extend for up to two years; an annual report showing satisfactory progress must be submitted at the end of the first year. Project activities should include identified milestones for each project year. Proposals may request up to the full $500,000; matching fund are encouraged, but not required. The total of dollar amount of indirect costs proposed in an application under this program area must not exceed the indirect cost rate negotiated and approved by the cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

The U.S. Fish and Wildlife Service encourages proposals that address the following program area:

(3) National Ballast Water Management

Research to develop workable and effective methods to eliminate ballast water discharge as a source of nonindigenous species introductions without imposing undue hardships on the shipping industry. Possible approaches include (but are not limited to) development and/or demonstration of technologies for treatment or management of ballast water on-board ship or for on-shore management. Projects may be carried out in any U.S. waters except Chesapeake Bay.

A total of $150,000 is available for this activity in FY1998; support will be made available at the same level in FY1999 and FY2000 if funds are appropriated. Proposals may request up to three years of funding; the second and third years of funding are contingent upon availability of funds and submission of an annual report showing satisfactory progress. Project activities may be phased in and should include identified milestones for each project year. Proposals may request up to the full $150,000; matching funds are encouraged, but not required. For proposals submitted under this program area only, indirect costs may not exceed 15% of direct costs.

III. Eligibility

Applications requesting support under the "Regional Research and Outreach to Prevent and Control Nonindigenous Species Invasions in Marine Environments" program area are restricted to universities and non-Federal research institutions. Applications requesting support under the "Chesapeake Bay Ballast Water Management" or "National Ballast Water Management" program areas may be submitted by individuals; public or private corporations, partnerships, or other associations or entities (including institutions of higher education, institutes, or non-Federal laboratories), or any State, political subdivision of a State, or agency or officer thereof.

IV. Evaluation Criteria

The evaluation criteria for proposals submitted for support under the "Regional Research and Outreach to Prevent and Control Nonindigenous Species Invasions in Marine Environments" program area are:

(1) Impact of proposed project (50%): Significance of the nonindigenous species problem that will be addressed; the effect this activity will have on reducing the impact of nonindigenous species on the environment and/or the economy, or the need for this activity as a necessary step toward such a reduction in impact.

(2) Scientific or Professional Merit (20%): Degree to which the activity will advance the state of the science or discipline through use and extension of state-of-the-art methods.

(3) User Relationships (15%): Degree to which potential users of the results of the proposed activity has been involved in planning the activity, will be involved in the execution of the activity, and/or are providing matching funds.

(4) Innovativeness (10%): Degree to which new approaches to solving problems and exploiting opportunities in resource management or development, or in public outreach on such issues will be employed; alternatively, the degree to which the activity will focus on new types of important or potentially important resources and issues.

(5) Qualifications and Past Record of Investigators (5%): Degree to which investigators are qualified by education, training, and/or experience to execute the proposed activity; record of achievement with previous funding.

The evaluation criteria for proposals submitted for support under the "Chesapeake Bay Ballast Water Management" and "National Ballast Water Management" program areas are:

(1) Impact of proposed project (40%): Potential effectiveness of ballast water treatment technologies or practices in reducing introductions of nonindigerous species.

(2) Field-Scale Demonstration (10%): Inclusion of a field-scale demonstration of the proposed ballast water treatment technology or practices.

(3) Scientific or Professional Merit (20%): Degree to which the activity will advance the state of the science or discipline through use and extension of state-of-the-art methods.

(4) User Relationships (15%): Degree to which potential users of the results of the proposed activity have been involved in planning the activity, will be involved in the execution of the activity, and/or are providing matching funds.

(5) Innovativeness (10%): Degree to which new approaches to solving problems and exploiting opportunities in resource management or development, or in public outreach on such issues will be employed; alternatively, the degree to which the activity will focus on new types of important or potentially important resources and issues.

(6) Qualifications and Past Record of Investigators (5%): Degree to which investigators are qualified by education, training, and/or experience to execute the proposed activity; record of achievement with previous funding.

V. Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by one of two independent peer review panels consisting of government, academic, and industry experts; one panel will review the Regional Research Proposals and a second panel will review the Ballast Water Management proposals. These panel members will provide individual evaluations on each proposal, but there will be no consensus advice. Their recommendations and evaluations will be considered by the Program Managers in the final selection. Those proposals ranked by the panel as "not recommended for funding" will not be given further consideration. For the proposals rated either Excellent, Very Good or Good, the Sea Grant and USFWS Program Managers will: (a) ascertain which proposals meet the objectives, fit the criteria posted, and do not substantially duplicate other projects that are currently funded by NOAA or USFWS or are approved for funding by other federal agencies, hence, awards may not necessarily be made to the highest-scored proposals; (b) select the proposals to be funded; (c) determine which components of the selected projects will be funded; (d) determine the total duration of funding for each proposal; and (e) determine the amount of funds available for each proposal. No more than one "Regional Research" project will be funded from any single region, but this limit will not be applied to the "Ballast Water" competitions. Investigators may be asked to modify objectives, work plans,

or budgets prior to final approval of the award. Subsequent grant administration procedures will be in accordance with the individual policies of the awarding agency. A summary statement of the scientific review by the peer panel will be provided to each applicant.

VI. Instructions for Application

General Guidelines

The ideal proposal attacks a well-defined problem that will be or is a significant societal issue. The organization or people whose task it will be to make related decisions, or who will be able to make specific use of the projects results, will have been identified and contacted by the Principal Investigator(s). The project will show an understanding of what constitutes necessary and sufficient information for responsible decision-making or for applied use, and will show how that information will be provided by the proposed activity, or in concert with other planned activities.

Research projects are expected to have: a rigorous, hypothesis-based scientific work plan, or a well-defined, logical approach to address an engineering problem; a strong rationale for the proposed research; and a clear and established relationship with the ultimate users of the information. Research undertaken jointly with industry, business, or other agencies with interest in the problem will be seen as being meritorious. Their contribution to the research may be in the form of collaboration, in-kind services, or dollar support. Projects that are solely monitoring efforts are not appropriate for funding.

What To Submit

Each proposal should include the items listed below. All pages should be single- or double-spaced, typewritten in at least a 10-point font, and printed on metric A4 (210 mm x 297 mm) or 8½" x 11" paper. Brevity will assist reviewers and program staff in dealing effectively with proposals. Therefore, the Project Description may not exceed 15 pages. Tables and visual materials, including charts, graphs, maps, photographs and other pictorial presentations are included in the 15-page limitation. Conformance to the 15-page limitation will be strictly enforced. All information needed for review of the proposal should be included in the main text; no appendices are permitted.

(1) Signed title page: The title page should be signed by the Principal Investigator and the institutional representative and should clearly identify the program area being addressed by starting the project title with either "Regional Research and Outreach", "Chesapeake Bay Ballast Water", or "National Ballast Water" as appropriate. The Principal Investigator and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2) Project Summary: This information is very important. Prior to attending the peer review panel meetings, some of the panelists may read only the project summary. Therefore, it is critical that the project summary accurately describe the research being proposed and convey all essential elements of the research. The project summary should include: 1. Title: Use the exact title as it appears in the rest of the application. 2. Investigators: List the names and affiliations of each investigator who will significantly contribute to the project. Start with the Principal Investigator. 3. Funding request for each year of the project, including matching funds if appropriate. 4. Project Period: Start and completion dates. Proposals should request a start date of October 1, 1998, or later. 5. Project Summary: This should include the rationale for the project, the scientific or technical objectives and/or hypotheses to be tested, and a brief of summary of work to be completed.

(3) Project Description (15-page limit): (a) Introduction/Background/ Justification: Subjects that the investigator(s) may wish to include in this section are: a) current state of knowledge; b) contributions that the study will make to the particular discipline or subject area; and c) contributions the study will make toward addressing the problem of nonindigenous species.

(b) Research or Technical Plan: a) Objectives to be achieved, hypotheses to be tested; b) Plan of work—discuss how stated project objectives will be achieved; and c) Role of project personnel.

(c) Output: Describe the project outputs that will enhance the Nation's ability to manage and control nonindigenous species impacts.

(d) Coordination with others Program Elements: Describe any coordination with other agency programs or ongoing research efforts. Describe any other proposals that are essential to the access of this proposal.

(4) Budget and Budget Justification: There should be a separate budget for each year of the project as well as a cumulative annual budget for the entire project. Applicants are encouraged to use the Sea Grant Budget Form 90–4, but may use their own form as long as it provides the same information as the Sea Grant form. Subcontracts should have a separate budget page. Matching funds must be indicated if required; failure to provide adequate matching funds will result in the proposal being rejected without review. Applicants should provide justification for all budget items in sufficient detail to enable the reviewers to evaluate the appropriateness of the funding requested. For applications submitted for the "Regional Research and Outreach to Prevent and Control Nonindigenous Species Invasions in Marine Environments" and the "Chesapeake Bay Ballast Water Management" program areas, the total dollar amount of indirect costs must not exceed the indirect cost rate negotiated and approved by the cognizant Federal agency prior to the proposed effective date of the award or 1000 percent of the total proposed direct costs dollar amount in the application whichever is less. For proposals submitted for the "National Ballast Water Management" program area only, indirect costs may not exceed 15% of direct costs. The Sea Grant Budget Form 90–4 is available through the World Wide Web (www.mdsg.umd.umd.edu/NSGO/research/nonindigenous/RFP98.html) or form Dr. Leon Cammen at the National Sea Grant Office (phone: 301–713–2435 x136 or e-mail: leon.cammmen@noaa.gov).

(5) Current and Pending Support: Applicants must provide information on all current and pending support for ongoing projects and proposals, including subsequent funding in the case of continuing grants. All current project support from whatever source (e.g., Federal, State or local government agencies, private foundations, industrial or other commercial organizations) must be listed. The proposed project and all other projects or activities requiring a portion of time of the principal investigator and other senior personnel should be included, even if they receive no Federal salary support from the project(s). The number of person-months per year to be devoted to the projects must be stated, regardless of source of support. Similar information must be provided for all proposals already submitted or submitted concurrently to other possible sponsors, including those within NOAA and the USFWS.

(6) Vitae (2 pages maximum per investigator).

(7) Research Protocol (if appropriate): Research activities funded under this

program must not accelerate the spread of nonindigenous species to non-infested watersheds. Therefore, investigators whose laboratories or research study sites are in currently uninfested areas must adopt procedures for handling the particular nonindigenous species that will prevent its release into the environment. Such proposals must contain a research protocol for review by an interagency committee created under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 before the grant can be awarded. Guidelines for developing suitable protocols are available through the World Wide Web (www.mdsg.umd.edu/NSGO/research/nonindigenous/RFP98.html) or from Dr. Leon Cammen at the National Sea Grant Office (phone: 301–713–2435 x136 or e-mail: leon.cammen@noaa.gov). Proposals lacking a suitable protocol will not be eligible for funding.

(8) Declaration of Vessel Selection (if appropriate): Applications proposing on-board demonstrations of ballast water management should address the requirements and priorities listed in the National Invasive Species Act of 1996 for selecting vessels for demonstration projects. These requirements are available through the World Wide Web (www.mdsg.umd.edu/NSGO/research/nonindigenous/RFP98.html) or from Dr. Leon Cammen at the National Sea Grant Office (phone: 301–713–2435 x136 or e-mail: leon.cammen@noaa.gov).

(9) Standard Application Forms: Applicants may obtain all required application forms through the World Wide Web (www.mdsg.umd.edu/NSGO/research/nonindigenous/RFP98.html) or from Dr. Leon Cammen at the National Sea Grant Office (phone: 301–713–2435 x136 or e-mail: leon.cammen@noaa.gov). The following forms must be included:

(a) Standard Forms 424, Application for Federal Assistance, 424A, Budget Information—Non-Construction Programs; and 424B, Assurances—Non-Construction Programs, (Rev 4–88). Applications should clearly identify the program area being addressed by starting the project title with either "Regional Research and Outreach", "Chesapeake Bay Ballast Water", or "National Ballast Water" as appropriate. Please note that both the Principal Investigator and an administrative contact should be identified in Section 5 of the SF424. For Section 10, applicants for the Regional Research and Outreach to Prevent and Control Nonindigenous Species Invasions in Marine Environments and Chesapeake Bay Ballast Water Management program areas should enter "11.417" for the CFDA Number and "Sea Grant Support" for the title; applicants for the National Ballast Water Management program area should enter "15.FFA" for the CFDA Number and "Fish and Wildlife Management Assistant" for the title. The form must contain the original signature of an authorized representative of the applying institution.

(b) Primary Applicant Certifications. All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(i) Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(ii) Drug-Free Workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(iii) Anti-Lobbying. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(iv) Anti-Lobbying Disclosures. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(c) Lower Tier Certifications. Recipients shall require applicant/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Volumtary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department of Commerce (DOC). SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

VII. How To Submit

The original and two (2) copies of each proposal must be received in the National Sea Grant Office no later than 4:00 p.m. EDT on the closing date July 8, 1998. Although investigators are not required to submit more than 3 copies of the proposal, the normal review process requires 10 copies. Investigators are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5×11"), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed. Completed applications should be sent via regular mail to: National Sea Grant Office, R/SG, Attn: Nonindigenous Species Competition, NOAA, 1315 East-West Highway, Silver Spring, MD 20910.

For express mail or courier-delivered applications, the following address must be used: National Sea Grant Office, R/SG, Attn: Nonindigenous Species Competition, NOAA, Room 11877, 1315 East-West Highway, Silver Spring, MD 20910. Phone: 301–713–2435 (for express mail applications).

Applications received after the deadline and application that deviate from the format described above will be returned to the sender without review. Fascimile transmissions and electronic mail submission of full proposals will not be accepted. If you have any questions or require further information, contact one of the agency coordinators listed above

VIII. Other Requirements

(A) Federal Policies and Procedures—Recipients and subrecipients are subject to all Federal laws and Federal, Department of Commerce (DOC), and Department of Interior (DOI) policies, regulations, and procedures applicable to Federal financial assistance awards.

(B) Past Performance—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(C) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC or DOI to cover preaward costs.

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(D) No Obligation for Future Funding—If an application is selected for funding, DOC and DOI have no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC and DOI.

(E) Delinquent Federal Debts—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(1) The delinquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

(3) Other arrangements satisfactory to DOC or DOI are made.

(F) Name Check Review—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(G) False Statements—A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(H) Intergovernmental Review—Applications for support from the National Sea Grant College Program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs. Applications for support from the U.S. Fish and Wildlife Service are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

(I) Purchase of American-Made Equipment and Products—Applicants are hereby notified that they will be encouraged to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

IX. Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of E.O. 12866.

This notice contains collection of information requirements subject to the Paperwork Reduction Act. The Sea Grant Budget Form and Standard Forms 424, 424a, and 424b have been approved under control numbers 0648–0034, 0348–0043, 0348–0044, and 0348–0040 with average responses estimated to take 15, 45, 180, and 15 minutes, respectively. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on these estimates or any other aspect of these collections to National Sea Grant College Program, R/SG, NOAA, 1315 East-West Highway, Silver Spring, MD 20910 (Attention: Leon M. Cammen) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Dated: May 20, 1998.

Alan R. Thomas,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

Dated: May 20, 1998.

Gary B. Edwards,

Assistant Director—Fisheries, U.S. Fish and Wildlife Service.

[FR Doc. 98–13943 Filed 5–26–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051898D]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings of the North Pacific Fishery Management Council (Council) and its advisory bodies.

SUMMARY: The Council and its advisory committees will meet in Dutch Harbor, AK.

DATES: The meetings will be held during the week of June 8, 1998.

ADDRESSES: The Council and Scientific and Statistical Committee (SSC) will meet at the Grand Aleutian Hotel in Dutch Harbor, AK. The Advisory Panel (AP) will meet at the UniSea Galley Conference Room in the UniSea Central Building.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: All meetings are open to the public with the exception of Council executive sessions, which may be held during the noon hour during the meeting week, if necessary, to discuss personnel, international issues, or litigation.

The SSC will meet beginning at 8:00 a.m. on Monday, June 8, continuing through at least Wednesday, June 10.

The AP will begin meeting at 8:00 a.m. on Monday, June 8, and continue through a portion of Friday, June 12.

The Council's regular plenary session will begin at 8:00 a.m. on Wednesday, June 10, and continue through a portion of Monday, June 15, 1998.

Other workgroup or committee meetings may be held during the week. Notices of these meetings will be posted at the hotel.

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports from the NMFS and Alaska Department of Fish and Game (ADF&G) on the current status of the fisheries off Alaska, and enforcement reports from the U.S. Coast Guard and NMFS Enforcement.

2. Final action on allocation of pollock between inshore and offshore fisheries.

3. Final action on an amendment to the fishery management plans to incorporate essential fish habitat information as required by the Magnuson-Stevens Act Fishery Conservation and Management Act (Magnuson-Stevens Act).

4. Final action on an amendment to close a 4–mile by 4–mile area off Sitka (Cape Edgecumbe Pinnacles) to protect habitat important for juvenile rockfish and lingcod.

5. Final action on an amendment to extend the existing vessel moratorium..

6. Preliminary review of proposed amendments to the license limitation program for groundfish and crab.

7. Status report on NMFS guidelines for vessel buyback programs.

8. Final action on an amendment to roll over the current pollock community

development (CDQ) program in the Bering Sea/Aleutian Islands (BSAI), and a committee and status report on the implementation of the multispecies CDQ program.

9. Status report on the development of the joint partnership agreement for the Council's observer program and final action to extend existing program.

10. Status report on Council compliance with the Sustainable Fisheries Act.

11. Groundfish amendments scheduled for action are as follows:

a. Final action on an amendment to ban bottom trawling in the BSAI pollock fishery.

b. Final action on amendments for revised overfishing definitions for the groundfish, salmon, scallop, and BSAI king and Tanner crab fisheries.

c. Final action on an amendment to separate Atka mackerel in the BSAI by season and subarea.

d. Final action on request for experimental fishing permit.

12. Committee report from the combined Vessel Bycatch Allowance/ Halibut Mortality Avoidance Program/ Individual Vessel Checklist Program and further direction to staff.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 7 working days prior to the meeting date.

Dated: May 19, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–13978 Filed 5–21–98; 4:03 pm]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

May 20, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67625, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on May 27, 1998, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
219	9,195,380 square meters.
313–O [2]	14,185,416 square meters.
314–O [3]	58,831,359 square meters.
315–O [4]	28,070,013 square meters.
317–O/617/326–O [5]	25,642,902 square meters of which not more than 3,834,249 square meters shall be in 326–O.
331/631	2,011,739 dozen pairs.
338/339	1,291,007 dozen.
340/640	1,479,074 dozen.
341	912,581 dozen.
347/348	1,748,901 dozen.
350/650	118,668 dozen.
351/651	516,721 dozen.
625/626/627/628/629–O [6]	27,198,923 square meters.
638/639	1,345,321 dozen.
641	2,281,265 dozen.
647/648	3,164,825 dozen.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 617; Category 317–O: all HTS numbers except 5208.59.2085; Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Categories 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–13945 Filed 5–26–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand.

May 20, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 65246, published on December 11, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the period January 1, 1998 through December 31, 1998.

Effective on May 27, 1998, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Levels in Group I	
200	1,122,570 kilograms.
604	704,073 kilograms of which not more than 475,261 kilograms shall be in Category 604–A [2].
619	6,771,341 square meters.
620	6,791,544 square meters.
Sublevels in Group II	
334/634	608,167 dozen.
338/339	1,812,127 dozen.
347/348/847	785,400 dozen.
435	54,015 dozen.
638/639	2,159,202 dozen.
647/648	1,081,112 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 604–A: only HTS number 5509.32.0000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–13944 Filed 5–26–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of a the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 21, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to U.S. Army Corps of Engineers Water Resources Support Center Navigation Data Center, (CEWRSC–NDC), 7701 Telegraph Road, Casey Building, Fort Belvoir, Virginia 22315–3868, ATTN: (Virginia R. Pankow). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT:

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Terminal and Transfer Facilities Description, WRSC Forms 1,2,3,4,5,6,7,8 and 9, OMB Control Number 0710–0007

Needs and Uses: The data complied into Port Series Reports are used within the Corps of Engineers for navigation and planning functions, by the Coast Guard for marine safety inspections, by the Navy for guidance in providing safe passage in time of national emergency, by the Army for mission deployment planning, and by the public for general reference, planning, and various studies.

Affected Public: Federal Government, State, Local or Tribal Government.

Annual Burden Hours: 372.

Number of Respondents: 1,489.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Data gathered, and published as one of the 56 Port Series Reports, relate to terminal, transfer facilities, storage facilities, and intermodal transportation. This information is used in navigation, planning, safety, National security, emergency operations, and general interest studies and activities. Respondents are the terminal and transfer facility operators.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–13967 Filed 5–26–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 27, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to U.S. Army Corps of Engineers Water Resources Support Center Navigation Data Center, (CEWRSC–NDC), 7701 Telegraph Road, Casey Building, Fort Belvoir, Virginia 22315–3868, ATTN: (David E. Lichy). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Lock Performance Monitoring System (PMS) Waterway Traffic Report, ENG Forms 3102C, and ENG Form 3102D, OMB Control Number 0710–0008.

Needs and Uses: The U.S. Army Corps of Engineers utilizes the data collected to monitor and analyze the use and operation of federally owned and operated locks. Owners, agents, and masters of vessels provide general data about vessels and estimated tonnage and commodities carried. The information is used for sizing and scheduling replacement or maintenance for locks and canals.

Affected Public: Business or other for-profit.

Annual Burden Hours: 30,398.

Number of Respondents: 3,000.

Responses Per Respondent: 251.2.

Average Burden Per Response: 2½ minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The data are used primarily by the Corps of Engineers in conducting a system-wide approach to planning and management of the waterway. The Headquarters, Division and District Offices use the information specifically to assist in making determinations on: adequate staffing for operations and maintenance of the navigation locks and dams; to justify the hours of locks operation; to provide a basis to justify the continued funding as set out in the President's Operation and Maintenance; General Budget; to schedule route maintenance and repairs; to serve as a basis for studies and plans for improvement; for lock operating procedures; to provide data to be used in analyses for major modifications or replacements to lock and dam structures; and to forecast the impact that lock delays, downtime, and proposed changes have on the diversion of waterborne commerce to other transportation modes.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–13968 Filed 5–26–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Notice of Availability of Draft Supplement II Environmental Impact Statement (DSIIEIS) and Notice of Public Hearing for a Proposed Navigation Improvement Project at Ma'alaea Harbor, Maui, HI

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability and notice of public hearing.

SUMMARY: The U.S. Army Engineer District, Honolulu, in partnership with the State of Hawaii, is planning to construct improvements to the Ma'alaea Harbor for light-draft vessels at Ma'alaea, Maui, Hawaii. The Federal portion of the proposed action consists of realigning the entrance channel and modifying the existing breakwater to protect the new entrance channel. The purposes of these improvements are to reduce the surge within the harbor basin, reduce navigation hazards in the entrance channel, and provide opportunity for addition of commercial and recreational berthing spaces and associated harbor facilities. Later, the project sponsor, the State of Hawaii Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DLNR–DBOR), would provide expanded berthing facilities and improved infrastructure, including fuel, sewage treatment and pumpout facilities. Total construction costs are estimated at $5,000,000 to $10,000,000.

FOR FURTHER INFORMATION CONTACT: Please address questions regarding this notice to Mr. Benton Ching, U.S. Army Corps of Engineer District, Honolulu, Attention: CEPOH–ED–CE, Building 230, Fort Shafter, Hawaii 96858–5440, Telephone (808) 438–1157 or Fax (808) 841–1581.

SUPPLEMENTARY INFORMATION: A General Design Memorandum and Final Environmental Impact Statement (EIS) were approved by the Chief of Engineers in 1980, and a State of Hawaii Revised EIS was accepted by the Governor in 1982. The 1980 and 1982 plans of improvement were modifications of the plan originally approved by Congress in 1968. A Final Supplemental EIS was prepared and circulated in 1994 to update the environmental information regarding the proposed project and alternatives. This second supplemental EIS has been prepared to provide additional information on design modifications to avoid and minimize impacts to surfing sites, coral reefs, and other aquatic habitat; to provide further evaluation of potential effects to endangered and threatened species; to provide analysis and evaluation of Alternative plan 6; and to respond to public and agency comments received on the 1994 Final Supplemental EIS. Previous and present studies indicate that the proposed project will fully achieve the Federal and State purposes. A mitigation plan developed by a team of Federal and State agencies would provide mitigation for unavoidable adverse environmental impacts, which include elimination or alteration of 8.16 acres of marine habitat, including 4.8 acres of coral reefs, removal of a small sandy beach, and removal of one surfing site.

The proposed action is consistent with Hawaii Coastal Zone Management (CZM) Program policies and objectives. The National Marine Fisheries Service and U.S. Fish and Wildlife Service have determined that the proposed action is not likely to jeopardize the continued existence of listed endangered or

threatened species. The recommendations of the U.S. Fish and Wildlife Service and Hawaii DLNR–DBOR have been considered with respect to fish and wildlife resources. The State of Hawaii Department of Health is expected to issue a Section 401 water quality certification. A preliminary evaluation pursuant to 40 CFR 230, EPA's Guidelines for the Specification of Disposal Sites for Dredged and Fill Material, concludes that the proposed action complies with those guidelines.

Comments on this Draft Supplemental II EIS (DSIIEIS) should be provided to the address below within 45 days of the date of publication of the Notice of Availability in the **Federal Register.**

Copies of the DSIIEIS are available for review at the U.S. Army Engineer District, Honolulu office in Fort Shafter, Hawaii.

A Public Hearing will be held on Tuesday, June 23, 1998 at 6:30 p.m. at Kihei Elementary School. The hearing will provide an opportunity for individuals and groups to comment on the proposed action as presented in the DSIIEIS.

Ralph H. Graves,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 98–13966 Filed 5–26–98; 8:45 am]

BILLING CODE 3710–NN–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 27, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 20, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.
Title: Student Aid Report (SAR).
Frequency: Annually.
Affected Public: Individuals or households.
Reporting and Recordkeeping Hour Burden:
Responses: 9,998,997.
Burden Hours: 4,061,953.
Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

[FR Doc. 98–13941 Filed 5–26–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATES: Wednesday, June 17, 1998: 6:00 p.m.–9:00 p.m. (Mountain Daylight Time).

ADDRESSES: John Marshall Community Center, 1500 Walter SE (Room 104), Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m. Call to Order/Roll Call
7:00 p.m. Public Comments
7:10 p.m. Approval of Agenda
7:12 p.m. Approval of 05/17/98 Minutes
7:17 p.m. Chairperson's Report
7:20 p.m. Sandia National Laboratory's Environmental Restoration/Waste Management Presentation/Discussion
7:45 p.m. Break
7:55 p.m. Sandia National Laboratory's Environmental Restoration/Waste Management Issues Discussion
8:42 p.m. New/Other Business
8:52 p.m. Public Comments
8:58 p.m. Announcement of Next Meeting
9:00 p.m. Adjourn

A final agenda will be available at the meeting Wednesday, June 17, 1998.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the

meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on May 20, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–13960 Filed 5–26–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats

DATES: Thursday, June 4, 1998, 6:00 p.m.–9:30 p.m.

ADDRESS: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. The Board will consider approving a recommendation concerning reuse at the Rocky Flats Technology Site.
2. The Board will review and consider approval of a recommendation on the Rocky Flats Natural Resources Management Policy.
3. A draft recommendation will be considered on the Decommissioning Program Plan for Rocky Flats.
4. The Board will discuss a draft recommendation on the Interim Measures/Interim Remedial Action decision document for Building 886 at Rocky Flats.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on May 21, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–13961 Filed 5–26–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–521–000 FERC–521]

Proposed Information Collection and Request for Comments

May 20, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before July 27, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Information Services Division, CI–1, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–521 "Payments for Benefits from Headwater Benefits" (OMB No. 1902–0087) is used by the Commission to implement the statutory provisions of Section 10(f) of the Federal Power Act (FPA) (16 U.S.C. 803). The owners of non-federal hydropower projects that directly benefit from a headwater(s) improvement must pay an equitable portion of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The regulations provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains and proposed equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built. Section 10(f) of the EPA directs the Commission to determine the benefits downstream parties receive from the operation of storage reservoirs or other headwater improvements. The purpose of determining the benefits is for

assessing the downstream beneficiaries for a part of the annual costs for the headwater project.

The date the Commission requires owners of non-federal hydropower projects to file for determining annual charges is specified in 18 Code of Federal Regulations (CFR) part 11.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Station: Public reporting burden for this collection is estimated as:

Number of respondents annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)×(2)×(3)
15	1	40	600

The estimated total cost to respondents is $33,716 (840 hours divided by 2,088 hours per year per employee times $110,000 per year per average employee = $33,716). The cost per respondent is $2,248.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13931 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–80–000 FERC–Form 80]

Proposed Information Collection and Request for Comments

May 20, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before July 27, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Information Services Division, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 80 "Licensed Hydropower Development Recreation Report" (OMB No. 1902–0106) is used by the Commission to implement the statutory provisions of Sections 4(a), 10(a), 301(a), 304 and 309 of the Federal Power Act (FPA) (16 U.S.C. §§ 797, 803, 825, 825(c) and 825(h)). FERC Form 80 is a report on use and development of recreational facilities at FERC-licensed hydroelectric projects filed on April 1 of every sixth year. The data submitted is compiled during the previous calendar year. Commission staff utilize FERC Form 80 data to analyze the adequacy of existing pubic recreational facilities and for predicting the need for future development at licensed projects. When there are applications for amendment to license and/or for changes in land rights that involve changes in recreational resources, Commission staff rely on current FERC Form 80 data for determining the impact of such changes. The Commission's Regional Office staff inspect licensed projects to evaluate compliance with various license conditions, including those related to recreation. The authority for the Commission to collect this information comes from Section 10(a) of the FPA that requires the Commission to ensure that any hydro project it approves be best adapted to a comprehensive plan for developing a waterway for the benefit of interstate and foreign commerce and for improving or utilizing waterpower development, including recreation and other beneficial public uses. To further these objectives, the Commission requires licensees to take reasonable efforts to inform the public of the availability of project lands and waters for recreational purposes and license conditions of interest to members of the public interested in recreational aspects of the project. The data required to be filed is specified by 18 Code of Federal Regulations (CFR) Sections 8.11 and 141.14.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting for the collection is estimated as:

Number of respondents annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)×(2)×(3)
200	1	3	1,200

The estimated total cost to respondents is $63,218, (1,200 hours divided by 2,088 hours per year per employee times $110,000 per year per average employee=$63,218). The cost per respondent is $158.00.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the Commission to perform its functions properly, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of collecting the information on those who must respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13932 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2305–000]

Edgar Electric Cooperative Association d/b/a EnerStar Power Corp.; Notice of Issuance of Order

May 20, 1998.

Edgar Electric Cooperative Association d/b/a EnerStar Power Corp. (EnerStar) filed an application for authorization to engage in the wholesale sale of capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, EnerStar requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by EnerStar. On May 14, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates And Granting Waiver Of Notice Requirement (Order), in the above-docketed proceeding.

The Commission's May 14, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by EnerStar should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, EnerStar is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of EnerStar, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of EnerStar's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 15, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13934 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2259–000]

LSP Energy Limited Partnership; Notice of Issuance of Order

May 20, 1998.

LSP Energy Limited Partnership (LSP Energy) filed an application for authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, LSP Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by LSP Energy. On May 14, 1998, the Commission issued an Order Accepting For Filing Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's May 14, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of

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liabilities by LSP Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, LSP Energy is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of LSP Energy, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of LSP Energy's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 15, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13935 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–543–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 20, 1998.

Take notice that on May 13, 1998, NorAm Gas Transmission Company (NGT), 1111 Louisiana, Houston, Texas 77002, filed in Docket No. CP98–543–000, a request, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211), for authorization to operate certain facilities in Arkansas and Oklahoma, under NGT's blanket certificate authorization issued in Docket Nos. CP82–384–000 and CP82–384–001, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, NGT requests authority at the request of ARKLA, a distribution division of NorAm Energy Corp. (ARKLA) to operate ten (10) existing taps for delivery of natural gas to ARKLA for resale to consumers other than the right-of-way grantors for whom the taps were originally installed. NGT relates that the volume through these taps range from 1 MMBtu to 200 MMBtu per day. NGT has attached in Exhibit Z to its application which is an excerpt from NGT's 1997 annual report which identifies the location and size of each of the ten taps to be certificated. NGT states there will be no new construction.

NGT states that this change is not prohibited by its tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest.

If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13930 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–537–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

May 20, 1998.

Take notice that on May 12, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–537–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to downsize two existing small volume measurement stations located in Webster and Boone Counties, Iowa. Northern makes such request under its blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it currently provides natural gas deliveries to Utilicorp, Inc. (UCU) at the Dennis Amman and David Junck farm taps, located in Webster and Boone Counties, for ultimate delivery to UCU's end users. It is indicated that the taps have, for over a year, been providing natural gas for home use only as compared to dryer bin usage in the past. Northern states that because the delivered gas' end use was changed, the pressure required and the gas volumes delivered to those farm taps, have been significantly lower than when the taps were originally installed. Northern is therefore, requesting authorization to downsize the Dennis Amman and David Junck farm taps, by installing a smaller meter and regulator, in order to maintain a lower delivery pressure and increase measurement accuracy of natural gas deliveries to UCU, for ultimate delivery to its small volume customers.

Northern avers that deliveries of the estimated volumes to UCU at the downsized Dennis Amman and David Junck will be made pursuant to Northern's currently effective throughout service agreement(s) with UCU. The estimated cost to install the downsized facilities is $1,200. and Northern states that the facilities will be financed in accordance with the General Terms and Conditions of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13929 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–532–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

May 20, 1998.

Take notice that on May 11, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP98–532–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations (18 CFR 157.205, 157.212) under the Natural Gas Act (NGA) for authorization to construct and operate a new delivery point in Essex County, Massachusetts, for deliveries to Wakefield Municipal Light Department (Wakefield), under Tennessee's blanket certificate issued in Docket No. CP 82–413–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to construct and operate delivery point facilities consisting of a 3-inch hot tap and electronic gas measurement facilities. Tennessee states that Wakefield will construct 1,270 feet of interconnecting pipeline and a meter, and that Tennessee will inspect these facilities. Tennessee proposes to use the facilities to deliver up to 4,567 dt equivalent of natural gas per day to Wakefield under Tennessee's Rate Schedule IT. The cost of the facilities is estimated at $66,059, for which, it is stated, Tennessee will be reimbursed by Wakefield. It is asserted that the total quantities to be delivered to Wakefield will not exceed the total quantities authorized prior to this request. It is further asserted that Tennessee's tariff does not prohibit the addition of new delivery points and that Tennessee has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13928 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2973–000]

Williams Energy Services Company; Notice of Filing

May 20, 1998.

Take notice that on May 12, 1998, Williams Energy Services Company filed an Amendment to the Alamitos and Redondo Beach Generating Station Must Run Agreement adopting such Agreement as WESCO's Rate Schedule. Pursuant to such Agreement, sales are made to the California Independent System Operator at regulated rates now in effect subject to refund pending the outcome of a hearing in Docket No. ER98–441–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 1, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–13933 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–73–000, et al.]

Orzunil I de Electricidad, Limitada, et al.; Electric Rate and Corporate Regulation Filings

May 18, 1998.

Take notice that the following filings have been made with the Commission:

1. Orzunil I de Electricidad, Limitada

[Docket No. EG98–73–000]

Take notice that on May 6, 1998, Orzunil I de Electricidad, Limitada (Orzunil), located at 8a Calle 3–14, Zona 10, Guatemala City, Guatemala 01010, filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Orzunil will directly or indirectly and exclusively develop, own and operate an electric generating facility, to be located in the province of Quetzaltenango, Guatemala, and will sell electricity at wholesale or exclusively in markets outside of the United States. The electric generating facility will be a geothermal power plant whose primary components are Ormat energy converters (consisting of a turbogenerator, heat exchanger, air-cooled condenser, organic motive fluid piping and control and power system), auxiliary equipment and appurtenant facilities necessary to interconnect the electric generating facility to the transmission facilities of the purchaser. The facility will have a nominal generating capacity of 24 MW net.

Comment date: June 8, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Southwestern Public Service Company v. El Paso Electric Company

[Docket No. EL98–44–000]

Take notice that on April 29, 1998, Southwestern Public Service Company (SPS), submitted for filing, a complaint against El Paso Electric Company (EPE), seeking an order from the Commission requiring EPE to provide firm transmission service to SPS.

Comment date: June 12, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before June 12, 1998.

3. Laguna Irrigation District

[Docket No. EL98–46–000]

Take notice that on May 6, 1998, Laguna Irrigation District tendered for filing an Application for an order Directing the Establishment of Physical Interconnection of Facilities Pursuant to Sections 202 and 210 of the Federal Power Act and Part 32 of the Commission's Regulation, 18 CFR 32. The application seeks an order requiring Pacific Gas and Electric Company to interconnect its transmission system with Laguna's 12 kV distribution system at points identified in Laguna's application.

Laguna also seeks an order requiring Pacific Gas and Electric Company to file an interconnection agreement or electric tariff establishing just and reasonable terms, conditions and charges under which such interconnection shall be operated and maintained.

Comment date: June 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER98–1434–001]

Take notice that on May 13, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), submitted a revised amendment to its Standard Generation Service Rate Schedule to comply with the Commission directives in an order issued on May 5, 1998, in Docket No. ER98–1434–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Conectiv Energy Supply, Inc.

[Docket No. ER98–2045–001]

Take notice that on May 13, 1998, Conectiv Energy Supply, Inc., tendered for filing its compliance filing in the above-referenced docket.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER98–2746–000]

Take notice that on May 11, 1998, Florida Power & Light Company (FPL), submitted for filing a supplement to the filing that FPL initially had made in this docket on April 30, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Indiana Public Service Company

[Docket No. ER98–2849–000]

Take notice that on April 29, 1998, Northern Indiana Public Service Company tendered for filing its Transaction Report for short-term transactions for the first quarter of 1998 pursuant to the Commission's order issued January 10, 1997 in Northern Indiana Public Service Company, 78 FERC ¶ 61,015 (1997).

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER98–2859–000]

Take notice that on May 1, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing a report for the first quarter of 1998 summarizing the transactions under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies FERC Electric Tariff Original Volume No. 5.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER98–2869–000]

Take notice that on May 1, 1998, PP&L, Inc., filed a summary of activity conducted under its market-based rates tariff, FERC Electric Tariff, Original Volume No. 5, during the quarter ending March 31, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Tucson Electric Power Company

[Docket No. ER98–2872–000]

Take notice that on April 30, 1998, Tucson Electric Power Company (Tucson), tendered for filing a Transaction Report regarding power purchases and sales under its Market-Based Power Sales Tariff for quarter ended March 31, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER98–2873–000]

Take notice that on April 30, 1998, Commonwealth Edison Company (Edison), submitted its quarterly market-based transaction report for the calendar quarter ending March 31, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Central and South West Services, Inc.

[Docket No. ER98–2874–000]

Take notice that on April 30, 1998, Central and South West Services, Inc., as agent for Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively, the CSW Operating Companies), submitted a quarterly report under the CSW Operating Companies' market-based sales tariff. The report is for the period January 1, 1998 through March 31, 1998.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER98–2924–000]

Take notice that on May 7, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing its Quarterly Sales and Services Summary as required by the Commission's Order dated September 25, 1996 in Docket No. ER96–2585–000. A copy of the filing has been served on the Public Service Commission of the State of New York.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Williams Energy Services Company

[Docket No. ER98–2973–000]

Take notice that on May 12, 1998, Williams Energy Services Company filed an Amendment to the Huntington Beach Generating Station Must Run Agreement adopting such Agreement as WESCO's Rate Schedule. Pursuant to such Agreement, sales are made to the California Independent System Operator at regulated rates now in effect subject to refund pending the outcome of a hearing in Docket No. ER98–441–000.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Ocean Vista Power Generation, L.L.C., Mountain Vista Power Generation, L.L.C., Alta Power Generation, L.L.C., Oeste Power Generation, L.L.C., Ormond Beach Power Generation, L.L.C.

[Docket No. ER98–2977–000]

Take notice that on May 13, 1998, Ocean Vista Power Generation, L.L.C. (Ocean Vista), Mountain Vista Power Generation, L.L.C. (Mountain Vista), Alta Power Generation, L.L.C. (Alta Power), Oeste Power Generation, L.L.C. (Oeste Power), and Ormond Beach Power Generation, L.L.C. (Ormond Beach) (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an Application for Authority to Sell Specific Ancillary Services at Market-Based Rates and Request for Expedited Consideration. Included as part of the Application are proposed revised market-based Rate Schedules for each of these companies to provide for the sale at market-based rates of four ancillary services: Regulation, Spinning Reserve, Non-Spinning Reserve, and Replacement Reserve.

Applicants request waivers permitting market-based rates for these Ancillary Services to be made effective as of the date of filing for Ocean Vista, Mountain Vista, Alta Power, Oeste Power, and for Ormond Beach as of May 27, 1998 or such later date as coincides with the acquisition by Ormond Beach of the Ormond Beach generating facility from Southern California Edison.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER98–2978–000]

Take notice that on May 13, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and the British Columbia Power Exchange Corporation (British Columbia PX) for acceptance by the Commission.

The ISO states that this filing has been served on the British Columbia PX and the California Public Utilities Commission.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2979–000]

Take notice that on May 13, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 78, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the annual revenues under the Rate Schedule of $3,655.11. Con Edison has requested that the increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2980–000]

Take notice that on May 13, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 60, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the annual revenues under the Rate Schedule of $24,280.86. Con Edison has requested that the increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER98–2981–000]

Take notice that on May 13, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and VTEC Energy (VTEC).

Cinergy and VTEC are requesting an effective date of May 12, 1998.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc.

[Docket No. ER98–2982–000]

Take notice that on May 13, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Northern States Power Company (Northern).

Cinergy and Northern are requesting an effective date of May 12, 1998.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Tucson Electric Power Company

[Docket No. ER98–2983–000]

Take notice that on May 13, 1998, Tucson Electric Power Company (TEP), tendered for filing a short-term umbrella service agreement with Morenci Water and Electric for sales under TEP's Market-Based Power Sales Tariff, FERC Electric Tariff Original Volume No. 3.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Tucson Electric Power Company

[Docket No. ER98–2984–000]

Take notice that on May 13, 1998, Tucson Electric Power Company (TEP), tendered for filing one (1) non-firm umbrella transmission service agreement pursuant to Part II of TEP's Open Access Transmission Tariff, which was filed in Docket No. OA96–140–000].

The details of the service agreement are as follows: Service Agreement for Non-Firm Point-to-Point Transmission Service with Western Resources dated April 27, 1998. TEP has not yet provided transmission service under this service agreement.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2985–000]

Take notice that on May 13, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 102, an agreement to provide transmission service for the New York Power Authority (the Authority). The Supplement provides for an increase in the annual revenues under the Rate Schedule of $7,528.23. Con Edison has requested that the increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2986–000]

Take notice that on May 13, 1998, Consolidated Edison Company of New

York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 66, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). Con Edison has requested that the increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Orange and Rockland Utilities, Inc.

[Docket No. ER98–2987–000]

Take notice that on May 13, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement under which O&R will provide capacity and/or energy to VTEC Energy, Inc. (VTEC Energy).

O&R requests waiver of the notice requirement so that the service agreement with VTEC Energy becomes effective as of May 5, 1998.

O&R has served copies of the filing on The New York State Public Service Commission and VTEC Energy.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Cinergy Services, Inc.

[Docket No. ER98–2988–000]

Take notice that on May 11, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Northern States Power Company (Northern).

Cinergy and Northern are requesting an effective date of May 12, 1998.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Cinergy Services, Inc.

[Docket No. ER98–2989–000]

Take notice that on May 13, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and PP&L, Inc., (PP&L).

Cinergy and PP&L are requesting an effective date of May 12, 1998.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Oklahoma Gas and Electric Company

[Docket No. ER98–2990–000]

Take notice that on May 13, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing service agreements for parties to take service under its short-term power sales agreement.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Wisconsin Electric Power Company

[Docket No. ER98–2991–000]

Take notice that on May 13, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date May 13, 1998. Wisconsin Electric is authorized to state that Northern/AES Energy, LLC joins in the requested effective date.

Copies of the filing have been served on Northern/AES Energy, LLC, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2993–000]

Take notice that on May 12, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 117, an agreement to provide transmission and interconnection service to Long Island Lighting Company (LILCO). The Supplement provides for an increase in annual revenues under the Rate Schedule of $105,531.88. Con Edison has requested that this increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Central Vermont Public Service Corporation

[Docket No. ER98–2994–000]

Take notice that on May 12, 1998, Central Vermont Public Service Corporation tendered for filing revisions to its open access transmission tariff to include penalty provisions for failure to curtail and/or interrupt transmission service and for taking service in excess of reserved capacity.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3008–000]

Take notice that on May 13, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Scana Energy Marketing, Inc., (Scana).

Con Edison states that a copy of this filing has been served by mail upon Scana.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER98–3009–000]

Take notice that on May 13, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and Cargill-Alliant, LLC.

NSP requests that the Commission accept both the agreements effective April 15, 1998, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Cinergy Services, Inc.

[Docket No. ER98–2976–000]

Take notice that on May 13, 1998, Cinergy Services, Inc., (Cinergy), tendered for filing an Interchange Agreement among the Cinergy Operating Companies and Southern Illinois Power Cooperative in the above-referenced docket. The Interchange Agreement provides for voluntary sales transactions between the parties.

Copies of the filing have been served upon Southern Illinois Power Cooperative.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13936 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6103–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; 1999 Drinking Water Infrastructure Needs Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): 1999 Drinking Water Infrastructure Needs Survey, EPA ICR # 1708.02. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 27, 1998.

ADDRESSES: To obtain a copy of the ICR without charge please contact the Safe Drinking Water Hotline, (800) 426–4791. Hours of operation are 9:00 a.m. to 5:30 p.m. (ET), Monday—Friday, excluding Federal holidays. Copies are also available from the Office of Water Resource Center (RC4100), U.S. EPA Headquarters, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Safe Drinking Water Hotline, (800) 426–4791, e-mail: hotline-sdwa-group@epamail.epa.gov; or Richard Naylor, (202) 260–5135, fax (202) 260–0732, e-mail: naylor.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are those which own, operate or regulate community water systems but not limited to: Owners/operators of community water systems, State Environmental Water Quality Agencies, and State Departments of Health.

Title: 1999 Drinking Water Infrastructure Needs Survey, EPA ICR # 1708.02.

Abstract: The purpose of this information collection is to identify the current and future infrastructure needs of community and nonprofit noncommunity public water systems for the 20-year period from January 1999 through December 2018. The collection will be conducted by EPA's Office of Ground Water and Drinking Water (OGWDW) in order to comply with Sections 1452(h) and 1452 (i)(4) of the Safe Drinking Water Act (SDWA) (Public Law 104–182).

The collection will involve two methods. A questionnaire will be used to collect information from large and medium community water systems. For small systems and nonprofit noncommunity water systems, data will be collected through a site visit by the EPA contractor. Questionnaires and site visit reports will be reviewed by State Needs Survey Coordinators before submission to EPA.

The data from the questionnaires and the site visits will provide EPA with a basis for estimating the drinking water infrastructure needs of community water systems for the 20-year period, January 1999 through December 2018. Furthermore, under section 1452 (a)(1)(D) of SDWA, the results of the needs survey must be used as the basis for allocating Drinking Water State Revolving Loan Fund capitalization grant funds among the States. Responses to the collection of information are voluntary.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: It is estimated that this information collection will involve a total cost burden to the Respondents of $1,533,029 and a total hour burden to the Respondents of 44,096 hours. There will be no capital, start-up or operation and maintenance costs but the collection will involve a one time response, from 4,670 respondents, of approximately 9.4 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 21, 1998.

Cynthia Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–13985 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6102–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Underground Injection Control Program

AGENCY: Environmental Protection Agency (EPA).

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ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for the Underground Injection Control Program (OMB Control No. 2040–0042; EPA ICR No. 0370.16), expiring June 30, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 370.16.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Request for the Underground Injection Control Program (OMB Control No. 2040–0042; EPA ICR No. 370.16), expiring June 30, 1998. This is a request for extension of a currently approved collection.

Abstract: The Underground Injection Control (UIC) Program under the Safe Drinking Water Act established a Federal and State regulatory system to protect underground sources of drinking water from contamination by injected fluids. Owners and operators of underground injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to EPA or the State primacy Agency. States must report to EPA on permittee compliance and related information. The information is reported using standardized forms, and the regulations are codified at 40 CFR parts 144 through 148. The data is used to ensure the safety of underground sources of drinking water. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 19, 1998 (63 FR 8449). One comment was received by EPA.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.59 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are owners and operators of underground injection wells and their States' Agencies including Puerto Rico, the U.S. Trust Territories, Indian Tribes, and Alaska's Native Villages.

Estimated Number of Respondents: 53,268.

Frequency of Response: Operators of Class I, III and some Class V wells must report monitoring results quarterly; Class II operators report annually.

Estimated Total Annual Hour Burden: 1,135,273 hours.

Estimated Total Annualized Cost Burden: $27,648,934.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No 2040–0042 and OMB Control No. 370.16 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 20, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–13990 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6102–7]

Science Advisory Board, Environmental Health Committee; Notification of Public Meeting, June 9–10, 1998

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notification is hereby given that the Environmental Health Committee (EHC) (henceforth, the "Committee") of the Science Advisory Board (SAB) will meet on Tuesday June 9 and Wednesday June 10, 1998, beginning no earlier than 8:30 am and ending no later than 5:00 pm on each day. The meeting will be held in the Main Auditorium, U.S. EPA, Environmental Research Center, Route 54 and Alexander Drive, Research Triangle Park, North Carolina 27711. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis.

The purpose of the meeting is for the Committee to review: (a) Case studies on the application of the Inhalation Reference Concentrations (RfC) Methods; and (b) the Acute Reference Exposure Methodology (ARE). Both the RfC Methods and the ARE Methods were developed by the U.S. EPA Office of Research and Development (ORD), National Center for Environmental Assessment (NCEA).

Charge for the RfC Methods Case Studies Review

The Methodology document provides the general conceptual framework for evaluation of inhalation toxicity, as well as the specifics and operational procedures for this evaluation. The procedures of the methodology will continue to develop as the state-of-science changes. The general charge to the Committee is to conduct a review on the utility of the conceptual framework through examination of case studies of chemicals across various types of agents (particle versus gas category) and data base (human versus laboratory animal; incomplete or comprehensively complete). The Committee is also charged to comment on specific aspects

of this framework, notably, consistency in the conceptual approach regarding: hazard identification; designation of effect levels; choice of critical effect; choice of principal study; duration and dosimetry adjustment; response modeling; application of UF; and characterization of uncertainty (confidence statements).

The Committee has also been asked to comment on the level of documentation used to support RfC estimates. In addition, the Committee has been asked to respond to the following specific questions: (a) Overall, are the concepts and applications of the RfC methodology clearly articulated in the documentation provided for the case studies? Do the decisions and choices in these files attain the Agency's goal of being "transparent, clear, and reasonable"? If not, what are specific examples within these files that could be instituted to better attain this goal?; (b) In derivation of the RfC in the specific case studies, (1) are the study summaries presented in sufficient detail for reader evaluation?, (2) are the designations of the critical effect and effects levels (NOAEL/LOAEL/BMC) based on rationales that are clear and reasonable?, (3) of the studies presented in either the IRIS Summary or Toxicological Review of each chemical, has the Principal study/ies been selected in a consistent and rational manner? Does this choice reflect consideration on the current knowledge of potential human response?, (4) have the underlying assumptions of the duration and dosimetry adjustments been presented clearly?, (5) are the rationales presented for use of uncertainty factors clear, reasonable and consistent?, (6) do the confidence statements reflect the strengths and limitations (e.g., relevancy to humans, comprehensiveness of the data base) of the RfC assessment in a manner consistent with the Agency's goals?; and (c) In the IRIS Summaries for the specific cases, numerous studies are included under the heading "Supporting/Additional Studies" that are meant to provide further support for designation of the critical effect (e.g., mechanistic data, human data) or for the effect level chosen in the Principal study, or to establish the completeness of the data base. Is the depth of presentation in this section sufficiently comprehensive to provide information supportive of the decisions made in the assessment (such as uncertainty factors and confidence levels)?

Charge for the Acute Reference Exposure Methods Review

The Committee has been asked to respond to the following Charge questions for the Acute Reference Exposure Methodology review: (a) The ARE methodology recommends three approaches for deriving ARE values and describes the types and amount of data that should be used to support each approach. Are these approaches appropriate for deriving acute exposure values? Are the recommendations for types and amount of data appropriate?; (b) The ARE methodology recommends using dosimetric adjustments to derive human equivalent concentrations from animal exposures. The ARE methodology departs from the RfC methodology by recommending default dosimetric adjustment factors of one for all categories of gases. For particulates, the same adjustments used for developing RfCs are recommended. Does the documentation provide sufficient rationale for these recommendations? If not, please comment on the elements that are lacking. Are the recommended dosimetric adjustments applicable to acute exposure scenarios? If not, please recommend dosimetric adjustments that are more applicable to acute exposures; (c) The categorical regression option of the ARE methodology involves assigning ordinal severity categories to effect data from toxicity studies that use a variety of species, exposure concentrations and exposure durations. Regression analysis is then used to relate the severity of response to exposure concentration and duration for the entire array of data. For determining the severity category of acute health effects, the ARE methodology document recommends using toxicological judgment rather than a well-defined scheme as schemes are unlikely to be applicable to a variety of toxic endpoints. Is the expert system for categorizing severity sufficient? If not, how can it be improved?; (d) The ARE methodology recommends using severe effect data, including lethality, for the categorical regression approach, but advises against using lethality and other nonsensitive endpoints when using No-Observed-Adverse-Effect Level (NOAEL) and benchmark concentration approaches. The categorical regression model uses severe effect data to determine the slopes of the probability curves for each severity, the intercepts for the curves and the distance between the various severity curves. Is the guidance offered for including lethal and severe effect data for ARE derivation sufficient? Can the Committee suggest ways in which severe effect data could be better utilized?; (e) CatReg software allows individual data and data reported as group information to be combined in a single analysis. The *CatReg Software User Manual* offers three alternatives for placing group and individual data on "equal footing": the use of a scaling factor, g; converting individual data to group data; and estimating individual responses from group information. No alternative is described as preferred. Does the Committee have an opinion as to which alternative may be preferable?; (f) In categorical regression, the rules of probability constrain the probability curves for the various severities to be parallel. Although parallelism is a mathematical constraint, it implies the biological interpretation that similar mechanisms of action and kinetics are active in all severity categories. Does the Committee view this as a limitation to the categorical regression approach? If so, how should the use of categorical regression be constrained?; and (g) Of the approaches recommended for ARE derivation, categorical regression is the only approach for which duration extrapolation is not required. The NOAEL and benchmark dose/concentration methods (BMC) approaches can only be applied to exposure durations for which data are available. AREs for other exposure durations must be derived by duration extrapolations. AREs for other exposure durations must be derived by duration extrapolations. For extrapolation from short duration values to longer durations, a concentration x time adjustment is recommended. For extrapolations from long durations to shorter durations, use of the same concentration identified at the longer duration is recommended. These are conservative duration adjustments. Are these duration adjustments appropriate for the approaches to which they are applied? Can the Committee suggest other adjustments that may be more appropriate?

Background for RfC Methods Case Studies Review

The Clean Air Act Amendments (CAAA) of 1990 require sources to demonstrate negligible risk and lack of residual risk (after implementation of control technology) based on health risk estimates. Inhalation Reference Concentrations (RfCs) are developed as dose-response estimates for noncancer effects. The RfC is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily inhalation exposure to the human population (including sensitive subgroups) that is

likely to be without an appreciable risk of deleterious noncancer effects during a lifetime. It is anticipated that RfCs will be used for CAAA regulatory activities as a part of the determination of negligible and residual risk for noncancer health effects of air toxics. Additionally, Regional, State and local air pollution control offices utilize RfC values in risk management programs.

The inhalation RfC methodology was developed according to the oral reference dose (RfD) paradigm with an added emphasis on portal-of-entry considerations of comparative toxicity and inhalation dosimetry for particles and gases. Extrapolation modeling was added in which factors are derived for adjustment of exposure concentrations that account for dosimetric differences between experimental animal species and humans. The methodology is considered to be a "living" document. Previous versions have undergone external peer review, including an expert peer review in October 1987 and a Science Advisory Board review in 1990 (EPA-SAB-EC–91–008). The current version of the methodology *(Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry, EPA/600/8–90/066F, October 1994)* represents the Agency's response to comments made at the 1990 SAB review including revisions to allow flexibility in the methods employed for dosimetry adjustments that reflect the state-of-the-science such as substitution of "optimal" approaches (e.g., PB-PK) when validated models are available. The current version of the Methodology and a category scheme for gases was reviewed by two additional external workgroups in August and September 1993. Revisions are already underway in the dosimetry adjustments to allow for contemporary mechanistic data to inform the choice of alternative dose metrics across noncancer and cancer toxicities where appropriate.

At its review of the inhalation methodology, the SAB requested the opportunity to review case studies using the methods to demonstrate the application of the dosimetric adjustments and to illustrate the methodology applied to chemicals representative of the typical range of data available including those with human occupational or clinical information and those with databases considered to be insufficient for quantitative dose-response estimation ("not-verifiable"). The review requested by the SAB is not intended to be a review of the RfC methods themselves but rather one of the conceptual framework of the approach as applied to representative data. The accompanying documents and related references (Jarabek, 1994; 1995a,b) provide definitions of uncertainty factors and details on the RfC derivation procedures. Case studies will be presented in one of four groups: (1) Particle case studies, (2) category 1 gas case studies, (3) category 3 gas case studies, and (4) not-verifiable case studies.

Another concern that had been voiced in a 1990 EHC report to the Agency (EPA–SAB–EHC–90–005) regarding the RfD Methodology was the reliance on the NOAEL/LOAEL approach for designation of the effect levels used in the derivation. Since that time, the Agency has advocated the use of the benchmark dose/concentration (BMD/C) approach as preferred or at least complimentary to the NOAEL/LOAEL approach *(The Use of the Benchmark Dose Approach in Health Risk Assessment, EPA/630/R–94/007, February 1995)* when the data allow. Some of the case studies to be reviewed (MDI, phosphoric acid, antimony trioxide, carbon disulfide) present BMC analyses.

Background documentation describing the derivation of the RfC for each of the chemical files has been provided. In some cases this is embodied by the IRIS Summary (i.e., on-line IRIS file) alone. The newer files (1997 and 1998) are accompanied by a Toxicological Review from which the actual on-line IRIS assessments are derived in addition to the summary sheet. The complete IRIS file for the compounds reviewed (and any other compound on IRIS) is available at http://www.epa.gov/iris. The differences in level of documentation reflect changes made during a pilot program of the Integrated Risk Information System (IRIS) process which will be described at the meeting and is reviewed in Mills and Foureman (1998).

Background for Acute Reference Exposure Methods Review

Risk assessment for acute inhalation exposures has been hampered by the lack of acute toxicity values on which to base an evaluation of exposure. In an effort to provide toxicity values for acute noncancer risk assessment for inhalation exposures, the U.S. EPA National Center for Environmental Assessment has developed a methodology for Agency use to perform dose-response assessments for noncancer effects due to acute inhalation exposures. The methodology describes how to derive chemical-specific acute exposure benchmarks called acute reference exposures (AREs). These estimates, applicable to single continuous exposures for up to 24 hours, will have wide applicability in assessing potential health risks due to short-term exposures to airborne chemicals in the environment. As they are developed and reviewed, AREs will be available to the public in chemical-specific files found in U.S. EPA's Integrated Risk Information System (IRIS) database.

The methodology document, *Methods for Exposure-Response Analysis for Acute Inhalation Exposure to Chemicals, Development of Acute Reference Exposure*, has undergone both internal and external peer review and was revised accordingly. The supplementary documents, *CatReg Software Documentation* and *CatReg Software User Manual*, were developed subsequent to the external peer review and have undergone internal peer review and revision.

For Further Information

Copies of the review document and any background materials for the review (with the exception of the SAB reports) are not available from the SAB. Copies of SAB prepared reports mentioned in this FR Notice may be obtained from the SAB's Committee Evaluation and Support Staff at (202) 260–4126, or via fax at (202) 260–1889. Please provide the SAB report number when making a request.

Requests for individual copies of the background material for the RfC Methods Case Studies review should be directed to Ms. Annie Jarabek by telephone (919) 541–4847, by fax (919) 541–1818 or via Email at: jarabek.annie@epa.gov. Technical questions about the RfC Methods Case Studies review should also be directed to Ms. Annie Jarabek, National Center for Environmental Assessment-RTP, Mail Drop 52, U.S. EPA, Research Triangle Park, NC 27711.

Requests for individual copies of the background material for the Acute Reference Exposure review should be directed to Dr. Judy Strickland by telephone (919) 541–4930, by fax (919) 541–0245 or via Email at: strickland.judy@epa.gov. Technical questions about the Acute Reference Exposure Methods should also be directed to Dr. Judy Strickland, National Center for Environmental Assessment-RTP, Mail Drop 52, U.S. EPA, Research Triangle Park, NC 27711.

Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Mary Winston, Committee Operations Staff, Science Advisory Board (1400), U.S. EPA, 401 M Street,

SW, Washington DC 20460, by telephone (202) 260–4126; fax (202) 260–7118; or via Email at: winston.mary@epa.gov

Anyone wishing to make an oral presentation at the meeting must contact Ms. Roslyn Edson, Acting Designated Federal Officer for the EHC, in writing, no later than 5:00 p.m. Eastern Time on June 4, 1998, by fax (202) 260–7118, or via Email at: edson.roslyn@epa.gov The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Edson no later than the time of the presentation for distribution to the Committee and the interested public. For questions concerning the review, Ms. Edson can be contacted at (202) 260–3823.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not repeat previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. This time may be reduced at the discretion of the SAB, depending on meeting circumstances. Oral presentations at teleconferences will normally be limited to three minutes per speaker or organization. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments, which may be of any length, may be provided to the relevant committee or subcommittee up until the time of the meeting.

Individuals requiring special accommodation, including wheelchair access, should contact Ms. Edson at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 15, 1998.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 98–13993 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6102–5]

Changes to the May 8, 1998 Federal Register Notice Regarding Salt River Municipal Solid Waste Landfill Tentative Approval; Address Correction to Public Hearing Location; Date Changes to Public Hearing and Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA's tentative approval of an alternative liner system design and use of an alternative daily cover material for the Salt River Municipal Solid Waste Landfill was published in the May 8, 1998, **Federal Register** (63 FR 25476–25479). The following information is an update to the May 8, 1998, **Federal Register** document.

Address Correction: the address for the public hearing was incorrect and printed as 1005 E. Osborne Road. The correct address is 10005 Osborne Road.

Public Hearing Date: has been rescheduled from June 10, 1998, to July 29, 1998.

Public Comment Period: has been extended from June 10, 1998, to August 5, 1998.

Please note that public hearing is scheduled for July 29, 1998, from 5–7 pm at Salt River Pima-Maricopa Indian Reservation, Community Development Conference Room, 10005 E. Osborne Road, Scottsdale, Arizona 85256. For further information, contact Steve Parker at (602) 850–8024. At the hearing, EPA may limit oral testimony to five minutes per speaker, depending on the number of commentors. The hearing may adjourn earlier than 7:00 pm if all of the speakers deliver their comments before that hour. Representatives of the Salt River Pima-Maricopa Indian Community and the Salt River MSWLF will be present at the public hearing.

Copies of the Salt River Pima-Maricopa Indian Community's applications for site-specific flexibility are available for inspection and copying at: Salt River Pima-Maricopa Indian Reservation Administration Building, 10005 E. Osborne Road, Scottsdale, Arizona 85256. Contact: Lonita Jim, Tribal Secretary (602) 850–8000, or the US EPA Region 9 Library, 75 Hawthorne Street 13th Floor, San Francisco, California, 94105, telephone (415) 744–1510, from 9 am to 5 pm Monday through Friday.

All comments on the Salt River Pima-Maricopa Indian Community's applications for approval of site-specific flexibility must be received by August 5, 1998. Written comments should be sent to Ms. Susanna Trujillo, Mail Code WST–7, US EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

Dated: May 15, 1998.

Lawrence J. Bowerman,

Acting Director, Waste Management Division.

[FR Doc. 98–13991 Filed 5–26–98; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 19, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 27, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0653.

Title: Consumer Information—Posting by Aggregators, Section 64.703(b).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 56,200 respondents.

Estimated Time Per Response: 3.57 hours per response (avg.).

Total Annual Burden: 202,566 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Needs and Uses: As required by 47 U.S.C. Section 226(c)(1)(A), Section 64.703(b) of the Commission's rules provides that aggregators (providers of telephones to the public or transient users) must post in writing, on or near such phones, information about presubscribed operator services, rates, carrier access, and the FCC address to which consumers may direct complaints.

OMB Control No.: 3060–0149.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01–63.601.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 255 respondents.

Estimated Time Per Response: 10 hours per response (avg.).

Total Annual Burden: 2550 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. 47 CFR Part 63 implements Section 214. In a NPRM issued in CC Docket No. 97–11, the Commission proposed to modify 47 CFR Part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submissions requirements for other categories. The Commission proposed entirely eliminating the requirement for carriers to file applications for line "extensions" because Congress has exempted line "extensions" for the requirements of 47 U.S.C. 214, under Section 402(b)(2)(A) of the Telecommunications Act of 1996. The Commission also proposed eliminating the requirement for reports submitted by carriers identified by the Commission as domestic non-dominant carriers, small carriers, and carriers proposing small projects. For carriers identified by the Commission as domestic dominant rate-of-return carriers, the Commission proposed reducing (but not entirely eliminating) the information submission requirements in applications for "new" lines, because the information is collected elsewhere, is unnecessary, is confusing in light of the provisions of section 402(b)(2)(A), or is no longer of decisional significance to the Commission. The information received in applications from dominant carriers (not proposed to be reduced) has been used by the Commission to determine if the facilities are needed. The information contained in reports from nondominant carriers (not proposed to be eliminated) has been used to monitor the growth of the networks and the availability of common carrier services in this segment of the telecommunications market, to relieve these carriers and the Commission of a before-the-fact review of each subsequent facility addition. These collections of information were deemed necessary to enable the Commission to comply with its mandate. Because Congress has changed the Commission's mandate in the Telecommunications Act of 1996, the information proposed to be reduced or eliminated may no longer be warranted.

OMB Control No.: 3060–0815.

Title: North American Numbering Plan Funding Worksheet.

Form No.: FCC Form 496.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 3700 respondents.

Estimated Time Per Response: .50 hours per response (avg.).

Total Annual Burden: 1850 hours.

Estimated Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Pursuant to Congress' directive in the Telecommunications Act of 1996 that the Commission establish an independent entity to administer telecommunications numbering, the Commission determined on July 13, 1995, that the costs associated with administering numbering duties should be based on each telecommunications carrier's gross revenues less payments made to other carriers. We authorized the North American Numbering Plan Administrator's (NANPA) billing and collections agent to send FCC Form 496 requesting that telecommunications carriers provide information regarding their yearly gross revenues less payments made to other telecommunications carriers. The worksheet, FCC form 496, seeks financial data, and payment from telecommunications carriers to fund NANPA. All common carriers providing telecommunications service between U.S. and foreign points must file this worksheet. The Commission and the NANPA will use the information collected in the worksheet to determine the total revenue received from telecommunications carriers in order to arrive at an amount that each carrier must pay to fund the NANPA.

OMB Control No.: 3060–0613.

Title: Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141, Transport Phase II (Third R&O).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 64 respondents.

Estimated Time Per Response: 13 hours per response (avg.).

Total Annual Burden: 832 hours.

Estimated Annual Reporting and Recordkeeping: $0.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Tier 1 local exchange carriers (except NECA members) are required to make tariff filings to provide certain signalling information to interested parties so that those parties can provide tandem switching services. Tandem switching providers are required to provide certain billing information to those Tier 1 local exchange carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–13948 Filed 5–26–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Florida International Forwarders, Inc., 12900 SW 111 Ave., Miami, FL 33176, Officer: Joe A. Caballero, President

Baytop Container Co., 2214 Torrance Blvd., #102, Torrance, CA 90501, Kevin Ahn, Sole Proprietor

Auto Shipping International, 3859 Park Avenue, Edison, NJ 08820, Ronald A. Pfeiffer, Sole Proprietor

ACD Cargo, Inc., 1521 N.W. 82 Avenue, Miami, FL 33134, Officer: Maria Flores, President

J C Shipping Inc., 802 Spring Lake Court, P.O. Box 128, Morrow, GA 30260, Officer: Joseph Chong, Director

Gene International Inc., 2125 Center Avenue, Suite 300A, Ft. Lee, NJ 07024, Officers: Ae S. Park, President, Yoon S. Park, Secretary.

Dated: May 20, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–13927 Filed 5–26–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Citizens Bancshares, Inc., Salineville, Ohio; to acquire 10 percent of the voting shares of NSD Bancorp, Inc., Pittsburgh, Pennsylvania, and thereby indirectly acquire Northside Deposit Bank, Pittsburgh, Pennsylvania.

2. Premier Financial Bancorp, Inc., Georgetown, Kentucky; to acquire 100 percent of the voting shares of The Bank of Philippi, Inc., Philippi, West Virginia (in organization).

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Frandsen Financial Corporation, Forest Lake, Minnesota; to merge with Taylor Bancshares, Inc., North Mankato, Minnesota, and thereby indirectly acquire Fidelity State Bank of Fairfax, Fairfax, Minnesota; Fidelity State Bank of Hector, Hector, Minnesota; Valley Bank Minnesota, Jordan, Minnesota; Farmers Bank, Minnesota Lake, Minnesota; State Bank & Trust Company of New Ulm, New Ulm, Minnesota; and Valley Bank, North Mankato, Minnesota.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. United Security Bancorporation, Spokane, Washington; to acquire 100 percent of the voting shares of Grant National Bank, Ephrata, Washington.

Board of Governors of the Federal Reserve System, May 20, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13914 Filed 5–26–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, June 1, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14089 Filed 5–22–98; 10:25 am]

BILLING CODE 6210–01–P

GENERAL ACCOUNTING OFFICE

Advisory Council on Government Auditing Standards; Sunshine Act Meeting

The Advisory Council on Government Auditing Standards will meet on Monday, June 8, 1998, from 9:00 a.m. to 4:30 p.m., in room 7C13 of the General Accounting Office building, 441 G St., NW., Washington, DC.

The Advisory Council on Government Auditing Standards will hold a meeting to discuss issues that may impact Government Auditing Standards. Any interested person may attend the meeting as an observer. Council discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Marcia Buchanan, Assistant Director, Government Auditing Standards, AIMD, (202) 512–9321.

Dated: May 22, 1998.
Marcia B. Buchanan,
Assistant Director.
[FR Doc. 98–14133 Filed 5–22–98; 12:49 pm]
BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget for Clearance

AGENCY: Administration on Aging.

SUMMARY: The Administration on Aging (AoA), Department of Health and Human Services, in compliance with the Paperwork Reduction Act (Pubic Law 95–511), is submitting to the Office of Management and Budget for clearance and approval an information collection instrument, namely Performance (Progress) Reports for Title IV Grantees.

Type of Request: Extension of currently approved collection.

Use: Consistent with 45 CFR Part 74, Subpart J, the AoA requires grantees funded under Title IV of the Older Americans Act to report on the performance of their projects. The report is used by the AoA to review and monitor the grantee's progress in achieving project objectives, provide advice and assistance, and to take corrective action as necessary.

Frequency: Semiannually.

Respondent: Title IV grantees.

Estimated number of respondents: 60

Estimated burden hours: 20 hours for each semiannual report.

Additional Information: Each progress report, typically 5 pages in length, is expected to cover the following subjects: recent major activities and accomplishments; problems encountered; significant findings and events; dissemination activities; and; activities planned for the next 6 months.

OMB Comment: OMB is required to make a decision concerning this collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it as soon as possible after its publication. Written comments and recommendations for the proposed information collection should be sent to the following address within 30 days of the publication of this notice: Office of Information and Regulatory Affairs, Attention: Allison Eydt, OMB Desk Officer, Office of Management and Budget, Washington, DC 20503.

Diane Justice,
Deputy Assistant Secretary for Aging.
[FR Doc. 98–14005 Filed 5–26–98; 8:45 am]
BILLING CODE 4150–40–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–19]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Surveillance for Bloodstream and Vascular Access Infections in Outpatient Hemodialysis Centers—New—National Center for Infectious Diseases (NCID). The Hospital Infections Program, NCID is proposing a study of bloodstream infections, vascular access infections, hospitalizations, and antimicrobial starts at U.S. outpatient hemodialysis centers. Although bloodstream and vascular access infections are common in hemodialysis patients, there is no existing system to record and track these complications. Participation in the proposed project is voluntary; it is estimated that 100 of the approximately 3,000 U.S. outpatient hemodialysis centers will participate. Participating centers may collect data continuously, or may discontinue participation at any time; we estimate that the average center will participate for six months. Each month, participating centers will record the number of hemodialysis patients they treat and maintain a log of all hospitalizations and intravenous (IV) antimicrobial starts. For each hospitalization or IV antimicrobial start, further information (e.g., type of vascular access, clinical symptoms, presence of a vascular access infection, and blood culture results) will be collected. A computer program will be developed to allow dialysis center personnel to enter and analyze their own data; they will also transmit the data to CDC with all patient identifiers removed. CDC will aggregate this data and generate reports which will be sent to participating dialysis centers. Rates of bloodstream infection, vascular access infection, and antimicrobial use per 1000 patient-days will be calculated. Also, the percentage of antimicrobial starts for which a blood culture is performed will be calculated. Through use of these data, dialysis centers will be able to track rates of key infectious complications of hemodialysis. This will facilitate quality control improvements to reduce the incidence of infections, and clinical practice guidelines to improve use of antimicrobials. The total cost to the respondents is $78,000.

Form	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Agreement to Participate	100	1	1	100
Census Form	100	1	1	100
Log	100	[1]10	1	1,000
Incident Form	100	[1]200	0.2	4,000

Form	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Total				5,200

[1] Estimated mean.

2. Pulmonary Function Testing Course Approval Program, 29 CFR 1910.1043 (0920–0138)—Extension—The National Institute for Occupational Safety and Health (NIOSH) has responsibility under the Cotton Dust Standard, 29 CFR 1910.1043, for approving courses to train technicians to perform pulmonary function testing. Successful completion of a NIOSH approved course is mandatory under the Standard. To carry out its responsibility, NIOSH maintains a Pulmonary Function Testing Course Approval Program. The program consists of an application submitted by potential sponsors who seek NIOSH approval to conduct courses, and if approved, notification to NIOSH of any course or faculty changes during the period of approval. The application form and addended materials including agenda, vitae and course materials are reviewed by NIOSH to determine if the applicant has developed a program which adheres to the criteria required in the Standard. The letter seeking approval for subsequent changes is reviewed to assure that changes in faculty or course content continue to meet course requirements. Applications to be a course sponsor and carry out training are submitted voluntarily by institutions and organizations from throughout the country. If an application is not submitted for review, NIOSH is unable to evaluate a course to determine whether it meets the criteria in the Cotton Dust Standard and whether technicians will be adequately trained as mandated under the Standard. The total cost to respondents for the three year period is $1,851.00.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Sponsoring organizations	66	1	.614	40.5
Total				40.5

3. Measurement of Stress and Stressful Life Events in Black Women of Reproductive Age (0920–0356)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion. A review of studies of psycho-social factors and adverse pregnancy outcome supports the hypothesis that high levels of exposure to stressful life experiences put black women at increased risk for adverse reproductive outcome, particularly Preterm Delivery (PTD) and Very Low Birth Weight (VLBW). The purpose of this study is to evaluate the reliability and validity of existing instruments that measure stress and stressful life events in black women of reproductive age. Eligible subjects will be black women who live in the Atlanta metropolitan area. Subjects will be recruited from flyers, newspaper announcements, hospitals and clinics in the metropolitan Atlanta area. Subjects will be screened and selected based on age (18–30 or 31–45 years), years of education (12, 13–15, 16 or more), and pregnancy status (pregnant, not pregnant). A maximum of thirty women will be selected for each combination of age, education and pregnancy status. The minimum age for participation will be 18 to avoid the complications due to requirement of parental consent. Women will be excluded if they use illicit drugs, such as heroin, cocaine and marijuana because these substances may alter the metabolism of cortisol. The contact, timing and spacing of the interviews and laboratory collection are based on the methodology developed and used for conducting reliability and validity tests. Approximately one half of the women will be pregnant at the time of data collection.

Women enrolled in the study respond to a series of face-to-face and self-administered demographic and psycho-social questionnaires. Women are also asked to provide a saliva sample so that we can correlate reported levels of stress with biological measures of stress.

Participation in this study is voluntary and participants will receive compensation for their time. A written informed consent will be obtained and oversight will be provided by local institutional review board.

This project should take two years. One hundred fifteen (115) women will participate only in the validity study and thirty-nine (39) women will participate in the validity and reliability study. The validity study requires one interview and one salivary sample. The reliability study requires a second interview and a second salivary specimen, approximately two weeks after the first interview.

During the first three months of the study, the Project Director will set up the office, hire staff and student assistants and provide interviewer and data entry training. The Project Director will also make contacts and explore potential sites for recruiting women for the study. During the next nine months, all of the interviews (approximately 115 validity subjects and 39 reliability subjects remaining) will be conducted and data entry of the quantitative instruments (i.e Demographic Lifestyle Questionnaire, Cohen Perceived Stress Scale, Life Experience Survey (LES), ARIC/BAECKE Questionnaire of Habitual Physical Activity, Center for Epidemiologic Studies Depression Scale (CES–D), Profile of Mood States, Multiple Affect Adjustive Checklist, Speilberger Trait Anxiety Inventory—Self Evaluation Questionnaire) will be completed. Scoring for the qualitative instruments (i.e. Structured Event Probe and Narrative Rating Method (SEPRATE) and Life Events and Difficulties Schedule (LEDS) will be initiated during year 1, but the bulk of the qualitative scoring will be completed during Year 2. The data entry of the qualitative date will be completed during Year 2. Preliminary analyzes will be conducted during Year 2, with the technical assistance of CDC. The total estimated cost to respondents is $6,755.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Reliability Study Group	39	2	3	234
Validity Study Group	115	1	3	345
Total				579

4. The National Death Index (NDI) (0920–0215)—Extension—A service of the National Center for Health Statistics (NCHS), that assists health and medical researchers to determine the vital status of their study subjects. The NDI is a national data base containing *identifying* death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death and the death certificate numbers of deceased study subjects. With the recent implementation of the NDI Plus service, researchers now have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the states. The NDI Plus option currently provides the ICD–9 codes for the underlying and multiple causes of death for the years 1979–1996. The five administrative forms are completed by health researchers in government, universities, and private industry in order to apply for NDI services and to submit records of study subjects for computer matching against the NDI file. The total cost to respondents is estimated at $5,685.

Respondents	Number of respondents	Number of responses/respondents	Average burden/response (in hours)	Total burden (in hours)
Government researchers	48	1	1.89	90.8
University researchers	60	1	1.89	113.5
Private industry researchers	12	1	1.89	22.7
Total				227.0

Charles W. Gollmar,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–13952 Filed 5–26–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Safety Research: Availability of Cooperative Agreements; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN) is announcing the availability of research funds for fiscal year (FY) 1998 to conduct research to support the reduction of the incidence of foodborne illness, specifically to support: The development of sampling methods to enhance the detection, and more specifically the enumeration, of low levels of pathogens in foods; the development of intervention strategies for consumers to improve food safety in the home; and total genome sequence analyses of the pathogen *Escherichia coli* O157:H7, towards a molecular definition of microbial virulence and pathogenicity. Approximately $700,000 will be available in FY 1998. FDA anticipates making three to five awards at $100,000 to $200,000 (direct and indirect costs) per award per year. Support of these agreements may be up to 3 years. The number of agreements funded will depend on the quality of the applications received and the availability of Federal funds to support the project. After the first year, additional years of noncompetitive support are predicated upon performance and the availability of Federal FY funds. FDA is mandated by the President's Food Safety Initiatiative (FSI) to reduce the incidence of foodborne illness to the greatest extent feasible.

DATES: Submit applications by July 13, 1998. If the closing date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday.

ADDRESSES: Application forms are available from, and completed applications should be submitted to: Robert L. Robins, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6170. (Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20852.)

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Robert L. Robins (address above).

Regarding the programmatic aspects of this notice: Robert L. Buchanan, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–500), 200 C St. SW., Washington DC 20204, 202–205–5053.

SUPPLEMENTARY INFORMATION: FDA will support the research studies covered by this notice under section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

PHS urges applicants to submit work plans that address specific objectives of "Healthy People 2000." Potential applicants may obtain a copy of "Healthy People 2000 (Full Report, stock No. 017–00100474–0) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

I. Background

FDA is mandated by the President's Food Safety Initiative (FSI) to reduce the incidence of foodborne illness to the greatest extent feasible. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 9,000 a year, primarily the very young and elderly, die as a result. Research in food safety seeks to reduce the incidence of foodborne illness by improving our ability to detect and enumerate pathogens in the food supply and to find new ways to control them. The President's FSI requires that 1998 funds be used to develop rapid cost effective tests for the presence in foods of pathogens and to develop technologies for preventing foodborne illness through the control of pathogens.

FDA has continually sponsored research to improve the detection of pathogens in foods. One area that may now be addressed is the problem of detecting sporadically-occuring low-level pathogens in foods. A caveat to employing existing detection regimens is the need to develop effective sampling strategies. Therefore, one objective of this funding initiative is the development of new approaches to sampling that will allow the use of existing detection regimens for screening larger sample volumes, thereby increasing the probability of detecting the presence of low levels of a pathogen. The ideal sampling method would: (1) Be nondestructive, (2) enhance the detection of multiple target microorganisms at or below current regulatory limits, (3) provide quantitative data of the level of the target pathogen to aid microbial risk assessment, and (4) be capable of being automated.

FDA has continually sponsored research in intervention strategies to mitigate the risk of foodborne illness. The initiative provides an opportunity to expand the range of research questions addressed by FDA in intervention strategies. The development of specific intervention strategies that may be used by consumers or food service providers is a priority need. A substantial number of disease outbreaks are associated with food consumption in the home or food service facilities, and in many of these incidences faulty food handling practices are identified as contributing factors. Some of these practices may be addressed by education. However, even with the strict adherence to recommended food handling practices, there is a risk of pathogenic microorganisms entering the home kitchen. Such hazards have traditionally been controlled by cooking, but this is not an option for many foods (e.g., lettuce, fresh fruit). New methods or technologies are needed that can empower the consumer and food service providers by providing them a means to actively reduce the incidence and prevalence of pathogens on foods that are not amenable to cooking. An effective intervention is one that can consistently reduce the levels of target pathogens (i.e, *Salmonella typhimurium*, *Listeria monocytogenes*, *E. coli* O157:H7, *Cyclospora cayetenensis*, *Cryptosporidium parvum*) by at least 1,000-fold under standardized test conditions. The funding initiative seeks to develop these new methods or technologies.

FDA has continually sponsored research for characterization of microbial virulence factors and the evolution of microbial survival and growth, especially as it impacts pathogenesis. The initiative provides an opportunity to expand the range of research questions addressed by FDA in the virulence and evolution of *E. coli* O157:H7. This pathogen is of special interest because of its virulence and resistance to traditional methods of food preservation. FDA needs to better understand the mechanisms of the pathogen's survival, growth, and evolution, with respect to the factors associated with its pathogenesis. An important tool for acquiring this information is the sequence of the genome of the pathogen. It is expected that sequence information of *E. coli* O157:H7 will provide unique insights into the evolution of the pathogen, particularly in comparison with nonpathogenic *E. coli* sequences. Further insights are anticipated with respect to identifying sequences of deoxyribonucleic acid from other organisms and deducing the mechanism of transfer based upon collateral sequences. Proposed research should initiate a pathway to the eventual development of rapid and sensitive methods for detection, identification, and enumeration of this important pathogen.

II. Research Goals and Objectives

The specific objectives of this program will be: (1) The development of sampling methods or strategies to facilitate existing detection methods towards detecting, and more importantly enumerating, low-level microbial pathogens in food; (2) the development of intervention strategies for use by consumers in the home and by food service providers that will reduce the incidence of food borne illness, particularly that associated with fresh or minimally processed produce; and (3) the expansion of knowledge of the genome of *E. coli* O157:H7, towards a molecular definition of pathogen emergence and resistance to traditional food processing/preservation practices.

Projects that fulfill any one of the following specific objectives will be considered for funding. Applications may address only one project objective; however, applicants may submit more than one application for any of the following project objectives:

A. Project Objective 1

Project objective 1 is intended to develop sampling and statistical methods that facilitate existing pathogen detection regimens to allow the detection, and more importantly enumeration, of low-levels of pathogens in or on foods, particularly fresh or minimally processed produce. Projects will be considered that seek to develop new ways of sampling large volumes of foods in a nondestructive or contaminating manner and provide quantitative estimates of the level of the pathogen to aid microbial risk assessment. Proposals may include any of a variety of potential isolation, recovery, and/or concentration systems, as long as they are suitable for use in food production, processing, or preparation facilities. An ideal sampling plan should also consider not only occurrence of pathogen(s), but also dispersion or distribution of the pathogen in the food. These pathogen enumeration and distribution data would aid reconstructing the estimated ingested dose that caused illness, lending support to development of dose-response models in microbial risk assessment. A plan for demonstrating the feasibility of the developed methodology in contaminated foods collected under "field conditions" should be included.

B. Project Objective 2

Project objective 2 is intended to develop intervention methods or technologies other than cooking that can be used by consumers in the home or by operators of food service facilities. Proposed approaches should provide consumers with new tools and methods that can enhance the microbiological safety of foods, particularly fresh or minimally processed produce, that is prepared in the home or food service facilities by decreasing the level of pathogens in or on the food. The proposed intervention strategy can be at any point between the consumer's, or food service proprietor's, purchase of a

food or food ingredient and its consumption. The proposed intervention strategy must be affordable and easy enough to perform so as to be adopted by consumers. The estimated performance characteristics of the proposed strategy, with respect to added safety, must be carefully detailed in the proposal and validated during the research if the grant is awarded. Validation will include testing with a variety of fresh vegetables and fruit with at least two of the five pathogens mentioned previously.

C. Project Objective 3

Project objective 3 is intended to provide genomic sequence data on *E. coli* O157:H7. Preference will be given to applicants demonstrating documented success of other genomic sequencing projects and well-developed sequencing plans for areas of the genome that have special relevance to food safety. Applicants must demonstrate that they can apply the most recent technology cost-effectively to the production of sequence data and show that they can adequately and efficiently accumulate, store, and disseminate those data for future interpretation and application. A commitment to and a plan for making the sequence data publicly available by deposition into an accessible sequence data base (GenBank and GSDB) within 3 months of data acquisition and annotation, must be included in the project description.

D. Protection of Human Research Subjects

Some activities carried out by a recipient under this announcement may be governed by Department of Health and Human Services (DHHS) regulations for the protection of human research subjects (45 CFR 46). These regulations require recipients to establish procedures for the protection of subjects involved in any research activities. Prior to funding and upon request of the Office for Protection from Research Risks (OPRR), prospective recipients must have on file with OPRR an assurance to comply with 45 CFR 46. This assurance to comply is called an assurance document. It includes the designated Institutional Review Board (IRB) for review and approval of procedures for carrying out any research activities occurring in conjunction with this award. If an applicable assurance document for the applicant is not already on file with OPRR, a formal request for the required assurance will be issued by OPRR at an appropriate point in the review process, prior to award, and examples of required materials will be supplied at that time. No applicant or performance site, without an approved and applicable assurance on file with OPRR, may spend funds on human subject activities or accrue subjects. No performance site, even with an OPRR-approved and applicable assurance, may proceed without approval by OPRR of an applicable assurance for the recipients. Applicants may wish to contacting OPRR by facsimile (301–402–0527) to obtain preliminary guidance on human subjects issues. When contacting OPRR, applicants should provide their institutional affiliation, geographic location, and all available request for application (RFA) citation information.

III. Reporting Requirements

A Program Progress Report and a Financial Status Report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR (SF–269) on time may be grounds for suspension or termination of the agreement. Progress reports will be required quarterly within 30 days following each Federal fiscal quarter (January 31, April 30, July 30, and October 31), except that the fourth report will serve as the annual report and will be due 90 days after the budget expiration date. CFSAN program staff will advise the recipient of the suggested format for the Program Progress Report at the appropriate time. A final FSR (SF–269), Program Progress Report and Invention Statement, must be submitted within 90 days after the expiration of the project period, as noted on the Notice of Grant Award.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least quarterly by the project officer and the project advisory group. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of cooperative agreements. These cooperative agreements will be subject to all policies and requirements that govern the research grant programs of the PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program.

B. Eligibility

These cooperative agreements are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity. For-profit entities must exclude fees or profit from their request for support to receive grant awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive awards.

C. Length of Support

This agreement is planned for up to 3 years. Funding beyond the first year will be noncompetitive and will depend on: (1) Satisfactory performance during the preceding year, and/or (2) the availability of Federal fiscal year funds.

V. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have a substantive involvement in the programmatic activities of all the projects funded under this RFA. Substantive involvement includes but is not limited to the following:

1. FDA will appoint project officers who will actively monitor the FDA supported program under each award.
2. FDA will establish a project advisory group which will provide guidance and direction to the project officer with regard to the scientific approaches and methodology that may be used by the investigator.
3. FDA scientists will collaborate with the recipient and have final approval on experimental protocols. This collaboration may include protocol design, data analysis, interpretation of findings, co-authorship of publications and the development and filing of patents.

VI. Review Procedure and Criteria

A. Review Method

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the

specific application. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or his designee.

B. Review Criteria

The funding priority categories are as follows:

Project Objective 1–first priority
Project Objective 2–second priority
Project Objective 3–third priority

All comments received on these funding priority categories will be taken into consideration and will receive a written response.

Applicants must clearly state in their applications which of the previously listed established funding priority categories is relevant to their proposed project. Applications will be grouped, reviewed, and ranked within each funding priority category. Funding priority will start with the highest ranked applications under each of the three objectives, then the second highest, etc., until available funds have been exhausted. All applications will be evaluated by program and grants management staff for responsiveness. Applications considered nonresponsive will be returned to the applicant, without being reviewed. Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or scientific nature must be directed to the CFSAN program staff and all questions of an administrative or financial nature must be directed to the grants management staff. (See **FOR FURTHER INFORMATION CONTACT** caption at the beginning of this document.) Applications will be reviewed and scored on the following criteria:

1. Research should be proposed on microbiological sampling or intervention strategies that is within one of the three objectives listed in section II of this document;

2. Whether the proposed study is within the budget and costs have been adequately justified and fully documented;

3. Soundness of the rationale for the proposed study and appropriateness of the study design to address the objectives of the RFA;

4. Availability and adequacy of laboratory facilities and equipment;

5. Availability and adequacy of support services (e.g., biostatistical computer, data bases, etc.,); and

6. Research experience, training, and competence of the principal investigator and support staff.

VII. Submission Requirements

The original and five copies of the completed Grant Application Form PHS 398 (Rev. 5/95) or the original and two copies of Form PHS 5161 (Rev. 7/92) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Robert L. Robins (address above). State and local governments may choose to use Form PHS 398 in lieu of the Form PHS 5161. The application closing date is July 13, 1998. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day. No supplemental or addendum material will be accepted after the closing date. The outside of the mailing package and item 2 of the application face page should be labeled, "Response to RFA FDA CFSAN–98–2, Project Objective 1 (2 or 3)."

VIII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established closing date. Applications will be considered received on time if sent or mailed on or before the closing date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.)

Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed unresponsive and returned to the applicant. Instructions for completing the application forms can be found on NIH home page on the Internet (address: "http://www.nih.gov.grants/funding/phs398/phs398.html"; the forms can be found at "http://www.nih.gov/grants/funding/phs398/forms-toc.html"). However, as noted previously, applications are not to be mailed to NIH. Applicants are advised that FDA does not adhere to the page limitations or the type size and line spacing requirements imposed by NIH on its applications. Applications must be submitted via mail delivery as stated previously. FDA is unable to receive applications via the Internet.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/95). All "General Instructions" and "Specific Instructions" in the application kit should be followed with the exception of the closing dates and the mailing label address. Do not send applications to the CSR, NIH. Applications from State and local governments may be submitted on Form PHS 5161 (Rev. 7/92) or Form PHS 398 (Rev. 5/95).

The face page of the application should reflect the RFA number RFA–FDA–CFSAN–98–2, Project Objective 1 (2 or 3).

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by PHS to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925–0001.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

Dated: May 18, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–13918 Filed 5–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Research Studies To Support Microbial Risk Assessment Modeling; Availability of Cooperative Agreements; Request for Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN) is correcting a document that appeared in the **Federal Register** of May 4, 1998 (63 FR 24553). The document announced the availability of approximately $800,000 for research funds for fiscal year (FY) 1998 to conduct research to support the development of risk assessment dose-response models for microbiological hazards associated with food. The document was published with an inadvertent error. This document corrects that error.

DATES: Submit applications by June 18, 1998. If the closing date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday.

FOR FURTHER INFORMATION CONTACT: Wes R. Long, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–301), 200 C St. SW., Washington, DC 20204, 202–205–4064.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–11743, appearing on page 24553 in the **Federal Register** of Monday, May 4, 1998, the following correction is made:

1. On page 24555, in the third column, in the first full paragraph beginning in the fourth line, "Shiga-like toxin-producing *Cryptosporidium parvum*, pathogenic *Escherichia coli*, *Listeria monocytogenes*, Norwalk virus, *Salmonella* spp., *Shigella* spp., *Vibrio* spp., and *Staphyloccocus* spp. enterotoxin. * * *" is corrected to read "*Cryptosporidium parvum*, Shiga-like toxin producing pathogenic *Escherichia coli*, *Listeria monocytogenes*, Norwalk virus, *Salmonella* spp., *Shigella* spp., *Vibrio* spp., and *Staphyloccocus* spp. enterotoxin.* * *"

Dated: May 14, 1998.

William K. Hubbard,

Deputy Commissioner for Policy Coordination.

[FR Doc. 98–13916 Filed 5–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Extension of Receipt Date for Applications

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA).

ACTION: Notice of Extension of Receipt Date for Applications for SAMHSA's Center for Substance Abuse Treatment (CSAT) Cooperative Agreements for State Treatment Outcomes and Performance Pilot Studies Enhancement Program (Short Title: TOPPS II; GFA No. TI 98–005).

A Notice of Funding Availability for seven SAMHSA programs was published in the **Federal Register** on April 8, 1998 (Vol. 63, No. 67; pages 17197–17203). The receipt date for applications for the seven programs listed was June 8, 1998. Subsequently, a decision was made to extend the deadline for the receipt of applications from June 8, 1998 to June 19, 1998 for the Cooperative Agreements for State Treatment Outcomes and Performance Pilot Studies Enhancement (TOPPS II) program *only*. The June 8, 1998 receipt date for the other six programs remains the same.

The programmatic contact for the TOPPS II program is: Sheila Harmison, D.S.W., Division of State and Community Assistance, CSAT, SAMHSA, Rockwall II Building, Suite 880, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–7524.

Dated: May 19, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–13915 Filed 5–26–98; 8:45 am]

BILLING CODE 4162–20–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION NOTICE

Border Environment Cooperation Commission (BECC); Public Meeting

SUMMARY: This notice announces the XVI public meeting of the BECC Board of Directors on Wednesday, June 24, 1998, from 10:00 a.m.–2:00 p.m. in Saltillo, Coahuila, Mexico, at the Universidad Autonoma de Coahuila, located on Blvd. Venustiano Carranza y Gonzalez Lobo.

FOR FURTHER INFORMATION CONTACT: M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone: (915) 832–4105; or Angeles Villarreal, Public Participation Officer, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913, telephone: (011–52–16) 25–91–60; fax: (011–52–16) 25–26–99; e-mail: becc@cocef.org.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and Water Commission, on behalf of the Border Environment Cooperation Commission (BECC), cordially invites the public to attend the XVI Public Meeting of the Board of Directors on Wednesday, June 24, 1998, from 10:00 a.m.–2:00 p.m., at the Universidad Autonoma de Coahuila, located on Blvd. Venustiano Carranza y Gonzalez Lobo in Saltillo, Coahuila, Mexico. Proposed Agenda, 10:00 a.m.–2:00 p.m.

1. Approval of Agenda (Action)
2. Approval of Minutes of Meeting of March 30, 1998 (Action)
3. General Manager's Report (Information)
4. Review of Projects for Certification (Action)
   * Calexico, CA
   * Lower Valley, TX
   * Donna, TX
   * Public Comments
5. Approval of Technical Assistance Grants (Action)
6. Update on Technical Assistance Program (Information)
7. Other Matters (Information)
   * Report on Sustainable Development Committee
8. General Public Comments

Anyone interested in submitting written comments to the Board of Directors on any agenda item should send them to the BECC 15 days prior to the public meeting. Anyone interested in making a brief statement to the Board may do so during the public meeting.

Dated: May 20, 1998.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 98–13962 Filed 5–26–98; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Permit Amendment for the Natomas Basin Habitat Conservation Plan, Sacramento and Sutter Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permit amendment.

SUMMARY: On December 31, 1997, the Service issued an incidental take permit pursuant to section 10(a)(1)(B) of the

Endangered Species Act of 1973, as amended, to the City of Sacramento, California, for the Natomas Basin Habitat Conservation Plan (Plan). The assigned permit number is PRT–823773. Prior to issuance of the incidental take permit, the Service had agreed, in settlement of pending court litigation *Spirit of the Sage Council* v. *Babbitt* (D.D.C.), to request public comment on the appropriateness of including the Department of the Interior's and Department of Commerce's joint Habitat Conservation Plan Assurances ("No Surprises Assurances") in all incidental take permit applications noticed for public comment in the **Federal Register** after March 18, 1997, pending a final determination by the agencies regarding the policy. In the **Federal Register** notice of June 18, 1997 (62 FR 33400), the Service specifically requested public comment on the No Surprises assurances in the Plan. In a subsequent stipulation in the litigation, the Service agreed not to issue any incidental take permits after December 29, 1997, that contained No Surprises Assurances until making a final determination on the proposed No Surprises rule. Because the Plan had been completed and the permit applicant wished to proceed with activities under the Plan, the Service issued the permit on December 31, 1997, without the "No Surprises" assurances that otherwise would have accompanied the permit. This was accomplished by adding term and condition K. to the permit which rendered inoperative the No Surprises assurances contained in the Plan and Implementing Agreement. On February 23, 1998, the Department of the Interior (Fish and Wildlife Service) and Department of Commerce (National Marine Fisheries Service) published the Habitat Conservation Plan Assurances ("No Surprises") final rule (63 FR 35), thus fulfilling the final condition of the court settlement.

The purpose of the proposed permit amendment is to reinstate the "No Surprises" assurances into the City of Sacramento's incidental take permit for the Natomas Basin Plan, as described in condition K. of the permit and as outlined in sections 6.9.2–6.9.4 of the Plan's Implementing Agreement. This permit amendment would result in no substantive changes to the Natomas Basin Plan or any of its supporting documents.

DATES: Written comments on the addition of No Surprises Assurances to the incidental take permit should be received on or before June 26, 1998.

ADDRESSES: Comments should be addressed to the Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino, Suite 130, Sacramento, California 95821–6340. Please refer to permit number PRT–823773 when submitting comments on this provision. Individuals wishing copies of the Plan or Implementing Agreement for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. William Lehman, Sacramento Fish and Wildlife Office, telephone (916) 979–2129.

Dated: May 18, 1998.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–13950 Filed 5–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Quail Hollow Quarry, Santa Cruz County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Graniterock Company of Watsonville, California, has applied to the Fish and Wildlife Service for an amendment to an incidental take permit pursuant to the Endangered Species Act of 1973, as amended (Act). The Service proposes to issue an amendment to Graniterock's incidental take permit (PRT–830417) for the federally listed endangered Mount Hermon June beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), Ben Lomond wallflower (*Erysimum teretifolium*), and Ben Lomond spineflower (*Chorizanthe pungens* var. *hartwegiana*) in the future mining area at the Quail Hollow Quarry, located in Santa Cruz County, California. This notice announces the availability of the permit application and the Environmental Assessment for public review and comment. The permit application includes the Habitat Conservation Plan for the Quail Hollow Quarry and an Implementation Agreement. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments should be received on or before June 26, 1998.

ADDRESSES: Comments should be addressed to Diane K. Noda, Field Supervisor, Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Written comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: David Pereksta, Fish and Wildlife Biologist, at the above address (telephone: 805–644–1766).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Ventura Fish and Wildlife Office at the above referenced address or telephone. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background Information

Graniterock Company (Applicant) currently has authorization from the County of Santa Cruz to mine sand in areas A, B, and C of the Quail Hollow Quarry (known as the current mining area). Mining would be conducted in two phases. The Applicant has completed mining in area A and presently is mining in areas B and C of the current mining area (phase one) where populations of the endangered Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower occur. The Applicant received an incidental take permit from the Service for phase one on August 1, 1997. The sand source in the current mining area is expected to last for only a few years. During phase two, the Applicant intends to expand mining into an area known as the future mining area. The Applicant has applied to the Service to amend the initial 3-year incidental take permit to a 100-year permit. For context, the Habitat Conservation Plan covers both the current and future mining areas.

The Applicant needs an incidental take permit from the Service because listed wildlife species are protected against "take" pursuant to section 9 of the Act. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations

governing permits for endangered species are at 50 CFR 17.22.

Section 9 of the Act generally does not prohibit take of federally listed plants on private lands unless the take or action resulting in take would violate State law. The Applicants have requested a permit for plants to the extent that their take would be a violation of the Act. Impacts to listed plants also must be addressed in the intra-Service consultation required pursuant to section 7(a) of the Act.

The Service proposes to issue a 100-year permit to the Applicant for incidental take of four listed species during phase two of proposed mining activities in the future mining area of Quail Hollow Quarry. The proposed action would result in the loss of habitat for, and individuals of, the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower in the future mining area as the natural vegetation communities in which they are found are removed during mining operations. This action could directly and indirectly affect the species described above (the Plan Species).

The proposed action would authorize the incidental take of all Mount Hermon June beetles and Zayante band-winged grasshoppers in the future mining area on approximately 83 acres of the 220-acre quarry site. The future mining area contains approximately 27 acres of suitable habitat for these listed wildlife species. In addition, 5 acres of habitat occupied by the Ben Lomond wallflower and 5.5 acres of habitat occupied by the Ben Lomond spineflower would be lost from the future mining area.

The Applicant developed a Habitat Conservation Plan as part of a settlement agreement for litigation it had filed seeking a vested right to mine the entire quarry. This agreement set out to resolve all of the endangered species and habitat protection issues on the property. Under this agreement, the Applicant, Santa Cruz County, Sierra Club, California Native Plant Society, and the South Ridge Watershed Association established the minimum mitigation requirements under which continued sand mining in Quail Hollow Quarry would be allowed. The agreement is in the form of a stipulation for entry of judgment (Stipulation Agreement).

Consistent with this Stipulation Agreement, the Habitat Conservation Plan proposes the following minimization and mitigation measures for phase two mining. At the time the Applicant receives authorization to commence mining in the future mining area, and prior to habitat disturbance within the future mining area, it will: (1) grant a conservation easement in perpetuity to Santa Cruz County for the 20.6-acre West Ridge Habitat Set Aside and provide for protection and long-term management of the area; (2) provide funding for and carry-out long-term management of the 32.6-acre South Ridge Habitat Set Aside which the County of Santa Cruz is legally entitled and committed to purchase at the agreed upon fair market value; (3) implement all provisions of the Habitat Conservation Plan in order to avoid disturbing Plan Species in all areas of the quarry property except for areas within the current and future mining areas, overburden and stockpile areas, and existing access road, as shown in Map 2 of the Habitat Conservation Plan; (4) provide written agreement to protect in perpetuity from any and all disturbance all areas of the project site (except for areas within the current and future mining areas, overburden and stockpile areas, and existing access road as shown in Map 2) containing the Plan Species, State listed species, and County-defined rare, endangered, or threatened species and sensitive habitats; (5) enhance 3 acres of disturbed sand parkland and 5.2 acres of disturbed maritime chaparral on the project site in a location satisfactory to the County of Santa Cruz, the Service and the California Department of Fish and Game; (6) protect and provide long term management of the on-site restoration areas, along with the 32.2-acre North and West Ridge habitat set asides; and (7) revegetate slopes within the future mining area with the goal of reestablishing habitat for the Plan Species.

Environmental Assessment

The Environmental Assessment considers the environmental consequences of the proposed action and no action alternatives. A no take alternative was not feasible due to the widespread distribution of the Plan Species on-site. Under the proposed action, the Applicant would implement phase two of their Habitat Conservation Plan consistent with the Stipulation Agreement (see Background for a description of the proposed action).

Under the no action alternative, the Service would not issue an incidental take permit to the Applicant and a Habitat Conservation Plan would not be implemented. The Applicant would continue to mine areas B and C until the sand supply was exhausted. The Applicant would then reclaim all previously disturbed areas of the quarry consistent with their reclamation plan as required by the Surface Mining and Reclamation Act. The Applicant would be prevented from legally carrying out mining in other areas of the quarry due to the presence of listed animal species in the area. The no action alternative would negate the terms of the Stipulation Agreement and could result in continued and lengthy litigation. In the meantime, the absence of the Habitat Conservation Plan would effectively preclude the sale of the South Ridge property to Santa Cruz County and the establishment of the West Ridge conservation easement.

This notice is provided pursuant to section 10 (a) of the Endangered Species Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of law. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the listed species. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: May 19, 1998.

David L. McMullen,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–13953 Filed 5–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) has submitted the proposed renewal of the information collection request for the Housing Assistance Application, codified at 25 CFR Part 256.5, to the Office of Management and Budget (OMB) for approval under the paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On February 19, 1997, BIA published a notice in the **Federal Register** (62 FR 7469–7470) requesting comments on the proposed information collection. The regulations for the Housing Improvement Program (HIP)

have been modified for the purpose of simplifying administrative guidelines, presenting the regulations in a clear and unambiguous manner (plain English) and making the program more flexible and responsive to the needs of Tribes. The final rule was published in the **Federal Register** (FR 10124–10139) on March 2, 1998. One comment regarding this information collection was received after the close of the prescribed time period published in the **Federal Register**. The OMB requested that the BIA more fully demonstrate compliance with the Privacy Act and that respondents be informed of the legal significance of the displayed OMB control number. The BIA has complied with OMB's request. The BIA is requesting OMB approval of the collection of information on a regular basis, within 30 days.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information form may be obtained by contacting June Henkel, Bureau of Indian Affairs, Department of the Interior, 1849 C Street NW, MS–4603–MIB, Washington, DC 20240. Telephone: (202) 208–3667.

DATES: OMB is required to respond to this request within 60 days after publication of this notice in the **Federal Register**, but may respond after 30 days; therefore, your comments should be submitted to OMB within 30 days of publication to assure maximum consideration.

ADDRESSES: Your comments and suggestions on the requirements should be made directly to the attention: Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street NW, Washington DC 20503. Telephone: (202) 395–7340. Please provide a copy to June Henkel, Bureau of Indian Affairs, Department of the Interior, 1849 C Street NW, MS–4603–MIB, Washington, DC 20240. Telephone: (202) 208–3667.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is needed to establish an applicant's eligibility to receive services under the Housing Improvement Program and to establish the priority order in which eligible applicants may receive services under the program. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

II. Request for Comments

We specifically request your comments be submitted to OMB at the address provided above with a copy to the Bureau of Indian Affairs within 30 days concerning the following:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;
2. The accuracy of the BIA's estimate of the burden to collect the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and,
4. How to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

III. Data

Title of the Collection of Information: Department of the Interior, Bureau of Indian Affairs, Housing Assistance Application.

OMB Number: 1076–0084.

Affected Entities: Individual members of Indian tribes who are living on or near a tribally or legally defined service area.

Frequency of Response: At least annually.

Estimated Number of Annual Responses: 3500.

Estimated Time per Application: ½ hour.

Estimated Total Annual Burden Hours: 1,750 hours.

Dated: April 23, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–13949 Filed 5–26–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Extension of Post-Sale Evaluation Period for Central Gulf of Mexico Lease Sale 169

AGENCY: Minerals Management Service, Interior.

ACTION: Notice to extend post-sale evaluation period for Central Gulf of Mexico Lease Sale 169.

SUMMARY: This notice extends by 30 days, the post-sale evaluation period for Central Gulf of Mexico Lease Sale 169. Minerals Management Service (MMS) will complete the evaluation of all bids received in this sale by July 15, 1998. This action is necessary due to the unusually high number of bids received in response to this lease sale.

DATES: The post-sale evaluation period ends on July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Gary L. Lore, Regional Supervisor, Resource Evaluation, Gulf of Mexico Region, telephone (504) 736–2710.

SUPPLEMENTARY INFORMATION: In the Central Gulf of Mexico Sale 169, held March 18, 1998, MMS received 1,188 bids on 794 tracts, 512 of which passed to a second phase required for detailed evaluations. This continued aggressive bidding activity is, in part, due to the enactment of the Outer Continental Shelf Deep Water Royalty Relief Act (Pub. L. 104–58) but is also influenced by other factors, such as the high number of quality prospects on recently expired unexplored tracts in newly established deepwater hydrocarbon plays and by the unprecedented cost-saving technological advances related to hydrocarbon development and production in the Gulf of Mexico's deepwater environment. Consequently, MMS is unable to conduct and complete a comprehensive evaluation and bid review process within the scheduled 90 days, i.e., by June 15, 1998. Under provisions of § 256.47(e)(2), MMS is extending the bid evaluation period until July 15, 1997.

Dated: May 19, 1998.

Chris C. Oynes,

Regional Director.

[FR Doc. 98–13939 Filed 5–26–98; 8:45 am]

BILLING CODE 4310–MR–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting

June 9, 1998.

TIME AND DATE: Tuesday, June 9, 1998, 1:00 PM (OPEN Portion), 1:30 PM (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

STATUS: Meeting OPEN to the Public from 1:00 PM to 1:30 PM. Closed portion will commence at 1:30 PM (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Approval of March 10, 1998 Minutes (Open Portion).
3. Meeting schedule through March, 1999.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 1:30 PM).

1. Insurance Project in Philippines.

2. Insurance Project in Turkey.
3. Approval of March 10, 1998 Minutes (Closed Portion).
4. Pending Major Projects.
5. Report on OPIC's Small Business Initiative.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Connie M. Downs,
OPIC Corporate Secretary.
[FR Doc. 98–14088 Filed 5–22–98; 10:25 am]
BILLING CODE 3210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–98–008]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.
TIME AND DATE: June 4, 1998 at 11:30 a.m.
PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.
STATUS: Open to the public.
MATTERS TO BE CONSIDERED:
1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–781–786 (Preliminary) (Stainless Steel Round Wire from Canada, India, Japan, Korea, Spain, and Taiwan)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.
Issued: May 21, 1998.

Donna R. Koehnke,
Secretary.
[FR Doc. 98–14143 Filed 5–22–98; 2:43 pm]
BILLING CODE 7020–02–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–98–009]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.
TIME AND DATE: June 11, 1998 at 11:00 a.m.
PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.
STATUS: Open to the public.
MATTERS TO BE CONSIDERED:
1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 753–TA–34 (Extruded Rubber Thread from Malaysia)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.
Issued: May 21, 1998.

Donna R. Koehnke,
Secretary.
[FR Doc. 98–14144 Filed 5–22–98; 2:43 pm]
BILLING CODE 7020–02–P

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 11–98]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Monday, June 15, 1998, 10:00 a.m.

Subject Matter: A. Oral Hearings on Objections to Proposed Decisions on claims against Albania, as follows:

10:00 a.m. Claim No. ALB–247 Stephen J. Pantos
10:30 a.m. Claim No. ALB–117 James Elias
11:00 a.m. Claim No. ALB–146 Connie Zotos
11:30 a.m. Claim No. ALB–178 Hariklia Zoto, et al.

B. Hearings on the Record on Objections to Proposed Decisions on claims against Albania, as follows:

1. Claim No. ALB–042 Xhani Femera, et al.
2. Claim No. ALB–072 Thomas M. Toma
3. Claim No. ALB–092 Thanas A. Laske
4. Claim Nos. ALB–137, Klementina Sevo ALB–138 Marianthi Fili
5. Claim No. ALB–153 Bibi Xhemal Bejleri
6. Claim No. ALB–173 Marigo Vasiliades, et al.
7. Claim No. ALB–187 Helena Liolin
8. Claim No. ALB–203 Stavri G. Buri
9. Claim No. ALB–220 Gjergji Gjeli
10. Claim No. ALB–293 Jorgo Stoli

Status: Open.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC, May 22, 1998.

Judith H. Lock,
Administrative Officer.
[FR Doc. 98–14177 Filed 5–22–98; 2:43 pm]
BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request; New Information Collection

ACTION: Notice of information collection; new collection; public charge bond in pilot program.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 27, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection.

(1) *Type of Information Collection: new information collection.*

(2) *Title of the Form/Collection:* Public Charge Bond in Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Examinations, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection, contained in a proposed rule, will be used by the Service to determine which districts will be selected to participate in the Bond Pilot Program, as well as what dollar amount of the bond would be for each immigrant in that State, depending on the dollar amount of means-tested benefits available.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20 responses at 6 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 120 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–13926 Filed 5–26–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; National Criminal History Improvement Program (NCHIP)

[OJP(BJS)–1175]

RIN 1121–ZA95

AGENCY: Office of Justice Programs, Bureau of Justice Statistics (BJS), Justice.

ACTION: Notice of program plan.

SUMMARY: The Bureau of Justice Statistics (BJS) is publishing this notice to announce the continuation of the National Criminal History Improvement Program (NCHIP) in Fiscal Year 1998. Copies of this announcement can also be found on the Internet at http://www.ojp.usdoj.gov/bjs/.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan at (202) 307–0759 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

The program implements the grant provisions of—

* the Brady Handgun Violence Prevention Act (Brady Act), Pub. L. No. 103159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. Sections 921 *et seq.*;

* the National Child Protection Act of 1993 (NCPA), Pub. L. No. 103209, 107 Stat. 2490 (1993), codified as amended at 42 U.S.C. Sections 3759, 5101 note, 5119, 5119a, 5119b, 5119c;

* those provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act), Pub. L. No. 90–351, 82 Stat. 197 (1968), codified as amended at 42 U.S.C. Sections 3711 *et seq.*, as amended; and the Violent Crime Control and Law Enforcement Act of 1994 (Violent Crime Control Act), Pub. L. No. 103–322, 108 Stat. 1796 (1994), codified as amended at 42 U.S.C. Sections 13701 *et seq.*, which pertain to the establishment, maintenance, analysis, or use of criminal history records and criminal record systems; and,

* related laws pertaining to the identification, collection, analysis and interstate exchange of records relating to domestic violence and stalking (including protection orders) and to the establishment of sexual offender registries and exchange of data between them.

The NCHIP Program to date. The NCHIP program was initiated in 1995, under the administration of the Bureau of Justice Statistics. During Fiscal Years 1995, 1996, and 1997, from the total appropriation of $178.25 million, direct awards were made to all States and eligible territories in an amount totaling over $160 million. Six million dollars was also transferred to the FBI for implementation of the National Instant Criminal Background Check System (NICS), which will provide instant interstate access to records prohibiting the sale of a firearm. About $5 million was awarded to provide direct technical assistance to States, to evaluate the program, and to collect statistics and research data on presale firearm programs.

To date, under the NCHIP program, all States have received funds to upgrade criminal record systems (including establishing and upgrading Automated Fingerprint Identification Systems (AFIS)) and to support efforts to participate in the FBI's Interstate Identification Index (III), which permits instant exchange of criminal records among the States. Eighteen States also received additional funding under the Advanced State Award Program to initiate efforts to identify persons other than felons who are prohibited from purchasing firearms.

Beginning in FY 1996, NCHIP program funds have also been available to States to upgrade record systems to identify and flag persons convicted of abusing children, the elderly, and the disabled, or to defray costs of providing rapid and reliable background checks on individuals who wish to work with these sensitive populations.

Also since 1996, NCHIP program funds have been available to develop and implement procedures for classifying and entering data regarding stalking and domestic violence (including protection orders) into local, State, and national crime information databases consistent with the provisions of the Violence Against Women Act (VAWA).

To date, approximately $10 million has been awarded to States for purposes relating to offenses against children, the elderly and the disabled, and for collection of data on stalking and domestic abuse, including protection orders and violations thereof.

The FY 1998 program. Consistent with the FY 1998 appropriation, funds awarded under the 1998 NCHIP program may be used to improve criminal record systems, to support interstate exchange of records through the FBI, to implement procedures designed to permit participation in the NICS, and for authorized purposes consistent with the NCPA and the identified sections of the VAWA, as described above, and, more fully, in later sections of this announcement.

The FY 1998 NCHIP program also includes the National Sex Offender

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Registry Assistance Program (NSOR–AP) under which $25 million was appropriated for grants to assist States in upgrading sex offender registries and providing data to the FBI Sex Offender Registry. The NSOR–AP program is a component of NCHIP but is funded separately pursuant to a separate application.

Commitment to full implementation of the National Instant Criminal Background Check System (NICS). The Brady Act in Section 103(b) requires the establishment of a national system to provide instant background checks to determine if a potential firearm purchaser is a felon or otherwise prohibited from purchase of a firearm under Federal or State statute. Consistent with the statutory requirement, the National Instant Criminal Background Check System (NICS), which will be operated by the FBI, will become operational in November 1998, and Federal waiting period requirements will no longer be applicable.

The effectiveness of NICS will depend on the extent to which the most accurate and complete records of Federal and State criminal offenses and records in other prohibiting categories are instantly available in response to inquiries from firearms dealers.

Under the NICS configuration, States are encouraged to serve as a "Point of Contact" (POC) interfacing between firearm dealers and the FBI's national record system. Where the State is a POC, firearm dealers will receive instant access to (1) the most complete and up-to-date State criminal records, (2) State-held records of noncriminal factors that prohibit firearm purchase, and (3) State personnel who can best interpret records and their modifications. BJS supports States that will be facilitating background checks in this way by allowing NCHIP funds to be used to cover costs associated with the purchase of equipment, development of software, training, and other listed costs associated with the NICS (for details, see "Allowable Costs," below). Considering that the NICS is to become operational in November 1998, requests for funds in this category will receive priority consideration.

In States not opting to serve as a POC, inquiries will be made directly from the firearm dealers to the FBI.

The Brady Act also allows States to meet their presale firearm check requirements through an ATF-approved permit system. To assist States following this procedure, NCHIP funds may be used to cover costs associated with development and implementation of procedures that will meet ATF requirements for a permit system to be approved as an alternative to instant checks at the time of sale.

Commitment to participation in the Interstate Identification Index (III). Participation by all States in the Interstate Identification Index (III) is critical to ensuring that the most accurate and complete criminal records are available instantly not only for NICS presale firearm checks, but also for background check inquiries regarding persons seeking positions involving national security; persons with responsibility for children, the elderly or the disabled, and other authorized purposes. Instant interstate availability of complete records is also vital to supporting effective law enforcement strategies involving pretrial release, determinate sentencing, and correctional assignment. At present, 36 States participate in III.

The NCHIP FY 1997 program announcement emphasized the BJS commitment to full State participation in the FBI's Interstate Identification Index (III). In light of the importance of III participation, BJS has again identified III participation as a priority goal of the NCHIP program and requires States that are not currently III members to specify whether funding already committed is adequate to assure III participation and, if not, to focus 1998 NCHIP funds on activities that further this goal.

Commitment to support court efforts relating to development of record systems. Recent laws establishing requirements for background checks for firearms sales and in connection with positions of responsibility with children, the elderly and the disabled have emphasized the importance of records being complete with dispositions. Moreover, other statutes have highlighted the importance of immediate statewide and interstate access to protection orders related to domestic violence. These requirements can only be met if information initially developed by the courts is available on a complete and immediate basis. BJS is committed to recognizing the importance of the courts in all of these efforts, and applicants should ensure that in developing NCHIP operational and funding plans, adequate attention is directed at the role and needs of the courts.

Program Goals. The goal of the NCHIP grant program is to improve the Nation's public safety by—

* Facilitating the accurate and timely identification of persons who are ineligible to purchase a firearm;
* Ensuring that persons with responsibility for child care, elder care, or care of the disabled do not have disqualifying criminal records;
* Improving access to protection orders and records of people wanted for stalking and domestic violence; and
* Enhancing the quality, completeness and accessibility of the Nation's criminal history record systems and the extent to which such records can be used and analyzed for criminal justice related purposes.

More specifically, NCHIP is designed to assist States—

* To expand and enhance participation in the FBI's Interstate Identification Index (III) and the National Instant Criminal Background Check System (NICS);
*To meet timetables for criminal history record completeness and participation in the III, as established for each State by the Attorney General;
*To improve the level of criminal history record automation, accuracy, completeness, and flagging;
*To develop and implement procedures for accessing records of persons other than felons who are ineligible to purchase firearms;
*To identify (through interface with the National Incident-Based Reporting System [NIBRS] where necessary) records of crimes involving use of a handgun and/or abuse of children, the elderly, or disabled persons;
* To identify, classify, collect, and maintain (through interface with the National Crime Information Center [NCIC] and the III where necessary) protection orders, warrants, arrests, and convictions of persons violating protection orders intended to protect victims of stalking and domestic violence and to support the development of State sex offender registries and the interface with a national sex offender registry; and,
* To ensure that States develop the capability to monitor and assess State progress in meeting legislative and programmatic goals.

To ensure that all NCHIP-funded efforts support the development of the national criminal record system, the program is closely coordinated with the FBI, the Bureau of Justice Assistance, and the Bureau of Alcohol, Tobacco and Firearms (ATF).

Legislative Background. Section 106 (b) of the Brady Act provides that—

> The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used (A) for the creation of a computerized criminal history record system or

improvement of an existing system; (B) to improve accessibility to the national instant criminal background system; and (C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

The provisions of 18 U.S.C. Sections 922 (g) and (n), as amended by the Violent Crime Control Act and the "Lautenberg amendment," prohibit the sale of firearms to an individual who—

(1) Is under indictment for, or has been convicted in any court, of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of, or addicted to, any controlled substance;

(4) Has been adjudicated as a mental defective or been committed to a mental institution;

(5) Is an alien who is illegally or unlawfully in the United States;

(6) Was discharged from the Armed Forces under dishonorable conditions;

(7) Has renounced United States citizenship;

(8) Is subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child; or

(9) Has been convicted in any court of a misdemeanor crime of domestic violence.

Category 9, included as the "Lautenberg amendment" in the Omnibus Consolidated Appropriations Act of 1997, P.L. 104–208, 110 Stat 3009, became effective on October 1, 1996. See Appendix A of this announcement for text of the amendment, which includes applicable definitions.

The Brady Act, enacted in November 1993 and effective in February 1994, established interim provisions that are applicable until the NICS is operational. Under the interim provisions, licensed firearm dealers request a presale check on all potential handgun purchasers by the chief law enforcement officer in the purchaser's residence community to determine, based on available records, if the individual is legally prohibited from purchase of the firearm under the provisions of the Gun Control Act (18 U.S.C. Section 922) or State law. The sale may not be completed for 5 days unless the dealer receives an approval before that time. The interim provisions, including the Federal imposition of a 5-day waiting period, terminate when the NICS becomes operational. Section 103 of the Brady Act provides that NICS will supply information on "whether receipt of a firearm * * * would violate (18 U.S.C. Section 922) or State law." As noted above, Section 106(b) of the Brady Act establishes a grant program that not only assists States in upgrading criminal record systems, but also assists States in improving access to and interface with the NICS.

In addition, Section 106(a) of the Brady Act amended Section 509(d) of the Omnibus Crime Control and Safe Streets Act to specifically provide that funds from the 5% set-aside under the Byrne Formula grant program may be spent for "the improvement of State record systems and the sharing * * * of records * * * for the purposes of implementing * * * (the Brady Act)."

The Child Protection Act, as amended by the Violent Crime Control Act, requires that records of abuse against children be transmitted to the FBI's national record system. The Child Protection Act also encourages States to adopt laws requiring background checks on individuals prior to assuming responsibility for care of children, the elderly, or the disabled.

Section 4 of the Act establishes a grant program to assist States in upgrading records to meet the requirements of the Act. Under the definition set forth in Section 5(3) of the Act, "child abuse crimes" include crimes under any law of the State and are not limited to felonies.

Both the Brady and Child Protection Acts required the Attorney General to survey the status of State criminal history records and develop timetables for States to achieve complete and automated records. The survey was conducted during March 1994, and State governors were advised of timetables by the Attorney General in letters of May and June 1994. The letters indicated that compliance with timetable goals and the ability to join III by November 1998 was to be contingent upon availability of grant funds under each Act.

The National Stalker and Domestic Violence Reduction program (Stalker Reduction), (Section 40602 of the Violence Against Women Act (VAWA), Pub. L. No. 103–322) authorized a program to assist States in entering data on stalking and domestic violence into local, State, and national databases. The Act emphasizes the importance of ensuring that data on convictions for these crimes are included in databases being developed with Federal funds. Section 40606 of VAWA authorized technical assistance and training in furtherance of the purposes of the Stalker Reduction program. This section also allows for the evaluation of programs that receive funds under this provision.

Section 40602(b) of the Violent Crime Control Act further provides that in order to be eligible to receive funds for Domestic Violence/Stalker Reduction program activities, a State shall certify that it has or intends to establish a program that enters into the National Crime Information Center the following records:

* Warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;

* Arrests or convictions of persons violating protection or domestic violence orders; and

* Protection orders for the protection of persons from stalking or domestic violence.

The NCHIP program implements the requirements of the programs established in the Brady Act, Child Protection Act, and the Domestic Violence/Stalker Reduction provisions of VAWA.

Appropriation. Section 106 (b) of the Brady Act authorized $200 million for the grant program; the Child Protection Act authorized $20 million; Section 40603 of the Violent Crime Control Act authorized a total of $6 million over 3 years for the Domestic Violence/Stalker Reduction program included in VAWA. Pursuant to these authorizations, the Brady, Child Protection, and Domestic Violence/Stalker Reduction Acts are combined under the NCHIP program.

FY 1995: An appropriation of $100 million was made to implement Section 106 (b) of the Brady Act for FY 1995, to be available until expended. No appropriation was made for activities authorized under the Child Protection Act or the Domestic Violence/Stalker Reduction provisions of VAWA in FY 1995.

FY 1996: An appropriation of $25 million was made in FY 1996 to continue implementation of Section 106 (b) of the Brady Act and to implement Section 4 (b) of the Child Protection Act. In addition an appropriation of $1.5 million was made in FY 1996 for the Domestic Violence/Stalker Reduction component of the program.

FY 1997: In FY 1997, an appropriation of $50 million was made to further the implementation of Section 106 (b) of the Brady Act and Section 4 (b) of the Child Protection Act. $1.75 million was appropriated for Domestic Violence/Stalker Reduction activities.

FY 1998: The FY 1998 appropriation for criminal record improvement was $45 million. For purposes relating to Domestic Violence/Stalker Reduction, an appropriation of $2.75 million was also made in FY 1998.

To date, approximately $10 million has been awarded for purposes authorized under the NCPA and the Domestic Violence/Stalker Reduction

provisions of the VAWA. In recognition of the importance of these issues, up to $16 million of the 1998 appropriation will be available to be awarded for these purposes. Of this amount, the full $2.75 million appropriated to BJS for Domestic Violence/Stalker Reduction activities under VAWA in 1998 will be allocated for purposes associated with development/enhancement of protection order files, including interface with the FBI's national protection order file.

The FY 1998 NCHIP program also includes the National Sex Offender Registry Assistance Program (NSOR–AP) under which $25 million was appropriated for grants to assist States in upgrading sex offender registries and providing data to the FBI Sex Offender Registry. The NSOR–AP program is a component of NCHIP but is funded separately pursuant to a separate application.

Application and Award Process. Eligibility requirements. Only one application will be accepted from each State. The application must be submitted by the agency designated by the State Governor. A State may, however, choose to submit its application as part of a multistate consortium or other entity. In such case, the application should include a statement of commitment from each State and be signed by an individual designated by the Governor of each participating State. The application should also indicate specific responsibilities and include a separate budget for each State.

A grant will be made to each eligible applicant State with funds from the 1998 appropriation. All States, including States previously designated as "priority States," are eligible to receive funds for activities relating to criminal records improvement and NICS participation, as well as the additional purposes authorized under the Child Protection Act and the Domestic Violence/Stalker Reduction legislation, as described in this announcement.

States may submit an application even though funds remain unexpended under the previous NCHIP awards. In such a case, the application should describe the efforts undertaken to date, the specific reasons that funds remain unexpended, and the anticipated time when funds will be expended.

FY 1998 projects may overlap with FY 1997 projects or the projects may run consecutively.

Program narrative. In addition to the requirements set forth in Appendix A, the NCHIP application should include the following four parts. States may, at their option, satisfy requirements noted below by referencing or summarizing previous applications. Additionally, States in which the applicant agency is the same under the BJS NCHIP and Bureau of Justice Assistance (BJA) State Identification Systems (SIS) program may also choose to submit duplicate material to BJS and BJA under Part I (Background) and Part II (Identification of Needs), below.

Part I. Background

This section should include a short update of current efforts relating to criminal history record improvement funded under the BJS NCHIP, Advanced State Award Program (ASAP), Criminal History Record Improvements (CHRI) programs, and the BJA Byrne 5% set-aside, or with State funds during the past year. Where applicable, the section should also include a reference to projects that are, or may be, funded under the State Identification Systems (SIS) Formula Grant program administered by BJA. The discussion should also specify total funds awarded to the State under NCHIP, Byrne, and SIS programs (if SIS funding is used for criminal history record improvements) and the funds in each category remaining at the time of application.

Part II. Identification of Needs

This part should discuss any evaluative efforts undertaken to identify the key areas of weakness in the State's criminal record system since submission of the last NCHIP application. The application should also indicate those areas that must be addressed in order to enable the State to identify ineligible firearm purchasers, persons ineligible to hold positions involving children, the elderly, or the disabled, and people wanted, arrested, or convicted of stalking and/or domestic violence offenses, including violations of protection orders.

States that are not members of III at the time of application must include a section identifying the tasks remaining to permit III participation. This section must specifically state whether funding already available is adequate for the State to participate in III and the planned month and year of participation in III. If funding already available is not adequate, the State is expected to apply for NCHIP funding that will permit the State to participate in III.

Part III. NCHIP Effort

This section should describe the activities to be undertaken with NCHIP funds over the 12-month period. Specifically, each application should indicate the activities proposed, how these activities relate to efforts funded under the previous NCHIP awards, and the results that will be achieved from FY 1998 funding. In order to permit assessment of State progress in meeting grant goals, this section should also set forth measurable benchmarks or goals for each proposed activity.

States that are not members of III must include a description and timetable for activities that are specifically designed to permit such participation.

Part III of the application should also describe any efforts to be supported to monitor State compliance with legislative or programmatic goals through ongoing audits or other means such as statistical analysis or comparison between Computerized Criminal History (CCH) records and National Incident-Based Reporting System (NIBRS) or Uniform Crime Reporting (UCR) data. Studies relating to handgun use or sales approval, if proposed, should be described in this section.

In addition, to ensure program continuity and emphasize the importance of judicial efforts in meeting newly established record requirements, the application should indicate the level of funds that will be made directly available to the courts, where the courts are the appropriate source for data on dispositions or other record data.

The Bureau of Justice Statistics will coordinate the Domestic Violence/Stalker Reduction portion of NCHIP with the Violence Against Women Office (VAWA) at the Department of Justice.

Part IV. Coordination

Byrne Formula Funds: Funds under the Byrne Formula 5% set-aside program are available to support the improvement of record systems and to meet the goals of the Brady and Child Protection Acts.

The Bureau of Justice Statistics and the Bureau of Justice Assistance have jointly agreed that close and continuing coordination between the NCHIP and Byrne 5% set-aside program is critical to meeting the goals of the Brady Act and the National Child Protection Act. Such coordinated efforts are also necessary to ensure the development of an effective interstate criminal history record system to meet the needs of law enforcement, the criminal justice community, and the increasing number of noncriminal justice users of criminal history record information. To achieve this goal, BJS and BJA prepared guidelines governing use of the Byrne 5% set-aside funds. The guidelines were issued February 23, 1995 to State administrative agencies that receive and distribute Byrne formula grant funds.

To avoid overlap and maximize funding effectiveness, BJS expects that program plans for projects to be funded under NCHIP and the Byrne 5% set-aside will be coordinated by the State agencies responsible for these programs. Where costs of a proposed activity exceed NCHIP available funds or are unallowable under NCHIP, the State might, for example, use Byrne funds to fill remaining needs. This joint effort will maximize the effectiveness of these programs.

State Identification Systems (SIS) Program: In May 1997, BJA announced the State Identification Systems (SIS) Formula Grant Program, under which States are eligible to apply for funds to "establish, develop, update or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center (NCIC) of the FBI;

(B) the capability to analyze DNA in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the FBI; and

(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI."

NCHIP applications should insure that efforts under these programs will be coordinated. Information copies of the proposed activities to be funded under the SIS program will be provided to BJS for inclusion as part of the State's NCHIP file.

Other Federal funding: To ensure coordination of Federal funding efforts, the application should include information on other current awards or pending applications for Federal funding to support activities for which funds are being requested in the current NCHIP application. Where relevant, such information should indicate the amount of the other award, the grantor agency, and the program purpose.

Award Period and Budget. Awards may be for up to 12 months. Since the FY 1998 NCHIP program builds on the long-term NCHIP activity, States will have the flexibility to begin FY 1998 funded activities immediately upon award or as late as the summer of 1999. Activities must be completed by June 1, 2000. Applicants are also encouraged to incorporate or reference pages of previously submitted materials, when appropriate.

The budget should provide details for expenses in required categories and by individual task (see Appendix A, Application content). The application should identify those agencies to receive direct funding and indicate the fiscal arrangements to accomplish fund transfer.

Application Submission and Due Dates. Applications may be submitted at any time after publication of this announcement. Applications must be received by June 30, 1998, to be eligible for funding from the FY 1998 appropriation.

To minimize administrative burdens, States may resubmit parts of previous proposals that did not receive funds under previous NCHIP awards, accompanied by a current budget.

Review Criteria. States should understand that full funding may not be possible for all proposed activities. Allocation of funds will be based on the amount requested and the following factors:

(1) The extent to which funds will support participation in NICS, State efforts to become a III participant, and meet the timetables established for the State by the Attorney General;

(2) The extent to which improvements in the State system, by virtue of record numbers, levels of technical development, or operating procedures, will have a major impact on availability of records throughout the national system;

(3) The proposed use or enhancement of innovative procedures which may be of value to other jurisdictions;

(4) The technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the State's current level of system development and statutory framework;

(5) The total amount already awarded under previous NCHIP program announcements;

(6) The extent to which the State has fulfilled goals of previous NCHIP grants, expended funds awarded in previous grants, and demonstrated a commitment to criminal history record improvement through activities under the NCHIP program;

(7) State commitment to the national record system as evidenced by membership in III, participation in the FBI's National Fingerprint File (NFF) and Felon Identification in Firearms Sales (FIFS) programs, etc., and the current status of development of its CCH;

(8) Reasonableness of the budget;

(9) Evidence of State progress in meeting record improvement and background check goals as measured in terms of audits, and meeting data collection goals relating to presale firearm checks and background checks on persons seeking positions involving children, the aged and the disabled;

(10) Appropriate focus on criminal history data improvement regarding protection orders and crimes against children, the elderly, and the disabled;

(11) Nature of the proposed expenditures;

(12) The extent to which the plan reflects constructive interface between relevant components of the State organization and/or multistate systems;

(13) The reasonableness of the relationship between the proposed activities and the current status of the State system, in terms of technical development, legislation, current fiscal demands, and future operating costs.

The program does not require either "hard" (cash) or "soft" (in-kind) match. Indications of State support, however, may be interpreted as expressions of commitment by the State to the program.

All applicants must agree to participate in evaluations sponsored by the Federal Government. Applicants must also agree to provide data relating to Brady Act activity to the Firearm Inquiry Statistics Program (FIST) in the format designated by the FIST.

Allowable Costs. Allowable expenses are detailed below. All expenses are allowable only to the extent that they directly relate to programs described in the application's program narrative.

(1) Participation in III. This is a key goal. Covered costs include, but are not limited to, costs associated with automation of the database, synchronization of records between the State and the FBI, and development of necessary software and hardware enabling electronic access on an intrastate or interstate basis.

(2) Database enhancement. Improving the quality, completeness, and accuracy of criminal history records is a key goal of the NCHIP effort. Allowable costs include the costs associated with implementing improved record capture procedures, establishing more effective accuracy controls, and ensuring that records of all criminal events that start with an arrest or indictment are included in the database.

In addition to felony records, funds may be used to capture data on domestic violence misdemeanors and to ensure that data on persons convicted of abuse of children, the elderly, and the disabled and/or stalking and domestic violence offenses (including protection orders and violations thereof) are included in the database.

States that currently participate in III may also use limited funds to identify and develop access to data on other categories of persons prohibited from

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firearm purchase under recent amendments to the Gun Control Act (18 U.S.C. Section 922), as incorporated in the Brady Act. States proposing use of funds for these purposes must demonstrate in the application that results of applicable pilot efforts supported under the NCHIP Advanced State Award Program (ASAP) have been considered and that necessary protections for individual privacy will be incorporated in the proposed procedures. Information about current NCHIP-supported efforts in these areas and relevant State contacts is available through the BJS Internet site.

(3) Improved capture of case disposition. Automated interface between the criminal history repository and the courts, prosecutors, and/or corrections agencies is encouraged. Funds provided to courts or prosecutors for these purposes are allowable only to the extent that the function to be supported is related to the capture of disposition or other data relating to the offender record (for example, full costs associated with establishment of court Management Information Systems (MIS) are not allowable under the NCHIP program).

(4) Flagging of records. Upgrading the accessibility of records through flagging for presale and preemployment checks is an important activity. Allowable costs include costs of flagging or algorithms used for flagging of felony records and records of persons with convictions for crimes involving children, the elderly, and/or the disabled, as well as records of persons convicted of crimes involving domestic violence and/or stalking. Costs may include the cost of technical record flagging and the costs associated with identification of records to be flagged (see [12] below regarding interface with NIBRS).

(5) Participation in the NICS. NCHIP funds may be used to enable the State to participate in the NICS consistent with the provisions of 18 U.S.C. Section 922 (t). Allowable expenditures include, but are not limited to costs necessary to enable the State to serve as a Point of Contact under the FBI's NICS system, and include costs of equipment, software, personnel training, and development and implementation of related operating and administrative procedures. Funds may not be used to conduct presale firearm background checks.

(6) Firearm permits. NCHIP funds may be used to comply with Brady Act provisions pursuant to an ATF-approved firearm permit system and to develop and implement procedures to review the currency of firearm permits and/or to provide appropriate notification when permits are revoked.

(7) Protection order file. Establishment of a protection order file to enhance the cross-jurisdictional enforcement of protective orders, and to support the FBI's National Protection Order File is an important goal of the NCHIP program. Costs (including equipment, software, training and procedural development) associated with development and enhancement of such files and with interface with the FBI's National Protection Order File are covered. Protection order files supported with NCHIP funds must be compatible with the FBI file, and the application must indicate that records are presently being submitted to the FBI or indicate the date upon which that submission will commence. Funds are only allowable to support development of local protection order files where data in such files is or will become directly accessible throughout the State and available to the FBI's national system.

(8) Interface between criminal history records, sex offender registry, and civil protection order files. To ensure that, consistent with State law, a complete data review is possible in connection with background checks for child care or other authorized purposes, funds may be used to develop software to establish protocols to permit interface between the criminal history record system, the State sex offender registry, and related protection order files including files of civil protection orders.

(9) Uniform RAP sheet format. The FBI has recently endorsed a format and standards for transmission of a uniform RAP sheet (text version of a person's criminal history record) among States. The format reflects efforts initiated under the BJS/SEARCH Task Force on Uniform RAP Sheet Standards. Funds are available to assist States in converting State criminal history records to the FBI standard interstate RAP sheet format or for developing electronic interchange capabilities related thereto.

(10) Record automation. These are allowable costs only with respect to records where the subject has been arrested, indicted, convicted, or released from confinement within 5 years of the date of automation. As appropriate, allowable costs also include costs associated with system design in States with nonautomated systems or in States proposing to enhance system operation to include access to non-CCH databases.

(11) AFIS/livescan. Automated Fingerprint Identification System (AFIS)/livescan equipment for local law enforcement agencies is allowable to improve the level of arrest and disposition reporting, but only where—

(a) the State repository system is automated, is participating in, or is planning to participate in III, and has in place the technical capability to accept AFIS transmissions, and

(b) sufficient traffic can be demonstrated to justify the cost, possibly through the use of regional systems.

Funding of AFIS/livescan in squad cars is not allowable, since field inquiries are not a factor in checks under either the Brady Act or the Child Protection Act. Additionally, since data are not generally input to the system by the field unit, AFIS in the squad car would not support record improvement or completeness. AFIS/livescan for use in courts is allowable, to support record completeness. The same conditions regarding repository capability and levels of traffic are also applicable to costs in this category. Costs associated with AFIS/livescan communication from the repository to the FBI national system (IAFIS) are allowable but only where the State can demonstrate adequate levels of record completeness (both arrest and disposition) and current membership in III.

States should understand that Byrne 5% set-aside funds are available for AFIS/livescan, and that, accordingly, use of NCHIP funds for AFIS or livescan will only be allowable when justified as appropriate given the overall status of the State system, its participation in the national system and its planned use of Byrne 5% set-aside funds. This is particularly relevant with respect to State proposals to use NCHIP funds to cover costs of local livescan equipment.

(12) Interface with NIBRS. Funds may be used to interface with any State data system that is compatible with NIBRS for purposes of identifying persons convicted of crimes against children, the elderly, or the disabled; crimes involving domestic violence and/or stalking; and/or identification of records involving firearm crimes for operational or research purposes. NCHIP funds are not available, however, to develop the NIBRS database.

(13) Research, evaluation, monitoring, and audits. Costs associated with research or evaluation efforts are allowable to the extent that they are directly associated with a project approved in the application. Costs associated with monitoring State compliance with legislative or programmatic goals through ongoing or periodic audits or other procedures are allowable and encouraged. The purchase of equipment such as modems and the necessary communications and

data software for storing and transmitting evaluative data between States and to BJS or other designated Federal agencies is an allowable expense.

(14) Conversion of juvenile records to the adult system. Federal regulations allow the FBI to accept juvenile records if submitted by the State or local arresting agency. Expenditures to interface juvenile and adult records are allowable if consistent with relevant State law and undertaken to further the goals of the NCHIP program.

(15) Missing dispositions backlog reduction. These costs are allowable to improve the level of disposition reporting but only where limited to records with arrests within the past 5 years. States must also propose a strategy to prevent future backlogs from developing.

(16) Equipment upgrades. Upgrade costs are allowable where related to improving availability of data and where appropriate given the level of data completeness, participation in III, etc. Replacement costs will be considered, but States are encouraged to contribute some portion of the total costs.

(17) Training, participation in seminars and meetings. Limited funds may be used to cover costs of training and participation in State, regional, or national seminars or conferences (including travel, where necessary).

(18) Reducing cost of background checks. States may use funds to develop and implement technologies that lower costs of conducting background checks. These funds may also be used to pay all or part of the State's cost of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or other voluntary organization to reduce the amount of fees charged for such background checks, consistent with the provisions of 42 USC 5119(b).

(19) Allowable activities relating to implementation of the Child Protection Act and the Domestic Violence and Stalker Reduction provisions of the VAWA. Allowable activities include—

* capturing domestic violence and/or stalking protection orders;
* flagging of records concerning child abuse, crimes against children, the elderly and the disabled; convictions for domestic violence and/or stalking; and domestic violence protection orders;
* incorporating serious misdemeanor offenses against children, the elderly and the disabled into existing criminal history records;
* offsetting the cost of certain background checks, including development and implementation of technological and procedural advances; and
* improving processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases.

Text of "Lautenberg Amendment." The "Lautenberg Amendment" amends the Federal Gun Control Act (18 U.S.C. Section 922) to prohibit the transfer of firearms to a person convicted of a "misdemeanor crime of domestic violence." The text of the amendment is set forth below.

Sec. 668. GUN BAN FOR INDIVIDUALS CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE

(a) Definition—Section 921 (a) of title 18, United States Code, is amended by adding at the end of the following:

"(33)(A) Except as provided in subparagraph (C), the term 'misdemeanor crime of domestic violence' means an offense that—

"(i) is a misdemeanor under Federal or State law; and

"(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

"(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

"(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

"(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."

(b) PROHIBITIONS—

(1) Section 922(d) of such title is amended

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following:

(9) has been convicted in any court of a misdemeanor crime of domestic violence".

(2) Section 922(g) of such title is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following:

"(9) has been convicted in any court of a misdemeanor crime of domestic violence."

(3) Section 922(s)(3)(B)(I) of such title is amended by inserting, "and has not been convicted in any court of a misdemeanor crime of domestic violence" before this semicolon.

(c) GOVERNMENT ENTITIES NOT EXCEPTED—Section 925(a)(1) of such title is amended by inserting "sections 922(d)(9) and 922(g)(9) and" after "except for".

Application and administrative requirements. Application content. All applicants must submit:

* Standard Form 424, Application for Federal Assistance.
* Budget Detail Worksheet (replaced the SF 424A, Budget Information).
* OJP Form 4000/3 (Rev. 1–93), Program Narrative and Assurances.
* OJP Form 4061/6 Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements.

Applicants are requested to submit an original and two copies of the application and certifications to the following address: Application Coordinator, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington DC 20531, *Telephone:* (202) 616–3500.

Standard Form 424 (SF–424). The SF–424, a one-page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. NO APPLICATION CAN BE ACCEPTED WITHOUT A COMPLETED, SIGNED ORIGINAL SF–424. Directions to complete each item are included on the back of the form.

Budget Detail Worksheet. Applications must provide a detailed justification for all costs, including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project.

Budget narrative. The budget narrative should detail costs included in each budget category for the Federal and the non-Federal (in-kind and cash) share. The purpose of the budget narrative is to relate items budgeted to project activities and to provide justification and explanation for budget items, including criteria and data used to arrive at the estimates for each budget category. The budget narrative should also indicate amounts to be made available to subrecipient agencies (under Contractual/Contracts category) other than the direct grant recipient. The following information is provided

to assist the applicant in developing the budget narrative:

a. Personnel category. List each position by title (and name of employee if available), show annual salary rate and percentage of time to be devoted to the project by the employee. Compensation paid for employees engaged in federally assisted activities must be consistent with that paid for similar work in other activities of the applicant.

b. Fringe benefits category. Indicate each type of benefit included and explain how the total cost allowable for employees assigned to the project is computed.

c. Travel category. Itemize travel expenses of project personnel by purpose (e.g., faculty to training site, field interviews, advisory group meetings, etc.) and show basis or computation (e.g., "Five trips for x purpose at $80 average cost—$50 transportation and two days per diem at $15" or "Six people to 3-day meeting at $70 transportation and $45 subsistence.") In training projects where travel and subsistence for trainees is included, this should be separately listed indicating the number of trainees and the unit costs involved.

(1) Identify the tentative location of all training sessions, meetings, and other travel.

(2) Travel costs are allowable as expenses by employees who are in travel status on official business. These costs must be in accordance with the Federal or an organizationally-approved travel policy.

(3) Recipients may follow their own established travel rates. If a recipient does not have an established travel policy, the recipient must abide by the Federal travel policy. Subrecipients of States must follow their State's established travel policy. If a State does not have an established travel policy, the subrecipient must abide by the Federal travel rates.

d. Equipment. List each type of equipment to be purchased or rented with unit or monthly costs.

e. Supplies. List items within this category by major type (office supplies, training materials, research forms, postage) and show basis for computation. Provide unit or monthly estimates.

f. Contractual category. State the selection basis for any contract, subcontract, prospective contract or prospective subcontract (including construction services and equipment). Please note, applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of $100,000.

For individuals to be reimbursed for personal services on a fee basis, list by name or type of consultant or service, the proposed fee (by day, week, or hour) and the amounts of time to be devoted to such services. For construction contracts and organization (including professional associations and education institutions performing professional services), indicate the type of service to be performed and the estimated contract cost data.

g. Construction category. Describe construction or renovation which will be accomplished using grant funds and the method used to calculate cost.

h. Other category. Include under "other" such items as rent, reproduction, telephone, and janitorial or security services. List items by major type with basis of computation shown. (Provide square footage and cost per square foot for rent. Provide local and long distance telephone charges separately.)

i. Indirect charges category. The Agency may accept an indirect cost rate previously approved for an applicant by a Federal agency. Applicants must enclose a copy of the approved rate agreement with the grant application.

j. Program income. If applicable, provide a detailed estimate of the amount of program income to be generated during the grant period and its proposed application (to reduce the cost of the project or to increase the scope of the project). Also, describe the source of program income, listing the rental rates to be obtained, sale prices of publications supported by grant funds, and registration fees charged for particular sessions. If scholarships (covering, for example, registration fees) are awarded by the organization to certain conference attendees, the application should identify the percentage of all attendees that are projected as "scholarship" cases and the precise criteria for their selection.

Program narrative. All applications must include a program narrative that fully describes the expected design and implementation of the proposed program. OJP Form 4000/3 (Rev. 1–93) provides additional detailed instructions for preparing the program narrative.

The narrative should include a time line of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected. The application should include a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program.

Assurances. OJP Form 4000/3 (Rev. 1–93) must be included in the application submission. If submitting this form separately from the SF–424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace. Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 can be obtained from the BJS Application Coordinator. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 C.F.R. Part 69, "New Restrictions on Lobbying," and 28 C.F.R. Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

Financial and administrative requirements. Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, in addition to the OJP Financial Guide, are available from the Office of Justice Programs. This guideline manual is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failure to comply with program guidelines and requirements will be determined at the discretion of the Department.

Civil rights obligations. All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime

Control & Safe Streets Act of 1968, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act prohibit discrimination on the basis of disability.

The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to:

(1) Delivery of services or benefits—to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;

(2) Employment practices—to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and

(3) Program participation—to ensure members of any planning, steering or advisory board, which is an integral part of the program or activity, are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

Audit requirement. On June 30, 1997, the Office of Management and Budget issued Circular A–133, "Audits of States, Local Governments, and Non-Profit Organizations," which establishes regulations to implement the Single Audit Act of 1996. This Circular A–133 outlines the requirements for organizational audits which apply to BJS grantees.

Intergovernmental review of Federal programs. Federal Executive Order 12372, "Intergovernmental Review of Federal Programs," allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State "single point of contact."

If the State has established a "single point of contact," and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State "single point of contact" at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's "single point of contact" by the end of the review period, this will be interpreted as a "no comment" response.

If the State has not established a "single point of contact," or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 98–13965 Filed 5–26–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

May 21, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday-Friday.

Comments should be sent to Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), by June 26, 1998.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Gear Certification (29 CFR part 1919).

OMB Number: 1218–0003 (Extension).

Form Number: OSHA 70, OSHA 71, and OSHA 72.

Frequency: Quadrennially; Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local and Tribal Government.

Number of Respondents: 278.

Total Responses: 6443.

Estimated Time per Respondent: 55 minutes.

Total Burden Hours: 93.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $476,406.

Description: 29 CFR part 1919 (Gear Certification), requires the gathering of information to complete three forms, the OSHA 70, OSHA 71, and OSHA 72. The OSHA 70 Form is used by applicants seeking accreditation from OSHA to be able to test or examine certain equipment and material handling devices, as required under the maritime regulations, part 1917 (Marine Terminals), and part 1918 (Long shoring). The OSHA 70 Form application for accreditation provides an easy means for companies to apply for accreditation. The OSHA 71 Form is required to be issued by those accredited by OSHA to make known to employers in the maritime industry that certain equipment and material handling devices are safe to use or operate.

The OSHA 72 Form is required to be used by those accredited by OSHA to employers in maritime industry when the equipment or material handling device is found to be unsafe to use.

Agency: Occupational Safety and Health Administration.

Title: Course Evaluation Form.

OMB Number: 1218–0173 (Extension).

Frequency: Once (at the end of the training course).

Affected Public: Individuals.

Number of Respondents: 11,500.
Total Responses: 11,500.
Estimated Time per Respondent: 10 minutes.
Total annualized capital/startup costs: $0.
Total annual costs (operating/maintaining systems or purchasing services): $0.
Description: Information collected on the Course Evaluation Form from the students completing OSHA Training Institute and Education Center training courses is used to evaluate course usefulness, effectiveness, quality, and content and to make course improvements.

Agency: Occupational Safety and Health Administration.
Title: Voluntary Protection Program (VPP).
OMB Number: 1218–0NEW.
Frequency: On occasion.
Affected Public: Applicants to the Voluntary Protection Program.
Number of Respondents: 90 to 100 a year.
Estimated Time per Respondent: 200 hours.
Total Burden Hours: 18,000.
Total annualized capital/startup costs: $0.
Total annual costs (operating/maintaining systems or purchasing services): $0.
Description: The information collection is necessary to determine if the applicant has a safety and health program that should qualify for participation in one of OSHA's Voluntary Protection Programs.

Todd R. Owen,
Departmental Clearance Officer.
[FR Doc. 98–13975 Filed 5–26–98; 8:45 am]
BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Lodestar Energy

[Docket No. M–98–28–C]

Lodestar Energy, Inc., P.O. Box 448, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Baker Mine (I.D. No. 15–14492) located in Webster County, Kentucky. The petitioner proposes to use 750 feet of No. 6 cable on Fletcher single boom roof bolters. The petitioner states that the proposed alternative method will not result in diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Joliett Coal Company

[Docket No. M–98–29–C]

Joliett Coal Company, 837 East Grand Avenue, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 3 Vein Slope (I.D. No. 36–08702) located in Schuylkill County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead using an increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Lone Mountain Processing, Inc.

[Docket No. M–98–30–C]

Lone Mountain Processing, Inc., P.O. Box 40, Pennington Gap, Virginia 24277 has filed a petition to modify the application of 30 CFR 75.1103–4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Darby Fork Mine No. 1 (I.D. No. 15–02263), and its Huff Creek Mine No. 1 (I.D. No. 15–17234) both located in Harlan County, Kentucky. The petitioner proposes to use belt air to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system in belt entries as an early warning fire detection system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Freeman United Coal Mining Co.

[Docket No. M–98–31–C]

Freeman United Coal Mining Company, 1999 Wabash Avenue, Suite 200B, Springfield, Illinois 62704–5364 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Crown II Mine (I.D. No. 11–02236) located in Macoupin County, Illinois. The petitioner proposes to use 2,400 volt A.C. cables and equipment inby the last open crosscut within 150 feet of gob areas so that they can be used to power continuous mining equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Mettiki Coal Corporation

[Docket No. M–98–32–C]

Mettiki Coal Corporation, 293 Table Rock Road, Oakland, Maryland 21550 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Mettiki Mine (I.D. No. 18–00621) located in Garrett County, Maryland. The petitioner proposes to use 4,300 volt cables on high-voltage longwall electric equipment used within 150 feet from pillar workings (longwall gob). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Sea "B" Mining Company

[Docket No. M–98–33–C]

Sea "B" Mining Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 1710–1(a) (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Silver Creek Mine (I.D. No. 44–16895) located in Tazewell County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without canopies because of the mining heights less than 46 inches at the Silver Creek Mine. The petitioner asserts that application of the standard would result in a diminution of safety to the miners.

7. Mettiki Coal Corporation

[Docket No. M–98–34–C]

Mettiki Coal Corporation, 293 Table Rock Road, Oakland, Maryland has filed a petition to modify the application of 30 CFR 75.1726(a) (performing work from a raised position; safeguards) to its Mettiki Mine (I.D. No. 18–00621) located in Garrett County, Maryland. The petitioner proposes to use a specially modified scoop as an elevated mobile work platform. The petitioner asserts that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Lone Mountain Processing, Inc.

[Docket No. M–98–35–C]

Lone Mountain Processing, Inc., P.O. Box 40, Pennington Gap, Virginia 24277 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Huff Creek No. 1 Mine (I.D. No. 15–17234), and its Darby Fork Mine No. 1 (I.D. No. 15–02263) both located in Harlan County, Kentucky. The petitioner proposes to use belt air to ventilate working sections. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in belt entries. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Performance Coal Company

[Docket No. M–98–36–C]

Performance Coal Company, P.O. Box 69, Naoma, West Virginia 25140 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Upper Big Branch Mine-South (I.D. No. 46–08436) located in Raleigh County, West Virginia. The petitioner proposes to use an alternative method of ventilation that would not separate the belt haulage entry from the intake air course, nor limit the velocity of the air coursed through the belt haulage entry, nor prohibit the use of such air for ventilation of active working places. The petitioner proposes to install a low-level carbon monoxide detection system in all belt entries used as intake air courses. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. CONSOL of Kentucky, Inc.

[Docket No. M–98–37–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1101–8 (water sprinkler systems; arrangement of sprinklers) to its Motts Branch Mine (I.D. No. 15–18012) located in Knott County, Kentucky. The petitioner proposes to use a single line of automatic sprinklers for its fire protection system on the main and secondary belt conveyors at the Motts Branch Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to "comments@msha.gov", or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 26, 1998. Copies of these petitions are available for inspection at that address.

Dated: May 18, 1998.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 98–14003 Filed 5–26–98; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of a technical workshop; controlling environmental tobacco smoke exposure in the hospitality industry.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is sponsoring a technical panel to discuss ventilation engineering controls for environmental tobacco smoke (ETS) in the hospitality sector. This meeting, which is in the form of a workshop, will be moderated by the American Conference of Governmental Industrial Hygienists (ACGIH). The workshop proceedings on recommended and feasible ventilation engineering controls for the reduction of occupational ETS exposures in the hospitality industry will be published by ACGIH for the public.

DATES: The workshop will be held on June 7, 8, and 9, 1998, beginning at 8:30 a.m. each day and ending at approximately 5:00 p.m.

ADDRESSES: The workshop will be held at the Drawbridge Inn, I–75 at Buttermilk Pike, Fort Mitchell, Kentucky 41017 (Phone 606–341–2800). The conference contact is Alexis Callender, American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Dr., Suite 600, Cincinnati, Ohio 45240; Phone: 513–742–2020.

FOR FURTHER INFORMATION CONTACT: The conference contact is Alexis Callender, American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Dr., Suite 600, Cincinnati, Ohio 45240; Phone: 513–742–2020.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1994, OSHA published a Notice of Proposed Rulemaking on Indoor Air Quality (59 FR 15968). The proposal included a comprehensive standard that would mandate the proper operation and maintenance of building systems, require control of point sources of pollutants, and require control of exposures from air pollutants generated by renovation and remodeling activities. The proposal also indicated the conditions under which smoking could be allowed in the workplace. For example, if smoking were allowed in a workplace, the employer would be required to establish designated smoking areas and permit smoking only in such areas. The areas would have to be enclosed and exhausted directly to the outside and maintained under negative pressure sufficient to contain tobacco smoke. In addition, employees could not be required to enter the designated smoking areas as part of their normal work activities [59 FR at 16037].

The ETS provisions of the proposal received a substantial number of comments. Information submitted to OSHA during the comment period and public hearing indicated that the ETS provisions were feasible for many employers. However, it became apparent to OSHA that in businesses where there is substantial contact between customers who smoke and workers (e.g., food, beverage and gaming industries), this provision was not easily applied as written. During the hearing, OSHA asked representatives of the hospitality industry for information on engineering and administrative controls that could be used to protect workers. Little information on feasible engineering and work practice controls for this industry was submitted to the Agency in response to these requests.

OSHA needs more information on this issue and is therefore sponsoring a workshop on ventilation engineering controls for reducing ETS exposure in the hospitality industry, which will be run under the auspices of the ACGIH. The ACGIH will assemble a panel of experts to identify issues and obtain information to help OSHA resolve feasibility issues raised by the application of the proposal to the hospitality industry. It is the intent of OSHA that the workshop results will be published for the use of professionals who have responsibility for reducing

occupational exposures to ETS in these sectors.

Public Attendance

Interested persons are invited to attend the ventilation workshop. The ACGIH has indicated that 50 seats will be available for observers. Because of the limited amount of seating available, space will be assigned on a first come, first served basis. However, if there are more requests to attend than space available, the ACGIH will give preference to technical experts. No organization will be permitted more than one observer unless there is space available after all admissions requests are filled. All individuals who wish to attend must contact Alexis Callender, American Conference of Governmental Industrial Hygienists, no later than May 28, 1998 to register for this workshop. Admittance to the workshop will be limited to those duly registered.

Individuals with disabilities wishing to attend should contact Alexis Callender, no later than May 28, 1998 to obtain appropriate accommodations.

The Workshop

The panel will consist of ventilation engineers experienced in various aspects of ventilation engineering controls currently used in general industry, and facility management representatives from the restaurant, bar, and gambling establishments. The panel discussions will be chaired by a member of the ACGIH's Committee on Industrial Ventilation. Panel participants were chosen for their technical expertise and experience in this area. This workshop is technical in nature. The public is invited to observe the proceedings, but participation in the discussion is limited to panel members.

Workshop Agenda

On the first day, each panelist will deliver a 15 minute presentation. These presentations will cover various topics, including historical perspectives of ACGIH's Industrial Ventilation Guide; local source capture vs. general dilution ventilation; make up air (e.g., supply air islands); ventilation performance monitoring; displacement ventilation systems; particulate and gas phase removal; and current practice for design, operations, and maintenance of Heating Ventilation, and Air-Conditioning (HVAC) systems in gaming, restaurant, and beverage (bars) facilities. On the second day of the workshop, working groups will be formed from the panel to explore the technological and economic feasibility of applying current prudent practice for the application of ventilation engineering controls to the hospitality sector. The third day will involve the summarization of the work completed by the working groups and discussion of how ACGIH plans to incorporate the information into a ventilation guide for the hospitality industry.

Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655).

Signed at Washington, D.C. this 19th day of May 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–13970 Filed 5–26–98; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of currently approved information collections used by researchers for submitting requests for copies of pages of Ship Passenger Arrival Records, Federal population census schedules through the 1920 census, and Eastern Cherokee Applications of the U.S. Court of Claims, 1906–1909, that are in the National Archives of the United States. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 27, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, ext. 226, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

Title: National Archives Order for Copies of Ship Passenger Arrival Records, National Archives Order for Copies of Census Records, and National Archives Order for Copies of Eastern Cherokee Applications.

OMB number: 3095–0027.

Agency form numbers: NATF Forms 81, 82, and 83.

Type of review: Regular.

Affected public: Individuals who wish to order copies of Ship Passenger Arrival Records, Federal population census schedules through the 1920 census, and Eastern Cherokee Applications of the U.S. Court of Claims, 1906–1909, in the National Archives of the United States.

Estimated number of respondents: 12,000.

Estimated time per response: 10 minutes.

Frequency of response: On occasion (when respondent wishes to search for or order copies of Ship Passenger Arrival Records, Federal population census schedules through the 1920 census, and Eastern Cherokee Applications from the U.S. Court of Claims, 1906–1909)

Estimated total annual burden hours: 2,000.

Abstract: The NATF form 81 will be used by researchers to request that NARA search for and make copies of pages from passenger arrival lists in the custody of the National Archives. The

NATF form 82 will be used by researchers to request that NARA search for and make copies of pages of Federal population census schedules through the 1920 census. The NATF form 83 will be used by researchers to request that NARA search for and make copies of Eastern Cherokee applications of the U.S. Court of Claims, 1906–1909. Submission of requests on a form is necessary to handle in a timely fashion the volume of requests received for these records (approximately 10,000 per year for the NATF 81, approximately 1,400 per year for the NATF 82, and approximately 600 per year for the NATF 83) and the need to obtain specific information from the researcher to search for the records sought. The form will be printed on carbonless paper as a multi-part form to allow the researcher to retain a copy of his request and NARA to respond to the researcher on the results of the search or to bill for copies if the researcher wishes to order the copies. As a convenience, the form will allow researchers to provide credit card information to authorize billing and expedited mailing of the copies. NARA is not able at present to accept electronic submission of requests; however, we intend to address security of financial information and other issues as we continue our efforts to increase electronic access to NARA and its holdings.

Dated: May 21, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–14000 Filed 5–26–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting; Notice of Meetings

TIME AND DATE: 10:00 a.m., Thursday, May 28, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Requests from Two (2) Federal Credit Unions to Convert to Community Charters.
2. Request for a Corporate Federal Credit Union for a Field of Membership Amendment.

RECESS: 11:00 a.m.

TIME AND DATE: 11:30 a.m., Thursday, May 28, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
2. Corporate Credit Union Risk Rating system (CCURRS). Closed pursuant to exemption (8).
3. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (4), (5), (6), (7) and (8).
4. Six (6) Personnel Actions. Closed pursuant to exemptions (2) and (6).
5. Human Resources Delegations of Authority. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–14077 Filed 5–22–98; 9:31 am]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–220]

Niagara Mohawk Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on May 19, 1998 (63 FR 27601), that would change Technical Specifications 3/4.6.2, "Protective Instrumentation," to reflect modifications to the initiation instrumentation for the Control Room Air Treatment System. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, telephone (301) 415–7162.

SUPPLEMENTARY INFORMATION: On page 27604, in the first column, in the third complete paragraph, on the first line, the date "June 1, 1998," should be corrected to read "June 18, 1998."

Dated at Rockville, Maryland, this 20th day of May 1998.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 98–13972 Filed 5–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

PECO Energy Company, Peach Bottom Atomic Power Station (Units 2 & 3); Confirmatory Order Modifying Licenses; Effective Immediately

I

PECO Energy Company, (PECO or the Licensee) is the holder of Facility Operating Licenses Nos. DPR–44 and DPR–56, which authorize operation of Peach Bottom Atomic Power Station, Units 2 and 3, located in York County, Pennsylvania.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 time frame, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers" and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and implementation schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with the licensees to discuss the progress of the licensees' corrective actions and the extent of licensee management attention regarding completion of Thermo-Lag corrective actions.

PECO Energy Company was one of the licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with PECO Energy Company the schedule of Thermo-Lag

corrective actions described in the PECO Energy Company's submittals to the NRC dated April 16 and December 29, 1993; February 4 and December 19, 1994; March 29 and August 2, 1995; May 2, 1996; March 24, 1997; and January 14, 1998. Based on the information submitted by PECO Energy Company, the NRC staff has concluded that the schedules presented by PECO Energy Company are reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, and (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by PECO Energy Company must be completed in accordance with current PECO Energy Company's schedules. By letter dated April 16, 1998, the NRC staff notified PECO Energy Company of its plan to incorporate PECO Energy Company's schedule commitment into a requirement by issuance of an Order and requested consent from the Licensee. By letter dated April 27, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of April 27, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its April 27, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, effective immediately, that:

PECO Energy Company shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at Peach Bottom Atomic Power Station, Units 2 and 3, described in the PECO Energy Company's submittals to the NRC dated April 16 and December 29, 1993; February 4 and December 19, 1994; March 29 and August 2, 1995; May 2, 1996; March 24, 1997; and January 14, 1998, prior to restart from 3R12 refueling outage of Peach Bottom Atomic Power Station, Unit 3, scheduled for October 1999.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415 and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 19th day of May 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13973 Filed 5–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Philadelphia Electric Company, Limerick Generating Station, (Units 1 and 2); Confirmatory Order Modifying Licenses; Effective Immediately

I

Philadelphia Electric Company (the Licensee) is the holder of Facility Operating Licenses Nos. NPF–39 and NPF–85, which authorize operation of Limerick Generating Station (LGS), Units 1 and 2, located in Montgomery and Chester Counties, Pennsylvania.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers" and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with these licensees to discuss the progress of the licensees' corrective actions and the extent of licensee management attention regarding completion of Thermo-Lag corrective actions. In addition, the NRC staff discussed with licensees the possibility of accelerating their completion schedules.

Philadelphia Electric Company was one of the licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with

Philadelphia Electric Company the schedule of Thermo-Lag corrective actions described in the Philadelphia Electric Company submittals to the NRC dated April 16 and December 29, 1993, February 4 and December 19, 1994, March 29 and August 2, 1995, May 2, 1996, and March 24, 1997. Based on the information submitted by Philadelphia Electric Company and provided during the meetings, the NRC staff has concluded that the schedules presented by Philadelphia Electric Company are reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power, and (4) integration with other significant, but unrelated issues that Philadelphia Electric Company is addressing at its plant. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by Philadelphia Electric Company must be completed in accordance with current Philadelphia Electric Company schedules. By letter dated April 16, 1998, the NRC staff notified Philadelphia Electric Company of its plan to incorporate Philadelphia Electric Company's schedule commitment into a requirement by issuance of an order and requested consent from the Licensee. By letter dated April 27, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of April 27, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its April 27, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, effective immediately, that:

Philadelphia Electric Company shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at LGS, Units 1 and 2, described in the Philadelphia Electric Company's submittals to the NRC dated April 16 and December 29, 1993, February 4 and December 19, 1994, March 29 and August 2, 1995, May 2, 1996, March 24, 1997, and January 14, 1998, by completion of the April 1999 refueling outage for LGS, Unit 2.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemakings and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 19 day of May 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–13971 Filed 5–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–325 and 50–324]

Carolina Power & Light Company; Brunswick Steam Electric Plant, Units No. 1 and 2 Environmental Assessment and Finding of No Significant Impact

Introduction

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–71 and DPR–62 issued to the Carolina Power & Light Company (CP&L or the licensee) for operation of the Brunswick Steam Electric Plant, Units No. 1 and 2 (BSEP 1 & 2), respectively, located at the licensee's site in Brunswick County, North Carolina.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application dated November 1, 1996, as supplemented by letters dated October 13, 1997, February 26, 1998, March 13, 1998, April 24, 1998, and May 22, 1998. The proposed amendments will replace the current BSEP 1 & 2 Technical Specifications (CTS) in their entirety with Improved Technical Specifications (ITS) based on Revison 1 to NUREG–1433, "Standard Technical Specifications General Electric Plants BWR/4" dated April 1995, and the CTS for BSEP 1 & 2.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of TS. The Commission's "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," (52 Fed. Reg. 3788, February 6, 1987), and later the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," 58 FR 39132 (July 22, 1993), formalized this need. To facilitate

the development of individual improved TS, each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS). For General Electric plants, the STS are published as NUREG–1433, and this document was the basis for the new BSEP 1 & 2 TS. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion to the STS by operating plants.

Description of the Proposed Change

The proposed revision to the TS is based on NUREG–1433 and on guidance provided in the Final Policy Statement. Its objective is to completely rewrite, reformat, and streamline the existing TS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1433, portions of the existing TS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the OG.

The proposed changes from the existing TS can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operations personnel. They are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Every section of the BSEP 1 & 2 TS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG–1433 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the existing BSEP 1 & 2 TS. The TS that are being relocated to licensee-controlled documents are not required to be in the TS under 10 CFR 50.36 and do not meet any of the four criteria in the Commission's Final Policy Statement for inclusion in the TS. They are not needed to obviate the possibility that an abnormal situation or event will give rise to an immediate threat to the public health and safety. The NRC staff has concluded that appropriate controls have been established for all of the current specifications, information, and requirements that are being moved to licensee-controlled documents. In general, the proposed relocation of items in the BSEP 1 & 2 TS to the Final Safety Analysis Report (FSAR), appropriate plant-specific programs, procedures and ITS Bases follows the guidance of the General Electric STS (NUREG–1433). Once these items have been relocated by removing them from the TS to licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms, which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed BSEP 1 & 2 ITS items that are either more conservative than corresponding requirements in the existing BSEP 1 & 2 TS, or are additional restrictions that are not in the existing BSEP 1 & 2 TS but are contained in NUREG–1433. Examples of more restrictive requirements include: placing a Limiting Condition of Operation (LCO) on plant equipment that is not required by the present TS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements are relaxations of corresponding requirements in the existing BSEP 1 & 2 TS that provide little or no safety benefit and place unnecessary burdens on the licensee. These relaxations were the result of generic NRC actions or other analyses. They have been justified on a case-by-case basis for BSEP 1 & 2, as will be described in the staff's Safety Evaluation to be issued with the license amendment, which will be noticed in the **Federal Register**.

In addition to the changes described above, the licensee proposed certain changes to the existing TS that deviated from the STS in NUREG–1433. These additional proposed changes are described in the licensee's application and in the staff's Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing (62 FR 3719). Where these changes represent a change to the current licensing basis for BSEP 1 & 2, they have been justified on a case-by-case basis and will be described in the staff's Safety Evaluation to be issued with the license amendment.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed TS conversion would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

Changes that are adminstrative in nature would have no effect on the technical content of the TS, and are acceptable. The increased clarity and understanding these changes bring to the TS are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to licensee-controlled documents would not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1433 and the Final Policy Statement, and, therefore, are acceptable.

Changes involving more restrictive requirements would be likely to enhance the safety of plant operations and are acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burdens on the licensee, their removal from the TS is justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic NRC action, or of agreements reached during discussions with the OG and are acceptable for BSEP 1 & 2. Generic relaxations contained in NUREG–1433 as well as proposed deviations from NUREG–1433 have also been reviewed by the NRC staff and are acceptable for BSEP 1 & 2.

In summary, the proposed revisions to the TS were found to provide control of plant operations such that reasonable assurance will be provided so that the health and safety of the public will be adequately protected.

These TS changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable public or occupational radiation exposure.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed amendments, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for the amendment. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the BSEP 1 & 2 Electric Generating Plants.

Agencies and Persons Consulted

In accordance with its stated policy, on May 22, 1998, the staff consulted with the North Carolina State official, Mr. M. Fry, of the North Carolina Department of Environment and Natural Resources, Division of Radiation Protection. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see the licensee's letter dated November 1, 1996, as supplemented on October 13, 1997, February 26, 1998, March 13, 1998, April 24, 1998, and May 22, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland this 22nd day of May 1998.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14098 Filed 5–26–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for 1998 Presidential Management Intern Program Application

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that OPM intends to submit a request to the Office of Management and Budget (OMB) for renewal of authority to publish the 1998 Presidential Management Intern Program Application. The information contained in the PMI application is used by OPM's Employment Service to obtain nominations, and to screen and establish a nationwide competitive selection process. Applications are mailed to educational institutions at the beginning of each academic year. Students are nominated by their deans and chairpersons to compete in the PMI Program. The application is completed by the student (nominee) and submitted to the school official for review and nomination. After the initial review process, nominees are invited to participate in a structured assessment center process. Selection as a PMI Finalist is based on a review of the nominee's application, and participation in a structured assessment center process.

It is anticipated that 2000 applications will be received and processed in 1998. Number of hours required for completing PMI application forms by graduate programs deans or chairpersons is 1 hour per application=2000. Number of hours required per graduate student for completing application form is 1 hour=2000.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of the clearance package, call James M. Farron, Reports and Forms Manager, on (202) 418–3208, or by e-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before July 27, 1998.

ADDRESSES: Send or deliver comments to: Kathleen A. Keeney, Presidential Management Intern Program, William J. Green Jr., Federal Building, Room 3400, 600 Arch Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Keeney (215) 597–1920.

Janice R. Lachance,

Director, U.S. Office of Personnel Management.

[FR Doc. 98–13919 Filed 5–26–98; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, June 11, 1998.

The meeting will start at 10:00 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of

a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: May 13, 1998.

Phyllis G. Heuerman,

Acting Chair, Federal Prevailing Rate Advisory Committee.

[FR Doc. 98–13921 Filed 5–26–98; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s).

(1) *Collection title:* Application for Search of Census Records.
(2) *Form(s) submitted:* G–256.
(3) *OMB Number:* 3220–0106.
(4) *Expiration date of current OMB clearance:* 7/31/1998.
(5) *Type of request:* Revision of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 75.
(8) *Total annual responses:* 75.
(9) *Total annual reporting hours:* 13.
(10) *Collection description:* Under the Railroad Retirement Act, an applicant for benefits based on age must be supported by proof of age claimed. The application obtains proof of an applicant's age from the Bureau of the Census when other evidence is unavailable.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–13937 Filed 5–26–98; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Representative Payee Monitoring.
(2) *Form(s) submitted:* G–99a, G–99c.
(3) *OMB Number:* 3220–0151.
(4) *Expiration date of current OMB clearance:* 7/31/1998.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 6,000.
(8) *Total annual responses:* 6,535.
(9) *Total annual reporting hours:* 2,032.
(10) *Collection description.* Under Section 12(a) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to determine if a representative payee is handling benefit payments in the best interest of the annuitant.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–13938 Filed 5–26–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23193; 812–11088]

Cowen & Co., et al.; Notice of Application

May 19, 1998.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants seek an order to permit the implementation, without prior shareholder approval, of new investment advisory agreements ("New Advisory Agreements") following the acquisition by Societe Generale ("SG") of certain assets, including current investment advisory agreements ("Existing Advisory Agreements"), from Cowen & Co. ("Current Adviser") and Cowen Incorporated (together with the Current Adviser, "Cowen"). The order would cover a period beginning at the later of the date the acquisition is completed ("Closing Date") or the date on which the requested order is issued, and continue for a period of up to 150 days (but in no event later than December 31, 1998) ("Interim Period"). If shareholders approve the New Advisory Agreements, the order also would permit the payment of fees earned under the New Advisory Agreements during the Interim Period.

APPLICANTS: The Current Adviser and Societe Generale Securities Corporation ("SGSC").

FILING DATES: The application was filed on March 24, 1998, and amended on May 8, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 15, 1998, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Current Adviser, Financial Square, New York, New York 10005; SGSC, 1221 Avenue of The Americas, New York, New York 10020.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Staff Attorney, at (202) 942–0578, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549, (202) 942–8090.

Applicants' Representations

1. The Current Adviser is a New York limited partnership registered under the Investment Advisers Act of 1940 ("Advisers Act") whose general partner is Cowen Incorporated. Pursuant to separate investment advisory agreements, the Current Adviser serves as investment adviser to Cowen Income + Growth Fund, Inc., Cowen Standby Reserve Fund, Inc., Cowen Standby Tax-Exempt Reserve Fund, Inc., Cowen Large Cap Value Fund (a series of Cowen Series Funds, Inc.), Cowen Intermediate Fixed Income Fund, Cowen Government Securities Fund and Cowen Opportunity Fund (the latter three funds, each a series of Cowen Funds, Inc.) (each a "Fund," and collectively, the "Funds").

2. On February 22, 1998, Cowen entered into an agreement with SG, a banking corporation organized under the laws of France, under which SG will acquire certain assets and assume certain liabilities of Cowen (the "Acquisition"). In the Acquisition, the Current Adviser's advisory business will be transferred to SGSC, a subsidiary of SG. SGSC will be renamed SG Cowen Securities Corporation ("SG Cowen") after the Acquisition, and a division or affiliate of SG Cowen will serve as the new investment adviser to each of the Funds (the "New Adviser"). Applicants represent that the New Adviser either will have filed a form ADV with the Commission that becomes effective on or before the Closing Date or, as successor to the business of the Current Adviser, will have filed a form ADV with the Commission in reliance on section 203(g) of the Advisers Act. Applicants anticipate that the Closing Date will occur within the next three months and could occur as early as June 1, 1998.[1]

3. Applicants state that the Acquisition will result in an assignment and thus automatic termination of the Existing Advisory Agreements between the Funds and the Current Adviser under the Act and the Existing Advisory Agreements. Applicants request an exemption (i) to permit the implementation of New Advisory Agreements during the Interim Period without prior shareholder approval, and (ii) to permit the New Adviser to receive all fees earned under the New Advisory Agreements during the Interim Period upon approval of the New Advisory Agreements by shareholders of the Funds. Applicants assert that the New Advisory Agreements will contain substantially the same terms and conditions as the Existing Advisory Agreements, except for the identification of the New Adviser and the effective and termination dates.

4. Prior to the Closing Date, the board of directors of each Fund (each a "Board," and collectively, the "Boards"), including a majority of directors who are not interested persons of the Funds under section 2(a)(19) of the Act ("Disinterested Directors"), will meet in person, in accordance with section 15(c) of the Act, to evaluate whether the terms of the New Advisory Agreements are in the best interests of the Funds and their respective shareholders.[2] The Boards currently intend to meet on or around May 21, 1998.

5. The New Adviser and the Funds propose to enter into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The portion of the investment advisory fees earned by the New Adviser during the Interim Period under the New Advisory Agreements would be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including interest earned on such paid fees) would be paid to the New Adviser only upon approval of each New Advisory Agreement by the applicable Fund's shareholders. In the absence of such approval, the amounts will be paid to the applicable Fund. The Board of the applicable Fund will be notified before any amounts are released from the escrow account.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) of the Act further requires that such written contract provide for automatic termination in the event of its "assignment." Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor.

2. Applicants state that the acquisition by SG of certain assets including the Existing Advisory Agreements from Cowen will result in an "assignment" of the Existing Advisory Agreements, terminating such agreements according to the Act and their respective terms.

3. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (i) the new contract is approved by that company's board of directors (including a majority of non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders: and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in

[1] Applicants state that if the Closing Date precedes the issuance of an order, the New Adviser will serve as investment adviser after the Closing Date and prior to the issuance of the order in a manner consistent with its fiduciary duty to provide investment advisory services to the Funds, even though approval of the New Advisory Agreements has not yet been secured from the Funds' respective shareholders. Applicants also submit that in such event, the New Adviser will be entitled to receive from the Funds, with respect to the period from the Closing Date until the receipt of the order, no more than the actual out-of-pocket cost to the New Adviser for providing investment advisory services to the Funds.

[2] To the extent that the Boards cannot meet prior to the Closing Date, applicants acknowledge that the Funds may not rely on the exemptive relief requested in the application.

connection with the assignment. Applicants state that they may not be entitled to rely on rule 15a–4 because of the benefits that Cowen will receive as a result of the Acquisition.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

5. Applicants submit that the terms and timing of the Acquisition were determined in response to a number of factors substantially unrelated to the Funds and that the Existing Advisory Agreements constitute a relatively small part of the Acquisition. Applicants state that the Closing Data does not allow a sufficient time to secure prior shareholder approval of the New Advisory Agreements. Applicants state that the requested relief will permit continuity of investment management of the Funds during the period following the Acquisition so that advisory services will not be disrupted. Applicants represent that the Funds will receive the same scope and quality of investment advisory services provided by essentially the same investment management personnel under the New Advisory Agreements as they receive under the Existing Advisory Agreements. If the investment management personnel changes materially, the New Adviser will apprise and consult with the Boards to ensure that the Boards, including a majority of the Disinterested Directors, are satisfied that the services provided by the New Adviser will not be diminished in scope and quality.

6. Applicants contend that to deprive the New Adviser of investment advisory fees during the Interim Period would be an unduly harsh and unreasonable penalty to attach to the Acquisition and would serve no useful purpose. Applicants note that the fees will not be released to the New Adviser by the Escrow Agent without an appropriate certification that the New Advisory Agreements have been approved by the Funds' respective shareholders.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Advisory Agreements will contain substantially the same terms and conditions as the Existing Advisory Agreements, except for the identification of the New Adviser and the dates of execution and termination.

2. The portion of the investment advisory fee earned by the New Adviser during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such amounts) will be paid to the New Adviser only upon approval of each New Advisory Agreement by the applicable Fund's shareholders or in the absence of such approval, to the Fund.

3. Each Fund will promptly schedule a meeting of shareholders to vote on the approval of the New Agreements to be held within 150 days following the commencement of the Interim Period (but in no event later than December 31, 1998).

4. The Current Adviser will pay the costs of preparing and filing the application and the costs relating to the solicitation and approval of Fund shareholders of the New Advisory Agreements necessitated by the Acquisition.

5. Cowen and SG will take all appropriate actions to ensure that the scope and quality of investment advisory and other services to be provided to the Funds by the New Adviser during the Interim Period will be at least equivalent, in the judgment of the Boards, including a majority of the Disinterested Directors, to the scope and quality of services provided by the Current Adviser. In the event of any material change in investment management personnel providing advisory services pursuant to the New Advisory Agreements, the New Adviser will apprise and consult with the Boards to ensure that the Boards, including a majority of the Disinterested Directors, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13958 Filed 5–26–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23197; File No. 812–10974]

Mitchell Hutchins Portfolios, et al.; Notice of Application

May 20, 1998.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the "Act") and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies relying on section 12(d)(1)(G) of the Act to enter into a special servicing agreement.

APPLICANTS: Mitchell Hutchins Portfolios (the "Trust"); PaineWebber America Fund, PaineWebber Cashfund, Inc. ("Cashfund"), PaineWebber Investment Series, PaineWebber Investment Trust, PaineWebber Managed Investments Trust, PaineWebber Olympus Fund, PaineWebber Securities Trust, (the "PaineWebber Investment Companies," and together with the Trust, the "PaineWebber Mutual Funds"), Mitchell Hutchins Asset Management Inc. ("Mitchell Hutchins"), and PaineWebber Incorporated ("PaineWebber"). Applicant also request relief for each existing or future registered open-end management investment company and series thereof that is part of the same group of investment companies as the PaineWebber Mutual Funds under section 12(d)(1)(G)(ii) of the Act, and which is, or will be, advised by Mitchell Hutchins or PaineWebber or any entity controlling, controlled by, or under common control with Mitchell Hutchins or PaineWebber, or for which Mitchell Hutchins or PaineWebber or any entity controlling, controlled by, or under common control with Mitchell Hutchins or PaineWebber serves, or will serve as principal underwriter (collectively, the "PaineWebber Family of Funds").

FILING DATES: The application was filed on January 26, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 15, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request

notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Applicants, 1285 Avenue of the Americas, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust, a Delaware business trust, is an open-end management investment company registered under the Act. The Trust currently offers three portfolios (the "Portfolios") which will invest all, or substantially all, of their assets in shares of other investment companies in the PaineWebber Family of Funds ("Underlying Funds"),[1] in reliance on section 12(d)(1)(G) of the Act and thereby operate as a fund of funds. The Portfolios will allocate their assets among the following Underlying Funds: PaineWebber Global Equity Fund, PaineWebber Global Income Fund, PaineWebber Growth Fund, PaineWebber Growth and Income Fund, PaineWebber Small Cap Fund, PaineWebber High Income Fund, PaineWebber Investment Grade Income Fund, PaineWebber Low Duration U.S. Government Income Fund, PaineWebber U.S. Government Income Fund, and Cashfund. In the future, other registered open-end management investment companies in the PaineWebber Family of Funds may be added as Underlying Funds. Each Portfolio and each Underlying Fund is authorized to issue multiple classes of shares in accordance with rule 18f–3 under the Act.

2. Mitchell Hutchins and PaineWebber (collectively, the "Advisers") are registered as investment advisers under the Investment Advisers Act of 1940. Mitchell Hutchins is a subsidiary of PaineWebber, which is wholly owned by Paine Webber Group, Inc., a publicly owned financial services holding company. Mitchell Hutchins serves as investment adviser and administrator to the Portfolios. Mitchell Hutchins also serves as the principal underwriter of each Portfolios's shares and each Underlying Fund's shares (other than Cashfund, for which PaineWebber serves as principal underwriter). Mitchell Hutchins or PaineWebber serves as investment adviser to the Underlying Funds.

3. Applicants propose to enter into a special servicing agreement ("Servicing Agreement") among each Portfolio, the Underlying Funds and the Adviser. Under the Servicing Agreement, the Underlying Funds would bear the expenses of the Portfolio (other than advisory fees and rule 12b–1 fees) in proportion to the average daily value of the Underlying Fund's shares owned by the Portfolio. Payments by an Underlying Fund under the Servicing Agreement would be a fund-wide expense of the Underlying Fund.

4. Applicants believe that each Portfolio creates savings to the Underlying Funds primarily due to a reduction in the administrative expenses incurred by the Underlying Funds as a result of the avoidance of numerous shareholder accounts which would have been established if investors in the Portfolios had invested directly in the Underlying Funds. No Underlying Fund would bear any expenses of a Portfolio that exceed Net Benefits as defined in the condition below, to the Underlying Fund from the arrangement.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act provide that an affiliated person of, or a principal underwriter for, a registered investment company, or an affiliate of such person or principal underwriter, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the Commission has issued an order approving the arrangement. Because the Adviser is an affiliated person of each Portfolio and each Underlying Fund and because the Portfolios and Underlying Funds share a common board of directors/trustees ("Board"), each of the Portfolios and Underlying Funds advised by the Adviser could be deemed to be under common control with all the other Portfolios and Underlying Funds, and therefore, an affiliated person of those Funds. Consequently, the Servicing Agreement could be deemed to be a joint transaction.

2. Rule 17d–1 under the Act provides that, in passing upon exemptive requests under the rule, the Commission considers whether the investment company's participation in the joint enterprise is consistent with the provision, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants.

3. Applicants request relief under section 17(d) and rule 17d–1 to permit them to enter into the Service Agreement. Applicants contend that each Underlying Fund will pay a Portfolio's expenses only in direct proportion to the average daily value of each Underlying Fund's shares held by each Portfolio to ensure that expenses of the Portfolios will be borne proportionately and fairly. Applicants also state that prior to an Underlying Fund's entering into a Service Agreement, and at least annually thereafter, the Board of the Underlying Fund, including a majority of directors who are not interested persons under section 2(a)(19) of the Act ("Disinterested Directors"), must determine that the Servicing Agreement will result in Net Benefit, as defined in the condition below, to the Underlying Fund. In making the annual determination, one of the factors the Board must consider is the amount of Net Benefits actually experienced by each class of shareholders of the Underlying Fund and the Underlying Fund as a whole during the preceding year. For these reasons, the applicants believe the requested relief meets the standards of section 17(d) of the Act and rule 17d–1 under the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Prior to the Underlying Fund's entering into a Servicing Agreement, and at least annually thereafter, the Board of the Underlying Fund, including a majority of Disinterested Directors of the Underlying Fund, must determine that the Servicing Agreement will result in quantifiable benefits to each class of shareholders of the Underlying Fund and to the Underlying Fund as a whole that will exceed the costs of the Servicing Agreement borne by each class of shareholders of the Underlying Fund and by the Underlying Fund as a whole ("Net Benefits"). In making the annual determination, one of the factors the Board must consider is the amount of Net Benefits actually experienced by each class of shareholders of the Underlying Fund and the Underlying Fund as a whole during the preceding year. The Underlying Fund will preserve for a period of not less than six years from

[1] The Portfolios may not be Underlying Funds and no Portfolio will invest in another Portfolio.

the date of a determination of the Board, the first two years in an easily accessible place, a record of the determination and the basis and information upon which the determination was made. This record will be subject at all times to examination by the Commission and its staff.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13956 Filed 5–26–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23192; 812–10596]

Stein Roe Income Trust, et al.; Notice of Application

May 19, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the "Act") and rule 17d–1.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain registered investment companies to deposit uninvested cash balances in a joint account to be used to enter into short-term investments.

APPLICANTS: Stein Roe Income Trust, Stein Roe Investment Trust, Stein Roe Municipal Trust, Stein Roe Institutional Trust, Stein Roe Advisor Trust, Stein Roe Trust, SR&F Base Trust (each a "Trust," and collectively, the "Trusts"), and Stein Roe & Farnham Incorporated (the "Adviser").

FILING DATES: The application was filed on March 26, 1997 and amended on August 5, 1997 and April 17, 1998.

HEARING OR NOTIFICATION OF HEARING. An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 15, 1998, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Cameron S. Avery, Bell, Boyd & Lloyd, Three First National Plaza, Suite 3300, Chicago, IL 60602.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Staff Attorney, at (202) 942–0578, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. Each Trust, other than SR&F Base Trust ("Base Trust"), is organized as a business trust under the laws of Massachusetts. Base Trust is organized as a common law trust under the laws of Massachusetts. Each Trust is registered under the Act as an open-end management investment company and has, or intends to have, multiple series ("Funds"). Base Trust was organized so that its various series could serve as master funds in a master-feeder structure. Currently, each series of Stein Roe Advisor Trust, Stein Roe Institutional Trust, Stein Roe Trust, Stein Roe Investment Trust (other than Stein Roe Emerging Markets Fund and Stein Roe Capital Opportunities Fund), Stein Roe Municipal Money Market Fund (a series of Stein Roe Municipal Trust), and Stein Roe High Yield Fund (a series of Stein Roe Income Trust) operate as feeder funds.

2. The Adviser, a wholly-owned indirect subsidiary of Liberty Financial Companies, Inc., is registered as an investment adviser under the Investment Advisers Act of 1940 and provides investment advisory services to the respective series of the Base Trust and to each of the Funds that are not feeder funds. The Adviser also provides administrative, accounting and bookkeeping services to certain of the Funds. The Adviser has discretion to purchase and sell securities for each Fund in accordance with that Fund's investment objectives, policies and restrictions.

3. Applicants request that any relief granted pursuant to the application also apply to any other registered open-end management investment company and series thereof for which the Adviser may serve as investment adviser in the future ("Future Funds"). Any Future Fund relying on the requested relief will do so only in compliance with the terms and conditions of the application.

4. The assets of the Funds are held by State Street Bank and Trust Company ("State Street"). On each trading day, some or all of the Funds generally have uninvested cash balances in their accounts. Each Fund is authorized to invest its uninvested cash assets in repurchase agreements and certain short-term money market instruments. Currently, such cash balance of each Fund is used on an individual basis to invest in short-term instruments, including individual issues of commercial paper or United States Government agency paper. Applicants assert that these separate purchases result in certain inefficiencies that limit a Fund's return on its cash balances. In addition, the assets of some Funds are too small or become available too late on a given day to be invested effectively on an individual basis.

5. Applicants propose to deposit all or a portion of their uninvested cash balances into a single joint account ("Joint Account") to enter into one or more short-term investment transactions, including repurchase agreements "collateralized fully" as defined in rule 2a–7 under the Act and other short-term money market instruments that constitute "eligible securities" as defined in rule 2a–7 under the Act. All counterparties to repurchase agreements entered into through the Joint Account are expected to be banks and broker-dealers. Repurchase agreements will be entered into on a "hold-in-custody" basis (i.e., repurchase agreements where the counterparty or one of its affiliated persons may have possession of, or control over, the collateral subject of the agreement) only where cash is received very late in the business day and otherwise would be unavailable for investment. Purchases of short-term money market instruments will be made from dealers in the open market or directly from issuers and will include investments in various taxable and tax-exempt short-term money market instruments with overnight, over-the-weekend or over-the-holiday maturities.

6. Any repurchase agreements entered into through the Joint Accounts will comply with the terms of Investment Company Act Release No. 13005 (February 2, 1983) and interpretations of the staff of the SEC. Applicants acknowledge that they have a continuing obligation to monitor the SEC's published statements on repurchase agreements and represent that the repurchase agreement transactions entered into through a Joint Account will comply with future

positions of the SEC to the extent that such positions set forth different or additional requirements regarding repurchase agreements. In the event that the SEC sets forth guidelines with respect to other short-term investments, all such investments made through any Joint Account will comply with those guidelines.

7. The proposed Joint Account would not be distinguishable from any other account maintained by State Street or a Fund, except that monies from multiple Funds would be deposited on a commingled basis. The sole function of the Joint Account would be to provide a convenient means of aggregating what otherwise would be two or more daily transactions for each Fund necessary to manage its respective daily uninvested cash balance. Each Fund will participate in the Joint Account and in any given investment made by the Joint Account on the same voluntary basis as every other participant in the Joint Account and in conformity with that Fund's investment objectives, policies and restrictions. If a tax-exempt money market fund contributes cash to the Joint Account, the cash will only be invested in securities that qualify for purchase by a tax-exempt money market fund under rule 2a–7 as it may be amended from time to time. Participants will not be required either to invest a minimum amount or to maintain a minimum balance in the Joint Account. Each participant will retain the sole ownership rights to any of its assets invested in the Joint Account, including income payable on the invested assets.

8. The applicants anticipate that, under certain circumstances, the Joint Account may invest in more than one repurchase agreement or short-term money market instrument on a given day and that, under such circumstances, each participant in the Joint Account would not necessarily have its cash invested in every repurchase agreement entered into and/or short-term money market instrument purchased through the Joint Account. Such a situation could occur for a variety of reasons, including a Fund's investment restrictions, the unavailability of a Fund's cash until after repurchase agreements have been negotiated on a given day, or a Fund's determination to invest its cash individually. The Adviser believes that no conflict of interest or potential for favoring one Fund over another arises merely as a result of the fact that the participating Funds may not always be allocated a pro rata portion of every investment made through the Joint Account.

9. The Adviser will have no monetary participation in the Joint Account, but will be responsible for investing assets in the Joint Account, establishing accounting and control procedures, and fairly allocating investment opportunities among the Funds. The recordkeeping system for the proposed Joint Account will be substantively identical to that which would be used if several joint accounts were established, with each investing in only a specific type of instrument. Among other recordkeeping and accounting control mechanisms, the Adviser will document each participant's pro rata portion of each joint investment, including investment amounts and the proportionate income to be received by each participant.

Applicant's Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, from participating in any joint enterprise or other joint arrangement in which such investment company is a participant, without an SEC order. Rule 17d–1 provides that in passing upon such applications, the SEC may consider the extent to which an entity's participation in a joint arrangement or enterprise is on a basis different or less advantageous than that of other participants.

2. The Funds, by participating in the Joint Account, and the Adviser, by managing the Joint Account, could be deemed to be "joint participants" in a "transaction" within the meaning of section 17(d) of the Act. In addition, the proposed Joint Account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1 under the Act.

3. Applicants assert that participants in the Joint Account could save significant amounts in yearly transaction fees by reducing the total number of transactions, thereby increasing the rate of return on investments. Because the Joint Account could invest larger amounts than the individual Funds, the rate of return for investments in the Joint Account may also be higher than could be negotiated by the Funds individually. The existence of a Joint Account could increase the number of dealers willing to enter into investment transactions with the participants, enhancing flexibility in the management of cash balances and reducing the possibility that any participant would have an uninvested cash balance overnight. The use of a single Joint Account could result in savings of the costs of establishing and maintaining several different accounts. By reducing the number of trade tickets that each repurchase agreement and/or short-term money market instrument counterparty has to write, the Joint Account also could simplify transactions and reduce opportunity for errors.

4. Applicants submit that the participation by the respective Funds in the Joint Account would be consistent with the provisions, policies and purposes of the Act, and would be on a basis that is no different from or less advantageous than that of other participating Funds. Although the Adviser might gain some benefit through administrative convenience and possible reduction in clerical costs, the participating Funds and their shareholders will be the primary beneficiaries of the Joint Account because the Joint Account is likely to permit a greater return on short-term investments.

Applicants' Conditions

Applicants will comply with the following as conditions to any order granted by the SEC:

1. A separate Joint Account will be established with State Street. Each Fund will be permitted to deposit its uninvested net cash balances into the Joint Account on a daily basis. The Joint Account will not be distinguishable from any other accounts maintained by the participants except that monies will be deposited in the Joint Account on a commingled basis. The Joint Account will not have a separate existence and will not have any indicia of a separate legal entity. The sole function of the Joint Account will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management by the Adviser of uninvested cash balances.

2. Cash in the Joint Account will be invested by the Adviser in one or more (a) repurchase agreements "Collateralized Fully" as defined in rule 2a–7 under the Act, and/or (b) short-term money market instruments that constitute "Eligible Securities" (as defined in rule 2a–7 under the Act) with overnight, over-the-weekend or over-the-holiday maturities. Any repurchase agreements will have a remaining maturity of 60 days or less and other short-term investments will have a remaining maturity of 90 days or less, each as calculated in accordance with rule 2a–7 under the Act.

3. All investments held by the Joint Account will be valued on an amortized cost basis to the extent permitted by applicable SEC releases, rules or orders.

4. Each participating Fund valuing its net assets in reliance upon rule 2a–7

under the Act will use the average maturity of the instrument(s) in the Joint Account in which such Fund has an interest (determined on a dollar weighted basis) for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in the Joint Account for that day.

5. In order to ensure that there will be no opportunity for one participant to use any part of a balance of the Joint Account credited to another participant, no participant will be allowed to create a negative balance in the Joint Account for any reason, although each Fund will be permitted to draw down its entire balance at any time. Each Fund's decision to invest in the Joint Account will be solely at its option, and no Fund will be obligated either to invest in the Joint Account or to maintain any minimum balance in the Joint Account. In addition, each Fund will retain the sole rights of ownership to any of its assets invested in the Joint Account, including interest payable on such assets in the Joint Account.

6. Not every participant in the Joint Account will necessarily have its cash invested in every short-term investment entered into through the Joint Account. However, to the extent that a participant's cash is applied to a particular short-term investment made through the Joint Account, the participant will participate in and own a proportionate share of such short-term investment, and any income earned or accrued thereon, based upon the percentage of such investment purchased with monies contributed by the participant.

7. The Adviser will administer the investment of cash balances in and operations of the Joint Account as part of its general duties under its existing or any future investment advisory contracts will the Funds and the Adviser will not collect any additional or separate fees from any Fund for advising the Joint Account.

8. The administration of the Joint Account will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

9. The Board of Trustees of each Trust that has Funds and/or Future Funds participating in the Joint Account will adopt procedures pursuant to which the Joint Account will operate, which will be reasonably designed to provide that the requirements of this application will be met. The Board of Trustees of each Trust that has Funds and/or Future Funds participating in the Joint Account will make and approve such changes as each deems necessary to ensure that such procedures are followed. In addition, each of such Board of Trustees will determine, no less frequently than annually, that the Joint Account has been operated in accordance with the proposed procedures and will permit continued participation by those Funds in the Joint Account only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Joint Account.

10. Any short-term investments made through the Joint Account will satisfy the investment criteria of all participants in that investment.

11. The Adviser and State Street will maintain records documenting, for any given day, each participant's aggregate investment in the Joint Account and its pro rata share of each investment made through the Joint Account. The records will be maintained in conformity with section 31 of the Act and the rules and regulations thereunder.

12. Short-term investments held in the Joint Account generally will not be sold prior to maturity unless: (a) The Adviser believes the investment no longer presents minimal credit risks; (b) the investment no longer satisfies the investment criteria of all participants in the investment because of downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterparty defaults. The Adviser may, however, sell any short-term investment (or any fractional portion thereof) on behalf of some or all participants prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling participants and the transactions will not adversely affect other participants participating in the Joint Account. In no case would an early termination by less than all participants be permitted if it would reduce the principal amount or yield received by other participants in the Joint Account or otherwise adversely affect the other participants. Each participant in the Joint Account will be deemed to have consented to such sale and partition of the investments in the Joint Account.

13. Short-term investments held through the Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, would be considered illiquid and would be subject to the restriction that a Fund may not invest more than 15% or, in the case of a money market fund, more than 10% (or, in either such case, such other percentage as set forth by the SEC from time to time) of its net assets in illiquid securities, if the Adviser cannot sell the instruments, or the Fund's fractional interest in such instrument, pursuant to the preceding condition.

14. Future Funds will be permitted to participate in the Joint Account arrangement only on the same terms and conditions as the Funds have set forth herein.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13959 Filed 5–26–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–23194; 812–11114]

UBS Investor Portfolios Trust, et al.; Notice of Application

May 20, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the implementation, without prior shareholder approval, of new investment advisory and sub-advisory agreements ("New Advisory Agreements") in connection with the merger of Union Bank of Switzerland ("UBS") and Swiss Bank Corporation ("SBC"). The order would cover a period of up to 150 days following the later of: (i) date on which the transactions contemplated by the merger agreement are consummated (the "Closing Date"), or (ii) the date upon which the requested order is issued (but in no event later than December 31, 1998) (the "Interim Period"). The order also would permit UBS-New York Branch ("UBS–NY Branch"), UBS Asset Management (New York) Inc. ("UBSAM–NY"), and UBS International Investment London Limited (UBSII) (collectively, the "Advisers"), following shareholder approval, to receive all fees earned under the New Advisory Agreements during the Interim Period.

Applicants: UBS Investor Portfolios Trust ("UBS Investor Portfolios"), UBS, UBSAM–NY, and UBSIL.

Filing Dates: The application was filed on April 20, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a

hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 15, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o Naomi Friedland-Wechsler, Esq., Union Bank of Switzerland, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT:

J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. UBS, directly and through its subsidiaries, offers a wide range of financial services worldwide, including asset management and investment advisory services. UBS conducts its asset management business in the United States through its branch located in New York, UBS–NY Branch, and through its wholly-owned indirect subsidiaries, UBSAM–NY and UBSII. UBSAM–NY and UBSII are both registered under the Investment Advisers Act of 1940 ("Advisers Act"). UBS–NY Branch is not so registered, in reliance on section 202(a)(11)(A) of the Advisers Act. UBS–NY Branch serves as investment adviser to UBS Investor Portfolios, and open-end management investment company registered under the Act, which organized in a master-feeder structure with six active portfolios and one in registration (each portfolio, a "Fund," and collectively, the "Funds").[1] UBSAM–NY and UBSII serve as investment sub-advisers to certain of the Funds.[2]

2. UBS and SBC have agreed to merge into a newly created entity ("New UBS") under the terms of a merger agreement dated December 5/6, 1997 ("Merger Agreement"). Upon consummation of the transactions contemplated by the Merger Agreement ("Merger"), New UBS will be owned approximately 60% by former UBS stockholders and 40% by former SBC stockholders. Upon completion of the Merger, UBS and SBC will both cease to exist and all of their assets, including the stock of the Adviser subsidiaries, will become assets of New UBS.

3. Applicants state that the Merger may result in an assignment and termination of the existing advisory and sub-advisory agreements of UBS–NY Branch and UBSAM–NY. Because the existing advisory agreement of UBSII with UBS Investor Portfolios terminates by its terms when the related UBS–NY Branch advisory agreement terminates, applicants state that Merger also may result in termination of this agreement (together with the existing advisory agreements of UBS–NY Branch and UBSAM–NY, the "Existing Advisory Agreements"). Applicants request an exemption to permit the implementation, without prior shareholder approval, of the New Advisory Agreements. The requested exemption will cover the Interim Period of not more than 150 days, beginning on the later of (i) the Closing Date or (ii) the date on which the order requested by this application is issued and continuing with respect to each Fund through the date on which each New Advisory Agreement is approved or disapproved by the Fund's shareholders, but in no event after December 31, 1998. Applicants state that the terms and conditions of the corresponding Existing and New Advisory Agreements will be the same in all material respects, except for the dates of execution and termination. The Closing Date may occur as early as June 1, 1998.[3]

4. The board of directors of each Fund (the "Boards") met on May 12, 1998, in accordance with section 15(c) of the Act, to consider and evaluate the New Advisory Agreements and determined that the New Advisory Agreements were in the best interests of the Funds and their respective shareholders. The Boards also voted to recommend that the Funds' respective shareholders approve the New Advisory Agreements.

5. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The fees earned by the Advisers under the New Advisory Agreements during the Interim Period will be paid into an account maintained by the Escrow Agent. The Escrow Agent will release the amounts held in the escrow account (including any interest earned): (a) to the Advisers only upon receipt of certification that the New Advisory Agreements have been approved by the shareholders of the relevant Fund; or (b) to the relevant Fund in the absence of approval by its shareholders. Before any certification is released, the relevant Board will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the registered investment company. Section 15(a) of the Act further requires that the written contract provide for automatic termination in the event of its "assignment." Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants believe that the Merger will not result in a transfer of a controlling block of UBS under section 2(a)(4) of the Act. Applicants state, however, that under the terms of the Merger and the current business plan of New UBS, certain changes in portfolio management personnel, structure and process are expected at UBS–NY Branch and UBSAM–NY. Applicants assert that these changes could result in a change of the actual control or management of UBS–NY Branch and UBSAM–NY. Applicants state that there may therefore be an assignment, and thus

[1] The six portfolios include: UBS Bond Portfolio, UBS High Yield Bond Portfolio, UBS Value Equity Portfolio, UBS Large Cap Growth Portfolio, UBS Small Cap Portfolio, and UBS International Equity Portfolio.

[2] UBSAM–NY serves as sub-adviser to UBS High Yield Bond Portfolio, UBS Large Cap Growth Portfolio, and UBS Small Cap Portfolio; UBSII serves as sub-adviser to UBS International Equity Portfolio.

[3] Applicants state that if the Closing Date precedes the issuance of the requested order, the Advisers will serve as investment advisers after the Closing Date and prior to the issuance of the order in a manner consistent with their fiduciary duty to provide investment advisory services to the Funds even though appoval of the New Advisory Agreements has not yet been secured from the Funds' respective shareholders. Applicants also state that in such event the Advisers will be entitled to receive from the Funds, from the Closing Date until receipt of the requested order, no more than the actual out-of-pocket costs to the Advisers for providing investment advisory services to the Funds.

automatic termination, of their Existing Advisory Agreements. In addition, applicants state that the Existing Advisory Agreement of UBSII with UBS Investor Portfolios will terminate in accordance with its terms.

3. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated by an assignment in which the adviser does not directly receive a benefit, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (a) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. Applicants state that they cannot rely on rule 15a–4 because UBS–NY Branch, UBSAM–NY or UBSII, or UBS as their controlling person, may be deemed to receive a benefit in connection with consummation of the Merger.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants assert that the requested relief meets this standard.

5. Applicants submit that the terms and timing of the Merger were determined by UBS and SBC in response to a number of factors beyond the scope of the Act and substantially unrelated to the Funds. Applicants state that there is insufficient time to obtain shareholder approval of the New Advisory Agreements before the Closing Date. Applicants assert that the requested relief would permit continuity of investment management of the Funds, without interruption, during the period following consummation of the Merger.

6. UBS represents that the Funds will receive the same scope and quality of investment advisory services during the Interim Period. The relevant Adviser will render investment advisory services to the Funds under the New Advisory Agreements, which will be the same as the Existing Advisory Agreements, except for the dates of execution and termination. Applicants assert that during the Interim Period, investment advisory services will be provided by investment management personnel with the same or comparable skills, experience and responsibilities, in the same manner and at the same fee levels. Applicants state that, in the event of any material change in personnel, the relevant Adviser will apprise and consult the Boards to assure that the Boards, including a majority of the non-interested directors, are satisfied that the services provided by the Adviser will not be diminished in scope or quality.

7. Applicants note that the fees payable to the Advisers during the Interim Period under the New Advisory Agreements will be at the same rate as the fees currently payable by each Fund under the Existing Advisory Agreements and have been approved by the appropriate Fund's Board and respective shareholders. Applicants also state that the fees will not be released to the Adviser by the Escrow Agent without an appropriate certification that the New Advisory Agreements have been approved by the Fund's respective shareholders.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. The New Advisory Agreements will contain the same terms and conditions as the Existing Advisory Agreements, except for the dates of execution and termination.

2. The portion of the investment advisory fees earned by an Adviser during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such amounts) will be paid (a) to the Adviser only upon approval of each New Advisory Agreement by the applicable Fund's shareholders, or (b) in the absence of shareholder approval prior to the expiration of the Interim Period, to the Fund.

3. Each Fund will promptly schedule a meeting of shareholders to vote on approval of the New Advisory Agreements to be held within 150 days following the commencement of the Interim Period (but in no event after December 31, 1998).

4. UBS, UBSAM–NY and UBSII will pay the costs of preparing and filing the application, and the costs relating to the solicitation of approval of Fund shareholders of the New Advisory Agreements necessitated by the Merger.

5. UBS will take all appropriate actions to ensure that the scope and quality of investment advisory and other services provided to the Funds by the Advisers during the Interim Period will be at least equivalent, in the judgment of the Boards, including a majority of the non-interested Board members, to the scope and quality of services currently provided by the Adviser. In the event of any material change in the personnel providing services pursuant to the New Advisory Agreements, the Adviser will apprise and consult with the Boards to ensure that the Boards, including a majority of the non-interested Board members, are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13957 Filed 5–26–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40005; File No. SR–NASD–98–18]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Extension of Comment Period for Proposal Relating to Qualified Immunity in Arbitration Proceedings for Statements Made on Forms U–4 and U–5

May 19, 1998.

On April 21, 1998, the NASD Regulations, Inc. ("NASD Regulation") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934.[1] NASD Regulation proposes to provide members of the NASD with qualified immunity in arbitration proceedings for statements made in good faith in certain disclosures filed with the NASD on Forms U–4 and U–5, the uniform registration and termination notices for registered persons.

Notice of the proposed rule change was provided by the issuance of Securities Exchange Act Release No. 39892 (April 21, 1998) and by publication in the **Federal Register** on April 28, 1998 (63 FR 23321). The Commission has received requests for an extension of time for public comment

[1] 15 U.S.C. 78s(b)(1).

on the proposed rule change.[2] The Commission hereby extends the period for public comment on the proposed rule change until June 19, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[FR Doc. 98–13955 Filed 5–26–98; 8:45 am]

BILLING CODE 8010–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for the United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of preliminary priority areas for Commission study. Request for public comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rules 3.5 and 5.2 of its Rules of Practice and Procedure, the Commission has preliminarily identified certain priorities as the principal focus of its policy development work in the coming year. The Commission invites comment on these tentatively identified priority areas and on any other sentencing issues that it should address during the coming year. The Commission has tentatively scheduled a hearing to receive public comment on these matters.

DATES: A hearing to receive public comment on future policy development priorities has been set for June 17, 1998, in the Commission's offices. Public comment and written testimony for the public hearing should be received on or before June 11, 1998.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2–500 South, Washington, DC 20002–8002, Attention: Public Information-Priorities Comment. For Further Information Contact: Michael Courlander, Public Affairs Officer, at (202) 273–7731.

SUPPLEMENTARY INFORMATION: Policy development priorities preliminarily identified by the Commission for continuing work during the 1998–1999 amendment cycle are:

1. Revisions of the fraud, theft, and tax guidelines (including the monetary tables used in these guidelines and other guidelines that reference those tables, consolidation of the theft, fraud, and property destruction guidelines, and the definition of "loss" in the theft and fraud guidelines).

2. Review and assessment of the criminal history guidelines.

3. Review and assessment of the guidelines and sentences imposed for homicide offenses.

In addition, the Commission expects to address recent legislative enactments, such as: (1) the Wireless Telephone Protection Act, relating to cloning cellular telephones; (2) the No Electronic Theft Act; (3) and any other legislation affecting sentencing policy that may be enacted in the remainder of this congressional session.

Obviously, the subject matter, scope, and duration of the Commission's policy development work during the coming year will be influenced considerably by the appointment of new commissioners and the timing of those appointments. Thus, at this time, the Commission has tentatively identified only a few areas in which its work is ongoing.

The Commission invites comment on whether and how it should further investigate these tentative priorities. Additionally, the Commission invites comment on any other sentencing issues that persons believe should be addressed in the coming year, including research issues that the Commission should address. To the extent practicable, comments submitted on additional issues should include the following: (1) a statement of the issue, including the scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to an identified or proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

Authority: 28 U.S.C. 994(a), (o).

Richard P. Conaboy,

Chairman.

[FR Doc. 98–13947 Filed 5–26–98; 8:45 am]

BILLING CODE 2211–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Medical Report (General)—0960–0052. The information on Form SSA–3826 is used by the Social Security Administration (SSA) to determine the claimant's physical status prior to making a disability determination and to document disability claims folders with the medical evidence. The respondents are physicians, hospitals, directors and medical records librarians.

Number of Respondents: 750,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 375,000 hours.

2. Payment of Certain Travel Expenses—0960–0434. SSA uses the information required by 20 CFR, sections 404.999(d) and 416.1499 to reimburse a claimant who has been required to travel over 75 miles to appear at a medical examination or a disability hearing. The respondents are claimants who travel more than 75 miles in order to attend a medical examination or a disability hearing.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 8,333 hours.

3. Social Security Request for Information—0960–0531. The information on Form SSA–6231 is used by SSA to complete or to clarify data on Forms SSA–623 or SSA–6230, previously provided by representative payees. The respondents are representative payees who furnished incomplete or unclear information.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 25,000 hours.

4. Statement Regarding Student's Attendance—0960–0113. The information on Form SSA–2434 is used to determine student entitlement status for the children of coal miners, the children of their widows or the brothers of deceased coal miners eligible for black lung benefits. The respondents are dependents of deceased coal miners as cited above, who are attending school and about to attain age 18.

[2] By letter dated May 15, 1998 NASD Regulation has consented to an extension of the comment period. *See* letter from Jean I. Feeney, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, Commission.

[3] 17 CFR 200.30–3(a)(12).

Number of Respondents: 50.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 8 hours.

5. Request for the Correction of Earning Records— 0960–0029. Form SSA–7008 is used by individual wage earners to request SSA for review, and if necessary, correction of the Agency's master record of their earnings. The respondents are individuals who question SSA's record of their earnings.

Number of Respondents: 375,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 62,500 hours.

6. Plan for Achieving Self Support—0960–0559. The information on form SSA–545 is collected by SSA when a Supplemental Security Income (SSI) applicant/recipient desires to use available income and resources to obtain education and/or training in order to become self-supportive. The information is used to evaluate the recipient's plan for achieving self-support to determine whether the plan may be approved under the provisions of the SSI program. The respondents are SSI applicants/recipients who are blind or disabled.

Number of Responses: 7,000.
Frequency of Response: Varies per individual.
Average Burden Per Response: 2 hours.
Estimated Annual Burden: 14,000 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, *Attn:* Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Statement of Agricultural Employer (Years prior to 1988); Statement of Agricultural Employer (1988 and Later)—0960–0036. The information on Forms SSA–1002 and SSA–1003 is used by the Social Security Administration (SSA) to resolve discrepancies when farm workers have alleged that their employers did not report their wages or reported them incorrectly. The respondents are agricultural employers.

	SSA–1002	SSA–1003
Number of Respondents	75,000	50,000.
Frequency of Response	1	1.
Average Burden Per Response	10 minutes	30 minutes.
Estimated Annual Burden	12,500 hrs	25,000 hrs.

2. Beneficiary Recontact Report—0960–0502. The information on Form SSA–1588–OCR–SM is used by SSA to recontact mothers, fathers or children ages 15–17, who receive their benefits directly, to determine if they are still entitled to benefits. The respondents are beneficiaries who are in the "high risk" area and, therefore, are most prone to overpayments.

Number of Respondents: 163,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 13,583 hours.

3. Information About Joint Checking/Savings Account—0960–0461. The information collected on Form SSA–2574 is used by SSA to determine whether a joint bank account should be counted as a resource of a Supplemental Security Income (SSI) claimant or applicant in determining eligibility for SSI. The respondents are applicants for and recipients of SSI payments and individuals who are joint owners of financial accounts with SSI applicants/recipients.

Number of Respondents: 200,000.
Frequency of Response: 1.
Average Burden Per Response: 7 minutes.
Estimated Annual Burden: 23,333 hours.

4. Agency/Employer GPO Questionnaire—0960–0470. The information on Form SSA–4163 is used by SSA to determine the need for and the amount of any offset of benefits for certain individuals receiving Government pensions and receiving or applying for Social Security benefits. The respondents are State governments or their political subdivisions.

Number of Respondents: 1,000.
Frequency of Response: 1.
Average Burden Per Response: 3 minutes.
Estimated Annual Burden: 50 hours.

5. Authorization for the Social Security Administration to Obtain Records from a Financial Institution and Request for Records—0960–0293. The information on Form SSA–4641 is used by SSA to determine whether an applicant meets the resource eligibility requirements for SSI and Aid to Families with Dependent Children (AFDC). This information is only used as part of the quality review of the AFDC program. The respondents are financial institutions.

Number of Respondents: 500,000.
Frequency of Response: 1.
Average Burden Per Response: 6 minutes.
Estimated Annual Burden: 50,000 hours.

6. Statement of Household Expenses and Contributions—0960–0456. The information on Form SSA–8011–F3 is used by SSA to obtain or corroborate contributions made by the claimant/recipient toward household expenses. SSA uses the information to correctly determine the amount of unearned income received by the claimant/recipient in order to determine the individual's eligibility and payment amount under the SSI program. The respondents are household members of SSI claimants/recipients.

Number of Respondents: 400,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 100,000 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: May 19, 1998.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–13964 Filed 5–26–98; 8:45 am]

BILLING CODE 4190–29–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–106]

Determination Under Section 304 of the Trade Act of 1974: Practices of the Government of India Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination, termination and monitoring.

SUMMARY: The United States Trade Representative (USTR) has determined that certain acts, policies and practices of India violate, or otherwise deny benefits to which the United States is entitled under, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). This determination is based on the report of a dispute settlement panel convened under the auspices of the World Trade Organization (WTO) at the request of the United States, and the report of the WTO Appellate Body reviewing the panel report. The Appellate Body report and the panel report (as modified by the Appellate Body report) were adopted by the WTO Dispute Settlement Body (DSB) on January 16, 1998 ("the WTO reports"). On February 13, 1998, India stated its intention to comply with its WTO obligations with respect to this matter and, on April 22, 1998, stated that it would amend its law no later than April 19, 1999. In light of he foregoing, the USTR will not take action under section 301 of the Trade Act of 1974 ("the Trade Act") at this time and has terminated this investigation. However, the USTR will monitor India's implementation of the WTO reports, and will take action under section 301(a) of the Trade Act if India does not come into compliance.

EFFECTIVE DATE: May 8, 1998.

ADDRESSES: 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director of Intellectual Property (202) 395–6864; Geralyn S. Ritter, Assistant General Counsel (202) 395–6800.

SUPPLEMENTARY INFORMATION: On July 2, 1996, the USTR initiated an investigation under section 302(b) of the Trade Act (19 U.S.C. 2412(b)) regarding India's provision of patent protection for pharmaceutical and agricultural chemical products, and requested public comment on the issues raised in the investigation and the determinations to be made under section 304 of the Trade Act. (61 FR 35857 of July 8, 1996). This investigation specifically concerned India's failure to comply with its obligations under Articles 70.8 and 70.9 of the TRIPS Agreement to establish a "mailbox" mechanism for filing product patent applications for pharmaceuticals and agricultural chemicals, and to provide a system of exclusive marketing rights for these products. As required under section 303(a) of the Trade Act, the United States held consultations with India under the procedures of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) on July 27, 1996. A dispute settlement panel was established on November 20, 1996.

Pursuant to Section 304(a)(1)(A) of the Trade Act (19 U.S.C. 2414(a)(1)(A)), the USTR must determine in this case whether any act, policy or practice of India violates, or otherwise denies benefits to which the United States is entitled under any trade agreement. If that determination is affirmative, the USTR must take action under section 301 of the Trade Act (19 U.S.C. 2411), subject to the specific direction of the President, if any. However, pursuant to section 301(a)(2)(B), the USTR is not required to take action under section 301 if the USTR finds, *inter alia*, that the foreign country is taking satisfactory measures to grant the rights of the United States under the trade agreement.

Reasons for Determinations

(1) India's Acts, Policies and Practices

The WTO panel in this case released its report on September 5, 1997, and found that India had failed to comply with its obligations under Articles 70.8 and 70.9 of the TRIPS Agreement. India appealed all of the panel's adverse findings. On December 19, 1997, the Appellate Body issued its report confirming all the major panel findings against India, and reversing the panel report on a procedural issue regarding the panel's jurisdiction to consider claims outside its terms of reference. On January 16, 1998, the DSB adopted the Appellate Body and the panel report (as modified by the Appellate Body report). The WTO reports include findings that India has failed to comply with Article 70.8 of the TRIPS Agreement because it has failed to establish a legally secure mailbox system for filing patent applications for pharmaceutical and agricultural chemical products that preserves the novelty and priority of those applications. The WTO reports also include findings that India was obligated as of January 1, 1995, to have established a system for granting exclusive marketing rights for certain products that are the subject of mailbox application, and that India had failed to establish such a system in violation of Article 70.9 of the TRIPS Agreement.

Thus, based on the results of the WTO dispute settlement proceedings, the public comments received and appropriate consultations, the USTR has determined that certain acts, policies and practices of India violate, or otherwise deny benefits to which the United States is entitled under, the TRIPS Agreement.

(2) U.S. Action

At a meeting of the DSB on February 13, 1998, India stated its intention to "meet it obligations under the WTO with respect to this matter" and "to comply with the recommendations and rulings of the DSB." At the DSB meeting on April 22, 1998, India committed to amend its law to meet its TRIPS obligations "as early as possible," and no later than April 19, 1999. In light of India's commitment to implement its WTO obligations, pursuant to section 301(a)(2)(B)(i) of the Trade Act, the USTR will not take action at this time under section 301(a) of the Trade Act and has terminated this investigation. However, pursuant to section 306 of the Trade Act, the USTR will monitor India's implementation of the WTO reports and will take action under section 301(a) of the Trade Act if India does not come into compliance.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 98–13977 Filed 5–26–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on (1) Fatal Accident Reporting System (FARS) was published on February 19, 1998 [63 FR 8519–8520] and(2) 49 CFR Part 583, . Motor Vehicle Content Labeling was published on February 26, 1998 [63 FR 9897] and (3) A Survey of Drivers Experiences and Expectations of Light Vehicle Brake System Performance: ABS vs Non-ABS was published in the **Federal Register** on February 23, 1998 [63 FR 9042].

DATES: Comments must be submitted on or before June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA).

(1) Title: Fatal Accident Reporting System (FARS)

OMB Control Number: 2127–0006.

Type of Request: Extension of a currently approved collection.

Affected Public: State, Local or Tribal Government.

Abstract: Under both the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatal Accident Reporting System (FARS) is in its twenty-third year of operation as a major system that acquires national fatality information directly from existing State files and documents. Since FARS is an on-going data acquisition system, reviews are conducted yearly to determine whether the data acquired are responsive to the total user population needs. The total user population includes Federal and State agencies and the private sector. Two data items, Death Certificate Number and Fatal Injury At Work, are not recorded on any FARS form but are electronically transmitted to the central FARS file.

Estimated Annual Burden: 77,400 hours.

(2) Title: 49 CFR 583 Automobile Parts Content Labeling

OMB Control Number: 2127–0573.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals or households.

Abstract: The American Automobile Labeling Act (AALA) or Section 210 of the Motor Vehicle Information and Cost Savings Act mandates this information collection. The Act requires all new passenger motor vehicles (including passenger cars, certain small buses, all trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or Less), beginning on October 1, 1994, to bear labels providing information about the domestic and foreign content of their equipment. The following information must appear on the label:

(a) The percentage (by Value) of the equipment in the vehicles that originated in the United States and Canada;

(b) Names of the countries, other than the U.S. or Canada, if any, that contributed the two highest Percentages (15 percent or more) to the total value of the equipment that comprises the vehicle and the percentage those countries contributed;

(c) The city, state and country of final assembly of the vehicle;

(d) The country of origin for the transmission of the vehicle (i.e., the country that contributed the greatest percentage to the total value of the equipment in that engine); and

(e) The country of origin for the transmission of the vehicle (i.e., the country that contributed.the greatest percentage to the total value of the equipment in the transmission).

The information submitted under this collection provides the justifying rational for labeling content affixation to each new passenger motor.

Estimated Annual Burden: 7080 hours.

(3) Title: A Survey of Drivers Experiences and Expectations of Light Vehicle Brake System Performance: ABS vs Non-ABS

OMB Clearance Number: 2127–0594.

Type of Request: New collection.

Affected Public: Individuals, households.

Abstract: Data collection will be accomplished through the use of Computer Assisted Telephone Interviewing (CATI). The CATI system allows a computer to perform a number of functions prone to error when done manually by interviewers, including:

A. Providing correct question sequence;

B. Automatically executing skip patterns based on responses to prior questions (which decreases overall interview time and consequentially the burden on respondents);

C. Recalling answers to prior questions and displaying the information in the test of later questions;

D. Providing random rotation of specified questions or response categories (to avoid bias);

E. Ensuring that questions cannot be skipped; and

F. Rejecting invalid responses or data entries.

The CATI system lists questions and corresponding response categories automatically on the screen, eliminating the need for interviewers to track slip patterns and flip pages. Moreover, the interviewers enter responses directly from their keyboards, and the information is automatically recorded in the computer's memory.

The CATI system includes safeguards to reduce interviewer error in direct key-entry of survey responses. It has a double check method to eliminate the problem of key entry error as a result of accidentally hitting the wrong key. Unlike some systems, when the interviewer enters the code for the respondent reply, the code is not immediately accepted and the interview moved to the next screen. Rather, the screen remains on the question and response categories for the item, and the code and category entered by the interviewer are displayed at the bottom of the screen. The interviewer must confirm the initial entry before it is accepted by the computer as final. If, despite these safeguards, the wrong answer is entered or a respondent changes his/her reply, the interviewer can correct the entry before moving on to the next question.

Description of the need for the information and proposed use of the information: Antilock brake systems (ABS) have been increasingly prevalent on passenger car and light trucks in recent years. Brake experts anticipated that the introduction of ABS on these vehicles would reduce the number and severity of crashes. A number of statistical analyses of crash databases have been performed over the past three years, and suggest that the introduction of ABS does not appear to have reduced the number of automobile crashes where they were expected to be effective. Included in these analyses is a

significant increase of single-vehicle, run-off-road crashes for vehicles equipped with ABS as compared to cars without ABS. It is unknown to what extent, if any, this increase is due to incorrect driver usage of ABS, incorrect driver responses to their ABS, or unrealistic driver expectations of an ABS braking ability.

Estimate of Total Annual Burden: 1375 hours.

Address: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on May 21, 1998.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–13982 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity To Participate, Criteria Requirements and Change of Application Procedure for Participation in the Fiscal Year 1998 Military Airport Program (MAP)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of criteria for application and designation, redesignation, or continued participation, in the Fiscal Year 1998 Military Airport Program (MAP).

SUMMARY: This notice announces the criteria, application procedures and schedule to be applied by the Secretary of Transportation in designating, redesignating, and funding capital development for up to 12 airports in the 1998 MAP.

The 1998 MAP allows the Secretary to consider current or former military airports: (1) that were realigned or closed under Base Realignment and Closure (BRAC) procedures or 10 USC 2687 (property normally reported to the General Services Administration for disposal); or (2) current or former military airports at which grants would reduce delays at airports that have 20,000 hours of annual delay in passenger aircraft takeoffs and landings; or (3) at current or former military airports which grants would enhance airport and air traffic control system capacity in a metropolitan area.

DATES: Airport sponsors should address written applications for designation, redesignation, or continued participation, in the fiscal year 1998 Military Airport Program to the Federal Aviation Administration Regional Airports Division or Airports District Office that serves the airport. Applications must be received by that office of the FAA on or before June 26, 1998.

ADDRESSES: Send an original and two copies of Standard Form 424, "Application for Federal Assistance," and supporting and justifying documentation, specifically requesting to be considered for designation, redesignation to participate, or continue, in the fiscal year 1998 Military Airport Program, to the Regional FAA Airports Division or Airports District Office that serves the airport.

FOR FURTHER INFORMATION CONTACT: Mr. James V. Mottley or Leonard C. Sandelli, Military Airport Program Branch (APP–420), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue, SW, Washington, DC 20591, (202) 267–8780, or (202) 267–8785, respectively.

SUPPLEMENTARY INFORMATION:

General Description of the Program

The Military Airport Program provides assistance to current or former military airports in converting them to civil use, thereby contributing to the capacity of the national air transportation system and/or reducing congestion. Airports designated under the program may obtain funds from a set-aside of four percent of Airport Improvement Program (AIP) discretionary funds to undertake eligible airport development, including certain types of projects not otherwise eligible for AIP assistance.

Number of Airports

A maximum of 12 airports can participate in the 1998 MAP. There are eight airports currently designated and the Secretary can designate up to four more. The current participating airports are: Millington Municipal Airport, Millington, Tennessee; Myrtle Beach International Airport, Myrtle Beach, South Carolina; Williams Gateway Airport, Chandler, Arizona; Austin Bergstrom International Airport, Austin, Texas; Homestead Regional Airport, Homestead, Florida; Rickenbacker Airport, Columbus, Ohio; San Bernardino International Airport, San Bernardino, California; Saywer Airport, Marquette, Michigan; and Alexandria International Airport, Alexandria, Louisana.

Amount of MAP funds

The Secretary of Transportation shall allocate at least 4.0 percent of the Discretionary Airport Improvement Program grant funds available to airports designated under the 1998 MAP. However, for FY 1998 the amount is limited to $26,000,000.

Term of Designation

Five years is the maximum period of eligibility for any airport to participate in the MAP unless an airport sponsor reapplies and is redesignated for another five year period.

Reapplication

Section 124 of the Federal Aviation Reauthorization Act of 1996 permits previously designated airports to apply for an additional five-year period. The airport must have satisfactory MAP eligible projects and must continue to satisfy the designation criteria for the MAP.

Eligible Projects

In addition to other eligible AIP projects, terminals, fuel farms and utility systems and surface parking lots and hangars are eligible to be funded from the MAP.

New Designation and Redesignation Considerations

In making designations of new candidate airports, the Secretary of Transportation will consider the following general requirements:

1. The airport is a Base Realignment and Closure Commission (BRAC) or 10 USC 2687 closure or realignment, classified as a commercial service or reliever airport in the National Plan of Integrated Airport Systems (NPIAS); or
2. The airport and grants issued for projects at the airport would reduce delays at an airport with more than

20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings. Airports with 20,000 or more hours of delay and their associated metropolitan areas are identified in the FAA's Aviation Capacity Enhancement Plan DOT/FAA, Office of System Capacity, 1997 Aviation Capacity Enhancement Plan; or

3. The airport would enhance airport and air traffic control system capacity in a metropolitan area or reduce current or projected flight delays.

The application will be evaluated on how the proposed airport and associated projects would make these contributions to conversion and congestion relief and/or how the airport would enhance air traffic or airport system capacity.

Project Evaluation

The FAA will evaluate the need for the projects in the candidate airport's five year Capital Improvement Plan (CIP), and whether these projects are related to conversion or capacity of that airport or the airport and/or air traffic system. It is the intent of the Secretary of Transportation to fund those airports that have the greatest conversion needs and/or where the benefits to the capacity of the air traffic control or airport system can be maximized, and/or the contribution to reducing congestion can be maximized. Generally, the recently approved BRAC or Title 10 Section 2678 closing or realigned bases or active bases with new joint use agreements will be the locations with the greatest conversion needs.

1. The FAA will evaluate the candidate airports and/or the airports such candidates would relieve based on the following factors:

- Compatibility of airport roles;
- The capability of the candidate airport and its airside and landside complex to serve aircraft that otherwise must use the relieved airport;
- Landside surface access;
- Airport operational capability, including peak hour and annual throughput capacities of the candidate airport;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy or meet air cargo demand within the metropolitan area;
- Forecasted aircraft and passenger levels, type of air carrier service anticipated, i.e., scheduled and/or charter air carrier service;
- Type of aircraft projected to serve the airport and level of operation at the relieved airport and the candidate airport;
- The potential for the candidate airport to be served by aircraft or users, including the airlines, serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and
- Any other documentation to support the FAA designation of the candidate airport.

2. The FAA will evaluate the conversion and capacity related needs which, if funded would make the airport a more viable civil airport.

This procedure conforms with FAA procedures for administering the Airport Improvement Program (AIP), the requirements of 49 U.S.C. 47118, as amended by Section 116 of Public Law 103–305 (August 23, 1994), and the Federal Aviation Reauthorization Act of 1996.

Application Procedures

Airport sponsors applying for consideration for inclusion ("candidate airports" or "Redesignation") or continuation in the MAP ("current airports applying for continuation") must complete a Standard Form 424, "Application for Federal Assistance," and submit documentation to the appropriate FAA office as outlined below. Each sponsor must specifically state in the Standard Form 424, or in its transmittal, that the airport is: (1) applying in response to this notice for consideration as a new candidate for the MAP; (2) if designated in 1994 or thereafter, that the airport is applying as a continuing participant in the MAP; or (3) applying for redesignation. The additional information and data required to support the MAP criteria must be attached to the Application.

Application Procedures and Required Documentation

New Candidate Airports and Airports Applying for Redesignation for Another Five-Year Term

Submit an Application for Federal Assistance, Standard Form 424, along with the documentation and justification indicated below to request designation by the Secretary of Transportation to participate in the Military Airport Program. This should identify the airport as either a current or former military airport and identify whether it was closed or realigned under Public Law 100–526, Public Law 101–510 (Installations Approved for Closure by the Defense Base Realignment and Closure Commissions), 10 U.S.C. 2687 (bases closed by DOD and reported to the General Services Administration) or a joint use of an active military airfield.

A. Qualifications for Additional Candidates

For (1) through (6) below the applicant does not need to resubmit any documentation that has been previously submitted to the regional Airports division or Airports district office. There is no need to submit duplicate information in response to this notice.

(1) Documentation that the airport meets the definition of a "public airport" as defined in 49 U.S.C. Section 47102(16).

(2) Documentation that the required environmental review process for civil reuse or joint-use of the military airfield has been completed. (This is not the environmental review for the projects under this program, but the environmental review necessary for title transfer, a long term lease, or a joint use agreement). The environmental reviews and approvals must indicate that the airport would be able to receive grants during the five years in the program.

(3) In the case of a former military airport, documentation that the local or State airport sponsor holds or will hold satisfactory title, a long term lease in furtherance of conveyance of property for airport purposes, or a long term interim lease for 22 years or more, to the property on which the civil airport is being located. The capital development project needs to be in place for 20 years. In the case of a current military airport, documentation that the airport sponsor has an existing joint-use agreement with the military department having jurisdiction over the airport. This is necessary so the FAA can legally issue grants to the sponsor.

(4) Documentation that the service level the airport is expected to provide is a "commercial service airport" or a "reliever airport" as defined in 49 U.S.C. 47102(7) and 47102(18), respectively, and is included in the current National Plan of Integrated Airport Systems.

(5) Documentation that the airport has an eligible airport "sponsor" as defined in 49 U.S.C. 47102(19).

(6) Documentation that the airport has an approved airport layout plan (ALP) and a five year capital improvement plan indicating all eligible grant projects either seeking to be funded from the MAP or other portions of the Airport Improvement Program. The five year plan must also specifically identify the capacity and conversion related projects, associated costs and projected five year schedule of project construction, including those requested for consideration for 1998 MAP funding.

(7) Information identifying the existing and potential levels of visual or

instrument operations and aeronautical activity at the current or former military airport and, if applicable, the relieved airport. Also, if applicable, information on how the airport contributes to air traffic system or airport system capacity. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(8) A description of the projected civil role and development needs for transitioning from use as a military airfield to a civil airport, as appropriate, and how development projects would serve to convert the airport to civil use and/or reduce delays at an airport with more than 20,000 hours of annual delay in commercial passenger aircraft takeoffs and landings and/or how the projects would contribute to the airport and air traffic control system capacity in a metropolitan area or reduce current or projected flight delays.

(9) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near which a current or former military airport is located. Include a discussion of the level to which operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(10) A description of the five year capital improvement plan (CIP), including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. Capacity related and/or conversion related projects should be specifically identified, especially those that the airport sponsor proposes to fund under the MAP. A copy of the CIP should also be submitted.

(11) A description of projects that are consistent with the role of the airport and effectively contribute to converting the airfield to a civil airport. Projects can be related to various improvement categories depending on the need to convert from military to civil airport use, to meet required civil airport standards, and/or required to provide capacity to the airport and/or airport system. The projects selected, i.e., safety related, conversion-related, and capacity-related, must be identified and fully explained based on the airport's planned use. The sponsor needs to submit the airport layout plan (ALP) and other maps or charts that clearly identify and help clarify the eligible projects and designate them as conversion-related, or capacity-related. It should be cross referenced with the project costs and project descriptions. Projects that could be eligible under MAP if needed for conversion-related or capacity-related purposes include:

Airside

- Modification of airport or military airfield for safety purposes or airport pavements (including widths), marking, lighting or strengthening, and of structures or other features in the airport environs to meet civil standards for airport imaginary surfaces.
- Facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.
- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, drainage) to meet civil standards. Also, modifications that allow civil airport utilities to operate independently if other portions of the base are to parties other than the airport. (This is important where portions of the base are being transferred to an entity different from the airport sponsor.)
- Purchase, rehabilitation, or modification of airport and support facilities, including aircraft rescue and fire fighting buildings and equipment, airport security requirements, lighting vaults, and reconfiguration or relocation of buildings for more efficient civil airport operations, and snow removal equipment.
- Modification of airport or military airfield fuel systems and fuel farms to accommodate civil aviation activities.
- Acquisition of additional land for runway protection zones, other approach protection, or airport development.

Landside

- Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal area and provide an adequate level of access to the airport.
- Construction or relocation of access roads to provide efficient and convenient movement of vehicular traffic to, on and from the airport, including access to passenger, air cargo, fixed base operations, and aircraft maintenance areas.
- Modification or construction of facilities such as passenger terminals, surface automobile parking, hangars, and access to cargo facilities to accommodate civil use.

(12) An evaluation of the ability of surface transportation facilities (road, rail, high speed rail, maritime) to provide intermodal connections.

(13) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(14) One copy of the FAA approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Also, other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should be included.

Current Airports Applying for Continuation

B. Airports with less than five years in the MAP need to submit the following in order to respond to this notice and remain in the program.

(1) An Application for Federal Assistance, Standard Form 424, along with the documentation and justification indicated below to request participation in the Military Airport Program. Identify the airport as one with less than five years in the MAP applying for continuation.

(2) Identify the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and the relieved airport if there is any change from the previous information submitted.

(3) Provide a detailed discussion of the projected civil role and continuing development needs for converting a military airfield to a civil airport, and/or how development projects would reduce delays at an airport with more than 20,000 hours of annual delay in commercial passenger aircraft takeoffs and landings, if applicable.

(4) Describe the five year CIP, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs, annotated and identified as capacity related, and/or conversion related purposes.

(5) Submit one copy of the FAA approved ALP for each copy of the application. The ALP should clearly show the CIP projects. Also include any other information or drawings that would show and/or clarify the five year plan identifying capacity, and conversion related projects, associated costs, schedule, and project justification.

Airports that have already submitted this information for the 1997 Military Airport Program and have been continued only need to submit updated information and changes in order to continue receiving grants under this program.

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Redesignation of Airports Previously Designated and Applying for Another Five-Year Term in the Program

C. Airports applying for another five years in the Military Airport Program need to submit the information required by new candidate airports applying for a new designation. They need to explain in their application why another five-year term is needed to accomplish the conversion to the civil role of the airport.

This notice is issued pursuant to section 49 U.S.C. 47118.

Issued at Washington, DC, on May 20, 1998.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 98–13998 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Special Committee 189/Eurocae Working Group 53; Air Traffic Services (ATS) Safety and Interoperability Requirements

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint Special Committee (SC)–189/EUROCAE Working Group (WG)–53 meeting to be held June 15–19, 1998, starting at 9:00 a.m. on June 15. The meeting will be held at Eurocontrol, 96 Rue de la Fusee, Brussels, Belgium (phone +32 2 729 90 11, fax +32 2 729 90 44).

The agenda will be as follows: Monday, June 15: Opening Plenary Session Convenes at 9:00 a.m.: (1) Introductory Remarks; (2) Review and Approval of the Agenda (Monday); (3) Review and Approval of Summary of the Previous Meeting; (4) Sub-Group and Related Reports; (5) Position Papers Planned for Plenary Agreement; (6) SC–189/WG–53 Co-chair Progress Report. Tuesday, June 16–Thursday, June 18: (7) Sub-group Meetings. Friday, June 19: Closing Plenary Session: (8) Introductory Remarks; (9) Review and Approval of Agenda (Friday); (10) Review of Preliminary Meeting Minutes; (11) Sub-group and Related Reports; (12) Position Papers Planned for Plenary Agreement; (13) SC–189/WG–53 Co-chair Progress Report and Wrap-up.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 19, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–13997 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Manchester Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge at Manchester Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 26, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Alfred Testa, Jr., Airport Director for Manchester Airport at the following address: Manchester Airport, One Airport Road, Suite 300, Manchester, New Hampshire, 03103.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Manchester under section 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (781) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Manchester Airport under the provisions of the Aviation Safety and Capacity Expansion act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 5, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Manchester was substantially complete within the requirements of section 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than August 3, 1998.

The following is a brief overview of the use application.

PFC Project#: 98–07–C–00–MHT.

Level of the proposed PFC: $3.00.

Charge effective date: October 1, 1998.

Estimated charge expiration date: October 1, 2016.

Estimated total net PFC revenue: $84,643,00.

Brief description of project: Runway 6/24 System, Construct Two Remote Parking Aprons, Acquire Stead Aviation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Manchester Airport, One Airport Road, Suite 300, Manchester, New Hampshire 03103.

Issued in Burlington, Massachusetts on May 13, 1998.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 98–13996 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Gasconade and Montgomery Counties, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for proposed replacement of the Missouri Route 19 bridge and appurtenant roadways/ structures over the Missouri River at Hermann in Gasconade and Montgomery Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Donald Neumann, Programs Engineer, FHWA Division Office, 209 Adams St., Jefferson City, MO 65101, Telephone: (573) 636–7104 or Phil Broyles, District Engineer, Missouri Department of Transportation, P.O. Box 1067, Hannibal, MO 63401, Telephone: (573) 248–2490.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), will prepare an EIS on a proposal to reconstruct the Missouri Route 19 bridge and appurtenant roadways/structures over the Missouri River at Hermann in Gasconade and Montgomery Counties, Missouri. The United States Army Corps of Engineers and the United States Coast Guard are expected to be cooperating agencies on this project.

The study area is roughly bounded by Missouri Route 94 one mile north of the existing bridge, a point two miles south of the bridge, and 1.5 miles east and west of the bridge.

Reconstructing the Missouri Route 19 bridge is being considered to provide a safe and efficient crossing of the Missouri River. The existing bridge, which was constructed in 1922, is considered structurally deficient. It has a sufficiency rating of 18 on a scale of 100. MoDOT considers bridges with sufficiency ratings below 50 as candidates for replacement. Alternatives under consideration include (1) no build; (2) build adjacent to the existing bridge; (3) build a new bridge east or west of the existing structure.

Information describing the proposed action and solicitation for comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. As part of the scoping process, an interagency coordination meeting will be held. Agencies having an interest in, or jurisdiction regarding the proposed action will be contacted regarding the date and location of the meeting. Public meetings, information centers and advisory committee meetings will be held to solicit public and agency input on the reasonable range of alternatives. In addition, a public hearing will be held to present the findings of the draft EIS (DEIS). Public notice will be given announcing the time and place of the public meetings and hearing. The DEIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or MoDot at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued: May 15, 1998.

Donald L. Neumann,

Programs Engineer, Jefferson City.

[FR Doc. 98–13974 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3154]

Cooper Tire & Rubber Company; Grant of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) of Findlay, Ohio has determined that some of its tires fail to comply with the labeling requirements of 49 CFR Part 574 "Tire Identification and Recordkeeping," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Cooper has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Although the applicant expresses noncompliance with Part 574, NHTSA considers this to be a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, New pneumatic tires for vehicles other than passenger cars. Paragraph S6.5(b) of FMVSS No. 119 requires each tire to be marked with a "tire identification number" required by Part 574 of this chapter. If a tire lacks this number, it fails to comply with FMVSS No. 119 and is subject to notification and remedy.

Notice of receipt of the application was published, with a 30-day comment period, on December 17, 1997, in the **Federal Register** (62 FR 66176). NHTSA received no comments on this application during the 30-day comment period.

In § 574.5(d) Fourth Grouping, the manufacturer is required to identify the week and year of manufacture of tires using three symbols. The first two symbols identify the week of the year using "01" for the first full calendar week in each year. The third symbol identifies the year. The purpose of this information is to facilitate the notification of dealers, distributors, and purchasers regarding defective or non-conforming tires, pursuant to Sections 30118 and 30119 of Title 49, United States Code, so that the appropriate remedial action can be taken in the interest of public safety.

During the thirty-second week of 1997, Cooper produced and inadvertently shipped twenty-eight (28) tires without the date code. This occurred after the tires originally were labeled with the correct date code upside-down; Cooper removed the improperly oriented date code by buffing. The tires were then inadvertently shipped with only the identification of "DOT UPOP"—where "UP" is the identification code for Cooper's Findlay plant and "OP" is the identification of the tire size. The subject tires are Cooper SRM Radial LT 215/85R16, Load Range D.

Cooper supports its application for inconsequential noncompliance with the following:

> "The incomplete DOT identification code on each tire does not present a safety-related defect."
>
> "The involved tires are capable of being registered with UPOP. They have a unique DOT identification which would permit Cooper to notify the purchasers of these tires, if properly registered, should they be recalled for other reasons."
>
> "The involved tires produced from this mold during the aforementioned production period comply with all other requirements of 49 CFR 571.119 and 574.5."

The agency has reviewed Cooper's application and believes this labeling noncompliance is inconsequential to motor vehicle safety. This mislabeling

involves an inadvertently omitted date code containing the week and year of manufacture designation.

The agency believes that in the case of a tire mislabeling noncompliance, such as this, the true measure of its inconsequentiality to motor vehicle safety is, if the tires were to be recalled for a performance-related noncompliance, that was consequential to safety, whether the mislabeling would affect the manufacturers's ability to locate them. Cooper states that in the event of recall, the non-complying tires have a unique DOT identification (i.e., the lack of a date code) that would allow Cooper to notify the purchasers, if the tires have been properly registered by the retailer or the purchaser. Therefore, if the need arises, identifying the subject tires for any future recalls should not present a problem.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 20, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–14002 Filed 5–26–98; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33596]

Capital Metropolitan Transportation Authority—Acquisition Exemption—City of Austin, TX

Capital Metropolitan Transportation Authority (Capital Metro),[1] a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire the City of Austin's Giddings-Llano line, a 162 mile continuous railroad right-of-way (including spurs), extending from SPTC milepost 57.00/AUNW milepost 0, near Giddings, TX, to SPTC milepost 99.04/AUNW milepost 154.07, near Llano, TX, including the Marble Falls Branch from milepost 6.2/AUNW milepost 61.2, near Marble Falls, TX, to SPTC milepost 0.0/AUNW milepost 124.7, near Fairland, TX.[2]

The transaction is expected to be consummated on May 22, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33596, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Monica J. Palko, Esq., Bracewell & Patterson, L.L.P., 2000 K Street, N.W., Suite 500, Washington, D.C. 20006.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 20, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–13963 Filed 5–26–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Capital Metro is the Austin, TX, regional transit authority, a body corporate and political subdivision of the State of Texas.

[2] Capital Metro states that the line will continue to be operated by the Central of Tennessee Railway & Navigation Company, Inc. d/b/a the Longhorn Railway.

Corrections

Federal Register

Vol. 63, No. 101

Wednesday, May 27, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 94–115–1]

RIN 0579–AA70

Veterinary Diagnostic Services User Fees

Correction

In proposed rule document 98–11776 beginning on page 24473, in the issue of Monday, May 4, 1998, make the following corrections:

§ 130.18 [Corrected]

1. On page 24497, in the second table, in the second column, in the first line, "$41.502" should read "$41.50". In the third column, in the first line "ml" should read "2 ml".

2. On the same page, in the second table, in the third column, in the last line "ml" should read "1 ml".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

48 CFR Part 252

[Defense Acquisition Circular 91–13]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

Correction

In rule document 98–5272 beginning on page 11522, in the issue of Monday, March 9, 1998, make the following correction:

252.225–7021 [Corrected]

On page 11545, in the third column, in section 252.225–7021(a)(5)(i), in the second line, after "country;" insert "or (ii) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substanially transformed in a designated country".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–015]-

RIN 2115–AA97

Safety Zone; Greenwood Lake Powerboat Classic, Greenwood Lake, New Jersey

Correction

In rule document 98–12139 beginning on page 25164, in the issue of Thursday, May 7, 1998, make the following corrections:

1. On page 25164, in the third column, the docket line should read as set forth above.

2. On page 25165, in the first column, under "**Regulatory History**" in the first line, "Purusant" should read "Pursuant".

3. On the same page, in the second column, under "**Regulatory Evaluation**" in the 10th line from the bottom, "of" should read "on".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 150

[Docket No. 29231]

Compatible Land Use Planning Initiative

Correction

In proposed rule document 98–13577 beginning on page 27876, in the issue of Thursday, May 21, 1998, make the following correction:

On page 27876, in the second column, the docket line is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ACE-15]

Proposed Amendment to Class E Airspace; Garden City, KS; Liberal, KS; Fort Dodge, IA; Fort Madison, IA; Columbus, NE; Grand Island, NE

Correction

In proposed rule document 98–8142 beginning on page 15108, in the issue of Monday, March 30, 1998, make the following correction:

On page 15110, in the first column, under the heading **ACE IA E5 Fort Dodge, IA [Revised]**, in the fourth line, "fee" should read "feet".

BILLING CODE 1505-01-D

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May 27, 1998

Part II

Department of Education

Applications Invitation for New Awards for Fiscal Year 1998; Notices

VOL 63 ISS 101 MAY 27 1998 UMI

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards for Fiscal Year 1998

SUMMARY: On June 4, 1997, the President signed into law Pub. L. 105–17, the Individuals with Disabilities Education Act Amendments of 1997, amending the Individuals with Disabilities Education Act (IDEA).

This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1998 competitions under two programs authorized by IDEA, as amended. The two programs are: (1) Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities (two priorities); and (2) Special Education—Training and Information for Parents of Children with Disabilities (one priority).

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice. In order to make awards on a timely basis, the Secretary has decided to publish these priorities in final under the authority of section 661(e)(2).

General Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA);

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA); and

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities [CFDA 84.325]

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and (2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined through research and experience to be successful, that are needed to serve those children.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The selection criteria included in regulations in 34 CFR 318.23; and (c) 34 CFR 318.31–318.33.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: Under section 673 and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary funds under this competition only those applications that meet these absolute priorities:

Absolute Priority 1—Projects of National Significance (84.325N)

The Secretary establishes an absolute priority to support projects that address issues of national significance and have broad applicability. Projects supported under this priority must develop, implement, and evaluate innovative models that will serve as blueprints for improving the preparation and ongoing development of early intervention personnel, general and special education teachers, administrators, related service personnel, and paraprofessionals who have responsibility for ensuring that children with disabilities achieve to high standards and become independent, productive citizens.

Priority: A project of national significance must:

(a) Include a detailed description of a personnel preparation model, including descriptions of: the population(s) that the model is designed to serve; the content and expected outcomes of the model; the processes for, and costs involved with, implementation and ongoing evaluation; and the organizational and contextual factors that may either facilitate or impede implementation of the model. The model must—

(1) Be guided by a conceptual framework that integrates all proposed model components; and

(2) Incorporate relevant, research-based curricular content and pedagogical practice;

(b) Provide substantial evidence that the proposed model will serve a broad-based need;

(c) Establish an advisory panel of relevant stakeholders and potential users to provide guidance that will help to assure that the model developed has broad applicability;

(d) Conduct ongoing formative evaluations of project activities, and a final evaluation to assess the success of the model in enhancing the skills, knowledge, and practices of professional personnel that will lead to improved results for children with disabilities;

(e) Produce a model "blueprint" or case study that would permit others to replicate the model and includes comprehensive information related to paragraphs (a) and (b), and comprehensive outcomes of the final evaluation required under paragraph (d); and

(f) In addition to the annual two day Project Directors' meeting in Washington, D.C. mentioned in the General Requirements section of this notice, budget for another annual two-day trip to Washington, D.C. to collaborate with the Federal project officer and other projects funded under this priority by sharing information and discussing model development, implementation, evaluation and dissemination issues, including the carrying out of cross-project dissemination activities.

Invitational Priorities

Within this absolute priority, the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

(a) Projects that improve the ability of school principals and other local educational agency administrators to provide leadership in meeting the needs of children with disabilities through:

(1) Model preservice programs for the training and certification of school administrators (including principals and other instructional leaders) that incorporate relevant special education content and provide for trainees to apply special education knowledge in field-based practice opportunities; or,

(2) Model projects that provide ongoing training for practicing school principals, LEA administrators, local school board members, and other local

decision makers in order to improve the ability of such individuals to make informed instructional and policy-related decisions regarding the provision of appropriate, beneficial services and supports for children with disabilities.

(b) Projects that improve the training of paraprofessionals to meet the needs of children, K through age 21, with high- or low-incidence disabilities, in general education classrooms through:

(1) Model preservice programs for the training and certification of paraprofessionals that incorporate relevant special and regular education content and provide opportunities for trainees to apply their knowledge and skills in field-based practice;

(2) Model inservice programs for current paraprofessionals to improve their knowledge, skills, and practices; or,

(3) Model pre- or inservice programs that incorporate content for teachers to supervise and work more effectively with paraprofessionals.

Project Period: Up to 36 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $200,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Program Authority: Section 673 of the Act.

Absolute Priority 2—Partnerships to Link Personnel Training and School Practice [84.325P].

Background

Teachers need to be prepared to provide effective instruction across the full range of student abilities. More than 90 percent of all students with disabilities spend at least a portion of their school day in a general education classroom. The movement toward inclusive education in today's schools requires that general and special education teachers work together to meet the needs of students with disabilities. However, extensive data indicate that general education teachers do not feel that they have the knowledge and skills necessary to meet the educational needs of these students in their classrooms and that special education teachers are required to assume roles (e.g., consulting with general education teachers, co-teaching in general education classrooms, and supervising paraprofessional staff) for which they are insufficiently prepared.

In order to meet the challenge of preparing general and special education teachers to be effective in addressing the needs, and improving the results, of students with disabilities in inclusive schools, teacher preparation programs must be grounded in the structural, organizational, and instructional realities of schools, while schools must facilitate continuous improvement of teacher knowledge and skills. Institutions that prepare teachers and the schools in which teachers work both have a responsibility to ensure that teachers (special and regular education) can effectively fulfill their roles in working with children with disabilities. Too often the sole relationship between preparation programs and local schools is limited to setting up practicum settings for trainees. Faculty members at Institutions of Higher Education (IHEs) are often minimally involved in practicum supervision. Universities and schools can no longer afford to work in isolation. Similarly, training regular and special education teachers can no longer be viewed as separate functions. The following priority is intended to develop models for building and enhancing partnerships between training institutions and local schools in order to strengthen the quality and effectiveness of preservice preparation programs and ongoing professional development activities for teachers and instructional leaders (both special and regular education) who serve children with disabilities.

The power of the partnerships supported through this priority should not be underestimated. The Secretary expects projects to develop models that intersect between preservice and inservice development for professional personnel and will have a significant impact on the improvement of educational practices that will lead to better results for children. It is intended that these models will provide a means by which local schools and IHEs can simultaneously improve their work and effectiveness.

Priority: The Secretary establishes an absolute priority to support projects that develop, implement, and evaluate innovative models for engaging general education and special education faculty in IHEs and general education and special education teachers and instructional leaders in local schools and districts in a dynamic and enduring partnership to enhance and simultaneously improve the quality of preservice preparation and ongoing professional development of teachers and instructional leaders. Partnership activities must be designed to ensure that both special education and regular education professionals have the knowledge and skills necessary to improve results for children with disabilities.

Projects funded under this priority must:

(a) Develop a partnership model for linking IHE personnel training programs with local school practice that is guided by a conceptual framework incorporating relevant, research-based knowledge and practice. The partnership model must include the following features:

(1) A systematic approach to professional development at all stages of the training continuum by focusing on continuous learning by teachers, instructional leaders, and faculties of IHE education programs;

(2) The integration of theory and practice to produce more practical, contextualized theory and more theoretically grounded, broadly informed practice;

(3) A strong commitment to research-based change that is continually responsive to personnel needs and to advances in the knowledge base; and

(4) A description of the benefits that will accrue to all stakeholders, including, but not limited to, IHE faculty, teachers in training, practicing professionals in local schools, and students with disabilities, as a result of

the implementation of the proposed partnership model.

(b) Provide substantial evidence that the proposed model will serve a broad-based need.

(c) Establish an advisory panel of relevant stakeholders and potential users to provide guidance that will help to assure the model developed has broad applicability.

(d) Include the following partnerships activities:

(1) Identification of a common core of knowledge and skills that are appropriate for all prospective general and special education teachers, are aligned with critical teaching standards and with high student content and performance standards, and for which there is broad based support among all stakeholders;

(2) Clarification of the current and emerging roles and responsibilities of special educators in inclusive schools, including identification of the specialized knowledge and skill competencies that these educators must perform effectively, and for which there is broad based support among all stakeholders;

(3) Modification of curricula and materials used for preservice preparation of general and special education teachers that is consistent with the requirements under paragraph (a) and is conducted through collaboration between IHEs and schools or districts; and

(4) Development of an approach for providing intensive, ongoing professional development that will advance the career-long learning of school and IHE personnel and ensure that children with disabilities achieve to high standards.

(e) Conduct ongoing formative evaluations of project activities, and a final evaluation to assess the success of the partnership model in enhancing the skills, knowledge, and practices of professional personnel that will lead to improved results for children with disabilities.

(f) Develop a plan for sustaining implementation of the model beyond the period of Federal funding for this project.

(g) Produce a model "blueprint" or case study that would permit others to replicate or implement the model and includes comprehensive information related to paragraphs (a) through (d) and comprehensive outcomes of the final evaluation required under paragraph (e).

(h) In addition to the annual two day Project Directors' meeting in Washington, DC, mentioned in the General Requirements section of this notice, budget for another annual two-day trip to Washington, DC, to collaborate with the Federal project officer and other projects funded under this priority by sharing information and discussing model development, implementation, and dissemination issues, including the carrying out of cross-project dissemination activities.

Under this priority, the project period is up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the project for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $4,000;

(b) The timeliness and effectiveness with which all requirements of the grant have been or are being met by the project; and

(c) The degree to which the project's design and methodology demonstrates the potential for advancing significant new knowledge.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $300,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 50 double-spaced pages, using the following standards: (1) A "page" is 8" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Program Authority: Section 673 of IDEA.

Special Education—Training and Information for Parents of Children With Disabilities [CFDA 84.328C]

Purpose of Program: The purpose of this program is to support local parent organizations to help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities.

Eligible Applicants: Local parent organizations must meet the criteria in section 682(g) of the Act, and also must meet one of the following criteria—

(a) Have a board of directors the majority of whom are from the community to be served; or

(b) Have as part of its mission, serving the interests of individuals with disabilities from such community; and have a special governing committee to administer the project, a majority of the members of which are individuals from such community; examples of administrative responsibilities include controlling the use of the project funds, and hiring and managing project personnel.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85; and (b) the selection criteria included in 34 CFR 316.22.

Priority: Under sections 661(e)(2) and 683 of the Act, and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority:

Absolute Priority—Community Parent Resource Centers (84.029C)

The purpose of this statutory priority is to support local parent training and

information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities to—

(a) Meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

(b) Be prepared to lead productive independent adult lives, to the maximum extent possible.

Each community parent training and information center supported under this priority must—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the project;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under Section 615 of the Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in the Act;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities by assisting parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decision making processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(d) Contract with the State education agencies, if the State elects to contract with the community parent resource centers, for the purpose of meeting with parents who choose not to use the mediation process, to encourage the use and explain the benefits of mediation, consistent with Sections 615(e)(2)(B) and (D) of the Act;

(e) In order to serve parents and families of children with the full range of disabilities, network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of the Act, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies;

(f) Establish cooperative partnerships with the parent training and information centers funded under Section 682 of the Act;

(g) Be designed to meet the specific needs of families who experience significant isolation from available sources of information and support; and

(h) Annually report to the Secretary on—

(1) The number of parents to whom it provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

Competitive Priorities: Within this Absolute Priority, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet one or both of the following competitive priorities:

The Secretary awards 20 points to an application submitted by a local parent organization that has a board of directors, the majority of whom are parents of children with disabilities, from the community to be served. These points are in addition to any points the application earns under the selection criteria for the program.

The Secretary awards 10 points to an application that provides parent training and information in one or more Empowerment Zones or Enterprise Communities in a manner that meets the competitive priority relating to Empowerment Zones or Enterprise Communities published in the **Federal Register** on November 7, 1994 (59 FR 55534). A list of areas that have been selected as Empowerment Zones or Enterprise Communities is included in the application package. These points are in addition to any points the application earns under the selection criteria for the program.

Project Period: Up to 36 months.

Project Award: Projects will not be funded in excess of $100,000 for any single budget period of 12 months.

Program Authority: Section 683 of the Act.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an inter-governmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for those program.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 1998

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Page limit*	Estimated number of awards
84.325N Professional Development—Projects of National Significance	5/27/98	7/10/98	9/08/98	$200,000	40	15

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INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 1998—Continued

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Page limit**	Estimated number of awards
84.325P Professional Development—Partnerships to Link Personnel Training and School Practice	5/27/98	7/10/98	9/08/98	300,000	50	4
84.328C Community Parent Resource Centers	5/27/98	7/17/98	9/15/98	100,000	NONE	10

*The Secretary rejects and does not consider an application that proposes a budget exceeding the amount listed for each priority for any single budget period of 12 months, except 84.328C, Community Parent Resource Centers.

**Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" section of this notice for the specific requirements. The Secretary rejects and does not consider an application that does not adhere to this requirement.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: May 13, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–13940 Filed 5–26–98; 8:45 am]

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federal register

Wednesday
May 27, 1998

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25
Braked Roll Conditions; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 28643; Amdt. No. 25–97]

RIN 2120–AF83

Braked Roll Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to the airworthiness standards for transport category airplanes adds a new design standard that requires that the airplane be designed to withstand main landing gear maximum braking forces during ground operations. This amendment will ensure that the landing gear and fuselage are capable of withstanding the dynamic loads associated with the maximum dynamic braking condition. It also relieves a burden on industry by eliminating differences between the Federal Aviation Regulations (FAR) and European Joint Aviation Requirements (JAR), while maintaining a level of safety provided by the current regulations and industry practices.

EFFECTIVE DATE: June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Jim Haynes, FAA, Airframe and Airworthiness Branch (ANM–115), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2131; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: 202–512–1661) or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 800–FAA–ARAC).

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register**'s webpage at http://www.access.gpo.gov/su—docs for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or document number of this final rule.

Persons interested in being placed on the mailing list for future notices of proposed rulemaking and final rules should request from the above office a copy of Advisory Circular (AC) No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

The FAA's definitions of small entities may be accessed through the FAA's web page (http://www.faa.gov.avr/arm/sbrefa.htm), by contacting a local FAA official, or by contacting the FAA's Small Entity Contact listed below.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1–888–551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.faa.gov and may send electronic inquiries to the following internet address: 9–AWA–SBREFA@faa.dot.gov.

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) 96–10, which was published in the **Federal Register** on August 5, 1996 (61 FR 40710). The notice was based on a need to protect the airframe structure from damage during hard application of the brakes.

The current 14 CFR part 25 airworthiness standards, § 25.493, and its predecessor rule, § 4b.235(b) of the Civil Air Regulations (CAR), prescribe braked roll conditions that the airplane structure and landing gear must be designed to withstand during airplane taxiing with a constant (steady) application of brakes ("braked roll" condition). The taxi condition is generally the most critical condition regarding nose gear and forward fuselage loading during the braking event, due to the increased braking coefficient of friction at low speeds and the lack of lift on the wings and lack of aerodynamic damping. Both rules treat the braked roll condition as a static equilibrium condition. Neither rule accounts for the dynamic loads on the nose gear and fuselage associated with pitch inertia of the airplane due to rapid application of main landing gear brakes. Adequate strength has been achieved on existing airplanes by application of other part 25 design requirements and by the manufacturers' need to comply with the more stringent British Civil Airworthiness Requirements (BCAR).

For many years the BCAR have included a dynamic braking condition that requires that consideration be given to the maximum likely combination of dynamic vertical reaction and sudden increase in drag load that could occur on the nose gear as a result of sudden main gear braking while encountering obstacles. The BCAR address obstacles such as overruns onto semi-prepared surfaces during rejected takeoffs, running off the edge then back on to the runway during avoidance maneuvers, running over displaced or lowered edges of runway paving, and inadvertent use of runways under repair. In application of the BCAR requirement, it was found that U.S. designed airplanes generally have had adequate strength to meet this condition without requiring any modifications. However, this may not always be the case, especially if new airplane designs are significantly different from past conventional configurations in vertical and longitudinal mass distributions of fuel, payload, engine location, etc. As the takeoff weight increases with respect to landing weight, the dynamic braked roll condition can become more critical for the nose gear and fuselage. This amendment will ensure that all future airplanes will be provided with adequate strength in the fuselage and nose landing gear to carry these loads.

In 1988, the FAA, in cooperation with the JAA and other organizations representing the American and European aerospace industries, began a process to harmonize the airworthiness requirements of the United States and the airworthiness requirements of Europe. The objective was to achieve common requirements for the certification of transport airplanes without a substantive change in the level of safety provided by the regulations. Other airworthiness authorities such as Transport Canada also participated in this process.

In 1992, the harmonization effort was undertaken by the Aviation Rulemaking Advisory Committee (ARAC). A working group of industry and government structural loads specialists of Europe, the United States, and

Canada was chartered by notice in the **Federal Register** (58 FR 13819, March 15, 1993) to harmonize the design loads sections of Subpart C of part 25. The harmonization effort on the braked roll rule was accomplished and a specific proposal was recommended to the FAA by letter dated November 6, 1995. The FAA concurred with the recommendation, and published Notice 96–10 in the **Federal Register** on August 5, 1996, for public comment.

Interested persons have been given an opportunity to participate in this rulemaking and due consideration has been given to all matters presented. Comments received in response to Notice 96–10 are discussed below.

Discussion of Comments

The FAA received three comments in response to Notice 96–10. Two of these commenters support the proposal, one with comment, while the third commenter objects to the proposal.

One commenter, representing the aviation industry, supports the proposal but expresses concern about possible interpretation of the rule. This commenter states that it is industry's belief that the proposed rule represented a harmonized position on both the rule and the interpretative advisory material; specifically, the commenter supports JAA interpretation and advisory material which allows use of a coefficient of friction less than 0.80, when substantiated, in the formula of § 25.493(c). The commenter requests that this interpretation be clarified. The coefficient of friction of 0.80 between the tire and ground surface has been used for structural design of the landing gear and structure since it was codified in the Civil Air Regulations (CAR Part 4b). The FAA has allowed a lower drag reaction in those cases where it can be substantiated that an effective drag force of 0.80 times the vertical reaction cannot be attained under any likely loading condition. This has generally been interpreted to mean that a lower drag force may be used where maximum brake torque is the limiting factor. This allowance is provided in the current regulation and is unchanged by this amendment. A value of 0.80 remains as the value of the coefficient of friction in the regulatory formula of § 25.493(e).

One commenter, an aircraft manufacturer, believes the proposed regulation is unnecessary because the braked roll condition is not the loading condition that determines the design of the nose gear and fuselage. The commenter states that a three point landing is typically the load condition which determines the design of the landing gear structure, which is far more severe than the braked roll conditions addressed in the notice. The FAA agrees that this may be true for most airplane designs; however, it is not always the case. The FAA considers the rule necessary to ensure proper landing gear designs for those airplanes that are affected by the braked roll condition.

In view of the above, part 25 is amended as proposed in Notice 96–10.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effects of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). In conducting these analyses, which are summarized below (and available in the docket), the FAA has determined that this rule is not "a significant regulatory action" under section 3(f) of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget. The rule is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, for the reasons stated under the "Regulatory Flexibility Determination," the "International Trade Impact Assessment," and the "Unfunded Mandates Assessment," the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities, will not constitute a barrier to international trade, and will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually.

Regulatory Evaluation Summary

As stated in the preamble to the notice, the rule change will codify current industry practice (thus maintaining at least the current level of safety) and will not impose additional costs on manufacturers of transport category airplanes. Adequate strength has been achieved on existing airplanes by application of other part 25 design requirements and by manufacturers' needs to comply with the more stringent BCAR in order to sell airplanes overseas. Moreover, by conforming § 25.493 of the FAR with § 25.493 of the JAR, the new amendment will increase harmonization between American and European airworthiness standards and potentially reduce duplicate certification costs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis, in which alternatives are identified and evaluated, if a rule is expected to have "a significant economic impact on a substantial number of small entities." The Small Business Administration (SBA) has established standards for complying with RFA review requirements in Federal rulemaking actions; the standards specify small entity size by Standard Industrial Classification (SIC). The rule change will affect manufacturers of transport category airplanes produced under new type certificates. The SBA specifies a size threshold for classification as a small entity as 1,500 or fewer employees. Since the rule will impose no incremental costs on airplane manufacturers (and, additionally, no part 25 airplane manufacturer has 1,500 or fewer employees), the rule change will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to United States

companies doing business in foreign markets, and foreign companies doing business in the United States.

This rule is a direct action to respond to this policy by increasing the harmonization of the U.S. Federal Aviation Regulations with the European Joint Aviation Requirements. The result will be a positive step toward removing impediments to international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA has determined that this rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

Federalism Implications

The regulation amended herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that this rule does not conflict with any international agreement of the United States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no reporting or recordkeeping requirements associated with this rule.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this final rule applies to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska. The Administrator has considered the extent to which Alaska is not served by transportation modes other than aviation, and how the final rule could have been applied differently to intrastate operations in Alaska. However, the Administrator has determined that airplanes operated solely in Alaska would present the same safety concerns as all other affected airplanes; therefore, it would be inappropriate to establish a regulatory distinction for the intrastate operation of affected airplanes in Alaska.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration (FAA) amends 14 CFR part 25 of the Federal Aviation Regulations (FAR) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, and 44704.

2. Section 25.493 is amended by revising paragraph (c) and by adding new paragraphs (d) and (e) to read as follows:

§ 25.493 Braked roll conditions.

* * * * *

(c) A drag reaction lower than that prescribed in this section may be used if it is substantiated that an effective drag force of 0.8 times the vertical reaction cannot be attained under any likely loading condition.

(d) An airplane equipped with a nose gear must be designed to withstand the loads arising from the dynamic pitching motion of the airplane due to sudden application of maximum braking force. The airplane is considered to be at design takeoff weight with the nose and main gears in contact with the ground, and with a steady-state vertical load factor of 1.0. The steady-state nose gear reaction must be combined with the maximum incremental nose gear vertical reaction caused by the sudden application of maximum braking force as described in paragraphs (b) and (c) of this section.

(e) In the absence of a more rational analysis, the nose gear vertical reaction prescribed in paragraph (d) of this section must be calculated according to the following formula:

$$V_N = \frac{W_T}{A+B}\left[B + \frac{f\mu AE}{A+B+\mu E}\right]$$

Where:

V_N=Nose gear vertical reaction.

W_T=Design takeoff weight.

A=Horizontal distance between the c.g. of the airplane and the nose wheel.

B=Horizontal distance between the c.g. of the airplane and the line joining the centers of the main wheels.

E=Vertical height of the c.g. of the airplane above the ground in the 1.0 g static condition.

μ=Coefficient of friction of 0.80.

f=Dynamic response factor; 2.0 is to be used unless a lower factor is substantiated. In the absence of other information, the dynamic response factor f may be defined by the equation:

$$f = 1 + \exp\left(\frac{-\pi\xi}{\sqrt{1-\xi^2}}\right)$$

Where:

ξ is the effective critical damping ratio of the rigid body pitching mode about the main landing gear effective ground contact point.

Issued in Washington, DC, on May 18, 1998.

Jane F. Garvey,

Administrator.

[FR Doc. 98–13999 Filed 5–26–98; 8:45 am]

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Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program (PTFP) and PEACESAT Program; Notice

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 960205021–A133–08]

RIN 0660–ZA01

Public Telecommunications Facilities Program (PTFP) and PEACESAT Program

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of applications received.

SUMMARY: The National Telecommunications and Information Administration (NTIA) previously announced the solicitation of grant applications for two programs funded from the Public Broadcasting, Facilities, Planning and Construction Funds account. This notice announces the list of applications received and notifies any interested party that it may file comments with the Agency supporting or opposing an application.

FOR FURTHER INFORMATION CONTACT: Dennis Connors, Director, Public Telecommunications Facilities Program, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP can also be obtained electronically via Internet (send inquiries to http://www.ntia.doc.gov).

SUPPLEMENTARY INFORMATION:

By **Federal Register** notice dated January 5, 1998, the NTIA, within the Department of Commerce, announced that it was soliciting grant applications for the Public Telecommunications Facilities Program (PTFP). NTIA announced that the closing date for receipt of PTFP applications was 8 p.m. EST, February 12, 1998.

In all, the PTFP received 245 applications from 45 states. The total amount of funds requested by the applicants is $66.4 million.

By **Federal Register** notice dated March 19, 1998, the NTIA also announced that it was soliciting grant applications for the Pan-Pacific Education and Communications by Satellite (PEACESAT) Program. NTIA announced that the closing date for receipt of PEACESAT applications was close of business, April 20, 1998.

In all, the PEACESAT Program received one application. The total amount of funds requested is $445,745.

Notice is hereby given that the PTFP received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does not indicate that it has been accepted for review, has been determined to be eligible for funding, or that an application will receive an award.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. PTFP will forward a copy of any opposing comments to the applicant. Comments must be sent to PTFP at the following address: NTIA/PTFP, Room 4625, 1401 Constitution Ave., N.W., Washington, D.C. 20230.

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

Public Telecommunications Facilities Program Applications

Alaska

File No. 98023CRB Alaska Public Radio Network, 810 East 9th Ave Anchorage, AK 99501. Contact: Ms. Tammy Gilstrap, Business Manager. Funds Requested: $32,250. Total Project Cost: $ 43,300. To replace satellite upconverter equipment for the Alaska Public Radio Network (APRN), Anchorage.

File No. 98010CTB Bethel Broadcasting, Inc., KYUK–TV 640 Radio Street Pouch 468 Bethel, AK 99559. Contact: Ms. Jude Andrews, General Manager. Funds Requested: $254,349. Total Project Cost: $339,133. To purchase a video server and master control support equipment.

File No. 98028PTB Capital Community Broadcasting, Inc., Station KTOO–TV 360 Egan Drive Juneau, AK 998011748. Contact: Mr. Bill Legere, President & General Manager. Funds Requested: $594,830. Total Project Cost: $594,830. To plan for the conversion of public television translators to digital technologies.

File No. 98027CRB CoastAlaska, Inc., 360 Egan Drive, Suite 216 Juneau, AK 99801. Contact: Mr. Jon Newstrom, System Coordinator. Funds Requested: $126,129. Total Project Cost: $168,172. To place digital storage equipment and standardize the air chains at five public radio stations, KTOO–FM, Juneau; KCAW–FM, Sitka; KSFK–FM, Petersburg; KSTK–FM, Wrangell; and KRBD–FM, Ketchikan which cooperate as CoastAlaska, Inc. The project would also replace KRBD's Black Mountain translator with two translators.

File No. 98159CRB 97205 Kotzebue Broadcasting Inc., Station KOTZ–AM 396 Lagoon Drive P.O. Box 78 Kotzebue, AK 99752. Contact: Mr. Pierre Lonewolf, General Manager/Chief Engineer. Funds Requested: $107,401. Total Project Cost: $147,401. To provide digital audio storage and editing equipment.

File No. 98019CRB Silakkuagvik Communications, Inc., Station KBRW–AM P.O. Box 109 1695 Okpik St. Barrow, AK 99723. Contact: Mr. Donovan Rinker, Vice President & Gen. Mgr. Funds Requested: $ 39,814. Total Project Cost: $53,085. To replace studio production and operations equipment.

File No. 98232CRB Unalaska Community Broadcasting, Station KIAL–AM, 5th and Broadway P.O. Box 181 Unalaska, AK 99685. Contact: Mrs. Joy Mendoza, Acting General Manager. Funds Requested: $ 57,757. Total Project Cost: $77,010. To purchase uninterruptible power equipment.

File No. 98135CTB University of Alaska/Fairbanks, Station KUAC–TV 201 Theatre Building 312 Tanana Drive Fairbanks, AK 99775–5620. Contact: Mr. Jerry Brigham, General Manager. Funds Requested: $ 62,832. Total Project Cost: $ 95,200. To purchase five video recorders.

Alabama

File No. 98043CTB Alabama Public Television, 2112 11th Avenue South Suite 400 Birmingham, AL 35205–2884. Contact: Mr. Philip Hutcheson, Deputy Director/CFO. Funds Requested: $610,597. Total Project Cost: $1,221,194. To improve network interconnection by replacing 60% of its microwave transmission equipment and strengthening four towers; to improve its program origination capability by replacing a character generator and video editing equipment; and acquire closed-captioning equipment.

Arkansas

File No. 98080CTB Arkansas ETV Commission (AETN), 350 S. Donaghey Conway, AR 72032. Contact: Ms. Susan Howarth, Executive Director. Funds Requested: $292,924. Total Project Cost: $585,849. To replace origination equipment including prompters, lighting system, editors and monitors.

File No. 98096CTB Arkansas ETV Commission (AETN), 350 S. Donaghey Conway, AR 72032. Contact: Ms. Susan Howarth, Executive Director. Funds Requested: $559,577. Total Project Cost: $1,119,154. To replace the analog microwave system with a digital system.

File No. 98176ICTNO City Of Little Rock, City Manager's Office City Hall, Room 203, 500 West Markham, Little Rock, AR 72201. Contact: Ms. Darlene Garrett, Neighborhood Resource Ctr Coor. Funds Requested: $288,056. Total Project Cost: $576,112. To establish a distance learning center by purchasing a satellite receive-only earth station, and two-way teleconferencing equipment.

Arizona

File No. 98018CTB Arizona State University, KAET–TV, Box 871405, Tempe, AZ 85287–4505. Contact: Mr. Larry Fallis, Sponsored Projects Officer. Funds Requested: $295,000. Total Project Cost: $590,000. To replace studio and handheld cameras, monitoring and test equipment.

File No. 98105CTN City Of Bullhead City, CITY–TV, 1255 Marina Blvd., Bullhead City, AZ 86442. Contact: Mr. Pete Reeves, Economic Devel. Coordinator. Funds Requested: $18,750. Total Project Cost: $25,000. To activate a cable television access channel.

File No. 98055PTB Museum of Contemporary Art, 142 W. 20th St., Tucson, AZ 85701. Contact: Mr. Peter Grodach, Project Director. Funds Requested: $10,000. Total Project Cost: $10,000. To plan for the establishment of a Low Power Television Station.

File No. 98031CRB Northern Arizona University, KNAU–FM, Building 16, Room 219, Corner of Osborne and Tormey, Flagstaff, AZ 86011. Contact: Mr. John Stark, General Manager. Funds Requested: $75,873. Total Project Cost: $151,746. To replace transmitter, antenna and transmission line.

File No. 98034ICTN Northern Arizona University, Statewide Programs, Old Main, Bldg 10, Room 209, McMullen Circle, Flagstaff, AZ 86011. Contact: Mr. Edward Groenhout, Vice Provost. Funds Requested: $794,353. Total Project Cost: $1,059,138. To extend the Northern Arizona University Network (NAUNet) duplex microwave system distance learning network to the following: the Hualapai Family Resources Center in Peach Springs, the Whiteriver Unified School District on the White Mountain Apache Indian Reservation; and the Dine' College and the Ganado Unified School District both on the Navajo Indian Reservation.

File No. 98005CTB University of Arizona, KUAT–TV, University of Arizona, Tucson, AZ 85721. Contact: Mr. Ronald Stewart, Associate Director. Funds Requested: $254,000. Total Project Cost: $508,000. To replace cameras, video cassette recorders (VCR's) and the master control VCR with a video server.

File No. 98122CRB White Mountain Apache Tribe, KNNB, 88.1 FM, Apache Radio Executive Office Building, SR 73, Whiteriver, AZ 85941. Contact: Mr. Connor Murphy, Grant Writer. Funds Requested: $17,050. Total Project Cost: $34,100. To replace origination equipment.

California

File No. 98199PTB Alderwood Communications, 230 Fernwood Avenue, Oroville, CA 95966. Contact: Ms. Annette D'Brotherton, Executive Director. Funds Requested: $142,571. Total Project Cost: $142,571. To plan for a repeater radio station in Butte County, California.

File No. 98172ICTN Butte-Glenn Community College District, 3536 Butte Campus Drive, Oroville, CA 95965. Contact: Mr. Robert Ellworth, Media and DI Coordinator. Funds Requested: $25,708. Total Project Cost: $51,417. To replace transmitters for an ITFS system.

File No. 98061ICTN 97200 CSU-Fresno Foundation, Central Valley Technology Center, 4910 N. Chestnut Avenue, Fresno, CA 93726. Contact: Dr. Thomas McClanahan, Assoc VP/Grants & Res/CSU. Funds Requested: $690,943. Total Project Cost: $1,460,244. To activate a distance learning system consisting initially of 22 sites located throughout Fresno, Madera, Kings, and Tulare Counties.

File No. 98095CTB Coast Community College District, KOCE–TV, 15751 Gothard Street, Huntington Beach, CA 92647. Contact: Mr Mel Rogers, President. Funds Requested: $244,470. Total Project Cost: $488,940. To replace ten broadcast videotape machines with DVCPro format units.

File No. 98193CTB Community Television of Southern CA, 4401 Sunset Boulevard, Los Angeles, CA 90027. Contact: Mr. Donald Youpa, Executive Vice President & COO. Funds Requested: $76,229. Total Project Cost: $152,459. To support the conversion to digital of KCET–TV, Channel 28 in Los Angeles, CA, by replacing a manual on-air system with a new digital automation system.

File No. 98073CTB Community Television of Southern CA, 4401 Sunset Boulevard, Los Angeles, CA 90027. Contact: Mr. Donald Youpa, Executive Vice President & COO. Funds Requested: $1,440,685. Total Project Cost: $1,920,914. To complete the digital conversion of KCET–TV, Channel 59 (or Channel 32) in Los Angeles by installing a digital transmitter, encoders, antenna, transmission line, and STL.

File No. 98212CRB KQED Inc., 2601 Mariposa Street, San Francisco, CA 94110. Contact: Ms. Jo Anne Wallace, VP/KQED–FM General Manager. Funds Requested: $20,002. Total Project Cost: $40,005. To activate a translator that will serve Monterey, Carmel, Pacific Grove and Pebble Beach, California.

File No. 98104CTB KQED, Inc., 2601 Mariposa Street San Francisco, CA 94110. Contact: Ms. Jayme Burke, Development Associate. Funds Requested: $289,353. Total Project Cost: $578,706. To replace one-inch videotape machines, a video production switcher, and a audio console.

File No. 98119CTB KQED, Inc., 2601 Mariposa Street San Francisco, CA 94110. Contact: Ms. Jayme Burke, Development Associate. Funds Requested: $1,209,495. Total Project Cost: $2,418,990. To complete the digital conversion of KQED–TV, Channel 34 in San Francisco by replacing the transmitter, STL, the compression and multiplexing system and the master control switcher. The station will provide Standard Definition TV (SDTV) signals from its analog plant and multiple (four) SDTV channels via the DTV transmitter.

File No. 98224CTB 97101 KTEH Foundation, 1585 Schallenberger Road San Jose, CA 95131. Contact: Mr. Gary Martinez, Grants Associate. Funds Requested: $931,820. Total Project Cost: $1,242,427. To extend the station's signal by relocating the tower and replacing the transmitter, the antenna, the STL system and the transmission line.

File No. 98143ICTN Kern Educational T/C Consortium, 1300—17th Street, City Centre Bakersfield, CA 933014533. Contact: Dr. William Cochran, VP/ Instruc/Porterville College. Funds Requested: $822,304. Total Project Cost: $1,823,838. To extend the microwave-based distance learning system to northern Kern County and southeastern Tulare County.

File No. 98240ICTN Monterey County Office of Education, Instructional Resources & Tech 910 Blanco Circle Salinas, CA 93901. Contact: Mr. Michael Mellon, Dir/Instr. Resources & Tech.. Funds Requested: $408,982. Total Project Cost: $968,842. To extend the ITFS-based distance learning system to San Benito and San Luis Obispo Counties and to expand the already-existing system in Monterey and Santa Cruz Counties to presently-unserved audiences.

File No. 98162PRB Radio Bilingue, 5005 E. Belmont Avenue Fresno, CA 93727. Contact: Mr. Hugo Morales, Executive Director. Funds Requested: $48,900. Total Project Cost: $65,200. To plan for the distribution of Radio Bilingue's Spanish-language service in the top ten Hispanic markets in the United States.

File No. 98187PRB Radio Bilingue, 5005 E. Belmont Avenue Fresno, CA 93727. Contact: Mr. Hugo Morales, Executive Director. Funds Requested: $50,400. Total Project Cost: $67,200. To plan for the establishment of a public radio station serving the Spanish-speaking residents of southwestern Texas.

File No. 98127PRB Round Valley Unified School Dist., Howard & High School District Covelo, CA 95428. Contact: Ms. Andrea Harris, Superintendent. Funds Requested: $10,745. Total Project Cost: $13,595. To plan for the activation of a public radio station in Round Valley, California.

File No. 98103CRB Rural California Broadcasting Corp., 5850 Labath Avenue Rohnert Park, CA 94928. Contact: Ms. Nancy Dobbs, President & CEO. Funds Requested: $ 11,715. Total Project Cost: $15,621. To expand the signal of KRCB–FM, operating on 91.1 MHz in Rohnert Park, California, by activating a translator in Santa Rosa, operating on 90.9 MHz.

File No. 98113CTB Rural California Broadcasting Corp., 5850 Labath Avenue Rohnert Park, CA 94928. Contact: Ms. Nancy Dobbs, President & CEO. Funds Requested: $78,015. Total Project Cost: $104,020. To improve the facilities of KRCB–TV, Channel 22 in Rohnert Park, California, by replacing VTRs in master control, production control and edit rooms with digital DVCPro units.

File No. 98116CTB San Diego State University Found., KPBS Television 5200 Campanile Drive San Diego, CA 92182. Contact: Ms. Susan Holloway, Director, Administrative Serv. Funds Requested: $687,400. Total Project Cost: $1,374,800. To construct a new tower and purchase a new antenna for the KPBS DTV assignment on UHF Channel 30. The project will also include replacement of the station's four studio cameras.

File No. 98156CRB Santa Monica Comm College District, 1900 Pico Boulevard Santa Monica, CA 90405. Contact: Ms. Ruth Seymour, General Manager. Funds Requested: $138,366. Total Project Cost: $184,488. To expand the signal of KCRW–FM by activating a repeater station in Mojave, KCRI–FM, 88.1 MHz.

File No. 98158IPTBN The Education Coalition, 2862 Millbridge Place San Ramon, CA 94583. Contact: Dr. Carla Lane, Executive Director. Funds Requested: $186,330. Total Project Cost: $365,930. To conduct a technology assessment of its affiliates in 17 states to determine how best to interconnect schools of education, K–12 districts, and other institutions involved in educational technology through existing and emerging technologies.

File No. 98223IPTN The National Hispanic University, 14271 Story Road San Jose, CA 95127. Contact: Dr. B. Roberto Cruz, President. Funds Requested: $98,500. Total Project Cost: $131,333. To design a Distance Learning Center focused on training teachers in bilingual education (Spanish/English) and to plan a delivery system that would disseminate its courses throughout California and nationally. The project involves San Jose State University, the Santa Clara Office of Education, and the Hispanic Educational Telecommunications System (HETS).

File No. 98090ICRTN Visible Light, Inc., The RAIN Network 1562 Cougar Ridge Road Buellton, CA 93427. Contact: Mr. Timothy Tyndall, Director. Funds Requested: $567,000. Total Project Cost: $756,000. To extend the services of the Regional Alliance for Information Networking (RAIN) system through the use of Internet and satellite technologies. The project will permit extension of service to 75 additional communities.

File No. 98091ICTN Visible Light, Inc., The RAIN Network 1562 Cougar Ridge Road Buellton, CA 93427. Contact: Mr. Timothy Tyndall, Director. Funds Requested: $319,500. Total Project Cost: $426,000. To extend the services of the Regional Alliance for Information Networking (RAIN) system through the use of Internet and satellite technologies. The project will permit extension of service to 250,000 additional people.

Colorado

File No. 98138CRB Colorado State Board of Agriculture, KDUR–FM 1000 Rim Drive Durango, CO 81301. Contact: Ms. Wynn Harris, Station Manager. Funds Requested: $15,872. Total Project Cost: $31,745. To replace transmission as well as production equipment.

File No. 98179CRB Denver Educ. Broadcasting, Inc., KUVO 2900 Welton Suite 200 Denver, CO 80205. Contact: Ms. Florence Hernandez-Ramos, President & CEO. Funds Requested: $47,342. Total Project Cost: $94,684. To replace transmitter, master control and production boards.

File No. 98152CTB Front Range Educational Media Corp., KBDI–TV 2900 Welton St., 1st Floor Denver, CO 80205. Contact: Mr. Theodore Krichels, General Manager. Funds Requested: $400,000. Total Project Cost: $800,000. To acquire a new automated master control system that will serve the needs of KBDI–TV and KRMA–TV, Ch. 6, in Denver. The equipment will be used under a joint operating agreement and will assist both stations as they begin their transition to digital technology by the year 2003.

File No. 98130CRB 97201 KUTE, Inc., KSUT–FM Public Radio P.O. Box 737 Ignacio, CO 81137. Contact: Mr. Carlos Sena, General Manager, KSUT–FM. Funds Requested: $55,989. Total Project Cost: $74,655. To acquire local origination equipment for a new studio to serve the Southern Ute Indian Tribe. In addition, project will acquire a studio-to-transmitter link (STL) to permit a new, second station, KUTE–FM on 90.1 MHz, located on Missionary Ridge to be programmed with a different public radio signal.

File No. 98216ICTN National Technological University, 700 Centre Avenue Fort Collins, CO 80526. Contact: Dr. Lionel Baldwin, President. Funds Requested: $201,960. Total Project Cost: $336,600. To purchase eight digital encoders and a disk storage system to permit the distribution via satellite of additional channels of instruction to home based PC's via the NTU Home Learner system.

File No. 98195CTB 97035 Rocky Mountain Public Broadcasting, KRMA–TV 1089 Bannock Street Denver, CO 80204. Contact: Mr. James Morgese, President/General Manager. Funds Requested: $205,653. Total Project Cost: $616,960. To interconnect the facilities of public television stations KRMA–TV, Ch. 6, in Denver and KTSC–TV, Ch. 8, in Pueblo by installing a two-way microwave interconnection. KRMA–TV will also acquire computer automation equipment to provide a distinct program feed to Pueblo.

File No. 98114CTB Rocky Mountain Public Broadcasting, KRMA–TV 1089 Bannock Street Denver, CO 80204. Contact: Mr. James Morgese, President/General Manager. Funds Requested: $62,000. Total Project Cost: $124,000. To replace analog videotape machines with digital machines. The project will also benefit KRMJ–TV, Ch. 18, in Grand Junction.

File No. 98076IPTN San Juan Basin Technical School, P.O. Box 970 33057 Highway 160 Cortez, CO 81321. Contact: Mr. William Lewis, Executive Director. Funds Requested: $146,100. Total Project Cost: $196,100. To help the Four Corners Distance Learning Planning Committee, acting through the San Juan Basin Technical School, Cortez, CO, to plan how to establish a distance learning infrastructure throughout southwest Colorado and southeast Utah.

File No. 98203CRB San Miguel Educational Fund, KOTO–FM 207 N. Pine St. Telluride, CO 81435. Contact: Mr. Ben Kerr, General Manager. Funds Requested: $47,940. Total Project Cost: $63,920. To install a repeater/satellite station on Gray Head.

File No. 98177CRB University of Northern Colorado, Radio KUNC, Greeley, CO 80639. Contact: Mr. Neil Best, Station Manager. Funds Requested: $61,350. Total Project Cost:

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$89,300. To activate a repeater station on 88.3 MHz in Leadville and a translator on 89.5 in Yampa. In addition, KUNC–FM will replace its exciter, processor and related dissemination equipment.

Connecticut

File No. 98233CTB Connecticut Public Broadcasting, 240 New Britain Avenue Hartford, CT 06106. Contact: Mr James Whitsett, VP Operations and Engineering. Funds Requested: $388,726. Total Project Cost: $777,453. To improve the facilities of WEDW–TV, Channel 49 in Bridgeport, CT, by replacing the transmitter, the microwave link and monitoring equipment.

Florida

File No. 98041CTB Barry Telecommunications, Inc., WXEL–TV 3401 S. Congress Avenue Boynton Beach, FL 33426. Contact: Mr. Philip Dicomo, VP of Development. Funds Requested: $280,366. Total Project Cost: $560,733. To replace basic origination equipment including tape machines, the editing system and a field recorder.

File No. 98040CTB Community Communications, Inc., 11510 East Colonial Drive Orlando, FL 32817. Contact: Mr. Jose Fajardo, Vice President For Programming. Funds Requested: $3,072,398. Total Project Cost: $4,096,531. To improve the facilities of WMFE–TV, Channel 24 in Orlando, FL, by replacing the tower, the antenna and the transmission line.

File No. 98032CTB Florida State University, WFSU–TV 1600 Red Barber Plaza Tallahassee, FL 32310. Contact: Mrs. Donna Landrum, Business Manager. Funds Requested: $82,068. Total Project Cost: $164,136. To replace master control switcher with analog/digital-ready switcher and purchase a digital video disc record and playback system.

File No. 98133CRB Florida State University, WFSQ 1600 Red Barber Plaza Tallahassee, FL 32310. Contact: Mr. Andrew Hanus, Chief Engineer. Funds Requested: $16,305. Total Project Cost: $32,610. To replace STL system, audio processor and transmitter modulation monitors.

File No. 98178CTB Florida West Coast Public Brdcstg, WEDU 1300 North Boulevard Tampa, FL 33607. Contact: Ms. Elsie Garner, Sr. Vice President & COO. Funds Requested: $342,407. Total Project Cost: $684,814. To replace studio cameras with digitally capable units.

File No. 98165CRB Indian River Community College, WQCS Radio Reading Service 3209 Virginia Avenue Indian River Community College Fort Pierce, FL 34981.Contact: Mr. H. James Holmes, Station Manager. Funds Requested: $22,500. Total Project Cost: $30,000. To make WQCS's Radio Reading Service more accessible to people in the community by distributing 300 SCA receivers.

File No. 98085CRB Nathan B. Stubblefield Foundation, WMNF–FM 1210 East Dr. Martin Luther King Tampa, FL 33603. Contact: Mr. Richard Eiswerth, Station Manager. Funds Requested: $24,125. Total Project Cost: $48,250. To replace master control and studio equipment.

File No. 98128ICTN Palm Beach County Commission, WPY38/channel 20 301 N. Olive Ave., Suite 104 West Palm Beach, FL 33401. Contact: Ms. Julie Brechbill, TV Station Manager. Funds Requested: $44,272. Total Project Cost: $88,545. To construct a satellite downlink to improve MDS television facility WPY38, to provide national and government programing. WPY38 is available on cable Ch. 20 on most cable systems in Palm Beach County.

File No. 98072CTB Pensacola Junior College, WSRE–TV 1000 College Boulevard Pensacola, FL 32504. Contact: Mr. Allan Pizzato, General Manager. Funds Requested: $71,000. Total Project Cost: $142,000. To replace the studio audio board, audio cart machines and the production character generator.

File No. 98225ICTN Santa Fe Community College, 3000 NW 83rd Street Gainesville, FL 32606. Contact: Mr. W. Harvey Sharron, Dean for Development. Funds Requested: $280,272. Total Project Cost: $430,272. To establish an Interactive Video Classroom Distance Learning Network with facilities in Archer, Alachua/High Springs, and Hawthorne.

File No. 98222CTB The School Board of Miami-Dade Co., WLRN–TV 172 N. E. 15 Street Miami, FL 33132. Contact: Mrs. Laurel Long, Director of Finance and Admin. Funds Requested: $1,423,379. Total Project Cost: $2,846,758. To complete the conversion of WLRN–TV, Channel 20 in Miami to a digital broadcast facility by construction of a 1019 feet tower, and installation of a circular polarized antenna system, a digital transmitter, and a digital microwave system. WLRN will also purchase a multi-channel digital encoder system.

File No. 98144ICTN University Of Central Florida, College Of Arts & Sciences Communications Bldg., Suite 190F 4000 Central Florida Blvd. Orlando, FL 32816–1990. Contact: Dr. Haven Sweet, Assoc Dean, Arts & Sciences. Funds Requested: $93,783. Total Project Cost: $187,566. To purchase CODECS and equipment for an additional video classroom on the University's main campus and video classrooms at Lake Sumpter Community College in Sumpter County and the University's South Orlando campus.

File No. 98020CRB University Of Florida, WUFT–FM 2208 Weimer Hall, Gainesville, FL 32611. Contact: Mr. Henri Pensis, Station Manager. Funds Requested: $26,185. Total Project Cost: $52,370. To replace audio console, recording machines and cart machines.

File No. 98106CTB University Of Florida, WUFT–TV Weimer Hall, Gainesville, FL 32611. Contact: Mr. Richard Lehner, General Manager. Funds Requested: $90,365. Total Project Cost: $180,730. To replace origination and production equipment through the purchase of DVC-Pro videotape recorders and players.

File No. 98208CRB University of Central Florida, WUCF–FM Radio Suite 162 Library Building 4000 Central Florida Boulevard Orlando, FL 32816. Contact: Ms. Kayonne Riley, Manager. Funds Requested: $146,720. Total Project Cost: $293,440. To construct a new tower and install a new antenna system. These improvements will alleviate radio frequency interference and will permit the station to comply with radiation standards required by the FCC.

File No. 98053CTB WJCT, Inc., 100 Festival Park Avenue Jacksonville, FL 32202. Contact: Mr. Rick Johnson, Senior Vice President, Broadcast. Funds Requested: $384,350. Total Project Cost: $768,701. To replace studio cameras, video switcher, audio console, dual channel digital character generator, stillstore, frame synchronizer and tape machines.

File No. 98098CRB WJCT, Inc., 100 Festival Park Avenue Jacksonville, FL 32202. Contact: Mr. Rick Johnson, Sr. Vice President, Broadcasting. Funds Requested: $34,895. Total Project Cost: $69,790. To replace remote production and distribution equipment including the audio mixer, digital audio record and playback units, and a digital remote program link. The station will also replace the STL with a digital multi-channel system.

Georgia

File No. 98173CRB Okefenokee Educational Foundation, 205 Rose Avenue Folkston, GA 31537. Contact: Mr. Jack Mays, President. Funds Requested: $34,295. Total Project Cost: $45,727. To construct a new noncommercial radio station to operate on 91.3 MHz in Folkston, GA.

Hawaii

File No. 98062IPTBN Hawaii Department Of Education, Teleschool Branch 1112 Mapunapuna Street, Suite 20 Honolulu, HI 96819. Contact: Mrs. Geriann Hong, Director, Teleschool Branch. Funds Requested: $121,222. Total Project Cost: $189,122. To plan for the establishment of a broadcast television facility and evaluate alternative transmission technologies for distance learning services.

File No. 98066CRB Kauai Community Radio, 4520–D Hanaki Plantation Rd. Princeville, HI 96722. Contact: Mr. Jon Scott, General Manager. Funds Requested: $10,100. Total Project Cost: $13,470. To extend station KAQA(FM) operating on 91.9 MHz by constructing a booster station operating on 91.9 MHz to serve Kilauea Town.

File No. 98188IPRTN University of Hawaii, Social Science Research Institute, 2530 Dole St., Honolulu, HI 96822. Contact: Dr. Norman H. Okamura. Funds Requested: $428,213. Total Project Cost: $556,688. To enable the PEACESAT Program to support public service and development communications to the Pacific Islands including the expansion of new digital services and distance learning via satellite.

Iowa

File No. 98148CTB Iowa Public Broadcasting Board, Iowa Public Television 6450 Corporate Drive Johnston, IA 50131. Contact: Mr. Dennis Malloy, Director Community Relations. Funds Requested: $2,249,719. Total Project Cost: $2,999,626. To convert public television station KIIN, ch. 12, Iowa City, IA, to digital broadcasting on channel 45.

File No. 98184CRB Iowa Western Community College, KIWR (FM) 2700 College Road Council Bluffs, IA 51503. Contact: Ms. Vicki Ratliff, General Manager. Funds Requested: $187,921. Total Project Cost: $375,842. To replace the transmitter, transmission line, STL, audio consoles, digital work stations, and other audio equipment.

File No. 98050CRB University of Northern Iowa, KUNI (FM) 324 Communication Arts Center Cedar Falls, IA 50614. Contact: Ms Barbara Reid, Administrative Assistant. Funds Requested: $697,200. Total Project Cost: $1,743,000. To construct a transmitter tower to take the place of one the station must vacate because its owner requires the tower capacity for converting itself to DTV.

Idaho

File No. 98084CRB Boise State University, BSU Radio Network 1910 University Drive Boise, ID 83725. Contact: Dr. James Paluzzi, General Manager. Funds Requested: $46,024. Total Project Cost: $61,366. To replace the transmission antenna of KBSU–FM, 90.3 MHz, which was damaged by ice storms.

File No. 98016CTB Idaho Public Television, 1455 North Orchard Boise, ID 83706. Contact: Mr. Phillip Kottraba, Fiscal Officer. Funds Requested: $715,026. Total Project Cost: $953,368. To improve operation of the Idaho Public Television network by replacing microwave equipment.

File No. 98142PRB Mackay School District, 400 East Spruce P.O. Box 390 Mackay, ID 83251. Contact: Mrs. Colleen Cox, Economic Development Coord. Funds Requested: $33,392. Total Project Cost: $33,392. To plan for the activation of a public radio station in Mackay, ID.

File No. 98074ICTN North Idaho College, 1000 West Garden Avenue Coeur d'Alene, ID 83814. Contact: Ms. Janet Benoit, Grants Coordinator. Funds Requested: $100,000. Total Project Cost: $210,000. To extend distance learning system to Priest River High School, Lake City High School, and Timberlake High School, near Spirit Lake.

Illinois

File No. 98140CTB CONVOCOM, WSEC–TV c/o University of Illinois/ Springfield Shepherd Rd., Bldg. K, Rm. 64 Springfield, IL 62707. Contact: Mr. Terrance Kenny, Special Projects Coordinator. Funds Requested: $681,111. Total Project Cost: $1,047,863. To replace master control equipment, including video and routing switchers and associated equipment, video recording/playback equipment, a still store, digital/analog converters, and test equipment. CONVOCOM operates public television stations WSEC–TV, WMEC–TV, and WQEC–TV.

File No. 98150PTB Illinois Valley Public TV, 1501 W. Bradley Avenue Peoria, IL 61625. Contact: Mr. Chester Tomczyk, President. Funds Requested: $135,000. Total Project Cost: $180,000. WTVP will examine—on behalf of nine members of the Illinois Public Broadcasting Council—operational, technical, and logistical issues related to the conversion to digital television (DTV) and its impact on the stations' ability to continue cooperative program services to the citizens of Illinois. In addition to WTVP, the members of the Council are WTTW, WYCC, WILL–TV, WEIU–TV, WQPT, WSIU–TV, WSEC and WUSI–TV.

File No. 98202CTB University of Illinois, WILL–TV 801 South Wright Street Champaign, IL 61820. Contact: Mr. J. J. Kamerer, Director-Grants & Contracts. Funds Requested: $111,000. Total Project Cost: $222,000. To replace an editing system, a character generator, video recorders, a still store, and audio cartridge recorders.

File No. 98186CTB Window to the World Communications, WTTW 5400 North St. Louis Ave. Chicago, IL 16062. Contact: Mr. Martin McLaughlin, V. President, Corporate Affairs. Funds Requested: $337,757. Total Project Cost: $675,514. To replace production equipment, including video recorders, a character generator, a still store, and a video server.

Indiana

File No. 98111CTB Ball State University, WIPB (TV) E. F. Ball Building 2000 University Avenue Muncie, IN 47306. Contact: Mr. Robert Smith, Station Manager. Funds Requested: $62,250. Total Project Cost: $124,500. To replace tape recorders and acquire a disk-based local insertion system.

File No. 98124CTB Indiana University, Radio & TV Services, WTIU P.O. Box 1847 Bloomington, IN 47402. Contact: Mr. Barrie Zimmerman, Operations & Dir, Engineering. Funds Requested: $110,258. Total Project Cost: $220,516. To replace a video tape editing system and three field cameras and associated equipment items.

File No. 98012CTB Michiana Public Broadcasting, WNIT 2300 Charger Boulevard Elkhart, IN 46514. Contact: Ms. Trina Cutter, President/General Manager. Funds Requested: $84,687. Total Project Cost: $169,375. To replace character generators, an audio console, video and audio monitors, and distribution amplifiers.

File No. 98029CTB Tri-State Public Teleplex, WNIN–TV 405 Carpenter Street Evansville, IN 47708. Contact: Mr. David Dial, President & General Manager. Funds Requested: $64,346. Total Project Cost: $128,692. To replace a character generator, a video recorder, camera pedestals, and studio lighting instruments and by acquiring a non-linear editing system.

File No. 98241CRB Veedee Co., 807 E. Broadway, Kokomo, IN 46901. Contact: Ms. Vicky Tyler, President. Funds Requested: $82,000. Total Project Cost: $107,000. To construct a television facility.

Kansas

File No. 98025CTB Kansas Public Telecom. Serv., Inc., 320 West 21st Street North Wichita, KS 67203. Contact: Mr. David McClintock, Director of Engineering. Funds Requested: $64,931. Total Project Cost: $129,862. To replace the film system at KPTS–TV

and to interconnect with a cable company in order to provide a second channel and a distance learning service to the area schools.

File No. 98083CRB Kanza Society, Inc., c/o: High Plains Public Radio 210 North 7th Street Garden City, KS 67846. Contact: Mr. Quentin Hope, President, Board of Directors. Funds Requested: $18,366. Total Project Cost: $36,733. To acquire a digital audio management and automation system for KANZ–FM.

File No. 98082CRB Kanza Society, Inc., c/o: High Plains Public Radio 210 North 7th Street Garden City, KS 67846. Contact: Mr. Quentin Hope, President, Board of Directors. Funds Requested: $359,034. Total Project Cost: $478,713. To construct two satellite/repeater FM stations in Vega, TX (91.5 MHz) and Pampa, TX (89.5 MHz).

File No. 98017CRB University of Kansas, KANU–FM Broadcasting Hall Lawrence, KS 66045. Contact: Mrs. Janet Campbell, Interim Director. Funds Requested: $27,736. Total Project Cost: $55,472. To replace transmitter and related transmission equipment and 50 SCA radio receivers.

File No. 98021CTB Washburn University of Topeka, KTWU–TV 1700 SW College Ave. Topeka, KS 66621. Contact: Mr. Robert Fidler, Director of Operations. Funds Requested: $27,320. Total Project Cost: $54,640. To replace ¾" u-matic tape machines in master control.

Kentucky

File No. 98071CRB Appalshop, WMMT 306 Madison Street Whitesburg, KY 41858. Contact: Mr. R. Raymond Moore, Administrative Director. Funds Requested: $75,982. Total Project Cost: $101,310. To replace origination and interconnection equipment, including audio consoles, DAT recorders, microphones, CD players, telephone interface, STL, and remote control.

File No. 98117CTB Kentucky Educational Television, WKMU (TV) 600 Cooper Drive Lexington, KY 40502. Contact: Mrs. Virginia Fox, Executive Director. Funds Requested: $469,750. Total Project Cost: $939,500. To replace the transmitter at WKMU, ch. 51, Murray/Mayfield, KY.

File No. 98056CRB Kentucky Public Radio, d.b.a. Public Radio Partnership 301 York Street Louisville, KY 40203. Contact: Ms. Kathi Ellis, Grant Writer. Funds Requested: $200,435. Total Project Cost: $400,870. To augment the operational capability of Kentucky Public Radio, which operates WFPL 89.3 MHz, WUOL 90.5 MHz, and WFPK 91.8 MHz, in Louisville, KY, by acquiring equipment for its new building, including an STL interface, fiber satellite connection, audio consoles, a production console, CD equipment and 12 digital audio work stations.

File No. 98075IPTBN The Center For Rural Development, 2292 South Highway 27, Suite 30 Somerset, KY 42501. Contact: Ms. Hilda Legg, Executive Director & CEO. Funds Requested: $47,875. Total Project Cost: $191,309. To plan for a new video production facility to produce distance learning programming for statewide distribution.

Louisiana

File No. 98209CTB Greater New Orleans ETV Fdn., WYES–TV 916 Navarre Ave. New Orleans, LA 70124. Contact: Mr. Randall Feldman, President & Gen. Mgr. Funds Requested: $265,000. Total Project Cost: $530,000. To replace transmission line, video cassette recorders and acquire a digital video effects machine.

File No. 98045CTB LA Educational Television Authority, 7733 Perkins Road Baton Rouge, LA 70810. Contact: Ms. Cynthia Rougeou, CAO. Funds Requested: $107,187. Total Project Cost: $214,375. To replace transmission line at KLTL–TV, Ch. 18, in Lake Charles.

File No. 98154CTB LA Educational Television Authority, 7733 Perkins Road Baton Rouge, LA 70810. Contact: Ms. Cynthia Rougeou, CAO. Funds Requested: $150,000. Total Project Cost: $300,000. To replace the network's master control transports with a digital storage and retrieval system at public television station WLPB–TV, Ch. 27, in Baton Rouge.

File No. 98242CRB Louisiana State Univ. in Shreveport, Red River Public Radio Net—KBSA One University Place Shreveport, LA 71115. Contact: Ms. Catherine Fraser, General Manager. Funds Requested: $43,822. Total Project Cost: $58,430. To return public radio station KBSA–FM, 90.9 MHz, in El Dorado, AR to full service after its antenna and transmission line were destroyed when the tower collapsed during a severe storm on 2/10/98.

File No. 98160ICTN NOETC, Inc., 2929 S. Carollton Avenue New Orleans, LA 70118. Contact: Dr. Gordon Mueller, Member, Exec. Committee. Funds Requested: $62,319. Total Project Cost: $124,638. To extend the ITFS distance learning system of the New Orleans Educational Telecommunications Consortium to the Lakefront Campus of the University of New Orleans and to the Stennis Space Center, Biloxi, MS. The project would also enable Nunez Community College in New Orleans to reach an unserved population in rural Plaquemine Parish.

File No. 98107ICTN New Orleans Public Schools, 3510 General DeGaulle Drive New Orleans, LA 70114. Contact: Dr. James Lloyd, Compliance Officer. Funds Requested: $92,440. Total Project Cost: $184,880. To establish an ITFS distance learning system in 95 schools. New Orleans Public Schools is conducting this project in cooperation with public television station WLAE–TV, New Orleans and the schools districts of six Parishes in greater New Orleans.

Massachusetts

File No. 98129CRB Emerson College, WERS–FM 100 Beacon Street Boston, MA 02116. Contact: Mr. Arthur Singer, GM Television, Film & Radio. Funds Requested: $198,375. Total Project Cost: $264,500. To replace the studio console and purchase a server-based digital audio network and a computerized traffic and billing system.

File No. 98046CTB WGBH Educational Foundation, Production Services Division 125 Western Avenue Boston, MA 02134. Contact: Mr. Andrew Griffiths, VP Finance and Administration. Funds Requested: $370,355. Total Project Cost: $740,710. To replace production equipment with six D–5 and four D-Beta VTRs.

Maryland

File No. 98092PTB Enchanted Communications, 3 Brookebury Drive # 2b Reistertown, MD 21136. Contact: Mr. Caleb Crump, CEO. Funds Requested: $150,000. Total Project Cost: $150,000. To improve the applicant's production capabilities by purchasing cameras, monitors, playback machines and lights, plus an editing system and a microphone system.

File No. 98126CTB Maryland Public Television, 11767 Owings Mills Boulevard Owings Mills, MD 21117. Contact: Mr. Robert Sestili, Senior Vice President/COO. Funds Requested: $430,000. Total Project Cost: $860,000. To replace master control equipment with digital state-of-the-art units, including the routing switcher and tape machines. The project also includes an automation system and a digital audio/video server system.

File No. 98134CTN Telecommunications Access of Maryland, 301 West Preston Street, Suite 1, Baltimore, MD 21117. Contact: Mr. Gilbert L. Becker, Assistant Director. Funds Requested: $125,000. Total Project Cost: $250,000. To provide video conferencing equipment which would be used only to allow the hearing-impaired access to regular telephone service.

File No. 98003ICTN University of Maryland, Eastern Shore, Department Of English Wilson Hall University Of Maryland Eastern S Princess Anne, MD 21853. Contact: Dr. Chester Hedgepeth, Assoc. Professor. Funds Requested: $92,201. Total Project Cost: $122,935. To construct a Ku-band analog satellite uplink to provide distance learning throughout the DELMARVA peninsula.

Michigan

File No. 98006CTB Grand Valley State University, d.b.a. West Michigan Pub Bdctng 301 West Fulton Street Grand Rapids, MI 49504. Contact: Mr. Robert Lumbert, Director of Engineering. Funds Requested: $516,085. Total Project Cost: $1,032,170. To replace video recorders, a video file server, monitors, and amplifiers.

File No. 98226ICTN Lansing Community College, Extension & Community Education 28 N. Capital Lansing, MI 48933. Contact: Ms. Jean Morciglio, Director/Ext. & Commun. Educ. Funds Requested: $320,000. Total Project Cost: $640,000. To extend distance learning by purchasing video classroom equipment for the College's campus and four area school districts.

File No. 98099CRTB Northern Michigan University, WNMU–TV & WNMU–FM Learning Resources Division Elizabeth Harden Drive Marquette, MI 49855. Contact: Mr. Scott Seaman, General Manager. Funds Requested: $65,150. Total Project Cost: $130,300. To replace production equipment for the applicant's television and radio facilities.

File No. 98047ICTN R.E.M.C. #10, Thumb Area Television (TATV) 4415 S. Seeger Street Cass City, MI 48726. Contact: Mr. Timothy von Hoff, Director. Funds Requested: $215,471. Total Project Cost: $391,756. To purchase a video bridge and to install video classrooms in two hospitals in rural areas of "The Thumb" section of eastern Michigan.

File No. 98149ICTN St. Clair County ISD, 499 Range Road P.O. Box 5001 Port Huron, MI 48061–5001. Contact: Ms. Cynthia Banach, Assistant Superintendent. Funds Requested: $438,340. Total Project Cost: $875,380. To establish a distance learning system via video classrooms in nine high schools and five additional sites.

File No. 98057CRB University of Michigan, WUOM (FM) 5000 LSA Building 500 South State Street Ann Arbor, MI 48109–1382. Contact: Mr. Donovan Reynolds, Director of Broadcasting. Funds Requested: $206,136. Total Project Cost: $412,272. To replace production equipment, including mixers, digital work stations, and routing switchers

Minnesota

File No. 98146CRB Mankato State University, KMSU (FM) 1536 Warren Street MSU 153/P.O. Box 8400 Mankato, MN 56002. Contact: Ms. Marilee Rickard, Station Manager. Funds Requested: $27,170. Total Project Cost: $54,341. To replace the transmitter.

File No. 98227CRB Minnesota Public Radio, KCCM 45 East 7th Street Saint Paul, MN 55101. Contact: Mr. Ron Hall, Research Assistant. Funds Requested: $244,470. Total Project Cost: $488,940. To replace a transmitter at station KCCM, 91.1 MHz, Moorehead, MN, and replace production equipment at network headquarters, including production equipment used for national productions.

File No. 98007CTB Northern Minnesota PTV, KAWE (TV) BSU, Box 9 1500 Birchmont Drive, N.E. Bemidji, MN 56601–2699. Contact: Mr. William Sanford, Director of Engineering. Funds Requested: $498,375. Total Project Cost: $664,500. To replace a transmitter and associated equipment items.

File No. 98131CTB Pioneer Public Television, 120 West Schlieman Appleton, MN 56208. Contact: Mr. Ansel Doll, General Manager. Funds Requested: $210,450. Total Project Cost: $420,900. To equip a remote production van at KWCM, ch. 10, Appleton, MN.

File No. 98008CRB Saint Cloud State University, KVSC Stewart Hall #27, 720 4th Ave. South St. Cloud, MN 56301. Contact: Mr. Richard Hill, General Manager. Funds Requested: $6,221. Total Project Cost: $12,443. To purchase a satellite downlink.

File No. 98054CTB Twin Cities Public Television, KTCA 172 East 4th Street Saint Paul, MN 55101. Contact: Mr. Daniel Thomas, VP Operations. Funds Requested: $1,439,600. Total Project Cost: $2,879,200. To convert public television station KTCA, ch. 2, St. Paul, MN, to digital broadcasting on channel 34.

File No. 98051CRB University of Minnesota-Duluth, KUMD (FM) 130 Humanities Building 10 University Drive Duluth, MN 55812. Contact: Mr. Paul Schmitz, Station Manager. Funds Requested: $31,773. Total Project Cost: $63,547. To replace and upgrade an audio hard disk and production equipment.

Mississippi

File No. 98001CTB Mississippi Authority For Educational Television, 3825 Ridgewood Road, Jackson, MS, 39211. Contact: Mrs. Willie Tucker, Grants Administrator. Funds Requested: $1,043,392. Total Project Cost: $2,086,785. To purchase a tall tower as well as an antenna, a transmission line, and emergency auxiliary transmission equipment for public television station WMPN, Ch. 29, Jackson, MS. These purchases were made necessary on an emergency basis by the October 23, 1997 collapse of the tower on which WMPN–TV's antenna was located.

Missouri

File No. 98183CRB Double Helix Corporation, KDHX (FM) 3504 Magnolia Ave. St. Louis, MO 63118. Contact: Ms. Beverly Hacker, Interim Station Manager. Funds Requested: $55,717. Total Project Cost: $74,290. To replace a transmitter.

File No. 98174CRB 97114 New Wave Corporation, KOPN (FM) 915 East Broadway Columbia, MO 65201. Contact: Mr. Steve Spencer, General Manager. Funds Requested: $65,686. Total Project Cost: $131,373. To replace the transmitter, STL, and production equipment.

File No. 98145CTB Public Television 19, Inc., KCPT 125 East 31st Street Kansas City, MO 64108. Contact: Ms. Brenda Williams, Grant Coordinator. Funds Requested: $271,225. Total Project Cost: $542,450. To replace master control equipment..

File No. 98220CRB Southeast Missouri State University, KRCU/ Southeast Public Radio One University Plaza Cape Girardeau, MO 63701. Contact: Mr. Greg Petrowich, General Manager. Funds Requested: $141,495. Total Project Cost: $188,661. To activate a repeater station on 88.7 MHz in Poplar Bluff, MO.

File No. 98219CRB Southeast Missouri State University, KRCU/ Southeast Public Radio One University Plaza Cape Girardeau, MO 63701–4799. Contact: Mr. Greg Petrowich, General Manager. Funds Requested: $238,403. Total Project Cost: $317,871. To activate a repeater station on 88.9 MHz in Farmington, MO.

File No. 98064CRB University of Missouri-St. Louis, KWMU 8001 Natural Bridge Road St. Louis, MO 63121–4499. Contact: Ms. Patricia Bennett, Director & General Manager. Funds Requested: $31,640. Total Project Cost: $63,280. To replace production equipment in the station's news booth, including audio consoles, DAT recorders, cassette recorders, CD players, telephone hybrids, microphones, and appropriate cabinetry.

File No. 98181ICTN University of Missouri-St. Louis, Instructional Technology Center 113 Lucas Hall 8001 Natural Bridge St. Louis, MO 63121. Contact: Mrs. Jahna Kahrhoff, Asst. Dir/

Instr. Tech. Center. Funds Requested: $89,985. Total Project Cost: $179,970. To interconnect the applicant's St. Louis EdNet distance learning network with the Mid-America Aquacenter, the St. Louis Science Center, and the St. Louis Symphony.

Montana

File No. 98015CTB Montana State University-Bozeman, College Of Arts & Architecture P.O. Box 173340 172 Visual Communications Building Bozeman, MT 59717. Contact: Mr. Jack Hyyppa, Station Manager. Funds Requested: $364,760. Total Project Cost: $729,520. To replace studio cameras, and other production equipment.

File No. 98204PRB Northern Cheyenne Tribe, Box 140 Lame Deer, MT 59043. Contact: Mr. John Grinsell, Tribal Council Member. Funds Requested: $48,282. Total Project Cost: $55,479. To plan for the first public radio station to serve the Northern Cheyenne Reservation.

North Carolina

File No. 98038CTB Charlotte-Mecklenburg Pub Brdctg, WTVI–TV 3242 Commonwealth Avenue Charlotte, NC 28205. Contact: Mr. Harold Bouton, President & CEO. Funds Requested: $52,846. Total Project Cost: $105,692. To purchase a digital video server to replace videotape machines.

File No. 98147CRB Friends Of Public Radio, Inc., WHQR–FM 254 North Front Street Wilmington, NC 28401. Contact: Mr. Daniel Campbell, Gen. Mgr. Funds Requested: $127,500. Total Project Cost: $170,000. To increase the station's power, increase the antenna height and use a directional antenna to provide first public radio service to about 69,000 people.

File No. 98139CTB 97164, 96231 University of North Carolina Ctr. for Public TV, 10 TW Alexander Drive Research Triangle Park, NC 27709. Contact: Ms. Meg Lu, Director of Administration. Funds Requested: $1,574,523. Total Project Cost: $4,890,000. To replace transmission equipment and construct a taller tower at WUND–TV, Channel 2, in Columbia, thereby extending coverage area to the state's northeast region.

File No. 98231CRB University Of North Carolina, WUNC Radio CB#0915 Room 105 Swain Hall Cameron Avenue Chapel Hill, NC 27599–9015. Contact: Mr. Thomas Davis, General Manager. Funds Requested: $453,375. Total Project Cost: $604,500. To extend public radio service to the Outer Banks area of North Carolina by constructing an FM station with a local studio in Manteo, operating on 88.9 MHz; and translator stations in Buxton, operating on 91.1 MHz and in Waves, operating on 90.1 MHz.

North Dakota

File No. 98215CTB., Prairie Public Broadcasting, Inc., 207 North 5th Street P.O. Box 3240, Fargo, ND 58102. Contact: Ms. Kathleen Pavelko, President & CEO. Funds Requested: $1,126,619. Total Project Cost: $1,502,159. To construct a new digital public television station, Ch. 22, in Bismarck.

File No. 98214CTB Prairie Public Broadcasting, Inc., 207 North 5th Street, P.O. Box 3240, Fargo, ND 58102. Contact: Ms. Kathleen Pavelko, President & CEO. Funds Requested: $32,535. Total Project Cost: $43,380. To replace an audio-video switcher.

Nebraska

File No. 98093CTN ADEC Corporation, C218 Animal Science Building, University of Nebraska-Lincoln, Lincoln, NE 68583. Contact: Dr. Janet Poley, President/CEO. Funds Requested: $278,800. Total Project Cost: $557,600. To expand services by purchasing a multi-channel digital encoder for A*DEC's satellite hub at Colorado State University in Ft. Collins, CO and a single channel digital encoder for Penn State University's satellite uplink in State College, PA.

File No. 98087ICTN Little Priest Tribal College, Box 270, Winnebago, NE 68071. Contact: Mr. Ben Kitto, VP Academic Services. Funds Requested: $142,839. Total Project Cost: $192,310. To construct a VSAT satellite facility for distance learning services to the Winnebago Indian Reservation and to exchange programing with other tribal colleges affiliated with the American Indian Higher Education Consortium.

File No. 98230PTB Nebraska Educ. T/C Commission, 1800 N 33 Street, P.O. Box 83111, Lincoln, NE 68501–3111. Contact: Mr. Rod Bates, Secretary. Funds Requested: $150,000. Total Project Cost: $300,000. To plan the conversion of the state's public television network to digital television (DTV).

File No. 98210CRB Nebraska Educational T/C Commission, 1800 N 33 Street, P.O. Box 83001, Lincoln, NE 68501. Contact: Mr. Rod Bates, Secretary. Funds Requested: $62,728. Total Project Cost: $125,456. To replace transmission system, change frequency to 91.1 MHz and re-orient the antenna of KUCV–FM in Lincoln in order to improve coverage to about 70,000 people.

File No. 98221CTB Nebraska Educational T/C Commission, 1800 N. 33 Street, P.O. Box 83111, Lincoln, NE 685013111. Contact: Mr. Rod Bates, Secretary. Funds Requested: $714,122. Total Project Cost: $1,428,245. To replace the transmitter at KXNE–TV, Norfolk and acquire a Hard Disk Server System, a master control switcher, a non-linear edit system, four studio camera pedestals and studio lighting system for the Network Operations Center.

File No. 98011CRB Univ. of Nebraska at Omaha, KVNO, 60th & Dodge Street Engineering Bldg. #200, Omaha, NE 68182. Contact: Ms Debra Aliano, General Manager. Funds Requested: $40,000. Total Project Cost: $83,000. To replace transmitter, antenna, line and associated equipment.

File No. 98009CTB Univ. of Nebraska at Omaha, UNO, 60th & Dodge Street Engineering Bldg. #200, Omaha, NE 68182. Contact: Ms. Debra Aliano, General Manager. Funds Requested: $42,480. Total Project Cost: $88,500. To acquire a master control switching system for KYNE–TV.

New Hampshire

File No. 98002CTB University of New Hampshire, New Hampshire Public Television, 268 Mast Road Durham, NH 03824. Contact: Mr. Robert Ross, Director of Engineering. Funds Requested: $187,500. Total Project Cost: $375,000. To replace video tape recorders, ENG equipment and test equipment with digital units at WENH–TV, Durham.

New Jersey

File No. 98059CRB 97136 Burlington County College, County Route 530, Pemberton-Browns Mills Road, Pemberton, NJ 08068. Contact: Mr. Drew Jacobs, Program Operations Manager. Funds Requested: $29,753. Total Project Cost: $59,507. To extend the service of WBZC–FM, by activating two translators, one in Burlington/Beverly, operating on 95.1 MHz, and one in Palmyra/Riverton, operating on 107.5 MHz.

File No. 98136CRB New Jersey Public Broadcasting Auth, 25 South Stockton Street, P.O. Box 777, Trenton, NJ 08625. Contact: Mr. William Schnorbus, Assistant Director of Engineer. Funds Requested: $114,787. Total Project Cost: $153,050. To construct repeater FM transmitters WNJM(FM), 88.9 MHz, in Manahawkin and WNJZ(FM), 90.3 MHz.,in Cape May Courthouse.

File No. 98068CTB Thomas Edison State College, NJ Library For The Blind, 2300 Stuyvesant Avenue Trenton, NJ 08618. Contact: Ms. Donna Bensen, Director, Audiovision. Funds Requested: $53,750. Total Project Cost:

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$135,020. To expand the Audiovision reading service for the visually impaired and the illiterate. The project will fund satellite receive and production equipment and will provide for the purchase of 500 SAP receivers. The reading service will be carried on the audio channels of NJ Public Broadcasting Authority's WNJT, Trenton and WNJS, Camden.

New Mexico

File No. 98243CRB Eastern New Mexico University, KENW–FM Station 52 Portales, NM 88130. Contact: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: $22,175. Total Project Cost: $32,900. To construct new translators at Fort Sumner (91.7 MHz) and Conchas Lake (88.3 MHz).

File No. 98052CTB Eastern New Mexico University, KENW–TV Station 52 Portales, NM 88130. Contact: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: $178,500. Total Project Cost: $357,000. To replace three studio cameras and related equipment.

File No. 98101CTB New Mexico State University, KRWG–TV, Room 100 Milton Hall Jordan Street, NMSU Las Cruces, NM 88003. Contact: Mr. Ronald Salak, General Manager. Funds Requested: $474,430. Total Project Cost: $948,860. To replace five TV translators in Cliff/Gilla, Ch.2, Hillsboro, Ch. 13, Lordsboro, Ch. 2, Hatch, Ch. 65, and Truth or Consequences, Ch. 59. The project will also replace a studio-to-transmitter link, and obsolete production, master control and test equipment.

File No. 98236CRB Self Reliance Foundation, 121 Sandoval Street, 3rd Floor, Santa Fe, NM 87501. Contact: Mr. Roberto Salazar, Chief of Staff. Funds Requested: $398,000. Total Project Cost: $798,600. To equip fifty affiliated Spanish-language stations in the United States with satellite downlinks.

File No. 98132CTB University of New Mexico, KNME–TV, 1130 University Blvd. NE, Albuquerque, NM 87102. Contact: Mr. Jon Cooper, General Manager. Funds Requested: $150,000. Total Project Cost: $300,000. To replace record playback videotape system with a video file server.

File No. 98110CTB University of New Mexico, KNME–TV, 1130 University Blvd. NE, Albuquerque, NM 87102. Contact: Mr. Jon Cooper, General Manager. Funds Requested: $102,375. Total Project Cost: $188,800. To replace 8 TV translators at Sunetha, CO, Pagosa Springs, CO, Mora, NM, Carrizozo, NM, Capulin/Des Moines, NM, Eagle Nest, NM, Gallina, NM, and Noolan/Wooton, NM.

File No. 98206PTB University of New Mexico, KNME–TV, 1130 University Boulevard NE, Albuquerque, NM 87102. Contact: Mr. Jon Cooper, General Manager. Funds Requested: $130,000. Total Project Cost: $237,868. To plan for the conversion to digital broadcasting of KNME–TV, Albuquerque; KENW–TV, Portales and KRWG–TV, Las Cruces.

Nevada

File No. 98063ICTBN Clark County School District, Station KLVX–TV, 4210 Channel 10 Drive, Las Vegas, NV 89119. Contact: Mr. Thomas Axtell, General Manager. Funds Requested: $432,500. Total Project Cost: $666,028. To add four channels to its present eight-channel ITFS system. The project would also replace camera pedestals, heads, and color monitors for the station's broadcast operation.

File No. 98237CRB Nevada Public Radio Corporation, KNPR–FM, 5151 Boulder Highway, Las Vegas, NV 89122. Contact: Mr. Lamar Marchese, Pres./ Gen. Mgr. Funds Requested: $157,188. Total Project Cost: $209,585. To construct a new station in Lund, 88.7 MHz, which will repeat KNPR–FM but will have local origination capacity and an FM translator in Ely, 89.5 MHz.

File No. 98194CRB Shoshone-Paiute Tribes/Duck Valley, P.O. Box 219, Idaho/Nevada, Highway #51, Owyhee, NV 89832. Contact: Mr. Herman Atkins, Tribal Administrator. Funds Requested: $311,426. Total Project Cost: $415,235. To activate a new noncommercial FM radio station on 88.3 MHz, in Owyhee. The station will carry the signal of KNBA–FM, Anchorage, Alaska (provided by satellite) and will have 4 hours/day of local programming.

File No. 98013CRB University of Nevada, Reno, Mail Stop 294, Reno, NV 89557. Contact: Ms. Mary Husemoller, Director of Sponsored Projects. Funds Requested: $72,339. Total Project Cost: $96,452. To construct FM translators operating on 90.7 MHz in Ely, NV, 88.3 MHz, in Lund, NV, 88.3 MHz in Cedarville, CA, and 89.5 MHz in Quincy, CA and relocate existing FM translator K210AK from Incline Village, NV to Tahoe City, CA. The translators will rebroadcast programming from KUNR(FM).

New York

File No. 98022CTB Long Island Educational TV Council, WLIW–21, Channel 21 Drive, Plainview, NY 11803. Contact: Mr. Terrel Cass, President & General Manager. Funds Requested: $415,127. Total Project Cost: $830,255. To replace the transmitter and associated testing equipment.

File No. 98201CTB Mountain Lake Public T/C Council, One Sesame Street, Plattsburgh, NY 12901. Contact: Mr. Howard Lowe, President and General Manager. Funds Requested: $142,188. Total Project Cost: $189,585. To replace a transmitter remote control system, and 10 videotape machines with digital units.

File No. 98042CRB Niagara Frontier Radio Readg Servic, 15 Industrial Parkway, Cheektowaga, NY 14227. Contact: Mr. Robert Sikorski, President. Funds Requested: $50,032. Total Project Cost: $100,065. To replace studio equipment, including a control console, tape decks and CD players and purchase 350 SCA and TV SAP radio reading receivers.

File No. 98100CRB Northeast Public Radio, WAMC, 318 Central Avenue, Albany, NY 122062522. Contact: Mr. David Galletly, Assistant Executive Director. Funds Requested: $94,852. Total Project Cost: $189,705. To replace production and master control equipment, including a digital hard-drive system, cassette decks, cart machines and a work station.

File No. 98118ICTN Oswego County BOCES, 179 County Route 64, Mexico, NY 13114. Contact: Mr. Frank House, Ex. Dir./ Instr Support Srvs. Funds Requested: $513,900. Total Project Cost: $685,200. To install video classrooms at 12 sites located throughout Oswego and Fulton Counties.

File No. 98026CTB Pub Bdcstg Council of Central NY, 506 Old Liverpool Road P.O. Box 2400, Syracuse, NY 13220. Contact: Mr. John Duffy, Chief Engineer. Funds Requested: $75,000. Total Project Cost: $150,000. To replace a video server.

File No. 98079CTB St. Lawrence Valley, Ed. TV Council, 1056 Arsenal Street, Watertown, NY 13601. Contact: Mr. Thomas Hanley, President and General Manager. Funds Requested: $54,950. Total Project Cost: $109,900. To replace four 1-inch VTR's with digital units.

File No. 98112CRB The Pacifica Foundation, WBAI Radio, 505 Eighth Avenue 19th Floor, New York City, NY 10018. Contact: Ms. Valerie van Isler, Station Manager. Funds Requested: $71,975. Total Project Cost: $143,949. To replace a mixing console, digital cart system, DAT recorders, router/switcher, CD players and a digital audio work station.

File No. 98190CTB WMHT Educational Telecommunications, P.O Box 17 17 Fern Avenue Schenectady, NY 12301. Contact: Ms. Elizabeth Hood, Director of Administration. Funds Requested: $381,600. Total Project Cost:

$763,200. To construct a Ku-band digital satellite uplink.

File No. 98189CRB WMHT Educational Telecommunications, P.O. Box 17, 17 Fern Avenue Schenectady, NY 12301. Contact: Ms. Elizabeth Hood, Director of Administration. Funds Requested: $53,875. Total Project Cost: $107,750. To replace audio record/play equipment with an audio server system to be used by WMHT–FM and by RISE, the station's radio reading service.

File No. 98155CRB WNYC Radio, WNYC AM 820 and 93.9 FM, One Centre Street, 24th Floor New York, NY 10007. Contact: Mr. Ken Dinitz, Manager For External Relations. Funds Requested: $75,349. Total Project Cost: $150,698. To replace analog cart machines with a hard-drive based digital audio system.

File No. 98153CTB WXXI Public Broadcasting Council, WXXI–TV 280 State Street Rochester, NY 14614. Contact: Mr. Norm Silverstein, President & CEO. Funds Requested: $200,000. Total Project Cost: $400,000. To replace master control equipment by purchasing a digital routing switcher, a video server and a transmitter remote control system.

Ohio

File No. 98123CTB Bowling Green State University, WBGU–TV 245 Troup St. Bowling Green, OH 43403. Contact: Mr. Patrick Fitzgerald, General Manager. Funds Requested: $243,446. Total Project Cost: $486,893. To replace three cameras and associated equipment.

File No. 98037CRB Cincinnati Classical Public Radio, 1223 Central Parkway Cincinnati, OH 45214. Contact: Ms. Cathy Beltz-Williams, Business Manager. Funds Requested: $10,480. Total Project Cost: $20,960. To replace the stations fiber optic STL with a wireless system.

File No. 98036CRB Cincinnati Classical Public Radio, 1223 Central Parkway Cincinnati, OH 45214–2889. Contact: Ms. Cathy Beltz-Williams, Business Manager. Funds Requested: $13,050. Total Project Cost: $26,100. To replace selected items of master control equipment, including patchbays and an audio routing system.

File No. 98035CRB Cincinnati Classical Public Radio, WGUC (FM) 1223 Central Parkway Cincinnati, OH 45214–2889. Contact: Ms. Cathy Beltz-Williams, Business Manager. Funds Requested: $35,981. Total Project Cost: $71,963. To replace a transmitter and support equipment.

File No. 98163CTN Columbus Community Cable Access, Inc. 394 Oak Street, Columbus, OH 43215. Contact: Ms. Patricia N. Williamsen, Executive Director. Funds Requested: $51,180. Total Project Cost: $102,360. To replace cameras at a cable access facility.

File No. 98069CTB ETV Assn of Metropolitan Cleveland, WVIZ 4300 Brookpark Rd., Cleveland, OH 44134. Contact: Mr. Jerry Wareham, President/CEO. Funds Requested: $477,280. Total Project Cost: $1,193,200. To replace studio and field cameras and an off-line editing system.

File No. 98182CTB Greater Dayton Public Television, WPTD 110 South Jefferson Street Dayton, OH 45402–2415. Contact: Mr. David Fogarty, President and General Manager. Funds Requested: $358,363. Total Project Cost: $716,727. To replace three camera systems, a routing switcher, a character generator, and a hard disk video server system.

File No. 98115CRB Miami University, WMUB Williams Hall— Second Floor, Spring and Oak Streets Oxford, OH 45056. Contact: Dr. Cleve Callison, General Manager. Funds Requested: $51,800. Total Project Cost: $103,600. To replace an STL and purchase a networked hard disc audio recording and editing system, an audio console, CL players, and microphone processors.

File No. 98211CTB NE Educational Television of Ohio, WNEO/WEAO 1750 Campus Center Drive Kent, OH 44240. Contact: Mr. William Glaeser, President and General Mgr. Funds Requested: $435,549. Total Project Cost: $871,099. To replace a transmitter, remote control, and monitoring equipment.

File No. 98213CTB Ohio State University, WOSU Stations 2400 Olentangy River Road Columbus, OH 43210. Contact: Mr. Thomas Lahr, Engineering Manager. Funds Requested: $68,073. Total Project Cost: $136,146. To replace a video switcher and video tape machines and acquire a small automation system.

File No. 98229CRB Ohio State University, WOSU Stations 2400 Olentangy River Road Columbus, OH 43210. Contact: Mr. Sam Eiler, Radio Station Manager. Funds Requested: $37,950. Total Project Cost: $75,900. To replace an audio console and associated equipment and the remote control and antenna monitor to improve WOSU–AM's nighttime signal.

File No. 98014CTB Ohio University, WOUB–TV Telecommunication Center 9 South College Street Athens, OH 45701. Contact: Mr. Paul Witkowski, Associate Director. Funds Requested: $257,400. Total Project Cost: $514,800. To replace video recording, playback, and storage systems, and acquire test equipment.

File No. 98089CTB Public Bdcstng Fndn of NW Ohio, WGTE–TV 136 Huron Street Toledo, OH 43604. Contact: Mr. Daniel Niedzwiecki, Director Of Engineering. Funds Requested: $90,000. Total Project Cost: $180,000. To replace a studio lighting system and microwave relay system that connects the station's satellite receiving dish with its studio facilities.

File No. 98088CRB Public Bdcstng Fndn of NW Ohio, WGTE–FM 136 Huron Street Toledo, OH 43604. Contact: Mr. Daniel Niedzwiecki, Director of Engineering. Funds Requested: $85,000. Total Project Cost: $170,000. To activate a repeater on 91.9 MHz in Defiance, OH.

File No. 98039CRB Xavier University, WVXU 3800 Victory Parkway Cincinnati, OH 45207. Contact: Dr. James King, Executive Director/GM. Funds Requested: $99,555. Total Project Cost: $132,740. To replace the tower, antenna, and transmission line of WMLQ, 96.7 MHz, Rogers City, MI, which is licensed to WVXU and repeats *is* programming.

Oklahoma

File No. 98121CTB Oklahoma Educational TV Authority, 7403 North Kelley Avenue Post Office Box 14190 Oklahoma City, OK 73113. Contact: Mr. Malcolm Wall, Assoc. Executive Director. Funds Requested: $452,833. Total Project Cost: $905,666. To replace 700 miles of microwave interconnection with a digital Ku-band satellite delivery system to provide dual channel service to the 4 full-power stations and 15 translator stations in the state system.

File No. 98081ICTN Oklahoma State University, Educational Television Services 100 Telecommunications Center, Stillwater, OK 74078. Contact: Dr. Glade Presnal, Senior Project Manager. Funds Requested: $234,481. Total Project Cost: $468,962. To install a video bridge and video server on the main campus of Oklahoma State University, Stillwater to support additional course offerings via compressed video and the Internet.

File No. 98157PRB University of Oklahoma, KGOU Radio 780 Van Vleet Oval Norman, OK 73019. Contact: Ms. Karen Holp, General Manager. Funds Requested: $9,800. Total Project Cost: $13,291. To plan for a new public radio station which will provide first service to western Oklahoma.

Oregon

File No. 98185PTN Oregon ED–NET, 6720 SW Macadam Ave., Suite 290 Portland, OR 97219. Contact: Ms. Andrea LaFayette, Client Communications. Funds Requested: $74,870. Total Project Cost: $251,559. To digitize an uplink at Eastern Oregon University, La Grande, OR, purchase 56

digital receivers, and fund network control equipment in Portland which will extend ED–NET services to eastern Oregon.

File No. 98207CTB Oregon Public Broadcasting, 7140 SW Macadam Avenue Portland, OR 97219. Contact: Ms. Deborah Hinton, Sr. Vice President. Funds Requested: $499,750. Total Project Cost: $999,500. To improve the facilities of KOPB–TV, Portland, by purchasing a video server, digital routing switcher, 4 channel SDTV encoder and automation system.

File No. 98102CTB Southern Oregon Public Television, 34 South Fir Street Medford, OR 97501. Contact: Mr. William Campbell, President/CEO. Funds Requested: $313,755. Total Project Cost: $627,510. To upgrade master control through the installation of an automation/video server system and new character generator.

File No. 98044CRB Tillicum Foundation, KMUN–FM P.O. Box 269 1445 Exchange Astoria, OR 97103. Contact: Mr. Charles Sweet, Station Manager. Funds Requested: $84,918. Total Project Cost: $113,224. To replace the station's transmitter, antenna, studio-transmitter link, audio consoles, and routing switcher.

Pennsylvania

File No. 98086ICTN Crawford Co. Development Corp., 18257 Industrial Drive Meadville, PA 16335. Contact: Mrs. Maryann Martin, Director, Grant Administration. Funds Requested: $200,000. Total Project Cost: $423,339. To establish a distance learning system.

File No. 98108CRB Duquesne University, WDUQ (FM) Duquesne University Pittsburgh, PA 15282. Contact: Mr. Scott Hanley, Director/ General Manager. Funds Requested: $105,292. Total Project Cost: $215,292. To replace the station's transmitter.

File No. 98067CTB Independence Public Media, WYBE–TV 6070 Ridge Avenue Philadelphia, PA 19128. Contact: Ms. Sherri Culver, General Manager. Funds Requested: $467,400. Total Project Cost: $623,200. To replace videotape recorders, video switchers and a character generator.

File No. 98049CTB Penn State, WPSX (TV) 102 Wagner Building University Park, PA 168023899. Contact: Mr. Mark Erstling, General Manager. Funds Requested: $44,111. Total Project Cost: $88,223. To replace four 1" videotape recorders with digital recorders.

File No. 98197CTB WITF, Inc., Station WITF–TV 1982 Locust Lane P.O. Box 2954 Harrisburg, PA 17105. Contact: Mr. Gregory Poland, Sr. VP & CFO. Funds Requested: $1,235,992. Total Project Cost: $1,647,990. To purchase transmission, studio, local insertion, and test equipment that would allow the station to commence digital television operations.

File No. 98048CTB WQED Pittsburgh, WQED–TV 4802 Fifth Avenue Pittsburgh, PA 15213. Contact: Mr. Jeffrey Rutkowski, Director of Administration. Funds Requested: $105,998. Total Project Cost: $211,997. To replace 1" videotape recorders with digital recorders, as well as purchase digital camcorders and field audio and lighting packages.

South Dakota

File No. 98151IPTN Black Hills State University, Office of Extended Services 1200 University Spearfish, SD 57799. Contact: Ms. Amy Jennings, Instruct'l Technology Support. Funds Requested: $88,983. Total Project Cost: $127,828. To plan the establishment of a telecommunications infrastructure for the delivery of higher education instruction and services.

File No. 98030ICTN Montrose School District 43–2, 112 Church Street Montrose, SD 57048. Contact: Ms. Connie Colwill, Chief Executive Officer. Funds Requested: $663,295. Total Project Cost: $1,149,745. To purchase a Multipoint Control Unit and a CODEC to interconnect 10 high schools in eastern South Dakota and the Earth Resources Observations Systems, a unit of the U.S. Geological Survey, Sioux Falls.

File No. 98200CRB Sisseton Wahpeton Community College, Agency Village, Box 689 Sisseton, SD 57262–0689. Contact: Mr. Elden Lawrence, President. Funds Requested: $57,112. Total Project Cost: $76,150. To locate a tower on a higher, more advantageous site.

Tennessee

File No. 98094CTB East Tennessee Public Communications, WSJK–TV 1611 E. Magnolia Ave. Knoxville, TN 37917. Contact: Mr. Jim Tindell, President/CEO. Funds Requested: $54,734. Total Project Cost: $109,468. To replace a transmitter remote control system, parallel transmitter exciter system and a power amplifier refurbishment kit.

File No. 98164PRB Fisk University, WFSK/Humanities And Fine Arts 1000 17th Avenue North Nashville, TN 37208. Contact: Mrs. Delores London, Director, Budgets & Grants. Funds Requested: $20,973. Total Project Cost: $26,198. To plan for the use of commercial quality high technology and more efficient methods of programming and marketing.

File No. 98235ICTN Memphis City Schools, 2597 Avery Avenue, Room 208 Memphis, TN 38112. Contact: Ms. Mary Korff, Interim Grant Writer. Funds Requested: $600,000. Total Project Cost: $1,353,356. To establish a distance learning system for the City of Memphis, TN, by interconnecting seven elementary schools. The system would use ATM/AMX technology.

File No. 98169CRB 97072, 96120 Memphis/Shelby Cty Public Library, WYPL–FM 1850 Peabody Avenue Memphis, TN 38104. Contact: Mr. Steven Terry, General Manager/CE. Funds Requested: $160,717. Total Project Cost: $401,792. To extend the signal of public radio station WYPL–FM, by relocating the transmitter and increasing the station's power.

File No. 98137CTB Mid-South Pub. Comm. Fdtn., WKNO–TV 900 Getwell Road Memphis, TN 38111. Contact: Mr. Michael LaBonia, President & CEO. Funds Requested: $301,880. Total Project Cost: $603,760. To replace three studio cameras with digital cameras.

File No. 98168CRB University of Tennessee/Chattanooga, WUTC–FM 104 Cadek Hall 615 McCallie Avenue Chattanooga, TN 37343. Contact: Dr. John McCormack, Director. Funds Requested: $14,342. Total Project Cost: $28,685. To purchase a propane backup electric generator.

Texas

File No. 98033CTB Alamo Public T/C Council, KLRN 501 Broadway San Antonio, TX 78215. Contact: Mr. Charles Vaughn, Sr. VP Telecommunications. Funds Requested: $88,555. Total Project Cost: $177,111. To replace video monitors and two field production cameras and related equipment.

File No. 98004CTB Capital of Texas Public T/C Council, KLRU–TV 2504–B Whitis Street Austin, TX 78705. Contact: Mr. Bill Arhos, President. Funds Requested: $397,567. Total Project Cost: $795,135. To replace origination equipment with a digital video routing/master control switcher and associated equipment and two digital portable/studio cameras.

File No. 98170CTB Central Texas College, 6200 W. Central Texas Expressway Killeen, TX 76542. Contact: Mr. L. Max Rudolph, General Manager. Funds Requested: $476,250. Total Project Cost: $635,000. To replace analog video tape machines and tube-type studio cameras at KNCT with 3 digital cameras, triax cable, digital video recording equipment and other related origination equipment.

File No. 98198CTB North Texas Public Broadcasting, 3000 Harry Hines

Boulevard Dallas, TX 75201. Contact: Ms. Cheryl Craigie, President & CEO. Funds Requested: $497,333. Total Project Cost: $994,666. To permit KETA–TV to remain on its existing tower through the sharing of the cost of a new digital television (DTV) antenna with a commercial broadcaster.

File No. 98161CRB Texas Southern University, KTSU–FM 3100 Cleburne Avenue Houston, TX 77004. Contact: Mr. George Thomas, Station Manager. Funds Requested: $25,107. Total Project Cost: $33,476. To replace the station's antenna, coax line and associated equipment.

File No. 98239ICTN United Star Dist. Learn. Consortium, 3305 N. 3rd., #307 Abilene, TX 79603. Contact: Ms. Glenda Mathis, Executive Director. Funds Requested: $509,929. Total Project Cost: $2,039,717. To expand the StarNet distance learning network via purchase of: digital satellite downlinks for 671 schools in over 40 states; a satellite uplink for Education Service Center Region 20 in San Antonio, TX; digital encoders for Western Illinois University in Macomb, IL, and the Agency for Public Telecommunications in Raleigh, NC.

File No. 98060CRB University of Houston, KUHF–FM Radio 3801 Cullen Blvd. Communications Bldg. Room 101 Houston, TX 77004. Contact: Mr. John Proffitt, General Manager & CEO. Funds Requested: $221,193. Total Project Cost: $442,387. To relocate the station to a different tower because it is being displaced due to the digital television conversion by the commercial licensee who owns the existing tower. Project will acquire a new transmitter, remote control, and related dissemination equipment.

File No. 98192CTB University of Houston, Houston Public Television 4513 Cullen Blvd. Houston, TX 77004. Contact: Mr. Jeff Clarke, CEO & General Manager. Funds Requested: $421,238. Total Project Cost: $1,053,094. To purchase a digital fiber link, digital master control switcher and encoding equipment, 3 digital camera packages, and digital test equipment.

File No. 98196CRB University of Texas at Austin, KUT Radio Communication Building B Austin, TX 78712. Contact: Mr. Dana Whitehair, Manager-Technical Operations. Funds Requested: $38,435. Total Project Cost: $76,870. To purchase an on-air phone system, master clock system, CD players, DAT recorders, desktop digital audio editors, digital audio recorders and other similar origination equipment as well as digital ready unit STL unit.

Utah

File No. 98238CRB Listeners Community Radio of Utah, KRCL–FM 208 West 800 South Salt Lake City, UT 84101. Contact: Mr. John Bortel, Pres. & General Manager. Funds Requested: $203,406. Total Project Cost: $271,209. To replace the station's transmitter, studio-to-transmitter link, a variety of origination equipment and acquire a new satellite dish and a spectrum analyzer.

File No. 98120CRB Utah State University, Utah Public Radio/KUSU–FM 8505 University Blvd. Logan, UT 84322. Contact: Mr. Bryan Earl, Director of Development. Funds Requested: $11,512. Total Project Cost: $15,350. To activate a new translator on 91.5 MHz in Vernal/Uintah.

Virginia

File No. 98065ICTN Franklin County Public Schools, 25 Bernard Road, Rocky Mount, VA 24151. Contact: Dr. Tammy McGraw, Coord. of Instr'l. Technology. Funds Requested: $167,325. Total Project Cost: $223,100. To construct an video classroom to be linked via ATM with Net.Work.Virginia, which links 200 educational institutions across Virginia.

File No. 98191CRB Greater Washington Ed. T/C Assoc., Station WETA–FM 2775 S. Quincy Street Arlington, VA 22206. Contact: Mr. John Hoehn, Chief Engineer. Funds Requested: $359,999. Total Project Cost: $479,999. To activate a repeater station in Leonardtown, Maryland, operating on 91.7 MHz.

File No. 98228CTB Greater Washington Ed. T/C Assoc., Station WETA–TV 2775 S. Quincy Street Arlington, VA 22206. Contact: Mr Lewis Zager, Director, Technical Services. Funds Requested: $468,750. Total Project Cost: $625,000. To purchase two digital encoders, one for the applicant station and one for public television station KCTS, Seattle, WA to conduct diverse tests and planning in the use of multicasted digital signals.

File No. 98218ICTN Old Dominion University, Academic Television Services Room 228 Education Building Norfolk, VA 23529. Contact: Dr. Anne Savage, Assoc. VP for Academic Affairs. Funds Requested: $464,486. Total Project Cost: $928,972. To expand the applicant's distance learning system using ATM and MPEG2 technology to three additional sites in the Hampton Roads Metropolitan area.

Vermont

File No. 98058CTB Vermont ETV, Inc., 88 Ethan Allen Avenue Colchester, VT 05446. Contact: Mr. Wayne Rosberg, Vice President. Funds Requested: $698,886. Total Project Cost: $1,397,774. To replace a statewide microwave system.

File No. 98245CRB Vermont Public Radio, 20 Troy Avenue Colchester, VT 05446. Contact: Ms. Cindy Shuman, Vice-President. Funds Requested: $215,723. Total Project Cost: $431,447. To relocate and replace the transmitter, antenna and STL of WVPS–FM, 107.9 MHz in Colchester. On its present tower, the station cannot meet new FCC Radio Frequency Radiation guidelines.

Washington

File No. 98234CTB 97056 Bates Technical College, 1101 Yakima Avenue South Tacoma, WA 98405. Contact: Ms. Debbie Emond, General Manager. Funds Requested: $437,829. Total Project Cost: $583,773. To activate a full power satellite station of KBTC–TV in Tacoma, in Bellingham, operating on Channel 34.

File No. 98141ICTN City of Tacoma, Communications Division 747 Market Street Tacoma, WA 98402. Contact: Ms. Leslie Rowen, General Services Director. Funds Requested: $1,906,101. Total Project Cost: $3,491,482. To assist the City of Takoma in constructing a fiber-optic infrastructure needed to develop a city-wide Institutional Network (I-Net).

File No. 98078CTB KCTS Television, Channel 9/Channel 41 401 Mercer Street Seattle, WA 98101. Contact: Mr. Burnill Clark, President & CEO. Funds Requested: $1,354,295. Total Project Cost: $2,083,530. To convert KCTS to digital broadcasts by purchasing a DTV transmitter, converting its existing microwave path to digital to carry both the NTSC and DTV feeds to the transmitter; replacing the antenna and the transmission line; purchasing a combiner and splitter with digital capability and purchasing encoders for both SDTV and HDTV.

File No. 98077CRB KSER Foundation, 14920 Highway 99, #150 Lynnwood, WA 98037. Contact: Mr. Edward Bremer, Station Manager. Funds Requested: $52,992. Total Project Cost: $70,657. To relocate the station transmitter and antenna, install an STL, and increase station power from 1000 to 5750 watts.

File No. 98070CRB Northwest Communities' Ed. Center, 121 Sunnyside Avenue P.O. Box 800 Granger, WA 98932. Contact: Mr. Ricardo Garcia, Executive Director. Funds Requested: $38,194. Total Project Cost: $50,925. To replace the station transmitter.

File No. 98180IPTN Northwest Indian College, 2522 Kwina Road Bellingham, WA 98226. Contact: Dr. Robert Lorence,

President. Funds Requested: $74,568. Total Project Cost: $94,132. To conduct a programming and equipment needs analysis centered on the delivery of post-secondary educational services to all interested American Indian Reservations in Washington, Oregon, Idaho and Southeast Alaska.

File No. 98024CRB, 97073 Washington State University, Educational T/C & Technology 382 Murrow Center PO Box 642530 Pullman, WA 991642530. Contact: Mr. Dennis Haarsager, Associate VP & General Manager. Funds Requested: $119,280. Total Project Cost: $159,040. To activate two repeater stations one in Chehalis, operating on 88.9 MHz and one in Mt. Vernon, operating on 91.7 MHz.

File No. 98205PRB Yakama Indian Nation, Economic Development 401 Fort Road Toppenish, WA 98948. Contact: Mr. Lawrence SpottedBird, Economic Development Director. Funds Requested: $60,280. Total Project Cost: $72,669. To plan for the construction of a radio station.

Wisconsin

File No. 98166CRB Backporch Radio Broadcasting, WORT (FM) 118 South Bedford Street Madison, WI 53703. Contact: Ms. Cindy Fesemyer, Business & Fdn. Development. Funds Requested: $25,000. Total Project Cost: $50,759. To replace an analog STL system with a digital system and a remote pick up unit with new equipment.

File No. 98217CRB Educational Communications Board, 3319 West Beltline Highway Madison, WI 53713–4296. Contact: Mr. Thomas Fletemeyer, Executive Director. Funds Requested: $204,188. Total Project Cost: $272,251. To extend Wisconsin Public Radio to Ashland by constructing translators operating on 102.9 MHz and 104.7 MHz. One facility will broadcast programming from the Wisconsin Ideas Network, the other from the NPR News and Classical Music Network. The applicant intends to upgrade both translators to Class A stations in the future.

File No. 98125CTB Milwaukee Area Technical College, WMVS/WMVT 1036 North 8th Street Milwaukee, WI 53233. Contact: Mr. W. Bryce Combs, General Manager. Funds Requested: $788,894. Total Project Cost: $1,577,788. To replace the transmitter, antenna and transmission line.

File No. 98097CTB University of Wisconsin, WHA Television—Green Bay 821 University Avenue Madison, WI 53706. Contact: Mr. Larry Dickerson, Director, Comm & Info Technolo. Funds Requested: $40,450. Total Project Cost: $80,900. To replace VHS editing equipment with digital workstations.

File No. 98175IPTN Wisconsin Educ. Comm. Board, 3319 West Beltline Highway Madison, WI 53713–4296. Contact: Mr. Thomas Fletemeyer, Executive Director. Funds Requested: $55,452. Total Project Cost: $81,366. To plan how best to deliver instructional video programs and segments of programs to classrooms on demand.

West Virginia

File No. 98171ICTN 97047 Bluefield State College, 219 Rock Street Bluefield, WV 24701. Contact: Ms Annette Osborne, Dir./ Instit. Advanc. & Plng. Funds Requested: $153,768. Total Project Cost: $205,025. To purchase video classroom equipment and CODECs to allow the applicant to extend its distance learning system.

File No. 98167CRB Clay County Communications, Ltd., 15 Falling Rock Road Clendenin, WV 25045. Contact: Mr. Delbert Davis, President. Funds Requested: $139,432. Total Project Cost: $185,910. To activate a community radio station in Clendenin, operating on 89.3 MHz.

File No. 98109CTB WV Ed Broadcasting Authority, Station WPBY–TV 600 Capitol Street Charleston, WV 25301. Contact: Mr. Bill Acker, General Manager. Funds Requested: $518,327. Total Project Cost: $1,036,654. To replace a studio lighting system, two production switchers, production character generators, video servers and nonlinear editors at studios in Nitro, Morgantown, Beckley and Huntington.

Pan-Pacific Education and Communications Experiments by Satellite (PEACESAT) applications.

File No. 98244 University of Hawaii, Social Science Research Institute, 2530 Dole St., Honolulu, HI 96822. Contact: Dr. Norman H. Okamura. Funds Requested: $445,745. Total Project Cost: $574,220. To support continued operations of the PEACESAT network headquarters to operate the satellite and provide program service to the 22 Pacific Island nations/entities participating in the PEACESAT Project. The project would also secure use of the GOES–7 satellite to ensure continued satellite services for the next decade.

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

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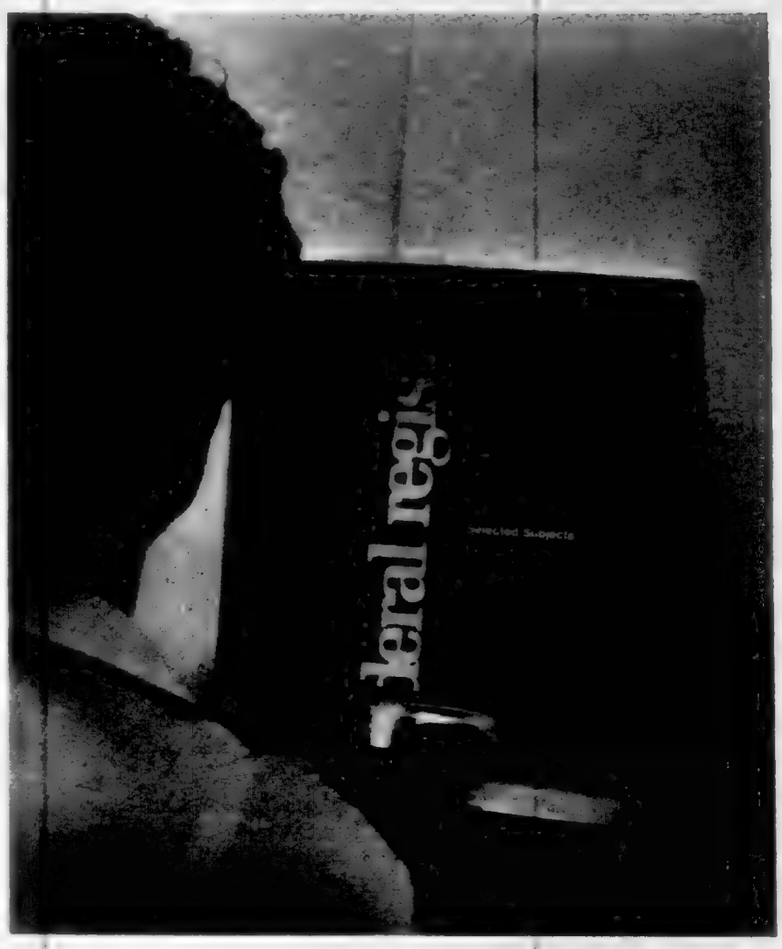
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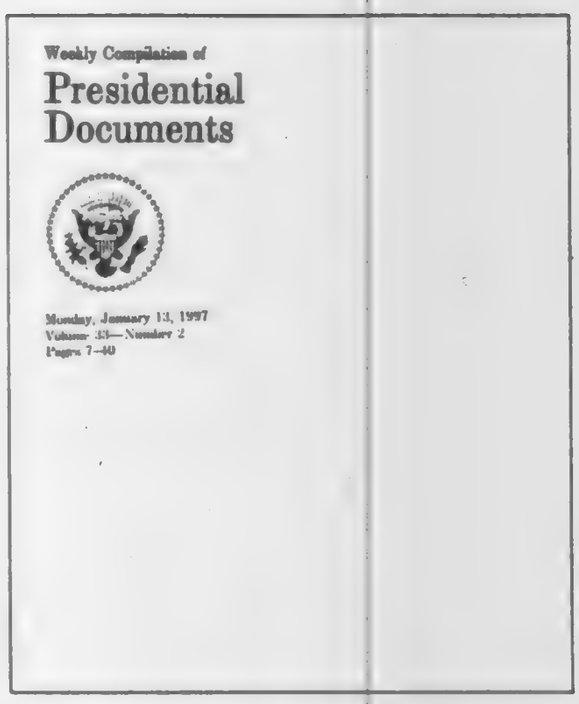
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV98–956–2 FR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Walla Walla Sweet Onion Committee (Committee) under Marketing Order No. 956 for the 1998–99 and subsequent fiscal periods from $0.19 to $0.21 per 50-pound bag or equivalent of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of sweet onions grown in portions of Walla Walla County, Washington, and Umatilla County, Oregon. Authorization to assess Walla Walla sweet onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins June 1 and ends May 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956 (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Walla Walla sweet onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein would be applicable to all assessable sweet onions beginning on June 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.19 to $0.21 per 50-pound bag or equivalent of Walla Walla sweet onions handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members, three handler members and one public member, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on February 17, 1998, and unanimously recommended 1998–99 expenditures of $97,272. In a vote with six favoring, three opposing, and one abstaining, the Committee recommended an assessment rate of $0.21 per 50-pound bag or equivalent of Walla Walla sweet onions handled during the 1998–99 and subsequent fiscal periods. The members opposed believed that the assessment rate should be increased more than $0.02 per 50-pound bag or equivalent, so more funds could be earmarked for promotion and paid advertising. The public member abstained because of his desire to remain neutral on these issues. The Committee estimated that the 1998 sweet onion crop will approximate 463,200 50-pound bags or equivalents of onions. In comparison, the 1997–98 fiscal period budget was established at $126,682 with an estimated assessable sweet onion crop of 667,750 50-pound bags or equivalents. In an effort to partially offset the loss of assessment income due to the more conservative

1998 crop estimate, the Committee recommended the $0.02 increase.

In both the 1996 and 1997 seasons, the actual quantity of assessable sweet onions produced for the fresh market was less than the Committee had estimated for the purpose of establishing the respective budgets. Actual assessment income earned during the 1997–98 fiscal period was approximately $30,000 less than was estimated for the 1997–98 budget, and for the 1996–97 fiscal period, actual assessment income was approximately $26,000 less than was budgeted. For the 1998–99 fiscal period, the Committee made its 1998 assessable crop estimate based on a lower average yield per acre than was used during the past two seasons. Based on a reported 772 acres planted, the Committee is anticipating a 1998 harvest averaging 600 50-pound bags or equivalents per acre. Thus, the 1998–99 fiscal period budget is based on a crop estimate of 463,200 50-pound bags or equivalents of Walla Walla sweet onions.

After much discussion, the major expenditures recommended by the Committee for the 1998–99 fiscal period include $43,890 for administration, $10,000 for production research, $35,890 for market promotion including paid advertising, and $4,500 for marketing order compliance. Budgeted expenses for these items in the 1997–98 fiscal period were $41,700, $15,000, $51,000, and $9,000, respectively.

The Committee based its recommended assessment rate increase on the 1998 crop estimate and its estimate of 1998–99 fiscal period expenditures, including administrative costs and desired research and promotion projects. The Committee also took into consideration the impact an increase in the assessment rate would have on producers and handlers. The increased assessment rate should provide $97,272 in income which would be adequate to cover budgeted expenses. In the event the 1998 assessable sweet onion crop falls short of anticipated yields, the Committee estimates it will have approximately $25,000 in its operating reserve at the beginning of the 1998–99 fiscal period (June 1, 1998), which should be adequate to cover any assessment shortages. This amount is within the maximum permitted by the order of approximately two fiscal period's budgeted expenses (§ 956.44).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 producers of Walla Walla sweet onions in the production area and approximately 35 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Walla Walla sweet onion producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.19 to $0.21 per 50-pound bag or equivalent of Walla Walla sweet onions handled. The Committee unanimously recommended 1998–99 expenditures of $97,272, and, with 6 members favoring, 3 members opposing and 1 member abstaining, recommended the $0.21 per 50-pound bag or equivalent assessment rate. This assessment rate is $0.02 higher than the 1997–98 rate. The Committee recommended an increased assessment rate to help offset the smaller projected crop of assessable sweet onions in 1998. The anticipated crop of 463,200 50-pound bags or equivalents is approximately 30 percent less than each of the 1996 and 1997 crops. The $0.21 rate should provide $97,272 in assessment income and be adequate to meet 1998–99 fiscal period expenses.

The Committee discussed alternatives to this rule, including alternative expenditure and assessment levels. The Committee discussed various alternative expenditure levels for promotion, production research, and marketing order compliance. Further, the Committee discussed various levels of assessment from the 1997–98 rate of $0.19 to as much as $0.25 per 50-pound bag or equivalent of sweet onions. Action was taken by the Committee on a motion to increase the assessment rate by $0.01. The vote failed to carry a majority, however, since a $0.01 increase would not have adequately funded desired expenditures. The members opposed believed that the assessment rate should be increased more than $0.02 per 50-pound bag or equivalent, so more funds could be dedicated to promotion and paid advertising. The public member abstained because of his desire to remain neutral on these issues.

The major expenditures recommended by the Committee for the 1998–99 fiscal period include $43,000 for administration, $10,000 for production research, $35,890 for market promotion including paid advertising, and $4,500 for marketing order compliance. Budgeted expenses for these items in the 1997–98 fiscal period were $41,700, $15,000, $51,000, and $9,000, respectively.

Recent price information indicates that producer prices for all sizes and grades of Walla Walla sweet onions for the 1998 shipping season may range between $4.50 and $12.00 per 50-pound bag or equivalent. Thus, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total producer revenue could range between 0.017 and 0.046 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Walla Walla sweet onion industry and all interested persons were invited to attend the

meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 17, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Walla Walla sweet onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on April 8, 1998 (63 FR 17125). A copy of the proposed rule was also sent via facsimile to the administrative office of the Committee, which in turn notified Committee members and industry members. The proposal was also made available through the Internet by the Government Printing Office.

A 30-day comment period ending May 8, 1998, was provided to allow interested persons the opportunity to respond to the request for information and comments. No comments were received in response to the proposal.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the Committee's 1998–99 fiscal period begins June 1, 1998, and the order requires that the assessment rate apply to all assessable sweet onions handled during that fiscal period; (3) the 1998 sweet onion harvest is expected to begin in early June due to unseasonably warm temperatures experienced in early Spring; (4) handlers are aware of this action which was recommended by the Committee at a public meeting; and (5) a 30-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 956

Sweet onions, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 956 is amended as follows:

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

1. The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 956.202 is revised to read as follows:

§ 956.202 Assessment rate.

On and after June 1, 1998, an assessment rate of $0.21 per 50-pound bag or equivalent is established for Walla Walla Sweet Onions.

Dated: May 21, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–14017 Filed 5–27–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1806, 1910, 1922, 1944, 1951, 1955, 1956, 1965, and 3550

RIN 0575–AB99

Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing (SFH) Programs; Reopening of Comment Period

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Reopening of comment period on interim final rule.

SUMMARY: The Rural Housing Service (RHS) is reopening the comment period on proposed revisions to the Agency's standards for modest housing in the direct Single Family Housing (SFH) program. The Agency published proposed changes to these standards in the **Federal Register** on April 8, 1996 (61 FR 15395), and subsequently published an interim final rule on November 22, 1996 (61 FR 59762). This current action is being taken to solicit additional comments from the public. The intended effect is to ensure that the Agency has regulations in effect which best define modest housing, and provide homeownership opportunities to the maximum number of families within allocated resources.

DATES: Written comments must be received June 29, 1998.

ADDRESSES: Written comments may be submitted, in duplicate, to the Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue, SW, Washington, D.C. 20250–0742. Comments may be submitted via the Internet by addressing them to "comments@rus.usda.gov" and must contain the word "modest" in the subject. All written comments will be available for public inspection at 300 E Street, SW, Third Floor, Washington, D.C. 20546 during normal working hours.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Special Assistant to the Administrator, RHS, U.S. Department of Agriculture, Room 5017–S, Stop 0701, 1400 Independence Avenue, SW, Washington, D.C. 20250–0701, telephone (202) 720–1628.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1996, the Agency published a proposed rule in the **Federal Register** (61 FR 15395) to reinvent and reengineer the direct SFH programs. An interim final rule was subsequently published in the **Federal Register** (61 FR 59762) on November 22, 1996. The interim final rule requested additional comments on four sections of the rule. One of these sections [7 CFR 3550.57(a)] dealt with the Agency's standards for modest housing in the direct SFH program. In brief, the primary factor for determining whether a house is modest is whether the cost is below the section 203(b) maximum loan limits established by the Department of Housing and Urban Development. Use of the section 203(b) limits are not required by statute in the direct SFH program; however, they were adopted by the Agency in 1995 as the primary factor for determining whether a house was modest. Prior to 1995, the Agency used square footage and amenity standards to make such a determination. Different square footage requirements existed for different family sizes, and the regulations contained an extensive list of amenities which were not permitted in houses to be financed by the Agency. These standards were overly cumbersome, especially for

families seeking to purchase an existing home, and did not provide sufficient flexibility. The Agency received tremendous support when the previous standards were eliminated.

As mentioned, the new standards for modest housing became effective in 1995. As the Agency began the process of reinventing and reengineering the program in 1996, we became aware of concerns which impacted our ability to provide financing on modest homes for very-low and low-income families in rural America. For example, in some rural areas, the section 203(b) loan limit is higher than the cost of housing the Agency financed under previous standards. This is evidenced by an increase in the average cost of a house financed by the Agency under the previous standards and the average cost of a house financed under the section 203(b) standards, even when the rise in construction costs is taken into account. This limits our ability to provide the maximum number of homeownership opportunities in rural America within allocated funds. Concomitantly, in other areas of rural America, the section 203(b) limits are too low for the Agency to finance the cost of constructing a modest home. The percentage of newly constructed homes financed by the Agency has dropped significantly since the Agency began utilizing the section 203(b) limits. This severely limits our ability to provide homeownership opportunities for families in many growing rural communities which are in dire need of new housing.

For these reasons, when the Agency published the aforementioned interim final rule comments were solicited on alternative methods the Agency could utilize to ensure that only modest housing was financed. Seven comments were received. None of the commentors wanted the Agency to return to its previous standards and most supported continuing with the section 203(b) limits. No additional criteria were provided by the commentors. In retrospect, the Agency believes that at the time of publication of the interim final rule, most of the commentors were not fully aware of the impact of the use of the 203(b) loan limits in the direct SFH program. The Agency is again seeking recommendations on alternative methods for establishing a standard for modest housing. The Agency is currently considering two options.

The first option being considered is to utilize a multiple of the median income for the area to establish the maximum loan amount. In this manner, the income of the area would assist in determining a typical modest home for the area. RHS is considering establishing a maximum loan amount of 2.5 times the median income for a family of four. For example, if the median income for a family of four was $30,000 in a given county, the maximum loan would be $75,000 ($30,000 times 2.5). For families in excess of four, the loan limit would be 2.5 times the median income for that family size.

The second option being considered is a square footage limitation. The Agency has no intention of reconsidering the previous standards in which amenities were considered and square footage maximums were set by specific family size. The proposed standard is simple and straightforward. The maximum square footage allowable would be 1300 square feet of finished living area. This standard would apply to existing homes and new construction. For family sizes in excess of four, the square footage standard may be increased by 150 square feet for each family member over four. The Agency also proposes to allow the State Director the authority to provide exceptions on a case-by-case basis provided the proposed housing is modest and alternative homes within the square footage standards are not readily available in the market. There would be no amenity standards except for the existing requirements that the property may not have an in-ground pool or be used for income producing purposes.

Under this option, the Agency is particularly interested in comments on how to further satisfy our statutory mandate to finance only modest housing, without the need to establish specific amenity standards. In addition, the Agency is proposing only one square footage standard; whereas in the past, different square footage standards for existing homes and new construction existed. The Agency wants comments on whether a single standard is appropriate, or whether and why separate standards should be established. Also, if two standards are recommended, what square footage standards should be established for existing homes and new construction? And finally, how should the Agency define "finished" living area?

The Agency would appreciate comments on these two options, together with any recommended enhancements or changes. In addition, the Agency is also interested in other potential standards by which to determine that housing is modest provided such standards are simple, straightforward and not overly burdensome to our customers.

The Agency generally provides a 60-day comment period for proposed changes. However, since the Agency is only requesting comments on one standard, a 30-day comment period is provided. It is the Agency's objective to publish a final rule with the proposed change by September 1, 1998, with an effective date of October 1, 1998. The rule would be effective for any current applicant who had not submitted a sales contract for the purchase of a home to the Agency.

Dated: May 21, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 98–14149 Filed 5–27–98; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 10

[Docket No. 98–08]

RIN 1557–AB62

Municipal Securities Dealers

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is issuing a final rule to revise its Municipal Securities Dealers regulation to remove unnecessary provisions. This change would not have any substantive effect on the operations of national banks, but would simplify the OCC's rule regarding bank municipal securities dealers (MSDs) by removing a redundant restatement of rules found elsewhere.

DATES: The final rule is effective June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Joseph W. Malott, National Bank Examiner, Treasury and Market Risk (202) 874–5670; Donald Lamson, Assistant Director, Securities and Corporate Practices (202) 874–5210; or Ursula Pfeil, Attorney, Legislative and Regulatory Activities (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background and Discussion of Final Rule

The OCC is issuing a final rule to revise its Municipal Securities Dealers regulation to remove unnecessary provisions. The OCC had previously published a notice of proposed rulemaking on January 16, 1998, and at that time requested comment on the

changes. 63 FR 2640. The OCC received no comments and, therefore, is now issuing a final rule unchanged from its proposed rule.

Section 15B(b) of the Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78o–4(b)) created the Municipal Securities Rulemaking Board (MSRB) and mandated that the MSRB adopt rules that establish qualification criteria for municipal securities brokers or dealers and associated persons. To implement section 15B(b), the MSRB adopted Rule G–7 (Information Concerning Associated Persons) (Rule G–7).[1] Rule G–7 requires, among other things, that municipal securities principals and representatives associated with a bank MSD file with the bank either (a) Form MSD–4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) or (b) a similar form prescribed by the bank's primary regulator. A national bank MSD is in turn required by Rule G–7 to submit to the OCC the form that the bank's associated municipal securities principals and representatives file with it. Rule G–7 also requires bank MSDs to update information as necessary, to retain records for specified periods of time, and to file with the appropriate banking agency "such of the information prescribed by [Rule G–7] as such * * * agency * * * shall by rule or regulation require." Rule G–7(g).

Shortly after the MSRB adopted Rule G–7, the OCC adopted part 10 in order to prescribe the information and forms that national bank MSDs are to submit. (42 FR 16813 (March 30, 1977)). Part 10 currently sets out the scope of the rule (§ 10.1); definitions used therein (§ 10.2); information about where and how to file the appropriate forms (§ 10.3); and requirements governing the submission and retention of Form MSD–4 and Form MSD–5 (Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) (§ 10.4).

As explained in the following section-by-section analysis, much of current part 10 either is substantively identical to the requirements contained in Rule G–7 or is otherwise unnecessary.

[1] The MSRB rules may be obtained by contacting the Municipal Securities Rulemaking Board by telephone at (202) 223–9347 or by mail at 1150 18th Street, NW, Suite 400, Washington, DC 20036–3816.

Section-by-Section Analysis

Section 10.1 of Current and Final Rules

This section identifies the entities and individuals covered by part 10. Section 10.1 of the final rule clarifies that subsidiaries of national banks are not covered by the rule. This clarification is consistent with MSRB Rule G–7, which states that "bank dealers" are to comply with the rules and requirements adopted by the appropriate bank regulatory agency. The term "bank dealer" is defined in Rule D–8 of the MSRB's rules to include "a municipal securities dealer which is a bank or a separately identifiable department or division of a bank as defined in rule G–1 of the [Municipal Securities Rulemaking] Board." Subsidiaries of banks are not included in the definition of "bank dealer," and are, therefore, governed directly by the MSRB's filing requirements. The change to § 10.1 reflects this fact. It does not, however, affect the content of what these subsidiaries are to file or who regulates their municipal securities activities.[2]

Section 10.2 of Current Rule

The terms defined in current § 10.2 are not used in part 10. Accordingly, this section is removed.

Section 10.3 of Current Rule

Section 10.3 provides information about the mechanics of filing the MSD–4 and MSD–5 forms with the OCC. This information is unnecessary in light of the filing instructions that accompany these forms. Therefore, the final rule removes this section.

Section 10.4 of Current Rule/§ 10.2 of Final Rule

Section 10.4(a)(1) of the current rule states that Form MSD–4 is an appropriate means of carrying out the purposes of Rule G–7(b). Two provisions in Rule G–7 make it appropriate for the final rule to retain a provision identifying which form national bank MSDs are to use and what information is to be submitted in order to comply with Rule G–7. First, paragraph (b) of Rule G–7 states that "in the case of a bank dealer a completed Form MSD–4 or similar form prescribed by the appropriate regulatory agency for such bank dealer, containing the foregoing information [i.e., the information listed in Rule G–7(b)(i)–(x)], shall satisfy the requirements of this paragraph [(b)]." Given that Rule G–7(b) provides bank regulators the option of using a form other than Form MSD–4, there remains a need for the OCC to clarify which form national banks should use. Second, as previously noted, paragraph (g) of Rule G–7 states that bank MSDs are to file with their appropriate regulatory agency "such of the information prescribed by this rule [i.e., Rule G–7] as such * * * agency * * * shall by rule or regulation require." Repealing all of part 10 arguably would create an unintended gap in the filing requirements for bank MSDs, because there would be no rule or regulation requiring national banks to file.

In light of paragraphs (b) and (g) of Rule G–7, the final rule retains a requirement, at § 10.2(a), stating that a national bank is to use Form MSD–4 to submit the information required by Rule G–7(b)(i)–(x) to be obtained from a person identified in § 10.1(b). Section 10.2(a) also states that a national bank receiving completed MSD–4 forms must submit these forms to the OCC before permitting any person to be associated with it as a municipal securities principal or a municipal securities representative. Should the MSRB amend Rule G–7 to remove the reference to rules or regulations issued by the banking agencies, the OCC will revisit the need for a continued reference to the MSRB rules in part 10.[3]

Section 10.4(a)(2) of the current rule repeats filing requirements found in Rule G–7 and, therefore, is removed.

Section 10.4(b) of the current rule instructs national bank MSDs regarding how they should proceed if a Form MSD–4 contains materially inaccurate or incomplete information. This section is unnecessary, given that paragraph (c) of Rule G–7 requires that the information required to be submitted must remain accurate and complete. A national bank MSD receiving updated information from an associated municipal securities representative or

[2] Subsidiaries of national banks that engage in municipal securities activities must register with the NASD and are regulated by NASD Regulation, Inc., the subsidiary of NASD charged with regulating the securities industry and the Nasdaq Stock Market.

[3] The Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) each have published proposed amendments to each agency's MSD regulation. See 62 FR 15272 (March 31, 1997) (Board) and 62 FR 26994 (May 16, 1997) (FDIC). Both the Board and the FDIC propose to repeal their MSD rules altogether. However, both agencies intend for banks within their respective jurisdictions to continue filing the MSD–4 and MSD–5 forms with those agencies. Accordingly, the OCC, Board, and FDIC intend to impose substantively identical requirements on bank MSDs. The stylistic differences between the OCC's final rule and those of the Board and FDIC reflect the OCC's view that it is necessary and helpful to national bank MSDs for the OCC's rule to address those areas identified in Rule G–7 where bank dealers are to look to the rules of their primary regulator.

municipal securities principal is obligated pursuant to Rule G–7 to submit the amended information to the OCC in order to ensure that the individuals are properly registered. Accordingly, the final rule removes current § 10.4(b).

Current § 10.4(c) requires national bank MSDs to file Form MSD–5 within 30 days of terminating a person's association with the bank as a municipal securities representative or principal. This requirement does not appear in Rule G–7. In order to facilitate the effective supervision of MSD activity by national banks, the final rule retains the requirement, at § 10.2(b), that a termination notice be submitted.

Finally, current § 10.4(d)(1) restates record retention requirements found in Rule G–7(e), while § 10.4(d)(2) states that the MSD–4 and MSD–5 forms are covered by section 32(a) of the Exchange Act (15 U.S.C. 78ff). These provisions in current § 10.4 are unnecessary and are, therefore, removed.

Regulatory Flexibility Act

The OCC hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As noted earlier, the OCC has only eliminated unnecessary provisions that appear in the current rule. This rule will, therefore, reduce the regulatory burden on national banks, regardless of size. No new burden is added by the changes.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995

The OCC has determined that the final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered as would otherwise be required by the Unfunded Mandates Act of 1995.

List of Subjects in 12 CFR Part 10

National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set out in the preamble, the OCC revises part 10 of chapter I of title 12 of the Code of Federal Regulations as set forth below:

PART 10—MUNICIPAL SECURITIES DEALERS

Sec.
10.1 Scope.
10.2 Filing requirements.

Authority: 5 U.S.C. 93a, 481, and 1818; 15 U.S.C. 78o–4(c)(5) and 78q–78w.

§ 10.1 Scope.

This part applies to:

(a) Any national bank, District bank, and separately identifiable department or division of either (collectively, a national bank) that acts as a municipal securities dealer, as that term is defined in section 3(a)(30) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(30)); and

(b) Any person who is associated or to be associated with a national bank in the capacity of a municipal securities principal or a municipal securities representative, as those terms are defined in Rule G–3 of the Municipal Securities Rulemaking Board (MSRB).[1]

§ 10.2 Filing requirements.

(a) A national bank shall use Form MSD–4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) for obtaining the information required by MSRB Rule G–7(b)(i)–(x) from a person identified in § 10.1(b). A national bank receiving a completed MSD–4 form from a person identified in § 10.1(b). A national bank receiving a completed MSD–4 form from a person identified in § 10.1(b) must submit this form to the OCC before permitting the person to be associated with it as a municipal securities principal or a municipal securities representative.

(b) A national bank must submit Form MSD–5 (Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) to the OCC within 30 days of terminating a person's association with the bank as a municipal securities principal or municipal securities representative.

(c) Forms MSD–4 and MSD–5, with instructions, may be obtained by contacting the OCC at 250 E Street, SW., Washington, DC 20219, Attention: Bank Dealer Activities.

[1] The MSRB rules may be obtained by contacting the Municipal Securities Rulemaking Board at 1150 18th Street, NW, Suite 400, Washington, DC 20036–3816.

Dated: May 9, 1998.

Julie L. Williams,

Acting Comptroller of the Currency.

[FR Doc. 98–14016 Filed 5–27–98; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–211–AD; Amendment 39–10532; AD 98–11–05]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires performing a one-time inspection of the dropout boxes of the passenger oxygen system to detect discrepancies and determine whether the system operates properly; correcting any discrepancy found; and reworking or installing new components, if necessary. This amendment is prompted by a report indicating that the oxygen system failed to operate correctly after activation at a low cabin pressure due to the incorrect installation of the oxygen masks or oxygen generators during manufacturing. The actions specified by this AD are intended to ensure that a sufficient supply of oxygen is provided to airplane passengers in the event of rapid decompression of the airplane.

DATES: Effective July 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 2, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on May 22, 1997 (62 FR 27986). That action proposed to require performing a one-time inspection of the dropout boxes of the passenger oxygen system to detect discrepancies and determine whether the system operates properly; correcting any discrepancy found; and reworking or installing new components, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed AD; however, it notes that many different types of failures were discovered upon review by the Luftfartsverket (LFV), which is the airworthiness authority for Sweden. Additionally, the commenter states that the repair work performed to correct the errors also could be performed incorrectly. The commenter requests that because of these two factors, the FAA should require repetitive inspections in lieu of the proposed one-time inspection.

The FAA does not concur with the commenter's request to include repetitive inspections in this rulemaking action at this point. According to Saab, the problem was found to originate from the interior supplier's repacking of the oxygen equipment after installing the dropout boxes in the passenger service units. This finding led to several improvements and related instructions by Saab and the interior and systems suppliers regarding the packing method. These improvements also included hands-on training. Saab is not aware of any further problems occurring with the dropout boxes after implementation of these improvements. Therefore, the FAA has determined that repetitive inspections to ensure the continued proper functioning of the system are not necessary.

The same commenter states that it is unacceptable to operate aircraft with emergency equipment that would not work when needed, and suggests that it would be prudent to periodically perform functional tests of all the emergency equipment to ensure that it will work when needed.

The FAA acknowledges the concerns of the commenter. The FAA has determined that an unsafe condition exists, and that the actions required by this AD are adequate in order to ensure the continued safety of the affected fleet. While there may be merit to the commenter's suggestions, this AD is not the appropriate context in which to evaluate those suggestions. Since the suggested changes would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. No change to this final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $540, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–05 SAAB Aircraft AB: Amendment 39–10532. Docket 96–NM–211–AD.

Applicability: Model SAAB 2000 series airplanes, having serial numbers –003 through –039 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an insufficient supply of oxygen being provided to airplane passengers in the event of rapid decompression of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time inspection of the dropout boxes of the passenger oxygen system to detect discrepancies and determine whether the system operates properly, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–35–001, dated February 20, 1996.

(1) If the passenger oxygen system operates properly and no discrepancy is found in this system, no further action is required by this AD.

(2) If any discrepancy is found in the passenger oxygen system, prior to further

flight, perform rework or install new components, as applicable, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Saab Service Bulletin 2000–35–001, dated February 20, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive (SAD) 1–091, dated February 20, 1996.

(e) This amendment becomes effective on July 2, 1998.

Issued in Renton, Washington, on May 18, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13822 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–172–AD; Amendment 39–10544; AD 98–11–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 and A300–600 series airplanes, that requires a visual inspection to detect cracks in the aft mount beam assembly of the engine; and replacement of any cracked beam with a new beam or beam assembly. This amendment also requires a fluorescent penetrant inspection to detect cracks in the aft mount beam assembly of the engine, and various follow-on actions. This amendment is prompted by reports indicating that, apparently due to manufacturing defects during the forging process, cracking was found in two engine aft mount beams. The actions specified by this AD are intended to detect and correct such cracking, which could result in reduced structural integrity of the aft mount beam assembly of the engine.

DATES: Effective July 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 2, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, Connecticut 06108. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300–600 series airplanes was published in the **Federal Register** on April 1, 1997 (62 FR 15439). That action proposed to require a visual inspection to detect cracks in the aft mount beam assembly of the engine; and replacement of any cracked beam with a new beam or beam assembly. That action also proposed to require a fluorescent penetrant inspection to detect cracks in the aft mount beam assembly of the engine, and various follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that the proposed AD be revised to cite accomplishment of Pratt & Whitney Service Bulletin PW4MD11 A71–102, Revision 3, dated August 30, 1995, as an equivalent alternative to accomplishment of Pratt & Whitney Alert Service Bulletins PW4NAC A71–149, Revision 1, dated August 30, 1995, and PW7R4 A71–129, Revision 1, dated August 30, 1995, as referenced in the proposed AD.

The FAA concurs with the commenter's request to cite accomplishment of Pratt & Whitney Service Bulletin PW4MD11 A71–102, Revision 3, dated August 30, 1995, as an equivalent alternative to accomplishment of Pratt & Whitney Alert Service Bulletins PW4NAC A71–149, Revision 1, dated August 30, 1995 or PW7R4 A71–129, Revision 1, dated August 30, 1995. Pratt & Whitney Alert Service Bulletins PW4NAC A71–149, Revision 1, dated August 30, 1995, and PW7R4 A71–129, Revision 1, dated August 30, 1995, contain a Note that states: "Service Bulletins PW4NAC A71–149 (PW4000/AI), PW7R4 A71–129 (JT9D–7R4/AI), and PW4MD11 A71–102 (PW4000/DAC) have been issued to cover all aircraft. Accomplishment of any one of these Service Bulletins satisfies the same intent of the other two." The FAA has revised this final rule to reflect this change by adding a new Note to the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 8 Airbus Model A310 and A300–600 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection required by this AD on U.S. operators is estimated to be $960, or $120 per airplane.

It will take approximately 34 work hours per airplane to accomplish the required fluorescent penetrant inspection, at an average labor rate of

$60 per work hour. Based on these figures, the cost impact of the fluorescent penetrant inspection required by this AD on U.S. operators is estimated to be $16,320, or $2,040 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–19 Airbus Industrie: Amendment 39–10544. Docket 96–NM–172–AD.

Applicability: Model A310 and A300–600 series airplanes, equipped with Pratt & Whitney Model JT9D–7R4D1, JT9D–7R4E1, JT9D–7R4H1, PW4151, PW4156A, or PW4158 engines; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the aft mount beam assembly of the engine, which could result in reduced structural integrity of the aft mount beam assembly, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a visual inspection to detect cracks in the aft mount beam assembly of the engine, in accordance with Part 1 of the Accomplishment Instructions of Pratt & Whitney Alert Service Bulletin PW7R4 A71–129, Revision 1, dated August 30, 1995, or Pratt & Whitney Alert Service Bulletin PW4NAC A71–149, Revision 1, dated August 30, 1995; as applicable.

(1) If no crack is detected, no further action is required by this paragraph.

(2) If any crack is detected, prior to further flight, replace the cracked beam with a new beam or beam assembly, in accordance with the applicable service bulletin.

(b) Within 4,000 flight cycles after the effective date of this AD, perform a fluorescent penetrant inspection to detect cracks in the aft mount beam assembly of the engine, in accordance with Part 2 of the Accomplishment Instructions of Pratt & Whitney Alert Service Bulletin PW7R4 A71–129, Revision 1, dated August 30, 1995, or Pratt & Whitney Alert Service Bulletin PW4NAC A71–149, Revision 1, dated August 30, 1995; as applicable.

(1) If no crack is detected, prior to further flight, perform an eddy current inspection to detect cracks in the aft mount beam assembly of the engine, in accordance with the applicable service bulletin.

(i) If no crack is detected, prior to further flight, reidentify the beam in accordance with the applicable service bulletin.

(ii) If any crack is detected, prior to further flight, replace the cracked beam with a new beam or beam assembly, in accordance with the applicable service bulletin.

(2) If any crack is detected, prior to further flight, replace the cracked beam with a new beam or beam assembly, in accordance with the applicable service bulletin.

Note 2: Accomplishment of the actions required by paragraphs (a) and (b) of this AD in accordance with Pratt & Whitney Service Bulletin PW4MD11 A71–102, Revision 3, dated August 30, 1995, is considered to be acceptable for compliance with those paragraphs.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with the following Pratt & Whitney Alert Service Bulletins, which contain the following list of effective pages:

Service bulletin referenced and date	Page number shown on page	Revision level shown on page	Date shown on page
PW7R4 A71–129, Revision 1, August 30, 1995.	1, 4, 12, 17–21, 23, 25–32	1	August 30, 1995.
	2, 3, 5–11, 13–16, 22, 24	Original	May 30, 1995.
PW4NAC A71–149, Revision 1, August 30, 1995.	1, 2, 4, 12, 17–21 25–32	1	August 30, 1995.
	3, 5–11, 13–16 22–24	Original	May 30, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, Connecticut 06108. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 96–020–195(B), dated January 31, 1996.

(f) This amendment becomes effective on July 2, 1998.

Issued in Renton, Washington, on May 18, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13821 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–121–AD; Amendment 39–10541; AD 98–11–16]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Dornier Luftfahrt GmbH (Dornier) Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. This AD requires modifying the logic in the failure detection circuits of the landing gear uplock switches. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent a false warning indication of landing gear failure because of the design of the landing gear warning system, which could result in incorrect actions from the pilot based on the warning indications.

DATES: Effective July 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Daimler-Benz Aerospace, Dornier, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 302985. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–121–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 26, 1998 (63 FR 14658). The NPRM proposed to require modifying the logic in the failure detection circuits of the landing gear uplock switches. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 26 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 32 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $49,920, or $1,920 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–11–16 Dornier Luftfahrt GMBH: Amendment 39–10541; Docket No. 97–CE–121–AD.

Applicability: Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212

airplanes, serial numbers 0001 through 8235, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent a false warning indication of landing gear failure because of the design of the landing gear warning system, which could result in incorrect actions from the pilot based on the warning indications, accomplish the following:

(a) Modify the logic in the failure detection circuits of the landing gear uplock switches in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64016. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995, should be directed to Daimler-Benz Aerospace, Dornier, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 302985. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The modification required by this AD shall be done in accordance with Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Daimler-Benz Aerospace, Dornier, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 95–246, dated August 23, 1995.

(f) This amendment becomes effective on July 11, 1998.

Issued in Kansas City, Missouri, on May 15, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13820 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–11–AD; Amendment 39–10542; AD 98–11–17]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG–400 gliders. This AD requires replacing the Bosch electrical system regulator, part number (P/N) 0212920001, with a type 4 E 26 regulator. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent failure of the electrical system regulator, which could result in smoke entering the cockpit with consequent passenger injury.

DATES: Effective July 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 10, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Glaser-Dirks Model DG–400 gliders was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 19, 1998 (63 FR 13381). The NPRM proposed to require replacing the Bosch electrical system regulator, part number (P/N) 0212920001, with a type 4 E 26 regulator. Accomplishment of the proposed action as specified in the NPRM would be in accordance with DG Flugzeubau GmbH Technical Note No. 826/33, dated July 19, 1996.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

Although failure of the electrical system regulator will only be unsafe while the glider is in flight, this unsafe condition is not a result of the number of times the glider is operated. The chance of this situation occurring is the same for a glider with 10 hours time-in-service (TIS) as it is for a glider with 500

hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per glider to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $200 per glider. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $11,200, or $320 per glider.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–11–17 Glaser-Dirks Flugzeugbau GMBH: Amendment 39–10542; Docket No. 98–CE–11–AD.

Applicability: Model DG–400 gliders, all serial numbers, certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 4 calendar months after the effective date of this AD, unless already accomplished.

To prevent failure of the electrical system regulator, which could result in smoke entering the cockpit with consequent passenger injury, accomplish the following:

(a) Replace the Bosch electrical system regulator, part number (P/N) 0212920001, with a type 4 E 26 regulator in accordance with DG Flugzeugbau GmbH Z 33 Conversion Kit Saprisa regulator Installation Instructions, dated July 4, 1996, and Glaser-Dirks Drawing 4 E 26. These documents are referenced in DG Flugzeugbau GmbH Technical Note No. 826/33, dated July 19, 1996.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to the service information referenced in this AD should be directed to DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The replacement required by this AD shall be done in accordance with DG Flugzeugbau GmbH Z 33 Conversion Kit Saprisa regulator Installation Instructions, dated July 4, 1996, and Glaser-Dirks Drawing 4 E 26, as referenced in DG Flugzeugbau GmbH Technical Note No. 826/33, dated July 19, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 96–242, dated August 29, 1996.

(f) This amendment becomes effective on July 10, 1998.

Issued in Kansas City, Missouri, on May 15, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13818 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–14–AD; Amendment 39–10543; AD 98–11–18]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–400 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG–400 gliders. This AD requires replacing the upper rubber shock mounts with mounts made of stainless steel. This AD will also require inspecting the rear plate of the propeller mount for cracks and proper mounting, and replacing or modifying as necessary. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent failure of the propeller suspension system caused by cracks in the propeller mounts, which could result in loss of the propeller with consequent reduced glider controllability.

DATES: Effective July 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 10, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–14–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Glaser-Dirks Model DG–400 gliders was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 18, 1998 (63 FR 13151). The NPRM proposed to require the following:

—Replacing the upper rubber shock mounts with mounts made of stainless steel;
—Inspecting the rear plate of the propeller mount for cracks and an excessive gap between the aluminum blocks and the plate (more than 1 mm or .04 inches);
—Replacing the rear plate of the propeller mount if cracks are found; and
—Installing washers if an excessive gap exists between the aluminum blocks and the plate.

Accomplishment of the proposed shock mounts replacement, the proposed inspections, and the proposed installation, as specified in the NPRM would be in accordance with Glaser-Dirks Technical Note No. 826/11, dated August 29, 1984. Accomplishment of the proposed propeller mount replacement, as required, as specified in the NPRM, would be required in accordance with the applicable maintenance manual.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Difference Between the Technical Note, German AD, and This AD

Both Glaser-Dirks Technical Note No. 826/11, dated August 29, 1984, and German AD 84–157, dated September 24, 1984, specify accomplishing the actions in this AD prior to further flight. The FAA does not have justification for requiring the action prior to further flight. Instead, the FAA has determined that 3 calendar months is a reasonable time period for accomplishing the actions in this AD.

Compliance Time of This AD

The compliance time of this AD is presented in calendar time instead of hours time-in-service (TIS) because of the typical usage of the affected gliders. For example, an operator of an affected glider may only utilize the glider 50 hours TIS in a year, while another operator may utilize an affected glider 50 hours TIS in one month. The FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per glider to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $100 per glider. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $16,100, or $460 per glider.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–11–18 Glaser-Dirks Flugzeugbau GMBH: Amendment 39–10543; Docket No. 98–CE–14–AD.

Applicability: Model DG–400 gliders, all serial numbers, certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the propeller suspension system caused by cracks in the propeller mounts, which could result in loss of the propeller with consequent reduced glider controllability, accomplish the following:

(a) Within the next 3 calendar months after the effective date of this AD, replace the upper rubber shock mounts with mounts made of stainless steel in accordance with the Instructions section of Glaser-Dirks Technical Note TN 826/11, dated August 29, 1984.

(b) Within the next 3 calendar months after the effective date of this AD, inspect (using 2× or greater lens) the rear plate of the propeller mount for cracks and an excessive gap between the aluminum blocks and the plate (more than 1 mm or .04 inches). Accomplish these inspections in accordance with the Instructions section of Glaser-Dirks Technical Note TN 826/11, dated August 29, 1984.

(1) If any cracks are found in the propeller mount, prior to further flight, replace the propeller mount with an uncracked mount in accordance with the applicable maintenance manual.

(2) If an excessive gap exists between the aluminum blocks and the plate, prior to further flight, install washers in accordance with the Instructions section of Glaser-Dirks Technical Note TN 826/11, dated August 29, 1984.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Glaser-Dirks Technical Note No. 826/11, dated August 29, 1984, should be directed to DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The replacement, inspection, and installation required by this AD shall be done in accordance with Glaser-Dirks Technical Note No. 826/11, dated August 29, 1984. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 84–157, dated September 24, 1984.

(g) This amendment becomes effective on July 10, 1998.

Issued in Kansas City, Missouri, on May 15, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13823 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–38–AD; Amendment 39–10545; AD 98–11–20]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that incorporate an executive cabin layout. This AD requires modifying the lavatory wall and passenger seat configuration. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent head injuries during an airplane crash because the lavatory wall and passenger seat configuration do not meet current head injury criteria regulations.

DATES: Effective July 13, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 13, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland; telephone: +41 41–6196 233; facsimile: +41 41–6103 351. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–38–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Models PC–12 and PC–12/45 airplanes that incorporate an executive cabin layout was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 24, 1998 (63 FR 14043). The NPRM proposed to require modifying the lavatory wall and passenger seat configuration. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus Service Bulletin No. 25–003, dated May 7, 1997.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Since the issuance of the NPRM, Pilatus has revised Service Bulletin No. 25–003 (Rev. 1, dated April 7, 1998) to incorporate minor changes to clarify the situation. There are no technical changes involved.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the addition of the revised service information and minor editorial corrections. The FAA has determined that this addition and these minor corrections will not change the meaning of the AD and will not add any

additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 40 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 15 workhours to accomplish these actions, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $36,000, or $900 per airplane. These figures are based on the presumption that no affected airplanes have these modifications incorporated.

Pilatus has informed the FAA that all 40 airplanes in the U.S. registry have these modifications incorporated. With this in mind, this AD imposes no cost impact upon the public.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–11–20 Pilatus Aircraft Ltd.: Amendment 39–10545; Docket No. 97–CE–38–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, serial numbers MSN 101 through 180, certificated in any category, that incorporate an executive cabin layout.

Note 1: Models PC–12 and PC–12/45 airplanes that incorporate a corporate-utility cabin layout are not affected by this AD.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent head injuries during an airplane crash because the lavatory wall and passenger seat configuration do not meet current head injury criteria regulations, accomplish the following:

(a) Modify the lavatory wall and passenger seat configuration in accordance with Pilatus Service Bulletin No. 25–003, dated May 7, 1997, or Pilatus Service Bulletin No. 25–003, Rev. 1, dated April 7, 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Pilatus Service Bulletin No. 25–003, dated May 7, 1997, or Pilatus Service Bulletin No. 25–003, Rev. 1, dated April 7, 1998, should be directed to Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland; telephone: +41 41–6196 233; facsimile: +41 41–6103 351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The modification required by this AD shall be done in accordance with Pilatus Service Bulletin No. 25–003, dated May 7, 1997, or Pilatus Service Bulletin No. 25–003, Rev. 1, dated April 7, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Swiss AD HB 97–249, dated May 31, 1997.

(f) This amendment becomes effective on July 13, 1998.

Issued in Kansas City, Missouri, on May 18, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13924 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–20]

Amendment of Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action combines the Coppertown, MT, Class E airspace area with the existing Butte, MT, Class E airspace area. This combined airspace is now designated the Butte, MT, Class E airspace area. This action also amends the adjacent Class E airspace at Livingston, MT, by providing additional controlled airspace to accommodate the development of new Standard Instrument Approach Procedures (SIAP) utilizing the Global Positioning System (GPS) at the Livingston Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal

Aviation Administration, Docket No. 97–ANM–20, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION

History

On February 25, 1998, the FAA proposed to amend Title 14, Code of Federal Regulation, part 71 (14 CFR part 71) by removing the Coppertown, MT, airspace area and revising the Livingston, MT, and Butte, MT, Class E airspace areas (63 FR 9462). This revision provides the additional airspace necessary to encompass a GPS SIAP for the Mission Field Airport, Livingston, MT. This action also corrects two errors discovered in the proposal. A spelling error and an incorrect airport name listed in the legal description are corrected herein. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Livingston, MT, and Butte, MT, while also removing Class E airspace at Coppertown, MT. This action combines the Coppertown, MT, Class E airspace area with the existing Butte, MT, Class E airspace area. This combined airspace is now designated the Butte, MT, Class E airspace area. The incorrectly named Coppertown, MT, airspace does not serve an airport, has no associated town, and is solely a navigational aid located close to Butte, MT. This amendment also provides the additional airspace necessary to fully encompass the GPS–A SIAP to the Mission Field Airport, Livingston, MT. Additionally, this rule revises the common airspace boundaries where Livingston, MT, and Butte, MT, airspace areas meet in order to better distribute the airspace serving the respective airports and to provide for easier cartography. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rule (IFR) at the Mission Field Airport and between the terminal and en route transition stages.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT E5 Coppertown, MT [Removed]

* * * * *

ANM MT E5 Butte, MT [Revised]

Bert Mooney Airport, Butte, MT
(Lat. 45°57′17″ N, long. 112°29′51″ W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat 46°20′30″N, long 112°48′33″W; to lat 46°10′30″N, long. 113°07′03″W; to lat 45°57′05″N, long. 112°47′43″W; to lat. 45°51′20″N, long. 112°27′33″W; to lat. 46°03′20″N, long. 112°20′03″W; to lat. 46°18′30″N, long. 112°30′33″W; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 45°35′00″N, long 113°05′00″W; to lat. 46°37′00″N, long. 113°05′00″W; to lat 46°37′00″N, long. 112°26′00″W; to lat. 46°16′00″N, long. 112°00′00″W; to lat. 45°35′00″N, long. 112°00′00″W; thence to point of beginning; excluding that airspace within Federal airways, and the Helena, MT, the Dillon, MT, and the Missoula, MT, Class E airspace areas.

* * * * *

ANM MT E5 Livingston, MT [Revised]

Mission Field, Livingston, MT
(Lat. 45°41′58″N, long 110°26′54″W

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the Mission Field Airport, and that airspace bounded by a line beginning at Lat. 45°40′30″N, long 110°15′20″W; to lat. 45°47′30″N, long. 110°15′30″W; to lat 45°47′30″N, long. 110°23′00″W; to lat. 46°02′20″N, long. 110°31′00″W; to lat. 45°58′00″N, long. 110°47′15″W; to lat. 45°38′45″N, long. 110°37′00″W; thence to point of beginning and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 46°16′00″N, long 112°00′00″W; to lat. 46°37′00″N, long. 111°30′00″W; to lat 46°37′00″N, long. 110°43′00″W; to lat. 46°00′00″N, long. 112°29′00″W; to lat. 46°00′00″N, long. 109°30′00″W; to lat. 45°30′00″N, long. 109°30′00″W; to lat. 45°30′00″N, long. 112°00′00″W; thence to point of beginning; excluding that airspace within Federal airways, the Helena, MT, and the Billings, MT, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on May 5, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14169 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–7539; 34–40003; 35–26876; 39–2363; IC–23191]

RIN 3235–AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final Rules.

SUMMARY: The Commission is adopting an updated edition of the EDGAR Filer Manual and is providing for its

incorporation by reference into the Code of Federal Regulations.

EFFECTIVE DATE: The amendment to 17 CFR part 232 (Regulation S–T) will be effective on June 1, 1998. The new edition of the EDGAR Filer Manual (Release 5.50) will be effective on June 1, 1998. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of June 1, 1998.

FOR FURTHER INFORMATION CONTACT:

In the Office of Information Technology, Michael E. Bartell; at (202) 942–8800; for questions concerning investment company filings, Ruth Armfield Sanders, Senior Counsel, Division of Investment Management, at (202) 942–0633; and for questions concerning Corporation Finance company filings, Margaret R. Black at (202) 942–2933.

SUPPLEMENTARY INFORMATION: The Commission today announces the adoption of an updated EDGAR Filer Manual ("Filer Manual"), which sets forth the technical formatting requirements governing the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.[1] Compliance with the provisions of the Filer Manual is required in order to assure the timely acceptance and processing of filings made in electronic format.[2] Filers should consult the Filer Manual in conjunction with the Commission's rules governing mandated electronic filing when preparing documents for electronic submission.[3]

In this edition of the EDGAR System and the Filer Manual (Release 5.50), the following four EDGAR submission form types have been added for filing of profiles for certain open-end management investment companies[4] pursuant to Rule 497 under the Securities Act.[5] 497K1, 497K2, 497K3A and 497K3B. Also, form type N–14MEF has been added for the filing of Forms N–14 pursuant to the Securities Act Rule 462(b).

In addition, Release 5.50 of EDGARLink no longer supports 1200 baud filing transmission rates, a transmission speed that was not being used by filers. Also, the number of exhibits allowed in one submission has been increased from 99 to 500; if more than 500 exhibits are attached to a single submission, the submission will not be accepted. The readme.doc file has been updated with the description of all 5.50 changes.

Rule 301 of Regulation S–T also is being amended to provide for the incorporation by reference of the Filer Manual into the Code of Federal Regulations, which incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The revised Filer Manual and the amendment to Rule 301 will be effective on June 1, 1998.

Paper copies of the updated Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 Fifth Street, NW., Washington, DC 20549. Electronic format copies will be available on the EDGAR electronic bulletin board and posted to the SEC's Web Site. The SEC's Web Site address for the Manual is http://www.sec.gov/asec/ofis/filerman.htm. Copies also may be obtained from Disclosure Incorporated, the paper and microfiche contractor for the Commission, at (800) 638–8241.

Since the Filer Manual relates solely to agency procedure or practice, publication for notice and comment is not required under the Administrative Procedure Act.[6] It follows that the requirements of the Regulatory Flexibility Act[7] do not apply.

The effective date for the updated Filer Manual and the rule amendments is June 1, 1998. In accordance with the Administrative Procedure Act 5 U.S.C. 553(d)(3), the Commission finds that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system is scheduled to be upgraded to Release 5.50 on May 30, 1998. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade in order to avoid confusion to EDGAR filers.

Statutory Basis

The amendment to Regulation S–T is being adopted under Sections 6, 7, 8, 10, and 19(a) of the Securities Act,[8] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[9] Section 20 of the Public Utility Holding Company Act of 1935,[10] Section 319 of the Trust Indenture Act of 1939,[11] and Sections 8, 30, 31, and 38 of the Investment Company Act.[12]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Investment companies, Registration requirements, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a)m, 80a–8, 80a–29, 80a–30 and 80a–37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The June 1998 edition of the EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 5.50) is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in

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[1] The Filer Manual originally was adopted on April 1, 1993, and became effective on April 26, 1993. Release No. 33–6986 (Apr. 1, 1993) [58 FR 18638]. The most recent update to the Filer Manual was implemented on January 26, 1998. See Release No. 33–7495 (Jan. 20, 1998) [63 FR 3462].

[2] See Rule 301 of Regulation S–T (17 CFR 232.310).

[3] See Release Nos. 33–6977 (Feb. 23, 1998) [58 FR 14628], IC–19284 (Feb. 23, 1993) [58 FR 14848], 35–25746 (Feb. 23, 1993) [58 FR 14999], and 33–6980 (Feb. 23, 1993) [58 FR 15009], for a comprehensive treatment of the rules adopted by the Commission governing mandated electronic filing. See also Release No. 33–7122 (Dec. 19, 1994) [59 FR 67752], in which the Commission made the EDGAR rules final and applicable to all domestic registrants, Release No. 33–7427 (July 1, 1997) [62 FR 36450], adopting the most recent minor amendments to the EDGAR rules; and Release No. 33–7472 (Oct. 24, 1997) [62 FR 58647], in which the Commission announced that, as of January 1, 1998, it would not accept paper filings required to be filed electronically.

[4] See Rule 498 [17 CFR 230.498] under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a *et seq.*].

[5] 17 CFR 230.497.

[6] 5 U.S.C. 601–612.

[7] 5 U.S.C. 553(b).

[8] 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

[9] 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w and 78*ll*

[10] 15 U.S.C. 79t.

[11] 15 U.S.C. 77sss.

[12] 15 U.S.C. 80a–8, 80a–29, 80a–30 and 80a–37.

electronic format. Paper copies of the EDGAR Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 5th Street, NW., Washington, DC 20549. They also may be obtained from Disclosure Incorporated by calling (800) 638–8241. Electronic format copies are available through the EDGAR electronic bulletin board and posted to the SEC's Web Site. The SEC's Web site address for the Manual is http://www.sec.gov/asec/ofis/filerman.htm. Information on becoming an EDGAR E-mail/electronic bulletin board subscriber is available by contacting CompuServe Inc. at (800) 576–4247.

Dated: May 19, 1998.

By the commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–13876 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40018; IC–23200; File No. S7–25–97]

RIN 3235–AH20

Amendments To Rules On Shareholder Proposals

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Securities and Exchange Commission ("we" or "Commission") is adopting amendments to its rules on shareholder proposals. The amendments recast rule 14a–8 into a Question & Answer Format that both shareholders and companies should find easier to follow, and make other modifications to existing interpretations of the rule. We are also amending rule 14a–4 to provide clearer ground rules for companies' exercise of discretionary voting authority, and making related amendments to rule 14a–5.

EFFECTIVE DATE: The amendments are effective June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Frank G. Zarb, Jr., of Sanjay M. Shirodkar, Division of Corporation Finance, (202) 942–2900, or Doretha M. VanSlyke, Division of Investment Management, at (202) 942–0721, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rules 14a–8,[1] 14a–4,[2] and 14a–5[3] under the Securities Exchange Act of 1934 (the "Exchange Act").[4]

I. Executive Summary

With modifications, we are adopting some of the amendments to our rules on shareholder proposals that we initially proposed on September 18, 1997.[5] As explained more fully in this release, we modified our original proposals based on our consideration of the more than 2,000 comment letters we received from the public.[6]

Our proposed changes evoked considerable public controversy, as have our earlier efforts to reform these rules. Some shareholders and companies expressed overall support for our proposals.[7] Certain of our proposals, however, were viewed as especially controversial, and generated strong comments in favor, as well as heavy opposition.[8]

The amendments adopted today:

- Recast rule 14a–8 into a Question & Answer format that is easier to read;
- Reverse the *Cracker Barrel* no-action letter on employment-related proposals raising social policy issues;
- Adopt other less significant amendments to rule 14a–8; and
- Amend rule 14a–4 to provide shareholders and companies with clearer guidance on companies' exercise of discretionary voting authority.

These reforms, in our view, will help to improve the operation of the rules governing shareholder proposals and will address some of he concerns raised by shareholders and companies over the last several years on the operation of the proxy process.

We have decided not to adopt other elements of our original proposals, due in part to strong concerns expressed by commenters. We are not adopting our original proposals to increase the percentage of the vote a proposal needs before it can be resubmitted in future years;[9] to streamline the exclusion for matters considered irrelevant to corporate business;[10] or to modify our administration of the rule that permits companies to exclude proposals that further personal grievances or special interests.[11] We are also not adopting the proposed "override" mechanism that would have permitted 3% of the shareownership to override a company's decision to exclude proposals under certain of the bases for exclusion set forth under Question 9 of amended rule 14a–8.[12]

Some of the proposals we are not adopting share a common theme: to reduce the Commission's and its staff's role in the process and to provide shareholders and companies with a greater opportunity to decide for themselves which proposals are sufficiently important and relevant to the company's business to justify inclusion in its proxy materials. However, a number of commenters resisted the idea of significantly decreasing the role of the Commission and its staff as informal arbiters through the administration of the no-action letter process. Consistent with these views, commenters were equally unsupportive of fundamental alternatives to the existing rule and process that, in different degrees, would have decreased the Commission's overall participation.

While we have tried to provide the most fair, predictable, and efficient system possible, these rules, even as amended, will continue to require us to make difficult judgments about interpretations of proposals, the motives of those submitting them, and the policies to which they relate. We will continue to explore ways to improve the process as opportunities present themselves.

II. Plain-English Question & Answer Format

We had proposed to recast rule 14a–8 into a more plain-English Question & Answer format.[13] We are adopting that proposal, and the amended rule will be

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[1] 17 CFR 240.14a–8.

[2] 17 CFR 240.14a–4.

[3] 17 CFR 240.14a–5.

[4] 15 U.S.C. 78a *et seq.*

[5] See our Proposing Release, Exchange Act Release No. 29093 (Sept. 18, 1997) [62 Fed. Reg. 50682].

[6] The comment letters are available for inspection and copying in the Commission's Public Reference Room in file number S7–25–97. Comments that were submitted electronically are available on the Commission's website (www.sec.gov).

[7] See, *e.g.*, Comment Letters From Teachers Insurance and Annuity Assoc./College Retirement Equities Fund, Nov. 19, 1997 ("TIAA–CREF Letter"); California Public Employees' Retirement System, Nov. 10, 1997 ("CALPERS Letter"); American Society of Corporate Secretaries, Dec. 8, 1997 ("ASCS Letter"); the Business Roundtable, Dec. 9, 1997 ("BRT Letter"); Barclays Global Investors, Dec. 4, 1997; Georgeson & Company Inc., Dec. 31, 1997 ("Georgeson Letter").

[8] See, *e.g.*, New York City Employees Retirement System, Nov. 5, 1997 ("NYCERS Letter"); Interfaith Center on Corporate Responsibility, Dec. 23, 1997 ("ICCR Letter"); American Bar Ass'n, Dec. 23, 1997 ("ABA Letter"); Labor Policy Ass'n, Nov. 17, 1997 ("LPA Letter").

[9] See paragraph (12) under Question 9, formerly rule 14a–8(c)(12) [17 CFR 240.14a–8(c)(12)].

[10] Paragraph (5) under Question 9, former rule 14a–8(c)(5)[17 CFR 240.14a–8(c)(5)].

[11] Paragraph (4) under Question 9, former rule 14a–8(c)(4)[17 CFR 240.14a–8(c)(4)].

[12] The mechanism had been included in Paragraph 10 of rule 14a–8 as proposed to be amended. See Proposing Release.

[13] Unless specifically indicated otherwise, none of these revisions are intended to signal a change in our current interpretations.

the Commission's first in question and answer format. Most commenters who addressed this proposal expressed favorable views, believing that it would make the rule easier for shareholders and companies to understand and follow.[14]

In addition to the other amendments described in this release, we have made some minor revisions to the language we had proposed to conform with the new plain English format. For example, on the proposed revisions to paragraph (1) under Question 9, which is former rule 14a–8(c)(1),[15] commenters stated, and we agree, that the reference to "the state of the company's incorporation" may appear narrower than the actual scope of the rule because some entities that may be subject to the rule, such as partnerships, are not "incorporated."[16] Accordingly, the rule as adopted refers to "the laws of the jurisdiction of the company's organization."

We are adopting minor plain—English revisions to paragraphs (2), (3), and (4) under Question 9, former rules 14a–8(c)(2),[17] (c)(3),[18] and (c)(4). Because we are not adopting the proposed substantive amendments to paragraph (5), former rule 14a–8(c)(5), we are making only minor, non-substantive modifications to the language of that rule so that it conforms to the new plain-English approach.

We are adopting the revisions to former rule 14a–8(c)(6),[19] now paragraph (6) under Question 9, as proposed.[20]

While we are making minor conforming changes to the language of paragraph (7) under Question 9, formerly rule 14a–8(c)(7),[21] we have decided not to adopt the proposed language changes to this rule, or the list of illustrative examples, other than to replace the reference to "registrant" with "company."[22] We had proposed to revise the rule's language because we thought that the legal term-of-art "ordinary business" might be confusing to some shareholders and companies. The term refers to matters that are not necessarily "ordinary" in the common meaning of the word, and is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations. Several companies and shareholders nonetheless objected to the proposed revisions, particularly the elimination of the "ordinary business" language, on the ground that most participants in the shareholder proposal process are now so familiar with the "ordinary business" language that they might misconstrue the revisions as signaling an interpretive change.[23] Indeed, since the meaning of the phrase "ordinary business" has been developed by the courts over the years through costly litigation and essentially has become a term-0f-art in the proxy area, we recognize the possibility that the adoption of a new term could inject needless costs and other inefficiencies into the shareholder proposal process.

We are adopting with one modification the proposed language changes to paragraph (8) under Question 9, formerly rule 14a–8(c)(8).[24] The rule as proposed would have permitted companies to exclude a proposal that "relates to an election for membership on the company's board of directors." Based on a suggestion from one commenter, in order to account for non-corporate entities with principal governing bodies bearing names other than the "board of directors," the rule as adopted refers explicitly to elections to an "analogous governing body."[25]

We are adopting as proposed our revisions to paragraph (9) under Question 9, formerly rule 14a–8(c)(9).[26] As amended, the rule permits a company to exclude a proposal that "directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting."[27]

We are adopting as proposed the revisions to paragraphs (10) and (11) under Question 9, formerly rules 14a–8(c)(10)[28] and 14a–8(c)(11).[29] The revisions to paragraph (10) reflect an interpretation that we adopted in 1983.[30]

Although we are not adopting proposed substantive revisions to paragraph (12), formerly rule 14a–8(c)(12),[31] we are adopting non-substantive revisions to conform the rule to the new plain-English approach.

The Commission, through the Division of Corporation Finance (the "Division"), anticipates establishing a special electronic mailbox only for rule 14a–8 correspondence through which both shareholders and companies will be permitted to make electronic submissions under this rule, including follow-up correspondence.

III. The Interpretation of Rule 14a–8(c)(7): The "Ordinary Business" Exclusion

We proposed to reverse the position announced in the 1992 *Cracker Barrel* no-action letter concerning the Division's approach to employment-related shareholder proposals raising social policy issues.[32] In that letter, the Division announced that

The fact that a shareholder proposal concerning a company's employment

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[14] *See, e.g.*, CALPERS Letter; State Teachers' Retirement Sys. (California), Jan. 12, 1998; Ethics in Investment Committee of the Sisters of Charity of Saint Elizabeth Station, Nov. 19, 1997; Mr. H. Carl McCall, Comptroller of the State of New York, Dec. 24, 1997; American Corporate Counsel Assoc., Dec. 31, 1997 ("ACCA Letter"); ASCS Letter; Eastman Kodak Co., Nov. 25, 1997; Banc One Corp., Dec. 9, 1998. Some commenters, however, did not believe that the new format would significantly improve the rule's operation. *See, e.g.*, ABA Letter; New York State Bar Assoc., Dec. 10, 1997 ("New York State Bar Letter").

[15] Rule 14–8(c)(1) [17 CFR 240.14a–8(c)(1)].

[16] *See* ABA Letter; ICCR Letter; Investment Company Institute, Dec. 30, 1997 ("ICI Letter").

[17] Rule 14a–8(c)(2) [17 CFR 240.14a–8(c)(2)].

[18] Rule 14a–8(c)(3) [17 CFR 240.14a–8(c)(3)].

[19] Rule 14a–8(c)(6) [17 CFR 240.14a–8(c)(6)].

[20] One commenter thought the proposed language could be read as precluding companies from excluding proposals that companies lack power to implement. *See* ABA Letter. To the contrary, the revised rule continues to refer to situations where a company lacks "power" to implement the proposal. Thus, for example, exclusion may be justified where implementing the proposal would require intervening actions by independent third parties. *See*, e.g., SCEcorp (Dec. 20, 1995) (proposal that unaffiliated fiduciary trustees amend voting agreements). Under current staff interpretations, however, exclusion would not normally be justified if the proposal merely requires the company to *ask* for cooperation from a third party. *See, e.g., Northeast Utilities System* (Nov. 7, 1996) (proposal that the company ask a third party to coordinate annual meetings held by public companies).

[21] Rule 14a–8(c)(7) [17 CFR 240.14a–8(c)(7)].

[22] Two commenters suggested that we include a non-exclusive list of examples of matters particular to investment companies that would be excludable per se under the ordinary business exception. *See* ICI Letter; Gordon Altman Butowsky Weitzen Shalov & Wein, Dec. 16, 1997. We have not followed the suggestion. We believe that investment companies are not sufficiently different from other types of issuers to make it appropriate for us to designate a predefined set of topics that would be excepted from the shareholder proposal process established under Rule 14a–8.

[23] *See, e.g.*, ICCR Letter; Jessie Smith Noyes Foundation, Nov. 14, 1997 ("Jessie Smith Noyes Letter"); Long View Collective Investment Fund, Jan. 5, 1998 ("Long View Letter"); ABA Letter; The Chase Manhattan Corp., Jan. 14, 1998 ("Chase Manhattan Letter").

[24] Rule 14a–8(c)(8) [17 CFR 240.14a–8(c)(8)].

[25] *See* ABA Letter.

[26] Rule 14a–8(c)(9) [17 CFR 240.14a–8(c)(9)].

[27] One commenter thought that the word "directly" may appear to signal a narrowing of the exclusion. *See* ABA Letter. We believe that the revisions accurately convey our current interpretations of the rule; of course, by revising the rule we do not intend to imply that proposals must be identical in scope or focus for the exclusion to be available. *See, e.g., SBC Communications* (Feb. 2, 1996) (shareholder proposal on calculation of non-cash compensation directly conflicted with company's proposal on a stock and incentive plan).

[28] Rule 14a–8(c)(10) [17 CFR 240.14a–8(c)(10)].

[29] Rule 14a–8(c)(11) [17 CFR 240.14a–8(c)(11)].

[30] In Exchange Act Release No. 20091 (Aug. 16, 1983) [48 FR 38218], we stated that a proposal may be excluded under the rule if it has been "substantially implemented."

[31] As explained in Section VI below, we have decided not to modify the percentage of the shareholder vote that a proposal must receive in order to be entitled to re-submission in future years.

[32] *See Cracker Barrel Old Country Stores, Inc.* (Oct. 13, 1992).

policies and practices for the general workforce is tied to a social issue will no longer be viewed as removing the proposal from the realm of ordinary business operations of the registrant. Rather, determinations with respect to any such proposals are properly governed by the employment-based nature of the proposal.

We are adopting our proposal to reverse the *Cracker Barrel* position, which provided that all employment-related shareholder proposals raising social policy issues would be excludable under the "ordinary business" exclusion.[33] The Division will return to its case-by-case approach that prevailed prior to the *Cracker Barrel* no-action letter.

In applying the "ordinary business" exclusion to proposals that raise social policy issues, the Division seeks to use the most well-reasoned and consistent standards possible, given the inherent complexity of the task. From time to time, in light of experience dealing with proposals in specific subject areas, and reflecting changing societal views, the Division adjusts its view with respect to "social policy" proposals involving ordinary business. Over the years, the Division has reversed its position on the excludability of a number of types of proposals, including plant closings,[34] the manufacture of tobacco products,[35] executive compensation,[36] and golden parachutes.[37]

We believe that reversal of the Division's *Cracker Barrel* no-action letter, which the Commission had subsequently affirmed,[38] is warranted. Since 1992, the relative importance of certain social issues relating to employment matters has reemerged as a consistent topic of widespread public debate.[39] In addition, as a result of the extensive policy discussions that the *Cracker Barrel* position engendered, and through the rulemaking notice and comment process, we have gained a better understanding of the depth of interest among shareholders in having an opportunity to express their views to company management on employment-related proposals that raise sufficiently significant social policy issues.

Reversal of the *Cracker Barrel* no-action position will result in a return to a case-by-case analytical approach. In making distinctions in this area, the Division and the Commission will continue to apply the applicable standard for determining when a proposal relates to "ordinary business." The standard, originally articulated in the Commission's 1976 release, provided an exception for certain proposals that raise significant social policy issues.[40]

While we acknowledge that there is no bright-line test to determine when employment-related shareholder proposals raising social issues fall within the scope of the "ordinary business" exclusion, the staff will make reasoned distinctions in deciding whether to furnish "no-action" relief. Although a few of the distinctions made in those cases may be somewhat tenuous, we believe that on the whole the benefit to shareholders and companies in providing guidance and informal resolutions will outweigh the problematic aspects of the few decisions in the middle ground.

Nearly all commenters from the shareholder community who addressed the matter supported the reversal of this position.[41] Most commenters from the corporate community did not favor the proposal to reverse *Cracker Barrel*, though many indicated that the change would be acceptable as part of a broader set of reforms.[42]

Going forward, companies and shareholders should bear in mind that the *Cracker Barrel* position related only to employment-related proposals raising certain social policy issues. Reversal of the position does not affect the Division's analysis of any other category of proposals under the exclusion, such as proposals on general business operations.

Finally, we believe that it would be useful to summarize the principal considerations in the Division's application, under the Commission's oversight, of the "ordinary business" exclusion. The general underlying policy of this exclusion is consistent with the policy of most state corporate laws: to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.

The policy underlying the ordinary business exclusion rests on two central considerations. The first relates to the subject matter of the proposal. Certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. Examples include the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers. However, proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.[43]

The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.[44] This consideration may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies.

A similar discussion in the Proposing Release of the primary considerations underlying our interpretation of the "ordinary business" exclusion as applied to such proposals raised some questions and concerns among some of the commenters. Because of that concern, we are providing clarification of that position.[45] One aspect of that

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[33] The reversal is effective as of May 21, 1998, and will apply to future Division no-action responses. It will apply to any rule 14a–8 no-action submission that the Division has received before May 21, 1998 if the Division has not issued a corresponding no-action response by the close of business on May 20, 1998.

[34] *See Pacific Telesis Group* (Feb. 2, 1989).

[35] *See Phillip Morris Companies, Inc.* (Feb. 13, 1990).

[36] *See Reebok Int'l Ltd.* (Mar. 16, 1992).

[37] *See Transamerica Corp.* (Jan. 10, 1990).

[38] *See* Letter dated January 15, 1993 from Jonathan G. Katz, Secretary to the Commission, to Sue Ellen Dodell, Deputy Counsel, Office of Comptroller, City of New York.

[39] *See e.g.*, Investors Focus on Diversity at Texaco Annual Meeting: Company Faces 94 Discrimination Filings, *The Washington Post*, May 14, 1997; Shareholders Press Shoney's on Bias Issue, *The New York Times*, Dec. 26, 1976).

[40] *See* Exchange Act Release No. 12999 (Nov. 22, 1976) [41 FR 52994].

[41] *See e.g.*, Calvert Group, Nov. 26, 1997 ("Calvert Letter"); Center for Responsible Investing, Rec'd Nov. 3, 1997; Captains Endowment Assoc., Rec'd Nov. 6, 1997; Social Investment Forum, Jan. 2, 1998 ("Social Investment Forum Letter").

[42] *See, e.g.*, A$CS Letter; ACCA Letter; BRT Letter; AlliedSignal Inc., Nov. 24, 1997; Ashland Inc., Nov. 21, 1997; LPA Letter; Sullivan & Cromwell, Dec. 29, 1997 ("Sullivan & Cromwell Letter").

[43] *See, e.g., Reebok Int'l Ltd.* (Mar. 16, 1992) (noting that a proposal concerning senior executive compensation could not be excluded pursuant to rule 14a–8(c)(7)).

[44] Exchange Act Release No. 12999 (Nov. 22, 1976).

[45] The exclusion has been interpreted previously by the Commission. *See, e.g.*, Exchange Act Release No. 20091 (Aug. 16, 1983) [48 FR 38218]; Exchange Act Release No. 12999 (Nov. 22, 1976) [41 FR 52994]; Exchange Act Release No. 4950 (Oct. 9, 1953) [18 FR 6646]. It has also been interpreted by the courts. *See, e.g., Grimes* v. *Ohio Edison Co.*, 992 F.2d 455 (2d Cir. 1993); *Roosevelt* v. *E.I. Du Pont De Nemours & Co.*, 958 F.2d 416 (D.C. Cir. 1992);

discussion was the basis for some commenters' concern that the reversal of *Cracker Barrel* might be only a partial one. More specifically, in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micro-manage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific time-frames or to impose specific methods for implementing complex policies. Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote time-frames or methods, necessarily amount to "ordinary business."[46] We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.[47]

Further, in a footnote to the same sentence citing examples of "micromanagement," we included a citation to *Capital Cities/ABC, Inc.*, (Apr. 4, 1991) involving a proposal on the company's affirmative action policies and practices.[48] Some commenters were concerned that the citation might imply that proposals similar to the *Capital Cities* proposal today would automatically be excludable under "ordinary business" on grounds that they seek excessive detail. Such a position, in their view, might offset the impact of reversing the *Cracker Barrel* position. However, we cited *Capital Cities/ABC, Inc.* only to support the general proposition that some proposals may intrude unduly on a company's "ordinary business" operations by virtue of the level of detail that they seek. We did not intend to imply that the proposal addressed in *Capital Cities*, or similar proposals, would automatically amount to "ordinary business." Those determinations will be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed.

IV. Rule 14a–4: Discretionary Voting Authority

We had proposed amendments to rule 14a–4, and related amendments to rule 14a–5, to provide clearer guidelines for companies' exercise of discretionary voting authority in connection with annual shareholder meetings.[49] We are adopting our proposals with some modifications.

As we explained in the Proposing Release, rule 14a–4 did not clearly address the exercise of discretionary voting authority if a shareholder proponent chooses not to use rule 14a–8's procedures for placing his or her proposal in the company's proxy materials. This may occur if the proponent notifies the company in advance of the meeting of his or her intention to present the proposal from the floor of the meeting, and commences his or her own proxy solicitation, without ever invoking rule 14a–8's procedures. Our amendments to rule 14a–4(c)(1), and new paragraphs 14a–4(c)(2) and (c)(3), are designed to provide companies with clearer guidance on the scope of permissible discretionary voting power in the context of a non-14a–8 proposal.

A. Rule 14a–4(c)(1)

We are adopting essentially as proposed new rule 14a–4(c)(1), which replaces a "reasonable time" standard with a clear date after which notice to the company of a possible shareholder proposal would not jeopardize a company's ability to exercise discretionary voting authority on that new matter when and if raised at the annual meeting. Most commenters who addressed this proposal expressed favorable views.[50] Amended paragraph 14a–4(c)(1) allows a company voting discretionary authority where the company did not have notice of the matter by a date more than 45 days before the month and day in the current year corresponding to the date on which the company first mailed its proxy materials for the prior year's annual meeting of the shareholders, or by a date established by an overriding advance notice provision.[51]

As an example, assume a company mailed this year's proxy materials on March 31, 1998 for an annual meeting on May 1, 1998. Next year, the company also schedules an early May annual meeting. The notice date established by new rule 14a–4(c)(1) for non-14a–8 proposals is 45 days before March 31, or February 14. Thus February 14, 1999 would represent the notice date for the purposes of amended rule 14a–4(c)(1) unless a different date is established by an overriding advance notice provision in the company's charter or bylaws.[52]

A few commenters thought that advance notice of 45 days might provide an insufficient amount of time for some companies with longer printing and mailing schedules.[53] However, we do not believe that it is necessary to extend the 45-day advance notice period, since most companies should have some flexibility under state law to prolong the period through advance notice provisions. We stated in the Proposing Release that we did not intend to interfere with the operations of state law authorized definitions of advance notice set forth in corporate bylaws and/or articles of incorporation, and a number of commenters supported this approach.[54] Accordingly, an advance notice provision would override the 45-day period under rule 14a–4, resulting

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Medical Committee for Human Rights v. *SEC*, 432 F.2d 659 (D.C. Cir. 1970); *New York City Employee's Retirement Sys.* v. *SEC*, 843 F. Supp. 858, *rev'd* 45 F.3d 7 (2d Cir. 1995); *Amalgamated Clothing and Textile Workers Union* v. *Wal-Mart Stores, Inc.*, 821 F. Supp. 877, 891 (S.D.N.Y. 1993).

[46] *See, e.g.*, ICCR Letter; LongView Letter; Letter from Professor Harvey J. Goldschmid of Columbia University School of Law, and Ira M. Millstein, Senior Partner, Weil, Gotshal & Manges LLP, Dec. 23, 1997 ("Goldschmid and Millstein Letter"). *Compare* Chase Manhattan Letter.

[47] *See, e.g., Roosevelt* v. *E.I. Du Pont De Nemours & Co.*, 958 F.2d at 424–427 (one-year difference in timing of CFC production phase-out does not implicate significant policy, but longer period might implicate significant policy). In *Amalgamated Clothing and Textile Workers Union*, 821 F. Supp. at 891, the court required Wal-Mart to include a proposal in its proxy materials that sought information on the company's affirmative action policies and practices, although it also required the proponents to make certain revisions designed to ensure that the proposal did not seek excessive detail.

[48] *See* Proposing Release, Footnote 79.

[49] Discretionary voting authority is the ability to vote proxies that shareholders have executed and returned to the company, on matters not specifically reflected on the proxy card, and on which shareholders have not had an opportunity to vote by proxy. While not necessarily limited to annual meetings involving the election of directors, this has been the context in which companies have expressed concerns about proponents' attempts to "end run" around the rule 14a–8 process.

[50] *See, e.g.*, ICCR Letter; TIAA–CREF Letter; LongView Letter, BRT Letter; ACCA Letter; Barclays Global Investors, Dec. 4, 1997; United Brotherhood of Carpenters and Joiners of America ("Carpenters Letter"); International Union of Operating Engineers, Dec. 29, 1997 ("Engineers Letter"); International Brotherhood of Teamsters, Dec. 23, 1997 ("Teamsters Letter"). A few commenters did not favor the proposal. *See e.g.*, Gannett Corp., Nov. 20, 1997; CALPERS Letter; Union of Needletrades, Industrial and Textile Employees, Jan. 2, 1998 ("UNITE Letter").

[51] An advance notice provision is a requirement in a company's charter or bylaws that a shareholder proponent notify the company of his/her intention to present a proposal a certain number of days or weeks prior to the shareholders' meeting or the mailing of proxies.

[52] As amended, rule 14a–5(e) requires companies to disclose this date in each annual meeting proxy statement or its equivalent. *See* Section V below.

[53] *See, e.g.*, ACCA Letter; Citicorp, Dec. 23, 1997 ("Citicorp Letter").

[54] *See, e.g.*, Air Products and Chemicals, Inc., Dec. 22, 1997; NationsBank, Nov. 21, 1997; BRT Letter; Sullivan & Cromwell Letter. Other commenters who generally supported proposed new paragraph 14a–4(c)(1) did not note an objection to this aspect of the rules operation. *See e.g.*, Carpenters Letter, Longview Letter; Engineers Letter; ICCR Letter; TIAA–CREF Letter.

in a shorter [55] or longer period.[56] The rule continues to require inclusion of a specific statement, in either the proxy statement or proxy card, of an intent to exercise discretionary voting authority in these circumstances.

Paragraph 14a–4(c)(1) as adopted continues to incorporate a "reasonable time" standard if the company did not hold an annual meeting of shareholders during the prior year, or if the date of the annual meeting has changed by more than 30 days from the prior year. While one commenter suggested an alternative mechanism designed to provide a more specific "default" date, we were concerned that such an alternative approach might make the rule unjustifiable complex.[57]

B. Rule 14a–4(c)(2)

Proposed new paragraph 14a–4(c)(2) addressed a company's ability to exercise discretionary voting authority for an annual shareholders' meeting notwithstanding its receipt of "timely" advance notice of a non-14a–8 shareholder proposal as defined by paragraph 14a–4(c)(1).[58] We are adopting new paragraph (c)(2), but with some modifications of the original proposal.

As originally proposed, paragraph 14a–4(c)(2) would have permitted the exercise of discretionary voting authority by company management if the company's proxy materials were to include: (i) in the proxy statement, a discussion of the nature of the matters as to which adequate advance notice has been received, and how the company intends to exercise its discretion to vote on each such matter should it be presented to shareholders at the meeting, and (ii) on the proxy card, a cross-reference to the discussion in the proxy statement and a box allowing shareholders to withhold discretionary authority from management to vote on the designated matter(s). The pre-conditions to reliance on the rule are discussed below.

1. Proxy Statement Disclosure

On the first pre-condition of the proposed rule, requiring disclosure of the nature of potential non-14a–8 shareholder proposals, a number of commenters objected to our use of the word "discussion." [59] In their view, the word "discussion" appears to signal a departure from the Division's current position expressed in its *Idaho Power* and *Borg-Warner* no action letter responses.[60] Under those no-action responses, companies must only "advise" shareholders of, rather than "discuss," the nature of proposals that may be raised. Because we intended no departure from the disclosure element of the Division's no-action position, paragraph (c)(2) as adopted replaces the word "discussion" with "advice." We remind you that the disclosure prescribed by amended rule 14a–4(c)(2), as with any disclosure item, must take into account the disclosure requirements of the proxy anti-fraud rule.[61]

2. No Separate Voting Box

On the second pre-condition of proposed paragraph 14a–4(c)(2), a number of commenters objected to the inclusion of a separate voting "box" permitting shareholders to withhold discretionary authority from management on a non-14a–8 shareholder proposal as to which adequate advance notice had been received in the context of an annual meeting or its equivalent. Some stated that a voting box permitting shareholders to withhold discretionary voting authority in some circumstances may be confusing if shareholders are also independently solicited by the proponent in support of the same proposal.[62] We agree that inclusion of the proposed box on companies' proxy cares may be confusing in some circumstances.[63]

Other commenters objected to the separate voting box because they believe that the potential availability of the box would in effect create a new system for submitting shareholder proposals without having to comply with the restrictions under rule 14a–8.[64] In their view, the prospect of obtaining a voting box with a cross-reference to disclosure of the nature of the potential proposal in the proxy statement would encourage the submission of more shareholder proposals outside rule 14a–8's mechanisms.

Accordingly, we have decided not to include the new voting box as part of new rule 14a–4(c)(2). A shareholder's execution of a proxy card will confer discretionary voting authority if the requirements of the rule are satisfied.

3. Percentage of Shareholders to be Solicited

Several commenters also objected to proposed new paragraph 14a–4(c)(2) on grounds that it would permit a company to exercise discretionary voting authority at an annual shareholders meeting even if the shareholder proponent had independently solicited the percentage of shareholders required to carry the proposal.[65] These commenters believe that a company should not be permitted to vote uninstructed proxies if the proponent has put the proposal "in play" by providing a proxy statement and form of proxy to a significant percentage of the company's sharehownership. On this point, proposed paragraph 14a–4(c)(2) represented a departure from the

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[55] A company that mails its proxy materials before the expiration of the period established by an advance notice bylaw would continue to be subject to the notice even though it has already mailed its proxies.

[56] One commenter suggested that we move the parenthetical referring to the effect of advance notice provisions from the middle of the first sentence of paragraph 14a–4(c)(1) as proposed to the end of that sentence in order to clarify that an advance notice provision would override the 45-day period established by the rule whether the provision runs from the meeting date or from the mailing date. *See* Sullivan & Cromwell Letter. We agree and have made the revision.

[57] *See* Sullivan & Cromwell Letter.

[58] A few commenters also thought that we should further clarify that new paragraph 14a–4(c)(2) comes into play only if the company receives timely notice of a non-14a–8 proposal for the purposes of paragraph (c)(1). We added clarifying language to the end of paragraph (c)(1) and the beginning of paragraph (c)(2) in response to these comments.

[59] *See e.g.*, Chevron Corp, Nov. 25, 1997; USX Corp., Dec. 18, 1997.

[60] *Idaho Power Co.* (Mar 13, 1996); *Borg-Warner Security Corp.* (Mar. 14, 1996).

[61] *See* rule 14a–9 [17 CFR 240.14a–9].

[62] *See, e.g.*, Georgeson Letter; ICCR Letter; UNITE Letter; Davis, Cowell & Bowe, LLP, Jan. 2, 1998. One commenter gave the following example. An insurgent sends out a proxy card seeking shareholder votes on its shareholder resolution. A shareholder who receives the insurgent's card votes in favor of the proposal, and executes and returns the insurgent's card. But then the company either solicits, or resolicits, the same shareholder, and includes a "withhold" box on management's proxy card relating to the same non-14a–8 proposal. Since the shareholder does not wish to grant management discretionary voting authority on the proposal, it checks the box. But then, in the commenter's view, it may be unclear whether the shareholder has executed a subsequent proxy that revokes the shareholder's execution of the insurgent's card under applicable state law. *See* ICCR Letter at 32–33.

[63] A few commenters from the shareholder community suggested that we overcome possible confusion by requiring companies to permit shareholders to vote "for" or "against" non-14a–8 proposals. Commenters from the corporate community that addressed the matter opposed such an approach, and we believe that the amendments adopted today adequately accomplish our goal of providing clearer guidelines in this area. Contrary to the statements by some commenters, it is not necessarily a precondition for the exercise of discretionary voting authority under the Division's current no-action letters that companies include an extra item on their proxy cards permitting shareholders to vote "for" or "against" non-14a–8 proposals. *See Idaho Power* and *Borg-Warner*.

[64] *See, eg.*, BRT Letter; ASCS Letter; J.C. Penny Company, Dec. 19, 1997; Champion Int'l Corp., Dec. 18, 1997; International Paper, Nov. 19, 1997.

[65] *See, e.g.*, Mr. Jack Sheinkman, Vice-Chair Amalgamated Bank of New York, and President Emeritus Amalgamated Clothing and Textile Workers Union AFL–CIO, CLC, Nov. 7, 1997; Service Employees Int'l Union, Dec. 31, 1997; Engineers Letter; Carpenters Letter; National Electrical Benefit Fund, Dec. 22, 1997 ("NEBF Letter").

"percentage of shares solicited" standard articulated in the Division's *Idaho Power* and *Borg-Warner* no-action positions.

In response to these comments, and in light of our decision not to adopt the proposal to require that the Company include an additional box on its proxy cards for withholding discretionary voting authority, we have decided to codify the "percentage of shares solicited" standard of the Division's current no-action positions. The final rule therefore precludes a company from exercising discretionary voting authority on matters as to which it has received adequate advance notice if the proponent provides the company as part of that notice with a statement that it intends to solicit the percentage of shareholder votes required to carry the proposal, followed with specified evidence that the stated percentage had actually been solicited.

As we explained in the Proposing Release, this aspect of the Division's no-action position had been the source of uncertainty for companies. A company may not know whether a shareholder intends to begin to solicit proxies independently, or how many shareholders will be solicited if a solicitation is actually commenced. We understand that in a number of instances companies were forced to guess whether its ability to exercise discretionary authority had been restricted. A number of commenters from both the corporate and shareholder communities suggested that we overcome the potential for uncertainty by requiring proponents to provide advance written notice if they intend to deliver a proxy statement and form of proxy to holders of at least the minimum number of the company's voting shares that is required to carry the proposal, including measures to help ensure that such notice is bona fide.[66]

We have revised new paragraph (c)(2) to reflect these comments, and the rule as adopted requires a shareholder proponent to provide the company with written notice within the timeframe established by paragraph 14a–4(c)(1), that is, earlier than 45 days or in compliance with advance notice provisions. In order to help ensure that the notice has been provided in good faith, paragraph 14a–4(c)(2) as adopted also requires the proponent to repeat the statement (that it intends to solicit proxies to prevail) in its proxy materials to underscore the applicability of rule 14a–9, the anti-fraud rule. To further emphasize this point, and to provide interested parties with the ability to proceed against a proponent that does not fulfill its good faith promise to solicit the required number of shareholders, the rule requires the proponent to provide the company with a statement from the solicitor or other person with knowledge indicating that the proponent has taken the steps necessary to solicit the percentage of the company's shareownership required to approve the proposal. A statement executed by the shareholder insurgent will satisfy this requirement only to the extent that it was actually involved in carrying out the solicitation.

C. Rule 14a–4(c)(3)

We are also adopting a new paragraph 14a–4(c)(3) to further clarify the rule's operation in connection with special shareholders' meetings and other solicitations. Rules 14a–4(c)(1) and 14a–4(c)(2) as proposed to be amended, and as adopted, establish a clearer framework for companies' exercise of discretionary voting authority for annual shareholder meetings or their functional equivalents. We did not intend for that framework to apply to other solicitations, or to solicitations by persons other than management, such as special meetings or consent solicitations unrelated to the election of directors, which would continue to be governed by the "reasonable time" standard that had applied to all solicitations under former rule 14a–4(c)(1). Although there does not appear to have been confusion among commenters on this point, new paragraph (c)(3), and new introductory language to new paragraphs (c)(1) and (c)(2), should help clarify the point.

Tracking much of the language of former paragraph 14a–4(c)(1), new paragraph (c)(3) provides for the exercise of discretionary voting authority "[f]or solicitations other than for annual meetings or for solicitations by persons other than the registrant, [on] matters which the persons making the solicitation do not know, a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy."[67]

D. Filing in Preliminary Form

Finally, in the Proposing Release, we stated that during the 1996 proxy season the Division permitted several companies to avoid filing proxy materials in preliminary form despite receipt of adequate advance notification of a non-14a–8 shareholder proposal, so long as these companies disclosed in their proxy statements the nature of the proposal and how management intended to exercise discretionary voting authority if the proposal were actually to be presented to a vote at the meeting. We also stated that, in light of the proposed amendments to rule 14a–4, we might reverse that informal position, so that companies receiving notice of a non-14a–8 proposal before the filing of their proxy materials would be required to file their materials in preliminary form to preserve discretionary voting authority under rule 14a–4(c)(2). A number of commenters opposed reversal of the position, stating that in ordinary circumstances little would be gained by staff review of this material, and that potential delays resulting from preliminary filings could unjustifiably interfere with companies' mailing schedules.[68] The Division has decided not to reverse its position at this time, but may evaluate the position again in the future after monitoring proxy filings under the amended rules.

V. Other Amendments

We are adopting other modifications to rules 14a–8 and 14a–5.

We are adopting as proposed the answer to Question 1 of the amended rule defining a proposal as a request or requirement that the board of directors take an action.[69] One commenter objected to the proposal on grounds that the definition appeared to preclude all shareholder proposals seeking information.[70] In formulating the definition, it was not our intention to preclude proposals merely because they seek information, and the fact that a proposal seeks only information will not alone justify exclusion under the definition.

Also as proposed, we are increasing the dollar value of a company's voting shares that a shareholder must own in order to be eligible to submit a shareholder proposal—from $1,000 to $2,000—to adjust for the effects of inflation since the rule was last revised.[71] There was little opposition to

[66] *See, e.g.*, NEBF Letter, Carpenters Letter; UNITE Letter, Engineers Letter; Long View Letter; Citicorp Letter; Questar Corp., Dec. 31, 1997; Harrah's Entertainment, Inc., Dec. 31, 1997; *see also* Goldschmid and Millstein Letter.

[67] *See United Mine Workers* versus *Pittston Co.*, [1989–1990 Transfer Binder] Fed. Sec. L. Rep. (CCH) P 94,946 (D.D.C. Nov. 24, 1989); and *Larkin* versus *Baltimore Bancorp*, 769 F. Supp. 919 (D. Md. 1991).

[68] *See, e.g.*, ABA Letter; BRT Letter; ASCS Letter; Goldschmid and Millstein Letter. A few commenters within the shareholder community supported reversal of the position. *See, e.g.*, Engineers Letter; Carpenters Letter.

[69] For favorable comments, see, *e.g.*, TIAA–CREF Letter; ABA Letter; GE Stockholders' Alliance, Oct. 16, 1997. But see, *e.g.*, ICCR Letter.

[70] *See* Calvert Letter.

[71] *See* The answer to Question 2.

the proposed increase among commenters, although several do not believe the increase is great enough to be meaningful, especially in light of the overall increase in stock prices over the last few years.[72] Nonetheless, we have decided to limit the increase to $2,000 for now, in light of rule 14a–8's goal of providing an avenue of communication for small investors. There was no significant support for any modifications to the rule's other eligibility criteria, such as the one-year continuous ownership requirement.

A number of commenters supported, and few opposed, our proposal to establish a uniform 14-day period in which shareholders would be required to respond to a company's notification that the shareholder has failed to comply with one or more procedures under rule 14a–8, such as the submission deadlines and the rule's for establishing proponent eligibility.[73] We are adopting the 14-day period as proposed. In response to one commenter's suggestion, we have added a sentence to the rule clarifying that a company need not provide notice of a deficiency that cannot be remedied. If the company intends to exclude the proposal, it nonetheless would later have to make a submission under rule 14a–8, and provide a copy to the proponent.[74]

We are also adopting amendments to rule 14a–5(e), with a few modifications from our proposals. As proposed to be amended, that rule would require companies to disclose the date after which proposals submitted outside the framework of rule 14a–8 are considered untimely for the purposes of amended rule 14a–4(c)(1).[75]

Two commenters objected to our proposal to amend rule 14a–5(e) to require disclosure of the date by which shareholders must notify the company of any non-14a–8 proposals under amended rule 14a–4(c)(1).[76] They were concerned that disclosure of the date would appear to formalize a new system for submitting shareholder proposals in competition with the mechanisms of rule 14a–8, and would encourage the submission of proposals outside of that process. We do not agree that mere disclosure of the date would likely have that effect, and we believe that disclosure is necessary because shareholders often would not have enough information to deduce the date reliably on their own. We are also adopting the other proposed modifications to rule 14a–5(e) designed to streamline the rule's operation.

One commenter pointed out that it is unclear from the rule as drafted whether the new disclosure in the company's proxy statement should reflect the "default" date under amended rule 14a–4(c)(1), or instead the date established by an overriding advance notice provision, if any.[77] We have revised the rule to clarify that companies should disclose the date established by an overriding advance notice provision, and in the absence of such a provision, the "default" date for submitting non-14a–8 proposals, which normally would be 45 days before the date the company mailed its proxy materials for the prior year. Because the rule also requires companies to disclose the deadline for submitting rule 14a–8 proposals, companies' disclosure should clearly distinguish between the two dates.

Finally, in the answer to Question 8 of amended rule 14a–8, we proposed to include an advisory that the proponent or the proponent's representative make sure that he/she follows applicable procedures proper under state law for appearing at the meeting and/or presenting the proposal. Most commenters who addressed the proposal viewed the advisory as a helpful aid.[78] We have included the advisory as proposed.

VI. Proposals Not Adopted

We have decided not to adopt some of our original proposals, due in part to concerns expressed by some commenters. These proposals generally received support from some commenters, but equally strong opposition from others.

Personal Grievance Exclusion

Paragraph (4) under Question 9, formerly rule 14a–8(c)(4), permits companies to exclude proposals furthering personal grievances or special interests. We had proposed to modify the way the Division administers the rule so that the staff would concur in the exclusion of a proposal on this ground only if the proposal on its face were to relate to a personal grievance or special interest. In other circumstances, under our proposal, the Division would express "no view" in its no-action response. The proposal reflected our view that the Division's ability to make the necessary factual findings is limited in the context of evaluating an otherwise "facially neutral" proposal, and that companies and shareholders themselves possess much of the factual information relevant to the applicability of the "personal grievance" exclusion.

Shareholders expressed serious concerns about this proposal.[79] A number of commenters from the shareholder community were concerned that companies might use the increased flexibility provided by a "no view" no-action response to exclude proposals that do not in actuality further personal grievances of special interests. In their view, a shareholder, in these circumstances, might be forced to incur the expense of litigation to prevent exclusion of the proposal. Some shareholders, for instance, were concerned that companies might rely on the rule to exclude proposals focusing on social policy matters.[80] We agree that the proposal might increase the likelihood of disputes between shareholders and companies. We have therefore decided not to implement the proposal, and will continue to administer the rule consistently with our current practice of making case-by-case determinations on whether the rule permits exclusion of particular proposals.

Resubmission Thresholds

If a proposal fails to receive a specified level of support, paragraph (12) under Question 9, formerly rule 14a–8(c)(12), permits a company to exclude a proposal focusing on substantially the same subject matter for a three-year period. In order to avoid possible exclusion, a proposal must receive at least 3% of the vote on its first submission, 6% on the second, and 10% on the third. We had proposed to raise the percentage thresholds respectively to 6%, 15%, and 30%.

Many commenters from the shareholder community expressed serious concerns about this proposal.[81]

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[72] *See, e.g.*, ASCS Letter; ABA Letter; BRT Letter; see also ICCR Letter.

[73] *See, e.g.*, ABA Letter; ASCS Letter; TIAA–CREF Letter; GE Stockholders' Alliance, Oct. 16, 1997. *But see* ICCR Letter; Carpenters Letter.

[74] *See* Rule 14a–8(j)(Question10).

[75] *See* Section IV above. The new information, if applicable, would be disclosed under Item 5 of Form 10–Q or 10–QSB ("Other Information").

[76] *See* ABA Letter; New York State Bar Letter.

[77] *See* W.R. Grace & Co., Oct. 28, 1997.

[78] *See, e.g.*, CALPERS Letter; ICCR Letter; ASCS Letter.

[79] *See e.g.*, ICCR Letter; Teamsters Letter; Captains Endowment Ass'n, rec'd Nov. 6, 1997; Davis, Cowell & Bowe LLP, Jan. 2, 1998 ("Davis, Cowell & Bowe Letter").

[80] Social issue proposals are generally not excludable under paragraph (4). In 1983, we amended the rule to clarify that it would not apply, without other factors, to exclude a proposal "relating to an issue in which proponent was personally committed or intellectually and emotionally interested." Exchange Act Release No. 20091 (Aug. 16, 1983)[48 FR 38218].

[81] *See, e.g.*, ICCR Letter; NYCERS Letter; Calvert Letter; Social Investment Forum Letter; the School Sisters of Notre Dame, Oct. 20, 1997; the Conference on Corporate Responsibility of Indiana and Michigan, Oct. 14, 1997; CALPERS Letter (indicating that it might support more modest

We have decided not to adopt the proposal, and to leave the thresholds at their current levels.

Proposed Override Mechanism

We had proposed a new mechanism that would have permitted 3% of a company's shareownership to override the "ordinary business" exclusion and the "relevance" exclusion, paragraphs (7) and (5) under Question 9.

Several commenters opposed the proposal.[82] Other commenters supported the override concept as proposed, but expressed concerns about specific aspects, including whether the proposed 3% threshold may be too low and lead to erosion of the "ordinary business" and "relevance" exclusions that would be subject to an override.[83] Some shareholders thought the opposite, that 3% support of a company's shareownership would be too difficult for a shareholder proponent to obtain.

We have decided not to adopt the proposed "override" mechanism. Because we are not adopting the "override," we also are not adopting ancillary amendments designed to help implement the mechanism, including the proposed qualified exemption under the proxy rules, the proposed safe harbor from the beneficial ownership reporting requirements under section 13(d) of the Exchange Act, and the proposed shortening of companies' deadlines for making their rule 14a–8 no-action submissions to the Division.

The "Relevance" Exclusion

Paragraph (5) under Question 9 permits companies to exclude proposals

> Relating to operations which account for less than 5 percent of the registrant's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the registrant's business.

We had proposed to revise the rule to apply a purely economic standard. Under the proposal, the exception for proposals that are "otherwise significantly related" would have be deleted. A company would have been permitted to exclude proposals relating to matters involving the purchase or sale of services or products that represent $10 million or less in gross revenue or total costs, whichever is appropriate, for the company's most recently completed fiscal year.

Few commenters indicated strong support for the proposed amendments, and we are not making any substantive changes to the rule. Many commenters within the corporate community agreed in concept with our proposal to base the rule on an objective economic standard, and to eliminate the subjective "not otherwise significantly related" part of the rule.[84] But most of those commenters thought that the proposed $10 million threshold was so low that companies would too infrequently be in a position to rely on the exclusion. Comments from the shareholder community were mixed.[85] Some shareholders opposed the elimination of the "not otherwise significantly related" part of the rule, while other shareholders expressed varying degrees of support for the approach, with some expressing concern that companies might apply the rule to exclude proposals on subjects that are difficult to quantify, despite the "safeguards" that we included as part of the proposed amendments.

Statements in Opposition: Commission Review

Finally, we had proposed eliminating rule 14a–8(e), which requires a company to provide a proponent with an advance copy of any statement in opposition to the proposal that it intends to include in its proxy materials. This provision also provides a mechanism for shareholders to bring materially false or misleading statements to the Division's attention. A number of commenters from the shareholder community opposed elimination of these procedures because they believed that the potential for proponent objections deters companies from making materially false or misleading statements, and encourages negotiation between the company and proponent.[86] We have decided not to adopt that proposal, and are retaining the mechanisms of former rule 14a–8(e) in the context of the answer to Question 13 of amended rule 14a–8.

VII. Final Regulatory Flexibility Analysis

We have prepared this Final Regulatory Flexibility Analysis under 5 U.S.C. 603 concerning the amendments to rules 14a–8, 14a–4, and 14a–5 as a follow-up to the Initial Regulatory Flexibility Analysis ("IRFA") that we prepared in connection with the Proposing Release.[87] We received few comments, and no significant empirical data, in response to the requests for further information included in the IRFA.

The purpose of the amendments is to streamline the operation of the rule, and address concerns raised by both shareholder and corporate participants. We are adopting the amendments pursuant to Sections 14 and 23 of the Exchange Act[88] and Section 20(a) of the Investment Company Act of 1940[89] (Investment Company Act").

Specifically, we are:

- Recasting rule 14a–8 into a more plain-English Question & Answer format;
- Reversing the *Craker Barrel* interpretive position on employment-related proposals raising significant social policy issues; and
- Amending rule 14a–4 to provide shareholders and companies with clearer guidance on companies' exercise of discretionary voting authority.

We have decided not to adopt other elements of our original proposals. We are *not adopting* our original proposals to:

- Increase the percentage of the vote a proposal must receive before it can be resubmitted in future years if it is not approved;
- Streamline the exclusion for matters considered irrelevant to corporate business,[90]
- Modify our administration of the rule permitting companies to exclude proposals furthering personal grievances of special interests; or
- Implement an "override" mechanism that would have permitted 3% of the share ownership to override a company's decision to exclude a proposal under certain of the bases for exclusion set forth under Question 9 of amended rule 14a–8.[91]

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increases in the thresholds); but see TIAA–CREF Letter (supporting the increases at the levels proposed). These commenters were concerned that the increases would operate to exclude too great a percentage of proposals—particularly those focusing on social policy issues which tend to receive lower percentages of the shareholder vote.

[82] Former paragraphs (c)(7) and (c)(5) of rule 14a–8. *See, e.g.*, ABA Letter; ACCA Letter; LPA Letter; AT&T, Dec. 24, 1997; Household Int'l, Inc., Jan. 6, 1998; Federal Express Corp., Jan. 2, 1998; ICI Letter (concerned that proposal if adopted might be costly and disruptive for investment companies).

[83] *See, e.g.*, ASCS Letter; BRT Letter; FMC Corp., Dec. 5, 1997; Ford Motor Company, Dec. 23, 1997; New York State Bar Letter.

[84] *See, e.g.*, ASCS Letter; BRT Letter; Unocal Corp., Nov. 24, 1997.

[85] *See, e.g.*, TIAA–CREF Letter; CALPERS Letter; Carpenters Letter; Jessie Smith Noyes Letter; NYCERS Letter; ICCR Letter.

[86] *See, e.g.*, ICCR Letter; LongView Letter. *See also* ICI Letter.

[87] *See* Proposing Release, Section V.

[88] 15 U.S.C. 78m, 78n, & 78u.

[89] 15 U.S.C. 80a–1 *et seq.*

[90] Paragraph (5) under Question 9, former rule 14a–8(c)(5).

[91] Because we are not adopting the proposed "override", we also are not adopting certain measures, designed to enable shareholders to use it, including the proposed qualified exemption from the proxy rules, and safe harbor from beneficial ownership reporting obligations under Section 13(d) of the Exchange Act.

The amendments will affect small entities that are required to file proxy materials under the Exchange Act or the Investment Company Act. Exchange Act rule 0–10 defines "small business" as a company whose total assets on the last day of its most recent fiscal year were $5 million or less.[92] Investment Company Act rule 0–10 defines "small entity" as an investment company with net assets of $50 million or less as of that date.[93] We are currently aware of approximately 1,000 reporting companies that are not investment companies with assets of $5 million or less. There are approximately 800 investment companies that satisfy the "small entity" definition. Only approximately one-third of all investment companies have shareholder meetings and file proxy materials annually.

Therefore, we believe approximately 250 small entity investment companies may be affected by the amendments.

Plain-English Question & Answer Format

Our revision of rule 14a–8 to create a more understandable Question & Answer format should help decrease the time and expense incurred by both shareholders and companies attempting to comply with its provisions companies frequently consult with legal counsel in preparing no-action submissions under rule 14a–8. The rule's added clarity may obviate the need for a shareholder or company to consult with counsel, depending on the issues raised by the submission. Under some circumstances, however, companies' submissions must include supporting opinions of counsel.

No comments submitted empirical data demonstrating how much it costs companies to consider and prepare an individual no-action submission under rule 14a–8. Question 13 of a Questionnaire that we made available in February 1997 [94] asked respondent companies how much money they spend on average each year determining whether to include or exclude shareholder proposals and following Commission procedures in connection with any proposal that they wish to exclude (including internal costs as well as any outside legal and other fees). While responses may have accounted for consideration of more than one proposal, the costs of making a determination whether to include a proposal reported by 80 companies averaged approximately $37,000.[95] We do not believe, however, that the cost is likely to vary depending on the size of the company. That is, the cost to a small entity is likely to be the same as the cost to a larger entity, depending on the number of proposals received and how many the company seeks to exclude under the staff no-action letter process.

Because the rule's added clarity may make it easier for shareholders to understand the procedures for submitting shareholder proposals, the amendments may encourage shareholders to submit more shareholder proposals to companies each year. In turn, companies may be required to make more rule 14a–8 no-action submissions to the Commission.

In the period from September 30, 1996 to September 30, 1997, we received submissions from a total of 245 companies, and only 6 (i.e., 2%) were "small businesses." While we received no empirical data on the number of small businesses that receive shareholder proposals each year, one commenter with substantial experience submitting shareholder proposals to companies reported that small companies seldom receive shareholder proposals.[96]

We also received no empirical information in response to our request for data on the marginal cost of including an additional shareholder proposal in companies' proxy materials. However, the Questionnaire asked each company respondent how much money on average it spends in the aggregate on printing costs (plus any directly related costs, such as additional postage and tabulation expenses) to include shareholder proposals in its proxy materials. While individual responses may have accounted for the printing of more than one proposal, the average cost reported by 67 companies was approximately $50,000.[97] By contrast, one commenter noted that the cost for companies, excluding the largest corporations, should average about $10,000 per proposal.[98] We expect that any additional printing costs are lower for small entities, since small entities typically should have to print fewer copies of their proxy materials because they have fewer shareholders.

A company that receives a proposal has no obligation to make a submission under rule 14a–8 unless it intends to exclude the proposal from its proxy materials. Accordingly, any costs of including an additional proposal should be offset, at least partially, by not having to make a rule 14a–8 submission. No commenters responded to our request for empirical data on the potential cost savings.

Reversal of Cracker Barrel

In the 1992 *Cracker Barrel* no-action letter, the Division stated that henceforth it would concur in the exclusion of all employment-related shareholder proposals raising social policy issues under rule 14a–8(c)(7), the "ordinary business" exclusion. Before the announcement of the position, the Division analyzed employment related proposals tied to social issues on a case-by-case basis, concurring in the exclusion of some, but not others. Reversal of the position will result in a return to the case-by-case analysis that prevailed before the position was announced.

Our decision to reverse the *Cracker Barrel* position on employment-related shareholder proposals may therefore result in an increase in the number of employment-related proposals tied to social issues that are submitted to companies each year, and that companies must include in their proxy materials. During the 1997 proxy season, the Division received approximately 30 submissions involving employment-related proposals tied to social issues, none from "small businesses." [99]

While it is unclear whether the number of proposals submitted to small businesses and included in their proxy statements will increase as a result of the reversal of *Cracker Barrel*, we have analyzed under "Plain English Question & Answer Format" above the potential costs to companies of considering and including additional proposals in their proxy materials.

Discretionary Voting Authority

The amendments to rule 14a–4 should favorably affect companies, including "small businesses," because they would provide clearer ground rules as to the ability to exercise discretionary voting power when a shareholder presents a proposal without invoking rule 14a–8. We do not routinely record information on the number of "small businesses" that receive non-rule 14a–8 proposals

[92] 17 CFR 240.0–10.

[93] 17 CFR 270.0–10.

[94] *See* Proposing Release, Footnote 14.

[95] This average is based on respondents reporting costs greater than zero. Reported costs ranged from a low of $10 to a high of approximately $1,200,000. The median cost was $10,000.

[96] ICCR Letter at 9.

[97] This average is based on respondents reporting costs greater than zero. Reported costs ranged from a low of $200 to a high of nearly $900,000. The median cost was $10,000.

[98] *See* ICCR Letter at 9–10.

[99] No commenters provided information on the likely impact reversal of the position will have on the number of shareholder proposals submitted to companies each year.

each year, since non-14a–8 proposals do not necessarily lead to a submission to the Commission. The Investor Responsibility Research Center ("IRRC") has reported to the Commission staff, however, that it is aware of a total of 19 independent proxy solicitations during calendar years 1996 and 1997 in support of non-14a–8 proposals, and none appear to have involved "small businesses." In addition, one commenter indicated that, since 1991, there have been 66 independent shareholder solicitations in support of shareholder resolutions.[110] None of the companies subject to the 66 solicitations appear to have been "small businesses."

To the extent that "small businesses" receive such proposals, we believe that the amendments to rule 14a–4 will favorably affect them by reducing uncertainty, and decreasing the likelihood that such companies would have to incur the delay and expense of rescheduling the shareholders meeting, or resoliciting shareholders. Some commenters thought that the proposal to require companies wishing to preserve voting authority to include an extra voting box on their proxy cards might encourage the submission of more non-14a–8 shareholder proposals. We have decided not to adopt that aspect of our original proposal. Some shareholders thought that the amendments as proposed might effectively inhibit independent proxy solicitations because they would have permitted companies to retain voting authority even if the shareholder solicited the percentage of shareownership required to carry the proposal. We also have decided not to adopt that aspect of our original proposal.

Under our amendments to rule 14a–4, a company wishing to preserve discretionary voting authority on certain proposals that might be presented to a vote may be required to advise shareholders of the nature of such proposals. We note, however, that this precondition is consistent with the Division's no-action positions predating the adoption of the amendments. No commenters provided empirical data on incremental costs likely to result from this amendment to rule 14a–4. Daniels Financial Printing informed the staff that in most cases adding up to three-fourths of a page in the proxy statement would not increase the cost to the company, and that adding more than three-fourths of a page could increase costs by about $1,500 for an average sized company.

Under our amendments to rule 14a–4, a shareholder undertaking an independent proxy solicitation would be required to provide a company with advance written notice of its intention to solicit the percentage of the company's shareownership to carry the proposal, followed by other measures to help ensure that the notice has been provided in good faith. These amendments would impose no additional costs on companies receiving such notice, since no action by them is required. The amendments should impose only de minimis additional costs on shareholders who undertake independent proxy solicitations.[101]

Our amendment to rule 14a–5 would require companies to disclose an additional date in their proxy statements. Disclosure of the date should require no more than an additional sentence, and therefore should result in no, or negligible, additional printing costs.

We considered significant alternatives to the proposed amendments for small entities with a class of securities registered under the Exchange Act. We considered, for instance, exempting small businesses from any obligation to include shareholder proposals in their proxy materials. Such an exemption, however, would be inconsistent with the current purpose of the proxy rules, which is to provide and regulate a channel of communication among shareholders and public companies. Exempting small entities would deprive their shareholders of this channel of communication.

We also considered other alternatives identified in Section 603 of the Regulatory Flexibility Act to minimize the economic impact of the amendments on small entities. We considered the establishment of different compliance requirements or timetables that take into account the resources available to small entities. Different timetables, however, may make it difficult for the Division to issue responses in a timely manner, and could otherwise impede the efficient operation of the rule.

We also considered the clarification, consolidation, or simplification of the rule's compliance requirements for small entities. As explained more fully in section II of this release, we are recasting and reformatting rule 14a–8 into a more understandable, Question & Answer format. As explained in Section IV above, we are adopting clearer guidelines for companies' exercise of discretionary voting authority under rule 14a–4. These modifications should simplify and facilitate compliance by all companies, including small entities. We do not believe that there is any appropriate way further to facilitate compliance by small entities without compromising the current purposes of the proxy rules.

We also considered the use of performance rather than design standards. The rules that we are amending are not specifically designed to achieve certain levels of performance. Rather, they are designed to serve other policies, such as to ensure adequate disclosure of material information, and to provide a mechanism for shareholders to present important and relevant matters for a vote by fellow shareholders. Performance standards accordingly would not directly serve the policies underlying the rules. We do not believe that any current federal rules duplicate, overlap, or conflict with the rules that we propose to amend.

VIII. Cost-Benefit Analysis

This cost-benefit analysis follows a preliminary analysis request for comments and empirical information included in the Proposing Release.[102] We received few comments and no significant empirical data, in response to our requests for further information.

The amendments to the rules on shareholder proposals should improve the efficiency of the process for determining which shareholder proposals must be included in proxy materials distributed by companies. They should help to make the rule understandable to the numerous shareholders and companies that refer to the rule each year, ensure that companies include certain employment-related proposals raising significant social policy issues in their proxy materials, and provide clearer guidelines for a company's exercise of discretionary voting authority when notified that a shareholder intends to present a proposal without invoking rule 14a–8's mechanisms.

Specifically, we are:

- Recasting rule 14a–8 into a more plain-English Question & Answer format;
- Reversing the *Cracker Barrel* interpretive position on employment-related proposals raising significant social policy issues; and
- Amending rule 14a–4 to provide shareholders and companies with clearer guidance on companies' exercise of discretionary voting authority.

[100] UNITE Letter.

[101] In order to comply, an insurgent is required to send to the company advance written notice of its intention to solicit the percentage of a company's shareownership required to carry the proposal, followed by evidence of the solicitation, and to include what should in most cases amount to little more than an additional sentence in the insurgent's proxy statement.

[102] *See* Proposing Release, Section VI.

We have decided not to adopt other elements of our original proposals. We are *not adopting* our original proposals to:

- Increase the percentage of the vote a proposal must receive before it can be resubmitted in future years if it is not approved;
- Streamline the exclusion for matters considered irrelevant to corporate business;[103]
- Modify our administration of the rule permitting companies to exclude proposals furthering personal grievances of special interests; or
- Implement an "override" mechanism that would have permitted 3% of the share ownership to override a company's decision to exclude a proposal under certain of the bases for exclusion set forth under Question 9 of amended rule 14a–8.[104]

We have considered whether the amendments we are adopting would promote efficiency, competition and capital formation. Rule 14a–8 requires companies to include shareholder proposals in their proxy materials, subject to specific bases for excluding them. We believe that the rule enhances investor confidence in the securities markets by providing a means for shareholders to communicate with management and among themselves on significant matters.

Plain-English Question & Answer Format

Our revision of the rule to create a more understandable Question & Answer format should help decrease the time and expense incurred by both shareholders and companies attempting to comply with its provisions. Companies frequently consult with legal counsel in preparing no-action submissions under rule 14a–8. The rule's added clarity may obviate the need for a shareholder or company to consult with counsel, depending on the issues raised by the submission. Under some circumstances, however, companies' submissions must include supporting opinions of counsel.

No commenters submitted empirical data demonstrating how much it costs companies to consider and prepare an individual no-action submission under rule 14a–8. Question 13 of the Questionnaire asked respondent companies how much money they spend on average each year determining whether to include or exclude shareholder proposals and following Commission procedures in connection with any proposal that they wish to exclude (including internal costs as well as any outside legal and other fees). While responses may have accounted for consideration of more than one proposal, the costs reported by 80 companies averaged approximately $37,000.[105]

Because the revised rule's added clarity may make it easier for shareholders to understand the procedures for submitting shareholder proposals, the amendments may encourage shareholders to submit more shareholder proposals to companies each year. In turn, companies may be required to make more rule 14a–8 no-action submissions to the Commission. A study conducted by one commenter reports that, each year, shareholder proposals come to a vote at 226 companies from among the 1,500 largest U.S. companies.[106]

We also received no information in response to our request for data on the marginal cost of including an additional shareholder proposal in companies' proxy materials. However, the Questionnaire asked each company respondent how much money on average it spends in the aggregate on printing costs (plus any directly related costs, such as additional postage and tabulation expenses) to include shareholder proposals in its proxy materials. While individual responses may have accounted for the printing of more than one proposal, the average cost reported by 67 companies was approximately $50,000.[107] By contrast, one commenter thought that this estimate is too high, although large companies in his view would incur relatively higher costs.[108]

A company that receives a proposal has no obligation to make a submission under rule 14a–8 unless it intends to exclude the proposal from its proxy materials.[109] Accordingly, any costs of including an additional proposal should be offset, at least partially, by not having to make a rule 14a–8 submission. No commenters responded to our request for empirical data on the potential cost savings.

Reversal of Cracker Barrel

In the 1992 *Cracker Barrel* no-action letter, the Division stated that henceforth it would concur in the exclusion of all employment-related shareholder proposals raising social policy issues under rule 14a–8(c)(7), the "ordinary business" exclusion. Before the announcement of the position, the Division analyzed employment related proposals tied to social issues on a case-by-case basis, concurring in the exclusion of some, but not others. Reversal of the position will result in a return to the case-by-case analysis that prevailed before the position was announced.

Our decision to reverse the *Cracker Barrel* position on employment-related shareholder proposals may therefore result in an increase in the number of employment-related proposals tied to social issues that are submitted to companies each year, and that companies must include in their proxy materials. During the 1997 proxy season, the Division received approximately 30 submissions involving employment-related proposals tied to social issues.[110]

We have analyzed under "Plain English Question & Answer Format" above the potential costs to companies of considering and including additional proposals in their proxy materials.

Shareholder proposals could have a positive or negative impact, or no impact, on the price of a company's securities.[111] Relatively few shareholder proposals are approved by shareholders each year, and the few that are approved typically focus on corporate governance matters rather than social issues.[112] Based on information provided to us by IRRC, we understand that for calendar year 1997, 22 proposals obtained

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[103] Paragraph (5) under Question 9, former rule 14a–8(c)(5).

[104] Because we are not adopting the proposed "override", we also are not adopting certain measures designed to enable shareholders to use it, including the proposed qualified exemption from the proxy rules, and safe harbor from beneficial ownership reporting obligations under Section 13(d) of the Exchange Act.

[105] This average is based on respondents reporting costs greater than zero. Reported costs ranged from a low of $10 to a high of approximately $1,200,000. The median cost was $10,000.

[106] *See* Shareholder Rights Analysis: The Impact of Proposed SEC Rules on Resubmission of Shareholder Resolutions, Social Investment Forum Foundation, Dec. 10, 1997.

[107] This average is based on respondents reporting costs greater than zero. Reported costs ranged from a low of $200 to a high of nearly $900,000. The median cost was $10,000.

[108] *See* ICCR Letter at 9–10.

[109] In the period from September 30, 1996 to September 30, 1997, we received approximately 400 submissions under rule 14a–8.

[110] No commenters provided information on the likely impact reversal of the position will have on the number of shareholder proposals submitted to companies each year.

[111] *See, e.g.*, Michael P. Smith, Shareholder Activism by Institutional Investors: Evidence from CalPERS, *The Journal of Finance*, Vol. LI, No. 1, March 1996; Sunil Wahal, Pension Fund Activism and Firm Performance, *Journal of Financial and Quantitative Analysis*, Vol. 31, No. 1, March 1996.

[112] Even if a proposal does not obtain shareholder approval, however, it may nonetheless influence management, especially if it receives substantial shareholder support. A proposal may also influence management even if it is not put to a shareholder vote. We understand that in some instances management has made concessions to shareholders in return for the withdrawal of a proposal.

shareholder approval out of a total of 376 proposals submitted to shareholder votes. Ten were proposals to repeal classified boards (i.e., boards with staggered terms). Ten sought redemption of companies' shareholder rights plans. One focused on "golden parachute" payments to executives (i.e., large payments typically contingent upon corporate change of control). One sought to restrict director pension benefits.

Proposals addressing corporate governance matters tend to receive the most substantial shareholder support and may have an identifiable impact on shareholder wealth. Examples are proposals on voting and nomination procedures for board members, and proposals to restrict or eliminate companies' shareholder rights plans (i.e., "posion pills"). The amendments we are adopting do not focus on those type of proposals, and should not affect shareholders' ability to include them in companies proxy materials. Additionally, shareholder proposals on social issues may improve investor confidence in the securities markets by providing investors with a sense that as shareholders they have a means to express their views to the management of the companies in which they invest.

Discretionary Voting Authority

The amendments to rule 14a-4 should favorably affect companies because they should provide clearer ground rules as to the ability to exercise discretionary voting power when a shareholder presents a proposal without invoking rule 14a-8.

We do not collect information on the number of companies that receive non-rule 14a-8 proposals each year, since such proposals do not necessarily lead to a submission to the Commission. However, IRRC has reported to the Commission staff that, during the 1997 calendar year, it is aware of only two independent solicitations in support of non-14a-8 shareholder resolutions, down from 17 solicitations for calendar year 1996. In addition, one commenter indicated that, since 1991, there have been 66 independent shareholder solicitations in support of shareholder resolutions.[113]

To the extent "small businesses" receive such proposals, we believe that the amendments to rule 14a-4 will favorably affect them by reducing uncertainty, and decreasing the likelihood of incurring the delay and expense of rescheduling the shareholders meeting and/or resoliciting shareholders. Reducing the potential for uncertainty should also help to decrease the likelihood of related litigation.

One company estimated the cost of sending supplemental proxy material to its shareholders at about $170,000.[114] Thus, if the amendments permit companies to avoid resolicitations on five occasions, the savings would amount to about $850,000.[115]

Another commenter submitted information on the legal costs of representing insurgent shareholders in connection with court actions under the proxy rules.[116] According to that commenter, attorneys' fees and costs incurred by the insurgent ranged from $17,517 to $75,421. It is not clear whether these actions involved rule 14a-5 or discretionary voting authority, and they do not include the legal costs of other parties or any other associated expenses.

Some commenters thought that the proposal to require companies wishing to preserve voting authority to include an extra voting box on their proxy cards might encourage the submission of more non-14a.8 shareholder proposals, as well as confusion among shareholders. We have decided not to adopt that aspect of our original proposal. Other commenters thought that the proposals might effectively inhibit independent proxy solicitations because they would have provided companies with a means to retain voting authority even if the shareholder solicited the percentage of shareownership required to carry the proposal. We also have decided not to adopt that aspect of our original proposal.

Under our amendments to rule 14a-4, a company, wishing to preserve discretionary voting authority on certain proposals that might be presented to a vote, may be required to advise shareholders of the nature of such proposals. We note, however, that this precondition is consistent with the Division's no-action positions predating the adoption of these amendments. No commenters provided empirical data on incremental costs likely to result from these amendments to rule 14a-4. Daniels Financial Printing informed the staff that is most cases adding up to three-fourths of a page in the proxy statement would not increase the cost to the company, and that adding more than three-fourths of a page could increase costs by about $1,500 for an average sized company.

Under our amendments to rule 14a-4, a shareholder undertaking an independent proxy solicitation would be required to provide a company with advance written notice of its intention to solicit the percentage of the company's shareownership to carry the proposal, followed by other measures to help ensure that the notice has been provided in good faith. These amendments would impose no additional costs on companies receiving such notice, since no action by them is required. The amendments should impose only de minimis additional costs on a shareholder undertaking an independent proxy solicitation.[117]

Our amendment to rule 14a-5 would require companies to disclose an additional data in their proxy statements. Disclosure of the date should require no more than an additional sentence, and therefore should result in no, or negligible, additional printing costs.

Section 23(a) of the Exchange Act[118] requires the Commission to consider any anti-competitive effects of any rules it adopts thereunder and the reasons for its determination that any burden on competition imposed by such rules is necessary or appropriate to further the purposes of the Exchange Act. The Commission has considered the impact this rulemaking will have on competition and believes that the amendments will not impose a significant burden on competition.

IX. Paperwork Reduction Act

Regulation 14A[119] and the Commission's related proxy rules, including rules 14a-8, 14a-4, and 14a-5, were adopted pursuant to Section 14(a) of the Exchange Act. Section 14(a) directs the Commission to adopt rules "as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to section 12 of this title." Schedule 14A prescribes information that a company must include in its proxy statement to ensure that shareholders are provided material information relating to voting decisions.

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[113] UNITE Letter.

[114] *See* Harrah's Entertainment, Inc., Dec. 31, 1997

[115] We have no basis for estimating reliably how many resolicitations, if any, are likely to be avoided in any given year as a result of the amendments.

[116] Davis, Cowell & Bowe Letter at 4.

[117] In order to comply, an insurgent is required to send to the company advance written notice of its intention to solicit the percentage of a company's shareownership required to carry the proposal, followed by evidence of the solicition, and to include what should in most cases amount to little more than an additional sentence in the insurgent's proxy statement.

[118] 15 U.S.C. 78w(a)

[119] 17 CFR 240.14a-101.

The amendments to rules 14a-8, 14a-4(c), and 14a-5 should make it easier for shareholder proponents to include in companies' proxy materials employment-related shareholder proposals raising significant social policy matters, and provide companies subject to the proxy rules with clearer ground rules for the exercise of discretionary voting authority. The amendments should also make rule 14a-8 easier to understand the follow. The amendments focus primarily on rule 14a-8, which requires companies to include shareholder proposals in their proxy materials, subject to certain bases for excluding them. We received no Paperwork Reduction Act comments relating to the amendments.

As set forth in the Proposing Release,[120] certain provisions of rules 14a–8, 14a–4, and 14a–5 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 et seq.). The Commission had submitted the amendments to those rules to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. § 3507(d) and 5 CFR. 1320.11. The title for the collection of information is "Regulation 14A." Except as explained below, the amendments should have no impact on the total estimated burden hours for Regulation 14A.[121]

As originally proposed, amended rule 14a–4 would have in some circumstances required companies to include an extra voting box in their proxy cards in order to preserve discretionary voting authority. We are not, however, adopting that requirement, which we believe would have increased the total annual burden by only a negligible amount, or not at all.[122] We are adopting a requirement under rule 14a–4 that a shareholder insurgent in some circumstances provide a company with advance written notice of its intention to solicit the percentage of a company's shareownership necessary to approve the proposal, followed by evidence of the solicitation, and by negligible additional disclosures in the insurgent's proxy statement.[123] We estimate that these additional requirements, in the context of other amendments adopted today, will increase the annual burden under Regulation 14A for a shareholder insurgent by approximately one hour per shareholder proponent, and that approximately 10 proponents will have to comply each year. Accordingly, we have increased our estimated total compliance burden for Regulation 14A by a total of 10 hours, to 810,935 hours.

Providing the information required by Regulation 14A is mandatory under Section 14(a) of the Exchange Act. The information will not be kept confidential. Unless a currently valid OMB control number is displayed on the Schedule 14A, the Commission may not sponsor or conduct or require response to an information collection. The OMB control number is 3235–0059. The collection is in accordance with 44 U.S.C. § 3507.

X. Statutory Basis And Text of Amendments

We are adopting amendments to Rules 14a–8, 14a–4, and 14a–5 under the authority set forth in Sections 13, 14 and 23 of the Securities Exchange Act of 1943, and Section 20(a) of the Investment Company Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

a. By amending § 240.14a–4 by revising the introductory text of paragraph (c) and paragraph (c)(1), redesignating paragraphs (c)(2) through (c)(5) as paragraphs (c)(4) through (c)(7), and adding new paragraphs (c)(2) and (c)(3), to read as follows:

§ 240.14a–4 Requirements as to proxy.

* * * * *

(c) A proxy may confer discretionary authority to vote on any of the following matters:

(1) For an annual meeting of shareholders, if the registrant did not have notice of the matter at least 45 days before the date on which the registrant first mailed its proxy materials for the prior year's annual meeting of shareholders (or date specified by an advance notice provision), and a specific statement to that effect is made in the proxy statement or form of proxy. If during the prior year the registrant did not hold an annual meeting, or if the date of the meeting has changed more than 30 days from the prior year, then notice must not have been received a reasonable time before the registrant mails its proxy materials for the current year.

(2) In the case in which the registrant has received timely notice in connection with an annual meeting of shareholders (as determined under paragraph (c)(1) of this section), if the registrant includes, in the proxy statement, advice on the nature of the matter and how the registrant intends to exercise its discretion to vote on each matter. However, even if the registrant includes this information in its proxy statement, it may not exercise discretionary voting authority on a particular proposal if the proponent:

(i) Provides the registrant with a written statement, within the time-frame determined under paragraph (c)(1) of this section, that the proponent intends to deliver a proxy statement and form of proxy to holders of at least the percentage of the company's voting shares required under applicable law to carry the proposal;

(ii) Includes the same statement in its proxy materials filed under § 240.14a–6; and

(iii) Immediately after soliciting the percentage of shareholders required to carry the proposal, provides the registrant with a statement from any solicitor or other person with knowledge that the necessary steps have been taken to deliver a proxy statement and form of proxy to holders of at least the percentage of the company's voting shares required under applicable law to carry out the proposal.

(3) For solicitations other than for annual meetings or for solicitations by persons other than the registrant, matters which the persons making the solicitation do not know, a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy.

3. By amending § 240.14a-5 by revising paragraph (e), and adding paragraph (f), to read as follows:

§ 240.14a-5 Presentation of information in proxy statement.

* * * * *

(e) All proxy statements shall disclose, under an appropriate caption, the following dates:

(1) The deadline for submitting shareholder proposals for inclusion in the registrant's proxy statement and

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[120] *See* Proposing Release, Section VII.

[121] 17 CFR 240.14a–101.

[122] See Section IV above.

[123] *Id.*

form of proxy for the registrant's next annual meeting, calculated in the manner provided in § 240.14a-8(d)(Question 4); and

(2) The date after which notice of a shareholder proposal submitted outside the processes of § 240.14a-8 is considered untimely, either calculated in the manner provided by § 240.14a-4(c)(1) or as established by the registrant's advance notice provision, if any, authorized by applicable state law.

(f) If the date of the next annual meeting is subsequently advanced or delayed by more than 30 calendar days from the date of the annual meeting to which the proxy statement relates, the registrant shall, in a timely manner, inform shareholders of such change, and the new dates referred to in paragraphs (e)(1) and (e)(2) of this section, by including a notice, under Item 5, in its earliest possible quarterly report on Form 10–Q (§ 249.308a of this chapter) or Form 10–QSB (§ 249.308b of this chapter), or, in the case of investment companies, in a shareholder report under § 270.30d-1 of this chapter under the Investment Company Act of 1940, or, if impracticable, any means reasonably calculated to inform shareholders.

4. By revising § 240.14a-8 to read as follows:

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d–101), Schedule 13G (§ 240.13d–102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit: Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§ 249.308a of this chapter) or 10–QSB (§ 249.308b of this chapter), or in shareholder reports of investment companies under § 270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and mail its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and mail its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to

Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a–8 and provide you with a copy under Question 10 below, § 240.14a–8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds it shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law could result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earning sand gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Relates to election:* If the proposal relates to an election for membership on the company's board of directors or analogous governing body;

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting.

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.142–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it mails its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a–6.

Dated: May 21, 1998.

By the Commission.

Margaret McFarland,

Deputy Secretary.

[FR Doc. 98–14121 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 98–50]

RIN 1515–AC28

Emissions Standards for Imported Nonroad Engines

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations, in conformance with regulations of the U.S. Environmental Protection Agency (EPA), in order to include marine spark-ignition engines among those imported nonroad engines that are subject to compliance with applicable EPA emissions standards required by law. In addition, the Customs Regulations in this regard are further amended by eliminating the unnecessary, extensive replication of the particular admission requirements for subject nonroad engines that are already contained in the EPA regulations.

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Brad Lund, Office of Field Operations, (202–927–0192).

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), which has long authorized the Environmental Protection Agency (EPA) to regulate on-highway motor vehicle and engine emissions, was amended in 1990 to extend EPA's regulatory authority to include as well nonroad engines and related vehicles and equipment (see 42 U.S.C. 7521–7525, 7541–7543, 7547, 7549, 7550, 7601(a)).

In brief, EPA was given authority, inter alia, to regulate those classes or categories of new nonroad engines and associated vehicles and equipment that contribute to air pollution, if such nonroad emissions were determined to be significant.

To this end, the EPA issued regulations in 40 CFR parts 89 and 90 that established emissions standards for new nonroad compression-ignition engines at or above 50 horsepower (37 kilowatts) as well as new nonroad spark-ignition engines at or below 25 horsepower (19 kilowatts) (see 59 FR 31306 (June 17, 1994) and 60 FR 34582 (July 3, 1995), respectively, for the background and development of these EPA regulations).

By a final rule document published in the **Federal Register** on August 27, 1996 (61 FR 43960), Customs amended its regulations to add a new § 12.74 (19 CFR 12.74) that conformed to the regulations adopted by the EPA in order to ensure the compliance of the aforementioned imported nonroad engines with applicable EPA emissions standards required by law.

The EPA has now issued regulations in 40 CFR part 91, establishing emissions standards as well for new marine spark-ignition engines (see 61 FR 52088 (October 4, 1996) for the background and development of the EPA regulations).

Accordingly, § 12.74 is hereby amended to include marine spark-ignition engines among those imported nonroad engines that are subject to applicable EPA emissions standards. Furthermore, Customs has determined to abbreviate significantly § 12.74 by simply referencing the EPA regulations concerned, and eliminating the unnecessary, extensive replication of the particular admission requirements for subject nonroad engines that are already contained in the EPA regulations.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Inasmuch as these amendments merely conform the Customs Regulations to existing law and regulation as noted above, pursuant to 5 U.S.C. 553(b)(B), notice and public

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procedure thereon are unnecessary and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do these amendments meet the criteria for a "significant regulatory action" under E.O. 12866.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Vehicles.

Amendments to the Regulations

Part 12, Customs Regulations (19 CFR part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12, and the specific authority citation for § 12.74, continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.73 and 12.74 also issued under 19 U.S.C. 1484, 42 U.S.C. 7522, 7601;

* * * * *

2. Section 12.74 is revised to read as follows:

§ 12.74 Nonroad engine compliance with Federal antipollution emission requirements.

(a) *Applicability of EPA regulations.* The requirements governing the importation of nonroad engines subject to conformance with applicable emissions standards of the U.S. Environmental Protection Agency (EPA) are contained in EPA regulations, issued under the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*). These EPA regulations should be consulted for detailed information as to the admission requirements for subject nonroad engines, as follows:

(1) For nonroad compression-ignition engines at or above 37 kilowatts, see 40 CFR part 89, subpart G;

(2) For nonroad spark-ignition engines at or below 19 kilowatts, see 40 CFR part 90, subpart G; and

(3) For marine spark-ignition engines, see 40 CFR part 91, subpart H.

(b) *Admission of nonconforming nonroad engines.* (1) *EPA declaration required.* EPA Form 3520–21, "Importation of Nonroad Engines and Nonroad Engines Incorporated Into Nonroad Equipment or Vehicles, Subject to Federal Air Pollution Regulations", must be completed by the importer and retained on file by him before making a customs entry for such nonroad engines/equipment/vehicles.

(2) *Retention and submission of records to Customs.* Documents supporting the information required in the EPA declaration must be retained by the importer for a period of at least 5 years in accordance with § 162.1c of this chapter and shall be provided to Customs upon request.

(c) *Release under bond.* (1) *Conditional admission.* If the EPA declaration states that the entry for a nonconforming nonroad engine is being filed under one of the exemptions described in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, under which the engine must be conditionally admitted under bond, the entry for such engine shall be accepted only if a bond is given on Customs Form 301 containing the conditions set forth in § 113.62 of this chapter for the presentation of an EPA statement that the engine has been brought into conformity with Federal emissions requirements.

(2) *Final admission.* Should final admission be sought and granted pursuant to EPA regulations for an engine conditionally admitted initially under one of the exemptions described in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the importer or consignee shall deliver to the port director the prescribed statement. The statement shall be delivered within the period authorized by EPA for the specific exemption, or such additional period as the port director of Customs may allow for good cause shown. Otherwise, the importer or consignee shall deliver or cause to be delivered to the port director the subject engine, either for export or other disposition under applicable Customs laws and regulations (see paragraph (e) of this section). If such engine is not redelivered within 5 days following the allotted period, liquidated damages shall be assessed in the full amount of the bond, if a single entry bond, or if a continuous bond, the amount that would have been taken under a single entry bond (see 40 CFR 89.612–96(d), 90.613(c) & (d), 91.705(c) & (d)).

(3) *Exemptions.* The specific exemptions under which a nonconforming nonroad engine may be conditionally admitted, and for which a Customs bond is required, are as follows:

(i) Repairs or alterations (see 40 CFR 89.611–96(b)(1), 90.612(b)(1), 91.704(b)(1));

(ii) Testing (see 40 CFR 89.611–96(b)(2), 90.612(b)(2), 91.704(b)(2));

(iii) Precertification (see 40 CFR 89.611–96(b)(3), 89.906); and

(iv) Display (see 40 CFR 89.611–96(b)(4), 90.612(b)(3), 91.704(b)(3)).

(d) *Notice of inadmissibility or detention.* If an engine is found to be inadmissible either before or after release from Customs custody, the importer or consignee shall be notified in writing of the inadmissibility determination and/or redelivery requirement. However, an engine which cannot be released merely due to a failure to furnish with the entry any documentary information as required by EPA shall be held in detention by the port director for a period not to exceed 30 days after filing of the entry at the risk and expense of the importer pending submission of the missing information. An additional 30-day extension may be granted by the port director upon application for good cause shown. If at the expiration of a period not over 60 days the required documentation has not been filed, a notice of inadmissibility will be issued.

(e) *Disposal of engines not entitled to admission; prohibited importations.* A nonroad engine denied admission under EPA regulations shall be disposed of consistent with such EPA regulations and in accordance with applicable Customs laws and regulations. The importation of nonroad engines otherwise than as prescribed under EPA regulations is prohibited.

Douglas M. Browning,

Acting Commissioner of Customs.

Approved: May 6, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–14164 Filed 5–27–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 98–51]

RIN 1515–AC26

Automated Clearinghouse Credit

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to provide for payments of funds to Customs by Automated Clearinghouse (ACH) credit. Under ACH credit, a payer

will be able to transmit daily statement, deferred tax, and bill payments electronically through a financial institution directly to a Customs account maintained by the Department of the Treasury. ACH credit allows the payer to exercise more control over the payment process, does not require the disclosure of bank account information to Customs, and expands the types of payments that may be made through ACH.

DATES: This interim rule is effective June 29, 1998. Comments must be received before July 27, 1998.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ben Robbin, Financial Systems Division, Financial Management Services Center, Office of Finance, U.S. Customs Service (317–298–1520, ext. 1428).

SUPPLEMENTARY INFORMATION:

Background

Part 206 of the Financial Management Service (FMS) Regulations (31 CFR Part 206) concerns, among other things, the management of Federal agency receipts and disbursements and applies to all Government departments and agencies within the Executive Branch. Section 206.4(a) of the FMS Regulations (31 CFR 206.4(a)) sets forth the general rule that all funds are to be collected and disbursed by electronic funds transfer (EFT) when cost-effective, practicable, and consistent with current statutory authority. Section 206.2 of the FMS Regulations (31 CFR 206.2) defines EFT as follows:

> *Electronic funds transfer (EFT)* means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, Fed Wire transfers, Automated Clearing House (ACH) transfers, transfers made at automatic teller machines (ATM) and Point-of-Sale (POS) terminals (to include use of the Government small purchase card), and other means of credit card transactions.

Section 24.25 of the Customs Regulations (19 CFR 24.25) concerns "statement processing" and "automated clearinghouse (ACH)" and thus, by virtue of the latter, in part implements the policy reflected in the FMS Regulations referred to above. Paragraph (a) of § 24.25 describes statement processing as a voluntary automated program which allows participants in the Automated Broker Interface (ABI) to group entry/entry summaries and entry summaries on a daily basis and to pay the related duties, taxes and fees with a single payment. Paragraph (a) of § 24.25 further provides that the preferred method for such single payment is by ACH, except where the importer of record has provided (normally, to a customs broker who files the entry on behalf of the importer) a separate check payable to Customs for the Customs charges.

The ACH payment process currently set forth in § 24.25 is a debit payment method (hereinafter referred to as "ACH debit") whereby ABI filers provide Customs with the bank routing and account number from which ACH payments are to be electronically debited by a Treasury-designated ACH processor bank upon receipt of an electronic message sent by Customs. However, following implementation of statement processing and ACH debit on January 1, 1990, Customs found that the ACH debit procedure did not achieve all of the intended results because some daily statement payers have remained reluctant to provide the U.S. Government with their bank account information and, therefore, such parties still make their daily statement payments by check. Moreover, the current ACH debit process is limited to daily statement payments and thus does not cover bill payments under § 24.3 of the Customs Regulations (19 CFR 24.3) and deferred tax payments under § 24.4 of the Customs Regulations (19 CFR 24.4), which are accepted primarily through check (through a Customs lockbox) and Fed Wire respectively, and for which Customs believes some payers would prefer to use the ACH environment.

The FMS and Riggs National Bank of Washington, D.C. have developed another ACH payment procedure for the Federal Government, referred to herein as "ACH credit". This process allows the Federal Government to receive ACH payments initiated directly by the private sector payer. This process benefits payers by allowing them to effect payment without having to disclose bank account information to the Government and by allowing them to maintain more control over the origination and timing of their payments. The ACH credit process benefits the Government in that transit routing and bank account authorization does not have to be obtained from the remitter and the Government does not have to do anything to effect an individual payment.

Customs has received authorization from the FMS to receive ACH credit payments, and appropriate modifications have been made to the Automated Commercial System (ACS) to accept the transfer of payment and remittance information from Riggs Bank and to apply those payments to the appropriate receivables. Since the ACH credit procedure represents a significant enhancement of the electronic entry and payment process and provides important benefits to both Customs and the trade community, Customs believes that it should be made available to the public, for use on a voluntary basis, at the earliest practicable date and that it should encompass not only daily statement payments but also bill payments and deferred tax payments.

The purpose of this document is to provide an appropriate regulatory context for the ACH credit procedure. The ACH credit procedure and the regulatory changes reflected in this document are discussed in more detail below.

How ACH Credit Works

Companies and other payers interested in enrolling in the ACH credit program must indicate such interest by providing the following information to Customs: Payer name and address; payer contact name(s); payer telephone number(s) and facsimile number; payer identification number (importer number, Social Security number, or Customs assigned number); and 3-digit filer code. This information should be sent to the Financial Management Services Center, U.S. Customs Service, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, by mail or facsimile transmission (317–298–1013). Pre-printed enrollment forms for this purpose, together with detailed information regarding the ACH credit program, are available from the Financial Management Services Center contact person identified earlier in this document.

The payer and its financial institution are responsible for determining the methodology used for originating the ACH credit payment (telephone or computer generated instructions, diskettes, etc.) and the methodology used for notifying the payer that its account has been charged. The financial institution that the payer uses must be capable of structuring ACH credit transactions according to the payment and addendum conventions prescribed by the National Automated

Clearinghouse Association, that is, the financial institution must use either the CCD+ or the CTX payment formats and must use the TXP data segment for the payment-related information within the addendum record for each daily statement or deferred tax or bill payment. Payments transmitted by ACH credit must be formatted as described in the format instructions provided by the Financial Management Services Center.

Following receipt of the enrollment information, the Financial Management Services Center provides the payer with specific ACH credit routing and format instructions and advises the payer that the following information must be provided to its financial institution when originating its payments: Company name; company contact person name and telephone number; company identification number (coded Internal Revenue Service employer identification number or DUNS number or Customs assigned number); company payment description; effective date; receiving company name (*i.e.* U.S. Customs); transaction code; Customs transit routing number and Customs account number (provided to the payer by Customs); payment amount; payer identifier (importer number or Social Security number or Customs assigned number or filer code if the payer is a broker who is the importer of record); document number (daily statement number, entry or warehouse withdrawal number for a deferred tax payment, or bill number); payment type code (which identifies the payment as a daily statement payment or deferred tax payment or bill payment); settlement date (no later than the payment due date); and document payment amount.

Before effecting any payments of funds through the ACH credit process, the payer is instructed by Customs to follow a trial run "prenotification" procedure, involving a non-funds message transmission through its financial institution to the Customs account, in order to validate the routing instructions. Once the routing instructions are validated, the Financial Management Services Center notifies the payer that the prenotification transaction has been accepted and that payments may be originated on or after the tenth calendar day following the prenotification acceptance date.

The payer obtains the source data (the document number and amount) for the ACH credit payment transaction from the daily statement or from the entry or warehouse withdrawal documentation in the case of a deferred tax or from the Customs bill. The payer, through its financial institution, originates payment information to the Customs account no later than one business day prior to the payment due date (daily statement payments are due no later than ten working days after release or withdrawal of the merchandise; deferred tax payments are due on the 14th day or 29th day of the month, with special rules if the due date falls on a weekend or Federal holiday; bills must be paid no later than the late payment date appearing on the bill). The next day (the settlement date), the payer's account is charged by its financial institution and the payment is credited by Customs and applied to the appropriate daily statement or entry or warehouse withdrawal or bill as of that settlement date.

If daily statement payments are involved, a statement filer who is not the importer of record (and thus will not be making or authorizing the payment) must still obtain the preliminary statement through ABI and must still present the preliminary statement and the corresponding entry summaries (when paper is required) to the Customs location, as provided in § 24.25(c). However, the process differs in the case of payments to be made by ACH credit in that such a filer will provide the payer with the statement number and the statement amount at least one business day prior to the due date.

The payer is responsible for following the routing and format instructions provided by the Financial Management Services Center, and for ensuring the accuracy of the information provided to its financial institution, when originating its payment. Erroneous information provided by the payer (for example, non-standard formatting, incorrect document number, payment amount different from the amount due) will delay the prompt posting of the payment to the receivable. If a payer repeatedly provides erroneous information when originating payments, the payer may be advised in writing to refrain from using ACH credit and to submit its payments by bank draft or check pursuant to § 24.1 or by the ACH debit payment method under § 24.25.

Regulatory Implementation

In view of the fact that ACH credit is a voluntary program intended to provide flexibility, efficiency and related benefits to the trade community and to Customs, it appears appropriate to implement the ACH program as an interim rule, subject to public comment procedures before adoption of a final rule. Moreover, since present § 24:25 concerns only statement processing and describes ACH debit procedures whereas ACH credit will also apply to deferred tax and bill payments, Customs believes that it is preferable (1) to deal with ACH credit in a separate new § 24.26 and (2) to make conforming changes to present § 24.25 to reflect the adoption of the new section, including, where appropriate, the addition of the word "debit" to clarify the meaning of the references to ACH in that section.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Inapplicability of Prior Public Notice and Comment Procedures

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. The ACH credit process implemented by this regulation is an entirely voluntary payment procedure that provides benefits to the public in that it facilitates the electronic entry and payment process, addresses some concerns of the public regarding existing electronic payments procedures, and has the overall effect of reducing the regulatory burden on the public.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments,

approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1515–0218.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in these regulations is in § 24.26. This information is required in connection with an election to use the ACH credit procedure for making electronic payments of funds to Customs. The information will be used by the U.S. Customs Service to ensure that payments to Customs are properly transmitted, received, and credited. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 17 hours.

Estimated average annual burden per respondent/ recordkeeper: .083 hours.

Estimated number of respondents and/or recordkeepers: 200.

Estimated annual number of responses: 200.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs and costs of operations, maintenance, and purchase of services to provide information. Comments should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes.

Amendments to the Regulations

For the reasons set forth above, Part 24, Customs Regulations (19 CFR Part 24), is amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES

1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1450, 1624; 31 U.S.C. 9701.

* * * * *

§ 24.25 [Amended]

2. In § 24.25:

a. The third sentence of paragraph (a) is amended by adding after "(ACH)" the words "debit or ACH credit";

b. The sixth sentence of paragraph (a) is amended by adding the words "debit (see paragraph (b)(2) of this section)" after "ACH" the first time it appears and adding at the end of the sentence before the period the words "; ACH credit is described in § 24.26";

c. The heading of paragraph (b)(2) is amended by adding after "Clearinghouse" the word "debit";

d. The first sentence of paragraph (b)(2) is amended by adding after "through ACH" the word "debit"; and

e. The first sentence of paragraph (c)(4) is amended by removing the words "ACH payment authorization" and adding, in their place, the words "ACH debit payment authorization or ACH credit payment".

3. Section 24.26 is added to read as follows:

§ 24.26 Automated Clearinghouse Credit.

(a) *Description.* Automated Clearinghouse (ACH) credit is an optional payment method that allows a payer to transmit statement processing payments (see § 24.25) or deferred tax payments (see § 24.4) or bill payments (see § 24.3) electronically, through its financial institution, directly to the Customs account maintained by the Department of the Treasury.

(b) *Enrollment procedure.* A payer interested in enrolling in the ACH credit program must indicate such interest by providing the following information to the Financial Management Services Center, U.S. Customs Service, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278: Payer name and address; payer contact name(s); payer telephone number(s) and facsimile number; payer identification number (importer number or Social Security number or Customs assigned number); and 3-digit filer code.

(c) *Routing and format instructions.* Following receipt of the enrollment information, the Financial Management Services Center will provide the payer with specific ACH credit routing and format instructions and will advise the payer that the following information must be provided to its financial institution when originating its payments: Company name; company contact person name and telephone number; company identification number (coded Internal Revenue Service employer identification number or DUNS number or Customs assigned number); company payment description; effective date; receiving company name; transaction code; Customs transit routing number and Customs account number; payment amount; payer identifier (importer number or Social Security number or Customs assigned number or filer code if the payer is a broker who is the importer of record); document number (daily statement number, entry or warehouse withdrawal number for a deferred tax payment, or bill number); payment type code; settlement date; and document payment amount.

(d) *Prenotification procedure.* Before effecting any payments of funds through the ACH credit process, the payer must follow a prenotification procedure, involving a non-funds message transmission through its financial institution to the Customs account, in order to validate the routing instructions. When the routing instructions are validated, the Financial Management Services Center will notify the payer that the prenotification transaction has been accepted and that payments may be originated on or after the tenth calendar day following the prenotification acceptance date.

(e) *Payment origination procedures.* (1) *General.* Once the payer has received authorization to begin originating ACH credit payments under paragraph (d) of this section, the payer, through its financial institution, must originate each payment transaction to the Customs account no later than one business day prior to the payment due date. The payer's account will be charged by the financial institution on the settlement date identified in the transaction. The payer is responsible for following the routing and format instructions provided by Customs and for ensuring the accuracy of the information when originating each payment. Improperly formatted or erroneous information provided by the payer will delay the prompt posting of the payment to the receivable.

(2) *Procedures for daily statement filers.* The procedures set forth in § 24.25(c) for ABI filers using statement processing remain applicable when payment is effected through ACH credit. However, when the ABI filer is a customs broker who is not the importer of record and thus is not responsible for the payment, the ABI filer must provide

the statement number and statement amount to the importer of record at least one business day prior to the due date so that the importer of record can originate the payment.

(f) *Date of collection.* The date that the ACH credit payment transaction is received by Customs shall be the collection date which equates to the settlement date. The appropriate daily statement or entry or warehouse withdrawal or bill shall be identified as paid as of that collection date.

(g) *Removal from the ACH credit program.* If a payer repeatedly provides improperly formatted or erroneous information when originating ACH credit payments, the Financial Management Services Center may advise the payer in writing to refrain from using ACH credit and to submit its payments by bank draft or check pursuant to § 24.1 or, in the case of daily statement payments, to use the ACH debit payment method under § 24.25.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: May 5, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98-14166 Filed 5-27-98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 162 and 178

[T.D. 98-49]

RIN 1515-AB98

Prior Disclosure

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations governing "prior disclosure", including implementation of the Customs modernization provisions of the North American Free Trade Implementation Act (Mod Act) concerning prior disclosure by a person of a violation of law committed by that person involving the filing or attempted filing of a drawback claim, or an entry or introduction, or attempted entry or introduction of merchandise into the United States by fraud, gross negligence, or negligence. Pursuant to the "prior disclosure" provision of 19 U.S.C. 1592(c)(4) as amended by the Mod Act, and 19 U.S.C. 1593a(c)(3), if a person commits a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a and discloses the circumstances of the violation before, or without knowledge of, the commencement of a formal investigation of such violation, merchandise shall not be seized and any monetary penalty to be assessed shall be limited. "Commencement of a formal investigation" for purposes of 19 U.S.C. 1592 and 1593a is defined in these regulations. The document also amends the regulations to give Fines, Penalties and Forfeitures Officers discretion to defer Customs disclosure verification proceedings until the disclosing party has an opportunity to explain all the circumstances underlying the disclosed violation.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Pisani, Penalties Branch (202) 927-2344.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Pub. L. 103-182). The Customs modernization portion of this Act (Title VI), popularly known as the Customs Modernization Act, or "the Mod Act" became effective when it was signed. Section 621 of Title VI amended section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) (hereinafter referred to as section 592), and section 622 of Title VI added new section 593a. On September 26, 1996, Customs published in the **Federal Register** (61 FR 50459) a notice of proposed rulemaking to amend the Customs Regulations governing prior disclosure as it relates to sections 592 and 593a. Pursuant to the "prior disclosure" provision of 19 U.S.C. 1592(c)(4) as amended by the Mod Act, and 19 U.S.C. 1593a(c)(3), if a person commits a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a and discloses the circumstances of the violation before, or without knowledge of, the commencement of a formal investigation of such violation, merchandise shall not be seized and any monetary penalty to be assessed shall be limited.

It is noted that it is the policy of the Customs Service to encourage the submission of prior disclosures.

The notice of proposed rulemaking invited public comments on the proposals, which would be considered before adoption of a final rule. The public comment period closed on November 25, 1996.

Analysis of Comments

A total of thirty-seven commenters responded to the solicitation of comments during the public comment period. Many commenters applauded Customs efforts to re-organize and simplify the regulations involving prior disclosure. Ten of the commenters set forth specific recommendations to change the proposed amendments on a "section by section" basis. Five of these ten commenters made general comments which were not directly related to a specific section of the proposal. The remaining twenty-seven commenters set forth the single recommendation to amend the proposal to include a regulatory prohibition that would specify that a valid prior disclosure precludes the assessment of a liquidated damage claim for the disclosed violation.

The specific "section by section" recommendations and/or suggestions, general recommendations and/or suggestions, and the Customs responses thereto, are set forth below.

Proposed § 162.74(a)

Comment: One commenter suggests that § 162.74(a)(2) be amended to preclude "oral" prior disclosures. If adopted, the commenter recommends deleting all other references to oral prior disclosures in the proposal. No reason is articulated for suggesting this change.

Customs Response: We can find no valid reason for precluding a party from making an oral prior disclosure. Of course, as with a party making a written prior disclosure, a party who elects to make an oral disclosure must meet the regulatory criteria governing "disclosure of the circumstances of the violation" before, or without knowledge of the commencement of a formal investigation of such violation, in order to obtain prior disclosure benefits.

Comment: One commenter suggests that Customs change proposed § 162.74(a)(2) to reflect that the "appropriate Customs officer," rather than the Fines, Penalties and Forfeitures Officer, be the deciding official regarding whether the party had included substantially the information set forth in paragraph (b) of proposed § 162.74. The commenter is of the opinion that the decision-making authority should be vested in a Customs officer not connected to a potential penalty action. For similar reasons, another commenter suggests that the port director should be the deciding official instead of the Fines, Penalties and Forfeitures Officer.

Customs Response: We disagree. Inasmuch as the evaluation of information regarding the potential assessment of penalties under 19 U.S.C. 1592 or 19 U.S.C. 1593a is within the province of the Fines, Penalties and Forfeitures Officer, we are of the opinion that the Fines, Penalties and

Forfeitures Officer is the appropriate Customs official to determine whether the criteria set forth in proposed § 162.74(b) is met.

Comment: One commenter suggests that proposed § 162.74(a)(2) be amended to include language that indicates that a disclosing party is presumed to have no knowledge of the commencement of a formal investigation of the disclosed violation, unless Customs can rebut such presumption by virtue of one or more of the events set forth in proposed § 162.74(i).

Customs Response: Proposed § 162.74(i) sets forth events which give rise to presumptions of knowledge of the commencement of a formal investigation of the disclosed violation(s). Inasmuch as circumstances may exist that demonstrate "knowledge," but that are not included in the list of events set forth in proposed § 162.74(i), we do not believe that adoption of this suggestion is warranted. Moreover, we believe creating such a presumption would conflict with 19 U.S.C. 1592 and 1593a, which places the burden to demonstrate lack of knowledge on the disclosing party.

Comment: One commenter recommends that the Fines, Penalties and Forfeitures Officer should not be listed in proposed § 162.74(a)(2) as the sole officer to decide whether the disclosing party made a "disclosure of the circumstances of a violation" (*i.e.*, the criteria set forth in proposed § 162.74(b)), and that any such decisions should be subject to review or appeal. Further, for the sake of grammatical continuity, the commenter recommends deletion of the word "that" after the word "satisfied" in proposed § 162.74(a)(2).

Customs Response: For reasons discussed above, we are of the opinion that the Fines, Penalties and Forfeitures Officer is the appropriate Customs official to determine whether or not the party has met the criteria set forth in proposed § 162.74(b). With respect to a right of review or appeal of such determinations, Customs notes that such rights already are ensured by virtue of the disclosing party's right to petition if Customs issues a prepenalty or penalty notice initiating or assessing regular penalties. Lastly, we note that we have adopted the commenter's grammatical recommendation.

Proposed § 162.74(b)

Comment: One commenter recommends that the word "violator" in proposed § 162.74(b)(4) be changed to "disclosing party."

Customs Response: The recommendation is adopted.

Comment: One commenter suggests that proposed § 162.74(b)(4) should be clarified to indicate that requests for extensions apply to all information specified in proposed § 162.74(b).

Customs Response: We disagree. The adoption of the suggestion is contrary to the principle of "shared responsibility" and would eliminate the obligation to initially provide any information regarding a claimed prior disclosure.

Comment: One commenter suggests that Customs change proposed § 162.74(b)(4) to reflect that extension requests should normally be granted by Customs except in certain specified circumstances.

Customs Response: Customs believes that this change is not necessary. We note that the commenter did not specify circumstances that would warrant a denial of a request for an extension, and we believe that the creation of such circumstances would not be in the interests of either the disclosing party or the Customs Service.

Comment: One commenter recommends that proposed § 162.74(b)(4) be changed to specify that information provided to Customs pursuant to this provision may not be used to initiate or develop a criminal investigation or proceeding. The commenter suggests that use of such information to develop criminal cases impinges on the disclosing party's Constitutional 5th Amendment rights.

Customs Response: Customs disagrees. In addition to the fact that a party *elects* to make a claimed prior disclosure, it should be noted that current law requires referral of suspected criminal violations to the concerned U.S. Attorney's office. Consequently, the decision to prosecute a suspected violation of criminal statutes rests with the concerned U.S. Attorney's office rather than the Customs Service.

Proposed § 162.74(c)

Comment: One commenter suggests a change in the language in this section to make it clearer that the disclosing party may decide to wait to tender the actual loss of duties until Customs advises the party of its calculation of the actual loss of duties. The commenter is of the opinion that the current language is ambiguous, and that some ports have insisted that lost duties be tendered at the time of disclosure. Further, the commenter recommends that the period for tendering an actual loss of duties after having been notified by Customs of such loss be extended from 30 days to 60 days, and that the party may request an extension of time to tender.

Customs Response: We agree that the language suggested by the commenter regarding the timing of a tender is less ambiguous than the proposed language and have revised this section in accordance with the commenter's recommendation. On the other hand, we see no reason to change the 30 day period to tender an actual loss calculated by Customs to 60 days. We note that the proposed regulations do provide the Fines, Penalties and Forfeitures Officer with the authority to extend the 30 day period if it is determined that there is good cause to do so.

Comment: One commenter recommends adding a subsection to proposed § 162.74(c) to provide for refund in the event that Customs determines that the amount tendered is not, in fact, an actual loss of duties. Three other commenters recommend that proposed § 162.74(c) be revised to provide the disclosing party with a mechanism to challenge or protest Customs calculation of the actual loss of duties. Two of these three commenters suggest that the inability to challenge Customs actual loss calculation discourages prior disclosures.

Customs Response: We agree that where legitimate disputes exist between a Customs field office and a disclosing party regarding the amount of the actual loss of duties due the government, there should be some mechanism for review at Customs Headquarters—provided that the Customs claimed loss of duty is substantial (*i.e.*, exceeds $100,000); the disclosing party deposits the Customs claimed actual duty loss amount; greater than one year remains under the statute of limitations; and that the Headquarters review is limited solely to the basis for Customs determination of the actual duty loss. In addition, we note that granting such review is within the discretion of Customs Headquarters, and that such review is conditioned upon the disclosing party's compliance with all other provisions of the prior disclosure regulations. We also note that where Headquarters review is afforded, such review is not limited to the revenue loss claims raised by the Customs field office or disclosing party, but could involve an independent Headquarters determination. Lastly, although the Headquarters decision on such review may result in a partial or total refund of the deposited duty loss amount, the regulations indicate that, in any case where such review is afforded, the Headquarters decision is final and not subject to administrative or judicial appeal. In effect, the disclosing party who elects to request such Headquarters review should be aware that, if granted,

the party is waiving any right to contest Headquarters actual loss of duties determination—either administratively or judicially.

Proposed § 162.74(d)

Comment: One commenter recommends that proposed § 162.74(d)(2) be revised to require that Customs furnish a receipt that indicates the time and date of Customs receipt of claimed prior disclosure documents delivered in person. The commenter suggests that it is somewhat anomalous to require a person delivering documents to Customs to request a receipt, and that as part of "shared responsibility" it seems more appropriate to provide that the person delivering the documents would be furnished a receipt.

Customs Response: Customs agrees that the proposed regulation should be amended to reflect that a receipt will be furnished to the person delivering documents, but in keeping with the spirit of "shared responsibility," we remain of the opinion that the receipt will be furnished upon request.

Comment: One commenter claims that proposed § 162.74(d)(3) is silent as to the specific time and date when a claimed oral prior disclosure becomes effective. The commenter provides revised language which indicates that orally provided information is "deemed to have occurred at the time the oral communication is made."

Customs Response: We disagree with the premise of this recommendation. The proposed regulation does, in fact, provide that claimed oral prior disclosures are "deemed to have occurred at the time Customs was provided with the information which substantially complies with the requirements set forth in paragraph (b) of this section."

Proposed § 162.74(e)

Comment: Two commenters point out an apparent inconsistency between proposed § 162.74(e)(2) and proposed § 162.74(a)(1), in that the latter proposed section provides for making a claimed prior disclosure to a "Customs officer," whereas the former proposed section provides for making a "multi-port" claimed prior disclosure to "all concerned Fines, Penalties and Forfeitures Officers." One of the commenters suggests that Port Director be substituted for Fines, Penalties and Forfeitures Officer.

Customs Response: We agree that there is an apparent inconsistency between the two proposed sections. Customs is revising proposed § 162.74(e)(2) to reflect that although a "multi-port" claimed prior disclosure may be made to a Customs officer, unless the claimed prior disclosure is made directly to the concerned Fines, Penalties and Forfeitures Officer, it is incumbent upon the Customs officer to refer the claimed prior disclosure to the concerned Fines, Penalties and Forfeitures Officer so that consolidation of the matter can be arranged in accordance with internal procedures. We believe that a disclosing party should not be limited to providing the claimed prior disclosure to the concerned port director.

Proposed § 162.74(f)

Comment: One commenter recommends that the word "violator" in proposed § 162.74(f) be changed to "disclosing party."

Customs Response: The recommendation is adopted.

Comment: One commenter recommends that the Fines, Penalties and Forfeitures Officer be eliminated in proposed § 162.74(f) as the Customs official responsible for requests for the withholding of initiation of disclosure verification proceedings. No specific reason is suggested for this change.

Customs Response: Inasmuch as the concerned Fines, Penalties and Forfeitures Officer is the Customs officer who is responsible for ascertaining the validity of the claimed prior disclosure, we see no reason to adopt the recommended change.

Comment: One commenter suggests that proposed § 162.74(f) be revised to include language indicating that requests to withhold initiation of disclosure verification proceedings of the claimed prior disclosure should be granted "except for good cause."

Customs Response: The suggestion is not adopted. In the event that Customs learns of a serious abuse of discretion regarding such requests, Customs can take measures to eliminate the problem through either internal guidelines, regulatory revisions or whatever other action is deemed appropriate.

Comment: One commenter suggests that proposed § 162.74(f) be revised to provide the Fines, Penalties and Forfeitures Officer with the discretion to defer notification to the Office of Investigations of a claimed prior disclosure. The commenter is of the opinion that the deferral of notification should be predicated on a number of factors, such as the gravity of the disclosed violation, any pattern of non-compliance, etc.

Customs Response: The notification to the Office of Investigations of the claimed disclosure serves to prevent delay in the administrative disposition of the disclosure, in that the Office of Investigations can take immediate action to initiate or coordinate disclosure verification proceedings as well as ascertain whether or not Customs already had commenced a formal investigation of the claimed prior disclosure. Consequently, Customs is of the opinion that the proposed regulation remain unchanged.

Comment: One commenter recommends that proposed § 162.74(f) be changed to reflect that a disclosing party may also request that Customs audits be included in a request to withhold initiation of disclosure verification proceedings.

Customs Response: Inasmuch as audits initiated solely to verify disclosures would often be considered part of the disclosure verification proceedings, Customs is of the opinion that the suggested change is unnecessary.

Comment: One commenter suggests that Customs add to the end of the first sentence in proposed § 162.74(f) "and the Office of Investigations is requested to determine whether or not investigation is pending or contemplated." The commenter does not provide a reason for the suggested change.

Customs Response: In view of the fact that internal procedures already exist regarding the handling of claimed prior disclosures by the Office of Investigations, Customs is of the opinion that the suggested change is unnecessary.

Proposed § 162.74(g)

Comment: Two commenters indicate that, based upon Congressional discussions involving the Customs Modernization Act, proposed § 162.74(g) should include language to require that records of a "commencement of a formal investigation" be maintained in the Office of Investigations, Customs Headquarters or some other central unit. One of these two commenters also suggests that the regulation specify the official who is charged with recording the "commencement" information. Also, this commenter suggests that the words "with regard to the disclosing party" be added after the word "commenced" in the first sentence of the proposed section. A third commenter recommends that this section be revised to indicate that only Customs agents from the Office of Investigations can commence formal investigations for prior disclosure purposes. Three other commenters recommend that the proposed section be revised to require that a formal

investigations control number be assigned to the written commencement document or otherwise require the Office of Investigations to open an investigation. Lastly, one other commenter suggests revisions to the proposed section which specify the form and nature of the "commencement" document.

Customs Response: Customs is of the opinion that proposed § 162.74(g) fully comports with the Customs Modernization Act's statutory language and intent regarding the definition of the term "commencement of a formal investigation." The proposed language requires that the Customs Service evidence the commencement by a writing, as well as specifies that the disclosing party will receive written evidence of such a "commencement" in any required notice issued to the party pursuant to 19 U.S.C. 1592 or 1593a, in the event the claimed prior disclosure is denied. We do not agree that the law mandates that agents of the Office of Investigations are the only Customs officials capable of commencing a formal investigation for the purposes of prior disclosure. Further, in Customs view, additional requirements involving custody of such records, or record forms/formats, record maintenance or case control numbers are not properly the province of regulation, but rather, concern internal procedures developed by the agency. We do agree with the suggestion to include the phrase "with regard to the disclosing party" after the word "commenced" in the first sentence, and have revised the proposed section to reflect adoption of this recommendation.

Comment: One commenter states that proposed § 162.74(g) should indicate that a Customs Form 28 (Request for Information) and Customs Form 29 (Notice of Action) cannot be considered written evidence of a "commencement of a formal investigation." The commenter is of the opinion that these documents will have a "chilling" effect on the prior disclosure provisions if they are permitted to be construed as "formal commencement" documents, in that they, for the most part, merely request information or propose rate or value advances.

Customs Response: As indicated above, Customs is of the opinion that dictating the form of the "commencement" writing is not properly the province of regulation. We do agree that Customs Forms 28 and 29 which merely request information or propose rate or value advances could not be considered "commencement" documents for prior disclosure purposes unless they articulate that a possibility of a violation existed.

Comment: One commenter recommends deleting the phrase "denied prior disclosure treatment on the basis of the commencement of a formal investigation of the disclosed violation" in the second sentence of proposed § 162.74(g). The commenter points out that "commencement of a formal investigation is merely one fact bearing on the ultimate resolution of the matter."

Customs Response: Customs agrees with the commenter that "commencement of a formal investigation of the disclosed violation" is one of several issues concerning the disposition of the claimed prior disclosure (*e.g.*, a disclosing party may be unable to obtain prior disclosure benefits if the party fails to "disclose the circumstances of the violation" in accordance with § 162.74(b)—and this may occur in cases where Customs had not commenced a formal investigation). Nevertheless, this provision of proposed § 162.74(g) addresses those instances where the denial of the prior disclosure *is* predicated on the commencement of the formal investigation of the disclosed violation. In such cases, the regulation requires a copy of a writing evidencing the commencement of a formal investigation of the disclosed violation. Accordingly, the recommendation is not adopted.

Comment: One commenter recommends that proposed § 162.74(g) be revised to indicate that any required notice issued pursuant to 19 U.S.C. 1592 or 1593a should specify the event listed in proposed § 162.74(i) that provided the disclosing party with knowledge of the commencement of a formal investigation of the disclosed violation. The commenter believes that inclusion of such a provision would eliminate disputes regarding the issue of knowledge of the commencement.

Customs Response: We disagree. Customs notes that the purpose underlying proposed § 162.74(g) is to provide a definition of the "commencement of a formal investigation" for prior disclosure purposes. We note that notices issued to the disclosing party pursuant to 19 U.S.C. 1592 or 1593a may commence a formal investigation of the disclosed violation and may be issued prior to the claimed disclosure. It should also be noted that the law establishes the burden to demonstrate lack of knowledge of the commencement of the formal investigation upon the disclosing party.

Comment: One commenter suggests that proposed § 162.74(g) be revised to require that the disclosing party be notified of the acceptance or denial of the claimed prior disclosure as soon as Customs makes that decision, and that documentary evidence of the "commencement of a formal investigation" should be furnished to the disclosing party well in advance of the initiation of penalty proceedings.

Customs Response: Customs believes that the statutory and regulatory procedures already in place are sufficient to advise parties of the validity of a claimed prior disclosure. Also, it is well established that an invalid prior disclosure may subject the disclosing party to penalties.

Proposed § 162.74(h)

Comment: One commenter recommends that proposed § 162.74(h) be revised to clarify that once an investigation begins with respect to a disclosed violation, the disclosing party still may obtain prior disclosure treatment for other violations not covered by the commenced formal investigation.

Customs Response: Customs does not believe that clarification is necessary. The proposed section makes clear that additional disclosed violations not covered in the disclosing party's original prior disclosure may receive prior disclosure benefits, provided that such additional disclosures were made before "the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of such additional violations existed."

Proposed § 162.74(i)

Comment: Five commenters recommend that proposed § 162.74(i) be revised to require that for the "presumption of knowledge" to be effective any Customs notification of the disclosed violation to the disclosing party that precedes the claimed prior disclosure must be evidenced by a "writing." Four of the five commenters maintain that such a requirement will avoid unnecessary conflict or misunderstandings concerning the content or circumstances of an oral notification by Customs. Two of the five commenters are of the opinion that a written notification requirement also should require a return receipt. In addition, two of the five commenters recommend that proposed § 162.74(i) be revised to ensure that "general inquiries" (*e.g.*, Customs Forms 28 and 29) are not used as evidence of prior knowledge of the commencement of a formal investigation of the disclosed

violation. One of these two commenters suggests inclusion of the phrase "so informed the person of that reasonable belief," immediately following the statutory citations in proposed § 162.74(i)(1)(i) in order to clarify that "general inquiries" would not constitute a presumption of knowledge.

Customs Response: Customs notes that although the Customs Modernization Act prior disclosure changes added the requirement that a "commencement of a formal investigation" must be evidenced by a writing, the Modernization Act changes did not impose such a writing requirement regarding "knowledge of the commencement of a formal investigation" involving Customs notification to the disclosing party. Customs believes that the language of the proposed regulatory section makes clear that "general inquiries" or mere "contact" with a Customs officer prior to the submission of the claimed prior disclosure is insufficient to create a "presumption of knowledge" of the commencement of a formal investigation of the disclosed violation. In those instances where oral notification pursuant to proposed § 162.74(i) renders the presumption operative, the concerned Customs official must meet other criteria—such as informing the person of the type of or circumstances of the disclosed violation.

Customs is of the opinion that its position regarding "presumption of knowledge" is consistent with the underlying Modernization Act theme of "shared responsibility"—if a party receives oral notification from a Customs officer of the type of or circumstances of the violation(s) at issue *before* making the claimed prior disclosure, Customs believes that prior disclosure benefits should not accrue—unless, of course, the party is able to rebut the presumption of knowledge as provided for under the proposed regulatory provision. Also, it should be noted that even if one or more of the events have taken place as set forth in the proposed § 162.74(i), a party still may wish to submit a claimed disclosure—either because the party believes it can rebut the presumption of knowledge, or because the party seeks to obtain substantial mitigation in an ensuing penalty proceeding (despite the fact that the information provided to Customs does not qualify for disclosure benefits).

Comment: One commenter suggests changing proposed § 162.74(i) so that it cannot be read to permit denial of prior disclosure benefits in those instances where one of the events or notifications under the proposed regulatory section takes place, but no formal investigation has been commenced. Another commenter recommends that Customs should eliminate the language in the proposed section which places the burden of proving "lack of knowledge" on the disclosing party.

Customs Response: Customs believes the proposed section is clear. The second sentence of proposed § 162.74(i) sets forth the requirement that the commencement of a formal investigation must occur before there can be a presumption of knowledge. Consequently, Customs sees no need to adopt the first commenter's suggestion. With respect to the burden of proving lack of knowledge, we reject the commenter's suggestion to eliminate this burden inasmuch as both concerned statutory provisions (*i.e.*, 19 U.S.C. 1592(c)(4) and 19 U.S.C. 1593a(c)(3)(c)) establish the burden of proving lack of knowledge.

General Comments

Comment: One commenter recommends that prior disclosure benefits should extend to violations of the customs laws other than violations of 19 U.S.C. 1592 or 1593a.

Customs Response: Customs notes that the proposed regulations are being promulgated based upon the statutory authority establishing "prior disclosure" for violations of 19 U.S.C. 1592 and 1593a. Currently, such statutory authority for permitting "prior disclosure" of other violations of the customs laws does not exist. Nevertheless, it should be noted that in some instances, a party who discloses a violation of the customs laws (other than 19 U.S.C. 1592 or 1593a) may be entitled to substantial mitigation in the administrative disposition of the offense under existing Customs guidelines for such violations.

Comment: Twenty-six commenters recommend that the proposed amendments be revised to prohibit an assessment of liquidated damages for a violation revealed in a 19 U.S.C. 1592 or 1593a prior disclosure. The vast majority of these commenters are of the opinion that it is unfair for the Customs Service to assess liquidated damages against a Foreign-Trade Zone (FTZ) operator for breach of the FTZ operator's bond based on information obtained from a prior disclosure submitted by an operator. These commenters believe that inasmuch as most valid prior disclosures by FTZ operators involve a tender of all lost revenue, Customs is made whole and that the subsequent assessment of liquidated damages should not be allowed. The FTZ commenters are of the opinion that the proposed regulations unfairly discriminate against FTZ operators, and serve to deter such parties from submitting prior disclosures.

Customs Response: Customs notes that unlike the assessment of civil penalties, the assessment of liquidated damages for a breach of bond terms is based upon the contractual agreement with the bondholder. Accordingly, although Customs may, under existing guidelines, reduce liquidated damage amounts in administrative proceedings—particularly in those cases where a valid prior disclosure is submitted, the agency does not believe the suggestion should be adopted.

Comment: One commenter suggests that the proposed regulations include a statement that indicates that the submission of valid prior disclosures is encouraged.

Customs Response: Customs notes that the commenter's suggested statement is not provided for by statute, but rather is a recommended statement of agency policy. Inasmuch as it is the policy of the Customs Service to encourage the submission of prior disclosures in accordance with the proposed regulatory requirements, we have added such a sentence to the preamble of this document.

Comment: One commenter is of the opinion that the annual reporting burden set forth in the section under Paperwork Reduction Act heading is understated. The commenter believes that it also would be helpful for the estimated number of respondents shown to be based on the actual number of prior disclosures filed annually in the last several years.

Customs Response: Customs notes that the figures set forth in the notice of proposed rulemaking are Customs best estimates of both the annual reporting burden, estimated annual number of respondents and estimated average annual burden per respondent. Inasmuch as a prior disclosure may involve one Customs entry with one line item, or several thousand Customs entries involving hundreds of line items, it is virtually impossible to predict either the frequency at which disclosures will be made, or the amount of time necessary to complete a disclosure. It should also be noted that the simplicity or complexity of the "disclosed violation," as well as the number of line items at issue may involve a completion time that is either substantially more or less than the "one hour for each Customs entry" set forth in the notice of proposed rulemaking. In view of these considerations and the voluntary nature of the prior disclosure

provisions, Customs is of the opinion that its estimates comport with the regulatory requirements of the Paperwork Reduction Act.

Comment: One commenter believes that it would be helpful to acknowledge in this document that there may be instances where the disclosing party requires several months—or even longer—to submit all of the required information to complete its disclosure of the circumstances of the violation.

Customs Response: Customs acknowledges that in certain cases a claimed prior disclosure may involve numerous transactions, multiple ports, and/or complex issues and information—all of which require adequate research and compilation time. The agency is of the opinion that the proposed regulations accommodate such prior disclosures by virtue of the ability of the party to request extensions of time to research and compile such information.

Comment: One commenter recommends that the proposed regulations include a provision that either establishes a procedure for appealing a denial of a claimed prior disclosure, or references such a procedure found elsewhere in the Customs Regulations. The commenter is of the opinion that such a provision or statement would serve to avoid unnecessary litigation.

Customs Response: Customs notes that, ordinarily, the denial of a prior disclosure is manifested by Customs initiation of administrative penalty proceedings at ordinary penalty amounts under either 19 U.S.C. 1592 or 1593a. Inasmuch as the disclosing party may avail itself of administrative petitioning rights in such cases (including the right to petition Customs denial of prior disclosure treatment), Customs believes it is unnecessary to enact a separate or additional appeal procedure.

Comment: Four commenters are of the opinion that Customs should reinstate the "minor violations" section of the regulations governing prior disclosure (former § 162.74(j)). The commenters believe that the proposed regulations should state that minor, non-fraudulent violations should not be subject to penalty, and one commenter believes that such infractions should not be referred to the Office of Investigations. Another commenter believes that the deletion of former § 162.74(j) will discourage prior disclosure of minor violations.

Customs Response: Customs notes that despite the deletion of former § 162.74(j), the agency does not anticipate any change of practice with respect to minor violations. It should be noted that inasmuch as "minor violations" already are addressed in Customs revised penalty guidelines (19 CFR Part 171, Appendix B), former § 162.74(j) is unnecessary.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, and after further review of this matter, Customs believes that the proposed regulatory amendments should be adopted as a final rule with certain changes thereto as discussed above and as set forth below. This document also includes an appropriate update of the list of information collection approvals contained in § 178.2 of the Customs Regulations (19 CFR § 178.2).

Regulatory Flexibility Act

Insofar as this amendment closely follows legislative direction, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final regulation was submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and approved under OMB control number 1515–0212. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number assigned by OMB.

The collection of information in this final rule is in § 162.74. This information is required in connection with prior disclosure by a person of a violation of law committed by that person involving the filing or attempted filing of a drawback claim, or an entry or introduction, or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence. This information will be used by Customs to determine if the party discloses the circumstances of a violation before, or without knowledge of, the commencement of a formal investigation of such violation, so that merchandise would not be seized and any monetary penalty to be assessed would be limited. The collection of information is required to obtain a benefit. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average burden associated with the collection of information in this final rule is 1 hour per respondent or recordkeeper for each Customs entry involved in prior disclosure. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229, and to the OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

Drafting Information: The principal author of this document was Keith B. Rudich, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 162

Customs duties and inspection, Law enforcement, Seizures and forfeitures.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendment to the Regulations

In accordance with the preamble, Parts 162 and 178 of the Customs Regulations (19 CFR Parts 162 and 178) are amended as set forth below:

PART 162—RECORDKEEPING, INSPECTION, SEARCH AND SEIZURE

1. The general authority citation for Part 162 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

2. Section 162.71 is amended by removing paragraph (e).

3. Section 162.74 is revised to read as follows:

§ 162.74 Prior disclosure.

(a) *In general.*—(1) A prior disclosure is made if the person concerned discloses the circumstances of a violation (as defined in paragraph (b) of this section) of 19 U.S.C. 1592 or 19 U.S.C. 1593a, either orally or in writing to a Customs officer before, or without knowledge of, the commencement of a

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formal investigation of that violation, and makes a tender of any actual loss of duties in accordance with paragraph (c) of this section. A Customs officer who receives such a tender in connection with a prior disclosure shall ensure that the tender is deposited with the concerned local Customs entry officer.

(2) A person shall be accorded the full benefits of prior disclosure treatment if that person provides information orally or in writing to Customs with respect to a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a if the concerned Fines, Penalties and Forfeitures Officer is satisfied the information was provided before, or without knowledge of, the commencement of a formal investigation, and the information provided includes substantially the information specified in paragraph (b) of this section. In the case of an oral disclosure, the disclosing party shall confirm the oral disclosure by providing a written record of the information conveyed to Customs in the oral disclosure to the concerned Fines, Penalties and Forfeitures Officer within 10 days of the date of the oral disclosure. The concerned Fines, Penalties and Forfeiture Officer may, upon request of the disclosing party which establishes a showing of good cause, waive the oral disclosure written confirmation requirement. Failure to provide the written confirmation of the oral disclosure or obtain a waiver of the requirement may result in denial of the oral prior disclosure.

(b) *Disclosure of the circumstances of a violation.* The term "discloses the circumstances of a violation" means the act of providing to Customs a statement orally or in writing that:

(1) Identifies the class or kind of merchandise involved in the violation;

(2) Identifies the importation or drawback claim included in the disclosure by entry number, drawback claim number, or by indicating each concerned Customs port of entry and the approximate dates of entry or dates of drawback claims;

(3) Specifies the material false statements, omissions or acts including an explanation as to how and when they occurred; and

(4) Sets forth, to the best of the disclosing party's knowledge, the true and accurate information or data that should have been provided in the entry or drawback claim documents, and states that the disclosing party will provide any information or data unknown at the time of disclosure within 30 days of the initial disclosure date. Extensions of the 30-day period may be requested by the disclosing party from the concerned Fines, Penalties and Forfeitures Officer to enable the party to obtain the information or data.

(c) *Tender of actual loss of duties.* A person who discloses the circumstances of the violation shall tender any actual loss of duties. The disclosing party may choose to make the tender either at the time of the claimed prior disclosure, or within 30 days after Customs notifies the person in writing of his or her calculation of the actual loss of duties. The Fines, Penalties and Forfeitures Officer may extend the 30-day period if there is good cause to do so. The disclosing party may request that the basis for determining Customs asserted actual duty loss be reviewed by Headquarters, provided that the actual duty loss demanded by Customs exceeds $100,000 and is deposited with Customs, more than one year remains under the statute of limitations involving the shipments covered by the claimed disclosure, and the disclosing party has complied with all other prior disclosure regulatory provisions. A grant of review is within the discretion of Customs Headquarters in consultation with the appropriate field office, and such Headquarters review shall be limited to determining issues of correct tariff classification, correct rate of duty, elements of dutiable value, and correct application of any special rules (GSP, CBI, HTS 9802, etc.). The concerned Fines, Penalties and Forfeitures Officer shall forward appropriate review requests to the Chief, Penalties Branch, Customs Headquarters, Office of Regulations and Rulings. After Headquarters renders its decision, the concerned Fines, Penalties and Forfeitures Officer will be notified and the concerned Customs port will recalculate the loss, if necessary, and notify the disclosing party of any actual duty loss increases. Any increases must be deposited within 30 days, unless the local Customs office authorizes a longer period. Any reductions of the Customs calculated actual loss of duty shall be refunded to the disclosing party. Such Headquarters review decisions are final and not subject to appeal. Further, disclosing parties requesting and obtaining such a review waive their right to contest either administratively or judicially the actual loss of duties finally calculated by Customs under this procedure. Failure to tender the actual loss of duties finally calculated by Customs shall result in denial of the prior disclosure.

(d) *Effective time and date of prior disclosure.*—(1) If the documents that provide the disclosing information are sent by registered or certified mail, return-receipt requested, and are received by Customs, the disclosure shall be deemed to have been made at the time of mailing.

(2) If the documents are sent by other methods, including in-person delivery, the disclosure shall be deemed to have been made at the time of receipt by Customs. If the documents are delivered in person, the person delivering the documents will, upon request, be furnished a receipt from Customs stating the time and date of receipt.

(3) The provision of information that is not in writing but that qualifies for prior disclosure treatment pursuant to paragraph (a)(2) of this section shall be deemed to have occurred at the time that Customs was provided with information that substantially complies with the requirements set forth in paragraph (b) of this section.

(e) *Addressing and filing prior disclosure.*—(1) A written prior disclosure should be addressed to the Commissioner of Customs, have conspicuously printed on the face of the envelope the words "prior disclosure," and be presented to a Customs officer at the Customs port of entry of the disclosed violation.

(2) In the case of a prior disclosure involving violations at multiple ports of entry, the disclosing party may orally disclose or provide copies of the disclosure to all concerned Fines, Penalties and Forfeitures Officers. In accordance with internal Customs procedures, the officers will then seek consolidation of the disposition and handling of the disclosure. In the event that the claimed "multi-port" disclosure is made to a Customs officer other than the concerned Fines, Penalties and Forfeitures Officer, the disclosing party must identify all ports involved to enable the concerned Customs officer to refer the disclosure to the concerned Fines, Penalties and Forfeitures Officer for consolidation of the proceedings.

(f) *Verification of disclosure.* Upon receipt of a prior disclosure, the Customs officer shall notify Customs Office of Investigations of the disclosure. In the event the claimed prior disclosure is made to a Customs officer other than the concerned Fines, Penalties and Forfeitures Officer, it is incumbent upon the Customs officer to provide a copy of the disclosure to the concerned Fines Penalties and Forfeitures Officer. The disclosing party may request, in the oral or written prior disclosure, that the concerned Fines, Penalties and Forfeitures Officer request that the Office of Investigations withhold the initiation of disclosure verification proceedings until after the party has provided the information or data within the time limits specified in

paragraph (b)(4) of this section. It is within the discretion of the concerned Fines, Penalties and Forfeitures Officer to grant or deny such requests.

(g) *Commencement of a formal investigation.* A formal investigation of a violation is considered to be commenced with regard to the disclosing party on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received that caused the Customs Service to believe that a possibility of a violation existed. In the event that a party affirmatively asserts a prior disclosure (i.e., identified or labeled as a prior disclosure) and is denied prior disclosure treatment on the basis that Customs had commenced a formal investigation of the disclosed violation, and Customs initiates a penalty action against the disclosing party involving the disclosed violation, a copy of a "writing" evidencing the commencement of a formal investigation of the disclosed violation shall be attached to any required prepenalty notice issued to the disclosing party pursuant to 19 U.S.C. 1592 or 19 U.S.C. 1593a.

(h) *Scope of the disclosure and expansion of a formal investigation.* A formal investigation is deemed to have commenced as to additional violations not included or specified by the disclosing party in the party's original prior disclosure on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received that caused the Customs Service to believe that a possibility of such additional violations existed. Additional violations not disclosed or covered within the scope of the party's prior disclosure that are discovered by Customs as a result of an investigation and/or verification of the prior disclosure shall not be entitled to treatment under the prior disclosure provisions.

(i) *Knowledge of the commencement of a formal investigation.*—(1) A disclosing party who claims lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge. A person shall be presumed to have had knowledge of the commencement of a formal investigation of a violation if before the claimed prior disclosure of the violation a formal investigation has been commenced and:

(i) Customs, having reasonable cause to believe that there has been a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a, so informed the person of the type of or circumstances of the disclosed violation; or

(ii) A Customs Special Agent, having properly identified himself or herself and the nature of his or her inquiry, had, either orally or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation; or

(iii) A Customs Special Agent, having properly identified himself or herself and the nature of his or her inquiry, requested specific books and/or records of the person relating to the disclosed violation; or

(iv) Customs issues a prepenalty or penalty notice to the disclosing party pursuant to 19 U.S.C. 1592 or 19 U.S.C. 1593a relating to the type of or circumstances of the disclosed violation; or

(v) The merchandise that is the subject of the disclosure was seized; or

(vi) In the case of violations involving merchandise accompanying persons entering the United States or commercial merchandise inspected in connection with entry, the person has received oral or written notification of Customs finding of a violation.

(2) The presumption of knowledge may be rebutted by evidence that, notwithstanding the foregoing notice, inquiry or request, the person did not have knowledge that an investigation had commenced with respect to the disclosed information.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
. . . . .		
§ 162.74	Prior disclosure	1515–0212
. . . . .		

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: May 12, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–14154 Filed 5–27–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 97F–0283]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Monester of alpha-Hydro-omega-Hydroxy-Poly(Oxyethylene) Poly(Oxypropylene) Poly(Oxyethylene) (15 Mole Minimum) Blocked Copolymer

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations for safe use of monoester of alpha-hydro-omega-hydroxy-poly(oxyethylene) poly(oxypropylene) poly(oxyethylene) (15 mole minimum) blocked copolymer derived from low erucic acid rapeseed oil as a component of defoaming agents used in the washing of sugar beets for processing into sugar. This action responds to a petition filed by Akzo Nobel Chemical, Inc.

DATES: The regulation is effective May 28, 1998; written objections and requests for a hearing by June 29, 1998.

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ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3167.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 11, 1997 (62 FR 37266), FDA announced that a food additive petition (FAP 6A4494) had been filed by Akzo Nobel Chemical, Inc., 5 Livingstone Ave., Dobbs Ferry, NY 10522–3407. The petition proposed to amend the food additive regulations in § 173.340 *Defoaming agents* (21 CFR 173.340) to provide for the safe use of monoester of α-hydro-ω-hydroxy-poly(oxyethylene) poly(oxypropylene) poly(oxyethylene)(15 mole minimum) blocked copolymer derived from low erucic acid rapeseed (LEAR) oil as a component of defoaming agents used in the washing of sugar beets for processing into sugar. (Although the additive was named in the filing notice using the Greek symbols for alpha and omega, the agency has chosen to spell out the words in the listing of the additive to facilitate electronic searches.)

FDA has evaluated data in the petition and other relevant material. Based on this information the agency concludes that the proposed use of monoester of alpha-hydro-omega-hydroxy-poly(oxyethylene) poly(oxypropylene) poly(oxyethylene) (15 mole minimum) blocked copolymer is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this action, as announced in the notice of filing for FAP 6A4494 (62 FR 37266). FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in a environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. No comments were received during the 30-day comment period specified in the filing notice for comments on the environmental assessment submitted with the petition.

Any person who will be adversely affected by this regulation may at any time on or before June 29, 1998 , file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.340 is amended by revising paragraph (a)(4) and in the table in paragraph (a)(4) by revising the first heading and by alphabetically adding the entry for "monoester of alpha-hydro-omega-hydroxy-poly(oxyethylene) poly(oxypropylene) poly(oxyethylene) (15 mole minimum) blocked copolymer derived from low erucic acid rapeseed oil" under the newly revised heading "Substances" to read as follows:

§ 173.340 Defoaming agents.

* * * * *

(a) * * *

(4) The substances listed in this paragraph (a) (4), provided they are components of defoaming agents limited to use in processing beet sugar only, and subject to the limitations imposed:

Substances	Limitations
• • •	• • • •
Monoester of alpha-hydro-omega-hydroxy-poly(oxyethylene) poly(oxypropylene) poly(oxyethylene) (15 mole minimum) blocked copolymer derived from low erucic acid rapeseed oil.	

* * * * *

Dated: May 19, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–14105 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 96F–0489]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 5,7-bis(1,1-dimethylethyl)-3-hydroxy-2(3H)-benzofuranone, reaction products with *o*-xylene, as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food. This action responds to a petition filed by Ciba Specialty Chemicals Corp.

DATES: The regulation is effective May 28, 1998. Submit written objections and request for a hearing by June 29, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 2, 1997 (62 FR 100), FDA announced that a food additive petition (FAP 7B4529) had been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 5,7-bis(1,1-dimethylethyl-3-hydroxy-2(3H)-benzofuranone, reaction products with *o*-xylene as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the food additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 29, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding an entry to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
. . .	. . . .
5,7-bis(1,1-dimethylethyl)-3-hydroxy-2(3H)-benzofuranone, reaction products with *o*-xylene (CAS Reg. No. 181314–48–7).	For use only: 1. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter. The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories I, II, IV–B, VI–A, VI–B, VII–B, and VIII, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.02 percent by weight of propylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 3.1a, 3.2a, 3.2b, 3.4, or 3.5, and ethylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1a, 3.1b, 3.2a, or 3.6 (where the density of each of these polymers is at least 0.94 gram per cubic centimeter), or 5. The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV–A, V, VI–C, VII–A, and IX, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter; provided that the finished food-contact articles have a volume of at least 18.9 liters (5 gallons). 3. At levels not to exceed 0.02 percent by weight of ethylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1a, 3.1b, 3.2a, 3.4, 3.5, or 3.6 (where the density of each of these polymers is less than 0.94 gram per cubic centimeter). The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV–A, V, VI–C, VII–A, and IX, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter; provided that the average thickness of such polymers in the form in which they contact food shall not exceed 50 micrometers (0.002 inch).
. . .	. . . .

Dated: May 11, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–14104 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego; 98–011]

RIN 2115–AA97

Safety Zone; Oceanside, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Pacific Ocean adjacent to Oceanside, California, for the 2nd Annual Oceanside Grand Prix Powerboat Race on 31 May 1998. The race zone will encompass the water from the Oceanside harbor entrance and the southerly city limits of Oceanside, approximately .5 miles from the shoreline and running approximately parallel thereto, in an area more particularly described as follows: beginning at a point located at latitude 33°09′87″ N. longitude 117°22′81″ W; thence northeast to a point located at latitude 33°10′14″ N, longitude 117°22′33″ W; thence northwest to a point located at latitude 33°11′49″ N, longitude 117°23′36″ W; thence north to a point located at latitude 33°11′64″ N. longitude 117°23′36″ W; thence southeast to the point of the beginning.

This safety zone is established to protect the lives and property of the race participants and spectators by establishing an exclusionary zone around the race course. Entry into, transit through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 1:30 p.m. (DST) on May 31, 1998, and continues until 2:45 p.m. (DST) on May 31, 1998, unless cancelled earlier by the Captain of the Port.

ADDRESSES: Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064.

FOR FURTHER INFORMATION CONTACT: LT Mike Arguelles, U.S. Coast Guard Marine Safety Office San Diego at (619) 683–6484.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of a notice of proposed rulemaking and delay of its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of vessels operating in the area of the race. The safety zone boundaries and 2nd Annual Oceanside Grand Prix arrangements were not finalized until a date fewer than 30 days prior to the event date. Following normal rulemaking procedures in this case would be impracticable.

Drafting Information

The drafters of this regulation are Lieutenant Mike Arguelles, Project Officer, U.S. Coast Guard Marine safety Office San Diego, and LTJG Derek A. D'Orazio, Project Attorney, Maintenance

and Logistics Command Pacific Legal Office.

Discussion of Regulation

This regulation is necessary to protect the lives and property of the race participants and spectators by establishing an exclusionary zone around the 2nd Annual Oceanside Grand Prix. During race times, vessels will be traveling at high rates of speed which will hinder their reaction time to obstacles. This safety zone will be marked by the sponsor, and enforced by U.S. Coast Guard personnel with the assistance of the Oceanside Harbor Police. Persons and vessels are prohibited form entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted for review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). Due to the short duration and limited scope of the safety zone the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of Department of Transportation is unnecessary.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612, and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C as revised in 59 FR 38654, July 29, 1994, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for 33 CFR part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.T11–033 is added to read as follows:

§ 165.T11–033 Safety Zone: Oceanside, CA

(a) *Location.* The following area constitutes a safety zone in the navigable waters in the vicinity of Oceanside, CA: beginning at a point located at latitude 33°09′87″ N, longitude 117°22′81″ W; thence northeast to a point located at latitude 33°10′14″ N, longitude 117°22′33″ W; thence northwest to a point located at latitude 33°11′49″ N, longitude 117°23′36″ W; thence north to a point located at latitude 33°11′64″ N, longitude 117°23′36″ W; thence southeast to the point of the beginning.

(b) *Effective Dates.* This section becomes effective at 1:30 a.m. (DST) on May 31, 1998, and continues until 2:45 p.m. (DST) on May 31, 1998, unless cancelled earlier by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port.

Dated: 30 April 1998.

J. A. Watson,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 98–14162 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–15–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 202, 203, 204 and 211

[Docket No. 98–2A]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations.

SUMMARY: The Copyright Office is issuing final regulations for fees it charges for special services. The Office is initiating new fees and amending other existing fees based on the actual costs to the Office of providing such services. The Office is establishing these fees so it can more nearly recover the costs of providing these services to the public.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Patricia L. Sinn, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202)707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Section 708 of title 17, United States Code, authorizes the Register of Copyrights to charge fees for services the Copyright Office provides as described in section 708(a)(1)–(9), such as registration, recordation, and certification. Nonspecified fees, called "special," or "discretionary" fees, are addressed in section 708(a)(10). This section authorizes an assessment for "any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service." *Id.*

Examples of such services include special handling, full term storage of deposits, and provision of services on an expedited basis. The Office last increased fees in 1994 to reflect costs of performing certain services. See 58 FR 38369 (July 28, 1994).

On April 1, 1998, the Office published a Notice of Proposed Rulemaking (NOPR) seeking public comments on amendments to existing fees and establishing new fees for certain services. See 63 FR 15802 (April 1, 1998). As described in the NOPR the Office completed a comprehensive economic analysis of the operating costs involved in providing special services to users to determine whether or not these fees should be adjusted. Using its own

analysis, reflection on analysis done by the Government Accounting Office, and the results of studies conducted by private sector consultants, the Office determined that it must adjust fees for special services in order to more nearly recapture the actual costs for providing them. It also determined that it must charge fees for other services such as appeals and servicing underfunded deposit accounts.

In addition to publishing the proposed new fee schedule in the **Federal Register**, the Office made it available online and mailed an announcement about the proposed fee increase to deposit account holders.

II. Comments

The Motion Picture Information Service (MPIS) submitted the only comment the Copyright Office received in response to the NOPR. The commenter asserts that the deposit account system is inconvenient and should be abolished and "replaced with a simple cash, check, debit card, or credit card system." The commenter states that this would bring the Office into line with current business practices, and would eliminate inconvenience and administrative burdens for both the public and the Office. MPIS comment at 1.

III. Final Regulations

The Copyright Office realizes that there are benefits for both claimants and the Office by accepting credit cards for payment of copyright fees. It has just completed a two-year pilot program in which credit cards were accepted for the filing of claims and recording of documents under the provisions of the Uruguay Round Agreements Act (URRA). Public Law 103–465; 108 Stat. 4809 (1994). It is now in the process of evaluating the resources needed in order to plan for implementation of a credit card system.

The Office also believes some customers prefer the convenience of deposit accounts and will continue to use them even if credit cards are accepted. The fees on deposit accounts will only be assessed when there are insufficient funds in the account to cover current requests for services. The Office mails monthly statements to deposit account holders notifying them of the status of their accounts.

The Office received no comments on any of the other proposed fees. It is adopting the proposed fee schedule in its entirety, effective July 1, 1998, other than the short fee charge which will not take effect until a date which will be announced later.

List of Subjects

37 CFR Part 201

Copyright, General Provisions.

37 CFR Part 202

Copyright, Registration.

37 CFR Part 203

Freedom of Information Act.

37 CFR Part 204

Privacy.

37 CFR part 211

Mask work protection, Fees.

In consideration of the foregoing, parts 201, 202, 203, 204, and 211 of 37 CFR chapter II are amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.32 is amended by revising the special services fee chart to read as follows:

§ 201.32 Fees for Copyright Office special services.

* * * * *

Special services	Fees
1. Service charge for deposit account overdraft	$70
2. Service charge for dishonored deposit account replenishment check	35
3. Service charge for short fee payment	20
4. Appeals	
a. First appeal	200
Additional claim in related group	20
b. Second appeal	500
Additional claim in related group	20
5. Secure test processing charge, per hour	60
6. Copying charge, first 15 pages, per page	1
Each additional page	.50
7. Inspection charge	65
8. Special handling fee for a claim	500
Each additional claim using the same deposit	50
9. Special handling for recordations of a document	330
10. Full-term storage of deposits	365
11. Surcharge for expedited Certifications and Documents Section services	
a. Additional certificates, per hour	75
b. In-process searches, per hour	75
c. Copy of assignment, per hour	75
d. Certification, per hour	75
e. Copy of registered deposit	
First hour	95
Each additional hour	75
f. Copy of correspondence file	
First hour	95
Each additional hour	75
12. Surcharge for expedited Reference & Bibliography searches	
First hour	125
Each additional hour	95

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.23 [Amended]

4. Section 202.23(e)(1) and (2) are amended by removing "$270.00" each place it appears and adding in its place "$365.00."

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

5. The authority citation for part 203 continues to read as follows:

Authority: 17 U.S.C. 702; and 5 U.S.C. 552(a)(1).

§ 203.6 [Amended]

6. Section 203.6(b)(2) is amended by removing "$7 for up to 15 pages and $.45 per page over 15." and adding in its place "$15.00 for up to 15 pages and $.50 per page over 15.".

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

7. The authority citation for part 204 continues to read as follows:

Authority: 17 U.S.C. 702; and 5 U.S.C. 552(a).

§ 204.6 [Amended]

8. Section 204.6(a) is amended by removing "$7 for up to 15 pages and $.45 per page over 15." and adding in its place "$15.00 for up to 15 pages and $.50 per page over 15."

PART 211—MASK WORK PROTECTION

9. The authority citation for part 211 continues to read as follows:

Authority: 17 U.S.C. 702 and 908.

§ 211.3 [Amended]

10. In § 211.3(a)(1) and (2) remove "$20.00" each place it appears and add in is place "$75.00."

11. In § 211.3(a)(7), remove "$330" and add in its place "$500.00."

Dated: May 20, 1998.

Marybeth Peters,

Register of Copyright.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 98–14086 Filed 5–27–98; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–3870; Notice 7]

RIN 2127–AG81

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final Rule.

SUMMARY: The agency is amending Standard No. 131, *School Bus Pedestrian Safety Devices*, to permit the use of additional light sources on the surface of retroreflective stop signal arms and to permit a certain amount of the retroreflective surface to be obscured by mounting hardware. It also makes minor clarifications to the standard. This responds to a petition from Transpec, Inc., a maker of stop arms.

DATES: This rule will become effective on May 28, 1998. Petitions for reconsideration of this rule must be received no later than July 13, 1998.

ADDRESSES: Petitions for reconsideration should refer to the docket number and notice number and be submitted in writing to: Administrator, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington DC, 20590. Telephone: (202) 366–5267

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Charles Hott, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366–0247.

For legal issues: Mr. Paul Atelsek, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, FAX (202) 366–3820.

SUPPLEMENTARY INFORMATION:

1. Background

Federal Motor Vehicle Safety Standard No. 131, *School bus pedestrian safety devices* requires each new school bus to be equipped with a stop signal arm. A stop signal arm is a device, patterned after a conventional "STOP" sign, that automatically extends outward from the bus to alert motorists that a school bus is stopping or has stopped.

To ensure the conspicuity of a stop signal arm, Standard No. 131 specifies that the device must either be reflectorized or be equipped with flashing lamps. If reflectorization is used to comply with the standard, "the *entire* surface of both sides of the stop signal arm" must be reflectorized (S5.3.1, emphasis added). NHTSA has interpreted this language to mean that Light Emitting Diodes (LEDs) outlining the word "Stop" on the stop arm blade would not be permitted under the reflectorization option because LEDs do not meet the requirements for reflectorized material.

Transpec, Inc. (Transpec) submitted a petition for rulemaking requesting that S5.3.1 of the standard be amended to allow the use of LEDs on stop signal arms. The petition sought to amend the section to permit red LEDs on the surface of the stop arm that are "contained within a light channel not greater than 10mm (.394 inches) wide centered within the stroke width of each letter." Under the requested amendment, the minimum stroke width of letters containing LEDs would be increased from 20 mm (0.79 inches) to 25 mm (0.8984 inches). The LEDs would be required to flash at the rate specified for stop arm lamps conforming to S5.3.2. The petition also sought to permit a percentage of the surface area of the stop arm to be obscured by mounting brackets and other necessary components, with the aggregate area obscured by the LEDs and other components not to exceed 7.5 percent of the surface area of the stop arm.

2. The Notice of Proposed Rulemaking (NPRM)

On August 6, 1997, the agency published a NPRM proposing to amend the standard in most ways as requested by Transpec. It proposed to permit light to be emitted "from the surface of each letter or from the area immediately surrounding each letter" in the legend "STOP." Lamps on the surface of the letter would have to be located on the centerline of each letter, or outline each letter of the legend. The lamps on the surface of the stop arm would have to flash in the same manner as specified for the lamps in non-reflectorized stop arms. The net stroke width (i.e., the stroke width minus the width of the legend lamps) of each letter containing lamps was proposed to be at least 15 mm, to assure that an acceptable amount of white letter reflectorized surface would be provided.

Rather than limit the permitted light sources to LEDs, the agency was more flexible than requested, proposing to permit almost any type of light source in the legend lamps. It proposed to permit white lamps as well as red lamps, but not both colors simultaneously, on the assumption that

white lamps might better illuminate the white letters. It also proposed amending S6.2.2.1 to eliminate the word "filament," in order to permit other non-filament light sources to be used in the legend lamps. It also clarified that a requirement on the "off" cycle time of gaseous discharge lamps applied only to xenon short-arc discharge lamps.

The agency proposed to permit "mounting brackets, bolts, or other components necessary to the mechanical or electrical operation of the stop signal arm" to obscure up to 7.5 percent of the total surface area of either side of the stop arm, and up to 10 percent of the white border.

Finally, the NPRM clarified that when two stop arms are installed on the same side of a bus, the forward side of the rearmost stop signal shall not be reflectorized. This was done to avoid confusing drivers in the lanes of opposing traffic as to where they should stop relative to the school bus.

The agency also requested comment on a wide range of issues, including: (1) comments and test data about the effectiveness of LED-equipped stop signal arms as a means of enhancing stop arm conspicuity, (2) the use of other light sources, such as miniature incandescent and neon light sources, and their effectiveness, and the possibility of confusion from mixed light sources, (3) whether to allow use of either red or white LEDs or other light sources, or to allow only one color of emitted light, (4) whether 7.5 percent, the percentage of permitted obscuration requested by Transpec, is an appropriate amount, (5) what, if any, intensities and test procedures should be required for lamps used on stop arms. In addition, the agency noted that the Society of Automotive Engineers' standards referenced in FMVSS 131 are not current and asked if it would be useful to update some or all of these to the latest versions and if there would be any burden associated with making such changes, (6) whether light sources should be allowed to outline each letter rather than be centered on each letter, and (7) whether an immediate effective date is appropriate.

3. Summary of Comments

Comments were submitted by sixteen State departments of education or school districts, Mr. Harry Gough, P.E., and two stop arm manufacturers, Transpec and Specialty Manufacturing. Six of the school district comments were forwarded by Transpec. Two national student transportation organizations commented, the National School Transportation Association (NSTA) and the National Association of State Directors of Pupil Transportation Services (NASDPTS).

The Florida Department of Education conducted a comparative test program involving school buses and three stop arm designs: standard reflective stop arms with incandescent lights; stop-arms using strobe lights; and Transpec LED-equipped stop arms. Fifteen different Florida school districts tested the three stop arm designs for 20 school days each. Although the results were not statistically significant, the Florida study concluded that the LED and the strobe lighted stops were "no less effective" at stopping traffic than the incandescent lighted stop arms Florida currently uses. The study also concluded that the raw data tend to indicate "some improvement" at stopping traffic by both the strobe and the LED type stop arms over the incandescent lighted stop arm. The strobe lighted stop arm had a "small advantage" over the LED stop arm at stopping traffic.

All other commenting States and school districts that had conducted pilot tests liked the Transpec LED stop arm. Most stated that it reduced the number of illegally passing motorists and was more visible than the "standard" stop arm, although it was not always clear what they were comparing it to.

Most commenters that addressed the issue supported the idea of allowing other light sources. Transpec stated that NHTSA should establish performance requirements for other light sources, but that NHTSA's consideration of other light sources should not delay the implementation of LEDs.

No commenters objected to the use of other light sources. Transpec submitted the only comment to address the potential for confusion caused by the LEDs and other light sources. It stated that the potential confusion would not be so great as the confusion caused between the flashing lights and reflectorized versions already allowed by the standard.

A number of commenters expressed the opinion that only red lights should be permitted in or around the legend. NSTA, Transpec and Specialty all commented that these lights should be red because red is the color that is currently used in all traffic lights that denote that the motorist must stop. Transpec stated that white lights do not create in a driver the same sense of urgency as red lights. In addition, Transpec stated that white lights introduce a third lighting color (i.e., red, amber, and white) to the school bus that could detract from the "STOP" message.

Two commenters were concerned about the intensity of LEDs. Specialty believed that LEDs were less visible when viewed from an angle (as when viewed across multiple lanes) and that side angle viewing should be studied. It also believed that LEDs are less visible when viewed in direct sunlight. In contrast, a school district that had pilot tested the LED stop arm believed that LEDs were more effective than the incandescent lights in bright sunshine. Specialty provided test results showing that LEDs do not pass the light specifications for incandescent lamps in Society of Automotive Engineers Recommended Practice J1133, School Bus Stop Arms. Mr. Gough also stated that, based on testing, LEDs produce only one third the intensity of light as incandescent lamps. He stated that NHTSA should establish minimum intensity levels for LEDs.

Transpec indicated that it had developed a prototype LED-equipped stop arm with the LEDs outlining the word stop, but that the design was flawed because it had a "Christmas tree" effect (i.e., appearing as a random field of lights distracting the observer and resulting in diminished readability). Transpec urged NHTSA not to allow such a configuration of lights unless further testing was conducted.

The only commenter to address the appropriateness of allowing obscuration of up to 7.5 percent of the retroreflective surface of the stop arm was Specialty. Specialty stated that the proposed 7.5 percent figure was too great, and that obscuring more than 2 or 3 percent of the retroreflective material would significantly reduce the effectiveness of the stop arm because the retroreflective material does the work of alerting the motorist.

Comment was mixed on the appropriateness of obscuring up to 10 percent of the white border of the stop arm. Specialty believed that limiting the border obscurement to 10 percent may cause some difficulty in mounting because some stop arms would have to be positioned farther outward, which it believes would cause them to protrude so far out from the side of the school bus that the bus would exceed the maximum width under some State laws. Some states have laws that limit the distance a stop arm can extend from the side of a school bus. Requiring that no more than 10 percent of the border be obscured would lead to additional tooling cost for manufacturers. However, the NSTA stated that 10 percent was an appropriate maximum.

4. Discussion

A. Stop Arm Effectiveness

NHTSA agrees with the commenters who stated that effectiveness should be the prime consideration in whether or not to amend the standard. NSTA expressed doubt that adding lights would solve the problem of illegally passing motorists, but both it and the NASDPTS stated that NHTSA should base its decision on ultimate effectiveness. All field testing indicates that the Transpec stop arm is at least as effective as other stop arms that the agency permits in preventing motorists from illegally passing. The agency found the Florida study to be the most helpful because it was the largest study to provide comparative data.

Although statistically significant data would be preferable, the agency is not constrained from acting without it. The reactions to the field tests of the LED-equipped stop arm were positive, and NHTSA considers this a sufficient basis on which to act. The Clark County (Nev.) School District, for example, has employed over 230 school buses equipped with the LED stop arm over the past five months and feels they are superior. Considering the positive test results, the agency has decided to permit LED-equipped stop arms.

B. Alternative Light Sources

The agency agrees with Transpec that the standard should not prevent other light sources from being used in the legend of the stop arm. No commenter opposed other light sources. The agency notes that Standard No. 131 is a design standard only to the extent that it promotes uniformity. The agency did not propose to allow only LEDs as additional light sources, as Transpec's comment implies. Any light source that meets the performance requirements of this rule is permitted.

C. Intensity of Lights in the Legend

Specialty and Mr. Gough expressed concern over the lower intensity of LEDs and the inability to see them at angles or in bright sunlight, and encouraged the agency to set intensity requirements. Transpec also suggested that NHTSA set performance standards for light sources other than LEDs. However, at this time there are no industry standards for the intensity of lights used in the legend of school bus stop arms.

As stated above, the primary consideration is effectiveness. In the field testing, the LEDs that are currently used in the legend of stop arms did not appear to have a negative effect on a driver's ability to see the extended stop arm. Therefore, the agency does not believe there is currently a need to set intensity requirements. NHTSA will monitor the situation closely. Should manufacturers offer excessively dim lights that do not adequately substitute for the light "lost" by obscuring the retroreflective material, or excessively bright lights that interfere with the drivers' of other vehicles ability to see, the agency will consider developing intensity requirements.

D. Color of Light Sources

The agency finds persuasive the arguments of NSTA, Transpec and Specialty that lights in the legend should be red and not white. Red is the color that is currently used in all traffic lights that denote that the motorist must stop (e.g., brake lights, traffic lights, railroad crossing lights). Therefore, the rule has been modified from the proposal to state that red is the only light color that is acceptable in the legend of school bus stop arms.

E. Amount of Retroreflective Surface That May Be Obscured

Only Specialty commented on the amount of surface area and white border that could be obstructed on a school bus stop arm. The NPRM proposed that no more that 7.5 percent of the total surface area be obstructed. Specialty questioned whether 7.5 percent was needed, stating that no more than 2–3 percent of the total surface area of current stop arm designs will be obstructed by the wires and support clips running to surface mount lamps. Specialty also suggested that permitting the obscuration of 7.5 percent of the reflective surface could have a safety impact. It stated that the more retroreflective material that is obscured, the less noticeable the stop arm becomes. It concluded that obscuring more than 2–3 percent of the retroreflective material would significantly reduce the effectiveness of the stop arm.

During a May 7, 1998 telephone conversation with Specialty's Engineering Manager, Specialty revised its position on this issue. It referred to an industry-wide market survey of current stop arms showing that mounting brackets currently obscure up to 6.3 percent of the retroreflective material. Since a small amount of additional retroreflective material might be obscured by bolts and other necessary components, Specialty now takes the position that permitting up to 7.5 percent obscuration is appropriate, since it is needed by the industry for current designs, and would not significantly reduce the effectiveness of the stop arm.

Ultimately, there was no opposition to permitting 7.5 percent obscuration. The market survey referred to by Specialty adds support for the proposed amount by indicating that current stop arm designs require this provision. Therefore, the proposed 7.5 percent obscuration permitted for brackets, bolts, or other components is retained in the final rule.

F. Amount of White Border That May Be Obscured

The amount of white border that may be obstructed proved to be more controversial. The NPRM proposed allowing up to 10 percent of this border be obstructed. Specialty argued that more of the border should be allowed to be obstructed for two reasons.

First, Specialty attempted to define the role of the white border. It argued that the purpose of the white border is to provide a clear border definition and an enhanced contrast between the retroreflective material and the background (i.e., the area behind the stop arm). Specialty concluded that "the border does not alert [the] motorist to the stop arm, the retroreflective material does that."

This argument is not persuasive because, as stated in NHTSA's November 1, 1995 interpretation to Specialty, the "entire surface" of the stop arm is required to be reflectorized, including the white border. Since the white border is retroreflective, it contributes to the light returning to the drivers of other vehicles, while the area that NHTSA is allowing to be obstructed does not. As Specialty noted, the white border also provides contrast. Therefore, NHTSA also considers the border to be important in attracting the motorist's attention.

Second, Specialty argued that stop arms require mounting brackets to mount the stop arm to the school bus and the mounting brackets may obscure part of the border, and that requiring no more than 10 percent of the border to be obscured would lead to additional tooling costs for manufacturers to devise methods for putting the stop arm blades further outboard without violating State laws.

This argument is persuasive. It was not the intent of the NPRM to change the way existing stop arms are mounted on school buses. The intent was to provide a basis for the amount of white border that could be obstructed by mounting and operational hardware. Some obscuration is a practical necessity for mounting the stop arm blade in a cost-effective manner. Specialty did not offer the percentage of white border that is obstructed on

current stop arms. Agency staff looked at various models of stop arms and concluded that, at most, 15 percent of the white border is obstructed by mounting hardware. Therefore, S5.1.2 has been changed to permit 15 percent obscuration of the white border.

G. Outlining Versus Centering the Lamps in the Legend

Transpec was the only commenter to address the issue of placement of the lights in or around the legend. Its recommendation against placement on the border of the legend was based on its desire to avoid a "Christmas tree effect" it found in one of its prototypes. As stated in NHTSA's November 1, 1995 interpretation letter to Specialty, widely spaced lights "could appear as a random field of lights (like a Christmas tree), distracting the observer and resulting in diminished readability." Transpec therefore recommends restricting light placement to a location "centered" within the letters.

The agency notes that this "Christmas tree effect" is caused more by excessive spacing between adjacent lights than by their placement relative to the legend. The effect can also be caused by lights centered in the legend's letters, if the spacing between the lights is too great. Conversely, the effect can be avoided with lights placed around the perimeter of the legend's letters if the lights are located close enough together.

The option for placing the lamps around the border is being retained in the final rule. The agency does not believe it is currently necessary to regulate the spacing of the lights in or around the legend. The optimum spacing might vary according to the lamp intensity, lamp size, and legend letter size. NHTSA will monitor the products being offered and will consider specifying light spacing if it finds stop arms being produced with LEDs that impair the effectiveness the stop arm, regardless of whether they are centered in, or arranged around the border of, the letters.

H. Effective Date

Some commenters urged delaying the effective date. Specialty recommended that the effective date of these amendments be delayed until extensive testing is conducted, out of a concern that pushing untested, potentially nonbeneficial technologies quickly to market would not be in the interest of the general public. The NSTA, the NASDPTS, Mr. Gough, and a few other commenters also encouraged NHTSA to conduct extensive testing before promulgating the rule.

Other commenters, notably Transpec and some States and school districts that liked Transpec's stop arm, urged an immediate effective date. The primary reason given was that to delay implementation would perpetuate confusion and ambiguity over Transpec's LED-equipped stop arm and delay arrival of a beneficial technology in the market.

The agency concludes that an immediate effective date is warranted. Field testing indicates that the Transpec stop arm is at least as effective as existing stop arms in stopping motorists from illegally passing stopped school buses. The commenters who encouraged more extensive testing did not have the benefit of the results of the Florida study and may not have realized the large number of smaller pilot test programs being conducted by the other States and school districts when they composed their comments. The agency considers this field testing to be sufficient.

This amendment is permissive only, so there is no burden associated with an immediate effective date. Since the LED-equipped stop arms seem effective, there is no reason to delay their entry into the marketplace.

I. Miscellaneous issues

There was no comment on several aspects of the proposal, and these elements are maintained in the final rule. These include: (1) the proposal to use a diminished "net stroke width" of the letters in the legend to account for the width of the lights centered within them; (2) the removal of the word "filament" in S6.2.2.1 to remove the restriction against non-filament light sources; (3) the addition of the words "xenon short arc" clarification that the requirements of S6.2.2.2 apply only to that type of gaseous discharge lamp; and (4) the addition of a requirement in S5.3.1.3 that the forward side of the rearmost stop signal not be reflectorized if there are forward and rearward stop arms.

Regulatory Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice was not reviewed under Executive Order 12866, because the Office of Management and Budget determined that it is not significant within the definitions of the Executive Order. NHTSA has analyzed this rulemaking and determined that it is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendment would be so minimal that a full regulatory evaluation is not required. Since the amendment would impose no new requirement but simply would allow for an alternative design, there are no cost impacts. Because stop arms with legend lamps are optional, the agency assumes those companies availing themselves of the option would be maximizing benefits with respect to any added costs associated with legend lamps.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this rulemaking on small entities. Based on this evaluation, I certify that the amendment will not have significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis has not been performed.

The following is NHTSA's statement providing the factual basis for certification (5 U.S.C. 605(b)). Because Standard No. 131 applies to vehicles rather than stop arms as items of motor vehicle equipment, the rule applies primarily to school bus manufacturers. The school bus industry is dominated by two companies that are not small entities, but there are a few school bus manufacturers that are small entities. All school buses are required to be equipped with stop arms. However, this rule imposes no requirements, but merely allows school bus manufacturers to have more choice in the stop arm designs they order. The rule is thus beneficial to vehicle manufacturers, and has no negative economic impact.

All stop arm manufacturers known to the agency are small entities. They might be affected in the sense that market share might shift among them if school bus manufacturers choose to purchase stop arms with legend lights. Transpec is the only company known by the agency to produce stop arms with legend lamps. However, NHTSA does not know if Transpec's design will be widely accepted in the marketplace, either by school bus manufacturers for installation on new buses, or in the aftermarket. In addition, this rule provides flexibility for other manufacturers to produce their own legend lamp-equipped stop arm designs. Therefore, the agency does not view this rule as either conferring a competitive advantage or imposing a negative impact on any stop arm manufacturer.

C. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order

12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not impose any unfunded mandates on State, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–38).

D. Civil Justice Reform

This rule has no retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50

2. Section 571.131 is amended by revising S5.2.1, S5.2.2, S5.3.1, S6.2.2.1, and S6.2.2.2, and by adding S5.3.1.1, S5.3.1.2, and S5.3.1.3 to read as follows:

§ 571.131 Standard No. 131, School Bus Pedestrian Safety Devices.

* * * * *

S5.2.1 The stop signal arm shall have a white border at least 12 mm (0.47 inches) wide on both sides, except as provided in S5.2.3. Mounting brackets, clips, bolts, or other components necessary to the mechanical or electrical operation of the stop signal arm may not obscure more than 15 percent of the border on each side of the stop arm. The portion of the border that may be obscured is in addition to that portion which may be obscured by the two red lamps specified in S5.3.2.

S.5.2.2 The stop signal arm shall have the word "STOP" displayed in white upper-case letters on both sides, except as provided in S5.2.3. The letters shall be at least 150 mm (5.9 inches) in height. The letters shall have a stroke width of at least 20 mm (0.79 inches), except as provided in S.5.3.1.1.

* * * * *

S5.3.1 Except as provided in S5.3.1.1, S5.3.1.2, or S5.3.1.3, the entire surface of both sides of each stop signal arm shall be reflectorized with Type III retroreflectorized material that meets the minimum specific intensity requirements of S6.1 and Table I.

* * * * *

S.5.3.1.1 The legend of the retroreflective stop arm may be illuminated in a manner such that light is emitted from the surface of each letter or from the area immediately surrounding each letter. Only red lamps may be used. They shall form the complete shape of each letter of the legend, and shall be affixed to all letters (or to the areas immediately surrounding all letters) in the legend. The shape of each letter shall remain constant and, if the lamps are contained within each letter, the net stroke width (stroke width minus the width of the lamp(s)) of each letter of the legend, specified in S5.2.2, shall not be less than 15 mm (0.59 inch). When the stop arm is extended, the lamps shall flash at the rate specified in S6.2.2, with a current "on" time specified in S6.2.2.1. All lamps shall be positioned in one of the two following ways:

(1) centered within the stroke of each letter of the legend, or

(2) outlining each letter of the legend.

S5.3.1.2 Nonreflectorized mounting brackets, clips, bolts, or other components necessary to the mechanical or electrical operation of the stop signal arm shall not obscure more than 7.5 percent of the total surface area of either side of the stop signal arm.

S5.3.1.3 When two stop signal arms are installed on a school bus, the forward side of the rearmost stop signal arm shall not be reflectorized.

* * * * *

S6.2.2.1 Lamps, except those subject to S6.2.2.2, shall have a current "on" time of 30 to 75 percent of the total flash cycle. The total current "on" time for the two terminals shall be between 90 and 110 percent of the total flash cycle.

S6.2.2.2 Xenon short-arc gaseous discharge lamps shall have an "off" time before each flash of at least 50 percent of the total flash cycle.

* * * * *

Issued: May 22, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–14110 Filed 5–22–98; 3:07 pm]

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VOL 63 ISS 102 MAY 28 1998 UMI

Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–90–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to require use of the electrical fuel pump for take-off and landing and performance of an operational check of the electrical fuel pump following landing. This proposal also would require replacement of the jet booster pumps with new or modified jet booster pumps, which would terminate the requirement for the AFM revision. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the jet booster pumps, which could result in reduced engine thrust during take-off or landing, and consequent increased risk of impact with terrain.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–90–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that, on an in-service airplane, the non-return flap valve of the jet booster pump failed, which resulted in inadequate fuel pressure being provided to fuel the engine and consequent loss of engine thrust. Further investigation revealed that the design of the jet booster pumps on certain Model 328–100 series airplanes is susceptible to this type of failure. This condition, if not corrected, could result in reduced engine thrust during take-off or landing, and consequent increased risk of impact with terrain.

Explanation of Relevant Service Information

Dornier has issued All Operators Telefax (AOT) AOT–328–28–014, Revision 1, dated October 16, 1996, which describes procedures for revising the Airplane Flight Manual (AFM) to require use of the electrical fuel pump for take-off and landing and performance of an operational check of the electrical fuel pump following landing.

In addition, Dornier has issued Service Bulletin SB–328–28–211, dated March 26, 1997, which describes procedures for replacement of certain jet booster pumps with new or modified jet booster pumps. Accomplishment of this replacement eliminates the need for the AFM revision.

Accomplishment of the actions specified in the AOT and service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this AOT and service bulletin as mandatory and issued German airworthiness directives 97–004, dated January 30, 1997, and 97–149, dated May 22, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement,

the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require revising the Limitations Section of the FAA-approved AFM to require use of the electrical fuel pump for take-off and landing and performance of an operational check of the electrical fuel pump following landing. This proposed AD also would require replacement of the jet booster pumps with new or modified jet booster pumps, which would terminate the requirement of the AFM revision.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

It would take approximately 6 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $18,000, or $360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GmbH: Docket 98–NM–90–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3093 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the jet booster pumps, which could result in reduced engine thrust during take-off or landing, and consequent increased risk of impact with terrain, accomplish the following:

(a) Within 5 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of Dornier All Operators Telefax AOT–328–28–014, Revision 1, dated October 16, 1996, into the AFM to require use of the electrical fuel pump for take-off and landing and performance of an operational check of the electrical fuel pump following landing.

(b) Within 180 days after the effective date of this AD, replace the jet booster pumps having part number (P/N) 219335–2 with new or modified jet booster pumps, having P/N 219335–3, in accordance with Dornier Service Bulletin SB–328–28–211, dated March 26, 1997. Accomplishment of this replacement constitutes terminating action for the requirements of paragraph (a) of this AD; after the replacement has been accomplished, the previously required limitation may be removed from the AFM.

(c) As of the effective date of this AD, no person shall install a jet booster pump, part number 219335–2, on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directives 97–004, dated January 30, 1997, and 97–149, dated May 22, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14037 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–19–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A300–600 and A310 series airplanes, that currently requires revising the Airplane Flight Manual (AFM) to instruct the flightcrew to cross-check certain primary power setting parameters of the Thrust Control Computer (TCC) against tables of these values; and apply corrective action, if necessary. That AD also provides for optional terminating action for the AFM revisions. This proposed rule would require accomplishment of the previously optional terminating action. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent incorrect primary power setting parameters of the TCC, which could result in insufficient thrust being applied during takeoff.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–19–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 29, 1997, the FAA issued AD 98–01–09, amendment 39–10272 (63 FR 658, January 7, 1998), applicable to certain Airbus Model A300–600 and A310 series airplanes, to require revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to instruct the flightcrew to cross-check certain primary power setting parameters of the Thrust Control Computer (TCC) against tables of these values; and apply corrective action, if necessary. That AD also provides for an optional terminating action for the AFM revisions. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to ensure that the flightcrew is provided with procedures for cross-checking and correcting certain primary power setting parameters of the TCC; incorrect parameters could result in insufficient thrust being applied during takeoff.

Actions Since Issuance of AD 98–01–09

In the preamble to AD 98–01–09, the FAA specified that the actions required by that AD were considered interim action because French airworthiness directive 97–110–218(B) dated May 7, 1997, required modification of the TCC on A300–600 and A310 series airplanes, while AD 98–01–09 provided for optional modification of the TCC. The FAA also indicated that it would consider further rulemaking action since the planned compliance time for that action was sufficiently long so that notice and opportunity for prior public comment were practicable. This proposed AD will require accomplishment of the previously optional modification.

Explanation of Relevant Service Information

Airbus has issued the following service bulletins:

- A310–22–2025, dated April 18, 1989;
- A310–22–2027, dated June 8, 1990;
- A310–22–2031, dated September 2, 1991;
- A310–22–2035, Revision 1, dated July 13, 1994;
- A300–22–6010, dated April 18, 1989;
- A300–22–6011, dated June 8, 1990; and
- A300–22–6017, dated September 2, 1991.

These service bulletins describe procedures for modification of the TCC to prevent sensitivity to electrical power transients. Accomplishment of the modification would eliminate the need for the AFM limitation. The modification of the TCC varies depending on the airplane model and engine configuration.

Accomplishment of the action specified in the service bulletins is intended to adequately address the identified unsafe condition. The Direction Genrale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued French airworthiness directive 97–110–218(B), dated May 7, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type

certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–01–09 to continue to require a revision to the Limitations Section of the FAA-approved AFM, that instructs the flightcrew to cross-check certain primary power setting parameters of the TCC. This proposed AD also would add a requirement to modify the TCC, which would terminate the requirement for the AFM revision.

Cost Impact

The FAA estimates that 94 airplanes of U.S. registry would be affected by this proposed AD.

The AFM revision that is currently required by AD 98–01–09 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be $5,640, or $60 per airplane.

The modification that is proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,300 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $421,120, or $4,480 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10272 (63 FR 658, January 7, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 98–NM–19–AD. Supersedes AD 98–01–09, Amendment 39–10272.

Applicability: Model A300–600 and A310 series airplanes equipped with General Electric CF6–80C2 engines on which Airbus Modification 7174, 7588, or 8246 has not been accomplished; and Model A300–600 and A310 series airplanes equipped with Pratt & Whitney PW 4000 engines on which Airbus Modification 7694 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent incorrect primary power setting parameters of the Thrust Control Computer (TCC), which could result in insufficient thrust being applied during takeoff, accomplish the following:

Restatement of Requirements of AD 98–01–09

(a) Within 15 days after January 22, 1998 (the effective date of AD 98–01–09, amendment 39–10272), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of A300–600 or A310 Flight Manual Temporary Revision 4.03.00/18, 4.03.00/19, 4.03.00/20, or 4.03.00/21, all dated November 4, 1996; as applicable; into the AFM.

Note 2: When the temporary revision specified in paragraph (a) of this AD has been incorporated into the general revisions of the AFM, the general revisions may be inserted in the AFM, provided the information contained in the general revision is identical to that specified in the applicable temporary revision cited in paragraph (a).

New Requirements of this AD

(b) Within 15 months after the effective date of this AD, modify the TCC in accordance with the applicable Airbus service bulletins specified below. (The applicability of the service bulletins is specified in the effectivity section of each service bulletin.)

- A310–22–2025, dated April 18, 1989;
- A310–22–2027, dated June 8, 1990;
- A310–22–2031, dated September 2, 1991;
- A310–22–2035, Revision 1, dated July 13, 1994;
- A300–22–6010, dated April 18, 1989;
- A300–22–6011, dated June 8, 1990; or
- A300–22–6017, dated September 2, 1991.

Accomplishment of the modification of the TCC constitutes terminating action for the requirements of paragraph (a) of this AD. After the modification has been accomplished, the temporary revision may be removed from the AFM.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be

obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 97–110–218(B), dated May 7, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14036 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–187–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328 Series Airplanes Equipped with Honeywell GP–300 Guidance and Display Controller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Dornier Model 328 series airplanes, that currently requires modification of certain Honeywell GP–300 guidance and display controllers. That AD was prompted by reports of smoke and fumes emitting from the Honeywell GP–300 guidance and display controller due to a defective light bulb; and a report of failure of the autopilot to disconnect manually. The actions specified by that AD are intended to prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit; or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode. Locking of the autopilot into the engaged mode could lead to the inability of the pilot to disconnect the autopilot, which could result in reduced controllability of the airplane. This action would require verification of proper installation of the modification, and repair, if necessary.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–187–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Honeywell, Inc., Attn: Customer Support Materiel, P.O. Box 21111, Phoenix, Arizona 85036. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5220; fax (562) 627–5210.

FOR FURTHER INFORMATION CONTACT: J. Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5345; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–187–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–187–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 31, 1996, the FAA issued AD 96–12–13, amendment 39–9656 (61 FR 29465, June 11, 1996), applicable to certain Dornier Model 328 series airplanes, to require modification of certain Honeywell GP–300 guidance and display controller. That action was prompted by reports of smoke and fumes emitting from the Honeywell GP–300 guidance and display controller due to a defective light bulb; and a report of failure of the autopilot to disconnect manually. The requirements of that AD are intended to prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit; or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode. Locking of the autopilot into the engaged mode could lead to the inability of the pilot to disconnect the autopilot, which could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 96–12–13, the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, has advised the FAA that the service bulletin issued by Honeywell and referenced in AD 96–12–13 has been misinterpreted by personnel at Honeywell service centers. The LBA advises that, on an in-service airplane, a miswired unit of the GP–300 control panel was found, which caused the panel to overheat and generate smoke. In addition, two miswired units were found during the manufacturing process. Such miswired units would prevent the overheat protection device from functioning and could lead to smoke and fumes in the cockpit.

Explanation of Relevant Service Information

The FAA has reviewed and approved Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997, which describes procedures for verification of proper installation of the modification by re-testing the circuit card assemblies, and repair, if necessary. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 96–239/2, dated June 19, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 96–12–13 to continue to require modification of certain Honeywell GP–300 guidance and display controllers. The proposed AD also would add a requirement for verification of proper installation of the modification of Honeywell GP–300 guidance and display controller, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 50 Dornier Model 328–100 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 96–12–13, and retained in this proposed AD, take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $21,000, or $420 per airplane.

The new actions that are proposed in this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $12,000, or $240 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9656 (61 FR 29465, June 11, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Dornier Luftfahrt GmbH: Docket 97–NM–187–AD. Supersedes AD 96–12–13, Amendment 39–9656.

Applicability: Model 328–100 airplanes, equipped with Honeywell GP–300 guidance and display controller having part number (P/N) 7015327–901 or –902; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit, or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode, accomplish the following:

Restatement of Requirements of AD 96–12–13, Amendment 39–9656

(a) Within 60 days after June 26, 1996 (the effective date of AD 96–12–13, amendment 39–9656), modify the Honeywell GP–300 guidance and display controller, having P/N 7015327–901 or –902, in accordance with Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996.

New Requirements of this AD

(b) Within 60 days after the effective date of this AD, verify that the wiring of the Honeywell GP–300 guidance and display controller is correct by conducting a re-test of the circuit card assemblies, in accordance with Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997. If any discrepancy is found, prior to further flight, repair in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–239/2, dated June 19, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14035 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–112–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This proposal would require a one-time inspection of the propeller de-ice system to verify the proper functioning of the engine indication and crew alert system (EICAS) for the de-ice system; and corrective action, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the EICAS to provide a warning to the flightcrew in the event of failure of the propeller de-ice system, which could result in damage to the airplane and consequent loss of controllability of the airplane.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–112–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–112–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–112–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that it has received a report indicating that the propeller de-ice system on the airplane failed without appropriate indication of the failure to the flightcrew via the engine indication and crew alert system (EICAS). The failure of this system resulted in the accumulation of ice on both airplane propellers; the ice subsequently shed, which damaged the fuselage and other parts of the exterior of the airplane. Further investigation of the incident did not reveal an exact cause; although the LBA advises that this is considered to be an isolated incident, they consider a one-time fleet-wide inspection to be warranted. Such failure of the EICAS to provide a warning to the flightcrew in the event of failure of the propeller de-ice system, if not corrected, could result in damage to the airplane and consequent loss of controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997, which describes procedures for a one-time inspection of the propeller de-ice system, to verify that the EICAS provides appropriate warning to the flightcrew during operation of the propeller de-ice system in the event of failure. The LBA classified this alert service bulletin as mandatory and issued German airworthiness directive 97–066, dated March 13, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletin does not specify corrective action if the inspection results do not verify proper functioning of the EICAS for the

propeller de-ice system, this proposal would require the repair of the EICAS to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GmbH: Docket 98–NM–112–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine indication and crew alert system (EICAS) to provide a warning to the flightcrew in the event of failure of the propeller de-ice system, which could result in damage to the airplane and consequent loss of controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time inspection of the propeller de-ice system to verify the proper functioning of the EICAS for the de-ice system, in accordance with Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997.

(b) If the inspection required by paragraph (a) of this AD indicates that the EICAS is malfunctioning, prior to further flight, repair the EICAS in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 97–066, dated March 13, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14027 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–100–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–200, and 747–SP Series Airplanes and Military Type E–4B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, and 747–SP series airplanes and military type E–4B airplanes. This proposal would require repetitive inspections to detect cracking of the wing front spar web, and repair of cracked structure. This proposal also provides for optional terminating action for the repetitive inspection requirements. This proposal is prompted by reports indicating that fatigue cracks were found on the aft surface of the wing front spar web. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in a fuel leak, and consequent increased risk of a fire.

DATES: Comments must be received by July 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from

Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–100–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that operators have found numerous fatigue cracks on the aft surface of the front spar web on Boeing Model 747 series airplanes. The cracks were found inside the wing fuel tank at Front Spar Station Inboard (FSSI) 688 where the inboard nacelle rib post and the 670 rib post attach to the web of the front spar. All of the cracks were found between these two rib posts inside the wing fuel tank. Metallurgical analyses indicate that the cracks were initiated by fatigue on the aft surface of the front spar web. The analyses also indicate that the various fatigue cracks initiated on the web itself, and not at the edges of the adjacent fastener holes. Such fatigue cracking, if not detected and corrected, could result in a fuel leak and consequent increased risk of a fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–57A2303, Revision 1, dated September 25, 1997, which describes procedures for repetitive ultrasonic inspections to detect cracking of the wing front spar web at the fastener rows behind and between the upper link fittings for the number 2 and 3 engine struts; and repair, if necessary. The service bulletin also describes procedures for an optional terminating modification, which, if accomplished, would eliminate the need for the repetitive inspections. The optional terminating modification involves replacing the cracked spar web with a shot-peened spar web. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Optional Terminating Modification

This proposed AD also would provide for an optional terminating modification of the wing front spar web . The FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect fatigue cracking before it represents a hazard to the airplane.

Cost Impact

There are approximately 190 airplanes of the affected design in the worldwide fleet. The FAA estimates that 95 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 64 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $364,800, or $3,840 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating modification, it would take approximately 518 work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $17,000 per airplane. Based on these figures, the cost impact of the optional terminating modification proposed by this AD is estimated to be $48,080 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–100–AD.

Applicability: Model 747–100, 747–200, and 747–SP series airplanes and military type E–4B airplanes; as listed in Boeing Service Bulletin 747–57A2303, Revision 1, dated September 25, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the wing front spar web, which could result in a fuel leak, and consequent increased risk of a fire, accomplish the following:

(a) Perform an ultrasonic inspection to detect cracking of the wing front spar web at the fastener rows behind and between the upper link fittings for the number 2 and 3 engine struts, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–57A2303, Revision 1, dated September 25, 1997, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes identified as Group 1, 2, 3, or 5 in the alert service bulletin: Inspect prior to the accumulation of 12,500 total flight cycles, or within 15 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 2,200 flight cycles.

(2) For airplanes identified as Group 4, 6, 7, 8, 9, or 10 in the alert service bulletin: Inspect prior to the accumulation of 18,000 total flight cycles, or within 15 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles.

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Accomplish the terminating action in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–57A2303, Revision 1, dated September 25, 1997. Accomplishment of this action constitutes terminating action for the repetitive inspection requirements of this AD; or

(2) Repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) Replacement of the affected wing front spar web with a new shot-peened wing front spar web in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–57A2303, Revision 1, dated September 25, 1997, constitutes terminating action for the repetitive inspection requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14028 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–116–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes. This proposal would require repetitive detailed visual inspections to detect cracks in the pylon thrust and sideload fitting of the wing, and replacement of any cracked pylon thrust and sideload fitting with a new fitting. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct cracks in the pylon thrust and sideload fitting of the wing, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–116–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager,

International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–116–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–116–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300, A310, and A300–600 series airplanes. The DGAC advises that during a zonal inspection on a Model A310 series airplane, a cracked pylon thrust and sideload fitting was detected on an in-service airplane which had accumulated 2,170 total flight cycles. Further investigation revealed that the cracks were caused by improper mounting of the fitting to the wing reinforcing plate and built-in stresses due to a surface flaw in the titanium thrust and sideload fitting. Such cracks in the pylon thrust and sideload fitting of the wing, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–57–0232, Revision 01 (for Model A300 series airplanes); A310–57–2075, Revision 01 (for Model A310 series airplanes); and A300–57–6079, Revision 02 (for Model A300–600 series airplanes); all dated January 12, 1998; which describe procedures for repetitive detailed visual inspections to detect cracks in the pylon thrust and sideload fitting of the wing, and replacement of any cracked pylon thrust and sideload fitting with a new fitting. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 97–358–232(B), dated November 19, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Foreign AD

The proposed AD would differ from the parallel French airworthiness directive in that it would not allow for adjustment in compliance time based on airplane utilization. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and the average utilization of the affected fleet. In light of these factors, the FAA finds an 18-month compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 126 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $22,680, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 98–NM–116–AD.

Applicability: Model A300 series airplanes, as listed in Airbus Service Bulletin A300–57–0232, Revision 01, dated January 12, 1998; Model A310 series airplanes, as listed in Airbus Service Bulletin A310–57–2075, Revision 01, dated January 12, 1998; and Model A300–600 series airplanes, as listed in Airbus Service Bulletin A300–57–6079, Revision 02, dated January 12, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks in the pylon thrust and sideload fitting of the wing, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 2,800 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks in the pylon thrust and sideload fitting of the wing, in accordance with Airbus Service Bulletin A300–57–0232, Revision 01 (for Model A300 series airplanes); A310–57–2075, Revision 01 (for Model A310 series airplanes); or A300–57–6079, Revision 02 (for Model A300–600 series airplanes); all dated January 12, 1998; as applicable. Repeat the detailed visual inspection thereafter at intervals not to exceed 2,800 flight cycles.

(b) If any crack is detected during any inspection required by paragraph (a), prior to further flight, replace the pylon thrust and sideload fitting with a new fitting in accordance with Airbus Service Bulletin A300–57–0232, Revision 01 (for Model A300 series airplanes); A310–57–2075, Revision 01 (for Model A310 series airplanes); or A300–57–6079, Revision 02 (for Model A300–600 series airplanes); all dated January 12, 1998; as applicable. Thereafter, continue the inspections in accordance with the requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–358–232(B), dated November 19, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14040 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–136–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require modification of the wiring of the strake ice protection system (SIPS). This proposal is prompted by a report of a fire in the electrical and electronic compartment of a Model MD–90–30 series airplane. The actions specified by the proposed AD are intended to prevent an electrical short circuit of the wiring of the SIPS, which could result in a fire in the electrical and electronic compartment of the airplane.

DATES: Comments must be received by July 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–136–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Y. Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this

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proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–136–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–136–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received a report of a fire in the electrical and electronic compartment of a Model MD–90–30 series airplane which resulted in injury to a mechanic. Investigation revealed that the fire was caused by an electrical short circuit at the termination of a wire shield near the connector of the strake controller. The short circuit has been attributed to damaged insulation of certain wiring of the strake ice protection system (SIPS). This wiring insulation was damaged during manufacture because a shield termination was not being performed correctly. For this reason, this same condition may exist on other airplanes of the same type. Damaged insulation of the wiring of the SIPS could fail, which could cause an electrical short circuit between the exposed wire conductors and the shielded ground. Such an electrical short circuit of the wiring of the SIPS, if not corrected, could result in a fire in the electrical and electronic compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–30A021, dated March 31, 1998, which describes procedures for modification of the wiring of the SIPS at the connectors of the strakes and the strake controller. The modification involves removing the pigtail ground wires at the connectors of the strakes and the strake controller, installing shrink tubing over each power wire, and performing a resistance test of the electrical insulation. (The alert service bulletin refers to this resistance test as a "resistance check.") If any strake heating wiring fails the resistance test, the discrepant wiring is to be replaced with new wiring and retested.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the wiring of the strake ice protection system. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Cost Impact

There are approximately 66 Model MD–90–30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 23 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of the required parts would be minimal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $20,700, or $900 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 98–NM–136–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–30A021, dated March 31, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an electrical short circuit of the wiring of the strake ice protection system (SIPS), which could result in a fire in the electrical and electronic compartment of the airplane, accomplish the following:

(a) Within 180 days after the effective date of this AD, modify the wiring of the SIPS and perform a resistence test of the electrical insulation in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A021, dated March 31, 1998. If any strake heating wiring fails the resistance test, prior to further flight, replace the discrepant wiring with new wiring, and repeat the resistance test, in accordance with the alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO),

FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14039 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–101–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes. This proposal would require a one-time visual inspection and a one-time eddy current and/or dye penetrant inspection of the nose landing gear (NLG) main fitting to detect cracking; and rework of the NLG main fitting, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing and possible injury to the flightcrew and passengers.

DATES: Comments must be received by June 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–101–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., Technical Support Department, P. O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–101–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–101–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F.28 Mark 0100 series airplanes, equipped with certain Messier-Dowty (formerly Dowty Rotol) nose landing gears (NLG). The RLD advises that it received a report indicating that the NLG of an airplane broke off just below the NLG pintle pins immediately after touchdown of the nose wheel. The nose section of the aircraft came to rest on the fuselage and remaining portion of the NLG. Subsequently, the airline involved performed a detailed visual inspection of the NLG main fittings on all airplanes in its fleet and identified three more suspect NLG main fittings. Investigation of these fittings revealed that the cracking had originated on the inner side of the right-hand downlock plunger support web. The total number of flight cycles on the airplanes with the cracked NLG main fittings ranged from 9,300 to 17,600. The exact cause of the cracking has not been determined at this time. Such cracking of the NLG main fitting, if not corrected, could lead to collapse of the NLG during takeoff and landing, and possible injury to the flightcrew and passengers.

Explanation of Relevant Service Information

The manufacturer has issued Fokker Service Bulletin SBF100–32–112, dated November 14, 1997, and Messier-Dowty has issued Service Bulletin F100–32–92, dated November 14, 1997. These service bulletins describe procedures for a one-time visual inspection of the NLG main fitting to detect cracking. The service bulletins also describe procedures for a one-time eddy current and/or dye penetrant inspection if cracking is suspected following accomplishment of the visual inspection, and rework of the NLG main fitting, if cracking is found.

The RLD classified these service bulletins as mandatory and issued Dutch airworthiness directive BLA 1997–116 (A), dated November 28, 1997, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement,

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the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

This proposed AD also requires that operators report the results of the one-time inspection to Fokker Services B.V. Because the cause of the addressed cracking is not currently known, the intent of these required inspection reports is to enable Fokker to determine how widespread such cracking problems may be in the affected fleet. Based on the results of these reports, further corrective action may be warranted.

Differences Between the Proposed AD and the Dutch Airworthiness Directive

Operators should note that the parallel Dutch airworthiness directive specifies that the actions be accomplished for airplanes on which the nose landing gear (NLG) has accumulated more than 8,000 total flight cycles. However, because the exact cause of the cracking remains unknown, the FAA would require compliance with the actions in this proposed AD for all airplanes of this type design, including those that have accumulated less than 8,000 total flight cycles as of the effective date of this proposed AD, in order to ensure the integrity of the entire fleet.

Cost Impact

The FAA estimates that 127 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed visual inspection on U.S. operators is estimated to be $15,240, or $120 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed eddy current and/or dye penetrant inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed eddy current and/or dye penetrant inspection on U.S. operators is estimated to be $15,240, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker Services B.V.: Docket 98–NM–101–AD

Applicability: Model F.28 Mark 0100 series airplanes; equipped with Messier-Dowty Nose Landing Gear (NLG) having part number (P/N) 201071001 or P/N 201071002, on which the NLG main fitting has not been overhauled in accordance with Component Maintenance Manual 32–20–51; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing and possible injury to the flightcrew and passengers, accomplish the following:

(a) Perform a one-time visual inspection to detect cracking of the NLG main fitting, in accordance with Fokker Service Bulletin SBF100–32–112, dated November 14, 1997, at the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD. If any cracking is found, prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(1) For airplanes that have accumulated less than 15,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 8,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 15,000 or more total flight cycles as of the effective date of this AD: Inspect within 30 days after the effective date of this AD.

(b) Perform a one-time eddy current and/or dye penetrant inspection to detect cracking of the NLG main fitting, in accordance with Messier-Dowty Service Bulletin F100–32–92, dated November 14, 1997, at the applicable time specified in either paragraph (b)(1) or (b)(2) of this AD. Accomplishment of the inspection required by paragraph (b) of this AD, if accomplished prior to the inspection required by paragraph (a) of this AD, terminates the inspection required by paragraph (a) of this AD.

(1) For airplanes that have accumulated less than 15,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 8,000 total flight cycles, or within 180 days after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 15,000 or more total flight cycles as of the effective date of this AD: Inspect within 60 days after the effective date of this AD.

(c) If any crack is detected during the inspection required by paragraph (b) of this AD, prior to further flight, rework the NLG main fitting in accordance with Messier-Dowty Service Bulletin F100–32–92, dated November 14, 1997.

(d) Within 7 days after accomplishing the inspection required by either paragraph (a) or (b) of this AD, submit a report of the inspection results (both positive and negative findings) to Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive BLA 1997–116 (A), dated November 28, 1997.

Issued in Renton, Washington, on May 20, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14038 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–112–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. BN–2, BN–2A, BN–2B, and BN–2T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would have required replacing the washers on the attachment bolts of the lower fitting of the main landing gear (MLG) on certain Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2, BN–2A, BN–2B, and BN–2T series airplanes. The proposed AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent the bolts that attach the lower fitting of the MLG to the nacelle from becoming threadbound, which could result in structural failure of the MLG with consequent loss of control of the airplane during takeoff, taxi, or landing operations. Since issuing the NPRM, the Federal Aviation Administration (FAA) has realized that the Model BN–2T–4R airplanes were inadvertently omitted from the proposed AD. In addition, Pilatus Britten-Norman has revised the service information to include replacing the attachment bolts and nuts of the lower fitting of the MLG instead of re-using the existing bolts and nuts. This service information also adjusts the torque values of the nuts. The FAA has determined that the procedures included in the revised service information should be incorporated into the proposed AD, and that the comment period for the proposal should be reopened and the public should have additional time to comment.

DATES: Comments must be received on or before July 3, 1998.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: 44–1983 872511; facsimile: 44–1983 873246. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this supplemental notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this supplemental notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–112–AD." The postcard will be date stamped and returned to the commenter.

Availability of Supplemental NPRM's

Any person may obtain a copy of this supplemental NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Britten-Norman BN–2, BN–2A, BN–2B, and BN–2T series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 19, 1998 (63 FR 13379). The NPRM proposed to require replacing the washers on the attachment bolts of the lower fitting of the MLG. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus Britten-Norman Service Bulletin BN–2/SB.231, Initial Issue, dated October 17, 1996.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Events Since Issuance of the NPRM

Since issuance of the NPRM, Pilatus Britten-Norman has informed the FAA that Service Bulletin BN–2/SB.231 has been revised to the Issue 2 status (dated October 1, 1997). This revision changes the procedures to specify replacing the attachment bolts and nuts of the lower fitting of the MLG instead of re-using the existing bolts and nuts. This service information also adjusts the torque loading values of the bolts.

In addition, the FAA has realized that the Model BN–2T–4R airplanes were inadvertently omitted from the proposed AD. The Model BN–2T–4R airplanes are of similar type design to those currently listed in the NPRM.

The FAA's Determination

After examining all information related to the subject described in this document, the FAA has determined that:

—The revised service information should be incorporated into the proposed AD;

—The unsafe condition could exist or develop on the Model BN–2T–4R airplanes and should be part of the applicability of the NPRM; and

—AD action should be taken to incorporate these changes to prevent the bolts that attach the lower fitting of the MLG to the nacelle from becoming threadbound, which could result in structural failure of the MLG with consequent loss of control of the airplane during takeoff, taxi, or landing operations.

The Supplemental NPRM

Since replacing the attachment bolts and nuts of the lower fitting of the MLG, adjusting the torque values of these bolts, and adding the Model BN–2T–4R airplanes to the Applicability of the NPRM proposes actions that go beyond the scope of what was already proposed, the FAA is reopening the comment period to allow the public additional time to comment on this proposed action.

Cost Impact

The FAA estimates that 80 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $10 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,200.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Britten-Norman Ltd: Docket No. 97–CE–112–AD. Applicability: Models BN–2, BN–2A, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–2, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, and BN–2T–4R airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 50 landings after the effective date of this AD, unless already accomplished.

Note 2: The compliance time of this AD is presented in landings instead of hours time-in-service (TIS). If the number of landings is unknown, hours TIS may be used by multiplying the number of hours TIS by 1.5.

To prevent the bolts that attach the lower fitting of the main landing gear (MLG) to the nacelle from becoming threadbound, which could result in structural failure of the MLG with consequent loss of control of the airplane during takeoff, taxi, or landing operations, accomplish the following:

(a) Replace the attachment bolts, nuts, and washers of the lower fitting of the MLG, in accordance with Pilatus Britten-Norman Service Bulletin No. BN–2/SB.231, Issue 2, dated October 1, 1997.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri, 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Pilatus Britten-Norman Service Bulletin BN–2/SB.231, Issue 2, dated October

1, 1997, should be directed to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: 44–1983 872511; facsimile: 44–1983 873246. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in British AD No. 008–10–96, dated January 31, 1997.

Issued in Kansas City, Missouri, on May 21, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14081 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–27]

Proposed Establishment of Class E Airspace; Waupun, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Waupun, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 102° helicopter point in space approach, has been developed for Waupun Memorial Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace with a radius of 6.0 miles for the point in space serving Waupun Memorial Hospital Heliport.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–27." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Waupun, WI, to accommodate aircraft executing the proposed GPS SIAP, 102° helicopter point in space approach, for Waupun Memorial Hospital Heliport by creating controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Waupun, WI [New]

Waupun Memorial Hospital Heliport, WI
Point in Space Coordinates
(Lat. 43°38'00" N., long. 89°45'46" W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of the Point in Space serving Wautpun Memorial Hospital Heliport excluding that airspace within the Oshkosh, WI, Juneau, WI, and Beaver Dam, WI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on May 6, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14175 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–30]

Proposed Establishment of Class E Airspace; Richland Center, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Richland Center, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 168° helicopter point in space approach, has been developed for Richland Center Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace with a radius of 6.0 miles for the point in space serving Richland Center Hospital Heliport.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–30, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–30." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Richland Center, WI, to accommodate aircraft executing the proposed GPS SIAP, 168° helicopter point in space approach, for Richland Center Hospital Heliport by creating controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposal regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal

Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Richland Center, WI [New]

Richland Center Hospital Heliport, WI
Point in Space Coordinates
(Lat. 43°21'18"N., long 90°23'14"W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of the Point in Space serving Richland Center Hospital Heliport excluding that airspace within the Lone Rock, WI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on May 6, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14171 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–01]

Proposed Revision of Class E Airspace; Pueblo, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposal would provide additional controlled airspace to accommodate the development of a new Standard Instrument Approach Procedure (SIAP) utilizing the Global Positioning System (GPS) at the Pueblo Memorial Airport. This new SIAP requires airspace extending upward from 700 feet above the surface in order to contain an associated holding procedure.

DATES: Comments must be received on or before July 13, 1998.

ADDRESSES: Send comments on the proposal in triplicate: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 98–ANM–01, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–01, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ANM–01." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) to revise Class E airspace at Pueblo, CO. This amendment would provide additional airspace necessary to fully encompass the GPS Runway 8L and the GPS Runway 26L SIAPs to the Pueblo Memorial Airport, Pueblo, CO. This amendment proposes to add a small 1200-foot Class E area extension to the east in order to accommodate a holding pattern for the SIAPs. The holding pattern is required to meet necessary airspace criteria for aircraft transitioning between the terminal and en route environments. The FAA establishes Class E airspace extending upward from 700 feet AGL where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Pueblo Memorial Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant

rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Pueblo, CO [Revised]

Pueblo Memorial Airport, CO
(Lat. 38°17′21″, long. 104°29′48″)

That airspace extending upward from 700 feet above the surface within a 21.8-mile radius of the Pueblo Memorial Airport, and within the 28.8-mile radius of Pueblo Memorial Airport clockwise between the 070° and 133° bearing from the airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 38°30′00″N, on the east by V–169, on the south by V–210, on the west by a line from lat. 37°38″00″N, long. 105°00′02″W; to lat. 38°16′00″N, long. 105°10′02″W; to lat. 38°30′00″N, long. 105°09′02″W; that airspace extending upward from 13,700 feet MSL bounded by a line beginning at lat. 38°16′00″N, long. 105°10′02″W; to lat. 37°38′00″N, long. 105°00′02″W; to lat. 37°34′00″N, long. 105°12′02″W; to lat. 38°10′00″N, long. 105°33′02″W; thence to point of beginning; that airspace extending upward from 11,700 feet MSL bounded by a line beginning at lat. 38°16′00″N, long. 105°10′02″W; to lat. 38°10′00″N, long. 105°33′02″W; to lat. 38°30′00″N, long. 105°33′02″W; to lat. 38°30′00″N, long. 105°09′02″W; thence to point of beginning, excluding that airspace within Federal airways and the Colorado Springs, CO Class E area.

* * * * *

Issued in Seattle, Washington, on April 29, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–14168 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–29]

Proposed Establishment of Class E Airspace; Beaver Dam, WI

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Beaver Dam, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 266° helicopter point in space approach, has been developed for Hillside Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace with a radius of 6.0 miles for the point in space serving Hillside Hospital Heliport.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–29, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–29." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Beaver Dam, WI, to accommodate aircraft executing the proposed GPS SIAP, 266° helicopter point in space approach, for Hillside Hospital Heliport by creating controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Beaver Dam, WI [New]

Hillside Hospital Heliport, WI
Point in Space Coordinates
(lat. 43°26'45"N., long. 88°48'36"W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of the Point in Space serving Hillside Hospital Heliport excluding that airspace within the Juneau, WI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on May 6, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14170 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–28]

Proposed Modification of Class E Airspace; New Lisbon, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace New Lisbon, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 179° helicopter point in space approach, has been developed for Mile Bluff Medical Center Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to modify existing controlled airspace for New Libson, WI, to the southeast, by adding controlled airspace for the point in space approach serving Mile Bluff Medical Center Heliport.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–28, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–250, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 66018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–28." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM)

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by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at New Lisbon, WI, to accommodate aircraft executing the proposed GPS SIAP, 179° helicopter point in space approach, for Mile Bluff Medical Center Heliport by modifying existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINT

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 New Lisbon, WI [Revised]

Mauston-New Lisbon Union Airport, WI
(lat. 43°50'17"N., long. 90°08'13"W.)
Mile Bluff Medical Center Heliport, WI
Point in Space Coordinates
(lat. 43°48'09"N., long. 90°04'34"W.)

That airspace extending upward from 700 feet above the surface within a 8.8-mile radius of Mauston-New Lisbon Union Airport, and within a 6.0-mile radius of the Point of Space serving Mile Bluff Medical Center Heliport excluding that airspace within the Necedah, WI, Class E airspace area; and excluding that airspace within the Camp Douglas, WI, Class D and Class E airspace areas, during the specific dates and times Class D airspace is effective.

* * * * *

Issued in Des Plains, Illinois on May 6, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14172 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–33]

Proposed Modification of Class E Airspace; Marshall, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Marshall, NM. Amendment 7 to the VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Run way (. Rwy) 12 has been developed for Marshall Municipal-Ryan Field Airport, MN. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled for this airport.

DATES: Comments must be received on or before July 7, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–33, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–33." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be

considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Marshall, MN, to accommodate aircraft executing the proposed VOR Rwy 12, Amendment 7, SIAP, at Marshall Municipal-Ryan Field Airport, MN, by increasing the radius of the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Marshall, MN [Revised]

Marshall Municipal-Ryan Field Airport, MN
(lat. 44°27'00" N., long. 95°49'20" W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Marshall Municipal-Ryan Field Airport.

* * * * *

Issued in Des Plaines, Illinois on May 7, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14173 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–32]

Proposed Modification of Class E Airspace; Prairie Du Chien, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace Prairie Du Chien, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 29 has been developed for Prairie Du Chien Municipal Airport. Controlled Airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action would increase the radius of the existing controlled airspace for Prairie Du Chien Municipal Airport.

DATES: Comments must be received on or before July 7, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–32, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related

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aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–32." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Prairie Du Chien, WI, to accommodate aircraft executing the proposed GPS Rwy 29 Prairie Du Chien Municipal Airport by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be defected on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Prairie Du Chien, WI [Revised]

Prairie Du Chien Municipal Airport, WI
(lat. 43° 01′ 49″N, long. 91° 32′ 14″W)
Waukon VORTAC
(lat. 43° 16′ 49″N, long. 91° 32′ 14″W)

That airspace extending upward from 700 feet above the surface within a 9.3-mile radius of Prairie Du Chien Municipal Airport, and within 3.9 miles each side of the 130° radial of the Waukon VORTAC extending from the 9.3-mile radius to 16.1 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on May 7, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–14174 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7541; S7–14–98]

RIN 3235–AH35

Revision of Rule 504 of Regulation D, the "Seed Capital" Exemption

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: Rule 504 of Regulation D provides an exemption from Securities Act registration when non-reporting issuers make securities offerings that do not exceed an aggregate annual amount of $1 million. These offerings are not reviewed by the Commission. Instead, state securities regulation plays an important role in the oversight of these transactions. Securities sold under Rule 504 are generally freely tradable except by affiliates. Based on recent reports from the Commission's examination and enforcement programs, it appears that the freely tradable nature of these securities may have facilitated some later fraudulent secondary transactions in the over-the-counter markets for securities of "microcap" companies. In light of this use, Rule 504 may need to be strengthened. Therefore, we are publishing for comment proposed amendments to eliminate the freely tradable nature of securities issued under Rule 504.

DATES: Comments should be received on or before July 27, 1998.

ADDRESSES: Please send three copies of the comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically to the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–14–98; this file number should be included on the subject line if e-mail is used. Anyone can inspect and copy the comment letters in our public reference room at 450 Fifth

Street, N.W., Washington, D.C. 20549. We will post comment letters submitted electronically on our Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff or Barbara C. Jacobs, Office of Small Business, Division of Corporation Finance, at (202) 942–2950.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Over the years, Congress has passed significant legislation to aid small businesses in raising capital in the private and public securities markets. The Small Business Investment Incentive Act of 1980, for example, was designed to reduce the regulatory restraints on small business capital formation.[1] In response to that Act, the Commission adopted Regulation D[2] under the Securities Act of 1933 ("Securities Act")[3] in 1982.[4] Rule 504 of Regulation D is the limited offering exemption designed to aid small businesses raising "seed capital." Currently, it allows a non-reporting issuer[5] to offer and sell securities to an unlimited number of persons. The exemption is not conditioned on the sophistication or experience of the investors or on delivery of any specific information to them. General solicitation and general advertising are permitted for all Rule 504 offerings. However, the offering price for a Rule 504 offering, aggregated with certain other offerings, may not exceed $1 million within a 12-month period.[6] Securities sold under the exemption may be resold freely by non-affiliates of the issuer.[7]

Issuers using Regulation D must find exemptions or register in every state in which they offer the securities. The vast majority of states require registration of Rule 504 offerings.[8] In enacting Rule 504, the Commission tacitly deferred primary regulatory responsibility to state securities administrators because the size and local nature of these small offerings did not appear to warrant the imposition of extensive federal regulation.[9] These offerings continue, however, to be subject to federal antifraud and other civil liability provisions.

Despite the protective limitations built into the exemption by the Commission, it appears that securities issued under Rule 504 have been used to facilitate a number of fraudulent secondary transactions through the OTC Bulletin Board operated by the National Association of Securities Dealers, Inc. ("NASD") or the "pink sheets" published by the National Quotation Bureau, Inc.[10] These offerings have generally involved the securities of "microcap" companies, *i.e.*, those characterized by thin capitalization, low share prices, and little or no analyst coverage. While we believe that the scope of abuse is small in relation to the actual usage of the exemption,[11] we also believe that a regulatory response may be necessary.[12] Therefore, we are proposing to implement the same resale restrictions on securities issued in a Rule 504 transaction as apply to transactions under the other Regulation D exemptions.[13] In this way, we believe that unscrupulous stock promoters will be less likely to use Rule 504 as the source of the freely tradable securities they need to facilitate their fraudulent activities in the secondary markets.

While this change also will have some impact upon small businesses trying to raise "seed capital" in bona fide transactions, we believe that effect is justified in light of the circumstances. Without action to hinder the use of securities issued under Rule 504 for fraudulent purposes, small businesses could be unfairly impacted by the taint that might attach to Rule 504 offerings. Moreover, to minimize the impact, we would continue to allow public solicitation and unrestricted use of public advertising to aid small businesses in their search for investors.

II. Background of Rule 504

Before the 1992 amendments, Rule 504 provided a different exemptive scheme than the current rule does. Former Rule 504 exempted public offerings if sales did not exceed $1 million[14] in a 12-month period and if the offering was registered with one or more states that required the preparation and delivery of a disclosure document to investors before sale.[15]

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[1] Pub. L. No. 96–477, 94 Stat. 2275. That Act amended the Securities Act by adding Section 4(6) [15 U.S.C. 77(d)(6)] which, among other matters, exempts from registration offers or sales of securities in the aggregate amount of $5 million or less if solely made to "accredited investors."

[2] 17 CFR 230.501 *et seq.* Regulation D provides three separate securities offering exemptions from Securities Act registration: Rules 504, 505 and 506. Rule 505 is a limited offering exemption for non-public offerings of up to $5 million. It is designed to help small businesses because it permits sales to a small number of nonaccredited, unsophisticated investors. It also was created to coordinate with the North American Securities Administrators Association, Inc. ("NASAA") Uniform Limited Offering Exemption ("ULOE"). Rule 506 is the Commission's safe harbor rule promulgated under the "non-public" offering exemption of Section 4(2) [15 U.S.C. 77d(2)]. It permits private sales only to accredited investors and a limited number of sophisticated investors.

[3] 15 U.S.C. 77a *et seq.*

[4] See Release No. 33–6389 (March 8, 1982) [47 FR 11251].

[5] A non-reporting issuer is an issuer that is not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]. Other issuers that are ineligible to use Rule 504 include investment companies and development stage companies that either have no specific business plan or purpose or have indicated that the business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person. See Rule 504(a) of Regulation D.

[6] Rule 504 offerings are aggregated for this purpose with all other offerings exempt pursuant to Section 3(b) (*e.g.*, Rule 504 or 505 offerings) and all offerings made in violation of Section 5(a) of the Securities Act [15 U.S.C. 77e(a)].

[7] See interpretive letter to Mr. E.H. Hawkins (June 26, 1997), setting forth the views of the Division of Corporation Finance that affiliates who receive securities in a Rule 504 offering are subject to resale restrictions.

[8] Rule 504 is not a part of ULOE. Connecticut, Delaware and Oklahoma have exemptions that directly coordinate with Rule 504. See J.W. Hicks, 7A *Exempted Transactions under the Securities Act of 1933*, Section 7.09[3](1997).

[9] As with all Regulation D offerings, a Form D is required to be filed with the Commission no later than 15 days after the first sale in the Rule 504 offering. See Rule 503 [17 CFR 230.503]. Filing a Form D is not, however, a condition to the exemption.

[10] See, e.g., Schroeder, "Penny Stock Fraud is Again on a Resurgence, Bolstered by Loopholes and New Technology," Wall St. J., September 4, 1997, at 12.

[11] The Commission's records indicate that approximately 1500 Forms D have been filed under Rule 504 in each of the past several years. NASD officials believe that between 300 to 500 applications for OTC Bulletin Board quotations were based upon the Rule 504 exemption in each of those years.

[12] These proposals are part of the our comprehensive agenda to deter registration and trading abuses, particularly by "microcap" issuers. The Commission has developed a four-pronged approach to minimize "microcap fraud": enforcement, investor education, compliance examinations, and regulation.

The Commission issued three releases on February 17, 1998 to address this abuse. See Securities Act Release No. 7505, adopting amendments to Regulation S [17 CFR 230.901 *et seq.*]; Securities Act Release No. 7506, proposing amendments to restrict the use of Form S–8 for sales to consultants and advisors; and Exchange Act Release No. 39670, proposing amendments to Exchange Act Rule 15c2–11 [17 CFR 240.15c2–11] to require all broker-dealers to obtain and review enhanced information about certain issuers when they first publish (or resume publishing) a quotation for a security.

[13] Securities issued in a Rule 504 transaction would be defined as "restricted securities" as the term is defined in Rule 144(a)(3) [17 CFR 230.144(a)(3)]. The Commission has not observed the same level of fraudulent secondary trading in securities issued pursuant to Rules 505 and 506, which are restricted. This observation suggests that restricting resale may deter abuse. The Commission requests data and analysis from commenters on whether these rules are being abused.

[14] As originally adopted in 1982, the exemption was subject to a $500,000 limitation. In 1988, the ceiling for public offerings was increased to $1 million. See Release No. 33–6758 (March 3, 1988) [53 FR 7866].

[15] Form U–7 (also referenced as ULOR, uniform limited offering registration, or SCOR, small corporate offering registration), which was developed by NASAA and the American Bar Association, is a special registration format for

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Private offerings, in which general solicitation and general advertising were prohibited, were exempted if sales did not exceed $500,000. State registration was not a condition to the exemption in the private context.

In July 1992, the Commission adopted revisions to its rules and forms to further facilitate capital raising by small businesses.[16] The amendments eliminated all restrictions on the manner of offering and on resales under Rule 504. As a result, a non-reporting company could offer up to $1 million of securities in a 12-month period and be subject only to the antifraud and other civil liability provisions of the federal securities laws. General solicitation and general advertising were permitted for all Rule 504 offerings. Further, securities sold under Rule 504 were not deemed "restricted securities" and thus were available for immediate resale by non-affiliates of the issuer, as long as the non-affiliates were not "underwriters"[17] of the offering.[18]

In revising the exemption in 1992, the Commission sought to balance the needs of investors and the needs of small business. In the years that have elapsed since Rule 504 was revised, the capital markets have experienced unprecedented growth.[19] The strong markets have given rise to more widespread trading of securities in non-reporting companies in interdealer quotation systems such as the OTC Bulletin Board. Moreover, since 1992, market innovations and technological changes—most notably, the Internet—have created the possibility of nationwide markets for these exempt securities that were once thought to be sold only locally. The combination of these factors, the lack of widely-distributed public information about companies making Rule 504 offerings and the freely tradable nature of Rule 504 securities may have exacerbated the opportunities for microcap fraud.

There have been a significant number of recent Commission examinations of broker/dealers and enforcement investigations with allegations of fraud involving microcap companies.[20] Some of these matters involve transactions where a company sold securities in reliance upon Rule 504 to certain persons who then manipulated the price of the securities to defraud unknowing investors. While the initial Rule 504 sales have not necessarily been fraudulent, the Commission is concerned that the current Rule's flexibility, which permits general solicitation of investors, contains no disclosure requirements, and allows free transferability of issued securities, is being abused by perpetrators of microcap fraud.

In some cases, those who prey on investors through fraudulent schemes make prearranged "sales" of securities under Rule 504 to nominees in states that do not have registration or prospectus delivery requirements. As a part of this arrangement, these securities are subsequently placed with broker-dealers who use cold-calling techniques to sell the securities at ever-escalating prices to unsuspecting investors. When their inventory of shares has been exhausted, these firms permit the artificial market demand they have created to collapse, causing investors to lose much, if not all, of their investment.[21]

While Rule 504 is not essential to such a microcap fraud, its limited compliance requirements provide an attractive device for stock manipulators to generate a large pool of securities for use in manipulation schemes. If the microcap market, or offerings under Rule 504, become stigmatized as unsavory, legitimate small businesses may become less able to raise money as investors lose confidence in the market and in the integrity of those making such offerings. To prevent that from happening, the Commission is reevaluating the Rule and the revisions to it adopted in 1992.

III. Proposed Revisions

In order to discourage abuse of those provisions of the Rule 504 exemption that unscrupulous stock promoters apparently find attractive and yet preserve the usefulness of the exemption for small business, the Commission proposes to impose resale restrictions on securities issued pursuant to the provision. Under the proposal, all securities issued under Rule 504 would constitute "restricted securities" as the term is used in Rule 144. Consequently, these securities could only be resold: (1) After the one-year holding period imposed by Rule 144, (2) through registration, or (3) through another exemption (such as Regulation A[22]), if available.

This approach would be consistent with the other Regulation D exemptions and other types of offerings not registered with us. While it typically prevents investors from reselling the securities in less than a year, it also discourages the use of the securities as a part of a fraud or manipulation during the same period. It encourages longer term investment and may provide the necessary time for the market to learn more about the small issuer, which are beneficial factors for the investor and the issuer as well.

The Commission requests comments on the effect of this proposal upon the abuses we have described in the microcap market. If commenters believe that the proposal will not have the desired prophylactic impact, they should explain the bases for their views and indicate their views of the problem, the appropriate manner of rectifying it and data supporting their views.

In developing our recommendations, we always try to determine whether the proposed regulatory actions will unduly burden legitimate small businesses. We keep in regular contact with small business representatives. Based upon our ongoing dialogue, we believe that today's proposals are sufficiently measured so that the most useful aspects of Rule 504 would be preserved. We have found that small business representatives share our concern about the harmful presence of those who would taint the microcap market and therefore raise the cost of raising capital for legitimate small businesses. We specifically seek the views of the small business community on the proposals.[23]

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companies registering securities under state securities laws when relying upon Rule 504. *See* Harris, Keller, Stakias & Liles, Financing the "American Dream," 43 Business Lawyer 757 (1988). As of October 1997, Form U–7 has been either formally adopted or recognized and accepted by 40 states.

[16] See Release No. 33–6949 (July 30, 1992) [57 FR 36442]. On April 28, 1993, the Commission adopted additional revisions to facilitate still further financings by small business issuers. See Release No. 33–6996 (April 28, 1993) [58 FR 26509].

[17] Section 2(a)(11) of the Securities Act [15 U.S.C. 77b(a)(11)].

[18] Regulation D exemptions are available only to the issuer of the securities. None of these exemptions can be used by any other person. Preliminary Note 4 to Regulation D.

[19] In 1992, the Dow Jones Industrial Average, a price-weighted average of 30 actively-traded stocks listed on the New York Stock Exchange, was at 3000; it recently passed the 9000 mark. Other indicators similarly demonstrate the overall growth of the securities markets. For example, during the same period, the Russell 2000 small stock index, a measure of the stock performance of small company stocks, moved from 200 to a recent close of over 490.

[20] The National Association of Securities Dealers, Inc. (NASD) also has recently proposed a series of measures to address microcap fraud. See, e.g., OTC Bulletin Board Quotations Rule Amendments (NASD Notice to Members 98–14) (Rule 6530 and Rule 6540).

[21] This technique is sometimes colloquially referred to as "pump and dump."

[22] 17 CFR 230.251 *et seq.*

[23] The Commission hosts town hall meetings across the country from time to time for small business to discuss issues like the Commission's capital formation rules. These meetings are instructive about the current concerns and problems facing small businesses in raising capital

IV. Other Possible Approaches to Rule 504 Reform

The Commission seeks comments on whether it should adopt other amendments to Rule 504, in addition to or in lieu of those discussed in this release, to discourage its abuse while preserving its utility for small businesses.

The Commission is particularly interested in hearing from commenters about whether general solicitation and advertising should continue to be permitted in Rule 504 offerings, and whether the lack of restrictions in this area have been a source of abuse, particularly in finding investors or generating market interest in issuer securities. If general solicitation and general advertising is thought to be connected to abusive situations, commenters should recommend how these abuses might be deterred. For example, should the Commission reintroduce the requirement that general solicitation and general advertising of securities offered under Rule 504 be conditioned in some way? Under one model, public offerings under the Rule 504 exemption might be limited to where the issuer complies with state registration processes that require the preparation and delivery of a disclosure document to investors prior to sale of the securities. Should general solicitation and general advertising be contingent upon state registration and prospectus delivery to all investors before sale? Would adding these requirements further discourage fraudulent secondary market activity as well as fraudulent offerings under Rule 504? If so, would the cost to small businesses of restricting the solicitation methods permitted by Rule 504 be outweighed by the benefits from avoiding a taint to Rule 504? How should offerings made pursuant to certain state exemptions, such as the one recently developed for sales to "accredited investors," [24] be treated? Under this model (which was the rule before 1992), private offerings would continue to be permitted without compliance with this particular type of state registration procedure. Should all provisions of the previous version of the rule be reinstituted, *i.e.*, should publicly offered securities issued under the exemption be unrestricted?

The Commission also is particularly interested in hearing from commenters about the absence of specific disclosure requirements under Rule 504, as contrasted to offerings under Rules 505 and 506, which must satisfy the information requirements of Rule 502(b) of Regulation D.[25] Should the Commission require that a disclosure document satisfying those information requirements be delivered to non-accredited investors before sale in Rule 504 offerings? To ensure easy access for all investors, should disclosure documents and other sales materials be required to be provided as an exhibit to the Form D? Since Forms D are not currently filed electronically with the Commission, should a change be made requiring electronic filing? Should these documents be provided to the Commission for its information only? What issues would this type of procedure raise under the Freedom of Information Act [26]? Should a confidential treatment process be developed to protect some of the information contained in these documents?

V. Solicitation of Comment—Other Rule 504 Improvements

The Commission seeks comment with respect to each of the other facets of the current Rule 504 regulatory compliance scheme. Specifically, does the current Rule serve investors' interests? If not, how could this Rule be further strengthened? Should a lower aggregate dollar amount, such as $500,000, be implemented with different requirements in order to provide a more effective compliance system? Should the current 12-month measuring period be lengthened to 2 years, with or without a change in the aggregate dollar limitation?

Should the types of issuers eligible to use the exemption be changed? For example, should particular types of "penny stock" issues be excluded, *e.g.*, offerings for less than $1 per share? Should issuers with total assets or market capitalization below a minimum amount be precluded from using the rule, *e.g.*, $1 million? Would such a limit be consistent with a stated purpose of the exemption: for raising "seed capital"?

Does the current rule serve issuers' needs? At the same time we are proposing to tighten the rule, are there other areas of the Rule that we can modify to provide small businesses with flexibility without compromising investor protection? For example, should the measuring period for determining the scope of an offering be shortened to six months? Should the dollar limitation in the Rule be increased to $5 million or some higher dollar amount if accompanied with additional compliance requirements such as specified disclosure requirements or state registration requirements? [27]

Do differences in state registration schemes affect the utility of Rule 504? Do those differences affect the incidence of fraudulent secondary trading? If so, how? Has reliance on state regulation achieved the goals set out by the Commission when it amended Rule 504 in 1992? [28] Although improving, has the lack of uniformity of state securities regulation in this area had any impact on Rule 504 offerings? Should Rule 504 be revised to impose greater uniformity nationwide in disclosures provided to investors under Rule 504? Should public offerings under Rule 504 be limited to only those offerings registered in and made in states participating in NASAA's regional review program? [29]

Should the Commission take a more active role in monitoring Rule 504 transactions to ensure compliance with the antifraud requirements of the federal securities laws? Should additional information be mandated in Form D?

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in the securities markets, and permit us to design programs that will meet their needs consistent with the protection of investors. In future sessions, we intend to discuss our proposals with attendees and encourage them to submit their views as a part of this rulemaking proceeding. In addition, the University of Southern California recently sponsored a forum at which a number of issues important to small business, including alleged abuses that are the basis for our proposal, were discussed and considered by a group of small business representatives and Commission staff.

[24] State exemptions of this nature include those based upon the "Model Accredited Investor Exemption," which was adopted by NASAA in 1997. CCH NASAA Reporter Paragraph 361. Generally, the rule exempts offers and sales of securities from state registration requirements, if among other matters, the securities are sold only to persons who are, or are reasonably believed to be, "accredited investors" as defined in Rule 501(a) of Regulation D. Written solicitations under that provision are generally limited to a type of "tombstone" ad. To date, 11 states have adopted the exemption.

[25] 17 CFR 230.502(b).

[26] 5 U.S.C. 552.

[27] See NASAA's Report of the Task Force on the Future of Shared State and Federal Securities Regulation (October 1997). The Task Force, among other matters, recommended that the Commission raise the offering amount in Rule 504 offerings to $10 million pursuant to its new authority under Section 28 of the Securities Act [15 U.S.C. 77z–3]. It also recommended that offerings made in an amount over $1 million be required to be registered in the states where the offering is made.

[28] See note 16 above.

[29] NASAA and a number of states have developed regional review procedures that permit an issuer to file in each state, but to indicate with the filing that regional review is requested. Under those circumstances, the issuer will receive only one set of comments, and the filing can become effective simultaneously in all states in the region in which filings have been made. To date, the regional system has been set up in the following areas: Western States (Alaska, Arizona, California, Colorado, Idaho, Oregon, Utah and Washington); New England States (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); and Midwestern States (Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, and Wisconsin).

For example, should Form D be required to indicate the state(s) where the offering was made? Or, should Form D filers be required to amend their filings periodically (whether quarterly, annually or some other increment of time) to disclose: (1) Whether they have prepared or provided information to facilitate trading such as the NASD's Form 211, which is required prior to inclusion on the OTC Bulletin Board; and (2) whether they have provided other information to potential or existing market makers for their securities?

Before the adoption of Rule 701,[30] the Rule 504 exemption was used by a number of foreign private issuers in order to compensate their U.S. employees by issuing them company securities. Many of these issuers had substantial market capitalizations and were listed on foreign exchanges. Comment is requested concerning the impact of the proposed revisions upon these companies. Specifically, is the Rule 504 exemption still being used by these issuers? If so, for what purposes is Rule 504 used? If these foreign private issuers still use the exemption, should the Commission treat their Rule 504 issuances differently, *i.e.*, not as "restricted securities" if they are not microcap companies, and file periodic public reports in their home or other countries?

VI. General Request for Comment

Any interested persons wishing to submit written comment on any of the issues set forth in this release are invited to do so by submitting them in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–14–98; this file number should be included on the subject line if e-mail is used. Comments received will be available for public inspection and copying in the Commission's public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (http://www.sec.gov). Comments on this proposal will be considered by us in complying with our responsibilities under Section 19(a) of the Securities Act.[31] We further request comment on any competitive burdens that may result from adoption of the proposals.

[30] 17 CFR 230.701.

[31] 15 U.S.C. 77s(a).

Comments are solicited from the point of view of, among others, issuers, underwriters, broker/dealers and the investing public.

VII. Summary of Initial Regulatory Flexibility Analysis

We have prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with the Regulatory Flexibility Act[32] regarding the proposed amendments.

The analysis notes that the amendments to Rule 504 are a result of our view—and that of representatives of other regulators—that the current configuration of the exemption may be leading to abuse. The purpose of the proposals is to reduce the potential for abuse and yet maintain the utility of the exemption for small businesses. We believe that the proposed amendments will enhance the protection of the investing public.

In calendar year 1997, 1,505 Forms D were filed by 1,397 companies with the Commission claiming the Rule 504 exemption. Rule 504 only affects non-reporting companies. The Commission has sought to minimize the reporting burden on small businesses. However, we do not collect data to determine how many of the non-reporting companies filing Form D are small businesses. Therefore, we are unable to determine exactly how many small businesses will be affected by the proposed amendments.

While it is not possible to know with certainty, it is believed that most Rule 504 offerings were done by small businesses. The rule changes would restrict the resale of all securities issued pursuant to Rule 504. Officials at the NASD estimate that between 300 and 500 applications for quotation on the OTC Bulletin Board annually have been based on the Rule 504 exemption. We presume, therefore, that the proposal would affect at least some of the small businesses currently using Rule 504. The proposal, if adopted, could cause these issuers to offer higher discounts in the sales of their securities, which may increase their overall cost for capital. The Commission has insufficient data to reliably quantify the impact on small entities offering such a discount, and requests comment, supported by data and analysis regarding the nature and size of any discount.

As discussed more fully in the IRFA, several possible significant alternatives to the proposals were considered. These included: establishing different compliance or reporting requirements for small entities, clarifying, consolidating or simplifying the compliance and reporting requirements for small entities, using performance rather than design standards, exempting small entities from all or part of the proposed requirements, or requiring them to provide more disclosure, such as the same disclosure required for the other Regulation D exemptions. The IRFA also indicates that there are no current federal rules that duplicate, overlap, or conflict with the proposed amendments.

We encourage written comments on any aspect of the IRFA. In particular, we seek comment on: (i) the number of small entities that would be affected by the proposed amendments; and (ii) whether the proposed amendments would affect the reporting, recordkeeping and other compliance requirements for small entities and, if so, how. If you believe the proposals will significantly impact a substantial number of small entities, please describe the nature of the impact and estimate the extent of the impact with specific data.

For purposes of making determinations required by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"),[33] we also are requesting data regarding the potential impact of the proposed amendments on the economy on an annual basis. Your comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed amendments are adopted. A copy of the Initial Regulatory Flexibility Act Analysis may be obtained from Twanna M. Young, Office of Small Business, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

VIII. Cost-Benefit Analysis

The current version of Rule 504 was adopted in 1992. At that time it was believed to contain adequate compliance standards, including: the limits on the amount of money permitted to be raised and the types of issuers eligible to use the exemption; the filing of the Form D notification with the Commission to aid in its monitoring of the exemption; the federal antifraud provisions; and, perhaps most importantly, state regulation of these transactions. Since that time, however, securities issued pursuant to Rule 504 have been used in fraudulent secondary trading.

[32] 5 U.S.C. 603.

[33] Pub. L. 104–121, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C., 15 U.S.C., and as a note to 5 U.S.C. 601).

The proposed amendments would address these problems by restricting the resale of securities; generally this change would require investors to hold them for at least one year following purchase. The Commission believes these proposed amendments, if adopted, would benefit issuers and investors by curbing some of the abuses in the secondary market, safeguarding investors, and preserving the utility of the exemption for legitimate transactions.

In calendar year 1997, 1,505 Forms D were filed by 1,397 companies with the Commission claiming a Rule 504 exemption. Officials at the NASD estimate that between 300 and 500 applications for quotation on the OTC Bulletin Board annually have been based on the Rule 504 exemption. The Commission cannot estimate the costs of the proposed amendments with certainty. Some issuers may be required to offer discounts or other incentives to sell their securities in order to compensate for the restriction on resale. However, because the exemption is designed to raise "seed" capital, most of the issuers and the type of transaction the rule is designed to reach are in the early stages of their development. These issuers are interested in attracting patient investors who are committed to remaining with the business for some period of time. As such, it seems reasonable that these investors and the companies would expect the securities to be held for some period of time; certainly for at least one year. Our experience shows that many of the active trading markets that develop shortly after securities are issued under Rule 504 are artificial. While liquidity is an important feature with any securities investment, whether it is sufficiently significant in connection with a "seed" capital offering to require a substantial discount in the offering price is debatable. Nonetheless the Commission is seeking specific comments on this issue and empirical data. While the amendments will probably impact mostly small entities, the changes are necessary to curb fraud in the market for the securities of small issuers. The Commission does not have sufficient data to reliably estimate this cost and requests data and analysis from commenters.

As an aid in the evaluation of the costs and benefits of these proposals, we request the views and other supporting information of the public. It appears to us that the proposed amendments, if adopted, would continue to provide the significant cost savings originally envisioned for small issuers making offerings under Rule 504 without compromising investor protection.

We request your comment on whether the proposed amendments would be a "major rule" for purposes of the SBREFA. We request comments on whether the proposed amendments are likely to have an annual effect on the economy of $100 million or more. Your comments should provide empirical data to support your views.

Section 2(b) of the Securities Act requires the Commission, when engaged in rulemaking that requires a public interest finding, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.[34] The Commission's preliminary view is that the proposed amendments would not have any effect on competition. Moreover, the proposed amendments are designed to curb fraud in the market for the securities of small issuers, and therefore are likely overall to improve efficiency and capital formation for legitimate small businesses. The Commission is aware, however, that restricting the resale of securities may have some impact on the cost of capital formation. The Commission requests data and analysis on what effect the proposed changes may have on efficiency, competition and capital formation.

IX. Paperwork Reduction Act

Our staff has submitted the proposals for review to the Office of Management and Budget ("OMB") in accordance with the Paperwork Reduction Act of 1995 ("the Act").[35] The title to the affected information collection is: "Form D." The specific information that must be included in Form D is explained in the form itself, and relates to the issuer, its principals and the amount of money proposed to be raised along with proposed applications of the proceeds. The information is needed for monitoring use of the exemption as well as evaluating its usefulness to issuers.

The collection of information in Form D will continue to be required in order for companies to use the rule for sales of their securities. The likely respondents to the rule are those companies that have previously used the rule and other small entities. While we cannot estimate the number of respondents that may use revised Rule 504, there were 1,505 Form D filings by 1,397 companies under Rule 504 during calendar year 1997. We expect that approximately 1500 companies each year will be relying on the exemption. If the revisions to Rule 504 are adopted, the estimated burden for responding to the collection of information in Form D would not increase for most companies because the information required has not been changed. The number of eligible transactions, however, may decrease. We estimate that the average burden hours per filing will be 16. Therefore, we estimate an aggregate of 24,000 burden hours per year. The Commission does not know how many issuers may be affected by this proposal, whether they will decide to rely on another exemption, or how much, if any, the information collection burden would be.

The information collection requirements imposed by Form D are mandatory to the extent that a company elects to use the Rule 504 exemption. The information is disclosed to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

In accordance with the Act,[36] we solicit comment on: (1) whether the collection of information is necessary; (2) the accuracy of our estimate of the burden of the collection of information; (3) the quality, utility and clarity of the information to be collected; and (4) whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Persons desiring to submit comments on the collection of information requirement should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, with reference to File No. S7–14 –98. The Office of Management and Budget is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

X. Statutory Basis for the Proposals

The amendments are proposed pursuant to Sections 2, 3(b), 6, 7, 8, 10, 19(a), 19(c) and 28 of the Securities Act.

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[34] 15 U.S.C. 77b(b).

[35] 44 U.S.C. 3501 *et seq.*

[36] 44 U.S.C. 3506(c)(2)(B).

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Proposals

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78l, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–24, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

§ 230.502 [Amended]

2. By amending the introductory text of paragraph (d) of § 230.502 by revising the words "Except as provided in § 230.504(b)(1), securities" to read "Securities".

3. By revising § 230.504(b)(1) to read as follows:

§ 230.504 Exemption for limited offerings and sales of securities not exceeding $1,000,000.

* * * * *

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this § 230.504, offers and sales must satisfy the terms and conditions of §§ 230.501 and 230.502(a) and (d).

* * * * *

Dated: May 21, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14024 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 809 and 864

[Docket No. 97N–0135]

Medical Devices; Hematology and Pathology Devices; Reclassification; Restricted Devices; OTC Test Sample Collection Systems for Drugs of Abuse Testing; Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing on proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing on a proposed rule to reclassify over-the-counter (OTC) test sample collection systems for drugs of abuse testing. The purpose of the public hearing is to solicit input on the proposed rule in addition to comments being submitted to the docket. The information obtained at the hearing will assist FDA in its preparation of a final rule.

DATES: The public hearing will be held on June 19, 1998, from 9 a.m. to 5 p.m. Written notices of participation should be filed by June 8, 1998. Submit written comments by July 5, 1998.

ADDRESSES: The public hearing will be held at the Food and Drug Administration, 5600 Fishers Lane, conference rooms D and E, Rockville, MD 20857. Submit written notices of participation and written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven I. Gutman, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–3084.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 5, 1998 (63 FR 10792), FDA published a proposed rule to reclassify OTC test sample collection systems for drugs of abuse testing. FDA has determined that a public hearing on the proposed rule is warranted. The hearing will be directed by William B. Schultz, Deputy Commissioner for Policy, FDA. To the extent possible, oral testimony should address the issues identified in the proposed rule (63 FR 10792). The procedures governing the hearing are those applicable to a public hearing before the Commissioner of Food and Drugs under 21 CFR part 15.

Interested persons who wish to participate may, on or before June 8, 1998, submit a notice of participation to the Dockets Management Branch (address above). All notices submitted should be identified with the docket number found in brackets in the heading of this document and should contain the name, address, telephone number, business affiliation of the person requesting to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation.

Individuals or groups having similar interests are requested to consolidate their comments and present them through a single representative. FDA will allocate the time available for the hearing among the persons who properly file a notice of appearance.

After reviewing the notice of participation and accompanying information, FDA will schedule each appearance and notify each participant by mail or telephone of the time allotted to the person and the approximate time the person's presentation is scheduled to begin. FDA may require joint presentations by persons with common interests. The schedule of the public hearing will be available at the hearing and it will be placed on file in the Dockets Management Branch following the hearing.

The administrative record of the proposed regulation will be open for 15 days after the hearing to allow comments on matters raised at the hearing. Persons who wish to provide additional materials for consideration are to file these materials with the Dockets Management Branch (address above) during that period.

The hearing is informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officers and panel members may question any person during or at the conclusion of their presentation.

Dated: May 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–14048 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–022–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information pertain to normal

husbandry practices and non-augmentative reclamation activities. The amendment is intended to revise the Oklahoma program to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., c.d.t., June 12, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Michael C. Wolfrom, Director, Tulsa Field Office at the address listed below.

Copies of the Oklahoma program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

FOR FURTHER INFORMATION CONTACT:
Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.
Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859.

FOR FURTHER INFORMATION CONTACT:
Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Discussion of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, **Federal Register** (46 FR 4902). Subsequent actions concerning the Oklahoma program can be found at 30 CFR 936.15 and 936.16.

II. Discussion of the Proposed Amendment

By letter dated July 3, 1997 (Administrative Record No. OK–978), Oklahoma submitted a proposed amendment to its program pursuant to SMCRA. Oklahoma submitted the proposed amendment at its own initiative. Oklahoma proposed to amend the Oklahoma Administrative Code (OAC) for surface mining operations at OAC 460:20–43–46(c)(4) and underground mining operations at OAC 460:20–45–46(c)(4) by adding criteria for normal husbandry practices and non-augmentative reclamation activities within the State.

OSM announced receipt of the proposed amendment in the August 8, 1997, **Federal Register** (62 FR 42715) and invited public comment on its adequacy. The public comment period ended September 8, 1997.

During its review of the amendment, OSM identified concerns in OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4) relating to the requirement that OSM approve normal husbandry practices used in the State; OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D) relating to a discrepancy between the proposed language and Appendix R of Oklahoma's Bond Release Guidelines on the repair of rills and gullies; and OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E) relating to the non-augmentative reclamation activities proposed for temporary structures. OSM notified Oklahoma of the concerns by letters dated November 19, 1997, and March 23, 1998, and via telephone conferences on February 10, 1998 and March 19, 1998 (Administrative Record Nos. OK–978.05, OK–978.10, OK–978.06, and OK–978.09, respectively). Oklahoma responded in letters dated March 4, 1998, April 22, 1998, April 30, 1998, and May 13, 1998 (Administrative Record Nos. OK–978.08, OK–978.13, OK–978.14, and OK–978.11, respectively), by submitting a revised amendment and additional explanatory information.

Oklahoma is proposing (1) normal husbandry practices for reseeding, fertilizing, liming, weed and pest control, mulching, irrigation, pruning, transplanting and replanting trees and shrubs, and repair of rills and gullies and (2) non-augmentative reclamation activity practices for removal and reclamation of temporary structures. Summarized below by regulation numbers is a discussion of the revisions and additional explanatory information submitted by Oklahoma.

1. Oklahoma revised the first sentence of OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4) by adding the language "and non-augmentative reclamation activities." The revised sentence reads as follows:

> The Department and the Office of Surface Mining have approved selective husbandry practices and non-augmentative reclamation activities that, when accomplished in accordance with (A) through (G) below, do not extend the period of responsibility for revegetation success and bond liability.

In its letter dated April 22, 1998, Oklahoma stated that it understands that any normal husbandry practice(s) not included in its March 4, 1998, revised amendment will be submitted to OSM for approval in accordance with 30 CFR 732.17. In order to support its proposed regulations at OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4), Oklahoma submitted several guidelines published by the Oklahoma State University and the Natural Resources Conservation Service on the types of agricultural practices that will not be considered augmentative.

2. Oklahoma revised the third sentence of OAC 460:20–43–46(c)(4)(A), pertaining to surface mining operations, by adding the language "identified at subsection 460:20–43–46(c)(4)(E)." The revised sentence reads as follows:

> Removal and reclamation of temporary structures identified at subsection 460:20–43–46(c)(4)(E) would not be considered augmentation.

3. Oklahoma revised the third sentence of OAC 460:20–45–46(c)(4)(A), pertaining to underground mining operations, by adding the language "identified at subsection 460:20–45–46(c)(4)(E)." The revised sentence reads as follows:

> Removal and reclamation of temporary structures identified at subsection 460:20–45–46(c)(4)(E) would not be considered augmentation.

4. Oklahoma revised OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D) by removing the language "during the initial establishment" from the third and fifth sentence and replacing the sixth and seventh sentence with the following language:

> After initial vegetation establishment, ODOM defines the treatment of rills and gullies requiring permanent reseeding of more than 10 acres in a contiguous block or 10% of a permit area initially seeded during a single year to be an augmentative practice because of the potential for delayed seeding of large areas to reduce the probability of revegetation success.

Oklahoma submitted copies of the Natural Resources Conservation Service (NRCS) guidelines for repair of rills and gullies entitled "State Standard and Specifications for Critical Area Treatment" and "Critical Area Planting" to support its proposed regulations at OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D).

5. Oklahoma revised OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E), by changing the word "haulroads" to "roads" and adding the language "remaining after a Phase I Bond Release approval" to its previously proposed

provision. The revised regulations read as follows:

Liming, fertilization, mulching, seeding or stocking following the reclamation of any temporary roads remaining after a Phase I Bond Release approval, temporary sediment or hydraulic control structures, areas disturbed by the installation or removal of oil and gas wells or utility lines, and areas where the vegetation was disturbed by vehicular traffic not under the control of the permittee will not be considered augmentation.

In its letter of April 22, 1998, Oklahoma clarified that its proposed regulations at OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E) do not approve the reclamation of temporary haul roads after Phase I approval as a non-augmentative practice.

6. Oklahoma is proposing to delete Appendix R and to revise Appendix A of its Bond Release Guidelines. Appendix R contains Oklahoma's currently approved guidelines for the repair of rills and gullies, and it is being replaced by Oklahoma's proposed regulations at OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D). The definition for "Augmentation" in Appendix A is being revised by replacing the reference to Appendix R with a reference to OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4). The definition of "Initial Establishment of Permanent Vegetative Cover" is being deleted from Appendix A.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Oklahoma program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Oklahoma program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decision on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 20, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–14055 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–05–M

Notices

Federal Register
Vol. 63, No. 102
Thursday, May 28, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Extension of Currently Approved Information Collection for Locatable Minerals

AGENCY: Forest Service, USDA.

ACTION: Notice: request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to extend the existing information collection found in 36 CFR Part 228, Subpart A, for locatable minerals. The current information collection will expire July 31, 1998.

DATES: Comments must be received in writing on or before July 27, 1998.

ADDRESSES: Send written comments to Director, Minerals and Geology Management, mail stop 1126, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

The public may inspect comments in the Office of the Director. To facilitate entrance into the building, visitors are encouraged to call ahead (202) 205–1042.

FOR FURTHER INFORMATION CONTACT: Sam Hotchkiss, Minerals and Geology Management, telephone: (202) 205–1535.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Locatable Minerals.

OMB Number: 0596–0022.

Expiration Date of Approval: July 31, 1998.

Type of Request: Extension of an existing information collection.

Abstract: Locatable mineral operators must conduct their operations in accordance with the mineral regulations at 36 CFR Part 228, Subpart A, to ensure that the environmental impacts are minimized to the extent practicable.

When submitting a notice of intent, a plan of operations, or a notice of cessation of operations, the operator may use any format to submit the required information. To facilitate this process, the Forest Service has developed a plan of operations form to collect the information required in the locatable mineral regulations. Although use of the form is optional by the operator, it was used about 1,000 times last year. The Forest Service uses the information to review and evaluate a mining proposal. Without an established procedure for joint Forest Service and operator planning, adverse impacts such as a significant soil loss, water pollution, and adverse impacts to plants and animals will likely occur. The types of activities that will cause severe impacts to surface resources include an improperly located access road, unplanned disposal of waste rock and mill tailings, inadequate water drainage controls in disturbed areas, and a failure to reclaim disturbed areas after operations are complete. Public safety would also be a major concern if operators were allowed to leave shafts, cuts, and adits uncovered, unfenced, and unmarked.

Estimate of Burden: 2 hours.

Type of Respondents: Locatable mineral operators.

Estimated Number of Respondents: 1000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2000.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: May 21, 1998.

Darrel L. Kenops,

Acting Deputy Chief, National Forest Systems.

[FR Doc. 98–14131 Filed 5–27–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Diamond Lake Drawdown, Umpqua National Forest, Douglas, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: On February 2, 1998, a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the Diamond Lake Drawdown on the Diamond Lake Ranger District of the Umpqua National Forest was published in the **Federal Register** (63 FR 5350). The February 2 NOI is being withdrawn because the Forest Service is no longer the lead agency for the EIS. The Forest Service NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Jim Leoni, Interdisciplinary Team Leader, Umpqua National Forest, P.O. Box 1008, Roseburg, Oregon 97470, phone 541–957–3391.

Dated: May 18, 1998.

Don Ostby,

Forest Supervisor.

[FR Doc. 98–14082 Filed 5–27–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: 1999 New York City Housing and Vacancy Survey.
Form Number(s): H–100, –105, –108, –100(L).
Agency Approval Number: 0607–0757.
Type of Request: Reinstatement, with change, of an expired collection.
Burden: 11,200 hours.
Number of Respondents: 17,200.
Avg Hours Per Response: 35 minutes.
Needs and Uses: The Census Bureau plans to conduct the 1999 New York City Housing and Vacancy Survey (NYCHVS) under contract for the City of New York. The purpose of the survey is to measure the supply, condition, and vacancy rate of housing in the City. Vacancy rate is the primary factor in determining the continuation of rent control regulations. Other survey information is used by city and state agencies for planning purposes as well as the private sector for business decisions. The laws of New York require such a survey to be conducted every three years.

Census Bureau interviewers will conduct personal visit interviews at a sample of housing units in the city, the vast majority of which are apartments in apartment buildings. Basic demographic information will be collected from residents along with information about living conditions (rent, facilities, maintenance, neighborhood, etc.). This information will be collected from rental agents or other knowledgeable persons in the case of vacant units. A small number of reinterviews with agents or landlords will be conducted for quality assurance purposes. We will also determine, by observation only, if a sample of units known to have been lost from the housing inventory have been reconverted for residential use.

Affected Public: Individuals or households, businesses or other for-profit.
Frequency: Every 3 years.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 USC, Section 8.
OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–14030 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Census 2000 Dress Rehearsal: Integrated Coverage Measurement and Post Enumeration Survey Activities (Person Follow-up Interview and Evaluation Interview) and Initial Phase Evaluation Activities (Administrative Record Coverage and Multiple Response).
Form Number(s): DX–1301, DX–1301.EI, DX–1301.PSA, and DX–1301(P).
Agency Approval Number: None.
Type of Request: New collection.
Burden: 6,173 hours.
Number of Respondents: 20,190.
Avg Hours Per Response: 18 and a half minutes.
Needs and Uses: In the Census 2000 Dress Rehearsal, the Census Bureau will conduct a dress rehearsal of both its Integrated Coverage Measurement (ICM) and Post Enumeration Survey (PES) methodologies that can be used alternatively to measure coverage of the census for housing units and people. During Person Follow-up, we reconcile differences between ICM/PES person interview phase and the census initial enumeration. The result will be the information needed to produce the final estimates of the coverage for the Census 2000 Dress Rehearsal. The evaluation activities include analyzing the effectiveness of the ICM/PES data collection process and the potential coverage improvement from utilizing alternate response options and administrative records in census operations.

Affected Public: Individuals or households.
Frequency: One time.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13, United States Code, Section 141.
OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 21, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–14031 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 25–98]

Foreign-Trade Zone 124—LaPlace, Louisiana, Foreign-Trade Subzone 124B—North American Shipbuilding, Inc.; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the South Louisiana Port Commission, grantee of FTZ 124, requesting authority to expand Subzone 124B, which currently covers the main shipyard facility of North American Shipbuilding, Inc. (NASI) located in LaFourche Parish, Louisiana, adjacent to the Gramercy Customs port of entry, to include two new sites located in Terrebonne and Lafourche Parishes. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 19, 1998.

Subzone 124B was approved on October 29, 1991 (Board Order 539, 56 F.R. 56627, 11/6/91). The subzone currently consists of one site (14 acres) located at 800 Industrial Park Road and Highway 308, Lafourche Parish, one mile north of Larose, Louisiana.

The applicant is now requesting authority to expand the subzone to include two additional sites: proposed *Site 2* (27 acres)—North American Fabricators, LLC, 208 North American Court, Houma (Terrebonne Parish); and, proposed *Site 3* (26 acres)—C-Port, LLC, 106 9th Street, Port Fourchon (Lafourche Parish).

The NASI facility is used for the construction and repair of commercial, military and research vessels under zone procedures within Subzone 124B.

This proposal does not request any new authority under FTZ procedures in terms of products or components, but it does involve a potential increase in the facility's level of production under FTZ procedures. NASI will operate the proposed sites as an integral part of Subzone 124B.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 27, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 11, 1998).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 110 North Airline Avenue, Gramercy, LA 70052

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: May 20, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–14153 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 981]

Expansion of Foreign-Trade Zone 33; Pittsburgh, PA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of Foreign-Trade Zone 33, for authority to expand FTZ 33-Site 1 and Site 2 and to include two new sites in Pittsburgh and Leetsdale, Pennsylvania, within the Pittsburgh Customs port of entry area, was filed by the Board on November 17, 1997 (FTZ Docket 79–97, 62 FR 63315, 11/28/97);

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 33 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 14th day of May 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–14152 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–823]

Cut-to-Length Carbon Steel Plate From Canada; Initiation of Anticircumvention Inquiry on Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of anticircumvention inquiry; cut-to-length carbon steel plate from Canada.

SUMMARY: In response to a request from Kentucky Electric Steel Company (Kentucky Steel), the Department of Commerce (the Department) is initiating an anticircumvention inquiry to determine whether imports of boron-added grader blade and draft key steel, falling within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on cut-to-length carbon steel plate from Canada (58 FR 44162, August 19, 1993).

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Gideon Katz, Eric Scheier, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 62 FR 27296 (May 19, 1997).

Background

On March 14, 1997, the Department initiated a scope inquiry to determine whether certain cut-to-length carbon steel plate used to make grader blades and draft keys ("grader blade" and "draft key" steel) that contain small amounts of boron (approximately 0.0016 percent by weight) fall within the scope of the order on certain cut-to-length carbon steel plate from Canada. The Department gave interested parties the opportunity to provide comments pursuant to 19 CFR § 353.29(i) and 19 CFR 353.29(g).

On January 16, 1998, the Department issued a ruling, based on 19 CFR § 353.29(i), that boron-added grader blade and draft key steel falls outside the scope of the order. The Department concluded that, because the petition relied on the HTS definition of carbon steel, which excluded other-alloy steel (i.e. steel containing more than 0.0008 percent boron), and because the petition equated the term 'carbon steel' with the HTS term 'non-alloy steel', variants of grader blade and draft key steel which contain at least 0.0008 percent boron by weight fell outside the scope of the order. Specifically, the HTSUS defines the term "steel" as certain "ferrous materials * * * usually malleable and which contain by weight two percent or less of carbon. * * *" and defines the term "non-alloy" steel as steel *other than* A) "stainless steel", *i.e.* alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium or B) "other alloy steel, *i.e.* steel * * * containing by weight 0.3 percent or more of aluminum or 0.0008 percent or more of boron. *See* HTSUS, Chapter 72, Note 1(d) and (f).

The Department also solicited comments from interested parties concerning the possible applicability of the "minor alterations" provision pursuant to 19 CFR 353.29(g) (now codified as § 351.225(i), *see* 62 FR 27296, 27404 (May 19, 1997)).

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On January 30, 1998, Kentucky Steel requested that the Department conduct an anticircumvention inquiry pursuant to section 781(c) of the Tariff Act to determine whether imports of certain cut-to-length steel plate used to make grader blades and draft keys ("grader blade" and "draft key" steel) that contain small amounts of boron (approximately 0.0016 percent by weight) and fall within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on certain cut-to-length carbon steel plate from Canada.

Scope

The scope language contained in the final determination and antidumping duty order describes the covered merchandise as follows:

> Although the Harmonized Tariff Schedule of the United States (HTS) subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive * * *.
>
> *Certain Cut-to-Length Carbon Steel Plate*
>
> These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.000, 7208.32.000, 7208.33.1000, 7208.33.5000, 7208.41.000, 7208.42.000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.0000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in these investigations are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")-for example, products which have been beveled or rounded at the edges. Excluded from these investigations is grade X–70 plate.

Final Determination; Certain Cold-Rolled Carbon Steel Flat Products From Argentina, 58 FR 37063 (July 9, 1993), Appendix I

See also Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, 58 FR 44162 (August 19, 1993).

Kentucky Steel now alleges that since publication of the antidumping duty order, exporters of certain cut-to-length carbon steel plate from Canada have been circumventing the order by exporting carbon steel plate with small amounts of boron added. According to Kentucky Steel, the "inclusion of 0.0016 percent boron by weight to high carbon grader blade and draft key steel constitutes a minor alteration" and is thus within the meaning of the provisions detailed in section 781(c) of the Tariff Act, *See* Anticircumvention Application, January 30, 1998 at 4.

Kentucky Steel describes the merchandise that is the subject of this anticircumvention inquiry as cut-to-length plate made of high-carbon steel to which boron has been added. Kentucky Steel defines "high carbon" steel to be steel of AISI or SAE grades 1050, 1152, or 1552, or higher, i.e. carbon steels that may contain 0.55% or more carbon by weight.

Initiation of Anticircumvention Proceeding

Section 781(c) of the Tariff Act states that the Department may find circumvention of an order when products which are of the class or kind of merchandise subject to an antidumping duty order have been "altered in form or appearance in minor respects * * * whether or not included in the same tariff classification." The applicant asserts that, while the statute is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates that there are certain factors which should be considered before reaching an anticircumvention determination.

The applicant cites to the Senate Finance Committee report on the Omnibus Trade and Competitiveness Act of 1988 (which amended the Tariff Act of 1930 to include the anticircumvention provisions contained in section 781), which states:

> [I]n applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article. The Commerce Department should consider such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products. S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987).

The applicant has presented evidence with respect to each of the criteria listed in the Senate report. Each of these criteria is addressed below.

Overall Physical Characteristics

The cut-to-length plate for grader blades and draft keys at issue in this proceeding have small amounts, usually about 0.0016 percent by weight, of boron added to high carbon steel (high carbon being defined by the applicant as steel containing at least 0.55 percent carbon by weight). The applicant claims that while boron, like carbon, is added to steel to improve "hardenability," when the level of carbon is already at 0.60 percent by weight or above, the added boron's effect on the final product is negligible. The applicant asserts that grader blade and draft key steel products are composed of upwards of 0.70 percent carbon, sufficiently high levels to render the addition of boron immaterial to the performance characteristics of the final product. The applicant also claims that practice in the industry is not to add boron to higher carbon steels, like AISI grades 1070 and 1084, which are used to make grader blades and draft keys.

Expectations of the Ultimate Users

The applicant maintains that carbon steel plate users are purchasing imported plate with the expectation that the product be hard and durable, and that these characteristics are imparted by the presence of sufficient levels of carbon. The applicant states that consumers of this product are fully aware that carbon steel of the sort at issue here does not rely on or benefit from the presence of boron, and thus "do not expect, seek, or desire" its presence. The applicant notes that its own marketing officials have been advised that many consumers of the product do not know that it contains boron, and that there is no significant price difference between plain carbon and boron-added versions of the product imported from Canada.

Use of the Merchandise

The applicant maintains that, with or without boron, high carbon grader blade and draft key steel have the same uses: making blades on grading equipment and locking devices on railroad couplings. The applicant states that knowledgeable purchasers would be aware that there are no uses of higher carbon steel plate containing 0.0016 percent boron that cannot fully be met without boron, and that the addition of boron neither responds to a new need in

the market, nor improves the way existing technical needs are met.

Channels of Marketing

The applicant states that steel producers, with few exceptions, sell directly to manufacturers of grader blades and draft keys through company sales forces. The applicant claims that, because carbon grader blade and draft key steels are used for precisely the same products as are the boron-added versions of the products, boron-added grader blade and draft key carbon steel from Canada is sold in precisely the same sales channels as plain grader blade and draft key carbon steel from Canada.

Cost of Modification

The applicant alleges that, by adding about 0.0016 percent boron to high carbon steels, Canadian producers have been able to avoid dumping duties ranging from 1.47 percent to 68.7 percent, and that the cost of avoiding these duties, relative to the total value of the product itself, is negligible. The applicant estimates that Canadian producers can realize a value of 1.25 percent to 68.5 percent by avoiding the duties under the order in this case by adding 0.0016 percent boron to their product.

Other interested parties, Co-Steel Lasco, Caterpillar Inc., and Algoma Steel Inc., submitted comments arguing that the Department cannot initiate a "minor alterations" anticircumvention inquiry on a type of merchandise which the Department has previously determined to be outside the scope of the order. These interested parties base their argument on the decision of the Court of International Trade (CIT) in *Hylsa, S.A.* v. *United States*, Slip Op. 98–10 (February 3, 1998), which upheld the earlier decision of the CIT in *Wheatland Tube Co.* v. *United States*, 973 F. Supp. 149 (CIT 1997). As the Department disagrees with the decision in *Hylsa*, and as it is appealing this decision to the Federal Circuit, the Department is not bound to apply it to the determination of whether to initiate the requested inquiry.

Based on our evaluation of the application, we determine that a formal inquiry is warranted. Accordingly, we are initiating a circumvention inquiry concerning the antidumping duty order on cut-to-length carbon steel plate from Canada, pursuant to section 781(c) of the Tariff Act. In accordance with 19 CFR 351.225(l)(2), we will not instruct the Customs Service to suspend liquidation and require a cash deposit of estimated duties on the merchandise which is the subject of this inquiry unless and until we issue an affirmative preliminary determination.

The Department will, following consultation with the interested parties, establish a schedule for questionnaires and comments on the issues. The Department intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with section 781(c) of the Tariff Act (19 U.S.C. 1677j(c)) and 19 CFR 351.225.

Dated: May 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–14150 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051898B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its enforcement oversight committee in June, 1998 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on June 16, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held in Saugus, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agenda

Tuesday, June 16, 1998, 9:30 a.m.—Enforcement Committee.

Meeting

Location: Council Office, 5 Broadway, Saugus, MA 01906; telephone (781) 231–0422.

The committee will discuss the effectiveness of current management measures, especially of trip limits, and review the penalty schedule used by General Counsel Northeast.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 21, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–14127 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052198B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Moana Productions, Inc., 311 Portlock Road, Honolulu, HI 96825, has requested an amendment to Photography Permit No. 867–1388.

DATES: Written or telefaxed comments must be received on or before June 29, 1998.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, 709 W. 9th Street,

Federal Building, Room 461, P.O. Box 21668, Juneau, Alaska 99802 (907/586–7012); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 (562/980–4001).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13822, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at 301/713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 867–1388, issued on July 25, 1997, (62 FR 50906) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 867–1388 authorizes the permit holder to take by Level B harassment several species of small delphinid cetaceans in Hawaii and North Carolina waters for purposes of commercial photography. The permit holder now requests authorization to film the following marine mammals in Alaska waters: killer whales (*Orcinus orca*), Dall's porpoises (*Phocoenoides dalli*), Pacific white-sided dolphins (*Lagenorhynchus obscurus*), harbor porpoises (*Phocoena phocoena*), and minke whales (*Balaenoptera acutorostrata*).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this amendment request to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 21, 1998.

Art Jeffers,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–14126 Filed 5–27–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Public Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the ground level hearing room at the Commission's Washington, DC headquarters located at 1155 21st Street, N.W., Washington, DC 20581, on June 11, 1998, beginning at 1:00 p.m. and lasting until 4:30 p.m.

The agenda will consist of:

Agenda

1. Introductory Remarks by Chairperson Brooksley Born.
2. Discussion by members of the Advisory Committee of the following topics:
   A. Use of notional funds by commodity trading advisors.
   B. Placement of foreign exchange terminals in the United States.
   C. Year 2000 preparations of the futures industry.
3. New developments.

The purpose of this meeting is to solicit the views of the Committee on these agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission. The purposes and objectives of the Advisory Committee are more fully set forth in the April 15, 1997 Charter of the Advisory Committee.

The meeting is open to the public. The Chairperson of the Advisory Committee, CFTC Chairperson Brooksley Born, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Ms. Josiane Branch, 1155 21st Street, N.W., Washington, DC 20581, before the meeting.

Issued by the Commission in Washington, D.C., on May 22, 1998.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–14188 Filed 5–27–98; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Notice of Availability of Guidance Document on Hazardous Liquid Chemicals in Children's Products

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of availability of guidance document on hazardous liquid chemicals in children's products.

SUMMARY: The Commission announces that it has approved a statement that provides guidance for manufacturers, importers, distributors, and retailers of liquid-filled consumer products that may contain harmful liquids. To protect children and other persons from the toxic effects of exposure to these chemicals, the Commission recommends that manufacturers of such products refrain from filling the products with hazardous liquids. Further, the Commission recommends that, before purchasing such products for resale, importers, distributors, and retailers obtain assurances from manufacturers that liquid-filled children's products do not contain hazardous liquid chemicals.

FOR FURTHER INFORMATION CONTACT: Frank Krivda, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400, ext. 1372.

SUPPLEMENTARY INFORMATION: The text of the guidance document is as follows:

U.S. Consumer Product Safety Commission, Washington, DC 20207

Guidance for Hazardous Liquid Chemicals in Children's Products

SUMMARY: The U.S. Consumer Product Safety Commission issues this guidance to manufacturers, importers, distributors, and retailers to protect children from exposure to hazardous chemicals found in liquid-filled children's products, such as rolling balls, bubble watches, necklaces, pens, paperweights, keychains, liquid timers,

and mazes.[1] The Commission identifies the major factors that it considers when evaluating liquid-filled children's products that contain hazardous chemicals, and informs the public of its experience with exposure to these hazardous chemicals to children. To reduce the risk of exposure to hazardous chemicals, such as mercury, ethylene glycol, diethylene glycol, methanol, methylene chloride, petroleum distillates, toluene, xylene, and related chemicals, the Commission requests manufacturers to eliminate the use of such chemicals in children's products. The Commission also recommends that, before purchasing products for resale, importers, distributors, and retailers obtain assurances from manufacturers that liquid-filled children's products do not contain hazardous liquid chemicals.

Hazard: During reasonably foreseeable handling or use of liquid-filled children's products, hazardous chemicals may become accessible to young children in a manner that places children at risk. Young children are exposed to the chemicals from directly mouthing them or from handling such objects and subsequent hand-to-mouth or hand-to-eye activity. The specific type and frequency of behavior that a child exposed to a product will exhibit depends on the age of the child and the characteristics and pattern of use of the product. The adverse health effects of these chemicals to children include chemical poisoning from ingestion of the chemicals, pneumonia from aspiration of the chemicals into the lungs, and skin and eye irritation from exposure to the chemicals. The chemicals may also be combustible.

Guidance: Under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(f)(1), chemical products that are toxic or irritants and that may cause substantial injury or illness under reasonably foreseeable conditions of handling or use, including reasonably foreseeable ingestion by children, are "hazardous substances." A product that is not intended for children, but that creates such a risk of injury because it contains hazardous chemicals, requires precautionary labeling under the Act. 15 U.S.C. 1261(p). A toy or other article intended for use by children that contains an accessible and harmful amount of a hazardous chemical is banned. 15 U.S.C. 1261(q)(1)(A). In evaluating the potential hazard associated with children's products that contain hazardous chemicals, the Commission's staff considers certain factors on a case-by-case basis, including: the total amount of the hazardous chemical in a product, the accessibility of the hazardous chemicals to children, the risk presented by that accessibility, the age and foreseeable behavior of the children exposed to the product, and the marketing, patterns of use, and life cycle of the product.

The Commission staff has identified a number of liquid-filled children's products, such as rolling balls, bubble watches, necklaces, pens, paperweights, maze toys, liquid timers, and keychains, that contain hazardous chemicals. In several of these cases, the staff determined that these products violated the FHSA because they presented a risk of chemical poisoning and/or chemical pneumonia from aspiration. This determination resulted in recalls or in the replacement of those products with substitutes, as well as in agreements with the manufacturers to discontinue the use of hazardous chemicals in liquid-filled children's products in future production. The Commission believes that these hazardous substances pose a risk to young children and, consequently, manufacturers should not have included them in the product design or manufacturing process.

Therefore, the Commission considers the use of hazardous chemicals in children's products such as those described above to be ill-advised and encourages manufacturers to avoid using them in such products. Further, the Commission recommends that, before, purchasing such products for resale, importers, distributors, and retailers obtain assurances from manufacturers that liquid-filled children's products do not contain hazardous liquid chemicals.

Dated: May 21, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–14134 Filed 5–27–98; 8:45 am]

BILLING CODE 6355–01–P

[1] This guidance is not a rule. It is intended to highlight certain obligations under the Federal Hazardous Substances Act. Companies should read that Act and the accompanying regulations at 16 CFR Part 1500 for more detailed information.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–40]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–40, with attached transmittal, policy justification and sensitivity of technology.

Dated: May 21, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

VOL 63 ISS 102 MY 28 1998 UMI

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

12 MAY 1998
In reply refer to:
I-66111/98

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-40, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services estimated to cost $19 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 98-40

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Republic of Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$ 18 million
Other	$ 1 million
TOTAL	$ 19 million

(iii) Description of Articles or Services Offered:
Five hundred TOW 2A missiles, eight lot acceptance missiles, spare and repair parts, support and test equipment, technical support, publications and technical documentation, and other related elements of logistics and program support.

(iv) Military Department: Army (YSQ)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached

(vii) Date Report Delivered to Congress: 12 MAY 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Republic of Korea - TOW 2A Missiles

The Republic of Korea has requested a possible sale of 500 TOW 2A missiles, eight lot acceptance missiles, spare and repair parts, support and test equipment, technical support, publications and technical documentation, and other related elements of logistics and program support. The estimated cost is $19 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Pacific region.

The Republic of Korea will use these TOW 2A missiles to augment their current TOW missile inventory as well as use them with the COBRA helicopter thereby developing an air-to-surface anti-armor defense capability. The Republic of Korea will have no difficulty absorbing these additional missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Hughes Aircraft Company, Tucson, Arizona. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

UMI VOL 63 ISS 102 MY 28 1998 UMI

Transmittal No. 98-40

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The TOW 2 weapon system including the TOW 2A missiles and documentation are Unclassified. Sensitive technology is contained within the missile system software programs. Some performance characteristics and system capabilities which could be derived from the use of the equipment are classified Secret.

2. The hardware is also considered sensitive and knowledge of the modulation frequency and infrared wavelengths could be useful in developing countermeasures. The highest level of classified material which could be disclosed through reverse engineering or testing of the TOW missile is Secret.

3. If a technologically capable adversary were to obtain knowledge of this highly sensitive equipment, the technology could be easily absorbed, thereby permitting development of countermeasures which could reduce overall weapon system effectiveness.

4. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 98–14012 Filed 5–27–98; 8:45 am]
BILLING CODE 6000–04–C

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0020]

Proposed Collection; Comment Request Entitled Qualification Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0020).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Qualification Requirements. The clearance currently expires on September 30, 1998.

COMMENTS: Comments may be submitted on or before July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503 and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

10 U.S.C. 2319 and 41 U.S.C. 253c prescribe policies and procedures which are to be followed by Federal agencies before they may establish any prequalification requirement with which a prospective contractor must comply before his offer will even be

considered by the agency for a contract award. Three basic requirements are prescribed.

First, the agency must examine the need for establishing the prequalification requirement, given its adverse impact on free and open competition. Having established that a need for a prequalification requirement exists, the agency must prepare a written justification which explains that need.

Second, the agency must specify the standards which a prospective contractor, or its product or service, must satisfy in order to be qualified. The agency is directed to limit such standards to those essential to "meet the purposes necessitating the establishment of the prequalification requirement."

Third, the executive agency imposing the prequalification requirement must promptly provide a prospective contractor with the opportunity to demonstrate its ability to meet the standards the agency has specified for qualification.

The contracting officer uses the information to determine eligibility for award when the clause at 52.209–1, Qualification Requirements, is included in the solicitation. The offeror must identify the offeror, manufacturer, source, product or service, as appropriate, that has been prequalified and test number as evidence that the qualification requirement has been met. Alternatively, an offeror not meeting the qualification requirement may be considered for award upon the submission of evidence that the qualification requirement has been satisfied.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.17* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The annual reporting burden is estimated as follows: Respondents, *2,700*; responses per respondent, *10;* total annual responses, *27,000*; preparation hours per response, *.17*; and total response burden hours, *4,590.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0020, Qualification Requirements, in all correspondence.

Dated: May 21, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–14117 Filed 5–27–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary proposes to alter a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration consists of adding three routine uses to DGC 18, entitled 'DoD Roster of Mediators' to enable the release of information outside of the Department of Defense.

DATES: This proposed action will be effective without further notice on June 23, 1998, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Section, Directives and Records Division, Washington Headquarter Services, Correspondence and Directives, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970 or DSN 225–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 14, 1998, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 21, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DGC 18

SYSTEM NAME:

DoD Roster of Mediators *(August 25, 1995, 60 FR 44324).*

CHANGES

* * * * *

SYSTEM NAME:

Delete entry and replace with 'DoD Roster of Neutrals.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'DoD employees who have agreed to serve as neutrals as described in 5 U.S.C. 573. These individuals are trained and experienced in Alternative Dispute Resolution (ADR) and may serve as a conciliator, facilitator, mediator, or in other neutral roles in the dispute resolution process.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Background information including experiences and training of persons who wish to be and/or are registered in the DoD Roster of Neutrals. Information includes Alternate Dispute Resolution education or certification status and notes or any other information pertaining to a neutral, including recertification, removal, and investigatory or disciplinary actions taken against an individual. The investigator's files that may be used to determine those actions are not contained in this system of records.

Files of neutrals assigned to Alternate Dispute Resolution proceedings generally contain evaluations contributed by the parties to the dispute commenting on the effectiveness of the neutral.

Other records consist of ADR case files, which include requests for, and agreements to engage in, an ADR proceeding, settlement agreements and other correspondence relating to a case; case file logs; and case file databases.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'The primary purpose of the system is to maintain the Roster of Neutrals for use by parties in dispute to review training, experience and other qualifications information about neutrals. Secondary purposes are to manage application, investigative, certification,

decertification, recertification, and disciplinary information about neutrals and apply this to their status on The Roster; and to manage ADR case files and supporting ADR administrative logs and databases.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the second paragraph and add three new paragraphs 'To parties to a dispute and/or their personal representatives when these individuals are not affiliated with the Department of Defense for review of training, experience and other qualification information contained in the DoD Roster of Neutrals in connection with the appointment of a specific neutral.

To administrative personnel who are not affiliated with the Department of Defense who use information in the system to arrange or manage ADR proceedings.

To non-DoD persons who use information in the system in connection with investigations or disciplinary actions concerning a neutral, including, but not limited to, violations of ethical standards of conduct and/or breaches of state, Federal or local laws or regulations.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Files of active neutrals: Retain until neutral separates from Roster. Cutoff file on separation and destroy 1 year later.

Rejected neutral applications, correspondence, biographical data including education, training and experience. Cutoff file and destroy 2 years later.

Files of active neutrals who are decertified or removed: Cutoff from active file upon notification of decertification or removal. Destroy 3 years later.

Files of active neutrals who become unavailable due to retirement or death: Cutoff from active file upon notification of retirement or death. Destroy 1 year later.

Alternative Dispute Resolution Case files: Destroy when 10 years old.

Logs and databases tracking ADR cases: Destroy when no longer needed.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Neutral qualification and experience information; information provided for certification purposes; evaluations by parties to a dispute of the effectiveness of relevant ADR efforts; ADR case files; and logs and databases of ADR proceedings.'

* * * * *

DGC 18

SYSTEM NAME:

DoD Roster of Neutrals.

SYSTEM LOCATION:

Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, 4015 Wilson Boulevard, Suite 300, Ballston Tower III, Arlington, VA 22203–1995.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD employees who have agreed to serve as neutrals as described in 5 U.S.C. 573. These individuals are trained and experienced in Alternative Dispute Resolution (ADR) and may serve as a conciliator, facilitator, mediator, or in other neutral roles in the dispute resolution process.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background information including experiences and training of persons who wish to be and/or are registered in the DoD Roster of Neutrals. Information includes Alternative Dispute Resolution education or certification status and notes or any other information pertaining to a neutral, including recertification, removal, and investigatory or disciplinary actions taken against an individual. The investigator's files that may be used to determine those actions are not contained in this system of records.

Files of neutrals assigned to Alternative Dispute Resolution proceedings generally contain evaluations contributed by the parties to the dispute commenting on the effectiveness of the neutral.

Other records consist of Alternative Dispute Resolution case files, which include requests for and agreements to engage in an ADR proceeding, settlement agreements and other correspondence relating to a case; case file logs; and case file databases.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 573, Neutrals; 10 U.S.C. 140, General Counsel of the Department of Defense; and DoD Directive 5145, Alternative Dispute Resolution (ADR).

PURPOSE(S):

The primary purpose of the system is to maintain the Roster of Neutrals for use by parties in dispute to review training, experience and other qualifications information about neutrals. Secondary purposes are to manage application, investigative, certification, decertification, recertification, and disciplinary information about neutrals and apply this to their status on The Roster; and to manage ADR case files and supporting ADR administrative logs and databases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To parties to a dispute and/or their personal representatives when these individuals are not affiliated with the Department of Defense for review of training, experience and other qualification information contained in the DoD Roster of Neutrals in connection with the appointment of a specific neutral.

To administrative personnel who are not affiliated with the Department of Defense who use information in the system to arrange or manage ADR proceedings.

To non-DoD persons who use information in the system in connection with investigations or disciplinary actions concerning a neutral, including, but not limited to, violations of ethical standards of conduct and/or breaches of state, Federal or local laws or regulations.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files are maintained in file cabinets and computer files on magnetic or optical media. All are stored in a secure area.

RETRIEVABILITY:

Files are retrieved by the last name of the neutral, by geographic availability of a neutral, and by experience and type of subject matter expertise of a neutral. Case files for Alternative Dispute Resolution proceedings are retrieved by case file number and not by any personal identifier.

SAFEGUARDS:

Files are maintained in a secure area under the direct control of Office of Alternative Dispute Resolution

personnel during duty hours. Office is locked and building employs Security guards during non-duty hours. Access is restricted to those personnel maintaining the files and to potential users of the information. Access to the electronic portion of the system is controlled by user passwords that are periodically changed.

RETENTION AND DISPOSAL:

Delete entry and replace with 'Files of active neutrals are retained until neutral separates from Roster: Cutoff file on separation and destroy 1 year later.

Rejected neutral applications, correspondence, biographical data including education, training and experience: Cutoff file and destroy 2 years later.

Files of active neutrals who are decertified or removed: Cutoff from active file upon notification of decertification or removal. Destroy 3 years later.

Files of active neutrals who become unavailable due to retirement or death: Cutoff from active file upon notification of retirement or death. Destroy 1 year later.

Alternative Dispute Resolution Case files: Destroy when 10 years old.

Logs and databases tracking ADR cases: Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves as neutrals is contained in this system should address written inquiries to Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves as neutrals in this system should address written inquiries to: Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

CONTESTING RECORDS AND PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Neutral qualification and experience information; information provided for certification purposes; evaluations by parties to a dispute of the effectiveness of relevant ADR efforts; ADR case files; and logs and databases of ADR proceedings.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–14009 Filed 5–27–98; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 2–3 June 1998.

Time of Meeting: 0800–1600, Jun 98; 0800–1400, 3 Jun 98.

Place: Pentagon—Arlington, VA.

Agenda: The Army Science Board's (ASB) Issue Group panel on "De-militarization of the Multiple Launch Rocket System (MLRS) Rockets" will receive fact finding briefings from industry and government representatives. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–14029 Filed 5–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 3 June 1998.

Time of Meeting: 0800–1600.

Place: Arlington, VA.

Agenda: The Army Science Board's (ASB) Issue Group panel on "Impacts of Precision Guided Munitions on Future Tank and Howitzer Capabilities" will visit the Presidential Tower In Arlington, VA for a meeting on the study subject. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist Army Science Board.

[FR Doc. 98–14032 Filed 5–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133A and 84.133B]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Notice Reinviting Applications and Pre-application Meetings for New Awards for a Dissemination and Utilization Project and a Rehabilitation Research and Training Center for Fiscal Year (FY) 1998

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 15, 1998 a notice reinviting applications and pre-application meetings for new awards for a Dissemination and Utilization Project and a Rehabilitation Research and Training Center for FY 1998 was published in the **Federal Register** (63 FR 18390). This notice eliminates all of the requirements for strict page limits that apply to this competition and which appeared on November 13, 1997 in the **Federal Register** in the Instructions for Application Narrative (62 FR 60945).

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, Room 3423, Switzer Building, 600 Maryland Avenue, SW, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna __ Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Note: The official version of this document is the document published in the **Federal Register**.

Authority: 29 U.S.C. 760–76.

Dated: May 21, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–14034 Filed 5–27–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 93–123–NG, et al.]

Tenaska Gas Co. and Tenaska Washington Partners II, L.P., et al; Orders Granting, Amending and Vacating Authorizations to Import and/or Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and vacating various natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on May 20, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import and Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING, AMENDING AND VACATING IMPORT/EXPORT AUTHORIZATION

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE docket No.	Two-year maximum		Comments
			Import volume	Export volume	
909–B	04/03/98	Tenaska Gas Co. and Tenaska Washington Partners II, L.P., 93–132–NG.			Authority vacated
912–B	04/03/98	Tenaska Washington Partners II, L.P., 93–131–NG.			Authority vacated
735–B	04/16/98	Tenaska Gas Co., Tenaska Washington Partners L.P., 91–59–NG, 91–102–NG, 92–43–NG.			Authority vacated
1374	04/16/98	Mexican De Cobre, S.A. de C.V., 98–26–NG.		17.52 Bcf	Export to Mexico beginning on the date of first delivery
1375	04/16/98	Texaco Natural Gas Inc., 98–27–NG.	120 Bcf		Import from Mexico beginning May 3, 1998, through May 2, 2000
1376	04/21/98	Aluminum Company of America, 98–28–NG.	12.2 Bcf		Import from Canada beginning May 1, 1998, through April 30, 2000
1377	04/23/98	St. Clair Pipelines (1996) LTD., 98–25–NG.	200 Bcf		Import and export up to a combined total from and to Canada beginning April 23, 1998, through April 22, 2000
1378	04/24/98	Amoco Energy Trading Corporation, 98–29–NG.	300 Bcf		Import from Mexico beginning on the date of first delivery after May 3.

[FR Doc. 98–14108 Filed 5–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 98–20–NG]

TransCanada Gas Services Inc.; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting TransCanada Gas Services Inc. (TGC Inc.) long-term authorization to import up to 11 billion cubic feet (Bcf) of natural gas per year, and up to 110 Bcf over a 10-year term commencing November 1, 1998, through October 31, 2008, or for 10 years after the commencement of deliveries if deliveries begin after November 1, 1998,

in accordance with the terms of the Purchase/Sale Agreement signed by TCG Inc. and TransCanada Gas Services, A Division of TransCanada Energy Ltd., on February 1, 1998. This gas may be imported from Canada at the interconnection of TransCanada PipeLines Limited and Portland Natural Gas Transmission System near . Pittsburg, New Hampshire, and East Hereford, Quebec, on the United States/Canada border.

This order may be found on the FE website at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It also is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities docket room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 18, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 98–14107 Filed 5–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–547–000]

ANR Pipeline Company; Notice of Application

May 21, 1998.

Take notice that on May 13, 1998, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–547–000, an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA) seeking permission and approval to abandon the operation of certain natural gas storage facilities no longer needed for customer or system requirements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, ANR seeks authority to (1) abandon the operation of three storage fields currently leased from Mid Michigan Gas Storage Company (Mid Michigan), the North Hamilton, Norwich and Orient Storage Fields; (2) abandon by sale to Mid Michigan all facilities, including base gas, owned by ANR in the three storage fields leased by ANR from Mid Michigan; and (3) abandon by sale to Mid Michigan two storage fields currently owned and operated by ANR, the Coldwater and Croton Storage Fields.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14060 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–43–019]

ANR Pipeline Company; Notice of Refund Report

May 21, 1998.

Take notice that on May 15, 1998, ANR Pipeline Company (ANR) tendered for filing a report of refunds made to customers as a result of the settlement approved in Docket No. RP94–43–000. Article XI of the Stipulation & Agreement (S&A) provides that ANR will make refunds within 30 days, of the Effective Date. The Effective Date was March 16, 1998, as a result of the Commission's order accepting and approving, in part, the settlement. ANR Pipeline Company, 82 FERC (CCH) ¶ 61,145 (1998). On April 15, 1998, ANR complied with the S&A and the Commission's order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14068 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–234–002]

ANR Pipeline Company; Notice of refund report

May 21, 1998.

Take notice that on May 15, 1998, ANR Pipeline Company (ANR) tendered for filing a report of refunds paid to customers.

ANR states that the refunds relate to ANR's Account No. 858 expenses for the period November 1, 1993 through April 30, 1994. The Commission ruled that ANR did not have tariff authority to track these expenses, and ANR recently withdrew its court appeal of the Commission's order. Accordingly, on April 15, 1998, ANR refunded to eligible customers $4,181,224, consisting of principal amounts totaling $3,446,417 and interest of $734,807.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14069 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–546–000]

Columbia Gas Transmission Corporation; Notice of Application

May 21, 1998.

Take notice that on May 13, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030 filed, in Docket No. CP98–546–000, an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of Derricks Creek Storage Field, Kanawha County, West Virginia, and a certificate of public convenience and necessity to construct and operate storage pipeline, storage wells, and appurtenant facilities in Ripley Storage Field, Jackson County, West Virginia, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Columbia requests authorization for the following:

- Abandonment of the Derricks Creek Storage Field in its entirety consisting of 13.1 miles of various size pipeline and 20 active storage wells located in Kanawha County, West Virginia.
- Replacement of working gas capacity and deliverability at the Ripley Storage Field by construction of approximately 3.5 miles of various size storage pipeline, drilling six new storage wells, and improving the deliverability of nine existing wells located in Jackson County, West Virginia.
- Abandonment by sale of up to 5.4 Bcf of base gas within the two storage fields. (4.4 Bcf at Derricks Creek and 1.0 Bcf at Ripley.)

Columbia proposes to invest $7.3 million at the Ripley Storage Field in lieu of the work which would otherwise be required to maintain storage performance at Derricks Creek, which Columbia estimates would have been a minimum of $10 million. Columbia estimates the cost of retiring Derricks Creek to be $700,000. Columbia asserts that the reduction in working gas capacity and deliverability resulting from the abandonment of one storage field will be offset by the replacement activities proposed in an adjacent field. Columbia says there will be no new or expanded services or any net expansion of its storage capabilities.

Columbia says the disposition of proceeds from the proposed sale of the Derricks Creek and Ripley base gas will be made pursuant to Section C, Article IV, of Stipulation II of the Settlement in Docket No. RP95–408 (79 FERC ¶ 61,044 (1997). Columbia states it will comply with the annual reporting requirements provided for in Section D of Article IV.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments and a grant of the certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or to be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14059 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–220–000]

Enron Energy Services, Inc. Enron Capital & Trade Resources Corp.; Notice of Petition For Limited Waiver

May 21, 1998.

Take notice that on May 15, 1998, Enron Energy Services, Inc. (EES) and Enron Capital & Trade Resources Corp. (ECT) (collectively Petitioners) tendered for filing a petition for limited waiver of Section 284.243 of the Commission's regulations and related Commission policy pursuant to Rule 101(e) and 207 of the Commission's Rules of Practice and Procedure.

Petitioners seek a limited waiver of the Commission's regulations regarding the assignment of capacity and the Commission's general policy that a shipper of natural gas on an interstate pipeline must have title to the gas being shipped from the point of receipt to the point of delivery. Petitioners request that the waiver apply only to their transfers of title in transit to Petitioners' sales customers in New York State served by any of five interstate pipelines, CNG Transmission Corporation (CNG), Columbia Gas Transmission Corporation (Columbia), National Fuel Gas Supply Corporation (NFG), Tennessee Gas Pipeline Company (Tennessee), and Transcontinental Gas Pipe Line Corporation (Transco).

Due to the adverse competitive situation created in New York State as a result of our competitors' interpretation of the "shippers must have title" policy and the Commission's capacity release regulations, Petitioners request expedited Commission action on this request in order to permit Petitoners to utilize the same marketing mechanisms being used by their competitors.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14074 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–222–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 21, 1998.

Take notice that on May 18, 1998, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, a number of tariff sheets to become effective January 1, 1997, June 1, 1997, October 1, 1997, or July 1, 1998, as specified in Appendix A of the filing.

Kern River states that the purpose of this filing is to make several minor revisions to Kern River's tariff. Kern River proposes (1) to relocate certain Gas Industry Standards Board (GISB) standards in its tariff and on pending tariff sheets filed in Kern River's Docket No. RP97–342–004 pooling proposal, to increase ease of reference and to eliminate duplication; (2) to correct the stated Gas Research Institute (GRI) surcharge; and (3) to make other general "housekeeping" changes.

Kern River states that a copy of this filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14076 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–556–000]

Koch Gateway Pipeline Company; Notice of Application

May 21, 1998.

Take notice that on May 15, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–556–000 on abbreviated application pursuant to Section 7(b) of the Natural Gas Act for authorization and approval to abandon an obsolete natural gas transportation service for SCM Corporation (SCM) performed under its Rate Schedule X–169 which was authorized in Docket No. CP85–465, all as more fully set forth in the application on file with the Commission and open to public inspection.

Koch Gateway states that abandonment is being proposed because there has not been any service provided under the agreement for a number of years and that the parties have mutually agreed to termination. No imbalances exist. No facilities are proposed to be abandoned and that service obligations to its remaining customers will not be

impaired after abandonment authorization. This service is no longer required by SCM.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (13 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Koch Gateway to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14056 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–550–000]

Koch Gateway Pipeline Company; Notice of Application

May 21, 1998.

Take notice that on May 14, 1998, Koch Gateway Pipeline Company (Koch Gateway), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–550–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an obsolete transportation service formerly provided to Union Texas Petroleum (UTP), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon an obsolete transportation service formerly provided to UTP pursuant to Koch Gateway's Rate Schedule X–38. Koch Gateway states that UTP concurs with the proposed abandonment and that no facilities are proposed to be abandoned. Koch Gateway declares that the abandonment of the obsolete services will relieve them of the associated certificate obligations and will have no impact on the operation of Koch Gateway's system.

Any person desiring to be heard or to make any protest with reference to said Application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 18 CFR 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14061 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–6–001]

Natural Gas Pipeline Company of America; Notice of Filing

May 21, 1998.

Take notice that on May 18, 1998, Natural Gas Pipeline Company of America (Natural) filed a revised compliance plan and revised standards of conduct in response to the Commission's April 21, 1998 Order. 83 FERC ¶ 61,046 (1998).

Natural states that it has served copies of the filing upon all of its customers, all interested state Commissions and all parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before June 5, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14062 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98–9–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

May 21, 1998.

Take notice that on May 18, 1998, Natural Gas Pipeline Company of

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America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute Third Revised Sheet No. 360, to be effective March 19, 1998.

Natural states that the purpose of this filing is to revise its plan for compliance with 18 CFR 161.3(e), (f), (g), (k), and 18 CFR 250.16(b)(1). On February 17, 1998, Natural tendered tariff sheets to modify Section 35.1 of the General Terms and Conditions of its tariff to comply with the separation of personnel and facilities required by the Commission's Order Following Staff Audit Report and Notice of Proposed Civil Penalties issued January 16, 1998 in Docket Nos. RP97–232–000, et. al. This revised sheet is being submitted to implement changes to that compliance plan required by the Order on Standards of Conduct and Compliance Plan issued April 21, 1998, in Docket No. MG98–6–000.

Natural requested any waivers which may be required to permit the tendered tariff sheet to become effective March 19, 1998, consistent with the effective date requested in the original filing herein on February 17, 1998.

Natural states that copies of the filing have been mailed to Natural's customers, interested state regulatory agencies and all parties set out on the official service list in Docket No. MT98–9–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14063 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–542–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 21, 1998.

Take notice that on May 13, 1998, NorAm Gas Transmission Company (NGT), 1111 Louisiana, Houston, Texas 77002 filed in Docket NO. CP98–542–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain facilities in Oklahoma, under NGT's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT specifically proposes to abandon Line 9–7, a segment of Line 9 and five rural taps, all located in Caddo County, Oklahoma. Both lines serve ARKLA, a division of NorAm Energy Corp. (ARKLA). ARKLA and its customers have consented in writing to the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14057 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–221–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 21, 1998.

Take notice that on May 18, 1998, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective June 15, 1998:

Second Revised Sheet Number 127
Second Revised Sheet Number 138
Second Revised Sheet Number 163
First Revised Sheet Number 164
Second Revised Sheet Number 200
Second Revised Sheet Number 211
Second Revised Sheet Number 213A
Second Revised Sheet Number 215
Second Revised Sheet Number 218
Second Revised Sheet Number 249
Second Revised Sheet Number 261
Third Revised Sheet Number 262
First Revised Sheet Number 262A
First Revised Sheet Number 263
First Revised Sheet Number 264
First Revised Sheet Number 268D
First Revised Sheet Number 268E
Third Revised Sheet Number 300
Second Revised Sheet Number 449

On January 16, 1998, Northern Border filed a request to purchase the line pack gas used in the operation of its system. In the Commission's Order Issuing Certificate dated May 13, 1998, the Commission authorized Northern Border to acquire its line pack gas as described in the application in Docket No. CP98–189–000. These tariff sheets are being filed in compliance with the Commission May 13, 1998 order.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14075 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–39–005]

Northern Natural Gas Company; Notice of Distribution of Refunds Paid

May 21, 1998.

Take notice that on May 18, 1998, Northern Natural Gas Company (Northern) submitted worksheets reflecting the distribution of refunds paid to jurisdictional sales customers on January 29, 1998 and April 8, 1998. Northern states that these refunds are being made pursuant to the Commission's Order in Public Service Company of Colorado, *et al.*, Docket Nos. RP97–369–000 *et al.*

Commission ordered that "any first seller that collected revenues in excess of the applicable maximum lawful price established by the NGPA a a result of the reimbursement of the Kansas *ad valorem* taxes for sales based upon a tax bill rendered on or after October 3, 1983, shall refund any such excess revenues to the purchaser." The interstate pipelines were then required to make lump-sum cash payments of the Kansas ad valorem tax refunds to the customers who were overcharged. Included with Northern's payments is interest on any amounts received from producers held longer than 30 days by Northern, covering the period from the date Northern received the refund from the producer until the date that refunds were paid out to its customers.

Northern states that a copy of this report is being mailed to each of Northern's affect jurisdictional sales customers.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14075 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–219–000]

Northwest Alaskan Pipeline Company; Notice of Tariff Changes

May 21, 1998.

Take notice that on May 15, 1998, Northwest Alaskan Pipeline Company (Northwest Alaskan), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Forty-Second Revised Sheet No. 5, with an effective date of July 1, 1998.

Northwest Alaskan states that it is submitting Forty-Second Revised Sheet No. 5 reflecting a decrease in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. (Pan-Alberta) and resold to Pan-Alberta Gas (U.S.), Inc. (PAG–US) under Rate Schedules X–1, X–2, and X–3, and a decrease in total demand charges for Canadian gas purchased from Pan-Alberta and resold to Pacific Interstate Transmission Company (PIT) under Rate Schedule X–4.

Northwest Alaskan states that it is submitting Forty-Second Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and PAG–US and PIT, and pursuant to Rate Schedules X–1, X–2, X–3, and X–4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (July 1, 1998 through December 31, 1998) the demand charges and demand charge adjustments which Northwest Alaskan will charge during the period.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14071 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–301–003]

Overthrust Pipeline Company; Notice of Refund Report

May 21, 1998.

Take notice that on May 18, 1998, Overthrust Pipeline Company (Overthrust) tendered for filing and acceptance of a refund report to comply with the Commission's April 1, 1998, Order Accepting Contested Settlement, As Modified, in Docket No. RP97–301 and 18 CFR 154.501 of the Commission's regulations.

Overthrust states that on April 17, 1998, it made refunds of $2,108,280.87 to its firm transportation customers in accordance with paragraph III B (1) of the settlement dated October 1, 1997, and in compliance with the Commission's April 1, 1998 order accepting the October 1, 1997 settlement.

Overthrust further states that a copy of this filing has been served upon its effected firm customers and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14070 Filed 5–27–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98–13–000]

The Peoples Gas Light and Coke Company; Notice of Petition for Rate Approval

May 21, 1998.

Take notice on May 7, 1998, The Peoples Gas Light and Coke Company (Peoples Gas) filed a petition for rate approval, pursuant to Section 284.123(b)(2) of the Commission's regulations, requesting that the Commission approve as fair and equitable rates for firm and interruptible storage and parking and loaning services to be effective June 1, 1998. Peoples Gas has filed, as Exhibit B to its petition for rate approval, a revised Operating Statement that incorporates revisions needed to offer firm and interruptible storage services, limited parking and loaning service and title tracking service. At this time, Peoples Gas is not proposing to charge for the title transfer tracking service.

Peoples Gas states that it is an intrastate gas distribution company serving retail customers in the City of Chicago, Illinois. Peoples Gas states that it is a public utility under the Public Utilities Act of Illinois and is subject to the jurisdiction of the Illinois Commerce Commission. Peoples Gas states that it is authorized to provide interstate services in accordance with Section 284.224 of the Commission's regulations.

Peoples Gas proposes for firm storage service, maximum monthly reservation rate of $1.6069 per MMBTu of maximum daily withdrawal quantity; a maximum monthly capacity charge of $0.0643 per MMBtu of maximum storage quantity; and a $0.0485 commodity charge per MMBtu of gas injected into the shipper's storage account. The minimum charge is based on the variable costs associated with the service and would be $0.0002 per MMBtu of gas injected into the shipper's storage account. For the interruptible storage service, Peoples Gas proposes a maximum commodity charge, based on a 100% load factor derivation of the firm storage rate, of $0.0551 per MMBtu of inventory on any day and a minimum charge of $0.0002 per MMBtu of daily inventory. For the parking and loaning service, which includes embedded transportation, the maximum rate, based on storage and transportation costs, would be $0.1231 per MMBtu of inventory any day and the minimum rate would be $0.0002 per MMBtu of inventory on any day. These proposed maximum rates would be subject to discounting.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to be heard or to protest said filing should file motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 5, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14067 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 637]

Public Utility District No. 1 of Chelan County, Washington; Notice of Public Utility District No. 1 of Chelan County's Request to Use Alternative Procedures in Filing a License Application

May 21, 1998.

By letter dated May 1, 1998, Public Utility District No. 1 of Chelan County (Chelan PUD) asked to use an alternative procedure in filing an application for a new major license for its Lake Chelan Project No. 637.[1] Chelan PUD has demonstrated that they made a reasonable effort to contact the resource agencies, Indian tribes, non-governmental organizations (NGOs), and others who may be affected by their proposal, and have submitted a communication protocol governing how participants in the proposed process may communicate with each other. Chelan PUD has also submitted several letters of support for their proposal, and it appears that a consensus exists that the use of an alternative procedure is appropriate in this case.

The purpose of this notice is to invite any additional comments on Chelan PUD's request to use the alternative procedure, as required under the final rule for Regulations for the Licensing of Hydroelectric Projects.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedure being requested here combines the prefiling consultation process with the environmental review process, allowing the applicant to file an Applicant-Prepared Environmental Assessment (APEA) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedure is intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants. The alternative procedure can be tailored to the particular project under consideration.

APEA Process and the Lake Chelan Project Schedule

Chelan PUD has begun working collaboratively with the various interested entities to identify issues that will need to be addressed and studies that will need to be conducted in relicensing the project. Several meetings are scheduled for May and June of this year with initial studies to be conducted during the 1998 summer season. Public scoping meetings are tentatively planned for November 1998. Notice of the scoping meetings will be published at least 30 days prior to the meetings.

Additional studies may be conducted during the summers of 1999 and 2000. Opportunities for requesting additional

[1] The 48-megawatt project consists of a 40-foot high dam on the Chelan River at the lower end of Lake Chelan, a 2-mile long steel and concrete tunnel, and a powerhouse located near the confluence of the Chelan and Columbia Rivers.

[2] 81 FERC 61,103 (1997).

studies will be noticed at least 30 days prior to any study request deadline. A draft license application with preliminary APEA would be distributed for comment in January 2001. The final license application and APEA must be filed with the Commission on March 31, 2004, two years before the expiration date on the existing license. A more detailed schedule and project description may be found at Chelan PUD's web site, located at hhtp://www.chelanpud.org/relicense/.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on Chelan PUD's proposal to use the alternative procedures to file an application for the Lake Chelan Hydroelectric Project.

Filing Requirements

Any comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading "Comments on the Alternative Procedure," and include the project name and number (Lake Chelan Hydroelectric Project, No. 637). For further information, please contact Vince Yearick at (202) 219–2844 or e-mail at vince.yearick@ferc.fed.us.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14064 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–540–000]

Transcontinental Gas Pipe Line Corporations; Notice of Application

May 21, 1998.

Take notice that on May 13, 1998 Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in the above docket an abbreviated application pursuant to Section 7(c) of the Natural Gas Act and the Regulations of the Federal Energy Regulatory Commission (Commission) for authorization to construct and operate certain pipeline facilities to create additional firm transportation capacity of 700,000 dekatherms per day (dth/d) to serve increased market demand in the Mid-Atlantic and South Atlantic regions of the United States by a proposed in-service date of no later than November 1, 2000 (MarketLink Project).

Transco states that the MarketLink Project will provide a link in the transportation of Canadian and Midwestern natural gas supplies, from expansion projects currently under development and proposed, to markets in New York, New Jersey, Pennsylvania and upstream markets along the Atlantic Seaboard which are accessible through backhaul arrangements on Transco's system. Transco also states that the MarketLink Project provides shipper access to diverse gas supplies at the developing market hub at Leidy, Pennsylvania, including gas supplies sources on any of the six interstate natural gas pipelines that interconnect with Transco at Leidy (including the pipeline system proposed by Independence Pipeline Company) or gas supplies delivered from storage at the Leidy hub.

Transco proposes to provide firm transportation service on an open access, non-discriminatory basis for the following shippers:

Shipper	Maximum daily quantity (Dth/d)	Term (yrs.)
AEC Marketing (USA) Inc	15,000	10
Coral Energy Resources, L.P	50,000	10
Eastern Energy Marketing, Inc	90,000	10
Engage Energy (U.S.), LP	210,000	10
Enron Capital & Trade Resources Corp	30,000	10
LFG Energy, LLC	5,000	15
Natural Gas Clearinghouse	30,000	5
Renaissance Energy (U.S.) Inc	23,000	10
Williams Energy Services Company	210,000	10
Total	663,000	

Transco states that precedent agreements have been executed with shippers for a substantial amount (approximately 95%) of the firm transportation capacity to be created by the MarketLink Project. Transco states that it is in the process of negotiating with other potential shippers that have expressed an interest in the remaining capacity of the project and will file copies of precedent agreements with additional shippers as they are finalized.

Transco states that the firm transportation service under the MarketLink Project will be provided under Rate Schedule FT of Transco's FERC Gas Tariff, Volume No. 1, and Transco's blanket certificate under Part 284(G) of the Commission's regulations. Transco states that the MarketLink shippers were provided the option of paying a cost based recourse rate or an individually-negotiated rate plus fuel and all appliable surcharges under Rate Schedule FT. Transco states that the proposed recourse rate is based on a straight fixed-variable rate design methodology and an incremental cost of service. Transco states that prior to the commencement MarketLink service it will file numbered tariff sheets stating the name of any MarketLink shipper paying a negotiated rate, the negotiated rate, the applicable receipt and delivery points, and the volume to be transported.

Transco states that in order to create the additional 7000,000 Mcf/d of firm capacity, Transco proposes to construct and operate the following facilities:

1. The Haneyville Loop; 24.19 miles of 42-inch diameter pipeline loop between milepost 161.29 in Lycoming County and milepost 142.74 in Lycoming County, Pennsylvania and milepost 185.48 in Clinton County, Pennsylvania,

2. The Williamsport Loop; 13.23 miles of 42-inch diameter pipeline loop between milepost 129.51 in Lycoming County, Pennsylvania and 1.79 miles of 36-inch diameter pipeline loop between milepost 142.74 in Lycoming County and milepost 144.53 in Lycoming County, Pennsylvania,

3. The Benton Loop; 17.73 miles of 42-inch diameter pipeline loop between milepost 28.56 in Luzerne County, Pennsylvania and milepost 115.18 in Columbia, County Pennsylvania,

4. The Allentown Loop; 6.27 miles of 42-inch diameter pipeline loop between milepost 30.29 in Northampton County, Pennsylvania and milepost 36.56 in Northampton County, Pennsylvania,

5. The Clinton Loop; 29.23 miles of 42-inch diameter pipeline loop between milepost 0.14 in Somerset County, New Jersey and milepost 29.37 in Warren County, New Jersey,

6. The Stirling Loop; 23.88 miles of 42-inch diameter pipeline loop between milepost 1789.53 in Somerset County, New Jersey and milepost 1812.36 in Morris County, New Jersey,

7. The Roseland Loop; 18.81 miles of 36-inch diameter pipeline loop between milepost 1820.66 in Essex County, New Jersey and milepost 1839.47 in Bergen County, New Jersey,

8. The Woodbridge Loop; 5.46 miles of 42-inch diameter pipeline loop between milepost 1802.73 in Middlesex

County, New Jersey and milepost 1808.19 in Union County, New Jersey,

9. The Bordentown Loop; 7.10 miles of 36-inch diameter pipeline loop between milepost 18.96 in Burlington County, New Jersey and milepost 26.06 in Burlington County, New Jersey,

10. The Raritan River Loop; 0.30 miles of 42-inch diameter pipeline loop crossing the Raritan River between milepost 1794.70 in Middlesex County, New Jersey and milepost 1795.00 in Middlesex County, New Jersey,

11. The Mt. Laurel Replacement; The replacement of an existing 6.3 miles of 12-inch diameter pipeline loop between milepost 30.53 in Burlington County, New Jersey and milepost 36.83 in Burlington County, New Jersey, with a 36-inch diameter pipeline loop. The 12-inch pipeline segment will be removed and the 36-inch replacement pipeline will be installed in the same trench,

12. Impeller replacement on two (2) existing 12,600 horsepower, turbine-driven compressor units at Transco's existing Compressor Station 520, located at milepost 157.52, in Lycoming County, Pennsylvania,

13. The installation of two (2) new 15,000 horsepower, turbine-driven compressor units, rewheeling of one (1) existing 12,600 horsepower, turbine-driven compressor unit and impeller replacement on two (2) existing 5,500 horsepower, turbine-driven compressor units at Transco's existing Compressor Station 517, located at milepost 115.80, in Columbia County, Pennsylvania,

14. The installation of one (1) 15,000 horsepower, turbine-driven compressor unit, the rewheeling and uprating of an existing 12,600 horsepower, turbine-driven compressor unit to 15,000 horsepower at Transco's existing Compressor Station 515 located at milepost 68.95, in Luzerne County, Pennsylvania,

15. The installation of one (1) 15,000 horsepower, electric motor-driven compressor unit and impeller replacement on two (2) existing 7,000 horsepower, electric motor-driven compressor units at Transco's existing Compressor Station 205 located at milepost 1773.30 in Mercer County, New Jersey,

16. The installation of a 36-inch diameter interconnecting pipeline from the proposed meter building outlet of Independence Pipeline Company, (as proposed in Docket No. CP97–315) to Transco's existing 23-inch Leidy Line "A", 24-inch Leidy Line "B", and 30-inch Leidy Line "C" at milepost 194.06 in Clinton County, Pennsylvania,

17. Modifications to reduce pressure in Transco's 42-inch Mainline C from 1,200 psig to 800 psig at Transco's existing Centerville Regulator Station located at milepost 0.11 in Somerset County, New Jersey,

18. Modifications to reduce pressure in Transco's 36-inch Mainline D from 800 psig to 638 psig at Transco's existing Roseland Regulator Station, located at milepost 1820.66 in Essex County, New Jersey,

19. Modifications to reduce pressure in Transco's 42-inch Mainline E from 800 psig to 638 psig at Transco's existing Linden Regulator Station, located at milepost 1808.19 in Union County, New Jersey, and

20. Modification of inlet/outlet headers at existing Compressor Station 200 at milepost 1722.24 in Chester County, Pennsylvania to provide flow control under certain operating conditions on Transco's Trenton Woodbury Lateral.

Transco states that the proposed facilities, for the most part, will be installed either entirely within or immediately adjacent to existing pipeline or utility rights-of-way and Transco's existing compressor station yards. Transco states that the proposed facilities will cost an estimated $528,767,973.

Transco requests that the Commission issue a preliminary determination on the non-environmental aspects of its proposal by November 1, 1998, and a final order granting the authorizations requested herein by May 1, 1999.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order.

However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14124 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–52–004]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

May 21, 1998.

Take notice that on May 18, 1998, William Gas Pipelines Central, Inc. (Williams), tendered for filing its refund report of Kansas *ad valorem* taxes.

Williams states that this filing is being made in compliance with Commission order issued September 10, 1997 in Docket Nos. RP97–369–000, *et al.* The September 10 order requires first sellers to make refunds for the period October 3, 1983 through June 28, 1988. The Commission also directed that pipelines file a report concerning their activities to collect and flow through refunds of the taxes at issue.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 28, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14072 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–544–000]

Williston Basin Interstate Pipeline Company; Notice of Application

May 21, 1998.

Take notice that on May 13, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), filed in Docket No. CP98–544–000 a request pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing it to construct a replacement of the Yellowstone River pipeline crossing in Dawson County, Montana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin requests authority to construct a replacement of the Yellowstone River pipeline crossing located on its line section 5, between the Cabin Creek compressor plant and the Morgan Creek compressor plant, in Dawson County, Montana. Williston Basin states that the crossing will be constructed under the Yellowstone River through a directional bore and will consist of approximately 1,931 feet of 16-inch pipeline, and that approximately 50 feet of 16-inch pipeline will be trenched in at both the bore entry and exist locations to connect the crossing to Williston Basin's existing line section 5. Williston Basin states that the installation of the new pipeline crossing will allow it to maintain the original capacity, integrity, operational flexibility, and reliability of line section 5 on Williston Basin's pipeline system. Williston Basin estimates the cost to replace the Yellowstone River pipeline crossing to be $463,301.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before June 11, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commissions final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14058 Filed 5–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6559–014]

H. Bruce Cox; Notice of Availability of Draft Environmental Assessment

May 21, 1998.

A draft environmental assessment (DEA) is available for public review.

The DEA is for the proposed revocation of the exemption from licensing for the Cox Lake Dam Project. The DEA finds that the proposed revocation would not constitute a major federal action significantly affecting the quality of the human environment. The Cox Lake Dam Project is located on the Deep River, in Randolph County, North Carolina, near the town of Cedar Falls.

The DEA was written by staff in the Office of Hydropower Licensing Federal Energy Regulatory Commission. Copies of the DEA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371.

Please submit any comments on the DEA within 40 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. Please affix Project No. 6559–014 to all comments.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14123 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

May 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Approval of Minimum Flows to Ensure Protection of Fishery and Wildlife Resources, Maintenance of Water Quality, and Accommodation of Downstream Recreational Activities.

b. *Project Nos:* 2692–018, 2686–018, & 2698–016.

c. *Date Filed:* April 1, 1998.

d. *Applicant:* Nantahala Power and Light Company.

e. *Names of Projects:* Nantahala, West Fork, & East Fork Hydroelectric Projects.

f. *Location:* Clay and Jackson Counties, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Richard Conley, Nantahala Power and Light Company, 301 NP&L Loop, Franklin, NC 28734, (704) 369–4513.

i. *FERC Contact:* Jean Potvin, (202) 219–0022.

j. *Comment Date:* July 2, 1998.

k. *Description of Project:* The licensee has filed for approval of the "Nantahala & Tuckasegee Projects Settlement Agreement." This agreement proposes a minimum instantaneous flow into the East and West Forks of the Tuckasegee River and would require the licensee to provide money to the United States Department of Agriculture Forest Service for rehabilitation of outlet works as mitigation for the Wolf Creek bypass. The licensee would install and maintain calibrated staff gages on the West and East Forks of the Tuckasegee River. The settlement agreement proposes stopping diversions from Dicks Creek. The licensee would release from the White Oak pipeline into Dicks Creek from July to November. Finally, the agreement proposes the minimum flows for recreation, fishery and wildlife resources, and water quality downstream of the Nantahala Project.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary,

[FR Doc. 98–14065 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application for a New License

May 21, 1998.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 5044.

c. *Date filed:* April 28, 1998.

d. *Submitted By:* Avondale Mills, Inc., current licensee.

e. *Name of Project:* Sibley Mill Project.

f. *Location:* On the Augusta Canal of the Savannah River, in the City of Augusta, Richmond County, Georgia.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* April 1, 1953.

i. *Expiration date of current license:* March 31, 2003.

j. *The project consists of:* (1) intake works, including four steel diversion gates and a 280-foot-long headrace; (2) three generating units with a total installed capacity of 2,475 kW located inside the Sibley Mill structure; (3) a 350-foot-long, 30-foot-wide, 38-foot-deep open tailrace; and (4) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Avondale Mills, Engineering Department, 2 Hickman Street, Graniteville, SC 29829, (803) 663–2334.

l. FERC contact: Tom Dean (202) 219–2778.

m. Pursuant to CFR 16.9 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by March 31, 2001.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14066 Filed 5–27–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6103–5]

RIN 2040–AC20

Effluent Guidelines Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed effluent guidelines plan.

SUMMARY: Today's document announces the Agency's proposed plans for developing new and revised effluent guidelines, which regulate industrial discharges to surface waters and to publicly owned treatment works. The document also describes EPA's revisions to its regulation development process, based on recommendations of the Effluent Guidelines Task Force. Section 304(m) of the Clean Water Act requires EPA to publish a biennial Effluent Guidelines Plan. The Agency requests comment on the proposal and will publish a final plan following the close of the comment period.

DATES: Comments must be received on or before July 27, 1998.

ADDRESSES: Submit comments in writing to: Water Docket Clerk (4101), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The public record for this notice is available for review in the EPA Water Docket, East Tower Basement, 401 M Street, S.W., Washington, D.C. For access to Docket materials, call (202) 260–3027 between 9 a.m. and 3 p.m. for an appointment. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, EPA Engineering and Analysis Division, telephone 202–260–7150.

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I. Regulated Entities

Today's proposed plan does not contain regulatory requirements and does not provide specific definitions for each industrial category. Entities potentially affected by decisions regarding the final plan are listed below.

Category of entity	Examples of potentially affected entities
Industry/Commercial	Pulp, Paper and Paperboard; Oil and Gas Extraction; Centralized Waste Treatment; Pharmaceutical Manufacturing; Metal Products and Machinery (including electroplating, metal finishing); Landfills; Industrial Waste Combustors (Incinerators); Industrial Laundries; Transportation Equipment Cleaning (truck tanks, railroad tank cars, barge tanks); Iron and Steel Manufacturing; Coal Mining; Petroleum Refining; Textile Mills; Inorganic Chemicals; Steam Electric Power Generating; Photographic Processing; Chemical Formulating, Packaging and Repackaging; Airports.
Agriculture	Feedlots (swine, poultry, dairy and beef cattle); Fish Hatcheries and Farms (Aquaculture).
Federal Government	Metal Products and Machinery (including electroplating, metal finishing); Landfills; Airports.
State Government	Metal Products and Machinery (including electroplating, metal finishing); Municipal Separate Storm Sewer Systems (Urban Storm Water); Landfills; Airports.
Local Government	Metal Products and Machinery (including electroplating, metal finishing); Municipal Separate Storm Sewer Systems (Urban Storm Water); Landfills; Airports.

To determine whether your facility would be regulated, you should carefully examine the applicability criteria in the appropriate proposed rule (previously published or forthcoming). Not all of the categories listed in the above table have been selected for rulemaking. Citations for previously published proposed rules and schedules for forthcoming proposed rules are provided in Appendices A and B of today's document.

II. Legal Authority

Today's document is published under the authority of section 304(m) of the Clean Water Act, 33 U.S.C. 1314(m), which requires EPA to publish a biennial Effluent Guidelines Plan, which sets a schedule for review and revision of existing regulations and identifies categories of dischargers to be covered by new regulations.

III. Introduction

A. Purpose of Today's Document

Today's document announces the Agency's proposed biennial plan pursuant to section 304(m). EPA invites the public to comment on the proposed plan, and following the close of the comment period the Agency will publish a final plan.

B. Overview of Today's Document

The Agency proposes to develop effluent limitation guidelines and standards ("effluent guidelines") as follows:

1. Continue development of nine rules listed in the 1996 Effluent Guidelines Plan (61 FR 52582, October 7, 1996) and the 1997 Update (62 FR 8726, February 26, 1997). The categories are: Pulp, Paper and Paperboard, Phases 2 and 3; Centralized Waste Treatment; Pharmaceutical Manufacturing; Metal Products and Machinery; Landfills; Industrial Waste Combustors (Incinerators); Industrial Laundries;

Transportation Equipment Cleaning; and Iron and Steel Manufacturing.

2. Continue development of 3 rules started by the Agency in 1997: Oil and Gas Extraction (Synthetic-Based Drilling Fluids); Coal Mining (Remining and Western subcategories); and Feedlots (Poultry and Swine subcategories).

3. Begin development of revised effluent guidelines for the Feedlots category (Beef and Dairy Cattle subcategories) and two additional categories (new or revised), by December 1998.

4. Complete preliminary studies on Feedlots, Urban Storm Water, and Airport Deicing.

5. Plan for development of two additional effluent guidelines, either new or revised. EPA's current plan is to begin development of two rules by December 1999.

IV. Effluent Guidelines Program Background

A. Statutory Framework

The Federal Water Pollution Control Act (FWPCA) of 1972 (Pub. L. 92–500, Oct. 18, 1972) (the "Act") established a program to restore and maintain the integrity of the nation's waters. To implement the Act, Congress directed EPA to issue effluent limitation guidelines, pretreatment standards, and new source performance standards for industrial dischargers. These regulations were to be based principally on the degree of effluent reduction attainable through the application of control technologies.

The 1977 amendments to the FWPCA, known as the Clean Water Act Amendments (Pub. L. 95–217, Dec. 27, 1977) (CWA), added an additional level of control for conventional pollutants such as biochemical oxygen demand (BOD) and total suspended solids (TSS), and stressed additional control of 65 toxic compounds or classes of compounds (from which EPA later developed a list of 126 specific "priority pollutants"). To further strengthen the toxics control program, section 304(e), added by the 1977 amendments, authorized the Administrator to establish management practices to control toxic and hazardous pollutants in plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.

The effluent guidelines promulgated by EPA reflect the several levels of regulatory stringency specified in the Act, and they also focus on different types of pollutants. Section 301(b)(1)(A) directs the achievement of effluent limitations requiring application of best practicable control technology currently available (BPT). In general, effluent limitations based on BPT represent the average of the best treatment technology performance for an industrial category. For conventional pollutants listed under section 304(a)(4), section 301(b)(2)(E) directs the achievement of effluent limitations based on the performance of best conventional pollutant control technology (BCT). The Act requires that BCT limitations be established in light of a two-part "cost-reasonableness" test. The test, which assesses the relative costs of conventional pollutant removals, is described in detail in the **Federal Register** notice promulgating the final BCT rule on July 9, 1986 (51 FR 24974).

Both BPT and BCT regulations apply only to direct dischargers, i.e., those facilities that discharge directly into waters of the United States. In general, regulations are not developed to control conventional pollutants discharged by indirect dischargers because the POTWs receiving those wastes normally provide adequate treatment of these types of pollutants or they can be adequately controlled through local pretreatment limits.

For the toxic pollutants listed in section 307(a), and for nonconventional pollutants, sections 301(b)(2)(A), (C), (D) and (F) direct the achievement of effluent limitations requiring application of best available technology economically achievable (BAT). Effluent limitations based on BAT are to represent at a minimum the best control technology performance in the industrial category that is technologically and economically achievable.

In addition to limitations for existing direct dischargers, EPA also establishes new source performance standards (NSPS) under section 306 of the Act, based on the best available demonstrated control technology, processes operating methods, or other alternatives. NSPS apply to new direct dischargers. Generally the NSPS limitations are to be as stringent as, or more stringent than, BAT limitations for existing sources within the category or subcategory.

Although the limitations are based on the performance capability of particular control technologies, including in some cases in-process controls, dischargers may meet their requirements using whatever combination of control methods they choose, such as manufacturing process or equipment changes, product substitution, and water re-use and recycling. The limitations and standards are implemented in permits issued through the National Pollutant Discharge Elimination System (NPDES) pursuant to section 402 of the Act for point sources discharging directly to the waters of the United States.

Section 402 of the CWA provides for the issuance of permits to direct dischargers under NPDES. These permits, which are required by section 301, are issued either by EPA or by a State agency approved to administer the NPDES program. Individual NPDES permits must incorporate applicable technology-based limitations contained in guidelines and standards for the industrial category in question. Where EPA has not promulgated applicable technology-based effluent guidelines for a category, section 402(a)(1)(B) provides that the permit must incorporate such conditions as the Administrator determines are necessary to carry out the provisions of the Act. In other words, the permit writer uses best professional judgment (BPJ) to establish technology-based limitations for the dischargers.

Indirect dischargers are regulated by the general pretreatment regulations (40 CFR part 403), local discharge limits developed pursuant to part 403, and categorical pretreatment standards for new and existing sources (PSNS and PSES) covering specific industrial categories. These categorical standards under sections 307(b) and (c) apply to the discharge of pollutants from non-domestic sources which interfere with or pass through publicly owned treatment works (POTWs), and are enforced by POTWs or by State or Federal authorities. The categorical pretreatment standards for existing sources covering specific industries are generally analogous to the BAT limitations imposed on direct dischargers. The standards for new sources are generally analogous to NSPS.

To ensure that effluent guidelines remain current with the state of the industry and with available control technologies, section 304(b) of the Act provides that EPA shall revise the effluent guidelines at least annually if appropriate. In addition, section 301(d) provides that EPA shall review and if appropriate, revise any effluent limitation required by section 301(b)(2).

B. Components of an Effluent Guideline Regulation

The principal components of most effluent guideline regulations are numerical wastewater discharge limitations controlling specified pollutants for a given category. These are typically concentration-based limits (specified in units such as milligrams of pollutant per liter of water) or

production-based mass limits (specified in units such as milligrams of pollutant per unit of production). Numerical limits also cover parameters such as pH and temperature.

A guideline is often subcategorized based on differences in raw materials, manufacturing processes, characteristics of the wastewaters, or type of product manufactured; in some cases, non-water quality environmental impacts or other appropriate factors that justify the imposition of specialized requirements on the subcategorized facilities are used as a basis. EPA develops a set of effluent limitations for each category or subcategory at each level of control (BPT, BAT, etc.) that is addressed in the guideline.

A guideline also may prescribe Best Management Practices ("BMPs") in addition to or in lieu of numerical limits. BMPs may include, for example, requirements addressing the minimization or prevention of storm water runoff, plant maintenance schedules and requirements addressing the training of plant personnel. The recently promulgated Pulp, Paper and Paperboard rule requires mills to implement BMPs to prevent or otherwise contain leaks and spills of spent pulping liquor, soap, and turpentine and to control intentional diversions of those materials (40 CFR 430.03, 63 FR 18641, April 15, 1998).

C. Traditional Approach to Development of Effluent Guideline Regulations

EPA has accumulated substantial experience and expertise in the course of preparing 51 effluent guidelines. This section of the notice summarizes the various tasks which the Agency typically undertakes in an effluent guideline rulemaking.

Traditionally, EPA begins work on an effluent guideline rulemaking project by tentatively defining the scope and dimensions of the discharger category. The Agency determines the size of the category as it has been defined, using all available sources of information. Given the diversity of regulatory categories, no single source suffices to establish size. At various times, EPA has used one or more of the following sources: Standard published sources, information available through trade associations, data purchased from the Dun and Bradstreet, Inc. data base, other publicly available data bases, U.S. Census Bureau data, other U.S. Government information, and any available EPA data base. If a category is very large and/or diverse, the Agency will determine whether it can be broken down into appropriate categories or subcategories. If more than one subcategory can be identified, the Agency may need to establish priorities for regulation.

EPA works with interested stakeholders early in the regulation development process. State and local regulatory officials familiar with the category are consulted, and business associations and citizen groups are also invited to share information.

Regulatory information about discharger categories has often been obtained by EPA through survey questionnaires, site visits and wastewater sampling. Survey questionnaires solicit detailed information necessary to assess the statutory rulemaking factors (particularly technological and economic achievability of available controls), water use, production processes, and wastewater treatment and disposal practices. A portion of the Agency's questionnaires also seek information necessary to assess the economic achievability of a prospective regulation.

Generally, the Agency uses on-site wastewater sampling and detailed monitoring data to characterize the pollutants found in discharges. Site visits are also used to assess manufacturing processes, wastewater generation, pollutant control technologies, pollution prevention opportunities (e.g., process changes), and potential non-water quality impacts of effluent guidelines (e.g., air emissions, sludge generation, energy usage).

In developing a list of pollutants of concern for a category, EPA initially will study wastewater samples for a broad range of pollutants that can be measured by recognized analytical methods. Currently over 457 pollutants or analytes can be measured by these methods. This includes the subset of 126 pollutants known as "priority" pollutants developed pursuant to CWA section 307(a). EPA will develop new analytical methods to cover additional pollutants as necessary. For example, the Agency has developed new methods for use in the Pesticides, Pulp and Paper, Pharmaceuticals, and Offshore Oil and Gas effluent guidelines. (EPA generally proposes any new methods for public comment concurrently with the proposed rule.)

Most of the effluent sampling and analysis that has been conducted specifically to support effluent guideline regulations promulgated to date has been conducted by EPA. On occasion, however, these activities have been pursued on a cooperative basis with discharging facilities. For example, EPA and numerous pulp and paper manufacturers participated in cooperative efforts to sample and analyze effluent, wastewater treatment sludge, and pulp from domestic mills that bleach chemical pulp in their production processes.

EPA conducts engineering and statistical analyses of the technical data to develop control and treatment options for the pollutants of concern, and the projected costs for these options. The Agency considers the costing information and economic data gathered from the survey and other sources in its economic impact analysis, and then selects one or more of the options as the basis for a rulemaking proposal. It also develops assessments of the environmental impact of the category's discharges, and may conduct a benefit-cost analysis as well.

The Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Title III of Pub. L. 104–121, March 29, 1996), requires that EPA conduct regulatory flexibility analyses for rules which have a significant economic impact on a substantial number of small entities. These analyses are to assess the impact of the rule on small entities and consider alternative ways of reducing those impacts. Section 344 of SBREFA also requires EPA to organize a "small business advocacy review panel" for each rule where a regulatory flexibility analysis is required.

Prior to publishing a proposed rule, EPA usually conducts a public meeting to discuss the Agency's findings and describe the general outlines of the rule. Following publication, a hearing is conducted during the public comment period, and supplemental notices of new data may be published, if appropriate.

D. Recent Revisions to the Effluent Guidelines Planning Process and Recommendations of the Effluent Guidelines Task Force

EPA has recently revised the Effluent Guidelines planning process based on its discussions with the Effluent Guidelines Task Force, an advisory committee. The Task Force was established by EPA in 1992 to recommend improvements to the effluent guidelines program. The committee consists of members appointed by the Agency from industry, citizen groups, state and local government, the academic and scientific communities, and EPA's Office of Research and Development. The Task Force was created to offer advice to the EPA Administrator on the long-term strategy for the effluent guidelines

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program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. It is chartered as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator, pursuant to the Federal Advisory Committee Act (5 U.S.C. App. II, sec. 9(c)).

The Task Force has been focusing on alternative regulatory processes that would allow EPA to promulgate effluent guidelines more rapidly and at lower cost to the government. Several key aspects of the rulemaking process have been discussed, including determination of regulatory scope and data collection.

The Task Force has suggested that EPA consider making decisions on the scope of a regulation early in the rulemaking process. Task Force members generally believe that by focusing on the segment of an industry that is of greatest concern, EPA can reduce its data collection and analysis costs while achieving the majority of benefits that would be achieved by the more exhaustive examination currently given to industrial sectors. Several Task Force members have suggested that additional savings could be realized by limiting the examination of potential control technologies to one or two well-demonstrated technologies, rather than pursuing data on a larger range of technologies employed by good performers in the industry. Similarly, several Task Force members have suggested that by focusing on the known pollutants of greatest concern rather than conducting independent testing of over 400 pollutant parameters, both time and money could be saved. These approaches could lead to more focused regulations that are developed based on early presumptions regarding the most effective control technologies and key pollutant parameters to be controlled.

Key to the success of these approaches is the early involvement of a variety of stakeholders with knowledge of the industry, control technologies, and environmental impacts. Potential drawbacks include a reduced ability to identify pollution prevention opportunities for all or segments of the industry, and a reduced ability to quantify (and monetize) the full range of benefits that will result from the regulation. The Task Force acknowledged that decision-makers would be expected to accept greater risk and make decisions on less comprehensive data if the time and cost savings are to be realized.

The Task Force also suggested that the Agency could reduce both the time and costs for data collection by relying more on existing data sources and less on specially-designed questionnaires.

With respect to technical process and wastewater control data, the Agency could rely on assessments of the current baseline by industry, states, and local municipalities, and supplement those assessments with independent site and sampling episodes.

With respect to performance data, EPA could conduct fewer site visits and sampling episodes compared to previous rules and rely more on existing performance data that meets the Agency's quality control criteria. Since most existing data would be on conventional pollutants, with less data on a limited set of nonconventional and toxic pollutants, this shift to existing data is also linked with the concept of focusing on a limited number of pollutant parameters. Additional sampling for the effluent guideline could also be performed by stakeholders to supplement the Agency's independent efforts. For example, EPA worked with the Association of Metropolitan Sewerage Agencies (AMSA) to develop a sampling protocol which was used by the Hampton Roads Sanitary District, Virginia Beach, VA., to independently sample a facility that falls within the scope of the Metal Products and Machinery regulation. Other associations have expressed interest in conducting their own sampling episodes based on this protocol to further supplement the regulatory record.

With respect to financial and economic information, there is a subset of data that is publicly available for many of the larger, publicly-held entities. Economic impacts on smaller and privately-held entities that may be affected may be more difficult to assess. This difficulty may be offset by a focus on larger sources in the original scoping of the regulatory project.

Each of the three new effluent guideline projects started in late 1997 respond to the Task Force recommendations in one or more ways.

- EPA is developing a focused rule that will establish limitations for the use of synthetic-based drilling fluids (SBFs) in the Oil and Gas Extraction category (40 CFR part 435). Because of the extensive information collected in the previous two rulemakings covering the offshore and coastal subcategories, a limited amount of data collection activities are necessary. The Agency has already acquired data on the characteristics of SBFs and is developing other data in cooperation with the industry and the Departments of Energy and Interior which will be useful in supporting an accelerated regulation development approach. Identifying appropriate toxicity tests, consisting of both aqueous and sediment phase test methods, analytical methods for use with synthetic rather than water-based drilling fluids and technologies for cleaning drill cuttings are in progress and are expected to give results that will be used in developing the proposed rule.
- EPA is developing a focused rule addressing coal remining operations, which are not covered by the existing Coal Mining Category (40 CFR part 434), and alkaline mining operations in the west, for which existing regulations based on sedimentation ponds may not be environmentally effective. Since promulgation in 1985, sediment control technologies have reportedly advanced in both number and sophistication. For this regulation, EPA is implementing a number of the Task Force recommendations. First, EPA is focusing on two segments for which controls have been identified that would result in environmental improvements. Second, the Agency has enlisted the support of the U.S. Office of Surface Mining and the Interstate Mining Compact Commission to assemble and analyze existing information. This information includes information on the current state of the industry that will allow EPA to assess the baseline and economic status. It also includes performance data on pollutant controls that will allow us to assess the effectiveness of technologies and management practices. Pollutants of concern will be determined from among those pollutants for which performance data exist.
- The revisions to the Feedlots category (40 CFR part 412) will also rely on the Task Force recommendations. First, the regulation will focus on specific industry segments, beginning with pork and poultry operations, and then looking at beef and dairy cattle operations. Second, EPA will rely, in part, on stakeholders for background information. For example, the Agency is working with the U.S. Department of Agriculture (USDA) and the major trade associations to develop models (both technical and economic) to depict the current baseline activities, and to assess costs and impacts of alternative controls. EPA has received a "framework" document from the Pork Producers Council which identifies their recommendations for controls of wastes generated at their member facilities. The poultry industry is embarking on a similar effort. The

environmental community has offered to provide their recommendations for regulatory controls for the feedlot industry as a whole. EPA expects to use each of these as well as expertise and research from USDA to evaluate control options.

These new projects are discussed further in section V.A.2 of today's document.

E. NRDC Litigation and Consent Decree

EPA has developed today's proposed Effluent Guidelines Plan pursuant to a consent decree in *NRDC et al* v. *Browner* (D.D.C. Civ. No. 89–2980, January 31, 1992, as modified). The Decree commits EPA to schedules for proposing and taking final action on effluent guidelines, and also for conducting preliminary studies. Some of the categories to be regulated are specified in the Decree. For the remaining required rulemakings, EPA retains the discretion to select guidelines for development based on Agency priorities.

EPA will use the results of the preliminary studies and other information (such as public comments and recommendations from state and local governments) to select industries for future regulation. The Decree requires the Agency to study eleven industries.

The Decree also required EPA to establish the Effluent Guidelines Task Force to formulate recommendations for improvements to the effluent guidelines program. The Task Force has held several public meetings and has submitted recommendations to the EPA Administrator.

Since 1992, EPA and NRDC have agreed to several modifications of the Decree consisting of deadline extensions for certain rules.

V. Today's Proposed Effluent Guidelines Plan

A. Effluent Guidelines Currently Under Development

1. Schedule for Ongoing Rulemaking

The Agency is currently in the process of developing new or revised effluent guidelines for 12 categories. The categories and actual or Consent Decree dates for proposal and final action are set forth in Table 1.

TABLE 1.—EFFLUENT GUIDELINES CURRENTLY UNDER DEVELOPMENT

Category	Proposal	Final action
	Consent decree or publication date	Consent decree
Pulp, Paper and Paperboard, Phases 2 & 3	[1] 12/17/93	[1] 2000–2002
Centralized Waste Treatment	1/27/95	[3] 8/15/99
Pharmaceutical Manufacturing	5/2/95	7/98
Metal Products and Machinery	[2] 5/30/95	12/02
	10/00	
Industrial Laundries	2/17/97	6/99
Landfills	2/6/98	11/99
Industrial Waste Combustors (Incinerators)	2/6/98	11/99
Transportation Equipment Cleaning	5/15/98	6/15/00
Oil and Gas Extraction (Synthetic Drilling Fluids)	12/98	12/00
Iron and Steel Manufacturing	[3] 12/98	[3] 12/00
Coal Mining	12/99	12/01
Feedlots (Poultry and Swine Subcategories)	12/99	12/01

[1] The Pulp, Paper and Paperboard rulemaking is not covered by the January 31, 1992 consent decree and dates reflect projected dates for final promulgation of the 2 phases.
[2] 5/30/95 proposal covered Phase 1 MP&M facilities only. Proposal in 10/00 will cover Phase 1 and 2 facilities combined.
[3] EPA is discussing extensions to consent decree dates with NRDC.

2. Rulemaking Projects Started in 1997

In 1997 EPA began to develop revised or new standards for portions of three categories: Oil and Gas Extraction, Coal Mining, and Feedlots. The rationale for selection and the tentative scope of rulemaking coverage are described below.

a. Oil and Gas Extraction. Oil and Gas Extraction is covered by existing effluent guidelines at 40 CFR part 435. The most recent amendments were promulgated for the Offshore Category (58 FR 12454, March 4, 1993) and the Coastal Subcategory (61 FR 66086, December 16, 1996). This regulatory development project will establish limitations for the use and discharge of synthetic-based drilling fluids (SBFs) where discharge of drilling fluids is permitted. SBFs are used in lieu of oil-based drilling fluids in certain high performance drilling operations. SBFs are not adequately addressed by current effluent limitations for discharge of drilling fluids which were developed based on the use of oil and water-based fluids. Current information suggests that improvements in synthetic-based drilling fluids in recent years have reduced their aquatic toxicity, increased their biodegradability, and reduced the volume of drilling fluids and cuttings wastes generated. Use of synthetic-based drilling fluids instead of water-based drilling fluids in the geographic areas where discharge is allowed will provide additional environmental protection by reducing aquatic toxicity of discharges and reducing the amount of cuttings on the ocean floor.

EPA intends to issue a proposed rule by December 1998 and take final action by December 2000.

b. Coal Mining. Coal Mining activities are covered by existing effluent guidelines at 40 CFR part 434. The existing regulations, however, do not address remining operations, which improve effluent quality and quantity from abandoned mine lands while reclaiming them, and prevent disturbance of previously undisturbed lands. This regulatory project focuses, in part, on remining operations nationwide which will expedite permitting and provide a national standard of environmental performance for these activities.

The existing regulations do not differentiate between alkaline mining operations in the west and the acidic mining operations in other geographic regions. Advances in treatment technologies and Best Management Practices pertinent to alkaline coal

mines in the west show promise of being more protective of water quality than existing standards. Given concerns over the ability of existing regulations to achieve water quality standards established by Native American tribes, EPA intends to explore the development of a new subcategory for alkaline mining operations in the west.

EPA intends to issue a proposed rule by December 1999 and take final action by December 2001.

c. Feedlots (Swine and Poultry Subcategories). Feedlot operations are covered by existing effluent guidelines at 40 CFR part 412. These regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except under extreme storm events, have not been sufficient to resolve water quality impairment from feedlot operations. Waste spills and leaks from storage lagoons, runoff of wastes from land application, and the combined effect of allowable waste discharges from smaller facilities have led to a range of environmental and health problems ranging from fish kills and accelerated eutrophication of surface waters to contamination of drinking water and shell fish.

This regulatory project focuses on swine and poultry operations which have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms especially in estuarine waters.

EPA intends to issue a proposed rule for the Swine and Poultry Subcategories by December 1999 and take final action by December 2001.

B. Process for Selection of New Effluent Guideline Regulations

Section 304(m) does not specify criteria that the Agency should use to select categories for regulation by effluent guidelines. For the first Effluent Guidelines Plan, published January 2, 1990 (55 FR 80), EPA listed criteria it had used to select categories. The 1992 consent decree, while specifying some of the categories to be regulated, allows the Agency flexibility in selecting future categories for regulation, and does not specify selection criteria. EPA intends to continue to use selection criteria such as those listed in previous Effluent Guidelines Plans. Additionally, in light of recommendations from the Task Force, the Agency has considered the availability of technical data on a category's discharges (both within EPA, at other Federal agencies, and from States, local governments and industry) and the potential for developing a rule on an expedited schedule in determining which projects are good candidates for early implementation of the Effluent Guidelines Task Force recommendations.

1. New Rulemaking Activities

The 1992 consent decree requires that EPA begin two rulemaking projects by December 1998, and begin two additional projects by December 1999. EPA plans to begin development of effluent guidelines for the Beef and Dairy Cattle subcategories of the Feedlots category this year. The Agency will select additional projects at a later date.

a. Feedlots (Beef and Dairy Cattle Subcategories). This regulatory project focuses on dairy and beef cattle operations which represent a large segment of the feedlot industry and have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and affect drinking water sources in the western and central regions of the United States.

EPA intends to issue a proposed rule for the Dairy and Beef Cattle Subcategories by December 2000 and take final action by December 2002.

b. Other Rules. EPA has not yet selected additional rulemaking projects. EPA is not proposing specific industrial categories for selection in today's notice. However, based on the data sources listed above, the Agency may choose the next categories from the following list. A brief discussion of candidate categories is provided later in this section.

- Petroleum Refining
- Textile Mills
- Inorganic Chemicals
- Steam Electric Power Generating
- Photographic Processing
- Chemical Formulators and Packagers
- Urban Storm Water
- Airport Deicing
- Fish Hatcheries and Farms
- Other categories identified in public comments on today's proposed plan.

2. Candidates for Effluent Guidelines Rulemaking Projects

Candidate categories for rulemaking include both categories specifically studied by EPA and others about which the Agency has received information on wastewater and storm water discharges and adverse environmental impacts. The public is invited to comment on these categories, as well as recommending other categories for development of new or revised effluent guidelines.

a. Preliminary Studies. The purpose of a Preliminary Study is to describe the nature of pollutant discharges from a category of facilities, and to provide a basis for comparison with other categories for purposes of assigning priorities for regulation. The results of a Preliminary Study for a category are published in a "Preliminary Data Summary." The Preliminary Data Summary presents a synopsis of recent technical and economic information on a category of dischargers. The Preliminary Data Summaries are not used directly as a basis for rulemaking, but are used in the Agency's determination of which categories most require preparation of new or revised effluent guidelines. (They also may be expanded to become guidance documents for NPDES permit writers and POTWs.)

A Preliminary Study typically collects data on the following:

- The products manufactured and/or services provided by a category;
- Number, types and geographic location of facilities;
- Destination of discharges (directly to surface waters, indirectly to POTWs, or both);
- Characterization of the wastewater discharges and identification of pollutants present in the waste streams (e.g., mean concentrations of pollutants, wastewater volumes, mass loadings);
- Sampling and analytical methods employed to ascertain the presence and concentration of pollutants in the wastewater;
- Source reduction, recycling and pollution control technologies in use and potentially applicable to the category;
- Non-water quality environmental impacts associated with wastewater treatment in the category (e.g., air emissions, wastewater treatment sludges, and other wastes including hazardous wastes);
- Cost of control technologies in place and cost estimates for additional controls;
- Cost-effectiveness of reduction of toxic and nonconventional pollutants;
- Estimates of water quality impacts of discharges within the subject category; and
- Economic assessment (current financial condition of facilities, expansion or reduction trends, size characterization of businesses or other organizations, impact of estimated treatment costs on representative facilities).

The type and level of detail of information varies among the Preliminary Data Summaries, depending on the data available to the Agency when each document is prepared and whether the category is covered by an

existing effluent guideline. For example, some of the Summaries have comprehensive, primary data on the number and location of the discharging facilities while others contain estimates drawn from secondary data sources. However, the Summaries represent the Agency's best characterization of industries at the time the summaries are compiled. As additional data are acquired, they are factored into the evaluation process. Consequently, the Preliminary Data Summaries are also subject to revision. The Agency has made the Summaries available to the public and has received comments on some of these studies. Comments are available for review in the record for today's proposed Plan.

b. Previously-Noticed Studies. Six of the completed studies were described in the 1996 Proposed Plan (61 FR 35048): Petroleum Refining; Metal Finishing; Textile Mills; Inorganic Chemicals; Steam Electric Power Generating; and Iron and Steel Manufacturing.

c. Photographic Processing. The Photographic regulations were promulgated in 1976 for BPT (direct dischargers) only, at 40 CFR part 459. Subsequent to promulgation of the BPT rule, EPA collected some additional information to support development of BAT, NSPS and pretreatment standards, but no additional rules were promulgated.

EPA completed a Preliminary Data Summary for the Photographic Processing Industry in 1996. The study found that about 100,000 establishments were listed in 1996 in Dun & Bradstreet data under the term "commercial photo processing." In addition, significant photo processing also occurs as an ancillary activity within the health care profession and at noncommercial facilities such as schools and police departments. Combining all types of facilities, it was estimated that photo processing operations occur at 350,000 to 500,000 locations in the United States. However, virtually none of these photo processing establishments have discharge permits based on the existing effluent guidelines because: (a) Most establishments are indirect dischargers, and no pretreatment standards were established; or (b) those that are direct dischargers do not meet the 1,600 square feet per day processing requirement for applicability under part 459.

The study estimated the water use in 1994 by the commercial sector (approximated to represent 44 percent of total photo processing volume) to be 2,250 million gallons. The major waste stream constituents of concern (with values for the commercial sector) includes sulfates (2.8 million lbs.), ammonia (3 million lbs.), silver (190 thousand lbs.), thiosulfate, and cyanide. Several technologies are available and employed to either treat the wastestreams, or as common in this industry, recover the chemicals and metals in the wastewater for resale or reuse.

Local POTW limits vary from municipality to municipality, but are normally numeric and concentration-based. Frequently, the only pollutant monitored in the indirect discharge permit is silver. Many of the local limits are based on silver nitrate, a highly dissociated and toxic compound. While silver nitrate is used in the production of photographic film and paper, it is not a characteristic pollutant of photo processing wastewaters. Rather, silver in photo processing wastewaters is characteristically in the form of silver thiosulfate complex, which has been shown to be about 20,000 to 40,000 times less toxic, on a concentration basis, to acutely exposed fathead minnows. The local limits may be overly stringent with regard to concentration of silver discharged, while lax on total mass of silver or other pollutants, due to lack of technical expertise and resources available at the local level.

In an effort to provide more technical expertise to photo processing facilities and POTWs, AMSA and the Silver Council, an industry association, have developed a set of recommended silver management practices. They are currently evaluating the effectiveness of the management practices at a variety of sites nationwide.

d. Chemical Formulating, Packaging and Repackaging. EPA completed a Preliminary Data Summary for the Chemical Formulating, Packaging and Repackaging (CFPR) industry in 1996. The summary describes the size and demographics of the industry, CFPR operations and the typical wastewaters generated, as well as the extent to which pollution prevention (P2) techniques are used throughout the industry. In addition, the study compares the operations, P2 techniques and economic viability of the CFPR industry to the Pesticide Formulating, Packaging and Repackaging (PFPR) industry. For the purposes of the study, EPA included the following sectors in the CFPR industry: specialty cleaners, polishes, sanitation preparations, cosmetics, perfumes, personal products, soaps and detergents, adhesives and sealants, paints (non-solvent based), inks (non-solvent based), and water treatment chemicals (non-pesticide).

There are no existing effluent guidelines or categorical standards for the CFPR industry and their discharges are regulated largely through local POTW limitations. The facilities are not subject to general EPA reporting requirements pertaining to their production and wastewater generation and the Agency estimates that there may be as many as 12,800 facilities based on Dun and Bradstreet data. Much of the technical portion of the study discusses anecdotal information collected through contacts with POTWs, regional and state pretreatment coordinators, individual facilities, and trade associations representing several sectors of the CFPR industry. The study also includes information from EPA's Adhesives and Sealants Study ("Summary of Findings: Water and Waste Management for the Adhesives and Sealants Manufacturing Point Source Category," EPA Effluent Guidelines Division, draft report August 1984), the databases for the final PFPR effluent guidelines (40 CFR part 455, 61 FR 57518, November 6, 1996), as well as economic information from the U.S. Economic Census and the Census Bureau's Annual Survey of Manufactures.

The volume of a CFPR facility discharge is small—typically 10 million gallons per year— compared to those from chemical manufacturing facilities. CFPR discharges include surfactants and various organic chemicals. Overall, POTWs report having experienced very few treatment system upsets or pollutant pass-through incidents associated with their CFPR users. Some POTWs have reported foaming problems or high-concentration ("slug") discharges from CFPRs, but these problems have been corrected though a variety of methods available in the general pretreatment program.

e. Urban Storm Water. EPA is conducting a preliminary study of urban storm water discharges to explore how the Effluent Guidelines program can contribute to the Agency's efforts in implementing the national storm water program requirements under section 402(p) of the Clean Water Act. Discharges from municipal separate storm water sewer systems ("MS4") serving a population of 100,000 or more are subject to NPDES storm water permitting requirements at 40 CFR 122.21 and 122.26. The Agency recently published a proposed rule that would extend NPDES permit requirements to smaller MS4s in urbanized areas (63 FR 1536, January 9, 1998).

EPA is considering whether development of effluent guidelines regulations, or additional technical information and guidance on

characterizing storm water discharges and evaluating the efficacy of controls would be useful to discharging facilities in complying with permit requirements. Because the nature of the dischargers and discharges in urban storm water are somewhat different from the industrial discharges usually regulated by effluent guidelines, the study format will vary somewhat to accommodate other issues and concerns. EPA intends that the study will include a summary of existing storm water resources on best management practices (BMPs), a description of adverse environmental impacts from storm water discharges, a summary of available methods for estimating the relationship between storm event size and bacteriological impacts, descriptions of types of regionally-appropriate storm water BMPs (both structural and non-structural) and how to measure their performance, cost and economic impact considerations, and a description of measurable goals that could be used to evaluate the effectiveness of storm water management controls. The Agency will complete a preliminary data summary by December 1998.

f. Airport Deicing. EPA began the Airport Deicing study formally in January 1998, although some site visits were conducted as early as Summer 1997. Early data-gathering efforts for the study have been initiated. The Agency is conducting a literature search on pollution prevention practices related to aircraft deicing, including alternative and innovative deicing practices at airports in the United States, as well as in other countries. The Agency is reviewing previously-collected data as well as information gathered through contacts with the trade associations representing various segments of the industry, environmental groups, manufacturers of deicing chemicals and vendors of deicing-related equipment and treatment technologies. Also, the Agency is planning to review airport storm water monitoring data that is collected under the Multi-Sector General Permit requirements.

The Agency will be conducting site visits to airports of differing sizes and geographic locations. These visits will include airports that employ pollution prevention, on-site recycling or alternative deicing technologies. Specifically, the purposes of the site visits are:

- To gather basic information on a variety of deicing activities and to determine what factors affect deicing operations;
- To determine and evaluate the level of wastewater treatment for any collected deicing fluids;
- To gather information to characterize the raw, untreated effluent generated from any deicing operations in terms of pollutant concentrations, volumes and environmental impacts; and
- To gather information on new or innovative pollution prevention practices.

EPA will examine the effectiveness of the current storm water permitting system and the comparative effectiveness of an effluent guideline approach for airport deicing activities. The Agency will also evaluate the status and trends of de-icing chemical use at airports, including the costs and cost-minimization opportunities of deicing material management, and the development and use of prevention and treatment technologies will be evaluated. Wastewater characterization sampling visits are expected to be conducted next winter. The Agency will complete a preliminary data summary by December 1999.

g. Fish Hatcheries and Farms. EPA considered developing effluent guidelines for fish hatcheries and farms, also called aquaculture facilities, in 1977. A draft development document recommended issuance of BPT limitations, but regulations were not promulgated. ("Development Document for Recommended Effluent Limitations Guidelines and Standards of Performance for the Fish Hatcheries and Farms Point Source Category," EPA Effluent Guidelines Division, draft February 1977.) Aquaculture operations include ponds, tanks, raceways (a series of tanks), netpens, and cages. These operations generate manure, which can adversely affect water quality with BOD, suspended and settleable solids, nutrients, chemical additives (including pesticides), water temperature changes, and pathogens such as streptococcus. Uneaten fish food can also generate nutrient discharges.

Potential problems stemming from aquaculture discharges are described in a recent report by the Environmental Defense Fund ("Murky Waters: Environmental Effects of Aquaculture in the United States," Environmental Defense Fund, Washington, DC, 1997). The report provides an overview of the aquaculture industry and a description of water use, pollutants generated, and environmental impacts. Among the report's recommendations is a call for EPA to promulgate effluent guidelines for aquaculture operations.

EPA is also aware that reports developed by the U.S. Department of Agriculture, the Joint Subcommittee on Aquaculture (a Federal interagency advisory group), and other organizations may address waste issues associated with aquaculture. The Agency invites submission of such reports and other data on aquaculture discharges.

3. Future Studies

EPA has nearly completed its Consent Decree requirements for developing eleven preliminary studies. However, the Agency may develop additional studies from time to time, and several study topics have been suggested. Among the categories that EPA may study are:

- Hospitals
- Ore Mining and Dressing (including Placer Mining)
- Glass Manufacturing
- Canmaking
- Organic Chemicals, Plastics and Synthetic Fibers
- Pulp, Paper and Paperboard (topics not addressed in recent or ongoing rule projects)
- Wood Chip Mills
- Metal Molding and Casting (Foundries)
- Generic Effluent Guideline Issues.

EPA invites submission of data and other comments on these categories and topics.

C. Other Rulemaking Actions

1. Pulp, Paper and Paperboard, Phases 2 & 3

In the Pulp and Paper effort, EPA intends to revise existing limitations in 10 of the 12 subcategories in 2 phases. Phase 2 includes: Unbleached Kraft; Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp; Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. Phase 3 includes: Dissolving Kraft and Dissolving Sulfite. Guidelines and standards for these 10 subcategories were proposed as part of the Pulp and Paper Rule (also known as the "Cluster Rule") in December of 1993 but final action was deferred in the Phase I Rule promulgated April 15, 1998, based on public comment. The Agency intends to publish notices of data availability prior to taking final action on both phases.

2. Ore Mining and Dressing

EPA had proposed to exclude a waste stream from previously-promulgated effluent guidelines for the Copper, Lead, Zinc, Gold, Silver and Molybdenum Ores Subcategory of the Ore Mining and Dressing Category (40 CFR part 440, subpart J). The Agency published a proposed rule on February 12, 1996 (61 FR 5364). Dewatered tailings generated by the Alaska-Juneau (A–J) gold mine

project near Juneau, Alaska would have been affected by this proposal.

On January 14, 1997, Echo Bay Mines announced that it would terminate its development plans for the A–J mine project. EPA has concluded, in light of the closure of the A–J mine project and the lack of information about other mine sites exhibiting similarly extreme environmental conditions, that it is unnecessary to continue this rulemaking. The Agency published a document withdrawing the proposal on January 16, 1998 (63 FR 2646).

VI. Request for Comments

EPA invites public comment on its plans for development of effluent guidelines and preliminary studies. Comments will be accepted until July 27, 1998. In particular, the Agency is interested in data that would facilitate comparisons of discharger categories with regard to wastestream characteristics, treatment practices and effects on water quality. In addition to the categories discussed or listed in today's notice, EPA will consider information on other categories in developing Effluent Guidelines Plans.

VII. Economic Impact Assessment; Executive Order 12866

Today's document proposes a plan for the review and revision of existing effluent guidelines and for the selection of priority industries for new regulations. This document is not a "rule" subject to 5 U.S.C. 553 and does not establish any requirements; therefore, no economic impact assessment has been prepared. EPA will provide economic impact analyses, regulatory flexibility analyses or regulatory impact assessments, as appropriate, for all of the future effluent guideline rulemakings developed by the Agency.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this plan is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Dated: May 21, 1998.

Robert Perciasepe,

Assistant Administrator for Water.

Appendix A—Promulgated Effluent Guidelines

"Promulgation" refers to the date of promulgation of BAT controls unless otherwise noted. Minor amendments or corrections are not shown.

Category	40 CFR part	Promulgation	Revised rule (P: Proposal F: Final Action) or Study Completion (S)
Aluminum Forming	467	10/83	
Asbestos Manufacturing	427	2/74	
Battery Manufacturing	461	3/84	
Builder's Paper and Board Mills [1]	431	12/86 (BCT)	
Carbon Black Manufacturing	458	1/78	
Cement Manufacturing	411	8/79 (BCT)	
Coal Mining	434	10/82	P 12/99; F 12/01.
Coil Coating	465	12/82	
Canmaking Subcategory	.....	11/83	
Copper Forming	468	8/83	
Dairy Products Processing	405	6/86 (BCT)	
Electroplating	413	1/81 (PSES)	P 10/00; F 12/02[2].
Electrical and Electronic Components	469	4/83	
Explosives Manufacturing	457	3/76	
Feedlots	412	2/74	S 1998. P 12/99; F 12/01 (Swine & Poultry). P 12/00; F 12/02 (Dairy & Beef Cattle).
Ferroalloy Manufacturing	424	7/86 (BCT)	
Fertilizer Manufacturing	418	8/79 (BCT)	
Fruits and Vegetables Processing	407	7/86 (BCT)	
Glass Manufacturing	426	7/86 (BCT)	
Grain Mills	406	7/86 (BCT)	
Gum and Wood Chemicals	454	5/76 (BPT)	
Hospitals	460	5/76 (BPT)	S 1989.
Ink Formulating	447	7/75	
Inorganic Chemicals	415	6/82	S 1994.
Iron and Steel Manufacturing	420	5/82	S 1995; P 12/98[3]; F 12/00[3].
Leather Tanning and Finishing	425	11/82	
Meat Products	432	7/76 (BCT)	
Metal Finishing	433	7/83	S 1994; P 10/00; F 12/02[2].
Metal Molding and Casting (Foundries)	464	10/85	
Mineral Mining and Processing	436	7/77 (BPT)	
Nonferrous Metals Forming	471	8/85	
Nonferrous Metals Manufacturing	421	6/84	
Oil and Gas Extraction	435		P 12/98; F 12/00 (Synthetic-Based Fluids).

Category	40 CFR part	Promulgation	Revised rule (P: Proposal F: Final Action) or Study Completion (S)
Offshore Subcategory	.....	3/93	
Coastal Subcategory	.....	12/96	
Other Subcategories	.....	11/79 (BPT)	
Ore Mining and Dressing	440	12/82	
Gold Placer Mining Subcategory	.....	5/88	
Organic Chemicals, Plastics and Synthetic Fibers	414	11/87	
Paint Formulating	446	7/75	S 1989.
Paving and Roofing Materials	443	7/75	
Pesticide Chemicals	455		
Manufacturing	.....	9/93	
Formulating, Packaging, Repackaging	.....	11/96	
Petroleum Refining	419	10/82	S 1993.
Pharmaceutical Manufacturing	439	10/83	P 5/2/95; F 7/98.
Phosphate Manufacturing	422	6/76	
Photographic Processing	459	7/76 (BPT)	S 1996.
Plastics Molding and Forming	463	12/84	
Porcelain Enameling	466	11/82	
Pulp, Paper and Paperboard	430		
Subparts B & E (Phase 1 rule)	.....	4/98	
Other subparts	.....	12/86 (BCT)	P 12/93; F 2000–2002 (Phase 2 & 3 rules).
Rubber Manufacturing	428	2/74	
Seafood Processing	408	7/86 (BCT)	
Soap and Detergent Manufacturing	417	4/74	
Steam Electric Power Generating	423	11/82	S 1995.
Sugar Processing	409	7/86 (BCT)	
Textile Mills	410	9/82	S 1994.
Timber Products Processing	429	1/81	

[1] EPA proposed merging part 431 with part 430 in the proposed Pulp, Paper and Paperboard rule on 12/17/93. Part 431 will be deleted.
[2] The Electroplating and Metal Finishing categories will be modified by the new Metal Products and Machinery rule. See Appendix B for rulemaking dates.
[3] EPA is discussing extensions to Consent Decree dates with NRDC.

Appendix B—Current and Future Rulemaking Projects

Category	Proposed	Final
Pulp, Paper and Paperboard, Phases 2 & 3	12/17/93 [1] (58 FR 66078)	2000–2002 [1]
Centralized Waste Treatment	1/27/95 (60 FR 5464)	8/99
Pharmaceutical Manufacturing	5/2/95 (60 FR 21592)	7/98
Metal Products and Machinery	5/30/95 [2] (60 FR 28209) (Phase 1 only)	
	10/00	12/02
Industrial Laundries	12/17/97 (62 FR 66182)	6/99
Landfills	2/6/98 (63 FR 6425)	11/99
Industrial Waste Combustors (Incinerators)	2/6/98 (63 FR 6391)	11/99
Transportation Equipment Cleaning	5/15/98	6/15/00
Oil and Gas Extraction	12/98	12/00
Iron and Steel Manufacturing	12/98 [3]	12/00 [3]
Coal Mining	12/99	12/01
Feedlots (Poultry & Swine subcategories)	12/99	12/01

[1] The Pulp, Paper and Paperboard rulemaking is not covered by the January 31, 1992 consent decree.
[2] 5/30/95 proposal covered Phase 1 MP&M facilities only. The proposal in 10/00 will cover Phase 1 and 2 facilities combined.
[3] EPA is discussing extensions to Consent Decree dates with NRDC.

Appendix C—Preliminary Studies

Category	Complete
Petroleum Refining	1993
Metal Finishing	1993
Textile Mills	1994
Inorganic Chemicals	1994
Steam Electric Power Generating	1995
Iron and Steel Manufacturing	1995

Category	Complete
Photographic Processing	1996
Chemical Formulators and Packagers	1996
Feedlots	1998
Urban Storm Water	1998
Airport Deicing	1999

[FR Doc. 98–14156 Filed 5–27–98; 8:45 am]
BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6103–6]

Notice of Open Meeting of the Environmental Financial Advisory Board on August 3–4, 1998

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in San Francisco, California on August 3–4, 1998. The meeting will be held at the World Trade Center, Ferry Building, in the Coit Tower Room. The Monday, August 3 session will run from 9 a.m. to 5 p.m. and the August 4 session will begin at 8:30 a.m. and end at approximately 12:00 p.m.

EFAB is chartered with providing analysis and advice to the EPA Administrator on environmental finance. The purpose of this meeting is to discuss work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's activities through 1999. Environmental financing topics expected to be discussed include: cost effective environmental management, community-based environmental protection, brownfields redevelopment, Drinking Water State Revolving funds, and small business access to capital.

The meeting will be open to the public, but seating is limited. For further information, please contact Alecia Crichlow, U.S. EPA on 202–564–5188, or Joanne Lynch, U.S. EPA on 202–564–4999.

Dated: May 20, 1998.

Michael W.S. Ryan,

Comptroller.

[FR Doc. 98–14155 Filed 5–27–98; 8:45 am]
BILLING CODE 6560–60–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6103–4]

Amendment to Administrative Order on Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as Amended by the Superfund Amendments and Reauthorization Act—Herriman, Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed amendment to a settlement under sections 104(a) and 122(a) of the Comprehensive Environmental Response, and Liability Act, as amended, (CERCLA) concerning the Herriman Residential Soils Removal Action Site in Herriman, Utah (Site). Under the Amended Administrative Order on Consent (Order) Kennecott Utah Copper Corporation has agreed to perform certain response actions related to a removal action to be performed at the Site.

DATES: Comments must be submitted on or before June 29, 1998.

ADDRESSES: The Order is available for public inspection at the EPA Superfund Records Center, 999 18th Street, 5th Floor, North Tower, Denver, Colorado. Comments should be addressed to Paul J. Rogers, Enforcement Specialist, (8ENF–T), U.S. Environmental Protection Agency, 999 18 Street, Suite 500, Denver, Colorado, 80202–2405, and should reference the Herriman Residential Soils Removal Action Order, EPA Docket No. CERCLA–VIII–97–08.

FOR FURTHER INFORMATION CONTACT: Paul J. Rogers, Enforcement Specialist, at 303/312–6356.

SUPPLEMENTARY INFORMATION: Pursuant to sections 104(a) and 122(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA), EPA and Kennecott Utah Copper Corporation (Kennecott) entered into an Administrative Order on Consent (Order) concerning the Herriman Residential Soils Removal Action Site in Herriman, Utah (Site), effective July 9, 1997. This Order has been amended to provide for Kennecott's continued participation in response actions at the Site. The Amended Order requires Kennecott Utah Copper Corporation to provide transportation and disposal of no more than 60,000 cubic yards of lead and arsenic contaminated soils removed by EPA generally from the surface to 18 inches in depth and for Kennecott to provide 45,000 cubic yards of replacement soils as part of the Phase II response action. Upon completion of the action, EPA will convenant not to sue Kennecott for any failure to perform the work agreed to in the Order. EPA also proposes to provide Kennecott with contribution protection for matters addressed in this Order to the extent provided by section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2). Matters addressed are defined in the amended Order as response actions taken or to be taken by the EPA or any other person (as that term is defined by section 101(21) of CERCLA, 42 U.S.C. 9601(21)) and all response costs incurred and to be incurred by the EPA or any other person (as that term is defined by section 101(21) of CERCLA, 42 U.S.C. 9601(21)) at or in connection with Herriman Residential Soils Removal. Section 101(21) of CERCLA, 42 U.S.C. 9601(21) states that the term person means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body. For a period of thirty (30) days from the date of this publication, the public may submit comments to EPA relating to the contribution protection proposed to be conferred in this Order. A copy of the Order may be obtained from the Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405, 303/312–6473. Additional background information relating to the Order and the Site is also available for review at the Superfund Records Center at the address listed above and at the Riverton Public Library, 1830 West 12600 South, Riverton, UT 84065.

Dated: May 1, 1998.

Sharon Kercher ,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, Region VIII.

[FR Doc. 98–14157 Filed 5–27–98; 8:45 am]
BILLING CODE 6560–60–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

May 15, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden

invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 27, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0419.

Title: Sections 76.94, 76.95, 76.155, 76.156, 76.157, and 76.159, Syndicated Exclusivity and Network Non-Duplication Rights.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit.

Number of Respondents: 5,392 (1,141 commercial television stations + 4,251 cable television stations).

Estimated Time Per Response: .5 - 2 hours.

Total Annual Burden: 178,640 hours.

Frequency of Response: On Occasion.

Cost to Respondents: $192,132 (operation and maintenance costs for notifications and responses).

Needs and Uses: Sections 76.94(a) and 76.155(a) require television stations and program distributors to notify cable television system operators of non-duplication protection and exclusivity rights being sought. The notification shall include (1) the name and address of the party requesting non-duplication protection/exclusivity rights and the television broadcast station holding the non-duplication right; (2) the name of the program or series for which protection is sought; and (3) the dates on which protection is to begin and end.

Section 76.94(b) requires broadcasters entering into contracts providing for network non-duplication protection to notify cable systems within 60 days of the signing of such a contract. If they are unable to provide notices as provided for in Section 74.94(a), they must provide modified notices that contain the name of the network which has extended non-duplication protection, the time periods by time of day and by network for each day of the week that the broadcaster will be broadcasting programs from that network, and the duration and extent of the protection.

Section 76.94(d) requires broadcasters to provide the following information to cable television systems under the following circumstances: (1) In the event the protection specified in the notices described in paragraphs (a) or (b) of this section has been limited or ended prior to the time specified in the notice, or in the event a time period, as identified to the cable system in a notice pursuant to paragraph (b) of this section, for which a broadcaster has obtained protection is shifted to another time of day or another day (but not expanded), the broadcaster shall, as soon as possible, inform each cable television system operator that has previously received the notice of all changes from the original notice. Notice to be furnished "as soon as possible" under this subsection shall be furnished by telephone, telegraph, facsimile, overnight mail or other similar expedient means. (2) In the event the protection specified in the modified notices described in paragraph (b) of this section has been expanded, the broadcaster shall, at least 60 calendar days prior to broadcast of a protected program entitled to such expanded protection, notify each cable system operator that has previously received notice of all changes from the original notice.

Section 76.155(d) requires that in the event the exclusivity specified in paragraph (a) of this section has been limited or has ended prior to the time specified in the notice, the distributor or broadcaster who has supplied the original notice shall, as soon as possible, inform each cable television system operator that has previously received the notice of all changes from the original notice. In the event the original notice specified contingent dates on which exclusivity is to begin and/or end, the distributor or broadcaster shall, as soon as possible, notify the cable television system operator of the occurrence of the relevant contingency. Notice to be furnished "as soon as possible" under this subsection shall be furnished by telephone, telegraph, facsimile, overnight mail or other similar expedient means.

Sections 76.94(e)(2) and 76.155(c)(2) states that if a cable television system asks a television station for information about its program schedule, the television station shall answer the request.

Sections 76.94(f) and 76.157 require a distributor or broadcaster exercising exclusivity to provide to the cable system, upon request, an exact copy of those portions of the contracts, such portions to be signed by both the network and the broadcaster, setting forth in full the provisions pertinent to the duration, nature, and extent of the non-duplication terms concerning broadcast signal exhibition to which the parties have agreed. Providing copies of relevant portions of the contracts is assumed to be accomplished in the notification process set forth in Sections 76.94 and 76.155.

Section 76.159 (requirements for invocation of protection) requires broadcasters to obtain amended contracts when existing contracts have ambiguous language. We assume all broadcasters that have enforceable syndicated rights in their contracts have by now amended their existing contracts. Any contracts entered into after August 18, 1988, would contain the required language set forth in this section.

Section 76.95(a) states that network non-duplication provisions of Sections 76.92 through 76.94 shall not apply to cable systems serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the operator of each system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise network non-duplication protection against it.

Section 76.156(b) states that the provisions of Sections 76.151 through 76.155 shall not apply to a cable system serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file

a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise syndicated exclusivity protection against it.

The purpose of the various notification and disclosure requirements accounted for in this collection is to protect broadcasters who purchase the exclusive rights to transmit syndicated programming in their recognized market areas. The Commission's syndicated exclusivity rules permit, but do not require, broadcasters and program distributors to obtain the same enforceable exclusive distribution rights for syndicated programming that all other video programming distributors possess.

OMB Approval Number: 3060–0547.

Title: Section 76.61 Disputes concerning carriage and Section 76.7 Special relief and must-carry procedures.

Form Number: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit.

Number of Respondents: 600 (include petitioning and opposing parties for Sections 76.61 and 76.7).

Estimated Time Per Response: 5–40 hours.

Total Annual Burden: 18,000 hours.

Frequency of Response: On Occasion.

Cost to Respondents: $198,000 ($192,000 for filing fees at $960 per fee; postage and stationary costs).

Needs and Uses: This information collection accounts for the paperwork burden associated with disputes concerning carriage contained in Section 76.61 as well as must-carry complaints and other petitions for special relief contained in Section 76.7.

Section 76.61 states that whenever a local commercial television or qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, such station shall notify the cable operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel. The cable operator then must respond in writing within 30 days to the notification and either commence to carry the station or state its reasons for believing it is not obligated to carry such signal. The television or low power television station may then file a "must-carry" complaint in accordance with procedures set forth in Section 76.7. Qualified local noncommercial educational television stations may also file "must-carry" complaints with the Commission in accordance with procedures set forth in Section 76.7. Must-carry complaints shall specifically allege the manner in which the cable operator failed to meet its obligations and the basis for such allegations.

Section 76.7 states that on petition by a cable television system operator, a franchising authority, an applicant, permittee, or licensee of a television broadcast or translator station, or by any other interested person, the Commission may waive any provision of the rules relating to cable television systems, impose additional of different requirements, or issue a ruling on a complaint or disputed question. The petition for special relief or must-carry complaint may be submitted informally, by letter, but shall be accompanied by a certificate of service on any cable television operator, franchising authority, station licensee, permittee, or applicant, or other interested person who may be directly affected if the relief requested is granted. Interested parties may submit comments or oppositions to a petition for special relief or a must-carry complaint within twenty days after the date of public notice of the filing of such petition or complaint. The petitioner or complainant may file a reply to the comments or oppositions within 10 days after their submission.

OMB Approval Number: 3060–0548.

Title: Section 76.302 Required recordkeeping for Must-Carry purposes and Section 76.56 Signal Carriage obligations.

Form Number: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit.

Number of Respondents: 11,000

Estimated Time Per Response: .5 hours - 1 hour.

Total Annual Burden: 66,000 hours.

Frequency of Response: On Occasion.

Cost to Respondents: $110,000 (postage and stationary).

Needs and Uses: Section 76.302 requires the operator of every cable television system to maintain a public inspection file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to Section 76.56 and the designation and location of its principal headend. Sections 76.302 and 76.56(e) state that upon written request from any person, a cable operator is required to provide the list of must-carried signals in writing within 30 days of receipt of such request. Additionally, Section 76.56(d)(3) states that if a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers. The notice, which may be included in routine billing statements, shall identify the signals that are unavailable without an additional connection, the manner for obtaining such additional connection, and instructions for installation. These notification and recordkeeping requirements ensure that subscribers are aware of which channels cannot be viewed without converter boxes and which channels are defined as must-carry. The records kept by cable television systems are reviewed by Commission staff during field inspections and by local public officials to assess the systems' compliance with applicable rules and regulations.

OMB Approval Number: 3060-0652.

Title: Section 76.309 Customer Service Obligations and Section 76.964 Notice to Subscribers.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; State, local and tribal governments.

Number of Respondents: 11,365 cable systems, 10 franchise authorities.

Estimated Time Per Response: 10 minutes - 1 hour.

Total Annual Burden: 33,975 hours.

Frequency of Response: On occasion.

Cost To Respondents: $100,000 (postage and stationary costs).

Needs and Uses: Sections 76.309 and 76.964 set forth various customer service obligations and notification requirements for changes in rates, programming services and channel positions.

Section 76.309(a) states that franchise authorities must provide affected cable operators 90 days written notice of its intent to enforce customer services standards set forth in Section 76.309(c).

Section 76.309(c)(3)(i)(A) states that cable operators shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: (1) Products and services offered; (2) Prices and options for programming services and conditions of subscription to programming and other services; (3) Installation and service maintenance policies; (4) Instructions on how to use the cable service; (5)

Channel positions programming carried on the system; and, (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

Section 76.309(c)(3)(i)(B) states that customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by Section 76.309(c)(3)(i)(A).

Section 76.964 states that in addition to the requirement set forth in Section 76.309(c)(3)(i)(B) regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g. inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. Notices to subscribers shall inform them of their right to file complaints about changes in cable programming service tier rates and services, shall state that the subscriber may file the complaint within 90 days of the effective date of the rate change, and shall provide the address and phone number of the local franchising authority.

Section 76.309(c)(3)(ii)(B) states that in case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

Since the last OMB clearance for this collection, it has been revised in two ways. First, the Section 76.309(a) requirement that franchise authorities must provide affected cable operators 90 days written notice of intent to enforce customer services standards was not previously accounted for in this collection. We now seek clearance for it as part of this collection. Second, a revision to Section 76.309(c)(3)(i)(B) no longer requires cable operators to provide notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between operators and their subscribers. We revise this collection accordingly.The Commission requires the various disclosure and notifications contained in this collection as a means of consumer protection to ensure that subscribers and franchising authorities are knowledgeable of cable operators' business practices, current rates, rate changes for programming, service and equipment, and channel line-up changes.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14092 Filed 5–27–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Comments Requested

May 20, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 27, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0287.

Title: Section 78.69 Station records.

Form No.: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; State, local and tribal governments.

Number of Respondents: 1,800.

Estimated Time Per Response: 26 hours.

Frequency of Response: On Occasion.

Cost to Respondents: $0.

Total Annual Burden: 46,800 hours.

Needs and Uses: Section 78.69 requires that licensees of cable CARS stations maintain various records, including but not limited to records pertaining to transmissions, unscheduled interruptions to transmissions, maintenance, observations, inspections and repairs. Station records are required to be maintained for a period of not less than two years. The records kept pursuant to Section 78.69 provide for a history of station operations and are reviewed by Commission staff during field investigations to ensure that proper operation of the stations is being conducted.

OMB Approval Number: 3060–0667.

Title: Section 76.630 Compatibility with consumer electronic equipment.

Form No.: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 11,000.

Estimated Time Per Response: 1 - 3 hours.

Frequency of Response: On Occasion.

Cost To Respondents: $19,300 ($960 filing fee, plus stationery and postage costs).

Total Annual Burden: 11,160 hours.

Needs and Uses: Section 76.630(a) states that cable system operators shall not scramble or otherwise encrypt signals carried on the basic service tier, though operators may file requests for waivers of this prohibition with the Commission. When filing requests for waivers of this prohibition, operators must notify subscribers by mail of waiver requests. Section 76.630(c) states

that cable system operators that use scrambling, encryption or similar techniques shall offer to supply each subscriber with special equipment that will enable the simultaneous reception of multiple signals. This offer of special equipment must be made to new subscribers at the time they subscribe, to all subscribers at least once each year, and to subscribers that make such requests at any time. Section 76.630(d) states that cable system operators shall provide a consumer education program on compatibility matters to their subscribers in writing. The information shall be provided to subscribers at the time that they first subscribe and at least once a year thereafter, and may be included in one of the cable system's regular subscriber billings. The Commission has set forth these disclosure requirements for consumer protection purposes, to inform subscribers of compatibility matters, and notify subscribers of cable operators' requests to waive the prohibition on signal encryption.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14094 Filed 5–27–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

May 21, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 27, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0425.

Title: Section 74.913, Selection procedure for mutually exclusive ITFS applications.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Not-for-profit institutions.

Number of Respondents: 150.

Estimated Time Per Response: 53 hours for settlement agreements (3 hours respondent, 30 hours contract attorney, 20 hours consulting engineer) and 1 hour statements of number of students.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: $425,000.

Estimated Total Annual Burden: 250 hours.

Needs and Uses: Section 74.913(c) requires qualified ITFS applicants, with the same point accumulation, to submit any agreement to divide the use of the channels within thirty days from the date of Commission decision. If no agreement is reached and submitted to the Commission within thirty days, the selectee will be determined through the tie-breaker mechanism of Section 74.913(d).

Section 74.913(d) requires each applicant tied in a comparative selection proceeding to submit a statement of the number of students at its proposed receive locations who are formally enrolled in classes for credit toward an academic degree or diploma, or a legally required certification or license. This claim of students, who would benefit from the proposed system, must correlate to and be supported by the educational programs proposed in its application. This statement must be served on the other tied competing applicant(s).

Applicants will not be required to submit their agreements or statements unless and until it is determined that they are tied in a comparative selection proceeding.

The data will be used by FCC staff to determine the most qualified applicant to provide ITFS service to the public. The statement served on other tied competing applicant(s) will provide an opportunity for competing applicants to respond to any apsect of the enrollment submissions.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14095 Filed 5–27–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Submitted to OMB for Review and Approval

May 19, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, and utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 29, 1998. If

you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Les Smith at 202–418–0214 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0560.

Title: Section 76.911, Petition for reconsideration of certification.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities; State, local and tribal governments.

Number of Respondents: 45 [(20 petitions × 2 parties) + 5 competing operators].

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure.

Cost to Respondents: $410 (postage and stationery costs).

Total Annual Burden: 410 hours.

Needs and Uses: Section 76.911 states that a cable operator, or other interested party, may challenge a franchising authority's certification by filing a petition for reconsideration. The petition may allege either that the cable operator is not subject to rate regulation because effective competition exists, or that the franchising authority does not meet the Commission's certification standards. The burden associated with the petition process was not previously accounted for in this collection; therefore, this collection has been revised. Section 76.911(b)(2) also states that if evidence establishing effective competition is not otherwise available, then cable operators may request from a competitor information regarding the competitor's reach and number of subscribers. A competitor must respond to such request within 15 days and such responses may be limited to numerical totals. Commission staff use information derived from petitions for reconsideration of certification to resolve disputes concerning the presence or absence of effective competition in franchise areas and to determine whether there are grounds for denying franchising authority certifications to regulate rates.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14096 Filed 5–27–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 18, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission.

OMB Control No.: 3060–0717.

Expiration Date: 05/31/2001.

Title: Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92–77 (47 CFR Sections 64.703(a), 64.709, 64.710).

Form No.: N/A.

Respondents: Business or other for-profit entities.

Estimated Annual Burden: 1500 respondents; 446.10 hours per response (avg.); 699,157 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $198,000.

Frequency of Response: On occasion, annually, third party disclosure.

Description: 1. Section 64.709, OSP Informational Tariff Filing Requirement: In the Second Report and Order and Order on Reconsideration issued in CC Docket No. 92–77 (released January 29, 1998), the Commission codifies the OSP informational tariff filings at 47 CFR 64.709. OSPs currently are required by statute, *i.e.*, 47 U.S.C. § 226(h)(1)to file informational tariffs with the Commission. The new rules governing the filing of such tariffs codify existing FCC requirements. The Commission also amended the rules to increase the usefulness of informational tariffs by requiring that such tariffs include specific rates expressed in dollars and cents as well as applicable per-call aggregator surcharges or other per-call fees, if any, that are collected from consumers. (Number of respondents: 300; annual burden per respondent: 50 hours; total annual burden: 16,500 hours). 2. Section 64.703(a)(4), Disclosures: In the Second Report and Order and Order on Reconsideration, the Commission amends its rules, effective generally July 1, 1998, to require operator services providers (OSPs) to disclose orally to away-from-home callers, at no cost to such callers, how they may obtain all applicable charges for a call placed through an OSP, without the caller having to hang up to dial a separate number. The Commission's decision is intended to make it easier for callers using operator services at pay phones, hotels and other call aggregator locations to obtain immediately the total cost to them of making a call using the carrier selected by the pay phone or premises owner before the call is made. Subsection 64.703(a)(4) is added, which requires each OSP to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate call, how to obtain rate quotations, including any applicable surcharges, if the call is to be placed through the carrier selected by the payphone or premises owner. (No. of respondents: 630; annual burden per respondent: 6–8 secs per call; total annual burden: 13,711 hours). 3. Section 64.710, Operator services for prison inmate phones. New Section 64.710 requires providers of interstate operator services to inmates at correctional institutions to identify themselves, audibly and distinctly, to the party to be billed for the call and also disclose immediately thereafter to that party how he or she, without having to hang up to dial a separate number, may obtain the charges for the call, before the carrier may connect, and bill for, a call. (No. of respondents; 570; annual burden per respondent: 4 hours; total annual hour burden: 2280 hours). 4. Section 64.703(a)(1)-(3), Consumer Information, Branding by OSPs. Section 64.703(a)(1)-(3), requires that operator service providers disclose to consumers their identity, and upon request by the consumer, the rates for the call, collection methods for the charges, and complaint procedures. 47 U.S.C. Section 226 required adoption of this rule. Providers of operator services are required to identify itself, audibly and distinctly, to both the calling party and the called party, rather than just one party. This requirement was a response to a widespread failure of operator service providers to disclose information necessary for informed consumer choice in the marketplace. This requirement is currently approved

by OMB under OMB control number 3060–0666 and is not being modified by the Second Report and Order and Order on Reconsideration in CC Docket No. 92–77. It is being consolidated with and is now approved under OMB control number 3060–0717 as suggested by OMB. (No. of respondents: 630; annual burden per respondent: 2 secs per call; total annual burden: 666,666).

The new information disclosure rules will make it easier for callers using operator services provided at call aggregator phones, and prison-inmate phones, to obtain immediately the cost of the call, prior to the call being connected. This should eliminate the surprise that many consumers encounter upon subsequently receiving the bill or bills containing what they believe to be excessive charges or surcharges for such calls. Further, requiring that carriers divulge this information without the consumer having to dial a separate telephone number more readily enables consumers to obtain valuable information necessary in making the decision whether to have that carrier carry the call at the identified rates. OSPs are required under Section 226(h)(1) of the Communications Act to file informational tariffs with the Commission and to update these tariffs regularly. The tariffs are filed to protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and to ensure that consumers have the opportunity to make informed choices in making such calls. Obligation to comply: mandatory.

OMB Control No.: 3060–0817.

Expiration Date: 05/31/2001.

Title: Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95–20.

Form No.: N/A.

Respondents: Businesses or other for profit entities.

Estimated Annual Burden: 5 respondents; 2 hours per response (avg.); 20 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; semi-annually.

Description: In the Further Notice of Proposed Rulemaking issued in CC Docket Nos. 95–20 and 98–10, the Commission seeks to eliminate outdated, unnecessary regulations, while continuing to protect against potential anticompetitive behavior by the Bell operating companies (BOCs) in the provision of information services. In fulfillment of this goal, the Commission proposed and OMB approved the following collection of information from BOCs: *Open Network Architecture (ONA) Reporting Requirements:* The Commission sought comment on whether we should modify current ONA reporting requirements by reducing the frequency of semi-annual reporting to annual, whether the current quarterly installation and maintenance reports and accompanying annual affidavits are necessary or effective for the nondiscrimination obligations of *Computer III*, whether the separate subsidiary network information disclosure rules should continue to apply to BOCs with *Computer II* subsidiaries, whether the "all-carrier rule" should continue to apply to all carriers, other than incumbent LECs, owning basic transmission facilities, or whether the Commission should eliminate current ONA reporting requirements on the BOCs and GTE. In the FNPRM, the Commission tentatively concludes that the BOCs should be permitted to make one consolidated filing (or posting) for all generic information they currently submit in their semi-annual ONA reports. If adopted, the proposed collections would be used to ensure that BOCs and GTE comply with the *Computer III*, ONA requirements as modified by the FNPRM, and with the Communications Act, as amended, and with Commission policies and regulations. Obligation to respond: mandatory.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–14093 Filed 5–27–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

* * * * *

FEDERAL REGISTER NUMBER: 98–13018.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, May 21 1998, 10:00 a.m., meeting open to the public.

The Following Item Was Added to the Agenda: Electronic Filing for Presidential Committees.

* * * * *

DATE & TIME: Tuesday, June 2, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE & TIME: Thursday, June 4, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (ninth floor).

STATUS: This meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes. Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–14223 Filed 5–26–98; 10:37 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applications

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Cargo U.K., Inc., 4790 Aviation Parkway, Atlanta, GA 30349, Officers: Roger H. Botting, President

Southeast Logistics, 122 Agape Street, Williamson, GA 30292, Pat Owen, Sole Proprietor

Ocean's Freight, Inc., 2664 West 70th Place, Hialeah, FL 33016, Officer: Luis Miguel Boscan, President

Dated: May 22, 1998.
Joseph C. Polking,
Secretary.
[FR Doc. 98–14118 Filed 5–27–98; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 10, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Grant County State Bancshares Inc., ESOP, Swayzee, Indiana; to retain voting shares of Grant County State Bancshares, Inc., Swayzee, Indiana, and thereby indirectly retain voting shares of Grant County State Bank, Swayzee, Indiana.

Board of Governors of the Federal Reserve System, May 21, 1998.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 98–14052 Filed 5–27–98; 8:45 am]
BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. The 1855 Bancorp, New Bedford, Massachusetts; to acquire 100 percent of the voting shares of Sandwich Bancorp, Inc., Sandwich, Massachusetts, and thereby indirectly acquire Sandwich Cooperative Bank, Sandwich, Massachusetts.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Triangle Bancorp, Inc., Raleigh, North Carolina; to acquire 100 percent of the voting shares of the successor by conversion to United Federal Savings Bank, Rocky Mount, North Carolina.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. National Commerce Bancorporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of CBC Bancshares, Inc., Collierville, Tennessee, and thereby indirectly acquire The Citizens Bank, Collierville, Tennessee.

2. Union Planters Corporation, and Union Planters Holding Corporation, both of Memphis, Tennessee; to acquire 100 percent of the voting shares of, and thereby merge with AMBANC Corp., Vincennes, Indiana, and thereby indirectly acquire Ambank Indiana, N.A., Vincennes, Indiana, and Ambank Illinois, N.A., Robinson, Illinois.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Spring Hill Holdings Corporation, Longview, Texas, and Spring Hill (Delaware), Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Spring Hill State Bank, Longview, Texas.

Board of Governors of the Federal Reserve System, May 21, 1998.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 98–14051 Filed 5–27–98; 8:45 am]
BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Whitney Holding Corporation, New Orleans, Louisiana; to merge with The First National Bancorp of Greenville, Inc., Greenville, Alabama, and thereby indirectly acquire First National Bank of Greenville, Greenville, Alabama.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice

President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Ceresco Bancorp., Ceresco, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of CerescoBank, Ceresco, Nebraska.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Arizona Bancshares, Inc., Flagstaff, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Flagstaff, Arizona (in organization).

Board of Governors of the Federal Reserve System, May 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14129 Filed 5–27–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 10, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire Southwest Partners, Inc., San Diego, California, and thereby engage in mortgage lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 21, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14053 Filed 5–27–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Royal Bank of Canada, Montreal, Canada; to acquire New Security First Network Bank, Miami, Florida, and Atlanta, Georgia, through its subsidiaries, RBC Holdings (USA) Inc., and RBC Holdings (Delaware) Inc., and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14130 Filed 5–27–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–983]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans, ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance for projects administered by the Administration for Native Americans for Native Hawaiian organizations and groups.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 1998 funds in the area of governance and social and economic development for Native Hawaiian entities. Financial assistance provided by ANA in support of such projects is intended to promote.

EFFECTIVE DATE: The closing date for submission of applications under this program announcement: July 1, 1998.

Native Hawaiian applicants who submitted applications for the May 1, 1998 SEDS closing previously announced in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386, have the opportunity to withdraw their application and submit the same proposal or a different proposal for this closing. Eligible Native Hawaiian entities who do not withdraw their application from the May 1, 1998 SEDS closing, will not be eligible to submit another application under this closing. To withdraw an application, notice must be provided to ANA no later than Midnight, June 15, 1998.

Notice to withdraw an application must be in writing and sent to: Jean Luka, Program Specialist, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop: HHH 348F, Washington, D.C. 20447. Telefax or e-mail will be accepted. The telefax number is (202) 690–7441 and the e-mail address is: jluka@acf.dhhs.gov.

All instructions to withdraw an application will be confirmed in writing.

FOR FURTHER INFORMATION CONTACT: Jean Luka, Program Specialist, Department of

Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, DC 20447, tel: (202) 690–6324, Fax (202) 690–7441, e-mail: jluka@acf.dhhs.gov.

APPLICATION KIT: Application kits, (Approved by the OMB under control number 0980–0294, which expires August 31, 1999) containing the necessary forms and instructions to apply for a grant under this program announcement, may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, Attention: 93612–983, Telephone: (202) 690–7776, Fax: (202) 690–7441.

Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web Page: http://www.acf.dhhs.gov/programs/ana/index.html

The printed **Federal Register** notice is the only official program announcement. Although, all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears role responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

SUPPLEMENTARY INFORMATION

Introduction and Purpose

The purpose of this program announcement is to announce the anticipated availability of fiscal year 1998 funds for Native Hawaiian entities, authorized under the Native American Program Act of 1974 (ACT), as amended, to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders. Funding authorization is provided under sections 803(a), and 803(d) of the Native American Programs Act of 1974, as amended (Pub. L. 96–644. 88 Stat. 2324, 42 U.S.C. 2991b.).

The Administration for Native Americans assists eligible applicants to undertake 12 to 36 months development projects that are part of long-range comprehensive plans to move toward governance, social, and/or economic self-sufficiency.

The Administration for Native Americans promotes the goal of self-sufficiency in Native American communities primarily through Social and Economic Development Strategies (SEDS) projects.

Eligible applicants may compete for a grant award in each of ANA's competitive areas (published in earlier program announcements). ANA continues its policy that an applicant may only submit one application per competitive funding area.

Part I—ANA Policy and Goals

Provides general information about ANA's policies and goals.

Part II—ANA Competitive Areas

Describes Competitive Area 4: Governance, Social and Economics Development (SEDS) for Native Hawaiian entities under which ANA is requesting applications:

A. Purpose and Availability of Funds;
B. Background;
C. Proposed Projects to be Funded;
D. Eligible Applicants;
E. Grantee Share of the Project; and
F. Review Criteria;

Part III General Application Information and Guidance

Provides important information and guidance that must be taken into account in developing an application:

A. Definitions;
B. General Considerations;
C. Activities That Cannot be Funded by ANA;
D. Multi-Year Projects;
E. Intergovernmental Review of Federal Programs;
F. The Application Process;
G. The Review Process;
H. General Guidance to Applicants;
I. Paperwork Reduction Act of 1995; and
J. Receipt of Applications

Part I—ANA Policy and Goals

The mission of the Administration for Native Americans (ANA) is to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Natives Hawaiians, and other Native American Pacific Islanders.

The Administration for Native Americans believes that a Native American community is self-sufficient when it can generate and control the resources necessary to meet its social and economic goals, and the needs of its members.

The Administration for Native Americans also believes that the responsibility for achieving self-sufficiency resides with the governing bodies of Indian tribes, Alaska Native villages, and in the leadership of Native American groups. A community's progress toward self-sufficiency is based on its efforts to plan, organize, and direct resources in a comprehensive manner which is consistent with its established long-range goals.

The Administration for Native Americans' policy is based on three interrelated goals:

1. Governance: To assist tribal and Alaska Native village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

2. Economic Development: To foster the development of stable, diversified local economics and economic activities which will provide jobs and promote economic well-being.

3. Social Development: To support local access to, control of, and coordination of services and programs which safeguard the health, well-being and culture of people, provide support services and training so people can work, all of which are essential to a thriving and self-sufficient community.

Applicants under this program announcement may propose to undertake 12 to 36 month projects. For each type of project, applicants must describe a locally-determined strategy to carry out a proposed project with fundable objectives and activities. Local long-range planning must consider the maximum use of all available resources, how the resources will be directed to development opportunities, and present a strategy for overcoming the local issues that hinder movement toward self-sufficiency in the community.

Part II—ANA Competitive Areas

This competitive area is in addition to other competitive areas identified in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386, and is designated as competitive area 4. This part describes ANA's funding authorities, priorities, special initiatives, special application requirements, and review criteria under competitive area 4. The standard requirements necessary for each application, as well as standard ANA program guidance and technical guidance are described in Part III of this announcement.

Native Hawaiian applicants who submitted applications for the May 1, 1998 SEDS closing previously announced in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386, have the opportunity to withdraw their application and submit the same proposal or a different proposal for this closing. Eligible Native Hawaiian entities who do not withdraw their application from the May 1, 1998 SEDS closing, will not be eligible to submit another application under this closing. To withdraw an application,

notice must be provided to ANA no later than Midnight, June 15, 1998.

Notice to withdraw an application must be in writing and sent to: Jean Luka, Program Specialist, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop: HHH 348F, Washington, D.C. 20447. Telefax or e-mail will be accepted. The telefax number is (202) 690–7441 and the e-mail address is jluka@acf.dhhs.gov. All instructions to withdraw an application will be confirmed in writing.

Under this competitive area, ANA will only accept one application per Native Hawaiian entity.

Hawaiian-Specific Social and Economic Development Strategies (SEDS) Projects

A. Purpose and Availability of Funds

The purpose of this competitive area is to announce the anticipated availability of fiscal year 1998 funds for Native Hawaiian social and economic development projects. Approximately $2 million of financial assistance is anticipated under the competitive area for Native Hawaiian governance, social and economic development projects.

With the participation by the State of Hawaii's Office of Hawaiian Affairs and the statutory limitations placed on their funding, funding of successful applicants may be through a combination of state and federal funds.

All funded applications will receive federal awards and the entire project will be monitored by ANA.

ANA plans to award approximately 10–15 grants under this competitive area.

B. Background

ANA assists tribal and village governments, and Native American organizations in their efforts to develop and implement community-based, long-term governance, social and economic development strategies (SEDS). These strategies must promote the goal of self-sufficiency in local communities.

Based on the three ANA goals described in part I, ANA is implementing a special Native Hawaiian social and economic initiative through the joint efforts of the State of Hawaii's Office of Hawaiian Affairs. This special effort is designed to provide financial assistance at the local level or for community-specific projects aimed at improving a community's governance capabilities and for social and economic development.

The SEDS approach is based on ANA's program goals and incorporates two fundamental principles:

1. The local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs aimed at achieving those goals. The local community is in the best position to apply its own cultural, political, and socio-economic values to its long-term strategies and programs.

2. Governance and social and economic development are interrelated. In order to move toward self-sufficiency, development in one area should be balanced with development in the others. Consequently, comprehensive development strategies should address all aspects of the governmental, economic, and social infrastructures needed to promote self-sufficient communities. ANA's SEDS policy uses the following definitions:

- *Governmental infrastructure* includes the constitutional, legal, and administrative development requisite for independent governance.
- *Economic infrastructure* includes the physical, commercial, industrial and/or agricultural components necessary for a functioning local economy which supports the life-style embraced by the Native American community.
- *Social infrastructure* includes those components through which health, economic well-being and culture are maintained within the community and that support governance and economic goals.

These definitions should be kept in mind as a local social and economic development strategy is developed as part of a grant application.

A community's movement toward self-sufficiency could be jeopardized if a careful balance between governmental, economic and social development is not maintained. For example, expansion of social services, without providing opportunities for employment and economic development, could lead to dependency on social services.

Conversely, inadequate support services and training could seriously impede productivity and local economic development. Additionally, the necessary infrastructures must be developed or expanded at the community level to support social and economic development and growth. In designing their social and economic development strategies, ANA encourages an applicant to use or leverage all available human, natural, financial, and physical resources.

In discussion their community-based, long-range goals. and the objectives for the proposed projects, ANA recommends that Native organizations include a description of what constitutes their specific community.

ANA encourages the development and maintenance of comprehensive strategic plans which are an integral part of attaining and supporting the balance necessary for successful activities that lead to self-sufficiency.

C. Proposed Projects To Be Funded

This section provides descriptions of activities which are consistent with the SEDS philosophy. Proposed activities should be tailored to reflect the governance, social and economic development, needs of the local community and should be consistent with supportive of the proposed project objectives. Examples of the types of projects that ANA may fund include, but are not limited to, projects that will:

Governance

- Increasing the ability of Hawaiian groups and organizations to plan, develop, and administer a comprehensive program to support community social and economic self-sufficiency (including strategic planning); and
- Increasing awareness of and exercising the legal rights to which Hawaiians are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, executive orders, administrative and court decisions, or as citizens of a particular state, territory, or of the United States.

Economic Development

- Development of a community economic infrastructure that will result in businesses, jobs, and an economic support structure.
- Establishment or expansion of businesses and jobs in areas such as tourism, specialty agriculture, light and/or heavy manufacturing, construction, housing and fisheries or aquaculture.
- Stabilizing and diversifying a Hawaiian community's economic base through business development ventures; and,
- Creation of microenterprises or private sector development.

Social Development

- Enhancing organizational capabilities to design or administer programs aimed at strengthening the social environment desired by the local community;
- Developing local models related to comprehensive planning and delivery of services;
- Developing programs or activities to preserve and enhance Hawaiian heritage and culture; and
- Establishing programs which involve extended families or Hawaiian

communities in activities that strengthen cultural identity and promote community development or self-esteem.

Other SEDS Relationships. ANA encourages projects designed to use the SEDS approach to help achieve current priorities of the Administration for Children and Families which are to:

- Address welfare reform such as moving families to work.
- Help ensure child support from both parents.
- Create access to afford child care for low income working families.
- Reach children earlier to promote full development, including links to Head Start, Early Head Start and Child Care.
- Help enroll children in quality Head Start and prepare them to be ready to learn.
- Provide safety, permanency and well-being for children and double the number of adoptions from the public child welfare system.

D. Eligible Applicants

Native Hawaiian applicants who submitted applications for the May 1,1998 SEDS closing previously announced in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386, have the opportunity to withdraw their application and submit the same proposal or a different proposal for this closing. Eligible Native Hawaiian entities who do not withdraw their application from the May 1, 1998 SEDS closing, will not be eligible to submit another application under this closing. To withdraw an application, notice must be provided to ANA no later than Midnight, June 15, 1998.

Notice to withdraw an application must be in writing and sent to: Jean Luka, Program Specialist, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop: HHH 348F, Washington, D.C. 20477. Telefax or e-mail will be accepted. The telefax number is (202) 690–7441 and the e-mail address is: jluka@acf.dhhs.gov All instructions to withdraw an application will be confirmed in writing.

Current Hawaiian ANA SEDS grantees whose project period ends on or before September 30, 1998 are eligible to apply for a grant award under this program.

The following organizations are eligible to apply under this competitive area:

- Non-profit private agencies serving Hawaiians (The populations served may be located on these islands or on the continental United States). The non-profit private agency must submit proof of its non-profit status in the application at the same time of submission. The non-profit agency can accomplish this by providing a copy of their agency's listing in the Internal Revenue Services (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the current valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

All agencies must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more or the following categories;

(1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

ANA will only accept one application which serves or impacts a Native Hawaiian community.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project; i.e. the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions; although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $300,000 in Federal funds must include a match of at least $75,000 (20% of the total $375,000 project cost).

As per 45 CFR 74.2, In-Kind contributions are defined as "the value of non-cash contributions provided by non-Federal third parties. Third party-in kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program."

In addition, it may include other Federal funding sources where legislation or regulations authorize using specific types of funds for match and provided the source relates to the ANA project.

F. Review Criteria

A proposed project should reflect the purposes of ANA's SEDS policy and program goals described in the Background section of this competitive area: include a social and economic development strategy which reflects the needs and specific circumstances of the local community; and address the specific developmental steps that the Hawaiian community is undertaking toward self-sufficiency.

The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. Points are awarded only to applicants which are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources. (15 points)

(a) The application describes the long-range goals and strategy, including:

- How specific social, governance and economic long-range community goals relate to the proposed project and strategy;
- How the community intends to achieve these goals;
- The relationship between the long-range goals and the applicant's comprehensive community social and economic development plan. (Inclusion of the community's entire development plan is not necessary); and
- A clearly delineated social and economic development strategy (SEDS).

The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project. The type of community you serve and nature of the proposal being made, will influence the type of documentation necessary. Examples of documentation include: community surveys; minutes of community meetings; questionnaires; and/or discussion position papers.

Applications from Native Hawaiian organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. Native Hawaiian organizations should define their membership and describe how the organization operates.

(b) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. These resources should be documented by letters or documents of commitment of resources, not merely letters of support.

- "Letters of support" merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters or do not

factually establish the authenticity of other resources.

• "Letters and other documents of commitment" are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds.

For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. (Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resource.)

(2) Organizational Capabilities and Qualifications. (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is demonstrated. The application clearly shows the successful management of projects of similar scope by the organization, and/or by the individuals designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Objective Work Plan and in the proposed budget. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes and/or proposed position descriptions demonstrate that the proposed staff are or will be qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Objectives, Approach and Activities. (45 points) The application proposes specific project Objective Work Plan(s) with activities related to each specific objective.

The Objective Work Plan(s) in the application includes project objectives and activities for each budget period proposed and demonstrates that each of the objectives and its activities:

• Is measurable and/or quantifiable in terms of results or outcomes;

• Supports the community's social and economic development strategy;

• Clearly relates to the community's long-range goals;

• Can be accomplished with the available or expected resources during the proposed project period;

• Indicates when the objective, and major activities under each objective, will be accomplished;

• Specifies who will conduct the activities under each objective; and

• Supports a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected. (20 points)

Completion of the proposed objectives will result in specific, measurable results. The application shows how the expected results will help the community meet its long-range goals. The specific information provided in the narrative and objective work plans on expected results or benefits for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(5) Budget. (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

• Justifies each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source;

• Included and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and

• Requests funds which are appropriate and necessary for the scope of the proposed project.

For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified time frame.

Part III—General Application Information and Guidance

A. Definitions

References in this program announcement are based on the following definitions:

• *A multi-purpose community-based Native American organzation* is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human serviced such as health care, day care, counseling, education, and training.

• *A multi-year project* is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

• *Budget Period* is the interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.

• *Core administration* is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project.

• *Real Property* means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

• *Construction* is the term which specifies a project supported rough a discretionary grant or a cooperative agreement, to support the initial building of a facility.

B. General Considerations

Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants musts show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

Costs of fund raising, including financial campaign, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be

treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds at the end of the project period. "Completed" means that the project ANA funded is finished, and the desired result(s) have been attained. "Self-sustaining" means that a project will continue without outside resources. "Supported by other than ANA funds" means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's.

C. Activities That Cannot Be Funded by ANA

The Administration for Native Americans does not fund:

- Projects that operate indefinitely or require ANA funding on a recurring basis.
- Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations which are otherwise eligible to apply to ANA ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.
- The support of on-going social service delivery programs or the expansion or continuation of existing social service delivery programs.
- ANA will not fund the purchase of real property.
- ANA will not fund construction.

Objectives or activities for the support of core administration of an organization. "Core administration" is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. However, functions and activities that are clearly project related are eligible for grant funding.

For example, the management and administrative functions necessary to carry out an ANA approved project are not considered "core administration" and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

Projects or activities that generally will not meet the purposes of this announcement are discussed further in Part III, Section H, General Guidance to Applicants, below.

D. Multi-Year Projects

A multi-year project is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. Applicants are encouraged to develop multi-year projects as defined in Section D of this Part. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within a two-to-three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government. Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

E. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372 or 45 CFR Part 100.

F. The Application Process

1. Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, SW., Mail Stop HHH 348F, Washington, D.C. 20447, Attention: 93612–983, Telephone: (202) 690–7776, fax (202) 690–7441.

Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web Page: www.acf.dhhs.gov/programs/ana/index.html

The printed **Federal Register** notice is the only program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of the Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

2. Application Submission

One signed original, and two copies, of the grant application, including all attachments, must be mailed on or before the specific closing date of each ANA competitive area to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW, Mail Stop 6C–462, Washington, DC 20447, Attention: Lois B. Hodge, ANA No. 93612–983.

Hand delivered applications are accepted between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, if they are either received on or before the deadline date or postmarked on or before the established closing date at: Administration for Children and Families, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024.

The application (Form 424) must be signed by an individual authorized (1) to act for the applicant tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Native Hawaiian applicants who submitted applications for the May 1, 1998 SEDS closing previously announced in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386, have the opportunity to withdraw their application and submit the same proposal or a different proposal for this closing. Eligible Native Hawaiian entities who do not withdraw their application from the May 1, 1998 SEDS closing, will not be eligible to submit another application under this closing. To withdraw an application, notice must be provided to ANA no later than Midnight, June 15, 1998.

Notice to withdraw an application must be in writing and sent to: Jean Luka, Program Specialist, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop: HHH 348F, Washington, D.C. 20447. Telefax or e-mail will be accepted. The

telefax number is (202) 690–7441 and the e-mail address is: jluka@acf.dhhs.gov.

All instructions to withdraw an application will be confirmed in writing.

Each eligible Native Hawaiian organization may compete for a grant award in each of ANA's competitive funding areas (eg. SEDS, Native Languages Preservation and Enhancement). However, no applicant may receive more than one grant in each area.

If an eligible applicant sends in two applications for the same competitive area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

3. Application Consideration

The ANA Commissioner determines the final action to be taken on each grant application received under this program announcement.

The following points should be taken into consideration by all applicants: Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA. An incomplete application is one that is: Missing Form SF 424; or Does not have a signature on Form SF 424; or Does not include proof of non-profit status, if applicable.

- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process (discussed in section G below). Independent review panels consisting of reviewers familiar with Native Hawaiian communities and organizations, evaluate each application using the published criteria in each funding competitive area. As a result of the review, normalized numerical score will be assigned to each application. A normalized score reflects the average score from the reviewers, adjusted to reflect the average score from the panels.
- The Commissioner's funding decision is based on the review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.
- Due to the participation and source of funding from OHA, funding will be from either funding source with limitations as applicable.
- ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.
- After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.
- Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

G. The Review Process

1. Initial Application Review

- Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine that:
- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and
- The application is signed and submitted by the deadline explained in section G, Application Due Date, in each competitive area of this announcement;
- The applicant has provided written correspondence that they have withdrawn from the May 1, 1998 SEDS closing previously announced in the **Federal Register**, Vol. 62, No. 186, September 25, 1997, pp. 50372–50386.
- The application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in-depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit). Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

3. Appeal of Ineligibility

Applicants who are initially excluded from competitive evaluation because of ineligibility, may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

H. General Guidance To Applicants

The following information is provided to assist applicants in developing a competitive application.

1. Program Guidance

- The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement.
- Projects will not be ranked on the basis of general financial need.
- In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.
- In the discussion of community-based, long-range goals, Native Hawaiian entities are encouraged to include a description of what constitutes their specific "community."
- Applicants must document the community's support for the proposed project and explain the role of the community in the planning process and implementation of the proposed project. The type of community you serve will determine the type of documentation necessary. Examples of documentation include: community surveys; minutes of community meetings; questionnaires; and/or discussion/position papers.
- Applications from Native Hawaiian organizations must demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project.
- An application should describe a clear relationship between the proposed project, the social and economic development strategy, or environmental or language goals, as appropriate, and

the community's long-range goals or plan.

• The project application, including the Objective Work Plans, must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact that the project will have on the community.

• Supporting documentation, including letters of support, if available, or other testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility of the project and the commitment of other resources to the proposed project.

• In the ANA Project Narrative, Section A of the application package, "Resources Available to the Proposed Project," the applicant should describe any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

Reviewers of applications for ANA indicate they are better able to evaluate whether the feasibility has been addressed and the practicality of a proposed economic development project, or a new business, if the applicant includes a business plan that clearly describes its feasibility and the approach for the implementation and marketing of the business. (ANA has included sample business plans in the application kit). It is strongly recommended that an applicant use these materials as guides in developing a proposal for an economic development project or business that is part of the application.

• Applications which were not funded under a previous closing date and revised for resubmission should make reference to the changes, or reasons for not making changes, in their current application which are based on ANA panel review comments.

2. Technical Guidance

• It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 60 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• If a project could be supported by other Federal funding sources, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.

• The Administration for Native Americans will accept only one application, per competitive area, from any one applicant. If an eligible applicant sends in two applications for the same competitive funding area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• An application from a Native Hawaiian organization must be from the governing body of the organization.

• The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR Part 74 and Part 92).

• Applicants proposing multi-year projects must fully describe each year's project objectives and activities.

• Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects must justify the entire time-frame of the project (i.e., why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

• The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. Equipment is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per "unit." During negotiation, such expenditures may be deleted from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project by ANA.

• Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of meeting application deadline.

3. Grant Administrative Guidance

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents be provided. Simple tabbing of the sections of the application is also helpful to the reviewers.

• An application with an original signature and two additional copies are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period. The approved project period is shown on block 9 of a Financial Assistance Award.

• Line 15a of the Form 424 must specify the Federal funds requested for the first Budget Period, not the entire project period.

• For one-year projects, an applicant may propose up to a 17 month project period. However, the project period for the first year of a multi-year project may only be 12 months.

4. Projects or Activities That Generally Will Not Meet the Purposes of This Announcement

• Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's long-range development plan. As an objective of a larger project, business plans are allowable. However, ANA is not

interested in funding "wish lists" of business possibilities. ANA expects written evidence of the solid investment of time and consideration on the part of the applicant with regard to the development of business plans. Business plans should be developed based on market analysis and feasibility studies regarding the potential success to the business prior to the submission of the application.

- Core administration functions, or other activities, which essentially support only the applicant's on-going administrative functions.
- Project goals which are not responsive to one or more of the funding competitive areas.
- Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.
- Project goals which are not responsive to one or more of the funding competitive areas.
- Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.
- ANA will not fund investment capital for purchase or takeover of an existing business, for purchase or acquisition of a franchise, or for purchase of stock or other similar investment instruments.
- Renovation or alteration unless it is essential for the project. Renovation or alteration costs may not exceed the lesser of $150,000 or 25 percent of the total direct costs approved for the entire budget period.
- Projects originated and designed by consultants who provide a major role for themselves in the proposed project and are not members of the applicant organization.

I. Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 29.5 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

The following information collections are included in the program announcement: ANA grant applications, OMB control number 0980–0204, expires August 31, 1999.

An agency may conduct or sponsor, and a person is not required to respond to, collection of information unless it displays a currently valid OMB control number.

J. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section F, The Application Process: Application Submission. The Administration for Native Americans cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ANA electronically will not be accepted regrdless of date or time of submission and time of receipt. Videotapes and cassette tapes may not be included as part of a grant application for panel review.

Applications and related materials postmarked after the closing date will be classified as late; and not considered in the current competition.

1. Deadlines

- Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, D.C. 20447.
- Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a, commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.
- Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date or postmarked on or before the deadline date, Monday through Friday (excluding Federal holidays), between the hours of 8:00 am and 4:30 pm at: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)
- ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.
- No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

2. Late Applications

Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. Extension of Deadlines

The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

(Catalog of Federal Domestic Assistance Program Numbers: 93:612 Native American Programs)

Dated: May 22, 1998.

Gary N. Kimple,

Commissioner, Administration for Native Americans.

[FR Doc. 98–14132 Filed 5–27–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0304]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements governing applications for FDA approval to market a new drug.

DATES: Submit written comments on the collection of information by July 27, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration,

12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Applications for FDA Approval to Market a New Drug—21 CFR Part 314—(OMB Control Number 0910–0001)—Reinstatement

Under section 505(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(a)), a new drug may not be commercially marketed in the United States, imported, or exported from the United States, unless an approval of an application filed with FDA under section 505(b) or (j) of the act is effective with respect to such drug. Section 505(b) and (j) of the act requires a sponsor to submit to FDA a new drug application (NDA) containing, among other things, full reports of investigations that show whether or not the drug is safe and effective for use, a full list of articles used as components in the drug, a full description of manufacturing methods, samples of the drugs required, specimens of the labeling proposed to be used, and certain patent information as applicable. Under the act, it is the sponsor's responsibility to provide the information needed by FDA to make a scientific and technical determination that the product is safe and effective.

This information collection approval request is for all information requirements imposed on sponsors by the regulations under part 314 (21 CFR part 314) , who apply for approval of a NDA in order to market or to continue to market a drug.

The following sections in part 314 set forth the specific format and content requirements for NDA's.

Section 314.50(a) requires that an application form (Form FDA 356h) must be submitted that includes basic introductory information about the drug as well as a checklist of enclosures. (Section 314.50(a) is already approved by OMB under 0910–0338 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.50(b) requires that an index must be submitted with the archival copy of the application and that it must reference certain sections of the application.

Section 314.50(c) requires that a summary of the application must be submitted that presents a good general synopsis of all the technical sections and other information in the application.

Section 314.50(d) requires that the NDA contain the following technical sections about the new drug: Chemistry, manufacturing, and controls; nonclinical pharmacology and toxicology; human pharmacokinetics and bioavailability; microbiology; clinical data; and statistical section.

Section 314.50(e) requires that the applicant must submit samples of the drug if requested by FDA. In addition, the archival copy of the application must include copies of the label and all labeling for the drug.

Section 314.50(f) requires that case report forms and tabulations must be submitted with the archival copy.

Section 314.50(h) requires that patent information as described under § 314.53 must be submitted with the application. (Section 314.50(h) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.50(i) requires that a patent certification information must be submitted in 505(b)(2) applications for patents claiming the drug, drug product, method of use, or method of manufacturing. (Section 314.50(i) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.50(j) requires that applicants that request a period of marketing exclusivity must submit certain information with the application. (Section 314.50(j) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.50(k) requires that an archival, review, and field copy of the application must be submitted.

Section 314.52 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders must be sent by 505(b)(2) applicants and must follow certain content and notification procedures. (Section 314.52 is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.54 sets forth the content requirements for applications filed under section 505(b)(2) of the act.

Section 314.60 sets forth reporting requirements for sponsors who amend an unapproved application.

Section 314.65 states that the sponsor must notify FDA when withdrawing an unapproved application.

Sections 314.70 and 314.71 require that supplements must be submitted to FDA for certain changes to an approved application.

Section 314.72 requires sponsors to report to FDA any transfer of ownership of an application.

Section 314.80(c)(1) and (c)(2) sets forth requirements for expedited adverse drug experience postmarketing reports and followup reports, as well as for periodic adverse drug experience postmarketing reports (Form FDA 3500A). (Section 314.80(c)(1) and (c)(2) is already approved by OMB under 0910–0230 and 0910–0291 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.80(c)(1)(iii) and (i) establishes recordkeeping requirements for reports of postmarketing adverse drug experiences. (Section 314.80(c)(1)(iii) and (i) is already approved by OMB under 0910–0230 and 0910–0291 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.81(b)(1) requires that field alert reports must be submitted to FDA (Form FDA 3331).

Section 314.81(b)(2) requires that annual reports must be submitted to FDA (Form FDA 2252).

Section 314.81(b)(3)(i) requires that drug advertisements and promotional labeling must be submitted to FDA (Form FDA 2253). (Section 314.81(b)(3)(i) is already approved by OMB in "Transmittal of Advertisements and Promotional Labeling for Drugs and Biologics for Human Use," which published in the **Federal Register** of October 24, 1997 (62 FR 55408), and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.81(b)(3)(iii) sets forth reporting requirements for sponsors who withdraw an approved drug product from sale. (Section 314.81(b)(3)(iii) is already approved by OMB under 0910–0045 and is not included in the hour burden estimates in Table 1 of this document).

Section 314.90 sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.50 through 314.81. (The information collection hour burden estimate for NDA waiver requests is included in Table 1 of this document under estimates for §§ 314.50, 314.60, 314.70, and 314.71.)

Section 314.93 sets forth requirements for submitting a suitability petition in accordance with 21 CFR 10.20 and 10.30. (Section 314.93 is already approved by OMB under 0910–0183 and is not included in the hour burden estimates in Table 1 of this document.)

The following sections in part 314 set forth requirements when submitting an abbreviated new drug application (ANDA).

Section 314.94(a) and (d) requires that an ANDA must contain the following and information: Application form; table of contents; basis for ANDA submission; conditions of use; active ingredients; route of administration, dosage form, and strength; bioequivalence; labeling; chemistry, manufacturing, and controls; samples; and patent certification.

Section 314.95 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders must be sent by ANDA applicants. (Section 314.95 is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.96 sets forth requirements for amendments to an unapproved application.

Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval.

Section 314.98(a) sets forth postmarketing adverse drug experience reporting and recordkeeping requirements. (Section 314.98(a) is already approved by OMB under 0910–0230 and 0910–0291 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.98(c) requires other postmarketing reports: Field alert reports (Form FDA 3331), annual reports (Form FDA 2252), and advertisements and promotional labeling (Form FDA 2253). (The information collection hour burden estimate for field alert reports is included in Table 1 of this document under § 314.81(b)(1); the estimate for advertisements and promotional labeling is included under § 314.81(b)(3)(i).)

Section 314.99(a) requires that sponsors must comply with certain reporting requirements for withdrawing an unapproved ANDA and for a change in ownership of an ANDA.

Section 314.99(b) sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.92 through 314.99. (The information collection hour burden estimate for ANDA waiver requests is included in Table 1 of this document under estimates for §§ 314.94(a) and (d), 314.96, and 314.97.)

Section 314.101(a) requires that, if FDA refuses to file an application, the applicant may request an informal conference with FDA and request that the application be filed over protest.

Section 314.107(c)(4) requires notice to FDA by ANDA or 505(b)(2) application holders of any legal action concerning patent infringement. (Section 314.107(c)(4) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.107(e)(2)(iv) requires that an applicant must submit a copy of the entry of the order or judgement to FDA within 10 working days of a final judgement. (Section 314.107(e)(2)(iv) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.107(f) requires that an ANDA or 505(b)(2) applicants must notify FDA of the filing of any legal action filed within 45 days of receipt of the notice of certification. A patent owner may also notify FDA of the filing of any legal action for patent infringement. The patent owner or approved application holder who is an exclusive patent licensee must submit to FDA a waiver that waives the opportunity to file a legal action for patent infringement. (Section 314.107(f) is already approved by OMB under 0910–0305 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.110(a)(3) and (a)(4) requires after receipt of an FDA approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (Section 314.110(a)(3) and (a)(4) is included under the parts 10 through 16 (21 CFR part 10 through 16) hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.110(a)(5) requires that, after receipt of an approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.110(b) requires after receipt of an approvable letter, an ANDA applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (Section 314.110(b) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.120(a)(3) requires that, after receipt of a not approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (Section 314.120(a)(3) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.120(a)(5) requires that, after receipt of a not approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.122(a) states that an ANDA or a suitability petition that relies on a listed drug that has been voluntarily withdrawn from sale must be accompanied by a petition seeking a determination whether the drug was withdrawn for safety or effectiveness reasons. (Section 314.122(a) is already approved by OMB under 0910–0183 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.122(d) sets forth requirements for relisting petitions for unlisted discontinued products. (Section 314.122(d) is already approved by OMB under 0910–0183 and is not included in the hour burden estimates in Table 1 of this document).

Section 314.126(c) sets forth requirements for a petition to waive criteria for adequate and well-controlled studies. (Section 314.126(c) is already approved by OMB under 0910–0183 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.151(a) and (b) sets forth requirements for the withdrawal of and approval of an ANDA and the applicant's opportunity for a hearing and submission of comments. (Section 314.151(a) and (b) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and it is not included in the hour burden estimates in Table 1 of this document.)

Section 314.151(c) sets forth the requirements for withdrawal of approval of an ANDA and the applicant's opportunity to submit written objections and participate in a limited oral hearing. (Section 314.151(c) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.152(b) sets forth the requirements for suspension of an ANDA when the listed drug is voluntarily withdrawn for safety and effectiveness reasons, and the applicant's opportunity to present comments and participate in a limited oral hearing. (Section 314.152(b) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.161(b) and (e) sets forth the requirements for submitting and petition to determine whether a listed drug was voluntarily withdrawn from sale for safety or effectiveness reasons. (Section 314.161(b) and (e) is already approved by OMB under 0910–0183 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.200(c), (d), and (e) requires that applicants or others subject to a notice of opportunity for a hearing who wish to participate in a hearing must file a written notice of participation and request for a hearing as well as the studies, data, and so forth, relied on. Other interested persons may also submit comments on the notice. This section also sets forth the content and format requirements for the applicants' submission in response to notice of opportunity for hearing. (Section 314.200(c), (d), and (e) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.200(f) requires that participants in a hearing may make a motion to the presiding officer for the inclusion of certain issues in the hearing. (Section 314.200(f) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.200(g) requires that a person may respond to a proposed order from FDA denying a request for a hearing by providing sufficient data, information, and analysis to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing. (Section 314.200(g) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.420 states that an applicant may submit to FDA a drug master file in support of an application, in accordance with certain content and format requirements.

Section 314.430 states that data and information in an application are disclosable under certain conditions, unless the applicant shows that extraordinary circumstances exist. (Section 314.430 is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.530(c) and (e) requires that, if FDA withdraws approval of a drug approved under the accelerated approval procedures, the applicant has the opportunity to request a hearing and submit data and information. (Section 314.530(c) and (e) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.530(f) requires that an applicant must first submit a petition for stay of action before requesting an order from a court for a stay of action pending review. (Section 314.530(f) is already approved by OMB under 0910–0194 and is not included in the hour burden estimates in Table 1 of this document.)

Section 314.550 requires that applicants must submit all promotional materials to FDA for consideration during the preapproval review period. (Section 314.550 is already approved by OMB in "Transmittal of Advertisements and Promotional Labeling for Drugs and Biologics for Human Use," which published in the **Federal Register** (62 FR 55408), and is not included in the hour burden estimates in Table 1 of this document.)

Based on information provided by the pharmaceutical industry for the number of "hours per response," and based on submissions collected and data tabulated by FDA for the "number of respondents," the "number of responses per respondent," and the number of "total annual responses," FDA estimates the burden of this collection of information as follows:

TABLE 1.—Estimated Annual Reporting Burden[1]

21 CFR Section/Form	No. of Respondents	No. of Responses per Respondents	Total Annual Responses	Hours per Response	Total Hours
314.50(b), (c), (d), (e), (f), and (k)	83	1.49	124	1,600	198,400
314.54	4	1.25	5	300	1,500
314.60	144	16.89	2,432	80	194,560
314.65	18	1.28	23	2	46
314.70 and 314.71	418	5.33	2,229	300	668,700
314.72	59	2.17	128	2	256
314.81(b)(1) (FDA 3331)	140	5	700	48	33,600
314.81(b)(2) (FDA 2252)	269	9.06	2,438	40	97,520
314.94(a) and (d)	117	3.96	464	480	222,720
314.96	315	12.43	3,915	80	313,200
314.97	152	19.74	3,000	80	240,000

TABLE 1.—Estimated Annual Reporting Burden[1]—Continued

21 CFR Section/Form	No. of Respondents	No. of Responses per Respondents	Total Annual Responses	Hours per Response	Total Hours
314.98(c) (FDA 2252)	265	17.17	4,551	40	182,040
314.99(a)	46	13.04	600	2	1,200
314.110(a)(5)	55	1.13	62	8	496
314.120(a)(5)	26	1.12	29	8	232
314.420	450	1.11	500.	8	4,000
Total Burden Hours					2,158,470

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–14050 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0273]

Texas Vitamin Co., RSR Laboratories Inc.; Proposal to Withdraw Approval of New Animal Drug Applications; Opportunity for Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for hearing on a proposal to withdraw approval of new animal drug application (NADA) 117–688 held by Texas Vitamin Co. and NADA 140–850 held by RSR Laboratories Inc., because the applicants have failed to submit required periodic reports. FDA has been unable to locate the firms and to contact them at their previous business addresses.

DATES: Requests for hearing with data, analysis, and information relied upon to justify a request for hearing are due by June 29, 1998.

ADDRESSES: Requests for hearing filed in response to this notice should be identified with Docket No. 98N–0273 and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Glenn A. Peterson, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0224; or

Mukund R. Parkhie, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6642.

SUPPLEMENTARY INFORMATION: An applicant is required to report periodically to the Center for Veterinary Medicine (CVM) concerning each applicant's approved NADA as provided in § 510.300 (21 CFR 510.300). Texas Vitamin Co., P.O. Box 18417, 10695 Aledo St., Dallas, TX 57218 (last known address), is sponsor of NADA 117–688. RSR Laboratories Inc., 501 Fifth St., Bristol, TN 37620 (last known address), is sponsor of NADA 140–850. The sponsors have not submitted the required periodic reports for their NADA's and have not responded to CVM requests for submission of those reports. Letters to the firms have been returned indicating the firms are no longer at the above-listed addresses.

Therefore, notice is given to Texas Vitamin Co. and RSR Laboratories Inc., and to all other interested persons who may be adversely affected, that the Director, CVM, proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)) withdrawing approval of NADA's 117–688 and 140–850 and all amendments and supplements thereto on the ground that the applicants have failed to submit the reports required under § 510.300. Upon withdrawal of the NADA's, the applicable parts of the regulations in 21 CFR 510.600(c)(1) and (c)(2) and 520.580(b)(1) will be revoked.

In accordance with the provisions of section 512 of the act and regulations issued under it (parts 510 and 514 (21 CFR parts 510 and 514)), and under authority delegated to the Director, CVM (§ 5.84 (21 CFR 5.84)), CVM hereby provides the applicants an opportunity for hearing to show why approval of the NADA's and all amendments and supplements thereto should not be withdrawn (and the corresponding regulations revoked) and an opportunity to raise, for administrative determination, all issues relating to the legal status of the application and drug products approved thereunder. Any hearing would be subject to the provisions of 21 CFR part 12.

An applicant who decides to seek a hearing shall file on or before June 29, 1998, a written notice of appearance, request for hearing, and data, information, and analyses relied on to justify a hearing as specified in § 514.200.

Procedures and requirements governing this notice of opportunity for hearing, notice of appearance and request for hearing, submission of information and analysis to justify a hearing, other comments, and a grant or denial of a hearing, are contained in § 514.200.

The failure of an applicant to file a timely, written notice of appearance and request for hearing as required by § 514.200 constitutes an election by the applicant not to make use of the opportunity for hearing concerning the proposed action and constitutes a waiver of any contentions about the legal status of the product. In such case, the Director, CVM, under the authority delegated to him in § 5.84(a)(2), will, without further notice, enter a final order withdrawing approval of the application. Thereafter, the product may not be legally marketed, and FDA may begin appropriate regulatory action to remove it from the market. Any new animal drug product that is not the subject of an approved application is subject to regulatory action at any time.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects as required by § 510.300. If the reports submitted are not complete or there is no genuine and substantial issue of fact that precludes the withdrawal of approval, or the request for hearing is not made in the required format or with the required analysis, the Commissioner of Food and Drugs will enter summary judgment against the person who

requests the hearing, making findings and conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued.

All submissions under this notice shall be filed in two copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512(e) (21 U.S.C. 360b(e))) and under authority delegated to the Director, Center For Veterinary Medicine (21 CFR 5.84).

Dated: May 20, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–14103 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Pulmonary-Allergy Drugs and Endocrinologic and Metabolic Drugs Advisory Committees; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Joint meeting of the Pulmonary-Allergy Drugs and the Endocrinologic and Metabolic Drugs Advisory Committees.

General Function of the Committees: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on July 30, 1998, 8 a.m. to 5 p.m., and on July 31, 1998, 8 a.m. to 3:45 p.m.

Location: Bethesda Marriott Hotel, Grand Ballroom, 5151 Pooks Hill Rd., Bethesda, MD.

Contact Person: Leander B. Madoo or Kathleen R. Reedy, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), codes 12545 and 12536. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 30, 1998, the committees will: (1) Discuss the impact of orally inhaled and intranasal corticosteroids on growth in children, (2) hear from invited experts regarding the process of normal growth and development in children and how various factors including corticosteroids may impact on it, and (3) review examples from industry of completed "growth studies" testing the various inhaled and intranasal corticosteroid drug products. On July 31, 1998, the agency will: (1) Present the proposed "class labeling" for inhaled and intranasal corticosteroid drug products, (2) review the data which support it, and (3) lead a general scientific discussion among all meeting participants to reach a consensus concerning appropriate labeling for these products and recommendations for the design and conduct of future clinical trials which assess growth.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 23, 1998. Oral presentations from the public will be scheduled between approximately 3 p.m. and 4:30 p.m., on July 30, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 23, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 20, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–14106 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Healthy Start Initiative—Phase II Limited Competition for the Mississippi Delta

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds for a limited competition for the ten counties of Mississippi known as the Mississippi Delta.

SUMMARY: The HRSA announces the availability funds in fiscal year 1998 for a single cooperative agreement for the replication of the Healthy Start Initiative (HSI) Phase II within the ten counties of Mississippi known as the Mississippi Delta. The Healthy Start Initiative is a program of projects which, since FY 1991, has developed and implemented community-based strategies to reduce infant mortality in areas with a high incidence of infant mortality. The purpose of Healthy Start-Phase II is to operationalize successful infant mortality reduction strategies developed during the demonstration phase and to launch Healthy Start projects in new rural and urban communities (i.e., communities currently without a Healthy Start Initiative-funded project). Within the HRSA, the Healthy Start Initiative is administered by the Maternal and Child Health Bureau (MCHB). This cooperative agreement for Healthy Start-Phase II in the Mississippi Delta will be made under the program authority of Section 301 of the Public Health Service Act. Funds for this award were appropriated under Public Law 104–208.

To continue Healthy Start efforts to meet critical maternal and child health needs in the Mississippi Delta, public and nonprofit private organizations serving the following counties in the Mississippi Delta—Humphries, Holmes, Leflore, Bolivar, Quitman, Sunflower, Tallahatchie, Washington, Cohoma, and Tunica—are encouraged to apply. Applicants must provide services to all ten counties. Only one applicant organization will be funded.

The project period is three years, subject to continuing availability of funds.

ADDRESSES: Interested parties may contact the HRSA Grants Application Center for an application package. Requests should specify the Healthy Start Initiative—Phase II limited competition within the Mississippi Delta (CFDA #93.926b). The Center may

be contacted by: telephone: 1–888–300-HRSA, FAX: 301–309–0579, or e-mail: HRSA.GAC@x.netcom.com. Completed applications should be returned to: Grants Management Officer (CFDA #93.926b), HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850.

DATES: The application deadline date is Thursday, July 1, 1998.

Dated: May 21, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–14091 Filed 5–27–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.
Date: May 27, 1998.
Time: 2:00 p.m.
Place: Telephone Conference, Executive Plaza South, Room 350.
Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.
Purpose/Agenda: Review of Grant Applications.

Name of SEP: Clinical Research.
Date: May 29, 1998.
Time: 8:30 a.m.
Place: National Eye Institute, Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164.
Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.
Purpose/Agenda: Review of Grant Applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: May 21, 1998.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14137 Filed 5–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel Program Project.
Date: June 22, 1998.
Time: 8:00 am to 7:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: AFTAB A. ANSARI, PHD, NIAMS, 45 CENTER DRIVE, 5AS 25U.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 20, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14135 Filed 5–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Purpose/Agenda: To review and evaluate a contract proposal.
Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.
Date of Meeting: May 21, 1998 (Telephone Conference).
Time: 10:00 a.m.
Place of Meeting: Willco Building, Suite 400, 6000 Executive Boulevard, Rockville, MD.
Contact Person: Sean O'Rourke, 6000 Executive Boulevard, Suite 409, Rockville, MD 20892–7003, 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance, Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: May 20, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–14136 Filed 5–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Noncompetitive Antagonists of Dopamine Reuptake Inhibitors To Treat Drug Addiction

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: PCT Application Serial No. PCT/US97/19758, entitled, "Sustained Release Derivatives of Hydroxylated Analogs of Substituted 1-(2-(Bis(aryl)methoxy)ethyl)-piperazines and -homopiperazines and Their Use as

Noncompetitive Antagonists of Dopamine Reuptake Inhibitors", based on U.S. Provisional Patent Application Serial No. 60/030,248, filed October 31, 1996, to Trillium Neuroscience Inc., having a place of business in Washington, DC. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 27, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852–3804; Telephone: (301) 496–7735, ext. 223; Facsimile: (301) 402–0200.

SUPPLEMENTARY INFORMATION: In an effort to develop an efficacious treatment for cocaine addiction, this invention describes sustained-release derivatives of hydroxylated analogs of substituted 1-(2-[bis(aryl)methoxy]ethyl)-piperazines and -homopiperazines. These compounds bind to the dopamine transporter but do not inhibit dopamine reuptake, thereby providing a sustained increase in the level of extracellular dopamine and providing the drug abuser with some relief from drug craving due to dopamine deficiency, yet they simultaneously inhibit cocaine from further elevating the level of extracellular dopamine and increasing the probability of additional toxic side effects. The invention provides the sustained-release derivatives, pharmaceutical compositions comprising the same, and a method of using such sustained released derivatives as a treatment for cocaine addiction.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the use of the invention for the development of pharmaceutical compounds to treat drug addiction.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 18, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–14139 Filed 5–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences National Toxicology Program; Request for Comments on Chemicals Nominated to the National Toxicology Program (NTP) for Toxicology Studies—Recommendations by the Interagency Committee for Chemical Evaluation and Coordination (ICCEC) for Study, No Studies, or Deferral to Obtain Additional Information

Background

As part of an effort to earlier inform the public and obtain input into the selection of chemicals for evaluation, the National Toxicology Program (NTP) routinely seeks public input on (1) chemicals nominated to the Program for toxicological studies, and (2) the testing recommendations made by the ICCEC, the Federal interagency committee that serves as the first level of review for nominations. Summaries of the ICCEC's recommendations and public comments received on the nominated chemicals are next presented to the NTP Board of Scientific Counselors (the Program's external scientific advisory committee) for their review and comment in an open, public session. The ICCEC recommendation, Board recommendations, and public comments are incorporated into the recommendations that are then submitted to the NTP Executive Committee, the Federal interagency policy oversight body. The Executive Committee reviews and approves action to move forward to test, defer, or delete on each of the nominated chemicals for the various types of study, and recommends priorities.

Request for Comment

Interested parties are encouraged to comment on the recommendations and provide information on the chemicals listed below. The Program would welcome receiving toxicology and carcinogenesis information from completed or ongoing studies, and information on planned studies, as well as current production data, human exposure information, use patterns, and environmental occurrence for any of the chemicals listed in this announcement. To provide comments or information, please contact Dr. William Eastin at the address given below within 60 days of the appearance of this announcement.

At their meeting on April 23, 1998, the ICCEC reviewed 18 agents nominated to the NTP for consideration to study and recommended 11 chemicals for absorption, toxicity, or carcinogenicity studies, recommended that no studies be performed on 4 chemicals, and deferred 3 substances pending receipt of test data from other organizations or from related studies in progress by the NTP, and information on production, exposure, and use patterns. Chemicals with CAS numbers, nomination source types of studies under consideration, and other information are given in the following tables.

Contact may be made by mail to: Dr. William Eastin, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709; by telephone at (919) 541–7941; by FAX at (919) 541–3687; or by email at Eastin@NIEHS.GOV.

Dated: May 18, 1998.

Samuel H. Wilson,

Deputy Director, National Toxicology Program.

Attachment

CHEMICALS NOMINATED TO THE NTP FOR STUDY, AND TESTING RECOMMENDATIONS MADE BY THE ICCEC ON APRIL 23, 1998

Chemical [CAS No.]	Nominated by	Recommended for	Study rationale; other information
Chemicals Recommended for Testing			
Bixin (Annatto) [6973–79–5 (1393–63–1)].	NCI	—Genetic toxicity —Subchronic toxicity	—Widespread human exposure. —Natural product.
Diethyl amine [109–89–7]	NIEHS	—Subchronic toxicity —Ocular toxicity —Carcinogenicity	—High production. —Also present in foods. —Widespread human exposure.
Dihydroxyacetone [96–26–4].	NCI	—Skin absorption	—Widely used as component of tanning compounds. —Natural product of metabolism.
Fenchone, α-, l-, d-, [1195–79–5 (α-); 7787–20–4 (l-); 4695–62–9 (d-)].	NCI	—Genetic toxicity —Defer prechronic studies pending completion and evaluation of NTP camphor study	—Natural product. —Used as flavoring. —Widespread human exposure. —Production, usage, and exposure data requested.
Isopropylamine [75–31–0]	NIEHS	—Subchronic toxicity —Ocular toxicity —Carcinogenicity (through TSCA–ITC)	—High production. —Also present in foods. —Widespread human exposure.
Pulegone [89–82–7] Menthofuran (494–90–6].	NIEHS	—Toxicologic characterization —Carcinogenicity study with pulegone	—Natural product. —Used as flavoring. —Widespread human exposure. —Menthofuran is a metabolite of pulegone.
α-Solanine [20562–02–1	(1)	—Carcinogenicity	—Natural product. —Widespread human exposure. —Known human toxicant.
α-Thujone (546–80–5]	NCI	—Genetic toxicity —Neurotoxicity —Subchronic toxicity —Multigeneration reproductive toxicity	—Natural product. —Component of food flavoring additives. —Banned as direct food additive by FDA.
Triethylamine [121–44–8]	UAW	—Subchronic toxicity —Ocular toxicity —Carcinogenicity (through TSCA–ITC)	—High production. —Known worker exposure.
Trigonelline [535–83–1] ...	(1)	—Toxicologic characterization —Metabolic differences between humans and rodents	—Plant hormone. —Widespread human exposure through diet.

[1] Private Individual.

Chemical [CAS No.]	Nominated by	Recommended for	Rationale; other information
Chemicals For Which No Testing Is Recommended			
β-Caryophyllene [87–44–5].	NCI	—Subchronic toxicity; metabolism; cell transformation; consider for carcinogenicity.	—Insufficient use to warrant testing.
α-Cubebene [17699–14–8].	NCI	—metabolism	—Insufficient use to warrant testing.
Orthanilic acid [88–21–1].	NIEHS	—Carcinogenicity	—Low production; little, if any, exposure to the population.
2-Phenethyl alcohol (60–12–8].	(1)	—Carcinogenicity	—No suspicion for carcinogenicity based on structure and genetic toxicity tests.
Chemicals Deferred for Additional Information			
α-Chaconine [20562–03–2].	(1)	—Carcinogenicity	—Defer testing pending results of α-solanine studies.
St John's Wort Hypericin [548–04–9].	NCI	—Carnogenicity (St. John's Wort); genetic toxicity and carcinogenicity (hypericin). —Defer pending NTP evaluation of carcinogenicity testing being performed by industry.	—Herbal remedy in widespread use. —NCI clinical trial in progress. —Industry has completed subchronic toxicity studies and is completing a rodent carcinogenicity study using St. John's Wort.

[1] Private Individual.

[FR Doc. 98–14138 Filed 5–27–98; 8:45 am]
BILLING CODE 4149–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1998 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 1998 funds for grants for the following activity. This activity is discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available	Estimated No. of awards	Project period
Faculty Development Program	7/28/98	$1.0M	10	3 yrs.

Note: SAMHSA also published notices of available funding opportunities for FY 1998 in the **Federal Register** on January 6, 1998, January 20, 1998, February 26, 1998, March 20, 1998, April 8, 1998, April 16, 1998, April 20, 1998, and on April 22, 1998.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1998 funds for activities discussed in this announcement were appropriated by the Congress under Public Law No. 105–78. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for each activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of each of the activities (i.e., the GFA) described in Section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Unless otherwise stated in the GFA, applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710*

(*Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Application Deadlines: The deadlines for receipt of applications are listed in the table above. Please note that the deadlines may differ for the individual activities.

Competing applications must be received by the indicated receipt date(s) to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified in the GFA will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for each activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for each activity covered by this notice (see Section 4).

SUPPLEMENTARY INFORMATION: To facilitate the use of this Notice of Funding Availability, information has been organized as outlined in the Table of Contents below. For each activity, the following information is provided:

- Application Deadline
- Purpose.
- Priorities.
- Eligible Applicants.
- Grants/Cooperative Agreements/ Amounts.
- Catalog of Federal Domestic Assistance Number.
- Contacts.
- Application Kits.

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1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1998 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a "menu" of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1998 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activities in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's "Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals," peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1998 SAMHSA Activities

4.1 Grants

4.1.1 Faculty Development Program—Faculty Developing People, Programs, Products and Policies for Integrated Service Delivery, GFA No. SP 98–006)

- Application Deadline: July 28, 1998
- Purpose: The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of funds for grants to support the application of the Faculty Development Program (FDP) model to Schools of Public Health and Residency Training Programs in Preventive Medicine without a substance abuse prevention program. Such programs will work in association with institutions that educate health and social service professionals (Schools of Medicine, Osteopathy, Nursing, Dentistry, Social Work, and university-affiliated Departments of Psychology) that have existing substance abuse prevention programs.

The overall purpose of the FDP is twofold: (1) The education of students at Schools of Public Health and in Residency Training Programs in Preventive Medicine to foster an understanding of the importance of substance abuse prevention services that will be reflected in policy making and program planning; and (2) The transfer of expertise between institutions through a mentor relationship. Expected results from the application of the FDP model include: the development of expertise in substance abuse prevention by faculty of professional programs at funded institutions; the institutionalization of substance abuse prevention programs in the curriculum or curricula at funded institutions; the creation of linkages between the community and funded institutions promoting the application of science-based substance abuse prevention strategies within the community; and the diffusion of expertise of professionals trained by the program to others in their professional discipline.

• *Priorities:* None

• *Eligible Applicants:* Eligibility is limited to Schools of Medicine, Osteopathy, Nursing, Dentistry, Social Work, and university-affiliated Departments of Psychology with an existing substance abuse prevention program *or* to Schools of Public Health or Residency Training Programs in Preventive Medicine without an existing substance abuse prevention program.

Applications from Schools of Medicine, Osteopathy, Nursing, Dentistry, Social Work, and university-affiliated Departments of Psychology must identify the School of Public Health or Residency Training Program in Preventive Medicine they will mentor in order to develop a substance abuse prevention program.

Applications from Schools of Public Health or Residency Training Programs in Preventive Medicine must identify the School of Medicine, Osteopathy, Nursing, Dentistry, Social Work or university-affiliated Department of Psychology which has an existing substance abuse prevention program and with whom they have established a mentoring relationship in order to assist them in establishing a substance abuse prevention program.

Eligibility is being limited to these particular entities because this program is limited to three years and the need for appropriately trained health care practitioners and the integration of state-of-the-art substance abuse prevention, screening, assessment, and referral strategies as standards of care is critical to reducing health care costs and improving health status. By capitalizing on the experience of the mentor agencies with existing substance abuse prevention programs, these partnerships will be able to complete their program within the allotted three years. Absent this pre-existing and continuing experience, completion within this time frame would not be possible.

• *Grants/Amounts:* It is estimated that up to $1,000,000 will be available to support approximately ten new grant awards of approximately $100,000 each (total costs—direct + indirect) under this GFA in FY 1998.

• *Catalog of Federal Domestic Assistance Number:* 93.274

• For programmatic or technical information regarding this grant program (not for application kits) contact: Lucille C. Perez, M.D., Associate Director, Medical and Clinical Affairs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II Building, Room 9D–10, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–5266.

For grants management assistance, contact: Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II Building, Room 621, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–9666.

• For application kits, contact: National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, MD 20847–2345, 800/729–6686, 301/468–2600 (local calls).

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 1998 activity described above is/is not subject to the Public Health System Reporting Requirements.

6. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

7. Executive Order 12372

Applications submitted in response to the FY 1998 activity listed above are not subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100.

Dated: May 20, 1998.

Patricia S. Bradford,

Acting Executive Officer, SAMHSA.

[FR Doc. 98–14011 Filed 5–27–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4352–N–02]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing. HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* July 27, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper

performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgage Credit Analysis for Loan Guarantee Program and Transmittal for Payment of Loan Guarantee Fee

OMB Control Number: 2577–0200

Description of the need for the information and proposed use: The information is required by Section 184 of the Housing and Community Development Act of 1994, as amended by Section 701 of the Native American Housing Assistance and Self-Determination Act of 1996 and implementing regulations at 24 CFR Section 1005. HUD has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- and 4-family homes to be owned by Native Americans on restricted Indian lands. Mortgage lenders (mortgagees) approved by HUD provide borrower and lender information to HUD for guarantee of the loan. If the information were not provided on Forms HUD–53036 and HUD–53038, HUD would be unable to guarantee lenders and as a result unable to provide financing to Native Americans.

Agency for numbers: HUD–53036 and HUD–53038

Members of affected public: Businesses or Other For-Profit

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 1,000 respondents (500 × 2 forms), on occasion, 10 minutes to prepare HUD–53036, 8 minutes to prepare HUD–53038, 92 hours total reporting burden.

Status of the proposed information collection: Reinstatement, without change. Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 18, 1998.

Deborah Vincent,

General Deputy, Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Mortgage Credit Analysis Worksheet

Native American Loan Guarantee Program

See the Public Reporting Burden and Privacy Act statements on back

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No.2577-0200 (exp. 9/30/97)

Section 184 Case Number

Type of Construction: (check one) ☐ Existing Construction ☐ Proposed Construction

1a. Borrower's name	2a. Social Security Number	3a. Age	4. Dependents a. Numbers	b. Ages	5. Marital Status
1b. Co-Borrower's name	2b. Social Security Number	3b. Age:			a. ☐ Married b. ☐ Separated c. ☐ Unmarried

6a. Mortgage without LG Fee	6b. Total LG Fee (1% of maximum mortgage)	6c. Mortgage with LG Fee	7. a. Total Closing Costs b. Less Paid by Seller c. Borrower's Closing Costs

8. Current housing expenses	9. Term of loan (years)	10. Interest rate (%)	11. First-time Homebuyer? ☐ Yes ☐ No	12. Adj. buy-down interest rate %	13. Appraised Value

14. Settlement Requirements / Mortgage Calculation	
a. Contract Sales Price or Construction Cost	
b. Repairs & Improvements	
c. Borrower-paid Closing Costs (from line 7c)	
d. Sales Concessions (subtract)	
e. Acquisition Cost (sum of lines 14a + b + c minus 14d)	
f. Multiply Acquisition Cost (line 14e) by	
0 9775 if greater than $50,000	
0 9875 if $50,000 or less	
g. Mortgage (without LG Fee)(lowest of 14f, 18b, or 18e)	
h. Required investment (line 14e minus line 14g)	
i. Discounts	
j. Prepayable expenses	
k. LG Fee paid in cash	
l. Non-Realty and other items (see 14d)	
m. Total requirements (sum of lines 14h - 14l)	
n. Amount paid in ☐ cash ☐ other (explain)	
o. Amount to be paid in ☐ cash ☐ other	
p. Assets available	
q. 2nd mortgage proceeds (if applicable)	
15. Monthly Effective Income	
a. Borrower's base pay	
b. Borrower's other earnings (explain)	
c. Co-borrower's base pay	
d. Co-borrower's other earnings (explain)	
e. Net income from real estate	
f. Gross monthly income	

Remarks: (attach additional paper if needed)

16. Debts & Obligations	Monthly Payment	Unpaid Balance
a. Total installment debt		
b. Child support, etc.		
c. Other		
d. Total monthly payments		
17. Future Monthly Payments		
a. Principal & Interest – 1st mortgage		
b. Homeowners Association Fee		
c. Ground rent		
d. Principal & Interest – 2nd mortgage		
e. Hazard Insurance		
f. Taxes & special assessments		
g. Total mortgage payment		
h. Recurring expenses (from line 16d)		
i. Total fixed payment		
18. Ratios / Residual Income		
a. Loan-to-value (line 14g ÷ item 13)		. %
b. Value		
(item 13) x 0.9775 if greater than $50,000		
(item 13) x 0.9875 if $50,000 or less		
c. Total fixed payment-to-income (line 17i ÷ line 15f)		. %
d. Residual Income (15f x 0.80 - 17g - 16d)		
e. 150% of FHA Mortgage Limit		
19. Borrower Rating (enter "A" for acceptable or "R" for reject)		
a. Credit characteristics		
b. Adequacy of effective income		
c. Stability of effective income		
d. Adequacy of available assets		
20. Contract Sales Price of Property (line 14a)		
a. 6% of line 20		
b. Total Seller Contribution		
c. Excess Contribution		

21. Borrower's CAIVR number	Co-borrower's CAIVR number

22. Total Amount of Gifts
$

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

21. Final application decision	22. Underwriter's signature & date:	23. HUD Representative's signature & date:
☐ Approve ☐ Reject	X	X

DRAFT

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 184 of the Housing and Community Development Act of 1992, as amended by Section 701 of the Native American Housing Assistance and Self-Determination Act of 1996 and implementing regulations at 24 CFR Section 1005. HUD has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- to 4-family homes to be owned by Native Americans on restricted Indian lands. Mortgage lenders (mortgagees) provide borrower and lender information to HUD for the guarantee of the loan. Responses to the collection of information are required to obtain a benefit. The information requested is considered sensitive and is protected by the Privacy Act.

Sensitive Information: The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

Line 14d (Subtract Sales Concessions): Refers to seller-paid prepaid items, personal property items, seller concessions exceeding 6% from Attachment A, etc. This does not include seller-paid closing costs from line 7b. This amount should also appear on line 14l to correctly determine total cash requirements.

DRAFT

Transmittal for Loan Guarantee Fee (LGF)

Native American Loan Guarantee Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0200 (exp. 9/30/97)

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 184 of the Housing and Community Development Act of 1992, as amended by Section 701 of the Native American Housing Assistance and Self-Determination Act of 1996 and implementing regulations at 24 CFR Section 1005. HUD has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- to 4-family homes to be owned by Native Americans on restricted Indian lands. Mortgage lenders (mortgagees) provide borrower and lender information to HUD for the guarantee of the loan. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

This transmittal shall be prepared by the remitting mortgagee to accompany all LGF payments sent to HUD. Incomplete and/or inaccurate data may delay endorsement of the 184 case involved.

Mail all transmittals to: HUD c/o Processing Center, PO Box 198353, Atlanta, GA 30384-8353.

Part 1 Lender Information

1a. Reason for Payment:
☐ Initial Fee on a new loan ☐ Additional Fee on an underpayment ☐ Late Charge/ Interest

1b. Lender's Name: (print)

1c. Lender Number: (10 digits)

1d. Name of Person to be contacted regarding this payment:

1e. Phone Number: (include area code & extension)

Instructions: Part 1 Lender Information

1a. Check the appropriate box(es) to indicate the purpose of the transmittal.

1b. Enter the name of the remitting Lender.

1c. Enter the remitting Lender's ID number. The LGF statement of account confirming receipt of the funds will be sent to the related address in HUD's records.

Part 2 Mortgage Data

2a. 184 Case Number: (10 digits, 3 +7)

2b. Closing Date: (mm/dd/yy)

2c. Term in Months:
(1) ☐ 1 to 215 months
(2) ☐ 216 to 264 months
(3) ☐ 265 to 300 months
(4) ☐ over 300 months

LG Fee Financed?
☐ Yes
☐ No

2d. Mortgage Amount:
$

2e. Percentage of the LGF Financed:
%

2f. Borrower's Loan Number or Last name

Instructions: Part 2 LGF Mortgage Data

2a. Enter the 184 Case Number assigned by HUD.

2b. Enter the closing date of the mortgage.

2c. Check the box indicating the number of payments in the mortgage.

2d. Enter the mortgage amount.

2e. Enter the percent of LGF financed, e.g. 0% or 100%

2f. Enter the borrower's loan number or the borrower's last name. HUD will include this information on the LGF statement of account to assist mortgagees in matching statements to the appropriate mortgage file.

DRAFT

Part 3 Loan Guarantee Fee Data

3a. Fee Amount for Mortgage:
$

3b. Late Charge Due: (4% of 3a)
$

3c. Interest Due:
$

3d. Total Amount of Check: (3a plus 3b plus 3c)
$

Instructions: Part 3 LGF Data

3a. Enter the LGF due HUD as shown on form HUD-1, Settlement Statement, or if applicable, the additional LGF being remitted.

3b. A 4% late charge shall be paid if the LGF is not expected to reach HUD within 15 days of the closing date entered in item 2b. Enter 4% of the Net LGF shown in item 3a.

3c. In addition to the late charge, daily interest shall be paid on the Net LGF (item 3a) from the closing date if the LGF payment is not expected to reach HUD within 30 days of the closing date. Use the current value of Federal funds rate (published annually in the Federal Register) to compute the interest due.

3d. Enter the total of items 3a plus 3b plus 3c. This amount must equal the amount of the check. An individual check is required for each form HUD-53038. **Do not combine remittances.**

form HUD-53038 (05/13/1998 draft)

[FR Doc. 98–14044 Filed 5–27–98; 8:45 am]
BILLING CODE 4210–33–MC

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–21]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 29, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 20, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Annual Adjustment Factor (AAF) Rent Increase Requirement Pursuant to the Housing Appropriation Act of 1994.

Office: Housing.

OMB Approval Number: 2502–0507.

Description of the Need for the Information and Its Proposed Use: Owners must submit form HUD–92273, Estimates of Market Rent by Comparison, in order to receive a rent increase when rent levels for a specific unit type, in a Substantial Rehab or New Construction contract, exceeds the existing Fair Market Rent (FMRs) for the specific unit type. This form must be completed by a non-identity of interest State certified appraiser and must contain at least three examples of unassisted housing in the same market area for similar age, type and quality which indicate rent levels of similar unassisted housing area for similar age, type, and quality which indicate rent levels of similar unassisted housing are above the published FMRs.

Form Number: HUD–92273.

Respondents: Businesses or other for-profit.

Frequency of Submission:

Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per Response	=	Burden hours
HUD–92273	10,000		1		.553		5,527

Total Estimated Burden Hours: 5,527.

Status: Reinstatement without changes.

Contact: Ulyses Brinkley, HUD, (202) 708–4162; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 20, 1998.

[FR Doc. 98–14046 Filed 5–27–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4369–N–04]

Announcement of OMB Approval Number for the HOME Investment Partnerships Program Final Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB Approval Number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the HOME Investment Partnership Program.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2470. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the HOME Investment Partnerships Program. The OMB approval number for this information collection is 2506–0162, which expires on January 31, 2000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: May 20, 1998.

Fred Karnas,

Deputy Assistant, Secretary for Economic Development.

[FR Doc. 98–14045 Filed 5–27–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988) and 41 CFR 101–6.1015(b). The Department of the Interior hereby gives notice of a public meeting of the Alaska Land Managers Forum to be held from 9:00 a.m. to noon on Wednesday, June 3, 1998. The videoconference meeting will take place in Room 528 of the Frontier Building, 3601 C Street, Anchorage, Alaska; and in the Governor's Conference Room, 3rd floor, State Capitol Building, Juneau, Alaska. This meeting will be held to receive and discuss work group reports on recreation and tourism. The agenda will also include several briefing items.

FOR FURTHER INFORMATION CONTACT: Ronald B. McCoy at (907) 271–5485 or Sally Rue at (907) 465–4084.

Deborah L. Williams,

Special Assistant to the Secretary for Alaska.

[FR Doc. 98–14266 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–RP–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Agency Information Collection Activities; Announcement of the Office of Management and Budget (OMB) Approval Number

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (FWS) announces that a collection of information entitled "Evaluation of visitor responses to recreation fee demonstration program" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Refuge Program Specialist, Division of Refuges, 703/358–2397; or Phadrea Ponds, Wildlife Biologist, U.S. Geological Survey, Fort Collins, CO, 970/226–9445.

SUPPLEMENTARY INFORMATION: The **Federal Register** of March 9, 1998 (63 FR 11449), the Service announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). The notice also listed the title of the proposal, and description of the need for the information and proposed use. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 1018–0098. The OMB approval expires on April 30, 1999.

Dated: May 22, 1998.

Carolyn A. Bohan,

Acting Assistant Director for Refuge and Wildlife.

[FR Doc. 98–14111 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–08–1220–00; GP8–0197]

Notice of Meeting of the Oregon Trail Interpretive Center Advisory Board

AGENCY: National Historic Oregon Trail Interpretive Center, Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given that a meeting of the Advisory Board for the National Historic Oregon Trail Interpretive Center will be held on Thursday, June 11, 1998 from 8:00 a.m. to 4:00 p.m. at the National Historic Oregon Trail Interpretive Center, Oregon Highway 86, Flagstaff Hill, Baker City, Oregon 97814. At an appropriate time, the Board will recess for approximately one hour for lunch. Public comments will be received from 2:00 p.m. to 2:30 p.m., on June 11, 1998. Topics to be discussed are how to measure successes of the Pilot Fee Demonstration Program and the facility, the developing of an Action Plan, and reports from Coordinators of Subcommittees.

DATES: The meeting will begin at 8:00 a.m. and run to 4:00 p.m. June 11, 1998.

FOR FURTHER INFORMATION CONTACT: David B. Hunsaker, Bureau of Land Management, National Historic Oregon Trail Interpretive Center, P.O. Box 987, Baker City, OR 97814, (Telephone 541–523–1845).

Edwin J. Singleton,

District Manager.

[FR Doc. 98–14128 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; WYW 136096]

Public Land Order No. 7337; Withdrawal of Public Lands for the Protection of Thelesperma pubescens Plant Habitat; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 590 acres of reserved Federal mineral interest from mining, and 3,646.51 acres of public lands from surface entry and mining for a period of 50 years to protect *Thelesperma pubescens* (Uinta greenthread) plant habitat. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the reserved Federal mineral interest in the following described lands is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect *Thelesperma pubescens* plant habitat:

Sixth Principal Meridian

T. 13 N., R. 111 W.,
  Sec. 9, NW¼NE¼;
  Sec. 19, N½NW¼NE¼.
T. 13 N., R. 112 W.,
  Sec. 23, E½SW¼, W½SE¼, and NE¼SE½.
T. 14 N., R. 113 W.,
  Sec. 35, W½SW¼.
T. 13 N., R. 114 W.,
  Sec. 13, SE¼SW¼SW¼;
  Sec. 23, SE¼NE¼ and NE¼SE¼;
  Sec. 24, W½NW¼ and NW¼SW¼;
  Sec. 28, SE¼SE¼.

The areas described aggregate 590 acres in Sweetwater and Uinta Counties.

2. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect *Thelesperma pubescens* plant habitat:

Sixth Principal Meridian

T. 13 N., R. 111 W.,
Sec. 5, lot 8 and NW¼SW¼NW¼;
Sec. 6, SE¼NE¼, S½NE¼SW¼, SE¼SW¼, and N½SE¼;
Sec. 7, N½NE¼NW¼;
Sec. 17, SW¼SW¼;
Sec. 18, S½S½SE¼;
Sec. 19, lot 6 and E½NW¼.
T. 14 N., R. 111 W.,
Sec. 19, E½SE¼;
Sec. 30, SE¼NW¼ and NE¼SW¼;
Sec. 32, S½NE¼SW¼, E½SW¼SW¼, and SE¼SW¼;
Sec. 33, S½NE¼ and N½SE½.
T. 13 N., R. 112 W.,
Sec. 2, SW¼NW¼ and NW¼SW¼;
Sec. 3, E½SE¼;
Sec. 10, E½NE¼ and SE¼;
Sec. 15, NW¼NE¼, E½NW¼, N½SW¼, and SW¼SW¼;
Sec. 16, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 17, SE¼SW¼ and SW¼SE¼;
Sec. 20, N½, SW¼, and W½SE¼;
Sec. 21, NW¼;
Sec. 22, W½NW¼, NW¼SW¼, and SE¼;
Sec. 23, W½SW¼.
T. 13 N., R. 113 W.,
Sec. 3, lots 6, 7, W½SW¼NE¼, E½SE¼NW¼, E½E½SW¼, and W½W½SE¼;
T. 14 N., R. 113 W.,
Sec. 34, SE¼NE¼ and W½SE¼.
T. 13 N., R. 114 W.,
Sec. 13, SW¼NE¼, E½SW¼, and W½SE¼;
Sec. 23, SE¼SE¼;
Sec. 24, E½W½ and SW¼SW¼;
Sec. 33, E½NE¼.

The areas described aggregate 3,646.51 acres in Sweetwater and Uinta Counties.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: May 20, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14013 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1430–01; NMNM99206]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action; R&PP Act Classification.

SUMMARY: The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to Gadsden Independent School District (GISD), New Mexico under the provision of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*). GISD proposes to use the land for a wastewater leach field to serve their elementary and middle schools.

T. 26 S., R. 5 E., NMPM
Sec. 14, part of the SW¼NW¼SW¼.
Containing 6 acres, more or less.

DATES: Comments regarding the proposed lease/conveyance or classification must be submitted on or before July 13, 1998.

ADDRESSES: Comments should be sent to the BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525–4349.

SUPPLEMENTARY INFORMATION: Lease or conveyance will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. On or before July 13, 1998, interested persons may submit comments regarding the proposed lease/conveyance or classification of the land to the District Manager, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a wastewater leach field. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a wastewater leach field.

Dated: May 21, 1998.

Linda S. C. Rundall,

Las Cruces Field Office Manager.

[FR Doc. 98–14084 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–965–0777–66; WY–142430]

Proposed Lease of Public Lands Under the Recreation and Public Purposes Act in Washakie County, Wyoming, Bighorn Basin Resource Area

ACTION: Noticeof Realty Action; correction.

SUMMARY: The Bureau of Land management, Worland District, published a notice in the **Federal Register** of April 27, 1998, regarding the proposed lease of public lands under the provisions of the Recreation and Public Purposes Act, as amended. The notice contained in incorrect U.S.C. citation and an incorrect legal description.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Worland District Office, Steven R. Till, Realty Specialist, P.O. Box 119, Worland,

Wyoming 82401–0119, or telephone (307) 347–5100.

Correction

In the **Federal Register** issue of April 27, 1998 in FR Doc. 98–11067, on page 20643, in the third column, correct the SUMMARY caption to read:

SUMMARY: The following public lands near the community of Worland, Washakie County, Wyoming, have been examined and found suitable for classification for lease under the provisions of the Recreation and Public Purposes Act, as amended (43 United States Code 869 *et seq.*). The Washakie County Fair Board proposes to use the lands for an Olympic-style cross-country horse track and associated jumping facilities.

Sixth Principal Meridian

T. 48 N., R. 93 W.
Section 8, S½SE¼SE¼NE¼, NE¼SE¼
Section 9, E½W½SW¼NW¼, E¼SW¼NW¼, NW¼SW¼, SW¼SW¼SW¼NW¼, W½NW¼NW¼SE¼, E½NE¼NE¼SW¼.

Containing 127.5 acres more or less.

Dated: May 13, 1998.

David Atkins,

Bighorn Basin Assistant Area Manager.

[FR Doc. 98–14033 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–22–P–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Gulf of Mexico Region, Proposed Western Gulf Sales 171, 174, 177, and 180

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Availability of the Final Multisale Environmental Impact Statement (EIS) on Proposed Western Gulf of Mexico (GOM) Sales 117, 174, 177, and 180.

The Minerals Management Service (MMS) has prepared a final multisale EIS on four proposed Outer Continental Shelf (OCS) oil and gas lease sales in the Western GOM. We will conduct a planning process for one sale each year from 1998 through 2001. Although this EIS addresses four proposed lease sales, it is a decision document only for proposed Sale 171. We will consult with other Federal agencies and the affected States for each of the yearly proposed sales. We will perform a National Environmental Policy Act review, and give the public an opportunity to participate in each sale.

You may obtain single copies of the final multisale EIS from the Minerals Management Service, Gulf of Mexico OCS Region, *Attention:* Public Information Office (MS–5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or by calling 1–800–200–GULF.

You may look at copies of the draft EIS in the following libraries:

Texas

Abilene Christian University, Margaret and Herman Brown Library, 1600 Campus Court, Abilene;
Alma M. Carpenter Public Library, 330 South Ann, Sourlake;
Aransas Pass Public Library, 110 North Lamont Street, Aransas Pass;
Austin Public Library, 402 West Ninth Street, Austin;
Bay City Public Library, 1900 Fifth Street, Bay City;
Baylor University, 13125 Third Street, Waco;
Brazoria County Library, 410 Brazoport Boulevard, Freeport;
Calhoun County Library, 301 South Ann, Port Lavaca;
Chambers County Library System, 202 Cummings Street, Anahuac;
Comfort Public Library, Seventh and High Streets, Comfort;
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi;
Dallas Public Library, 1513 Young Street, Dallas;
East Texas State University Library, 2600 Neal Street, Commerce;
Houston Public Library, 500 McKinney Street, Houston;
Jackson County Library, 411 North Wells Street, Edna;
Lamar University, Gary Library, Virginia Avenue, Beaumont;
LaRatama Library, 505 Mesquite Street, Corpus Christi;
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty;
Orange Public Library, 220 North Fifth Street, Orange;
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur;
Port Isabel Public Library, 213 Yturria Street, Port Isabel;
R.J. Kleberg Public Library, Fourth and Henrietta, Kingsville;
Reber Memorial Library, 193 North Fourth, Raymondville;
Refugio County Public Library, 815 South Commerce Street, Refugio;
Rice University, Fondren Library, 6100 South Main Street, Houston;
Rockwall County Library, 105 South First Street, Rockwall;
Rosenberg Library, 2310 Sealy Street, Galveston;
Sam Houston Regional Library and Research Center, FM 1011 Governors Road, Liberty;
Stephen F. Austin State University, Steen Library, Wilson Drive, Nacogdoches;
Texas A & M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi;
Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station;
Texas Southmost College Library, 1825 May Street, Brownsville;
Texas State Library, 1200 Brazos Street, Austin;
Texas Tech University Library, 18th and Boston Avenue, Lubbock;
University of Houston Library, 4800 Calhoun Boulevard, Houston;
University of Texas at Arlington, Library, 701 South Cooper Street, Arlington;
University of Texas at Austin, Library, 21st and Speedway Streets, Austin;
University of Texas at Brownsville, Oliveria Memorial Library, 80 Fort Brown, Brownsville;
University of Texas at Dallas, McDermott Library, 2601 North Floyd Road, Richardson;
University of Texas at El Paso, Library, Wiggins Road and University Avenue, El Paso;
University of Texas at San Antonio, Library, 6900 North Loop 1604 West, San Antonio;
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin;
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin;
Victoria Public Library, 320 North Main, Victoria;

Louisiana

Calcasieu Parish Library, 327 Broad Street, Lake Charles;
Cameron Parish Library, Marshall Street, Cameron;
Grand Isle Branch Library, Highway 1, Grand Isle;
Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans;
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine;
Jefferson Parish Regional Branch Library, 4747 West Napoleon Avenue, Metairie;
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey;
Lafayette Public Library, 301 W. Congress Street, Lafayette;
Lafitte Branch Library, Route 1, Box 2, Lafitte;
Lafourche Parish Library, 303 West 5th Street, Thibodaux;
Louisiana State University Library, 760 Riverside Road, Baton Rouge;

Louisiana Tech University, Prescott Memorial Library, Everett Street, Ruston;
LUMCON, Library, Star Route 541, Chauvin;
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles;
New Orleans Public Library, 219 Loyola Avenue, New Orleans;
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux;
Plaquemines Parish Library, 203 Highway 11, South, Buras;
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette;
St. Charles Parish Library, 105 Lakewood Drive, Luling;
St. John The Baptist Parish Library, 1334 West Airline Highway, LaPlace;
St. Mary Parish Library, 206 Iberia Street, Franklin;
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington;
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell;
Terrebonne Parish Library, 424 Roussell Street, Houma;
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans;
University of New Orleans Library, Lakeshore Drive, New Orleans;
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette;
Vermilion Parish Library, Abbeville Branch, 200 North Street, Abbeville;

Mississippi

Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs;
Hancock County Library System, 312 Highway 90, Bay St. Louis;
Harrison County Library, 14th and 21st Avenues, Gulfport;
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula;

Alabama

Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island;
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores;
Mobile Public Library, 701 Government Street, Mobile;
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores;
University of South Alabama, University Boulevard, Mobile;
Montgomery Public Library, 445 South Lawrence Street, Montgomery;

Dated: May 12, 1998.

Thomas A. Readinger,

For Associate Director for Offshore Minerals Management.

[FR Doc. 98–14090 Filed 5–27–98; 8:45 am]
BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Rio Arriba County and Taos County, NM in the Control of the Carson National Forest, United States Forest Service, Taos, NM

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the control of the Carson National Forest, United States Forest Service, Taos, NM.

A detailed assessment of the human remains was made by Museum of New Mexico, Maxwell Museum (University of New Mexico), and U.S. Forest Service professional staff in consultation with representatives of the Navajo Nation, the Pueblo of Taos, and the Pueblo of Picuris.

In 1934, human remains representing one individual were recovered from site LA 1684 during legally authorized excavations conducted by C.O. Erwin and M.W. Kelly of the Laboratory of Anthropology (Museum of New Mexico). No known individuals were identified. No associated funerary objects are present.

Based on material culture, architecture, and site organization, site LA 1684 has been identified as a Navajo pueblito occupied during the first half of the 18th century.

Based on the above mentioned information, officials of the United States Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the United States Forest Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Navajo Nation.

In 1965, human remains representing one individual were recovered from site LA 9203 during legally authorized excavations conducted by the University of New Mexico Archaeological Field School. No known individual was identified. No funerary objects are present.

Based on material culture and site organization, site LA 9203 has been identified as an Anasazi pithouse occupied between 1100-1225 A.D.

In 1967, human remains representing three individuals were recovered from sites LA 9204, LA 9205, and LA 9206 during legally authorized excavations conducted by the University of New Mexico Archaeological Field School. No known individuals were identified. The one associated funerary object is a piece of animal bone with the individual at site LA 9204.

Based on material culture, architecture, and site organization, sites LA 9204, LA 9205, and LA 9206 have been identified as three Anasazi roomblocks occupied between 1100-1225 A.D.

In 1968, human remains representing nine individuals were recovered from site LA 66407 near Los Rancho de Taos during legally authorized excavations conducted by U.S. Forest Service personnel. No known individuals were identified. The five associated funerary objects include pottery sherds.

Based on material culture, architecture, and site organization, site LA 66407 has been identified as an Anasazi pithouse occupied between 1150-1350 AD.

Based on the above mentioned information, officials of the United States Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 13 individuals of Native American ancestry. Officials of the United States Forest Service have also determined that, pursuant to 43 CFR 10.2 (d)(2), the six objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the United States Forest Service have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Pueblo of Taos and the Pueblo of Picuris.

This notice has been sent to officials of the Navajo Nation, the Pueblo of Taos, and the Pueblo of Picuris. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Frank E. Wozniak, NAGPRA

Coordinator, Southwestern Region, USDA Forest Service, 517 Gold Ave., SW, Albuquerque, NM 87102; telephone: (505) 842-3238, fax (505) 842-3800, before June 29, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: May 20, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–14047 Filed 5–27–98; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–794–796 (Preliminary)]

Certain Emulsion Styrene-Butadiene Rubber From Brazil, Korea, and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, Korea, and Mexico of certain emulsion styrene-butadiene rubber,[2] provided for in subheading 4002.19.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On April 1, 1998, a petition was filed with the Commission and the Department of Commerce by Ameripol Synpol Corp. of Akron, OH, and DSM Copolymer of Baton Rouge, LA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain emulsion styrene-butadiene rubber from Brazil, Korea, and Mexico. Accordingly, effective April 1, the Commission instituted antidumping investigations Nos. 731–TA–794–796 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 9, 1998 (63 FR 17443). The conference was held in Washington, DC, on April 22, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 18, 1998. The views of the Commission are contained in USITC Publication 3108 (May 1998), entitled "Certain Emulsion Styrene-Butadiene Rubber from Brazil, Korea, and Mexico: Investigations Nos. 731–TA–794–796 (Preliminary)."

Issued: May 20, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–14145 Filed 5–27–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–375 and 731–TA–787 (Preliminary)]

Extruded Rubber Thread From Indonesia

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Indonesia of extruded rubber thread, provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Indonesia and to be sold in the United States at less than fair value (LTFV).[2]

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phases of its investigations. The Commission will issue final phase notices of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] For purposes of these investigations, emulsion styrene-butadiene rubber (ESBR) consists of a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil-extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to these investigations consists of grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." Products manufactured by blending ESBR with other polymers, high styrene resin masterbatch, carbon black masterbatch (i.e., IISRP 1600 series and 1800 series), and latex (an intermediate product) are not included within the scope of these investigations.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Carol T. Crawford found in the negative with respect to food grade extruded rubber thread.

appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phases of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On March 31, 1998, petitions were filed with the Commission and the Department of Commerce by North American Rubber Thread Co., Fall River, MA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of extruded rubber thread from Indonesia. Accordingly, effective March 31, 1998, the Commission instituted countervailing duty investigation No. 701–TA–375 (Preliminary) and antidumping duty investigation No. 731–TA–787 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 9, 1998 (63 FR 17444). The conference was held in Washington, DC, on April 20, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigation to the Secretary of Commerce on May 15, 1998. The views of the Commission are contained in USITC Publication 3106 (May 1998), entitled "Extruded Rubber Thread from Indonesia: Investigations Nos. 701–TA–375 (Preliminary) and 731–TA–787 (Preliminary)."

Issued: May 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–14141 Filed 5–27–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–376–379 (Preliminary) and 731–TA–788–793 (Preliminary)]

Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Belgium, Italy, Korea, and South Africa of certain stainless steel plate in coils, provided for in subheadings 7219.11.00, 7219.12.00, 7219.31.00, and 7220.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the respective Governments of Belgium, Italy, Korea, and South Africa. The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of such imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan that are alleged to be sold in the United States at less than fair value.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in these investigations under section 703(b) and section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under section 705(a) and section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On March 31, 1998, a petition was filed with the Commission and the Department of Commerce by Armco, Inc., Pittsburgh, PA; J&L Specialty Steel, Inc. (J&L), Pittsburgh, PA; Lukens Inc., Coatesville, PA; North American Stainless (NAS), Ghent, KY; and the United Steelworkers of America, AFL–CIO/CLC, alleging that an industry in the United States is materially injured by reason of subsidized or LTFV imports of certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan. Accordingly, effective March 31, 1998, the Commission instituted antidumping investigations Nos. 701–TA–376–379 (Preliminary) and investigations Nos. 731–TA–788–793 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 9, 1998 (63 FR 17445). The conference was held in Washington, DC, on April 21, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 15, 1998. The views of the Commission are contained in USITC Publication 3107 (May 1998), entitled "Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan: Investigations Nos. 701–TA–376–379 (Preliminary) and Investigations Nos. 731–TA–788–793 (Preliminary)."

Issued: May 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–14142 Filed 5–27–98; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Local Arts Agencies/Presenting Section (Creation & Presentation Category) to the National Council on the Arts will be held on June 16–17, 1998. The panel will meet from 9:00 a.m. to 7:30 p.m. on June 16 and from 8:30 a.m. to 6:00 p.m. on June 17, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. A portion of this meeting, from 1:00 p.m. to 3:30 p.m. on June 17, will be open to the public for a policy discussion of guidelines, planning, field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9:00 a.m. to 7:30 p.m. on June 16, and from 8:30 a.m. to 1:00 p.m. and 3:45 p.m. to 6:00 p.m. on June 17, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 21, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–14125 Filed 5–27–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comments Request; Title of Collection: Cross Projects Evaluation of the Local Systemic Change Through Teacher Enhancement Program

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

SEND COMMENTS TO: Gail A. McHenry, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 245, Arlington, Virginia 22230 or send email to gmchenry@nsf.gov. Written comments should be received within 60 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Mrs. McHenry on (703) 306–1125 x2010 or send email to gmchenry@nsf.gov. You may also obtain a copy of the data collection instrument and instructions from Mrs. McHenry.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including the use of automated collection techniques or other forms of information technology.

Renewal Project: The current National Science Foundation Local Systemic Change Teacher and Principal Questionnaires have been in use for three years. This program provides funds for the initiation of systemic efforts that will result in K–12 teachers making significant progress toward national goals for the teaching of science, mathematics, and technology.

Use of Information: Information obtained will provide the Foundation with a common set of evaluation data from all projects in order to evaluate individual projects, aggregate data and information across projects; and produce cross-project analyses.

Burden on the Public: There are currently 55 projects. A sample of 300 science or mathematics teachers per project will complete the Teacher Questionnaire (approximately 20 minutes) and an average of 60 principals per project will complete the Principal Questionnaire (approximately 20 minutes). Each project will conduct one-half hour interviews with each of 10 teachers.

Dated: May 21, 1998.

Gail A. McHenry,

Reports Clearance Officer.

[FR Doc. 98–14041 Filed 5–27–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and time: June 18–20, 1998, 8:30 A.M. until 5:00 P.M.

Place: Room 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact person: Dr. Ann Boyle, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1875.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Mathematical Sciences Research Institutes Program, as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 22, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–14148 Filed 5–27–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs (1130).

Date and Time: June 16, 17, and 18, 1998–8:30 a.m.-5:00 p.m. each day.

Place: Rm. 320, NSF, 4201 Wilson Boulevard, Arlington, Va.

Type of Meeting: Open

Contact Person: Mr. Dwight D. Fisher, Deputy Head, Polar Research Support Section, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1032.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including program evaluation and GPRA assessments, of the Polar Research Support Section, Office of Polar Programs.

Agenda: To assess the results of NSF program investments in the Polar Research Support Section. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized in providing support to research in Antarctica during the preceding three fiscal years. These results may be based on NSF contracts, interagency agreements, or other investments made in earlier years.

Dated: May 22, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–14147 Filed 5–27–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 63, No. 91/Tuesday, May 12, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, May 19, 1998.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required amending the agenda to delete the following item:

6283A: Safety Recommendation Letter regarding AlliedSignal TPE–331 engine flameouts in icing conditions.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: May 26, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–14277 Filed 5–26–98; 2:40 pm]

BILLING CODE 7533–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider administration matters and issues relating to the price regulation.

DATES: The meeting is scheduled for Wednesday, June 3, 1998 commencing at 10:00 AM to adjournment.

ADDRESSES: The meeting will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, New Hampshire (exit 14 off Interstate 93).

FOR FURTHER INFORMATION CONTACT: Kenneth Becker, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Commission will consider matters relating to administration and issues relating to the price regulation, including the reports and recommendations of the Commission's standing committees.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

Kenneth Becker,

Executive Director.

[FR Doc. 98–14079 Filed 5–27–98; 8:45 am]

BILLING CODE 1606–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 70—Domestic Licensing of Special Nuclear Material.

3. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally, renewal applications are submitted every ten years and for major fuel cycle facilities updates of the safety demonstration section are submitted every two years. Nuclear material control and accounting information is submitted in accordance with specified instructions. Nuclear criticality safety training program information pursuant to DG–3008 is submitted with the application or renewal.

4. Who will be required or asked to report: Applicants for and holders of specific NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

5. The number of annual responses: 1,123.

6. The number of hours needed annually to complete the requirement or request: 77,835 (an average of approximately 64.9 hours per response for applications and reports, plus approximately 23.6 hours per recordkeeper).

7. An indication of whether Section 3507(d), Public Law 104–13 applies: Not applicable.

8. Abstract: 10 CFR Part 70 establishes requirements for licenses to own, acquire, receive, possess, use, and transfer special nuclear material. Draft

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Regulatory Guide DG–3008 provides guidance on an acceptable nuclear criticality safety training program. The information in the applications, reports and records is used by NRC to make licensing and other regulatory determinations concerning the use of special nuclear material. The revised estimate of burden reflects the addition of requirements for documentation for termination or transfer of licensed activities.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by June 29, 1998. Erik Godwin, Office of Information and Regulatory Affairs (3150–0009), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of May 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–14101 Filed 5–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43, issued to Detroit Edison Company (the licensee), for operation of the Fermi 2 Plant located in Newport, Michigan.

The proposed amendment would modify the scram discharge volume (SDV) vent and drain valve action requirements to be consistent with those contained in NUREG–1433, Revision 1, "Standard Technical Specifications General Electric Plants, BWR/4." Technical Specification (TS) Limiting Condition for Operation 3.1.3.1, Action d., currently specifies that "With one scram discharge volume vent valve and/or one scram discharge volume drain valve inoperable and open, restore the inoperable valve(s) to OPERABLE status within 24 hours or be in at least HOT SHUTDOWN within the next 12 hours." TS 3.1.3.1, Action e., currently specifies that "With any scram discharge volume vent valve(s) and/or any scram discharge volume drain valve(s) otherwise inoperable, restore the inoperable valve(s) to OPERABLE status within 8 hours or be in at least HOT SHUTDOWN within the next 12 hours." The licensee proposes to revise TS 3.1.3.1, Action d. making it applicable to valves inoperable for any reason, and to increase the time allowed for restoring a SDV vent or drain line with one valve inoperable from the current 24 hours to 7 days. This proposed change would also allow separate entry into the action for each affected drain and vent line. TS 3.1.3.1, Action e. would be revised to allow continued operation with both valves in one or more SDV vent or drain lines inoperable, provided the lines are isolated within 8 hours, and each valve is restored to operable status within 7 days of its respective inoperability. A footnote would be added to TS 3.1.3.1, Action e. that would allow the SDV line to be unisolated under administrative control for the purpose of venting and draining the SDV. As with the proposed change to Action d., the proposed change to Action e., would allow separate entry into the action for each SDV vent or drain line.

Detroit Edison is requesting that this license amendment request be processed in an exigent manner in accordance with 10 CFR 50.91(a)(6) because delay in granting this amendment could lead to a plant shutdown. The plant is currently operating at 96% power with the SDV vent and drain valves open for normal operation. One of the SDV isolation valves, although currently operable in accordance with TS, has recently shown signs of stoke time performance degradation. The licensee has observed an increase in the stoke time over several weeks for C1100F0010, one of the SDV vent valves, during testing of the valve in accordance with Surveillance Requirement 4.1.3.1.4.a.1 and the Inservice Testing Program. Increased frequency testing (approximately every 7 days) has been initiated in order to establish a trend in the rate of degradation. However, the licensee has indicated that no clear trend can be established. Fermi 2 management has determined that it is prudent to repair the actuator for the valve before degradation causes the valve to exceed its testing performance criteria limits. In order to perform this repair, the vent line will be isolated, which will place the plant in the TS 3.1.3.1, Action e., 8 hour allowed outage time. The licensee believes that the actuator repair cannot be accomplished within the 8-hour limit.

The licensee was unable to make a more timely application because it only recently concluded that the valve might fail testing at any time and that rework in the near future would be prudent. The licensee evaluated the time required to rework the valve and estimated that the work would take 11 hours unless unforeseen problems are encountered. Because the time required for the work exceeds the time allowed by the action statement, the licensee decided to request an amendment to change the action statement using the improved standard technical specifications as a guide. The licensee submitted the amendment request within a few days of the time it decided to make the request.

The staff has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The change does not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The proposed change will:

(a) allow operation with one valve in each SDV vent or drain line to be inoperable for any reason for a period of 7 days. The SDV vent and drain valves are not considered to be an initiator for any previously analyzed accident. Therefore, this change does not involve a significant increase in the probability of any accident previously evaluated. Redundant OPERABLE isolation valves are installed in the vent and drain lines so that isolation capability is maintained for the short period the inoperable valve may not be capable of performing its function. The ability of the SDV vent and drain valves to limit the amount of water discharged during scram so that adequate core cooling and offsite doses remain within 10 CFR 100 limits is maintained. Therefore, this change does not involve a significant increase in the consequences of an accident previously evaluated.

(b) allow continued operation with one or more SDV vent or drain lines with both valves inoperable provided the line(s) are isolated within 8 hours, and each valve is restored to OPERABLE status within 7 days of its respective inoperability. It also allows the line(s) to be unisolated under administrative controls to vent or drain the affected SDV. The SDV vent and drain valves are not considered to be an initiator for any previously analyzed accident and, therefore, these changes do not involve a significant increase in the probability of any previously evaluated accident. With the vent or drain lines isolated, the accident containment isolation function is maintained. The administrative control provision allows the lines to be unisolated to preclude an unnecessary reactor trip on high SDV level and to ensure sufficient volume is available to accept the reactor coolant discharged during a scram. The administrative controls also provide for prompt action to isolate the line(s), if necessary, should a scram occur while the valve is open. Because the intended function is maintained, these changes do not involve a significant increase in the consequences of an accident previously evaluated.

2. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical modifications to the plant systems, structures, or components. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The change does not involve a significant reduction in the margin of safety.

The proposed changes:

(a) allow operation with one valve in each SDV vent or drain line to be inoperable for any reason for a period of 7 days. The automatic scram on high SDV level (TS 3.3.1, Table 3.3.1–1, Functional Unit 8) ensures the SDV does not fill beyond the capacity needed to assure a complete scram. The primary containment isolation function can be maintained by the redundant valve in each of these lines. Also, allowing the SDV to have an inoperable valve in the drain or vent line and not meet single failure considerations is acceptable because it is limited to 7 days. This length of time has been found to be acceptable because of the redundancy and low probability of a scram occurring while the valve(s) are inoperable. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

(b) allow continued operation with SDV vent or drain lines with both valves inoperable if the affected line(s) is isolated within 8 hours, and each valve is restored to OPERABLE status within 7 days of its respective inoperability. With the line(s) isolated the primary containment isolation function is maintained. The provision that permits the line(s) to be unisolated under administrative control ensures that an unnecessary reactor scram on SDV high level will not occur. The provision also ensures the line(s) that are unisolated under administrative controls can be promptly isolated. These provisions ensure that sufficient SDV volume is maintained to assure a complete reactor scram and that primary containment integrity is maintained. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by close of business within 14 days after the date of publication of this notice will be considered in making any final determination. The licensee requested issuance of the amendment by May 26, 1998. Issuance of the amendment on this date would not have allowed any time for public comments on the amendment request. However, the NRC staff has determined that it would be appropriate to allow more time for public review of and comment on the amendment request.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 29, 1998 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 20, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 22nd day of May 1998.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14146 Filed 5–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; FERMI 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. NPF–43, issued to Detroit Edison Company (the licensee), for operation of the Fermi 2 plant, located in Monroe County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee, in certain cases, from the requirements of 10 CFR 70.24(a), which, in part, requires a monitoring system in each area in which special nuclear material is handled, used, or stored, that will energize clear audible alarms if accidental criticality occurs.

The proposed action is in accordance with the licensee's application for exemption dated April 27, 1998.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored onsite in any given location (e.g., calibration sources or in-

core instrumentation that is not in use) is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent uranium-235, and because commercial nuclear plant licensees have procedures and features that are designed to prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. Therefore, an exemption from the requirements of 10 CFR 70.24 in selected cases will not have a negative impact on the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that inadvertent or accidental criticality will be precluded through compliance with the Fermi 2 Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures.

The proposed exemption will not result in an increase in the probability or consequences of accidents, affect radiological plant effluents or offsite dose, or cause any significant occupational exposures. Therefore, there are no radiological impacts associated with the proposed exemption.

The proposed exemption will not result in a change in nonradiological effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of Fermi 2 dated August 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on May 7, 1998, the staff consulted with the Michigan State official, Dennis Hahn, of the Michigan Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 27, 1998, which is available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 20th day of May 1998.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Project Directorate III–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14102 Filed 5–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–1021]

Transnuclear, Inc.; Issuance of Environmental Assessment and Finding of No Significant Impact

By letter dated April 9, 1998, Transnuclear, Inc. (TN or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.234(c). TN, located in Hawthorne, New York, is seeking Nuclear Regulatory Commission (NRC or the Commission) approval to fabricate six TN–32 dry spent fuel storage casks prior to receipt of a Certificate of Compliance (COC). The casks are intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by Wisconsin Electric Power Company (WEPCo) at the Point Beach Nuclear Power Station (Point Beach) located in Two Rivers, Wisconsin. The TN–32 dry spent fuel storage cask is currently used at Surry Power Station under a site-specific license.

Environmental Assessment (EA)

Identification of Proposed Action

The applicant is seeking Commission approval to fabricate six TN–32 casks prior to the Commission's issuance of a COC. The applicant requests an exemption from the requirements of 10 CFR 72.234(c), which state that "Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask model." The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

Need for the Proposed Action

Point Beach was using the Ventilated Storage Cask, Model No. 24, fabricated by Sierra Nuclear, Corp. (VSC–24), however, they have not been able to load a cask for 2 years. The VSC–24 vendor is under a demand for information, and a confirmatory action letter regarding closure lid weld issues that prevents Point Beach from loading any VSC–24s. To ensure future operations, Point Beach requires another cask option if they cannot load VSC–24s. TN requests the exemption to ensure the availability of storage casks so that WEPCo can continue operating the Point Beach Units 2 and 1 past March 2000 and late 2000, respectively, and to restore full core off-load capability. Three casks are required to ensure continued operation into 2001, and three additional casks are required to restore full core off-load capability. Therefore, to support the March 2000 loading, WEPCo requests the delivery of the first cask by December 1999. TN states that to meet this schedule, purchase of cask components must begin promptly and fabrication must begin by September 1998.

The TN–32 COC application, dated September 24, 1997, is under consideration by the Commission. It is anticipated, if approved, the TN–32 COC may be issued in late 1999.

The proposed fabrication exemption will not authorize use of the casks to store spent fuel. That will occur only when, and if, a COC is issued. NRC approval of the fabrication exemption request should not be construed as an NRC commitment to favorably consider TN's application for a COC. TN will bear the risk of all activities conducted under the exemption, including the risk that the six casks TN plans to construct

may not be usable because they may not meet specifications or conditions placed in a COC that NRC may ultimately approve.

Environmental Impacts of the Proposed Action

The Environmental Assessment for the final rule, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites", (55 FR 29181 (1990)) considered the potential environmental impacts of casks which are used to store spent fuel under a COC and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not permit use of the casks, but only fabrication. There are no radiological environmental impacts from fabrication since cask fabrication does not involve radiological or radioactive materials. The major non-radiological environmental impacts involve use of natural resources due to cask fabrication. Each TN–32 storage cask weighs approximately 100 tons and is fabricated mainly from steel and plastic. The estimated 600 tons of steel required for six casks is expected to have very little impact on the steel industry. Additionally, the estimated 6 tons of plastic required for six casks is insignificant compared to the millions of tons of plastic produced annually. Cask fabrication would be at a metal fabrication facility, not at the reactor site. Fabrication of six casks is insignificant compared to the amount of metal fabrication performed annually in the United States. If the casks are not usable, the casks could be disposed of or recycled. The amount of material disposed of is insignificant compared to the amount of steel and plastic that is disposed of annually in the United States. Based upon this information, the fabrication of six casks will have no significant impact on the environment since no radioactive materials are involved, and the amount of natural resources used is minimal.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption and, therefore, not allow cask fabrication until a COC is issued. However, if a COC is issued and fabrication of the cask occurs, the environmental impacts of the proposed action and the alternative action would be the same.

Given that there are no significant differences in environmental impacts between the proposed action and the alternative considered and that the applicant has a legitimate need to fabricate the casks prior to certification and is willing to assume the risk that the fabricated casks may not be certified or may require modification, the Commission concludes that the preferred alternative is to grant the exemption.

Agencies and Persons Consulted

The Wisconsin Public Utility Commission was consulted about the EA for the proposed action and had no concerns.

References used in preparation of the EA:

1. NRC, Environmental Assessment Regarding Final Rule, "Storage of Spent Fuel in NRC-Approved Storage Casks at Power Reactor Sites," 55 FR 29181.

2. NRC, 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.234(c) so that TN may fabricate six TN–32 casks prior to issuance of a COC will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72–1021. For further details with respect to this action, see the application dated April 9, 1998, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Joseph Mann Library, 1516 16th Street, Two Rivers, WI 54241.

Dated at Rockville, Maryland, this 20th day of May 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–14100 Filed 5–27–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23198; 812–10942]

Boston 1784 Funds, et al.; Notice of Application

May 20, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") exempting applicants from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act exempting applicants from sections 17(a)(1) and 17(a)(2) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF THE APPLICATION: The requested order would permit certain registered open-end management investment companies to invest excess cash and collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Boston 1784 Funds (the "Trust"), and all other registered open-end management investment companies and series thereof that currently or in the future are part of the same "group of investment companies," within the meaning of section 12(d)(1)(G) of the Act, that includes the Trust, and BankBoston, N.A. ("BankBoston").

FILING DATES: The application was filed on December 31, 1997, and amended on May 20, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 15, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 2 Oliver Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564,

(Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Massachusetts business trust. The Trust currently consists of nineteen series ("Funds"), five of which hold themselves out as money market funds and are subject to the requirements of rule 2a–7 under the Act ("Money Market Funds"). BankBoston (formerly, The First National Bank of Boston) is the investment adviser to each Fund. Kleinwort Benson Investment Management Americas Inc. ("KBIMA") serves as co-investment adviser to the Boston 1784 International Equity Fund with BankBoston. BankBoston, as a national bank, is not required to register as an investment adviser under the Investment Adviser Act of 1940 ("Advisers Act"). KBIMA is registered as an investment adviser under the Advisers Act. (BankBoston together with KBIMA, the "Investment Advisers".) BankBoston also serves as custodian ("Custodian") for the assets of all series of the Trust.

2. Each Fund may participate in a securities lending program ("Securities Lending Program") under which the Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. Before a Fund will participate in the Securities Lending Program, it will select a securities lending agent which is not affiliated with BankBoston or any of its affiliates. The agreements governing these loans require that the loans be continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash ("Cash Collateral"), securities of the U.S. Government or its agencies, or any combination of cash and such securities. Any investment of Cash Collateral will comply with all present and future applicable SEC positions regarding securities lending agreements.

3. Each of the Funds has, or may have, uninvested cast ("Uninvested Cash") held by its Custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions, dividend payments, or new monies received from investors. Currently, the Funds may invest Uninvested Cash in individual short-term money market instruments and repurchase agreements.

4. The Funds wish to have the flexibility to invest their Uninvested Cash and Cash Collateral (collectively, "Cash Balances") in the Money Market Funds. Investment of Cash Balances in shares of the Money Market Funds will be made only to the extent that such investments are consistent with each Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings. Applicants request an order to permit certain Funds ("Investing Funds") to invest their Cash Balances in one or more of the Money Market Funds.[1]

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt any person, security, or transaction (or classes thereof) from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors.

3. Applicants' proposal would permit the Investing Funds to use Cash Balances to acquire shares of the Money Market Funds in excess of the percentage limitations in section 12(d)(1)(A), provided however, that in all cases the Investing Fund's aggregate investment of Uninvested Cash in shares of the Money Market Funds will not exceed 25% of the Investing Fund's total assets. Applicants' proposal also would permit the Money Market Funds to sell their securities to an Investing Fund in excess of the percentage limitations in section 12(d)(1)(B). Applicants represent that no Money Market Funds will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Applicants believe that the proposed arrangement would not result in the abuses that sections 12(d)(1) (A) and (B) were intended to prevent. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee or service fee. In addition, in connection with approving any advisory contract, the Investing Fund's board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Disinterested Trustees"), will consider to what extent, if any, the advisory fees charged to the Investing Fund by the Investment Adviser should be reduced to account for reduced services provided to the Investing Fund by the Investment Adviser as a result of a portion of the assets of the Investing Fund being invested in the Money Market Funds.

5. Section 17(a) makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an affiliated person of another person as any person directly or indirectly controlling, controlled by, or under common control with, such other person. Under section 2(a)(3), because the Trust has one board of trustees, each Fund may be deemed to be under common control with each of the other Funds, and thus an affiliated person of each of the other Funds. As a result, section 17(a) would prohibit the sale of the shares of the Money Market Funds to the Investing Funds, and the redemption of the shares by the Money Market Funds.

6. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the

[1] All investment companies that currently intend to rely on the requested order are named as applicants. Any other existing or future investment company that may rely on the order in the future will do so only in accordance with the terms and conditions of the application.

consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act.

7. Section 6(c) of the Act permits the SEC to exempt persons or transactions from any provision of the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Applicants submit that their request for relief satisfies the standards in sections 17(b) and 6(c). Applicants state that the Investing Funds will retain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies, if they believe they can obtain a higher rate of return, or for any other reason. Similarly, each of the Money Market Funds has the right to discontinue selling shares to any of the Investing Funds if the Board of the Money Market Fund determines that such sale would adversely affect its portfolio management and operations. In addition, applicants note that shares of the Money Market Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder.

9. Section 17(d) and rule 17d–1 prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants believe that the Funds, by participating in the proposed transactions, and the Investment Advisers, by managing the proposed transactions, could be deemed to be participating in a joint arrangement within the meaning of section 17(d) and rule 17d–1 under the Act.

10. In considering whether to grant an exemption under rule 17d–1, the SEC considers whether the investment company's participation in such joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the Funds will participate in the proposed transactions on a basis not different from or less advantageous than that of any other participant and that the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act or service fee (as defined in rule 2380(b)(9) of the NASD's Conduct Rules).

2. Before the next meeting of the Board is held for the purpose of voting on an advisory contract under section 15 of the Act, the Investment Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Investment Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. In connection with approving any advisory contract for an Investing Fund, the Board, including a majority of the Disinterested Trustees, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Investment Adviser should be reduced to account for reduced services provided to the Investing Fund by the Investment Adviser as a result of Uninvested Cash being invested in the Money Market Funds. The minute book of the Investing Fund Will record fully the Board's consideration in approving the advisory contract, including the considerations referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment in the Money Market Funds does not exceed 25% of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, each Money Market Fund, and any future registered open-end management investment company that may rely on the order shall be part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act, that includes the Trust.

6. No Money Market Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of the Board, including a majority of the Disinterested Trustees, will approve the Fund's participation in the Securities Lending Program. Such Trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Investing Fund.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14018 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23202; 813–174]

Chase Global Co-Invest Partners 1997, L.P., et al.; Notice of Application

May 21, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the "Act") granting an exemption from all provisions of the Act, except section 9, certain provisions of sections 17 and 30, sections 36 through 53, and the rules and regulations under those sections.

Summary of Application: Applicants request an order to exempt certain investment funds formed for the benefit of key employees of the The Chase Manhattan Corporation ("Chase") and its affiliates from certain provisions of the Act, and to permit the funds to engage in certain joint transactions. Each fund will be an "employees' securities company" as defined in section 2(a)(13) of the Act.

Applicants: Chase Global Co-Invest Partners 1997, L.P. (the "1997 Partnership") and Chase.

Filing Dates: The application was filed on August 12, 1997 and amended on February 9, 1998. Applicants have agreed to file an additional amendment, the substance of which is incorporated this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 15, 1998 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: 1997 Partnership, 380 Madison Avenue, New York, NY 10017; and Chase, 270 Park Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Chase is a bank holding company. Chase and its affiliates, as defined in rule 12b-2 under the Securities Exchange Act of 1934 (the "Exchange Act") (collectively, the "Chase Group"), provide diversified financial services internationally through various bank and non-bank subsidiaries.

2. The 1997 Partnership is a Delaware limited partnership. The 1997 Partnership was the first of several anticipated investment programs (each an "Investment Program") that was established to enable certain key employees of the Chase Group to participate in a variety of investment opportunities that would not be offered to them as individual investors. Applicants propose to establish one or more partnerships or investment vehicles for the same purpose (the "Subsequent Partnerships" and collectively with the 1997 Partnership, the "Partnerships"). Each Partnership will be an "employees' securities company" within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end non-diversified management investment company.

3. The goal of the Partnerships is to reward and retain certain key employees and to attract qualified employees to the Chase Group. Chase believes that the Partnerships will meet the desire of these employees for an in-house investment program similar to those offered by other financial institutions to their employees.

4. Each Partnership will have a general partner or a similar entity (the "General Partner"), that will be (i) registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"), (ii) exempt from registration by virtue of section 203(b)(3) of the advisers Act, or (iii) excluded from the registration requirements because it is a bank or bank holding company. The General Partner will be an entity within the Chase Group, and will manage, control, and make investment decisions for the Partnerships.

5. Interests in the Partnerships ("Interests") will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the "Securities Act"), and will be sold without a sales load or any similar fee. Interests will be offered and sold only to (i) current or former key employees, officers, directors, partners or persons on retainer of an entity within the Chase Group ("Eligible Employees"), (ii) spouses, parents, children, spouses of children, brothers, sisters and grandchildren of Eligible Employees ("Qualified Family Members" and collectively with Eligible Employees, the "Limited Partners"), or (iii) trusts or other investment vehicles established for the benefit of Limited Partners ("Qualified Investment Vehicles" and collectively with Qualified Family Members, "Qualified Participants"). Prior to offering Interests to Limited Partners, the General Partner must reasonably believe that the Limited Partners will be capable of understanding and evaluating the merits and risks of participation in the Partnership. Eligible Employees will be professionals engaged in various aspects of the banking or financial services business, or in related administrative, financial, accounting or operational activities.

6. Limited Partners must meet the standards for an "accredited investor" under rule 501(a) (5) or (6) of Regulation D of the Securities Act, except that a maximum of 35 persons who are sophisticated investors but who do not meet the definition of an accredited investor may become Limited Partners if approved by the General Partner after taking into consideration such factors as income level, investment experience, risk tolerance, professional background and length of employment with the Chase Group. Eligible Employees who satisfy the net worth requirements of rule 501(a)(5) of Regulation D will typically be senior Chase employees who have accumulated significant individual net worth. Generally, those Eligible Employees who satisfy the requirements of rule 501(a)(5) also would be expected to satisfy the requirements of rule 501(a)(6).

7. At the time an Eligible Employee is offered the right to subscribe for Interests in a Partnership, the Eligible Employee will be given a copy of the limited partnership agreement or other organizational documents (the "Partnership Agreement") and any investment agreement relating to the Partnership's co-investment with the entities described below (the "Co-Investment Agreement"). The Partnership Agreement and the Co-Investment Agreement will set forth fully the terms applicable to the Limited Partners.

8. The General Partner of the 1997 Partnership will not receive any fees or other compensation for serving as the General Partner.. A General Partner of a Subsequent Partnership may be paid an annual management fee, which may be determined as a percentage of assets under management, invested capital or aggregate commitments. In addition, a General Partner may be entitled to a performance-based fee ("carried interest"), based on the Partnership's gains and losses.

9. General Partner will be required to make capital contributions to the Partnership that generally will be equal to at least 1% of the Partnership's aggregate capital commitments. The General Partner of the 1998 Partnership may contribute capital to the 1997 Partnership in a multiple of the aggregate amount of capital contributed by the Limited Partners.

10. The 1997 Partnership will make distributions to the Limited Partners and the General Partner annually with respect to tax liabilities and at other times and in other amounts as determined by the General Partner in its discretion. After distributions with respect to taxes, distributions from the 1997 Partnership will be made, first, 100% to the General Partner in respect of a portion of its capital contribution (the "Preferred Capital Contribution") until 90% of the amounts received by the General Partner equals three times the aggregate capital contributions of the Limited Partners plus an 8% annum return on the Preferred Capital

Contribution and, thereafter, 90% to the Limited Partners and 10% to the General Partner. Subsequent Partnerships will make distributions to the General Partners and the Limited Partners in a similar manner, provided that the priorities, amounts and percentages may differ. A more complete description of the method and timing of distributions will be contained in each Partnership's private placement memorandum.

11. The General Partner or another entity of the Chase Group may lend money to a Partnership at an interest rate no less favorable than the rate obtainable on an arm's-length basis.

12. Partnerships generally will co-invest alongside a wholly-owned subsidiary of Chase in various affiliated limited partnerships through which underlying portfolio investments are made. Except for variations in management fees or carried interests, a Partnership will co-invest on a least as favorable terms as an entity of the Chase Group. It also is possible that Chase and a Partnership may co-invest in a portfolio company alongside an investment fund or account organized for the benefit of investors who are not affiliated with the Chase Group, over which an entity within the Chevy Chase Group (other than Chase Capital Partners [1]) exercises investment discretion (a "Third Party Fund").

13. Interests in a Partnership will be non-transferable except with the prior written consent of the General Partner in its sole discretion. No person or entity will be admitted into a Partnership unless the person or entity is (i) an Eligible Employee, (ii) a Qualified Participant, or (iii) an entity within the Chase Group (as a General Partner or through the reallocation of a Limited Partner's Interest as described below). A portion of a Limited Partner's Interest in profits and losses may be reallocated to the General Partner upon the Limited Partner's termination of employment with the Chase Group. After a reallocation, the Interest retained by the Limited Partner will be at least equal in value to the lesser of (i) the amount invested by the Limited Partner, or (ii) the fair market value of the Interest prior to the reallocation.

14. Limited Partners' Interests initially will be partially vested and will vest in greater proportion over time as specified percentages and at specified intervals, as set forth in the applicable Partnership Agreement. The vesting terms will be disclosed to the Limited Partner at the time the Limited Partner is offered the right to purchase Interest in the Partnership.

15. The term of each Partnership generally is expected to be fixed for a period less than 30 years from the date of its creation, but may be subject to earlier termination by the General Partner. In addition, each Partnership may be dissolved upon (i) the resignation, withdrawal, dissolution or bankruptcy of the General Partner, (ii) the insolvency or bankruptcy of the Partnership, (iii) the sale of all or substantially all of the Partnership's assets, or (iv) the conversion of the Partnership to corporate form pursuant to the terms of the applicable Partnership Agreement. Upon dissolution of the Partnership, the Partnership's assets will be distributed in accordance with the applicable Partnership Agreement.

16. A Partnership will not acquire any security issued by a registered investment company if, immediately after the acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

17. As soon as practicable after the end of each fiscal year of each Partnership, the General Partner will mail or otherwise furnish a copy of a certified public accountant's report, which will include the Partnership's financial statements, to each Limited Partner of the Partnership. In addition, each Partnership will supply the Limited Partners with all information reasonably necessary to enable the Limited Partners to prepared their federal and state income tax returns.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides that the SEC will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the SEC will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned by (i) current or former employees, or persons on retainer, of one or more affiliated employers, (ii) immediate family members of those persons, or (iii) the employer or employers together with any of the persons in (i) or (ii).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the SEC, will be applicable to the company and other persons dealing with the company as though that company was registered under the Act.

3. Applicants request an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act, except section 9, certain provisions of sections 17 and 30, sections 36 through 53, and the rules and regulations under those sections.

4. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of that person, acting is principal, from knowingly selling or purchasing any security or other property to or from that company. Applicants request an exemption from section 17(a) to permit (i) an entity within the Chase Group (including a Third Party Fund) to engage in any transaction with a Partnership, or a company controlled by the Partnership ("Controlled Company"), (ii) a Partnership to invest in or engage in any transaction with any entity in which a Partnership, a Controlled Company, or an entity within the Chase Group (a) has invested or will invest, or (b) is or will become otherwise affiliated, and (iii) a Third Party Investor [2] to engage in any transaction with a Partnership or Controlled Company.

5. Applicants submit that an exemption from section 17(a) is consistent with the policy of each Partnership and the protection of investors. Applicants believe that an exemption is necessary to enable the Partnerships to participate in attractive investments that may be offered by the Chase Group. Applicants assert that the Limited Partners will have been fully informed of the possible extent of the Partnership's investments with affiliates and will be able to understand and

[1] Chase Capital Partners is the general partner of a separate limited partnership, the CCP Limited Partnership, into which certain partners and principals of Chase Capital Partners, and certain employees of the Chase Group, invest. The CCP Limited Partnership is not included as a Partnership for purposes of this application.

[2] A Third Party Investor is a partner or other investor of a Third Party Fund that is not an entity within the Chase Group, or any affiliate of that partner or investor.

evaluate the risks associated with those investments.

6. Section 17(d) and rule 17d–1 prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of that person or underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the SEC. Applicants request exemptive relief to permit affiliated persons of each Partnership, or affiliated persons of any of these persons, to participate in any joint arrangement in which the Partnership or a company controlled by the Partnership is a participant.

7. Applicants assert that the flexibility to structure co-investments and joint investments in the manner described in the application will not involve abuses of the type that section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by Chase and the Partnership might lead to less advantageous treatment of the Partnership, should be mitigated by the community of interest among the Chase Group and the personnel who invest in the Partnership, and the fact that officers, directors, and partners of entities within the Chase Group will be investing in the Partnership. In addition, applicants assert that strict compliance with section 17(d) would prevent the Partnerships from participating in attractive investments solely because an affiliate of the Partnership also may participate in the investment. Finally, applicants contend that the "lock-step" procedures described in condition 3 below, align the interests of the Eligible Employees with those of the Chase Group and, therefore, minimize the possibility that a Partnership may be disadvantaged by an affiliate's participation in a transaction.

8. Co-investments with Third Party Funds will not be subject to Condition 3. Applicants believe it is important that the Third Party Fund not be burdened or otherwise affected by a Partnership's participation in an investment opportunity. In addition, applicants believe that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to the Chase Group. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by the Chase Group in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships vis-a-vis the investors of a Third Party Fund.

9. Section 17(f) of the Act designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicants request an exemption from section 17(f) and rule 17f–1 to the extent necessary to permit an entity within the Chase Group to act as custodian of Partnership assets without a written contract, as would be required by rule 17f–1(a). Applicants also request an exemption from the rule 17f–1(b)(4) requirement that independent accountants periodically verify the assets held by the custodian. Applicants believe that, because of the community of interest of all the parties involved and the existing requirement for an independent annual audit, compliance with these requirements would be unnecessarily burdensome and expensive. Each Partnership will comply with all other requirements of rule 17f–1.

10. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicants request exemptive relief to permit the members of a related board of directors or other committee serving similar functions (the "Board"), who may be deemed interested persons, to take actions and make determinations set forth in the rule. Applicants state that, because all of the members of a related Board will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the members of the related Board take such actions and make such approvals as are set forth in rule 17g–1. Applicants also state that each Partnership will comply with all other requirements of rule 17g–1.

11. Section 17(j) and paragraph (a) of rule 17j–1 prohibit certain enumerated persons from engaging in fraudulent or deceptive practices in connection with the purchase and sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the provisions of rule 17j–1 (except rule 17j–1(a)) because they are unnecessarily burdensome as applied to the Partnerships.

12. Applicants request an exemption from the requirements in sections 30(a), 30(b) and 30(e) and the rules under those sections, that registered investment companies prepare and file with the SEC and mail to their shareholders certain periodic reports and financial statements. Applicants believe that the forms prescribed by the SEC for periodic reports have little relevance to a Partnership and would entail administrative and legal costs that outweigh any benefit to the Limited Partners in a Partnership. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership and any others who may be deemed to be members of an advisory board of a Partnership from filing Forms 3, 4 and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 to which a Partnership is a party (the "Section 17 Transactions") will be effected only if the Board determines that: (i) the terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned; and (ii) the transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents, and the Partnership's reports to its Limited Partners. In addition, the General Partner will record and preserve a description of the affiliated transactions, the Board's findings, the information or materials upon which the Board's findings are based, and the basis for the findings. All records relating to an Investment Program will be maintained until the termination of the Investment Program and at least two

years thereafter, and will be subject to examination by the SEC and its staff.[3]

2. In connection with the Section 17 Transactions, the Board, through the General Partner, will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any transaction, with respect to the possible involvement in the transaction of any affiliated person, promoter of, or principal underwriter for the Partnerships, or any affiliated person of that person, promoter, or principal underwriter.

3. The General Partner will not invest the funds of any Partnership in any investment in which a "Co-Investor" (as defined below) has acquired, or proposes to acquire, the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and the Co-Investor are participants, unless the Co-Investor, prior to disposing of all or part of its investment (i) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (ii) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to, or concurrently with, on the same terms as, and pro rata with, the Co-Investor. The term "Co-Investor" means any person who is (i) an "affiliated person" (as that term is defined in the Act) of the Partnership (other than a Third Party Fund); (ii) Chase Capital Partners or another entity within the Chase Group; (iii) an officer, director or partner of Chase Capital Partners or another entity within the Chase Group; or (iv) a company in which the General Partner of the Partnership acts as a general partner or has a similar capacity to control the sale or other disposition of the company's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by a Co-Investor (i) to its direct or indirect wholly-owned subsidiary, to any company (a "parent") of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its parent; (ii) to Qualified Family Members of the Co-Investor or a trust or other investment vehicle established for a Qualified Family Member; (iii) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (iv) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 under that Act, or (v) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which the foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and the General Partner or the investment manager of the Partnership will maintain and preserve, for the life of the Partnership and at least two years thereafter, those accounts, books, and other documents that constitute the record forming the basis for the audited financial statements that are to be provided to the Limited Partners, and each annual report of the Partnership required to be sent to the Limited Partners, and agree that all of those records will be subject to examination by the SEC and its staff.[4]

5. The General Partner will send to each Limited Partner who had an interest in any capital account of the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. As of the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of that fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of each Partnership, the General Partner will send a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth tax information as will be necessary for the preparation by the Limited Partner of federal and state income tax returns, and a report of the investment activities of the Partnership during that year.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with that Partnership by reason of a 5% or more investment in that entity by a Chase Group director, officer or employee, that individual will not participate in the Partnership's determination of whether or not to effect the purchase or sale.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14112 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

[3] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[4] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23199; File No. 812–10978]

U.S. Global Leaders Variable Insurance Trust, et al.; Notice of Application

May 20, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("1940 Act") granting exemptive relief from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit shares of any current or future series of U.S. Global Leaders Variable Insurance Trust (the "Fund") and shares of any other investment company that is designed to fund variable insurance products for which Yeager, Wood & Marshall, Inc. (the "Adviser") or any of its affiliates, may now or in the future serve as manager, investment adviser, administrator, principal underwriter or sponsor (the Fund and such other investment companies, collectively, "Insurance Products Funds") to be sold to and held by: (1) Separate accounts funding variable annuity and variable life insurance contracts issued by both affiliated and unaffiliated life insurance companies ("Participating Insurance Companies"); (2) qualified pension and retirement plans outside of the separate account context ("Qualified Plans" or "Plans"); and (3) the Adviser or any of its affiliates (representing seed money investments in the Insurance Products Funds).

Applicants: U.S. Global Leaders Variable Insurance Trust and Yeager, Wood & Marshall, Inc.

Filing Date: The application was filed on January 23, 1998, and amended on March 26, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 15, 1998, and must be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Raymond A. O'Hara, III, Esq., Blazzard, Grodd & Hasenauer, P.C., 943 Post Road East, Westport, Connecticut 06881.

FOR FURTHER INFORMATION CONTACT: Laura A. Novack, Senior Attorney, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicant's Representations

1. The Fund is a Delaware business trust registered under the 1940 Act as an open-end management investment company. The Fund, which was organized in October 1997, currently consists of one series.

2. The Adviser, a Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940, and serves as the Fund's investment adviser.

3. Applicants desire that the Insurance Products Funds have the flexibility to offer their shares to separate accounts of Participating Insurance Companies that fund variable annuity and variable life insurance contracts (including single premium, scheduled premium, modified single premium and flexible premium contracts) (collectively, "Variable contracts"). These separate accounts either will be registered as investment companies under the 1940 Act or will be exempt from such registration.

4. The Participating Insurance Companies will establish their own separate accounts and design their own Variable Contracts. Each Participating Insurance company will have the legal obligation of satisfying all requirements under the federal securities laws. Each Participating Insurance company will enter into a fund participation agreement with the Insurance Products Fund in which the Participating Insurance company invests.

5. Applicants state that shares of the Insurance Products Funds also may be offered directly to Qualified Plans outside the separate account context. The Plans may choose one or more of the Insurance Products Funds as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given the right to select among the Insurance Products Funds; depending on the Plan. "Plan participants" include not only those participants of qualified pension or retirement plans as set forth in Treasury Regulation § 1.817–5(f)(3)(iii) and Revenue Ruling 94–62, but also include any other trust, account, contract or annuity that is determined to be within the scope of Treasury Regulations § 1.817–5(f)(3)(iii). Fund shares sold to Plans will be held, where applicable, by the trustees of such Plans as required by Section 403(a) of the Employee Retirement Income Security Act ("ERISA").

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted by Rule 6e–2(b) are available only where the management investment company offers its shares exclusively to the variable life insurance separate accounts of the life insurer or any affiliated life insurance company.

2. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as "mixed funding." The use of a common management company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of unaffiliated insurance companies is referred to as "shared funding." "Mixed and shared funding" denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. The relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. Therefore, Rule 6e–2(b)(15) precludes mixed and shared funding.

3. In connection with the funding of flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Thus, Rule 6e–3(T) permits mixed funding with respect to a flexible-premium variable life insurance separate account, but precludes shared funding.

4. Applicants assert that the use of the Insurance Products Funds as common investment media for the Variable Contracts would allow Participating Insurance Companies to benefit not only from the investment and administrative expertise of the Adviser, but also from the cost efficiencies and investment flexibility afforded by a larger pool of funds. Applicants also submit that mixed and shared funding would benefit Variable Contract owners by: (a) Eliminating a significant portion of the costs of establishing and administering separate funds; (b) permitting a greater amount of assets available for investment by the Insurance Products Funds, thereby promoting economies of scale, permitting greater diversification, and making the addition of new portfolios more feasible; and (c) encouraging more insurance companies to offer Variable Contracts, resulting in increased competition with respect to both the design and pricing of Variable Contracts, which can be expected to result in greater product variation and lower charges.

5. Applicants assert that the relief granted by sub-paragraph (b)(15) of Ruled 6e–2 and 6e–3(T) will not be affected by the proposed sale of Insurance Products Fund shares to Plans. Applicants note, however, that because the relief under sub-paragraph

(b)(15) of Rules 6e–2 and 6e–3(T) is available only where shares are offered exclusively to separate accounts of life insurance companies, additional exemptive relief is necessary if shares of the Insurance Products Funds also are to be sold to Plans.

6. Applicants state that current tax law permits the Insurance Products Funds to increase their asset base through the sale of fund shares to Plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held by the portfolios of the Insurance Products Funds. The Code provides that such contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) during which the investments are not adequately diversified in accordance with regulations prescribed by the Treasury Department. The regulations provide that, to meet the diversification requirements, all of the beneficial interests in an investment company must be held by the segregated asset accounts of one or more insurance companies. Treas. Reg. § 1.817–5(1989). The regulations do, however, contain certain exceptions to this requirement, one of which permits shares of an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts. Treas. Reg. § 1.817–5(f)(3)(iii).

7. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations, and that the sale of shares of the same investment company to both separate accounts and Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Applicants therefore request an Order of the Commission exempting variable life insurance and variable annuity separate accounts of Participating Insurance Companies (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such an account) and Applicants from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and sub-paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder, when shares of the Insurance Products Funds are offered and sold to, and held by, such separate accounts in the mixed and shared funding context, regardless of whether shares of the Insurance Products Funds also are offered and sold directly to Plans.

9. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2).

10. Rules 6e–2 and 6e–3(T) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by sub-paragraph (b)(15(i) of Rules 6e–2 and 6e–3(T) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of an insurance company or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying investment company. The relief provided by sub-paragraph (b)(15)(ii) of Rules 6e–2 and 6e–3(T) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the fund.

11. Applicants state that the partial relief from Section 9(a) found in sub-paragraph (b)(15) of Rules 6e–2 and 6e–3(T), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of that Section. Applicants state that those rules recognize that it is not necessary to apply the provisions of Section 9(a) to the many individuals who may be involved in an insurance company complex, but who have no connection with the investment company funding the separate accounts. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Insurance Products Funds. Therefore, Applicants assert that applying the restrictions of Section 9(a) serves no regulatory purpose. Applicants state that the relief requested should not be affected by the proposed sale of Insurance Products Funds to Qualified Plans, because the insulation of the Insurance Products Funds from those individuals who are disqualified under the 1940 Act remains in place. Moreover, since the Plans are not investment companies and will not be deemed affiliated solely by virtue of their shareholdings, no additional relief is necessary.

12. Sections 13(a), 15(a) and 15(b) of the 1940 Act require "pass-through" voting with respect to underlying investment company shares held by a separate account. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) under the 1940 Act provides partial exemptions from the pass-through voting requirements in limited circumstances.

13. For example subparagraph (b)(15)(iii)(B) of Rules 6e–2 and 6e–3(T) provide that the insurance company may disregard the voting instructions of its contract owners if the contract owners initiate any change in the investment company's investment policies, principal underwriter, or investment adviser. Under the rules, voting instructions with respect to a change in investment policies may be disregarded only if the insurance company makes a good faith determination that such changes would: (a) Violate state law; (b) result in investments that were not consistent with the investment objectives of the separate account; or (c) result in investments that would vary from the general quality and nature of investments and investment techniques used by other separate accounts of the company or of an affiliated life insurance company with similar investment objectives.

14. Applicants state that Rule 6e–2 recognizes that variable life insurance contracts have important elements unique to insurance contracts and are subject to extensive state regulation of insurance. Applicants maintain, therefore, that in adopting Rule 6e–2, the Commission expressly recognized that exemptions from pass-through voting requirements were necessary to assure the solvency of the life insurer and the performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonable could be expected to increase the risks undertaken by the life insurer. Flexible premium variable life insurance contracts and variable annuity contracts are subject to substantially the same state insurance regulatory authority, and therefore, corresponding provisions of Rule 6e–3(T) presumably were adopted in recognition of the same considerations the Commission applied in adopting Rule 6e–2. Applicants submit that these considerations are no less important or necessary when an insurance company funds its separate accounts in connection with mixed and shared funding, and that such funding does not compromise the goals of the

insurance regulatory authorities or of the Commission.

15. Applicants further state that the sales of shares of the Insurance Products Funds to Plans does not affect the relief requested in this regard. As previously noted, shares of the Insurance Products Funds will be held, where applicable, by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustees are subject to the direction of a name fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA.

16. Applicants submit that there is no contractual or other relationship between the Participant Insurance Companies and any Plans which would affect the solvency of the life insurer, would affect the performance of the life insurer's contractual obligations, or would be expected to increase the risks undertaken by the life insurer. Accordingly, Applicants submit that where Plans provide participants with the right to give voting instructions, the purchase of shares by Plans does not present any complications not otherwise occasioned by mixed or shared funding.

17. Applicants state that no increased conflicts of interest would be presented by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. Applicants note that where different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with which the requirements of other insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. Applicants submit that this possibility is no different or greater than exists where a single insurer and its affiliates offer their insurance products in several states.

18. Applicants further submit that affiliation does not reduce the potential for differences in state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Insurance Products Funds.

19. Applicants also argue that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. Potential disagreement is limited by the requirements that the Participating Insurance Company's decision to disregard voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Variable Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Insurance Products Fund, to withdraw its separate account's investment in that Insurance Products Fund. No charge or penalty will be imposed upon the Variable Contract owners as a result of such a withdrawal.

20. Applicants submit that there is no reason why the investment policies of an Insurance Products Fund with mixed funding would, or should, be materially different from what those policies would, or should, be if such Insurance Products Fund or series thereof funded only variable annuity or variable life insurance contracts. Moreover, Applicants represent that the Insurance Products Funds will not be managed to favor or disfavor any particular insurer or type of insurance product.

21. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation § 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants assert that neither the Code, the Treasury regulations, nor the Revenue Rulings thereunder, present any inherent conflicts of interest if the Qualified Plans, variable annuity separate accounts, and variable life insurance separate accounts all invest in the same management investment company.

22. Applicants note that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or Qualified Plan is unable to net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Insurance Products Funds at their respective net asset values. The Qualified Plan will then make distributions in accordance with the terms of the Plan. The Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

23. Applicants state that they do not see any greater potential for irreconcilable material conflicts arising between the interests of participants under the Plans and owners of the Variable Contracts issued by the separate accounts of Participating Insurance Companies from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

24. Applicants submit that the ability of the Insurance Products Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owners as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under the Qualified Plans, or Variable Contract owners under their Variable Contracts, the Plans and the separate accounts have rights only with respect to their respective shares of the Insurance Products Funds. No shareholder of any of the Insurance Products Funds has any preference over any other shareholder with respect to distribution of assets or payments of dividends.

25. Applicants state that there are no conflicts between the Variable Contract owners and the Plan participants with respect to state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power to prevent, among other things, insurance companies from indiscriminately redeeming their separate accounts out of one fund and investing in another. To accomplish such redemptions and transfers,

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complex and time consuming transactions must be undertaken. Conversely, trustees of Plans or the participants in participant-directed Plans can make the decision quickly and implement redemption of shares from an Insurance Products Fund and reinvest the moneys in another funding vehicle without the same regulatory impediments, or, as is the case with most Plans, even hold cash pending a suitable alternative investment. Based on the foregoing, Applicants represent that even should the interests of Variable Contract owners and the interests Plan participants conflict the conflicts can be resolved almost immediately in that trustees of the Plans can, independently, redeem shares out of the Insurance Products Funds.

26. Applicants state that, regardless of the types of Insurance Products Fund shareholders, a fund's adviser is legally obligated to manage the fund in accordance with the fund's investment objectives, policies and restrictions as well as any guidelines established by the fund's board. Applicants assert that the Adviser does so, and thus, would manage the Insurance Products Funds in the same manner as any other mutual fund.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of each Insurance Products Fund's Board of Trustees or Directors (each, a "Board") shall consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Board member, then the operation of this condition shall be suspended: (a) for a period of 45 days, if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Insurance Products Fund's Board will monitor the fund for the existence of any material irreconcilable conflict between and among the interests of the Variable Contract owners of all separate accounts and of Plan participants and Qualified Plans investing in the Insurance Products Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners and trustees of the Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Variable Contract owners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

3. The Adviser (or any other investment adviser of an Insurance Products Fund), any Participating Insurance Company and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% of more of the assets of an Insurance Products Fund (collectively, "Participants") will report any potential or existing conflicts to the Board of any relevant Insurance Products Fund. Participants will be obligated to assist the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Qualified Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Boards will be contractual obligations of all Participating Insurance Companies and Qualified Plans investing in the Insurance Products Funds under their respective agreements governing participation in the Insurance Products Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Variable Contract owners and, if applicable, Plan participants.

4. If a majority of an Insurance Products Fund's Board members, or a majority of the disinterested Board members, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Qualified Plans, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Board members), shall take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict. Such steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Insurance Products Fund or any of its series and reinvesting such assets in a different investment medium, which may include another series of the Insurance Products Fund or another Insurance Products Fund; (b) in the case of Participating Insurance Companies, submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity or variable life insurance contract owners of one ore more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Variable Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and this decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Insurance Products Fund, to withdraw its separate account's investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Insurance Products Fund, to withdraw its investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Insurance Products Funds and these responsibilities shall be carried out with a view only to the interests of the Variable Contract owners and, as applicable, Plan participants.

5. For purposes of Condition 4, a majority of the disinterested members of the applicable Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will an Insurance Products Fund or the Adviser (or any other investment adviser of the Insurance Products Funds) be required to establish a new funding medium for any Variable Contract. No Participating Insurance Company shall be required by Condition 4 to establish a new funding medium for any Variable Contract if a majority of Variable Contract owners materially affected by the material irreconcilable conflict vote to decline such offer. No qualified Plan shall be required by Condition 4 to establish a new funding medium for such Qualified Plan if: (a) A majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer; or (b) pursuant to governing plan documents and applicable law, the Plan makes such decision without Plan participant vote.

6. Participants will be informed promptly in writing of a Board's determination of the existence of an irreconcilable material conflict and its implications.

7. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract Owners. Accordingly, such Participating Insurance Companies, where applicable, will vote shares of the Insurance Products Fund held in their separate accounts in a manner consistent with voting instructions timely received from Variable Contract owners. In addition, each Participating Insurance Company will vote shares of the Insurance Products Fund held in its separate accounts for which it has not received timely voting instructions from contract owners, as well as shares it owns, in the same proportion as those shares for which it has received voting instructions. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in an Insurance Products Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to vote an Insurance Products Fund's shares and calculate voting privileges in a manner consistent with all other separate accounts investing in the Insurance Products Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Insurance Products Fund. Each Plan will vote as required by applicable law and governing Plan documents.

8. As long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners, the Adviser (or any of its affiliates) will vote its shares of any series of any Insurance Products Fund in the same proportion as all Variable Contract owners having voting rights with respect to that series; provided, however, that the Adviser (or any of its affiliates) shall vote its shares in such other manner as may be required by the Commission or its staff.

9. All reports of potential or existing conflicts received by a Board, and all Board action with regard to: (a) Determining the existence of a conflict; (b) notifying Participants of a conflict; and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the meetings of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

10. Each Insurance Products Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risk of mixed and shared funding may be appropriate. Each Insurance Products Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Insurance Products Fund and the interests of Qualified Plans investing in the Insurance Products Fund to conflict; (c) the Board will monitor the Insurance Products Funds for any material conflicts and determine what action, if any, should be taken.

11. Each Insurance Products Funds will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Insurance Products Funds). In particular, each such Insurance Products Fund either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although none of the Insurance Products Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the Commission may promulgate with respect thereto.

12. If and to the extent that Rule 6e–2 or rule 6e–3(T) under the 1940 Act is amended or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Insurance Products Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, or proposed rule 6e–3 as adopted, to the extent such Rules are applicable.

13. The Participants, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials and data upon reasonable request of a Board shall be contractual obligation of all Participants under the agreements governing their participation in the Insurance Products Funs.

14. If a Qualified Plan or Plan participant shareholder should become an owner of 10% or more of the assets of an Insurance Products Fund, such Plan will execute a participation agreement with such fund which includes the conditions set forth herein to the extent applicable. A Qualified Plan or Plan participant will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Insurance Products Fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14019 Filed 5–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40008; File No. SR–Amex–98–17]

Self-Regulatory Organizations; Notice of Filing of Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Inc. Relating to the Listing and Trading of Warrants on the PaineWebber Oil & Gas Producers Index

May 19, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 29, 1998, the American Stock Exchange, Incorporated ("Amex" or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement Of The Terms of Substance of the The Proposed Rule Change

The Amex proposes to list and trade warrants on the PaineWebber Oil & Gas Producers Index ("Index"), a narrow-based index developed by PaineWebber Incorporated currently comprised of stocks of 22 companies in the oil and gas industry. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.[3]

II. Self-Regulatory Organization's Statement of The Purpose of, and Statutory Basis For, The Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and represented that no comments were received on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] The text of the proposed rule change contains a list of the component securities including the individual component security weights and average daily trading value and market capitalization for each security.

The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Amex to list and trade warrants on the Index. The Amex states that warrants on the Index are designed to provide investors with an investment vehicle to participate in or hedge against volatility associated with the ownership of stocks of companies in the oil and gas industry and decrease the risk involved in selecting individual stocks in this industry. The Amex filed this proposal pursuant to Section 19(b)(3)(A) of the Act, and Section 106 [4] of the Amex *Company Guide* and Amex Rule 901C, Commentary .02, which together provide for the commencement of the trading of warrants on the Index thirty days after the date of this filing. The proposal meets all the criteria set forth in Section 106 of the Amex *Company Guide*, Amex Rule 901C, Commentary .02 and the Commission's order approving Exchange Rule 910C.[5]

Criteria Under Section 106 of the Amex Company Guide. Warrant issues on the Index will conform to the listing guidelines under Section 106 of the Amex *Company Guide*, which provide, among other things, that (1) the issuer shall have tangible net worth in excess of $250,000,000 and otherwise substantially exceed size and earnings requirements in Section 101(A) of the *Company Guide* or meet the alternate guideline in paragraph (a); (2) the term of the warrants shall be for a period ranging from one to five years from date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

Criteria Under Exchange Rule 901C For Index Components. Pursuant to Commentary .02 to Exchange Rule 901C, (1) each of the component securities has a minimum market capitalization of at least $75 million and has a trading volume in each of the last six months of not less than 1,000,0000 shares; (2) the lesser of the five highest weighted component securities in the Index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of component securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months; (3) at least 90% of the Index's numerical index value and at least 80% of the total number of component securities meet the current criteria for standardized option trading set forth in Exchange Rule 915 (in fact, all of the component securities in the Index currently underlie standardized options); (4) the Index contains no American Depositary Receipts ("ADRs"); (5) all component stocks are listed on the Amex, the New York Stock Exchange ("NYSE"), or traded through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported National Market System securities ("Nasdaq/NMS"); and (6) no component security represents more than 25% of the weight of the Index, and the five highest weighted component securities in the Index do not in the aggregate account for more than 60% of the weight of the Index.

Index Design. The Index was designed by PaineWebber and will be maintained by the Amex. The Amex represents that the Index is a narrow-based index currently comprised of stocks of 22 companies from the oil and gas industry. The total capitalization of the component securities in the Index as of April 21, 1998 was approximately $57 billion. The average capitalization on that date was approximately $2.6 billion. The individual market capitalization of the component securities ranges from $324 million to $9.9 billion. the components in the Index had a six month average daily trading volume of 7 million shares per day and ranged from 1.6 million shares per day to 13.2 million shares per day.

Index Calculation. The Index is market capitalization-weighted such that the Index value is calculated by multiplying the primary exchange regular way last sale price of each component security by its number of shares outstanding, adding the sums

[4] Section 106(j) of the Amex *Company Guide* provides that in order to list warrants on a stock index industry group pursuant to Section 19(b)(3)(A) of the Act, the Exchange may file for approval of a stock index industry group underlying a proposed warrant pursuant to the procedures and criteria set forth in Commentary .02 to Exchange Rule 901C. (See also Securities Exchange Act Release No. 34–37007 (March 21, 1996), 61 FR 14165 (March 29, 1996).

[5] See Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994). Accordingly, the Exchange has represented that the proposed rule will not become operative for 30 days after the date of this filing. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change.

and dividing by the current index divisor.

Maintenance of the Index. The Index will be maiptained by the Amex. If necessary in order to maintain continuity of the Index, its divisor may be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, stock distributions, stock splits, reverse stock splits, spin-offs, certain rights issuance, recapitalizations, reorganizations, and mergers and acquisitions.

The Exchange will maintain the Index in accordance with Amex Rule 901C, Commentary .02 so that, (1) the Index is comprised of not less than 15 underlying stocks, and not more than 29 underlying stocks; (2) component stocks constituting the top 90% of the Index, by weight, will have a minimum market capitalization of $75 million, and the component stocks constituting the bottom 10% of the Index, by weight, may have minimum market capitalization of $50 million; (3) 90% of the Index's numerical index value and at least 80% of the total number of components will meet the then current criteria for standardized options trading set forth in Amex Rule 915; (4) foreign country securities or ADRs thereon that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20% of the weight of the Index; (5) all component stocks will either be listed on the Amex, the NYSE, or Nasdaq/NMS; (6) no component security will represent more than 25% of the weight of the Index, and the five highest weighted components will not in the aggregate account for more than 60% of the Index; (7) trading volume of each component security shall be at least 500,000 shares for each of the last six months, or for each of the lowest weighted components that in aggregate account for no more than 10% of the weight of the Index, the monthly trading volume may be at least 400,000 shares for each of the last six months; and (8) the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index shall have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

Dissemination of the Index Value. Similar to other stock index values which underlie exchange-traded products, the value of the index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Warrant Expiration and Settlement. Index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Index has declined below a pre-stated index level. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index has increased above the pre-stated index level. If "out-of-the-money" at the time of expiration, the warrants would expire worthless. In addition, the Amex, prior to the commencement of trading, will distribute a circular to its membership calling attention to specific risks associated with warrants on the Index.

Other Exchange Rules Applicable to Index Warrants. The listing and trading of warrants on the Index will comply in all respects to Exchange Rules 1100 through 1110 for the trading of stock index and currency warrants. These rules cover issues such as exercise and position limits and reporting requirements. Surveillance procedures currently used to monitor trading in each of the Exchange's other index warrants will also be used to monitor trading in warrants on the PaineWebber Oil & Gas Producers Index. The Index is deemed to be a Stock Index Industry Group under Rule 900C(b)(1). The Exchange expects that the review required by Rule 1107(b)(ii) will result in a position limit of 6,750,000 warrants.

2. Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act. The Amex may not list warrants for trading on the Index prior to 30 days after the date the proposed rule change was filed with the Commission.[6] At any time within 60 days of the filing of such proposed rule change, the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–98–17 and should be submitted by June 12, 1998.

[6] See Securities Exchange Act Release No. 34–34157 (June 3, 1994), 59 FR 30062 (June 10, 1994).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

[FR Doc. 98–14020 Filed 5–27–98; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40019; File No. SR–Amex–97–40]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Proposed Revisions to the Exchange's Policy Regarding the Use of Wireless Data Communications Devices

May 21, 1998.

I. Introduction

On October 29, 1997, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its policy regarding the use of wireless data communications devices on the trading floor.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 39411 (December 8, 1997), 62 FR 65727 (December 15, 1997). No comments were received on the proposal. The Exchange subsequently filed Amendment No. 1 on March 17, 1998.[3] The order approves the proposed rule filing, as amended.

II. Description

The Exchange has undertaken to build an infrastructure ("Infrastructure") to support wireless data communications on the trading floor by members and Exchange staff. On September 26, 1996, the Commission approved various rule changes and a policy regarding the use of wireless data communications devices on the trading floor (the "Wireless Communications Policy" or "Policy").[4] The Wireless Communications Policy was originally based upon a design for the Infrastructure that called for all wireless data transmissions to pass through an application residing between the member firms and the Exchange's wireless infrastructure (the "Gateway"). The Gateway would have monitored data that was being transmitted to and from the Infrastructure and would have repackaged it to conform to a standard format for all members to use. The Gateway would have permitted the Exchange to make a record of all wireless communications and to unilaterally "throttle" all, or selected, member communications in the event that such transmissions used a disproportionate amount of the available radio frequency or threatened to exceed available radio frequency capacity. The Exchange is now proposing to eliminate the Gateway.

As noted above, the Gateway would have maintained a record of all wireless communications. The Exchange states that the records obtained through the Gateway would have been duplicative of records already maintained by member firms pursuant to Commission and Exchange rules and that the proposed rule change will eliminate this duplicative data base. Under the revised Wireless Communications Policy, members will still be required to maintain books and records pursuant to Exchange rules and policies and federal securities laws. According to the Exchange, the relevant Exchange rules require members to prepare and maintain records of orders and transactions containing the information specified in Exchange Rule 111, Commentary .04; Exchange Rule 114, Commentary .09; and Exchange Rules 153, 180, 181, and Exchange Rule 950(a), (c) and (d), Commentary .03. The Exchange's audit trail policies also require members to records the time of trade, executing broker badge number and contra broker badge number with respect to all trades. In addition, the Exchange states that Rules 17a–3(a) (6) and (7) under the Act require registered brokers and dealers to prepare records of brokerage orders and dealer transactions meeting the requirements of these rules, and that these records must be maintained for the period stated in Rule 17a–4(b)(1) under the Act.[5]

In addition, the Exchange states that the elimination of the record keeping capabilities of the Gateway will not cause any diminution of the Exchange's surveillance capabilities because the Exchange will retain the same access to member books and records that it currently possesses. The Exchange currently has the ability to obtain records from its members for investigative purposes pursuant to its authority to require members to produce their books and records and to discipline members (and their employees) that fail to comply with such requests.[6] In the Absence of a Gateway, the Exchange would continue to employ its current procedures for obtaining information from its members and their employees.[7]

With respect to monitoring radio frequency capacity and usage, the revised Wireless Communications Policy will state that the Exchange's staff may request members to reduce radio traffic if and when required because a particular user is using more than its fair share to radio frequency capacity of overall usage is reaching its maximum. Members will be obligated to comply immediately with any such request and their ability to send wireless communications may be immediately terminated for failure to comply.

The Exchange also proposes some further changes to the Wireless Communications Policy to include a requirement that members using wireless technology maintain a record of orders and quotes initiated on the Floor and transmitted to other markets, a statement that members do not acquire a property interest in their assigned band width, a requirement that affiliates be treated as a single entity for purposes of band width assignment and a reduction in the number of handheld terminals that the system is able to support in view of anticipated demand for this capacity.

III. Discussion

The Commission finds that the proposed rule change is consistent with

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[7] 17 CFR 200.30–3(a)(12)(1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Letter from William Floyd-Jones, Assistant General Counsel, Amex, to Heather Seidel, Attorney, Market Regulation, Commission, dated March 16, 1998 ("Amendment No. 1"). Amendment No. 1 explains in further detail why the Exchange is eliminating the Gateway; which records members are required to keep pursuant to Exchange and Commission rules that the Gateway would have separately maintained; how the Exchange will obtain records from its members for surveillance purposes without the Gateway; and how the Exchange will monitor overall radio frequency usage and individual firm usage in the absence of the a Gateway in order to determine that the wireless infrastructure is approaching its capacity, and which firm(s) is using a disproportionate amount of the radio frequently capacity.

[4] See Securities Exchange Act Release No. 37728 (September 26, 1996), 61 FR 51476 (October 2, 1996).

[5] The Commission notes that in general members, brokers, and dealers are subject to the Commission's recordkeeping and record retention rules, Rule 17a–3, and 17a–4 under the Act (17 CFR 240.17a–3 and 240.17a–4).

[6] See, *e.g.*, Article II, Section 3(a) of the Exchange Constitution, Article V, Section 4(k) of the Exchange Constitution, and Exchange Rule 31.

[7] The Exchange also states that to the best of its knowledge, the Exchange's current procedures for obtaining member books and records are consistent with existing practice at all other exchanges.

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[8] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.[9]

The Commission continues to believe that the Wireless Communication Policy should help remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest, by expediting and making more efficient the process by which members receive and execute orders on the floor of the Exchange. In particular, the Commission believes that the removal of the Gateway should increase efficiency by eliminating any time delay that the requirement that all orders pass through the Gateway subsystem may have caused. The Commission finds, based upon the Exchange's representations concerning the lack of need for a Gateway[10] and the excessive cost and difficulty of designing and implementing the Gateway,[11] that it is consistent with the Act for the Exchange to eliminate the Gateway.

The Commission believes that it is reasonable for the Exchange to conclude that the Gateway is not necessary because the selected radio frequency should be able to support all foreseeable wireless communications and because the Exchange will have the ability to monitor radio frequency capacity and usage and require member firms to cut down on their usage to ensure that the system does not become overloaded. The Exchange states that the Wireless Network Management System ("WNMS") is a monitoring tool that will enable it to monitor radio frequency usage by (1) all wireless users collectively, (2) a particular firm, and (3) an individual using a handheld terminal within a particular firm. The WNMS combines some of the capabilities of the Gateway and Wireless Control Subsystem which existed in the former design of the wireless infrastructure. The next version of the WNMS will allow the Exchange's personnel to see all, or a selected number, of users sorted according to their use of the system. Each firm (or group of affiliated firms) that has been approved to use wireless technology currently may use up to 1/30th of total radio frequency capacity, and the Exchange would consider a member's use of more than 1/30th of total system capacity to be a disproportionate usage of its radio frequency capacity.[12]

The Commission also believes that the Exchange and member firms should be able to adequately maintain records of all wireless transactions, because of the already existing recordkeeping and surveillance procedures, in the absence of the Gateway. Member firms currently are, and will still be, subject to Exchange and Commission recordkeeping and record retention rules.[13] In addition, the elimination of the recordkeeping capabilities of the Gateway should not cause undue diminution of the Exchange's surveillance capabilities because the Exchange has the ability to obtain those records from members for investigative purposes, with the authority to discipline members who do not comply with such requests.[14]

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 clarifies and strengthens the proposed rule change by more fully explaining why the Exchange is amending the Wireless Communications Policy to eliminate the Gateway, and how the Exchange will still have adequate ability to monitor and surveille wireless usage and wireless transactions without the Gateway. Amendment No. 1 does not make any substantive changes to the proposed rule change. Also, the proposed rule change was noticed for the full statutory notice and comment period and no comment letters were received. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal, including whether Amendment No. 1 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Annex–97–40 and should be submitted by June 18, 1998.

IV. Conculsion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Amex–97–40), as amended, is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[16]

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[8] 15 U.S.C. 78f(b).

[9] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] In late 1996, the Exchange reviewed the design of the Infrastructure. The Exchange determined that there was no immediate need for throttling because the amount of radio frequency capacity available in the 2.4 GHz frequency could support all foreseeable wireless communications, and that it was unclear when it might become necessary. The Exchange also noted that it could control excessive radio frequency use by denying requests to use wireless applications that required excessive capacity. Also, the Exchange noted there are other radio frequencies and emerging technologies that could be employed in the unlikely event that the capacity of the 2.4 GHz frequency is exhausted. The Exchange concluded that since there was no need for throttling, there was no need for a Gateway and that, if and when necessary, throttling could be accomplished by the member firms without a Gateway.

[11] Also during this 1996 review, the Exchange estimated that the use of a Gateway instead of a router would have more than doubled its costs to develop and install the infrastructure and would have also necessitated a high degree of customized programming which raised reliability issues. In addition to concerns with the Exchange's costs and system reliability, members using the infrastructure with a gateway would have had to conform their message formats to the gateway's requirements, which would have required members that already had developed wireless communications capabilities to incur significant costs to reprogram their existing systems to comply with the Exchange's unique requirements. Potentially, these members would have had to operate different wireless systems on different exchanges.

[12] According to Amex, the Infrastructure has been designed to support 4 million megabits per second; thus, overall usage that approaches the four million megabit level would be considered to be approaching system capacity.

[13] See Description Section *supra*.

[14] The Commission also believes that the miscellaneous amendments to the Wireless Communications policy are reasonable under the Act because the changes are designed to enhance the Policy in light of the Exchange's experience with wireless technology since the Policy was first adopted.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 98–14116 Filed 5–27–98; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40015; File No. SR–CBOE–98–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Adjustments in Market Maker Equity

May 20, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 31, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 12.3, "Margin Requirements" by adopting Interpretation and Policy .06, which will allow clearing firms to adjust a market maker's equity under certain limited circumstances so that the clearing firm may extend credit for opening trades. Specifically, proposed Interpretation and Policy .06 will allow a clearing firm to adjust the equity in a market maker's account when the underlying stock price is disseminated after the options close at 3.02 p.m.[3] at a price that is inconsistent with the options closing price.

Copies of the proposed rule change are available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 12.3(f)(3)(C)(3)[4] prohibits clearing firms from extending credit to a market maker for opening transactions when the market maker's account is in deficit. The CBOE proposes to add Interpretation and Policy .06 to CBOE Rule 12.3 to permit a clearing firm to adjust the equity in a market maker's account under certain limited circumstances in order to allow the clearing firm to extend credit for opening trades. Specifically, proposed Interpretation and Policy .06 will permit a clearing firm to adjust the equity in market maker's account when the underlying stock price is disseminated after the options close at 3:02 p.m. at a price that is inconsistent with the options closing price.

In 1997, the CBOE and the other options exchanges changed the closing time for trading equity options and certain narrow-based index options from 3:10 p.m. to 3.02 p.m.[5] Since then, the CBOE has discovered that the equity of market maker's account at a clearing firm can be severely affected when news of a stock underlying a CBOE option is disseminated near the close, resulting in heavy trading and a late trade tape. In these situations, the last sale of the underlying stock could be disseminated well after the overlying options stop trading at 3:02 p.m.,[6] and closing price of the underlying stock may be out of line with the closing quotes and the last sale of the options series. The CBOE notes that while this situation would almost assuredly realign itself at the opening of trading on the next day, the discrepancy in closing prices may cause a market maker's account to have deficit equity. This is true even though from a market risk standpoint the market maker may be hedged.

Proposed Interpretation and Policy .06 would allow a clearing firm to appropriately adjust a market maker's account equity to eliminate a pricing disparity for a trader whose account is in deficit as a result of such a situation. The clearing firm will be required to provide documentation to the CBOE for such adjustments before the opening of trading the next day (or before the firm may extend credit for opening transactions). These adjustments will be made on a case-by-case basis. In situations where the deficit is eliminated by the adjustment and the adjustment is approved by the CBOE's Department of Financial and Sales Practice Compliance, the trader would be permitted to continue trading the next business day.

2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that, by allowing for an adjustment in a market maker's account equity in situations where the stock and the overlying options close at anomalous prices, the proposal is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

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[1] 15 U.S.C. 78s(b)(1).

[2] On May 7, 1998, the CBOE filed Amendment No. 1 to the proposal. See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Yvonne Fraticelli, Division of Market Regulation, Commission, dated May 6, 1998 ("Amendment No. 1") In Amendment No. 1, the CBOE revised its proposal to: (1) indicate that CBOE Rule 12.3(f)(3)(C)(3), rather than Regulation X of the Board of Governors of the Federal Reserve System, prohibits a clearing firm from extending credit to a market maker when the market maker's account is in deficit; (2) replace a reference in proposed Interpretation and Policy .06 to CBOE Rule 12.3(b)(1)(D) with a reference to CBOE Rule 12.3(f)(1)(F) to define net liquidating equity; and (3) revise proposed Interpretation and Policy .06 to indicate that clearing firms will be allowed to extend credit for opening trades, rather than to permit opening trades.

[3] All time references are in Central Time.

[4] See Amendment No. 1, *supra* note 2.

[5] See *e.g.*, Securities Exchange Act Release No. 38543 (May 14, 1997), 62 FR 28082 (May 22, 1997) (order approving File No. SR–CBOE–96–71).

[6] When the options markets closed at 3:10 p.m., this situation would rarely arise because the final stock prices were almost always disseminated by the time the options markets closed, thereby allowing options market makers to adjust their quotes accordingly.

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–11 and should be submitted by June 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14022 Filed 5–27–98; 8:45 am]

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[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40021; File No. SR–CBOE–98–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Exchange Mandated Education Training

May 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on April 20, 1998, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to add a provision of Exchange Rule 6.20 Admission to and Conduct on the Trading Floor, Member Education, to require that Exchange members and persons associated with Exchange members attend mandatory continuing education classes as directed by the Exchange. Proposed new language is in italics.

Chicago Board Options Exchange, Inc. Rules

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CHAPTER VI

Doing Business on the Exchange Floor

Section B: Member Activities on the Floor

Admission to and Conduct on the Trading Floor: *Member Education*

Rule 6.20(a)—(c) No change.

(d) *Education Classes. Members and persons associated with members are required to attend such educational classes as the Exchange may require from time to time. Failure to attend Exchange mandated continuing educational classes may subject members and persons associated with members to sanctions pursuant to the Exchange's Minor Rule Violation provided in Exchange Rule 17.50. Any action taken by Floor Officials thereunder shall not preclude further disciplinary action by the Business Conduct Committee under Chapter XVII of the Rules, except as otherwise provided in Rule 17.50.*

. . . Interpretations and Policies:

.01–.09 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to add a provision to Exchange Rule 6.20, Admission to and Conduct on the Trading Floor; Member Education, to require that Exchange members and persons associated with Exchange members attend mandatory continuing education classes as directed by the Exchange. The Exchange believes it is necessary from time to time to require mandatory participation in certain educational training classes by its members and persons associated with its members for a variety of reasons, including to promote professional behavior and decorum on the trading floor, or to explain the operation of new technology. For example, the Exchange intends to implement a harassment awareness training and ethics program for its members and persons associated with its members who are present on the trading floor.

Without this rule change, the Exchange would not have the ability to mandate attendance. The Exchange is also proposing to amend its Minor Rule Violation fine schedule pursuant to Exchange Rule 17.50(g)(6). Floor Officials are allowed, pursuant to Rule 17.50(g)(6), to fine members and associated persons for violations of trading conduct and decorum policies. For failure to attend an Exchange mandated continuing educational class, the Exchange proposes a fine of $500 for a first offense, $750 for a second offense

[1] 15 U.S.C. 78s(b)(1).

and $1,000 for subsequent offenses. The Exchange believes the amount of the fines will be sufficient to ensure attendance. However, in the event members refuse to attend even after being assessed a fine, as with all Minor Rule violations, the Exchange has the discretion to refer violations to the Business Conduct Committee pursuant to Chapter XVII of the Exchange's Rules.

2. Statutory Basis

The proposed rule change will give the Exchange the ability to provide for a more professional and informed membership and is therefore consistent with and furthers the objectives of Section 6(b)(5) of the Act [2] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number (SR–CBOE–98–12) and should be submitted by June 18, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the CBOE's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that, consistent with Section 6(b)(5) of the Act,[3] requiring members and those associated with members to attend continuing education classes on such topics as professional conduct and the operation of new technology will both promote just and equitable principles of trade and benefit investors. Moreover, the Commission finds that mandating continuing education training for members and persons associated with members is consistent with the provisions of Section 6(c)(3)(B) of the Act, which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence for persons associated with self-regulatory organization members.

The Commission therefor finds good cause for approving the proposed rule change prior to the thirtieth day after date of publication of notice of filing thereof in the **Federal Register**.[4]

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–CBOE–98–12) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[FR Doc. 98–14115 Filed 5–27–98; 8:45 am]

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[2] 15 U.S.C. 78f(b)(5).

[3] 15 U.S.C. 78f(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

[4] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40016; File No. SR–CHX–98–5]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Utilization of Exempt Credit by Market Makers

May 20, 1998.

I. Introduction

On February 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder.[2] In the filing, the CHX proposed amendments to an interpretation to Article XXXIV, Rule 16 relating to registered market makers' utilization of exempt credit. Notice of the proposed rule change was published in the **Federal Register** on April 8, 1998.[3] The Commission received no comments on the proposal.

II. Description of the Proposal

Interpretation .01 to Article XXXIV, Rule 16 notes that "[e]xchange members registered as equity market makers are members registered as specialists for purposes of [the Act] and as such they are entitled to obtain exempt credit for financing their market maker transactions." [4] The Interpretation also sets forth certain parameters that market makers must satisfy to obtain such exempt credit. The Interpretation specifies that 50% of the quarterly share volume that creates or increases a position in a market maker account must result from transactions consummated on the Exchange or sent from the Exchange floor for execution in another market via the Intermarket Trading System ("ITS"). The proposed rule change modifies this Interpretation by eliminating the reference to "creating or increasing a position," thereby including all transactions consummated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39822 (March 31, 1998), 63 FR 17248 (April 8, 1998).

[4] The Board of Governors of the Federal Reserve System is authorized, pursuant to Section 7 of the Act, to establish initial margin requirements and credit restrictions on margin financing. 12 CFR 220 and 221. Generally, Regulation T limits to 50% the amount of financing extended to or by a broker-dealer to finance a securities position. 12 CFR 220.18. Bona fide market making activity, however, may be exempt from these credit restrictions.

on the Exchange or sent from the Exchange floor via ITS in determining a market maker's ability to use exempt credit.

In providing assistance in maintaining a fair and orderly market, a market maker may be required to decrease either a long or a short position in a particular security. Consequently, a market maker may, from time to time, engage in transactions that decrease its position. These transactions were not previously included in the calculation of transactions that qualify for exempt credit. The proposed rule change amends Interpretation .01 to Article XXXIV, Rule 16 to note that positions that decrease a position in a market maker account will be treated the same way as those that create or increase a position for purposes of determining whether a market maker has satisfied the 50% volume requirements needed to obtain exempt credit.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with Sections 6(b) and 11(b) of the Act.[5] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes, moreover, that the proposed rule change is consistent with the requirements of Section 11(b) and Rule 11b–1 thereunder[7] that specialist (*i.e.*, market maker)[8] transactions contribute to the maintenance of fair and orderly markets.

The Commission believes that registered market makers on the Exchange serve an important function inasmuch as they add depth and liquidity to the market for CHX-traded securities. Pursuant to Article XXXIV of the CHX Rules, market makers are subject to both affirmative and negative obligations,[9] and, in return, are accorded certain privileges, including exempt credit financing.[10] For this reason, it is critical that only those members who are engaged in bona fide market making activities qualify for favorable margin treatment under the Exchange's rules. To the extent that transactions that decrease a position in a market maker account contribute to the depth and liquidity in the market for CHX-traded securities, the Commission believes that it is appropriate for the Exchange to conclude that such transactions constitute bona fide market making activity.

By including in the Exchange's exempt credit 50% minimum quarterly share volume requirements a greater number of transactions that contribute to the maintenance of fair and orderly markets, registered market makers are facilitated in their ability to finance transactions that provide market continuity and stability. Enhancements in the quality of the market CHX-traded securities in turn foster investor confidence and participation in the market. Accordingly, the Commission believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) and 11(b).[11]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change SR–CHX–98–05 be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14021 Filed 5–27–98; 8:45 am]

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[5] 15 U.S.C. 78f(b) and 78k(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 240.11b–1.

[8] Under Article XXXIV, Rule 16, registered market makers are registered as specialists for purposes of the Act.

[9] For example, under Article XXXIV, a registered market maker on the Exchange has the duty to maintain fair and orderly markets in assigned issues (Rule 1); the duty to execute at least 50% of quarterly share volume in assigned issues (Rule 3); and the duty to register separately for each security to be traded as a market maker (Rule 4).

[10] Under the federal securities laws and the Exchange's Rules as set forth in Article XXXIV, market makers are also granted special treatment and exemptions from requirements regarding net capital, position financing, and short sales for transaction effected during the course of bona fide market making.

[11] In approving the rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40017; File No. SR–CHX–98–09]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Partial Temporary Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Amending the SuperMAX and Enhanced SuperMAX Algorithms

May 20, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 20, 1998, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval, on a temporary basis, for a portion of the proposed rule change relating to a new SuperMAX algorithm.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its SuperMAX and Enhanced SuperMAX programs, located in subsections (c) and (e) of Rule 37 of Article XX. Specifically, the Exchange is proposing new algorithms to provide price improvement under SuperMAX and Enhanced SuperMAX in 1/16th point markets. Below is the text of the proposed rule change, additions are italicized; deletions are bracketed.

(c) SuperMAX.

[The Exchange's SuperMAX program shall be an automatic execution program within MAX in which a Specialist may voluntarily choose to participate on a stock-by-stock basis. A Specialist shall decide if his or her stock will be eligible for SuperMAX treatment. In the event that a Specialist determines that his stock is eligible for SuperMAX and voluntarily chooses to participate in SuperMAX, small agency market orders in that stock will automatically be executed in MAX, through the SuperMAX program, without any Specialist intervention based on the following criteria (for purposes of this Rule, small market orders shall mean orders up to and including 599 shares, except for the 500 stocks listed in the

[1] 15 U.S.C. 78s(b)(1).

S&P 500™ Index, in which case, small market orders shall mean orders up to and including 1099 shares):

(1) Pricing.

(i) Both buy and sell orders in markets quoted with less than ¼ point spread or orders which do not meet the criteria in (ii) or (iii) below will be executed based on the ITS BBO.

(ii) Buy orders in markets quoted with a ¼ point spread or wider will be executed at a price ⅛th point better than the ITS Best Offer if (i) an execution at the ITS Best Offer would create a double up tick based upon the last sale in the primary market or (2) an execution at the ITS Best Offer would result in a greater than a ⅛th point price change from the last sale in the primary market.

(iii) Sell orders in markets quoted with a ¼ point spread or wider will be executed at a price ⅛th point better than the ITS Best Bid if (i) an execution at the ITS Best Bid would create a double down tick based upon the last sale in the primary market or (2) an execution at the ITS Best Bid would result in a greater than a ⅛th point price change from the last sale in the primary market.

For example, the execution price for a market buy order in a ¼–½ quoted market is as follows:

Tick/last sale	Execution price
+½	½
+⅜	⅜
−⅜	½
−¼	⅜
+¼	⅜ (if in range)

The execution price for a market buy order in a ¼–⅝ quoted market is as follows:

Tick/last sale	Execution price
+⅝	⅝
+½	½
⅜	½
−½	⅝
−⅜	½
−¼	½
+¼	½

(2) Operating Time. SuperMAX will operate each day that the Exchange is open for trading from 8:45 a.m. (C.T.) until the close. During volatile periods, individual stocks or all stocks may be removed from SuperMAX with the approval of two members of the Committee on Floor Procedure.

(3) Timing. Orders entered into SuperMAX shall be immediately executed without any delay (i.e. 0 seconds).

(4) Applicability to Odd-Lots. Although an order generated by the Odd-Lot Execution Service ("OLES") is a professional order (because it is deemed to be for the account of a broker-dealer), it is nonetheless eligible for SuperMAX execution if: (i) the issue is on SuperMAX, (ii) it is an order for 200 shares or less, and (iii) it is an OLES passively driven, system-generated market order (and not an actively managed order).

(5) Other. Any eligible order in a stock included in SuperMAX which is manually presented at the Specialist post by a floor broker must also be guaranteed an execution by the Specialist pursuant to the criteria set forth in (1) above. In the event that a contra side order which would better a SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the SuperMAX criteria must be adjusted to the better price.]

SuperMAX shall be a voluntary automatic execution program within the MAX System. SuperMAX shall be available for Dual Trading System securities. Dual Trading System securities are securities that are traded on both the Exchange and either the New York Stock Exchange or the American Stock Exchange. A specialist may choose to enable this voluntary program within the MAX System on a security-by-security basis. In the event that the security is eligible for SuperMAX and the specialist in such security has chosen to engage SuperMAX for such security, small agency market orders in that security will automatically be executed in accordance with the SuperMAX algorithm, as set forth below. For purposes of this subsection (c), the term "small agency market order" shall mean an agency order from 100 shares up to and including 499 shares (or such greater amount specified by the specialist and approved by the Exchange).

(1) Pricing.

(i) In the event that a small agency market order to buy or sell is received in a security in which SuperMAX has been enabled, such order shall be executed at the ITS Best Offer (for a buy order) or ITS Best Bid (for a sell order) if (A) the spread between the ITS Best Bid and the ITS Best Offer in such security at the time the order is received is less than ⅛th of a point, or (B) the order does not meet the criteria in (ii) below.

(ii) In the event that a small agency market order to buy or sell is received in a security in which SuperMAX has been enabled, and the last primary market sale is at least 1/8th of a point lower than (for a buy order) or higher than (for a sell order) the ITS Best Offer (for a buy order) or the ITS Best Bid (for a sell order), such order shall be executed a 1/16th of a point lower than the ITS Best Offer (for a buy order) or 1/16th of a point higher than the ITS Best Bid (for a sell order).

(2) Operating Time.

SuperMAX will operate each day that the Exchange is open for trading from 8:45 a.m. (C.T.) until the close of the Primary trading Session. A specialist may enable or remove SuperMAX for a particular security only on one given day each month, as determined by the Exchange from time to time. Notwithstanding the previous sentence, during unusual market conditions, individual securities or all securities may be removed from SuperMAX with approval of two members of the Committee on Floor Procedure.

(3) Timing.

Orders entered into SuperMAX shall be immediately executed upon completion of the algorithm without any delay (i.e., 0 seconds).

(4) Applicability to Odd-Lots.

Although an order generated by the Odd-Lot Execution Service ("OLES") is a professional order (because it is deemed to be for the account of a broker-dealer), it is nonetheless eligible for SuperMAX execution if: (i) the issue is on SuperMAX, (ii) it is an order for 200 shares or less, and (iii) it is an OLES passively driven, system-generated market order (and not an actively managed order).

(5) Out of Range.

Notwithstanding anything herein to the contrary, SuperMAX will not automatically execute an order if such execution would result in an out of range execution.

(6) Other.

Any eligible order in a security included in SuperMAX, which is manually presented at the Specialist post by a floor broker must also be guaranteed an execution by the Specialist pursuant to the criteria set forth in (1) above. In the event that a contra side order which would better a SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the SuperMAX criteria must be adjusted to the better price.

(d) No change in text.

(e) Enhanced SuperMAX

[The Exchange's Enhanced SuperMAX program shall be an automatic execution program within MAX in which a specialist may voluntarily choose to participate on a stock-by-stock basis. A specialist shall decide if his or her stock will be eligible for Enhanced SuperMAX treatment. In

the event that a stock is eligible for Enhanced SuperMAX treatment (pursuant to paragraph (e) of this Rule) and SuperMAX treatment (pursuant to paragraph (c) of this Rule) at the same time, the size of the order and the inclusion of the security in the S&P 500™ Index will determine which program will be followed for execution. If a stock is not included in the S&P 500™ Index, an order of 299 shares or less will execute according to the SuperMAX program and an order from 300 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange) will execute according to the Enhanced SuperMAX program. If a stock is included in the S&P 500™ Index, or if a specialist in a non-S&P 500™ Index issue so chooses, an order of 599 shares or less will execute according to the SuperMAX program and an order from 600 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange) will execute according to the Enhanced SuperMAX program. In the event that a specialist determines that his stock is eligible for Enhanced SuperMAX only and voluntarily chooses to participate in Enhanced SuperMAX, agency market orders up to and including 1099 shares (or such greater size specified by a specialist and approved by the Exchange) in that stock may automatically be stopped and executed in MAX, through the Enhanced SuperMAX program, without any specialist intervention based on the following criteria:

(1) Stopping. If an agency market order eligible for Enhanced SuperMAX would create either a double up tick (buy order) or double down tick (sell order) if the order was executed at the ITS BBO, the Enhanced SuperMAX program will "stop" the order. Once stopped, the order will not receive an execution that is worse than the stopped price. Notwithstanding anything in the previous sentence to the contrary, agency market orders in markets quoted in less and a ¼ point market will not be stopped. Orders not stopped will be immediately executed based upon the ITS BBO as the case may be.

(2) Pricing. Buy orders stopped under (1) above will be executed as follows:

(i) If the next primary market sale is equal to or less than the last sale then the stopped order will be executed at such last sale price (subject, however, to the Exchange's block protection policy as set forth in interpretation and policy .06 of Rule 7 of this Article).

(ii) If the next primary market sale is greater than the last sale then the stopped order will be executed at such next primary market sale price. However, if the next primary market sale is greater than the stopped price then the stopped order will be filled at the stopped price.

Sell orders stopped under (1) above will be executed as follows:

(iii) If the next primary market sale is equal to or greater than the last sale then the stopped order will be executed at such last sale price (subject, however, to the Exchange's block protection policy as set forth in interpretation and policy .06 of Rule 7 of this Article).

(iv) If the next primary market sale is less than the last sale then the stopped order will be executed at such primary. market sale price. However, if the next primary market sale is less than the stopped price then the stopped order will be filled at the stopped price.

Notwithstanding anything in this paragraph (2) to the contrary, orders stopped under this paragraph that are subject to a Time Out Period (as defined below) shall be executed at the stopped price if there are no executions in the primary market at the end of the applicable Time Out Period. The Time Out Period shall be the time specified by the specialist on a stock-by-stock basis based on the size of the order. Such Time Out Period may be changed by a specialist no more frequently than once a month and may be no less than 30 seconds. A specialist shall not be required to specify a Time Out Period. If no Time Out Period is specified, no Time Out Period shall apply.

(3) Operating Time. Enhanced SuperMAX will operate each day that the Exchange is open for trading from 8:45 a.m. (C.T.) until the close. A specialist may make a particular stock eligible for Enhanced SuperMAX and may remove a particular stock from Enhanced SuperMAX only on one given day each month, as determined from time to time by the Exchange. Notwithstanding anything in the previous sentence to the contrary, in unusual trading situations, individual stocks or all stocks may be removed from Enhanced SuperMAX with the approval of two members of the Committee on Floor Procedure.

(4) Timing. Orders entered into Enhanced SuperMAX shall, when due a fill under the Enhanced SuperMAX program, be immediately executed without any delay (i.e. 0 seconds).

(5) Applicability to Odd-Lots. Although an order generated by the Odd-Lot Execution Service ("OLES") is a professional order (because it is deemed to be for the account of a broker-dealer), it is nonetheless eligible for Enhanced SuperMAX execution if: (i) the issue is on Enhanced SuperMAX, (ii) it is an order for 200 shares or less, and (iii) it is an OLES passively drive, system-generated market order (and not an actively managed order).

(6) Out of Range. Notwithstanding anything in this paragraph (e) to the contrary, Enhanced SuperMAX will not execute an order at the ITS BBO if such execution would result in an out of range execution.

(7) Other. Any eligible order in a stock included in Enhanced SuperMAX which is manually presented at the Specialist post by a floor broker must also be guaranteed an execution by the Specialist pursuant to the criteria set forth in this paragraph (e). In the event that a contra side order which would better an Enhanced SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the Enhanced SuperMAX criteria must be adjusted to the better price.]

Enhanced SuperMAX shall be a voluntary automatic execution program within the MAX System. Enhanced SuperMAX shall be available for any Dual Trading System security in which SuperMAX has been enabled. A specialist may choose to enable this voluntary program within the MAX System on a security-by-security basis. In the event that the security is eligible for Enhanced SuperMAX and the specialist in such security has chosen to engage Enhanced SuperMAX for such security, small agency market orders in that security will automatically be executed in accordance with the Enhanced SuperMAX algorithm, as set forth below. For purposes of this subsection (e), the term "small agency market order" shall mean an agency order for at least 500 shares, up to and including 2099 shares (or such greater amount chosen by the specialist and approved by the Exchange). Notwithstanding the previous sentence, the smallest size order in a particular security that is eligible for Enhanced SuperMAX shall always be of a size that is at least one share greater than the largest size order in such security that is eligible for SuperMAX.

(1) Stopping.

(i) In the event that a small agency market order to buy or sell is received in a security in which Enhanced SuperMAX has been enabled, and both (A) the spread between the ITS Best Bid and the ITS Best Offer in such security at the time the order is received is equal to or greater than 3/16th of a point, and (B) the last primary market sale is at least 1/8th of a point lower than (for a buy order) or higher than (for a sell order) the ITS Best Offer (for a buy

order) or the ITS Best Bid (for a sell order), Enhanced SuperMAX shall "stop" the order at the ITS Best Offer (for a buy order) or at the ITS Best Bid (for a sell order) for a Time Out Period (as defined below). Once stopped, the order shall be guaranteed an execution at the stopped price or better. The Time Out Period shall be the time specified by the specialist, and approved by the Exchange, on a security-by-security basis. Such Time Out Period may be changed by a specialist no more frequently than once a month and may be no less than 30 seconds. If a specialist does not specify a specific Time Out Period, the Time Out Period shall be 30 seconds.

(ii) In the event that a small agency market order to buy or sell is received in a security in which Enhanced SuperMAX has been enabled, and the order is not stopped under (1)(i) above, Enhanced SuperMAX shall immediately execute the order at the ITS Best Offer (for a buy order) or at the ITS Best Bid (for a sell order).

(2) Pricing.

(i) In the event that an order has been stopped in accordance with subsection (1)(i) above, it shall be executed at 1/16th of a point better than the stopped price immediately after the first (i.e., next) primary market sale that occurs during the Time Out Period, but only if such next primary market sale is at least *1/8th* of a point lower than (for a buy order) or higher than (for a sell order) the stopped price.

(ii) In the event that an order has been stopped in accordance with subsection (1)(i) above, it shall be executed at the stopped price immediately after the first (i.e., next) primary market sale that occurs during the Time Out Period, but only if such next primary market sale is less than 1/8th of a point lower than (for a buy order) or higher than (for a sell order) the stopped price.

(iii) in the event that an order has been stopped in accordance with subsection (1)(i) above, it shall be executed at the stopped price immediately at the end of the applicable Time Out Period if no sale of the security has occurred in the primary market during such Time Out Period.

(3) Operating Time.

Enhanced SuperMAX will operate each day that the Exchange is open for trading from 8:45 a.m. (C.T.) until the close of the Primary trading Session. A specialist may enable or remove Enhanced SuperMAX for a particular security only on one given day each month, as determined by the Exchange from time to time. Notwithstanding the previous sentence, during unusual market conditions, individual securities or all securities may be removed from Enhanced SuperMAX with approval of two members of the Committee on Floor Procedure.

(4) Timing.

Orders entered into Enhanced SuperMAX shall be immediately executed upon completion of the algorithm without any delay (i.e., 0 seconds).

(5) Applicability to Odd-Lots.

Although an order generated by the Odd-Lot Execution Service ("OLES") is a professional order (because it is deemed to be for the account of a broker-dealer), it is nonetheless eligible for Enhanced SuperMAX execution if: (i) the issue is on Enhanced SuperMAX, (iii) it is an order for 200 shares or less, and (iii) it is an OLES passively driven, system-generated market order (and not an activity managed order).

(6) Out of Range.

Notwithstanding anything herein to the contrary, Enhanced SuperMAX will not automatically execute an order if such execution would result in an out of range execution.

(7) Other.

Any eligible order in a security included in Enhanced SuperMAX, which is manually presented at the Specialist post by a floor broker must also be guaranteed an execution by the Specialist pursuant to the criteria set forth in (1) and (2) above. In the event that a contra side order which would better a Enhanced SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the Enhanced SuperMAX criteria must be adjusted to the better price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 1995, the Commission approved a proposed rule change of the CHX that allows specialists on the Exchange, through the Exchange's MAX system, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.[2] That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under this new rule.

The CHX now proposes to amend the SuperMAX program and Enhanced SuperMAX programs. SuperMAX and Enhanced SuperMAX are two existing CHX programs within the MAX System that use computerized algorithms to provide automated price improvement. Both of these programs have been approved by the Commission on a permanent basis.[3]

Background. In 1997, virtually every registered national securities exchange and national securities association changed its minimum trading variation to one sixteenth of a point or smaller. Although the CHX made some technical changes to its SuperMAX and Enhanced SuperMAX programs at that time in light of assumptions as to the smallest minimum variation that were contained in the text of the SuperMAX and Enhanced SuperMAX rules, the CHX did not change the algorithms to reflect the additional price improvement opportunities that are available because of trading in sixteenths.[4] The purpose of the proposed rule change is to amend the existing programs to both simplify the price improvement algorithms and increase the number of orders that are eligible for price improvement due to the smaller minimum trading variation. Rather than amending the existing text of the SuperMAX and Enhanced SuperMAX rules, the text of the existing rule has been deleted and replaced with new language. This was done to permit the Exchange to re-write the rule, with non-substantive changes, to clarify some language in the old rule that may have been ambiguous.

Proposal. The existing SuperMAX and Enhanced SuperMAX programs are voluntary programs in which a specialist may choose to participate. Participation is on a security-by-security

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[2] *See* Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995) (File No. SR–CHX–95–08).

[3] *See* Securities Exchange Act Release No. 32631 (July 14, 1993), 58 FR 39069 (July 21, 1993) (File No. SR–MSE–93–10) (Order approving SuperMAX on a permanent basis), Securities Exchange Act Release No. 38338 (February 26, 1997), 62 FR 10102 (March 5, 1997) (File No. SR–CHX–97–02) (Order approving Enhanced SuperMAX on a permanent basis).

[4] *See* Securities Exchange Act Release No. 38816 (July 3, 1997), 62 FR 37325 (July 11, 1997) (File No. SR–CHX–97–18).

basis and is currently limited to Dual Trading System issues (*i.e.*, issues traded on both the CHX and either the New York Stock Exchange or American Stock Exchange). A specialist can only activate and de-activate the program with respect to a given security once a month (a date determined by the specialist). Once activated with respect to a security, small agency market orders [5] in markets quoted with a spread of ¼ point or more are eligible for automated price improvement. Once eligible, the program runs through an algorithum that may provide price improvement under certain circumstances. The existing SuperMAX program provides price improvement to the order if executing the order at the ITS BBC [6] (the ITS best offer for a buy order, and the ITS best bid for a sell order) would create either a double uptick or double down tick based on the last primary market sale. The program also provides price improvement if such an execution would result in greater than a ⅛th point price change from the last primary market sale. Under the existing Enhanced SuperMAX program, rather than executing an order based on the last primary market sale, eligible orders are "stopped" at the ITS BBO and are executed with reference to the next primary market sale. The Enhanced SuperMAX program also includes a time-out feature whereby if there are no executions in the primary market after the order has been stopped for a designated time period, the order is executed at the stopped price at the end of such period. Such period, known as a time out period, is pre-selected by a specialist on a stock-by-stock basis on the size of the order, may be changed by a specialist no more frequently than once a month and may be no less than 30 seconds.

This proposed rule change simplifies the pricing algorithms used by SuperMAX and Enhanced SuperMAX and provides a greater opportunity for price improvement.

Under the new simplified algorithm for SuperMAX, small agency market orders [7] would now be eligible for price improvement if the market for the security is quoted with a spread of ⅛ of a point or greater (rather than the ¼ point spread that is required under the existing rule). In addition, the double-up/double down concept has been eliminated. The simplified algorithm will now provide 1⅛th of a point price improvement from the ITS BBO if an execution at the ITS BBO would be at least ⅛th point higher than (for a buy order) or lower than (for a sell order) the last primary market sale. Basically price improvement is given under certain circumstances when the security is trading between the spread. All other aspects of the existing algorithm, including operating time, timing of execution, applicability to odd-lots, and out of range situations, remain the same.

The Exchange has compared the proposed changes to SuperMAX with the existing SuperMAX algorithm and believes that the new algorithm will provide price improvement to a greater number of trades. Using data for January 1998, the Exchange determined that the proposed changes to the algorithm would have resulted in over 32,000 trades receiving price improvement (for a total savings of $329,000 to customers), as opposed to the 5800 trades that received price improvement (for a total savings of $126,000 to customers) under the existing SuperMAX program. This means that the changes to SuperMAX would have resulted in customers receiving 203,000 additional dollars of price improvement over the Exchange's existing SuperMAX algorithm.

With respect to Enhanced SuperMAX, the Exchange proposes to make this program an add-on feature for securities for which the SuperMAX program has already been activated, rather than a stand-alone program. As stated in the Exchange's Report on the operation of the Enhanced SuperMAX program that was provided to the Commission in advance of the Commission's permanent approval of Enhanced SuperMAX program, taken as a whole, the existing SuperMAX program provides more price improvement than the existing Enhanced SuperMAX program. The Exchange believes that interconnecting the two programs will encourage more specialists to enable the SuperMAX program, with greater resulting price improvement, since the Enhanced SuperMAX program will only be available when SuperMAX is enabled. Currently, some specialists have only turned on the Enhanced SuperMAX program without enabling the SuperMAX program.

Under the new simplified algorithm for Enhanced SuperMAX, small agency market orders [8] would be eligible for price improvement if the market for the security is quoted with a spread of 3/16th of a point (rather than the ¼ point spread that is required under the existing rule). In addition, the double-up/double down concept currently in place to determine whether an order is stopped has been eliminated. The simplified algorithm will now "stop" an eligible order at the ITS BBO if an execution at the ITS BBO would be at least 1/16th point higher than (for a buy order) or lower than (for a sell order) the last primary market sale. (This stopping algorithm is identical to the new algorithm above for Super MAX.) Once stopped, an order would receive 1/16th price improvement over the stopped price if the next primary market sale occurs before the end of the Time Out Period and the sale is at least ⅛th of a point lower than (for a buy order) or higher than (for a sell order) the stopped price. As is the case for SuperMAX, all other aspects of the existing algorithm, including operating time, timing of execution, applicability to odd-lots, and out of range situations, remain the same.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change accomplishes these ends by increasing the number of trades that will be eligible for automated price improvement.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

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[5] For SuperMAX, small agency market orders are orders from 100 shares to 599 shares (or a greater amount chosen by the specialist). For Enhanced SuperMAX these are orders from 100 shares to 1099 shares (or a greater amount chosen by the specialist).

[6] As used in the CHX rules, ITS BBO means the best bid or offer among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the Intermarket Trading System/Computer Assisted Execution System quote. *See* CHX Art. XX, Rule 37(a)(2).

[7] Under the proposal, small agency market orders for SuperMAX would be orders from 100 shares to 499 shares (or a greater amount chosen by the specialist).

[8] Under the proposal, small agency market orders for Enhanced SuperMAX would be orders from 500 shares to 2099 shares (or a greater amount chosen by the specialist). Notwithstanding the 500 share minimum order size contained in the rule, the smallest size order eligible for Enhanced SuperMAX must always be at least one share greater than the largest size order in such security that is eligible for SuperMAX. In other words, if a specialist voluntarily increases the maximum order size for SuperMAX, the minimum order size for Enhanced SuperMAX must be increased accordingly.

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III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–98–09 and should be submitted by June 18, 1998.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of the notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that part of the Exchange's proposal modifying the price improvement algorithm amending SuperMAX is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires that the rules of an exchange be designed, among other things, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[10] The Commission believes, in light of the industry's move to trading in finer increments last year, that CHX's modification to its price improvement algorithms will provide investors a meaningful opportunity for price improvement when securities trading in 1/16ths have a spread of 1/8 point or greater. In addition, the Commission finds that the new SuperMAX and Enhanced SuperMAX rules provide greater price improvement opportunities for investors because the criteria for when such opportunities are available has been simplified. The Commission believes that because the opportunity for price improvement is automatic and without any specialist intervention, SuperMAX[11] and Enhanced SuperMAX facilitate order interaction and enhance the execution of customer orders consistent with Section 6(b)(5) of the Act. The Commission notes that while SuperMAX and Enhanced SuperMAX are voluntary programs that specialists choose to participate in for Dual Trading Systems issues, providing a greater number of investors an opportunity to achieve price improvement is compatible with the view expressed in the Order Handling release.[12]

The Commission therefore finds good cause for granting partial approval to the proposed rule change (SR–CHX–98–09) with respect to the adoption of a new SuperMAX prior to the thirtieth day after date of publication of notice of filing thereof in the **Federal Register.** The Commission is granting this partial approval on a temporary basis, until August 20, 1998.

The Commission is therefore granting accelerated approval for the new SuperMAX algorithm on a temporary basis, until August 20, 1998.[13] The Commission is deferring action on the new Enhanced SuperMAX to provide interested parties an opportunity to comment on the proposal. In addition, the Commission and the CHX will have the opportunity to review the implementation of the new SuperMAX algorithm.

The changes to the SuperMAX algorithm will be phased in during the next month. Until the Enhanced SuperMAX proposal is adopted, the existing Enhanced SuperMAX algorithm will continue to apply. In those instances where a security is both on the new SuperMAX algorithm and the old Enhanced SuperMAX algorithm, the size of the order will determine which algorithm is used. The introductory paragraph of existing Rule 37(e) that describes the interaction between SuperMAX and Enhanced SuperMAX for a security on both systems shall be deemed to be amended such that if an order is for between 100 shares and 499 shares, the new SuperMAX algorithm shall apply, and if the order is for 500 shares or more (up to the 2099 shares or such greater amount specified by the specialist and approved by the Exchange), the old Enhanced SuperMAX algorithm shall apply.

It is Therefore *Ordered,* pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–CHX–98–09) be, and hereby is, approved in part and on a temporary basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14113 Filed 5–27–98; 8:45 am]

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[9] 15 U.S.C. 78f(b)(5).

[10] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] The CHX presently has the ability to install the new SuperMAX algorithm.

[12] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

[13] The proposal to permanently adopt the new SuperMAX will be considered with the proposal to approve the adoption of the new Enhanced SuperMAX.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(1)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40014; File No. SR–MSRB–98–1]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to Interpretation of Rule G–38 on Consultants Concerning Bank Affiliates and the Definition of Payment

May 20, 1998.

I. Introduction

On January 12, 1998,[1] the Municipal Securities Rulemaking Board ("Board"

[1] On November 13, 1997, the Board filed the same proposal as a Q&A under Section 19(b)(3)(A) of the Act, which rendered the proposal effective upon receipt of the filing by the Commission. *See* Securities Exchange Act Rel. No. 39391 (December

or "MSRB") submitted to the Securities and Exchange Commission ("Commission" or "SEC"),[1] pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b–4 thereunder,[3] a proposed rule change to provide an interpretation of Rule G–38 on consultants relating to bank affiliates and the definition of payment. Notice of the proposed rule change appeared in the **Federal Register** on January 20, 1998.[4]

The Commission received five comment letters specifically addressing the proposed rule change.[5] The Commission, however, received ten comment letters in total which addressed either the proposed rule change or the proposed rule change that was withdrawn.[6] All commenters opposed this interpretation, citing discriminatory effect against banks and bank-affiliated municipal securities dealers and focusing on the MSRB's jurisdiction concerning the banking industry. On March 3, 1998, the Board submitted Amendment No. 1 to the proposed rule change.[7] This order approves the proposed rule change. Also, Amendment No. 1 is approved on an accelerated basis.

II. Description of the Proposal

Recently, the Board has received inquiries from market participants concerning the definition of payment, as used in Rule G–38, and whether bank affiliates and their employees may, under certain circumstances, be deemed consultants for purposes of the rule.[8] Specifically, a bank and its employees communicate with an issuer on behalf of an affiliated dealer to obtain municipal securities business. The affiliated dealer issues credits to identify, for internal purposes, the source of business referrals; however, these credits do not involve any direct or indirect cash payments from the dealer to the bank or its employees. The issue is whether the credits received by a bank and its employees from an affiliated dealer qualify as "payment" under Rule G–38, thus requiring the dealer to designate the bank or its employees as consultants and comply with the requirements of Rule G–38.

Rule G–38 defines a consultant as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on behalf of the dealer where the communication is undertaken by the person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.[9] The term payment, as used in Rule G–38, means any gift, subscription, loan, advance, or deposit of money or anything of value.[10] Under the Board's interpretation of payment in this proposed rule change, the absence of an immediate transfer of funds or anything of value, such as credits, to an affiliate or individual employed by the affiliate would not exclude the credits from the definition of payment if such credits eventually (*e.g.*, at the end of the fiscal year) result in compensation to the affiliate or individual employed by the affiliate for referring municipal securities business to the dealer. In this regard, the compensation may be in the form of cash (*e.g.*, a bonus) or non-cash. In either case, if the dealer or any other person[11] eventually gives anything of value (*i.e.*, makes a "payment") to the affiliate or individual, based even in part on the referral, then the affiliate or individual is a consultant for purposes of Rule G–38 and the dealer must comply with the various requirements of the rule.

III. Summary of Comments

All of the comment letters addressing the proposed rule change opposed the proposed rule change, raising several issues.[12] At the Commission's request, the Board submitted a response which addresses these issues.[13]

Most commenters contend that the Board's interpretation is an impermissible extension of rule G–38 to banks' soft dollar compensation programs.[14] These commenters are concerned that this interpretation would infringe upon the most effective method used by financial institutions to cross-sell their various products and services to a wide range of customers.[15] According to the MSRB, this interpretation merely clarifies what is already required and is reasonably and fairly implied by the rule; it does not reflect a change in MSRB policy.[16] The rule requires disclosure of the "compensation arrangement" of any consultant used by a dealer to obtain or

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3, 1997), 62 FR 65114 (December 10, 1997) (SR–MSRB–97–8). The Commission received four comment letters on the filing. *See infra* note 6. To provide additional time to fully air the concerns raised by the commenters, the Board agreed to withdraw this filing and resubmit it, pursuant to Section 19(b)(2). *See* letter from Diane G. Klinke, General Counsel, Municipal Securities Rulemaking Board, to Katherine A. England, Assistant Director, Division of Market Regulation, dated January 9, 1998.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Rel. No. 39541 (January 12, 1998), 63 FR 3010.

[5] *See* letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 ("ABA Letter No. 2"); letter from Mae A. Cavoli, Senior Vice President, Senior Managing Counsel, KeyCorp Management Company, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 ("KeyCorp Letter"); letter from William E. Marquis, Associate Counsel, Mellon Bank Corporation, to Jonathan G. Katz, Secretary, SEC, dated February 9, 1998 ("Mellon Bank Letter No. 2"); letter from Robert J. Nagy, Senior Counsel, NationsBank, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 ("NationsBank Letter No. 2"); letter from Victor M. DiBattista, Chief Regional Counsel, PNC Bank, N.A., dated February 10, 1998 ("PNC Letter No. 2").

[6] These letters were resubmitted; they were originally submitted to address SR–MSRB–97–8. Letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated December 30, 1997 ("ABA Letter No. 1"); letter from Michael E. Bleier, General Counsel, Mellon Bank Corporation, to Jonathan G. Katz, Secretary, SEC, dated January 12, 1998 ("Mellon Bank Letter No. 1"); letter from Robert J. Nagy, Senior Counsel, NationsBank, to Jonathan G. Katz, Secretary, SEC, dated December 31, 1997 ("NationsBank Letter No. 1"); letter from Victor M. DiBattista, Chief Regional Counsel, PNC Bank, N.A., to Jonathan G. Katz, Secretary, SEC, dated January 2, 1998 ("PNC Letter No. 1").

This letter, which was also initially submitted to address SR–MSRB–97–8, was not resubmitted. Letter from Alan R. Leach, Senior Vice President and Manager, Dealer Bank Department, Deposit Guaranty National Bank, to Jonathan G. Katz, Secretary, SEC, dated January 5, 1998 ("Deposit Guaranty Letter").

[7] *See infra* note 13. The Board's response to the comment letters also included an amendment to the interpretation. The amended language clarifies that the consultant may be either the affiliate itself or an individual employed by the affiliate.

[8] To assist brokers, dealers, and municipal securities dealers in understanding and complying with its rules, the Board publishes notices of interpretation, in question-and-answer format, when warranted. Two sets of Q&A's have previously been published providing the Board's interpretation of the application of Rule G–38. *See* Securities Exchange Act Release No. 36950 (March 11, 1996); 61 FR 10828 (March 15, 1996) and Securities Exchange Act Release No. 37997 (Nov. 29, 1996); 61 FR 64781 (Dec. 6, 1996).

See also MSRB Reports Vol. 16, No. 2 (June 1996) at 3–5; and Vol. 17, No. 1 (Jan. 1997) at 15.

[9] Municipal finance professionals and any person whose sole basis of compensation is the actual provision of legal, accounting or engineering advice, services or assistance are exempted from the definition of consultant.

[10] *MSRB Manual*, General Rules, Rule G–38(a)(v) (CCH) ¶ 3686.

[11] The Act defines the term "person" as a "natural person, company, government, or political subdivision, agency, or instrumentality of a government." Board Rule D–1 provides that unless the context otherwise specifically requires, the terms used in Board rules shall have the same meanings as set forth in the Act.

[12] *See supra* notes 5 and 6.

[13] *See* letter from Diane G. Klinke, General Counsel, MSRB, to Katherine A. England, Esq., Assistant Director, Division of Market Regulation, SEC, dated March 2, 1998 ("MSRB Letter" and "Amendment No. 1").

[14] ABA Letter No. 2, p. 1, Deposit Guaranty Letter, p. 2, Nationsbank Letter No. 2, p. 2, Mellon Bank Letter, p. 2, and PNC Letter No. 2, p. 2.

[15] *Id.*

[16] MSRB Letter, p. 2.

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retain municipal securities business.[17] The Board is aware that consultants are sometimes paid in non-cash compensation, and thus specifically chose the term "compensation arrangement" because it did not want to limit the disclosure to cash payments.[18] Thus, the interpretation is not an unwarranted extension to soft dollar compensation arrangements, because the rule already applied to such arrangements.[19] The Commission agrees with the MSRB'S explanation that the dealer's disclosure requirements are specifically delineated in the rule, and that the interpretation is consonant with these requirements.

The commenters also suggest that the interpretation is unworkable when applied to non-traditional compensation programs, given the subjective nature of the calculations, and would significantly discourage traditional banking referral programs.[20] According to these commenters, most compensation programs are based on factors other than the initial credit allocation. Thus, translating credits allocated by the affiliated dealer into a specific dollar amount of the employees' compensation would be difficult because the reports are due quarterly; referral compensation, however, is usually awarded in the form of a year end bonus.[21] The MSRB notes that Rule G–38 requires, among other things, that each broker, dealer, and municipal securities dealer disclose to the Board certain information relating to each consultant used by the dealer during the reporting period to obtain or retain municipal securities business.[22] This definition also includes bank dealers.[23] Furthermore, the Board notes that based on a review of reports submitted, several bank dealers and bank-affiliated dealers have been disclosing the information required by Rule G–38.[24] These dealers have listed as consultants their bank affiliates and bank employees, and have disclosed the compensation arrangements for such consultants (either in dollar or as a formula), as well as dollar amounts paid to consultants.[25]

The commenters contend that rule G–38 should not apply to banks' referral programs because the intent of the rule is to capture traditional cash payments made by municipal dealers to independent consultants (*i.e.*, professionals in the municipal securities arena) whose primary activity is to obtain or retain municipal securities business for the dealer.[26] Moreover, they contend that, as the employee receives no "payment" or "anything of value" from the dealer, but rather from the financial institution itself, the employee cannot be deemed a consultant for purposes of the rule.[27] The MSRB states that these assertions are erroneous. Under Rule G–38, a consultant is defined as any person used by the dealer to obtain or retain municipal securities business through direct or indirect communication with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.[28] (emphasis added) The Board drafted the rule language in this manner to ensure that dealers could not circumvent the rule's disclosure requirements by claiming that another party compensated a consultant that referred municipal securities business to the dealer.[29] Furthermore, such compensation is not limited to cash payments; the term "payment" is defined as any gift, subscription, loan, advance, or deposit of money or anything of value.[30]

The Commission agrees with the MSRB's assessment. While these "credits" may not be initially transmitted in monetary form, they are a factor in the calculations made to determine eventual monetary compensation, which is something of value. Moreover, a previous interpretation published by the MSRB directly addresses this issue.[31] The MSRB has addressed Q&A No. 7, but Q&A No. 6 is also on point. If an employee of an affiliated company of a bank introduces one of its customers (*i.e.* a municipal issuer) to the bank's dealer department for purposes of engaging in municipal securities business, and that dealer pays the affiliated company for this activity, then that employee is considered a "finder." Any person used by a dealer as a "finder" for municipal securities business would be considered a consultant under Rule G–38.

Several commenters stated that the MSRB's proposal unfairly discriminates against bank-affiliated dealers, because it does not apply equally to incentive programs established and operated by financial service firms not affiliated with a bank.[32] These commenters also contend that the MSRB's interpretation is an impermissible extension of its authority into an area exclusively reserved for bank regulators.[33] Moreover, because the MSRB lacks jurisdiction over bank's compensation programs, banks would have to consent to their municipal securities dealer affiliates filing proprietary information with the MSRB, an unlikely occurrence, given the public availability of this information once submitted.[34]

In its response, the MSRB notes that bank dealers, like securities firms, are subject to federal securities laws.[35] Further, all Board rules apply equally to bank dealers and securities firms. Prior Rule G–38 interpretations clearly state that the rule applies to both dealer affiliates and bank affiliates.[36] If a securities firm has an affiliate that refers municipal securities business to the dealer in exchange for "credits," then the affiliate would be a consultant and the dealer must make the required disclosures under Rule G–38, including the consultant's compensation arrangement, even if the payment would be made by "any other person" and not by the dealer.[37] The Board disagrees with the argument that the proposal unfairly discriminates against bank-affiliated dealers.[38] In fact, if bank dealers were allowed an exemption from Rule G–38 for referrals by bank affiliates and their employees, the rule would unfairly discriminate against non-bank affiliated dealers.[39] The Commission agrees that the rule and its disclosure requirements apply equally to both dealer affiliates and bank

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[17] MSRB Manual, General Rules, Rule G–38(c) (CCH) ¶3686.

[18] MSRB Letter, p. 2.

[19] *Id.*

[20] ABA Letter pp. 2–3, Deposit Guaranty Letter, p. 2, Nationsbank Letter No. 2, p. 2, Mellon Bank Letter No. 2, pp. 3–4 and PNC Letter No. 2, p. 1.

[21] *Id.*

[22] MSRB Letter, p. 2.

[23] *Id. See also* 15 U.S.C. 78c(a)(30) (defining the term "municipal securities dealer" pursuant to the Act).

[24] MSRB Letter, p. 3.

[25] *See, e.g.*, reports submitted by Sun Trust Bank, Atlanta (3Q 1997); SunTrust Capital Markets, Inc. (3Q 1997); and Norwest Investment Services, Inc. (2Q and 3Q '997) and available for public inspection at the Board's Public Access Facility in Alexandria, Virginia and on the Board's web site at www.msrb.org.

[26] ABA Letter No. 2, pp. 3–5, KeyCorp Letter, Deposit Guaranty Letter, p. 1, NationsBank Letter No. 2, pp. 1–2, Mellon Bank Letter No. 2, p. 1, and PNC Letter No. 2, pp. 1–2.

[27] *Id.*

[28] MSRB Letter, p. 3. *See supra* note 11 for the definition of the term "person."

[29] MSRB Letter, p. 3.

[30] Rule G–38(a)(v) states that the term "payment" has the same meaning as in Rule G–37(g)(viii).

[31] *See* Securities Exchange Act Release No. 36950 (March 11, 1996), 61 FR 10828 (March 15, 1996) (Q&A No.'s 6 and 7).

[32] ABA Letter No. 2, pp. 3–4, Deposit Guaranty Letter, p. 2, Mellon Bank Letter No. 2, p. 2, and PNC Letter, pp. 1–2.

[33] *Id.*

[34] *Id.*

[35] *See supra* note 23.

[36] *See supra* note 31.

[37] MSRB Letter, p. 4.

[38] *Id.*

[39] *Id.*

affiliates. As the MSRB explains, this proposal would also apply if the circumstance involved a securities firms and its affiliate. The Commission, therefore, supports the MSRB's assessment, as the interpretation ensures an evenhanded application of the rule.

In its letters, NationsBank suggests that the MSRB modify the proposal to clarify that a bank and its employees would only be consultants under circumstances where the bank receives credits for the referral of municipal securities business which are then allocated to employees based on a formulaic fashion.[40] The MSRB disagrees with this interpretation and has, therefore, declined to adopt it.[41] Alternatively, PNC Bank suggests that Rule G–38 be clarified to designate only the financial institution as the consultant in the case of soft dollar compensation programs.[42] In response, the MSRB has amended Rule G–38[43] to say that the consultant may be either the affiliate or an individual employee of the affiliate.[44] The dealer must make this determination and ensure proper compliance with the rule, including the contractual arrangements and requisite disclosures.[45] Thus, the Board has amended the language of the interpretation to clarify that the consultant may be either the affiliate itself or an individual employed by the affiliate.[46]

According to the MSRB, Amendment No. 1 clarifies who is deemed a consultant and the process of designation. The Commission agrees that the onus should be on the dealer to designate the consultant, whether affiliate or employee, and to ensure compliance with the rule. The Commission notes, however, that as amended, the dealer may designate either the bank affiliate or the employee as the consultant. As noted in their comments, most banks are reluctant to disclose what they deem to be proprietary information to the MSRB, and hence, the public.[47] The Commission notes that both the employee and the affiliate benefit from referrals facilitated by these soft dollar compensation programs.

[40] NationsBank Letter No. 1 and NationsBank Letter No. 2, p. 2 and its attached modified interpretation.

[41] MSRB Letter, p. 4.

[42] PNC Letter No. 2, p. 3.

[43] *See supra* notes 8 and 13.

[44] MSRB Letter, p. 4 and Amendment No. 1.

[45] *Id.*

[46] *Id.*

[47] However, several banks are currently complying with Rule G–38. *See supra* note 25.

IV. Discussion

The Commission believes the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.[48] Specifically, the Commission believes that approval of the proposed rule change is consistent with Section 15B(b)(2)(C)[49] of the Act. This interpretation clarifies the rule's applicability to all broker-dealers engaged in the municipal securities business. The interpretation is necessary to ensure that all persons hired by dealers to solicit municipal securities business will be covered by the rule. This interpretation will require that all consultant activity stemming from attendant soft dollar compensation arrangements, whether those of financial institutions or securities firms, be disclosed. The clarification of Rule G–38 regarding referrals by bank affiliates and their employees will improve the effectiveness of the rule by making explicit that it applies to all consultants and their political contribution activity.

The Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 1 clarifies who is deemed a consultant and the process of designation. The Commission agrees that the onus should be on the dealer to designate the consultant, whether bank affiliate or employee thereof, and to ensure compliance with the rule, including contractual arrangements and required disclosures. The dealer's payment of credits to the consultant creates a strong incentive for the consultant to solicit an issuer and refer their business to the dealer. The dealer, therefore, should have the responsibility of documenting its relationship with the consultant and any compensation arrangements that result from or facilitate this relationship. For these reasons, the Commission finds good cause for accelerating approval of the proposed rule change, as amended.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. Any submissions should refer to File No. SR–MSRB–98–1 and should be submitted by June 18, 1998.

V. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15B(b)(2)(C).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change (SR–MSRB–98–1), be hereby approved including Amendment No. 1, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[51]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14119 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

[48] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. The proposed rule change will add to the information available in the municipal securities market, and thus, competition, in the municipal securities markets because all municipal securities dealers will be required to disclose affiliations and compensation arrangements concerning their relationships with consultants. Efficiency and capital formation will be tangentially improved as enhanced disclosure will likely conserve both capital and personnel resources. 15 U.S.C. 78c(f).

[49] Section 15B(b)(2)(C) requires the Commission to determine that the Board's rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[50] 15 U.S.C. 78s(b)(2).

[51] 17 CFR 200.30–3(a)(12).

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40020; File No. SR–PCX–98–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Number of Option Issues Permitted To Be Traded Under the LMM Book Pilot Program

May 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to remove the current cap on the number of issues traded under the Lead Market Maker ("LMM") Book Pilot Program.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

On October 11, 1997, the Commission approved an Exchange proposal to adopt a one-year pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public limit order book ("Book") in certain option issues.[3] On September 22, 1997, the Commission approved an Exchange proposal to extend the program for one year, so that it is currently set to expire on October 12, 1998.[4]

Under the pilot program, approved LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services.[5] Currently, both multiply-listed and non-multiply-listed option issues are eligible to be traded under the pilot program.[6] Initially, the program was limited by allowing no more than three LMMs to participate in the program and no more than 40 option symbols to be used. But on April 1, 1997, the Commission approved an Exchange proposal to expand the program so that up to nine LMMs may participate and up to 150 option symbols may be used.[7]

The Exchange is now proposing to expand the LMM Book Pilot Program to eliminate the cap on the number of symbols that may be used. The Exchange notes that the program has been in operation for approximately eighteen months and no significant problems have occurred. The program has been viable and effective, and has resulted in significant cost savings to customers in Book execution charges. The Exchange believes that it has adequate systems and operation capacity to expand the scope of the program beyond its current limits.

The Exchange believes that the proposed change will make the Exchange's LMM Program more competitive because it will allow LMM participants to reduce book execution charges in a greater number of issues than currently permitted. The Exchange notes that it is currently seeking to expand the number of LMMs who may participate in the program which is currently limited to nine.[8]

Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. The Exchange does not believe that the proposal will affect the protection of investors or the public interest because the proposal will merely expand the ability of LMMs already participating in the program to reduce the rates charged to customers. The Exchange further believes that by allowing further reductions in rates charged to customers, the proposal encourages competition rather than placing any burdens on it.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change shall become operative 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (e)(6) of Rule 19b–4 thereunder.[12] Pursuant to Rule 19b–4(e)(6) a proposed rule change may become effective 30 days after filing with the Commission if it does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and by its terms does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. At any time within 60 days of the filing of such

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1996) (approving File No. SR–PSE–96–09).

[4] *See* Securities Exchange Act Release No. 39106 (September 22, 1997), 62 FR 51172 (September 30, 1997).

[5] *See* Securities Exchange Act Release No. 37874 (October 28, 1996), 61 FR 56597 (November 1, 1996) (approving SR–PSE–96–38, establishing a staffing charge for LMMs who participate in the pilot program). *See* also File No. SR–PCX–98–03 (proposal to modify the LMM Book Pilot staffing charge).

[6] *See* Securities Exchange Act Release No. 38273 (February 12, 1997), 62 FR 7489 (February 19, 1997) (approving File No. SR–PSE–96–45). *See also* Securities Exchange Act Release No. 39667 (February 13, 1998), 63 FR 9895 (February 26, 1998) (approving proposal to allow non-multiply-listed option issues to be traded under the program).

[7] *See* Securities Exchange Act Release No. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997).

[8] *See* File No. SR–PCX–98–17.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(e)(6).

proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance f the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the submission is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change betweeen the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–23 and should be submitted by June 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14114 Filed 5–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40007; File No. SR–PHLX–98–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Trade Options in Narrower Increments

May 19, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 22, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b–4 under the Act [2] which renders the proposal effective upon receipt of this filing by the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to permit Phlx index and equity options to be traded in narrower increments. Specifically, Rule 1034 is proposed to be amended to give the Board of Governors the authority to establish the minimum trading increments for index and equity options contracts.

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Rule 1034 provides that the minimum fractional change for options trading under $3.00 is one-sixteenth and for options trading at $3.00 or higher, one-eighth. In the case of LEAPS [4] on the Value Line Composite Index, Rule 1034 provides that the minimum fractional change is one-eighth point in option contracts trading at $5.00 per index option or higher, and one-sixteenth point in option contracts trading below $5.00 per index option. In response to recent industry events,[5] the Exchange has determined that Rule 1034 be changed to permit Phlx index and equity options to be traded in narrower increments. Specifically, Rule 1034 is proposed to be amended to give the Board of Governors the authority to establish the minimum trading increments for index and equity option contracts. Until such time as the Board of Governors determines to use its authority to establish the minimum fractional shares, current standards will apply.

The proposal is intended to achieve uniformity with the rules of other options exchanges.[6] The amendments should also improve the Exchange's ability to promptly response to market changes in trading increments. The proposal will allow the Exchange to revise its minimum fractional changes quickly in response to changes adopted in the minimum trading increments in the markets for securities underlying Phlx options or to changes in the minimum trading increments for one of the other options exchanges. When the Board of Governors determines to change the trading increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of Rule 1034 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Act and will file a rule change for immediate effectiveness upon filing with the Commission.

The Exchange notes that there has been a movement within the securities

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[13] 17 CFR 200.30–3(a)(12).

[1] 17 15 U.S.C. 78s(b)(1).

[2] CFR 240.19b–4(e)(6).

[3] The Exchange has represented that the proposed rule change: (i) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4(e)(6) under the Act. *Id.*

[4] See Phlx Rule 1101A(b)(iii).

[5] See Securities Exchange Act Release Nos. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (Order approving SR–Amex–97–14, relating to trading equity securities in sixteenths); 38678 (May 27, 1997), 62 FR 30363 (June 3, 1997) (Order approving SR–NASD–97–27, relating to trading certain equity securities in sixteenths); 38897 (August 1, 1997), 62 FR 42647 (August 8, 1997) (Order approving SR–NYSE–97–21, relating to trading equity securities in sixteenths); and 38779 (June 26, 1997), 62 FR 36328 (July 7, 1997) (Order approving SR–Phylx–97–27, relating to trading equity securities in sixteenths).

[6] See Securities Exchange Act Release Nos. 39734 (March 9, 1998), 63 FR 12846 (March 16, 1998) (Order approving SR–Amex–97–41, relating to trading options in narrower increments); 39736 (March 9, 1998), 63 FR 12851 (March 16, 1998) (Order approving SR–CBOE–97–49, relating to trading options in narrower increments); and 39735 (March 9, 1998), 63 FR 12852 (March 16, 1998) (Order approving SR–PCX–97–39, relating to trading options in narrower increments).

industry to reduce the minimum trading and quotation increments for equity securities imposed by the various self-regulatory organizations.[7] As derivative securities, the price of options are determined in reference to the underlying securities. Consequently, the Exchange believes that where practicable, the Exchange should have minimum increments comparable to those applicable to the securities underlying the Phlx options.

The Exchange also believes that the proposed rule change would give the Exchange the flexibility to follow the suit of the principal exchanges for the underlying securities without having to update its rules continually, but at the same time would give the Exchange the flexibility it needs to deviate from the minimum increments established by the principal markets for the underlying securities in the event that the Phlx's systems were not immediately able to handle such increments. The Exchange, therefore, believes the quality of the market for Phlx options will be enhanced by allowing more accurate pricing of Phlx options.

Further, the Exchange is proposing to retitle Rule 1034 "Minimum Trading Increments" for consistency with other exchange's rules. The Exchange is also proposing to add express reference to index options for clarity, noting that Rule 1034 currently applies to index options pursuant to Rule 1000A(a). Lastly, the Exchange is proposing to delete Commentary .01 regarding the minimum trading increment for Value Line LEAPs. If needed, any such new product-specific trading increment could be adopted pursuant to the paragraph proposed to be renumbered as Rule 1034 (iii), which provides that different increments may be fixed by the Exchange. The proposal should extend the benefits of trading in a narrower increment to Phlx options, which should, in turn, promote more accurate pricing of options and tighter quotations.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6 of the Act[8] in general, and in particular, with Section 6(b)(5),[9] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system by permitting narrower minimum trading increments in Phlx options. The proposal is also consistent with Section 11A of the Act,[10] in that it promotes competition among the exchanges and market makers.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule filing has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(i) of the Act[12] and subparagraph (e)(6) of Rule 19b–4 thereunder.[13] Consequently, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until May 23, 1998, more than 30 days from April 22, 1998, the date on which it was filed, and the Exchange provided the commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the act and Rule 19b–4(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing; including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx.

All submissions should refer to File No. SR–PHLX–98–12 and should be submitted by June 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14023 Filed 5–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40006; File No. SR–PHLX–98–10]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Automatic Price Improvement for Certain PACE Orders

May 19, 1998.

I. Introduction

On February 10, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules relating to a new

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[7] *Supra*, note 2.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1.

[11] In approving these rules, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(3)(A)(i).

[13] 17 CFR 240.19b–4(e)(6).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

automatic price improvement initiative for PACE orders.

In proposed rule change was published for comment in the **Federal Register** on March 17, 1998.[3] No comments were received on the proposal. This order approves the proposal as amended.

II. Description of the Proposal

PACE is the Exchange's automated order routing and execution system on the equity trading floor. PACE accepts orders for automatic or manual execution in accordance with the provisions of Rule 229, which governs the PACE System and defines its objectives and parameters. The PACE Rule establishes execution parameters for orders depending on type (market or limit), size and the guarantees offered by specialists.

Currently, paragraph (c)(i), Automatic Double-up/Double-down Price Improvement,[4] states that where the specialist voluntarily agrees to provide automatic double-up/double-down price improvement to all customers and all eligible orders in a security, in any instance where the bid/ask of the PACE Quote[5] is ¼ or greater, market and marketable limit orders in New York Stock Exchange or American Stock Exchange listed securities received through PACE in double-up/double-down situations for 599 shares or less shall be provided with automatic price improvement of ⅛, beginning at 9:45 a.m. A specialist may also voluntarily agree to provide automatic double-up/double-down price improvement to larger orders in a particular security to all customers under this provision.

As a further effort to champion the principle of best execution, the Exchange is proposing a more comprehensive automatic price improvement initiative. Specifically, specialists could choose to provide 1/16 automatic price improvement to eligible orders in ⅛ or greater markets, or 3/16 or greater markets. Thus, as compared to the current automatic price improvement feature for double-up/double-down situations which is limited to ¼ wide markets or greater, the universe of orders eligible for the proposed feature would be expanded. Further, the proposal involves automatic price improvement without requiring a double-up/double-down situation. This again expands the benefits of price improvement to a larger universe of eligible orders.

Second, where a buy order would be improved to the last sale price which is a down tick, or where a sell order would be improved to the last sale price which is an up tick, the order is also not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote. The following are examples of the exception to automatic price improvement respecting improvement to the last sale:

23–23⅛
LS 1/16 –
Buy executed at ⅛
Sell improved to 1/16

23–23⅛
LS 1/16+
Buy improved to 1/16
Sell executed at 23

23–23 3/16
LS ⅛ –
Buy executed at 3/16
Sell improved to 1/16

23–23 3/16
LS ⅛+
Buy improved to ⅛
Sell improved to 1/16

23–23 3/16
LS 1/16 –
Buy improved to ⅛
Sell improved to 1/16

23–23 3/16
LS 1/16+
Buy improved to ⅛
Sell executed at 23

23–23¼
LS ⅛ + or –
Buy improved to 3/16
Sell improved to 1/16

These exceptions are intended to cover situations where automatic price improvement may not be appropriate in light of overall market conditions. In this regard, the Exchange does not believe it is customary or appropriate to provide price improvement over the last sale price, or, in every case, to the last sale price. Despite these exceptions to automatic price improvement under this proposal, the Exchange believes that automatic price improvement would be afforded in a meaningful way, considering the wider breadth of eligible orders.

Under the proposal, automatic price improvement would not occur in two situations. First, automatic price improvement would not occur to a price better than the last sale. More specifically, where a buy order would be improved to a price less than the last sale or a sell order would be improved to a price higher than the last sale, the order is not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote. The following are examples[6] of this exception (not improving over the last sale):

23–23⅛
LS 23 + or –
Buy improved to 1/16
Sell executed at 23

23–23⅛
LS ⅛ + or –
Buy improved to ⅛
Sell improved to 1/16

23–23 3/16
LS 23 + or –
Buy improved to ⅛
Sell executed at 23

23–23 3/16
LS 3/16 + or –
Buy improved to 3/16
Sell executed at 1/16

This is similar to the current exception from automatic double-up/double-down price improvement;[7] however, currently where an improved price would be better than the last sale, the order would be stopped at the PACE Quote when received. Under this proposal, the order would be automatically executed at the PACE Quote when received.

This proposal would result in automatic price improvement of 1/16, as opposed to the current automatic double-up/double-down price improvement, which provides for ⅛ price improvement. Although the amount of automatic price improvement will be less under the proposal for a particular order, the number of orders receiving price improvement of 1/16 should increase, as explained above. Price improvement of 1/16 recognizes that 1/16 is the current minimum trading increment for PACE issues on the Exchange's equity trading floor.[8] Thus, it reflects the reality of today's

[3] Securities Exchange Act Release No. 39740 (March 10, 1998), 63 FR 13083 (March 17, 1998).

[4] For a more complete description of how the Exchange's Automatic Double-Up/Double-Down price improvement feature operates *see* Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998) ("Double-Up/Double-Down Order").

[5] The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES"). *See* Phlx Rule 229.

[6] These examples consist of the PACE Quote, the last sale price with an up or down tick indicator, and the price at which a buy and sell order, respectively, would be executed.

[7] *See* Securities Exchange Act Release No. 39640 (February 10, 1998), 63 FR 8510 (February 19, 1998), which creates an exception where such price improvement would be better than the last sale price (for instance, a buy order would be improved to a price less than the last sale or a seller order would be improved to a price higher than the last sale); pursuant to this exception, such orders are stopped by the specialist at the PACE Quyote when received, meaning that the order is guaranteed to receive at least that price by the end of the trading day.

[8] *See* Phlx Rule 125.

marketplace, including other price improvement initiatives in the industry.

Because the proposal would provide automatic price improvement, no POES window would occur, similar to the current automatic double-up/double-down price improvement provision.[9] Instead, an automatic execution occurs at an improved price, with no window, timer or delay. Orders not eligible for automatic price improvement due to the two exceptions relating to the last sale price are automatically executed at the PACE Quote and not subject to the POES delay.

Automatic price improvement will not occur where the execution price before or after the application of automatic price improvement would be outside the primary market high/low range for the day, if so elected by the entering member organization. This limitation currently appears in Rule 229.07(c)(i)(C), and has applied to both automatic double-up/double-down price improvement and manual double-up/double-down price protection. Similarly, pursuant to paragraph (c)(iii), the provision that member organizations entering orders may elect to participate in manual double-up/double-down price protection continues to apply. However, member organizations will not have the ability to elect the proposed automatic price improvement feature.

Currently, both the automatic double-up/double-down price improvement and manual price protection features are jointly subject to the entering firm's election.[10] As a result, electing these features where the specialist has not chosen automatic double-up/double-down price improvement in that security may currently cause a firm's orders to be stopped. Thus, firms who do not want their orders stopped because they prefer a prompt execution can currently elect out of both features.

Once automatic price improvement is no longer limited to double-up/double-down situations, the election for automatic price improvement will end, because the reason for allowing a firm's choice will no longer exist. Under this proposal, firms electing out of manual price protection could nevertheless receive automatic price improvement. For instance, where a specialist switches from manual to automatic price improvement for a security, the automatic feature would be activated even for firms that elected out of the manual feature.

The Exchange notes that the *manual* double-up/double-down price protection provision, which is mandatory for specialists, will continue to be subject to an election by entering member organizations,[11] who may continue to prefer a prompt execution over the opportunity for price improvement. Failure to elect will result in the activation of the double-up/double-down feature for that User. Specialists continue to determine whether to provide automatic price improvement in a particular security.

The extraordinary circumstances provision currently in the Rule would also apply to the new feature, such that automatic price improvement may be disengaged in a security or floor-wide in extraordinary circumstances with the approval of two Floor Officials. In addition to fast market conditions, for purposes of this paragraphs, extraordinary circumstances also include systems malfunctions and other circumstances that limit the exchange's ability to receive, disseminate or update market quotations in a timely and accurate manner.

The Exchange has determined that, as with many PACE features and participation in the PACE System itself, automatic price improvement should be made available on a voluntary, symbol-by-symbol basis, so that specialists can determine which securities are suitable for the program.[12] The availability of a price improvement feature benefits the specialist function, especially in high-volume securities, where stopping orders and manual intervention are time-consuming, delay execution and do not necessarily result in price improvement.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[13] In particular, the Commission believes that the proposal is consistent with the Section 6(b)(5)[14] requirements that the rules of an Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[15]

The Commission continues to recognize that the increased competition for order flow that results from permitting regional specialists to attract orders from other markets by providing price improvement opportunities and superior quotations enhances market making ability and the quality of customer order execution. The Commission has approved proposals by national securities exchanges to integrate price improvement opportunities, on both an automatic and manual basis, into their automatic execution systems. Approval of the Exchange's automatic price improvement initiative will allow small orders to receive an execution at a price that may be better than the PACE Quote according to certain predefined criteria. Accordingly, the Commission believes that the Exchange's present proposal may enhance both intermarket competition and order execution quality on the Exchange.

Under the proposal, specialists voluntarily may agree to provide automatic price improvement of 1/16 of a point from the PACE Quote to all customers and all market and marketable limit order of up to 599 shares (or higher, if elected by the specialist) in a particular security[16] on a stock-by-stock basis, in any instance where the bid/ask spread of the PACE Quote is either 1/8 or greater than 3/16 or greater. As explained above, this automatic price improvement feature is subject to two restrictions. First, no order may be improved to a price better than the last sale price; in this situation, the orders would be automatically executed at the PACE Quote. Second, where a buy order would be improved to the last sale price which is a down tick, or where a sell order would be improved to the last sale price which is an up tick, the order is also not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote.

The Commission believes that the adoption of this proposed automatic price improvement feature by the

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[9] *See* Double-Up/Double-Down Order, *supra* note 4, at note 10; and Securities Exchange Act Release No. 39640 (February 10, 1998), 63 FR 8510 (February 9, 1998).

[10] This election must be made for all Phlx stocks, not security-by-security. *See* Double-Up/Double-Down Order, *supra* note 4, at note 22.

[11] A firm's election continues to apply to all Phlx stocks, not security-by-security.

[12] Some securities are not appropriate for automatic price improvement due to, for instance, liquidity, trading patterns and volatility situations rendering it unfair for specialists to afford price improvement automatically and then manage the resulting positions. *See* Double-Up/Double-Down Order, *supra* note 4, at note 11.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b).

[16] Securities listed on the New York Stock Exchange or the American Stock Exchange are eligible for this feature. *See* Phlx Rule 229.07.

Exchange is appropriate in that its use by Phlx specialists should increase the likelihood that eligible customer orders, particularly marketable limit orders, will be executed at an improved price over the PACE Quote. With respect to the two conditions above that would cause an order to be automatically executed at the PACE Quote, the Commission believes that it is reasonable for the Exchange to automatically execute such orders at the PACE Quote rather than subjecting them to the POES window or stopping them at the PACE Quote. Overall, the Commission's Division of Market Regulation previously has noted that price improvement windows, such as POES, by themselves rarely provide an execution that betters the quoted market.[17] The Exchange's proposal should enhance the price improvement opportunities available for PACE orders since a greater number of orders will be eligible for automatic price improvement than afforded under the current Double-Up/Double-Down automatic price improvement feature.

In addition, the Commission believes that the Exchange's automatic price improvement initiative is consistent with the maintenance of fair and orderly auction markets on national securities exchanges. As the examples provided by the Exchange illustrate, the execution criteria of the automatic price improvement initiative should contribute to the maintenance of an orderly market by Phlx specialists because it helps to reduce price variations occurring from trade to trade on low volume. Finally, because automatic price improvement may be disengaged under extraordinary circumstances for an individual stock or floor-wide with the approval of two floor officials, the Exchange is able to increase overall systems capacity for systematized orders routed through PACE, as well as reduce the market risk exposure to specialists who participate in the automatic price improvement initiative. The Commission believes that both of these aspects of the automatic price improvement initiative are consistent with the maintenance of fair and orderly auction markets on national securities exchanges and the protection of investors.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–PHLX–98–10) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14120 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

[17] *See*, Division of Market Regulation, SEC, Market 2000: An Examination of Current Equity Market Developments (January 1994), at Study V, n. 19.

[18] 15 U.S.C. 78s(b)(2).

[19] 17CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–3873]

Prevention Through People

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Prevention Through People (PTP) is a Coast Guard initiated program to address marine safety and environmental protection through a focus on the human element. Since the program's inception in 1994, there has been a steady growth of support in the marine community. Current marine industry practices reflect the increased commitment to PTP. This notice informs the public of some of the major PTP efforts taking place within the Coast Guard and includes the response to comments from the four PTP public meetings held during the spring of 1997.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building, 400 Seventh Street SW., Washington DC 20590–0001, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You many electronically access the public docket for this rulemaking on the Internet at *http://dms.dot.gov*.

The Marine Board of the National Academy of Science study, *Advancing the Principles of the Prevention Through People Program*, was published in August 1997 and is available at the National Academy Press Bookstore 2001 Wisconsin Ave. NW., Washington, DC 20418–0005; phone 800–624–6242, or 202–334–3313.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Carol Kelly, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9328. For questions on this notice, contact LT Duane Boniface, Human Element and Ship Design Division (G–MSE–1), 202–267–2997.

SUPPLEMENTARY INFORMATION:

Background of PTP

The PTP initiative began in 1994 with the chartering of a Quality Action Team (QAT) to develop a long-term strategy to address the role of human and organizational factors in marine safety and environmental protection. The QAT conducted an extensive literature review and analysis of marine casualty data, conducted mariner surveys, and examined operations from a maritime systems perspective that included an assessment of vessels, facilities, and waterways.

On July 15, 1995, the QAT generated a report, "Prevention Through People Quality Action Team Report." This report provided the first step towards re-balancing prevention efforts between technical, human, and organizational issues related to marine safety. Subsequent focus on human and organizational factors in safety and environmental protection led to these issues becoming top priorities for many organizations, both within the government and industry.

After the report was published, the Coast Guard and industry pursued a host of initiatives. These initiatives include partnerships with industry, studies of fatigue and communications, and introductions of risk assessment and risk management approaches. The PTP Strategic Plan (available in the docket; or contact the person under **FOR FURTHER INFORMATION CONTACT**) exposed a wider audience to the PTP philosophy, while the PTP Implementation Plan set high goals with various PTP objectives and activities for the Coast Guard to accomplish.

Additionally, the Coast Guard held four public meetings that allowed it to hear valuable industry comments concerning safety in the marine community.

PTP Focus Plan

There are many projects and initiatives under the umbrella of PTP. A list of the current projects and initiatives under the umbrella of PTP can be found on the PTP web site at the following website: *http://www.uscg.mil/hq/g-sm/nmc/ptp/index.htm*. From the list of these projects and initiatives, the Coast Guard is focusing on five major initiatives during 1998 referred to as the PTP Focus Plan. These initiatives were chosen based on public comments, marine industry input, and the results of the Marine Board of the National

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Academy of Science study entitled *Advancing the Principles of the Prevention Through People Program*. This study is available where indicated under **ADDRESSES**.

The general consensus of the comments received was that the Coast Guard should concentrate on completing several of the most significant human-element-related initiatives already in progress under PTP. The five projects identified in the 1998 PTP Focus Plan provide the Coast Guard with the best opportunities to maximize progress in the near term under the PTP approach. The Coast Guard has five PTP goals outlined in the strategic plan. Each initiative the Coast Guard addresses corresponds to one of these goals.

• *Development of National Maritime Safety Incident Reporting System.* Both Coast Guard and industry proposed the concept of a national maritime safety incident reporting system. The system would be designed to capture information on unsafe occurrences that involve near-accidents, near-collision situations, near-pollution events, and related precursor events. The system would be maintained by industry and supported by the Coast Guard. The Coast Guard held a public meeting on May 4, 1998 (announced in the **Federal Register**, 63 FR 17468; April 9, 1998) to investigate the possibility of industry implementing such a system. The results of that public meeting will be announced separately.

Information on these near-accidents and unsafe occurrences is an untapped source of data that would serve as leading indicators on the level of safety within the maritime community and would provide a greater level of data for analysis and safety improvement. A concerted effort will be made through industry's leadership to get a prototype system in place by the end of 1998, with the intent to formally establish a national system in the year 2000. This near-miss incident reporting system falls under the PTP goal of *Know More*. This goal is meant to significantly expand our knowledge and understanding of the human element and its role in maritime operations and accidents. The status and the latest details on the national maritime safety incident reporting system project can be found at the following website: *http://www.uscg.mil/hq/g-m/moa/maola.htm*.

• *Implementation of the International Conventions on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978, (STCW), and its amendments.* A focus of the Coast Guard is the implementation of STCW. Significant changes to STCW in 1995, which became effective in 1997, require a substantial effort by the marine community. The Coast Guard published an interim final rule (62 FR 34505; June 26, 1997) to reflect the amendments to STCW. While much has been done, there are still many issues involved with implementing this convention. Some of these issues include finalization of regulations, development of enforcement policies, training, and outreach. The effort to implement STCW falls under the PTP goal *Train More*. This goal strives to give members of the marine community the necessary skills and knowledge to improve safety and prevent pollution. Training is always a point of interest since regulations, equipment, operating environment, and personnel are constantly changing. Projects under this goal will address human element issues related to the individual mariner.

• *Implementation of the International Safety Management (ISM) Code.* Implementation of the ISM Code is an important aspect of the PTP program. Deadlines for compliance with the ISM Code begin in 1998. The Coast Guard has published a final rule (62 FR 67492; Dec. 24, 1997) concerning this matter. The ISM Code helps establish a standard for national safety management and harmonizes U.S. regulations with the international standards. Beginning in 1998, these standards would apply to the following vessels in international trade:

• Vessels transporting more than 12 passengers;
• Tankers;
• Bulk freight vessels; and
• High speed freight vessels of at least 500 gross tons. Beginning in the year 2002, these standards would also apply to the following vessels in international trade:
• Self-propelled mobil offshore drilling units of at least 500 gross tons; and
• Freight vessels.

Implementation of the ISM Code falls under the goal of *Do More*. This goal strives to improve professional performance through practical application and open communication of human element knowledge within the marine community. Implementation of a quality management system, as envisioned by the ISM Code, is a critical step in establishing corporate cultures that encourage safe practices. Detailed information about the ISM Code can be found at the following website: *http://www.uscg.mil/hq/g-m/psc/ismmain.htm*.

• *Development of the Streamlined Inspection Program (SIP).* The Coast Guard is focusing on implementation of the Streamlined Inspection Program (SIP). The SIP provides an opportunity for the vessel owners and operators to have their own personnel periodically perform many of the tests and examinations currently conducted by the Coast Guard marine inspectors. As a result, participating vessel owners and operators will promote a more continuous level of safety. Information on SIP has been published in the **Federal Register** (62 FR 17008; April 8, 1997). Development of SIP falls under the goal of *Offer More*. This goal provides incentives for making improvements to safety management systems.

• *Development and Implementation of a PTP Communications Plan.* Working together with industry and the public, the Coast Guard plans to address the human element in transportation safety and pollution prevention. Public meetings and other feedback indicate that government-to-public communication is not as effective as it could or should be. The Coast Guard will focus on the development and implementation of a PTP Communications Plan. By focusing on this plan, the Coast Guard will create a partnership with industry and the public under the PTP goal of *Cooperate More*. This plan will address all forms of communication, from describing the results of research, to discussing lessons learned and best practices, and other PTP-related information. The PTP Communications Plan will include everyone from the boardroom to the deckplate. This will allow for increased communications and more effective interaction between the marine stakeholders and the Coast Guard.

PTP's Integration Into the Coast Guard "M" Business Plan

In addition to the current PTP focus items and the many other ongoing projects, PTP continues to be integrated into the Coast Guard's operating procedures; most noteworthy is the Coast Guard Marine Safety and Environmental Protection (G–M) Business Plan (Business Plan). The goals of the Business Plan comprise a significant portion of the Commandant's Annual Performance Agreement with the Secretary of Transportation. The Business Plan contains performance guidance and strategic direction for all Coast Guard commands charged with achieving the Coast Guard*s mission for marine safety and environmental protection. A key strategy for achieving the goals of the Business Plan is PTP.

The Coast Guard recognizes the importance of human and

organizational factors in marine safety and PTP has evolved from that philosophy. The Coast Guard will meet the goals of the Business Plan by using PTP as a tool to refocus prevention efforts.

PTP Public Meetings

The Coast Guard recognizes that the success of PTP depends on the marine industry. Its feedback is essential for continuous improvement to the program. To that end, the Coast Guard held four public meetings on PTP in the spring of 1997. These public meetings were held in:

- New Orleans, LA on February 25, 1997;
- Oakland, CA on February 28, 1997;
- St.Louis, MO on March 26, 1997; and
- Newport, RI on April 18, 1997.

(Notice of meetings with request for comments published in 62 FR 4567; January 30, 1997).

These meetings allowed the Coast Guard to explain PTP, discuss its anticipated role within the marine industry, and provide an opportunity for public feedback.

From these meetings, it is evident that safety is a top issue in the marine industry, and PTP has provided an effective forum for focusing on human and organizational aspects of marine safety. The feedback from the meetings has been instrumental in providing valuable insight about PTP and was used to help develop the 1998 PTP Focus Plan.

Discussion of Comments

The comments from the meetings have been grouped by subject and are discussed in the following paragraphs.

Partnerships

Partnership was the most frequently addressed issue. A number of comments specifically supported partnerships between the Coast Guard and industry, notably the formal PTP Quality Partnerships, and the Safety Advisory Committees/Councils (SAC). The SAC's are legislatively authorized groups that provide advice and ideas to the Coast Guard on regulatory and non-regulatory issues in specific areas, such as towing or chemical transportation. Each SAC has formed a PTP subcommittee to specifically address human element issues. To find out more information about the SAC's and their activities, look at the following website: *http://www.uscg.mil/hq/g-m/advisory/index.htm*.

Several speakers felt that partnerships were the most important part of PTP. According to one speaker, PTP articulates many of the concepts the marine industry already follows and allows industry to maintain them in a centralized place. In that sense, PTP is the umbrella for the various safety initiatives going on in the marine industry. PTP is not a new philosophy, but rather, it is an extension of an existing safety philosophy with a human element focus. The PTP umbrella simply allows people to share information more conveniently and provides the emphasis for those not already active in this area.

Partnerships can involve many modes of sharing. The Coast Guard and industry partnerships were acknowledged as important; however, speakers wanted to make sure the ship-to-shore partnerships within companies are valued also. One speaker, who supported partnership and its concept, cautioned that a true partnership needs work and attention.

The Coast Guard will continue efforts in this area. Before the public meetings, the Coast Guard had formal PTP Quality Partnerships established with (1) the American Waterways Operators; (2) the American Petroleum Institute; (3) the United States Chamber of Shipping; and (4) the Passenger Vessel Association. Since the public meetings, PTP Quality Partnerships have been established with the International Council of Cruise Lines (ICCL) and the Spill Control Association of America (SCAA). The Coast Guard continues to explore opportunities for partnerships with other sectors of the maritime community.

Recreational Boating

A comment questioned whether PTP should encompass the recreational boating community. Prevention Through People is an approach to safety for everyone; no group has been excluded. Since passage of the Federal Boating Safety Act of 1971, (Pub.L. 92–75, 85 Stat. 213) the Coast Guard has worked with the States and boating safety organizations to cooperatively promote safe operation of boats through its coordination of the National Boating Safety Program. In April 1996, members of the National Boating Safety Advisory Committee (NBSAC) and the Navigation Safety Advisory Committee (NAVSAC) met and discussed interactions between the boating public and commercial shipping. The committees identified education as the number one waterway safety issue. Subsequently, a NBSAC PTP Subcommittee looked at ways of increasing the safety of boaters by applying PTP principles.

The Coast Guard is accepting feedback on the need for, and alternatives to, Federal requirements or incentives for recreational boaters to take courses in boating safety (notice to reopen the comment period published in 63 FR 13585; March 20, 1998) and for boaters to wear personal flotation devices (notice to reopen the comment period published in 63 FR 13586; March 20, 1998).

Substandard Operators

Some comments discussed how to capture the small percentage of operators who are on the edge of, or below, safe operating practices. The Coast Guard intends to assist operators in improving their safety operations. Unsafe maritime practices are a cause for concern for both Coast Guard and industry. We must commit ourselves, our organizations, and our operations to producing a safer, more productive environment.

Communication

Communication was discussed at all four public meetings. The many speakers commenting on this issue addressed the Coast Guard's efforts to disseminate pertinent information to industry and individuals, the maritime industry's communication to the Coast Guard, and the companies' internal communications. Most speakers emphasized the need to foster better communication methods. They also stressed gaps in the various chains of marine industry communications, to include Coast Guard-to-industry, ship-to-shore, and captain-to-crew, among others. As an example of a common case of miscommunication, a speaker mentioned that too often specific messages do not get to the right people. The speaker noted that one of the reasons this occurs is because management neglects to pass information down the chain of command to the people who need it.

Some comments stated that "letters of concern" are a helpful method that the Coast Guard uses to communicate with industry. The Coast Guard may write a letter of concern to a company on a safety issue or concern, instead of a more punitive form of action (e.g., a citation or criminal charges). Then, the Coast Guard works with the company in a non-regulatory manner to solve the problem. Some speakers also mentioned that the company could encourage safety communication by providing anonymous forms to report issues of concern.

Many speakers recommended using different media, including the Internet, to convey information. In response to the many speakers who echoed this recommendation at the meetings, the

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Coast Guard has published a PTP World Wide Web site. As previously discussed in this notice, under the PTP Focus Plan, the Coast Guard is developing the Communications Plan to provide direction to, and support for, personnel involved in the PTP program.

Speakers also discussed the role of Coast Guard Headquarters in Washington, DC, with respect to setting effective nationwide policy. Many safety issues, such as risk management, can be addressed at a local level. The broad policy and regulatory issues, though, are most effectively addressed at the headquarters-level.

Regulatory Process

Several speakers commented on the Coast Guard's regulatory process. The comments discussed:

- Problems with the way regulations are written and created;
- Solutions to some of the difficulties;
- The Coast Guard's solutions that are regulation oriented, even when the goal is to minimize new regulations; and
- A review of the required paperwork.

Regulations are a necessary aspect of safety within the marine industry under the Coast Guard's legislative mandate from Congress. However, seeking non-regulatory approaches to safety for people and the environment is one of the PTP Principles, which can be found in the Strategic Plan. Regulations establish minimum levels of safety as a part of an overall safety system. However, the Coast Guard continues to pursue regulatory reform including periodic reviews of paperwork and regulatory burdens as described in its semi-annual agenda of regulatory actions published in the **Federal Register** each fall and spring.

Several speakers commented that some mariners find it difficult to read and understand the technical and complex writing style of regulations. The Coast Guard has begun to implement Plain Language writing to make it easier to understand and comply with regulations. Plain Language writing includes simplifying acronyms, increasing use of conversational tone, and using questions and answer formats.

One speaker recommended that the Coast Guard hold more public outreach meetings (e.g., marine industry day) at the local Marine Safety Offices rather than at the Coast Guard Districts. The speaker noted that holding outreach meetings at the local level would provide greater access for small businesses and would enable the Coast Guard to better address issues specific to a community. The Coast Guard agrees. In several areas the Coast Guard participates in meetings convened by mariners on the local level. For example, current efforts where the Coast Guard joins with local community groups to solve local problems include:

- Privately convened Mariners' Advisory Committee of the Bay and River Delaware in Philadelphia, PA;
- The Puget Sound Marine Committee in Seattle, WA; and
- The Cuyahoga River Task Force in Cleveland, OH.

One speaker discussed the issue of using public meetings as part of the regulatory process. The speaker suggested using the format of the PTP public meetings, stating that its "give and take" format is a better model than the regulatory public meeting format. The Coast Guard continuously strives for open communications balanced with the requirements for the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) so that all members of the affected public, not just those present at a particular meeting, have equal and appropriate input to a fair and unbiased regulatory outcome.

Lessons Learned and Near Accidents

Some speakers commented on lessons learned and near accidents. A number of speakers gave information highlighting their experiences of best practices, while other speakers gave definitions of near accident and some of the obstacles encountered in the creation of a near accident reporting system. Several industry concerns need to be resolved to the satisfaction of all interested parties, before creating the new system. Some industry concerns include loss of insurance, safety awards, and exposure to legal liability. To create a functional reporting system, these factors must be addressed and answered to the satisfaction of all involved. As mentioned earlier in this notice, this issue is an item in the PTP Focus Plan.

Several speakers offered stories of various lessons learned and near accident efforts that their companies currently apply in the quest for safety improvements. Some projects that were mentioned include the following:

- Developing contingency plans.
- Providing means within companies to anonymously report issues of concern.
- Organizing safety meetings and lessons learned procedures followed up with shared analysis.
- Having key learning meetings for captains where each reports on a shared pertinent issue.

Another speaker suggested bringing representatives of vendors of mechanical systems to the workers who use them, thereby joining the people who make the equipment and the people who use the equipment.

Management

A number of speakers discussed aspects of management that affect marine safety. They highlighted best practices as performed by their firms, the problems they have with their companies, management losing their safety focus, and the management aspects of PTP.

Many speakers stated that they feel safety is often compromised by home office policies. For example, some masters are not allowed the independence to make decisions based on current conditions, but must operate within established parameters. Though this is an issue that must be addressed within individual companies, the Coast Guard recognizes the serious potential for accidents that such a practice causes. A speaker suggested allowing a management style that gives employees more power in decision making. The Coast Guard applauds this approach, which is consistent with the PTP Principle *Honor the Mariner.*

It remains the responsibility of the individual companies and management to use their influence appropriately and to make sure there is compliance from the boardroom to the deck plate level. This responsibility takes on the increased importance as the deadlines for compliance with the ISM Code approach. Implementation of the ISM Code will have a significant effect on marine safety from the organizational standpoint, and is being addressed as part of the PTP Focus Plan.

Two speakers commented that the human element provides the greatest impact on improving marine safety and that upper management must show consistent, not sporadic, support.

Several speakers expressed concern that PTP might encourage micromanagement when it should, instead, foster creativity. A speaker requested having the Coast Guard focus on its roles of encouragement, leadership, and examples, as opposed to regulations and management. As noted, PTP seeks non-regulatory approaches to safety for people and the environment.

Training

A number of speakers discussed training. The majority of comments shared best practices related to training of mariners on a day-to-day basis and of the crew as a whole. A few speakers identified some problems with Coast Guard procedures that affect training mariners.

The comments indicated that many companies are working to provide better, more accurate training with a focus on safety. The Coast Guard and the Los Angeles/Long Beach (LA/LB) Vessel Traffic Information System (VTIS) are currently working on a standard for training to be used primarily as a tool for mariners. Improved industry training methods also include training teams from the same vessel, so the mariners can practice with the people they work with. Another suggestion described a pocket-sized emergency response-training document for deckhands.

Some of the basic principles noted in the public meetings and in the Coast Guard's experience are worthy of note:

- Training needs to be a priority from the initial hiring process onwards.
- Training should encompass everything from lessons on managing stress to CPR and fire fighting.
- Supervisors should go through some of the training with the crew to see what they are learning.

Effective implementation of the STCW Convention is necessary. Noted previously as a 1998 Focus Plan item, the Coast Guard will continue to address the human element issues of the STCW that relate to the individual mariner.

A number of comments discussed course approvals. It was noted that it now appears more difficult to get mariners to meet the basic requirements. A course approval process Fast Action Team met in November 1997 to find ways to reduce the backlog of course applications waiting for approval and shorten the time needed to evaluate course approval applications. As a result of the team's recommendations, the following actions have been taken:

- The National Maritime Center (NMC) increased the course approval staff by two people and also filled a long vacant position.
- The NMC determined the processing time could be shortened if courses were sent directly to the NMC rather than to the REC's. NMC Policy Letter 7–98 announced this change, and the implementing regulatory change will be proposed in the Maritime Course Approval Procedure Notice of Proposed Rulemaking, CGD 97–074.
- The course approval database that lists all Coast Guard approved courses has been updated, as of January 15, 1998. The list of approved courses is published on the Internet and is updated monthly.
- The NMC has begun developing and updating course guidelines to standardize approved courses.

Standardizing approved courses would reduce the time needed to review course approval requests; provide consistency in courses being taught; and ensure courses, instead of exams, will more accurately reflect the job tasks and responsibilities of the license being sought.

As a result of these actions, the backlog has decreased from 95 courses waiting for approval in November of 1997 to less than 40 courses waiting for approval in March of 1998. The oldest course awaiting review has been reduced from December 1996 to February 1998.

Honor the Mariner

Several speakers applauded and supported the PTP philosophy *Honor the Mariner*. They noted that the most appreciated contribution of PTP has been the recognition of the mariner as a pivotal member of the safety equation. Recognition of mariners helps foster a shared working relationship with mariners and masters. The Coast Guard recognizes that mariners have working knowledge of projects and equipment and that their opinions are important.

One speaker recommended that the Coast Guard honor the mariner constantly, not just before the accident, but also during and after an incident. The Coast Guard continues to seek out and use the expertise of mariners in guiding safety and environmental protection efforts, and appreciates the time, effort, and insights of all who have provided assistance.

Fatigue

A few speakers addressed fatigue research, while others spoke of their fatigue experiences. Several speakers mentioned that their companies are devoting research to studying fatigue and attempting to curb it. One company developed alertness testing devices with the view that fatigue, stress, and illness are impairment factors just as hindering as drugs and alcohol. The Coast Guard Research and Development Center is also performing studies specifically to address fatigue.

The PTP goal, *Do More*, was also mentioned during a fatigue discussion. The speaker addressed the concern that people may construe the statement by literally doing more work, but with the same people and equipment. *Do More* is directed towards striving for increased quality and prioritization of work-do better-as opposed to an increased quantity of work. One speaker acknowledged that fatigue is often a contributing factor to many accidents. The speaker, however, expressed concern that fatigue is often an easy fallback explanation for accidents, when it may not be the causal factor in a particular accident.

Research

A representative from the Coast Guard Research and Development Center described the Fatigue Research Program and solicited participation from the towing industry for an alertness study. In addition, several speakers stated that their companies are devoting more research time to human safety and environmental issues. The Coast Guard applauds these efforts and encourages the sharing of this information for the benefit of the entire marine community. The Coast Guard Research and Development Center has developed a web site *http://www.rdc.uscg.mil/* to disseminate information about its projects. There is also a section on studies and reports related to human element issues on the PTP web site: *http://www.uscg.mil/hq/g-m/nmc/ptp/rands.htm*.

Streamlined Inspection Program (SIP)

Several comments discussed SIP. In general, they were supportive of the program. Speakers agreed with SIP, citing it as an example of true partnership. They pointed out many advantages to the program, noting its encouragement for companies to translate the Code of Federal Regulations for their employees. A speaker commented that the strength of SIP lies in changing the inspection from an annual snapshot by the Coast Guard to a Coast Guard audit of the organization's continuous inspection system. As a 1998 Focus Plan item, the Coast Guard will help companies increase ownership of their inspections and maintenance by implementing the SIP.

Some comments addressed the issue of SIP by creating two classes of operators or companies. They discussed the problem of the Coast Guard not issuing CG–835 forms, which require immediate repairs, to vessels that are part of the SIP. Some speakers felt that industry does not want to see two classes of operators or companies.

Manning

A few speakers addressed the problems of working with too few crew members. One speaker supported regulations on manning of barges because it is difficult to place someone aboard an unmanned barge in adverse weather conditions. The Coast Guard has proposed regulations seeking to enhance existing standards for anchoring or retrieving drifting tank barges (62 FR 52057, October 6, 1997;

and 63 FR 9980, February 27, 1998). These proposed rules present appropriate measures for reducing the likelihood of loss of control and grounding of a tank barge based on whether or not the barge is manned. As a result of reducing the likelihood of groundings, fire prevention measures and emergency control measures are also both part of the system to address tank barge safety.

Another speaker commented on the often insufficient manning on foreign flag vessels, which makes it harder to have safe operations. With certain exceptions, the vessel's Flag State establishes the manning level for each vessel. The Coast Guard is concerned about the safety of foreign vessels operating in U.S. waters and is working with the International Maritime Organization (IMO) to develop more up-to-date guidance on the principles of safe manning. The aim of this guidance is to have crew complements based on the actual crew workload, taking into account work hour limits and rest requirements. During Port State Control (PSC) boardings of foreign vessels, the Safe Manning Document is checked against the actual manning of the vessel. In addition, licenses, certificates, and rest requirements are checked to ensure compliance with the STCW. The Coast Guard will work with representatives of the Flag State to resolve any of the problems. The Coast Guard may detain the vessel in port pending the resolution of the problems to ensure the correction of unsafe conditions, which may include requiring additional crewmembers if insufficient personnel are onboard to safely operate the vessel.

Pilotage

One speaker discussed the need for First Class Pilot's licenses on the inland waterway system. The speaker indicated that the current certification of inland pilots on parts of the inland waterway, which does not specify a geographic area of expertise, is insufficient. The speaker stated that the Coast Guard Regional Examination Centers need to ensure capable people can get their license.

In 1994, the Coast Guard revised the pilot regulations in 46 CFR 15.812 to eliminate the requirement for a First Class Pilot's license on non-designated areas of pilotage waters. Due to this change in regulations, it is now the companies' responsibility to ensure that the pilot they hire has the necessary expertise.

Maintenance

One speaker commented on maintenance. The speaker highlighted problems with main propulsion failures due to the lack of proper maintenance of ships and equipment. Poor maintenance of ships and equipment has been noted in many casualties, including the December 1996 BRIGHT FIELD accident in New Orleans, LA, where poor maintenance was cited as a cause of the accident in the investigation report, which was published on October 31, 1997.

The speaker noted that the issue of maintenance should receive more attention than it has in the past. The Coast Guard is actively pursing these efforts through its PSC and SIP programs, which target foreign vessels and domestic that are not operated or maintained properly. Additionally, the ISM Code becomes mandatory for many vessels on July 1, 1998, and requires both the company and the vessel to have a safety management system in place. A properly implemented safety management system will help prevent occurrences such as the BRIGHT FIELD'S loss of propulsion.

Conclusion

The Coast Guard is committed to PTP as a long-term effort to address the root cause of many of these accidents—the human element. Through the continuing efforts of the Coast Guard and marine community, we can all reduce and perhaps, eventually, eliminate these types of accidents. The Coast Guard has an unwavering commitment to safety, and through PTP is undertaking many bold initiatives. The marine community is invited to join in this effort to improve marine safety and environmental protection. Visit one of the web sites listed in this notice to learn more.

Dated: May 18, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–14163 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air traffic issues.

DATES: The meeting will be held on June 16, 1998, 10:00 a.m.

ADDRESSES: The meeting will be held at the Air Traffic Control Association Headquarters, 2300 Clarendon Blvd., Suite 711, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Beth Allen, Transportation Regulations Analyst, Airmen and Airspace Rules Division, Office of Rulemaking (ARM–105), 800 Independence Avenue, SW, Washington, DC 20591. Telephone: (202) 267–8199, FAX: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–43; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee. This meeting will be held on June 16, 1998, at 10:00 a.m., at the Air Traffic Control Association Headquarters, 2300 Clarendon Blvd., Suite 711, Arlington, VA.

The agenda for this meeting will include a review of the Special Visual Flight Rules (SVFR) Working Group's activities.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC on May 21, 1998.

Reginald C. Matthews,

Assistant Executive Director for Air Traffic Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–14167 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration

Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on June 10, 1998, at 12:30 p.m.

ADDRESSES: The meeting will be held at Federal Aviation Administration, Conference Room 9c, 800 Independence Ave., SW, Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Dwonna Johnson, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on June 10, 1998. The agenda for this meeting will include status reports on the All Weather Operations Working Group, the Fatigue Countermeasures and Alertness Management Working Group, the initiation of the Airplane Performance Working Group, as well as a discussion of the task on flight crew reserve scheduling. Attendance is open to the interested public but may be limited by the space available. The Members of the public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on May 26, 1998.

Quentin J. Smith,

Assistant Executive Director for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–14271 Filed 5–26–98; 1:41 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at San Diego International-Lindbergh Field, San Diego, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to use, and impose and use the revenue from a PFC at San Diego International-Lindbergh Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508 as recodified by Title 49 U.S.C. 40117 (c)(3)) and 14 CFR, Part 158.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Thella F. Bowens, Senior Director, Aviation, San Diego Unified Port District, P.O. Box 488, San Diego, CA 92112–0488.

Air carriers and foreign air carriers may submit copies or written comments previously provided to the San Diego Unified Port District under section 158.23 of FAR Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor Standards Section, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, Telephone: (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Diego International-Lindbergh Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508 as recodified by Title 49 U.S.C. 40117(c)(3)) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 26, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the San Diego Unified Port District was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 25, 1998.

The following is a brief overview of the application No. 98–02–C–00–SAN:

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 2000.

Proposed charge expiration date: January 1, 2002.

Total estimated PFC revenue: $26,504,000.

Brief description of the proposed projects:

Impose and Use projects:

Replace passenger loading bridges; upgrade East and West Terminals; conduct airport long term study; upgrade electronic information display system; construct storm water/oil separator system; establish temporary commuter terminal; replace ARFF vehicle; install air cargo apron lighting; upgrade emergency alarm system; modify pedestrian access—West Terminal; construct East Terminal pedestrian bridge; construct high-speed exit taxiway B7; consolidate air cargo operations along Taxiway B7 including additional apron pads and lighting; pave Taxiway D fillets; install blast deflectors for Taxiways B2, B3, and D; establish an emergency operations center; and residential sound attenuation program.

Use projects:

Demolish former US Air hangar building; and upgrade Gates 20 and 22 in the West Terminal.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: FAR Part 135 Air Taxis.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application, in person at the San Diego Unified Port District Building.

Issued in Hawthorne, California, on May 21, 1998.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 98–14270 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory: Determination of Vision Impairment Among Locomotive Engineers

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 98–1 addressing the vision standards of certified locomotive engineers in order to reduce the risk of accidents arising from vision impaired engineers.

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FOR FURTHER INFORMATION CONTACT: John Conklin, Operating Practices Specialist, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street S.W., Mail Stop 25, Washington, D.C. 20590 (telephone: 202–632–3372); Alan H. Nagler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., RCC–11, Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3187); or Mark H. McKeon, Regional Administrator, 55 Broadway, Cambridge, MA 02142 (telephone: 617–494–2243).

SUPPLEMENTARY INFORMATION: After a tragic 1987 accident and in response to the Rail Safety Improvement Act of 1988, FRA adopted rules establishing a program for qualifying locomotive engineers to assure the uniformity and adequacy of the qualifications standards. FRA's rule, which became effective in 1991, establishes requirements for testing the visual acuity of individuals who want to be certified as locomotive engineers. In the ongoing effort to monitor compliance with and the effectiveness of its existing regulatory program, FRA has been examining available data concerning administration of this aspect of the certification program. The data suggest that there is room for improving the rule's existing provisions concerning the testing and evaluation of visual acuity.

FRA also has received a number of recommendations for change to the rules concerning the qualification and certification of locomotive engineers. The most recent recommendation was received on May 14, 1998, when FRA was presented with a recommendation from the Railroad Safety Advisory Committee (RSAC) that FRA consider changes to the current provisions concerning the testing and evaluation of visual acuity.

RSAC was established to provide recommendations and advice to the Administrator on development of FRA's railroad safety regulatory program, including issuance of new regulations, review and revision of existing regulations, and identification of non-regulatory alternatives for improvement of railroad safety. RSAC recommendations carry considerable weight since RSAC is comprised of 48 representatives from 27 member organizations, including railroads, labor groups, equipment manufacturers, state government groups, public associations, and two associate non-voting representatives from Canada and Mexico.

The May 14 RSAC recommendation echoes an earlier recommendation from the National Transportation Safety Board (NTSB) based on the NTSB's March 25, 1997 report of its investigation into a fatal collision between two New Jersey transit commuter trains near Secaucus, New Jersey. See NTSB's Railroad Accident Report—Near Head-On Collision and Derailment of Two New Jersey Transit Commuter Trains near Secaucus, New Jersey, February 9, 1996 (NTSB/RAR–97/01).

Explanation of Current Requirements on Testing and Evaluation of Visual Acuity

FRA rules require each railroad to test the vision of every locomotive engineer when initially certified and at periodic intervals of no more than every three years. Each railroad's program must include criteria and procedures implementing how the railroad will ensure that each locomotive engineer will have adequate distant visual acuity and the ability to recognize and distinguish between the colors of signals. The rule requires that a railroad have written confirmation from a licensed medical doctor that the person being certified meets the FRA visual acuity standards. See 49 CFR part 240 at §§ 240.121, 240.207.

The rule gives railroad's and railroad medical examiners considerable latitude when conducting visual acuity testing and evaluation. During the period the rule has been in effect, the latitude permitted has generated questions about a number of matters. These include questions about the use of chromatic lenses; accounting for the variations in railroad signals when a signal is displaying the color yellow; the duty of engineers who rely on contact lenses to have a pair of corrective eyeglasses available when on duty; the obligation of certified locomotive engineers to alert the railroad when the engineer has reason to believe that his or her vision has deteriorated to the extent that the person may no longer meet the acuity requirements; the duty of each medical examiner to have a clearly articulated basis for his or her decision that a person who lacks the specified level of acuity can nonetheless safely operate a locomotive; and the ability to use a variety of testing methods, including whether it is proper to conduct color vision tests by displaying yarn or other fabrics.

Of these questions, the most vexing involves the issue of employing appropriate testing of persons to detect color vision impairment. FRA's expectation was that the physicians who would be designated as railroad medical examiners would be trained to competently administer color vision examinations. Thus, FRA did not anticipate that it would be necessary to specify for the medical examiners the test procedures to be employed when testing for whether a person meets the standards specified in this rule.

That assumption has been called into question under tragic circumstances. It appears that if the current rule had been implemented as FRA expected, the rule would have been adequate to prevent the NJT accident. For example, the NTSB report found that the medical history of the suspect engineer showed that he had been administered an acceptable test annually by the same NJT contract physician since at least 1985. For nine straight years, the engineer scored a perfect score on his color vision test. However, the NTSB report also found that beginning in 1994, the test results showed a deterioration of the engineer's ability to distinguish among some colors and, in February 1995, one year prior to the accident, the engineer's test scores caused him to be classified as having a moderate color vision handicap. As a consequence of this low test score, the physician said that he gave the engineer the Dvorine Nomenclature Test to further evaluate the engineer's color vision. NTSB reported that the testing protocol states that the nomenclature test is not a test of color discrimination ability, since many color blind individuals learn to name the colors correctly by their brightness instead of their hue. Reliance on this testing methodology suggests the physician failed to understand that the purpose of the Dvorine Nomenclature Test is to see whether the patient can identify the names of the colors—not to test color vision. In fact, the Dvorine Nomenclature Test is merely a preliminary step in conducting the Dvorine—Second edition color vision test and is often skipped because most patients are presumed to be able to identify the names of the colors. Thus, it is likely that this accident was preventable if the physician had responded differently to the pattern of deterioration and had used a sound approach to measuring the person's ability to distinguish colors.

RSAC'S Recommended Changes to FRA'S Rules on Testing and Evaluation of Visual Acuity

FRA's goal is to prevent train collisions such as the one that occurred at Secaucus. Amending the existing regulation, so that railroad medical examiners are limited to the application of prescribed acceptable tests, will help achieve this goal. While the RSAC has recommended modification of the

regulation, issuance of a final rule could take a substantial period of time during which it is possible that the circumstances surrounding the medical evaluation process of the Secaucus accident could be replicated. FRA has decided that the RSAC recommendations for change on this issue should be widely disseminated since these recommendations reflect the current best thinking of the regulated community. Broad sharing of information concerning the views of the advisory committee can be of assistance to medical examiners who are responsible for administering the existing regulation.

Based on past practice, FRA anticipates that the agency will accept the RSAC recommendation that FRA issue a notice of proposed rulemaking (NPRM) to revise the locomotive engineer certification regulation. The publication of this safety advisory should not be viewed as FRA endorsement of any particular aspect of the RSAC recommendations nor prejudging the eventual course of action which FRA may follow after carefully reviewing the RSAC recommendation. This safety advisory is intended to encourage all parties to carefully examine their current practices and, where appropriate, modify those practices to further reduce the risk of an accident or injury.

FRA anticipates that, when an NPRM may be issued, these and other RSAC recommendations addressing locomotive engineer certification will be the subject of public comment. These comments will be considered in the development of the final rule. As an example, even among members of the advisory committee who helped shape the consensus recommendations, FRA understands that some members would prefer to see that locomotive engineers be banned from wearing chromatic lenses during any color vision testing and any operation of a train or locomotive. This issue will be the subject of further discussion following completion of the public comment period.

Recommendation Details

RSAC Recommended That

a. FRA create an obligation for each certified locomotive engineer to notify his or her employing railroad's medical department or, if no such department exists, an appropriate railroad official, if the person's best correctable vision or hearing has deteriorated to the extent that the person no longer meets one or more of the prescribed vision or hearing standards or requirements of 49 CFR part 240;

b. Each railroad should ensure that all of their medical examiners have a current copy of 49 CFR part 240, including all appendices, and request that their medical examiners review the medical requirements;

c. Each railroad should remind all of their medical examiners who perform testing pursuant to 49 CFR 240.121 that the visual acuity tests should be conducted in accordance with the directions supplied by the manufacturer of the chosen test instruments and any American National Standards Institute (ANSI) standards that are applicable;

d. Each railroad should ensure that all of their medical examiners know that no person shall be allowed to wear chromatic lenses during an initial test of the person's color vision; the initial test is one conducted in accordance with one of the accepted tests. Chromatic lenses may be worn in accordance with any subsequent testing if permitted by the medical examiner and the railroad;

e. Each railroad should ensure that all of their medical examiners know that railroad signals do not always occur in the same sequence and that testing procedures must take that fact into account;

f. Each railroad should ensure that all of their medical examiners know that "yellow signals" do not always appear to be the same;

g. Each railroad should ensure that all of their medical examiners know that it is not acceptable to use "yarn" or other materials to conduct a simple test to determine whether the certification candidate has the requisite vision;

h. Each railroad should require that its medical examiners retest and further evaluate any locomotive engineer who reports a deteriorating vision condition or, upon request, an examinee who fails to meet the rule's articulated vision standards. The railroad's medical examiner will be expected to review all pertinent information and, under some circumstances, must condition certification on any special restrictions the medical examiner determines in writing to be necessary, e.g., restrict an examinee who does not meet the criteria from operating a locomotive or train at night, during adverse weather conditions, or outside of a yard. This decision should not be made until after consultation with one of the railroad's designated supervisors of locomotive engineers;

i. Each railroad should ensure that all of their medical examiners know that engineers who wear contact lenses should have good tolerance to the lenses and should be instructed to have a pair of corrective glasses available when on duty; and

j. Each railroad should ensure that when a person is tested pursuant to 49 CFR 240.121, the person has the ability to recognize and distinguish between the colors of railroad signals as demonstrated by successfully completing one of the tests specified in the table below. Each railroad should clearly explain to the medical examiners conducting such tests that the key is being able to distinguish among railroad signals; without such a clarification, medical examiners unfamiliar with the railroad environment might focus their attention on colors that do not appear as railroad signals.

k. Each railroad should ensure that medical examiners conducting tests to determine visual acuity adhere to the following guidance when administering the vision acuity requirements of 49 CFR 240.121 and 240.207. Select a testing methodology only from the following testing protocols which are deemed acceptable testing methods for determining whether a person has the ability to recognize and distinguish among the colors used as signals in the railroad industry. The acceptable test methods are shown in the left hand column and the criteria that should be employed to determine whether a person has failed the particular testing protocol are shown in the right hand column. Successful completion of one of these tests should be required, but requiring successful completion of multiple tests is discouraged since it would most likely be redundant.

Accepted tests	Failure criteria
Pseudoisochromatic Plate Tests	
American Optical Company 1965	5 or more errors on plates 1–15.
AOC—Hardy-Rand-Ritter plates—second edition	Any error on plates 1–6 (plates 1–4 are for demonstration—test plate 1 is actually plate 5 in book).
Dvorine—Second edition	3 or more errors on plates 1–15.

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Accepted tests	Failure criteria
Ishihara (14 plate)	2 or more errors on plates 1–11.
Ishihara (16 plate)	2 or more errors on plates 1–8.
Ishihara (24 plate)	3 or more errors on plates 1–15.
Ishihara (38 plate)	4 or more errors on plates 1–21.
Richmond Plates 1983	5 or more errors on plates 1–15.
Multifunction Vision Tester	
Keystone Orthoscope	Any error.
OPTEC 2000	Any error.
Titmus Vision Tester	Any error.
Titmus II Vision Tester	Any error.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 98–14010 Filed 5–27–98; 8:45 am]

BILLING CODE 4910–06–P

Corrections

Federal Register

Vol. 63, No. 102

Thursday, May 28, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket Nos. ER98–2770–000 and ER98–2786–000

American Electric Power Service Corporation, Central and South West Services, Inc.; Notice of Extension of Time

Correction

In notice document 98–12838 appearing on page 26791, in the issue of Thursday, May 14, 1998, the docket line should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1951–043]

Georgia Power Company; Notice of Availability of Environmental Assessment

Correction

In notice document 98–12925 appearing on page 27080, in the issue of Friday, May 15, 1998, the docket line should read as set forth above.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39851; File No. SR-PHLX-97-45]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change to Amend its By-Law Article XII, Section 12-10, With Respect to the Eligibility of Persons to Serve as Inactive Nominees

April 10, 1998.

Correction

In notice document 98–10182 beginning on page 19282, in the issue of Friday, April 17, 1998, make the following corrections:

On page 19282, in the third column, the docket and date lines are corrected to read as set forth above.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39899; File No. SR-SCCP-98-01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Increase in the Number of Directors

Correction

In notice document 98–11212 beginning on page 23333, in the issue of Tuesday, April 28, 1998, make the following correction:

On page 23333, in the first column, the docket line is corrected to read as set forth above.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 201, 240, 242, and 249

[Release No. 34-39884; File No. S7-12-98]

RIN 3235-AH41

Regulation of Exchanges and Alternative Trading Systems

Correction

In proposed rule document 98–10945 beginning on page 23504, in the issue of Wednesday, April 29, 1998, make the following correction:

On page 23583, under the table, in the first line, "Dated: April 21, 1998." should read " Dated: April 17, 1998."

BILLING CODE 1505-01-D

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federal register

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Part II

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 377]

RIN 0584–AB88

Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing to revise Food Stamp Program (FSP) regulations that cover the establishment and collection of food stamp recipient claims, including collections at the Federal level. This rule aims to improve claims management in the FSP while providing State agencies with increased flexibility in their efforts to increase claims collections. The provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) affecting recipient claims are incorporated into this rulemaking and this action is consistent with the President's regulatory reform effort. This proposed rule also strives to achieve a balance between State agency flexibility and fiscal accountability.

Food stamp recipient claims are established against households that receive more benefits than they are entitled to receive. The last major revision to these regulations was in 1983. Recent legislation, technological advances and changes in Federal debt management regulations have rendered many portions of the current regulations obsolete. In addition, the current regulations place unnecessary burdens on State agencies. The proposed changes are intended to: incorporate changes mandated by PRWORA; simplify presentation of policy; incorporate Federal debt management regulations and statutory revisions into food stamp recipient claim management; and provide State agencies with additional tools to facilitate the establishment, collection and disposition of food stamp recipient claims.

DATES: Comments on this proposed rulemaking must be received by August 26, 1998 to be assured of consideration.

ADDRESSES: Comments should be submitted to James I. Porter, Recipient Claims Coordinator, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Only written comments will be accepted. All written comments will be open for public inspection during regular business hours (8:30am to 5:00pm, Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 905.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. Porter at the above address or by telephone at (703) 305–2385.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

The FSP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule at 7 CFR Part 3015, Subpart V and related Notice (48 FR 29115, June 24, 1983), the FSP is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley R. Watkins, Under Secretary for Food, Nutrition and Consumer Services, has certified that this rule will not have a significant impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Implementation" section of this preamble. Prior to any judicial challenge to the provisions of this proposed rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Public Law 104–4

This proposed rule contains no Federal mandates under the regulatory provisions of title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, for State, local and tribal governments or the private sector of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act: Recipient Claims and Reporting Format Redesign

The following constitutes a 60 day notice being issued by FNS, USDA.

In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposal to consolidate several existing collection burdens by requesting a new burden.

Written comments must be submitted on or before July 27, 1998.

Send comments and requests for copies of this information collection to James I. Porter, Recipient Claims Coordinator, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302 and to Wendy Taylor, FNS Desk Officer, Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503. For further information regarding this notice, Mr. Porter may be contacted at (703) 305–2385.

Comments regarding these burden estimates are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Title: Food Stamp Data Collection.

OMB Number: A new burden number is being requested This burden will consolidate burden associated with 0584–0069, 0584–0080, 0584–0009, 0584–0015, 0584–0081 and 0584–0025. The existing burden under 0584–0064 is not being changed.

Form Number: New request for FNS–695 which will consolidate the FNS–

209, FNS–46, FNS–250, FNS–259, FNS–388, FNS–388a and FNS–101 reports.

Type of Request: Consolidation of several collection and record keeping burdens into one burden.

Abstract: In accordance with the Paperwork Reduction Act of 1995, the reporting and recordkeeping burden associated with the Notice of Adverse Action, the demand letter for recipient claims and general case/claim recordkeeping has been approved by OMB under OMB number 0584–0064. The Department recognizes that, under this proposed rule, State agencies would be required to track claim referrals. The Department does not consider this to be an additional recordkeeping burden because tracking referrals is part of efficient and effective general case recordkeeping and management that has already been approved under OMB 0584–0064.

The burden associated with the reporting of claims under OMB number 0584–0069 consists of the submission of the *Status of Claims Against Households* (FNS–209) report. In an effort to reduce the number of reports and/or data elements to be reported, the Department is proposing to request OMB to combine and consolidate this reporting function with a number of other FNS reports with the result being one electronic reporting format. The reports with which the FNS–209 would be consolidated include the *Issuance Reconciliation Report* (FNS–46), *Food Stamp Accountability Report* (FNS–250), *Food Stamp Mail Issuance Report* (FNS–259), *State Issuance and Participation Estimates* (FNS–388), *Project Area Issuance and Participation Estimates* (FNS–388a) and *Participation in Food Programs—by Race* (FNS–101) as it pertains to the FSP. All of these reports, including the FNS–209, currently have assigned to them a unique OMB burden approval number: 0584–0069 for the FNS–209; 0584–0080 for the FNS–46; 0584–0009 for the FNS–250; 0584–0015 for the FNS–259; 0584–0081 for the FNS–388 and FNS–388a; and 0584–0025 for the FNS–101. To facilitate the report consolidation effort, the Department is requesting that OMB cancel all of the above approval numbers (with the exception of OMB number 0584–0025) and assign a single burden approval number for the new electronic reporting format. Since the burden associated with OMB number 0584–0025 also pertains to activity in the Food Distribution Program, the Department is not requesting that this number be canceled. However, the portion of this burden relating to the FSP would be removed and transferred to the newly assigned number.

The number of annual data reporting elements associated with this reporting burden will change dramatically. Currently, the forms proposed to be replaced have a cumulative total of 3,121,124 annual data reporting elements resulting in a reporting and recordkeeping burden of 110,122 hours. The proposed reporting format, on the other hand, would only have 15,300 annual data reporting elements.

Even though the number of data elements would be reduced significantly, the reporting and recordkeeping burden hours would increase by an average one hour per State agency per report submission. This is because much of the data proposed to be reported in the new reporting format is summational. Under the proposed reporting format, State agencies would need to retrieve and record the detailed data, compute the summational amounts and maintain the records necessary for audit purposes. Many States are already performing this consolidation function as part of their existing reporting procedures and therefore would experience no increase in burden. The one-hour increase in burden is to accommodate the remaining states who would need to perform some consolidation work to carry out this function.

Affected Public: State and local governments.

Estimated Number of Respondents: 37,973.

Estimated Time per Response: 2.90 hours.

Estimated Total Annual Burden: 110,758 hours.

Paperwork Reduction Act: Federal Collection Methods for Food Stamp Program Recipient Claims

The following constitutes a 60-day notice being issued by FNS, USDA.

In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposal to change an information collection burden related to Federal claims collection methods (FCCM's).

Written comments must be submitted on or before July 27, 1998.

Send comments and requests for copies of this information collection to James I. Porter, Recipient Claims Coordinator, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302 and to Wendy Taylor, FNS Desk Officer, Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503. For further information regarding this notice, Mr. Porter may be contacted at (703) 305–2385.

Comments regarding these burden estimates are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Title: Federal Collection Methods for Food Stamp Program Recipient Claims.

OMB Number: 5084–0446.

Expiration date: September 30, 1999.

Type of request: Revision to a currently approved collection.

Abstract: Changes to the collection burden would result from two changes proposed in this rule. One proposed change is the consolidation of the 60-day notice for Federal Income Tax Refund Offset Program (FTROP)(See 7 U.S.C. § 2022(b)(1)(C); 7 CFR 273.18(g)(5)) into an all inclusive 60-day notice for all types of Federal offsets. The other is the increased number of 60-day notices due to the proposed inclusion of agency error (AE) claims as a type of claim subject to collection under Federal offset.

Estimate of Burden: The proposed rule would increase the annual burden on State agencies from an average of 450 to 500 hours and for debtors would decrease from an average of 8 to 6 minutes.

Respondents: The collection would continue to impact two groups, State agencies that administer the FSP and certain individuals who are liable for overissued food stamp benefits.

Estimated Number of Respondents: The number of State agency respondents increase from 52 to 53. The number of debtor respondents would increase from 370,000 to 425,000.

Estimated Number of Responses per respondent: As under current rules, for State agencies the number of responses would vary from once for such activities

as certifying files to FNS to 380,000 for mailing out due process notices. For debtors the number of responses would continue to vary from once for such things as due process notices to three or four in the case of debtors making informal inquiries and requesting reviews.

Estimated Total Annual Burden on Respondents: Under this proposed rule the annual reporting and recordkeeping burden would decrease from 72,862 to 71,803 hours (1,059 hours).

Background

The tolerance of abuse, or even the perception of such, undermines the fundamental mission of the FSP. The efficient and effective establishment and collection of recipient claims is essential to program integrity. This rule aims to improve and increase claims establishment and also to increase the collection rate of established claims, while providing State agencies with increased flexibility in their efforts to increase claims collections.

The PRWORA (Pub. L. 104–193) amended the Food Stamp Act of 1977 (7 U.S.C. 2011–2032) (the FSA) in a number of ways. This rule proposes to implement the provisions of the PRWORA relating to recipient claims. This rule also proposes to incorporate certain provisions of the Federal Debt Collection Improvement Act of 1996 (DCIA)(Pub. L. 104–134, Chapter 10, signed April 26, 1996) as discussed later in this preamble in connection with Federal claim collection methods. The DCIA amended the Debt Collection Act of 1982 (31 U.S.C. 3701)(DCA).

In addition to the revisions mandated by the enactment of the PRWORA, the Department is proposing a number of significant changes in discretionary FSP policy regarding recipient claims. This rule also proposes certain changes in FTROP and the Federal Salary Offset Program, 7 U.S.C. 2022(b)(1)(C)(FSOP), in response to the amended DCA. Furthermore, this proposed rule would extensively reorganize the current regulations at 7 CFR 273.18. To assist in the regulatory reorganization and in the development of the discretionary policy changes being proposed, the Department, in an effort to maintain consistency with the treatment of other Federal debts, utilized the Federal Claims Collection Standards (FCCS) issued by the Department of Treasury (Treasury) (See 4 CFR Parts 101–105). The Department also drew upon a number of other sources including the policies and regulations of other social programs, private and public sector accounting standards, technological advances, recommendations by the Department's Office of the Inspector General (OIG) and Office of General Counsel, and suggestions from State agencies.

Responsibility for Recovering Overpayments

Current regulations at 7 CFR 273.18(a) discuss the State agency's responsibility for establishing claims as well as the household's liability for the amount of the claim. It also defines the three types of claims. The Department is proposing to revise the structure of this paragraph. The first structural revision would change the title of the paragraph from *Establishing claims against households* to *Responsibility for recovering overpayments.* This is being proposed because the new title more accurately portrays the purpose of the paragraph. In addition, the Department feels that keeping the current title would lead to confusion because other paragraphs of the proposed rule discuss "establishing" claims in much greater detail.

The second structural revision would involve the breakout of the single introductory paragraph into two paragraphs. The first paragraph of the proposed rule, § 273.18(a)(1), would establish household liability for overissuances. Section 273.18(a)(2) would establish State agency responsibility for establishing and recovering overissuances.

Even though the responsibility for establishment and collection of overpayments has been delegated to State agencies, food stamp recipient claims remain debts to the Federal government. Section 273.18(a)(2) of the proposed rule would specify this in detail. This proposal is not intended to change policy but simply to clarify existing policy. As Federal debts, unless superseded by this or other Departmental regulation, food stamp recipient claims are subject to the same debt collection processes and procedures as are all other Federal debts.

Claim Types and Definitions

In the current regulations, there are three claim types: intentional Program violation (IPV), inadvertent household error (IHE) and administrative error. The proposed rule would keep the same designations for IPV and IHE claims. Administrative error claims, on the other hand, would be renamed and referred to as agency error (AE) claims. This is being proposed to be consistent with the term most commonly used for this type of claim.

Paragraphs 7 CFR 273.18(a)(1), (a)(2) and (a)(3) of the current regulations provide the specific definitions for IPV, IHE and AE claims. As part of the regulatory reorganization, this rule proposes to split out these paragraphs from 7 CFR 273.18(a) into their own respective paragraphs: § 273.18(b) for IPV claims; § 273.18(c) for IHE claims; and § 273.18(d) for AE claims.

IPV Claims

Current regulations at 7 CFR 273.18(a)(3) provide the definition for an IPV claim. The paragraph contains specific instructions as to what must have occurred for an overissuance to be handled as an IPV claim. Since the basis for IPV claims is set by statute, this rule proposes no change in current policy about the basis for such claims. However, as part of the regulatory reorganization, the Department is proposing to list the criteria for defining an IPV claim in separate paragraphs, § § 273.18(b)(1) through 273.18(b)(4).

The proposed rule contains one change regarding IPV claims in an area in which the Department has discretion. Current regulations at 7 CFR 273.18(a)(3) mandate that prior to the determination of IPV the claim shall be handled as an IHE claim. The Department is proposing to delete this mandate thereby making this practice a State agency option on a case-by-case basis as long as the claim is established within the required timeframe (See the *Claim Referral and Backlog* section of this preamble for details on timeframe).

IHE Claims

Current regulations at 7 CFR 273.18(a)(1) provide the definition for an IHE claim. Under these regulations, an IHE claim generally results from an overissuance that was caused by a misunderstanding or unintended error on the part of the household. As part of the regulatory reorganization and in an effort to enhance FSP simplification, the Department is proposing to eliminate much of the definitional language in the current regulations and simply use the specific language at § 273.18(c) in the proposed rule.

AE Claims

Current regulations at 7 CFR 273.18(a)(2) define an AE claim. Under these current regulations, an AE claim results from an overissuance that was caused by a State agency action or failure to take action. As with the proposal regarding the definition of an IHE claim, the Department is proposing to eliminate unnecessary definitional language in this paragraph and simply use the specific language at § 273.18(d) in this proposed rule.

Section 844 of the PRWORA eliminated all legislative limitations on

the collection options available for AE claims. This ends a previous inconsistency wherein State agencies were required to collect AE claims but were precluded from using the most effective and efficient collection tool, involuntary allotment reduction.

Some groups maintain that, since the reason for the overissuance resulting in the AE claim was an error by the State agency, the household should not be responsible for the overissuance under laws in a number of States under the legal concept of equitable estoppel. The Department disagrees with this position. The FSP is administered under Federal law and the Department provides 100 percent of the value of the benefits. Section 13(a)(2) of the FSA (7 U.S.C. 2022(a)(2)), which was unchanged by the PRWORA, clearly and unconditionally provides that adult members of a household that receive any overissuance shall be jointly and severally liable for the value of the overissuance. Thus, Federal law permits no exception for equitable estoppel in the case of an overissuance caused by State agency error.

Claims for Recipient Trafficking

In a significant policy change, the Department is proposing, in § 273.18(a) of this rule, to provide for establishing a claim against a household for the value of benefits that are trafficked rather than redeemed for authorized food purchases.

Trafficking has long been an IPV subject to disqualification from FSP participation. However, the advent of electronic benefits transfer (EBT) has provided a source of data that makes it easier to identify both parties to trafficking transactions. The availability of EBT data has already increased the number of disqualifications for trafficking. In addition to disqualification penalties, the Department believes that trafficking can also be deterred by the development and use of additional enforcement tools. Assessing a claim for the amount of trafficked benefits offers such a tool.

The authority for this determination is found in section 13(a)(1) of the FSA (7 U.S.C. 2022(a)(1)) which states that the Department "* * * shall have the power to determine the amount of and settle and adjust any claim * * * arising under the provisions of this Act or the regulations issued pursuant to this Act, including, *but not limited to*, claims arising from fraudulent and nonfraudulent overissuances to recipients * * * (emphasis added)" Generally, a recipient claim is established when a household receives more coupons than the household is entitled to receive. However, as indicated above, section 13 of the FSA (7 U.S.C. 2022) does not limit the Department to establishing claims against individuals solely because of overissuances. Clearly, recipient misuse, such as trafficking, falls within the definition of an IPV as specified in 7 CFR 273.16(c)(2). The Department is thus proposing in this rule that claims would be established for all IPV's, including those caused by trafficking offenses.

The Department would like to clarify that this change in policy would have no effect on the current policy regarding the establishment and collection of fines and penalties from authorized retailers and unauthorized third parties who are found to have illegally obtained coupons via trafficking. (See 7 CFR 278.6). Retailer fines and claims act as a deterrent and punish retailers and unauthorized third parties for engaging in prohibited activity. The current regulations on retailer fines and claims at 7 CFR 278.6 provide for monetary penalties significantly larger than the amount trafficked. The proposed policy change providing for recipient trafficking claims, on the other hand, would directly correlate with the benefit amount that was trafficked. The procedure for calculating a recipient trafficking claim is discussed elsewhere in this preamble.

The Department also proposes to establish a second category of claims for trafficking that is analogous to the inadvertent household error claim established for household-caused overpayments that do not warrant IPV determinations. A State agency can assert an "inadvertent" misuse claim in situations where the State agency chooses not to obtain or cannot obtain a formal designation of trafficking through an administrative or court determination but can document the transaction sufficiently to sustain the claim. The Department is therefore proposing that instances of inadvertent recipient misuse be appropriately treated as IHE's as described in 7 CFR 273.18(a)(1)(i) of the current regulations and § 273.18(c) in the proposed rule. This rule would provide the authority for State agencies to specifically include trafficking and recipient misuse in benefit transactions as a basis for establishing a claim against a household.

Claim Calculation

Current regulations at 7 CFR 273.18(c)(1) and 7 CFR 273.18(c)(2) discuss the procedures for calculating the amount of a claim due to an overissuance. Under the proposed reorganization of 7 CFR 273.18, the paragraphs on calculating claims would be combined under § 273.18(e)(1). In addition, some policy revisions are being proposed in this area and are outlined below. The current paragraph also does not include a provision for calculating claims for trafficking. The proposed rule at § 273.18(e)(2) addresses this issue.

Calculating Recipient Trafficking Claims

The Department is proposing, in § 273.18(e)(2), to include a procedure for determining the value of a misused benefit caused by trafficking. The amount of the misused benefit would be the value of the trafficked benefit as determined by: the individual's admission; adjudication; or the documentation, such as detailed electronic benefits transfer (EBT) transaction listings, which forms the basis for the benefit misuse determination. Trafficking claims could be either an IPV or IHE claim depending on the nature of the procedure under which trafficking was established.

Calculating Overissuance Claims

For an IPV claim due to an overissuance, current regulations at 7 CFR 273.18(c)(2) provide the parameters for claim calculation. Current regulations at 7 CFR 273.18(c)(1) establish the procedures for calculating claims for IHE and AE overissuances. In an effort to provide a better structure, the Department is proposing to combine these paragraphs into a single procedure in § 273.18(e)(1)(i) through (vi) in this rule. As part of this reorganization and general streamlining effort, some unnecessary prescriptive language would also be removed. In addition to these structural and streamlining revisions, several policy changes are also being proposed in this rule.

The PRWORA included a change in the calculation of claims caused by unreported earned income. Section 809 of the PRWORA amended section 5 of the FSA (7 U.S.C. 2014) by specifying that the earned income deduction "* * * shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner." This changed current policy by removing the stipulation that the failure to properly report income must be willful or fraudulent. As a result, the Department is proposing, in § 273.18(e)(1)(iii) of this rule, that, in calculating an IHE claim, the State agency would not apply the earned income deduction to that part of any earned income that the household failed

to report in a timely manner. This would be the same policy that the Department currently has for calculating IPV claims with unreported earned income.

In addition to the earned income revision necessitated by the PRWORA, the Department is proposing two additional policy changes related to claim calculation: (1) Under the proposed rule, a State agency would be able to waive up to 20 percent of any claim if the household cooperates with the establishment of the claim; and (2) the amount of the claim would be offset by the amount of any expunged EBT benefits. These two policy revisions are discussed in greater detail in other sections of this preamble.

Current regulations at 7 CFR 273.18(c)(1)(iii) and (c)(2)(iii) discuss offsetting the claim amount against any amount of lost benefits that have not yet been restored to the household. This proposed rule does not change this policy. However, as part of the regulatory reorganization and since this area applies more to collecting rather than calculating claims, the Department proposes to move this paragraph to the claims collection section of this rule.

Pre-Establishment Cost Effectiveness Determination Methodologies

Section 844 of the PRWORA amended section 13 of the FSA (7 U.S.C. 2022(b)) by stating that the collection of any overissuance does not apply "* * * if the State agency demonstrates to the satisfaction of the Secretary * * *" that it is not cost effective to collect that claim. This establishes that interest in program integrity must be tempered by administrative costs considerations. This provision implies that some test must be established to assess or demonstrate the degree of cost effectiveness for a claim. However, the Department strongly believes that this provision (as well as the implementing language in this rule) by no means implies that a household has an automatic "right" to an overpayment without fear of collection, even if the overpayment is not cost effective for the State agency to pursue collection. This rule addresses standards for determining which claims must be pursued. For smaller claims State agencies should continue to maintain some probability of collection. Knowledge that even small overpayments may be collected increases payment accuracy by holding households responsible for accurate reporting of their circumstances.

The Department believes that a cost effectiveness test can be applied both prior to and after establishing a claim. This section of the preamble discusses assessing cost effectiveness prior to establishment and the initiation of collection action. Assessing cost effectiveness subsequent to the initiation of collection action as a means to determine whether a claim should be terminated and written off is discussed elsewhere in this preamble.

In Federal fiscal year 1995 alone, over 775,000 recipient claims were established nationwide. The Department recognizes that this sheer volume negates any notion of a State agency demonstrating to FNS the degree of cost effectiveness for claims on an individual basis. Therefore, the Department is proposing in this rule that, in lieu of demonstrating cost-effectiveness to FNS on an individual claim basis, State agencies would use standards approved by FNS to assess the cost effectiveness of collecting claims.

In determining these standards, the Department is proposing to present State agencies with a choice. The first would be for a State agency to design its own standard (subject to FNS approval). The second option would be for a State agency to use an updated version of the existing FNS recipient claim threshold. Both options are discussed below.

State Agency-Developed Methodology for Cost Effectiveness Determination

The Department is proposing, in § 273.18(h)(2) of this rule, how a State agency could adopt its own procedure, threshold, and/or methodology for use in determining whether to pursue the establishment of any claim and subsequent collection of the overissuance. A State agency would need to submit a detailed analysis of costs over time and obtain prior approval from FNS for use of this procedure, threshold and/or methodology. Cost effectiveness should reflect total returns to the Federal and State government and the total cost of the State claims collection effort.

The concept of having a State agency develop its own methodology is an expansion of current policy. The reason for this policy expansion is twofold. First, this option would be consistent with the spirit of section 844 of the PRWORA which increases State agency control over its claims. The stipulation requiring prior FNS approval of the methodology to be utilized would be needed because the provision in the PRWORA requires that cost effectiveness be demonstrated to the satisfaction of FNS, thus reinforcing the Federal government's interest in State stewardship of FSP resources.

The second reason for this policy expansion is that cost effectiveness varies significantly from one State agency to another depending on factors such as the degree of automated processing, the amount of historical case record information, the degree of centralization, features of administrative structures, salaries, and the number and size of claims established. This observation is supported by a contracted study released by FNS in June 1996 entitled, "Optimal Thresholds in the Collection of Food Stamp Program Claims." While State agencies have a responsibility to adopt cost-effective claims management systems, this proposal would allow a State agency to establish a cost-effectiveness methodology (subject to FNS approval) to reflect the State agency's own situation and expenses.

FNS Threshold for Establishing and Collecting Overissuances

Current regulations at 7 CFR 273.18(d)(1)(i)(A) require that, except for those IHE and AE claims which (1) are collected through offset of restored benefits or (2) are less than $35 and cannot be collected through allotment reduction, State agencies shall initiate collection action on all IHE and AE claims. This $35 exception represents the current FNS threshold for recipient claim collection.

Since 1982, 12 State agencies participating in the FSP have received waivers increasing the $35 FNS threshold. State agencies have maintained that the current threshold is too low because the cost of establishing and collecting claims exceeded the thresholds.

Administrative costs relating to claims actions are the cost of establishing a claim; calculating the claim; posting the claim into the State agency accounting and reporting system; initiating the various demand letters and notices; and managing collections. Economic factors, such as inflation, in addition to fluctuations in salary and staffing levels and automation start-up and maintenance costs cause changes (usually increases) in the amount of administrative funding expended for food stamp claim activity within each respective State agency over a given time period. In addition, the aforementioned contractor study on recipient claim collection thresholds found that the optimal thresholds in the State agencies surveyed were higher than the current collection threshold. The study also found that it was more appropriate to apply the threshold to the costs of the combined process of establishing and collecting claims. Including only the cost of collection led

to setting too low a threshold from an economic perspective.

As a result, the Department is proposing to increase the FNS threshold for collecting food stamp recipient IHE and AE claims. In addition, the Department is proposing to extend this threshold to IPV claims. The Department is also proposing utilizing the same threshold for both establishing and collecting claims. Current regulatory language refers only to the collection of claims and implies there is no threshold below which claims need not be established.

In its reorganization of 7 CFR 273.18, the Department is proposing to break out and expand the paragraph in the current regulations dealing with the threshold, 7 CFR 273.18(d)(1)(i)(A), into § 273.18(g)(2)(ii) of the proposed rule. In § 273.18(g)(2)(ii), the threshold would be defined as the maximum dollar amount of a claim or a claim referral that a State agency may decide not to pursue establishment and/or collection solely based on the amount of the referral. The purpose of the threshold is to maximize cost effectiveness in the establishment, pursuit and recovery of overissuances in the FSP. The Department originally considered proposing to raise this threshold from $35 to $100. Then the Department considered establishing a threshold that would change periodically depending on the rate of inflation or some similar economic factor. The Department decided to strike a balance between increased State costs and the uncertainty of a fluctuating threshold by proposing a fixed threshold of $125. This proposed threshold is reflected in § 273.18(g)(2)(ii) of this rule.

In addition, as noted earlier and reflected in § 273.18(g)(2)(ii) of the proposed rule, this threshold would also apply to IPV claims. The authority to include IPV's under the threshold is found in section 13(a)(1) of the FSA (7 U.S.C. 2022(a)(1)) which provides the Department with the authority to delegate to State agencies the power to "* * * settle and adjust any [recipient] claim * * * if the [Department] determines that to do so would serve the purposes of this Act." The proposed inclusion of IPV claims under the threshold would increase the waiver authority delegated to State agencies.

Currently, procedures for establishing and pursuing IPV claims vary significantly from jurisdiction to jurisdiction. By including IPV claims under the threshold, the Department would like to reduce this degree of variability. However, the Department would like to emphasize that no jurisdiction would be prevented from establishing and/or pursuing the collection of any claim that falls under this threshold. State agencies are encouraged to pursue claims on selected bases which would act as a deterrent or be in the best interest of the FSP or agency to establish or collect.

Finally, the current regulations at 7 CFR 273.18(d)(1)(i)(A) do not allow the FNS threshold to be applied to claims that can be recovered by reducing the household's allotment. Since the utilization of this claim collection method incurs relatively little post-establishment costs, the Department is not proposing any changes to this policy.

The Department is interested in receiving comments on these proposals concerning the determination of cost effectiveness for the establishment and collection of recipient claims. In addition, the Department is particularly interested is receiving actual cost data from State agencies.

Claim Establishment

Claim Referral and Backlog

Under current regulations, no time frame exists for State agencies to follow for initiating collection action by establishing claims. This has resulted in a number of State agencies either not establishing or not enforcing internal time frames for addressing potential claims, thereby causing a backlog of claim referrals. These claim referral backlogs have been cited as deficiencies and problem areas in Federal and State-level management evaluations and audits conducted by the Department's OIG. Potential debts that are not timely developed into claims become less collectible the longer they remain undeveloped.

In an effort to reduce the number of claims which are not established in a timely manner, the Department believes that it is necessary to develop a minimum timeliness standard for establishing claims which incorporates a standardized methodology for measuring the length of time it takes to establish a claim after the potential overissuance is discovered. To accomplish this, the Department must initially set the parameters by defining the starting and ending points of the process.

The Department is proposing that the *starting point* for calculating the length of time that it takes to establish a claim would be the date the potential claim is initially detected. This would be known as the *date of discovery* and is being defined as such in § 273.18(f) of this proposed rule.

The Department considered and rejected one other alternative in its determination of the appropriate starting point. This alternative was to use the date of occurrence of the change that caused the overissuance. For example, if a household was overissued benefits because of a decrease in household size, the starting point would be the date that the individual(s) left the household. The Department decided not to propose this alternative because the State agency may not become aware of the change that caused the overissuance for some time.

In addition to proposing a starting point to gauge the length of time it takes to establish a claim after the potential overissuance is discovered, the Department is also proposing to define an ending point for tracking and reporting purposes. This would be the *date of establishment*. The Department is proposing, in § 273.18(f)(3) of this rule, to have the date of establishment be the date that the initial written claim notification or demand letter is issued to the household. This is being proposed because the Department feels that this is the final step in establishing a claim.

The Department considered one other alternative as the ending point. This alternative would define the date of establishment as the date that the claim is posted as a receivable in the State agency's claim collection and tracking system. However, while it is integral to the establishment of a receivable, this is not being proposed because the Department believes that a claim is not truly established until the demand letter is sent to the household.

The Department is proposing that the length of time it takes to establish the claim would simply be the number of days between the date of discovery (starting point) and the date of establishment (ending point).

Now that the mechanism for measuring the length of time it takes to establish a claim has been proposed, the Department is proposing a standard for the timely establishment of claims.

Originally, the Department considered a 90-day standard for establishing claims with an allowance for up to 180 days if the State agency needs to secure additional documentation from uncooperative sources. However, this was not considered feasible because it would be difficult to track and gauge its effectiveness given the additional time allowance that would be allotted for certain claim referrals. Instead, the Department is proposing in § 273.18(f) of this rule to conform with time frames used in other assistance programs. The proposed rule would have the same standard as one that was in place for

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initiating collection action in the Aid to Families with Dependent Children (AFDC) Program in July of 1996. Specifically, claims would need to be established before the end of the quarter following the quarter of the discovery of the claim. As an example, if the date of discovery is in October, November or December, the last day for sending the demand letter in a timely manner would be March 31.

The Department is aware that a number of State agencies are either not establishing or not consistently enforcing internal time frames for addressing potential claims. This has resulted in what many State and Departmental officials perceive as a "backlog" of claim referrals. However, the measure of what actually constitutes a claim referral backlog has never been defined by the Department and State agencies have no clear regulatory guidance on this issue. With its proposed time frame for establishing claims, the Department feels that it now has the mechanism to propose clear guidance as to what would constitute a claim backlog.

The Department is proposing in § 273.18(f) of this rule to define a claim backlog as existing when more than 10 percent of the claim referrals are not established in a timely manner. The Department chose 10 percent because it feels that an absolute zero tolerance in this area would not account for the claims which would not be able to be timely established based on circumstances (such as uncooperative employers, etc.) which would be out of the State agency's control. The Department did not choose a percentage greater than 10 percent because it felt it would be too tolerant and condone inefficient and ineffective claim management.

The Department would like to emphasize that the purpose of establishing a standard for what is considered an acceptable as opposed to an excessive backlog is not to penalize a State agency with an excessive backlog but to provide a management tool for gauging the State agency's claim establishment efforts.

The Department is proposing in § 273.18(f) that State agencies, in order to assess the age of referrals, be required to record the date of discovery and the establishment date in the claim case file and/or referral tracking system. The Department feels that this is not placing an additional or unnecessary burden on a State agency as prudent claim management would dictate that the State agency would have a system to internally track referrals already in place.

Even though the Department is proposing a new standard for determining the existence of a claim backlog, the Department would not require State agencies to report this information to FNS. Monitoring would be achieved in the same manner that other areas of the FSP are reviewed and evaluated. The Department feels that the most effective way for State agencies to address a deficiency in this area would be to initially concentrate on preventing future backlogs by adhering to the standards proposed in this rule. Once this is accomplished, corrective action for the elimination of existing backlogs could be addressed.

The Department is interested in receiving comments on the proposed standard for establishing claims and measuring a claims backlog.

Initiating Collection Action When the Household Cannot Initially Be Located

The current regulations at 7 CFR 273.18(d)(1) contain the criteria for initiating collection action on IHE and AE claims. This criteria includes applying the dollar threshold for collecting claims, not taking action on households that cannot be located and postponing collection action on suspected IPV's. Proposed changes to the dollar threshold and the treatment of suspected IPV's are discussed in detail elsewhere in this preamble. In addition to these changes, the Department is also proposing a change in policy on initiating collection action if the household cannot be located.

The current regulations at 7 CFR 273.18(d)(1)(i)(B) provide that the State agency shall initiate collection action for IHE and AE claims unless the household cannot be located. The Department is proposing to delete this paragraph and have the State agency initiate collection action on these claims. The reason for this is that, with the advent of innovative collection methods such as Federal and State tax refund offset, it is much easier for State agencies to eventually locate the household and collect the claim. In addition, the household would be subject to allotment reduction if it returns to the FSP prior to the claim being terminated and written off. Terminating and writing off claims is discussed elsewhere in this preamble.

The current regulations at 7 CFR 273.18(d)(2) discuss the criteria for initiating collection action on IPV claims. This criteria includes making personal contact with the household. The Department is proposing to delete this clause. This is being proposed to increase the flexibility afforded State agencies in their collection efforts.

As with IHE and AE claims, the Department is also proposing to delete the clause in 7 CFR 273.18(d)(2) that allows State agencies not to pursue collection action against IPV claims if the household cannot be located. The reason for this being proposed is the same as with IHE and AE claims: the increased possibility of collection via Federal and State tax refund offset and the possibility of allotment reduction if the household returns to the FSP before the claim is terminated.

Household Notification

Requirements at Certification

In the Department's efforts to afford State agencies maximum flexibility, the Department is taking steps to ensure that household notification requirements (as required by the Privacy Act of 1964 at 5 U.S.C. 552a and the Debt Collection Act of 1982 (DCA), as amended by the DCIA at 31 U.S.C. 3716(a)) are not compromised. Proper notification involves informing the household of its rights regarding the claim and informing the household at the time of FSP application of the potential uses of information provided by the household to collect the claim.

Households initially provide identifying information (such as names, addresses and social security numbers) as well as other information regarding household circumstances at the time of application. This information is used by State agencies for program purposes including verification and eligibility and to refer delinquent claims to other agencies for various collection tools and methodologies such as tax refund, salary and administrative offset. The Department is proposing in this rule to require that State agencies inform households of this potential use of provided information at the time of application in a new paragraph, § 273.2(b)(4).

Demand Letter Requirements

Under the proposed rule at § 273.18(g)(3), a State agency would simply develop and use its own demand letter for claim notification and repayment solicitation. The Department is proposing several requirements to ensure that proper notification and due process conditions are met when the household is informed of the existence of the claim via the demand letter.

The first requirement being proposed by the Department in this rule is that the claim notification or initial demand letter would continue to contain a notice of adverse action (see § 273.18(g)(3)(v)). This notice of adverse action can either be an attachment or

contained in the body of the initial demand letter itself. This notice would also provide the household with the opportunity for a fair hearing on the validity and amount of the claim. At a fair hearing (or at an administrative disqualification hearing for some IPVs), the household currently is provided the opportunity to inspect and copy agency records and review with the agency the circumstances relating to the claim. This conforms with the information availability requirements in the DCA at 31 U.S.C. 3716(a)(2) and (a)(3). The current regulations regarding fair hearings (7 CFR 273.15) and administrative disqualification hearings (7 CFR 273.16) are not affected by this proposed rule.

In addition, to ensure proper notification per 31 U.S.C. 3716(a)(1) and (a)(4), the demand letter or accompanying notice of adverse action would contain information to provide the household with written notice of: (1) The type and amount of the claim, the intent to collect the claim, if not paid, by referral to other agencies, including private collection agencies, for various claims collection actions including, but not limited to, administrative offset, tax refund offset and salary offset; (2) the opportunity to inspect and copy the records related to the claim; (3) the opportunity for an administrative review (fair hearing) of the decision related to the claim; and (4) the opportunity to make a written agreement to repay the amount of the claim prior to the claim being referred for Federal collection methods. The Department is also proposing that the demand letter contain language specifying that, if the claim becomes delinquent, the household may be subject to additional delinquent and/or processing charges. Finally, the Department is proposing that the demand letter provide notification that all adult household members are equally liable for the claim and that the claim, if not otherwise collected, may be referred to the Department of Justice for litigation. These proposals are reflected in § 273.18(g)(3)(iii) and (g)(3)(iv) of this rule.

Elimination of Repayment Option Choice in the Demand Letter

Prior to the enactment of the PRWORA, section 13(b) of the FSA (7 U.S.C. 2022(a)(1)) contained the stipulation that the household had the option of selecting the method of payment. This resulted in the formulation of detailed regulations at 7 CFR 273.18(d)(3) implementing this legislative requirement. In section 844 of the PRWORA, Congress removed all references in section 13 of the FSA (7 U.S.C. 2022) which pertained to allowing the household to select the method of payment. In their place, Congress provided the State agency (and not the household) with the prerogative to select the appropriate payment method. In addition, section 844 of the PRWORA gave the State agency the authority to establish its own requirements for providing notice to a household with an overissuance. Although State agencies will have greater flexibility in providing notice, the Department is proposing the minimum due process notice requirements specified in the DCA, as discussed above, in order to assure that collection through Federal administrative offset and other methods are available to State agencies. These changes are reflected in § 273.18(g)(3) of this proposed rule.

In addition, other prescriptive language in 7 CFR 273.18(d)(3) regarding demand letter content unrelated to household notification rights discussed above would also be removed to conform to allow for greater State agency flexibility in this area.

Claim Management

Delinquency and Due Date

In most accounts receivable systems, certain actions beyond the original demand letter or claim notification generally occur when a receivable is not paid timely and becomes *delinquent*. These actions usually facilitate further collection action and/or disposition of the receivable. The Department believes that the processing of food stamp recipient claims should be no different from other receivables in this regard.

The Department is proposing in this rule to clearly define what constitutes *delinquency* in food stamp recipient claims. This is being proposed in an effort to increase consistency among State agencies in the treatment of food stamp claims with outstanding balances. This lack of consistency undermines the integrity of the aggregate receivable data compiled by the Department as part of its financial statement. The Department also feels that standardization is necessary in this instance because recipient claims are ultimately Federal debts and the individualized approach by State agencies results in inconsistent treatment. In addition, the proper aging of claims (which is a Treasury requirement for all Federal debts) facilitates optimal claim management from establishment through collection and final disposition. Therefore, the first step in effective and consistent post-establishment claims management requires a definition of delinquency that then triggers subsequent steps in the claims collection process.

The current regulations governing food stamp recipient claims at 7 CFR 273.18 do not define or even utilize the terms *delinquent* or *delinquency*. Delinquency, however, is defined at 4 CFR 101.2(b) in Treasury's FCCS as occurring when a claim "* * * has not been paid by the date specified in the agency's initial written notification* * * unless other satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy obligations under a payment agreement with the creditor agency." The Department is planning to use this definition as a basis for defining delinquency for food stamp recipient claims.

Delinquency, in the FCCS's definition, is determined contingent upon the non-receipt of payment by the "date specified" in the notification unless other arrangements have been made. The "date specified" is commonly known as the *due date*. To have a delinquent claim based on the initial demand letter, according to the FCCS, the agency should have a due date specified in its initial demand letter. Therefore, in an effort to establish delinquency in conformance with the FCCS on this issue, the Department is proposing in § 273.18(g)(3)(v) to require that all initial demand letters contain a due date in their text. The due date would be up to 30 days after the date of the initial demand letter. This conforms with the response time frame established by the FCCS at 4 CFR 102.2(b).

The paragraph at 7 CFR 273.18(g)(2) in the current regulations governing recipient claims discusses the procedures when a household fails to make an installment payment in accordance with the established repayment schedule. This is the same situation as specified in the second part of the FCCS's definition of delinquency which states that a claim is considered delinquent when "* * * the debtor fails to satisfy obligations under a payment agreement* * * " In this instance, the due date would be the date that payment was to have been received in accordance with the installment agreement. The Department is therefore proposing, in § 273.18(g)(4) of this rule, that all repayment agreements specify when payments are to be due and that the claim will be considered delinquent and may be subject to involuntary collection actions if payment is not received by the due date.

The proposals in this rule to require a due date in both initial demand letters and installment agreements would give the Department the ability to define *delinquency* in a manner that is consistent with the FCCS's definition. While the Department recognizes that it has the authority to define terms and establish policy that differ from the FCCS, it feels that it would be in the best interest of the FSP to be consistent with the FCCS on this issue. Therefore, the Department, in § 273.18(g)(5) of this rule, is proposing to define a delinquent food stamp recipient claim as a claim: (1) Which has not been paid by the due date specified in the State agency's initial written demand letter and a satisfactory payment arrangement has not been made; or (2) if a satisfactory payment arrangement has been made, a claim for which a payment has not been paid by a date required payment in accordance with an established repayment schedule. A claim would remain delinquent under either of these criteria until payment is received in full, a satisfactory payment agreement is negotiated (or renegotiated), or allotment reduction is invoked.

The Department is proposing to have two exceptions to its definition of delinquency. The first exception involves multiple claims. The Department is proposing in § 273.18(g)(5)(iv) that a claim would not be considered delinquent if another claim or claims for the same household exists and the other claim(s) is currently being paid either through an installment agreement or allotment reduction. In addition, the State agency would have to expect to begin collection on the claim once the other claim(s) is settled. This is being proposed to ensure that claims that are collectible and simply "waiting their turn" would not be subjected to activities such as involuntary collection actions and termination.

The second exception to the definition of delinquency involves IPV claims where the collection is coordinated through the court system. The Department is proposing this exception in § 273.18(g)(5)(iv) because it recognizes that the State agency which is responsible for overall food stamp recipient claim collecting and reporting may be limited in its control over this type of claim. This exception to the definition would be optional depending upon the collection system and coordination between the court and State agency.

The Department is interested in receiving comments on this proposal to define delinquency.

Delinquency and Fair Hearing Requests

Current regulations governing fair hearing requests at 7 CFR 273.15(g) state that the "* * * household shall be allowed to request a (fair) hearing on any action * * * which occurred in the prior 90 days." For food stamp recipient claims, the 90-day fair hearing standard is applicable to the initial demand letter. Therefore, the Department is proposing in § 273.18(g)(6) of this rule to specify that, once a household timely requests a fair hearing, all attempts to collect the claim would cease. This would be done to protect the rights of the household. If, when the hearing decision is rendered, it is determined that a claim does, in fact, exist against the household, the household would be sent another demand letter. This demand letter may be combined with the notice of the hearing decision. The determination of delinquency would then be based on whether payment is received or an agreement to pay is reached by the due date on this subsequent demand letter.

If, when the hearing decision is rendered, it is determined that a claim does not exist, the Department is proposing in § 273.18(g)(8) that the claim be terminated and written-off. This is discussed in greater detail in another section of this preamble.

Claim Termination and Write-off

Section 13(a)(1) of the FSA (7 U.S.C. 2022(a)(1)) authorizes the Department to settle and adjust all or part of any food stamp recipient claim if it serves the purposes of the FSP. Current regulations at 7 CFR 273.18(e) specify the conditions by which collection action on claims may be suspended and terminated. Suspended claims are claims in which no more collection action will be actively taken. A suspended claim may be terminated after it has been held in suspense for three years.

In many State agencies, claims that are currently under "suspension" are being or soon will be subjected to a variety of collection methods. These methods include such collection alternatives as salary offset and State and Federal tax refund offset. The Department feels that, with the introduction of these innovative collection methods, it would be unlikely in an effective claims collection environment for a claim to fall under the definition of a suspended claim as per 7 CFR 273.18(e) in the current regulations. Therefore, the Department is proposing in this rule to eliminate all references to the concept of *suspending* food stamp recipient claims. Having a designation for claims that will be inactive for three years without any subsequent collection action being planned serves no purpose, especially with the advent of the additional collection methods.

In the current regulations, there is no *requirement* to terminate claims and there is no clear definition of this term. The regulations at 7 CFR 273.18(e)(ii)(3) simply state that a "* * * claim *may* be determined uncollectible after it is held in suspense for 3 years (emphasis added)." The lack of a requirement or clear definition has resulted in a large number of uncollectible claims being included in reports submitted to FNS and sizable account receivables being unnecessarily maintained in State agencies' ledgers. In addition, efficient and effective claims management advocates timely and aggressive action on a debt but with a quick disposition through termination when the probability of collection proves low.

A study released by a Departmental contractor in August 1994 entitled, "Standard Operating Principles and Detailed Standard Operating Procedures for Food Stamp Recipient Claims," recommended that terminating and writing-off claims be made a requirement if the claims meet certain criteria. The study compared the current approach to food stamp recipient claim accounting with generally accepted accounting principles. These generally accepted accounting principles included statements from the Federal Accounting Standards Advisory Board, Acts of Congress, Treasury regulations (including the FCCS), and other authoritative documents. Page 15 of the Departmental contractor study specified that an organization's termination and write-off policy should "* * * include the collection agent's definition of an uncollectible claim specifying which circumstances *require* a claim to be written-off and under which circumstances a claim may be deemed uncollectible by the decision of management. The write-off policy * * * should be strictly applied."

The Department, in § 273.18(g)(9) of this rule, is therefore proposing to define a *terminated* claim as one in which all collection action has ceased. Under the proposed rule, a terminated claim would be immediately *written-off*, that is, it would be no longer considered a receivable subject to continued Federal and State agency collection and reporting requirements. A claim would have to fit one of the five criteria listed below to be terminated and written-off.

In determining which criteria should be used to terminate a claim, the Department considered the

requirements found in 4 CFR 104.3 in the current FCCS published by Treasury. This paragraph of the FCCS contains five specific standards for terminating and writing-off claims: (a) The inability to collect any substantial amount; (b) the inability to locate the debtor; (c) the cost will exceed recovery; (d) the claim is legally without merit; or (e) the claim cannot be substantiated by evidence.

In determining the Department's termination and write-off policy, FCCS standard (a), *the inability to collect any substantial amount,* was considered as it is of fundamental concern when the debtors primarily consist of households which are currently participating or were recently eligible to participate in a means tested program such as the FSP.

FCCS standard (b), *the inability to locate the debtor,* was also considered in the development of the Department's proposed termination and write-off policy. The Department's termination and write-off policy being proposed in this rule takes into account the capabilities of the tax refund and other automated offset programs that are very effective in collecting from difficult-to-locate household members.

FCCS standard (c), *cost will exceed recovery,* is certainly a factor in the Department's proposal. Food stamp claims, by nature, are usually relatively small with the average claim established in Federal fiscal year 1995 being $464. This is also a predominant factor in a proposal discussed in another section of this preamble regarding cost effectiveness determination prior to claim establishment.

Food stamp recipient claim terminations and write-offs that may be applicable under FCCS standards (d), *claim legally without merit,* and (e), *claim cannot be substantiated by evidence,* are usually handled under the fair hearing process in the FSP. Administrative disqualification hearing and court determinations that specifically find that no overissuance occurred are also pertinent to these standards.

Taking into account FCCS standards (a) through (e), the Department is proposing in § 273.18(g)(9) to require State agencies to terminate and write-off a food stamp recipient claim if it meets any *one* of the following *five* criteria: (1) Any claim which is found to be invalid in a fair hearing, administrative disqualification hearing or court determination; (2) Any claim in which all adult household members are deceased and the State agency is not planning to pursue collection from the estate; (3) Any claim which has an outstanding balance of $25 or less and has been delinquent for 90 days or more; (4) Any claim that the State agency has determined is not cost effective to collect; or (5) Any claim that has been delinquent for three years.

The fourth Departmental criterion states that any claim that the State agency has determined not to be cost effective to collect shall be terminated and written off. To determine cost effectiveness, the Department believes that a State agency should use the standards already in use for food stamp recipient claims. If no standards currently exist, the State agency shall develop standards subject to FNS approval.

In the fifth Departmental criterion, a State agency would be required to terminate and write-off any claim that has been delinquent for three years. The decision to require termination and write-off after three years of delinquency is based on a recommendation in the aforementioned contractor study (August 1994). Page 16 of the study specifies that "* * * three years of *delinquency* is a reasonable amount of time to collect on outstanding debts, and that debts exceeding this time limit will likely not be collected with additional effort or time and should be written-off."

In addition, for the fifth criterion, the Department is proposing to add a qualifier that the State agency may opt not to terminate a claim which has been delinquent for three years or more if prior collections have been realized through Federal or state tax refund offset, salary offset or any other similar collection mechanism. This proposed qualifier was added because, even though these claims technically remain delinquent, the probability of collection via offset in the future may be relatively high because a portion of the claim has already been collected via this collection method.

An issue has been raised concerning the possible reinstatement of terminated claims if an additional collection methodology is introduced or an event (such as lottery winnings) occurs to substantially increase the likelihood of future collections. In such cases State agencies may reinstate the claim.

Compromising Claims

The areas in the current regulations at 7 CFR 273.18(g)(2) and (g)(4) concerning compromising claims would be consolidated into its own section, § 273.18(g)(7) in the proposed rule. The Department is proposing two revisions in this area to increase consistency with the FCCS at 4 CFR Part 103. The first proposed revision would limit the authority to compromise to claims under $20,000. The second proposed revision would provide that, if a claim becomes delinquent, any compromised portion of that claim would be reinstated to the claim balance.

Acceptable Forms of Payment

Current regulations at 7 CFR 273.18(g) indicate that payments for claims shall be accepted in various forms of cash, food coupons, offsets, intercepts and reductions to the household's allotment. The Department is proposing some policy clarifications and changes in this area.

"Cash" Payments

The Department would like to clarify in § 273.18(h)(2)(i) of this rule that acceptable "cash" payments for food stamp claims actually take several forms. In addition to traditional forms of cash payments such as cash, check or money order, the Department also considers payments made via credit and/or debit cards as acceptable methods of payment if the State agency has the capability to accept such payments. Payment in these and other generally accepted formats are acceptable for both lump sum and installment payments. Offering alternative forms of payment increases the possibility of collection and State agencies are encouraged to explore these alternative payment methods.

Currently, no policy exists regarding the issue of crediting cash collections received as general lump sum or installment payments for joint food stamp/other social service program recipient claims. In an effort to ensure that each program receives its fair share in joint collections, the Department is proposing, in § 273.18(h)(2)(ii) of this rule, to require that each program receive its appropriate pro rata share of any installment collection. For example, under the proposed rule, if a $700 public assistance and $300 food stamp claim were combined into a $1,000 claim, 30 percent of an undesignated payment would be credited to the food stamp portion of the claim while 70 percent would be credited to the public assistance portion. This proposal would not pertain to any designated payment or agreement that includes the specific withholding of public assistance or food stamp benefits to satisfy a claim.

Coupon and EBT Payments

The Department is not proposing any changes to the current regulations regarding payments made using paper food coupons. The Department is also not proposing any changes regarding the handling of coupons or coupon books collected as payments. However, EBT

benefits are also included under the definition of coupon in the current regulations at 7 CFR 271.2. The Department believes that the distinctive characteristics of EBT, as opposed to those of the traditional paper food coupon system, warrant special attention in the area of recipient claims collection.

An active EBT benefit account is one in which benefits have been accessed within the last three months. The Department is proposing, in § 273.18(h)(4)(iii) of this rule, to make the policy concerning active EBT benefit accounts and claims collection consistent with the current policy regarding claim repayment via paper coupons. This would allow a household to voluntarily pay all or part of its outstanding claim with funds taken from its EBT benefit account. This would differ from allotment reduction in that the payment is being made subsequent to the allotment being issued and credited to the household's EBT benefit account.

The actual methodology and procedure to enact this transaction regarding the use of Point-of-Sale devices, administrative terminals or any other acceptable method to conduct these transactions would be determined by the State agency and included in its EBT system design.

In addition to the above, the Department is proposing an additional requirement to safeguard the rights of households by ensuring that involuntary payments would not be made from EBT benefit accounts. The proposed rule, in § 273.18(h)(4)(iii), would require that the State agency secure and retain a statement or document signed by a household member or representative authorizing the transaction. A signed document for each transaction would not be necessary, however, if each transaction was completed in accordance with a signed repayment agreement or similar document. The signed agreement would serve as adequate documentation.

The same policy that applies to active EBT benefit accounts also applies to inactive or stale EBT benefit accounts. Inactive or stale EBT benefit accounts are those accounts that have not been accessed for three months or longer and have yet to be expunged. The Department, in § 273.18(h)(4) of this rule, is proposing that voluntary payments from inactive or stale accounts be accepted once the account is reactivated at the request of the household in accordance with 7 CFR 274.12(f)(7).

The Department recognizes that some State agencies may have difficulty assimilating this change into already existing EBT environments. However, State agencies, by complying with the current requirements in 7 CFR 274.12(e)(1), should already have a system in place to administratively adjust amounts in EBT benefit accounts. Adapting this system for paying off claims may not be a major undertaking. The Department believes that, in addition to maintaining consistency with the current policy regarding paper coupons, cooperating households should be afforded maximum flexibility in their efforts to voluntarily repay a claim.

The Department would also like to take this opportunity to stress that the collection of claims using EBT benefits is considered a non-cash collection and corresponding funds should not be drawn from the Federal EBT benefit account by the State agency when this type of collection is made.

EBT benefit accounts that have not been accessed by the household for one year are expunged and households lose all entitlement to these benefits. These benefits are then returned to FNS in accordance with 7 CFR 274.12(f)(7) of the current regulations. The Department considered allowing State agencies to treat already expunged EBT benefits as a "collection" and therefore allow State agencies to retain their appropriate share of the collection. However, since the accounts were already expunged and returned to FNS, a complex system and reporting mechanism would need to be designed and implemented to ensure that these "collected" but expunged (and therefore essentially nonexistent) funds are properly accounted for in FNS and State agency reporting. The Department feels that this would be inefficient and not cost effective from both a Federal and State agency perspective.

However, the Department does recognize that these are benefits that the household never used. This presents the possibility that a household may have consciously not used its benefits because it was aware of the existence of an overissuance and, essentially placed these funds "in escrow" to make good on the error. The Department believes that including this amount in a claim to repay the overissuance is inappropriate. Therefore, the Department is proposing, in § 273.18(e), to allow a State agency to subtract the value of expunged EBT benefits from overissuances prior to the establishment of the claim. This would be the final step in the claim calculation process and would not be considered a "collection" for Federal reporting purposes. In instances where the claim is already established and benefits become expunged, the State would subtract the amount of the expunged benefits from the claim balance. This is reflected in § 273.18(h)(4)(v) of this proposed rule. Again, this adjustment would not be considered a "collection" for Federal reporting purposes.

The Department is interested in receiving comments on the use of funds from EBT benefit accounts to repay outstanding recipient claims.

Collection and Payment Methods

Section 844 of the PRWORA made significant changes to the FSA (7 U.S.C. 2011–2032) in the areas of collections and payments. One revision to section 13 of the FSA (7 U.S.C. 2022) states that a State agency shall collect a claim "* * * in accordance with requirements established by the State agency for * * * electing a means of payment, and establishing a time schedule for payment." This change is significant in two areas. First, the State agency, and not the household, now determines the appropriate collection method, including whether to provide options to the household, when the claim is initially established. Second, this revision also provides the State agency with the ability to involuntarily subject all claims to all collection methods—including those such as allotment reduction for AE claims that, until the enactment of the PRWORA, could only be collected on a voluntary basis. These changes are reflected in each applicable paragraph in § 273.18(i) in this proposed rule.

The PRWORA addresses specific collection methodologies by stating that a claim shall be collected by "* * * (A) reducing the allotment of the household; (B) withholding amounts from unemployment compensation * * *; (C) recovering from Federal pay or Federal income tax refund * * *; or (D) any other means." The PRWORA further states that these methods shall not be applicable if the State agency can demonstrate "* * * that all of the means are not cost effective." This proposed rule includes a paragraph in § 273.18(i) for each of the collection methods (allotment reduction, unemployment compensation, and Federal salary and Federal income tax refund offsets) specified in the PRWORA. Federal salary and Federal income tax refund offsets are also discussed in much greater detail elsewhere in this preamble and in § 273.18(p). In addition, other means of payment, notably lump sum and via installments, are included in § 273.18(i). Cost effectiveness is addressed in the detailed discussion for each payment method as well as in the discussions in

this preamble regarding pre-establishment cost effectiveness determination and claim termination and write-off.

Allotment Reduction

A major change in section 13 of the FSA (7 U.S.C. 2022) brought about by section 844 of the PRWORA involves the use of allotment reduction to collect claims. Prior to the enactment of the PRWORA, a participating household with any type of claim could opt to pay its claim using a method other than allotment reduction. In addition, a State agency was statutorily prohibited from invoking involuntary allotment reduction against a household with an AE claim. Section 844 of the PRWORA removed the household's right to choose the payment option for any type of claim. As a result, this places allotment reduction, which is widely recognized by State and local agencies as the most cost effective and efficient food stamp recipient claim collection method, in the forefront as the primary collection method.

This is being reflected in this rule. The Department is proposing, in § 273.18(i)(1), to require that a State agency automatically collect payment from a participating household for any established claim, including an AE claim, through allotment reduction. There would only be two stipulations to this proposal. The first would be that the household would need to be initially notified of the existence of the claim. This is discussed in greater detail elsewhere in this preamble. The second stipulation would be that a household's initial allotment shall not be reduced to collect the claim. This stipulation is included because the initial allotment is usually pro rated and therefore has already been reduced. This is not a change from current policy.

Some may argue that it is unfair to a household to collect an AE claim through involuntary allotment reduction since the reason for the overissuance was not the fault of the household. The Department believes that, since Congress specifically removed the prohibition from the FSA, that it is clearly the intent of Congress to allow this type of collection.

In addition to the above, the Department is proposing to make three additional policy and several structural revisions to the paragraph governing allotment reduction at 7 CFR 273.18(g)(4) in the current regulations. The structural revisions are being proposed to avoid repetition by eliminating much of the language in the introductory paragraph that may be found elsewhere in the rule. This includes the notification procedures and the acceptance of lump sum payments.

Two of the three additional policy changes in allotment reduction being proposed concern the current benefit reduction procedures and IPV claims. The current regulations at 7 CFR 273.18(g)(4)(i) provide that benefit reduction for an IHE claim is to be computed from the monthly *allotment*. The allotment is the benefit level that the household is scheduled to receive. Benefit reduction (in current 7 CFR 273.18(g)(4)(iii)) for an IPV claim, on the other hand, is to be computed from the monthly *entitlement*. The entitlement is the benefit amount that the household would have received if the household member was not disqualified for committing the IPV. Several State agencies have obtained waivers to use the allotment rather than the entitlement as the basis for reducing the household's benefits. For the purposes of administrative efficiency, which was the basis for the Department approving the waivers, this rule, in § 273.18(i)(1)(ii), would allow all State agencies to determine the benefit reduction amount for IPV claims based on either the allotment or entitlement as long as all areas within the State handles the calculation of benefit reductions in the same manner.

Current regulations at 7 CFR 273.18(g)(4)(iii) limit the reduction amount for an IPV claim to the greater of 20 percent of a household's monthly entitlement or $10 per month. In the second policy change, the Department is proposing, in § 273.18(i)(1)(ii), to increase the maximum recoupment amount for an IPV claim to the greater of $20 per month or 20 percent of a household's monthly entitlement or allotment. This is being proposed as an effort to expedite the collection of claims stemming from intentional violations. The rule also proposes in § 273.18(i)(1)(i) to provide that individuals in households subject to allotment reduction are not subject to involuntary collection by any other methods.

The final policy change being proposed in this rule is to specifically include a paragraph (§ 273.18(i)(1)(v)) which would provide a State agency with the prerogative to pursue additional collection methods against individuals who are past household members and who are severally responsible for repayment of this claim. This is being proposed because of the dynamic nature of households in regard to make-up and participation in the FSP.

Intercept of Unemployment Compensation Benefits

Current regulations at 7 CFR 273.18(d)(3)(vi) state that a State agency may implement the intercept of unemployment compensation benefits as a voluntary payment option for IPV claims. In addition, the current regulations at 7 CFR 272.12 also discuss collecting claims via this method. In an effort to streamline this area of the regulations, the Department is proposing, in this rule, to remove the paragraph currently at 7 CFR 272.12.

In addition to the above streamlining effort, a change in policy, brought about by section 844 of the PRWORA, is being proposed regarding collection via an intercept of unemployment compensation benefits.

Currently, the intercept of unemployment benefits is allowed only for IPV claims. Section 273.18(i)(5) of the proposed rule would extend this collection method to any claim. This is being proposed to conform with the requirement in section 840 of the PRWORA that provides for a State agency to use any collection method to collect any type of claim.

Currently, unemployment compensation intercept is optional and State agencies are not mandated to use this collection method. The Department is not proposing to change this policy in this rule. The reason for the Department not proposing to mandate this collection method is that the intercept of unemployment compensation benefits is State-specific and therefore it may not be cost effective to implement in some State agencies. Even though this would remain an option under this proposed rule, the Department strongly urges State agencies to pursue this avenue of claims collection.

Coordination with Federal Claim Collection Methods

Current rules specify requirements for FTROP and FSOP at 7 CFR 273.18(g)(5) and (g)(6). This rule would include proposed requirements for these as well as other Federal collection programs such as the Treasury Offset Program (TOP) at § 273.18(p). To the extent that it is feasible, the Department wants State agencies to use these and other Federal collection methods concurrently with State agency methods. Accordingly, this rule proposes at § 273.18(i)(7) to authorize such concurrent collection.

Lump Sum Payments

Current regulations at 7 CFR 273.18(g)(1)(i) through (iii) allow for the full or partial collection of claims via a

lump sum cash or coupon payment. As part of the regulatory reorganization, these three paragraphs would be consolidated into one paragraph (§ 273.18(i)(3)) in the proposed rule. The proposed rule would also include using funds in an EBT benefit account as a lump sum payment. This is discussed in greater detail elsewhere in this preamble.

Installment Payments

Current regulations at 7 CFR 273.18(g)(2) provide the procedures for installment payments. The Department is not proposing to make any substantial change to the procedure found in the first paragraph (7 CFR 273.18(g)(2)(i)) of this section. Paragraphs (ii) through (iv) of 7 CFR 273.18(g)(2) in the current regulations provide detailed procedures for when the household fails to make a scheduled payment. These procedures currently call for providing a household with another notice and an opportunity to renegotiate its payment schedule if it fails to make a payment. The Department, in an effort to streamline this area of the regulations, is proposing to increase State agency flexibility by eliminating much of the language contained in these paragraphs.

The Department believes that installment payments should be made available but also should be at least as efficient and effective as allotment reduction and other collection methods. Consequently, the proposed rule at § 273.18(i) would permit a State agency to take whatever action it feels is appropriate if a household fails to make an installment payment provided the household was previously notified of a potential adverse action if payments are not made in accordance with the terms of the original repayment agreement.

Additional Collection Actions

The Department is proposing in § 273.18(i)(6) to add a paragraph stating that State agencies may employ any additional collection methods to collect claims. These actions would include, but would not be limited to, referral to a collection agency, state tax refund and lottery offsets, wage garnishments, property liens and small claims court. This is being proposed to clarify that State agencies are able to employ any other means of collection for all types of claims.

Retention Rates

The applicable retention rates in the current regulations at 7 CFR 273.18(h) for collections by a State agency are 50 percent for IPV claims and 25 percent for IHE claims. Section 844 of the PRWORA changes these rates by amending section 16(a) of the FSA (7 U.S.C. 2025(a)) to replace the current rates with 35 percent retention for IPV claims and 20 percent retention for IHE claims. In addition, as indicated in section 13 of the newly amended FSA (7 U.S.C. 2025), if an IHE claim is collected via unemployment compensation, that collection would also have a 35 percent retention rate. The Department is proposing, in § 273.18(m) of this rule to make the adjustments in the rates accordingly.

Submission of Payments

Current regulations at 7 CFR 273.18(i) discuss the procedures for the submission of State agency payments for claims collections to FNS and payments from FNS to the State agency. The only change that the Department is proposing in this area is to eliminate the State agency option of receiving a Federal check for payment of claims collection retention and replace it with electronic funds transfer. The Department is proposing this change to comply with the DCIA. The DCIA requires Federal agencies to convert from checks to electronic funds transfer. In addition, as part of the regulatory reorganization, much of the prescriptive language would be removed and this paragraph would be moved to § 273.18(n) in this proposed rule.

The current regulations at 7 CFR 273.18(i)(4) discuss providing refunds for overpaid claims. As part of the regulatory reorganization, this is broken out into its own paragraph, § 273.18(j), in the proposed rule.

Bankruptcy

Current regulations at 7 CFR 273.18(k) discuss the procedures for proceeding against households with claims which file for bankruptcy. The current policy authorizes State agencies to act on FNS's behalf to recover claims when households file for bankruptcy. The Department is not proposing to make any changes in policy regarding this area of the regulations. However, as part of the regulatory reorganization, this paragraph would be moved to § 273.18(l) in this rule.

Accounting Procedures

Current regulations at 7 CFR 273.18(l) discuss the accounting requirements and procedures to be maintained by State agencies. Further procedural clarification is being provided on this issue and this paragraph is being moved to in § 273.18(o) in this rule.

Interstate Claim Collection

Current regulations at 7 CFR 273.18(m) discuss the continuation of collection action against households that have an outstanding claim and move from one State agency's jurisdiction to another. The regulations state that a receiving State agency should initiate or continue collection action when it ascertains that the originating State agency does not intend to pursue collection. Feedback received from State agencies indicates that this policy has not been successful in recovering interstate claims and needs to be strengthened to assure cooperation among State agencies. A number of State agencies have entered into claim-transferring agreements among themselves on their own initiative but it has not been a nationwide effort. This has resulted in a household being able to avoid paying its claim simply by relocating to another State. Federal tax refund offset does address this issue to some extent by conducting a nationwide search and subsequently collecting claims against household members regardless of where they currently reside. However, Federal tax refund offset is limited to those households with members who file a Federal income tax return and are due a refund.

The Department believes that food stamp recipient claims, as Federal debts, should be more vigorously pursued by State agencies when households move across State borders. Therefore, the Department is proposing to amend 7 CFR 273.18(m) by breaking it out into separate paragraphs to specifically outline the responsibilities of the originating and receiving State agencies. This amendment is intended to maximize collection potential while maintaining State agency flexibility.

The Department is proposing that, unless an actual interstate transfer takes place, the originating State agency will continue to have the responsibility for collection action on any recipient claim regardless of whether the household remains in its jurisdiction. State agencies, however, would be able to formally transfer this responsibility for individual claims to receiving State agencies under certain circumstances. The types of interstate transfers being proposed are discussed in the succeeding paragraphs of this preamble.

To strengthen the interstate claim collection process for participating households, the Department is proposing to further amend 7 CFR 273.18(m) to require that a State agency must accept the transfer of the remaining balance of any claim from another State agency if it is discovered that the household is participating in the FSP in the receiving State. This ensures efficient claims collection since allotment reduction, a highly effective

collection tool, is available to the receiving State agency. Once the transfer takes place, the claim would then no longer be the responsibility of the originating State agency and the receiving State agency would be able to retain any applicable retention amounts for subsequent collections. The amended regulatory text being proposed is being designated as its own paragraph, § 273.18(k)(3) in the proposed rule.

In addition, to facilitate this process, the Department is proposing, in a new paragraph, § 273.18(k)(2), to require that State agencies timely respond to inquiries concerning household participation received from State agencies who have reason to believe that a household or adult members of a household with an outstanding claim have relocated to that State. A response would be considered timely if a determination is made within 30 days. If an examination of the receiving State agency's caseload does reveal that the household (or any of its adult members) are, in fact, receiving benefits in that State, the State agency would then accept the transfer of the claim balance from the originating State agency and continue collection action efforts including allotment reduction. The receiving State would keep any retention amounts for transferred claims.

The Department is also proposing to add another new paragraph, § 273.18(k)(4), to allow, but not require, receiving State agencies to accept the transfer of any claim if the household is not participating. This policy is being maintained to maximize flexibility as well as facilitate the new claim termination process being proposed in another section of this rule.

Federal Claim Collection Methods (FCCM's)

This rule proposes changes to current regulations on FTROP and FSOP. These changes are proposed to incorporate certain legislative changes and to implement certain other changes based on experience operating these programs. The Department believes that these changes will enhance the collection of recipient claims and will make that collection more efficient, especially for State agencies. In summary, these changes would:

—Require all State agencies to use FCCM's (unless the methods are shown to be not cost beneficial).
—Require that all claims that meet the criteria, including AE claims, be submitted for collection under FCCM.
—Provide that claims may be collected by FTROP and/or administrative offset (ADOP), or by FSOP and/or ADOP.
—Provide that FTROP 60-day notices and FSOP advance notices advise debtors that their claims are subject to ADOP.
—Comply with the hearing requirements for ADOP with the hearing opportunities currently provided under FTROP and FSOP.

Federal Claim Collection Methods (FCCM's)

This rule would introduce the phrase "Federal claim collection methods" and its acronym "FCCM's" at § 273.18(p)(1). Currently there are two such collection methods, FTROP and FSOP. As discussed later in this preamble, this rule is proposing an additional collection method that would be operated at the Federal level. The new method is ADOP. There are several policies and procedures that would become common to these three collection methods. As discussed in this preamble several paragraphs below, FNS plans to develop a single manual which for all three programs would contain such things as computer system record layout and production schedules and guidance on procedures for handling special cases and for fiscal and accounting matters. The rule would also specify that under FCCM's State agencies would retain their recipient claims responsibilities, that would provide certain information on claims subject to FCCM's and would receive amounts collected based on the currently authorized retention rates.

Mandated Participation

Section 844 of PRWORA amended section 13(b) of the FSA (7 U.S.C. 2022(b)) to require that, unless State agencies can demonstrate that the methods are not cost effective, they must collect overissued food coupons (recipient claims) from Federal pay or Federal income tax refunds.

Currently, these two collection methods, FTROP and FSOP are optional for State agencies. Regulations at 7 CFR 273.18(g)(5)(i) provide that State agencies which choose to implement FTROP must submit an amendment to their Plan of Operation stating that they will comply with FTROP regulations. Choosing to implement FTROP entails implementing FSOP because current regulations at 7 CFR 273.18(g)(6)(i) provide that all claims submitted for FTROP are also subject to FSOP. This rule proposes to delete the language on State agency option to implement FTROP. At § 273.18(p)(2)(i), the rule would require that all State agencies submit all claims which meet certain criteria for collection by FCCM's.

Mandatory implementation of FCCM's will affect few State agencies. In calendar year 1998, of the 52 State agencies who could use FCCM's, 47 are doing so. As discussed under the paragraph on Implementation at the end of this preamble, this rule would be required to be implemented 180 days after its publication is final. The Department expects that this implementation period would be sufficient for State agencies to implement FCCM's during calendar year 1999.

Consistent with mandatory implementation of FCCM's, this rule proposes deleting the requirement (in current rules at 7 CFR 272.2(a)(2) and (d)(1)(xii) and 7 CFR 273.18(g)(5)(i)(A)) that State agencies choosing to implement FTROP and FSOP submit an amendment to their Plan of Operations.

Administrative Offset

Prior to the DCIA, under administrative offset, debts owed by persons to the Federal government are collected from payments due those persons from the Federal government. The DCA at 31 U.S.C. 3716 as amended by the DCIA greatly expanded the Federal government's authority to collect Federal debts through ADOP.

The Department believes that implementing the DCIA's provisions relating to ADOP would significantly enhance collection of FSP recipient claims. First, the amended DCA at 31 U.S.C. 3716(c)(1)(A) requires that, with certain exceptions, disbursing officials of Federal government agencies must at least annually offset from Federal payments claims submitted by creditor agencies. Heretofore, while there has been general authority for administrative offset, there has not been a general requirement that Federal payments due to individuals be offset against debts those individuals owe the Federal Government. Second, the amended DCA at 31 U.S.C. 3716(c)(3)(A)(ii) provides that, except for a $9,000 annual exemption, all payments due a debtor under the Social Security Act are subject to ADOP. Third, the amended DCA at 31 U.S.C. 3716(c) centralized the ADOP procedures in a single Federal agency, the Department of the Treasury.

Accordingly, as discussed in detail later in this preamble, this rule proposes to add ADOP to FTROP and FSOP by modifying the required due process and privacy notices to notify the debtor that, in addition to being subject to collection from tax refunds and Federal wages, the claim in question is also subject to

collection from other payments due the debtor from the Federal government. The Department expects that there will be little work impact on State agencies related to referring claims for ADOP. FNS will refer for collection by ADOP claims submitted by State agencies. FSOP claims referred to FNS for notices of intent which are referred for collection from Federal salaries will also be referred for collection by ADOP. Funds collected through ADOP will be transferred to State agencies and reported with FTROP and FSOP collections. Current regulations on FTROP specify update requirements for State agencies, and FNS has provided State agencies update procedures for FSOP. This rule proposes a general requirement for updating records of claims submitted for collection through FCCM's.

Cross Servicing

The amended DCA at 31 U.S.C. 3711(g) requires that debt delinquent over 180 days be transferred to the Secretary of the Treasury for "cross servicing." Under cross servicing, the Department of the Treasury (Treasury) would pursue a variety of claims collection actions such as referring the claim under FTROP and FSOP. Treasury would refer debts to debt collection centers (selected Federal agencies) which would pursue these actions.

The Department is currently working with Treasury to determine the best way to implement this collection strategy. As such, this rule does not propose adding procedures for cross servicing at this time.

Claims Subject to FCCM's

As part of administrative offset provisions, the amended DCA now requires at 31 U.S.C. 3716(c)(6) that any Federal agency that is owed a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, must notify the Secretary of the Treasury of *all* such debt for purposes of administrative offset (emphasis added). Currently, rules for FTROP and Salary Offset set criteria for claims which *may be* submitted for collection under these procedures. This rule proposes that, subject to two conditions discussed just below, all delinquent recipient claims be submitted for collection under FCCM's. The Department is proposing this requirement because FCCM's are extremely effective. For example, net dollar collections under FTROP (voluntary payments and collections from Federal tax refunds less offset fees and Treasury reversals) exceed 20 percent of the dollar value of claims submitted. FSOP offers the only way to locate and pursue collection against the salaries of Federal employees who are liable for overissued food stamp benefits. (The Internal Revenue Service (IRS) currently prohibits referral of debts for FTROP which can be collected from Federal employees' salaries.) Finally, and especially with the addition of ADOP, FCCM's provide State agencies access to sources of significant collections not otherwise available to them.

In addition, this rule proposes that, unless no liable individual can be located, State agencies must pursue one or more State agency claim collection method before submitting a claim for collection under FCCM's. The rule proposes to specify that demand letters sent to liable individuals at the most current address known to the State agency and returned as undeliverable would be sufficient to show that no liable individual could be located. The requirement for State agency collection initiative as a condition to the use of FCCM's is being proposed to make the procedures for the other components of FCCM consistent with the FTROP requirement that the (Federal) agency satisfy the Secretary of the Treasury that the agency has made reasonable efforts to obtain payment of the debt. (See 31 U.S.C. 3720A(b)(4).) In addition, the Department believes that it is most efficient for State agencies to attempt collection action with methods available to them and that if those methods are not successful relatively soon after initiation, debts should be referred for collection through FCCM's.

As stated above, the amended DCA at 31 U.S.C. 3711(c)(6) requires that claims 180 days delinquent be submitted for ADOP. State agencies are establishing claims at a rate of over 775,000 per year. To have a State agency submit each claim for FCCM's as soon as that claim is 180 days delinquent is not administratively or logistically possible at this time. Therefore, the Department is proposing that State agencies be required to submit claims for FCCM's at intervals to be determined by the Department. The Department will continue to work with Treasury to fine tune this process to implement this aspect of the DCIA.

Accordingly, this rule proposes at § 273.18(p)(1)(i) that all claims would be subject to collection by FCCM's only after the State agency has initiated one or more State agency collection methods. The rule also proposes that the requirement for a State agency collection effort will not apply when no liable individual can be located as indicated by such evidence as demand letters returned as undeliverable. Finally, in this regard, the rule proposes that State agencies must submit all delinquent claims for collection by FCCM's.

Procedures and Schedules

Current rules at 7 CFR 273.18(g)(5)(i)(B) specify that State agencies submit data for FTROP to FNS in the record formats specified by FNS and/or Treasury, and according to schedules and by means of magnetic tape, electronic data transmission or other method specified by FNS. This rule proposes to apply these procedures to FCCM's in general.

This rule would require that, in addition to following computer data-related guidance, State agencies follow other technical and procedural guidelines as specified by FNS. During the testing of FTROP and FSOP, FNS conducted several national training sessions during which FNS provided substantial guidance on computer system operations, policy requirements and the financial reporting and funds processing for FTROP and FSOP. Following the training sessions, FNS provided packages of written responses to questions raised during the sessions. On an ongoing basis, FNS responds to numerous questions from State agencies concerning how to handle particular cases with respect to computer systems, collection policies and financial and accounting procedures. FNS sees a need to continue to provide this material so that all staff, Federal and State agency, involved with different aspects of FCCM's, have a single, consolidated operations manual.

This manual will be called the "Manual for Federal Claims Collection Methods for the Food Stamp Program" (the FCCM manual). The basis of the FCCM manual would be the current manual used for FTROP and FSOP data management (the Federal Debt Collection Program Revenue Procedure Manual 1997). As is the case with the current manual, the FCCM manual would be a vehicle for providing technical guidance for complying with established regulatory requirements. (See § 273.18(p)(1)(ii).)

Identification of Type of Claims

Currently State agencies are not required to identify the type of claim submitted for FTROP and FSOP. This rule proposes to require that claims submitted for collection under an FCCM be identified as an IPV, IHE or AE claim. Instructions on how to make such identification will be provided in the

FCCM Manual. The new information would be included in currently required data submissions and record formats. The rule proposes this new requirement because, effective with implementation of this rule, for collection made under FCCM's, FNS intends to transfer to State agencies the dollar amount of each collection to which the State agency is entitled based on current retention rates for each type of claim. Currently, FNS transfers gross collections net of IRS fees from FTROP and FSOP to State agencies. State agencies then report these collections to FNS on the FNS–209, Status of Claims Against Households, retain the percentage of the collections to which they are entitled under section 16(a) of the FSA (7 U.S.C. 2025(a)) and transfer appropriate amounts back to FNS. With annual FTROP collections of about $40 million, this process results in significant amounts of Federal funds not being as promptly transferred to Treasury as they could be.

Current rules allow State agencies to combine claims for an individual into one claim in order to try to collect on all of the claims through FTROP or FSOP. This rule would require that for any claim submitted for collection under FCCM's which is a combination of more than one type of claim, the State agency must specify the dollar amounts due to each type of claim.

File Updates

Current rules at 7 CFR 273.18(5)(ix)(A) require that for FTROP purposes State agencies update Treasury files. As discussed above, this rule proposes to make that requirement apply to FCCM's in general. Accordingly, this rule at § 273.18(p)(1)(iv) proposes to require that, as instructed in the FCCM manual, State agencies must update files by reducing the amounts of and deleting claims to reflect payments received, and by deleting claims which for other reasons are no longer subject to collection.

Hierarchy of Collection Methods

The mechanisms for ADOP are currently being developed. Consequently, the Department expects that until those mechanisms are in place, claims submitted for collection under FTROP and FSOP will be collected through those methods before any remaining debt is collected through ADOP from other Federal payments. Once ADOP is operational, a debt submitted under FTROP, for example, might be collected from another Federal payment if that payment was identified and available before the tax refund was offset. Accordingly, this rule proposes to state at § 273.18(p)(2)(v) that claims submitted under FCCM's would be offset from Federal payments due to debtors as such payments are identified and are available for offset.

Federal Income Tax Refund Offset Program (FTROP)

Among other things, this rule proposes to simplify the statement of criteria for claims subject to collection under FTROP, shorten and restructure the 60-day notice to eliminate unnecessary material, and to clarify that the 60-day notice is a demand for payment of a debt.

Limitation to IPV and IHE Claims

Current rules at 7 CFR 273.18(g)(5)(ii)(A)(*1*) limit the types of claims subject to FTROP to IPV and IHE claims. As discussed earlier in this preamble, section 844(a) of the PRWORA amended the FSA to provide that, subject to a State agency's demonstration that the collection method is not cost effective, all claims collection methods must be applied to all types of claims. Accordingly, this rule proposes to remove the limitation of FTROP to IPV and IHE claims.

Properly Established Claims

The regulatory paragraph cited just above also specifies that claims submitted under FTROP must be properly established no later than the date the State agency transmits its final request for Treasury addresses for the particular offset year. This requirement was made to assure that claims are not referred for collection under FTROP unless and until an individual has had an opportunity for a fair hearing and any fair hearing decision is reached. As discussed above, this rule proposes at § 273.18(g)(6) to require that State agencies cease any collection action upon timely receipt of a fair hearing request. Accordingly, this rule proposes not to reiterate the proposed requirement with respect to FTROP.

Required Documentation

The same regulatory paragraph cited above also elaborates on the records required for properly established claims. The Department believes that this language is unnecessary. State agencies will develop and retain appropriate records of their claims activities as a result of the various requirements for those activities proposed in this rule. In addition, the current regulations at 7 CFR 272.1(f) already require state agencies to retain fiscal records and accountable documents for 3 years from the date of fiscal or administrative closure. This rule does not propose any changes to this policy. Accordingly, this rule proposes not to state a records requirement specifically for FTROP or any other FCCM.

Collection From All Liable Parties

Current rules at 7 CFR 273.18(g)(5)(ii)(A)(*2*) specify that for a claim to be subject to FTROP the State agency must have verified that no individual who is jointly and severally liable for the claim is also currently participating in the FSP in the State. Since claims owed by participating households must be recouped from the monthly allotment, this requirement prohibited the simultaneous collection of a claim from a participating household through recoupment and from nonparticipating household members through FTROP.

State agencies objected to this restriction. They argued that with the restriction the entire burden of paying the claim fell on participants. State agencies also objected to the restriction because collection solely by recoupment meant that claims were often paid more slowly than they could be when there were liable, nonparticipating individuals with Federal tax refunds. This rule proposes at § 273.18(i)(1)(v) to allow simultaneous collection through recoupment from liable, participating households and through other means from liable, nonparticipating individuals. In addition, this rule proposes at § 273.18(i)(1)(i) to prohibit additional involuntary collection from individuals who are in households subject to allotment reduction. Accordingly, the rule proposes to delete from current rules the requirement that for a claim to be subject to FTROP the State agency must have verified that no individual who is jointly and severally liable for the claim is also currently participating in the FSP in the State.

Concurrent Collection Efforts

Current rules at 7 CFR 273.18(g)(5)(ii)(A)(*5*) state that claims are not subject to FTROP if the State agency is receiving either regular voluntary payments or involuntary payments such as wage garnishment. In addition, the rule specifies that claims for which a State agency has been receiving regular payments (either voluntary or involuntary) are considered past due and legally enforceable (and so are subject to FTROP) if the individual does not respond to a notice of default.

As discussed earlier in this preamble, this rule proposes at 7 CFR 273.18(i)(7) that State agencies may continue (State-based) collection efforts on claims after submitting them for collection under

FCCM's. Accordingly, this rule proposes to eliminate the requirement that claims cannot be submitted for FTROP if the State agency is receiving voluntary or involuntary payments such as wage garnishment.

Under provisions related to voluntary payments which this rule proposes at 7 CFR 273.18(i)(4), there would no longer be a requirement that State agencies send households which fail to make scheduled payments a notice and an opportunity to renegotiate the payment agreement.

No Reduction in the Dollar Amounts Submitted

Current rules at 7 CFR 273.18(g)(5)(ii)(B)(*1*) require that all claims submitted for collection under FTROP must be reduced by any amounts subject to collection from State income tax refunds or from other sources which may result in collections during the offset year. This rule proposes to eliminate this provision because, as discussed above, this rule proposes to allow State agencies to continue to pursue State agency collection efforts on claims submitted for collection under FCCM's. State agencies will have an increased responsibility to maintain adequate records of collections in order to minimize over collections and to promptly refund any which might occur.

Claims Apportioned Among Two or More Individuals

Current rules at 7 CFR 273.18(g)(5)(ii)(B)(*3*) provide that if a claim submitted under FTROP is apportioned between two or more individuals who are jointly and severally liable for the claim, the sum of the amounts submitted cannot exceed the total amount of the claim. This rule proposes to eliminate this provision. The apportioning of a claim as prescribed in this provision was required to conform to an informal IRS policy. The Department believes that the provision for joint and several liability established by section 13(a)(2) of the FSA (7 U.S.C. 2022(a)(2)) establishes the Department's authority to pursue a claim's full amount from all liable adults until the claim is paid. Debtors are protected by the requirement for State agencies to promptly post records and provide refunds of any over collections as this rule proposes at § 273.18(j).

All Delinquent Claims

Current rules at 7 CFR 273.18(g)(5)(ii) provide that State agencies *may* submit claims for collection under FTROP recipient claims which are past due and legally enforceable. As discussed above, this rule would require that *all* claims which are delinquent and have been subject to one or more State agency collection methods are subject to collection under FCCM's. Accordingly, this rule proposes to state at § 273.18(p)(2)(i) that State agencies must submit for collection all recipient claims which are delinquent, which are legally enforceable and which meet the criteria specified in the subsequent subparagraphs.

Minimum Dollar Value

Current rules at 7 CFR 273.18(g)(5)(ii)(A)(*3*) require that claims submitted under FTROP must meet at least the minimum dollar amount established by Treasury. This minimum continues to be $25. This rule would make no change in this requirement. FNS would advise State agencies if the Treasury minimum changes. The requirement is stated at § 273.18(p)(2)(i)(A) in this proposed rule.

10-year Limit

Current rules at 7 CFR 273.18(g)(5)(ii)(A)(*4*) require that claims submitted under FTROP must be claims for which the date of the initial demand letter is within 10 years of January 31 of the offset year, except that claims reduced to final court judgments ordering individuals to pay the debt are not subject to this 10-year limitation. This rule proposes no changes in this requirement, which is stated at § 273.18(p)(2)(i)(B).

Voluntary Payments

As discussed above, this rule proposes to state at 7 CFR 273.18(i)(1)(i) that individuals in households subject to allotment reduction are not subject to involuntary collection by any other means. As also discussed above, this rule proposes at § 273.18(i)(1)(v) that collection via allotment reduction does not preclude additional collection methods being pursued against other liable individuals not currently members of a participating household. The Department wants to make clear how these policies apply to collection under FTROP. Accordingly, this rule proposes at § 273.18(p)(2)(i)(C) that claims submitted under FTROP cannot include any claim which is submitted for collection from an individual in a household which is subject to allotment reduction.

Bankruptcy

The current rule at 7 CFR 273.18(g)(5)(ii)(A)(*6*) specifies that claims for which collection is barred by a bankruptcy are not subject to FTROP. With the exception of redesignating this paragraph as § 273.18(p)(2)(i)(D), this rule proposes no change to this provision.

All Required Notices

The current rule at 7 CFR 273.18(g)(5)(ii)(A)(*7*) requires that for a claim to be subject to FTROP the State agency must have provided the individual all the notices required. FNS, not the State agency, provides one of those notices after the FNS decision on a request for a hearing. Accordingly, this rule would remove the reference to the State agency in the current criteria. Further this rule proposes that the criterion for referral under FTROP and FCCM would be that claims are subject to referral for which individuals have been provided the opportunities for review and the notifications specified in paragraphs (p)(2)(iii), (p)(2)(iv), and (p)(2)(v). (See § 273.18(p)(2)(i)(E).)

Combined Claims

Current rules at 7 CFR 273.18(g)(5)(ii)(B)(*2*) provide that if a claim to be submitted for collection under FTROP is a combination of two or more recipient claims, the date of the initial demand letter for each claim combined must be within the 10-year range and that claims reduced to judgment shall not be combined with claims which are not reduced to judgment. This rule proposes to retain this provision. (See § 273.18(p)(2)(ii).)

Proposed Changes in the General Requirements and Contents of the 60-day Notice

The proposed rule would combine the general requirements for 60-day notices and the requirements for contents of the notices (currently in paragraphs 7 CFR 273.18(g)(5) (iii) and (iv)) into a single paragraph, § 273.18(p)(2)(iii). The overall goal in this proposed rule is to enable a single 60-day notice to serve as notification for FTROP, FSOP, ADOP and any other FCCM. In addition, the rule proposes to delete several provisions which are obsolete or extraneous, and proposes to change certain provisions. These proposed deletions and changes are discussed in the following paragraphs. The Department believes that the 60-day notice will be most effective if State agency notices present the proposed required contents in the order they appear in the regulation.

Implementing Guidelines for 60-day Notices

Current rules at 7 CFR 273.18(g)(5)(iii)(A) specify requirements for 60-day notices related to implementing the current rule. That material is obsolete, and this rule proposes to delete it. For the same reason, this rule proposes to delete the last sentence of 7 CFR 273.18(g)(5)(iii)(B), and the introductory clause of 7 CFR 273.18(g)(5)(iv).

State Agency Records

Current rules at 7 CFR 273.18(g)(5)(iv)(A) require that the 60-day notice state that the State agency has records documenting that the individual, identified by name (and Social Security Number), is liable for a specified unpaid balance of a recipient claim resulting from overissued food stamp benefits. The Department believes that it is unnecessary for the 60-day notice to state that the State agency has records which they are required to develop in the course of establishing and acting on recipient claims. The Department presumes that State agencies have the necessary records to support their claims. Accordingly, the rule proposes to delete the language on this matter in the just cited paragraph.

One of the requirements in the amended DCA at 31 U.S.C. 3716(a) for collecting a claim by ADOP provides the debtor with the right to inspect and copy agency records relating to the claim. This right is covered under the fair hearing and administrative disqualification hearing procedures and is available to the debtor when the claim is initially established. Moreover, the debtor would be provided notice of this right under the notice requirements for demand letters as discussed previously in this proposed rule. The current regulations regarding fair hearings (7 CFR 273.15) and administrative disqualification hearings (7 CFR 273.16) are not affected by this proposed rule.

Previous Actions Taken

In the second sentence of 7 CFR 273.18(g)(5)(iv)(A), current rules require that the 60-day notice state that the State agency has previously mailed or otherwise delivered demand letters notifying the individual about the claim, including the right to a fair hearing on the claim, and has made any other required collection efforts. This requirement was made to comply with the requirement in DEFRA that the (Federal) agency satisfy the Secretary of the Treasury that the agency has made reasonable efforts to obtain payment of the debt. (See 31 U.S.C. 3720A(b)(4).) The Department believes that this requirement is met by the requirement proposed in this rule and discussed above under which State agencies must pursue State agency collection methods before referring claims for collection through FCCM's. In addition, the Department does not believe that debtors need the information since they would have already received demand letters and other billing actions. Accordingly, this rule proposes to delete the language in question.

Statement on Joint Liability

Current rules at 7 CFR 273.18(g)(5)(iv)(D) require that the 60-day notice advise individuals that all adults who were household members when excess food stamp benefits were issued to the household are jointly and severally liable for the value of those benefits, and collection of claims for such benefits may be pursued against all such individuals. The Department believes that questions about this policy are being effectively answered in telephone conversations between debtors and State agencies and that inclusion of the statement of the subject policy unnecessarily lengthens the 60-day notice. In addition, the initial notification of claim or demand letter would already include the jointly and severally language. Accordingly, this rule proposes to delete the currently required language on this matter from the 60-day notice.

Statement on Voluntary and Involuntary Payments

Current rules at 7 CFR 273.18(g)(5)(iv)(E) require that the 60-day notice state that State agency records do not show that the claim is being paid according to either a voluntary agreement or through scheduled, involuntary payments. The language in question was added to the 60-day notice in the rulemaking at 60 FR 45990–46001, dated September 1, 1995. The language was added in response to a public interest group's concern that debtors be informed of this policy.

As discussed above, this rule proposes allowing State agencies to pursue collection through FTROP, FSOP, ADOP and other FCCM's while pursuing other collection efforts except against individuals in households subject to allotment reduction. In addition, at § 273.18(p)(2)(i)(C) the rule would prohibit referring claims for FTROP collection from individuals subject to allotment reduction. Furthermore, in operating FSOP the Department has found that, in response to notices of intent issued under that collection procedure, debtors who are paying the claim call and advise FNS of that fact. The Department believes that the same issue can be resolved over the telephone between debtors and State agencies under FTROP. Accordingly, this rule proposes not to require the language currently required at 7 CFR 273.18(g)(5)(iv)(E).

Summary of Criteria

Current rules in paragraphs 7 CFR 273.18(g)(5)(iv)(I), (J) and (K) require that the 60-day notice include information intended to inform individuals about the criteria for claims which are subject to FTROP and what information they should provide to request a hearing on the intended collection action. These requirements were made in order to both assist individuals in understanding the intended collection action and to reduce State agency workload associated with telephone calls in response to 60-day notices. The Department does not believe that either of these purposes were achieved by the additional information, that individuals' continued to telephone State agencies and that their concerns were adequately dealt with through that form of communication. Accordingly, this rule proposes deleting the just cited paragraphs.

The Notice Would Advise

Current rules at 7 CFR 273.18(g)(5)(iii)(B) require that with the exception of such State-specific information as names and job titles and information required for State agency contacts, a State agency's 60-day notice must contain only the information specified in paragraph (g)(5)(iv). The Department believes that it is adequate to require that State agencies *advise* individuals of the required information. This approach should also provide State agencies flexibility in the design of 60-day notices and also facilitate their production. Accordingly, § 273.18(p)(2)(iii)(B) requires that the 60-day notice *advise* debtors of the matters listed in that paragraph.

Intent to Collect by Various Federal Collection Methodologies

The rule proposes at § 273.18(p)(2)(iii)(B)(*3*) to include in the 60-day notice ADOP, as one of the methodologies to which the debt is to be referred. The other methodologies which would utilize the same 60-day notice are FTROP, FSOP and any other FCCM.

Collection of the Federal Offset Fee

Current rules at 7 CFR 273.18(g)(5)(iv)(C) require that the 60-day notice state that if the State agency refers the claim to the IRS, a charge for the administrative cost of collection will be added to the claim and that amount will also be deducted if the claim, or any portion of the claim, is deducted from the debtor's tax refund. This rule proposes to modify this language to include the cost of any Federally imposed processing fee. (See § 273.18(p)(2)(iii)(B)(5).)

Citation of Authorities

The rule proposes to require language to the effect that collection through ADOP is authorized by the Debt Collection Act of 1982, as amended 31 U.S.C. 3701, and that the 60-day notice meets that statute's requirements for notice to debtors about ADOP. (See § 273.18(p)(2)(iii)(B)(7).)

Advice on Joint Tax Returns

Current rules at 7 CFR 273.18(g)(5)(iv)(H) require that the 60-day notice provide substantial guidance concerning jointly filed Federal income tax returns and offsets from tax refunds. The Department is concerned that some of the language may be inappropriately providing information about filing income tax returns. In addition, the Department wants to point out that IRS rules concerning FTROP at 26 CFR 301.6402–6(i) state that the IRS will advise non-debtor spouses of steps to take to protect their share of tax refunds and will refund to such persons such shares that are offset. Consequently, the Department believes that the proposed changes will not adversely affect spouses of debtors who are not liable for the overissued food stamp benefits. Accordingly, the rule proposes to require that 60-day notices advise debtors that, if they are filing a joint Federal income tax return, they may want to contact their local office of the IRS. (See § 273.18(p)(2)(iii)(B)(9).) In addition, this rule proposes to delete from the current required language the sentence discussing spousal liability. The rule also proposes to delete the sentence concerning liability for Treasury offset fees. The Department believes that the paragraph already required on Treasury offset fees information provides adequate information on this matter.

Statement of Compliance

Current rules at 7 CFR 273.18(g)(5)(iii)(B) require that in their annual certification letters State agencies include a statement that their 60-day notices conform to the content requirements of that paragraph. This rule proposes to require that State agencies include in their annual certification letter a statement that their 60-day notices comply with the requirements of § 273.18(p)(2)(iii)(B). (See § 273.18(p)(2)(iii)(C).)

Mailing Schedule

Current rules at 7 CFR 273.18(g)(5)(iii)(C) require that unless otherwise notified by FNS, the State agency must mail 60-day notices for claims to be referred for collection through FTROP no later than October 1 preceding the offset year during which the claims would be offset. The date for such mailings in 1996 was September 1. The Department expects that September 1 will continue to be the mailing date for 60-day notices. Nonetheless, to avoid confusion on this point, the rule proposes to state that unless otherwise notified by FNS, the State agency shall mail 60-day notices for claims to be referred for collection through FTROP, FSOP, ADOP and other FCCM's according to the schedule provided by FNS. (See § 273.18(p)(2)(iii)(D).)

Deletion of October 31 Cutoff for Reviews

Current rules at 7 CFR 273.18(g)(5)(v)(E) provide that State agencies may not refer claims for which timely review requests are received unless by October 31 they have completed the review and notified the individual that the claim is past due and legally enforceable. This provision was necessary when 60-day notices were mailed on October 1 because of the length of time necessary to offer the opportunity for both State agency and FNS reviews during an annual processing cycle. Since 60-day notices are now mailed on September 1, and in the future may be mailed more frequently than annually, this requirement is now obsolete. This rule proposes to delete this requirement.

Incorporation of Administrative Offset

Current rules at 7 CFR 273.18(g)(5)(v) state the requirements for State agency action in response to debtor requests for review of intended collection action under FTROP. The Department believes that these requirements exceed the requirements for such action under ADOP. Accordingly, with the exception of appropriate references, this rule proposes no additional review procedures for ADOP or any other FCCM.

Notice of Potential Administrative Offset

Current rules at 7 CFR 273.18(g)(5)(v)(C)(2) require that when the State agency determines that a debt is past due and legally enforceable the State agency notice to the debtor advise the debtor that the State agency intends to refer the claim to Treasury for offset. This rule proposes to require that the notice of the State agency's decision state that the State agency intends to refer the claim for collection from the debtor's Federal income tax refund and/or from other payments which may be payable to the debtor by the Federal government.

No Referral for Federal Collection Pending FNS Review

Under current rules at 7 CFR 273.18(g)(5)(iv)(F), the 60-day notice provides debtors a 60-day period to request that the State agency review whether the claim in question is past due and legally enforceable. The State agency notice of its decision that a claim is past due and legally enforceable must advise the debtor that the debtor has 30 days to request that FNS review that decision. The notice must also advise the debtor that, pending FNS review, the debt will not be referred to Treasury for offset. The rule proposes to also require that such notices advise debtors that, pending the FNS decision, the claim will not be referred for collection from other payments which may be payable to the debtor by the Federal government.

Regional Office Address

Current rules at 7 CFR 273.18(g)(5)(v)(C)(4) require that the State agency notice to the debtor provide the appropriate FNS regional office address, including the phrase "Tax Offset Review." To reflect that the review may pertain to ADOP situations, this rule proposes to change that phrase to "Offset Review."

FNS Action on Appeals of State Agency Reviews

Current rules at 7 CFR 273.18(g)(5)(vi) specify the actions which FNS will take in response to appeals of State agency review decisions. In several places in this section, this rule proposes to conform regulation citations to the proposed rule. In addition, this rule proposes to delete the clause in 7 CFR 273.18(g)(5)(v)(B) which sets the condition that the State agency's decision be dated on or before October 31, and to delete paragraph (g)(5)(v)(C). That paragraph currently provides that for timely requests for FNS review of State agency decisions made after

October 31, FNS will complete its review but the claim cannot be referred under FTROP. The clause and the paragraph coordinated with the October 31 cut-off discussed just above are also obsolete because, under an annual processing cycle, the 60-day notices are being mailed September 1. All review requests which FNS receives on State agency decisions will be acted on. Current rules provide at 7 CFR 273.18(g)(5)(v)(B)(*2*) that FNS will advise the State agency if it does not complete its review and the claim must be deleted from the certified files. This rule would not change that provision.

Referral of Claims for Offset

Current rules at 7 CFR 273.18(g)(5)(vii) specify requirements for State agency submission of claims under FTROP and the requirements for the letter certifying that the claims submitted meet the criteria for collection under FTROP. This rule proposes several changes in this paragraph, which is § 273.18(p)(2)(vi) in the proposed rule.

The rule proposes to add to the first sentence of the current 7 CFR 273.18(g)(5)(vii)(A) a reference to administrative offset and to change the paragraph reference to conform to the paragraph in the proposed rule.

The rest of current rules at 7 CFR 273.18(g)(5)(vii)(A) relate to the certification letter. The proposed rule would put this material in a new paragraph, itemize the required contents as subparts of that paragraph, change the references to conform to the paragraphs in the proposed rule, and make editorial changes.

Section 273.18(g)(5)(vii)(A) requires State agencies to submit certification letters to FNS regional offices. State agencies have found this instruction confusing, some sending the letter with their data files, some sending it to regional offices. The rule proposes to require that State agencies submit the letter according to FNS instructions. FNS plans to direct that the certification letters be sent to FNS headquarters with, or at the same time as certified files and to provide in those instructions a specific address for the letter. Also, the requirement for the statement on the conformance of the 60-day notice would be changed to reflect the new requirement discussed earlier in this preamble. Finally, the requirement currently at 7 CFR 273.18(g)(5)(vii)(B) that State agencies include in their certification letter how they determined that the information about the State agency contact for debtors is accurate would be included in the list of required contents for the certification letter.

Current rules at 7 CFR 273.18(g)(5)(vii)(B) require that the State agency provide to FNS the name, address and toll-free or collect telephone numbers of State agency contacts to be included in Treasury notices of offset, and provide FNS updates of that information if and when that information changes. The rule proposes to modify this requirement with a reference to FNS instructions. FNS intends to include such instructions in the expanded Revenue Manual.

State Agency Actions on Offsets Made

Current rules at 7 CFR 273.18(g)(5)(viii)(A) specify requirements for State agency actions on offsets made. For the reasons discussed in the following paragraph, this rule proposes to delete this section because its contents repeat requirements which this rule proposes to make elsewhere.

First, current rules at 7 CFR 273.18(g)(5)(viii)(A) require that State agencies notify debtors about offsets. This rule proposes at § 273.18(o)(4) to require that State agencies keep debtors advised of the status of their claims. Also, the Federal agency from whose payment the debt is offset would advise the debtor of the offset.

Second, current rules at 7 CFR 273.18(g)(5)(viii)(B) require prompt refunds for over collections due to offsets from Federal income tax refunds. As already discussed, this rule proposes at § 273.18(j) to require that State agencies promptly refund all over collections of recipient claims regardless of the source of the over collection.

Third, current rules at 7 CFR 273.18(g)(5)(viii)(C) address several matters relating to over collection and refund situations due to State agency error and Treasury reversals of offsets. FNS periodically issues procedural guidelines on these and related matters and plans to continue to address such matters in the FCCM Manual discussed above in this preamble.

Monitoring and Reporting Offset Activities

Current rules at 7 CFR 273.18(g)(5)(ix) specify several requirements for State agency reporting on offset activities. As discussed in the following paragraphs, this rule proposes to delete several of those requirements because this rule would state the requirements elsewhere. The section would be renamed "Reporting FTROP and ADOP activities."

As already discussed, this rule proposes to make a general requirement for the updating of files for FCCM's. Accordingly, this rule proposes to delete paragraph (g)(5)(ix)(A). Paragraph (B) of the section in question repeats the requirement for prompt refunds of over collections. This rule proposes to delete it for reasons discussed earlier in this preamble. Paragraph (E) of the section in question reiterates the requirement that State agencies report collections as required for all recipient claims collection. The rule proposes to delete this restatement.

Current rules at 7 CFR 273.18(g)(5)(ix)(C) require that State agencies annually report on 60-day notices no later than the tenth of October. This rule proposes to require that State agencies make that report no later than the ten days after mailing 60-day notices. In paragraph (g)(5)(ix)(D), this rule proposes to delete the reference to the IRS. The rule proposes to require that State agencies report on 60-day notices, data security and voluntary payments according to instructions in the FCCM manual.

Federal Salary Offset Program (FSOP)

In addition to proposing changes in the requirements for FSOP which are intended to reduce workload on State agencies and to eliminate provisions of the current rule which are extraneous, this rule proposes to reorder several paragraphs of this regulations pertaining to FSOP. Also, whenever possible, the Department's goal is to allow State agencies to combine FSOP activities with FTROP, ADOP, and other FCCM activities.

Claims Subject to FSOP

Current rules at 7 CFR 273.18(g)(6)(i) state that all claims submitted under FTROP are subject to the salary offset match and that all individuals identified in the match are subject to FSOP procedures. As discussed earlier in this preamble, this rule proposes to require that State agencies submit all appropriate claims for collection under FCCM's thereby combining the FSOP advance notice with the FTROP and ADOP 60-day notice. Accordingly, this rule proposes to delete this paragraph as redundant.

Supplemental Information

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*1*) specify certain information which State agencies are encouraged to include in their advance notices. The Department believes that including such information may improve the credibility of the advance notice, but since the Department does not want to require that the information be included in the advance notice, this

rule proposes to delete the subject language.

Notice of Review Decision

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*5*) require that the advance notice state that the State agency will notify debtors in writing when, due to a review decision, claims will not be referred for collection from salaries. The Department does not believe that the advance notice needs to advise debtors about the requirements for State agency notification of review decisions. Accordingly, this rule proposes to delete the requirement for language on this matter from the advance notice.

Notice of Right to a Federal-level Hearing

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*5*) also require that the advance notice state: (1) that debtors have the right to a formal appeal to FNS; and (2) that notification about how to make such appeals is required and will be provided to debtors before any collection action from salaries is taken. The Department believes that the notice of intent which is provided to debtors prior to referral of claims for collection from Federal salaries provides adequate notice of the right to a hearing and related matters. Accordingly, this rule proposes to delete the requirement that the advance notice provide information about such matters.

Reporting

Current rules at 7 CFR 273.18(g)(6)(iv)(A) specify requirements for State agency retention of collections, reporting and about how FNS will report and transfer collections to State agencies. For the reasons discussed earlier in this preamble in relation to the proposed deletion of these same requirements for FTROP, this rule proposes to delete this paragraph.

FNS Recipient Claims Matching Procedures

Current rules at 7 CFR 273.18(g)(6)(ii)(A) describe certain FNS recipient claims matching procedures. This rule would include this material unchanged at § 273.18(p)(3)(i).

Security and Confidentiality

Current rules at 7 CFR 273.18(g)(6)(ii)(B) require that State agencies return security and confidentiality agreements prior to receiving information about Federal employees identified as subject to FSOP. This rule would include this material unchanged at § 273.18(p)(3)(ii).

Except for conforming references to this proposed rule, no changes are proposed for current rules requiring security and confidentiality agreements from State agencies as a condition for receiving FSOP debt information currently at 7 CFR 273.18(g)(6)(iii)(A). (See § 273.18(p)(3)(iii).)

Review of Claim Status

Current rules at 7 CFR 273.18(g)(6)(ii)(D) require that prior to taking any action to collect recipient claims under FSOP, State agencies must review records to verify the amount owed, and to remove claims which have been paid, which are being paid according to an agreed to schedule, or which for other reasons are not collectible. This requirement remains essentially unchanged in this proposed rule. (See § 273.18(p)(3)(iv).)

Advance Notices

Current rules at 7 CFR 273.18(g)(6)(iii) specify the requirements for State agency advance notices to Federal employees. This rule proposes to modify those requirements based on the requirements of DCIA and combine the FSOP advance notice with 60-day notice proposed in this rule, and to conform references to the proposed rule.

Current rules at 7 CFR 273.18(g)(6)(iii)(B) prescribe procedures for referring salary offset claims to FNS following State agency efforts to collect them through advance notices. This rule proposes to place this material after the requirements for the contents of the notice. This rule proposes to reduce the documentation required for FSOP claims referred to FNS. The rule also proposes to move the requirements for referring defaulted claims and to specify that such referrals must include the same documentation as claims referred to FNS because of no timely or adequate response to the advance notice. (See § 273.18(p)(3)(vii).)

Current rules at 7 CFR 273.18(g)(6)(iii)(C) state the requirements for the contents of the advance notice. This rule proposes to require that the notice *advise* debtors of certain matters.

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*1*) require that the advance notice state that according to State agency records the debtor is liable for a claim for a specified dollar amount due to receiving excess food stamp benefits. This rule proposes to require that the notice advise debtors of what State agency records indicate is their name and SSN and that they are liable for a specified unpaid balance of a recipient claim resulting from overissued food stamp benefits. (See § 273.18(p)(3)(v)(B)(*1*) and (*2*).)

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*2*) and the first sentence of 7 CFR 273.18(g)(6)(iii)(C)(*3*) discuss procedure and authorities related to FSOP. This rule proposes to modify this material and add the citation of the authority for collection through ADOP. (See § 273.18(p)(3)(v)(B)(*7*).)

Voluntary Payment

Current rules in the second sentence of 7 CFR 273.18(g)(6)(iii)(C)(*3*) and in the rest of that paragraph specify that the advance notice must state that the claim will be referred to FNS for collection from the debtor's Federal salary unless it is paid in full within 30 days or in installments of $50 if the claim was greater than $50. The Department specified an installment structure for FSOP claims with the intent to relieve State agencies of the need to negotiate with debtors. Experience with FSOP indicates that the installment structure did not help in this regard. State agencies often preferred to have the discretion to negotiate a payment schedule with debtors. Accordingly, this rule proposes to provide this flexibility and to incorporate a notice that the claim is subject to administrative offset. Accordingly, § 273.18(p)(3)(v)(B)(*3*) would require that the advance notice advise the debtor that unless the debtor pays the claim within 30 days of the date of the notice or makes other repayment arrangements acceptable to the State agency, the State agency intends to refer the claim for collection from his or her salary and/or by administrative offset from other Federal payments which may be payable to the debtor.

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*4*) require that the advance notice include the name, address and a toll-free or collect telephone number of a State agency contact (an individual or unit) for repayment and/or discussion of the claim. As in the case of the FTROP 60-day notice, this rule proposes to require that the advance notice advise debtors that to pay the claim voluntarily or to discuss it, the debtor should contact the State agency. The advance notice would also be required to include the name of the State agency contact for this purpose (such as an office, administrative unit and/or individual), the contact's street address or post office box, and a toll-free or collect telephone number for that contact.

Current rules at 7 CFR 273.18(g)(6)(iii)(C)(*5*) state the required

contents for the advance notice with respect to the debtors' rights for review of the intended collection action under FSOP. The second sentence of that paragraph requires that the advance notice state that unless the State agency receives documentation that the claim is not collectible within 30 calendar days the State agency will refer the claim to FNS for collection from the debtor's salary. This rule proposes to replace that sentence with the requirement that the advance notice advise debtors that the State agency must receive the documentation within 30 days at the address provided in the notice, that the debtor should provide his or her SSN and that the claim will not be referred for collection from the debtor's Federal salary of other Federal payments pending the State agency's review of that documentation. This rule also proposes to add the requirement that the advance notice advise debtors that a claim is not collectible if a bankruptcy filing prevents collection of the claim. (See § 273.18(p)(3)(v)(B)(*5*).)

The Department believes that State agencies should notify debtors of their decision either to refer or not to refer the claim for collection. Accordingly, this rule proposes to require at § 273.18(p)(3)(vi) that State agencies notify debtors in writing of decisions on documentation submitted concerning payments and other matters relating to the collection of claims under FSOP and ADOP.

FNS Action on Claims Referred by State Agencies

Current rules at 7 CFR 273.18(g)(6)(v) specify pertinent matters relating to FNS actions on FSOP claims referred by State agencies. This rule proposes no change in that paragraph except to conform the references in the introductory sentence of 7 CFR 273.18(g)(6)(v) to the paragraphs in this proposed rule and to specify that the notice of intent would advise debtors that their recipient claim is subject to collection through administrative offset as well as from their Federal salary, and to cite the authority for that collection action, the DCA, as amended, 31 U.S.C. 3701.

Administrative Offset Program (ADOP)

As discussed in several places earlier in this preamble, this rule proposes that claims submitted under FTROP and FSOP, but not collected under those programs, would be subject to collection through ADOP from other Federal payments otherwise due debtors. Due process notices for ADOP would have been provided through separate FTROP and FSOP notices or through a combined notice which would include FTROP, FSOP, ADOP or any other FCCM. State agencies would not need to re-submit those claims for ADOP. State agencies would need to keep their balances updated to avoid over-collections. (See § 273.18(p)(4).)

Implementation

The PRWORA set the date of enactment, August 22, 1996, as the effective date for the provisions of the law relating to recipient claims. In response, the Department, on August 26, 1996, issued an implementation memorandum stating that these provisions are to be implemented no later than September 22, 1996.

The Department proposes that State agencies implement the discretionary aspects of these regulations no later than the first day of the month 180 days after the publication of the final rule. This should provide sufficient time to amend food stamp handbooks, demand letters and forms, make any necessary changes in data processing systems and administrative procedures, and train affected State and local agency staff.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Employment, Food stamps, Fraud, Government employees, Grant programs—social programs, Income taxes, Penalties, Reporting and recordkeeping requirements, Social security, Students, Supplemental Security Income (SSI), Wages.

Accordingly, 7 CFR Parts 272 and 273 are proposed to be amended as follows:

1. The authority citation for Parts 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

§ 272.2 [Amended]

2. In § 272.2:

a. Paragraph (a)(2) is amended by removing the last sentence; and

b. Paragraph (d)(1)(xii) is removed.

§ 272.12 [Removed]

3. § 272.12 is removed.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

4. In § 273.2, paragraph (b)(4) is added to read as follows:

§ 273.2 Application processing.

* * * * *

(b) *Food stamp application form.*

* * *

(4) *Privacy Act statement.* At the time of application and at each recertification through a written statement on or provided with the application form, all applicants for food stamp benefits shall be notified of the following:

(i) The collection of this information, including the social security number (SSN) of each household member, is authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) The information will be used to determine whether your household is eligible or continually eligible to participate in the Food Stamp Program and may be subject to verification through computer matching programs. This information will also be used to monitor compliance with program regulations and for program management.

(ii) This information may be disclosed to other Federal assistance programs or federally assisted State programs, to the Comptroller General of the United States for authorized audit and examination purposes and to Federal, State and local law enforcement officials for the purpose of apprehending persons fleeing to avoid prosecution, custody or confinement or to a court, magistrate, or administrative tribunal when required in civil or criminal proceedings.

(iii) If a claim arises against your household as a result of participation in the Food Stamp Program, the information you provide, including the SSN of each member of your household, may be referred to Federal and State agencies, as well as private claims collection agencies, for claims collection action, including but not limited to administrative offset, and to the Department of Justice for litigation.

(iv) The providing of the requested information, including the SSN of each household member, is voluntary. However, failure to provide this information will result in the denial of food stamp benefits to your household.

* * * * *

5. § 273.18 is revised to read as follows:

§ 273.18 Claims against households.

(a) *Responsibility for recovering overpayments*—(1) *Household and individual liability.* (i) All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. All adult household members shall also be responsible for the amount of any claim established for the trafficking of benefits.

(ii) Any sponsor of an alien and the alien's household shall be jointly and severally liable for the value of any benefits overissued as a result of incorrect information being provided by the sponsor. However, if the alien's sponsor had good cause or was without fault, the alien's household shall be solely liable for repayment of the overissuance.

(2) *State agency responsibility.* (i) Unless specified under paragraph (g)(2) of this section, the State agency shall establish a claim against:

(A) Any participating household (including former adult members) or non-participating household that has trafficked benefits or received more food stamp benefits than it was entitled to receive; and

(B) Any household which contains an adult member who was an adult member of another household that trafficked benefits or received more food stamp benefits than it was entitled to receive.

(ii) Even though the establishment and collection of food stamp recipient claims are delegated to State agencies, these debts shall remain Federal debts subject only to this and other regulations governing Federal debts.

(b) *Intentional program violation (IPV) claims.* An IPV is defined in § 273.16(c). A claim shall be handled as an IPV claim only if one of the following occurs:

(1) A court of appropriate jurisdiction has determined that a household member has committed an IPV.

(2) A household member was determined at an administrative disqualification hearing to have committed an IPV.

(3) A household member signs a disqualification consent agreement for a suspected IPV referred for prosecution.

(4) A household member signs a waiver of his/her right to an administrative disqualification hearing.

(c) *Inadvertent household error (IHE) claims.* A claim shall be handled as an IHE claim if the overissuance or recipient misuse incident was caused by a misunderstanding or unintended error on the part of the household. In addition, at the option of the State agency, a potential IPV may be handled as an IHE claim prior to the determination of IPV.

(d) *Agency error (AE) claims.* (1) A claim shall be handled as an AE claim if the overissuance was caused by an action or failure to take action by the State agency.

(2) The State agency shall take action to establish a claim against any household that received an overissuance due to a State agency error. No recipient claim shall be established if an overissuance occurred as a result of the household transacting an expired Authorization to Participate card (ATP), unless the household altered its ATP.

(e) *Calculating the claim amount*—(1) *Non-trafficking claims.* A claim that is not related to trafficking shall be calculated incorporating all of the following:

(i) For each month that a household received an overissuance, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive.

(ii) The amount of correct benefits, if any, and the resulting claim shall be, at a minimum, calculated back to twelve months prior to the date of discovery. For an IPV claim, the resulting claim shall be calculated back to the month the act of IPV occurred. However, for any claim, the State agency shall not include in its calculation any amount of the overissuance that occurred in a month more than six years from the discovery date. The discovery date is defined in paragraph (g)(2) of this section.

(iii) In calculating an IPV or IHE claim involving unreported earned income, the State agency shall not apply the earned income deduction to that part of any earned income which the household failed to report in a timely manner when this act was the basis for the claim.

(iv) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household as follows:

(A) The allotment that the household should have received is subtracted from the allotment the household actually received.

(B) This amount is then reduced by any EBT benefits expunged from the household's EBT benefit account (up to the amount of the claim) that have not previously been applied to any other claim. The difference is the amount of the claim.

(v) For categorically eligible households, an IHE or AE claim shall only be calculated and established when it can be computed on the basis of a change in net income and/or household size.

(2) *Trafficking-related claims.* Claims arising from trafficking-related offenses shall be the value of the trafficked benefits as determined by: the individual's admission; adjudication; or the documentation which forms the basis for the trafficking determination.

(f) *Claim referral, establishment and backlog prevention.* (1) State agencies shall establish a claim before the last day of the quarter following the quarter in which the overissuance was discovered. For example, if the date of discovery, as defined in paragraph (f)(2) of this section, is in October, November, or December, the last day to timely establish the claim shall be March 31 of the following calendar year.

(2) The "date of discovery," for the purposes of this section, shall be the date the potential claim is initially detected as a possible overissuance by the State agency. The State agency shall annotate the date of discovery for each claim referral in the appropriate case/claim file or claim tracking system.

(3) The "date of establishment," for the purposes of this section, shall be the date that the initial claim notification or demand letter, as described in paragraph (g)(3) of this section, is sent to the household. The State agency shall annotate the date of establishment for each claim referral in the appropriate case/claim file or claim tracking system.

(4) State agencies shall ensure that no less than 90 percent of all claim referrals are either established or, if warranted, disposed of within the time frame established in paragraph (f)(1) of this section.

(g) *Initiating collection action and managing claims*—(1) *Applicability.* State agencies shall initiate collection action on all claims unless the conditions under paragraph (g)(2) of this section apply.

(2) *Pre-establishment cost effectiveness determination.* A State agency may opt not to pursue the establishment of any claim and subsequent collection of the overissuance if the pursuit is determined not to be cost effective by using either of the following methodologies:

(i) *State-agency developed methodology for cost-effectiveness determination.* A State agency may adopt its own procedure, threshold, and/or methodology for use in determining whether to pursue the establishment of any claim and subsequent collection of the overissuance. State agencies shall obtain prior approval from FNS for use of this procedure, threshold, and/or methodology.

(ii) *FNS threshold for establishing and collecting overissuances.* (A) Unless prohibited by paragraph (g)(2)(ii)(C) of this section, a State agency may utilize the claims threshold as defined in paragraph (g)(2)(ii)(B) of this section in determining whether to pursue the establishment of any claim and collection of the subsequent overissuance.

(B) The FNS threshold for establishing a claim and pursuing collection from an

overissuance is the maximum dollar amount of a claim or claim referral that a State agency may decide not to pursue solely based on the amount of the referral. The threshold is equal to $125.

(C) A State agency shall not apply this threshold to overissuances which may be collected by reducing the allotment of the household. This threshold also does not apply to overissuances which have already been established as claims.

(3) *Notification of Claim.* (i) Each State agency shall develop and mail or otherwise deliver to the household written notification to initiate collection action on any claim. The written notification or demand letter shall contain the information required by paragraphs (g)(3)(iii), (g)(3)(iv) and (g)(3)(v) of this section. Subsequent demand letters or notices may be sent at periodic intervals at the discretion of the State agency.

(ii) The claim shall be considered established for tracking and reporting purposes as of the date of the initial written notification or demand letter.

(iii) If the claim or the amount of the claim was not established at a hearing, the State agency shall provide the household with a one-time notice of adverse action as part of or along with the initial demand letter/notification of claim. The notice of adverse action shall contain a statement that informs the household that it has 90 days to request a fair hearing on the claim.

(iv) The demand letter or accompanying notice of adverse action shall inform the household of the following:

(A) The type and amount of the claim, the intent to collect the claim from all adults in the household when the claim occurred; the intent to collect the claim, if not paid, by referral to other agencies, including private collection agencies, for the purposes of various claim collection methods;

(B) The opportunity to inspect and copy records related to the claim;

(C) Unless the amount of the claim was established at a hearing, the opportunity for a fair hearing on the decision related to the claim;

(D) The opportunity to make a written agreement to repay the amount of the claim prior to the claim being referred to Federal tax refund offset, Federal salary offset, Federal administrative offset or other Federal claims collection actions; and

(E) That, if the claim becomes delinquent, the household may be subject to additional processing charges and the claim may be referred to the Department of Justice for litigation.

(v) The demand letter for any claim shall contain a due date for the submission of full repayment of the claim unless the State agency determines that allotment reduction will be invoked to repay the claim of a participating household. The due date shall be not later than 30 days after the date of the initial written notification or demand letter.

(4) *Due dates for repayment agreements.* (i) Any repayment agreement for any claim shall contain due dates for the periodic submission of payments.

(ii) The agreement shall specify that the household shall be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

(5) *Time frames and delinquency.* (i) Unless specified in either paragraph (g)(6)(iv) or (g)(7)(i) of this section, any claim shall be considered delinquent if either of the following occurs:

(A) The claim has not been paid by the due date and a satisfactory payment arrangement has not been made.

(B) A satisfactory payment arrangement has been made for the claim and payment has not been received by the due date specified in the established repayment schedule.

(ii) The date of delinquency for a claim covered under paragraph (g)(5)(i)(A) of this section is the due date on the initial written notification/demand letter. The claim shall remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked.

(iii) The date of delinquency for a claim covered under paragraph (g)(5)(i)(B) of this section is the due date of the missed installment payment. The claim shall remain delinquent until payment is received in full, allotment reduction is invoked, or, at the State agency's option, a new repayment schedule is negotiated.

(iv) A claim shall not be considered delinquent if another claim for the same household is currently being paid either through an installment agreement or allotment reduction and the State agency expects to begin collection on the claim once the prior claim(s) is settled. A claim may also not be considered delinquent if it is an IPV where collection is coordinated through the court system and the State agency has limited control over collection action.

(6) *Fair hearings and claims.* (i) Once a household timely requests a fair hearing on the existence or amount of the claim, all attempts by the State agency to collect the claim shall cease. A claim awaiting a fair hearing decision shall not be considered delinquent.

(ii) If the hearing official determines that a claim does, in fact, exist against the household, the household shall be sent another demand letter. The State agency may combine the demand letter with the notice of the hearing decision. Delinquency, as determined in paragraph (g)(6) of this section, shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household.

(iii) If the hearing official determines that a claim does not exist, the claim is disposed of in accordance with paragraph (g)(8) of this section.

(7) *Compromising claims.* (i) A State agency may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be settled in three years.

(ii) The authority to compromise is limited to claims under $20,000.

(iii) A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(iv) If the claim becomes delinquent, any compromised portion of that claim shall be reinstated to the claim balance.

(8) *Terminating and writing-off claims*—(i) A "terminated claim" is a claim in which all collection action has ceased. A "written-off claim" is a claim which is no longer considered a receivable subject to continued Federal and State agency collection and reporting requirements. All claims that are terminated shall be immediately written-off. If additional collection methodologies are developed in the future, State agencies may reinstate terminated claims.

(ii) State agencies shall terminate any claim if the claim meets one of the following criteria:

(A) The claim is found to be invalid in a fair hearing, administrative disqualification hearing or court determination. Collection efforts shall be pursued, however, if it is established at the hearing or in court that an overissuance did, in fact, occur. In instances where the court or hearing official determines that the act causing the overissuance was not intentional, the claim would continue to be pursued as an IHE or AE claim.

(B) It is discovered that all adult household members have died and the State agency is not planning to pursue collection from the estate.

(C) The claim has an outstanding balance of $25 or less and has been delinquent for 90 days or more.

(D) Any claim which the State agency has determined is not cost effective to pursue further collection activity. The

State cost-effectiveness criteria is subject to prior FNS approval.

(E) The claim has been delinquent for three years or more. The State agency may opt not to terminate the claim if prior collections have been realized through Federal or state tax refund offset, salary offset or any other similar collection mechanism.

(h) *Acceptable forms of payment*—(1) *Allotment reduction.* State agencies may collect claims as specified in paragraph (i)(1) of this section by reducing a household's benefits prior to issuance.

(2) *Cash and its equivalents.* (i) A State agency may accept payment for claims in cash or in any of its generally accepted equivalents. This includes check and money order. In addition, a State agency may accept payments with credit and/or debit cards if the State agency has the capability to accept such payments. Collections made using intercepts such as wage garnishment and tax offset are considered "cash" for FNS claim accounting and reporting purposes.

(ii) When an unspecified joint collection is received for a combined public assistance/food stamp recipient claim, each program shall receive its pro rata share of the amount collected.

(3) *Paper food coupons.* Households may pay claims using paper food coupons. If coupon books collected from households as payment for claims are returned intact and in usable form, the State agency may return them to coupon inventory. The State agency shall destroy any coupons or coupon books which are not returned to inventory and document as appropriate.

(4) *Benefits from electronic benefit transfer (EBT) accounts.* (i) State agencies shall allow a household to pay its claim using benefits from its active food stamp EBT benefit account.

(ii) Payments shall be accepted from inactive or stale EBT benefit accounts once the account is reactivated at the request of the household.

(iii) The State agency shall secure and retain documentation from the household authorizing a collection from an active or reactivated EBT benefit account.

(iv) A collection using EBT benefits shall be considered a non-cash collection and corresponding funds shall not be drawn from the Federal EBT benefit account by the State agency when this type of collection is made.

(v) In instances where the benefits are expunged and the State agency was unable to make the adjustment as outlined in paragraph (e)(1)(iv)(B) of this section when calculating the claim, the State agency shall adjust the amount of the claim by subtracting the amount expunged from the claim balance. These adjustments shall not be considered collections and the retention amounts in paragraph (m) of this section shall not apply to these transactions.

(i) *Collection methods*—(1) *Allotment reduction.* (i) Except as specified in paragraph (i)(1)(iv) of this section and upon notification as specified in paragraph (g)(3) of this section, the State agency shall automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives from any participating household that contains an individual liable for that claim. Individuals in households which are subject to allotment reduction shall not be subject to involuntary collection by any other means.

(ii) For IPV claims, unless the household agrees to a higher amount, the amount of benefits to be recovered each month through allotment reduction shall be the greater of 20 percent of the household's monthly allotment/entitlement or $20 per month. The State agency has the option to base this amount on either the actual allotment or entitlement as long as this calculation is handled the same in all areas of the State.

(iii) For IHE and AE claims, unless the household agrees to a higher amount, the amount of benefits to be recovered each month through allotment reduction shall be the greater of 10 percent of the household's monthly allotment or $10 per month.

(iv) At the time the household is certified and receives an initial allotment, the initial allotment shall not be reduced to offset a claim.

(v) Collection via allotment reduction does not preclude the State agency from pursuing additional collections methods against any individual severely liable for payment of the claim who is not currently a member of a participating household.

(2) *Offsets to restored benefits.* State agencies shall immediately offset any restored benefits owed to the household by the amount of any outstanding claim. This is to be accomplished at any time during the claim establishment and collection process.

(3) *Lump sum payments.* State agencies shall accept any payment for a claim whether it represents full or partial payment. State agencies may accept payments in any of the acceptable formats.

(4) *Installment payments.* (i) State agencies may accept installment payments made for a claim as part of a negotiated repayment agreement.

(ii) Households failing to submit payment in accordance with the terms of the negotiated repayment schedule are considered delinquent and shall be subject to additional collection actions.

(5) *Intercept of unemployment compensation benefits.* (i) A State agency may, at its option, arrange for the intercept of unemployment compensation benefits for the collection of any claim.

(ii) A State agency may also attempt to recover claims from liable individuals by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from unemployment compensation.

(iii) Collections made by this method shall be treated as "cash" payments as described in paragraph (h)(2) of this section. This collection option may be included as part of a repayment agreement.

(6) *Other collection actions.* State agencies may employ any other collection actions to collect claims. These actions include, but are not limited to, referrals to collection and/or other similar private and public sector agencies, state tax refund and lottery offsets, wage garnishments, property liens and small claims court.

(7) *Coordination with Federal claims collection methods.* State agencies may continue collection efforts on claims as specified in this paragraph (i) after submitting such claims for collection as specified in paragraph (p) of this section.

(j) *Overpaid claims.* If a household has overpaid a claim, the State agency shall provide a refund for the overpaid amount as soon as possible after the overpayment becomes known. The household shall be paid by whatever method the State agency deems appropriate considering the household's circumstances.

(k) *Interstate claims collection.* (1) Unless a transfer occurs as outlined in paragraphs (k)(3) and (k)(4) of this section, a State agency remains responsible for initiating and continuing collection action on any food stamp claim regardless of whether the household remains in its jurisdiction.

(2) A State agency must respond within 30 days to inquiries concerning household participation received from another State agency if the agency has reason to believe that a household with an outstanding claim has relocated to that State.

(3) A State agency must accept the responsibility for collecting the remaining balance of any claim from another State agency if it is discovered that a relocated household with a claim

is receiving food stamp benefits in the receiving State agency's jurisdiction.

(4) A State agency may, but is not required to, accept the responsibility for collecting the remaining balance of any claim from another State agency if it is discovered that the relocated household is residing in but not receiving food stamp benefits in the receiving State agency's jurisdiction.

(l) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households with outstanding recipient claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which are appropriate under the circumstances. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (n) of this section.

(m) *Retention rates.* (1) The State agency shall retain 20 percent of the value of IHE claims collected and 35 percent of the value of IPV claims collected. In addition, the State agency shall retain a total of 35 percent of the value of IHE claims collected via unemployment compensation benefit withholdings. These retention rates shall apply for claims and delinquent claims collection charges collected by the State agency, including the value of allotment reductions for the purpose of collecting claims but not reductions in benefits due to disqualification.

(2) The State agency shall not retain any percentage of the value of AE claims collected.

(n) *Submission of payments to FNS.* The State agency shall submit the value of funds collected for IHE, IPV or AE claims in accordance with instructions issued by FNS. Any payment to State agencies for claims collection retention must be made by electronic funds transfer.

(o) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring recipient claims against households. This accounting system shall consist of both the system of records maintained for individual debtors and the accounts receivable summary data maintained for these debts. At a minimum, the accounting system shall readily accomplish the following:

(1) Document the date of discovery, the circumstances which resulted in a claim, the procedures used to calculate the claim, the date of establishment, the methods used to collect the claim, delinquent claim collection charges, and the circumstances which resulted in the final disposition of the claim.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households whose claims have become delinquent either by not responding to the demand letter or failing to make an installment payment on their claim.

(4) Document how much money was collected in payment of a claim and periodically advise households of the status of their claim balances.

(5) Identify at certification households with outstanding claims.

(6) Produce and accurately support balances in collections and outstanding liabilities for the recipient claims established.

(7) At an interval determined by FNS, produce summary reports of the funds collected, the amount submitted to FNS, the claims established and terminated, the delinquent claims collection charges, the uncollected balance and the delinquency of the unpaid debt.

(8) On a quarterly basis, unless otherwise directed by FNS, reconcile summary balances reported to individual supporting records.

(p) *Federal claim collection methods (FCCM's)*—(1) *General.* Federal claim collection methods (FCCM's) include the Federal Income Tax Refund Offset Program (FTROP), the Federal Salary Offset Program (FSOP) and the Administrative Offset Program (ADOP) specified in this paragraph (p). Under procedures for FCCM's, State agencies are responsible for the recipient claim actions required in § 273.18, including the due process and related actions specified in this paragraph (p). For claims offset under FCCM's, State agencies receive the percentage of such collections specified in paragraph (m) of this section.

(i) *Claims subject to FCCM's.* (A) All claims shall be subject to collection by FCCM's only after the State agency has initiated one or more collection methods specified in paragraph (i) of this section. The requirement for a prior collection effort shall not apply when, as indicated by such evidence as demand letters returned as undeliverable, no liable individual can be located.

(B) State agencies shall submit all claims subject to collection by FCCM's as required in paragraph (p) of this section.

(ii) *Procedures and schedules.* State agencies shall submit data on claims subject to FCCM's in record formats, according to schedules, and by transmission methods as specified by FNS, and follow other technical and procedural guidelines as specified by FNS in the Manual for Federal Claims Collection Methods for the FSP (the FCCM manual).

(iii) *Identification of types of claim.* For each claim submitted under FCCM's, State agencies shall identify whether the claim is due to an inadvertent household error, intentional Program violation or a State agency administrative error. For any claim which is submitted for collection under FCCM's and which is a combination of more than one type of claim, State agencies shall specify the dollar amounts due to each type of claim.

(iv) *Updating claim records.* As instructed in the FCCM manual, State agencies shall update records of claims submitted under FCCM's by reducing the amounts of and deleting claims to reflect payments received, and by deleting claims which for other reasons are no longer subject to collection under FCCM's.

(v) *Hierarchy of collection methods.* Claims submitted under paragraph (p) of this section will be offset from Federal payments due to debtors as such payments are identified and are available for offset.

(2) *Federal Tax Refund Offset Program (FTROP)*—(i) *Criteria for claims subject to FTROP.* State agencies shall submit for collection from Federal income tax refunds all recipient claims which are delinquent as specified in paragraph (p)(1)(i) of this section and which are legally enforceable. Such claims must:

(A) Be claims with a dollar value which is at least the minimum dollar amount established by the Department of Treasury. (B) Be claims for which the date of the initial demand letter is within 10 years of January 31 of the offset year, except that claims reduced to final court judgments ordering individuals to pay the debt are not subject to this 10-year limitation.

(C) Not include any claim submitted for collection from an individual in a household which, as specified in paragraph (i)(1) of this section, is subject to allotment reduction

(D) Not include any claim for which collection is barred by a bankruptcy.

(E) Be claims for which individuals have been provided all of the opportunities for review and the notifications specified in paragraphs

(p)(2)(iii), (p)(2)(iv), and (p)(2)(v) of this section.

(ii) *Combined claims.* If a claim which is otherwise subject to collection under FTROP is a combination of two or more recipient claims, the date of the initial demand letter for each claim combined shall be within the 10-year range specified in paragraph (p)(2)(i)(B) of this section. Claims reduced to judgment shall not be combined with claims which are not reduced to judgment.

(iii) *60-Day notice to individuals.* (A) Prior to referring claims for collection under FTROP, the State agency shall provide individuals from whom it seeks to collect such claims with a notice, called a 60-day notice.

(B) The 60-day notice shall advise the debtor:

(*1*) What, according to State agency records, is the debtor's name and Social Security Number (SSN).

(*2*) That the debtor is liable for a specified unpaid balance of a recipient claim resulting from overissued food stamp benefits.

(*3*) That unless the debtor pays the claim within 60 days of the date of the notice or makes other repayment arrangements acceptable to the State agency, the State agency intends to refer the claim for deduction from the debtor's Federal income tax refund and/or collection by administrative offset from other Federal payments which may be payable to the debtor.

(*4*) That to pay the claim voluntarily or to discuss it, the debtor should contact the State agency. The 60-day notice shall include the name of the State agency contact for this purpose (such as an office, administrative unit and/or individual), the contact's street address or post office box, and a toll-free or collect telephone number for the State agency contact.

(*5*) That if the debtor's claim is referred for Federal collection, a charge for the administrative cost of collection will be added to the claim and that amount will also be deducted if the claim, or any portion of it, is deducted from the debtor's tax refund or other Federal payment.

(*6*) That the debtor is entitled to request a review of the intended collection action and that the State agency must receive such a request within 60 days of the date of the 60-day notice. Such a request must be written, must be submitted to the address provided in this notice and should contain the debtor's SSN. The claim will not be referred for offset from the debtor's tax refund or for collection from other Federal payments while the State agency's review is pending.

(*7*) That the Debt Collection Act of 1982, as amended (31 U.S.C. 3701), authorizes collection of claims by administrative offset after giving the debtor notice of that intended action and advising the debtor of the debtor's rights under that statute. This notice meets the requirements for providing such notice and advice.

(*8*) That the claim is not legally enforceable if a bankruptcy prevents collection of the claim.

(*9*) That the debtor may want to contact the debtor's local office of the Internal Revenue Service if the debtor is filing a joint Federal income tax return.

(C) In the certification letter required in paragraph (p)(2)(vi)(B)(*4*) of this section, the State agency shall include a statement that its 60-day notice complies with the requirements of paragraph (p)(2)(iii)(B) of this section.

(D) The State agency shall mail 60-day notices for claims to be referred for collection through FTROP and administrative offset according to the schedule provided by FNS.

(E) The State agency shall mail 60-day notices using the address information provided by Treasury unless the State agency receives clear and concise notification from the taxpayer that notices from the State agency are to be sent to an address different from the address obtained from Treasury. Such clear and concise notification shall mean that the taxpayer has provided the State agency with written notification including the taxpayer's name and identifying number (which is generally the taxpayer's SSN), the taxpayer's new address, and the taxpayer's intent to have notices from the State agency sent to the new address. Claims for which 60-day notices addressed as required in this paragraph (p)(2)(iii)(E) and are returned as undeliverable may be referred for collection.

(iv) *State agency action on requests for review.* (A) For all written requests for review received within 60 days of the date of the 60-day notice, the State agency shall determine whether or not the subject claims are past due and legally enforceable, and shall notify individuals in writing of the result of such determinations.

(B) The State agency shall determine whether or not claims are past due and legally enforceable based on a review of its records, and of documentation, evidence or other information the individual may submit.

(C) If the State agency decides that a claim for which a review request is received is past due and legally enforceable, it shall notify the individual that:

(*1*) The claim was determined past due and legally enforceable, and the reason for that determination. Acceptable reasons for such a determination include the individual's failure to provide adequate documentation that the claim is not past due or legally enforceable.

(*2*) The State agency intends to refer the claim for collection from the debtor's Federal income tax refund and/or collection from other payments which may be payable to the debtor by the Federal Government.

(*3*) The individual may ask FNS to review the State agency decision. FNS must receive the request for review within 30 days of the date of the State agency decision. FNS will provide the individual a written response to such a request stating its decision and the reasons for its decision. Pending the FNS decision, the claim will not be referred for collection from the debtor's Federal income tax refund and/or from other payments which may be payable to the debtor by the Federal Government.

(*4*) A request for an FNS review must include the individual's SSN and must be sent to the appropriate FNS regional office. The State agency decision shall provide the address of that regional office, including in that address the phrase "Offset Review."

(D) If the State agency determines that the claim is not past due or legally enforceable, in addition to notifying the individual that the claim will not be referred for offset, the State agency shall take any actions required by food stamp regulations with respect to establishing the claim, including holding appropriate hearings and initiating collection action.

(E) The State agency shall not refer for offset a claim for which a timely State agency review request is received unless the State agency determines the claim past due and legally enforceable, and notifies the individual of that decision as specified in paragraphs (p)(2)(iv)(C)(*1*), (p)(2)(iv)(C)(*2*) and (p)(2)(iv)(C)(*3*) of this section.

(v) *FNS action on appeals of State agency reviews.* (A) FNS shall act on all timely requests for FNS reviews of State agency review decisions as specified in paragraph (p)(2)(iv)(C) of this section. A request for FNS review is timely if it is received by FNS within 30 days of the date of the State agency's review decision.

(B) If a timely request for FNS review is received, FNS shall:

(*1*) Complete a review and notification as specified in paragraphs (p)(2)(v)(C) and (p)(2)(v)(D) of this section, including providing State agencies and

individuals the required notification of its decision; or

(*2*) Notify the State agency that it has not completed its review and that the State agency must delete the claims in question from files to be certified to FNS according to paragraph (p)(2)(vi) of this section. If FNS fails to timely notify the State agency and because of that failure a claim is offset which FNS later finds does not meet the criteria specified in paragraph (p)(2)(i) of this section, FNS will provide funds to the State agency for refunding the charge for the offset fee.

(C) When FNS receives an individual's request to review a State agency decision, FNS shall:

(*1*) Request pertinent documentation from the State agency about the claim. Such documentation shall include such things as printouts of electronic records and/or copies of claim demand letters, results of fair hearings, advance notices of disqualification hearings, the results of such hearings, records of payments, 60-day notices, review requests and documentation, decision letters, and pertinent records of such things as telephone conversations; and

(*2*) Decide whether the State agency correctly determined the claim in question is past due and legally enforceable.

(D) If FNS finds that the State agency correctly determined that the claim is past due and legally enforceable, FNS will notify the State agency and individual of its decision, and the reason(s) for that decision, including notice to the individual that any further appeal must be made through the courts.

(E) If FNS finds that the State agency incorrectly determined that the claim is past due and legally enforceable, FNS will notify the State agency and individual of its decision, and the reason(s) for that decision. FNS will also notify the State agency about any corrective action the State agency must take with respect to the claim and related procedures.

(vi) *Referral of claims for offset.* (A) State agencies shall submit to FNS a certified file of claims for collection through FTROP and administrative offset by the date specified by FNS in schedules which FNS will provide as stated in paragraph (p)(2)(ii) of this section.

(B) At the same time they submit the certified file required in paragraph (p)(2)(vi)(A) of this section, according to instructions which FNS will provide as stated in paragraph (p)(2)(ii) of this section, State agencies shall submit a letter which specifically certifies that:

(*1*) All claims contained in the certified file meet the criteria for claims referable for FTROP as specified in paragraph (p)(2)(i) of this section.

(*2*) For all claims on the certified file individuals have been provided all the opportunities for review and the notifications required in paragraphs (p)(2)(iii), (p)(2)(iv), and (p)(2)(v) of this section.

(*3*) The State agency has not included in the certified file of claims any claim which, as provided in paragraph (p)(2)(v) of this section, FNS notified the State agency is not past due or is not legally enforceable, any claim for which FNS notified the State agency that it has not completed a timely requested review, or any claim for which the State agency has not completed a timely requested review.

(*4*) The State agency's 60-day notice complies with the requirements of paragraph (p)(2)(iii)(B) of this section.

(*5*) How the State agency determined that the State agency contact information required in paragraph (p)(2)(vi)(C) of this section is accurate.

(C) The State agency shall provide to FNS according to FNS instructions, the name, address and toll-free or collect telephone numbers of State agency contacts to be included in IRS notices of offset, and shall provide FNS updates of that information if and when that information changes.

(vii) *Reporting FTROP and administrative offset activities.* As specified in the FCCM manual, State agencies shall:

(A) No later than the ten days after mailing 60-day notices, report the number of 60-day notices mailed and the total dollar value of the claims associated with those notices.

(B) Submit data security and voluntary payment reports.

(3) *Federal salary offset program (FSOP)*—(i) *Identification of recipient claims owed by Federal employees.* FNS will match all recipient claims submitted by State agencies under paragraph (p)(2) of this section against Federal employment records maintained by the Department of Defense and the United States Postal Service. FNS will identify recipient claims matched during this procedure with the list of recipient claims to be referred to the Department of Treasury for collection under paragraph (p)(2) of this section.

(ii) *Security and confidentiality agreements.* When FNS receives a list of Federal employees matched against recipient claims for a particular State agency, it will notify the State agency in writing accompanied by a data security and confidentiality agreement containing the requirements specified in paragraph (p)(3)(iii) of this section for the State agency to sign and return. When that agreement is returned, signed by an appropriate official of the State agency, FNS will provide the list of matched Federal employees to the State agency.

(iii) *Security and confidentiality of information.* State agencies which receive lists of Federal employees who have been identified as owing recipient claims shall take the actions specified in this paragraph (p)(3)(iii) to ensure the security and confidentiality of information about those employees and their apparent debts. In addition, those State agencies shall ensure that any contractors or other non-State agency entities to which the records may be disclosed also take these actions:

(A) By such means as card keys, identification badges and security personnel, limit access to computer facilities handling the data to persons who need to perform official duties related to the salary offset procedures. By means of a security package, limit access to the computer system itself to such persons;

(B) During off-duty hours, keep magnetic tapes and other hard copy records of data in locked cabinets in locked rooms. During on-duty hours, maintain those records under conditions that restrict access to persons who need them in connection with official duties related to salary offset procedures;

(C) Use the data solely for salary offset purposes as specified in this paragraph (p)(3), including not extracting, duplicating or disseminating the data except for salary offset purposes;

(D) Retain the data only as long as needed for FSOP purposes as specified in this paragraph (p)(3), or as otherwise required by FNS;

(E) Destroy the data by shredding, burning or electronic erasure; and

(F) Advise all personnel having access to the data about the confidential nature of the data and their responsibility to abide by the security and confidentiality provisions stated in this paragraph (p)(3)(iii).

(iv) *Record review.* State agencies shall review the claims records of matched Federal employees identified as owing recipient claims to determine the correct amount owed, and to remove from the list of claims any recipient claims which have been paid, which are being paid as specified in paragraph (i)(4) of this section, or which for other reasons are not collectible.

(v) *State agency advance notice of salary offset.* (A) Following the review specified in paragraph (p)(3)(iv) of this section, State agencies shall provide each Federal employee verified as

owing a recipient claim (debtor) with an advance notice of salary offset (advance notice). This advance notice shall be mailed to the debtor at the address provided by FNS, or shall be otherwise provided, within 60 days of State agency receipt of files of salary offset claims. This notice may be combined with the notice referred to under paragraph (p)(2) of this section.

(B) The advance notice shall advise debtors that:

(*1*) State agency records indicate that the debtor's Social Security Number (SSN) is [the number]. The advance notice shall also advise the debtor what the debtor's name is according to State agency records.

(*2*) The debtor is liable for a specified unpaid balance of a recipient claim resulting from overissued food stamp benefits.

(*3*) Unless the debtor pays the claim within 30 days of the date of the notice or makes other repayment arrangements acceptable to the State agency, the State agency intends to refer the claim for collection from the debtor's Federal salary and/or by administrative offset from other Federal payments which may be payable to the debtor.

(*4*) To pay the claim voluntarily or to discuss it, the debtor should contact the State agency. The advance notice shall include the name of the State agency contact for this purpose (such as an office, administrative unit and/or individual), the contact's street address or post office box, and a toll-free or collect telephone number for that contact.

(*5*) Debtors may submit documentation to State agencies showing such things as payments of claims or other circumstances which would prevent collection of claims. A claim is not collectible if a bankruptcy filing prevents collection of the claim. The State agency must receive the documentation within 30 days at the address provided in the notice. The debtor should provide his or her SSN with the documentation. The claim will not be referred for collection pending the State agency's review.

(*6*) The debtor was found to be employed by a Federal agency through a computer match. That match was conducted under the authority of and according to procedures required by the Privacy Act of 1974, as amended (5 U.S.C. 552a)

(*7*) Collection from the wages of Federal employees, including United States Postal Service employees, for debts such as claims for overissued food stamp benefits is authorized by the Debt Collection Act of 1982, as amended (31 U.S.C. 3701). That statute also authorizes collection of such debts by administrative offset from other Federal payments which may be payable to the debtor.

(vi) *State agency notice of review decisions.* The State agency shall notify debtors in writing of the State agency's decision on documentation submitted concerning payments and on other matters relating to the collection of claims under FSOP and administrative offset.

(vii) *Referral of claims to FNS.* (A) Within 90 days of the date of the advance notice, the State agency shall refer to FNS all claims for which the State agency does not receive timely and adequate response as specified in the advance notice. Such referrals shall consist of:

(*1*) For each claim, a copy of the advance notice, a copy of the initial demand letter, a record of payments received and the current balance of the claim; or

(*2*) If not previously provided to FNS, one copy each of the State agency's language for advance notices and demand letters, and for each claim the dates of the advance notice and the original demand letter, the amount of the claim cited in each of those two notices, the type of claim, a record of payments received and the current balance of the claim.

(B) If a debtor fails to make an installment payment within 60 days of the date the payment was due, State agencies shall refer the claim to FNS, reporting the default, and including the documentation specified in paragraph (p)(3)(v)(A) of this section.

(viii) *FNS actions on claims referred by State agencies.* Departmental procedures at 7 CFR 3.51–3.68 shall apply to claims referred by State agencies to FNS as required by paragraph (p)(3)(v) of this section subject to the following modifications:

(A) In addition to the definitions set forth at 7 CFR 3.52, the term "debts" shall further be defined to include recipient claims established according to this section; and the terms "State agency" and "FNS" shall be defined as set forth in § 271.2 of this chapter.

(B) In addition to providing the right to inspect and copy Departmental records as specified at 7 CFR 3.60(a), the Secretary shall provide copies of records relating to the debt in response to timely requests. For a request to be timely, FNS must receive it within 30 calendar days of the date of the notice of intent.

(C) Pursuant to 5 CFR 550.1104(d)(6), an opportunity to establish a written repayment agreement provided at 7 CFR 3.61 shall not be provided.

(D) The notice of intent for FSP salary offset shall comply with the requirements of the Departmental notice of intent which are set forth at 7 CFR 3.55, subject to the following modifications:

(*1*) In addition to the statement that the debtor has the right to inspect and copy Departmental records relating to the debt, the notice of intent shall state that if timely requested by the debtor, the Secretary shall provide the debtor copies of such records. It shall further advise, as required by 7 CFR 3.60(a), that to be timely such requests must be received within 30 days of the date of the notice of intent.

(*2*) The statement of the right to enter a written repayment agreement provided by 7 CFR 3.55(f) shall not be included.

(*3*) The notice of intent shall advise the debtor that, in addition to being subject to collection from the debtor's Federal salary, the recipient claim is subject to collection from other payments due to the debtor from the Federal Government. The notice shall state that such collection is authorized under the Debt Collection Act of 1982, as amended (31 U.S.C. 3701).

(*4*) *Administrative Offset Program (ADOP).* Claims submitted under FTROP and FSOP are also subject to collection through the Administrative Offset Program (ADOP) from other Federal payments otherwise due to debtors.

Dated: May 15, 1998.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 98–13848 Filed 5–27–98; 8:45 am]

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Part III

The President

Executive Order 13085—Establishment of the Enrichment Oversight Committee

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Presidential Documents

Title 3—

The President

Executive Order 13085 of May 26, 1998

Establishment of the Enrichment Oversight Committee

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

Section 1. *Establishment.* There is hereby established an Enrichment Oversight Committee (EOC).

Sec. 2. *Objectives.* The EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 ("HEU Agreement"), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

Sec. 3. *Organization.* (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semi-annually, or more frequently as appropriate. The EOC shall prepare annually the report for the President's transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104–134, title III, 3112(b)(10), 110 Stat. 1321–344, 1321–346 (1996).

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy, and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

Sec. 4. *HEU Agreement Oversight.* The EOC shall form an HEU Agreement Oversight Subcommittee (the "Subcommittee") in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence Community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

Sec. 5. *Foreign Ownership, Control, or Influence (FOCI).* The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 with respect to the USEC and any successor entities (*see* National Industrial Security Program Operating Manual, Department of Defense 2–3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* (1994), and the USEC Privatization Act, Public Law 104–134, title III, 110 Stat. 1321–335 *et seq.* (1996);

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

Sec. 6. *Domestic Enrichment Services.* The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

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(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act, as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provided that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of Directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

Sec. 7. *Coordination with the Nuclear Regulatory Commission.* Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

William J. Clinton

THE WHITE HOUSE,
May 26, 1998.

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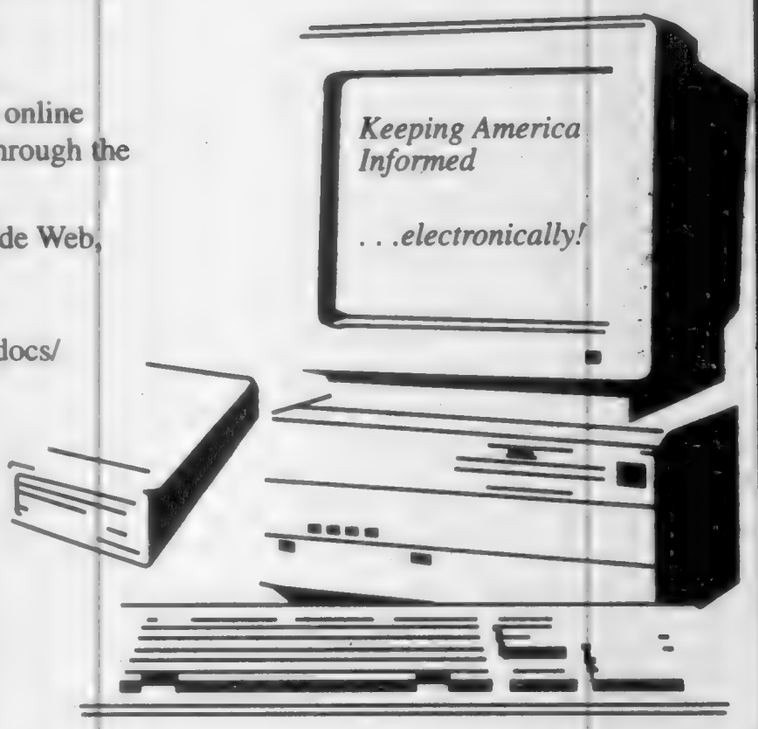
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Rules and Regulations

Federal Register
Vol. 63, No. 103
Friday, May 29, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1962

RIN 0560–AE62

Post Bankruptcy Loan Servicing Notices

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending its regulations regarding servicing accounts when a bankruptcy filing is dismissed. This change will clarify when a Notice of the Availability of Loan Service and Debt Settlement Programs for Delinquent Farm Borrowers will be sent to a borrower who is in or has been dismissed from bankruptcy. The intended effect of this rule is to improve the efficiency of the Agency's servicing of delinquent borrowers who have filed bankruptcy petitions.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Kimberly R. Laris, Senior Loan Officer, Farm Service Agency, U.S. Department of Agriculture, Room 5441–S, 1400 Independence Age., SW, Washington, D.C. 20250–0523; Telephone: 202–720–1659, e-mail: klaris@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

New provisions included in this rule will not have a significant economic impact on a substantial number of small entities. It will not impact small entities to a greater extent than large entities, except to the extent that large entities may not be eligible for loan assistance to begin with, since they would be considered larger than a family-sized farm. Thus large entities may not be borrowers who have filed bankruptcy petitions, and therefore, subject to these rules. To the extent that large entities qualify for Farm Loan Program loan assistance and file bankruptcy petitions, large entities are subject to these rules to the same extent as small entities. Therefore, this rule is determined to be exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The issuing agencies have determined that this action does not significantly affect the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule. Administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Federal Assistance Programs Affected
10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Executive Order 12372

For reasons set forth in the notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), Farm Operating Loans and Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. However, the Soil and Water Loan and Farm Ownership Loan Programs are subject to the provisions of Executive Order 12372. The Agency has conducted the intergovernmental consultation requirements in accordance with RD Instruction 1940–J. (See the Notice related to 7 CFR 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector of $100 million or more in any 1 year. Under section 202 of the UMRA, FSA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 202 of the UMRA generally requires FSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion

These changes involve the Farm Loan Programs (FLP) loans of FSA formerly administered by the Farmers Home Administration (FmHA). The Farmer Programs loans reassignment of this program to FSA was authorized by the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat.3178).

Current FSA direct FLP loan servicing regulations require that a "Notice of the Availability of Loan Service Programs and Debt Settlement Programs for Delinquent Farm Borrowers," be sent to

borrowers if their bankruptcy is dismissed. A delinquent account servicing notice, pursuant to 7 CFR part 1951, subpart S, may be sent in such cases, even if the borrower had already exhausted all servicing rights and the account had been accelerated prior to the bankruptcy filing. Repeating the notice may cause extensive delays in the collection of accounts and substantially wastes the money and time of the Agency by requiring a procedure which has already been completed. To ensure that borrowers who had filed bankruptcy but whose bankruptcy was dismissed would receive the initial notification of loan servicing options required by § 331D of the Consolidated Farm and Rural Development Act, the regulations at 7 CFR 1962.47(d)(2) were rigidly written and construed. However, they were not intended to require renotification if the borrower's servicing rights had been exhausted prior to the bankruptcy filing.

In certain situations, the Agency is limiting the issuance of a new loan servicing summary notice authorized under § 331D of the Consolidated Farm and Rural Development Act (Act). Provided the account has not been accelerated, the attorney for the borrower and the borrower will be notified only of the loan servicing options that remain when the bankruptcy is filed. That notification will also occur upon dismissal of a bankruptcy action without confirmation of a bankruptcy plan, and upon default in a confirmed bankruptcy plan if the bankruptcy has been dismissed or closed and the borrower has not substantially completed the confirmed plan. No additional primary loan servicing action will be given upon discharge under chapter 7 of the Bankruptcy Code.

The Agency's present loan servicing program has been in effect since October 14, 1988, and borrowers have had many opportunities to apply for loan servicing. Section 1816 of the Food, Agriculture, Conservation, and Trade Act of 1990 limited the amount of debt the Agency could forgive to $300,000 per borrower, and limited writedowns and buyouts under § 353 of the Consolidated Farm and Rural Development Act (Con Act) to one per borrower on loans made after January 6, 1988.

Section 648(b) of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) added § 373 to the Con Act in which Congress imposed the further limitation that the Agency may not provide debt forgiveness on a direct loan if the borrower has already received debt forgiveness on another direct loan. Section 640(2) of the 1996 Act added a definition of debt forgiveness as § 343(a)(12) of the Con Act that includes discharging of debt as a result of bankruptcy. Based on these limitations, it is no longer appropriate for the Agency to renotify all borrowers who have previously exhausted loan servicing options and have been unable to correct their delinquency or service their debt. Many of these borrowers will no longer be eligible for additional loan servicing.

A proposed rule was published on July 18, 1996, (61 FR 37405–07) with a comment period ending August 2, 1996. Comments were received from only one party, an organization representing family farmers. Their comments were divided into four parts. First, it was recommended that the rule be clarified by requiring that notices be sent also to the borrower at his or her address to ensure proper notification when a bankrupt borrower is not represented by an attorney. Since this recommendation may help to ensure proper notification, it was adopted.

Second, the commenter felt that the requirement in the proposed rule that to be considered for servicing, a bankrupt borrower and his or her attorney must both request loan servicing in writing was overly burdensome. The Agency agrees with the commenter and has amended the rule accordingly by requiring either the bankrupt borrower or his or her attorney to submit a request for servicing.

Third, the commenter noted that the rule could be interpreted to preclude sending loan servicing notices to a bankrupt borrower who becomes delinquent on an approved plan of reorganization, even if the borrower has performed under the plan, if the borrower has received notices in the past. In response, the paragraph noted by the commenter was amended to require the following: (1) if the borrower has not exhausted servicing rights, the notice explaining FSA's Farm Loan Programs will be sent to a borrower whose bankruptcy is dismissed before one full payment is made under the plan, unless the borrower's account is under the jurisdiction of the bankruptcy court or has been referred to the Department of Justice; and (2) a new loan servicing summary notice will be sent to a borrower who has a plan confirmed by the court if the borrower substantially complies with the bankruptcy plan, but later defaults on the plan, and the bankruptcy is dismissed, provided the lack of compliance is for reasons beyond the borrower's control and the account has not been accelerated.

As was the case under the predecessor rule, in the situation described in item (2) of the preceding paragraph, no new loan servicing summary notices will be sent if the Agency is advised that sending the notices is inconsistent with the provisions of the confirmed bankruptcy plan or the Bankruptcy Code. Also, no notices will be sent if the case is within the jurisdiction of the bankruptcy court or has been referred to the Department of Justice. This exception is provided to correct situations where there are jurisdictional conflicts between those delegated to finally decide the matter. The Agency wished to conform to jurisdictional principles that establish the superior authority of a bankruptcy court and the Department of Justice. Of course, any borrower who has satisfactorily completed the confirmed plan will be treated the same as any other rehabilitated borrower for the purpose of loan servicing.

The Agency believes that these changes to the proposed rule conform to the spirit of the commenter's objections because they provide that most delinquent borrowers, except as explained above, who have substantially complied with their bankruptcy plans will receive an additional opportunity to apply for loan servicing within the parameters provided by Congress. This policy is justified because the obligations of these borrowers to the Agency have been modified by a confirmed bankruptcy plan (for borrowers filing under chapter 11 of the Bankruptcy Code) or by a completed bankruptcy plan (for borrowers filing under chapters 12 and 13 of the Bankruptcy Code), and they have substantially complied with this obligation.

While *Lee* v. *Yuetter*, 917 F.2d 1104 (8th Cir.1990), upheld the Agency's regulation providing that discharged chapter 7 borrowers did not have outstanding obligations to the Agency and were not borrowers for primary loan servicing purposes, this holding is limited to borrowers discharged under chapter 7 of the Bankruptcy Code. See *Lee* v. *Yeutter*, 106 B.R. 588, 592 (D. Minn., 1989), which contrasted borrowers discharged under chapter 7 of the Bankruptcy Code who have no debt to the Agency that could be further restructured with those borrowers who filed under the reorganization chapters of the Bankruptcy Code who have obligations to the Agency under their confirmed bankruptcy plans which are capable of being restructured. Accordingly, the Agency has always considered borrowers discharged under confirmed reorganization bankruptcy

plans to still be "borrowers." While discharged reorganization borrowers who have completed a confirmed plan, like other borrowers who have received previous debt forgiveness from the Agency on another loan, cannot receive additional debt forgiveness, as defined by § 343(a)(12) of the Con Act, they may be eligible for other servicing options provided by FSA regulations.

The commenter also was disturbed by the Agency's removal of internal agency processes from its published regulations and placing these items in a handbook which would be available to the public upon request at no cost. The commenter expressed concerns that the Agency's streamlining efforts may undercut the rulemaking process and substantive requirements upon which public comment should be solicited will be left out of the **Federal Register**. The commenter offered the example of the former Agricultural Stabilization and Conservation Service allegedly maintaining handbook provisions that conflicted with published regulations, and using the handbook instead of regulations to implement substantive provisions. As an alternative, the commenter suggests that the Agency narrowly define the content of the handbook so that it would include only those items which are clearly internal operating procedures.

The commenter's concerns are understandable. However, Agency regulations, as they are currently written, contain an excessive amount of specific internal policy. In accordance with a Governmentwide mandate of the National Performance Review, the Agency must remove internal administrative processes from the regulations. In addition, 5 U.S.C. 551 does not require the publication of internal administrative processes not affecting the general public. Reform of FSA regulations will ultimately obsolete the regulations of the defunct FmHA, reduce the burden associated with making policy changes, improve the readability of regulations and reduce the volume of extraneous published material.

For example, in this rule, the Agency is removing the specific references to Exhibit D (Notice to Borrower's Attorney Regarding Loan Servicing Options) of this subpart, that is sent with the loan servicing notices to explain the interrelationship of the loan servicing programs to the bankruptcy petitions filed under chapters 7, 11, 12, and 13 of the Bankruptcy Code. While the Agency will continue to use this type of specialized notice, there is no statutory requirement that this type of notice be sent. Since these matters involve internal operating procedures, the requirement will be contained in the Agency's handbook only, with the regulations referencing only that a notice will be sent. Similarly, the Agency has removed Exhibit D from this subpart. Since this document is an informational cover letter sent with the notices, the Agency is not required to publish it.

The commenter suggested that the FSA handbooks be available to the general public through the FSA Web Page. Currently, the FSA Web Page is limited to general information on the Agency's programs; however, the Agency does plan to provide FSA handbooks through a Web Page as soon as resources are available. The procedures used by the USDA, Rural Development agencies, which include many procedures of the former FmHA, are available on the World Wide Web at http://www.rdinit.usda.gov/regs/. This includes procedures that are shared by FSA Farm Loan Programs and the Rural Development agencies, including the one affected by this final rule, RD Instruction 1962–A.

Good cause is shown to make this rule immediately effective upon publication in the **Federal Register** and without the 30-day period required by 5 U.S.C. 551. This rule substantially improves the efficiency of the Agency's servicing of delinquent borrowers who have filed bankruptcy petitions by revising the requirement that additional loan servicing notices be sent whenever a bankruptcy is dismissed. Also, the Agency will notify borrowers within the jurisdiction of the bankruptcy court of remaining servicing rights rather than beginning the lengthy servicing process anew whenever a bankruptcy is filed, regardless of whether the account has been previously accelerated or the Agency has previously sent servicing notices. Expediting liquidation when servicing rights have been exhausted serves the public interest. Therefore, good cause is shown to make this final rule effective immediately.

List of Subjects in 7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—agriculture, Rural areas.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1962—PERSONAL PROPERTY

1. The authority citation for part 1962 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Servicing and Liquidation of Chattel Security

2. Section 1962.47 is revised to read as follows:

§ 1962.47 Bankruptcy and insolvency.

(a) *Borrower files bankruptcy.* When the Agency becomes aware that a Farm Loan Programs borrower has filed for protection under Title 11 of the United States Code (bankruptcy), the borrower and the borrower's attorney, if any, will be notified in writing of the borrower's remaining servicing options.

(1) If the borrower wishes to apply for servicing options remaining, the borrower, or the borrower's attorney on behalf of the borrower, must sign and return the appropriate response form, or similar written request for servicing, and any forms or information as requested by the Agency, within 60 days from the date the borrower or the borrower's attorney received the notification, or the time remaining from a previous notification that was suspended when the borrower filed bankruptcy, whichever is greater.

(2) The Agency will consider a request for servicing options to be an acknowledgment that the Agency will not be interfering with any rights or protections under the Bankruptcy Code and its automatic stay provisions.

(3) The Agency's processing of any request for servicing may include consideration of primary and preservation loan servicing options, notification of the Agency's decision on the request or application for servicing, mediation, and holding of any meetings or appeals requested by the borrower.

(4) If court approval is required for the borrower to exercise these servicing rights, it will be the borrower or the borrower's attorney's responsibility to obtain that approval.

(5) If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and 7 CFR part 1951, subpart S, as appropriate.

(6) In chapter 7 cases, the Agency will not provide primary loan servicing to a borrower discharged in bankruptcy unless the borrower reaffirms the entire Agency debt. If the chapter 7 debtor obtains the permission of the court and reaffirms the debt, the loan servicing application will be processed in accordance with 7 CFR part 1951, subpart S. If the borrower reaffirms the Agency debt in order to be considered for restructuring but is later denied

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restructuring, the borrower may revoke the reaffirmation subject to the provisions of the Bankruptcy Code. No reaffirmation is necessary for any discharged chapter 7 borrower to be eligible for preservation loan servicing in accordance with 7 CFR part 1951, subpart S.

(b) *Borrower defaults on plan or bankruptcy is dismissed*—(1) *90 days past due on a reorganization plan while still under court jurisdiction.*

(i) If allowed by the Bankruptcy Code or court, the borrower and the borrower's attorney, if any, will be notified of any remaining servicing options under 7 CFR part 1951, subpart S, that were not exhausted prior to filing bankruptcy or during the bankruptcy proceedings according to paragraph (a) of this section.

(ii) No notices will be sent if the account was previously accelerated, such action is inconsistent with the provisions of the confirmed bankruptcy plan or the Bankruptcy Code, or the case has been referred to the Department of Justice.

(iii) If a borrower operating under a confirmed bankruptcy plan desires to apply for loan servicing and qualifies for servicing under 7 CFR part 1951, subpart S, the borrower must also comply with Bankruptcy Code rules and requirements concerning modification of the plan.

(2) *Bankruptcy is dismissed without a confirmed plan.* If the borrower's bankruptcy is dismissed without a confirmed plan, and the borrower is in default on Farm Loan Programs loans, the borrower's account will be liquidated after all remaining servicing options under 7 CFR part 1951, subpart S are exhausted. The borrower will be notified of any servicing options remaining according to 7 CFR part 1951, subpart S. Notwithstanding the previous sentence, no notices will be sent if the account was previously accelerated, the Agency is advised that such an act is inconsistent with the confirmed bankruptcy plan or the Bankruptcy Code, or the account has been referred to the Department of Justice.

(3) *Bankruptcy is dismissed after a confirmed reorganization plan.* If a bankruptcy is dismissed after a reorganization plan was confirmed, the account will be serviced as follows:

(i) If the borrower has substantially complied with the plan, but later defaults for reasons beyond the borrower's control, (see 7 CFR 1951.909(c)), the borrower will be notified of loan servicing in accordance with 7 CFR 1951.907. No notices will be sent if the account was previously accelerated; such action is inconsistent with the provisions of the confirmed bankruptcy plan or the Bankruptcy Code; or the case has been referred to the Department of Justice.

(ii) If the borrower failed to make one full payment under the plan, or did not comply with the plan for reasons not beyond the borrower's control, the borrower will be serviced according to paragraph (b)(2) of this section.

(c) *Servicing of bankruptcy loans after the case is closed.* In chapter 11, 12, or 13 cases after the case is closed and the discharge order is issued by the court, if the borrower becomes delinquent after performing as agreed under the plan, the borrower will be sent a notice explaining the loan servicing options available under 7 CFR part 1951, subpart S. The borrower's attorney of record will be sent a courtesy copy if the bankruptcy has not been closed for at least 2 years. No notices will be sent if the account has been accelerated, such act is inconsistent with the provisions of a confirmed bankruptcy plan or other provisions of the Bankruptcy Code, or the account has been referred to the Department of Justice.

(d) *Liquidation.* The account will be liquidated after obtaining any necessary relief, if required, from the automatic stay. In chapter 7 cases after discharge, the account can be liquidated if the debt has not been reaffirmed and the property is no longer part of the estate. Liquidation can proceed prior to discharge if allowed by the court.

(1) If the borrower or borrower's attorney was not previously notified of any remaining servicing options available under 7 CFR part 1951, subpart S before or during the course of the bankruptcy proceedings, the borrower and the borrower's attorney will be sent the notices referenced in paragraph (c) of this section prior to liquidating any security property.

(2) If the borrower or the borrower's attorney had been previously notified of loan servicing options remaining, the account will be liquidated.

3. Exhibit D of subpart A is removed and reserved.

Signed in Washington, D.C., on March 21, 1998.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

Signed in Washington, D.C., on April 6, 1998.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 98–14007 Filed 5–28–98; 8:45 am]
BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 98–051–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services for travel from Champlain, NY, to Highgate, VT. Commuted traveltime allowances are the periods of time required for Veterinary Services employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Veterinary Services employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Rakestraw Lothery, Director, Resource Management Support, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737, (301) 734–7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Veterinary Services (VS) on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places

where they perform Sunday, holiday, or other overtime duty.

We are amending 97.2 of the regulations by adding and removing commuted traveltime allowances for travel between locations in New York and Vermont. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 97.2 is amended by removing or adding in the table, in alphabetical order, the following entries to read as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Remove]			
. . . . .	. . . . .		.
New York			
. . . . .	. . . . .		.
Champlain	Highgate, VT	2	
. . . . .	. . . . .		.
[Add]			
. . . . .	. . . . .		.
New York			
Champlain	Highgate Springs, VT		2
. . . . .	. . . . .		.

Done in Washington, DC, this 22nd day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–14259 Filed 5–28–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–102–AD; Amendment 39–10549; AD 98–11–24]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes. This amendment requires revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This amendment is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: July 6, 1998.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2145; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes was published in the **Federal Register** on March 27, 1998 (63 FR 14859). That action proposed to require revising the Limitations Section of the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 148 Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,880, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–11–24 Short Brothers PLC: Amendment 39–10549. Docket 97–NM–102–AD.

Applicability: All Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability caused by the power levers being positioned

below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on July 6, 1998.

Issued in Renton, Washington, on May 22, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14212 Filed 5–28–98; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release Nos. IC–23201; IS–1136; File No. S7–23–95]

RIN 3235–AE98

Custody of Investment Company Assets Outside the United States

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Commission is extending the compliance date for certain amendments to the rule that governs the custody of investment company assets outside the United States.

DATES: The effective date of the rule amendments published on May 16, 1997 (62 FR 26923) remains June 16, 1997. As of May 29, 1998, the compliance date for the rule amendments, except for the amended definition of an "eligible foreign custodian," is extended to February 1, 1999. The compliance date for the amended definition of an eligible foreign custodian remains June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas M. J. Kerwin, Senior Counsel, or C. Hunter Jones, Assistant Director, Office of Regulatory Policy, at (202) 942–0690, in the Division of Investment Management, Mail Stop 5–6, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is extending the compliance date for certain amendments to rule 17f–5 [17 CFR 270.17f–5] under the Investment Company Act of 1940 [15 U.S.C. 80a] that the Commission adopted in 1997 (the "1997 Amendments").[1] The release that adopted the 1997 Amendments (the "1997 Release") provided that the amendments would become effective on June 16, 1997.[2] The 1997 Release further provided that registered management investment companies ("funds") must bring their foreign custody arrangements into compliance with the amended rule by June 16, 1998 (*i.e.*, the fund's board must make the findings required by the amended rule or appoint a delegate to do so by that date).

After the Commission adopted the 1997 Amendments, representatives of mutual funds and ten U.S. bank custodians asked the Commission's Division of Investment Management to clarify whether the 1997 Amendments permit a fund board to delegate authority to a foreign custody manager to select a securities depository that a fund must use if it maintains assets in a particular country (a "compulsory depository"). In a letter dated February 19, 1998, the Division of Investment Management answered that, in its view, under the rule, fund boards can delegate this authority.[3]

In a letter dated March 24, 1998, mutual fund representatives stated that certain requirements of the 1997 Amendments may present unanticipated problems when a foreign custody arrangement involves the selection of a compulsory depository.[4] They asserted that, because most depositories are governmental or quasi-governmental organizations, it may not be possible for funds (or their foreign custody managers) to obtain necessary information to make the findings contemplated by the rule, to negotiate terms or conditions in custody agreements, or to assure U.S. jurisdiction over foreign custodians. The fund representatives stated that they and representatives of custodian banks will soon submit to the Commission proposed revisions to the 1997 Amendments that would address these problems. In the interim, the fund representatives requested that the Commission suspend the compliance date for the 1997 Amendments to facilitate consideration of this submission.

The fund representatives state that a suspension is necessary because many funds have been unable to establish new custodial arrangements under the 1997 Amendments.[5] Fund representatives also state that funds did not become fully aware of potential difficulties in applying the 1997 Amendments to compulsory depositories until recently, when they began to revise their foreign custody arrangements to attempt to comply with the amendments. Because of the difficulties in applying the rule, the fund representatives assert that many funds may not be prepared to comply with the 1997 Amendments as of June 16, 1998. Some fund groups reportedly have considered withdrawing their assets from foreign custodians altogether, despite the burdens of alternative holding arrangements.[6]

The Commission is extending until February 1, 1999, the compliance date for the 1997 Amendments, except for the amended definition of an "eligible foreign custodian," the compliance date for which will remain June 16, 1998.[7]

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[1] *See* Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 22658 (May 12, 1997) [62 FR 26923 (May 16, 1997)].

[2] *Id.*, 62 FR at 26931.

[3] Letter to Dorothy M. Donohue, Associate Counsel, Investment Company Institute, and Daniel L. Goelzer, Baker & McKenzie, from Robert E. Plaze, Associate Director, Division of Investment Management (Feb. 19, 1998) (the 1997 Amendments do not exclude compulsory depositories from rule 17f–5's selection process, and do not preclude fund boards from delegating to a foreign custody manager the selection of a compulsory depository).

[4] *See* Letter to Barry P. Barbash, Director, Division of Investment Management, from Dorothy M. Donohue, Associate Counsel, Investment Company Institute (Mar. 24, 1998) (placed in File No. S7–23–95).

[5] *Id.*

[6] *See* Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 21259 (July 27, 1995) [60 FR 39592 (Aug. 2, 1995)] at n.3 (a fund may incur significant costs in maintaining securities outside the primary market for the securities).

[7] *See* rule 17f–5(a)(1) [17 CFR 270.17f–5(a)(1)]. This provision of the amended rule generally expands the class of eligible foreign custodians that may hold custody of fund assets. The amended definition of eligible foreign custodian also includes the definitions of "qualified foreign bank" and

Continued

The extension of the compliance date for the other amendments will give the Commission time to review the proposal to be submitted by representatives of funds and banks, and to evaluate whether refinements to the 1997 Amendments are needed.[8]

Until February 1, 1999, a fund may maintain its foreign custody arrangements under either of two regulatory frameworks. First, the fund may continue to comply with rule 17f–5 as it existed prior to the 1997 Amendments ("old rule 17f–5"). Because the compliance date for the amended definition of eligible foreign custodian will remain June 16, 1998, a fund may comply with old rule 17f–5 while also selecting a custodian that is an eligible foreign custodian under the amended definition. Second, in the alternative, a fund may comply entirely with rule 17f–5 as amended by the 1997 Amendments (the "amended rule").

The fund may apply either of these alternative frameworks separately to each foreign custodian it uses. The fund's arrangement with a particular foreign custodian or subcustodian, however, should comply in its entirety either with old rule 17f–5 (subject to the amended definition of eligible foreign custodian), or with the amended rule.[9]

The Commission for good cause finds that, based on the reasons cited above, notice and solicitation of comment regarding the extension of the compliance date for certain of the 1997 Amendments is impracticable, unnecessary, and contrary to the public interest.[10] The Commission notes that the original compliance date is imminent, that many funds reportedly are not in a position to comply with the 1997 Amendments, that funds need prompt guidance concerning the regulatory requirements that will apply to their foreign custody arrangements, and that a limited extension will aid funds, bank custodians, and the Commission in considering whether additional amendments are necessary. Fund representatives have stated that, without a suspension of the compliance date, some funds may withdraw assets from foreign custodians, which could increase costs for investors or otherwise harm investors.[11] The Commission also notes that the 1997 Amendments were themselves submitted for public notice and comment, and that any amendments that may be considered in the future will be submitted for notice and comment.[12]

In analyzing the costs and benefits of this action, the Commission believes that the extension of the compliance date for certain of the 1997 Amendments will not impose costs on funds, but will enable funds to avoid the costs of attempting to comply with provisions of the rule that they assert may be unworkable for some funds. The Commission believes that the extension will produce potential benefits for funds by allowing funds the option to comply with the amended rule or the old rule, and by permitting funds and bank custodians to present a proposal to refine the 1997 Amendments.

Dated: May 21, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14187 Filed 5–28–98; 8:45 am]

BILLING CODE 8010–01–P

"U.S. bank," which also will remain subject to the June 16, 1998 compliance date. *See* rule 17f–5(a)(4) and (7) [17 CFR 270.17f–5(a)(4) and (7)]. Retaining the original compliance date for this definition will enable funds to rely upon a provision of the 1997 Amendments that appears not to have presented difficulties, and avoid the necessity of seeking exemptive relief from the Commission to permit the use of a custodian that would qualify as an eligible foreign custodian under the amended definition.

[8] The extension of the compliance date is effective upon publication of this release in the **Federal Register** because the extension "grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1).

[9] A fund may not seek to comply with the rule by meeting certain requirements of the old rule and certain requirements of the amended rule (other than the amended definition of eligible foreign custodian).

[10] *See* section 553(b)(3)(B) of the Administrative Procedure Act [5 U.S.C. 553(b)(3)(B)] (an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are "impracticable, unnecessary, or contrary to the public interest").

[11] *See supra* note .

[12] The extension generally preserves the status quo that has existed since the adoption of the 1997 Amendments. Funds have been permitted to comply with either the old rule or the amended rule since June 16, 1997, the effective date of the 1997 Amendments. Retaining the original compliance date for the amended definition of eligible foreign custodian will allow funds to rely on a provision of the amended rule that appears not to have presented difficulties.

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 205

Revision of Public Notice, Freedom of Information Act, Initiation of Investigation, and Privacy Act Regulations, and Implementation of Electronic Freedom of Information Act Amendments of 1996, and Technical Corrections to Rules Concerning Probable Economic Effect Investigations

AGENCY: International Trade Commission.

ACTION: Final rulemaking.

SUMMARY: The United States International Trade Commission (Commission) is amending its rules of practice and procedure to make certain changes to rules relating to public notices, availability of information under the Freedom of Information Act (FOIA), initiation of investigations, and safeguarding of individual privacy under the Privacy Act of 1974 (Privacy Act). The intended effect of the changes is to implement the Electronic Freedom of Information Act Amendments of 1996 and otherwise to bring the rules into conformity with current Commission practices and procedures, and with current costs of providing services.

DATES: The final rules will become effective June 29, 1998.

FOR FURTHER INFORMATION CONTACT: William W. Gearhart, telephone 202–205–3091. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

The Commission published a notice of proposed rulemaking at 62 FR 61252 (November 17, 1997), proposing to amend the Commission's Rules of Practice and Procedure to make certain changes to rules relating to public notices, availability of information under the Freedom of Information Act (FOIA), and safeguarding of individual privacy under the Privacy Act of 1974 (Privacy Act). The Commission requested public comment on the proposed rules, but no comments were received. Accordingly, the Commission

has determined to adopt, as final rules, without change, the proposed FOIA and Privacy Act rules, which are republished below. The Commission made additional minor editorial changes to the proposed rule relating to public notices, which is republished below. In addition, the Commission identified several references in section 201.7 and in part 205 of the rules that refer to the United States Trade Representative by the former name of that office, Special Representative for Trade Negotiations; the Commission has made the appropriate nomenclature change in these rules.

The Commission believes that, as a general matter, the analysis of the rules in the notice of proposed rulemaking should be sufficient to explain why and how the rules are being amended. The Commission believes that a comment on one aspect of the FOIA rules would be useful to avoid confusion. Revised section 201.17(a)(3) provides that normally "requests will be processed in the order in which they are filed." The phrase "will be processed" refers to the start of processing, not necessarily to every phase of the processing. Thus, on occasion, a later-filed request will be simpler to answer than an earlier-filed request, and the Secretary will issue a response to the later request before she can finish processing the earlier one. The Secretary will make every effort to respond to each request in a timely manner.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the rules set forth in this notice will not significantly affect any business or other entities, and thus are not likely to have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Commission has determined that the rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993) (EO) and thus do not constitute a significant regulatory action for purposes of the EO, since the revisions will not result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Unfunded Mandates Reform Act of 1995

The rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

Small Business Regulatory Enforcement Fairness Act of 1996

The rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (P.L. 104–121). The rules will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Contract With America Advancement Act of 1996

The rules are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (P.L. 104–121) because they concern rules "of agency organization, procedure, or practice" that do not substantially affect the rights or obligations of non-agency parties. See Contract With America Advancement Act, section 804(3)(c).

Paperwork Reduction Act

The rules are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501), since they do not contain any new information collection requirements.

List of Subjects in 19 CFR Parts 201 and 205

Administrative practice and procedure, Freedom of information, Investigations, Privacy.

For the reasons set out in the preamble, the Commission is amending 19 CFR part 201 as follows:

PART 201—RULES OF GENERAL APPLICATION

1. The authority citation for part 201 continues to read as follows:

Authority: Sec. 335 of The Tariff Act of 1930 (19 U.S.C. 1335), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. Section 201.10 is revised to read as follows:

§ 201.10 Public notices.

As appropriate, notice of the receipt of documents properly filed, of the institution of investigations, of public hearings, and of other formal actions of the Commission will be given by publication in the **Federal Register**. In addition to such publication, a copy of each notice will be posted at the Office of the Secretary to the Commission in Washington, D.C., and, as appropriate, copies will be sent to press associations, trade and similar organizations of producers and importers, and others known to have an interest in the subject matter.

3. Section 201.17 is revised to read as follows:

§ 201.17 Procedures for requesting access to records.

(a) *Requests for records.* (1) A request for any information or record shall be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 and shall indicate clearly both on the envelope and in the letter that it is a "Freedom of Information Act Request."

(2) Any request shall reasonably describe the requested record to facilitate location of the record. If the request pertains to a record that is part of the Commission's file in an investigation, the request should identify the investigation by number and name. A clear description of the requested record(s) should reduce the time required by the Commission to locate and disclose releasable responsive record(s) and minimize any applicable search and copying charges.

(3) Except as provided in paragraph (b) of this section, requests will be processed in the order in which they are filed.

(4) Requests for transcripts of hearings should be addressed to the official hearing reporter, the name and address of which can be obtained from the Secretary. A copy of such request shall at the same time be forwarded to the Secretary.

(5) Copies of public Commission reports and other publications can be requested by calling or writing the Publications Office in the Office of the Secretary. Generally, such publications can be obtained more quickly from this office. Certain Commission publications are sold by the Superintendent of Documents, U.S. Government Printing

Office, and are available from that agency at the price set by that agency.

(6) A day-to-day, composite record will be kept by the Secretary of each request with the disposition thereof.

(b) *Expedited processing.* (1) Requests for records under paragraph (a)(1) of this section will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within paragraph (b)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within paragraph (b)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of receipt of a request for expedited processing, the Secretary will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(c) *Public reading room.* The Commission maintains a public reading room in the Office of the Secretary for access to the records that the FOIA requires to be made regularly available for public inspection and copying. Reading room records created by the Commission on or after November 1, 1996, are available electronically. This includes a current subject-matter index of reading room records, which will indicate which records are available electronically.

4. Paragraphs (b) and (c) of § 201.18 are revised to read as follows:

§ 201.18 Denial of requests, appeals from denial.

* * * * *

(b) An appeal from a denial of a request must be received within sixty days of the date of the letter of denial and shall be made to the Commission and addressed to the Chairman, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. Any such appeal shall be in writing, and shall clearly indicate both on the envelope and in the letter that it is a "Freedom of Information Act Appeal."

(c) Except when expedited treatment is requested and granted, appeals will be decided in the order in which they are filed, but in any case within twenty days (excepting Saturdays, Sundays, and legal holidays) unless an extension, noticed in writing with the reasons therefor, has been provided to the person making the request. Notice of the decision on appeal and the reasons therefor will be made promptly after a decision. Requests for expedited treatment should conform with the requirements in § 201.17(c) of this part.

5. Paragraphs (b)(1) (ii) and (iii) and (b)(3)(i) of § 201.20 are revised to read as follows:

§ 201.20 Fees.

* * * * *

(b) *Charges.* * * *

(1) *Search.* * * *

(ii) For each quarter hour spent by agency personnel in salary grades GS–2 through GS–10 in searching for and retrieving a requested record, the fee shall be $4.00. When the time of agency personnel in salary grades GS–11 and above is required, the fee shall be $6.50 for each quarter hour of search and retrieval time spent by such personnel.

(iii) For computer searches of records, which may be undertaken through the use of existing programming, requester shall be charged the actual direct costs of conducting the search, although certain requesters (as defined in paragraph (c)(2) of this section) shall be entitled to the cost equivalent of two hours of manual search time without charge. These direct costs shall include the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the costs of operator/programmer salary apportionable to the search (at no more than $6.50 per quarter hour of time so spent).

* * * * *

(3) *Review.* (i) Review fees shall be assessed with respect to only those requesters who seek records for a commercial use, as defined in paragraph (j)(5) of this section. For each quarter hour spent by agency personnel in reviewing a requested record for possible disclosure, the fee shall be $6.50.

* * * * *

6. The authority citation for subpart D of part 201 continues to read as follows:

Authority: 5 U.S.C. 552a.

7. Subpart D of part 201 is revised to read as follows:

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

Sec.

201.22 Purpose and scope.
201.23 Definitions.
201.24 Procedures for requests pertaining to individual records in a records system.
201.25 Times, places, and requirements for identification of individuals making requests.
201.26 Disclosure of requested information to individuals.
201.27 Special procedures: Medical records.
201.28 Requests for correction or amendment of records.
201.29 Commission disclosure of individual records, accounting of record disclosures, and requests for accounting of record disclosures.
201.30 Commission review of requests for access to records, for correction or amendment to records, and for accounting of record disclosures.
201.31 Fees.
201.32 Specific exemptions.
201.33 Employee conduct.

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

§ 201.22 Purpose and scope.

This subpart contains the rules that the Commission follows under the Privacy Act of 1974, 5 U.S.C. 552a. The rules in this subpart apply to all records in systems of records maintained by the Commission that are retrieved by an individual's name or other personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Commission.

§ 201.23 Definitions.

For the purpose of these regulations:

(a) The term individual means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term maintain includes maintain, collect, use, or disseminate;

(c) The term record means any item, collection, or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual;

(d) The term system of records means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual;

(e) The term Privacy Act Officer refers to the Director, Office of Administration, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, or his or her designee.

§ 201.24 Procedures for requests pertaining to individual records in a records system.

(a) A request by an individual to gain access to his or her record(s) or to any information pertaining to him or her which is contained in a system of records maintained by the Commission shall be addressed to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, and shall indicate clearly both on the envelope and in the letter that it is a Privacy Act request.

(b) In order to facilitate location of requested records, whenever possible, the request of the individual shall name the system(s) of records maintained by the Commission which he or she believes contain records pertaining to him or her, shall reasonably describe the requested records, and identify the time period in which the records were compiled.

(c) The Privacy Act Officer shall acknowledge receipt of a request within ten days (excluding Saturdays, Sundays, and legal public holidays), and wherever practicable, indicate whether or not access can be granted. If access is not to be granted, the requestor shall be notified of the reason in writing.

(d) The Privacy Act Officer, or, the Inspector General, if such records are maintained by the Inspector General, shall ascertain whether the systems of records maintained by the Commission contain records pertaining to the individual, and whether access will be granted. Thereupon the Privacy Act Officer shall:

(1) Notify the individual whether or not the requested record is contained in any system of records maintained by the Commission; and

(2) Notify the individual of the procedures as prescribed in Secs. 201.25 and 201.26 of this part by which the individual may gain access to those records maintained by the Commission which pertain to him or her. Access to the records will be provided within 30 days (excluding Saturdays, Sundays, and legal public holidays).

§ 201.25 Times, places, and requirements for identification of individuals making requests.

(a) If an individual wishes to examine his or her records in person, it shall be the responsibility of the individual requester to arrange an appointment with the Privacy Act Officer for the purpose of inspecting individual records. The time of inspection shall be during the regular office hours of the Commission, 8:45 a.m. to 5:15 p.m., Monday through Friday. The time arranged should be mutually convenient to the requester and to the Commission.

(b) The place where an individual may gain access to records maintained by the Commission which pertain to him or her shall be at the United States International Trade Commission Building, 500 E Street SW., Washington, DC 20436. The Privacy Act Officer shall inform the individual requester of the specific room wherein inspection will take place.

(c) An individual may also request the Privacy Act Officer to provide the individual with a copy of his or her records by certified mail.

(d) An individual who requests to gain access to those records maintained by the Commission which pertain to him or her shall not be granted access to those records without first presenting adequate identification to the Privacy Act Officer. Adequate identification may include, but is not limited to, a government identification card, a driver's license, Medicare card, a birth certificate, or a passport. If requesting records by mail, an individual must provide full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under 28 U.S.C. 1746, which permits statements to be made under penalty of perjury as a substitute for notarization. In order to help the identification and location of requested records, a requestor may also, at his or her option, include the individual's social security number.

§ 201.26 Disclosure of requested information to individuals.

(a) Once the Privacy Act Officer has made a determination to grant a request for access to individual records, in whole or in part, the Privacy Act Officer shall inform the requesting individual in writing and permit the individual to review the pertinent records and to have a copy made of all or any portion of them. Where redactions due to exemptions pursuant to § 201.32 would render such records or portions thereof incomprehensible, the Privacy Act Officer shall furnish an abstract in addition to an actual copy.

(b) An individual has the right to have a person of his or her own choosing accompany him or her to review his or her records. The Privacy Act Officer shall permit a person of the individual requester's choosing to accompany the individual during inspection.

(c) When the individual requests the Privacy Act Officer to permit a person of the individual's choosing to accompany him or her during the inspection of his or her records, the Privacy Act Officer shall require the individual requester to furnish a written statement authorizing discussion of the records in the accompanying person's presence.

(d) The Privacy Act Officer shall take all necessary steps to insure that individual privacy is protected while the individual requester is inspecting his or her records or while those records are being discussed. Only the Privacy Act Officer shall accompany the individual as representative of the Commission during the inspection of the individual's records. The Privacy Act Officer shall be authorized to discuss the pertinent records with the individual.

§ 201.27 Special procedures: Medical records.

(a) While an individual has an unqualified right of access to the records in systems of records maintained by the Commission which pertain to him or her, medical and psychological records merit special treatment because of the possibility that disclosure will have an adverse physical or psychological effect upon the requesting individual. Accordingly, in those instances where an individual is requesting the medical and/or psychological records which pertain to him or her, he or she shall, in his or her Privacy Act request to the Privacy Act Officer as called for in § 201.24(a) of this part, specify a

physician to whom the medical and/or psychological records may be released.

(b) It shall be the responsibility of the individual requesting medical or psychological records to specify a physician to whom the requested records may be released. If an individual refuses to name a physician and insists on inspecting his or her medical or psychological records in the absence of a doctor's discussion and advice, the individual shall so state in his or her Privacy Act request to the Privacy Act Officer as called for in § 201.24(a) of this part and the Privacy Act Officer shall provide access to or transmit such records directly to the individual.

§ 201.28 Requests for correction or amendment of records.

(a) If, upon viewing his or her records, an individual disagrees with a portion thereof or feels sections thereof to be erroneous, the individual may request amendment[s] of the records pertaining to him or her. The individual should request such an amendment in writing and should identify each particular record in question, the system[s] of records wherein the records are located, specify the amendment requested, and specify the reasons why the records are not correct, relevant timely or complete. The individual may submit any documentation that would be helpful. The request for amendment of records shall be addressed to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act request for amendment of records.

(b) Not later than 10 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of a Privacy Act request for amendment of records, the Privacy Act Officer shall acknowledge such receipt in writing. Such a request for amendment will be granted or denied by the Privacy Act Officer or, for records maintained by the Inspector General. If the request is granted, the Privacy Act Officer, or the Inspector General for records maintained by the Inspector General, shall promptly make any correction of any portion of the record which the individual believes is not accurate, relevant, timely, or complete. If, however, the request is denied, the Privacy Act Officer shall inform the individual of the refusal to amend the record in accordance with the individual's request and give the reason(s) for the refusal. In cases where the Privacy Act Officer or the Inspector General has refused to amend in accordance with an individual's request, he or she also shall advise the individual of the procedures under § 201.30 of this part for the individual to request a review of that refusal by the full Commission or by an officer designated by the Commission.

§ 201.29 Commission disclosure of individual records, accounting of record disclosures, and requests for accounting of record disclosures.

(a) It is the policy of the Commission not to disclose, except as permitted under 5 U.S.C. 552a(b), any record which is contained in any system of records maintained by the Commission to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

(b) Except for disclosures either to officers and employees of the Commission, or to contractor employees who, in the Inspector General's or the Privacy Act Officer's judgment, as appropriate, are acting as federal employees, who have a need for the record in the performance of their duties, and any disclosure required by 5 U.S.C. 552, the Privacy Act Officer shall keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency under paragraph (a) of this section; and

(2) The name or address of the person or agency to whom the disclosure is made.

(c) The Privacy Act Officer shall retain the accounting required by paragraph (b) of this section for at least five years or the life of the record, whichever is longer, after such disclosure.

(d) Except for disclosures made to other agencies for civil or criminal law enforcement purposes pursuant to 5 U.S.C. 552a(b)(7), the Privacy Act Officer shall make any accounting made under paragraph (b) of this section available to the individual named in the record at the individual's request.

(e) An individual requesting an accounting of disclosure of his or her records should make the request in writing to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The request should identify each particular record in question and, whenever possible, the system[s] of records wherein the requested records are located, and clearly indicate both on the envelope and in the letter that it is a Privacy Act request for an accounting of disclosure of records.

(f) Where the Commission has provided any person or other agency with an individual record and such accounting as required by paragraph (b) of this section has been made, the Privacy Act Officer shall inform all such persons or other agencies of any correction, amendment, or notation of dispute concerning said record.

§ 201.30 Commission review of requests for access to records, for correction or amendment to records, and for accounting of record disclosures.

(a) The individual who disagrees with the refusal of the Privacy Act Officer or the Inspector General for access to a record, to amend a record, or to obtain an accounting of any record disclosure, may request a review of such refusal by the Commission within 60 days of receipt of the denial of his or her request. A request for review of such a refusal should be addressed to the Chairman, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act review request.

(b) Not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the Commission receives a request for review of the Privacy Act Officer's or the Inspector General's refusal to grant access to a record, to amend a record, or to provide an accounting of a record disclosure, the Commission shall complete such a review and make a final determination thereof unless, for good cause shown, the Commission extends the 30-day period.

(c) After the individual's request has been reviewed by the Commission, if the Commission agrees with the Privacy Act Officer's or the Inspector General's refusal to grant access to a record, to amend a record, or to provide an accounting of a record disclosure, in accordance with the individual's request, the Commission shall:

(1) Notify the individual in writing of the Commission's decision;

(2) For requests to amend or correct records, advise the individual that he or she has the right to file a concise statement of disagreement with the Commission which sets forth his or her reasons for disagreement with the refusal of the Commission to grant the individual's request; and

(3) Notify the individual of his or her legal right, if any, to judicial review of the Commission's final determination.

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement regarding an amendment of an

individual's record, the Privacy Act Officer, or, for records maintained by the Inspector General, the Inspector General, shall clearly note any portion of the record which is disputed and shall provide copies of the statement and, if the Commission deems it appropriate, copies of a concise statement of the reasons of the Commission for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

§ 201.31 Fees.

(a) The Commission shall not charge any fee for the cost of searching for and reviewing an individual's records.

(b) Reproduction, duplication or copying of records by the Commission shall be at the rate of $0.10 per page. There shall be no charge, however, when the total amount does not exceed $25.00.

§ 201.32 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k)(2), and in order to protect the effectiveness of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records contained in the system titled Office of Inspector General Investigative Files (General), insofar as they include investigatory material compiled for law enforcement purposes, shall be exempt from this subpart and from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the Privacy Act. However, if any individual is denied any right, privilege, or benefit to which he is otherwise entitled to under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to government investigators under an express promise that the identity of the source would be held in confidence.

(b) Pursuant to 5 U.S.C. 552a(j)(2), and in order to protect the confidentiality and integrity of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records maintained in the Office of Inspector General Investigative Files (Criminal), insofar as they contain information pertaining to the enforcement of criminal laws, shall be exempt from this subpart and from the Privacy Act, except that subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i) shall still apply to these records.

(c) Pursuant to 5 U.S.C. 552a(k)(1), (5) and (6), records contained in the system entitled "Personnel Security Investigative Files" have been exempted from subsections (c)(3), (d), (e)(1), (e)(1)(G) through (I) and (f) of the Privacy Act. Pursuant to section 552a(k)(1) of the Privacy Act, the Commission exempts records that contain properly classified information that pertains to national defense or foreign policy and is obtained from other systems of records or another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d). All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is also exempted because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment, Federal contracts or access to classified information. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should an individual request access to the accounting of disclosure, or access to or amendment of the record, that would reveal the identity of a confidential source. All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is also exempt because portions of a case file record may relate to testing and examining material used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

§ 201.33 Employee conduct.

The Privacy Act Officer shall establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and periodically instruct each such person with respect to such rules and the requirements of the Privacy Act including the penalties for noncompliance.

PARTS 201 AND 205—[AMENDED]

8. In addition to the amendments set forth above, in 19 CFR parts 201 and 205 remove the words "Special Representative for Trade Negotiations" and add, in their place, the words "United States Trade Representative" in the following places:

a. Section 201.7(b); and

b. Section 205.3(a)(1), (a)(2), (b) and (d).

By order of the Commission.

Issued: May 22, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–14140 Filed 5–28–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Milbemycin Oxime Tablet

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Novartis Animal Health US, Inc. The supplemental NADA provides for expanding the indications to include separate dosage and labeling for use of milbemycin oxime in cats.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Novartis Animal Health US, Inc., P.O. Box 26402, Greensboro, NC 27404–6402, filed supplemental NADA 140–915 that provides for oral administration of Interceptor® Flavor Tabs® (milbemycin oxime) tablets to cats 6 weeks of age or greater and 1.5 pounds of body weight or greater. The product is currently approved for the prevention of heartworm disease in both dogs and puppies 4 weeks of age or greater. The supplemental NADA provides for expanding the indications to include separate dosage and labeling for use of

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the product in cats 6 weeks of age or greater and 1.5 pounds of body weight or greater. This supplemental NADA approval provides for 5.75, 11.5, and 23.0 milligram tablets, given orally, once a month, for the prevention of heartworm disease caused by *Dirofilaria immitis* and the removal of adult *Toxocara cati* (roundworm) and *Ancylostoma tubaeforme* (hookworm) infections in cats 6 weeks of age or greater and 1.5 pounds body weight or greater. The supplemental NADA is approved as of April 13, 1998, and the regulations are amended in 21 CFR 520.1445 by revising paragraph (a) and the heading of paragraph (c) and by adding paragraph (d) to reflect the approval for cats. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning April 13, 1998, because the application contains substantial evidence of effectiveness of the drug involved and studies of animal safety required for approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1445 is amended by revising paragraph (a) and the heading of paragraph (c) and by adding paragraph (d) to read as follows:

§ 520.1445 Milbemycin oxime tablets.

(a) *Specifications*—(1) *Dogs.* Each tablet contains 2.3, 5.75, 11.5, or 23.0 milligrams of milbemycin oxime.

(2) *Cats.* Each tablet contains 5.75, 11.5, or 23.0 milligrams of milbemycin oxime.

* * * * *

(c) *Conditions of use in dogs.* * * *

(d) *Conditions of use in cats*—(1) *Amount.* 0.91 milligram per pound of body weight (2.0 milligrams per kilogram).

(2) *Indications for use.* For prevention of heartworm disease caused by *Dirofilaria immitis* and the removal of adult *Toxocara cati* (roundworm) and *Ancylostoma tubaeforme* (hookworm) infections in cats 6 weeks of age or greater and 1.5 pounds body weight or greater.

(3) *Limitations.* Do not use in kittens less than 6 weeks of age or 1.5 pounds body weight. Administer once a month. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: May 11, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–14182 Filed 5–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Guaifenesin Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for intravenous use of guaifenesin injection in horses as a skeletal muscle relaxant.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center For Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–230 that provides for intravenous use of guaifenesin injection in horses as a skeletal muscle relaxant.

Approval of Phoenix Scientific, Inc.'s, ANADA 200–230 for guaifenesin injection is as a generic copy of Summit Hill Laboratories' NADA 48–854 for Gecolate (guaifenesin) Injection. The ANADA is approved as of April 8, 1998, and the regulations are amended in 21 CFR 522.1086(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, paragraph (c) is redesignated as paragraph (d) and paragraph (c) is reserved.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1086 [Amended]

2. Section 522.1086 *Guaifenesin injection* is amended in paragraph (b) by removing "No. 037990" and adding in its place "Nos. 037990 and 059130", by redesignating paragraph (c) as paragraph (d), and by reserving paragraph (c).

Dated: May 12, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–14183 Filed 5–28–98; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022, 4041, 4050

RIN: 1212–AA87

PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulation governing recoupment of benefit overpayments in trusteed plans to stop the reduction of monthly benefits under its actuarial recoupment method once the amount of the benefit overpayment is repaid. The amendment also makes other related changes.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: On December 18, 1997, the PBGC published a proposed rule in the **Federal Register** (62 FR 66319) amending its benefit payments regulation to provide that recoupment will cease when the amount of the overpayment is repaid. The amendment also gives the PBGC flexibility to waive recoupment of *de minimis* amounts and to accept repayment ahead of the recoupment schedule, and modifies the rules governing calculation of net overpayments and underpayments.

The PBGC received comments on the proposed rule from two commenters: the American Association of Retired Persons ("AARP") and the Association of Former Pan Am Employees, Inc. ("AFPAE"). AARP supported the proposed regulation and commended the PBGC for its action. AFPAE, which also commended the PBGC for proposing changes, recommended a number of revisions.

The final regulation follows the proposed regulation with the following modifications:

- As requested by AFPAE, the final rule clarifies that in determining whether the net overpayment has been fully repaid, interest on the net overpayment is disregarded.
- In response to an inquiry in a pending case in which participants received both underpayments and overpayments, the final regulation provides that the PBGC will always pay interest on underpayments to the extent they exceed overpayments. In addition, for months beginning after May 29, 1998, the PBGC will pay interest at the applicable federal mid-term rate. For earlier months, the PBGC will continue to pay interest using the immediate annuity rate established for lump sum valuations.
- Consistent with an AFPAE suggestion, the final regulation provides that the PBGC generally will not seek recovery from the estate of a participant who dies post-termination. (The existing regulation precludes recovery from the estate only for a participant who dies after the PBGC initiates recoupment.)
- For administrative convenience, the final regulation provides that the PBGC will not collect any final partial monthly installment.
- AFPAE expressed concerns about the provision allowing repayment ahead of the recoupment schedule, arguing that, because the PBGC charges no interest under the recoupment schedule, early repayment will never be advantageous to the participant. The PBGC will discontinue its current practice of routinely offering a lump sum repayment option as part of its recoupment notice. However, the PBGC will retain the early repayment option for those participants who, for whatever reason, want to eliminate debt. As suggested by AFPAE, the PBGC intends to explain to those participants who ask about the early repayment option that there may be financial disadvantages to early repayment.

The PBGC has carefully considered AFPAE's other comments and has decided not to adopt them.

- AFPAE suggested that the PBGC not seek recoupment from a surviving beneficiary unless recoupment has been initiated before the participant's death. AFPAE offered no reason why the PBGC's recoupment rules should distinguish in this manner between a survivorship benefit and the underlying benefit from which the survivorship benefit derives. The regulation minimizes hardship in the case of recoupment from a survivorship benefit because the monthly recoupment amount is reduced in proportion to any other applicable reduction in the deceased participant's benefit (*e.g.*, a 50% reduction under a joint and survivor annuity) and is generally capped at 10% of the survivorship payment.
- AFPAE suggested that the PBGC eliminate its discretion to recover overpayments by methods other than recoupment. The regulation provides that the PBGC will normally exercise its discretion only where net benefits paid exceed plan entitlements (*e.g.*, where a participant entitled to $1,200 per month as the full plan benefit and $1,000 per month under Title IV has received clearly erroneous payments of $5,000 per month). Any further limitation on the PBGC's discretion could result in unacceptably large losses in particular cases.
- AFPAE suggested that recoupment be permitted only if (1) the participant is notified of the possibility of recoupment no later than 30 days after the PBGC makes a final decision to seek an involuntary termination, and (2) recoupment begins no more than one year after the termination date. This suggestion is impracticable. The PBGC often encounters significant delays in obtaining the participant information needed to provide notice and the benefit and asset information needed to complete the complex and time-consuming process of determining final benefit entitlements. The PBGC will continue to provide notice to participants, and to initiate recoupments, as soon as possible.
- In response to the provision in the proposed rule giving the PBGC discretion to waive *de minimis* amounts, AFPAE suggested that the regulation specify a dollar threshold under which recoupment is automatically waived. The PBGC has decided to retain the discretion provided in the proposed rule in order to allow maximum flexibility. After gaining experience under the *de minimis* waiver provision, the PBGC may decide to specify a fixed dollar threshold in the regulation.
- AFPAE suggested broadening the scope of the recoupment and reimbursement regulation to cover underpayments made before the plan termination date. The Title IV single-employer insurance program does not cover pre-termination underpayments. These underpayments represent a claim on plan assets that are satisfied before those assets are used to satisfy Title IV benefits under the allocation rules of ERISA section 4044 and 29 CFR Part 4044. Thus, to the extent assets are available, pre-termination underpayments are fully reimbursed.

AFPAE made several other comments suggesting revisions to the benefit

determination and appeals process. These comments are beyond the scope of this rulemaking proceeding.

Applicability of New Rules

The new rules will apply to all initial determinations that become effective on or after May 29, 1998. For earlier initial determinations, if a participant (or beneficiary) is subject to recoupment under the actuarial reduction method, the new rules will apply except that the PBGC will not redetermine the amount of the net overpayment or the amount of the monthly reduction. Thus, for these cases, the PBGC will stop recoupment once the amount of the net overpayment (as previously determined) is repaid. If the amount of that net overpayment has been fully repaid prior to May 29, 1998, the PBGC will stop recoupment effective as of May 29, 1998.

Example 1. Ms. X is entitled to a monthly benefit of $500 under Title IV. For the last 11 years the PBGC has been recouping $25 each month to repay a series of overpayments totaling $3,000. Recoupment will cease as of May 29, 1998 because as of that date Ms. X will have repaid the overpayments. No amounts recouped prior to May 29, 1998 will be refunded.

Example 2. Same facts as example 1, except recoupment began nine years ago. Recoupment will cease in one year, *i.e.*, when the full $3,000 is repaid.

Rulemaking Requirements

The PBGC has determined that good cause exists to make this final rule effective immediately because the changes impose requirements only on the PBGC. *See* 5 U.S.C. § 553(d)(3).

E.O. 12866 and the Regulatory Flexibility Act

The Office of Management and Budget has determined that this final rule is a "significant regulatory action" under the criteria set forth in Executive Order 12866 and has completed its review of the final rule under that order.

This rule affects only individuals. Therefore, the PBGC certifies that, if adopted, the amendment will not have a significant economic effect on a substantial number of small entities. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects

29 CFR Part 4022, 4041

Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4050

Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC amends parts 4022, 4041, and 4050 of 29 CFR chapter XL as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D) and 1344.

2. Section 4022.81 is revised to read as follows:

§ 4022.81 General rules.

(a) *Recoupment of benefit overpayments.* If at any time the PBGC determines that net benefits paid with respect to any participant in a PBGC-trusteed plan exceed the total amount to which the participant (and any beneficiary) is entitled up to that time under title IV of ERISA, and the participant (or beneficiary) is, as of the termination date, entitled to receive future benefit payments, the PBGC will recoup the net overpayment in accordance with paragraph (c) of this section and § 4022.82. Notwithstanding the previous sentence, the PBGC may, in its discretion, recover overpayments by methods other than recouping in accordance with the rules in this subpart. The PBGC will not normally do so unless net benefits paid after the termination date exceed those to which a participant (and any beneficiary) is entitled under the terms of the plan before any reductions under subpart D.

(b) *Reimbursement of benefit underpayments.* If at any time the PBGC determines that net benefits paid with respect to a participant in a PBGC-trusteed plan are less than the amount to which the participant (and any beneficiary) is entitled up to that time under title IV of ERISA, the PBGC will reimburse the participant or beneficiary for the net underpayment in accordance with paragraph (c) of this section and § 4022.83.

(c) *Amount to be recouped or reimbursed.* In order to determine the amount to be recouped from, or reimbursed to, a participant (or beneficiary), the PBGC will calculate a monthly account balance for each month ending after the termination date. The PBGC will start with a balance of zero as of the end of the calendar month ending immediately prior to the termination date and determine the account balance as of the end of each month thereafter as follows:

(1) *Debit for overpayments.* The PBGC will subtract from the account balance the amount of overpayments made in that month. Only overpayments made on or after the latest of the proposed termination date, the termination date, or, if no notice of intent to terminate was issued, the date on which proceedings to terminate the plan are instituted pursuant to section 4042 of ERISA will be included.

(2) *Credit for underpayments.* The PBGC will add to the account balance the amount of underpayments made in that month. Only underpayments made on or after the termination date will be included.

(3) *Credit for interest on net underpayments.* If at the end of a month there is a positive account balance (a net underpayment), the PBGC will add to the account balance interest thereon for that month using—

(i) For months after May 1998, the applicable federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month (or, where the rate for a month is not available at the time the PBGC calculates the amount to be recouped or reimbursed, the most recent month for which the rate is available) based on monthly compounding; and

(ii) For May 1998 and earlier months, the immediate annuity rate established for lump sum valuations as set forth in Table II of Appendix B of part 4044 of this chapter.

(4) *No interest on net overpayments.* If at the end of a month, there is a negative account balance (a net overpayment), there will be no interest adjustment for that month.

3. Section 4022.82 is revised to read as follows:

§ 4022.82 Method of recoupment.

(a) *Future benefit reduction.* The PBGC will recoup net overpayments of benefits by reducing the amount of each future benefit payment to which the participant or any beneficiary is entitled by the fraction determined under paragraphs (a)(1) and (a)(2) of this section, except that benefit reduction will cease when the amount (without interest) of the net overpayment is recouped. Notwithstanding the preceding sentence, the PBGC may accept repayment ahead of the recoupment schedule.

(1) *Computation.* The PBGC will determine the fractional multiplier by dividing the amount of the net overpayment by the present value of the benefit payable with respect to the participant under title IV of ERISA. The PBGC will determine the present value

of the benefit to which a participant or beneficiary is entitled under title IV of ERISA as of the termination date, using the PBGC interest rates and factors in effect on that date. The PBGC may, however, utilize a different date of determination if warranted by the facts and circumstances of a particular case.

(2) *Limitation on benefit reduction.* Except as provided in paragraph (a)(1) of this section, the PBGC will reduce benefits with respect to a participant or beneficiary by no more than the greater of—

(i) Ten percent per month; or

(ii) The amount of benefit per month in excess of the maximum guaranteeable benefit payable under section 4022(b)(3)(B) of ERISA, determined without adjustment for age and benefit form.

(3) *PBGC notice to participant or beneficiary.* Before effecting a benefit reduction pursuant to this paragraph, the PBGC will notify the participant or beneficiary in writing of the amount of the net overpayment and of the amount of the reduced benefit computed under this section.

(4) *Waiver of de minimis amounts.* The PBGC may, in its discretion, decide not to recoup net overpayments that it determines to be de minimis.

(5) *Final installment.* The PBGC will cease recoupment one month early if the amount remaining to be recouped in the final month is less than the amount of the monthly reduction.

(b) *Full repayment through recoupment.* Recoupment under this section constitutes full repayment of the net overpayment.

§ 4022.83. [Amended]

4. Section 4022.83 is amended by removing the reference to § 4022.81(d) and adding, in its place, a reference to § 4022.81(c).

PART 4041—TERMINATION OF SINGLE-EMPLOYER PLANS

5. The authority citation for part 4041 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344, 1350.

§ 4041.42 [Amended]

6. Section 4041.42(d)(2) is amended by removing the reference to § 4022.81(d) and adding, in its place, a reference to § 4022.81(c)(3).

PART 4050—MISSING PARTICIPANTS

7. The authority citation for part 4050 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1350.

§ 4050.2 [Amended]

8. The definition of "Designated benefit interest rate" in Section 4050.2, is amended by removing the reference to § 4022.81(d) and adding, in its place, a reference to § 4022.81(c).

Issued in Washington, DC, this 27th day of May, 1998.

Alexis M. Herman

Chairman, Board of Directors Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley

Secretary, Board of Directors Pension Benefit Guaranty Corporation.

[FR Doc. 98–14448 Filed 5–28–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980415098–5098–8098–01; I.D. 031998A]

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a rule published in the **Federal Register** on April 27, 1998. The regulations implemented three management measures governing the crustacean fisheries in the exclusive economic zone around Hawaii.

DATES: Effective May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, NMFS, 808–973–2985.

SUPPLEMENTARY INFORMATION: In the classification section of the final rule published on April 27, 1998 (63 FR 20539),

NMFS inadvertently omitted a word at the end of the third paragraph. Also, when NMFS revised the definition for Crustacean Permit Area I VMS Subarea in § 660.12, NMFS inadvertently put a comma at the end of the definition.

Correction of Publication

The publication on April 27, 1998 (63 FR 20539) [I.D. 031998A], FR Doc. 98–11017, is corrected as follows:

On page 20540 in the second column, in the third paragraph under **Classification**, the word "not" should be inserted before the word "applicable".

§ 660.12 [Corrected]

On page 20540, in § 660.12, in the definition of "Crustaceans Permit Area I VMS Subarea", in the third column, on the last line, the comma at the end of the definition should be removed and replaced with a period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 22, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–14249 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 051998A]

Atlantic Shark Fisheries; Quota Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Quota adjustment.

SUMMARY: NMFS announces that the landings of large coastal sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea totaled 684.8 metric tons (mt) during the first semiannual 1998 season. Because this constitutes an overharvest of 42 mt, the second semiannual 1998 quota is reduced accordingly.

DATES: Effective May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz at 301–713–2347; or Buck Sutter at 813–570–5324.

SUPPLEMENTARY INFORMATION: The Atlantic Ocean, Gulf of Mexico, and Caribbean Sea shark fisheries are managed by NMFS according to the Fishery Management Plan (FMP) for Atlantic Sharks prepared by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR part 678.

Section 678.24(b) of the regulations provides for two semi-annual quotas of 642 mt of large coastal sharks to be harvested from the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea waters by

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commercial fishermen. The first semiannual quota was available for harvest from January 1 through June 30, 1998.

The Assistant Administrator for Fisheries, NOAA, is authorized under § 678.24(c) to adjust the semiannual quota to reflect actual catches during the preceding semiannual period. Harvest data submitted to NMFS indicate that the landings of large coastal sharks from January through March 31, 1998, totaled 684.8 mt, which is 42.8 mt more than the established quota. Therefore, the adjusted quota for large coastal sharks for the second 1998 semiannual period is decreased from 642 mt to 600 mt. The adjusted quota of 600 mt is available for the period July 1 through December 31, 1998.

Classification

This rule is exempt from review under E.O. 12866.

Dated: May 22, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–14248 Filed 5–28–98; 8:45 am]

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Proposed Rules

Federal Register
Vol. 63, No. 103
Friday, May 29, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

Criticality Accident Requirements; Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) has initiated a rulemaking to provide light-water nuclear power reactor licensees with greater flexibility in meeting the requirement that licensees authorized to possess more than a small amount of special nuclear material (SNM), maintain a criticality monitoring system in each area where the material is handled, used, or stored. This action is taken as a result of the experience gained in processing and evaluating a number of exemption requests from power reactor licensees and NRC's safety assessments in response to these requests that concluded that the likelihood of criticality was negligible.

On December 3, 1997 (62 FR 63825), the Nuclear Regulatory Commission published in the **Federal Register** a direct final rule amending its regulations that would have provided persons licensed to construct or operate light-water nuclear power reactors with the option of either meeting the criticality accident requirements of paragraph (a) of 10 CFR 70.24 in handling and storage areas for SNM, or electing to comply with requirements that would be incorporated into 10 CFR part 50 at § 50.68. The direct final rule would have become effective on February 17, 1998. Significant adverse comments were received from the public, resulting in the staff withdrawing the rule. In an attempt to better understand the focus of the public comments, the staff is conducting a public meeting.

DATES: The meeting will be held on Monday, June 8, 1998.

ADDRESSES: The meeting will be held at the NRC Headquarters, 11555 Rockville Pike, Rockville, MD 20852, in room O–10B–11, starting at 1:00 pm.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to provide persons licensed to construct or operate light-water nuclear power reactors with the option of either meeting the criticality accident requirements of paragraph (a) of 10 CFR 70.24 in handling and storage areas for SNM, or electing to comply with certain requirements that would be incorporated into 10 CFR part 50. These are generally the requirements that the NRC has used to grant specific exemptions to the requirements of 10 CFR 70.24. In addition, the NRC is proposing to revise the current text of the section relating to seeking specific exemptions from regulations in 10 CFR 70.24(d) which provided that a licensee could seek an exemption to all or part of 10 CFR 70.24 for good cause because it is redundant to 10 CFR 70.14(a). A new section, 10 CFR 70.24 (d) may be added to clarify that the requirements in paragraph (a) through (c) of 10 CFR 70.24 do not apply to holders of a construction permit or operating license for a nuclear power reactor issued pursuant to 10 CFR part 50, or combined licenses issued under 10 CFR part 52, if the holders comply with the requirements of 10 CFR 50.68 (b). It is proposed that exemptions acquired under 10 CFR 70.24 after the issuance of the operating license will still be valid if the option selected is 10 CFR 70.24 or if the 10 CFR 70.24 exemptions were explicitly renewed when the 10 CFR part 50 operating license was issued.

The meeting will be open to the public, on a space available basis. The agenda for the workshop will focus on a discussion of the public comments received and the above regulatory issues. Members of the public who are unable to attend the workshop can obtain copies of the papers developed by the staff through NRC's Public Document Room (U.S. Nuclear Regulatory Commission, Attention: NRC Public Document Room, Washington, DC 20555–0001) or on the Internet via NRC's Technical Conference Forum (http://techconf.llnl.gov/noframe.html).

Dated at Rockville, Maryland this 21st day of May, 1998.

For the Nuclear Regulatory Commission.

Thomas H. Essig,

Acting Chief, Generic Issues and Environmental Projects Branch, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14099 Filed 5–28–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM/STD–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products: Notice of Public Workshop on Central Air Conditioner Energy Efficiency Standards Rulemaking

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Public Workshop.

SUMMARY: The Department of Energy (the Department or DOE) today gives notice that it will convene a public workshop to discuss the proposed analytical framework and tools for evaluating possible revisions to the central air conditioner and heat pump energy efficiency standards.

DATES: The public workshop will be held on Tuesday, June 30, 1998, from 9 a.m. to 4 p.m.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–43, Room 1E–245, 1000 Independence Avenue, SW, Washington, DC 20585–0121.

Written comments are welcome, especially following the workshop. Please submit 10 copies (no faxes) and a computer diskette (WordPerfect 6.1) to: Ms. Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Notice of Public Workshop on Central Air Conditioner Energy Efficiency Standards Rulemaking, Docket No. EE–RM/STD–98–440, EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121. Telephone: (202) 586–2945.

Copies of the transcript of the public workshop, public comments received, and this notice may be read at the DOE Freedom of Information Reading Room, U.S. DOE, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Edward Pollock , U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–5778.
Ms. Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–2945.
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9526.

SUPPLEMENTARY INFORMATION: In continuing the work on possible revisions to energy efficiency standards on central air conditioners, the Department is convening a workshop to present and receive public comments on the proposed analytical approach for evaluating the central air conditioner standards. At this workshop the following will be discussed:

Review of the Rulemaking Framework: The Department will seek comment on the draft analytical framework for the central air conditioner rulemaking. Copies of the draft framework document will be available beginning the week of May 25, 1998, on the Office of Codes and Standards web site. The web site address is as follows: http://www.eren.doe.gov/buildings/codes_standards/index.htm.

Identification of Analytical Methods and Tools: The Department seeks input into the selection of engineering and economic analytical tools to be used during the rulemaking:

Engineering Analysis/Data Collection: The Department plans to collect data for the engineering analysis using one or more of the following methods: the energy efficiency approach to derive a cost efficiency curve within a range, the design option approach, and the market price (or reverse engineering) approach. The Department will review the key issues surrounding: (1) The pros and cons of each approach, and (2) data collection and the reporting of costs for incorporation into the engineering analysis.

Price of Air Conditioners: The Department will lead a discussion on possible approaches to generating retail prices to be used in the consumer life-cycle-cost analysis.

Life-Cycle-Cost: The Department plans to demonstrate a new life-cycle-cost spreadsheet model which can account for variability of key criteria, such as utility rates and climate.

Electricity Price: The Department will lead a discussion on possible approaches for accounting for variations in electricity price, and the effects of these variations on different consumers.

Refrigerant: The refrigerant used in air conditioners will be banned by the Environmental Protection Agency in 2010. The Department will lead a discussion on the effects of this ban on the timing of the revision to central air conditioner standards.

Energy Savings Forecasts: The Department will present an example of energy savings forecasting results using a simple spreadsheet to show how the growth in efficiency can be accounted for over time.

Background on the approach to be followed in evaluating central air conditioner standards is found in Section 325 of the Energy Policy and Conservation Act, as amended, and appendix A of subpart C of 10 CFR part 430, 61 FR 36974 (July 15, 1996). Appendix A outlines the planning and prioritization process, data collection and analysis, and decision making criteria. Previously published information pertaining to this rulemaking includes the following: An Advance Notice of Proposed Rulemaking Regarding Energy Conservation Standards for Three Types of Consumer Products, published on September 8, 1993 (58 FR 47326), and comments thereon. Copies may be read at the DOE Freedom of Information Reading Room.

Please notify Brenda Edwards-Jones or Edward Pollock at the above listed address if you intend to attend the workshop, if you wish to receive material prepared for the workshop (including the draft analytical framework), or if you wish to be added to the DOE mailing list for receipt of future notices and information concerning central air conditioner matters relating to energy efficiency.

Issued in Washington, DC, on May 22, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–14258 Filed 5–28–98; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

[Notice 1998—10]

11 CFR Part 114

Qualified Nonprofit Corporations

AGENCY: Federal Election Commission.

ACTION: Notice of Disposition of Petition for Rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking filed on November 17, 1997 by James Bopp, Jr., on behalf of the James Madison Center for Free Speech. The petition urges the Commission to revise its regulations regarding qualified nonprofit corporations to conform them to a decision of the United States Court of Appeals for the Eighth Circuit. The Commission has decided not to initiate a rulemaking in response to this petition.

DATES: May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Paul Sanford, Staff Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On November 17, 1997, the Commission received a Petition for Rulemaking from the James Madison Center for Free Speech requesting that the Commission institute a rulemaking proceeding to conform its regulations at 11 CFR 114.10 to the decision of the United States Court of Appeals for the Eighth Circuit in *Minnesota Citizens Concerned for Life* v. *Federal Election Commission,* 113 F.3d 129 (8th Cir. 1997) ["*Minnesota*"]. In that decision, the court of appeals held that section 114.10 is unconstitutional because it infringes upon the First Amendment rights of certain nonprofit corporations. The petition urges the Commission to revise its regulations in accordance with this decision. For the reasons set out below, the Commission has decided not to revise its regulations, and is therefore denying the petition.

Section 441b of the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.* ["FECA" or "the Act"], broadly prohibits corporations from making independent expenditures. However,

the United States Supreme Court created a narrow exception to this prohibition in *FEC* v. *Massachusetts Citizens for Life*, 479 U.S. 238 (1986) ["*MCFL*"]. The Court held that the prohibition on corporate independent expenditures could not constitutionally be applied to nonprofit organizations like Massachusetts Citizens For Life ["Massachusetts Citizens"] that have certain "essential" features: (1) they are formed for the express purpose of promoting political ideas and cannot engage in business activities; (2) they have no shareholders or other persons affiliated so as to have a claim on their assets or earnings; and (3) they were not established by a business corporation or labor union and have a policy against accepting contributions from these entities. *Id.* at 263–64.

In 1995, after an extended rulemaking proceeding, the Commission promulgated new regulations to implement the *MCFL* decision. Section 114.10 of the regulations describes those corporations that are exempt from the prohibition on independent expenditures, and refers to them as qualified nonprofit corporations. Under section 114.10(c), a qualified nonprofit corporation is a corporation (1) whose only express purpose is the promotion of political ideas; (2) that cannot engage in business activities; (3) that (a) has no shareholders or other persons (other than employees and creditors) affiliated in a way that could allow them to make a claim on the corporation's assets or earnings; and (b) offers no benefits that are a disincentive to disassociate with the corporation on the basis of a political issue; (4) that was not established by a business corporation or labor organization, and does not accept donations from such entities; and (5) that is described in 26 U.S.C. 501(c)(4) of the Internal Revenue Code. These rules went into effect on October 5, 1995. *Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures; Final Rule*, 60 FR 52069 (Oct. 5, 1995).

The petition submitted by the Madison Center urges the Commission to revise these regulations to conform to the *Minnesota* decision. In *Minnesota*, the plaintiffs, a nonprofit organization called Minnesota Citizens Concerned for Life ["Minnesota Citizens"], argued that the Commission's regulations violate the First Amendment and the Administrative Procedure Act, 5 U.S.C. 551 *et seq*. Minnesota Citizens relied on a prior decision of the Eighth Circuit, *Day* v. *Holohan*, 34 F.3d 1356 (8th Cir. 1994), *cert. denied*, 513 U.S. 1127 (1995) ["*Day*"], in which the Eighth Circuit considered the constitutionality of a state statutory scheme that was similar to section 114.10. In *Day*, the Eighth Circuit concluded that the state statute was unconstitutional for two reasons. First, the court held that a nonprofit organization could engage in "insignificant" business activity and still be exempt from the prohibition on corporate independent expenditures. Second, the court concluded that a nonprofit organization could accept an insignificant amount of contributions from corporations and still qualify for an exemption from the independent expenditure prohibition. *See also Federal Election Commission* v. *Survival Education Fund*, 65 F.3d 285 (2d Cir. 1995).

When faced with a challenge to section 114.10 of the Commission's regulations, the district court in *Minnesota* concluded that the *Day* decision was controlling, and invalidated the regulation. The Eighth Circuit affirmed the district court's decision. 113 F.3d 129, 133 (8th Cir. 1997). The Madison Center now asks the Commission to revise its regulations in accordance with the Eighth Circuit's decisions.

Pursuant to its usual procedures, the Commission published a Notice of Availability in the December 10, 1997 edition of the **Federal Register** announcing that it had received the petition and inviting the public to submit comments on it. 62 FR 65040 (Dec. 10, 1997). The comment period closed on January 23, 1998. The Commission received three comments in response to the Notice of Availability. One of the comments was endorsed by nine organizations. All three comments supported the petition.

After reviewing the petition, comments, and court decisions, the Commission has decided not to revise its regulations. Under the rule of *stare decisis*, a decision by a circuit court of appeals is only binding within the circuit in which it is issued. Section 114.10 reflects the Commission's interpretation of the *MCFL* opinion, a Supreme Court decision that is binding nationwide. Thus, if the Commission's interpretation of *MCFL* is correct, section 114.10 is controlling law outside the Eighth Circuit, and the Commission is entitled to implement it throughout the rest of the country.

Since government agencies typically operate nationwide, it is not unusual for an agency to find that different courts have interpreted its statutes or rules in different ways. The Supreme Court has recognized that, when confronted with this situation, an agency is free to adhere to its preferred interpretation in all circuits that have not rejected that interpretation. It is collaterally estopped only from raising the same claim against the same party in any location, or from continuing to pursue the issue against any party in a circuit that has already rejected the agency's interpretation. *United States* v. *Mendoza*, 464 U.S. 154 (1984). Indeed, the *Mendoza* Court encouraged agencies to seek reviews in other circuits if they disagree with one circuit's view of the law, since to allow "only one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question before this Court grants *certiorari*." *Id.* at 160 (citations omitted).

The Commission intends to follow the *MCFL* decision for the additional reason that it believes that the Eighth Circuit erroneously interpreted that decision in *Day* and *Minnesota*. In the Eighth Circuit's view, the *MCFL* decision allows corporations to make independent expenditures, even if they engage in business activities and accept donations from business corporations. However, the *MCFL* Court said that when a corporation engages in both business activity and political activity, it creates "the potential for unfair deployment of wealth for political purposes." 479 U.S. at 259 (footnote omitted). Similarly, the Court said that groups that accept donations from business corporations "serv[e] as conduits for the type of direct spending that creates a threat to the political marketplace." *Id.* at 264. This threat of corruption of the political marketplace justifies the application of the independent expenditure prohibition in section 441b.

In contrast, groups like Massachusetts Citizens that "cannot engage in business activities" and "[were] not established by a business corporation or labor union, and [have a] policy not to accept contributions from such entities," *id.*, "do not pose that danger of corruption." *Id.* at 259. Thus, there is no justification for the application of the independent expenditure prohibition in section 441b to these corporations. The Court emphasized that these characteristics were "essential to [its] holding that [Massachusetts Citizens] may not constitutionally be bound by § 441b's restriction on independent spending." *Id.* 263–64. Consequently, the Commission believes it has ample justification for subjecting groups that do not possess these characteristics to the full requirements of section 441b.

It is also difficult to reconcile the Eighth Circuit's conclusion with the Supreme Court's decision in *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990). In *Austin*, the Court

reviewed the application of a state statute that was similar to section 441b to a nonprofit state chamber of commerce. The chamber did not itself engage in traditional business activities. However, its bylaws set forth "varied purposes * * * several of which [were] not inherently political." 494 U.S. at 662. For example, it distributed information related to social, civic and economic conditions, trained and educated its members, and promoted ethical business practices. The Court noted that "[m]any of its seminars, conventions, and publications [were] politically neutral and focus[ed] on business and economic issues," that were "not expressly tied to political goals." *Id.* Thus, even though it was not engaged in a business for profit, "[t]he Chamber's nonpolitical activities * * * suffice[d] to distinguish it from [Massachusetts Citizens] in the context of this characteristic." *Id.* at 663.

With regard to the acceptance of corporate contributions, the Court was even more emphatic, saying that "[o]n this score, the Chamber differs most greatly from [Massachusetts Citizens]." *Id.* at 664. The Court said that, under *MCFL*, nonprofit organizations that accept contributions from business corporations are not entitled to any exemption from section 441b, and pointed out that if the rule were otherwise, "[b]usiness corporations * * * could circumvent the Act's restriction by funneling money through [a nonprofit organization's] general treasury." *Id.* The Court concluded that, under this standard, the Chamber was not entitled to any exemption from the state's version of section 441b. "Because the Chamber accepts money from for-profit corporations, it could, absent application of [the state corporate expenditure prohibition], serve as a conduit for corporate political spending." *Id.*

The Commission continues to believe that section 114.10 accurately interprets these two Supreme Court cases, and the decisions of several other courts support this conclusion. In *Clifton* v. *FEC*, 114 F.3d 1309 (lst Cir. 1997), *cert. denied*, 118 S. Ct. 1306 (1998), the First Circuit said the *MCFL* Court "stressed as 'essential' the fact that the anti-abortion group there involved did not accept contributions from business corporations or unions * * *. This was important to the Court because it had previously sustained the right of Congress to limit the election influence of massed economic power in corporate or union form." *Id.* at 1312. Since the nonprofit corporation involved in that case accepted contributions from other corporations, the Court concluded that it was not entitled to the *MCFL* exemption, saying that it fell "somewhere between the entity protected in [*MCFL*] and that held unprotected in *Austin*." *Id.* at 1312–13. The First Circuit also said a *de minimis* rule regarding the acceptance of corporate contributions would be inconsistent with the *Austin* decision. *Id.* at 1313.

In dictum, the D.C. Circuit has also expressed support for the Commission's interpretation of this aspect of the *MCFL* decision. "[T]he *MCFL* constitutional exemption * * * requires that the organization * * * not accept contributions from labor unions or corporations." *Akins* v. *FEC*, 101 F.3d 731, 742 n.10 (D.C. Cir. 1996) (*en banc*) (dictum), *cert. granted*, 117 S. Ct. 2451 (1997).

Two district courts have also supported the Commission's interpretation. In *FEC* v. *NRA Political Victory Fund*, 778 F. Supp. 62 (D.D.C. 1991), *rev'd on other grounds*, 6 F.3d 821 (D.C. Cir.), *cert. dismissed for want of jurisdiction*, 513 U.S. 88 (1994), the court concluded that unless a corporation can show that it does not in fact accept contributions from business corporations or unions or has a policy "equivalent to that of MCFL" of not accepting such contributions, it does "not fit in the group of organizations affected by the *MCFL* holding, a group which the Court acknowledged * * * would be "small,'" 778 F. Supp. at 64 (quoting *MCFL*, 479 U.S. at 264).

The district court in *Faucher* v. *FEC*, 743 F. Supp. 64 (D. Me. 1990), *aff'd*, 928 F.2d 468 (1st Cir.), *cert. denied*, 502 U.S. 820 (1991), reached a similar conclusion.

> In [*MCFL*], the Supreme Court made clear that one of the "essential" factors for its holding was that the nonprofit corporation there did not receive, *and had a policy of not receiving*, any corporate funds. * * * [A]lthough the amounts received by [the plaintiff nonprofit organization] from corporations have been comparatively modest, they are obviously not subject to any control. Without an explicit policy against contributions from corporations, the risk remains that an organization like [the plaintiff] could "serv[e] as [a conduit] for the type of direct spending that creates a threat to the political marketplace." * * * It is this potential for influence that supports the restrictions on corporate funding.
>
> 743 F. Supp. at 69–70 (emphasis in original; quoting *MCFL*, 479 U.S. at 264).

In sum, both because it is well settled that a decision by one circuit court of appeals is not binding in other circuits, and because the Commission believes the challenged regulation reflects a correct reading of controlling Supreme Court precedent and is therefore constitutional, the Commission has decided not to open a rulemaking in response to this Petition.

Therefore, at its open meeting of May 21, 1998, the Commission voted not to initiate a rulemaking to revise its regulations regarding qualified nonprofit corporations, found at 11 CFR 114.10. Copies of the General Counsel's recommendation on which the Commission's decision is based are available for public inspection and copying in the Commission's Public Records Office, 999 E Street, NW, Washington, DC 20463, (202) 694–1120 or toll-free (800) 424–9530. Interested persons may also obtain a copy by dialing the Commission's FAXLINE service at (202) 501–3413 and following its instructions. Request document #233.

Dated: May 22, 1998.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 98–14193 Filed 5–28–98; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–30–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. Model PC–7 airplanes. The proposed AD would require replacing the seal unit on both main landing gear (MLG) legs and the nose landing gear (NLG) leg. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent MLG or NLG failure caused by deterioration of a MLG or NLG leg seal unit, which could result in damage to the airplane or airplane controllability problems during takeoff, landing, or taxi operations.

DATES: Comments must be received on or before July 3, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–30–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA of Switzerland reports two cases of improper landing gear extension after take-off. These incidents are attributed to deterioration of the MLG or NLG seal unit.

These conditions, if not corrected in a timely manner, could result in MLG or NLG failure and cause airplane damage or airplane controllability problems during takeoff, landing, or taxi operations.

Relevant Service Information

Pilatus has issued Service Bulletin No. 32–018, dated March 6, 1998, which specifies procedures for replacing the seal unit, on both MLG legs and the NLG leg, with improved design seal units.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–069, dated March 23, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–7 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the seal unit on both MLG legs and the NLG leg. Accomplishment of the proposed installation would be in accordance with Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

Cost Impact

The FAA estimates that 5 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $932 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,060, or $1,412 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

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§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft LTD.: Docket No. 98–CE–30–AD.

Applicability: Model PC–7 airplanes, serial numbers MSN 001 through MSN 609, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent main landing gear (MLG) or nose landing gear (NLG) failure caused by deterioration of a MLG or NLG leg seal unit, which could result in damage to the airplane or airplane controllability problems during takeoff, landing, or taxi operations, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD, replace the seal unit on both MLG legs and the NLG leg in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

(b) As of the effective date of this AD, no person may install a MLG leg or NLG leg that does not have an improved seal unit installed in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Pilatus Service Bulletin No. 32–018, dated March 6, 1998, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Swiss AD HB 98–069, dated March 23, 1998.

Issued in Kansas City, Missouri, on May 21, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14192 Filed 5–28–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–03–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model B.121 Series 1, 2, and 3 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would have required the following on certain British Aerospace Model B.121 Series 1, 2, and 3 airplanes: installing an inspection opening in the area of the main spar web, repetitively inspecting the area at the main spar web for cracks and the area of the wing to fuselage attach bolt holes for corrosion, and repairing or replacing any cracked or corroded part. The proposed AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. Since issuing the NPRM, British Aerospace has developed additional service information to that referenced in the previous proposal to include the installation of nuts of improved design at the wing to fuselage main-spar attachment fittings and the deletion of the inspection of the area of the wing to fuselage attach bolt holes for corrosion. The improved design nuts provide better torque retention than the nuts originally installed. The Federal Aviation Administration (FAA) has determined that the above-referenced changes in the revised service information should be incorporated into the NPRM, and that the comment period for the proposal should be reopened and the public should have additional time to comment. The actions specified by the proposed AD are intended to prevent structural failure of the main spar web area caused by fatigue cracking or separation of the wing caused by loose nuts at the wing to fuselage main-spar attachment fittings, which could result in loss of control of the airplane.

DATES: Comments must be received on or before July 3, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–03–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from British Aerospace (Operations) Limited, British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–03–AD." The postcard will be date stamped and returned to the commenter.

Availability of Supplemental NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–03–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain British Aerospace Model B.121 Series 1, 2, and 3 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 16, 1998 (63 FR 12708). The NPRM proposed to require installing an inspection opening in the area of the main spar web, repetitively inspecting the area at the main spar web for cracks and the area of the wing to fuselage attach bolt holes for corrosion, and repairing or replacing any cracked or corroded part. Accomplishment of the proposed inspections would be required in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997. If necessary, the proposed repair or replacement would be required in accordance with a scheme obtained from the manufacturer through the FAA, Small Airplane Directorate.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Events Since Issuance of the NPRM

Since issuance of the NPRM, British Aerospace has developed additional service information to that referenced in the previous proposal to include the installation of nuts of improved design at the wing to fuselage main-spar attachment fittings and the deletion of the inspection at the area of the wing to fuselage attach bolt holes for corrosion. The improved design nuts provide better torque retention than the ones originally installed.

In addition, British Aerospace has re-examined the service history and evaluated reports from the field and has changed the compliance time (that is referenced in the service information) for the inspection opening installation and the initial eddy current inspection to upon the accumulation of 2,000 flying hours.

To incorporate the above changes, British Aerospace has issued the following service bulletins, which supersede British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997:

—British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998, which specifies procedures for replacing the nuts (with improved design nuts) at the wing to fuselage main-spar attachment fittings; and

—British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998, which specifies procedures for installing an inspection opening in the area of the main spar web, and inspecting the area at the main spar web for cracks. These procedures are basically the same as contained in British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997.

The FAA's Determination

After examining all information related to the subject described in this document, the FAA has determined that:

—Improved design nuts should be installed at the wing to fuselage main-spar attachment fittings;

—The improved service information should be incorporated into the proposed AD;

—The compliance time of the proposed inspection opening installation and initial eddy current inspection should be changed to coincide with the service information referenced above; and

—AD action should be taken to incorporate these changes to prevent structural failure of the main spar web area caused by fatigue cracking or separation of the wing caused by loose nuts at the wing to fuselage main-spar attachment fittings, which could result in loss of control of the airplane.

The Supplemental NPRM

Since installing improved design nuts at the wing to fuselage main-spar attachment fittings proposes actions that go beyond the scope of what was already proposed, the FAA is reopening the comment period to allow the public additional time to comment on this proposed action.

Cost Impact

The FAA estimates that 2 airplanes in the U.S. registry would be affected by the proposed AD; that it would take approximately 37 workhours per airplane to accomplish the proposed initial inspection, inspection opening installation, and improved design nut installations; that the average labor rate is approximately $60 an hour. There is no cost for the parts to accomplish the proposed replacements. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,440, or $2,220 per airplane. These figures only take into account the cost of the proposed initial inspections, inspection opening installation, and improved design nut installations; and do not take into account the cost of repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

British Aerospace (Operations) Limited: Docket No. 98–CE–03–AD.

Applicability: Model B.121 Series 1, 2, and 3 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural failure of the main spar web area caused by fatigue cracking or separation of the wing caused by loose nuts at the wing to fuselage main-spar attachment fittings, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, replace the nuts (with improved design nuts) at the wing to fuselage main-spar attachment fittings in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998.

(b) Upon accumulating 2,000 hours TIS on the main spar or within the next 50 hours TIS, whichever occurs later, install an inspection opening and inspect, using eddy current methods, the area at the main spar web for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998.

Note 2: Accomplishing the installation inspection opening and initial eddy current inspection required by this AD in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997, is considered "already accomplished" for the requirements of paragraph (b) of this AD.

(c) Within 800 hours TIS after the initial inspection required by paragraph (b) of this AD, and thereafter at intervals not to exceed 800 hours TIS, reinspect the area of the main spar web as specified in paragraph (b) of this AD.

(d) If any cracks are found during any inspection required by this AD, prior to further flight, accomplish the following:

(1) Obtain a repair or replacement scheme from the manufacturer through the FAA, Small Airplane Directorate, at the address specified in paragraph (e) of this AD; and

(2) Incorporate this scheme and continue to repetitively inspect as required by paragraph (c) of this AD, unless specified differently in the instructions to the repair or replacement scheme.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to the service information referenced in this document should be directed to British Aerospace (Operations) Limited, British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in British AD 005–01–98, not dated.

Issued in Kansas City, Missouri, on May 21, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–14189 Filed 5–28–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 820

Quality System Inspection Technique Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public meeting: "Quality System Inspection Technique." The goal of the meeting is to obtain views and opinions from interested parties concerning a proposed new technique for conducting quality system inspections. This proposed technique could eventually replace the technique presently used when FDA conducts quality systems (good manufacturing practices) inspections of medical device manufacturers. The proposed "Quality System Inspection Technique" was developed by a group composed of the Center for Devices and Radiological Health (CDRH) and Office of Regulatory Affairs staff, familiar with the Quality Systems Regulation and present inspectional processes, with input from the medical device industry. This meeting is part of the CDRH's ongoing reengineering effort to develop an inspection program covering the Quality System Regulation that results in more focused and efficient inspections.

DATES: The public meeting will be held on Thursday, June 18, 1998, from 8:30 a.m. to 5 p.m.

ADDRESSES: The public meeting will be held at 5600 Fishers Lane, conference rooms D and E, third floor, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

For information regarding the meeting: Timothy R. Wells, Center for Devices and Radiological Health (HFZ–332), 2094 Gaither Rd., Rockville, MD 20859, 301–594–4616, FAX 301–594–4638, e-mail trw@cdrh.fda.gov.

For information regarding registration or requests for oral presentations: Georgia A. Layloff, Food and Drug Administration, St. Louis Branch Office, 12 Sunnen Dr., suite 122, St. Louis, MO 63143, 314–645–1167, ext. 121, FAX 314–645–2969, e-mail glayloff@ora.fda.gov.

SUPPLEMENTARY INFORMATION: The draft entitled "Quality System Inspection Technique" is posted for comment on the CDRH's World Wide Web (www) home page. The draft document may be

accessed at http://www.fda.gov/cdrh/gmp/gmp.html.

Send registration information (including name, title, firm name, address, telephone, and fax number), and written material and requests to make oral presentations, to the contact person by June 11, 1998. No telephone requests will be accepted. You will be notified by fax to tell whether your presentation will be included and your time limitation. If you cannot be reached by fax, please note that in your request.

Due to space limitations, interested parties are encouraged to register early. Depending on the number of requests, registration may be limited to one representative per firm or organization. If special accommodations are needed due to a disability, please contact Timothy R. Wells, at least 7 days in advance.

Dated: May 19, 1998.

Linda S. Kahan,

Acting Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 98–14049 Filed 5–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–144–FOR]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of statutes pertaining to definitions, permit conditions, and permit revisions. The amendment is intended to revise the Indiana program to improve operational efficiency.

This document sets forth the times and locations that the Indiana program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., e.s.t., June 29, 1998. If requested, a public hearing on the proposed amendment will be held on June 23, 1998. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t. on June 15, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below

Copies of the Indiana program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232–1547.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 194.15, and 194.15.

II. Description of the Proposed Amendment

By letter dated May 14, 1998 (Administrative Record No. IND–1606), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. The amendment pertains to revisions of and additions to the Indiana Code (IC) made by House Enrolled Act (HEA) No. 1074. HEA No. 1074 was passed through the Indiana Legislature and signed by the Governor of Indiana on March 12, 1998. Only those portions of HEA No. 1074 that pertain to Articles 14–8 and 14–34 are being considered in this document. The full text of the proposed program amendment submitted by Indiana is available for public inspection at the locations listed above under **ADDRESSES**. A discussion of the proposed amendment is presented below.

1. IC 14–8–2–117.3, Definition for "Governmental Entity"

Indiana proposes the following definition: "Governmental entity, for the purposes of IC 14–22–10–2 and IC 14–22–10.2.5, has the meaning set forth in IC 14–22–10–2(a)."

2. IC 14–34–4–18, Permit Conditions

Indiana identified the existing provision as subsection (a) and added the following new provision at subsection (b):

> The director may issue a permit subject to the condition that the permittee obtain or maintain in force other licenses or permits required for the surface coal mining and reclamation operation. However, the imposition of a condition under this subsection does not authorize or require the director to administer or enforce the requirements of any federal law or of any state law other than this article.

3. IC 14–34–5–7, Permit Revisions

The existing provisions in subsections (a) and (b) were removed and the following new provisions were added:

> (a) A change in mining or reclamation operations from the approved mining and reclamation plans that would adversely affect the permittee's compliance with this article is a permit revision subject to review and approval as provided in this section and sections 8 through 8.4 of this chapter.
>
> (b) A permit revision is either: (1) A significant revision subject to sections 8 and 8.1 of this chapter; (2) a nonsignificant revision subject to sections 8.2 and 8.3 of this chapter; or (3) a minor field revision subject to section 8.4 of this chapter.
>
> (c) Permit revisions may be approved by: (1) The director; or (2) the director's designated representative.
>
> (d) A permit revision may not be approved unless the permittee demonstrates and the director or the director's designated representative finds the following:
>
> (1) That reclamation as required by this article and by the rules adopted by the commission under IC 14–34–2–1 can be accomplished.
>
> (2) That applicable requirements of IC 14–34–4–7 that are pertinent to the permit revision are met.
>
> (3) That the permit revision complies with all applicable requirements of this article and the rules adopted by the commission under IC 14–34–2–1.

4. IC 14–34–5–8, Permit Revisions

Indiana proposes to remove the language "as defined in the rules adopted under section 6 of this chapter" and to add the language "or minor field revisions" after the phrase "based only on nonsignificant revisions."

5. IC 14–34–5–8.1, Significant Permit Revisions

Indiana proposes to add a new section that defines significant permit revisions. A proposed revision of a permit is significant if any of eight conditions exists. The conditions include: adverse impacts affecting cultural resources, blasting operations, water supply, handling of toxic forming or acid forming materials, and fish and wildlife; the addition of a coal processing facility or a permanent support facility; the changes will cause a new or an updated probable hydrologic consequences determination or cumulative hydrologic impact analysis; or a postmining land use will be changed to a residential land use, a commercial or industrial land use, a recreational land use, or developed water resources.

6. IC 14–34–5–8.2, Nonsignificant Permit Revisions

Indiana proposes to add a new section that defines nonsignificant permit revisions. A proposed revision of a permit is nonsignificant if any of five conditions exist. The conditions include: (1) For surface mines, changes in the direction of mining or location of mining equipment; (2) substitution of mining equipment designed for the same purpose; (3) for underground mines, any change in the direction or location of mining within the permit area or shadow area in response to unanticipated events; (4) a postmining land use other than a change described in section 8.1; or (5) any other change in the mining or reclamation plan that will not have a significant effect on achievement of final reclamation plans, on subsidence control plans, and on the surrounding area, that does not involve significant delay in achieving final reclamation or significant change in the land use, or that is necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other cause beyond the reasonable control of the permittee.

7. IC–14–34–5–8.3, Nonsignificant Permit Revisions

Indiana proposes to require that a nonsignificant revision in a mining or reclamation plan must be reviewed and approved in writing by the director before it may be implemented.

8. IC 14–34–5–8.4, Minor Field Revisions

Indiana's proposed new section adds provisions for approval of minor field revisions by an inspector in the field. Subsection (a) defines minor field revisions as those that do not require technical review or design analysis and are capable of being evaluated in the field by the director's designated delegate for compliance with section 14–34–5–7(d). Subsection (b) allows a minor field revision to be approved by a field inspector in an inspection report or on a form signed in the field. Subsection (c) provides examples of the types of minor field revisions allowed, including soil stockpile location and configuration, as-built pond certifications, minor transportation facility changes, pond depth, shape, and orientation, an area for temporary drainage control or temporary water storage, equipment changes, explosive storage areas, minor mine management or support facility locations, adding United States Natural Resources Conservation Service conservation practices, methods of erosion protection on diversions, temporary cessation of mining, and minor diversion location changes.

9. IC 14–34–5–8.5, Permit Area Extensions

Indiana's proposed statute provides that an extension of the area covered by a permit, except for an incidental boundary revision, must be made by applying for a new permit.

10. IC–14–34–5–8.6, Incidental Boundary Revisions

This proposed statute addresses the requirements for incidental boundary revisions. Subsection (a) provides that five conditions must apply before an extension is considered an incidental boundary revision: (1) The extension may not constitute a significant revision to the method of conduct of mining or reclamation operations; (2) the extension must be required for the orderly and continuous mining and reclamation operation; (3) the extension must adjoin the permit or shadow area acreage; (4) the extended area must be mined and reclaimed in conformity with the approved permit plans; and (5) the area of the extension may not exceed the lesser of 10 percent of the area originally covered by the permit or 20 acres.

Subsection (b) requires that the aggregate of all incidental boundary revisions of a permit may not exceed the area originally covered by the permit by more than 15 percent, unless the director finds that all other provisions of this section are met and the interests of the public are not adversely affected.

Subsection (c) provides that the aggregate of all incidental boundary revisions of a permit that involve coal removal may not exceed the area originally covered by the permit by more than 10 percent.

Subsection (d) specifies the application requirements for incidental boundary revisions, including size of the area, pre- and post-mining land uses, maps, proof of the permittee's legal right to enter and conduct surface coal mining and reclamation operations on the area, necessary plans, and a statement pertaining to areas unsuitable for mining.

Subsection (e) provides that an application for an incidental boundary revision may not be approved unless the applicant demonstrates and the director finds that reclamation of the area can be accomplished and that the application complies with all requirements of Article 34.

Subsection (f) requires the director to approve or deny an incidental boundary revision of a permit within 30 days, unless the director finds that more than 30 days are needed to adequately review the application and make the findings required by subsection (e).

Subsection (g) specifies that section 14–34–5–8.6 does not alter the requirements for the submission of fees and bonds.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on June 15, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any

disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the location listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 22, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–14272 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AE83

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Public Hearings and Reopening of Comment Period on Proposed Reclassification From Endangered to Threatened Status for the Mariana Fruit Bat From Guam, and Proposed Threatened Status for the Mariana Fruit Bat From the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of two public hearings on the proposed reclassification from endangered to threatened status for the Mariana fruit bat from Guam, and on proposed threatened status for the Mariana fruit bat from the Commonwealth of the Northern Mariana Islands. In addition, the Service has reopened the comment period. All parties are invited to submit comments on this proposal.

DATES: The comment period now closes on July 10, 1998. There will be two public hearings, one each on the islands of Saipan and Rota. The public hearing on Saipan will be held from 7:30 p.m. to 9:00 p.m. on Wednesday, June 24, 1998. The public hearing on Rota will be held from 7:30 p.m. to 9:00 p.m. on Thursday, June 25, 1998. Prior to each of the public hearings, the Service will be available from 5:00 to 6:30 p.m. to provide information and to answer questions.

ADDRESSES: On Saipan, the public hearing will be held at the Pacific Gardenia Hotel, Chalan Kanoa Beach Road. On Rota, the public hearing will be held at the Rota Resort and Country Club. Written comments and materials concerning this proposal may be submitted at the hearings or sent directly to Mr. Brooks Harper, Field

Supervisor, Ecological Services, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 3–122 Box 50088, Honolulu, HI 96850. Comments and materials will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David Worthington or Christa Russell at 808/541–3441 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

The Mariana fruit bat is a medium-sized fruit bat that is restricted to the Mariana archipelago, comprised of the Territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI), where it is known from all islands.

The movement of bats among the Mariana Islands is an aspect of their biology that is critical to conservation. The 1984 Federal listing (49 FR 33881) of fruit bats resident on Guam was based on the assumption that these bats formed a separate population segment distinct from the bats found in the CNMI. Recently, biologists in the Mariana Islands have gathered evidence indicating that movement of bats among the Mariana Islands links these colonies as a single population. Thus, the Service believes that the Mariana fruit bats in the CNMI and Guam represent one population, but recognizes that the bats on Guam are not recovering and that survival of bats on Guam continues to be threatened by a variety of factors. However, when viewed in the context of representing a portion of the entire Mariana fruit bat population in the Mariana Islands, rather than as a distinct population as previously thought, reclassification from endangered to threatened is appropriate and biologically justified. Therefore, proposing to list the entire population of *Pteropus mariannus mariannus* as threatened throughout its range, including bats in both the CNMI and Guam, retains an appropriate level of protection for this bat on Guam while increasing overall protection to the Mariana fruit bat throughout the Mariana Islands.

The fruit bats of Guam and the CNMI are threatened by degradation or loss of habitat through the development of forested areas, illegal hunting, the possible introduction of alien species such as the brown tree snake (*Boiga irregularis*) to the CNMI, and the potential impacts of typhoons that can disrupt small populations. Most of the known Mariana fruit bat roost sites in the Mariana Islands are on public land.

On August 27, 1984, the Service listed the Guam population of Mariana fruit bats as endangered (49 FR 33881). Fruit bats found on Aguijan, Tinian, and Saipan are currently identified as candidates for listing (62 FR 49401). On March 26, 1998, the Service published a rule proposing reclassification from endangered to threatened status for the Mariana fruit bat from Guam, and proposing threatened status for the Mariana fruit bat from the Commonwealth of the Northern Mariana Islands (63 FR 14641–14650).

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. Public hearing requests by the CNMI Governor, the CNMI Department of Lands and Natural Resources, the CNMI Division of Fish and Wildlife, and CNMI Representatives Heinz S. Hofschneider and Diego T. Benavente, were received within the allotted time period. The Service has scheduled public hearings for Saipan and Rota. The public hearing on Saipan is on Wednesday, June 24, 1998, at the Pacific Gardenia Hotel from 7:30 p.m. to 9:00 p.m. On Rota, the hearing will be on Thursday, June 25, 1998, at the Rota Resort and Country Club from 7:30 p.m. to 9:00 p.m. Public hearings are an opportunity for the public to provide oral comments for the official record, which does not allow for questions and responses to questions; therefore, prior to each public hearing, the Service will be available to provide information and answer questions from 5:00 p.m. until 6:30 p.m.

Oral and written comments will be accepted and treated equally. Parties wishing to make statements for the record should bring a copy of their statements to the hearings. Oral statements may be limited in length, if the number of parties present at the hearings necessitates such a limitation. There are no limits to the length of written comments or materials presented at the hearings or mailed to the Service. Written comments carry the same weight as oral comments. Legal notices announcing the date, time, and location of the hearings are being published in newspapers concurrently with this **Federal Register** notice.

The comment period on the proposal was initially closed on May 26, 1998. To accommodate the hearings, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until July 10, 1998, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is David Worthington (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

William F. Shake,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–14233 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 103
Friday, May 29, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–009–2]

Pioneer Hi-Bred International, Inc.; Availability of Determination of Nonregulated Status for Corn Genetically Engineered for Male Sterility and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Pioneer Hi-Bred International, Inc., corn lines designated as 676, 678, and 680, which have been genetically engineered for male sterility and tolerance to the herbicide glufosinate as a marker, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Pioneer Hi-Bred International, Inc., in its petition for a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: May 14, 1998.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, and the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Subhash Gupta, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1997, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 97–342–01p) from Pioneer Hi-Bred International, Inc. (Pioneer), of Johnston, IA, seeking a determination that corn lines designated as 676, 678, and 680, which have been genetically engineered for male sterility and tolerance to the herbicide glufosinate as a marker, do not present a plant pest risk and, therefore, are not regulated articles under APHIS regulations in 7 CFR part 340.

On February 18, 1998, APHIS published a notice in the **Federal Register** (63 FR 8161–8162, Docket No. 98–009–1) announcing that the Pioneer petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating corn lines 676, 678, and 680 and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether these corn lines posed a plant pest risk. The comments were to have been received by APHIS on or before April 20, 1998. APHIS received no comments on the subject petition during the designated 60-day comment period.

Analysis

Corn lines 676, 678, and 680 have been genetically engineered to contain a *dam* gene derived from *Escherichia coli*. The *dam* gene expresses a DNA adenine methylase enzyme in specific plant tissue, which results in the inability of the transformed plants to produce anthers or pollen. The subject corn lines also contain the *pat* selectable marker gene isolated from the bacterium *Streptomyces viridochromogenes*. The *pat* gene encodes a phosphinothricin acetyltransferase (PAT) enzyme, which, when introduced into a plant cell, inactivates glufosinate. Linkage of the *dam* gene, which induces male sterility, with the *pat* gene, a glufosinate tolerance gene used as a marker, enables identification of the male sterile line for the production of hybrid seed. The subject corn lines were transformed by the particle gun process, and expression of the introduced genes is controlled in part by gene sequences derived from the plant pathogen cauliflower mosaic virus.

Corn lines 676, 678, and 680 have been considered regulated articles under APHIS regulations in 7 CFR part 340 because they contain regulatory gene sequences derived from a plant pathogen. However, evaluation of field data reports from field tests of the subject corn lines conducted under APHIS notifications since 1995 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of these corn lines.

Determination

Based on its analysis of the data submitted by Pioneer and a review of other scientific data and field tests of the subject corn lines, APHIS has determined that corn lines 676, 678, and 680: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become a weed than corn lines developed by traditional breeding techniques; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that corn lines 676, 678, and 680 and any progeny derived from hybrid crosses with other corn varieties will not exhibit new plant pest properties, i.e., properties substantially different from any observed for the subject corn lines already field tested, or those observed for corn in traditional breeding programs.

The effect of this determination is that Pioneer's corn lines designated as 676, 678, and 680 are no longer considered regulated articles under APHIS'

regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of Pioneer's corn lines 676, 678, or 680 or their progeny. However, the importation of the subject corn lines or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Pioneer's corn lines 676, 678, and 680 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 22nd day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–14260 Filed 5–28–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Office of the Inspector General

Application for Funding Assistance

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 28, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Barbara A. Bynum, Department of Commerce, Office of Inspector General, 14th and Constitution Avenue, NW, Room 7089, Washington, DC 20230. She may be reached at (202) 482–5348.

SUPPLEMENTARY INFORMATION:

I. Abstract

DOC, through the Economic Development Administration (EDA), the Minority Business Development Agency (MBDA), the International Trade Administration (ITA), the National Oceanic and Atmospheric Administration (NOAA), the National Telecommunications and Information Agency (NTIA), and the National Institute of Standards and Technology (NTIS), and other programs, assists reliable, capable individuals and firms in the pursuit of various business development, business enterprise development and other forms of economic development. The CD–346 form is used to establish the good character of principal officers and employees of organizations, firms, or recipients or beneficiaries of grants, loans, or loan guarantee programs, through the organizations cited above. This requirement is derived from 42 USC 3211(12); 44 USC 3101; and 15 USC 1519, as well as the responsibilities cited in the Inspector General Act of 1978, Sec. 4(a)(3) and Departmental Orders (DAO) 207–10 and 203–26.

II. Method of Collection

The information is collected in written form.

III. Data

OMB Number: 0605–0001.
Form Number: None.
Type of Review: Regular Submission.
Affected Public: Individual, businesses or other for-profit organizations, not-for-profit institutions.
Estimated Number of Respondents: 2,000.
Estimated Time Per Response: 15 minutes.
Estimated Total Annual Burden Hours: 500.
Estimated Total Annual Cost to Public: $0 (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 22, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–14211 Filed 5–28–98; 8:45 am]

BILLING CODE: 3510–65–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocations in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests in accordance with 19 CFR 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. The Department also received timely requests to revoke in part the antidumping duty order on Roller Chain, Other Than Bicycle from Japan:

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 1999.

Antidumping duty proceedings	Period to be reviewed
GREECE: Electrolytic Manganese Dioxide:	
A–484–801	4/1/97–3/31/98
Tosoh Hellas A.I.C.	
Eveready Battery Company (EBC)	
JAPAN: Roller Chain, Other Than Bicycle:	
A–588–028	4/1/97–3/31/98
Daido Kogyo Co., Ltd.	
Enuma Chain Mfg. Co. Ltd. HKK Chain Corp./Hitachi Metals Techno, Ltd.	
Izumi Chain Mfg. Co.	
Kaga Kogyo/Kaga Industries/KCM	
Oriental Chain Manufacturing Co., Ltd.	
Pulton Chain Co., Inc.	
RK Excel	
Sugiyama Chain Co., Ltd.	
Tsubakimoto Chain Co., Ltd.	
NORWAY: Salmon:	
A–403–801	4/1/97–3/31/98
Nornir Group A/S	
REPUBLIC OF KOREA: Televisions:	
A–580–008	4/1/97–3/31/98
Daewoo Electronics Co., Ltd.	
LG Electronics Inc.	
Samsung Electronics Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Brake Rotors:*	
A–570–846	10/10/96–3/31/98
Yantai Import & Export Co.	
Southwest Technical Import & Export Co.	
Yangtze Machinery Co.	
MMB International, Inc.	
Hebei Metals and Minerals Import & Export Co.	
Jilin Provincial Machinery & Equipment Import & Export Co.	
Shandong Jiuyang Enterprise Co.	
Longjing Walking Tractor Works Foreign Trade Import & Export Co.	
Qingdao Metals, Minerals & Machinery Import & Exports Co.	
Shanxi Machinery and Equipment Import & Export Co.	
Xianghe Zichen Casting Co.	
Yenhere Co.	
China Non Market Economy Entity	
China National Automotive Industry Import & Export Co. (only as to merchandise produced by a firm other than Shandong Laizhou CAPCO Industry)	
Shandong Laizhou CAPCO Industry (only as to merchandise produced by a firm other than Shandong Laizhou CAPCO Industry)	
Shenyang Honbase Machinery Co. Ltd. (Only as to merchandise produced by a firm other than either Shenyang Honbase Machinery Co. Ltd. or Lai Zhou Luyuan Automobile Fitting Co., Ltd.	
Lai Zhou Luyuan Automobile Fitting Co., Ltd. (only as to merchandise produced by a firm other than either Shenyang Honbase Machinery Co., Ltd. or Lai Zhou Luyuan Automobile Fitting Co., Ltd.)	
China National Machinery and Equipment Import & Export (Xinjiang) Corporation, Ltd. (only as to merchandise produced by a firm other than Zibo Botai Manufacturing Co., Ltd.)	
*If one of the named companies does not qualify for a separate rate, all other exports of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
TURKEY: Certain Steel Concrete Reinforcing Bars:	
A–489–807	10.10.96–03/31/98
Ekinciler Holding A.S./Ekinciler Demir Celik A.S.	
Ferromin International Trade Corp.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 315.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 29 CFR 351.221(c)(1)(i).

Dated: May 22, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 98–14273 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey: Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received a request to conduct a new shipper administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. In accordance with 19 CFR 351.214(d), we are initiating this administrative review.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Irina Itkin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1776 or 482–0656, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the provisions codified at 19 CFR Part 351 (62 FR 27295, May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Istanbul Celik ve Demir Izabe Sanayii A.S. (ICDAS), in accordance with 19 CFR 351.214(d), for a new shipper review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey, which has an April anniversary date. ICDAS (the respondent) has certified that it did not export rebar to the United States during the period of investigation (POI) and that it is not affiliated with any exporter or producer which did export rebar during the POI.

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and based on information on the record, we are initiating the new shipper review as requested.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on rebar from Turkey. On May 18, 1998, ICDAS agreed to waive the time limits of 19 CFR 351.214(i), in order that the Department, pursuant to 19 CFR 351.214(j)(3), may conduct this review concurrent with the first annual administrative review of this order for the period 10/10/96–03/31/98, as requested pursuant to section 751(a) of the Act. See Antidumping Duties; Countervailing Duties; Final rule (62 FR 27295, 27396, May 19, 1997). Therefore, we intend to issue the preliminary results of this review not later than 245 days after the last day of the anniversary month. In accordance with our practice, all other provisions of section 351.214 will apply to ICDAS throughout the duration of this new shipper review.

Antidumping duty proceeding	Period to be reviewed
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807 Istanbul Celik ve Demir Izabe Sanayaii A.S.	10/10/96–03/31/98

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above-listed company. This action is in accordance with 19 CFR 351.214(e) and (j)(3).

Interested parties that need access to the proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: May 22, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, Import Administration,

[FR Doc. 98–14274 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Transition Orders; Final Schedule and Grouping of Five-Year Reviews

Editorial Note: Notice document FR Doc 98–12887 was originally published at page 26779 in the issue of Thursday, May 14, 1998. Due to typesetting errors, the document is being republished in its entirety.

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final schedule and grouping of five-year reviews of transition orders.

SUMMARY: The Department of Commerce ("the Department") hereby publishes its final schedule for the conduct of the initial five-year reviews of transition orders and the International Trade Commission's ("the Commission") final grouping of reviews.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1997, the Department published its proposed schedule for the conduct of the initial five-year reviews of transition orders and the Commission's proposal for grouping reviews (Transition Orders; Schedule and Grouping of Five-year Reviews, 62 FR 52686), as amended on November 17, 1997 (Transition Orders; Schedule and Grouping of Five-year Reviews, 62 FR 61294). We invited comments from interested parties on the proposed schedule and grouping of reviews. On December 8, 1997, the Department and the Commission received comments. On January 6, 1998, the Department and the Commission received rebuttal comments.

Comments on Schedule

We received comments from 22 parties, 11 of which addressed the proposed schedule. Five commenters requested that the proposed schedule be amended. After consideration of these comments, and following consultations with the Commission, the Department has decided to continue to apply the methodology described in the notice of proposed schedule and leave the schedule intact, with the exceptions caused by changes to specific groupings and revocations that have taken place since the publication of the proposed schedule. In addition, because of the embargo on imports from Iran, the Department has not scheduled the sunset review of the antidumping duty order on pistachios from Iran at this time.

Counsel for petitioners with respect to the antidumping duty order on stainless steel plate from Sweden requested that initiation of the sunset review of that order be rescheduled at a later time. Counsel suggests that an affirmative duty absorption determination is possible in the administrative review that the Department may initiate in July 1998. Counsel stated that the 1998 review offers the first opportunity to examine the issue of duty absorption because there was a zero margin on imports from respondent Avesta Sheffield AB ("Avesta") at the time of the administrative review initiated in 1996 and, thus, there was no duty absorption to be found. Counsel for Avesta objected to any delay stating that an affirmative duty absorption determination is highly speculative and the Commission is not required to consider a duty absorption determination unless one exists.

The Department is not delaying the sunset review of stainless steel plate from Sweden. If we were to adopt the position of petitioners, we would need to delay the initiation of the sunset review of any order for which there is a theoretical potential for an affirmative duty absorption determination in the fourth review. Such a step would not be practical in light of the deadlines imposed by the statute and the need to begin sunset reviews of transition order in July 1998. In addition, we note that a duty absorption finding was possible in the second review (because dumping margins were found); however, petitioners did not request that the Department examine this issue.

Counsel for Roquette Frères requested that the initiation of the sunset review of the order on sorbitol from France be accelerated from October 1998 to July 1998. Among the reasons cited in support, counsel noted that: imports should have ceased altogether; there is no likelihood of resumption of imports; no interested party is expected to request that the order remain in effect; given Roquette Frères' investment in U.S. production facilities, no comment suggesting continuation of the order is expected from interested parties other than competing producers; and given the order is not grouped with any others, it is administratively convenient and will contribute to an expeditious sunsetting of the order. The Department is not accelerating the schedule for review of the order on sorbitol from France. Consideration of case specific facts such as the level of imports, their likelihood of resumption, and the willingness of domestic producers to participate in a sunset review is more appropriately done in the course of the sunset review itself. It is inappropriate for us to consider many of these substantive issues which may be relevant to the sunset determination itself in the context of scheduling the sunset reviews. The Department, instead, has elected to stay with its objective criteria described in its October 9, 1997 notice.

Counsel for domestic producers of circular welded non-alloy steel pipe, light-walled rectangular pipe and tube, and oil country tubular goods requested that these products be considered as three separate groupings and that a staggered schedule of March, May, and July be established for initiation of sunset reviews on these three groups because simultaneous initiation would impose a burden on counsel and the domestic producers it represents. Similarly, counsel for interested parties in cases covering industrial belts, V belts, drafting machines, small business telephone systems, and mechanical transfer presses requested separation of initiations of sunset reviews on these orders by at least a few months in order to allow adequate representation of clients in each of these cases that the proposed schedule would make almost impossible. While we are sympathetic to the administrative burden imposed on counsel, we do not consider that this schedule denies adequate representation to any parties desiring to participate in sunset reviews. Additionally, we do not find these reasons sufficient to depart from the methodology used to develop the proposed schedule. Therefore, we have not adopted these suggested changes to the schedule.

Counsel for Norsk Hydro Canada Inc., a producer and exporter from Canada of pure magnesium and alloy magnesium objected to the proposed schedule for initiation of reviews on the antidumping order on pure magnesium and the countervailing duty orders on pure and alloy magnesium. Counsel stated that the proposed schedule results in the Department, prior to initiating sunset reviews on the magnesium orders, initiating sunset reviews of fifteen orders issued subsequent to the issuance of the magnesium orders. In support of its request, counsel stated that: the SAA requires that, to the maximum extent practical, older orders be reviewed first; the Department provided no reason for reviewing the newer orders out of chronological sequence; the Department did not identify any special problem that would justify the out-of-sequence review; the proposed groupings by the Commission, which group orders covering products that are not identical, do not support the out-of-sequence review for the majority of the fifteen orders; given that subsequent reviews are to follow the same time frame as initial reviews, companies following non-sequential reviews are penalized forever; and the proposed schedule for review of the fifteen orders favors trade with other countries over trade with

Canada. For these reasons, counsel requested that the Department and Commission reconsider the proposed schedule and groupings.

We continue to believe that the methodology used to develop the proposed schedule results in the creation of a schedule that permits the Department and the Commission to conduct sunset reviews of over 300 transition orders consistent with the provisions of the statute and, at the same time, provides the most rational and equitable schedule for interested parties. As explained in the Methodology section of the notice of proposed schedule and groupings (62 FR at 52686), the groups were created by combining orders involving the same domestic product or related like products. The schedule placed the groups in chronological sequence based on the average date of the group. Each of the fifteen orders cited by counsel was grouped with older orders such that the average date of the group pre-dated the orders on pure and alloy magnesium. This is the type of "special problem" that may arise where reviews of transition orders are grouped and which has been addressed through the use of the average date of the orders in the group. We continue to believe that the proposed groupings are appropriate and have not revised the schedule.

Comments on Grouping

Commenters objected to five specific groupings proposed in the notice.[1] The Commission has decided to modify one of these groups and leave the remaining three intact.

The Ad Hoc Committee of Domestic Nitrogen Producers and Mississippi Potash Corp. objected to the proposed grouping of 17 antidumping orders concerning solid urea with a suspension agreement concerning an antidumping investigation relating to potassium chloride (potash) from Canada. The Commission has concluded that consolidating reviews of urea and potash would not enhance administrative efficiency because urea and potash are chemically distinct, do not serve as practical or functional substitutes, and the only two U.S. producers that produce both urea and potash do so through distinct production facilities and entities. Accordingly, the Commission has not included the suspension agreement concerning potash from Canada within the group of urea orders.

The Cookware Manufacturers Association and counsel for three U.S. cookware manufacturers, objected to the proposed grouping of four antidumping and countervailing duty orders concerning porcelain-on-steel cookware, on the one hand, with four antidumping and countervailing duty orders on top-of-the-stove stainless steel cookware, on the other. Although these commenters are correct in asserting that the Commission has not previously determined that porcelain-on-steel and stainless steel cookware are within the same domestic like product, the legislative history of the Uruguay Round Agreements Act does not limit the Commission's ability to group reviews to those reviews involving identical like products. Instead, the legislative history indicates that the Commission may group reviews involving related products when such consolidation will promote administrative efficiency in conducting the review. Although the Commission is not defining domestic like products at this time, it has concluded that porcelain-on-steel and stainless steel cookware are sufficiently similar that consolidating reviews of all orders concerning these products into a single group will promote administrative efficiency.

Counsel for eight U.S. producers of circular welded non-alloy steel pipe, six U.S. producers of light-walled rectangular pipe and tube, and four U.S. producers of oil country tubular goods, objected to the grouping of 18 antidumping and countervailing duty orders involving various types of carbon steel pipe and tube products. The Commission has concluded that there is sufficient similarity among the products and overlap among the producers that a grouped review of these orders would promote administrative efficiency. The Commission has consequently decided not to modify this group.

The Japan Bearing Industrial Association objected to the proposed "bearings" group encompassing 22 antidumping and countervailing duty orders. It requested that the Commission group orders involving tapered roller bearings separately from orders involving other antifriction bearings. By contrast, Timken Co. and Torrington Co., respectively the petitioners in the original tapered roller bearings and antifriction bearings investigations, stated in comments that they did not object to the proposed "bearings" grouping. Because of the overall similarity of the products and the existence of some overlap among producers, the Commission has concluded that including all bearings in a single group will promote administrative efficiency. Accordingly, it has not modified the "bearings" group.

Final Schedule and Grouping

After considering the comments received, the Department and the Commission have developed, in consultation, the final schedule and grouping provided in the Appendix to this notice.

Dated: May 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

FINAL SCHEDULE AND GROUPING

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
July 98	9. 66	09. 13. 66	A–122–006	AA–49	Canada	Steel Jacks.
	6. 72	06. 9. 72	A–588–029	AA–85	Japan	Fish Netting of Manmade Fiber.
	6. 72	06. 14. 72	A–427–030	AA–86	France	Large Power Transformers.
	6. 72	06. 14. 72	A–475–031	AA–87	Italy	Large Power Transformers.
	6. 72	06. 14. 72	A–588–032	AA–88	Japan	Large Power Transformers.
	9. 72	08. 28. 68	A–843–803	AA–51	Kazakstan	Titanium Sponge.
	9. 72	08. 28. 68	A–821–803	AA–51	Russia	Titanium Sponge.
	9. 72	08. 28. 68	A–823–803	AA–51	Ukraine	Titanium Sponge.

[1] U.S. producers of gray portland cement calcium aluminate flux objected to the proposed cement/flux grouping. The Commission agreed that these products should not be grouped. However, on April 7, 1998, the Department revoked the antidumping duty order on flux; therefore this issue is moot.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	9. 72	11. 30. 84	A–588–020	A–161	Japan	Titanium Sponge.
	11. 72	11. 22. 72	A–588–038	AA–98	Japan	Bicycle Speedometers.
	3. 73	03. 23. 73	A–602–039	AA–110	Australia	Canned Bartlett Pears.
	4. 73	04. 12. 73	A–588–028	AA–111	Japan	Roller Chain.
Aug. 93	6. 73	06. 08. 73	A–401–040	AA–114	Sweden	Stainless Steel Plate.
	7. 73	07. 10. 73	A–588–041	AA–115	Japan	Synthetic Methionine.
	12. 73	12. 06. 73	A–588–046	AA–129	Japan	Polychloroprene Rubber.
	12. 73	12. 17. 73	A–122–047	AA–127	Canada	Elemental Sulphur.
	2. 74	02. 27. 74	A–122–050	AA–137	Canada	Racing Plates.
	8. 76	08. 30. 76	A–588–055	AA–154	Japan	Acrylic Sheet.
	2. 77	02. 02. 77	A–588–056	AA–162	Japan	Melamine.
Sep. 98	3. 77	03. 15. 77	C–351–037	C4–21	Brazil	Cotton Yarn.
	10. 77	10. 21. 77	A–475–059	AA–167	Italy	Pressure Sensitive Tape.
	12. 77	12. 22. 77	A–428–062	AA–172	Germany	Animal Glue.
	2. 78	02. 17. 78	A–433–064	AA–173	Austria	Railway Track Equipment.
	5. 78	05. 25. 78	A–588–066	AA–176	Japan	Impression Fabric.
	12. 78	12. 08. 78	A–588–068	AA–188	Japan	Steel Wire Strand.
	4. 79	03. 21. 79	A–405–071	AA–191	Finland	Rayon Staple Fiber.
	4. 79	05. 15. 79	C–401–056	C4–13	Sweden	Rayon Staple Fiber.
Oct. 98	6. 79	07. 31. 78	C–408–046	C4–7	EC	Sugar.
	6. 79	06. 13. 79	A–423–077	AA–198	Belgium	Sugar.
	6. 79	06. 13. 79	A–427–078	AA–199	France	Sugar.
	6. 79	06. 13. 79	A–428–082	AA–200	Germany	Sugar.
	6. 79	04. 09. 80	A–122–085	A–3	Canada	Sugar and Syrups.
	12. 79	03. 10. 71	A–588–015	AA–66	Japan	Television Receivers.
	12. 79	04. 30. 84	A–580–008	A–134	Korea (South)	Color Television Receivers.
	12. 79	04. 30. 84	A–583–009	A–135	Taiwan	Color Television Receivers.
	11. 80	11. 06. 80	A–588–090	A–7	Japan	Small Electric Motors (SA).
	1. 81	01. 07. 81	A–427–098	A–25	France	Anhydrous Sodium Metasilicate.
	4. 82	04. 09. 82	A–427–001	A–44	France	Sorbitol.
	7. 82	07. 20. 82	A–588–005	A–48	Japan	High Power Microwave Amplifiers.
	2. 83	06. 25. 81	A–428–061	A–31	Germany	Barium Carbonate.
	2. 83	10. 17. 84	A–570–007	A–149	China, PR	Barium Chloride.
Nov. 98	9. 83	09. 16. 83	A–570–101	A–101	China, PR	Griege Polyester Cotton Print Cloth.
	10. 83	09. 27. 82	C–357–004	C-None	Argentina	Carbon Steel Wire Rod (SA).
	10. 83	11. 23. 84	A–357–007	A–157	Argentina	Carbon Steel Wire Rod.
	11. 83	11. 07. 83	C–559–001	C-None	Singapore	Refrigeration Compressors (SA).
	1. 84	01. 19. 84	A–469–007	A–126	Spain	Potassium Permanganate.
	1. 84	01. 31. 84	A–570–001	A–125	China, PR	Potassium Permanganate.
	3. 84	03. 22. 84	A–570–002	A–130	China, PR	Chloropicrin.
	3. 85	10. 16. 80	C–533–063	C3–13	India	Iron Metal Castings.
	3. 85	03. 05. 86	A–122–503	A–263	Canada	Iron Construction Castings.
	3. 85	05. 09. 86	A–351–503	A–262	Brazil	Iron Construction Castings.
	3. 85	05. 09. 86	A–570–502	A–265	China, PR	Iron Construction Castings.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	3. 85	05. 15. 86	C–351–504	C–249	Brazil	Heavy Iron Construction Castings.
	3. 85	03. 01. 85	A–475–401	A–165	Italy	Brass Fire Protection Equipment.
Dec. 98	3. 85	3. 12. 85	C–301–401	C-None	Colombia	Textiles & Textile Products (SA).
	3. 85	3. 12. 85	C–549–401	C-None	Thailand	Certain Textile Mill Products (SA).
	4. 85	03. 02. 83	C–351–005	C–184	Brazil	Frozen Concentrated Orange Juice (SA).
	4. 85	05. 05. 87	A–351–605	A–326	Brazil	Frozen Concentrated Orange Juice.
	4. 85	04. 18. 85	A–588–401	A–189	Japan	Calcium Hypochlorite.
	5. 85	03. 16. 76	C–351–029	C4–20	Brazil	Castor Oil.
	5. 85	07. 14. 94	A–570–825	A–653	China, PR	Sebacic Acid.
	6. 85	06. 24. 85	A–122–401	A–196	Canada	Red Raspberries.
	8. 85	08. 15. 85	C–122–404	C–224	Canada	Live Swine.
	10. 85	10. 22. 85	C–351–406	C–223	Brazil	Tillage Tools.
	11. 85	11. 13. 85	A–357–405	A–208	Argentina	Barbed Wire.
Jan. 99	12. 85	12. 04. 85	A–614–502	A–246	New Zealand	Brazing Copper Wire & Rod.
	12. 85	01. 29. 86	A–791–502	A–247	South Africa	Brazing Copper Wire & Rod.
	12. 85	12. 19. 85	A–588–405	A–207	Japan	Cellular Mobile Phones.
	2. 86	02. 14. 86	A–570–501	A–244	China, PR	Paint Brushes.
	3. 86	10. 04. 83	A–570–003	A–103	China, PR	Shop Towels
	3. 86	03. 09. 84	C–535–001	C–202	Pakistan	Shop Towels.
	3. 86	09. 12. 84	C–333–401	C-None	Peru	Cotton Shop Towels (SA).
	3. 86	03. 20. 92	A–538–802	A–514	Bangladesh	Shop Towels.
	8. 86	08. 28. 86	A–570–504	A–282	China, PR	Candles.
	9. 86	10. 15. 73	A–588–045	AA–124	Japan	Steel Wire Rope.
	9. 86	03. 25. 93	A–201–806	A–547	Mexico	Steel Wire Rope.
	9. 86	03. 26. 93	A–580–811	A–546	Korea (South)	Steel Wire Rope.
	11. 86	05. 21. 86	A–351–505	A–278	Brazil	Malleable Cast Iron Pipe Fittings.
	11. 86	05. 23. 86	A–580–507	A–279	Korea (South)	Malleable Cast Iron Pipe Fittings.
	11. 86	05. 23. 86	A–583–507	A–280	Taiwan	Malleable Cast Iron Pipe Fittings.
	11. 86	07. 06. 87	A–588–605	A–347	Japan	Malleable Cast Iron Pipe Fittings.
	11. 86	08. 20. 87	A–549–601	A–348	Thailand	Malleable Cast Iron Pipe Fittings.
Feb. 99	1. 87	12. 02. 86	A–570–506	A–298	China, PR	Porcelain-on-Steel Cooking Ware.
	1. 87	12. 02. 86	A–201–504	A–297	Mexico	Porcelain-on-Steel Cooking Ware.
	1. 87	12. 02. 86	A–583–508	A–299	Taiwan	Porcelain-on-Steel Cooking Ware.
	1. 87	12. 12. 86	C–201–505	C–265	Mexico	Porcelain-on-Steel Cooking Ware.
	1. 87	01. 20. 87	A–580–601	A–304	Korea (South)	Top-of-the-Stove Stainless Steel Cooking Ware.
	1. 87	01. 20. 87	C–580–602	C–267	Korea (South)	Top-of-the-Stove Stainless Steel Cooking Ware.
	1. 87	01. 20. 87	C–583–604	C–268	Taiwan	Top-of-the-Stove Stainless Steel Cooking Ware.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	1.87	01. 20. 87	A–583–603	A–305	Taiwan	Top-of-the-Stove Stainless Steel Cooking Ware.
	3. 87	03. 12. 87	C–421–601	C–278	Netherlands	Standard Chrysanthemums.
	3. 87	03. 18. 87	A–301–602	A–329	Colombia	Fresh Cut Flowers.
	3. 87	03. 18. 87	A–331–602	A–331	Ecuador	Fresh Cut Flowers.
	3. 87	03. 19. 87	C–337–601	C–276	Chile	Standard Carnations.
	3. 87	03. 20. 87	A–337–602	A–328	Chile	Standard Carnations.
	3. 87	04. 23. 87	A–779–602	A–332	Kenya	Standard Carnations.
	3. 87	04. 23. 87	A–201–601	A–333	Mexico	Fresh Cut Flowers.
	3. 87	04. 23. 87	C–333–601	C3–18	Peru	Pompon Chrysanthemums.
	5. 87	01. 08. 87	C–351–604	C–269	Brazil	Brass Sheet & Strip.
	5. 87	01. 12. 87	A–351–603	A–311	Brazil	Brass Sheet & Strip.
	5. 87	01. 12. 87	A–122–601	A–312	Canada	Brass Sheet & Strip.
	5. 87	01. 12. 87	A–580–603	A–315	Korea (South)	Brass Sheet & Strip.
	5. 87	03. 06. 87	C–427–603	C–270	France	Brass Sheet & Strip.
	5. 87	03. 06. 87	A–427–602	A–313	France	Brass Sheet & Strip.
	5. 87	03. 06. 87	A–428–602	A–317	Germany	Brass Sheet & Strip.
	5. 87	03. 06. 87	A–475–601	A–314	Italy	Brass Sheet & Strip.
	5. 87	03. 06. 87	A–401–601	A–316	Sweden	Brass Sheet & Strip.
	5. 87	08. 12. 88	A–588–704	A–379	Japan	Brass Sheet & Strip.
	5. 87	08. 12. 88	A–421–701	A–380	Netherlands	Brass Sheet & Strip.
Mar. 99	7. 87	07. 14. 87	A–831–801	A–340	Armenia	Solid Urea.
	7. 87	07. 14. 87	A–832–801	A–340	Azerbaijan	Solid Urea.
	7. 87	07. 14. 87	A–822–801	A–340	Belarus	Solid Urea.
	7. 87	07. 14. 87	A–447–801	A–340	Estonia	Solid Urea.
	7. 87	07. 14. 87	A–833–801	A–340	Georgia	Solid Urea.
	7. 87	07. 14. 87	A–843–801	A–340	Kazakstan	Solid Urea.
	7. 87	07. 14. 87	A–835–801	A–340	Kyrgyzstan	Solid Urea.
	7. 87	07. 14. 87	A–449–801	A–340	Latvia	Solid Urea.
	7. 87	07. 14. 87	A–451–801	A–340	Lithuania	Solid Urea.
	7. 87	07. 14. 87	A–841–801	A–340	Moldova	Solid Urea.
	7. 87	07. 14. 87	A–485–601	A–339	Romania	Solid Urea.
	7. 87	07. 14. 87	A–821–801	A–340	Russia	Solid Urea.
	7. 87	07. 14. 87	A–842–801	A–340	Tajikistan	Solid Urea.
	7. 87	07. 14. 87	A–843–801	A–340	Turkmenistan	Solid Urea.
	7. 87	07. 14. 87	A–823–801	A–340	Ukraine	Solid Urea.
	7. 87	07. 14. 87	A–844–801	A–340	Uzbekistan	Solid Urea.
	8. 87	08. 19. 87	C–508–605	C–286	Israel	Industrial Phosphoric Acid.
	8. 87	08. 19. 87	A–508–604	A–366	Israel	Industrial Phosphoric Acid.
	8. 87	08. 20. 87	A–423–602	A–365	Belgium	Industrial Phosphoric Acid.
	8. 87	08. 25. 87	A–489–602	A–364	Turkey	Aspirin.
	1. 88	01. 07. 88	A–122–605	A–367	Canada	Color Picture Tubes.
	1. 88	01. 07. 88	A–588–609	A–368	Japan	Color Picture Tubes.
	1. 88	01. 07. 88	A–580–605	A–369	Korea (South)	Color Picture Tubes.
	1. 88	01. 07. 88	A–559–601	A–370	Singapore	Color Picture Tubes.
Apr. 99	1. 88	01. 19. 88	A–122–701	A–374	Canada	Potassium Chloride (Potash) (SA).
	6. 88	08. 08. 76	A–588–054	AA–143	Japan	Tapered Roller Bearings, 4 Inches and Under.
	6. 88	06. 15. 87	A–570–601	A–344	China, PR	Tapered Roller Bearings.
	6. 88	06. 19. 87	A–437–601	A–341	Hungary	Tapered Roller Bearings.
	6. 88	06. 19. 87	A–485–602	A–345	Romania	Tapered Roller Bearings.
	6. 88	10. 06. 87	A–588–604	A–343	Japan	Tapered Roller Bearings, Over 4 Inches.
	6. 88	05. 15. 89	A–427–801	A–392	France	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–427–801	A–392	France	Ball Bearings.
	6. 88	05. 15. 89	A–427–801	A–392	France	Spherical Plain Bearings.
	6. 88	05. 15. 89	A–428–801	A–391	Germany	Spherical Plain Bearings.
	6. 88	05. 15. 89	A–428–801	A–391	Germany	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–428–801	A–391	Germany	Ball Bearings.
	6. 88	05. 15. 89	A–475–801	A–393	Italy	Ball Bearings.
	6. 88	05. 15. 89	A–475–801	A–393	Italy	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–588–804	A–394	Japan	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–588–804	A–394	Japan	Spherical Plain Bearings.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	6. 88	05. 15. 89	A–588–804	A–394	Japan	Ball Bearings.
	6. 88	05. 15. 89	A–485–801	A–395	Romania	Ball Bearings.
	6. 88	05. 15. 89	A–559–801	A–396	Singapore	Ball Bearings.
	6. 88	05. 15. 89	A–401–801	A–397	Sweden	Ball Bearings.
	6. 88	05. 15. 89	A–401–801	A–397	Sweden	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–412–801	A–399	United Kingdom	Cylindrical Roller Bearings.
	6. 88	05. 15. 89	A–412–801	A–399	United Kingdom	Ball Bearings.
	6. 88	06. 07. 88	A–588–703	A–377	Japan	Forklift Trucks.
	6. 88	06. 16. 88	A–588–706	A–384	Japan	Nitrile Rubber.
May 99	8. 88	05. 07. 84	A–583–008	A–132	Taiwan	Small Diameter Carbon Steel Pipe and Tube.
	8. 88	03. 07. 86	C–489–502	C–253	Turkey	Welded Carbon Steel Pipes and Tubes.
	8. 88	03. 07. 86	C–489–502	C–253	Turkey	Welded Carbon Steel Line Pipe.
	8. 88	03. 11. 86	A–549–502	A–252	Thailand	Welded Carbon Steel Pipes and Tubes.
	8. 88	05. 12. 86	A–533–502	A–271	India	Welded Carbon Steel Pipes and Tubes.
	8. 88	05. 15. 86	A–489–501	A–273	Turkey	Welded Carbon Steel Pipes and Tubes.
	8. 88	06. 16. 86	A–122–506	A–276	Canada	Oil Country Tubular Goods.
	8. 88	06. 18. 86	A–583–505	A–277	Taiwan	Oil Country Tubular Goods.
	8. 88	11. 13. 86	A–559–502	A–296	Singapore	Small Diameter Standard & Rectangular Pipe & Tube.
	8. 88	03. 06. 87	A–508–602	A–318	Israel	Oil Country Tubular Goods.
	8. 88	03. 06. 87	C–508–601	C–271	Israel	Oil Country Tubular Goods.
	8. 88	03. 27. 89	A–583–803	A–410	Taiwan	Light Walled Rectangular Tubing.
	8. 88	05. 26. 89	A–357–802	A–409	Argentina	Light Walled Rectangular Tubing.
	8. 88	11. 02. 92	A–351–809	A–532	Brazil	Circular-Welded Non-Alloy Steel Pipe.
	8. 88	11. 02. 92	A–580–809	A–533	Korea (South)	Circular-Welded Non-Alloy Steel Pipe.
	8. 88	11. 02. 92	A–201–805	A–534	Mexico	Circular-Welded Non-Alloy Steel Pipe.
	8. 88	11. 02. 92	A–583–814	A–536	Taiwan	Circular-Welded Non-Alloy Steel Pipe.
	8. 88	11. 02. 92	A–307–805	A–537	Venezuela	Circular-Welded Non-Alloy Steel Pipe.
	8. 88	08. 24. 88	A–588–707	A–386	Japan	Granular Polytetrafluoroetheylene Resin.
	8. 88	08. 30. 88	A–475–703	A–385	Italy	Granular Polytetraflouroetheylene Resin.
	3. 89	12. 17. 86	A–351–602	A–308	Brazil	Carbon Steel Butt-Weld Pipe Fittings.
	3. 89	12. 17. 86	A–583–605	A–310	Taiwan	Carbon Steel Butt-Weld Pipe Fittings.
	3. 89	02. 10. 87	A–588–602	A–309	Japan	Carbon Steel Butt-Weld Pipe Fittings.
	3. 89	07. 06. 92	A–570–814	A–520	China, PR	Carbon Steel Butt-Weld Pipe Fittings.
	3. 89	07. 06. 92	A–549–807	A–521	Thailand	Carbon Steel Butt-Weld Pipe Fittings.
	4. 89	04. 03. 89	A–588–802	A–389	Japan	Micro Disks.
	4. 89	04. 17. 89	A–484–801	A–406	Greece	Electrolytic Manganese Dioxide.
	4. 89	04. 17. 89	A–588–806	A–408	Japan	Electrolytic Manganese Dioxide.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
Jun. 99	6. 89	06. 14. 89	A–428–802	A–419	Germany	Industrial Belts Except Synchronous & V Belts.
	6. 89	06. 14. 89	A–475–802	A–413	Italy	Synchronous and V-Belts.
	6. 89	06. 14. 89	A–588–807	A–414	Japan	Industrial Belts.
	6. 89	06. 14. 89	A–559–802	A–415	Singapore	V-Belts.
	9. 89	08. 10. 83	A–427–009	A–96	France	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–351–804	A–439	Brazil	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–570–802	A–441	China, PR	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–428–803	A–444	Germany	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–588–812	A–440	Japan	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–580–805	A–442	Korea (South)	Industrial Nitrocellulose.
	9. 89	07. 10. 90	A–412–803	A–443	United Kingdom	Industrial Nitrocellulose.
	9. 89	10. 16. 90	A–479–801	A–445	Yugoslavia	Industrial Nitrocellulose.
	9. 89	09. 15. 89	A–122–804	A–422	Canada	Steel Rail.
	9. 89	09. 22. 89	C–122–805	C–297	Canada	Steel Rail.
	12. 89	12. 29. 89	A–588–811	A–432	Japan	Drafting Machines.
	1. 90	12. 11. 89	A–588–809	A–426	Japan	Small Business Telephone Systems.
	1. 90	12. 11. 89	A–583–806	A–428	Taiwan	Small Business Telephone Systems.
	1. 90	02. 07. 90	A–580–803	A–427	Korea (South)	Small Business Telephone Systems.
	2. 90	02. 16. 90	A–588–810	A–429	Japan	Mechanical Transfer Presses.
	11. 90	11. 19. 90	A–588–813	A–455	Japan	Multiangle Laser Light Scattering Instruments.
	2. 91	02. 13. 91	A–588–816	A–462	Japan	Benzyl Paraben.
Jul. 99	2. 91	02. 19. 91	A–570–803	A–457	China, PR	Bars, Wedges.
	2. 91	02. 19. 91	A–570–803	A–457	China, PR	Axes, Adzes.
	2. 91	02. 19. 91	A–570–803	A–457	China, PR	Picks, Mattocks.
	2. 91	02. 19. 91	A–570–803	A–457	China, PR	Hammers, Sledges.
	2. 91	02. 19. 91	A–570–805	A–466	China, PR	Sulfur Chemicals (Sodium Thiosulfate).
	2. 91	02. 19. 91	A–428–807	A–465	Germany	Sulfur Chemicals (Sodium Thiosulfate).
	2. 91	02. 19. 91	A–412–805	A–468	United Kingdom	Sulfur Chemicals (Sodium Thiosulfate).
	4. 91	01. 03. 83	C–469–004	C–178	Spain	Stainless Steel Wire Rods.
	4. 91	12. 01. 93	A–533–808	A–638	India	Stainless Steel Wire Rods.
	4. 91	01. 28. 94	A–351–819	A–636	Brazil	Stainless Steel Wire Rods.
	4. 91	01. 28. 94	A–427–811	A–637	France	Stainless Steel Wire Rods.
	4. 91	12. 03. 87	A–401–603	A–354	Sweden	Seamless Stainless Steel Hollow Products.
	4. 91	12. 30. 92	A–580–810	A–540	Korea (South)	Welded Stainless Steel Pipes.
	4. 91	12. 30. 92	A–583–815	A–541	Taiwan	Welded Stainless Steel Pipes.
	4. 91	04. 12. 91	A–403–801	A–454	Norway	Fresh & Chilled Atlantic Salmon.
	4. 91	04. 12. 91	C–403–802	C–302	Norway	Fresh & Chilled Atlantic Salmon.
	6. 91	06. 05. 91	A–580–807	A–459	Korea (South)	Polyethylene Terephthalate Film.
	6. 91	06. 18. 91	A–570–804	A–464	China, PR	Sparklers.
	8. 91	03. 25. 88	A–588–702	A–376	Japan	Stainless Steel Butt-Weld Pipe Fittings.
	8. 91	02. 23. 93	A–580–813	A–563	Korea (South)	Stainless Steel Butt-Weld Pipe Fittings.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	8. 91	06. 16. 93	A–583–816	A–564	Taiwan	Stainless Steel Butt-Weld Pipe Fittings.
Aug. 99	8. 91	08. 30. 90	A–201–802	A–451	Mexico	Grey Portland Cement and Cement Clinker.
	8. 91	05. 10. 91	A–588–815	A–461	Japan	Grey Portland Cement and Cement Clinker.
	8. 91	02. 27. 92	A–307–803	A–519	Venezuela	Grey Portland Cement and Cement Clinker (SA).
	8. 91	03. 17. 92	C–307–804	C3–21	Venezuela	Grey Portland Cement and Cement Clinker (SA).
	9. 91	09. 04. 91	A–588–817	A–469	Japan	Flat Panel Displays (Electroluminescent).
	9. 91	09. 20. 91	A–570–808	A–474	China, PR	Chrome-Plated Lug Nuts.
	9. 91	09. 20. 91	A–583–810	A–475	Taiwan	Chrome-Plated Lug Nuts.
	11.91	11.21.91	A–570–811	A–497	China, PR	Tungsten Ore Concentrates.
	6.92	06.02.92	A–614–801	A–516	New Zealand	Kiwifruit.
	8.92	08.31.92	C–122–815	C–309	Canada	Pure Magnesium.
	8.92	08.31.92	C–122–815	C–309	Canada	Alloy Magnesium.
	8.92	08.31.92	A–122–814	A–528	Canada	Pure Magnesium.
	10.92	10.07.92	A–557–805	A–527	Malaysia	Extruded Rubber Thread.
	12.92	10.16.92	A–843–802	A–539	Kazakstan	Uranium (SA).
	12.92	10.16.92	A–835–802	A–539	Kyrgyzstan	Uranium (SA).
	12.92	10.16.92	A–821–802	A–539	Russia	Uranium (SA).
	12.92	10.16.92	A–844–802	A–539	Uzbekistan	Uranium (SA).
	12.92	08.30.93	A–823–802	A–539	Ukraine	Uranium.
Sep. 99	1.93	06.13.79	A–583–080	AA–197	Taiwan	Carbon Steel Plate.
	1.93	10.11.85	C–401–401	C–231	Sweden	Carbon Steel Products.
	1.93	08.17.93	C–423–806	C–319	Belgium	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–351–818	C–320	Brazil	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–427–810	C–348	France	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–428–817	C–322	Germany	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–428–817	C–349	Germany	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–428–817	C–340	Germany	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.17.93	C–580–818	C–342	Korea (South)	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.17.93	C–580–818	C–350	Korea (South)	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–201–810	C–325	Mexico	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–469–804	C–326	Spain	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–401–804	C–327	Sweden	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–412–815	C–328	United Kingdom	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–602–803	A–612	Australia	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–423–805	A–573	Belgium	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–351–817	A–574	Brazil	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–122–822	A–614	Canada	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–122–823	A–575	Canada	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–405–802	A–576	Finland	Cut-to-Length Carbon Steel Plate.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	1.93	08.19.93	A–427–808	A–615	France	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–428–815	A–616	Germany	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–428–814	A–604	Germany	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–428–816	A–578	Germany	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–588–826	A–617	Japan	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–580–816	A–618	Korea (South)	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–580–815	A–607	Korea (South)	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–201–809	A–582	Mexico	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–421–804	A–608	Netherlands	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–455–802	A–583	Poland	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–485–803	A–584	Romania	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–469–803	A–585	Spain	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–401–805	A–586	Sweden	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–412–814	A–587	United Kingdom	Cut-to-Length Carbon Steel Plate.
Oct. 99	1. 93	08. 19. 92	A–570–815	A–538	China, PR	Sulfanilic Acid.
	1. 93	03. 02. 93	C–533–807	C–318	India	Sulfanilic Acid.
	1. 93	03. 02. 93	A–533–806	A–561	India	Sulfanilic Acid.
	3. 93	03. 22. 93	C–351–812	C–314	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	A–351–811	A–552	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	A–427–804	A–553	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	C–427–805	C–315	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	C–428–812	C–316	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	A–428–811	A–554	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	C–412–811	C–317	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3. 93	03. 22. 93	A–412–810	A–555	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.
Nov. 99	5. 93	06. 10. 91	A–570–806	A–472	China, PR	Silicon Metal.
	5. 93	07. 31. 91	A–351–806	A–471	Brazil	Silicon Metal.
	5. 93	09. 26. 91	A–357–804	A–470	Argentina	Silicon Metal.
	5. 93	03. 11. 93	A–570–819	A–567	China, PR	Ferrosilicon.
	5. 93	04. 07. 93	A–843–804	A–566	Kazakstan	Ferrosilicon.
	5. 93	04. 07. 93	A–823–804	A–569	Ukraine	Ferrosilicon.
	5. 93	05. 10. 93	C–307–808	C3–23	Venezuela	Ferrosilicon.
	5. 93	06. 24. 93	A–821–804	A–568	Russia	Ferrosilicon.
	5. 93	06. 24. 93	A–307–807	A–570	Venezuela	Ferrosilicon.
	5. 93	03. 14. 94	A–351–820	A–641	Brazil	Ferrosilicon.
	5. 93	10. 31. 94	A–823–805	A–673	Ukraine	Silicomanganese (SA).
	5. 93	12. 22. 94	A–351–824	A–671	Brazil	Silicomanganese.
	5. 93	12. 22. 94	A–570–828	A–672	China, PR	Silicomanganese.
	5. 93	05. 10. 93	A–580–812	A–556	Korea (South)	DRAMS of 1 Megabit and Above.
	7. 93	07. 12. 93	A–588–823	A–571	Japan	Electric Cutting Tools.
	8. 93	06. 28. 93	A–583–820	A–625	Taiwan	Helical Spring Lock Washers.

FINAL SCHEDULE AND GROUPING—Continued

Initiation month/year	Group average date month/year	Effective date (mm.dd.yy)	DOC Case No.	ITC Case No.	Country	Product
	8. 93	10. 19. 93	A–570–822	A–624	China, PR	Helical Spring Lock Washers.
	9. 93	09. 07. 93	A–570–820	A–621	China, PR	Compact Ductile Iron Waterworks Fittings and Glands.
Dec. 99	2. 94	02. 09. 94	A–533–809	A–639	India	Forged Stainless Steel Flanges.
	2. 94	02. 09. 94	A–583–821	A–640	Taiwan	Forged Stainless Steel Flanges.
	3. 94	03. 02. 94	A–588–829	A–643	Japan	Defrost Timers.
	6. 94	06. 24. 94	A–421–805	A–652	Netherlands	Aramid Fiber.
	7. 94	06. 07. 94	C–475–812	C–355	Italy	Grain-Oriented Electrical Steel.
	7. 94	06. 10. 94	A–588–831	A–660	Japan	Grain-Oriented Electrical Steel.
	7. 94	08. 12. 94	A–475–811	A–659	Italy	Grain-Oriented Electrical Steel.
	8. 94	08. 12. 94	A–588–832	A–661	Japan	Color Negative Photo Paper & Chemical Components (SA).
	8. 94	08. 12. 94	A–421–806	A–662	Netherlands	Color Negative Photo Paper & Chemical Components (SA).
	11. 94	11. 16. 94	A–570–831	A–683	China, PR	Garlic.
	11. 94	11. 25. 94	A–570–826	A–663	China, PR	Paper Clips.
	12. 94	12. 28. 94	A–570–827	A–669	China, PR	Cased Pencils.

Editorial Note: Notice document FR Doc 98–12887 was originally published at page 26779 in the issue of Thursday, May 14, 1998. Due to typesetting errors, the document is being republished in its entirety. Also, the **Federal Register** document number is corrected below.

[FR Doc 98–12887 Filed 5–13–98; 8:45 am]

BILLING CODE 1505–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Modernization Transition Committee (MTC)

ACTION: Notice of Public Meeting.

TIME AND DATE: June 17 and 18, 1998 beginning at 8:00 a.m.

PLACE: This meeting will take place at the Victoria Holiday Inn, 2705 E. Houston Highway, Victoria, Texas.

STATUS: The meeting will be open to the public. The time between 8:30 a.m. and noon on Wednesday, June 17 will be set aside for public comments on he proposed certifications of the Victoria Weather Service Office. The time from 9:45 a.m. to 10:15 a.m. on Thursday, June 18 will be set aside for public comments on the proposed certifications for Astoria, Chattanooga, Honolulu, Huntington, and Syracuse. Approximately 200 seats will be available on a first-come first-served basis each day.

MATTERS TO BE CONSIDERED: This meeting will include MTC consultation on the proposed Consolidation, Automation and Closure Certifications for Victoria, Texas, Chattanooga, Tennessee, and Syracuse, New York; MTC consultation on the proposed Automation and Closure certifications for Astoria, Oregon, Honolulu, Hawaii, and Huntington, West Virginia; and a report on the NWS Modernization status.

CONTACT PERSON FOR MORE INFORMATION: Mr. Nicholas Scheller, National Weather Service, Modernization Staff, 1325 East-West Highway, SSMC2, Silver Spring, Maryland 20910. Telephone: (301) 713–0454.

Dated: May 22, 1998.

Nicholas R. Scheller,

Manager, National Implementation Staff.

[FR Doc. 98–14184 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052298A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1142, 1152, 1154) and for modifications to scientific research permits (900, 946, 964, 994, 996); Issuance of scientific research permits (1050, 1060, 1071, 1074, 1091, 1097, 1105), modifications to scientific research permits (900, 1030, 1035, 1036, 1079, 1104) and an amendment to a scientific research permit (844).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received permit applications from: Fish Ecology Division of the Northwest Fisheries Science Center, NMFS at

Seattle, WA (NWFSC) (1142), the Oregon Department of Fish and Wildlife at La Grande, OR (ODFW) (1152) and NWFSC (1154); NMFS has received applications for modifications to existing permits from: NWFSC (900, 946, 964), the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU) (994), and the U.S. Army Corps of Engineers at Walla Walla, WA (Corps) (996); NMFS has issued permits subject to certain conditions set forth therein, to: ENTRIX, Inc. (1050), Simpson Timber Company (STC) (1060), U.S.D.A., Forest Service (USFS) (1071), Pacific Lumber Company (PLC) (1074), Santa Ynez River Technical Advisory Committee (SYRTAC) (1091), Resource Management International (RMI) (1097), and Hagar Environmental Science (HES) (1105); NMFS has issued modifications to scientific research permits to: NWFSC (900), Sarah V. Mitchell, of Gray's Reef National Marine Sanctuary (1030), the U.S. Geological Survey at Cook, WA (USGS) (1035, 1036), Pacific Coast Federation of Fishermen's Associations (PCFFA) (1075), Georgia-Pacific West Inc. (GPWI) (1079), and Louisiana-Pacific Corporation (LPC) (1104); and NMFS has issued an amendment to a scientific research permit to the Idaho Department of Fish and Game at Boise, ID (IDFG) (844).

DATES: Written comments or requests for a public hearing on any of the applications must be received on or before June 28, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 844, 900, 946, 964, 994, 996, 1035, 1036, 1142, and 1152: Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permits 1050, 1060, 1071, 1074, 1079, 1091, 1097, 1104, 1105, and 1154: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

For permit 1030: Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 844, 900, 946, 964, 994, 996, 1035, 1036, 1124, 1127, 1142, and 1152: Robert Koch, Portland, OR (503–230–5424).

For permits 1050, 1060, 1071, 1074, 1079, 1091, 1097, 1104, 1105, and 1154: Thomas Hablett, Protected Resources Division, (707–575–6066).

For permit 1030: Michelle Rogers, Endangered Species Division, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Permits are requested under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the below application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Issuance of these permits, modifications, and amendments, as required by the ESA, was based on a finding that such permits, modifications, and amendments: (1) Were applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. These permits, modifications, and amendments were also issued in accordance with and are subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

Species Covered in This Notice

The following species are covered in this notice: chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), Loggerhead sea turtle (*Caretta caretta*), sockeye salmon (*Oncorhynchus nerka*), and steelhead trout (*Oncorhynchus mykiss*).

To date, protective regulations for threatened Snake River steelhead and threatened lower Columbia River steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of applications requesting takes of these species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of Snake River steelhead and lower Columbia River steelhead. The initiation of a 30-day public comment period on the applications, including their proposed takes of Snake River steelhead and lower Columbia River (LCR) steelhead, does not presuppose the contents of the eventual protective regulations.

New Applications Received

NWFSC (1142) requests a one-year permit that would authorize takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; adult and juvenile, endangered, naturally produced and artificially propagated, upper Columbia River (UCR) steelhead; and adult and juvenile, threatened, Snake River steelhead associated with a study designed to evaluate the effects of the new juvenile bypass/sampling facility at John Day Dam (located on the lower Columbia River) on migrating salmonids. The information will be used to identify and correct any problem areas associated with the bypass system with the ultimate goal of increasing juvenile salmonid survival at the dam. ESA-listed juvenile fish are proposed to be captured, handled, and released while obtaining non-listed fish for the study. A lethal take of ESA-listed juvenile fish is requested to determine how the facility affects fish physiology. In addition, ESA-listed adult steelhead fallbacks are proposed to be captured, marked with a visible external identifier, released above the dam, recaptured at or below the dam, examined, and released to evaluate the facility for adult salmonid passage. ESA-listed juvenile fish indirect mortalities associated with the scientific research activities are also requested.

ODFW (1152) requests a five-year permit that would authorize takes of adult and juvenile, threatened, naturally produced, Snake River spring/summer chinook salmon and adult and juvenile, threatened, Snake River steelhead associated with scientific research conducted in the Grande Ronde and Imnaha River Basins in the state of OR. ODFW proposes to conduct ten research tasks: (1) Spring chinook salmon spawning ground surveys, (2) spring chinook salmon early life history, (3) habitat and fish inventory surveys, (4) passage and irrigation screening, (5) steelhead kelt rejuvenation, (6) steelhead straying study, (7) anadromous versus resident life history strategy in steelhead, (8) monitoring of residual hatchery steelhead, (9) steelhead spawning ground surveys, and (10) Lookingglass Creek spring chinook salmon reintroduction study. ODFW proposes to observe/harass ESA-listed fish during surveys and redd counts and to employ seines, traps, and electrofishing to capture ESA-listed fish

to acquire biological information or to apply passive integrated transponders, jaw tags, opercular marks, or other marks for migration studies. A lethal take of ESA-listed adult steelhead is requested. ESA-listed fish indirect mortalities associated with the scientific research activities are also requested.

NWFSC (1154) requests a five-year permit for takes of juvenile, threatened, southern Oregon/northern California coast (SONCC) coho salmon associated with the National Wild Fish Health Survey in the Klamath River, within the California portion of the Evolutionarily Significant Unit (ESU). The study consists of the capture and intentional killing of ESA-listed juveniles for a tissues analysis of bacterial and parasitic pathogens in the species. Direct mortalities of 50 juvenile coho salmon annually are requested.

Modification Requests Received

NWFSC requests modification 6 to permit 900. Permit 900 authorizes NWFSC annual takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon ; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with three studies designed to determine the relative survival of migrating juvenile salmonids at hydropower dams and reservoirs on the Snake and Columbia Rivers in the Pacific Northwest. For modification 6, NWFSC requests an increase in the takes of ESA-listed juvenile fish associated with The Dalles Dam survival study. Actual field conditions to date in 1998 indicate that NWFSC underestimated the amount of ESA-listed fish takes needed to validate the study. ESA-listed juvenile fish are proposed to be captured at Bonneville Dam on the Columbia River, handled, and released while collecting non-listed fish for the study or captured at Bonneville Dam, tagged with passive integrated transponders (PIT), transported to The Dalles Dam, and released above the dam. ESA-listed juvenile fish that are PIT-tagged are subsequently proposed to be automatically detected in the juvenile fish bypass systems of Bonneville Dam without further handling. An associated increase in ESA-listed juvenile fish indirect mortalities are requested. Modification 6 is requested to be valid for the duration of the permit. Permit 900 expires on December 31, 1999.

NWFSC requests modification 5 to permit 946. Permit 946 authorizes NWFSC annual takes of juvenile, endangered, Snake River sockeye salmon; adult and juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with two scientific research studies. The studies are designed to assess the migration timing and relative survival of chinook salmon smolts transported by barge to below Bonneville Dam with the survival to adulthood of smolts migrating volitionally inriver to Bonneville Dam and to the mouth of the Columbia River. For modification 5, NWFSC requests an increase in the takes of ESA-listed juvenile fish associated with both studies. Actual field conditions to date in 1998 indicate that NWFSC underestimated the amount of ESA-listed fish takes needed to complete the studies. An associated increase in ESA-listed juvenile fish indirect mortalities are requested. Modification 5 is requested to be valid for the duration of the permit. Permit 946 expires on December 31, 1999.

NWFSC requests modification 1 to permit 964. Permit 964 authorizes NWFSC annual takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, Snake River fall chinook salmon; and juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon associated with a study designed to compare the adult recoveries of run-of-the-river subyearling chinook salmon transported around the hydropower dams on the Columbia River versus those migrating inriver. For modification 1, NWFSC requests annual takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead and juvenile, threatened, Snake River steelhead associated with the research. ESA-listed juvenile steelhead are proposed to be captured at McNary Dam on the Columbia River, handled, and released while collecting subyearling chinook salmon for the study. ESA-listed juvenile steelhead indirect mortalities are requested. Modification 1 is requested to be valid for the duration of the permit. Permit 964 expires on December 31, 1999.

ICFWRU requests modification 4 to scientific research permit 994. Permit 994 authorizes ICFWRU annual takes of adult, ESA-listed, Snake River salmon associated with a study designed to assess the passage success of migrating adult salmonids at the four dams and reservoirs in the lower Columbia River, evaluate adult fish responses to specific flow and spill conditions, and evaluate measures to improve adult fish passage. For modification 4, ICFWRU requests annual takes of adult, endangered, UCR steelhead; adult, threatened, Snake River steelhead; and adult, threatened, LCR steelhead associated with a new study designed to determine the effects of transporting steelhead smolts on the homing of returning adults. ESA-listed adult steelhead are proposed to be captured at Bonneville Dam on the Columbia River, fitted with radio transmitters and identifier tags, and released. Once returned to the river, ESA-listed adult fish will be tracked electronically to hatcheries and spawning grounds. Modification 4 is requested to be valid for the duration of the permit. Permit 994 expires on December 31, 2000.

The Corps requests modification 1 to scientific research permit 996. Permit 996 authorizes the Corps annual takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; and juvenile, threatened, Snake River fall chinook salmon associated with a study designed to monitor the operation of the juvenile fish bypass system at Ice Harbor Dam on the Snake River in WA. For modification 1, the Corps requests authorization for a take of juvenile, threatened, Snake River steelhead associated with the research. ESA-listed juvenile steelhead are proposed to be captured, examined, and released. ESA-listed juvenile steelhead indirect mortalities associated with the research are requested. Modification 1 is requested to be valid for the duration of the permit. Permit 996 expires on December 31, 2000.

Permits, Modifications, and Amendment Issued

On April 30, 1998, NMFS issued an amendment of IDFG's incidental take permit 844. The amendment provides an extension of the duration of the permit through December 31, 1998. The permit was due to expire on April 30, 1998. Permit 844 authorizes IDFG an incidental take of adult and juvenile, threatened, Snake River spring/summer chinook salmon and adult, threatened, Snake River fall chinook salmon associated with the state of Idaho's sport-fishing program. An extension of permit 844 will allow IDFG to manage sport-fishing activities in Idaho in 1998 while NMFS processes IDFG's application for a new permit. NMFS determined that the current permit adequately addresses the incidental take

of ESA-listed species associated with recreational fisheries in the state.

Notice was published on March 24, 1998 (63 FR 14069) that an application had been filed by NWFSC for modification 5 to scientific research permit 900. Modification 5 to permit 900 was issued to NWFSC on May 8, 1998. Permit 900 authorizes NWFSC annual takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; and juvenile, threatened, Snake River fall chinook salmon associated with three studies designed to determine the relative survival of migrating juvenile salmonids at hydropower dams and reservoirs on the Snake and Columbia Rivers in the Pacific Northwest. For modification 5, NWFSC is authorized an increase in the takes of ESA-listed juvenile fish associated with one of the studies. Also for modification 5, NWFSC is authorized an annual take of juvenile, endangered, naturally produced and artificially propagated, upper Columbia River steelhead associated with the research. Modification 5 is valid for the duration of the permit. Permit 900 expires on December 31, 1999.

On March 18, 1998, Sarah V. Mitchell of Gray's Reef National Marine Sanctuary, applied for a modification to permit 1030 to take listed loggerhead sea turtles for examination, tagging, observation, collection of morphometric measurements, and release. The purpose of the authorized research, as stated in the permit application, is to investigate population trends, migrations, habitat, and diving behavior of loggerhead turtles in the waters of the Gray's Reef National Marine Sanctuary. Ms. Mitchell requested a modification to permit 1030 to allow for the attachment of radio and sonic tags to turtles captured pursuant to her research permit. Notice is hereby given that on May 21, 1998, NMFS issued modification 2 to permit 1030 as requested.

Notice was published on March 6, 1998 (63 FR 11222) that an application had been filed by USGS for modification 1 to scientific research permit 1035. Modification 1 to permit 1035 was issued to USGS on May 8, 1998. Permit 1035 authorizes USGS an annual take of juvenile, threatened, artificially propagated, Snake River spring/summer chinook salmon associated with a study designed to monitor total dissolved gas symptoms on juvenile salmonids. For modification 1, USGS is authorized an annual take of juvenile, endangered, artificially propagated, UCR steelhead and an increase in the annual take of juvenile, ESA-listed, artificially propagated, Snake River spring/summer chinook salmon associated with the study. Modification 1 is valid for the duration of the permit. Permit 1035 expires on December 31, 1999.

Notice was published on March 6, 1998 (63 FR 11222) that an application had been filed by USGS for modification 1 to scientific research permit 1036. Modification 1 to permit 1036 was issued to USGS on May 8, 1998. Permit 1036 authorizes USGS an annual take of adult and juvenile, threatened, Snake River fall chinook salmon and juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon associated with a study designed to determine the post-release attributes and survival of hatchery and natural fall chinook salmon in the Snake River. For modification 1, USGS is authorized an increase in the takes of ESA-listed salmon juveniles and an annual take of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with the research. Modification 1 is valid for the duration of the permit. Permit 1036 expires on December 31, 2001.

Notice was published on September 24, 1997 (62 FR 49961) that an application had been filed by ENTRIX for a modification to a scientific research permit. Modification 1 to permit 1050 was issued to ENTRIX on March 12, 1998. Permit 1050 authorizes takes of of adult and juvenile, threatened, central California coast (CCC) coho salmon associated with fish population and habitat studies throughout the ESU. ESA-listed fish may be captured, handled, and released. Indirect mortalities are also authorized. The modification authorizes takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the California portion of the ESU. ESA-listed fish may be observed or captured, handled, and released. Indirect mortalities are also authorized. The modification authorizes takes of adult and juvenile, endangered, southern California steelhead associated with fish population and habitat studies throughout the ESU. ESA-listed fish may be captured, handled, and released. Indirect mortalities are also authorized. Modification 1 is valid for the duration of the permit. Permit 1050 expires on June 30, 2002.

Notice was published on December 17, 1997 (62 FR 66053) that an application had been filed by STC for a scientific research permit. Permit 1060 was issued to STC on March 23, 1998. Permit 1060 authorizes takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies within the California portion of the ESU. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1060 expires on June 30, 2003.

Notice was published on November 28, 1997 (62 FR 63317) that an application had been filed by USFS for a scientific research permit. Permit 1071 was issued to USFS on May 18, 1998. Permit 1071 authorizes takes of juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies within the California portion of the ESU. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1071 expires on June 30, 2003.

Notice was published on January 13, 1998 (63 FR 2364) that an application had been filed by PLC for a scientific research permit. Permit 1074 was issued to PLC on May 13, 1998. Permit 1074 authorizes takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies within the California portion of the ESU. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1074 expires on June 30, 2003.

Notice was published on January 13, 1998 (63 FR 2364) that an application had been filed by PCFFA for a scientific research permit. Permit 1075 was issued to PCFFA on May 19, 1998. Permit 1075 authorizes takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies within the California portion of the ESU. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1075 expires on June 30, 2003.

Notice was published on November 5, 1997 (62 FR 59848) that an application had been filed by GPWI for a modification to a scientific research permit. Modification 1 to permit 1079 was issued to GPWI on May 12, 1998. Permit 1079 authorizes takes of of juvenile, threatened, CCC coho salmon associated with fish population and habitat studies throughout the ESU. ESA-listed fish may be captured, handled, and released. Indirect mortalities are also authorized. The modification authorizes takes of juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the

California portion of the ESU. ESA-listed fish may be observed or captured, handled, and released. Indirect mortalities are also authorized. Modification 1 is valid for the duration of the permit. Permit 1079 expires on June 30, 2002.

Notice was published on November 17, 1997 (62 FR 61295) that an application had been filed by SYRTAC for a scientific research permit. Permit 1091 was issued to SYRTAC on March 23, 1998. Permit 1091 authorizes takes of adult and juvenile, endangered, southern California steelhead associated with fish population and habitat studies within the ESU. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1091 expires on June 30, 2003.

Notice was published on November 17, 1997 (62 FR 61295) that an application had been filed by RMI for a scientific research permit. Permit 1097 was issued to RMI on May 11, 1998. Permit 1097 authorizes takes of adult and juvenile, threatened, CCC coho salmon, adult and juvenile, threatened, SONCC (in California only) coho salmon, and adult and juvenile, endangered, southern California steelhead associated with fish population and habitat studies throughout the ESUs. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1097 expires on June 30, 2003.

Notice was published on November 17, 1997 (62 FR 61295) that an application had been filed by LPC for a modification to a scientific research permit. Modification 1 to permit 1104 was issued to LPC on May 11, 1998. Permit 1104 authorizes takes of of adult and juvenile, threatened, CCC coho salmon associated with fish population and habitat studies throughout the ESU. ESA-listed fish may be captured, handled, and released. Indirect mortalities are also authorized. The modification authorizes takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the California portion of the ESU. ESA-listed fish may be observed or captured, handled, and released. Indirect mortalities are also authorized. Modification 1 is valid for the duration of the permit. Permit 1104 expires on June 30, 2002.

Notice was published on November 17, 1997 (62 FR 61295) that an application had been filed by HES for a scientific research permit. Permit 1105 was issued to HES on May 11, 1998. Permit 1105 authorizes takes of adult and juvenile, threatened, CCC coho salmon, adult and juvenile, threatened, SONCC (in California only) coho salmon, and adult and juvenile, endangered, southern California steelhead associated with fish population and habitat studies throughout the ESUs. ESA-listed fish will be captured, handled, and released. Indirect mortalities associated with the research are also authorized. Permit 1105 expires on June 30, 2003.

Dated: May 22, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–14247 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 22, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67622, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on June 1, 1998, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/638	1,050,926 dozen.
339/639	1,040,418 dozen.
342/642	425,753 dozen.
347/348/647/648	2,308,228 dozen of which not more than 1,148,820 dozen shall be in Categories 647/648.
433	25,653 dozen.
443	151,706 numbers.
444	60,293 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–14216 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

May 21, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 338/339 is being increased for swing and carryforward. The Fabric Group limit and sublimit for Category 227 are being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67829, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 21, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Arab Republic of Egypt and exported during the period January 1, 1998 through December 31, 1998.

Effective on May 29, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group 218–220, 224–227, 313–O [2], 314–O [3], 315–O [4], 317–O [5], and 326–O [6], as a group.	107,042,017 square meters.
Sublevel within Fabric Group	
227	24,397,978 square meters.
Level not in a group	
338/339	3,043,663 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–14214 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

May 22, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, carryover, and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67628, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 22, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on May 29, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
331	563,512 dozen pairs.
338/339	1,566,506 dozen of which not more than 915,481 dozen shall be in Category 338 and not more than 1,017,901 dozen shall be in Category 339.
604	1,033,922 kilograms.
639	3,898,682 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–14215 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

May 27, 1998,

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: May 31, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Effective on May 31, 1998, textile products in Categories 342/642, produced or manufactured in Guatemala and exported on or after May 31, 1998, will no longer require a visa. In addition, products in Categories 342/642 will no longer be subject to the Special Access Program.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 55 FR 3079, published on January 30, 1990.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 27, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1990, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in Guatemala which were not properly visaed by the Government of Guatemala.

Effective on May 31, 1998, you are directed to no longer require a visa for shipments of textile products in Categories 342/642 which are produced or manufactured in Guatemala and exported on or after May 31, 1998. In addition, products in Categories 342/642 will no longer be subject to the Special Access Program.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–14399 Filed 5–28–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 247, Transportation, and the clauses at 252.247–7000, 252.247–7001, 252.247–7002, 252.247–7007, 252.247–7022, 252.247–7023, and 252.247–7024; OMB Number 0704–0245.

Type of Request: Revision.

Number of Respondents: 102,624.

Responses per Respondent: 2.9.

Annual Responses: 302,625.

Average Burden per Response: 0.5 hours.

Annual Burden Hours: 152,320.

Needs and Uses: This information collection is used by contracting officers in applying transportation and traffic management considerations in the acquisition of supplies, and in acquiring transportation or transportation-related services. This revision reflects a transfer of reporting requirements currently approved under OMB Control Number 0704–0187 that more appropriately belong under this clearance. The information collection includes requirements relating to DFARS Part 247, Transportation. DFARS 252.247.7000(a) requires contractors for stevedoring services to notify the contracting officer of unusual conditions associated with loading or unloading a particular cargo for potential adjustment of the contract labor rates. DFARS 252.247–7001 requires contractors for stevedoring services, under contracts awarded using sealed bidding procedures, to notify the contracting officer of certain changes in the wage rates or benefits that apply to its direct labor employees, for potential adjustment to the existing contract commodity, activity, or work-hour prices. DFARS 252.247–7002 permits contractors for stevedoring services, under contracts awarded using negotiation procedures, to deliver a written demand that the parties negotiate to revise the prices under the contract, DFARS 252.247–7007(f) requires contractors for stevedoring services to furnish the contracting officer with satisfactory evidence of insurance before performance of any work under the contract. DFARS 252.247–7022 requires the offeror to represent whether it anticipates that supplies will be transported by sea in the performance of any resulting contract or subcontract. DFARS 252.247–7023(c) requires the contractor to submit a written request to the contracting officer for use of other than U.S. flag vessels in the performance of the contract. DFARS 252.247–7023(d) requires the contractor to submit to the contracting officer, one copy of the rated on board vessel operating carrier's ocean bill of lading. DFARS 252.247–7023(e) requires the contractor to provide, with its final invoice, a representation that: (1) no ocean transportation was used in the performance of the contract; (2) only U.S. flag vessels were used for all ocean shipments under the contract; (3) the contractor had the written consent of the contracting officer for all non-U.S.-flag ocean transportation; or (4) shipments were made on non-U.S.-flag vessels without the written consent of the contracting officer. DFARS 252.247–7024(a) requires the contractor to notify the contracting officer when the contractor learns that supplies are to be transported by sea and the contractor indicated, in response to the solicitation, that it did not anticipate transporting any supplies by sea.

Affected Public: Business or Other For-Profit, Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR,

1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 22, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–14178 Filed 5–28–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 237.70, Mortuary Services, and the associated clause at DFARS 252.237–7011; OMB Number 0704–0231.

Type of Request: Extension.

Number of Respondents: 800.

Responses Per Respondent: 1.

Annual Response: 800.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 400.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding the results of the embalming process under contracts for mortuary services. The information is used to ensure proper preparation of the body for shipment and burial. The clause at DFARS 252.237–7011, Preparation History, requires that the contractor submit information describing the results of the embalming process on each body prepared for burial under a DoD contract.

Affected Public: Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N.Weiss.

Written comments and recommendations on the proposed information collection should sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 22, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–14179 Filed 5–28–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: United States Air Force Academy (USAFA).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Air Force Academy, Office of the USAF Academy Admissions Liaison, Karen E. Parker, Chief of Admissions Liaison, Room 5E152, 1040 Air Force Pentagon, announces the proposed reinstatement of a public information collection and seeks public comment on provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received July 28, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to: Karen E. Parker, Chief, Admissions Liaison, United States Air Force Academy Liaison Office, USAFA/RRA, Room 5E152, 1040 Air Force Pentagon, Washington, DC 20330–1040.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection of information, please write to above address.

Title, Associated form, and OMB Number: DD Form 1870, "Nomination for Appointment to the United States Military Academy, Naval Academy and Air Force Academy," OMB Number 0701–0026.

Needs and uses: The information collection requirement is necessary in order to receive nominations from all Members of Congress, Vice President, Delegates to Congress, and the Governor and Resident Commissioner of Puerto Rico annually to each of the three service academies as legal nominating authorities. This information collection which results in appointments made to the academies is in compliance with 10 USC 4362, 6953, 9342 and 32 CFR 901.

Affected Public: Individuals and households.

Annual Burden Hours: 7,713.

Number of Respondents: 15,425.

Responses per Respondent: 1.

Average Burden per Response: 5 hour.

Frequency: One time annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 1870, Nomination for Appointment to the United States Military Academy, Naval Academy, and Air Force Academy, is used solely by legal nominating authorities who by federal law are entitled to make appointments to the three service academies. The form is used by all three service academies. The nomination form allows for legal nominating authorities to select by checking one box as to which academy is being provided with the name of a nominee. The form provides the required information in order for a nomination to be processed. Eligibility information concerning the nominees is also satisfied via the data requested. The legal nominating authority identifies himself and must date and sign the form to make it a legally acceptable form. The form provides three addresses for the form to be returned. Addresses are provided at the bottom of the form for each of the service academies in order that the appropriate academy may receive the form which has been so designated to be sent to them.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–14227 Filed 5–28–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–560–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

May 22, 1998.

Take notice that on May 18, 1998, Columbia Gas Transmission Corporation

(Columbia), 12801 Fair Lake Parkway, Fairfax, Virginia 22030–1046, filed in Docket No. CP98–560–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon by retirement approximately 0.04 mile of 2-inch pipeline and one delivery point to Columbia Gas of Pennsylvania, Inc. (CPA), located in Fulton County, Pennsylvania, under Columbia's blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia proposes to abandon transmission line 10033, consisting of 0.04 mile of 2-inch pipeline and appurtenances and one point of delivery to CPA, all located in Fulton County, Pennsylvania. Columbia declares the section of Line 10033 for which abandonment authority is requested is a 2-inch transmission pipeline that has provided service to CPA, thereby enabling CPA to serve the Kirk Motel, that now has been converted to residential sites and is served by CPA. Columbia states that CPA has recently constructed approximately 1,100 feet of 2-inch plastic pipeline to serve this point of delivery (POD) and thereby eliminated the need for Columbia's Line 10033 and the associated Kirk Motel POD.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursaunt to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14201 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–548–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

May 22, 1998.

Take notice that on May 14, 1998, as amended May 20, 1998, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–548–000, a request pursuant to Sections 157.205 and 157.216(b) for authorization to abandon by sale a lateral line located in East Baton Rouge Parish, Louisiana, under Koch Gateway's blanket certificate issued in docket No. CP82–430–000 pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon by sale to Mid Louisiana Gas Transmission (Midla Transmission) a lateral transmission line designated as Index 270–80. This lateral line includes approximately 8 miles of 12–inch pipeline and 2 miles of 6–inch pipeline.

Koch Gateway states that it serves only one local distribution customer, Entex, Inc. It is stated that Koch Gateway and Midla Transmission have reached agreement with Entex for continuing service to the Entex delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14203 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–559–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

May 22, 1998.

Take notice that on May 18, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP98–559–000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 157.216) for authorization to abandon, construct, and operate certain facilities in Bannock County, Idaho under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest specifically proposes to (1) abandon its Idaho Falls Meter Station by removal, (2) abandon its Idaho Falls Lateral by sale to Intermountain Gas Company (Intermountain), (3) construct and operate a relocated and upgraded Idaho Falls Meter Station, and (4) maintain the existing Idaho Falls Lateral mainline tap for emergency delivery of natural gas to Intermountain.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14202 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2870–000]

UNITIL Power Corp.; Notice of Filing

May 22, 1998.

Take notice that on May 1, 1998, UNITIL Power Corp. tendered for filing pursuant to Schedule II Section H of Supplement No. 1 to Rate Schedule FERC Number 1, the UNITIL System Agreement, the following material:

1. Statement of all sales and billing transactions for the period January 1, 1997 through December 31, 1997 along with the actual costs incurred by UNITIL Power Corp. by FERC account.

2. UNITIL Power Corp. Rates billed from January 1, 1997 to December 1997 and supporting rate development.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 29, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14204 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1907–001, et al.]

Entergy Service, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 20, 1998.

Take notice that the following filings have been made with the Commission:

1. Entergy Services, Inc.

[Docket No. ER97–1907–001]

Take notice that on May 15, 1998, Entergy Services, Inc., submitted a refund report in the above referenced docket.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power Corporation

[Docket Nos. ER89–627–002 and ER91–252–002]

Take notice that on May 5, 1998, Florida Power Corporation (Florida Power), filed a refund report related to Rate Limitation Refunds for calendar year 1997, applicable to four of Florida Power's full requirements' customers in accordance with provisions in Exhibit B of their contracts limiting the total bills for service to them to the amount that would be produced by applying the applicable Florida Municipal Power Agency rate to that service.

Comment date: June 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket No. ER98–374–001]

Take notice that on May 15, 1998, Florida Power Corporation (FPC), filed a revised tariff sheet for its Cost-Based Wholesale Power Sales Tariff (CR–1), in response to the Commission's April 20, 1998, letter order issued in Docket No. ER98–374–000.

FPC requests an effective date of October 29, 1997, the effective date of the Cost-Based Wholesale Power Sales Tariff, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Nicole Energy Services

[Docket No. ER98–2683–000]

Take notice that on May 14, 1998, Nicole Energy Services (NES), filed an amendment to its application for market-based rates as power marketer. The supplemental information pertains to additional support documentation on company ownership, subsidiaries and a clarification on business activity.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER98–2910–000]

Take notice that on May 15, 1998, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing an amendment to its 1998 rate redetermination update (Corrected Update) in accordance with the Open Access Transmission Tariff filed in compliance with FERC Order No. 888 in Docket No. OA96–158–000. Entergy Services states that the Corrected Update redetermines the formula rate in accordance with the annual rate redetermination provisions of Appendix 1 to Attachment H and Appendix A to Schedule 7.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Rainbow Power USA LLC

[Docket No. ER98–3012–000]

Take notice that on May 12, 1998, Rainbow Power USA LLC (Rainbow), petitioned the Commission for acceptance of Rainbow's FERC Rate Schedule No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Rainbow intends to engage in wholesale and retail electric power and energy transactions as a power marketer. Rainbow is not in the business of generating or transmitting electric power. Rainbow is not a subsidiary of any other organization, nor does it have any affiliates.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER98–3013–000]

Take notice that on May 15, 1998, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), submitted for filing service agreements under which the CSW Operating Companies will provide firm point-to-point transmission service to Electric Clearinghouse, Inc. (ECI), and Southwestern Public Service Company (SPS) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also submitted notices of cancellation for each of the firm point-to-point transmission service agreements.

The CSW Operating Companies state that a copy of the filing has been served on ECI and SPS.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

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8. PJM Interconnection, L.L.C.

[Docket No. ER98–3014–000]

Take notice that on May 15, 1998, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the Operating Agreement of the PJM Interconnection, L.L.C., and the PJM Open Access Transmission Tariff.

The amendments provide that firm point-to-point transmission customers will have the right to specify that they do not wish to receive fixed transmission rights (FTRs) relating to their transmission reservations or wish to receive less than their full entitlement to FTRs.

PJM requests an effective date of August 1, 1998, for the amendments to the Operating Agreement and PJM Tariff.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER98–3015–000]

Take notice that on May 15, 1998, Boston Edison Company (Boston Edison), made a filing to supplement its Interconnection and Operation Agreement between Boston Edison and Sithe Energies, Inc., (Sithe). The supplement clarifies the obligations of Boston Edison, Sithe, and Sithe's subsidiaries, including Sithe Mystic, L.L.C., Sithe Edgar, L.L.C., Sithe New Boston, L.L.C., Sithe West Medway, L.L.C., Sithe Framingham, L.L.C., and Sithe Wyman, L.L.C.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Peco Energy Company

[Docket No. ER98–3016–000]

Take notice that on May 15, 1998, PECO Energy Company (PECO), filed a Service Agreement dated April 27, 1998 with Amoco Energy Trading Corporation (AMOCO) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds AMOCO as a customer under the Tariff.

PECO requests an effective date of April 27, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to AMOCO and to the Pennsylvania Public Utility Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–3017–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Duke Energy Oakland LLC (Duke Energy Oakland), for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Oakland and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER98–3018–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Duke Energy Morro Bay LLC (Duke Energy Morro Bay) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Morro Bay and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–3019–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Duke Energy Moss Landing LLC (Duke Energy Moss Landing) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Moss Landing and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER98–3020–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Duke Energy Morro Bay LLC (Duke Energy Morro Bay) for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Morro Bay and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER98–3021–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO) tendered for filing a Participating Generator Agreement between Duke Energy Oakland LLC (Duke Energy Oakland) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Oakland and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER98–3022–000]

Take notice that on May 15, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Duke Energy Moss Landing LLC (Duke Energy Moss Landing) for acceptance by the Commission.

The ISO states that this filing has been served on Duke Energy Moss Landing and the California Public Utilities Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Indeck Pepperell Power Associates Inc.

[Docket No. ER98–3023–000]

Take notice that on May 15, 1998, Indeck Pepperell Power Associates, Inc. (Indeck Pepperell), tendered for filing with the Federal Energy Regulatory Commission a Power Purchase and Sale Agreement (Service Agreement) between Indeck Pepperell and Northeast Utilities Company (NUSCO), dated April 30, 1998, for service under Indeck Pepperell's Rate Schedule FERC No. 1. Indeck Pepperell requests that the Service Agreement be made effective as of April 30, 1998.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Long Island Lighting Company

[Docket No. ER98–3024–000]

Take notice that on May 15, 1998, Long Island Lighting Company (LILCO), filed an Electric Power Service Agreement between LILCO and NGE

Generation, Inc., entered into on May 12, 1998.

The Electric Power Service Agreement listed above was entered into under LILCO's Power Sales Umbrella Tariff as reflected in LILCO's amended filing on February 6, 1998 with the Commission in Docket No. OA98–5–000. The February 6, 1998, filing essentially brings LILCO's Power Sales Umbrella Tariff in compliance with the unbundling requirements of the Commission's Order No. 888.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of May 12, 1998, for the Electric Power Service Agreement listed above because in accordance with the policy announced in Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part*, 65 FERC ¶ 61,081 (1993), service will be provided under an umbrella tariff and the Electric Power Service Agreement is being filed either prior to or within thirty (30) days of the commencement of service.

LILCO has served copies of this filing on the customer which is a party to the Electric Power Service Agreement and on the New York State Public Service Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Portland General Electric Company

[Docket No. ER98–3025–000]

Take notice that on May 15, 1998, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Enron Energy Services, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93–2–002, issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective May 11, 1998.

A copy of this filing was caused to be served upon Enron Energy Services, Inc., as noted in the filing letter.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. DTE Edison America, Inc.

[Docket No. ER98–3026–000]

Take notice that on May 15, 1998, DTE Edison America, Inc., submitted for filing an Application for Order Accepting Initial Rate Schedule, Approving Rates, Waiving Regulations and Granting Blanket Approval (Application) to permit DTE Edison America to sell capacity and energy at market-based rates.

DTE Edison America requests an immediate effective date and, accordingly, seeks waiver of the Commission's notice requirements.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Alliant Service, Inc.

[Docket No. ER98–3027–000]

Take notice that on May 15, 1998, Alliant Services, Inc., tendered for filing executed Service Agreements for Firm and Non-firm Point-to-Point Transmission Service, establishing Southern Company Energy Marketing L.P., as a point-to-point Transmission Customer under the terms of the Alliant Services, Inc. transmission tariff. Alliant also requests the cancellation of Service Agreements with Southern Energy Trading and Marketing, Inc.

Alliant Services, Inc., requests an effective date of April 17, 1998, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Southern California Edison Company

[Docket No. ER98–3028–000]

Take notice that on May 15, 1998, Southern California Edison Company (Edison), tendered for filing Loss Accounting Procedures for Existing Contracts (Procedures), between Edison and the City of Colton (Colton), California.

The Procedures allow Edison and Colton to account for differences between losses pursuant to the Independent System Operator's (ISO), applicable loss methodology and losses pursuant to existing transmission contracts, as required in the Edison-Colton 1997 Restructuring Agreement (Restructuring Agreement). Edison is requesting that the Procedures become effective on April 1, 1998, the date the ISO assumed operational control of Edison's transmission facilities, which is concurrent with the effective date of the Restructuring Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Westchester Resco Company, L.P.

[Docket No. ER98–3030–000]

Take notice that on May 15, 1998, Westchester Resco Company, L.P. (Westchester), petitioned the Commission for: (1) acceptance of Westchester's Rate Schedule FERC No. 2, providing for the sale of electricity at market-based rates; (2) waiver of the 60-day notice requirement and certain requirements under Subparts B and C of Part 35 of the regulations; and (3) confirmation of the continuing applicability of the blanket approvals and waivers previously granted. Westchester is an indirect subsidiary of Wheelabrator Technologies Inc.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Arizona Public Service Company

[Docket No. ER98–3032–000]

Take notice that on May 15, 1998, Arizona Public Service Company (APS), tendered for filing a revised Contract Demand Exhibit for Southern California Edison applicable under the APS–FERC Rate Schedule No. 120.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on SCE, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: June 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Orange and Rockland Utilities, Inc.

[Docket No. ER98–3049–000]

Take notice that on May 14, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement under which O&R will provide capacity and/or energy to Wheeled Electric Power Company (Wheeled Electric).

O&R requests waiver of the notice requirement so that the service agreement with Wheeled Electric becomes effective as of May 15, 1998.

O&R has served copies of the filing on The New York State Public Service Commission and Wheeled Electric.

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Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Orange and Rockland Utilities, Inc.

[Docket No. ER98–3050–000]

Take notice that on May 14, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement under which O&R will provide capacity and/or energy to Cinergy Services, Inc. (Cinergy Services).

O&R requests waiver of the notice requirement so that the service agreement with Cinergy Services becomes effective as of May 12, 1998.

O&R has served copies of the filing on The New York State Public Service Commission and Cinergy Services.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Kandiyohi Cooperative Electric Power Association

[Docket No. OA98–11–000]

Take notice on May 6, 1998, Kandiyohi Cooperative Electric Power Association (Kandiyohi Cooperative), filed a request for waiver of the requirements of Order No. 888 and Order No. 889 pursuant to 18 CFR 35.28(d) of the Federal Energy Regulatory Commission's Regulation. Kandiyohi Cooperative's filing is available for public inspection at its offices in Willmar, Minnesota.

Comment date: June 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. City Utilities of Springfield Missouri

[Docket No. OA98–13–000]

Take notice that on May 14, 1998, the City Utilities of Springfield, Missouri, has filed a request for waiver of separation of functions requirements under Order Nos. 888 and 888–A and under Orders Nos. 889 and 889–A.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14276 Filed 5–28–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2076–001, et al.]

Hawkeye Power Partners, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

May 21, 1998.

Take notice that the following filings have been made with the Commission:

1. Hawkeye Power Partners, L.L.C.

[Docket No. ER98–2076–001]

Take notice that on May 18, 1998, Hawkeye Power Partners, L.L.C. (Hawkeye), in compliance with the Commission's order issued on April 30, 1998, submitted a Code of Conduct with Respect to the Relationship between Hawkeye Power Partners L.L.C. and its affiliates. Hawkeye seeks leave to file the Code of Conduct one day out of time.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. MidAmerican Energy Company

[Docket No. ER98–2700–000]

Take notice that on May 18, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Network Integration Transmission Service Agreement and a Network Operating Agreement, both dated April 2, 1998, and entered into by MidAmerican and the City of Denver, Iowa (Denver) in accordance with MidAmerican's Open Access Transmission Tariff. MidAmerican has submitted an amendment to the filing requesting an effective date of April 1, 1998, for the Agreements.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Cleco Corporation

[Docket No. ER98–3031–000]

Take notice that on May 18, 1998, Cleco Corporation, (Cleco), tendered for filing a Notice of Succession whereby Central Louisiana Electric Company, Inc., has changed its name to Cleco Corporation.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER98–3033–000]

Take notice that on May 18, 1998, PECO Energy Company (PECO), filed an executed Installed Capacity Obligation Allocation Agreement between PECO and Penn Power Energy, Inc., (hereinafter Supplier). The terms and conditions contained within this Agreement are identical to the terms and conditions contained with the Form of Installed Capacity Allocation Agreement filed by PECO with the Commission on October 3, 1997 at Docket No. ER98–28–000. This filing merely submits an individual executed copy of the Installed Capacity Obligation Allocation Agreement between PECO and an alternate suppliers participating in PECO's Pilot.

Copies of the filing were served on the Supplier and the Pennsylvania Public Utility Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PECO Energy Company

[Docket No. ER98–3034–000]

Take notice that on May 18, 1998, PECO Energy Company (PECO), filed an executed Transmission Agency Agreement between PECO and Penn Power Energy, Inc., (hereinafter Supplier). The terms and conditions contained within this Agreement are identical to the terms and conditions contained with the Form of Transmission Agency Agreement submitted to the Commission on October 3, 1997, as part of the joint filing by the Pennsylvania Public Utility Commission and the Pennsylvania PJM Utilities at Docket No. ER98–64–000. This filing merely submits an individual executed copy of the Transmission Agency Agreement between PECO and an alternative supplier participating in PECO's Retail Access Pilot Program.

Copies of the filing were served on the Supplier and the Pennsylvania Public Utility Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Ameren Services Company

[Docket No. ER98–3035–000]

Take notice that on May 18, 1998, Ameren Services Company (ASC), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and Southern Illinois Power Cooperative, Vitol Gas and Electric LLC, and Wabash Valley Power Association. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Ameren Services Company

[Docket No. ER98–3036–000]

Take notice that on May 18, 1998, Ameren Services Company (ASC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and Southern Illinois Power Cooperative (SIPC). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to SIPC pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER98–3037–000]

Take notice that on May 18, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Network Integration Transmission Service Agreement and a Network Operating Agreement, both dated April 28, 1998, and entered into by MidAmerican and the Montezuma Municipal Light and Power (Montezuma) in accordance with MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of May 1, 1998, for the Agreements with Montezuma, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Montezuma, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power & Light Company

[Docket No. ER98–3038–000]

Take notice that on May 18, 1998, Minnesota Power & Light Company, submitted for filing a Service Agreement between Minnesota Power & Light Company and Minnkota Power Cooperative.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER98–3039–000]

Take notice that on May 18, 1998, Arizona Public Service Company tendered for filing Notice of Cancellation of FERC Rate Schedule No. 226, effective date June 1, 1995 by FERC order dated April 6, 1995 and filed with the Federal Energy Regulatory Commission by Arizona Public Service Company is to be canceled effective at midnight the 30th day of September 1997.

Copies of the notice of the proposed cancellation has been served upon Nevada Power Company.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Electric and Gas Company

[Docket No. ER98–3040–000]

Take notice that on May 18, 1998, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to PP&L, Inc. (PP&L), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of April 20, 1998.

Copies of the filing have been served upon PP&L and the New Jersey Board of Public Utilities.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Electric and Gas Company

[Docket No. ER98–3041–000]

Take notice that on May 18, 1998, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Sempra Energy Trading Corp. (Sempra), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of April 20, 1998.

Copies of the filing have been served upon Sempra and the New Jersey Board of Public Utilities.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Company

[Docket No. ER98–3042–000]

Take notice that on May 18, 1998, Florida Power & Light Company (FPL), filed a Service Agreement with Tractebel Energy Marketing, Inc., for service pursuant to Tariff No. 1, for Sales of Power and Energy by Florida Power & Light Company. FPL requests that the Service Agreement be made effective on April 27, 1998.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Electric and Gas Company

[Docket No. ER98–3043–000]

Take notice that on May 18, 1998, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to South Carolina Electric & Gas Company (SCE&G), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of April 20, 1998.

Copies of the filing have been served upon SCE&G and the New Jersey Board of Public Utilities.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER98–3044–000]

Take notice that on May 18, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and DTE Energy Trading. This Transmission Service Agreement specifies that DTE Energy Trading has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and DTE Energy Trading to enter into separately

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scheduled transactions under which NMPC will provide transmission service for DTE Energy Trading as the parties may mutually agree.

NMPC requests an effective date of May 8, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and DTE Energy Trading.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Light Company

[Docket No. ER98–3045–000]

Take notice that on May 18, 1998, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and three service agreements for three new customers, Amoco Energy Trading Corporation, Constellation Power Source, Inc., and Cargill-Alliant, LLC.

CILCO requested an effective date of May 8, 1998.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Alabama Power Company

[Docket No. ER98–3046–000]

Take notice that on May 18, 1998, Alabama Power Company tendered for filing Amendment No. 2 to the Amended and Restated Agreement for Partial Requirements Service and Complementary Services with the Alabama Municipal Electric Authority (FERC Rate Schedule No. 168). Under this amendment, the parties have agreed to a series of future reductions in the demand rate for PR service. The amendment also reflects the parties' agreement and understanding concerning other issues, such as the operation of certain notice provisions under the contract.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Peco Energy Company

[Docket No. ER98–3047–000]

Take notice that on May 18, 1998, PECO Energy Company (PECO), filed a Service Agreement dated February 23, 1998, with Sunoco Power Marketing, L.L.C. (SPM), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds SPM as a customer under the Tariff.

PECO requests an effective date of April 19, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to SPM and to the Pennsylvania Public Utility Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Electricity Inc.

[Docket No. ER98–3048–000]

Take notice that on May 18, 1998, Northeast Electricity Inc. (NEI), petitioned the Commission for acceptance of NEI Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market based rates; and the waiver of certain Commission Regulations.

NEI intends to engage in wholesale electric power and energy purchases and sales as a marketer. NEI is not in the business of generating or transmitting electric power. NEI is a wholly owned and privately held company, with no affiliates.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER98–3051–000]

Take notice that on May 18, 1998, Commonwealth Edison Company (ComEd), tendered for filing revised tariff sheets under ComEd's Open Access Transmission Service Tariff (ComEd OATT). ComEd seeks authority to waive, under certain circumstances and on a non-discriminatory basis, the deposit required to accompany applications for Network Integration transmission service.

ComEd requests an effective date of May 19, 1998, and therefore requests waiver of the Commission's notice requirements. ComEd has served copies of the filing on the Illinois Commerce Commission and all customers served under the ComEd OATT.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. PowerSource, Corp.

[Docket No. ER98–3052–000]

Take notice that on May 18, 1998, PowerSource, Corp. (PSC), tendered for filing with the Commission an application for acceptance of PSC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

PSC intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Illinova Energy Partners, Inc.

[Docket No. ER98–3053–000]

Take notice that on May 18, 1998, Illinova Energy Partners, Inc. (IEP), tendered for filing an updated generation market power analysis as required by the Commission's order issued May 18, 1995, granting IEP the right to sell wholesale power at market-based rates.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. East Kentucky Power Cooperative Inc., New York Power Authority, Omaha Public Power District, Orlando Utilities Commission, and South Carolina Public Service Authority

[Docket Nos. NJ97–14–001, NJ97–10–001, NJ97–2–003, NJ97–13–002, NJ97–8–002]

Take notice that between April 24–27, 1998, the above-named companies submitted revised standards of conduct in response to the Commission's March 26, 1998, Order on Standards of Conduct (82 FERC ¶ 61,297 (1998)).

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. AES Alamitos, L.L.C., AES Huntington Beach, L.L.C., and AES Redondo Beach, L.L.C.

[Docket No. EC98–43–000]

Take notice that on May 11, 1998, AES Alamitos, L.L.C., AES Huntington Beach, L.L.C., and AES Redondo Beach, L.L.C., tendered for filing pursuant to Part 33 of the Commission's Regulations an application to assign must-run electric service agreements with the California Independent System Operator designated as AES Alamitos, L.L.C., Supplement No. 5 to Rate Schedule FERC No. 10; AES Huntington Beach, L.L.C., Supplement No. 5 to Rate Schedule FERC No. 13; and AES Redondo Beach, L.L.C., Supplement No. 5 to Rate Schedule FERC No. 15.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14278 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1297–000, et al.]

TransCurrent, LLC., et al.; Electric Rate and Corporate Regulation Filings

May 22, 1998.

Take notice that the following filings have been made with the Commission:

1. TransCurrent, LLC.

[Docket No. ER98–1297–000]

Take notice that on May 19, 1998, TransCurrent, LLC. (TransCurrent) amended its petition to the Commission for acceptance of TransCurrent Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

TransCurrent intends to engage in wholesale electric power and energy purchases and sales as a marketer (trading). In addition to power marketing TransCurrent is offering consulting and portfolio management services. TransCurrent is not in the business of generating or transmitting electric power. TransCurrent is owned by:

• Kraftholding USA AS (50%), a Norwegian company owned by private investors.

• California Polar Power Brokers, LLC (Calpol) (50%) whose business activity is to act as a Scheduling Coordinator and to offer brokering services in standardized physical electricity contracts. The ownership of Calpol is as follows:

	Percent of shares
A. Voting shares:	
Scandinavian Power Brokers	30.6
Mr Bjornar Otterstad	5.4
B. Non-voting shares:	
Skandinavian Power Brokers AS	23.9
Mr. Bjornar Otterstad	0.02
Mr. Angel Stoyanof	5.0
Mr. Alan Sagatelyan	5.0
Elinex, LLC	3.3
Kraftholding USA AS	14.2
Mr. Morten Helle	1.0
Employees shares	12.4

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Carolina Power & Light Company

[Docket No. ER98–3054–000]

Take notice that on May 19, 1998, Carolina Power & Light Company (Carolina) tendered for filing an executed Service Agreement between Carolina and the following Eligible Entity: FirstEnergy Trading and Power Marketing Inc. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–3055–000]

Take notice that on May 19, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin), collectively known as NSP, tendered for filing an Electric Service Agreement between NSP and Commonwealth Edison Company (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on April 22, 1998.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company

[Docket No. ER98–3056–000]

Take notice that on May 19, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin), collectively known as NSP, tendered for filing an Electric Service Agreement between NSP and Illinois Power (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on April 22, 1998.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Ameren Services Company

[Docket No. ER98–3061–000]

Take notice that on May 19, 1998, Ameren Services Company (ASC) tendered for filing Service Agreements for Long-Term Firm Point-to-Point Transmission Services between ASC and Public Service Company of Oklahoma (PSCO). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to PSCO pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, et al.

[Docket No. ER98–3062–000]

Take notice that on May 19, 1998, Allegheny Power Service Corporation, on behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 42 to add four (4) new customers to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available as of May 18, 1998, to AYP Energy, Inc., American Municipal Power-Ohio, Inc., Entergy Power Marketing Corp., and South Jersey Energy Company.

Copies of this filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, et al.

[Docket No. ER98–3063–000]

Take notice that on May 19, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 30 to add PP&L, Inc. to Allegheny Power Open Access Transmission Service Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. The proposed effective date under the Service Agreement is May 18, 1998.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Central Vermont Public Service Corporation

[Docket No. ER98–3064–000]

Take notice that on May 19, 1998, Central Vermont Public Service Corporation (CVPS) tendered for filing the Actual 1997 Cost Report required under Article 2.4 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3, of Central Vermont under which Central Vermont provides transmission and distribution service to the following Customers:

Vermont Electric Cooperative, Inc.
Lyndonville Electric Department
Village of Ludlow Electric Light Department
Village of Johnson Water and Light Department
Village of Hyde Park Water and Light Department
Rochester Electric Light and Power Company
Woodsville Fire District Water and Light Department

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation

[Docket No. ER98–3065–000]

Take notice that on May 19, 1998, Central Vermont Public Service Corporation (CVPS) tendered for filing the Actual 1997 Cost Report required under Paragraph Q–1 on Original Sheet No. 18 of the Rate Schedule FERC No. 135 (RS–2 rate schedule) under which Central Vermont Public Service Corporation (Company) sells electric power to Connecticut Valley Electric Company Inc. (Customer). The Company states that the Cost Report reflects changes to the RS–2 rate schedule which were approved by the Commission's June 6, 1989 order in Docket No. ER88–456–000.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Two Elk Power Company, et al. Limited Partnership

[Docket No. QF95–197–001]

On May 12, 1998, Two Elk Power Company, on behalf of Two Elk Generation Partners, Limited Partnership, c/o North American Power Group, Ltd., 8480 East Orchard Road, Suite 4000, Greenwood Village, Colorado 80111, submitted for filing an application for Commission recertification as a small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 250 MW, coal-fired single-turbine power production facility is located in Campbell County, Wyoming. Commercial operations are scheduled to commence in 2001, whereupon the facility will sell a majority of its electric energy output into the public power grid at market based rates with the remainder of its output to be sold to the Black Thunder Mine. The facility was originally self-certified as a QF by a notice of qualification submitted on December 30, 1994, in Docket No. QF95–197–000. According to the applicant, the instant recertification is requested in contemplation of changes in the facility's name, size, ownership structure, and location.

Comment date: 30 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14280 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File Application For New License

May 22, 1998.

a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 344.

c. *Date filed:* April 27, 1998.

d. *Submitted By:* Southern California Edison Company.

3. *Name of Project:* San Gorgonio Nos. 1 & 2.

f. *Location:* On the San Gorgonio River in San Bernardino County, California, within the San Bernardino National Forest.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* May 1, 1983.

i. *Expiration date of original license:* April 26, 2003.

j. The project consists of two diversion dams, concrete-lined canals, two water tanks, two forebays, two penstocks, two powerhouses with a total installed capacity of 2,440 kilowatts, two switchyards, and a transmission line.

k. Pursuant to 18 CFR 16.7, information on the project is available by contacting: Bryant C. Danner, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, CA 91770, (626) 302–8937.

1. *FERC contact:* Héctor M. Pérez (202) 219–2843.

m. Pursuant to 18 CFR 16.9(b)(1), each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for

license for this project must be filed by April 26, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–14200 Filed 5–28–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6103–1]

1998 Chesapeake Bay and Atlantic Coast Tautog Fishery Management Plan (FMP)

Public Review (June 4, 1998 to July 3, 1998)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A draft of the 1998 Chesapeake Bay and Atlantic Coast Tautog Fisheries Management Plan (FMP) is available for public comment June 4, 1998 to July 3, 1998. Although an active fishery exists in the Federal Exclusive Economic Zone (3–200 miles offshore), the Chesapeake Bay serves as an important nursery and feeding ground for young tautog. Concerns of localized overfishing and a shift toward increasing commercial fishing pressure since the early 1990s have led to the development of a federal fishery management plan for the species under the Atlantic States Marine Fisheries Commission (ASMFC). Chesapeake Bay jurisdictions will promulgate several fishery management measures for tautog that will begin immediate reduction in exploitation levels, rebuild the spawning stock and promote uniform management between federal and state agencies. The Bay jurisdictions will reduce exploitation and improve protection of the spawning stock in the Chesapeake Bay and Atlantic by complying with federal ASMFC recommendations. Chesapeake Bay fishery management plans (FMPs) are prepared under the direction of the 1987 Chesapeake Bay Agreement and serve as a framework for conserving and wisely using fishery resources. The goal of the Chesapeake Bay and Atlantic Coast Tautog Fishery Management Plan (FMP) is to "enhance and perpetuate tautog stocks and their habitat in the Chesapeake Bay and its tributaries, and throughout its Atlantic coast range, so as to generate optimum long-term ecological, social, and economic benefits from their recreational and commercial harvest and utilization over time."

A draft of the Plan is available by calling the Chesapeake Bay Program Office at 1–800–YOUR BAY. Comments should be returned to Mike Barnette, Virginia Marine Resources Commission, 2600 Washington Ave., P.O. Box 756, Newport News, VA 23607.

William Matuszeski,

Director, Chesapeake Bay Program Office.

[FR Doc. 98–14279 Filed 5–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5492–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed May 19, 1998 Through May 22, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980190, Draft EIS, BLM, NV, Caliente Management Framework Plan Amendment, Implementation, Management of Desert Tortoise Habitat (Gopherus agassizii), Northeastern Mojave Recovery Unit, Lincoln County, NV, Due: August 14, 1998, Contact: Gene Drais (702) 289–1880.

EIS No. 980191, Final EIS, NPS, OR, Crater Lake National Park, New Concession Contract for Visitor Services Plan, Implementation, OR, Due: July 13, 1998, Contact: Al Kendricks.

EIS No. 980192, Draft EIS, FAA, CT, Sikorsky Memorial Airport, Proposed Runway 6–24 Improvements, Construction, Stratford, CT, Due: July 13, 1998, Contact: John Silva (781) 238–7602.

EIS No. 980193, Draft EIS, FHW, MD, MD–331—Dover Bridge, Construction, Right-of-Way Grant, US Coast Guard Bridge Permit and COE Section 404 Permit, Easton, Talbot and Caroline County, MD, Due: July 06, 1998, Contact: George Frick, Jr. (410) 962–4342.

This EIS was inadvertently omitted from the 05–22–98 **Federal Register**. The Officical 45 days NEPA review period is calculated from 05–22–98.

EIS No. 980194, Final EIS, ICC, Conrail Acquisition (Finance Docket No. 33388) by CSX Corporation and CSX Transportation Inc., and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS), Control and Operating Leases and Agreements, To serve portion of eastern United States, Due: June 29, 1998, Contact: Michael Dalton (888) 869–1997.

EIS No. 980195, Draft EIS, AFS, OR, Young'n Timber Sales, Implementation, Willamette National Forest Land and Resource Management Plan, Middle Fork Ranger District, Lane County, OR, Due: July 13, 1998, Contact: John Agar (541) 782–2283.

EIS No. 980196, Final EIS, COE, CA, Oakland Harbor Inner and Outer Deep Navigation (−50 Foot) Improvement Project, Implementation, Feasibility Study, Port of Oakland, Alameda and San Francisco Counties, CA, Due: June 29, 1998, Contact: Eric Jolliffe (415) 977–8543.

EIS No. 980197, Final EIS, MMS, TX, LA, Western Planning Area, Proposed Western Gulf of Mexico 1997–2002 (5-Year Program) Outer Continental Shelf Oil and Gas Sales 171, 174, 177 and 180, Lease Offering, Offshore Marine Environmental and Coastal Counties/Parishes of Texas and Louisiana, Due: June 29, 1998, Contact: Archie P. Melancon (703) 787–5471.

Amended Notices

EIS No. 980159, Final EIS, UAF, FL, CA, Evolved Expendable Launch Vehicle (EELV) Program, Development, Operation and Deployment, Proposed Launch Locations are Cape Canaveral Air Station (AS), Florida and Vandenberg Air Force Base (AFB), California, Federal Permits and Licenses, FL and CA, Due: June 08, 1998, Contact: Jonathan D. Farthing (210) 536–3668. Published FR—05–08–98—Correction to Contact Person Name and Telephone Number.

EIS No. 980171, Draft EIS, COE, TX, Dallas Floodway Extension, Implementation, Trinity River Basin, Flood Damage Reduction and Environmental Restoration, Dallas County, TX , Due: June 29, 1998, Contact: Gene T. Rice, Jr. (817) 978–2110. Published FR 05–15–98—Review Period extended.

EIS No. 980177, Draft EIS, DOE, NM, Los Alamos National Laboratory Continued Operation Site-Wide, Implementation, Los Alamos County, NM, Due: July 15, 1998, Contact: Corey Cruz (800) 898–6623. Published FR—05–15–98—Due Date correction.

Dated: May 26, 1998.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–14283 Filed 5–28–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPP–00464A; FRL–5790–9]

Second Annual Antimicrobials National Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Antimicrobials Division of the U.S. EPA's Office of Pesticide Programs is hosting the Second Annual National Antimicrobials Workshop on June 15 and 16, 1998, at the Renaissance Washington, DC Hotel. The theme for this year's workshop is "Building Bridges and Maintaining Open Communications."

DATES: The Workshop will take place on June 15 and 16, 1998, starting at 8:30 a.m each day.

ADDRESSES: The Workshop will be held at the Renaissance Washington, DC Hotel, 999 Ninth St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cleo Pizana, Antimicrobials Division, (7510W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–6431; e-mail: pizana.cleo@epa.gov.

Registration information may be obtained by contacting: By mail, Deborah Jones, TASCON, Inc., 1803 Research Blvd., Suite 3305, Rockville, MD 20850; telephone number: (301) 315–9000; fax: (301) 738–9786; e-mail: djones@tascon.com. Direct registration is available by accessing the Internet address: http://ace.orst.edu/info/nain/antimicrobial.html.

SUPPLEMENTARY INFORMATION: EPA would like to make this an opportunity for building partnerships, learning other perspectives, and generating ideas on the best ways to protect the public health and the environment while addressing difficult issues by bringing representatives of Federal agencies, registrants, regions, States, and public health/environmental organizations together. The workshop covers a wide range of topics from treated articles, to clarification of roles in jurisdiction and in preventing food-borne illness, to discussions on 40 CFR parts 152, 156, and 158 regulations.

List of Subjects

Environmental protection, Antimicrobials, Treated articles, Disinfectants efficacy, International harmonization, Agency jurisdictions in preventing food borne illness.

Dated: May 14, 1998.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 98–14159 Filed 5–28–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30409B; FRL–5791–3]

Bayer Corp.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Bayer Corporation to conditionally register the pesticide products FOE 5043 Technical Herbicide, FOE 5043 DF Herbicide, and Axiom DF Herbicide containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: James Tompkins, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 257, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, 703–305–7391; e-mail: tompkins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register** Environmental Sub-Set entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published the **Federal Register** of May 1, 1996 (61 FR 19279)(FRL–5365–5), which announced that Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City MO 64120-0013, had submitted applications to conditionally register the herbicide products FOE 5043 Technical Herbicide, FOE 5043 DF Herbicide, and Axiom DF (EPA File Symbols 3125–UIA, 3125–UIT, and 3125–UII) containing the active ingredient *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide at 95, 60, and 54.4 percent respectively. The product Axiom DF also contains 13.6% of the active ingredient metribuzin 1-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one, an active ingredient in currently registered pesticide products.

The applications were approved on April 8, 1998, for one Technical and two end-use products listed below:

1. FOE 5043 Technical Herbicide for use only in the manufacturing of herbicides (EPA Registration Number 3125–486).

2. FOE 5043 DF Herbicide for control of certain grass and broadleaf weeds in corn and soybeans (EPA File Registration Number 3125–487).

3. Axiom DF Herbicide for control of certain grass and broadleaf weeds in corn and soybeans (EPA Registration Number 3125–488).

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on these conditional registrations is contained in an EPA Pesticide Fact Sheet on *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-

(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide.

A paper copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: May 13, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–14161 Filed 5–28–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–806; FRL–5791–2]

Monsanto Company; Pesticide Tolerance Petitions Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–806, must be received on or before June 29, 1998.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: James A. Tompkins, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5697; e-mail: tompkins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–806] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 14, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Monsanto Company

PP 8F4937

EPA has received a pesticide petition (PP 8F4937) from Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005. proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of

halosulfuron-methyl: methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonyl aminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate in or on the raw agricultural commodity undelinted cotton seed & cotton gin by-products at 0.05 parts per million (ppm), rice grain at 0.05 ppm, rice straw at 0.20 ppm, tree nut group (Group 14) nutmeat at 0.05 ppm and hulls at 0.20 ppm, pistachio, nutmeat at 0.05 ppm, pistachio, hulls at 0.2 ppm.

In addition, Monsanto proposes the establishment of tolerances for halosulfuron methyl (as parent only) in or on the following raw agricultural commodities:

Corn, field: grain at 0.05 ppm, forage at 0.2 ppm, and fodder at 0.8 ppm.

Grain, sorghum (milo): grain at 0.05 ppm, forage at 0.05 ppm, and fodder/stover at 0.10 ppm.

Monsanto also proposes removing 40 CFR 180.479 (b) which reads as follows: *Indirect or inadvertent tolerances.* Tolerances are established for indirect or inadvertent residues of the herbicide halosulfuron-methyl and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid and expressed as parent equivalents, in or on the following raw agricultural commodities when present therein as a result of the application of halosulfuron-methyl to growing crops.

Soybean, forage at 0.5 ppm, soybean, hay at 0.5 ppm, soybean, seed at 0.5 ppm, wheat, forage at 0.1 ppm, wheat, grain at 0.1 ppm. and wheat, straw at 0.2 ppm.

EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of halosulfuron-methyl as well as the nature of the residues in plants is adequately understood for purposes of these tolerances. Metabolism studies were conducted in three crops, viz.; field corn, sugarcane and soybeans. Metabolism depends on the mode of application. Preemergent applications result in rapid soil degradation of halosulfuron-methyl followed by crop uptake of the resulting pyrazole moiety. The pyrimidine ring binds tightly to soil and is eventually converted to carbon dioxide by microbial degradation. In postemergent applications, little metabolism and translocation take place resulting in unmetabolized parent compound as the major residue on the directly treated foliar surfaces. Very low residue levels of the metabolite 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (3-CSA) are found in the grain.

2. *Analytical method.* A practical analytical method, gas chromatography with an electron- capture detector which detects and measures total residues (halosulfuron-methyl and metabolites) is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. This enforcement method has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). It has undergone independent laboratory validation and validation at the Beltsville laboratory. The Analytical Chemistry section of the EPA concluded that the method is adequate for enforcement. Analytical method is also available for analyzing meat by-products which also underwent successful independent laboratory and Beltsville laboratory validations.

3. *Magnitude of residues.* In the tree nut residue study, there were no quantifiable residues found in nut meats using an analytical method with limit of quantitation (LOQ) of 0.05 ppm. Residues ranging from <0.05 to 0.154 ppm were found in almond hulls when treated at 1.4 times the recommended rate. There were no detectable residues found in cotton undelinted seed as well as from the resulting processed commodities even at treatment rates of more than 5 times the maximum recommended rate per season. No quantifiable residues were found in cotton gin byproducts. The residues in the rice grain and rice processed fractions were below the limit of detection of 0.02 ppm at all locations. 5 of the 18 sites showed residues in rice straw ranging from 0.06 to 0.17 ppm while 13 sites had non-quantifiable residues (<0.05 ppm). Results of the aquatic sediment dissipation study showed that the parent and major metabolite residues dissipated rapidly in both soil and water phases with DT_{50} values of 1.3 and 1.87 days and DT_{90} of 6.48 and 12 days from 2 sites, respectively. The half-life of halosulfuron-methyl in the paddy water phase is calculated to be 0.87 days following direct application to water. The vertical mobility is not a major route of dissipation. The residues (parent and metabolites that are hydrolyzable to 3-CSA) dissipated rapidly in the upper soil layer but showed no indication of significant downward movement into the lower soil layers.

B. Toxicological Profile

1. *Acute toxicity.* Acute toxicological studies placing the technical-grade halosulfuron-methyl in Toxicity Category III. A 90-day feeding study in rats resulted in a lowest-observed-effect-level (LOEL) of 497 milligrams/kilograms/day (mg/kg/day) in males and 640 mg/kg/day in females, and a no-observed-effect-level (NOEL) of 116 mg/kg/day in males and 147 mg/kg/day in females.

2. *Genotoxicty.* Bacterial/mammalian microsomal mutagenicity assays were performed and found not to be mutagenic. Two mutagenicity studies were performed to test gene mutation and found to produce no chromosomal aberrations or gene mutations in cultured Chinese hamster ovary cells. An in *vivo* mouse micronucleus assay did not cause a significant increase in the frequency of micronucleated polychromatic erythrocytes in bone marrow cells. A mutagenicity study was performed on rats and found not to induce unscheduled DNA synthesis in primary rat hepatocytes.

3. *Reproductive and developmental toxicity.* A developmental toxicity study in rats resulted in a developmental LOEL of 750 mg/kg/day, based on decreases in mean litter size and fetal body weight, and increases in resorptions, resorptions/dam, post-implantation loss and in fetal and litter incidences of soft tissue and skeletal variations, and a developmental NOEL of 250 mg/kg/day. Maternal LOEL was 750 mg/kg/day based on increased incidence of clinical observations, reduced body weight gains, and reduced food consumption and food efficiency. The maternal NOEL was 250 mg/kg/day.

A developmental toxicity study in rabbits resulted in a developmental LOEL of 150 mg/kg/day, based on decreased mean litter size and increases in resorptions, resorptions/dam and post-implantation loss, and a developmental NOEL of 50 mg/kg/day. The maternal LOEL was 150 mg/kg/day based on reduced body weight gain and reduced food consumption and food efficiency. The maternal NOEL was 50 mg/kg/day.

A dietary 2-generation reproduction study in rats resulted in parental toxicity at 223.2 mg/kg/day in males and 261.4 mg/kg/day in females in the form of decreased body weights, decreased body weight gains, and reduced food consumption during the premating period. Very slight effects were noted in body weight of the offspring at this dose. This effect was

considered to be developmental toxicity (developmental delay) rather than a reproductive effect. No effects were noted on reproductive or other developmental toxicity parameters. The systemic/ developmental toxicity LOEL was 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the systemic/ developmental toxicity NOEL was 50.4 mg/kg/day in males and 58.7 mg/kg/day in females. The reproductive LOEL was greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the reproductive NOEL was equal to or greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females.

4. *Subchronic toxicity*. A 21-day dermal toxicity study in rats resulted in a NOEL of 100 mg/kg/day in males and greater than 1,000 mg/kg/day in females. The only treatment-related effect was a decrease in body weight gain of the 1,000 mg/kg/day group in males.

5. *Chronic toxicity*. A 1-year chronic oral study in dogs resulted in a LOEL of 40 mg/kg/day based on decreased weight gain and a NOEL of 10 mg/kg/day for systemic toxicity. A 78-week carcinogenicity study was performed on mice. Males in the 971.6 mg/kg/day group had decreased body weight gains and an increased incidence of microconcretion/mineralization in the testis and epididymis. No treatment-related effects were noted in females. Based on these results, a LOEL of 971.9 mg/kg/day was established in males and NOELs of 410 mg/kg/day in males and 1,214.6 mg/kg/day in females were established. The study showed no evidence of carcinogenicity. A combined chronic toxicity/ carcinogenicity study in rats resulted in a LOEL of 225.2 mg/kg/day in males and 138.6 mg/kg/day in females based on decreased body weight gains, and a NOEL of 108.3 mg/kg/day in males and 56.3 mg/kg/day in females. The study showed no evidence of carcinogenicity.

6. *Animal metabolism*. EPA stated that the nature of the residue in ruminants was determined to be adequately understood. In the tissues and milk of goats, the major extractable residue was the unmetabolized parent compound. Based on the low residues of the parent compound in corn grain and the low transfer of residues in the metabolism study, tolerances on poultry products were not required. In the rat metabolism study, parent compound was absorbed rapidly but incompletely. Excretion was relatively rapid at all doses tested with majority of radioactivity eliminated in the urine and feces by 72 hours. Fecal elimination of parent was apparently the result of unabsorbed parent.

7. *Metabolite toxicology*. The toxicology studies listed below were conducted with the 3-CSA metabolite. Based on the toxicological data of the 3-CSA metabolite, EPA concluded that it has lower toxicity compared to the parent compound and that it should not be included in the tolerance expression. The residue of concern is the parent compound only.

i. A 90-day rat feeding study resulted in a LOEL in males of >20,000 ppm and a NOEL of 20,000 ppm (1,400 mg/kg/day). In females, the LEL is 10,000 ppm (772.8 mg/kg/day) based on decreased body weight gains and a NOEL of 1,000 ppm (75.8 mg/kg/day).

ii. A developmental toxicity resulted in a LOEL for maternal toxicity of >1,000 mg/kg/day based on the absence of systemic toxicity, a NOEL of 1,000 mg/kg/day. The developmental LOEL is >1,000 mg/kg/day and the NOEL is 1,000 mg/kg/day.

iii. The microbial reverse gene mutation did not produce any mutagenic effect while the mammalian cell gene mutation/chinese hamster ovary cells did not show a clear evidence of mutagenic effect in the Chinese hamster ovary cells.

iv. The mouse micronucleus assay did not show any clastogenic or aneugenic effect.

8. *Endocrine disruption*. No specific tests have been conducted with halosulfuron-methyl to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity tests, i.e., teratology and multi-generation reproduction studies, which would suggest that halosulfuron-methyl produces effects characteristic of the disruption of the estrogenic hormone.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Food*. For purposes of assessing the potential dietary exposure from food under existing tolerances, aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) which is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. The calculated TMRC value was 0.0005 mg/kg body weight/day for the general US population which will utilize only 0.51% of the Reference Dose (RfD) for established tolerances for halosulfuron-methyl and its metabolites in/on raw agricultural commodities of field corn, grain sorghum (milo) and secondary tolerances in meat and meat byproducts (cattle, goats, hogs, horses, and sheep). TMRC is obtained by multiplying the tolerance levels for each commodity by the average daily consumption of the food forms of that commodity eaten by the U.S. population and various population subgroups. In conducting this exposure assessment, conservative assumptions were made, e.g., 100% of all commodities will contain halosulfuron-methyl residues and those residues would be at the level of their respective tolerances. This results in a large overestimate of human exposure. Monsanto conducted another dietary exposure analysis to include food from crops in subsequent petitions including this petition. This analysis added dietary exposure from the following raw agricultural commodities using the proposed tolerance levels of each commodity, viz.; sweet corn (kernel + cobs with husks removed at 0.05 ppm, forage at 0.2 ppm, fodder/stover at 0.8 ppm), pop corn (grain at 0.05 ppm, fodder/stover at 0.8 ppm), sugarcane (cane at 0.05 ppm), tree nut crop grouping (nut meat at 0.05 ppm, hulls at 0.2 ppm), pistachio nuts (nutmeat at 0.05 ppm, hulls at 0.2 ppm), cotton (undelinted seed at 0.05 ppm, gin byproduct at 0.2 ppm) and rice (grain at 0.05 ppm and straw at 0.2 ppm). Food consumption data from the USDA Nationwide Food consumption survey for 1989-1992 and the EXPOSURE-1 software by TAS, Inc. were used in the calculation. Even with the same conservative assumptions, the potential dietary exposure to halosulfuron-methyl from consumption of products for which it is currently labeled and proposed resulted in a TMRC of 0.00064 mg/kg body weight/day and represents only 0.6% of the RfD for the general U.S. population. Field corn and sorghum forage and fodder are fed to animals, thus exposure of humans to residues from these commodities might result if such residues are transferred to meat, milk, poultry or eggs. However, based on the results of animal metabolism and the amount of halosulfuron-methyl expected in animal feeds, Monsanto concludes that there is no reasonable expectation that residues of halosulfuron-methyl will exceed existing tolerances in meat. The regulation of animal commodities and poultry products are not required.

ii. *Drinking water*. There is no Maximum Contaminant Level (MCL) established for residues of halosulfuron-methyl. It is not listed for MCL development or drinking water monitoring under the Safe Drinking Water Act nor is it a target of EPA's National Survey of Wells for Pesticides.

Monsanto is not aware of any halosulfuron-methyl detections in any wells, ponds, lakes or streams resulting from its use in the United States. A Lifetime Health Advisory Level (HAL), calculated using EPA procedures, may be used as a preliminary acceptable level in drinking water. The calculated level is 700 ppb which assumes a 20% relative contribution from water and which is sufficient to provide ample margins of safety. In addition, EPA has concluded that potential levels of halosulfuron-methyl or metabolites in soil and water do not appear to have significant toxicological effects on humans or animals and presents a negligible risk.

The EPA has expressed concern regarding potential groundwater contamination by the sulfonylurea (SU) class of chemistry in general and has required generic label warnings for halosulfuron-methyl; however, results of the field dissipation and lysimeter studies and a recently completed aquatic sediment study with halosulfuron-methyl should mitigate the concern for this chemical in particular.

Based on the very low level of mammalian toxicity, lack of other toxicological concerns and low use rates, Monsanto believes that there is reasonable certainty that no harm will result from exposure to halosulfuron-methyl via drinking water sources.

iii. *Non-dietary exposure.* Halosulfuron-methyl is labeled for use on commercial and residential turf and other non-crop sites which could have minimal opportunity for exposure. The agricultural uses including the proposed uses in tree nut crop group, pistachio nuts, cotton and rice will not increase the non-occupational exposure appreciably, if at all. Any exposure to halosulfuron-methyl resulting from turf use will result from dermal exposure during application and will be limited because of low use rates. In the 21-day dermal study, no treatment related adverse effects were observed and the NOAEL was determined to be greater than the highest dose tested, >1,000 mg/kg. Halosulfuron-methyl is non-volatile with a vapor pressure of $<1 \times 10^{-7}$ mm Hg, hence, inhalation exposure during and after application will not add significantly to aggregate exposure. Based on the physical and chemical characteristics, low use rates, low acute toxicity and lack of other toxicological concerns, Monsanto believes that the risk posed by non-occupational exposure to halosulfuron-methyl is minimal.

D. Cumulative Effects

Halosulfuron-methyl belongs to the sulfonyl urea class of chemistry. The mode of action of halosulfuron-methyl is the inhibition of the plant enzyme aceto lactase synthetase (ALS), which is essential for the production of required amino acid in plants. Although other registered sulfonyl ureas may have similar herbicidal mode of action, there is no information available to suggest that these compounds exhibit a similar toxicity profile in the mammalian system that would be cumulative with halosulfuron-methyl. Thus, consideration of a common mechanism of toxicity is not appropriate at this time. Monsanto is considering only the potential risks of halosulfuron-methyl in its aggregate exposure assessment.

E. Safety Determination

1. *U.S. population—Chronic dietary exposure.* As stated above, the EPA's calculated aggregate chronic exposure to halosulfuron-methyl from the established tolerances for field corn and grain sorghum raw agricultural commodities utilizes only 0.51% of the RfD using very conservative assumptions. Monsanto's subsequent calculation to include the proposed tolerances on sweet corn, pop corn, sugarcane, tree nut crop grouping, pistachio nuts, rice and cotton estimates that it will utilize only 0.6% of the RfD for the entire U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Toxicology data indicating low potential for mammalian toxicity and lack of other toxicity concerns plus the conservative assumptions used in this calculation support the conclusion that there is a "reasonable certainty of no harm" to the U.S. population in general from aggregate exposure to halosulfuron-methyl residues from all anticipated dietary exposures and all other non-occupational exposures.

2. *Acute dietary exposure.* The detailed DRES acute exposure analysis evaluates individual food consumption and estimates the distribution of single day exposures through the diet for the US population and certain subgroups. Since the toxicological effect to which high end exposure is compared is developmental toxicity, EPA determined that the DRES subgroup of concern is females (13+ years) which approximates women of child-bearing age. The appropriate NOEL to use to assess safety in acute exposure is 50 mg/kg body weight/day from a developmental toxicity study in rabbits.

For shorter term risk, the Margin of Exposure (MOE), a measure of how closely the high end exposure comes to the NOEL and is calculated as a ratio of the NOEL to the exposure (NOEL/exposure = MOE). For toxicological endpoints established based upon animal studies ,the agency is generally not concerned unless the MOE is below 100. In this analysis, tolerance levels were used to calculate the exposure of the highest exposed individual (females, 13+ year subgroup). High end exposure for this subgroup resulted in an MOE in excess of 30,000. Therefore, the acute dietary exposure to halosulfuron-methyl does not represent a risk concern. Monsanto has calculated the MOE for all tolerances (established and proposed) which resulted in an MOE of 31,623 for the entire U.S. population. Monsanto's calculation used the individual food consumption data from the 1989-1992 USDA Food Consumption Surveys and the EXPOSURE-4 software by TAS, Inc. Therefore, Monsanto concludes that there is a reasonable certainty that no harm will result from acute aggregate exposure to halosulfuron-methyl residues.

3. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of halosulfuron-methyl, Monsanto considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate the potential for adverse effects on the developing organism resulting from exposure during prenatal development to the female parent. Reproduction studies provide information relating to effects from exposure to the chemical on the reproductive capability of both (mating) parents and on off spring from pre-natal and post-natal exposure to the pesticide as well as systemic toxicity.

In a developmental toxicity study in the rat, the NOEL for both maternal and developmental toxicity was considered to be 250 mg/kg/day. In a developmental toxicity study in rabbits, a NOEL for both developmental and maternal toxicity was considered to be 50 mg/kg/day. A dietary 2-generation reproduction study in rats resulted in parental toxicity at 223.2 mg/kg/day in males and 261.4 mg/kg/day in females in the form of decreased body weights, decreased body weight gains, and reduced food consumption during the premating period. Very slight effects were noted in body weight of the offspring at this dose. This effect was

considered to be developmental toxicity (developmental delay) rather than a reproductive effect. No effects were noted on reproductive or other developmental toxicity parameters. The systemic/developmental toxicity NOEL was 50.4 mg/kg/day in males and 58.7 mg/kg/day in females. The reproductive NOEL was equal to or greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females. In all cases, the reproductive and developmental NOELs were greater than the NOEL on which the RfD was based, thus allowing for an additional margin of safety and indicating that halosulfuron-methyl does not pose any increased risk to infants or children.

4. *Chronic analysis.* Using the conservative dietary exposure assumptions described above, the TMRC for the most exposed subgroups is 0.00117 mg/kg body weight/day for nonnursing infants (less than 1-year old) and 0.001008 mg/kg body weight/day for children (1 to 6 years old), and that this aggregate exposure to residues of halosulfuron-methyl utilizes only 1.170 and 1.008% of the RfD, respectively when existing tolerances are considered. Monsanto's subsequent analysis included contribution from the proposed tolerances in sugarcane, sweet corn/popcorn, tree nut crop grouping, pistachio nuts, rice and cotton. The TMRC utilized only 1.7 and 1.3% of the RfD, respectively.

FFDCA section 408 provides that EPA may apply an additional safety factor (up to 10) in the case of threshold effects for infants and children to account for pre- and post-natal toxicity and the completeness of the data base. Based on current toxicological data requirements, the data base relative to pre- and post-natal effects in children is complete. Further, the NOEL of 10 mg/kg/day from the 1-year feeding study in dogs, which was used to calculate the RfD (discussed above), is already lower than the NOELs from the reproductive and developmental studies with halosulfuron-methyl by a factor of at least 25- and 5-fold, respectively. An additional safety factor is not warranted and the RfD of 0.1 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

Therefore, based on complete and reliable toxicity data and the conservative exposure assessment, Monsanto concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to halosulfuron-methyl residues.

F. International Tolerances

Maximum residue levels have not been established for residues of halosulfuron-methyl on corn, sorghum, sugarcane, sweet corn, pop corn, tree nuts, pistachio nuts, rice or cotton or any other food or feed crop by the Codex Alimentarius Commission.

2. Norvartis Crop Protection Inc.

PP 3F4225

EPA has received a pesticide petition (PP 3F4225) from Norvartis Crop Protection INC., P.O. Box 18300, Greensboro, NC 27419, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 extending time limited tolerances for residues of Triasulfuron in or on the raw agricultural commodity grass, forage at 7.0 ppm, grass, hay at 2.0 ppm and kidney of cattle, goats, hogs, horses, and sheep at 0.5 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue in plants is understood. The metabolism of triasulfuron in wheat proceeds by hydroxylation of the phenyl ring and hydrolytic cleavage of the urea bridge. The residue of regulatory concern is parent triasulfuron. Because the metabolism work in wheat can be translated to grasses, parent compound is the residue of regulatory concern for grasses.

2. *Analytical method.* Triasulfuron in grass was analyzed by Analytical Method AG-500B which the validated tolerance enforcement method. According to Method AG-500B, triasulfuron is extracted with a mixture of methanol and phosphoric acid. The extract is diluted with water. Triasulfuron residues are partitioned into dichloromethane and cleaned up on a BondElut CN solid phase extraction column. Residues are determined by column-switching HPLC utilizing a Lichrosorb CN column followed by a Zorbax ODS column, with UV detection at 232 nm.

3. *Magnitude of residues.* A total of 16 field trials have been conducted in 16 States. Seven sites tested bromegrass or fescue, 5 used bluegrass, and 4 used bermudagrass. A total of 69.6% of U.S. pastureland was represented by these trials. Two post broadcast spray applications were made 60-days apart at a rate of 12 grams active ingredient/A/application. Time-limited tolerances were previously established at 7 ppm in grass, forage and 2 ppm in grass, hay pending the submission of additional residue trials. These additional field trials which are included in the numbers above did not show residues exceeding the current tolerances in either grass, forage (0-day PHI) or grass, hay (30-days PHI). The feeding of either substrate to beef or dairy cattle will not result in existing tolerances in animal commodities being exceeded.

B. Toxicological Profile

1. *Acute toxicity.* Triasulfuron has a low order of acute toxicity. The rat oral LD_{50} is > 5,000 milligrams/kilogram (mg/kg), the acute rabbit dermal LD_{50} is > 2,000 mg/kg and the rat inhalation LC_{50} is > 5.2 mg/L. Triasulfuron is slightly irritating to the eye but not irritating to skin. It is not a skin sensitizer in guinea pigs. The commercial formulation of triasulfuron (75WP) has a similar acute toxicity profile. Both the technical material and the 75WP formulation require a Category III CAUTION Signal Word on the label.

2. *Genotoxicty.* Assays for genotoxicity were comprised of tests evaluating the potential of triasulfuron to induce point mutations (*Salmonella typhimurium*, *Saccharomyces cerevisiae* and mouse lymphoma L5178Y/TK/+/- cells), chromosome aberrations (micronucleus test in Chinese hamsters) and the ability to induce either unscheduled DNA synthesis in rat hepatocytes and human fibroblasts. The results indicate that triasulfuron is not mutagenic or clastogenic and does not induce unscheduled DNA synthesis.

3. *Reproductive and developmental toxicity.* The developmental and teratogenic potential of triasulfuron was investigated in rats and rabbits. The results indicate that triasulfuron was maternally toxic in the rat at doses of > 300 mg/kg/day. Developmental toxicity in the form of delayed skeletal maturation was observed only at the highest dose tested (HDT) of 900 mg/kg/day. The corresponding maternal and developmental NOELs were established at doses of 100 and 300 mg/kg/day, respectively in the rat. In the rabbit, maternal toxicity was observed at the HDT of 240 mg/kg/day; no evidence of developmental toxicity was present at 240 mg/kg/day. The maternal developmental NOELs were 120 and 240 mg/kg/day, respectively. No evidence of teratogenicity was observed at the HDT in either the rat or rabbit.

There was no effect of triasulfuron on reproductive performance in a 2 generation rat reproduction study conducted at doses of 1, 50 and 250 mg/kg/day. Maternal and fetal toxicity as indicated by decreased body weight gain was noted at the HDT of 250 mg/kg/day. The maternal and developmental NOEL was 50 mg/kg/day.

4. *Subchronic toxicity.* The subchronic toxicity of triasulfuron was evaluated in the rat and dog at high doses. Triasulfuron was poorly tolerated in the rat at doses of > 516 mg/kg/day as indicated by increased mortality, decreased body weight gain and kidney damage due to the presence of triasulfuron-containing calculi present in the urogenital tract. The NOEL in the rat was 10 mg/kg/day. Triasulfuron was not well tolerated by the dog at doses of 10,000 ppm (250 mg/kg/day) as indicated by body weight reduction, anemia, and effects on the spleen, liver and kidney. The NOEL was 1,000 ppm (33 mg/kg/day).

5. *Chronic toxicity.* The chronic toxicity of triasulfuron was investigated in long term studies in the rat, mouse and dog. Target organs included the liver, kidney and blood. NOELs were established at dose levels of 32.1, 1.2, and 129 mg/kg/day, respectively. The mouse is the most sensitive species with a NOEL = 1.2 mg/kg/day. The carcinogenicity studies on triasulfuron showed no evidence of an oncogenic response in either mouse or rat. The chemical is classified in category E.

6. *Animal metabolism.* The metabolism of triasulfuron has been well characterized in standard FIFRA rat, goat and poultry metabolism studies. Parent triasulfuron accounts for the majority of the excreted dose in these species. Cleavage of the sulfonylurea bridge occurs at a low rate but it is more prevalent in goats and hens than in rats. Hydroxylation of the phenyl ring, which constitutes the major metabolic pathway elucidated in wheat, also was found in the rat. None of the metabolites identified in these studies are considered to be toxicologically different than parent.

7. *Metabolite toxicology.* The metabolism of triasulfuron has been well characterized in rat, goat and poultry metabolism studies. None of the metabolites identified in these studies are considered to be toxicologically different than parent.

8. *Endocrine disruption.* Triasulfuron does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. There was no effect of triasulfuron on reproductive performance in a 2-generation rat reproduction study conducted at doses of 1, 50 and 250 mg/kg/day. Although residues of triasulfuron have been found in raw agricultural commodities, there is no evidence that triasulfuron bioaccumulates in the environment.

C. Aggregate Exposure

1. *Food.* Novartis has estimated the aggregate exposure to triasulfuron based on the established and time-limited tolerances for triasulfuron (40 CFR 180.459). The theoretical maximum residue contribution to diet is obtained by multiplying the tolerance level residue for all these raw agricultural commodities by the consumption data which estimates the amount of these products consumed by various population subgroups. Because some of these raw agricultural commodities (e.g. wheat and barley forage and fodder, grass forage and hay) are fed to animals, the transfer of residues to animal commodities has been calculated based on a conservatively constructed cattle diet. In addition, Novartis has conservatively assumed that 100% of the raw agricultural commodities contain residues of triasulfuron at tolerance levels.

2. *Drinking water.* Another potential source of exposure of the general population to residues of pesticides are residues in drinking water. The potential for triasulfuron to enter surface or groundwater sources of drinking water is limited because of the low use rate. The Maximum Contaminant Level Guideline (MCLG) calculated for triasulfuron according to EPA's procedures is 84 ppb, a value that is substantially greater than levels that are likely to be found in the environment under proposed conditions of use.

3. *Non-dietary exposure.* Novartis has evaluated the estimated non-occupational exposure to triasulfuron and concludes that the potential for non-occupational exposure to the general population is unlikely since triasulfuron is not planned to be used in or around the home, including home lawns.

D. Cumulative Effects

Novartis also has considered the potential for cumulative effects of triasulfuron and other chemicals belonging to this class that may have a common mechanism of toxicity. Novartis concluded that consideration of a common mechanism of toxicity is not appropriate at this time since there is no data to establish whether a common mechanism exists.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above, based on the completeness and reliability of the toxicity data, Novartis has concluded that aggregate exposure to triasulfuron will utilize a maximum of 4.63% of the RfD for the U.S. population based on chronic toxicity endpoints. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Therefore, Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to triasulfuron or residues of triasulfuron that may appear in raw agricultural commodities.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of triasulfuron, Novartis has considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat on triasulfuron. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from chemical exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to a chemical on the reproductive capability of mating animals and data on systemic toxicity.

Developmental toxicity in the form of delayed skeletal maturation was observed in the rat only at the HDT of 900 mg/kg/day. The corresponding maternal and developmental NOELs were established at doses of 100 and 300 mg/kg/day, respectively in the rat. In the rabbit, maternal toxicity was observed at the HDT of 240 mg/kg/day; no evidence of developmental toxicity was present at 240 mg/kg/day.

There was no effect of triasulfuron on reproductive performance in a 2 generation rat reproduction study conducted at doses of 1, 50 and 250 mg/kg/day. Maternal and fetal toxicity as indicated by decreased body weight gain was noted at the HDT 250 mg/kg/day. The maternal and developmental NOELs were 50 mg/kg/day.

Section 408 of the FFDCA provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete. Further, for triasulfuron,

the NOEL of 1.2 mg/kg/day from the mouse oncogenicity study, which was used to calculate the RfD of 0.01 mg/kg/day, was approximately 50 times lower than the developmental NOEL level from the rat multigeneration reproduction study. There is no evidence to suggest that developing organisms are more sensitive to the effects of triasulfuron than are adults.

Using the conservative exposure assumptions described above and the chronic toxicity NOEL of 1.2 mg/kg/day (RfD of 0.01 mg/kg/day), Novartis has determined that the % of the RfD that will be utilized by aggregate exposure to residues of triasulfuron is 3.98% for nursing infants less than 1-year old, 15.43% for non-nursing infants, 10.91% for children 1 to 6-years old and 7.34% for children 7 to 12-years old. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to triasulfuron residues.

F. International Tolerances

There are no Codex Alimentarius Commission (CODEX) maximum residue levels (MRL's) established for residues of triasulfuron in or on raw agricultural commodities.

3. Zeneca Ag Products

PP 8F4954

EPA has received a pesticide petition (PP 8F4954) from Zeneca Ag Products, 1800 Concord Pike, Wilmington, DE 19850-5458 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide, 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, in or on the raw agricultural commodities field corn, field corn fodder and field corn forage at 0.01 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue of 2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione, (hereafter referred to by the trade name ZA1296) in plants is adequately understood. ZA1296 is rapidly and completely metabolized in corn. No single extract or component accounted for greater than 0.01 ppm in grain. Numerous components were characterised in forage and fodder, including the metabolite 2-amino-4-methylsulfonyl benzoic acid (AMBA) and its conjugates and 4-methylsulfonyl-2-nitrobenzoic acid (MNBA). In addition to ZA1296, MNBA was included in crop residue analysis.

2. *Analytical method.* The proposed analytical method involves extraction, partition, clean-up and separation of ZA1296 and MNBA, oxidation of ZA1296, reduction, clean-up and detection of residues by reversed-phase HPLC using fluorescence detection. The limit of quantitation for ZA1296 and the metabolite MNBA is 0.01 ppm.

3. *Magnitude of residues.* Twenty residue trials were conducted in the US (EPA regions I, II, V and VI). The proposed use of ZA1296 does not result in residues (LOQ of 0.01 ppm) of ZA1296 or the metabolite MNBA in field corn grain, forage or fodder.

B. Toxicological Profile

1. *Acute toxicity.* A battery of acute toxicity tests were conducted which place ZA1296 in acute oral toxicity category IV, acute dermal toxicity category III, acute inhalation toxicity category IV, primary eye irritation category III, and primary dermal irritation category IV. ZA1296 is not a skin sensitizer. ZA1296 is not a neurotoxin in males and females at 2,000 mg/kg (limit test).

2. *Genotoxicty.* ZA296 was found to be negative for mutagenicity in a battery of mutagenicity tests (*in vitro*) Ames Testing, Mouse Lymphoma, Human Lymphocytes and *in vivo* Mouse Micronucleus).

3. *Reproductive and developmental toxicity*—i. *Developmental toxicity (rabbit).* New Zealand white rabbits were dosed orally by gavage with 0, 100, 250 or 500 mg/kg/day ZA1296 on days 8-20 of gestation. The top dose level in this study was set on the basis of significant maternal toxicity seen at higher dose levels in a preliminary study. At dose levels of 250 and 500 mg/kg/day there was a low incidence of whole litter losses. ZA1296 was not associated with significant maternal toxicity or evidence of teratogenicity. Dose levels of 100 mg/kg/day or more were associated with changes in the ossification of the fetal skeleton but not with structural malformation. The changes in ossification are transient in nature and considered not to be of toxicological significance in terms of post natal development. A developmental NOAEL of 100 mg/kg/day was established in this study.

ii. *Developmental toxicity (rat).* Rats were dosed orally by gavage with 0, 100, 300 or 1,000 mg/kg/day ZA1296 on days 7-16 of gestation. Maternal toxicity, as evidenced by reductions in body weight and food consumption, was seen at dose levels of 100, 300 or 1,000 mg/kg/day ZA1296. Administration of ZA1296 at dose levels of up to 1,000 mg/kg/day produced no evidence of teratogenicity. An increased incidence of minor skeletal defects and skeletal variants and increases in mean manus and pes scores were seen at all dose levels and were indicative of reduced ossification or a disturbance in the normal pattern of ossification. The changes in ossification are transient in nature and are considered not to be of toxicological significance in terms of post-natal development. Fetal weight was reduced at 1,000 mg/kg/day. A developmental NOAEL of 300 mg/kg/day was established in this study.

iii. *Reproductive toxicity (rat).* In a 3-generation study rats were fed diets containing 0, 2.5, 10 or 2500 ppm ZA1296. Dietary administration of ZA1296 had no effect on mating performance but was found to result in reduced pup survival at a dose of 2,500 ppm in all 3-generations and at 100 ppm in the second generation only. These findings were not present in recovery subgroups removed from treated diet in the third generation. There was also a reduction in the number of pups per litter, and effects on body weights and in the eye and kidney. In the third generation, there were no effects in the eyes or kidneys of offspring from animals which were returned to control diet 4 weeks prior to mating and effects on litter size were less marked than in the continuous treatment group. A NOEL of 2.5 ppm ZA1296 (0.3 mg/kg/day) was established in this study. In light of the mechanism of toxicity, investigations into the effects seen in this study in pups are considered not to be relevant to human risk assessment.

iv. *Reproductive toxicity (mouse).* In a 2-generation study mice were fed diets containing 0, 10, 50, 350, 1,500 or 7.000 ppm ZA1296. There were no adverse effect of ZA1296 on the reproductive performance of the mouse, on fertility and fecundity of the F0 and F1 adult animals or on survival of their offspring. The body weights of the offspring were reduced at 1,500 and 7,000 ppm ZA1296. A NOEL of 350 ppm ZA1296 (71 mg/kg/day) was established in this study.

4. *Subchronic toxicity*—i. *21-day dermal (rabbits).* Rabbits were repeatedly dosed with ZA1296 at 0, 10,

500 or 1,000 mg/kg/day for 21 days. The NOEL for sub-acute dermal toxicity was >1,000 mg/kg/day (limit dose).

ii. *90-day rodent (rat).* In a first study male and female rats were dosed with 0, 1, 125, 1,250 or 12,500 ppm ZA1296 in the diet for 90-days. The NOEL was determined to be 1ppm for males and females (0.09 and 0.1 mg/kg/day, respectively) based on reduced bodyweight and increased liver weight in males and females at 125 ppm and increased kidney weight and ocular keratitis in males at 125 ppm. 125 ppm (13 mg/kg/day) was a NOEL for the ocular keratitis in females. In a second study in male rats dosed with ZA1296 at 0, 10, 20 or 150 ppm ZA1296 in the diet for 90-days, a NOEL of 20 ppm (1.7 mg/kg/day) was determined for reduced bodyweight. At the 10 ppm dose level ocular keratitis and increased liver and kidney weights were observed. In a third study in male and female rats dosed with ZA1296 at 0, 2.5, 5.0, 7.5 or 150 ppm in the diet for 90-days, NOELs of 5 ppm (0.41 mg/kg/day) for ocular keratitis and increased kidney weight and 7.5 ppm (0.63 mg/kg/day) for reduced bodyweight were determined in males. NOELs of 7.5 ppm (0.71 mg/kg/day) for reduced bodyweight and increased liver weight and 150 ppm (14 mg/kg/day) for increased kidney weight were determined in females. At 2.5 ppm in males increased liver weight was observed. In light of investigations into the mechanism of toxicity, these changes are all considered not to be relevant to human risk assessment.

iii. *90-day rodent (mouse).* Mice were dosed 0, 50, 350 or 7,000 ppm in the diet for 90-days. In females no clear toxic effects were observed at 7,000 ppm (1,500 mg/kg/day). In males 7,000 ppm (1,200 mg/kg/day) was associated with a reduced growth rate and food utilization. In males and females 350 ppm (62 and 80 mg/kg/day, respectively) produced no effects which were considered to be toxicologically significant.

iv. *90-day non-rodent (dog).* Beagle dogs were dosed with ZA1296 at 0, 100, 600 or 1,000 mg/kg/day as a daily oral dose by capsule, for a period of 90-days. The NOEL in the dog over 90-days was 100 mg/kg/day. Minimal toxicity was observed at 600 and 1,000 mg/kg/day, evident as reduced bodyweights in males and a microcytic polycythemia in both sexes. Mesothelial proliferation of the atrium of the heart was evident in 2 male dogs at 1,000 mg/kg/day.

v. *90-day neurotoxicity (rat).* Rats were dosed with ZA1296 at 0, 2.5, 100 or 5,000 ppm in the diet for 90-days. The NOAEL for subchronic neurotoxicity was determined to be 5,000 ppm (400 and 460 mg/kg/day for males and females, respectively) based on the absence of changes indicative of neurotoxicity.

5. *Chronic toxicity*—i. *1-year non-rodent (dog).* Beagle dogs were dosed with ZA1296 at 0, 10, 100 or 600 mg/kg/day as a daily oral dose by capsule, for a period of 1-year. The NOEL in this study was 100 mg/kg/day. At 600 mg/kg/day males showed a significant reduction in bodyweight and both sexes showed a slight microcytic polycythemia, indicating that a maximum tolerated dose had been achieved. Minimal ocular keratitis was observed in 1 male and 1 female at 600 mg/kg/day.

ii. *1-year rodent (mouse).* Mice were dosed with ZA1296 at 0, 10, 50, 350 or 7,000 ppm in the diet for 1 year. The NOEL in males and females was 350 ppm (56 and 72 mg/kg/day, respectively). At 7,000 ppm (limit dose) bodyweight was reduced in males, and there was an increased incidence of eosinophilic change in the gall bladder of females.

iii. *Combined rodent chronic toxicity/oncogenicity (rat).* Rats were dosed with ZA1296 at 0, 7.5, 100 or 2,500 ppm in the diet for up to 2 years. In addition rats were fed diet containing 1 or 2.5 ppm ZA1296 for up to 2-years to determine the chronic ocular toxicity. Oral administration of 7.5, 100 or 2,500 ppm ZA1296 for at least 2-years caused ocular keratitis, reduced bodyweights, increased liver and kidney weights, and an increased incidence of common spontaneous lesions in the Alderley Park rat. In light of investigations into the mechanism of toxicity, these changes are all considered not to be related to human risk assessment. Satellite groups of rats fed 1 and 2.5 ppm ZA1296 showed that dietary levels of 2.5 ppm in males and 7.5 ppm in females were without ocular effect. ZA1296 was considered not to be carcinogenic in the rat in this study. A NOEL of 7.5 ppm ZA1296 was established for females.

iv. *Oncogenicity in the rodent (mouse).* Mice were fed diets containing 0, 10, 350 or 7,000 ppm ZA1296 for up to 80-weeks. Oral administration of 7,000 ppm (900-1,100 mg/kg/day) ZA1296 (limit dose) for at least 80-weeks produced no evidence of carcinogenicity in male or female mice.

6. *Animal metabolism.* The absorption, distribution, metabolism and excretion of ZA1296 has been thoroughly investigated in rats and studied in mice. In both species ZA1296 is well absorbed following an oral dose. Elimination of ZA1296 is rapid in both species, with most of the ZA1296 eliminated, in the urine, unchanged with only minor amounts of the urinary and fecal metabolites, including MNBA and AMBA, detected. In poultry ZA1296 is excreted generally unchanged. In ruminants ZA1296 is extensively metabolised and excreted. AMBA dosed to ruminants is readily absorbed and excreted, generally unchanged. AMBA is not accumulated in edible tissues or milk.

7. *Metabolite toxicology.* In acute oral toxicity studies in male and female rats both MNBA and AMBA had an oral LD_{50} of >5,000 mg/kg. In the Ames assay, both MNBA and AMBA were found to be negative for mutagenicity in the absence and presence of metabolic activation.

8. *Endocrine disruption.* EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect." EPA is currently working with interested shareholders, including other government agencies, public interest groups, industry, and research scientists, to develop a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3-years from the passage of FQPA (August 3, 1999) to implement this program. When this program is implemented, EPA may require further testing of ZA1296 and end-use product formulations for endocrine disrupter effects.

9. *Reference dose.* As required by the Food Quality and Protection Act of 1996, the mechanism of toxicity of ZA1296 has been thoroughly investigated in studies (FQPA) in the rat, mouse and man. These data clearly demonstrate that the response to ZA1296 administration in man is very similar to that seen in the mouse which should therefore, be used in preference to the rat when assessing the safety of ZA1296 to humans. The proposed reference dose (RfD) for use in the assessment of risk from chronic exposure is 0.56 mg/kg/day and is derived from the 1 year chronic toxicity study in the mouse with a NOEL of 56 mg/kg/day and a 100-fold uncertainty factor.

C. Aggregate Exposure

1. *Dietary exposure.* The potential dietary exposure to ZA1296 was estimated from tolerance levels and 100% crop treated. No tolerances are proposed for meat, milk and eggs. The total dietary exposure for the U.S. population and the most highly exposed

subgroup in the population, non-nursing infants, is 0.000011 mg/kg/day and 0.000027 mg/kg/day, respectively.

2. *Drinking water.* Drinking water estimated concentrations (DWEC) were calculated using EPA models for groundwater and surface water - SCI-GROW, GENEEC and PRZM/EXAMS. Chronic Drinking Water Levels of Concern (DWLOC) were calculated according to the EPA SOP and compared to the DWEC. Estimated average contributions of ZA1296 in surface and groundwater are less than the levels of concern for ZA1296 in drinking water as a contribution to chronic aggregate exposure.

3. *Non-dietary exposure.* Zeneca has not estimated non-occupational exposure for ZA1296 since the only pending registration for ZA1296 is limited to commercial crop production use. ZA1296 products are not labelled for any residential uses therefore, eliminating the potential for residential exposure. The potential for non-occupational exposure to the general population is considered to be insignificant.

D. Cumulative Effects

Zeneca also considered the potential for cumulative effects of ZA1296 and other substances that have a common mechanism of toxicity. Zeneca has concluded that consideration of a common mechanism of toxicity is not appropriate at this time since there is no indication that toxic effects produced by ZA1296 would be cumulative with those of any other chemical compounds. Triketone chemistry is new and ZA1296 has a novel mode of action compared to currently registered active ingredients.

E. Safety Determination

1. *U.S. population.* Dietary and occupational exposure will be the major routes of exposure to the U.S. population and ample margins of safety have been demonstrated for both situations. The total dietary exposure for the U.S. population is 0.000011 mg/kg/day. This utilizes only 0.002% of the RfD. The MOE for occupational exposure is >5,500. Based on the completeness and reliability of the toxicity data and the conservative exposure assessments, there is reasonable certainty that no harm will result from the aggregate exposure of residues of ZA1296 including all anticipated dietary exposure.

2. *Infants and children.* The total dietary exposure for the most highly exposed subgroup in the population, non-nursing infants, is 0.000027 mg/kg/day. This utilizes only 0.0048% of the RfD. There are no residential uses of ZA1296 and the estimated average contributions of ZA1296 in surface and groundwater are less than the levels of concern for ZA1296 in drinking water as a contribution to chronic aggregate exposure. Based on the completeness and reliability of the toxicity data and the conservative exposure assessments, there is reasonable certainty that no harm will result from the aggregate exposure of residues of ZA1296 including all anticipated dietary exposure.

F. International Tolerances

A maximum residue level has not been established for ZA1296 by the Codex Alimentarius Commission.

[FR Doc. 98–14160 Filed 5–28–98; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 91–141; DA 98–839]

Local Competition Survey

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On May 8, 1998, the Common Carrier Bureau issued a Public Notice to solicit comment on how the Commission can collect sufficient information about local competition to achieve the regulatory flexibility, pro-competition, and universal service objectives of the Telecommunications Act of 1996 (1996 Act) while minimizing filing burdens on respondents. The Public Notice seeks comment on what information should be collected as well as on such issues as whether periodic data collection should be mandatory and which telecommunications carriers should provide information.

DATES: Comments to the Public Notice are due on or before June 7, 1998. Reply comments are due on or before June 22, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554, with a copy to Ms. Terry Conway of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, N.W., Suite 500, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Deputy Chief of the Industry Analysis Division, Common Carrier Bureau, at (202) 418–0952, or Ellen Burton, Industry Analysis Division, Common Carrier Bureau, at (202) 418–0958. Users of TTY equipment may call (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice released May 8, 1998 (DA 98–839). The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Summary of the Public Notice

The Commission requires timely and reliable information on the pace and extent of development of competition for local telecommunications services in different geographic markets to evaluate the effectiveness of decisions taken to implement the pro-competition provisions and to achieve the universal service goals of the Telecommunication Act of 1996 (47 U.S.C. Section 151 *et seq.*). The Commission also requires such information to identify services and geographic markets where local competition has developed sufficiently to allow the Commission to exercise its regulatory forbearance authority (47 U.S.C. Section 160(a)).

The Commission has previously concluded (*Expanded Interconnection with Local Telephone Company Facilities*, Memorandum Opinion and Order, 59 FR 38922 (August 1, 1994), CC Docket No. 91–141, 9 FCC Rcd 5154, 5177 (1994)) that an information collection program is necessary to monitor the state of local competition in diverse areas of the country so that the Commission might make its regulatory requirements more flexible as competition develops in particular areas. The Commission delegated authority to the Chief, Common Carrier Bureau, to formulate the detailed elements of a reporting program, to decide which service providers must provide information, and to specify the format and timing of reports.

I. Background

3. Only a limited amount of information on the state of local competition can be derived from sources currently reported to the

Commission. These data are nationwide local service revenues reported by calendar year. Although these data are filed by all carriers, including new competitive local exchange carriers, the data are not available for analysis by Commission staff until several months after filing; consist only of nationwide aggregates; and are generally given confidential treatment. A summary of this information is published, a few months thereafter, in a form that maintains the confidentiality of revenues of individual companies. Additional data on the state of local competition in selected states, and in particular cities and regions within those states, have been submitted to the Commission in various proceedings, e.g., in the course of regional Bell company applications for authorization to provide in-region interLATA services. These data provide significant information related to local competition in the state for which, and at the time, an interLATA services petition is filed. Because they are submitted only by the petitioner, however, these data do not constitute a comprehensive survey of local competition in that state. Nor do they describe the extent of development of local competition across the country at any point in time.

H. Discussion

4. The Public Notice seeks comment on adopting a local competition survey similar to a survey completed—on a voluntary basis—by nine large incumbent local exchange carriers in March, 1998, and seeks comment on applying such a survey to all types of local exchange carriers, both incumbent carriers and competitive carriers. We propose to make any survey that we adopt mandatory for most carriers because we believe that an accurate and timely picture of the development of local competition and the achievement of universal service goals requires a limited set of information from substantially all local exchange carriers.

5. We also seek comment on whether there are authoritative data sources other than a periodic survey that could provide information necessary to evaluate the development of local competition and the achievement of universal service goals on a timely basis. We invite parties to identify publicly available alternative sources of any or all of the data discussed in the Public Notice. We ask parties proposing alternative data sources to identify those sources precisely and to explain in detail how those sources provide information that is accurate, sufficient, and timely to describe and understand the state of local competition in diverse areas of the country.

6. We invite comment on the definition of reporting areas and propose that the states should be the geographic reporting areas for local competition surveys. We also invite comment on whether the following items are both necessary and sufficient to describe and understand the state of local competition in diverse areas of the nation: number of local service lines sold directly to end users by the reporting carrier; number of local service lines sold to competing local carriers for resale; number of unbundled loops and unbundled switch ports for local access lines provided by the reporting carrier to an unaffiliated carrier; number of unaffiliated, competing local exchange carriers purchasing unbundled network elements and resold lines; number of wire centers where competitors have physical or virtual collocation arrangements, and number and type of customer lines served; switched minutes originated with end users, terminated with end users, and exchanged with other carriers; number of telephone numbers ported by interim or long-term portability methods; and names of competitive local exchange carriers active in the reporting area.

7. We seek comment on whether each incumbent local exchange carrier should file a local competition survey for each area in which it is an incumbent local exchange carrier. Because it is our objective to minimize reporting burdens, while collecting information sufficient to understand developing local exchange and exchange access competition in diverse areas of the country, we also seek comment on whether some subset of incumbent local exchange carriers should file local competition surveys, and, if so, on the appropriate basis for determining the composition of that subset of incumbent local exchange carriers.

8. To the extent that a competitor provides service to customers using its own loops and switches, these lines will not be included in any data collected by incumbents. Whether a competitive local exchange carrier serves customers over its own facilities, by means of unbundled network elements, or through resale, moreover, data provided directly by competitive local exchange carriers about their own customers would be extremely valuable as a cross-check to data provided by incumbent local exchange carriers, and should provide a much more specific snapshot of local competition. We therefore seek comment on whether carriers other than incumbent local exchange carriers should file local competition surveys if such carriers propose to provide—or are providing—local exchange or exchange access service as duly authorized competitive local exchange carriers. Consistent with this need for adequate information, we propose not to distinguish among local exchange carriers on the basis of the technology used to provide local exchange or exchange access service to the public.

9. We also seek comment on whether local exchange carriers other than incumbent local exchange carriers should report the same data, in the same form, that incumbent local exchange carriers report. Competitive local exchange carriers need not develop their business plans, conduct their operations, design their networks, or select geographic areas to serve in the same manner as incumbent local exchange carriers have done. Also, the 1996 Act places less extensive responsibilities on local exchange carriers other than incumbent local exchange carriers.

10. We propose that carriers file the survey quarterly, 30 days after the end of the calendar year quarter, through the first quarter of 2001, which will mark a date five years after the enactment of the 1996 Act. Prior to that date, we propose to undertake a review of the efficacy and burden imposed of this data collection to determine the need and form for any data collection efforts after that date.

III. Procedural Issues

11. *Procedures for Filing.* Interested parties may file comments in CC Docket No. 91–141 on or before June 7, 1998. Reply comments may be filed on or before June 22, 1998. All filings should refer to the pleadings as Local Competition Survey, CC Docket No. 91–141, CCB-IAD File No. 98–102. One original and four copies of all comments must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554. Three copies should also be sent to Ms. Terry Conway, Industry Analysis Division, Common Carrier Bureau, 2033 M Street, N.W., Suite 500, Washington, D.C. 20554. Copies of documents filed with the Commission may be obtained from the International Transcription Service (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. Documents are also available for review and copying at the Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., Monday, from 9:45 a.m. to 4:30 p.m., and Tuesday through Friday from 9:00 a.m. to 4:30 p.m., (202) 418–0270.

12. This proceeding is a non-restricted proceeding. *See* 47 CFR 1.1200(a), 1.1206. Accordingly, *ex parte* presentations are permitted, provided that they are disclosed in conformance with the Commission's *ex parte* rules.

13. *Paperwork Reduction Act.* We note that this Public Notice contains either a proposed or modified information collection, and we invite the general public to take this opportunity to comment on those information collections, pursuant to the Paperwork Reduction Act of 1995, Public Law No. 104–13. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's initial burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Federal Communications Commission.

Peyton L. Wynns,

Chief, Industry Analysis Division.

[FR Doc. 98–14408 Filed 5–28–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, May 26, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and enforcement activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director Joseph H. Neely (Appointive), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency) and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: May 26, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–14359 Filed 5–26–98; 4:57 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. RVB Bancshares, Inc., Russellville, Arkansas; to become a bank holding company by acquiring 100 percent of the votings shares of River Valley Bank, Russellville, Arkansas.

Board of Governors of the Federal Reserve System, May 26, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14282 Filed 5–28–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, June 3, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 27, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–14371 Filed 5–27–98; 11:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT), June 8, 1998.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Approval of the minutes of the May 11, 1998, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Review of KPMG Peat Marwick audit reports:

(a) "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Withdrawal and Loan Operations at the United States Department of Agriculture, National Finance Center."

(b) "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Systems Enhancements and Software Change Controls at the United States Department of Agriculture, National Finance Center."

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640:

Dated: May 26, 1998.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 98–14357 Filed 5–26–98; 4:50 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0027]

Submission for OMB Review; Comment Request Entitled Contract Administration and Quality Assurance

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding extension to an existing OMB clearance (3090–0027).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contract Administration and Quality Assurance.

DATES: Comment Due Date: July 28, 1998.

FOR FURTHER INFORMATION CONTACT: Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection 3090–0027, Contract Administration and Quality Assurance. This information is used by various contract administration and other support offices for quality assurance, acceptance of supplies and services, shipments, and to justify payments.

B. Annual Reporting Burden

Respondents: 2,800; annual responses: 33,600; average hours per response: .05; burden hours: 2,800.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: May 21, 1998.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 98–14228 Filed 5–28–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0198]

Submission for OMB Review; Comment Request Entitled Foreign Acquisition

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0198).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Foreign Acquisition.

DATES: Comment Due Date: July 28, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0198, concerning Foreign Acquisition. Offerors are required to identify whether items are foreign source end products and the dollar amount of import duty for each product.

B. Annual Reporting Burden

Respondents: 9; annual responses: 9; average hours per response: .10; burden hours: 1.5.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: May 22, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–14229 Filed 5–28–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0057]

Submission for OMB Review; Comment Request Entitled Deposit Bond Individual-Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding a previously approved OMB clearance (3090–0057).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement concerning Deposit Bond Individual-Sale of Government Personal Property. A request for public comments was published at 63 FR 3749, January 26, 1998. No comments were received.

DATES: Comment Due Date: June 29, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of

this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Andrea Dingle, Federal Supply Service (703) 305–6190.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to approve information collection, 3090–0057 concerning Deposit Bond Individual-Sale of Government Personal Property. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an individual type of deposit bond in lieu of cash or other form of bid deposit.

B. Annual Reporting Burden

Respondents: 500; annual responses: 1; average hours per response: .25; burden hours: 125.

Copy Of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: May 22, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–14230 Filed 5–28–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0058]

Submission for OMB Review; Comment Request Entitled Deposit Bond-Annual Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding a previously approved OMB clearance (3090–0058).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement concerning Deposit Bond-Annual Sale of Government Personal Property. A request for public comments was published at 63 FR 3748, January 26, 1998. No comments were received.

DATES: Comment Due Date: June 29, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Andrea Dingle, Federal Supply Service (703) 305–6190. .

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to approve information collection, 3090–0058, concerning Deposit Bond-Annual Sale of Government Personal Property. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an annual type of deposit bond in lieu of cash or other form of bid deposit.

B. Annual Reporting Burden

Respondents: 1,000; annual responses: 1; average hours per response: .25; burden hours: 250.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: May 22, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–14231 Filed 5–28–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committees Meeting

The National Vaccine Program Office, Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: National Vaccine Advisory Committee (NVAC) Immunization Registries Workgroup on Privacy and Confidentiality.

Time and Date: 8:30 a.m.–12:30 p.m., June 18, 1998.

Name: NVAC Immunization Registries Workgroup on Technical and Operational Challenges.

Time and Date: 1:30 p.m.–5:30 p.m., June 18, 1998.

Name: NVAC Immunization Registries Workgroup on Resource Issues.

Time and Date: 8:30 a.m.–12:30 p.m., June 19, 1998.

Name: NVAC Immunization Registries Workgroup on Ensuring Provider Participation.

Time and Date: 1:30 p.m.–5:30 p.m., June 19, 1998.

Place: Ramada Plaza Hotel, 1231 Market Street, San Francisco, California 94103, telephone (415) 626–8000.

Status: Open to the public, limited only by space availability. The meeting room accommodates approximately 200 people.

Purpose: During a White House Ceremony on July 23, 1997, the President directed the Secretary of Health and Human Services (HHS) to work with the States on integrated immunization registries. As a result, NVAC has formed a workgroup, staffed by the National Immunization Program (NIP), that will gather information for development of a National Immunization Registry Plan of Action.

To assist in the formulation of a work plan, a series of public meetings relating to (1) privacy and confidentiality; (2) resource issues; (3) technical and operational challenges; and (4) ensuring provider participation, will be held throughout the Nation. These meetings will provide an opportunity for input from all partners which include state and local public health agencies, professional organizations of private health agencies, managed care organizations (MCOs), employer-funded health care plans, vaccine manufacturers and developers, vendors and developers of medical information systems, information standards development organizations, parents, social welfare agencies, law enforcement agencies, legislators, privacy and consumer interest groups, and other representatives of the public at large.

For each meeting, the Workgroup is inviting experts to address the four specific issues outlined above. Expert speakers are being asked to respond to the questions outlined below in writing, make brief oral presentations, and to respond to additional questions from the Workgroup.

Members of the public who wish to provide comments may do so in the form of written statements, to be received by the completion of the last meeting, addressed as follows: NIP/CDC, Data Management Division, 1600 Clifton Road, NE, M/S E–62, Atlanta, Georgia 30333.

There will be a period of time during the agenda for members of the public to make oral statements, not exceeding 3 minutes in length, on the issues being considered by the

Workgroup. Members of the public who wish to speak are asked to place their names on a list at the registration table on the day of the meeting. The number of speakers will be limited by the time available and speakers will be heard once in the order in which they place their names on the list. Written comments are encouraged; please provide 20 copies.

Based on the outcome of these meetings, a National Immunization Registry Plan of Action will be developed and proposed to NVAC for their deliberation and approval. This plan will identify registry barriers and solutions, strategies to build a registry network, resource requirements and commitments, and a target date for network completion.

Matters to be Discussed: Agenda items will include an overview of the Initiative on Immunization Registries and current immunization registry efforts and testimonies by organizational representatives on the following issues relevant to immunization registries: Privacy and confidentiality, resource issues, technical and operational challenges, and ensuring provider participation.

Agenda items are subject to change as priorities dictate.

Resource Issues Questions to be Considered:

1. What approaches have been successful in securing funding to support registries?
2. What approaches to secure funding have been tried but failed?
3. What cost-sharing arrangements would your organization view as reasonable and fair to ensure long-term sustainability of a registry?
4. Would you be willing to share costs through a fee-for-service arrangement and how much would you be willing to pay?
5. Would you be willing to support a vaccine surcharge and at what rate?
6. What types of resources and/or in-kind support do you receive and from whom?
7. What types of resources and/or in-kind support do you provide?
8. What types of resources are you willing and able to provide over the short-term and/or long-term to ensure registry sustainability?
9. Are you willing to provide resources or in-kind support toward linking your existing registries with state and local registries?
10. What are the costs of implementing/operating an immunization registry?
11. What are the costs of not having an immunization registry (e.g., looking up immunization histories, generating school immunization records, etc.)?
12. How should immunization registries be integrated with larger patient information systems and how should their component costs be ascertained?
13. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

Technical and Operational Questions to be Considered:

1. How can universal, interactive, real-time, secure immunization record exchange between immunization providers be implemented?
2. How does your system implement record exchange?

A. Can a provider get an up-to-date immunization history for a patient sitting in his or her office?

B. How is this function implemented?

3. How can it be assured that the most complete and up-to-date copy of an immunization record is always retrieved by a requesting provider?
4. How does your system identify the definitive record?
5. How can existing practice management systems achieve connectivity with immunization registries efficiently, without dual systems, redundant processes, and multiple interfaces?
6. What software systems can your system interface with?
7. How are connections between your system and existing systems implemented?
8. How can registries be used to measure immunization rates, accurately and routinely, at county, state, and national levels, without counting any individual more than once?
9. How can the functionality of immunization registries be standardized without compromising registries' ability to customize and extend that functionality?
10. What immunization registry functions should be standardized?
11. Who should provide leadership in such a standardization effort?
12. How will/should standards be implemented in immunization registries?
13. How can the cost of operating immunization registries be reduced to a level at which immunization providers themselves would be willing to support them? (crossover with cost issue)
14. What sorts of inter-organizational arrangements and legal structures need to be in place to provide an environment in which immunization registry data can flow as needed? (crossover with privacy & confidentiality issue)
15. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?
16. How can duplication of records be minimized?
17. How can existing billing/encounter information systems be modified to provide appropriate immunization registry functions?
18. How can immunization registries be broadened to provide other important functions in patient monitoring (e.g., well-child assessments, metabolic/hearing screening, etc.)?
19. What mechanisms are needed to detect and prevent unauthorized access to registry data?
20. What data capture technology (e.g., bar codes, voice recognition, etc.) can minimize the negative impact on workflow?
21. What techniques (e.g., standard knowledge representation such as Arden Syntax) can be used to disseminate vaccination guidelines to individual registries quickly and with a minimum of new programming required to update automated reminder/recall and forecasting based on the guidelines?

Privacy and Confidentiality Questions to be Considered:

Terminology: Privacy—The right of an individual to limit access by others to some aspect of the person. Confidentiality—The treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others in ways that are inconsistent with the understanding of the original disclosure. Individually identifiable information—Information that can reasonably be used to identify an individual (by name or by inference).

1. Should immunization data have different privacy requirements than the rest of the medical record?
2. How can the disclosure and re-disclosure of immunization information be controlled through policies, procedures, and legislation?
3. Should consent to participate be implied or required? In what form?
4. Should different levels of disclosure be possible? What levels should be available to what groups?
5. Who should have access to immunization registry data?
6. What information should be disclosed to an immunization registry?
7. What other uses can immunization registry data have?
8. Would ability to produce a legal record be a desirable function for the registry?
9. What fair information practices should be implemented (e.g., ability to correct the record, notice of being put in registry to parent)?
10. How long should information be kept in a registry?
11. How will privacy issues affect the following groups: parents, immigrants, religious groups, HIV-positive and other immunocompromised health conditions, law enforcement, victims of domestic violence, and custodial parents?
12. How should registries ensure that privacy policies are followed?
13. Do you have any comment or recommendation for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?
14. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?
15. Given the mandate of Health Insurance Portability and Accountability Act to create a unique health identifier, how should that goal be achieved while minimizing the probability of inappropriate use of the identifier?
16. What steps can be taken to prevent unauthorized re-disclosure of information already provided to an organization or person?
17. What legal barriers exist which prevent data sharing by MCOs and how can they be obviated?
18. What mechanism should be available to allow parents to opt out of the registry?
19. What agency/organization should be responsible for maintaining registry information?

20. How should consent for inclusion in an immunization registry be obtained? Should it be implicit or explicit?

21. What information should be included in an immunization registry?

22. Should registries include (and release) information on contraindications, adverse events, etc.?

23. Who should have access to immunization registry data and how can restricted access be assured?

24. What information should be available to persons other than the client/patient and the direct health care provider (e.g., schools)?

25. What is the best way to protect privacy and ensure confidentiality within a registry?

26. How should individuals/parents have access to registry information on themselves/their children?

27. Should data maintained in a state and community-based immunization registry be considered public information?

28. Would national privacy and confidentiality standards help ensure that data maintained in an immunization registry is protected?

Ensuring Provider Participation Questions to be Considered:

1. What type of resources (e.g., hardware, staff, etc.) are needed for you (provider/organization) to participate in a computerized registry?

2. What are the cost-related barriers that keep you (provider/organization) from participating in an immunization registry?

3. What cost should providers be responsible for, pertaining to participation in immunization registry systems?

4. What are the cost savings you would anticipate as a result of participating in a computerized registry (e.g., increased return visit form reminders, less personnel paperwork for preschool exams, etc.)?

5. How much time would you be willing to invest per patient visit (e.g., additional 1, 5, 7, 10 minutes) in the overall success of an immunization registry?

6. What type of user support would be needed in order for you (provider/organization) to participate in an immunization registry?

7. How would you (provider/organization) encourage providers and consumers in your community to participate in an immunization registry?

8. What community support would be necessary for you to participate in the immunization registry?

9. What benefits/value (e.g., immunization reminders, quick access to immunization histories, etc.) would a registry provide that would encourage your (provider/organization) participation?

10. What incentives should be offered to providers/organizations to participate in an immunization registry?

11. What barriers have you (provider/organization) encountered that have prevented you from participating in an immunization registry?

12. Is provider liability (e.g, disclosure of sensitive patient information) a barrier to participating in an immunization registry? Why?

13. How would an immunization registry impact your practice/organization?

14. Do you currently share immunization data with other providers electronically? For what purpose (e.g., billing, share group data, etc.)?

15. How (e.g., electronic record, paper record) is medical information maintained in your practice/organization?

16. Who should retain ownership of immunization records as they are distributed throughout an immunization registry?

17. How would you (provider/organization) use the data maintained in an immunization registry?

18. What type of quality control process would you (provider/organization) perform to ensure the accuracy and completeness of the immunization data entered into an immunization registry?

19. What type of security policies and procedures need to be in place for you to be confident that data are secure?

20. What functions should a registry perform in your office in order for you (provider/organization) to participate?

21. Do you have any advice or recommendations for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?

22. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

23. Have you received training on the use and maintenance of computerized medical information? Do you feel this training is needed to fully support the development and maintenance of immunization registries?

Contact Person for More Information: Robb Linkins, M.P.H., Ph.D., Chief, Systems Development Branch, Data Management Division, NIP, CDC, 1600 Clifton Road, NE, M/S E–62, Atlanta, Georgia 30333, telephone (404) 639–8728, e-mail rxl3@cdc.gov.

Dated: May 22, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–14232 Filed 5–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–417]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification in the Medicare Program and Supporting Regulations in 42 CFR 418.1–418.405; *Form No.:* HCFA–417 (OMB# 0938–0313); *Use:* The Hospice Request for Certification Form is used for hospice identification, screening, and to initiate the certification process. The information captured on this form is entered into a data base which assists HCFA in determining whether providers have sufficient personnel to participate in the Medicare program. The form summarizes data relative to: type of hospice; types of services provided by the hospice; and number of full time equivalents; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 2,286; *Total Annual Responses:* 2,286; *Total Annual Hours:* 572.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 19, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–14284 Filed 5–28–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–03]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Rita Ross, Office of Multifamily Housing, telephone number (202) 708–3555 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Requisition for Disbursement of Section 202 Loan Funds.

OMB Control Number, if applicable: 2502–0187.

Description of the need for the information and proposed use: Form HUD–92403–EH is used by the nonprofit Owner entity to obtain disbursements on its HUD-funded loan under the Section 202 Direct Loan Program for Housing the Elderly or Handicapped. Its use during the construction period and at final loan closing enables the Owner to obtain funds so that he may settle his obligations or be reimbursed in a timely manner.

Agency form numbers, if applicable: HUD–92403–EH.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 930, the frequency of responses is 3, and ½ hour per response.

Status of the proposed information collection: Reinstatement without change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 15, 1998.

Art Agnos,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98–14235 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–C4]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Debbie Holt, Disbursement and Customer Service Branch, telephone number (202) 755–7570, ext. 149 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Automated Clearinghouse Program Application, Title I Insurance Coverage Payments system—FR 3823.

OMB Control Number, if applicable: 2502–0152.

Description of the need for the information and proposed use: The information is needed for the use of the Automated Clearinghouse System which is used by the Title I Insurance System to collect a debt due the Federal government. The previous approval will expire soon and will need to be reinstated so that the department can continue to use this mechanism.

Agency form numbers, if applicable: Form HUD–56150.

Estimation of the total numbers of hours needed to prepare the information

collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 1500, hours per response .25 hours per response, and the frequency of responses is 1.

Status of the proposed information collection: Reinstatement of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 20, 1998.

Art Agnos,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98–14236 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–05]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Rebecca Holtz, Office of Consumer and Regulatory Affairs, telephone number 202–708–0502 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Land Sales Registration, Purchaser's Revocation Rights, Sale Practices and Standards, and Formal Procedures and Rules of Practice.

OMB Control Number, if applicable: 2502–0243.

Description of the need for the information and proposed use:

The Interstate Land Sales Full Disclosure Act, 15 USC 1701, et. seq., requires land developers to register subdivisions of 100 or more non-exempt lots with HUD and to provide each purchaser with a disclosure document called a property report.

The Act protects consumers from fraud and abuse in the sale or lease of land and was enacted in response to a nation-wide proliferation of unimproved subdivision developers who make elaborate, but fraudulent claims about their land to unsuspecting lot purchasers. Information is submitted to HUD to assure compliance with the Act and the implementing regulations.

The registration is subject to an examination to assure compliance with the law and the implementing regulations as set forth at 24 CFR 1700 through 1730.

Consumers are provided the protection of the antifraud provisions of the Act and, in the case of registered sub-divisions, a Property Report which provides them with the information essential to the process of making an informed decision about their possible purchase of a lot.

Agency form numbers, if applicable: None.

Status of the proposed information collection: Extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, 12 amended.

Dated: May 21, 1998.

Art Agnos,

Acting Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98–14237 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–06]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Wendy Carter, Office of Multifamily Housing Programs, telephone number (202) 708–2300 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Eligibility of Non-Profit Corporation.

OMB Control Number, if applicable: 2502–0057.

Description of the need for the information and proposed use: The need for the information is an application for Multifamily Mortgage Insurance programs with a Non-Profit Sponsor. The application is to obtain the information necessary to enable HUD to make a determination that the sponsor is a non-profit corporation or association.

Form HUD–3433 identifies the non-profit qualification to successfully sponsor a multifamily housing project. Forms HUD–3434 and 3435 identify the non-profit's motivation for sponsoring the project and relationships that exist between HUD and the non-profit.

Agency form numbers, if applicable: HUD–3433, 3434, and 3435.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 230, hours per response 23.96 hours per response, and the frequency of responses is on occasion when mortgage is made.

Status of the proposed information collection: Reinstatement of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 20, 1998.

Art Agnes,

Acting General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 98–14238 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–07]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Wendy Carter, Office of Multifamily Housing, telephone number (202) 708–2300 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Project Income Analysis and Approval.

OMB Control Number, if applicable: 2502–0331.

Description of the need for the information and proposed use: Contracted delegated processors complete and submit these forms to HUD on multifamily properties to be insured by HUD. These forms recite data that supports the fair market value and budgeted construction cost.

Agency form numbers, if applicable: Forms HUD–92264, 92264A, 92264TE, 92273, 92274, 92325, 92326, 92326A, 92329, 92331, 92485.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 230, hours per response 23.96 hours per response, and the frequency of responses is once when mortgage is made.

Status of the proposed information collection: Reinstatement of of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 20, 1998.

Art Agnes,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98–14239 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–4209–N–02]

Funding for Fiscal Year 1997: Capacity Building for Community Development and Affordable Housing; Revision

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding for fiscal year 1997; revision.

SUMMARY: The Department recently published a notice of funding, which provided $30.2 million assistance through The Enterprise Foundation, the Local Initiatives Support Corporation (LISC), Habitat for Humanity, and Youthbuild, USA. The funds are to be used for capacity building for community development and affordable housing. Among other requirements, each dollar of these funds must be matched by three dollars in cash or in-kind contributions to be obtained from private sources.

Today's notice revises policies concerning matching requirements and related administrative requirements. These revisions are intended to limit HUD environmental review to only those projects that are assisted with Federal funds.

FOR FURTHER INFORMATION CONTACT: Penelope G. McCormack, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7216, Washington DC 20410. Telephone Number (202) 708–3176 Ext. 4391, TTY Number: (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On January 30, 1998, at 63 FR 5220, the Department published a notice that set out the requirements for the $30.2 million of funding under the National Community Development Initiative through The Enterprise Foundation, the Local Initiatives Support Corporation (LISC), Habitat for Humanity, and Youthbuild, USA.

This revised policy eliminates the requirement that the grantees specify in their work and funding plans when and how the non-federal matching resources will be used. The revision also makes clear that these non-federal matching resources must still be used for eligible activities and that performance reports must include reports on the commitment and expenditure of private matching resources utilized through the end of the reporting period.

These changes are intended to reduce burdens on the grantees by ensuring that HUD environmental review requirements are triggered only when the project involves the use of Federal funds.

To effect these changes, section 1., Matching Requirements, and section 2., Administrative and Other Requirements, of today's notice apply in place of section 5., Matching Requirements, and section 6., Administrative and Other Requirements, of the January 30, 1998 notice (63 FR 5220). All other provisions of the January 30, 1998 notice continue to apply.

To assist the user, this notice contains the complete sections on matching requirements and on administrative and other requirements rather than just the revised paragraphs.

1. Matching Requirements

As required by section 4 of the 1993 Act, this $30.2 million appropriation is subject to each award dollar being matched by three dollars in cash or in-kind contributions to be obtained from private sources. Each of the organizations receiving these funds will document its proportionate share of matching resources, including resources committed directly or by a third party to a grantee or subgrantee after June 12, 1997 to conduct eligible activities.

In-kind contributions shall conform to the requirements of 24 CFR 84.23.

2. Administrative and Other Requirements

The award will be governed by 24 CFR part 84 (Uniform Administrative Requirements), A–122 (Cost Principles for Nonprofit Organizations), and A–133 (Audits of Institutions of Higher Education and other Nonprofit Institutions) as implemented at 24 CFR part 45.

Other requirements will be detailed in the terms and conditions of the grant agreement provided to grantees, including the following:

(a) Each grantee will submit to HUD a specific work and funding plan for each community showing when and how the federal funds will be used. The work plan must be sufficiently detailed for monitoring purposes and must identify the performance goals and objectives to be achieved. Within 30 days after submission of a specific work plan, HUD will approve the work plan or notify the grantee of matters which need to be addressed prior to approval, or the work plan shall be construed to be approved. Work plans may be developed for less than the full dollar amount and term of the award, but no HUD-funded costs may be incurred for any activity until the work plan is approved by HUD. All activities are also subject to the environmental requirements in paragraph 6.(f) of this notice.

(b) The grantees shall submit to HUD an annual performance report due 90 days after the end of each calendar year, with the first report due on March 31, 1999. Performance reports shall include reports on both performance and financial progress under work plans and shall include reports on the commitment and expenditure of private matching resources utilized through the end of the reporting period. Reports shall conform to the reporting requirements of 24 CFR part 84. Additional information or increased frequency of reporting, not to exceed twice a year, may be required by HUD any time during the grant agreement if HUD finds such reporting to be necessary for monitoring purposes.

To further the consultation process and share the results of progress to date, the Secretary may require grantees to present and discuss their performance reports at annual meetings in Washington, DC during the life of the award.

(c) The performance reports must contain the information required under 24 CFR part 84, including a comparison of actual accomplishments with the objectives and performance goals of the work plans. In the work plans each grantee will identify performance goals and objectives established for each community in which it proposes to work and appropriate measurements under the work plan such as: the number of housing units and facilities each CDC/CHDO produces annually during the grant period and the average cost of these units. Provided, however, that when the activity described in a work plan is not to be undertaken in a single community that a report indicating the areas in which the activity will be undertaken, along with appropriate goals and objectives, will be provided when that information is available. The performance reports will also include a discussion of the reasonableness of the unit costs; the reasons for slippage if established objectives and goals are not met; and additional pertinent information.

(d) A final performance report, in the form described in paragraph (c) above, shall be provided to HUD by each grantee within 90 days after the completion date of the award.

(e) Financial status reports (SF–269A) shall be submitted semiannually.

(f) Environmental review. Individual projects to be funded by these grants may not be known at the time the overall grants are awarded and also may not be known when some of the individual subgrants are made. Therefore, in accordance with 24 CFR 50.3(h), the application and the grant agreement must provide that no commitment or expenditure of HUD or local funds to a HUD-assisted project may be made until HUD has completed an environmental review to the extent required under applicable regulations and has given notification of its approval in accordance with 24 CFR 50.3(h).

Findings and Certifications

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

(b) *Federalism.* The General Counsel, as the Designated Official under section 7(a) of the Executive Order 12612, *Federalism*, has determined that the policies contained in this funding notice will not have substantial direct effects on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government. Specifically, this notice makes funds available through specific entities for specific activities, as required by statute, and does not impinge upon the relationships between the Federal government, and State and local governments.

Authority: Sec. 4 of the HUD Demonstration Act of 1993, Pub. L. 103–120, 42 U.S.C. 9816 note), as amended and Pub. L. 105–18, 111 Stat 198.

Dated: May 22, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 98–14243 Filed 5–28–98; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–12]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* versus *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: INTERIOR: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; VA: Mr. George L. Szwarcman, Director, Land Management Service, 184A, Department of Veterans Affairs, 811 Vermont Avenue, NW, Room 414, Lafayette Bldg., Washington, DC 20420; (202) 565–5941; (These are not toll-free numbers).

Dated: May 21, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 05/29/98

Suitable/Available Properties

Buildings (by State)

Indiana

Bldg. 7
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810001
Status: Underutilized
Comment: 16,864 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 10
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810002
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 11
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810003
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 18
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810004
Status: Underutilized
Comment: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 25
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810005
Status: Underutilized

Comment: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Virginia

Bldg. 128
Naval Medical Center
Portsmouth VA
Landholding Agency: Navy
Property Number: 779820030
Status: Excess
Comment: 1120 sq. ft., brick, presence of asbestos, most recent use—storage, off-site use only

Bldg. 294, Qtrs. 50
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820033
Status: Excess
Comment: 240 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 293, Qtrs. K
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820034
Status: Excess
Comment: 240 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 292, Qtrs. J
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820035
Status: Excess
Comment: 320 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 140, Qtrs. I
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820036
Status: Unutilized
Comment: 460 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 131, Qtrs. G
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820037
Status: Unutilized
Comment: 403 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 291, Qtrs. F
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820038
Status: Excess
Comment: 240 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 290, Qtrs. B
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820039
Status: Excess
Comment: 336 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 107, Qtrs. A
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820040
Status: Excess
Comment: 570 sq. ft., needs rehab, presence of lead base paint, most recent use—garage, off-site use only

Bldg. 50, Qtrs. 50
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820041
Status: Excess
Comment: 1434 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. K, Qtrs. K
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820042
Status: Excess
Comment: 1113 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. J, Qtrs. J
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820043
Status: Excess
Comment: 1173 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. I, Qtrs. I
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820044
Status: Excess
Comment: 1380 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. G, Qtrs. G
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820045
Status: Excess
Comment: 1195 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. F, Qtrs. F
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820046
Status: Excess
Comment: 1180 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. A, Qtrs. A
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820047
Status: Excess
Comment: 1250 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Bldg. B, Qtrs. B
St. Julien's Creek Annex, Naval Base
Portsmouth VA 23702–
Landholding Agency: Navy
Property Number: 779820048
Status: Excess
Comment: 2482 sq. ft., needs rehab, presence of lead base paint, most recent use—residential, off-site use only

Suitable/Unavailable Properties

Buildings (by State)

Indiana

Bldg. No. 122
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 979810006
Status: Unutilized
Comment: 37,135 sq. ft., presence of asbestos, most recent use–former dietetics bldg., National Register of Historic Places

Washington

Tract No. 18242
10328 Highway 2
Coulee Co: Grant WA 99115–
Landholding Agency: Interior
Property Number: 619810012
Status: Unutilized
Comment: gas station on 8.2 acres, site clean-up required

Land (by State)

Arizona

6.478 acres
Salt Gila Aqueduct, Ironwood Road
Apache Junction Co: Pinal AZ 85220–
Landholding Agency: Interior
Property Number: 619820009
Status: Unutilized
Comment: most recent use—aqueduct maintenance, no utilities

Washington

Tract No. 18243
Westshore Drive
Moses Lake Co: Grant WA 98837–
Landholding Agency: Interior
Property Number: 619810011
Status: Unutilized
Comment: 0.20 acres, sand blown depression

Unsuitable Properties

Buildings (by State)

Guam

New Apra Heights Housing
24 Units, Navy Housing Welcome Center
Apra Harbor GU
Landholding Agency: Navy
Property Number: 779820031
Status: Unutilized
Reason: Extensive deterioration

Sumay Family Housing Area
130 Units, Navy Housing Welcome Center
Apra Harbor GU
Landholding Agency: Navy
Property Number: 779820032
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 98–14015 Filed 5–28–98; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–842872

Applicant: The North Carolina Arboretum, Asheville, NC

The applicant requests a permit to export 40 leaf samples from artificially propagated spreading avens (*Geum radiatum*) to Acadia University, Wolfville, Nova Scotia, Canada, for scientific research.

PRT–842530

Applicant: Carolynn Crutchley, Manheim, PA

The applicant requests a permit to import 10 wild-caught parma wallabies (*Macropus parma*) from an introduced population on Kawau Island, New Zealand, to enhance the survival of the species through captive-breeding.

PRT–842519

Applicant: L. Renee Irvine, Titusville, FL

The applicant requests a permit to import 2 captive-born golden-headed lion tamarins (*Leontopithecus chrysomelas*) from Ivan Crab, Nagyborszony, Hungary to enhance the survival of the species through captive-breeding.

PRT–842517

Applicant: Nicholas Mundy, University of California San Diego, La Jolla, CA

The applicant requests a permit to re-export hair and DNA samples from Goeldi's marmoset (*Callimico goeldii*) to the Anthropological Institute, Zurich, Switzerland for scientific research.

PRT–842516

Applicant: Nicholas Mundy, University of California San Diego, La Jolla, CA

The applicant requests a permit to re-export hair and DNA samples from white-eared marmosets (*Callithrix aurita*) and buff-headed marmosets (*Callithrix flaviceps*) to the Anthropological Institute, Zurich, Switzerland for scientific research.

PRT–842900

Applicant: Richard Wrangham, Kibale Chimpanzee Project, Harvard University

The applicant requests a permit to import non-invasive biological samples collected from East African chimpanzees (*Pan troglodytes schweinfurthii*) for the purpose of scientific research.

PRT–842998

Applicant: Brenda Bradley, Anthropolgy Department, State University of New York, Stony Brook, NY

The applicant requests a permit to import non-invasively collected biological samples taken from western lowland gorilla (*Gorilla gorilla*) in the Central African Republic for the purpose of scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 et seq.) and the regulations governing marine mammals (50 CFR 18).

PRT–773494

Applicant: Florida Department of Natural Resources, St. Petersburg, FL

Permit Type: Take for scientific research.

Name of Animals: West Indian manatee (*Trichecus manatus*), Amazonian manatee (*Trichechus inunguis*), West African manatee (*Trichecus senegalensis*), and Dugong (*Dugong dugong*).

Summary of Activity to be Authorized: The applicant requests an amendment to their permit to change the principal officer responsible for the permit; to conduct up to 5 non-harmful, non-invasive behavioral and physiological studies on captive West Indian manatees and up to 10 non-harmful, non-invasive behavioral and physiological studies on free-ranging West Indian manatees; to collect colon temperatures on captive and wild West Indian manatees in order to describe and analyze vascular structures that influence thermal insult to the manatee reproductive system; to do 12 recaptures of West Indian manatees; to implant up to 90 (60 wild and 30 rehabilitated) West Indian manatees with passive integrated transponder tags; and to import biological samples from wild or captive specimens of West Indian manatees, Amazonian manatees, West African manatees, and dugongs.

Source of Marine Mammals: Wild and captive West Indian manatees within their range in the United States and wild and captive salvage specimens of West Indian manatee, Amazonian manatee, West African, dugong where ever found.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–842478

Applicant: David Van Collis, San Ysidro, NM

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994 from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–842766

Applicant: Wade Marshall, Rainer, OR

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

PRT–842970

Applicant: Gerald L. Warnoch, Portland, OR

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

PRT–843165

Applicant: Wallace W. Bednarz, Williamsport, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994 from the Viscount Melville polar bear population, Northwest Territories, Canada for personal use.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: May 22, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–14199 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Application Submitted by Gulf States Paper Corporation for an Incidental Take Permit and Safe Harbor Agreement for Red-Cockaded Woodpeckers in Association Timber Harvest and Management Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Gulf States Paper Corporation (Applicant), has submitted an application for an incidental take permit (ITP), including a Safe Harbor/Memorandum of Agreement Conservation Plan (Plan), to the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) (Act), as amended. If granted, the ITP would authorize for a period of 50 years, the incidental take of the endangered red-cockaded woodpecker, *Picoides borealis*, (RCW) throughout the Applicant's ownership of approximately 400,000 acres in west-central Alabama. The take of the RCW would be incidental to timber management operations performed by the Applicant. Further, the Applicant approval of a Safe Harbor Agreement for the RCW associated with implementation and administration of the Plan/ITP. The proposed ITP would authorize incidental take of the RCW associated with, where necessary and appropriate, shifting of the Applicant's RCW baseline responsibilities as described below. Mitigation and minimization strategy in the application involves establishing and maintaining a 10,000 acre RCW management area, with the expectation of increasing the extant population of 5 RCW groups to as many as 15 RCW groups (See the **SUPPLEMENTARY INFORMATION** Section below.) By consolidating the RCW population under control of the Applicant, the Applicant will increase the stability of the extant population. Under the Safe Harbor Agreement, no erosion of the current RCW population would occur.

The Service has determined that the Plan qualifies as a "low-effect" Habitat Conservation Plan as defined by the Service's Habitat Conservation Planning Handbook (November 1996). The Service has further determined that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). This notice is provided pursuant to section 10(c) of the Act.

Copies of the application/Plan may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. Further, the Service announces that it has determined that the Applicant's request is eligible for a Categorical Exclusion under the National Environmental Policy Act (see **SUPPLEMENTARY INFORMATION**).

DATES: Requests for the applications and/or written comments on the application should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before June 29, 1998.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or U.S. Fish and Wildlife Service, P.O. Drawer 1190, Daphne, Alabama 36526. Written data or comments concerning the application should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit under PRT–842707 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110, facsimile: 7081; or Mr. Brett Wehrle, Fish and Wildlife Biologist, Daphne Alabama Field Office, (see **ADDRESSES** above), telephone: 334/441–5181 extension 29, facsimile: 334/694–4222.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulation prohibit the "take" of a species listed as endangered or threatened, respectively (take is defined under the Act, in part, as to kill, harm, or harass). However, the Service, under limited circumstances, may issue permits to authorize "incidental take" of listed species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing permits for threatened species are promulgated in 50 CFR 17.32; regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

There are five RCW groups scattered throughout the Applicant's ownership of approximately 400,000 acres. The primary goal of the application will be to create adequate RCW nesting and foraging habitat and to consolidate long-term management of the Applicant's RCW population within a 10,000 RCW Management Area (Area). This will be accomplished by translocation of juvenile RCWs to the Area to establish a larger, more secure population. Incidental take of RCWs may occur as a result of these actions, during performance of land management actions within the Area, and via other activities associated with implementation of the Plan. The Applicant's current baseline responsibility will be adjusted upwards should additional groups be discovered during timber management operations and/or periodic and systematic RCW surveys associated with implementation of this application. RCW foraging habitat management, cluster and cavity management, staff training, administration, and monitoring are also components of the application that will result in conservation benefits to the RCW. The Applicant provides a funding source for the above-mentioned mitigation and minimization measures.

The Service has determined that the Plan qualifies as a "low-effect" Habitat Conservation Plan as defined by the Service's Habitat Conservation Planning Handbook (November 1996).

Low-effect Habitat Conservation Plans are those involving: (1) Minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Plan qualifies as a low-effect Habitat Conservation Plan for the following reasons: 1. Approval of the Plan would result in minor or negligible adverse effects on the RCW and its habitat. Further, the Service does not anticipate significant direct or cumulative effects to the RCW resulting from approving the application, Safe Harbor/Memorandum of Agreement Conservation Plan. 2. Approval would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks. 3. Approval of the Plan would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety. 4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or

the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment. 5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further National Environmental Policy Act documentation will therefore be prepared. This notice is provided pursuant to section 10(c) of the Act. The Service will evaluate the permit application, the Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the RCW. The final decision will be made no sooner than 30 days from the date of this notice.

Dated: May 19, 1998.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 98–14190 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0072; OR–51831–WA]

Public Land Order No. 7333; Withdrawal of Lands for the San Juan Archipelago; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 195.59 acres of public lands and 75.82 acres of non-Federal lands proposed for acquisition from surface entry and mining for a period of 5 years to protect the natural and recreational values on 10 tracts of land in the San Juan Archipelago, while the Bureau of Land Management completes land use planning for these areas. The public lands have been and will remain open to mineral leasing. The non-Federal lands will become subject to the withdrawal and will be opened to mineral leasing upon acquisition by the United States.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws [30 U.S.C. Ch. 2 (1994)], but not from leasing under the mineral leasing laws, to protect the natural and recreational values on seven waterfront tracts, one inland tract, and two islands in the San Juan Archipelago:

Willamette Meridian

Tract H (Lopez Island; NW Chadwick Hill and Wetland)

T. 34 N., R.1 W.,

Sec. 17, that portion of the south 200 ft. of the N½SE¼, SE¼SE¼, and SW¼SE¼, excepting therefrom the following described tracts:

Beginning at the southwest corner of the southeast quarter of sec. 17, running due east 9 rods to ditch; Thence following ditch in northeasterly direction 14 rods; Thence run in a northwesterly direction 30 rods; Thence running in a westerly direction 6 rods to County Road; Thence following County Road due south 40 rods to point of beginning. Also beginning at southwest corner of SE¼ of said sec. 17, and running due east 9 rods to ditch; Thence following ditch in a northeasterly direction 300 ft; Thence due east 937 ft; Thence south 208.7 ft; Thence on section line west 1150 feet to place of beginning; EXCEPT County Road along the west line thereof; (83.67 acres) AND

Sec. 17, the north 330 ft. of the south 530 ft. of the NE¼SE¼ and NW¼SE¼ being more particularly described as follows:

A portion of the NE¼SE¼ described as follows:

Commencing at the east quarter corner of said sec. 17 as described by instrument recorded under Auditor's File No. 95675, records of said county, from which the concrete monument described by instrument recorded under Auditor's File No. 120616, records of said county, as marking the northeast corner of said sec. 17 bears north 0°37′51″ east; Thence from said quarter corner along the easterly boundary of said NE¼SE¼ south 0°37′02″ west, 809.69 ft. to the TRUE POINT OF BEGINNING of the parcel to be described; Thence leaving said easterly boundary and along the northerly boundary of the south 530 ft. of the said NE¼SE¼ and parallel with the southerly boundary of the said NE¼SE¼ south 89°49′41″ west, 991.78 ft. to a point on the easterly boundary of the west 330 ft. of the said NE¼SE¼; Thence leaving said northerly boundary and along said easterly boundary south 0°29′00″ west, 330.02 ft. to a point on the northerly boundary of the south 200 ft. of the said NE¼SE¼; Thence along said northerly boundary and parallel with the southerly boundary of the said NE¼SE¼ north 89°49′41″ east, 991.01 ft. to a point on the easterly boundary of the said NE¼SE¼; Thence along said easterly boundary north 0°37′02″ east, 330.03 ft. to the TRUE POINT OF BEGINNING; AND,

Sec. 17, portions of the NE¼SE¼ and NW¼SE¼ described as follows:

Commencing at the east quarter corner of said sec. 17 as described by instrument recorded under Auditor's File No. 95675, records of said county, from which the concrete monument described by instrument recorded under Auditor's File No. 120616, records of said county, bears north 0°37′51″ east; Thence from said quarter corner along the common boundary of the SE¼NE¼ and the NE¼SE¼ of said sec. 17 south 89°40′35″ west, 1323.74 ft. to the westerly corner common to the said SE¼NE¼ and NE¼SE¼; Thence leaving said common boundary and along the westerly boundary of the said NE¼SE¼ south 0°29′09″ west, 806.17 ft. to the TRUE POINT OF BEGINNING of the parcel to be described; Thence leaving said westerly boundary and along the northerly boundary of the south 530 ft. of the said NW¼SE¼ and parallel with the southerly boundary of the said NW¼SE¼ south 89°49′41″ west, 1321.81 ft. to a point on the westerly boundary of the said NW¼SE¼; Thence leaving said northerly boundary and along said westerly boundary south 0°20′56″ west, 330.01 ft.; Thence leaving said westerly boundary and along the northerly boundary of the south 200 ft. of the said NW¼SE¼ and parallel with the southerly boundary of the said NW¼SE¼ north 89°49′41″ east, 1321.03 ft. to a point on the westerly boundary of the said NE¼SE¼; Thence along the northerly boundary of the south 200 ft. of the said NE¼SE¼ and parallel with the southerly boundary of the said NE¼SE¼ north 89°49′41″ east, 330.02 ft. to a point on the easterly boundary of the west 330 ft. of the said NE¼SE¼; Thence along the said easterly boundary and parallel with the westerly boundary of the said NE¼SE¼ north 0°29′00″ east, 330.02 ft. to a point on the northerly boundary of the south 530 ft. of the said NE¼SE¼; Thence along said northerly boundary and parallel with the southerly boundary of the said NE¼SE¼ south 89°49′41″ west, 330.02 ft. to a point on the boundary common to the said NW¼SE¼ and the NE¼SE¼, said point also being the TRUE POINT OF BEGINNING. (20.02 acres)

Tract J: (Lopez Island; Watmough Bay)

T. 34 N., R. 1 W.,

Sec. 21, lot 2 and SW¼NW¼, TOGETHER with tidelands of the second class abutting thereon; EXCEPT the following described portions thereof:

1. A portion of lot 2 described as follows:

Beginning at a point marked by an iron pipe at the approximate high tide line, which point is south 50.1 ft. and east 2197 ft. of an iron pipe marking the northwest corner of the SW¼NW¼ of said sec. 21; Thence from said point of beginning south 66°46′ west, 146.1 ft. to an iron pipe at the edge of a marsh;

Thence continuing south 66°46′ west, 140.5 ft. to a point in the marsh which point is south 163.2 ft. and east 1933.6 ft. of the said northwest corner; Thence north 109.1 ft., more or less, to a point on the edge of said marsh; Thence continuing north 54 ft. to a point on the north line of said lot 2; Thence easterly along the said north boundary 222 ft., more or less, to the approximate line of ordinary high tide; Thence southeasterly to the said point of beginning.

2. That portion of lot 2, lying easterly of the following described line:

Commencing at the center of said sec. 21, which point is also the southeast corner of said lot 2 and is marked by an iron pin; Thence north 652.5 ft. along the east boundary of said lot 2 to an iron pipe; Thence leaving said east boundary south 70°10′ west, 218.6 ft.; Thence south 76°35′ west, 303.2 ft.; Thence south 76°17′ west, 248.0 ft.; Thence north 30°00′ east, 434.36 ft.; Thence north 48°30′ west, 245.09 ft.; Thence north 60°58′ east, 165.0 ft. to the point of beginning of said line; Thence north 30°00′ west to the north line of said lot 2 and the terminus of said line.

3. A portion of lot 2, described as follows:

Commencing at the center of said sec. 21, which point is also the southeast corner of said lot 2 and is marked by an iron pin; Thence north 652.5 ft. along the east boundary of said lot 2 to an iron pipe; Thence leaving said east boundary south 70°10′ west, 218.6 ft.; Thence south 76°35′ west, 303.2 ft.; Thence south 76°17′ west, 386.3 ft.; Thence south 76°12′ west, 13.4 ft. to the point of beginning of said line; Thence continuing south 76°12′ west, 373.2 ft.; Thence north 65°28′ west, 95.3 ft. to a point on the north line of County Road No. 124; Thence north 22°01′ east, 380.8 ft.; Thence north 60°58′ east, 350 ft.; Thence south 474.1 ft. to the point of beginning.

4. A portion of lot 2, described as follows:

Beginning at the center of said sec. 21, which point is also the southeast corner of said lot 2 and is marked by an iron pin; Thence along the easterly boundary of said lot 2 north 583.5 ft.; Thence leaving said easterly boundary south 70°10′ west, 198.8 ft.; Thence south 76°35′ west, 306.7 ft.; Thence south 76°17′ west, 386.1 ft.; Thence south 76°12′ west, 463 ft.; Thence south 46°48′ east, 166.6 ft.; Thence south 50°36′ east, 217.9 ft. to a point on the southerly boundary north 89°27′40″ east, 1020.1 ft. to the point of beginning.

5. A portion of the SW¼NW¼, described as follows:

Beginning at a point on the west boundary of said sec. 21, which point is 830.3 ft. north (N. 0°48′ E.) of the west one-quarter corner of said sec. 21 and which point is also on the north margin of a proposed 60 ft. wide roadway; Thence along said north margin south 83°55′ east, 378 ft.; Thence along said north margin south 64°29′ east, 75 ft.; Thence continuing along said north margin south 64°29′ east, 452.9 ft.; Thence leaving said north margin north 87°28′ east, 223.9 ft.; Thence north 41°49′ west, 51.6 ft.; Thence north 0°48′ east 679.2 ft. to the north boundary of said SW¼NW¼; Thence along said north boundary west 1,044.70 ft. to the northwest corner of said SW¼NW¼; Thence south (S. 0°48′ W.) 459.4 ft., more or less, to the said point of beginning.

6. A portion of the SW¼NW¼, described as follows:

Beginning at a point on the west boundary of said sec. 21, which point is 660 ft. north 0°48′ east of the west one-quarter corner of said sec. 21; Thence continuing north 110.3 ft. to a point on the south margin of a proposed 60 ft. wide roadway; Thence along said south margin south 83°55′ east 363.2 ft.; Thence along said south margin south 64°29′ east 164.1 ft.; Thence along said south margin south 41° west 225 ft.; Thence along said south margin south 62°45′ east 282.5 ft.; Thence along said south margin south 53°18′ east, 136.88 ft.; Thence along said south margin south 76°45′ east, 180.06 ft.; Thence parallel to the west line of said section south 0°48′ west, 238.49 ft. to the south line of the SW¼NW¼ of said section; Thence on the south line of said SW¼NW¼ south 89°55′ west, 1199.74 ft.; Thence north 0°48′ west 660 ft. to the point of beginning.

7. County Road No. 124, as described under Auditor's File No. 75855, Records of San Juan County, Washington, lying in portions of lot 2 and the SW¼NW¼ of sec. 21. (28.76 acres)

Tract K (Lopez Island; Watmough Head and Watmough Bay)

T. 34 N., R. 1 W.,
Sec. 21, portions of lot 2 described as follows:

Commencing at the center of said sec. 21, which point is also the southeast corner of said lot 2 and is marked by an iron pin; Thence north 652.5 ft. along the east boundary of said lot 2 to an iron pipe; Thence leaving said east boundary south 70°10′ west, 218.6 ft.; Thence south 76°35′ west, 303.2 ft.; Thence south 76°17′ west, 386.3 ft.; Thence south 76°12′ west, 13.4 ft. to the point of beginning of said line; Thence continuing south 76°12′ west, 373.2 ft.; Thence north 65°28′ west, 95.3 ft. to a point on the north line of County Road No. 124; Thence north 22°01′ east, 380.8 feet; Thence north 60°58′ east, 350 feet; Thence south 474.1 feet to the point of beginning; (3.75 acres) AND

Sec. 21, portions of lot 2, described as follows:

Beginning at a point marked by an iron pipe at the approximate high tide line, which point is south 50.1 feet and east 2197 feet of an iron pipe marking the northwest corner of the SW¼NW¼ of said sec. 21; Thence from said point of beginning south 66°46′ west, 146.1 ft. to an iron pipe at the edge of a marsh; Thence continuing south 66°46′ west, 140.5 ft. to a point in the marsh which point is south 163.2 ft. and east 1933.6 ft. of the said northwest corner; Thence north 109.1 ft., more or less, to a point on the edge of said marsh; Thence continuing north 54 ft. to a point on the north line of said lot 2; Thence easterly along the said north boundary 222 ft., more or less, to the approximate line of ordinary high tide; Thence southeasterly to the said point of beginning; (0.64 acres) AND

Beginning at the center of said sec. 21, which point is also the southeast corner of said lot 2, and is marked by an iron pin; Thence along the easterly boundary of said lot 2 north 583.5 ft.; Thence leaving said easterly boundary south 70°10′ west, 198.8 ft.; Thence south 76°35′ west, 306.7 ft.; Thence south 76°17′ west, 386.1 ft.; Thence south 76°12′ west 463 ft.; Thence south 46°48′ east, 166.6 ft.; Thence south 50°36′ east, 217.9 ft. to a point on the southerly boundary north 89°27′40″ east, 1020.1 ft. to the point of beginning. (11.85 acres)

Tract L (Lopez Island; Cape St. Mary)

T. 34 N., R. 1 W.,
Sec. 15, lot 1.

Tract M (Lopez Island; Lopez Pass)

T. 35 N., R. 1 W.,
Sec. 33, lot 1.

Tract N (Eliza Island; South End)

T. 36 N., R. 2 E.,
Sec. 5, unsurveyed portion of Eliza Island.

Tract O (Lummi Island; Carter Point)

T. 36 N., R. 2 E.,
Sec. 6, unsurveyed portion of Lummi Island.

Tract P (Lummi Rocks)

T. 37 N., R. 1 E.,
Sec. 27, unsurveyed Lummi Rocks in the NW¼ and SW¼NE¼.

Tract Q (Chuckanut Rock)

T. 37 N., R. 2 E.,
Sec. 24, unsurveyed Chuckanut Rock.

The areas described aggregate approximately 195.59 acres in San Juan and Whatcom Counties.

2. The following described non-Federal lands, if acquired by the United States, will be subject to the terms and conditions of this withdrawal as described in paragraph 1:

Willamette Meridian

Tract I (Lopez Island; Chadwick Hill/ Watmough Bay)

T. 34 N., R. 1 W.,
Sec. 21, lot 1 and NW¼NW¼.

The area described contains 75.82 acres in San Juan County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: May 14, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14224 Filed 5–28–98; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP7–0092; OR–19082]

Public Land Order No. 7334; Revocation of the Executive Order Dated October 13, 1916; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety an Executive order which withdrew 6,026 acres of public lands for the Bureau of Land Management's Powersite Reserve No. 561. The lands are no longer needed for the purpose for which they were withdrawn. This action will open approximately 1,020 acres to surface entry. Of the remaining lands, 4,806 acres will remain closed to surface entry, and 200 acres will remain closed to mining due to other overlapping withdrawals. All of the lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 28, 1998.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated October 13, 1916, which established Powersite Reserve No. 561, is hereby revoked in its entirety:

Willamette Meridian

T. 2 S., R. 15 E.,
- Sec. 13, SW¼ and W½SE¼;
- Sec. 14, SE¼SE¼;
- Sec. 23, NE¼, NE¼SW¼, N½SE¼, and SW¼SE¼;
- Sec. 24, NW¼NE¼ and W½NW¼;
- Sec. 26, E½W½ and SW¼SW¼;
- Sec. 27, S½SW¼ and SW¼SE¼;
- Sec. 33, SE¼;
- Sec. 34, W½E½ and W½.

T. 3 S., R. 15 E.,
- Sec. 3, SW¼NW¼ and W½SW¼;
- Sec. 4, lots 1 and 2, S½N½, and S½;
- Sec. 7, lot 4, S½NE¼, E½SW¼, and SE¼;
- Sec. 8, W½SW¼ and E½SE¼;
- Sec. 9, NW¼, N½SW¼, and SW¼SW¼;
- Sec. 17, NE¼, NW¼NW¼, S½NW¼, and N½S½;
- Sec. 18, lots 1, 2, and 3, E½NE¼, NW¼NE¼, E½NW¼, and NE¼SE¼.

T. 1 S., R. 16 E.,
- Sec. 4, lot 3 and SE¼NW¼;
- Sec. 5, W½SE¼;
- Sec. 8, SE¼NE¼ and E½NW¼;
- Sec. 19, SE¼SW¼;
- Sec. 20, NW¼SE¼;
- Sec. 30, lots 2, 3, and 4, W½NE¼, and E½SW¼;
- Sec. 31, lots 1 and 2, SE¼NW¼, NE¼SW¼, W½SE¼, and SE¼SE¼;
- Sec. 32, SW¼SW¼.

T. 2 S., R. 16 E.,
- Sec. 5, lot 4 and SW¼NW¼;
- Sec. 6, lots 1, 2, 3, and 7, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
- Sec. 7, lots 1 to 4, inclusive, and E½W½;
- Sec. 18, lots 1 and 2, and E½W½.

The areas described aggregate 6,026 acres in Sherman and Wasco Counties.

2. The lands described as the S½SW¼ and SW¼SE¼, sec. 13, and the NW¼NE¼ and NW¼NW¼, sec. 24, T. 2 S., R. 15 E., are withdrawn for the Bureau of Land Management's Macks Canyon Recreation Site, and will remain closed to operation of the public land laws, including the mining laws.

3. The lands lying within the boundaries of the Bureau of Land Management Deschutes Wild and Scenic River withdrawal will remain closed to surface entry.

4. At 8:30 a.m. on August 28, 1998, the lands described in paragraph 1, except as provided in paragraphs 2 and 3, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on August 28, 1998, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. The State of Oregon has a preference right for public highway right-of-way or material sites for a period of 90 days from the date of publication of this order and any location, entry, selection, or subsequent patent shall be subject to any rights granted the State as provided by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994).

Dated: May 14, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14226 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP7–0177; OR–19114]

Public Land Order No. 7327; Revocation of Executive Order Dated December 12, 1917; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety an Executive order which withdrew 3,074.15 acres of lands for the Bureau of Land Management's Powersite Reserve No. 660. The lands are no longer needed for the purpose for which they were withdrawn. Due to other overlapping withdrawals, 1,562.63 acres have been and will remain closed to surface entry and 323.40 acres have been and will remain closed to surface entry and mining. The remaining 1,188.12 acres have been conveyed out of Federal ownership and this is a record-clearing action only for these lands. All of the lands that are still in Federal ownership have been and will remain open to mineral leasing.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated December 12, 1917, which established Powersite Reserve No. 660, is hereby revoked in its entirety:

Willamette Meridian

(a) Revested Oregon and California Railroad Grant Land

T. 1 S., R. 4 E.,
- Sec. 11, N½SW¼ and SE¼SW¼;
- Sec. 15, NW¼NE¼, S½NE¼, and NE¼NW¼;
- Sec. 23, S½NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
- Sec. 25, SE¼NE¼.

T. 2 S., R. 4 E.,
- Sec. 1, E½ of Tract 37.

T. 2 S., R. 5 E.,
- Sec. 13, lots 1, 2, 3, and 4, and Tract 38;
- Sec. 15, Tract 39.

T. 2 S., R. 6 E.,
- Sec. 15, lot 1, SE¼SW¼, and S½SE¼;
- Sec. 17, SE¼SW¼ and SE¼SE¼;
- Sec. 19, S½NE¼;
- Sec. 21, S½NE¼;
- Sec. 23, lot 1, SE¼NE¼, and NE¼SE¼;
- Sec. 25, SW¼ and S½SE¼;
- Sec. 35, NE¼NE¼.

T. 2 S., R. 7 E.,
- Sec. 31, lot 4, E½SW¼, and SE¼.

(b) Non-Federal Lands

T. 1 S., R. 4 E.,
- Sec. 25, W½NE¼ and NE¼NW¼.

T. 2 S., R. 4 E.,
- Sec. 1, lots 1 and 3, and E½SW¼.

T. 2 S., R. 5 E.,
- Sec. 13, E½SE¼;
- Sec. 15, lots 1, 2, and 3, and W½NE¼.

T. 2 S., R. 6 E.,
- Sec. 17, SW¼SE¼;
- Sec. 19, lots 2 and 3, SE¼NW¼, and N½SE¼;

Sec. 21, SW¼SW¼ and N½SE¼;
Sec. 23, N½NE¼ and SW¼NE¼;
Sec. 25, NE¼SE¼.
T. 2 S., R. 7 E.,
Sec. 31, lots 1, 2, and 3, and SE¼NW¼.

The areas described aggregate 3,074.15 acres in Clackamas and Multnomah Counties.

2. The lands described in paragraph 1(b) have been conveyed out of Federal ownership. This is a record-clearing action.

3. The following described lands are included in overlapping withdrawals for Power Project No. 477 and the Bureau of Land Management's Wildwood Recreation Area and will remain closed to surface entry and mining. These lands have been and will remain open to mineral leasing:

Willamette Meridian

T. 2 S., R. 4 E.,
Sec. 1, E½ of Tract 37.
T. 2 S., R. 5 E.,
Sec. 13, Tract 38;
Sec. 15, Tract 39.
T. 2 S., R. 7 E.,
Sec. 31, lot 4, E½SW¼, and SE¼.

4. The lands described in paragraph 1(a) are also included in Bureau of Land Management withdrawals for Waterpower Designation No. 14 and the Salmon and Sandy Wild and Scenic Rivers. The lands described in paragraph 1(a), except those described in paragraph 3, have been and will remain closed to surface entry, and have been and will remain open to mining and mineral leasing.

Dated: April 17, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14261 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; WYW 88891–03]

Public Land Order No. 7335; Opening of Lands Under Section 24 of the Federal Power Act; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order opens 22.95 acres of National Forest System lands in Powersite Classification No. 433, subject to the provisions of Section 24 of the Federal Power Act. This order will permit consummation of a pending sale and retain the waterpower rights to the United States. The lands have been and will continue to be open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and to mineral leasing.

EFFECTIVE DATE: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVWY–193–000, it is ordered as follows:

1. At 9 a.m., on (May 29, 1998), the following described National Forest System lands withdrawn by the Geological Survey Order dated August 5, 1955, which established Powersite Classification No. 433, will be opened to such forms of disposition as may by law be made of National Forest System lands subject to the provisions of Section 24 of the Federal Power Act, and subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law:

Sixth Principal Meridian

Bridger-Teton National Forest
T. 37 N., R. 113 W.,
Sec. 3, lot 1;
Sec. 4, lots 1 and 2.

The areas described aggregate 22.95 acres in Sublette County.

2. The lands have been and will remain open to location and entry under the United States mining laws, subject to the provisions of the Act of August 11, 1955, 30 U.S.C. 621 (1994), and to applications and offers under the mineral leasing laws.

Dated: May 14, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–14225 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–01; CACA 37272]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In notice document 96–23380 beginning on page 48161 in the issue of Thursday, September 12, 1996, make the following corrections:

On page 48161, in the third column, 230 acres, which is contained in the **SUMMARY** section, is corrected to read 210 acres; and

On page 48162, in the first column, (1) sec. 32 in the legal description contained in the **SUPPLEMENTARY INFORMATION** section, is corrected to read sec. 33, and (2) also in the **SUPPLEMENTARY INFORMATION** section, 230 acres is corrected to read 210 acres.

Dated: May 13, 1998.

Mark A. Conley,

Acting Deputy State Director, Natural Resources.

[FR Doc. 98–13892 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0183; OR–53979]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes to withdraw approximately 960 acres of National Forest System lands, lying within the Siskiyou National Forest, to protect the recreation, fisheries, scenic, and water quality values of the Scenic section of the North Fork Smith Wild and Scenic River. This notice closes the lands for up to 2 years from surface entry and mining. The public lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by August 28, 1998.

ADDRESSES: Comments and meetings requests should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, BLM Oregon/Washington State Office, 503–952–6189.

SUPPLEMENTARY INFORMATION: On October 3, 1997, the Forest Service filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not the mineral leasing laws, subject to valid existing rights:

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Willamette Meridian

Siskiyou National Forest

All lands lying on the right (west) bank of the river corridor, including the river bed, and extending ¼ mile from the centerline of the North Fork Smith River, from Horse Creek downstream 4.5 miles to the confluence of Baldface Creek, as described in the following:

T. 40 S., R. 11 W., unsurveyed
Sec. 15, SW¼SW¼;
Sec. 16, E½;
Sec. 21, E½E½ and NW¼SE¼;
Sec. 22, W½W½ and SE¼SW¼;
Sec. 27, W½E½, E½W½ and NW¼NW¼;
Sec. 28, NE¼NE¼;
Sec. 34, W½E½ and E½W½.
T. 41 S., R. 11 W.,
Sec. 2, W½;
Sec. 3, NE¼;
Sec. 11, N½NW¼.

AND all lands lying on the left (east) bank of the river corridor, including the river bed, and extending ¼ mile from the centerline of the North Fork Smith River as described in the following:

T. 41 S., R. 11 W.,
Sec. 2, those portions of the E½SW¼ and W½SE¼, lying outside the boundaries of the Kalmiopsis Wilderness Area;
Sec. 11, those portions of the NW¼NE¼ and NE¼NW¼, lying outside the boundaries of the Wild segment of the North Fork Smith Wild and Scenic River.

The areas described aggregate approximately 960 acres in Curry County.

The purpose of the proposed withdrawal is to protect the outstanding recreation, fisheries, scenic, and water quality values for which the North Fork Smith River was designated Wild and Scenic.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: May 19, 1998.

Sherrie L. Reid,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 98–14234 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–4210–06; WYW 142433]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw 40 acres of public land in Big Horn County, to protect important paleontological resources associated with the Red Gulch dinosaur track site recently discovered near Shell, Wyoming. This notice closes the land for up to two years from surface entry and mining. The land will remain open to mineral leasing.

EFFECTIVE DATE: (Publication Date). Comments and requests for a public meeting must be received by August 27, 1998.

ADDRESSES: Comments and requests should be sent to the Wyoming State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 307–775–6124, or Chuck Wilkie, BLM Bighorn Basin Resource Area Manager, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401–0119, 307–347–5100.

SUPPLEMENTARY INFORMATION: On May 14, 1998, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming

T. 52 N., R. 91 W.,
Sec. 20, NE¼SW¼.

The areas described contains approximately 40 acres in Big Horn County.

The purpose of the proposed withdrawal is to protect important paleontological resources pending further study and development of appropriate, and possibly longer term, actions to protect and manage the resources.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Wyoming State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be proceeded in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not impact or impair the existing values of the area may be allowed with the approval of an authorized officer of the Bureau of Land Management during the segregative period.

Dated: May 21, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–14083 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service; Golden Gate National Recreation Area (Alcatraz Island); Yosemite National Park; Statue of Liberty National Monument (Ellis Island).

ACTION: Notice and request for comments.

ABSTRACT: The University of Vermont and three parks (Golden Gate National Recreation Area (Alcatraz Island) in California, Yosemite National Park in California; Statue of Liberty National Monument (Ellis Island) in New York and New Jersey) propose to conduct visitor surveys to learn about visitor demographics and visitor opinions about services and facilities in these three parks. The results of these studies will be used by park managers to improve the services they provide to visitors while better protecting park natural and cultural resources. Study packages that include the proposed survey questionnaires for these three proposed park studies have been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these three proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS goal in conducting these surveys is to identify characteristics, use patterns, perceptions, preferences, and opinions of visitors about management and services in these parks. In addition, each project will identify indicators and standards of quality for the visitor experience. Results of all of the surveys will be used by NPS managers in their ongoing planning and management activities to improve visitor services, protect park resources, and better serve the park's current and potential future visitors.

There were no public comments received as a result of publishing in the Federal Register a 60 day notice of intention to request clearance of information collection for these three surveys.

DATES: Public comments will be accepted on or before June 29, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to: Dr. Robert E. Manning, Professor, School of Natural Resources, 356 Aiken Center, University of Vermont, Burlington, VT 05405. Phone (802) 656–2684.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before June 29, 1998.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGES SUBMITTED FOR OMB REVIEW, CONTACT: Dr. Robert E. Manning. Voice (802) 656–2684; Fax (802) 656–2623; Email rmanning@nature.snr.uvm.edu.

SUPPLEMENTARY INFORMATION:

Title: University of Vermont Visitor Surveys at three parks.

Bureau Form Number: Not applicable.

OMB Number: To be assigned.

Expiration Date(s): September 1999.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information to identify characteristics, use patterns, perceptions, preferences, and opinions of visitors about management and services in these parks. The proposed information to be collected regarding visitors in these three parks is not available from existing records, sources, or observations.

Automated Data Collection: At the present time, there is no automated way to gather this information, since it includes asking visitors to evaluate services and facilities that they used during their park visit.

Description of Respondents: A sample of visitors to each of these three parks.

Estimated Average Number of Respondents: 400 at Golden Gate National Recreation Area (Alcatraz Island), 1200 at Yosemite National Park, and 640 at Statue of Liberty National Monument (Ellis Island).

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: 30 minutes at Golden Gate National Recreation Area (Alcatraz Island), 15 minutes at Yosemite National Park and 30 minutes at the Statue of Liberty National Monument (Ellis Island).

Frequency of Response: One time per respondent.

Estimated Annual Reporting Burden: 200 at Golden Gate National Recreation Area (Alcatraz Island), 300 at Yosemite National Park, and 320 at Statue of Liberty National Monument (Ellis Island).

Diande M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–14122 Filed 5–28–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Abbreviated Final Environmental Impact Statement

AGENCY: National Park Service (NPS), U.S. Department of the Interior, designated lead agency; Bureau of Land Management (BLM), designated cooperating agency.

ACTION: Notice of availability of an abbreviated final environmental impact statement for the proposed AT&T Corporation P140 Coaxial Cable Removal Project, Socorro County New Mexico, Clark County Nevada, and Kern and San Bernardino Counties California.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the National Park Service announces the availability of an abbreviated final environmental impact statement (FEIS) for the P140 Cable Removal Project, Socorro, New Mexico, to Mojave, California. The draft environmental impact statement (DEIS) for the proposal was on public review for more than 60 days from December 29, 1997 to March 27, 1998. The abbreviated final document includes responses to public comments on the DEIS and factual corrections to the DEIS.

In 1996 AT&T approached the U.S. Department of the Interior (DOI) concerning a proposal to remove 220 miles of their P140 cable system that no longer supports their current fiber optic network.

The proposed project involved the removal of portions of a telecommunications system traversing 7.7 miles in New Mexico, 7.4 miles in Nevada, and 205.2 miles in California.

The P140 system includes buried coaxial cable, repeater huts, manholes, marker posts, and an access corridor. In addition, AT&T proposed to relinquish associated rights-of-way easements, in whole or in part, wherever cable and equipment were removed.

As jurisdictional agencies of federal lands crossed by the project, the NPS and the BLM are responsible for determining terms and conditions of any removal activity and rehabilitation actions to promote restoration of the land. In March 1997 DOI determined to prepare a non-delegated environmental impact statement.

The abbreviated FEIS describes and analyzes four alternatives in response to AT&T's request to remove cable and to terminate the associated rights-of-way. The Proposed Action, and two additional action alternatives have been developed to reduce or avoid adverse effects on desert vegetation, wilderness, the desert tortoise and recreational access. The No Action alternative is included as a baseline for comparison of the action alternatives. To varying degrees, all action alternatives include cable and structure removal along with rehabilitation of the access corridor and repeater hut sites.

Alternative A is the Proposed Action and includes the removal of 174.5 miles of cable, repeater huts and manholes along 220 miles of the right-of-way, and marker posts along 174.2 miles. In addition, the proposed action suggests rehabilitation actions to promote revegetation and habitat recovery that include the elimination of 39.8 miles of the access corridor and 4 miles of dual track.

Alternative B was developed to protect critical habitat of the desert tortoise on federal lands. Cable would not be removed from these areas, and more of the access corridor within critical habitat would be eliminated. Cable would be removed along 113.7 miles outside of critical habitat on federal lands, and repeater huts and manholes would be removed along 174.7 miles. Rehabilitation actions include eliminating 51.6 miles of the access corridor and 4 miles of dual track.

Alternative C would minimize construction-related impacts on desert vegetation and the desert tortoise on federal lands. Cable would not be removed from federal lands and the access corridor would be eliminated in wilderness areas only. Cable would be removed along 72.3 miles of primarily state and private lands. Repeater huts and manholes would be removed along 220 miles, and marker posts would be removed along 174.7 miles. The elimination and rehabilitation of 5.4 miles of the access corridor and 4 miles of dual tract also would be included in alternative C.

For all action alternatives, cable removal activities would result in long-term (20–50 years) adverse affects on desert vegetation, animal species of concern, soil productivity, recreation, and visual aesthetics, but to varying degrees. Removal and rehabilitation activities also would result in temporary adverse affects on air quality and noise due to construction-related activities. Rehabilitation actions would have a permanent beneficial impact on desert vegetation and the desert tortoise. Elimination of portions of the access corridor in the Proposed Action would have a significant impact on recreational access to open desert land, but would not eliminate access to any designated recreational site. Due to elimination of additional segments of the access corridor, Alternative B would eliminate access to several designated recreational sites.

FOR FURTHER INFORMATION CONTACT: Joan DeGraff, National Park Service, Denver Service Center, PO. Box 25287, Denver, CO, 80225–0287.

SUPPLEMENTARY INFORMATION: Copies of the DEIS are available on the Internet at the NPS web site http://www.nps.gov/planning/index.html. A limited number of individual copies of the abbreviated FEIS may be obtained from Joan DeGraff at the above address or by calling (303) 969–2464.

A 30-day no action period will begin following release of the abbreviated FEIS. A record of decision will follow the no action period.

Dated: May 22, 1998.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 98–14286 Filed 5–28–98; 8:45 am]

BILLING CODE 2310–67–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,422; Leedo Furniture, Inc., Corinth, MS

TA–W–34,436; American Powder Coatings, Inc., El Paso, TX

TA–W–34,476; Nuclear Components, Inc., Greenburg, PA

TA–W–34,492; Moog Automotive, Batesville Operation, Batesville, MS

TA–W–34,362; Delphi Interior and Lighting Systems, Inc., Trenton, NJ

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–34,393; Norty's, Inc., New York, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–34,334; Fort James Corp., Camas, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,488; Delphi Gas Pipeline Corp., Woodward, OK

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–34,396; Rockwell Automation/ Reliance Electric, Athens, GA

TA–W–34,459; Koch Midstream Services Co (Formerly Known as Delhi Gas Pipeline Corp., Oklahoma City, OK

Company officials made a decision to transfer all production to another domestic plant.

TA–W–34,450; Mann Edge Tool Co., Lewistown, PA

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–34,333; Phenix, Inc., Morristown, TN: March 5, 1997.
TA–W–34,300; Frank Ix & Sons, Inc., Lexington, NC: February 23, 1997.
TA–W–34,425; Ludwick Well Service, Sterling, KS: March 26, 1997.
TA–W–34,408; The Budd Co., Philadelphia, PA: March 17, 1997.
TA–W–34,411; Magnecomp Corp., Temecula, CA: March 20, 1997.
TA–W–34,295; Spirax Sarco, Inc., Allentown, PA: February 19, 1997.
TA–W–34,374 & A, B; The Monet Group, Inc., Pawtucket, RI, East Providence, RI and Product Development Dept., New York, NY: March 18, 1997.
TA–W–34,261; General Electric Co., Salem, VA: February 5, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to worker's separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02283; Dana Corp., Marion Forge Div., Marion, OH
NAFTA–TAA–02310; North American Refractories Co., Curwensville Plant, Curwensville, PA
NAFTA–TAA–02253; Otis Elevator Co., Bloomington, IN
NAFTA–TAA–02209; Pekin Plastics, Pekin, IN
NAFTA–TAA–02331; Ocean Beauty, Astoria, OR
NAFTA–TAA–02314; United Industries, Beloit, WI
NAFTA–TAA–02171; Avery Dennison, Chicopee Binder Div., Chicopee, MA
NAFTA–TAA–02297; Russell-Neuman, Inc., Cisco, TX
NAFTA–TAA–02272; Stevcoknit Fabrics Co., A Div. of Delta Mills, Inc., A Subsidiary of Delta Woodside Industries, Inc., Carter and Holly Plants, Wallace, NC and Operation at The Following Other Locations: A; Mickel Plant, Spartanburg, SC, B; Stevcoknit Administrative Offices, Greer, SC, C; New York Sales Office, New York, NY, D; California Sales Office, Torrance, CA, E; Texas Sales Office, Planos, TX, F; Sales Representative, Duluth, GA, G; Sales Representative, Columbus, GA, and H; Sales Representative, Palm Beach Gardens, FL.
NAFTA–TAA–02267; BHP Copper, Inc., Pinto Valley Operations, Miami, AZ
NAFTA–TAA–02307 & A; Westark Garment Manufacturing, Waldron, AR and Havana, AR
NAFTA–TAA–2336; Springs Industries, Inc., Rock Hill Printing and Finishing Plant, Rock Hill, SC

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

None.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02352; Federal-Mogul Corp., Powertrain Systems Div., Mooresville, IN: April 13, 1997.
NAFTA–TAA–02224; Frank Ix & Sons, Inc., Lexington, NC: February 24, 1997.
NAFTA–TAA–02348; The Budd Co., Philadelphia; PA: April 16, 1997.
NAFTA–TAA–02290; Golden City Hosiery Mills, Inc.; Villa Rica, GA: March 30, 1997.
NAFTA–TAA–02177; American Garment Finishers Corp., El Paso, TX: January 27, 1997.
NAFTA–TAA–02300; Action West, Don Shapiro Industries, El Paso, TX: March 27, 1997.
NAFTA–TAA–02351; Kodak Polychrome Graphics, Clark, NJ: March 27, 1997.
NAFTA–TAA–02286; Lane Plywood, Eugene, OR: March 27, 1997.
NAFTA–TAA–02320; Eastman Kodak Co., Digital and Applied Imaging, Rochester, NY: February 18, 1997.
NAFTA–TAA–02302; Red Kap Industries, Tompkinsville, KY: March 31, 1997.
NAFTA–TAA–02298; Superior Design Co., Liverpool, NY, Employed At The Global Heavy Absorption Design Center, Carrier Corp., Syracuse, NY: March 27, 1997.
NAFTA–TAA–02251; Lipton, Flemington, NJ: February 26, 1997.
NAFTA–TAA–02296; Vishay Dale Electronics, Yankton, SD: March 20, 1997.
NAFTA–TAA–02325; T.L. Edwards, Inc., Statesville, NC: April 6, 1997.
NAFTA–TAA–02340; NEPECO, Inc., Byron, WY: April 20, 1997.
NAFTA–TAA–02355; Megas Beauty Care, Inc., Div. Of American Safety Razor, Cleveland, OH: March 31, 1997.
NAFTA–TAA–02361; Gateway Sportswear, Inc., Masontown, PA: April 15, 1997.

I hereby certify that the aforementioned determinations were issued during the month of May 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 19, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–14207 Filed 5–28–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 507]

CSI Services, Incorporated, Martinsville, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 4, 1998, in response to a worker petition which was filed on behalf of workers at CSI Services, Incorporated, Martinsville, Virginia, employed at E.I. du Pont de Nemours & Company, Incorporated, Martinsville, Virginia.

A certification applicable to workers at E.I. du Pont de Nemours & Company, Incorporated, Martinsville, Virginia, was issued on May 12, 1998, and is currently in effect (TA–W–34, 386). That certification included the petitioning group of workers of CSI Services employed at the E.I. du Pont de Nemours & Company facility in Martinsville. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 15th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–14205 Filed 5–28–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,–483]

Eagle Moulding, Yuba City, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 27, 1998 in response to a worker petition which was filed on April 27, 1998 on behalf of workers at Eagle Moulding Company, Yuba City, California.

The petitioner has requested that petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 11th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–14208 Filed 5–28–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request if filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 8, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 8, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Signed at Washington, DC this 11th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 05/11/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,522	LTV Steel Corp (USWA)	Pittsburgh, PA	04/01/98	Blast Furnace Coke.
34,523	Terre Ann Mfg. Co. (Whrs)	Terre Hill, PA	04/20/98	Sportwear.
34,524	American Lantern Co. (USWA)	Newport, AR	04/17/98	Indoor and Outdoor Light Fixtures.
34,525	Crown Clothing (Wkrs)	Vineland, NJ	04/10/98	Military Uniforms.
34,526	Amory Garment (The) (Wkrs)	Amory, MS	04/28/98	Men's Dress Slacks.
34,527	Gillette Co. (USWA)	Janesville, WI	04/23/98	Pens and Pencils.
34,528	Independent Order (Wkrs)	San Diego, CA	04/16/98	Life Insurance, Real Estate Mgnt.
34,529	OKI Telecom, Inc. (Co.)	Suwaneee, GA	04/29/98	Mobile Phones.
34,530	Marglen Industries (Wkrs)	White, GA	04/17/98	Carpet Yarn.
34,531	Western Reserve Products (Wkrs)	Gallatin, TN	04/27/98	Plastic Window Frames.
34,532	Breed Technologies (Co.)	El Paso, TX	05/01/98	Seatbelts and Air Bags.
34,533	Breed Technologies (Co.)	Brownsville, TX	04/27/98	Seat Belts.
34,534	Breed Technologies (Co.)	Douglas, AZ	04/27/98	Seatbelt Shipping.
34,535	General Electric Co. (Co.)	Fitchburg, MA	04/14/98	Steam Turbines.
34,536	Gerber Baby Foods (UFCW)	Ashville, NC	04/28/98	Baby Food.
34,537	Acme Frame (Wkrs)	Harrisburgh, AR	05/01/98	Picture Frames.

APPENDIX—Continued
[Petitions Instituted on 05/11/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,538	Oxy USA, Inc (Wkrs)	Logan, KS	04/29/98	Crude and Gas.

[FR Doc. 98–14209 Filed 5–28–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,247]

Most Manufacturing, Incorporated, Including Leased Workers of Express Temporary Services, Colorado Springs, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 20, 1998, applicable to workers of Most Manufacturing, Incorporated located in Colorado Springs, Colorado. The notice was published in the Federal Register on April 3, 1998 (63 FR 16574).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers of Most Manufacturing, Incorporated were leased from Express Temporary Services, Colorado Springs, Colorado. The leased workers produced optical disk drives for Most Manufacturing at the Colorado Springs plant. Based on these findings, the Department is amending the certification to include leased workers from Express Temporary Services, Colorado Springs, Colorado producing optical disk drives at the subject firms' production facility.

The intent of the Department's certification is to include all workers at Most Manufacturing, Incorporated adversely affected by imports.

The amended notice applicable to TA–W–34,247 is hereby issued as follows:

All workers of Most Manufacturing, Incorporated, Colorado Springs, Colorado, engaged in employment related to the production of optical disk drives; and leasked workers of Express Temporary Services, Colorado Springs, Colorado, engaged in employment related to the production of optical disk drives at Most Manufacturing, Incorporated, Colorado Springs, Colorado, who became totally or partially separated from employment on or after January 28, 1997 through March 20, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of May 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–14210 Filed 5–28–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,537]

Newell Company, ACME Frame—a/k/a Intercraft, Harrisburg, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 11, 1998 in response to a worker petition which was filed on May 1, 1998 on behalf of workers at the Acme Frame, Harrisburg, Arkansas. The notice will soon be published in the **Federal Register.**

An active certification covering the workers of Newell Company, Acme Frame—a/k/a Intercraft, Harrisburg, Arkansas is already in effect (TA–W–34,378B). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 15th day of May, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–14206 Filed 5–28–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal Statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA980001 (Feb. 13, 1998)
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Volume VII

California
CA980029 (Feb. 13, 1998)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 21 day of May 1998.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–14085 Filed 5–28–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–23; Exemption Application No. D–10213, et al.]

Grant of Individual Exemptions; Bankers Trust Company

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bankers Trust Company (Bankers Trust) Located in New York, New York

[Prohibited Transaction Exemption 98–23; Exemption Application No. D–10213]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective February 16, 1996, to the: (1) lending of certain securities to BT Alex. Brown Incorporated, Bankers Trust International PLC, and Bankers Trust (Australia) Limited (and their corporate successors), which are affiliates of Bankers Trust, (collectively; the Affiliated Borrowers), by certain employee benefit plans (including commingled investment funds holding plan assets) (the Client Plans), for which Bankers Trust and certain other affiliates (the BT Group) act as the directed trustee or custodian or securities lending agent or sub-agent; [1] and (2) receipt of compensation by the BT Group in connection with these transactions; provided that the following conditions are satisfied:

1. Neither the Affiliated Borrowers nor the BT Group has or exercises discretionary authority or control with respect to the investment of the assets of the Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition and disposition of securities available for loan.

2. Before a Client Plan participates in a securities lending program and before any loan of securities to the Affiliated Borrowers is affected, a Client Plan fiduciary who is independent of the BT Group and the Affiliated Borrowers must have:

(a) Authorized and approved a securities lending authorization agreement with the BT Group, where the BT Group is acting as the securities lending agent;

(b) Authorized and approved the primary securities lending authorization agreement with the primary lending agent, where BT Group is lending securities under a sub-agency arrangement with the primary lending agent; [2] and

(c) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and the Affiliated Borrowers, the specific terms of which are negotiated and entered into by BT Group.

3. The Client Plan may terminate the agency or sub-agency agreement at any time without penalty to such plan on five (5) business days notice, whereupon the Affiliated Borrowers shall deliver securities identical to the borrowed securities (or the equivalent in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within (a) the customary delivery period for such securities, (b) five (5) business days, or (c) the time negotiated for such delivery by the Client Plan and the Affiliated Borrowers, whichever is less.

4. The Client Plan will receive from the Affiliated Borrowers (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day on which the loaned securities are delivered to the Affiliated Borrowers, collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or an irrevocable bank letter of credit issued by a U.S. bank, which is a person other than the Affiliated Borrowers or an affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption (PTE) 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans), having, as of the close of business on the preceding business day, a market value (or, in the case of a letter of credit, a stated amount) initially equal to at least 102 percent of the market value of the loaned securities.

[1] The applicant represents that because Bankers Trust may add new affiliates, the entities comprising the BT Group may change. However, the Affiliated Borrowers will always be BT Alex. Brown Incorporated, Bankers Trust International PLC and Bankers Trust (Australia) Limited (and their corporate successors) for purposes of this exemption.

[2] When the BT Group acts as sub-agent, rather than the primary lending agent, the primary lending agent is receiving no section 406(b) of the Act relief herein. In such situations, the primary lending agent may be provided relief by Prohibited Transaction Class Exemption (PTE) 81–6 and PTE 82–63. PTE 81–6 was published at 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987, and PTE 82–63 was published at 47 FR 14804, April 6, 1982.

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If the market value of the collateral on the close of trading on a business day is less than 100 percent of the market value of the borrowed securities at the close of business on that day, the Affiliated Borrowers will deliver additional collateral on the following day such that the market value of the collateral in the aggregate will again equal 102 percent. The Loan Agreement will give the Client Plan a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. The BT Group will monitor the level of the collateral daily.

5. When the BT Group lends securities to the Affiliated Borrowers, the following conditions must be met: (a) the collateral will be maintained in U.S. dollars, U.S. dollar-denominated securities or letters of credit of U.S. Banks, or any combination thereof, or other collateral permitted under PTE 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans); [3] (b) all collateral will be held in the United States; (c) the situs of the loan agreement will be maintained in the United States; (d) the lending Client Plans will be indemnified by Bankers Trust in the United States for any transactions covered by this exemption with the foreign Affiliated Borrowers so that the Client Plans will not have to litigate in a foreign jurisdiction nor sue the foreign Affiliated Borrowers to realize on the indemnification; (e) prior to the transaction, the foreign Affiliated Borrowers will enter into a written agreement with the Client Plan whereby the Affiliated Borrowers consent to the service of process in the United States and to the jurisdiction of the courts of the United States with respect to the transactions described herein; and (f)(1) Bankers Trust International PLC is a deposit taking institution supervised by the Bank of England; and (2) Bankers Trust (Australia) Limited is a merchant bank which is under the jurisdiction of the Federal Reserve Bank of Australia.

6. Before entering into the Loan Agreement and before a Client Plan lends any securities to the Affiliated Borrowers, the Affiliated Borrowers shall have furnished the following items to the Client Plan fiduciary: (a) the most recent available audited and unaudited statement of the Affiliated Borrowers' financial condition; (b) at the time of the loan, the Affiliated Borrowers must give prompt notice to the Client Plan fiduciary of any material adverse changes in the Affiliated Borrowers' financial condition since the date of the most recently financial statement furnished to the Client Plan; and (c) in the event of any such changes, the BT Group will request approval of the Client Plan to continue lending to the Affiliated Borrowers before making any such additional loans. No such new loans will be made until approval is received. Each loan shall constitute a representation by the Affiliated Borrower that there has been no such material adverse change.

7. The Client Plan: (a) receives a reasonable fee that is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the case of cash collateral, the Client Plan may pay a loan rebate or similar fee to the Affiliated Borrower, if such fee is not greater than the fee Client Plan would pay an unrelated party in an arm's length transaction.

8. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTEs 81–6 and 82–63 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans).

9. In the event Bankers Trust International PLC and/or Bankers Trust (Australia) Limited default on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, Bankers Trust will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision). Alternatively, if such identical securities are not available on the market, Bankers Trust will pay the Client Plan cash equal to the market value of the borrowed securities as of the date they should have been returned to the Client Plan plus all the accrued financial benefits derived from the beneficial ownership of such loaned securities. The lending Client Plans will be indemnified by Bankers Trust in the United States for any loans to the foreign Affiliated Borrowers.

10. In the event BT Alex. Brown Incorporated, a U.S. registered broker-dealer, defaults on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, BT Alex. Brown Incorporated will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision).

11. If the Affiliated Borrowers' default on the securities loan or enter bankruptcy, the collateral will not be available to the Affiliated Borrowers or their creditors, but is used to make the Client Plan whole.

12. The Client Plans will be entitled to the equivalent of all distributions made to holders of the borrowed securities, including all interest, dividends and distributions on the loaned securities during the loan period.

13. Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Affiliated Borrowers; provided however, that—

(a) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Affiliated Borrowers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(b) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Affiliated Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50

[3] See limitations discussed in Item I.5 of the Written Comments.

million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

14. For purposes of this exemption, the Affiliated Borrowers will consist only of BT Alex. Brown Incorporated, Bankers Trust International PLC and Bankers Trust (Australia) Limited, and their corporate successors.

15. In any calendar quarter, on average 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of the Client Plans by the BT Group in the aggregate will be to borrowers who are not affiliated with the BT Group.

16. The terms of each loan of securities by the Client Plans to any of the Affiliated Borrowers will be at market rates and at terms as favorable to such plans as if made at the same time and under the same circumstances to an unaffiliated party.

17. Each Client Plan will receive a monthly transaction report, including but not limited to the information described in paragraph 24 of the notice of proposed exemption (the Notice), so that the independent fiduciary of such plan may monitor the securities lending transactions with the Affiliated Borrowers.

18. During the notification of interested persons period, all Client Plans (that were Client Plans during this period) received a copy of the notice of pendency of the proposed exemption. In addition, current Client Plans will receive a copy of the final exemption and Bankers Trust will provide a copy of the final exemption to any new Client Plans.

19. Bankers Trust or the Affiliated Borrowers maintain or cause to be maintained within the United States for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (20) below to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than Bankers Trust or the Affiliated Borrowers, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Bankers Trust or the Affiliated Borrowers, such records are lost or destroyed prior to the end of such six year period.

(20)(i) Except as provided in subparagraph (ii) of this paragraph (20) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (19) are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission,

(b) Any fiduciary of a Client Plan or any duly authorized representative of such fiduciary,

(c) Any contributing employer to any Client Plan, or any duly authorized employee or representative of such employer, and

(d) Any participant or beneficiary of any Client Plan, or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subparagraphs (b)–(d) of this paragraph (20) shall be authorized to examine trade secrets of Bankers Trust or the Affiliated Borrowers, or commercial or financial information which is privileged or confidential.

Effective Date: This exemption is effective as of February 16, 1996.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on February 19, 1998 at 63 FR 8482.

Written Comments

The Department received one written comment (the Comment) with respect to the Notice and no requests for a public hearing. The Comment was filed by Bankers Trust and generally requests clarifications and modifications to the Notice. Set forth below in section I is a discussion of those aspects of the Comment which relate to the language of the final exemption (the Exemption). In addition, section II below discusses the aspects of the Comment which relate to the Summary of Facts and Representations (the Summary) contained in the Notice.

I. Discussion of the Comment Regarding the Exemption

1. The introductory paragraph of the Notice proposes to exempt, in relevant part, the lending of securities to certain affiliates of Bankers Trust. Bankers Trust states that BT Securities Corporation has merged with Alex. Brown and Sons, Incorporated. Accordingly, Bankers Trust requests that the term "BT Alex. Brown Incorporated" be substituted for "BT Securities Corporation" in the relevant sections of the Notice.

The Department acknowledges the applicant's request and has modified the Exemption to reflect this substitution.

2. Bankers Trust states that it would like to avoid the need to request a clarification of the Exemption from the Department in the future should another change occur in the names of the entities that comprise the BT Group. Thus, the applicant suggests that the term "Affiliated Borrowers" be defined in the Exemption as BT Alex. Brown Incorporated, Bankers Trust International PLC, and Bankers Trust (Australia) Limited and their corporate successors [emphasis added]. Bankers Trust requests that this modification be made in the introductory paragraph of the operative language of the Exemption, in the last sentence of footnote 1, and elsewhere in the Exemption, as relevant.

The Department concurs with the applicant's suggestion and has modified the Exemption accordingly. However, with respect to corporate successors, the Department notes that the Exemption would not be effective for any new entities created by the sale of the underlying assets of an Affiliated Borrower to an unrelated third party.

3. Bankers Trust comments that the Affiliated Borrowers are sometimes only the securities lending agent and not the custodian or directed trustee of the Client Plan. Therefore, Bankers Trust requests that the word "or" should be substituted for the word "and" in the relevant places of the Exemption to clarify that an Affiliated Borrower may be only the securities agent for the Client Plan.

The Department acknowledges the applicant's clarification and has modified the Exemption accordingly.

4. Condition 3 of the Notice provides, among other things, that the Client Plan may terminate the agency or sub-agency

agreement on five (5) days notice whereupon the Affiliated Borrowers shall deliver certificates for securities identical to the borrowed securities to the Client Plan within a specified time period (as stated therein). Bankers Trust states that because the certificates of securities are not physically delivered to the Client Plan in every instance, the words "* * * certificates for" as used in this Condition should be deleted.

The Department acknowledges the applicant's clarification and has modified Condition 3 of the Exemption accordingly.

5. Condition 5(a) of the Notice requires that when the BT Group lends securities to the Affiliated Borrowers, the collateral will be maintained in U.S. dollars, U.S. dollar-denominated securities or letters of credit of U.S. Banks. The applicant states that when Bankers Trust lends securities to the Affiliated Borrowers under the Exemption, it should be able to use as collateral any property or other arrangement which may be permitted by the Department in a future class exemption for securities lending. Therefore, Bankers Trust suggests adding the following language as an insert at the end of the language contained in Condition 5(a):

* * * or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption (PTE) 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans).

The Department concurs with the applicant's suggested modification and has added the above-referenced language to Condition 5(a) of the Exemption. However, the Department notes that the Exemption provides relief from the restrictions of section 406(a) as well as section 406(b)(1) and (b)(2) of the Act, whereas PTE 81–6 provides relief only for securities lending transactions which would violate section 406(a) of the Act. Thus, any amendments that may be made by the Department to PTE 81–6 which would permit different types of assets to be used as collateral for a securities loan would not allow the use of such assets as collateral under this Exemption to the extent that the transactions covered by this Exemption would require relief from section 406(b) of the Act.

6. Condition 8 of the Notice requires that all procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTEs 81–6 and 82–63. Bankers Trust comments that the following language should be added at the end of Condition 8 of the Notice.

* * * (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans).

The Department concurs with the applicant's suggested modification and has added the above-referenced language to Condition 8 of the Exemption.

7. Condition 13 of the Notice requires that only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the Affiliated Borrowers. Bankers Trust requests that the Client Plans be permitted to aggregate their assets for purposes of meeting the minimum Plan size requirement for lending securities to the Affiliated Borrowers under the Exemption. Therefore, Bankers Trust recommends that the following language be substituted for Condition 13 of the Notice:

"Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Affiliated Borrowers; provided however, that—

(a) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Affiliated Borrowers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(b) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Affiliated Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)" [emphasis added]

The Department concurs with this change to the language of Condition 13 of the Notice and has modified the Exemption accordingly.

II. Discussion of the Comment Regarding the Summary

1. Paragraph 4 of the Summary in the Notice contains a discussion regarding Federal Reserve Board's Regulation T. Bankers Trust comments that the Regulation T provision that limited the situations for which securities may be borrowed or lent (the "purpose test") has been amended to reflect recent legislation, and now may not apply to Bankers Trust securities lending activities in every instance. Thus, the representation previously made by Bankers Trust, as stated in the first sentence of Paragraph 4 of the Summary, should be modified to read as follows:

BT Alex. Brown Incorporated, a U.S. registered broker-dealer, will comply with the Federal Reserve Board's Regulation T in its securities lending activities to the extent that Regulation T applies.

The Department concurs with this modification.

2. Paragraph 17 of the Summary discusses the written schedule of lending fees and rebate rates established by the BT Group. In this regard, in order to clarify how these rates may relate to the rates for a particular securities lending transaction with a Client Plan, Bankers Trust requests that the third sentence in Paragraph 17 of the Summary be changed as follows:

In no case will loans be made to the Affiliated Borrowers at rates less favorable to the Client Plans than those on the schedule. [emphasis added]

The Department concurs with this modification.

3. Bankers Trust comments that the BT Group will provide notice of a change in the lending fee formula or

rebate rate formula, as discussed in paragraph 21 of the Summary. However, because the formula rates are designed to vary based on the operation of the formula, the BT Group will provide notice only of the formula change (unless such formula change would always be beneficial to the Client Plans), and not of a decrease or increase in the lending fee or rebate rate itself. Therefore, Bankers Trust states that its previous representations, which are contained in first and second sentences of Paragraph 21 of the Summary, should be clarified as follows:

Should the BT Group recognize prior to the end of a business day that, with respect to new and/or existing loans, it must change the rebate rate formula or lending fee formula in the best interest of Client Plans, it may do so with respect to the Affiliated Borrowers.

If the BT Group changes the lending fee formula or the rebate rate formula on any outstanding loan to the Affiliated Borrower (except for any change resulting from a change in the value of any third party independent index with respect to which the fee or rebate is calculated, or if the formula will always be beneficial to the Client Plan), the BT Group, by the close of business on the date of such adjustment, shall provide the independent fiduciary of the Client Plan with notice that it has changed such fee formula or rebate rate formula with respect to such Affiliated Borrower and that the Client Plan may terminate such loan at any time. [emphasis added]

The Department acknowledges Bankers Trust's request for clarification to the representations contained in Paragraph 21 of the Summary as well as the other clarifications to the current record provided by the applicant.

Therefore, after giving full consideration to the entire record, including the Comment, the Department has decided to grant the exemption, subject to the modifications and clarifications described above. The Comment has been included as part of the public record of the exemption application. The complete exemption file is available for public inspection in the Public Disclosure Room of the Pension and Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For Further Information Contact: Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

Goldman Sachs & Co. (Goldman Sachs) and The Goldman Sachs Trust Company (GSTC) Located in New York, NY

[Prohibited Transaction Exemption 98–24; Exemption Application No. D–10306]

Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective July 31, 1996, to the past and continued lending of securities to Goldman Sachs International or any other Goldman Sachs affiliate based in the United Kingdom (together, GSI), Goldman Sachs, affiliated U.S. registered broker-dealers of Goldman Sachs, or Goldman Sachs (Japan), Ltd., including any of its affiliates (together, Goldman Sachs (Japan),[4] by employee benefit plans (the Client Plans), including commingled investment funds holding Plan assets, for which Goldman Sachs Trust Company (GSTC), an affiliate of Goldman Sachs, acts as securities lending agent (or sub-agent) and to the receipt of compensation by GSTC in connection with these transactions, provided that the following conditions are met:

(a) For each Client Plan, neither GSTC, Goldman Sachs nor an affiliate of either has or exercises discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

(b) Any arrangement for GSTC to lend Plan securities to Goldman Sachs in either an agency or sub-agency capacity is approved in advance by a Plan fiduciary who is independent of Goldman Sachs and GSTC.[5] In this regard, the independent Plan fiduciary also approves the general terms of the securities loan agreement (the Loan Agreement) between the Client Plan and Goldman Sachs, although the specific terms of the Loan Agreement are negotiated and entered into by GSTC and GSTC acts as a liaison between the lender and the borrower to facilitate the lending transaction.

(c) The terms of each loan of securities by a Client Plan to Goldman Sachs is at least as favorable to such Plans as those of a comparable arm's length transaction between unrelated parties.

(d) A Client Plan may terminate the agency or sub-agency arrangement at any time without penalty to such Plan on five business days notice.

(e) The Client Plan receives from Goldman Sachs (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to Goldman Sachs, collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by a person other than Goldman Sachs or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6, as it may be amended or superseded.

(f) As of the close of business on the preceding business day, the fair market value of the collateral initially equals at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, Goldman Sachs delivers additional collateral on the following day such that the market value of the collateral again equals 102 percent.

(g) Prior to entering into the Loan Agreement, Goldman Sachs furnishes GSTC its most recently available audited and unaudited statements, which is, in turn, provided to a Client Plan, as well as a representation by Goldman Sachs, that as of each time it borrows securities, there has been no material adverse change in its financial condition since the date of the most recently-furnished statement that has not been disclosed to such Client Plan; provided, however, that in the event of a material adverse change, GSTC does not make any further loans to Goldman Sachs unless an independent fiduciary of the Client Plan is provided notice of any material adverse change and approves the loan in view of the changed financial condition.

(h) In return for lending securities, the Client Plan either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (Under such

[4] Unless otherwise noted, for purposes of this exemption, Goldman Sachs, the affiliated U.S. registered broker-dealers of Goldman Sachs, GSI and Goldman Sachs (Japan) are collectively referred to herein as Goldman Sachs.

[5] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than GSTC, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

circumstances, the Client Plan may pay a loan rebate or similar fee to Goldman Sachs, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(i) All procedures regarding the securities lending activities conform to the applicable provisions of Prohibited Transaction Exemptions PTE 81–6 and PTE 82–63 as well as to applicable securities laws of the United States, the United Kingdom or Japan.

(j) Each Goldman Sachs entity indemnifies and holds harmless each lending Client Plan in the United States against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) which the Client Plan may incur or suffer directly arising out of the lending of securities of such Client Plan to such Goldman Sachs entity. In the event that GSI or Goldman Sachs (Japan) defaults on a loan, GSTC will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, GSTC will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under such provisions). Alternatively, if such identical securities are not available on the market, GSTC will pay the Client Plan cash equal to (1) the market value of the borrowed securities as of the date they should have been returned to the Client Plan, plus (2) all the accrued financial benefits derived from the beneficial ownership of such loaned securities as of such date, plus (3) interest from such date to the date of payment.

(k) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(l) Except for Client Plans which have or had outstanding securities loans to Goldman Sachs before February 19, 1998, Goldman Sachs provides, prior to any Client Plan's approval of the lending of its securities to Goldman Sachs, copies of the notice of proposed exemption (the Notice) and the final exemption. With respect to Client Plans which have or had outstanding securities loans to Goldman Sachs through GSTC prior to February 19, 1998, GSTC provides such Plans with copies of the Notice.

(m) Each Client Plan receives monthly reports with respect to its securities lending transactions, including, but not limited to the information described in Representation 31 of the Notice, so that an independent fiduciary of the Client Plan may monitor such transactions with Goldman Sachs.

(n) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to Goldman Sachs; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

(o) With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers.

(p) In addition to the above, all loans involving GSI and Goldman Sachs (Japan), have the following supplemental requirements:

(1) Such broker-dealer is registered as a broker-dealer with the Securities and Futures Authority of the United Kingdom or with the Ministry of Finance and the Tokyo Stock Exchange;

(2) Such broker-dealer is in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 which provides for foreign broker-dealers a limited exemption from United States registration requirements;

(3) All collateral is maintained in United States dollars or dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and GSTC maintains the situs of the securities Loan Agreements in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1; and

(5) GSI or Goldman Sachs (Japan) provides Goldman Sachs a written consent to service of process in the United States for any civil action or proceeding brought in respect of the securities lending transaction, which consent provides that process may be served on such borrower by service on Goldman Sachs.

(q) Goldman Sachs and its affiliates maintain, or cause to maintain within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (r)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due

to circumstances beyond the control of Goldman Sachs and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than Goldman Sachs shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (r)(1).

(r)(1) Except as provided in subparagraph (r)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (q) are unconditionally available at their customary location during normal business hours by:

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(ii) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Client Plan or any duly authorized employee representative of such employer; and

(iv) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(r)(2) None of the persons described above in paragraphs (r)(1)(ii)–(r)(1)(iv) of this paragraph (r)(1) are authorized to examine the trade secrets of Goldman Sachs or commercial or financial information which is privileged or confidential.

Effective date: This exemption is effective as of July 31, 1996.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on February 19, 1998 at 63 FR 8489.

Written Comments

The Department received one written comment with respect to the Notice and no requests for a public hearing. The comment, which was submitted by Goldman Sachs, suggested modifications to the operative language of the Notice and recommended certain changes to the Summary of Facts and Representations (the Summary) of the Notice. Presented below are the modifications requested by Goldman Sachs and the Department's accompanying responses.

1. *Condition (l).* Condition (l) of the Notice requires that GSTC provide a copy of the proposed and final exemption to Client Plans prior to such plans' approval of loans to Goldman Sachs. Given that the relief requested is retroactive, Goldman Sachs proposes to amend Condition (l) by inserting the following phrase at the beginning of this provision: "Except for Client Plans which have or had outstanding securities loans to Goldman through GSTC prior to February 19, 1998." In addition, Goldman Sachs suggests adding the following sentence to the end of Condition (l): "With respect to Client Plans which have or had outstanding securities loans to Goldman through GSTC prior to February 19, 1998, GSTC will provide such Plans with the notice of pendency as set forth in the Notice to Interested Persons section of the proposed exemption." In response, the Department has modified Condition (l) of the Notice to read as follows:

(1) Except for Client Plans which have or had outstanding securities loans to Goldman Sachs before February 19, 1998, Goldman Sachs provides, prior to any Client Plan's approval of the lending of its securities to Goldman Sachs, copies of the notice of proposed exemption (the Notice) and the final exemption. With respect to Client Plans which have or had outstanding securities loans to Goldman Sachs through GSTC prior to February 19, 1998, GSTC provides such Plans with copies of the Notice.

2. *Representations 7 and 8.* Representations 7 and 8 of the Summary discuss compliance provisions with Rule 15a–6 of the 1934 Act by Goldman Sachs, GSI and Goldman Sachs (Japan). As noted in the Summary, Rule 15a–6 provides foreign broker-dealers with a limited exemption from SEC registration requirements and offers additional protections. Goldman Sachs states that some of the provisions of Rule 15a–6 have been changed or modified as a result of an SEC No-Action Letter obtained by its counsel on behalf of it and a group of broker-dealers on April 9, 1997.[6] Although Goldman Sachs represents that it intends to comply with any applicable provisions of Rule 15a–6 as it may change from time to time, for the sake of accuracy, it requests that Representations 7 and 8 be amended to reflect the rule and the no-action relief. Accordingly, Goldman Sachs suggests the following changes which have been made by the Department:

a. *Footnote 14.* Footnote 14 of the Summary states that GSI and Goldman Sachs (Japan) may rely on a U.S. bank or trust company, including GSTC, instead of relying on a U.S. broker-dealer. Goldman Sachs requests that Footnote 14 of the Summary be moved to the end of the third sentence of Representation 7.

b. *Addition of Footnote to Representation 7.* Goldman Sachs suggests that a new footnote be inserted at the end of Representation 7 which would read as follows:

"See also SEC No-Action Letter issued to Cleary, Gottlieb, Steen & Hamilton on April 9, 1997 (hereinafter, "the April 9 No-Action Letter"), expanding the definition of "Major U.S. Institutional Investor."

c. *Addition of Footnote to Representation 8(c)(5).* Representation 8(c)(5) of the Summary states that a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security by a U.S. institutional or major institutional investor must "receive, deliver and safeguard funds and securities in connection with transactions on behalf of the U.S. institutional investor or U.S. major institutional investor in compliance with Rule 15c3–3 of the 1934 Act (Customer Protection—Reserves and Custody of Securities)." To update this provision, Goldman Sachs requests that the following footnote be placed at the end of paragraph (c)(5) of Representation 8:

"Under certain circumstances described in the April 9, 1997 No-Action Letter (e.g., clearance and settlement transactions), there may be direct transfers of funds and securities between the Client Plan and GSI and Goldman Sachs (Japan). Goldman Sachs notes that in such situations, the U.S. registered broker-dealer will not be acting as a principal with respect to any duties it is required to undertake pursuant to Rule 15a–6."

d. *Modification of Representation 8(c)(6).* Representation 8(c)(6) of the Summary states that a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security by a U.S. institutional or major institutional investor must "participate in all oral communications (e.g., telephone calls) between the foreign associated person and the U.S. institutional investor (not the U.S. major institutional investor), and accompany the foreign associated person on all visits with both U.S. institutional and major institutional investors. By virtue of this participation, the U.S. registered broker-dealer would become responsible for the content of all these communications."

Given that the relief granted in the April 9, 1997 No-Action Letter significantly modified the "chaperoning" requirements of Rule 15a–6 to provide, under certain

[6] See SEC No-Action Letter dated April 9, 1997 to Giovanni P. Prezioso, Esq. of Cleary, Gottlieb, Steen & Hamilton regarding Securities Activities of U.S-Affiliated Foreign Dealers.

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circumstances, direct communications and contact between the foreign broker-dealer and the U.S. Institutional Investor, Goldman Sachs requests that the reference to "all communications" and "all visits" be amended to read "certain communications" and "certain visits." In addition, Goldman Sachs requests that the last sentence of Representation 8(c)(6) be deleted and the following footnote be added to the end of such section to read:

"Under certain circumstances, the foreign associated person may have direct communications and contact with the U.S. Institutional Investor. See April 9 SEC No-Action Letter."

3. *Representation 12.* The second sentence of Representation 12 states that "for each Plan, neither GSTC, Goldman Sachs nor any affiliate will have no discretionary authority or control or render investment advice over Client Plans' decisions concerning the acquisition or disposition of securities available for loan." Goldman Sachs requests that the word "no," which precedes the word "discretionary" be deleted from this sentence as it is in error. The Department concurs with this change and has made the required modification.

4. *Representation 15.* The third paragraph of Representation 15 states that the provisions of the Sub-Agency Agreement will be comparable to those of the Agency Agreement but it erroneously cross-references the Agency Agreement to Representation 9. Goldman Sachs wishes to point out that the correct cross-reference should be to Representation 14 rather than Representation 9. The Department concurs with this change and has made the required modification.

5. *Representation 24.* Goldman Sachs states that the fourth sentence of Representation 24 contains a typographical error in that the parenthetical should end after the phrase "from such loan" instead of at the end of the sentence. Therefore, the Department has revised this sentence to read as follows:

With respect to any loan to Goldman Sachs, GSTC will never negotiate a rebate rate with respect to such loan which would be expected to produce a zero or negative return to the Client Plan (assuming no default on the investments related to the cash collateral from such loan) where GSTC has investment discretion over the cash collateral.

6. *Representation 33 and Condition (n).* Representation 22 of the Summary and Condition (n) of the Notice exclude from the securities lending program commingled trust funds which contain plan assets of more than one employer if the fiduciary responsible for making the investment decision is one of the Client Plan's employers. Goldman Sachs does not believe this restriction is necessary because it would preclude the State Street Collective Trust Funds from using GSTC as a securities lending agent and lending to Goldman Sachs under the exemption if one of State Street's employee benefit plans were invested in the fund, even though the fund would otherwise comply with the $50 million in assets requirement and State Street as a fiduciary to the fund would otherwise satisfy the $100 million under management requirement. Therefore, Goldman Sachs suggests that the Department revise paragraph (n)(2) of the Conditions and subclause (a) of the second paragraph of Representation 33 to read as follows:

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

After considering this comment, the Department has made the changes suggested by Goldman Sachs.

For further information regarding Goldman Sachs's comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10306) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comments provided by Goldman Sachs, the Department has made the aforementioned changes to the Notice. In addition, the Department has decided to grant the exemption subject to the modifications or clarifications described above.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of May, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–14197 Filed 5–28–98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10503, et al.]

Proposed Exemptions; Sanwa Bank California

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. , stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Sanwa Bank California (Sanwa Bank) Located in Los Angeles, CA

[Application No. D–10503]

Proposed Exemption

Section I. Proposed Exemption for the In-Kind Transfers of Assets

If the exemption is granted, the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (F) shall not apply, effective October 31, 1997, to the purchase, by an employee benefit plan established and maintained by parties other than Sanwa Bank (the Client Plan) or by Sanwa Bank (the Bank Plan) [1] of shares of one or more open-end management investment companies (the Fund or Funds), registered under the Investment Company Act of 1940, as amended (the 1940 Act), in exchange for assets of the Plan transferred in-kind to the Fund by a collective investment fund (the CIF) maintained by Sanwa Bank, where Sanwa Bank is the investment adviser and may provide other services to the Fund (the Secondary Services), as defined in Section III(i), and where Sanwa Bank is also a fiduciary of the Plan, in connection with the termination of such CIFs.

[1] Unless otherwise noted, the Client Plans and the Bank Plans are collectively referred to as the Plans.

This proposed exemption is subject to the following conditions:

(a) A fiduciary (the Second Fiduciary), as defined in Section III(h), which is acting on behalf of each affected Plan and which is independent of and unrelated to Sanwa Bank, receives advance written notice of the in-kind transfer of assets of the CIFs in exchange for shares of the Funds and full written disclosures of information concerning the Funds which includes the following:

(1) A current prospectus for each Fund in which the Client Plan may invest;

(2) A statement describing the fees for investment advisory or other similar services, any fees for Secondary Services, as defined in Section III(i), and all other fees to be charged to or paid by the Client Plan and by such Funds to Sanwa Bank, including the nature and extent of any differential between the rates of such fees;

(3) A statement of the reasons why Sanwa Bank may consider such investment to be appropriate for the Client Plan;

(4) A statement of whether there are any limitations applicable to Sanwa Bank with respect to which assets of a Client Plan may be invested in Fund shares, and, if so, the nature of such limitations; and

(5) A copy of the proposed exemption and/or a copy of the final exemption upon the request of the Second Fiduciary.

(b) On the basis of the foregoing information, the Second Fiduciary gives prior approval in writing for each purchase of Fund shares in exchange for the Plan's assets transferred from the CIF, consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, the Second Fiduciary gives prior approval in writing of the receipt of confirmation statements described in Section I(g) by facsimile or electronic mail if the Second Fiduciary elects to receive such statements in that form.

(c) No sales commissions or other fees are paid by the Plan in connection with the purchase of Fund shares.

(d) All transferred assets are securities for which market quotations are readily available, or cash.

(e) The transferred assets constitute a *pro rata* portion of all assets of a Plan held in the CIF immediately prior to the transfer. Notwithstanding the foregoing, the allocation of fixed-income securities held by a CIF among Plans on the basis of each Plan's *pro rata* share of the aggregate value of such securities will not fail to meet the requirements of this subsection if:

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(1) The aggregate value of such securities does not exceed one (1) percent of the total value of the assets held by the CIF immediately prior to the transfer, in connection with the termination of such CIF; and

(2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings from nationally recognized statistical rating agencies.

(f) Each Plan receives Fund shares that have a total net asset value equal to the value of the Plan's transferred assets on the date of the transfer, as determined with respect to securities in a single valuation performed in the same manner and at the close of business on the same day in accordance with Rule 17a–7 (using sources independent of Sanwa Bank and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the last business day prior to the in-kind transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Sanwa Bank.

(g) Sanwa Bank sends by regular mail or, if applicable, by facsimile or electronic mail, to the Second Fiduciary of each affected Plan that purchases Fund shares in connection with the in-kind transfer, the following information:

(1) No later than 30 days after the completion of the purchase, a written confirmation which contains—

(A) The identity of each transferred security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(B) The current market price, as of the date of the in-kind transfer, of each such security involved in the transaction; and

(C) The identity of each pricing service or market-maker consulted in determining the current market price of such securities.

(2) No later than 105 days after the completion of each purchase, a written confirmation which contains —

(A) The number of CIF units held by each affected Plan immediately before the in-kind transfer, the related per unit value, and the total dollar amount of such CIF units; and

(C) The number of shares in the Funds that are held by each affected Plan immediately following the in-kind transfer, the related per share net asset value and the total dollar amount of such shares.

(h) The conditions set forth in Sections II(d), (e), (n)(1), (o), (p) and (q) are satisfied.

Section II. Proposed Exemption for the Receipt of fees From the Funds

If the exemption is granted, the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code shall not apply, effective October 31, 1997, to (1) the receipt of fees by Sanwa Bank from the Funds for investment advisory services provided to the Funds; and (2) the receipt or retention of fees by Sanwa Bank from the Funds for acting as a custodian or shareholder serving agent to the Funds, as well as for providing any other services to the Funds which are not investment advisory services (i.e., the Secondary Services), as defined in Section III(i), in connection with the investment of shares in the Funds by the Client Plans for which Sanwa Bank acts as a fiduciary,[2] provided that the following conditions are met:

(a) No sales commissions are paid by the Client Plans in connection with purchases or redemptions of shares of the Funds and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) The price paid or received by the Client Plans for shares in the Funds is the net asset value per share, as defined in Section III(e), at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Sanwa Bank, any of its affiliates or their officers or directors do not purchase from or sell to any of the Client Plans shares of any of the Funds.

(d) For each Client Plan, the combined total of all fees received by Sanwa Bank for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which the Client Plans may invest, is not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(e) Sanwa Bank does not receive any fees payable, pursuant to Rule 12b–1 (the 12b–1 Fees) under the 1940 Act in connection with the transactions involving the Funds.

(f) A Second Fiduciary with respect to a Client Plan receives in advance of the investment by the Client Plan in any of the Funds, a full and detailed written disclosure of information concerning such Fund including, but not limited to the disclosures described above in Section I(a).

(g) On the basis of the foregoing information, the Second Fiduciary authorizes in writing—

(1) The investment of assets of the Client Plan in shares of the Fund;

(2) The Funds in which the assets of the Client Plan may be invested; and

(3) The fees received by Sanwa Bank in connection with investment advisory services and Secondary Services provided to the Funds, such authorization by the Second Fiduciary to be consistent with the responsibilities obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(h) The authorization, described in Section II(g) is terminable at will by the Second Fiduciary of a Client Plan, without penalty to such Client Plan. Such termination will be effected by Sanwa Bank redeeming the shares of the Funds held by the affected Client Plan within one business day following receipt by Sanwa Bank, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of written notice of termination (the Termination Form), as defined in Section III(j); provided that if, due to circumstances beyond the control of Sanwa Bank, the redemption cannot be executed within one business day, Sanwa Bank shall have one additional business day to complete such redemption.

(i) The Client Plans do not pay any Plan-level investment advisory fees to Sanwa Bank with respect to any of the assets of such Client Plans which are invested in shares of the Funds. This condition does not preclude the payment of investment advisory fees by the Funds to Sanwa Bank under the terms of an investment advisory agreement adopted in accordance with section 15 of the 1940 Act or other agreement between Sanwa Bank and the Funds or the retention by Sanwa Bank of fees for Secondary Services paid to Sanwa Bank by the Funds.

[2] Sanwa Bank is not requesting an exemption for investments in the Funds by the Bank Plans. Sanwa Bank represents that the Bank Plans may acquire or sell shares of the Funds pursuant to Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18734, April 8, 1977). PTE 77–3 permits the acquisition or sale of shares of a registered, open-end investment company by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, or employees of any affiliated person (as defined therein) of such investment adviser or principal underwriter, provided certain conditions are met. The Department expresses no opinion on whether any transactions with the Funds by the Bank Plans would be covered by PTE 77–3.

(j) In the event of an increase in the rate of any fees paid by the Funds to Sanwa Bank regarding investment advisory services that Sanwa Bank provides to the Funds over an existing rate for such services that had been authorized by a Second Fiduciary of a Client Plan, in accordance with Section II(g), Sanwa Bank will, at least 30 days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Second Fiduciary of each Client Plan invested in a Fund which is increasing such fees. Such notice shall be accompanied by the Termination Form, as defined in Section III(j).

(k) In the event of an (1) addition of a Secondary Service, as defined in Section III(i), provided by Sanwa Bank to the Funds for which a fee is charged or (2) an increase in the rate of any fee paid by the Funds to Sanwa Bank for any Secondary Service that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Sanwa Bank for such fee over an existing rate for such Secondary Service which had been authorized by the Secondary Fiduciary in accordance with Section II(g), Sanwa Bank will, at least 30 days in advance of the implementation of such Secondary Service or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Funds and which explains the nature and amount of the additional Secondary Service for which a fee is charged or the nature and amount of the increase in fees) to the Second Fiduciary of each of the Client Plans invested in a Fund which is adding a service or increasing fees. Such notice shall be accompanied by the Termination Form, as defined in Section III(j).

(l) The Second Fiduciary is supplied with a Termination Form at the times specified in Sections II(j),(k) and (m), which expressly provides an election to terminate the authorization, described above Section II(g), with instructions regarding the use of such Termination Form including statements that—

(1) The authorization is terminable at will by any of the Client Plans, without penalty to such Plans. The termination will be effected by Sanwa Bank redeeming shares of the Funds held by the Client Plans requesting termination within the period of time specified by the Client Plan, but not later than one business day following receipt by Sanwa Bank from the Second Fiduciary of the Termination Form or any written notice of termination; provided that if, due to circumstances beyond the control of Sanwa Bank, the redemption of shares of such Client Plan cannot be executed within one business day, Sanwa Bank shall have one additional business day to complete such redemption; and

(2) Failure by the Second Fiduciary to return the Termination Form on behalf of the Client Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or an increase in the rate of any fees and will result in the continuation of the authorization, as described in Section II(g), of Sanwa Bank to engage in the transactions on behalf of the Client Plan;

(m) The Second Fiduciary is supplied with a Termination Form at least once in each calendar year, beginning with the calendar year that begins after the grant of this proposed exemption is published in the **Federal Register** and continuing for each calendar year thereafter, provided that the Termination Form need not be supplied to the Second Fiduciary, pursuant to this paragraph, sooner than six months after such Termination Form is supplied pursuant to Sections II(j) and (k), except to the extent required by Sections II(j) and (k) to disclose an additional Secondary Service for which a fee is charged or an increase in fees.

(n)(1) With respect to each of the Funds in which a Client Plan invests, Sanwa Bank will provide the Second Fiduciary of such Plan the following information:

(A) At least annually, a copy of an updated prospectus of such Fund; and

(B) Upon the request of the Second Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to Sanwa Bank.

(2) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Sanwa Bank, Sanwa Bank will provide the Second Fiduciary of such Client Plan at least annually with a statement specifying—

(A) The total, expressed in dollars, brokerage commissions of each Fund that are paid to Sanwa Bank by such Fund;

(B) The total, expressed in dollars, brokerage commissions of each Fund that are paid by such Fund to brokerage firms unrelated to Sanwa Bank;

(C) The average brokerage commissions per share, expressed as cents per share, paid to Sanwa Bank by each Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each Fund to brokerage firms unrelated to Sanwa Bank.

(o) All dealings between the Client Plans and any of the Funds are on a basis no less favorable to such Client Plans than dealings between the Funds and other non-Plan shareholders holding the same class of shares as the Client Plans.

(p) Sanwa Bank maintains for a period of 6 years, in a manner that is accessible for audit and examination, the records necessary to enable the persons, described in Section II(q), to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Sanwa Bank, the records are lost or destroyed prior to the end of the 6 year period; and

(2) No party in interest, other than Sanwa Bank, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by Section II(q).

(q)(1) Except as provided in paragraph (q)(2) of this Section II and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in Section II(p) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service (the Service) or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Client Plans who has authority to acquire or dispose of shares of any of the Funds owned by such Client Plan, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (q)(1)(B) and (q)(1)(C) of Section II shall be authorized to examine trade secrets of Sanwa Bank, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption,

(a) The term "Sanwa Bank" means Sanwa Bank California and any affiliate of Sanwa Bank, as defined in Section III(b).

(b) An "affiliate" of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual;

(d) The terms "Fund or Funds" mean any open-end management investment company or companies registered under the 1940 Act for which Sanwa Bank serves as investment adviser and may also provide custodial or other services, such as Secondary Services, as approved by such Funds.

(e) The term "net asset value" means the amount for purposes of pricing all purchases and redemptions calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term "Plan" means a welfare plan described in 29 CFR 2510.3–1, as amended; a pension plan described in 29 CFR 2510.3–2, as amended; a plan described in section 4975(e)(1) of the Code; and a retirement plan qualified under section 401(a) of the Code with respect to which Sanwa Bank serves or will serve as trustee, investment manager or custodian, and which constitutes an "employee benefit plan" under section 3(3) of the Act. The term "Client Plan" includes a Plan maintained by an entity other than Sanwa Bank. The term "Bank Plan" includes a Plan maintained by Sanwa Bank, including, but not limited to, the Sanwa Bank California Retirement Plan (the SBC Retirement Plan) and the Sanwa Bank California Premiere Savings Plan (the SBC Savings Plan).

(g) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term "Second Fiduciary" means a fiduciary of a plan who is independent of and unrelated to Sanwa Bank. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Sanwa Bank if—

(1) Such Second Fiduciary directly or indirectly controls, is controlled by or is under common control with Sanwa Bank;

(2) Such Second Fiduciary, or any officer, director, partner, employee or relative of such Second Fiduciary is an officer, director, partner or employee of Sanwa Bank (or is a relative of such persons); and

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption; provided, however, that, with respect to the Bank Plans, the Second Fiduciary may receive compensation from Sanwa Bank in connection with the transactions contemplated herein, but the amount or payment of such compensation may not be contingent upon or in any way affected by the Second Fiduciary's ultimate decision regarding whether the Bank Plans participate in the transactions and may not exceed 5 percent of such Second Fiduciary's gross annual revenues.

With respect to the Client Plans, if an officer, director, partner, or employee of Sanwa Bank (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in the choice of the Plan's investment manager/adviser, the approval of any purchase or redemption by the Plan of shares of the Funds, and the approval of any increase of fees, in connection with any of the transactions described in Sections I and II, then Section III(h)(2) shall not apply.

(i) The term "Secondary Service" means a service, other than an investment advisory or similar service, which is provided by Sanwa Bank to the Funds, including but not limited to, accounting, administrative, brokerage or custodial services.

(j) The term "Termination Form" means the form supplied to the Second Fiduciary of a Client Plan, at the times specified in Section II(j), (k), and (m), which expressly provides an election to the Second Fiduciary to terminate on behalf of the Plans the authorization, described in Section II(g). Such Termination Form may be used at will by the Second Fiduciary to terminate such authorization without penalty to the Client Plan and to notify Sanwa Bank in writing to effect such termination by redeeming shares of the Fund held by the Plans requesting termination not later than one business day following receipt by Sanwa Bank of written notice, either by mail, hand delivery, facsimile or other available means at the option of the Second Fiduciary, of such request for termination; provided that if, due to circumstances beyond the control of Sanwa Bank, the redemption cannot be executed within one business day, Sanwa Bank shall have one additional business day to complete such redemption.

(k) The term "fixed-income security" means any interest-bearing or discounted government or corporate security with a face amount of $1,000 or more that obligates the issuer to pay the holder a specified sum of money, at specific intervals, and to repay the principal amount of the loan at maturity.

(l) The term "security" shall have the same meaning as defined in section 2(36) of the 1940 Act, as amended, 15 USC 80a–2(36) (1996).

(m) The term "business day" means a banking day as defined by federal or state banking regulations.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of October 31, 1997.

Summary of Facts and Representations

1. Description of the Parties

The parties involved in the subject transactions are described as follows:

(a) *Sanwa Bank*, a California-chartered bank, is a wholly owned subsidiary of The Sanwa Bank, Limited, which is headquartered in Japan. Sanwa Bank provides trust and banking services to individuals, corporations and institutions, both nationally and internationally. Sanwa Bank serves as trustee, investment manager or custodian to the Plans described herein and will serve as investment adviser to the Funds described more fully below. As of December 31, 1997, Sanwa Bank held total trust and fiduciary assets of approximately $10.2 billion.

(b) *The Plans* include welfare plans described in 29 CFR 2510.3–1, as amended; pension plans described in 29 CFR 2510.3–2, as amended; plans described in section 4975(e)(1) of the Code; and retirement plans qualified under section 401(a) of the Code with respect to which Sanwa Bank serves or will serve as trustee, investment manager or custodian, and which constitute "employee benefit plans" under section 3(3) of the Act. As of December 31, 1997, Sanwa Bank served

as trustee, investment manager or custodian for approximately 856 Client Plans with total assets of approximately $1.7 billion. In addition, Sanwa Bank had investment responsibility with respect to approximately $95 million in Client Plan assets, of which approximately $25 million represented assets invested in converting CIFs. Whether any Client Plan will participate in a conversion transaction will depend solely on the decision of a fiduciary which is independent of Sanwa Bank (i.e., a Second Fiduciary).[3]

The Plans also include certain Bank Plans that are maintained by Sanwa Bank. Specifically, the Bank Plans presently include the SBC Retirement Plan and SBC Savings Plan. As of December 31, 1997, the SBC Retirement Plan and the SBC Savings Plan had total assets of approximately $175 million and $68 million, respectively. As of August 28, 1997, the SBC Retirement Plan had 4,500 participants and the SBC Savings Plan had 3,500 participants. Whether a Bank Plan may participate in a conversion transaction will also be determined by a Second Fiduciary which has been appointed to represent the interests of the Bank Plans.

(c) *The CIFs* are separate investment funds maintained under a trust known as "The Sanwa Bank California Common Trust Fund." The CIFs that were converted in the initial conversion transaction were the following:[4]

- ITS Asset Allocation Investment Fund, also known as Balanced Fund J (the Asset Allocation Fund)
- ITS Common Stock Investment Fund, also known as Equity Fund D (the Equity Fund)
- ITS Bond Investment Fund, also known as Fixed Income Fund C (the Fixed Income Fund)
- ITS International Common Stock Fund, also known as International Equity Fund G (the International Equity Fund)
- ITS Money Market Investment Fund, also known as Money Market Fund E (the Money Market Fund)

The general investment policy and objective of these CIFs correspond substantially to the Funds described below.

(d) *The Funds*, otherwise referred to as "The Eureka Funds," constitute an open-end management investment company registered under the 1940 Act, as amended. The Funds are and will be separate investment portfolios or "series" of The Eureka Funds that will be offered to investors at "no-load." Therefore, Sanwa Bank requests that the exemption apply both retroactively to the existing Funds and prospectively to any similar Fund with respect to which Sanwa Bank or its affiliates may provide services.

The Eureka Funds initially will consist of five Funds, each to be offered and sold in compliance with SEC rules and regulations. These five Funds are listed as follows:

- The Eureka Global Asset Allocation Fund
- The Eureka Equity Fund
- The Eureka Investment Grade Bond Fund
- The Eureka Prime Money Market Fund
- The Eureka U.S. Treasury Obligations Fund[5]

Sanwa Bank serves as investment adviser to the Funds. For such services performed, Sanwa Bank will receive annualized investment advisory fees currently ranging from 0.10 percent for the U.S. Treasury Obligations Fund to 0.80 percent for the Global Asset Allocation Fund. Although parties unrelated to Sanwa Bank will typically provide custody, transfer agent, recordkeeping and other services (i.e., Secondary Services) to the Funds, it is possible that Sanwa Bank or an affiliate may undertake to provide such services to a Fund in the future.

(f) *Actuarial Sciences Associates, Inc. (ASA)* has been retained temporarily by Sanwa Bank to serve as the Second Fiduciary for Bank Plans investing in the Funds. ASA, which is located in Somerset, New Jersey, is an affiliate of AT&T Investment Management Corporation (ATTIMCO). ATTIMCO is a wholly owned subsidiary of AT&T and is a registered investment adviser under the 1940 Act. As of November 1997, ATTIMCO exercised discretionary authority with respect to over approximately $40 billion in assets. ASA, ATTIMCO and their affiliates are independent of and unrelated to Sanwa Bank and its affiliates. The fees received by ASA from Sanwa Bank currently represent less than one-tenth of one percent of the gross revenues of ASA and are not likely to exceed 5 percent of ASA's gross revenues in the foreseeable future.

Description of the Transactions

2. Sanwa Bank requests exemptive relief with respect to the in-kind transfer, of all or a *pro rata* portion of a Plan's assets that were invested in the terminating CIFs (identified above) to the Funds, in exchange for shares of the Funds. In addition, Sanwa Bank requests exemptive relief for the receipt of fees from the Funds, in connection with the investment of assets of Client Plans for which Sanwa Bank acts as a trustee, investment manager, or custodian, in shares of the Funds in instances where Sanwa Bank is an investment adviser, custodian, and shareholder servicing agent for the Funds.[6] The exemptive relief provided for the receipt of fees would cover Client Plans of Sanwa Bank only. If granted, the exemption would be effective as of October 31, 1997 and would apply to similar transactions that may arise in the future.

In-Kind Transfers by the Plans

3. Sanwa Bank decided to terminate the aforementioned CIFs and offer to the Plans participating therein the opportunity to acquire shares in their corresponding Funds as alternative investments. Because the interests in CIFs generally must be liquidated or withdrawn to effect distributions, Sanwa Bank believes that the interests of the Plans participating in the CIFs (and similar CIFs that may convert in the future) would be better served by investment in shares of the Funds, which can be distributed in-kind.

In addition, Sanwa Bank believes that the Funds may offer advantages over the CIFs such as pooled investment vehicles in that Plans, as shareholders of a Fund, will have the opportunity to exercise voting and other shareholder rights. Plans, as shareholders of the Funds, also will receive periodic disclosures concerning the Funds, as mandated by the SEC, including a prospectus, which is updated at least annually, an annual report containing audited financial statements of the Funds and information regarding such Funds' performance (unless such performance information is included in the prospectus of such Funds), and a semiannual report containing unaudited financial statements. Further, the Plans will be able to monitor the net asset value of the

[3] The Department is not proposing exemptive relief herein for transactions afforded relief by section 404(c) of the Act.

[4] Sanwa Bank maintains CIFs other than those involved in the subject transactions. Some of these CIFs, which were converted contemporaneously with the CIFs, do not hold Plan assets while others do. As such, it is proposed that those CIFs holding plan assets be covered by the requested exemption if and when they are converted in the future.

[5] The U.S. Treasury Obligations Fund was not involved in the conversion transaction described in this proposed exemption. However, this Fund would be covered by the requested exemption to the extent that a converting CIF were to transfer its assets to such Fund or a Plan or Plans were to invest in this Fund in the future.

[6] As previously noted, Sanwa Bank is not requesting an exemption for investments in the Funds by the Bank Plans. Sanwa Bank represents that the Bank Plans may acquire or sell shares of the Funds pursuant to PTE 77–3.

Funds daily from information available in newspapers of general circulation.

Sanwa Bank believes that if the assets of a terminating CIF are transferred in-kind to a corresponding Fund in exchange for shares of such Fund, potentially large brokerage expenses can be avoided. These consist mainly of expenses that otherwise would be incurred if the CIF assets were liquidated and the proceeds used to purchase Fund shares that are substantially identical to the CIFs. No brokerage commissions or other fees (other than customary transfer charges paid to parties other than Sanwa Bank or its affiliates) have been charged or will be charged to the Plans or the CIFs with respect to the conversions or in connection with any other acquisition or redemption of Fund shares by the Plans. In addition, no Fund has paid or will pay any 12b–1 Fees to Sanwa Bank or its affiliates.

It is represented that the in-kind transfers of CIF assets in exchange for shares of the Funds are ministerial transactions performed in accordance with pre-established objective procedures approved by the Funds' board of trustees. Such procedures require that assets transferred to a corresponding Fund (a) be consistent with the investment objectives, policies and restrictions of the Fund, (b) satisfy the applicable requirements of the 1940 Act and the Code and, (c) have a readily ascertainable market value.

4. Except as indicated below with respect to the International Equity CIF, on October 31, 1997, Sanwa Bank transferred Plan assets held in the affected CIFs to the corresponding Funds as shown in the table.

CIF portfolio	Corresponding fund portfolio
Asset Allocation Fund	Global Asset Allocation Fund.
Equity Fund	Equity Fund.
Fixed Income Fund	Investment Grade Bond Fund.
International Equity Fund.	Global Asset Allocation Fund.
Money Market Fund	Prime Money Market Fund.

With regard to the International Equity CIF, the participants, of which include the SBC Retirement Plan, the SBC Savings Plan and a number of Client Plans, the conversion of the CIF was processed as follows:

(a) The SBC Savings Plan's interest in the International Equity CIF was liquidated and reinvested in shares of a mutual fund investing primarily in foreign securities sponsored and advised by a third party unrelated to Sanwa Bank, which replaced the CIF as an investment option under the SBC Savings Plan. SBC Savings Plan participants who did not wish to invest in a new mutual fund were given the option of electing instead to have their interest in the International Equity CIF reinvested in another option under the Plan.[7]

(b) Subject to approval of the appropriate Second Fiduciaries, the SBC Retirement Plan and the Client Plan participated in the conversion of the International Equity CIF to Global Asset Allocation Fund, to the extent of their respective interests therein.[8]

5. The initial conversion was completed in a single transaction occurring after the close of business on October 31, 1997 and prior to the opening of business on November 3, 1997. The initial conversion was accomplished by an in-kind transfer of all of the assets of the converting CIF to the corresponding Fund, in exchange for an appropriate number of shares of that Fund. The affected CIF was then terminated and its assets, consisting of Fund shares, were distributed in-kind to the Plans formerly participating in the CIF based on each Plan's *pro rata* share of the CIF's assets on the date of the conversion.[9]

6. Prior to the conversion, the assets of each converting CIF were reviewed to confirm that they were appropriate investments for the receiving Fund. If any of the assets of a CIF were not appropriate for its corresponding Fund, such assets were sold in the open market through a brokerage firm unaffiliated with Sanwa Bank prior to the date of the conversion.

7. Sanwa Bank provided to each affected Plan disclosures that announced the termination of the CIF, summarized the transaction and otherwise complied with the provisions of Section I of this proposed exemption. Based on these disclosures, the Second Fiduciary for each affected Plan approved, in writing, the conversion transaction, including the fees that were to be paid by the Funds to Sanwa Bank and its affiliates. A Plan electing not to participate in the conversion transaction received a cash payment representing the Plan's *pro rata* share of the assets of the converting CIF before the transaction occurred.

8. In the case of the Bank Plans, ASA was required to make an independent determination in its fiduciary capacity that participation in the conversion transaction was in the best interest of the Bank Plans, including the decision whether to participate therein. As part of its written report setting out the conclusions discussed in Representation 12 below, ASA was required to confirm both its independence from Sanwa Bank and its qualifications to serve as the Second Fiduciary for the Bank Plans. In addition, ASA represented that it would not derive more than 5 percent of its gross annual revenues from Sanwa Bank in connection with such in-kind transfers.

9. The assets transferred by a converting CIF to its corresponding Fund consisted entirely of cash and securities for which market quotations were readily available. For this purpose, the value of the CIF's securities was determined based on the market value as of the close of business on the business day prior to the in-kind transfer of such securities to the corresponding Fund (the Valuation Date). The value of the CIF assets on the Valuation Date was determined using the valuation procedures described in SEC Rule 17a–7 under the 1940 Act. In this regard, the "current market price" for specific types of securities was determined as follows:

[7] In response to the Department's inquiry as to why the SBC Savings Plan's interest in the CIF was liquidated and reinvested in a third party fund or in another investment option offered under the Plan, ASA states that none of the Funds offered to the SBC Savings Plan had the same investment policies and objectives that had been offered to participants of such Plan. In this regard, it was determined that in light of the termination of the International Equity CIF, it would be in the interest of participants in the SBC Savings Plan to have monies previously invested in such CIF transferred to a third-party, international equity fund managed by Vanguard, which had objectives similar to the International Equity CIF, rather than to the Global Asset Allocation Fund. According to ASA, the Global Asset Allocation Fund is not solely an international equity fund. Instead, it is a balanced fund with a portion of its assets invested in United States investments. ASA states that the fiduciary of the SBC Savings Plan thought it more appropriate to invest that Plan's assets in an exclusively international equity fund instead of in a balanced fund having some United States investments. ASA further represents that it concurs with the fiduciary's investment decision.

[8] It is represented that Sanwa Bank was of the view that the Global Asset Allocation Fund would be advantageous to current participants in the International Equity CIF in that the Fund would offer enhanced liquidity and economies of scale resulting from a larger fund and an efficient method of diversifying among domestic and international asset classes and reducing risks for participants in the SBC Retirement Plan. In this regard, ASA states that the fiduciary of the SBC Retirement Plan had rebalanced other portions of that Plan's portfolio to reflect the United States and non-equity investments found in the Global Asset Allocation Fund, thereby making the conversion to the Global Asset Allocation Fund for the SBC Retirement Plan an appropriate investment decision. ASA represents that it concurs with this investment decision.

[9] Although different CIFs may be converted by Sanwa Bank in the future on different dates, similar procedures will apply.

(a) If the security was a "reported security" as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934 (1934 Act), the last sale price with respect to such security reported in the consolidated transaction reporting system (the Consolidated System) for the Valuation Date; or if there were no reported transactions in the Consolidated System that day, the average of the highest current independent bid and the lowest current independent offer for such security (reported pursuant to Rule 11Ac1–1 under the 1934 Act), as of the close of business on the Valuation Date.

(b) If the security was not a reported security, and the principal market for such security was an exchange, then the last sale on such exchange on the Valuation Date; or if there were no reported transactions on such exchange that day, the average of the highest current independent bid and lowest current independent offer on such exchange as of the close of business on the Valuation Date.

(c) If the security was not a reported security and was quoted in the NASDAQ system, then the average of the highest current independent bid and lowest current independent offer reported on NASDAQ as of the close of business on the Valuation Date.

(d) For all other securities, the average of the highest current independent bid and lowest current independent offer as of the close of business on the Valuation Date, determined on the basis of reasonable inquiry. (For securities in this category, Sanwa Bank represents that it obtained quotations from at least three sources which were either broker-dealers or pricing services independent of and unrelated to Sanwa Bank and, where more than one valid quotation was available, used the average of the quotations to value the securities, in conformance with interpretations by the SEC and practice under Rule 17a–7.) [10]

10. The securities received by a corresponding Fund were valued by such Fund for purposes of the in-kind transfer in the same manner and as of the same day as such securities were valued by the CIF. The value of the shares of each Fund issued to the CIF was based on the corresponding Fund's then-current net asset value. Since the Funds did not have assets in more than a nominal amount prior to the conversion, each Fund's net asset value was expected to be equal to the value of the assets received from the transferring CIF. Sanwa Bank represents that the value of a Plan's investment in shares of each Fund as of the opening of business was equal to the value of such Plan's investment in each corresponding CIF as of the close of business on the business day before the conversion.

11. Following the initial in-kind transfers, Sanwa Bank sent ASA, as the Second Fiduciary for the Bank Plans, as well as the Second Fiduciaries of the Client Plans, written confirmations of the transactions. In this regard, no later than 30 days after the completion of the conversion, Sanwa Bank sent by regular mail to the Second Fiduciary written confirmation which contains (a) the identity of each transferred security that was valued for purposes of the conversion in accordance with Rule 17a–7(b)(4), as described above, (b) the current market price, as of the Valuation Date, of each such security involved in the conversion, and (c) the identity of each pricing services or market maker consulted in determining the current market price of such securities.[11] In addition, no later than 105 days after the completion of the conversion, Sanwa Bank sent by regular mail a written confirmation to the Second Fiduciary of each affected Plan showing (a) the number of CIF units held by the Plan immediately before the conversion, (i) the related per unit value, (ii) the total dollar amount of the units transferred; and (b) the number of shares of the Funds that are held by such Plan following the conversion, (i) the related per share net asset value, and (ii) the total dollar amount of such shares.

In accordance with the conditions under Section I of this proposed exemption, similar procedures will be adopted upon any future in-kind exchanges between CIFs maintained by Sanwa Bank and the Funds.[12]

Representations of the Second Fiduciary for the Bank Plans Regarding the In-Kind Transfers

12. As stated above, Sanwa Bank retained ASA as the Second Fiduciary for the limited purpose of overseeing the initial in-kind transfers of CIF assets to the Funds as such transactions would affect the Bank Plans. In such capacity, ASA represented that it consulted with its own counsel regarding the fiduciary provisions of the Act and stated that it understood and accepted the duties, responsibilities and liabilities in acting as a fiduciary under the Act for the Bank Plans.

In a written report dated September 30, 1997, ASA stated that it considered the effect of the in-kind transfer transactions on the Bank Plans and the implications of such transactions for Plans invested in the CIFs. Based on its review of fees to be charged by the Funds, the investment guidelines for the Funds and the performance data available on the CIFs, ASA concluded that the terms of the in-kind transfers were fair to the participants of the Bank Plans and no less favorable than the terms that would have been reached among unrelated parties.

13. Based on representations obtained from officers for Sanwa Bank regarding the termination of the CIFs as well as considering the effects of the in-kind transfers, ASA represented that the transactions were in the best interest of the Bank Plans and their participants and beneficiaries for the following reasons:

(a) In terms of the investment policies and objectives pursued, the Funds have investment objectives comparable to the CIFs and satisfy the stated investment policies of the Bank Plans. Thus, in terms of investment policies and objectives, the impact of the in-kind transfer transactions on the Bank Plans and their participants and beneficiaries would be *de minimus;* [13]

(b) The Funds will probably continue to experience relative performance similar in nature to the CIFs given the comparability of investment objectives and policies and the fact that the same portfolio management personnel will provide portfolio management oversight;

(c) The in-kind transfers would not adversely affect the cash flows, liquidity or investment diversification of the Bank Plans; and

(d) By investing in the Funds, the Bank Plans would receive a larger investment base, cost savings to participants over time through economies of scale, more choices for participants exercising investment control, the ability to obtain investment information through readily available sources and fees that would be reasonable and within industry standards.

14. In forming an opinion as to the appropriateness of the in-kind transfers, ASA conducted an overall review of the

[10] Securities of non-U.S. issuers may be traded on U.S. exchanges or NASDAQ, directly or in the form of ADRs, or may be traded on foreign exchanges or foreign over-the-counter markets. In the latter case, valuation was performed in accordance with (d) above.

[11] The securities subject to valuation under Rule 17(a)–7(b)(4) include all securities other than "reported securities," as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934, or those quoted on the NASDAQ system or for which the principal market is an exchange.

[12] Although not contemplated by the initial conversion transaction, the requested exemption includes certain procedures that are consistent with PTE 97–41 (62 FR 42830, August 8, 1997). PTE 97–41 permits a client plan to purchase shares of a mutual fund for which a bank or an investment adviser serves as a fiduciary to the client plan, in exchange for plan assets transferred in-kind from a CIF. Specifically, the procedures relate to the methods of communicating the confirmations described above by personal delivery, facsimile or electronic mail (see Section I(b) and (g) of this proposed exemption).

[13] Although the Bank Plans represent a larger portion of the CIFs that were terminated as well as a larger portion of the Funds, ASA does not believe the Bank Plans' percentage ownership of the Funds immediately after the conversion is determinative of whether the conversion was proper.

Bank Plans, including the Bank Plan documents. ASA stated that it also examined the investment portfolios of the Bank Plans to ascertain whether or not the such Plans were in compliance with their investment objectives and policies. Further, ASA stated that it examined the cash flow and liquidity requirements of the Bank Plans and the diversification provided by the investment portfolios of the Bank Plans. Based on its review and analysis of the foregoing, ASA represented that the in-kind transfer transactions would not adversely affect the total investment portfolios of the Bank Plans, compliance by such Plans with their stated investment objectives and policies, the cash flows liquidity or diversification requirements of the Bank Plans.

15. As Second Fiduciary, ASA represented that Sanwa Bank would provide it with any documents it considered necessary to perform its duties as Second Fiduciary. In this regard, ASA was advised that within 30 days following the initial in-kind transfer transactions, Sanwa Bank would provide it with the written confirmation statements described herein. In addition, ASA stated that it would supplement its findings following the review of the confirmation statements to verify whether the in-kind transfer transactions had resulted in the receipt by the Bank Plans of shares in the Funds that were equal in value to such Plans' *pro rata* share of assets of the CIFs on the conversion date. Further, ASA represented that it would take such actions as it deemed necessary to safeguard the interests of the Bank Plans in the event the confirmation statements did not verify the foregoing. Finally, ASA explained that it would maintain, for a period of six years from the time of the initial conversion transaction (and make available for review), all relevant records with respect to the performance of its duties as Second Fiduciary for the Bank Plans.

Receipt of Fees by Sanwa Bank

16. Under certain conditions, PTE 77–4 (42 FR 18732, April 8, 1977) permits Client Plans of Sanwa Bank to engage in the purchase and sale of shares of a registered, open-end investment company when Sanwa Bank, a fiduciary with respect to such Client Plans, is also the investment adviser for the investment company, provided (a) the Client Plan does not pay any investment management, investment advisory or similar fees for the assets of such Plan invested in shares of a Fund for the entire period of the investment; or (b) where the Client Plan pays investment management, investment advisory or similar fees to Sanwa Bank based on the total assets of such Client Plan from which a credit has been subtracted representing such Plan's *pro rata* share of such investment advisory fees paid to Sanwa Bank by the Fund. As such, with respect to the Client Plans, there may be two levels of fees—(a) those fees which Sanwa Bank may charge to Client Plans for serving as trustee, investment manager or custodian for such Plans (the Plan-level fees); and (b) those fees which Sanwa Bank may charge to the Fund (the Fund-level fees) for serving as an investment adviser for the Fund as well as for being custodian of the Fund or for providing other Secondary Services to the Fund.

17. Since October 31, 1997, Sanwa Bank no longer charges each Client Plan a Plan-level fee for its services as trustee, investment manager or custodian based on Sanwa Bank's standard fee schedules and the terms of specific agreements negotiated between each Client Plan and Sanwa Bank. Such Plan-level fees included asset-based charges that were expressed as a percentage of Client Plan assets. Instead, as permitted by PTE 77–4, for investment advisory services provided to the Funds, Sanwa Bank is receiving Fund-level advisory fees from each of the Funds. As stated above in Representation 1(d), these fees, which are also expressed as a percentage of a Fund's assets currently range from 0.10 percent to 0.80 percent per annum of the daily average assets of the U.S. Treasury Obligations Fund and the Global Asset Allocation Fund, respectively.[14]

In addition to charging Fund-level investment advisory fees, Sanwa Bank is charging Client Plans for Plan-level recordkeeping, administrative, accounting and custodial services which do not involve investment management, such as custody of plan assets, maintaining plan records, preparing periodic reports of plan assets and participant accounts, effecting participant investment directions, processing participant loans and accounting for contributions, payments of benefits and other receipts and distributions. Sanwa Bank's fees for such Plan-level services will continue to be negotiated with each Client Plan and its fees for such services for Bank Plans will continue to be limited to the reimbursement of direct expenses properly and actually incurred in the performance of the services.[15]

At present, all services other than investment advisory services are provided to the Funds or their distributor by unrelated parties. However, as stated above, Sanwa Bank represents that the Funds may, in the future, wish to contract with it or an affiliate to provide administrative, custodial, transfer, accounting or similar services (i.e., Secondary Services) to the Funds or their distributor.[16]

Future Fee Changes and Client Plan Authorization Requirements

18. Sanwa Bank notes that one of the requirements of PTE 77–4 is that any change in any of the rates of fees requires the prior written approval by the Second Fiduciary of the Plans participating in the Funds. Where many Plans participate in a Fund, Sanwa Bank observes that the addition of a service or any good faith increase in fees could not be implemented until written approval of such change is obtained from every Second Fiduciary. As an alternative, Sanwa Bank proposes to follow the "negative consent" procedure which it believes provides the basic safeguards for the Plans and is more efficient, cost effective and administratively feasible that required by PTE 77–4.

The negative consent procedure would apply in the following circumstances: (a) an increase in the rate of any Fund-level investment management, investment advisory or similar fees; (b) a proposal by Sanwa Bank or an affiliate to provide a Secondary Service to a Fund for a fee; and (c) an increase in the fee for a Secondary Service paid by a Fund to Sanwa Bank or its affiliates over an existing rate that had been authorized by the Second Fiduciary. In this regard, an increase in fees for Secondary Services can result either from an increase in the rate of such fee or from

[14] It should be noted that Sanwa Bank has agreed to temporarily waive the amount of its investment advisory fees through the end of the Funds' initial fiscal year. Without the waiver, the per annum investment advisory fees for the U.S. Treasury Obligations Fund and the Global Asset Allocation Fund would range from 0.20 percent to 0.90 percent per annum of the Fund's daily average assets.

[15] Sanwa Bank represents that it is relying upon section 408(b)(2) with respect to its receipt of fees for such administrative services. The Department expresses no opinion herein on whether the provision of such services will satisfy section 408(b)(2) of the Act.

[16] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the fiduciaries of the Client Plans from the general fiduciary responsibility provisions of section 404 of the Act. Thus, the Department cautions Second Fiduciaries of the Client Plans investing in the Funds that they have an ongoing duty under section 404 of the Act to monitor the services provided to such Plans to assure that the fees paid by the Client Plans for such services are reasonable in relation to the value of the services provided. These responsibilities would include determinations that the services provided are not duplicative and that the fees are reasonable in light of the level of services provided.

a decrease in the number or kind of services performed by Sanwa Bank or its affiliates for such fee over that which had been authorized by the Second Fiduciary of a Client Plan. Under such circumstances, Sanwa Bank will provide at least 30 days advance notice of the implementation of a proposed fee increase to Client Plans invested in the affected Fund. The notice will take the form of a proxy statement, letter or similar communication which is separate from the Fund's prospectus and which explains the nature and amount of the additional service or the nature and amount of the fee increase.[17]

19. The written notice of a fee increase or additional Secondary Service for which a fee is charged will be accompanied by a Termination Form. The Termination Form will enable the Second Fiduciary to terminate any prior authorization to invest Client Plan assets in a Fund or Funds without penalty to the affected Client Plan. In addition, each Client Plan will be supplied with a Termination Form annually during the first quarter of each calendar year, regardless of whether there has been any fee increase or additional Secondary Service for which a fee is charged. If, however, the Termination Form has been provided to the Client Plan in connection with a fee increase or an additional Secondary Service for which a fee is charged, the Termination Form need not be provided again to the client Plan until at least six months have elapsed, unless such Termination Form is required to be sent sooner as a result of another fee increase or an addition of such Secondary Services.

The Termination Form will be accompanied by instructions which state that any relevant authorization previously given by the Second Fiduciary is terminable at will be the Second Fiduciary, without penalty to the Plan, and that failure to return the Form will be deemed to be an approval of the fee increase or the additional Secondary Service and will result in the continuation of such authorization. Termination of an authorization to invest Client Plan assets in the Funds will result in the redemption of shares of the Fund held by the Plan by the close of business on the business day following the date of receipt by Sanwa Bank of the Termination Form or any other written notice of termination, either by mail, hand delivery, facsimile or other available means of written communication at the option of the Second Fiduciary. If, due to circumstances beyond the control of Sanwa Bank, the redemption cannot be effected within one business day, Sanwa Bank will have one additional business day to complete such redemption.

20. Although an investment in the Funds may result in an overall cost increase to many of the Client Plans, the Second Fiduciary will be obligated to take such impact into account in determining whether to authorize the Plans' investment in the Funds. In any event, such additional costs will be consistent with the costs of similar alternative investments that will be available to the Plans upon the termination of the CIFs. In this respect, Sanwa Bank believes that as to each Plan, the combined total of all Plan-level and Fund-level fees received by Sanwa Bank for the provision of services to the Client Plans and to the Funds, respectively, will not be in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

21. The requested exemption will be subject to the satisfaction of certain general conditions that will further protect the interests of the Plans. For example, the transactions will be subject to the prior authorization of a Second Fiduciary, acting on behalf of each Plan, who has been provided with the written disclosures described above. The Second Fiduciary generally will be the administrator, sponsor or a committee appointed by the sponsor to act as a named fiduciary for a Client Plan or, in the case of the Bank Plans, a qualified party independent of Sanwa Bank.

22. With respect to disclosure, the Second Fiduciary of each Plan will receive advance written notice of the in-kind transfer of assets of the CIFs and written disclosure of information concerning the Funds consistent with PTE 77–4 and PTE 97–41. Among the disclosures that will be given to the Second Fiduciary include, but are not limited to, the following: (a) a current prospectus for each portfolio of each of the Funds in which the Client Plan may invest; (b) a statement describing the fees for investment advisory or other similar services, any fees for Secondary Services, and all other fees to be charged to or paid by the Client Plan and by such Funds to Sanwa Bank, including the nature and extent of any differential between the rates of such fees; (c) a statement of the reasons why Sanwa Bank may consider such investment to be appropriate for the Client Plan; (d) a statement of whether there are any limitations applicable to Sanwa Bank with respect to which assets of a Client Plan may be invested in Fund shares, and, if so, the nature of such limitations; and (e) a copy of the proposed exemption and/or a copy of the final exemption upon the request of the Second Fiduciary.

On the basis of the disclosures, the Second Fiduciary must authorize in writing the investment of Plan assets in shares of the Fund in connection with the transactions described herein as well as the compensation received by Sanwa Bank (or its affiliates) in connection with its services to the Funds. Such written authorization will extend to only those Funds with respect to which the Plan has received the written disclosures referred to above and which are specifically mentioned in such disclosures.

Having obtained the authorization of the Second Fiduciary, Sanwa Bank will invest the assets of a Plan among the Funds, subject to satisfaction of the other terms and conditions of the requested exemption. Sanwa Bank will not, however, invest the assets of a Plan in any Fund not specifically mentioned in the written disclosure and authorization described above. If a new Fund were established, Sanwa Bank would invest assets of a Plan in such new Fund under the requested exemption only after providing the required disclosures and obtaining a separate written authorization from the Second Fiduciary which specifically mentions the new Fund.

23. In addition to the disclosures provided to the Plan prior to investment in a Fund, Sanwa Bank will provide, at least annually to the Second Fiduciary of each Client Plan, an updated prospectus of each Fund in accordance with the requirements of the 1940 Act and applicable SEC rules. Further, the Second Fiduciary will be supplied, upon request, with a report or statement (which may take the form of the most recent financial report of the Funds, the current statement of additional information or some other written statement) containing a description of

[17] The Department notes that an increase in the amount of a fee for an existing investment advisory service or a Secondary Service (other than through an increase in the value of the underlying assets in the Funds), or the imposition of a fee for a newly-established Secondary Service shall be considered an increase in the rate of such fees. However, in the event an investment advisory fee or a fee for a Secondary Service has already been described in writing to the Second Fiduciary and the Second Fiduciary has provided authorization for the amount of such fee, and such fee has been waived, no further action by Sanwa Bank will be required in order for Sanwa Bank to receive such fee at a later time. Thus, for example, no further disclosure would be necessary if Sanwa Bank has received authorization for a fee for custodial services from a Client Plan investor and subsequently determined to waive the fee for a period of time in order to attract new investors but later charged the fee. However, reinstituting the fee at an amount greater than previously disclosed would necessitate Sanwa Bank providing notice of the fee increase and a Termination Form in the manner described above.

all fees paid by the Funds. Finally, all dealings by or between the Client Plans and any Fund will be on a basis which is no less favorable to such Plans than dealings between the Fund and other non-Plan shareholders holding the same class of shares as the Client Plans.

Although it does not anticipate doing so initially, Sanwa Bank or an affiliate may in the future execute securities brokerage transactions for some or all of the Funds, as and to the extent permitted by the 1940 Act and applicable SEC rules. If and when Sanwa Bank proposes to provide brokerage services to any Fund for compensation, Sanwa Bank will, at least 30 days in advance of the implementation of such service, provide written notice to the Client Plans explaining the nature of such brokerage services and the amount of the fees to be paid therefor. Further, with respect to any Fund for which Sanwa Bank provides brokerage services, Sanwa Bank will provide, at least annually to each Client Plan that invests in such Fund a written disclosure indicating (a) the total brokerage commissions paid by the Fund to Sanwa Bank, expressed in dollars; (b) the total brokerage commissions paid by the Fund to brokerage firms unrelated to Sanwa Bank, expressed in dollars; (c) the average brokerage commissions per share paid by the Fund to Sanwa Bank, expressed as cents per share; and (d) the average brokerage commissions per share paid by the Fund to brokerage firms unrelated to Sanwa Bank, expressed as cents per share.

24. In addition to the foregoing, the requested exemption will be subject to the following requirements: (a) the Plans and other investors will purchase or redeem Fund shares in accordance with standard procedures described in the prospectus for each Fund; (b) no Plan will pay a sales commission or redemption fee in connection with the purchase or redemption of Fund shares; (c) Sanwa Bank will not purchase from or sell to any Plan shares of the Fund; (d) the price paid or received by the Plans for Fund shares will be the net asset value per share at the time of such purchase or redemption and will be the same price as any other investor would pay or receive for shares of the same class.

25. In summary, it is represented that the transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) With respect to the in-kind transfer of the assets of a Plan invested in a CIF in exchange for shares of a Fund, a Second Fiduciary has authorized or will authorize in writing, such in-kind transfer prior to the transaction only after receiving full written disclosure of information concerning the Fund.

(b) Each Plan has received or will receive shares of the Funds in connection with the transfer of assets of a terminating CIF which have a total net asset value that is equal to the value of such Plan's *pro rata* share of the CIF assets on the date of the transfer as determined in a single valuation performed in the same manner and at the close of the business day, using independent sources in accordance with procedures established by the Funds which comply with Rule 17a–7 of the 1940 Act, as amended, and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets.

(c) Sanwa Bank has sent or will send by regular mail or personal delivery, or, if applicable, by facsimile or electronic mail, no later than 30 days after completion of each in-kind transfer of CIF assets in exchange for shares of the Funds, a written confirmation containing the following information: (1) the identity of each transferred security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) of the 1940 Act; (2) the current market price, as of the date of the in-kind transfer, of each such security involved in the transaction; and (3) the identity of each pricing service or market maker consulted in determining the current market price of such securities.

(d) Sanwa Bank has sent or will send by regular mail, or personal delivery, or, if applicable, by facsimile or electronic mail, no later than 105 days after completion of each transfer, a written confirmation that contains the following information: (1) the number of CIF units held by a Plan immediately before the conversion (and the related per unit value and the total dollar amount of such CIF units); and (2) the number of shares in the Funds that are held by the Plan following the conversion (and the related per share net asset value and the total dollar amount of the shares received).

(e) The price that has been or will be paid or received by a Plan for shares of the Funds is the net asset value per share at the time of the transaction and is the same price for the shares which will be paid or received by any other investor at that time.

(f) No sales commissions or redemption fees have been or will be paid by a Plan or a CIF in connection with the in-kind transfer of assets to the Fund, in exchange for shares of the Funds or in connection with the purchase or redemption of Fund shares by a Plan.

(g) For each Client Plan, the combined total of all fees received by Sanwa Bank for the provision of Plan-level services, and in connection with the provision of investment advisory services or Secondary Services to any of the Funds in which Plans may invest, is not and will not be in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(h) Sanwa Bank has not received and will not receive any 12b–1 Fees in connection with the transactions.

(i) Any authorizations made by a Client Plan regarding investments in the Funds and the fees paid to Sanwa Bank (including increases in the contractual rates of fees for Secondary Services that are retained by the Sanwa Bank) will be terminable at will by the Client Plan, without penalty to the Client Plan and will be effected within one business day following receipt by Sanwa Bank, from the Second Fiduciary, of the Termination Form or any other written notice of termination, unless circumstances beyond the control of Sanwa Bank delay execution for no more than one additional business day.

(j) The Second Fiduciary will receive written notice accompanied by the Termination Form with instructions on the use of the form at least 30 days in advance of the implementation of any increase in the rate of any fees paid by the Funds to Sanwa Bank regarding investment advisory services, fees for Secondary Services or an additional Secondary Service for which a fee is charged which exceed the rates authorized for Sanwa Bank by the Second Fiduciary.

(k) All dealings by or between the Client Plans and any Fund have been and will remain on a basis which is no less favorable to such Client Plans than dealings between the Fund and other non-Plan shareholders holding the same class of shares as the Client Plans.

Notice to Interested Persons

Sanwa Bank proposes to provide notice of the proposed exemption to the Second Fiduciary of the Bank Plans, active participants in the Bank Plans and the Second Fiduciary of each affected Client Plan. Notice will be provided to each Second Fiduciary by first class mail and to active participants in the Bank Plans by posting at major job sites. Such notice will be given to interested persons within 30 days following the publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the notice of proposed exemption as published in the **Federal Register** as

well as a supplemental statement, as required, pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or to request a hearing. Comments and requests for a public hearing are due within 60 days of the publication of the notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Plumbers and Pipe Fitters National Pension Fund (the Fund) Located in Crofton, MD

[Exemption Application No. D–10514]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code [18] shall not apply, effective October 9, 1997, to the transfer to the Fund from the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO (the Union), a party in interest with respect to the Fund, of the Union's limited partnership interests in Diplomat Properties, Limited Partnership, (the Partnership), the sole asset of which is a certain resort hotel and country club complex (the Property); and to the transfer to the Fund of Union's holding of stock in Diplomat Properties, Inc. (the Stock), the corporate general partner of such Partnership, in consideration for a capital contribution by the Fund to the Partnership in the amount of $40 million dollars, plus reasonable costs incurred by the Union in purchasing the Property, and in consideration for the release of a certain loan obligation (the Loan) of the Partnership which was guaranteed by the Union and collateralized by Union assets; provided that:

(1) the transaction was a one-time transaction;

(2) an I/F which has the following qualifications acted on behalf of the Fund:

(a) the I/F is an individual, group of individuals, or a business entity which has substantial experience and expertise in the commercial real estate field;

(b) neither the I/F nor any of its affiliates have any ownership or other interest in the Union or its affiliates, nor does the Union or any of its affiliates have any ownership interest in the I/F or its affiliates; and

(c) neither the I/F nor its affiliates engages in any business transactions with the Union or its affiliates.

(3) prior to the Fund entering the transaction, the I/F reviewed and approved the terms of the transaction, determined that the transaction was an appropriate investment for the Fund, that the amount paid by the Fund to acquire ownership of the Property through the Partnership was appropriate and fair, that the total costs incurred were necessary for the acquisition of the Property and were reasonable, and that the transaction was in the best interest of the Fund and its participants and beneficiaries;

(4) the fair market value of the Property held by the Partnership was determined by an independent, qualified appraiser, as of the date of the transaction;

(5) the Fund paid no fees or commissions as a result of the transaction; and

(6) the terms of the transaction were no less favorable to the Fund than those it would have received under similar circumstances when negotiated at arm's length with unrelated third parties.

Summary of Facts and Representations

1. The Fund is a Taft-Hartley multi-employer defined benefit pension fund, as defined in section 3(37) of the Act.[19] The Fund is funded solely by employer contributions negotiated under collective bargaining agreements with the Union. As of January 1997, it is represented that the Fund received contributions from 5,187 active employers. As of October 3, 1997, there were estimated to be 97,988 participants and beneficiaries of the Fund. As of June 30, 1997, the Fund had assets of approximately $3.166 billion. It is represented that the transaction which is the subject of this proposed exemption involved less than 2 percent (2%) of the total assets of the Fund.

The Fund is administered from its offices in Crofton, MD by the plan administrator. Six (6) individuals serve as members of the Board of Trustees (the Trustees) of the Fund. Three of the Trustees are appointed by employers who contribute to the Fund, and three of the Trustees are appointed by the Union. The three Trustees selected by the Union also serve as officers of the Union. As fiduciaries to the Fund, the Trustees are parties in interest with respect to the Fund within the meaning of section 3(14)(A) of the Act.

2. The Union is an employee organization some of whose members participate in the Fund. As such, the Union is a party in interest with respect to the Fund within the meaning of section 3(14) of the Act.

3. The Property, located in Hollywood and Hallandale, Florida, was constructed in the late 1950's and consists of several parcels, including a oceanfront hotel, a vacant parcel of oceanfront real estate, a motel, a golf course, a clubhouse with tennis courts, and a marina. The hotel consists of two towers containing a total of 655 rooms. The north tower is the older of the towers and is in poor condition. The south tower has 256 rooms, large convention areas, and a parking garage. It is represented that the hotel at one time operated as a premier hotel and country club catering to the middle income convention trade, but due to a decline in the market, the hotel has been closed since 1992.

The vacant parcel, located on a 2.99-acre oceanfront site, functions as a parking lot. The motel, located on the Intracoastal Waterway and across the street from the hotel, has approximately 300 rooms, only 150 of which are operational. The golf course, containing 122.91 acres, is represented to be in relatively good shape and continues to function as a low budget operation. It is represented that the clubhouse and tennis courts are in need of upgrading. In the alternative, the real estate underlying the clubhouse and tennis courts could be re-zoned for residential use. The marina, the newest addition to the Property, provides a 52-slip facility, offering a number of finger piers, and a covered gazebo. It is represented that twelve (12) of the boat slips are under annual leases, and that the marina is subject to a long-term lease with a local yacht club.

4. The Union Labor Life Insurance Company (ULLICO) acquired, through

[18] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[19] It is represented that the Fund is the successor to the former Sabine Area Pipefitters Local No. 195 Pension Trust Fund, which was involved in the correction of a 1988 prohibited transaction that had occurred before the former Local 195 Pension Fund merged into the Fund in 1990. It is represented that the correction of the prohibited transaction did not involve any assets of the National Pension Fund except to the extent that the Local 195 Joint Apprenticeship Committee was assessed first tier excise taxes under section 4975 of the Code for its use of assets of the former Local 195 Pension Fund.

foreclosure, ownership of the Property as a result of a default by an unrelated third party on a mortgage loan. In this regard, in May 1991, title to the Property was transferred to TNDL Limited (TNDL), a wholly-owned subsidiary of ULLICO.

Early in 1997, TNDL placed the Property on the market for sale. It is represented that as a result of this public solicitation, TNDL received seven or eight bids from prospective purchasers, including the Union and at least one from a well-known hotel chain.

It is represented that when the Property was offered for sale, the Trustees of the Fund were interested in acquiring it as an investment for the Fund. However, a non-negotiable condition in the sale offer by TNDL excluded assets of any employee benefit fund subject to the Act from being used to purchase the Property.

5. The successful bidder on the Property was the Union which purchased the Property on October 1, 1997, for $40 million in cash, plus expenses incurred by the Union in acquiring the Property. Upon the advice of counsel, the Union chose to acquire and hold title to the Property through its wholly-owned subsidiary, the Partnership, in order to avoid state real property transfer taxes that would otherwise arise upon any subsequent sale of the Property.

It is represented that the Partnership obtained the money to purchase the Property from the proceeds of the Loan from the National City Bank of Cleveland, Ohio (the Bank). It is represented that repayment of the Loan by the Partnership was guaranteed by the Union. The Loan was secured by cash, cash equivalents, and securities owned by the Union and held by the Bank in a custodial account.

The term of the Loan was two (2) years with no prepayment penalty. The payment schedule consisted of payments only of interest for 23 months with a balloon payment of the principal amount, plus accrued interest in the 24th month. The interest rate on the Loan was the Bank's 7-day money market rate, adjusted weekly. It is represented that the $25,000 origination loan fee charged by the Bank on the Loan was withheld from the $40 million dollar Loan made to the Partnership by the Bank.

6. At the time the Partnership acquired the Property, an appraisal of the Property was prepared by Bruce C. Roe (Mr. Roe), President, and Zillah L. Tarkoe, Senior Analyst, of Roe Research, Inc., in Ft. Lauderdale, Florida. It is represented that the appraisers are qualified in that each is licensed by the State of Florida as a state-certified general real estate appraiser. It is further represented that Mr. Roe is a Member of the American Society of Real Estate Counselors (CRE) and a Member of the Appraisal Institute (MAI).

It is represented that the appraisers are independent in that neither has a present or prospective interest in the Property, nor has either any personal interest or bias with respect to the parties involved. Neither the employment nor the compensation of the appraisers was conditioned upon the reporting of a predetermined value or direction in value of the Property.

After physically inspecting the Property and reconciling the values for the Property established by the cost approach, income approach, and sales comparison approach, the appraisers established a separate value, based on fee simple interest "as is," for each of the parcels which make up the Property, including the oceanfront hotel, the vacant oceanfront parcel, the motel, the golf course and club house, and the marina. The sum of these separate values for each of the parcels was $44,350,000, as of August 8, 1997. Including a 10 percent (10%) discount for a bulk sale of all of the parcels of the Property "as is" to a single purchaser, the fair market value of the Property, was determined by the appraisers to be $40 million, as of August 8, 1997.

7. It is represented that on October 9, 1997, the Union and the Fund closed on the transaction that is the subject of this proposed exemption. Accordingly, the Fund, as applicant, has requested a retroactive exemption, effective October 9, 1997, to permit the past transfer from the Union to the Fund of the Union's limited partnership interests in the Partnership and the Stock in the corporate general partner of the Partnership which was owned by the Union. In this regard, it is represented that the Union owned 100 percent of the Stock of the corporate general partner of the Partnership. As general partner, the corporation owned one percent (1%) of the outstanding interest in the Partnership. The other 99 percent (99%) of the interests in the Partnership were owned by the Union, as limited partner.

It is represented that at the time of the sale of the Property to the Partnership, there existed no agreement pursuant to which the Partnership was obligated to sell the Property to any third party or pursuant to which any third party was obligated to buy the Property, including the Fund. Further, at the time of the sale of the Property to the Partnership, there existed no agreement pursuant to which the Union was obligated to sell its interest in the Partnership to any third party or pursuant to which a third party was obligated to buy the Union's interest in the Partnership, including the Fund. Finally, there never existed any agreement or understanding between TNDL and the Fund with respect to the purchase of the Property by the Fund. In this regard, it is represented that TNDL's representatives were unaware that the Trustees of the Fund were contemplating purchasing the Property after it was sold by TNDL to the Union.

It is represented that in consideration for the transfer by the Union of the Stock and the limited partnership interests, the Fund made a capital contribution to the Partnership in the amount of $40 million dollars. In addition, the Fund agreed to reimburse the Union for the following expenditures (totaling $367,605) which were incurred by the Union in purchasing the Property: (a) attorney hourly fees, travel, and other expenses ($215,756) paid to persons unrelated to the Fund; (b) due diligence fees (*e.g.*, geotechnical, evaluation, updated boundary surveys, appraisal fees) ($42,643); (c) a letter of credit fee ($8,406) paid to the issuer, NationsBank; and (d) earnest money deposit of $100,000 paid into escrow and credited to the Partnership at closing, plus $800 of interest accrued in escrow. It is represented that the letter of credit fee resulted from a term in the sale contract with TNDL, the seller of the Property, which required that the earnest money deposit be in the form of a letter of credit. Further, some due diligence and other fees not included in the amounts set forth above were incurred by the Union prior to the establishment of the Partnership. It is represented that these due diligence and other fees include the following: (a) $647.50 custodian fee paid to National City Bank; (b) $2,978 paid to CT Corporation for assistance in establishing the Partnership and the corporate general partner of the Partnership; and (c) $75,000 to the I/F for the initial opinion on the value of the Property. It is represented that these amounts were paid by the Partnership and/or the Fund subsequent to the closing on the Property and the transfer of the ownership of the Partnership to the Fund.[20]

[20] The Department notes that the actions of the Trustees relying on the advice of the I/F and acting on behalf of the Fund, in connection with its consideration of the merits of the acquisition of the limited partnership interests in the Partnership and the Stock of the corporate general partner of the Partnership as an investment for the Fund and the subsequent acquisition and holding of the Property are governed by the fiduciary responsibility

Because the Property was the sole asset of the Partnership, it is represented that the economic effect of the transfer which is the subject of this proposed exemption for all practical purposes was the same as a sale of the Property by the Union to the Fund. Subsequent to the transfer, it is represented that the capital contribution made by the Fund to the Partnership was used to retire the Loan between the Bank and the Partnership. In this regard, it is represented that on October 10, 1997, the Fund transferred directly to the Bank sufficient assets to pay off the Loan.

8. It is represented that the transaction which is the subject of this proposed exemption was in the interest of the Fund, because it provided a valuable investment opportunity to the Fund which it is represented will result in a superior return.

Further, it is represented that the cities of Hollywood and Hallandale support the redevelopment of the Property. In this regard, it is represented that additional funding for the development of the Property is under consideration by the U.S. Department of Housing and Urban Development through a community development loan guarantee program for projects that produce full time job opportunities for low income residents. Additionally, it is represented that the Fund's ownership of the Property through the limited partnership structure will permit the Fund to avoid the liabilities associated with a more direct ownership of real estate and will not threaten the tax exempt status of the Fund.

9. In the opinion of the Trustees, an important safeguard in this proposed exemption is that an I/F, acting on behalf of the Fund, reviewed and approved the subject transaction, and that such I/F concluded that the transaction was prudent and in the interests of the participants and beneficiaries of the Fund. It is represented that, as of September 22, 1997, Chadwick, Saylor & Co. Inc. (CSC) was retained by the Trustees to act as I/F on behalf of the Fund. As a result, CSC provided the Trustees with a report of its opinion of the subject transaction, dated September 29, 1997, a supplemental report of the same date, a subsequent report, dated December 15, 1997, and an additional letter dated, May 11, 1998.

CSC has acknowledged that as I/F it was solely responsible to the Fund. In this regard, it is represented that the fee of the I/F was paid by the Fund. It is further represented that CSC is independent in that there is no relationship between the Union and CSC, and that CSC is not related to or affiliated with the Fund. Further, CSC represents that it had no conflicts affecting its ability to serve as the I/F and to provide an independent evaluation of the transaction which is the subject of this proposed exemption.

CSC represents that it is an investment advisor registered under the Investment Advisors Act of 1940; that it possesses substantial expertise in the area of commercial real estate investments; and that it is qualified to provide the independent fiduciary services required. In this regard, either CSC or its principals have represented in excess of forty (40) tax exempt institutional real estate investors (private and public pensions, endowments and foundations) in a fiduciary capacity.

In fulfilling its role as I/F, CSC received and reviewed the Fund's policy statement and various reports, schedules, and other material provided by the Fund's consultants, real estate managers, and various professionals. Included in the information reviewed by CSC is the following: (a) the sale and purchase agreement between the Union and TNDL, and attachments and related correspondence; (b) documents, plans, surveys, and maps pertaining to existing and anticipated improvements on the Property; (c) documents, maps, and other correspondence pertaining to the condition of title of the Property, including encumbrances, taxes and other liens, and information on certain adjacent sites; (d) ordinances and other information relating to zoning and building codes; (e) the statement of value of the Property from the independent appraisers; and (f) preliminary feasibility studies, status, and condition reports related to the contemplated development and redevelopment of the Property.

After reviewing the material listed above, CSC is of the opinion that the Fund's investment in the Partnership represents a moderate expenditure of capital (based on the Fund's overall investment portfolio) to produce disproportionately high returns. In this regard, CSC believes that the probable internal rate of return to the Fund will be in excess of 15% from its investment in the Property and successful conclusion of development and redevelopment efforts over the next several years. It is further represented that this rate of return is substantially greater than the overall rate of return experienced by the Fund from its current real estate portfolio. Based on diversification characteristics of the investment in the Partnership, CSC believes that the Fund will enjoy a very competitive risk-adjusted return from its investment.

With respect to diversification of the assets of the Fund, CSC represents that allowing for the subject transaction, equity real estate represents less than 6 percent (6%) of the Fund's total investment portfolio. It is further represented that the total real estate commitments of the Fund, including the 6% equity position and non-equity debt type investments (*e.g.* loans, bonds, mortgages, and mortgage-backed securities), were slightly in excess of 15 percent (15%) of the Fund's total investment portfolio, as of June 30, 1997.

CSC recognized the degree of risk assumed by the acquisition of properties which are generally unoccupied and are in need of development or redevelopment to become occupied and to generate a positive cash flow. Based on the risk/reward characteristics of the subject transaction, CSC is of the opinion that the acquisition cost (which represents approximately 1.2 percent (1.2%) of the Fund's total investment portfolio, as of June 30, 1997) is an appropriate expenditure and does not represent unwarranted risk.

With respect to the appraisal of the Property prepared by Roe Research, Inc., CSC believes that the $40 million dollar value ascribed to the Property is appropriate and fair. However, CSC did not subscribe to the "bulk sale discount" for the Property, as set forth in the appraisal report. In the opinion of CSC, the value of the unique characteristics of the Property, offering a "self-contained" resort complex, collectively could be greater than the value determined by individual transactions on the various parcels which make up the Property.

In the opinion of CSC, the amount (approximately $40 million dollars, plus reasonable costs) paid by the Fund to acquire the Property does not exceed the fair market value of such Property at the time of acquisition, including consideration for miscellaneous costs, presuming that such costs when fully identified are customary and reasonable and do not exceed the costs incurred by the Union in its purchase of the Property from TNDL. With regard to such costs, CSC in May 1998, after reviewing the total acquisition cost schedule, including financing related costs, legal fees, property specific

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requirements of part 4, subpart B, of Title I. The Department expresses no opinion herein, as to whether any of the relevant provisions of part 4, subpart B, of Title I have been violated regarding the Fund's investment in the Partnership and subsequent holding of the Property, and no exemption from such provisions is proposed herein.

related costs, and the cost of the I/F's valuation, opined that all enumerated acquisition costs were reasonable and that the costs that were incurred were necessary for making a prudent decision on the acquisition of the Property.

In the opinion of CSC, it is appropriate for the Fund to hold title to the Property through the Partnership where the Fund owns 100 percent (100%) of the Stock of the corporate general partner of such Partnership. In this regard, it is CSC's assumption that the Partnership may be restructured in the future to accommodate tax or other issues, to sell a portion of the Property, or to accommodate co-investor or lender capital funding. In this regard, it is represented that such holding by the Fund will permit the Fund to avoid liabilities associated with a more direct ownership of real estate and will not threaten the tax-exempt status of the Fund.

CSC recognizes that certain aspects of the Fund's investment in the Partnership could potentially cause unrelated business income tax (UBTI) to the Fund. In this regard, CSC has been advised by counsel to the Fund that the structuring of the Fund's ownership, operations, and sales will be focused on minimizing any tax consequence to the Fund. Based on this advice of counsel, it is CSC's opinion that the risk-adjusted returns to the Fund, including consideration for potential UBTI, fully justify the acquisition, and development/redevelopment processes planned by the Fund for the Property.

In September 1997, when CSC issued its opinion, certain budgets, cash flows, or schedules pertaining to the development, redevelopment, operation and potential of the various components of the Property were not available. In addition, CSC's opinions as to the fairness of the transaction were based on certain assumptions related to functions yet to be performed or completed and certain permits and approvals yet to be received. Notwithstanding these facts, in the course of its review of materials with respect to the subject transaction, it is represented that nothing came to the attention of CSC that indicated that these matters could not be favorably resolved, and in CSC's opinion, it is reasonable for the Fund to assume that such matters will be favorable resolved.

Therefore, based on all of the information CSC reviewed as of the date of its initial opinion and affirmed in its subsequent report, CSC concludes, solely on behalf of the Fund, that the acquisition price in the amount of $40 million, plus reasonable costs is appropriate and fair. Moreover, based on the foregoing, it is CSC opinion that the transaction which is the subject of this exemption represents a prudent investment for the Fund and is in the best interest of the participants and beneficiaries of the Fund.

10. In summary, the applicant, represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(1) The transaction was a one-time transaction;

(2) The I/F acted on behalf of the Fund;

(3) Prior to entering the transaction, the I/F reviewed approved the terms of the transaction, determined that the transaction was an appropriate investment for the Fund, that the amount paid by the Fund to acquire ownership of the Property through the Partnership was fair and reasonable, that the total costs incurred were necessary for the acquisition of the Property and were reasonable, and that the transaction was in the best interest of the Fund and its participants and beneficiaries;

(4) The fair market value of the Property held by the Partnership was determined by an independent, qualified appraiser;

(5) The Fund paid no fees or commissions as a result of the transaction; and

(6) The terms of the transaction were no less favorable to the Fund than those it would have received under similar circumstances when negotiated at arm's length with unrelated third parties.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Collection Bureau Services Profit Sharing Plan and Trust (the Plan), Located in Missoula, MT

[Application No. D–10525]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed lease (the Lease) by the Plan of certain improved real property (the Property) to Collection Bureau Services (the Employer), a party in interest with respect to the Plan, and (2) the possible purchase of the Property by the Employer in the future, pursuant to the Employer's option to purchase the Property under the Lease.

This proposed exemption is subject to the following conditions:

(1) The Plan is represented for all purposes under the Lease by a qualified, independent fiduciary;

(2) The terms and conditions of the Lease are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(3) The rent paid to the Plan under the Lease is no less than the fair market rental value of the Property, as established by a qualified, independent appraiser;

(4) The rent is adjusted, at a minimum, every three years, based upon an updated independent appraisal of the Property, but in no event shall such adjustments result in the rent being less than the rental amount for the Property existing for the preceding period;

(5) The Lease is triple net (with all expenses for maintenance, taxes, and insurance to be borne by the Employer as the tenant);

(6) The independent fiduciary for the Plan (the I/F) reviews the terms and conditions of the Lease on behalf of the Plan and determines that the Lease is in the best interests of, and appropriate for, the Plan;

(7) The I/F monitors and enforces compliance with all of the terms and conditions of the Lease, and of the exemption (if granted), throughout the duration of the Lease;

(8) The I/F expressly approves any improvements by the Employer to the Property, any renewal of the Lease beyond the initial term, and any sale of the Property to the Employer, pursuant to the Employer's option to purchase the Property under the Lease;

(9) In the event that the Employer exercises its option to purchase the Property under the Lease, the Employer pays the Plan an amount which is the greater of either (a) the original acquisition cost of the Property, plus holding expenses, or (b) the fair market value of the Property, as of the date of the sale, as established by a qualified, independent appraiser; and

(10) At all times throughout the duration of the Lease, the fair market value of the Property represents no more than 25 percent of the total assets of the Plan.

Summary of Facts and Representations

1. The Plan is a defined contribution plan sponsored by the Employer. The

Employer, a Montana corporation, is engaged in the collection and credit reporting business. As of October 13, 1997, the Plan had approximately 26 participants and beneficiaries. As of that date, the Plan had total assets of $1,131,567. The trustees of the Plan are Jeffrey J. Koch and Douglas N. Klein.

2. Among the assets of the Plan is the Property, which consists of a single family residence located at 218 East Spruce, Missoula, Montana, adjacent to the Employer's premises. The Property is a one story, two bedroom, one bath structure. The Property was acquired by the Plan in 1982 from an unrelated party for $32,500 and is not mortgaged or otherwise subject to any debt. Since September 16, 1996, the Property has been leased to an unrelated party at the rate of $550 per month.[21] The Employer proposes to lease the Property from the Plan and convert the Property to commercial office space, at the Employer's own expense (at an estimated cost of approximately $1,000).

3. The Property was appraised in May, 1997, by Pamela A. Lundt and Lonnie S. Warner of Professional Property Management, Inc. (PPMI). Ms. Lundt and Ms. Warner (the Appraisers), the partners of PPMI, are both real estate brokers licensed in the State of Montana. The applicant represents that both of the Appraisers are highly experienced in conducting comparative rental market analysis for residential and commercial properties in Missoula, Montana and the surrounding area. In addition, PPMI currently manages in excess of 700 residential and commercial properties in Missoula and the surrounding area.

The Appraisers' valuation of the Property included an analysis of four other leases of comparable properties in the local market area. Based upon this market data, the Appraisers concluded that the Property had a fair market rental value in the range of $575 to $600 per month, if leased on a triple net basis, as of May 9, 1997.

4. PPMI has also been retained by the Employer to represent the Plan as an independent fiduciary for the Plan (i.e., the I/F). PPMI represents that it is unrelated to, and independent of, the Employer and derives less than 1% of its annual income from the Employer. PPMI states that it is knowledgeable as to the subject transactions. PPMI also acknowledges and accepts its duties, responsibilities, and liabilities in acting as a fiduciary under the Act with respect to the Plan for purposes of the Lease.[22]

5. The Lease provides for a rental rate of $600 per month and an initial term of one year, which may be renewed for additional one year periods, up to a maximum total of 15 years, upon the express approval of PPMI, as the I/F for the Plan. The Lease provides for rent adjustments, at a minimum, every three years, based upon an updated independent appraisal of the fair market rental value of the Property. However, in no event shall such adjustments result in the rent being less than the rental amount for the Property existing for the period preceding the adjustment.

The Lease is triple net (with all expenses for maintenance, taxes, and insurance to be borne by the Employer as the tenant). The Lease permits the Employer to make improvements to the Property at the Employer's expense, upon the express approval by the I/F. Any such improvements to the Property will belong to the Plan upon termination of the Lease. The Employer will indemnify and hold the Plan harmless for all claims and demands arising from or in any way relating to the Property.

6. The Lease grants the Employer the option to purchase the Property from the Plan, subject to approval by PPMI. In this regard, PPMI, as the I/F for the Plan, must determine that a sale of the Property would be in the best interests of the Plan. Any such sale would be a one-time transaction for cash, and the Plan would incur no expenses relating to the sale.

If the Employer exercises its option, the Employer will purchase the Property from the Plan for an amount which is the greater of either (a) the original acquisition cost of the Property, plus holding expenses, or (b) the fair market value of the Property as of the date of the sale, as established by a qualified, independent appraiser. The appraiser must take into account any possible special value that the Property may have to the Employer, as a result of the Employer's premises being located adjacent to the Property.

7. PPMI, acting as the I/F for the Plan, represents that it has reviewed the terms and conditions of the Lease on behalf of the Plan and determined that such terms and conditions are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party. PPMI represents that the Lease would be in the best interests of, and appropriate for, the Plan. PPMI states that the Lease will generate income for the Plan, and the Employer will be a stable, long-term tenant. In this regard, PPMI states that the Employer is capable of meeting its contractual obligations under the Lease, based upon an examination of the Employer's financial condition. Finally, PPMI will monitor and enforce compliance with the terms and conditions of the Lease, and of the exemption (if granted), throughout the duration of the Lease.

8. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (1) the Plan will be represented for all purposes under the Lease by PPMI, a qualified, independent fiduciary; (2) the terms and conditions of the Lease will be at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party; (3) the rent charged by the Plan under the Lease will be no less than the fair market rental value of the Property, as established by a qualified, independent appraiser; (4) the rent will be adjusted, at a minimum, every three years, based upon an updated independent appraisal of the Property, but in no event shall such adjustments result in the rent being less than the rental amount for the Property existing for the preceding period; (5) the Lease will be triple net (with all expenses for maintenance, taxes, and insurance to be borne by the Employer as the tenant); (6) PPMI, as the I/F for the Plan has reviewed the terms and conditions of the Lease on behalf of the Plan and determined the Lease would be in the best interests of, and appropriate for, the Plan; (7) PPMI will monitor and enforce compliance with the terms and conditions of the Lease, and of the exemption (if granted), throughout the duration of the Lease; (8) PPMI will expressly approve any improvements by the Employer to the Property, any renewal of the Lease beyond the initial term, and any sale of the Property to the Employer, pursuant to the Employer's option to purchase the Property under the Lease; (9) in the event that the Employer exercises its option to

[21] From October 1, 1994 to September 16, 1996, the Plan leased the Property to the Employer for commercial use. In an audit of the Plan, the Department cited the prohibited lease, among other things, in a letter dated December 17, 1996, as a violation of the Act. In a letter dated February 26, 1997, the Department noted that the Employer had taken all corrective action required by the Department, including the payment, on January 24, 1997, of $2,585.50 in excise taxes assessed by the Internal Revenue Service. Since that amount exceeded the amount of the section 502(l) penalty assessed by the Department, under the Department's regulations (see 29 CFR 2570.86), no further payment was due, and the Department closed its investigation of the Plan.

[22] In this regard, PPMI will confer with legal counsel having expertise with respect to the requirements of the Act, as needed.

purchase the Property under the Lease, the Employer will pay the Plan an amount which is the greater of either (a) the original acquisition cost of the Property, plus holding expenses, or (b) the fair market value of the Property, as of the date of the sale, as established by a qualified, independent appraiser; and (10) at all times throughout the duration of the Lease, the fair market value of the Property will represent no more than 25 percent of the total assets of the Plan.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by first-class mail or by posting the required information at the Employer's offices within 10 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 40 days of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Breland Investments, Inc. Profit Sharing Plan and Trust (the Plan), Located in Phoenix, Arizona

[Exemption Application No: D–10529]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed loan (the Loan) by the individually directed account (the Account in the Plan [23] of Dr. Albert E. Breland (Dr. Breland), to Mesa Scholastic Enterprises (Mesa), a disqualified person with respect to the Plan, and (2) the personal guarantee of the Loan by Dr. Breland, a disqualified person with respect to the Plan, provided the following conditions are satisfied:

(a) The terms of the Loan are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party;

(b) The amount of the Loan does not exceed 25% of the assets in the Account;

(c) The Loan is secured by a first deed of trust on the commercial real property (the Property), which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the outstanding balance of the Loan throughout its duration;

Summary of Facts and Representations

1. The Plan is a profit sharing plan which provides its participants with the opportunity to direct the investment of their individual accounts. Currently it has one participant, Dr. Breland, and one beneficiary, Mrs. Nancy V. Breland (Mrs. Breland), Dr. Breland's wife. The aggregate fair market value of the Plan's, and the Account's, assets as of June 30, 1997 was approximately $900,000. The Plan is sponsored by Breland Investments, Inc., a corporation wholly owned by Dr. and Mrs. Breland which manages various investments in real estate, securities and other assets. The trustees of the Plan are Dr. and Mrs. Breland.

2. Mesa is an Arizona General Partnership in which Dr. and Mrs. Breland own a majority interest. Located in Mesa, Arizona, it is engaged in leasing the Property to the Mesa Montessori Preschool. In the past three years, Mesa has averaged annual revenues of approximately $48,300, consisting primarily of the $4,000 per month received in rent from the Mesa Montessori Preschool.

3. The Loan involves only the Account and is described by the applicant as follows: An amount of $123,500 will be loaned by the Account to Mesa for purposes of paying a balloon payment due on a prior third-party loan related to the Property. The Loan will be repaid over a 10 year period, with equal payments of principal and interest. The interest rate will be 10% per annum, which was determined after contacting three prominent commercial banks in the Phoenix metropolitan area to survey the applicable interest rates for a similar transaction between unrelated parties. The Loan will be secured by a first deed of trust on the Property.[24]

Institution	Rate	Contact
Harris Trust Bank of Arizona	3% over 10 year Treasury Bill rate, plus an initial charge of 2 points.	Glenn Elstoen.
Northern Trust	8.5 to 9%, plus an initial charge of ½ to 1 point	Harold Dorenbecher.
Wells Fargo	8.475, plus an initial charge of 1½ points	Roy Miller.

Regarding Mesa's creditworthiness, the applicant represents that all payments on past and present debt obligations have been paid in a timely manner. In addition, because the monthly payments on the proposed Loan will be less than those due under the current loan related to the Property, and because two additional loans for which Mesa pays approximately $1,095 per month will be paid off by September 1998, the applicant believes that Mesa will have ample income to ensure payment of the proposed Loan. Finally, the Brelands, in their individual capacity, will be responsible for repayment of the Loan in the event of default by Mesa because of their status as general partners in Mesa.

4. The Property consists of a .8469 acre parcel of real property improved with a 3,243 square foot one-story preschool building located at 2830 South Carriage Lane in Mesa, Arizona. The parcel was originally transferred from the Brelands to Mesa in 1983.

5. On May 1, 1997, Mr. Gary E. Ringel (Mr. Ringel) and Mr. Carter T. Froelich (Mr. Froelich), both employees of U.S.L. Valuation, appraised the Property. Both Mr. Ringel and Mr. Froelich are State Certified Real Estate Appraisers in Arizona, and represent that they have no present or prospective interest in the Property, no personal interest or bias with respect to the parties involved, and are otherwise independent. After reviewing and analyzing the data related to the Property, the appraisers determined that the Property is worth $406,000, or 3.29 times the amount of the Loan.

In their appraisal, Mr. Ringel and Mr. Froelich relied on both the sales comparison, or market, approach and

[23] Because Dr. Breland is the only participant in the Plan, there is no jurisdiction under 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[24] The applicant contacted the Harris Trust Bank of Arizona, Northern Trust, and Wells Fargo. The rates obtained were based on the following information: A loan for commercial real property in the Phoenix metropolitan area in the amount of $120,000 to $130,000 payable over a 10 year term, and secured by the property which has a fair market value in excess of twice the loan amount. The following provides the quoted rates:

the income approach in reaching their conclusion as to the value of the Property. Using the sales comparison approach, the appraisers analyzed preschool building sales in the Phoenix area and compared those to the Property with adjustments made for property rights, financing, conditions of sale, market conditions, location and physical features, and arrived at a fair market value of $405,000. With respect to the income approach, Mr. Ringel and Mr. Froelich employed the direct capitalization method, the preferred technique of preschool investors, and estimated the value of the subject property to be $407,000. Giving the two methods equal weight, the appraisers concluded the value of the Property to be $406,000.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code for the following reasons: (a) the terms of the Loan are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party; (b) the amount of the Loan does not exceed 25% of the assets in the Account; and (c) the Loan is secured by a first deed of trust on the Property, which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the outstanding balance of the Loan throughout its duration.

Notice to Interested Persons

Because Dr. Overland is the only participant to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier, telephone (202) 219–8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 22nd day of May, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–14196 Filed 5–22–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sunshine Act Meeting

TIME, DATE, AND PLACE: June 25, 1998.

Status: Open.

9:00 a.m.–4:00 p.m. Benton Foundation, The Richard M. Neustadt Center for Communications in the Public Interest, 1634 I Street, NW., Washington, DC.

Status: Closed.

4:00 p.m.–5:00 p.m. Discussion, internal personnel matters.

MATTERS TO BE DISCUSSED: Benton Foundation programs dealing with library advocacy and children issues, Charles Benton; Report, Working Group on Issues of Journal Pricing, Publishing, and Copyright; Report, Access to Government Information; Update, NCLIS Action Plan; GPO Depository Library Program; ALA/NCLIS Public Libraries and the Internet Study; Library Statistics Program; Survey of international activities and assessment of NCLIS' role(s); Discussion, issues affecting children and the Internet; and administrative matters.

Status: Open.

June 26, 1998.

9:00 a.m.–12:00 N—Library of Congress, James Madison Memorial Building, West Dining Room, Washington, DC.

MATTERS TO BE DISCUSSED: Institute of Museum and Library Services Program Activities; LSTA Leadership Grants; Guidelines for State-Based Grants; Legislation and Library and Information issues.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather (202–606–9200) no later than one week in advance of the meeting.

Dated: May 21, 1998.

Robert S. Willard,

Acting Executive Director.

[FR Doc. 98–14338 Filed 5–26–98; 4:02 pm]

BILLING CODE 7527–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collections without change to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These information collections are published to obtain comments from the public.

DATES: Comments will be accepted until July 28, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–

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3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collections of information:

OMB Number: 3133–0061.
Form Number: CLF–8703.
Type of Review: Extension of a currently approved collection.
Title: Central Liquidity Facility (CLF) Repayment Agreement, Regular Member.
Description: The form is used by CLF regular members borrowing from the CLF.
Respondents: Credit Unions that are CLF regular members that borrow from the CLF.
Estimated No. of Respondents/ Recordkeepers: 25.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Other. As the need for borrowing arises.
Estimated Total Annual Burden Hours: 25.
Estimated Total Annual Cost: N/A.
OMB Number: 3133–0063.
Form Number: CLF–8702.
Type of Review: Extension of a currently approved collection.
Title: Central Liquidity Facility (CLF) Membership Application.
Description: This is a one-time form used to request membership in the CLF.
Respondents: Credit unions seeking membership in the CLF.
Estimated No. of Respondents/ Recordkeepers: 25.
Estimated Burden Hours Per Response: 12.5 hours.
Frequency of Response: Other. As credit unions request membership in the CLF.
Estimated Total Annual Burden Hours: 18.5.
Estimated Total Annual Cost: N/A.
OMB Number: 3133–0064.
Form Number: CLF–7000, 7001, 7002, 7003, & 7004.
Type of Review: Extension of a currently approved collection.
Title: Forms and instructions for Central Liquidity Facility (CLF) loans.
Description: Forms used by each borrower from the CLF.
Respondents: Credit Unions that borrow from the CLF.
Estimated No. of Respondents/ Recordkeepers: 25.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Other. As the need for borrowing arises.
Estimated Total Annual Burden Hours: 25.
Estimated Total Annual Cost: N/A.
OMB Number: 3133–0136.
Form Number: CLF–8704.
Type of Review: Extension of a currently approved collection.
Title: Central Liquidity Facility (CLF) Repayment Agreement, Agent Member.
Description: The form is used by CLF agent members borrowing from the CLF.
Respondents: Credit Unions that are CLF agent members that borrow from the CLF.
Estimated No. of Respondents/ Recordkeepers: 15.
Estimated Burden Hours Per Response: 6 hours.
Frequency of Response: Other. As the need for borrowing arises.
Estimated Total Annual Burden Hours: 90.
Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on May 19, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–14198 Filed 5–28–98; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN–50–528, STN 50–529, and STN 50–530]

Arizona Public Service Company, et al.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 117 to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74, issued to the Arizona Public Service Company, et al. (the licensee) for operation of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, respectively, located in Maricopa County, Arizona.

The amendments are effective as of the date of issuance.

The amendments replace, in their entirety, the current technical specifications (TS) with a set of TS based on NUREG–1432, "Standard Technical Specifications, Combustion Engineering Plants," Revision 1, April 1995. In addition, the amendments add four license conditions to Appendix D that require (1) the relocation of previous TS requirements into licensee-controlled documents, (2) the first performance of new and revised surveillance requirements for the improved TS (ITS) to be related to the implementation of the ITS, (3) the addition of a listing to Section 17.2 of the Updated Final Safety Analysis Report (UFSAR) of the commitments in the Quality Assurance Program (QAP) that are not in Chapter 17 of the UFSAR, and (4) the Palo Verde Nuclear Generating Station commercial-grade equipment certification program to be adequate to detect certain types of failures. The implementation of the amendments and the license conditions will be on or about September 15, 1998.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 14, 1997 (62 FR 18153). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendments dated October 4, 1996, as supplemented by (a) the 19 letters in 1997 dated January 31, March 16, May 30, May 30, June 6, July 18, July 18, July 18, July 18, July 18, August 31, September 18, September 18, September 19, September 19, November 7, November 14, November 26, and December 16, and (b) the three letters in 1998 dated February 12, March 27, and May 1, (2) Amendment No. 117 to Facility Operating License No. NPF–41, Amendment No. 117 to Facility Operating License No. NPF–51, and Amendment No. 117 to Facility Operating License No. NPF–74, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street,

N.W., Washington, D.C., and at the local public document room located at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 20th day of May 1998.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14240 Filed 5–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District, Fort Calhoun Station, Unit No. 1; Exemption

I

Omaha Public Power District (OPPD) is the holder of Facility Operating License No. DPR–40 for the Fort Calhoun Station, Unit No. 1 (FCS) which authorizes operation of the Fort Calhoun Station, Unit No. 1. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of one pressurized-water reactor at the licensee's site located in Washington County, Nebraska.

II

By letter dated September 30, 1997, as supplemented by letters dated January 29, 1998, and April 23, 1998, the licensee requested an exemption from certain requirements from 10 CFR Part 50, Appendix R, Section III.O, for the Fort Calhoun Station. Section III.O of Appendix R to 10 CFR Part 50, requires that the reactor coolant pump (RCP) shall be equipped with an oil collection system if the containment is not inerted during normal operation. The oil collection system shall be so designed, engineered and installed that failure will not lead to fire during normal or design basis accident conditions and that there is reasonable assurance that the system will withstand the safe shutdown earthquake.

III

Section 50.12(a) of 10 CFR, "Specific exemptions," states that * * *

The Commission may, upon application by any interested person, or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of 10 CFR Part 50 states that special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *." The underlying purpose of 10 CFR Part 50, Appendix R, Section III.O, is to ensure that leaking oil will not lead to a fire that could damage safety related equipment during normal or design basis accident conditions. As documented in a Safety Evaluation dated May 21, 1998, the NRC staff concluded that for RCP RC–3B an oil collection system is not needed to satisfy the underlying purpose of Section III.O of Appendix R for:

(1) the unpressurized upper bearing cooling water penetrations located 3.15" above the normal oil level,

(2) the unpressurized lower bearing component cooling water penetrations located 1" above the normal oil level,

(3) the unpressurized vent line on the lower bearing resistance temperature detector (RTD) located 2.4" above the normal oil level,

(4) the unpressurized upper bearing RTD located 10" above the normal oil level, and

(5) the unpressurized lower bearing oil level transmitter line.

Accordingly, the Commission has determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii).

As further documented in the Safety Evaluation dated May 21, 1998, the staff also concluded that an exemption is not needed for:

(1) the motor cooling air vents of RCP RC–3B,

(2) the anti-rotation device air vents and the motor cooling air vents of the remaining RCPs, or

(3) the lack of a flash arrester for the RCP oil collection system vent.

IV

The Commission has determined that, pursuant to 10 CFR 50.12, an exemption in connection with the five unpressurized sites above regarding RCP RC–3B is authorized by law, will not present an undue risk to public health and safety and is consistent with the common defense and security. Also, as stated above, the Commission has determined that special circumstances are present. Therefore, the Commission hereby grants Omaha Public Power District an exemption from the requirements of Section III.O of Appendix R to 10 CFR Part 50 regarding the unpressurized leakage sites in the RCP lube oil collection system discussed herein.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (63 FR 26653).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of May, 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14241 Filed 5–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. to Facility Operating License No. NPF–21 issued to Washington Public Power Supply System (the licensee), for operation of the Washington Nuclear Project No. 2 (WNP–2), located in Benton County, Washington.

The amendment is effective as of the date of issuance.

The amendment revises the maximum yield strength for emergency core cooling system suction strainer materials listed in the WNP–2 Final Safety Analysis Report (FSAR).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 21, 1998 (63 FR 19758). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to

the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated April 16, 1998, as supplemented by letters dated April 28, 1998, and May 8, 1998. (2) Amendment No. 153 to Facility Operating License No. NPF–21, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 21st day of May 1998.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–14242 Filed 5–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 25, June 1, 8, and 15, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 25

Friday, May 29

11:00 a.m. Affirmative Session (Public Meeting) (if needed)

1:00 p.m. Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Week of June 1—Tentative

Tuesday, June 2

8:00 a.m. Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 3. (Public Meeting) (Contact: Bill Travers 301–415–1200)

1:00 p.m. (Continuation of morning meeting on Millstone)

Wednesday, June 3

3:30 p.m. Affirmation Session (Public Meeting) (if needed)

Thursday, June 4

2:00 p.m. Briefing by NEI and NRC Staff on Safety Evaluations, FSAR Updates and Incorporation of Risk Insights

Friday, June 5

10:00 a.m. Briefing by EPRI on the Status of their Advanced Light Water Reactor (ALWR) Program (Public Meeting)

Week of June 8—Tentative

Thursday, June 11

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Friday, June 12

10:00 a.m. Briefing by Reactor Vendors Owners' Groups (Public Meeting) (Contact: Bryan Sheron, 301–415–1274)

Week of June 15—Tentative

Wednesday, June 17

10:00 a.m. Briefing by National Mining Association on Regulation of the Uranium Recovery Industry (Public Meeting)

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

2:00 p.m. Meeting with Advisory Committee on Medical Uses of Isotopes (ACMUI) and Briefing on Part 35 (Public Meeting) (Contact: Larry Camper, 301–415–7231).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information. Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: May 22, 1998.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–14396 Filed 5–21–98; 11:22 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23203; 812–11050]

The Dreyfus/Laurel Funds, Inc., et al. Notice of Application

May 22, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

Summary of the Application: Applicants request an order to permit a series of Dreyfus Index Funds, Inc. to acquire all of the assets and liabilities of a series of Dreyfus/Laurel Funds, Inc.

Applicants: The Dreyfus/Laurel Funds, Inc. ("Company") and Dreyfus Index Funds, Inc. ("Index Funds").

Filing Dates: The application was filed on March 6, 1998, and amended on May 20, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1998, and should be accompanied by proof of service on the applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 200 Park Avenue, New York, New York, 10166.

FOR FURTHER INFORMATION CONTACT: Annmarie J. Zell, Staff Attorney, (202) 942–0532, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth

Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicants' Representations

1. The Index Funds, a Maryland corporation, is registered under the Act as an open-end management investment company. The Dreyfus International Stock Index Fund ("Acquiring Fund") is one of three series of Index Funds. The Company, a Maryland corporation, is registered under the Act as an open-end management investment company. The Dreyfus International Equity Allocation Fund ("Acquired Fund") is one of eighteen series of the Company.

2. Dreyfus Corporation ("Dreyfus"), an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser for both the Acquiring Fund and the Acquired Fund. Dreyfus is a wholly owned subsidiary of Mellon Bank, N.A. ("Mellon Bank"), which is a wholly owned subsidiary of Mellon Bank corporation. As of March 30, 1998, Mellon Bank directly or indirectly owned with power to vote approximately 71% of the outstanding shares of the Acquired Fund, 33% of which Mellon directly owned in a fiduciary capacity and 38% of which Mellon directly or indirectly owned (but not in a fiduciary capacity). Also, as of March 30, 1998, Mellon owned approximately 92% of the outstanding voting securities of the Acquiring Fund.

3. The Acquired Fund issues two classes of shares, Investor shares and Restricted shares, which are identical except with respect to services and expenses. Investor shares are subject to rule 12b–1 fees and are offered to any investor. Restricted shares are sold primarily to bank trust departments and other financial service providers acting on behalf of customers who have a qualified trust or investment account or relationship at the institution, or to customers who have received and hold shares of the Acquired Fund distributed to them by virtue of such an account or relationship. The Acquiring Fund offers a single class of shares. These shares are sold to any investor and are subject to shareholder service fees and a redemption fee. Shares of the Acquiring Fund received by former shareholders of the Acquired Fund will not be subject to the redemption fee. Both Acquired Fund shares and Acquiring Fund shares are sold without a front-end or deferred sales charge.

4. On January 28, 1998, and February 11, 1998, respectively, the boards of directors of the Company and the Index Funds ("Boards"), including their disinterested directors, unanimously approved an Agreement and Plan of Reorganization ("Agreement") pursuant to which the Acquiring Fund will acquire all of the assets and liabilities of the Acquired Fund in exchange for shares of the Acquiring Fund having an aggregate net asset value equal to the assets transferred minus the liabilities of the Acquired Fund ("Reorganization"). The Acquired Fund will endeavor to discharge all of its known liabilities and obligations prior to closing, presently expected to occur at the close of trading on the floor of the New York Stock Exchange on June 19, 1998 ("Closing Date").

5. The Acquired Fund's shareholders will receive shares, without class designation, of the Acquiring Fund. The number of full or fractional shares of the Acquiring Fund to be issued to the Acquired Fund will be determined by dividing the aggregate net asset value attributable to the Investor and Restricted shares of the Acquired Fund by the net asset value of one Acquiring Fund share. As soon as practicable after the Closing Date, the Acquired Fund will distribute the Acquiring Fund shares *pro rata* to its shareholders of record, determined as of the close of business on the Closing Date. As a result of the Reorganization, each Acquired Fund shareholder will receive Acquiring Fund shares having an equal net asset value to the shares held in the Acquiring Fund. After the distribution of the Acquiring Fund shares and the winding up of its affairs, the Acquired Fund will be terminated.

6. Each Board found that participation in the Reorganization is in the best interests of the relevant Acquiring Fund and Acquired Fund (collectively, "Funds") and that the interests of existing shareholders will not be diluted as a result of the Reorganization. In assessing the Reorganization, the Boards considered: (a) the relative past growth in assets and investment performance of the Funds; (b) the future prospects of the Funds, both under circumstances where they are not reorganized and where they are reorganized; (c) the compatibility of the investment objectives, policies and restrictions of the Acquiring Fund and the Acquired Fund; (d) the effect of the Reorganization on the expense ratios of each Fund based on a comparison of the expense ratios of the Acquiring Fund with those of the Acquired Fund on a "pro forma" basis; (e) the costs of the Reorganization to the Funds; (f) whether any future cost savings could be achieved by combining the Funds; (g) the tax-free nature of the Reorganization; and (h) alternatives to the Reorganization. In considering the Reorganization, each Board noted that the investment objectives, policies and restrictions of the Acquiring Fund and the Acquired Fund are similar.

7. Prior to the Closing Date, the Acquired Fund will declare a dividend and/or other distributions so that all taxable income and realized net gain are distributed for the current taxable year through the Closing Date and prior taxable years. If the Reorganization is consummated, the Funds will bear the expenses of the Reorganization *pro rata* according to their respective net assets as of the Closing Date, or if the Reorganization is not consummated, as of the date the Reorganization is abandoned.

8. On March 4, 1998, a registration statement on Form N–14 containing a preliminary combined prospective/proxy statement, was filed with the SEC. A final prospective/proxy was mailed to shareholders of the Acquired Fund on or about April 14, 1998, for their approval at a meeting scheduled to be held on June 9, 1998.

9. The Reorganization is subject to the following conditions: (a) receipt of the affirmative vote of two-thirds of the votes of the shareholders of the Acquired Fund; (b) the Acquiring Fund's and the Acquired Fund's receipt of opinions of counsel to the effect that the Reorganization will constitute a "reorganization" within the meaning of section 368 of the Internal Revenue Code of 1986, as amended, and as a consequence, the Reorganization will not result in federal income taxes for the Acquired Fund or the Acquiring Fund or their shareholder; and (c) the applicants have received exemptive relief from the SEC which is the subject of the application. Applicants agree not to make any material changes to the Agreement without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an "affiliated person" or another person to include (a) any person that owns 5% or more of the outstanding voting securities of such other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person, (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if such other person is an investment company, any investment adviser of that company.

Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. Dreyfus, a wholly owned subsidiary of Mellon Bank, serves as investment adviser to both Funds. Mellon Bank directly or indirectly owns with power to vote approximately 71% of the outstanding shares of the Acquired Fund and approximately 92% of the outstanding shares of the Acquiring Fund. Because of this ownership, the Acquiring Fund may be deemed an affiliated person of an affiliated person of the Acquired Fund and vice versa under sections 2(a)(3)(B) and 2(a)(3)(C) of the Act.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b), Applicants note that the Boards, including the disinterested directors, found that participation in the Reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the exchange of the Acquired Fund's shares for the Acquiring Fund's shares will be based on the Fund's relative net asset values and that the Reorganization will be effected on a tax-free basis.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Dos. 98–14186 Filed 5–28–98; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection(s) listed below have been submitted to OMB:

1. Representative Payee Evaluation Report—0960–0069. The information on Form SSA–624 is used by SSA to accurately account for the use of Social Security benefits and Supplemental Security Income (SSI) payments received by representative payees on behalf of an individual. The respondents are individuals and organizations, who (as representative payees) received Form SSA–623/6230 and failed to respond, provided unacceptable responses which cannot be resolved or reported a change in custody.

Number of Respondents: 250,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Average Burden: 125,000 hours

2. Request for Address Information from Motor Vehicles Records; and Request for Address Information from Employment Commissions Records—0960–0341. The information on Forms SSA–L711 and L712 is used by SSA to determine the current address for missing debtors. The respondents are State agencies who have entered into agreements with SSA to provide the requested information.

	SSA–L711	SSA–L712
Number of Respondents.	1,300	1,100.
Frequency of Response.	1	1.
Average Burden Per Response.	2 minutes	2 minutes.
Estimated Annual Burden.	43 hours ..	37 hours.

3. Disability Report—0960–0579. The information collected on Form SSA–3368 is needed for the determination of disability by the State Disability Determination Services. The information will be used to develop medical evidence and to assess the alleged disability. The respondents are applicants for disability benefits.

Number of Respondents: 2,438,500
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 1,219,250 hours

4. Work History Report—0960–0578. The information collected on Form SSA–3369 is needed for the determination of disability by the State Disability Determination Services. The respondents are applicants for disability benefits. The information will be used to document an individual's past work history.

Number of Respondents: 1,000,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated annual Burden: 500,000 hours

5. Medical History and Disability Report, Disabled Child-0960–0577. The information collected on Form SSA–3820 is needed for the determination of disability by the State Disability Determination Services. The SSA–3820 will be used to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The respondents are applicants for disability benefits.

Number of Respondents: 523,000
Frequency of Response: 1
Average Burden Per Response: 40 minutes
Estimated Annual Burden: 348,667 hours

6. Child-Care Dropout Questionnaire—0960–0474. The information on Form SSA–4162 is used by SSA to determine whether zero earnings years can be dropped out when computing a claimant's benefit. The respondents are applicants for Disability Insurance benefits, who may qualify for a higher primary insurance amount because of having a child in care for certain years.

Number of Respondents: 2,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Average Burden: 167 hours

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, D.C. 20503.

(SSA)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Dated: May 21, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–14263 Filed 5–28–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Public Affairs

[Public Notice #2826]

Advisory Committee on Historical Diplomatic Documentation Notice of Charter Renewal and Meeting

The Advisory Committee on Historical Diplomatic Documentation renewed its charter on March 18, 1998. This Advisory committee will continue to make recommendations to the Historian and the Department on all aspects of the *Foreign Relation's* program as well on the Department of State's responsibility under the statute to open its 30-year old and older records for public review at the National Archives and Record Administration. The Committee consists of nine members drawn from among historians, political scientists, archivists, international lawyers and other social scientists who are distinguished in the field of U.S. Foreign Relations.

The Committee will meet next in the Department of State, 2201 "C" Street NW, Washington, DC, June 23–24, 1998, in Conference Room 1205. Procedures for declassification of Department records and problems relating to the preparation of the *Foreign Relations of the United States* documentary series will be discussed at the meeting.

The Committee will meet in open session from 9 a.m. through Noon on Tuesday, June 23, 1998. The remainder of the Committee's sessions from 1:45 p.m. on Tuesday, June 23, 1998 until 5 p.m. on Wednesday, June 24, 1998 will be closed in accordance with Section 10(d) of the Foreign Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions involving consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and the public interest requires that such activities be withheld from disclosure.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the open session should, by Thursday, June 18, 1998, notify Gloria Walker, (202) 663–1124, Office of the Historian, of their name, Social Security number, date of birth, professional affiliation, address, and telephone number in order to arrange admittance. This includes both government and non-government admittance. All attendees must use the "C" Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail *pahistoff@panet.us-state.gov*).

Dated: May 14, 1998.

William Z. Slany,

Executive Secretary, Office of the Historian.

[FR Doc. 98–14262 Filed 5–28–98; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of the Initiation of a Railroad Research and Development Grant Program in Cooperation with Academic Research Institutions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of initiation of grant program and funds availability.

SUMMARY: FRA announces the initiation of a railroad research and development grant program in cooperation with academic research institutions ("Program"). This Program is intended to foster long-range enhancement of FRA's program of research in support of rail transportation by developing cooperative research relationships between the FRA and selected university research organizations. The FRA seeks, via this announcement, to identify specific academic research institutions (broadly referred to hereinafter as universities) that may have expertise useful in complementing the established research program of FRA's Office of Research and Development (OR&D). Selected universities will be expected to buttress FRA's current research program that now operates principally in coordination with non-academic entities.

Funding Authority and Related Information

This program is being undertaken utilizing funds in the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1998 (Pub. L. 105–66), dated October 27, 1997. FRA anticipates awarding a small number of grants (whose combined value is not to exceed approximately $1,000,000, in the aggregate, in Fiscal Year 1998) for approved university research. Applicants are also encouraged to consider sharing the cost of their proposed projects or identifying in-kind contributions. The FRA intends to focus the initial funding associated with this notice on various research and development (R&D) areas of interest relating to or under the general heading of rail safety. In the event future appropriated funds are authorized for the Program, FRA may, at its discretion, provide additional funding for research. Such future grants may focus on rail safety or other rail and adjunct transportation research areas, such as traffic control and intelligent transportation systems.

Eligible Participants

Accredited universities, colleges, major academic research institutions, and other public or private academic institutions of higher learning. All otherwise eligible entities must also have demonstrable specialized expertise in rail transportation research, and have a minimum of five years of railroad or rail-related research experience. Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) fitting this description are encouraged to apply. However, no portion of this Program will be set aside exclusively for HBCUs and MIs.

Exchanges and Points of Contact

Exchanges of information between interested parties and the Government, prior to submission of an application for consideration under the Program, are strongly encouraged. Such informal exchanges may provide prospective applicants with preliminary information on the Government's level of interest in prospective works or projects or on the availability of funds. Any exchanges of information must be consistent with all applicable statutory or regulatory procurement integrity requirements. Technical inquiries regarding this notice may be directed to: Dr. Magdy El-Sibaie,

Office of Research and Development, Mail Stop 20, 400 7th St. S.W., Washington, DC 20590, TEL 202–632–3259, FAX 202–632–3854. Requests for forms and administrative questions regarding this solicitation may be directed to: Ms. Jill Shohet, Office of Research and Development, Mail Stop 20, 400 7th St. SW, Washington, DC 20590, TEL 202–632–3284, FAX 202–632–3854, e-mail: Jill.Shohet@FRA.DOT.GOV.

Program Applications

To be considered for inclusion in the grouping of selected "pre-qualified" universities and subsequent award of grants/cooperative agreements to be awarded under the Program, eligible applicants must submit a Program Application. Program Applications—which consist of two sections: University Profile and Proposed Research Projects (from the Areas of Interest)—may be obtained by submitting a written or electronic request (facsimile requests will be honored) to the administrative point of contact identified above, Ms. Shohet. Requests for application forms may be submitted as of the date of (electronic or printed) publication of this Notice.

Evaluation and Selection Process

Applications will be evaluated/selected by FRA using a three-step process. In the first step, applications will be evaluated (using the information from Application Section I—University Profile) to assess the applicant's eligibility (as an accredited institution of higher learning), demonstrated specialized expertise in rail transportation research (e.g., technical capabilities and depth of experience of key personnel or principal investigators), and experience in railroad or rail-related research, all as evidenced by cited research contracts/grants, published papers or dissertations related to railroad technology, railroad research and test facilities and/or staff with actual railroad experience of five or more years of railroad research. Applicants having satisfactory eligibility, background and experience requirements will then be advanced to the second step, and applications will be reviewed within the context of proposed projects (from Application Section II—Proposed Research Projects). Each proposed project—from the Areas of Interest—will be evaluated based on the following criteria (which are listed in descending order of relative importance): (1) Its overall scientific and/or technical merit; (2) The degree to which it may improve upon or advance railroad safety; (3) The likelihood for its near term adoption and implementation of possible recommendations; (4) The degree with which the proposed project fits into the FRA's overall research objectives; and (5) The reasonableness and realism of the proposed cost, and the availability of funds (to include due consideration for proposed cost-sharing (cash or in-kind contributions) by the applicant). Applicants having advanced from the first step and whose applications contain one or more proposed projects determined by FRA to have fully satisfied the evaluation/selection criteria in the second step, will be advanced to the third step of evaluation/selection. In the third and final step, all applicants will be ranked in order of preference, which for the purposes of this Program will mean a rank order listing of applicants who, in the FRA's judgement, have the highest to the lowest rated qualifications and the most to the least probability for success under the Program (with due consideration to background, personnel, experience and facilities or other resources identified), and the degree to which one or more of their proposed projects are of interest to the FRA as potential grant or cooperative agreement awards (with due consideration to the stated project evaluation criteria). From this order of rank listing, FRA will establish a group of selected universities (initially numbering eight or fewer) that will thereafter be considered "pre-qualified" to perform solicited or approved research projects. At the conclusion of the evaluation/selection process, FRA will notify all applicants of the agency's determination and their status (i.e., acceptance or non-acceptance into the Program). Applicants not selected under the cutoff in the third step, but meeting the minimum requirements under steps one and two, will have their applications retained by FRA for one year for possible future consideration as replacements or add-ons to the initial pre-qualified grouping of selected universities.

Future Program Awards

Any subsequent grant or cooperative agreements entered into under the Program will be on an individual award basis. Pre-qualification will not guarantee selected universities that any FRA research projects or funding will be forthcoming at any time during the period of Program affiliation. However, FRA will only fill actual Program requirements for work through those universities in the pre-qualified grouping selected hereunder. Solicitation of actual requirements for work identified by FRA or requests for project proposals initiated by the FRA, will be at the sole discretion of the FRA, and may be conducted on a fully competitive (i.e., for the purposes of this Program, open to all pre-qualified universities), partially competitive (i.e., for the purposes of this Program, open to two or more pre-qualified universities), or sole source basis (i.e., for the purposes of this Program, limited to a single pre-qualified university). The method of in-house solicitation (i.e., competitive or non-competitive) and subsequent choice for award will be based on FRA's preliminary assessments of the pre-qualified university(s)'s qualifications and capabilities (with regards to the work requirement or project being solicited), past performance under the Program, and its determination on the suitability and probability for success of any one or more pre-qualified universities, and on the availability of funding. Research projects may also be proposed (without a solicitation from the FRA) by pre-qualified universities any time during the period of Program affiliation. Research projects proposed by pre-qualified universities will be considered by FRA employing the same selection criteria used under this Notice in evaluating the initial proposal(s) submitted for consideration for both inclusion in the pre-qualified grouping/Program and as probable future projects. (See the five selection criteria under the heading "Evaluation and Selection Process.") FRA may use projects initially proposed in the selection process, as well as those subsequently proposed by pre-qualified universities, as the basis for solicitation of more in-depth technical and/or cost proposals, the submission of formal applications for assistance (e.g. SF 424—Application for Federal Assistance, SF 424A—Budget Information (Non-Construction Programs), etc.) and subsequent award of financial assistance. The determination to approve or disapprove, and fund or not fund a research project proposed by a pre-qualified university is at the sole and final discretion of the FRA. Each approved project will stand independently as a separate award. The specific terms and conditions of potential awards will be identified in the solicitation. Generally speaking, by entering into a financial assistance agreement, pre-qualified universities/prospective recipients will be subject to 49 CFR, part 19—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, OMB Circular A–21—Cost Principles for Educational

Institutions, and OMB Circular A–133—Audits of States, Local Governments, and Non-Profit Organizations. Unless a university loses its eligibility to participate (e.g., Government debarment or suspension (non-procurement)), or the Government has other sufficient cause for termination, or the parties mutually agree to dissolve the pre-qualified status, pre-qualified universities will be considered to be affiliated with the Program and will remain eligible to receive FRA grant/cooperative agreement awards, as described above, for a period of up to three years from the date of notification of acceptance into the Program.

Areas of Interest

The following are areas of current FRA research interest. The subjects listed here identify the breadth of FRA research activities in support of its safety mandate. Applicants should prepare and submit as part of their application, proposed projects in one or more of the listed areas of interest for which they are qualified to perform.

Note: Applicants may propose more than one project per area of interest, but the total number of all proposed projects may not exceed five.

Proposed projects may in and of themselves serve as the basis for initial solicitations and awards following the FRA's evaluation of applications and selection of pre-qualified universities. Each project proposal should be a brief, yet comprehensive and fully descriptive overview of the project. Each project proposal should be five pages or less, one-sided, 10- to 12-point type or font, single spaced, and numbered. To facilitate evaluation, project proposals should be formatted using the basic outline set forth in Section II of the application form. (To obtaine a copy of the application form, see information under the heading "Exchanges and Points of Contact.")

1. Modeling and Simulation of Vehicle/Track Interaction

This research activity involves the development of a comprehensive computer program for modeling and simulating railway vehicle/track systems with an emphasis on the dynamic performance of both vehicle and track and their interaction through the wheel/rail interface. The primary goal is to enhance the government capability for modeling and simulating the dynamic performance of a user-defined vehicle/track system. This computer program will be used by the FRA and other government and regulatory agencies in rail related safety studies and in accident investigations, among other uses.

2. Smart Transducers and Monitoring Devices for Railroad Safety Inspection

This research activity focuses on the development of software and hardware tools for the deployment of smart transducers and devices for monitoring the safety of track and rolling stock. Emphasis will be on intelligent sensors and associated logic that are capable of frequent and economic inspection of track and rolling stock and communicating safety hazards in the form of exceptions to remote sites. In addition to innovations in sensor technologies, complementary pattern recognition algorithms, based on methods such as neural networks and statistical techniques, shall be explored. The objective of this research will be to improve the quality and efficiency of track and rolling stock safety inspection.

3. Advanced Techniques for Detecting and Repairing Weak Track Spots

This research activity is for the development of automated techniques for identifying spots along the track structure that suffer from rapid deterioration in geometry and/or strength. Such weak track spots often develop along track due to many factors, such as weak subgrade, poor drainage, and poor ballast conditions, resulting in high track maintenance costs. The often resulting rapid rate of track geometry and/or strength deterioration may produce a safety hazard. Research efforts should also consider the development of methods and techniques for an economic and effective repair of such weak spots based on the diagnosed track condition.

4. Automated Track Bed Subsurface Evaluation

Track subsurface layers (ballast, sub-ballast, and subgrade) are key factors in the overall track performance and rate of degradation. Poor subsurface conditions can lead to adverse redistribution of loads with the track system, which could in turn lead to overloading of some track components and premature elements failures, or even collapse of the track roadbed. This uneven degradation of components results in costly maintenance, and adversely affects track safety. Thus, although ballast, sub-ballast, and subgrade are key track components that warrant monitoring, these subsurface conditions are not amenable to the current visual methods. In addition, there is no practical methodology currently available for rapid subsurface data acquisition for the evaluation of the engineering properties of soil, accurate determination of location and extent of deteriorated conditions. The principal objectives of this activity are automated data acquisition for soil classification and evaluation of its engineering properties, and the measurement of other pertinent parameters such as in-situ density and moisture content. In this regard, new emerging technologies such as ground penetrating radar may offer the promise of significant improvement by using nondestructive evaluation (NDE) techniques. If successful in accomplishing these objectives, the study would improve the effectiveness of track maintenance, and contribute significantly to the ongoing predictive track degradation model development.

5. Reliability Design and Analysis

Tank car accidents, tank car structural failures in components of railroad tank cars suggest that measures of reliability should be better defined. Subsequently, detailed reliability assessment of individual components and component subsystems should be performed that will lead to improved accident performance. Although catastrophic failure is easily recognized, tank car performance as a safe packaging of hazardous materials may deteriorate over time and elements contributing to this deterioration (per-existing defects, corrosion, cracks, pitting, etc.) need documentation. This research activity will focus on the development of a methodology to assess the failure mode. It may consist of parameters needed to establish structural integrity requirements based on value engineering analysis, previous failure experiences and studies. The methodology will consider establishing a level of reliability of a tank car design for the intended service. The development of a methodology that considers expected life, failure rates and hazard functions and which can combine these variables into an overall tank car "strength" function can be extremely useful. The results of such an assessment can quantitatively provide the tank car owner with information that may be used to define boundaries of reliability, allowing the tank car owner to implement guidelines for maintenance and use that lead to improved safety performance. This research activity is also concerned with reliability and safety performance aspects of other types of railroad cars and railroad operations and maintenance practices.

6. Epidemiology of Post-Accident Stress in Locomotive Engineers

It is well established that individuals who are involved in serious accidents or other situations involving loss of life undergo post-traumatic stress disorder (PTSD). PTSD has been documented in police officers, firemen, and rescue workers, and, because of the debilitating effects of PTSD, mandatory counseling is often provided for individuals who are involved in traumas. Informal discussions with locomotive engineers indicates that during the course of a career most locomotive engineers experience a traumatic grade crossing accident. At present there is no industry approach to PTSD in locomotive engineers, although anecdotal information suggests that safety may be compromised if counseling is not provided. However, the number of locomotive engineers who experience PTSD is not known, and consequently the need for resources to address this problem is also not known. This project will determine the descriptive epidemiology (incidence and prevalence) of PTSD in locomotive engineers so that the magnitude of the problem can be scientifically established.

Application Submission and Deadline

In preparing application submissions, applicants are reminded to carefully read this entire Notice and to comply with all content, format and time requirements. An original and four (4) copies of each application should be submitted to the following address: Ms. Jill Shohet, Office of Research and Development, Mail Stop 20, 400 7th St. SW, Washington, DC 20590. Neither electronic nor facsimile submissions will be accepted. Applications will be reviewed as they are received. For applicants to receive full consideration, applications must be received by the FRA at the above address on or before July 17, 1998.

Dated: May 26, 1998.

James T. McQueen,

Associate Administrator for Railroad Development.

[FR Doc. 98–14251 Filed 5–28–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 98–3875]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: This document describes three collections of information for which NHTSA intends to seek OMB approval. Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval to collect information from the public, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. Each of the collections for which this document requests comment has been previously approved.

DATES: Comments must be received on or before July 28, 1998.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to NHTSA's new Docket Management Facility, located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation, Room PL–01, 400 Seventh Street, SW, Washington, DC 20590–0001. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. The DOT Docket is open to the public from 10 am to 5 pm, Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Michael Robinson, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, SW, Room 6123, Washington, DC 20590. Mr. Robinson's telephone number is (202) 366–9456. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collections of information:

49 CFR Part 552

Petitions for Rulemaking, Defect and Noncompliance Orders

Type of request—Extension of existing clearance.

OMB Clearance Number—2127–0046.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years after date of expiration of existing clearance.

Summary of the Collection of Information—49 U.S.C. section 30162 specifies that any "interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding" to prescribe a motor vehicle safety standard under 49 U.S.C. chapter 301, or to decide whether to issue an order under 49 U.S.C. section 30118(b). 49 U.S.C. 30111 gives the Secretary authority to prescribe motor vehicle safety standards. 49 U.S.C. section 30118(b) gives the Secretary authority to issue an order to a manufacturer to notify vehicle or equipment owners, purchasers, and dealers of the defect or noncompliance and to remedy the defect or noncompliance.

Section 30162 further specifies that all petitions filed under its authority shall set forth the facts which it is claimed establish that an order is necessary and briefly describe the order the Secretary should issue.

To implement these statutory provisions, NHTSA promulgated part

552 according to the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553 *et seq.*) This regulation allows the agency to ensure that the petitions filed under section 30162 are both properly substantiated and efficiently processed.

Description of the Need for the Information and Proposed Use of the Information—Under Part 552, any person has a statutory right to petition the agency to issue an order under section 30162. When NHTSA receives such a petition, the agency's technical staff reviews the petition to determine whether there is a reasonable possibility that the requested order will be issued at the end of the appropriate proceeding. If the agency reaches such a conclusion, the petition is granted and NHTSA promptly commences the appropriate proceeding to issue the order. The petition is denied if NHTSA cannot conclude that there is a reasonable possibility that the order will be issued at the end of the appropriate proceeding. NHTSA is required to grant or deny any petitions within 120 days after agency receipt of the petition (49 U.S.C. 30162(d)). NHTSA uses the information in the petition, together with other information it may have or obtain, to decide whether to grant or deny the petition.

Absent part 552, any person would still have a statutory right to file a petition requesting the agency to issue an order. The difference would be that the person preparing the petition would not know how to properly file such a petition and what information should be included in the petition. Further, without part 552, it would take the agency much longer to evaluate these petitions. Some of the petitions for rulemaking filed under part 552 ask for complex technical changes to our safety standards that require the agency to conduct testing or other research to learn if the petitions' allegations are accurate. If these petitions were not filed in accordance with some specified uniform procedures, the agency would not be able to meet the 120 day statutory deadline for granting or denying the petitions.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information)—Under part 552, any person has a statutory right to petition the agency to issue an order under section 30162. Petitions may be filed by any person, including private individuals and small or large businesses. The requirements are the same no matter who files the petition.

NHTSA does not require any person to file a petition under part 552. Therefore, whether to file a petition, and the frequency of petitions filed, is entirely at the discretion of each petitioner.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—

NHTSA estimates that there are no more than 100 of these petitions filed annually. In most years fewer than this number of petitions are filed. However, we will use this higher total to ensure that this estimate does not understate the burden for the public.

Frequently, the petitions filed under Part 552 consist of no more than one typewritten page. NHTSA believes very little total time is needed to prepare these petitions. However, some of the petitions set forth lengthy technical arguments and may require several hours to prepare. Overall, NHTSA estimates that the average length of time needed to prepare and file these petitions is one hour. Multiplying this one hour by the 100 petitions filed each year, we estimate that the burden associated with these petitions is 100 hours each year.

49 CFR Part 557

Petitions for Hearings on Notifications and Remedy on Defects

Type of Request—Extension of existing clearance.

OMB Control Number—2127–0039.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years after date of expiration of existing clearance.

Summary of the Collection of Information—NHTSA's statutory authority at 49 U.S.C. sections 30118(e) and 30120(e) specifies that, "on petition of any interested person," NHTSA may hold hearings to determine whether a manufacturer of motor vehicles or motor vehicle equipment has met its obligation to notify owners, purchasers, and dealers of vehicles or equipment of a defect or noncompliance and to remedy a defect or noncompliance for Federal Motor Vehicle Safety Standards for some of the products the manufacturer produces.

To address these areas, NHTSA has promulgated 49 CFR part 557, *Petitions for Hearings on Notification and Remedy of Defects*, which adopts a uniform regulation that establishes procedures to provide for submission and disposition of petitions, and to hold hearings on the issue of whether the manufacturer has met its obligation to notify owners, distributors, and dealers of safety related defects or noncompliance and to remedy the problems by repair, repurchase, or replacement.

Description of the Need for the Information and Proposed Use of the Information—NHTSA never requires any person to file a petition under Part 557. Filing a petition, and providing the information is done entirely at the discretion of the petitioner.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—NHTSA estimates that approximately 21 petitions are filed per year. Since petitions are filed entirely at the discretion of the petitioner, each person may file as few or as many petitions as it chooses.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—Annual costs to the petitioners can be estimated as follows: About 21 petitions for hearings on notification and remedy of defects are filed each year. Based on the length of the petitions (usually 3–4 typewritten pages) and the amount of documentation included, NHTSA estimates that it would take a petitioner about one hour to prepare one of these petitions. Multiplying this one hour burden by the 21 petitions filed annually yields an estimated annual burden of 21 hours for the petitioners under part 557. If we assume a value of $20 per hour, the annual cost of preparing these petitions is about $42. Adding in the postage cost of $6.72 (21 petitions, at a cost of 32 cents to mail each one), we estimate that it costs petitioners about $427 annually to prepare and submit these petitions for hearings on notification and remedy of defects.

There are no recordkeeping costs to the petitioners.

49 CFR Part 512

Confidential Business Information

Type of Request—Extension of existing clearance.

OMB Control Number—2127–0025.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years from date of approval.

Summary of the Collection of Information—NHTSA's statutory authority at 49 CFR chapter 301 prohibits, with certain exceptions, the agency from making public confidential information which it obtains. On the other hand, the Administrative Procedure Act requires all agencies to

make public all non-confidential information upon request. (5 U.S.C. section 552) and all agency rules to be supported by substantial evidence in the public record (5 U.S.C. section 706). It is therefore very important for the agency to promptly determine whether or not information it obtains should be accorded confidential treatment.

NHTSA therefore promulgated 49 CFR part 512 *Confidential Business Information* to establish the procedure by which NHTSA will consider claims that information submitted to the agency, or which it otherwise obtains, is confidential business information. Because of part 512, both NHTSA and the submitters of information for which confidential treatment is requested are now able to ensure that confidentiality requests are properly substantiated and expeditiously processed.

Description of the Need for the Information and Proposed Use of the Information—Confidential information is obtained by the agency for use in all of its activities. These include investigations, rulemaking actions, program planning and management, and program evaluation. The confidential information is needed to ensure the agency has all the relevant information for decision making in connection with these activities.

If part 512 were not in existence, the agency would still get this confidential information, either provided voluntarily by the manufacturers or through its information gathering powers. The only difference would be that the determinations of whether the information should be accorded confidential treatment would be more expensive and time consuming for both the manufacturers and the agency.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information—The number of potential submitters of claims for confidential treatment of information is 3,000. This includes 1,000 vehicle manufacturers and 2,000 equipment manufacturers. The decision whether to request confidential treatment of information provided to NHTSA is entirely at the discretion of the manufacturer. In a typical year, NHTSA receives about 150 requests for confidential treatment of information, almost all of which are from large businesses.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—As earlier stated, in a typical year, NHTSA receives about 150 requests for confidential treatment of information. Almost all of these requests come from large businesses. The justification for a request for confidential treatment consists of several statements and a certification by a responsible corporate official. In the case of submissions by large manufacturers, (which may consist of thousands of pages of information), NHTSA estimates it would take 4 hours to do the necessary background check to be able to submit the required justification. On the other hand, the typical small business that submits a single blueprint should need only about 5 minutes to fully comply with the regulation. To ensure that this estimate does not understate the burden the agency has assumed that all confidentiality requests are submitted by large manufacturers. Since they are not required to keep copies of the information provided to NHTSA, there are no recordkeeping costs to the manufacturers. The total burden hours associated with this collection of information is estimated at 600 hours.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued: May 22, 1998.

John Womack,

Acting Chief Counsel.

[FR Doc. 98–14250 Filed 5–28–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Sunshine Act Meeting

Board Voting Conference

TIME & DATE: 1:00 p.m., Monday, June 8, 1998.

PLACE: Hearing Room, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423.

STATUS: The Board will meet to discuss among themselves the agenda item listed below. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Finance Docket No. 33388, *CSX Corporation And CSX Transportation, Inc., Norfolk Southern Corporation And Norfolk Southern Railway Company—Control And Operating Leases/Agreements—Conrail Inc. And Consolidated Rail Corporation.*

CONTACT PERSONS FOR MORE INFORMATION: Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565–1594, TDD: (202) 565–1695.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14469 Filed 5–27–98; 3:24 pm]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33571]

Wisconsin & Southern Railroad Co.—Lease and Operation Exemption—Soo Line Railroad; Company d/b/a Canadian Pacific Railway

The Wisconsin & Southern Railroad Co. (WSOR), an existing Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to lease from the Soo Line Railroad Company d/b/a Canadian Pacific Railway (CPR), and to operate a line of railroad known as the Waterloo Spur, extending from milepost 132.11 at Watertown, WI, to milepost 164.61 at Madison, WI, a total of 32.5 miles.

Pursuant to 49 CFR 1150.42(e), WSOR certified on May 7, 1998, that its annual revenues exceed $5 million and that it has, as of March 20, 1998, served the national offices of the labor unions with a copy of a notice of its intent to undertake this transaction and posted such notice at the workplace of the employees on the affected lines on March 23, 1998.

The transaction is expected to be consummated on or after June 1, 1998.[1]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33571 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served upon Robert A. Wimbish, Rea, Cross & Auchincloss, Suite 570, 1707 L Street, NW, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

[1] The date of consummation under normal circumstances would be July 6, 1998 (60 days after WSOR's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)). The Board, in a concurrently issued decision in this proceeding, has at the request of WSOR waived, in part, the 60-day period to allow consummation on June 1, 1998.

Decided: May 22, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–14269 Filed 5–28–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 18, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0029.

Form Number: TFS 5118.

Type of Review: Extension.

Title: Depositor's Application for Payment of Postal Savings Certificate.

Description: This form is prepared when a depositor has lost, destroyed, or misplaced his Postal Savings Certificates. This form, properly completed and signed, replaces unavailable certificates to support application for payment. If original certificates show up, document prevents duplicate.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361-L 75th Avenue, Landover, MD 20785

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14252 Filed 5–28–98; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 18, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535–0094.

Form Number: None.

Type of Review: Extension.

Title: Regulations Governing Payments by Automated Clearing House Method on Account of United States Securities.

Description: The information is needed in order to make payments to investors in United States Securities by the Automated Clearing House (ACH) method.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 1 hour.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14253 Filed 5–28–98; 8:45 am]

BILLING CODE 4810–40–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 19, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0782.

Regulation Project Number: LR–7 Final (TD 6629).

Type of Review: Extension.

Title: Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands.

Description: The Tax Reform Act of 1986 repealed the mandatory reporting and recordkeeping requirements of section 934(d) (1954 Code). The prior exception to the general rule of section 934 (1954 Code) to prevent the Government of the Virgin Islands from granting tax rebates with regard to taxes attributable to income derived from sources within the U.S. was contingent upon the taxpayers compliance with the reporting requirements of section 934(d).

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper: 22 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 184 hours.

OMB Number: 1545–1068.

Regulation Project Number: INTL–362–88 Final.

Type of Review: Extension.

Title: Definition of a Controlled Foreign Corporation, Foreign Base Company Income, and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.

Description: The election and recordkeeping requirements are necessary to exclude certain high-taxed or active business income from subpart F income to include certain income in

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the appropriate category of subpart F income. The recordkeeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 50,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: Annually, Other (one-time currency election).

Estimated Total Reporting/ Recordkeeping Burden: 50,417 hours.

OMB Number: 1545–1132.

Regulation Project Number: INTL–536–89 Final.

Type of Review: Extension.

Title: Registration Requirements with Respect to Certain Debt Obligations; Application of Repeal of 30 Percent Withholding by the Tax Reform Act of 1984.

Description: The Internal Revenue Service needs the information in order to ensure that purchasers of bearer obligations are not U.S. persons (other than those permitted to hold obligations under section 165(j) and to ensure that U.S. persons holding bearer obligations properly report income and gain on such obligations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 852 hours.

OMB Number: 1545–1134.

Regulation Project Number: IA–141–83 Final (TD 8270).

Type of Review: Extension.

Title: Installment Method Reporting by Dealers in Personal Property.

Description: These regulations provide guidance with respect to the manner in which dealers are required to account for installment sales.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 50,000.

Estimated Burden Hours Per Recordkeeper: 10 hours.

Estimated Total Reporting/ Recordkeeping Burden: 500,000 hours.

OMB Number: 1545–1243.

Regulation Project Number: PS–163–84 Final.

Type of Review: Extension.

Title: Treatment of Transactions Between Partners and Partnerships.

Description: Section 707(a)(2) provides that if there are transfers of money or property between a partner and a partnership, the transfer will be treated, in certain situations, as a disguised sale between the partner and the partnership. The regulations provide that the partner or the partnership should disclose the transfers and certain attendant facts in some situations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 7,500.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–1331.

Regulation Project Number: PS–55–89 Final.

Type of Review: Extension.

Title: General Asset Accounts Under the Accelerated Cost Recovery System.

Description: The regulations describe the time and manner of making the election described in Internal Revenue Code (IRC) section 168(I)(4). Basic information regarding this election is necessary to monitor compliance with the rules in IRC section 168.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 250 hours.

OMB Number: 1545–1598.

Revenue Procedure Number: Revenue Procedure 98–22.

Type of Review: Extension.

Title: Employee Plans Compliance Program.

Description: The information requested in this revenue procedure is required to enable the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) of the Internal Revenue Service to make determinations regarding the issuance of various types of closing agreements and compliance statements. The issuance of closing agreements compliance statement allows individuals plans to continue to maintain their tax-qualified status. As a result, the favorable tax treatment of the benefits of the eligible employees is retained.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 21 hours, 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 43,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14254 Filed 5–28–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 20, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0823.

Regulation Project Number: FI–221–83 NPRM and FI–100–83 Temporary.

Type of Review: Extension.

Title: Indian Tribal Governments Treated as States For Certain Purposes.

Description: The regulations provide that if the governing body of a tribe, or its subdivision, is not designated as an Indian tribal government or subdivision thereof for purpose of sections 7701(a)(40) and 7871, it may apply for a ruling from the IRS.

Respondents: State, Local or Tribal Governments.

Estimated Number of Respondents: 25.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 25 hours.

OMB Number: 1545–1138.

Regulation Project Number: INTL–955–86 Final, TD 8350.

Type of Review: Extension.

Title: Requirements for Investments to Qualify Under Section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

Description: The collection of information is required by the Internal Revenue Service to verify that an investment qualifies under Internal Revenue Code (IRC) section 936(d)(4). The recordkeepers will be possession corporations, certain financial institutions located in Puerto Rico, and borrowers of funds covered by this regulation.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 50.

Estimated Burden Hours Per Recordkeeper: 30 hours.

Estimated Total Reporting/ Recordkeeping Burden: 1,500 hours.

OMB Number: 1545–1255.

Regulation Project Number: INTL–870–89 NPRM.

Type of Review: Extension.

Title: Earnings Stripping (Section 163(j)).

Description: Certain taxpayers are allowed to write off the fixed basis of the stock of an acquired corporation rather than the adjusted basis of the assets of the acquired corporation rather than the adjusted basis of the assets of the acquired corporation to elect treatment under section 163(j).

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 2,300.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1,196 hours.

OMB Number: 1545–1413.

Regulation Project Number: IA–30–95 Final.

Type of Review: Extension.

Title: Reporting of Nonpayroll Withheld Tax Liabilities.

Description: These regulations concern the Secretary's authority to require a return of tax under section 6011 and provide for the requirement of a return by persons deducting and withholding income tax from "Nonpayroll" payments.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1433.

Regulation Project Number: CO–11–91 Final and CO–24–95 Final.

Type of Review: Extension.

Title: Consolidated Groups and Controlled Groups—Intercompany Transactions and Related Rules (CO–11–91); and Consolidated Groups—Intercompany Transactions and Related Rules (CO–24–95).

Description: The regulations require common parents that make elections under Section 1.1502–13 to provide certain information. The information will be used to identify and assure that the amount, location, timing and attributes of intercompany transactions and corresponding items are properly maintained.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 2,200.

Estimated Burden Hours Per Respondent/Recordkeeper: 29 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,050 hours.

OMB Number: 1545–1443.

Regulation Project Number: PS–25–94 Final (TD 8686).

Type of Review: Extension.

Title: Requirements to Ensure Collection of Section 2050A Estate Tax.

Description: The regulation provides guidance relating to the additional requirements necessary to ensure the collection of the estate tax imposed under Section 2056A(b) with respect to taxable events involving qualified domestic trusts (QDOT'S). In order to ensure collection of the tax, the regulation provides various security options that may be selected by the trust and the requirements associated with each option. In addition, under certain circumstances the trust is required to file an annual statement with the IRS disclosing the assets held by the trust.

Respondents: Individuals or households.

Estimated Number of Respondents: 4,390.

Estimated Burden Hours Per Respondent: 1 hour, 23 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 6,070 hours.

OMB Number: 1545–1461.

Regulation Project Number: INTL–24–94 Final.

Type of Review: Extension.

Title: Taxpayer Identifying Numbers (TINs).

Description: This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number on their tax returns.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14255 Filed 5–28–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 22, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0055.

Form Number: IRS Form 1001.

Type of Review: Extension.

Title: Ownership, Exemption, or Reduced Rate Certificate.

Description: This form is used by owners of certain types of income to report to a withholding agent, both the ownership and any reduced or exempt tax rate under tax conventions or

treaties, and if appropriate, to claim a release of tax withheld at source. The withholding agent uses the information to determine the appropriate withholding.

Respondents: Individuals or households. Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 32 min.
Learning about the law or the form—1 hr., 5 min.
Preparing and sending the form to the IRS—1 hr., 13 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 684,000 hours.

OMB Number: 1545–0144.

Form Number: IRS Form 2438.

Type of Review: Extension.

Title: Undistributed Capital Gains Tax Return.

Description: Form 2438 is used by regulated investment companies to figure capital gains tax on undistributed capital gains designated under Internal Revenue Code (IRC) section 852(b)3(D). IRS uses this information to determine the correct tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 39 min.
Learning about the law or the form—35 min.
Preparing and sending the form to the IRS—45 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 899 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14256 Filed 5–28–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 22, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 29, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0042.

Form Number: IRS Form 970.

Type of Review: Extension.

Title: Application to Use LIFO Inventory Method.

Description: Form 970 is filed by individuals, partnerships, trusts, estates, or corporations to elect to use the LIFO inventory method or to extend the LIFO method to additional goods. The IRS uses Form 970 to determine if the election was properly made.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 3,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—9 hr., 20 min.
Learning about the law or the form—2 hr., 23 min.
Preparing and sending the form to the IRS—2 hr., 39 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 43,080 hours.

OMB Number: 1545–0786.

Regulation Project Number: INTL–50–86 Final (TD 8110).

Type of Review: Extension.

Title: Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form.

Description: The Internal Revenue Service needs the information in order to ensure that purchasers of bearer obligations are not U.S. persons (other than those permitted to hold obligations under section 165(j) and to ensure that U.S. persons holding bearer obligations properly report income and again on such obligations. The people reporting will be institutions holding bearer obligations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 39,742 hours.

OMB Number: 1545–1270.

Regulation Project Number: PS–66–93 and PS–120–90 Final.

Type of Review: Extension.

Title: Gasohol; Compressed Natural Gas (PS–66–93); and Gasoline Excise Tax (PS–120–90].

Description: PS–66–93: Buyers of compressed natural gas for a non-taxable use must give a certificate. Persons who pay a "first tax" on gasoline must file a report.

PS–120–90: Gasoline refiners, traders, terminal operators, chemical companies and gasohol blenders must notify each other of their registration status and/or intended use of the product before transactions may be made tax-free.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 3,170.

Estimated Burden Hours Per Respondent: 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 371 hours.

OMB Number: 1545–1338.

Regulation Project Number: PS–103–90 Final.

Type of Review: Extension.

Title: Election Out of Subchapter K for Producers of Natural Gas.

Description: Under section 1.761–2(d)(5)(I), gas producers subject to gas balancing agreements on the regulation's effective date are to file Form 3115 and certain additional information to obtain the Commissioner's consent to a change in method of accounting to either of the two new permissible accounting methods in the regulations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Other (one time only).

Estimated Total Reporting Burden: 5 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room

10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–14257 Filed 5–28–98; 8:45 am]

BILLING CODE 4000–01–P

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation.

SUBJECT: Board of Directors Meeting.

TIME AND DATE: Tuesday–Wednesday, June 2–3, 1998, commencing at 8:00 a.m. Tuesday, June 2, 1998.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The Board meeting will be closed to the public.

MATTER TO BE CONSIDERED: Issues related to the privatization of the Corporation and other commercial, financial and operational issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle at 301–564–3399.

Dated: May 26, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–14370 Filed 5–27–98; 8:45 am]

BILLING CODE 8720–01–M

UNITED STATES INFORMATION AGENCY

Determination To Close a Portion of the Advisory Board Meeting of May 27, 1998

Based on information provided to me by the Advisory Board for Cuba Broadcasting, I hereby determine that the 1:00 p.m. to 2:00 p.m. portion of this meeting should be closed to the public.

The Advisory Board has requested that part one of this meeting be closed to the public. Part one will involve technical information about new frequency testing and TV transmission, the premature disclosure of which would likely frustrate implementation of a proposed Agency action. Closing such deliberations to the public is justified by the Government in the Sunshine Act under 5 U.S.C. 552b(c)(9)(B). Part one will also involve discussions of internal Agency and Board procedures, which is a basis for closing under 5 U.S.C. 552b(c)(2).

Dated: May 21, 1998.

Joseph Duffey,

Director, United States Information Agency.

United States Information Agency

Meeting of the Advisory Board for Cuba Broadcasting.

The Advisory Board for Cuba Broadcasting will conduct a meeting at 301 4th Street, SW., Rm. 840, Washington, DC on Wednesday, May 27, 1998, at 1:00 p.m.

The intended agenda is listed below.

Advisory Board for Cuba Broadcasting Meeting, Wednesday, May 27, 1998

Agenda

Part One—Closed to the Public

I. Technical Operations Update

A. Status of UHF Testing

B. Aerostat

II. Internal Procedures

III. Approval of Minutes

Part Two—Open to the Public—2:00 p.m.

I. Programming Changes

II. Major News Event Coverage

III. Relocation Update

IV. Old Business

V. New Business

Members of the public interested in attending the meeting should contact Mr. Joseph O'Connell at (202) 619–2538.

[FR Doc. 98–14185 Filed 5–27–98; 8:45 am]

BILLING CODE 8230–01–M

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Part II

Department of the Interior

Minerals Management Service

30 CFR Part 250

Redesignation of 30 CFR Part 250—Oil and Gas and Sulfur Operations in the Outer Continental Shelf; Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC45

Redesignation of 30 CFR Part 250—Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is in the process of updating and revising various subparts under part 250. To ease the revision process and to allow room for future expansion of the material in part 250, MMS needs to allow more flexibility within each subpart. This regulation assigns new section numbers to each section in part 250 so that MMS can logically format the subparts in the future without further renumbering.

EFFECTIVE DATE: The rule is effective on June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, Rules Processing Team, (703) 787–1600.

SUPPLEMENTARY INFORMATION: In the Code of Federal Regulations dated July 1, 1987, MMS regulations at 30 CFR part 250 were not divided into subparts and were differentiated only by headings, numbering from § 250.0 to § 250.96. On April 1, 1988, MMS published a final rule consolidating into one document all the rules of the Offshore program that govern oil, gas, and sulphur exploration, development, and production in the Outer Continental Shelf (OCS). For the first time, part 250 was divided into subparts A through P, for better organization, and expanded to 250 sections. In recent years, we have felt the need for more section numbers. Then, as MMS began rewriting these regulations to improve clarity, the need for shorter sections became even more acute. To alleviate this problem we are redesignating part 250 and allotting 100 sections to each subpart.

Administrative Matters

The Department of the Interior and MMS have determined under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) that publishing this rule as a notice of proposed rulemaking would be contrary to the public interest. This rule merely renumbers existing sections in title 30 of the Code of Federal Regulations; it does not change any requirements in title 30. The revision date for the codified version (i.e., the bound volume) of title 30 is July 1 of each year. Therefore, publishing this rule after July 1, 1998, would mean that a revised title 30 incorporating the new section numbers could not be published until after July 1, 1999. Because new material will be published in part 250 in the intervening period, our failure to publish a renumbered title 30 in 1998 would cause confusion among users. For these reasons, we are publishing this rule as a final rule with an effective date of June 30, 1998.

We will issue a Notice to Lessees and Operators (NTL) to announce the redesignation and provide documents to assist the lessees/operators in implementing the redesignation of the sections. The NTL will also be on the MMS worldwide web site at http://www.mms.gov. We will also allow an additional 90-day phase-in implementation period during which MMS will continue to accept documents that contain the old references. The rule will be published in time to be codified in the next edition of the Code of Federal Regulations on July 1, 1998. *We will revise all MMS guidelines (such as NTLs) and other parts of 30 CFR to correct the citations to our regulations. However, we emphasize again, that there are no changes in requirements due to this action and all current regulations and guidelines remain in effect.*

Regulatory Flexibility Act

The Department of the Interior (DOI) determined that this rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities. DOI also determined that the indirect effects of this rule on small entities that provide support for offshore activities are small.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Executive Order (E.O.) 12630

DOI certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus a Takings Implementation Assessment need not be prepared under E. O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights."

E.O. 12988

DOI has certified to the Office of Management and Budget (OMB) that this rule meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

E.O. 12866

This document has been reviewed under E. O. 12866 and is not a significant regulatory action.

Paperwork Reduction Act

DOI has determined that this regulation does not contain information collection requirements pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We will not be submitting an information collection request to the OMB.

Unfunded Mandates Reform Act of 1995

DOI has determined and certified according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on local, tribal, State governments, or the private sector.

National Environmental Policy Act

DOI has also determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: May 6, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334 *et seq.*

§§ 250.0–250.26 [Redesignated as §§ 250.100–250.126]

2. In subpart A, §§ 250.0 through 250.26 are redesignated as §§ 250.100 through 250.126.

§§ 250.30–250.34 [Redesignated as §§ 250.200–250.204]

3. In subpart B, §§ 250.30 through 250.34 are redesignated as §§ 250.200 through 250.204.

§§ 250.40–250.41 [Redesignated as §§ 250.300–250.301]

4. In subpart C, §§ 250.40 through 250.41, are redesignated as §§ 250.300 through 250.301.

§§ 250.44–250.46 [Redesignated as §§ 250.302–250.304]

5. In subpart C,§§ 250.44 through 250.46 are redesignated as §§ 250.302 through 250.304.

§§ 250.50–250.67 [Redesignated as §§ 250.400–250.417]

6. In subpart D, §§ 250.50 through 250.67 are redesignated as §§ 250.400 through 250.417.

§§ 250.70–250.87 [Redesignated as §§ 250.500–250.517]

7. In subpart E, §§ 250.70 through 250.87 are redesignated as §§ 250.500 through 250.517.

§§ 250.90–250.108 [Redesignated as §§ 250.600–250.618]

8. In subpart F, §§ 250.90 through 250.108 are redesignated as §§ 250.600 through 250.618.

§§ 250.110–250.114 [Redesignated as §§ 250.700–250.704]

9. In subpart G, §§ 250.110 through 250.114 are redesignated as §§ 250.700 through 250.704.

§§ 250.120–250.127 [Redesignated as §§ 250.800–250.807]

10. In subpart H, §§ 250.120 through 250.127 are redesignated as §§ 250.800 through 250.807.

§§ 250.130–250.144 [Redesignated as §§ 250.900–250.914]

11. In subpart I, §§ 250.130 through 250.144 are redesignated as §§ 250.900 through 250.914.

§§ 250.150–250.164 [Redesignated as §§ 250.1000–250.1014]

12. In subpart J, §§ 250.150 through 250.164 are redesignated as §§ 250.1000 through 250.1014.

§§ 250.170–250.177 [Redesignated as §§ 250.1100–250.1107]

13. In subpart K, §§ 250.170 through 250.177 are redesignated as §§ 250.1100 through 250.1107.

§§ 250.180–250.185 [Redesignated as §§ 250.1200–250.1205]

14. In subpart L, §§ 250.180 through 250.185 are redesignated as §§ 250.1200 through 250.1205.

§§ 250.190–250.194 [Redesignated as §§ 250.1300–250.1304]

15. In subpart M, §§ 250.190 through 250.194 are redesignated as §§ 250.1300 through 250.1304.

§§ 250.200–250.209 [Redesignated as §§ 250.1400–250.1409]

16. In subpart N, §§ 250.200 through 250.209 are redesignated as §§ 250.1400 through 250.1409.

§§ 250.210–250.234 [Redesignated as §§ 250.1500–250.1524]

17. In subpart O, §§ 250.210 through 250.234 are redesignated as §§ 250.1500 through 250.1524.

§§ 250.250–250.254 [Redesignated as §§ 250.1600–250.1604]

18. In subpart P, §§ 250.250 through 250.254 are redesignated as §§ 250.1600 through 250.1604.

§§ 250.260–250.274 [Redesignated as §§ 250.1605–250.1619]

19. In subpart P, §§ 250.260 through 250.274 are redesignated as §§ 250.1605 through 250.1619.

§§ 250.280–250.274 [Redesignated as §§ 250.1620–250.1626]

20. In subpart P, §§ 250.280 through 250.286 are redesignated as §§ 250.1620 through 250.1626.

§§ 250.290–250.297 [Redesignated as §§ 250.1627–250.1634]

20. In subpart P, §§ 250.290 through 250.297 are redesignated as §§ 250.1627 through 250.1634.

21. The revised table of contents for part 250 reads as follows:

Subpart A—General

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250.100 Authority for information collection.
250.101 Documents incorporated by reference.
250.102 Definitions.
250.103 Performance requirements.
250.104 Jurisdiction.
250.105 Functions.
250.106 Oral approvals.
250.107 Right of use and easement.
250.108 Designation of operator.
250.109 Local agent.
250.110 Suspension of production or other operations.
250.111 Determination of well producibility.
250.112 Cancellation of leases.
250.113 How does production, drilling, or well-reworking affect your lease term?
250.114 Reinjection and subsurface storage of gas.
250.115 Identification.
250.116 Reimbursement.
250.117 Information and forms.
250.118 Data and information to be made available to the public.
250.119 Accident reports.
250.120 Safe and workmanlike operations.
250.121 Access to facilities.
250.122 Best available and safest technologies (BAST).
250.123 Report of cessation of production.
250.124 Appeals, general.
250.125 Reports and investigations of apparent violations.
250.126 Archaeological reports and surveys.

Subpart B—Exploration and Development and Production Plans

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250.200 General requirements.
250.201 Preliminary activities.
250.202 Well location and spacing.
250.203 Exploration Plan.
250.204 Development and Production Plan.

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Sec.
250.300 Pollution prevention.
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250.303 Facilities described in a new or revised Exploration Plan or Development and Production Plan.
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250.400 Control of wells.
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250.403 Electrical equipment.
250.404 Well casing and cementing.
250.405 Pressure testing of casing.
250.406 Blowout preventer systems and system components.
250.407 Blowout preventer systems tests, actuations, inspections, and maintenance.
250.408 Well-control drills.
250.409 Diverter systems.
250.410 Mud program.
250.411 Securing of wells.
250.412 Field drilling rules.
250.413 Supervision, surveillance, and training.
250.414 Applications for Permit to Drill.
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250.503 Emergency shutdown system.
250.504 Hydrogen sulfide.

250.505 Subsea completions.
250.506 Crew instructions.
250.507 Welding and burning practices and procedures.
250.508 Electrical requirements.
250.509 Well-completion structures on fixed platforms.
250.510 Diesel engine air intakes.
250.511 Traveling-block safety device.
250.512 Field well-completion rules.
250.513 Approval and reporting of well-completion operations.
250.514 Well-control fluids, equipment, and operations.
250.515 Blowout prevention equipment.
250.516 Blowout preventer system testing, records, and drills.
250.517 Tubing and wellhead equipment.

Subpart F—Oil and Gas Well-Workover Operations

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250.601 Definitions.
250.602 Equipment movement.
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250.604 Hydrogen sulfide.
250.605 Subsea workovers.
250.606 Crew instructions.
250.607 Welding and burning practices and procedures.
250.608 Electrical requirements.
250.609 Well-workover structures on fixed platforms.
250.610 Diesel engine air intakes.
250.611 Traveling-block safety device.
250.612 Field well-workover rules.
250.613 Approval and reporting for well-workover operations.
250.614 Well-control fluids, equipment, and operations.
250.615 Blowout prevention equipment.
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250.801 Subsurface safety devices.
250.802 Design, installation, and operation of surface production safety systems.
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250.804 Production safety-system testing and records.
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250.900 General requirements.
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250.904 Environmental conditions.
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250.1000 General requirements.
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250.1003 Installation, testing and repair requirements for DOI pipelines.
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250.1009 General requirements for a pipeline right-of-way grant.
250.1010 Applications for a pipeline right-of-way grant.
250.1011 Granting a pipeline right-of-way.
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250.1013 Assignment of a right-of-way grant.
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Subpart K—Oil and Gas Production Rates

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250.1100 Definitions for production rates.
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250.1200 Question index table.
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250.1202 Liquid hydrocarbon measurement.
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250.1405 When is a case file developed?
250.1406 When will MMS notify me and provide penalty information?
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250.1502 What is MMS's goal for well control and production safety systems training?
210.1503 What type of training must I provide for my employees?
250.1504 What documentation must I provide to trainees?
250.1505 How often must I provide training to my employees and for how many hours?
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250.1512 May I use alternative training methods?
250.1513 What is MMS looking for when it reviews an alternative training program?
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250.1602 Applicability.
250.1603 Determination of sulphur deposit.
250.1604 General requirements.
250.1605 Drilling requirements.
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250.1611 Blowout preventer systems tests, actuations, inspections, and maintenance.
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250.1617 Application for permit to drill.
250.1618 Sundry notices and reports on wells.
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250.1620 Well-completion and well-workover requirements.
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250.1628 Design, installation, and operation of production systems.
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250.1631 Safety device training.
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250.1633 Production measurement.
250.1634 Site security.

22. In redesignated § 250.101, the table in paragraph (e) is revised to read as follows:

§ 250.101 Documents incorporated by reference.

* * * * *

(e) * * *

Title of documents	Incorporated by reference at
ACI Standard 318–95, Building Code Requirements for Reinforced Concrete, plus Commentary on Building Code Requirements for Reinforced Concrete (ACI 318R–95).	§ 250.908(b)(4)(i), (b)(6)(i), (b)(7), (b)(8)(i), (b)(9), (b)(10), (c)(3), (d)(1)(v), (d)(5), (d)(6), (d)(7), (d)(8), (d)(9), (e)(1)(i), (e)(2)(i).
ACI Standard 357–R–84, Guide for the Design and Construction of Fixed Offshore Concrete Structures, 1984.	§ 250.900(g); § 250.908(c)(2), (c)(3).
AISC Standard Specification for Structural Steel for Buildings, Allowable Stress Design and Plastic Design, June 1, 1989, with Commentary.	§ 250.907(b)(1)(ii), (c)(4)(ii), (c)(4)(vii).
ANSI/ASME Boiler and Pressure Vessel Code, Section I, Power Boilers, including Appendices, 1995 Edition.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
ANSI/ASME Boiler and Pressure Vessel Code, Section IV, Heating Boilers including Nonmandatory Appendices A, B, C, D, E, F, H, I, and J, and the Guide to Manufacturers Data Report Forms, 1995 Edition.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
ANSI/ASME Boiler and Pressure Vessel Code, Section VIII, Pressure Vessels, Divisions 1 and 2, including Nonmandatory Appendices, 1995 Edition.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
ANSI/ASME B 16.5–1988 (including Errata) and B 16.5a–1992 Addenda, Pipe Flanges and Flanged Fittings.	§ 250.1002(b)(2).
ANSI/ASME B 31.8–1995, Gas Transmission and Distribution Piping Systems.	§ 250.1002(a).
ANSI/ASME SPPE–1–1994 and SPPE–1d–1996 ADDENDA, Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations.	§ 250.806(a)(2)(i).
ANSI Z88.2–1992, American National Standard for Respiratory Protection.	§ 250.417(g)(4)(iv), (j)(13)(ii).
API RP 2A, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms Working Stress Design, Nineteenth Edition, August 1, 1991, API Stock No. 811–00200.	§ 250.900(g); § 250.912(a).
API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms-Working Stress Design: Twentieth Edition, July 1, 1993, API Stock No. 811–00200.	§ 250.900(g); § 250.912(a).
API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms-Working Stress Design: Twentieth Edition, July 1, 1993, Supplement 1, December 1996, Effective Date, February 1, 1997, API Stock No. 811–00200.	§ 250.900(g); § 250.912(a).
API RP 2D, Recommended Practice for Operation and Maintenance of Offshore Cranes, Third Edition, June 1, 1995, API Stock No. G02D03.	§ 250.120(c); § 250.1605(g).
API RP 14B, Recommended Practice for Design, Installation, Repair and Operation of Subsurface Safety Valve Systems, Fourth Edition, July 1, 1994, with Errata dated June 1996, API Stock No.G14B04.	§ 250.801(e)(4); § 250.804(a)(1)(i); § 250.806(d).
API RP 14C, Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Fourth Edition, September 1, 1986, API Stock No. 811–07180.	§ 250.802(b), (e)(2); § 250.803(a), (b)(2)(i), (b)(4), (b)(5)(i), (b)(7), (b)(9)(v), (c)(2); § 250.804(a), (a)(5); § 250.1002(d); § 250.1004(b)(9); § 250.1628(c), (d)(2); § 250.1629(b)(2), (b)(4)(v); § 250.1630(a).
API RP 14E, Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems, Fifth Edition, October 1, 1991, API Stock No. G07185.	§ 250.802(e)(3); § 250.1628(b)(2), (d)(3).
API RP 14F, Recommended Practice for Design and Installation of Electrical Systems for Offshore Production Platforms, Third Edition, September 1, 1991, API Stock No. G07190.	§ 250.403(c); § 250.803(b)(9)(v); § 250.1629(b)(4)(v).

Title of documents	Incorporated by reference at
API RP 14G, Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms, Third Edition, December 1, 1993, API Stock No. G07194.	§ 250.803(b)(8), (b)(9)(v); § 250.1629(b)(3), (b)(4)(v).
API RP 14H, Recommended Practice for Installation, Maintenance and Repair of Surface Safety Valves and Underwater Safety Valves Offshore, Fourth Edition, July 1, 1994, API Stock No. G14H04.	§ 250.802(d); § 250.806(d).
API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, First Edition, June 1, 1991, API Stock No. G06005.	§ 250.403(b); § 250.802(e)(4)(i); § 250.803(b)(9)(i); § 250.1628(b)(3); (d)(4)(i); § 250.1629(b)(4)(i).
API RP 2556, Recommended Practice for Correcting Gauge Tables for Incrustation, Second Edition, August 1993, API Stock No. H25560.	§ 250.1202(l)(4).
API Spec Q1, Specification for Quality Programs, Fifth Edition, December 1994, API Stock No. 811–00001.	§ 250.806(a)(2)(ii).
API Spec 6A, Specification for Wellhead and Christmas Tree Equipment, Seventeenth Edition, February 1, 1996, API Stock No. G06A17.	§ 250.806(a)(3); § 250.1002 (b)(1), (b)(2).
APISpec 6AV1, Specification for Verification Test of Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, First Edition, February 1, 1996, API Stock No. G06AV1.	§ 250.806(a)(3).
API Spec 6D, Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves), Twenty-first Edition, March 31, 1994, API Stock No. G03200.	§ 250.1002(b)(1).
API Spec 14A, Specification for Subsurface Safety Valve Equipment, Ninth Edition, July 1, 1994, API Stock No. G14A09.	§ 250.806(a)(3).
API Spec 14D, Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Ninth Edition, June 1, 1994, with Errata dated August 1, 1994, API Stock No. G07183.	§ 250.806(a)(3).
API Standard 2545, Method of Gauging Petroleum and Petroleum Products, October 1965, reaffirmed October 1992; also available as ANSI/American Society for Testing and Materials (ASTM) D 1085–65, API Stock No. H25450.	§ 250.1202(l)(4).
API Standard 2551, Standard Method for Measurement and Calibration of Horizontal Tanks, First Edition, 1965, reaffirmed October 1992; also available as ANSI/ASTM D 1410–65, reapproved 1984, API Stock No. H25510.	§ 250.1202(l)(4).
API Standard 2552, Measurement and Calibration of Spheres and Spheroids, First Edition, 1966, reaffirmed October 1992; also available as ANSI/ASTM D 1408–65, reapproved 1984, API Stock No. H25520.	§ 250.1202(l)(4).
API Standard 2555, Method for Liquid Calibration of Tanks, September 1966, reaffirmed October 1992; also available as ANSI/ASTM D 1406–65, reapproved 1984, API Stock No. H25550.	§ 250.1202(l)(4).
MPMS, Chapter 1, Vocabulary, Second Edition, July 1994, API Stock No. H01002.	§ 250.1201.
MPMS, Chapter 2, Tank Calibration, Section 2A, Measurement and Calibration of Upright Cylindrical Tanks by the Manual Strapping Method, First Edition, February 1995, API Stock No. H022A1.	§ 250.1202(l)(4).
MPMS, Chapter 2, Section 2B, Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method, First Edition, March 1989; also available as ANSI/ASTM D4738–88, API Stock No. H30023.	§ 250.1202(l)(4).
MPMS, Chapter 3, Tank Gauging, Section 1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, First Edition, December 1994, API Stock No. H031A1.	§ 250.1202(l)(4).
MPMS, Chapter 3, Section 1B, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging, First Edition, April 1992, API Stock No. H30060.	§ 250.1202(l)(4).
MPMS, Chapter 4, Proving Systems, Section 1, Introduction, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30081.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 2, Conventional Pipe Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30082.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 3, Small Volume Provers, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30083.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 4, Tank Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30084.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 5, Master-Meter Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30085.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 6, Pulse Interpolation, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30086.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 4, Section 7, Field-Standard Test Measures, First Edition, October 1988, API Stock No. H30087.	§ 250.1202(a)(3), (f)(1).
MPMS, Chapter 5, Metering, Section 1, General Considerations for Measurement by Meters, Third Edition, September 1995, API Stock No. H05013.	§ 250.1202(a)(3).

Title of documents	Incorporated by reference at
MPMS, Chapter 5, Section 2, Measurement of Liquid Hydrocarbons by Displacement Meters, Second Edition, November 1987, reaffirmed October 1992, API Stock No. H30102.	§ 250.1202(a)(3).
MPMS, Chapter 5, Section 3, Measurement of Liquid Hydrocarbons by Turbine Meters, Third Edition, September 1995, API Stock No. H05033.	§ 250.1202(a)(3).
MPMS, Chapter 5, Section 4, Accessory Equipment for Liquid Meters, Third Edition, September 1995, with Errata, March 1996, API Stock No. H05043.	§ 250.1202(a)(3).
MPMS, Chapter 5, Section 5, Fidelity and Security of Flow Measurement Pulsed-Data Transmission Systems, First Edition, June 1982, reaffirmed October 1992, API Stock No. H30105.	§ 250.1202(a)(3).
MPMS, Chapter 6, Metering Assemblies, Section 1, Lease Automatic Custody Transfer (LACT) Systems, Second Edition, May 1991, API Stock No. H30121.	§ 250.1202(a)(3).
MPMS, Chapter 6, Section 6, Pipeline Metering Systems, Second Edition, May 1991, API Stock No. H30126.	§ 250.1202(a)(3).
MPMS, Chapter 6, Section 7, Metering Viscous Hydrocarbons, Second Edition, May 1991, API Stock No. H30127.	§ 250.1202(a)(3).
MPMS, Chapter 7, Temperature Determination, Section 2, Dynamic Temperature Determination, Second Edition, March 1995, API Stock No. H07022.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 7, Section 3, Static Temperature Determination Using Portable Electronic Thermometers, First Edition, July 1985, reaffirmed March 1990, API Stock No. H30143.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 8, Sampling, Section 1, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, Third Edition, October 1995; also available as ANSI/ASTM D 4057–88, API Stock No. H30161.	§ 250.1202(b)(4)(i), (l)(4).
MPMS, Chapter 8, Section 2, Standard Practice for Automatic Sampling of Liquid Petroleum and Petroleum Products, Second Edition, October 1995; also available as ANSI/ASTM D 4177, API Stock No. H30162.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 9, Density Determination, Section 1, Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products, First Edition, June 1981, reaffirmed October 1992; also available as ANSI/ASTM D 1298, API Stock No. H30181.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 9, Section 2, Pressure Hydrometer Test Method for Density or Relative Density, First Edition, April 1982, reaffirmed October 1992, API Stock No. H30182.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 10, Sediment and Water, Section 1, Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method, First Edition, April 1981, reaffirmed December 1993; also available as ANSI/ASTM D 473, API Stock No. H30201.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 10, Section 2, Determination of Water in Crude Oil by Distillation Method, First Edition, April 1981, reaffirmed December 1993; also available as ANSI/ASTM D 4006, API Stock No. H30202.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 10, Section 3, Determination of Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure), First Edition, April 1981, reaffirmed December 1993; also available as ANSI/ASTM D 4007, API Stock No. H30203.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 10, Section 4, Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure), Second Edition, May 1988; also available as ANSI/ASTM D 96, API Stock No. H30204.	§ 250.1202(a)(3), (l)(4).
MPMS, Chapter 11.1, Volume Correction Factors, Volume 1, Table 5A—Generalized Crude Oils and JP–4 Correction of Observed API Gravity to API Gravity at 60°F, and Table 6A—Generalized Crude Oils and JP–4 Correction of Observed API Gravity to API Gravity at 60°F, First Edition, August 1980, reaffirmed October 1993; also available as ANSI/ASTM D 1250, API Stock No. H27000.	§ 250.1202(a)(3), (g)(3), (l)(4).
MPMS, Chapter 11.2.1, Compressibility Factors for Hydrocarbons: 0–90° API Gravity Range, First Edition, August 1984, reaffirmed May 1996, API Stock No. H27300.	§ 250.1202(a)(3), (g)(4).
MPMS, Chapter 11.2.2, Compressibility Factors for Hydrocarbons: 0.350–0.637 Relative Density (60°F/60°F) and −50°F to 140°F Metering Temperature, Second Edition, October 1986, reaffirmed October 1992; also available as Gas Processors Association (GPA) 8286–86, API Stock No. H27307.	§ 250.1202(a)(3), (g)(4).

Title of documents	Incorporated by reference at
MPMS, Chapter 11, Physical Properties Data, Addendum to Section 2.2, Compressibility Factors for Hydrocarbons, Correlation of Vapor Pressure for Commercial Natural Gas Liquids, First Edition, December 1994; also available as GPA TP–15, API Stock No. H27308.	§ 250.1202(a)(3).
MPMS, Chapter 11.2.3, Water Calibration of Volumetric Provers, First Edition, August 1984, reaffirmed, May 1996, API Stock No. H27310.	§ 250.1202(f)(1).
MPMS, Chapter 12, Calculation of Petroleum Quantities, Section 2, Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Including Parts 1 and 2, Second Edition, May 1995; also available as ANSI/API MPMS 12.2–1981, API Stock No. H30302.	§ 250.1202(a)(3), (g)(1), (g)(2).
MPMS, Chapter 14, Natural Gas Fluids Measurement, Section 3, Concentric Square-Edged Orifice Meters, Part 1, General Equations and Uncertainty Guidelines, Third Edition, September 1990; also available as ANSI/API 2530, Part 1, 1991, API Stock No. H30350.	§ 250.1203(b)(2).
MPMS, Chapter 14, Section 3, Part 2, Specification and Installation Requirements, Third Edition, February 1991; also available as ANSI/API 2530, Part 2, 1991, API Stock No. H30351.	§ 250.1203(b)(2).
MPMS, Chapter 14, Section 3, Part 3, Natural Gas Applications, Third Edition, August 1992; also available as ANSI/API 2530, Part 3, API Stock No. H30353.	§ 250.1203(b)(2).
MPMS, Chapter 14, Section 5, Calculation of Gross Heating Value, Relative Density, and Compressibility Factor for Natural Gas Mixtures From Compositional Analysis, Revised, 1996; also available as ANSI/API MPMS 24.5–1981, order from Gas Processors Association, 6526 East 60th Street, Tulsa, Oklahoma 74145.	§ 250.1203(b)(2).
MPMS, Chapter 14, Section 6, Continuous Density Measurement, Second Edition, April 1991, API Stock No. H30346.	§ 250.1203(b)(2).
MPMS, Chapter 14, Section 8, Liquefied Petroleum Gas Measurement, First Edition, February 1983, reaffirmed May 1996, API Stock No. H30348.	§ 250.1203(b)(2).
MPMS, Chapter 20, Section 1, Allocation Measurement, First Edition, September 1993, API Stock No. H30730.	§ 250.1202(k)(1).
MPMS, Chapter 21, Section 1, Electronic Gas Measurement, First Edition, September 1993, API Stock No. H30730.	§ 250.1203(b)(4).
ASTM Standard C33–93, Standard Specification for Concrete Aggregates including Nonmandatory Appendix.	§ 250.908(b)(4)(i).
ASTM Standard C94–96, Standard Specification for Ready-Mixed Concrete.	§ 250.908(e)(2)(i).
ASTM Standard C150–95a, Standard Specification for Portland Cement	§ 250.908(b)(2)(i).
ASTM Standard C330–89, Standard Specification for Lightweight Aggregates for Structural Concrete.	§ 250.908(b)(4)(i).
ASTM Standard C595–94, Standard Specification for Blended Hydraulic Cements.	§ 250.908(b)(2)(i).
AWS D1.1–96, Structural Welding Code—Steel, 1996, including Commentary.	§ 250.907(b)(1)(i)
AWS D1.4–79, Structural Welding Code—Reinforcing Steel, 1979	§ 250.908(e)(3)(ii).
NACE Standard MR.01–75–96, Sulfide Stress Cracking Resistant Metallic Materials for Oil Field Equipment, January 1996.	§ 250.417(p)(2)
NACE Standard RP 0176–94, Standard Recommended Practice, Corrosion Control of Steel Fixed Offshore Platforms Associated with Petroleum Production.	§ 250.907(d).

23. In the redesignated sections listed in the first column, below, references to the sections listed in the second column are revised to read as shown in the third column.

Redesignated section	Old reference	New reference
250.101(c)	250.3	250.103.
250.101(c)	250.14	250.114.
250.102 Existing Facility	250.45	250.303.
250.102 Facility, 1st definition	250.45	250.303.
250.102 Facility, 2nd definition	250.67	250.417.
250.110(c)	250.34	250.204.
250.110(d)(1)	250.11	250.111.
250.110(d)(2)	250.253	250.1603.
250.110(h)(2)	250.34	250.204.
250.112(c)(1)	250.34	250.204.
250.112(c)(1)(i)	250.34	250.204.
250.112(e)(2)	250.34	250.204.
250.113(b)(2) & (3)	250.10	250.110.
250.114(e)	250.7	250.107.
250.117(b)	250.18	250.118.
250.118(b)(2)	250.10	250.110.

Redesignated section	Old reference	New reference
250.118(b)(2)	250.10	250.110.
250.118(e)	250.51	250.401.
250.200	250.34	250.204.
250.203(b)(5)(i) & (ii)	250.67	250.417.
250.203(b)(19)	250.45	250.303.
250.203(b)(19)	250.46	250.304.
250.203(b)(19)(iii)	250.45	250.303.
250.203(m)	250.12	250.112.
250.203(p)	250.64	250.414.
250.204(b)(1)(vii)	250.13	250.909.
250.204(b)(2)(i) & (ii)	250.67	250.417.
250.204(b)(14)	250.45	250.303.
250.204(b)(14)	250.46	250.304.
250.204(b)(14)(iii)	250.45	250.303.
250.204(p)	250.12	250.112.
250.204(r)	250.12	250.112.
250.204(t)	250.64	250.414.
250.302	250.45	250.303.
250.302	250.46	250.304.
250.303(b)	250.45	250.303.
250.303(b)(2)	250.33	250.203.
250.303(b)(2)	250.34	250.204.
250.303(d)	250.33	250.203.
250.303(d)	250.34	250.204.
250.304(a)(6)	250.33	250.203.
250.304(a)(6)	250.34	250.204.
250.304(b)	250.33	250.203.
250.304(b)	250.34	250.204.
250.304(e)(2)	250.10	250.110.
250.401(a)(3)	250.64	250.414.
250.401(a)(3)	250.133	250.903.
250.401(d)	250.33	250.203.
250.401(d)	250.34	250.204.
250.406(c)	250.64	250.414.
250.406(d)(10)(i)	250.57	250.407.
250.414(a)	250.6	250.106.
250.414(g)	250.17	250.117.
250.415(d)	250.17	250.117.
250.416(b)	250.10	250.110.
250.417(m)(1)	250.40	250.300.
250.417(o)(3)	250.175	250.1105.
250.504	250.67 (2 times)	250.417.
250.505	250.83	250.513.
250.507	250.52	250.402.
250.508	250.53	250.403.
250.513(a)	250.64	250.414.
250.513(b)(4)	250.67	250.417.
250.513(d)	250.17	250.117.
250.517(e)	250.121	250.801.
250.604	250.67	250.417.
250.605	250.103	250.613.
250.607	250.52	250.402.
250.608	250.53	250.403.
250.613(b)(3)	250.67	250.417.
250.617(e)	250.121	250.801.
250.618	250.91	250.601.
250.702(i)	250.114	250.704.
250.703(a)	250.112	250.702.
250.703(a)	250.114	250.704.
250.801(b)	250.126	250.806.
250.801(h)(1)	250.91	250.601.
250.801(h)(2)	250.124	250.804.
250.801(h)(4)	250.124	250.804.
250.802(b)	250.154	250.1004.
250.802(c)	250.126	250.806.
250.803(a)	250.122	250.802.
250.803(b)(10)	250.53	250.403.
250.803(d)	250.52	250.402.
250.807	250.67	250.417.
250.900(b)	250.131	250.901.
250.900(b)	250.134 through 250.144	250.904 through 250.914.
250.900(c)	250.131 through 250.144	250.901 through 250.914.
250.901(b)(1)(v)(D)	250.142	250.912.
250.901(b)(2)	250.134	250.904.

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Redesignated section	Old reference	New reference
250.901(b)(3)(v)	250.139	250.909.
250.901(b)(4)(vi)(A) & (B)	250.135 through 250.139	250.905 through 250.909.
250.902(a)	250.130	250.900.
250.902(b)(1)(i)	250.133	250.903.
250.902(b)(2)(i)	250.131	250.901.
250.903(a)(1)(iii)	250.134 through 250.141	250.904 through 250.911.
250.903(a)(2)(ii)	250.134 through 250.141	250.904 through 250.911.
250.903(a)(3)(i) & (ii)	250.134 through 250.141	250.904 through 250.911.
250.903(b)(2)	250.132	250.902.
250.904(d)(4)(ii)	250.136	250.906.
250.904(d)(8)(ii)	250.135	250.905.
250.905(c)(2)(vii)	250.140	250.910.
250.905(c)(5)(ii)	250.134	250.904.
250.905(c)(5)(ii)	250.134	250.904.
250.906(b)(2)(ii)	250.135	250.905.
250.906(b)(2)(iii)	250.137	250.90.
250.906(b)(2)(iii)	250.138	250.908.
250.906(b)(3)(i)	250.135	250.905.
250.906(b)(3)(ii)	250.137	250.907.
250.906(b)(3)(ii)	250.138	250.908.
250.906(b)(3)(ii)	250.139	250.909.
250.906(c)(1)	250.134	250.904.
250.906(c)(5)	250.137	250.907.
250.906(c)(5)	250.138	250.908.
250.907(c)(1)(iii)	250.135	250.905.
250.907(c)(1)(iii)	250.136	250.906.
250.907(c)(3)(iv)	250.139	250.909.
250.907(c)(4)(v)	250.135	250.905.
250.907(c)(6)(ii)	250.136	250.906.
250.908(b)(6)(ii)	250.137	250.907.
250.908(c)(5)(ii)	250.136	250.906.
250.908(c)(6)	250.136	250.906.
250.911(b)(4)	250.137	250.907.
250.911(b)(7)(iii)(D)	250.139	250.909.
250.911(b)(7)(iv)	250.140	250.910.
250.911(c)(3)(ii)	250.138	250.908.
250.911(c)(8)(iv)	250.140	250.910.
250.914	250.142	250.912.
250.1000(b)	250.151	250.1001.
250.1000(c)	250.150 through 250.158	250.1000 through 1008.
250.1000(d)	250.151	250.1001.
250.1008(h)	250.155	250.1005.
250.1009(a)(1)	250.150 through 250.158	250.1000 through 1008.
250.1009(c)(9)	250.164	250.1014.
250.1010(a)	250.157	250.1007.
250.1010(a)	250.159 (2 times)	250.1009.
250.1011(c)(1)	250.160	250.1010.
250.1013(b)	250.160	250.1010.
250.1013(b)	250.159	250.1009.
250.1014	250.157	250.1007.
250.1014	250.159	250.1009.
250.1101(d)	250.172	250.1102.
250.1102(a)(9)	250.17	250.117.
250.1102(b)(8)	250.17	250.117.
250.1102(b)(9)	250.17	250.117.
250.1105(f)(1)(i)	250.67	250.417.
250.1105(f)(1)(ii)	250.45	250.303.
250.1105(f)(1)(ii)	250.46	250.304.
250.1201	250.1	250.101.
250.1202(a)(3)	250.1	250.101.
250.1202(b)(4)(i)	250.1	250.101.
250.1202(f)(1)	250.1	250.101.
250.1202(g)	250.1	250.101.
250.1202(k)(1)	250.1	250.101.
250.1202(l)(4)	250.1	250.101.
250.1203(b)(2)	250.1	250.101.
250.1203(b)(4)	250.1	250.101.
250.1301(d)	250.13	250.113.
250.1301(d)	250.10	250.110.
250.1301(g)(1)	250.13	250.113.
250.1301(g)(1)	250.10	250.110.
250.1301(g)(2)(ii)	250.10	250.110.
250.1302(d)	250.191	250.1301.
250.1302(d)	250.194	250.1304.

Redesignated section	Old reference	New reference
250.1303(a)(4)	250.190	250.1300.
250.1304(b)	250.191	250.1301.
250.1304(b)	250.193	250.1303.
250.1304(b)	250.190	250.1300.
250.1405	250.204	250.1404.
250.1500(a)	250.212 through 250.217	250.1502 through 250.1507.
250.1500(b)	250.218 through 250.223	250.1508 through 250.1513.
250.1500(c)	250.224 through 250.230	250.1514 through 250.1520.
250.1500(c)	250.234	250.1524.
250.1500(d)	250.231 through 250.233	250.1521 through 250.1523.
250.1505(c)	250.215	250.1505.
250.1505(f)	250.215	250.1505.
250.1604(b)	250.67 (2 times)	250.417.
250.1604(c)	250.52	250.402.
250.1604(d)	250.53	250.403.
250.1605(a)	250.260 through 250.274	250.1605 through 1619.
250.1605(b)(3)	250.272	250.1617.
250.1605(d)	250.33	250.203.
250.1605(d)	250.34	250.204.
250.1612	250.58	250.408.
250.1614(b)	250.60	250.410.
250.1614(b)	250.60	250.410.
250.1617(a)	250.6	250.106.
250.1617(d)	250.17	250.117.
250.1618(a)	250.6	250.106.
250.1618(c)	250.17	250.117.
250.1619(b)	250.10	250.110.
250.1620(a)	250.280 through 250.286	250.1620 through 250.1626.
250.1620(a)	250.71	250.501.
250.1620(a)	250.91	250.601.
250.1624(d)(1)	250.282	250.1622.
250.1627(a)	250.290 through 250.297	250.1627 through 1634.

24. In redesignated § 250.1200, the table is revised to read as follows:

§ 250.1200 Question index table.

* * * * *

Frequently asked questions	CFR citation
1. What are the requirements for measuring liquid hydrocarbons?	§ 250.1202(a)
2. What are the requirements for liquid hydrocarbon royalty meters?	§ 250.1202(b)
3. What are the requirements for run tickets?	§ 250.1202(c)
4. What are the requirements for liquid hydrocarbon royalty meter provings?	§ 250.1202(d)
5. What are the requirements for calibrating a master meter used in royalty meter provings?	§ 250.1202(e)
6. What are the requirements for calibrating mechanical-displacement provers and tank provers?	§ 250.1202(f)
7. What correction factors must a lessee use when proving meters with a mechanical displacement prover, tank prover, or master meter?.	§ 250.1202(g)
8. What are the requirements for establishing and applying operating meter factors for liquid hydrocarbons?	§ 250.1202(h)
9. Under what circumstances does a liquid hydrocarbon royalty meter need to be taken out of service, and what must a lessee do?.	§ 250.1202(i)
10. How must a lessee correct gross liquid hydrocarbon volumes to standard conditions?	§ 250.1202(j)
11. What are the requirements for liquid hydrocarbon allocation meters?	§ 250.1202(k)
12. What are the requirements for royalty and inventory tank facilities?	§ 250.1202(l)
13. To which meters do MMS requirements for gas measurement apply?	§ 250.1203(a)
14. What are the requirements for measuring gas?	§ 250.1203(b)
15. What are the requirements for gas meter calibrations?	§ 250.1203(c)
16. What must a lessee do if a gas meter is out of calibration or malfunctioning?	§ 250.1203(d)
17. What are the requirements when natural gas from a Federal lease is transferred to a gas plant before royalty determination?	§ 250.1203(e)
18. What are the requirements for measuring gas lost or used on a lease?	§ 250.1203(f)
19. What are the requirements for the surface commingling of production?	§ 250.1204(a)
20. What are the requirements for a periodic well test used for allocation?	§ 250.1204(b)
21. What are the requirements for site security?	§ 250.1205(a)
22. What are the requirements for using seals?	§ 250.1205(b)

25. In redesignated § 250.1401, the table is revised to read as follows:

§ 250.1401 Index table.

* * * * *

§ 250.1401 Table

Definitions	§ 250.1402
What is the maximum civil penalty?	§ 250.1403
Which violations will MMS review for potential civil penalties?	§ 250.1404
When is a case file developed?	§ 250.1405
When will MMS notify me and provide penalty information?	§ 250.1406
How do I respond to the letter of notification?	§ 250.1407
When will I be notified of the Reviewing Officer's decision?	§ 250.1408
What are my appeal rights?	§ 250.1409

26. In redesignated § 250.1500, the table is revised to read as follows:

§ 250.1500 Question index table.

* * * * *

§ 250.1500 Table

Frequently asked questions	CFR citation
What is MMS's goal for well control and production safety systems training?	§ 250.1502
What type of training must I provide for my employees?	§ 250.1503
What documentation must I provide to trainees?	§ 250.1504
How often must I provide training to my employees and for how many hours?	§ 250.1505
Where must I get training for my employees?	§ 250.1506
Where can I find training guidelines for other topics?	§ 250.1507
Can I get exception to the training requirements?	§ 250.1508
Can my employees change job certification?	§ 250.1509
What must I do if I have temporary employees or on-the-job trainees?	§ 250.1510
What must manufacturer's representatives in production safety systems do?	§ 250.1511
May I use alternative training methods?	§ 250.1512
What is MMS looking for when it reviews an alternative training program?	§ 250.1513
Who may accredit training organizations to teach?	§ 250.1514
How long is a training organization's accreditation valid?	§ 250.1515
What information must a training organization submit to MMS?	§ 250.1516
What additional requirements must a training organization follow?	§ 250.1517
What are MMS's requirements for the written test?	§ 250.1518
What are MMS's requirements for the hands-on simulator and well test?	§ 250.1519
What elements must a basic course cover?	§ 250.1520
If MMS tests employees at my worksite, what must I do?	§ 250.1521
If MMS tests trainees at a training organization's facility, what must occur?	§ 250.1522
Why might MMS conduct its own tests?	§ 250.1523
Can a training organization lose its accreditation?	§ 250.1524

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Part III

Department of Housing and Urban Development

Super Notices of Funding Availability (SuperNOFAs) for: Housing and Community Development Programs; Economic Development and Empowerment Programs; and Targeted Housing and Homeless Assistance Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4340–C–02, FR–4363–C–02, FR–4364–C–02]

Super Notices of Funding Availability (SuperNOFAs) for: Housing and Community Development Programs; Economic Development and Empowerment Programs; and Targeted Housing and Homeless Assistance Programs; Extension of FHIP and Housing Counseling Application Deadline; Technical Corrections and Clarifications; and Announcement of OMB Approval Numbers

AGENCY: Office of the Secretary, HUD.

ACTION: Extension of FHIP and Housing Counseling Application Deadline; Announcement of OMB Approval Numbers; and Technical Corrections to SuperNOFAs.

SUMMARY: The purpose of this notice is to extend the application due dates for the Fair Housing Initiatives Program (FHIP) and the Housing Counseling Program, that were part of the funding availability notices announced in HUD's SuperNOFA for Housing and Community Development Programs (SuperNOFA I), published on March 31, 1998. The purposes of this notice are also to announce OMB approval numbers for two programs contained in the SuperNOFAs and to correct certain technical errors that appeared in the SuperNOFAs or clarify certain provisions.

DATES: APPLICATION DUE DATES: The application due date for the Fair Housing Initiatives Program (FHIP) and the Housing Counseling Program, announced in SuperNOFA I, is extended to *June 25, 1998*. No other application due dates are extended by this notice.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

For information concerning a particular program, please contact the office or individual listed in the "For Further Information" portion of the program section of the applicable SuperNOFA.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1998 (63 FR 15490), HUD published its SuperNOFA for Housing and Community Development Programs (SuperNOFA I). On April 30, 1998, HUD published the following NOFAs: SuperNOFA for Economic Development and Empowerment Programs (SuperNOFA II) (63 FR 23876); SuperNOFA for Targeted Housing and Homeless Assistance Programs (SuperNOFA III) (63 FR 23988); and SuperNOFA for National Competition Programs (National SuperNOFA) (63 FR 23958). The purposes of this notice are to: extend the application due date for the FHIP and Housing Counseling Programs, announced in SuperNOFA I; announce the OMB approval numbers of two programs that were part of the SuperNOFAs; to correct certain technical errors that appeared in the SuperNOFAs; and to clarify certain provisions.

Extension of FHIP and Housing Counseling Application Due Dates

In SuperNOFA I, HUD announced that the application due dates for the Fair Housing Initiatives Program (FHIP) and the Housing Counseling Program to be June 1, 1998. Due to delays in receipt of the application kits for the FHIP program from the printer, FHIP program applicants faced a hardship in not having kits available to complete their applications. Accordingly, to assist FHIP program applicants, HUD is extending the application due date for the FHIP and Housing Counseling programs to *June 25, 1998.*

Announcement of OMB Approval Numbers

In SuperNOFA II, HUD noted that the OMB approval for the Local Lead Hazard Awareness Campaign program was pending (see 63 FR 23880). In the National SuperNOFA, HUD noted that the OMB approval number for the National Lead Hazard Awareness Campaign was pending (see 63 FR 23961). Since publication of these two SuperNOFAs, both OMB approval numbers have been received and they are, respectively: 2539–0013 and 2539–0014. Please note that in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Federal Register Correction of Printing Errors

In addition to the corrections being made by this notice, the Department notes that in the printing of SuperNOFA I, two printing errors were made and these errors were corrected by the Federal Register in the **Federal Register** issue of Tuesday, May 5, 1998 (see 63 FR 24843). Those corrections pertained to the Public Housing Drug Elimination program section of SuperNOFA I (beginning at 63 FR 15586). For the convenience of the reader, the corrections published on May 5, 1998 are as follows:

1. On page 15587, in the first column, in paragraph (c)(iii) in the second line, "24,000" should be "25,000."

2. On page 15587, in the second column, in the first line "$250,000 per unit" should read "$250.00 per unit."

Corrections and Clarifications Made by This Notice

This notice corrects editorial and technical errors that have been identified in various program sections of SuperNOFAs I, II, and III.

Accordingly, the following corrections are made:

I. In the SuperNOFA for Housing and Community Development Programs (SuperNOFA I), notice document 98–8102, beginning at 63 FR 15490, in the issue of Tuesday, March 31, 1998, the following corrections are made:

A. *General Section of the SuperNOFA, Beginning at 63 FR 15493*

1. On page 15496, in the middle column, under Section IV (captioned "Application Submission Requirements"), a new sentence is added at the end of that section to read as follows:

Whenever a provision of an application kit for one of the programs included in this SuperNOFA is inconsistent with a provision of this SuperNOFA, the provision of the SuperNOFA will prevail.

B. *Historically Black Colleges and Universities (HBCUs) Program Section of SuperNOFA I, Beginning at 63 FR 15527*

1. On page 15529, in the middle column, the last sentence of the first paragraph of Section II(A)(2) is removed.

C. *Fair Housing Initiatives Program Section of SuperNOFA I, Beginning at 63 FR 15536*

1. On page 15539, in the third column, in Section II(A)(4), captioned "Project Starting Period," the date of "October 1, 1998" in this paragraph is replaced with the phrase "90 days from the date of the grant award."

2. On page 15539, in the third column, in the first sentence of Section

II(A)(10), captioned "Outreach Expenses," the words "Enforcement (PEI/FHOI)" are inserted before the word "Applications."

D. *Housing Counseling Program section of SuperNOFA I, beginning at 63 FR 15545.*

1. On page 15549, in the middle column, in Section I(C)(1)(b)(ii), captioned "National, Regional, or Multi-State Intermediaries," the second to the last sentence of this paragraph (ii) is removed.

2. On page 15550, in the first column, the "Note" under Section I(D)(2) is corrected by removing the words "or State housing finance agency" in line 6 of the Note.

E. *Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization) program section of SuperNOFA I, beginning at 63 FR 15577.*

1. On page 15577, under "Application Due Date," the phrase "12:00 pm Eastern time" should be "12:00 midnight, Eastern time."

2. On page 15583, in the third column, a new paragraph (d) is added to Section III(C)(1), and on page 15584, in the first column, a new paragraph (d) is added to Section III(C)(2), and both new paragraphs (d) read as follows:

If two or more applications have the same score and there are insufficient funds to fund all of them, the application(s) with the highest score for the Soundness of Approach rating factor shall be selected for funding. If a tie still remains, the application(s) with the highest score for the Capacity of the Applicant and Relevant Organizational Experience rating factor shall be selected. Further tied applications will be selected by their scores in the Need/Extent of Problem, Leveraging Resources, and Comprehensiveness and Coordination rating factors, in that order.

F. *Public Housing Drug Elimination Program section of SuperNOFA I, beginning at 63 FR 15586.*

1. On page 15587, first column, in Section I(C)(3)(a), a second paragraph is added to paragraph (a) so that paragraph (a) reads as follows:

(a) PHAs: The unit count includes rental, Turnkey III Homeownership and Section 23 leased housing bond-financed projects.

PHAs preparing PHDEP applications are required to confirm/validate the unit count with the local Field Office (Office of Public Housing) before the application is submitted.

Field Offices shall not include non-Federally Assisted Housing located in High Intensity Drug-Trafficking Areas in the unit count. Confirmation/Validation may be given if the unit count to be used for a particular program (eg., PHA-Owned Rental) is the same as the unit count reflected on a PHA's most recently approved Operating Budget (Form HUD–52564) and/or subsidy calculation (Form HUD–52723) submitted for that program. Field Offices that have PHAs that are not required to submit either of these forms may confirm/validate the PHDEP unit count if it is the same as the most recently submitted Form HUD–51234. Note: In determining the unit count for PHA-Owned Rental Housing, a long-term vacancy unit as defined in 24 CFR 990.102 is included in the count.

2. On page 15587, first column, in the first sentence of the second paragraph of Section I(C)(3)(b) the words "and occupied" is removed so that the sentence reads: "Eligible units are those units which are under management and fully developed."

3. On page 15587, first column, a third paragraph is added to paragraph (b) of Section I(C)(3) to read as follows:

Use the number of units counted as Formula Current Assisted Stock for Fiscal Year 1998 as defined in 24 CFR 1000.316. Tribes who have not previously received funds from the Department under the 1937 Act should count housing units under management that are owned and operated by the tribe and are identified in their housing inventory as of September 30, 1997.

4. On page 15587, first column, in Section I(C)(3)(c)(iv), "$30 million" should read "$35 million."

5. On page 15592, in the third column, a new paragraph (10) is added to Section I(E) to read as follows:

(10) *High Intensity Drug Trafficking Areas (HIDTAs).* Funding may be used for the activities to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted (for example, housing that receives tenant subsidies under Section 8 is federally assisted and would not qualify, but housing that receives only State, Tribal or local assistance would qualify if they meet all of the following: (i) The housing is located in a high intensity drug trafficking area designated pursuant to Section 1005 of the Anti-Drug Abuse Act of 1988; and (ii) The PHA owning the housing demonstrates, on the basis of information submitted that the drug-related crime at the housing authority has a detrimental affect on or about the housing. The High Intensity Drug Trafficking Areas are areas identified as having problems that adversely impact the rest of the country. These areas are designated as HIDTAs by the Director, Office of National Drug Control Policy (ONDCP), pursuant to the Anti-Drug Abuse Act of 1988. As of May 1998 the following areas were confirmed by the ONDCP as designated HIDTAs:

—New York HIDTA consists of the city of New York and all the municipalities therein and Nassau, Suffolk, and Westchester Counties in New York);
—New Jersey HIDTA consists of Union, Hudson, Essex, Bergen, and Passaic Counties and all municipalities in New Jersey;
—Washington, DC—Baltimore HIDTA consists of Washington, DC; the city of Baltimore, and Baltimore, Howard, Anne Arundel, Prince George's, Montgomery and Charles Counties (in Maryland); and the city of Alexandria and Arlington, Fairfax, Prince William, and Loudoun Counties (in Virginia) and all municipalities therein;
—South Florida HIDTA consists of the city of Miami and the surrounding areas of Broward, Dade, and Monroe Counties and all municipalities therein;
—Houston HIDTA consists of the city of Houston and surrounding areas of Harris, and Galveston Counties and all municipalities therein;
—Lake County HIDTA consists of Lake County, Indiana, and all municipalities therein;
—Gulf Coast HIDTA consist of Baldwin, Jefferson, Mobile, and Montgomery Counties (in Alabama); Caddo, East Baton Rouge, Jefferson, and Orleans Parishes (in Louisiana); and Hancock, Harrison, Hinds, and Jackson Counties (in Mississippi) and the municipalities therein;
—Midwest HIDTA consists of Muscatine, Polk, Pottawattamie, Scott and Woodbury Counties (in Iowa); Cherokee, Crawford, Johnson, Labette, Leacenworth, Saline, Seward, and Wyandotte Counties (in Kansas); Cape Garardeau, Christian, Clay, Jackson, Lafayette, Lawrence, Ray, Scott, and St. Charles Counties, and the City of St. Louis, MO (in Missouri); Dakota, Dawson, Douglas, Hall, Lancaster, Sarpy, and Scott's Bluff Counties (in Nebraska); Clay, Codington, Custer, Fall River, Lawrence, Lincoln, Meade, Minnehaha, Pennington, Union, and Yankton Counties (in South Dakota); and all municipalities therein;
—Rocky Mountains HIDTA consists of Adams, Arapahoe, Denver, Douglas, Eagle, El Pasco, Garfield, Jefferson, La Plate, and Mesa Counties (in Colorado); Davis, Salt Lake, Summit, Utah, and Weber Counties (in Utah); Laramie, Natrona, and Sweetwater Counties (in Wyoming) and all municipalities therein;
—Southwest Border HIDTA consists of San Diego and Imperial Counties (in California), and all municipalities therein; Yuma, Maricopa, Pinal, Pima, Santa Cruz, and Cochise Counties, (in Arizona) and all municipalities therein; Bernalillo, Hidalgo, Grant, Luna, Dona Ana, Eddy, Lea, and Otero, Chaves, and Lincoln Counties, (in New Mexico) and all municipalities therein; El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Crockett Counties (in West Texas) and all municipalities therein; Bexar, Val Verde, Kinney, Maverick, Zavala, Dimmit, La Salle, Webb, Zapata, Jim Hogg, Starr, Hildago, Willacy and Cameron Countries (in South Texas) and all municipalities therein;
—Northwest HIDTA consists of King, Pierce, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties (in the State of Washington) and all municipalities therein;
—Los Angeles HIDTA consists of the city of Los Angeles and surrounding areas of Los Angeles, Orange, Riverside, and San Bernadino Counties, and all municipalities therein; and

—Puerto Rico/U.S. Virgin Islands HIDTA consists of the U.S. territories of Puerto Rico and the Virgin Islands.
—San Francisco Bay Area HIDTA consists of Alameda, Contra Costa, Lake, Marin, Monterey, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma counties and all the municipalities therein.
—Appalachia HIDTA consist of Adair, Bell, Breathitt, Clay, Clinton, Cumberland, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, McCreary, Magoffin, Marion, Monroe, Owsley, Perry, Pike, Pulaski, Rockcastle, Taylor, Wayne. and Whitley counties in Kentucky; Boone, Braxton, Cabell, Gilmer, Lewis, Lincoln, Logan, Mason, McDowell, Mingo and Wayne Counties in West Virginia, Bledsoe, Campbell, Claiborne, Clay, Cocke, Cumberland, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hancock, Hawkins, Jackson, Jefferson, Macon, Marion, Overton. Pickett, Putnam, Rhea, Scott, Sequatchie, Sevier, Unicoi, Van Buren and White Counties in Tennessee and all the municipalities therein.
—Central Florida HIDTA consists of Hillsborough, Orange, Osceola, Pinellas, Polk, Seminole, and Volusia counties and all the municipalities therein.
—Chicago HIDTA consists of Cook County, incorporating the City of Chicago.
—Atlanta HIDTA consists of Fulton, Dekalb counties and the City of Atlanta.
—Milwaukee HIDTA consists of Milwaukee county and all the municipalities therein.
—Southeastern Michigan HIDTA consists of Wayne, Oakland, Macomb, and Washtenaw counties and all the municipalities therein.
—Philadelphia/Camden HIDTA: consists of the Cities of Philadelphia and Camden.

For further information on HIDTAs contact Rick Yamamoto, at the ONDCP, Executive Office of the President, Washington, DC 20500 on (202) 395–6755 and/or La'Wan Sweetenberg on (202) 395–6603, fax (202) 395–6721. Field Offices in validating the unit count shall not include Non-Federally Assisted Housing units located in High Intensity Drug-Trafficking Areas.

6. On page 15596, in the third column, a second paragraph is added to Section IV (captioned "Application Submission Requirement") to read as follows:

An applicant shall submit only one application, per housing authority, for each drug elimination program contained in this program section of the SuperNOFA. Joint applications are permitted only in those cases where HAs have a single administration (such as HAS managing another HA under contract or HAs sharing a common executive director). In those cases, a separate budget, plan and timetable and unit count shall be supplied in the application.

7. On page 15596, in the third column, a new Section VII is added to read as follows:

VII. Term of Grant Agreement.

Terms of the FY 1997 and FY 1998 PHDEP grant agreement shall not exceed 24 months from the execution date of the grant agreement (Form 1044). Grant extensions during the FY 1997 and FY 1998 PHDEP funding round are not permitted. Any funds not expended at the end of the FY 1997 and FY 1998 PHDEP grant term shall be remitted to HUD.

F. *Drug Elimination Grants for Federally Assisted Low-Income Housing (Multifamily Housing Drug Elimination) Program section of SuperNOFA, beginning at 63 FR 15607.*

1. On page 15608, in the first column, under Section I(C), the last sentence of that section which begins "Owners of Section 8 tenant-based. * * *" is succeeded by two new paragraphs that read as follows:

HUD inadvertently failed to include tie-breaker language in the selection criteria for the FY 97 DEG funding round. As a result, the application submitted by the Calib Foundation on behalf of Village Heights Apartments, which received the same rating as another selected grantee, was not selected. HUD will correct this oversight by funding Village Heights in the amount of $125,000 from the FY 98 allocation. HUD is also revising this year's selection process to include tie-breaker language.

At this time, HUD is aware of only this one tie-breaker situation. However, in the event that other applicants notify HUD of similar situations and HUD can confirm that an applicant was not selected due to a tie score with a selected grantee, HUD will take additional corrective funding actions.

2. On page 15610, in the first column, under Section III, a new paragraph (C) is added to read as follows:

(C) *Tie-Breaker Situations.* If two or more applications have the same score and there are insufficient funds to fund all of them, the application(s) with the highest score for the Soundness of Approach rating factor shall be selected for funding. If a tie still remains, the application(s) with the highest score for the Capacity of the Applicant and Relevant Organizational Experience rating factor shall be selected. Further tied applications will be selected by their scores in the Need/Extent of Problem, Leveraging Resources, and Comprehensiveness and Coordination rating factors, in that order.

II. In the SuperNOFA for Economic Development and Empowerment Programs (SuperNOFA II), notice document 98–11392, beginning at 63 FR 23876, in the issue of Thursday, April 30, 1998, the following corrections are made:

A. *Introduction to the SuperNOFA Process, beginning at 63 FR 23877.*

1. On page 23878, in the middle column, the last sentence of this column is corrected to read: "The Programs Section of the SuperNOFA describes each program for which funding is being competed under this SuperNOFA."

2. On page 23880, in the first column, an asterisk is placed after the following program name "Intermediaries Technical Assistance Grant Program." and a footnote is placed at the end of the chart that contains the Intermediaries Technical Assistance Program and Outreach and Training Grants for Technical Assistance Program to read as follows: "$1,000,000 is currently available in FY 1998, and $8,000,000 is subject to appropriations in FY 1999."

B. *General Section of the SuperNOFA, beginning on 63 FR 23881.* On page 23884, in the middle column, under Section IV (captioned "Application Submission Requirements"), a new sentence is added at the section to read as follows:

Whenever a provision of an application kit for one of the programs included in this SuperNOFA is inconsistent with a provision of this SuperNOFA, the provision of the SuperNOFA will prevail.

III. In the SuperNOFA for Targeted Housing and Homeless Assistance Programs (SuperNOFA III), notice document 98–11400, beginning at 63 FR 23988, in the issue of Thursday, April 30, 1998, the following corrections are made:

A. *Introduction to the SuperNOFA Process, beginning at 63 FR 23989.*

1. On page 23990, in the middle column, the third sentence of the third paragraph in the middle column is corrected to read: "The Programs Section of the SuperNOFA describes each program for which funding is being competed under this SuperNOFA."

B. *General Section of the SuperNOFA, beginning at 63 FR 23992.*

1. On page 23995, in the first column, under Section IV (captioned "Application Submission Requirements"), a new sentence is added at the section to read as follows:

Whenever a provision of an application kit for one of the programs included in this SuperNOFA is inconsistent with a provision of this SuperNOFA, the provision of the SuperNOFA will prevail.

C. *Housing Opportunities for Persons with AIDS (HOPWA) Program section of SuperNOFA III, beginning at 63 FR 24007.*

1. On page 24011, in the middle column, under Section III(D), the reference to "Section III(C)(2) of the General Section" in the third sentence of paragraph (D) should read "Section III(C) of the General Section."

D. *Section 202 Supportive Housing for the Elderly Program section of SuperNOFA III, beginning at 63 FR 24015.*

1. On page 24025, in the first column, the first sentence of the second paragraph of Section I(D) is corrected by replacing the phrase "three (3) or more Hubs" with "a single Hub."

E. *Section 811 Supportive Housing for Persons with Disabilities Program section of SuperNOFA III, beginning at 63 FR 24031.*

1. On page 24034, in the third column, a new paragraph is added to Section I(C) which precedes the last paragraph that begins "The Section 811 capital advance * * *." The new paragraph reads as follows:

As a result of a rating error in the Boston Office, the application submitted by Employment Options, Inc. was not selected for funding under the Fiscal Year 1997 Section 811 Program of Supportive Housing for Persons with Disabilities. Since this was a HUD error, the application will be funded from the Fiscal Year 1998 allocation to the Boston Office.

2. On page 24035, the chart is amended by placing an asterisk (*) next to the word "Boston" in the first column and adding the following footnote at the bottom of the chart on page 24035.

This amount includes Capital Advance Authority of $529,300 to fund Employment Options, Inc., Marlborough, Massachusetts. Since this 6-unit project was not selected in Fiscal Year 1997 by HUD error, this application will be funded from the Fiscal Year 1998 allocation to the Boston Office.

3. On page 24039, in the first column, the first sentence of the second paragraph of Section I(D) is corrected by replacing the phrase "three (3) or more Hubs" with "a single Hub."

4. On page 24039, in the first column, a new paragraph (h) is added to Section I(E)(2) to read: "(h) Intermediate care facilities."

5. On page 24044, in the third column, in Section IV(B)(5)(f), the last sentence of the paragraph which precedes the second "Note" which appears in the third column, is revised to read as follows, and is followed by a new sentence:

In order for applications submitted with site control to be eligible for bonus points for site control, this information would have to be submitted to the local HUD Office *no later than 30 days after the application submission deadline date.* Otherwise, the application will be considered as a "site identified" application and will not receive bonus points for site control.

Dated: May 22, 1998.

Saul N. Ramirez, Jr.,

Acting Deputy Secretary.

[FR Doc. 98–14246 Filed 5–26–98; 2:36 pm]

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Part IV

Department of Housing and Urban Development

24 CFR Part 291

Disposition of HUD-Acquired Single Family Property; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 291

[Docket No. FR–4244–P–02]

RIN 2502–AG96

Disposition of HUD-Acquired Single Family Property; Proposed Rule

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations for the disposition of HUD-acquired single family properties. Through this proposed rule, HUD is seeking comments on an efficient, innovative, and cost-effective alternative for selling HUD's inventory of single family properties. This alternative would allow HUD to enter into a property acquisition agreement or agreements with an individual, partnership, corporation or other legal entity. The agreement would provide for the right and obligation of the entity to acquire designated properties, including properties that are currently in HUD's inventory, but primarily those that are or will be "in the pipeline." HUD's goals are to reduce the inventory of single family properties while continuing to expand homeownership opportunities for American families and to ensure the stability of the Federal Housing Administration (FHA) Mortgage Insurance Fund.

DATES: *Comment due date:* June 29, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Director, Single Family Asset Management Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9184, 451 Seventh Street, SW, Washington, DC 20410; telephone number (202) 708–1672 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION:

I. Background—Program of Sales of Single Family Properties

Section 204 of the National Housing Act (Act) (12 U.S.C. 1710) governs the Federal Housing Administration (FHA) insurance claim process and property disposition. Specifically, section 204(g) of the Act pertains to the management and disposition of HUD-acquired single family properties. HUD's implementing regulations are contained in 24 CFR part 291.

These statutory and regulatory authorities for the acquisition, handling, and disposing of HUD-acquired property make up HUD's Single Family Property Disposition program. Essentially, HUD is charged with implementing a program of sales of HUD-acquired properties along with appropriate credit terms and standards to be used in carrying out the program. Currently, HUD's principal method of selling properties is through competitive sales of individual properties to individual purchasers.

The competitive sales of individual properties is a time consuming process that does not result in efficient and prompt delivery of the single family properties to the sales market. HUD has the largest real estate-owned (REO) operation in the nation, selling in excess of 50,000 properties each year. While this volume of property sales represents only a small percentage of the total number of home sales nationwide (see the "Regulatory Flexibility Act" section of this preamble for further discussion), it represents a significant administrative responsibility for HUD. Both HUD and potential homeowners are disadvantaged by the processing time required involved in competitive sales of individual properties. It is critical for HUD to find more timely and less costly methods to dispose of its REO inventory in order to further its mission of providing homeownership opportunities for American families. In addition, HUD must dispose of these properties efficiently in order to minimize any losses to the insurance fund and to keep the costs of insurance low.

On June 13, 1997 (62 FR 32251), HUD published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) to solicit public comments on better methods of disposing of HUD-owned single family properties. The ANPR suggested that such methods could include bulk sales of current inventory or future acquisitions on a regional or national basis, or arrangements similar to joint ventures, profit-sharing arrangements, or private-public partnerships. In addition to soliciting comments through the ANPR published in the **Federal Register**, HUD requested public input through a notice published in the following newspapers: *The Washington Post, The New York Times, The Wall Street Journal, Barron's,* and *U.S.A. Today.*

II. HUD's New Innovative Sales Method

After considering all the comments received on the ANPR, which are discussed below, HUD is proposing that competitive sales of individual properties to individuals will no longer be HUD's principal method of sale, as the regulations in 24 CFR part 291 currently provide. The proposed rule provides that HUD may, in its discretion, on a case-by-case basis or as a regular course of its business, choose from a variety of sales methods. The proposed rule also would add a new innovative and cost-effective sales method.

Under the new sales method, HUD will invite interested entities to participate in a competitive selection process for the right and obligation to acquire properties designated by HUD. (For purposes of this rule, HUD refers to this sales method as the "future REO acquisition method.") HUD intends that these designated properties would consist primarily of "pipeline" properties. Pipeline properties are those that would otherwise come into HUD's inventory in the future. These designated properties could also include properties that are currently in HUD's inventory. HUD and the selected entity/transferor would enter into a property acquisition agreement, which would provide for the right and obligation of the transferor to acquire the designated properties as the properties become available. Under this method, HUD would have the right to negotiate the specific terms of such an agreement with the selected transferor. HUD is considering defining the entity's obligation to acquire the properties in terms of a specific geographic region or regions over a specific period of time, as well as utilizing the capacity of such entity to support HUD's loss mitigation efforts. The selected transferor would generally be responsible for managing and selling the individual REO properties. With respect to this method of disposition, HUD encourages qualified entities that currently are engaged in the process of management and disposition of HUD's REO inventory to consider participation in the future REO acquisition method by partnering

with other qualified entities, if they themselves lack the resources to participate individually. Furthermore, HUD will make available to the selected transferor(s) a list of all entities (by service and geography) who currently participate in HUD's REO disposition process for its use in performing the future acquisition method.

As noted earlier, HUD has the discretion to use other methods of sale, in addition to this future REO acquisition method, including competitive sales of individual properties to individuals, direct sales, bulk sales, and other sales as determined necessary by the Secretary. HUD anticipates, however, that the new future REO acquisition method or other similar arrangements would allow HUD to transfer most of the properties it acquires (or would otherwise acquire), quickly and efficiently and in a manner that allows HUD to better achieve its national housing goals.

The ability to move the properties out of HUD's inventory quickly and efficiently is crucial. The longer the properties remain in HUD's inventory, the more HUD's holding costs increase, and the longer they remain unavailable as homeownership opportunities for potential purchasers. Using disposition methods such as the future REO acquisition method would be more efficient and expedient than HUD's current sales methods, since HUD anticipates that the entities interested in such arrangements will be experienced in high-volume property sales. HUD anticipates that competition among interested entities would enhance this benefit and result in maximum efficiency and return. Therefore, using innovative property disposal methods such as the future REO acquisition method should not only ensure the maximum possible return to the mortgage insurance fund; it should also help to strengthen neighborhoods and communities and help to expand homeownership opportunities in order to help provide decent, safe, and affordable housing.

HUD anticipates, however, that the future REO acquisition method could result in fewer properties available for direct sales to nonprofit organizations and units of government. HUD understands that there are entities that rely upon HUD-acquired properties as a resource for their housing programs, and HUD is committed to continuing its partnership with these groups. Therefore, in order to minimize the anticipated effects of any decreased availability of properties, HUD intends to make available a portion of the properties acquired in HUD-designated revitalization areas to nonprofit organizations (including homeless providers and nonprofit organizations representing persons with disabilities or other classes of persons protected by the Fair Housing Act) and units of government for use in HUD and local housing or homeless programs (see § 291.90(c)(1) of this proposed rule).

III. Discussion of Public Comments on ANPR

HUD received 52 comments in response to the June 13, 1997 ANPR and simultaneous newspaper publications. The following discussion provides a summary of the issues and recommendations raised by the commenters.

New Methods of Sale

A few commenters offered suggestions for new methods of sale for HUD's inventory. For example, one commenter proposed that HUD enter into a contract with that commenter, which proposed to provide electronic marketing of HUD-owned single family properties. While HUD currently lists properties available for sale in large circulation newspapers, and some offices list properties on the World Wide Web, HUD is looking for a new means to reduce substantially the on-hand inventory, now and into the future, rather than a new means to market that inventory.

Another commenter suggested that HUD outsource the REO management and liquidation function to experienced companies located in areas that correspond to HUD's Homeownership Centers. HUD is considering expanding the use of the management and marketing-type contracting that is being tested in New Orleans, Baltimore, and Sacramento, which would rely upon local real estate brokers, appraisers, and closing agents for the inventory not sold through the future REO acquisition method. Therefore, HUD will continue to consider the suggestions of these commenters. At this time, however, HUD is proposing to rely upon the future REO acquisition process described above to transfer most of the properties.

One commenter suggested that HUD form joint venture arrangements with selected nonprofit real estate development organizations to reduce the inventory. Another commenter suggested that HUD sell properties in identified neighborhoods in bulk to a State agency that would then enter into a joint venture with a nonprofit. Several other commenters suggested that HUD give greater priority to nonprofits and/or government agencies. HUD intends to continue to offer a certain percentage of properties to nonprofit organizations and local government entities. In addition, this proposed rule would not preclude States and nonprofits from participating in the sales process described in this rule through partnering arrangements with each other or with the successful transferor. HUD believes, however, that reducing the inventory through the future REO acquisition method would be more cost-effective.

One commenter recommended that Federal agencies combine their resources and sell properties via auctions under the Government Owned Real Estate (G.O.R.E.) project. HUD has participated in G.O.R.E. auctions in the past and anticipates doing so in the future. However, since HUD has a much higher volume of properties in its inventory and a greater need for frequent sales than other Federal agencies, the G.O.R.E. auctions have a limited utility for HUD. HUD anticipates that the effort described in this proposed rule would be a more efficient method of selling the bulk of its inventory, because transferors could be available to acquire properties on a continual basis in many regions.

Opposition to Bulk Sales

Several commenters opposed selling HUD's single family acquired properties through bulk sales. Two commenters warned that bulk sales will negatively affect real estate values and could cause a local depression of the real estate market. Three commenters (real estate brokers/managers) claimed that bulk sales would put them out of business.

Contrary to these commenters' objections, however, HUD is primarily considering selling a pipeline of properties to transferors chosen through a competitive process, rather than selling acquired properties through bulk sales. HUD does not believe that the sales arrangement described in this proposed rule would adversely affect real estate values or cause a depression of local real estate markets, since HUD anticipates that the ultimate sales of the individual properties by the chosen transferors will result in fair market pricing. Although HUD may sell properties that are currently in inventory through a bulk sale arrangement, any such sales will be structured to take into account the impact on local communities.

HUD has performed an analysis on the impact the future REO acquisition method would have on small businesses that do business with HUD, such as real estate brokers. This analysis is described below under the heading "Regulatory Flexibility Act." This new sales method

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should not significantly affect small businesses, especially if the transferors use a process of selling the properties that is similar to HUD's. In an effort to mitigate any such impact, however, HUD would encourage its transferors to use local firms to assist in their disposal of the single family acquired properties.

IV. Changes to Regulations in 24 CFR Part 291

Specifically, this proposed rule would amend the regulations in 24 CFR part 291 to:

1. Add a new section (see § 291.200 of this proposed rule) to describe basic procedures for the future REO acquisition sales method. The proposed § 291.200 contains general information regarding the process by which HUD anticipates conducting the new sales method. HUD plans to advertise the availability of acquisition opportunities to the public, and to provide detailed information to interested eligible entities.

2. Reorganize the property disposition regulations to allow for and to recognize the use of innovative sales procedures such as the future REO acquisition method, by:

a. Revising § 291.5 (Definitions), primarily by moving relevant definitions to subpart E;

b. Creating a new § 291.90 in subpart B to describe all the sales methods that will be available to the Secretary;

c. Moving the flood insurance requirements from § 291.100(f) to § 291.100(c)(1) regarding individual properties that are sold with FHA mortgage insurance; HUD's requirements for flood insurance apply only to FHA-insured mortgages in these circumstances.

d. Redesignating § 291.200 of the current regulations, regarding HUD's policy for the rental of acquired property, as § 291.10 in subpart A of part 291.

e. Revising the heading of existing subpart C to read "Sales Procedures." This rule would move the provisions of §§ 291.105 and 291.110 into subpart C (see §§ 291.205 and 291.210 of this proposed rule), to follow the new § 291.200 regarding the future REO acquisition method (described above).

HUD anticipates that it would rely heavily upon the future REO acquisition method or similar arrangements to sell its inventory of single family properties (so long as such arrangements are found to be economically viable and in furtherance of the national housing goals), rather than the sales methods described in §§ 291.205 and 291.210 of this rule. However, this rule would preserve the procedures for those sales methods and retain them as viable sales options. If HUD seeks to use direct sales to other individuals or entities that do not meet any of the other categories of sales, this rule would continue to require the Assistant Secretary for Housing-Federal Housing Commissioner to make a finding that disposing of properties in such a manner would be in the best interest of the Secretary (see § 291.210(c) of this rule.)

V. Nondiscrimination Requirements

HUD's responsibilities and priorities include ensuring compliance with applicable nondiscrimination requirements, such as the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act. With regard to the disposition of single family properties in HUD's inventory, all resales by public entities are subject to compliance with Title II of the Americans with Disabilities Act. All resales by both public and private entities are subject to compliance with the Fair Housing Act.

In addition, HUD must comply with section 504 of the Rehabilitation Act of 1973, which requires nondiscrimination based on disability in programs or activities conducted by any executive agency. HUD regulations implementing this requirement are in 24 CFR part 9. Under § 9.155(a) of those regulations, HUD must ensure that its Property Disposition Program policies and practices do not discriminate on the basis of disability, against a qualified individual with disabilities. HUD will take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public. HUD will provide appropriate auxiliary aids as necessary to afford an individual with disabilities an equal opportunity to participate in this program.

VI. Justification for Shortened Comment Period

In general, it is HUD's policy that notices of proposed rulemaking are to afford the public not less than 60 days for submission of comments, in accordance with its regulations on rulemaking in 24 CFR part 10. However, HUD has determined that there is good cause to reduce the public comment period for this proposed rule to 30 days. As discussed earlier in this preamble, HUD anticipates that this future REO acquisition method of disposing of single family properties would be more efficient and expedient than HUD's current method of competitive individual property sales, thereby increasing homeownership opportunities and helping to build strong neighborhoods and communities. The completion of this rulemaking would be necessary in order for HUD to begin the process of selecting and negotiating with the transferor(s). (However, nothing in this rule prevents HUD from conducting a bulk sale of property in its inventory.)

HUD has provided the public with notice and an opportunity to comment on innovative sales procedures in the advanced notice of proposed rulemaking published in the **Federal Register** on June 13, 1997 (62 FR 32251). HUD also sought public input by publishing a notice in several prominent newspapers and business journals. Therefore, HUD has determined that the 30-day comment period for this proposed rule should provide sufficient notice and opportunity for interested entities to comment. In order to provide the fullest and most expedient access to the provisions of this proposed rule, HUD will make it available on the HUD Home Page on the World Wide Web at http://www.hud.gov, on the date of publication in the **Federal Register**. HUD will also directly notify entities that have expressed a significant interest to HUD by sending such entities a copy of this proposed rule.

VII. Findings and Certifications

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order. Any changes made to this rule as a result of that review are clearly identified in the docket file. The docket file and the Economic Analysis prepared for this rule are available for public inspection between 7:30 a.m. and 5:30 p.m. in the Office of the Rules Docket Clerk, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban

Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities.

(1) *No Significant Economic Impact.* The future REO acquisition method would not result in a significant economic impact on a substantial number of small entities. During fiscal year 1997, the sale of HUD homes represented only 1.2 percent of total home sales, using only 1.6 percent of the active selling brokers. Since HUD's home sales are a very small portion of the overall home sales business, the economic impact of this rule would not be significant, and it would not affect a substantial number of small entities.

(2) *A Substantial Number of Small Entities Will Not be Affected.* HUD has determined that there are approximately 18,000 small entities that could be affected by this rule, including nonprofit organizations, State and local governments, Real Estate Asset Managers (REAMs), real estate brokers, selling agents, closing agents, and repair contractors. The number of entities potentially affected by this rule is not substantial, and any potential economic impact would not be significant. A transferor under this new arrangement may use a sales process similar to HUD's previous sales process, in which case a number of the entities that would continue to be involved in the ultimate sales of the properties would be small entities. In an effort to mitigate any potential impact on small entities, HUD would encourage the transferor(s) to use small local firms to assist in their disposal of single family acquired properties.

Notwithstanding HUD's determination that this rule would not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule simply allows HUD to use innovative methods of selling its inventory of single family homes. As a result, this rule is not subject to review under the Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 291

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

Accordingly, for the reasons stated in the preamble, 24 CFR part 291 is proposed to be amended as follows:

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

1. The authority citation for 24 CFR part 291 continues to read as follows:

Authority: 12 U.S.C. 1709 and 1715b; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

2. In part 291, subparts A, B, and C are revised to read as follows:

Subpart A—General Provisions

Sec.
291.1 Purpose and general requirements.
291.5 Definitions.
291.10 General policy regarding rental of acquired property.

Subpart B—Disposition by Sale

291.90 Sales methods.
291.100 General policy.

Subpart C—Sales Procedures

291.200 Future REO acquisition method.
291.205 Competitive sales of individual properties.
291.210 Direct sales procedures.

Subpart A—General Provisions

§ 291.1 Purpose and general requirements.

(a) *Purpose.* (1) This part governs the disposition of one-to-four family properties. HUD will issue detailed policies and procedures that must be followed in specific areas.

(2) The purpose of the property disposition program is to dispose of properties in a manner that expands homeownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to the mortgage insurance fund.

(b) *Nondiscrimination policy.* The requirements set forth in 24 CFR parts 5 and 110 apply to the administration of any activity under this part. In addition, in accordance with 24 CFR 9.155(a), HUD must ensure that its policies and practices in conducting the single family property disposition program do not discriminate on the basis of disability.

§ 291.5 Definitions.

(a) The terms *HUD* and *Secretary* are defined in 24 CFR part 5.

(b) Other terms used in this part are defined as follows:

Closing agent means a qualified firm or person under contract to HUD to administer closings involving the sale of HUD-acquired single family properties.

Competitive sale to individual means a sale of an individual property to an individual bidder through a sealed bid process (or other bid process specifically authorized by the Secretary) in competition with other bidders in which properties have been publicly advertised to all prospective purchasers for bids.

Direct sale means a sale to a selected purchaser to the exclusion of all others without resorting to advertising for bids. Such a sale is available only to approved applicants.

Eligible properties means HUD-acquired properties designated by HUD for property disposition or other housing programs.

HUD-acquired properties means all single family properties acquired by HUD or properties that HUD is otherwise obligated to acquire under the Mutual Mortgage Insurance Fund, the Special Risk Insurance Fund, the General Insurance Fund, or other housing programs, except properties committed to other HUD programs.

Insured mortgage means a mortgage insured under the National Housing Act (12 U.S.C. 1701 et seq.).

Investor purchaser means a purchaser who does not intend to use the property as his or her principal residence.

Lessee means the applicant, approved by HUD as financially responsible, that executes a lease agreement with HUD for an eligible property.

Owner-occupant purchaser means a purchaser who intends to use the property as his or her principal residence; a State, governmental entity, tribe, or agency thereof; or a private

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nonprofit organization as defined in this section. Governmental entities include those with general governmental powers (e.g., a city or county), as well as those with limited or special powers (e.g., public housing agencies).

Preapproved means a commitment has been obtained from a recognized mortgage lender for mortgage financing in a specified dollar amount sufficient to purchase the property.

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2)(i) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles; or

(ii) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles;

(3) Practice nondiscrimination in the provision of assistance in accordance with the authorities described in § 291.435(a); and

(4) Have nonprofit status as demonstrated by approval under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or demonstrate that an application for such status is currently pending approval.

Purchase money mortgage, or *PMM*, means a note secured by a mortgage or trust deed given by a buyer, as mortgagor, to the seller, as mortgagee, as part of the purchase price of the real estate.

Single family property means a property designed for use by one to four families.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Tribe has the meaning provided for the term "Indian tribe" in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

§ 291.10 General policy regarding rental of acquired property.

HUD will lease acquired property to comply with other designated HUD programs, or when the Secretary determines that it is in the interest of HUD. Leases may include an option to purchase in appropriate circumstances.

Subpart B—Disposition by Sale

§ 291.90 Sales methods.

HUD will prescribe the terms and conditions for all methods of sale. HUD may, in its discretion, on a case-by-case basis or as a regular course of business, choose from among the following methods of sale:

(a) *Future REO acquisition method.* The Future Real Estate-Owned (REO) acquisition method consists of a property acquisition agreement (or agreements) between HUD and a transferor (or transferors), which shall provide for the right and obligation of the transferor(s) to acquire a future quantity of properties designated by HUD as they become available. HUD will select such transferor(s) through a competitive process, in accordance with all applicable laws and regulations, including the requirements in § 291.200. The transferor(s) shall have the right and obligation to manage and dispose of the properties upon such terms and conditions as are approved by the Secretary;

(b) *Competitive sales of individual properties.* This method consists of competitive sales of individual properties to individual buyers, the procedures for which are described in § 291.205;

(c) *Direct sales methods.* There are three types of direct sales methods:

(1) Direct sales of properties located in HUD-designated revitalization areas to governmental entities and private nonprofit organizations, the procedures for which are described in § 291.210(a);

(2) Direct sales to displaced persons, sales of razed lots, or auctions, the procedures for which are described in § 291.210(b);

(3) Direct sales to other individuals or entities that do not meet any of the categories specified in paragraphs (a) through (d) of this section, under the circumstances and procedures described in § 291.210(c);

(d) Bulk sales, the procedures for which are described in § 291.210(d); or

(e) *Other sales methods.* HUD may select any other methods of sale, as determined by the Secretary.

§ 291.100 General policy.

For all sales, except as otherwise specifically indicated, those sales conducted in accordance with §§ 291.90(a) and 291.200 or with subpart D of this part, the following general policies apply:

(a) *Qualified purchaser.* (1) Anyone, including a purchaser from a transferor of a property pursuant to §§ 291.90(a) and 291.200, regardless of race, color, religion, sex, national origin, familial status, age, or disability may offer to buy a HUD-owned property, except that:

(i) No member of or delegate to Congress is eligible to buy or benefit from a purchase of a HUD-owned property; and

(ii) No nonoccupant mortgagor (whether an original mortgagor, assumptor, or a person who purchased "subject to") of an insured mortgage who has defaulted, thereby causing HUD to pay an insurance claim on the mortgage, is eligible to repurchase the same property.

(2) Neither HUD nor any transferor pursuant to §§ 291.90(a) or 291.200 will offer former mortgagors in occupancy who have defaulted on the mortgage the right of first refusal to repurchase the same property.

(3) HUD will offer tenants accepted under the occupied conveyance procedures outlined in 24 CFR 203.670 through 203.685 the right of first refusal to purchase the property only if:

(i) The tenant has a recognized ability to acquire financing and a good rent-paying history, and has made a request to HUD to be offered the right of first refusal; or

(ii) State or local law requires that tenants be offered the right of first refusal.

(b) *List price.* The list price, or "asking price," assigned to the property is based upon an appraisal conducted by an independent real estate appraiser using nationally recognized industry standards for the appraisal of residential property.

(c) *Insurance.* Properties may be sold under the following programs:

(1) *Insured.* A property that HUD believes meets the intent of the Minimum Property Standards (MPS) for existing dwellings (Requirements for Existing Housing, One to Four Family Living Units, HUD Handbook 4905.1, which is available at the Department of Housing and Urban Development, HUD Customer Service Center, 451 7th Street, SW, Room B–100, Washington, DC 20410; by calling (202) 708–3151; or via the Internet at www.hud.gov) will be offered for sale in "as-is" condition with FHA mortgage insurance available. Flood insurance must be obtained and maintained as provided in 24 CFR 203.16a.

(2) *Insured with repair escrow.* A property that requires no more than $5,000 for repairs to meet the intent of the MPS, as determined by the Secretary, will be offered for sale in "as-is" condition with FHA mortgage insurance available, provided the mortgagor establishes a cash escrow to ensure the completion of the required repairs.

(3) *Uninsured.* A property that fails to qualify under either paragraph (c)(1) or (c)(2) of this section will be offered for sale either in "as-is" condition without mortgage insurance available, or under section 203(k) of the National Housing Act (12 U.S.C. 1709(k)).

(d) *Financing.* (1) Except as provided in paragraph (d)(2) of this section, the purchaser is entirely responsible for obtaining financing for purchasing a property.

(2) HUD, in its sole discretion, may take back purchase money mortgages (PMMs) on property purchased by governmental entities or private nonprofit organizations who buy property for ultimate resale to owner-occupant purchasers with incomes at or below 115 percent of the area median income. When offered by HUD, a PMM will be available in an amount determined by the Secretary to be appropriate, at market rate interest, for a period not to exceed 5 years. Mortgagors must meet FHA mortgage credit standards.

(e) *Environmental requirements and standards.* Sales under this part are subject to the environmental requirements and standards described in 24 CFR part 50, as applicable.

(f) [Reserved]

(g) *Lead-based paint poisoning prevention.* Properties constructed before 1978 are subject to the requirements for the evaluation and reduction of lead-based paint hazards contained in 24 CFR part 35 and 24 CFR part 200, subpart O.

(h) *Open listings.* Except as provided in paragraph (i) of this section, properties are sold on an open listing basis with participating real estate brokers. Any real estate broker who has agreed to comply with HUD requirements may participate in the sales program. Purchasers participating in the competitive sales program, except government entities and nonprofit organizations, must submit bids through a participating broker.

(i) *Asset management and listing contracts.* (1) A field office may invite firms experienced in property management to compete for contracts that provide for an exclusive right to manage and list specified properties in a given area.

(2) In areas where a broker has an exclusive right to list properties, a purchaser may use a broker of his or her choice. The purchaser's broker must submit the bid to HUD through the exclusive broker.

Subpart C—Sales Procedures

§ 291.200 Future REO acquisition method.

(a) Under this method of property disposition, HUD will enter into a property acquisition agreement (or agreements) with a transferor (or transferors), which shall provide for the right and obligation of the transferor(s) to acquire a future quantity of properties designated by HUD as they become available. The transferor(s) will be selected through a competitive process, conducted in accordance with applicable laws. HUD will negotiate the specific terms of the property acquisition agreement(s) with the selected transferor(s). The properties will be available on an "as-is" basis only, without repairs or warranties.

(b) *Eligible entities.* An individual, partnership, corporation, or other legal entity will not be eligible to participate if at the time of the sale, that individual or entity is debarred, suspended, or otherwise precluded from doing business with HUD under 24 CFR part 24.

§ 291.205 Competitive sales of individual properties.

When HUD conducts competitive sales of individual properties to individual buyers, it will sell the properties on an "as-is" basis, without repairs or warranties, and it will follow the sales procedures provided in this section.

(a) *General.* (1) Properties that are sold on an individual competitive bid basis are sold through local real estate brokers, except as provided in § 291.100(h).

(2) For properties being offered with mortgage insurance, priority will be given to owner-occupant purchasers, as defined in § 291.5, for a period of up to 30 days, as determined by HUD. For properties offered without mortgage insurance, priority will be given to governmental entities and nonprofit organizations prior to other owner-occupant purchasers.

(b) *Net offer.* The net offer is calculated by subtracting from the bid price the dollar amounts for the following:

(1) If requested by the purchaser in the bid, HUD will pay all or a portion of the financing and loan closing costs and the broker's sales commission, not to exceed the percentage of the purchase price determined appropriate by the Secretary for the area. In no event will the amount for broker's sales commission exceed 6 percent of the purchase price, except for cash bonuses offered to brokers by HUD for the sale of hard-to-sell properties.

(2) In the case of properties sold under the insured sales with repair escrow program, the repair escrow amount is also deducted from the bid to determine the net offer.

(c) *Acceptable bid.* HUD will accept the bid producing the greatest net return to HUD and otherwise meeting the terms of HUD's offering of the property, with priority given to owner-occupant purchasers as described in paragraph (a)(2) of this section. The greatest net return is calculated based on the net offer, as described in paragraph (b) of this section.

(d) *Bid period.* After properties are initially advertised, bids are accepted for a 10-day period, with all offers received during the 10 days considered to have been received simultaneously, except as described in paragraph (e) of this section. Offers received on a property before the 10-day bidding period begins will be returned. Offers received after the 10-day period will not be considered at the bid opening, but will be considered during the extended listing period if no acceptable bid was received during the 10-day period.

(e) *Full price offers.* HUD field offices that operate under a "full price offer" program open offers at specified times during the 10-day bidding period. If an offer for the full list price and otherwise meeting the terms of the offering is received, it will be accepted at the time of the opening and the 10-day bid period cancelled.

(f) *Extended listing period.* Properties not sold at the bid opening will remain available for an extended listing period. All bids received on each day of the extended listing period will be considered as being received simultaneously, and will be opened together at the next scheduled daily bid opening. Properties that fail to sell within 30 days after being offered for competitive bidding will be reanalyzed and relisted. If a property's price or terms are changed, it will be subject to another competitive bidding period as described in paragraph (d) of this section.

(g) *Bid requirements.* (1) All bids submitted, whether during the 10-day bid period or the extended listing period, must be in the form of a fully completed sales contract, in a form prescribed by HUD, signed by both the submitting real estate broker and the prospective purchaser. If the purchase is to be an insured sale, a field office may also require that supporting exhibits for mortgage credit analysis accompany the initial submission of the bid.

(2) Unless the Secretary specifically authorizes another bid process, bids must be placed in sealed envelopes

marked with the property number, address, and return address of the broker. All bids not indicating that the purchaser will occupy the property will be considered as investor offers.

(3) Noncomplying bids will be returned to the broker with an explanation for the noncompliance decision and information about whether the property is still available.

(h) *Earnest money deposits.* (1) The amount of earnest money deposit required for a property with a sales price of $50,000 or less is $500, except that for vacant lots the amount is 50 percent of the list price. For a property with a sales price greater than $50,000, the amount of earnest money deposit required in the area is set by the field office, in an amount not less than $500 or more than $2,000. Information on the amount of the required earnest money deposit is available from the field office or participating real estate brokers.

(2) All bids must be accompanied by earnest money deposits in the form of a cash equivalent as prescribed by the Secretary, or a certification from the real estate broker that the earnest money has been deposited in the broker's escrow account. If a bid is accepted by HUD, the earnest money deposit will be credited to the purchaser at closing; if the bid is rejected, the earnest money deposit will be returned. Earnest money deposits are subject to total or partial forfeiture for failure to close a sale.

(i) *Multiple bids.* Real estate brokers may submit unlimited numbers of bids on an individual property provided each bid is from a different prospective purchaser. If a purchaser submits multiple bids on the same property, only the bid producing the highest net return to HUD will be considered. If a prospective owner-occupant purchaser submits a bid on more than one property, the first of those bids that produces the greatest net return to HUD will be accepted and all other bids from that purchaser will be eliminated from consideration. However, if the prospective owner-occupant purchaser has submitted the only acceptable bid on another property, then that bid must be accepted and all other bids from that purchaser on any other properties will be eliminated from consideration.

(j) *Opening the bids.* Unless the Secretary specifically authorizes another bid process:

(1) The bids will be opened publicly at a time and place designated by the HUD field office.

(2) Each bid will be announced when opened, and acknowledgment made of the offer that produces the greatest net return to HUD. Successful bidders will be notified through their real estate brokers by mail, telephone, or other means. Acceptance of a bid is final and effective only upon HUD's execution of the sales contract and mailing of a copy of the executed contract to the successful bidder or the bidder's agent.

(k) *Counteroffers.* If all bids received on a property are unacceptable, a field office may notify all bidders or their brokers that HUD will accept an offer equalling a predetermined net acceptable price. Bidders must submit an acceptable offer before the established bid cut-off period, to be determined by the field office. The highest acceptable offer received within the specified period of time, including any offer received from a bidder who did not submit a bid during the bid period, will be accepted, thus terminating the counteroffer negotiations. In case of identical bids, award will be determined by drawing lots.

§ 291.210 Direct sales procedures.

When HUD conducts the sales listed in § 291.90(c), it will sell the properties on an "as-is" basis, without repairs or warranties, and it will follow the applicable sales procedures provided in this section.

(a) *Direct sales of properties located in HUD-designated revitalization areas to governmental entities and private nonprofit organizations.* (1) State and local governments, public agencies, and qualified private nonprofit organizations that have been preapproved to participate by HUD, according to standards determined by the Secretary, may purchase HUD properties at a discount off the list price determined by the Secretary to be appropriate, but not less than 10 percent, for use in HUD and local housing or homeless programs.

(2)(i) Purchasers under paragraph (a)(1) of this section must designate geographical areas of interest by ZIP code. Upon request, before those properties are publicly listed, HUD will assure that governmental entities and nonprofit organizations are notified in writing when eligible properties become available in the areas designated by them. HUD will coordinate the dissemination of the information to ensure that if more than one purchaser designates a specific area, those purchasers receive the list of properties at the same time, based on intervals agreed upon between HUD and the purchasers. A property in this section will be sold to the first eligible purchaser submitting an acceptable contract.

(ii) Purchasers under paragraph (a)(1) of this section must notify HUD of preliminary interest in specific properties within 5 days of the notification of available properties (if notification is by mail, the 5 days will begin to run 5 days after mailing). Those properties in which purchasers express an interest will be held off the market for a 10-day consideration and inspection period. Other properties on the list will continue to be processed for public sale. HUD may limit the number of properties held off the market for a purchaser at any one time, based upon the purchaser's financial capacity as determined by HUD and upon past performance in HUD programs. At the end of the 10-day consideration and inspection period, properties in which no governmental entity or nonprofit organization has expressed a specific intent to purchase will be offered for sale under the competitive bid process. Properties in which a governmental entity or nonprofit organization expressed an intent to purchase, during the 10-day period, will continue to be held off the market pending receipt of the sales contract. If a sales contract is not received within a time period of up to 10 days, as determined by HUD, following expiration of the 10-day consideration and inspection period, and no other governmental entity or nonprofit organization has expressed an interest, then the property will be offered for sale under the competitive bid process.

(3) In order to ensure that properties purchased at a discount are being utilized for expanding affordable housing opportunities, HUD may require, as appropriate, periodic, limited information regarding the purchase and resale of such properties, and certain restrictions on the resale of such properties.

(b) *Direct sales to displaced persons; razed lots; auctions.* HUD may seek to dispose of individual properties to individual buyers through methods such as direct sales to displaced persons, sales of razed lots, or auctions. These sales will be upon such terms and conditions as the Secretary may prescribe.

(c) *Direct sales to individuals or entities.* HUD may also seek to dispose of properties through direct sales to other individuals or entities that do not meet any of the categories specified in this section, if the Assistant Secretary for Housing-Federal Housing Commissioner (or his or her designee) finds in writing that such sales would further the goals of the National Housing Act (12 U.S.C. 1701 *et seq.*) and would be in the best interests of the Secretary. These sales will be upon such terms and conditions as the Secretary may prescribe.

(d) *Bulk sales.* HUD may seek to dispose of properties through bulk sales. Such sales will be upon such terms and conditions as the Secretary may prescribe.

3. A new § 291.405 is added to subpart E, to read as follows:

§ 291.405 Definitions.

For purposes of this subpart E:

Applicant means a State, metropolitan city, urban county, governmental entity, tribe, or private nonprofit organization that submits a written expression of interest in eligible properties under this subpart E. Governmental entities include those that have general governmental powers (e.g., a city or county), as well as those with limited or special powers (e.g., public housing agencies or State housing finance agencies). In the case of applicants leasing properties while their applications for Supportive Housing assistance are pending, "applicant" is defined in 24 CFR part 583.

Homeless means:

(1) Individuals or families who lack the resources to obtain housing, whose annual income is not in excess of 50 percent of the median income for the area, as determined by HUD, and who:

(i) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(ii) Have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing, but excluding prisons or other detention facilities); or

(iii) Are at imminent risk of homelessness because they face immediate eviction and have been unable to identify a subsequent residence, which would result in emergency shelter placement (except that persons facing eviction on the basis of criminal conduct such as drug trafficking and violations of handgun prohibitions shall not be considered homeless for purposes of this definition); or

(2) Persons with disabilities who are about to be released from an institution and are at risk of imminent homelessness because no subsequent residences have been identified and because they lack the resources and support networks necessary to obtain access to housing.

Dated: March 19, 1998.

Art Agnos,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 98–14014 Filed 5–28–98; 8:45 am]

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Part V

Department of Housing and Urban Development

24 CFR Part 203

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4311–I–01]

RIN 2502–AH15

Single Family Mortgage Insurance; Electronic Underwriting

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD

ACTION: Interim rule.

SUMMARY: Currently, a Direct Endorsement underwriter must personally review the appraisal report and credit application, including the analysis performed on the worksheets. With the introduction of automated underwriting systems, the need for human underwriters to review certain aspects of the mortgage loan application is substantially diminished. This interim rule amends the regulations on Single Family Mortgage Insurance to allow the lender to substitute an "accept" risk classification from a FHA-approved automated underwriting system (AUS) in lieu of a personal review by a Direct Endorsement underwriter of the borrower's credit and capacity to repay the mortgage.

DATES: *Effective date*: June 29, 1998.
Comment due date: July 28, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. HUD will not process facsimile (FAX) communications as comments.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Office of Insured Single Family Housing, Room 9162, Department Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (voice) (202) 708–3046. (This is not a toll-free number.) Hearing-impaired or speech-impaired individuals may access the voice telephone listed by calling the Federal Information Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Currently, a Direct Endorsement (DE) underwriter must personally review the appraisal report and credit application, including the analysis performed on the worksheets. With the introduction of automated underwriting systems, the need for human underwriters to review certain aspects of the mortgage loan application is substantially diminished. The current regulatory provision at 24 CFR 203.255(b)(5) requires a DE underwriter to certify that the underwriter has personally reviewed the credit application and appraisal report on all mortgages originated under the DE program. The regulatory change set forth in this interim rule allows the lender to substitute an "accept" risk classification from a FHA-approved automated underwriting system in lieu of a personal review by a DE underwriter of the borrower's credit and capacity to repay the mortgage.

An automated underwriting system (AUS) performs an analysis of the loan application and provides risk grades or classifications as to the probability of mortgage default. The AUS either accepts or approves the mortgage based on information provided by the lender, or refers the application for further review by an individual. FHA controls the approval of all proprietary AUS's, determines the risk it is willing to accept (i.e., the score necessary to allow the loan to be considered an "accept"), and enters into agreements with the AUS vendors outlining what elements of the mortgage application it is permitting the AUS to evaluate. FHA, at its discretion, may determine that the AUS may be used to review elements of the applicant's credit and capacity.

FHA will continue to require a personal review for those mortgage applications referred to an individual underwriter and to require that the lender certify that all other aspects of the mortgage transaction, including data integrity and eligibility rules, meet FHA requirements. Further, the mortgage lender remains responsible for those aspects of the credit and capacity not evaluated by the AUS, including eligibility requirements, as well as the integrity of the data used by the AUS to arrive at the "accept" risk classification.

Other Matters

Justification for Interim Rule

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. Part 10 does provide, however, for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." 24 CFR 10.1. The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that public procedure is contrary to the public interest and unnecessary. Failure to permit substitution of the AUS risk classification impedes lenders from benefitting from the efficiencies of automated underwriting systems, as well as FHA's ability to offer lower cost mortgage originations. Furthermore, this rule is not contrary to the public interest because applicants who do not receive the automated "accept" classification will be granted a manual underwriting review. Consequently, no applicant will be automatically denied approval as a result of the Department's use of this system. Also, in keeping with the Administration's effort to reduce the regulatory burden, this rule reduces the government regulation of private entities, allows mortgage lenders greater flexibility, and reduces underwriting time and expense.

Environmental Finding

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary by his approval of this rule hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it allows mortgage lenders

greater flexibility and reduces underwriting time and expense. It does not negatively affect small businesses.

Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection as provided under the section of this preamble entitled **Address.**

HUD recognizes that this rule has a potential economic impact. The adoption of AUS by FHA originators will result in system set-up and maintenance costs that they may not otherwise incur. The ability to use AUS has the potential to significantly reduce the cost of underwriting a substantial proportion of FHA loans. These reduced costs may be passed on to borrowers through lower origination fees. Alternatively, originators may shift Direct Endorsement underwriting personnel and other resources away from AUS "accept" borrowers to other borrowers. The ability to review more intensively applications not given an "accept" rating by the AUS, or to provide credit counseling or other services to these applicants, may increase the number of borrowers granted FHA loans.

This rule is not economically significant as described in E.O. 12866, however. While the rule allows lenders to use AUS "accept" risk classification in lieu of a personal review by a Direct Endorsement underwriter, it does not mandate it. Thus, any economic impact of the rule will result from voluntary actions of lenders. If lenders do not find that the individual benefits of using AUS outweigh individual costs, the rule would have no economic impact.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for this program is 14.117.

Accordingly, 24 CFR part 203 is amended as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

2. Section 203.255 is amended by revising paragraph (b)(5) to read as follows:

§ 203.255 Insurance of mortgage.

* * * * *

(b) * * *

(5) An underwriter certification, on a form prescribed by the Secretary, stating that the underwriter has personally reviewed the appraisal report and credit application (including the analysis performed on the worksheets) and that the proposed mortgage complies with HUD underwriting requirements, and incorporating each of the underwriter certification items which apply to the mortgage submitted for endorsement, as set forth in the applicable handbook or similar publication that is distributed to all Direct Endorsement mortgagees, except that where an automated underwriting system (AUS) approved by the Secretary or Commissioner is used by the lender, and the AUS has determined that the application represents an acceptable risk under terms and conditions agreed to by the FHA, a Direct Endorsement underwriter shall not be required to certify that he/she has personally reviewed the credit application (including the analysis performed on any worksheets);

* * * * *

Dated: April 29, 1998.

Art Agnos,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 98–14043 Filed 5–28–98; 8:45 am]

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Part VI

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4250–N–04]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from October 1, 1997 through December 31, 1997.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), HUD is required to make public all approval actions taken on waivers of regulations. This notice is the twenty-eighth in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the Reform Act), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This is the twenty-eighth notice of its kind to be published under section 106 of the Reform Act. This notice updates HUD's waiver-grant activity from October 1, 1997 through December 31, 1997.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 58.73 (involving the waiver of a provision in 24 CFR part 58) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.)

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between October 1, 1997 through December 31, 1997.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: May 22, 1998.

Andrew Cuomo,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development October 1, 1997 Through December 31, 1997

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

FOR ITEMS 1 THROUGH 11, WAIVERS GRANTED FOR 24 CFR Parts 91, 570, 574, 576 AND 582 CONTACT: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street, SW, Room 7152, Washington, DC 20410–7000; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

1. REGULATION: 24 CFR 91.520(a).

PROJECT/ACTIVITY: The City of Harrisburg, Pennsylvania requested an extension of the deadline to submit its Consolidated Annual CDBG Performance and Evaluation (CAPER) report to HUD.

NATURE OF REQUIREMENT: HUD's Consolidated Plan regulations at 24 CFR 91.520(a) require that each grant recipient submit a performance report to HUD within 90 days after the close of the grantee's program year.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 22, 1997.

REASONS WAIVED: The Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the CDBG program, because the City would not be able to submit a complete and accurate performance report on its 1996 program year.

2. REGULATION: 24 CFR 92.101(e) and (c).

PROJECT/ACTIVITY: The St. Louis County, Minnesota requested a waiver of § 92.101(e) and (c) of the HOME program regulations (24 CFR part 92) to allow the County, which is a member of the Northeast Minnesota Housing Consortium, to structure its consortium agreement for a four-year term. The County also has until March 31, 1998 to obtain the needed signatures on the consortium agreement.

NATURE OF REQUIREMENT: The regulations at 24 CFR 92.101(e) and (c) require consortium agreements be 3-years long.

GRANTED BY: Jacquie Lawing, Acting Assistant Secretary for Community Planning and Development.

DATE GRANTED: November 5, 1997.

REASONS WAIVED: The Acting Assistant Secretary added a six month transition period to allow the 76 small rural communities time to sign the agreement. The four year agreement was enacted so that it

will expire concurrently with St. Louis County's next urban county agreement.

3. REGULATION: 24 CFR 92.212(b).

PROJECT/ACTIVITY: The Longview/Kelso Consortium of Washington State, requested a waiver of the HOME program regulations to allow it to use HOME funds to reimburse planning and administration costs incurred in the development of its initial Consolidated Plan as a new HOME grantee.

NATURE OF REQUIREMENT: The HOME program regulations at 24 CFR 92.212(b) allow eligible administrative and planning costs to be incurred as of the beginning of the participating jurisdiction's consolidated program year, or the date the Consolidated Plan describing the HOME allocation is received by HUD.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 16, 1997.

REASONS WAIVED: The Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the HOME program, because non-reimbursement of costs incurred in the development of the Consolidated Plan would pose a difficulty for the City in implementing its new HOME program, and place the financial burden for program start-up costs on local resources.

4. REGULATIONS: 24 CFR 92.214(a)(7) and 24 CFR 92.502(d).

PROJECT/ACTIVITY: The City of Mobile, Alabama requested a waiver of these regulations to allow the use of additional HOME program funds on property previously assisted with HOME monies. The subject properties were damaged by floods.

NATURE OF REQUIREMENT: HUD's HOME program regulations at 24 CFR 92.214(a)(7) and 24 CFR 92.502(d) prohibit a participating jurisdiction from using HOME funds on properties that have been previously assisted with HOME monies. This prohibition applies to properties that were completed more than one year after the original completion date.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 2, 1997.

REASONS WAIVED: The waiver was granted to allow three specific projects to reopen and to use HOME funds to correct flooding conditions.

5. REGULATION: 24 CFR 92.254(a).

PROJECT/ACTIVITY: The City of Cincinnati, Ohio requested a waiver of the requirement that property be transferred to a homebuyer within 42 months after project completion. This waiver would extend the maximum lease period to 60 months for an eight unit building.

NATURE OF REQUIREMENT: HUD's HOME program regulations at 24 CFR 92.254(a) require that property be transferred to a homebuyer within forty-two (42) months after project completion.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 16, 1997.

REASONS WAIVED: The waiver was granted because it would allow the City to take advantage of the Historic Tax Credit associated with the project; enable six low income families to become homeowners; and increase the homeownership rate in a neighborhood with a high concentration of low-income rental properties.

6. REGULATION: 24 CFR 570.200(h)(1)(i).

PROJECT/ACTIVITY: The City of Rialto, California requested a waiver of these HUD regulations to allow it to use CDBG funds to reimburse planning and administration costs incurred while preparing its initial Consolidated Plan as a new CDBG entitlement grantee.

NATURE OF REQUIREMENT: The CDBG program regulations at 24 CFR 570.200(h)(1)(i) state that a grantee may only use CDBG funds to pay pre-award costs if the activity is included in a Consolidated Plan or an amended plan prior to the costs being incurred.

GRANTED BY: Jacquie Lawing, Acting Assistant Secretary for Community Planning and Development.

DATE GRANTED: November 6, 1997.

REASONS WAIVED: The Acting Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the CDBG program, because the non-reimbursement of costs incurred in the development of the Consolidated Plan would pose a difficulty for the City in implementing its new CDBG program and put the financial burden for program start-up costs on local resources.

7. REGULATION: 24 CFR 570.200(h)(1)(i).

PROJECT/ACTIVITY: The City of Victorville, California, requested a waiver of these HUD regulations to allow the City to use CDBG funds to reimburse planning and administration costs incurred while preparing its initial Consolidated Plan as a new CDBG entitlement grantee.

NATURE OF REQUIREMENT: The CDBG program regulations at 24 CFR 570.200(h)(1)(i) state that a grantee may only use CDBG funds to pay pre-award costs, if the activity is included in a Consolidated Plan or an amended plan prior to the costs being incurred.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 18, 1997.

REASONS WAIVED: The Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the CDBG program, because non-reimbursement of costs incurred in the development of the Consolidated Plan would pose a difficulty for the City in implementing its new CDBG program and put the financial burden for program start-up costs on local resources.

8. REGULATION: 24 CFR 570.206(g).

PROJECT/ACTIVITY: Pima County, Arizona requested a waiver of the CDBG program regulations to allow the County to use CDBG funds for pre-development costs related to the expansion of an existing senior citizen housing complex.

NATURE OF REQUIREMENT: The CDBG program regulations at 24 CFR 570.206(g) require that assistance under the regulations be limited to units which are identified in the recipient's HUD-approved housing assistance plan (HAP). Because the Consolidated Plan includes non-housing activities and is not exclusively limited to low-and-moderate-income persons, HUD has determined that 24 CFR 570.206(g) cannot be read to automatically substitute costs related to the Consolidated Plan for costs formerly eligible in connection with the HAP.

GRANTED BY: Jacquie Lawing, Acting Assistant Secretary for Community Planning and Development.

DATE GRANTED: November 6, 1997.

REASONS WAIVED: The regulation was waived because the community was using the CDBG funds to pay for pre-development activities associated with a proposal submitted to HUD under the Section 202 program. The waiver was granted because the funds were to be used for a HAP-type (meeting the needs of low and moderate income senior citizens) housing activity.

9. REGULATION: 24 CFR 574.540.

PROJECT/ACTIVITY: The City of Chicago, Illinois requested a waiver of the Housing Opportunities for Persons with AIDS (HOPWA) program regulations to authorize the placement of HOPWA funds in a housing subsidy trust fund for a period longer than the three years. The trust fund would be used for operating expenses.

NATURE OF REQUIREMENT: The HOPWA program regulations at 24 CFR 574.540 provide that HUD may de-obligate any amount of HOPWA grant funds that have not been expended within a three-year period from the date of the signing of the grant agreement.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: November 25, 1997.

REASONS WAIVED: The Assistant Secretary granted this waiver, extending for two years the period the City could use HOPWA funds placed in a trust for a specific project. This allowed the City to continue to provide support for the housing related needs of HOPWA program beneficiaries.

10. REGULATION: 24 CFR 576.21.

PROJECT/ACTIVITY: Jefferson County, Alabama requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

NATURE OF REQUIREMENT: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

GRANTED BY: Fred Karnas, Jr., Deputy Assistant Secretary for Community Planning and Development.

DATE GRANTED: October 14, 1997.

REASONS WAIVED: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources." The County

provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

11. REGULATION: 24 CFR 582.105(e).

PROJECT/ACTIVITY: The Dane County, Wisconsin Department of Human Services requested that up to 15 percent of its Shelter Plus Care allocation be used for administration.

NATURE OF REQUIREMENT: HUD's Shelter Plus Care program regulations at 24 CFR 582.105(e) set the administrative cost allowance for project activities at 8 percent of the grant amount.

GRANTED BY: Jacquie Lawing, Acting Assistant Secretary for Community Planning and Development.

DATE GRANTED: October 22, 1997.

REASONS WAIVED: The Acting Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the Shelter Plus Care program, because the administrative burdens for the homeless initiative had doubled and the project had reached full capacity without using all the rental assistance available.

FOR ITEMS 12 THROUGH 17, WAIVERS GRANTED FOR 24 CFR PART 761 CONTACT: Gloria Cousar, Deputy Assistant Secretary, Office of Public and Assisted Housing Delivery, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 4126, Washington, DC 20410; telephone (202) 619–8201 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

12. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Lackawanna County Housing Authority Youth Sports Program (Grant No. #PA26YSP0380194).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one, 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: March 12, 1997.

REASON WAIVED: The Lackawanna County Housing Authority was unable to complete the winter sports component of their grant within the regulatory time-frame, due to unseasonably warm weather. The waiver permitted the housing authority to continue its winter sports activities.

13. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Newark Housing Authority, Newark, New Jersey; Public Housing Drug Elimination Grant Program (PHDEP) (Grant #NJ39DEP0020194).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the PHDEP program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: July 10, 1997.

REASON WAIVED: The waiver was granted in order to permit the Newark Housing Authority (NHA) to revise its plan regarding the use of PHDEP funding. The revised PHDEP plan permits the NHA to conduct law enforcement (municipal police services), physical security, U.S. Attorney's anti-violence task force operations in the NHA, and other security and resident activities.

14. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Hoboken Housing Authority, Hoboken, New Jersey; Public Housing Drug Elimination Grant Program (Grant #NJ39DEP0430194).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the PHDEP program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: July 10, 1997.

REASON WAIVED: The waiver was granted in order to permit the Hoboken Housing Authority (HHA) to revise its plan regarding the use of PHDEP funding. The revised PHDEP plan permits the HHA to carry out law enforcement and resident activities.

15. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Camden Housing Authority, Camden, New Jersey; Public Housing Drug Elimination Grant Program (Grant #NJ39DEP0100194, #NJ39DEP0100195 and #NJ39DEP0100196).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: August 12, 1997.

REASON WAIVED: The waiver was granted in order to permit the Camden Housing Authority (CHA) to revise its plan regarding the use of PHDEP funding. The revised PHDEP plan permits the CHA to carry out law enforcement and resident activities.

16. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Charlottesville Redevelopment and Housing Authority, Charlottesville, Virginia; Public Housing Drug Elimination Grant Program (Grant #VA36DEP0160194).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary, Office of Public and Indian Housing.

DATE GRANTED: August 18, 1997.

REASON WAIVED: The waiver was necessary to permit the Charlottesville Redevelopment and Housing Authority requested to reprogram small amounts ($365.00) of grant funds from several budget line items into their drug prevention program.

17. REGULATION: 24 CFR 761.30(b).

PROJECT/ACTIVITY: Memphis Housing Authority, Memphis, Tennessee; Public Housing Drug Elimination Program (Grant #TN00DEP0010194).

NATURE OF REQUIREMENT: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: September 26, 1997.

REASON WAIVED: The Memphis Housing Authority requested this extension to continue the implementation of Operation Safe Home II. The purpose of this extension is to obligate funds (contractually) regarding law enforcement activities for the MHA.

FOR ITEM 18, WAIVER GRANTED FOR 24 CFR PART 811, CONTACT: James Mitchell, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6164, Washington, DC 20410; telephone (202) 708–3730 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

18. REGULATION: 24 CFR 811.108(a).

PROJECT/ACTIVITY: Defeasance and redemption of bonds which financed a Section 8 assisted project in Columbus, Ohio (the Nelson Park Apartments, FHA No. 043–35233).

NATURE OF REQUIREMENT: The regulation provides that upon full redemption of bond principal and interest, any remaining balance in the debt service reserve shall be remitted to HUD.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

DATE GRANTED: December 24, 1997.

REASONS WAIVED: Banc One Capital Corporation wishes to purchase the mortgage note from the bond trustee for a price which, when added to Series 1980 Bond reserves of $616,157, will permit full discharge of outstanding bond principal. The Columbus Metropolitan Housing Authority has requested the use of $200,000 of such reserves to finance repairs to seven public housing projects in its jurisdiction. HUD consented to this request, based on advice by the Ohio State Office that Nelson Park Apartments does not need additional funds for repairs or replacement reserves.

FOR ITEM 19, WAIVER GRANTED FOR 24 CFR PART 882 CONTACT: Debbie Ann Wills, Field Management Officer, U.S.

Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street, SW, Room 7152, Washington, DC 20410–7000; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

19. REGULATION: 24 CFR 882.408(a).

PROJECT/ACTIVITY: The Los Angeles Housing Authority requested a waiver, to increase the Fair Market Rent (FMR) in its Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program, for a single project.

NATURE OF REQUIREMENT: HUD's regulations at 24 CFR 882.408(a) provides that rental housing assisted with SRO funds cannot charge rents that exceed the current Section 8 FMR.

GRANTED BY: Saul Ramirez, Assistant Secretary for Community Planning and Development.

DATE GRANTED: December 5, 1997.

REASONS WAIVED: The waiver was granted because the Housing Authority documented that the rents presently charged and received for efficiency and one bedroom units in Los Angeles, where the project is located, were significantly higher than the published FMRs.

FOR ITEMS 20 AND 21, WAIVERS GRANTED FOR 24 CFR PART 901 CONTACT: William C. Thorson, Director, Administrative and Maintenance Division, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 4124, Washington, DC 20410; telephone (202) 708–4703 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

20. REGULATION: 24 CFR 901.100(b).

PROJECT/ACTIVITY: The St. Louis Housing Authority (SLHA) requested a waiver of the above cited regulation to obtain an extension for submission of its Public Housing Management Assessment Program (PHMAP) certification.

NATURE OF REQUIREMENT: Public Housing Agencies submit their PHMAP certification within 60 days of fiscal year end. This certification along with information in the field office files and verification of data through on-site confirmatory reviews provide the basis for the PHMAP grades and total score determined by HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: The SLHA stated that a computer virus has been implanted in its on-line computer system. The virus was activated on September 14, 1997, and resulted in the master files for payroll, Section 8 program assistance, tenant accounting, general ledger, housing eligibility and work orders being deleted. Other files have randomly been deleted from the computer system corrupting the integrity of the SLHA's computerized data collection system. In addition, the SLHA, a troubled agency, was having its Independent Assessment performed during November 10–21, 1997. The information obtained during this assessment was helpful to the St. Louis Office of Public Housing in assessing the SLHA for its FYE 1997, and provided accurate and up-to-date data for the 1997 PHMAP assessment.

21. REGULATION: 24 CFR 901.100(b).

PROJECT/ACTIVITY: The Williamsburg Redevelopment and Housing Authority, VA, (WRHA) requested a waiver of the above cited regulation to obtain a 30-day extension for submission of its Public Housing Management Assessment Program (PHMAP) certification.

NATURE OF REQUIREMENT: Public Housing Agencies submit their PHMAP certification within 60 days of fiscal year end. This certification along with information in the field office files and verification of data through on-site confirmatory reviews provide the basis for the PHMAP grades and total score determined by HUD.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: December 17, 1997.

REASON WAIVED: The WRHA stated that it discovered that its work orders had not been coded properly since April 1997, when new staff was hired, thus distorting the information necessary to complete the PHMAP certification. The WRHA was furthered hampered by a breakdown of the maintenance department's computer, which had to be repaired. HUD granted the waiver in order to ensure that the WRHA was reporting accurate information and that it scored correctly under the PHMAP.

FOR ITEM 22 THROUGH 39, WAIVERS GRANTED FOR 24 CFR PART 982, 984, AND 990 CONTACT: Gloria Cousar, Deputy Assistant Secretary, Office of Public and Assisted Housing Delivery, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 4126, Washington, DC 20410; telephone (202) 619–8201 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

22. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority and Urban Renewal Agency of Lane County, Oregon; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 3, 1997.

REASON WAIVED: Approval of the waiver prevented further hardship to a program participant who was forced to move from her assisted unit because it was damaged by fire. As a result of severe illness, she was unable to seek another unit when her certificate was reissued.

23. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of Lake County, Illinois; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 9, 1997.

REASON WAIVED: Approval of the waiver prevented hardship to the severely developmentally disabled certificate holder whose special housing requirements made it difficult to find a suitable unit.

24. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the County of Santa Clara, California; Section 8 Rental Voucher Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum voucher term of 120 days during which a voucher holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 12, 1997.

REASON WAIVED: Approval of the waiver prevented hardship to the single parent head of household and her family. Due to debilitating illness and mobility problems the family needed additional time to locate an accessible unit in a tight rental market with a vacancy rate of one percent.

25. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 30, 1997.

REASON WAIVED: Approval of the waiver prevented hardship for a disabled certificate holder whose medical condition prevented her from seeking housing during a portion of the time her certificate was in effect.

26. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Commonwealth of Massachusetts, Department of Housing and Community Development; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 19, 1997.

REASON WAIVED: Approval of the waiver prevented further hardship and possible homelessness for the certificate holder and her children. The family was forced to move from the unit where they had been assisted when the property went into foreclosure. Illness of the mother prevented the family

from seeking housing during the time the certificate was in effect.

27. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the City of Los Angeles, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: Approval of the waiver prevented further hardship to a disabled certificate holder who could not seek housing because she was hospitalized during the time her certificate was in effect.

28. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Boston Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: Approval of the waiver prevented further hardship to a disabled certificate holder who was unable to seek housing during the time her certificate was in effect because she was ill.

29. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Boston Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON GRANTED: Approval of the waiver prevented further hardship to the family. Extended illness of the mother prevented the family from seeking housing during the time their certificate was in effect.

30. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Commonwealth of Massachusetts Department of Housing and Community Development; Section 8 Rental Voucher Program.

NATURE OF REQUIREMENT: The regulation provides a maximum rental voucher term of 120 days during which a voucher holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: Approval of the waiver prevented further hardship to the homeless voucher holder, a victim of domestic violence. Severe heart disease and an adverse reaction to her heart medication prevented the voucher holder from seeking housing during the time her voucher was in effect.

31. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: Approval of the waiver prevented hardship to the family. The medical condition of the disabled head of household made it impossible for the family to seek housing during much of the time her rental certificate was in effect.

32. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: The waiver prevented hardship to the certificate holder who was unable to seek housing during a portion of the time her certificate was in effect because of multiple medical problems, including spinal arthritis.

33. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: The waiver prevented hardship to the certificate holder who was forced to move from the unit where she had been assisted. She was unable to seek housing during much of the time her certificate was in effect because of serious health problems.

34. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of the City of Los Angeles, California; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 21, 1997.

REASON WAIVED: The waiver prevented hardship to the disabled certificate holder who was unable to seek housing because she was hospitalized during much of the time her certificate was in effect.

35. REGULATION: 24 CFR 982.303(b).

PROJECT/ACTIVITY: Housing Authority of Oceanside, California; Section 8 Rental Voucher Program.

NATURE OF REQUIREMENT: The regulation provides for a maximum certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: December 16, 1997.

REASON WAIVED: The waiver prevented further hardship to the disabled voucher holder whose serious health problems prevented her from seeking a unit during much of the time her voucher was in effect.

36. REGULATION: 24 CFR 982.352(c)(8).

PROJECT/ACTIVITY: City of Minnetonka, Minnesota; Section 8 Rental Certificate Program.

NATURE OF REQUIREMENT: The regulation provides that a family may not receive the benefit of tenant-based assistance while also receiving any local or State rent subsidy for the same unit.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 21, 1997.

REASON WAIVED: The monies to be provided by the city are not duplicative subsidy since they are being provided to fund the gap between the market rents and the Section 8 rents. Development of the units represents a public/private partnership to create affordable housing and approval of the waiver expands the housing choice of families enabling them to move to desirable housing in a nonimpacted area.

37. REGULATION: 24 CFR 984.306(b).

PROJECT/ACTIVITY: Housing Authority and Community Services Agency of Lane County, Oregon; Section 8 Family Self-Sufficiency (FSS) Program.

NATURE OF REQUIREMENT: The regulation provides that a Section 8 rental certificate or voucher program participant must lease a unit in the jurisdiction of the Public Housing Agency that selected the family for the FSS program for a minimum of 12 months after the effective date of the FSS contract.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: October 21, 1997.

REASON WAIVED: Approval of the waiver permitted the Section 8 certificate program participant to move closer to her new employment while remaining in the FSS program.

38. REGULATION: 24 CFR 990.107(b)(1) and 990.110(c)(2)(ii).

PROJECT/ACTIVITY: Housing Authority of Wilmington, NC; Performance Funding System (PFS) regulations.

NATURE OF REQUIREMENT: The PFS regulations at 24 CFR part 990 require that current utility rates be used in the calculation of savings under an energy performance contract.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: November 6, 1997.

REASON WAIVED: The PFS provides incentives for housing agencies to leverage private financing for the installation of energy conservation measures under the energy performance contracting program. The waiver will assist the Housing Authority of Wilmington to enter into an energy performance contract by allowing the use of a "floor rate" in the event that there are insufficient funds to pay the debt service on the private financing because of a drop in rates, even if the contractor achieves the savings specified in the contract.

39. REGULATION: 24 CFR 990.107(b)(1) and 990.110(c)(2)(ii).

PROJECT/ACTIVITY: Housing Authority of the City of Kinston, NC; Performance Funding System (PFS) regulations.

NATURE OF REQUIREMENT: The PFS regulations at 24 CFR part 990 require that current utility rates be used in the calculation of savings under an energy performance contract.

GRANTED BY: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

DATE GRANTED: December 17, 1997.

REASON WAIVED: The PFS provides incentives for housing agencies to leverage private financing for the installation of energy conservation measures under the energy performance contracting program. The waiver will assist the Housing Authority of the City of Kinston to enter into an energy performance contract by allowing the use of a "floor rate" in the event that there are insufficient funds to pay the debt service on the private financing because of a drop in rates, even if the contractor achieves the savings specified in the contract.

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Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations; Notice of Meetings; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 1998–99 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Councils meetings; and describes the proposed regulatory alternatives for the 1998–99 duck hunting seasons and other proposed changes from the 1997–98 hunting regulations.

DATES: The Service Migratory Bird Regulations Committee will consider and develop proposed regulations for early-season migratory bird hunting on June 23 and 24, and for late-season migratory bird hunting on August 4 and 5. All meetings will commence at approximately 8:30 a.m. The Service will hold public hearings on proposed early- and late-season frameworks at 9:00 a.m. on June 25 and August 6, 1998, respectively. The comment period for the proposed regulatory alternatives for the 1998–99 duck hunting seasons will end on July 1, 1998. The comment period for proposed migratory bird hunting-season frameworks for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and other early seasons will end on July 27, 1998. The comment period for late-season proposals will end on September 7, 1998.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The Service will hold public hearings in the Auditorium of the Department of the Interior Building, 1849 C Street, NW., Washington, DC. Parties should submit written comments on the proposals and/or a notice of intent to participate in either hearing to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634-ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours in room 634, ARLSQ Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under § 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. The Service will publish early-season frameworks in mid-July and late-season frameworks in mid-August. The Service will publish final regulatory alternatives for the 1998–99 duck hunting seasons in mid-July and final regulatory frameworks for early seasons on or about August 21, 1998, and those for late seasons on or about September 26, 1998.

On June 25, 1998, the Service will hold a public hearing in Washington, DC, to review the status of migratory shore and upland game birds and waterfowl hunted during early seasons and the recommended hunting regulations for these species.

On August 6, 1998, the Service will hold a public hearing in Washington, DC, to review the status of waterfowl and recommended hunting regulations for regular waterfowl seasons, and other species and seasons not previously discussed at the June 25 public hearing.

Announcement of Service Migratory Bird Regulations Committee Meetings

The June 25 meeting will review information on the current status of migratory shore and upland game birds and develop 1998–99 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, the Service will review and discuss preliminary information on the status of waterfowl as it relates to the development of the final regulatory packages for the 1998–99 regular waterfowl seasons. The June 25 meeting will ensure that the Service develops its regulations recommendations with full consultation.

The August 6 meeting will review information on the current status of waterfowl and develop 1998–99 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early season meetings. The August 6 meeting will ensure that the Service develops its regulations recommendations with full consultation.

In accordance with Departmental policy, these meetings are open to public observation. Members of the public may submit written comments to the Director on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the following meetings of the Flyway Councils:

Atlantic Flyway, July 30–31, Simsbury, Connecticut (Simsbury Inn)
Mississippi Flyway, July 30–31, Alton, Illinois (Holiday Inn)
Central Flyway, July 29–31, Bismarck, North Dakota (Holiday Inn)
Pacific Flyway, July 30–31, Blaine, Washington (The Inn at Semi-ah-moo)

Although agendas are not yet available, these meetings usually commence at 8:30 a.m. on the days indicated.

Review of Public Comments

This supplemental rulemaking contains the proposed regulatory alternatives for the 1998–99 duck hunting seasons. All comments and recommendations received through May 1, 1998, relating to the development of these alternatives are included and addressed herein.

This supplemental rulemaking also describes other recommended changes based on the preliminary proposals published in the March 20, 1998, **Federal Register**. Only those recommendations requiring either new proposals or substantial modification of the preliminary proposals are included here. This supplement does not include recommendations that support or oppose but do not recommend alternatives to the preliminary proposals. The Service will consider these comments later in the regulations-development process. The Service will publish responses to all proposals, written comments, and public-hearing testimony when it develops final frameworks.

The Service seeks additional information and comments on the

recommendations in this supplemental proposed rule. The Service will consider all recommendations and associated comments during development of the final frameworks.

New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the March 20, 1998, **Federal Register**.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. The categories correspond to previous published issues/discussion and only those containing substantial recommendations are discussed below.

A. Harvest Strategy Considerations

Council Recommendations: The Atlantic Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

The Upper-Regulations Committee of the Mississippi Flyway Council recommended that the 1997–98 regulations packages be maintained for the 1998–99 duck season. These consisted of 20-, 30-, 45-, and 60-day seasons, with bag limits ranging from 3 to 6 ducks, including appropriate species restrictions, and frameworks dates from the Saturday nearest October 1 to the Sunday nearest January 20.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulatory packages for the 1997–98 season be continued in 1998–99, with the exception of framework dates (see further discussion in B. Framework Dates).

The Central Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

Service Response: Beginning in 1995, the Service, Flyway Councils, and States introduced a new approach to the regulation of duck harvests, called Adaptive Harvest Management (AHM). AHM should help managers better understand the impacts of regulations on harvest and population levels, thereby improving the ability to provide maximum hunting opportunities consistent with long-term resource maintenance. AHM also is intended to provide a more objective, better informed, and less contentious decision-making process, as well as a formal and coherent framework for addressing controversial harvest-management issues.

An integral part of this harvest-management approach is the cooperative establishment of a set of regulatory alternatives that includes specified season lengths and bag limits for very restrictive, restrictive, moderate, and liberal seasons. The alternatives used last year were the result of extensive discussions with the Flyway Councils and States, as well as involvement by the public. The Service appreciates the Flyway Councils' support for the continued use of those regulatory alternatives for the 1998–99 duck hunting season.

For the 1998–99 regular duck hunting season, the Service proposes the four regulatory alternatives detailed in the accompanying table. Alternatives are specified for each Flyway and are designated as "VERY RES" for the very restrictive, "RES" for the restrictive, "MOD" for the moderate, and "LIB" for the liberal alternative. The Service will publish final regulatory alternatives in July and propose a specific regulatory alternative when survey data on waterfowl population and habitat status are available. Public comments will be accepted until July 1, 1998, and should be sent to the address under the caption **ADDRESSES**.

B. Framework Dates

Council Recommendations: The Atlantic Flyway Council recommended no change to the current framework dates, believing that extensions would be premature without knowing the potential harvest impacts, which could reduce the frequency of liberal regulations and would reduce the likelihood that eastern mallards will be fully incorporated into AHM this year.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended the Service allow States to choose a framework closing date as late as January 31 with a 10% penalty in days.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended no change in existing framework dates. The Committee also recommended that if the Service were to offer States the opportunity to extend frameworks, the extension should be coupled with a commensurate reduction in season length and/or bag limits in the participating States to offset the predicted increase in harvest.

The Central Flyway Council recommended maintaining the current opening and closing framework dates adopted under AHM. However, at some future date, when the packages are reviewed for modification, the Council recommended that the framework dates issue should be cooperatively dealt with by all Flyways in seeking an agreement for equitable harvest opportunity.

The Pacific Flyway Council recommended maintaining the current opening and closing duck season framework dates adopted under AHM for the near future.

Service Response: In 1995, the Service established framework opening and closing dates of the Saturday nearest October 1 to the Sunday nearest January 20 for the Pacific, Central, and Mississippi Flyways, and fixed dates of October 1 to January 20 for the Atlantic Flyway (60 FR 50045). The Service maintained these framework dates for 1996 and 1997. In recent years, the Service has been requested by the Lower-Region Regulations Committee of the Mississippi Flyway Council (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee) to consider a closing date of January 31. In previous **Federal Register**s (March 20, 1998 [63 FR 13751] and July 23, 1997 [62 FR 39718]), the Service maintained that considerations for extending the framework dates must address the potential increase in harvest, redistribution of harvest within and among Flyways, and the potential physiological impacts to birds later in the winter. Because of the concerns that these proposals would increase harvest and reallocate the harvest, the Service maintained the traditional closing date.

In the Interior Appropriations Committee Report for FY 1998, the Service was directed to analyze existing information and clarify potential impacts of framework extensions. The Service complied with this directive and believes that the available scientific data suggest clearly that framework extensions will increase the harvest of most duck species, although the magnitude of the increases cannot be estimated precisely. Based on these results, large-scale extensions of framework dates, without appropriate mitigation in harvest, could decrease the frequency of years with liberal regulations, while increasing the frequency of years with more restrictive regulations. The Service's report was peer-reviewed and made available for public comment before being submitted to the Congress (copies are available from the Service at the address indicated under **ADDRESSES**).

The Service believes that any extension of the framework closing date must be accompanied by a commensurate reduction in season length to offset the expected increase in

harvest. Offsetting the expected harvest increase would protect the migratory bird resource and address concerns about any redistribution of the harvest within or among Flyways. The Service also believes a change in the closing date can be considered only if the number of States permitted the framework extension is limited (only those few States within the Lower Region of the Mississippi Flyway), and if the reduction in season length is sufficient to offset the expected increase in harvest.

In response to a portion of the hunting public in the southern States of the Mississippi Flyway that is not satisfied with the existing regulatory alternatives, the Service proposes to offer an extension of the framework closing date to no later than January 31 only for those States in the Lower Region of the Mississippi Flyway (AL, AR, KY, LA, MS, TN), provided it can be determined that no net increase in harvest or redistribution of hunting opportunity/harvest occurs within and among Flyways. Any extension of the closing date will be offset with a reduction in season length sufficient to offset any expected harvest increase in those States. The Service's goal is to ensure that non-participating States will not be negatively affected as a result of States selecting this option.

After any State proposals received are reviewed and analyzed, the Service will approve extended closing dates in those States where the Service finds adequate evidence that increased harvest levels will be offset by proposed reductions in season length. These decisions will be announced when the Service publishes the final regulatory alternatives for the 1998–99 duck hunting seasons in mid-July.

Therefore, States requesting the extension in the closing date are to provide the Service (by June 15, 1998) the scientific analysis necessary to determine the nature of a commensurate reduction in season length. The response variable of primary interest is seasonal harvest or harvest rate (proportion of the duck population killed by hunters) of mallards, but effects on other important species (e.g., wood ducks) should be documented as well. Although a well-designed experiment of framework extensions has never been conducted, there is some information related to this issue as a result of a closing date of January 31 during 1979–84 in the State of Mississippi. Therefore, it will be necessary to conduct a retrospective analysis, in which changes in harvest between years with and without the framework extension are determined, both in Mississippi and in neighboring States.

The Service acknowledges that there may be more than one legitimate method for conducting this analysis. In particular, the estimated effect of a January 31 framework extension depends in part on the specification of study "controls" (i.e., the selection of years without framework extensions and the neighboring States for comparison with the years of framework extensions in Mississippi). Therefore, supporting rationale for these selections should accompany any analysis. In its report to Congress (January 1998), the Service suggested that mallard harvest could be expected to increase by 33%, but this estimate has a relatively large margin of error. Thus, the Service is interested in any analysis that might improve either the precision or accuracy of this estimate. Also, it should be noted that there is not necessarily a one-to-one relationship between the expected proportional increase in harvest and the proportional decrease in season length needed to offset the harvest increase. This assessment will require an examination of the relationship between season length and cumulative harvest, using information from Federal or State harvest surveys.

If a framework extension is ultimately permitted, all States selecting seasons extending beyond the traditional closing date would have the same closing date and proportional reduction in season length. The later closing date would be available only for the years in which the moderate or liberal alternative is selected by the Service. Any State choosing the option of a later closing date must maintain that closing date and the appropriate season-length reduction for a five-year period beginning in the 1998–99 season, unless the Service determines that this option has negative impacts on the resource or distribution of the harvest, or something other than the moderate or liberal regulatory alternative is chosen. During the five-year period, the Service and affected States will annually examine harvest and other monitoring information to determine if adjustments in the season length or framework date are necessary to ensure no increase in, or change in distribution of, the harvest. Should information suggest that the health of duck populations or harvest distribution has been affected by the proposed extension, the Service will consider withdrawing the option of a January 31 closing date.

The Service acknowledges the recent expressions of intent by the Flyways to retain the current framework dates, thus helping to maintain traditional distributions of hunting opportunities within and among Flyways. The Service also recognizes that any future consideration of framework extensions, beyond what has been proposed here, will likely require a comprehensive review of the distribution of hunting opportunity and harvest within and among Flyways. This review will be extremely difficult and will represent a significant resource commitment on the part of the Service and the Flyways. In light of these considerations, it is the Service's desire to not entertain additional changes to the opening and closing framework dates until the regulatory packages are reviewed for modification at some future date.

F. Zones and Split Seasons

Written Comments: The Ohio Division of Wildlife requested elimination of the Pymatuning Waterfowl Hunting Zone in Ohio and incorporation of the affected area into the North Zone beginning in the 1998–99 season.

Service Response: In the past, hunting seasons in that portion of Ohio had to be the same as those selected by Pennsylvania for that portion of Pennsylvania. Beginning this year, the Pymatuning Area will no longer be included in the Federal waterfowl hunting frameworks as a separate area, and will be considered part of Ohio's North Zone.

G. Special Seasons/Species Management

iii. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended the establishment of an experimental September teal season option in the Atlantic Flyway. States deriving more than 80 percent of their teal harvest from mid-continent populations (Delaware, Georgia, Florida, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia) could hold a 9-day season between September 1 and 30 with a daily bag limit of 4 teal.

The Central Flyway Council recommended an experimental September teal season harvest strategy in the nonproduction States of the Central Flyway based on the May breeding population index (BPI) of blue-winged teal. When the BPI of blue-winged teal is 4.7 million or greater, the Council's recommended harvest strategy would consist of an additional 7 days of hunting (for a total of 16 days). When the BPI of blue-winged teal is below 4.7 million but remains at or above 3.3 million, the Council's recommended harvest strategy would maintain the

current 9-day season. When the BPI of blue-winged teal is below 3.3 million, the Council's recommended harvest strategy would consider closure of September teal seasons.

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Atlantic Flyway Council recommended the continuation of the Florida September wood duck/teal season on an operational basis.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the experimental September teal/wood duck seasons in Kentucky and Tennessee be continued in 1998 with no changes from the 1997 season. The Lower-Region Regulations Committee further recommended that if such seasons are suspended, all non-production States should be permitted to take up to 5 days of the regular season in September.

v. Youth Hunt

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that a special one-day youth waterfowl season include the harvesting of geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that a special 2-day youth waterfowl season include the harvesting of geese.

The Central Flyway Council recommended expansion of the special youth waterfowl hunt to 2 consecutive days with a legal bag that includes geese.

The Pacific Flyway Council recommended continuation of the one-day youth hunt that allows States to select outside the general season and frameworks. The Council further recommended the addition of 1 goose to the bag limit.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the Service clarify regulatory language concerning bag limits for sea ducks so that bag limits for sea ducks during the regular season cannot exceed bag limits for sea ducks established in the special sea duck season, whether inside or outside the special sea duck area.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the closing date of the September goose season around Montezuma National Wildlife Refuge be extended from September 15 to 25.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the status of the special late Canada goose season in the Southern Michigan Goose Management Unit in Michigan be changed from experimental to non-experimental.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service reevaluate criteria for special Canada goose seasons (early and late), particularly as they relate to the cumulative harvest of migrant Canada geese from populations of special concern, to insure that the criteria are consistent with management efforts to increase and/or maintain migrant populations of special concern to/at planned objective levels.

The Pacific Flyway Council recommended the 1998 September season for the Pacific Population Canada geese remain unchanged from the 1997 season, with the exception of increase the number of regulated permits from 100 to 400 in Humboldt County, California.

B. Regular Seasons

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1998 regular goose season opening date be as early as September 26 in Michigan's Upper Peninsula and September 19 in Wisconsin.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Atlantic Flyway Council recommended extension of the shooting hours to one-half hour after sunset at times when other waterfowl season are closed within an area.

The Central Flyway Council recommended the following regulation changes for light-goose hunting in the Central Flyway for 1998 and beyond:

For the 1998–99 regular season, no bag or possession limits and unlimited zones and splits in the season.

During the 1998–99 season, the establishment of a special "conservation hunt" consisting of no bag and possession limits; legalized electronic callers, baiting, unplugged shotguns, live decoys and rallying/hazing; elimination of tagging requirements; and the extension of shooting hours until one-half hour after sunset. "Conservation Hunt" provisions would only be implemented in those areas and time periods in which other firearms waterfowl season are closed, including split season portions of the regular waterfowl seasons.

Beginning with the 1999–2000 season, the Council recommends allowing "conservation hunts" during other open waterfowl seasons.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended that the Rocky Mountain Population (RMP) greater sandhill crane hunt in Wyoming's Area 6 (Park and Bighorn Counties) become operational in 1998. The Councils further recommended that the third year of monitoring and data collection for the experimental hunt be waived.

16. Mourning Doves

Written Comments: The Louisiana Department of Wildlife and Fisheries requested an extension of the framework closing date from January 15 to January 20.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended an increase in Alaska's Canada goose daily bag and possession limit from 1 and 2 to 3 and 6, respectively, within overall dark goose bag and possession limits of 4 and 8 in Alaska Game Management Subunit (GMU) 9(E) (Alaska Peninsula) and Unit 18 (Y–K Delta).

The Pacific Flyway Council recommended an archery-only Canada goose hunt on Middleton Island, Alaska (GMU 6); by registration permit only, with no more than 10 permits; mandatory goose identification class, check-in, and check-out; season dates of September 28 to December 16; bag and possession limit of 1; season to close if incidental harvest includes 5 dusky Canada geese.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests, and therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, non-governmental organizations, and other private interests on these proposals. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time that the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately

adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified is contrary to the public interest.

Comment Procedure

The policy of the Department of the Interior, whenever practical, affords the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours at the Service's office in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The Service will consider all relevant comments received. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

As in the past, hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. It is possible that the findings from the consultations, which will be included in a biological opinion, may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its consultation under Section 7 are public documents and will be available for public inspection in the Division of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the **Federal Register** dated March 20, 1998, the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Small Entity Flexibility Analysis (Analysis) in 1996 to document the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses in 1996. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey.

This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1998–99 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: May 21, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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PROPOSED REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1998-99 SEASON

	ATLANTIC FLYWAY				MISSISSIPPI FLYWAY (a)				CENTRAL FLYWAY (b)				PACIFIC FLYWAY (c)(d)			
	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB
Begining Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20
Season Length	20	30	46	60	20	30	46	60	26	39	60	74	38	60	86	107
Daily Bag/ Possession	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	4 8	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit																
Mallard (Total/Female)	3/1	3/1	4/2	4/2	2/1	2/1	4/1	4/2	3/1	3/1	5/1	5/2	3/1	3/1	5/2	7/2
Pintail	<— ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY — >															
Black Duck	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-
H. Merganser	1	1	1	1	1	1	1	1	1	1	1	1	-	-	-	-
Canvasback	<— 0 OR 1, ACCORDING TO THE SERVICE'S INTERIM CANVASBACK HARVEST MANAGEMENT STRATEGY — >															
Redhead	2	2	2	2	1	1	2	2	1	1	2	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2	-	-	-	-
Whistling Ducks	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	1	3	3	3	3	1	1	1	1	-	-	-	-

(a) In the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, the framework closing date is January 31 under the moderate and liberal options. Season length will be determined after the submission of a proposal and further discussions with those States wishing to choose this option.

(b) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various options as follows: very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all options, additional days must be on or after the Saturday nearest December 10.

(c) In the Columbia Basin Mallard Mangement Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all options except the liberal option, an additional 7 days would be allowed.

(d) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

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Part VIII

The President

Notice of May 28, 1998—Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs

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Title 3—

The President

Notice of May 28, 1998

Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. President Bush took additional measures to prohibit trade and other transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro) by Executive Order 12810 and 12831, issued on June 5, 1992, and January 15, 1993, respectively. On April 25, 1993, I issued Executive Order 12846, blocking the property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the Federal Republic of Yugoslavia (Serbia and Montenegro), and prohibiting trade-related transactions by United States persons involving those areas of Bosnia and Herzegovina controlled by Bosnian Serb forces and the United Nations Protected Areas in the Republic of Croatia. On October 25, 1994, because of the actions and policies of the Bosnian Serbs, I expanded the scope of the national emergency by issuing Executive Order 12934 to block the property of the Bosnian Serb forces and the authorities in the territory that they control within Bosnia and Herzegovina, as well as the property of any entity organized or located in, or controlled by any person in, or resident in, those areas.

On December 27, 1995, I issued Presidential Determination No. 96–7, directing the Secretary of the Treasury, *inter alia*, to suspend the application of sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) pursuant to the above-referenced Executive orders and to continue to block property previously blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia. This sanctions relief, in conformity with United Nations Security Council Resolution 1022 of November 22, 1995 (hereinafter the "Resolution"), was an essential factor motivating Serbia and Montenegro's acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initialed by the parties in Dayton on November 21, 1995, and signed in Paris on December 14, 1995 (hereinafter the "Peace Agreement"). The sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) were accordingly suspended prospectively, effective January 16, 1996. Sanctions imposed on the Bosnian Serb forces and authorities and on the territory that they control within Bosnia and Herzegovina were subsequently suspended prospectively, effective May 10, 1996, also in conformity with the Peace Agreement and the Resolution. Sanctions against both the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serbs were subsequently terminated by United Nations Security Council Resolution 1074 of October 1, 1996. This termination, however, did not end the requirement of the Resolution that blocked funds and assets that are subject to claims and encumbrances remain blocked, until unblocked in accordance with applicable law.

In the last year, further substantial progress has been achieved to bring about a settlement of the conflict in the former Yugoslavia acceptable to the parties. Another set of elections occurred in Bosnia and Herzegovina, as provided for in the Peace Agreement, and the Bosnian Serb forces have continued to respect the zones of separation as provided in the Peace Agreement. The ultimate disposition of the various remaining categories of blocked assets is being addressed on a case-by-case basis.

Until the status of all remaining blocked property is resolved, the Peace Agreement implemented, and the terms of the Resolution met, the national emergency declared on May 30, 1992, as expanded in scope on October 25, 1994, and the measures adopted pursuant thereto to deal with that emergency must continue beyond May 30, 1998.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb forces and those areas of Bosnia and Herzegovina under the control of the Bosnian Serb forces. This notice shall be published in the **Federal Register** and transmitted to the Congress.

William J. Clinton

THE WHITE HOUSE,
May 28, 1998.

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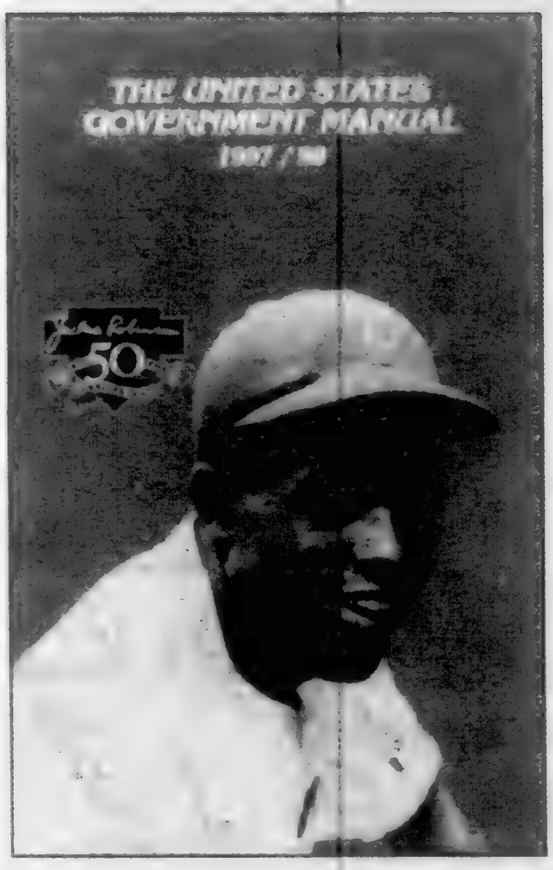
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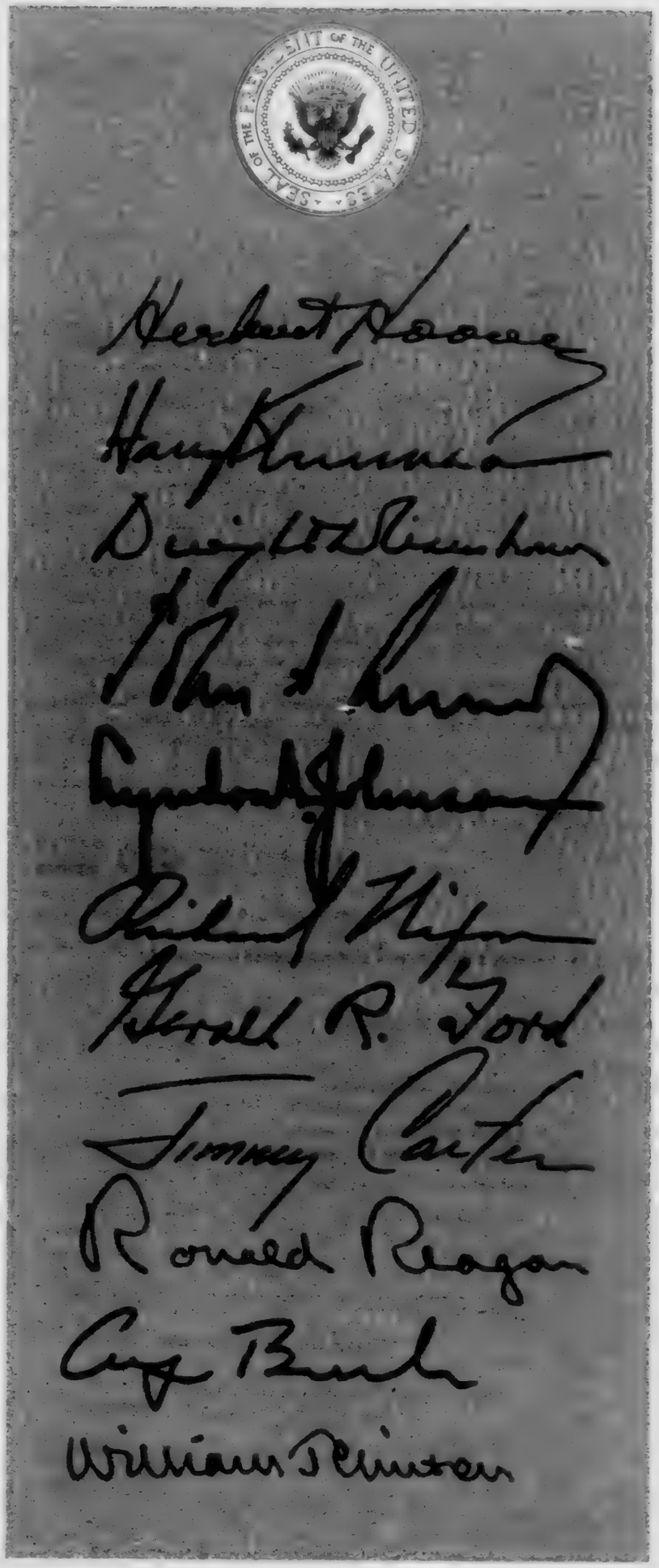
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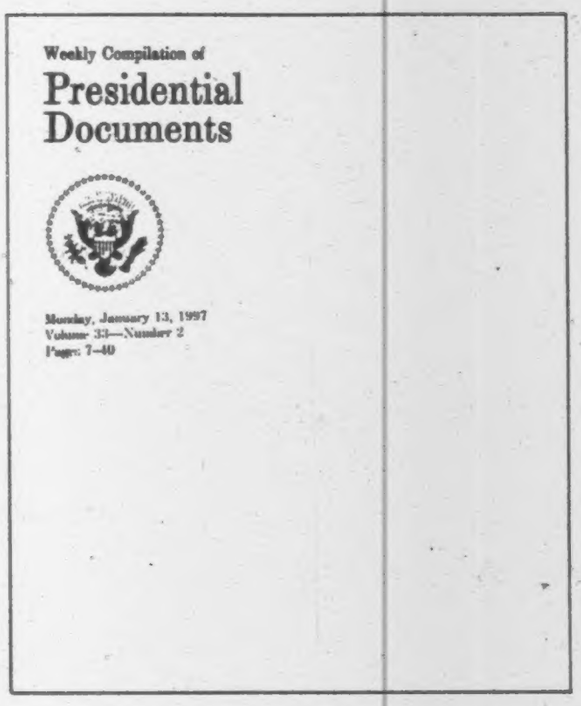
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